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In the Matter of the Section 75

Proceeding,

Sullivan County,

Petitioner,

and

Jack Harb,

Respondent.

- - - - -x

July 30, 2024

11:00 A.M.

B E F O R E: Eric Benjamin, Esq.

TRANSCRIPT OF PROCEEDINGS - VOLUME II

APPEARANCES:

Khalid Bashjawish, Esq.

James B. Tuttle, Esq.

Bobby Cintron, PBA Delegate

Jack Harb

Taken stenographically by Sandra Bartels

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1 PROCEEDINGS

2 THE HEARING OFFICER: Good to see

3 everybody again this morning. Today's

4 date is July 30th. The time is 11:01

5 a.m. This is the continuation of the

6 hearing from July 24, 2024 with

7 reference to Detective Jack Harb.

8 I'll go over our preamble real

9 quick. We are going to be back on the

10 record. Today is July 30th. The time

11 now is 11:03 a.m. and this is the

12 disciplinary hearing being conducted

13 pursuant to Section 75 of the New York

14 State Civil Service Law. We are

15 holding this hearing remotely via a

16 Zoom conference. My name is Eric

17 Benjamin. I've been appointed by the

18 Sullivan County Sheriff to conduct

19 this hearing. This hearing concerns

20 Mr. Jack Harb, a detective employee of

21 Sullivan County. He is charged with

22 misconduct as outlined in the Notice

23 of Discipline dated April 30, 2024.

24 Representing the county and

25 sheriff, Mr. Khalid Bashjawish,

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1 PROCEEDINGS

2 assistant county attorney.

3 Representing Mr. Harb is PBA attorney

4 James Tuttle. And we are again on a

5 continuance and off the record we

6 agreed that Mr. Bashjawish can proceed

7 first in introducing a witness.

8 MR. BASHJAWISH: Thank you. I

9 would like to introduce Lorne Green.

10 THE HEARING OFFICER: Good

11 morning, Mr. Green. Being aware that

12 this is a hearing and you are called

13 as a witness, would you raise your

14 right hand, please.

15 LORNE GREEN, called as a

16 witness, having been duly sworn by a

17 Notary Public, was examined and

18 testified as follows:

19 THE HEARING OFFICER: Counsel?

20 DIRECT EXAMINATION

21 BY MR. BASHJAWISH:

22 Q. Good morning, Mr. Green. How are

23 you?

24 A. Fine. Yourself?

25 Q. Please state your title.

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1 PROCEEDINGS

2 A. I'm the commissioner and chief

3 information officer of the division of

4 information technology services for the

5 County of Sullivan.

6 Q. Can you see my screen?

7 A. I can.

8 Q. Do you see what that is?

9 A. Yes.

10 Q. Do you see on the top there is a

11 Bates stamped SULLIVAN0012?

12 A. Yes.

13 Q. What is this document?

14 A. It's an e-mail I received from

15 the undersheriff.

16 Q. And what is he asking?

17 A. He is asking for some information

18 in regards to whether or not e-mail was

19 received by a particular individual in his

20 charge.

21 Q. That e-mail is to you, correct?

22 A. That e-mail is to me, yes.

23 Q. Who the individual referenced?

24 A. Jack Harb was mentioned in the

25 e-mail.

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1 PROCEEDINGS

2 Q. And you have the capability to

3 know whether or not an individual received

4 an e-mail?

5 A. Yes.

6 Q. How do you have that capacity?

7 A. I'm the e-mail administration of

8 the live e-mail system. I'm also the

9 administrator of the e-mail archive. I have

10 the ability to look back at what was

11 received, any e-mail user in the system.

12 Q. Do have an understanding as to

13 whether or not Mr. Harb received an e-mail

14 on August 9, 2022?

15 A. I do.

16 Q. Did he receive that e-mail on

17 August 9, 2022?

18 A. According to the archives and his

19 mail box, yes?

20 Q. Was it opened or, quote unquote,

21 read?

22 A. I don't know about the read part.

23 I do know that it was marked as unread in

24 his inbox. Whether the preview pane was

25 open, the e-mail was clicked and it

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1 PROCEEDINGS  
2 appeared in the previous pane or whether  
3 it was double clicked and opened, I can't  
4 determine whether that occurred. But it  
5 was marked as read in his inbox.  
6 Q. So don't know if he actually read  
7 the content of it, but you know the e-mail  
8 was clicked on, correct?  
9 A. Correct.  
10 Q. And the basis of that is you are  
11 able to go back -- is your testimony that  
12 you have that capability based on programs  
13 that you have?  
14 A. The basis is just on observation  
15 of the individuals's inbox.  
16 Q. I'm sorry. Complete your point.  
17 A. If the pane is not open and you  
18 click on an individual e-mail received, it  
19 does not change its highlighted to  
20 un-highlighted state, bold to unbold.  
21 MR. BASHJAWISH: I would like to  
22 introduce Sullivan 12 as an Exhibit?  
23 THE HEARING OFFICER: I think I  
24 already have 12, counsel.  
25 MR. BASHJAWISH: This document is

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1 PROCEEDINGS  
2 marked as SULLIVAN0012.  
3 THE HEARING OFFICER: You did.  
4 MR. BASHJAWISH: I would like to  
5 mark it as P-12.  
6 THE HEARING OFFICER: P-12 was  
7 the salary chart.  
8 MR. BASHJAWISH: So this would be  
9 P-13?  
10 THE HEARING OFFICER: P-13.  
11 MR. TUTTLE: Your Honor, this is  
12 already in evidence as an attachment  
13 to another document, but I have no  
14 objection to it being received as  
15 P-13.  
16 THE HEARING OFFICER: Do you want  
17 to proceed, Mr. Bashjawish as P-13?  
18 MR. BASHJAWISH: Yes.  
19 THE HEARING OFFICER: There being  
20 no objections, P-13 is entered in the  
21 record.  
22 BY MR. BASHJAWISH:  
23 Q. Mr. Green, can you see the  
24 document, this e-mail, it looks like an  
25 e-mail from you to Mr. Chaboty?

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1 PROCEEDINGS  
2 A. That was in response to his  
3 original request.  
4 Q. Is this confirming what you just  
5 testified to?  
6 A. Yes.  
7 Q. Is there anything to elaborate  
8 on?  
9 A. No. The first section with the  
10 highlighted e-mail, that answered the  
11 first part of his question, whether or not  
12 e-mails had been received by the person in  
13 question. And the second part, although  
14 it's not visible or clearly visible in  
15 this black and white print out, just shows  
16 the e-mail inbox in a read state.  
17 Q. And these are e-mails that  
18 Mr. Harb -- let me rephrase.  
19 Do you know whether or not the  
20 e-mails on August 9, 2022 related to  
21 e-mails or links to Lexipol?  
22 A. They related to an e-mail  
23 received from the Lexipol system.  
24 Q. Do you know what the Lexipol  
25 system is?

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1 PROCEEDINGS  
2 A. No. I mean, I know it's in use  
3 by the sheriff's office but I do not know  
4 the substance of what Lexipol is doing on  
5 behalf of that office.  
6 MR. BASHJAWISH: I would like to  
7 mark SULLIVAN0013, what's Bates  
8 stamped as SULLIVAN0013 into evidence.  
9 MR. TUTTLE: Same position, Your  
10 Honor. I think we've already seen it  
11 but I have no objection to it being  
12 marked as P-14.  
13 THE WITNESS: The record will  
14 reflect that P-14 is being entered.  
15 MR. BASHJAWISH: Just to be  
16 clear, it has a Bates stamp of  
17 SULLIVAN0013.  
18 THE HEARING OFFICER: Got it.  
19 MR. BASHJAWISH: No further  
20 questions.  
21 THE HEARING OFFICER: Mr. Tuttle?  
22 CROSS EXAMINATION  
23 BY MR. TUTTLE:  
24 Q. Mr. Green, were you asked to make  
25 any other investigation with regard to

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1 PROCEEDINGS

2 this matter?

3 A. I was not.

4 Q. Were you asked to investigate,

5 did someone bring it to your attention the

6 2023 patrol schedule was deleted from the

7 records of the Sullivan County sheriff's

8 office?

9 A. There's minor familiarization

10 with that but I don't have a clear

11 recollection without a little background

12 check.

13 Q. Did you make an investigation

14 with regard to who deleted the schedule,

15 the 2023 schedule for the sheriff's

16 office?

17 A. Again, I may or may not have.

18 I'm not going to pretend to remember that

19 particular incident.

20 MR. TUTTLE: I have nothing

21 further.

22 THE HEARING OFFICER: The witness

23 is excused. And thank you, Mr. Green.

24 Mr. Bashjawish, do you have any

25 further witnesses?

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1 PROCEEDINGS

2 MR. BASHJAWISH: I will ask Mr.

3 Muthig some questions but I know Mr.

4 Tuttle wanted to call him as a witness

5 so I'll wait.

6 THE HEARING OFFICER: Mr Tuttle?

7 MR. TUTTLE: I'll call Chief

8 Muthig.

9 THE HEARING OFFICER: Good

10 morning, sir, how are you. My name is

11 Eric Benjamin, the hearing officer.

12 You are here to testify today

13 regarding the Section 75 hearing for

14 Detective Jack Harb. Can you raise

15 your right hand.

16 B L A K E M U T H I G, called as a

17 witness, having been duly sworn by a

18 Notary Public, was examined and

19 testified as follows:

20 THE HEARING OFFICER: Does

21 everyone else have a video of Chief

22 Muthig? Can you do a video, Chief?

23 THE WITNESS: I don't know how to

24 make that happen.

25 MR. TUTTLE: I'm happy to proceed

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1 PROCEEDINGS

2 as we are, if everyone is else is

3 fine.

4 THE HEARING OFFICER: That's

5 fine.

6 MR. TUTTLE: Before we continue,

7 several times you referred to Officer

8 Harb as Detective Harb. His actual

9 title and rank are Detective Corporal

10 Jack Harb for the record.

11 THE HEARING OFFICER: Thank you.

12 Detective Corporal. My apologies.

13 Chief Muthig, are you ready to

14 proceed?

15 THE WITNESS: I am.

16 B L A K E M U T H I G, called as a

17 witness, having been duly sworn by a

18 Notary Public, was examined and

19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. TUTTLE:

22 Q. Are you employed, sir?

23 A. Yes.

24 Q. How are you employed?

25 A. By the Sullivan County sheriff's

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1 PROCEEDINGS

2 office.

3 Q. What is your position?

4 A. Chief of patrol and internal

5 affairs.

6 Q. What are your duties with regard

7 to each of those matters, chief of patrol

8 and internal affairs?

9 A. Patrol, I have broad oversight

10 over (inaudible).

11 Q. Are you in your home while you

12 are doing this?

13 A. I am.

14 Q. As far as you know, are you in

15 the spot in your home that has the best

16 phone reception?

17 A. Yes. Pretty strong wifi

18 connection here as well.

19 THE HEARING OFFICER: Chief, it

20 appears I can hear you better when you

21 speak a little bit louder and closer

22 to the device.

23 THE WITNESS: I've got my face in

24 my phone. How about now?

25 THE HEARING OFFICER: I can hear

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1 PROCEEDINGS  
 2 you better.  
 3 BY MR. TUTTLE:  
 4 Q. Can you tell us what your duties  
 5 are as chief of patrol?  
 6 A. Chief of patrol, that would  
 7 involve broad oversight over the uniformed  
 8 and detective force. Matters that get  
 9 reported, personnel issues, agency issues  
 10 that might rise to misconduct by a member  
 11 (inaudible).  
 12 THE HEARING OFFICER: This is  
 13 unacceptable. Is there any way we can  
 14 take a break and resolve this? Maybe  
 15 he has a computer he might be able to  
 16 use.  
 17 MR. TUTTLE: Chief, do you have  
 18 any other device in your home that  
 19 might work instead of your cell phone?  
 20 THE WITNESS: I have a different  
 21 cell phone. This is the iPhone issued  
 22 by the county. My computer doesn't  
 23 (inaudible) Zoom.  
 24 MR. BASHJAWISH: Can I make a  
 25 suggestion? Is there a call in

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1 PROCEEDINGS  
 2 number?  
 3 (Off the record 11:22 a.m. to  
 4 11:33 a.m.)  
 5 BY MR. TUTTLE:  
 6 Q. I was asking you what are your  
 7 duties as chief of patrol?  
 8 A. As chief of patrol I have broad  
 9 oversight on uniformed and detective  
 10 division that is primarily police work.  
 11 As an internal affairs chief, I  
 12 investigate allegations of misconduct,  
 13 personnel complaints, if you will, against  
 14 members of the sheriff's office.  
 15 Q. Does that include complaints from  
 16 within the sheriff's office?  
 17 A. Yes; internal, external, all  
 18 complaints, no matter what the source.  
 19 Q. Who do you report to?  
 20 A. I report to the Undersheriff Eric  
 21 Chaboty and Sheriff Mike Schiff.  
 22 Q. And is that true with respect to  
 23 your duties as chief of patrol and also  
 24 internal affairs?  
 25 A. Yes.

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1 PROCEEDINGS  
 2 Q. Have you ever stated to Detective  
 3 Corporal Jack Harb in words or substance  
 4 that Sheriff Schiff and or Eric Chaboty  
 5 were unhappy with him because of his  
 6 activity as union president?  
 7 A. I really don't recall that kind  
 8 of language coming from me. That may be a  
 9 fragment of a conversation and if sounds  
 10 more like a fragment connected to another  
 11 fragment of something I may have said at  
 12 some point.  
 13 Q. Do you know what else it might  
 14 have been connected to?  
 15 A. About his PBA union delegate  
 16 role? No. No, I don't.  
 17 Q. Did either the sheriff or the  
 18 undersheriff ever tell you they were  
 19 unhappy with Jack Harb for any reason?  
 20 A. Probably on more than one  
 21 occasion, yes.  
 22 Q. What were they unhappy about?  
 23 A. Many things. I can give  
 24 examples, if that's what you want me to  
 25 do.

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1 PROCEEDINGS  
 2 Q. Yes, please.  
 3 A. So just take deputy's contract.  
 4 Occasionally there would be some matters  
 5 that might be, let's say, a contract  
 6 grievance and Detective Harb's way of  
 7 handling that was through what I call war  
 8 on Schiff, war on the sheriff. He really  
 9 made no positive efforts to negotiate or  
 10 resolve the matter. In fact, I am pretty  
 11 sure, you might want to check with Sheriff  
 12 Schiff on this, the way the sheriff  
 13 discovered these things was a filed  
 14 grievance from you. Not a very  
 15 business-like, positive way. It certainly  
 16 created a difficult relationship with  
 17 them, meaning the sheriff.  
 18 Q. What else?  
 19 A. Well that probably happened more  
 20 than once. And that's probably all that's  
 21 coming to my mind at this moment.  
 22 Q. Did you ever tell Jack Harb in  
 23 words or substance that the Sheriff Schiff  
 24 or Undersheriff Chaboty were out to get  
 25 him?

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1 PROCEEDINGS  
2 A. No.  
3 Q. Did they ever, did either the  
4 sheriff or undersheriff talk to you about  
5 their displeasure with Jack Harb?  
6 MR. BASHJAWISH: Objection, asked  
7 and answered.  
8 THE WITNESS: No.  
9 BY MR. BASHJAWISH:  
10 Q. How were you aware of it if they  
11 didn't talk to you about it?  
12 A. I'm not sure I understand the  
13 question, Mr. Tuttle.  
14 Q. I'll start again. You told me  
15 that the sheriff and/or undersheriff were  
16 unhappy that Jack Harb, rather than come  
17 talk to them about some matter that you  
18 felt was a contract violation, he would  
19 just file a grievance. Did I get that  
20 right?  
21 A. Yes.  
22 Q. How were you aware of that?  
23 A. I'm sure the sheriff told me  
24 that. To further that office, I'll be in  
25 his offices and he's opening his mail and

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1 PROCEEDINGS  
2 that's a vivid recollection of one where  
3 the mail contained a filed grievance from  
4 the PBA attorney.  
5 Q. Is there anything improper about  
6 the union's attorney filing a grievance on  
7 behalf of the union?  
8 A. Not really something I get  
9 involved in. I don't know if that's a  
10 proper way to conduct business or not.  
11 It's a little bit beyond what I do there.  
12 Q. But they were unhappy about it,  
13 is that right?  
14 A. Well, I think I stated that.  
15 Discovering a grievance by opening the  
16 mail when the detective is several doors  
17 down the hallway who could have resolved  
18 it in a more business-like manner. That's  
19 my opinion.  
20 Q. Did you ever talk to Jack Harb  
21 about that?  
22 A. Yes.  
23 Q. What was his response?  
24 A. So I don't recall his response  
25 but there is more than one occasion where

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1 PROCEEDINGS  
2 I had a conversation with Detective Harb  
3 about his manner of handling union matters  
4 with the sheriff.  
5 Q. So what was the substance of  
6 those conversations?  
7 A. With me? The substance of the  
8 conversation was maybe you ought to speak  
9 to the sheriff directly to fix the problem  
10 prior to having an actual filed grievance.  
11 Q. How did he respond to that?  
12 A. I really don't recall but I don't  
13 think it made any difference because it  
14 never changed the way grievances were  
15 filed.  
16 Q. Were most of those grievances  
17 settled after they were filed?  
18 A. I don't really know. Some may be  
19 pending. I really don't get too involved  
20 in that, what I do there.  
21 Q. Do you know if there is a time  
22 limit within which grievances have to be  
23 brought under the collective bargaining  
24 agreement?  
25 A. I do not.

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1 PROCEEDINGS  
2 Q. Did the sheriff or undersheriff  
3 ever express to you any unhappiness with  
4 the union's endorsement for the position  
5 of district attorney?  
6 A. No.  
7 Q. Do you know if the union and the  
8 sheriff wanted the same candidate for  
9 district attorney?  
10 A. I do know they backed different  
11 candidates prior to a primary election.  
12 Q. Do you know if the sheriff was  
13 unhappy about that?  
14 A. I don't know.  
15 Q. Did you ever hear either the  
16 sheriff or undersheriff refer to Jack Harb  
17 as an insurrectionist?  
18 A. No.  
19 Q. Did the sheriff or the  
20 undersheriff ever discuss with you  
21 bringing disciplinary charges against Jack  
22 Harb for any reason?  
23 A. No.  
24 Q. You mentioned that you are in  
25 charge of internal affairs. Does that

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1 PROCEEDINGS  
2 include the initiation of discipline?  
3 A. No.  
4 Q. Who handles that in your  
5 department?  
6 A. I write a report and I make a  
7 determination of whether misconduct would  
8 be founded or unfounded. I deliver that  
9 report to the sheriff, and many times the  
10 undersheriff.  
11 Q. So is it your testimony that they  
12 decide whether discipline will be  
13 initiated?  
14 A. That's correct.  
15 Q. So in the past have you ever  
16 initiated disciplinary charges against  
17 anyone of your members?  
18 A. No, I have not. Well, I might  
19 want to correct that, if I could. I may  
20 have initiated a personnel investigation  
21 but as far as the disciplinary end of it,  
22 the resolution of those investigations, I  
23 have no input into that.  
24 Q. Were you asked to make an  
25 internal investigation with regard to the

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1 PROCEEDINGS  
2 events of October 31, 2022?  
3 A. Yes.  
4 Q. Would you tell us what you did?  
5 A. Well, the allegation was a member  
6 made numerous disparaging, disrespectful  
7 remarks to a group of sheriff's office  
8 deputies at the sheriff's office in the  
9 training room and I was asked to conduct  
10 an investigation into that, interview  
11 numerous people, obtain some  
12 documentation, including from the accused  
13 member, where he generally did not deny  
14 the allegations. My finding was that he  
15 had committed an act or acts of  
16 misconduct. I wrote a report and I gave  
17 that to the sheriff.  
18 Q. In the course of that  
19 investigation did you learn that he made  
20 certain remarks about Lieutenant Pratti in  
21 response to certain remarks that  
22 Lieutenant Pratti made about him?  
23 A. Yes. He not only told me that  
24 but he also put it in a document that was  
25 part of that investigation.

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1 PROCEEDINGS  
2 Q. Did you conduct an investigation  
3 into Lieutenant Pratti?  
4 A. Not as a result of that at that  
5 time.  
6 Q. Why not?  
7 A. I felt those allegations, while  
8 most of them couldn't be substantiated  
9 with a date, time or place, they occurred  
10 over a period of ten years and Lieutenant  
11 Pratti was at that point pretty much on  
12 terminal leave or retirement. It was  
13 almost not a justification for what that  
14 member had said about him.  
15 Q. What was your understanding of  
16 what Lieutenant Pratti had said about Jack  
17 Harb?  
18 A. My best recollection of one of  
19 the allegations is that Lieutenant Pratti  
20 allegedly called him a big guy or big guy,  
21 something of that nature, and I guess he  
22 was offended by that.  
23 Q. Did you have an understanding  
24 Lieutenant Pratti called him a liar in  
25 connection with the memorandum of

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1 PROCEEDINGS  
2 agreement with the successor collective  
3 bargaining agreement?  
4 A. No.  
5 Q. Is it -- you mentioned earlier a  
6 report that Jack Harb gave to you. You  
7 ordered him to give you a report, didn't  
8 you?  
9 A. Yes. And that was in writing.  
10 We did that with a detailed memorandum of  
11 what I wanted him to respond to.  
12 Q. And in that detailed -- he gave  
13 you a three or four page report, didn't  
14 he?  
15 A. Yes, he did.  
16 Q. And in that report did he  
17 indicate the things that Lieutenant Pratti  
18 had said about him?  
19 A. Some of that document contained  
20 that, yes.  
21 Q. So if it's inappropriate for  
22 Corporal Harb to make comments, personal  
23 comments about Lieutenant Pratti, why is  
24 it not also improper for Lieutenant Pratti  
25 to make offensive comments about Corporal

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1 PROCEEDINGS  
2 Harb?  
3 A. It is inappropriate for anybody  
4 to make inappropriate comments, whether  
5 it's Lieutenant Pratti or Detective Harb.  
6 Q. So why was it that you did not  
7 investigate the allegations against  
8 Lieutenant Pratti?  
9 A. Again, he only reported that to  
10 me as what I felt was his justification  
11 for his misconduct and the allegations of  
12 being called the, as an example, big guy  
13 couldn't be substantiated with a date or  
14 time, and they may have gone back as far  
15 as 2012 or 2013. I felt that should have  
16 been reported in a timely manner because  
17 he was insulted by it and he never did.  
18 The first time I heard of any complaints  
19 from Detective Harb about Lieutenant  
20 Pratti was when he was responding to his  
21 allegations of misconduct.  
22 Q. What was Lieutenant Pratti's  
23 reputation in the department, Chief?  
24 A. Well, he was a uniformed, second  
25 line supervisor. Reputation? He did what

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1 PROCEEDINGS  
2 I asked him to do. I can't expect any  
3 more from him. I'm not sure what anybody  
4 else's opinion of him is, if that's what  
5 you are referring to as his reputation.  
6 His reputation for me was if I called him,  
7 he responded and he handled what I  
8 expected of him.  
9 Q. You completed a written report of  
10 your investigation on Jack Harb, didn't  
11 you?  
12 A. Yes, I did.  
13 Q. What was the date of that?  
14 A. Originally it would have probably  
15 been near the last day, end of 2023. It  
16 was subsequently updated. There was some  
17 delay on that due to trying to determine  
18 if and when he had opened a specific  
19 Lexipol policy update which later we were  
20 able to determine that he at least  
21 received the update and opened the e-mail,  
22 so the report date is -- I'm just guessing  
23 here, but I'm going to say about mid  
24 March of 2022 or 2023. I don't be even  
25 know what year it was. That was 2022 so

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1 PROCEEDINGS  
2 my report is probably dated March of --  
3 sometime in March of 2023.  
4 Q. Are you aware that disciplinary  
5 charges in this matter were not filed  
6 until April 26, 2024?  
7 MR. BASHJAWISH: Objection.  
8 THE WITNESS: I am.  
9 BY MR. TUTTLE:  
10 Q. Do you know why that delay?  
11 MR. BASHJAWISH: Objection --  
12 THE WITNESS: I do not.  
13 THE HEARING OFFICER: Your  
14 objection, counselor?  
15 MR. BASHJAWISH: Withdrawn.  
16 MR. TUTTLE: Can we read the  
17 question back?  
18 (Record read.)  
19 THE WITNESS: I did not know when  
20 charges were filed or served on  
21 Detective Harb.  
22 BY MR. TUTTLE:  
23 Q. After you filed your report, did  
24 either the sheriff or undersheriff tell  
25 you whether they intended to bring

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1 PROCEEDINGS  
2 disciplinary charges?  
3 A. Not that I can remember. I'm  
4 almost positive that they did not.  
5 Q. Did not what, did not talk to you  
6 about that?  
7 A. Did not talk to me about filing  
8 charges of Section 75 anything. I never  
9 had a conversation about that report or  
10 the -- their planned resolution of it. I  
11 don't recall for sure, but I don't  
12 remember having that conversation.  
13 Q. You know who Julie Diescher is,  
14 don't you?  
15 A. Yes.  
16 Q. Do you know whether Jack Harb  
17 ever filed a personnel complaint against  
18 Lieutenant Pratti as a result of the  
19 events of October 31, 2022?  
20 A. I believe he did, not that Julie  
21 Diescher ever spoke to me about it. But  
22 my information is coming from Detective  
23 Harb.  
24 Q. Do you know the results of that  
25 investigation?



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1 PROCEEDINGS

2 A. I do not.

3 Q. Getting back to Lieutenant

4 Pratti's reputation, did you ever state to

5 Jack Harb that Lieutenant Pratti was woven

6 into the fabric of the department?

7 A. I don't recall saying that.

8 Q. Would that be true?

9 A. Possibly a fragment of a

10 conversation --

11 Q. My question, Chief, is it true

12 that he was in some way woven into the

13 fabric of the Sullivan County sheriff's

14 office?

15 MR. BASHJAWISH: Objection to

16 vagueness.

17 BY MR. TUTTLE:

18 Q. Do you understand the question?

19 A. Yes, I do. I really don't have

20 an answer for you. Is it true that he's

21 part of the fabric of Sullivan County? I

22 don't know. I can't answer to that.

23 Q. Do you remember any discipline

24 imposed on Lieutenant Pratti during his

25 career?

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1 PROCEEDINGS

2 A. Yes.

3 Q. What discipline are you aware of

4 with regard to Lieutenant Pratti?

5 A. The most recent one is discharge

6 of a firearm at the Galleria mall.

7 Q. He fired shots at the Galleria

8 mall?

9 A. There is an allegation that he

10 discharged his firearm at the Galleria

11 mall. It's several years ago now, but

12 that's sum and substance of it, yes.

13 Q. And what discipline was imposed

14 on him as a result?

15 A. I'm not entirely sure because I

16 didn't handle that, it was handled by the

17 undersheriff. But I know there is

18 something in the disciplinary file that

19 has to do with a letter of censure and

20 maybe loss of some time, probably vacation

21 time. I'm not sure. I never actually

22 read it but that's what I was told by the

23 undersheriff.

24 Q. So you've never seen any

25 documents with regard to that?

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1 PROCEEDINGS

2 A. No, I haven't.

3 Q. So all you know about it is that

4 the undersheriff told you there was some

5 discipline imposed; is that right?

6 A. Yes.

7 Q. Do you know whether Lieutenant

8 Pratti deleted the 2023 patrol schedule

9 before he left the employ?

10 A. The work schedule was deleted.

11 It was deleted from the computer at his

12 office desk, yes.

13 Q. Do you know why he did that?

14 A. I do not. I spoke to him and he

15 denied doing it intentionally.

16 Q. Was there ever any investigation

17 into whether he did or did not do that?

18 A. Yes.

19 Q. Who conducted that investigation?

20 A. I believe the undersheriff was

21 present there and Mr. Lorne Green.

22 Q. How did you go about the

23 investigation?

24 A. We were able to -- I think at

25 that point Lieutenant Pratti was not there

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1 PROCEEDINGS

2 anymore. He may have been retired or on

3 leave, but we contacted Mr. Green so that

4 we could access Lieutenant Pratti's --

5 access into the county server, if you

6 will, and once we got into his computer we

7 looked at whatever history that was there

8 with a lot of help from Lorne Green, and

9 we tried to reproduce deleting the work

10 schedule and we were able to do that. It

11 was possible that it was done there.

12 Q. So did you reach a conclusion as

13 to whether it was done there?

14 A. Yes, it was definitely done right

15 there at that computer station at that

16 office at that desk. And as far as I know

17 no one had access to it, you know, with

18 the security the county has for all of us,

19 user name, password, it was Pratti's

20 access to that work schedule when it was

21 deleted.

22 Q. Were any disciplinary proceedings

23 initiated against Lieutenant Pratti for

24 having done that?

25 A. No, there was not.

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1           PROCEEDINGS

2    Q. By the way, would that constitute

3 criminal conduct?

4    A. It may. Certainly misconduct, if

5 it was done intentionally. And I'm not

6 sure, I would have to speak to somebody

7 about that but if he intentionally deleted

8 a document like that, I'm not sure if it's

9 criminal or not. It never really -- I did

10 not research that possibility.

11   Q. But you told us no discipline was

12 pursued against Lieutenant Pratti for that

13 conduct?

14   A. That's correct.

15   Q. Do you know why?

16   A. He was no longer employed by the

17 sheriff's office. The best I can recall

18 on that was he did that on his last day

19 when he was employed in full pay status

20 and bu the time we got a chance to look

21 into it, he was no longer employed there.

22   Q. Did you seek a legal opinion as

23 to whether it was possible to pursue

24 discipline against him even though he had

25 retired?

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1           PROCEEDINGS

2    A. I did not. To my knowledge no

3 one else did.

4    Q. To your knowledge no one else

5 did?

6    A. I really couldn't answer what

7 anyone else may have done but I don't

8 believe so because I never was informed of

9 that.

10   Q. Did you ever tell Jack Harb that

11 is a liar who perpetuated anarchy, chaos

12 and turmoil in the Sullivan County

13 sheriff's office?

14   A. I never told him that.

15   Q. So over your tenure in the

16 sheriff's office, Chief, has discipline

17 been administered in a fair and consistent

18 manner?

19   A. As far as I had any -- whatever

20 control I had over those things, I would

21 say yes. Some things are beyond my

22 control and I may have an opinion about

23 them but anything I had control over was

24 fair.

25   Q. That wasn't the question. And

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1           PROCEEDINGS

2 you've already told us that you did not

3 initiate discipline, you made internal

4 reports, gave them to the sheriff or

5 undersheriff, and they decided who was

6 going to be disciplined and who was not.

7 Did I get that right?

8    A. That is correct4.

9    Q. Now, the you question is was

10 discipline administered in a fair and

11 consistent manner during the time you've

12 been with the sheriff's office?

13   A. Well, it's a broad question. It

14 starts with the investigation, which is my

15 responsibility, and I like to think that

16 at least anything I initiated or the way I

17 handled things was done thoroughly and

18 fairly. Once it got to the disciplinary

19 stage, I have no input into that. Some of

20 those results I'm aware of. Most of them,

21 I don't.

22   Q. As to those you are aware of,

23 were they in your opinion fair and

24 consistent?

25   A. I would say yes.

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1           PROCEEDINGS

2    Q. Did you ever refer to the working

3 conditions in the Sullivan County

4 sheriff's office as a toxic environment?

5    A. Almost for sure that's a fragment

6 of a conversation I had with Detective

7 Harb.

8    Q. What did you mean by that?

9    A. Well it might even be his

10 language that I repeated, which had an

11 awful -- mostly to review his problems

12 there.

13   Q. Do you know if Jack Harb has ever

14 reported conduct on the part of the

15 sheriff or the undersheriff to the New

16 York State attorney general's office?

17   A. I don't know that. I heard of it

18 following the hearing of last week.

19   Q. Did Jack Harb ever bring to your

20 attention conduct on the part of the

21 sheriff or the undersheriff that he

22 believed to be criminal in nature?

23   A. I'm sure we had a conversation

24 about something of that nature, yes.

25   Q. What was it you discussed of that

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1           PROCEEDINGS

2 nature?

3     A. The one that comes to mind is a

4 criminal history audit from 2017 that the

5 undersheriff caused to happen --

6     Q. What was alleged to be criminal

7 about that?

8     A. Well, sum and substance of that,

9 I believe, a criminal history was run on a

10 victim rather than a defendant, which at

11 the time was really not consistent with

12 DCJS policies on criminal history and it

13 gets flagged in an audit of criminal

14 history logs that I have that one of my

15 other detectives have oversight of.

16     Q. Who was that other detective?

17     A. Detective Cyrus Barnes.

18     Q. He is now retired, isn't he?

19     A. Yes, he is.

20     Q. Did Jack Harb tell you that he

21 believed the undersheriff had been

22 involved in that?

23     A. Yes, he did, in some manner.

24     Q. And you mentioned more than one.

25 Was there something about a police

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1           PROCEEDINGS

2 accident report, changing a police

3 accident report?

4     A. I don't recall it but that's

5 entirely possible that we had a

6 conversation about accident reports.

7     Q. Would those conversations have

8 been -- would they have taken place before

9 April 26 of 2024?

10     A. Yes.

11     Q. Did you ever relay these reports

12 to the sheriff or undersheriff?

13     A. I'm not entirely sure. It was

14 some time ago but I'm sure I at a minimum

15 discussed it with the undersheriff.

16     Q. Wouldn't it be important within

17 your administration that you discuss with

18 the sheriff and undersheriff allegations

19 of criminal conduct on their part?

20     A. Yes.

21     Q. So when you shared that with

22 either the sheriff or undersheriff,

23 whichever, do you remember any response?

24     A. Not verbatim. But it's my

25 understanding as of now that in the case

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1           PROCEEDINGS

2 of at least maybe one accident report,

3 that the undersheriff has explained his

4 actions in that, not only to me -- he

5 doesn't really answer to me but probably

6 to the sheriff.

7           MR. TUTTLE: I'm sorry, can we

8 have that answer read back, please.

9           (Record read.)

10 BY MR. TUTTLE:

11     Q. So when you talked to the sheriff

12 and undersheriff of those matters, did you

13 tell them that you learned of it through

14 Jack Harb?

15     A. No. That's not how I learned of

16 it either.

17     Q. How did you learned of them?

18     A. Well, in the case of one accident

19 report, I knew about the accident before

20 it was investigated, when the deputy was

21 assigned.

22     Q. Were you done with your answer,

23 or did we break up again?

24     A. Maybe you lost me. I can repeat

25 that.

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1           PROCEEDINGS

2           MR. TUTTLE: Ms. Bartels, can you

3 read back the last answer.

4           (Record read.)

5 BY MR. TUTTLE:

6     Q. The question is, Chief,

7 apparently as I understand it, you were

8 aware of an allegation that someone in

9 your department, potentially the sheriff

10 or the undersheriff, had directed that an

11 accident report be changed after it was

12 issued. Is that correct or not?

13     A. That is correct.

14     Q. And that's not supposed to

15 happen, is it Chief?

16     A. Well, it does happen. All

17 accident reports that are investigated

18 have at least one level of review by a

19 supervisor, sometimes two, and accident

20 reports do get altered, if you will, or

21 corrected. It's not uncommon.

22     Q. That would be by the reviewing

23 supervisor, would that be correct?

24     A. Yes.

25     Q. It would not be appropriate to

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1 PROCEEDINGS  
2 modify an accident report in order to  
3 favor the interests of a friend or  
4 relative, would it?  
5 A. It would be inappropriate to do  
6 that for sure.  
7 Q. Was that the allegation that you  
8 heard with respect to the accident report  
9 that we are discussing?  
10 A. It's quite similar. I don't  
11 think it was a friend or relative, I think  
12 it was another police department's car.  
13 Q. Did you investigate to determine  
14 if that was true?  
15 A. I did look into it. I spoke to  
16 the deputy that was assigned there, I  
17 spoke to the first line supervisor, I  
18 spoke to the second line supervisor and  
19 the undersheriff was, in my final  
20 findings, the one who directed the report  
21 to be changed. And at that point, I'm out  
22 of the investigation because it's a little  
23 higher authority than I have.  
24 Q. Do you know why the undersheriff  
25 directed that the report be changed?

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1 PROCEEDINGS  
2 A. My best understanding is that the  
3 chief of other police department contacted  
4 him and reported that the deputy that  
5 investigated the accident and wrote the  
6 report had made an error as to the  
7 responsible driver of the other vehicle.  
8 Q. So how did you learn of these  
9 allegations, Chief?  
10 A. That accident report may have  
11 happened after hours or on a weekend I  
12 wasn't present at my office and when I did  
13 get to my office I looked at the accident  
14 report. It may have been a day or several  
15 days later, and it was not consistent with  
16 what I had been told when it was being  
17 investigated.  
18 Q. We discussed earlier that someone  
19 brought to your attention their belief  
20 that the modification of that accident  
21 report constituted criminal conduct. So  
22 the question is who was it that brought  
23 that to your attention?  
24 A. First of all, I don't think I  
25 said that, that it was criminal conduct.

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1 PROCEEDINGS  
2 I said it was not uncommon for accident  
3 reports to get changed.  
4 Q. I didn't stay it was criminal  
5 conduct. I'll start again. My initial  
6 question in this vein was did anyone ever  
7 report to you that they believe an  
8 accident report had been changed in a  
9 manner that constituted criminal conduct  
10 by the sheriff or undersheriff. So what  
11 is the answer to that question? Did  
12 anybody ever make that allegation to you?  
13 A. I don't think so, not in those  
14 harsh terms, no.  
15 Q. Did Paul Slavic ever discuss this  
16 matter with you?  
17 A. Yes.  
18 Q. Was Jack Harb present during that  
19 discussion?  
20 A. He may have been. I don't  
21 remember.  
22 Q. What was the discussion?  
23 A. Well, I've had numerous  
24 conversations with both of those people  
25 and I probably had conversations with

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1 PROCEEDINGS  
2 Detective Jack Harb and Lieutenant Paul  
3 Slavic about that matter and the matter of  
4 criminal history. I don't really recall  
5 when that was or why we were even talking  
6 about it, but I can tell you this: At  
7 some point Paul Slavic was accused of  
8 misconduct. I took a compelled statement  
9 from him. Jack Harb was present. It was  
10 recorded. You were present. And  
11 Lieutenant Slavic almost surely put that  
12 into his compelled statement.  
13 Q. So I know you don't remember the  
14 exact dates, but were those conversations  
15 that you just described before April 26,  
16 2024?  
17 A. Yes.  
18 Q. If I can have just a few minutes,  
19 Mr. Hearing Officer.  
20 THE HEARING OFFICER: Yes, that's  
21 agreeable. How long will you need?  
22 MR. TUTTLE: Five minutes.  
23 THE HEARING OFFICER: Let's take  
24 a five minute recess and we'll return  
25 at 12:25 p.m.

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1 PROCEEDINGS

2 (Off the record 12:20 p.m. to

3 12:28 p.m.

4 THE HEARING OFFICER: Let's

5 proceed. Mr. Tuttle, would you like

6 to pick up where you left off?

7 MR. TUTTLE: Yes, thank you.

8 BY MR. TUTTLE:

9 Q. Chief, do you remember a meeting

10 on December 14, 2022 with Detective

11 Corporal Jack Harb in which you presented

12 him with your memo directing him to give a

13 report on what happened on October 13,

14 2022?

15 A. I don't recall the date but I

16 definitely recall handing him that

17 memorandum directive.

18 Q. So that was a face-to-face

19 meeting in which you handed him that

20 directive?

21 A. Yes, sir, it was in person.

22 Q. In that meeting, did you tell him

23 that the sheriff had him in the his cross

24 hairs, that the sheriff had Detective

25 Corporal Harb in his cross hairs?

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1 PROCEEDINGS

2 A. I don't recall. I don't recall

3 specifically saying that.

4 Q. Would that have been true at that

5 time, did the sheriff have Detective Harb

6 in his cross hairs?

7 A. It may be a fragment of a

8 conversation I had with Detective Harb. I

9 don't recall.

10 Q. Getting back to your

11 investigation into the police accident

12 report that as allegedly improperly

13 changed, did you ever have a meeting

14 concerning that subject with the sheriff

15 and undersheriff?

16 MR. BASHJAWISH: Objection.

17 There's no -- it's not a fact that it

18 was improperly changed. I recall

19 Chief Muthig testifying that sometimes

20 reports do change. Whether or not

21 it's improper is not a fact that's

22 been established.

23 MR. TUTTLE: I didn't say it was.

24 I asked him about the allegation that

25 it had been improperly changed.

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1 PROCEEDINGS

2 THE HEARING OFFICER: Do you

3 withdraw that objection, Counselor?

4 MR. BASHJAWISH: Yes, Your Honor.

5 THE HEARING OFFICER: Thank you.

6 Proceed.

7 THE WITNESS: So I don't recall

8 having any meeting with Sheriff Schiff

9 and Undersheriff Chaboty

10 simultaneously about that. It may

11 have happened. I do not recall that.

12 I certainly recall speaking to the

13 undersheriff about that.

14 BY MR. TUTTLE:

15 Q. Is that once or more than once?

16 A. Probably more than once.

17 Q. What did the undersheriff tell

18 you about -- did he admit to you that he

19 directed the report be changed?

20 A. Yes.

21 Q. Did he tell you why he did that?

22 A. Yes. And again, his explanation

23 is that he got a phone call or

24 communication from the chief of that

25 police department that owned the police

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1 PROCEEDINGS

2 car and the investigation report done by

3 the deputy was wrong and needed to be

4 changed.

5 Q. Did you make an investigation to

6 determine whether that was true, whether

7 it really was -- the report as initially

8 issued was actually wrong?

9 A. I believe the initial report by

10 the deputy that went to the scene,

11 investigated it, was accurate.

12 Q. But then the report got changed,

13 correct?

14 A. Yes, it did, yes.

15 Q. So what was the basis for the

16 change if the original report was

17 accurate?

18 A. Again, the explanation I have

19 from the undersheriff who caused the

20 change to happen, was that he had a phone

21 call, or whatever communication from the

22 chief of that department who asked him to

23 change it or in some manner reported that

24 our deputy had made an error in the

25 investigation.

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1 PROCEEDINGS  
2 Q. So did you individually, not the  
3 undersheriff, did you individually make a  
4 investigation to determine if that was  
5 true?  
6 A. That the accident report was  
7 originally accurate? I did, yes.  
8 Q. I think you just told me that in  
9 your opinion it was originally accurate;  
10 is that fair?  
11 A. That is correct. So then again  
12 why was it changed just because the other  
13 agency asked Chaboty to change it?  
14 MR. BASHJAWISH: Asked and  
15 answered.  
16 THE WITNESS: So the answer is  
17 the explanation I got from the  
18 undersheriff who caused the change to  
19 occur was that. That he got a report  
20 from the chief of the other police  
21 department that it was wrong. I did  
22 look into that. And I think the  
23 police chief is wrong in his --  
24 whatever investigation he may have  
25 done into this accident, and I believe

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1 PROCEEDINGS  
2 that the deputy that originally wrote  
3 the accident, did the investigation,  
4 his investigation was accurate and  
5 correct.  
6 BY MR. TUTTLE:  
7 Q. So as head of internal affairs  
8 within the Sullivan County sheriff's  
9 office, did you register any protest in  
10 this change in the report?  
11 A. I guess the word protest would be  
12 -- I put my findings, belief, opinions,  
13 directly to the undersheriff who caused  
14 the change.  
15 Q. Did you ever have a conversation  
16 with the sheriff about this?  
17 A. No. Well, that may not be true.  
18 I probably did. I don't recall  
19 specifically doing that but it seems I may  
20 have.  
21 Q. Did you ever tell Jack Harb that  
22 you and the sheriff and the undersheriff  
23 had a conversation in which the sheriff  
24 stated that you all had to get on the same  
25 page about this?

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1 PROCEEDINGS  
2 A. This specific incident, I don't  
3 recall that. Being on the same page,  
4 that's a conversation we certainly would  
5 have had at some time but I don't recall  
6 specifically to this accident  
7 investigation.  
8 MR. TUTTLE: I have nothing  
9 further, Chief Muthig.  
10 THE HEARING OFFICER: Thank you  
11 Counselor.  
12 Mr. Bashjawish, do you have  
13 anything further for the witness?  
14 CROSS EXAMINATION  
15 BY MR. BASHJAWISH:  
16 Q. Chief Muthig, do you have an  
17 understanding when Mr. Harb was employed?  
18 A. This is a guess but 2012, maybe  
19 2011, but for sure 2012.  
20 Q. So since then, do you have an  
21 understanding as to whether or not -- let  
22 me rephrase the question.  
23 He is under your supervision,  
24 correct?  
25 A. At this time yes. I am the first

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1 PROCEEDINGS  
2 line supervisor of the detective division.  
3 Q. So you have a general  
4 understanding of how policies and  
5 procedures work at the Sullivan County  
6 jail, correct, and the patrol division?  
7 A. Well, for sure the patrol  
8 division. I'm not so confident with the  
9 jails, my knowledge of their operation.  
10 Q. Do you have an opinion as to  
11 whether or not as an employee of the  
12 sheriff's office, that Mr. Harb would have  
13 received policies and procedures during  
14 the time that he was employed?  
15 A. I don't recall ever personally  
16 delivering -- if he did not get them he  
17 would be a rare exception. When we hire  
18 people, part of their orientation is to  
19 deliver the rules, regulations and  
20 policies.  
21 Q. And your office, the patrol  
22 division, has updated its policies,  
23 correct?  
24 A. From time to time, yes.  
25 Q. Do the employees at the patrol

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1 PROCEEDINGS  
2 division receive any policy updates  
3 through e-mail via Lexipol?  
4 A. Well, certainly by Lexipol and  
5 those updates come from Lexipol to every  
6 member by e-mail. That policy has been  
7 approved, yes.  
8 Q. And do members of the patrol  
9 division, do they receive the Sullivan  
10 County employ handbook, to the best of  
11 your knowledge?  
12 A. To the best of my knowledge, yes.  
13 Q. Now, you just testified about the  
14 change of an accident report, correct?  
15 A. Yes.  
16 Q. And that was one incident,  
17 correct?  
18 A. That was a specific incident,  
19 yes.  
20 Q. Now, according to your testimony,  
21 is your testimony a difference in opinion  
22 between your office and the other  
23 sheriff's department?  
24 A. In many cases, yes. And some of  
25 it is based on the facts that I uncover or

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1 PROCEEDINGS  
2 follow.  
3 Q. In other words, do you have an  
4 understanding of what was changed or do  
5 you have a recollection of what was  
6 changed?  
7 A. I have both an understanding and  
8 I certainly recall it, yes.  
9 Q. So do you have a recollection as  
10 to what specifically or what facts were  
11 disagreed upon?  
12 A. Well, the contributing factors,  
13 most stand out thing, was who caused the  
14 accident was changed from the vehicle that  
15 was behind the police car or to the  
16 vehicle that was behind the police car,  
17 from the police car being at fault. It  
18 was changed to the other driver and car.  
19 Q. Was there any dispute as to  
20 whether or not the police emergency lights  
21 were on or off?  
22 A. There was some misunderstanding  
23 about that and I think that is also what  
24 the police chief told the undersheriff.  
25 Again, that's based on what the

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1 PROCEEDINGS  
2 undersheriff would have told me. I  
3 actually looked into that. I got some  
4 video that's from a long distance away,  
5 but that was incorrect. The police car  
6 never turned his lights on until the other  
7 driver had no opportunity to avoid the  
8 collision.  
9 Q. So would you -- so you are saying  
10 that's what the dispute was essentially  
11 over, whether or not the lights were on or  
12 off?  
13 A. Yes, by video surveillance.  
14 Q. Now, with respect to Lieutenant  
15 Pratti, he testified earlier his gun went  
16 off in Orange County, correct?  
17 A. Yes.  
18 Q. And you testified that earlier  
19 that he was disciplined, correct?  
20 A. Yes.  
21 Q. And typically would you agree  
22 with me that when someone is disciplined  
23 they typically get their PBA official or  
24 representative for assistance?  
25 A. I would use the word not

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1 PROCEEDINGS  
2 typically, usually. And it's not a  
3 requirement.  
4 Q. Now, did Mr. Pratti get the PBA's  
5 president, Mr. Harb's help?  
6 A. I don't believe so. I don't think  
7 so.  
8 Q. Do you have an understanding as  
9 to why Pratti did not do that?  
10 A. Yes, I do.  
11 Q. Why is that, why did he not seek  
12 assistance?  
13 MR. TUTTLE: Object to this as  
14 hearsay.  
15 THE WITNESS: He wanted to  
16 minimize this --  
17 THE HEARING OFFICER: Hold on one  
18 second. Mr. Tuttle, proceed with your  
19 objection.  
20 MR. TUTTLE: It's hearsay.  
21 MR. BASHJAWISH: To his  
22 understandings, not to what someone  
23 said.  
24 THE HEARING OFFICER: Understood.  
25 Overruled. Proceed, Chief Muthig.

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1 PROCEEDINGS  
2 THE WITNESS: I'm a little  
3 confused on the question. I'm sorry.  
4 MR. BASHJAWISH: I'll rephrase  
5 it.  
6 BY MR. BASHJAWISH:  
7 Q. Do you have an understanding as  
8 to why Mr. Pratti did not seek assistance  
9 from the PBA?  
10 A. Yes, I do.  
11 Q. What is that?  
12 A. His act at the Galleria mall, his  
13 gun discharge was humiliation and  
14 embarrassing and once the investigation  
15 was complete in Orange County, he just  
16 wanted it to go away. And I don't know  
17 this for a fact, but I think whatever  
18 discipline the sheriff and undersheriff  
19 decided on, he just accepted it so that  
20 the humiliation would end.  
21 Q. Right. His gun went off in a  
22 bathroom, do you recall that?  
23 A. Yes.  
24 Q. And he's responsible to watch  
25 where his gun is, correct?

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1 PROCEEDINGS  
2 A. Correct.  
3 Q. Do you know if there was an  
4 outside police investigation related to  
5 this incident?  
6 A. There was.  
7 Q. An independent investigation?  
8 A. That's correct.  
9 Q. Now, would Detective Corporal  
10 Harb have known that?  
11 A. I don't know why he would  
12 specifically know that, but it was in the  
13 newspapers, it was in the media, it was  
14 pretty much common knowledge by everybody  
15 that works in the sheriff's office.  
16 Q. Sure. That was common knowledge  
17 that the gun went off and that was  
18 embarrassing for Pratti, correct?  
19 A. Yes.  
20 Q. But was it common knowledge there  
21 was an outside investigation into the  
22 incident and that he was disciplined; was  
23 that common knowledge?  
24 A. I think it was common knowledge  
25 -- I'm sure it was, that New York State

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1 PROCEEDINGS  
2 Police were investigating it and perhaps  
3 the Orange County District Attorney's  
4 office. The discipline end of the thing,  
5 I don't think that's common knowledge to  
6 very many people.  
7 Q. Right. And do you have an  
8 understanding as to how anyone would  
9 become aware of the disciplinary action?  
10 A. Well, these days us can probably  
11 FOIL his disciplinary file and just get  
12 it. But the common knowledge, for sure --  
13 again, it's my opinion, but I don't  
14 believe anybody, the undersheriff or  
15 sheriff, were trying to further humiliate  
16 him about this event and I'm pretty sure  
17 Lieutenant Pratti wasn't talking to  
18 anybody about it.  
19 Q. You testified earlier about the  
20 sheriff wanting to retaliate against Mr.  
21 Harb. Do you have any evidence that  
22 Sheriff Schiff is retaliating against Jack  
23 Harb?  
24 A. I don't have any direct knowledge  
25 of anything like that has occurred.

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1 PROCEEDINGS  
2 Q. Since the hearing last week on  
3 July 26th, it came to your knowledge that  
4 Jack Harb recorded conversations with you  
5 about your investigation, correct?  
6 A. Yes.  
7 Q. Has that affected your -- well,  
8 let me rephrase the question.  
9 What is your response to that now  
10 knowing that about 15 hours of  
11 conversation was recorded with you by Jack  
12 Harb without your consent?  
13 A. Disappointed. Unhappy. I don't  
14 trust him. I don't think anybody else in  
15 the sheriff's office feels any different  
16 than that.  
17 MR. TUTTLE: Objection to how  
18 anybody else in the department feels  
19 about him.  
20 THE HEARING OFFICER: I'll  
21 sustain that objection.  
22 BY MR. BASHJAWISH:  
23 Q. So just specifically with you,  
24 Chief Muthig, talk about your  
25 disappointment and lack of trust thereof.



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1 PROCEEDINGS  
2 A. Yes.  
3 Q. Why is that?  
4 A. Well I would never have expected  
5 that he would intentionally violate a  
6 policy, a regulation about doing what he  
7 did. It goes beyond insubordination,  
8 refusing to comply with orders and  
9 policies. He has to know that this has to  
10 be devastating for his career. Certainly  
11 a serious act of misconduct. I didn't  
12 expect that from him.  
13 Q. Should Mr. Harb have known that  
14 secretly recording you for 15 hours or  
15 recording you in general, is a violation  
16 of the sheriff's office, is that a  
17 violation of --  
18 MR. TUTTLE: Objection. There is  
19 no charges here of improper recording.  
20 These charges --  
21 THE HEARING OFFICER: Your  
22 objection is noted, Counsel. I'll  
23 allow him to proceed.  
24 BY MR. BASHJAWISH:  
25 Q. So should he have known that,

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1 PROCEEDINGS  
2 recording violated the sheriff's office  
3 policies?  
4 A. That's correct. Whether you  
5 wanted to use old rules and regulations or  
6 Lexipol updates, it's a pretty broad  
7 statement that is prohibited with approval  
8 to do such a thing only from the sheriff,  
9 undersheriff or a chief.  
10 Q. Before Mr. Tuttle asked you  
11 questions about bringing charges against:  
12 Lieutenant Pratti, do you recall that  
13 testimony?  
14 A. Yes.  
15 Q. And he asked you the question why  
16 didn't you bring up charges against him.  
17 Do you recall your answer?  
18 A. About the gun incident or about  
19 the work schedule?  
20 Q. About deleting the work schedule,  
21 yes.  
22 A. Yeah, he did that on the last  
23 hour of the last day he was employed by  
24 the County of Sullivan. I don't know how  
25 to bring charges against a non-county

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1 PROCEEDINGS  
2 employee.  
3 Q. So in your mind it wouldn't have  
4 made a difference to bring charges the  
5 next day because he was retired; is that  
6 your testimony?  
7 A. Yes. It would make no  
8 difference. It would be a waste of time  
9 and it didn't help recover the schedule.  
10 Q. Before, and in conjunction with  
11 the deletion, have you and your  
12 investigation into that, did you make a  
13 determination as to whether or not he did  
14 that intentionally?  
15 A. I couldn't come to a conclusion.  
16 The best I could do was speak with him  
17 about how and why that occurred. It was  
18 predetermined to tell me he didn't know he  
19 did it. And if he did do it, it was an  
20 accident.  
21 Q. In terms of your investigation  
22 into the events relating to Mr. Harb's  
23 comments about Lieutenant Pratti, you  
24 conducted an investigation, correct?  
25 A. Yes.

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1 PROCEEDINGS  
2 Q. And you testified that you don't  
3 write up the charges, that it goes up to  
4 the sheriff and undersheriff, correct?  
5 A. Correct.  
6 Q. And you currently are not  
7 working, correct, at the office?  
8 A. Yes, I am. I am presently not  
9 there. I'm on some extended leave. But  
10 I'm still employed there as a chief.  
11 Q. So you are not physically in the  
12 office. When did you go on leave?  
13 A. It's been some time. I'm going  
14 to say around the first of April of this  
15 year.  
16 Q. Of 2024?  
17 A. Yes.  
18 MR. BASHJAWISH: No further  
19 questions.  
20 THE HEARING OFFICER: Thank you.  
21 Mr. Tuttle?  
22 MR. TUTTLE: Just a few.  
23 REDIRECT EXAMINATION  
24 BY MR. TUTTLE:  
25 Q. The galleria mall incident with

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1 PROCEEDINGS  
2 regard to Lieutenant Pratti, you told me  
3 on direct examination that you never  
4 looked at his file and that you don't have  
5 any direct knowledge of whether he was or  
6 was not disciplined; is that correct?  
7 A. That's not correct. If I said  
8 that it's incorrect. He was disciplined.  
9 Q. How do you know that?  
10 A. I was told that by the  
11 undersheriff. Possibly the sheriff, but  
12 definitely the undersheriff.  
13 Q. Did they tell you what discipline  
14 was imposed?  
15 A. I'm sure of it, yes.  
16 Q. Sure of what?  
17 A. What discipline was imposed.  
18 Q. The question is not was  
19 discipline imposed, but what was the  
20 discipline that was imposed?  
21 A. The discipline imposed, I think  
22 he got a letter of reprimand, letter of  
23 censure, and lost some accrued time, took  
24 it away from him. Probably annual leave  
25 or vacation time.

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1 PROCEEDINGS  
2 Q. Do you know how much?  
3 A. I don't, no.  
4 Q. Could it have been a day?  
5 A. It could have been. I believe it  
6 was multiple days, though.  
7 Q. But you don't have knowledge?  
8 A. I do have knowledge. He told me  
9 that they took several days of leave from  
10 him and wrote him a letter of reprimand.  
11 Q. You referred to a letter of  
12 reprimand and a letter of censure. Are  
13 those one thing or two things?  
14 A. One thing.  
15 Q. So in other words, those are  
16 alternate ways of referring to the same  
17 thing and he only got one letter, right?  
18 A. That's correct.  
19 Q. I believe you told me on direct  
20 examination that with regard to your  
21 department's ability, the sheriff office's  
22 ability to bring disciplinary charges  
23 against Pratti after he retired, did you  
24 ever seek a legal opinion with regard to  
25 whether that was permissible?

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1 PROCEEDINGS  
2 A. I did not.  
3 Q. Do you know if anyone else did?  
4 A. I don't know.  
5 Q. Did Lorne Green who testified  
6 here earlier, he is basically the IT guy  
7 from the county, right?  
8 A. Correct.  
9 Q. And did he assist in the  
10 investigation into the deletion of the  
11 2023 patrol schedule?  
12 A. Yes, he did.  
13 Q. Did you ever see a report from  
14 him?  
15 A. Not on that, no.  
16 Q. Did he ever express to you his  
17 conclusion in any form?  
18 A. I'm sure -- it was very helpful.  
19 I'm sure he told me how, on the phone when  
20 he was trying to tell me how it could  
21 happen, what he would have to do to  
22 reproduce what Lieutenant Pratti had done.  
23 Q. So did he do that, did he  
24 reproduce what Lieutenant Pratti had done?  
25 A. Yes. And he told me how to do

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1 PROCEEDINGS  
2 it, too, at that computer station.  
3 Q. Can you remember what he told  
4 you, do you remember the steps?  
5 A. Well the first obstacle that only  
6 Lorne Green could do, was to get into that  
7 specific computer, user name was not a  
8 problem, the password was, but he was able  
9 to defeat that. Once we were in the  
10 computer he was able to show me how to  
11 look at the history of that user, which  
12 was Lieutenant Pratti. And you could  
13 bring up the work schedule which was  
14 deleted, and I'm going to say it was a  
15 test of how to do that. We put a document  
16 in there that was somewhat protected, only  
17 certain people have access to certain  
18 things like the work schedule, and in  
19 order to delete it you would have to with  
20 a mouse or keyboard delete it. And you  
21 would get two warnings that you were about  
22 to delete a document, this will be a  
23 permanently deleted document, and in order  
24 to actually delete it you would have to do  
25 those steps and delete it. So what that

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1 PROCEEDINGS  
2 meant to me and Mr. Green, it looked more  
3 intentional than accidental because of the  
4 warnings you get when you try to delete a  
5 document like that.  
6 MR. TUTTLE: I have nothing  
7 further, Chief Muthig.  
8 THE HEARING OFFICER: Thank you,  
9 Counselor.  
10 Mr. Bashjawish, do you have  
11 anything further?  
12 MR. BASHJAWISH: No, sir, no  
13 questions.  
14 THE HEARING OFFICER: Mr. Tuttle  
15 any other witnesses you'd like to  
16 proceed with?  
17 MR. TUTTLE: No.  
18 THE HEARING OFFICER: Mr.  
19 Bashjawish, do you have any witnesses  
20 you would like to proceed with?  
21 MR. BASHJAWISH: No.  
22 THE HEARING OFFICER: As  
23 previously discussed with counsel,  
24 we'll go over it again, do either of  
25 you wish to make a closing argument or

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1 PROCEEDINGS  
2 prefer to provide a brief?  
3 MR. TUTTLE: My preferences would  
4 be post-hearing briefs.  
5 MR. BASHJAWISH: If I could do  
6 both shortly.  
7 THE HEARING OFFICER: Sure.  
8 MR. BASHJAWISH: And if we can  
9 talk about the schedule of a brief.  
10 THE HEARING OFFICER: Okay.  
11 Proceed, Counsel.  
12 MR. BASHJAWISH: Just to make a  
13 few closing remarks orally, just  
14 remember what the charges are about.  
15 The charges are about those four  
16 charges. We believe that -- we just  
17 recall that Mr. Harb admitted to them.  
18 That he provided a defense for it.  
19 His defense of the most important one  
20 I think, the one of retaliation, was  
21 not substantiated because he claimed  
22 that he is being retaliated against.  
23 Once you get the transcript I want to  
24 highlight the point that there was  
25 testimony during his direct with his

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1 PROCEEDINGS  
2 attorney that did not have any  
3 evidence that he was being retaliated  
4 against by the sheriff. It seems to  
5 me that he is providing more  
6 circumstantial evidence because of  
7 different factors, especially the  
8 timing of the complaint. I just want  
9 to highlight a point to you, to the  
10 hearing officer, that there is no  
11 timeliness affirmative defense, that  
12 the charges are improper because they  
13 exceeded the statutory requirement of  
14 having been served in 18 months. They  
15 are certainly timely. So that I just  
16 want to highlight as a more important  
17 point, that he admitted to the charges  
18 and the defense was not substantiated  
19 for the retaliation.  
20 (Connection lost to the hearing  
21 officer.)  
22 MR. BASHJAWISH: The main point  
23 is he admitted to the charges and that  
24 his main defense -- he has four of  
25 them, four main ones, the transcript


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1 PROCEEDINGS  
2 will provide as to whether or not he's  
3 proven those defenses. Some of them  
4 might seem to be more legally oriented  
5 than they are factually based. But  
6 the most important one in my view is  
7 the retaliation and he did say -- just  
8 I want to highlight to you that when  
9 you look in the record you'll see that  
10 there is no evidence for that, there  
11 is no evidence that Sheriff Schiff  
12 knew of this alleged protected  
13 activity and acted on that. So  
14 there's no evidence of that, and  
15 that's the basis of retaliation. So  
16 there is no evidence of that and  
17 because of that you should uphold the  
18 charges or find them founded.  
19 THE HEARING OFFICER: Thank you,  
20 Counselor.  
21 Mr. Tuttle, I'll allow you to  
22 make brief closing remarks as well as  
23 filing briefs.  
24 MR. TUTTLE: Yes, very briefly,  
25 our position is this is a dispute

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1           **PROCEEDINGS**  
2    between two union members about a  
3    union issue at a union meeting and  
4    we've asserted numerous affirmative  
5    defenses, including the fact that it  
6    simply isn't a matter the department  
7    has any interest in as a union  
8    dispute, it did not take place on  
9    department time. Khalid is right, we  
10   have four affirmative defenses before  
11   you, most of which are of a legal  
12   nature and will be addressed fully in  
13   the subsequent memorandum of the law.  
14   To the effect that Khalid says there  
15   is no evidence, that's not correct.  
16   There is evidence, it's just not  
17   direct evidence. There is plenty of  
18   circumstantial evidence. The  
19   disciplinary charges before you were  
20   brought in retaliation for his conduct  
21   as a union member and for having  
22   disclosed allegations of criminal  
23   conduct against the sheriff and the  
24   undersheriff so we'll address those at  
25   length in our post hearing brief.

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1           **CERTIFICATE**  
2           **STATE OF NEW YORK )**  
3                            : SS.:  
4    **COUNTY OF ORANGE )**  
5  
6           I, SANDRA NOEL BARTELS, a Notary  
7    Public for and within the State of New  
8    York, do hereby certify:  
9           That the testimony as herein set  
10   forth, was duly sworn by the Hearing  
11   officer; and that the within transcript is  
12   a true record of the testimony given.  
13          I further certify that I am not  
14   related to any of the parties to this  
15   action by blood or marriage, and that I am  
16   in no way interested in the outcome of  
17   this matter.  
18          IN WITNESS WHEREOF, I have hereunto  
19   set my hand this 13th day of August, 2024.  
20  
21  
22                              
23                            SANDRA NOEL BARTELS  
24                            \* \* \*  
25

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1           **PROCEEDINGS**  
2           **THE HEARING OFFICER:** Anything  
3    additional. Counselor.  
4           **MR. BASHJAWISH:** Just dates for  
5    briefs.  
6           **THE HEARING OFFICER:** Do you want  
7    to do that off the record?  
8           **MR. BASHJAWISH:** Sure.  
9           **THE HEARING OFFICER:** The time is  
10   1:06 p.m. This is going to close the  
11   proceedings of Detective Corporal Jack  
12   Harb as continued from July 24th.  
13   Both parties have made their cases and  
14   have elected to file briefs. We are  
15   going to close these proceedings and  
16   after we close these proceedings we'll  
17   do a little homework or housekeeping  
18   on how we get the transcripts and  
19   records and briefs. So if I have no  
20   other input from either counsel, I  
21   would like to close these proceedings  
22   at 1:06 p.m.  
23           Thank you to all that have been  
24   in attendance.  
25           (Off the record 1:06 p.m.)

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