

1 STATE OF INDIANA)
) SS:
2 COUNTY OF MONROE)
3

4 IN THE CIRCUIT COURT OF MONROE COUNTY

5 CAUSE NO. 53C06-2203-PL-000509

6 COUNTY RESIDENTS AGAINST ANNEXATION,)
7 INC., an Indiana not for profit)
8 corporation, et al.)

9 Remonstrators/Appellants/Petitioners,)

10 -vs-)

11 THE COMMON COUNCIL of the City of)
12 Bloomington, Monroe County, Indiana,)
13 et al.)

14 Respondents.)

15 DEPOSITION OF MICHAEL DIEKHOFF

16
17 The deposition upon oral examination of
18 MICHAEL DIEKHOFF, a witness produced and sworn
19 before me, Colleen Brady, Notary Public in and for
20 the County of Monroe, State of Indiana, taken on
21 behalf of the Respondents, at the offices of
22 Bloomington City Hall, 401 North Morton Street,
23 Room 225, Bloomington, Monroe County, Indiana, on
24 the 20th day of March 2024, at 9:00 a.m., pursuant
25 to the Indiana Rules of Trial Procedure with
written notice as to time and place thereof.

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APPEARANCES

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ALSO PRESENT:

Margaret Clements

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1 (Time noted: 9:00 a.m.)

2 MICHAEL DIEKHOFF,
3 having been duly sworn to tell the truth, the whole
4 truth, and nothing but the truth relating to said
5 matter, was examined and testified as follows:

6

7 DIRECT EXAMINATION,

8 QUESTIONS BY WILLIAM J. BEGGS:

9 Q Will you please state your full name for the
10 record?

11 A Michael Diekhoff.

12 Q Your employment is what, please?

13 A I am the chief of police for the City of
14 Bloomington.

15 Q How long have you held that position?

16 A Oh gosh. I think I'm in my 16th year as chief.

17 Q For how long have you been employed as a sworn
18 officer by the Bloomington Police Department?

19 A 37 years, I believe. You lose track.

20 Q And have you always been a police officer with
21 Bloomington Police Department? Or have you been
22 with other agencies?

23 A I started at IU as a part-time officer when I
24 was in college.

25 Q And that lasted just till you graduated or

1 something?

2 A Actually, no. I got hired at the city before I
3 graduated. So that was less -- less than a year
4 at IU.

5 Q As chief for the last 16 years or so, are you
6 the person in charge of the operations of
7 Bloomington Police Department?

8 A Yes.

9 Q How many employees are there at the Bloomington
10 Police Department.

11 A Roughly 160, I believe.

12 Q And of that, roughly, 160, how many are sworn
13 officer?

14 A 105 authorized sworn.

15 Q And for how long have there been 105 authorized
16 sworn officer employed by BPD?

17 A Probably five or six years, I would say. I'm
18 not sure exactly when we went to 105.

19 Q When you say "authorized sworn," can you please
20 help me understands what that qualifier
21 "authorized" means?

22 A That is the budgeted number of sworn officers.

23 Q How many are employed?

24 A We have, I think, it's around 85 right now.

25 Q So when I was asking you how many sworn officers

1 there are, and you said there were 105
2 authorized sworn -- I want to make sure -- what
3 were you answering?

4 What did you think I'd asked?

5 A Total number of employees.

6 Q Well, that's the 160 number; right?

7 A Right. And so we're not -- I mean, if you're
8 asking me if we're completely filled on civilian
9 employees, we're not either. But that's the
10 total number of employees that are budgeted.

11 Q How short are -- oh, the 160 is a budgeted
12 number?

13 A Yes.

14 Q What's the actual employed number? Do you know?

15 A Let's see. Probably -- we probably have --
16 we're probably down 10 non-sworn. Probably 10
17 openings in various divisions.

18 Q So it's roughly 150 employed today, total, and
19 of that, about 85 are sworn officer?

20 Am I understanding that correctly?

21 A Yes.

22 Q I want to make sure I get the category so we're
23 talking the same language today. We've
24 identified the category "sworn officers." We've
25 identified -- I think you said "civilian" just a

1 minute ago?

2 A Or non-sworn.

3 Q Non-sworn. Is there some other category besides
4 those two?

5 A No, just those two.

6 Q What are the titles that BPD assigns to the
7 sworn officers, or a sworn --

8 A All of the titles?

9 Q Is it a long list?

10 A There's probably 10, 15. Probationary officer,
11 officer first class, senior police officer,
12 sergeant, lieutenant, captain, deputy chief,
13 chief.

14 Q What about the non-sworn? What are those?

15 A That would be your records personnel, your
16 dispatch personnel, community service
17 specialist, social workers, office
18 administrative staff.

19 Q In that first group you gave me, you might have
20 said detectives and I didn't catch it, but is
21 detective included in the sworn --

22 A They could hold the title of -- detective is an
23 assignment. So it's not a rank. So a detective
24 could be either a senior police officer or an
25 officer first class.

1 Q But either way --

2 A More than likely, senior police officer.

3 Q Either way, sworn?

4 A Yes.

5 Q There's been talk in some of the depositions in
6 this case about downtown resource officers.

7 A They're part of the sworn officers.

8 Q They're in the sworn category?

9 A Yes.

10 Q Is a downtown resource officer someone who has
11 been through the academy?

12 A Yes.

13 Q What's the jurisdiction? What is the boundary
14 on which the downtown resource officers operate?

15 A Corporate boundaries of the City of Bloomington.

16 Q So it's not just downtown?

17 A No. That's just a title that we came up with
18 years ago.

19 Q That's fine. Chief Diekhoff, is the Monroe
20 County Sheriff's Department an effective police
21 agency?

22 A I mean, I don't know -- I don't know if I'm
23 qualified to determine if they're effective or
24 not. I mean, it's a law enforcement agency in
25 our community.

1 Q Well, you've got 37 years in the business and 16
2 as the head of the city's agency. Do you not
3 have a -- do you not feel qualified to testify
4 to that?

5 A I mean, they're a law enforcement agency in our
6 community just like the Indiana University
7 Police Department, the State Police. I mean ...

8 Q And I understand they are a law enforcement
9 agency. My question to you is are they
10 effective?

11 MR. UNGER: Objection as to form, but you
12 go ahead and answer.

13 A I mean, I don't know what you are basing
14 "effective" on. So I don't know. I mean, do
15 they take their calls? Yes.

16 Q Are they a bad agency?

17 A I mean, I wouldn't say they're a bad agency.

18 Q Are they a good agency?

19 A I wouldn't say they're a good agency.

20 Q What would you say?

21 A They're a law enforcement agency in our
22 community.

23 Q Would you say they are insufficient to meet the
24 needs of their jurisdiction?

25 MR. UNGER: Objection as to form. You can

1 answer.

2 A I don't really pay enough attention to how they
3 respond to their calls. I mean, they do their
4 thing. We do our thing. I'm not really -- it's
5 not my job to go and monitor what the other
6 agencies, how they do their job.

7 Q So you --

8 A I'm concerned about running our agency, not what
9 another agency might be doing.

10 Q Do I understand correctly then, Chief, that you
11 have no opinion about whether the Monroe County
12 Sheriff's Department is an ineffective or a poor
13 police agency. Is that right?

14 A Correct.

15 Q Does the Bloomington Police Department, from
16 time to time, have interactions or overlapping
17 responsibilities with the Monroe County
18 Sheriff's Department?

19 A We interact with them.

20 Q How so?

21 A We might back them up on calls. They might back
22 us up on calls. It just depends.

23 Q Are there other interactions or overlaps between
24 the agencies?

25 A We -- we sometimes do joint training together.

1 Q Any others?

2 A Not that I can think of.

3 Q Not off hand?

4 A No.

5 Q If you think of any others, let me know please.

6 A Okay.

7 Q And in the 37 years -- has that been true for
8 the 37 years you've been employed by BPD, there
9 have been occasions where the two agencies back
10 each other up, periodically, and they undergo
11 joint training together?

12 A Yes.

13 Q Is that new or is that --

14 A No. It's -- the training has some -- you know,
15 dependent upon who's sheriff, who's training
16 officer. There have been times where we didn't
17 do joint training; there's times where we do
18 joint training. Kind of depends on what the
19 training is and, kind of, who's running it.

20 Q In those interactions where you've been employed
21 by the Bloomington Police Department for 37
22 years, chief for 16 years, and have had
23 occasions to observe these backing each other up
24 on calls, events, and these joint training
25 events, have you any opinion that the Monroe

1 County Sheriff's Department is ineffective their
2 policing?

3 A They do their job.

4 Q They do their job well?

5 A Again, I don't know what the definition of
6 "well" would be.

7 Q Chief Diekhoff, are the residents and owners of
8 property within annex -- you know the annexation
9 areas that we're talking about in this lawsuit
10 today?

11 A It's 1A and 1B.

12 Q Yeah. You're looking over to your right.

13 A At that map.

14 Q There's a good map. Good size map. There's a
15 dark green on the west side of town, and then a
16 lighter green on the south and southwest side of
17 town, which is 1B.

18 Are you familiar with that map?

19 A Yes.

20 Q Are you familiar with those areas of Monroe
21 County?

22 A Yes.

23 Q You grew up in Bloomington; right?

24 A Yes.

25 Q You're a lifelong resident like I am; right?

1 A Yes.

2 Q And so with respect to Areas 1A and 1B, Chief,
3 are the owners and residents in those two areas
4 in danger as a result of receiving their police
5 protection through the Monroe County Sheriff's
6 Department in your opinion?

7 MR. UNGER: Objection as to form and
8 foundation, but you can answer.

9 A Are they in danger because of the sheriff's
10 department?

11 Q Uh-huh.

12 A I wouldn't say that.

13 Q Are they receiving inadequate police protection
14 in your opinion as a 37-year officer?

15 MR. UNGER: Objection as to form and
16 foundation. You can answer.

17 A I think those areas, because of their close
18 proximity to the City of Bloomington, could be
19 better served by the City of Bloomington because
20 we have more officers on duty at a time and we
21 are more centrally located, which those -- those
22 areas for annexation are much closer to the city
23 than they are to the county, county line, for
24 instance.

25 So I think they would be better served by

1 the Bloomington Police Department because we're
2 closer and we can respond quicker.

3 Q Do you have any reason to know of any data that
4 would have been captured that would compare --
5 you said respond quicker -- so response times of
6 the two agencies as compared to each other?

7 A Do I have any data --

8 Q Do you know of any data that has been --

9 A I mean, I believe we track response times, but I
10 don't know that I have data specific to those
11 areas and what that response time would be.

12 Q I take it you don't -- you're not sitting here
13 today with some information, some data --

14 A No.

15 Q -- that would support your earlier answer
16 about --

17 A No.

18 Q -- adequate policing for 1A 1B. Is that right?

19 A Right.

20 Q Do you know how many residents there are in 1A?

21 A I do not. I know that there are -- there are
22 some neighborhoods, but I don't know the total
23 population of those neighborhoods.

24 Q How about 1B?

25 A Same thing.

1 Q While we're talking about that, how is the
2 Bloomington Police Department's jurisdiction
3 organized for purpose of police protection? Are
4 they in districts? Are they in zones?

5 A Yeah.

6 Q What are --

7 A We have five districts that the city is divided
8 up into.

9 Q Has that been true for several years?

10 A Yes.

11 Q That's not a recent event?

12 A No, it's not.

13 Q I'm going to show you --

14 MR. UNGER: I think we left off at 62 from
15 the last one. Do you want to say 70 to make it
16 safe.

17 MR. BEGGS: Safe, that's fine.

18 (Deposition Exhibit 70 marked for
19 identification.)

20 Q Chief Diekhoff, the court reporter has handed
21 you what has been perviously marked as
22 Exhibit 70.

23 Do you recognize this document?

24 A It's a blurry copy of a district map for our
25 patrol districts.

1 Q Does Exhibit 70 reflect -- and I agree with
2 you -- in a blurry fashion, the five districts
3 of the Bloomington police department?

4 A Yes.

5 Q And is this map -- and I will grant you, it's
6 blurry, again. But does that map appear to
7 accurately represent the locations of the
8 districts as we sit here today?

9 MR. UNGER: I just want to object to the
10 extent it's not to scale. It looks stretched to
11 me, Bill. But subject to that, I'll let the
12 witness answer.

13 A It's a -- I'm not sure how accurate it is. But
14 it is a representation of that.

15 Q I'll just represent to you, this came off of the
16 public safety reports that are annually
17 published on the city's website. And on your
18 screen, you can read these streets, but they
19 don't print well.

20 A No.

21 Q So I agree with you. So when you testified --
22 if 1A and 1B are, indeed, annexed involuntarily
23 into the City of Bloomington, in which districts
24 would they be assigned?

25 A It looks like they would be part of 5, 4, and

1 possibly 3.

2 Q So the districts would not change?

3 A That's not true. They could change. We might
4 redraw the districts.

5 Q Is there any plan to do so?

6 A We haven't done anything yet because we're just
7 kind of waiting.

8 Q What would be the factors or considerations for
9 redrawing the districts if 1A and 1B were
10 involuntarily annexed?

11 A Just the sizes of the districts. Make them more
12 equitable.

13 Q At any one time -- so right now, it's 9:18 on a
14 Wednesday morning in March. How many officers
15 are patrolling in District 4?

16 A I don't know that I -- I mean, I can give you a
17 rough estimate of the number of officers on a
18 shift. The staffing of each district is left up
19 to the lieutenants. And so they may have two
20 officers down there. They may have one officer
21 and then float officer. I mean, they don't
22 necessarily always say, "There's an officer in
23 1, 2, 3, 4, and 5." They may say 5 shares 4
24 just depending upon, you know, their -- the whim
25 of the lieutenants and the sergeants.

1 We done have a hard and fast rule that
2 there has to be two officers in each district.
3 It's left up to the discretion of the
4 supervisors.

5 Q And I take it, it's also, I would presume, left
6 up to the availability and number of officers
7 available to work.

8 Would that also be true?

9 A That's probably one of the factors as well.

10 Q So sometimes there would be one. And
11 sometimes -- what, sometimes two in a --

12 A Or maybe three.

13 Q Might be three sometimes?

14 A Could be.

15 Q Do you know, would that be dependent on events
16 or things going on in parts of the city?

17 A That could be part of it.

18 Q Sort of expectations, in other words?

19 A Again, sometimes they'll do -- you know, they
20 may do a float west car that would go between
21 Districts 4 and 5.

22 Depends on -- there's a lot of variables
23 that go into that. I mean, there could be new
24 officers, and they are trying to get them to
25 learn the areas. So they'll put them in more

1 than one district so they can kind of learn just
2 the areas.

3 Could be, if there's a special detail --
4 like, a traffic enforcement detail -- they may
5 put more in a district to deal with that.
6 There's a lot of variables that go into how many
7 officers might be in a particular district.

8 Q Does call volume include -- count as one of
9 those variables?

10 A That's one of them.

11 Q Is there an area on this map, marked Exhibit 70,
12 where you can point me to higher call volume
13 areas than the other areas of the city?

14 A The thing about call volumes, when these maps
15 were laid out originally or when these districts
16 were laid out originally, we tried to take into
17 account call volume and road miles.

18 As you can see, you can look at District 2
19 versus District 3 and see that Indiana
20 University takes up a good percentage of that
21 district. But there's -- because it's around
22 campus, there's higher call volumes in the
23 neighborhoods.

24 There's a lot of variables that go into how
25 they're staffed. But the layouts are -- we try

1 to base those -- there's variables that go into
2 that. Call volume's one, road miles,
3 population. Things like that.

4 Q Let me direct your attention to Involuntary
5 Annexation Areas 1A and 1B. Are there locations
6 within either of those areas that you know to be
7 high call volume locations?

8 A No. And a lot of those areas, we're already in
9 anyway because there's roads that we use to get
10 from Point A to Point B, and we're already in
11 those areas as well.

12 Q Does the map representing the -- we call them
13 zones; what did you call them?

14 A Districts.

15 Q Does the map identifying the districts, that's
16 marked as Exhibit 70, did it -- does it account
17 for population within those areas?

18 A I can't --

19 Q Do you even remember?

20 A I don't remember, when it was set up, if
21 population was considered when we set this one
22 up. I don't remember.

23 Q So back to the question right now, and tell me
24 if this is not a -- doesn't -- if this question
25 doesn't make sense to you.

1 As we're sitting here right now, about 9:30
2 almost, on a Wednesday morning, how many
3 officers are there -- sworn officers are there
4 on duty patrolling the City of Bloomington?

5 A There probably are, roughly, I would say, eight
6 patrol officers, couple of supervisors, probably
7 a half dozen detectives, and four admin, and a
8 training sergeant.

9 Q Eight -- did you say road officers?

10 A Yeah, patrol officers.

11 Q 2 --

12 A Probably a couple of supervisors on the shift.

13 Q Six detectives?

14 A Probably.

15 Q Four --

16 A Admin.

17 Q Okay. So they're staying in the office?

18 A Well, we can respond.

19 Q Oh, that's you.

20 A You asked sworn officers.

21 Q Okay. That's helpful.

22 A They can respond.

23 Q Okay. Thank you.

24 A For instance, yesterday --

25 Q I didn't mean any disrespect. I didn't think of

1 admin the same way you do. Sorry.

2 And you said a training officer?

3 A Yes.

4 Q One of those?

5 A Yeah.

6 Q Do the supervisors leave -- where do they work,
7 physically? 3rd Street?

8 A Yeah.

9 Q Do they leave 3rd Street?

10 A Uh-huh.

11 Q How about the detectives? Are they -- they're
12 based at 3rd Street, but where do they do their
13 work?

14 A Wherever it takes them.

15 Q How about the admin? Primarily at 3rd Street;
16 right?

17 A Yes.

18 Q I'm not trying to irritate that. And then is
19 that number -- are those numbers you just gave
20 me consistent as between all shifts as BPD?

21 A No. You asked at 9:30 this morning.

22 Q No, I know. That's what I'm asking now.

23 What about the other shifts?

24 A So afternoon shift would have probably, roughly,
25 the same. They might have -- yeah, probably,

1 roughly, the same except, halfway through the
2 shift, the admin and training sergeant probably
3 would go home.

4 And then night shift would have -- the
5 detectives wouldn't be included in that mix.

6 Q So the day shift or the shift we're in right now
7 is from when to when?

8 A 5:30 a.m. to 2 p.m.

9 Q And then the next one, the afternoon shift?

10 A 1:30 to 10. And then the night shift is 9:30 to
11 6.

12 Q And, I'm sorry. I couldn't write fast enough.
13 How is the night shift broken down?

14 A Night shift has the patrol officers and the
15 supervisors. There aren't detectives or admin
16 working nights.

17 Q Just the eight and the two?

18 A Correct. The one thing I didn't mention with
19 days and afternoons is we also have community
20 service specialists that are non-sworn that take
21 minor calls. So they work a lot of accidents,
22 take minor reports that don't require any kind
23 of follow-up. Things like that.

24 Q You call those what, again, please?

25 A Community service specialists.

1 Q Examples of calls that they take are auto
2 accidents you said?

3 A They would take property damage, auto accident.
4 Minor calls where there are, like, no suspects,
5 no follow-up, insurance report-type calls.

6 They help -- they could help direct traffic
7 at, you know, whatever type of scene we might be
8 at. More the minor-type stuff.

9 Q How many of those are there?

10 A I believe we have eight.

11 Q So in any one shift, there are how many working?

12 A Probably, I would say, three or four. They
13 don't work nights, currently. But now that
14 we're fully staffed at eight, we are looking at
15 staffing them till midnight, 1 in the morning.

16 Q I want to go back to make sure I understand some
17 of your earlier answers. We've got, you said,
18 roughly, 85 sworn officers are employed by BPD
19 right now. Is that right?

20 A Yes.

21 Q And 105 is the number you gave me before that.
22 You said that's authorized, which means --

23 A Budgeted.

24 Q Who budgeted that?

25 A Well, I mean, the budget process -- the budget

1 comes from the mayor to the city council for
2 approval.

3 Q We both knew that answer, but what I want to --
4 I need to hear you say it. What I want to know
5 is how does the mayor get that number, 105?

6 A From the police department. From me.

7 Q You?

8 A Yeah.

9 Q So you're in charge of that number?

10 A I make recommendations on that number.

11 Q To the mayor?

12 A Yes.

13 Q I got it. Fair enough. But within the BPD,
14 you're in charge of deriving that 105?

15 A Yes.

16 Q And that's been the recommendation you've been
17 making for several years to the county council;
18 correct?

19 A Yes.

20 Q How did you come up with that 105 figure several
21 years ago?

22 A I probably -- I don't remember exactly how I
23 came up, but I'm going to say it's based on
24 calls. You know, trying to -- just looking at
25 the population and the growth of the city and

1 making sure that we have officers to respond.

2 Q You and I have served on committees and been in
3 meetings in the past about various public safety
4 issues.

5 Isn't it true you also look at standards
6 afforded by agencies such as --

7 A Yeah, there are different -- there are different
8 recommendations out there. There is no set
9 standard that says "You have to have this many
10 officers per this many population." There are
11 all kinds of different models out there.

12 Q What are the groups that make those
13 recommendations? What are the names of the
14 groups that make the recommendations?

15 A You know, I haven't looked at it recently so I'm
16 not sure. I would guess, maybe, the
17 International Association of Chiefs of Police
18 might make a recommendation. I don't know if
19 the FBI would. You know, the FBI is real big on
20 making sure you don't compare agency to agency.

21 So, I mean, there's probably a whole host
22 of people that come up with these
23 recommendations.

24 Q And am I understanding your earlier answer
25 correctly; in that, you didn't consult any of

1 those agencies whether it's International
2 Association of Chiefs --

3 A I don't remember if I did or not. I mean, I may
4 have. I don't remember.

5 Q In coming up with the 105?

6 A When I first became chief, we were at 90
7 officers, and Mark Kruzan was this mayor. And
8 he and I discussed I would like to get the
9 number up to 100 over his term in office, and we
10 did. And then we just continued to add
11 people -- you know, one officer, maybe, a year
12 or every other year -- just to slowly continue
13 to add.

14 So I don't remember specifically consulting
15 any other organization to see what they
16 recommended.

17 Q Now Mayor Kruzan was last mayor at the end of
18 2015; correct? I think I'm right on that. No,
19 no. That's not right. 2014, maybe?

20 A Around there. I don't remember exactly. Would
21 have been eight years ago.

22 Q End of 2015.

23 A Okay.

24 Q So do you think you did that earlier in his two
25 terms or late in his two terms?

1 A Probably the middle of his first, where we just
2 tried to slowly add officers.

3 Q And when you said "At that time we had 90," was
4 that 90 authorized by budget --

5 A 90 budgeted.

6 Q -- or 90 employed?

7 A 90 budgeted.

8 Q And I'm sorry if you said this and I missed it,
9 did that recommendation to the Mayor Krusan come
10 from or derive from any standard, any
11 recommendation, any agency?

12 A Not that I remember, no.

13 Q Do you think Bloomington Police Department
14 should have more sworn officers?

15 A I think any agency would appreciate having more
16 officers. But, I mean, we're able to -- we're
17 able to do things with what we've got. We're
18 able to respond to calls and provide quality
19 police services.

20 Q I appreciate that answer, but do you believe the
21 Bloomington Police Department should have more
22 sworn officers?

23 A Again, it would be nice, but I'm also a realist.
24 I realize we're one agency within the city and
25 that, you know, what I might want of having 200

1 officers, within a city budget, isn't always
2 realistic either.

3 Q Because they're --

4 A It would always be nice to have more people
5 but --

6 Q There are decisions that have to be made and --

7 A Sure.

8 Q -- the allocating resource. Is that what you're
9 saying there?

10 A Yes.

11 Q Do you think the city -- the Bloomington Police
12 Department should have 105 sworn officers?

13 A We're budgeted already for that.

14 Q In other words, yes, you think so?

15 A Well, we have that. We're budgeted 105.

16 Q I thought you said we only employ about 85?

17 A Right.

18 Q Do you think we should employ 105 as budgeted?

19 Do you think Bloomington Police Department
20 should employ 85 sworn officers as budgeted?

21 A Well, I mean, it would make sense, if that's
22 what we're budgeted, that that would be what
23 we ...

24 Q In other words, at present we're 20 officers --
25 20 sworn officers short, in your estimation. Is

1 that right?

2 A Yes.

3 Q For how long have we been 20 officers short
4 within the Bloomington Police Department?

5 A Probably a couple of years.

6 Q Two years?

7 A Probably.

8 Q We were talking earlier about the public safety
9 reports that are given to the mayor and then
10 presented to the city council each year. And
11 you're in charge of that report each year;
12 correct -- from the BPD?

13 A I have a part of that report.

14 Q What do you mean by that?

15 A There's three different agencies that comprise
16 that public safety report.

17 Q Got it. Fire, police, and?

18 A Community and family services.

19 Q And you are in charge of that portion of the
20 public safety report that addresses or deals
21 with police department?

22 A Correct.

23 Q If I understood your earlier answer, you compile
24 the information that's necessary. Then you give
25 it to the mayor. And then that gets --

1 A Correct.

2 Q -- dealt with in the mayor's office how ever,
3 and then presented to city council?

4 A Correct.

5 Q And up to the point where the mayor gets it,
6 you're in charge of the information; correct?

7 A Correct.

8 Q And that gets reported to the public each year,
9 both -- you're the one that makes the
10 presentation to the council each year, aren't
11 you, for the police portion of it?

12 A We used to do a public safety press event, media
13 event, that I presented the police department's
14 portion of.

15 I think maybe the city council -- we never
16 presented it directly to the city. They may
17 have gotten a written copy of that report, but
18 we always presented it at a separate media
19 event.

20 Q Who would present it to the council? Mayor's
21 office? Someone in the mayor's office?

22 A Again, they may give them the information that
23 we presented, but we never presented it directly
24 to the city council.

25 Q I thought I remember differently.

1 Chief Diekhoff, the court reporter has just
2 handed you what's been marked as Exhibit 71. I
3 want to give you a moment to take a look at
4 those pages, and then I'm going to ask you
5 questions about them.

6 (Deposition Exhibit 71 marked for
7 identification.)

8 A Okay.

9 Q Do you recognize these pages?

10 A Yes.

11 Q What are they?

12 A They are organizational charts and other
13 documents that look like they came from the
14 public safety report.

15 Q Are those in the format that you recognize as
16 what's presented as part of the BPD's portion of
17 public safety report?

18 A Yes.

19 Q And these would be based upon information that's
20 compiled by your office, under your direction
21 and control?

22 A Yes.

23 Q I'll represent to you -- 'cause I didn't want to
24 make copies of all 100-and-some pages of each.

25 It'll hopefully be more efficient here this

1 morning. But I'll represent to you that in the
2 upper right corner of those pages is a
3 handwritten year: 2016, '17, and so forth,
4 through 2023. I'll just represent to you that
5 those are the pages from each of those years
6 that are represented on the city's website as of
7 today.

8 Can you help me, on the first page -- so
9 the page that says "2016" -- can you help me
10 understand what information I'm seeing there,
11 starting in the upper left corner?

12 A That is a breakdown of the different divisions
13 at the police department and the number of
14 employees in those divisions.

15 Q What's the blue chart?

16 A It's an organizational chart for the police
17 department.

18 Q In 2016, then, how many sworn officers were
19 employed -- this would be 2015, wouldn't it?
20 Because it was presented in 2016. Is that
21 right?

22 A This would have probably been 2016. It would
23 have been the most up to date, closest to the
24 time of the report.

25 Q I see. Okay. So this would be 2016

1 information?

2 A Yes.

3 Q How many sworn officers were employed there as
4 you understand this report?

5 A 92.

6 Q And then if we flip the page, there's a --
7 there's a chart there, a graph there, with other
8 cities. And you recognize that also?

9 A Yes.

10 Q I notice that it make reference to a national
11 standard of 2.5 per 1,000; and the city is --
12 the BPD is well below that standard.

13 Do you recall where that standard came
14 from?

15 A I do not.

16 Q Was that ever corrected, changed, amended to say
17 "This isn't accurate"?

18 A I think the only thing you need to understand
19 with this public safety report is part of it
20 also is politics. And so we've always been, as
21 an agency, criticized in this community. And so
22 some of this also was meant to, maybe, point out
23 things to the city council about their police
24 department when they can be critical as well.

25 And so --

1 Q By the way, I want to represent to you, there
2 were pages in here that I think -- that I didn't
3 include here that I think are exactly along
4 those lines. So I think I understand what you
5 mean.

6 But with regard to this page itself --

7 A I'm not sure where that came from.

8 Q And you guys never came forward later and
9 corrected and said "Hey, that was a mistake. It
10 really isn't a national standard of 2.5 per
11 1,000"? That was --

12 A We never came back and corrected it.

13 Q That was accurate when you made the statement
14 though?

15 A I don't remember. That was 2016.

16 Q The next page, 2017. Can we go the same method?
17 It would be 73 plus 19. Is that how we do that?

18 A Right. Also, though, in 2016 and '17 -- and I
19 don't remember how long we had it -- parking
20 enforcement, those officers also took low
21 propriety calls as well. So we had other people
22 besides the sworn officers.

23 Q So in 2017, do you know, was the BPD budgeted
24 for 105 sworn officers?

25 A I don't remember.

1 Q 'Cause that would have been after Kruzan.

2 A Yeah. It would have been after Kruzan. But,
3 again, we -- you know, we went from 100 to 105
4 under Hamilton. So I don't know at what point
5 we started incrementing adding -- so I don't
6 know if 2017 was 105. I'd have to go back and
7 look. I don't remember when we started
8 increasing again.

9 Q But does this page we're on for 2017 represent
10 92 sworn officers as of the 2017 report?

11 A Yes.

12 Q If we go to the 2018 report, is it 97 sworn
13 officers that year?

14 A Yes.

15 Q And then 2019 report. It's got a different
16 format this year, in 2019; right?

17 A Yeah. Then we started putting how many we had
18 so we didn't have to do the math.

19 Q So in 2019 the number was --

20 A So --

21 Q Go ahead, sorry.

22 A Well, if you see in 2019, it says 103. So I'm
23 guessing '16, '17, and '18 were either 103 or
24 less than 103 since 2019 it says 103 authorized.

25 Q So when you say authorized in the page that

1 reflects 2019, that's not how many are employed
2 though, is it?

3 A It says 99 current.

4 Q How about 2020?

5 A 2020, it looks like, is when we went to 105
6 budgeted. And we had 99.

7 Q And if you will flip to 2021 please?

8 A Same 105. 92.

9 Q How about 2022?

10 A 105 budgeted. 85.

11 Q 85 employed?

12 A 85, yes, sworn employed.

13 Q Then how about 2023?

14 A 105 budgeted. 88 employed.

15 Q In those years where BPD did not have as many
16 sworn officers employed as it had budgeted or
17 authorized, was it trying to make up the
18 difference or hire officers to meet its budgeted
19 amount?

20 A Yes.

21 Q Why was it not able to meet its budgeted amount?

22 A There's a variety of reasons why police
23 departments across the country are trained to
24 hire people. We've gone through some major
25 national events that I'm sure you're well aware

1 of that people just aren't interested in being
2 police officers. And so, you know, we're not
3 immune to that here.

4 So, I mean, there's just a -- it's
5 certainly a different generation from when I
6 became a police officer. So a lot of those
7 things go into why people don't want to be
8 police officers.

9 Q We can take any of these numbers, but I want to
10 use 2023 because I don't know if the shift
11 structure has changed. Is the shift structure
12 today the same as it was in 2023?

13 A Yes.

14 Q So when that 2023 report to the city council
15 says 88 current employed sworn officers, does
16 that imply, Chief, that there are 88 working
17 each day?

18 A No. That's -- there could be people that are in
19 training. There could be people on sick leave,
20 people at the academy.

21 Q Personal leave?

22 A It wouldn't be -- it would be long-term. You're
23 employed, but you're not necessarily working a
24 shift. Time off, it wouldn't be included in
25 that.

1 Q The mayor testified last week, I think it was
2 last week, that it's roughly 70 are available to
3 work out of the current number employed. Do you
4 agree with that? Or do you think that --

5 A I would think it would be than that.

6 Q How much higher do you think?

7 A I think currently we have a couple of people --
8 like two people -- off on injury -- like,
9 injury. We have one at the academy. I think we
10 have one in the FTO program; so they don't count
11 towards staffing on the street.

12 Q Can't deploy them?

13 A Well, they're in training. So they are not out
14 on their own. So what is that? Five?

15 Q So that would be -- that would take you from the
16 84, you said, down to 79.

17 A Yeah. Well, this says 88.

18 Q I'm sorry. I thought you testified earlier --
19 you said 85 earlier.

20 A Yeah.

21 Q So 85 down to 80. So in other words, there has
22 been three attritions since this report till
23 now?

24 A Yes.

25 Q I just want to make sure I understand where we

1 left it with your position on number of sworn
2 officers employed by Bloomington Police
3 Department.

4 You think we need -- you've made a lot of
5 public statements on this topic through the past
6 few years, haven't you?

7 A I've made statement.

8 Q And you think we have a shortage, don't you?

9 A Again, as I said, it would be nice to have more.
10 But I also realize that, you know, we're one
11 agency. We're one department in the city budget
12 and that we are not always -- we're not going to
13 be always the highest priority because there's
14 all these other departments. So we are one
15 piece of the pie of the city budget.

16 Q Are you able to -- are you able to the answer
17 the question "Yes, we have a shortage," or "No,
18 we don't have a shortage"?

19 MR. UNGER: I'm going to object to asked
20 and answered. But go ahead and answer.

21 MR. BEGGS: I think that's a different --
22 it was meant to be a different question.

23 THE WITNESS: Can you restate it?

24 BY MR. BEGGS

25 Q Yeah. Are you able to answer the question "Yes,

1 we have a shortage of sworn officers," or "No,
2 we don't have a shortage of sworn officers"?

3 A I would love to have more officers, but we're
4 able to do our job with what we have.

5 Q And just so I understand this, you would love to
6 have more, why?

7 A We could do more community policing. We could
8 do more programs. You know, there are just --
9 there are a lot of different kinds of community
10 policing programs that we don't do that would be
11 nice to try to do it here. And so having more
12 people dedicated to those things would allow us
13 to do that.

14 Q When you say "community policing," what does
15 that mean to you?

16 A Just programs that interact more with the
17 community.

18 Q Such as?

19 A Outside of typical: you call the police because
20 your house got broken into, or something like
21 that.

22 Q Can you give me an example of what that looks
23 like?

24 A National Night Out is a community policing
25 program. Coffee with a Cop is a community

1 policing program. You know, doing things in the
2 parks in the summer would be an example of a
3 community policing program. Outreach type
4 things like that.

5 Q Do things like National Night Out, Coffee with a
6 Cop, parks in the summer and outreach, things
7 like those, contribute to safety of residents
8 and property owners within the jurisdiction?

9 A You could probably say that, yeah.

10 Q That would be a reason for doing it, wouldn't
11 it?

12 A Right.

13 Q How many of those types of community policing
14 projects does the BPD engage in now?

15 A We do all those now. We could just do more of
16 it. National Night Out has -- it's a national
17 program. They have two nights you can do
18 National Night Out. One of them is in August.
19 One of them is in October. I think they came up
20 with the October date because August is always
21 so hot.

22 Q Do we do both?

23 A We have done both in the past. Just kind of
24 depends upon who -- it's been a partnership with
25 Crestmont, where we've done it -- they've

1 sponsored it before. Then, we've sponsored
2 another one. So it just kind of goes back and
3 forth on trying to share that event in the best
4 locations.

5 Last year, we did it at Switchyard Park.
6 We've done it at Crestmont before. Coffee with
7 a Cop, we did those originally. People
8 protested the sponsor so we quit doing Coffee
9 with a Cop and kind of segued it into other
10 programs that we had where we just made the
11 department available for people to come and just
12 chat.

13 We do -- we have had a very successful teen
14 academy that we ran in the summer. We stopped
15 doing it during COVID and are looking at
16 starting it back up. I don't think we'll
17 probably do it this year, but maybe next year.

18 We do a citizens police academy that we --
19 again, we stopped doing it during COVID. But
20 we've done it the last -- we did it this year --
21 did it last year and the year before. That's a
22 very successful community policing thing we do.

23 Some of the parks stuff we've done in the
24 past. Again, during COVID, we stopped doing all
25 of that. But our social workers with some of

1 sworn people and the community service people
2 will go to the parks and pass out those frozen
3 pop things, you know. They'll do things like
4 that. Those are all things we still do. We
5 could just do more of it.

6 Q Well, we don't do the teen academy.

7 A Well, we're starting. We haven't done it
8 because we stopped doing it because of COVID,
9 and we're going to start doing it. We just
10 haven't done it yet.

11 Q And we don't do Coffee with a Cop?

12 A No, but we do other meet-and-greet type things.

13 Q Is there a name for those?

14 A Not really. We've done some stuff at
15 Switchyard. I think we called it "Police in the
16 Park," or something like that.

17 Q Whichever of those you just described, and I
18 appreciate that, those are limited to one
19 location each time. Is that right?

20 So the Coffee with a Cop would be just
21 at -- where did that happen?

22 A It depended upon who sponsored it. That's where
23 we ran into people had issues with it because
24 people had issues with Chick-fil-A, and
25 Chick-fil-A sponsored it one time.

1 Q At Chick-fil-A?

2 A No, it was at the mall I believe. So we've done
3 different things with the mall with different
4 people sponsoring it.

5 Q And then National Night Out, that's only been at
6 Crestmont?

7 A No, it's been at Switchyard as well.

8 Q Switchyard, I'm sorry. You said that. And the
9 parks in the summer, how many different parks
10 have we -- have you done --

11 A I don't know the numbers of different parks.

12 Q Just Crestmont and Switchyard again?

13 A No. Well, we've -- Crestmont would have been
14 one. I think we did Bryan Park. Might have
15 done Switchyard.

16 Q Do you think in your 37 years the Bloomington
17 Police Department has ever employed as many
18 sworn officers as were authorized by the
19 council?

20 A I think that there may have been one time that
21 we were fully staffed for maybe a week.

22 Q Earlier in your career? Or more recent in your
23 career? Must be early?

24 A I'm speaking the time that I've been chief. So
25 it would have been over the last 16 years.

1 Q Early in your chief --

2 A Probably middle. Again, I mean, we're -- we're
3 a midsized agency. And so we get a lot of -- we
4 get a lot of people coming out of IU because IU
5 has a police academy. So we tend to be kind of
6 one of those first departments people start at,
7 get experience, and then move on.

8 That's -- it's been that way ever since I
9 can remember.

10 Q They come to BPD to take their first job, and
11 then they leave?

12 A They get experience and then they leave.

13 Q Do you know why?

14 A Variety. Bigger agencies, more opportunities.
15 You know, some people -- you know, IU has their
16 own academy and so it's kind of a different
17 part-time job. And so people are like, oh, you
18 know, if they have a criminal justice degree,
19 they might try that. They might think, "Oh,
20 I'll get hired at BPD," and see what it's like
21 and figure out policing is not what they want to
22 do so people get out of it all together.

23 Just there's a variety -- variety of
24 reasons why people come and go.

25 Q Is having a history of being a place where --

1 where the BPD is a place where people come and
2 go a desirable characteristic from your
3 perspective?

4 A Well, I mean, it causes a lot of turnover.

5 Q And that's not --

6 A That's not --

7 Q -- is that desirable?

8 A It gets expensive.

9 Q What about operationally?

10 A Yeah.

11 Q "Yeah," what?

12 A It can be disruptive to operations.

13 Q How does one become a sworn officers?

14 A It's a process. So we have -- we do hiring
15 processes throughout the year. You apply.
16 There's state physical fitness requirements, and
17 so when you apply, you have to take a physical
18 fitness test. If you are really close to
19 passing and pass, then, you can move on and get
20 an interview.

21 After the interview process, if you move
22 on, there's the psychological and physical exams
23 to have to go through. Then background checks
24 are done. If you make it through all of that,
25 the board of safety does the hiring. So they

1 will authorize a preliminary offer of
2 employment.

3 We hire you if you're certified -- which
4 means if you come from another agency and you
5 meet Indiana's requirements -- you can start
6 without having to go to the academy. If you are
7 not certified, you have to go through the
8 Indiana Law Enforcement Academy. I think it's
9 16 weeks of training in Plainfield. Then you
10 come back and go through an FTO program here.

11 Q A what?

12 A Field Training Officer program.

13 Q Where is the interview in all that?

14 A It's at the beginning. I mentioned that.

15 Q That's along with the application or at the same
16 time as the application?

17 A There's the application. Then we have a -- we
18 announce the hiring process. We have the
19 physical agility test. There's a -- we hire an
20 assessment center to do kind of a written test.
21 Then, if you get through those, we set up oral
22 interviews.

23 Q How long does that process that you just
24 described take?

25 A Depends. Depends on if they're certified

1 already or not.

2 Q Yeah. Sorry. If they are certified, how long
3 does that process take?

4 A Probably a couple of months.

5 Q And if they are not certified, I take it, 6
6 months?

7 A It's a couple of months plus the academy.

8 Q Which was 4, wasn't it?

9 A 16, 17 weeks. So, yeah.

10 Q So about 6 months. So if the City of
11 Bloomington, today, were to extend offers of
12 employment to an officer -- someone who wanted
13 to be an officer -- the soonest they could be
14 into a field training officer program would be 6
15 months, if they are not already certified?

16 A Roughly.

17 Q How many recruits or applicants will the academy
18 accept at any one time?

19 A It just depends. I mean, it's a statewide
20 academy that a lot of places are sending people
21 to. So it's kind of this ebb and flow. You
22 might get 3 or 4 one time; you might get 2 one
23 time; you might get 6 one time. It just kind of
24 depends on what everybody else in the state is
25 doing.

1 Q Are you saying it depends on the number of
2 applicants? Or it depends on something --
3 capacity from the academy's side?

4 A It's capacity.

5 Q I see. So is there always a new class starting?
6 Or do they do those on prescribed dates?

7 A It depends. They've done it a variety of
8 different ways. Sometimes they have big classes
9 that start. Sometimes they have smaller classes
10 and run more of those. It just kind of depends.

11 Q How does the City of Bloomington's number of
12 sworn officers compare to other similarly sized
13 cities in the state of Indiana, if you know?

14 A What do you mean?

15 Q The number of sworn officers that Bloomington
16 Police Department has now, how does that compare
17 to other similarly sized cities in the state of
18 Indiana?

19 A I'm guessing we're roughly the same. I'm not
20 sure I understand what you're asking though.

21 Q I'm just wondering if you've looked to see,
22 okay, other cities of roughly the same size in
23 Indiana, how are we --

24 A Some -- I mean, we have more than some. We have
25 less than some. I mean, it's just ...

1 Q You've talked a couple of times today about
2 population. Is Bloomington's population rising?
3 Decreasing?

4 A I think that -- again, from what I have heard, I
5 don't get population data that often, I think we
6 increase in population a little bit each year.

7 Q Is the number of violent crimes that your
8 department is being called to and investigating
9 increasing, decreasing, or staying the same?

10 A I think since COVID, nationwide, there's been a
11 spike in violent crime. I mean, that's been
12 across the country and, you know, that's true
13 here as well. But we have been pretty
14 successful in making arrests in a lot of those
15 crimes. And I think the last data I saw, we
16 actually were -- our violent crime was down
17 slight from last year at this time.

18 Q What data? Who compiled that? Or what do
19 you --

20 A We have analysts that do reports on, you know,
21 crime data.

22 Q Are those reports made public or just internal?

23 A No, just internal.

24 Q The term "CALEA," C-A-L-E-A, stands for what?

25 A Oh gosh. It's Commission Accredited -- Commission

1 on Accreditation for Law Enforcement Agencies.

2 Q And BPD is quite proud of having achieved a
3 status within CALEA. Is that right?

4 A Yes.

5 Q Did CALEA make any recommendations about or have
6 guidelines or, somehow, give input to BPD with
7 respect to its number of officers?

8 A Not that I'm aware of.

9 Q Are you aware of a task force called the Future
10 of Policing Task Force?

11 Have you been involved with that?

12 A Yes, I'm aware of that.

13 Q And what is that?

14 A Which -- which one are you referring to?

15 Q How many are there?

16 A Well, there's a couple different -- is that a
17 city task force that you're --

18 Q Have you been involved with a city and a
19 non-city?

20 A I've been involved with the city Future of
21 Policing Task Force.

22 Q And who rounded that up? Who drove that?

23 A That's a good question. That was made up of
24 some city people and some community people as
25 well.

1 Q Was that Mayor Hamilton's initiative?

2 A I think it was Mayor Hamilton that did it.

3 Q And its purpose was what?

4 A To look at the future of policing and what we
5 could do different.

6 Q What was your input, in general?

7 A I was a member on that committee.

8 Q But I mean, what was your input as to what BPD
9 could do differently?

10 A I was a member on that committee.

11 Q Okay. You're trying to answer me, but I'm not
12 following. What do you mean?

13 A It was -- I was not leading that committee; so I
14 was one voice. Yeah.

15 Q But did you give input? You were the guy around
16 the table that they all looked at; true?

17 A I did give input.

18 Q What was your input that you remember giving?

19 A Well, there was lots of -- what do you mean by
20 that? I mean, that was a committee that went on
21 for months and months and months, and there was
22 lots of discussion. So what input?

23 Q Do you recall giving any written recommendations
24 or suggestions?

25 A I think they generated a written report. And I

1 probably would have had input into that report.

2 Q And what about leading up to that written report
3 or drafts of it before a final came out?

4 A Like what?

5 Q Did you --

6 A I was a member of that committee and I
7 participated.

8 Q No, I get that. I'm just trying to find out
9 what recommendations do you recall making to
10 that committee?

11 A Quite honestly, that was a committee from hell,
12 and I really don't remember a lot of -- I really
13 don't remember a lot of --

14 MR. BEGGS: You don't have to type all that
15 for him. We can do him that favor.

16 Q You remember recommending that BPD needs more
17 sworn officers though, didn't you?

18 A I think that was a recommendation.

19 Q In fact, it included a recommendation to have
20 more than 150 sworn officers, didn't it?

21 A Again, yes. It's nice to have more people.

22 Q Do you recall that one of the findings of that
23 committee or that task force was that the BPD
24 does not have a proper number of officers on the
25 force?

1 A I don't remember the specific recommendations,
2 but I know that there was, I think, a
3 recommendation with regards to staffing.

4 Q Meaning that it's inadequate or short?

5 A Again, I don't remember exactly what it said.

6 Q No, I know. I know you don't remember exactly,
7 but it sounds like you remember the sentiment.

8 A It was -- again, it was asking for more people.

9 Q And, you know, I'll walk out of here and, maybe,
10 be asking myself. Are you say that BPD asked
11 for more people for political reasons or --

12 A You have to understand, we're in a community
13 that wants alternatives to policing. So these
14 committees get put together to look at
15 alternatives to policing.

16 For instance, one of the things currently
17 that's being discussed are co-response teams,
18 which we have a co-response internal team that
19 consists of DRO social workers and mobile
20 integrated health people from the fire
21 department. But Centerstone has a crisis mobile
22 response team made up of people with lived
23 experience and, maybe, some clinician. So past
24 administrations have always wanted to look at
25 those types of programs to see what could be

1 done differently.

2 The Future of Policing Task Force was one
3 of those task force who look at different ways
4 to do policing that didn't involve officers.

5 Q I'm not going to put words in your mouth, but
6 sounds as though you don't agree with the
7 premise of that task force?

8 A I'm not saying I don't agree. I just think
9 that -- and, again, the reference: there are
10 always things that we can do differently.

11 I mean, we are a pretty progressive police
12 department in the state of Indiana. We started
13 the first Police Social Worker program. Other
14 departments around the state of Indiana have
15 copied that, in fact, other departments around
16 the country. We present at international
17 conferences all the time about our Police Social
18 Workers and how departments can do that, you
19 know, those types of programs. Our goal is,
20 because, you know, we have -- the people they
21 would deal with, we have a lot of that
22 population here.

23 So is that the job of a sworn police
24 officers? Probably not. So that's what some of
25 these committees look at is what can be done

1 differently that wouldn't have a sworn police
2 officer responding to.

3 Q And you say "Some of these committees," can you
4 think of any others besides the Future of
5 Policing Task Force?

6 A Oh, there are other committees out there.

7 Q Can you think of names of them? Titles or names
8 of them?

9 A City council has CAPS Commission.

10 Q C-A-P-S, which stands for?

11 A Really, I couldn't tell you.

12 Q Are you a member of --

13 A I'm not a member of that, no. I'm not a member
14 of that.

15 Q The chief of police is not a member of that one?

16 A No.

17 Q And that's a policing input committee?

18 A Go ask the city council.

19 Q But is that what it is?

20 A Yes.

21 Q You seem to be qualifying that somehow.

22 A I think that's what they do.

23 Q Any others besides CAPS Commission?

24 A Oh, I'm sure there have been others over the
25 course of the last several years. I just can't

1 think what they are.

2 Q Do you recall having -- seeing the Novak report?

3 Yes?

4 A Yes.

5 Q What is your general impression of that report?

6 A Not really impressed by it. It didn't really
7 answer -- didn't really -- I don't think it
8 really provided kind of a golden nugget, you
9 know.

10 Again, that report was commissioned at a
11 time when political events surrounding, you
12 know, policing -- you know, there was a lot of
13 people critical of policing at the time, and
14 that was a report that was commissioned to kind
15 of buy time.

16 Q Buy time for what?

17 A Calls for reform and things.

18 Q You mean to resist these calls for reform?

19 A Yeah, yeah. There wasn't really anything in
20 that report that I found overly useful.

21 Q Did the Novak report make any recommendations as
22 to number of sworn officers that the BPD should
23 have?

24 A Novak report had different models for increasing
25 staffing and things.

1 Q Because it talked about different shift
2 structure; correct? Yes?

3 A Yes, sorry.

4 Q And have any changes been made to the shift
5 structure at BPD as a result of or since --

6 A No.

7 Q -- Novak report?

8 A The shift structure at BPD is set up by union
9 contract, and the union has never really been
10 interested in changing that. So the city hasn't
11 pushed it.

12 Q Does that answer suggest -- I'm not trying to
13 put words in your mouth -- that you disagree
14 with the union on that? On that issue of not
15 being willing to change the shift structure?

16 A You know, there are different staffing models
17 that different police departments use. When you
18 start talking about 10-hour shifts and 12-hour
19 shifts, those can become tiring. So I -- you
20 know, we've never really looked at that at BPD
21 about switching that.

22 There was a time years ago, I was not
23 chief, that supervisors worked weekend 12-hour
24 shifts and it caused issues; so it didn't last
25 very long. I think the IU Police Department

1 works 12-hour shifts. So, I mean, it's easy to
2 say, "Oh, let's go to a different staffing model
3 because we can increase the number of people we
4 have working," but there are also a lot of side
5 effects from that.

6 Q Do I correctly understand that neither the
7 officers nor the administration was in favor
8 of --

9 A Yes.

10 Q -- changing the shift structure as recommended
11 by Novak?

12 A That is safe to say.

13 Q That wasn't a source of tension between the
14 administration and the officer core force? No?
15 You have to say it.

16 A No.

17 Q Was there anything about the Novak report,
18 Chief, that you believe was meritorious,
19 worthwhile, helpful?

20 A I don't believe we implemented any of the
21 recommendations from that report.

22 Q That's a no, isn't it?

23 A Yeah.

24 Q Different question on a topic we've talked a lot
25 about today, Chief. Have you ever rec -- I

1 understand you're the one that makes the
2 recommendation to the mayor, who then goes to
3 the city council for budgetary purposes.

4 Have you ever recommended that the
5 Bloomington Police Department have fewer sworn
6 officers?

7 A No.

8 Q You wouldn't do that, would you?

9 A Not currently. I mean, I guess if there was a
10 situation that, you know, we changed how we did
11 things, maybe. But not currently.

12 Q Is call volumes a phrase or a term or a metric
13 that you deal with a lot in your job?

14 A Yes.

15 Q That would seem to me like something you would
16 pay a lot of attention to?

17 A Yes.

18 Q Do you know how the 2023 call volume, overall
19 call volume, compared to the 2022?

20 A There was an increase.

21 Q Significant?

22 A Pretty significant, yeah.

23 Q And I'm going to go down that ladder.

24 How about '22 as compared to 2021?

25 A I'd have to look. I mean, we saw a dip in call

1 volume when COVID hit. And then, coming out of
2 COVID, it went back up. So I haven't looked at
3 it recently to be able to give you probably a
4 really good answer on how that looks.

5 Q And I think I've read quotes of yours but,
6 again, I don't want to put words in your mouth.
7 But isn't it also true that BPD has experienced
8 greater numbers of calls involving guns?
9 Weapons?

10 A Yes.

11 Q Is that troubling?

12 A It is, but it's also a nationwide thing. It's
13 not just here. I mean, everybody is
14 experiencing that.

15 Q So if I go down that ladder from '22 to '21, '21
16 to '20, you don't have that --

17 A I don't have that data, no. I don't have that
18 in front of me today.

19 Q Not even the general, either we increased or we
20 decreased except for the COVID?

21 A I know that -- if my memory serves me correct --
22 you know, we fluctuated; COVID hit, we went
23 down. Coming out of COVID, we went back up.

24 So I don't know that we're really far
25 enough out of COVID to see if that fluctuation

1 is going to continue; so ...

2 Q But we're at least on a trend? An upward trend?

3 A Yes. But, then, everybody else is too. So it's
4 not -- we're not a shining star out there where
5 this is happening just to us.

6 Q At some point I think you have made the
7 statement that, quote, "Sworn officers are
8 irreplaceable." That was made in the context of
9 officer staffing shortage at BPD.

10 Do you stand by that statement?

11 A Can you repeat that again?

12 Q Yeah. At some point you made -- even as
13 recently as October 10 of 2021, I believe you
14 made a statement that, quote, "Sworn officers
15 are irreplaceable," end quote. And that was in
16 the context of officer shortages at BPD.

17 A No, I'm not sure it was in the context of
18 officer shortage.

19 There was a point in time where Mayor
20 Hamilton wanted to, again, in looking at
21 alternatives to policing, look at having
22 non-sworn people do more work of police
23 officers.

24 So that comment was probably with regards
25 to that, not taking things that a police officer

1 should do and giving it to someone who's not a
2 police officer that might put their safety at
3 risk.

4 Q Do I understand correctly, then, that you're
5 saying that you were resisting -- you were not
6 in favor of the idea of replacing sworn officers
7 with other folks. Is that what you just --

8 A There are things where you can do that, and
9 we've been successful with our community service
10 specialists. They respond to calls that
11 officers used to respond to that were minor, low
12 risk, that just freed up an officer's time. I'm
13 not opposed to looking at those types of things.
14 But to have social workers respond to domestic
15 violence calls, I am not in favor of that.

16 Q Has that been an idea that somebody in this
17 building has advocated?

18 A There have been all kinds of ideas that have
19 been discussed.

20 Q Including that one?

21 A That had been brought up.

22 Q I hope you don't change your mind on that.

23 A I'm not going to.

24 Q If 1A and 1B are involuntarily annexed, Chief
25 Diekhoff, how many officers will BPD need to

1 add, if any?

2 A I'm confident we can respond to those areas now.
3 I mean, we already drive through those areas so
4 we're already providing the presence of the
5 police because we're already there. And they're
6 low call volume areas that I don't believe will
7 impact how we would respond to those areas.

8 Q So I understood you to say you're confident BPD
9 can respond to those areas now. Are you saying
10 BPD won't hire more officers if 1A and --

11 A No, I'm not saying that. I'm just saying, right
12 now, we can handle that additional load.

13 Q If those areas are involuntarily annexed, will
14 BPD need to hire more officers?

15 A Again, it's always nice to have more people. We
16 will continue to hire more people because that
17 allows us to do other things as well.

18 Q Are you familiar, sir, with the fiscal plan that
19 was created in connection with the annexation
20 effort?

21 A I am aware of a fiscal plan. I haven't looked
22 at it in a while.

23 MR. UNGER: Bill, I don't want to
24 interrupt. Do we need to give her a break? The
25 court reporter?

1 MR. BEGGS: If anyone needs a break, we
2 will take it.

3 MR. UNGER: Are you okay? Okay. I just
4 know we have been going for over an hour so I
5 want to make sure.

6 (Deposition Exhibit 72 marked for
7 identification.)

8 BY MR. BEGGS

9 Q Chief, the court reporter has handed you what's
10 been marked as Exhibit 72. I'll represent to
11 you that these are pages 61 and 62 from Fiscal
12 Plan 5.0. And I, again, didn't include the
13 whole thing. It's several hundred pages.

14 Have you seen these pages before?

15 A Yes.

16 Q And what was your involvement in the preparation
17 of the text we see on these pages?

18 A I'm sure the department would have gathered
19 information and presented it to the city and the
20 controller's office, who I believe worked with
21 Reedy Financial Group to prepare the report.

22 Q Did you participate in in-person meetings? Or
23 was it just what you said there, that you
24 supplied information?

25 A I might have participated in in-person meetings,

1 but I don't really recall if there were any.

2 Q You go to a lot of meetings, don't you?

3 A I go to a lot but of meetings, yeah. But we
4 certainly would have gathered the information
5 and provided it to the city.

6 Q Let me direct your attention to the second page
7 of Exhibit 72, which is page 62 of the Reedy
8 report.

9 Do you see that table at the top?

10 A Yes.

11 Q And what is it that you understand that table at
12 the top of page 62 of the Reedy Group report to
13 stand for or to say?

14 A My understanding is that is a recommendation on
15 the total number of additional personnel that we
16 would ask for if the annexation went through for
17 each area.

18 Q It has a minimum and I'm looking at the far
19 right, excuse me. It's got a minute and
20 maximum. Why is that?

21 A I don't -- I don't know why they did that.

22 Q Was the data in that table at the top of page 62
23 based on input from you and your agency or
24 something else?

25 A Yes, I'm assuming it is, but I did not put this

1 table together; so I don't know -- I don't know
2 why it has minimum and maximums.

3 Q Did you furnish the information on which it was
4 based?

5 A We would have furnished information, yes.

6 Q Do you have any idea at all how that minimum and
7 maximum range for 1A and 1B was derived?

8 A I really do not. I didn't prepare the actual
9 plan. I just provided information.

10 Q Do you know of anybody else within the
11 Bloomington Police Department who had any input
12 into the preparation of that table?

13 A Well, I'm sure that I asked other people for
14 information.

15 Q But I mean specifically this data in the table
16 at the top of --

17 A I would have asked -- I don't know this. I
18 would have asked people and said "Can you give
19 me information on this?"

20 Q Does the format, 6.42 to 9.75 in 1A, and 7.4 to
21 11.25 in 1B, does that format look familiar to
22 you?

23 A Yeah. I mean, I've provided information in the
24 past for, you know, annexation reports; so ...

25 Q Such as what?

1 A I just -- I've done -- provided information
2 before.

3 Q Department data?

4 A Yes.

5 Q Call logs, types of crimes. That sort of thing?

6 A Yes.

7 Q But this one seems to be a little different from
8 those things because those are past events, and
9 this appears to be a recommendation for a future
10 action; right?

11 A Yes.

12 Q Do you have any idea how that was derived?

13 A I can't imagine it's an exact science. No, I
14 don't know how they -- how it was derived. I
15 mean, I'm guessing it was based on information
16 we gave them.

17 Q Do you recognize that as being information you
18 gave them that comes from some source that makes
19 recommendations as to police force sizes?

20 A Probably not. I mean, I wouldn't have consulted
21 someone else to say, "hey, what do we need for
22 this?"

23 I'm guessing it was a combination of the
24 area to be annexed and the population and the
25 call volume that the sheriff department had.

1 I'm guessing.

2 Q That your department gathered and provided you
3 mean?

4 A Yes.

5 Q If 1A and 1B are involuntarily annexed, how will
6 BPD go about hiring 6.42 -- call it 6 is fine --
7 to 21 officers?

8 A How will we go about doing that?

9 Q Yeah. I mean, we've got several -- we've well
10 established, we've beaten to a pulp today we
11 have years and years of shortages under
12 authorized numbers of officers. You want more,
13 you've been very clear about that because you
14 always want more.

15 So what I'm trying to find out is how,
16 within one year, will you achieve this number?

17 A I am confident that we can -- under this new
18 administration, we can start to right the ship
19 on hiring because this new administration is
20 more open to ideas. I think that will improve
21 our ability to hire people.

22 Q It would be 13 -- it would be just short of 14
23 officers if both areas are involuntarily
24 annexed, and you testified it takes six
25 months --

1 A Oh, we won't be able to hire them all in one
2 year.

3 Q I mean, you couldn't do it in five years, could
4 you?

5 A Maybe we could in five. But, again, I'm also
6 confident we could absorb these annexed areas
7 now with what we have.

8 Q I'm just curious about your answer that "Maybe
9 we could do it in five," when you had an
10 attrition over -- we went through those numbers
11 in that earlier exhibit. What is going to be
12 different about the future?

13 A We have a new administration that is more -- is
14 looking at policing differently than the
15 previous administration. And I think that will
16 help with our recruiting and hiring.

17 Q Have any new officers been hired since
18 January 1?

19 A Yes, they have.

20 Q How many?

21 A We had -- it was a process that started in '23.
22 I think one or two.

23 Q So since some time in 2023, BPD has hired one or
24 two new officers?

25 A Yes. And we're in process of a hiring process,

1 where, I believe, there are five or six people
2 that were -- I mean, we've narrowed it down to
3 that. And we have somebody in the academy that
4 is coming out of the academy soon.

5 Q That person is included in the one or two that
6 started in '23?

7 A The academy person is included. I mean, they
8 were hired in '23.

9 Q That's what I mean.

10 A The new hires were '24. And the five or six
11 that are in the process are '24.

12 Q So wait a minute. The new hires -- I was with
13 you until that last clarification.

14 So two people have been hired since 2023.
15 Is that right?

16 A Yes.

17 Q One or two people?

18 A Yes, we're doing a hiring process where we
19 have -- we're getting ready to extend offers to,
20 I believe, five or six more people.

21 Q Those five or six have all --

22 A They've gone through a large portion of what we
23 talked about in the hiring process.

24 Q Have they been through all of those steps?

25 A I don't -- I don't know exactly what all -- they

1 are towards the end, I know that. I don't
2 know -- I believe they have been through the
3 medical and psychological. And that is kind of,
4 like, that last hurdle.

5 Q Back to this Exhibit 72. I just want to make
6 sure I understand. You have no idea where this
7 range of 6.42 to 9.75 and 7.4 to 11.25 came
8 from. Is that correct?

9 A Well, it would have come from the data that we
10 provided. I don't know how they got the minimum
11 and maximum. I don't know how they did that.
12 But --

13 Q Your office --

14 A -- the numbers, the information for the numbers,
15 would have come from the data that we provided.
16 The information that we provide.

17 Q And that data would have included what? What
18 are you talking about?

19 A What we said already: call volume, probably
20 road miles, population. All that.

21 Q Do you know if anybody with any law enforcement
22 experience derived that 6.42 to 11.25 range?

23 A I'm -- I don't know who they have working for
24 them. So I don't know -- I don't know if
25 that -- I don't know the answer to that. We

1 prepared the data we submitted to them.

2 Q In order to meet that goal or that metric set
3 forth in there --

4 A The total sworn?

5 Q -- in Exhibit 72.

6 A Okay.

7 Q And to achieve the shortfall of 20 sworn
8 officers that BPD presently has, based on your
9 earlier answers, is there something else that
10 BPD plans to do to cover that ground, make that
11 gap up, than what you told me already?

12 A To hire people?

13 Q Yeah.

14 A Well, yeah. There are always things that we're
15 working on to be able to use to hire people.

16 Again, it's a new administration. We're
17 going to start working on '25 budgets. So I'm
18 sure that there will be discussions about pay.
19 We have incentive programs that we use to try to
20 entice people to come work for us. We're always
21 looking at different ones. We're in the process
22 of rolling out take-home cars, which that's
23 another incentive to get people to come work for
24 us.

25 You know, we're getting ready to issue

1 tasers. You know, it's a less lethal option
2 that, you know, we're currently the only agency
3 in the county that doesn't have them. So there
4 are things that this new administration has done
5 already to try to entice people to come and work
6 here. So I'm hopeful that's -- that we're going
7 to see results from that.

8 Q What the largest number of officers you've ever
9 seen in your 37 years hired in a year by BPD?

10 A I don't know if I could answer that without
11 going back and just looking. I don't know that
12 off the top of my head.

13 Q Have you ever known BPD to hire more than five
14 in a year that you can remember?

15 A Yeah.

16 Q Have you ever known BPD to higher more than 10
17 in a year?

18 A I would say, yes. But, I mean, I would have to
19 go back and look. That's not totally
20 unreasonable.

21 Q That certainly hasn't happened since 2016?

22 A I don't know that. I don't keep track of the
23 number. I mean, I can look it up and provide
24 that answer, but I don't know off the top of my
25 head.

1 MR. BEGGS: Why don't we, if it's okay with
2 you all, take a break. We'll step outside a
3 chat a moment and be right back.

4 (Off the record.)

5 BY MR. BEGGS

6 Q Chief Diekhoff, only because I'm not going to
7 get a chance to hear your testimony again until
8 this trial, I want to make sure I understand
9 your testimony.

10 We talked about the 105, and then we
11 cleared that up or we clarified that to the 85.
12 And then I think I asked you out of the 85, how
13 many are available in light of -- I told you
14 there has been testimony in the case that the
15 number was 70ish available. And I want to
16 understand your testimony on that.

17 Of the 85 sworn officers who are employed
18 by BPD today, how many are available to work?

19 A Again, I would have to go and look, but it's
20 more than 70. I think we have two or three
21 people off on extended injury or illness. We
22 have one person in the academy, and we have one
23 person in the FTO program.

24 So, again, without -- I'm just from -- I'm
25 going off of memory, I think it's more like 80

1 than 70.

2 Q I take it, if somebody is sick, if they catch
3 this bug that's been going around, that would
4 reduce that number further?

5 A We don't count that into the available. The
6 day-to-day, "Oh, I'm sick today," that's not
7 counted. It's long-term illness, injury.
8 Obviously, if they are in the academy, they are
9 not here. So they can't be used. And if they
10 are in the FTO program, we don't count them
11 towards that.

12 Q So now I'm following. So of that, roughly, 80
13 figure you're testifying about, it's not really
14 80 that are available when you factor in life
15 happens: somebody get injured, somebody gets
16 sick, somebody on vacation --

17 A Well, again, if they get injured, they would go
18 into that injured number.

19 Q So it would be sick -- it would be reduced by
20 people who get sick, and I assume officers get
21 sick like everybody else does.

22 A Well, maybe for a day or two.

23 Q And they take vacations?

24 A Again, that's not -- if you look at every time
25 somebody is off for, you know, they got a cold

1 or they've got a vacation, that's not how we --
2 that's not a factor we use to calculate that
3 available.

4 Q Right.

5 A We still use --

6 Q And I'm understanding that better. I didn't
7 understand. What about military leave? Do you
8 have any of those?

9 A I think they're in that -- there might be a -- I
10 don't know if we have anybody on military leave
11 right now or not. That happens periodically,
12 where they might have two-week guard duty or
13 something.

14 Q Right.

15 A But, again, that's not counted in the
16 long-term -- you know, it's just not how we
17 calculate it.

18 Q Have any officers left since January 1 of 2024?

19 A Honestly, I don't remember. I don't know.

20 MR. BEGGS: I have no further questions.

21 Thank you, sir.

22 THE WITNESS: Thanks.

23 MR. UNGER: No questions.

24 THE REPORTER: Will the witness read and
25 sign?

1 MR. UNGER: Yes.

2 THE REPORTER: Are you both ordering today?

3 MR. BEGGS: Yes.

4 MR. UNGER: Yes.

5 (Time noted: 10:46 a.m.)

6 AND FURTHER THE DEPONENT SAITH NOT.

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MICHAEL DIEKHOFF

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1 STATE OF INDIANA)
) SS:
2 COUNTY OF MONROE)

3 I, Colleen Brady, a Notary Public in and for
4 the County of Monroe, State of Indiana at large, do
5 hereby certify that MICHAEL DIEKHOF, the deponent
6 herein, was by me first duly sworn to tell the
7 truth, the whole truth, and nothing but the truth
8 in the aforementioned matter;

9 That the foregoing deposition was taken on
10 behalf of the Respondents, at the offices of
11 Bloomington City Hall, 401 North Morton Street,
12 Room 225, Bloomington, Monroe County, Indiana, on
13 the 20th day of March 2024, commencing at the hour
14 of 9:00 a.m., pursuant to the Indiana Rules of
15 Trial Procedure;

16 That said deposition was taken down
17 stenographically and transcribed under my
18 direction, and that the typewritten transcript is a
19 true record of the testimony given by the said
20 deponent; and thereafter presented to said deponent
21 for his signature;

22 That the parties were represented by their
23 counsel as aforementioned.

24 I do further certify that I am a disinterested
25 person in this cause of action; that I am not a

1 relative or attorney of any party, or otherwise
2 interested in the event of this action, and am not
3 in the employ of the attorneys for any party.

4 IN WITNESS WHEREOF, I have hereunto set my
5 hand and affixed my notarial seal on this 3rd
6 day of April 2024.

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Colleen Brady

Colleen Brady

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Seal, Notary Public
State of Indiana

My Commission Expires:
March 8, 2029

Colleen Brady
Commission No. NP0732235

County of Residence:
Monroe

Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

April 3, 2024

To: Mr. Unger

Case Name: County Residents Against Annexation Inc. Et Al. v. The
Common Council Of The City Of Bloomington Et Al.
Veritext Reference Number: 6507051
Witness: Michael Diekhoff Deposition Date: 3/20/2024

Dear Sir:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown

above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 6507051

CASE NAME: County Residents Against Annexation Inc. Et Al. v.
The Common Council Of The City Of Bloomington Et Al.

DATE OF DEPOSITION: 3/20/2024

WITNESS' NAME: Michael Diekhoff

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Michael Diekhoff

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20_____.

Notary Public

Commission Expiration Date

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 6507051

CASE NAME: County Residents Against Annexation Inc. Et Al. v.
The Common Council Of The City Of Bloomington Et Al.

DATE OF DEPOSITION: 3/20/2024

WITNESS' NAME: Michael Diekhoff

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date Michael Diekhoff

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections in the appended Errata Sheet;
- They signed the foregoing Sworn Statement; and
- Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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Indiana Rules of Trial Procedure
Depositions Upon Oral Examination

Rule 30

(e) Submission to witness--Changes--Signing.

(1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for reading and signing and shall be read to or by him, unless such reading and signing have been waived by the witness and by each party. "Submitted to the witness" as used in this subsection shall mean (a) mailing of written notification by registered or certified mail to the witness and each attorney attending the deposition that the deposition can be read and examined in the office of the officer before whom the deposition was taken, or (b), mailing the original deposition, by registered or certified mail, to the witness at an address designated by the witness or his attorney, if requested to do so by the witness, his attorney, or the party taking the deposition.

(2) If the witness desires to change any answer in the deposition submitted to him, each change, with a statement of the reason therefor, shall be made

by the witness on a separate form provided by the officer, shall be signed by the witness and affixed to the original deposition by the officer. A copy of such changes shall be furnished by the officer to each party.

(3) If the reading and signing have not been waived by the witness and by each party the deposition shall be signed by the witness and returned by him to the officer within thirty (30) days after it is submitted to the witness. If the deposition has been returned to the officer and has not been signed by the witness, the officer shall execute a certificate of that fact, attach it to the original deposition and deliver it to the party taking it. In such event, the deposition may be used by any party with the same force and effect as though it had been signed by the witness.

(4) In the event the deposition is not returned to the officer within thirty (30) days after it has been submitted to the witness, the reporter shall execute a certificate of that fact and cause the certificate to be delivered to the party taking it. In such event, any party may use a copy of the

deposition with the same force and effect as though
the original had been signed by the witness.

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ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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