Appellate Case No. 25A-CR-00591

STATE OF INDIANA	)	IN THE ALLEN SUPERIOR COURT
	)SS:	
COUNTY OF ALLEN	)	CAUSE NO.: 08C01-2210-MR-1

STATE OF INDIANA, Plaintiff,	)
VS.	)
RICHARD M. ALLEN, Defendant.	)

THE HONORABLE FRANCES C. GULL, PRESIDING

The Transcript

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Nicholas McLeland/James Luttrull/
Stacey Diener
Carroll County Prosecutor's Office
101 West Main Street, Suite 204
Delphi, Indiana 46923

Attorneys for Plaintiff

Bradley Rozzi
Hillis, Hillis, Rozzi and Dean
200 Fourth Street
Logansport, Indiana 46947

Andrew Baldwin
Baldwin, Perry and Wiley, PC
150 N. Main Street
Franklin, IN 46131

Jennifer Auger
42 East Jefferson Street
Franklin, IN 46131

Attorneys for Defendant

A The logistics, yes.

Q Okay. So in this family visit that doesn't happen for people in your unit –

A Correct.

Q -- did you have to make a decision as to whether he would be unshackled in order to hug his wife?

A No. So routine – the only time he was shackled or restrained was during transportation. Once he got to the destination, like Mr. Rozzi explained, he changed into a jumpsuit, the restraints were removed, which was also very unusual for someone assigned to RHU, restraints are never removed outside a cell.

Q Okay. So another accommodation made for him?

A Yes.

Q And the reason he couldn't have water or go to the bathroom, you indicated, was because he couldn't leave his chair?

A Correct.

Q And was that for safety reasons?

A It's safety reasons, for trafficking. When people use the bathroom, they might leave something in the bathroom, and the inmates will follow. So if they go to the bathroom, visitations are cancelled.

Q Okay. So a family member, for people who don't understand this, could go to the restroom, leave something behind, and then, if Mr. Allen goes to the restroom, that would be trafficking?

A If he – yes, if he picks it up.

Q If they left something behind for him?

A Correct.

Q Okay. And so that was the circumstance of his family visit?
A Yes.
Q Now again, that was recorded – was it recorded visually because of the constant watch order?
A So when he went to the visitation room – all visitation rooms have camera access, so whether it be four or five cameras. So at that time, we didn't have the need to put the hand-held recorder, 'cause there's already cameras in that location.
Q Okay. So when the question was posed that there were guards in the room, you indicated there are always guards in the room.
A Always.
Q Okay. Are they there to listen to his conversation?
A No.
Q Why are they there?
A To provide security.
Q Okay. Did you review any documents in preparation for today or for your deposition about events of when a taser was used on Mr. Allen?
A No.
Q And so if the records would reflect that the taser was used on one occasion, and another occasion it was just physical placement of hands by a guard on him to subdue him –
A Right. The taser was used –
Q -- would you know whether that's incorrect?
A The taser was used 'cause, like I said, he refused to shut the cuff port.
Q Okay. And that's a safety risk?

A Yes.

Q And I don't – the dates of the taser use, to my knowledge, occurred during May or around that time period. Mr. Allen had been in the facility for quite some time at that point; correct?

A I believe so, yes.

Q So at that point, would it have been clear to him that you don't leave your hands in the cuff port or refuse to put them in the cuff port?

MR. ROZZI: Objection: Speculation.

THE COURT: Sustained.

Q Is it a regular procedure that an offender would be required to follow orders of transport officers with regard to placing their hands in the cuff port for putting the cuffs on or off or to remove them once that's complete?

A Correct.

Q And so they would have rules to follow with regard to how they respond to that?

A Correct. And the inmate population is well aware of those rules.

Q I'm sorry, say it again.

A Mr. Allen would have been well aware of those rules, that the cuff port is to be secured.

Q Thank you. So walking away, as suggested, to just let Mr. Allen calm down and decide to follow the rules would not be acceptable, the guards would be in trouble?

A Correct.

Q How much participation in the placement of companions do you have? Do you – you said you don't decide if a companion is assigned, but in this situation

you say that you did change them.

A I did.

Q And so do you closely monitor what inmate companions are doing or not doing?

A I typically don't look at the log sheets. The only time I intervene with the suicide companions is how many he would be allotted to have. I think, when he first got there, they switched I believe every four hours, the suicide companions. So I don't know, I'm just gonna throw out a number, Westville may have 50, 60, or 70 suicide companions. I wanted to limit the number that were assigned to him just to control communication, so I believe I probably allowed eight different suicide companions to monitor his activity.

Q And when you say monitor his communication, is that because you are trying to elicit certain information from him?

A I'm trying to not expose information. I – you know, the less people that deal with Mr. Allen, the better. You know, unfortunately, inmates do talk to each other.

Q Okay. So your efforts were intended to keep it quiet that Mr. Allen is there?

A Correct.

Q And what happens when a lot of people know that a high-profile detainee is in the prison?

A They communicate.

Q Okay. And you're trying to keep that to a minimum?

A Correct.

Q When you say he received his legal mail and it resulted in you making a change, what was your purpose in changing it to guards?

A 'Cause I didn't want companions to have access to his legal mail. You know, he still had the ability to shove legal mail through the door if he wanted to, so I wanted to eliminate that possibility at all from his legal mail ever having a chance to circulate through outside the prison.

Q So did you have a conversation with the guard companions about what the expectations would be as a door companion? Or had they done that job before and they knew?

A They have not. They're – we just told them to document the behavior. We put out an order if anyone was to go inside Mr. Allen's cell for any routine searches or shake-downs, it would be myself, the major, or the lead captain. In the case of an emergency, of course, responding staff could go in the cell, but when his legal mail was in there, those are the three people that had access to go inside.

Q So can you repeat who those would be.

A Myself, Major Cornett, and Lead Captain Gary Lewis.

Q Cornett, C-O-R-N-E-T-T?

A Correct.

Q And the other one was?

A Gary Lewis.

Q Lewis.

A He was RHU supervisor captain.

Q L-E-W-I-S?

A Correct.

Q Are these supervisors?

A The highest of supervisors. Major Cornett is the highest-ranking custody

supervisor and Captain Gary Lewis is the highest-ranking custody supervisor in that unit.

Q And you did that for Mr. Allen's protection of his legal –

A Correct.

Q -- case information? Was there a rule – we were talking about what were the suicide officer companions told with regard to their responsibilities, so you said document behavior.

A Correct.

Q Document anyone entering the cell.

A Yes.

Q Is writing down what he says a directive?

A It's not a directive. You know, some choose to be very detailed and some not.

Q What about his behavior would fall – would create increased responsibilities for a door companion?

A How his behavior would increase responsibilities?

Q Yes.

A If his behavior became bizarre, which it did, then we switched him to officers.

Q Okay. But when you've got officer companions and they're documenting behavior, did they have any responsibilities with regard to additional responsibilities or action based on Mr. Allen's behavior?

A No.

Q Okay. If Mr. Allen was self-harming, were they just supposed to write it down or what would they do?

A They would alert staff.

Q Okay. I would look at that as an additional responsibility.

A Correct.

Q That's kind of what I was looking for. Are there any other additional responsibilities they would have?

A To alert staff, yeah.

Q Okay.

A Sure.

Q And at one point, did you have to have another conversation with officer staff because there was an incident of self-harm and you wanted to reiterate to them the concern?

A Yes. My concern was they need to stop it.

Q Okay. Did you have to do that more than once?

A Only once.

Q Now, other people had suicide companions in your facility; correct?

A Correct. It's frequent.

Q And do all suicide companions serve the same function?

A They do.

Q And do all of the suicide companion logs get put in the same place as Mr. Allen's?

A Yes.

Q And are they –

A Strike that, no. Mr. Allen's were placed and Mrs. (inaudible) would pick them up.

Q And how was that different from what would happen with the others?

A Well, when he first got there, it wasn't a secured box, and we found it necessary to put them in a secured box, so we'd – we had a few that went missing – none of his – but we needed to put them in a secured box where the unit team manager or Dr. Wala would only have access to that box.

Q Okay. So a suicide companion gets done with their shift, they have their log.

A Correct.

Q They go put it in the locked box for Mr. Allen?

A Yes.

Q And if they weren't watching Mr. Allen, they would just put it in a location –

A Same box.

Q Same box?

A Same box.

Q Okay.

A Yeah.

Q But there was a locked portion for Mr. Allen's?

A There was a locked portion for all of them. We – that was a transition we did. Before there wasn't, it was just you put it in, like an inbox, and then we decided it's probably best that we secure it, so we put it in a lock box.

Q Okay. So that locking down of suicide logs once they were put in the box was done for all offenders having suicide companions?

A Correct.

Q And then a supervisor sorted them out –

A Correct.

Q -- and sent them on their way?
A Yes, ma'am.
Q Was any suicide companion, inmate, or officer directed by you or anyone you're aware of to ask Mr. Allen about his charges or his offense?
A None.
Q Did you ever ask him about his charges or his offense?
A Never.
Q If an inmate companion told a family member that Mr. Allen was confessing, you indicate you have no knowledge of that.
A I would not have knowledge of it, no.
Q Are you involved with administration to the effect that you know why companions fill out log sheets?
A I'm not sure where that originated, no, but that's a mental health order that they fill out the log sheets.
Q Okay. Was there anything different about Mr. Allen getting his legal mail that was unique?
A The only thing that was unique about it is all legal mail throughout the facility is copied, so they don't get the originals. Mr. Allen did get his originals, so they were not copied.
Q What would be the reason for copying legal mail before it goes to an offender?
A The introduction of drugs. A lot of legal mail is not really legal mail, it's just from a fake law address and they can spray K2 or synthetic marijuana on it, and the offenders get the legal mail and they smoke it.
Q Okay. Thank you. You were asked about the conditions of his cell that

has no table, no chairs, mattress on the floor. You indicated no inmate has a table or chair; is that correct?

A That is correct.

Q And what would be the reason, if any, that the bed in a isolation camera cell would be basically on the floor?

A So the inmates that were on suicide watch can't get away from observation and go under the bed.

Q So again, it's for his safety?

A For his safety.

Q Did Mr. Allen make a specific request to speak with you with regard to a confession?

A I believe one or two times, yes.

Q How was his request –

A In a form –

Q -- delivered to you?

A In a request for interview I believe it was.

Q Is that written?

A Yes.

Q What do you do when someone in Mr. Allen's position makes a written request like that?

A On his case, I turn them over to Internal Affairs.

Q So if he sends you a written request to confess, you don't go talk to him?

A No.

MS. DIENER: Judge, may I approach the witness?

THE COURT: You may.

Q Warden Galipeau, I'd like to show you what's marked as State's Exhibit 8; will you take a look, it's got two pages, make sure you have a chance to see both.

MR. ROZZI: Eight, Stacey? Eight?

MS. DIENER: Eight.

A Yes.

Q Can you identify those?

A Yes, I can.

Q And the first page is?

A Chain of evidence, an evidence record to say what I did with the letters. On the first request for interview, I dated it 3/5/2023 at 1647, so 4:47, signed it and gave it over to Internal Affairs with his request.

Q I'd like to ask you about that.

A Sure.

Q Now, the top page is when you turned it over to Internal Affairs, is the chain of custody?

A Yes.

Q That one's dated April 5, and the other document that's actually a written request by Mr. Allen has a date in March. Do you believe that he did that twice and maybe –

A I believe I did get more than one request. I definitely remember this one.

Q Okay.

A And this one was dated March, 'cause I put the date on it myself. On the evidence card, I wouldn't put the dates.

Q So you had at least one request from him and you recognize that?

A Yes.

Q And the chain of custody form, it may be for a secondary request or it may be misdated?

A Correct, or unless there was two pieces. It looks like they were both collected on Internal Affairs in April and this was in March, so I'm not sure how soon they got it, but –

Q How do you get it to them?

A Any things I would get, unusual requests, requests for interviews, request for a Bible, whatever, Internal Affairs would pick it up. I don't know if they pick it up weekly, but I'd make sure it left my office and down to Internal Affairs so it could be secured.

Q How does it get from your office to Internal Affairs? Do you have a runner?

A Internal Affairs comes to transport it, they'll come themselves to get it.

Q Okay.

A In this case, who transported those would have been Ms. Mapps, look like Jessica signed that, which is also an investigator for Internal Affairs and she's also a CPO, so a certified police officer for the Department of Correction transported his mail.

Q Okay. So you have a designated place where you put things for Internal Affairs and they come get them when they choose?

A They come get it, put it in their evidence box, which is located in their office under camera.

MS. DIENER: Okay. State would move to admit Exhibit 8.

STATE'S EXHIBIT 8 OFFERED

THE COURT: Any objection?

MR. ROZZI: I'm sorry, I have no objection.

THE COURT: All right. Without objection, 8 is admitted.

STATE'S EXHIBIT 8 ADMITTED

Q So you did not interview him pursuant to his request?

A No.

Q How much contact would you have face to face with Mr. Allen?

A When he first got there, I'd say that I would look at him visually probably daily for the first maybe two, three, four months, then kind of maybe a few times a weeks. Then, when the bizarre behavior continued, probably daily, and then that tapered off maybe a few times a week. I go on those pods daily, whether it be A-107 or C-107, and I was in that unit daily.

Q And that's how you chose to do your job, to keep track of what was going on?

A I have to be on that unit, so does the major.

Q Okay. And so during some of those face-to-face contacts with Mr. Allen, how would you approach him with regard to conversation?

A I wouldn't approach him. I would look into his cell, and if he approached me or conversated with me, then I would answer his question.

Q And during those times, did he make statements to you about the crimes he's been charged with?

A Yes.

Q And did he provide you any details?

A No. He just confessed.

Q Okay. And you indicated that may have been written down by someone else in the vicinity; is that correct?

A There is an annotation in the suicide log where he also confessed and that

was in more detail than what he verbally told me.
Q Okay. You're saying the suicide log being the companion sheet –
A Correct.
Q -- had more details than what he spoke to you?
A Correct.
Q Were you also present for some of his statements containing details related to this homicide – these homicides when he was in the presence of others besides door companions?
A Not that I'm aware of, no.
Q If I directed your attention to maybe meeting with medical.
A It's possible. So I was both in – I'm not sure what he said during medical, but I was in both when he got his medications and they were both recorded. Is that what you're referring to?
Q Yes.
A Yeah.
Q You weren't the only one that heard these things?
A No, no.
Q And to the extent that there were multiple people present, it was also recorded on the hand-held camera?
A Correct.
Q And you're familiar with those statements?
A I'm not familiar with the exact statements. I remember them, 'cause they were in the nurse's station and in segregation, so it would have been Dr. Martin and the medical team doing assessments.
Q And when I say familiar, I'm not saying do you remember them verbatim,

I guess what I'm saying is do you remember the circumstances of the situation that he was making them?

A Yes.

Q And was anyone interrogating him?

A No.

Q Was anyone asking him questions about his crime?

A No.

Q Are you aware of any time that anyone did?

A I'm unaware, no.

Q In fact, were there times that you spoke with Mr. Allen and that he indicated that he was properly cared for at your facility?

A He was.

Q And were there times where he was asked if he needed anything and he indicated he was fine with what he had?

A I asked him personally if he needed anything.

Q In fact, you offered to get him a loaner television; what was the circumstances of that?

A We have loaner televisions, yeah, based on – same way with the tablet, it's kind of like a mental health progression order, if your behavior continues to behave, then he gets, you know, certain privileges.

Q Okay. So it was a situation where you were offering an earned privilege if he – if his behavior improved?

A If I recall, I remember him saying he didn't want one.

Q Okay. Was it directed at him disclosing information about his crime?

A No. Nope.

Q Did Mr. Allen ever tell you that someone was interrogating him or coercing him to make statements?

A No, he did not.

Q Would he have had ample opportunity to do that?

A He would have, yes.

MS. DIENER: I have no other questions.

THE COURT: Mr. Rozzi.

MR. ROZZI: Judge, can I have permission to ask a few omitted questions?

THE COURT: Certainly.

MR. ROZZI: Thank you.

RE-DIRECT EXAMINATION OF WARDEN JOHN GALIPEAU

QUESTIONS BY MR. ROZZI.

Q Warden Galipeau, you have a case management system at the prison, I think maybe it's called Incite, if I'm not mistaken; are you familiar with that?

A It's called Incite?

Q I might be getting it confused with another. Do you have a case management system at the prison?

A We have case managers, yes.

Q And to be more clear, do you have the ability to access records at the prison through the computer or through the computer database about people's criminal histories and their circumstances in the criminal justice system?

A I mean, I don't.

Q Do you know what I'm talking about? Like does that even sound familiar?

A Incite does not sound familiar, no.

Q Okay. Are you – do you have access to any system where you can get on and say, "Okay, this is what Rick Allen was convicted of" or "This is what Sam Smith down in cell block A-107 was convicted of", anything like that?

A Yeah, I have access to see why people are incarcerated, yes.

Q Okay. And what's that – what system are you accessing?

A I'm not accessing anything, I would just ask – or check their personnel packet.

Q Okay. So a personnel packet is one place you go?

A Sure.

Q I'm assuming that's an electronic one.

A Both.

Q Do you have the ability, as a warden, to access information about other people in the DOC that are not in your facility?

A Do I have access to find out where they're at and what their crimes are?

Q Yes.

A Sure.

Q And what system do you use to access that?

A It's on the Internet, it's on the Indiana Department of Correction homepage. You go to inmate locator, type in their DOC number, and it provides the information.

Q Okay. So you use the same system I do to find out where somebody is, don't you?

A Sure.

Q And what if you wanted more personal information about their intake at a facility, for example, like at RDC, do you have the ability to access that?

A I have the ability to their packets.

Q Could you say that again?

A I have the ability to look at their packets.

Q Where are those packets located?

A In the records room. I never have, never had a reason to, but they're kept in the records room.

Q Okay. So if somebody were housed in – while you were at Westville, if somebody were housed at Wabash Valley, for example, you'd have the ability to look at a packet of information, it'll give you detailed information about that inmate?

A No. That packet would be at Wabash Valley.

Q Okay. So they're – I'm gonna try and be – trying to ask as clear of questions as I can. Is there any information that's available to you at the DOC regarding the details of other inmates outside of Westville and their incarceration in DOC?

A No.

Q Is there a policy that prohibits the use of inmate information for personal reasons? In other words, like you can't get on there and start looking up a case because you have some personal interest in the matter?

A I'm not sure. I mean, you can on Google. I mean –

Q No, I'm talking about just DOC here for a minute.

A No.

Q Things that the public can't get their hands on.

A No.

Q Do you have a policy that you're familiar with that says you can't do this for personal reasons?

A Not that I'm familiar with, no.

Q Now I'm reacting to Ms. Diener's questions to you. She asked you some questions about Rick's initial assignment to Westville; do you recall those last questions?

A Yes.

Q And you said that you didn't have any choice about his assignment; right?

A That is correct.

Q If you don't want someone at Westville, do you have the ability, as the boss, to just call and say, "We really don't want him here anymore"?

A Not how it works there.

Q So the answer's no?

A The answer is no.

Q Ms. Diener was asking you about the number of other people in that WCU unit, I think you told her about 255 is what you said; do you remember that?

A Correct.

Q How many of those other people in that – of those 255 are pre-trial detainees?

A One.

Q And who's that?

A Mr. Allen.

Q And how many of those other people in that 255 have never been convicted of a crime before?

A None.

Q Ms. Diener asked you about the cameras in the cell; do you recall that?

A Yes.

Q And I think what you said was, is that those cameras were permanently mounted in the cell; right?

A Correct.

Q So he was put in that cell specifically because the cell had the capacity to take video of him while he was there?

A Correct.

Q And you said there's only one person that can see that video; right?

A Correct.

Q And that person would be what I'm gonna loosely refer to as the control officer maybe that was on duty?

A That's correct.

Q Now, if there were other officers standing there talking to the control officer, they could certainly see it; right?

A I mean, they're not allowed in the control room.

Q What about the next control officer that comes in?

A They would have access.

Q So that's two people; right?

A Correct.

Q And then so on and so forth?

A Correct.

Q You can have lots of people that work in the control room?

A Not lots, but selective. There's a lot of training in the control room.

Q You have turnover, too, at the DOC; right?

A Of course.

Q The WCU is considered a disciplinary unit, isn't it?

A We have other forms of inmates in there that are not disciplinary.
Q Okay. I'll get to that. But it's considered disciplinary, isn't it?
A Sure.
Q And administrative?
A Sure.
Q And so many of the inmates that are housed in the WCU are there because they're being punished for wrongdoing in other parts of the prison?
A They're being sanctioned, correct.
Q And those inmates have eight and a half by twelve and a half foot cells; right?
A All the same.
Q Concrete and steel?
A All that.
Q A toilets that's mounted to the wall?
A Correct.
Q Just like Rick Allen's; right?
A Yes, sir.
Q So he was treated just the same as those inmates who were on disciplinary segregation for these other conduct violations?
A Correct.
Q You told Ms. Diener that you made accommodations for him; right?
A I did.
Q Made an accommodation by getting him the tablet; right?
A Correct.
Q And you made an accommodation by replacing the window in his cell?

A Correct.
Q Did you replacing his tablet place some significant burden on you or your staff?
A It's not the way we treated the rest of the facility and you had –
Q No, but I'm asking you if it was real burdensome for you.
A It was inconsistent.
Q Okay. Inconsistent with what?
A Inconsistent with the way we distribute tablets. We have tablets that are about 2-, 300 short. That tablet could have gone to a person that did not break his tablet.
Q Okay. What I'm asking, was it hard for you to go get him another tablet? I mean, you're the boss; right?
A It can be difficult. GTL is a private company. I'm the boss of Westville, not the president of GTL.
Q In this case, was it hard for you to get him another tablet?
A It took a few days.
Q Okay. Was the tablet in the prison?
A I believe so.
Q All right. So physically, you had to walk to another unit and grab the tablet; right?
A Something like that.
Q You have a lot of time to walk around at the prison, don't you?
A I walk around the prison, yes.
Q I mean, that's what you do when you're there, isn't it?
A Well, I do more than that, but yes, I do make rounds.

Q And you said that you made accommodations for him to visit his family; right?
A Correct.
Q Do you have regular visitation at the prison?
A Not for that unit.
Q I'm sorry?
A Not for that unit.
Q Yeah. Well, but do you have regular visitation at the prison?
A For general population.
Q You actually have a building that's reserved for that.
A For general population.
Q Okay. But it exists; right? You have people, inmates, and their families coming to see them?
A For general population, correct.
Q All right. And so how many times a week do you have visitation?
A Every day.
Q All right. And how long does that last?
A One hour.
Q All right. So one out of 24 hours a day, that room is consumed by people in general population and their families; right?
A Correct.
Q So it's not that much of a burden to use another two hours on one of those days one time in eight – for the small months he was there to accommodate him?
A I mean, you probably cancelled up to 14 visits to accommodate him.
Q Well, you could have just done it the hour after you had the regular

visitation.

A Or we couldn't have done it at all.

Q Okay. Well, yeah.

A Correct.

Q You couldn't have accommodated him at all; right?

A Correct.

Q So you made a small accommodation, which wasn't really a burden on you, was it?

A It was operations, yeah, it took a little bit.

Q Same people still working; right?

A Abnormal situation.

Q Ms. Diener asked you about these guards and your response was, is that they don't have to listen to their conversations or the guards don't have to listen to Rick Allen's conversations; right? They're not directed to?

A No.

Q But they are given a pen; right?

A The guards?

Q Yeah.

A No.

Q To write with?

A Who? The guards?

Q Yeah.

A No.

Q Well –

A The visitation room supervisor has a pen.

Q Okay.
A It's just a log.
Q Well, they had log sheets, the log sheets; right?
A Correct.
Q On those sheets, they're writing down the things that he's saying in the cell, aren't they?
A I'm not aware of that during visitation.
Q Have you ever looked at one of these logs sheets that have been –
A I haven't looked at the visitation log sheet. I don't know what was written on visitation. I can't tell you if he was on suicide watch at the time or not –
Q Let me redirect –
A -- 'cause he was on it so –
Q Sorry, you finish.
A No, go ahead.
Q Let me redirect you to the guards that were standing at his door cell monitoring him; okay?
A Sure.
Q They had pens and paper?
A Correct.
Q And that was given to them by the DOC?
A Correct.
Q And they were writing down the things that he was saying?
A Correct.
Q So they were naturally listening to him while they were writing those things down; right?

A They were a lot closer when they were in their cell.
Q Right. What I'm saying is, is they had to be listening to what he was saying or they couldn't write it down.
A During – when he was in his cell, yes. I thought we were talking about visitation.
Q No.
A Oh.
Q You said you chose eight inmate companions specifically – approximately, I think you said, to monitor Mr. Allen; right?
A Correct.
Q Did you look at the background of any of those inmates and their personal packets to see what their history was before you did that?
A No, sir.
Q You have no idea if they were the most dishonest people on the planet, do you?
A I just know they came from the PLUS unit.
Q And you also know they were convicted felons?
A Correct.
Q And you said that you know that inmates talk to each other; right?
A Correct.
Q That's common knowledge; right?
A Right.
Q Lots of snitching going on in the prison?
A A lot of communication.
Q You knew that before you assigned any inmates to him, didn't you?

A Correct.
Q But you did it anyway?
A I didn't make the assignment.
Q But you just said you put eight people on him.
A I limited how many people. I didn't make the assignment to put a suicide companion on him.
Q Okay.
A That came from Mental Health.
Q Okay. Well, you could have talked to medical staff and said, "Hey, maybe we shouldn't use an inmate"; correct?
A I don't control medical staff, they're a separate entity.
Q You're the boss, are you not?
A I am the boss. They're contractual. And I'm also not a doctor.
Q Does it take a medical degree to assign somebody to a door cell to observe an inmate?
A It takes a mental health professional to put someone on suicide orders.
Q Okay. But does it take somebody with a medical degree to assign someone to a door cell?
A I'm not sure.
Q Cell door.
A I wouldn't think so, no.
Q Do those companions have any mental health training?
A I believe they go through training, yes.
Q And what's the extent of it?
A I'm not sure. That'd be a better question for Dr. Wala.

Q So these log sheets were placed in a box; right?
A Correct.
Q And that box was secured?
A Correct.
Q And those sheets eventually made it to Internal Affairs or Dr. Wala, depending on the circumstances; right?
A I don't recall any door sheets going to Internal Affairs, but they'd have gone to Dr. Wala.
Q The video did, I'm sorry.
A The video could, but –
Q It was preserved by Internal Affairs.
A Well, it's preserved by the server.
Q Okay. Which is at the direction or that Internal Affairs is in control of; right?
A They're not control of the server, but yeah, they would download it.
Q Okay.
A I'm not sure how long –
Q They handled the manual side of that?
A Sure.
Q And all of those items then are secured for central administration, if necessary; right?
A If needed, yes.
Q So there's a system in place at the prison to secure all this information?
A Correct.
Q And to process it?

A Sure.
Q You were answering some questions about you – basically your daily visits with Rick when you first – when he first got here. You recall those answers?
A Yes.
Q Or those general questions you were being asked?
A Yes.
Q Rick was isolated really from any contact with other inmates, to be sure; right?
A They all are.
Q And he's really isolated from any contact with any – certainly anybody from the public; right?
A They all are, sir.
Q And – yes, but I'm talking about Rick.
A Sure.
Q And he has very little contact with any guards; right?
A He had more contact than the rest of them.
Q Than who?
A He had more contact than the other 254.
Q Yeah, because when you took him to get a haircut, you had to assign five guards to him to get his hair cut; right?
A Or when I assigned a guard to his cell 24/7.
Q Right.
A Right.
Q But his contact with the outside world was extremely limited in the WCU?
A Other than this tablet and phone calls and visitation.

Q There was almost no social interaction available to him anywhere on that unit, is there?

A What do you mean there's no – I mean, there's phone calls, there's visits available.

Q They don't have the ability to associate with anybody, whether it be a group of other offenders, sit and play cards, anything?

A Not typically, no.

Q That's kind of the whole point of the unit, isn't it?

A Correct.

Q So for somebody to be in that unit and to be chomping at the bit to talk to somebody at their door would not be unusual, would it?

A For the most part, there's not a lot of people standing by for conversations.

MR. ROZZI: I don't have any further questions.

THE COURT: Ms. Diener.

MS. DIENER: Just a couple, Judge.

RE-CROSS EXAMINATION OF WARDEN JOHN GALIPEAU

QUESTIONS BY MS. DIENER.

Q When you were asked about limiting his inmate companions to eight, did you handpick the companions that were assigned?

A I did not.

Q So you didn't select them by name or by criminal history?

A Just by number.

Q And so if one of them didn't work out, someone else made a decision and replaced them with someone else?

A Correct.

Q With access to socialization for someone in that unit, as Mr. Allen was, did all of them have mental health stop by twice a day to see if they need anything?
A No.
Q So there is a record that shows that a person stops by his cell twice a day from – and fills out a restricted housing unit form and they can check a box as to whether he's fine or whether he wants services. Are you familiar with the form?
A Yes.
Q And so is that – you're telling me that's not happening with everyone in the unit?
A No. He definitely got pulled more for mental health and medical.
Q Mental health and?
A Mental health and medical.
Q Okay. And when you say – you said polled, as in asked if he needed anything?
A Or removed from his cell.
Q Or removed from his cell, okay.
A Yes.
Q And that was the other thing I was gonna get to, he had the opportunity almost every day to go to the medical room for his vitals; is that correct?
A Correct.
Q And that's not typical?
A No.
Q Even for other people in a 107 cell in the other pods?
A No, unless they were on some sort of hunger strike where they needed to

get vitals or a BMI very – yeah, it's not normal.

Q Okay. And then, he could be moved from his cell for showers and for rec; correct?

A Correct.

Q What about his access to the chaplain?

A Upon request, if he wanted to have access to a chaplain, we would send her over there.

Q And how often would the chaplain be on the unit, the A unit?

A The chaplains I believe go weekly. You know, he gave me one specific request which I remember which he wanted to see a chaplain and I sent a chaplain over I believe that day.

Q Okay. And then, you said you walk the unit regularly.

A Correct.

Q You were asked if the unit was a disciplinary unit and you said it was also administrative, so you had people there that are being sanctioned, which you agreed with.

A Correct.

Q What are the administrative placements?

A It'd be administrative placement if you're pending an investigation – I'm sorry – you could be placed – and several of them are placed in there for protective custody reasons. Several of them are placed there in isolation if they're on a hunger strike, we'll put them in an isolation cell so we can access their water intake or food intake, so they're nowhere near another offender so – you know, again, A and B pod, you know – so the Judge understands, A and B pod are long-term segregated statewide offenders, C and D pod are Westville offenders, so

they're not the worst of the worst in those pods, they're Level 2 offenders that have committed a violation and are segregated to that unit. A and B pod's filled with a variety of crimes, some statewide PCs, some sanctioned to a year, some sanctioned for two years, it all depends. Some have one year left in their term, some might have 60, you know, so it all depends on what they did to get there.

Q Okay. So we're not talking about people who are there for a week?

A No.

Q And when you're describing this, we're talking about A, B, C, D?

A Correct.

Q He's in A1-107?

A Correct.

Q So A and B are people from other facilities –

A Correct.

Q -- that were not placed in Westville from Reception Diagnostic?

A Correct. They're typically Level 3 or 4 offenders that would not be placed at Westville.

Q Okay. In which pods?

A A and B.

Q Okay. So he's in there with people who would not typically be a Westville inmate?

A Correct.

Q But they're there either for disciplinary reasons –

A Um-hmm. (Affirmative response)

Q -- or for administrative reasons?

A Correct.

Q And administrative reasons would be pending internal investigation for misconduct?

A Or anything. Could be pending trafficking –

Q Okay.

A -- anything that Internal Affairs is looking into, but most of them are sanctioned to a fixed time to do in segregation.

Q Okay. And then you said protective custody. Does Mr. Allen fall into that category?

A No.

Q What is protective custody?

A Protective custody is a inmate that's in any facility that can't function out in population, whether he, you know, testified in court against another inmate or just in fear for his safety or life, we'll run him just like in our HU unit, we have our own protective custody unit inside Westville, as well. We've got – at the time, it was 28 beds, I think they expanded it a little bit more, but they don't have access to the general population either, and they go to rec separately, they eat separately, everything's done with that unit. So you were used to doing that, what you had to do for Mr. Allen, because you have people that are in a similar circumstance of protective custody where their own safety is at risk for being around other offenders?

A Yes.

Q Okay. And then you said isolation because of hunger strike.

A Um-hmm. (Affirmative response)

Q Is that because you can keep a better eye on them in that –

A Yes.

Q -- area?

A Typically, we want to put them in a cell that doesn't have any water so we can – we realize how many ounces of fluid they're drinking, they're not around another offender so they can't give them food that we don't know about, just so we can monitor them better.

MS. DIENER: Okay. No other questions.

THE COURT: All right. Thank you, sir. You may step down.

UNIDENTIFIED INDIVIDUAL: Your Honor, is he released?

THE COURT: Is he released from his subpoena?

MR. ROZZI: Yes.

MS. DIENER: I agree.

THE COURT: And you are free to go. Thank you. Would counsel approach.

(Sidebar conference conducted.)

(Inaudible)

THE COURT: (Inaudible) Okay. So let's do one more witness and break for lunch.

(Sidebar conference concluded.)

THE COURT: All right. Well, thank you, counsel. We'll do one more witness and then we'll break for lunch. And I understand this next witness should be fairly short, and then we'll break for lunch.

MR. ROZZI: Call Kenneva Mapps, Your Honor.

(Witness sworn.)

MR. ROZZI: Could I ask for one second?

THE COURT: Yes. And I will ask – when he asks you to state your

name, I will ask you to spell your name for the record, please.

THE WITNESS: Okay.

DIRECT EXAMINATION OF KENNEVA MAPPS

QUESTIONS BY MR. ROZZI.

Q What's your name?

A Kenneva Mapps.

Q And, Ms. Mapps –

THE COURT: Hold on, I need her to spell that.

Q -- go ahead and spell your name for the record.

THE COURT: Oh, yeah, thank you. Spell your name for the record.

A Spell my name? Okay. K-E-N-N-E-V-A, last name Mapps, M-A-P-P-S.

Q Where do you work?

A Westville Correctional Facility.

Q What do you do there?

A I am a lead investigator.

Q And that's a pretty general description, no offense, but just tell the Judge in a little bit more detail what that entails.

A We investigate wrongdoings of offenders, staff members, visitors. We do a number of things. We do investigations, of course. We interview. We make rounds. We interact with the offender population.

Q How long have you been working with the DOC?

A Twenty-seven years.

Q And you've been in investigations 17 years; is that right?

A Nineteen.

Q Nineteen, okay. You have a high school education?

A Yes.
Q And some college?
A Yes, sir.
Q You know what a safekeeper is in the DOC?
A Technical – in technical terms, no, but I do know that they are not an actual incarcerated individual, they are being kept there for safekeeping.
Q Did you tell me that you don't even – you didn't even know what that term meant until we got involved in this situation?
A Basically, yes.
Q So the idea that somebody was a safekeeper in your facility, from a technical standpoint, didn't mean anything to you until –
A I did know that –
Q -- it was brought to your attention in this case?
A I knew that he wasn't technically an incarcerated individual.
Q Can you remember a time in your service with the DOC, 27 years, that you've ever dealt with someone who was a safekeeper or had that designation?
A Not hands-on, no. We have had a couple in the facility, but I have not had to deal with them.
Q You familiar with Richard Allen?
A Yes. He was at the Westville Correctional Facility.
Q Have you ever talked to him directly?
A No.
Q Before I forget, I'm gonna get off the point for a second. Do you have an information system at the prison that you access to obtain personal information about offenders?

A Personal information about the offenders?
Q Yeah. What their crimes were, you know, what their health situation is, anything like that?
A We have access to it if needed, but that's not something that we just access just because.
Q What information system is that?
A We have OIS, but it's no longer up.
Q What's OIS stand for?
A Offender information system.
Q Oh, okay. And when you say it's no longer up, when did it go down, if you could estimate?
A Oh, it's probably been down a year and maybe a month.
Q A year and a month?
A Yeah.
Q So if you wanted to access the records of John Doe who was housed in, let's say, Pendleton –
A Um-hmm. (Affirmative response)
Q -- how would you do that?
A We have a system called Delta as of now.
Q Is that the one that's now the modern-day OIS?
A Yes, sir.
Q Okay. So you had OIS, now you have Delta?
A Yes.
Q And are you able to access information, personal information, regarding offenders in other facilities through Delta?

A You could if needed, but if –

Q Is that a yes?

A Yes, you could if needed, yes.

Q Click on a mouse or hit some buttons on your keyboard and –

A Um-hmm, yes.

Q -- quick enough?

A Yes.

Q And are prison employees or anyone that works in the prison allowed to use that database for personal reasons?

A Only certain departments.

Q Okay. What departments would that be?

A There are various departments, but I do know offhand Investigations, Classifications, administrative staff, wardens, caseworkers, case managers, unit team managers. It may be some more that I may be missing, but I do know those offhand.

Q I'm gonna ask the question a different way, just to make sure we're talking about the same thing.

A Um-hmm. (Affirmative response)

Q Do all those people have the authority to access that information for their own personal use, not related to employment?

A No, you cannot access it for personal use.

Q Is that strictly prohibited by prison policy?

A Yeah.

Q I mean, if you were – decided you wanted to come to work one day and, you know, and look up the information of somebody who was convicted and

housed down in say Pendleton, that wouldn't be appropriate; right?

A That would not be appropriate.

Q Are those kind of things the kind of things that you would get involved in as the internal affair officer?

A That is something that we would get involved in if –

Q Do those kinds of things lead to peoples' termination from their employment?

A Possibly.

Q Abusing the information system?

A Yes.

Q Violating confidentiality?

A Yes.

Q Sorry, it's a little hard to hear in here.

A I'm sorry. Yes. Do I have this close enough or is it –

THE COURT: No, just speak up.

THE WITNESS: Oh, okay. I'm sorry.

Q Yeah. The rain's making it –

A Oh.

Q Mother Nature is bearing down on us.

A Okay.

Q So did you ever have contact with Warden Galipeau as it relates to Richard Allen's detention circumstances?

A Yes.

Q Were you asked by Warden Galipeau to store information regarding videos that were taken from his cell?

A Yes.
Q Him being Rick Allen?
A Richard Allen? Yes.
Q Richard Allen, sorry.
A Yes.
Q And were you asked to store written information regarding Mr. Allen's letters, log sheets, anything like that?
A Yes.
Q And can you think of anything else that you've been asked to retain or store with regard to Richard Allen record-wise?
A No. And let me strike the log sheets. We didn't store log sheets.
Q Okay. So you stored video; right?
A Video.
Q What about any type of writings?
A Yes, from Warden Galipeau.
Q And my recollection is, is that you actually took a hard drive to the warden at one point and let him reduce this information on that hard drive.
A We supply him with the hard drives after the video was downloaded to the hard drives.
Q Oh, I'm sorry. You downloaded it and you took it back to him.
A Well, I downloaded some, 'cause it happened – it was a progression, me myself, another investigator, and one of our secretaries throughout the process.
Q Throughout his stay there?
A Um-hmm. (Affirmative response) Yes. I'm sorry. Yes.
Q That's okay. There's a system in place for you to main – for you to secure

and maintain these records; right?

A Yes.

Q In the course of your business, is it your expectation that some of these things can be used in litigation or for litigation purposes?

A Yes.

Q Is that one of the reasons why you store them?

A Yes.

Q Did you ever have contact with any law enforcement officers related to this investigation while you were working at Westville?

A Yes.

Q Tell us who those officers were.

A I believe it was – I don't remember all of their names. One was Mullins [sic]. It's because they came to the facility to interview him.

Q Okay. So was another one named Harshman? Does that sound right?

A It does not sound familiar.

Q You don't know? What about Holeman?

A Does not sound familiar.

Q But you remember Mullins? [sic]

A Yes.

Q Stephen Mullins [sic], does that sound right?

A Yes.

Q Investigator with the prosecutor's office?

A Yes.

Q Here in Carroll County?

A Yes.

Q And did Mr. Mullins reach out to you or did you reach out to them?
A He reached out to me.
Q Okay. Tell me roughly when that occurred and what was the nature of that conversation.
A We didn't have a conversation like via telephone or anything. I was told that they were coming to interview him and I took a video camera over to WCU so they could interview him, Mr. Richard Allen, I'm sorry.
Q Okay. So do you know when this occurred during his stay at the facility? Was it early? Middle? Late? Can you give us some idea.
A It was at the beginning of – he was new to the facility, Mr. Allen was new to the facility.
Q Okay. So I'm just trying to summarize – to move on. Police apparently contacted your facility and they wanted to meet with him –
A Um-hmm (Affirmative response)
Q -- and you helped with the video part of that?
A I just gave them the – I supplied the video camera.
Q Aside from that time, were there any other times that you communicated with police officers that were there to conduct an investigation regarding Mr. Allen's case?
A Yes. So –
Q Tell the Judge what that was.
A For Viapath or GTL, which is the offender phone system.
Q So were the police, essentially, looking to get access to his phone calls?
A Yes.
Q And did you help them with that process?

A Yes.

Q You gave them a link and they were able to – theoretically, they would be able to go through that link to gain access?

A Yes.

Q And you know that because you've been working there for a long time; right?

A Yes.

Q And you're familiar with the GTL system?

A Yes.

Q Same question again now: Other than those two circumstances, did you speak with any law enforcement officers at any time regarding the investigation or regarding an investigation of Rick Allen?

A We did not speak regarding the investigation with him, no. No – are you saying like specific things or – no.

Q Well, you answered my question.

A No.

Q Thank you. Did you ever facilitate any meetings between law enforcement officials and other employees of the prison related to Rick Allen's circumstances?

A No.

Q I asked you about the suicide companion program. You're familiar with that; right?

A Yes.

Q But it's not a program that you run or operate?

A No.

Q You told me that it was part of the PLUS program?

A Yes.
Q And you thought it was faith-based?
A Yes.
Q And you think that the inmates get time cuts for being a part of that program?
A I believe so.
Q Are you familiar with the phrase "Norse paganism"?
A I've heard of it, yes.
Q Okay. And did you tell me that – or are you familiar with the phrase "Odinism"?
A Yes.
Q And "Asatru"?
A Yes.
Q And are those associated with – are those, at times, associated with offenders who are housed in your facility?
A Yes.
Q Is that one of your jobs is to kind of keep track of gang activities?
A Yes.
Q Is that how you know about this –
A Yes.
Q -- these designations?
A Yes.
Q Are you aware of any investigations into any prison staff members affiliated with those groups?
A Yes.

Q What are you aware of?
A Just that staff was wearing patches on their vests, but that's about the extent of it that I know.
Q You didn't conduct any investigations yourself?
A No.
Q Are you one of the primary investigators at the facility when somebody's got to go out and do the basic what I'd call police work?
A Yes.
Q You're it; right?
A Yeah. I delegate a lot, but yes.
Q When you say you delegate, you've got a couple of other staff members?
A Yes, I have other investigators.
Q Okay. How many?
A I have eight investigators and two analysts.
Q And when those investigators are investigating circumstances at the prison, whether inmates or guards, inmates or staff, you know about it; right?
A Yes.
Q You're the boss?
A Yes.

MR. ROZZI: I don't have any further questions for Ms. Mapps.

THE COURT: Ms. Diener.

CROSS EXAMINATION OF KENNEVA MAPPS

QUESTIONS BY MS. DIENER.

Q Ms. Mapps, the fact that you are not familiar with safekeepers in DOC, does that have any impact on your job?

A No.

Q And so if you were asked to or required to perform an investigation, whether it's a sentenced offender or a safekeeper, you would do it the same way, would you not?

A I would do it the same way, yes.

Q Is it within your responsibilities or professional knowledge to know whether a PLUS inmate gets – or whether an inmate gets a time cut from participating in PLUS?

A Could you, please, repeat that?

Q Is it part of your job to know whether a person participating in the PLUS program gets a time cut?

A No.

Q What do you base your knowledge about time cuts with the PLUS program on?

A This is what is common knowledge.

Q To whom?

A To staff members, to the offenders, because most of them do it for the – I mean, they care about people too, but they do it for a time cut.

Q Is that time cut given by DOC?

A Yes.

Q And you're involved in that or you just –

A No.

Q -- believe it happens?

A I believe it happens. I'm not a part of that.

Q Okay. Have you – the cameras that are in the isolation cells, are you

familiar with the specific A-107 and B-107 –

A Yes.

Q -- configuration?

A Yes.

Q And those cameras run 24/7 or how do they operate?

A They run 24/7, yes.

Q Do they run even if the person is sleeping or are they motion activated?

A They would – they run – most of the time, if a person is in there, it'll run; but they run 24/7 for the most part.

Q What would prevent it from running?

A There are sometimes technical glitches that would probably play a factor in that.

Q Okay. But motion activation is not one of them?

A No, not in the observation cell.

Q Okay. And specifically A-1107?

A I'm not, I mean, well versed – I'm well versed in most – well, all of the observation cells, not just that one in particular, but they all operate about the same.

Q Okay. And is the video on those stored indefinitely without you doing anything?

A Not indefinitely. It depends on the server. There could be technical difficulties that may prevent the server from – the video from being stored on the server.

Q Would that be a factor in extracting it or putting it on a hard drive in order to preserve it?

A I'm not sure I understand what you're saying.
Q Would you extract it and put it on a hard drive in order to save it, so that it doesn't get lost from technical difficulties?
A Yes.
Q And have you done that in the past?
A Yes.
Q Under what circumstances do you download or extract camera – isolation cell camera footage?
A In this case or overall?
Q Overall.
A Overall. If it is requested, if it's a part of a case. It could be numerous reasons.
Q So it's not uncommon?
A If an incident occurs – no, it's not uncommon, no.
Q Okay. Did you review any of the written documents you put into evidence for Mr. Allen's incarceration period?
A No.
Q Do you have any independent recollection of how many documents you may have received from Warden Galipeau, like a request of an inmate for him to come see him?
A Could you, please, repeat that.
Q Yeah. If Warden Galipeau testified that he had a request from Richard Allen to confess, and he indicates that he gave it to Internal Affairs –
A Yes.
Q -- is that your department?

A Investigations, Internal Affairs, it's kind of interchangeable, yes.

Q Okay. And he indicated that he identified it as a document to go to Internal Affairs?

A Yes.

Q Do you know how it gets to your office from his?

A At the time, I believe he gave it to one of my investigators. She brought it down and put it in the evidence room, logged it in and put it in the evidence room.

Q As you sit here today, do you know if that happened more than once, specifically with Richard Allen and Warden Galipeau?

A As far as I know, twice.

Q Okay. And if we only have one of those in our possession, you could find the other one; is that correct?

A If there is another one, I could find it, yes.

MS. DIENER: Okay. Thank you. No other questions.

THE COURT: Mr. Rozzi.

RE-DIRECT EXAMINATION OF KENNEVA MAPPS

QUESTIONS BY MR. ROZZI.

Q You mentioned those patches; what was on the patches?

A A Odinist symbol.

Q And these cells – you, obviously, look at cell block video from time to time; right?

A Yes.

Q And I should say – I should be more precise: Video from the cells, individual cells, and from the cell blocks.

A Yes.
Q Two different things; right?
A Yes.
Q And do the suicide cells have lights on them? Do they have lights in them?
A Yes.
Q And do those lights stay on 24 hours a day?
A I believe they could turn them – they can be turned off.
Q Do you think they can be turned totally off or just dimmed?
A They could be turned totally off. They have a window in there that would still shed light into the cell though.
Q Okay. Unless it's dark out; right?
A Yes.
Q Who has access to the control room to the prison?
A Could you be more specific, please?
Q There are control rooms to the units; right?
A Yes.
Q Who has access to those?
A Officers, sergeants, captains, lieutenants.
Q Do you routinely see those people accessing those control rooms?
A Someone has to be in the control room at all times.
Q Okay. Do you ever see a couple people in a control room talking to each other?
A Yes, that's common.
Q Did you ever seek out any consent from Richard Allen to secure any of the information that you secured for the warden?

A No.

Q Did you ever communicate with Richard Allen that, "Hey, I've got this information, it's available to you if you would like to have it," when you secured it?

A No.

Q And you said that you secure information in an evidence room; right?

A Correct, yes.

Q Kind of like a police officer would?

A Yes.

Q You're actually a police officer, aren't you?

A Yes.

Q You went through training at the ILEA, Indiana Law Enforcement Academy?

A Actually in New Castle, but it is accredited by ILEA, yes.

Q Okay. You were asked about a letter from the warden; do you recall that?

A Yes.

Q Was that – and you recall the letter that we're talking about?

A That's what he told me it was. I did not read the contents of the letter.

Q Did you ever go talk to Rick to see if that letter was something that he actually prepared?

A I did not talk to Mr. Allen. I have –

Q Did you ever reach out to his legal team to report that that letter existed?

A No.

Q You just secured it?

A Yes.

Q And you believe that that information was passed on to Central Office at some point?

A As far as I know, yes.

Q Central Administration is probably a more technical phrase; right?

A Central Office is what we would say.

MR. ROZZI: Okay. Nothing further.

THE COURT: Ms. Diener.

MS. DIENER: No other questions.

THE COURT: All right. Thank you, Ms. Mapps. You may step down.

THE WITNESS: Thank you.

THE COURT: And may she be excused from her subpoena?

MS. DIENER: Yes.

THE COURT: Yes, and you are free to go. Thank you.

THE WITNESS: Thank you.

THE COURT: All right. We'll go ahead and recess for lunch. Let's be back at 1.

(Off record at 11:53 a.m.)

(On record at 1:00 p.m.)

THE COURT: All right. Are you ready with your next witness then, Mr. Rozzi?

MR. ROZZI: I am, Your Honor. I'm gonna call Jerry Holeman. I'm sorry, Judge, I'm looking for Trooper Holeman who, you know, is not back from lunch or something, we're trying to figure out where he is. And I'd rather call him first and –

MR. MCLELAND: Judge, he's back from lunch. I think he's back I our office He didn't know he was gonna be called first.

THE COURT: Oh, okay.

MR. MCLELAND: So he's not gone, he's –

THE COURT: He's just downstairs?

MR. MCLELAND: I think he's downstairs. Somebody ran down to get him now, Judge, to see if he's in my office.

THE COURT: All right.

MR. ROZZI: Trooper Jerry Holeman, Your Honor.

(Witness sworn.)

MR. ROZZI: May I?

THE COURT: Yes.

DIRECT EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. ROZZI.

Q Tell us your name.

A Jerry Holeman, H-O-L-E-M-A-N.

Q Thank you, Trooper. And who do you work for?

A Indiana State Police.

Q Okay. And you were here yesterday and we went through all this. You're one of the lead investigators in this case; is that right?

A Yes.

Q Okay. And are you generally familiar with Rick Allen's detention circumstances or have you been familiarized with them over the past 18 months or so?

A His?

Q Detention circumstances.
A Yes.
Q Where he's been held, what the circumstances are where he's been held, and where he's been transported to, those kinds of things?
A Yes.
Q And is that related to his circumstances at White – at the White County jail initially?
A Carroll County, White County –
Q I'm sorry, Carroll County –
A -- Westville –
Q -- White County, Westville –
A -- and then Wabash.
Q Okay. All of those; right?
A Yes.
Q All right. And do you acknowledge or is it accurate to say that some of his conduct while he's been detained has been a part of this ongoing investigation in this case?
A His conduct?
Q Yeah. The things he's saying, the things he's doing, the way he's acting.
A Statements that he's made?
Q All those kinds of things.
A Are you asking about statements that he's made?
Q Yeah. Well, and the way he's acted for –
A Yes.
Q Okay. And have you assigned officers, in the course of your investigation,

to, I guess, investigate, for lack of a better word, the circumstances regarding his detention at Westville?

A I've assigned them to monitor his phone calls.

Q Okay. And tell us who those officers are.

A The main one is Trooper Brian Harshman.

Q All right.

A At some point early on, Detective Vido was involved in that, but mostly the documentation and investigation of it is gonna be through Brian Harshman.

Q Okay. I think I saw also where, at some point, Investigator Mullin from the Prosecutor's Office was doing some interviews up at the – up at Westville, as well. Am I correct about that?

A Yes. Steve Mullin, Rich Davies, myself, and Brian Harshman I believe were the only ones that went up there and interviewed corrections officers and/or inmates.

Q And what was it that first prompted you to either send someone up there to do some interviews or conduct some interviews yourself?

A Can't remember exactly the date and time, but we received information that he had made some confessions, so that – after that, we subpoenaed records, any other records that may indicate any audio, video, or written statements or anything like that and received information from the prison; and we were able to review the documentation and find out that he had confessed to not only his wife, mother, corrections officers, and inmate companions, so we got that documentation, reviewed it, found out who we needed to interview, and interviewed them.

Q All right. Very good. Thank you for that. So who was it that first contacted

you to communicate these issues to either you or your staff?

A We – no one contacted us. We were monitoring his phone calls, and once he made the first couple confessions, at some point after that, we decided to subpoena any other records that the prison might have and they sent those to us. Nobody from the prison contacted us.

Q Okay. So you were actually monitoring his phone calls as a part of your investigation before any of this even occurred, these statements?

A Yes.

Q That was a formal part of your investigation, you set that up so that you could do that while he was there?

A Yes.

Q All right. And I'm assuming – correct me if I'm wrong, I'm trying to kind of get to the point – that you did that through GTL, the GTL service?

A I believe that's the company's name, yes.

Q Okay. And did you reach out to the prison officials to get the information to communicate with GTL?

A I did not.

Q Okay.

A I don't know who –

Q Did some – one of your staff members?

A I don't know who did, but somebody did, yes.

Q All right. And so, basically, you were using GTL as your conduit for, essentially, surveilling his communications to the outside?

A We were monitoring his phone calls, yes.

Q Okay. How is that you know whether or not those phone calls would be

phone calls he would have with his lawyers, other than just hearing his lawyer's voice?

A Right. Well, the prison has it set up that those don't go into GTL, so those – we don't get any communications between him and his attorneys. I don't know how they do it, but we have never listened to any conversation between him and any of his attorneys.

Q Okay. Did you listen to – have somebody on your staff or you listen to these calls like on a weekly basis or is this almost like in real time? Help me with how that works.

A Weekly. Maybe a little more frequent than that, but –

Q Then, my view of this is, is that you've got some officer with a pair of headphones on, sitting in an office somewhere, like, "Okay, now I gotta go through a week's worth of phone calls," and you sit down and you kind of knock them off in bulk. Is that an unreasonable view or an incorrect view of what's – inaccurate view of what's happening?

A No, I would agree with – that's a pretty accurate statement, probably maybe a little less or more, give or take.

Q And do you – did you actually listen to those calls? I mean, as a matter of routine.

A No.

Q So is it Officer Harshman that was doing that?

A Yes, Trooper – or Detective Harshman was –

Q Okay.

A -- primarily. There was other people that were helping, but he's primarily the one that did all the documentation of the phone calls of interest.

Q And so I'm assuming, when you get those phone calls and you're listening to them and then if you hear something that's of significance, such as these calls to his family, you then followed up with the prison; right?

A Not necessarily me personally. I did a few.

Q Your staff?

A Somebody would, yes.

Q Okay. And one of the things you did was you went out and got subpoenas and rounded up more information about his circumstances at the prison above and beyond the phone calls?

A Correct.

Q And what was that information?

A What I told you earlier was any audio, videotaped movements, statements from the prison, documentation from the corrections officers that were conducting the suicide watch, door – I think they called them door sheets or logs that they were keeping, corrections officers. At some point, it switched, they did use prisoners as a companion program, but I think after he started making the confessions, they switched and no longer allowed the prisoners to do that and they had the corrections officers, so we got all those logs.

Q Okay. What about any information from the warden himself?

A I can't remember if that came in the first subpoena or later, but yeah, we did get some informations where he wrote a letter –

Q Okay. There –

A -- to the warden.

Q Sorry, I didn't mean to cut you off.

A A letter to the warden.

Q What about with Internal Affairs, any information that you got from them?
A Not to my knowledge.
Q So once you received this information, did you continue to request the information to kind of continue to get updated information as he stayed at the prison? That's a – kind of a – let me withdraw that question, that's kind of a compound question. Did you then routinely go through this same process to keep getting the most-updated information regarding his detention circumstances?
A As far as the phone calls, we continued to monitor them. We still would get information if there was any I believe, yes. I think the answer would be yes, we did continue to get information.
Q And maybe a simple question I guess, I'm just thinking now is: When's the last time you asked for this information?
A I'm not sure exactly when we asked for the updated information.
Q 'Cause I get phone calls pretty routinely through the discovery dumps, but the written stuff, not so much.
Q Yeah, I don't think we've had – received any or asked for any written. I may be mistaken; but to my knowledge, I don't think we've gotten any more written reports.
Q Okay. Since he's been at Wabash Valley?
A I don't think we have, no.
Q Okay. Do you believe that you've acquired all of those when he as at Westville, all of the log sheets and companion reports and all that?
A Up to the point when we got the subpoena. I don't think we re-subpoenaed or asked for any more information, to my knowledge.

Q Have you ever listened to any of those phone calls yourself?
A Yes.
Q Did you listen to any phone calls let's say between December of 2022 and March 1st of 2023, the first six or seven – five or six months he was there?
A I believe I have listened to a few, yes.
Q Okay. Have – did you hear him, on any of those phone calls, assert his innocence?
A I did not, no.
Q Okay. Have you ever read any reports where he asserted his innocence?
A No.
Q Okay. You interviewed him twice before you arrested him; right?
A Once, I just interviewed him once.
Q Okay. There were two interviews with law enforcement –
A Correct.
Q -- right? And he asserted his innocence in both of those?
A Yes.
Q Okay. And have you listened to any of the phone calls from let's say August 1st of 2023, while he was at Westville, until he was transported in December of 2023?
A Yes.
Q And did you hear him assert his innocence in any of those phone calls?
A No. I would not listen to the calls on a daily basis. I would just get ones sent to me that I should listen to.
Q And those are the ones that were of interest to you in terms of being incriminating; right?

A Yes, sir.

Q So you were filtering just those phone calls through your staff?

A Correct.

Q Okay. And so at some point, then, did you start I'll say directing – that might be a hard – kind of an aggressive word, but directing some of your investigators to go to Westville to collect information about these phone calls and log sheets and things of that nature?

A I don't think I directed anybody, I just said that we had some information, that we needed to go conduct interviews, and we just formulated a game plan. I know one day I went up with Brian Harshman, and I know Rich Davies, Steve Mullin went up. I may have went up by myself one day, but yeah.

Q So you went up to the prison and started interviewing guards and inmates; right?

A Correct.

Q And those were people – the inmates were people that were assigned to him?

A Yes.

Q And the guards were people that were specifically assigned to his cell?

A Yes.

Q And you were recovering information from them that – anything that had to do with any incriminating statements he made; right?

A Yes.

Q I've read those trans – they're in transcribed form; right?

A Yes, they are.

Q And those were given to the Defense as a normal part of the discovery

process; right?

A I believe so, yes.

Q I've read those transcripts. Do you believe that you ever asked any one of those inmates if they ever heard him assert his innocence during their time with him?

A I don't know if I asked, but I think that some of the guards may have said that he had said he was innocent.

Q Okay. I'm gonna ask the same – I asked it about inmates, I'm not trying to confuse you.

A Yes.

Q The question was: Do you – did you ever ask any of those inmates if he said anything other than some of these incriminating statements?

A I don't recall.

Q Okay. Same question with the guards.

A I don't recall. I'd have to look at the transcripts, review.

Q They're pretty short transcripts when I looked at them. The interviews, in my mind, were pretty quick.

A Right.

Q Kind of right to the point, "Did he say this?" Do you recall that kind of approach?

A I would agree with that, that's accurate.

Q You didn't ask any questions about the history of their monitoring him from beginning to end, did you?

A I believe we did, you know, ask about his behavior and things like that.

Q Did you – do you recall asking them about conversations – any of these

inmate companions about conversations they had with him aside from the incriminating ones that you've mentioned or were talking about?

A Could you repeat that again?

Q Yeah, yeah.

A I'm sorry.

Q Do you recall asking any of the inmate companions about any conversations with him aside from these ones that you were interested in, which is why you went there?

A Yes. Some – well, some of them would volunteer that information –

Q Okay.

A -- about his behavior and some things that he said other than what was on the logs –

Q Okay.

A -- that we were there to talk about, yes.

Q And what you remember is there might have been some guards that told you that he had asserted his innocence in their presence?

A I don't recall, but I believe if I could review those I would be able to tell you for sure.

Q Okay. So there were officers that went to the prison to interview guards and inmates; correct?

A Yes.

Q Did anyone ever go up there to interview Dr. Wala –

A No.

Q -- the psychologist in this case?

A No.

Q Okay. What about Warden Galipeau?
A No.
Q Okay. What about the Internal Affairs officer?
A No.
Q When you went to the prison, how'd you get access?
A I forget who exactly I would look up their phone number and I just called up there and told them I needed to come in there and interview Mr. Allen and they would put me in contact with somebody, I don't remember their name, I think it was a major, and they would meet me down there and search me and put me through the metal detector, and then take me back to wherever I would be interviewing him or other officers and I.
Q Was this the WCU unit where you interviewed these people?
A Yeah.
Q So you went in the prison and then in the what I call mini-prison within the prison?
A Not always, but I have been in –
Q Okay.
A -- there, and I've also been in the administrative building, there's a basement, they have an interview room.
Q Did you also do some follow-up investigations based on the things that you heard in some of these phone calls or read in some of these log sheets?
A Other than interviewing the people that we've already discussed?
Q Yeah. Let me ask a cleaner question: You acknowledge that you listened to these phone calls; right?
A Some of them.

Q And you heard things that Rick Allen said; right?
A Yes.
Q And you characterize those things as incriminating; right?
A Correct.
Q And did you then follow up with any of those statements by going, let's say, to CVS or to contacting a family member of his to further the investigation?
A Some things, yes.
Q Okay. And what do you recall doing?
A One of the statements, we went to CVS to – he had made a statement that he used a box cutter and that he had threw the box cutter in the dumpster at CVS, so we followed up on that and make sure – to see if the – if CVS issued box cutters –
Q Okay.
A -- and they did, and then we asked where their trash was, but it was, obviously, too far along that we couldn't locate where that day's dumpster was dumped, but we'd follow up on things like that, yes.
Q So you – this was an ongoing investigation; right? Even while he was housed at the DOC?
A If we had any new information, yes, we would follow up on it.
Q Follow up on it. And did you interview any of his family members or extensions of his family based on anything he said at the DOC?
A No, I don't believe so.
Q I thought I recalled that maybe friends of his daughter or something like that might have been interviewed at one point in time.
A Maybe. I know that we interviewed his daughter and his wife, but I think

that was before.

Q Okay.

A I don't recall, it could be a possibility that we did.

Q So has your law enforcement team expended, you know, I guess I'd probably say hundreds of hours monitoring these phone calls and then reviewing all these log sheets and things that have been created over the course of his stay?

A Is that a question? That was more of a statement.

Q I'm sorry?

A Did you say we – I heard –

Q Let me withdraw it. I'll ask a new one.

A Okay. Thank you.

Q Has your law enforcement agency expended hundreds of hours, if not more, in monitoring these phones calls and reviewing these logs and statements during the course of this investigation?

A Yes.

Q Okay. Have you ever been involved in – how long have you been an investigator?

A Probably 17 years; 16, 17 years, at least.

Q Have you ever been involved in a case where an accused was housed in a county jail and there were log sheets generated by officers or staff of that jail?

A I believe so.

Q Tell me what case.

A I don't know exactly what case, but I think White County. Most of my investigations would have been White and Carroll and Tippecanoe County, and I know they have log sheets. I don't know if I've ever had to access then, but –

and those log sheets would put, you know, what time medication was issued, if there's any abnormal activities and things like that, that I would be able to review.

Q But you've never done that?

A I have done it, I just don't know exactly what case.

Q Oh, I thought you just said a minute ago that you don't think you've accessed them.

A I think I have, I don't know –

Q Okay.

A -- to be honest with you. I know they have them.

Q All right.

A I'm not sure if I've ever used them or not. I think I have.

Q Are you aware of any circumstance in any of the county jails that you've been associated with in your law enforcement career where they assign other inmates at that jail to monitor and keep record of another inmate?

A No.

Q A more simple way of putting this is –

A Right.

Q -- have you ever heard of the companion program in a county jail?

A No, I have not.

Q Very unique; right?

A I believe so, yes.

MR. ROZZI: I have no further questions.

THE COURT: Ms. Diener.

CROSS EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MS. DIENER.

Q At one point, you were asked if you interviewed, and you were making reference to interviews, and you said "interview Richard Allen." You never interviewed Richard Allen; is that correct?

A I did.

Q At the DOC?

A Oh, no, not at DOC.

Q Okay.

A I attempted to.

Q But you did interview employees of DOC who logged statements of his?

A Yes.

Q Okay.

Isn't it common for law enforcement, in certain situations, to monitor GTL calls or a similar system when a person's incarcerated and talking about their crime?

A Yes, very common.

Q And my understanding is, typically, a person is given access and they don't need to contact someone every time they listen to a call; is that right?

A That's correct.

Q So you have a login, you can access it whenever you want?

A Correct.

MS. DIENER: No other questions.

THE COURT: Mr. Rozzi.

MR. ROZZI: I have nothing else.

THE COURT: All right. Thank you, Lieutenant. You may step down.

THE WITNESS: Thank you.

THE COURT: Where is Mr. Baldwin?

MR. ROZZI: I'm sorry?

THE COURT: Before we go on, where is Mr. Baldwin?

MR. ROZZI: He had another professional commitment that he had to attend to, and since I'm handling most of the affairs today.

THE COURT: You may call your next witness.

MR. MCLELAND: I'm sorry, Judge, is he released from his subpoena?

THE COURT: Is he released from subpoena?

MR. ROZZI: Yeah, he can stay in here.

MR. MCLELAND: You can sit at table, too.

MR. ROZZI: You can – oh. Why don't you just let Mr. Mullin know he's released, too, 'cause I didn't – I wasn't sure, when he came in, if I was gonna need him. One second, Your Honor. I'd call Dr. Monica Wala.

(Witness sworn.)

MR. ROZZI: May I?

THE COURT: Yes.

DIRECT EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR ROZZI.

Q Go ahead and state your name.

A Monica Wala.

Q And –

THE COURT: You can go ahead and just sit back normally in your chair. That will pick you up just fine, as long as you speak up nice and loud.

A Okay.

Q And you're a psychologist; right?

A Yes.

Q So calling you Dr. Wala is okay?

A Yes.

Q All right. Very good. Dr. Wala, spell your last name for the court reporter.

A W-A-L-A.

Q And tell the Judge where you work.

A Westville Correctional Facility.

Q And what do you do there?

A I'm the lead psychologist.

Q And were you specifically assigned by the administration there to, basically, treat Rick Allen?

A Yes.

Q Okay. Richard Allen, sorry. Yes or no?

A Yes.

Q Okay. And I may remind you to say "yes" or "no" a few times, don't get upset with me, we're just trying to pick up a recording; okay? Yes?

A Yes.

Q All right. And tell the Judge how long you've worked as a psychologist at the prison.

A Since 2017.

Q And did you work as an acting psychiatrist or a licensed psychiatrist anywhere before that?

A No.

Q Basically, the prison life has kind of been your life in the medical/psychiatric business; right?
A Yes.
Q And in the context of you being his doctor I guess if you will, did that include communicating with him about private matters?
A Yes.
Q Is that a part of your relationship with the patient?
A Yes.
Q Was it a part of your relationship with Mr. Allen?
A Yes.
Q Personal matters, also?
A Yes.
Q And just general health-care matters?
A Yes.
Q Involving psychiatric issues, as well?
A Yes.
Q And did you have contact with him on a weekly basis or how would you describe that?
A It varied over time. Initially, it was every day for about a month, then it was maybe weekly for four months, and then it went back to daily.
Q And just to kind of get – cut to the chase: So early on, you're visiting him weekly, and that was during a time period where there really weren't any concerns about his general mental health; is that fair?
A Yes.
Q And then, at one point, you said that there was about four months where

it was daily?

A The opposite. So initially, when he first arrived to the facility –

Q Oh.

A -- he was seen every day for about a month. He was on suicide watch at that time.

Q I'm sorry.

A And then, when we took him off suicide watch in December of '22, he was seen once a week up until April of '23.

Q And then it was more intense?

A Um-hmm, yes.

Q Yes or no?

A Yes.

Q Okay. And then it became – did it become daily or how intense was it?

A Daily.

Q And that was for about four months?

A I believe he ended up having daily contact with me or someone else until he left our facility.

Q So from roughly April of 2022 to December of 2023?

A Yes.

Q All right. And now, when you say "with someone else", do you identify or are there designated mental health providers other than doctors in the prison?

A Yes.

Q Okay. And are those people, basically, just common laypeople without psychiatric education –

A No.

Q -- educational backgrounds?
A They would be masters-level therapists.
Q Okay. And how many of those worked for you, were underneath your –
A Four.
Q -- authority in the time that Rick was there?
A Four.
Q And then, do you have even a lower level of mental health provider – and I've seen all these acronyms in the guides –
A Behavioral health specialists.
Q BHS; right?
A Yes.
Q Now, do these people have – do they have any what I'll call formal psychiatric trainings or –
A Bachelors-level, bachelors in psychology.
Q Okay. And so when you say that people are having contact with him, in a general sense it could be any one of these three types of individuals; right?
A For the most part, yeah.
Q Do the majority of these contacts occur with Mr. Allen while he's inside of his cell?
A So I would say a good portion of them would. So what we have – what we call rounds is when one of the providers walks the ranges and speaks to people at their cell fronts; so at that point, that individual isn't pulled out of their cell. For Mr. Allen, I believe that was at least twice a week, and then we would offer at least once a week to come out of cell.
Q Okay. And so, forgive me, but my view of this is, is one of these BHSs or

maybe one of the other staff members walks down the hall and knocks on the cell door and says, "How are you feeling? Can I get anything for you?" Is that kind of the typical round?

A For the most part.

Q Okay.

A We want to look into, you know, where their head's at, any thoughts of self harm, suicide.

Q Okay. You're talking to somebody through a metal door; right?

A Yeah.

Q And the little slit that they get fed through; right?

A And through the crack of the door.

Q Okay. Do you open the cuff port every time you talk to –

A No, you can't open it.

Q So you don't even get to do that?

A Um-um. (Negative response)

Q Shaking your head no?

A No.

Q So the mental health intervention – I shouldn't say intervention. The mental health contact at the cell basically is you talking through a crack in the door?

A Yes.

Q And when you met with Rick the first time, do you remember that meeting –

A Yes.

Q -- the first time you met with him?

A Um-hmm, yes.
Q Okay. And was that contact in the cell or was it outside of the cell?
A It was in a different area, so it was a barred cell, and I was outside –
Q Okay.
A -- and he was inside, so I got to see him, there's not so much of a barrier.
Q So it was not in the cell, in A-107?
A No.
Q Oh. I know I was gonna – I was struggling earlier, now I know what I was gonna ask you. When these contacts occur at the cell door through the crack, those are part of mental health providers doing rounds throughout the rest of the facility; right?
A Yes.
Q So you might go check on several dozen inmates in a day and do a round?
A Yes.
Q I mean, there's 255 roughly, apparently, in that unit. Do you acknowledge that generally?
A If you did the math, I – 14 times 4 in one pod.
Q And there's four pods.
A Four pods.
Q Okay. So when you do those rounds, you're talking to dozens of people in a day; right?
A Right.
Q You can't sit there for hours or even lengthy periods of time and communicate with inmates, can you?
A No.

Q Back to the first contact; so you recall that being in the WCU unit?
A Yes.
Q And you recall removing Mr. Allen from his cell to –
A He was there when I arrived, that's where he was placed.
Q Okay. So he was placed in a holding area where you meet with patients – or I should say – yeah, patients, on a routine basis?
A They let me know he was there.
Q Okay. And we talked about that particular setting – right? –
A I think so.
Q -- when we – when I took your depo.
A Um-hmm –
Q Yes –
A -- yeah.
Q -- or no? Okay. We'll get to that in a minute. When you first met with him, did you have him sign any documentation?
A I may not have. He arrived to us on suicide watch from RDC and he would have signed the documentation there; and so if he was already in the suicide watch condition, he wouldn't have had a pen or anything to sign with.
Q So the answer is you did not; right?
A No.
Q Because he couldn't even have a pen –
A Right.
Q -- when he hit the doorstep at Westville; correct?
A Correct.
Q So did you review the documents that he signed from RDC – Reception

Diagnostic Center; right?

A Briefly.

Q Okay. What would those documents entail?

A Just a quit intake, background information.

Q My recollection is, is basically, it's – these are the basic rules and you have him check some boxes and then you sign – he signs his name; right?

A If you're talking about the limits of confidentiality form, then yes.

Q Okay. Well, tell the Judge what you did – you did with him in terms of his – discussing with him his confidentiality issues.

A I don't know if I really addressed confidentiality that first day.

Q Okay.

A When they're on suicide watch, it's more of an emergent situation, so sometimes those documents are bypassed until the individual is off of suicide watch.

Q Okay. When were they done in this case?

A I believe we kept Mr. Allen on for about a month at that time.

Q Well, when were the – when were these I'm gonna call them consents or whatever signed by Mr. Allen in this case?

A Ooo, I couldn't tell you. I mean, the ones that he signed at RDC still carry over and are – they are relevant for our facility, as well.

Q Okay. What do those waivers say about confidentiality?

A They let the individual know that there was – eight things, and all those eight things pertain to harm of self, harm of others, harm towards anything in the facility, and if they refer to any of those things, that we would have to tell someone.

Q Okay. Basically that if they're putting somebody else in danger, that you have an obligation to report him?

A Yes.

Q Otherwise, the report suggest that your communications with him are confidential; right?

A Yes.

Q Strictly?

A Yes.

Q Okay. Nothing else?

A There may be a blurb about group therapy if one chooses to engage in that.

Q Okay.

A It wasn't an option for Mr. Allen.

Q No chance at group therapy; right?

A No.

Q All right. Let's talk about the circumstances in his cell. You're generally familiar with those, 'cause you visit it; right?

A Yes.

Q Visited it, I'm sorry. Shaking your head yes?

A Yes.

Q Earlier, I asked Warden Galipeau, I believe he suggested there was about an 8 by 12 cell; does that sound correct?

A Sounds correct.

Q He spends seven days a week in the cell; right?

A Yes.

Q And from what I've – I've heard different stories on this, but how many

hours of rec a week do you think he got in rec?

A Rec? Rec is supposed to be three times a week.

Q Okay. And that's if you're not on suicide watch; right?

A We did modify his plan while he was on suicide watch to include rec. Whether or not that was carried out, that's on the custody staff there, but I think – I believe on our orders we would put "allow rec".

Q Okay. But there were times when he was on suicide watch when he didn't get rec; right?

A In situations if he didn't have a smock – you know, it would be inappropriate to just come out wearing, you know, just a smock and have everybody observe you, so –

Q Part of being on suicide watch is wearing a smock –

A Um-hmm, yes.

Q -- is that accurate?

A Correct.

Q And is it accurate to say that that smock is basically a gown that's thrown over the body of the inmate to simply just cover kind of the bare essentials?

A Yeah.

Q I referred to it as a caveman garment, didn't I?

A I think you did.

Q And you didn't disagree with me, did you?

A No.

Q And one of the problems with wearing that is, is that your privates can be exposed fairly easily; right?

A Can be.

Q And going to rec and having activities is one way that that can happen?
A Yes.
Q So it's a deterrent for recreation?
A Yes.
Q Forgive me for a second, I'm just gonna get my calculator out here. How long is a rec session?
A I don't know.
Q I heard an hour. Does that sound right or not?
A I don't know.
Q Do you think it's longer than that?
A I believe guys can get stuck in rec if staff don't take them out in time.
Q Okay. So they can go in there and they could kind of not get out because of other administrative issues?
A Yes.
Q If, in fact, it was an hour, basically, the inmate would have three or four hours out a week; right?
A Yes.
Q I did the math, it's about around two percent of the time, the total time in a week that somebody would be afforded rec; do you have any reason to dispute that math?
A Not necessarily.

MS. DIENER: Judge, may I object? And I really don't want to in the context of this hearing, but we're talking about rec with his psychologist and I'm just not sure it's relevant to what she can provide to the subject matter we're here for. We had the warden here and –

THE COURT: Relevancy?

MR. ROZZI: Judge, she –

MS. DIENER: I ask that we limit it.

MR. ROZZI: Sorry.

THE COURT: Relevancy?

MR. ROZZI: Judge, she's intimately familiar with his detention circumstances. She's already described that she visited his cell two days a week. I know from deposing her that she spent time with him there on the unit, so I think she's got first-hand knowledge, so I do think it's –

THE COURT: But she just said, "I don't know how long rec is and I don't –

MR. ROZZI: I understand, but I'm –

THE COURT: -- know about rec" –

MR. ROZZI: I'm sorry.

THE COURT: -- so move on. I'll sustain the objection.

MR. ROZZI: I'm gonna move on from the rec thing. I thought she was talking about in general.

THE COURT: That's what she said, "I don't know how long rec is."

MR. ROZZI: Okay. Thank you.

Q Did you observe any of the video from Mr. Allen's cell at any time while he was housed there?

A I probably did.

Q Okay. I saw, in some of the video, that he did a lot of pacing back and forth, back and forth; is that something you're familiar with?

A Yeah.

Q That's one of the ways that inmates can pass time?
A Yes.
Q And it's a very – do you agree that it's a very monotonous activity?
A Yes.
Q And do you agree that that's one of the forms of – I was gonna say recreation I guess in some ways while they're in their cell; right?
A Yeah, it could be.
Q Okay. How many steps would you think it is from one end of a cell to the other?
A Fifteen.
Q Okay. So back and forth, 15 steps; right?
A Fifteen one way, 15 back.
Q Okay.
A That's just a guess.
Q And you're aware that those cells have lighting?
A Yes.
Q And did you tell me that you believe that those lights were on all night long in some form?
A I do recall Mr. Allen telling me about a light that he didn't want to turn off 'cause he was worried he'd get in trouble. I don't know if that's different from a light that is normally on so it's not pitch-black, not –
Q Now, when they're on suicide watch – strike that. I mean, I didn't mean to interrupt you. Go ahead and finish.
A No, you go on.
Q When they're on suicide watch, they have lights on in their cell all the time;

right?

A That's probably ideal in that situation.

Q Do you recall telling me that you didn't believe that he had any ability to control the lights?

A I don't think he did.

Q Okay. That's sounds accurate; right?

A Yes.

Q Somebody else deals with all that?

A Yes.

Q And you told me that there's no privacy at all in that cell, is there?

A No.

Q Okay. There was a window in his cell; do you recall that?

A Yes.

Q Do you recall that being a problem when he got there in terms of his ability to see outside?

A Yes.

Q Okay. What was the problem?

A It was scratched up so he couldn't see out of it.

Q And did you look at the window, confirm that he was telling you the truth?

A Yes.

Q And do you think it needed replaced?

A Yes.

Q And the prison accommodated that; right?

A Yes.

Q Okay. Now, his view outside of that cell is basically a barbed-wire fence,

isn't it?

A I think so.

Q Well, I mean, there's a fence around the WCU; right?

A Um-hmm.

Q Yes or no?

A Yes.

Q It's got its own special fence, doesn't it?

A Yes.

Q With barbed wire on top; right?

A Yes.

Q And then, beyond that is just a view of the rest of the prison, isn't it?

A Yes.

Q So that's what he would have been looking at?

A Yes.

Q Do you acknowledge that he was sleeping on a mattress that really was on the floor?

A Yes.

Q And do you acknowledge that that's where he ate his dinners and lunches –

A Yes.

Q -- on the floor on the mattress?

A Yes.

Q And do you acknowledge that there were times when he was even fighting with bugs while he was there?

A This is what he told me.

Q Okay. And that's something that you're familiar with at the prison, isn't it –

A Yes.

Q -- that problem? Yes or no?

A Yes.

Q And in fact, you told me there was even problems with – there's was like mice, mouse dropping?

A Yes.

Q Well, those kind of things can cause a man to go crazy, can't they?

MS. DIENER: Objection.

A Crazy, I mean –

Q What'd you say?

A They – I'm saying – I mean, it depends on what you mean by crazy –

Q Oh.

A -- but yes, it can be distressing.

Q Do you acknowledge that he was in the most isolated of circumstances at that prison?

A There are three other cells that are very similar.

Q Okay. So of the 255 in the WCU, there's four –

A Yes.

Q -- that are similar to that; right?

A Yes.

Q No others that are that isolated and that secure; right?

A There's one that is similar on the infirmary.

Q Okay. We'll talk about that in a minute. We talked about that in the depo;

right?

A (Responds by nodding head in the affirmative.)

Q Shaking your head yes?

A Yes.

Q Do you acknowledge that one of the problems that existed while he was in that facility is that a lot of the other inmates were yelling at him routinely?

A Yes.

Q Tell the Judge what kind of things they would say to him.

A "Kill yourself."

Q Do you remember them calling him baby killer?

A Sounds about right.

Q Okay. And that was something that persisted over time, wasn't it?

A Yes.

Q It bothered you, didn't it?

A Mmm, yes.

Q We talked about how noisy it is on those units, didn't we?

A Yes.

Q Yes or no?

A Yes.

Q And do you agree that it's extremely noisy on those units?

A Yes.

Q And that those – that noise adds additional stressors to the inmates?

A Yes.

Q And it specifically did with Mr. Allen?

A It –

Q He told you that, didn't he?
A He would tell me sometimes, yes.
Q And you believed him, didn't you?
A Yes.
Q Did you evaluate – strike that. Are you familiar generally with Rick's medical history when he entered the prison?
A Cardiac issues.
Q Okay. Are you or were you familiar with Rick's psychiatric history when he entered the prison?
A Depression.
Q Okay. So with – let me back up, I'm getting ahead of myself. With regard to the medical, you're aware that he had heart-related issues?
A Yes.
Q And with regard to his psychiatric situation, do you acknowledge or was there an intake done of him at RDC?
A Yes.
Q Okay. Were you a part of that intake?
A No.
Q All right. And would that intake at RDC involve any formal testing of his psychiatric circumstances?
A No.
Q If I described it as basically a sit-down interview with him, going through some questions, checking some boxes, is that what I'm – is that what happened?
A Yes.
Q That's what would normally happen; right?

A Yes.

Q It's not a real clinical process, is it?

A It's still a clinical process, it's just a structured interview.

Q Fifteen to twenty minutes maybe?

A Yeah.

Q And do you acknowledge that his intake form mentioned that he had major depressive disorder?

A I believe so.

Q And do you acknowledge that major depressive disorder can be defined as a serious mental illness?

A Not per our standards.

Q Okay. What about of the standards of the DSM-IV – Axis 4?

A I'd have to disagree.

Q Okay. We're gonna get back to that in a minute.

A Okay.

Q Serious mental illness, SMI, is a distinction or a phrase of art in your business; right?

A Right.

Q Okay. And you acknowledge that Rick had reported to prison officials at his intake that he had a long history of suffering from depression?

A Yes.

Q It went all the way back to his early adulthood?

A Yes.

Q And that he had been suffering from depression for about eight to nine years prior to his admission at the prison?

A Yes.

Q And that he was even hospitalized at one point in 2019 for more than a week to address those conditions?

A That's what he told me.

Q And you didn't have any reason to disbelieve that, did you?

A No.

Q And that he had been taking – do you acknowledge that he had been taking psychotropic medications back to age 25?

A Yes.

Q Do you acknowledge that his file indicated that he had risk factors for suicidal ideations back in time before he was admitted?

A I believe so.

Q Did – let's talk about that real quick – well, actually, I'll – we'll get to that in a minute. Do you acknowledge that his record reflected that he had – also had generalized anxiety disorder?

A Yes.

Q And I think – did you – do you acknowledge that you later – you told me at one point that you actually thought he probably suffered from dependent personality disorder, as well?

A It's a possibility.

Q Okay.

A I don't –

Q You saw a lot of those characteristics?

A Some of the traits.

Q Which is that when you're separated from the people that you love, it can

impact your mental heath more than just the normal person; right?

A For those individuals, yes.

Q Okay. And he was one of those people, wasn't he?

A Possibly.

Q Okay. Based on what you knew about his relationship with his wife?

A Yes.

Q But that's a formal diagnosis in your industry, isn't it?

A It is.

Q And I think he was labeled, if I recall, as a Code D or something like that is what I saw on the record –

A Yes.

Q -- right? And you can jump in here, but my – am I correct in saying that you have six designations, A, B, C, D, E, and then there's this kind of F that's its own; right?

A Yes.

Q But the A through the E are the designations – is it accurate to say those are the designations that define the significance of his current state of mental health?

A Yes.

Q Or the acuteness –

A Yes.

Q -- is that a better –

A Yes.

Q -- way of putting it? You're shaking your head yes.

A Yes.

Q And he was a D; right?
A Um-hmm, correct.
Q So an A would be the least acute, I guess if that's the right word – phrase; correct?
A Yes.
Q And then, a D would be – well, E would be the most acute; right?
A Yes, someone we would have to transfer out of a traditional facility.
Q Okay. And then, he was just right next door to that, he was a D?
A Yes.
Q And if you were gonna transport somebody out, would you transport them to a place like New Castle, which is designed to treat mental illness?
A Usually New Castle. We have three different facilities we can choose.
Q Okay. I mean, New Castle's kind of the sister ship – I don't know if that's the right phrase – when it comes to mental health treatment in the DOC; right?
A It's where we send the most –
Q Mothership's what I meant to say.
A Okay.
Q Is that fair?
A It's where we send the most-acute patients.
Q Okay. So he was – from a mental-health standpoint, he was fragile when he was admitted?
A Yes.
Q And then, on top of that, he was detained in these – in this solitary situation; right?
A Yes.

Q And then, on top of that, he was being accused of killing two young girls; right?

A Yes.

Q So to describe him as an eggshell inmate, somebody who was very thin in terms of his state of mental health, is accurate, isn't it?

A Sure.

Q Let's talk about his offender status – his inmate status at the prison; okay?

A Okay.

Q Are you aware of any documented records – am I being redundant? Are you aware of any records that suggest that he was having suicidal ideations when he was admitted to the prison?

A I want to say – if I'm remembering correctly, they documented that he was not actively suicidal, but that he is a high risk.

Q Okay. Because of his circumstance; right?

A Yes.

Q The fact that he was there on an accusation, a criminal accusation; right?

A Yes.

Q But there was never any suggestion that he was doing anything to harm himself or others; right?

A At the time, no.

Q Okay. But do you acknowledge that he was placed on suicide watch anyway?

A Yes.

Q And because of that, again his restrictions – or his privileges are limited; right?

A To an extent. We usually – again, like I said, we monitor them and, over time, once we observe and notice stability, then they can get things back.

Q And so he was on either constant supervision or close watch I think are the phrases you use?

A Yes.

Q And that went on until at least into late December/early January?

A I think it was early December.

Q Early December?

A I think so, early to mid.

Q Okay. And at some point, he was stepped down to 15-minute observations; is that accurate?

A So that would suggest that he stepped down to close observation.

Q Okay.

A Which would make sense, yes.

Q All right. But still on suicide watch?

A Yes.

Q All right. He stayed in a suicide cell the whole time he was there; right?

A Yes, but part of that was the intention – administration was gonna keep him in that cell anyway.

Q No matter what?

A Yes.

Q His state of mental health didn't matter to administration; right? They were just gonna keep him there?

A They were gonna keep him there.

Q Yep. Even if you told them different?

A It was the safest cell they had.

Q Okay. So he stayed in the suicide cell under close supervision until roughly the start of April, 2023; is that accurate?

A Stayed off of it until the beginning of April.

Q Well, but he was still in the suicide cell.

A He was living there, all – everything else was normal for him.

Q Okay. He was not on close observation?

A No.

Q All right. But first of April basically, roughly?

A Right. I do believe he still had a companion though –

Q Okay.

A -- during those months; so January through beginning of April, he would have still had a companion watching him, despite being off, and that's an administrative decision.

Q All right. So he had this companion assigned from January to April, even though he was not suicidal?

A Yes.

Q And that decision was made by administration?

A Yes.

Q And then he went back on suicide watch in April?

A Yes.

Q Basically the 1st of April, 2023, roughly, I mean –

A I think it's the 4th.

Q -- within a day or two; right?

A Yeah.

Q And he stayed on that particular status until he left in December of 2024?
A Yes.
Q And all the restrictions that come with that?
A They fluctuated.
Q Well, did he ever get more than four or five hours of rec at any point in time?
A I –
Q Per week?
A I – it would have been offered to him.
Q More than that, I'm saying.
A Whatever's the standard is what he would get.
Q Okay. So you thought it was three.
A I thought it was three, maybe four.
Q One of those restrictions on suicide watch is that you get a suicide blanket; is that right?
A Yes.
Q So for the first month or month and a half that he was there, did he get a suicide blanket?
A Yes.
Q And that's that – is that a blanket that they just – they take away in the morning and give it back to you at night?
A Technically, they're supposed to. I don't know if they did.
Q Okay.
A I don't know how consistent they were with doing that.
Q It's like a really hard blanket so that you can't, like, tie it and –

A You can't tear it up. I mean, they still do it, but yeah.
Q Okay. Not a luxury item, would you agree with that?
A I agree.
Q You're aware of the suicide companion program; is that correct?
A Yes.
Q Let me take a drink of water, excuse me. And you've already mentioned that there was an inmate or there were inmates that were assigned to his cell by the administration; right?
A Yes.
Q Did you order that to occur?
A No.
Q Do you have the authority to do that?
A When we send orders, someone else takes that on. So they say that we want a companion, they locate the companion, who it's gonna be, and assign them to their job.
Q Are you in charge of that program?
A I'm not.
Q Do you have anything to do with the administration of the program?
A No.
Q Okay. So you can make a request and then you're at somebody else's mercy in terms of getting that?
A Yes.
Q Is that accurate?
A Yes.
Q And is it accurate to say that with regard to Rick's suicide companions,

you had problems with them from the beginning?
A Yeah.
Q They were talking to him, weren't they?
A Yeah.
Q Ask – were they asking him questions about his circumstances?
A That was my understanding.
Q And do you acknowledge they could have been talking to others about his case?
A Yes.
Q And do you acknowledge – is it accurate to say that they were talking to other people on the units about his case?
A I believe so.
Q Is it accurate to say that some of these inmates were actually calling their family members and talking to their family members?
A I believe there was at least one instance of that.
Q Is it accurate to say that you cannot trust those companions, considering their backgrounds?
A Yeah, it's fair to say.
Q And do you recall Rick actually reporting to you that he was frustrated with the companions?
A I think so.
Q You told me that in the deposition; right?
A Um-hmm.
Q Yes or no?
A Yes.

Q Do you acknowledge that they are – the companions, by rule, are prohibited from communicating and engaging the inmates?

A Correct.

Q So these would be violations of that policy?

A Correct.

Q Do you agree that they would be clear violations of the policy?

A Yes.

Q Did you do anything to report any of these violations when you heard about them from Mr. Allen?

A I don't think I did. I do recall our very first meeting when Mr. Allen was telling me that they were asking him a bunch of questions, which is not – it does violate the rules of the program. A lot of times, we have little control over all of that, because there's not another person that's watching them –

Q So you're –

A -- who can confirm that it's happening.

Q So is it accurate to say that you're trusting felons to watch the inmate, Mr. Allen, in this case?

A That's the way the system works.

Q Not a very good system; right?

A Could be better.

Q And is it accurate to say that those inmates were, ultimately – I don't want to say fired, but they were let go of their duties for disclosing these confidences?

A I believe when he went on suicide watch in April is when it switched over to officer watch.

Q Okay.

A So –

Q Are you aware that – is it accurate that those inmates were relieved of their duties; is that fair?

A I don't know to what extent, whether they were still allowed to continue elsewhere or with other individuals, but they were obviously not working with Mr. Allen anymore.

Q Would you have more knowledge about the inmate companion program than the warden?

A It's a DOC program right now, and I think, since Mr. Allen left, they made it a whole job, so now they're just hiring the incarcerated individuals into these positions. I know that they receive training every six months and that's about it.

Q Are they paying them?

A They are paying them.

Q You don't – do you know if they were paying them when Rick Allen was there?

A That was when it was the Plus Program, which I believe there's – you get paid when you're in programming, so they probably did get paid.

Q Okay. So these were jobs –

A Um-hmm –

Q -- that these people had?

A -- yes.

Q Just within the walls of the prison?

A Yes.

Q And this is kind of an outlier issue, but I asked you about outsiders having

contact with Mr. Allen while he was in prison; do you remember me generally asking you about that?

A Can you be more specific?

Q Yes, I can. Thank you. I saw a record that in March of 2023, there was a forensic psychologist from the State Police that wanted to talk with Rick Allen. Are you familiar with that record?

A I do remember that instance, yes.

Q Okay. And were you involved, generally, with that instance, just the passage of information?

A I don't remember the details. I remember someone did come around and I believe it was shut down so that nothing happened.

Q Okay. Do you remember me asking you about this?

A Yes. And it was just so vague, but I don't think anything came of it.

Q Okay. There was a doctor referenced in the document by the name of R. Goldenberg; do you recall that?

A No.

Q Okay. Do you remember the document being something that you created that referenced this circumstance?

A I may have put it in my note if –

Q Okay. Well, do you remember asking Rick Allen for his consent to –

A Okay.

Q -- as to whether or not this person could have contact with you about him?

A I think I did it – they had – I don't know who directed me, but someone said, "Go ask him if he wants this."

Q All right.

A And we both agreed that that would not be a good idea.
Q Okay. So you do remember this?
A As we talk about it, I do remember it.
Q Okay. So would you believe it would be appropriate for him to talk to somebody from the State Police –
A No.
Q -- in that setting?
A No.
Q But you went – did you go to him and ask him for his consent anyway?
A Yes. I was supposed to get something signed from him saying yes or no.
Q Okay. So you did that?
A Yeah.
Q And did you recommend to him specifically that he not agree to that or did you let him make that decision?
A I think he made the decision and I was just, obviously, in agreement.
Q Okay. Have you ever, in the course of your professional responsibilities at the DOC, had someone from the State Police seek information from you about an inmate?
A No. Well –
Q Oka. Let's talk about his therapy sessions; okay?
A (Responds by nodding head in the affirmative.)
Q Shaking your head yes?
A Yes.
Q All right. Have you ever, in the course of your responsibilities at the DOC, provided therapeutic services to someone in his circumstance as a pre-trial

detainee?

A I want to say yes.

Q Okay. Do you recall me asking you about this at the deposition?

A Yes.

Q Did I ask you – is it accurate to say – strike that. I'll try to phrase the question better. Is it accurate that you had never provided services to someone in solitary confinement without a criminal history?

A As – so my answer was this individual did have a criminal history.

Q Right. You had provided some services to somebody who had been detained awaiting trial, but it was somebody who had already had a conviction?

A Yes.

Q Do you recall us talking about the distinction between inmates who were already imprisoned and commit other crimes and then they're awaiting trial –

A Yes.

Q -- versus inmates like Rick Allen, who had never been convicted of a crime and awaiting trial?

A Yes.

Q Do you recall that distinction?

A Yes, I do.

Q Have you ever treated someone in his situation?

A No.

Q And you've treated people – I think you even said you worked at ISP for a while; right?

A I did.

Q ISP meaning the Indiana State Prison in Michigan City?

A Michigan City, yes.
Q Same answer – same question, same answers?
A Yes.
Q Is it accurate to say that most of your contacts with Mr. Allen, just in terms of volume, occurred at that cell door, which you talked about earlier?
A Yes.
Q And that there were times, is it accurate to say, that you took him down the hall to engage in a more-involved therapeutic endeavor or session?
A Yes.
Q Okay. Do you recall us talking about that at your deposition?
A We talked about the cage.
Q The cage, thank you for that. I asked you about what that setting was like, didn't I?
A You did.
Q And you – is it accurate to say that you told me that there was a cage – I think it was both of our words – but it was just down the hall, a few steps from his cell; right?
A It was closer to the entrance to the pod.
Q How far – is it farther than across this courtroom, which is –
A From his cell?
Q -- I'm guessing, a hundred and some feet?
A From his cell or from –
Q From his cell.
A That's about right, to the back of the room.
Q Same building, same pod; right?

A Yes.

Q Okay. And are the dimensions of that cage roughly about three feet by three feet?

A For the cage area?

Q Yeah.

A Maybe, maybe.

Q Well –

A I never measured it.

Q Okay. Fair enough. We were sitting in my conference room and you said about half the size of the table; right?

A Yeah. I mean, sometimes they sit down, so there's enough room to kind of sit and spread your legs out.

Q About half the size of this table that's here in front of me that's probably seven or eight feet long?

A Yeah.

Q Fair?

A Yeah.

Q Okay. So a little cubicle?

A Yeah.

Q In this case, it's triangular; right?

A Yes.

Q So I should be not mincing my words or mixing – it's a triangular cage?

A Yes.

Q Which has concrete walls on both sides; is that accurate?

A Yes.

Q And it has a grate or a gate in the front?
A Yes.
Q Is the gate from floor to ceiling?
A Yes.
Q Okay. So is there a hole in there like the cuff port, where you can look through?
A Yeah. You can see them through the grate and then there is a cuff port they can open.
Q Okay. So you just look at him through the grate?
A Yes.
Q Okay. That's where you did your therapy; right?
A Yes.
Q There's also a cage down in Wabash Valley, where he's housed presently, theoretically, in the area where they do therapy; is that right?
A Yes.
Q Did we talk about that cage?
A We did.
Q Is it even more of a traditional cage than the one that you use?
A It was a freestanding kind of thing.
Q With four sides with bars; right?
A I think so, yeah.
Q Kind of a – what we would envision as a traditional jail-cell door with vertical bars; right?
A Yes.
Q Basically sitting in a room; right?

A Yeah.

Q Concrete room with concrete walls?

A Yes.

Q That's the kind of therapy – that's the type of environment that inmates get when they're doing therapy; right?

A That's what they had at Wabash.

Q Well, you went down there and met with him.

A I did.

Q Do you agree that there is, in your profession, a significance placed on the therapeutic environment that you offer up patients?

A Some.

Q Ideally, it's in a setting that's a little softer than a prison; right?

A Sure.

Q With maybe some chairs that people can sit on, couches, things like that?

A Yes.

Q Maybe some lighting that's – makes people comfortable; is that accurate?

A That would be ideal.

Q Sometimes you even have plant life in the room; right?

A Um-hmm, yes.

Q Okay. That's a more traditional, acceptable therapeutic setting when you're providing therapy for mental health services, is it not?

A In the community, yes.

Q That is not the type of environment that Mr. Allen was exposed to in your care, is it?

A No.

Q And it's not even anything close to that, is it?
A Nope.
Q In fact, it's a pretty harsh environment, is it not?
A It is.
Q I recall there being a mention – that you mentioned that – well, strike that. You never did any kind of therapeutic testing of Mr. Allen, did you?
A No.
Q And do you acknowledge, in the course of your therapeutic endeavors, that sometimes there are – there is literature that you can offer up to patients to assist them with their mental health problems?
A Yes.
Q Okay. And do you acknowledge that that literature can be specific to whatever their needs are?
A Yes.
Q And was it routine or did – I should just ask the simple question: Did you ever provide Rick Allen with any literature for therapeutic reasons?
A Yes.
Q Okay. What was that?
A I remember providing handouts on depression and anxiety, the *Man's Search for Meaning* book, and then the crossword puzzles and things like that.
Q You recall giving him some colored pencils and crayons?
A I don't know if I gave him those.
Q You told me that that's what you do –
A But I'm also –
Q -- sometimes.

A Yeah, we do. I just don't remember specifically doing it –

Q Okay.

A -- but we do.

Q Do you – is it accurate to say that your mental health endeavors with Rick Allen and other inmates at the prison are basically limited to the administration of prescription drugs, conversations with the inmates, and discussing suicidal issues with them?

A In a restrictive-housing situation, where we're limited, yeah.

Q Yeah. Those three things are kind of the big ones; right?

A Yes.

Q And just to make sure on my question, which was a little long worded, you have conversations with –

A Yes.

Q -- the offender; right?

A Yes.

Q Just like you and I are having here today?

A Yes.

Q And you would also communicate, from time to time, about the administration of meds; right?

A If they are prescribed medication, they'd see the psychiatrist for that.

Q Okay.

A Obviously, therapeutic interventions can be implemented. You know, it just depends on how willing the person is to work with you.

Q Okay.

A So people do different things, but yes, it's a lot of talk therapy, it's

psychopharmacological interventions, and just trying to –

Q Talking about suicide.

A -- learn –

Q Talking about suicide; right?

A Well, it's important to talk about suicidal – so yes, we talk about that to make sure they're safe.

Q When you met with Rick Allen and he was transported to your cage, was he transported in shackles?

A Oh, when he was led into the cage? Yes.

Q So we've talked already today, I don't want to belabor the point, but the box cuffs, the belly chain, the ankle cuffs, the whole nine yards, so to speak; right?

A I believe so.

Q That's the way he meets with you in the cage?

A Yes.

Q And you're outside the cage?

A Yes. I don't know if they ever took off the wrist –

Q Okay.

A -- ones.

Q Did you ever talk to Rick Allen about the exceptions to the doctor/patient privilege under Indiana law?

A I don't think so.

Q Okay. Do you know what those exceptions are?

A Are you just referring about HIPAA confidentiality?

Q Yeah, let me ask a better question. You have – there's a doctor/patient

privilege between you and Rick, which means you can't talk about anything he says –

A Right.

Q -- right?

A Right.

Q That's the underlying law in this state and probably most other states?

A Yes.

Q There are exceptions to that rule; right?

A Yes.

Q What are those exceptions?

A Harm to self, others, or property.

Q Any other exceptions that you're aware of?

A Other more specific exceptions would be things like if they report drug trafficking, the sexual abuse of a child in the community at present that they may know about where we have to intervene from the inside, inappropriate relationships with staff.

Q Did you talk to him about any of those things?

A He had to have signed the form with me at some point.

Q I'm asking you, did you talk to him about them?

A I generally do.

Q Do you know if you talked to him? Do you remember that?

A I don't remember doing it.

Q Okay. And if you did, it would be those things that you mentioned to me earlier?

A Yes.

Q When you – when he's in the cage and you're providing therapy, are you taking notes?
A Sometimes.
Q Are there times when you just don't take any notes, you just listen?
A Sometimes, yeah.
Q And in those cases where you were taking notes, do you generally then I'll say reduce those notes to a more formal document?
A Yes.
Q And is that document a DOC document?
A Yes. Well, it's in our Centurion system, but obviously, it's owned by DOC.
Q Yeah. I'm glad you mentioned that. I need to educate the Court a little bit. I forgot to do this at the beginning. Tell the Judge who you're actually employed by.
A Centurion Health.
Q Okay. And is Centurion like the health –
A Contractor.
Q -- care provider for all inmates at the prison?
A Yes.
Q And as an employee of Centurion, is it your observation that Centurion basically just has a contract with the prison system?
A Yes.
Q And as an employee of Centurion, do you have like DOC credentials? Do you have a – excuse me. Do you have a – like a name badge or a –
A I do.
Q -- badge that says "DOC" on it?

A It'll still say "Centurion" on it.
Q Okay.
A Yeah.
Q Does it say "DOC" on it, also?
A Yeah.
Q Okay. Do you get – who do you get paid by?
A Centurion.
Q Okay. And do you have like a 401(k) plan or anything like that? I don't want to talk about the details, but –
A Right, those would be through them.
Q Through Centurion?
A Um-hmm, yes.
Q Are you specifically assigned only to the Indiana – or to Westville?
A We can go to any facilities.
Q Okay. Well, I mean, where do you –
A I'm assigned there, yes; but if they ever needed help elsewhere, we can just go over there and do work there, too.
Q Okay. Have you worked for any other companies other than Centurion since you've been there?
A Since I've been there, for several years no. There have been a few switches over time, so Centurion – prior to that we were Wexford Health.
Q Okay.
A Prior to that we were Corizon Health. So every three years or so, they put the contract up for bid and decide which one they're gonna go with.
Q All right. Do you receive training from the DOC regarding how to – you

know, custody and safety and security?

A We do.

Q Okay. Just like all the other DOC employees?

A Yes. It's tailored to us, so it's a little bit less, since we don't do cuffing and do all the extra stuff, hands-on stuff with the incarcerated individuals, so we don't get that piece, but everything else, yes.

Q So then back to the notetaking. So then you take those notes from the cage session and you reduce them to writing; right? Into report form?

A Into – yes. And then it would be into the medical records system.

Q Okay. And those reports – I think you told me – is it accurate to say that you would generate those reports usually within 24 hours?

A Usually.

Q So you have some notes, you go finish your rounds or do some more therapy, you may do some other things, and eventually, you'll sit down and prepare a report based on what he told you and what your notes said?

A Yes.

Q And sometimes that happens within 24 hours, sometimes that happens beyond that?

A Yes.

Q And then, what do you do with the notes?

A I shred them.

Q Okay. So you destroy them?

A Um-hmm, yes.

Q And would you agree with me that those notes are the best evidence of what Rick told you at the session?

A Yes.
Q Let's talk about Rick's general state of mental health while he was at the prison; is that okay?
A Okay.
Q Do you recall that when he was admitted to the prison, that he was generally proclaiming his innocence?
A Yes.
Q And he did that with you routinely?
A Yes.
Q And do you recall, is it accurate to say, that you observed him as being selfless and very focused on making sure that his wife's needs were met?
A Yes.
Q That's a particular note that you made about him; is that accurate?
A It's accurate.
Q Does that also play a little bit into this dependent personality syndrome that you recognize traits of?
A Traits of.
Q The answer's yes?
A Yes.
Q Do you recall, in late December of 2022, shortly after he was admitted, that he was starting to express to you that he was being treated worse than other offenders at the prison?
A Yes.
Q And do you recall acknowledging that it was reasonable for him to perceive things that way under his circumstances?

A Yes.

Q Do you recall, in March of 2023, that he started to communicate to you that he wasn't feeling right in the head and he was starting to struggle with things that were going on in his brain?

A Yes.

Q And do you recall him, around that time, reporting to you that he was becoming depressed and withdrawn?

A Yes.

Q Do you recall acknowledging that you weren't sure what was going on with him at that point?

A Well, his baseline is generally depression, so at that point, it wasn't too far out of what was normal for him.

Q Do you recall a specific report though that you had mentioned, "I'm not really sure what the problem is"?

A It's possible.

Q Do you recall reporting that on April 4th of 2023, that his state of mental health was extremely poor, critical, and deteriorating?

A What was the date?

Q April 4th of 2023.

A Yes.

Q And do you recall, on that day, reporting that he had engaged in recent suicidal or self-injurious ideations?

A Yes.

Q Delusions – fatalistic delusions or fantasies?

A Yes.

Q Do you recall reporting that he believed that death would bring relief to him?

A Yes.

Q That he was hopelessness – that he was hopeless?

A Yes.

Q That he was suffering from some insomnia –

A Yes.

Q -- and poor appetite?

A Yes.

Q Do you recall reporting that he was struggling with self-esteem?

A Yes.

Q And other ailments; right?

A Yes.

Q There was a whole laundry list of them; correct?

A Yes.

Q Do you recall reporting on April 12th that his behaviors were becoming more bizarre?

A Yes.

Q And some of that involved banging his head on the wall and kicking doors and becoming self-injurious – is that the right word?

A Yes.

Q Phrase. And then, do you recall reporting on April 13th that he was suffering from a grave disability, you used those words?

A I'd have to read my note to see, but I believe that.

MR. ROZZI: One second, Your Honor. May I approach?

THE COURT: You may.

MR. ROZZI: I just want to clarify.

Q Ma'am, I'm doing this the old-fashioned way, I just printed this stuff out. Let me direct your attention to part one of your deposition, page 136. You want to look at the cover page, so you're – page 136, and specifically lines 8 through 11.

A Right. This was –

Q Did you tell me he was suffering from a grave disability?

A Yes.

Q Do you recall reporting at that time, April 13th, that he was consuming his own feces?

A Yes.

Q And that it was time to consider voluntary or involuntary psychotropic medication?

A Yes.

Q Basically, you gotta stick a needle in him?

A Yes.

Q And, in fact, he was later approved for that; right?

A Yes.

Q When I say approved, there's a –

A Committee.

Q -- treatment team that meets –

A Yes.

Q -- and says, "Okay, we need to stick a needle in him"?

A Yes.

Q That's what happened?
A Yes.
Q More than once?
A There's a distinction between emergent and voluntary and involuntary, so his would have been involuntary, where we went through the hearing, and everyone agreed that this would be a normal injection he would receive every two weeks or every four weeks. Emergent I believe he also received; this is more of a one-time thing, so when he was banging his head and he wouldn't stop, that's when we would have given him a shot just for that one incident.
Q Is there any distinction of the type of needle you stick in him?
A No.
Q It's all the same; right?
A Um-hmm, yes.
Q Okay. Do you recall, April 21st, articulating in your medical records that he might be incompetent to stand trial, you had that discussion with him?
A We talked about it, but I think I was just trying to explain it to him, 'cause, obviously, we can't make that determination, we are not the ones to make that determination.
Q Okay. You had that conversation with him; right?
A Some kind of conversation about it, yes.
Q Well, to be fair, I'm gonna let you review your conversation. Let me direct your attention to page 154 of part one of your deposition, specifically line 10 – you see that? – through 14.

MS. DIENER: Mr. Rozzi, what date of her report is that referring to?

MR. ROZZI: Let me go back and look here. Would you hold this for a second? She acknowledged that it was April 21st.

Q Sorry.

A No. Yeah, so –

Q Do you recall having this discussion with him about the fact that he might be incompetent to stand trial?

A Possibly. It's kind of vague. I mean, I know we've touched on it, but it was more so allowing him to know that that's not going to be something that we would determine at the facility.

Q Okay. So the question I asked was: "And then, in the next paragraph down, you were engaged in a discussion with him about, 'Hey, you might be incompetent to stand trial, that might be one of our evaluations moving forward'?" And your answer is, "Yeah, I did say that." Right?

A I guess so.

Q Okay. I mean, we don't have to mince words, but you had that conversation with him?

A There was a conversation.

Q Because you had a belief that that might be the case?

A The way things were going at that time.

Q Very good. Thank you. Do you recall reporting that his thoughts were disjointed and that he was saying bizarre things?

A Yes.

Q And that, on May 3rd, do you recall reporting that he said he wanted to confess?

A If that's what I wrote, yes.

Q Okay. And that he started telling a story about how he did the crime?
A Yes.
Q And this occurred when he was in the cage?
A Yes.
Q And are you pretty sure that you wrote some of that down?
A Yeah, I think I wrote some of it down.
Q And you would have destroyed those notes, too?
A Yes.
Q Is it accurate to say that you reported in your medical records, your psychiatric records, that it was difficult to tell when he was being honest with you and when he was not?
A There were times I questioned it.
Q During this April timeframe?
A Even then.
Q And in May, 2023?
A Yes.
Q Do you recall reporting that in – May 17th of 2023, that there was an increase, a slight increase you said, in his disorganized thinking and paranoia?
A Yes.
Q And then, on May 18th, you reported there were more injections? Does that sound accurate? We're into May now.
A If it was his next routine injection maybe.
Q Okay. Do you want me to show you my questions here –
A Sure.
Q -- just to make sure we're accurate? Page 177 of the deposition, let me

find that reference to the date here. I'm sorry. Looking at page 176, line 22, it references May 18th; right?

A Yes.

Q An entry of 5:48 p.m.?

A Yes.

Q Or maybe a.m., I don't know.

A Probably p.m.

Q 5:48's what it says; right?

A Yes.

Q And then, the continuation of that conversation on page 177.

A This is referring to – he was just due for his next injection.

Q Okay. So around that time, he was due; right?

A Yes.

Q Injections are pretty rare at the prison.

MS. DIENER: Is that a question?

MR. ROZZI: Is that – no, it's not. It is a question, it's a poor question, I withdraw.

Q Are injections pretty rare at the prison?

A Numbers wise? I mean yeah, it's not common.

Q Is it –

A We have them, obviously, but it's just – maybe a dozen people, at most, out of 3000.

Q Say that again.

A A dozen people out of 3000.

Q Did you tell me that it might happen once a year or something like that?

A So that's more of an emergent situation –

Q Okay.

A -- where someone's actively engaging in self-harm and must be stopped in that moment, so it's like a one-time shot.

Q Which we had here.

A We did also have that.

Q Okay. So these are the most severe of consequences in terms of intervention; is that accurate?

A Yes.

Q In the mental health field –

A With the exception of –

Q -- in that setting?

A -- restraints. We didn't do restraints.

Q Okay. You recall telling me that – or do you recall reporting that, on May 18th or at or around that time, that he was ramming his head into the wall?

A Yes.

Q You recall there being a report on May 22nd, 2023, that he was having breaks of psychotic reactions to stress?

A Yes.

Q Do you recall reporting, on June 8th of 2022, that his depression had reached its peek or was at its peek?

A Yes.

Q And that he was suffering from physiological symptoms, such as trembling, knees buckling, and stuttering?

A That was happening, yes.

Q Do you recall that – well, a report regarding June 16th, that you hit him with another injection, that he was injected again? Make sense?
A If it's a monthly injection, yes.
Q And then finally, on July 11th of 2023, do you recall reporting that you started to see some sign that his mental health was being restored?
A Yes.
Q You said to a normal state?
A Yes.
Q Okay. So he's coming out of the funk, as I referred to it; right?
A Yes.
Q You recall suggesting that, hey, you know, he might be finally adjusting to incarceration at that point?
A It was a theory.
Q That's an explanation?
A Um-hmm.
Q Yes or no?
A Yes.
Q And that's based on your medical training and your experience of dealing with offenders at the DOC?
A Yes.
Q That was eight months after he was admitted; right?
A It would be.
Q Do you recall noting that even after this adjustment started you saw some physiological conditions in terms of the way his eyes looked?
A I did write down anything I noted that was strange.

Q Yeah, that his eyes were bulging out of his head at one point; right?
A Yeah.
Q And that you thought that was significant enough to report?
A Yeah, I reported it.
Q And then, there was a report generated on November 22nd of 2023, a discharge plan referencing his suicide watch for the past six months. That would be accurate; right?
A Yes.
Q And there was a reference to his earlier stress-induced psychosis – those were the words?
A Yes.
Q And his vegetative symptoms of depression; right?
A Yes.
Q All the things that were going on in March, April, May, June of 2023?
A Yes.
Q You recall that even in October you were still having some therapy sessions with him in the cage?
A Yes.
Q October of 2023; right?
A Yeah.
Q And that he was proclaiming his innocence at that point?
A If that's what I wrote, then yes.
Q Okay. Well, do you want me to show you the deposition?
A No, I believe you.
Q Okay. Do you acknowledge that he communicated to you that he had

already been sentenced for this crime?

A He's made comments like that.

Q And do you acknowledge that, in late November, he started to regress again briefly into a more-depressed state?

A Yes.

Q Do you recall, during that time, when you reported that he was escorted from his cell while these inmates continued to yell at him?

A Yes.

Q You made specific note that day that, hey, they're badgering him; right?

A Yes.

Q That's my word, not yours; correct?

A Correct.

Q Calling him the same kind of names that they had earlier?

A Yes.

Q Now, there were other psychiatric reports that were prepared by the treatment team and by maybe Dr. Martin –

A Yes.

Q -- if I'm not mistaken; is that right?

A That's right.

Q And those notes are notes that we went over in the deposition. Do you remember doing that?

A I don't know how much we went over Dr. Martin's notes.

Q Who else would have generated notes? I'm just trying to remember.

A We were supposed to not talk about the ones that were done in conjunction with DOC.

Q Okay.
A The MDTs.
Q Because there was a lawyer there when you were doing those?
A Yes.
Q We had to have a lawyer sit and meet with you during these treatment teams; right?
A Yes.
Q Was that unusual, you had a lawyer in the room when you're in treatment team?
A I mean, in my experience.
Q Okay. Rick was a unique situation; right?
A He was.
Q So do you acknowledge that some of those psychiatry notes mention that he had an abrupt onset of psychosis and abnormal behavior?
A Yes.
Q And that there was a psychotic process occurring?
A Yes.
Q That was the phrase; right?
A Yeah.
Q And we're talking again about the March, April, May, June-ish time period?
A Yes.
Q So he's being diagnosed as being psychotic during that time?
A Yes.
Q And that's one of the reasons why he got the involuntary injections; is that

accurate?

A Yes.

Q And there are other reports that say similar things to that; right?

A Yes.

Q Medical – or psychiatric reports?

A Yes.

Q There was a report that we talked about where he was observed as having disorganized speech, grossly disorganized and catatonic behavior; right?

A Yes.

Q And that was during the same timeframe?

A Yes.

Q And there was an acknowledgment that, in one of the notes, that he was identified as having a serious mental illness from a clinical standpoint; right?

A Yes.

Q Now, let's talk about that. We talked about what serious mental illness is and the technicalities of that when I deposed you; is that right?

A We did.

Q So SMI is a specific diagnosis or designation within the prison psychiatric vernacular; right?

A Specifically to the individuals that are in restrictive housing.

Q Okay.

A So if they're – I mean, we can generally say someone is SMI and we know what we're talking about; but when they go into restrictive housing, generally things change for them in terms of frequency of visits –

Q Okay.

A -- and how long they can even stay in restrictive housing.
Q All right. We'll get to that. Thank you for that. He was identified as being seriously mentally ill while he was at the prison; wasn't he?
A So I know that came up in one of the MDT notes. I don't know if I'm supposed to say anything about that.
Q Let me just try to get to the point here. He met the medical – strike that. He met the psychiatric threshold for being seriously mentally ill, but you designated him as a safekeeper in the DOC because of this court order; right?
A Yes.
Q So let's separate – let's – I'm gonna ask you questions about you as a doctor over here and then I'm gonna ask you questions about the technical aspects of being a safekeeper. Do you understand that?
A I think so.
Q So from a psychiatrist or psychologist standpoint, which you are, he met the criteria for serious mental illness at a time when he was at the prison?
A Yes.
Q No doubt about that, is there?
A No doubt.
Q But he was designated by prison administrators as being a safekeeper; is that accurate?
A Yes.
Q And so, by receiving that designation, he then was removed from the SMI designation –
A Yes.
Q -- correct? But them – so they basically have a box on a form that says

safekeeper and they check the box and say he's a safekeeper; right?

A Yes.

Q I mean, at the most-basic level. Agree with that?

A I agree.

Q Do you agree with me that that doesn't change what's going on in his brain because they identify him as something else; right?

A Right.

Q He's still suffering from all the same things?

A Right.

Q He just doesn't get the same treatment as somebody who is – who would be seriously mentally ill because of his designation?

A Right.

Q Okay. Now, the phrase "serious mental illness" or SMI in the DOC is one that you are very familiar with, aren't you?

A Yes.

Q And is it accurate to say that when someone is identified as being SMI, that they – there are very strict timelines on how long you can detain somebody in solitary confinement?

A Yes.

Q Is it accurate to say that that strict timeline is 30 days?

A Yes.

Q And is it – as a psychologist, do you agree that the impact of solitary confinement on a human is something that's been widely studied in your profession?

A It has.

Q And do you agree – well, you don't have a subspecialty of that phenomenon, do you?
A No.
Q I think we actually talked about that; right?
A Right.
Q But you're familiar with that 'cause you work in a prison?
A Yes.
Q Kind of hands-on training; right?
A Yes.
Q Or experiences?
A (Responds by nodding head in the affirmative.)
Q You're shaking your head yes?
A Yes.
Q Thank you. We agree – strike that. I didn't ask Warden Galipeau this, but they call this place where Rick was detained "the hole", don't they? That's what inmates call it?
A Yeah, some of them call it that.
Q Do you agree that locking someone up in the hole is not a good way to promote positive mental health?
A I agree with that.
Q And do you agree that it's not a form of mental health treatment that exists in your profession?
A It is not.
Q And that it, in fact, can have a negative impact on somebody's mental health?

A There's a possibility, yes.

Q Somebody who's suffering, it can – do you agree that it can have a negative impact when somebody especially is suffering from pre-existing mental health problems?

A Sure.

Q Do you agree that Rick suffered from pre-existing mental health problems?

A He did.

Q Diagnosed as having major depressive disorder at the doorstep of Westville; correct?

A Yes.

Q Do you agree that you would never use solitary confinement as a tool to help improve someone's overall mental health?

A Not their mental health.

Q Thirty days is the threshold; right?

A There are exceptions to the 30-day rule.

Q Right. When somebody puts a hat on you that says you're a safekeeper; right?

A No, I wasn't referring to that. There are individuals who remain in restrictive housing beyond the 30 days if they're deemed to be too dangerous to be out in the general population.

Q Oh, because they're just physically a danger to others; right?

A Yes.

Q Rick Allen does not meet that exception, does he?

A No.

Q And do you acknowledge that Rick stayed there for more than 12 months?

A Yes.

Q Twelve times the 30-day threshold?

A Yes.

Q Do you acknowledge that if someone's mental health is poor, putting them in solitary confinement for long periods of time just makes it worse?

A It can.

Q It does, doesn't it?

A A lot of the time, it does.

Q And, in fact, there's a lawsuit that was filed between the Indiana Department of Corrections and IPAS. Are you familiar with those phrases?

A Yes.

Q I think IPAS is the Protection and Advocacy Services or something –

MS. DIENER: Judge, I'd like to object. We are so far beyond what the subject matter of this particular motion is. Her knowledge of a lawsuit with IDOC has no bearing on whether Mr. Allen was coerced or induced by his environment to making statements that are incriminating for this trial. And so I've waited and waited, as to allow as much questioning as I can, but I just don't think that we're focusing on the point here and I would ask that his questioning be limited to the issue.

MR. ROZZI: May I?

THE COURT: Certainly.

MR. ROZZI: Judge, you know, I laid out – at the outset, I explained to the Court that there would be due process arguments being made here, Fifth and Sixth Amendment arguments regarding the circumstances under which he was detained, and this is directly relevant to those. What you're gonna hear is

that the D – well, she's already said the DOC has policies on the length of confinement that one should endure when they have serious mental illness, and she will testify – if I asked her two more questions – that those policies arise from the settlement between the Indiana Department of Corrections and IPAS, specifically stem from the language in those – in the court order in the United States District Court, Southern District of Indiana, Indianapolis Division, presided over by the Honorable Tanya Walton Pratt, and in the 2016 settlement agreement between the two, that's why I think they're relevant.

MS. DIENER: Judge, I would renew my objection. It still has nothing to do with whether Richard Allen is being coerced or induced by his environment to make statements against his own interest. It's not relevant.

THE COURT: I'll sustain the objection.

MR. ROZZI: May I make an offer to prove?

THE COURT: You may.

Q Ma'am, I'm gonna try to do this in more summary fashion – actually, I could just offer up the exhibits.

MR. ROZZI: Ma'am, what are we on, in terms of letters?

COURT REPORTER: T.

MR. ROZZI: T. Okay. Thank you.

Q If I may hand you Respondent's [sic] Exhibit T and U, T being titled "Entry following bench trial of United States District Court, Southern District of Indiana" – I'm gonna – oh, you know what, I'm sorry.

A Okay.

Q Just give me one second here. Let me get another sticker.

THE COURT: The court reporter can put stickers on there for you,

sir.

MR. ROZZI: I'm sorry?

THE COURT: The court reporter can put the stickers on there for you, sir.

MR. ROZZI: Thank you.

Q I was giving you my copy, I didn't mean to do that. Handing you T. Is this a copy of the order from – court order from the Southern District under – let me read the case number again into the record – 1:08-cv-01317 TWP-MJD, Indiana Protection and Advocacy Services, Plaintiffs, versus Commissioner, Indiana Department of Corrections; is that right?

A Yes.

Q Okay. And then – it's all right, I understand I'm just reading. Is that what I'm reading off of?

A That's what you're reading, yes.

Q And that's what it says?

A Yes.

Q And then, on the last page, there's a signature here, December 31st, 2012, the Honorable Tanya Walton Pratt, Judge, United States District Court, Southern District; right?

A Yes.

Q Okay. And do you acknowledge that this is – and you can take a look at it, this is a court order that pertains to the settlement between – to the trial between IPAS and the Indiana Department of Corrections?

THE COURT: I don't think this is a proper offer to prove. I think you can admit your exhibits as part of your offer to prove, but I don't think having

her testify about something –

MR. ROZZI: Okay.

THE COURT: -- to that extent –

MR. ROZZI: I didn't know if you wanted a foundation, so –

THE COURT: No. I just – if you want to make an offer to prove, make your offer to prove.

MR. ROZZI: Well, I do want to make an offer to prove, Exhibit 1, and I'm also asking the Court to take judicial notice of the document, because it is a finding by the Southern District of Indiana. Thank you.

THE COURT: So for purposes of the offer to prove, I'll show T is admitted.

DEFENDANT'S EXHIBIT T ADMITTED

MR. ROZZI: Is the Court taking judicial notice of that document?

THE COURT: I will take judicial notice of your offer to prove, containing in Exhibit T.

MR. ROZZI: Very good. Thank you. And then second – right here, has this been marked? That's the wrong one here. Thank you. Offering Defendant's U, which is titled United States District Court of Indiana, Southern District, Indianapolis Division, Indiana Protection and Advocacy Services versus DOC, stipulation to enter into private settlement agreement following notice to the class and fairness hearing. This document is signed by parties for both sides and it's dated 1/27 of '16, 2016. I'll offer that up. Judge, the –

DEFENDANT'S EXHIBIT U OFFERED

THE COURT: I'll show U is admitted to com – is this the completion of your offer to prove?

DEFENDANT'S EXHIBIT U ADMITTED

MR. ROZZI: Well, I'm gonna summarize why I think they're relevant.

THE COURT: Then, I will show T and U admitted for purposes of the offer to prove.

MR. ROZZI: Did I just give you the wrong U?

THE COURT: I don't know what you gave me. You gave me for purposes of an offer to prove. It's your offer, not mine. I don't know what you gave me.

MR. ROZZI: I'm just making sure I gave you the right thing. Judge, with regard to T, on this particular document is an entry of judgement after a trial occurred to the bench regarding the settlement. I will direct the Court specifically to – give me a second – specifically to page 5, section D; page 6; page 7; page 8; page 9; and in those sections, the relevance is, is that Judge Pratt identified, with specific bullet points, the various conditions that existed with regards to the inmates in this particular case; the findings of fact, if you will, many of which mirror the conditions that exist in our case. For that reason, I would identity and I would direct the Court to page 10 and 11. On page 10, there is a specific definition for the terms – I'm sorry, there's a reference on page 10 to the DSM-IV and the AXIS I diagnosis of major depressive disorder and other disorders, all of which fall within the serious mental illness or seriously mentally ill definition that was adopted by the Court in this case, and I think those are relevant because they set the standards for when Ms. Wala is seen with her patients and how those patients are handled from a detention circumstance, and that's the purpose of the admission. Without belaboring the rest of this,

Judge, it's a very long ruling, 37 pages, and there other parts of this ruling that I have highlighted for the Court and Ms. Diener that I also believe are relevant to the findings. I'm not gonna go through those today, the highlights are there, and I think they're relevant for the purposes – the information that's offered up is relevant to our proceedings today. Second, Defendant's Exhibit U, this particular document is the settlement agreement that stemmed from the Court's order in 2012. I think if you read into the document, you'll see that it's relevant because what happened was is that basically Judge Pratt said, "Shame on you, DOC. You violated the Constitutional rights. I'm not gonna issue any damage order, but let the parties – give the parties some time to figure that out. We'll come back if we need Court's assistance." And then, eventually, they figured that out. There were damages, I think about $500,000 paid out by the DOC. The relevancy is page four. On page four, there is another designation of the phrase – or there's a determination of what the phrase "seriously mentally ill" means, a definition if you will, and it's – so it's relevant for that reason. So that's the request for judicial notice. Thank you.

THE COURT: Okay.

MR. ROZZI: Or the offer to prove, I'm sorry.

THE COURT: Thank you.

MR. ROZZI: One second.

Q Ma'am, you acknowledge that – I talked to you earlier about there are certain – there are some statutes regarding privilege, doctor/patient privilege.

A Yes.

Q Okay. I'm gonna hand you Defendant's Exhibit V, just take a look at those two statutes. Without rushing you too much, does that first one look the

privilege statute that basically says there's a doctor/patient privilege in Indiana?

A Yes.

Q Yes or no?

A Yes.

Q Second one, it's got the exceptions listed there, 25-33-1-17; you see those?

A Yes.

Q And you acknowledge that one of the exceptions, specifically subparagraph 1, is that communications between doctor and patient are not privileged in cases where there are trials for homicide when the disclosure relates directly to the immediate circumstance of the homicide; right?

A I see it.

Q Not one of the discussions you had with Mr. Allen; right?

A I don't know. Would it not pertain?

Q Well, I'm saying you didn't have that discussion?

A Oh, no, um-um.

Q In other words, you didn't inform him of that privilege –

A No.

Q -- that exception to privilege?

A No.

MR. ROZZI: If the Court will take judicial notice, but I'm – just for the sake of (inaudible).

DEFENDANT'S EXHIBIT V OFFERED

THE COURT: Do you have any objection to V?

MS. DIENER: They're statutes, I have no objection.

THE COURT: Okay. I'll show V is admitted without objection.

DEFENDANT'S EXHIBIT V ADMITTED

MR. ROZZI: Would the Court like to take a break for five minutes?

THE COURT: Are you about done with your direct?

MR. ROZZI: Not quite.

THE COURT: Do you need a break?

MR. ROZZI: I'm okay continuing. I'm just asking as a courtesy.

THE COURT: No, I'm fine. Keep going.

MR. ROZZI: Okay. Thank you.

Q You have certain professional standards under which you practice medicine or psychiatry?

A Psychology, yes.

Q I'm gonna mess that up forever. Psychology?

A Yes.

Q And those standards are set by the APA?

A Yes.

Q American Psychological Association; right?

A Yes.

Q And do you agree that one of those is a code of conduct that exists?

A Yes.

Q I'm gonna hand you what's been marked as –

MR. ROZZI: Judge, I failed to make of copy of these, so I'm just gonna lean in here for a second, if that's okay.

THE COURT: Well, do we need to take a break so you can make copies, is that what you're –

MR. ROZZI: Yeah, we can do that. It makes sense.

THE COURT: All right.

MR. ROZZI: Or we can do it after too, I'm fine with whatever.

THE COURT: No, we can go ahead and take a break so you can make copies. All right, well, let's take about ten minutes, then. Let's be back about 3:10.

(Off record at 2:57 p.m.)

(On record at 3:12 p.m.)

THE COURT: All right. Are we ready, then, to continue?

MR. ROZZI: Yes, Judge. Judge, I'd like to renew my request to admit Exhibits T and U and this is the reason – I just thought about this when I was in the hallway – we're also litigating this request for admissibility that was filed by the State as it relates to Dr. Wala's records. It's Mr. Allen's position that he was treated in a manner inconsistent with the guidelines, that's obv – we're making those arguments today and that the product of those – of that treatment, because it was inconsistent with the guidelines, should not be admissible, so I'm asking for the Court to reconsider the admissibility of those two documents with that umbrella of that admissibility request by the State pending, which frankly, I kind of forgot about, and it seems part and parcel to all of this. Thank you. Otherwise, I'm ready to proceed with questioning.

MS. DIENER: Ju –

THE COURT: Okay – go ahead.

MS. DIENER: Judge, I would object for the same reason. The testimony of this witness has to do with the definition of SMU – SMI under DOC standards. She doesn't have any authority to – at least not that we've heard – change that determination. She's working within the protocols of DOC, she

doesn't appear to be part of that lawsuit. So if they have an issue with DOC not following protocols, I don't think this is the forum to be handling that in. This is about whether he was being coerced by his environment. The designation of SMI or not doesn't have anything to do with whether he was coerced into making involuntary statements. And we're talking about environmental coercion, I understand, but there still has to be, in our perspective, the State's perspective, some act by people directly related to inducing him to make confessions, and we feel like that is outside of that issue, especially for this witness.

THE COURT: Go ahead.

MR. ROZZI: May I ask some foundational questions of the witness?

THE COURT: Sure.

Q Ma'am, you were previously sworn; you understand that?

A Yes.

Q Okay. Are you familiar with the DMS-IV?

A I am. It's not the current DSM though.

Q I'm sorry?

A The current DSM is the DSM-V-TR.

Q Okay. But I'm asking, are you familiar with the DSM-IV?

A For the most part.

Q Okay. And is that basically the Bible when it comes to medical diagnosis, psychiatric diagnosis –

A Psychiatric.

Q -- those kinds of things?

A Um-hmm. (Affirmative response)

Q You're shaking your head yes?

A Yes.

Q Okay. And are you familiar with the – specifically with the settlement between IPAS and the DOC that I referenced earlier?

A So I think we talked about this last time and, when I verified with one of my peers, they did say major depression did not fall under that umbrella –

Q Okay.

A -- at the present, so there must have been an update since that one.

Q Are you – the question is: Are you familiar with that settlement and the language that was included –

A Yeah.

Q -- in that settlement regarding serious mental illness?

A Yes.

Q Okay. And is it accurate to say that it defined – that settlement statement defined serious mental illness and that that definition was then adopted by the DOC?

A Yes.

Q During the course of your employment with the DOC?

A Yes.

MR. ROZZI: Okay. I do think there is a – she has a foundation. I mean, it's the – that settlement is referenced – I'm gonna show you – in the DOC policy, it's actually referenced in the policy. Maybe I – may I ask an omitted question of the witness?

THE COURT: Sure.

Q Ma'am, if I may hand you what's identified as Healthcare Services Directive Annual Policy and Procedures, looks like Police 4.03(A); do you see that?

A Yes.

Q I showed you this before – right? – when we took – when I took your deposition.

A Yes.

Q And on the – is this the policy – this one's dated April 1st of 2022. Do you see that?

A I see that.

Q And is this consistent with the policy that exists today that dictates how you treat offenders as a whole from a mental-health standpoint?

A It should be.

Q Okay. Handing – directing your attention to page 2, which is under "Definitions", Section 2, page 2, Section H; do you see that?

A I see it.

Q Does – is it accurate to say that this actually – the section's titled "IPAS Settlement"?

A Yes.

Q And then, it references that there was a settlement between the Department of – between IPAS and the DOC that related to the classification of seriously mentally ill inmates and the 30-day threshold?

A Yes.

Q So it's specifically noted in your guidelines?

A Yes.

MR. ROZZI: That's the basis upon which I renew my request for admission.

MS. DIENER: Judge, may I ask a question of the witness to clarify?

THE COURT: Yes.

MS. DIENER: Dr. Wala, this is all being geared toward whether Mr. Allen was or was not designated as SMI; would you agree?

A Yes.

MS. DIENER: Okay. And you said in prior testimony today and in your deposition that he did not meet that definition under DOC with regard to placement or transfer?

A Right.

MS. DIENER: Okay. This hasn't been asked of you yet, but he was diagnosed as brief psychotic disorder with related stressors; correct?

A Yes.

MS. DIENER: And that is a diagnosis that, in and of itself, requires that the brief psychosis is less than 30 days; correct?

A Yes.

MS. DIENER: Does that not have an impact on the definition of SMI?

A So in regards to the brief psychotic disorder, it would qualify as SMI.

MS. DIENER: But there was a concern about the 30 days and when you begin your analysis of that particular conclusion, is it not?

A Can you be more specific?

MS. DIENER: His symptoms had to exist for a certain length of time –

A Right.

MS. DIENER: -- before his diagnosis could or would have an impact on changes to his placement?

A Technically, a diagnosis alone – we have individuals who are SMI in restrictive housing for different reasons beyond the 30-day mark. This would be a new diagnosis for him and we would, at that point, determine whether we'd want a transfer; however, given the unique circumstances of the case, in our meetings that I am not to talk about it was determined that he was going to stay where he was at. So he – the way that I was told, he did not fall under the guidelines because he was not an IDOC-incarcerated individual, he was a safekeeper.

MS. DIENER: I have one more question to clarify that, Judge.

THE COURT: Okay.

MS. DIENER: So his designation as safekeeper was a priority, because his safety was the reason he was there?

A Right.

MS. DIENER: Okay. And his psychosis that we just discussed, the brief psychotic disorder with related stressors, was successfully treated where he was; would you agree?

A Yes.

MS. DIENER: And in fact, in the deposition, Mr. Rozzi asked you if you had the opinion that he needed to be somewhere else to get proper treatment. I believe your answer was, "No, we took care of him right where he was."

A Yes.

MS. DIENER: Thank you.

MR. ROZZI: May I question the witness?

THE COURT: Are we still on trying to get in T and U?

MR. ROZZI: Yeah. I was trying to not –

THE COURT: Okay.

MR. ROZZI: -- object or – I'm sorry, I'm losing my train of thought. I was trying not to interfere with her, 'cause you've given me some latitude, but I feel like now we're kind of –

THE COURT: Well, we've kind of gotten way afar afield here. I mean, you have renewed your request for the Court to admit T and U.

MR. ROZZI: Yeah, because of that admissibility motion that I had not thought about when we were sitting here earlier. I – we talked about yesterday how we kind of all thought it was, you know, part of this larger issue and that we were just gonna deal with it all at once.

THE COURT: Yes.

MR. ROZZI: And so that's why I'm asking to renew.

THE COURT: Okay.

MS. DIENER: Okay.

THE COURT: Then, you are renewing it for the purposes of the State's Motion for Admissibility?

MR. ROZZI: Yeah, I think it's relevant within the confines of that motion.

THE COURT: Ms. Diener.

MS. DIENER: Judge, that motions relies on the statute specifically that indicates that a psychologist has a obligation under confidentiality with the specific exception applied to this case about statements related to the facts and circumstances of a homicide. I have not heard – and maybe I missed it – how a person's designation as SMI has anything to do with that exception.

THE COURT: Okay. I will show T and U have been admitted for

purposes of your offer to prove. I'll sustain the objection to T and U coming in as evidence under the admissibility motion that the State has filed, but will maintain those documents under your offer to prove.

MR. ROZZI: Very good. Thank you.

THE COURT: You may proceed with the witness.

MR. ROZZI: Thank you.

Q Ms. – or Dr. Wala, I should say, let's talk about your personal knowledge of this case; okay?

A Okay.

Q Is it accurate to say that you followed this case on social media basically from the inception of the case? Pretty close to that time?

A Pretty close.

Q And when I say that, back to 2017?

A Probably not that far.

Q Okay. Near that time?

A Maybe a couple years after.

Q Okay. And is it accurate to say that your following this case involved you listening to different podcasts and things of that nature that specifically covered this investigation?

A Yes.

Q And that those podcasts were all on – kind of online, social media-based sites; right?

A Yes.

Q Is it also accurate that you did follow this case on Facebook and certain forums, I guess, as – for lack of a better phrase, on Facebook?

A Yes.
Q And so that you had a significant amount of knowledge about the circumstances surrounding the investigation before you were engaged in services with Mr. Allen?
A Yes.
Q And is it accurate to say that at one point, a year or so before Mr. Allen was arrested, that you actually visited the Monon High Bridge yourself out of your own personal curiosities –
A Yes.
Q -- regarding this case?
A Yes.
Q And you – is it accurate to say that you told me that you actually went out of your way to do that on a trip from Indianapolis back to the Chicago area?
A Yes.
Q You basically took a detour here into the Delphi area?
A It was on the way, but yes.
Q And you did that with your boyfriend in tow, so to speak?
A Yes.
Q You were together; right?
A Yes.
Q This was on personal time?
A Yes.
Q Is it accurate that you followed this case more closely after Kegan Kline, who was a suspect, was arrested?
A Yes.

Q And that was before Mr. Allen was arrested; correct?
A Correct.
Q And that's because you were interested in the Kegan Kline angle to the investigation –
A Yes.
Q -- right? All of this was personal?
A Yes.
Q And is it accurate to say that you followed the case even more closely after Mr. Allen was arrested?
A Yes.
Q And you – did you tell me in the deposition that you actually made it a habit and it was a routine for you to listen to coverage, podcasts if you will, to and from your commute to work?
A Yes.
Q Which – how long's your commute?
A Hour and a half.
Q One way?
A Um-hmm, yes.
Q Yes or no?
A Yes.
Q You did that several times a week; right?
A Yes.
Q And this was a big part of your life from a personal entertainment standpoint?
A Yes.

Q Did you also acknowledge to me that you sought out information regarding the Kegan Kline aspect of this case while you were at work?

A Yes.

Q And that you sought that information out on the case management system or access to those files that you have at work?

A Yes.

Q And what's the – tell me how that happened, like what's – I thought you gave me a name for that system.

A Incite.

Q Okay, so I was right earlier, so it was Incite. You have access to a system called Incite?

A Yes.

Q Okay. Is that like I-N-C-I-T-E?

A Yes.

Q All right. And does that system offer you access to specific information regarding incarcerated individuals around the state?

A Indiana.

Q Okay. What else can you get there that's private?

A The pre-sentence investigations would be private, I believe.

Q Okay.

A And then, any other court documents.

Q So a pre-sentence investigation, is it accurate, is a document that basically summarizes the life history of an offender, sometimes from birth all the way to the point when they're incarcerated?

A Yes.

Q Very private, detailed information?
A Yes.
Q And is it accurate that you actually accessed that information through the DOC case management system regarding Kegan Kline?
A I did.
Q Because of your interest in the Rick Allen case, the Delphi case?
A Yes.
Q And you did that for personal reasons, you told me that, didn't you?
A Yes.
Q It's for entertainment reasons; right?
A Yes.
Q It's not for professional reasons; right?
A Right.
Q And do you acknowledge that that is inconsistent with the policies under which you work?
A It might be.
Q You're not supposed to use that information for entertainment reasons, are you?
A I'd say no.
Q Have you been disciplined for that?
A No.
Q Has anybody even talked to you about, "Hey, that's a really bad idea"?
A No.
Q Okay. And do you acknowledge that, at one point, that you publicly commented on Mr. Allen's case in a social media forum?

A Yes.
Q And that that comment came at a time after he was arrested?
A I believe we determined the timeline to have been a few months back this year.
Q Okay. So after October of 2022?
A Well, yeah.
Q And after you were treating him – or actually, it was during your time treating him as a patient?
A He had already moved on to the next facility.
Q Down at Wabash Valley?
A Um-hmm.
Q Yes?
A Yes.
Q The place where you visited with him after he moved there; right?
A I did.

MR. ROZZI: May I approach, Judge?

THE COURT: Yes, you may.

MR. ROZZI: What's that next – I'm sorry, what's the –

THE COURT: W. Yeah, you're up to W.

Q I'm gonna hand you what's been marked as Defendant's W; do you recognize this document?
A Yes.
Q And just tell the Judge what it is.
A Someone had posted about podcast recommendations and I provided the ones that I listened to.

Q Okay. So it's a social – it's a screenshot of a social media post; is that a fair way to describe it?

A Yes.

Q Okay. And this is generated by recent – the text at the bottom here is a post by you; isn't that right?

A Yes.

Q Okay. And it's under your –

A Yes.

Q -- your real name, Monica Wala. There's no pseudo name here –

A No.

Q -- no online handle or anything; right?

A Right.

MR. ROZZI: Okay. Move to admit W.

DEFENDANT'S EXHIBIT W OFFERED

THE COURT: Any objection?

MS. DIENER: No objection.

THE COURT: All right. Without objection, W's admitted.

DEFENDANT'S EXHIBIT W ADMITTED

Q And do you acknowledge that in that post that you rendered a public opinion about your feelings about different podcasts involved in this case?

A There's – I suppose there's some opinion, yes.

Q Okay. Well, sure, you talked about how one of the authors of one of those podcasts or creators, about how his calm tone was unnerving; right?

A Right.

Q And do you acknowledge that you actually, at one point, talked to Rick

Allen about the environment and the tone about what was being communicated on social media about his case?

A Right. I mentioned that he had supporters.

Q He was talking to you about people wanting to kill him and things like that; right?

A Yes.

Q And you shared with him, "Hey, I've been following this stuff and this is what I'm seeing"?

A Yes.

Q Now, ma'am, earlier I was gonna offer you Defendant's W, these are –

MS. AUGER: This one's W.

MR. ROZZI: Oh, yeah, I must have marked this before the break. If Jodie will give me a new sticker.

THE COURT: I think you're at X now.

Q Let me hand you what's been marked as Exhibit X, entitled Ethical Principles of Psychologists and the Code of Conduct. See that?

A I do.

Q Those look – take a quick peek at them before I ask you questions, just to make sure that it is what it says it is on the front. You recognize those ethical principles?

A I do.

Q Getting to the bottom of this: Are these your code – is this your code of conduct?

A Yes.

Q Administered by the American Psychological Association?

A Yes.

Q One of the problems, when I had copies made over the break, they're not color, so I don't have the highlights that I tried to use to create for the Court for convenience, so bear with me.

MR. ROZZI: Judge, I move to admit Exhibit X.

DEFENDANT'S EXHIBIT X OFFERED

MS. DIENER: No objection.

THE COURT: Okay. Without objection, X is admitted.

DEFENDANT'S EXHIBIT X ADMITTED

MR. ROZZI: I'm just gonna hand the Court a copy, in case you want to try to –

THE COURT: Okay.

MR. ROZZI: They're not highlighted, but other than that –

THE COURT: That's all right.

MR. ROZZI: They don't have a color copier here yet, so –

Q Just quickly, let me direct your attention –

MR. ROZZI: May I proceed, Judge?

THE COURT: Yes, go ahead.

Q Let me direct your attention to page 3, section – principle B; do you see principle B –

A I do.

Q -- on the right side here, near the bottom?

A I do.

Q Okay. It says, "Psychologists have full professional standards of conduct, clarify their professional roles and obligations, accept appropriate responsibility

for their behavior, and seek to manage conflicts of interest that could lead to exploitation or harm." Do you see that? It's about the fourth line down.

A I see it.

Q Okay. And do you acknowledge that you participating in the online social media activity in this case for personal reasons while you're treating a client could be – it's reasonable to believe that that's a violation of that policy?

A I disagree.

Q Okay. Let me direct your attention to principle E on page 4, do you mind taking a look at that, please.

THE COURT: I'm sorry, page what?

MR. ROZZI: Four.

THE COURT: Thank you.

MR. ROZZI: Do I need to talk a little louder?

THE COURT: No. I just didn't hear it.

Q All right. Principle E, titled "Respect for people's rights and dignity"; do you see that?

A Yes.

Q First line says, "Psychologists respect the dignity and worth of all people and the rights of individuals to privacy, confidentiality, and self-determination"; right?

A Yes.

Q Do you agree that by posting anything online about your opinions towards this case is – runs afoul of Mr. Allen's privacy rights?

A I feel like that's a grey area.

Q Do you disagree or agree with it? Close call; right?

A I didn't talk about him specifically.

Q Okay. So you don't think it's a violation?

A I'm gonna go with it's not.

Q Okay. That's what you're going with?

A Yes.

Q All right. Page six, conflict of interest, read that, please.

A Um-hmm.

Q You there?

A Um-hmm.

Q "A psychologist will refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to: number one, impair their objectivity – objectivity, competence, or effectiveness in performing their functions as psychologists; or two, expose the person or organization with whom the professional relationship exists to harm or exploitation." Do you understand that –

A I do.

Q -- provision? Do you agree with me that this provision takes into consideration the conflict between being personally involved with a client and legal situations?

A You'd have to explain that further.

Q I will do that. Thank you. I withdraw the question. Do you acknowledge that this conflict of interest statement references the existence of legal circumstances associated with clients?

A There's legal circumstances, yes.

Q And we have this in this case, 'cause we're sitting in a courtroom; right?
A Yes.
Q And do you agree that by participating in Mr. Allen's case on online sites, that it could reasonably impair your objectivity to his case, to his situation?
A I'd have to disagree with that.
Q Do you recall me asking you about the information that you obtained online, the quality of it?
A Yes.
Q Do you recall – is it accurate to say that you told me that the quality of it's not good?
A Right.
Q It can be poor; right?
A I did say that.
Q So you're consuming all of this information about his case, some of which is poor; right?
A Right.
Q And yet, still trying to treat him in a professional capacity?
A But I'm not using the stuff that I read about in my professional work with him.
Q You were able to compartmentalize this thing entirely?
A Yes.
Q There's nothing that you're hearing on a personal level that has any impact whatsoever in the way you feel about his circumstances?
A We work with individuals who are already convicted of these types of crimes and we don't – you don't treat them based on those crimes.

Q Okay. Are you treating anyone else that you're following on social media posts –

A There haven't been any –

Q -- podcasts, anything like that?

A There haven't been any major stories in the area.

Q And?

A No, the answer's no.

Q Directing your attention to page 7, privacy and confidentiality, bullet point 01, maintaining confidentiality; do you see that? It says, "Psychologists have the primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium." You see that?

A I do.

Q Okay. You'd acknowledge that you obtained confidential information from him in the form of your bench notes or your session notes that you were taking?

A Yes.

Q And do you acknowledge that you destroyed those notes?

A Yes.

Q And do you acknowledge that that is in violation of Rule 4.01?

A I am not sure if that's accurate.

Q Is that unreasonable for me to take that position?

A That's what all of us do at the prison, we don't leave our notes just lying around.

Q Okay. So if everybody does it, it's okay?

A Well, I'm not saying that, but what am I supposed to do with all those papers?

Q Okay. Fair enough. Give me a second.
A All right.
Q Section 4.02, it's titled "Discussing the limits of confidentiality"; do you see that?
A Yes.
Q Basically, it says that you're supposed to have a discussion with your patient about the limits of your confidentiality; right?
A Right.
Q Obtain informed consent would be another way of putting that?
A Right.
Q You didn't do that with Rick Allen, did you?
A I can't say a hundred percent, because he still had the form active from RDC, which is still the same form that we'd be using in our work together.
Q You didn't talk to him when he was at RDC, did you?
A No.
Q Somebody else did?
A That's right.
Q And it wasn't a psychologist, was it?
A It was.
Q Okay. Who was it?
A Dr. Primeau.
Q And did you talk to Dr. Primeau about what she talked to Rick Allen about?
A I did not.
Q So you don't know what she said to him?
A The form was the evidence for that. She –

Q You don't know what she said to him?

A I don't know what she said to him.

MR. ROZZI: Did I move to admit – yes, I did. I gave you the –

THE COURT: Yes, you did.

MR. ROZZI: -- copy of the –

THE COURT: Yeah, I've got it, um-hmm.

MR. ROZZI: So here is the one with the highlights.

THE COURT: Oh, okay.

MR. ROZZI: I just was trying to help you.

THE COURT: Do you want this one back?

Q Ma'am, you also acknowledge that you have other standards that dictate, through the APA, the record-keeping procedures that you are to abide by.

A Okay.

Q Is that right? I'll show them to you. Let me hand you what's been marked as Defendant's Y, take a look at that, just take a quick look. Are these the record-keeping guidelines that have been issued by the American Psychological Association?

A It appears they are.

Q Are you – I'm getting the impression you're not familiar with these guidelines. Are you familiar with these guidelines?

A I guess in terms of, I mean, the destroyed records – I don't know, I – it's just the way that we practice. I don't I prefer to keep personal notebooks full of notes about my sessions. I put all the important information in the medical records, so –

Q Are you familiar with these guidelines?

A Not as much as I probably should be.

Q You acknowledge that these would be guidelines that would apply in your course of work?

A Probably.

MR. ROZZI: Move to admit Y.

DEFENDANT'S EXHIBIT Y OFFERED

MS. DIENER: Can I see a copy? Oh, it's right here, I apologize. No objection.

THE COURT: All right. Without objection, Y is admitted.

DEFENDANT'S EXHIBIT Y ADMITTED

MR. ROZZI: I'm gonna do the same thing on this, I'll give you this just so you can follow along.

THE COURT: Okay.

MR. ROZZI: Oh, wait a minute, you know, it does have highlights.

THE COURT: Well, the one you gave me didn't, but I highlighted it and I gave it back to you.

MR. ROZZI: Oh, I thought I it did.

THE COURT: That's okay. But this one has highlights. Okay, I'll take the sticker off. Thank you.

Q Okay. Let me direct your attention to guideline number two, content of records, "A psychologist strives to maintain accurate, current, and pertinent records of professional services as appropriate to the circumstances and may be required by the psychologist's jurisdiction. Records including information such as the nature, delivery, progress, and results of psychological services and related fees"; do you see that?

A I do.

Q Under guideline number 2 – this is, by the way, on page 995, I guess – down here at the bottom right, "Consideration regarding the level of detail of the record", do you see that?

A I do.

Q Do you acknowledge that here at the bottom it basically says that there may be advantages to keeping minimal records, but in circumstances – give me a second – in circumstances regarding unintended disclosure, that there may be reasons to keep more highly detailed reports; right?

A Yes.

Q So one of those things might be like litigation; right?

A Yes.

Q Potential for litigation, which is always – would you agree – possible in your setting because of the nature of it.

A Yes.

Q So the best practice, based on this guideline, would be to maintain those records; correct?

A Yes.

Q Directing your attention to further down in section – guideline number 2, specifically page 996, on the left side here, there is actually a paragraph called "Alteration or destruction of records", do you see that?

A I do.

Q And it says, fourth line down, "In the context of litigation, additional removal of information from a record that has been subpoenaed or requested by a court order may create liability for the psychologist." In other words, if

somebody's seeking records, you don't want to go destroying them; right?

A Right.

Q And it talks about you may want to just – may need to seek consultation regarding law – state and federal law before changing the record; in other words, before destroying anything. Correct?

A Okay.

Q Well, is that what it says?

A That's what it says.

Q Okay. So this actually – the best practice here is, is that you should maintain records in cases where litigation may be a possibility? Agree with that?

A Maybe.

Q You disagree? (Inaudible)

A It says that, but just the way we practice, no one does that, so I need to open a whole conversation about that with others now.

Q Is it possible that everybody's doing wrong?

A Possible.

Q Okay. Guideline 4, I'm not gonna get into this one too deep, but if you want to just take a quick look, the question – simple question, does that require some – suggest some informed consent from the client, basically you should let the client know what you're doing with the records?

MS. DIENER: Judge, while she's reading that, I'd like to object to this line of questioning. It appears that Defense is trying to discredit Dr. Wala with the way that she does her business at DOC, but the motion is about suppressing statements of Mr. Allen as if they were coerced by his environment. I'm not sure whether – how her adherence to these record-keeping guidelines

that she's being handed to review on the spot and to give her opinion as to whether they're important or not and whether she agrees with Mr. Rozzi as to whether she's following them in the way that she should be has any bearing on, number one, the voluntariness of Mr. Allen's statements and whether his Constitutional rights were violated in obtaining those statements and whether the exception to confidentiality is impacted by this line of questioning. The statute says all records are confidential except they can testify about statements relating to homicide, facts or immediate circumstances, and circumstances under which privileged communication is abrogated under the laws of Indiana. We are here with Dr. Wala because they've put his mental health at issue. So it wasn't her job to tell Mr. Allen, "Hey, there's a statute out here that has exceptions for communication between you and I," because the baseline is everything's confidential except for these two things. We didn't know about the mental health records until we were allowed to have them from the Court because they put his mental health at issue. So her adherence to a policy about whether she takes her notes and memorializes them into an electronic system because she feels like it's more secure, I still don't know how that impacts either one of these arguments.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you, Judge. So again, you go back to the very beginning of this case when the State – when the Honorable Diener – Judge Diener signed a court order that said Rick Allen's going to the DOC and he's gonna be subject to their jurisdiction, which means all their rules and regulations, it's a due process issue. Number two, he gets there and he is assigned a psychologist, as well as others, to his care and custody, and there are

rules that dictate how they process him and how they treat him and how they treat him both medically and psychiatrically, and from a custodial standpoint. It's our contention that they didn't follow those rules, and so, again, this goes to a Fourteenth Amendment argument, article and section – whatever the Indiana section is, I'm sorry, I lost all the numbers in my head, I cited them earlier, Section 12 I think is the due process clause. So it's relevant for those reasons. The second reason why it's relevant is, again, we get back to the State's request for admissibility. They're basically asking you to say, "You know what, Judge, we want to take advantage of this statute that's been created so that we can extract information from a psychologist about a doctor/patient privilege based on an exception when, in fact, the best evidence of what was communicated between these two people, Rick Allen and his psychologist, has been destroyed. I think those two things are contradictory and I think they contrast each other and I'm asking the Court to find that it's relevant for that reason.

THE COURT: Marginally relevant.

MR. ROZZI: I'm sorry?

THE COURT: It is marginally relevant.

MR. ROZZI: Thank you.

THE COURT: Overruled.

Q Ma'am, do you agree that there's other – well, I'll show this to you, 'cause you said you weren't really familiar with them. There's other guidelines here that pertain to – I'll try to help you out here.

A Okay.

Q Guidelines 4 regarding the disclosure of record-keeping procedures generally; right?

A Um-hmm.

Q Yes or no?

A Yes.

Q And guideline 6, security as it relates to steps to protect records; do you see that?

A I see it.

Q Okay. And then, guideline 7 pertains to the retention of records for psychologist and striving to maintain compliance with applicable laws and regulations; right?

A Yes.

Q I'm not gonna go through every one in the exhibit. You see those in the guidelines; correct?

A Yes.

MR. ROZZI: And I think moved to admit that.

THE COURT: You gave – yeah, you did, it's admitted.

MR. ROZZI: And you have your copy?

THE COURT: Yes.

MR. ROZZI: Okay. This is Y.

THE COURT: Okay.

Q Let me hand you what's been marked as Z for purposes of identification – that looked like 2 – Defendant's Exhibit Z, titled APA Guidelines for the Optimal Use of Social Media in the Professional Psychological Practice. You see that, at least on the cover sheet?

A Yes.

Q You see that it's issued by the American Psychological Association?

A Yes.

Q Are you familiar with these guidelines?

A To an extent.

Q Okay. So these guidelines regulate your profession as it relates to your activities on social media in the course of your therapeutic practice; right?

A Yes.

Q Sorry, I'm talking over you. Do you agree with that?

A Yes.

Q Very good. Thank you.

MR. ROZZI: I move to admit Z.

DEFENDANT'S EXHIBIT Z OFFERED

THE COURT: Any objection?

MS. DIENER: No.

THE COURT: All right. Without objection, Z is admitted.

DEFENDANT'S EXHIBIT Z ADMITTED

Q Let me direct your attention to guideline 2.1, page 10, bottom left corner is the page number. See that?

A Yes.

Q I'm gonna give the Court an opportunity to get there. Guideline 2.1, "Psychologists are mindful of the public nature of social media and that their privacy and confidentiality are not protected nor expected on social media." See that?

A Yes.

Q Do you agree that your sharing of information about your opinions in this case on social media was improper?

A I do.

Q If you had to do it over again, you wouldn't do it over again; right?

A I wouldn't.

Q And do you agree that – and I can go through every one of these guidelines, but basically, that runs afoul of the best practices referenced in the guidelines; right?

A Yes.

Q Ma'am, earlier I introduced to the Court –

MR. ROZZI: What am I marking now? I'm at Z, so AA?

THE COURT: You're starting back at AA.

MR. ROZZI: AA?

THE COURT: Um-hmm. (Affirmative response)

Q Handing you what's been marked as Defendant's AA. This is the DOC directive on – or healthcare services directive number 4.03(A). I showed you this earlier; right?

A Yes.

Q And do you acknowledge that this was dated April 1st of 2022?

A Yes.

Q And do you acknowledge that this directive, basically, again mentions the IPAS settlement and sets the tone for – or the guidelines for how you treat offenders in restricted housing specifically; right?

A Yes.

Q Let me just make sure I – give me one second here. Directing your attention to page 15 of the guideline, would you take a look at that. The page number's at the –

A Oh.
Q -- up here in the top right in the box; do you see that?
A Yes.
Q Page 15 of the guideline actually recognizes that there are special mental health services available through the DOC; is that right?
A That's right.
Q And if you turn the page to 16, it starts to identify the different facilities where the DOC provides special mental health services; correct?
A Yes.
Q Okay. And the first one of those is actually New Castle; right?
A Yes.
Q The second one, Pendleton?
A Yes.
Q The third one, Wabash Valley, where Rick is now; right?
A The special needs unit.
Q And the fourth one is the Indiana Women's Prison?
A Yes.
Q Westville is not even on this list, is it?
A No.

MR. ROZZI: Move to admit AA.

DEFENDANT'S EXHIBIT AA OFFERED

THE COURT: Any objection?

MS. DIENER: No.

THE COURT: All right. With objection A is – AA is admitted.

DEFENDANT'S EXHIBIT AA ADMITTED

MR. ROZZI: Just a minute, Your Honor, let me get organized here.

Q So you agree with me that this 30-day threshold that we've talked about is really in place to ensure that someone with mental – a mental health condition, a serious mental health condition, is not further harmed? That's the reason why there's a policy; right?

A Yes.

Q Do you – is it accurate to say that the only reason why you've taken the position today that the DOC is not subject to that in Mr. Allen's case is because he was designated as a safekeeper?

A That is what I was told.

Q And you didn't even make that decision; right?

A No.

Q If you were treating him from a clinical standpoint, from a mental health standpoint, you would be acknowledging that solitary confinement circumstance and how it could be detrimental to him; right?

A Yes.

Q But you didn't – you couldn't make those choices is what you're saying?

A Couldn't.

Q You wish you could; right?

A Yes.

Q Or you would have done something different, wouldn't you?

A Possibly.

Q You would have helped him, got him out of there?

A Possibly.

Q In fact, you said it's reasonable to believe – you told me in the deposition,

reasonable to believe that his situation with psychosis was caused by confinement, didn't you?

A Stressors pertaining to confinement, yes.

Q For seven months he was in prison when all those stuff occurred, wasn't he?

A Yes.

MR. ROZZI: I have nothing further.

THE COURT: Ms. Diener.

CROSS EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MS. DIENER.

Q Dr. Wala, these policies that you most recently identified and acknowledged, those have effective dates of April, 2022, so these policies would have been in place when Richard Allen was in Westville; correct?

A Yes.

Q So to the extent that they comply with whatever came out of the lawsuit, the adjustments had already been made before he was there?

A Yes.

Q With regard to your notes and your documenting, I believe in the deposition you said you would take notes and, in fact, if there was a particular note that you made that was a quotation, it appeared in your behavioral health suicide observation record in quotation marks; is that correct?

A Yes.

Q Is there any reason to think that you would have had something in a written note, that you felt important enough to write down, that you did not then enter into the record-keeping system?

A No.
Q So the destroying of your notes was destroying a duplicate?
A Yes.
Q And you said that you felt like it was not a good idea, in your testimony, to have it floating around; is that correct?
A Yes.
Q So by putting it into the system – what do we call that system?
A Electronic medical system or record.
Q By putting it in there, it was more protected than a piece of paper that you might put in a locked file cabinet in your office; is that correct?
A Correct.
Q Do you have a locked file cabinet in your office?
A No.
Q You're expected to use the electronic case system for medical records; correct?
A Yes.
Q Okay. And did you prepare your behavioral health suicide observation records from your daily visits with Mr. Allen the same day that you visited with him?
A Typically, yes.
Q On occasion, there might be an addendum you would do on a different day; is that correct?
A Yes.
Q Okay. You've made reference to a consent for treatment and limits for confidentiality in your testimony and the belief that Dr. Primeau – is that how

you say it?
A Yes.
Q That's spelled P-R-I-M-E-A-U.
A Yes.
Q -- at RDC would have gone through those –
A Yes.
Q -- with Mr. Allen? And then, what would have been the limitations on you going through that with him again?
A I may have done it, I just don't remember.
Q Is it – is there any reason there would be the document printed with your name and a date, but no signature from Mr. Allen? Would he do an electronic signature or how would you do that?
A Can I see it?
MS. DIENER: May I approach the witness, Judge?
THE COURT: You may.
Q I'll show you what's marked as Exhibit 9, it's a two-page exhibit. Can you identify those?
A So this is the one that was signed at RDC with Dr. Primeau. Okay, so this one, I did go over it with him. They – this would be something that you'd find in his paper chart, and this is the one they have us generate in our system, just to kind of place the date of when we would have collected it, so there really should be another actual one with my signature somewhere.
Q But for clarification: The front page is the one with Dr. Primeau at RDC?
A Yes.
Q And it is signed?

A Yes. And then, this one was on 11/8 by me, so that's the date I would have talked to him about it and likely put some note in –

Q His file?

A -- possibly another intake.

Q So seeing this document caused you to believe that you went through it with him on the 8th of November?

A Yes.

MS. DIENER: Move to admit Exhibit 9.

STATE'S EXHIBIT 9 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 9 is admitted.

STATE'S EXHIBIT 9 ADMITTED

Q I'd like to show you what's marked as State's Exhibit 10, it's several pages, it's one of your reports from November 10, I'll give you a chance to look at that. You done reading that?

A Yes.

Q Okay. And on 11/10, did you talk with Mr. Allen about disclosing facts about his case? In the middle of the paragraph?

A Yeah, I see it.

Q "This writer recommends he not speak about his case to anyone except his attorney, but made it clear it was appropriate to accept help with coping with the mental health symptoms he is experiencing as a result of his circumstances"; correct?

A Yes.

Q So that's your role; correct? To help him with his mental health –

A Yes.

Q -- and his circumstances?

MS. DIENER: State would move to admit Exhibit 10.

STATE'S EXHIBIT 10 OFFERED

THE COURT: Any objection?

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 10 is admitted.

STATE'S EXHIBIT 10 ADMITTED

Q So you don't need to know about the details of his case to offer him mental health services; correct?

A No. Correct.

Q So would it follow that you would not ask him about the circumstances of his crime, whether he committed it, if he did, what the details were?

A No.

Q Okay. Now, there were lots of questions early on about the conditions of his confinement and the small space that he had to move around in. You're familiar with it; correct?

A Yes.

Q And is it correct that, early on, Mr. Allen made the best of things and he would exercise in his room, he was reading, he was walking around his room for exercise; correct?

A Yes.

Q Taking care of his daily – I'm not sure what ADLs stands for.

A Activities of daily living, so just bathing, brushing your teeth, keeping yourself clean, eating.

Q And those are things that you, as one of his providers, would watch to determine his needs; correct?

A As much as I could.

Q Okay. Well, you were there daily most of his stay; correct?

A Yes.

Q Except for weekends?

A Right.

Q Did he also have someone either from mental health or from staff – custodial staff that would meet – or stop by and see him twice a day? It was on a restricted housing unit log?

A Right. So it just depended on where he was at. If he was on suicide watch, obviously he's already getting daily visits, so there wouldn't be extra visits on top of that. If he wasn't on suicide watch, then yes, someone would come and see him.

Q Every day?

A At one point, it wasn't every day anymore, when he was completely off of it, but at least weekly.

Q Okay. During the time from –

A About –

Q -- March to July?

A It was more like December to beginning of April is when he kind of – he wasn't on suicide watch, so –

Q Okay.

A -- we didn't have all the extra stuff going on.

Q Okay. So those – that was an extra added when you felt he needed it?

A Um-hmm, yes.

Q Okay. There is a note from early on in his time at Westville, November 3rd, that indicates that Dr. Primeau gave the mental health order for constant suicide watch due to high-profile nature. Is that what you're familiar with as far as his restrictions?

A Right. So that's how he came to us. He was at RDC for one day, I believe. She provided those orders and he arrived with those orders.

Q So would constant watch account for all of the supervision while he was being moved; is that correct?

A And, you know, it's constant suicide watch that we implemented.

Q Okay. And that was for his safety; correct?

A Yes.

Q And when he arrived at Westville, it appears that you also did a bit of an intake with him, asking about his history, his employment, his education; is that correct?

A Yes, yes.

Q And what do you recall about Mr. Allen's background?

A Married, has a daughter, worked at CVS, usually held managerial positions, made good financial decisions. He told me he owned his house, had two cars.

Q Okay. And when he was initially on the unit, he did not – well, he always had a suicide companion; is that correct?

A He did.

Q Okay. And you said you had some problems or frustrations with the inmate companions; and what, specifically, did you have an issue with?

A At what point in time?

Q Well, the inmate companions were only there for the first few months; correct?

A The – no, they were there the whole time. So on our end, for suicide watch we used them for the first month, but even after that was discontinued, administrative staff kept them on to just be there.

Q Okay.

A In terms of problems, as was previously mentioned, I think some of them were spreading information to their families.

Q We don't know what that information is, do we?

A Not necessarily, no.

Q I mean, it –

A I do know how much specific it could be aside from, "This guy's here," you know.

Q Right. We certainly don't know if it was details about his case?

A Right.

Q You don't have any reason to know that?

A No.

Q We've heard testimony that suicide companions are instructed not to engage with Mr. Allen. Would you agree that that is expected?

A It is.

Q And when it's changed to officers, did you see issues with officers, that they would engage and, if so, what does that mean?

A Well, that is outside of my control. We can't stand and watch them, you know, all hours of day and night, so –

Q Did you ever see them engage?

A Not more than normal. I mean, sometimes they'd be delivering a tray of food or some – you know, nothing out of the ordinary.

Q So when – and when I say did they engage, if they say, "Mr. Allen, here's your food tray" –

A Right.

Q -- is that engaging?

A Well, it is –

Q Okay.

A -- but –

Q But that's not a violation, is it?

A No.

Q Okay. They need him to come get his tray?

A Yes.

Q Okay. If they come for medication delivery, that's engaging, but it's not necessarily detrimental or against the rules, is it?

A No.

Q And when you would arrive on the unit, would you review – it seems that you make reference to reviewing suicide companions' –

A Yes.

Q -- notes to inform yourself about how he's being doing.

A Yes.

Q Do you – did you rely on that information to some extent?

A To some extent.

Q Did you have – you're aware that suicide companions were documenting

him making confessions; right?

A Yes.

Q You would see those when you came on the unit?

A Yes.

Q And did you ever see a situation where a officer companion or inmate companion was engaging with Mr. Allen in an inappropriate way in order to solicit a statement?

A I didn't witness that.

Q You talked about, in response to questions, receiving an inquiry about someone associated with ISP wanting to talk to Mr. Allen; do you remember that?

A Yes.

Q Was it your understanding they wanted to talk to Mr. Allen or to you?

A I think to me.

Q And so you asked Mr. Allen if it was okay for you to talk to them if they had questions about him; correct?

A Right.

Q Okay. And you didn't know where this person was from. They didn't contact you directly, did they?

A No.

Q And so where did you get your information from?

A I honestly don't have too much memory of that. Someone must have passed them along to me and I thought it was strange and I asked what I should do. And I'm assuming they just said to go ask him if he wants me to talk to this person.

Q Okay.

A But I think when we – when he said no, I agreed and that I shouldn't.
Q And it was actually someone by the last name of Goldberg you said – Goldenberg, and your document indicates that it's a forensic psychologist; correct?
A Um-hmm, yes.
Q Do you recall that?
A Yes.
Q So it could have just been to have a conversation on a professional level?
A And, obviously, still inappropriate, so –
Q And you didn't do it?
A Right.
Q You were asked about the out-of-cell cubicle where sessions occur.
A Yes.
Q It was referred to as a cage. Is that what you call it?
A Yes.
Q Okay. Is that what inmates call it?
A I don't know.
Q Okay.
A Some of them might.
Q Is it – and you said it was the same as there is at Wabash Valley Correctional Unit?
A It's not the same.
Q Oh, I thought you said it was the same. What's different?
A This is basically a room, it is triangular shaped, and as opposed to having two individuals sitting on stools real close together at a small table, they put a

gate kind of separating the space into two, so one person will be behind the gate and then we'll be out here.

Q And which one has the gate?

A The incarcerated individual goes inside the gate and they lock them in there.

Q But which facility has the gate, Westville or –

A Oh, Westville does.

Q Okay.

A The one at Wabash was some other – it was just this structure that was just standing and I didn't use that one when I was there with him, but I've never seen one like that.

Q Okay. It was a freestanding –

A Yeah.

Q -- room? And did it provide you privacy to talk with Mr. Allen?

A The?

Q The facility at Westville when you were his treating –

A Yes.

Q -- psychologist.

A Yes.

Q I just want to touch on this, even though it seems out of context, but for the purposes of the statute we're addressing today, are you a certified psychologist with the State of Indiana?

A Licensed.

Q Licensed?

A Yes.

Q Before the beginning of April, when Mr. Allen got his legal documents, would you consider him to have been stable at that point?

A Relatively stable, at his baseline, at least. I mean, obviously, he was depressed and unhappy about being there, but not much beyond that.

Q He was eating?

A Yes.

Q Was he taking his meds?

A Yes.

Q Was he taking care of himself?

A Yes.

Q Was he exercising?

A Yes.

Q Was he reading?

A Yes.

Q Using rec and shower?

A There was always like – there were always discrepancies, because he refused those, so I couldn't tell you how many times, but he would go out at times.

Q When you saw him, he was clean?

A Yeah.

Q Okay. He was able to carry on a conversation?

A Yes.

Q And so his baseline is depressed and anxious; would you agree?

A I'd say so.

Q Well, you saw him very, very frequently for a whole year, so I guess I'd

defer to you, is that his baseline?

A Yes.

Q On April 3rd or 4th of 2023, he received his legal documents; do you recall that?

A Yes.

Q And would you say it was a large volume of documents?

A That's what I was told.

Q Oh, you did not see them?

A I didn't.

Q Okay. I'm not saying did you see the content of them. Did you –

A I didn't – I didn't see anything.

Q Okay. Oftentimes, you went to his door to speak with him, to see if he would want to come out for a session?

A Yes.

Q Would you use that opportunity to observe whether he was taking care of his daily living?

A Yes.

Q And on the 4th of April, his circumstances changed significantly; is that correct?

A That's correct.

Q And he – you made notes about your observations with regard to what was different about him and about recent events; do you recall that?

A Yes.

Q And what do you recall about it?

A My understanding is that he was presenting bizarrely, his thought process

was disorganized, his speech was disorganized, there was a change in his presentation.

Q Did you also note that he had just had two visits from his counsel, his attorneys, so you felt that that contributed to what was happening with him, at least potentially?

A I think we believed that at the site, that it may have caused it, because it was a major event that happened just prior to the change.

Q And so the bizarre behavior resulted in him going back on suicide constant watch; is that correct?

A Yes.

Q Your report from that day also indicates that, on that same date, he had stared confessing to other staff?

A Yes.

Q And you documented those things in your notes, as well?

A The quotes were from the companions, the logs.

Q I'll show you Exhibit 11, your (inaudible)?

A Yes.

MS. DIENER: State would move to admit Exhibit 11.

STATE'S EXHIBIT 11 OFFERED

THE COURT: Any objection?

MR. ROZZI: No, ma'am.

THE COURT: All right. Without objection, 11 is admitted.

STATE'S EXHIBIT 11 ADMITTED

Q Prior to April 4, did Mr. Allen also share with you that he had found God?

A I don't know when he started talking about God; although, at our initial

intake, he said that he wasn't really religious, and then it did end up progressing into a strong belief in God, but I don't remember when it started.

Q I'd next show you what's marked as State's Exhibit 12, your document from April 5. You have a chance to review it?

A Yes.

Q Okay. On April 5, you have some quotations under "patient complaint" – and I guess, for the Court's knowledge, I'd like to talk about the nature of the report. The report always starts with a paragraph at the beginning about the last change in his status; is that correct? The first paragraph references back to April 4?

A Right, the reason for placement.

Q Okay. And then, patient complaint is where you document the statements or conversations or clinical impressions that come from a particular date of the report; is that correct?

A Yes.

Q Okay. And this was an out-of-cell session, so there would have been confidentially for Mr. Allen?

A Yes.

Q And he makes very specific statements about the facts and circumstances of the charges that are pending; is that correct?

A Yes.

Q How would you begin your sessions to engage Mr. Allen in conversation –

A Yeah, I mean –

Q -- to be helpful?

A It's pretty much just I kind of put it on him, "So how are you doing? What's

new? What's going on?" And then just see where he takes it.

Q Okay. And if his behaviors were not acceptable or not in his best interest, you might ask him about those, as well?

A Yes.

Q Okay. But was it ever your intention to say, "Hey, did you commit the crimes that you are charged with" or "What happened" or "What are the details?"

A No.

Q Okay. And so did you avoid that on this particular day, as well?

A Yes.

Q One of the things that you also indicated on here was – and I'll – paragraphs – in the fifth paragraph of "patient complaint", that he shared with you that he took God into his heart on March 21st of 2023?

A Yes.

Q So very recently?

A Yes.

Q Does he relate his new interest in religion to his statements to you about committing the crime as if they are related for him?

A I don't think so. Well, the very last line there.

Q Okay. So he makes reference to the crime and then ties that to his belief in God and what he wants to do with his Bible, does he not?

A Yes.

Q Okay. And taking into consideration that his mental health status has an impact on how the Court or the jury may view his statements with regard to voluntariness, you were also making observations or clinical conclusions about different aspects of his mental health; is that right?

A Yes.

Q So on the – page four of five, you specifically note "Anxiety, significant and improved; depression, significant and improved; suicidality, not significant. Patient symptom reports appear questionable." When you say patient symptom reports appear questionable, what does that reference?

A So –

MR. ROZZI: Sorry. Where were you referencing on the document?

MS. DIENER: Oh, it's page four of five.

A Under "assessment".

MR. ROZZI: Page four of five? Thank you.

MS. DIENER: Yes.

A So that's a checkbox, so I'd have to reference the body of my note to see why I would check that. It just looks like his affect was all over the place that day, from crying to smiling. He also mentioned memory lapses and already said that he might not remember the following day's dates. He was tangential and, again, he was just sharing various information with little prompting from me.

Q But when you add – excuse me, I (Inaudible) apologize – "Patient symptom report appears questionable", are you questioning –

A Whether it's genuine.

Q Okay. And you continued to make those observations about him –

A Yes.

Q -- throughout April and May; is that correct?

A Yes.

Q And so when he's behaving bizarrely, is that a patient symptom report that

you're questioning?

A Yes.

Q In fact, over –

MS. DIENER: State would move to admit Exhibit 12.

STATE'S EXHIBIT 12 OFFERED

THE COURT: Any objection?

MR. ROZZI: No.

THE COURT: All right. Without objection, then 12 is admitted.

STATE'S EXHIBIT 12 ADMITTED

Q In fact, over the course of this period of time, you make statements that you have concerns that he is feigning symptoms, do you not?

A At times, yes.

Q And in many of those reports, it would say "psychotic symptoms unclear or not present"; correct?

A Yes.

Q And in reviewing the reports, I found only one that says psychotic symptoms are clear; does that sound inconsistent with your observations of Mr. Allen?

A So I don't know if that would be closer to the date where he received the injection.

Q It is.

A And at that point, we decided that the situational psychosis diagnosis best explained what we were observing.

Q Okay. We'll come back to that and how it was addressed. Let's talk about a couple more reports. I just want to read you part of one on April 7 that you

prepared and it says that he inquired from this writer about whether he was confessing to things and asked what he confessed to, and you informed him and told him it was not in his best interest and likely against advice of his attorneys to continue to verbalize his claims of guilt, as the information could be passed on by other incarcerated individuals to their families or the media; is that correct?

A Yes.

Q Okay. And under the clinical observation that day, you said, "Allen appears to be more blatantly feigning symptoms of confusion and memory loss and purposefully behaving in a bizarre manner." Would that be based on his verbalizing a lack of memory and then being oriented to person, place, time, and situation on the same day?

A Yes.

Q Okay. There was some discussion about him being allowed to go to rec, even when he was on suicide watch, and you tried to provide that for him; is that correct?

A Yes.

Q But there was a specific date, on April 12, '23, where a note indicates that, despite wanting to give him rec, you then had to withhold it because he was refusing to come in from rec; do you recall that happening?

A I mean, it – if I wrote that down, that's what happened.

Q Okay. So his behavior, at that point, was affecting his restriction, not necessarily that he wasn't being permitted?

A Right. I mean, it would give Custody a problem, they'd have to do things to get him back in the cell, and nobody wants to go through that, so –

Q Okay. Now, there were times when you were present for him making statements about his crime, some of which were very specific and it was not in your out-of-cell cubicle; correct? For example, when Dr. Martin was asking him if he would accept medication.

A Right.

Q Do you recall that?

A I'd need more context for that –

Q Sure.

A -- encounter.

Q Show you what's marked as State's Exhibit 13.

A Okay.

Q Does that refresh your memory?

A Yes.

Q And so even on that day, you were not certain whether it was psychosis or feigning behavior; is that correct?

A Correct.

MS. DIENER: State would move to admit Exhibit 13.

STATE'S EXHIBIT 13 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 13 is admitted.

STATE'S EXHIBIT 13 ADMITTED

Q Now, this is around the time that he receives an involuntary injection; correct?

A It looks like it. Was that the one that said we were trying to let him know that was gonna happen?

Q Yes.
A Yes.
Q So you offered him to take the injection, Dr. Martin was there; is that correct?
A Yes.
Q And there would have been some nursing staff in the room?
A Yes. I mean, he wouldn't get the injection in his cell, so they would have had to remove him and take him to another area.
Q Okay. But he was in a situation of being moved by staff, being video –
A Um-hmm. (Affirmative response)
Q -- recorded, and he was making statements about his crime, and he was being asked if he wanted medication, which he declined?
A Yes.
Q Okay. And then a meeting occurred; is that correct? For approval of –
A Yes.
Q -- involuntary medication?
A Yes.
Q And so the next day, he received that injection?
A Most likely the same day or the next day.
Q Okay. If the record indicates that it was Haldol, are you familiar with that being the course of treatment?
A Yeah, that sounds right.
Q And since you're a psychologist and not a psychiatrist, I don't want to ask you a question outside of your professional expertise, but are you familiar with Haldol being used in a situation such as this where someone is behaving

bizarrely and having difficulty in confinement?

A Yes, almost always.

Q Okay. What impact did you observe Haldol having on Mr. Allen?

A If I'm remembering correctly, I still don't think he was sleeping very much. Afterwards, I think then he got an extra oral Haldol to take at night.

Q And did the Haldol have a positive impact or a negative impact on his ability to communicate with you in sessions and work toward better mental health?

A There were definitely days where it was not much, the engagement, at all. He may have been overmedicated; but eventually, things got better.

Q Well, the logs would indicate that he slept for a couple of days, so was that what you mean by overmedicated?

A Well, yes and no. I wasn't thinking about the times when he would come in and not have much to say or just not having any interaction.

Q Okay. So if he declined interaction, you might have thought that came from Haldol?

A Possibly.

Q It certainly made him sleep –

A Yes.

Q -- would that be fair to say?

A Not initially, but yes, later.

Q Okay. If I indicated to you that the suicide companion logs indicated that he slept quite a lot for the next couple of days, do you have any reason to dispute that?

A My only concern would be that Mr. Allen would say that he was just laying

there, so I don't know how they would be able to distinguish between laying there and sleeping.

Q Okay. With regard to his medication, is it your understanding that he received Prozac, which was the same medication he was receiving for his depression prior to admission at Westville?

A Yes.

Q And did you see any significant changes in his medication?

A With the exception of the additional Haldol at one point – I guess he wasn't sleeping – I don't remember any other changes, I think he just stayed on the Prozac.

Q And would he refuse medication? Do you have any knowledge of that?

A It's possible. I don't recall anything significant where he would just never take it, but there are probably some days here and there where he wouldn't.

Q Okay. How much interaction did you have with Dr. Martin?

A Dr. Martin would come to our site maybe once a week, so I'd see him once a week.

Q And would you and he consult with one another about Mr. Allen or was that not necessary?

A We did talk about Mr. Allen. Again, Dr. Martin would be with the larger group, as well, and I would attend those MDT meetings –

Q Okay.

A -- as the prescriber, obviously. But I tried to give him updates, too, like especially when Mr. Allen was complaining about his sleep.

Q Other than Mr. Allen refusing medication sporadically, was there a change in prescribed medication that was intended to induce him to give statements?

A I don't think so.

Q Did you observe Mr. Allen to improve after the Haldol injections started? I know you said that they were weekly, I think you said.

A I don't think they were weekly. He did improve and, eventually, he was just taken off the Haldol injection, it was pretty quick.

Q Okay. So did Mr. – Mr. Allen, had a period of time where he was refusing meals; would you agree? And lost significant weight?

A To the best of my – some of these things I don't remember too much in detail. Yes, but he didn't want to miss more than four, because then he'd start getting tracked by central office.

Q Okay. Did you have conversations with him about the reasoning for his missed meals?

A Yeah. I want to say it was something about controlling his circumstances and even just losing weight and getting healthier.

Q And when he came in, I believe he was described as obese; correct?

A Yes.

Q And when he engaged in this practice of fasting or skipping meals, then did you ever see him at a weight that was concerning?

A I think he got to a healthy weight, but then when – during that April time period, he really wasn't eating much. I don't know if they were able to track it. If things were being thrown into the toilet, they wouldn't know one way or the other how much he ate. That's when he lost a lot more weight.

Q And then he stabilized?

A And then he – yeah, he regained the weight.

Q Okay. In fact, did he seem to be rather pleased with himself that he had

lost weight, like, "I've never gotten to this weight before, I'm pretty happy with myself"?

A I don't remember.

Q Okay. I'll show you State's Exhibit 14, it appears to be your report from May 2nd of '23. In your report for May 2nd of 2023, Mr. Allen is communicating quite a lot that particular day, is he not?

A Yeah, he had a lot to say that day.

Q In fact, you make reference to writing your report and putting it in categories of concerns or topics he wanted to talk about?

A Yes.

Q And in that particular report, does he talk about why he would not kill himself, but also make reference to committing the murders that he's charged with? Paragraph entitled "Death, suicidality, and murder"?

A He's saying that other incarcerated individuals are telling him to kill himself, "Is it okay to kill myself?" He stated he did not want to die. When asked how he would kill himself, he stated he would climb up on the sink. "I killed myself by killing my entire family and best friends. I'm not going to kill myself, I'm too much of a coward."

Q You also put in there "metaphor", like after the phrase.

A Because, I mean, he didn't kill his entire – he didn't literally kill his family and best friends, but yeah.

Q So you were interpreting that to be a metaphor?

A Yes.

Q You also note, on page 3 of 5, under "Additional clinical observations", that he does not appear – I'm sorry, page 4 of 5 – that his anxiety is significant and

his depression is significant, but impulse control, psychotic symptoms, and manic or mania behavior are not significant; correct?

A Correct.

Q I'm gonna show you what's marked as State's Exhibit 15 –

MS. DIENER: The State would move to admit Exhibit 14 she previously testified to.

STATE'S EXHIBIT 14 OFFERED

THE COURT: Any objection?

MR. ROZZI: No, ma'am.

THE COURT: All right. Without objection, 14 is admitted.

STATE'S EXHIBIT 14 ADMITTED

Q Are you familiar with that document?

A Yes.

Q And that is an MDT –

A It is.

Q -- report prepared by you, is it not?

A It is.

And the only thing I want to ask you about this is: On this particular document that's dated May 2nd at 3 p.m., you note psychosis appears to have remitted; is that accurate?

A Yes.

Q That would be a collective conclusion from this meeting?

A Yes.

MS. DIENER: State would move to admit Exhibit 15.

STATE'S EXHIBIT 15 OFFERED

THE COURT: Any objection?

MR. ROZZI: To 15?

THE COURT: Yes.

MR. ROZZI: You mind if I just take another quick look at that, just 'cause I don't have a copy?

THE COURT: Yeah, sure.

MR. ROZZI: I kind of just took a brief look.

THE COURT: Any objection?

MR. ROZZI: No, ma'am.

THE COURT: All right. Without objection, 15 is admitted.

STATE'S EXHIBIT 15 ADMITTED

Q Next show you what's marked as State's Exhibit 16. Did you have a chance to review that?

A Yes.

Q Okay. And that is for the date of – what date is that report?

A May 3rd.

Q May 3rd. Okay. On May 3rd, again you're seeing Mr. Allen in the counselor cubicle; so that's confidential; correct?

A Yes.

Q Okay. And on this particular day, Mr. Allen asks for your assistance to call his wife; is that correct?

A Yes.

Q And how did you assist him, if at all?

A We were able to obtain a cordless phone, figure out the phone number list, and assist with dialing all the numbers.

Q Okay. And then, you make reference that – he didn't get to talk to his wife, did he? On that particular day?

A I guess not – oh, yeah, she did not answer.

Q Okay. At this point – and maybe you don't recall – did Mr. Allen not have his tablet?

A Right. That would have been the reason why he couldn't reach her on the tablet.

Q Okay. Because he didn't have one? Because it was broken?

A Broken.

Q Okay. So this is during the waiting period of getting a new one; is that right?

A Yes.

Q And did you help facilitate him getting a new one with the warden?

A I think he got one on the very last day before he went to Wabash, so yeah, it just took a minute.

Q If reports would indicate he had tablet access even within like a week, do you recall that?

A Well, now I don't know what I'm thinking of.

Q Okay. Is it possible it was broken twice?

A I don't know.

Q Okay.

A No.

Q Okay, we'll move on.

A It's possible, but –

Q On this particular day, you start with, "He moves on to telling his story"

and you document, with included quotations marks to some extent, the details of his day on what appears to be the day of the crime; do you agree?

A Yes.

Q And again, that was from you taking detailed notes and then putting them into the medical record system; is that correct?

A Yes.

Q Did you ask Mr. Allen to tell you about the allegations?

A No.

Q And I know I only pointed out a couple of times where you told him not to talk about his crime –

A Right.

Q -- so did you feel like it was clear to him that it wasn't a good idea for him to talk about it?

A I think he was aware.

Q Okay. You indicate in clinical observations that, although he was confused about Easter and whether it had already happened or not, that aside from that, he presented as more organized that he had been since his placement on suicide watch; do you agree with that?

A Yes.

MS. DIENER: State would move to admit Exhibit 16.

STATE'S EXHIBIT 16 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 16 is admitted.

STATE'S EXHIBIT 16 ADMITTED

Q During this time when he was struggling and confessing, was he also

talking about a transfer to Logansport State Hospital?

A He was.

Q And you had multiple conversations with him about that?

A He brought it up a few times.

Q And you actually referred him to counsel; correct? You said, "Talk to your attorneys about it"?

A Right, yes.

Q Okay. Did you also document it as a potential secondary gain for which he might be misbehaving or acting up or having psychotic symptoms?

A Yeah, that was another thought.

Q Okay. It's very possible?

A Yes.

Q Just as possible as being psychotic?

A Yes.

Q Show you what's marked as State's Exhibit 17, it's your notes from 5/10 of '23.

MR. ROZZI: We're at 17; right?

Q Have you had a chance to review that one?

A Yes.

Q Okay. On that particular day, you see him out of cell, as well; correct?

A Yes.

Q And the arrangements are made for a cordless phone again?

A Yes.

Q And you assist him with contacting his wife again; is that right?

A Yes.

Q On this particular day, does he reach her?
A Yes.
Q And do – you step out of the room –
A Right.
Q -- to give him privacy? And upon coming back in, what happens?
A He said he wanted to call back to tell his wife he did it and then he said to me, "I want you to hear this, so you can understand."
Q Okay. Did he proceed to call his wife again?
A He – yes.
Q And did he confess to her regarding the crime that he's charged with?
A Yes.
Q And from only seeing one side of the interaction with his wife, did you express an opinion about how she received that information?
A I thought she –

MR. ROZZI: Judge, I'm gonna – may I ask a preliminary question?

THE COURT: Yes.

MR. ROZZI: Did you talk to his wife?

A No.

MR. ROZZI: Okay. Did he tell you what her reaction was to any of this?

A He made a statement.

MR. ROZZI: Okay. All right. I'll withdraw –

Q What was – oh, I'm sorry.
A The statement was, "She doesn't believe me."
Q He makes other statements, in addition to that, that are contained in your

report; correct?

A Yes.

Q And then, in conclusion, under "Assessment", you note, "Psychotic symptoms are not significant and he's responding to treatment and he's compliant with treatment"; is that correct, also?

A Yes.

MS. DIENER: State would move to admit Exhibit 17.

STATE'S EXHIBIT 17 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 17's admitted.

STATE'S EXHIBIT 17 ADMITTED

Q I'd like to talk about the potential stressors that relate to the diagnosis, the brief psychotic disorder with related stressors, one of them was the conditions of being confined as a person who has no criminal history; correct?

A Correct.

Q Some others that we discussed in deposition, as I recall, and I guess I'm asking if you recall these, as well, so correct me if I'm wrong, is that he was either not communicating with his family or couldn't communicate with them?

A Right. So when –

Q Because he felt they didn't want him to?

A Yeah, I think he went back and forth with different reasons, but yeah, the lack of being able to communicate with them consistently.

Q Did it coincide with him making confessions to the crime and the difficulty that creates?

A I don't know.

Q Okay. Did he also express that he didn't feel like he had enough communication with his attorneys and that was a related stressor?

A He had mentioned that.

Q Did he also express that he couldn't choose God over his family? Do you recall that?

A I'm sure he said it, if I wrote it down. I'm not sure how to interpret that one right now.

Q Okay. I'll ask it another way. Mr. Allen had a period of time where he wanted to confess and he was confessing to a lot of people, would you agree?

A Yes.

Q Not just you, but to door companions; right?

A Yes.

Q In the presence of Dr. Martin, even though he wasn't asked about his crime?

A Yes.

Q To his wife in your presence?

A Yes.

Q During movement within the jail while being recorded; were you aware of that?

A I think so.

Q Okay. And did he talk with you about how finding God was impacting his dealing with making confessions? Did he talk to you about that?

A Um-hmm, finding God was something that seemed to comfort him.

Q Did he express that he wanted to make things right?

A Yes.

Q And did he say, "I want to make things right by being honest"?
A I don't know. I don't know if he said that.
Q Did your personal interest in this case from an entertainment standpoint negatively impact the services you provided to Mr. Allen?
A I don't believe so.
Q Did your curiosity about Kegan Kline have a negative impact on the services you provided to Mr. Allen?
A No. They're unrelated.
Q Did you write down confession statements that he didn't say because you had a personal interest in the outcome of this case?
A No.
Q Do you believe that entering your notes into the document management system that's secure is the best way to keep those records safe?
A I think so, but I'll look into this.
Q The conditions of his confinement, except for on constant watch or close watch, did they remain the same outside of those changes with regard to whether he had his own clothing or suicide smock, whether he was on constant versus close?
A Yeah, it was all pretty much the same thing, he was gonna live in that location, that wasn't going to change.
Q Okay.
A It was just about, at different points in time, what he was allowed to have in there versus not.
Q And so once he went through that period of brief psychosis with related stressors, he – the rest of his time there was very much like the time before –

A Yes.
Q -- April?
A Almost, not quite. I feel like –
Q Okay. How was it different?
A -- there was still some residual symptoms maybe, particularly he mentioned the memory issues; but then there were days where he did seem like more like himself.
Q Okay. But he also tapered off on participating in sessions with you, did he not?
A I believe so. We also expanded the amount of people he could see, so he could see a masters-level therapist and a bachelors-level therapist, whether during rounds or – those were usually rounds, but just to have other people to talk to, since we couldn't provide any other outlet in that way.
Q Okay.
A But I'd still check on him.
Q The social media post that you made that you were presented with –
A Yes.
Q -- that was specifically asking you what channels you preferred for watching on YouTube; is that correct?
A Yes.
Q And did you ever post anything about the facts of this case or Mr. Allen?
A No.

MS. DIENER: I'd pass the witness.

THE COURT: Mr. Rozzi.

QUESTIONS BY MR. ROZZI.

Q You agree you shouldn't have posted at all?

A Are you asking?

Q Yeah. You should not have been posted at all, should you?

A No.

Q And you should have not been following his case for entertainment purposes while you were treating him, should you?

A I don't know. I don't think it affects – you know, knowing about a case does not affect how we treat a person.

Q Okay. But would you do it again? Would you do it the same way?

A No, I wouldn't do it the same way.

Q You're separate your personal stuff from your professional stuff; right?

A Yes.

Q There were some questions early on about you taking notes and how you were memorializing them, just want to make sure I'm clear about that. Your session notes were destroyed, we've already acknowledged that; right?

A Yes.

Q Those could have been given to Internal Affairs and secured; right?

A I guess. I mean, it's nothing –

Q That'd be one way – I'm sorry, go ahead.

A It could be something we can do. It's never been done.

Q Do you ever give anything else to Internal Affairs to secure?

A I usually pass along letters, things maybe threatening towards us or other people, but not necessarily notes that we write.

Q All right. Do you – how often do you get log sheets from the warden?

A What kind of log sheets?

Q The door sheets from the guards when the guards filled them out?

A They keep those on the pods, so I'd have to actually go there and seek them out myself.

Q But did the warden ever direct those to you to maintain for him?

A No. Us turning in – so if you're talking about the companion sheets –

Q No, I'm talking about the guard sheets, but I'll ask you about the companion sheets, as well.

A Okay. So the guard sheets will be – are you asking about things like where they're noting shower, rec, things like that, or are you just – their rounds, when they watch him?

Q Fair enough. Let me withdraw the question and try to be a little bit clearer. We've all acknowledged here today that there were guards that were filling out – that were assigned to Rick's cell that were completing these log sheets; right?

A Yes.

Q Did you process any of those?

A If he was on suicide watch, if it was – any of the time periods where he was on suicide watch, those would go to his medical record, so we'd obtain them, put them in his medical record. If they were during a time where he was off suicide watch and was more administratively watched because that's what they wanted, I'd give them to the unit team manager.

Q So you processed them in both occasions?

A Umm –

Q Well, the first occasion, they went directly to the medical file; right?

A Um-hmm, yeah.

Q But you're saying in the second circumstance, when he was not on suicide watch, they went to the unit team –

A The unit team manager, 'cause I recall her having a binder where she was keeping them.

Q Who's that? Is that Ms. Cornett?

A Yes.

Q Do you know what she did with them?

A I don't know.

Q Did the warden himself ever ask you to secure records regarding Rick Allen for him?

A No.

Q Him being the warden.

A No.

Q Okay.

A They moved them to medical records.

Q With respect to Exhibit Number 9, this is the consent that was signed down at RDC, are you generally familiar with this document?

A Yes.

Q Okay. Do you agree –

MR. ROZZI: I'm sorry, may I approach?

THE COURT: You may.

Q Do you agree that the scope of the consent that's referenced on this document pertains to basically things that would happen at the prison –

A Yes.

Q -- right? Like if he tells you somebody's gonna commit suicide, you gotta

disclose that; right?

A Right.

Q Or if he tells you he's gonna commit suicide –

A Right.

Q -- you gotta disclose it; right?

A Yes.

Q If somebody's dealing drugs – you said this earlier.

A Right.

Q You gotta disclose it. It doesn't say anything about the statute relating to a homicide cases?

A No.

Q If somebody comes to you, a patient comes to you and says, "Hey, I know something about a murder," that's not referenced?

A No.

Q It actually also says that or it makes the reference here in the middle of the page that group settings are the best mode of treatment or intervention; do you see that?

A Yes. We're –

Q That's an accurate statement when it comes to therapy?

A We've tried to do a lot of them prison, it's rough though.

Q Rick Allen never had any group therapy, did he?

A They're – it's impossible in the way that he's housed.

Q Okay. It would be impossible to just take him out of the cell down to a therapeutic environment and let him sit and talk to some humans?

A I think it would compromise his safety.

Q Have you seen all the handcuffs that they put on him and shackles?
A Other people – if he was just in an open area with other incarcerated individuals.
Q Are you aware of any threats on his life when he was there?
A People shouted whatever they shouted.
Q Well, the people in confinement next to him; right?
A Yes.
Q Telling him to kill himself?
A Yes.
Q Calling him a baby killer?
A Yes.
Q Okay. Are you aware of any reports or anyone threatening his safety?
A No.
Q The last thing I want to note here is where it says "Progress notes regarding your attendance level, participation, and treatment progress will be entered into your health record"; right?
A Yes.
Q They were actually destroyed, weren't they?
A So –
Q The progress notes.
A So that just pertains to the notes that we put into the medical records, the electronic.
Q Well, don't you consider the notes that you're preparing progress notes when you're sitting there in the therapeutic session?
A Yes.

Q Okay.
A Well, so – I mean, again, I can look into this.
Q Well, it's too late, because they're gone; right?
A In terms of do we need to change the process –
Q Okay.
A -- because that's not how we're doing it.
Q Thank you for that. And then, with regard to the questions, there's Exhibit Number 10 – I'm directing your attention to Exhibit Number 10. You may recall that Ms. Diener asked you about the fact that you instructed him not to talk to others about his case; do you recall her asking you about that?
A Yes.
Q But you actually talked to him about his case as it relates to what you were learning on social media, didn't you?
A I mentioned a couple things, yeah.
Q So you didn't follow your own instructions; right?
A It was helpful information.
Q You talked -- Ms. Diener asked you about some of these daily or weekly visits that would occur at his cell block; right?
A Yes.
Q You know what I'm talking about, when you do the routine check-ups?
A Yeah.
Q Those are like 10 to 15, 20-second visits, aren't they?
A Depends on the person.
Q That would be normal, wouldn't it?
A Depends if the person engages with you. Some guys will just say they're

fine and they expect you to go away. Some may talk for a few minutes.

Q Okay. You've never had – well, let me ask you this: Are all those people that would visit with Rick, the masters-level specialists and – are they basically just talking with him through the same crack in the door that you were talking with him through?

A Yes.

Q Okay. Very informal encounters; agreed?

A Yeah.

Q Ms. Diener asked you about these companions and what information that they were communicating outside of their job responsibilities; do you understand that – do you remember that line of questioning?

A Can you clarify?

Q I will. Thank you.

A Thank you.

Q Ms. Diener – do you recall her asking you some questions about what kind of things these companions were saying out in public?

A So –

Q Do you remember those questions being asked?

A Yes.

Q Okay. You don't know what information they were communicating, do you?

A The only thing that I know that came out pretty quickly was somebody made a YouTube video from his – I guess he had called someone on his phone and he's like, "Hey, this guy is here," and it went out on YouTube.

Q They were disseminating this stuff to the whole world; right?

A Yes.
Q And so, ultimately, this was part of the reason, in your opinion, as to why the companions were pulled; right? That's what you told me in the deposition.
A Well, I said too that it was when he had the discovery materials, we didn't want people to view those materials.
Q Right. But it was – you also told me it was the other reason.
A Yeah.
Q 'Cause whatever they was communicating wasn't right; right?
A Right.
Q Or it wasn't appropriate is a better way or putting it.
A Right.
Q When someone is confined in solitary confinement, like Mr. Allen is, is it unusual for inmates in those circumstances to say things to try to get the attention of staff?
A It's not unusual.
Q I mean, that's one of the ways that they get some interaction; right?
A Yes.
Q So you say something crazy and the staff will give you some attention.
A Yes.
Q Correct? These are all kind of the nuances of living in this restricted environment; is that accurate?
A Yeah, accurate.
Q Ms. Diener briefly asked you about the circumstances in Wabash Valley with the cage down there; do you recall that?
A I do.

Q I saw that cage and it reminded me of the cage in *Silence of the Lambs*. You know what I'm talking about?

MS. DIENER: I object, Judge. His reference to his own impression about the cage is not relevant.

MR. ROZZI: Fair.

THE COURT: Sustained.

MR. ROZZI: I'll withdraw the question.

THE COURT: Thank you.

Q Did that cage remind you of the cage that was in *Silence of the Lambs*?

A I don't remember that movie.

Q Okay. Thank you. Ms. Diener questioned you about this early-April – I think she said April 3rd circumstance where Rick got some discovery; do you recall that?

A Yes.

Q You acknowledge that you told me earlier that he actually was starting to communicate some mental health issues and wasn't feeling right in his head even back into March; right?

A It's possible if I wrote that, yes.

Q That's what he told you, didn't he?

A Yes.

Q Okay. So it was weeks before he got the discovery; right?

A Yes.

Q And you don't know what was in that discovery, do you?

A No.

Q You have no idea what was on those papers; right?

A I have no idea.

Q And he had been communicating with his lawyers for six months up to that point, hadn't he?

A I guess. I don't know unless he tells.

Q Are you aware that we visited with him at Westville?

A Yes.

Q Okay. The statements – I'm directing your attention to Number 11, Exhibit 11 and 12, and I'll bring them up if you need to, but these reference activities that occurred on April 4th of 2023, between you and Mr. Allen, and April 5th; does that sound generally accurate?

A Yes.

Q This would have been during the time period when there was later a determination that he could have been suffering from psychosis; right?

A Yes.

Q And when somebody says brief psychotic episodes, that's something that can happen on and off over a period of time; right?

A It would likely end up being a different diagnosis.

Q Okay. But can it happen on and off over a period of time?

A I would argue that it'd probably be a different diagnosis.

Q Very good.

A Can those types of symptoms occur? Yes. And fluctuate over time? Yes.

Q You continued to give him Haldol shots all the way into almost June; right?

A I'm not sure.

Q Those are basically tranquilizers; right?

A Yes.

Q That's kind of a street term?
A Yes.
Q And if somebody was just faking something and they were, you know, doing it to get attention, you wouldn't need to tranquilize them to get them to stop; right?
A I mean, that's the psychiatrist – I mean – sometimes it does help just calm them down, so it's used; but again, we don't use them very often.
Q Did you use those on Rick because he was faking this stuff?
A At that point in time, his – he was deteriorating in terms of taking care of himself, being able to – he wasn't able to communicate with us, he wasn't sleeping, so it was just interfering with every aspect of his life.
Q Literally beating his head into the wall time and time and time again over long periods of time, wasn't he?
A Yes.
Q Running from one end of his cell black and smashing his head into his cell door; is that what was going on?
A I'm – I personally didn't observe it.
Q You heard that, didn't you?
A I heard it.
Q And he had all the physical signs of it, didn't he?
A Yes.
Q His entire face and head was completely bruised, wasn't it?
A Yes.
Q And then, he started eating his own feces?
A Yes.

Q That's why you gave him Haldol, isn't it?

A Yes.

Q With regard to this feigning of symptoms, do you acknowledge that that's actually a circumstance which you can test someone for in the course of your psychiatric testing process; right?

A You can.

Q There's actually ways to kind of cross check whether or not somebody's being authentic or genuine about their behaviors?

A Right.

Q You didn't do any of that in this case; right?

A We don't have the materials to do it.

Q You told me actually, occasionally some interns might bring in some documents –

A We don't have any interns.

Q You don't even have any interns; right? Just crayons and pencils; right?

A Yes.

Q With regard to the Prozac – or the Haldol – I'm sorry. He was taking Prozac; right?

A Yes.

Q Are there different – like a generic form of that? Was there different kinds of – Prozac's a trade name; right?

A Yes.

Q I'm sorry, if I'm – it's a trade name, like a company –

A It is, yeah.

Q Was he taking Prozac or was it some other – do you know?

A I don't know.

Q Like a generic version?

A Sometimes they can do both, switch them off. I don't know

Q Okay. So does that happen at the prison?

A It happens.

Q Okay. Could it have happened with him?

A Could have.

Q He said he lost weight. What was it 30 or 40 pounds in a few months?

A It was pretty significant.

Q When you say he was obese, he wasn't obese to the point where he was dysfunctional when he came; right?

A No.

Q I mean, he's a short man; right?

A Yes.

Q And do you acknowledge that – it's just the chart puts him at obese in terms of where his weight was?

A Yes.

Q Did you have any real concerns about his weight when he was admitted to the facility?

A No.

Q And then, with the tablet, you said it took a minute to get him a new one; right?

A The way that I remember it.

Q And when you say "took a minute", that's kind of a casual phrase for it took quite a long time; right?

A Probably.

Q Months? Months?

A Could be months.

Q He talked to you about going to Logansport State Hospital; right?

A He did.

Q Is there anything surprising about somebody trying to or wanting to get out of a situation like that?

A To be in a more comfortable situation. I believe he also thought maybe family visits would take place.

Q He could get closer to the people that he loved?

A Yes.

Q You mentioned that there were residual symptoms that he was experiencing even beyond what I recall was the July or June –

A Um-hmm. (Affirmative response)

Q -- all the way into the fall – right? – of 2023?

A Yes. It wasn't quite (inaudible).

Q You could – I'm assuming – is it accurate to say that these residual symptoms are a product of being traumatized at some point, of experiencing trauma?

A Could be.

MR. ROZZI: I have nothing further.

THE COURT: Ms. Diener.

MS. DIENER: No other questions.

THE COURT: All right. Thank you, Doctor. You may step down.

MR. ROZZI: She's released from her subpoena?

THE COURT: Released from her subpoena?

MS. DIENER: Agree.

THE COURT: And you are free to go. You're released from your subpoena.

MR. ROZZI: Thank you.

MS. DIENER: Judge, with regard to her testimony, I'd like to ask that all the State's exhibits be sealed because of the nature of the document.

THE COURT: Oh, all the State's exhibits, absolutely –

MS. DIENER: Yes.

THE COURT: -- because they're all medical.

MS. DIENER: Yes.

MR. ROZZI: Yeah, I think we'd agree that what she gives you that's medical, we're just gonna seal it, and what I'm gonna give you, which there's probably a lot of overlap, but I kind of – I agree –

THE COURT: Okay.

MR. ROZZI: -- that that makes sense.

THE COURT: Okay. So we'll just seal those, all of those documents –

MS. DIENER: Yes, please.

THE COURT: -- submitted by the State. Okay. And then, whatever the Defendant submits, as well. Any additional witnesses?

MR. ROZZI: Judge, I just have a couple thumb drives that I'm gonna offer. Basically, I'm done. Judge, I'm not sure how you want to handle this, I submitted to the Court, when I filed the motion to suppress and the memorandum, a thumb drive that you may have in your left hand, and of course,

it's not marked. I brought another copy of the exact same thing today. Do you want to just mark that one and retain that or do you want me to give you the one I have here? They're exactly the same.

MS. DIENER: I thought you already gave the Court a thumb drive with all of these. That was my understanding.

MR. ROZZI: I submitted it when I filed the document –

MS. DIENER: Right.

MR. ROZZI: -- but I'm moving to kind of intro – I guess I'm moving to introduce that today as an exhibit, 'cause it's got all of the – I'm sorry, I'll –

THE COURT: Well, some of the – I think you've attached all of the exhibits, because the thumb drive, I have an issue with our IT people and county not allowing me to just insert thumb drives into my computer without permission, they have to scan them. I think you provided actual copies of everything with your motion.

MR. ROZZI: My paralegal that's been with me for 20-something years, she's pretty good at it, but I'm just thinking to myself there was video, so I'm pretty sure you – how about we do this? I have made a – just a table of contents.

THE COURT: That's what this.

MR. ROZZI: It's the same thing.

THE COURT: Okay. Then, that's what this is.

MR. ROZZI: Yes.

THE COURT: Yes.

MR. ROZZI: Those should be paired.

THE COURT: Okay.

MR. ROZZI: I guess I just ask that you accept that –

THE COURT: That's fine, but I believe your staff already provided some of these, actually –

MR. ROZZI: Okay.

THE COURT: -- in paper form.

MR. ROZZI: What's – what is that labelled? BB?

DEFENDANT'S EXHIBIT BB OFFERED

THE COURT: We can label it BB. I'll give that to you. Okay, we'll show it BB.

MR. ROZZI: Very good.

THE COURT: Admitted without objection, I assume, Ms. Diener?

MS. DIENER: Yes.

THE COURT: Okay.

DEFENDANT'S EXHIBIT BB ADMITTED

MS. DIENER: And, Judge, I do have one other witness.

THE COURT: Okay.

MR. ROZZI: Well, I've got one more thing to admit and then I'll rest.

MS. DIENER: Okay. I just didn't want to get past that.

MR. ROZZI: It's all right. Thank you. The last thing I have, Judge, is what will be marked as CC, and it is in the form of a thumb drive. This – may I?

THE COURT: Yes.

MR. ROZZI: And this is a thumb drive marked CC, with an appendix, and this has – and I'll just read these into the record real quick: An audio of Richard Allen phone call to Janis Allen, Westville videos, Dr. Wala's

suicide observation records and treatment records, inmate companion logs, Janis Allen phone call, Kathy Allen phone call, Kathy Allen phone call, prison guard log sheets, Richard Allen letter to Warden Galipeau, so these are basically the exhibits that I referenced earlier that I'm giving to the Court that have these incriminating statements in them.

THE COURT: Okay.

MR. ROZZI: So it's a compilation of all the ones that I'm aware of, and they're all – I just listed them here –

THE COURT: Okay.

MR. ROZZI: -- put them on one thumb drive for you.

DEFENDANT'S EXHIBIT CC OFFERED

THE COURT: Any objection, Ms. Diener?

MS. DIENER: No.

THE COURT: I'll show CC admitted without objection.

DEFENDANT'S EXHIBIT CC ADMITTED

MR. ROZZI: I think what you're gonna find, just for convenience purposes, is that a lot of those – some of those – about every one of those is consistent with the exhibits the State –

THE COURT: Okay.

MR. ROZZI: -- is giving you, plus more. That's CC; right? CC. Otherwise, pass the – not pass the witness. We rest.

THE DEFENSE RESTS

THE COURT: Ms. Diener.

MS. DIENER: The State would call Brian Harshman.

(Witness sworn.)

DIRECT EXAMINATION OF DETECTIVE BRIAN HARSHMAN

QUESTIONS BY MS. DIENER.

Q Please state your full name and where you're employed.

A My name is Brian Harshman and I'm employed with the Indiana State Police.

Q What is your rank or position?

A I'm a detective with the Indiana State Police.

Q And how long have you been employed?

A December 4th of this year will be 30 years.

Q And how many of those years did you spend – have you spent as a detective?

A Approximately 17.

Q During that time, have you investigated homicides?

A I've assisted in the investigation of homicides.

Q And how did you become involved in this particular case?

A In early 2020, I was assigned to the United States Marshals Great Lakes Southern Regional Fugitive Task Force, which offered me opportunities to sort of pick and choose some of the things that I wanted to do. We, primarily, were – we hunted – we looked for fugitives. But during that period of time, I had been talking to then First Sergeant Holeman and had told him several times, "Hey, you know, going on quite a while here, I'm sure you guys are burning the candle at both ends. I'm available, if you could use any help." And he put me off and put me off for a few months, and then I asked him again sometime around maybe March 2020, and he agreed, and I kind of stepped in and started helping with the investigation at that point.

Q Now, once Mr. Allen was arrested and charged, did your role change?
A It did.
Q And what did it change to?
A Once he was arrested and detained, I began to monitor his communications from the facilities where he was housed, sort of inadvertently appointed myself, I guess, the caretaker of the phone calls and some of the video footage, things that we were receiving from the Department of Corrections. When I talked to now Lieutenant Holeman about it, it was – it seemed like a smart thing to do to have one person concentrating on that, just due to the volume of the work that was involved in keeping up with everything.
Q In your law enforcement experience, is it not uncommon or maybe even routine to monitor calls using something like GTL that are being made by an offender while incarcerated?
A Yes. I've used that numerous times during the course of my career.
Q And so you were familiar with that process with regard to Mr. Allen at DOC; is that correct?
A Correct.
Q How do you access the calls? Just to inform the Court, how do you go about doing that?
A When Mr. Allen makes a call from the facility, I'm notified via a text message that a call's been made and it basically tells me what time and who the – and it shows me a number that the call was made to. At that point then, I can get on a website through GTL and I can pull the call – excuse me – I can pull the call up and then I can listen to the call, the content of the call.
Q When you began this task, did you start at the beginning and have you

made it to current date or where do you stand on that?

A I am currently completely up-to-date on all phone calls that have been made by Richard Allen.

Q And when Mr. Allen makes a phone call, are you documenting relevant information –

A Yes, I keep –

Q -- and creating a report?

A I keep notes; and then calls that I believe may contain pertinent information, I notify Lieutenant Holeman and Investigator Mullin, and Investigator Mullin will generally send that call to a stenographer or – to get it – a transcript written. And I will either – I'll usually put that in the State Police case report system. It's – it involves so much time that there is a backlog on those, but I do know that, you know, once they're transcribed, then Investigator Mullin has a copy of the actual transcription, too, so –

Q Would you agree that that's one of the items of ongoing discovery that accumulates because the calls are being monitored and, if there's something significant, there's a record being created and you then document it?

A Yes. It never ends. It goes – every day it goes – it continues on, so –

Q Have you also been – you said you were reviewing video that's recorded within the DOC. Can you be specific as to what video? Because we all know that there's in-cell camera video and then there's also movement video.

A The video that I've – I've reviewed is the movement video that the Department of Corrections utilized when moving Mr. Allen from one place to another. Just recently – and I'm not completely finished with all of them, but just recently, I received I believe the bulk of the video provided by DOC reference

the medical-specific transports. And then, I have had – I do have the in-cell video, access to that, too, which I believe I'm current on, but there's just so much of it, I'm not completely positive, but I believe I'm current on it.

Q Okay. And we're here about a motion to suppress Mr. Allen's statements while made in DOC based on his environment coercing those statements. So you've been notified of that; correct?

A Correct.

Q And you've been watching these videos and listening to these calls, so you're hearing, in his – in phone calls, Mr. Allen's perspective on his circumstances, are you not?

A Correct.

Q And then, you can also watch the video of how he's being moved around the facility and how he's being treated by the staff that appear in that video; is that right?

A Correct.

Q Now, we've been advised that he – when he's moved, there's at least two people moving him and one person recording. Are there, oftentimes, other people present that are part of staff?

A I would say that, as far as your statement about a minimum of, I don't believe I've ever seen any less than that. There are times I believe when there are more. There have been times when Mr. Allen has been maybe less cooperative than other times, so I think they've had extra people in the area on – for that, but I'm not positive.

Q When I refer to staff, I mean to include nursing staff, medical staff – those should probably go together, but let me say Dr. Martin, maybe Mr. Wala. And

so were you able to observe times where he makes incriminating statements in the presence of more than just a medical provider?

A Yes.

Q And then, there are instances where it is a medical visit; correct?

A Correct.

Q Does the – has your observation of how he is treated by the staff that moves him indicated to you that there has been any sort of change from beginning till now, so – I would say in Westville we're talking about, so from December of '22, to December of '23, when he was at Westville Correctional Facility, was the staff treating him with respect and were they patient with him?

A Yes. The professionalism shown by the DOC is almost over the top, more so than what I've ever seen in a custodial facility, frankly. I believe that due to the nature of Mr. Allen, whether it was – whether people were told or they just assume, I think that everybody knows that due care and professionalism – and also, you know, these officers are not stupid, they're being videotaped the whole time, they've got a camera in their face so, you know, so they know. But yes, I've – the patience and the professionalism from the DOC is sometimes unbelievable, given the circumstances that they deal with.

Q Even when he's in a state of being covered in feces and needs a shower and they're taking care of that in a respectful way to the extent that they can under the circumstances?

A Correct.

Q Okay. So there's this period of time where confessions are being made. You've been reviewing some of those; correct?

A Correct.

Q So if they are a phone call to his wife or his mother, have you reviewed those?

A Correct.

Q If they are during a movement within the jail while he's being recorded by what they would call transport staff, have you observed those?

A Yes.

Q And some of those actually involve movement to a medical visit; is that correct?

A Yes, ma'am.

Q Okay. Is there any other category of observation you've been able to make with regard to confession statements?

A No. I believe just the telephone calls, the videos, and the movement videos, and then movement videos to the medical, which again, I've seen most of, but I still have a few of those to go through. And then, also noted that, during this whole process, I've also been involved in what – the suicide companion door sheets, the notes that were written there, so I would get with Investigator Mullin or Lieutenant Holeman and I would notify them or they would notify me if they saw on the door sheets something that looked pertinent that was documented by either a inmate com – suicide companion or an officer and, as a result of those door sheets, then I did follow up and conduct numerous interviews with Department of – DOC officers reference their state – or their statements that they recorded on those door sheets.

Q And then, you prepared reports on those, as well, and those would be part of discovery?

A That's correct. They – reports were created and the interviews were also

recorded.

Q Transcribed or –

A Yes. I know –

Q -- not sure?

A I can – I know that most of them are. I hate to say they all were so far –

Q Okay.

A -- but I believe so, yes.

Q So if the – in reviewing this volume of information from a perspective of phone calls and videos and suicide companion sheets, did you observe any external factors that introduced themselves in April that coincided with Mr. Allen starting to confess?

A One of the things that I was able to note – and, you know, I – you gotta kind of keep in mind, to-date I'm somewhere between 650 and 670 total phone calls made by Richard Allen while he was – while he's been detained. Breaking that down into hours, we're somewhere in the 150 to 170 hours of just phone calls, not including any video or anything else that I've watched. So the volume of calls is immense. So I've been able to – I feel I've been able to pattern his conversations and what's going on in his world just by the simple fact of the amount of time that I've spent listening to the conversations; and one of the things that I noticed was, early in March, Mr. Allen began to become involved in reading a Bible, and as such, he proclaimed numerous times that on March 21st, 2023, he found Jesus Christ and he found God. Some of those – that statement was followed up by some calls where Mr. Allen clearly believes that – he made statements that, you know, he may very likely not be his with family again in this lifetime, he was concerned and what he wanted to make sure is that if –

when they were in Heaven together – that when they went to Heaven, he could go to Heaven, too. And it was interesting, because that change of his demeanor really began to coincide with just several days later the confessions starting.

Q And would he himself relate the confessions to his finding God and being concerned about his future beyond – I mean, beyond this world, Heaven and Hell?

A Yes, you know, and he would have those conversations with Mrs. Allen and his mother. They all seemed to be very religious people and, you know, they had conversations and he had extensive conversations about, you know, if things don't go his way, then he wants to try to make sure – and oftentimes, he says that he's not even sure, with what he's done, and the fact that he's found God is going to be enough to get him to Heaven.

Q When you say he's not sure what he's done, what do you mean by that?

A Well, and that's sort of what he alludes to, he doesn't really go any further than that, he just talks about, you know – I think he's – he mentioned sins –

Q Oh.

A -- the sins that he's committed –

Q Okay.

A -- but nothing specific as to a particular sin when he's – when he was talking about that.

Q But he does talk about the crimes he's charged with in this case?

A Yes; oh, yes.

Q Okay. And does he talk about with – them with specificity?

A Yes. When he – yes, he has confessed and he has talked about these crimes very specifically.

Q And are we talking about one time or multiple times?

A It's – I tried to put it – I tried to find a way to put it in a numerical sense, because there are varying degrees of what I believe is – you know, there's some confessions where it's just, "I did this, this, and this," and there are some where you sort of dance around the outside of it, but just direct confessions that I've been able to find, telephone calls, the videos, the door sheets, I'm 60-plus confessions at this point and that's a conservative number without a doubt.

Q Okay. And in the ones that are more specific, does Mr. Allen include details that only a person involved in the crime would potentially know?

A I believe that's correct, yes.

Q And does he ever talk about an obligation as a Christian to be honest and make things right?

A I don't recall that exact phrasing, so I'd be hesitant to say, I'm not sure.

Q Okay. Does he – how is his confessions to his family received in these calls?

A Generally, the first confessions were, obviously, Mrs. Allen and the mom were extremely upset. You know, rightfully so. I mean, it's difficult to listen to, you know, his conversation with them about it, because, you know, that's their husband, their son, clearly it's an extremely difficult time for them. As the confessions went on, Janis – sorry, Richard's mother would say, you know, "They're messing with you. They're messing with your mind." Kathy would kind of reiterate the same thing. Oftentimes, Kathy would tell him to stop talking. There were – there's at least once, you know, she – Mr. Allen was talking and she said, you know, "Stop talking," and something along the lines of "I'm gonna call Brad," and the call ended, so I don't know whether it ended on her end or his –

or Mr. Allen's end. So initially, disbelief, shock I would say, upset. And then, as the – as some of the confessions kind of went on over a period of time, it became a – sort of a change the subject, "Stop talking about it", "We're not talking about this", you know, "You don't know what you're saying. They're messing with your mind." That was kind of the direction it went after that.

Q Do some of the statements actually include motivations for the crime?

A Yes.

Q And do some of his statements relate to why he would have delayed in confessing?

A Yes.

Q And did some of those relate to how his family might react to the reality that he committed the crimes?

A That's correct.

Q Is there a period of time where he does not communicate with his family, either by their choice or his, as a result of him confessing?

A Yes. There's been some periods of time where, for various reasons, he's gone an extended period, at least by his standards, of not communicating with the family; and I think, at one point, his tablet broke or he broke his tablet, so he had to wait to get another one. I think they – I think that he maybe had lost his communication privileges for a while for some incident that happened at the Department, I don't know what that would have been. But other than that, he's pretty consistent in calling.

Q Is it correct that he has a concern over whether his family will still love him if he committed these crimes?

A Yeah, I would say that that's probably his – the biggest common concern

that I hear is, over and over again, you know, "No matter how this ends up, will you still love me? Will you still be there?" Extremely concerned about what happens as a result of this trial.

Q You indicated recently that you reviewed or found a statement that you thought related to him making a conver – having a conversation with Kathy about how this is impacting her and that he would contact the police to make a statement. Can you –

A Yeah.

Q -- share that with the Court.

A In November of – I think it might have been the second week of November in 2022 – and this is early on in his incarceration, this is – or his detention, this is just weeks probably – he makes the statement to Kathy that, "If this becomes too much for you, just let me know, I'll talk to the detectives and tell them everything they want to know."

Q Once he experiences his family not wanting to talk to him, is it sometime after that – of not wanting to talk to him after he's confessed, does he then cease or reduce the amount of statements that he's making about confessing to the crime?

A Yes. I would say probably the bulk of the confessions started in early April and probably continued on until – through June, maybe into July, and after that, they started to really slow down as far as what I would consider the direct confessions. There would - there's always – you know, we – even still after that, we still have the conversations about, you know, "Will you love me, you know, no matter what happens? No matter" – you know. He was – there was a period of time he was extremely concerned about what the family was going to see

during the trial, he was concerned about, you know, the things that were gonna be said about him, and he was really concerned about the photos that they were gonna see of what he was accused of.

Q In fact, he indicated that he didn't want them to see what he had done; is that correct?

A That's correct.

Q And then, he gets moved to Wabash Valley; and does he make any statements while at Wabash Valley that would be considered confessions?

A In February this year, he made a statement that was documented by a Department of Corrections guard, I don't have the report with me, but it was somewhere along the lines of he was talking to himself and he apologized for maybe killing A.W., I think. I would – to feel comfortable, I would want to review my report and make sure that that's correct, but that's the gist of it.

Q Okay. Would you recall a statement that he made to his mother in January of this year in a recorded phone call that he wanted to tell the truth and be honest and just didn't want to hurt his family?

A I have heard those calls. I – as far as the timeline, I'm – if you're telling me January, then I believe you, but I'm not completely sure on the timeline; but yeah, I've heard calls to that nature.

Q He has said those things in phone calls?

A Yes.

Q Okay. In your survey of all of this information that you described and in your interviews with officer companions that were logging his activities at Westville, did you ever learn any information that led you to believe that he was being coerced or induced to make incriminating statements?

A I did not. One of the things that I really checked on during the interviews was, you know, if the behavior between the DOC personnel and Mr. Allen and then also if the DOC personnel witnessed any other personnel having adverse interactions with Mr. Allen, and by far, the overwhelming consensus between the guards is, is they felt like he was treated way better than –

MR. ROZZI: I'm gonna object at this point to speculation and when he's testifying in bulk about a bunch of – sorry – about what a bunch of guards are thinking and feeling, I think it's a little bit beyond the evidentiary – what the evidentiary rules permit, which is something that is – has some indicia of reliability in a case like this. It's hearsay.

MS. DIENER: Judge, the officers who are relaying their impressions to this officer while he's interviewing them are giving him statements based on their observations, direct observations, of Mr. Allen. I think it should be admitted.

THE COURT: Overruled.

MR. ROZZI: Thank you.

Q There's some reference to Mr. Allen feeling tortured. With regard to the Defense's motion and memorandum, has there been a refence to that in the materials that you've reviewed?

A Yes. Mr. Allen does state a lot that he feels like he's being mentally tortured, and he has been pressed by family, you know, "Are they hurting you? Are they making you" – and he, as far as physical torture, he always says no. He believes that psychological/mental torture is what they're doing, and he equates that to functions like it's loud in the prison at night and it keeps him awake, the lights are always on and it bothers him, and he correlates a lot of those activities

with being a torture tactic that the DOC is using to mentally and psychologically affect him.

Q And so let's go back to what Mr. Rozzi had objected to, you were going to share with the Court the impressions of the guards with regard to Mr. Allen. Do you recall your statement you were going to make about what they had relayed to you?

A I do.

Q Okay. Could you, please, share that?

A Yes. The guards shared with me that they believed that Mr. Allen was receiving treatment that was above and beyond what the normal inmates at the facilities were receiving day in and day out and, you know, there's – it – I don't know how to really phrase it other than it created a – almost a – between the other inmates and Mr. Allen, it creates the – I mean, it was noticeable enough that everybody like on the range would know that Mr. Allen was being treated different than the rest of them.

Q Different in a better way?

A Different in a better way, correct.

Q And did any of the officers that you interviewed relay their impressions that Mr. Allen was feigning or faking symptoms of psychosis to portray himself as crazy or –

A Yeah, I would ask each and every one what they thought of the antics that Mr. Allen would portray and, without hesitation –

MR. ROZZI: Judge, I'm gonna object. Can I ask a preliminary question?

THE COURT: Yes.

MR. ROZZI: Are you – is it – are you communicating what some offender told you about their impression about Mr. Allen's psychiatric state?

A No. I'm – I was making a statement on what a DOC officer told me he believed Mr. Allen was doing.

MR. ROZZI: Right. About the way he was acting, whether or not it was a legitimate psychiatric issue or whether he was faking it; right?

A That's correct.

MR. ROZZI: Okay. I object. Again, we're getting a little far afield of the basic, you know, hearsay admissibility rules. These people, these guards, have no qualifications to draw conclusions about psychiatric circumstances, in addition to the fact that it's hearsay, so I think that is beyond the – I'm objecting for that reason.

MS. DIENER: Judge, I'll rephrase the question to ask if officers relayed to him that they felt he was faking when he was acting out during April and May. I think that in a position of a corrections officer at a DOC facility, that they would be in a position to give a layperson's opinion about what they were observing.

THE COURT: Well, but not as it relates to psychiatric symptoms. I would sustain the objection on that.

MS. DIENER: I'll rephrase the question.

Q Officer Harsh – or, Detective Harshman, did you ask them questions about Mr. Allen's behavior not being consistent during the period of time that he was confessing?

A I did.

Q Did they talk about him engaging in behavior described as bizarre?

MR. ROZZI: I'm gonna object again. I'm not even sure who she's – who he's even talk about, like who these people are. She's just saying, "Did they", so there's not really any indication of who –

MS. DIENER: Officer companions.

MR. ROZZI: -- who he's speaking with that's saying these things.

THE COURT: Can you narrow it?

MS. DIENER: Yeah.

Q Were there specific instances that you were interviewing a particular officer companion who documented a confession that was – that coincided with behavior that would be considered bizarre?

A Yes.

Q Okay. And did the officer make any statement to you with regard to having an opinion about whether Mr. Allen was faking?

MR. ROZZI: Same objection.

THE COURT: Overruled.

A Yes. They believed he was faking.

Q Okay. And as you sit here today, you can't tell me specifically which officers told you that – correct? – because you don't have your notes in front of you.

A Correct.

Q Okay. Did more than one officer that was a door companion for Mr. Allen share that observation or opinion?

A I can tell you that I did check and I interviewed a total of ten of those officers and, going back in my reports, I would be surprised if eight out of the ten didn't have the same feeling about that.

Q In reviewing your – the documents that you described, the door sheets, the phone calls, the video of movement, did you ever find evidence that someone was interrogating Mr. Allen?

A Not once.

MS. DIENER: No other questions.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you.

CROSS EXAMINATION OF DETECTIVE BRIAN HARSHMAN

QUESTIONS BY MR. ROZZI.

Q Were you able to watch some of the videos of the inmate companions sitting at his door side?

A The videos that I had access to did not have any inmate companions in them, they were the videos that were used by the personnel during movements. Now, if there was a companion in – caught in the frame when they were moving him, I would see a companion. I did not have like a hallway view, I had a cell view, and then those views of the movement, so –

Q You have no idea what the conversations were between the inmate companions and Mr. Allen, do you?

A No, that's correct.

Q So from the very beginning when Mr. Allen was incarcerated, there was a plan in place to monitor his communications at the prison; right?

A Yeah.

Q And that plan involved getting in touch with GTL and getting access to those phone calls; right?

A Correct.

Q And making arrangements with the DOC to obtain video, in-cell video, of Mr. Allen 24 hours a day, seven days a week; right?

A That was outside of my lane, that wasn't my responsibility, but I did receive those after the fact, yes.

Q That was part of your job was to review all that, as well?

A Yes, but I had – I was not part of the – making contact with the DOC and requesting that, so no.

Q Okay. So some other officer was doing that, but you were getting the product?

A That would be fair.

Q Okay. And that also involved – did it involve you getting access to his phone calls from the rec phone?

A It's my understanding that any call that uses his – utilizes his DOC PIN number, other than to his legal team or attorneys, is recorded on the GTL, that's my understanding. If it's different than that, I don't know.

Q Okay. And do they have a phone that they used to bring on the block or was like a mobile phone that they would use every – couple times a week?

A That who would use?

Q The inmates.

A Regular inmates, I don't know what their – I don't know what they utilize. Mr. Allen had a tablet that, best I can tell, as long as it's charged, he can make calls anytime he wants to.

Q And you have access – you had access to those, too?

A Those were also recorded on the GTL.

Q What about his digital communications through the tablet?

A The text messages?
Q Yeah.
A Yes, I have access to those, also.
Q Okay. So there is no privacy afforded to him in any respect when he was in that cell in terms of his communications with the outside world, was there?
A And when he makes the call out, he's notified of that, everything is monitored and recorded when he – before he makes the call, and even the folks that – like Kath – Ms. Allen and his mother are also notified on the recording that, you know, "Hey, you're receiving a call from a correctional facility from" – and it says "Ricky" – and it says, "These calls are subject to monitoring and recording," and then the call's connected.
Q Do you agree with me that there's no privacy afforded to him with regard to any of those calls, because you knew everything he was saying basically the minute he said it; correct?
A I do not monitor in real time. It would have been after their – after the call's completed –
Q Okay.
A -- then I get notified.
Q But no privacy, was there?
A That's fair.
Q Okay. And, in fact, that would be the only way for Rick Allen to talk to his family about the circumstances surrounding his case, wouldn't it?
A Or through the attorneys.
Q Well, but to talk to them directly about his case, he'd have to do it on the phone; right?

A That's – yeah, that's correct.

Q The most important thing in his life; right? He's incarcerated, facing accusations like these; right?

A Yeah. He did talk about the case to his family, so –

Q And he's not even able to do that without the police listening to that, is he?

A No.

Q So there was a pretty-involved process to make sure that all this information funneled to you pretty quickly, wasn't there?

A I don't think quickly would be a fair statement, 'cause nothing seems to funnel to me quickly; but yes, I do receive the information.

Q Well, you just said a little while ago you were getting text message notices –

A Well, yes, I do get that.

Q -- when he made –

A I'm talking about everything as a whole, videos, etcetera. So if you're talking about the calls, yes, I am notified of the calls after he's completed a call.

Q You ever monitored another offender at the DOC like this?

A Yes, I have over the years, several.

Q Okay. Anybody that's been detained in the DOC awaiting trial for something they haven't been convicted of?

A No.

Q This is the first time you've ever been in a situation where you were surveilling someone in Rick Allen's circumstances?

A Only – the only difference is, is because of the DOC. I mean, the county

jails, yes, I monitor a county jail, somebody who's waiting –

Q All right.

A -- awaiting trial.

Q And you've never dealt with anybody up at the WCU, have you?

A Inmate-wise?

Q Yeah, in the maximum security unit within Westville.

A No, not an inmate, no.

Q So when you're watching these videos of him in his cell, you're seeing everything that he's doing, aren't you?

A Correct.

Q If he goes to the bathroom, you get to watch, don't you?

A Not exactly what I want to do all day, but yes, I do see it.

Q I understand that, but that's just the reality of the environment he's living in; right?

A Yes.

Q The DOC officers, from a professionalism standpoint, have been over the top you said?

A That's my opinion, yes.

Q Okay. You see the videos of the DOC officers with their Odin patches on their chest?

A I have not seen any Odin patches on anybody's chest.

Q And did you see the video – are you – strike that. Are you aware that there were officers up there with patches on their chest that said, "I hate people"?

A No, I've not been aware of those patches, no.

Q Okay. Are you – did you see the video of him being transported in to get a

haircut, where the DOC officer realized that he had something on his chest and he ripped it off his chest, a patch?

A I remember a couple of times for a haircut I believe. I do not remember somebody ripping a patch off, no.

Q Okay. Did anybody amongst law enforcement communicate any of that to you?

A At one point, obviously, there was talk about somebody having patches at some point. Again, outside my lane, so it wasn't anything I was involved in, so I don't –

Q Well, you interviewed a bunch of guards; right?

A Yes. And as far as I know, none of them were involved in any of the patches.

Q Did you ask them?

A Yes.

Q Okay. And so they all denied it, the ones you interviewed?

A Yeah, they denied it.

Q Not one of the guards that you interviewed mentioned that they had anything to do with these patches or the Odinism associated with that?

A Correct, none of them mentioned it.

Q You think there's anything unusual about an inmate that's in confinement turning to God as a way to deal with the circumstances of that confinement?

A No. I would imagine that the stresses associated with that confinement would lead people probably to try to, you know, find God.

Q Well, one of the only things that Rick had in his cell was a Bible; right?

A I would say that's fair. I think he's got some magazines and some other

stuff, but –

Q Yeah.

A -- yeah, I mean, he doesn't have a lot of stuff in his cell.

Q And then, when they put him on close supervision, they even take his blanket from him, don't they?

A I would say that there's a reason for that.

Q Yeah. The answer's yes; right?

A The answer is yes, they take his blanket.

Q So they strip him down the bear essentials; right?

A That's – again, that's outside my lane. They – that's how – you know, those are decisions that I don't make, but yes, it – he would be – he would have less stuff in his cell I guess, yes.

Q Right, which you would be seeing on the video, that there's really nothing in there.

A No, it's – there's not a lot in there.

Q Yeah. And he also, for long periods of time, had to wear a kimono, didn't he?

A They call it a suicide smock, but yes, I did see those.

Q You acknowledge that he has said things to officers and companions about this offense that are inconsistent with what happened at that crime scene?

A I did not say that I don't believe.

Q Okay. You ever hear him say that he shot the two girls?

A That he shot them?

Q Yeah. In the back.

A I don't know that I heard him say it. I don't – I understand what you're