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IN THE MATTER OF  
LIEUTENANT RICHARD PUSCHEL  
UNION COUNTY, NEW JERSEY

A Hearing in the above-mentioned matter was held on Wednesday, April 23, 2014, at 10:30 a.m., at the Administration Building, Elizabeth, New Jersey, before Steven H. Merman, Esq., Assistant County Counsel for the County of Union, acting as the hearing officer over said proceedings.

Job #NJ1851536

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1 A P P E A R A N C E S  
2 STEVEN MERMAN, ESQ.  
ASSISTANT COUNTY COUNSEL  
3 COUNTY OF UNION  
Administration Building  
4 10 Elizabethtown Plaza  
Elizabeth, New Jersey 07202  
5 \*HEARING OFFICER  
6  
ROTH D'AQUANNI, LLC  
7 150 Morris Avenue, Suite 206  
Springfield, New Jersey 07081  
8 Attorneys for the County of Union  
BY: RACHEL M. CARUSO, ESQ.  
9  
10  
11  
12 CARUSO SMITH PICINI, P.C.  
60 Route 46 East,  
13 Fairfield, New Jersey 07004  
Attorneys for Lieutenant Richard Puschel  
14 BY: JOHN ANELLO, ESQ.  
15  
16 ALSO PRESENT  
Lieutenant Richard Puschel  
17 Brian Evans, UCPD  
18  
19  
20  
21  
22  
23  
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1 MR. MERMAN: I have a 1 o'clock meeting that  
2 I must attend today. So, it's my goal that we --  
3 and of course during the hearing we will have to  
4 adjust the time frame as we must, but I'm going to  
5 break for lunch about a quarter to 1:00.  
6 MR. ANELLO: Okay.  
7 MR. MERMAN: If we have to come back after  
8 lunch, though I'd prefer not to. I think one of  
9 the ways that we're going to avoid that, telling  
10 you right upfront now, is that this is a  
11 fact-finding hearing. We're going to be listening  
12 to testimony. I'm going to obviously hear from the  
13 County first. I am going to give you an  
14 opportunity to cross-examine any witnesses that are  
15 introduced by the County. I'm going to accept  
16 whatever documents need to be accepted for purposes  
17 of the hearing within the factfinding aspect of  
18 this case. But then at the end, I'm going to ask  
19 for written summations along with a legal argument  
20 relevant to each of the positions taken in this  
21 matter.  
22 MR. ANELLO: I was actually going to ask for  
23 written summations. So, I think simultaneously  
24 submitted.  
25 MR. MERMAN: Simultaneously submitted, and

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1 I'm thinking --  
2 MS. CARUSO: Well, if we submit them by  
3 e-mail, we can do it the same, you know, the same  
4 if we agree on a day and time or whatever, and we  
5 can submit them by e-mail.  
6 MR. ANELLO: That's fine. Simultaneous.  
7 MR. MERMAN: I would like to conclude  
8 everything, including my review of this -- my  
9 writing of my recommendation within a period of  
10 about 20 days. So, I'm going to give you guys  
11 14 days from today for the written summations and  
12 legal argument. That will give me a week.  
13 MR. ANELLO: All right.  
14 MR. MERMAN: So, let's just start how we  
15 normally do. This is a -- do you want the union  
16 rep, or is the union rep going to testify?  
17 MR. ANELLO: No, he's not going to testify.  
18 He should actually be here.  
19 MR. MERMAN: You're at the table, if you want  
20 to be. If you want to sit back there, then that's  
21 fine.  
22 MR. ANELLO: You're right here.  
23 MR. MERMAN: So, I'm going to start. We do  
24 have a court reporter. So, I think we'll have to  
25 be a little bit more formal than we usually are. I

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1 will, for the record, state I am Steven Merman, and  
2 I am an Assistant County Counsel, and I have been  
3 designated through the office of County Counsel and  
4 by the County Manager to act as a hearing officer  
5 with regard to the pending matters.  
6 This hearing has now been opened to the  
7 public as a result of the request of the employee.  
8 Is that correct, counsel?  
9 MR. ANELLO: That's correct.  
10 MR. MERMAN: All right. So, with that, and  
11 I guess since we have a record going, I'd ask for  
12 the attorney for the County to put their appearance  
13 on the record.  
14 MS. CARUSO: Good morning. Rachel Caruso  
15 from the firm of Roth D'Aquanni on behalf of the  
16 County of Union.  
17 MR. MERMAN: Okay. Counsel?  
18 MR. ANELLO: John Anello from the law firm  
19 of Caruso Smith Picini on behalf of Lieutenant  
20 Richard Puschel.  
21 MR. MERMAN: And also present at the table,  
22 for the record, is Andy Moran, who is the director  
23 of the Department of Public Safety.  
24 And your name, sir?  
25 MR. EVANS: Brian Evans. I am the

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1 vice-president of the PBA 73.  
 2 MR. MERMAN: As I understand it -- and I  
 3 need a copy of the preliminary disciplinary action.  
 4 Counsel, do you waive a formal reading of this  
 5 charge?  
 6 MR. ANELLO: Of course.  
 7 MR. MERMAN: I just want to make sure, Mr.  
 8 Puschel, that you have reviewed this particular  
 9 charge, correct?  
 10 LIEUTENANT PUSCHEL: Yes.  
 11 MR. MERMAN: With your attorney, and you are  
 12 familiar with everything that's in there. You  
 13 understand what the charges are?  
 14 LIEUTENANT PUSCHEL: Yes.  
 15 MR. MERMAN: With that being said, then, I  
 16 guess I'll open it to Ms. Caruso to give me the  
 17 County's opening. What I'll do is I'll ask for a  
 18 very brief opening from both sides, and then we'll  
 19 just get into the witnesses where we can get right  
 20 to the factfinding.  
 21 MS. CARUSO: Just to put a few brief things  
 22 on the record, the parties do have a signed  
 23 confidentiality agreement with regard to a report  
 24 that was put together by the Union County  
 25 Prosecutor's Office. Of course we will be taking

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1 testimony about it, and it has been turned over to  
 2 Mr. Anello and to Lieutenant Puschel. We will be  
 3 using it here under the confidentiality agreement.  
 4 The hearing officer is authorized to have a copy  
 5 for decision-making purposes, but subsequent to  
 6 that it needs to be either returned to me or  
 7 destroyed.  
 8 MR. MERMAN: So, how do I deal with the  
 9 public being in the room and the testimony with  
 10 regard to that?  
 11 MS. CARUSO: The testimony is fine, but in  
 12 terms of -- obviously copies of it will not be  
 13 distributed to the public. I'm assuming that's  
 14 what our agreement is?  
 15 MR. ANELLO: I completely understand. I  
 16 myself have no intentions of disseminating that to  
 17 the public.  
 18 MS. CARUSO: Thank you. Didn't think that  
 19 you did.  
 20 We are here today, the County is here.  
 21 Lieutenant Puschel is a member of the Union County  
 22 Police Department, a longtime member concededly,  
 23 but during Super Storm Sandy, he took it upon  
 24 himself to utilize County property, namely a  
 25 generator, at his home, and he also proceeded to,

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1 without authorization, distribute generators to two  
 2 members, two other members of the police  
 3 department; one, who was within his chain of  
 4 command, a subordinate officer, and one who is not  
 5 part of his traffic unit, which as the county  
 6 understands it, is what he is in charge of. Of  
 7 course during Super Storm Sandy, most of the county  
 8 was without power for a prolonged period of time,  
 9 yet Lieutenant Puschel took it upon himself to use  
 10 county resources that could have been deployed  
 11 elsewhere and resources that he only had access to  
 12 in his position as a lieutenant to utilize for his  
 13 own personal use as well as allow some other  
 14 officers to use it for their private use.  
 15 Now, Lieutenant Puschel is likely to say that  
 16 he is an essential employee, as are the members of  
 17 his team. The entire Union County Police  
 18 Department is considered an essential employee,  
 19 especially during an emergency such as Super Storm  
 20 Sandy. No one else had generators at their home,  
 21 and everyone else was using the emergency operation  
 22 center as it is designed to be used, for the  
 23 comforts of home, including charging all police  
 24 equipment, charging private equipment, including  
 25 cell phones, sleeping, showering and for food. So,

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1 there is no reason that Lieutenant Puschel or any  
 2 of the other individuals he distributed this  
 3 equipment to were any more special than anyone else  
 4 that was using the EOC at that time. So, we are  
 5 here because he used his position improperly and  
 6 took County property and used it for non-County  
 7 business, namely his own personal comforts, and he  
 8 also caused other people to use it for their own  
 9 personal comforts without permission. So, as such,  
 10 the county is seeking a 90-day suspension as a  
 11 result of this behavior.  
 12 MR. MERMAN: Counsel?  
 13 MR. ANELLO: This case is about Lieutenant  
 14 Puschel being unjustly and unfairly charged  
 15 administratively because he acted as he had to in  
 16 an unprecedented emergency situation to benefit  
 17 Union County. It cannot be disputed that his  
 18 actions benefited the County. First of all, he  
 19 moved these generators from the County police yard  
 20 in Kenilworth because that area was known to flood.  
 21 He's going to testify that it was, in fact, under  
 22 water during Hurricane Sandy. Had he not taken the  
 23 actions he took and moved these generators from  
 24 there, they would have all been destroyed, along  
 25 with all the other equipment that he acted to

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1 protect. The county would have suffered thousands  
 2 and thousands of dollars in damage had he not acted  
 3 the way he did. Now, he did use a generator at his  
 4 home. He did authorize Corporal Mykytka and  
 5 Sergeant Pentz to use generators at their home  
 6 because they are essential employees. Lieutenant  
 7 Puschel, Corporal Mykytka, Sergeant Pentz, they are  
 8 on call 24/7, 24 hours a day, seven days a week.  
 9 They need to be particularly alert in emergency  
 10 situations, particularly in an unprecedented  
 11 emergency situation such as Super Storm Sandy.  
 12 They were in a tough spot. The county had  
 13 absolutely no protocol in place for dealing with  
 14 these generators or dealing with any type of  
 15 emergency situation, particularly one as  
 16 unprecedented as Super Storm Sandy. They needed  
 17 these generators to charge their radios and to  
 18 store county equipment that would have been damaged  
 19 otherwise if there was no electricity. You're  
 20 going to hear about the film needed, as Lieutenant  
 21 Puschel is a member of the bomb squad. Film needed  
 22 to be stored at Sergeant Pentz' house who lives  
 23 near the Kenilworth yard, that the very expensive  
 24 equipment that would have been destroyed had  
 25 Sergeant Pentz not been allowed to use a generator

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1 and keep his home charged. Yes, these officers did  
 2 receive an ancillary benefit from having  
 3 generators, but the primary benefit was bestowed  
 4 upon the County of Union by having these officers  
 5 work really 24/7 through this unprecedented  
 6 emergency. That's why we're going to ask that  
 7 Lieutenant Puschel be cleared of any administrative  
 8 charges. He acted to the benefit of Union County,  
 9 and he respectfully asks that these charges be  
 10 dismissed.  
 11 MR. MERMAN: First witness.  
 12 MS. CARUSO: The County calls Andrew Moran.  
 13 MR. MERMAN: Mr. Moran, can you tell us what  
 14 your position is with the County?  
 15 DIRECTOR MORAN: I am the director of public  
 16 safety.  
 17 MR. MERMAN: How long have you served in  
 18 that role?  
 19 DIRECTOR MORAN: Just over four years.  
 20 MR. MERMAN: With this being a record, I'm  
 21 going to swear you in.  
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 23  
 24  
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1 A N D R E W M O R A N,  
 2 called as a witness, having been first duly sworn by a  
 3 the Hearing Office and Notary Public of the State of New  
 4 Jersey, was examined and testified as follows:  
 5 EXAMINATION BY  
 6 MS. CARUSO:  
 7 Q. Mr. Moran, where were you employed before Union  
 8 County?  
 9 A. Township Berkley Heights.  
 10 Q. In what capacity?  
 11 A. I started there as a civil dispatcher, civilian  
 12 dispatcher, patrolman, sergeant, detective, captain and  
 13 operations captain.  
 14 Q. And did you retire from Berkley Heights?  
 15 A. I did after 25 years.  
 16 Q. And what was your rank when you retired?  
 17 A. Captain.  
 18 Q. So, you've been in law enforcement for a  
 19 substantial amount of time?  
 20 A. I would say so.  
 21 Q. And are you familiar with the law enforcement  
 22 code of ethics?  
 23 A. Yes.  
 24 Q. And are you familiar with law enforcement as a  
 25 public employee in general with regard to access to

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1 public equipment?  
 2 A. Yes.  
 3 Q. And what is your understanding of law enforcement  
 4 officers' ability to utilize public equipment for  
 5 private purposes?  
 6 MR. ANELLO: I'm going to object to just  
 7 that question. Are we talking about Union County?  
 8 I mean, you're saying law enforcement officers.  
 9 MS. CARUSO: I'm talking about law  
 10 enforcement officers in general given his  
 11 experience in law enforcement. So, speaking in  
 12 general, setting a foundation, and then we'll get  
 13 to Union County equipment.  
 14 MR. ANELLO: There might be different  
 15 policies in place in different municipalities,  
 16 different counties, et cetera.  
 17 MR. MERMAN: Well, you certainly have an  
 18 opportunity to cross-examine him on that. But if  
 19 we're going to only go with generalizations before  
 20 we get into the Union County policies, I think the  
 21 question is appropriate. I will allow it.  
 22 MS. CARUSO: Could you repeat the question?  
 23 MR. MERMAN: See, that's always the problem  
 24 with the court reporter. This is like Perry Mason.  
 25 You can go back and repeat the question.

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1 (Whereupon, the referred-to question was  
2 read back by the court reporter.)  
3 A. It undermines the law enforcement effort.  
4 Q. And in your position as public safety director in  
5 Union County, have you had occasion to analyze or become  
6 familiar with the Union County rules and regulations?  
7 A. Yes, I have.  
8 Q. Clarify the Union County Police Department rules  
9 and regulations?  
10 A. Yes.  
11 MS. CARUSO: And I'd like to mark this,  
12 we're using C-1?  
13 MR. MERMAN: C-1.  
14 (Whereupon, the referred-to document was  
15 marked as Exhibit C-1 for Identification by Ms.  
16 Caruso)  
17 MS. CARUSO: This is the Union County Police  
18 Department rules and regulations with an effective  
19 date of September 8th, 2011.  
20 MR. MERMAN: Are these the rules and  
21 regulations in effect at the time of the alleged  
22 offense?  
23 MS. CARUSO: Yes.  
24 Q. Are you familiar with these rules and  
25 regulations, Mr. Moran?

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1 A. Yes, I am.  
2 Q. And I direct you to page 15 of 43, section  
3 2:1.30. It's the section entitled "Work Expectation."  
4 Are you familiar with that section?  
5 A. Yes, I am.  
6 Q. And what does that section mean in law  
7 enforcement parlance?  
8 A. Just as it says, "employees are expected to  
9 perform their duties to the best of their abilities at  
10 all times." You know, put forth their best effort and  
11 conform to the rules and regulations of the department  
12 in doing so.  
13 Q. I direct you to section 2:1.31 entitled  
14 "Respect." Can you explain what that policy means with  
15 regard to law enforcement officers in Union County  
16 Police Department?  
17 A. Certainly respect -- that officers are expected  
18 to respect not only the supervisors but subordinates and  
19 everybody they come in contact with and display good  
20 ethical behavior on and off duty.  
21 Q. Okay. And I direct you to the next page, page 16  
22 of 43, section 2:1.33 entitled "Use of Position." Can  
23 you tell us what that means for those employees of the  
24 Union County Police Department?  
25 A. They shouldn't use their position as a police

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1 officer or a member of the department for personal or  
2 financial gain.  
3 Q. Okay. And are you familiar with Lieutenant  
4 Puschel?  
5 A. Yes, I am.  
6 Q. And would you say he's been part of the Union  
7 County Police Department for a significant amount of  
8 time?  
9 A. Absolutely.  
10 Q. And obviously he's attained the rank of  
11 lieutenant, so he's performed admirably and sufficiently  
12 on civil service as to attain that title, correct?  
13 A. Yes. Bridge both in my position in Berkley  
14 Heights and of course my position with the County also.  
15 Q. In your opinion, would he been familiar with  
16 these rules and regulations?  
17 MR. ANELLO: Objection. Calls for  
18 speculation.  
19 MS. CARUSO: I asked for his opinion. It's  
20 not speculation. It's his opinion.  
21 MR. ANELLO: His opinion as to what is in my  
22 client's mind?  
23 MS. CARUSO: It's familiarity with the rules  
24 and regulations, but I can withdraw the question.  
25 MR. MERMAN: You can withdraw and rephrase,

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1 or we can just go through the actual documents to  
2 show that he was provided with copies.  
3 MS. CARUSO: Absolutely. I'm going to mark  
4 this as C-2.  
5 (Whereupon, the referred-to document was  
6 marked as Exhibit C-2 for Identification by Ms.  
7 Caruso)  
8 Q. Director Moran, can you identify what that  
9 document is?  
10 A. This is a report generated from our power DMS  
11 system, which is our document distribution system. It's  
12 an electronic system within the police department where  
13 documents are distributed electronically and signed for  
14 electronically by each officer.  
15 Q. What type of documents are distributed through  
16 this system?  
17 A. Rules and regulations, general orders, special  
18 orders, advisories, any type of notice that would go out  
19 to the whole department.  
20 Q. And officers of the department not contingent  
21 upon rank are required to utilize this system to  
22 acknowledge receipt of documents distributed through it?  
23 A. Yes.  
24 Q. And I direct you to page two of the document. On  
25 the bottom, it actually says page nine of 13, and there

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1 is an entry that is not redacted.  
 2 A. Yes.  
 3 Q. Can you explain what this entry means?  
 4 MR. ANELLO: Objection. He didn't  
 5 authenticate this.  
 6 MS. CARUSO: He testified that it was from  
 7 their system and what it serves the purpose of.  
 8 How is that not authentication?  
 9 MR. ANELLO: He didn't put this entry in,  
 10 I'm assuming, into the computer system. So, I  
 11 don't see how he could authenticate it.  
 12 MR. MERMAN: Let's do this the easy way.  
 13 Director Moran, this report was generated on  
 14 what date?  
 15 MR. MORAN: July 22nd, 2013.  
 16 MR. MERMAN: To the best of your information  
 17 and belief, was it generated with regard to the  
 18 preparation for this particular hearing?  
 19 MR. MORAN: Yes.  
 20 MR. MERMAN: Other than the redactions on  
 21 this document, were there any changes made  
 22 specifically to the entry that you have been  
 23 referred to which indicates R. Puschel?  
 24 MR. MORAN: No.  
 25 MR. MERMAN: This a document kept in the

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1 ordinary course of business in the County of Union?  
 2 MR. MORAN: Yes.  
 3 MR. MERMAN: Can you now tell us what this  
 4 document tells you?  
 5 MR. MORAN: Each officer has a log-on and a  
 6 unique password for the system. When they use that  
 7 log-on and password to get into the system and then  
 8 when there's a document that needs their  
 9 acknowledgment that they received it, they have to  
 10 again enter their user name and password for each  
 11 individual document that they receive.  
 12 MR. MERMAN: That's standard operating  
 13 procedure in the County of Union?  
 14 MR. MORAN: It is.  
 15 MR. MERMAN: Just in the Department of  
 16 Public Safety; is that correct?  
 17 MR. MORAN: Correct. Just in the police  
 18 department.  
 19 MR. MERMAN: Just in the police department,  
 20 so not even in your entire department?  
 21 MR. MORAN: Correct.  
 22 MR. MERMAN: Based upon your review of this  
 23 document, can you indicate to us whether or not  
 24 Lieutenant Puschel acknowledged receipt of the  
 25 rules and regulations that have been referred to as

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1 C-1?  
 2 MR. MORAN: Yes.  
 3 MR. MERMAN: Where is that indicated on the  
 4 document?  
 5 MR. MORAN: Dated 9/13/2011, 6:34 a.m.  
 6 MR. MERMAN: Now, to the best of your  
 7 recollection, is this an electronic document that's  
 8 provided to him, or did he receive a hardcopy of  
 9 the document as I'm looking at today?  
 10 MR. MORAN: It's an electronic copy, and  
 11 it's capable to be printed out if the officer so  
 12 chooses.  
 13 MR. MERMAN: Any other questions on the  
 14 foundation of the document?  
 15 MR. ANELLO: No.  
 16 MR. MERMAN: Okay.  
 17 Q. Lieutenant Puschel's acknowledgment as it's  
 18 listed on C-2, what does that indicate with regard to  
 19 C-1, the rules and regulations? Is it acknowledging his  
 20 receipt of the document?  
 21 A. Yes, it is.  
 22 Q. Is it acknowledging his reading and understanding  
 23 of the document?  
 24 A. Yes.  
 25 Q. So, Lieutenant --

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1 MR. MERMAN: Let's clarify that.  
 2 To the best of your knowledge, that would  
 3 indicate that by acknowledging it, he read it, but  
 4 you don't know that as a fact?  
 5 MR. MORAN: Correct.  
 6 Q. So, based on his signature on this document  
 7 that's maintained by the police department, he is  
 8 responsible for knowing what is in the rules and  
 9 regulations in what has been marked as C-1?  
 10 A. Yes.  
 11 Q. I want to point you to the time period that we're  
 12 talking about here, which would be in October of 2012  
 13 and Super Storm Sandy. Did the County, to your  
 14 knowledge, have a plan with regard to how they were  
 15 going to deal with Super Storm Sandy?  
 16 A. Yes. The County has a countywide emergency  
 17 operations plan that has several different sections, and  
 18 it's broken up by discipline. So, if that's a police  
 19 section, an emergency medical section, a fire section, a  
 20 sheltering section, human services section, and it's an  
 21 all-hazard approach. It's not specifically geared  
 22 towards hurricanes, but it's a virtual plan, flexible  
 23 plan that's able to be adapted to any state of  
 24 emergency.  
 25 Q. And to your knowledge, was that plan implemented

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1 when the weather service issued the hurricane warnings  
 2 for Sandy in this area?  
 3 A. Yes. As the forecast became apparent that Union  
 4 County was going to be hit significantly by Hurricane  
 5 Sandy, we activated our emergency operations plan. We  
 6 brought all the County department heads to Westfield to  
 7 meet in our emergency operations center, go over the  
 8 forecast, go over what we expected and laid out a plan  
 9 for our EOC activation.  
 10 Q. What is EOC, for those of us not in law  
 11 enforcement?  
 12 A. Emergency operations center.  
 13 Q. And where in Union County would the EOC be set  
 14 up?  
 15 A. On the second floor of the Froehlich building,  
 16 300 North Avenue in Westfield.  
 17 Q. Was Lieutenant Puschel part of these meetings  
 18 with regard to the activation of the County's plans?  
 19 A. I don't remember.  
 20 Q. Would Lieutenant Puschel have knowledge about the  
 21 EOC?  
 22 MR. ANELLO: Objection. Calls for  
 23 speculation.  
 24 MS. CARUSO: Based on his rank of a  
 25 lieutenant and his service in the police department

Page 23

1 --  
 2 MR. MERMAN: Just ask straight up his  
 3 knowledge and belief, does he know.  
 4 Q. Based on your knowledge and belief of Lieutenant  
 5 Puschel, would he know about the EOC?  
 6 A. I believe so, yes.  
 7 Q. Would other members of the Union County Police  
 8 Department know about the EOC?  
 9 MR. ANELLO: Objection. Irrelevant.  
 10 MR. MERMAN: I'll allow it.  
 11 A. I believe anybody involved in emergency services  
 12 would know about the EOC. It's really the center of the  
 13 County's operation and response for an incident of this  
 14 magnitude.  
 15 Q. You stated there was meetings with division heads  
 16 of the county. What were these meetings for? What was  
 17 the purpose of these meetings?  
 18 A. To plan the County's response to what we expected  
 19 to see from the forecast for Hurricane Sandy.  
 20 MR. MERMAN: Can I get a date? I mean,  
 21 clearly we knew Sandy was coming, but at what point  
 22 did the County -- I guess it was the County manager  
 23 and the division heads, department heads. At what  
 24 point did they start to have these meetings?  
 25 MR. MORAN: I don't recall the exact date.

Page 24

1 It was a few days before the hurricane hit.  
 2 MR. MERMAN: So, the EOC was open before the  
 3 hurricane actually hit?  
 4 MR. MORAN: The EOC wasn't activated at that  
 5 time, but there was a meeting in preparation for  
 6 the opening so we could talk about staffing the  
 7 EOC, what departments were going to be represented  
 8 in the EOC and what each division head might be  
 9 facing responding to the hurricane. So we can do  
 10 preplan and address any concerns that the  
 11 departments might have.  
 12 MS. CARUSO: To help with the timing issue,  
 13 I'm going to mark this as C-3.  
 14 (Whereupon, the referred-to document was  
 15 marked as Exhibit C-3 for Identification by the  
 16 Attorney.)  
 17 MS. CARUSO: It is a document that has  
 18 "Union County Police" on the top, and it references  
 19 a call entry time of October 29, 2012 at 15:59.  
 20 Q. Director Moran, can you identify that document?  
 21 (Witness perusing document)  
 22 A. Yes, this is a computer entry into our  
 23 computer-aided dispatch system by Captain John White  
 24 indicating the EOC, which would be the emergency  
 25 operations center, starting at 0600, 6:00 a.m.

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1 MR. ANELLO: I'm going to object to this.  
 2 He can't authenticate it. The entry was made by  
 3 Captain White, and he just said he's obviously not  
 4 Captain White. So, he can't authenticate this  
 5 document.  
 6 Q. Is this document maintained in the ordinary  
 7 course of business in the Union County Police  
 8 Department?  
 9 A. Yes.  
 10 Q. Is it a system you're familiar with?  
 11 A. Yes.  
 12 Q. Can you identify when this document was printed?  
 13 A. September 17, 2013.  
 14 Q. Was it printed in anticipation of this hearing?  
 15 A. Yes.  
 16 Q. Do you have access to this CAD system?  
 17 A. Yes, I do.  
 18 Q. Is this document what you recall seeing in the  
 19 CAD system related to this entry?  
 20 A. Yes.  
 21 MR. MERMAN: I will accept it as a business  
 22 record of the County.  
 23 Q. You testified that this was indicating that the  
 24 EOC was starting at 0600. What date was that starting  
 25 at 0600?

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1 A. That was October 29, 2012.  
2 Q. So, is it safe to say that the meetings that you  
3 testified to occurred prior to this October 29, 2012,  
4 activation of the EOC?  
5 A. Yes.  
6 Q. And 0600, for those of us not familiar with  
7 military time, is 6:00 a.m.?  
8 A. It is.  
9 Q. Thank you. So, going back to the preparation of  
10 these meetings, were discussions had with regard to  
11 County resources?  
12 A. Yes. Resource request would be processed through  
13 the emergency operations center, and it's consistent  
14 with our countywide emergency operations plan.  
15 Q. What type of resources would be requested through  
16 the EOC?  
17 A. Municipalities would request, of course,  
18 generators. We got requests for ready-to-eat meals,  
19 sheltering equipment, cots, toothbrushes, shaving kits,  
20 you know, what goes with opening a shelter, and power  
21 requests. Whenever a municipality had a need or  
22 exhausted their resources, they would call the emergency  
23 operations center.  
24 Q. And generators were part of the resources that  
25 you're referring to?

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1 A. Yes.  
2 Q. Where is Lieutenant Puschel assigned in the Union  
3 County Police Department?  
4 A. In the traffic unit.  
5 Q. Where is the traffic unit located?  
6 A. Kenilworth, Kenilworth Boulevard.  
7 Q. I'm assume there is a structure there that the  
8 traffic unit is located in?  
9 A. Yes.  
10 Q. To your knowledge, what is housed in that  
11 structure?  
12 A. Bomb squad truck or emergency services truck, all  
13 the traffic signs, electronic signs, generators.  
14 Q. Were you involved in discussions as to how to  
15 prepare that structure for Super Storm Sandy?  
16 A. No, I was not.  
17 Q. And do you know if Lieutenant Puschel made any  
18 preparations to that structure in anticipation of Super  
19 Storm Sandy?  
20 A. I have learned since then that equipment was  
21 moved out of there, but at the time I didn't.  
22 Q. What you have learned? Was the equipment moved  
23 to the EOC?  
24 A. I think the bomb truck was moved to the Westfield  
25 location, but I don't know where the other equipment is

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1 located.  
2 Q. Was flooding anticipated at the Kenilworth  
3 building during Super Storm Sandy?  
4 A. The information that we got for Sandy was  
5 flooding was going to be more of an issue on the coastal  
6 municipalities, Elizabeth, Linden and Rahway. The  
7 National Weather Service did not think that the flood  
8 surge would go up to Cranford.  
9 Q. And if it wouldn't go up to Cranford, was it  
10 anticipated that it wouldn't get into Kenilworth?  
11 A. Correct.  
12 Q. You said that you've since learned about  
13 Lieutenant Puschel's preparations over at the Kenilworth  
14 structure. What did you learn about those preparations?  
15 A. That generators and other equipment were moved  
16 out of that facility.  
17 Q. Where were they moved if they weren't moved to  
18 the EOC?  
19 A. Sergeant Pentz' house, Lieutenant Puschel's house  
20 and Mykytka's house, but that's all I know. I don't  
21 know where the other equipment was.  
22 Q. Do you recall seeing Lieutenant Puschel during  
23 the time of Super Storm Sandy?  
24 A. I'm sure I did, but I don't recall a specific  
25 incident.

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1 Q. Okay. You testified before that you believe bomb  
2 equipment was stored -- bomb team equipment, not bomb  
3 equipment was stored in Kenilworth; is that correct?  
4 A. Yes.  
5 Q. Do you know what that equipment consists of?  
6 A. Their bomb truck, the robot, all the essentials  
7 the bomb squad uses in response to a cause of that  
8 nature. I've learned now since then bomb film.  
9 Q. What have you learned about the bomb film since  
10 then?  
11 A. That it needs to be refrigerated.  
12 Q. And was there refrigeration available at the EOC?  
13 A. Yes.  
14 Q. And in your opinion, why wasn't the bomb film  
15 moved to the EOC?  
16 A. I don't know.  
17 Q. Okay. Switching gears a little bit, are members  
18 of the police department considered essential employees  
19 of Union County?  
20 A. Yes.  
21 Q. Would they all be considered essential employees  
22 during an emergency such as Super Storm Sandy?  
23 A. Yes.  
24 Q. Is the traffic division of the Union County  
25 Police Department more essential than other parts of the



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1 police department during an emergency?  
 2 A. The whole department is essential.  
 3 Q. So, one unit is not more essential than the  
 4 other?  
 5 A. No. It depends on the type of emergency that is  
 6 going on, but during Hurricane Sandy, the effects were  
 7 countywide, and, you know, the needs were great. So,  
 8 the whole department was needed.  
 9 Q. In addition to Lieutenant Puschel taking a  
 10 generator for himself to his home and authorizing  
 11 Sergeant Pentz and Corporal Mykytka to take them, to  
 12 your knowledge, who else in the police department was  
 13 given a generator to use during Super Storm Sandy?  
 14 A. Was given a generator?  
 15 Q. Correct. Who else was given a generator with  
 16 authorization from you or from the County manager?  
 17 A. For use at a private residence?  
 18 Q. Yes.  
 19 A. No one.  
 20 Q. And do you live in Union County?  
 21 A. Yes, I do.  
 22 Q. And did you lose power during Super Storm Sandy?  
 23 A. Yes, I did.  
 24 Q. And did you bring a generator to your home for  
 25 use?

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1 A. No, I did not.  
 2 MR. ANELLO: Objection. It's irrelevant  
 3 what he did during Super Storm Sandy.  
 4 MR. MERMAN: Yes. If you want to rephrase  
 5 it, you can.  
 6 MS. CARUSO: I can withdraw that question.  
 7 Q. Where were you based during Super Storm Sandy and  
 8 its aftermath?  
 9 A. At the Froehlich building in Westfield.  
 10 Q. And the Froehlich building is where the EOC was  
 11 set up, correct?  
 12 A. Yes.  
 13 Q. Were other police personnel housed at the EOC  
 14 during this time?  
 15 A. Yes.  
 16 Q. And did the EOC have power during this time,  
 17 during the aftermath of Super Storm Sandy?  
 18 A. Yes. We have several redundant systems in the  
 19 Froehlich building, multiple layers of generators to  
 20 support the operation there and make sure that that  
 21 building has power.  
 22 Q. From my limited knowledge of law enforcement  
 23 officers, they utilize quite a bit of electronic  
 24 equipment; is that fair to say?  
 25 A. Yes.

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1 Q. What does this electronic equipment consist of?  
 2 A. Radios, telephones, pagers, computer equipment.  
 3 Q. Was a plan in place for the officers to charge  
 4 this equipment during Super Storm Sandy and its  
 5 aftermath?  
 6 A. We have multiple chargers in the Froehlich  
 7 building that were available, and we actually had opened  
 8 up our lobby to the public for charging cell phones and  
 9 computer equipment.  
 10 Q. So, to your knowledge, were members of the police  
 11 department utilizing the Froehlich building to charge  
 12 their equipment?  
 13 A. Yeah. Charging cables were hard to come by.  
 14 They were a very popular item.  
 15 MS. CARUSO: I'm going to mark this as C-4.  
 16 It's a document with the header of "Union County  
 17 Police, 1-2012-022331."  
 18 (Whereupon, the referred-to document was  
 19 marked as Exhibit C-4 for Identification by the  
 20 Attorney.)  
 21 MR. MERMAN: Just so we're clear, again,  
 22 this is another document that is kept in the  
 23 ordinary course of business by the Union County  
 24 Police Department?  
 25 MR. MORAN: Yes.

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1 MR. MERMAN: This document was specifically  
 2 prepared with regard to the hearing that we're  
 3 having today?  
 4 MR. MORAN: Yes.  
 5 MR. MERMAN: Prepared at your direction?  
 6 MR. MORAN: Yes.  
 7 MR. MERMAN: You reviewed this document  
 8 before it was presented to me here today?  
 9 MR. MORAN: Yes.  
 10 MR. MERMAN: Has it in any way changed from  
 11 the time it was actually generated?  
 12 MR. MORAN: Not that I can see.  
 13 MR. MERMAN: Tell us just briefly, summarize  
 14 what this document is that we're looking at.  
 15 MR. ANELLO: I just want my objection as to  
 16 authentication noted for the record.  
 17 MR. MERMAN: It's duly noted. That's why I  
 18 asked him the questions.  
 19 MR. MORAN: The County's emergency  
 20 operations plan, like I mentioned earlier, has  
 21 several sections. One section is the law  
 22 enforcement annex. In the law enforcement annex,  
 23 it describes how the police department will respond  
 24 when the emergency operations center is activated.  
 25 In that plan, the chief, or his designee, is in the

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1 emergency operations center during the time of  
 2 activation and coordinates all police response  
 3 during a time of emergency. This document details  
 4 what that person assigned to the emergency  
 5 operations center noted as the County responded to  
 6 the hurricane.  
 7 Q. And if you take a minute to look through this  
 8 document, if you look on page two of 17, more than  
 9 halfway down the page, an entry dated 10/30/2012 at?  
 10 14:51 hours, can you read what that entry states?  
 11 A. Say that again.  
 12 Q. It's page two, more than halfway down the page  
 13 dated October 30th, 2012, at 14:51 hours.  
 14 A. Sure.  
 15 Q. What does that entry indicate?  
 16 A. That the Union County Police received a request  
 17 from Linden PD for 75 cones and 78 barricades.  
 18 Q. So, traveling cones were memorialized in this  
 19 record?  
 20 A. Yes.  
 21 Q. And the distribution of traffic cones were  
 22 maintained in this record?  
 23 A. Yes.  
 24 Q. Was the distribution of generators to public  
 25 entities who requested them memorialized in this record?

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1 A. Yes.  
 2 Q. I direct you to page three of 17, almost in the  
 3 middle of the page on 10/31/12, 11:34. Can you explain  
 4 what that entry means?  
 5 A. Captain Sherwood with the Rahway Police  
 6 Department requested a light tower at Inman and St.  
 7 George brought by the traffic unit.  
 8 Q. Okay. The traffic unit that Lieutenant Puschel  
 9 is in charge of?  
 10 A. Yes.  
 11 Q. If you look down a few entries, October 31, 2012  
 12 at 11:55, can you explain what that means?  
 13 MR. ANELLO: Which one? There are two  
 14 entries at --  
 15 MS. CARUSO: The first one.  
 16 A. We had a similar request from Union PD for the  
 17 traffic unit to assist with traffic lights. That was a  
 18 major concern through all the municipalities because of  
 19 the widespread power outages. Traffic lights were down,  
 20 and the traffic unit did respond to a lot of those  
 21 requests and got traffic lights working.  
 22 Q. So, TEU, that stands for traffic unit?  
 23 A. Traffic Enforcement Unit.  
 24 Q. That's the Union County Police Department Traffic  
 25 Enforcement Unit?

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1 A. Yes.  
 2 Q. Take a minute to look through this document. Is  
 3 the generator that Lieutenant Puschel took to his house  
 4 itemized on this record?  
 5 A. Not that I can see.  
 6 Q. And is the generator that was taken to Sergeant  
 7 Scott Pentz' house written on this record?  
 8 A. Not that I can recall.  
 9 Q. And is the generator that was taken by Officer  
 10 Mykytka under direction from Lieutenant Puschel listed  
 11 on this document?  
 12 A. No.  
 13 Q. In your opinion, based on Lieutenant Puschel's  
 14 experience in the Union County Police Department and  
 15 being the head of the traffic unit, should he have known  
 16 to log those on this document?  
 17 MR. ANELLO: Objection. Improper  
 18 foundation. Calls for speculation.  
 19 MS. CARUSO: Just heard testimony about the  
 20 items that are listed on this. I'm asking his  
 21 opinion and based on his experience and Lieutenant  
 22 Puschel's experience if he would know to put this  
 23 in this business record.  
 24 MR. ANELLO: The County hasn't introduced  
 25 any policy or order that states that officers or

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1 lieutenants have to document what they do with  
 2 respect to generators or anything in the CAD  
 3 system. These entries were made by -- it looks  
 4 like Sergeant Pentz. I just don't understand  
 5 exactly how he can answer that question and say  
 6 what Lieutenant Puschel knew or didn't know about  
 7 the CAD system.  
 8 MS. CARUSO: Director Moran testified that  
 9 the equipment that was being deployed would go  
 10 through the EOC, and this was a running list. He  
 11 testified to that before. So, obviously he would  
 12 have knowledge as to how entries should get into  
 13 this and how Lieutenant Puschel should ensure  
 14 entries should get into this document.  
 15 MR. MERMAN: I think we established  
 16 Lieutenant Puschel, the movement of these three  
 17 assets is nowhere mentioned in this document,  
 18 correct?  
 19 MR. MORAN: Correct.  
 20 MR. MERMAN: You don't know what  
 21 instructions the lieutenant was given with regard  
 22 to entry?  
 23 MR. MORAN: No, I don't.  
 24 MR. MERMAN: You do not. We're going to  
 25 leave it at that. I need to take a five-minute

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1 break. Let's just adjourn right here, and I will  
 2 be back in five minutes.  
 3 (Whereupon, a brief recess was taken from  
 4 11:00 a.m. to 11:11 a.m.)  
 5 MR. MERMAN: We were going over this  
 6 document, which is marked c-4. I've indicated that  
 7 that basically is a document which monitors the  
 8 movement of resources during Super Storm Sandy,  
 9 just for everyone's recollection. This runs from  
 10 10/30, and the last entry was 11/12/2012. We were  
 11 reviewing some specific items, as to the movement  
 12 of traffic cones, barricades, generators, which  
 13 were all within the purview of the traffic  
 14 division. The last note I made was there was no  
 15 mention in this document as to the movement of the  
 16 three generators in question. Let's pick it up  
 17 there.  
 18 Q. Lieutenant Puschel's counsel brings up a good  
 19 point. How were entries made into the CAD system?  
 20 A. Several ways. The dispatcher, who's working with  
 21 the dispatch center, can certainly generate a CAD ticket  
 22 or modify it. The officer assigned, in this case the  
 23 officer assigned to the emergency operations center,  
 24 would be in charge of tracking any entries.  
 25 Q. You mentioned that a dispatcher could enter it.

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1 How would the dispatcher get the information that's put  
 2 into the CAD system?  
 3 A. Either by telephone or radio.  
 4 Q. From whom?  
 5 A. They may start a CAD ticket from a citizen  
 6 calling or a police officer in the field reporting an  
 7 incident or a movement of resources.  
 8 MS. CARUSO: I would like to mark this as  
 9 C-5. It is a document with the heading "Union  
 10 County Police Department" incident number I-  
 11 2012-022126.  
 12 Q. Can you identify that document, please, Director  
 13 Moran?  
 14 MR. ANELLO: I'm going to object as to  
 15 authentication.  
 16 MS. CARUSO: If he identifies it, then I can  
 17 get to authentication.  
 18 A. This, again, is a printout of a computer-aided  
 19 dispatch care ticket.  
 20 Q. Is this the record kept in the normal course of  
 21 business in the Union County Police Department?  
 22 A. Yes.  
 23 Q. And when was this report printed?  
 24 A. It is printed September 17, 2013.  
 25 Q. Has it been changed or modified in any way?

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1 A. Not that I can see.  
 2 Q. And can you identify what this CAD ticket tells  
 3 us?  
 4 A. The call taker was C. Molave, who was the  
 5 dispatcher who generated the ticket, with Lieutenant  
 6 Puschel as the primary unit. Indicated six light towers  
 7 for Cranford and indicates what light towers were sent  
 8 to Cranford.  
 9 Q. So, what does that tell us about these light  
 10 towers and Lieutenant Puschel?  
 11 A. That he was the reporting party and took care of  
 12 this request.  
 13 Q. So, he was reporting in that he was taking light  
 14 towers to Cranford?  
 15 A. Yes.  
 16 Q. And what are light towers, to your knowledge?  
 17 A. Light towers are portable generators with  
 18 multiple lights that can extend up and illuminate an  
 19 area, or they could be used to power electrical  
 20 equipment.  
 21 Q. Such as a traffic light?  
 22 A. Yes. And really during Hurricane Sandy these  
 23 were instrumental in getting a lot of traffic lights up  
 24 and running.  
 25 MS. CARUSO: I don't think we marked the

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1 preliminarily notice.  
 2 MR. MERMAN: I don't think it's necessary.  
 3 Like a complaint in a matter, it's not usually  
 4 marked. We can refer to it as the preliminarily  
 5 notice dated 7/1/13.  
 6 Q. That is the preliminarily notice dated July 1st,  
 7 2013. Are you familiar with this document?  
 8 A. Yes. I haven't seen it in a while, but I am  
 9 familiar with it.  
 10 Q. Take a minute to look at it. I'm going to refer  
 11 you to the left side of the document under the heading  
 12 "Charges."  
 13 A. Okay.  
 14 Q. Are you familiar with what those charges mean?  
 15 A. Yes.  
 16 Q. And based on your understanding, there's a charge  
 17 listed there, N.J.A.C. 4(a):2-2.3 A8, "misuse of public  
 18 property." Do you see that?  
 19 A. Yes, I do.  
 20 Q. As a law enforcement professional, what does that  
 21 charge mean to you?  
 22 MR. ANELLO: Objection. Calls for a legal  
 23 conclusion. He is not a lawyer.  
 24 MS. CARUSO: He is not a lawyer, but he  
 25 understands how law enforcement would view that

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1 charge of misuse.  
 2 MR. ANELLO: You are asking him to interpret  
 3 a statute.  
 4 MR. MERMAN: Let's ask him for what his  
 5 interpretation is.  
 6 MS. CARUSO: I thought that's what I did.  
 7 MR. MERMAN: You asked him from his  
 8 perspective as a law enforcement officer. From his  
 9 personal experience, what do you consider to be  
 10 defined as a misuse of public property.  
 11 MR. MORAN: I would define misuse of public  
 12 property as using it for, you know, financial or  
 13 personal gain. I haven't read that statute  
 14 recently.  
 15 MR. MERMAN: You haven't done any research  
 16 recently on that particular issue, have you, legal  
 17 research through LexisNexis and things like that?  
 18 MR. MORAN: No, I haven't.  
 19 MR. MERMAN: I guess that's what I'm here to  
 20 do. I think I'm here to reach that conclusion as  
 21 to whether or not the facts support the charge.  
 22 So, let's talk more so about the specifications.  
 23 MS. CARUSO: Sure.  
 24 Q. The specifications would be on the right side of  
 25 the page under the heading "Incidents giving rise to the

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1 charge and the dates on which it or they occurred." Are  
 2 you familiar with those specifications?  
 3 A. Yes.  
 4 Q. You are familiar we are here because the county  
 5 is seeking to suspend Lieutenant Puschel for 90 days,  
 6 correct?  
 7 A. Correct.  
 8 Q. Did you participate in the decision to lodge  
 9 these charges against Lieutenant Puschel?  
 10 A. Yes.  
 11 Q. And without sounding facetious, but why?  
 12 A. Because I think in this case County generators  
 13 were used at the home of police officers when so much of  
 14 the public was without power themselves really put the  
 15 department as a whole in a bad light with the public.  
 16 You know, I think it undermines the public trust.  
 17 MR. ANELLO: Objection. He's testifying as  
 18 to his opinion. We haven't established that the  
 19 department was placed in any bad light with the  
 20 public. There is no news articles or anything that  
 21 have come forth.  
 22 MR. MERMAN: No, no, no. She is asking him  
 23 of why he as the director made a determination that  
 24 he was going to move forward with the disciplinary  
 25 charges. That's what she asked him, and I'm going

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1 to allow the testimony.  
 2 A. And I believe there was a violation of the rules  
 3 and regulations of the department.  
 4 Q. Thank you.  
 5 MS. CARUSO: No more questions at this time.  
 6 Reserve the right for redirect.  
 7 MR. MERMAN: Thank you. Counsel, your  
 8 witness.  
 9 MR. ANELLO: Thank you.  
 10  
 11  
 12 CROSS-EXAMINATION BY  
 13 MR. ANELLO:  
 14 Q. You said the County has a countywide emergency  
 15 operation plan in place, correct?  
 16 A. Yes.  
 17 Q. Is that in writing anywhere?  
 18 A. Yes, it is.  
 19 Q. Where is it?  
 20 A. It's on the -- I believe it's on the X drive,  
 21 computer drive of the County.  
 22 Q. And how do you have access to that?  
 23 A. Through my Union County computer.  
 24 Q. You didn't bring a copy of it here with you  
 25 today, though, did you?

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1 A. No, I didn't.  
 2 Q. Did you think it was going to be important here  
 3 at this hearing?  
 4 A. Yeah, I did.  
 5 Q. But you didn't feel it necessary to bring a copy  
 6 here?  
 7 A. No.  
 8 Q. Does it specifically address the deployment of  
 9 generators, to your knowledge?  
 10 A. It addresses the deployment of County resources,  
 11 not generators specifically.  
 12 Q. Okay. You also testified about this EOC meeting.  
 13 When did this meeting take place?  
 14 A. Took place in the days before Sandy hit. I don't  
 15 have the specific date, though.  
 16 Q. You testified that you don't remember the  
 17 specific date, correct?  
 18 A. Correct.  
 19 Q. Do you remember who was at this meeting?  
 20 A. County manager, all of the department heads  
 21 throughout the County with, I think, the exception of  
 22 the jail director was not there. The chief of police or  
 23 the County police was there. The captains within the  
 24 County police and the emergency management personnel and  
 25 deputy director and director of emergency management.

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1 Q. At the meeting, was the countywide emergency  
 2 operations plan disseminated to the people that were  
 3 there in writing?  
 4 A. No, it was not.  
 5 Q. Okay. I would like to turn your attention now to  
 6 what was previously marked as C-4. Do you have a copy  
 7 of that?  
 8 A. Yes, I do.  
 9 Q. Is it listed anywhere in this document, to your  
 10 knowledge, that the emergency plan discussed at the EOC  
 11 meeting was communicated to the Union County police  
 12 officers?  
 13 A. The law enforcement annex of the plan is signed  
 14 off by the chief of police from County, and we activated  
 15 the EOC. He designated ranking officers to man the EOC.  
 16 I don't know if any specific order or notice went out to  
 17 the rank and file.  
 18 Q. Is it listed anywhere, to your knowledge, in this  
 19 document that Lieutenant Puschel was specifically  
 20 notified about the EOC plan?  
 21 A. The only thing I saw was an entry on  
 22 November 12th, 2012, at 9:13 that Lieutenant Puschel  
 23 contacted Scotch Plains Fire Department indicating he  
 24 was in contact with the EOC.  
 25 Q. November 12th; that's sometime after Hurricane

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1 Sandy, correct?  
 2 A. Yes.  
 3 Q. This meeting, you said that occurred within the  
 4 days immediately preceding Hurricane Sandy, that's on or  
 5 about October 29th of 2012?  
 6 A. Yeah. I don't know if he was specifically --  
 7 Q. But it was around that time, around October 29th  
 8 of 2012?  
 9 A. Yes.  
 10 Q. It doesn't say anything about Lieutenant Puschel  
 11 being notified about the EOC meeting around those dates,  
 12 correct?  
 13 A. Correct.  
 14 Q. Staying with this document for a minute in the  
 15 sake of expediency, let's take a look at the entry you  
 16 previously discussed with my adversary, October 31st of  
 17 2012 at 11:34. Do you see that? It's on page three.  
 18 It says "Captain Sherwood requested a light tower at  
 19 Inman and St. Georges Avenue in Rahway brought by TEU."  
 20 A. Okay.  
 21 Q. What does "TEU" stand for?  
 22 A. Traffic Enforcement Unit.  
 23 Q. And Lieutenant Puschel is the head of that unit,  
 24 to your knowledge?  
 25 A. He is the commander, yes.

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1 Q. Do you know if they actually received a  
 2 generator?  
 3 A. No, I do not.  
 4 Q. Do you know of any --  
 5 A. Except at 12:50 it says "traffic light repair by  
 6 TEU."  
 7 Q. So, that indicates that the traffic light was, in  
 8 fact, repaired and in working order?  
 9 A. That's what I would surmise from that entry, yes.  
 10 Q. Taking a look at the next entry that you  
 11 discussed with counsel, October 31st, 2012 at 11:55, it  
 12 says "Union PD requests TEU for assistance with traffic  
 13 lights," correct?  
 14 A. Correct.  
 15 Q. To your knowledge, did the traffic unit fix those  
 16 traffic lights?  
 17 A. I believe so.  
 18 Q. And you testified that the traffic unit did, in  
 19 fact, fix many traffic lights throughout the County?  
 20 A. Absolutely.  
 21 Q. Correct. In your opinion, did Lieutenant Puschel  
 22 do everything he could to assist the County during this  
 23 crisis?  
 24 A. His traffic unit did an excellent job getting  
 25 traffic lights up and running and did make an impact on

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1 traffic safety throughout the County.  
 2 Q. Okay. I'd like to turn your attention to C-3  
 3 now. This was previously identified as a CAD report  
 4 generated by Captain John White, correct?  
 5 A. Yes. He was the reporting party. The call taker  
 6 was Carmen Molave. It indicates that she actually made  
 7 the report, but it looks like John White is the  
 8 reporting party.  
 9 Q. This indicates that Captain White attended the  
 10 EOC meeting, correct?  
 11 A. I did say that he attended the EOC meeting, yes.  
 12 Q. According to this, he attended the EOC meeting at  
 13 6:00 a.m. on October 29th of 2012, correct?  
 14 MS. CARUSO: I would object. He is  
 15 mischaracterizing the witness' prior testimony.  
 16 There was no testimony that this reflects Captain  
 17 White's attendance at any meeting.  
 18 MR. MERMAN: Since I am the factfinder, what  
 19 I heard his testimony to mean is that at six a.m.  
 20 on that date, Captain White opened the EOC. Is  
 21 that --  
 22 MR. MORAN: The EOC was open at 6:00 a.m.  
 23 MR. MERMAN: The EOC was open at 6:00 a.m.  
 24 on that date, and that's what that CAD entry  
 25 indicates?

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1 MR. MORAN: That's what I got from this  
 2 record.  
 3 MR. MERMAN: You have no personal knowledge  
 4 of any of this, you are just relying on these  
 5 records?  
 6 MR. MORAN: Correct.  
 7 MR. MERMAN: Okay.  
 8 Q. To your knowledge, was Lieutenant Puschel  
 9 notified about this EOC meeting?  
 10 A. I don't know. I would assume the chief would  
 11 notify all of his commands. I don't have any personal  
 12 knowledge.  
 13 Q. Well, don't assume.  
 14 MR. MERMAN: His answer is he does not know,  
 15 no, he was not advised in any meeting.  
 16 Q. To your knowledge, did the traffic unit at  
 17 Kenilworth flood during Hurricane Irene?  
 18 A. It did.  
 19 Q. Severely flooded?  
 20 A. Yes, it did.  
 21 Q. Did the County lose any equipment?  
 22 A. We did.  
 23 Q. What equipment was lost?  
 24 A. Bomber robot, some light towers, I believe, a  
 25 message board sign.

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1 Q. Significant equipment, correct?  
 2 A. Absolutely.  
 3 Q. Cost the county a lot of money, correct?  
 4 A. Yes.  
 5 Q. Okay. During Hurricane Sandy, did that  
 6 Kenilworth building flood?  
 7 A. Not to my knowledge.  
 8 Q. But if it had flooded, would the County have lost  
 9 equipment had the equipment been stationed there?  
 10 A. Yes. In our preparation for Hurricane Irene it  
 11 was clear that we were going to see substantial flooding  
 12 throughout the County because the weather forecast  
 13 indicated that. Hurricane Sandy was a much different  
 14 storm, though. Our concern was for a flood surge, since  
 15 it was coming at high tide with a full moon, and the  
 16 experts that we rely on from the National Weather  
 17 Service did not indicate there would be severe flooding  
 18 inland from that, and the dams between Cranford and the  
 19 Arthur Kill and the Rahway River would prevent any back-  
 20 flooding from the storm surge.  
 21 Q. Was there substantial flooding throughout Union  
 22 County as a result of Hurricane Sandy?  
 23 A. In Rahway, Linden, Elizabeth, absolutely.  
 24 Q. Was the flooding worse than you expected?  
 25 A. In those municipalities?

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1 Q. Yes. Throughout the county.  
 2 A. I don't think we've ever seen flooding as bad as  
 3 it was during Hurricane Sandy.  
 4 Q. So, you don't recall if the Kenilworth -- just to  
 5 clarify your testimony, you don't recall if the  
 6 Kenilworth yard flooded, or you said it didn't?  
 7 A. I don't specifically recall if it was flooded or  
 8 not.  
 9 Q. Does Lieutenant Puschel have authority to move  
 10 equipment from the Kenilworth yard?  
 11 A. Yes.  
 12 Q. Does he need to receive authority from you to  
 13 move it?  
 14 A. Normally, no. During an incident like this where  
 15 we institute the incident command system, which our  
 16 officers are trained on, that it's a flow of information  
 17 up and down the chain of command so everybody is  
 18 informed, I would say, yes, there is a requirement that  
 19 information about County resources be exchanged up and  
 20 down the chain of command.  
 21 Q. Is that in writing anywhere?  
 22 A. It's in the National Incident Management System,  
 23 which incident -- ICS is a part of and our officers are  
 24 trained in.  
 25 Q. To your knowledge, has Lieutenant Puschel been

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1 trained in it?  
 2 A. I believe so.  
 3 Q. All right. Did you disseminate this information  
 4 about flooding to the Union County Police?  
 5 A. Yes.  
 6 Q. Who did you disseminate it to?  
 7 A. We discussed it at our briefing.  
 8 Q. Lieutenant Puschel wasn't at that briefing, was  
 9 he?  
 10 A. I don't believe so. I don't remember him being  
 11 there.  
 12 Q. How many generators are in this Kenilworth yard,  
 13 to your knowledge?  
 14 A. It would be a guess. I think about 20.  
 15 Q. Okay. Do you know where every one of them was  
 16 during Hurricane Sandy?  
 17 A. No.  
 18 Q. But you testified that you know that three  
 19 generators went to Corporal Mykytka, Lieutenant Puschel  
 20 and Sergeant Pentz's house, but you don't know where any  
 21 of the other ones were?  
 22 A. Well, I know from the CAD record where some of  
 23 them went, but I don't -- as director of public safety,  
 24 I don't keep track of every generator that is deployed,  
 25 no.

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1 Q. Is it in the CAD records that they went to  
 2 Sergeant Pentz's, Lieutenant Puschel and Corporal  
 3 Mykytka's house?  
 4 A. No.  
 5 Q. How do you know that generators went to their  
 6 homes, but you don't know where any of the other  
 7 generators went?  
 8 A. I know it went to their homes from a report I  
 9 read through Captain Russo's report from the  
 10 Prosecutor's Office.  
 11 Q. When did you review that report?  
 12 A. Sometime after he completed it and before the  
 13 charges were issued.  
 14 Q. What time frame; year, month, date?  
 15 A. I don't specifically recall when I first read it.  
 16 I know I read the portion that had to do with public  
 17 safety employees.  
 18 Q. How long was it after Hurricane Sandy? A month?  
 19 Two months?  
 20 A. It was several months.  
 21 Q. During Hurricane Sandy, did you communicate about  
 22 using the Froehlich building to charge equipment with  
 23 police officers, Union County police officers?  
 24 MR. MERMAN: You're talking about him  
 25 communicating directly with police officers?

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1 MR. ANELLO: Yes.  
 2 A. Not at the time.  
 3 Q. Was this memo sent out to Union County Police  
 4 indicating they could charge their equipment at the  
 5 Froehlich building?  
 6 A. No. We sent out a first-alert message to anybody  
 7 registered in Union County that Froehlich building would  
 8 be open up as a charging center, but I don't know of any  
 9 specific communication to officers, no.  
 10 Q. So, you don't know if Lieutenant Puschel got that  
 11 message?  
 12 A. No, I don't.  
 13 Q. Just quickly turning your attention back to C-4,  
 14 is everything that every Union County police officer did  
 15 during Hurricane Sandy and its immediate aftermath  
 16 listed in here?  
 17 A. I would assume not, no.  
 18 Q. So, there's possibly a lot of things that  
 19 happened that aren't reflected in here, correct?  
 20 A. I wouldn't disagree with that. We try and  
 21 capture as much information as we can, but that  
 22 situation was certainly overwhelming, and I'm sure  
 23 things were missed.  
 24 MR. ANELLO: I have nothing further.  
 25 MS. CARUSO: I have one or two redirect.

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1  
 2  
 3 CROSS-EXAMINATION BY  
 4 MS. CARUSO:  
 5 Q. You testified that the traffic unit, I believe  
 6 you praised them for what they did in getting traffic  
 7 lights back up and that they did everything to assist  
 8 the County and that during Super Storm Sandy and the  
 9 aftermath, correct?  
 10 A. Correct.  
 11 Q. Isn't that their job?  
 12 A. It is.  
 13 MS. CARUSO: Nothing further.  
 14 MR. MERMAN: Any other questions?  
 15 MR. ANELLO: Nothing.  
 16 MR. MERMAN: You are excused as a witness,  
 17 but I think you're sitting around for the duration.  
 18 We are going to, however, ask that for our purposes  
 19 here that you move down the table so we put the  
 20 next witness in your seat.  
 21 (TIME NOTED: 11:36 a.m.)  
 22  
 23  
 24  
 25

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1 JAMES C. RUSSO,  
 2 called as a witness, having been first duly sworn by the  
 3 Hearing Officer and Notary Public of the State of New  
 4 Jersey, was examined and testified as follows:  
 5 EXAMINATION BY  
 6 MS. CARUSO:  
 7 MR. MERMAN: Please state your name, and  
 8 spell your last name for the record.  
 9 MR. RUSSO: James C. Russo, R-U-S-S-O.  
 10 Captain with the Union County Prosecutor's Office.  
 11 Q. Captain Russo, how long have you been employed by  
 12 the Union County Prosecutor's Office?  
 13 A. Approximately 22 years.  
 14 Q. And you stated that your current rank is captain?  
 15 A. Yes.  
 16 Q. When did you become a captain?  
 17 A. June 15th, I believe, of 2013.  
 18 Q. Obviously you held the rank of lieutenant prior  
 19 to becoming a captain?  
 20 A. Yes.  
 21 Q. What were your assignments, where were you  
 22 assigned in the Prosecutor's Office as a lieutenant?  
 23 A. I was the commander of the Special Prosecution's  
 24 Unit.  
 25 Q. And what is the Special Prosecution's Unit?

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1 A. It's a unit that specializes in financial crimes,  
 2 public corruption, police-involved shootings, things of  
 3 that nature, white-collar crimes, computer crimes,  
 4 insurance fraud.  
 5 Q. How long were you part of the Special  
 6 Prosecution's Unit?  
 7 A. Approximately three years.  
 8 Q. And what was your assignment prior to this  
 9 Special Prosecutions's Unit?  
 10 A. I was a supervisor, sergeant in the insurance  
 11 fraud unit.  
 12 Q. What did those duties entail?  
 13 A. Primarily any type of crimes that concerned  
 14 insurance fraud that related to insurance companies.  
 15 Q. So, you participated in investigations?  
 16 A. Yes.  
 17 Q. And in your 22-year career at the Prosecutor's  
 18 Office, approximately how many investigations have you  
 19 conducted?  
 20 A. Easily over a thousand.  
 21 Q. Who did you report to in the Special  
 22 Prosecution's Unit?  
 23 A. The unit is organized, there is a senior  
 24 assistant prosecutor by the name of Jim Tansey, and he  
 25 was the unit supervisor, and then within our chain of

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1 command I had a captain that I reported to, Anna Zack.  
 2 Q. I'm going to direct you to the time period, just  
 3 to short circuit this a little, of Super Storm Sandy,  
 4 which there has already been testimony to was in October  
 5 of 2012 or thereabouts; is that correct?  
 6 A. Yes.  
 7 Q. Did there come a time in 2012 that you were  
 8 assigned an investigation involving Union County?  
 9 A. Yes.  
 10 Q. And did it involve Union County employees?  
 11 A. It did.  
 12 Q. And how did you come to be assigned to that  
 13 investigation?  
 14 A. There was an inquiry that came into my unit, and  
 15 I believe it came from Ted Romanko, who was the  
 16 prosecutor at the time.  
 17 Q. How did it come to land on your desk?  
 18 A. Most inquiries like that would come down to the  
 19 Special Prosecution's Unit either in a memo, telephone  
 20 or a letter. This case it was a telephone call.  
 21 Q. And what is the first step when you're assigned  
 22 an investigation?  
 23 A. Most times an inquiry like that that would come  
 24 in I would get basic information and then we would.  
 25 MR. ANELLO: I'm actually going to object to

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1 this entire line of questioning and actually  
 2 calling him as a witness. To my knowledge,  
 3 Lieutenant Puschel was cleared of any criminal  
 4 wrongdoing in this matter. I don't know what he's  
 5 going to testify to, but it seems like he's here to  
 6 really make these charges seem more serious than  
 7 they actually are.  
 8 MR. MERMAN: Let me ask you a question,  
 9 counsel. Are you willing to stipulate that the  
 10 generators, the three generators in question were  
 11 actually located at three private residences? I  
 12 mean, you know what the report says. I mean, if  
 13 you're ready to stipulate what's in the report, I  
 14 have no problem reading the report.  
 15 MR. ANELLO: My client already admitted  
 16 that. I mean, we will stipulate to the fact that  
 17 there was a generator at Sergeant Pentz's house,  
 18 Corporal Mykytko and his own home. I think that's  
 19 undisputed, and I think you agree with that.  
 20 LIEUTENANT PUSCHEL: Yes, I agree.  
 21 MR. ANELLO: Yes, he agrees to that.  
 22 MR. CARUSO: Do you stipulate to the fact  
 23 that he admitted, as reflected in this report, to  
 24 Captain Russo --  
 25 MR. MERMAN: Stop before you guys start

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1 talking about stipulations. If you're going to  
 2 talk about stipulations -- I only brought it out in  
 3 response to your objection, because, again, the  
 4 report says what the report says. It's an  
 5 investigation. Nobody here has indicated anything  
 6 but that we're dealing with disciplinary charges.  
 7 We're not dealing with any criminal charges.  
 8 MR. ANELLO: Of course.  
 9 MR. MERMAN: This just happens to be the  
 10 gentleman who was assigned to do the investigation.  
 11 Quite honestly, this investigation could have been  
 12 done somewhere within IA at the Union County Police  
 13 Department. It could have been taken over by my  
 14 office, the County Counsel's office to do an  
 15 investigation. I mean, there are a lot of  
 16 different ways that this investigation could have  
 17 been handled, but this gentleman said that he got  
 18 an inquiry, he opened up this file based upon the  
 19 request of the then Prosecutor Romanko. That's why  
 20 he did the investigation. But if you are all  
 21 willing to put some stipulations together, we can  
 22 take a 20-minute break or so to talk about those  
 23 stipulations. That will be between counsel,  
 24 obviously their various representatives, and then  
 25 maybe we don't have to hear anything further from



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1 Captain Russo. But I'm not here to do that. I'm  
 2 here to find the facts.  
 3 MS. CARUSO: Why don't you give us some  
 4 time, and we can talk?  
 5 MR. MERMAN: And I would ask also that the  
 6 public remove themselves from this room while you  
 7 guys are going through that communication and that  
 8 the record is off.  
 9 (Whereupon, an off-the-record discussion was  
 10 held)  
 11 MS. CARUSO: Mr. Hearing Officer, I think  
 12 that counsel and I have come up with stipulations  
 13 that eliminate the need for continued testimony of  
 14 Captain Russo and Mr. Anello, jump in if you  
 15 disagree. In the report there is tab 20 of Captain  
 16 Russo's report as a transcript of a statement that  
 17 Lieutenant Puschel gave to then Lieutenant Russo in  
 18 the course of the investigation. The transcript is  
 19 dated December 19, 2012, and it was transcribed on  
 20 May 24th, 2013. The parties stipulate that we are  
 21 going to give you this exhibit, the transcript in  
 22 full. We also stipulate that within this  
 23 transcript, as you will read --  
 24 MR. ANELLO: Just for the record, it is  
 25 29 pages.

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1 MS. CARUSO: Correct. I'm sorry. Thank  
 2 you, counsel, 29 pages. That Lieutenant Puschel  
 3 stated, as it reflects in this transcript, that he  
 4 did take a generator to his home, that he allowed  
 5 Sergeant Pentz to have a generator and he allowed  
 6 Officer Mykytka to have a generator. Is that  
 7 specific? We also stipulate that there is a  
 8 portion of the Prosecutor's report, the  
 9 investigation conducted by Captain Russo that is  
 10 attached to the Preliminarily Notice of  
 11 Disciplinary Action, that portion is part of the  
 12 record?  
 13 MR. MERMAN: Yes, it was already part of the  
 14 record.  
 15 MS. CARUSO: And those are the only two  
 16 portions of the Prosecutor's report that we are  
 17 submitting.  
 18 We are also stipulating that in the  
 19 transcript of Lieutenant Puschel's statement to  
 20 then Lieutenant Russo, Lieutenant Puschel did not  
 21 ask for Garrity, and he did not ask for Miranda,  
 22 and the County is also putting on the record that  
 23 the dissemination to you of this transcript and  
 24 anything else that Lieutenant Puschel may say  
 25 during this hearing will not lead to any further

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1 administrative charges?  
 2 MR. ANELLO: Yes. I just want to be clear  
 3 on the record that he is invoking his Garrity  
 4 rights with respect to this transcript now and that  
 5 he will not be charged, and the County agrees that  
 6 he will not be charged criminally or  
 7 administratively whatsoever with respect to  
 8 anything contained in this statement or the other  
 9 piece of the report that is attached to the PDNA.  
 10 MS. CARUSO: Well, I don't have the  
 11 authority to give Garrity. Only the Prosecutor's  
 12 Office has authority to give Garrity. Anything in  
 13 this transcript has already been charged with  
 14 regard to the charges that were issued in the  
 15 preliminary notice that we are here for today. The  
 16 County, and I represent the County and have  
 17 authority to state that no additional  
 18 administrative charges will come from this  
 19 transcript or any testimony he may give here today.  
 20 MR. MERMAN: I have absolutely no authority  
 21 to reform the PDNA as far as what charges are  
 22 initially within the PDNA or what facts are  
 23 indicated in there. Of course as we are all aware,  
 24 I have some leeway with regard to my disciplinary  
 25 recommendation and whether or not I find the facts

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1 sustain the charges. Just from that perspective,  
 2 as far as this goes, as far as I know, there was  
 3 never any intent on behalf of the Prosecutor's  
 4 Office to recommend any criminal charges be leveled  
 5 as a result of what happened here at this  
 6 disciplinary hearing. You're way past your  
 7 investigation?  
 8 CAPTAIN RUSSO: That's correct.  
 9 MS. CARUSO: Just to note, the transcript  
 10 being submitted is subject to the confidentiality  
 11 order.  
 12 MR. MERMAN: Absolutely.  
 13 MS. CARUSO: I can give him a copy so you  
 14 can keep that.  
 15 MR. ANELLO: I have extra copies. I can  
 16 give him this one, J-1. Just for the record, the  
 17 Prosecutor's Office doesn't have any intention of  
 18 prosecuting Lieutenant Puschel with respect to  
 19 these charges?  
 20 MR. RUSSO: That's correct.  
 21 MR. ANELLO: And the County is not going to  
 22 charge him administratively with anything?  
 23 MS. CARUSO: Only the charges in the  
 24 July 1st, 2012 PNDA, that's it.  
 25 MR. ANELLO: Okay.

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1 MS. CARUSO: So, with that being said, I'm  
 2 going to excuse Captain Russo, or are you going to  
 3 do it?  
 4 MR. MERMAN: Well, we have the stipulations.  
 5 There were questions that were placed on the  
 6 record. Are you waiving any cross-examination of  
 7 Captain Russo based upon the stipulation?  
 8 MR. ANELLO: Yes, based upon the  
 9 stipulation, we waive cross-examination. They were  
 10 just preliminarily questions. We didn't really get  
 11 into anything.  
 12 MR. MERMAN: Then you are excused. Is that  
 13 the entire County case?  
 14 MS. CARUSO: Subject to any rebuttal  
 15 witnesses, the County rests at this point.  
 16 MR. MERMAN: For everybody's knowledge, my  
 17 1 o'clock obligation has dissolved itself. So, we  
 18 can continue straight through, if that is our plan.  
 19 MS. CARUSO: You don't want to break for  
 20 lunch at any point?  
 21 MR. MERMAN: Since I don't have to break for  
 22 1 o'clock, do you now feel that 12 o'clock would be  
 23 an appropriate time to do the break and then come  
 24 back and go straight?  
 25 MR. ANELLO: My preference is to go straight

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1 through. I am agreeable to anything.  
 2 MS. CARUSO: Subject to a comfort break.  
 3 Thank you.  
 4 (Whereupon, there was an off-the-record  
 5 discussion held.)  
 6 MR. MERMAN: Counsel, your first witness is  
 7 going to be?  
 8 MR. ANELLO: Lieutenant Puschel.  
 9 (Time Noted: 12:08 p.m.)  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 RICHARD PUSCHEL,  
 2 called as a witness, having been first duly sworn by a  
 3 C.S.R. and Notary Public of the State of New Jersey, was  
 4 examined and testified as follows:  
 5 EXAMINATION BY  
 6 MR. ANELLO:  
 7 Q. Lieutenant, what is your current position?  
 8 A. Lieutenant Union County Police, Traffic  
 9 Enforcement Unit.  
 10 Q. For how long have you held that position?  
 11 A. About 16 years in traffic enforcement.  
 12 MR. MERMAN: Is that 16 years as lieutenant  
 13 in traffic enforcement or 16 years in traffic  
 14 enforcement?  
 15 LIEUTENANT PUSCHEL: Tell you the truth, I  
 16 forget. It's been so long, you know. I would say  
 17 lieutenant in there, maybe ten years.  
 18 Q. How long have you been with the traffic unit?  
 19 A. About 15 years.  
 20 Q. And how long have you been with the department in  
 21 total?  
 22 A. Thirty-two years.  
 23 Q. Okay. And you are currently working with the  
 24 traffic unit?  
 25 A. Yes.

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1 Q. Where is the traffic unit located?  
 2 A. 151 Kenilworth Boulevard, Cranford.  
 3 Q. Is that where you report to work every day?  
 4 A. Yes.  
 5 Q. Are you an essential employee?  
 6 A. Yes.  
 7 Q. You're on call 24/7?  
 8 A. Twenty-four hours, yes.  
 9 Q. So, if there's some sort of traffic emergency in  
 10 Union County, you have to respond to it?  
 11 A. Correct.  
 12 Q. Throughout your work with Union County, have you  
 13 come in contact with any generators?  
 14 A. Yes.  
 15 Q. Or generators owned by the county?  
 16 A. Yes.  
 17 Q. All right. Your unit has generators assigned to  
 18 it?  
 19 A. Yes, approximately 20.  
 20 Q. Twenty?  
 21 A. Yes.  
 22 Q. All right. Can you describe these generators for  
 23 us?  
 24 A. They are a combination of light tower generator  
 25 with a two-plug receptacle on it. When they were

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1 purchased, they were poor quality. The lights started  
 2 to burn out. The electrical system started to go out on  
 3 the lights. They were purchased right after the Music  
 4 Fest so they could use it at the following Music Fest.  
 5 Q. When was that?  
 6 A. Maybe around three, four years ago, something  
 7 like that.  
 8 Q. How are they powered?  
 9 A. Diesel power.  
 10 Q. How long do they last? How long will they  
 11 operate?  
 12 A. I would say about two days on diesel fuel,  
 13 approximately two days.  
 14 MR. MERMAN: That's running the tank from  
 15 top to bottom?  
 16 LIEUTENANT PUSCHEL: Approximately two days.  
 17 MR. MERMAN: On a tank?  
 18 LIEUTENANT PUSCHEL: Yes. It could go  
 19 three.  
 20 MR. MERMAN: It could go three on that tank.  
 21 Could it also go more days than that if it got  
 22 refilled?  
 23 LIEUTENANT PUSCHEL: Yes, if you refill it,  
 24 turn it off and use it when it's needed.  
 25 MR. MERMAN: But basically two days on a

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1 tank?  
 2 LIEUTENANT PUSCHEL: Yes.  
 3 Q. And you are the unit commander of the traffic  
 4 unit, correct?  
 5 A. Correct.  
 6 Q. So, you have authority to deploy these generators  
 7 as you see fit?  
 8 A. Yes.  
 9 Q. Do you maintain a log when you deploy these  
 10 generators?  
 11 A. Sometimes. Depends on how busy it is.  
 12 Q. Are you required to advise your superiors about  
 13 how and when you deploy these generators?  
 14 A. No.  
 15 Q. Have you ever been throughout your career?  
 16 A. No.  
 17 Q. So, it's your understanding that you have  
 18 absolute authority to deploy these generators as you see  
 19 fit throughout the county?  
 20 A. That's right.  
 21 Q. Can you give us some circumstances or some  
 22 situations where you've deemed it appropriate to deploy  
 23 these generators?  
 24 A. During the recent storm -- well, prior to the  
 25 storm, I had to deploy them at different areas.

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1 Q. What storm?  
 2 A. Sandy.  
 3 Q. Okay. What type of areas?  
 4 A. We brought the generators -- you want to know  
 5 where I brought them to?  
 6 MR. MERMAN: I am a little concerned at this  
 7 moment with regard to potential confidential  
 8 information that might reflect what we intend on  
 9 doing with -- I'm just throwing this out. We can  
 10 deal with this as we think it's appropriate seeing  
 11 as this is an open hearing, and we're talking about  
 12 specifically police potential tactical matters. I  
 13 think -- unless, counsel, you think that this is  
 14 absolutely necessary to your case, I don't think  
 15 that it's necessary for my factfinding to know  
 16 where assets had previously been deployed, and I  
 17 think you understand -- you and I both having  
 18 served on the Homeland Security Committee myself,  
 19 along with Director Moran, I do believe that we may  
 20 be entering into an area that might reflect on what  
 21 our overall security plans are, and I don't want  
 22 that necessarily to be released through this  
 23 hearing.  
 24 MR. ANELLO: What I was just trying to do  
 25 was just essentially establish the types of

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1 situations and scenarios where these generators or  
 2 light towers may be deployed. I wasn't asking for  
 3 any confidential or any --  
 4 MR. MERMAN: Well, as we all know, in the  
 5 environment that we live in, we do have to protect  
 6 our resources and our assets. So, for example, if  
 7 there is a threat of a terrorist attack, we don't  
 8 want them necessarily to know where our secondary  
 9 locations might be for where those tactical assets  
 10 might be.  
 11 MR. ANELLO: He doesn't have to be specific.  
 12 I just want to know what type.  
 13 MR. MERMAN: That's why I wanted to stop it  
 14 right there, because I don't want to go into that  
 15 area, but I have no problem with, did you have to  
 16 send them to other municipalities on request?  
 17 LIEUTENANT PUSCHEL: Well, it wasn't a  
 18 request. It was my plan that I had during Sandy  
 19 where all the equipment would be deployed for  
 20 security -- well, for safety reasons, safety  
 21 meaning being destroyed by flooding or the storm.  
 22 MS. CARUSO: Director Moran indicated that  
 23 so far there is nothing necessarily confidential  
 24 with the line of questioning coming. If something  
 25 seems to go into that area, the director will

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1 advise us, and then we can deal with it.

2 MR. MERMAN: Please, I just don't want to go

3 -- I understand the significance of the proceeding

4 that I am conducting today and the necessity for me

5 to get all the pertinent facts in order to make my

6 disciplinary recommendation, but I certainly don't

7 want to place anyone or anything that we have

8 control over in harm's way.

9 LIEUTENANT PUSCHEL: I am well aware of

10 security procedures. I have security secret

11 clearance through the FBI. I know about NIMS, FEMA

12 regulations. There would be nothing out there --

13 MR. MERMAN: I in no way meant to admonish

14 you with regard to the information that you were

15 about to discuss. I just want to make it clear on

16 the record that I don't want that information out

17 on the record.

18 LIEUTENANT PUSCHEL: Okay.

19 Q. All right, Lieutenant. Other than Sandy and

20 without compromising national security, what other

21 situations have you used these generators in?

22 A. Without Sandy?

23 Q. Other than Sandy.

24 A. During Irene, our facility flooded. So, we had

25 to remove all the generators from the property. Then we

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1 had to clean them out, and they were deployed in

2 Cranford.

3 Q. Are these generators only supposed to be used

4 during emergency situations?

5 A. Yes.

6 Q. To your knowledge, have they ever been used in

7 non-emergency situations?

8 A. Yes, they were.

9 Q. When was that?

10 A. When we get a request. They were used up in

11 Berkley Heights for football games. We got requests for

12 using them, dropping them off for soccer games in Union.

13 So, I consider those non-emergency.

14 Q. Do you know who made those requests?

15 A. The director. They were picked up by the

16 director.

17 Q. Now, turning your attention to October 29th of

18 2012, do you recall that date?

19 A. Pardon me?

20 Q. Do you recall that date, October 29th of 2012?

21 A. Yes.

22 Q. What was significant about that date for you?

23 A. There was a warning about a storm coming through.

24 After we got hit with Irene, we lost around \$800,000

25 worth of equipment. The place flooded. Personal

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1 equipment got destroyed during Irene. So, I had my own

2 plan in place, seeing that the County didn't have a plan

3 in place, to deploy the generators and what we were

4 going to do if the county lost power or what was going

5 to happen after that storm.

6 Q. What preparations were you making to get ready

7 for Sandy around this date, October 29th of 2012?

8 A. I had my men remove some of the equipment from

9 the yard. I took it upon myself to seal, remove -- once

10 the trucks removed outside all pertinent equipment, we

11 sealed the building with corrugated metal so it didn't

12 flood. We purchased spray foam with our own money to

13 seal the doors so we would get a limited amount of water

14 in. That took most of the day for me to seal everything

15 up while the other guys were dropping the generators off

16 in different locations.

17 Q. Now, you testified that this property in

18 Kenilworth, the traffic yard had flooded previously.

19 When did it flood?

20 A. During Irene, four feet of water.

21 Q. Did it flood prior to that, to your knowledge?

22 A. It came during Floyd. It came very close, but

23 not like this.

24 Q. And was equipment lost during Hurricane Irene?

25 A. Yes. Approximately \$800,000 worth of bomb

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1 equipment, bomb suits, personal property, radar units, a

2 whole variety of stuff.

3 Q. During Hurricane Sandy, was there an emergency

4 plan in place to protect this equipment?

5 A. No plan during Floyd, no plan during Irene and no

6 plan during Sandy.

7 Q. And what steps did you take to protect the

8 equipment?

9 A. Steps I took were to make sure what was destroyed

10 during Irene wouldn't get destroyed now. So, I deployed

11 equipment to different locations. I set something up

12 with Sergeant Pentz to -- because I lost approximately

13 \$12,000 worth of x-ray equipment for the bomb squad

14 during Irene. So, I set something up with him because

15 during Irene he took equipment and put it on his

16 property because his area didn't flood. So, he took

17 some of our equipment, had it on his property along with

18 Kenilworth. So, I put that plan in place just so I

19 could distribute x-ray film to him. It would be

20 centrally located and easy to get just in case we had a

21 call for the bomb squad.

22 Q. During Irene, did you store anything at Pentz's

23 house?

24 A. The x-ray equipment, film. Sorry, x-ray film.

25 Q. And where does that have to be stored?

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1 A. In a refrigerator.  
 2 Q. Sergeant Pentz has a refrigerator in his house,  
 3 obviously?  
 4 A. Yes.  
 5 Q. Where does Sergeant Pentz live in proximity to  
 6 the Kenilworth yard?  
 7 A. Approximately 200 yards away.  
 8 Q. Across the street?  
 9 A. Across the street, yes, on the Kenilworth side.  
 10 Q. So, he would need a generator to keep his  
 11 refrigerator working, obviously?  
 12 A. Yes. I sent it over there on a Monday. Power  
 13 was still on, but with my plan, if he needed it --  
 14 Q. When you say that you sent it over there on a  
 15 Monday, do you recall the specific date that you sent it  
 16 to Sergeant Pentz?  
 17 A. Yes. It was before the storm. That was the plan  
 18 I put in place.  
 19 Q. The generator you sent him, was it fully  
 20 functioning?  
 21 A. No.  
 22 Q. What could it be used for?  
 23 A. Just to plug something in. That's it. Like I  
 24 said, they were poor quality, and the electrical systems  
 25 kept burning out on them.

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1 Q. Did you deem Sergeant Pentz to be an essential  
 2 employee?  
 3 A. Yes.  
 4 Q. Was he on call throughout Hurricane Sandy?  
 5 A. Yes.  
 6 Q. Did he need to keep his radio charged?  
 7 A. I would say so, yes.  
 8 Q. Is that how you get in touch with your essential  
 9 employees?  
 10 A. Either radio during working hours or by  
 11 cellphone.  
 12 Q. So, he would need to keep his cellphone charged  
 13 as well?  
 14 A. Yes.  
 15 Q. Okay. You worked throughout the storm and the  
 16 days immediately following, correct?  
 17 A. Yes.  
 18 Q. What did you do during that time?  
 19 A. During the storm, we had to get our operation  
 20 back and running. We lost power. We had an 80-foot  
 21 tree on our building that we had to cut off by ourselves  
 22 because we didn't have any other resources to do it.  
 23 Same as Irene. We did Irene ourselves. With Sandy, we  
 24 did the same thing. We did the whole building. We cut  
 25 the tree down. We found a bucket loader to push the

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1 stump off it. Then we went around and just started  
 2 cleaning up the place so we could get it back  
 3 operational. We started to bring some equipment back to  
 4 the yard. We unsealed the building with the corrugated  
 5 metal, cleaned the foam up, and then we went around just  
 6 to see if anybody else needed assistance. But the day  
 7 was done, and it was around 4 o'clock by the time we  
 8 really got done. So, we didn't really have enough time  
 9 to see what was needed throughout the County that day.  
 10 Q. Where were you operating out of during this  
 11 storm?  
 12 A. Our vehicle.  
 13 Q. Well, where was your base unit?  
 14 A. Our building on the Boulevard.  
 15 Q. In Kenilworth?  
 16 A. Yes.  
 17 Q. Were you aware that there was an EOC established  
 18 building at the Froehlich building?  
 19 A. No.  
 20 Q. When did you become aware of that?  
 21 A. I would say towards the end of the week.  
 22 Q. So, we're talking about early November of 2012?  
 23 A. Yes.  
 24 Q. You weren't made aware of it prior to the storm?  
 25 A. No. I didn't even know they were putting one in

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1 place.  
 2 Q. During the storm?  
 3 A. No.  
 4 Q. Did you maintain a log of where you were  
 5 deploying equipment to during this time?  
 6 A. No.  
 7 Q. And why not?  
 8 A. Because normally when I do it I just keep it -- I  
 9 know where everything is. I've been doing this so long,  
 10 I know exactly where I put stuff.  
 11 Q. What kind of manpower did you have at this time?  
 12 A. During the storm, I think there was three of us,  
 13 Mykytka and Ferioli, and after the storm I called in --  
 14 half a day I called in Officer Barish (phonetic) to give  
 15 us a hand to help start straightening stuff out. That  
 16 was right after the storm.  
 17 Q. Do you feel you had a manpower shortage?  
 18 A. We always have a manpower shortage.  
 19 Q. Do you feel it was particularly exacerbated by  
 20 Hurricane Sandy?  
 21 A. Yes. That was an unprecedented storm.  
 22 Thirty-two years, I never seen anything like it.  
 23 Q. Would you clarify Hurricane Sandy as an  
 24 unprecedented emergency in Union County?  
 25 A. Yes.

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1 Q. For the record, did the Kenilworth yard flood  
 2 during Hurricane Sandy?  
 3 A. No.  
 4 Q. Didn't flood at all?  
 5 A. No. Just the news you heard on the radio said it  
 6 was going to flood.  
 7 Q. How long was this generator at Sergeant Pentz'  
 8 house?  
 9 A. I deployed it on a Monday, and he had power back  
 10 on Thursday, and I told him just to leave it there  
 11 because I was busy during the week to pick it up, that I  
 12 would pick it up when it's needed.  
 13 Q. And did you explain to him that if it was needed  
 14 elsewhere in the county, it would be redeployed?  
 15 A. Everybody knows that if it's needed for emergency  
 16 it would be pulled and brought to a scene.  
 17 Q. But did you specifically explain that to Sergeant  
 18 Pentz before giving him the generator?  
 19 A. No, I didn't say that to him, but he was probably  
 20 aware of that.  
 21 Q. Where did you go after you took it from Sergeant  
 22 Pentz' house?  
 23 A. We utilized it. I had Officer Ferioli take it  
 24 to Kenilworth on a Saturday.  
 25 Q. Why did it have to go to Kenilworth?

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1 A. They had a problem with one of their traffic  
 2 lights. So, they were going to utilize that to run the  
 3 light.  
 4 Q. How did you hook up the generator to the light?  
 5 A. You have to shut the power off on one box of the  
 6 traffic control, and then you have to rewire, trace the  
 7 wires back and see where the power comes in from that  
 8 box into the main box. Then you have to wire the  
 9 generator into that utilizing, like, a 12-gauge  
 10 extension cord with the male on one end and pigtailed on  
 11 the other.  
 12 Q. And you used an extension cord?  
 13 A. Yes.  
 14 Q. Where did you get the extension cord?  
 15 A. I used them from my house. I cut up about three  
 16 of them.  
 17 Q. So, it was your personal extension cord?  
 18 A. Yes. I utilized them in Linden the day after the  
 19 storm.  
 20 Q. And you used it to benefit the County?  
 21 A. Yes.  
 22 Q. Did you authorize Corporal Mykytka to take a  
 23 County generator home?  
 24 A. Yes, I did.  
 25 Q. And why did you do that?

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1 A. Because he is an essential personnel. He is our  
 2 traffic reconstruction, fatal crash investigator. He is  
 3 the senior man and only one that's qualify to do that  
 4 with his expertise. He went through crash one, two,  
 5 three, reconstruction, everything.  
 6 Q. Was it your professional opinion as the commander  
 7 of that unit that you would need Corporal Mykytka during  
 8 the storm?  
 9 A. Yes, correct. He is needed because we do fatal  
 10 crash investigations, reconstruction for 20 of the 21  
 11 towns.  
 12 Q. Did Corporal Mykytka indicate to you that he  
 13 planned on going anywhere prior to the storm?  
 14 A. Prior to the storm, no.  
 15 Q. During the storm?  
 16 A. After the storm he lost power. He was going to  
 17 go to Connecticut with his wife and kids, and I told  
 18 him, you know, I need him here because of the storm and  
 19 all the work we have to do. So, I told him to just take  
 20 a generator home, plug your radio and phone in and, you  
 21 know, get ready for calls.  
 22 Q. And when exactly did you provide him with the  
 23 generator?  
 24 A. It was that Tuesday after the storm.  
 25 Q. Did you explain to him that if the generator was

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1 needed elsewhere in the county it would have to be  
 2 pulled from his home?  
 3 A. Yeah. He was aware of it.  
 4 Q. To your knowledge, was Corporal Mykytka called to  
 5 investigate a fatal accident during or immediately after  
 6 Sandy?  
 7 A. The Tuesday night I think he took the generator  
 8 home in the afternoon, and then Tuesday around six,  
 9 maybe 7 o'clock at night we got a call from Elizabeth  
 10 that there was a fatal on I&9 and North Avenue. A lady  
 11 got hit by a car. Traffic lights were out, and street  
 12 lights were out. So, he had to go out there and do the  
 13 reconstruction of that scene.  
 14 Q. Did you personally get in touch with Corporal  
 15 Mykytka to go out there to investigate?  
 16 A. They always call me first, and I send them out.  
 17 Q. How do you normally contact Corporal Mykytka to  
 18 go out and investigate an accident scene?  
 19 A. Personal phone, cellphone.  
 20 Q. So, he needed his cellphone to be charged and  
 21 working?  
 22 A. Yes.  
 23 Q. So, obviously he needed electricity?  
 24 A. Correct.  
 25 Q. And Corporal Mykytka is on call 24/7 just like

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1 you?

2 A. Correct.

3 Q. Did you take a generator to your home during

4 Hurricane Sandy?

5 A. Yes, I did. It was on that Friday I lost power,

6 and I was off from work, I think, around 6 o'clock that

7 day. Radio, phone was on all day. So, I used that to

8 charge my phone and my radio.

9 Q. So, why did you bring it home; to charge your

10 phone?

11 A. Yes, so I could keep in touch with other police

12 departments who were calling me all weekend.

13 Q. Why were they calling you?

14 MS. CARUSO: Can you just clarify? You said

15 Friday before? Before the storm or after the

16 storm? I apologize.

17 A. No, that Friday after the storm, whatever it was,

18 November.

19 MR. MERMAN: Just say Friday after the

20 storm.

21 MS. CARUSO: Thank you, Lieutenant.

22 Q. Where was this generator prior to you taking it

23 home?

24 A. It was in the yard. It was in the grave side of

25 the yard where the generators were not properly running.

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1 Q. Was it being used?

2 A. No.

3 Q. Did it function properly?

4 A. Just the outlets. That's it.

5 Q. Could it have been used elsewhere in the county?

6 A. At that time, we didn't need it, no.

7 Q. How long did you use the generator?

8 A. Got it that Friday, brought it back Monday.

9 Q. Did you work every one of these days during

10 Hurricane Sandy?

11 A. Yes.

12 Q. How many hours did you work each day?

13 A. On the record and off the record, I would say

14 about 12 hours a day, including Friday, Saturday and

15 when I got called Friday, Saturday and Sunday on my

16 cellphone from --

17 Q. Who were you getting calls from?

18 A. Union Police and Springfield Police. With Union

19 Police, either I had to move a light or the light what I

20 call burped, and it would set the traffic light on

21 flash, and I would have to go reset it and regroup the

22 trailer.

23 Q. What does that mean?

24 A. It's a little miss in the generator and sets the

25 sequence of the light off. So, I have to go back and

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1 set them.

2 MR. MERMAN: So, like hiccup?

3 LIEUTENANT PUSCHEL: Yes, hiccup is better.

4 Q. Are you familiar with the code of ethics of the

5 Union County Police?

6 A. Yes.

7 Q. Do you recognize this as the code of ethics?

8 A. Yes.

9 Q. Can you read it?

10 A. No. I forgot my glasses. They are in the car.

11 MR. MERMAN: I think the document speaks for

12 itself if you want to submit it. I mean --

13 MR. ANELLO: I have additional copies of it,

14 but I'm looking at section 1:5 of the Union County

15 Police Department Rules and Regulations.

16 MR. MERMAN: Which I already have, right?

17 MR. ANELLO: I believe you have a copy of

18 it.

19 MR. MERMAN: We're only talking about --

20 MR. ANELLO: It's been previously marked as

21 C-1.

22 MR. MERMAN: Yes, we marked it as C-1. So,

23 what chapter are we?

24 MR. ANELLO: 1:5.

25 MR. MERMAN: Okay.

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1 Q. I'm looking specifically at 1:5, 2. Lieutenant

2 Puschel, I'm going to read the following statement, and

3 please tell me if you agree with it with respect to the

4 work you did for the County during Hurricane Sandy. "As

5 a law enforcement employee, my fundamental duty is to

6 serve the community, to safeguard lives and property, to

7 protect the innocent against deception, the weak against

8 oppression or intimidation and be peaceful against

9 violence and disorder and to respect the constitutional

10 rights of all to liberty, equality and justice."

11 A. Yeah. I did that about a thousand percent that

12 whole week or two weeks.

13 MR. ANELLO: Thank you. I have nothing

14 further, Lieutenant Puschel.

15

16

17 CROSS-EXAMINATION BY

18 MS. CARUSO:

19 Q. Good afternoon, Lieutenant. I am Rachel Caruso.

20 I think we've met before. I just have a few questions,

21 all of them asked with the respect recognizing your

22 service in the Union County Police Department. So, just

23 referring to that code of ethics, and I know you don't

24 have your glasses with you.

25 A. I can see a little bit of it.

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1 MR. MERMAN: Before we go any further with  
 2 this, let's talk about the first line of this  
 3 paragraph, talking about the code of ethics. It  
 4 says, "All personnel shall read and abide by the  
 5 law enforcement code of ethics." Okay. So, in  
 6 your 32 years of decorated service, you have  
 7 reviewed this code of ethics on more than one  
 8 occasion, I would assume?  
 9 LIEUTENANT PUSCHEL: Yes, and I abided by  
 10 it, too.  
 11 Q. On the last paragraph of the code of ethics, it  
 12 states "I recognize the badge of my office as a symbol  
 13 of public faith, and I accept it as a public trust to be  
 14 held so long as I am true to the ethics of police  
 15 service. I will never engage in acts of corruption or  
 16 bribery, nor will I condone such acts by other police  
 17 officers." Skipping a few sentences, it then says, "I  
 18 know that I alone am responsible for my own standard of  
 19 professional performance and will take every reasonable  
 20 opportunity to enhance and improve my level of knowledge  
 21 and competence." So, I would imagine you're familiar  
 22 with that. In your opinion, and being a police officer  
 23 for as long as you've been, do you consider your badge a  
 24 symbol of public faith?  
 25 A. Yes.

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1 Q. Do you believe that the public has placed its  
 2 trust in you as a law enforcement officer?  
 3 A. For 32 years.  
 4 Q. And you believe that you've served those 32 years  
 5 honorably, correct?  
 6 A. Correct.  
 7 Q. What gave you the right, then, to take a  
 8 generator home that's owned by the people of the County,  
 9 the taxpayers of the County of Union for you to use when  
 10 so many of those citizens were suffering during that  
 11 time?  
 12 A. Well, I had to keep my radio going. I had to  
 13 keep the motoring public moving throughout Union County.  
 14 Nobody else had that expertise but me. So, without my  
 15 radio, without my phone, the public will not be moving  
 16 throughout Union County. They wouldn't be moving  
 17 through Elizabeth. They wouldn't be moving through  
 18 Springfield. They wouldn't be moving through Scotch  
 19 Plains. They wouldn't be moving through Kenilworth.  
 20 They wouldn't be moving through Rahway, and they  
 21 wouldn't be moving through Union because I'm the one  
 22 that hooked the lights up, and if they want my trust  
 23 that I took a generator -- with your questioning, that I  
 24 took a generator for my own personal use, and I did not  
 25 give -- and people were not allowed to have a generator

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1 for their houses, correct, is that what you're saying?  
 2 Q. Yes.  
 3 A. Well, I went over an OPRA request that there were  
 4 24 generators delivered on the day of the storm, and  
 5 they're missing, and I could not find out where they  
 6 were deployed. So, I wasn't depriving anybody.  
 7 Q. That's not in evidence, so I'm not sure what  
 8 you're speaking of. So, if your counsel has documents  
 9 for us to go over, we can certainly go over it. Nothing  
 10 has ever been provided to my by your counsel with  
 11 respect to an OPRA request of 24 generators?  
 12 A. Well, I went over the OPRA request that went out  
 13 there, and there was nothing there.  
 14 Q. Okay. I trust that.  
 15 A. So, I did not deprive anybody of any generators  
 16 or anything.  
 17 Q. As part of the Traffic Enforcement Unit, based on  
 18 all of your testimony, are you guys out there on an  
 19 island by yourself, no support from central office of  
 20 the Union County PD?  
 21 A. We never had support over there.  
 22 Q. And you've been a law enforcement officer for  
 23 32 years?  
 24 A. Thirty-two years.  
 25 Q. And you didn't know that a command center was set

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1 up during this unprecedented storm, your words?  
 2 A. No. We were never notified.  
 3 Q. By anyone?  
 4 A. Never.  
 5 Q. Did you ever talk to Chief Vanisca during this  
 6 time?  
 7 A. Nobody contacted us.  
 8 Q. So, you guys didn't know what was going on in the  
 9 rest of the county, you just knew what was going on in  
 10 your place and where your traffic enforcement units were  
 11 going?  
 12 A. The only way we knew what was going on is that we  
 13 found it ourselves from driving around, finding out what  
 14 traffic lights were out and using my expertise, and I  
 15 taught one of my other guys how to do it, to hook up the  
 16 traffic lights.  
 17 Q. Okay. And we don't need to get into the  
 18 technical specifications of you hooking up the traffic  
 19 lights. I trust what you said of how it works.  
 20 A. But that's the main part of that. You're saying  
 21 that I deprived people of generators for traffic lights.  
 22 Q. I did not say anything of the sort. I just asked  
 23 you --  
 24 A. No, you said --  
 25 MR. MERMAN: Let's just answer the questions



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1 that are asked. If your attorney has an objection  
 2 to the question, he can note it for the record, and  
 3 then I will to make a ruling with regard to whether  
 4 or not you should answer that question, but I  
 5 certainly don't want any argument.  
 6 LIEUTENANT PUSCHEL: Okay.  
 7 Q. You stated that you had your guys -- that you  
 8 your own plan in place to deploy the generators,  
 9 correct?  
 10 A. Correct.  
 11 Q. Who knew about your plan?  
 12 A. Myself and my men.  
 13 Q. And who are your men?  
 14 A. Well, Sergeant Klaus was off. He was on  
 15 vacation. So, it's Mykytka, Ferioli and Barish, and  
 16 Taruli.  
 17 Q. Is Sergeant Pentz part of the Traffic Enforcement  
 18 Unit?  
 19 A. No.  
 20 Q. But you know him as a member of the Union County  
 21 Police Department?  
 22 A. Yes. He keeps an eye on our yard, and if there's  
 23 a problem in the yard, he has a key, and there's lots of  
 24 times generators, timers went off and the generators are  
 25 running, and he will come over there and turn them off.

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1 Q. You stated that you used Sergeant Pentz' house  
 2 during Hurricane Irene to store x-ray film?  
 3 A. No. The x-ray film got destroyed during Irene.  
 4 Q. So, you used his house during Sandy?  
 5 A. Sandy.  
 6 Q. You also testified that you had your men remove  
 7 some equipment out of the yard on or about October 29,  
 8 2012, pursuant to your plan, and you sealed the  
 9 building, correct?  
 10 A. Correct.  
 11 Q. And you testified that you had them drop  
 12 generators off at other locations?  
 13 A. Correct.  
 14 Q. Where did you have them drop the generators off?  
 15 A. I cannot answer that because of what we  
 16 discussed.  
 17 Q. Were they at public places?  
 18 A. I shouldn't even say that.  
 19 MS. CARUSO: Can he answer if they were  
 20 dropped at public or private residences with regard  
 21 to just not compromising security?  
 22 DIRECTOR MORAN: To prevent them from being  
 23 damaged?  
 24 MS. CARUSO: Based on what he testified to  
 25 where he dropped these generators off. Were they

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1 public entities? He testified that he had his men  
 2 drop them off at other locations. What other  
 3 locations?  
 4 LIEUTENANT PUSCHEL: Do you want me to  
 5 answer that?  
 6 MR. MERMAN: I don't want you to answer  
 7 that, but what I'm going to assume, based upon all  
 8 we have learned as a result of this, that the next  
 9 time something comes up and we have to mobilize  
 10 these assets, we're going to reutilize whatever  
 11 plan it was that you have in place now that that  
 12 has been -- I'm going to make an assumption here --  
 13 disclosed to management. So, I'm going to make  
 14 that assumption for purposes of this hearing. So,  
 15 I don't want to know exactly the locations of them,  
 16 but let me just ask you some general questions.  
 17 LIEUTENANT PUSCHEL: Okay.  
 18 MR. MERMAN: Were they still secure and  
 19 within your command?  
 20 LIEUTENANT PUSCHEL: Yes.  
 21 MR. MERMAN: Were they being monitored by  
 22 any other law enforcement agencies on your behalf?  
 23 LIEUTENANT PUSCHEL: Half of them.  
 24 Q. How many are we talking about? You testified  
 25 previously that you had about 20 under your control at

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1 the yard?  
 2 MR. MERMAN: Well, we also know this, and  
 3 even though it has not been stipulated, we do have  
 4 a document that we've marked as C-4, which does  
 5 document the movement of various assets throughout  
 6 the course of the ten-day period.  
 7 LIEUTENANT PUSCHEL: Yeah.  
 8 MR. MERMAN: So, I think that the real  
 9 question is, other than the three that have been  
 10 identified, were any others placed at private  
 11 residences that were originally within your -- you  
 12 stated your authority to distribute, we'll leave it  
 13 at that, but were there any others at any private  
 14 residences, whether they were other police officers  
 15 or other individuals not related to the police  
 16 department?  
 17 LIEUTENANT PUSCHEL: No.  
 18 MR. MERMAN: I'm okay with that. I don't  
 19 know if you're okay with that.  
 20 LIEUTENANT PUSCHEL: That's good the way you  
 21 phrased it.  
 22 MS. CARUSO: Well, the hearing officer  
 23 assumed something. I don't know if his assumptions  
 24 are proper or not, so I'm going to ask.  
 25 Q. Your plan that you put in place, has that been

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1 disclosed with your superior officers?  
2 A. No.  
3 Q. So, they don't know about that plan?  
4 A. They never asked. They never communicated with  
5 me.  
6 MR. MERMAN: We're certainly going to  
7 correct that issue, and Director, while I can't  
8 indicate, you know, anything with regard to how you  
9 run your department, I think that is information  
10 that we are gleaning as a result of these hearings  
11 that we can use in the future with regard to our  
12 overall plan to protect the community.  
13 Q. Lieutenant, you testified that you took a  
14 generator on the Friday after the storm -- thank you for  
15 clarifying that -- and you returned it on Monday?  
16 A. Yes.  
17 Q. You also testified that it was only useful for  
18 the outlet, correct?  
19 A. Yes.  
20 Q. And you said that at the time, the County didn't  
21 need it.  
22 A. Yes.  
23 Q. If you were not in contact with the EOC, and you  
24 guys were out on your own island, as you said, how did  
25 you know that the County didn't need it?

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1 A. I was the one deploying them during the week.  
2 Q. You had control of all the generators that the  
3 County owns?  
4 A. The ones we owned, yes.  
5 MR. EVANS: The ones that are assigned to  
6 the County.  
7 A. The ones that are assigned to the County police,  
8 the ones assigned to me.  
9 Q. The Traffic Enforcement Unit of the Union County  
10 Police, the ones assigned to that?  
11 A. Yes.  
12 Q. Do you have any training in Incident Command?  
13 A. Yes. I was on the bomb squad for 24 years. I  
14 represented the bomb squad from Maine to West Virginia.  
15 I've been through the NIMS course, FIMA course, incident  
16 command.  
17 Q. So, you do have the Incident Command System  
18 training?  
19 A. Yes.  
20 Q. Did you learn that there would be, under that  
21 training, under Incident Command, that it's typical for  
22 a command center to be set up during an emergency?  
23 A. With other places, yes. With Union County  
24 Police, I don't know.  
25 Q. So, there was never any command center set up for

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1 any other incident other than Hurricane Sandy?  
2 A. I don't remember anything for Floyd, because I  
3 was out there 30 hours in Cranford rescuing people out  
4 of houses. For Irene, I don't even know if that was set  
5 up for Irene either.  
6 Q. But you were in contact with dispatch during  
7 Hurricane Sandy and afterwards, correct?  
8 A. Yes.  
9 Q. And you were advising dispatch -- were you  
10 advising dispatch where you were placing generators or  
11 cones?  
12 A. Sometimes they called me; sometimes I called  
13 them.  
14 Q. Did you ever say to a dispatcher, how's it going  
15 down there?  
16 A. You really want to know?  
17 Q. I do.  
18 A. I was so busy, I didn't have time to eat during  
19 the day or for a glass of water. Nothing was open.  
20 Everything was closed. Myself and my men.  
21 Q. So, there was no need for you ever to go down to  
22 the EOC on North Avenue?  
23 A. Did not have time.  
24 Q. Was any of the equipment that you said you  
25 redeployed from Kenilworth moved to the Froehlich

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1 building?  
2 A. No.  
3 Q. Where was the bomb truck stored?  
4 A. Which equipment? The light towers?  
5 Q. Any equipment that you testified that your men,  
6 during October 29, 2012, with your own plan in place,  
7 that you were removing equipment out of the yard and  
8 sealing the building. So, any of the equipment you were  
9 removing, was that moved to the Froehlich building?  
10 A. The one big bomb truck was there. The smaller  
11 trucks were placed in an undisclosed location.  
12 Q. But not the Froehlich building?  
13 A. No. Close by.  
14 Q. You testified there was a tree in your building.  
15 Was that during Sandy or Irene?  
16 A. During Sandy.  
17 Q. Where did you get the equipment to remove that  
18 tree?  
19 A. We have our own chainsaws.  
20 Q. And they are stored in Kenilworth?  
21 A. Yes.  
22 Q. You didn't move that equipment in anticipation  
23 before you sealed the building?  
24 A. That equipment was moved to an unspecified  
25 location. It was on one of those trucks.

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1 Q. Perfect. Thank you. You testified that you had  
2 a manpower shortage, correct?  
3 A. Correct.  
4 Q. I think you also testified that you virtually  
5 always have a manpower shortage, correct?  
6 A. Correct.  
7 Q. Did you ever think to ask for anymore men during  
8 Sandy?  
9 A. I asked for men during the whole year, and I  
10 never got anybody.  
11 Q. Specifically related to Hurricane Sandy, when  
12 you're communicating with dispatch via the radio or via  
13 your cellphone, did you ever say, are there any men  
14 available to come out to me?  
15 A. I didn't have the time to do it.  
16 Q. Other than your men, who I think you said was  
17 Barish, Mykytka and the sergeant was on vacation,  
18 correct?  
19 A. Yes.  
20 Q. Did you talk to any other officers besides them  
21 during this time?  
22 A. That's it, just them. Just my men.  
23 Q. Just your men?  
24 A. Yes.  
25 Q. So, did you see any other Union County police

Page 103

1 officers during that time?  
2 A. Not really.  
3 Q. When you were out doing the technical operations  
4 of hooking up the light tower or the generator to a  
5 traffic light, any other Union County cops around?  
6 A. Didn't see any.  
7 Q. Any other law enforcement from Kenilworth?  
8 A. Springfield, Kenilworth, Union. Whatever town I  
9 was in doing my work.  
10 Q. So, you saw other law enforcement personnel?  
11 A. Yes.  
12 Q. Did you ask them if they had seen any other Union  
13 County police officers?  
14 A. I had no reason to.  
15 Q. No reason to, okay. You testified that officer  
16 Mykytka is an essential employee, correct?  
17 A. Correct.  
18 Q. And would you view yourself as an essential  
19 employee?  
20 A. Yes.  
21 Q. Would you view every Union County police officer  
22 as an essential employee?  
23 A. Depends what type of essential employee you mean.  
24 Expertise in certain areas, there's only a certain  
25 amount of people. Then you have essential people that

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1 are patrol, and that's all they do is patrol. It  
2 depends on their expertise, and that's where it splits  
3 it down the line.  
4 Q. You testified that Hurricane Sandy was, in your  
5 eyes, an unprecedented emergency, correct?  
6 A. Correct.  
7 Q. I think almost everyone would agree with you.  
8 Given the unprecedented emergency and the aftermath that  
9 the entire county was dealing with during Super Storm  
10 Sandy and afterwards, would you say that every member of  
11 the police department was essential at that point?  
12 A. It's what I explained just before.  
13 Q. So you --  
14 MR. MERMAN: Let him answer the question.  
15 A. They are essential in their own job description.  
16 You know, you have patrol, they are essential to patrol.  
17 Traffic enforcement, bomb squad, technical support, all  
18 that other stuff on the TEU, they are essential under  
19 them with their expertise.  
20 Q. But you don't know what the other officers were  
21 doing during this time because your TEU was doing its  
22 own job?  
23 A. We were very busy. We had no clue what anybody  
24 else was doing.  
25 Q. Okay. Do you know if any other police officers

Page 105

1 took a generator home?  
2 A. No.  
3 Q. You testified that the generators operate on  
4 diesel. Where did that diesel come from?  
5 A. From the county.  
6 Q. So, the generator that you took to your house was  
7 filled with county diesel?  
8 A. Yes.  
9 Q. And the generator that was brought to Officer  
10 Mykytka's house was filled with County diesel?  
11 A. Yes.  
12 Q. And the one that went to Sergeant Pentz' house  
13 was filled with County diesel, correct?  
14 A. Yes.  
15 Q. You testified that both Officer Mykytka and  
16 Sergeant Pentz knew that if you needed those generators  
17 they would be redeployed, correct?  
18 A. Yes, they should have known that. They know all  
19 of that stuff anyway, that it goes for emergencies.  
20 Q. First, did you ever discuss with them that they  
21 should only use it to charge their radios?  
22 A. No.  
23 Q. Did you have a discussion with them as to how  
24 much power the generator could support?  
25 A. I know it doesn't support a lot of power.

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1 Q. In your expertise, what does this type of  
 2 generator support?  
 3 A. Probably just up to, like, a refrigerator,  
 4 because they were poor quality. The outlets were  
 5 burning out. Even just plugging something else small  
 6 into them.  
 7 Q. Forgive me for my lack of expertise with  
 8 generators, I'm assuming you would have to plug an  
 9 extension cord into this and then run it into the house  
 10 that it was providing power to?  
 11 A. Correct, if you put it on the strip like I did --  
 12 I only had one extension cord left because I cut my  
 13 other ones up. I had to put it on the strip so I could  
 14 fit my phone and my radio on it.  
 15 Q. You used it for your phone and radio. Anything  
 16 else plugged into the strip that was plugged into the  
 17 generator?  
 18 A. No.  
 19 Q. No lights?  
 20 A. One light by the front door. That was it. So I  
 21 could see my radio and my phone.  
 22 Q. That's all that fit on there, anyway.  
 23 MR. MERMAN: Radio, phone; not a laptop?  
 24 LIEUTENANT PUSCHEL: No, no.  
 25 Q. You talked about prior to Sandy that you had

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1 deployed generators to Cranford during Irene, correct?  
 2 A. Correct.  
 3 Q. Where in Cranford did you deploy them?  
 4 A. Down by river -- what's the name of that? Behind  
 5 our building. Riverside Drive or Park Drive, all that  
 6 area back there.  
 7 Q. Were they deployed to private residences?  
 8 A. Yes.  
 9 Q. Did anyone ever discuss your deployment of those  
 10 generators to private residences in Cranford with you?  
 11 A. Like who?  
 12 Q. A member of your chain of command?  
 13 A. I remember the director saying nobody requested  
 14 them, but nobody could request them because they had no  
 15 power and the houses were flooded. So, we put them out  
 16 there so we could use their pumps to pump out their  
 17 basements.  
 18 Q. Who is "we"?  
 19 A. Me and my men, Joe Ferriola. That was it, just  
 20 for the pumps.  
 21 Q. Were you ever told to remove them from the  
 22 private residences because of a liability issue?  
 23 A. No.  
 24 Q. Okay. You also testified that you are the unit  
 25 commander, correct?

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1 A. Correct.  
 2 Q. And that you have the sole authority to  
 3 disseminate the equipment under your command, correct?  
 4 A. I had that authority for years.  
 5 Q. Who gave you that authority?  
 6 A. It just became that way because we had my  
 7 supervisor down there who was Captain Folks (phonetic)  
 8 at the time. He had the authority -- we always ran the  
 9 place ourselves because nobody took really interest in  
 10 it.  
 11 Q. And when you say "we," you mean other superior  
 12 officers assigned to the TEU?  
 13 A. Yes.  
 14 Q. Lieutenant, do you think taking home the  
 15 generator was wrong?  
 16 A. No.  
 17 MR. ANELLO: Objection.  
 18 Q. Why not?  
 19 MR. ANELLO: Objection. Calls for  
 20 speculation. Morally wrong? Wrong against the  
 21 rules and regulations?  
 22 MS. CARUSO: I will rephrase.  
 23 Q. Do you think taking home the generator was a  
 24 violation of your law enforcement code of ethics?  
 25 A. No.

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1 Q. Why not?  
 2 A. Because I used that generator for County purposes  
 3 so I could keep this county operational, and I am the  
 4 only one that had a plan. I am the only one that went  
 5 out there and did my job, and nothing came down the  
 6 chain of command. That's why.  
 7 Q. So, you believe there was no other plan in place  
 8 other than your plan to deal with the aftermath of  
 9 Sandy?  
 10 A. There was no plan in place. There was no plan of  
 11 getting the traffic flowing. The safety of our citizens  
 12 are the main concern, and that is my main concern. It's  
 13 been my main concern for 32 years.  
 14 Q. Why didn't you share your plan with anyone, then?  
 15 A. Because I didn't have time to share anything, and  
 16 they should have come up with a plan, because they are  
 17 senior command, and they should have abided by what NIMS  
 18 had and FIMA.  
 19 Q. When did you come up with your plan as to how to  
 20 deal with an emergency such as Super Storm Sandy?  
 21 A. You want the truth?  
 22 Q. Yes.  
 23 A. It was the day of the storm because they had no  
 24 plan for Irene. So, this is the plan I came up with,  
 25 and this is what I was going to do if something

Page 110

1 happened.

2 Q. So, you hadn't thought about it after the

3 aftermath of Irene?

4 A. I was thinking about it after Irene, but then all

5 of a sudden Sandy comes up, and I'm going, okay, this is

6 what happened during Irene, I'm not going to let this

7 happen again, and that's what should have happened from

8 the command level down.

9 Q. Did you call any other members of the Union

10 County Police Department either above you or below you

11 in rank and offer the poor quality generators that had

12 outlets in them for their use?

13 A. Use for what purpose?

14 Q. For any purpose. Did you offer them to any other

15 Union County police officers for use to charge their

16 unit and phone?

17 A. No. Only my essential personnel.

18 Q. Only your essential personnel?

19 A. My essential personnel day in and day out every

20 day during the storm.

21 Q. So, the other essential personnel doing the same

22 thing didn't matter?

23 A. They weren't doing the same thing. I specified

24 that in my last statement.

25 Q. So, only your men were working during the Sandy

Page 111

1 aftermath?

2 A. Working and working hard, yes.

3 Q. Okay.

4 MS. CARUSO: Thank you, Lieutenant. That's

5 it.

6 MR. MERMAN: I have a couple of questions.

7

8

9 CROSS-EXAMINATION BY

10 MR. MERMAN:

11 Q. When did your unit move to this Kenilworth

12 location, because it wasn't there the entire 15 years

13 you ran the traffic unit, right?

14 A. No. We were in Westfield. It was when the shade

15 tree was in there. I can't really say. I can't give

16 you a date on it.

17 Q. I'm focusing on Floyd. Floyd was in '99. It

18 wasn't over there in '99 was it?

19 A. Yes, we were over there in '99. So, that's what,

20 maybe 15 years. I think not too long before Floyd.

21 Q. All right.

22 A. Because I remember Floyd the water came up a

23 little bit past the fence. That was it.

24 Q. I just want to clarify one of your statements.

25 You made the statement over and over again, and I

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1 understand what it means to you. I just want to make

2 sure I get it right. No one at a rank higher than yours

3 ever actually advised you of any plans that may have

4 been put in place?

5 A. Correct.

6 Q. You continually said there was no plan, but

7 obviously throughout the aftermath and having had

8 discussions with your director and chief, I assume, you

9 have been made aware, and certainly through the

10 testimony we heard today, you are aware of the emergency

11 management plans that were at a higher level than

12 Brushare (phonetic) would give, correct?

13 A. Yeah. I was never informed of any plan that was

14 out there and a proper plan, yes.

15 Q. Did you at any time -- I want to use the word

16 "muster." I have been using the word "muster" a lot.

17 Before you go out on your shift on a daily base, are you

18 in communication with the captain or the chief as to

19 anything as far as -- maybe it's because I watch so much

20 TV, but I remember, they have a call-in in the morning,

21 everybody gets briefed what's going on out there. It

22 doesn't seem like there's any of that going on with you

23 and your unit. I have may have been done with your

24 unit, but it doesn't seem like you called over to

25 Westfield for purposes of having that brief.

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1 A. Never.

2 Q. And certainly not with regard to this storm?

3 A. Correct.

4 Q. Did there ever come a time when you had been

5 called for that kind of meeting at Westfield?

6 A. For what?

7 Q. For a meeting to just discuss procedures,

8 processes?

9 A. No.

10 Q. But you did know we had a command center over

11 there in Froehlich, we all know there's an emergency

12 management command center?

13 A. You know there's a command center, but a proper

14 command center will take your assets from other towns

15 and deploy them there.

16 MR. ANELLO: I think he testified he didn't

17 know the command center was set up until -- it was

18 after the storm, right?

19 LIEUTENANT PUSCHEL: Yes, after the storm,

20 because we were running around.

21 MR. MERMAN: This is what I'm trying to

22 figure out, because after the storm, the remarkable

23 part of this particular event is that our issues,

24 the County's issues really came up after the storm,

25 not during the storm when we found out about all

Page 114

1 the power outages and the damage assessment.  
 2 Q. You were never provided with any information from  
 3 the county from anyone as to where the most  
 4 significantly damaged areas were within the County and  
 5 where you should focus the assets?  
 6 A. No. I did it on my own, me and my men.  
 7 MR. MERMAN: I have nothing further.  
 8  
 9  
 10 CROSS-EXAMINATION BY  
 11 MR. ANELLO:  
 12 Q. We touched upon your service a little bit,  
 13 Lieutenant Puschel. What commendations have you  
 14 received throughout your career?  
 15 A. Never really received anything.  
 16 Q. What kind of training have you had?  
 17 A. Bomb squad training, 24 hours. Bomb technicians,  
 18 like I said. I represented bomb squad from Maine to  
 19 West Virginia. I was voted in by my peers from those  
 20 states. Way master, traffic reconstruction, fire -- run  
 21 the fire investigation unit now. It was run improperly  
 22 for ten years. So, they gave it to me to run properly.  
 23 Q. Are you running it properly now?  
 24 A. Yes, I am.  
 25 Q. You stated there was no plan put in place by the

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1 County to deal with power lost throughout the County  
 2 from Hurricane Sandy?  
 3 A. That's correct, that I know.  
 4 Q. How about a plan to deal with traffic flow?  
 5 A. No plan.  
 6 Q. Was there any plan to deal with the loss of power  
 7 to traffic lights?  
 8 A. No plan.  
 9 Q. Is there any plan in place now, to your  
 10 knowledge?  
 11 A. No plan.  
 12 Q. Now, dealing with hooking up traffic lights to  
 13 power, did you hook up a lot of traffic lights to power  
 14 during Hurricane Sandy?  
 15 A. The first one I hooked up was after Sandy. It  
 16 was that night, and I was driving around, and I saw on  
 17 Styles and 1&9 Linden police out there doing traffic on  
 18 a dark highway. So, I drive around, notice a lot of  
 19 traffic lights out. I go home, oh, there is nothing no  
 20 place. I called up Mike Babulski, sergeant down there.  
 21 I go, you want me to hook up your traffic lights. He  
 22 goes, you know how to do that. I go, yeah. So, I'll  
 23 meet you down there, cut my extension cords up, he got a  
 24 generator from town, hooked up the lights.  
 25 MR. MERMAN: This is on 1&9, Styles.

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1 LIEUTENANT PUSCHEL: Yes, 1&9 and Styles,  
 2 and then I did Wood Avenue, 1&9.  
 3 Q. Do you remember what day this was?  
 4 A. Right after the storm, Tuesday, Tuesday night. I  
 5 did my own assessment throughout the County.  
 6 Q. How about any other traffic lights throughout the  
 7 county?  
 8 A. Well, after I told headquarters that I was  
 9 hooking up the traffic lights, you figured someone would  
 10 take that ball and run with it. So, there was no  
 11 communications from them to other towns to say, we had  
 12 the ability to do it. So, they said no towns called up.  
 13 So, what I had to do is -- so, after hooking that up, I  
 14 told the County I hooked up the two lights. We had to  
 15 hook up the rest of Wood Avenue, but prior to that, I  
 16 called headquarters, and I said, Springfield wants  
 17 lights hooked up. Well, nobody ever called us. Okay,  
 18 I'll wait for them to call. Okay, Union wants lights  
 19 hooked up, nobody called. So, I'm waiting. Then I had  
 20 to call up the police department in Union, and  
 21 Springfield, told them, you didn't hear it from me, I  
 22 heard Rich Puschel knows how to hook up traffic lights,  
 23 can you have him hook ours up. I had to call them, they  
 24 had to call command center, and the command center had  
 25 to call me. That's the lack of leadership, lack of

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1 planning.  
 2 MR. MERMAN: Listen, what we also have is we  
 3 have certain protocols that need to be done, and  
 4 you couldn't, under all of these circumstances,  
 5 take it on yourself and just reach over to Director  
 6 Moran because of your chain of command, you needed  
 7 to go through your appropriate chain, and I  
 8 appreciate that and recognize that as being part of  
 9 the overall issues that we are confronted with when  
 10 dealing with law enforcement situations. So,  
 11 again, I certainly appreciate what you did and how  
 12 you handled yourself under all these circumstances,  
 13 but again, I have to look at the facts that are  
 14 presented to me here and make a determination on  
 15 whether or not under all of the circumstances I  
 16 think discipline is appropriate. I will be making  
 17 my recommendation accordingly. I just wanted to  
 18 indicate to you that I do recognize where you're  
 19 coming from on that, and how difficult a situation  
 20 it was not only for you but for all of us here at  
 21 the County during this time. Again, unprecedented,  
 22 and I recognize that. I am a Cranford resident.  
 23 You know that, and I was a victim of Irene, because  
 24 I live right on the other side of Mohegan Lake from  
 25 your location.

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1 LIEUTENANT PUSCHEL: Floyd, too.  
 2 MR. MERMAN: I wasn't there for Floyd. I  
 3 moved to the flood. Should have stayed on the  
 4 south side of town.  
 5 LIEUTENANT PUSCHEL: Because of those  
 6 traffic lights being hooked up and me losing power,  
 7 there was no way for those traffic units to contact  
 8 me. The only way they contacted me is on my own  
 9 personal cellphone because I don't have a County  
 10 cellphone.  
 11 MR. MERMAN: But that also is a result of  
 12 32 years of networking and interaction with these  
 13 other departments and the comradery that exists  
 14 between yourself -- because traffic units in and of  
 15 themselves, you get very specialized as you go  
 16 through this. So, you were pretty much in contact  
 17 with every municipality.  
 18 LIEUTENANT PUSCHEL: And we were highly  
 19 recognized by them, and we even got an award from  
 20 their traffic unit because of all the stuff we do  
 21 for the County traffic unit.  
 22 Going back, with the charges, it's having it  
 23 at my residence, a residence where I had been  
 24 receiving calls from other municipalities on  
 25 Saturday, on Sunday, Friday night to go out there

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1 and repair the lights. If I didn't have that,  
 2 traffic would have stopped. North Avenue and  
 3 Morris Avenue, Liberty and -- Salem and Morris  
 4 Avenue; Springfield, Morris Avenue; Meisel, Morris  
 5 Avenue; Mountain, Morris Avenue -- no, that one the  
 6 head was busted on that. Linden.  
 7 Q. Now, are these all traffic lights that you fixed  
 8 during Hurricane Sandy?  
 9 A. Yes. I would say about 30 traffic lights, 40  
 10 traffic lights, yes, and maintained them.  
 11 Q. And Lieutenant, you keep referring to your plan.  
 12 What was your plan to deploy these generators and deal  
 13 with power outages of traffic lights?  
 14 MR. MERMAN: I think we're belaboring the  
 15 point, you know, with regard to this. We have a  
 16 couple more witnesses that I know you want to call,  
 17 but again, I think that any discussion of any plans  
 18 for the deployment of assets, whether now or in the  
 19 future, should be something that be discussed  
 20 between the Lieutenant and his department. It's  
 21 not appropriate for me to get involved in that.  
 22 It's not part of my decision.  
 23 MR. ANELLO: I just want his plan noted for  
 24 the record.  
 25 MR. MERMAN: He said he has a plan. I

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1 accept the fact that he developed that plan on the  
 2 fly the day before the circumstances. He has  
 3 indicated through his prior testimony that he had  
 4 not shared that even as of this day with Director  
 5 Moran, who is sitting here. I don't know -- we're  
 6 just talking about Director Moran or if we're  
 7 talking about the chief himself, but whatever the  
 8 circumstances are, I think that that is something  
 9 that I commend you for, for taking the initiative  
 10 on, because I know how difficult that is, but I  
 11 don't think it's appropriate for us to reveal that  
 12 simply because there are so many limited number of  
 13 places where we can take this type of asset. I  
 14 don't want to compromise that for any potential in  
 15 the future.  
 16 MR. ANELLO: I have nothing further for  
 17 Lieutenant Puschel.  
 18 MS. CARUSO: I have a couple of questions.  
 19  
 20 CROSS-EXAMINATION BY  
 21 MS. CARUSO:  
 22 Q. You testified before on your direct that you  
 23 didn't know about the command center until later on.  
 24 Then you just testified that on Tuesday you did your own  
 25 assessment, and that's when you started hooking up the

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1 lights on 1&9 Linden, 1&9 Styles and 1&9 Wood.  
 2 A. Yes.  
 3 Q. You told headquarters you were hooking up the  
 4 lights. Who at headquarters did you tell?  
 5 A. I don't know.  
 6 Q. Was it through dispatch?  
 7 A. It was probably through dispatch, yes.  
 8 Q. Okay.  
 9 MR. MERMAN: So, that would give rise to a  
 10 lot of the entries here that it reflected traffic  
 11 unit and what the traffic unit was doing was your  
 12 communication through dispatch.  
 13 LIEUTENANT PUSCHEL: Yes, and a lot of the  
 14 entries aren't even on there.  
 15 MR. MERMAN: Again, understood. I recognize  
 16 the enormity of the circumstance and how  
 17 information was being disseminated throughout this  
 18 period.  
 19 Q. You also testified that you called people that  
 20 you knew in Springfield and Union to, I guess, tip them  
 21 off to say, I and my guys have these skills, so, if you  
 22 need it?  
 23 A. Yes, because it wasn't communicated from the EOC.  
 24 So, I had to do it.  
 25 Q. Okay. And you testified that they had to call

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1 the command center and then the command center notified  
 2 you. So, to get around any chain of command issues,  
 3 that's how it worked, correct?  
 4 A. Not to get around the chain of command, that they  
 5 have knowledge of our ability to do something that  
 6 wasn't projected from our command center to those towns.  
 7 If they rejected it out there and said, we have the  
 8 ability to do this like you are supposed to do in  
 9 emergency situations and having a plan together, yes,  
 10 that would have went through.  
 11 Q. So, you did know there was a command center?  
 12 A. Well, if you had a command center --  
 13 Q. Lieutenant, Lieutenant, listen to my question.  
 14 So, if you contacted your colleagues in Springfield and  
 15 Union and told them they had to talk to the command  
 16 center and then the command center would get in touch  
 17 with you, you knew there was a command center?  
 18 A. Well, it's really headquarters, call it  
 19 headquarters, but we've been talking about command  
 20 center, so, it's up here now.  
 21 Q. I hear you. But you know there was someplace  
 22 Springfield and Union should call that way you could get  
 23 the call to fix the lights?  
 24 A. Well, after I said, you know, that Springfield or  
 25 whatever town called me and wanted the lights hooked up,

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1 and they said they never called here, and I waited, I  
 2 called them and told them to call headquarters, command  
 3 center, whatever was over there.  
 4 Q. So, you knew people in the command center that  
 5 could then take the call and dispatch you?  
 6 A. There's probably a dispatcher.  
 7 Q. Okay.  
 8 MS. CARUSO: Nothing else.  
 9 MR. ANELLO: Real quick.  
 10  
 11 CROSS-EXAMINATION BY  
 12 MR. ANELLO:  
 13 Q. What exactly did you say to Springfield and  
 14 Union? Did you use the term "headquarters," or did you  
 15 use the term "command center"? Do you recall?  
 16 A. No. Usually I say "headquarters," but we've been  
 17 saying here "command center," so it went in.  
 18 Q. When you say "headquarters," do you mean the  
 19 traffic unit on Kenilworth?  
 20 A. No, Westfield, our dispatch in Westfield.  
 21 Q. But at that time, were you aware that that was  
 22 the emergency management office during Hurricane Sandy?  
 23 A. It's probably through emergency management, but  
 24 we've been so busy, we didn't know, you know, what's  
 25 going on, no communications, no nothing.

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1 Q. So, you didn't know that was the EOC headquarters  
 2 at the time?  
 3 A. At the time, no. Not at that time, no.  
 4 MR. ANELLO: Nothing further.  
 5 MS. CARUSO: Thanks, Lieutenant. Can we  
 6 just take five minutes?  
 7 MR. MERMAN: Yes.  
 8 (Whereupon, a brief recess was taken from  
 9 1:12 p.m. to 1:28 p.m.)  
 10  
 11  
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1 SCOTT PENTZ,  
 2 called as a witness, having been first duly sworn by a  
 3 C.S.R. and Notary Public of the State of New Jersey, was  
 4 examined and testified as follows:  
 5 EXAMINATION BY  
 6 MR. ANELLO:  
 7 Q. Sergeant Pentz, where are you currently employed?  
 8 A. Union County Police Department, Westfield.  
 9 Q. What position do you hold there?  
 10 A. Position of sergeant.  
 11 Q. How long have you held that position?  
 12 A. Approximately two years.  
 13 Q. How long have you been with the department?  
 14 A. Little over 32 years.  
 15 Q. Do you consider yourself an essential employee?  
 16 A. Yes.  
 17 Q. Okay. So, you're on call 24/7?  
 18 A. Yes, I am.  
 19 Q. What are your duties and responsibilities?  
 20 A. Right now I'm in charge of a platoon in the  
 21 patrol division.  
 22 Q. Did you work during Hurricane Sandy? I'm  
 23 referring to October 29, 2012, and immediately  
 24 thereafter.  
 25 A. I believe I was off until -- I want to say



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1 whatever that Friday was.  
 2 Q. So, you weren't working during that time?  
 3 A. No.  
 4 Q. Are you familiar with the Union County Police  
 5 equipment yard in Kenilworth?  
 6 A. Yes.  
 7 Q. To your knowledge, does it flood?  
 8 A. Yes.  
 9 Q. Did it flood during Hurricane Irene?  
 10 A. Yes, it did. I'm in close proximity to the yard.  
 11 During Irene, I had the traffic unit -- I said, you want  
 12 to use my property to put any equipment on, go right  
 13 ahead, because my property doesn't flood.  
 14 Q. Where is that property in relation to the yard?  
 15 A. Couple hundred feet east of.  
 16 Q. This is your private residence you're talking  
 17 about?  
 18 A. Yes.  
 19 Q. During Hurricane Sandy, did Lieutenant Puschel  
 20 ask you to store any equipment in or near your home?  
 21 A. Yes, he did.  
 22 Q. What equipment was that?  
 23 A. Generator.  
 24 Q. Where did you store that generator?  
 25 A. On the side yard.

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1 Q. Did you use that generator?  
 2 A. Yes, I did. We were in a power outage.  
 3 Q. Did he ask you to store anything else in your  
 4 home?  
 5 A. Yeah. There was x-ray film for the bomb squad.  
 6 Q. Where did that have to be stored?  
 7 A. It has to be refrigerated.  
 8 Q. So, your refrigerator had to be functioning?  
 9 A. Yes.  
 10 Q. Did you lose power during the hurricane?  
 11 A. Lost power Tuesday night, I think.  
 12 Q. When did you gain power back?  
 13 A. Thursday night about 7:00 p.m.  
 14 Q. So, approximately two days without power?  
 15 A. Approximately.  
 16 Q. So, you used the generator during that time?  
 17 A. Not immediately, because I thought maybe the  
 18 power would come back on, but it didn't. So, sometime  
 19 during Wednesday.  
 20 Q. So, you used the generator Wednesday and  
 21 Thursday?  
 22 A. Yeah.  
 23 Q. How long --  
 24 A. Intermittently. I didn't leave it running the  
 25 whole time.

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1 Q. How long was the generator on your property?  
 2 A. From, I believe, Monday, Monday afternoon to  
 3 Friday afternoon, Kenilworth Police Department took it  
 4 from my property. Needed it for a traffic corner.  
 5 Q. Did Lieutenant Puschel authorize you to take the  
 6 generator home with you?  
 7 A. I didn't take it. It was delivered.  
 8 Q. Oh, it was delivered?  
 9 A. Yes. I don't have a vehicle to use that.  
 10 Q. Did Lieutenant Puschel tell you why it was being  
 11 delivered to your home?  
 12 A. Because there was -- during Hurricane Irene, they  
 13 lost a lot of equipment across the street. So, he  
 14 figured he'd store it there and be safer than in the  
 15 flood zone.  
 16 Q. Did he tell you that the generator that was  
 17 brought to your home, if it was needed elsewhere in the  
 18 County, it would be redeployed where it was needed?  
 19 A. Yes. It was easily accessible.  
 20 Q. And you were on call throughout the storm?  
 21 A. Well, according to the police manual, we're on  
 22 call 24 hours a day and subject to recall at any time.  
 23 Q. Okay. How do your superior officers get in touch  
 24 with you if there's an emergency?  
 25 A. Cellphone or the house phone.

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1 Q. So, you need power for your cellphone to be  
 2 charged, obviously?  
 3 A. Right.  
 4 Q. And you needed power for the x-ray film to be  
 5 stored in your refrigerator, correct?  
 6 A. Correct.  
 7 MR. ANELLO: I have nothing further.  
 8  
 9  
 10 CROSS-EXAMINATION BY  
 11 MS. CARUSO:  
 12 Q. Hello, Sergeant. How are you?  
 13 A. Good.  
 14 Q. I have two questions. You said according to law  
 15 enforcement all officers are on call 24 hours a day and  
 16 subject to recall?  
 17 A. Our police manual.  
 18 Q. The Union County Police manual?  
 19 A. Yes.  
 20 Q. So, every member of the department is subject to  
 21 recall 24 hours a day?  
 22 A. Yes.  
 23 Q. Not just the Traffic Enforcement Unit?  
 24 A. No. All officers rank and file are subject to  
 25 recall.

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1 Q. You testified that you consider yourself an  
 2 essential employee, correct?  
 3 A. Yes.  
 4 Q. Do you consider every member of the Union County  
 5 Police Department an essential employee?  
 6 A. Sure, if we're needed.  
 7 MS. CARUSO: That's all I have for you,  
 8 Sergeant.  
 9 MR. MERMAN: I have no questions.  
 10 MS. CARUSO: Thank you, Sergeant.  
 11 MR. MERMAN: Next witness.  
 12 (Time Noted: 1:33 p.m.)  
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1 CORPORAL MYKYTKA,  
 2 called as a witness, having been first duly sworn by a  
 3 C.S.R. and Notary Public of the State of New Jersey, was  
 4 examined and testified as follows:  
 5 EXAMINATION BY  
 6 MR. ANELLO:  
 7 Q. Corporal Mykytko, what is your employment  
 8 position?  
 9 A. Corporal Union County Police Department.  
 10 Q. How long have you held that position?  
 11 A. Almost 30 years. Not as a corporal, just on the  
 12 job.  
 13 Q. You've been with the Union County Police for  
 14 30 years?  
 15 A. Yes.  
 16 Q. How long have you been a corporal?  
 17 A. I really don't know. About three, four years.  
 18 Q. And what unit are you with?  
 19 A. Traffic bureau.  
 20 Q. How long have you been with that unit?  
 21 A. Since 1995.  
 22 Q. What specifically do you do? What are some of  
 23 your responsibilities?  
 24 A. Commercial vehicle enforcement we do and accident  
 25 reconstructions. We do fatal accidents in the County

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1 for local towns and the County police. Police-involved  
 2 shootings we get called out sometimes.  
 3 Q. Do you consider yourself an essential employee?  
 4 A. Yes.  
 5 Q. Are you on call 24/7?  
 6 A. Yes.  
 7 Q. Who is your immediate supervisor?  
 8 A. I guess Sergeant Klaus.  
 9 Q. Who is Sergeant Klaus' immediate supervisor?  
 10 A. Lieutenant Puschel.  
 11 Q. I would like to bring your attention to  
 12 October 29th of 2012. Were you working that day?  
 13 A. Yes.  
 14 Q. Do you recall what happened during that day?  
 15 MS. CARUSO: I'm sorry, I object. That's a  
 16 little bit broad.  
 17 Q. During Hurricane Sandy, were you working during  
 18 Hurricane Sandy?  
 19 A. Yes, I was working during the storm, before and  
 20 after.  
 21 Q. Did you make plans to relocate your family  
 22 immediately after Hurricane Sandy?  
 23 A. Yeah. I told Lieutenant Puschel, you know, we  
 24 lost power, I was going to go up to Connecticut with my  
 25 wife and kids because there was no power at the house.

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1 Q. And what did Lieutenant Puschel say when you told  
 2 him that?  
 3 A. He said to take one of the generators and use  
 4 that, and stick around. My wife left with the kids,  
 5 though, and I stuck around, because he wanted me around.  
 6 Q. Did he say why he wanted you to stick around?  
 7 A. For help, to help out with the storm and stuff.  
 8 Q. Leading up to the storm, did you make any  
 9 preparations to the traffic unit in Kenilworth to  
 10 prepare for the storm?  
 11 A. We moved our equipment around. You know that  
 12 before because the last storm we got flooded out. So,  
 13 we moved light towers and things around. Like  
 14 (redacted) --  
 15 MR. ANELLO: Don't give the exact locations.  
 16 MR. MERMAN: Moved them to undisclosed  
 17 secure locations.  
 18 CORPORAL MYKYTKA: Yes.  
 19 Q. To your knowledge, is there any protocol in place  
 20 outlining how the County is to deal with emergency  
 21 situations like Hurricane Sandy?  
 22 A. Not to my knowledge, no.  
 23 Q. Specifically, did you lose power at your home  
 24 during the storm?  
 25 A. Yes.

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1 Q. How long were you without power?  
 2 A. Few days. I forget exactly.  
 3 Q. All right. Were you on call throughout the  
 4 storm?  
 5 A. Um-hum, yes.  
 6 Q. And you previously testified that Lieutenant  
 7 Puschel authorized you to take a generator home with  
 8 you?  
 9 A. Yes.  
 10 Q. Because he needed you to work?  
 11 A. Yes.  
 12 Q. Did he tell you that if the generator brought to  
 13 your home was needed elsewhere in the county it would be  
 14 redeployed?  
 15 A. Yes.  
 16 Q. How do your superior officers get in touch with  
 17 you if there is an emergency where you need to be called  
 18 out?  
 19 A. Well, if I'm not working, they call my cell,  
 20 cellphone.  
 21 Q. So, you need power for your cellphone to operate,  
 22 obviously?  
 23 A. To charge it, yes.  
 24 Q. Were you actually deployed during Hurricane Sandy  
 25 to any kind of an emergency situation?

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1 A. We had a fatal accident. I think it was  
 2 Halloween night or something. I forget. Elizabeth.  
 3 Q. So, we're talking October 31st of 2012?  
 4 A. Yes, yeah.  
 5 Q. What did you have to do that night?  
 6 A. Shoot the accident scene with our laser, our  
 7 Nikon.  
 8 Q. Who got in touch with you to do that?  
 9 A. I guess headquarters, dispatch.  
 10 Q. How long was this generator at your home?  
 11 A. Three, four days. I really don't know offhand.  
 12 Q. Was it fully functioning, to your knowledge?  
 13 A. The generator? The lights weren't working. Is  
 14 that what you're asking about? It's a generator with  
 15 lights, but the lights were broken. It was an old  
 16 generator. I think I told him last time it was an old  
 17 generator.  
 18 MR. ANELLO: I have no further questions.  
 19  
 20  
 21 CROSS-EXAMINATION BY  
 22 MS. CARUSO:  
 23 Q. Corporal, how are you?  
 24 A. Good.  
 25 Q. I have just a couple of questions. During Sandy

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1 and the aftermath of Sandy, were you ever in contact  
 2 with other members of the Union County Police Department  
 3 other than Lieutenant Puschel and the men in your unit?  
 4 A. Was I ever in contact with them? When I was  
 5 working?  
 6 Q. We'll start with when you were working.  
 7 A. Well, mostly we were off by ourselves deploying  
 8 equipment around most of the time.  
 9 Q. Who was telling you where to deploy equipment?  
 10 A. Usually on traffic radio, usually over there or  
 11 once in a while you heard it on the general channel to  
 12 move this over there and stuff like that.  
 13 Q. So, Lieutenant Puschel was directing a lot of it?  
 14 A. Some of it, yeah.  
 15 Q. Some of it, and the rest of it was coming from  
 16 general dispatch at headquarters?  
 17 A. Well, yeah.  
 18 Q. Where do you live, Corporal?  
 19 A. Westfield.  
 20 Q. Do you live near the Froehlich building in  
 21 Westfield?  
 22 A. Yes, I do.  
 23 Q. And did you know that an EOC command center was  
 24 set up there during the hurricane?  
 25 A. No.

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1 Q. You didn't?  
 2 A. No.  
 3 Q. Did you drive past it to get to Kenilworth?  
 4 A. No.  
 5 Q. Are you familiar with the bomb film?  
 6 A. The who?  
 7 Q. The bomb film.  
 8 A. No.  
 9 MS. CARUSO: That's all I have for you,  
 10 Corporal. Thanks.  
 11 MR. MERMAN: No questions.  
 12 MR. ANELLO: Nothing further. Lieutenant  
 13 Puschel rests.  
 14 MR. MERMAN: Reiterating what I said earlier  
 15 today --  
 16 MS. CARUSO: Can we just put a date on the  
 17 written summation? You said 14 days from today.  
 18 Can we just put a date because I'm bad at math.  
 19 MR. MERMAN: You can pick that date, because  
 20 I can't figure out how to open the calendar on my  
 21 phone.  
 22 MS. CARUSO: I'm going to say May 7th is two  
 23 weeks. However, Mr. Anello and I have some other  
 24 things going on that day. Could we perhaps make it  
 25 the 8th to give us --

1 MR. MERMAN: Yes.  
 2 MS. CARUSO: So, 15 days?  
 3 MR. MERMAN: Yes.  
 4 MS. CARUSO: What time do you want them by?  
 5 MR. MERMAN: 4:00 p.m. So, make the written  
 6 summations, and then I will make my recommendation  
 7 to the County manager, and hopefully we will have  
 8 this all resolved in the next 30 to 45 days. Thank  
 9 you so much for everybody's participation.  
 10 MR. ANELLO: Thank you.  
 11 (TIME NOTED: 1:42 p.m.)  
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1 ERRATA SHEET  
 Priority-One Court Reporting/Veritext  
 2 718-983-1234  
 ASSIGNMENT NO. P1-1851536  
 3 CASE NAME: Pushel, Richard v. Union County  
 DATE OF DEPOSITION: 4/23/2014  
 4 WITNESS' NAME: Hearing  
 5  

6 PAGE/LINE(S)/	CHANGE	REASON
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Hearing  
 21  
 SUBSCRIBED AND SWORN TO  
 22 BEFORE ME THIS \_\_\_\_\_ DAY  
 OF \_\_\_\_\_, 2014.  
 23  
 24 \_\_\_\_\_  
 NOTARY PUBLIC  
 25 MY COMMISSION EXPIRES \_\_\_\_\_

1 C E R T I F I C A T E  
 2  
 3 I, DORENE GREGORIO, a Notary Public and  
 4 Certified Shorthand Reporter sworn within the State  
 5 of New Jersey, do hereby certify that prior to the  
 6 commencement of the examinations, all witnesses were  
 7 sworn by me to testify the truth, the whole truth and  
 8 nothing but the truth.  
 9  
 10 I DO FURTHER CERTIFY that the foregoing is a  
 11 true and accurate transcript of the testimony as  
 12 taken stenographically by and before me at the time,  
 13 place and on the date herein before set forth.  
 14  
 15 I DO FURTHER CERTIFY that I am neither a  
 16 relative of nor employee, nor attorney, nor counsel  
 17 for any of the parties to this action, and I am  
 18 neither a relative nor employee of such attorney or  
 19 counsel, and that I am not financially interested in  
 20 the action.  
 21 -----  
 22 DORENE GREGORIO, C.S.R.  
 23  
 24  
 25

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