

CAUSE NO. D-1-GN-15-002291

BRIAN RODGERS	* IN THE DISTRICT COURT
Plaintiff	*
	*
v.	* TRAVIS COUNTY, TEXAS
	*
THE CITY OF AUSTIN	*
Defendant	* 98TH JUDICIAL DISTRICT

ORAL DEPOSITION OF SANTOS ELOY DEL BOSQUE III
August 26, 2015

BE IT REMEMBERED that the oral deposition of SANTOS ELOY DEL BOSQUE III was reported by Lydia L. Edwards, Texas CSR 2567, by machine shorthand on August 26, 2015, at Austin City Hall, located at 301 West 2nd Street, Fourth Floor Conference Room, Austin, Texas, between the times of 9:22 o'clock a.m. and 12:48 o'clock p.m., and taken pursuant to the Texas Rules of Civil Procedure, unless otherwise agreed to by counsel, and after which time was set forth as follows:

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FOR THE DEFENDANT

Brian Rodgers

ALSO PRESENT

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I N D E X O F E X H I B I T S

DESCRIPTION	MARKED	IDENTIFIED
Del Bosque Exhibit No. 1A 4-23-15 email	5	75
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Del Bosque Exhibit No. 5 Deposition Notice	5	5
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1 (Before the deposition commenced, 11
2 instruments were marked for identification
3 as Del Bosque Exhibits Nos. 1A, 1B, 2A,
4 2B, 2C, 3A, 3B, 3C, 4A, 4B, 4C and 5.)

5 SANTOS ELOY DEL BOSQUE
6 was called as a witness for the Plaintiff and, after
7 having been duly sworn to tell the truth, testified as
8 follows:

9 EXAMINATION

10 BY MR. ALESHIRE:

11 Q. Good morning. Would you state your full name,
12 please?

13 A. Santos Eloy Del Bosque III.

14 Q. Mr. Del Bosque, I'm Bill Aleshire. I'm the
15 Plaintiff [sic] for Brian Rodgers who is the Plaintiff
16 in a lawsuit against the City, and you are here
17 testifying in that lawsuit. Do you understand that?

18 A. Yes, sir.

19 Q. All right. I'm going to hand you what has been
20 marked as Exhibit 5 and ask you if you recognize that
21 document.

22 A. Yes, sir.

23 Q. And is that the notice of deposition that
24 brings you here today?

25 A. Yes, sir.

1 Q. Okay. Thank you. Have you had your deposition
2 taken before?

3 A. No, sir.

4 Q. Have you ever testified in court?

5 A. No, sir.

6 Q. Okay. As you just noticed, you're under oath
7 here?

8 A. Yes, sir.

9 Q. The reporter is going to take down everything
10 anyone says during the deposition, and so it's real
11 important that we don't talk over each other. So if you
12 will, please, allow me to finish my question before you
13 begin your answer, and I'll try real hard to make sure
14 I'm not asking you question while you're still
15 answering, okay?

16 A. Yes, sir.

17 Q. Okay. The other thing is that she can't take
18 down our head nods, and we do need to try to use words
19 like "yes" or "no" as opposed to "uh-huh" because you
20 can't tell on the transcript whether that's uh-huh or
21 huh-uh.

22 A. Yes, sir.

23 Q. And also be careful. I don't know how fast you
24 usually speak, but don't speak too fast. It will burn
25 her fingers up.

1 A. Yes, sir.

2 Q. Okay. Thank you. Your attorney is entitled to
3 make certain objections during the deposition if he sees
4 fit, and so don't be too surprised. I'm also allowed to
5 make an objection if I think your answer is not
6 responsive to the question.

7 A. Yes, sir.

8 Q. And do try to let me finish commenting before
9 you speak, just for the sake of the transcript.

10 And I'm going to ask you, before you begin
11 to answer a question, if you don't understand it, please
12 let us know that and -- otherwise we're going to assume
13 that you understood the question when you provided an
14 answer, okay?

15 A. Yes, sir.

16 Q. Thank you. And we've got a lot to cover. So
17 we may need to get a break somewhere in between, and if
18 at any time you need a break, just raise your hand or
19 signal or something. I'll be glad to do that as long as
20 you finish the answer to the question that's on the
21 table at the time.

22 A. Yes, sir.

23 Q. Okay. Thank you. Did you do anything to
24 prepare for your deposition today?

25 A. I met with Mr. Coppola.

1 Q. I don't need to know about that. Thank you.

2 A. Yes, sir.

3 Q. Okay. Other than visiting with your attorney,
4 did you talk to anyone else about your deposition today?

5 A. Yes, sir. I spoke with Dean Merritt with the
6 Communications/Technology Management Group.

7 Q. Dee Merritt?

8 A. Dean Merritt.

9 Q. Okay. And with what group?

10 A. Communications/Technology Management.

11 Q. And what did you talk to Ms. Merritt about?

12 A. Mr. Merritt.

13 Q. Mr. Merritt. I'm sorry.

14 A. We talked about city council PIRs.

15 Q. PIRs. You --

16 A. Public Information Requests.

17 Q. Okay. And if you use the term "PIRs," you
18 don't mean PEERS unless you tell us that's what you
19 mean. You mean P-I-R-s --

20 A. Yes, sir.

21 Q. -- which stands for Public Information
22 Requests, plural?

23 A. (Nods affirmatively.)

24 Q. Okay. Well, be more specific. What did you
25 talk to Mr. Merritt about?

1 A. He was going over methodology that his group
2 does -- or uses in order to search council emails.

3 **Q. Okay. I'm going to get to the issue about how**
4 **PIRs are searched a little later. But just generally**
5 **what does the Communication and Technology Management**
6 **Group do? Is there a particular segment of PIRs**
7 **processing that they take care of, or are they involved**
8 **in all PIRs?**

9 A. Dean Merritt is with the CTM -- may I call them
10 that or --

11 **Q. Sure. CTM is for Communication/Technology**
12 **Management?**

13 A. Yes.

14 **Q. Okay.**

15 A. -- security group. They provide email searches
16 for city council email searches or requests.

17 **Q. So if records that councilmembers might have**
18 **need to be searched, CTM does that?**

19 A. Yes, sir, his group only.

20 **Q. Okay. What about --**

21 A. That's only --

22 **Q. Sorry. Go ahead.**

23 A. And they only search emails.

24 **Q. Okay. What if documents are requested other**
25 **than emails from councilmembers? Does CMT [sic] search**

1 **for those?**

2 A. No, sir.

3 **Q. Do you know who does?**

4 A. City council single point of contacts.

5 **Q. Okay. Single point of contact, SPOC?**

6 A. Yes, sir.

7 **Q. Okay. How long did your conversation with**

8 **Mr. Merritt last?**

9 A. 45 minutes to an hour.

10 **Q. Okay. And it was yesterday?**

11 A. No, sir.

12 **Q. Oh, when was it?**

13 A. Approximately two weeks ago.

14 **Q. Okay. And, more specifically, what topics did**
15 **you talk to him about? You were talking about council**
16 **searches?**

17 A. We mostly spoke about CTM security's
18 methodology, their inner workings of how they went
19 through their searches.

20 **Q. Okay. And so you'll be able to ask -- answer**
21 **questions today about how that process works?**

22 A. In general terms, yes.

23 **Q. Okay. Thank you. Did you review any documents**
24 **to prepare for this deposition?**

25 A. Yes.

1 Q. What?

2 A. I reviewed this (indicating).

3 Q. Exhibit 5?

4 A. Deposition 5 and then interrogatories.

5 Q. Okay. And when you say "interrogatories," do
6 you mean the City's response to the Plaintiff's request
7 for interrogatories?

8 A. Yes, sir.

9 Q. Did you help provide answers to the
10 interrogatories?

11 A. Yes, sir.

12 Q. I don't have an extra copy with me, but I do
13 have the City's response to Plaintiff's first request
14 for interrogatories, and they -- interrogatory answers
15 for 7 is verified by Sarah Hensley, 8 by Terry Nicholson
16 and 6 by Sue Edwards; but I don't see any verification
17 for any of the other answers. Did you provide the
18 answers to any of those interrogatories?

19 A. I was asked questions about the
20 interrogatories. So that could mean I'm just answering
21 the question.

22 MR. COPPOLA: Do you know if we can go off
23 the record for a moment?

24 MR. ALESHIRE: Yes. We'll go off just for
25 a moment.

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(OFF THE RECORD)

Q. (BY MR. ALESHIRE) During our break, I was shown a copy of the verification that you signed for Plaintiff's interrogatories 1 through 5 and 9 and 10. I don't think we need to mark it as an exhibit, but I want to show it to you and just to refresh your recollection.

A. Yes, sir.

Q. Okay. So is it correct to say that you are verifying the answer that the City gave to those Interrogatories 1 through 5, 9 and 10?

A. Yes, sir.

Q. Okay. Thank you. Other than the interrogatories, did you review any other documents to prepare for your deposition?

A. I looked at one of the PIRs.

Q. Which one?

A. Bull Creek.

Q. Okay. And this Bull Creek is a request for correspondence about the potential purchase of Bull Creek property?

A. Yes, sir.

Q. Okay. Now, there was also a request for PIR Team processing logs for that request. Did you look at that as well?

A. No, sir.

1 Q. Okay. Thank you. Mr. Del Bosque, what is your
2 title -- job title with the City of Austin?

3 A. Public information manager.

4 Q. And have -- is that the only job title you've
5 had since you've worked for the City?

6 A. No, sir.

7 Q. What other job title did you have, and when did
8 it change?

9 A. Administrative specialist. It changed about
10 September of 2014. I was named acting public
11 information manager.

12 Q. In September of '14?

13 A. Yes, sir.

14 Q. Okay.

15 A. And then it changed again December of 2014 to
16 public information manager.

17 Q. Okay. And in the job you had before as an
18 administrative specialist, was it in the public
19 information area?

20 A. Yes, sir.

21 Q. And was that the first job that you had with
22 the City?

23 A. Yes, sir.

24 Q. Okay. And when did you start that job?

25 A. December 30th, 2013.

1 Q. What did you do before you took that job?

2 A. I worked various companies.

3 Q. What was the one immediately before taking that
4 job?

5 A. I was the -- I worked for my wife Del Bosque &
6 Associates.

7 Q. And what kind of company is that?

8 A. Governmental affairs.

9 Q. Is that a lobbying firm?

10 A. Yes, sir.

11 Q. What did you do that -- what was your job?
12 What did you do?

13 A. I handled all the books and helped her with
14 research.

15 Q. Okay. What kind of research?

16 A. Some legislative research, some company
17 research.

18 Q. I'm sorry. I didn't understand you.

19 A. Company research, legislative research, helped
20 her, you know, looking through bills.

21 Q. Okay. Helping her review proposed legislation?

22 A. Yes, sir.

23 Q. Okay. What other kind of research did you do?

24 A. That's it.

25 Q. Okay. Did that job involve the Texas Public

1 Information Act in some way other than review public
2 information? Did it change --

3 A. No, sir.

4 Q. Did not?

5 A. No, sir.

6 Q. Okay. Had you -- with any of the companies
7 you've worked for before you came to the City of Austin,
8 were you in a position where you needed to receive or
9 help process public information requests?

10 A. When you mean -- explain "receive."

11 Q. Well, like you do now, you receive public
12 information requests from the public on behalf of your
13 employer --

14 A. No, sir.

15 Q. -- and you help process them. In any of your
16 prior jobs before you came to the City, did you have
17 that as one of your job functions?

18 A. No, sir.

19 Q. Okay. So is it correct that as of
20 December 30th, 2013 when you went to work for the City
21 that was your -- beginning of your first experience in
22 processing public information requests --

23 A. Yes, sir.

24 Q. -- under the TPIA, I mean?

25 A. Yes, sir.

1 **Q. Okay. Thank you. How did you find out about**
2 **the administrative specialist position with the City?**

3 MR. COPPOLA: I'm just going to again make
4 a notation on the record that these sorts of questions
5 are not within Mr. Del Bosque's designation, and he is
6 speaking from his own personal knowledge at this point.

7 MR. ALESHIRE: Understood.

8 THE WITNESS: Ask again.

9 **Q. (BY MR. ALESHIRE) The question again?**

10 A. Yes, sir.

11 **Q. How did you find out about the administrative**
12 **specialist position with the City of Austin?**

13 A. City of Austin employment web site.

14 **Q. And had you been looking for a job?**

15 A. Yes, sir.

16 **Q. Did you talk to any city employee or official**
17 **about the job before you applied for it?**

18 A. No, sir.

19 **Q. Were you acquainted with Karen Kennard before**
20 **you came to work for the City?**

21 A. Yes, sir.

22 **Q. How?**

23 A. I met her with -- through my wife.

24 **Q. What does that -- I don't know what that means.**

25 A. I met her at a function. I don't -- don't

1 remember when.

2 **Q. Oh, okay. Social function?**

3 A. Yes, sir.

4 **Q. Okay.**

5 A. Yes, sir.

6 **Q. Okay. What do you do in your present job as**
7 **the public information manager?**

8 A. On a daily basis?

9 **Q. Describe your duties.**

10 A. I oversee the public information request
11 system, the two full-time employees that we have and two
12 temporary employees that we have.

13 **Q. When you say "we," are you referring to -- I've**
14 **seen the phrase before "PIR Team"?**

15 A. Yes, sir.

16 **Q. Is that who you're referring to?**

17 A. Yes, sir.

18 **Q. Who is the PIR Team? You obviously?**

19 A. Yes, sir. Desta Walker is a full-time
20 administrative specialist. Carmen Malone is a full-time
21 administrative specialist.

22 **Q. Carmen?**

23 A. Malone. Lyn von Roeder is a temporary
24 part-time person. James Clack is a temporary full-time
25 person.

1 Q. Temp full?

2 A. Yes, sir.

3 Q. And so it's just the five of you?

4 A. Yes, sir.

5 Q. So at least generally speaking, when someone
6 wants to request records from the City of Austin, you
7 receive that request; is that right?

8 MR. COPPOLA: Objection, form.

9 MR. ALESHIRE: You can explain your
10 objection.

11 MR. COPPOLA: He can answer.

12 MR. ALESHIRE: Well, go ahead and explain
13 your objection, and I'll try to clean it up.

14 MR. COPPOLA: Sure. I think the question
15 is vague.

16 Q. (BY MR. ALESHIRE) Okay. Is there another
17 department other than the PIR Team that receives
18 requests for information for records from the City of
19 Austin?

20 A. No, sir. But departments can receive requests,
21 and then they forward them to us. Employees can receive
22 requests, and they give them to us through either an
23 interoffice mail, email, hand-deliver.

24 Q. Okay.

25 A. Citizens are able to, you know, do the same

1 thing by email, by mail, hand-deliver. Everything --
2 all requests have to be in written form. There's no
3 verbal requests.

4 **Q. And so no matter where it's actually received**
5 **the process for the City of Austin is it should come to**
6 **your team?**

7 A. The process is that the request should be
8 forwarded to us, yes.

9 **Q. Okay. And then you pick it up from there and**
10 **handle the processing of the PIR?**

11 A. Yes, sir.

12 **Q. Okay. Other than eventually receiving, being**
13 **the central reception for PIRs, and then managing the**
14 **processing of the PIRs, is there anything else -- any**
15 **other kind of duty you have that isn't incorporated in**
16 **that description?**

17 A. I go out and train single point of contacts.
18 There's a training component to it for the system itself
19 and our general PIR process.

20 **Q. Okay. Has your job performance been evaluated**
21 **since January of this year?**

22 A. Yes.

23 **Q. When?**

24 A. I don't recall. I would say March or April.

25 **Q. Okay. Was it a written evaluation?**

1 A. I believe so.

2 Q. Okay. Had you received any criticism of your
3 performance from city administrators this year?

4 A. Yes, sir.

5 Q. What was it?

6 A. Verbal.

7 Q. Okay. What was the criticism?

8 A. I'm trying to think how that was worded, "You
9 need to manage staff better."

10 Q. Okay. And was it -- was that related to some
11 incident?

12 A. No, sir.

13 Q. Was it related to a particular employee?

14 A. Yes, sir.

15 Q. Who was the employee?

16 A. Carmen Malone.

17 Q. And what was it that they felt like you needed
18 to correct in terms of her actions?

19 A. Her processing of requests or she enters
20 requests.

21 Q. Okay. Were any of those requests the -- what
22 I'll call the Brian Rodgers PIRs that are the subject of
23 this lawsuit?

24 A. No, sir.

25 Q. What was it that she had done or not done that

1 **raised the concern for city administrators?**

2 A. It was just the speed of how she was entering.

3 **Q. Can you explain that better? I don't**
4 **understand?**

5 A. We get certain number of PIRs per day, and we
6 thought that they were not getting there as quickly as
7 they should be.

8 **Q. Okay. And so we understand that under the**
9 **Public Information Act you are under some time**
10 **constraints -- a time challenge to get a response back**
11 **out and/or request an Attorney General's opinion within**
12 **10 working days correct?**

13 MR. COPPOLA: Objection, form.

14 **Q. (BY MR. ALESHIRE) Go ahead.**

15 A. Yes, sir.

16 **Q. And so was that late entry of the PIRs by**
17 **Ms. Malone causing a compliance problem with the TPIA?**

18 A. No, sir.

19 MR. COPPOLA: Object to form.

20 A. No, sir.

21 **Q. (BY MR. ALESHIRE) Okay. Have you received any**
22 **other criticism of your performance this year?**

23 A. No, sir.

24 **Q. Have you received any praise for your**
25 **performance from city administrators this year?**

1 A. No, sir.

2 Q. Okay. Is there a single person at the City
3 whose job it is to make sure the City complies with the
4 TPIA?

5 A. Can you please ask that again?

6 Q. I said, is there a single person at the City
7 whose job it is to make sure the City complies with the
8 TPIA?

9 MR. COPPOLA: And, again, I just want to
10 note for the record that this is outside of Mr. Del
11 Bosque's -- the way he's been designated to speak for
12 the City, and any responses he would be speaking from
13 his personal knowledge.

14 MR. ALESHIRE: Okay.

15 A. I do not believe there's one single person that
16 is responsible for that.

17 Q. (BY MR. ALESHIRE) It's not you; is that right?

18 A. I don't think so.

19 Q. Okay. By that answer, are you suggesting that
20 there are multiple people whose job it is to make sure
21 that the City complies with the TPIA?

22 A. Can you repeat the question?

23 Q. By your answer that it's not you and that you
24 don't think there's a single person whose job it is to
25 ensure compliance with the TPIA, are you suggesting by

1 **that that there are multiple people who have that job or**
2 **that no one has that job?**

3 A. I don't think it's the latter. I do not know
4 the answer to that question.

5 **Q. Okay. So if someone asks you who's in charge**
6 **of making sure the City complies with the TPIA, your**
7 **answer would be?**

8 A. Ultimately I think it would be the -- again, I
9 don't know how to answer that question.

10 **Q. Okay. Can you describe how the PIR Team is**
11 **organized in the City's administrative structure?**

12 A. Are you asking where the PIR Team is in the
13 hierarchy -- or, let's say, organizational chart?

14 **Q. Yes.**

15 A. We fall within the Law Department.

16 **Q. Okay. And who do you report to?**

17 A. Carla Scales.

18 **Q. And what is her title?**

19 A. Chief administrative officer of the Law
20 Department.

21 **Q. Is she an attorney?**

22 A. No, sir.

23 **Q. Has that been the administrative location for**
24 **the PIR Team since you came to work for the City?**

25 A. Yes, sir.

1 Q. Does the -- do you or the PIR Team have any
2 authority over the single point of contact personnel in
3 the operating departments?

4 A. No, sir.

5 Q. You obviously work with them, but they don't
6 work for you. Is that fair to say?

7 A. That is correct.

8 Q. Okay. What software does the City use for its
9 email system?

10 A. Microsoft Outlook.

11 Q. Okay. If city employees or officials use their
12 personal email accounts to conduct city business, how
13 are those records obtained by the City for possible
14 disclosure by the TPIA?

15 A. There's an administrative bulletin that covers
16 city employees that says any business you do on personal
17 devices must be forwarded to the City of Austin email
18 account -- your -- their City of Austin email account.

19 Q. And would you agree that whether or not that's
20 complied with could affect your ability to fully comply
21 with the TPIA?

22 MR. COPPOLA: Objection, form.

23 A. It could.

24 Q. (BY MR. ALESHIRE) Because if you go operate
25 your PIR search system, you wouldn't find those if

1 they're not in the city system, correct?

2 A. I'm not searching individual employees' emails.

3 Q. Right. But if the PI -- if the PIR system that
4 you have searched only the city servers --

5 A. We --

6 Q. -- and the employee -- an employee had
7 conducted city business on their personal email and not
8 yet forwarded it into the City, you would be missing
9 some -- potentially missing some public records --

10 MR. COPPOLA: Objection, form.

11 Q. (BY MR. ALESHIRE) -- right?

12 A. Potentially if they're not forwarded.

13 Q. Right. Since you've been a city employee, have
14 you used your own personal email account to conduct
15 business?

16 A. No, sir.

17 Q. Since you've been with the City, has the issue
18 of employees or officials using their personal email
19 account and not forwarding it into the city servers been
20 an issue in your work?

21 A. No, sir.

22 MR. COPPOLA: Objection, form.

23 Q. (BY MR. ALESHIRE) Other than the City having a
24 possibly that city business should be conducted on City
25 computer servers, how does the City ensure that there

1 aren't records responsive to a PIR that are only on a
2 city employee's or an official personal email account?

3 A. Please repeat the question.

4 Q. Other than the City having a policy that City
5 business should be conducted on city computer servers,
6 how does the City ensure that there aren't records
7 responsive to a PIR that are only on a city employee's
8 or an official's email account?

9 MR. COPPOLA: Objection, form.

10 A. The administrative bulletin instructs city
11 employees to forward all city business they have on
12 their personal devices or personal email accounts to
13 their City of Austin email address.

14 MR. ALESHIRE: Yeah.

15 Q. (BY MR. ALESHIRE) But to the best of your
16 knowledge, are you aware of any actions that the City of
17 Austin takes to make sure that policy is being compiled
18 with?

19 A. I'm not aware.

20 Q. Okay. And does the city policy also cover text
21 messages that city employees might send from their
22 personal phones?

23 A. Yes, sir.

24 Q. And are you aware of how those text messages
25 make their way into the city system and where they're

1 **kept?**

2 A. I am not.

3 **Q. Okay. So if you got a PIR today for a copy of**
4 **any text messages sent about city business by someone,**
5 **how would you find that text message?**

6 A. Well, I wouldn't be looking for it. The
7 request would be forwarded to that department. That
8 department SPOC would reach out to -- if it was a
9 specific employee to say please forward the information
10 you have. If it's a text message that was on a personal
11 device, by the administrative bulletin they are supposed
12 to forward that information to their City of Austin
13 email account.

14 **Q. And does that become operative only after they**
15 **get a public information request for the text?**

16 MR. COPPOLA: Objection, form.

17 A. Again, the administrative bulletin instructs
18 city employees to forward their -- any city business
19 that was done on personal devices to the City of Austin
20 email accounts -- their City of Austin email account.

21 **Q. (BY MR. ALESHIRE) My question is one of**
22 **timing. Are they required to do that when a public**
23 **information request -- when the scope of a public**
24 **information request would include that text, or are they**
25 **supposed to do that even before a PIR is received?**

1 A. They're supposed to do it before a PIR is
2 received. They're supposed to do it when it happens, I
3 believe.

4 **Q. When the text happens?**

5 A. Yes, sir.

6 **Q. Okay. Thank you. In regard to Mr. Rodgers'**
7 **PIRs that are at issue in this lawsuit, do you know if**
8 **any city officials or employees were asked to check**
9 **their personal emails accounts for records that would be**
10 **responsive to those requests?**

11 A. So I'm answering again not as a city designee
12 for the two items that you asked for, so no, sir.

13 **Q. Okay. To the best of your knowledge, no one**
14 **was asked?**

15 A. No, sir.

16 **Q. All right. I want to turn now to the PIR**
17 **computer system. I understand that there is a computer**
18 **program provided by Lockheed Martin Desktop Solutions**
19 **called the IQ PIR Tracking System; is that right?**

20 A. Yes, sir.

21 **Q. Okay. Can you generally describe what that**
22 **computer program is, what the major features of it are,**
23 **how it's used?**

24 A. We --

25 MR. COPPOLA: Objection, form.

1 A. We use it to track requests. We use it as a
2 central hub for requests. A request is received by the
3 City. It is entered into the IQ system, and then we
4 assign departments for that request. And the system
5 sends out notifications to those departments about the
6 request.

7 **Q. (BY MR. ALESHIRE) Now --**

8 A. And also --

9 **Q. Go ahead.**

10 A. Didn't mean to interrupt. The system also
11 takes in requests from the web portal -- from the City
12 of Austin web page. You're able to electronically
13 submit a request, and that request is submitted from --
14 like basically it goes in the email -- or from the web.
15 It goes directly into the system.

16 **Q. Okay.**

17 A. And then once it's in the system we get
18 notified, and then we begin assigning departments.

19 **Q. Okay. And there's a term I've seen used,**
20 **"workflow," right?**

21 A. Yes, sir.

22 **Q. In the context of the IQ system, what does that**
23 **mean? What is workflow?**

24 A. Workflow is the flow -- the flow of the work
25 itself within the request. So the -- an action would be

1 we assign departments. We put a workflow note that says
2 we assign the following departments. If a department
3 has some information on the request, they'll make a
4 workflow note.

5 Q. Okay. I believe in one of -- in a couple of
6 Mr. Rodgers' requests he asks for a PIR processing log,
7 and the City has responded and provided logs. I can
8 show you an example of -- it's an exhibit that's marked
9 1B and ask you if -- is that what you're referring to as
10 workflow?

11 A. We refer to this as the workflow notes, yes,
12 sir.

13 Q. Okay. Does the IQ system contain information
14 about types of requesters, such as general public media,
15 law firm, corporate, city employee, other?

16 A. Yes, sir.

17 Q. What's the purpose of that clarification of
18 requesters?

19 A. Just a designation.

20 Q. Why is a designation used?

21 A. I do not know. It was a part of the original
22 system when I first showed up.

23 Q. Okay. Does the type of requester that is
24 indicated in the IQ system affect how the PIR is
25 processed?

1 A. No, sir.

2 Q. Does the system contain or assign a priority
3 number to PIRs?

4 A. Explain.

5 Q. Is there any kind of priority assigned to a PIR
6 when it's received --

7 A. We do not --

8 Q. -- in the IQ system?

9 A. We do not assign priority numbers. We do not
10 assign priority numbers to a PIR. The system, I
11 believe, has -- because it is an off-the-shelf system
12 that was semicustomized by Lockheed Martin for the City
13 of Austin, I think they have priority set, I believe,
14 CTM when they were installing it and were designing it
15 set, I do believe, at priorities of 9, I believe. I
16 can't remember, but it's just a -- it is just a number.

17 Q. So all PIRs have a priority number 9?

18 A. I don't -- I don't know what the number is. I
19 have to go back and look. But there is no -- I believe
20 there may be a number attached to some PIRs, but not --
21 there's no significance to it to us.

22 Q. Okay. And do they all get the same number?

23 A. I believe so.

24 Q. Okay. The system also has an option to note
25 that a PIR is Hot Topic or Media Related; is that

1 correct?

2 A. Yes.

3 Q. And why does that -- why is that designation
4 applied to a request, if you know?

5 A. I do not know. I mean, the media request is
6 just so that we have to coordinate with PIO.

7 Q. Okay. What about Hot Topic?

8 A. Again, that was part of the original system,
9 and I think it was just transferred over when they were
10 setting up the current system.

11 Q. Okay. Are you aware of PIRs being categorized
12 as Hot Topic?

13 A. No, sir.

14 Q. Do you know for sure one way or the other
15 whether requests receive the designation of Hot Topic or
16 Media Related?

17 MR. COPPOLA: Objection.

18 A. Repeat the question because I'll answer
19 outside --

20 Q. (BY MR. ALESHIRE) I'll break it up.

21 A. -- outside --

22 Q. Are you aware --

23 A. -- outside of being --

24 Q. Are you aware one way or the other whether
25 request PIRs are designated in the IQ system as Hot

1 **Topic?**

2 A. No, sir. I have not instructed the folks
3 myself or Desta Walker or Carmen Malone to designate a
4 PIR Hot Topic.

5 **Q. Do you know if anybody else is able to**
6 **designate a PIR as Hot Topic?**

7 A. Not within the system.

8 **Q. Let me ask you the same question about Media**
9 **Related. Do you know one way or the other whether any**
10 **requests are designated in the IQ system as Media**
11 **Related?**

12 A. No, sir. We -- I, again, have not instructed
13 the staff to designate those as media requests. The
14 only thing that happens is that when the requester is,
15 say, a media person we will go through and check off
16 that it's a media request, I mean, on the options of
17 media, general public, city employee, other, law firm.

18 **Q. Okay. So the type of requester is used in the**
19 **system, correct?**

20 A. Yes, sir.

21 **Q. Do you know, if any, of the requests from**
22 **Mr. Rodgers that is the subject of this lawsuit received**
23 **a type of requester?**

24 A. It received a type of law firm.

25 **Q. Is that because the requests were forwarded**

1 from me?

2 A. Yes, sir.

3 Q. And, again, does that -- I want to make sure
4 that whether that designation of a type of requester,
5 law firm, affect how the PIR is processed.

6 A. No, sir.

7 Q. Okay. And just to wrap up this last topic
8 about Hot Topic or Media Related, are you pretty sure
9 that those designations are not used in the system -- in
10 the IQ system?

11 A. I'm trying to think on the entering part. I
12 know that when I enter PIRs -- when I enter requests I
13 don't -- I don't -- I don't think I've ever had a choice
14 to make -- or made that choice.

15 Q. You're not prompted to make it as best you
16 know?

17 A. Yes, sir.

18 Q. Okay. Let's turn now to how -- once the PIR is
19 received what occurs next. When a PIR is received, is
20 every city office notified that the PIR has been
21 received?

22 A. No, sir.

23 Q. Then how is the decision made as to which city
24 offices to contact that may have responsive information?

25 A. We make that decision.

1 **Q. Who's "we"?**

2 A. The PIR Team.

3 **Q. How do you go about doing that?**

4 A. Take a look at the request. Some requests are
5 straightforward, "I would like all information from
6 Watershed Protection Department." Some ask for all
7 information on certain topics. We will do searches
8 within the City's web -- web page to see if that topic
9 comes up or see what departments come up or see what
10 departments may be affected, or if that topic shows up
11 in multiple departments, then -- then we make that
12 decision. Then we also rely on departments to say that
13 issue or that request needs to also go to these two
14 other departments or one other department.

15 **Q. Okay. And, if you can, you might slow down**
16 **just a little bit.**

17 **So one thing your team does to figure out**
18 **where to refer the PIR is to enter a topic on the City's**
19 **web page and see which departments -- or a topic or a**
20 **term and see which departments pop up on that search?**

21 A. Well, we do research. So that's one of the
22 ways we do research.

23 **Q. Okay. What other ways do you determine which**
24 **departments to receive the PIR?**

25 A. We have a book that has all the departments and

1 all their areas that they cover. We refer to that
2 sometimes.

3 **Q. What -- is there a name for that book?**

4 A. It's just pages for every department. It's --
5 there are pages that outline each department and their
6 responsibilities.

7 **Q. If I needed to refer to that book in the**
8 **future, how would I refer to it?**

9 A. It's not -- it's not really a book. It's just
10 pages in a notebook.

11 **Q. How would I refer to that notebook?**

12 A. I don't have a name for it.

13 **Q. Do I understand correctly this is a notebook**
14 **that contains information about each city department and**
15 **what subject matter might be related to that department?**

16 A. It's a -- it's taken -- it's a -- it just
17 outlines like who the department head is, you know, what
18 their -- you know, some of their sections are. I
19 believe they were -- it was made from the City of Austin
20 web site. Someone put it together. I mean, basically
21 it was making copies of each page from the web site.

22 **Q. It's just I've seen on the city web site that**
23 **there's sometimes department directory kind of**
24 **information. Is that what you're referring to? It**
25 **shows sections and who may be the people?**

1 A. Yes, sir. It may not be the same because the
2 one I have is from a year ago.

3 **Q. How else do you do research to try to figure**
4 **out where to send the PIR?**

5 A. We will sometimes ask the legal staff.

6 **Q. So whoever is referring out the PIRs needs to**
7 **have a pretty good understanding of what each department**
8 **does, right mand how that department might be relevant**
9 **to the PIR?**

10 A. We have general knowledge.

11 MR. COPPOLA: Objection, form.

12 A. We have general knowledge.

13 **Q. (BY MR. ALESHIRE) But is it your PIR Team that**
14 **is solely making the decision about which departments to**
15 **send the PIR to?**

16 A. I do not believe we are -- I mean, we are not
17 the solely -- we take -- we do research, and then we
18 accept guidance and -- from the departments once we --
19 if we send it to Department A and Department A said it
20 needs to go to Department B or maybe you should add a
21 Department B, then we rely on their expertise, also.

22 **Q. But as far as those referrals are concerned,**
23 **they're done by your PIR Team?**

24 A. The initial one, yes, sir.

25 **Q. Is there someone else that has the authority to**

1 forward the PIR to a team without coming back through
2 you?

3 A. No, sir.

4 Q. Would you agree that if a PIR is not routed to
5 a department that actually has responsive records
6 there's a good chance the requester will not receive all
7 the public information he has requested?

8 MR. COPPOLA: Objection, form.

9 A. Repeat your question again.

10 Q. (BY MR. ALESHIRE) Would you agree that if a
11 PIR is not routed to a department that actually has
12 responsive records there is a good chance the requester
13 will not receive all of the public information he has
14 requested?

15 MR. COPPOLA: Objection, form.

16 A. I'm answering that not as the City's designee.
17 I agree if a department doesn't get it that request
18 might include that department, yes.

19 MR. ALESHIRE: Yeah.

20 Q. (BY MR. ALESHIRE) That was the premise, that
21 the department actually has responsive records, but the
22 PIR wasn't routed to that department. Odds are that all
23 of the records that a requester asks for won't be
24 provided --

25 MR. COPPOLA: Objection, form.

1 Q. (BY MR. ALESHIRE) -- right?

2 A. If it was not sent to that department.

3 Q. Right. That's the point. So it's a pretty
4 critical step, is it not, in figuring out who to ask if
5 they have responsive records when a PIR comes in?

6 MR. COPPOLA: Objection, form.

7 MR. ALESHIRE: What's your objection?

8 MR. COPPOLA: Calls for speculation.

9 You're asking him to speculate about what's critical.

10 MR. ALESHIRE: Okay. I'll stick with the
11 question.

12 Q. (BY MR. ALESHIRE) In your role with this City
13 and knowing how records get located and processed
14 through the system, either the AG or to the requester,
15 would you agree that it's a pretty critical step in that
16 process choosing which departments to ask if they have
17 responsive records?

18 A. It's part of our process to assess the request
19 and then select the right departments.

20 Q. I understand. Is that a critical step if
21 you're trying to accomplish full disclosure?

22 A. I would say it's a step. I mean --

23 Q. So going back to your previous answer, are you
24 saying that somehow a requester would end up receiving
25 documents that a department has even though the

1 department wasn't shown the PIR or wasn't involved in
2 the PIR processing for that request?

3 MR. COPPOLA: Objection, form.

4 A. Repeat the question, please.

5 Q. (BY MR. ALESHIRE) Are you suggesting that
6 somehow a requester is going to -- let me back up.

7 My question to you is whether it's a
8 critical step in full disclosure of public information
9 choosing which departments to send the request to in the
10 first place.

11 A. Yes, sir.

12 Q. Okay. Thank you. Before you came to work for
13 the City of Austin from your job experience, had you had
14 occasion to gain any particular knowledge about each
15 City of Austin department and what they do and what
16 records they might keep?

17 A. I'm answering again as not the city designee
18 for the deposition. Repeat the question.

19 Q. In your prior job experience before coming to
20 the City of Austin, did you have occasion to gain any
21 particular knowledge about what each City of Austin
22 department does and what kind of records it may have?

23 A. No, sir.

24 Q. Is there any different process for routing a
25 PIR to the city manager about a process or -- let me

1 just -- let me withdraw that.

2 Is there any different process or criteria
3 that you use to decide whether or not to send a PIR to
4 the city manager?

5 A. No, sir.

6 Q. What about to assistant city managers?

7 A. No, sir.

8 Q. Have you received any particular instructions
9 about when to forward a PIR to a -- an assistant city
10 manager?

11 A. No, sir.

12 Q. Have you been instructed to limit how often or
13 what kind of PIRs you forward to the city manager or to
14 assistant city managers?

15 A. No, sir.

16 Q. And same questions for the mayor and council:
17 Are there limits on when you forward or don't forward a
18 PIR to the mayor and council?

19 A. No, sir.

20 Q. So if in your determination they might have
21 records, you forward it?

22 A. Yes, sir.

23 Q. You put them on the workflow; is that right?

24 A. We add them as departments or offices, yes.

25 Q. So their SPOCs are tagged in the IQ system?

1 A. Yes, sir.

2 Q. Okay. Now, when it goes to council, though, is
3 it -- well, let me ask a preliminary question. Does the
4 mayor have an SPOC?

5 A. Yes, sir.

6 Q. Do each of the councilmembers have SPOCs?

7 A. Yes, sir.

8 Q. When it is apparent to you, you have decided
9 that a PIR might include records that would be housed by
10 the mayor and council, do you forward that to their
11 SPOCs?

12 A. Yes, sir.

13 Q. How does CMT come involved when it has to do
14 with the mayor and the council emails, for example?

15 A. CTM.

16 Q. CTM. I'm sorry. Yeah.

17 A. When there is a request for email records from
18 the city council, we assign that request to CTM security
19 to search for email records.

20 Q. Okay. So when emails are requested, you don't
21 send it to the SPOCs for the mayor and council?

22 A. No. They are included, also.

23 Q. Okay. You send it to both?

24 A. Yes, sir.

25 Q. Okay. For requests that involve records that

1 are not emails, those would not be referred to CTM --

2 A. No, sir.

3 Q. -- is that right?

4 A. Correct.

5 Q. Okay. But they would be referred to the SPOCs
6 for the mayor and council?

7 A. Yes, sir.

8 Q. Okay. Who chooses the SPOCs, just generally,
9 through the city organization?

10 A. Each department.

11 Q. Okay. So the mayor has chosen someone to be
12 his SPOC?

13 A. Yes, sir.

14 Q. And each of the councilmembers likewise?

15 A. Yes, sir.

16 Q. And the head of the Real Estate Department
17 decides who the SPOC will be for that department?

18 A. Yes, sir.

19 Q. Okay. Same for Purchasing?

20 A. Yes, sir.

21 Q. Parks? Okay.

22 A. Yes, sir.

23 Q. Now, are all those SPOCs required to have some
24 training in the IQ PIR processing?

25 A. Yes, sir.

1 Q. Do you know if all of the SPOCs that are
2 currently designated have taken that training?

3 A. (No audible response.)

4 Q. Let's narrow it down, and let's say -- let's
5 start with the mayor and council. Have all the SPOCs
6 for the mayor and council taken the training?

7 A. Yes, sir.

8 Q. How about for Parks?

9 A. Yes, sir.

10 Q. Purchasing?

11 A. Yes, sir.

12 Q. Real Estate?

13 A. Yes, sir.

14 Q. Are there SPOCs designated for the city
15 manager's records?

16 A. Yes, sir.

17 Q. How about for the assistant city managers?

18 A. Yes, sir.

19 Q. For all of them?

20 A. Yes, sir.

21 Q. Is there one SPOC for all of the assistant city
22 managers, or do they each have one?

23 A. They each have one.

24 Q. Okay. When emails are requested that may be
25 within the records of the city manager, who searches for

1 **those emails?**

2 A. Someone in their office. We send the request
3 to the single point of contact in that office, and then
4 I'm not -- I don't know who pulls what because that's
5 left up to each office and department.

6 Q. Okay. I may have misunderstood what an SPOC
7 does. An SPOC is a single point of contact. But are
8 you saying that that SPOC person whose had this training
9 may or may not be the person who actually searches for
10 the records?

11 A. Correct.

12 Q. Well, are the people who search for the records
13 subject to any mandatory training about the TPIA or how
14 to search for records or relevant things to doing that
15 search?

16 A. No, sir.

17 Q. Has the process for routing or processing a PIR
18 changed with the new city council from what it was prior
19 to January of this year?

20 A. No, sir.

21 Q. Where are the -- let's confine this to the
22 mayor and council -- to the current mayor and council.
23 Where are their emails housed? Where are they found?

24 A. They're in a cloud.

25 Q. Are they in the cloud so that they are all

1 **simultaneously searchable?**

2 A. Yes, sir.

3 **Q. And CTM can do that?**

4 A. Yes, sir. CTM is tasked -- CTM security, that
5 group is tasked with searching for emails.

6 **Q. Okay. What about emails of the city manager
7 and the assistant city managers? Where are -- the
8 emails for that group, where are they found?**

9 MR. COPPOLA: Again, this is --

10 THE WITNESS: Outside my --

11 MR. COPPOLA: -- outside of his
12 designation, but he can answer if he knows.

13 A. I would think within their systems. I don't
14 know -- I don't know if their information is set up the
15 same way as council's. I don't believe it is.

16 **Q. (BY MR. ALESHIRE) Is that something you need
17 to know in order to give training or advice about how to
18 look for information that might be responsive to a PIR?**

19 A. I wouldn't think so.

20 **Q. Okay. Do you give training or advice to other
21 city employees about how to search for responsive
22 records to a PIR?**

23 A. In what context? I mean, please ask -- I mean,
24 please give me your question again.

25 **Q. Well, when you receive a public information**

1 request, say, for the city manager and ACMs, assistant
2 city managers, do you make any suggestions to them about
3 how to search for responsive records?

4 A. No.

5 Q. To SPOCs in other operating departments of the
6 City, do you make any suggestion to them about how to
7 conduct the search of records in that department's --

8 A. No.

9 Q. -- files?

10 A. No, sir.

11 Q. Are the emails of the operating departments of
12 the City other than the city council and the city
13 manager in a cloud?

14 A. I'm answering on my general knowledge. I don't
15 believe so.

16 Q. For example, with Parks, do you know how --
17 where their emails are housed?

18 A. I do not know.

19 Q. Do you know if they have one server or multiple
20 servers for Parks, for example?

21 A. I do not know.

22 Q. So if emails about a prominent issue are
23 requested -- I believe the term I've seen in the IQ
24 system is a multidepartment request, say, involving all
25 council offices, Purchasing, Parks, Real Estate, for

1 **example -- do you know how many different computer**
2 **servers must be searched to locate responsive emails?**

3 A. In my general knowledge, no.

4 Q. Who at the City is tasked with reviewing or
5 **determining whether or not a search was adequate to**
6 **discover responsive -- potentially responsive records?**

7 MR. COPPOLA: Objection, form.

8 A. I know of no one.

9 Q. **(BY MR. ALESHIRE) Are you -- do you have a**
10 **computer server that you use for your own office?**

11 A. Explain "server."

12 Q. **Well, do you have a computer terminal?**

13 A. Yes, sir.

14 Q. **Is it hooked to something?**

15 A. General knowledge is it's hooked to the City of
16 Austin email servers -- or a server.

17 Q. **Okay. And so are you familiar whether or not**
18 **there are consolidated servers or servers in one place**
19 **as opposed to in each office that the email system uses?**

20 A. I do not know.

21 Q. **On your own computer, have you noticed that**
22 **there is more than one drive? Are you familiar with the**
23 **term "drive" --**

24 A. Yes, sir.

25 Q. **-- on your computer? Okay. What drives are on**

1 **your computer? Do you have like a C drive?**

2 A. Yes, sir.

3 **Q. Okay. Is that your local?**

4 A. I believe so.

5 **Q. Okay. What else -- what other letters or names**
6 **for drives do you recall seeing like for email, for**
7 **example?**

8 A. I don't know that my system has an email drive.

9 **Q. Okay.**

10 A. I believe there's three other drives that I
11 have access to that -- I have access to.

12 **Q. Okay. What are their designations?**

13 A. E, L, M.

14 **Q. Okay. Do you know what those are for, each of**
15 **them?**

16 A. I'm not sure what E is for. I think L --

17 **Q. Did you say E or D?**

18 A. I'm sorry, E. I don't -- I do not know what
19 E --

20 **Q. I didn't hear you.**

21 A. I do not know --

22 **Q. E or D?**

23 A. E.

24 **Q. As in elephant?**

25 A. Yes, sir.

1 **Q. Okay.**

2 A. I do not -- do not know what the E drive is
3 for. The L drive is log specific, and I believe the M
4 drive is miscellaneous. And that's my general knowledge
5 of designation. No one has ever come to me and said
6 these drives are designated for this and this.

7 **Q. Do you know whether council offices are set up**
8 **any differently in terms of which drives they have on**
9 **their computers?**

10 A. I have no knowledge.

11 **Q. Okay. If you want to save a document to your**
12 **local drive, to your C drive, are you able to do that?**

13 A. I save documents in my Document folders. I'm
14 not a computer expert or technician. So when I save it,
15 I'm assuming it's on my drive -- or it's on my computer
16 and I can go back and get to.

17 **Q. Well, can the -- can other people see what's on**
18 **your C drive, your local drive, remotely be able to look**
19 **at that?**

20 A. I do not know.

21 **Q. Okay. In your Outlook, you have boxes,**
22 **correct?**

23 A. Yes, sir.

24 **Q. You have an Inbox?**

25 A. Yes, sir.

1 Q. You have a Sent box?

2 A. Yes, sir.

3 Q. You have a Delete box?

4 A. Yes, sir.

5 Q. You have a Junk box?

6 A. Yes, sir.

7 Q. When a PIR is received for emails, do you know
8 whether all those boxes are searched?

9 MR. COPPOLA: Objection, form.

10 MR. ALESHIRE: Go ahead and explain.

11 MR. COPPOLA: PIR to who? You've already
12 talked about council's are searched one way. You've
13 talked about --

14 MR. ALESHIRE: Okay. My question is
15 limited to PIRs.

16 Q. (BY MR. ALESHIRE) When you get PIRs for
17 emails, do you know if all the boxes -- Outlook boxes
18 for the relevant department are searched, Inbox, Sent
19 box, Junk box, Delete box?

20 A. I can't speak to each of the departments or how
21 they're searching for emails. It is my understanding
22 that there's -- they are searching those boxes.

23 Q. Do you know one way or the other whether the
24 Delete box is routinely searched by CTM or SPOCs or
25 other designated persons to see whether or not there's

1 responsive records in the Delete box when there's a
2 request for emails? Do you know one way or the other?

3 A. I do not.

4 Q. Okay. Do you know who would know?

5 A. Are you talking for a specific request, in
6 general.

7 Q. Mr. Merritt would know, would he not?

8 A. I don't know that he would.

9 Q. Well, doesn't his department do the searches
10 for the councilmembers?

11 A. For council. He searches council.

12 Q. Right.

13 A. Council only.

14 Q. So would he know whether or not when he's
15 conducted searches in the past, including searches
16 relevant to the PIRs in this lawsuit, whether he
17 searched only some of the Outlook boxes or he searched
18 all of them? Do you know whether he would know that?

19 A. He would --

20 Q. Okay.

21 A. -- because he --

22 Q. But you don't know whether those -- the Delete
23 box is searched, for example?

24 A. For which search?

25 Q. For email searches.

1 A. For whom?

2 Q. For a PIR that asks for emails.

3 A. I cannot say --

4 Q. For --

5 A. For a particular department?

6 Q. Yeah, for any department that has emails in
7 Outlook in various boxes whether or not, for example,
8 they search the Delete box. Do you know one way or the
9 other whether they're searching the Delete box?

10 A. I do not know one way or the other.

11 Q. You do not -- if I understood your answer to my
12 question before about who is in charge of making sure
13 the searches are done right, if I understood this right,
14 you said you didn't believe there was anybody that had
15 that responsibility; is that right? You certainly
16 don't?

17 A. No, sir.

18 Q. Okay. Does the City have a policy that you're
19 aware of about purging emails from employees' Outlook?

20 A. Explain.

21 Q. Well, does the City have a policy about purging
22 or deleting emails about --

23 A. Each --

24 Q. -- city business from employees' computers?

25 A. Each department, I believe, has a retention

1 schedule, and it's up to each city employee to follow
2 that retention schedule.

3 Q. So if an email is of a character that needs to
4 be kept for two years, the policy is you shouldn't
5 delete it?

6 A. Correct.

7 Q. Do you know -- is there a central IT division
8 with the City?

9 A. Communications/Technology Management is the IT
10 Department.

11 Q. Okay.

12 A. There are several departments -- there are few
13 departments that have their own IT department.

14 Q. Which one --

15 A. I believe it's Aviation, PD -- APD, Austin
16 Police Department. I'm not sure. There may be another.

17 Q. Okay. For the departments that use the central
18 CTM system, do you know whether they back up Outlook for
19 those departments that use that system?

20 A. I have no direct knowledge.

21 Q. Okay. Do you know whether the -- you said the
22 council emails are in the cloud, but for other operating
23 departments owner the city manager and the ACMS -- which
24 you said you don't know how they're setup. But for the
25 other operating departments, do you know if the emails

1 are retained locally in the department or do they also
2 exist on CTM's central processors?

3 A. I have no knowledge.

4 Q. To your knowledge, is there anyone at the City
5 whose job it is to make sure that individual employees
6 do not improperly delete emails?

7 A. Repeat the question again.

8 Q. To your knowledge, is there anyone at the City
9 whose job it is to make sure individual employees do not
10 improperly delete emails?

11 A. No, sir.

12 Q. You don't know if there's anyone?

13 A. I do not.

14 Q. Okay. When a PIR is referred to a single point
15 of contact, do you know how that person or whoever else
16 is assigned in the department goes about searching for
17 the relevant records to that PIR?

18 A. I do not. Each department handles their
19 requests within the department.

20 Q. So let's say we got a single PIR and it's asked
21 for a subject matter that extends across multiple
22 departments. Is the search criteria that's used in each
23 department the same, or do you even know?

24 A. I have no knowledge.

25 Q. So is it possible that each department might be

1 using different search terms to locate responsive
2 records?

3 MR. COPPOLA: Objection, form.

4 A. It's possible.

5 Q. (BY MR. ALESHIRE) You're not aware of any
6 training program or guidelines, suggestions, anything
7 that those searchers, I'll call them, in those
8 departments might understand how to accurately locate
9 potentially responsive records?

10 A. Not that I -- no, sir.

11 Q. Okay. When a department responds through the
12 IQ system and reports back to your office about what
13 they've done with the PIR, do they report to you what
14 search they made?

15 A. No, sir.

16 Q. Do they report to you what computer equipment
17 they searched?

18 A. No, sir.

19 Q. Do they report to you what drives they
20 searched?

21 A. No, sir.

22 Q. Do they report to you what Outlook boxes they
23 searched?

24 A. No, sir.

25 Q. Do they report what search criteria they

1 used --

2 A. No, sir.

3 Q. -- for that search? If not, then how do you or
4 anyone at the City know that a proper and complete
5 search for responsive records was conducted?

6 MR. COPPOLA: Objection, form.

7 A. The Department's SPOC is tasked with providing
8 the information, and they provide what they find.

9 Q. (BY MR. ALESHIRE) But to the best of your
10 knowledge as the public information manager, they aren't
11 provided any particular training about how to search for
12 those records to the best of your knowledge?

13 A. Correct.

14 MR. COPPOLA: Bill, whenever you're ready.
15 We've been going at this for about an hour and a half,
16 whenever you want to take a break.

17 MR. ALESHIRE: We can do that now.

18 MR. COPPOLA: Okay. Great.

19 MR. ALESHIRE: Off the record.

20 (BRIEF RECESS)

21 Q. (BY MR. ALESHIRE) Let me go back on a couple
22 of things. I had asked you earlier about the -- in the
23 IQ system whether, P-I-R-s, PIRs were classified as Hot
24 Topic or Media Related.

25 MR. ALESHIRE: If we need to make this an

1 exhibit, we can, but we can decide.

2 MR. COPPOLA: Let me see it, yeah.

3 Q. (BY MR. ALESHIRE) I'm going to show you a
4 document and ask you if you recognize what that is --
5 you're welcome to flip through it if you want to -- if
6 you've seen that before.

7 A. Yes, sir.

8 Q. What is it?

9 A. It's an older PIR tracking system document.

10 Q. Okay.

11 A. And this is from the Legacy system.

12 Q. As opposed to --

13 A. Yeah.

14 Q. -- the system you use now?

15 A. Correct.

16 Q. So is this training material not current?

17 A. This is not because this is the Legacy system.

18 Q. Okay. And so if you'll notice on that screen
19 on Page 5 of the document --

20 A. Yes, sir.

21 Q. -- it indicates that there's a -- on the page
22 for entering a new PIR that there is an option for Hot
23 Topic or Media Related, correct?

24 A. Yes, sir.

25 Q. That does not appear on your screen now; is

1 **that correct?**

2 A. I believe so. Again, I -- I enter PIRs daily,
3 and I -- I never pick out a Hot Topic or Media Related.
4 So I don't believe that was transferred.

5 **Q. Okay. So you don't think that's even on the**
6 **current screen?**

7 A. Correct.

8 **Q. What is -- what's the --**

9 MR. COPPOLA: Let's go ahead and make this
10 an exhibit.

11 MR. ALESHIRE: Okay.

12 MR. COPPOLA: We don't need to make copies
13 of it. Let's put a sticker on it, and that way we know
14 what we're talking about.

15 MR. ALESHIRE: Okay. Let's mark this as
16 6.

17 (At this time, an instrument was here
18 marked for identification as Del Bosque
19 Exhibit No. 6.)

20 **Q. (BY MR. ALESHIRE) What is the document --**
21 **well, let me ask this: Is there a document -- a**
22 **training document for the IQ PIRs system?**

23 A. Yes, sir.

24 **Q. Does it have a title that's different than the**
25 **title on Exhibit 5 -- 6, I mean?**

1 A. "Quick Reference Guide."

2 Q. "Quick Reference Guide"?

3 A. Yes, sir.

4 Q. Okay. And is there something that's not a
5 quick reference guide but a more thorough training
6 document?

7 A. For the IQ system?

8 Q. Yes.

9 A. We have a PIR tracking manual that was put
10 together by CTM and Lockheed Martin.

11 Q. PIR tracking guide? Is that what you said?

12 MR. COPPOLA: I think he said manual.

13 Q. (BY MR. ALESHIRE) Manual?

14 A. Yes, sir.

15 Q. I'm sorry. Do you know if it has the same or
16 more pages as Exhibit 6?

17 A. How many pages -- how many pages is this, 60?

18 Q. Just approximately, I mean.

19 A. It has 26, I believe.

20 Q. 26 pages. Okay. Do you know if you've
21 received a PIR for a copy of the IQ training material?

22 A. Yes.

23 Q. Recently?

24 A. Yes.

25 Q. Did you provide that PIR tracking manual?

1 A. Yes, sir.

2 Q. Have you had occasion since you've been in your
3 job of seeing responsive documents provided to a
4 requester that included text messages?

5 A. I can't recall.

6 Q. Okay. Do you recall getting any requests that
7 included text messages?

8 A. Yes, sir.

9 Q. But you don't recall whether any text messages
10 were actually provided back to the requester or
11 requesters?

12 A. That's correct.

13 Q. Have you heard concerns from people that they
14 are doubtful the City is locating and producing all the
15 responsive information the City has even when the City
16 claims it has produced all responsive information to a
17 PIR?

18 A. Is the question --

19 Q. Have you heard that concern?

20 A. From who, direct requests?

21 Q. Requesters, from anyone that they are doubtful
22 as to whether the City is finding all the records and
23 producing them.

24 A. I may have had a few emails concerning that.

25 Q. Okay. Have you heard anything like that

1 **recently?**

2 A. Yes.

3 **Q. From whom?**

4 A. I can't recall the lady's name. I just saw one
5 a couple days ago. It was actually an email sent to a
6 department.

7 **Q. And this woman was a requester?**

8 A. Yes, sir.

9 **Q. And she expressed doubt as to whether all the**
10 **records had been provided to her?**

11 A. She's more concerned that a record that should
12 have been provided she had a copy of wasn't in the
13 records.

14 **Q. Okay. Have you seen public comments recently**
15 **by Councilmember Greg Casar expressing concern about**
16 **whether the City has always provided all the responsive**
17 **records?**

18 A. I saw an Austin Monitor blurb, or whatever
19 they -- they're the little pop sheet, whatever they call
20 it.

21 **Q. Whispers?**

22 A. There you go.

23 **Q. And do you recall what he said?**

24 A. No.

25 **Q. Was he making reference to his past before he**

1 became a councilmember and expressing concern or doubt
2 as to whether or not the City had provided all the
3 responsive records?

4 A. I can't remember.

5 MR. ALESHIRE: Make this one 7.

6 (At this time, an instrument was here
7 marked for identification as Del Bosque
8 Exhibit No. 7.)

9 Q. (BY MR. ALESHIRE) Now, I'm going to hand you
10 what has been marked as Exhibit 7 after I let your
11 attorney take a look at it, and I'll represent to you
12 that I -- it's back and front, by the way. But I'll
13 represent to you that I copied that story off of the
14 Austin Monitor within the last week, maybe even within
15 the last few days. And you might take a look at it and
16 see if that's the story that you were referring to a
17 moment ago from the Austin Monitor.

18 MR. COPPOLA: And I'll just ask, is --
19 that handwriting and the highlighting, is that yours?

20 MR. ALESHIRE: It's my work.

21 MR. COPPOLA: Okay.

22 MR. ALESHIRE: And so that was presented
23 to him that way. He did not -- Mr. Del Bosque received
24 it with the markings on it.

25 Q. (BY MR. ALESHIRE) And I think if you'll look

1 down toward the bottom of that first page, Councilmember
2 Casar was quoted, and I'll give you a chance to read
3 that.

4 A. It's highlighted.

5 Q. You want to read that out loud just so it's
6 clear on the record?

7 A. "Casar said he was less concerned with the city
8 intentionally holding back documents and more troubled
9 that the response team appeared not to be doing adequate
10 digging."

11 Q. Have you heard anyone else express that kind of
12 concern about whether the searches were adequate?

13 A. No.

14 Q. Have members of the news media ever said to you
15 since you've been in your job that they doubted whether
16 or not they had gotten all the records they had asked
17 for that the City has?

18 A. I can't specifically speak to one.

19 Q. Okay. When is the last time you, other than
20 this lady that you were referring to, heard that
21 complaint or that concern?

22 A. Maybe a couple of weeks ago.

23 Q. Okay. From a member of the news media?

24 A. Yes, sir.

25 Q. Do you recall who or what outlet?

1 A. The Austin Bulldog, Ken Martin.

2 Q. Okay. To your knowledge, what, if anything,
3 has the City done to increase the certainty that it has
4 produced or at least located for a review all responsive
5 information in its PIR system?

6 MR. COPPOLA: Objection, form.

7 A. Repeat the question, please.

8 Q. (BY MR. ALESHIRE) What, if anything, has the
9 City done to increase the certainty that it has produced
10 or at least located for review all responsive
11 information to a PIR?

12 MR. COPPOLA: Same objection.

13 A. I don't know what the City has done for that.

14 Q. (BY MR. ALESHIRE) Okay. You're not aware of
15 anything?

16 A. I'm not aware of anything.

17 Q. If the City had some kind of effort or
18 procedure it was engaged in to increase the accuracy of
19 searching for responsive documents in the PIR system,
20 would you likely know about it?

21 A. Yes.

22 Q. Let me give you this hypothetical: Suppose
23 that a department has very embarrassing documents that
24 they have that are responsive to a PIR, but the
25 department personnel doing the searches does not want to

1 produce those documents or even admit that the document
2 exists. So they respond to your office that they have
3 no responsive records. How would they ever get caught
4 doing that?

5 MR. COPPOLA: Objection; calls for -- I'm
6 sorry. Objection, form.

7 A. My only knowledge of it, that their response to
8 us was they had no responsive information. So I would
9 have no way of knowing. We rely on the departments.

10 Q. (BY MR. ALESHIRE) If someone complains to you
11 and says, "Wait a minute. I'm sure that there are some
12 records there that they've not given us," does your
13 office become involved in the searching?

14 A. We would go back to the department and ask them
15 to re-search.

16 Q. Is there any kind of doubling checking done on
17 a routine basis to ensure compliance with the TPIA as
18 far as locating and supplying public information?

19 MR. COPPOLA: Objection, form.

20 A. No.

21 Q. (BY MR. ALESHIRE) Since you've been at the
22 City, has the City conducted any kind of TPIA compliance
23 audit, some research or project to see if the TPIA is
24 being complied with and to see if the city personnel,
25 officials and employees, are complying with the records

1 **retention laws as well as the TPIA?**

2 MR. COPPOLA: Objection, form.

3 A. To my knowledge, the first part, no.
4 retention -- as far as retention of records, the city
5 clerk.

6 **Q. (BY MR. ALESHIRE) The city clerk does what?**

7 A. Is responsible for record retention.

8 **Q. Okay. What does the City -- to your knowledge,**
9 **what does the City -- what has the city clerk done since**
10 **you've been here that you're aware of to make sure that**
11 **records are being properly retained?**

12 A. Other than sending out their bulletins, I have
13 no knowledge of anything else.

14 **Q. Okay. Do you know if the city clerk has done**
15 **anything to make sure that city employees do not delete**
16 **emails in violation of the records retention laws?**

17 A. I do not.

18 **Q. I want to turn now to -- well, let me ask you**
19 **this because this is an important -- we've gone from how**
20 **a request is received and then farmed out to how**
21 **responsive records are searched for. And I've asked you**
22 **very specific questions, but I don't want to be unfair**
23 **to you or to the City about this.**

24 **If there is any other feature you're aware**
25 **of in the IQ PIR system or generally in the City's PIR**

1 system where concerted efforts or double-checking is
2 engaged in to try to make sure that responsive records
3 are found, I want to give you an opportunity to let me
4 know. If my questions have kind of carved out and not
5 let you point out something that indicates the City has
6 a good system or checks to make sure it's in compliance
7 for searching for responsive records, I want to give you
8 an opportunity to tell me that.

9 MR. COPPOLA: Objection, form.

10 A. Each department is tasked with making a
11 good-faith effort to search for the records that are
12 asked and appeared, and we receive those records. And
13 if the department doesn't send them out, we send them
14 out.

15 Q. (BY MR. ALESHIRE) Okay. Other than the mayor
16 and city council where TPIA security does their
17 searching for emails, are you aware of any other
18 departments under -- including the city manager or under
19 the city manager, where anybody else other than
20 department personnel themselves are searching for the
21 records?

22 A. I do not, no.

23 Q. All right. I want to turn now to how
24 information is provided to the requesters. Okay. First
25 of all, in the way the system is supposed to work -- the

1 **IQ system is supposed to work, who provides information**
2 **to the requester -- responsive information to the**
3 **requester?**

4 A. Currently departments are tasked with providing
5 responsive information.

6 **Q. Do they let your PIR Team know what information**
7 **they have provided?**

8 A. They will make it work, saying they provided
9 information to the requester, and are supposed to attach
10 that information to the system.

11 **Q. Okay. And with regard to the Brian Rodgers**
12 **PIRs involved in this lawsuit, was that done?**

13 A. I can't speak to each specific PIR without
14 looking at the records.

15 **Q. Okay. We'll do that here in just a minute.**
16 **Once a PIR is processed, is the City able to determine**
17 **what information it provided to a requester?**

18 A. If the department has attached the information
19 to our system -- to the -- to the IQ system, we -- we
20 will have that record. Some departments will say we
21 provided -- the information is too large to fit in the
22 system or we have it on our -- they're on internal
23 drives.

24 **Q. Okay. But one way or the other, you'd be able**
25 **to locate the information that was provided to the**

1 **requester?**

2 A. We should be able to.

3 **Q. Okay. What if -- I've seen this happen before.**
4 **What if a requester asked for a copy of everything the**
5 **City had provided another requester? Could the City**
6 **produce those records again?**

7 A. If the departments attached that information
8 to -- if it was currently to the IQ system, we'd provide
9 those records, and if there was a notation saying the
10 department said, "Hey, we have this information on their
11 drive," we'd go to them to get it.

12 **Q. Okay. In the case of the multidepartment PIR,**
13 **under your current procedures, does your PIR Team**
14 **provide directly any responsive records to the**
15 **requester?**

16 A. We will provide the city manager's office to
17 include the assistant city managers and city council
18 records.

19 **Q. Okay. So if I understand correctly, back to my**
20 **previous question, the -- if the request involves**
21 **records from the -- emails only or any records from the**
22 **mayor and council?**

23 A. Any responsive information that comes from
24 mayor and council, we will send out.

25 **Q. And the same is true for the CM and the ACM?**

1 A. CM -- the city manager's office to include the
2 assistant city managers, yes, sir.

3 **Q. Okay. So councilmembers would not under normal**
4 **procedure directly send responsive records to a**
5 **requester?**

6 A. Correct.

7 **Q. And the city manager nor any of the ACMs would**
8 **not normally send any responsive information directly to**
9 **a requester?**

10 A. Correct.

11 **Q. Those would all come back through your office?**

12 A. Correct.

13 **Q. Why is that process different for the city**
14 **manager and council than it is for the operating**
15 **departments?**

16 A. It's just something we've done.

17 **Q. But the system is set up where -- the IQ system**
18 **is set up where it all could come back through the**
19 **single portal of the PIR Team, correct?**

20 A. Through the system or -- we don't use the
21 system to send out information. We send it out by
22 email. So we don't -- the system is set up to do that,
23 but we don't use it for that --

24 **Q. Okay.**

25 A. -- purpose.

1 Q. So there is a -- I don't know if you call it
2 module or a piece of the IQ tracking system that is
3 actually for the outgoing response. Correct?

4 A. Correct.

5 Q. But you -- the City doesn't use that?

6 A. Correct.

7 Q. Okay. So on a side process, you get the
8 information and email it out?

9 A. We take the information from the system that's
10 been attached by the departments and then send it in an
11 email.

12 Q. Okay.

13 A. The system itself, we try to do it, and it did
14 not work --

15 Q. Okay.

16 A. -- did not work efficiently for us, I would
17 say.

18 Q. Okay.

19 A. We had trouble with how letters were being
20 processed out with the email.

21 Q. Okay. And is that something Lockheed Martin
22 has been asked to fix?

23 A. I would have to ask the CTM person.

24 Q. Okay. Have you been asked to collect all of
25 the records the City provided to Mr. Rodgers for the

1 **PIRs at issue in this lawsuit?**

2 MR. COPPOLA: I'm going to object and
3 ask -- based on the attorney-client privilege ask --
4 instruct Mr. Bosque not to respond to the extent there
5 is a privilege.

6 Q. **(BY MR. ALESHIRE) I'm not asking you to get --**
7 **tell me anything an attorney gave you as advice. This**
8 **question is real clear, and it doesn't involve**
9 **attorney-client privilege. And I'm willing to go over**
10 **to the court if we have to to get the answer.**

11 Have you been asked to collect all of the
12 records the City provided to Mr. Rodgers for the PIRs at
13 issue in this lawsuit? That's a yes or no answer.

14 MR. COPPOLA: It's the same objection, and
15 it does involve attorney-client privilege possibly or a
16 work product privilege. And he can answer to the extent
17 that it's not related to instructions his attorney gave
18 him with respect to the conduct of the litigation.

19 Q. **(BY MR. ALESHIRE) The -- I would not have even**
20 **known if you had gone ahead and answered this question**
21 **whether your attorney had asked you to collect these**
22 **records or not. And so I'm asking you without regard to**
23 **any advice that you got from your attorney -- any legal**
24 **advice you got from your attorney or anything about**
25 **strategy in this lawsuit. That is not within the scope**

1 of this question. This is a straight-up yes or no
2 answer question.

3 Have you been asked to collect all records
4 that Mr. Rodgers was provided by the City on the PRIs
5 [sic] that are at issue in this lawsuit?

6 MR. COPPOLA: Well, then I would like to
7 go off the record to consult with my client, then, about
8 whether there's a privilege.

9 Q. (BY MR. ALESHIRE) Are you refusing to answer
10 the question?

11 MR. COPPOLA: No. I get to go off the
12 record and talk to my client about a --

13 MR. ALESHIRE: I don't want you to talk to
14 your client in the middle of a question.

15 MR. COPPOLA: No. We get to consult about
16 privilege. That's what the rules allow. We get to have
17 that consultation.

18 Q. (BY MR. ALESHIRE) Have you -- let me ask you
19 this question: Have you collected together all the
20 records the City provided to Mr. Rodgers in response to
21 the PIRs at issue in this lawsuit?

22 A. I would have to look at each PIR.

23 Q. If you looked at each PIR -- each of the four
24 PIRs, would you -- how would that -- how would you know
25 whether you've collected all the records or not?

1 A. I would look at the notes.

2 Q. And if the notes indicated that a department
3 had directly provided information to Mr. Rodgers, what
4 would that indicate to you in terms of this question,
5 have you collected them together? Do you know what
6 Mr. Rodgers was provided? How would that -- how would it
7 help you to look at that -- at the log -- the workflow?

8 A. To know whether the department has provided the
9 information.

10 Q. Okay. But if since the workflow was created
11 and you have collected records that were provided to
12 Mr. Rodgers, you would know that, right?

13 A. Repeat, please.

14 Q. After the workflow, if since then you have
15 collected the records that were provided to Mr. Rodgers,
16 you would know whether you had collected them or not,
17 right?

18 A. Correct.

19 Q. Have you collected them?

20 A. To my knowledge, yes.

21 Q. Thank you. I'm going to hand you what has been
22 marked as Exhibit 1A and ask you to take a look at that
23 and tell me if you recognize what that is.

24 A. Yes, sir.

25 Q. What is it?

1 A. It's a request that Mr. Rodgers submitted
2 through your office for emails from downtown Austin and
3 Let's Go Austin and Austin Chamber --

4 **Q. Okay.**

5 A. -- and J-W, J. Nais.

6 **Q. And then there's a clarification on the last
7 page --**

8 A. Correct.

9 **Q. -- as to the dates --**

10 A. Yes, sir.

11 **Q. -- the time period in which those records were
12 requested; is that right?**

13 A. Yes, sir.

14 **Q. Now, I'm going to hand you what has been marked
15 as -- and we can keep that one there, if you want, and
16 I'll take 7 back. The court reporters love it when we
17 keep our exhibits in order.**

18 THE REPORTER: Uh-huh.

19 **Q. (BY MR. ALESHIRE) I'm going to hand you what
20 has been marked as 1B and ask you if you recognize what
21 that document is.**

22 A. Yes, sir.

23 **Q. What is it?**

24 A. It should be the workflow notes for this
25 request.

1 Q. Okay. And I'm showing that this got -- that
2 your PIR No. 809158 is related to what was attached to
3 the lawsuit petition as Plaintiff's Exhibit P-1 which
4 has now been marked as Exhibit 1A for your deposition.
5 So I, too, believe that this is workflow notes for this
6 PIR.

7 Looking at the request in the workflow
8 notes, can you tell me when the request was received?

9 A. 4-23-2015.

10 Q. And can you tell me when the records --
11 responsive records were provided?

12 A. There's not an indication.

13 Q. So do you know if the records requested in
14 Exhibit 1A have been provided to the City?

15 A. ACM Edwards' information and ACM Lumbreras'
16 information was forwarded to you. It's not on -- it's
17 not on the workflow records.

18 Q. My question was when.

19 A. I don't know when it was. I'd have to look at
20 email records.

21 Q. Okay. Was it after the last entry on this
22 workflow?

23 A. It would have been.

24 Q. Okay. And what is the date of the last entry
25 on the workflow?

1 A. July 21st.

2 Q. 2015?

3 A. Yes, sir.

4 Q. At the time this lawsuit was filed -- and I'll
5 represent to you that it was June 11th, 2015, is it true
6 that the City had not produced all public records that
7 were responsive to Mr. Rodgers' public information
8 request identified in the lawsuit petition?

9 A. In regards to this one?

10 Q. In regard to all of the PIRs that are involved
11 in the lawsuit, is it true that as of June 11th when the
12 lawsuit was filed the City had not produced all of the
13 public records that the City had that were responsive to
14 Mr. Rodgers' public information request that are
15 identified in the lawsuit and petition?

16 A. That is correct.

17 Q. So at the time the City filed its answer to the
18 lawsuit on July 6th, 2015, by that time had the City
19 voluntarily produced all public records that are
20 responsive to the public information request identified
21 in the lawsuit petition?

22 A. Not to my knowledge.

23 Q. In fact, you can look at that example, can you
24 not, that's 1A and 1B log and see that by July 6th the
25 City had not provided any of the records requested on

1 **April 23rd in Exhibit 1A?**

2 A. Yes.

3 **Q. You can review again, if you need to, the scope**
4 **of the request found at 1A, or the DAA correspondence,**
5 **and let me ask you if you know whether the City has by**
6 **today produced all the public records that are**
7 **responsive to Mr. Rodgers' public information request**
8 **identified as Exhibit 1A.**

9 A. To my knowledge, yes.

10 **Q. Who searched for the records to respond to 1A?**

11 A. For Assistant City Manager Edwards, Jessica
12 Bluebird; for Assistant City Manager Arellano, Roxanne
13 Evans; for Assistant City Manager Lumbreras, Jason
14 Garza. For the previous mayor and council, CTM did the
15 search, and we had various people go through it.

16 **Q. Who is Clayton Hoskinson? It's**
17 **H-o-s-k-i-n-s-o-n.**

18 A. He is on the CTM security team.

19 **Q. Okay. And the fourth entry down on Exhibit 1B**
20 **indicates -- am I reading this correctly -- that he was**
21 **responsible for completing the search of the council**
22 **records for Request 1A?**

23 A. Yes, sir.

24 **Q. Do you know if the current mayor has access to**
25 **the email files of former Mayor Leffingwell?**

1 A. I don't believe so, not to my knowledge.

2 Q. Okay. Do you think of any reason why he
3 wouldn't?

4 A. To my knowledge, I don't -- wouldn't know why
5 he wouldn't -- would or would not.

6 Q. Okay. Now, this entry indicates that the --
7 well, would you explain what that entry about the CTM
8 search is telling us? I see that it actually has search
9 terms that CTM used, right --

10 A. Yes, sir.

11 Q. -- which are the same terms that are provided
12 in this request? This request is a little different
13 than some of them that you've received, right --

14 A. Yes, sir.

15 Q. -- because it's very specific what to search
16 for, is it not, in a certain period of time?

17 A. Yes, sir.

18 Q. Does that make it easier for the City to search
19 for the records when you can narrow it down the way it
20 is in this request?

21 MR. COPPOLA: Objection, form.

22 A. For CTM, I mean, it's -- they take a request
23 and read it and provide their search terms. You
24 provided -- to Mr. Rodgers' request provided search
25 terms and a date range.

1 Q. So if this request had come in and said give us
2 all the correspondence that occurred between the
3 Downtown Austin Alliance and the Austin City
4 Councilmembers, City Manager and ACMS for a certain
5 period of time, that would have been easier to search
6 for than this?

7 A. I don't know exactly what you're trying to say
8 by "easier." CTM has a program -- a searching program
9 to go through the emails for council.

10 Q. Okay. And so did they search the email files
11 of the current mayor and council according to this log?

12 A. They did.

13 Q. Okay. And that occurred before you received
14 the clarification the next day indicating that they
15 didn't need to search after January 1st?

16 A. Yes, sir.

17 Q. Okay. But they had searched the previous mayor
18 and council email files?

19 A. Yes, sir.

20 Q. Okay. Why was this PIR closed out, if I am
21 correct in interpreting the last entry, if the
22 responsive information had not been provided to
23 Mr. Rodgers at that point?

24 A. It was inadvertently closed out by Ms. Vierra
25 because she --

1 Q. It was what?

2 A. Inadvertently closed out by Ms. Vierra.

3 Q. And who is Alaina Vierra?

4 A. Vierra. She was a summer intern.

5 Q. In your department?

6 A. Yes, sir.

7 Q. Okay. And her last name is spelled

8 V-i-e-r-r-a?

9 A. Yes, sir.

10 Q. First name Alaina, A-l-a-i-n-a?

11 A. Yes, ma'am --

12 Q. Okay.

13 A. -- yes, sir.

14 Q. Okay. Well, is her error in closing this out
15 the reason Mr. Rodgers didn't receive the documents that
16 this indicates back in April had been -- responsive
17 records had been located?

18 A. It's one of them.

19 Q. Well -- but that wasn't done until the 21st of
20 July; this request was April 23rd?

21 A. Correct.

22 Q. According to this, didn't Mr. Hoskinson
23 actually locate records on April 23rd --

24 A. Correct.

25 Q. -- that are responsive to the request?

1 A. Correct.

2 Q. The same day the request came in, the
3 documents -- responsive documents were located?

4 A. Correct.

5 Q. In this system, who's responsible, then, for
6 providing those records to the requester?

7 A. For previous mayor and council, it was my
8 responsibility to go through those.

9 Q. Okay. And is there any information you can
10 glean from this or that you otherwise personally have to
11 explain why that wasn't done?

12 A. I got confused with the multiple requests and
13 thought it was different and didn't realize that it had
14 mayor and council.

15 Q. You mean you looked at the workflow notes here
16 and you don't think it had mayor and council on it -- or
17 I'm not understanding -- or ACM? I believe you
18 testified earlier that if it's a city manager or ACMs or
19 council the response comes back through your department;
20 isn't that right?

21 A. Correct.

22 Q. And let me just keep this simple. I'm not
23 trying to browbeat you. Just do you know why
24 specifically Mr. Rodgers did not receive the -- a
25 response to this request until after he filed the

1 lawsuit?

2 A. I do not know specifically.

3 Q. You are able to tell from the CTM entry on the
4 workflow what searches were done and in what files, such
5 as current mayor and council or previous mayor and
6 council. But can you tell that level of detail or you
7 otherwise know what searches were done with the city
8 manager and ACMS?

9 A. Not at that level.

10 Q. Okay. Not that level of specificity? Is that
11 what you mean?

12 A. Correct.

13 Q. Okay. All right. With regard to any of the
14 Brian Rodgers PIRs at issue in this lawsuit, is the
15 workflow, what we call the processing log, what's called
16 workflow, the only written communication about the PIRs
17 that would occur between the PIR Team and the department
18 SPOCs, for example?

19 A. Correct.

20 Q. Okay. You wouldn't ever outside of the
21 workflow send an email to an SPOC about a PIR, or vice
22 versa, where there would be emails in addition to
23 workflow --

24 A. There may be.

25 Q. -- about processing the PIR?

1 A. There may be.

2 Q. Okay. Let's start with this one, the DAA
3 request, Exhibit 1A. Have you searched -- well, let's
4 go back. Have you searched for emails with SPOCs or
5 with council, CTM, to see if there was any other email
6 correspondence about this PIR process?

7 A. I have not.

8 Q. Okay. I'm going to hand you now what has been
9 marked as Exhibit 2A -- actually I'm going to hand you
10 first what has been marked as Exhibit 2B, and I'm going
11 to hand you what has been marked as 2C.

12 Okay. Would you take a look at that and
13 tell me what 2B is and then tell me what 2C is?

14 A. This is the Decker Lake Golf PIR and --

15 THE REPORTER: Excuse me?

16 A. It is the Decker Lake Golf PIR.

17 MR. ALESHIRE: Golf.

18 THE WITNESS: Golf.

19 A. And in this -- I'm not guessing. I'm thinking
20 that you've matched them up right, that this is the PIR
21 for it.

22 Q. (BY MR. ALESHIRE) I am told that 806377 is
23 equal to P-2 -- Exhibit P-2 which is -- I haven't handed
24 it to you. This is the cover for what went in front of
25 this (indicating).

1 MR. COPPOLA: Can we go off the record for
2 a minute on this?

3 MR. ALESHIRE: Okay.

4 (BRIEF RECESS)

5 Q. (BY MR. ALESHIRE) Okay. You have in front of
6 you now, Mr. Del Bosque, Exhibit 2B and 2C, correct?

7 A. Yes, sir.

8 Q. Okay. I'm going to go ahead and hand you --
9 and I hope this doesn't get too confusing. But I'm
10 going to go ahead and hand you 2A and see if you can
11 identify that document.

12 A. Yes, sir.

13 Q. What is that?

14 A. That is a request made concerning this request
15 (indicating).

16 Q. Okay. So 2A is a PIR for the workflow. It's
17 not worded that way, but that's what --

18 A. Correct.

19 Q. -- it is, right --

20 A. Correct.

21 Q. -- of what occurred in processing the PIR that
22 is Exhibit 2B?

23 A. Yes, sir.

24 Q. Okay. And Exhibit 2C is the workflow that's
25 responsive to the request that's been marked 2A?

1 A. Correct.

2 Q. Okay. So we can look at 2C and see what
3 happened in responding to the contract negotiation
4 material request that is 2B; is that right?

5 A. Yes, sir.

6 Q. Okay. Can you walk us through what that -- it
7 looks like that it was -- this was Monday, March
8 the 16th, was the date of the email request, and it was
9 at 2:48 in the afternoon, right --

10 A. Yes, sir.

11 Q. -- the original request? And it looks like it
12 was logged into the IQ system on the 18th; is that
13 right?

14 A. Yes, sir.

15 Q. Okay. Is that normal procedure, take about
16 that long --

17 A. No, sir.

18 Q. -- to get it in?

19 A. No, sir.

20 Q. How long does it take to get it into the
21 system?

22 A. Usually the same day.

23 Q. Okay. And then I see those other entries. It
24 was sent to -- what is FSD-Purchasing?

25 A. Finance Services Department-Purchasing.

1 Q. Okay. And PARD being the Parks Department and
2 the Law Department?

3 A. (Nods affirmatively.)

4 Q. And then was it ever sent to any other
5 departments?

6 A. No, sir.

7 Q. Well, how would you know, for example, if there
8 was -- look at Item No. 1 in the request. If there was
9 any correspondence, say, between an assistant city
10 manager and representatives of Decker Lake Golf, based
11 on your workflow, how would those records have been
12 discovered?

13 MR. COPPOLA: Objection, form.

14 Q. (BY MR. ALESHIRE) Do you understand my
15 question?

16 A. I do understand your question. If we didn't
17 assign it to the City Manager's Office to include the
18 assistant city managers, we wouldn't know.

19 Q. Why would you not check with the city manager
20 or ACM -- the City Manager's Office in the most general
21 sense to see if they had any correspondence with Decker
22 Lake Golf regarding the terms of the proposed contract?

23 A. Because it was a contract, we sent it to
24 Purchasing, and we sent it to the department that was
25 the lead on the purchase -- or who we believed would be

1 the lead on the purchasing, which is Parks. And we sent
2 it to Law because there were attorneys involved.

3 Q. But is there some good reason why you would
4 think that the city manager wouldn't even need to check
5 to see if there was correspondence between the City
6 Manager's Office and the proponents?

7 A. Repeat the question.

8 Q. Is there a good reason why you would think
9 there's no way there's correspondence there? This
10 didn't -- this was a very broad request. It didn't ask
11 for just Purchasing; it didn't ask for just PARD. It
12 says any correspondence -- a copy of any correspondence,
13 email or paper between any official, employee or
14 attorney of the City of Austin and any officer, employee
15 or attorney of Decker Lake Golf, LLC regarding the
16 proposed terms of the contract.

17 Are you able to sit here today and assure
18 me that there is no such correspondence in the City
19 Manager's Office?

20 A. To my knowledge, no. I cannot assure you of
21 that.

22 Q. Okay. Because nobody asked, right? Nobody
23 asked the CM?

24 A. Correct.

25 Q. The last entry on here is May the 8th. This

1 request was submitted on March the 16th, and that's an
2 entry by you indicating that responsive information was
3 sent to the requester by the Purchasing Department,
4 right?

5 A. Yes, sir.

6 Q. That was on May the 8th. Is that time frame
7 from March the 16th through May the 8th typical of how
8 long it takes to get responsive records of this nature?

9 A. No, sir.

10 Q. Is it shorter or longer than it would -- you
11 would expect it to take?

12 A. Well, in this respect, the note was just made
13 on that date. Responsive information was released on
14 April the 8th from Purchasing and the message from PARD
15 on April 14th on whether or not PARD released that
16 information. And then it was --

17 Q. What are the odds, do you think, that this log
18 is not complete and that, in fact, there were -- there
19 was multiple times when records were received by me or
20 Mr. Rodgers from Purchasing and it was determined that
21 it still wasn't complete?

22 MR. COPPOLA: Objection, form.

23 A. I can't say for certain without looking at
24 maybe the department PIRs, also.

25 Q. (BY MR. ALESHIRE) Okay. But would you -- in

1 order -- if I receive responsive information, I can't
2 enter anything into this workflow, right?

3 A. Correct.

4 Q. So I would send an email back and say, "Hey, I
5 don't think I got everything." And from the emails that
6 you can see in your own email account, you would see
7 that there's discussions going on with you, Desta
8 Walker, maybe people from Law Department, from
9 Purchasing, from PARD saying I think there's records
10 that are missing here, and then we would be told, in
11 fact, there are some records.

12 Do you recall seeing a point in time
13 concerning this request (indicating) where Terry
14 Nicholson indicated that he did have some additional
15 records that had not been produced up to the point it
16 says in here that Purchasing delivered their records,
17 that he had additional records -- he had some other
18 place he was searching for records and he would get them
19 and then he would supply them and he did supply
20 additional records?

21 A. I don't know that I have -- that I've seen an
22 email with that. There may be an email. I don't know.

23 Q. Okay. But you don't see anything on this log
24 indicating --

25 A. No, sir.

1 Q. Okay.

2 A. I did not mean to interrupt.

3 Q. Okay. Now, this request of April 13th that is
4 marked as Exhibit 2A, it didn't just ask for what we are
5 now calling workflow. It also asks for any
6 correspondence, other than attorney-client privilege,
7 that was sent or received from city personnel regarding
8 the processing of this request, right?

9 A. Yes, sir.

10 Q. Do you know whether a search was made to see if
11 there is any such correspondence?

12 A. I'd have to look at the notes.

13 Q. Well, are the notes you're referring to 2C?

14 A. I'm sorry.

15 Q. I mean, this is asking for correspondence --

16 A. So this is -- this is -- these are the notes
17 for the original request. The notes for this request
18 are -- they're not here. So, I mean, I'd have to look,
19 but I believe we went out -- we asked the departments
20 that were affected to say please provide the emails back
21 and forth.

22 Q. Well, this is -- your office is affected by
23 Item No. 2?

24 A. Correct.

25 Q. We ask -- it asks for correspondence basically

1 **between you and your office and the SPOCs --**

2 A. Yes, sir.

3 **Q. -- and the other departments --**

4 A. Yes, sir.

5 **Q. -- right?**

6 A. Yes, sir.

7 **Q. So if you sent or received emails -- your team**
8 **were sent or received emails about how the original**
9 **request was processed --**

10 A. Correct.

11 **Q. -- you would have that outside the workflow,**
12 **right, sent or received emails where it wasn't --**

13 A. If we did.

14 **Q. Right. So my question to you was, have you**
15 **looked in your email files for correspondence between**
16 **your team and the operating departments about how 2B was**
17 **processed?**

18 A. I believe that we did.

19 **Q. You did look?**

20 A. I believe that we did.

21 **Q. Okay. Would there be a record of that?**

22 A. It would be -- there should be a note in the
23 workflow notes for that PIR to say what we found or
24 didn't find.

25 **Q. I'm getting confused again. For which number**

1 **PIR are you referring to?**

2 A. So it would be 808377.

3 **Q. But isn't 808377 the notes for how 806377 was**
4 **processed?**

5 A. So this document (indicating) is responsive to
6 a copy of --

7 **Q. You're holding up -- just for the record,**
8 **you're holding up 2C?**

9 A. Yes, sir.

10 **Q. 2C?**

11 A. Yes, sir. So 808377, this document, is
12 responsive to a copy of a record showing which city --
13 was transmitted for the purposes of determining -- yeah,
14 for this one -- for this request (indicating).

15 **Q. For 2B?**

16 A. Yes, for 2B.

17 **Q. Well, I know it's a little confusing. But 2A**
18 **asks you for records about how 2B was processed --**

19 A. Correct.

20 **Q. -- right?**

21 A. Correct.

22 **Q. And so my -- and it didn't ask you just for a**
23 **log. It asked you for any correspondence between your**
24 **office --**

25 A. Yes, sir.

1 Q. -- and the other --

2 A. Departments.

3 Q. -- offices that were involved in processing the
4 original request?

5 A. Correct.

6 Q. If that was handled by email and not entered on
7 the workflow, you would have to go search your email
8 file?

9 A. Correct.

10 Q. And did I understand your answer to be that you
11 think you did that?

12 A. Yes, sir.

13 Q. But you don't know whether there's a record of
14 that anywhere, that search?

15 A. Correct.

16 Q. Okay. So the department is without -- the City
17 is without the ability to determine whether you've
18 searched for Item 2 on Exhibit 2A, the second part of --

19 A. There's not a log. I mean, I don't -- Desta
20 and myself and when -- I mean, there's not a log to say
21 on this date we searched for this --

22 Q. Okay.

23 A. -- and we went out and said -- I said we need
24 to check these for that PIR.

25 Q. You have a specific memory of actually going

1 into your email file and looking for those records?

2 A. Yes.

3 Q. Do you have a specific memory of doing that for
4 the other requests for PIR log information that's
5 requested?

6 A. Yes.

7 Q. How long ago was that?

8 A. I can't recall.

9 Q. Was it after the lawsuit was filed?

10 A. I can't recall.

11 Q. But you have a specific memory of when you --

12 A. I know that --

13 Q. -- did it?

14 A. I know that we were searching for them, yes.

15 Q. And you don't know if it was a month ago, two
16 months ago?

17 A. Cannot --

18 Q. Okay.

19 A. -- say.

20 Q. Okay. I'm going to hand you now in a set what
21 is marked as Exhibit 3A, 3B and 3C and ask you if you
22 can identify those documents.

23 MR. COPPOLA: Bill, if we can, just before
24 we start on this one, it's about noon, and I guess I'm
25 curious to know if you want to take a break -- well, I'd

1 like to take at least a bathroom break, but I'd like to
2 know if you want to take a lunch break.

3 MR. ALESHIRE: If you're okay and if
4 you-all are okay, we can go on because I'm not --

5 MR. COPPOLA: Yeah.

6 MR. ALESHIRE: This is the last phase of
7 what I've got. So if we want to take a quick break, we
8 can do it, but then I don't have to go break and come
9 back after lunch, if that's okay with you-all.

10 MR. COPPOLA: It's my preference to get
11 through it if you have a reasonable amount.

12 MR. ALESHIRE: Okay.

13 MR. COPPOLA: But let's take a bathroom
14 break right now.

15 MR. ALESHIRE: Okay. Let's -- we'll go
16 off the record right now.

17 (BRIEF RECESS)

18 **Q. (BY MR. ALESHIRE) All right. Mr. Del Bosque,**
19 **you have in front of you now what has been marked as**
20 **Exhibits 3A, 3B and 3C. Can you look at that and tell**
21 **me what those are?**

22 A. So 3A is a request on the -- for the processing
23 records for the Bull Creek property, 3B is the request
24 for the Bull Creek property, and 3C is the log for the
25 request --

1 Q. Okay.

2 A. -- on the Bull Creek property.

3 Q. Okay. And the request is dated March 16th;
4 looks like Desta Walker logged it in on the 17th of
5 March, correct?

6 A. Correct. So it's --

7 Q. Who what is ORES, the second entry?

8 A. Office of Real Estate Services.

9 Q. Okay.

10 (OFF THE RECORD)

11 Q. (BY MR. ALESHIRE) Now, this -- the Request 3A
12 for the log, or the workflow, is exactly the same as the
13 one we were just talking about on 2A, right? I mean,
14 it's substantively asking for the same information?

15 A. Yes.

16 Q. It's asking for the log information and asking
17 for correspondence?

18 A. Yes.

19 Q. The -- and the original request was --
20 didn't -- if you'll look at 3B, the request was for all
21 correspondence or notices sent or received between any
22 official, employee or agent of TxDOT and any official,
23 employee or agent of the City of Austin regarding the
24 availability of or potential sale of the state land
25 along Bull Creek Road identified in the map above.

1 **Now, was this request only sent to Real**
2 **Estate and to Law, this PIR?**

3 A. It looks like it was sent to City -- it looked
4 like it was sent to the City Manager's Office and
5 associated ACMs.

6 **Q. Okay. And from this can you tell when the**
7 **request was fulfilled?**

8 A. 4-24-15.

9 **Q. Okay. And is that about five weeks after it**
10 **was received?**

11 A. Yes, sir.

12 **Q. Do you -- does that length of time for a**
13 **response to this request meet your standards of what you**
14 **expect the City to be able to do?**

15 A. For this request, my standards are -- I don't
16 know that I would have standards for this request. It
17 was -- again, we're at the -- we send out requests to
18 the departments, and then we rely on the departments to
19 get us back the information.

20 **Q. Is there any policy or expectation the City has**
21 **about how long it would take for the City to provide**
22 **responsive records to a requester?**

23 A. Ten days -- within 10 business days,
24 notwithstanding, you know, it's going to take longer.
25 Departments are still processing information. Someone

1 may be out, you know, whatever the case may be.

2 Q. And this took about 40 or so, right?

3 A. (No audible response.)

4 Q. This took about 40 days or so, right?

5 A. Yes, sir.

6 Q. All right. I hand you now what has been marked
7 has 4A, 4B -- 4B is two pages -- and 4C, and I again ask
8 you if you can identify those records.

9 A. Are these together (indicating), right?

10 Q. Yes.

11 A. Okay. This is -- is this the one you refer to
12 as the genesis.

13 Q. Yes.

14 A. The one prior to the RFQS of April, whatever --
15 May 19th, whenever that was.

16 Q. Yeah.

17 MR. COPPOLA: Bill, I'm sorry. I lost a
18 page on the copy. It's not -- that's for you. He's got
19 the full thing.

20 MR. ALESHIRE: Okay.

21 MR. COPPOLA: You may have to --

22 MR. ALESHIRE: I've got them.

23 MR. COPPOLA: Okay. You've got it.

24 That's fine.

25 Q. (BY MR. ALESHIRE) Okay. So you agree that

1 Exhibit 4B is the request dated March the 19th from
2 Mr. Rodgers for correspondence that occurred prior to
3 the issuance of the Decker Lake RFQS --

4 A. Yes, sir.

5 Q. -- between city personnel and Decker Lake Golf
6 personnel generally; is that right?

7 A. Yes, sir.

8 Q. And then on April 13th a request marked 4A was
9 the same kind of request for how the original request
10 had been processed, and Item 4C shows how it was
11 processed, right?

12 A. Yes, sir.

13 Q. Okay. The request shows that it was dated
14 March the 19th and entered into the IQ system by you on
15 the 22nd of March, correct?

16 A. Correct.

17 Q. And the -- at the top, it shows it was sent to
18 the Law Department, Parks, CMO, which would be the City
19 Manager's Office, right?

20 A. Yes, sir.

21 Q. And CTM -- what's MAC?

22 A. Mayor and council.

23 Q. Mayor and council to search for their records
24 as well. And that would be the old council, right,
25 considering the time frame?

1 A. Correct.

2 Q. Okay. Do you know if any records were located
3 from the old council's files?

4 A. Yes.

5 Q. And this log indicates that those are provided
6 to Mr. Rodgers or to me?

7 A. Well, there was no responsive documents for
8 that.

9 Q. Oh, they were searched, but they didn't find
10 any?

11 A. Correct.

12 Q. So --

13 A. No, no. They were -- they found some, and I
14 went through them; and there was nothing that was
15 responsive to your date.

16 Q. What time frame did they search, or can you
17 tell?

18 A. It said no date range. So I'd have to go
19 look -- go back and look to see what the search range
20 was, I mean, as far as from the first email to the last
21 email that was provided by CTM security.

22 Q. Okay. And, again, CTM shows what the search
23 terms are, but none of the other departments indicate in
24 the workflow what terms they searched for?

25 A. Correct.

1 Q. And if I understand your prior testimony, you
2 don't have any way of knowing what search terms the CMO
3 used?

4 A. Correct.

5 Q. Now, the first entry indicates that the City
6 Manager's Office was entered. Can you explain the
7 second to last entry on this workflow dated 4-28?

8 A. We added ACM Edwards to the request.

9 Q. Well, would ACM Edwards not have been notified
10 based on the first entry that was sent to the CMO, to
11 the City Manager's Office?

12 A. I just sent that to City Manager Ott's office.

13 Q. Okay. So if the workflow indicates that it was
14 just CMO, that was not sent to the assistant city
15 managers?

16 A. It was not.

17 Q. Why not?

18 A. I just sent it to the City Manager's Office. I
19 can't think why did not add them or -- I can't give you
20 my thought process on why I did not include them.

21 Q. Were you aware that this in particular revolved
22 around a very controversial issue that was pending
23 before the Austin City Council about converting parkland
24 to golf course?

25 A. I was aware.

1 Q. Okay. You were aware that it was
2 controversial?

3 A. I was aware that it was controversial.

4 Q. Okay. Do you know why it took from March
5 the 22nd to April the 28th, again, five weeks or so, for
6 Assistant City Manager Edwards to even be asked whether
7 she had documents responsive to the request marked 4B?

8 A. I don't recall.

9 Q. Do you recall seeing correspondence during that
10 period of time from me pointing out that we're pretty
11 sure Sue Edwards had been involved in the discussions
12 that are relevant to the request for the genesis PIR?

13 A. I can't specifically.

14 Q. Does -- in your mind, does this serve as an
15 example of what can happen in terms of getting
16 responsive information if the departments that might
17 likely have responsive documents are not sent the PIR?

18 MR. COPPOLA: Objection, form.

19 A. Generally speaking, yes.

20 MR. ALESHIRE: All right. I have just a
21 few more questions. Do we need to break or anything we
22 need to talk about?

23 MR. RODGERS: I may have one, but I can
24 probably show it to you.

25 MR. ALESHIRE: Okay.

1 MR. COPPOLA: Why don't we just take a
2 quick break, if we can, because I want to ask him
3 something, too.

4 MR. ALESHIRE: Okay.

5 (BRIEF RECESS)

6 Q. (BY MR. ALESHIRE) For this last set of the
7 questions, if you need to look back at these logs or any
8 other exhibits that you need to search through in order
9 to give an answer.

10 According to my records, Mr. Del Bosque,
11 that we first received responsive documents to the
12 request that is marked as Exhibit 1A for the DAA
13 records. We received the first response we'd ever
14 received on August 11th, according to my records.

15 First of all, I want to give you an
16 opportunity if you think that's not correct and you need
17 to look at. Then let me know. But I think we've
18 already discussed the fact that apparently that --

19 A. That sounds about right.

20 Q. The lawsuit was filed on June the 11th of this
21 year. Prior to filing that lawsuit, do you recall
22 seeing emails from me pointing out that records had not
23 been received -- let's just focus on the DAA request --
24 that we had not received responses on the DAA request?
25 Do you recall seeing emails from me to the City to that

1 effect prior to the lawsuit being filed?

2 A. I can't recall.

3 Q. Do you recall seeing emails from me prior to
4 the lawsuit being filed warning that we were going to
5 file the lawsuit if the records were not provided?

6 A. I can't recall.

7 Q. Did you ever hear from Ms. Walker or anyone
8 else on your staff that they had received an email from
9 me warning that we were going to file a lawsuit if the
10 responsive records were not provided?

11 A. Again, I cannot recall.

12 Q. Okay. So if you received a letter from a
13 lawyer threatening to sue the City for nonresponsive
14 actions under the TPIA, would that catch your attention?

15 A. Yes, sir.

16 Q. Okay. So when you say you don't recall, are
17 you saying you didn't get those emails?

18 A. I'm not -- I'm not saying I did not get them.

19 Q. Okay. But they wouldn't make an impression on
20 you that you would remember today?

21 A. Again, I cannot recall, and I would think they
22 would have made an impression.

23 Q. Okay. So were you just shocked by -- to see
24 that the lawsuit was filed on June the 11th?

25 A. I wouldn't say I was shocked.

1 Q. Why would you not be surprised? The lawsuit
2 alleged that your department, in essence, representing
3 the processing for these PIRs, had failed to provide
4 records that Mr. Rodgers had requested. So did that --
5 did you -- when did you find out about the lawsuit?

6 A. I would think in June. I don't recall.

7 Q. Okay. And to the best of your recollection
8 sitting here today, you don't recall ever seeing any
9 warning from me preceding June 11th by weeks that a
10 lawsuit would be filed if the records were not provided?
11 Sitting here today, you don't recall receiving any such
12 warnings from me?

13 A. I don't. I don't recall.

14 Q. But you do recall sometime in June -- and you
15 don't know a more specific date than that -- you found
16 out about this lawsuit, right?

17 A. Correct.

18 Q. Did you read the lawsuit petition?

19 A. I read through it.

20 Q. Okay. Do you recall seeing the allegation that
21 no response was provided at all to the DAA records
22 request?

23 A. I don't specifically.

24 Q. Okay. It was -- as you can see there, it's
25 marked -- it was Plaintiff's Exhibit 1. But you don't

1 recall seeing that allegation in the lawsuit when you
2 read it?

3 A. I don't recall. I may have.

4 Q. Okay. And I want to make sure that you
5 understand I'm not asking you about any visits or
6 conversations you had with the city attorneys about that
7 lawsuit. But what action, if any, did you take after
8 you read that lawsuit?

9 A. Nothing specifically.

10 Q. You didn't go looking for the DAA records?

11 A. Not that I recall.

12 Q. When did you discover that the City had not
13 provided any of the records requested in what has been
14 marked Exhibit 1A?

15 A. It would have to have been after that time
16 period.

17 Q. It would have been after June 11th?

18 A. I believe so.

19 Q. Well, do you know when you realized that --
20 when did you discover the mistake that that PIR had not
21 been provided -- that responsive documents had not been
22 provided?

23 A. I cannot specifically say to a date.

24 Q. Well, how close can you come?

25 A. I don't know that I can come close.

1 Q. Why not?

2 A. I just don't.

3 Q. Do you think that mistake is not a big deal or
4 it's a big deal or what? I mean, we're talking about
5 somebody submitted an open records request and got no
6 response back except warnings about that, filed a suit
7 about that, and you can't recall when you realized,
8 "Wait a minute. We actually didn't get those records
9 out."

10 MR. COPPOLA: Objection, form.

11 A. I specifically cannot.

12 Q. (BY MR. ALESHIRE) Well, can you generally? I
13 mean, you already said you thought you read the lawsuit
14 somewhere in June. Was it July or August before you
15 went to see what happened to those DAA records, or is
16 that something you more timely reacted to in June?

17 A. I would say it would be in June.

18 Q. Okay. So you knew in June that the records
19 responsive to that DAA request had not been provided to
20 Mr. Rodgers, correct?

21 MR. COPPOLA: Objection, form.

22 A. Again, I cannot say specifically what date.

23 Q. (BY MR. ALESHIRE) But are you sure it was
24 June?

25 A. I can't say specifically.

1 Q. Okay. So the City got sued for not turning
2 over records, and you're not sure when you went to see
3 whether or not those records were actually turned over
4 or not?

5 MR. COPPOLA: Objection, form.

6 Q. (BY MR. ALESHIRE) You can't give me any
7 general idea even when did you go back and check whether
8 or not the allegations in this lawsuit were true?

9 MR. COPPOLA: Same objections.

10 A. Again, I would say I cannot specifically say a
11 time frame.

12 Q. (BY MR. ALESHIRE) You can't even say a time
13 frame, not June or August or --

14 A. Oh, well, I would say sometime in June.

15 Q. Okay. There were -- the allegation in the
16 lawsuit was that there were two other processing logs
17 that we discussed today that also were not provided,
18 that only one of the processing logs -- well, actually
19 three processing logs were not provided. Do you recall
20 that allegation?

21 A. I don't recall.

22 Q. Okay. You don't recall from your reading of
23 the lawsuit that it alleged that we'd asked for
24 processing logs, as I think they were referred to your
25 requests, what we now know are work flows. Only one was

1 provided, but three others were not. That's what the
2 lawsuit said. Does that refresh your memory of what the
3 lawsuit said?

4 A. I may have read it.

5 Q. Okay. And when you were reading a lawsuit and
6 it says requester did not receive responsive documents
7 to this request, requester did not receive documents to
8 this next request, to this next request, to this next
9 request -- there was four of them in this lawsuit -- is
10 that not cause for you to take more immediate action to
11 see whether those allegations are true?

12 A. Again, I looked at it, but it was being handled
13 by the Law Department.

14 Q. But the issue of whether the records were
15 provided or not, is there anybody in the City who would
16 be in a better position than you to know whether, in
17 fact, the records were provided?

18 A. Correct.

19 Q. Okay. So you're telling me that you don't
20 recall after having read the lawsuit sometime in June
21 actually going out and doing research yourself or
22 providing information to show whether or not, in fact,
23 the records had been provided?

24 A. I know that we started working on them.

25 Q. Okay.

1 A. I can't say specifically when.

2 Q. Okay. And did you ever tell anyone that all
3 the records had been provided?

4 A. Not specifically.

5 Q. Okay. Well, what does that mean,
6 "specifically"?

7 A. Well, repeat your question.

8 Q. Did you ever tell anyone that all the
9 records -- let's put it this way: Did you ever tell
10 anyone prior to July 6th of this year that all the
11 records had been provided to Mr. Rodgers or to me?

12 A. Yes.

13 Q. And on what basis prior to July 6th -- between
14 July [sic] 11th when the suit was filed and July 11th
15 when the City filed its answer, you told someone in that
16 period of time, I guess, in essence, that our lawsuit is
17 wrong and that all the records had been provided. Is
18 that your testimony?

19 A. No, sir.

20 Q. Okay.

21 A. It was specifically about one request because I
22 was asked.

23 Q. Okay. Was it the DAA request?

24 A. At the time, it was -- I thought it was a
25 different request I answered because you -- Mr. Rodgers

1 had multiple requests.

2 Q. Okay. And the lawsuit listed multiple requests
3 that they claim had not been provided --

4 A. Correct.

5 Q. -- right?

6 A. (Nods affirmatively.)

7 Q. Okay. Did you ever tell anyone that all the
8 information that Mr. Rodgers had asked for in all of his
9 PIRs had already been provided to Mr. Rodgers between
10 the time of June 11th and July 6th?

11 A. I don't recall.

12 MR. ALESHIRE: Okay. We'll pass the
13 witness.

14
15 EXAMINATION

16 BY MR. COPPOLA:

17 Q. Mr. Del Bosque, my name is Chris Coppola. I'm
18 an assistant city attorney. I just want to ask you a
19 couple of questions about how the City knows or if it
20 can know what records have been provided to a requester
21 in response to a public information request, and I think
22 Mr. Aleshire asked you some questions in that vein as
23 well.

24 Are there situations that you're familiar
25 with where the City does not keep a track -- keep track

1 **of what records are provided to a requester?**

2 A. If the department sends out the information by
3 CD and doesn't keep a copy of the CD, if the department
4 sends out information by email, didn't keep a list of
5 the attachments they sent or what was in the -- if the
6 information is mailed out and a copy wasn't made, and if
7 those items were not attached to the system, then we
8 have no idea.

9 Q. And you mentioned that earlier, I think, that
10 typically a SPOC is supposed to attach to items sent out
11 to the IQ system; is that correct?

12 A. Correct.

13 Q. And in your experience, does that always happen
14 in response to every request?

15 A. It's not a hundred percent.

16 Q. Or sometimes the documents are too voluminous
17 to attach?

18 A. Correct.

19 Q. And in those cases, might they go out in a CD
20 instead?

21 A. Correct.

22 Q. And are you familiar in response to any of
23 Mr. Rodgers' requests whether, say, for example, the
24 Purchasing Department may have provided a response on a
25 CD?

1 A. I believe so.

2 Q. And do you know if the single point of contact
3 with the Purchasing Department has changed within the
4 last year?

5 A. The SPOC for Purchasing during the spring is no
6 longer with the City, I believe.

7 Q. And who is that?

8 A. Ashley Sherwood.

9 Q. And do you know how to get in touch with
10 Ms. Sherwood?

11 A. I do not.

12 Q. So, for example, if Ms. Sherwood gathered
13 responsive information in response to a request and then
14 didn't attach it to the system, is there any way to know
15 necessarily what she provided?

16 A. We wouldn't know unless she forwarded that
17 information to the SPOC that took over for her.

18 MR. COPPOLA: That's all the questions I
19 have. I'll pass the witness.

20 MR. ALESHIRE: I want to follow up a bit.

21

22 FURTHER EXAMINATION

23 BY MR. ALESHIRE:

24 Q. Mr. Del Bosque, are you able to tell us for
25 each one of the specific PIRs which ones you don't have

1 a copy of the responsive documents that were provided to
2 Mr. Rodgers?

3 A. We'd have to go to the attachments page and see
4 what was attached and match it up to the workflow notes
5 to see who sent what.

6 Q. Well, the lawsuit didn't allege that every
7 single -- that the City didn't respond to every single
8 request, right? It was only certain requests that the
9 complaint says were missing, correct?

10 A. I believe so.

11 Q. Okay. So, for example, Bull Creek, if the
12 lawsuit hasn't alleged that the City failed to give all
13 the responsive records on the Bull Creek request, does
14 it really matter whether you can -- you've got them all
15 in one place or not?

16 MR. COPPOLA: Objection, form.

17 A. Repeat the question.

18 Q. (BY MR. ALESHIRE) If the lawsuit didn't allege
19 that the City failed to release all of the Bull Creek
20 records, is there some reason why the City needs to see
21 all the records that Mr. Rodgers has?

22 MR. COPPOLA: Objection, form.

23 A. I can't specifically answer that. I'm not sure
24 what --

25 Q. (BY MR. ALESHIRE) I mean, can you think of any

1 reason why the City needs to have all that back and see
2 all that back?

3 A. In regards to?

4 Q. The Bull Creek request if the lawsuit hadn't
5 even alleged that there was any Bull Creek material?

6 A. I can't make that speculation.

7 Q. Are you able to, and if you need to look
8 through the logs, tell us which requests you may not
9 have records for showing what responsive records were
10 sent to Mr. Rodgers? If you'll do them one at a time,
11 I'm going to make a note as you tell me.

12 A. So Request 806377.

13 Q. What's the exhibit number?

14 A. 2C.

15 Q. Okay.

16 A. So Ashley Sherwood provided information via
17 email as well as mailed them on CD to Mr. Aleshire.

18 Q. And you don't have that? Your office -- your
19 PIR team doesn't have that; is that correct?

20 A. I would have to look at the attachment page to
21 see if she attached it, if she didn't -- or the -- yeah,
22 the attachment folder page to see if she attached it to
23 the --

24 Q. You can't tell by looking at this whether or
25 not --

1 A. No, I cannot.

2 Q. So you may actually have a copy for all you
3 know?

4 A. We may. I have not looked at it.

5 Q. Okay. And if you didn't find that she had
6 uploaded what she had sent to us -- are you looking at
7 the entry on March 31st?

8 A. April 8th.

9 Q. On 2C?

10 A. Yes, sir.

11 Q. Well, she released information twice, right, or
12 more, March 31st and April 8th?

13 A. So March 31st she sent information to the Law
14 Department and then --

15 Q. Oh, I see. Okay. All right. And then
16 April 8th she mailed a CD to me --

17 A. Yes, sir.

18 Q. -- according to your log? And you don't know
19 whether you have that -- that CD was uploaded or not?

20 A. Correct.

21 Q. And do you know for sure whether or not the
22 purchasing office maintained a copy of that CD?

23 A. I do not.

24 Q. Okay. And this request is related to the
25 Decker contract negotiation request. That's Item 2B,

1 right?

2 A. Yes, sir.

3 Q. All right. Go to the next one, then, if you --
4 so you think you don't have that CD -- you're not sure
5 if you have that CD that's related to the Decker
6 contract negotiation?

7 A. Correct.

8 Q. All right. Now, you didn't tell us anything
9 about the DAA, which is the request, right? Obviously
10 that information was not provided before the lawsuit was
11 filed, right? So that wouldn't be something -- you have
12 all of that, right, the City has?

13 MR. COPPOLA: I will stipulate on the
14 record that we have a complete copy of everything
15 provided to that one.

16 MR. ALESHIRE: Okay. So that's the first
17 request. Now we have the second request.

18 Q. (BY MR. ALESHIRE) Is there anything about the
19 third request that would indicate you don't have a
20 complete log of what was provided? And the third
21 request was Bull Creek, I believe?

22 A. Yeah.

23 Q. Okay.

24 A. Yes, sir. If Office of Real Estate Services --

25 Q. And give me a date.

1 A. I'm sorry. April 24th. I'd have to look to
2 see if she attached the information that she sent you.

3 Q. Okay. But this indicates that they sent it via
4 email, right?

5 A. Correct.

6 Q. Well, why couldn't you get a copy of that email
7 if you wanted it?

8 A. I could.

9 Q. Okay. All right. Anything else?

10 A. Oh, this one (indicating). I'm sorry. As far
11 as I can tell, that's it.

12 Q. So we think -- having gone through all that, we
13 think maybe there might be one CD from Purchasing that
14 you wouldn't have, a copy of what was given to
15 Mr. Rodgers; is that right? Is that what it boils down
16 to?

17 A. As far as I can tell.

18 MR. ALESHIRE: Okay. I'll pass the
19 witness.

20 MR. COPPOLA: And we'll reserve our
21 questions. Thank you.

22 (Whereupon the deposition concluded at
23 12:48 p.m., Wednesday, August 26, 2015.)

24
25

1 I, SANTOS ELOY DEL BOSQUE III, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4

5

SANTOS ELOY DEL BOSQUE III

6

7

8 THE STATE OF TEXAS)

9 COUNTY OF TRAVIS)

10 Before me, _____, on
11 this day personally appeared SANTOS ELOY DEL BOSQUE III,
12 known to me (or proved to me under oath or through
13 _____) (description of identity or other
14 document) to be the person whose name is subscribed to
15 the foregoing instrument and acknowledged to me that
16 he/she executed the same for the purposes and
17 consideration therein expressed.

18 Given under my hand and seal of office
19 this ____ day of _____, ____.

20

21

NOTARY PUBLIC IN AND FOR

22

THE STATE OF _____

23

MY COMMISSION EXP.: _____

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CAUSE NO. D-1-GN-15-002291

BRIAN RODGERS * IN THE DISTRICT COURT

Plaintiff *

*

v. * TRAVIS COUNTY, TEXAS

*

THE CITY OF AUSTIN *

Defendant * 98TH JUDICIAL DISTRICT

* * * * *

REPORTER'S CERTIFICATION

DEPOSITION OF SANTOS ELOY DEL BOSQUE III

AUGUST 26, 2015

* * * * *

I, LYDIA L. EDWARDS, CERTIFIED SHORTHAND
REPORTER in and for the State of Texas, hereby certify
to the following:

That the witness, SANTOS ELOY DEL BOSQUE III,
was duly sworn by me and that this deposition transcript
is a true record of the testimony given by said witness;

That the original deposition transcript was
submitted on _____ to the Witness or to the
attorney for the witness for examination, signature and
return to me by _____;

That the amount of time used by each party at
the deposition is as follows:

Bill Aleshire - 2 hours, 52 minutes
Christopher Coppola - 0 hours, 3 minutes

That pursuant to information given to the
deposition officer and made part of the record at the

1 time said testimony was taken, the following includes
2 all parties of record:

3 BILL ALESHIRE, Attorney for PLAINTIFF
CHRISTOPHER COPPOLA, Attorney for DEFENDANT

4
5 That I am neither counsel for, related to,
6 nor employed by any of the parties or attorneys in the
7 action in which this proceeding was taken and, further,
8 that I am not financially or otherwise interested in the
9 outcome of the action;

10 Further certification requirements pursuant to
11 Rule 203 of TRCP will be certified to after they have
12 occurred.

13 CERTIFIED TO BY ME this _____ day of September,
14 2015.

15
16 

17 LYDIA L. EDWARDS, CSR 2567
Certified Shorthand Reporter
18 For the State of Texas
Expiration Date: 12-31-16



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FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on _____;

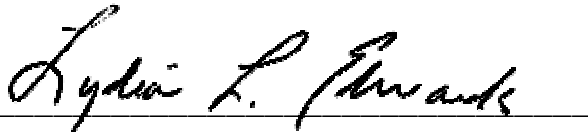
If returned, the attached Changes and Signature Pages contain any changes and the reasons therefor;

If returned, the original deposition transcript was delivered to Bill Aleshire, Custodial Attorney;

That \$_____ is the deposition officer's charges to Plaintiff for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3 and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

CERTIFIED TO BY ME on this _____ day of _____, ____.



Lydia L. Edwards, CSR 2567
Expiration Date: 12-31-16
TEAM LEGAL
13100 Wortham Center Drive
Suite 140
Houston, Texas 77065
(713) 937-4242



City of Austin

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(512) 974-2691

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(512) 974-1311

October 9, 2015

Via CMRRR #91 7199 9991 7035 9003 1248:

Shira Sultan
Team Legal
13100 Wortham Center Dr., Suite 140
Houston, Texas 77065

Re: No. 15038 – Deposition Changes and Corrections
Cause No. D-1-GN-15-002291, *Brian Rodgers v. The City of Austin*; In the 98th
District Court of Travis County, Texas

Dear Ms. Sultan:

Enclosed is the signed and notarized changes and signature page for Eloy Del Bosque's deposition.

Sincerely,

Cathy Curtis, Paralegal to
Christopher Coppola
Assistant City Attorney

cc: Bill Aleshire, via facsimile

(512) 974-2691

(512) 974-1311

October 9, 2015

Via CMRRR #91 7199 9991 7035 9003 1248:

Shira Sultan
Team Legal
13100 Wortham Center Dr., Suite 140
Houston, Texas 77065

Santos Eloy Del Bosque, III
August 26, 2015

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CHANGES AND SIGNATURE

WITNESS NAME: SANTOS ELOY DEL BOSQUE III

DATE OF DEPOSITION: August 26, 2015

PAGE	LINE	CHANGE	REASON
28	15	"No"	"I DON'T KNOW" CLASSIFICATION
50	3	"Lob"	"LAW DEPT" TYPO CORRECTION

DATE OF DEPOSITION: August 26, 2015

PAGE	LINE	CHANGE	REASON
28	15	"No"	"I DON'T KNOW" CLASSIFICATION
50	3	"Lob"	"LAW DEPT" TYPO CORRECTION

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Santos Eloy Del Bosque, III
August 26, 2015

122

1 I, SANTOS ELOY DEL BOSQUE III, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4
5 Santos Eloy Del Bosque III

6 SANTOS ELOY DEL BOSQUE III

7
8 THE STATE OF TEXAS)

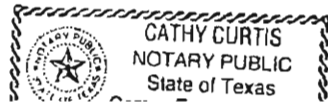
9 COUNTY OF TRAVIS)

10 Before me, Cathy Curtis, on
11 this day personally appeared SANTOS ELOY DEL BOSQUE III,
12 known to me (or proved to me under oath or through
13 _____) (description of identity or other
14 document) to be the person whose name is subscribed to
15 the foregoing instrument and acknowledged to me that
16 he/she executed the same for the purposes and
17 consideration therein expressed.

18 Given under my hand and seal of office
19 this 8th day of October, 2015.

20
21 Cathy Curtis

22 NOTARY PUBLIC IN AND FOR
23 THE STATE OF Texas



3 true and correct, except as noted above.

4
5 Santos Eloy Del Bosque III

6 SANTOS ELOY DEL BOSQUE III

7
8 THE STATE OF TEXAS)

9 COUNTY OF TRAVIS)

Cathy Curtis