

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

RAYMING CHANG *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

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: Civ. Action No. 02-02010 (EGS) (AK)
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JEFFREY BARHAM, *et al.*,

Plaintiffs,

v.

CHARLES H. RAMSEY, *et al.*,

Defendants.

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: Civ. Action No. 02-02283 (EGS) (AK)
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DECLARATION OF THOMAS L. KOGER

I, Thomas L. Koger, declare as follows:

1. I am over the age of 21 years.
2. The information contained herein is based on my personal knowledge and the declaration and deposition testimony I cite herein. I make this declaration to assist District of Columbia Attorney General Peter J. Nickles to comply with this Court's July 30, 2009 Order in these cases directing defendant District of Columbia ("District") to file a declaration, under penalty of perjury, addressing "(1) the pattern of abuses engaged in and repeatedly acknowledged by the District during the pendency of these case; 2) the District's plan for both promptly concluding discovery in these cases and assuring the

Court the parties, and the public that all discoverable materials have been turned over to plaintiffs in these actions; and (3) whether any investigations have been conducted into the discovery violations and missing and/or destroyed evidence in these cases and if not, why not.” This declaration addresses the first two issues. In doing so, I do not contemplate that the information contained herein or the subject of this Declaration shall be subject to dispute at trial.

3. I assumed responsibility for these cases, as well as *Franklin Jones, et al. v. District of Columbia*, 02cv2310 (EGS), and *Julie Abbate, et al. v. Charles Ramsey*, 30cv767 (EGS), on August 25, 2003, at which time I became the sole line attorney with responsibility for these related cases. On October 17, 2003, I entered my appearance as the sole line attorney representing the District defendants in the class action, *Joel Diamond, et al. v. Charles H. Ramsey, et ano.*, 03cv2005 (EGS). The District’s dispositive or partially dispositive motions in *Abbate*, *Barham*, and *Chang* were denied without prejudice on November 25, 2003, and discovery commenced on December 9, 2003. On March 9, 2004, I was assigned lead counsel responsibilities for *International Action Center, et al. v. District of Columbia*, 01cv0072 (GK), and on March 26, 2004, I was assigned lead counsel responsibility for *Becker, et al. v. District of Columbia*, 01cv811 (PLF)(JMF), following the promotion of predecessor lead counsel on those two cases to a supervisory position within this office. I served as lead counsel on *Bolger, et al. v. District of Columbia et al.*, 03cv906 (JDB) from January 7, 2005 through January 4, 2006. I served as lead counsel in the matter of *Marc Frucht, et ano. v. District of Columbia, et al.*, 04cv0599 (RJL), from October 8, 2004 until that case was reassigned on or about January 5, 2006. Each of the above-mentioned cases arose from a police

response in the context of or following protest activity; with the exceptions of *Franklin Jones* and *Carr*, each of these cases has involved document-intensive discovery. It is in the context of this litigation background that I address the discovery deficiencies in these cases..

5. I start by addressing the loss and/or destruction of the Joint Operations Command Center (“JOCC”) Running Resume. As reflected in my November 16, 2007 declaration in these matters, I recall having made a request of OGC in or about September 2003 to provide me with all documents that related to the events of Pershing Park and the defense of this litigation. Because of my familiarity with certain documents related to the policing of mass demonstrations, based on my having been involved in the defense of *Becker*, I specifically requested the JOCC Running Resume. Shortly thereafter, I was advised by OGC that none could be located. Having previously discussed at length the exhaustive, albeit unsuccessful, efforts to locate either a physical or electronic version of this document in my November 16, 2007 declaration, I incorporate it herein by reference. That declaration and its exhibits are reflected at *Barham* Dkt. 373-2.

6. I understand Plaintiffs to rely on deposition testimony by MPD Sergeant Douglas Jones for their assertions that numerous paper copies of the JOCC Running Resume were lost or destroyed. Jones testified that at some point after the September 2002 IMF meeting, he gave one copy of the JOCC Running Resume to his then-supervisor, Neil Trugman, and delivered another twelve copies to the office of Stephen Gaffigan, then-director of the Synchronized Operations Command Center (“SOCC”) of which the JOCC is a component. However, Jones’ testimony is disputed by the

declaration testimony of Trugman, Gaffigan, and Gaffigan's then administrative assistant, Cecelia Tilghman, who Jones recalled as having assisted him in putting copies in Gaffigan's office. (Declaration of Neil Trugman, executed November 16, 2007 (*Barham* Dkt. 373-2, p.43, at ¶¶ 4-5; Declaration of Stephen J. Gaffigan, verified on November 16, 2007) (*Barham* Dkt. 373-2, p. 35, at ¶¶ 4-5; (Declaration of Cecelia M. Tilghman, verified on November 16, 2007 (*Barham* Dkt. 373-2, pp. 45-46, at ¶¶ 3-4).

7. Jones testified that he was subsequently requested by the Office of General Counsel ("OGC") of MPD to provide to it a copy of the JOCC Running Resume. (Deposition of Douglas Jones, taken September 12, 2007 (cited pages of which are annexed as Ex. 1) at 32:11-16). He sought to retrieve an electronic copy from the JOCC server, and was able to generate an April 2002 JOCC Running Resume from the Group Systems software on the JOCC server, but was unable to find such a Running Resume on the JOCC server for September 2002. (Ex. 1 at 41:15 – 42:1; 47:9-12). Jones believes that the September JOCC Running Resume may have been inadvertently written over as a template for a running resume for a subsequent event. (Exh. 1 at 67:15 – 68:6; 70:22-71:4). Jones does not believe that it would have been intentionally deleted. (Exh. 1 at 70:22-71:9).

8. Based on my long involvement in discovery in these matters, I am not aware of any evidence having been presented indicating that OGC ever received a copy of the September 27, 2002 JOCC Running Resume.

9. My records reflect that a set of audio tapes of MPD radio communications was provided to counsel for the plaintiffs in the *Abbate*, *Burgin* and *Chang* cases on or about March 3, 2004, in response to these plaintiffs' First Joint Request for the

Production of Documents to the District of Columbia. *Abbate* counsel, on behalf of these three sets of plaintiffs, and I had agreed that the District would make a single distribution of materials responsive to these requests to *Abbate* counsel, and that the production would be distributed among counsel for these three sets of plaintiffs. In providing these tapes to *Abbate* counsel, I believe that I satisfied the request for these tapes as it applied to *Chang* plaintiffs. At the times that the *Abbate* plaintiffs settled their case in January 2005 and the *Burgin/Diamond* class representatives accepted the District's settlement offer in March 2007, they had not advised me of any concerns with this production of tapes.

10. My records further reflect that *Barham* plaintiffs were provided a partial set of audio tapes in October 2004 in response to requests for production. This production was supplemented in accordance with this Court's October 30, 2007 Order compelling additional tape production and ordering, among other things, the production of the JOCC Running Resume or the filing of a declaration by undersigned counsel addressing its nonproduction. I am advised that the conflicting reports of whether and why gaps may exist in these recordings will be a focus of Mr. Nickles' investigation, as stated in his declaration.

11. My records also reflect that the District also initially produced a series of videotapes relating to the Pershing Park arrests on or about March 3, 2004 to the attorneys at the law firm of Covington & Burling in response to the *Abbate, Chang, and Diamond v. District of Columbia* Plaintiffs' First Set of Consolidated Requests for Production of Documents from Defendant District of Columbia. This production provided the only videotapes that reflect the events of September 27, 2002 (other than

those disclosed in discovery by *Burgin/Diamond* plaintiffs) of which I am aware. At the time, I had been advised by counsel for the *Abbate* plaintiffs that such production would satisfy the requirements of the jointly served requests, and that the three sets of plaintiffs would share the production. Earlier this year, I confirmed with *Abbate* and *Burgin/Diamond* counsel that this was their understanding. Hence, I believed the March 2004 production to have satisfied the requests regarding such tapes. *Chang* plaintiffs, I understand, from their motion for sanctions and from communications with *Abbate* and *Burgin/Diamond* counsel, did not avail themselves of these materials or the audio tapes provided at the same time.

12. Because of concerns about the District's failure to produce the JOCC Running Resume and other production concerns, I felt it best to forward copies of Pershing Park videotapes directly to counsel for *Barham* and *Chang* plaintiffs. After doing so, I contacted counsel for *Barham* plaintiffs, who advised that I had, in fact, previously produced copies of video tapes. Because I came to understand that *Chang* plaintiffs had not obtained the set of tapes I had produced in March 2004, I provided additional tapes in order that they would have all the videos of the events at Pershing Park. I also provided a tape reflecting an examination of wrist-to-ankle flexcuffing, which was depicted in materials produced to the Court and to all parties on September 12, 2003, which I caused to be duplicated and produced as soon as I learned of it. The recently produced compact disc ("cd") of video tapes mentioned by plaintiffs at the July 29, 2009 status conference includes the three September 27, 2002 videos (including one identified as having been generated by "Balt. PD"), the wrist-to-ankle flexcuffing video, and a video from September 28, 2002, all of which had been previously produced.

13. In preparing to defend these matters and the related cases, *Abbate* and *Burgin*, I obtained thousands of documents from the MPD including Field Arrest Forms, video tapes, digital photographs recorded on cds and audio tapes of Radio Runs from 6:00 a.m. through noon, September 27, 2002. I did so intending to produce them in response to anticipated discovery requests from counsel for the various plaintiffs in the related cases before this Court. Therefore, I caused thousands of pages of documents to be Bates numbered for production. In doing so I produced some, but it appears now, not all of the Field Arrest Forms pertinent to the related cases.

14. At the time of the District's initial production of documents, I had intended to produce all Field Arrest Forms to the counsel representing the respective arrestees reflected on those forms. Counsel in the *Abbate* and *Burgin/Diamond* matters have confirmed that they received the Field Arrest Forms for their respective clients at that time. Until well into 2007, I mistakenly believed I had done so in these cases also.

15. Following communications with Mr. Messineo, I searched the areas in which I then stored material related to these cases for copies of the Field Arrest Forms for Pershing Park arrestees that I believed I had copied, Bates numbered and distributed. When after repeated searches I could not find copies of such materials, I called for the originals and existing copies stored at Metropolitan Police Department ("MPD") Headquarters to be copied immediately. Because the copier at the MPD Office of the General Counsel was not capable of affixing Bates numbers, I produced unnumbered copies. I caused photocopying to be conducted at MPD Headquarters rather than OAG, because it could be accomplished more expeditiously and would not require the transportation of the originals.

16. It was because of the urgency of the untimely production and the inability to affix Bates numbers quickly that I produced only a single set of copies for the two sets of counsel, who were sharing responsibility for their jointly-noted depositions of MPD arresting officers and other personnel. I did not Bates number them, which would have caused further delay.

17. The District also withheld or provided in redacted form a substantial number of documents pursuant to an assertion of the law enforcement and/or deliberative process privileges. Many of these documents had been provided in May 2004, accompanied by a privilege log, which was not challenged by plaintiffs until late 2007. The District submitted declarations from then Commander/now Chief Cathy Lanier, her designee for assertion of the law enforcement privilege, Commander/now Assistant Chief Michael Anzallo, and former Deputy Mayor Margret Nedelkoff (then Kellems) to support these assertions of privilege, which the Court overruled.

18. Shortly prior to the District's late July 2009 production, and in preparation for the July 29, 2009 status conference, I reviewed the sanctions filings, which impressed upon me that document management had been unacceptably poor. I sought to bring some degree of order to the situation by organizing the storage areas of documents related to the various mass demonstration cases, which house documents from the Pershing Park cases, among others. In that process I found Redweld files containing prosecution related materials and containing copies of email predominantly generated by a former Office of the Corporation Counsel public information officer ("PIO") and various MPD personnel. I expanded this search beyond the storage room in which I found these files and found another Redweld containing additional MPD and OCC PIO emails in a cubicle

commonly assigned to interns. I was unable to identify any other documents responsive to this case at that time, and produced responsive materials from these Redweld files, in some instances redacting personal and cell phone numbers among other information and in some instances producing materials that had already been redacted. This belated production has supplemented the District's prior production of roughly 10,000 pages of documents in addition to the belatedly produced Field Arrest Forms. This is in addition to the thousands of pages of documents produced by the Federal Defendants, and the more than 120 depositions that have been conducted, including Rule 30(b)(6) depositions of MPD officers on dozens of topics.

19. As I stated in the July 29, 2009 hearing in this matter, documents for which I am and have been responsible during the pendency of these cases came to be misplaced. This occurred in part because the office lacked a document management protocol or system. Consequently the documents had not been appropriately processed and indexed upon receipt. I did not maintain control of them, as aggravated by repeated relocations of pertinent documents within the premises of the Civil Litigation Division, and they were not timely produced. The late July 2009 supplementation also included materials previously produced to *Barham* plaintiffs in satisfying Topic 8 of Barham Plaintiffs' Second Amended Notice of Deposition of Defendant District of Columbia and related matters. (*See* Dkt. 472-2). Following the July 29, 2009 hearing in this matter, my colleagues and I searched the premises of the Civil Litigation Division in an effort to locate additional misplaced documents in light of my recent discovery of previously unproduced materials. As a result, additional materials have been identified for production in these cases, as well as additional Field Arrest Reports not previously

produced to counsel in *Becker*. The documents discovered after the hearing currently are being Bates numbered, indexed for production, and reviewed for privilege. They will then be produced to plaintiffs as expeditiously as possible.

20. Plaintiffs point out that a litigation hold letter was not sent out by this office upon the initiation of these civil actions. However, as reflected by the Declaration of Ronald B. Harris, filed this date, MPD Deputy General Counsel Ronald Harris sought to have the relevant audio tapes preserved in October 2002 IMF/WB protests. Further, OAG records reflect that then-Senior Litigation Counsel Leonard Becker transmitted a request relating to arrest record information concerning the *Chang* plaintiffs to MPD in October 2002.

21. As a result of communications by Assistant Deputy Attorney General Ellen Efros to the Executive Office of the Mayor, I have been provided with a number of documents. These include a copy of the March 11, 2004 Draft Report on Investigation of the Metropolitan Police Department's Policy and Practice in Handling Demonstrations in the District of Columbia ("Report"), copies of proposed legislation, then-Deputy Mayor Kellems' written public hearing testimony to the Judiciary Committee regarding its investigation, draft responses to Recommendations from the Judiciary Committee based upon the Report, and emails from the general public relating to the events of Pershing Park. I have caused them to be Bates numbered and scanned, and they are being indexed for review as to prior production and privilege. Upon completion of this review and the preparation of an appropriate privilege log, if applicable, OAG will promptly produce responsive, non-duplicative, unprivileged documents.

22. The Court has clearly expressed the desirability of a reasonable settlement in each of these cases. I have participated in all settlement and mediation efforts in these cases since August 2003. The District has recognized the importance of settling these cases from early on. The District has, in fact, succeeded in providing relief through settlement offers or offers of judgment that have been sufficient to resolve the *Abbate*, *Burgin/Diamond*, and *Franklin Jones* cases, as well as the claims of three of the original seven *Chang* plaintiffs and the four *Barham* non-class member plaintiffs.

23. Following exchanges of written discovery and a number of depositions, the District defendants and the *Abbate* plaintiffs represented by the National Capitol Area Chapter of the ACLU and Covington & Burling reached an agreement that provided compensation for the plaintiffs of a total of \$425,000 to all Plaintiffs, jointly and collectively in full satisfaction of all claims and potential claims for damages and other monetary relief against all defendants encompassed by the Amended Complaint or any subsequently-filed complaint, including claims for attorneys fees and/or other costs, expungement of their arrest records, issuance of a written conciliatory statement by then-MPD Chief Charles Ramsey, and an MPD commitment to conduct its policing of mass demonstrations in a manner to achieve ten clearly expressed Objectives pursuant to clearly delineated "Provisions Addressing Objectives" ("PAO's"), which included training and MPD Mass Demonstration Handbook revision requirements. The Settlement Agreement also provided for this Court to retain enforcement jurisdiction for three years. The Court entered the settlement in order form on January 25, 2005, the terms of which are reported at 355 F. Supp.2d 377-390 (D.D.C. 2005). This settlement was intended to

provide a framework eliminating invalid mass arrests, such as those at issue in these cases.

24. The *Burgin/Diamond* class action settlement was approved by this Court on August 1, 2007. This settlement followed from the March 2, 2007 acceptance by the *Burgin/Diamond* class representatives of the District's Rule 68 offer that provided for the class to receive \$1,000,000, inclusive of costs and reasonable attorney fees, and expungement of the class members' arrest records and for plaintiffs to file a consent motion resulting in this Court's issuance of orders permitting them to deny that they had been arrested for their demonstration-related September 27, 2002 activities.

25. The four non-class member *Barham* plaintiffs accepted a Rule 68 offer from the District on February 28, 2007. The judgment issued upon the acceptance of that Rule 68 offer provided for payment of \$50,000 to each of the four plaintiffs plus costs, including reasonable attorney fees to be determined by this Court. This Court has awarded these plaintiffs \$97,203.71 in attorney fees, subject to further order.

26. Three of the original seven *Chang* plaintiffs accepted Rule 68 offers providing compensation, including reasonable attorney fees and non-monetary relief to resolve their claims against the District defendants on May 5, 2005 (Enright) and October 7, 2005 (Chastain and Young), respectively.

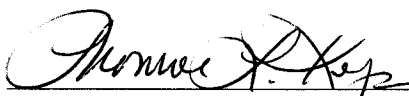
27. As reflected by the remarks of *Abbate* counsel reported in the *Washington Post*, the \$425,000 settlement in that matter allowed each of the seven plaintiffs to recover \$50,000. Similarly, as indicated by the offer of judgment accepted by the four non-class member *Barham* plaintiffs, each of those individuals has resolved his or her

claims against the District defendants for \$50,000, with reasonable costs and attorneys fees to be awarded by this Court.

Nothing stated herein is intended to waive any applicable privileges or work-product protections with respect to Mr. Nickles' investigation of the handling of discovery in these cases or the litigation.

I declare under penalty of perjury that the forgoing is true and correct.

Dated: Aug. 12, 2009



Thomas L. Koger

Excerpt of Deposition
of Douglas A. Jones

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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JEFFREY BARHAM, et al., :
Plaintiffs, :
v. : Civil Action No.
CHIEF CHARLES H. RAMSEY, et al., : 02-CV-2283 (EGS)
Defendants. :
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DEPOSITION OF DOUGLAS A. JONES

Washington, D.C.
Wednesday, September 12, 2007

REPORTED BY:
JULIE BAKER, RPR CRR

1 A That is correct.

2 Q And you did provide Detective Trugman with
3 the running resume from the date of the Pershing
4 Park arrests; is that right?

5 A Oh, yes, sir.

6 Q What has happened to that particular
7 document, the one that you gave to Detective Trugman
8 in response to what you understood to be an official
9 and litigation-related request?

10 A I have no idea what he did with it, sir.

11 Q At any point in time, did the general
12 counsel's office communicate directly or indirectly
13 to you that they had not received it from Detective
14 Trugman?

15 A I know I had it. I don't recall that, but
16 I know it was asked for again. After Trugman had
17 left, because I remember -- first of all, I remember
18 doing a search for it, and those files had been
19 taken off of the server at that time. So I went
20 into the Group Systems to bring up the dates, and I
21 was able to reproduce a report in MS Word for the
22 April IMF, but the September IMF, those files were

1 Q What were you referring to as being
2 incorrect about an understanding as to the location
3 of files?

4 A George Crawford, who works for IT, he told
5 me that the server has always resided -- he told me
6 it was his understanding that the server always
7 resided up in the SOCC, but the SOCC wasn't in
8 existence in 1995 when we purchased that.

9 So he's mistaken, and I believe some of
10 the confusion comes with the name of our server in
11 the SOCC. It's, for some reason, called GroupWare.
12 I don't know why, but that's easily confused with
13 Group Systems, and I believe that's where some of
14 the confusion lies.

15 Q As far as your understanding as to where
16 the data that would comprise a running resume did,
17 in fact, exist, is it your understanding when the
18 system was running, that it existed simultaneously
19 on two servers?

20 A The report that's generated from Group
21 Systems would be on the SOCC server. All of the
22 data that was typed in by people would be on the

1 Group Systems server.

2 Q That's very clear. Do you have any
3 knowledge as to whether there's been a replacement
4 of the SOCC server at any time since 2002 such that
5 whatever hard drive was in there is no longer
6 available?

7 A I don't recall that that was -- that they
8 had to replace it. It probably was upgraded. I
9 don't know whether that upgrade would mean taking a
10 hard disk out and replacing it with another one or
11 not. I don't know. I don't have that knowledge.

12 Q Are you responsible for or do you have
13 knowledge of whether there is any routine backup or
14 archiving procedure for the SOCC server?

15 A Currently, there is a routine backup. I
16 don't know the interval of the backup, but I do know
17 that that is one of the functions of our IT
18 contractor. We contract that out. HMS is the
19 current contractor.

20 Q Was HMS the contractor at the time of
21 September 2002?

22 A No, sir.

1 I also recall being asked to search for
2 information for the April IMF, and during that time
3 I recall, while in Group Systems, looking for the
4 September IMF, as well, running resume which I could
5 not locate.

6 Q Was the request for the April IMF data
7 made at the same time or as part of the same request
8 for the September '02 IMF data?

9 A I don't recall. I just remember
10 generating from Group Systems the April IMF running
11 resume, not being able to find the official one that
12 I had recreated back in April 2002 and not being
13 able to find the digital copy that I created from
14 Group Systems for the September IMF on the SOCC
15 server or being able to find the running resume or
16 the running resumes for each date that they were
17 created.

18 With Group Systems we did one for each
19 day. That's different than what we do today, the
20 current way we do with E-Team. But I could not find
21 that.

22 Q You were asked to produce or secure a copy

1 statistics on that report. And we have JOCC
2 activation information as far as whether the JOCC
3 was activated. It will say something to the fact,
4 the nature of the JOCC activation by authority of
5 the Chief of police. The JOCC was activated at
6 whatever time on whatever date with authorization to
7 record video camera feeds.

8 That's our general practice. So it would
9 more or less be laid out like that.

10 Q And that was the only sort of resume that
11 you found on the materials maintained by Yellow
12 House?

13 A That is correct, in my latest search for
14 information.

15 Q One other question. When you searched for
16 digital information regarding the JOCC resume in the
17 Group Systems server, you said that you located the
18 materials for April 2002, but that the materials for
19 September 2002 had been overwritten?

20 A It appeared -- that was my guess that they
21 would have been overwritten because they would have
22 otherwise been there. I have a template that I

1 created, a blank template, and I worked the later
2 shift. I didn't start this one, so it's just my
3 interpretation that somebody must have taken what
4 was there and wiped it out and used that as a
5 template. That was just my guess because otherwise
6 they would have been there.

7 Q Is this a standard procedure? Does this
8 happen often?

9 A I don't recall it ever happening before.

10 Q Was there information regarding another
11 activation that was present in that where you would
12 expect to find it?

13 A There was information, to my recollection,
14 in there before as far as the -- we had IMF
15 activation information for the demonstrations before
16 that, plus, of course, I'm sure it had inaugural
17 information, whatever the event was there when we
18 had JOCC activations. And then we had events,
19 incidents after.

20 Q I'm just trying to understand how you
21 looked for this. You went into the Group Systems
22 server, and you ran a search for the date. Did you

1 BY MR. MESSINEO:

2 Q What is the file and subdirectory
3 structure of the hard drive in which the JOCC
4 running resume would normally be present?

5 A At the time in question, it was almost
6 like the files were in the route directory. They
7 were just thrown up there. I restructured that a
8 year and a half ago, two years ago where I actually
9 came up with -- I just organized them. For all of
10 the main administrative-type files, JOCC activation,
11 et cetera, I created a directory SOCC complex.

12 In that, I have a directory JOCC
13 activation. In the JOCC activation directory, I
14 have calendar years, and I also have requests from
15 general counsel. And in that folder, I have
16 subfolders with the requests that were made and the
17 information that was provided. I put that
18 information in there. There are directives in
19 there. There's a CC TV folder in there that has
20 standard operating procedures for CC TV, et cetera.
21 So that's sort of the layout of that.

22 Q When you were discussing that there was a

1 possible modification of an earlier template which
2 resulted in the loss of some JOCC running resume
3 data, that's just a guess of yours; is that correct?

4 A That is just a guess.

5 Q As far as you know, it's also possible or
6 consistent with your observations, sir, that the
7 underlying file was intentionally deleted?

8 A I don't think that anybody would
9 intentionally delete it. I really don't think that,
10 but I do think that somebody could have needed a
11 template to use and just resorted to going in there
12 and just wiping out that and using it as a template.

13 Q My question isn't really whether any
14 individual would intentionally delete it. It's the
15 appearance of the file structure. Had the file been
16 intentionally deleted, is that consistent with the
17 appearance of the file structure as you've seen it?

18 A Can you further explain?

19 Q If someone had gone out and intentionally
20 deleted the data for this particular running resume,
21 would it look just as it does now, or would there be
22 an indication of a deletion?