

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF INDIANA

3 JAY VERMILLION,)
4 Plaintiff,)
5 VS.) Case No. 1:15-CV-0605-RLY-TAB
6 MARK LEVENHAGEN, et al,)
7 Defendants.)

8 *****

9 ORAL AND VIDEOTAPED DEPOSITION OF DR. ROBERT MORGAN
10 May 21, 2019

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14 ORAL AND VIDEOTAPED DEPOSITION of DR. ROBERT
15 MORGAN, produced as a witness at the instance of the
16 PLAINTIFF, and duly sworn, was taken in the above-styled
17 and numbered cause on the 21st day of May, 2019 from
18 9:31 a.m. to 4:23 p.m. at the Overton Hotel and
19 Conference Center, 2322 Mac Davis Lane, Lubbock, Texas,
20 79401, before JAMIE JACKSON, CSR in and for the State of
21 Texas, reported by machine shorthand, pursuant to the
22 Federal Rules of Civil Procedure and the provisions
23 stated on the record or attached hereto.
24
25



A P P E A R A N C E S

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1 VIDEOGRAPHER: My name is Kathy Robertson,
2 legal video specialist with McCorkle Litigation
3 Services. I am the videographer on May 21st, 2019 for
4 the reporting of the deposition of Dr. Robert Morgan
5 being taken at the Overton in Lubbock, Texas at the time
6 of 9:31 a.m. in the matter of Jay Vermillion versus Mark
7 Levenhagen, et al. This is filed in the Southern
8 District of Indiana, Case Number 1:15-CV-0605-RLY-TAB.
9 Will counsel please introduce themselves?

10 MS. FILLER: Maggie Filler for the Plaintiff
11 Jay Vermillion.

12 MR. DICKMEYER: David Dickmeyer on behalf of
13 the Defendants.

14 VIDEOGRAPHER: Will the court reporter
15 please identify herself and swear in the witness?

16 MR. DICKMEYER: One second before we swear
17 in the witness. I also have Ryan Guillory from the
18 Attorney General's Office also representing the
19 Defendants.

20 COURT REPORTER: I'm Jamie Jackson, the
21 court reporter, and will you raise your right hand?
22
23
24
25



1 DR. ROBERT MORGAN

2 Having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. FILLER:

5 Q. Good morning.

6 A. Good morning.

7 Q. My name is Maggie Filler. I'm an attorney for
8 the Plaintiff in this matter, Jay Vermillion. Could you
9 please state your first and last name spelling your last
10 name?

11 A. Robert Morgan, M-o-r-g-a-n.

12 Q. And have you been retained by the Defendants in
13 this case?

14 A. I have.

15 Q. Dr. Morgan, you have been deposed before,
16 correct?

17 A. Yes, I have.

18 Q. Approximately how many times?

19 A. I believe this is my fifth deposition.

20 Q. So then you're familiar with how a deposition
21 generally works, correct?

22 A. Yes.

23 Q. I'm just going to give you a couple points of
24 overview for how the deposition will go today, but I
25 trust that you have familiarity with the process. Today



1 I'll be asking you a bunch of questions about the
2 opinions that you've reached in this matter. The other
3 lawyers here will be able to ask you questions as well,
4 if they so choose. The court reporter is taking down
5 everything that's said and will prepare a transcript of
6 what's been said today. If you want to, you'll have an
7 opportunity to review that transcript and make sure that
8 you gave truthful and accurate testimony and correct any
9 errors that you see in the transcript. Do you
10 understand?

11 A. I do.

12 Q. Dr. Morgan, it's very important that you
13 understand the questions that I ask and that you give
14 accurate answers today. So if at any point there's a
15 question that I ask that you don't understand, please
16 let me know, all right?

17 A. I will.

18 Q. And you're doing a great job so far, but just a
19 reminder to try and avoid unambiguous responses, such as
20 "um-hum" or "um," that might not come across in the
21 transcript.

22 A. Okay.

23 Q. Dr. Morgan, is there any reason why you'd be
24 unable to give truthful and accurate testimony today?

25 A. No.



1 Q. What, if anything, did you do to prepare for
2 today's deposition?

3 A. Exchanged emails with attorneys regarding the
4 scheduling, and then I reviewed most of my file
5 documents. I believe we had one telephone call, but it
6 wasn't substantive to the nature of the deposition.
7 More the logistics, I believe.

8 Q. And is that your file that you brought here
9 today?

10 A. Yes.

11 Q. Could you -- we can go over that in more detail,
12 but could you try and give me a catalog of what you
13 believe you reviewed in advance of the deposition from
14 that file?

15 A. Yes. I'm going to go ahead and look at the file.

16 Q. Sure.

17 A. I reviewed my expert report, I reviewed the
18 stipulated protective order document that was provided
19 to me, I reviewed the Plaintiff's Third Amended Prisoner
20 Civil Rights Complaint, the expert report of Dan
21 Pacholke, the expert report of Terry Kupers and the
22 deposition of Jay Vermillion.

23 Q. Thank you.

24 A. Oh, I'm sorry, if I can add one thing?

25 Q. Yes, go ahead.



1 A. I looked through the list of sources that you
2 submitted via an online link, a Dropbox. I looked at
3 the materials in that folder.

4 Q. Could you tell me approximately how long you
5 spent looking at the materials in that folder?

6 A. Twenty minutes.

7 Q. Would you say you were familiar with most of
8 them?

9 A. Yes, I did not see anything I was not familiar
10 with.

11 (EXPERT EXHIBIT NO. 1 MARKED.)

12 Q. (BY MS. FILLER:) Dr. Morgan, I'm pass -- Dr.
13 Morgan, I'm passing you what's been marked as Expert 1.
14 Is this the report that you submitted in this case?

15 A. Yes, it is.

16 Q. And if you could turn to Attachment A to that
17 report, I believe that's your CV?

18 A. Yes, it is.

19 Q. Dr. Morgan, let's start by just going over some
20 of what's in your CV, okay?

21 A. Yes.

22 Q. Does this CV accurately describe your background
23 and your qualifications?

24 A. Yes, it does.

25 Q. And I believe that it is signed May 4th, 2019?



1 The very -- page 29 of Attachment A.

2 A. Yes, that's correct.

3 Q. And so would you say that the CV then is
4 up-to-date?

5 A. Yes.

6 Q. Is there anything missing that's more recent that
7 is not included in the CV?

8 A. No.

9 Q. Dr. Morgan, you are a licensed psychologist in
10 the State of Texas; is that right?

11 A. Yes.

12 Q. Have you ever had your license suspended?

13 A. No, I have not.

14 Q. Have you ever been professionally disciplined?

15 A. No, I have not.

16 Q. Are there any lawsuits regarding your conduct as
17 a psychologist?

18 A. Pending?

19 Q. Have there ever been any lawsuits regarding your
20 conduct as a psychologist?

21 A. There was a file when I was in the Kansas
22 Department of Corrections, an inmate had filed suit
23 against the Department and I was named in it. I had
24 left the Department. I was a doctoral student at
25 Oklahoma State University, found out after the fact that



1 the State had failed to represent me, so there was a --
2 I don't know what it's called.

3 Q. A default judgment?

4 A. A default judgment. So I wrote back and said, "I
5 didn't know about this." I was a member, and they took
6 care of it. And I don't -- I never heard anything else
7 by way of outcome.

8 Q. Do you know anything about the substance of that
9 complaint?

10 A. Yes. It was in regard to the practice of the
11 segregation review board in a segregation unit. And as
12 the mental health professional assigned to that unit, I
13 was by default a member of the segregation review board.
14 So it named the segregation review board, plus the
15 warden, I believe, of the facility, and I was named with
16 everybody else on the review board.

17 Q. Got it. Thank you.

18 A. Uh-huh.

19 Q. Have you ever been named in any lawsuit other
20 than the case that you were just describing?

21 A. No, I have not.

22 Q. And Dr. Morgan, I understand that you are a
23 Professor of Psychology at Texas Tech here in Lubbock;
24 is that right?

25 A. That's correct.



1 Q. And if we look at the first page of your CV, you
2 have a heading for Education. And if I understand this
3 correctly, you have three degrees; is that right?

4 A. Yes.

5 Q. An undergraduate degree, a master's degree in
6 Clinical Psychology, and a doctoral degree in Counseling
7 Psychology, correct?

8 A. Yes, that's correct.

9 Q. Dr. Morgan, you are not a medical doctor, meaning
10 you didn't go through medical training, right?

11 A. No, I did not.

12 Q. And you received your doctoral degree in
13 Counseling Psychology from Oklahoma State University; is
14 that correct?

15 A. Yes, it is.

16 Q. Can you explain for me, a lay person, the
17 difference between Counseling Psychology and Clinical
18 Psychology, please?

19 A. Yes. The differences are really theoretical by
20 way of approach to one's work. The outcome is by way of
21 what somebody will do with a clinical and counseling PhD
22 are essentially the same. I've contributed to research
23 on that. There's a body of literature to that. We do
24 the same things, we do psychological assessments, we
25 provide psychotherapy, do crisis interventions,



1 psychotherapy being individual and group. We teach, we
2 do research. Essentially the practice is the same. The
3 approach is theoretically a little bit different.

4 **Q. Can you explain that theoretical approach**
5 **difference that you've described?**

6 A. I can try. It's not well articulated at the
7 professional level or in the literature. Typically,
8 Clinical Psychology will take a bit more of a medical
9 model, diagnose and treat the disorder, in a nutshell.

10 Counseling Psychology views itself as a
11 profession. The Counseling Psychologists within the
12 field view ourselves as a bit more holistic in that we
13 want to consider the entirety of an individual's life
14 situation. So things like work and family function can
15 also impact how one's coping or functioning with any
16 particular problem. So it's not simply diagnose and
17 treat the problem, but more broadly treat the whole
18 individual.

19 Clinical Psychologists do that as well, but
20 historically they're more rooted in what we would call
21 the medical model, diagnose and treat, where we tend to
22 be a bit broader and more holistic.

23 **Q. Thank you for that description.**

24 A. Yes.

25 **Q. Dr. Morgan, turning to the Academic**



1 Position/Appointments section of your CV, it looks to me
2 like your first academic position came after you
3 received your master's degree when you were teaching at
4 a Junior College in Kansas; is that correct?

5 A. Yes. I taught one semester of Introductory
6 Psychology course.

7 Q. And then after you finished your post-doc, you
8 started at Texas Tech; is that right?

9 A. That's correct.

10 Q. And so all of these academic positions from about
11 2000 forward will be here at Texas Tech?

12 A. Yes, that's correct.

13 Q. And then the next heading of your CV is
14 Publications and Presentations. Do you see that?

15 A. Yes, I do.

16 Q. And that is further subdivided and begins with a
17 section on Refereed Journals. Does the term "Refereed
18 Journals" refer to peer review journals?

19 A. Yes, it does.

20 Q. And does that mean that a piece is accepted for
21 -- when a piece is accepted for publication it has to be
22 subjected to peer review by others in the field?

23 A. Correct.

24 Q. And I've counted here you have a number of peer
25 review publications. My count is 82. Does that sound



1 about right?

2 A. That sounds about right.

3 Q. And these are listed in reverse chronological
4 order by publication date; is that right?

5 A. Yes.

6 Q. And if we look at the third page of your CV, I
7 see one article with a lead author Chadick entitled "The
8 psychological impact of solitary: A longitudinal
9 comparison of general population and long-term
10 administratively segregated male inmates," and that has
11 a 2018 publication date. Is that one of the articles
12 that you've cited in your opinions in this case?

13 A. Yes, I did.

14 Q. And also seen on page 3, I see a 2017 piece where
15 you are the lead author, and it appeared in Corrections
16 Today, "Questioning solitary confinement: Is
17 administrative segregation as bad as alleged;" is that
18 right?

19 A. Yes.

20 Q. And Dr. Morgan, is Corrections Today the magazine
21 of the American Corrections Association?

22 A. Yes.

23 Q. And so as I understand it then, the peer review
24 process would involve other correctional professionals;
25 is that right?



1 A. Yes.

2 Q. This isn't a peer review process where that
3 article was subjected to peer review by other research
4 psychologists, right?

5 A. No, other professionals in the field, not
6 necessarily psychologists.

7 Q. And the circulation of this magazine would be
8 primarily to correctional administrators and officials;
9 is that right?

10 A. It would include that -- that group, but other
11 folks might access or subscribe to the journal as well.

12 Q. Are you a member of the ACA?

13 A. I am not.

14 Q. And this piece, as I understood it, essentially
15 described the results of your 2016 meta-analysis; is
16 that right?

17 A. That was one piece -- component of it.

18 Q. What were the other components?

19 A. Following up on an article by Dr. Metzger to
20 outline best practices for mental health services in
21 segregation.

22 Q. Is Dr. Metzger the same Dr. Metzger who was
23 involved in the Colorado study from 2010?

24 A. Yes, he was.

25 (EXPERT EXHIBIT NO. 2 MARKED.)



1 Q. (BY MS. FILLER:) Dr. Morgan, I'm going to pass
2 you what's been marked as Expert Exhibit 2, and could
3 you please tell me if this is the article we've just
4 been discussing, "Questioning solitary confinement: Is
5 administrative segregation as bad as alleged," that
6 appeared in Corrections Today?

7 A. Yes, it is.

8 Q. If you could turn to page 21, and I notice here
9 that you have recommendations for the use of
10 administrative segregation?

11 A. Yes.

12 Q. Is this some of what you were just describing
13 that you include recommendations in this piece?

14 A. Yes, that's correct.

15 Q. And if we look at the second recommendation
16 towards the bottom, "the recommendation is to provide
17 therapeutic and stepdown programs for inmates serving
18 significant time in AS." what would "significant time"
19 be?

20 A. I didn't conceptualize a time period when I wrote
21 this. If I was to think about it now and put a time
22 period to it, I would certainly say a year or more,
23 possibly. I would need to think it through, but
24 possibly as much as six months.

25 Q. And you cite an example of therapeutic programs



1 as including, "Stepping Up, Stepping Out, A mental
2 health treatment program for inmates detained in
3 restrictive housing." Is that your program, Dr. Morgan?

4 A. That one is, yes.

5 Q. And is there a book in which you describe this
6 stepdown program?

7 A. Yes, we have a treatment manual. And to be
8 clear, it's -- I'm the second author. So there's a
9 first author, so it's a team approach. Yes, we have the
10 treatment manual, and that manual is being published by
11 a publisher.

12 Q. Is that coming out this summer?

13 A. I don't know when that's coming out. It's --
14 it's in the publisher's hands, and we've made whatever
15 rec -- revisions that they requested, so now it's just
16 waiting to go through the printing process. I don't
17 know if it will be out this summer or later in the fall.

18 Q. And if I'm understanding you correctly, there is
19 already, though, a therapeutic manual that is available
20 to prisons that wish to implement this stepdown
21 approach?

22 A. Yes, absolutely.

23 Q. I want to talk more about this Stepping Up,
24 Stepping Out as we go forward today. But would you
25 agree that at least one of the purposes of including



1 this Stepping Up, Stepping Out Program here in the
2 Corrections Today piece is that you were hoping that
3 correctional administrators would read your article and
4 develop an interest in your recommendation for the
5 Stepping Up, Stepping Out Program?

6 A. No, actually. I don't think a correctional
7 administrator will be inclined to pass that onto their
8 mental health professionals. There's other ways to
9 advertise, if I were to advertise the program. I simply
10 listed that and the other treatment program here as an
11 example of what we're referring to when we say "You need
12 to provide therapeutic services in segregated or
13 restricted housing units."

14 Q. So the market for your Stepping Up, Stepping Out
15 Program is mental health professionals as opposed to
16 correctional administrators?

17 A. Yes.

18 Q. And are you marketing actively to correctional --
19 excuse me, are you marketing actively to mental health
20 professionals the Stepping Up, Stepping Out Program?

21 A. What do you mean by "marketing"? I'm not sending
22 out fliers, I'm not emailing people. I get contacted by
23 people, and then I'll distribute whatever -- whatever
24 they want or need, including that program. It's never
25 really been my practice to market, so I -- I would say,



1 no, I don't market it.

2 Q. Do you know if correctional mental health
3 professionals receive the Corrections Today magazine?

4 A. I don't know if they do or don't.

5 Q. Do you?

6 A. I do not. I look at it -- if I can elaborate?

7 Q. Yes, please.

8 A. I look at it on occasion online to look at the
9 table of contents, but I don't -- I don't subscribe to
10 the journal.

11 Q. Dr. Morgan, looking at page 4 of your CV staying
12 under the Peer Reviewed Publications, I see the third
13 listing from the top is "Quantitative synthesis of the
14 effects of administrative segregation on inmates while
15 being published in psychology, public, policy and law."
16 And would this be your 2016 meta-analysis study?

17 A. Yes, that's correct.

18 Q. Are there any other peer reviewed publications
19 regarding administrative segregation in your CV?

20 A. No.

21 Q. The next section of your CV starting on page 9 is
22 "Books," correct?

23 A. Yes.

24 Q. And I've counted here 11 books that you have
25 published. The first one is listed as the "Stepping Up,



1 Stepping Out, a mental health treatment program for
2 inmates in restrictive housing." Is this the book that
3 we were just discussing that's currently in press?

4 A. Yes, it is.

5 Q. Can you describe the Stepping Up, Stepping Out
6 Program?

7 A. Yes. It's a modification of a comprehensive
8 treatment program for individuals with serious mental
9 illness that are in the justice system, changing life,
10 changing outcomes. That was a treatment program that I
11 began developing in -- roughly around 2005, 2006 and was
12 published in 2018. That was for -- again, specifically
13 for individuals with serious mental illness in
14 corrections generally.

15 And doing some -- some work with Correct
16 Care at the time, who was working with the Kansas
17 Department of Corrections, I was a consultant on some
18 work they were doing around the issue of segregation.
19 And through that work, it became clear that they needed
20 a treatment program, or that the field needed a
21 treatment program, so one of my students at the time,
22 who's no longer a student, now a colleague, we modified
23 changing lives, changing outcomes to fit for inmates in
24 segregation. So we changed the content a little bit to
25 focus on both coping with segregation, but also changing



1 behaviors that results in ones being placed in
2 segregation. So it was both treatment and
3 rehabilitation oriented.

4 And because of the nature of segregation, we
5 needed to develop a program that could be administered
6 with minimal therapeutic time in face-to-face work with
7 the client. So it's largely a self-study by way of
8 format, but guided by a clinician. That's the general
9 summary.

10 Q. And if I understand you correctly, this is a
11 treatment program that is meant for prisoners to do
12 inside of their cells while they're in segregation?

13 A. Yes, that's correct.

14 Q. In other words, it's not meant to be out-of-cell
15 group therapy based?

16 A. We didn't design it that way. It certainly could
17 be structured that way, and the content most definitely
18 would be relevant, but we didn't structure it that way.
19 I wouldn't recommend against clinicians using the
20 program in that manner. It's just not how we structured
21 it.

22 Q. Do you know how many prison systems are currently
23 using this Stepping Up, Stepping Out Program?

24 A. I know of one, for sure, and my colleague Dr.
25 Batastini is in discussions with others. But I know of



1 one, for sure.

2 Q. Which one is that?

3 A. Missouri Department of Corrections.

4 Q. Is your colleague Dr. Batastini the former
5 student you were referring to?

6 A. Yes.

7 Q. And where does Dr. Batastini work?

8 A. She's at Southern Mississippi University.

9 Q. And how is Dr. Batastini identifying other
10 prisons to try and have them use your Stepping Up,
11 Stepping Out Program?

12 MR. DICKMEYER: Objection. Form. Calls for
13 speculation. You can answer.

14 THE WITNESS: They're reaching out to her.
15 She lets me know when somebody's contacted her, because
16 I have more experience in navigating those discussions
17 and any consultations. So she simply responds to
18 requests from agencies or individuals.

19 Q. (BY MS. FILLER:) And how do people know to
20 contact Dr. Batastini?

21 MR. DICKMEYER: Objection. Calls for
22 speculation. You can answer.

23 THE WITNESS: Word-of-mouth. Maybe they've
24 seen it or seen reference to it.

25 Q. (BY MS. FILLER:) Any presentations or things



1 like that that you might be giving at workshops or
2 conferences?

3 A. Yes, we've given a few presentations at
4 conferences. It's listed in a couple of different
5 publications.

6 Q. How many prison systems is Dr. Batastini in talks
7 with as to having them use the Stepping Up, Stepping Out
8 Program?

9 MR. DICKMEYER: Objection. Calls for
10 speculation. You can answer.

11 Q. (BY MS. FILLER:) To your knowledge?

12 A. One for sure, and I believe she's talked to a few
13 others, but I don't know where that's at. But one that
14 she's in more extended discussion with.

15 Q. Returning to the book section of your CV, it
16 looks like there are -- five of the books listed here
17 are different editions of the text "Careers in
18 Psychology;" is that right?

19 A. Yes.

20 Q. Is that a book of advice for people who are
21 considering different psychology careers?

22 A. That's a good way to say it, yes.

23 Q. Are any of these other books related to the topic
24 of solitary confinement or segregation?

25 A. Not specifically.



1 Q. Are any -- do any involve the discussion of
2 segregation in prisons?

3 A. Yes.

4 Q. Which would that be?

5 A. The Encyclopedia of Criminal Psychology at the
6 top of page 10.

7 Q. Any others?

8 A. No.

9 Q. And the Encyclopedia of Criminal Psychology says
10 it's in press; is that right?

11 A. Yes.

12 Q. Do you know when it will be coming out?

13 A. Any day. Any day. I heard that it was available
14 online, but I haven't had a chance to check yet. That
15 would have been just in the last couple of days.

16 Q. Is this a encyclopedia of different chapters of
17 which you're the editor?

18 A. Yes.

19 Q. And are there specific chapters dedicated to
20 segregation?

21 A. Yes, that's correct. I wouldn't say chapters. I
22 would say entries, simply because they're less detailed
23 than a traditional book chapter. But yes, there's a
24 number of entries and -- 540, I believe, is the number
25 of entries and some deal with the issue of segregation.



1 Q. Thank you for the clarification. You mention in
2 your report that Dr. Kupers is contributing to this
3 Encyclopedia; is that right?

4 A. Yes, he did.

5 Q. Is his contribution at all related to the topic
6 of segregation?

7 A. His contribution was about imprisonment broadly.
8 I believe -- I would have to check the entry, but I
9 believe he discussed briefly in there segregation.

10 Q. Who are the other authors who are writing about
11 segregation in your Encyclopedia?

12 A. You would think I would know that, but with 540
13 entries, I -- I would have to look.

14 Q. Are there 550 separate authors -- 540?

15 A. No, no. I would estimate 350, maybe 400 authors.
16 I don't remember who -- that's embarrassing. I don't
17 remember who wrote the segregation entries.

18 Q. And then the next section of your CV under
19 "Publications" lists chapters and books; is that right?

20 A. Yes.

21 Q. And this is a listing of where you've contributed
22 chapters to books that other folks have edited?

23 A. Yes.

24 Q. And to my review, it looks like none of these
25 pertain to administrative segregation or solitary



1 confinement, but could you please tell me if that's
2 accurate?

3 A. None of them are specific to the issue of
4 segregation. A couple would discuss segregation in
5 them.

6 Q. Could you just tick off the ones that would
7 include a discussion?

8 A. Morgan, Bolanos, Grabowski in press on page 10.
9 I believe we discussed segregation in that one. On page
10 11, Morgan, Van Horn, MacLean, Hunter and Bower. We
11 discussed segregation in that one. I believe that's
12 all.

13 Q. And both of those are in press, right?

14 A. Correct.

15 Q. So not available to me, right?

16 A. I could send them to you.

17 Q. That would be helpful. And then the next section
18 is "Non-refereed Publications." So these would be
19 publications that were not subjected to peer review; is
20 that right?

21 A. Yes.

22 Q. And none of these discuss administrative
23 segregation; is that right?

24 A. Correct.

25 Q. And then we move on to the "Conference



1 Presentations," and there are a number of these that you
2 have listed here from the past three years. I noticed a
3 presentation on page 13 from March of 2018, "Inmates'
4 Mental Health Functioning in Prison and the Effects of
5 Administrative Segregation." Do you see that
6 presentation? It's the sixth entry.

7 A. Yes.

8 Q. And can you describe the topic of that
9 presentation, please?

10 A. Yes. That's an assessment of inmates in
11 Correctional Services of Canada, pre and post
12 segregation placement, with mental health measures.

13 Q. Was that assessment conducted as part of your
14 involvement in the Canada litigation regarding
15 segregation?

16 A. No, it was not.

17 Q. And is that -- are the findings from that
18 published anywhere?

19 A. No. We have completed a manuscript, and we
20 submitted it to the Correctional Services of Canada
21 because the lead author, Dr. Jeremy Mills, is a CSC
22 employee. The work was sanctioned by CSC. So before we
23 can publish it, he needs to gain approval.

24 Q. And what were the findings of your research?

25 A. That -- we looked at a couple of things. That



1 incarceration over time did not negatively impact one's
2 behavioral functioning or mental health functioning over
3 time. And when you compare -- when we compared inmates
4 who had been in segregation on mental health measures at
5 time of release from the institution relative to their
6 pretest, so upon entry, so we tested them when they came
7 into the prison, we tested them when they left the
8 prison, whether they'd been placed in segregation or not
9 did not impact their mental health functioning.

10 Q. Upon release from prison?

11 A. Upon release.

12 Q. And I didn't see this study described anywhere in
13 the report that you submitted in this case; is that
14 right?

15 A. That's correct.

16 Q. So are you not planning to rely on the work that
17 you've done in that study in this case as it wasn't in
18 your report?

19 A. I don't have authorization to use the report, so
20 I am not using it.

21 Q. And then on page 14 of your presentations, I
22 noticed one entitled, "Administrative Segregation: who
23 is in? A poster presentation at the annual meeting of
24 the APA in Washington." what was the subject of that
25 poster presentation?



1 A. That's using an archive data set from the
2 Department of Justice and looking at -- it's a national
3 survey of inmates and looking at who gets placed in
4 segregation. It's a descriptive study.

5 Q. Describing things like demographics of the
6 population?

7 A. Yes.

8 Q. And then there's another conference presentation
9 from July of 2017, "Administrative Segregation: A
10 research synthesis and a review of who is in." Is that
11 similar to the poster presentation that you gave at the
12 APA?

13 A. That's a summary of both, that study we were just
14 talking about with the archival data set and the review
15 of the meta-analyses that we had previously completed.

16 Q. The meta-analysis that was published in 2016?

17 A. Yes.

18 Q. And there's one more from the same summer of
19 2017. Looks like you had a busy summer, Doctor.
20 "Administrative segregation: who is in and for how
21 long," presented at the annual meeting of the Canadian
22 Psychological Association. What was the topic of that
23 presentation?

24 A. That's again using that archival data set and
25 looking at descriptively who's getting sentenced to



1 segregation and for how long.

2 Q. Did I miss any presentations listed in your CV
3 that would relate to administrative segregation? And
4 actually, I'll note I think there is one more on page
5 16.

6 A. Yes.

7 Q. Batastini, Morgan and Levulis?

8 A. Yes, there's that one. I don't see any others in
9 the last three years.

10 Q. So the 2016 presentation with Batastini and
11 Levulis was regarding "The psychological impact of
12 solitary: A longitudinal comparison of general
13 population and long-term administratively segregated
14 inmates." would that pertain to the meta-analyses from
15 2016?

16 A. No, that pertains to the Chadick Paper from 2018.

17 Q. Regarding the Kansas longitudinal study?

18 A. Correct.

19 Q. And the next section of your CV is "Workshops
20 Presented," and I see on page 17 of your CV the title
21 "Stepping Up, Stepping Out: A Mental Health Treatment
22 Program for Inmates Detained in Restricted Housing."
23 Looks like you and Dr. Batastini gave a one-day training
24 workshop regarding the Stepping Up, Stepping Out
25 Program; is that right?



1 A. Yes.

2 Q. And it was sponsored by Corizon Health Care,
3 which is a private medical contractor to prisons?

4 A. Correct.

5 Q. Who attended that training?

6 A. That was attended by mental health treatment
7 providers that were providing mental health services in
8 segregation units at -- I believe it was four different
9 institutions within the Missouri Department of
10 Corrections.

11 Q. So after Missouri decided to start using the
12 Stepping Up, Stepping Out Program, did you offer this
13 training for how to use the program?

14 A. Yes, that's correct.

15 Q. Does Corizon Health Care provide contracts with
16 the State of Missouri to provide mental health services?

17 A. They did at that time.

18 Q. Are you aware that Corizon once had a contract
19 with the State of Indiana to provide health services to
20 Indiana prisons?

21 A. No.

22 Q. Do you have any relationship with Wexford Health
23 Services?

24 A. I don't believe so.

25 Q. And then returning to the workshops listings, on



1 page 18 there's a workshop entitled "Escaping the Cage:
2 A Mental Health Treatment Program for Inmates Detained
3 in Restricted Housing" that you gave in Maine to the
4 Maine Department of Corrections. Can you describe the
5 topic of that workshop, please?

6 A. That was a summary of -- that was a summary of
7 effects of segregation on inmate mental health
8 functioning and outlining what clinicians need to be
9 considering and doing when working in a segregation
10 unit, and I presented the structure or the nature of our
11 treatment program.

12 Q. Did you receive any compensation for presenting
13 either of these two workshops?

14 A. I did not for the presentation at Corizon. I
15 believe I did for the presentation in Maine.

16 Q. And then turning to -- well, excuse me. Were
17 there any other workshops in this section that pertain
18 to administrative segregation or segregation?

19 A. No.

20 Q. And then under "Invited Addresses," I scanned
21 this and it didn't look to me as though there were any
22 addresses pertaining to segregation in prisons, but
23 please tell me if I'm correct?

24 A. And if I can back up to one workshop?

25 Q. Yes, please.



1 A. On page 17, the second one listed, "Treating
2 Justice Involved Persons with Mental Illness in Criminal
3 Justice Settings," sponsored by WellPath, that was three
4 days. It was the same workshop to basically all of the
5 mental health professionals employed by WellPath to
6 provide mental health services in the Massachusetts --
7 or yeah, Massachusetts prisons. And in that eight
8 hours, I was asked to discuss, and so I think I
9 discussed for an hour, maybe an hour and a half, issues
10 related to providing mental health services to inmates
11 in segregation.

12 Q. Did WellPath used to have a different name?

13 A. Correct Care.

14 Q. Correct Care. And so is WellPath contracting
15 with the State of Massachusetts to provide mental health
16 services to their prison population?

17 A. Yes.

18 Q. And were you compensated for that three-day
19 workshop?

20 A. Yes.

21 Q. I hope so. Three days.

22 A. I haven't submitted a bill yet. With my pause, I
23 realize, yes, I need to. But I will be, yes.

24 Q. All right. So any other workshops pertaining to
25 administrative segregation --



1 A. No.

2 Q. -- besides those three?

3 "Invited addresses," do any of your invited
4 addresses that you've listed here pertain to segregation
5 in prisons?

6 A. No.

7 Q. And then if we turn to page 21 of your CV, you've
8 listed research funding, right?

9 A. Correct.

10 Q. Did any of these research grants pertain to
11 studying segregation in prison?

12 A. No.

13 Q. Have you ever applied for funding to perform
14 studies on segregation in prisons and been denied
15 funding?

16 A. Yes.

17 Q. Can you please describe that grant application to
18 me, please?

19 A. Yeah, there's been a few. They were all centered
20 around the same issue, trying to further understand and
21 further assess mental health effects, health effects as
22 well, that result from the use of segregation.

23 Q. What funding sources did you apply to?

24 A. National Institute of Justice.

25 Q. And is that the research arm of the Department of



1 Justice?

2 A. Yes.

3 Q. Did you apply for funding from NIJ to do the
4 Kansas longitudinal study that we were talking about?

5 A. The published?

6 Q. (Nodding head.)

7 A. No.

8 Q. Did you apply to NIJ to do the meta-analyses?

9 A. No.

10 Q. Can you describe the research that you proposed
11 to NIJ in a little bit more detail? For example, was
12 there a specific prison system that you planned to
13 study?

14 A. I submitted a couple of different applications,
15 and it was a longitudinal study to follow people over
16 time. One was proposed to be completed in Kansas. I
17 might have had a couple that were proposed for Kansas.
18 I can't remember if they were outside of Kansas or just
19 Kansas.

20 Q. And when did you -- when was the latest decision
21 that you received indicating that the NIJ wouldn't be
22 able to fund the research?

23 A. On the issue of segregation?

24 Q. Yes, please.

25 A. I believe my last proposal for that was 2017.



1 Q. And were you informed of the reasons why they
2 decided they couldn't fund your grant application?

3 A. Yes.

4 Q. And what were those reasons?

5 A. I would have to look at the reviews. I submit a
6 number of grants. I don't -- I don't recall. In a
7 general sense, I know there were some methodological
8 concerns. Beyond that, I don't recall the specifics of
9 concerns that were raised.

10 Q. Is there a peer review process when you submit a
11 grant for funding from the NIJ?

12 A. Yes.

13 Q. And so the decision not to fund would come after
14 the proposal had been reviewed by a group of peers?

15 A. Correct.

16 Q. Were the longitudinal studies that you proposed
17 doing reliant on self-scoring instruments?

18 A. That would have been part of it, yes.

19 Q. And were they generally proposed studies to look
20 at control groups in prison over time to assess the
21 effect of segregation?

22 A. Yes.

23 Q. If I could draw your attention to the contract
24 section of your CV on page 23, it looks to me that you
25 have a contract with the Crosby County Community



1 Supervision and Corrections Department to provide
2 substance abuse and mental health services to Crosby
3 County probationers?

4 A. Yes.

5 Q. And is that a contract that you supervise your
6 students in administering those services?

7 A. Yes.

8 Q. And the services are being provided to folks who
9 are out in the community, correct?

10 A. Two -- there's two settings. One is a regular
11 probation office, so the clients are seen in the
12 community. The other is a residential treatment
13 facility, so the services are provided while they're in
14 that placement.

15 Q. None of the services are provided to people in
16 segregation in prison, right?

17 A. Correct.

18 Q. If we turn to "Professional Experience and
19 Positions" section of your CV, Dr. Morgan, beginning on
20 page 24. I see here that last year, you were appointed
21 to the Board of Directions (sic.) for the National
22 Commission on Correctional Health Care Educational
23 Foundation. Can you describe what the National
24 Commission on Correctional Health Care is?

25 A. Yes. And actually there's a typo. That should



1 say 2019. That appointment was just in the last six
2 weeks or so.

3 The National Commission on Correctional
4 Health Care provides training and resources to
5 individuals involved in correctional healthcare, broadly
6 speaking, to include mental health. That's the primary
7 mission.

8 Q. Would you agree that it's the preeminent
9 organization for mental healthcare professionals working
10 in corrections?

11 A. Say that one more time?

12 MS. FILLER: Could you repeat it back?

13 COURT REPORTER: "would you agree that it's
14 the preeminent organization for mental healthcare
15 professionals working in corrections?"

16 THE WITNESS: I wouldn't disagree with that.

17 Q. (BY MS. FILLER:) Is there another organization
18 that is also an organization of mental health
19 professionals working in the correction setting?

20 A. Not -- not at the scale of NCCHC, but a
21 psychiatric -- the American Psychiatric Association, the
22 American Psychological Association certainly provides
23 resources, education, legal assistance, things of that
24 nature. But that's -- that's a broader scope for those
25 organizations. So if you're looking just specifically



1 at individuals providing health and mental healthcare,
2 again, I wouldn't disagree that NCCHC is the preeminent
3 body.

4 Q. And what is the Education Foundation?

5 A. That is a foundation that is just being
6 developed, and they've just appointed the board of
7 directors. Well, actually I don't know if they've
8 appointed everybody. I know they appointed me to the
9 board of directors. The president called and asked if I
10 would serve and appointed me. So it's going to be a
11 group -- a foundation that furthers the educational
12 mission of NCCHC.

13 Q. And I see that since 2013 you've been a
14 consultant for wellPath, which, as you said, is formerly
15 Correct Care Solutions, in Nashville, Tennessee. Is
16 that the headquarters of wellPath, Nashville?

17 A. Yes.

18 Q. And what is the nature of your contract with
19 wellPath?

20 A. In 2013 when it was Correct Care, I was again
21 assisting them, as I mentioned earlier, with reviewing
22 mental health services in segregation in Kansas. Post
23 that, it's been mainly providing training services to
24 their employers -- or employees.

25 Q. And which state systems have you provided those



1 services to?

2 A. Maine and Massachusetts?

3 Q. And I see you were also at one time from 2013 to
4 2015 a consultant with the State of California
5 Department of Justice. Was that in relation to the
6 lawsuit regarding Pelican Bay?

7 A. Yes, it was.

8 MS. FILLER: Let's take a five-minute break.

9 THE WITNESS: Okay.

10 VIDEOGRAPHER: We're now off the record at
11 10:28.

12 (Break.)

13 VIDEOGRAPHER: We're now back on record at
14 10:34.

15 THE WITNESS: May I revisit one of our
16 previous questions --

17 Q. (BY MS. FILLER:) Yes.

18 A. -- regarding authors of entries regarding
19 segregation in the Encyclopedia?

20 Q. Uh-huh.

21 A. I believe one was written by Dr. Paul Chandrow
22 (phon.). I believe one was written by Dr. Jeremy Mills.
23 I submitted one. And I believe there were maybe one or
24 two other entries, but I don't recall who authored
25 those.



1 Q. How about Craig Haney, did he submit anything
2 regarding segregation?

3 A. No.

4 VIDEOGRAPHER: Do you have your mike on?

5 MS. FILLER: I do not.

6 Q. (BY MS. FILLER:) I didn't have my mike on for
7 that question, so I'll repeat it. Did Dr. Craig Haney
8 submit any of the entries regarding segregation to your
9 Encyclopedia?

10 A. No, he did not.

11 Q. Did you ask him to do so?

12 A. Not on segregation. I asked him on at least one
13 other entry, but not on segregation.

14 Q. What entry was that?

15 A. Death penalty.

16 Q. Thank you for that clarification. Dr. Morgan, if
17 we could look at the professional experience and
18 position section of your CV again, staying on page 24,
19 you have listed here that from 2001 to the present
20 you've had your own practice doing Criminal Forensic
21 Psychology here in Lubbock, Texas; is that right?

22 A. Yes.

23 Q. Is that primarily competency exams for criminal
24 defendants?

25 A. It would include competency exams, criminal



1 responsibility and criminal risk.

2 Q. All pertaining to criminal cases, correct?

3 A. Correct.

4 Q. And that work in your private practice doing
5 Criminal Forensic Psychology does not include assessing
6 the effects of solitary confinement or segregation,
7 correct?

8 A. Well, that would include my work on the various
9 cases that I've been an expert in.

10 Q. So when you list your crim -- your Criminal
11 Forensic Psychology practice, you're listing the work
12 you've done on behalf of criminal defendants, as well as
13 the work you've done in cases such as this one?

14 A. Correct.

15 Q. How many hours per week do you devote to your
16 private forensic practice evaluating criminal
17 defendants?

18 A. It varies, but I've reduced that aspect of my
19 correctional practice. I would say now on average two
20 to three hours a week, but I don't have cases every
21 week. So it's a matter of taking -- I'll take six to
22 ten cases a year. So I would say it averages out to two
23 to three hours per week.

24 Q. When did you begin reducing that aspect of your
25 practice?



1 A. In 2012 when I left -- I left Regional Mental
2 Health and Mental Retardation, now known as Starcare,
3 when I left that agency, I significantly reduced my
4 number of hours per week.

5 Q. And I see where that's listed here in your CV
6 that from 2002 to 2012 you were the Director of Forensic
7 Services and the Director of Post-doctoral Fellowship
8 Program in Forensic Psychology at the Lubbock Regional
9 Mental Health Mental Retardation Center.

10 A. Correct.

11 Q. And what was that center?

12 A. That's the local community health provider.

13 Q. And I can't help but notice that in 2005 you were
14 a consultant for the Dallas Cowboys?

15 A. I was a consultant for Brain Power, which was a
16 private company providing services for the Dallas
17 Cowboys at the NFL Combine.

18 Q. That's very cool.

19 A. It's a -- that's a cool item to have on the
20 vitae.

21 Q. Was that Sports Psychology, or what was the
22 nature of your work there?

23 A. Yes. I signed a non-disclosure agreement, but in
24 a general sense, it was trying to help identify good fit
25 for NFL prospects.



1 Q. So let's talk specifically about your work inside
2 of prisons. I understand that after you received your
3 undergraduate degree you took a psychology internship at
4 a federal prison in Leavenworth; is that right?

5 A. That was during my master's program. That was
6 the first summer actually of my master's program.

7 Q. Hence, your description of it as an internship?

8 A. Correct.

9 Q. And so were you working under the supervision of
10 a psychologist at that time?

11 A. Yes.

12 Q. And did your work at the federal prison in
13 Leavenworth, Kansas involve working with people in
14 segregation?

15 A. No.

16 Q. Then after you received your master's degree but
17 before receiving your doctorate, you started working as
18 a mental health professional in two state prisons in
19 Kansas; is that right?

20 A. Yes.

21 Q. And I notice that you referred to the position as
22 "Mental Health Professional" as opposed to
23 "Psychologist." Is there a reason for that distinction?

24 A. Yes, two. Mental Health Professional was the
25 professional title that we all had. And when I say "we



1 all," I mean my colleagues who were hired to provide
2 mental health services. "Psychologist" is a protected
3 term, and I wasn't licensed in the State of Kansas at
4 the master's or doctoral level, so I couldn't call
5 myself a psychologist. And the professional term title
6 -- the professional title was Mental Health
7 Professional.

8 Q. And I understand that states sometimes give
9 waivers to their licensure requirements for people who
10 work in prisons?

11 A. Yes.

12 Q. Was that -- was there a waiver for you to do the
13 work of a psychologist but without the licensure?

14 A. That's correct. The work of a master's level
15 psychologist in Kansas at the time was called RMLP,
16 Registered Master's Level Psychologist. I was allowed
17 to work at that level without pursuing the actual
18 licensure.

19 Q. And did you begin at El Dorado prison?

20 A. Yes, El Dorado.

21 Q. El Dorado?

22 A. Yes.

23 Q. Not an obvious pronunciation.

24 A. No.

25 Q. How long did you work there?



1 A. I worked for the department for two years. I was
2 at El Dorado all total approximately one and a half
3 years.

4 Q. And was that from 1992 to 1993 period?

5 A. Yes. I was at El Dorado for about a year and
6 roughly two months, and then I was transferred to
7 Winfield Correctional Facility. And prior to leaving
8 for a return to school to go for my PhD, they were going
9 to need to replace me at Winfield Correctional Facility,
10 and I asked to go back to El Dorado to finish out my
11 time.

12 Q. Staying with El Dorado for a moment, did you work
13 with a prison population in segregation?

14 A. Yes, I did.

15 Q. And what was your role?

16 A. I was the designated mental health professional
17 for one of the two segregation units.

18 Q. At that time, were you aware of any risks to
19 segregation -- any risks of segregation to prisoners'
20 mental health?

21 A. Yes.

22 Q. What were the risks that you were aware of at
23 that time?

24 A. That -- that placing an inmate in segregation
25 could -- could contribute to deterioration in mental



1 health functioning.

2 Q. Did you serve on the segregation review board at
3 El Dorado?

4 A. I did.

5 Q. You mentioned that at the earlier -- at the start
6 of our deposition?

7 A. Yes.

8 Q. What was your role on the segregation review
9 board?

10 A. My role was to assess mental health functioning
11 and provide information to the review board with regard
12 to an inmate's mental health functioning while placed in
13 segregation. The review board could then use that
14 information in decision-making.

15 Q. Why was there a mental health perspective
16 included in the segregation review board's work?

17 A. That was policy.

18 Q. Do you agree with that policy?

19 A. Yes.

20 Q. And why, in your opinion, is that important?

21 A. Because placing somebody in segregation presents
22 risk for mental health decompensation.

23 Q. And so if there's evidence of mental health
24 decompensation, you want to be able to present that to
25 the segregation review board?



1 MR. DICKMEYER: Objection. Form.

2 Q. (BY MS. FILLER:) Is that fair?

3 A. Yes, that's fair.

4 Q. So that they can make a decision to transfer that
5 person out of segregation or provide additional mental
6 health services, whatever the need may be?

7 MR. DICKMEYER: Objection. Form.

8 THE WITNESS: Yes, there would be -- there
9 would be a -- it would be to identify what -- what
10 interventions would be most appropriate and helpful for
11 the inmate.

12 Q. (BY MS. FILLER:) would one of those
13 interventions possibly be transfer out of segregation?

14 A. Yes.

15 Q. How often did the segregation review board meet?

16 A. Every 30 days.

17 Q. Was it every 30 days for --

18 A. I'm sorry, inmates were reviewed, I believe,
19 every 30 days. The board met -- I think we met every
20 week.

21 Q. That was precisely my followup question, so thank
22 you for the clarification.

23 A. Yes.

24 Q. And did the prisoner appear before the
25 segregation review board?



1 A. That was their option. They were presented the
2 opportunity. Some came and some did not.

3 Q. What was the average stay of prisoners in
4 segregation at the El Dorado facility when you were
5 there?

6 A. There were two different units, one was what we
7 referred to as the short-term unit, and the other was
8 the long-term. Those weren't the official designations.
9 Those were -- that was our language, and the time
10 different at both.

11 Q. Could you give me the average stay for the
12 short-term unit?

13 A. That included both disciplinary, administrative
14 segregation. The disciplinary segregation, the average
15 length of stay would have been relatively short, 30 to
16 60 days. The longer term, the admin segregation would
17 have been, I'd say, an average of a year.

18 Q. And how about the long-term unit?

19 A. That was -- that was substantially longer. I
20 would estimate an average of two to three years.

21 Q. Are you aware of any changes in El Dorado's use
22 of segregation since you were there in 1992 to 1993?

23 A. Yes.

24 Q. And what are those changes?

25 A. They had made some changes prior to the



1 consultation work I did with Correct Care in 2013. They
2 had implemented group therapy. They were working to
3 reduce the segregation population. They had changed the
4 structure of El Dorado as a facility with the priority
5 or emphasis on reducing segregation. I don't know of
6 any changes in policy.

7 Q. Do you agree that the El Dorado facility and the
8 Kansas Department of Corrections was attempting to limit
9 their reliance on segregation?

10 A. They were when I was contracting with Correct
11 Care in 2013.

12 Q. Going back to the 1992 to 1993 period when you
13 were working there, what percentage of the prisoners in
14 the units you worked with had a serious mental illness?

15 A. I would estimate 20 to 30 percent.

16 Q. And how many suicides occurred in segregation
17 during your tenure there?

18 A. None.

19 Q. And did you work in the short and long-term
20 segregation units or just one of those?

21 A. I was the primary mental health person,
22 professional, designated to the short-term. I provided
23 backup coverage in the long-term.

24 Q. How often were you actually working in the
25 long-term segregation unit?



1 A. Not that often. I would say a few times a year.

2 Q. And --

3 A. No, it would be a little bit more than that. I
4 don't know. I would say eight to ten times a year.

5 Q. And you mentioned that you also worked at the
6 Winfield Prison in Kansas, but for roughly six months;
7 is that right?

8 A. Correct.

9 Q. And did you do any work with the population in
10 segregation when you were at Winfield?

11 A. Yes.

12 Q. And what was the average length of stay for that
13 segregation population?

14 A. Two to three days.

15 Q. And I understand you also completed a predoctoral
16 internship in Correctional Psychology at FCI Petersburg;
17 is that right?

18 A. Yes.

19 Q. So that would have been while you were in pursuit
20 of your doctoral degree?

21 A. Yes. It was an academic requirement to complete
22 a year long full-time APA, American Psychological
23 Association, accredited internship.

24 Q. And was that -- was it from 1998 to 1999 roughly?

25 A. Yes.



1 Q. And what was the nature of your work during that
2 internship?

3 A. I served three different rotations and a one-day
4 out placement. The one-day out placement was at a
5 forensic hospital, a secure forensic hospital. So I
6 would assist on competency to stand trial evaluations,
7 treatment of people acquitted of -- by way of not guilty
8 by reason of insanity, things of that nature.

9 The three rotations I did inside the
10 institution was a general correctional mental health
11 rotation, a forensic rotation where we provided
12 competency and again criminal responsibility evaluations
13 for federal courts. As part of that rotation, and that
14 was a four-month rotation, I also provided services to
15 inmates in segregation.

16 And then my third rotation was a substance
17 abuse treatment rotation. And as part of that rotation,
18 I also provided services -- FCI Petersburg was a medium
19 secure facility. They had a minimum security camp. And
20 as part of the substance abuse rotation, I would provide
21 certain -- general mental health services out in the
22 minimum security camp.

23 Q. Did the minimum security camp have a segregation
24 unit?

25 A. No, it did not.



1 Q. How long was the rotation during which you
2 provided some treatment to prisoners in segregation?

3 A. Four months.

4 Q. And were you exclusively working in the
5 segregation unit during those four months?

6 A. No.

7 Q. How many days per week did you spend in the
8 segregation unit?

9 A. Probably one. There would be times where it
10 would be more, but on average one.

11 Q. And what was the nature of the work that you did
12 with the prisoners in segregation?

13 A. Mental health rounds and crisis intervention.

14 MS. FILLER: Let's take a quick five-minute
15 break.

16 THE WITNESS: Okay.

17 VIDEOGRAPHER: We're now off the record at
18 10:55.

19 (Break.)

20 VIDEOGRAPHER: We're back on the record at
21 11:04.

22 Q. (BY MS. FILLER:) Dr. Morgan, right before the
23 break, we were talking about your time working in the
24 federal prison in Virginia as an intern during your
25 doctoral studies, right?



1 A. Yes.

2 Q. And you described as part of one of your
3 rotations performing some mental health rounds in a
4 segregation unit; is that right?

5 A. Yes.

6 Q. And did you perform rounds on everyone in the
7 segregation unit or only those prisoners who were
8 already on a mental health caseload?

9 A. No, when I did rounds, it was for everybody in
10 the segregation unit.

11 Q. And was the goal of those rounds to identify
12 prisoners who were deteriorating in segregation
13 conditions?

14 A. It was to identify inmates that might be
15 deteriorating, but also if they just had any general
16 mental health needs that were going unmet or unattended
17 to.

18 Q. So as I understand it, your work working in
19 segregation units in prison was in Kansas between 1992
20 and 1993 and in a federal prison in Virginia for a
21 rotation between 1998 and 1999; is that right?

22 A. That -- yes, that's correct, and then consulting
23 with Correct Care in 2013. And then as part of my
24 practice here when I do forensic mental health
25 evaluations, many times they're at the jails and many



1 times it's with inmates in segregation. So I've
2 evaluated a number of inmates that -- both male and
3 female that were placed in what would be considered
4 segregated housing. But it was as a forensic mental
5 health evaluation, not as a person responsible for their
6 healthcare -- or mental healthcare.

7 Q. And when you were consulting with Correct Care,
8 what was the nature of your work in the segregation
9 units?

10 A. I toured several segregation units and worked
11 with Correct Care to design or to try to improve their
12 mental health services within those units.

13 Q. Did you assess any prisoners who were in
14 segregation?

15 A. I met with some inmates, a handful of inmates,
16 and had opportunity to ask questions. I wouldn't say --
17 I didn't do an assessment of their functioning. It was
18 more asking and assessing the nature of segregation in
19 that facility, their experience in segregation. So it
20 was more of a broad-based assessment.

21 Q. And forgive me, you've probably mentioned this,
22 but what facility was that?

23 A. That would have been in Larned Correctional
24 Facility in Larned, Kansas. We also -- I also toured
25 Lansing Correctional Facility in Leavenworth as part of



1 that work. That would be it.

2 Q. Is Larned a maximum security facility?

3 A. That's a psychiatric and health designated. I
4 believe it was a maximum security facility. That's
5 where inmates that were having severe psychiatric
6 problems or, in some cases, severe health problems would
7 be transferred.

8 Q. And they would be held in segregation?

9 A. Some.

10 Q. What was the average stay in segregation at
11 Larned?

12 A. I didn't work there, and I don't recall -- I
13 don't recall a discussion of that nature, so I don't
14 know.

15 Q. And when you met with people in segregation as
16 part of your forensic mental health evaluations, did you
17 say that would be in a jail setting?

18 A. Oh, yes, sorry. Yes, that would be typically
19 county jails.

20 Q. And would you agree that the length of stay in
21 segregation in a jail is usually shorter than length of
22 stay in a prison?

23 A. No, not necessarily. No.

24 Q. No? Why not?

25 A. In my experience doing these evaluations, I would



1 be evaluating inmates that were awaiting trial a couple
2 of years, and a significant portion, if not all of that,
3 might have been in segregation. Segregation in jail for
4 a couple of years would be longer than some folks in
5 prisons. It would be comparable to some inmates in
6 prisons, and it would be shorter than many inmates
7 serving segregation time in prisons.

8 Yeah, usually in my forensic mental health
9 work, if an inmate was in segregation they'd been there
10 for a bit of time.

11 **Q. And did that forensic mental health evaluation**
12 **involve assessing the effect of segregation on their**
13 **mental health?**

14 A. They were forensic mental health evaluations for
15 purposes of a legal matter. It would include an
16 assessment of mental health functioning, but not
17 specific to the issue of segregation.

18 **Q. And what we've just covered in terms of your work**
19 **in prison facilities, is that the prison experience that**
20 **you are relying on in giving opinions in this case?**

21 A. Actually no, I'm missing a couple of key
22 experiences. My work on matters such as this. So
23 touring and meeting with inmates in Pelican Bay State
24 Prison, touring facilities in Alabama, touring
25 facilities in Canada, also interviewing inmates in



1 Canada. Those experiences as well.

2 Q. Let's talk about some of those cases then.

3 A. Sure.

4 Q. If you turn to Attachment B of your CV, I see
5 that you've listed cases where you've testified over the
6 past four years?

7 A. Yes.

8 Q. And several of these appear to pertain to
9 competency evaluations, such as we were discussing. So
10 State of Texas versus Rudolfo Gill and State of Texas
11 versus Marcus Gonzales; is that right?

12 A. Correct.

13 Q. And I see a couple of cases here from Canada, the
14 first matter Christopher Brazo?

15 A. Brazeau.

16 Q. Brazeau. And the third listing, Corporation of
17 the Canadian Civil Liberties Association. Were those
18 both cases from Canada?

19 A. Yes, that's correct.

20 Q. So looking at the Brazeau Case, what was your
21 involvement in that matter?

22 A. I was retained to give expert opinion on the
23 issue of effects of segregation in a class action.

24 Yeah.

25 Q. Did your assignment in that case change over



1 time?

2 A. Yes. Initially, it was to provide an opinion
3 with regard to the effects of segregation, and then
4 subsequent, it was to provide expert opinion -- rebuttal
5 expert opinion to plaintiff's experts' reports.

6 Q. What was the subject matter of the litigation?

7 A. Broadly speaking, the effects of segregation.

8 Q. Was it specific to seriously mentally ill
9 prisoners?

10 A. Yes, I believe so. Yes.

11 Q. And did you tour prisons as a part of your work
12 on that case?

13 A. I did.

14 Q. How many prisons?

15 A. Four.

16 Q. And did you evaluate prisoners as part of your
17 work on the Brazeau Case?

18 A. I did an interview with -- with three. I believe
19 it was three inmates.

20 Q. Were they in segregation at the time?

21 A. They were.

22 Q. And what were your opinions in that case?

23 A. Broad -- geez, give me a second. Generally, that
24 the effects of segregation -- segregation could put
25 inmates at risk for mental health decompensation. And



1 it was my opinion that some inmates placed in
2 segregation would experience harms as a result of that
3 placement, others would not, and some inmates would
4 improve based on that -- during their time in
5 segregation. That was my overall opinion.

6 Q. And what was the result of that litigation?

7 A. I was just sent a copy of that result, and I have
8 not had a chance to read it in detail, but I believe the
9 plaintiffs prevailed.

10 Q. And didn't the court award 20 million dollars in
11 damages in that case?

12 A. I don't know.

13 (EXPERT EXHIBIT NO. 3. MARKED.)

14 Q. (BY MS. FILLER:) Dr. Morgan, I'll pass you
15 what's been marked as Expert Exhibit 3. Does this
16 appear to be the -- a copy of the decision that you've
17 been sent in the Brazeau matter?

18 A. Yes.

19 Q. And if you turn to page 6 of this opinion, which
20 also has the Bates stamp Vermillion 4375, under subpart
21 H do you see where it says that the court assesses those
22 damages as 20 million dollars?

23 A. I do.

24 Q. If you could turn to page 36 of this exhibit, Dr.
25 Morgan, which is Bates labeled Vermillion 4405 --



1 A. I'm there.

2 Q. -- and do you see a bullet point paragraph
3 regarding you?

4 A. I do.

5 Q. And on the second page, it says -- well, end of
6 page 36 beginning of 37, it indicates that, "Dr. Morgan
7 was retained to opine as to the appropriateness of
8 mental health services provided to six inmates and
9 whether the services were commensurate with professional
10 standards."

11 A. Yes.

12 Q. Does that accurately describe your work in this
13 case?

14 A. Yes, I recall that now.

15 Q. And then it also goes onto say, "Dr. Morgan was
16 also a witness in other Canadian proceedings where he",
17 should have been, "was deposed about the effects of
18 solitary confinement on the mentally ill." Is that
19 accurate?

20 A. Yes.

21 Q. Is one of those cases the Corporation of Canadian
22 Civil Liberties Association case that you've listed here
23 --

24 A. Yes, that's correct.

25 Q. -- on your CV?



1 A. Yes.

2 Q. Are there any other Canadian cases that you've
3 been retained as an expert in?

4 A. Yes.

5 Q. And what's the name of that case, please?

6 A. I was just recently retained, so I'm working on
7 it currently. It's Conrey, C-o-n-r-e-y, Francis versus
8 the Queen Majesty of Ontario.

9 Q. And what is the subject matter of that case?

10 A. It's regarding the effects of segregation on
11 inmates' mental health functioning. It is also a class
12 action suit.

13 Q. And were you retained by the defendants in that
14 case?

15 A. Yes.

16 Q. And if you could turn to page 40 of this exhibit,
17 Bates labeled Vermillion 4409, please?

18 A. I'm there.

19 Q. And it's -- we're under a section entitled, "The
20 battle of the experts" and there's a paragraph here,
21 181, and it states that you were retained to give
22 evidence about the quality of psychiatric care and were
23 not actually called to give evidence about your own
24 research on the effects of segregation or your
25 meta-analysis in this case, the Brazeau Case; is that



1 right?

2 A. Correct.

3 Q. It goes onto say that, nevertheless, you were
4 extensively cross-examined on this work and heavily
5 critiqued by Drs. Grassian and Haney for your review
6 article. Do you recall being questioned about the
7 meta-analysis as part of this case?

8 A. Yes, I do.

9 Q. And do you recall the critiques from Drs.
10 Grassian and Haney?

11 A. Yes.

12 Q. And then in the next paragraph, 182, the court
13 says, "Essentially, I do not give much weight to Dr.
14 Morgan's meta-analysis conclusions." Were you aware of
15 the court's view of your meta-analysis?

16 A. I was aware of that.

17 Q. Do you know why the court decided not to give
18 much weight to your meta-analysis in this Brazeau Case?

19 A. I do not.

20 Q. And if you could flip ahead to page 53, which is
21 Bates labeled Vermillion 4422?

22 A. I'm there.

23 Q. Okay. This section describes another expert for
24 the defense, a Dr. Glancy. Do you -- are you familiar
25 with the work of Dr. Glancy?



1 A. Where are you on here?

2 Q. Paragraph 260, for example.

3 A. Oh, yes.

4 Q. Who is Dr. Glancy?

5 A. I don't -- I don't recall what his role was. I'd
6 have to go back to my notes on that. I recall clearly
7 Dr. Haney's and Grassian's role. I don't recall Dr.
8 Glancy's role.

9 Q. Is he a psychologist?

10 A. I don't -- I don't recall.

11 Q. And paragraph 261 states, "Dr. Morgan also
12 disagreed with Dr. Glancy's suggestion that
13 administrative segregation can be beneficial for some
14 inmates." Did the court accurately characterize your
15 testimony in that case?

16 A. That doesn't sound right. I would have to go
17 back and look at my report, but that doesn't sound
18 right.

19 Q. So you disagree with this statement?

20 A. As I'm reading it, it doesn't sound accurate to
21 me, but I would need to go back and check my report.

22 Q. This is describing the cross-examination, which I
23 understand in Canadian law terms would be similar to
24 what we Americans call a deposition.

25 A. Yes.



1 Q. Do you recall disagreeing with Dr. Glancy's
2 suggestion that administrative segregation can be
3 beneficial for some inmates under deposition
4 questioning?

5 A. I don't recall disagreeing with that.

6 Q. So you think that the court has misunderstood
7 your deposition testimony?

8 MR. DICKMEYER: Objection. Asked and
9 answered. You can answer.

10 THE WITNESS: I would say I would need to
11 see the broader context, because it -- I've given the
12 opinion a number of times that there are some inmates
13 that once placed in segregation will evidence improved
14 mental health functioning. So I don't recall Dr.
15 Glancy's opinions, but if he suggested that
16 administrative segregation can be beneficial for some
17 inmates, I -- it -- I don't know why I wouldn't have
18 agreed with that, so I would need to go back and look at
19 the greater context. I'm not saying the court is --
20 that they mischaracterized or had it wrong, but I would
21 need to look and see why would I have disagreed with
22 what he said, what was the context there.

23 Q. (BY MS. FILLER:) The Canadian Civil Liberties
24 Association Case that you've also listed at Attachment
25 B, could you describe your involvement in that case,



1 please?

2 A. Yes. It was giving -- given several mandates,
3 largely centered around the effects of mental health
4 functioning as it pertains to segregation, the results
5 of segregation. That was the general matter. I had
6 several mandates in that -- in that case.

7 (EXPERT EXHIBIT NO. 4 MARKED.)

8 Q. (BY MS. FILLER:) Dr. Morgan, you've just been
9 passed what's been marked as Expert Exhibit 4. Does
10 this appear to be your expert report?

11 A. Yes, it does.

12 Q. And does it appear to be the expert report that
13 you submitted in connection with this case, the Canadian
14 Civil Liberties Association versus the Queen?

15 A. Yes, it does.

16 Q. Do you stand by the opinions that you've
17 described in this report?

18 A. Yes.

19 (EXPERT EXHIBIT NO. 5 MARKED.)

20 Q. (BY MS. FILLER:) Dr. Morgan, I just passed you
21 what's been marked as Expert Exhibit 5. Does this
22 appear to be the cross-examination, slash, deposition
23 testimony that you gave in the Canadian Civil Liberties
24 versus the Queen Case?

25 A. Yes, it does.



1 Q. And you provided this testimony under oath; is
2 that correct?

3 A. That's correct.

4 Q. And did you give true and accurate testimony in
5 association with this case?

6 A. Yes.

7 MS. FILLER: Can we go off the record for a
8 moment?

9 VIDEOGRAPHER: We're now off the record at
10 11:31.

11 (Break.)

12 VIDEOGRAPHER: We're now back on the record
13 at 11:33.

14 (EXPERT EXHIBIT NO. 6 MARKED.)

15 Q. (BY MS. FILLER:) Dr. Morgan, I'm passing you
16 what's been marked as Expert Exhibit 6, and does this
17 appear to you to be the exhibits that were associated
18 with the deposition you gave in the Canadian Civil
19 Liberties Association Case?

20 A. It appears to be.

21 Q. And for the record, this is Bates labeled
22 Vermillion 3375 forward. And Dr. Morgan, you can put
23 that aside for now, but we will come back to some of the
24 articles in there.

25 A. Okay.



1 Q. And do you recall as part of that deposition
2 going through and identifying the studies that you
3 relied on in your 2016 meta-analyses?

4 A. Yes.

5 Q. And so those studies should be contained in the
6 exhibit that we've just looked at, correct?

7 A. Yes.

8 (EXPERT EXHIBIT NO. 7 MARKED.)

9 Q. (BY MS. FILLER:) Dr. Morgan, I just passed you
10 what's been marked as Expert Exhibit 7. Does this
11 appear to be the Court of Appeals decision in the
12 Corporation of the Canadian Civil Liberties Association
13 matter that we've been discussing?

14 A. It appears to be so, yes.

15 Q. Have you reviewed this opinion?

16 A. I have not.

17 Q. Do you know what the result of the case was when
18 it went up on appeal?

19 A. It was not favorable to the defendants. That's
20 the extent of my -- my knowledge.

21 Q. Are you aware that as a result of this decision
22 by the Court of Appeals for Ontario in Can -- in Ontario
23 that the court held that segregation for more than 15
24 consecutive days violated the Canadian Constitution?

25 A. Yes, I was made aware of that.



1 Q. And does that contradict your expert opinions in
2 this case?

3 A. Can you read back the opinion?

4 Q. The question?

5 A. Yeah.

6 COURT REPORTER: "Are you aware that as a
7 result of this decision by the Court of Appeals for
8 Ontario in Can -- in Ontario that the court held that
9 segregation for more than 15 consecutive days violated
10 the Canadian Constitution?"

11 THE WITNESS: And your question was do I
12 disagree with that?

13 COURT REPORTER: "And does that contradict
14 your expert opinions in this case?"

15 THE WITNESS: Yes.

16 (EXPERT EXHIBIT NO. 8. MARKED.)

17 Q. (BY MS. FILLER:) Dr. Morgan, you've been passed
18 what's been marked as Expert Exhibit 8, which is the
19 lower court opinion in the same case we've been
20 discussing, the Corporation of the Canadian Civil
21 Liberties Case; is that correct?

22 A. Yes.

23 Q. So this is the opinion that went up on appeal,
24 which we were just discussing?

25 A. Yes.



1 Q. Thank you. Returning to your Attachment B of
2 your CV, you have listed here the matter Dunn versus
3 Dunn. Would that be the Alabama Case that you described
4 earlier?

5 A. Yes.

6 Q. And what was your involvement in the Alabama
7 Case?

8 A. Similar to the other matters. This was again the
9 issue of mental health effects resulting from
10 segregation.

11 Q. And did you tour Alabama prisons as part of your
12 work on this case?

13 A. Yes, I did.

14 Q. And as I understand it, you didn't have the
15 opportunity to meet with prisoners; is that right?

16 A. That's correct.

17 Q. And was that because there was insufficient time?

18 A. Yes.

19 (EXPERT EXHIBIT NO. 9 MARKED.)

20 Q. (BY MS. FILLER:) Dr. Morgan, I just passed you
21 what's been marked as Expert Exhibit 9. Does this
22 appear to be your expert rebuttal report prepared for
23 the Alabama matter?

24 A. Yes, it does.

25 Q. Do you stand by the opinions that you expressed



1 in this expert report?

2 A. I do.

3 (EXPERT EXHIBIT NO. 10 MARKED.)

4 Q. (BY MS. FILLER:) Dr. Morgan, you've just been
5 passed what's been marked as Expert Exhibit 10. Does
6 this appear to be a transcription of the deposition
7 testimony that you offered in the Alabama matter?

8 A. Yes, it does.

9 Q. And were you testifying under oath in that case?

10 A. Yes, I was.

11 Q. Did you provide true and accurate testimony?

12 A. Yes.

13 Q. And did you provide any testimony in court in the
14 Alabama Case?

15 A. No.

16 Q. Why not?

17 A. I wasn't called.

18 Q. Do you know -- was there a trial?

19 A. Yes.

20 Q. And are you aware of the reasons why you were not
21 called to testify?

22 A. No.

23 Q. Are you aware of the results of the Dunn, et al
24 versus Dunn, et al Case?

25 A. No.



1 Q. You can put that down.

2 A. Okay.

3 Q. And returning to Attachment B of your CV, you
4 next have listed Holder versus Saunders, which was a
5 Kentucky case, and I understand that that case had to do
6 with a prisoner-on-prisoner assault?

7 A. Yes.

8 Q. And unlike some of these other cases we've been
9 discussing, you weren't called upon to evaluate the
10 effect of segregation on mental health; is that right?

11 A. Correct.

12 Q. This was a different issue?

13 A. This was a different issue.

14 Q. Then the last case you have listed as Ashker
15 versus the Governor, and this would be the California
16 case involving Pelican Bay?

17 A. Correct.

18 Q. And what was your involvement in that case?

19 A. Assessing the conditions of confinement for class
20 members and providing rebuttal testimony -- or rebuttal
21 expert opinion to plaintiff's experts.

22 Q. And who were the plaintiff's experts in that
23 case?

24 A. Drs. Kupers and Haney.

25 Q. Did that encase -- and did that case involve



1 people who had been in solitary confinement for over ten
2 years?

3 A. Yes.

4 Q. And how many prisoners did you meet with during
5 that case?

6 A. I met with ten -- nine class members, I believe
7 it was, and about 40 additional inmates. So
8 approximately 50 inmates in total.

9 Q. And what were your findings?

10 A. It was my opinion that although segregation
11 places inmates at risk for mental health decompensation
12 that that's not universally the case and that the
13 California Department of Corrections and Rehabilitation
14 had policies and guidelines in place to ensure
15 appropriate care and services for inmates in their care
16 while in segregation. I believe that was the primary --
17 those are the two primary opinions.

18 Q. And are you aware that the case has since
19 settled?

20 A. Yes, I was aware of that one.

21 Q. Are you familiar with the basic components of the
22 settlement agreement?

23 A. I'm aware that as a -- as a condition of that
24 settlement that California was significantly reducing
25 segregation population. Beyond that, I don't know, but



1 I'm aware of that.

2 Q. Do you think that's a good thing, in your
3 opinion?

4 A. To reduce segregation?

5 Q. (Nodding head.)

6 A. Yes, absolutely. To reduce the use of
7 segregation, yes, absolutely.

8 (EXPERT EXHIBIT NO. 11 MARKED.)

9 Q. (BY MS. FILLER:) Dr. Morgan, you've just been
10 passed what we've marked as Expert Exhibit 11. Does
11 this appear to be a declaration that you submitted in
12 regards to the Ashker Case?

13 A. Yes, it does.

14 Q. And does this pertain to opposition to
15 Plaintiff's Motion for Class Certification? If you look
16 at just the second page.

17 A. Yes.

18 Q. And was the class certified?

19 A. Yes, it was.

20 Q. And as I understand it, you produced a second
21 expert report; is that right?

22 A. Correct.

23 Q. And did that report include detailed information
24 about prisoners' mental health history?

25 A. Yes, it did.



1 Q. So I don't have that report because I understand
2 it's under seal.

3 A. Okay.

4 Q. Have you been retained as an expert on any other
5 cases involving the effects of administrative
6 segregation, other than the ones we've just talked
7 about?

8 A. Yes.

9 Q. And what are those cases, please?

10 A. It's a case in California. I just went blank on
11 the plaintiff's name. Give me a second, Ransom (phon.).
12 Ransom v -- the governor at the time.

13 Q. Brown?

14 A. Or it might have been -- yeah, I believe it's
15 Brown, but, I mean, I would --

16 Q. Sure.

17 A. -- have to check for sure, but the defendant is
18 Ransom.

19 Q. Plaintiff is?

20 A. Sorry, the Plaintiff is Ransom. The issue again
21 is effects resulting from segregation placement.

22 Q. How long has the plaintiff in that case been in
23 segregation?

24 A. He was in segregation for two and a half -- two
25 and a half to four years, something like that, if I



1 remember correctly.

2 Q. And have you given deposition testimony in that
3 case?

4 A. No.

5 Q. Have you prepared an expert report in that case?

6 A. Yes.

7 Q. And to your knowledge, is the case still pending?

8 A. It is.

9 Q. Any other cases involving the effects of
10 administrative segregation on mental health?

11 A. No.

12 Q. Have you ever been qualified to testify in
13 federal court as an expert?

14 A. Not counting depositions, no.

15 Q. Have you ever been asked to consult as an expert
16 and after your review of the case told the lawyers that
17 you would be unable to provide the opinion they desire?

18 MR. DICKMEYER: Objection. Form.

19 THE WITNESS: No. I've consulted on cases
20 where I've provided contrary opinions to what the
21 retaining counsel wanted, but I never -- I didn't know
22 that until it was time to submit an opinion and I
23 submitted my report.

24 Q. (BY MS. FILLER:) Just so I'm understanding
25 correctly, what -- your response was that you have been



1 asked to consult on a case and your ultimate conclusions
2 as expressed in your report was different than desired?

3 A. Yeah, was not favorable to the retaining counsel.

4 Q. How many times has that happened?

5 A. A few. Yeah, I don't know. A few.

6 Q. Would those cases be involving the competency of
7 criminal defendants?

8 A. Yes, those would be forensic mental health
9 evaluations.

10 Q. When were you contacted to work on this case,
11 meaning the Vermillion matter?

12 A. Yes. Yes. I received an email, I believe it was
13 in -- I would have to check the dates, but I believe it
14 was in April.

15 Q. April of this year?

16 A. Yes. Sorry, April of 2019.

17 Q. And who contacted you about working on this case?

18 A. David did.

19 Q. David Dickmeyer?

20 A. Yes, sorry.

21 Q. How many phone conversations have you had with
22 the attorneys on this matter?

23 A. Three or four.

24 Q. And how long were those conversations?

25 A. I would say they ranged from 10 to 20 minutes.



1 Q. 10 to 20 minutes each?

2 A. Yes.

3 Q. How did Defense Counsel come to identify you as a
4 potential expert in this case, if you know?

5 A. It was a referral from another psychologist.

6 Q. And who is that psychologist, please?

7 A. Dr. Joel Dvoskin.

8 Q. Do you mind spelling that last name for --

9 A. Sure.

10 Q. -- me and the court reporter?

11 A. D-v-o-s-k-i-n.

12 Q. And what's the nature of your relationship with
13 Dr. Dvoskin?

14 A. We're colleagues.

15 Q. Where does Dr. Dvoskin work?

16 A. He's in Arizona, Tucson.

17 Q. Does he work for the prison system in Arizona?

18 A. No, he's in independent practice, and he's
19 affiliated with the University of Arizona Medical
20 School.

21 Q. Has Dr. Dvoskin ever referred any other cases to
22 you?

23 A. He referred me to California for the Ashker Case.
24 I was one of several names he referred.

25 Q. Do you have any relationship outside of this case



1 with the Indiana Department of Corrections?

2 A. No.

3 Q. And do you have any relationship outside of this
4 case with any of the Defendants in this case?

5 A. No.

6 Q. Do you have any relationship with any of the
7 attorneys for the Defendants in this case outside of
8 this litigation?

9 A. No.

10 Q. And you charge \$285 per hour for time spent on
11 this case; is that right?

12 A. That's correct.

13 Q. Is that your standard rate?

14 A. Yes, it is.

15 Q. How much have you charged for your work on this
16 case today?

17 A. I submitted a bill for, I don't know, 6 or 8 -- I
18 don't remember if it was 6 or \$8,000.

19 Q. How many hours have you charged for your work on
20 this case?

21 A. I would have to look it up. It was approximately
22 24, 25.

23 Q. Did you bring your file today in response to a
24 subpoena?

25 A. Yes.



1 Q. And did you bring your communications with
2 Counsel as well?

3 A. Yes.

4 Q. Perhaps during one of the next breaks, I could
5 take a look at those.

6 Do you have your report that I believe we
7 looked at at the very start of the deposition in front
8 of you there?

9 A. Yes.

10 Q. So let's turn back to your report, which has been
11 marked as an exhibit, Expert Exhibit 1. Does this
12 report contain all of your opinions in this case?

13 A. Yes.

14 Q. And if we look at page 5 of your report, I see
15 that you have listed the facts and data considered?

16 A. Yes.

17 Q. Is this a complete list of the facts and data
18 that you've considered in preparing this report?

19 A. Yes.

20 Q. Have you received any additional materials after
21 finishing this report aside from the materials that I
22 provided to Counsel?

23 A. No.

24 Q. What was your assignment in this case?

25 A. To provide expert opinion regarding the matter of



1 the effects of segregation and to review the expert
2 reports of Dr. Kupers and Mr. Pacholke and provide any
3 expert opinions in relation to those reports.

4 Q. Did your assignment change at any point?

5 A. No, it did not.

6 Q. And what methodology did you use to come to the
7 conclusions expressed in your report?

8 A. Oh, a review of the literature, a review of all
9 of the documents provided to me, an analysis of those
10 documents, and that was pretty much it. An analysis --
11 let me, I guess -- an analysis of those documents in
12 relation to my experience as well.

13 Q. And as I understand it, you didn't go to the
14 great State of Indiana in connection with this case?

15 A. No.

16 Q. You did not go to any Indiana prisons?

17 A. I did not.

18 Q. Have you ever been inside of an Indiana prison?

19 A. I have not.

20 Q. And you did not interview any Indiana
21 correctional staff?

22 A. I did not.

23 Q. Did not interview any Indiana mental health
24 staff?

25 A. I did not.



1 Q. And you did not interview the Defendants in this
2 case, meaning Mr. Levenhagen, Mr. Brennan, Ms. Nowotski
3 (phon.) or Mr. Myers (phon.)?

4 A. I did not.

5 Q. And you also did not interview the Plaintiff in
6 this case, Jay Vermillion?

7 A. That's correct.

8 Q. In looking at the materials that you've listed
9 here, it appears that you didn't review any literature
10 specific to Indiana segregation, such as Dr. Kupers'
11 Cold Storage Report?

12 A. No.

13 Q. No you did not review that literature, correct?

14 A. Correct.

15 Q. Sometimes there's a double negative. I just want
16 to check.

17 And so as I understand your testimony and
18 your report, you evaluated Dr. Kupers' opinion as to the
19 effect of solitary confinement on the Plaintiff, Jay
20 Vermillion; is that right?

21 A. Yes.

22 Q. You did not reach your own opinion as to the
23 effects of segregation on the Plaintiff?

24 A. Oh, that's correct, yes.

25 Q. Because in order to do that, you would have



1 wanted to interview Mr. Vermillion, right?

2 A. Absolutely.

3 MR. DICKMEYER: Objection. Form.

4 THE WITNESS: Sorry. Absolutely.

5 Q. (BY MS. FILLER:) Do you agree that a mental
6 health professional has to evaluate someone to reach a
7 conclusion as to their mental health?

8 MR. DICKMEYER: Objection. Form.

9 THE WITNESS: Yes.

10 Q. (BY MS. FILLER:) You wouldn't be able to testify
11 as to a criminal defendant's competency unless you
12 evaluated them in person, right?

13 A. Correct.

14 Q. Did you ask to evaluate Jay Vermillion?

15 A. No.

16 Q. Was it ever the plan for you to evaluate Mr.
17 Vermillion?

18 A. It was discussed, but it was not the plan.

19 Q. Why didn't you evaluate him?

20 A. Primarily, time.

21 Q. I take it that part of your critique of Dr.
22 Kupers' opinion in this case is that he did not have any
23 psychological testing done to assess the possibility of
24 malingering; is that fair?

25 A. That's fair.



1 Q. And why didn't you yourself perform any
2 psychological testing to assess malingering of Mr.
3 Vermillion?

4 A. I didn't conduct any assessment of Mr.
5 Vermillion.

6 Q. And I believe your response before was primarily
7 time?

8 A. Yeah, I did not have opportunity.

9 Q. Do you agree that the conditions in segregation
10 vary across facilities in prison systems?

11 A. I do.

12 Q. Do you agree that those conditions are important
13 in assessing the effects of segregation on prisoners?

14 A. I do.

15 Q. For example, do you agree that the degree of
16 isolation varies across prison segregation units?

17 MR. DICKMEYER: Objection. Form.

18 THE WITNESS: I do.

19 Q. (BY MS. FILLER:) And is it important in
20 evaluating a segregation unit to be aware of the degree
21 of isolation?

22 A. Yes.

23 Q. So why is it that you did not tour the prison
24 where Jay spent most of his time in segregation --
25 sorry, Jay Vermillion?



1 A. I was not given any specific opinions with regard
2 to Mr. Vermillion's mental health functioning, mental
3 state or his psychological functioning.

4 Q. Would it have been helpful in formulating your
5 opinions to inspect the prison where Mr. Vermillion
6 spent most of his time in segregation?

7 A. Not the opinions as offered. If I were to --
8 well, I'll stop.

9 Q. Please go ahead.

10 A. If -- if I had been asked to give an opinion as
11 to Mr. Vermillion's mental state as it pertained to the
12 effects of segregation, then absolutely it would have
13 been important to tour the facility and interview and
14 evaluate Mr. Vermillion.

15 Q. Do you know the name of the prison at issue in
16 this case?

17 A. Not off the top of my head, but it's in the
18 records. I was not famil -- familiar with that prison
19 prior to my involvement in this case.

20 Q. And your report doesn't describe the segregation
21 unit at issue in this case, correct?

22 A. Correct.

23 Q. Do you know any of the unique characteristics of
24 the segregation unit where Mr. Vermillion was housed?

25 A. No, not beyond what was reported in Dr. Kupers'



1 and Mr. Pacholke's report.

2 Q. And what were the characteristics that they
3 identified?

4 A. The structure, the nature of the structure of the
5 environment, temperature, things of that nature.

6 Q. Temperature. What about the structure?

7 A. The nature of doors that limits communication,
8 things of that nature.

9 Q. Would that be the boxcar doors?

10 A. Yes.

11 Q. Do you agree that some segregation units have
12 open steel barred doors?

13 A. I have not seen that, but yes.

14 Q. You're familiar with the general idea that some
15 segregation units have more or less isolating door
16 structure?

17 A. Yes, I am.

18 Q. Are you familiar with the unique characteristics
19 of the prison where Mr. Vermillion was held with regard
20 to access to the outdoors?

21 A. Just as described by Dr. Kupers and Mr. Poche --

22 Q. Pacholke?

23 A. Pacholke.

24 Q. And how did they describe that?

25 A. That they're very limited in nature. Basically,



1 a concrete room with an open roof.

2 Q. And in your opinion, did that have an effect on
3 prisoners' mental health?

4 MR. DICKMEYER: Objection. Form.

5 THE WITNESS: It can.

6 Q. (BY MS. FILLER:) What are the rates of suicide
7 in segregation versus prison general population?

8 A. Oh, they're higher in segregation.

9 Q. Significantly higher?

10 A. I would say so.

11 Q. Do you agree that among mental health
12 professionals it is generally accepted that solitary
13 confinement poses a risk of harm to prisoners?

14 A. I would agree with that.

15 Q. And is part of the reason for that consensus
16 because the risk of suicide is so much higher in
17 segregation?

18 A. That would be part of it, yes.

19 Q. Is another part of the reason for that consensus
20 observations of prisoners who have decompensated to a
21 very serious degree while in segregation?

22 MR. DICKMEYER: Objection. Form.

23 THE WITNESS: That would be part of it as
24 well, yes.

25 Q. (BY MS. FILLER:) And another part of the reason



1 for that consensus is that for quite a long time it has
2 been understood that depriving a person of human
3 interaction is generally bad for mental health?

4 MR. DICKMEYER: Objection. Leading.

5 MS. FILLER: State for the record that this
6 is a cross-examination of Defendant's expert, so I don't
7 think there's an issue with leading.

8 Q. (BY MS. FILLER:) You can answer.

9 THE WITNESS: Would you repeat that, please?

10 COURT REPORTER: "And another part of the
11 reason for that consensus is that for quite a long time
12 it has been understood that depriving a person of human
13 interaction is generally bad for mental health?"

14 THE WITNESS: I would agree.

15 Q. (BY MS. FILLER:) Do you agree that the
16 literature on segregation demonstrates that some inmates
17 placed in segregation will suffer negative effects on
18 their mental health?

19 A. Yes.

20 Q. And does the negative effects include anger,
21 sleeplessness, elevated levels of hopelessness and
22 anxiety?

23 A. It can.

24 Q. Do those negative effects also include the
25 development of previously undetected psychiatric



1 symptoms, including suicidal thoughts and depression?

2 A. It can.

3 Q. Do you agree that as a result of the risk of harm
4 to prisoners in segregation, prison staff have to take
5 precautions if they use segregation as a correctional
6 practice?

7 A. I do.

8 Q. Do you agree that one of those precautions is
9 making sure that only people who really need to be in
10 segregation should be there?

11 MR. DICKMEYER: Objection. Form.

12 THE WITNESS: I would agree with that.

13 Q. (BY MS. FILLER:) And do you also agree that
14 prison staff should regularly review people in
15 segregation to make sure that they still really need to
16 be in segregation?

17 A. I would agree with that.

18 Q. Indeed, that was part of your role on the
19 segregation review board in Kansas, correct?

20 A. Correct -- no. No, I wasn't responsible for that
21 -- for the decision-making. I was simply responsible
22 for providing information regarding any impacts or
23 negative harms that were resulting as a result of
24 segregation placement. The decision-making was outside
25 of my control.



1 Q. Thank you for that clarification. Do you
2 understand that the other correctional staff on the
3 segregation review board were working to make sure that
4 prisoners still needed to be there?

5 A. Yes.

6 Q. Dr. Morgan, in your 2016 meta-analyses, you say
7 that "the results of the study are not justification for
8 segregation's continued use at current levels or for an
9 extreme length of time, e.g., several years;" is that
10 right?

11 A. Yes.

12 Q. You still agree with that recommendation as the
13 interpretation of your meta-analyses?

14 A. Yes, I do.

15 Q. And the studies included in your meta-analyses
16 studied solitary confinement the maximum of one year; is
17 that right?

18 A. Yes.

19 Q. And is the limitation on that meta-analysis part
20 of the reason why you don't believe it is justification
21 for segregation's use for an extreme length of time?

22 A. That certainly would have been part of the
23 thinking process, but that's not the primary purpose of
24 that statement.

25 Q. What is the primary purpose of that statement in



1 your report? I'm sorry, "report," I'm referring to the
2 2016 meta-analyses.

3 A. Yes.

4 Q. Not your report in this case.

5 A. Yes. The primary purpose was to guard against
6 the instance where somebody, an agency, for example,
7 takes the results of that meta-analysis and said -- and
8 basically says, "well, these results suggest it's not
9 that harmful. We can leave them in here for long-term."
10 That's not consistent with -- with our recommendations
11 or opinions regarding correctional practice.

12 Q. And it's not consistent with the consensus in the
13 medical community either?

14 A. Correct.

15 Q. In the -- your study of the -- your study on the
16 meta-analyses from 2016, you also described segregation
17 as "short-sighted and primitive." Do you recall that?

18 A. Yes.

19 Q. And can you describe what you meant by that?

20 A. Yes. The idea of segregation is to remove a
21 dangerous inmate or an inmate that's causing problems
22 from the general population and put them in a more
23 secure environment, but it does little to change
24 behavior. And the idea behind corrections is to change
25 behavior and that there are better ways to do it than to



1 use segregation.

2 Q. Do you still agree with that statement that you
3 made in your 2016 study?

4 A. I do.

5 Q. Do you agree that there should be limits placed
6 on the use of solitary confinement?

7 A. In some cases, yeah. In some context, yes.

8 Q. What are those contexts and what would be the
9 limits?

10 A. I think age is certainly a consideration and
11 prior mental health functioning is a certain -- would
12 need to be a consideration. The issue is if you place
13 limits, it doesn't necessarily fit for everybody.
14 Shorter is better, things of that nature. But putting a
15 time to it and a limit to it is restrictive in a way
16 that doesn't necessarily fit in a particular case. So
17 I'm hesitant to say yes to limits, but certainly we need
18 to take precautions to make sure we're protecting
19 populations. Juveniles, I think, are at increased risk.
20 People with serious mental illness, although not in my
21 opinion at increased risk, there's other complications
22 that we need to guard against. So those things need to
23 be considered. But an absolute limit, I wouldn't go
24 that far.

25 Q. As I understood your testimony, you agree that as



1 a general rule segregation should be used only as long
2 as necessary with a goal of returning the prisoner to
3 the general population?

4 MR. DICKMEYER: Objection. Form.

5 THE WITNESS: Yes.

6 Q. (BY MS. FILLER:) Are you aware of any
7 professional organizations that have taken positions
8 regarding solitary confinement and the risk to
9 prisoners' health from that practice?

10 A. Yes.

11 Q. What are some of those professional
12 organizations?

13 A. I believe the American Psychiatric Association.
14 Did you say professional organizations -- mental health
15 professional organizations?

16 Q. Yes.

17 A. American Medical Association has -- I don't
18 recall if AMA has taken a specific stance. I'm not a
19 physician, so I don't belong to that organization, so I
20 can't recall if they have or not. But certainly
21 American Psychiatric Association has.

22 Q. How about the American Psychological Association?

23 A. I would need to refresh my memory on that. I'm
24 thinking through a specific document, and I don't recall
25 if they took an actual position against administrative



1 -- or the use of segregation or not. I would have to
2 refer back --

3 Q. What's the document you're thinking of?

4 A. I'd have to look it up.

5 Q. So as you sit here today you're not thinking of a
6 specific document, but you're thinking that they might
7 have one; is that right?

8 A. Well, I'm thinking of a document, but I'm not
9 remembering the --

10 Q. The name of it?

11 A. -- the name and the outlet actually. I don't
12 believe it was in a journal article, so it's more of a
13 position statement, and I would have to look at it.

14 Q. Are you a member of the American Psychological
15 Association?

16 A. I am.

17 Q. How about the NCCHC, do they have a position
18 regarding solitary confinement?

19 A. I don't recall what their specific position is.

20 Q. Do you recall if they have a position?

21 A. No.

22 Q. What is the position of the American Psychiatric
23 Association?

24 A. To reduce the use of segregation.

25 Q. Because it is harmful for mental health?



1 A. Yes.

2 MR. DICKMEYER: Objection. Form.

3 THE WITNESS: Sorry.

4 Q. (BY MS. FILLER:) And we've been talking about
5 mental health professional organizations. Are there
6 other professional organizations beyond simply the
7 mental health context that have taken positions
8 regarding solitary confinement and the risk to mental
9 health?

10 A. Yes.

11 Q. And what are those organizations, please?

12 A. The ACLU, for example. The United Nations has
13 taken a stance. I'm trying to think of other
14 professional organizations, and there's a few, but
15 primarily I think the United Nations and the ACLU.

16 Q. And what are their positions?

17 A. The same, that the use of segregation should be
18 reduced due to cause of harm.

19 Q. And the United Nations' position is that
20 segregation should never last longer than 15 days; is
21 that right?

22 A. That's correct.

23 Q. What about the Department of Justice, do they
24 have a position regarding segregation or restrictive
25 housing that you're aware of?



1 A. Yes.

2 Q. What is their positions?

3 A. Again, reduce the use of segregation due to
4 harms.

5 Q. What about the American Correctional Association,
6 the ACA, are you aware if they have a position statement
7 or take any position regarding segregation?

8 A. No.

9 Q. No, you're not aware?

10 A. Yeah, I'm not -- I'm not recalling a position by
11 ACA.

12 (EXPERT EXHIBIT NO. 12 MARKED.)

13 Q. (BY MS. FILLER:) Dr. Morgan, I passed you what's
14 been marked as Expert Exhibit 12. Does this appear to
15 you to be a position statement on solitary confinement
16 from the National Commission on Correctional Health
17 Care?

18 A. It does.

19 Q. And would this be the same organization in which
20 you are recently appointed to the board of directors for
21 their educational foundation?

22 A. Yes.

23 Q. Have you ever reviewed this position statement
24 before, Dr. Morgan?

25 A. I'm sure I have. I don't recall specifically



1 looking at this, but I'm sure I've reviewed it.

2 Q. If I could turn your attention to the second page
3 of this position statement, the very top. "The inherent
4 restriction and meaningful social interaction and
5 environmental stimulation and the lack of control
6 adversely impact the health and welfare of all who are
7 housed in solitary confinement." Did I read that
8 correctly?

9 A. You did.

10 Q. And do you agree or disagree with that statement?

11 A. I would disagree.

12 Q. And the basis for your disagreement?

13 A. Basically, just the one piece where it says "of
14 all who are held."

15 Q. And what are you relying on to support your
16 disagreement with that aspect of the statement?

17 A. My understanding of the state of research and my
18 experience.

19 Q. And the next sentence, "while there is a school
20 of thought that suggests that solitary confinement in
21 facilities that meet basic standards of humane care has
22 relatively little adverse effect on most individuals
23 mental or physical health, this is not the view of most
24 international organizations." Did I read that
25 correctly?



1 A. Yes.

2 Q. And would you say that you're a member of the
3 school of thought that suggests that solitary
4 confinement in facilities meeting basic standards has
5 relatively little adverse effect?

6 A. Can you repeat that last part of that question?

7 COURT REPORTER: "And would you say that
8 you're a member of the school of thought that suggests
9 that solitary confinement in facilities meeting basic
10 standards has relatively little adverse effect?"

11 THE WITNESS: I would say I'm certainly
12 perceived as being in that -- of that school of thought.

13 Q. (BY MS. FILLER:) Are you -- is that a false
14 perception in some ways?

15 A. In some ways, yes, absolutely.

16 Q. Can you elaborate?

17 A. Yeah. Segregation can have significant effects,
18 harmful effects, it's my opinion and -- that it's not
19 universally experienced. And so there are some people
20 that will go in segregation and not experience harms.
21 And when you look at the totality of the population, the
22 harms will typically be more minor than other people
23 would suggest. But that doesn't mean that segregation
24 can't be and isn't, in some cases, harmful, and quite
25 harmful at times.



1 Q. We can put that aside. Is your view of the harms
2 of solitary confinement that you've just expressed
3 outside of the mainstream?

4 MR. DICKMEYER: Objection. Form.

5 THE WITNESS: Yes.

6 Q. (BY MS. FILLER:) You are familiar with the
7 Plaintiff's expert, Dr. Kupers, I gather?

8 A. I am.

9 Q. And you kindly mention in your report that you do
10 know Dr. Kupers to be a respected psychiatrist; is that
11 right?

12 A. Yes.

13 Q. And you mentioned earlier that you are including
14 a chapter from Dr. Kupers on imprisonment and stress in
15 your Encyclopedia; is that right?

16 A. Yes.

17 Q. And I gather that your goal as an editor of the
18 Encyclopedia is to collect writings from reputable
19 figures in the field?

20 A. Most reputable.

21 Q. And as an editor, you have a responsibility to
22 make sure that the research and views you're including
23 are of a high quality?

24 A. Yes.

25 Q. So you feel confident in the quality of Dr.



1 Kupers' work, at least with respect to his contributions
2 to your Encyclopedia?

3 A. Yes.

4 Q. And in your rebuttal repor -- rebuttal report,
5 you also conclude that Dr. Kupers adequately summarized
6 the literature on the effects of solitary confinement;
7 is that right?

8 A. That he adequately summarized?

9 Q. That he adequately -- perhaps what you meant is
10 adequately summarized the literature describing the
11 harms of solitary confinement? This is on page 6 under
12 "Critique of Expert Report," Section A, first paragraph,
13 last sentence.

14 A. Oh, thank you. What I meant to -- what I'm
15 meaning there is that this body of work that is cited
16 here that reports on the harms of segregation, he
17 adequately summarized that literature.

18 Q. So let's talk about some of your critiques of Dr.
19 Kupers' assessment of the Plaintiff. How would you
20 describe Dr. Kupers' findings regarding the effects of
21 solitary confinement on Mr. Vermillion? And what I'm
22 hoping you can respond to is can you describe the
23 substance of his findings?

24 A. With regard to specifically the mental health
25 effects from segregation?



1 Q. (Nodding head.)

2 A. That -- that it was harmful.

3 Q. That Mr. Vermillion suffered psychiatric harm
4 from his experience in segregation?

5 A. Yes.

6 Q. And you say, "That in reaching these conclusions,
7 Dr. Kupers failed to account for the fact that the
8 records from Mr. Vermillion's medical history in the
9 department didn't reflect psychiatric complaints."

10 A. That was one of my criticisms, yes.

11 Q. Dr. Morgan, can we agree that there have been
12 cases where a prisoner has committed suicide without
13 there being evidence in the medical record of
14 complaints?

15 A. Yes.

16 Q. And can we also agree that the records that you
17 reviewed that you've identified as contrary to Dr.
18 Kupers' assessment were records from monthly mental
19 health rounds?

20 A. During his time in segregation, yes.

21 Q. These were not sitdown comprehensive mental
22 health assignments, right -- mental health assessments,
23 correct?

24 A. I did not --

25 MR. DICKMEYER: Objection. Form. Go ahead.



1 THE WITNESS: I did not see evidence of
2 that.

3 Q. (BY MS. FILLER:) And what Dr. Kupers did was sit
4 down with Mr. Vermillion and perform a comprehensive
5 clinical interview, correct?

6 A. Yes.

7 Q. And Dr. Kupers' interview of Mr. Vermillion then
8 was substantively very different than the monthly mental
9 health contact -- contacts that are described in the
10 mental health record, correct?

11 MR. DICKMEYER: Objection. Calls for
12 speculation. You can answer.

13 THE WITNESS: I would agree, yes.

14 Q. (BY MS. FILLER:) Do you know how long Dr. Kupers
15 evaluated Mr. Vermillion for?

16 A. I believe the face-to-face interview was about
17 three and a half hours, and he had two subsequent
18 telephone conversations with the Plaintiff, one was for
19 30 minutes and the other was, I think, 20 minutes.

20 Q. Do you agree that Dr. Kupers' evaluation of Mr.
21 Vermillion face-to-face and over the phone is the most
22 comprehensive evaluation of Mr. Vermillion's mental
23 health that was completed during his incarceration --

24 MR. DICKMEYER: Objection. Calls for
25 speculation.



1 Q. (BY MS. FILLER:) -- based on your review?

2 A. Based on my review, yes.

3 MS. FILLER: Let's take a break and change
4 the tape.

5 VIDEOGRAPHER: We're now off the record at
6 12:31.

7 (Break.)

8 VIDEOGRAPHER: We're now back on the record
9 at 1:19.

10 Q. (BY MS. FILLER:) Dr. Morgan, before we broke for
11 lunch, we were discussing your critique of Dr. Kupers'
12 assessment of Mr. Vermillion and the mental health
13 rounds and the records from those rounds that were in
14 the evidence you reviewed. Does that refresh your
15 recollection as to where we left off?

16 A. Yes.

17 Q. Do you know how long the mental health staff
18 spent at Mr. Vermillion's cell door when doing their
19 monthly rounds while he was in segregation?

20 A. No.

21 Q. Do you know whether it was difficult for them to
22 communicate through the cell door?

23 A. No.

24 Q. Are you aware that Dr. Kupers toured the facility
25 where Mr. Vermillion was in segregation?



1 A. Yes.

2 Q. And are you aware that he actually was able to
3 observe a member of the mental health staff performing
4 rounds at that facility?

5 A. Yes.

6 Q. Would you agree then that Dr. Kupers, who
7 actually had the opportunity to observe a mental health
8 staff professional performing rounds at the same
9 facility where Mr. Vermillion was held, is in a better
10 position to opine as to the quality of mental health
11 rounds --

12 MR. DICKMEYER: Objection. Form.

13 Q. (BY MS. FILLER:) -- at that facility?

14 A. Yes.

15 Q. Have you ever offered any opinions as to the
16 proper standard of care in performing mental health
17 rounds in segregation?

18 A. Yes.

19 Q. And what have you said is the appropriate
20 frequency in which those rounds should be conducted?

21 A. A minimum of once a week.

22 Q. Are you aware that the mental health rounds at
23 issue in this case were monthly?

24 A. That was my observation based on the record.

25 Q. And so based on your opinion, that would not be



1 sufficient to mitigate the harm of segregation?

2 MR. DICKMEYER: Objection. Form.

3 THE WITNESS: I would agree.

4 Q. (BY MS. FILLER:) And do you agree that some
5 prisoners do not want to be seen as mentally ill because
6 it makes them appear weak in front of their peers in
7 prison?

8 MR. DICKMEYER: Objection. Form.

9 THE WITNESS: Yes.

10 Q. (BY MS. FILLER:) And do you agree that
11 prisoners' tendency to minimize or underreport mental
12 health symptoms is important to consider when evaluating
13 the effect of solitary confinement?

14 A. Yes.

15 Q. As I understood your report, you think it's
16 possible that Mr. Vermillion would avoid raising mental
17 health complaints with mental health staff during cell
18 side rounds; is that right?

19 A. Yes, that's possible.

20 Q. But your opinion is that Mr. Vermillion would
21 have asked for an out-of-cell meeting if he was actually
22 suffering; is that right?

23 A. It's my opinion that he most likely could have.

24 Q. And what is the basis for your opinion that Jay
25 could have received out-of-cell meetings with mental



1 health staff had he just asked?

2 A. It's my opinion that he could have asked. I
3 can't testify or state an opinion as to whether if he
4 would have received an out-of-cell consultation, but
5 general practice would suggest that he would.

6 Q. You don't have any specific information as to the
7 availability of out-of-cell mental health treatment in
8 the segregation unit where Mr. Vermillion was held
9 during the time he was held there?

10 A. That's correct, I do not.

11 Q. Are you aware of a lawsuit that was filed against
12 the Indiana Department of Corrections on behalf of
13 seriously mentally ill prisoners who had been held in
14 segregation? This was a class action.

15 A. No. Mr. Pacholke's report referred to some prior
16 litigation, but I don't know the specifics of that and
17 if that's what you're referring to.

18 Q. So I take it then that you are not aware and did
19 not consider in formulating your opinions in this case
20 that the judge in that case on behalf of seriously
21 mentally ill prisoners found that the Indiana Department
22 of Corrections was not providing adequate out-of-cell
23 mental health assessments for prisoners in segregation?

24 A. No.

25 (EXPERT EXHIBIT NO. 13 MARKED.)



1 Q. (BY MS. FILLER:) Dr. Morgan, I've just passed
2 you what's been marked as Expert Exhibit 13. This is
3 the case Indiana Protection and Advocacy Service
4 Commission versus the Commission of the Indiana
5 Department of Corrections, and you'll see that it's an
6 entry following bench trial and that the district court
7 judge was Judge Pratt. Do you see that on the first
8 page?

9 A. Yes.

10 Q. And if you could please turn to page 11 of this
11 entry and opinion, which has the Bates stamp Vermillion
12 1643, and I want to draw your attention to the last
13 paragraph on that page. It says starting at the second
14 sentence, and I'm reading directly from the entry and
15 opinion here, "The pervasive function of mental health
16 staff within the IDOC has become a mixture of responding
17 to crises and responding to prisoner requests to be
18 seen. The 30-day reviews are ineffectual because of
19 insufficient mental health staff and because of the
20 circumstances on the unit, meaning the inability of
21 custody staff to regularly place the prisoner in a
22 setting where reasonable privacy and communication can
23 be attained. Although the loss of privacy is a
24 condition of imprisonment, the loss of privacy and
25 communication with medical staff restricts the



1 prisoners' ability to be candid when providing
2 information," end quote. Dr. Morgan, were you aware of
3 that finding at the time that you authored your report
4 in this case?

5 A. No.

6 Q. Does that change your opinion as to the
7 availability of out-of-cell mental health care for Mr.
8 Vermillion if he had a concern about confidentiality?

9 A. It certainly raises questions if he could have
10 received an out-of-cell contact.

11 Q. If you could turn to page 16, Vermillion 1644,
12 which is the next page -- or the page that we left off
13 on rather. If we could look at the very bottom
14 paragraph of -- it says page 12 of the entry and
15 opinion, Vermillion 1644.

16 A. Okay. I'm there.

17 Q. It's the paragraph starting, "A number of
18 facilities."

19 A. Yes.

20 Q. It says, "A number of facilities, including
21 Pendleton, Putnamville and the WCU, do not interview
22 prisoners with Axis II diagnoses outside of their cells.
23 Prisoners, even those with Axis I diagnoses, frequently
24 are not removed for an out-of-cell evaluation every
25 30 days but have them at their cell fronts, even though



1 the prisoner has not refused to leave his or her cell.
2 At times, prisoners are not removed for the out-of-cell
3 evaluation because there are insufficient correctional
4 staff to move the prisoners or because of other
5 scheduling difficulties that are no fault of the
6 prisoner."

7 And continuing this next paragraph describes
8 how, "conversation with the therapist even in private
9 may be only a few minutes, prisoner believes it's not
10 useful and not worth the shackling." And then in the
11 middle of that paragraph goes onto find, "That the
12 evaluations when they occur are generally very cursory."

13 Would these findings -- strike that. Were
14 you aware of these particular findings from Judge Pratt
15 at the time that you authored your opinion in this case,
16 the Vermillion Case?

17 A. No.

18 Q. And does Judge Pratt's findings as to the
19 adequacy of mental healthcare and the availability of
20 out-of-cell mental health evaluations cause you to
21 perhaps reconsider your opinion that Mr. Vermillion
22 would have been asking for out-of-cell mental health
23 evaluations if he was experiencing psychiatric distress?

24 MR. DICKMEYER: Objection. Form. You can
25 answer.



1 THE WITNESS: It certainly raises questions
2 with regard to, as I noted, the potential to request
3 out-of-cell consultations. In terms of changing my
4 opinions, no.

5 Q. (BY MS. FILLER:) And why is that that -- what
6 we've just reviewed doesn't change your opinion?

7 A. Well, because I haven't given any opinions with
8 regard to Mr. Vermillion's mental health functioning and
9 why he did or didn't receive mental health services. If
10 I were to do such an evaluation, this would certainly be
11 part of the consideration there.

12 Q. Well, let me just understand then so that we're
13 on the same page. As I read your report, you criticized
14 Dr. Kupers for accepting Mr. Vermillion's
15 representations even though those representations were
16 inconsistent with the monthly mental health segregation
17 rounds; is that right?

18 A. Yes.

19 Q. And Dr. Kupers said that in his view, the monthly
20 segregation rounds were not very probative because Mr.
21 Vermillion had concerns about the confidentiality of
22 those mental health rounds, right?

23 A. Yes.

24 Q. And what we've just reviewed from Judge Pratt
25 indicates that in fact there wasn't really another



1 option for prisoners in segregation at that time; is
2 that right?

3 A. That's what Judge Pratt is indicating here, yes.

4 Q. So doesn't it stand to reason then that Mr.
5 Vermillion might have had, as Dr. Kupers found,
6 significant distress during segregation, but felt that
7 asking for out-of-cell mental health services was not
8 going to be successful?

9 MR. DICKMEYER: Objection. Form. Calls for
10 speculation. You can answer.

11 THE WITNESS: That certainly might have been
12 the case.

13 Q. (BY MS. FILLER:) Based on what we've just
14 reviewed here, the findings from Judge Pratt?

15 A. Yes, that might have been the case.

16 Q. And based on the findings from Judge Pratt then,
17 Dr. Kupers' conclusion that Jay's explanation for why
18 those mental health segregation rounds did not evidence
19 significant distress is, in fact, entirely reasonable?

20 MR. DICKMEYER: Objection. Form.

21 THE WITNESS: It could be, yes.

22 Q. (BY MS. FILLER:) I mean, isn't it a reasonable
23 conclusion for Mr. Vermillion to say, "I'm not going to
24 ask for out-of-cell mental health services because I'm
25 not going to get them"?



1 MR. DICKMEYER: Objection. Asked and
2 answered. Form. You can answer.

3 THE WITNESS: I would agree that's
4 reasonable.

5 Q. (BY MS. FILLER:) You also criticized Dr. Kupers,
6 and I think this is a related critique, but that he's
7 not adequately considered the possibility that Mr.
8 Vermillion was malingering during his evaluations,
9 correct?

10 A. Yes.

11 Q. And I want to be really clear about what you're
12 saying here. I think that what I've read in your report
13 is that you agree that Dr. Kupers did, in fact, consider
14 the possibility that Jay might be exaggerating?

15 A. Yes.

16 Q. But you critique Dr. Kupers because in your view
17 he didn't take adequate steps to assess whether Jay
18 Vermillion was malingering when he met with him?

19 A. That's a fair summary, yes.

20 Q. Dr. Kupers is a psychiatrist, right?

21 A. Yes.

22 Q. And you are not a psychiatrist?

23 A. Correct.

24 Q. And although there are areas where the practices
25 of psychiatry and psychology overlap, they're not the



1 same, right?

2 A. Correct.

3 Q. And one area where it's different is that
4 psychologists, such as yourself, don't prescribe
5 psychiatric medication, right, as a general rule?

6 A. As a general rule, yes.

7 Q. And so if a psychologist thinks that psychiatric
8 medication is indicated for a patient, he'll typically
9 refer the patient to a psychiatrist, right?

10 A. Typically, yes.

11 Q. But only if they think that there's a need or a
12 potential need for the medication, right?

13 A. Yes.

14 Q. Otherwise, there'd be no need for a referral to
15 the psychiatrist, correct?

16 A. Correct.

17 Q. Another of the areas where there's a difference
18 in practice is that psychiatrists don't administer
19 psychological tests, right?

20 A. In general -- as a general rule of practice,
21 correct.

22 Q. Otherwise, they're taking your job, right?

23 A. There would be that potential, yes.

24 Q. And is it your position that Dr. Kupers, even
25 though he's a psychiatrist, should have administered a



1 psychological test to rule out malingering?

2 A. Yes.

3 Q. But he wouldn't do that himself, would he?

4 A. It would be my opinion that anybody conducting
5 forensic examination seeks the appropriate training to
6 administer whatever method is needed to answer the
7 questions. There are psychiatrists that can administer
8 malingering tests. You just simply have to get the
9 appropriate training.

10 Q. Or he could --

11 A. Or refer it out.

12 Q. -- refer it to a psychologist who --

13 A. Yes.

14 Q. -- does that kind of evaluation for a living,
15 right?

16 A. Sure, that would be another option, yes.

17 Q. But Dr. Kupers would only need to order
18 psychological testing if there's an indication, right,
19 an indication that psychological testing was needed?

20 A. Yes.

21 Q. Just like a psychologist referring a patient to a
22 psychiatrist for medication, you do the referral only if
23 there's an indication that it's needed?

24 A. Yes.

25 Q. Or like an ER doctor, right, you're not going to



1 just ask for a CAT scan unless there's an indication of
2 the CAT scan's necessity, correct?

3 A. Yes.

4 Q. And here, Dr. Kupers understood that as with any
5 time you evaluate someone they might be malingering,
6 right?

7 A. I assume he did.

8 Q. But he found no clinical evidence of that, and so
9 he didn't order psychological testing, right?

10 A. That's my understanding, yes.

11 Q. And there's nothing generally wrong with that
12 approach, right?

13 A. In a non-forensic context? No.

14 Q. So your opinion then is that anytime there's a
15 legal case involved, there must be psychological
16 testing?

17 A. No, absolutely not.

18 Q. So why don't you tell me the difference, because
19 you just said in a forensic setting?

20 A. Sure. When there's a case of disability or harm
21 and a person is indicating harm because of the -- not
22 only potential, but the benefit for feigning disability
23 or harm, malingering should be a standard practice.

24 Q. And --

25 A. And not rely on our clinical judgment.



1 Q. Okay. So if I understand you correctly, whenever
2 there is a legal case where the person at issue stands
3 to benefit, has some interest in the outcome of the
4 case, then clinical judgment isn't enough?

5 A. Yeah. Generally speaking, yes, I would agree
6 with that. When it's a forensic context, yes.

7 Q. You -- your report relies on a discussion of this
8 issue, and we can pull it up in the report. I believe
9 it's page 12. You discuss the importance of ruling out
10 malingering, and it's a text by the lead author Melton?

11 A. Yes.

12 Q. Are you familiar --

13 A. That's a textbook, yes.

14 Q. Okay. And let's look at your report. So on page
15 12, the last paragraph, fourth line, "In fact, it is
16 increasingly recognizing that interview -- it is
17 increasingly recognized that interview-based approaches
18 to detecting malingering are of such limited utility
19 that tests specially designed to detect malingering
20 should be a routine part of forensic practice," and you
21 cite the Melton textbook; is that right?

22 A. Yes.

23 (EXPERT EXHIBIT NO. 14 MARKED.)

24 Q. (BY MS. FILLER:) Dr. Morgan, you've just been
25 passed what's been marked as Expert Exhibit 14. Would



1 this be the textbook that you're citing?

2 A. Yes.

3 Q. And I want to draw your attention to the Bates
4 stamp as Vermillion 5139, subsection A, "General
5 strategies for detecting feigning of symptoms." Do you
6 see that there?

7 A. Yes.

8 Q. So this would be a section on general strategies
9 for detectoring -- detecting malingering, right?

10 A. Correct.

11 Q. And it says, "A number of strategies are
12 available for systematically investigating response
13 style. The most common and venerable method is the
14 clinical interview, usually consisting of a mental
15 status examination or other relatively unstructured
16 interview procedure." Did I read that correctly?

17 A. Yes.

18 Q. And do you agree then that the most common and
19 venerable method of detecting malingering is the
20 clinical interview?

21 A. Yes.

22 Q. If you turn to the next page, this is Vermillion
23 5140, and it says -- middle of -- let's see, so the
24 second paragraph on the left hand column, the last
25 sentence, and I believe this is what you're referencing



1 in your report, quote, "Increasingly, mental health
2 professionals have concluded that because
3 interview-based approaches to detecting malingering are
4 of such limited utility, employment of instruments
5 specifically designed for this purpose should be
6 considered the standard of practice whenever there is a
7 basis for suspecting over-reporting of symptoms," end
8 quote. Did I read that correctly?

9 A. Yes.

10 Q. And so you agree then that the psychological
11 testing is necessary when there's a basis for suspecting
12 over-reporting?

13 A. Yes.

14 Q. Is psychological testing an infallible measure of
15 malingering?

16 MR. DICKMEYER: Objection. Form.

17 THE WITNESS: No.

18 Q. (BY MS. FILLER:) In fact, psychological tests
19 might indicate that a person is malingering when they
20 aren't, right?

21 A. That can happen.

22 Q. And a person could also game a psychological test
23 and it not come up that they were in fact malingering,
24 right?

25 MR. DICKMEYER: Objection. Form.



1 THE WITNESS: That can happen, yes.

2 Q. (BY MS. FILLER:) And Dr. Kupers has reported
3 that in his clinical interview, in his experience, Mr.
4 Vermillion was honestly reporting his symptoms, right?

5 A. Yes.

6 Q. And, for example, Dr. Kupers found that Mr.
7 Vermillion didn't provide exaggerated descriptions of
8 the symptoms that he suffered, right?

9 A. I don't recall him being that specific, but he
10 concluded that Mr. Vermillion was honestly responding.

11 Q. Did Mr. Vermillion -- strike that. When a
12 interview subject is providing very exaggerated
13 descriptions of psychiatric distress, that might be a
14 cue that they're malingering, right?

15 A. That might be.

16 Q. But Mr. Vermillion didn't, for example, report
17 that he was hearing voices indicating him -- indicating
18 that he should hurt himself, right?

19 MR. DICKMEYER: Objection. Calls for
20 speculation. You can answer.

21 THE WITNESS: Not -- not based on what was
22 presented in Dr. Kupers' report.

23 Q. (BY MS. FILLER:) He didn't tell Dr. Kupers that
24 he was seeing things like little green aliens, right?

25 MR. DICKMEYER: Same objection.



1 THE WITNESS: Dr. Kupers didn't report that,
2 correct.

3 Q. (BY MS. FILLER:) That kind of really stark
4 description of psychiatric illness might have been a cue
5 that Mr. Vermillion was over-reporting, right?

6 A. It could be, yes.

7 Q. And in fact, the constellation of symptoms that
8 Mr. Vermillion described is quite consistent with the
9 literatures, reports of the negative mental health
10 consequences of solitary confinement?

11 MR. DICKMEYER: Objection. Form.

12 THE WITNESS: Yeah, as described by Dr.
13 Kupers. It's not inconsistent. I would agree.

14 Q. (BY MS. FILLER:) And that would also indicate
15 that Mr. Vermillion was being truthful?

16 MR. DICKMEYER: Objection. Form.

17 Q. (BY MS. FILLER:) In other words, he described
18 symptoms that make sense given the segregation context
19 and what we know about segregation?

20 A. That could be an indication of honest responding,
21 yes.

22 Q. And you have no reason to believe that Mr.
23 Vermillion was malingering, other than the fact that
24 everyone who's -- has a lawsuit has some incentive to
25 win their case, correct?



1 A. Yeah, generally speaking, I would agree with
2 that.

3 Q. I just want to make sure there's no extra reason
4 that you think that you've identified why Mr. Vermillion
5 would have been malingering?

6 A. Yeah. No, that's an accurate summation.

7 Q. There's no requirement that in order to be --
8 strike that. There's no requirement that in order to
9 have their findings accepted in a court of law that
10 psychiatrists who perform evaluations in a legal context
11 obtain psychological testing of every person who they
12 evaluate, is there?

13 MR. DICKMEYER: Objection. Calls for
14 speculation and calls for a legal conclusion. Form.
15 You can answer.

16 Q. (BY MS. FILLER:) Dr. Morgan, I understand you're
17 the director of forensics here at -- Director of
18 Forensic Psychology, right?

19 A. I'm Director of the Forensic Science Institute
20 and I teach in the area of Forensic Psychology.

21 Q. And are you aware of the general legal context in
22 which mental health opinions are admitted in court?

23 A. I am.

24 Q. Okay. I'll restate the question. There is no
25 requirement that in order to have their opinions



1 admitted into a court of law psychiatrists who perform
2 evaluations as part of a lawsuit obtain psychological
3 testing of every person who they evaluate, is there?

4 A. There is no such requirement.

5 MR. DICKMEYER: Objection. Form.

6 THE WITNESS: Sorry, David.

7 Q. (BY MS. FILLER:) And in fact, that's not the
8 standard practice for psychiatrists either, right?

9 MR. DICKMEYER: Objection. Form.

10 THE WITNESS: Actually, I don't know what
11 the standard practice or best practice is for a
12 psychiatrist being as that I'm not a psychiatrist. I
13 can't -- I can't opine on that.

14 Q. (BY MS. FILLER:) Fair enough. And Dr. Morgan,
15 your other criticism of Dr. Kupers is that his
16 literature review is incomplete; is that right?

17 A. Yes.

18 Q. And as a result, in your view, Dr. Kupers has
19 overstated the risk of harm from solitary confinement,
20 right? If that's not correct, please --

21 A. I would just change it a little bit, overstated
22 the potential risk of harm.

23 Q. And is that going back to the universality of the
24 harm?

25 A. Yes.



1 Q. So let's break that down. Dr. Kupers does
2 describe at length in his report a significant body of
3 literature documenting harms from solitary confinement,
4 right?

5 A. He does.

6 Q. And the literature that he's described shows that
7 solitary confinement can be psychiatrically toxic?

8 A. I would agree.

9 Q. And the body of research that he's described
10 stretches back for many decades, right?

11 A. Yes.

12 Q. And it's also been done across countries,
13 correct?

14 A. Yes.

15 Q. It's not just limited to a particular subset of
16 prisoners? There have been studies done around the
17 world?

18 A. Correct.

19 Q. And there have also been studies done in
20 different context that lend support to that research?
21 For example, studies of people who have been subjected
22 to extreme isolation in a context other than prison?

23 A. Yes. He relies on that literature as well, yes.

24 Q. And that literature is supported by a coherent
25 theory, right?



1 MR. DICKMEYER: Objection. Form.

2 THE WITNESS: Yes, I would agree.

3 Q. (BY MS. FILLER:) And can you describe what that
4 theory is for why isolation is harmful?

5 A. Yeah. Basically, depriving someone of basic
6 human contact, as social beings, we -- we need social
7 contact to function. And depriving somebody of that
8 basic need results in harm.

9 Q. And do you agree with that basic theory that
10 you've just outlined?

11 A. I do.

12 Q. And I take it that you would agree with me that
13 experts testifying in court are to work off of reliable
14 information?

15 A. I would agree.

16 Q. And that it's really important that we ensure
17 that only reliable opinions derived from reliable
18 sources are admitted into evidence when we have a trial,
19 right?

20 MR. DICKMEYER: Objection. Calls for a
21 legal conclusion. Form.

22 THE WITNESS: Yeah, I would agree.

23 Q. (BY MS. FILLER:) So if an expert is unable to
24 vouch for the reliability of certain studies or data,
25 it's not appropriate for them to rely on it, right?



1 MR. DICKMEYER: Objection. Form.

2 THE WITNESS: Say that -- can you read that
3 back?

4 COURT REPORTER: "So if an expert is unable
5 to vouch for the reliability of certain studies or data
6 it's not appropriate for them to rely on it, right?"

7 THE WITNESS: Yeah, generally speaking, I
8 would agree. I'm not sure what you mean by "vouch for
9 it," but in general, I would agree.

10 Q. (BY MS. FILLER:) An expert has to rely on data
11 and information that they believe in their expert
12 opinion is reliable?

13 A. I would agree.

14 Q. When you write your expert reports, you're
15 describing the evidence that you relied upon in reaching
16 your conclusions, correct?

17 A. Yes.

18 Q. And if you don't rely on particular studies or
19 data, you aren't obliged to put that in your report,
20 right?

21 A. I would agree.

22 Q. And your critique of Dr. Kupers is that he
23 doesn't cite the Colorado study or your 2016
24 meta-analyses, right?

25 A. Those are two that were omitted, yes.



1 Q. What are the others, please?

2 A. Chadick, et al and Walters in 2018.

3 Q. And Chadick is the study that we've described
4 earlier in Kansas?

5 A. Yes.

6 Q. In which you were also an author?

7 A. Yes.

8 Q. And which is the Walter study, please?

9 A. Yes.

10 Q. Sorry, what is the Walter study?

11 A. Oh, I'm sorry. That was published in 2018 in
12 Criminal Justice Behavior.

13 Q. And was that a longitudinal study?

14 A. Yes. It was re-analyzing data from the Colorado
15 study.

16 Q. So no new data?

17 A. Correct.

18 Q. If Dr. Kupers didn't find those sources that you
19 just listed to be reliable sources of information, it
20 would be an unfair criticism to criticize Dr. Kupers for
21 not including them? Do you agree?

22 MR. DICKMEYER: Objection. Form.

23 THE WITNESS: No.

24 Q. (BY MS. FILLER:) Why?

25 A. Because it's our responsibility to paint a



1 complete picture for the factfinder, and that includes a
2 review of the entirety of the literature. When
3 providing a review of the literature in a forensic
4 report, I would report all of the literature. I would
5 highlight problems or concerns with specific bodies of
6 work, but I wouldn't exclude it, particularly if it was
7 contrary to my opinion.

8 Q. It sounds like you're describing two different
9 things, if I may, a literature review, in which the job
10 is to describe all of the literature that's out there on
11 a given subject and draw conclusions from that versus a
12 opinion as to what the literature shows as to the harms
13 of solitary confinement.

14 A. I still would stand by the position that as an
15 objective examiner, it's our job to -- to paint the
16 totality of that picture, that clinical picture, and
17 that includes all of the literature review.

18 Q. Even if Dr. Kupers, in his opinion, believes that
19 certain sources of data are not reliable sources of
20 information?

21 MR. DICKMEYER: Objection. Form. Asked and
22 answered. You can answer.

23 Q. (BY MS. FILLER:) Let me ask a different
24 question. Do you know if Dr. Kupers has expressed an
25 opinion as to the reliability of the 2010 Colorado



1 study?

2 A. Yes, he has.

3 Q. And he's, in fact, said that the findings from
4 that study are unintelligible, right?

5 A. Yes, he has.

6 Q. In fact, he wrote an entire article, along with
7 Dr. Stuart Grassian, to expose what he views as grave
8 flaws in the Colorado study that render those findings
9 not usable or helpful in any way?

10 A. That's correct.

11 Q. And you're familiar with his critique of the
12 Colorado study, right?

13 A. Yes.

14 (EXPERT EXHIBIT NO. 15 MARKED.)

15 Q. (BY MS. FILLER:) You've just been passed what's
16 been marked as Expert Exhibit 15. Dr. Morgan, would you
17 agree that this is the Kupers and Grassian critique of
18 the Colorado study?

19 A. Yes.

20 Q. In formulating his opinions, it's reasonable for
21 Dr. Kupers to choose not to rely on a study after he's
22 reviewed that study and found it to be unintelligible,
23 right?

24 A. Again, I disagree. It's not my opinion.

25 Q. Listen to my question, though, because I think



1 we're close to being on the same page, but not quite. I
2 understand you're saying that it's important to if
3 you're describing all of the literature to describe that
4 literature, right?

5 A. Yes.

6 Q. If Dr. Kupers' job, though, is to review the
7 literature and issue an opinion reliant on reliable
8 sources, then he needs to just rely on those sources
9 that in his expert opinion are, in fact, reliable?

10 MR. DICKMEYER: Objection. Asked and
11 answered.

12 THE WITNESS: I'm with you, yes.

13 Q. (BY MS. FILLER:) Okay. You might -- I
14 understand that you disagree with Dr. Kupers about the
15 Colorado study, and we'll get to that, right?

16 A. Yes.

17 Q. But I just want to be fair in our criticism,
18 okay? In his opinion, he knows about the Colorado
19 study, right?

20 A. Yes.

21 Q. It's not like this is -- he's missed it. He
22 knows it happened, right?

23 A. Correct.

24 Q. He just doesn't think that it's a reliable source
25 on which he should be basing his opinions?



1 A. That's my understanding, yes.

2 Q. Okay. And do you know if Dr. Kupers has
3 expressed an opinion as to the reliability of the
4 meta-analyses that you published along with Paul
5 Gendreau in 2016?

6 A. I believe he has, yes.

7 Q. And what would be that opinion?

8 A. That it is fatally flawed.

9 Q. So again, in your view, Dr. Kupers would need to
10 describe those meta-analyses if he's giving a literature
11 overview, right?

12 MR. DICKMEYER: Objection. Form. Asked and
13 answered.

14 THE WITNESS: Correct.

15 Q. (BY MS. FILLER:) But if Dr. Kupers is describing
16 the sources of reliable data on which he's relying to
17 form an opinion, then he wouldn't include the
18 meta-analyses because he doesn't find them reliable,
19 right?

20 A. Again, to me, he's describing the literature in
21 his report. I can see where, as you were saying
22 earlier, he didn't rely on that in his ultimate opinion,
23 but I stand by the criticism that that should have been
24 included.

25 Q. I understand it's your meta-analyses, you have a



1 -- you have put a lot of work into those studies, I
2 believe, right?

3 A. Oh, it was a lot of work.

4 Q. And in your opinion, they are a critical
5 contribution to the scholarship on solitary, right?

6 A. All of the studies that he omitted, I would say,
7 were important information to inform -- to inform the
8 issues.

9 Q. And we've just said that the walters is at least
10 working off the same data as the Colorado study, right?

11 A. Correct.

12 Q. So the only one that I want to just flag as
13 potentially new information that he omitted would be the
14 Chadick Kansas study?

15 A. Correct.

16 Q. And I take it that you understand that Dr. Kupers
17 is aware of those studies?

18 A. I know he's aware of the Colorado study and the
19 meta-analysis. I assume he's aware of the Chadick
20 article. I don't know if he's aware of the walters
21 study.

22 Q. So you're -- you're not concerned that Dr. Kupers
23 might not know about all of these studies, right?

24 A. Correct.

25 Q. Your concern is more that what he's written in



1 his report in this case is just incomplete and missing
2 some of that?

3 A. Yes.

4 Q. What is a controlled study?

5 A. A controlled study would be one where you
6 systematically manage as best you can the situations
7 around the experiment that you're conducting in a
8 pre-post design, so you would assess individuals before
9 whatever the issue at hand is. Usually in my line of
10 work, that would be an intervention of some sort, like
11 segregation, and you would assess post and have a
12 control group to compare responses from the treatment
13 group to the control group.

14 Q. It's a method of research that's designed to
15 measure the effect of a variable, right?

16 A. Well said.

17 Q. Variable or, in your term, intervention?

18 A. Yes.

19 Q. And the importance of having a control group is
20 that it's not exposed to the variable and that way you
21 can determine the effect of that variable, right?

22 A. That's the idea with the controlled study, yes.

23 Q. Is there a particular treatise or text that you
24 would say is the most well accepted source for how to
25 effectively design a controlled study?



1 A. No, not that I'm aware of.

2 Q. Have you personally performed controlled studies?

3 A. Yes.

4 Q. And which studies are those?

5 A. I'll refer back to my curriculum vitae. It would
6 be the studies looking at individuals with and without
7 mental illness that are justice involved. There's a
8 series of studies and five or six publications. It's
9 looking at comparing inmates in prison with mental
10 illness to individuals and inmates without mental
11 illness and individuals in community mental health
12 settings, both that are and are not justice involved,
13 for purposes of comparing who's going in and what's
14 happening in terms of mental illness with justice
15 involvement and what we need to do on the treatment end.
16 So I can point you to those studies. It's a series of
17 studies.

18 Q. Thank you. Yeah, if you could just tick them off
19 and give us a page number?

20 A. Okay. On page 4 of 29, second from the bottom,
21 Gross and Morgan, 2013. Top of the next page
22 Bartholomew, et al.

23 Q. Sorry, I don't see -- oh, you were going
24 backwards.

25 A. Oh, sorry, on the page, I think I did go



1 backwards and I apologize.

2 Q. That's okay.

3 A. So then to page 5 the wolff, Morgan and Shi,
4 2013. On page 6, wolff, Morgan, Shi, Fisher and
5 Huening, 2011. And then Morgan and Fisher, et al also
6 on page 6, 2010. So those were controlled studies, but
7 not of an intervention. If -- for controlled studies of
8 an intervention, it would be McDonald, Morgan and Metz,
9 2016.

10 Q. Can you give me a page number?

11 A. On page 4. McDonald and Morgan, 2013 on page 5.
12 And that's -- the last one would be on page 9, Morgan,
13 Winterowd and Fuqua in 1999.

14 Q. And so you've given us two categories of
15 controlled studies, right, ones involving an
16 intervention and ones without?

17 A. Yes.

18 Q. And the difference with an intervention, that the
19 point is to be able to distill the specific effects of
20 that intervention, right?

21 A. Yes.

22 Q. Do you hold yourself out as an expert in the
23 design and execution of controlled studies?

24 A. No.

25 Q. Do you agree, though, that it's important that



1 controlled studies are, in fact, controlled?

2 A. Yes.

3 Q. And that it's important in performing controlled
4 studies to avoid contaminating the groups you're
5 studying?

6 A. That's the ideal, yes.

7 Q. And by "contamination," I'm referring to exposing
8 the control group to the intervention that you're
9 attempting to measure?

10 A. Correct.

11 Q. And would you agree that contamination can
12 invalidate a study's results?

13 A. It can.

14 Q. Do you agree that it's difficult to perform
15 controlled studies in prison?

16 A. It certainly can be, yes.

17 Q. For example, you, as a researcher, cannot keep a
18 prisoner in segregation if the prison says that prisoner
19 doesn't need to be in segregation?

20 A. Correct.

21 Q. That would be unethical?

22 A. Yes, it would.

23 Q. And the research that's developed on solitary
24 confinement has not, in fact, relied on control studies
25 because of the difficulties in conducting such studies



1 in prison, right?

2 A. Yes, that's one of the primary issues.

3 Q. So let's talk about the Colorado study. You've
4 described it as the gold standard, right?

5 A. Yes.

6 Q. The Colorado study studied prisoners in the
7 Colorado State Prison System, right?

8 A. Yes.

9 Q. There was no -- as the name suggests, no
10 examination of prisoners outside of Colorado, right?

11 A. Correct.

12 Q. And the -- it was a longitudinal study, I
13 understand?

14 A. Yes.

15 Q. And so the study lasted for about one year; is
16 that right?

17 A. Yes.

18 Q. And the study did not involve clinical
19 interviews, correct?

20 A. Correct.

21 Q. And there was no part of the study that looked at
22 the medical records of the prisoners, right?

23 A. I believe they looked at the medical records but
24 did not report that in the results.

25 Q. So the results of the Colorado study did not



1 include review of medical records?

2 A. Correct.

3 Q. The results of the Colorado study were solely
4 based on self-scoring from prisoners?

5 A. Self-reporting.

6 Q. Self-reporting on a written score card,
7 essentially?

8 A. On a paper pencil test, yes.

9 Q. And we talked earlier about peer review,
10 remember?

11 A. Yes.

12 Q. Feels like days ago. And a peer review is one
13 way to ensure that studies and research is of a
14 reasonably high quality, right?

15 A. Yes.

16 Q. The Colorado study has not been published in a
17 peer review journal, right?

18 A. Well, they published a smaller version. Not the
19 full report that they submitted to NIJ, but they
20 published a more succinct version.

21 Q. This was Maureen O'Keefe's article?

22 A. Yes.

23 Q. But the actual study was published just as part
24 of the grant that they had, right?

25 A. The 2010 document was part of the reporting



1 requirements for the grant.

2 Q. And I believe if you refer to -- I think it was
3 Expert Exhibit 6, that big folder that you have there,
4 Dr. Morgan. If you could just identify that the first
5 tab there is the 2010 report on the Colorado study?

6 A. Yes.

7 Q. I won't ask you to look anymore at it. You can
8 put it to the side. Just want to make sure we're
9 talking about the same thing.

10 A. Yes.

11 Q. Since the time the Colorado study came out, it
12 has been subjected to heavy criticism; is that fair?

13 A. Yes.

14 Q. Can you describe the criticisms of the Colorado
15 study, please?

16 A. Yeah, it's been criticized in terms of relying on
17 self-report, contamination of the groups, inappropriate
18 data collection via the individual collecting the data.
19 There's a few others, but those are the big ones.

20 Q. Are you familiar with Dr. Craig Haney?

21 A. I am.

22 Q. I think we discussed earlier that you two have
23 been on -- found yourselves on opposite sides before?

24 A. Yes.

25 Q. Would you agree, though, that Dr. Haney is one of



1 the prominent researchers on the effects of solitary
2 confinement?

3 A. Yes, he's recognized as such.

4 Q. And he is a vocal critic of the Colorado study,
5 correct?

6 A. Yes, he is.

7 Q. Are you familiar with Dr. Haney's 2018 article
8 entitled "The Psychological Effects of Solitary
9 Confinement"?

10 A. I am.

11 (EXPERT EXHIBIT NO. 16 MARKED.)

12 Q. (BY MS. FILLER:) And I've just passed you what's
13 been marked as Expert Exhibit 16. Is this Dr. Haney's
14 2018 article that we were just referencing?

15 A. Yes.

16 MS. FILLER: And let's take a break so they
17 can change the tape.

18 THE WITNESS: All right.

19 VIDEOGRAPHER: We're now off the record at
20 2:15.

21 (Break.)

22 VIDEOGRAPHER: We're now back on the record
23 at 2:17.

24 Q. (BY MS. FILLER:) Dr. Morgan, are you familiar
25 with the critiques that Dr. Haney raises about the



1 colorado study in this 2018 piece?

2 A. Yes.

3 Q. And you've listed a few of them. You mentioned
4 the concerns about the research assistant, correct?

5 A. Yes.

6 Q. And according to Dr. Haney's understanding of the
7 colorado study, they had an inexperienced research
8 assistant who conducted all of the testing, correct?

9 A. That's the criticism, yes.

10 Q. And that this research assistant did so with very
11 little to no direct supervision?

12 A. That's the criticism, yes.

13 Q. Is that a fair criticism, the criticism
14 surrounding the inexperienced research assistant?

15 A. It's my understanding that the research assistant
16 was a trained research assistant, so trained in the
17 methodologies of the study.

18 Q. So you don't have any concerns about the research
19 assistant being inexperienced and the effects that that
20 might have had on the integrity of the results?

21 A. No.

22 Q. Another criticism is that the study was
23 commissioned by a pro segregation prison warden. Are
24 you familiar with that critique?

25 A. I'm sorry, say that again.



1 Q. Another criticism is that the Colorado study was
2 commissioned by a prison warden who had an interest in
3 continuing use of segregation?

4 A. Yes.

5 Q. Have you heard that critique?

6 A. Yes.

7 Q. Is that a fair criticism?

8 A. Certainly I think that's a fair criticism to
9 weigh when considering the potential impacts on a study.

10 Q. And regarding the research assistant, I take it
11 that you believe that the research assistant was, in
12 fact, adequately trained in conducting the study; is
13 that fair?

14 MR. DICKMEYER: Objection. Form.

15 THE WITNESS: There was nothing in the 2010
16 or subsequent 2000 -- I think it was '12 article that
17 suggests the research assistant wasn't properly trained.

18 Q. (BY MS. FILLER:) So you're relying on the
19 expressed descriptions of the Colorado study from the
20 authors of that study?

21 A. Yes.

22 Q. As contained in the 2010 report that we just
23 looked at, right?

24 A. And the 2012. But the 2012 is really a summary
25 of the 2010.



1 Q. And are you aware that some of the people who
2 were involved in performing that study have since said
3 that it's been taken out of context?

4 A. Yes.

5 Q. Can you describe that -- their views on that
6 subject?

7 A. Yeah, that some of the authors are concerned that
8 their study is being viewed as a validation of the use
9 of segregation, and that was not the intent, nor their
10 conclusions.

11 Q. The most serious critique of the Colorado study
12 is that there was fatal contamination of the control
13 group, right?

14 A. I would agree.

15 Q. Because if that were true, there would be real
16 questions as to whether the data had any value, right?

17 A. It certainly could, yes.

18 Q. And Dr. Haney in his 2018 article has said that
19 every prisoner in the 2010 Colorado study had been
20 exposed to a severe form of segregation right at the
21 start immediately before the study began, right?

22 A. I don't remember exactly how he phrased it or
23 what he said, but I know the contamination was a
24 criticism.

25 Q. Are you familiar with how the control group and



1 the intervention group were identified?

2 A. Yeah, I mean, generally speaking.

3 Q. Can you describe for us the basic approach to the
4 study?

5 A. They pulled participants from general population,
6 psychiatric care unit and segregation to participate in
7 the study.

8 Q. But are you aware of how they identified those
9 groups? In other words, it wasn't random, right?

10 A. Right. Right. I'm -- I think I need to look at
11 it to refresh my memory on the actual selection
12 procedure. But yeah, I reviewed it.

13 Q. So as I understand it, they looked at prisoners
14 who were in the disciplinary process, and those
15 prisoners would be held in a form of segregation, either
16 awaiting the disciplinary hearing or after. And then
17 some prisoners would come out of those disciplinary
18 hearings and go to general population, some prisoners
19 would come out of that process and go to administrative
20 segregation, and that's how they identified the groups.
21 Does that sound right?

22 A. That -- that sounds right.

23 Q. So Dr. Haney's point in his 2018 article is that
24 both of those groups would have been in segregation
25 right before the study started then?



1 A. Yes.

2 Q. That's contaminating the samples?

3 A. That's -- that would be his argument, yes.

4 Q. And is that a fair criticism, in your view?

5 A. I don't believe so.

6 Q. Why not?

7 A. Because, one, we're talking about pretty
8 short-term segregation potentially there, and the
9 authors, they looked at the issue of contamination, they
10 compared the groups, and there was no difference in
11 terms of folks that were contaminated versus those folks
12 that were not contaminated. I mean, they speak to that.
13 They analyzed that data. I understand what Dr. Haney is
14 saying in terms of at the front end they're already
15 contaminated.

16 If -- if to look at it in that sense, every
17 inmate coming into prison would essentially be
18 contaminated, because at some point during the booking
19 process they're isolated. You can't take just every
20 instance of isolation and say they're contaminated.
21 Oftentimes, those periods of detention for disciplinary
22 matters, it's brief.

23 Q. What would you describe as brief?

24 A. A couple days.

25 Q. If we look at page 383 of Dr. Haney's 2018



1 article, do you see that in this section, generally he's
2 describing this issue of the initial contamination
3 problem?

4 A. Yes, I see it.

5 Q. And on 382 in the second to last paragraph, he
6 says, quote, "It is impossible to know whether or how
7 control group prisoners were damaged by the time spent
8 in punitive segregation and whether those effects
9 continued throughout the study," end quote. Do you
10 agree with that?

11 A. I don't agree with the basic premise. Do I agree
12 that -- that Dr. Haney could make the argument that that
13 invalidates the study? Sure. But I don't agree that it
14 does. I don't believe that that contaminates the
15 samples and the groups when looking at the conditions of
16 long-term administrative segregation. The psychiatric
17 population, I don't know that we know they had the same
18 level of contamination. I'll have to -- I have to look
19 at it.

20 Again, they were choosing inmates from the
21 psychiatric unit that had behavioral problems, but I
22 don't know that they were in disciplinary segregation.
23 I would have to review.

24 Q. So --

25 A. And if not --



1 Q. So you're not familiar with whether in fact they
2 weren't in disciplinary segregation at the start of the
3 study?

4 A. I don't recall that, yeah. I'd have to review
5 the report and see.

6 Q. And if you look at page 384 of Dr. Haney's
7 article, the bottom of that first paragraph.

8 A. 384?

9 Q. 384. He says, "A key table in the National
10 Institute of Justice Report indicated that at the time
11 of their first test interval participants had spent
12 considerable average times in av -- other sec. GPMI
13 prisoners, 12.4 days. GPNMI, 39.8 days. ASMI, 88.9
14 days. ASNMI, 90.3 days." would you agree that those
15 periods of time are not brief?

16 A. I would agree with that.

17 Q. And Dr. Haney's critique as to contamination was
18 also that there was contamination during the one year
19 period as well, right?

20 A. Correct.

21 Q. And that his criticism is that it's clear that
22 prisoners in fact moved back and forth to segregation,
23 general population and other types of housing?

24 A. Correct.

25 Q. In fact, he found that 52 of 76 general



1 population control group participants spent time in
2 segregation or other non-general population setting
3 during the study, roughly two-thirds of the group?

4 A. Correct.

5 Q. And he found that half of the administrative
6 segregation of prisoners, 60 -- about half, 62 of 127,
7 spent an unspecified period of time in general
8 population or elsewhere during the study?

9 A. Yes, that was his finding.

10 Q. And the data that was aggregated by the Colorado
11 researchers did not take into account the contamination?

12 A. They analyzed that data.

13 Q. How so?

14 A. See if I can find it. It will take me a second
15 to find it in the document.

16 Q. Sure. Maybe I can restate the question, and if
17 you'd like to look at it, that's just fine too. But my
18 understanding is that the data from the participants was
19 aggregated whether or not there had been contamination.
20 In other words, they didn't exclude the people who had
21 cross-contamination --

22 A. Correct.

23 Q. -- from the aggregate data results?

24 A. Correct, they did not exclude.

25 Q. Another problem with the Colorado data is that



1 the Colorado system, the administrative segregation, had
2 at the time of the study three different quality of life
3 levels; is that right?

4 A. Yes.

5 Q. And at each quality of life level, there were
6 different privileges afforded prisoners, right?

7 A. Yes.

8 Q. And at level 3, prisoners in segregation could
9 have jobs?

10 A. Yes, that was my understanding.

11 Q. And would you agree that the ability to have a
12 job outside of your cell is a substantive difference
13 than the conditions of confinement?

14 A. Relative to not having a job and being confined
15 to your cell? Yes.

16 Q. And the -- we've talked this morning about some
17 of the Canada cases regarding segregation, correct?

18 A. Yes.

19 Q. Are you aware that the case involving the
20 Canadian Corporation of Canada Civil Liberties, CCLA
21 Case --

22 A. CCLA.

23 Q. I'll say that back. That the CCLA Case in fact
24 rejected the Colorado study because of the quality of
25 life levels issue?



1 A. No, I hadn't read that in the -- in the judgment.

2 Q. And when you included the Colorado study in your
3 meta-analyses in 2016, were you aware of these critiques
4 or did they post-date your work?

5 A. Some of it post-dated, but some of it I was aware
6 of.

7 Q. Were you specifically aware of the contamination
8 concerns?

9 A. Yes, more so of the cross-contamination during
10 the study than the critiques in his 2018 article
11 regarding the pre-contamination.

12 Q. Are you aware that the Colorado Department of
13 Corrections has since limited the use of segregation to
14 15 days?

15 A. Yes.

16 Q. And do you agree that this indicates that the
17 Colorado Department of Corrections, at least, doesn't
18 take the findings of this study to mean that they should
19 continue to hold people in segregation for years at a
20 time?

21 MR. DICKMEYER: Objection. Calls for
22 speculation.

23 THE WITNESS: Yeah, I would agree with that.

24 Q. (BY MS. FILLER:) In fact, are you familiar with
25 the name Rick Ramish (phon.)?



1 A. I am. I don't think I've read anything, but I'm
2 familiar with the name.

3 Q. He's the long time Director of the Colorado
4 Department of Corrections, right?

5 A. Okay.

6 Q. Are you aware that he's one of the foremost
7 critiques of solitary confinement now?

8 A. No.

9 MS. FILLER: Now would be a good time to
10 look at the response to the subpoena. We can take a
11 quick break and go off the record.

12 VIDEOGRAPHER: We're off the record at 2:34.
13 (Break.)

14 VIDEOGRAPHER: We're now back on the record
15 at 2:42.

16 Q. (BY MS. FILLER:) Dr. Morgan, I want to just take
17 a minute and talk about the subpoena that you responded
18 to. I understand you brought some documents here today?

19 A. Yes.

20 Q. Can you tell me what you have there (indicating)?

21 A. In my paper file?

22 Q. Yeah.

23 A. I have a copy of my report, the stipulated
24 protective order, Plaintiff's Third Amended Prisoner's
25 Civil Rights Complaint under Title 42 U.S.C 1983, expert



1 report of Dan Pacholke, expert report of Terry Kupers,
2 State of Indiana Presentence Investigation Face Sheet,
3 Professional Services Contract and deposition of Jay
4 Vermillion.

5 Q. And Dr. Morgan, I took a look at one of the
6 breaks and flagged those pieces of your paper report
7 that I found had handwriting on them. Do you see that
8 there?

9 A. Yes, three documents.

10 Q. Okay. Can you -- do you mind identifying the
11 three documents that I flagged?

12 A. Dr. Kupers' expert report, State of Indiana
13 Presentence Investigative Report and the Professional
14 Service Contract.

15 Q. And will you undertake to provide a scanned copy
16 of those handwritten -- the versions of those documents
17 with your handwritten notes to Counsel for the
18 Defendants so that they can provide them to me?

19 A. Yes, I'll have that done by Friday.

20 Q. Friday's just fine. Please don't rush. Thank
21 you. And you also have a thumbdrive, I understand?

22 A. Yes. And on the thumbdrive is a copy of all the
23 documents that I received, which were referenced in the
24 report, a copy of my report, and my billing statement.

25 Q. And --



1 A. So the only thing on here that's not in here
2 (indicating), I think, is the billing statement.

3 Q. And is it possible for me to have that
4 thumbdrive? Is that --

5 A. Yes, but I realized I took this from the
6 department today as I was running out, so it's actually
7 Texas Tech property. Can you download it?

8 Q. Yes, we'll work that out.

9 A. Only because it's state property.

10 Q. I understand. Those aren't cheap.

11 A. I know how it sounds, but I would have to figure
12 out how to reimburse the department --

13 Q. Okay.

14 A. -- or the university.

15 Q. Well, we'll work that out, but I appreciate that.
16 Thank you. And then I have here what I understand are
17 your communications with Defense Counsel in this case;
18 is that right?

19 A. Yes.

20 Q. Is this the total of your written communications
21 with Defense Counsel, understanding that there were a
22 few text messages just setting up logistical things?

23 A. Yes, that's the totality.

24 MS. FILLER: Okay. And let's mark this as
25 Expert Exhibit 17.



1 (EXPERT EXHIBIT NO. 17 MARKED.)

2 Q. (BY MS. FILLER:) Dr. Morgan, as I understand it,
3 your opinions in this case rely significantly on the
4 2016 meta-analyses that you conducted and described
5 today, right?

6 A. That's certainly included in my opinion regarding
7 the criticisms of the literature review provided by Dr.
8 Kupers and Mr. Pacholke. Less so to the two opinions
9 with regard to their expert reports of Mr. Pacholke and
10 the nature of the evaluation by Dr. Kupers.

11 Q. Are you offering an opinion in this case as to
12 the effects of segregation?

13 A. As a global matter beyond Mr. Vermillion? It
14 would be my opinion that the effects of segregation on
15 inmate mental -- mental health functioning -- let me say
16 that differently. Inmates placed in segregation are at
17 risk for mental health decompensation. Some will
18 experience that decompensation, some won't, some will
19 get better. And as a universal measure or a universal
20 issue, on average inmates in segregation will experience
21 some decompensation relative to pre-segregation status.

22 Q. Thank you for that clarification. And your
23 opinions that you've just described, do those rely on
24 conclusions reached in your meta-analyses?

25 A. It was informed by the meta-analyses, for sure.



1 Q. Are you planning to testify as to the results of
2 your meta-analyses?

3 A. Only if asked. It informed my opinion, so
4 certainly it potentially could be relevant. But no, I
5 don't have a plan to testify specifically about the
6 meta-analyses, because that's not the only basis or
7 source of information that informs that opinion
8 regarding the effects of segregation on mental health
9 functioning.

10 Q. And those other sources are?

11 A. The additional research and my clinical
12 experience.

13 Q. Your clinical experience, we've talked about.
14 The additional research would be the Colorado study?

15 A. That would be one.

16 Q. The Chadick study, the Walter study?

17 A. Yes, as well as others like the Zinger, et al
18 study.

19 Q. The Zinger 2001?

20 A. Yes.

21 Q. That's in your meta-analyses?

22 A. Yes, it is. I would say the body of work that
23 informed the meta-analyses.

24 Q. Okay. Fair enough. And if you look at tab 4 of
25 Expert Exhibit 6, this is the compendium of the studies



1 and exhibits that you were asked about in your CCLA
2 deposition. Is that your meta-analyses?

3 MR. DICKMEYER: What is the Bates number of
4 that?

5 MS. FILLER: It's Vermillion 3585. And I
6 have a paper copy, if that would be better.

7 MR. DICKMEYER: That's okay.

8 THE WITNESS: Yes, that's my --

9 Q. (BY MS. FILLER:) Have you located it?

10 A. Yes, that's my meta-analyses

11 Q. As I understand it, a meta-analyses is an
12 analysis of the research that is out there on a given
13 topic. Is that broadly correct?

14 A. Yes, an empirical analysis of that body of
15 research.

16 Q. Using statistical analysis techniques?

17 A. Yes.

18 Q. And using these statistical analysis techniques,
19 a large body of research can be analyzed to determine
20 the effect of a particular variable?

21 A. Correct.

22 Q. And your meta-analyses purport to do this for the
23 effects of segregation?

24 A. Yes.

25 Q. And the goal of the meta-analyses was to



1 determine the effect of segregation on prisoners'
2 health?

3 A. Yes, and with a particular interest in the
4 magnitude of that effect.

5 Q. Would you agree that the accuracy of your
6 meta-analysis is only as good as the studies analyzed?

7 A. I would agree.

8 Q. As I understand it, there were two meta-analyses
9 included in this 2016 piece, correct?

10 A. That is correct.

11 Q. There was Research Synthesis 1 and Research
12 Synthesis 2?

13 A. Correct.

14 Q. And is yours RS-2?

15 A. That's right.

16 Q. And Paul Gendreau's is RS-1?

17 A. Yes.

18 Q. And Paul Gendreau is a Canadian researcher; is
19 that right?

20 A. Yes, he is.

21 Q. And he's also worked for the Canadian Prison
22 System, correct?

23 A. He did for a period of time, yes.

24 Q. And both of your meta-analyses ruled out the vast
25 majority of the research on solitary confinement and did



1 not include those in your study?

2 A. I wouldn't agree with that.

3 Q. Well, RS-1 started out with 150 studies and ruled
4 out all but 14, right?

5 A. I just want to get my numbers right. They
6 started with 150 documents, not necessarily studies.

7 Q. Okay. And got down to 14?

8 A. Correct.

9 Q. And RS-2 started out with over 40,000 and cut
10 that down to 19?

11 A. Documents, yes.

12 Q. And when you say "document," are we talking about
13 a -- what would you say is the best way to describe what
14 was contained in a document?

15 A. The goal was to make sure we included all
16 relevant works. So if there was a document that we
17 could access that discussed the issue of administrative
18 segregation or disciplinary segregation, but the use of
19 segregation in corrections, we pulled it and that
20 counted in the 40,000, then we narrowed it down to the
21 research studies, and then the research studies that
22 actually could meet the criteria for meta-analytic
23 review.

24 Q. And the criteria were what?

25 A. It had to be -- we had to be able to develop an



1 effect size. We had to be able to read the article, so
2 it had to be in English. It had to actually study the
3 issue of segregation and the mental health -- mental
4 health effects. We were looking at adult institutions.
5 Let me see if I covered them all. Those were the
6 basics. I can look and see if I --

7 Q. And so RS-1 looked at 14 studies and RS-2 looked
8 at 19 studies. How much overlap was there between the
9 two?

10 A. If I remember right, and I can doublecheck for
11 sure, but I believe -- obviously we had five that they
12 didn't, and I believe there was two other articles that
13 were different. I'd have to doublecheck, but it's
14 something like that?

15 Q. So out of all of the research that's been done in
16 solitary, would you agree that the meta-analyses is
17 looking at a relatively small subset of what's out
18 there?

19 THE WITNESS: Can you repeat that?

20 COURT REPORTER: "So out of all of the
21 research that's been done in solitary, would you agree
22 that the meta-analyses is looking at a relatively small
23 subset of what's out there?"

24 THE WITNESS: I would say it's looking at a
25 majority of the empirical studies that are out there,



1 but it is a small subset of all that's been produced on
2 the issue of segregation.

3 Q. (BY MS. FILLER:) And you and your team had to go
4 about determining effect sizes for each study, correct?

5 A. Correct.

6 Q. And how did you determine the weight to give
7 certain effects?

8 A. Based on the data that was provided, we computed
9 effect sizes based on either if the information was
10 provided, in which case we would just extract the effect
11 size, or if it wasn't provided, then we would compute it
12 based on available data.

13 Q. Did certain studies receive greater weight due to
14 the sample size?

15 A. We took into account weightings. For example,
16 what's oftentimes done is -- I'll use the Colorado study
17 because that's a good example, where they looked at
18 depression and maybe had three measures on depression,
19 and they looked at anxiety, and so they had three
20 measures on anxiety. That could be six different effect
21 sizes going in.

22 what a lot of studies will do is simply
23 average those effect sizes for depression and average
24 the effect sizes for anxiety and put that in, and that's
25 not accounting for variance and interdependence of



1 measures and things like that. So what we did was we
2 went one step further and used a multi-variate procedure
3 to be able to account for the variance in things so that
4 it would provide a more precise effect size estimate
5 going into the total analysis so that we weren't simply
6 overweighting a study, such like -- such as the Colorado
7 study. Because we took their effect size and put it in.
8 Then it's really just a summary of the Colorado study.
9 We didn't want to do that, so we used the multi-variate
10 meta-analytic approach such that effect sizes got
11 weighted appropriately to allow for a more precise
12 measure of the variable of interest. So depression,
13 when we're looking at depression, anxiety when we're
14 looking at anxiety.

15 Q. Does the weighting take into account the size of
16 the sample in a particular study? So is a study with a
17 larger sample size going to get more weight?

18 A. It would consider the sample size. It also would
19 consider the interdependence of measures within the
20 outcome of interest, error variance, things of that
21 nature.

22 Q. And the Colorado study would have the larger
23 sample size, right?

24 A. Yes.

25 Q. And we were looking earlier at Dr. Haney's 2018



1 article. Do you recall that?

2 A. Yes.

3 Q. And he had criticisms of the Colorado study,
4 which we've discussed. One of his -- he's also
5 criticized the 2016 meta-analyses and that piece,
6 correct?

7 A. Yes.

8 Q. And one of his criticisms is that your
9 meta-analyses rely heavily on the Colorado study,
10 correct?

11 A. That is his criticism, yes.

12 Q. So that in his view, it's essentially a
13 repackaging of the Colorado study?

14 A. That's his opinion, yes.

15 Q. And you're familiar with his critique?

16 A. Yes.

17 Q. Dr. Haney found that in RS-1, 24 of the 50
18 relevant effect sizes on psychological outcomes came out
19 of the Colorado study?

20 A. Yes.

21 Q. Is that correct?

22 A. Yes.

23 Q. And that for RS-2, 140 of the 210 relevant effect
24 sizes on psychological outcomes came from the Colorado
25 study?



1 A. Correct.

2 Q. And was Dr. Haney right about that?

3 A. Yeah. I never doublechecked those numbers, but I
4 don't doubt those numbers.

5 Q. Seems about right?

6 A. Yes.

7 Q. And the meta-analyses also include a study known
8 as the Zinger study from 2001 that we were talking about
9 earlier?

10 A. Correct.

11 Q. And that's included in both RS-1 and RS-2, right?

12 A. Yes.

13 Q. And Dr. Haney points out that RS-1 gave the
14 Zinger 2001 study an incorrect weight?

15 A. I don't recall that criticism.

16 Q. We can look at the -- your meta-analyses
17 directly, would perhaps be better.

18 A. Sure. I'm going to reach back and just grab my
19 reading glasses.

20 Q. It is small print.

21 A. Yes.

22 MS. FILLER: I'm sorry, we're looking at the
23 report of Dr. Zinger right now.

24 MR. DICKMEYER: I have it.

25 Q. (BY MS. FILLER:) Dr. Morgan, if we look at



1 Vermillion 3596, this is table 2 of the meta-analyses.
2 If you see -- let's just take, for example, the
3 psychological outcome of anger, do you see the Zinger
4 study is listed there?

5 A. Yes.

6 Q. Okay. And do you see the sample size is reported
7 as 136?

8 A. Yes.

9 Q. And if we look at table 4, which is -- we can
10 look at -- hold on. Look at table 4, for example, on
11 Vermillion 33600, and this table N is the sample size?

12 A. Yes.

13 Q. And do you see under Zinger, you have listed 60
14 for the sample size?

15 A. Yes.

16 Q. So 60 and 136 is different?

17 A. Yes. So what we did was because we were looking
18 at pre-post, we could only look at the folks that began
19 but also ended, and that was 60 of the 136. And what
20 Paul and his colleagues did, I believe, were looking at
21 the post, and so that included -- well, I'm not sure.
22 I'd have to doublecheck our research --

23 Q. How could there be more in post than pre?

24 A. Yeah, I'm not sure on the 136. I would have to
25 go back and see what they did on their analyses.



1 Q. So if there's an error in terms of the sample
2 size, then that would effect the weight, which would
3 effect the meta-analyses, right?

4 A. If there was an error, yes.

5 Q. And there's another criticism of the Zinger
6 study, right?

7 A. Yeah, there's been in a couple.

8 Q. Is one of them that the Zinger study includes
9 people who are in segregation voluntarily?

10 A. Yes.

11 Q. Do you agree that whether a prisoner is in
12 solitary voluntarily or involuntarily could effect that
13 prisoner's experience in their confinement?

14 A. It certainly could.

15 Q. And by the end of the Zinger study, which lasted
16 60 days, only ten people were involuntarily in
17 segregation, correct?

18 A. That sounds right.

19 Q. And so approximately 80 percent of the prisoners
20 in the segregation group had left by the end of 60 days?

21 A. Yes. Again, that sounds correct.

22 Q. Meaning that the experience of the prisoners who
23 had left segregation were not included in the Zinger
24 analysis?

25 A. I'm sorry, say that again?



1 Q. Meaning that the prisoners who had -- were not a
2 part of the study at the end of 60 days, their
3 experiences weren't captured in the results of that
4 study?

5 A. Correct.

6 Q. And there -- prisoners who have a particularly
7 difficult time in segregation might be required to leave
8 segregation, right?

9 A. They might be.

10 Q. And that isn't accounted for in the Zinger data,
11 the attrition rate?

12 A. Possibly not. Well, the attrition rate, no. But
13 the reasons for the attrition, possibly not.

14 Q. We don't know?

15 A. Right.

16 Q. And another criticism is that many of the
17 prisoners in the Zinger study had been in segregation
18 before the 60 day period, right?

19 A. Correct.

20 Q. So again, we have this contamination issue?

21 A. Yes.

22 MS. FILLER: Let's take a very quick break.

23 VIDEOGRAPHER: We're now off the record at

24 3:05.

25 (Break.)



1 VIDEOGRAPHER: We're now back on the record
2 at 3:10.

3 Q. (BY MS. FILLER:) Dr. Morgan, another of Dr.
4 Haney's criticism of the meta-analyses is that some of
5 the studies included aren't very probative one way or
6 the other, right?

7 A. Right.

8 Q. And he noted that the Cloyes, is it, 2006 study
9 --

10 A. Yes.

11 Q. -- are you familiar with that study?

12 A. Yes.

13 Q. That it did not actually compare segregation
14 populations with general population prisoners?

15 A. Right.

16 Q. Is Dr. Haney correct about that?

17 A. Can I pull up the Cloyes?

18 Q. Yeah, it was -- so --

19 A. I believe it's right here.

20 Q. You've got a tab there. Yeah, it's 3651,
21 Vermillion 3651. And if you look at the page describing
22 the method, it's Vermillion 3655. And it says that the
23 participants included inmates housed in three SMUs at
24 the time of the study. And an SMU, of course, is a
25 special or secure management unit, right?



1 A. Right. I'm sorry, I just have to review that. I
2 don't remember if I quoted the article or not, so that's
3 why I'm reviewing it. Yeah, this was a study of super
4 maximum secure facilities, which is essentially a unit
5 utilizing segregation practices. So these inmates were
6 segregated. Just not necessarily -- it's just not
7 described as administrative segregation, but they were
8 in a restricted housing unit.

9 Q. I agree.

10 A. So what was the question, I'm sorry?

11 Q. My question is there's no control group of
12 general population? That's not what the study -- what
13 the Cloyes study is?

14 A. Oh, right. Right. It was just a -- it only
15 assessed the inmates in the super max facility.

16 Q. Right.

17 A. Right.

18 Q. So unlike the other studies that you included
19 based on your selection criteria, there's not a control
20 -- it's not a controlled study of general population
21 versus segregation?

22 A. Correct. This one did not have a control group.
23 Yes, I'm sorry, I was --

24 Q. It was probably a poor question.

25 A. -- probably misunderstood the question.



1 Q. That's all right. We're on the same page now.
2 And then I wanted to ask as well about the Walters 1963
3 study, which you've included. This is at Vermillion
4 3888 or tab 15. This study included all volunteers,
5 right, the prisoners volunteered to participate in the
6 study?

7 A. That does sound right, but let me just
8 doublecheck.

9 Q. I can point you to -- it's Vermillion 3888, under
10 "Method, 40 long-term prisoners volunteered for a
11 study."

12 A. Yes, correct.

13 Q. And we've already discussed that the nature of
14 participation as voluntary could have an effect on
15 prisoners' experience of those conditions?

16 A. It could.

17 Q. And this study also only studied the effects of
18 solitary confinement over a period of four days,
19 correct?

20 A. Correct.

21 Q. Would you agree that that's very different than
22 solitary confinement for a period of four years?

23 A. I would agree.

24 Q. And if I could direct your attention to the
25 Ecclestone 1974 study, which is Vermillion 3955?



1 A. Yes.

2 Q. Are you familiar with this study as well?

3 A. Yes.

4 Q. And this study, as I understand it, was also all
5 volunteers? If I could point you to --

6 A. Potential volunteers.

7 Q. Yeah.

8 A. Yes.

9 Q. "Methods." All volunteers, right?

10 A. Correct.

11 Q. And the maximum stay in segregation that was
12 looked at in this study was ten days?

13 A. I don't doubt that. I don't recall that, but I
14 don't doubt it.

15 Q. And again, we would expect to see different
16 effects of ten days of solitary confinement versus four
17 years of solitary confinement?

18 A. We could.

19 Q. In your report, you opine that -- and this is
20 your words, "the use of restrictive housing, such as AS,
21 will, on average, produce mild to moderate health and
22 mental health effects comparable to the effects of
23 incarceration as a general matter," end quote. Is that
24 correct?

25 A. That's correct.



1 Q. And you've described that the harms that solitary
2 confinement can cause include anxiety, depression,
3 posttraumatic stress and somatoform complaints; is that
4 right?

5 A. Yes. So that's examples of some of the symptoms
6 that can occur.

7 Q. There are more?

8 A. Oh, yes.

9 Q. Is mild to moderate health effects an average?

10 A. Can you phrase that differently? I'm not sure
11 I'm understanding.

12 Q. Sure. So you've said that in your opinion use of
13 restrictive housing will, on average, produce mild to
14 moderate health and mental health effects. So when you
15 say "average," I'm just asking some people have much
16 worse than mild to moderate and some people have less
17 than mild to moderate health effects; is that right?

18 A. Yes. Yeah, that would be kind of the average
19 that you can expect across the population.

20 Q. And, in fact, we assume that there are going to
21 be more and less severe cases when we're looking at an
22 average?

23 A. Statistically, that's what would happen, yes.

24 Q. So in your opinion, on average, prisoners in
25 solitary suffer mild to moderate harm, but some can be



1 harmed less than the average and some more than the
2 average?

3 A. Correct.

4 Q. And regarding Mr. Vermillion, you have no basis
5 to make conclusions about where he falls in that
6 potential for harm?

7 A. That's correct.

8 Q. What do you consider mild to moderate mental
9 health effects? And let me specify, I'm wondering if
10 you're describing symptoms as to mild to moderate
11 intensity or if you're referring to the effect sizes?

12 A. No, I'm referring to symptoms.

13 Q. Okay.

14 A. Yeah.

15 Q. And so how would you describe mild to moderate
16 symptoms?

17 A. Mild to moderate would be if an individual was
18 functioning well in general population and having no
19 adverse reaction or symptoms, place them in segregation,
20 if their mood was negatively impacted, became more
21 lethargic, for example, and socially withdrew, that
22 would be depending on the severity of those symptoms
23 mild to moderate. It could be severe. So it depends on
24 the severity and the impairment of function.

25 Q. And so that's what I'm trying to parse, that



1 severity question. So let's talk about lethargy. What
2 is mild lethargy, moderate lethargy and severe?

3 A. Severe would be, "I can't get out of bed. I just
4 stay in bed all day and spend 23, 20" -- or sorry, "20,
5 21 hours a day in bed because I don't have the energy to
6 get up. Even if I want to get up, I don't have the
7 energy." That would be severe. Mild would be, "Yeah,
8 I'm not doing as well as I was yesterday. I went to
9 rec, but instead of running around, I just kind of
10 walked around. I just wasn't feeling as good." And
11 moderate would be somewhere in between.

12 Q. And so then as I understand it, you agree that
13 there are negative mental health symptoms associated
14 with spending time in segregation? Your point is just
15 that there's a range of severity?

16 A. That's one of them, yes. Yeah, on average, your
17 average inmate is going to have some negative
18 experiences while -- when placed in segregation. It's
19 an issue of severity. So to that point, yes.

20 Q. And how would you distinguish mild, moderate or
21 severe feelings of suicidality?

22 A. Clinically, I would be looking at -- there's
23 indicators of suicide. Is there a plan? Is there an
24 intent? Is there access to -- to whatever the plan
25 would be? Is there a history? The more indicators, the



1 more severe the risk. The fewer the indicators, "I wish
2 I were dead, but I don't have a plan to kill myself,"
3 that's lower risk. Then somebody who, "I want to die,
4 here's how I would do it, so I have a plan," and they
5 could actually carry the plan out in their current
6 situation, that's higher risk.

7 Q. So let me -- I think we're -- I probably got us
8 off track, because now we're talking about risk of
9 actually committing suicide. And I think it would be
10 maybe more probative to talk about depression or
11 hopelessness.

12 A. Okay.

13 Q. And so how do we establish if depression is mild,
14 moderate or severe?

15 A. You can assess via clinical interview, you can
16 assess through behavioral observations, you can assess
17 with a measure. There's different ways to get at it.
18 Collateral information can enlighten the clinical
19 interpretation. There's a number of ways to get at
20 that.

21 Q. And so if a prisoner reported that he wanted to
22 die, would that be mild, moderate or severe depression?

23 A. No one indicator, no one symptom is going to
24 determine how we would classify a risk level or a
25 severity. It's looking at a cluster of symptoms. So



1 when looking at depression, for example, I'm looking at
2 is there suicidal ideation, but I'm also looking at that
3 energy level, level of lethargy, lethargic sort of
4 behaviors that we're talking about, engagement in social
5 activities or social withdrawal, engaging in activities
6 that they usually find pleasurable. So reading, are
7 they still reading if they like to read, things like
8 that. It's looking at the cluster of symptoms that go
9 to a construct like depression. And the more that are
10 endorsed and the more severely they're endorsed, the
11 more severe the diagnosis.

12 Q. And you reviewed Dr. Kupers' report regarding Mr.
13 Vermillion, right?

14 A. I did.

15 Q. And the description that he gives of Jay
16 Vermillion, would those effects be mild, moderate or
17 severe, in your opinion?

18 A. I didn't think of it that way, so I'll need to
19 look at. Can you give me a minute, and I'll look at the
20 report and see what I think?

21 Q. Yeah, let's do that.

22 A. So I'm using my report that I brought.

23 Q. You know what? Thank you. I hadn't entered it
24 into evidence as an exhibit, but let's do that.

25 (EXPERT EXHIBIT NO. 18 MARKED.)



1 MS. FILLER: And I'll note for the record
2 that this is confidential under the protective order, so
3 we'll maintain the confidential designation.

4 MR. DICKMEYER: What was the exhibit number?

5 MS. FILLER: 18.

6 Q. (BY MS. FILLER:) And just as a precursor
7 question, Dr. Morgan, I take it that from what you've
8 just said in your work on this case, you didn't perform
9 an assessment as to whether the symptoms that Dr. Kupers
10 identified as Mr. Vermillion having experienced whether
11 those were low, mild, moderate or severe effects?

12 A. No, I did not.

13 Q. Okay. And so you've just been passed Expert
14 Exhibit 18. If you look at page 28, there's a section
15 "Psychological and Physiological Response to Solitary
16 Confinement" that might be helpful. I can just point
17 out that he describes having heart palpitations, being
18 nervous and anxious the entire time he was in solitary,
19 that he felt very strong anxiety and depression, that he
20 considered suicide quite a lot and tried to hang himself
21 with a towel, but decided against it because of his
22 Christianity. That he would get enraged and start
23 kicking his door. That he would then collapse, feel
24 anxious and worried.

25 A. Yeah. Based on what I'm reading there -- again,



1 to truly give an opinion as to Mr. Vermillion's mental
2 state, I would have to do my own assessment. But based
3 on what Dr. Kupers is reporting, I'd say moderate to
4 maybe severe.

5 Q. And he also describes, "quite a lot of obsessive
6 thinking and compulsive activity beginning only after he
7 entered solitary in 2009. Shaving his eyebrows and
8 plucking his eye lashes, changing his appearance. That
9 he was compulsive about ants and bugs on the floor, and
10 as he explains this to me, he physically gets down on
11 the floor and looks around for signs of vermin. He
12 became quite compulsive about everything in his
13 environment being in its right place."

14 And he also goes onto describe how "he is
15 since leaving segregation much more withdrawn, doesn't
16 go to chow hall, would prefer to eat alone." Does that
17 -- does that sound like the kind of functional
18 impairment that you were mentioning earlier?

19 A. Yeah, it could be, yeah. That's the kind of
20 thing I would be looking for, yes.

21 Q. And so understanding that I'm not asking about
22 your own evaluation of Mr. Vermillion because you didn't
23 do one in this case, but based on what Dr. Kupers is
24 reporting, would you agree that these are moderate to
25 severe effects of solitary?



1 MR. DICKMEYER: Objection. Form.

2 Q. (BY MS. FILLER:) I believe that's what you
3 testified to a moment ago. I'm just trying to make sure
4 I understand.

5 A. Yeah, with the caveat that if the data is valid
6 that Mr. Vermillion would be suffering psychological
7 symptoms in the moderate to severe range, I would agree
8 with that. Whether it's attributable to segregation, I
9 don't know.

10 Q. And again, these are the kinds of symptoms that
11 have been reported as the kinds of symptoms you see from
12 people who have been in segregation for a long time?

13 A. Yes.

14 Q. And so going back to this opinion that you've
15 offered, "That the use of restrictive housing will on
16 average produce mild to moderate health and mental
17 health effects comparable to the effects of
18 incarceration as a general matter," the point there is
19 that you're establishing a comparison to just being in
20 prison?

21 A. Correct.

22 Q. And what are the sources that you're relying on
23 for that aspect of your opinion?

24 A. My knowledge of the research and clinical
25 experience.



1 Q. And so in your report, you have a bar graph which
2 purports to show that this is the case, correct?

3 A. It provides data to support that, yes.

4 Q. And so if you could look at page 10 of your
5 report for a moment?

6 A. Yes.

7 Q. You have a "Figure 1, Administrative Segregation
8 versus General Incarceration Effect Size Estimates."
9 The lightly shaded bars are effect sizes from the
10 meta-analyses that we were talking about earlier,
11 correct?

12 A. Specifically my Research Synthesis 2.

13 Q. That was my next question, so thank you. And
14 then the dark bar is from the -- a Bonta and Gendreau
15 study from 1990; is that right?

16 A. Correct.

17 Q. And the point here, as I understand it, is that
18 the general incarceration -- effect of general
19 incarceration on psychological well-being is about .44?

20 A. Correct.

21 Q. And that would be a moderate effect size, right?

22 A. Yes.

23 Q. Is .5 generally considered moderate?

24 A. Yeah, with the type of effects as we had here,
25 yes.



1 Q. And so your point is that that is not so
2 different from the effect sizes that you've identified
3 in your RS-2 study?

4 A. Correct.

5 Q. So for example, mood and emotion in RS-2 had an
6 effect size of .55?

7 A. Right.

8 Q. Which is a moderate effect?

9 A. Right.

10 Q. Which would indicate that people in segregation
11 had negative effects on their mood or emotion?

12 A. Correct.

13 Q. And then your -- and that is itself derived from
14 comparing populations in segregation to populations in
15 general population?

16 A. Correct.

17 Q. And then you're comparing that to a study from
18 Bonta and Gendreau, a totally different study that
19 wasn't included in your meta-analyses?

20 A. Right.

21 Q. The Bonta and Gendreau study, that study was a
22 study of the effects of overcrowded prisons on
23 prisoners' psychological well-being, right?

24 A. That was one aspect of it, yes. They looked at a
25 few variables, but the effect size I pulled there was



1 from the overcrowding data.

2 Q. So what their goal was in establishing this
3 effect size was to isolate a variable, right?

4 A. Yes.

5 Q. And the variable in that study was overcrowded
6 prisons?

7 A. Correct.

8 Q. Which some prisons are overcrowded, but not all
9 prisons are overcrowded?

10 A. Right.

11 Q. So we're comparing the effect sizes of the harms
12 of segregation to the effect sizes of the harms of
13 living in an overcrowded prison?

14 A. That would be fair.

15 Q. And I noticed when I was reviewing your report in
16 the CCLA Case that you included a similar bar graph in
17 that case report?

18 A. Yes.

19 Q. Do you recall submitting that report?

20 A. Yes.

21 Q. And that bar graph had another bar from a
22 different study for physical health?

23 A. Right.

24 Q. And that bar was referencing the Heigel study,
25 correct?



1 A. Correct.

2 Q. And that is at tab 3 of the big compendium here,
3 Expert Exhibit 5 -- no, Expert Exhibit 6. Should be the
4 third tab there (indicating).

5 A. Oh, there we go.

6 Q. Can you read the Bates number there for us?

7 A. The number at the bottom? Vermillion?

8 Q. Uh-huh.

9 A. 003571.

10 Q. Thank you. And do you mind also referring back
11 to the report that you prepared for the CCLA Case? It
12 was Expert Exhibit 4. I know I told you to not worry
13 about the order, but -- there you go.

14 A. There (indicating).

15 Q. Thank you. So the bar chart that you submitted
16 in that case is at Vermillion 4130. Do you have it
17 there?

18 A. Yes, I have it.

19 Q. And so here you have your RS-1 effect sizes, the
20 Bonta and Gendreau effect size regarding overcrowding,
21 and then you had the Heigel 2010 study, which showed
22 .18, right?

23 A. Right.

24 Q. And the Heigel bar was representing physical
25 health, correct?



1 A. Correct.

2 Q. And did you later learn that there was an error
3 in the inclusion of this bar?

4 A. Yes, had a computational error.

5 Q. Okay. Can you describe that computational error?

6 A. I had inverted -- I forget the exact data point
7 or what, but I had it inverted.

8 Q. So as I understand, and you can tell me if this
9 sounds right, but in this case you had looked at the
10 Heigel study, which measured physical health and given
11 it a negative effect size of .18 -- or negative is maybe
12 not the correct term, but negative health outcomes were
13 associated with general incarceration at a .18 effect
14 size?

15 A. Right. Right.

16 Q. And that actually, that was a mistake and it
17 should have been negative .18?

18 A. Yes, they improved in terms of their physical
19 health functioning.

20 Q. And so when we compare that study's effect size
21 to, for example, your chart here of physical health,
22 which is .37 effect size from your study, that would
23 tend to show that there was a major difference in the
24 physical health of prisoners in segregation as opposed
25 to the physical health of prisoners in general



1 population?

2 A. Yeah, except this was prisoners in jail, inmates
3 in jail, so it was a different setting. But yes.

4 Q. Well, I mean, you included it here because you
5 thought that there --

6 A. Yeah, of course.

7 Q. -- was value in comparing them?

8 A. Yeah, of course.

9 Q. And so I'm curious as to why you didn't include
10 this in your report in our case?

11 A. Because I didn't want to have to deal with the
12 issue of a computational error for one, and it seemed
13 less relevant at that point.

14 Q. Well, I assume that you would have fixed the
15 error in this case once you realized it. And so my
16 question is, why not show in your report that, you know,
17 actually for physical health your study and your
18 comparison would show that prisoners on average are
19 effected in terms of their physical health by
20 segregation?

21 A. Sure.

22 MR. DICKMEYER: Objection. Asked and
23 answered. You can answer it.

24 THE WITNESS: So there was the issue of the
25 computational error. In working on a manuscript, and



1 we've published a similar -- or we're publishing a
2 similar graph, it was pointed out that the jail doesn't
3 necessarily offer a good comparison. I don't know if I
4 necessarily agree with that, but that was the feedback,
5 so I took it out, and I've not used it since.

6 Q. (BY MS. FILLER:) I appreciate the explanation.
7 But earlier, you were describing how the segregation in
8 jail is -- can actually be comparable to that.

9 A. And I think it can be. But it in the review
10 process raised an issue, so I quit using it.

11 Q. And this comparison that you've shown us in this
12 bar graph and -- that's not in the 2016 meta-analyses,
13 correct?

14 A. No.

15 Q. The meta-analyses didn't endeavor to compare the
16 effect sizes found regarding segregation with the effect
17 sizes of general incarceration, right?

18 A. I'm sorry, say that again?

19 MS. FILLER: Can you read it back?

20 COURT REPORTER: "The meta-analyses didn't
21 endeavor to compare the effect sizes found regarding
22 segregation with the effect sizes of general
23 incarceration?"

24 THE WITNESS: No, the meta-analyses is a
25 comparison of what happens in terms of mental health



1 functioning in segregation relative to where folks were
2 at in terms of mental health functioning in general pop,
3 not to directly compare effect sizes from ad seg to
4 effect sizes in general pop.

5 Q. (BY MS. FILLER:) Right. And so this is why, to
6 me, this bar graph seems duplicative in a way. The
7 meta-analyses, the goal, is to compare segregation in
8 general population to isolate the effect of segregation
9 on those prisoners as compared to general population,
10 right?

11 A. Right.

12 Q. So comparing that to a wholly different study
13 that purports to show the effect sizes of general
14 incarceration on mental health, we just did that.

15 A. Okay. I'll try to explain. It's my opinion that
16 when you take somebody from general population and put
17 them in segregation, there's going to be a negative
18 effect on average, and that's what our meta-analyses
19 shows in the mild to moderate range.

20 It's also my opinion that the effect that
21 you experience or observe in that analysis will be the
22 same when you take somebody from outside of prison and
23 put them in prison. There will be a negative reaction
24 to being incarcerated. And that negative reaction to
25 being incarcerated in terms of magnitude of effect is



1 about the same is what you're going to get when you take
2 an inmate from general population and put them in
3 segregation.

4 Q. Are the populations that you're comparing, using
5 for your comparison, the general population here at the
6 Bonta and Gendreau, generally, are you accounting for
7 the fact that those folks might be in segregation at
8 some point?

9 A. No.

10 Q. Have you published in a peer review journal your
11 work to compare the effect sizes of segregation that you
12 found in your 2016 meta-analyses with the effect sizes
13 of general incarceration on prisoners' well-being?

14 A. If I did, it would be in that Corrections Today
15 article. And I don't remember, I think we published a
16 figure, but I don't remember if I had the general pop
17 figure. I'd have to look at it. I think it's in here.

18 Q. It's okay. That would be the only one that
19 you can think of?

20 A. That would be the only one, yes.

21 Q. Okay. Your 2016 meta-analyses study posits that
22 "It could be that prisoners who suffer the most in
23 segregation do so because of a culture of harm." Do you
24 recall that?

25 A. Yes.



1 Q. And you define the term "culture of harm" as a
2 situation in which correctional staff, quote, "NAS
3 denigrate, harass and treat inmates capriciously, and
4 induce uncertainty as to how long they will remain in AS
5 while providing little in the way of treatment and
6 related services," end quote. Do you recall that aspect
7 of your study?

8 A. Yes.

9 Q. Do you agree that such a culture is likely to
10 cause mental suffering?

11 A. It certainly could, and it would be -- it would
12 increase the risk, for sure.

13 Q. Do you agree that when prisoners have no idea
14 when or if they'll be able to leave administrative
15 segregation that lack of certainty is likely to cause
16 psychological distress --

17 MR. DICKMEYER: Objection. Calls for
18 speculation.

19 Q. (BY MS. FILLER:) -- based on your study? You're
20 the expert.

21 A. Yeah, I would say that, again, it certainly
22 increases the risk, but it's not necessarily a universal
23 fact that indeterminate sentencing in segregation is
24 going to cause harm. But that's one of the factors that
25 -- that I discuss as something that we can change to



1 reduce risk.

2 Q. Certainty of the steps that a prisoner needs to
3 take to get themselves back to general population could
4 help?

5 A. Yes. I talk about that in the Corrections Today
6 article.

7 Q. That's part of your thesis of the Stepping Up,
8 Stepping Out is that prisoners should have a pathway out
9 of segregation, right?

10 A. Yes. We don't have that woven into that program
11 because it's a treatment program, but stepdown process
12 to go from segregation to general population is good
13 practice.

14 Q. And it's good for prisoners' mental well-being?

15 A. I believe it can enhance inmates' well-being,
16 yes.

17 Q. You also state in your report, and I believe you
18 said this in other cases as well, that, quote, "At the
19 individual level, some inmates placed in AS will
20 experience negative effects, some will not experience
21 negative effects, and some will experience improved
22 functioning," end quote. And I won't belabor the point,
23 but I take it that you're relying on your clinical
24 experience and your study of the sources that we talked
25 about today?



1 A. Yeah, I would say the body of literature, which
2 would include -- yeah, the studies we've talked about
3 today, yes.

4 Q. What do you rely on for your opinion that some
5 prisoners will improve their functioning due to the
6 segregation?

7 A. Well, that -- and one would go to my clinical
8 experience. I observed that. I would include in there
9 inmates that have asked to be in segregation. But also
10 if you look at the meta-analyses and some of the other
11 studies, statistically it suggests that you're looking
12 at averages. If the average is in the mild to moderate
13 range on whatever variable and whatever study, that
14 would suggest that some people are going to be higher
15 but then some people are going to be lower. So
16 statistically, it makes sense as well, and I think
17 that's supported, at least in part, by the meta-analyses
18 and some of the other research.

19 Q. Well, if I understand averages, if you're going
20 to find a mild to moderate, as we said, some will have
21 the larger effect, some will have a less serious effect.
22 That doesn't necessarily mean that some are going to get
23 so much better than they were before, does it?

24 A. Not nec --

25 MR. DICKMEYER: Objection. Form.



1 THE WITNESS: Sorry. Not necessarily.

2 Q. (BY MS. FILLER:) So that's not an inevitable
3 conclusion from -- from that body of research?

4 A. No, I would say that's not an inevitable
5 conclusion from any of the research.

6 Q. And you've said that in your experience some
7 prisoners experience improved functioning while in
8 segregation, and you've said that that is true
9 especially for people who are there voluntarily, right
10 -- or may not especially, but one category is people who
11 are there voluntarily?

12 A. Yeah, I wasn't putting those two issues together,
13 but it seems to reason and my experience in interviewing
14 inmates for various reasons, if they're asking to be in
15 segregation it's because they feel like that's a better
16 place for them where they will do better. So that's one
17 consideration.

18 Separate from that, my clinical experience
19 in working with inmates in segregation, I observed
20 inmates that improved in terms of functioning.

21 Q. I agree, and I just want to take them separately
22 for a moment, if I could.

23 A. Sure.

24 Q. So in terms of prisoners who asked to be in
25 segregation, that's called protective custody, right?



1 They're asking to be in segregation because there's a
2 threat to them in general population, and they need to
3 be in segregation for safety?

4 A. Sometimes. Not always, but sometimes.

5 Q. So for those prisoners, they might improve in
6 functioning because they're not at immediate risk of
7 being killed?

8 A. Or harmed. For those prisoners, that certainly
9 could be the case.

10 Q. And then with regards to your clinical
11 experience, are you describing a time in Kansas? What
12 clinical experience have you had where you've witnessed
13 a prisoner who has improved their mental health
14 functioning while they were in segregation?

15 A. Most specifically, my time in Kansas.

16 Q. And that was the period we talked about in the
17 early '90s?

18 A. Yes.

19 Q. You -- we've referred to this at various times
20 today, but your report cites a recent Kansas study with
21 the lead author Chadick. It was -- it came out in 2018,
22 right?

23 A. Yes.

24 Q. And that study relied entirely on self-scoring,
25 correct?



1 A. Yes.

2 Q. Did not include clinical evaluations?

3 A. Correct.

4 Q. The prisoners completed a psychological
5 instrument called the MCMI-3?

6 A. Yes.

7 Q. And as I understand it, that's a 175 question
8 true/false psychological instrument?

9 A. That's correct.

10 Q. And in the Chadick study, you had a relatively
11 small sample size of 50; is that right?

12 A. I think it was 40. Maybe it was 50. It was 40
13 or 50.

14 Q. Fair enough.

15 A. It was small.

16 Q. And the study noted that the -- it was a small
17 sample size because there wasn't enough funding?

18 A. Yeah, it was a student project.

19 Q. Did you or the study authors ever apply for
20 funding for that study?

21 A. No.

22 Q. And did the study evaluate prisoners in some of
23 the same segregation units that you yourself had worked
24 in when you were a mental health professional in Kansas?

25 A. That I don't know. That's a -- I never thought



1 of that. That's a -- I don't know. I would have to ask
2 the lead author.

3 Q. And the study did find that "AS was associated
4 with higher scores, which would indicate more severe
5 symptomatology, on every scale as compared to general
6 population, including anxiety, somatoform disorder,
7 dysnea, PTSD and major depression"?

8 A. Let me look. Is that --

9 Q. Do you have the Chadick?

10 A. I don't know if that's an exhibit.

11 (EXPERT EXHIBIT NO. 19 MARKED.)

12 Q. (BY MS. FILLER:) Dr. Morgan you've just been
13 passed Exhibit 19. Is this the Chadick study that we've
14 been discussing?

15 A. Yes.

16 Q. And if I could draw your attention to Vermillion
17 4533, please?

18 A. Yes.

19 Q. And under "Results," do you see where there was a
20 significant effect on housing location on the scores for
21 the measures that I've just indicated?

22 A. Yes.

23 Q. And this article, the Chadick piece, also
24 recommends a series of interventions or best practices,
25 correct?



1 A. Yes, we did.

2 Q. And one of them is the Stepping Up, Stepping Out
3 Program that you yourself developed?

4 A. Yes, we included that simply as an example of
5 something that somebody might use in intervening.

6 Q. I want to make sure that I understand your
7 criticism of Mr. Pacholke's report, if I could?

8 A. Yes.

9 Q. Mr. Pacholke, you understand that he's a longtime
10 corrections professional, right?

11 A. Yes.

12 Q. And your work in corrections has always been in
13 the mental health sector, right?

14 A. That's correct.

15 Q. You have not worked as a prison administrator or
16 a prison official, correct?

17 A. Correct.

18 Q. And I take it you do not hold yourself out as an
19 expert in correctional practices?

20 A. Correct.

21 Q. And your criticism of Mr. Pacholke is that he
22 says prison administrators should have let Mr.
23 Vermillion participate in a stepdown program. Because
24 you say it's an unfair criticism, stepdown programs
25 weren't best practices at the relevant period?



1 A. That rehabilitation as a practice for altering
2 inmate behavior in ways that would help them stay out of
3 segregation wasn't commonly recognized as a -- as a
4 practice within segregation.

5 Q. But you agree --

6 A. At that time, yeah.

7 Q. But you agree that prisoners in segregation
8 should be given incentives to improve their behavior and
9 leave segregation?

10 A. I do.

11 Q. And you agree that there should be a clear
12 pathway for them to work their way out of segregation?

13 A. I do.

14 Q. So your problem with Mr. Pacholke's conclusions
15 is that you don't agree it was the best practice or the
16 common practice as of 2009 to 2013 when Mr. Vermillion
17 was himself in segregation?

18 A. Correct.

19 MR. DICKMEYER: Objection. Form.

20 Q. (BY MS. FILLER:) Are you familiar with the Act
21 Program in the Indiana Department of Corrections?

22 A. No.

23 Q. I'll represent to you that Gary Brennan, who is a
24 Defendant in this case, testified that he developed the
25 Act Program as a way for prisoners in segregation to



1 stepdown from segregation. Did you have that
2 information when you expressed your criticism of Mr.
3 Pacholke's conclusion?

4 A. No.

5 Q. And were you aware that Mr. Brennan developed the
6 Act Program for Indiana after he had observed a similar
7 program in Colorado?

8 A. No.

9 Q. And I don't know what the program was
10 specifically that he observed in Colorado, but seems
11 like it's possible it's that quality of life privileges
12 model that we discussed earlier, because we know that
13 Colorado did, in fact, have some kind of incentive-based
14 program at the time of the Colorado study, right?

15 A. Yes, they did in Colorado.

16 Q. And the Colorado study came out in 2010, right?

17 A. Right.

18 Q. So at least if you -- if you accept for a moment
19 my representation regarding what Mr. Brennan testified
20 to, then you'd agree that Indiana and Colorado, at
21 least, had stepdown incentive-based programs at the
22 relevant period?

23 A. Yeah, based on what you're telling me, yes.

24 MS. FILLER: I think we're just about done.
25 Let's take a couple of minutes so I can review and see



1 if there's anything I've missed.

2 THE WITNESS: Okay.

3 VIDEOGRAPHER: We're now off the record at
4 4:0 -- 4:01.

5 (Break.)

6 VIDEOGRAPHER: We're now back on the record
7 at 4:17.

8 Q. (BY MS. FILLER:) Just a few more questions, Dr.
9 Morgan.

10 A. Okay.

11 Q. Do you --

12 VIDEOGRAPHER: Can you put your mike on?

13 MS. FILLER: Nope. Thank you.

14 Q. (BY MS. FILLER:) You criticized Dr. Kupers for
15 referring to SHU Post-Release Syndrome; is that right?

16 A. Yes.

17 Q. And as I understand it, your criticism is that
18 this isn't a official diagnosis in the DSM, right?

19 A. Well, that it's not an official diagnosis and not
20 a scientifically accepted syndrome.

21 Q. Do you agree that the symptoms that he describes
22 are, in fact, symptoms that have been associated with
23 people after they've been released from long-term
24 solitary?

25 A. I do.



1 Q. And you've described in your report an anonymous
2 prisoner. You call him, I think, Prisoner A?

3 A. Yes.

4 Q. And I've reviewed a few of your reports in other
5 cases now, and I feel like I've seen that description
6 also attributed to a prisoner named Jonathan?

7 A. Yes.

8 Q. And is that just the same person but a different
9 way of anonymizing the prisoner for purposes of
10 confidentiality?

11 A. That's correct.

12 Q. And I read in one of the depositions, I believe,
13 that Jonathan, or Prisoner A, was a real prisoner who
14 you evaluated in Pelican Bay?

15 A. Correct.

16 Q. And how many prisoners did you evaluate in
17 Pelican Bay again?

18 A. Somewhere between 40 and 50.

19 Q. And was Jonathan the only prisoner who -- well,
20 strike that. Some prisoners, I assume, from that sample
21 described negative mental health effects from
22 segregation?

23 A. Correct.

24 Q. And some of those negative mental health effects
25 were severe, some were moderate, and Jonathan would have



1 been in the low end?

2 A. Yes.

3 Q. Was Jonathan the prisoner who had the least
4 negative effects from segregation?

5 A. I don't recall specifically. He was not one of
6 the class members named. And relative to them, yes.
7 Relative to the others, I would need to go back and look
8 at my -- my notes on that.

9 Q. One moment. I see you've already got it?

10 A. Yes.

11 Q. Expert Exhibit 5, which is the deposition, or as
12 the Canadians call it, cross-examination transcripts,
13 from the Canadian Civil Liberties Association, the CCLA
14 case?

15 A. Yes.

16 Q. And if I could draw your attention to Vermillion
17 4341, which is page --

18 A. I'm there.

19 Q. Okay. And you were asked at line 13, quote, "Dr.
20 Morgan, how does Jonathan, the Jonathan example, relate
21 to the other 150 you interviewed?" Answer, "And just to
22 be clear, it was approximately 150. I don't recall the
23 exact number, somewhere around 130 to 150. Jonathan
24 reported less concerns." And then goes on to say on the
25 next page that essentially, "He expressed no concerns



1 and no significant distress, whereas the majority of
2 other inmates I interviewed expressed distress and
3 concern resulting from their segregation placement."

4 Does that refresh your recollection some?

5 A. Yes, it does. Yeah.

6 Q. And is this deposition testimony that you gave in
7 the CCLA Case regarding Jonathan accurate?

8 A. Yes, it's accurate.

9 MS. FILLER: No further questions at this
10 time. Thank you.

11 THE WITNESS: Thank you.

12 MR. DICKMEYER: I don't have any questions
13 at this time. So we're off the record.

14 VIDEOGRAPHER: We're off the record at 4:23.
15 (End of video part of depo.)

16 MR. DICKMEYER: would you like an
17 opportunity to read and sign the transcript or waive?

18 THE WITNESS: whichever. I mean, I don't
19 know. I don't think I've ever been asked that.

20 MR. DICKMEYER: we'll take the signature.
21 You can send it to our office, and I'll get it over to
22 Dr. Morgan.

23 (Deposition concluded.)

24 (Signature of witness required.)

25



CHANGES AND SIGNATURE

WITNESS NAME: DR. ROBERT MORGAN

DATE OF DEPOSITION: May 21, 2019

PAGE LINE	CHANGE	REASON
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I, DR. ROBERT MORGAN, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

DR. ROBERT MORGAN

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared DR. ROBERT MORGAN known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, _____.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____
COMMISSION EXPIRES: _____



1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF INDIANA

3 JAY VERMILLION,)
4 Plaintiff,)
5 VS.) Case No. 1:15-CV-0605-RLY-TAB
6 MARK LEVENHAGEN, et al,)
7 Defendants.)

8 *****

9 REPORTER'S CERTIFICATION
10 ORAL AND VIDEOTAPED DEPOSITION OF DR. ROBERT MORGAN
11 May 21, 2019

12 I, Jamie Jackson, Certified Shorthand Reporter in
13 and for the State of Texas, hereby certify to the
14 following:

15 That the witness, DR. ROBERT MORGAN, was duly
16 sworn by the officer and that the transcript of the oral
17 deposition is a true record of the testimony given by
18 the witness;

19 That pursuant to the applicable rules, the
20 deposition was submitted on _____, 2019 to the
21 witness or to the attorney for the witness for
22 examination, signature and return to me by _____,
23 2019;

24 That the amount of time used by each party at the
25 deposition is as follows:

MS. MAGGIE E. FILLER: 05 HOURS: 16 MINUTES



1 MR. DAVID C. DICKMEYER: 00 HOURS: 00 MINUTES

2 That pursuant to information given to the
3 deposition officer at the time said testimony was taken,
4 the following includes counsel for all parties of
5 record:

6 MS. MAGGIE E. FILLER, Attorney for Plaintiff

7 MR. DAVID C. DICKMEYER, Attorney for Defendants;

8 That \$_____ is the deposition officer's
9 charges to the Plaintiff for preparing the original
10 deposition transcript and any copies of exhibits.

11 I further certify that I am neither counsel for,
12 related to, nor employed by any of the parties or
13 attorneys in the action in which this proceeding was
14 taken, and further that I am not financially or
15 otherwise interested in the outcome of the action.

16 certified to by me this ___ day of May, 2019.

17
18
19 _____
JAMIE JACKSON, CSR, Texas CSR #2583
Expiration: 04/30/21
McCorkle Litigation Services, Inc.
200 N. LaSalle Street, Ste 2900
21 Chicago, IL 60601
22 Phone: (312) 263-0052
23
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<p style="text-align: center;"><u> </u> \$ <u> </u></p> <p>\$285 79:10 \$8,000 79:18</p> <p style="text-align: center;"><u> </u> 0 <u> </u></p> <p>003571 181:9 02111 2:5</p> <p style="text-align: center;"><u> </u> 1 <u> </u></p> <p>1 3:8 8:11,13 80:11 156:11 178:7</p> <p>10 3:16 24:6 26:8 71:3, 5 77:25 78:1 178:4</p> <p>106 3:19 10:28 40:11 10:34 40:14 10:55 53:18 11 3:17 19:24 26:10 74:8,10 107:10 116 3:20 11:04 53:21 11:31 67:10 11:33 67:13 12 3:18 96:12,14 108:14 116:9,15 141:16 12.4 146:13 127 147:6 128 3:21 12:31 103:6 13 3:19 27:3 106:25 107:2 199:19 130 199:23 136 163:7,16,19,24 139 3:22 14 3:20 28:21 116:23, 25 157:4,7 158:7 140 161:23 15 3:8,21 68:23 69:9 95:20 128:14,16 149:14 168:4 150 157:3,6 199:21,22, 23 153 3:23 16 3:22 30:5 108:11 139:11,13</p>	<p>1643 107:12 1644 108:11,15 17 3:23 30:20 33:1 152:25 153:1 174 3:24 175 192:7 18 3:24 32:1 174:25 175:5,14 181:22 182:11,13,17 181 62:21 182 63:12 19 3:25 157:10 158:8 193:11,13 193 3:25 1963 168:2 1974 168:25 1983 150:25 1990 178:15 1992 46:4 49:22 50:12 54:19 1993 46:4 49:22 50:12 54:20 1998 51:24 54:21 1999 51:24 54:21 134:13 1:15-CV-0605- RLY-TAB 4:8 1:19 103:9</p> <p style="text-align: center;"><u> </u> 2 <u> </u></p> <p>2 3:2,8 15:25 16:2 156:12 163:1 178:12 20 50:15 60:10,22 77:25 78:1 102:19 172:4 200 3:4 2000 13:11 141:16 2001 41:19 154:19 162:8, 14 2002 43:6 2005 20:11 43:13 2006 20:11 166:8 2009 176:7 195:16 201 3:5 2010 15:23 127:25 134:6 137:25 138:5 141:15,22,25 142:19 181:21 196:16</p>	<p>2011 134:5 2012 43:1,6 141:24 2013 39:13,20 40:3 50:1, 11 54:23 133:21 134:4,11 195:16 2015 40:4 2016 15:15 19:16 29:16 30:10,15 68:3 90:6 91:2,16 92:3 125:23 130:5 134:9 149:3 153:4 156:9 161:5 184:12 186:12,21 2017 14:14 29:9,19 35:25 2018 14:11 20:12 27:3 30:16 126:2,11 139:7,14 140:1 142:18 143:23 144:25 149:10 160:25 191:21 2019 4:3 8:25 38:1 77:16 203 3:5 21 16:8 34:7 172:5 210 161:23 21st 4:3 23 36:24 172:4 24 37:20 41:18 79:22 161:17 25 79:22 260 64:2 261 64:11 28 175:14 29 9:1 133:20 2:15 139:20 2:17 139:23 2:34 150:12 2:42 150:15</p> <p style="text-align: center;"><u> </u> 3 <u> </u></p> <p>3 3:10 14:14 60:13,15 148:8 181:2 30 48:16,17,19 49:15 50:15 102:19 108:25 30-day 107:18 317 234-2265 2:12 33600 163:11 3375 3:13 67:22 350 25:15 3585 155:5</p>	<p>3596 163:1 36 60:24 61:6 3651 166:20,21 3655 166:22 37 61:6 182:22 382 145:5 383 144:25 384 146:6,8,9 3888 168:4,9 39.8 146:13 3955 168:25 3:05 165:24 3:10 166:2</p> <p style="text-align: center;"><u> </u> 4 <u> </u></p> <p>4 3:4,11 19:11 66:7,9 133:20 134:11 154:24 163:9,10 181:12 40 62:16 73:7 168:10 192:12 198:18 40,000 157:9,20 400 25:15 4130 181:16 42 150:25 4341 199:17 4375 3:10 60:20 44 178:19 4405 60:25 4409 62:17 4422 63:21 4533 193:17 46204-2770 2:12 4:0 197:4 4:01 197:4 4:17 197:7 4:23 200:14 4th 8:25</p> <p style="text-align: center;"><u> </u> 5 <u> </u></p> <p>5 3:12 66:19,21 80:14 134:3,11 178:23 181:3 199:11 50 73:8 161:17 192:11,</p>	<p>12,13 198:18 5139 117:4 5140 117:23 52 146:25 53 63:20 53743 2:16 540 24:24 25:12,14 55 179:6 550 25:14 5th 2:11</p> <p style="text-align: center;"><u> </u> 6 <u> </u></p> <p>6 3:13 60:19 67:14,16 79:17,18 100:11 134:4,6 138:3 154:25 181:3 60 3:10 49:16 147:6 163:13,16,19 164:16,20 165:2,18 62 147:6 66 3:11,12 67 3:13 68 3:14 69 3:14</p> <p style="text-align: center;"><u> </u> 7 <u> </u></p> <p>7 3:14 68:8,10 70 3:15 71 3:16 74 3:17 76 146:25 79453 2:16</p> <p style="text-align: center;"><u> </u> 8 <u> </u></p> <p>8 3:8,14 69:16,18 79:17 80 164:19 806-777-1357 2:17 82 13:25 857 284-1455 2:5 88.9 146:13 8th 2:4</p> <p style="text-align: center;"><u> </u> 9 <u> </u></p> <p>9 3:15 19:21 70:19,21 134:12</p>	<p style="text-align: center;"><u> </u> A <u> </u></p> <p>a.m. 4:6 ability 108:1 148:11 absolute 92:23 absolutely 17:22 74:6,7 83:2,4 85:12 98:15 115:17 abuse 37:2 52:17,20 ACA 15:12 96:6,11 academic 12:25 13:2,10 51:21 accept 196:18 accepted 13:20,21 87:12 121:9 132:24 197:20 accepting 110:14 access 15:11 86:20 157:17 172:24 account 101:7 147:11 159:15 160:3,15 accounted 165:10 accounting 159:25 186:6 accredited 51:23 accuracy 156:5 accurate 6:8,14,24 26:2 61:19 64:20 67:4 71:11 121:6 200:7,8 accurately 8:22 61:12 64:14 ACLU 95:12,15 acquitted 52:7 Act 195:20,25 196:6 action 58:23 62:12 106:14 actively 18:18,19 activities 174:5 activity 176:6 actual 45:17 93:25 137:23 143:11 ad 185:3 add 7:24 additional 48:5 73:7 80:20 154:11,14 addresses 32:20,22 34:3,4</p>
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