

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF NEW YORK  
COUNTY OF FRANKLIN : VILLAGE OF MALONE  
-----

In the Matter of an Examination of PATRICK NICHOLS,  
a Patrolman on the Village of Malone Police Department,  
held at the offices of the Malone Village Police Department,  
Malone, New York, on the 17th of March, 1994.

P R E S E N T:

James Phillips, Chief of Police

Gerold Moll, Assistant Chief of Police

Patrick Nichols, Patrolman, Malone Village  
Police Department

Dean Fountain, Union President

ACC-U-SCRIBE REPORTING SERVICE  
Suzanne M. Niles, Notary Public  
11 Main Street  
PO Box 762  
Canton, New York 13617  
(315) 379-9216  
Watertown - (315) 786-DEPO  
\*\* COPY \*\*

Examination of Patrick Nichols

(The Examination commenced at 9:53 a.m.)

CHIEF PHILLIPS: Before I get started, I would like to get everybody's name for the record: Officer Patrick Nichols, Officer Dean Fountain, Vice President of the PBA, the union representing the police department, Assistant Chief Gerald Moll, and myself, Chief James Phillips.

Officer Nichols, I asked to you report to my office today to ask you a few questions regarding your police officer duties. In order to get a fair and accurate record of our meeting, I have requested a stenographer be present and also have you sworn in before I ask you any questions.

Patrick Nichols,  
having been duly sworn by the court reporter, testified as follows:

OFFICER NICHOLS: I need to request a copy of whatever comes out of this, too.

CHIEF PHILLIPS: Okay.

EXAMINATION BY

CHIEF PHILLIPS:

Q. Pat, as a trained police officer, what is the importance of officers' safety while working?

1 Examination of Patrick Nichols

2 A. What is the importance of officers' safety?

3 Q. Yes.

4 A. It's very important.

5 Q. How is it important?

6 A. I don't understand your question.

7 Q. Are you trained as a police officer?

8 A. Yes.

9 Q. Are you trained in procedures in regards to  
10 officers' safety?

11 A. Yes.

12 Q. That's the question. Why is it important while  
13 you are working?

14 A. To protect everybody that's in the environment.

15 Q. What do you mean by, "everybody?"

16 A. Yourself, the people that you're dealing with.

17 Q. Okay. What is the common practice when  
18 fingerprinting a suspect with regards to wearing your duty  
19 weapon?

20 A. I don't believe I know of any common practice.

21 Q. You are not trained -- as a trained police  
22 officer, you are not trained in the academy on how to do  
23 fingerprinting?

24 A. Yes, I'm trained on how to fingerprint, yes.

25 Q. Tell me how you are trained on fingerprinting.

1 Examination of Patrick Nichols

2 A. You have changed your question, then. Your  
3 question was --

4 Q. No. I said, what is the common practice when  
5 fingerprinting a suspect in regards to wearing your duty  
6 weapon?

7 A. I'm not aware of any procedure or policy, if  
8 that's what you're asking me.

9 Q. I'm not asking for a policy or procedure. What is  
10 the normal procedure or what is the normal way that you  
11 fingerprint somebody?

12 A. In regards to my duty weapon?

13 Q. I didn't say in regards to your duty weapon. I  
14 said, how do you fingerprint somebody?

15 A. How do I fingerprint somebody? Well, I put on a  
16 pair of gloves and I fingerprint them on the card.

17 Q. In your police training, have you been instructed  
18 on officers' safety procedures when taking a suspect into  
19 custody?

20 A. In regards to the municipal training?

21 Q. In your training, Pat.

22 A. Okay. I just want to be clear on the questions so  
23 I can give you a clear answer.

24 Q. In any training that you have had as a police  
25 officer, have you been instructed on officers' safety



1 Examination of Patrick Nichols  
2 procedures when taking a suspect into custody?

3 A. There has been -- yes, yes, there has been  
4 discussions on that.

5 Q. Discussions or training?

6 A. During training, yes.

7 Q. In regards to your duty weapon, when  
8 fingerprinting a suspect, what is the common practice used at  
9 the police department for a duty weapon?

10 A. If there is a potential or the possibility that  
11 the subject you are fingerprinting could pose a danger to the  
12 person doing the fingerprinting, then it would be -- it is  
13 always recommended that you, in those cases, remove your gun  
14 from your belt and secure it in a different location.

15 Q. Okay. Should a police officer be alert and  
16 cautious when taking someone into custody?

17 A. Yes.

18 Q. Why is this important?

19 A. Well, alert and cautious for safety reasons.

20 Q. Okay. On March 4th, 1994, you were fingerprinting  
21 a female suspect that was arrested for assault and you still  
22 had on your loaded duty weapon. Why is that?

23 A. Why is that? Because evaluating the  
24 circumstances, I did not feel threatened by the -- did you  
25 say 18-year-old female?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. I just said a female.

A. The young female that was being fingerprinted.

Q. Wasn't it true this female was arrested for assault and that's why she was at the police station?

A. Yes.

Q. Wouldn't you think an assault arrest would be a charge that you would want to take your duty weapon off?

A. In some circumstances, yes.

Q. I'm not talking about some circumstances.

A. In this particular case, no.

Q. Were you instructed to take your duty weapon off?

A. Upon completion of fingerprinting, yes, I was, and I did.

Q. Is there such a thing as a routine traffic stop?

A. Yes.

BY ASSISTANT CHIEF MOLL:

Q. What is a routine traffic stop, Officer Nichols?

A. If I observe a violation of any V & T or anything else involving a motor vehicle, then I routinely stop it.

Q. Have you ever heard the terminology, "Routine traffic stop" in your police training?

A. I can't recall if that particular term has been used.

Q. In police training, if you were to hear, "Routine

1 Examination of Patrick Nichols

2 traffic stop," that would mean being complacent and laid  
3 back, not being alert?

4 A. I'm not aware of that at all.

5 BY CHIEF PHILLIPS:

6 Q. If you would have remembered to remove your duty  
7 weapon, would that have provided more safety to yourself and  
8 the others at the station?

9 A. If I would have remembered? You're saying that if  
10 I hadn't forgotten, and it's not that I forgot to remove my  
11 duty weapon.

12 Q. Well, isn't it true a supervisor told to you  
13 remove it?

14 A. Upon completion and I did, yes.

15 Q. Isn't it common practice in the Malone Police  
16 Department every time that you fingerprint somebody, that you  
17 remove your duty weapon?

18 A. Not that I am aware of.

19 Q. How long have you been a member of the police  
20 department, Officer Nichols?

21 A. It will be six years this coming June.

22 Q. How many arrests have you made since you have been  
23 a police officer?

24 A. I couldn't tell you, couldn't even guess.

25 Q. I will rephrase the question. If you had removed

## 1 Examination of Patrick Nichols

2 your duty weapon, would that have provided more safety to you  
3 and your fellow officers?

4 A. If there was a potential for something serious to  
5 occur, it definitely would have, yes.

6 Q. Isn't there a potential every time that you place  
7 somebody under arrest that that individual will turn on the  
8 police officer?

9 A. There could be a certain amount of potential  
10 anytime, yes.

11 Q. Is there a Penal Law charge for obstructing  
12 governmental administration?

13 A. Yes.

14 Q. Have you ever been involved in arresting an  
15 individual involved in obstructing governmental  
16 administration?

17 A. I have made arrests on obstructing governmental  
18 administration, yes.

19 Q. Would this type of charge be used in order for  
20 officers' safety so no one will obstruct a police officer  
21 while making an arrest?

22 A. Could you ask that again?

23 Q. Would the charge of obstructing governmental  
24 administration -- could that be used if you arrested somebody  
25 in order for officers' safety so no one obstructed the police

1 Examination of Patrick Nichols  
2 officer while making an arrest?

3 A. I would believe that it could be, yes, if the  
4 elements were there for that.

5 Q. On March 4th later on in the evening, did you  
6 remove your duty weapon during another arrest?

7 A. On March 4th during another arrest? I have no  
8 recollection of March 4th arrests.

9 BY ASSISTANT CHIEF MOLL:

10 Q. Could I bring it to your attention,  
11 Officer Nichols? Do you remember arresting a  
12 Lynn Dillabough?

13 A. Yes.

14 Q. If I were to tell you that was March 4th, would  
15 that bring any recollection?

16 A. Yes.

17 ASSISTANT CHIEF MOLL: If I may, Chief, could  
18 I go back to a couple of things?

19 CHIEF PHILLIPS: Yeah, sure.

20 BY ASSISTANT CHIEF MOLL:

21 Q. How long did you know the suspect that was  
22 arrested for assault that was at the station?

23 A. Which one?

24 Q. The one that was arrested for assault.

25 A. The female? How long have I known her?

## Examination of Patrick Nichols

Q. The one you fingerprinted with a loaded duty weapon.

A. I have known her, I don't know, a few years, approximately.

Q. Few years? Were you briefed fully on what transpired during her arrest? Were you involved in the arrest?

A. No.

Q. Were you just coming on to duty?

A. I had been here for about a half an hour.

Q. Were you briefed fully on what took place during that arrest?

A. Well, I wasn't briefed directly; I was listening to what was going on.

Q. Isn't it true that she actually assaulted her mother, causing physical injury?

A. That's what is alleged or what was alleged.

Q. Is it true that the mother was at the station while she was being fingerprinted?

A. Yes.

BY CHIEF PHILLIPS:

Q. The question I had asked you before, did you remove your duty weapon during the arrest of Lynn Dillabough?

A. Did I fingerprint Lynn Dillabough?

## 1 Examination of Patrick Nichols

2 Q. Did you fingerprint her, and if you fingerprinted  
3 her, did you remove your duty weapon?

4 A. I don't know if I fingerprinted Lynn Dillabough.

5 Q. Did you take your weapon off while she was at the  
6 station?

7 A. While she was in the station?

8 Q. Yeah.

9 A. I can't recall.

10 ASSISTANT CHIEF MOLL: If you'd like, I could  
11 pull the arrest file to refresh his memory.

12 CHIEF PHILLIPS: No, that's fine.

13 A. Seems, Chief, she was very violent.

14 Q. Did you leave the station after that in order to  
15 give the subject a ride home?

16 A. To give this Lynn Dillabough a ride home? I had  
17 three arrests.

18 ASSISTANT CHIEF MOLL: There's Lynn  
19 Mulverhill, Lynn Dillabough, there's Lynn Souvie,  
20 this is all the same person.

21 A. Did I give her a ride home?

22 Q. Right.

23 A. I don't recall that.

24 CHIEF PHILLIPS: Would you refresh his  
25 memory?

1 Examination of Patrick Nichols

2 ASSISTANT CHIEF MOLL: Sure. I'm going to go  
3 get an arrest file.

4 (Assistant Chief Moll exits and,  
5 subsequently, reenters examination room.)

6 EXAMINATION BY

7 ASSISTANT CHIEF MOLL:

8 Q. First I will show you our log book, and I will  
9 correct a question in regards to an arrest. Did there come a  
10 time that you arrested a Lisa Williams?

11 A. Yes.

12 Q. And what was she arrested for?

13 A. Falsely reporting.

14 Q. And was she brought to the station by you?

15 A. Yes.

16 Q. And was she fingerprinted by you?

17 A. Yes, she was.

18 Q. And was she brought home by you?

19 A. Yes, she was.

20 Q. When you fingerprinted Lisa Williams, did you take  
21 off your duty weapon?

22 A. Yes, I did.

23 Q. And where did you place it?

24 A. In the file cabinet drawer.

25 Q. And when you left with Lisa Williams, did you have



1 Examination of Patrick Nichols  
2 your duty weapon on at that time?

3 A. I don't recall.

4 Q. Can I have the logbook back, please?

5 ASSISTANT CHIEF MOLL: Would you like me to  
6 continue, Chief?

7 CHIEF PHILLIPS: Yes.

8 BY ASSISTANT CHIEF MOLL:

9 Q. Do you recall returning to the station without  
10 Lisa Williams shortly after you brought her home to get your  
11 duty weapon out of the front counter?

12 A. Yes, I do that now.

13 Q. Do you know Lisa Williams?

14 A. Yes.

15 Q. Have you dealt with her?

16 A. In the past prior to this evening?

17 Q. Yes.

18 A. Yes?

19 Q. Or that evening. How long have you known  
20 Lisa Williams?

21 A. Maybe a year.

22 Q. Was she arrested for a violent crime, such as  
23 assault?

24 A. That I couldn't say for sure.

25 Q. Was she arrested that night by you for a violent

1 Examination of Patrick Nichols  
2 crime, such as assault?

3 A. No.

4 Q. Can you explain to me why you felt it more  
5 warranted to take off your duty weapon with Lisa Williams  
6 than you did with someone that was arrested for assault and  
7 the victim was still at the station?

8 A. Because on the night prior to that, Sergeant  
9 Ritchie advised me after fingerprinting Lynn Dillabough that  
10 it was department policy to remove your duty weapon anytime  
11 you fingerprint anyone, and this is why on the following  
12 evening when I fingerprinted Lisa Williams, I took off my  
13 duty weapon.

14 Q. And you don't feel that it's a very common  
15 practice of a police officer, no matter how minor the arrest,  
16 no matter what the incident involves making the arrest, that  
17 he takes off his duty weapon while fingerprinting, correct?

18 A. That's -- can you say that again, ask that  
19 question again?

20 Q. You don't feel that it is a common practice among  
21 police officers to take off their duty weapon when  
22 fingerprinting, correct?

23 A. I'm not aware of any procedures.

24 Q. I didn't ask you about procedures. I'm asking you  
25 about a common practice, like using the crosswalk to walk

1 Examination of Patrick Nichols  
2 across the street.

3 A. It could be, it could be, some may, some may not.

4 Q. Thank you.

5 ASSISTANT CHIEF MOLL: I believe we left off,  
6 Chief, with --

7 CHIEF PHILLIPS: I have got a question.

8 EXAMINATION BY

9 CHIEF PHILLIPS:

10 Q. If you were taking someone into custody that was  
11 intoxicated and someone diverted your attention, would that  
12 compromise your safety?

13 A. It could.

14 Q. Why is that or how could it?

15 A. Well, again, it depends on each situation.

16 Q. Just tell me your feelings. Just give me an  
17 example.

18 A. Give you an example of a situation where, if I  
19 took somebody into custody for being intoxicated --

20 Q. If you were arresting somebody on disorderly or  
21 any charge and the person was intoxicated and another officer  
22 distracted you in some way or whatever while you were doing  
23 that, how would that affect your safety?

24 A. If it were a violent situation, then it could draw  
25 my attention away from whoever it is I'm placing under

1 Examination of Patrick Nichols

2 arrest, which is not good.

3 Q. Would this be a concern to yourself and your  
4 fellow officers?

5 A. Yeah, under the violent circumstances it could be,  
6 yes.

7 Q. Don't all arrests, at the time that you're making  
8 the arrest, have the potential to become violent?

9 A. Yes, there is some potential there in any case.

10 Q. Okay. When you left the station without your duty  
11 weapon, what would happen if there was a serious call from  
12 the time that you had left the station to the time that you  
13 had to return to get your weapon?

14 A. Well, if there was a situation where I would be  
15 required to use my handgun, I would be without it.

16 Q. Would you consider that pretty serious?

17 A. Under those circumstances, yes, it could be.

18 Q. Would your response have been delayed because of  
19 that?

20 A. My response to the scene?

21 Q. To the scene of a serious incident.

22 A. Well, I don't see why it would be delayed. If I  
23 were to get there and realized I didn't have it, it would be  
24 serious at that time.

25 Q. Wasn't that basically what I had asked you? If

## Examination of Patrick Nichols

you had a serious call and once you got to the call or on your way to the call, you realized you didn't have your duty weapon --

A. Oh, if I realized it before I got there, okay, and then I were to go and get it? Yeah, it would delay the response.

Q. Isn't there some calls that require that you be armed --

A. Right.

Q. -- when you respond to them --

A. Right.

Q. -- or you should be?

A. But you're asking if I realize on the way to the call, yes, it would delay it if I went back and got my weapon.

Q. And the reason is, if you left to go to the call and then came back to the station, that would have delayed the response?

A. Ask that part again.

Q. All I'm saying is, if you were on patrol without a weapon, you got a call of a serious nature, and at that moment you realized you didn't have your weapon, and it was a type of call where the potential of serious violence or of something serious where you needed your weapon and you had to

## Examination of Patrick Nichols

1 go back to the station no matter where you were in the  
2 village to get it --

3 A. Mm-mm.

4 Q. -- would that delay your response to that call?

5 A. It could, depending on where it was.

6 Q. But you still have to come back to the station,  
7 come into the station, get your gun, go back into the car and  
8 go?  
9

10 A. Right.

11 Q. No matter where you were, it's going to delay you  
12 somewhat?

13 A. To some extent.

14 Q. Could this jeopardize officers' safety?

15 A. In some circumstances, it could.

16 Q. If there was another officer at that scene that  
17 was in a gun battle and he was waiting for you to get there,  
18 would that be one of those incidents?

19 A. In a lot of things like that it could be, but we  
20 could put in a lot of if's.

21 Q. I'm not asking you that. I'm asking, could that  
22 have jeopardized officers' safety?

23 A. In that particular example that you just mentioned  
24 it could, yes.

25 Q. Okay. Were you disturbed over an incident during

1 Examination of Patrick Nichols  
2 a driving while intoxicated arrest involving  
3 Patrolman Mulverhill?

4 A. Was I disturbed?

5 Q. Mm-mm.

~~14~~ 6 A. No.

7 Q. You weren't disturbed?

8 A. You want to define what you mean by, "disturbed"?

9 BY ASSISTANT CHIEF MOLL:

10 Q. Were you bothered?

11 A. Was I bothered?

12 Q. Mm-mm.

13 A. I wasn't bothered.

14 Q. You weren't bothered? Officer Nichols, here's a  
15 statement that you typed up. I have underlined in red.  
16 Could you read that whole sentence to me, please?

17 A. "I had made the determination while on patrol at  
18 some point I would let Mulverhill know it bothered me the way  
19 he conducted himself."

20 Q. Can I have that back, please?

21 A. Well, this is very unclear. Your question was,  
22 did it bother me about something that took place at the  
23 driving while intoxicated arrest.

24 Q. That's what the question was.

25 BY CHIEF PHILLIPS:

## Examination of Patrick Nichols

Q. The question was, were you disturbed or bothered over an incident during a driving while intoxicated arrest.

A. I was bothered by the way Officer Mulverhill spoke to me.

Q. So were you bothered over the incident?

A. The incident itself that brought that about didn't bother me. It was the way that Officer Mulverhill had spoken to me personally as a result of --

Q. When you were asked to give a statement in regards to the problems that you had during that driving while intoxicated arrest, did you feel that you violated any department rules or regulations?

A. No, not at the time.

Q. In your statement, you said you felt his conduct was inappropriate and unprofessional. Why did you feel that way?

A. Why did I feel that way? Can I see that? I gotta refresh my memory.

ASSISTANT CHIEF MOLL: Sure.

A. I was referring to the tone of voice that he used in his response to my request, which was that if I wanted it picked up, to do it myself. That's what I felt was inappropriate and unprofessional.

BY CHIEF PHILLIPS:



## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Was his conduct life threatening?

A. No.

Q. Could his conduct cause immediate physical harm to anyone?

A. No.

Q. Was Patrolman Mulverhill involved in taking a suspect into custody for driving while intoxicated?

A. No, that was a different officer. At that time, Officer Mulverhill was over next to the patrol car with a state trooper and myself.

Q. Was the defendant in the immediate area?

A. In the near area, yes, Officer Mulverhill had his back to the defendant prior to my asking him to pick something up.

Q. Wasn't it true that the defendant was placed under arrest after he had taken the Alco-Sensor?

A. Shortly after, yes.

Q. Isn't it also true that, while giving the Alco-Sensor, that at that time the defendant still has not been arrested and there is a serious -- there is a good chance that at that time when you have determined what the results are, that if he's going to become violent, that is the time that he will become violent, when you place him under arrest?

## Examination of Patrick Nichols

A. Could be, and I never turn my back away from him, from that person.

Q. Did you bring that inappropriate, unprofessional conduct to the attention of Patrolman Mulverhill?

A. Actually, back at the station. In this statement that I gave, Officer Mulverhill brought his conduct to my attention first, and he stated that he probably shouldn't have done what he did.

BY ASSISTANT CHIEF MOLL:

Q. When you were at the scene, did you bring this inappropriate, unprofessional conduct to the attention of Patrolman Mulverhill?

A. Let me back up here. Yes, I pointed at the tube and said to him, "That doesn't look too good." That's what my comment was to him.

BY CHIEF PHILLIPS:

Q. Was it necessary to bring this conduct to his attention while the arrest was taking place?

A. Considering he was over standing where he was and he wasn't facing the person that was being arrested and I was, I pointed at it.

ASSISTANT CHIEF MOLL: What's your answer?

What's your answer?

OFFICER NICHOLS: What is your question

## Examination of Patrick Nichols

again?

BY CHIEF PHILLIPS:

Q. Was it necessary to bring this conduct to his attention while the arrest was taking place?

A. That's a matter of opinion, and in my opinion, at that time, the circumstances being that they were, I felt it necessary to tell him that.

ASSISTANT CHIEF MOLL: So your answer is

yes?

OFFICER NICHOLS: Under those circumstances,

yes.

BY CHIEF PHILLIPS:

Q. Did Patrolman Mulverhill answer when you called his name?

A. Yes.

Q. Would that in any way divert the attention of Patrolman Mulverhill during this arrest?

A. No, no, no.

Q. Did Officer Mulverhill assist in the arrest?

A. Yes.

Q. So if he assisted in the arrest, then, he was part of the arrest?

A. I was there, too, I would be considered an assisting officer, as well. My attention was never diverted

1 Examination of Patrick Nichols  
2 from the person being placed under arrest.

3 Q. All I'm asking is, was Officer Mulverhill's  
4 attention diverted from the arrest?

5 A. Not as a result of me pointing this out to him.  
6 He had already diverted his own attention by coming over to  
7 where the trooper and the patrol car was and was talking to  
8 him.

9 BY ASSISTANT CHIEF MOLL:

10 Q. Would it be -- is it to my understanding that  
11 you're testifying that, actually, the conduct of Officer  
12 Mulverhill diverted your attention to the arrest?

13 A. It didn't divert my attention. As I said, I had  
14 not turned my back. I was continually watching Officer -- I  
15 believe it was Officer Fountain who was making the arrest  
16 that night. I was with that officer and the subject the  
17 entire time. Officer Mulverhill walked over to the trooper  
18 car, and he had his back to the defendant and the other  
19 officer. I just pointed it out to him that, you know, "That  
20 doesn't look too good."

21 BY CHIEF PHILLIPS:

22 Q. Are you aware of Section 10.1.33 and  
23 Section 6.2.33 of the department rules and regulations?

24 A. I probably am, but to review them would help.  
25 6.2.33?

## Examination of Patrick Nichols

ASSISTANT CHIEF MOLL: Officer Nichols, I will give you this copy to refer to and take mine back.

A. What was that again?

Q. 10.1.33 and 6.2.33.

A. Okay.

Q. Are you familiar with those now that you have refreshed your memory?

A. 6.2.33 I am, 10.1.33, okay, I'm familiar with that one.

Q. Why would those sections be important?

A. Well, 10.1 33, "Failure to notify a superior officer that a member of the department is filing --" that one would be important so that the officer in charge of that particular shift could ensure that his shift was being run appropriately according to the rules and regulations.

Q. Okay.

A. And the other one, that would be important so that the supervising officer could ensure that anything necessary to correct whatever the problem is is done properly, take control of the matter. You're talking about an unusual occurrence, important casualty or serious crime? Is there a third one?

Q. No.

## Examination of Patrick Nichols

A. Just those two?

Q. The conduct that you thought was inappropriate and unprofessional, did you ever let your immediate supervisor know about that?

A. Inappropriate, unprofessional? My immediate supervisor that night was you, I think, right, Assistant Chief Moll?

ASSISTANT CHIEF MOLL: Correct.

A. At the time that I made the determination that his entire behavior throughout the entire episode, including both incidents, the first and then the second, which is noted in my statement, at the time that this second incident took place, the shift supervisor at the time of the first incident was not on duty. And this second supervisor happened to walk in when the second incident had taken place, and I requested to speak with him before I left for the -- well, I got done my shift anyway at that time, but before I left to go home, I asked to speak with that supervisor, and I apprised him of what had taken place.

BY ASSISTANT CHIEF MOLL:

Q. Do you know of any rule or regulation that gives you the authority to make a determination when you bring it to your immediate supervisor's attention when you feel conduct in your mind is inappropriate and unprofessional?

## Examination of Patrick Nichols

1 A. Can you try that one more time?

2 Q. We can read the question back.

3 (The pending question was read by the court  
4 reporter.)

5 A. That's a very unclear question.

6 Q. Okay. Let me clarify it.

7 A. Okay.

8 Q. Isn't it true, according to your statement, that  
9 you felt -- and according to your testimony here today --  
10 that you felt that Officer Mulverhill conducted himself  
11 inappropriately and unprofessionally at the scene of the  
12 driving while intoxicated arrest?

13 A. That's what I have got in my statement.

14 Q. Would that be a yes?

15 A. I will have to find it. In my own mind, I had  
16 felt that his behavior was inappropriate and unprofessional.

17 Q. Did you bring it to your immediate supervisor to  
18 follow the rules and regulations?

19 A. I wasn't aware of him making any rules and  
20 regulations.

21 Q. Did you feel his conduct was inappropriate and  
22 unprofessional?

23 A. In my opinion, yes.

24 Q. Then you felt that his conduct was unprofessional

## Examination of Patrick Nichols

as a police officer and inappropriate as a police officer, correct, in your opinion?

A. Yes.

Q. In your mind?

A. Yes.

Q. So in your mind, he did not conduct himself properly as a police officer?

A. As I have got here in my statement, I will repeat it out loud, "I felt his actions were not only inappropriate, but unprofessional, as well."

Q. Did you bring that inappropriate and unprofessional behavior to your immediate supervisor in order to follow the rules and regulations of the police department?

A. I hadn't concluded that his actions were inappropriate and unprofessional.

Q. I didn't ask you if you concluded anything. I asked if you brought it to your immediate supervisor during that shift.

A. I did not let that supervisor know how I felt.

Q. You did not bring it to the attention of your immediate supervisor, correct?

A. Not how I felt, correct, on the first incident, that we're referring to. Am I correct in that's what you're referring to?



## Examination of Patrick Nichols

1 Q. Correct.

2 A. Okay.

3 BY CHIEF PHILLIPS:

4 Q. If you would have complied with Sections 10.1.33  
5 and 6.2.33, could that have prevented the incident that  
6 occurred during the shift change at 4:00 a.m.?  
7

8 A. That's -- you're asking me to guess?

9 BY ASSISTANT CHIEF MOLL:

10 Q. Are you a trained police supervisor?

11 A. No.

12 Q. The reason that they have sections such as 10.1.33  
13 and 6.2.33 is so that trained police supervisors can act upon  
14 any inappropriate or unprofessional behavior that may occur?

15 A. That's not what 10.1.33 says, unless I'm reading  
16 it wrong.

17 BY CHIEF PHILLIPS:

18 Q. Let me read it to you: "Immediately notify the  
19 desk officer of an unusual occurrence."

20 A. He was talking about 10.1.33.

21 Q. 6.2.33, that's what?

22 A. "Notify the desk officer of an unusual  
23 occurrence."

24 Q. Is that an unusual occurrence? It is a common  
25 occurrence to have inappropriate and unprofessional behavior

1                   Examination of Patrick Nichols  
2 on the street when you're on duty?

3           A.     I would say, no, that is not.

4           Q.     So it's an unusual occurrence, wouldn't that be  
5 safe to say?

6           A.     I go back to what I said here in my statement. "I  
7 felt that at that time his actions were not only  
8 inappropriate, but unprofessional, as well." That was my  
9 feelings; I had not concluded that that was the case. I was  
10 still not completely sure --

11 BY ASSISTANT CHIEF MOLL:

12           Q.     Can you read the section prior?

13           A.     Could I finish, please?

14           Q.     Sure, go ahead.

15           A.     -- and then when the second incident took place,  
16 then I was clear in my mind that this conduct was, in fact,  
17 inappropriate and unprofessional, and immediately thereafter  
18 concluding that, I asked the supervisor who was on duty at  
19 that time if I could speak to him about it, and I advised him  
20 of both incidents that took place.

21           Q.     Officer Nichols, we're asking very simple  
22 questions, and I'm going to ask you to follow in your  
23 statement that you submitted to me.

24           A.     Mm-mm.

25           Q.     It is in the second paragraph, and it's in regards

## Examination of Patrick Nichols

1 to what you called inappropriate, not only inappropriate but  
2 unprofessional, as well, and I will read it: "I felt that his  
3 actions were not only inappropriate, but unprofessional, as  
4 well. I had made the determination while on patrol that at  
5 some point I would let Mulverhill know that it bothered me  
6 the way he conducted himself."  
7

8 You felt his conduct was inappropriate and  
9 unprofessional. Did you bring that conduct to your immediate  
10 supervisor's attention?

11 A. Again, I will say no.

12 Q. Yes or no?

13 A. I have answered three, four times.

14 Q. If you would have brought it to your immediate  
15 supervisor and if your immediate supervisor took appropriate  
16 actions, such as talking with Officer Mulverhill or talking  
17 with you about the incident to find out about the  
18 unprofessional and inappropriate conduct that took place, is  
19 it possible that the incident, the second incident, may not  
20 have occurred?

21 A. Yeah, it is possible that it would not have  
22 occurred if the circumstances were the way that you're trying  
23 to lead them to be.

24 Q. In order to follow Section 10.1.33, do you have  
25 anything you wish to advise the Chief of Police?

## Examination of Patrick Nichols

1  
2 A. In order to follow 10.1.33, "Failure to notify a  
3 superior officer that a member of the department violated a  
4 rule or order of the department," is there anything I would  
5 like to notify the Chief of Police of?

6 Q. I will read it again. In order to follow  
7 Section 10.1.33, do you have anything that you wish to advise  
8 the Chief of Police at this time?

9 A. Not at this time, not without -- no, I have no  
10 idea what you're referring to.

11 Q. You know what that section is, correct?

12 A. I'm reading it, yeah.

13 Q. And you have nothing to tell the Chief of Police?

14 A. "Failure to notify a superior officer a member of  
15 the department is violating a rule or order of the  
16 department."

17 BY CHIEF PHILLIPS:

18 Q. What's the answer? Do you have anything you want  
19 to tell me?

20 A. Do I have anything I want to tell you?

21 Q. Yes, in regards to that rule?

22 A. No, not that I know of.

23 Q. Okay. Is it common practice to carry a notebook?

24 A. Yes.

25 Q. Do your department rules and regulations state

## Examination of Patrick Nichols

that officers carry a notebook?

A. I can't recall if there is any particular reference to carrying a notebook.

Q. I will refer you to Section 8.10, and it's under Article Eight of the rules and regulations, if you would read that.

A. I have that there. What is it?

Q. Article Eight, 8.10.

A. Okay.

Q. I will read that section to you: "The patrol officer shall keep a memorandum of all occurrences or information received which may be of interest to any branch of the department or other agency or upon which he may be required to report and promptly transmit the same." Doesn't that say that patrol officers shall keep a notebook?

A. It says keep a memorandum.

Q. What is a memorandum?

A. I don't know, I'd have to look in a dictionary to find out.

Q. I think that you will find that it doesn't have to be a notebook per se, but a piece of paper or whatever, you know. That's the section.

A. If that is an accurate definition, that would refer to keeping notes of all occurrences.

## Examination of Patrick Nichols

Q. Isn't it true that notations in an officers' notebook could be used as evidence in a criminal case?

A. Yes, that is true.

Q. In fact, don't some defense attorneys ask for any and all documentation in regards to criminal cases?

A. I don't know the answer to that.

Q. How long have you been a police officer, Officer Nichols?

A. Six years, and as many times as I have testified, I have never been asked to produce any notes.

BY ASSISTANT CHIEF MOLL:

Q. In our police training, we're trained and we're told that it could occur?

A. Yes.

BY CHIEF PHILLIPS:

Q. Would you consider that this type of document takes part in the normal police functions and property of the police department?

A. Yeah.

Q. When is the last time you reviewed the department rules and regulations?

A. I just signed for those not too long ago.

BY ASSISTANT CHIEF MOLL:

Q. If we were to say January, 1994, would that bring

1 Examination of Patrick Nichols  
2 a recollection?

3 A. That may be fairly accurate, yeah.

4 BY CHIEF PHILLIPS:

5 Q. Are you in business with Ken Cring?

6 A. Yeah, outside the police department, yes.

7 Q. Do you understand the rules and regulations?

8 A. Yes.

9 Q. Do you have a home computer?

10 A. Yes.

11 Q. In reviewing your statement on Patrolman  
12 Mulverhill's incident, you make a reference to notes at home;  
13 is that correct?

14 A. Can you bring me to that, where it is?

15 BY ASSISTANT CHIEF MOLL:

16 Q. It will be in the first -- second sentence of your  
17 statement, the second sentence of your statement.

18 A. "My notes on the matter are at my residence;  
19 therefore, I will submit the details the best I can recall,"  
20 yeah. You want clarification on this, right?

21 Q. No. He's asking you --

22 A. I don't understand.

23 BY CHIEF PHILLIPS:

24 Q. In reviewing your statement in regard to  
25 Patrolman Mulverhill's incident, you make reference to notes

## Examination of Patrick Nichols

1  
2 at home; is that correct?

3 A. Yes.

4 Q. Are these notes on your home computer?

5 A. No, no.

6 Q. Is this home computer used in your personal  
7 business?

8 A. Yes, personal business and town-related business.

9 Q. Who uses or has access to this computer?

10 A. My wife and kids and myself.

11 Q. Are there any notes on paper or in your computer  
12 at home or anywhere else on the matters involving the Malone  
13 Village Police Department?

14 A. There may be notes on paper in reference to this  
15 still at home, yes.

16 BY ASSISTANT CHIEF MOLL:

17 Q. Anywhere else?

18 A. Well, if they're not here, they're at home in  
19 regards to this. If they're not in my locker, then they're  
20 at home.

21 BY CHIEF PHILLIPS:

22 Q. Do you understand the important of police  
23 department rules and regulations?

24 A. Yes.

25 Q. What type of home computer do you have?



## Examination of Patrick Nichols

1  
2 A. It's a Touch computer, which is -- they would call  
3 it a IBM clone, it's IBM compatible.

4 Q. Is your home computer compatible with the computer  
5 at the village police department?

6 A. As far as --

7 Q. Could you play programs that you have at home in  
8 the computers that we have here?

9 A. I guess, it's a pretty big computer; it's a 486.  
10 It can handle a lot of stuff, if that's what you mean.

11 Q. The ones we have are IBM compatible, you stated  
12 that yourself?

13 A. Yes, if it's IBM stuff, it can all be used.

14 Q. Okay. Do you have any files or documentation of  
15 any kind on fellow officers of the Malone Village Police  
16 Department?

17 A. No. You're asking for a file that has somebody's  
18 name on them?

19 BY ASSISTANT CHIEF MOLL:

20 Q. Do you have any files or documentation of any kind  
21 on fellow officers of the Malone Village Police Department?

22 A. I have got all the paperwork surrounding my 60-day  
23 suspension that I have saved copies of everything and, yeah,  
24 there are things in those papers which you have copies of  
25 that have names of whoever was involved in that incident.

1 Examination of Patrick Nichols

2 Q. Do you have any other files on any other members  
3 of the Malone Police Department above and beyond your  
4 suspension incident?

5 A. No, nothing that is not related to that.

6 Q. Besides the incident of Officer Mulverhill?

7 A. Right.

8 Q. You have no other files?

9 A. No.

10 BY CHIEF PHILLIPS:

11 Q. You have no other notes or anything in regards to  
12 any of the members of the police department?

13 A. No, I can look in my locker. I know when I have  
14 had problems in the past, I kept memos and things like that.  
15 I've got a stack of memos in my locker.

16 Q. What are you talking about? What are you  
17 referring to as memos?

18 A. The incident involving last year's removal from  
19 the DARE program, things of that nature; I have got those  
20 memos on all that.

21 Q. Are you talking interoffice memos?

22 A. The ones I submit to you or you give me dates and  
23 times and everything.

24 Q. Do you have any notes or any papers or anything  
25 where you have documented things that other officers have

## Examination of Patrick Nichols

done within the police department that you felt you needed to make reference to at a later date or have any notes of any type like that?

A. Again, anything related to the 60-day suspension, I have nothing other than that. I mean, that's the point I'm trying to make.

Q. Okay. Are you a trained DARE instructor?

A. I believe I still am, yes.

Q. Okay. Being a DARE instructor, did you think that position may have helped you in your recent disciplinary action?

A. I have no way of knowing that. It's too many circumstances to try to pinpoint which helped me and which didn't.

BY ASSISTANT CHIEF MOLL:

Q. To refresh your memory, as I recall, the Hearing Officer in his recommendation listed that you were a good DARE instructor, the Village Board listed that you were a good DARE officer.

A. The Hearing Officer said this?

Q. Do you feel, bringing that to your attention, do you feel being a DARE instructor, that that may have helped you in your recent disciplinary action?

A. Gosh, I don't know.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Do you think it hurt you?

A. I don't think it hurt, no, but to be directly related to helping me, I can't say that. There is just too many things involved, guys.

BY CHIEF PHILLIPS:

Q. Did you solicit funds to support the DARE program?

A. Two years in a row.

Q. When a business or organization donates to the DARE program, were there any benefits promised besides the satisfaction of helping the program?

A. On two occasions, I had to get permission to help two organizations -- I'm saying two, now, that's all that comes to mind. One instance was the club that I am in, which is the Lion's Club, wanted to know if they purchased a bunch of the bookmarks, if their name could be stamped on it, and I had to run that by Officer Reyome, and the other one was the -- I'm going to say Rotary Club wanted to purchase a large display of posters, visual aids we call them, to use in the classrooms. And they wanted permission to have their Rotary emblem or logo, whatever you want to call it, a big round sticker thing put on the case. And those are the only two situations that I had to look into and get approval on and allow them to be able to do that.

As far as anybody wanting something in return for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Examination of Patrick Nichols

the donations -- that's what I gathered from your question -- those were the two things to come to mind right now.

Q. Would a small business that donated \$10.00 be treated the same as the one that donated \$500.00?

A. I guess if they requested it, it'd have to be. I don't see why not.

Q. Isn't the program set up that if businesses or private individuals donate money to the program, that everybody's treated the same and no person shall receive preferential treatment?

A. Yes, everybody got -- we had a local company design a certificate that was given to the people that donated the \$10.00, and we did get some right through 750, I think was my estimate.

BY ASSISTANT CHIEF MOLL:

Q. You testified that someone in the Malone Lion's Club or the organization itself asked you about stamping literature; is that right?

A. Right. At the time, I don't know if I was a member then.

Q. The request was made. Who made the request?

A. The Lion's Club.

Q. Who?

A. The officer -- I don't know. Like I said, I was a

## Examination of Patrick Nichols

2 guest then to raise money for the program. The request was  
3 made by whoever was president at the time if they could get a  
4 bunch of those bookmarks and have me stamp them and put them  
5 in the local libraries, the junior high school, the high  
6 school, and the Weed Library so the adults and the kids that  
7 had been through the DARE program will be reminded of the --  
8 that's something that had never been done, so I had to check  
9 with Officer Reyome on the possibility of doing that, and  
10 then I had to get approval from the libraries, if they would  
11 accept them if this went through.

12 Q. Did you get permission from Officer Reyome to  
13 stamp some of the DARE literature?

14           A.     The bookmarks, yes.

15 Q. You did?

16                    A.        Yes.

17 Q. Do you remember, was that in writing or verbal?

18           A.       No, that was verbal; in fact, the day that I was  
19       stamping them, Chief Phillips, you were right in there with  
20       me. I was doing it at the desk in there. You were in the  
21       office at the time. I remember the day doing it because I  
22       had so many of them. It took a while.

23 BY CHIEF PHILLIPS:

24 Q. Did you think by stamping bookmarks, you were  
25 showing preferential treatment to the Lion's Club?

## Examination of Patrick Nichols

1  
2 A. It would, Chief, if you refused to do something  
3 for somebody else that you had done for somebody else, and  
4 that had not been the case, and it hasn't been the case.

5 Q. Have you ever discussed with me what would be  
6 proper or improper in regards to the use of the funds that  
7 you solicited for the DARE program?

8 A. I always had to run that by Officer Reyome, and  
9 where his source was after that, I don't know what  
10 arrangements you had with him, but you had told me  
11 specifically that everything had to be cleared through  
12 Officer Reyome, and that's the way it was done. In fact, he  
13 wrote the checks. I never had access to the checkbook or  
14 anything. He always had to approve everything.

15 BY ASSISTANT CHIEF MOLL:

16 Q. Did he write a check to have you stamp some of  
17 that literature? Was there a check involved in that?

18 A. No, what he would do is order the stuff.

19 Q. Who requested from the Rotary Club to put a  
20 sticker on some of the posters?

21 A. The sticker wasn't put on the poster. It was put  
22 on the carrying case.

23 Q. And how many people in the public would see this  
24 carrying case?

25 A. Well, a lot, because it goes everywhere, all the

## Examination of Patrick Nichols

speeches you give.

Q. Is the carrying case sent home with children?

A. No.

Q. Is it passed out at the library?

A. No, neither are the bookmarks. I see what you're getting at, no, absolutely not. The bookmarks were put in the libraries, the Weed Library, the high school library and the junior high library. And the bookcase is -- as far as the emblem, a lot of the speeches are given when you go to these places to solicit funds for the program. The case went with me wherever I went. I would bring out the posters.

Q. Who requested to put that on the case?

A. I'm saying the Rotary Club. I'm almost certain it's the Rotary Club. It was whoever was in charge of the Rotary Club. Harvey Factor, I believe, was one of the people that I dealt with.

BY CHIEF PHILLIPS:

Q. Did any other business or organization besides the Rotary clients get their name on any DARE literature?

A. Nothing that comes to mind at this time.

Q. Where did you get the stamp?

A. The stamp was from the Malone Lion's Club.

Q. Who paid for the stamp?

A. The Malone Lion's Club, they gave me the stamp to



## Examination of Patrick Nichols

stamp.

BY ASSISTANT CHIEF MOLL:

Q. Who gave it to you?

A. That I can't remember, either. Again, that goes back --

Q. Did you ask for it or did they give it to you?

A. They gave it to me. I don't remember how the circumstances after that came about.

Q. What I understand that you're saying is that the Malone -- if I'm understanding that properly -- you might have made a presentation to the Malone Lion's Club to the board?

A. That's precisely it.

Q. We have literature and whatnot, and this is what your donations would be going to? Is that what I understand?

A. Yeah, every donation just went to fund the DARE program in general.

Q. So there was no specific area where, if another business in Malone donated \$10.00, it went to somebody, and if a another business donated \$750.00, such as the Lion's Club, it went specifically to --

A. Only if requested. There were two requests to do something of that nature. I know both requests were approved and done.

## Examination of Patrick Nichols

Q. And you showed them exactly what their funds were going to?

A. The Rotary Club was specific, and they wanted to get the posters, and they wanted an emblem on it. That was the one where every penny they spent that year was for the posters. The Lion's Club donated \$750.00 and got approximately \$20 worth of --

ASSISTANT CHIEF MOLL: Could you please read back my question?

(The pending question was read by the court reporter.)

A. I don't keep track.

BY ASSISTANT CHIEF MOLL:

Q. It's my understanding that you're testifying that the Malone Lion's Club requested to buy these bookmarks and asked you to stamp them, correct?

A. They asked me to see if that was okay to do, yes, and put their stamp on the bookmarks.

Q. And they specifically asked you about the bookmarks and also requested to have that stamped, correct?

A. Yes.

Q. And you don't remember who requested that, but it was a member of the current board?

A. Whoever at that time when this took place -- which

## Examination of Patrick Nichols

I'm guessing two, two and a half years ago -- was the officer of the Lion's Club, were the ones that made the request.

CHIEF PHILLIPS: I can give you a list of names that may have been officer at the time. Is that something that will help you? I understand you are trying to determine --

ASSISTANT CHIEF MOLL: It may in the future.

BY CHIEF PHILLIPS:

Q. Did you think by doing that for those two clubs that was fair to the other organizations?

A. Anytime somebody asked, it was done, it was fair. Those are the two situations.

Q. Do you think that was fair to the other organizations that donated? If a business donated three, four hundred dollars and asked you to stamp their business logo on it for a little advertisement, would you have done it for them, also?

A. If I could have got an approval, yeah.

Q. But --

A. There is another one that --

Q. -- when the program was set up, the organizations that donated were to donate to the program and we would use the funds where we felt the funds were needed and appropriate.

## Examination of Patrick Nichols

A. Yeah. That's why I had to get approval.

Q. And you got approval from Officer Reyome?

A. Both occasions, yes, and there was a third one.

It was both years when we had the thing televised, two businesses in the first year.

Q. If the people paid for the advertisements or paid for the television, I mean, that would be a commercial venture on their own. They would be entitled to that because they paid for that separate beyond the funds that they donated, not DARE.

A. Yeah, but that was a specific donation. Again, you are asking for money that is going to be specifically spent.

Q. Did the Malone DARE program pay for the televising of the program?

A. No, not out of the Malone checkbook.

Q. Okay.

BY ASSISTANT CHIEF MOLL:

Q. Do you know Michael Fournier?

A. Yes.

Q. Do you know Victor Fellion?

A. Yes.

BY CHIEF PHILLIPS:

Q. In the past two months, has Michael Fournier been

## Examination of Patrick Nichols

to your residence?

A. In the past two months? I can't say for sure. In the past two months --

Q. Past three months.

A. Mike stops in a couple times a year, he always has, gosh, for quite a few years.

Q. Are you aware of the criminal background of Michael Fournier?

A. Yes, I am. I have arrested Mike Fournier before.

Q. Did you or do you own a business that self-personalizes children's books?

A. Yes.

Q. What is the name of that business?

A. Yours Truly Enterprises.

Q. When did you start this business?

A. About two years ago any time now, probably two years ago this month, February.

Q. Did you file a DBA?

A. Yeah, that's doing business as Yours Truly Enterprises. In fact, you were the notary public for that if I'm not mistaken; you notarized it.

Q. Okay. Do you keep records of the names of customers that you sell to?

A. Yes.

## Examination of Patrick Nichols

Q. Where are those records kept?

A. It's my books, my yearly books I have.

ASSISTANT CHIEF MOLL: Where are they kept?

A. At home I have a list of anybody that's ever bought a book from me.

BY CHIEF PHILLIPS:

Q. Were any of these books purchased by the Malone Lion's Club?

A. Yes.

Q. Did you tell Officer Ronald Reyome that you were going to offer these books at a discount rate to one of your DARE classes?

A. No, not at a discount rate.

BY ASSISTANT CHIEF MOLL:

Q. Do you recall a conversation that we had in a patrol car when you were in the DARE program and you were talking about your personalized books, and you mentioned offering these books at a discount rate to students of your DARE class and I was in the patrol car?

A. No.

Q. Did that conversation take place?

A. I don't recall. I'm not saying it did or didn't.

BY CHIEF PHILLIPS:

Q. Did you or anyone else in the Malone Central

## Examination of Patrick Nichols

School District offer these books to any students?

A. Did I or anybody else in the Malone School District offer the books to the students?

Q. To any students?

A. No, no, there was one school -- well, one school, GB Davis, that offered them to the parents as a fund-raiser not this last Christmas but the Christmas before, and they used the books as a fund-raiser for the playground.

BY ASSISTANT CHIEF MOLL:

Q. Could you answer that question, because you said no, and in your conclusion of your question, you're saying yes.

A. They were offered to the parents.

Q. Did you --

A. The parents bought the books as Christmas presents for the students.

CHIEF PHILLIPS: Who offered them to the school?

A. The school.

BY ASSISTANT CHIEF MOLL:

Q. How were they offered to the parents?

A. How were they offered to the parents?

Q. Correct.

A. The school set up a fund-raiser and sold them to

## Examination of Patrick Nichols

1 the parents. I picked up the money from the school and the  
2 orders.  
3

4 Q. They offered them to the parents, but not through  
5 the children; is this what you're saying?

6 A. I would give Kathy Schrader a call to confirm that  
7 as far as how the school handled it. They wanted certain  
8 amounts of brochures and some literatures and an explanation  
9 of that. They sent home a letter to explain what that was  
10 all about.

11 Q. They sent home a letter?

12 A. How they sent that home, that's gotta be done  
13 through the school. I don't know.

14 Q. How did GB Davis become aware of your books?

15 A. They were going doing the fund-raiser for their  
16 playground and wanted some suggestions on how to raise  
17 money. I got a hold of Kathy Schrader.

18 Q. And were any of these books purchased from any of  
19 the parents of students that were in your DARE classes?

20 A. I can't say that for sure, and I will tell you  
21 why, just if I could clarify that a little bit, is because  
22 these books are way below a fifth grade reading level. In  
23 fact, the Lion's Club gives them to second grade reading  
24 level. So if somebody in my DARE classes mother wants to get  
25 it for somebody other than that student in my DARE class,



1 Examination of Patrick Nichols

2 that may have happened. And again, I have got the name of  
3 everybody I sold books to.

4 Q. So Kathy -- if understand this, you were involved  
5 in a conversation with Kathy Schrader?

6 A. No, no, a note -- memo came on a fund-raiser for  
7 their playground and I gave her a phone call and said, "Hi, I  
8 got these things here, you might be interested."

9 Q. Would it be safe to say you solicited the books?

10 A. I called her and let her know about the  
11 possibilities.

12 Q. Did you profit from this?

13 A. Actually, no, I didn't.

14 Q. Did they sell any books?

15 A. Yes, they sold a few.

16 Q. Is that how you would make a profit or at least  
17 show gross sales on your records, when you sell books?

18 A. Say that again.

19 Q. You testified they did sell some books for your  
20 business?

21 A. Yep, they did.

22 Q. Did that not increase your gross sales for your  
23 business?

24 A. That would increase the amount of sales, yes. The  
25 school made the money on the books, not me.

## Examination of Patrick Nichols

Q. GB Davis was the only school that this was offered to, correct?

A. And the only one doing a fund-raiser, so I called on it.

Q. GB Davis was the only school where your books were offered to any students or parents of students, correct?

A. By me, by me, I can't speak for my partner, but by me.

Q. Okay. Do you know of anyone else -- I will go back to that question. Do you know of anyone else that offered your books through your private business to any of the students or parents of the students at the Malone Central School District?

A. Do I know of anybody else?

Q. Yes.

A. The only other one that it could be is my partner, Ken Cring.

Q. Were your books offered in any classes at Flanders?

A. No.

Q. Do you know if your partner offered any of the books to any of the students at the Malone Central School District?

A. Not that I recall. There was never any discussion

1 Examination of Patrick Nichols  
2 on who we would confront on the books.

3 Q. You have no knowledge of your partner soliciting  
4 books?

5 A. Not through the schools.

6 Q. Not through the schools?

7 A. No.

8 Q. And who does your book work for your business?

9 A. Well, I do, but I have an accountant that does  
10 them at the end of the year for tax purposes.

11 Q. So the records you testified earlier to at home on  
12 your business would not reflect any books being sold to any  
13 other schools, other than GB Davis, correct?

14 A. It would reflect any books I have ever sold,  
15 period.

16 Q. You didn't answer my question.

17 (The pending question was read by the court  
18 reporter.)

19 A. Yeah, right, no, the only school that I ever sold  
20 books to was GB Davis.

21 BY CHIEF PHILLIPS:

22 Q. Do you know Thomas Kemp?

23 A. Yes, I do, Flander's School.

24 BY ASSISTANT CHIEF MOLL:

25 Q. Is there anything you'd like to recant on what you

## Examination of Patrick Nichols

just told us?

A. As far as selling my books at any other school? No, there is not. I have never walked in a school and sold a book unless somebody --

Q. Did you ever ask a teacher to offer your books at some of his classes?

A. No, I may have had discussions about the fund-raiser at GB Davis to other teachers, and if they wanted to do a fund-raiser of that nature, how they could do it.

Q. Has a teacher ever has asked you to offer the books to one of the students?

A. Never.

Q. Okay.

BY CHIEF PHILLIPS:

Q. Did you know that a 32-page petition was going to be presented to the Village Board on your behalf?

A. I was aware of the petition, yes. I don't know how many pages, but I was aware of it.

Q. Did you know what these petitions were for?

A. Yeah, I was aware of it.

Q. Did you see these petitions?

A. I had, yes, I had seen one copy of one that was left in my wife's car.

Q. When is the first time you ever saw these

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

petitions?

A. I was -- well, I don't know, again, if that's the first time, but the first time that I recall was when I went to pick up my wife's car at a local garage.

Q. Who made these petitions?

A. I couldn't tell you. I couldn't tell you. I don't know who.

Q. You don't know?

A. I have some idea, but I'm not positive and I can't say. I really don't. I could give you a couple names that probably had something to do with it.

Q. Did you help word or write these petitions?

A. No, these petitions -- I know what you're getting at.

Q. I'm just asking the question. Did you help word or write these petitions?

A. No, no.

Q. Did you ever ask anyone to post one of those petitions at a place of business or in an organization?

A. I had an inquiry from maybe two different people that worked in places where they wanted to circulate them, and my suggestion was that they could do that on their own.

Q. Did you tell them where they could get the petitions from?

## Examination of Patrick Nichols

A. Yeah, I told them -- I probably gave names of who they could contact.

BY ASSISTANT CHIEF MOLL:

Q. What are those names?

A. There was one occasion when I got a phone call at home from somebody -- this just came to mind, maybe this isn't in line with your question -- I got a call at home from somebody wanting to get one.

BY CHIEF PHILLIPS:

Q. Who was that person?

A. It was -- I'm trying to think of her last name, she works at the courthouse, Cathy something or other. I think it's -- I can't remember her name.

Q. Did you ever ask anyone to post -- I already asked you that one. Do you know Rick Spataro?

A. Yes, high school principal.

Q. Did you ever ask anyone to support you by signing one of these petitions?

A. I didn't ask anybody to sign. There was one occasion where somebody asked me if they could sign one, and I let them, but that was because they were found as I was leaving the local garage. And a guy -- actually, there was a couple people there that wanted to sign, and I said, "Well, that's up to you."

## Examination of Patrick Nichols

BY ASSISTANT CHIEF MOLL:

Q. Can you answer the question, please? Did you ever ask anyone to support you by signing one of these petitions? Did you ever ask anyone to support you by signing one of these petitions? Yes or no?

A. I don't recall if that ever happened.

BY CHIEF PHILLIPS:

Q. Is that a yes or no?

A. That is a I don't remember for sure. I don't remember asking anybody, but again, there is a lot of occasions where people asked about them, and so --

Q. Did you point them in the direction to go if they wanted to sign one?

A. Yeah, I told them the names of some people that were responsible.

BY ASSISTANT CHIEF MOLL:

Q. The petition that was in your wife's car, that was at a local garage?

A. Yeah.

Q. And it would be to my understanding that you're saying that someone approached you at the garage and you remembered seeing a petition in the car, and how did it get from the car to where maybe that person at least reviewed it?

A. It was in the garage and, in fact, they were still

## Examination of Patrick Nichols

1 working on the car when I got there, and they asked me about  
2 the petition. I said, "Well, yeah, but, you know, my wife  
3 and some other people are involved in that," and then  
4 somebody pointed out to me there was one on the car seat.  
5 And I said, "Okay, let's take a look," and they signed it.  
6 They asked me if they could sign it. I said, "You're the one  
7 putting your name on there," but there again, that's the only  
8 situation that I can remember that I physically was --

9  
10 BY CHIEF PHILLIPS:

11 Q. At the time, did you discuss with anybody that was  
12 in the garage any of the circumstances surrounding your  
13 previous disciplinary proceeding that you were under at that  
14 time?

15 A. I can't remember the extent of the conversations.  
16 I know the concern was to get -- I can't even remember who  
17 was there. I know some of his employees were there.

18 Q. Do you have copies of those petitions at your  
19 residence?

20 A. I may in my files of all the particulars  
21 surrounding the suspension; it may be included in that.

22 Q. Does Michael Fournier work at the bowling alley?

23 A. I don't know.

24 Q. Do you have any relatives or close friends that  
25 work at the Malone bowling alley?



## Examination of Patrick Nichols

A. I used to, my brother's girlfriend used to work up there.

BY ASSISTANT CHIEF MOLL:

Q. How long ago?

A. Right up until about, I'd say, maybe a week or two.

Q. She was working at the Malone bowling alley when these petitions were being circulated?

A. She would have been, yes.

BY CHIEF PHILLIPS:

Q. Was a petition circulated at the Malone bowling alley?

A. According to her, yes.

Q. Did you ask anyone to bring the petition to the Malone bowling alley?

A. No, again, that's -- I wasn't heavily involved in that. I don't know who asked her to do that.

Q. Do you know Cindy Flurry?

A. Yes, Cindy Reyome, Cindy Flurry.

BY ASSISTANT CHIEF MOLL:

Q. Did you ask her to sign a petition?

A. Now, I don't -- that's my wife's friend. If I see her twice a year, that's a lot.

Q. Did you ask her to sign a petition?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. No, I don't remember.

Q. Did you present a petition to Cindy Flurry?

A. I don't recall ever doing that.

Q. Do you feel you presented it? Is it possible that you presented a petition to Cindy Flurry?

A. I don't recall, I don't remember the last time I talked to Cindy.

Q. Is it possible that you presented a petition to Cindy Flurry?

A. I'm trying to think the last time I saw her. When did these go around, do you have any idea, October, November? No, I don't think it is possible that I could have asked her to do that. No.

Q. You did not make it available? You did not bring it to her, correct?

A. Not me, no.

BY CHIEF PHILLIPS:

Q. Did you ever bring one of those petitions to the Franklin County courthouse and ask a woman if you could post it there?

A. No, that again was a request from somebody to have one. I gave it to her, but I didn't ask her to do anything with it. What she did with it, I don't know. That was the one I said she called up and wanted one.

## Examination of Patrick Nichols

BY ASSISTANT CHIEF MOLL:

Q. So you gave someone one of the petitions, correct?

A. Yeah, I already said that ten minutes ago.

BY CHIEF PHILLIPS:

Q. Do you know Mike Hoit?

A. I don't believe so, the name sounds familiar, but I don't know for sure if I know him.

Q. What were the petitions for?

A. Oh, gosh, do you have one here? It had to do with my -- it had to do with my suspension, and as far as what the wording was on it, I have no recollection.

Q. Why were they put into circulation? Was it to benefit you?

A. I couldn't tell you.

Q. Was it to benefit you?

A. I don't know the reasons for that.

BY ASSISTANT CHIEF MOLL:

Q. Did you read the petitions?

A. Yeah, well, I mean --

Q. Then you must know what they were for.

A. But I don't recall what was on it. That's what I said. I don't have any recollection of what was on the petition.

BY CHIEF PHILLIPS:

## Examination of Patrick Nichols

Q. This is the petition that was circulated (indicating)?

A. Right.

Q. Just have a look at that. Would you read the typed-written portion of the petition for the record?

A. "We, the undersigned, support the actions taken by Officer Pat Nichols and feel he should retain his position on the Malone Police Department regardless of the outcome of the public hearing for the following reasons: one, he acted in good faith with audible intent; two, he acted in the best interests of the public; three, his actions took courage and fortitude; four, his motivation was not self-serving; and five, he's an ethical person who believes in justice and fair play." That is definitely the petition that I signed.

Q. I will ask you the question again: What were the petitions for?

A. For whatever it says on there. Again, I had no --

Q. So your answer is what as to the statement that you just read prior to me asking you the question?

A. That's what they're signing for.

BY ASSISTANT CHIEF PHILLIPS:

Q. Were those petitions printed out on your home computer?

A. No, in fact, my printer isn't even --

## Examination of Patrick Nichols

1  
2 Q. Did you help word or write these petitions?

3 A. No.

4 BY CHIEF PHILLIPS:

5 Q. Were any of those petitions ever brought to the  
6 Malone Lion's Club?

7 A. I'm aware of one that was there, yes.

8 Q. Who brought that petition to the Malone Lion's  
9 Club?

10 A. That was Ken Cring.

11 BY ASSISTANT CHIEF MOLL:

12 Q. Is he not your partner in business?

13 A. As a matter of fact, he is.

14 Q. Did you ask him to bring one of those?

15 A. No, I didn't.

16 Q. Did Ken Cring print one of those petitions out?

17 A. Did he print one out?

18 Q. Did he print the petitions for you?

19 A. I don't know. I couldn't guess whether he did it  
20 or not. I'm not sure.

21 BY CHIEF PHILLIPS:

22 Q. Are you aware of Section 10.1.27 and  
23 Section 10.1.77 of the department rules and regulations?

24 A. 10.1.27, okay. What was the other one?

25 Q. 10.1.77.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. Okay, yeah.

Q. Would you read those sections for the record?

A. "Publicly criticizing the actions of a department member."

Q. Which section is that?

A. That's 10.1.27. 10.1.77: "No member of the department may seek the influence or intervention of any person outside the department for the purpose of personal preferment, advantage, transfer, or advancement."

Q. That's 10.1.77. Did you ever read these sections --

A. Yes.

Q. -- those sections?

A. Yes.

Q. Did you understand these sections?

A. Yes.

Q. Have you ever been counseled on these sections?

A. They may be sections that were involved in my suspension, but I don't recall the numbers. I can't recall, Chief, on that question.

Q. Do you know the importance of that section or those sections?

A. Publicly criticizing? Yeah, yeah.

Q. Do you feel that the events that took place with

1 Examination of Patrick Nichols  
2 the petitions may have violated those sections?

3 A. The only one that can violate them is a member of  
4 the police department. What you're asking me is did I  
5 violate? That's basically what your question is.

6 Q. What is your answer, no?

7 A. No, I haven't violated these rules.

8 BY ASSISTANT CHIEF MOLL:

9 Q. Can I can go back to the petition that ended up in  
10 Cathy unknown last name's hands at the courthouse?

11 A. Right.

12 Q. You said that this Cathy, last name unknown,  
13 called your home, residence --

14 A. Right.

15 Q. -- and requested one of the petitions, and you  
16 physically brought one of those petitions into the courthouse  
17 and handed it to Cathy, unknown last name?

18 A. Right. I handed it to her. I remember doing  
19 that.

20 Q. What is Cathy's last name?

21 A. Well, she's the woman that testified in my  
22 hearing, so --

23 CHIEF PHILLIPS: Cathy Cunningham?

24 A. Yes.

25 BY ASSISTANT CHIEF MOLL:

## Examination of Patrick Nichols

Q. This woman testified on your behalf at your hearing?

A. Yeah.

Q. Was this petition circulated in the courthouse?

A. I can't tell you; I don't know. You could look on there and see if it has been.

Q. Did you recall her last name when you first testified? Do you know Cathy Cunningham?

A. Sure.

Q. How long have you known her?

A. Couple of years, probably.

Q. So earlier when you testified that you really can't recall her last name, now you actually can recall her and you have known her for a couple years, correct?

A. He told me what her last name was. Now that he says the last name, it's Cathy Cunningham.

Q. You have known this girl for a couple years?

A. Yeah.

Q. And she calls your residence?

A. Yes.

Q. And you physically bring a petition to her and you know her last name, correct?

A. Yeah.

BY CHIEF PHILLIPS:



## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Is it true Cathy Cunningham is also a member of the Republican party in town and is also a committee person?

A. Yeah, I would say that's true; she's a committee person.

Q. Are you a member of the Republican party for the Town of Malone?

A. Yes.

Q. And you also hold a position with the Town of Malone?

A. Since all this has taken place, yes, I do now.

Q. What is that position that you hold?

A. Councilman.

Q. How often does the Republican party hold meetings where members of the boards and councils and committee members meet? How often do they hold a meeting?

A. I can't say, Chief, because I haven't been to one since before the election.

Q. Okay.

BY ASSISTANT CHIEF MOLL:

Q. She's very active in the Republican party?

A. I don't know that, either. She's a committee person. How active you get, I don't know.

Q. Did you ask her to testify on your behalf at your hearing?

## Examination of Patrick Nichols

1  
2 A. No.

3 Q. She asked you to testify on your behalf?

4 A. Yes.

5 Q. So a woman that asked you to testify on your  
6 behalf and also calls you at home and you bring a petition  
7 and physically hand it to her, you can't remember her last  
8 name, correct?

9 A. Correct. When I was just asked what her name was,  
10 I could not recall her last name, and I believe that's  
11 exactly what I stated.

12 (A recess was taken.)

13 ASSISTANT CHIEF MOLL: You realize that  
14 you're still sworn in and under oath.

15 OFFICER NICHOLS: Yes.

16 EXAMINATION BY

17 CHIEF PHILLIPS:

18 Q. Officer Nichols, have you been trained in traffic  
19 enforcement?

20 A. Yes.

21 Q. Would be safe to say that, in most accidents,  
22 someone is at fault?

23 A. At fault? At least one, I think the driver would  
24 be in most cases, yes.

25 Q. The accident report that is filled out should

1 Examination of Patrick Nichols

2 reflect who is at fault whether a ticket is issued or not; is  
3 that correct?

4 A. Yeah, and in the code sections, the code box, we  
5 indicate that, yes.

6 Q. If a driver is at fault, such as failed to yield  
7 right-of-way, that would help the victim of the accident for  
8 insurance purposes if it was reported that way; is that  
9 correct?

10 A. That would be correct, yeah.

11 Q. If a person backed into a car, would it be safe to  
12 say that it was unsafe backing?

13 A. It depends on the circumstances.

14 Q. I don't want you to read anything into the  
15 question. If a person backed into a car, would it be safe to  
16 say that it would be -- it was unsafe backing?

17 A. It would be the case.

18 Q. In most cases?

19 A. In most of the cases that I have dealt with in my  
20 experience, when somebody backs -- is backing up when an  
21 accident takes place, in most occasions, it is the person  
22 that is backing up that is considered to be at fault.

23 Q. Okay. If a vehicle went out of control on  
24 slippery roads, would it be safe to say that the person was  
25 traveling too fast for conditions?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. Yes, on slippery roads, yes.

Q. Do you find it best to write a ticket at every accident?

A. No, not at every accident.

Q. Do you remember pulling over a vehicle that was registered to Rick Ellis Pontiac?

A. Yes, yes.

Q. Who was driving that vehicle?

A. You're not referring to an accident, are you?

ASSISTANT CHIEF MOLL: No.

BY CHIEF PHILLIPS:

Q. No, it's just a question.

A. Yeah, a mechanic or something, an employee of Rick Ellis' car dealership.

Q. Where did you pull that vehicle over?

A. I believe it was on Duane Street.

Q. What did you pull him over for?

A. It had something to do with the stickers in the window, either uninspected or unregistered.

BY ASSISTANT CHIEF MOLL:

Q. You don't know who the driver was?

A. He worked for Rick Ellis.

Q. Can you describe him?

A. No, I can't, I can't recall what he looked like.

## Examination of Patrick Nichols

1  
2 Q. But you can remember where this happened?

3 A. I remember the name and him saying he was  
4 transporting the car, something to do with the delivery or  
5 something, and he was going back to work. It was a company  
6 car is what it was.

7 Q. You don't personally know him, correct?

8 A. The driver?

9 Q. Yes.

10 A. No.

11 Q. Have you ever seen him before?

12 A. It's possible, I mean, when I pulled him over, I  
13 didn't know who he was. He had his jacket on with his name;  
14 he had, you know, "mechanic."

15 BY CHIEF PHILLIPS:

16 Q. Who is Jason Ellis?

17 A. Jason Ellis is Rick Ellis' son.

18 Q. Who is Rick Ellis?

19 A. Rick Ellis is the owner of the car dealership we  
20 were referring to, which would be the old Madison Pontiac; I  
21 believe it's now Rick Ellis Pontiac.

22 Q. Does Rick Ellis -- is he involved with anything  
23 else besides the car dealership?

24 A. Yeah, he's got another car dealership out in Fort  
25 Covington.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Besides the car dealerships?

A. He's into a lot of things, a lot of activities.

Q. Isn't it true Rick Ellis is the Town Chairman for the Republican party?

A. Yeah, as a matter of fact, he is.

Q. If you don't write a ticket at an accident, is there a column used for contributing factors showing who was at fault?

A. Yeah, yeah, it would be something to do with the factors, contributing factors boxes that you fill in, yes.

Q. If a person has a history of accidents and tickets, would you be more inclined to write them a ticket at an accident?

A. Well, not necessarily, it depends, again, on the circumstances of the accident; if they're not at fault, I mean, obviously not.

Q. If that person was at fault, would you be inclined to write them a ticket at an accident scene?

A. If that person was at fault and there was damage or injury, then I would be inclined to issue a ticket to that person, yes, under those circumstances.

BY ASSISTANT CHIEF MOLL:

Q. Did you ever pull over a Jason Ellis recently?

A. I have pulled Jason Ellis over before, and I can't

## Examination of Patrick Nichols

say if it was recently or how long it's been, but I do know who Jason Ellis is.

Q. You have pulled him over before, correct?

A. Yes.

Q. Do you recall when that was?

A. No, I don't, I have no recollection of how long ago it was.

Q. Was it years ago?

A. I don't know.

Q. Has it been since you have been back from your suspension?

A. I can't say.

Q. Why can't you say?

A. Because I don't recall.

Q. Isn't it true, as a trained police officer, that you should have a fairly good memory?

A. Generally speaking, unless you pull over a lot of cars, which I do.

Q. You know Jason Ellis personally, correct, you know him?

A. Yeah, I know who he is, I mean, not personally.

Q. And you pulled him over for something, but you don't recall if it's a year ago or since you got back from your suspension, correct?

1 Examination of Patrick Nichols

2 A. No, I can't, I don't even remember what it was  
3 for.

4 BY CHIEF PHILLIPS:

5 Q. What do you need to pull over a vehicle on a  
6 traffic stop?

7 A. A violation of either the V & T Law or if you  
8 observe something in the car that maybe a violation of a  
9 Penal Law offense.

10 Q. What is that called?

11 A. What is what called?

12 Q. What is the grounds to pull over a vehicle, what  
13 is that called? Police officers say that is what in your  
14 training?

15 A. Reasonable cause is what you are looking for, the  
16 reason you have a reason to pull them over.

17 Q. Is there a name for that, the reason, is it  
18 probable cause?

19 A. Probable cause, yeah.

20 Q. Don't you learn that in your training that you  
21 have to have probable cause to do almost anything?

22 A. Probable cause in this case would be a violation  
23 of a Penal Law.

24 Q. After a stop is made, what should police officers  
25 be looking for?



## Examination of Patrick Nichols

1                   A.     The first thing that I am concerned about is my  
2  
3     safety on the traffic stop and then to determine the people  
4     in the car, how many people, just more concerned about safety  
5     for me and safety for the other traffic that's still moving.

6                   Q.     Okay. Is there anything else that you do before  
7     you talk to them?

8                   A.     Before you talk to them? Well, it's a good habit  
9     between me and my partners on night shift, we call it out of  
10    service to make sure that the base knows where we are and who  
11    we have got pulled over.

12                  Q.     Do you call out of service at all your traffic  
13    stops?

14                  A.     No, no, the majority of them I do.

15                  Q.     What would be a reason for not calling in your  
16    traffic stop?

17                  A.     Pulling up probably beside somebody that's pulling  
18    in a parking lot and standing right next to the patrol car,  
19    and I still have access to the radio, and just advising them  
20    of possibly a headlight out or something to that effect, look  
21    at their inspection, make sure it's inspected within reach of  
22    the car radio.

23                  Q.     When working the night shift, would you be more  
24    inclined to check for operators driving under the influence  
25    of alcohol?

## 1 Examination of Patrick Nichols

2 A. Yeah, you know, again, there is a violation of a  
3 V & T, keep right or whatever, you look further beyond that  
4 to see if there is any other --

5 Q. I don't know if you understood my question.

6 A. Maybe I misunderstood the question.

7 (The pending question was read by the court  
8 reporter.)

9 A. That's generally done after the stop, I mean, you  
10 look for violations.

11 BY ASSISTANT CHIEF MOLL:

12 Q. The question is very direct, and the stenographer  
13 can read it to you again or I can read it to you.

14 A. Mm-mm.

15 Q. It's a very simple question. When working the  
16 night shift, would you be more inclined to check for  
17 operators driving under the influence of alcohol?

18 OFFICER NICHOLS: Go ahead, read it again.

19 (The pending question was read by the court  
20 reporter.)

21 A. No, I'd say no more so than any other shift. It's  
22 part of your duties.

23 Q. Is working the night shift -- does that produce  
24 more driving while intoxicated arrests than working the  
25 morning or afternoon shift?

## Examination of Patrick Nichols

1 A. The trend would be yes, there is more.

2 Q. Would you be more inclined to be aware and to  
3 check operators more closely when working the night shift to  
4 make sure that they were not driving under the influence of  
5 alcohol?  
6

7 A. I do that with every shift, any driver I pull  
8 over; it makes no difference if it's at night or afternoon.

9 Q. That's fine. Can we go back in regards to traffic  
10 stops? When you came back from your suspension, do you  
11 recall me being your first immediate supervisor working the  
12 morning shift?

13 A. Yes, the very first morning back, yes.

14 Q. Do you recall me telling you when you get out of  
15 the car, that you check in and out of service?

16 A. Yes, and with you, Assistant Chief Moll, I do.

17 Q. Did you find that order to be just only working  
18 with me? Have you been ordered by any other supervisor not  
19 to call in and out of service when you got out of the patrol  
20 car?

21 A. Yes, the next supervisor I had. As a matter of  
22 fact, when I first returned -- you can check with Sergeant  
23 Ritchie -- I asked him what his policy was going to be on  
24 traffic stops, and he said that if there didn't seem to be  
25 any potential hazard there, he was going to the Sergeant's

1 Examination of Patrick Nichols

2 room to do some work, to just call out of service on the ones  
3 I felt I needed to call out of service on.

4 Later that morning, I made a traffic stop and it  
5 brought me out of the village. He radioed to me and told me  
6 that from now on, on any calls that go out of the village,  
7 also in conjunction with his previous order, that he also  
8 wanted me to notify him of the ones that I stopped outside  
9 the village limits, the calls that brought me outside the  
10 village.

11 Q. In other words, there is conflicting orders  
12 between supervisors that you are testifying to, correct?

13 A. Yes, along those lines.

14 Q. Did you bring that to Sergeant Ritchie's attention  
15 that the Assistant Chief advised you to check in and out of  
16 service when pulling over a car?

17 A. No, that's your procedure.

18 Q. You did not bring that to Sergeant Ritchie's  
19 attention that I advised you, as the Assistant Chief, to  
20 check in and out of service when you get out the patrol car,  
21 correct?

22 A. Correct. Can I add to that, Chief?

23 CHIEF PHILLIPS: Sure.

24 A. I just want to say that when we received our  
25 evaluations, one of the things that I scored low on was the

## Examination of Patrick Nichols

fact that I would question or would bring to another supervisor's attention what another supervisor wanted me to do. That is what was brought to my attention by two different supervisors. That's one of the reasons I was being scored low.

BY ASSISTANT CHIEF MOLL:

Q. If the Chief of Police told you to walk foot patrol for the next seven days, and on the second day I was your immediate supervisor --

A. Mm-mm.

Q. -- and I told you to go on road patrol, who is senior to me?

A. The Chief.

Q. And who gave you the order in regards to walking foot patrol?

A. The Chief.

Q. Wouldn't it be appropriate to either bring it to the Assistant Chief, or if you were concerned about your evaluation, to bring it to the Chief's attention that you're having conflicting orders?

A. I do what I'm told to do unless it's against the law. That's what it comes down to. I was told not to check out of service on every vehicle, and I didn't.

Q. You were told by Sergeant Ritchie --

## Examination of Patrick Nichols

1  
2 A. If I felt there was the possibility of a hazardous  
3 situation, and then later on he added to that, if I go out of  
4 the village limits, I also have to check out.

5 Q. Prior to that, you were told by the Assistant  
6 Chief to check in and out of service when getting out of the  
7 car, correct?

8 A. When working with the Assistant Chief, that's what  
9 I told.

10 Q. Did I say when you were working only with me, that  
11 you would check in and out of service, or did I say, "When  
12 you get in or out of the car, you check in or out of  
13 service"?

14 A. You said that, and you said that while I was under  
15 your supervision.

16 Q. I said that while you were under my supervision?

17 A. Yes.

18 BY CHIEF PHILLIPS:

19 Q. Going back to something that you had said in one  
20 of the other questions, Officer Nichols, you stated that  
21 there was one incident where you had went outside of the  
22 village and when you came back, Sergeant Ritchie told you  
23 that when you did that, that you have to call that in --

24 A. Mm-mm.

25 Q. -- is that correct?

## Examination of Patrick Nichols

A. Yeah, he radioed it to me, actually.

Q. Okay. Is there a policy within the Malone Police Department that says anytime that you leave the village jurisdiction or boundaries, that you're to report -- you're supposed to call on the radio and advise the desk officer that you're, in fact, leaving the village limits?

A. There may be something to that; I'd have to review it.

BY ASSISTANT CHIEF MOLL:

Q. Why would you leave the village limits?

A. Traffic stop.

Q. Was it a pursuit traffic stop?

A. No.

BY CHIEF PHILLIPS:

Q. It was just a regular traffic stop?

A. Yeah, I was probably sitting radar; it was a speed violation, I believe.

Q. How far out of the village did you go on that call?

A. Oh, probably three quarters to a mile; it would be down near the general vicinity of the prison turnoff.

BY ASSISTANT CHIEF MOLL:

Q. Is that excessive?

A. Well, you know, considering the person's speed.

## Examination of Patrick Nichols

Q. How fast was this person going?

A. I can't remember, that was the purpose of me going after them.

Q. They were speeding, though, correct?

A. They were going above the posted speed limit, yes.

BY CHIEF PHILLIPS:

Q. If you're behind a vehicle and you have got your red lights on and possibly a siren, and the vehicle is speeding and you're behind him trying to stop him, and they're not stopping right at that instance, is that not a pursuit?

A. I hadn't determined that it was or it wasn't at that time. I didn't feel it was.

BY ASSISTANT CHIEF MOLL:

Q. How long were you behind them with your red lights on?

A. How close?

Q. How long were you traveling behind them before he finally pulled off?

A. I can't remember that.

Q. You can't remember? You can't recall?

A. I recall pulling somebody over for speeding and it was out of the village limits, and the reason I recall that



## Examination of Patrick Nichols

is because no sooner did I get back into the village, and I was advised by Sergeant Ritchie that, from now on when I pull somebody over outside the village, to notify and check out of service.

Q. Who was this operator that you pulled over?

A. I can't remember.

Q. Did you issue this operator a traffic ticket?

A. I can't remember that, either.

Q. If I were to tell you that our log books reflect no ticket was issued to that operator, would that refresh your memory?

A. Well, that would indicate that I didn't issue a ticket.

Q. Do you remember a speeding ticket you recently wrote to Brian Boyea of Plattsburgh?

A. Brian Boyea of Plattsburgh? Yes, I do.

Q. And where was that?

A. That was on Main Street.

Q. And how fast was he going?

A. I can't remember.

Q. But you have the ticket, and we could cross reference to find out how fast?

A. Certainly.

Q. On what do you base who you write a ticket to in

## Examination of Patrick Nichols

regards to speed and how fast they're going?

A. Okay. That wasn't too long ago. I remember the conditions. I was sitting radar on the east end of town, and there was a very heavy snow storm and the roads were snow and slush covered. I recall finally reaching up with that vehicle up by Marine Midland Bank on the west end of town. Obviously, with the road conditions, I couldn't go too fast, and I pulled him over there, and that's why I issued him a ticket for the speed.

ASSISTANT CHIEF MOLL: Chief, I'm on the fourth question down if you want to --

BY CHIEF PHILLIPS:

Q. What type of observations would you look for to make certain that an operator wasn't operating a motor vehicle while in an intoxicated condition?

A. That he wasn't --

Q. Yes.

A. -- operating a motor vehicle? Can you ask that again?

(The pending question was read by the court reporter.)

A. That he wasn't operating a motor vehicle? That absolutely makes no sense.

Q. It doesn't say that, that he wasn't operating a

Examination of Patrick Nichols

motor vehicle while he was in an intoxicated condition.

BY ASSISTANT CHIEF MOLL:

Q. What type of observations would you look for to make sure an operator wasn't operating a motor vehicle while in an intoxicated condition? What observations would you make if this guy is intoxicated or not?

A. If I had determined he was intoxicated?

Q. What type of observations would you make? What type of things would you look for?

A. The way he's walking, the way he's talking, maybe the odor of alcohol, depending on how close I am, possibly the odor of alcohol on his breath.

Q. Slurred speech, wouldn't that be one?

A. Sure, slurred speech, bloodshot eyes.

Q. Motor coordination?

A. Mm-mm.

BY CHIEF PHILLIPS:

Q. So the answer to that question is those things that we have just talked about?

A. General observations, yeah.

Q. Okay. Is there more of a chance of a person operating a motor vehicle while intoxicated during the night hours? Is there more of a chance of that?

A. Yes, I would say so.

## Examination of Patrick Nichols

Q. Do you feel that extra precaution should be used making a traffic stop during the night shift in order to make sure the operator wasn't driving while intoxicated?

A. Is there extra precaution?

Q. No. Do you feel extra precaution should be used making a traffic stop during the night shift in order to make sure the operator isn't driving while intoxicated?

A. No more so than any other stop, try to be cautious on every stop and observe as to whether or not a person is intoxicated in driving, whether it be in the day or the night.

Q. In order to discuss your probable cause and conduct the appropriate checks to make sure a person isn't driving under the influence, how long do you think that the average traffic stop should take during the night shift to conduct a complete and proper vehicle stop?

A. I don't think you can put a time limit on it. I think it all depends on your ability to get close to make those observations, such as the breath, the eyes, the speech, and really one thing would lead to another if you ascertain right off that the person has slurred speech. Then I start to consider some of the other observations.

BY ASSISTANT CHIEF MOLL:

Q. Can you give us a rough scenario, as far as

## Examination of Patrick Nichols

1  
2 pulling over a vehicle on the night shift, if your probable  
3 cause was a minor moving violation, how would you conduct  
4 yourself getting out of the patrol car? The vehicle's now  
5 pulled to the right side of the road. Let's go through what  
6 you would do at that stop.

7 A. Well, I would put my take-down lights on.

8 Q. The vehicle is already pulled over.

9 A. Right.

10 Q. You are out of the patrol car and you are walking  
11 towards the car. Take it from there.

12 A. Well, what am I doing? What am I investigating?

13 Q. How many vehicles have you pulled over?

14 A. A lot.

15 Q. Can you just tell me what you do during a traffic  
16 stop? I'm not going to walk you through this, Pat. We're  
17 just going through a scenario of pulling over a vehicle.  
18 You're now a trained officer telling an intern how to pull  
19 over a vehicle and what to look for and how to conduct  
20 yourself and what you ask for.

21 A. Mm-mm. The first thing I do is walk up behind the  
22 driver's door. If there is no passengers in the back, I walk  
23 up behind the driver's door and request to see their driver's  
24 license. That's the very first thing that I do. In some  
25 cases, I even ask them to turn their cars off.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Continue on. I want to go through the stop.

A. Everything could change; it depends on --

Q. Okay. I will ask you some simple questions.

A. Mm-mm.

Q. Do you ask for their license?

A. Yes.

Q. Do you ask for their registration?

A. Yes.

Q. Do you ask for insurance cards, probably?

A. Yeah, registration, insurance cards.

Q. You make observations of the condition of the  
vehicle?

A. Right.

Q. You check to see if they have their seat belt on?

A. Mm-mm, and watching their hands constantly.

Q. You discuss the probable cause?

A. Mm-mm.

Q. Why you pulled them over? You ask probably for a  
explanation or let them speak, correct? Would you let a  
driver speak?

A. Usually, I ask them, "Do you know why I stopped  
you," and then that gives them an opportunity.

Q. Then during the night shift or any other shift, as  
you have stated, you make various observations in regards to

1 Examination of Patrick Nichols

2 making sure this person is not driving under the influence of  
3 alcohol, correct?

4 A. Right.

5 Q. Such as slurred speech, possibly walking, motor  
6 coordination, bloodshot eyes, correct?

7 A. Mm-mm.

8 BY CHIEF PHILLIPS:

9 Q. How long would this take?

10 A. Again, it depends on the circumstances. If one  
11 thing leads you to believe that you need to continue further  
12 on and make more observations to determine whether or not a  
13 person is intoxicated, then it can take a lot longer than  
14 just a normal traffic stop.

15 Q. What would be a normal traffic stop time for a  
16 speeding ticket done at night?

17 A. If it's a simple headlight out -- which I check on  
18 those a lot -- it could take up to a minute.

19 Q. Could it take longer than a minute?

20 A. Oh, it could, yeah, you get people that can't find  
21 a license or don't have it and you have to run a check on it.

22 Q. Could it take five minutes?

23 A. It could if you decide that you're going to issue  
24 a ticket; you're looking at more time.

25 Q. In order to do the checks that you went through a

## Examination of Patrick Nichols

1  
2 little while ago when Assistant Chief Moll was asking you the  
3 question, leading you through a series of questions, if you  
4 were to do those things, how long do you think that stop  
5 would take?

6 A. We're talking as far as going into the  
7 observations of an intoxicated person, the whole scenario?

8 ASSISTANT CHIEF MOLL: To make sure this  
9 person was not driving while intoxicated or just  
10 to make that observation and just prior to you  
11 making the determination whether you are going to  
12 pursue further.

13 A. God, it could go anywhere from -- just like I  
14 said, it could go from a minute to, in some cases, maybe up  
15 to five and ten minutes to determine that. There are people  
16 that may have just had one drink before they left the house  
17 and you can smell a little bit. You start to lean into other  
18 observations, and you want to be certain, so it could go from  
19 one to ten, maybe longer.

20 BY CHIEF PHILLIPS:

21 Q. So you are looking at a minute being the quickest  
22 you could get it done and ten minutes being the longest,  
23 usually, you would stay there on a traffic stop?

24 A. I can't say for sure, Chief. If I went out and  
25 timed it, I could give you an accurate answer.



## Examination of Patrick Nichols

Q. You just said that, but to do the check or whatever, you're talking a minute, you know, so to me, a minute would probably be the quickest you could do it?

A. I would say that would be the quickest of the two that I said; a minute would be quicker than ten minutes, yes.

Q. But what would you think would be an average if you used one to ten? What does your average traffic stop require at night, at nighttime?

A. I have never looked at my watch. I have never done it. I can't tell you. I don't know if anybody can tell you what a traffic stop takes.

Q. Can police officers use discretion when they are enforcing traffic in the Penal Law?

A. Yes, they can.

Q. What type of criteria do you use for traffic stops?

A. I don't know, I haven't really got any set criteria for whatever.

BY ASSISTANT CHIEF MOLL:

Q. If you walked up to a person that had a headlight out --

A. Mm-mm.

Q. -- and you made all your appropriate observations

## Examination of Patrick Nichols

and this person said, "It just went out ten minutes ago --"

A. Mm-mm.

Q. -- "and I'm going right to the store to get it fixed --"

A. Right.

Q. -- would you be inclined to write that person a traffic ticket?

A. No, not under the circumstances that it just went out.

Q. Okay.

A. No.

Q. If you walked up to a car and you have already pulled them over for the headlight --

A. Mm-mm.

Q. -- And the guy gave you a hard time, would you be more inclined to issue a traffic ticket to that person?

A. It depends on if he was refusing to give me his license or something.

Q. Would you be more inclined to issue that person a traffic ticket compared to the person that is just going to the store? These are very simple questions.

A. I don't know. You are asking me to guess on what I would do.

Q. No, I'm asking if that would sway you. That's

## Examination of Patrick Nichols

what criteria is. What type of criteria?

A. Not necessarily. The circumstances are the same, other than the fact he's given me a hard time. If he said his light just went out --

BY CHIEF PHILLIPS:

Q. The question was, if you stopped a person the second time for that headlight, would you be more inclined to give him a ticket the second time?

A. Oh, on the second stop and it was still out?

Q. I believe that's what Assistant Chief Moll's question was.

A. Okay. Yes, if I have already pulled him over once and pulled him over a second time for the same infraction that hadn't been corrected since the first time I pulled him over, I would, no doubt, give him a ticket.

BY ASSISTANT CHIEF MOLL:

Q. Wouldn't it be safe to say a police officer uses that discretion based on how he is treated, what the circumstances are revolving the probable cause, why it took place, whether it be an equipment violation or moving violation, what the circumstances are? Would it be safe to say that would be criteria for a police officer?

A. Yeah, that would be safe to say, a lot of that and some additional things, right.

## Examination of Patrick Nichols

BY CHIEF PHILLIPS:

Q. Could this type of discretion be viewed as a judgment call by the officer?

A. I think so.

Q. Mm-mm. How would you describe what type of judgment this is?

A. What's your example?

Q. Of the criteria we just went over.

ASSISTANT CHIEF MOLL: Would it be general police officer discretion?

BY CHIEF PHILLIPS:

Q. All we're asking is, how would you describe what type of judgment this is? What would you call it?

A. I'm not sure that I follow you here, trying to categorize it.

Q. Do you have a name that you use when you make this type of a judgment, when you either are going to issue a ticket or you don't issue a ticket?

A. No, I have never referred to it as anything. Again, you have got to review the circumstances.

Q. Wouldn't it be called discretionary judgment?

A. I suppose it could be; you could put it in those words. I might be able to find other words.

Q. Isn't it your discretion whether you issue a

## Examination of Patrick Nichols

ticket or not?

A. Right.

Q. Okay. Recently, have you pulled over a vehicle and handed anything to the driver besides a traffic ticket?

A. I have given -- we have an equipment violation sheet, general rules that are given with a ticket. I have done that before.

BY ASSISTANT CHIEF MOLL:

Q. Anything else that accompanies a ticket, that's given with the ticket?

A. Right.

Q. Is there anything else you have handed to any drivers that you have pulled over for violations, besides this equipment slip or a traffic ticket?

A. I don't think there is anything else that we have.

Q. I didn't ask you for anything that we have.

A. I don't recall.

Q. You don't recall handing anything to any other driver?

A. No, unless we have a summons or something for somebody.

BY CHIEF PHILLIPS:

Q. Have you ever arrested a close friend or a

## Examination of Patrick Nichols

relative?

A. I don't recall if I ever arrested a relative.

BY ASSISTANT CHIEF MOLL:

Q. How about a close friend?

A. I have arrested friends or acquaintances. As far as any close friends, I have had to, yeah, I probably had to. Are you talking any kinds of arrests, like traffic arrests or anything?

BY CHIEF PHILLIPS:

Q. The question is simple.

A. Mm-mm.

Q. Have you ever arrested a close friend or a relative?

A. I would say that friends, I have had to give tickets, and I have arrested some friends. People that I had considered friends to some extent I have arrested.

Q. So if your neighbor broke the law, you don't have any problem if you decided that you would have to arrest him?

A. When it comes to the law, you do what you gotta do to make the arrest.

Q. Do you feel that your discretion in traffic enforcement has changed from the way you worked prior to your suspension and after your suspension?

A. Do I feel the way my traffic enforcement or

1 Examination of Patrick Nichols  
2 discretion regarding traffic enforcement has changed?

3 ASSISTANT CHIEF MOLL: Would you repeat the  
4 question, please?

5 (The pending question was read by the court  
6 reporter.)

7 A. I don't think so, no.

8 BY ASSISTANT CHIEF MOLL:

9 Q. So when you pull over a vehicle and conduct a  
10 thorough check and interview the driver, you don't base any  
11 of your discretionary powers based on people that live in  
12 Malone?

13 A. No, I have had to -- in fact, I have saved all my  
14 tickets -- I have had to write quite a few people in Malone.

15 Q. Do you have any documentation in regards to all  
16 the vehicles that you pulled over?

17 A. I certainly do, ever since I have been back.

18 Q. Every single vehicle you have pulled over?

19 A. Oh, no, all the tickets I have issued I have got.

20 Q. I'll ask you again: Do you have any documentation  
21 in regards to all the vehicles you have pulled over?

22 A. No, no, way too many.

23 BY CHIEF PHILLIPS:

24 Q. Where do you keep your documentation in regards to  
25 the vehicles that you have issued summons to?

## Examination of Patrick Nichols

A. In my locker.

Q. Okay.

BY ASSISTANT CHIEF MOLL:

Q. While you were working the night shift recently, you pulled over four vehicles. Three people were from the Town of Malone and one was from out of town. Can you explain why all three Town of Malone residents were not given a traffic ticket, but the one out-of-town operator was?

A. Again, it depends on the circumstances -- maybe if I could review it.

(Pause in proceedings).

A. I can't explain it, no. To answer your question, I can't explain it.

Q. In using your police discretionary powers, did you base this decision after you completed your traffic stop procedures that you earlier testified to?

A. Did I base my decision on my traffic stop discretion? Yeah, I used discretion on all of them so I would make a decision.

Q. When you called in a traffic stop, a supervisor marked down the place and checked the time. Why did most of the traffic stops for the Town of Malone residents only last 30 to 40 seconds on average?

A. I can't really answer that. Again, I don't know



1 Examination of Patrick Nichols

2 which particular vehicles you are referring to, and without  
3 knowing what the traffic violations were --

4 Q. The traffic stops that you made are reported on  
5 NYSPIN. Can you look at the names and see if you recall any  
6 of those names?

7 A. The only one I know is Brenda St. Hilaire. The  
8 other two, I don't know who they are.

9 Q. You don't recall any of those?

10 A. No. You asked me if I know the names? That's the  
11 only name that I recognize.

12 Q. Do you recall any of these vehicles that you  
13 pulled over?

14 A. No, I wouldn't know why I pulled them over, if  
15 that's what you're asking me.

16 Q. Okay.

17 A. What was the ticket that I wrote that night?

18 Q. That was for uninspected to an individual in  
19 Moira.

20 A. What was the expiration on the uninspected?

21 Q. I would have to pull the ticket.

22 A. Oh.

23 Q. So I will ask again: When you called in a traffic  
24 stop, a supervisor marked down the place and checked the  
25 time. Why did most of the traffic stops for Town of Malone

## Examination of Patrick Nichols

residents only last 30 to 40 seconds on average?

A. It's very possible that it was just a headlight out, something very minor, and that I had nothing -- no reason to believe that there was any other violations or anything further.

Q. Do you feel that your position as a Malone Town Councilman unconsciously has compromised your judgment when using discretion?

A. Absolutely not, because if you compare the tickets, the townships of the people that I have written tickets in, considering the percentages of the people that I pulled over being from Malone, I think you would see it would be very much in line.

Q. Would you be surprised if I told you that this didn't happen just one night?

A. I wouldn't be surprised, but at the same time, I wouldn't be surprised, either, if I wrote three people from Malone and gave somebody from out of town a break.

Q. Would you be surprised that that is not documented at all and nothing in our records reflects that you wrote three different Town of Malone residents and let one out-of-town resident go?

A. That may be possible.

Q. Can you explain why this is happening?

## Examination of Patrick Nichols

A. Absolutely not, maybe because the majority of the cars I pull over are from out of town.

Q. Why is that?

A. Maybe it's because the people that live in the area are well aware of the constant patrol that we have here the village.

Q. You worked the night shift two nights in a row. You pulled over a total of eight vehicles, four each night.

A. Okay.

Q. 75 percent of those vehicles pulled over were Town of Malone residents. 25 percent of the vehicles that were pulled over were from out of town. The percentage of vehicles in town were not issued a ticket. All the out-of-town vehicles were issued a ticket. Can you explain that?

A. No. Again, I would have to review each circumstance to determine what the reason was for issuing the ticket.

Q. Has your Town of Malone Councilman position compromised your judgment in police enforcement?

A. Absolutely not.

Q. You recently testified that you have not changed any of your discretionary ways when issuing traffic tickets prior to your suspension and after your suspension, not prior

## 1 Examination of Patrick Nichols

2 to and not after?

3 A. Correct.

4 Q. The traffic tickets were calculated prior to the  
5 election and after the election. Can you explain why there a  
6 is a 240 percent change in the way you enforce traffic laws,  
7 giving favor to Town of Malone residents?8 A. Say what? Can you repeat that? There is a 240  
9 percent change in the way I enforce traffic?

10 Q. Correct.

11 A. Can I explain why there is a 240 percent change?

12 Q. That's what the question is.

13 A. I can't explain that.

14 Q. Does that surprise you?

15 A. Does it surprise me that I have got an increase in  
16 my traffic enforcement?17 Q. No. It has nothing to do with quantity of traffic  
18 tickets.

19 A. Mm-mm.

20 Q. The question was, the traffic tickets were  
21 calculated prior to the election and after the election. Can  
22 you explain why there is a 240 percent change in the way you  
23 enforce traffic laws, giving favor to the Town of Malone  
24 residents?

25 A. No, I can't explain that, and I don't even know

## Examination of Patrick Nichols

what your figures are, so I can't -- there is no way I can do that without any information. You are telling me that. That's what you are telling me, so I'm certainly not the kind of person that can explain that type of a percentage change.

BY CHIEF PHILLIPS:

Q. Do you disagree with the percentage that we're telling you?

A. I don't agree or disagree. I don't know how you have calculated or what you have come up with for figures and the scenario, so I can't give you an educated response to that.

ASSISTANT CHIEF MOLL: I can show you our calculations and maybe you can respond. I will be right back.

(Assistant Chief Moll exits and, subsequently, reenters room.)

BY ASSISTANT CHIEF MOLL:

Q. I would like to go on record and change that 240 percent change to a 230 percent change. The tickets were calculated from our logbook, which you sign on and off duty, and also put the tickets that you issue during that shift.

A. Right, I understand that.

Q. I had to go back to August 7th, 1992, to get the approximate same number of tickets that you issued --

1 Examination of Patrick Nichols

2 A. Mm-mm.

3 Q. -- to calculate percentage fairly. I will show  
4 you the document and how the calculation came out.

5 A. Okay, a couple of possibilities, one being that,  
6 after January 1st is when the uninspected tickets, which are  
7 red in color, were much easier to observe. So a large number  
8 of uninspected tickets I have I know I had written myself. I  
9 had written quite a few of those. So they were easy to pick  
10 out.

11 Another is that I pull many more vehicles over now  
12 than I used to, and a large number of those are simply,  
13 again, referring to one headlight, maybe somebody not having  
14 their headlights on during a rain or whatever. So I'm  
15 pulling cars over for any violation, anything that I see.  
16 It's a large number of vehicles that I pull over. And again,  
17 in some of those cases where somebody may say, "Well, the  
18 light just went out," I give them an opportunity to get it  
19 straightened out.

20 So those two things alone may have something to do  
21 with it. But as far as explaining professionally, I don't  
22 know how to go about doing that. Those are the only things I  
23 can figure.

24 Q. Can you look at that document again, please?

25 A. Yeah.

## 1 Examination of Patrick Nichols

2 Q. On the top it says -- incidentally, when were you  
3 elected into office? When was the election?

4 A. November 3rd.

5 Q. Of what year?

6 A. '93.

7 Q. Okay. And on the top, the first calculation is  
8 from what date?

9 A. 8-7-92.

10 Q. To the election, which was '93, correct?

11 A. Mm-mm, right.

12 Q. Wouldn't there be a January in there someplace?

13 A. Yeah, but maybe you didn't understand what I

14 said. The red tickets were easy to pick out this year.

15 Usually, the way it's been going on, unfortunately for us

16 patrolmen, is the last few years the change in color wasn't

17 significant and it was hard to determine. These red stick

18 right out. You have got the two-year lapse. It's easy to

19 find. If there is red on the inspection, it's over. It's

20 gone.

21 BY CHIEF PHILLIPS:

22 Q. Are you color blind?

23 A. No.

24 Q. You have trouble distinguishing between colors?

25 A. It's a brighter red, and at a distance you can

## Examination of Patrick Nichols

pick them out.

BY ASSISTANT CHIEF MOLL:

Q. Taking the percentage of traffic tickets --

A. Mm-mm.

Q. -- and we're talking actual tickets written --

A. Right.

Q. -- no matter if there was red or yellow stickers or whatever, we're showing that 76 percent of your tickets prior to the election were issued to Town of Malone residents; after the election, there were roughly the same amount of tickets, but only 33 percent of your tickets were issued to Town of Malone residents. That's quite a drastic change in traffic enforcement.

A. Yeah, it was.

Q. Can you explain that?

A. I told you, I do not know how to explain that type of a change.

Q. Is it possible?

A. Is what possible?

Q. If your elected position has unconsciously compromised your judgment as a police officer?

A. What I will say to is that, at no time when I have pulled somebody over, have I ever considered the fact that they live in Malone before deciding whether or not I'm going



1 Examination of Patrick Nichols  
2 to issue a ticket.

3 Q. Okay.

4 A. That has never been a consideration.

5 BY CHIEF PHILLIPS:

6 Q. Do you know Sharon Hughes?

7 A. Yeah, I'm trying to think here, yeah, Telegram  
8 reporter.

9 Q. Do you know Will Doolittle?

10 A. I know Will Doolittle, yes, in Will.

11 Q. Is there any other reporter from the  
12 Malone Telegram that you know?

13 A. Yeah, I know Annette Scott, I think is her last  
14 name. She's new.

15 Q. Scott?

16 A. Yeah, Annette Scott, and I know Tom Graser, who is  
17 now the editor, I believe.

18 Q. Is that all that you know?

19 A. That's all that comes to mind right now.

20 Q. Do you know any of the reporters from the  
21 Press Republican?

22 A. Yeah, I know Allison Calkins and Kirby Selkirk.

23 Q. Do you know Tom Grady?

24 A. Yeah, Tom Grady used to be -- well, he was with  
25 the Telegram and then was with the Press, I believe, the

## Examination of Patrick Nichols

Press Republican. Oh, no, wait, maybe that was the  
Fort Covington Sun.

Q. Who is the reporter now at the Fort Covington Sun?

A. Doug Buchanan.

Q. I'm going to try to refresh your memory back into  
August, okay? On August 17th, 1993, in an article in the  
Telegram, you were quoted as saying, "There is someone else  
who should be suspended for 30 days." Was that someone a  
member of this police department?

A. I can't recall, I don't remember the  
conversation.

BY ASSISTANT CHIEF MOLL:

Q. Would you like to review the article?

A. Sure, if you think this will help me.

Q. It's highlighted down at the bottom there.

BY CHIEF PHILLIPS:

Q. Would you read what it says?

A. Yeah, "'There is somebody else who should have  
been suspended for 30 days,' Nichols said. I have always  
done my job. I have nothing to hide.'"

Q. Do you recall saying that now?

A. I don't recall saying that or the conversation.  
I'm not denying that I said it, but I'm just saying I don't  
recall.

## 1 Examination of Patrick Nichols

2 Q. Do you think this conversation took place  
3 face-to-face?

4 A. With who wrote it?

5 Q. You can check the front to see if --

6 A. As I remember, Sharon Hughes -- no, not  
7 face-to-face, I never talked to her face-to-face.

8 BY ASSISTANT CHIEF MOLL:

9 Q. Do you think it was over the phone?

10 A. I believe I did receive a call from Sharon Hughes  
11 over the phone at home one time.

12 Q. Is it possible that you made this comment to  
13 Sharon Hughes?

14 A. Again, I don't recall the exact comments. I did  
15 speak to her and refer her at some point to my union, so I  
16 don't recall the conversation.

17 Q. Prior to you referring her to your union --

18 A. Mm-mm.

19 Q. -- did you comment in that area as far as, "There  
20 is someone else who should be suspended," and continued with  
21 whatever the Telegram quote was?

22 A. Don't recall.

23 Q. Is it possible that you said that to her over the  
24 phone?

25 A. I don't recall saying it. That's what I'm telling

## Examination of Patrick Nichols

you.

Q. Is it possible you said it?

A. A lot of things are possible.

Q. Okay. On August 17th, did the -- retract that, strike that. There was an article printed August 17th in the Press Republican. Have you been interviewed by the Press Republican?

A. I don't remember that, either. I have had conversations, when this all first took place, everybody called my house. Allison Calkins from the Press Republican called my house once.

Q. And asked you some questions?

A. She was making inquiries, yes.

Q. Would inquiries be questions?

A. Yes.

Q. So she asked you questions about an incident?

A. Right, about my suspension.

Q. Did you answer her questions?

A. This, again, I can't remember.

Q. Did you not answer her questions?

A. The only thing I recall about all these is referring to my attorney.

Q. Would you like to look at that?

A. Sure.

## Examination of Patrick Nichols

BY CHIEF PHILLIPS:

Q. If I can interject here for a second, going back to the Telegram, was there a time that you and several reporters from the Telegram were either at the Telegram office or your house on a conference call with your attorney?

A. On a conference call?

Q. Yes.

A. If I was in a conference call?

Q. Yes.

A. No. Over the phone, you mean, kind of thing?

Q. Yeah. I mean, your attorney obviously was down in wherever he was located.

A. Yes.

Q. Were you ever involved in a conference call --

A. I was never involved in any group calls.

BY ASSISTANT CHIEF MOLL:

Q. Were you ever in the Malone Telegram's office discussing this with any reporters or any employees of the Malone Telegram?

A. No.

Q. You never entered the Malone Telegram office and never discussed anything in regards to your suspension and anything in regards to your police matters?

A. I have been in there a lot because my campaign was

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

going on.

Q. I'd like to question finish the question.

A. You said and.

Q. Have you ever been in there during your suspension --

A. Mm-mm.

Q. -- discussing police matters in one of the offices of the Malone Telegram?

A. No.

Q. You never made any comments in regards to your suspension or any other police matters?

A. I never brought this matter up to anybody in the media. The media -- again, I will say this for probably the third or fourth time -- a lot of them made inquiries at any opportunity they had, and again I will say that I kept referring them to my attorney.

Q. So you are testifying that you never commented whatsoever in regards to your suspension, in regards to the charges, or in regards to any other matters of the Malone Police Department to any reporters?

A. I'm not saying that. I'm saying that I made comments, but I do not recall the extent of my comments, other than the fact that I referred them to my attorney. I'm not saying I didn't make any comments.

## 1 Examination of Patrick Nichols

2 Q. So I will ask the question again: Is it possible  
3 that you made the comment to Sharon Hughes over the phone  
4 when she asked you questions, "There is someone else who  
5 should be suspended," and whatever else that article says  
6 that they have you quoting?

7 A. I don't recall saying that, that particular  
8 comment right there, and you are asking me to refer to that  
9 comment. I am telling you I don't recall that.

10 Q. Did you answer any of her questions, besides  
11 referring her to your attorney?

12 A. That's possible, that's possible.

13 Q. I will show you the August 17th, 1993,  
14 Press Republican. Highlighted is some information that they  
15 have you quoted by Allison Calkins, I believe. Did you make  
16 that comment or anything close to that comment to  
17 Allison Calkins?

18 CHIEF PHILLIPS: Would you read the comments?

19 A. Yeah, "'In June, 1988, I took an oath to serve the  
20 public. I did what I did because it was in the best  
21 interests of the public, and this attempt to shut me up isn't  
22 going to work,' he said, saying that he's looking forward to  
23 the public hearing where the whole story will be told.' Does  
24 it make sense to take a man out of work for 30 days for doing  
25 the right thing?'"

## 1 Examination of Patrick Nichols

2 This was on August 17th? Again, the exact  
3 comments -- I can't say that these are the words or anything  
4 directly familiar to these. I can't testify that I said  
5 those. I did answer some of her questions and, again, I  
6 referred her to my attorney.

7 BY ASSISTANT CHIEF MOLL:

8 Q. Did you give any information to Allison Calkins or  
9 Sharon Hughes with respect to that? Did you ask any of these  
10 reporters if your conversation was being taped by the news  
11 media?

12 A. No.

13 Q. So you don't know whether these conversations were  
14 taped or not, correct?

15 A. Yeah, right, if I didn't ask, I didn't know.

16 Q. Okay. They didn't advise you that they were being  
17 taped?

18 A. No.

19 Q. Is it possible that when you answered various  
20 questions from the reporters, that they drew enough  
21 conclusion to show that as one of your comments, maybe not  
22 verbatim, but a conclusion and by showing your comments and  
23 how you reflected on it?

24 A. They could have drawn their own conclusions out of  
25 what I said, but again, it's not to say that's what I said.



## Examination of Patrick Nichols

I don't recall saying it.

Q. Did you say anything close to that?

A. I can't -- well, first of all, there are several different points in here, and I do remember commenting that I anxiously await the public hearing. But as far as responding to direct questions, let's see, here again, I don't remember. You guys gotta understand, there is a lot of people calling me up.

Q. Do you have an unlisted number?

A. No, it's listed.

Q. I'm going to show you August 18th, a copy of the August 18th publication of the Press Republican where it is highlighted and has you quoted about retaliation and fear of the Chief of Police. Could you read that, please?

A. "Nichols said Tuesday that although he will wait until the civil service hearing to tell the whole story, he waited until recently to report the incident because he feared retaliation by Police Chief James Phillips and because he wanted to be sure he had a good case. 'Retaliation is the number one reason I waited so long,' he said. 'That's the same reason a lot of others are waiting before they say anything. They fear retaliation, too. But I made the decision I'd see this through, and I want the public to know what's going on.'"

## 1 Examination of Patrick Nichols

2 Q. Who are the other officers that are afraid of  
3 retaliation?

4 A. I couldn't tell you, that was a question that was  
5 answered at the hearing, anyways, so you can refer back to  
6 the transcript of the hearing.

7 Q. Why can't you tell me?

8 A. Because I don't remember.

9 Q. You don't remember what?

10 A. Who the other officers are that --

11 Q. That feared retaliation?

12 A. The transcript, in thinking back to the hearing --  
13 no, I was asked who the other officers were that were  
14 involved, and the answers to that are in the transcript.

15 Q. So you can't recall who the other officers are,  
16 but would it be safe to say that you made that comment?

17 A. No, not necessarily, again, you know --

18 Q. Did you say anything in regards to fear of  
19 retaliation by the Police Chief?

20 A. I can't recall.

21 Q. I will show you a copy of an article in the  
22 Fort Covington Sun or The Sun, as they call it, and it's in  
23 August, I don't have an exact date, but it's in August around  
24 the same time, 17th, 18th. On the second page, could you  
25 read those comments?

## Examination of Patrick Nichols

1  
2 A. "'Basically, I have done nothing inappropriate, and  
3 I stood by that decision then,' said Nichols, 'and I stand by  
4 it now and will until my hearing, which will be public. I am  
5 doing what a police officer is required. Unfortunately, a  
6 30-day suspension was taken out on me, and this is where we  
7 stand. I have done nothing wrong.' Nichols said he  
8 initiated it being put out to the press. 'I felt that the  
9 public has a right to know everything up to my suspension,'  
10 said Nichols."

11 Q. Do you recall that conversation at all with  
12 Tom Grady?

13 A. Gosh, I don't remember talking to Tom Grady.

14 Q. You don't remember even talking to Tom Grady?

15 A. Again, I'm trying to think. There were so many  
16 calls, I don't remember talking to Tom Grady.

17 Q. You don't remember talking to Tom Grady?

18 A. I'm not saying I didn't, but I don't remember the  
19 conversation at all. I don't even remember referring him to  
20 my attorney, to be honest with you.

21 Q. If you don't recall the conversation with Tom,  
22 obviously you don't know if the conversation took place, or  
23 if the conversation did take place, whether it was over the  
24 phone or in person, correct?

25 A. No, it wasn't in person, none of that was in

1 Examination of Patrick Nichols  
2 person.

3 Q. Again, you don't know if any of the these  
4 conversations were taped, correct?

5 A. Correct. There was only one reporter that came to  
6 my house, I think, within nights after I was suspended.

7 Q. And who was that?

8 A. That was Doolittle.

9 Q. What did you tell Will Doolittle?

10 A. I can't remember the gist of the conversation,  
11 again, basic questions asking me how long I was suspended  
12 for, things of that nature, what my intentions were and all  
13 that, who my attorney was.

14 ASSISTANT CHIEF MOLL: Would you like me to  
15 continue?

16 CHIEF PHILLIPS: I will.

17 BY CHIEF PHILLIPS:

18 Q. After your disciplinary hearing, the Hearing  
19 Officer found you guilty of many charges. Some of the  
20 charges that you were found guilty of are Section 11.5 and  
21 10.1.27. Would you look at those two sections?

22 A. Ten point what?

23 Q. 10.1.27 and 11.5.

24 A. Okay.

25 Q. Okay. Do you understand those sections?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. Yes, I do.

Q. After receiving your penalty for the charges, were you interviewed by Tom Graser?

A. After receiving my --

Q. Your penalty, after receiving your penalty, which was the night that the Board met, did you ever meet with Tom Graser?

A. Yeah.

Q. Did he interview you?

A. Tom Graser interviewed me once for the campaign for the baseball card pictures they put in the paper, and that's the only interview that I have had with Tom Graser.

BY ASSISTANT CHIEF MOLL:

Q. Was Tom Graser at the Board meeting when your penalty was handed down?

A. I don't remember.

Q. Was Monte Coughlin at the Board meeting?

A. Monte Coughlin was.

Q. Did Tom Graser ask you any questions in regards to the penalty?

A. Are you talking about Tom Graser or Tom Grady?

Q. The Telegram.

A. In that interview, in other words, in the physical

1 Examination of Patrick Nichols

2 interview, did he ask me any questions regarding the police  
3 department?

4 BY CHIEF PHILLIPS:

5 Q. No. We're asking you, the night that your penalty  
6 was imposed upon you at the Village Board meeting --

7 A. I don't remember.

8 Q. -- after you received the penalty, were you  
9 interviewed by Tom Graser?

10 A. I can't recall, I do recall, though, that Monte  
11 Coughlin and a couple other people -- a couple, I mean  
12 everybody that was there -- came back to me in the back of  
13 the room and Monte asked me if I had intentions to go beyond  
14 the particular decision, and I said that I would have to  
15 check with my attorney.

16 Q. Officer Nichols, I'm somewhat amazed through a  
17 hearing and everything that lasted over three months long,  
18 the amount of news media coverage that was covered, the  
19 amount of articles in the paper, in regards to the television  
20 and radio, that when we come to explicit questions relating  
21 to those articles and anything that was given to these  
22 newspapers, and all of these papers quoted you as saying  
23 these things, you seem to be at awe and that you don't  
24 remember any of them. It just seems to strike me as somewhat  
25 being strange. As deeply involved as you were with it and

1 Examination of Patrick Nichols

2 your attorney with it, I would think that those would be  
3 things that you would remember for the rest of your life.  
4 And I just -- I'm at awe for not being able to understand why  
5 you just can't remember those things.

6 A. Well, to help you understand, Chief, you have to  
7 realize that you are talking about three or four reporters,  
8 when, in fact, I had hundreds of people calling me and coming  
9 to my house. And for me to sit down and tell you exactly  
10 what I said and what was said to three or four of those  
11 hundreds of people -- maybe that helps you understand. I  
12 don't know.

13 Q. Let me just ask another question. Let me rephrase  
14 it a different way. All of the articles that you have seen  
15 in the last few minutes or last several minutes, all of  
16 them -- all the reporters that we have talked about state  
17 that you stated or quoted or this is what you gave them. Are  
18 these reporters lying in their printing of the news?

19 A. I can't say that.

20 Q. So it's possible that you did state these  
21 statements to the press? They all pretty much have the same  
22 statements.

23 BY ASSISTANT CHIEF MOLL:

24 Q. It's not possible that you stated these to the  
25 press?

## Examination of Patrick Nichols

A. Right. Again, I will say I spoke with --

BY CHIEF PHILLIPS:

Q. Let me just advise you, you are under oath.

A. Okay.

Q. And if need be, we can subpoena, if this goes to a disciplinary hearing or whatever, we can subpoena every one of these press people to the hearing.

A. Absolutely. If they testified to the fact that I did say that, and I can't recall, then what more is there to add to that if they're saying I it did and I can't remember the conversation?

Q. Like I'm saying, I'm just at awe why you can't remember any of these type things.

A. They may recall exactly because they're one individual speaking to one individual. I'm one individual speaking to hundreds of people.

Q. That's enough on that subject.

BY ASSISTANT CHIEF MOLL:

Q. You just said that hundreds of people came to your house or called?

A. Yeah, between the two.

Q. Did you ever discuss your side of the story with any of those people?

A. Again, basic information, basic information, the



## Examination of Patrick Nichols

length of time of the suspension, what I had been suspended for, who my lawyer is.

Q. Didn't give your side of the story?

A. No, it was pretty limited. I was under the advice of an attorney at the time and followed what he suggested that I do.

Q. It's not your claim that the news media misrepresented themselves when they called your house? Are you claiming that at all?

A. Misrepresented themselves?

Q. In other words, that someone called and just started talking to you and asking questions and didn't say, "I'm Sharon Hughes from the Malone Telegram", they didn't identify themselves?

A. Sure, they did.

Q. They all identified themselves, so you were aware that you were talking to a reporter?

A. Yeah, because these are the ones that I would give the phone number to my attorney to.

Q. In your police training, is there anything called off the record?

A. I don't know about police training. I have heard that phrase in the political arena as far as keeping things off the record, but --

## 1 Examination of Patrick Nichols

2 Q. Well, would you be a hundred percent comfortable  
3 if you were talking to a reporter and you said let's just  
4 keep this off the record in regards to police matters?

5 A. I don't know as I would trust a reporting system  
6 that much to do that. I don't agree with that.

7 Q. Okay. Showing you an article November 21, 1993,  
8 in the Telegram, I've marked that in red, could you read  
9 that, also?

10 A. "'I was not planning to comment,' Nichols said  
11 after the meeting was adjourned. 'I feel good. What can I  
12 say? I'm going back to work.' There will be some hard  
13 feelings when he returns to work, Nichols admitted. 'We can  
14 handle that,' he said. 'We're grown men. We're  
15 professionals.' The case may still be appealed, Nichols  
16 said. 'I'm not satisfied with any punishment,' he said. 'I  
17 feel I haven't done anything wrong. I don't deserve any  
18 punishment.'"

19 Q. Shortly after the penalty was handed down to you  
20 by the Village Board, were you interviewed at all by  
21 Monte Coughlin?

22 A. Monte Coughlin and a couple other people I just  
23 said.

24 Q. Were you aware Monte Coughlin had a tape recorder  
25 of what you were saying?

## Examination of Patrick Nichols

1 A. Yeah, because it was on the radio the next day.

2 Q. Would it be safe to say that you made those  
3 comments that were put on the radio?

4 A. In referring to this (indicating)?

5 Q. Would it be safe to say that the comments that you  
6 made to Monte Coughlin reflected exactly what you said on the  
7 radio?

8 A. If it was my voice that was put on the radio, then  
9 I said it.

10 Q. Did you hear the comments on the radio?

11 A. I heard the reporting on it, I can't --

12 Q. Was that what you said? Was that your voice?

13 A. I said I heard the reporting. I didn't hear it.

14 Q. Oh, you didn't hear it?

15 A. No.

16 Q. If you were to hear it, you can recognize your own  
17 voice?

18 A. Pretty much.

19 Q. Okay.

20 BY CHIEF PHILLIPS:

21 Q. The DARE program was mentioned quite a bit in the  
22 news media and also during the disciplinary hearing that you  
23 had public; is that correct?

24 A. Yes.

## Examination of Patrick Nichols

1  
2 Q. Do you think that all this publicity hurt the DARE  
3 program?

4 A. I think that it may not have helped it, if that's  
5 what you mean.

6 BY ASSISTANT CHIEF MOLL:

7 Q. So would your answer be yes?

8 A. I don't think it hurt it, but I don't think it  
9 helped it as far as the pace that -- or the speed that the  
10 DARE program was advancing in the Malone area. I don't  
11 believe it hurt it, no.

12 BY CHIEF PHILLIPS:

13 Q. Do you think you should be allowed to teach the  
14 DARE program in the future?

15 A. In the future, maybe, Chief, but in the present  
16 future, I would say no.

17 Q. So you don't think you should teach the program  
18 this year?

19 A. Not this year and probably not next year. You  
20 probably are going to want to know why I feel that way.

21 Q. No.

22 A. Okay.

23 Q. Did you ever contact WPTZ in order to go on TV to  
24 be interviewed about your departmental charges?

25 A. No.

## Examination of Patrick Nichols

BY ASSISTANT CHIEF MOLL:

Q. Did they ever contact you?

A. Yes, they did. In fact, I correct that. I had a call from a Tim Dodd, who was from the TV station, to return my call to him. I returned the call to him. That's when he let me know exactly who he was and, again, I referred him to my attorney.

Q. So you called WPTZ?

A. I called there not knowing exactly -- he said he was Tim Dodd, a reporter, "call me." So I called him to see what he wanted. I was running a campaign at the same time, so I had two different things going on.

BY CHIEF PHILLIPS:

Q. Did you receive a call from the Mayor advising you of the rules and regulations, giving special attention to Section 11.5, that day?

A. Okay. Now we're talking about a different day. Which day are you referring to? I did get a call when I --

Q. This was after your departmental charges came down and you were interviewed by WPTZ.

A. Okay. This was after the decision was made to go with the 60-day suspension instead of 30.

Q. Isn't that where we've been for the last --

A. Yeah, but I'm just saying that that was when I

## Examination of Patrick Nichols

1 first got suspended, when I first got suspended, not knowing  
2 who he was at that time. This time he called me and wanted  
3 to come over and talk to me. I said, "Let me call my  
4 lawyer." I called my lawyer, then I called him back and  
5 said, yeah. He says, okay, as long as I answer certain  
6 questions. Then the Mayor called and said something about  
7 this, not to speak to the media, whatever he pointed out, to  
8 remind me of the section. I got these rules at home, so I  
9 referred to it, yeah.

11 Q. Okay. After you received this call from the  
12 Mayor, did you still allow yourself to be interviewed by WPTZ  
13 and also go on camera?

14 A. I spoke to WPTZ, yes.

15 Q. Okay. You said that one time prior to this time,  
16 Tim Dodd had left a message on your answering machine and you  
17 called him back?

18 A. Right.

19 Q. How can you remember such a minute detail of one  
20 specific reporter calling you prior to the 30-day suspension,  
21 and you still can't remember all these other reporters that  
22 are local and that you have talked to several more times than  
23 this reporter?

24 A. Well, I remember Tim Dodd for a couple of  
25 reasons: One, I see him every night on TV; number two, he's

1 Examination of Patrick Nichols  
2 the one I had to get back to.

3 Q. When you called him back, what were the questions  
4 that he asked you?

5 A. He asked me if he could come over and interview me  
6 in regards to the decision being made.

7 Q. What did you tell him?

8 A. I told him I had to check with my lawyer.

9 Q. What did your attorney tell you or what did the  
10 attorney advise you?

11 ASSISTANT CHIEF MOLL: Could I interject here?

12 CHIEF PHILLIPS: Sure.

13 (A recess was taken.)

14 OFFICER NICHOLS: Do you have any idea,  
15 Chief, how much longer this is going to take?

16 CHIEF PHILLIPS: No estimation.

17 ASSISTANT CHIEF MOLL: Are you working right  
18 now, Officer Nichols?

19 OFFICER NICHOLS: Yes, I was on duty, yeah.

20 ASSISTANT CHIEF MOLL: Did you get a chance to  
21 get something to drink?

22 OFFICER NICHOLS: Right there.

23 ASSISTANT CHIEF MOLL: Did you need a longer  
24 break?

25 OFFICER NICHOLS: No, I think the break was

1 Examination of Patrick Nichols

2 good. I'm just -- as far as the length of time of the whole  
3 interview, for the record, I wasn't advised this was going to  
4 be this lengthy.

5 ASSISTANT CHIEF MOLL: Officer Fountain, do  
6 you need another break?

7 OFFICER FOUNTAIN: No, thanks, I'm all set.

8 CHIEF PHILLIPS: At this time, I would like to  
9 withdraw the last question that I asked.

10 BY CHIEF PHILLIPS:

11 Q. Officer Nichols, even after you received the call  
12 from the Mayor, did you still allow yourself to be  
13 interviewed by WPTZ and also go on camera?

14 A. Yes.

15 Q. Do you feel there was considerable news coverage  
16 regarding your disciplinary charges?

17 A. Do I feel there was considerable news coverage  
18 regarding my disciplinary charges? I wouldn't know how to  
19 answer that, Chief. What's considerable news coverage?

20 BY ASSISTANT CHIEF MOLL:

21 Q. What your opinion is, that's what the question  
22 is. Do you feel that there was considerable news coverage on  
23 this whole incident?

24 A. I think there was, yes, I'd have to say yes.

25 BY CHIEF PHILLIPS:



## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. While you were on suspension, did you conduct a door-to-door campaign for your town position?

A. Yes.

Q. While doing this, did you ever discuss or plead your case to anyone during your door-to-door campaign?

A. Discuss, yes, plead, no. Again, inquiries were made, so there was some discussion, but I never pled my case to anybody.

Q. Would you describe what type of discussions that you had?

A. Again, simple inquiries, how much longer am I going to be out of work, things of that nature, very simple.

Q. How much of these discussions did you partake in?

A. Several, again, it's not -- I was focusing on my campaign, so I didn't keep track of how many people asked me about my police business.

Q. Did you, during any of these discussions, ever tell the people that were asking you these questions that you couldn't answer them or else you'd be violating any of the rules and regulations of the police department?

A. I can't remember, Chief, if there were those types of questions asked where I even had to say that. I don't recall ever saying it, no, to answer your question.

Q. Okay. Is it important to secure and maintain the

1 Examination of Patrick Nichols  
2 public trust in a police department?

3 A. Yes.

4 Q. Why?

5 A. I would say so that your community and your police  
6 department have a good rapport with one another and can work  
7 to achieve the same goals, I mean, common goals, and as a  
8 team effort, sort of.

9 Q. During any of the news media contact that you had,  
10 did you ever try to dissuade or discourage them from talking  
11 to you?

12 A. Well, again, by just referring them to my  
13 attorney, I suppose you could look at it as I was dissuading  
14 or discouraging them from interviewing me, yes.

15 Q. Do you think the coverage of your disciplinary  
16 charges and hearing was fair and accurate?

17 A. In regards to the media?

18 BY ASSISTANT CHIEF MOLL:

19 Q. Yes.

20 A. I can't really answer that.

21 Q. Do you think it was a fair and accurate  
22 representation of what took place, in your opinion?

23 A. I can't -- you are asking me to judge the media on  
24 whether they did a fair job.

25 Q. In your opinion, do you think it was a fair and

## Examination of Patrick Nichols

accurate representation of what took place?

A. Again, I can't -- I have never -- you're asking me to judge on their quality of reporting.

Q. Do you think this computer on the desk, that that might be a good place for that computer, in your opinion?

A. It may be for the needs.

Q. Do you feel that, in your opinion, that that was an accurate, fair representation of what took place at the hearing?

A. Of what took place at the hearing?

Q. Your opinion.

BY CHIEF PHILLIPS:

Q. The coverage.

A. The entire situation? I don't think they damaged me, if that's what you're asking. I do not think they hurt me, so I would have to say that it was probably fair.

BY ASSISTANT CHIEF MOLL:

Q. Did you refuse to answer any questions from the media?

A. Again, I'd refer them to my lawyer.

Q. Did you refuse to answer any questions from the media?

A. Yes, there were questions I refused to answer.

BY CHIEF PHILLIPS:

## 1 Examination of Patrick Nichols

2 Q. Are you aware of the strict police department  
3 rules in regards to public speaking and making public  
4 speeches in regards to police matters?

5 A. I'm recalling some policy on that, but to be  
6 specific, I'm not sure exactly how it reads.

7 Q. You have the copy?

8 A. Can you refer me to a particular section?

9 Q. Well, it's Section 10 or 11.

10 ASSISTANT CHIEF MOLL: Try 11.5.

11 BY ASSISTANT CHIEF MOLL:

12 Q. I believe you testified you were aware of that  
13 section?

14 A. Well, I recall it now as I'm reading it.

15 Q. Okay.

16 A. Your question was in regards to public speeches?

17 (The pending question was read by the court  
18 reporter.)

19 A. I said yes, to answer that question.

20 BY CHIEF PHILLIPS:

21 Q. Why do you think these rules are important?

22 A. Well, I would believe that this rule would allow,  
23 in this particular case, the Chief to make a decision as to  
24 whether or not any information is to be given out publicly.

25 Q. Why would that be important?

## 1 Examination of Patrick Nichols

2 A. To keep certain information from getting out that  
3 shouldn't get out, I guess, is what it's there for.

4 Q. Okay. Do you feel that all the news coverage and  
5 publicity over your disciplinary charges jeopardized the  
6 public trust in the police department?

7 A. Again, that's another -- you're asking me to  
8 answer another question that's --

9 BY ASSISTANT CHIEF MOLL:

10 Q. Your opinion.

11 A. I'm guessing.

12 Q. Your opinion, Officer Nichols.

13 A. My opinion is, as to the coverage, if it damaged  
14 the --

15 Q. I will reread the question. Do you feel in your  
16 opinion that all the news coverage and publicity over your  
17 own disciplinary charges jeopardized the public trust in the  
18 Malone Police Department?

19 A. Based on conversations with the people, I'd say  
20 no.

21 Q. What types of conversations were they?

22 A. Well, the people calling me and stuff and telling  
23 me they were coming over.

24 Q. People had conversations with you in regards to  
25 the public trust of the Malone Police Department?

## Examination of Patrick Nichols

1                   A.     You are asking me, in my opinion, if I felt that  
2                   there is damage to the public opinion of the police  
3                   department in regards to that, and I'm telling you that,  
4                   based on those discussions with people that called and came  
5                   over after my suspension, that just from those people -- I'm  
6                   not talking about the other people out there -- but I would  
7                   say no.  
8

9                   Q.     And what type of comments were made to draw you to  
10                  that conclusion?

11                  A.     Nothing negative about the department.  You're  
12                  asking me about the department, and I'm telling you, of the  
13                  many people that asked me about my status, nothing negative  
14                  was said about the integrity or the reputation of the police  
15                  department.

16                  Q.     Okay.  In going back, you returned phone calls to  
17                  the media?

18                  A.     Yeah.

19                  Q.     Did you ever make an initial contact to any media?

20                  A.     Again, like I said earlier, the only recollection  
21                  that I have with contacting the media was when Tim Dodd left  
22                  a message on my recorder.  That's the only thing that I  
23                  recall as far as me contacting them.

24                  Q.     Have you ever made any initial contacts to the  
25                  media?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. Again, I refer back to the answer I just said.

The only time I recall ever making contact to the media --

Q. So the answer is no?

A. -- is at that time. I did once, and that was to return a phone call.

Q. Do you know what initial contact would mean, first contact?

A. Me contacting them before they contact me.

Q. That's correct.

A. I don't recall that.

Q. Would the answer be no?

A. I would say no, based on what I recall at this time, no.

Q. When is the last time the media contacted you in regards to any police matters?

A. Yesterday afternoon right here while I was working.

ASSISTANT CHIEF MOLL: Do you want me to continue?

CHIEF PHILLIPS: Why don't you cover that one with the questions he's leading into; then I will go into the next area afterwards.

BY ASSISTANT CHIEF MOLL:

Q. And what was that in regards to?

## Examination of Patrick Nichols

A. The New York State Supreme Court's Judge Jan Plumadore's decision.

Q. And was any comment made to the media? What media contacted you?

A. Oh, God, who was that yesterday that called? Somebody from the Telegram called, and I referred them to Tom Halley, my lawyer, and Kirby Selkirk called and left a message and I called and left a message on his recorder that I couldn't speak to him, and I left a phone number for my lawyer for him to call him, 911 -- whatever, you don't need the number.

Q. When you returned phone calls or talked to the media previously --

A. Mm-mm.

Q. -- the news releases reflect that you made comments, I mean, that's how it is reflected, correct?

A. Well, yeah, it's what's reported, right.

Q. But you're saying you never made any of those comments, correct?

A. I'm not saying I didn't make those comments as quoted in those papers. I'm saying that, due to the amount of people that I discussed this with initially, I can't recall word for word what I said to anybody, other than making a lot of phone calls.



## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. In a very general question, is there a high probability that some of the news media comments that you made give a fair and accurate representation of your comments to those reporters?

A. There can be a small probability, there can be a large probability. I'm not denying that.

Q. What is your opinion? Is it a good probability?

A. I have haven't formed an opinion on it.

Q. When were you first aware that your appeal was completed?

A. Yesterday late afternoon.

Q. Did you contact the news media in regards to this?

A. No, I didn't.

Q. Your comments to the media reflect that you feel the people have the right to know. Do you feel that way?

A. Do I feel the people have a right to know about what?

Q. Would you like me to reflect back to the comments that were made?

A. People have the right to know a lot of things. I need to know specifically what you are asking.

ASSISTANT CHIEF MOLL: Where are all the ones that I had asked?

OFFICER NICHOLS: Any idea how much longer

1 Examination of Patrick Nichols  
2 this is going to be?

3 ASSISTANT CHIEF MOLL: Would you like to take  
4 another break?

5 OFFICER NICHOLS: No, just for the record, I  
6 wanted to know.

7 BY ASSISTANT CHIEF MOLL:

8 Q. It's going to be very difficult for the  
9 stenographer to locate the one article that I am referring  
10 to. Do you recall reading an article today that said, "The  
11 people have the right to know," and, "I initiated it being  
12 put in the Press"?

13 A. Yeah, I read something to that effect.

14 Q. Is it necessary for me to find that article at  
15 that time?

16 A. If you could be more specific.

17 Q. Would you like to take a break while I locate  
18 that?

19 A. No. I mean, can you be more specific without  
20 looking it up? I will try to answer.

21 Q. I believe it was an article with Tom Grady in the  
22 Sun paper, newspaper.

23 A. Mm-mm.

24 Q. And it was quoting you as saying that the public  
25 has the right to know and that you initiated putting it in

1 Examination of Patrick Nichols

2 the Press, bringing it out to the public or something to that  
3 effect.

4 A. So now, what is your question again?

5 Q. Do you feel that the people have the right to know  
6 in regards to incidents like this?

7 A. In my particular case, I felt it was necessary to  
8 have my hearing public so that the people would have the  
9 ability to hear the facts.

10 Q. So would it be safe to say your answer is yes?

11 A. Again, it's a pretty open question, I mean, it's  
12 pretty broad. Referring to my hearing specifically, I felt  
13 the people had a right to listen to it.

14 Q. Would it be safe to say during all the media  
15 coverage with the hearing and the whole proceeding of your  
16 suspension, that you did answer some questions? Would it be  
17 safe to say that?

18 A. To the media?

19 Q. Yes.

20 A. I have said that before, yeah.

21 Q. Okay. This appeal was not in your favor, correct?

22 A. Actually, it's not complete, it's being turned  
23 over to the Appellate Court.

24 Q. The decision from Jan Plumadore --

25 A. On certain issues.

## 1 Examination of Patrick Nichols

2 Q. -- on the certain issues of your appeal was not in  
3 your favor, correct?

4 A. Several issues on the appeal were not in my  
5 favor. The other issues he's turning over to the Appellate  
6 Court for their decision.

7 Q. Why do you find -- why didn't you find it was  
8 necessary -- strike that. Why do you feel it necessary now  
9 to not answer questions in regards to your appeal, when prior  
10 to that you were answering questions?

11 A. The only question I'm being asked is would I like  
12 to comment on the result of the appeal. I'm just referring  
13 them to my attorney. He's doing the commenting for me.

14 Q. But before you commented, correct?

15 A. What's that?

16 Q. Before you commented, correct? Have you made  
17 comments before? You answered questions. Wouldn't that be  
18 the same as making comments?

19 A. The types of questions they were asking  
20 were, "Were you suspended?" "Yeah, I'm suspended, yeah," and  
21 then they want to know details.

22 Q. You remember specific questions, such as them  
23 asking, "Are you suspended," correct?

24 A. Everybody asked me that.

25 Q. Okay. But the media asked you that, correct?

## 1 Examination of Patrick Nichols

2 A. Anytime while -- to answer your question, I would  
3 say yeah, that was probably the first thing they asked me.

4 Q. But now you're not answering questions in regards  
5 to the results of your appeal to the media, correct?

6 A. Right, right, I'm being --

7 Q. Wouldn't that kind of look like you are selecting  
8 what you want released and what you don't want released to  
9 the media?

10 A. Not necessarily, I just don't talk to them  
11 anymore. I have got a lawyer that's handling that for me.

12 Q. Didn't you have a lawyer before?

13 A. Yeah.

14 ASSISTANT CHIEF MOLL: Chief, I'm all set.

15 BY CHIEF PHILLIPS:

16 Q. Okay. Officer Nichols, who owns Tessie's Diner?

17 A. I believe two women.

18 Q. Do you know who the women are?

19 A. I think Theresa and Theresa.

20 Q. Do you go there?

21 A. Yeah, I have been there several times.

22 Q. How often?

23 A. Well, when I'm working the morning shift, I get in  
24 there a couple times during that week, maybe once every  
25 several weeks or so when I'm off duty and manage to get down

## Examination of Patrick Nichols

there.

Q. Is the owner of Tessie's Diner a relative of Trustee Greg Dame?

A. I understand that she may be an aunt.

ASSISTANT CHIEF MOLL: Yes or no?

A. I can't -- I don't know for a fact, but that's --

BY CHIEF PHILLIPS:

Q. Does Greg Dame go to the diner?

A. I have seen Greg Dame at the diner, yes.

Q. You don't -- do you know how often he goes there?

A. No.

Q. You are aware that, as a patrolman, you cannot meet with a Village Trustee and discuss police matters unless you have proper authorization?

A. I'm fully aware of that, yes.

Q. On December 15th, 1993, did you stop at Tessie's Diner?

A. I can't tell you if I did or I didn't. That was December 15th, Chief, and with all due respect, I didn't write down the dates I stop in at certain restaurants.

Q. Was there a time in December that I called you into my office and had a discussion with you in regards to a conversation that you had with Trustee Greg Dame?

A. Yes, there was a conversation. If you say it was

## Examination of Patrick Nichols

in December, then --

Q. That's the date that I am referring to.

A. Okay.

Q. And you had a discussion with Greg Dame; is that correct?

A. Yeah, Greg Dame came over and talked to me, yeah.

Q. So is that a yes or yep or what?

A. Yes, yes.

Q. Did that discussion involve a matter of the police department?

A. That discussion consisted of several items, and in that discussion, there were a couple of inquiries as to the police department, yes.

Q. Okay. In those discussions that were brought up about the police department, was one of those discussions about the formal charges that your wife had placed against Sergeant Ritchie?

A. That is possible.

Q. Yes or no?

A. I can't say for sure -- well, yes, as a matter of fact, yes.

Q. Was one of the discussions about an idea of setting up a Civilian Review Board for the Malone Police Department?

## Examination of Patrick Nichols

1  
2 A. I believe when he came over to me, that was one of  
3 the things that he said he wanted to do or something to that  
4 effect. Again, I was eating my breakfast. He's not one of  
5 my fans, if that's what you're getting at.

6 Q. What did you discuss with Greg Dame in regards to  
7 these matters?

8 A. I don't really remember any response. I just  
9 remember him saying that -- I'm not really sure, Chief. I  
10 wasn't as receptive to him as he might have been to me.

11 BY ASSISTANT CHIEF MOLL:

12 Q. Could I interject and ask what that comment  
13 was, "He's not one of my fans"?

14 A. Yeah. Is that what you are asking me?

15 Q. Is that what you said?

16 A. Yes.

17 Q. He's not one of your fans?

18 A. I have never been associated with him on a  
19 friendship level. It's always been a business or, you  
20 know -- I don't know Greg Dame as a friend, other than  
21 watching him sit in on the hearing. This was the first  
22 occasion that I had, you know, met up with him. And when he  
23 came over to me, my first thought was I was a little nervous  
24 or a little confused as to his reason for even approaching  
25 me.



## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. You felt uncomfortable with his presence?

A. Very much, yeah.

Q. How often has Greg Dame approached you down to Tessie's Diner?

A. This is the first time he's ever done that. That was the first time I ever bumped into him down there. He came right over to the area where I was.

Q. The first time you were in Tessie's Diner, was Greg Dame there?

A. I can't remember that. I'm saying it was the first time he ever came over to me. He came right over to me.

Q. But Greg Dame was there when you first went in?

A. I don't remember. I thought I was the only one in there when I walked in. I can't remember that, honestly. I don't know if you're familiar with the way it's set up, but I came in the front door and there is a counter to the left, so I'm facing the wall. And who came in after -- by the time I left, there were several people in there. I don't who know who was in there when I walked in.

Q. But you were uncomfortable with that whole situation?

A. I was very, very uncomfortable with that whole situation.

## Examination of Patrick Nichols

Q. Okay.

BY CHIEF PHILLIPS:

Q. In your discussions with Greg Dame that you felt uncomfortable with, the matters that we have talked about in previous questions that you discussed, what did you say in those discussions?

A. The one comment that really sticks in my mind that I told Mr. Dame was that I was not allowed to speak to him regarding police matters. I told him that, and I told him that it could mean, if I did speak to him, it could be a violation of the rules and regulations. What he said in response to what I said, I don't remember that.

Q. But you admitted earlier that you did have a discussion with him about setting up a police -- Civilian Police Review Board?

A. No, I said that was his comment; I didn't discuss it with him. Like I said, he came over to me and started making comments. I told him that if I continued to speak to him, it would be a violation of department rules, and what took place from there, I don't remember. But that was not provoked by me, if that's what you're getting at.

Q. What was the discussion about the formal charges that your wife had placed against Sergeant Ritchie with Greg Dame?

## Examination of Patrick Nichols

1  
2 A. I'm not exactly sure, I know he wanted -- gosh, I  
3 can't recall, Chief, what was actually said about it.

4 Q. But there was some discussion?

5 A. Some complaint was made in regards to how it was  
6 approached or discussed; I can't remember.

7 Q. Did you have authorization to discuss police  
8 matters with a village official?

9 A. No, I told him that I couldn't talk to him about  
10 those things because --

11 Q. There was no --

12 ASSISTANT CHIEF MOLL: Can I interject you?

13 CHIEF PHILLIPS: Okay.

14 BY ASSISTANT CHIEF MOLL:

15 Q. You were brought up on charges recently and  
16 actually found guilty in regards to a section well defined in  
17 your rules and regulations, meeting with a Village Trustee  
18 official and discussing police matters, correct?

19 A. Right, correct.

20 Q. So you are well aware of that situation?

21 A. Oh, I know.

22 Q. You are well aware of that rule and regulation?

23 A. Mm-mm.

24 Q. You also testified that you have knowledge that  
25 there's a high probability that the owner of Tessie's Diner

1 Examination of Patrick Nichols  
2 is a relative of Greg Dame, correct?

3 A. Yes, I have been told this yes.

4 Q. Would it be safe to say -- and I believe you have  
5 testified -- that you know that Greg Dame goes to Tessie's  
6 Diner, correct?

7 A. Oh, yeah, I know that.

8 Q. How many diners or places to eat are there in  
9 Malone? Is there an Amber's Restaurant?

10 A. I believe there is five.

11 Q. Five different places?

12 A. Yeah.

13 Q. Are any of those diners owned by village  
14 officials' relatives that you know of?

15 A. Not off the top of my head.

16 Q. How often does your wife make a complaint against  
17 one of your supervisors? Is this rare?

18 A. No, I think this is only time it ever happened.

19 Q. This is the first time it ever happened?

20 A. That I am aware of, yeah.

21 Q. You felt very uncomfortable about Greg Dame coming  
22 up to you and discussing police matters, correct? That's  
23 what you have testified to.

24 A. Considering this was the first time that a Trustee  
25 or somebody on the Village Board has come within even

## Examination of Patrick Nichols

breathing distance directly after my disciplinary action was settled, I was very uncomfortable with it.

Q. So how can you possibly explain -- or could you please explain why, with five different diners in Malone --

A. Mm-mm.

Q. -- and shortly after suspension and you return to the police department, that you would put yourself in the position that you put yourself in down at Tessie's Diner?

A. Why I would put myself in that position, considering there are five restaurants? I eat breakfast quite regularly in restaurants, and there are other people that frequent that restaurant that I know and that I enjoy sitting down and having my coffee with. I went there like I would anywhere else, but I do not frequent that as often, if that's what you are getting at.

Q. Do you feel it's a good idea to stay away from that restaurant to not compromise your position here?

A. I don't believe that would compromise my position, as long as that Trustee was aware of department rules and regulations. If anybody compromised my position, it was him, not me.

Q. But you are voluntarily placing yourself in a restaurant, where you have a choice of five different restaurants, where there's a good, high probability that a

## Examination of Patrick Nichols

village official will be in there.

A. We're talking about eating breakfast, okay, and it just happened that he's in there. I see Trustees in all the restaurants, whether somebody owns it that's related to them or not, and I have been in many restaurants where Trustees and the Mayor have been in. And I feel uncomfortable being in those positions, but to have this Trustee come up and start talking to me, he's the one that's jeopardizing my situation, not me.

BY CHIEF PHILLIPS:

Q. Getting back to the discussions, you said that you had brief discussions. How brief were the discussions in regards to the formal charges that your wife had placed against Sergeant Ritchie?

A. The entire discussion, Chief, with Dame was very short because my breakfast was being served to me. He came over, and I honestly believe he was just trying to be polite in light of everything that had taken place, and just I think that's the purpose of it. And like I said, I had to explain to him that, regardless of the conversation, I just, you know -- I don't recall seeing him in there when I walked in, but he could have been for all I know.

Q. When you had this brief discussion with Trustee Dame, was the investigation completed by the Chief in

1 Examination of Patrick Nichols

2 regards to your wife's complaints against Sergeant Ritchie?

3 A. I don't know, I don't know that. I don't even  
4 know the time frame on that particular --

5 Q. Did you have knowledge that an investigation was  
6 being conducted?

7 A. I had knowledge that my wife had either made a  
8 complaint or wanted to make a complaint at that time; I can't  
9 remember which was the case.

10 Q. Does your wife talk to you?

11 A. Yeah, yeah.

12 Q. Do you think --

13 A. I'm sure if I asked her, she could tell me exactly  
14 what is happening at that particular time.

15 Q. She can tell you exactly, but you can't remember?

16 A. She's keeping very close notes on what she does,  
17 so --

18 Q. On what she does?

19 A. Yeah, she made the complaint; I'm sure she's got a  
20 record of when she made it.

21 Q. Were you present when your wife came to the  
22 station to report an accident?

23 A. No.

24 Q. Were you working?

25 A. Yes. As a matter of fact, I was on the accident,

## Examination of Patrick Nichols

I believe, or I was sent to the accident or something like that.

Q. On Tuesday, March 8th, 1994, you were advised that the Chief of Police wished to talk to you in his office on that date; is that correct?

BY ASSISTANT CHIEF MOLL:

Q. On this date here?

A. Probably.

Q. You were given a memo, "We're going to meet today"?

A. Yes, that would be about the time.

BY CHIEF PHILLIPS:

Q. What shift did you work that day?

A. Night shift, I believe.

Q. Okay. What time did you get off duty that day?

A. I'd have to refer to the logbook.

Q. What time would you normally get off?

A. I should have gotten done at 4:00.

Q. Were you scheduled to come in that night, also?

A. No, I believe that was my last night. I think I was given that Tuesday, and I was on days off at that time, just from my recollection.

Q. And the morning of March 9th would have been the morning that you got off of duty?



## Examination of Patrick Nichols

A. If your dates and times are correct, yes, it would have been.

Q. At approximately 7:00 or 7:30 were you in Tessie's Diner in the morning?

A. No, no.

Q. You weren't in the diner?

A. No, I was in Sansone's, which is right next to Tessie's, at a Lion's Club meeting.

Q. Is it normal to have a meeting at 7 o'clock in the morning?

A. Well, actually, the meetings are 7:30, Chief.

Q. Okay.

A. Every second and fourth Wednesday of the month. If you refer to the calendar, you will see that was on one of those Wednesdays. I think I said Wednesday morning. So I wasn't in Tessie's.

Q. Okay. Have you ever talked with Richard Brown since you have been back to work?

A. Yes, one morning down at Tessie's, Brown and a couple of his friends walked in and I said hi to him, asked him how he was doing, he asked how I was doing, just a simple thing.

Q. Did you sit with him?

A. No.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Do you know Joe Gokey?

A. Yes, I do.

Q. How do you know Joe Gokey?

A. Joe was Mayor for the Village of Malone, and I was a police officer at the time that he was Mayor. That's how I got to know Joe Gokey, if that's what you're referring to.

Q. Have you ever had occasion to be in Tessie's Diner and to sit with Joe Gokey?

A. I have been in Tessie's Diner and Joe Gokey has approached me and said hi and, again, asked me how I was doing and things of that nature. I'm sure you are aware of the situation that Joe ran against Gary Perry for town supervisor. There's always some question regarding political things. I think that was Joe's purpose for being friendly with me, so --

Q. Did you ever make the comment that if you were ever brought up on any more charges, other members of the department will also have to be charged?

A. I don't recall saying that to anybody.

ASSISTANT CHIEF MOLL: No?

A. No.

BY CHIEF PHILLIPS:

Q. Do you know Susan Buck?

A. Yeah.

## Examination of Patrick Nichols

1 Q. Who is Susan Buck?

2 A. She's the town clerk for the Town of Malone.

3 Q. Hal Taylor?

4 A. Yeah.

5 Q. Who is Hal?

6 A. Code enforcement for town zoning, things of that  
7 nature, takes care of all that.

8 Q. While you were at the town office last week -- did  
9 you ever discuss the recent memo while you were at the town  
10 office last week?

11 A. I'm at the town office, Chief, just about every  
12 day of the week, Monday through Friday.

13 Q. While at the town office, did you ever discuss the  
14 recent memo that you received from me in regards to this  
15 interview?

16 A. I may have, I recall telling somebody that I had a  
17 meeting here Thursday morning.

18 BY ASSISTANT CHIEF MOLL:

19 Q. Who was that?

20 A. I can't remember, usually it would have been  
21 somebody inquiring as to my schedule, probably -- I'm  
22 guessing, I'm saying Andy because she usually is the one that  
23 wants to know my --

24 Q. Who would that be?

## Examination of Patrick Nichols

A. Andy -- I have got a mental block here --  
Stewart.

Q. Andy Stewart?

A. Andrea Stewart.

Q. Andrea?

A. Yeah, Andrea.

BY CHIEF PHILLIPS::

Q. What is her title?

A. Deputy supervisor.

Q. Is she the one that you made contact with when you  
were at the town office?

A. It's generally -- she's generally the one I speak  
with, unless there is a particular issue concerning the other  
individuals.

Q. Do you have an office at the town offices?

A. No, not my own office, no.

Q. Well, at the town office, did you ever comment or  
give reference to, "If they bring me up on charges, they will  
have to bring other members up on charges, also"?

A. I don't ever remember saying that, Chief. Again,  
I refer back to what I just said about if any discussion on  
this meeting was taking place, it was probably in response to  
an inquiry on my schedule.

BY ASSISTANT CHIEF MOLL:

## Examination of Patrick Nichols

1  
2 Q. You made no reference to that? If someone asks  
3 you when you are working, you wouldn't say, "If they bring me  
4 up on charges, they will have to bring other members up on  
5 charges, also." You would answer the question, "When are you  
6 working, Pat?" And you would say, "Tomorrow night," or  
7 whenever you are working, correct?

8 A. Yeah, you got two different things in there. You  
9 are asking me, if they're asking me about my schedule, I'm  
10 responding about my schedule.

11 Q. How did the conversation get on to the memo that  
12 the Chief of Police gave you?

13 A. Again, I don't recall discussing the memo as much  
14 as I do the time that I wouldn't be available, being that I  
15 have got a meeting. What took place, you're asking me to  
16 comment on something that I'm --

17 BY ASSISTANT CHIEF MOLL:

18 Q. Is there any town meeting that took place that you  
19 had to attend at 10:00 a.m. this morning?

20 A. No, no, no, again, I'm saying they checked with me  
21 to see if I have got a schedule conflict with what they  
22 have. They have a calendar with my shifts, okay, and  
23 Andrea -- it's common habit now when I go in, "What do you  
24 got going on that week, anything," et cetera.

25 Q. She's asking you that?

## 1 Examination of Patrick Nichols

2 A. She asks me all the time, "What you got going on,"  
3 so I have a schedule --

4 Q. And she asked you that and you felt --

5 A. I'm not saying she did. I'm saying --

6 Q. What are you saying?

7 A. I have said it before, that when I am filling  
8 somebody in on the other things that I do, it's usually in  
9 response to Andrea asking me about my schedule. I'm not  
10 saying I did or didn't. I'm saying if I responded about this  
11 meeting, it was probably due to inquiry about my schedule.

12 Q. We're talking last week, correct?

13 A. Right.

14 Q. Okay. Probably less than a week ago?

15 A. Could have been a quick question. I'm in there  
16 doing town business, and somebody could have said, "What are  
17 you doing next Tuesday" the minute I got there.

18 Q. Were you concerned about the memo from the Chief?

19 A. Not knowing what it was about, yeah, we were,  
20 there was some concern.

21 Q. Okay. Wouldn't it be easy for you to remember if  
22 you made any comments or discussed this memo at all in the  
23 town office?

24 A. I would think if there was some detailed  
25 discussion, I would remember what it was about.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Is it possible that you can't really specifically remember what you discussed in regards to this memo at the town office because you have been discussing this memo to many people in the public?

A. No, no. Are you saying it's wrong for me to tell people that I have got a meeting with the Chief of Police? What is your point that you're getting at here? I don't understand where you're leading this into.

Q. I'm asking you about any discussion you have had in regards to the memo that the Chief of Police gave you.

A. No recollection.

Q. No recollection?

A. Unless you can be more specific and give me details.

Q. And you never made any comment or anything close to a comment in regards to, "If they bring me up on charges, they will have to bring other members up on charges, also"?

A. Not as you just read it, no.

Q. How was it read? You put in your words how it was said.

A. I'm not saying it was. You have just asked if those comments were made, and I'm saying they were never made as you put them.

Q. Nothing to that effect?

## Examination of Patrick Nichols

A. No.

Q. Did you ever make the comment that if the village brings you up on charges, that you would leave town?

A. That I would leave town? No, I never referred to leaving town.

Q. Would you like to have another break?

A. No, not yet, I'm fine right now.

Q. You are okay?

A. Yep.

ASSISTANT CHIEF MOLL: Anyone else?

OFFICER FOUNTAIN: No, thanks.

BY ASSISTANT CHIEF MOLL:

Q. Do you know what kind of a vehicle Greg Dame normally drives?

A. Yeah, he has a van.

Q. Was his vehicle parked in the vicinity of Tessie's Diner anytime that you entered Tessie's Diner?

A. On any occasion?

Q. On any occasion?

A. Any occasion, yes, there has been times when I have gone to Tessie's his van has been there.

Q. During the suspension?

A. During the suspension, I can't remember that, if it was or if he was there after, no, I can't be specific on



## Examination of Patrick Nichols

that.

Q. Was his vehicle parked in the vicinity of Tessie's Diner when you went in to Tessie's Diner and the discussion there was a brief discussion about having a Village Civilian Review Board and the charges that your wife filed against Sergeant Ritchie?

A. I don't remember seeing his vehicle in there. I have said it before, I don't remember anybody being in there at the time that I went in there that morning, and then when I left, there were several people there. During that time frame, he came up to me from behind.

Q. You testified earlier that you were uncomfortable, very uncomfortable, having Greg Dame in the diner?

A. I was uncomfortable due to the fact the Board had just made their decision and that I hadn't been prepared for his presence. He came up to me and it kind of caught me off guard. Yeah, I was very uncomfortable under those circumstances.

Q. Were you concerned about Greg Dame's actions and questioned that maybe you were going to be accused of violating some rules and regulations?

A. I was concerned about it.

Q. Did you stress those concerns to Greg Dame?

A. I told him -- and I have said that already today,

## Examination of Patrick Nichols

1  
2 too -- that I told him I was concerned.

3 Q. Okay. After you finished your breakfast?

4 A. Mm-mm.

5 Q. Did you bring your concern at all to any  
6 supervisor of the Malone Police Department?

7 A. I don't remember that.

8 Q. Did you or did you not bring your concerns to any  
9 supervisor of the Malone Police Department?

10 A. I don't believe remember that, if I did or if I  
11 did not bring my concerns to anybody.

12 Q. Is it possible that you did?

13 A. I don't recall any conversation with anybody about  
14 it.

15 Q. Would it be safe to say that you didn't?

16 A. It's safe for you to say whatever you want. I'm  
17 not going to keep you from saying whatever you want. I'm  
18 telling you I don't recall talking to anybody about it.

19 Q. You recently were off suspension?

20 A. Mm-mm.

21 Q. Your concern was that maybe you have violated or  
22 are going to be accused of violating rules and regulations,  
23 correct, I mean, part of our rules and regulations because of  
24 the actions of Greg Dame?

25 A. Right. My concern was that he was going to talk

## Examination of Patrick Nichols

1  
2 to me, and he's a Village Board member, and he is going to  
3 bring me up on charges for talking to him.

4 Q. For the safety of your own position and so that  
5 you're not put under this type of questioning, wouldn't it be  
6 good police common practice to cover yourself, make sure that  
7 you advise the Chief or any immediate supervisor that a  
8 Trustee walked up and started talking to you about police  
9 matters and you felt uncomfortable about it? Wouldn't that  
10 be an appropriate thing to do to make sure that you wouldn't  
11 be brought up on charges?

12 A. Under most circumstances, it would be probably a  
13 wise step to make, but under my circumstances, considering  
14 the fact that when I returned, nobody spoke to me, and there  
15 was an obvious attempt to catch any minute violation of  
16 department rules and regulations in an attempt to get rid of  
17 me from this department, the last thing I wanted to do was  
18 put myself in a position to give somebody that type of  
19 ammunition.

20 Q. Do you have any documentation showing that you  
21 brought it to an immediate supervisor or you informed your  
22 union attorney or the union president that Greg Dame put you  
23 in a compromising position?

24 A. I informed my attorney.

25 Q. You informed your attorney?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. Yes.

Q. And who is your attorney?

A. Thomas P. Halley.

Q. And how did you inform your attorney?

A. Just in one of our phone conversations, I let him know that I was approached by a Trustee.

Q. By a Trustee?

A. Yeah.

Q. Was that immediately after?

A. I can't say, it would have been the next conversation, I'm sure. We spoke quite often, so --

Q. You felt uncomfortable where people weren't talking to you at the station, yet you didn't even feel it was necessary to type up a memo to the Chief so that you have documentation and the Chief had documentation that this took place?

A. I was still under Counsel on this other issue, and I referred it to Counsel, and obviously, Counsel didn't tell me to do that. The Chief did bring that to my attention, by the way.

Q. Yes, I'm aware of that.

ASSISTANT CHIEF MOLL: Officer Nichols, would you like to take another break?

OFFICER NICHOLS: I'd like to know about how

1 Examination of Patrick Nichols

2 much longer you estimate.

3 ASSISTANT CHIEF MOLL: We're nearly wrapping  
4 it up, but we can take a five-minute break.

5 OFFICER NICHOLS: We're four hours and 20  
6 minutes into this so-called interview, just for  
7 the record.

8 ASSISTANT CHIEF MOLL: I think it'd be good to  
9 take a little break, don't you, Chief?

10 CHIEF PHILLIPS: Sure.

11 (Subsequent to a recess, the following  
12 transpired.)

13 ASSISTANT CHIEF MOLL: Have we had a long  
14 enough break? Do you need a longer break?

15 OFFICER NICHOLS: That was fine with me.  
16 What, do you want me to demand more time?

17 ASSISTANT CHIEF MOLL: Anyone else, more  
18 brakes? Break long enough?

19 (No response.)

20 BY ASSISTANT CHIEF MOLL:

21 Q. We're actually completed, but I do want to clarify  
22 a couple things. One, in particular, is in regards to the  
23 petitions that were circulated throughout the community, and  
24 I think the Chief wants to make sure that you understand that  
25 you're under oath.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. Mm-mm.

Q. And you are still under oath. And furthermore, you realize that any testimony that is not true could result in some serious charges?

A. Right.

Q. You understand that?

A. Absolutely.

Q. What types of charges would those be, do you think, if you lie under oath?

A. Well, it depends. I don't know what you guys got planned here.

Q. You are a police officer, correct?

A. Mm-mm.

Q. You know what the Penal Law is in New York State? If you lie under oath, what would the charge be?

A. Probably offering a false statement, perjury.

Q. In regards to the petitions, when did you first become aware of the petitions that were being circulated?

A. Don't recall.

Q. Did you help word those petitions whatsoever?

A. I don't -- no, I testified to that earlier, I don't recall anything on the petitions.

Q. Did you help circulate these petitions?

A. Again, I testified earlier that I had a request

1 Examination of Patrick Nichols

2 for one that I delivered, if you call that circulating,  
3 whatever you want to call it.

4 Q. And where was that?

5 A. That was to Mrs. Cunningham at the courthouse.  
6 That's what I remember, okay? I'm not --

7 Q. Did she tell you what she was going to do with the  
8 petition?

9 A. I don't remember that, either.

10 Q. Did she tell you why she wanted the petition?

11 A. I don't remember that, either.

12 Q. In your opinion, do you feel Mrs. Cunningham  
13 wanted the petition because she wanted to circulate it and  
14 she felt that you were right?

15 A. I can't speak for Mrs. Cunningham.

16 Q. In your opinion.

17 A. I don't have an opinion on it.

18 Q. Would you consider Mrs. Cunningham a friend or  
19 foe?

20 A. An acquaintance, I wouldn't consider her a foe at  
21 all, no.

22 Q. Would you consider her a friend?

23 A. I would consider her an acquaintance.

24 Q. She testified on your behalf at your hearing?

25 A. Yeah.

## Examination of Patrick Nichols

Q. Do you feel there is a greater possibility that she wanted one of the petitions to help you?

A. I don't know what she felt, and I can't testify for Mrs. Cunningham because she's not here.

Q. Okay, we'll move on. You stated earlier that one of the petitions were in your car when it went to a repair shop, correct?

A. Well, my wife's car, yeah.

Q. Your wife's car?

A. Yeah.

Q. And what repair shop is that?

A. Smith's Towing.

BY CHIEF PHILLIPS:

Q. I have got one clarification: what car are you referring to?

A. I only got one car.

Q. That's your car; is that correct?

A. The Mustang.

Q. Who purchased the vehicle?

A. It's titled in my name.

Q. You had that vehicle prior to your marriage to your wife; is that correct?

A. Yeah.

BY ASSISTANT CHIEF MOLL:



## 1 Examination of Patrick Nichols

2 Q. And did you go to pick up the vehicle, and that's  
3 when you noticed the petition; is that the way I understand  
4 it?

5 A. I either went to pick it up or there was some  
6 question as to what was wrong with it, but I was there in  
7 regards to the car, yes.

8 Q. In your own words, could you please, to the best  
9 of your recollection, explain to us what took place when you  
10 walked in and in regards to the petition?

11 A. I have answered all those questions. Whatever I  
12 have said earlier is what I stand by, and word for word what  
13 I said earlier, I can't recall.

14 Q. What I recall is that a petition was on one of the  
15 seats, correct?

16 A. In the car, yeah, if I said on the seat, then  
17 that's probably where it was, not on the floor.

18 Q. Didn't you testify earlier something to the effect  
19 of one of the workers or someone in the garage noticed the  
20 petition?

21 A. Somebody asked me about it, and again, if that's  
22 what I said earlier, then that's probably what happened.

23 Q. Did you remove the petition from the car and ask  
24 anyone to sign it?

25 A. I remember the inquiries as to whether or not they

1 Examination of Patrick Nichols

2 could sign it. Whether I took it out or they took it out or  
3 who had it, I don't recall that, and I don't believe I even  
4 testified to who took it out of the car earlier.

5 Q. Was the petition in the front or back seat?

6 A. I can't remember, it was in the car on the seat.  
7 We don't put things on the floor, so it was on the seat  
8 somewhere.

9 Q. Did you ask anyone in Scott Smith's Towing garage  
10 to sign your petition?

11 A. I don't recall that, I don't believe I asked  
12 anybody. Scott was one of the ones that signed it. I  
13 believe Scott asked people to sign it. I didn't ask anybody  
14 there.

15 Q. You didn't ask anybody in the garage?

16 A. I didn't go up to anybody and say, "Would you sign  
17 this," no.

18 Q. Okay. Did you discuss any of the case, your  
19 disciplinary proceeding or the charges, with anyone at Scott  
20 Smith's Towing when this petition was going around in the  
21 garage?

22 A. Oh, I can't remember. I don't really recall. My  
23 purpose for being there was the car, and I don't recall. I  
24 remember the petition being an issue, and other than that, I  
25 don't remember anything else that was said. I don't even

## 1 Examination of Patrick Nichols

2 remember what was wrong with my car at the time.

3 Q. Do you know Ed Richmond?

4 A. Yes.

5 Q. Is he not a retired state trooper?

6 A. Yes. Ed was there that morning -- I know what  
7 you're getting at -- or day or whenever it happened.

8 Q. What do you mean, you know what I'm getting at?

9 A. You're asking me if he was one of the ones that  
10 signed the petition, or that's what you're getting at.

11 Q. Was he?

12 A. I don't remember, I know he was there. He's at  
13 Scott's frequently.

14 Q. Did you ask him?

15 A. I did not ask Ed Richmond; Scott Smith asked  
16 Ed Richmond. In fact, at that time, I was getting ready to  
17 leave and he said something to Richmond about the petition.18 Q. Did you leave the petition at Scott Smith's  
19 Towing?

20 A. I don't remember that, either.

21 Q. You don't remember if you left it there or brought  
22 it with you?23 A. No, I don't remember if it was put back in the  
24 car, was given to him, or what was done with it. I really  
25 don't.

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Were you aware that we took signed statements from people inside the garage?

A. Yes, I was told by Scott Smith and his employees that you took statements from them.

Q. Did anyone tell you what the content of those statements were?

A. They told me that -- some of his employees told me that they were facing charges if they didn't give a statement on them signing the petitions.

Q. They were facing charges?

A. Yep.

Q. What type of charges?

A. I have no idea, I had no idea where they were leading with that. I just said, "That's between you and whoever you talked to."

Q. You're saying that someone threatened them to sign a statement?

A. No, I'm saying that one of the employees told me that they were told that if they didn't go up and give a statement, that they could be charged for something.

Q. Was that someone a member of our police department?

A. Oh, I have no idea on that. I don't know who told that them. I don't know if it was their employer or the

1 Examination of Patrick Nichols

2 police department, no.

3 Q. Are you saying that these statements are actually  
4 coerced statements?

5 A. I'm saying that an employee of Scott Smith's, who  
6 said he signed the petition -- I can't remember if he did or  
7 didn't, but he said he had to give a statement -- he was told  
8 he had to give a statement or he could be facing charges.  
9 That's what I'm telling you. You can make whatever you want  
10 out of that. That's what I'm telling you.

11 Q. Was it Dale Lamitie?

12 A. I don't remember.

13 Q. Was it Carl Thomas?

14 A. I don't remember. Is there any more?

15 Q. Was it Ed Richmond?

16 A. I don't remember that.

17 Q. Was it Scott Smith?

18 A. I believe it was Thomas; he's the only one that I  
19 really ever see.

20 Q. Do you feel it was Carl Thomas --

21 A. It may have been Thomas that told me that.

22 Q. -- that actually, in so many words, was kind of  
23 threatened to go up and sign a statement?

24 A. No, he told me that if he didn't give a statement,  
25 he was going to be in trouble. So I said, "Well, that's

1                   Examination of Patrick Nichols  
2   between you and whoever."

3           Q.     Okay. No one else relayed that to you?

4           A.     No, I don't run into those guys too often right  
5   now, other than on duty.

6           Q.     Mm-mm. Would you like to review the statements?

7           A.     I already know what's in those statements. I  
8   don't have to.

9           Q.     Why don't you tell us what's in the statements?

10          A.     I don't believe I have to do that.

11          Q.     Why not?

12          A.     Because I don't know word for word what's in those  
13   statements. I know the general overview of what is in the  
14   statements.

15          Q.     You have testified you know what's in the  
16   statements. What do you know?

17          A.     It has to do with the petitions at Scott Smith's  
18   garage.

19          Q.     Mm-mm.

20          A.     That's what it is.

21          Q.     Okay. Would you like to see the statements?

22          A.     No.

23          Q.     If I told you that the statements are signed under  
24   penalty and are punishable as a Class A misdemeanor if it was  
25   a false statement and reflected --

## Examination of Patrick Nichols

1 A. Mm-mm.

2 Q. -- that you approached several people in  
3 Scott Smith's Towing and, in some cases, pled your side of  
4 the case and asked people to sign your petition --  
5

6 A. What is your question?

7 Q. -- what is your comment on that?

8 A. What is my comment? Did you have a direct  
9 question?

10 Q. Are you saying these statements are false?

11 A. I'm asking you if you have a direct question.

12 Q. Are you saying these statements are false?

13 A. I'm saying, from what you are telling me, that  
14 there is some inconsistencies with what actually took place.

15 Q. Would you like to review the statements?

16 A. No, I wouldn't at this time.

17 Q. Okay. Would you like me to read the statements?

18 A. No, that's fine. I understand where you're going  
19 with it.

20 Q. If I told you that every person in these  
21 statements, in their four statements here, claim and signed a  
22 statement saying that you approached them and asked them to  
23 sign a statement --

24 A. Right, you have made that comment.

25 Q. -- are they not telling the truth?

## Examination of Patrick Nichols

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A. If, in fact, that is what those statements say, that I approached them initially, if I made the initial suggestion or whatever in regards to the petitions, I'm telling you that that is not the way it happened. That's what I'm telling you based on what you are telling me.

Q. Okay. Did you discourage them to sign those petitions?

A. No.

Q. Okay. Let me give you these petitions, and you're welcome to look through them. Are any of those names on that petition, those petitions, if we interviewed every single one --

A. Mm-mm.

Q. -- none of those people would say that you asked them to sign the petition?

A. I can't say that, I don't know, depends on how intimidated they feel or whatever. I don't know what they're going to say.

Q. What do you mean, "intimidated"?

A. I don't know what they're going to say when they're put on the spot as far as this petition goes.

Q. We can only ask for the truth.

A. Right.

Q. And if people sign a petition, more than likely,



## Examination of Patrick Nichols

1  
2 they know where the petition came from and who asked them to  
3 sign it.

4 A. If people are told they may be facing charges for  
5 signing that petition, they may just about say anything.  
6 Based on those circumstances at Scott's garage and from what  
7 I was told, I'm not going to try to guess as to what people  
8 are going to say or not say.

9 Q. I'm asking you, did you ask any of these people  
10 that have signed the petition to sign it? It's a simple  
11 question.

12 A. Shouldn't be anybody on here. I didn't ask  
13 anybody.

14 Q. You didn't ask anybody?

15 A. I told you earlier in my testimony that I did not  
16 go up to anybody and say, "Would you sign these petitions."

17 Q. I'm asking you to look over the petition. You're  
18 welcome to look through the names.

19 A. I can look all day, and it's not going to change  
20 anything. And to be honest with you, I don't really know  
21 most of these people.

22 Q. Some of these people that have signed this were  
23 also responsible for circulating them.

24 A. I'm going to have to say that, again, I don't  
25 recall ever going up to anybody and saying, "Would you sign

## Examination of Patrick Nichols

these petitions." These petitions were not created by me, and other than delivering one to somebody that I recall delivering one to and allowing a few people at Smith's garage to sign them in my presence, that was the limit of my -- as far as I can recall, that was the limitation as to my association with these.

BY CHIEF PHILLIPS:

Q. So what you're saying is that -- just to reemphasize it again so there is no misunderstanding -- the people that are in these -- whose names are on that petition, you did not go to them and ask them to sign it; is that correct?

A. Right, I gave the specific --

Q. Is that correct? Yes or no?

A. Right, I don't recall ever walking -- going up to anybody and --

Q. All I want is a yes or no.

A. I'm saying I don't recall ever going up to anybody and saying, "Would you sign that petition." That's what I'm saying to answer your question. I don't recall ever doing it, and that's as thorough as I can be on that. The reason it's difficult to recall is, again, there are those situations where I do recall bringing one to the courthouse.

Q. We're not disputing the fact you brought one to

1 Examination of Patrick Nichols  
2 the courthouse.

3 A. Right, I'm just saying --

4 BY ASSISTANT CHIEF MOLL:

5 Q. Did you ever bring a petition to any other place  
6 of business or organization besides the courthouse?

7 A. I can't recall, guys, I really can't.

8 Q. Is it possible?

9 A. Is it possible? I suppose it would be since I  
10 don't remember, and if it were brought to my attention as a  
11 particular situation, that may refresh my memory a little  
12 bit. Again, my impression of these petitions or the  
13 responsibility for these is not mine.

14 BY CHIEF PHILLIPS:

15 Q. Before we conclude, is there anything that we have  
16 gone over today that you would like to re-clarify or to  
17 change or anything like that? I mean, the questions we have  
18 asked, are you uncomfortable with your answers that you have  
19 given us?

20 A. Well, I hate to say that right now until I get a  
21 chance to review what I have said as far as whether or not  
22 I'm comfortable with what was said.

23 Q. Did you tell us the truth?

24 A. Yes, I told you the truth to the best of my  
25 memory, yes. And as far as re-clarifying, I really wasn't

1 Examination of Patrick Nichols  
2 given the opportunity to answer.

3 ASSISTANT CHIEF MOLL: Do you have any  
4 questions for us?

5 OFFICER NICHOLS: What takes place from this  
6 point?

7 CHIEF PHILLIPS: This is off the record.

8 (A discussion was held off the record.)

9 ASSISTANT CHIEF MOLL: Thank you for coming.  
10 It 2:55 p.m., and we're concluding with the Chief  
11 answering a few questions from Officer Nichols.

12 (The Examination concluded at 2:55 p.m.)

13 \* \* \* \* \*

C E R T I F I C A T E

I, SUZANNE M. NILES, being a Court Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing transcript is a true, accurate, and complete record of my stenotype notes, taken to the best of my ability, in the matter of the Examination of Officer Patrick Nichols, held in Malone, New York, on the 17th day of March, 1994.



SUZANNE M. NILES

Court Reporter, Notary Public

ACC-U-SCRIBE REPORTING SERVICE

11 Main Street

PO Box 762

Canton, New York 13617

(315) 379-9216

[illegible]

[illegible]

[illegible]