

**In The Matter Of:**

*Board of Trustees of the Bartlett Police Pension Fund*

*Disability Application*

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REIMER DOBROVOLNY & LABARDI

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*Officer Gzim Selamni*

*September 14, 2021*

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BEFORE THE BOARD OF TRUSTEES OF THE  
BARTLETT POLICE PENSION FUND

IN THE MATTER OF THE )  
DISABILITY APPLICATION OF: )  
OFFICER GZIM SELMANI, )  
APPLICANT, )  
AND )  
VILLAGE OF BARTLETT, )  
INTERVENOR. )

VOLUME 4

REPORT OF PROCEEDINGS had at the hearing  
of the above-entitled cause before the Board of  
Trustees of the Bartlett Police Pension Fund,  
at 228 South Main Street, Bartlett, Illinois, on the  
14th day of September, 2021, at the hour of 1:00  
o'clock p.m.

1 PRESENT:

2 BOARD MEMBERS:

3 Mr. Dan Palmer, President  
4 Mr. Derek Bansley, Vice President  
5 Mr. Gary Mitchell, Secretary  
6 Mr. John Sias, Trustee  
7 Mr. Michael Poremba, Trustee

8 REIMER DOBROVOLNY & LABARDI, PC  
9 BY: MR. RICHARD J. REIMER  
10 15 Spinning Wheel Road  
11 Suite 310  
12 Hinsdale, Illinois 60521  
13 (630) 654-9547  
14 RREIMER@RDLABORLAWPC.COM

15 Appeared on behalf of the Board of  
16 Trustees of the Bartlett Police  
17 Pension Fund;

18 COLLINS & RADJA  
19 BY: MR. THOMAS S. RADJA, JR.  
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23 (773) 619-6047  
24 Radja@tsr-law.com

Appeared on behalf of Officer Gzim  
Selmani;

17 CLARK BAIRD SMITH LLP  
18 BY: MR. PAUL DENHAM, ESQ.  
19 6133 North River Road  
20 Suite 1120  
21 Rosemont, Illinois 60018  
22 (847) 378-7700  
23 pdenham@cbslawyers.com

24 Appeared on behalf of Intervenor,  
Village of Bartlett;

22 ALSO PRESENT:

23 Mr. Gzim Selmani  
24 Unidentified Audience Members

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## EXHIBIT NUMBER

Previously admitted Board Exhibit No. 1 through 13 and 18. We did not admit Board Exhibit 14, 15, 16, or 17 based on hearsay objections. We also admitted Village Exhibit No. 1, No. 3, and No. 4	444
Board Exhibit No. 19, which is the transcript of the February 20th, '21, hearing, admitted	445
Board Exhibit No. 19 is admitted	445
Board Exhibit No. 20, transcript of the proceedings of March 8th, 2021, before	445

this Board will be admitted

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## E X H I B I T S

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Board Exhibit No. 21 admitted as well as Board Exhibit No. 15, which is Dr. Shaw's initial reports and curriculum vitae.	445
Board Exhibit No. 22, which is Dr. Catherall's documentation along with the transcript of his evidence, I presume. So Board Exhibit No. 21 and Dr. Catherall's initial psychological evaluation report and curriculum vitae, which is Board Exhibit No. 14, will be admitted into the record	446
Board Exhibit No. 23, which were Dr. Reff's documents for his evidence deposition along with the transcript of his evidence deposition. So Board Exhibit No. 23 and then Board Exhibit No. 16 will be admitted	446
Board Exhibit No. 24, which was Dr. Weine's documents, setting up his evidence deposition, along with the transcript of his evidence deposition. So Board Exhibit No. 24 and Board Exhibit No. 17, his report and curriculum vitae, will also be admitted	446
Village Exhibit No. 2, admitted, would be the actual video along with the Google search	447
Applicant's Exhibit No. 2, consisting of two photographs, will be admitted	448
Applicant Exhibit 3 for identification purposes	461
Village Exhibit 3 and 4 are admitted	492

Village 5 is withdrawn

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1 MR. REIMER: Mr. President, my recommendation  
2 is you do a roll call to establish a quorum and turn  
3 it over to me, please.

4 TRUSTEE PALMER: Call the Pension Board meeting  
5 to order. Will the secretary call the roll?

6 TRUSTEE MITCHELL: Dan Palmer?

7 TRUSTEE PALMER: Here.

8 TRUSTEE MITCHELL: John Sias?

9 TRUSTEE SIAS: Here.

10 TRUSTEE MITCHELL: Mike Poremba?

11 TRUSTEE POREMBA: Here.

12 TRUSTEE MITCHELL: Derek Bansley?

13 TRUSTEE BANSLEY: Here.

14 TRUSTEE MITCHELL: Gary Mitchell, here.

15 MR. REIMER: Good afternoon. The record should  
16 reflect that this is the continuation of the hearing  
17 in the matter before the Bartlett Police Pension  
18 Board in the matter of the disability application of  
19 Officer Gzim Selmani, the applicant in this case,  
20 and the Village of Bartlett, who is party to this  
21 case as an Intervenor. The matter was commenced and  
22 continued from March 8th, 2021.

23 Gentlemen, would you identify yourselves  
24 for the record, please?

1 MR. RADJA: Thomas Radja on behalf of the  
2 applicant. The applicant is also present.

3 MR. REIMER: And you, gentleman?

4 MR. DENHAM: Paul Denham on behalf of the  
5 Intervenor, the Village of Bartlett.

6 MR. REIMER: Good afternoon.

7 So if you recall, this matter has had  
8 three previous hearings, proceedings. I was  
9 appointed the hearing officer. I'm continuing to  
10 serve as the hearing officer pursuant to Board  
11 rules.

12 During the pendency of these proceedings,  
13 we have previously admitted Board Exhibit No. 1  
14 through 13 and 18. We did not admit Board  
15 Exhibit 14, 15, 16, or 17 based on hearsay  
16 objections.

17 We also admitted Village Exhibit No. 1,  
18 No. 3, and No. 4.

19 If anybody -- if either the applicant or  
20 the Village believes that's incorrect, please bring  
21 it to my attention immediately. That's what my  
22 review of the transcript shows.

23 We have some supplemental exhibits. As  
24 you know, at the conclusion of the last hearing, due

1 to the hearsay objections, we needed to finish the  
2 evidence depositions of Dr. Catherall, Dr. Shaw, Dr. Reff,  
3 and Dr. Weine. So we have some supplemental  
4 exhibits that I distributed to all parties prior to  
5 today's hearing. I don't think any of them can be  
6 objected to because they are actually transcripts of  
7 proceedings.

8 So we have Board Exhibit No. 19, which is  
9 the transcript of the February 20th, '21, hearing.  
10 So that will be admitted. Board Exhibit No. 19 is  
11 admitted into the record without any further  
12 authentication or foundation.

13 We have Board Exhibit No. 20, which is the  
14 transcript of the proceedings of March 8th, 2021,  
15 before this Board. Those documents will be admitted  
16 without any further authentication or foundation.

17 Next, we have Board Exhibit No. 21, which  
18 were the documents of Dr. Shaw, along with the  
19 transcript with his evidence deposition. Due to the  
20 fact that Dr. Shaw has authenticated his reports and  
21 has been subject to cross-examination, the hearsay  
22 defect of the previous four Board exhibits are  
23 cured. So Board Exhibit No. 21 will be admitted as  
24 well as Board Exhibit No. 15, which is Dr. Shaw's



1 initial reports and curriculum vitae. So Board 21  
2 and Board No. 15 are admitted without any further  
3 authentication or foundation.

4 Next, I have Board Exhibit No. 22, which  
5 is Dr. Catherall's documentation along with the  
6 transcript of his evidence, I presume. So Board  
7 Exhibit No. 21 and Dr. Catherall's initial  
8 psychological evaluation report and curriculum  
9 vitae, which is Board Exhibit No. 14, will be  
10 admitted into the record without any further  
11 authentication or foundation.

12 Next, we have Board Exhibit No. 23, which  
13 were Dr. Reff's documents for his evidence  
14 deposition along with the transcript of his evidence  
15 deposition. So Board Exhibit No. 23 and then Board  
16 Exhibit No. 16 will be admitted into the record  
17 without any authentication or foundation.

18 And, finally, we have Board Exhibit  
19 No. 24, which was Dr. Weine's documents, setting up  
20 his evidence deposition, along with the transcript  
21 of his evidence deposition. So Board Exhibit No. 24  
22 and Board Exhibit No. 17, his report and curriculum  
23 vitae, will also be admitted into the administrative  
24 record without any further authentication.

1 I believe that takes care of all the  
2 exhibits with the exception of -- the Village had  
3 moved to introduce a videotape of -- this was a  
4 paintball incident. I asked the parties to brief  
5 it.

6 Did you mark that as an exhibit?  
7 Because --

8 MR. DENHAM: Yeah. It was marked as -- there  
9 was a -- there was a printout of the Google search  
10 for hazing and paintball with the OU fraternity, the  
11 paintball incident in 2016 --

12 THE COURT REPORTER: Excuse me.

13 MR. DENHAM: -- as the number one hit. I think  
14 I marked that as Village Exhibit 2. And the actual  
15 YouTube video was marked, I believe, as Exhibit 2.1.

16 MR. REIMER: Okay. So Village Exhibit No. 2,  
17 if admitted, would be the actual video along with  
18 the Google search, correct?

19 MR. DENHAM: Yes.

20 MR. REIMER: All right. So I asked the parties  
21 to brief this matter so that I could rule on it. I  
22 believe I reserved ruling. After reviewing the  
23 briefs of parties, my ruling is that I will allow it  
24 to be admitted. The rules of the Board were pretty

1 clear in reference to the hearing, that the  
2 technical and formal rules of evidence and the Rules  
3 of Civil Procedure would not apply. However, it  
4 will be up to the Board to determine what weight to  
5 put on that videotape as it applies to the facts in  
6 this case.

7 So that would be admitted over Mr. Radja's  
8 objection.

9 Are there any other preliminary matters --  
10 oh, I'm sorry.

11 So Mr. Radja has tendered me Applicant's  
12 Exhibit No. 2, which is a very nice photo of the  
13 applicant and his son.

14 You're moving for admission of this; is  
15 that correct?

16 MR. RADJA: That's correct.

17 MR. REIMER: Any objection, Mr. Denham?

18 MR. DENHAM: For clarification, I think it's  
19 two different photos, right? One dated --

20 MR. REIMER: It's two.

21 MR. DENHAM: No objection.

22 MR. REIMER: Fair enough. All right.

23 Applicant's Exhibit No. 2, consisting of two  
24 photographs, will be admitted into the

1 administrative record. Everyone should have a copy  
2 of it. If not, we'll make sure you get it.

3 All right. So I think where we left --  
4 last left off is that we took the evidence depositions.

5 Did we go out of order? Are you still in  
6 your case in chief? Because I know you had  
7 witnesses.

8 MR. DENHAM: I am.

9 MR. REIMER: Okay. Did you want to call your  
10 first witness?

11 MR. DENHAM: Yeah. I'd like to call Officer  
12 Bubis.

13 MR. REIMER: All right. I assume -- we have a  
14 studio audience -- none of the other people present  
15 today are going to be called as a witness, correct?

16 MR. DENHAM: I might call the chief as well.

17 MR. REIMER: Okay. Well, I don't see the chief  
18 in --

19 MR. DENHAM: He's actually going to get Officer  
20 Bubis right now. And he's my party representative.  
21 That's why.

22 MR. REIMER: That's true. He is -- he is  
23 entitled to be here.

24 MR. DENHAM: Off the record.

1 (Discussion held off the record.)

2 MR. REIMER: . Officer, raise your right and this  
3 young lady will swear you in.

4 (Witness sworn.)

5 OFFICER ANDREW BUBIS,  
6 called as a witness herein, having been first duly  
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DENHAM:

10 Q. Officer, good afternoon.

11 A. Good afternoon.

12 Q. Are you currently employed by the Bartlett  
13 Police Department?

14 A. I am.

15 Q. In what capacity?

16 A. I'm a patrol officer.

17 Q. When were you hired by the Village as a  
18 patrol officer?

19 A. On September 22nd of 2004.

20 Q. Were you a member of the SPEAR Team in  
21 August of 2014?

22 A. Yes.

23 Q. Were you subject to an internal  
24 investigation about an alleged initiation or hazing

1 incident that occurred during SPEAR Team training in  
2 August of 2014?

3 A. Yes.

4 Q. Did this investigation into the training  
5 incident occur at some point in 2019?

6 A. Yes.

7 Q. Do you recall around when this even  
8 occurred?

9 A. March, roughly.

10 Q. At any point between August of 2014 and  
11 the investigation in 2019, did you have a  
12 conversation with any other member of the SPEAR Team  
13 about the training incident?

14 A. Yes.

15 Q. Who did you have a conversation with?

16 A. I spoke with Officer Selmani about the  
17 incident.

18 Q. What was the circumstances surrounding  
19 that conversation?

20 A. We would occasionally joke that the  
21 incident was his -- he termed it his ace in the  
22 hole.

23 Q. When he said "ace in the hole," what did  
24 you take that to mean?

1           A.    As a way to potentially avoid discipline  
2 from other instances that were occurring.

3           Q.    In terms of any sort of potential  
4 discipline, did you have any idea what Officer  
5 Selmani was talking about?

6           A.    He told me he had received some citizen  
7 complaints.

8           MR. DENHAM: I have no further questions at  
9 this point.

10          MR. REIMER: Mr. Radja.

11          MR. RADJA: Yeah.

12                                    CROSS-EXAMINATION

13 BY MR. RADJA:

14          Q.    Thank you, Officer Bubis. My name is Tom  
15 Radja. I represent the applicant, Gzim Selmani, in  
16 this case. I want to follow up with some of your --  
17 your testimony here.

18                    You've been on the department  
19 approximately, what, 18 years now?

20          A.    It would be approximately 17 years.

21          Q.    And you were on the SPEAR Team for how  
22 long?

23          A.    I don't recall exactly how long it was.

24          Q.    Does that -- does the SPEAR Team still

1 exist?

2 A. No, it does not.

3 Q. Okay. And as of August of 2014, you're on  
4 the team about eight years. Does that sound about  
5 right?

6 A. Approximately, yes.

7 Q. Okay. And as part of a SPEAR Team, you  
8 would do training, correct?

9 A. That's correct.

10 Q. And as part of that training, you would  
11 use Simunition rounds, right?

12 A. Yes.

13 Q. And that would be for both 9 millimeter  
14 pistols and for AR-15s?

15 A. Yes.

16 Q. And officers that were -- participated in  
17 the training, they wore protective gear, correct?

18 MR. DENHAM: Objection. This is outside the  
19 scope of --

20 MR. REIMER: Overruled. Formal rules,  
21 technical rules of evidence don't apply.

22 Go ahead.

23 BY MR. RADJA:

24 Q. You wore protective gear when you did



1 SPEAR training?

2 A. Yes.

3 Q. And that would include body armor that you  
4 would wear?

5 A. Yes.

6 Q. And that would protect your throat?

7 A. The body armor that we used would protect  
8 a part of the throat area, yes.

9 Q. And during SPEAR training, if you got hit  
10 with the Simunition, it was painful, right?

11 A. Yes.

12 Q. And it could cause cuts, bruises, break  
13 the skin; is that correct?

14 A. Yes.

15 Q. On August of 2014, Officer Moore, [sic]  
16 was he in charge of SPEAR training as a safety  
17 officer?

18 A. Officer Amore?

19 Q. Amore, I'm talking about.

20 A. I don't recall.

21 Q. Okay. The safety officer, is that the  
22 individual on the team that would make sure  
23 everyone's wearing protective gear prior to  
24 performing the training?

1           A.    We were all our own safety officers.

2           Q.    So on your own, you'd make sure you were  
3 wearing protective gear?

4           A.    Yes.

5           Q.    No one would make sure that the Simunition  
6 was properly loaded and everyone was wearing the  
7 proper gear before you'd do training exercises?

8           A.    Prior to the start of training, we would  
9 make sure that our rifle -- rifles had Simunition  
10 bullets in them, we would be headed down through  
11 weapons, that type of stuff. That typically would  
12 be done by either the team leaders or whoever was in  
13 charge of training that particular day.

14          Q.    And the purpose of that is to make sure no  
15 one gets injured, right?

16          A.    That's my assumption, yes.

17          Q.    Is it a fair statement that all rules of  
18 firearm use also applies to SPEAR training?

19          A.    I would say so, yes.

20          Q.    Okay. And has it been said that you don't  
21 shoot at anything you're not willing to destroy?

22          A.    Yes.

23          Q.    Now, on August 11th, 2014, at the end of  
24 that SPEAR training, Officer Selmani was told to

1 find work in the center of the training room, right?

2 A. Yes.

3 Q. And that phrase, "find work in the center  
4 of the room," that's been used as kind of an ongoing  
5 joke in the department, hasn't it?

6 A. I don't know about that.

7 Q. Around the department, guys will say, hey,  
8 find the center of the room, referring back to the  
9 August 2014 incident?

10 A. I don't know if officers have done that or  
11 haven't done that.

12 Q. And when Officer Selmani was finding work  
13 in the center of the room, he was under the  
14 assumption that it was part of the training  
15 exercise, right?

16 A. I don't know what he was thinking, but I  
17 can only assume that's what he was thinking.

18 Q. Okay. I mean, no one told him, you're  
19 about to be hazed or initiated, right?

20 A. I don't recall anybody saying that.

21 Q. And when Officer Selmani went into that  
22 room during the training, other officers were  
23 waiting there for him, correct?

24 A. I don't recall if we all entered

1 simultaneously or if other officers were there  
2 first.

3 Q. Okay. Fair enough. And at that time  
4 there was approximately 13 members of the SPEAR  
5 Team. Is that fair?

6 A. That sounds about correct.

7 Q. So if you take the two officers that were  
8 told to find work in the middle of the room out of  
9 it, there would be approximately 11 officers?

10 A. I don't know specifically which officers  
11 may not have been at that particular training.  
12 11 sounds correct if every officer was present.

13 Q. And is it fair to say that Officer Selmani  
14 and the other officer had no idea that they were  
15 about to be shot by their fellow SPEAR Team members  
16 with Simunition?

17 A. Again, I -- I don't know what they were  
18 thinking, but I would assume so.

19 Q. And when -- were you in the room when  
20 officers started shooting at Officer Selmani?

21 A. Yes.

22 Q. And is it a fair estimate that that  
23 occurred -- took place for about 5 seconds,  
24 approximately, the shots being fired?

1           A.    I don't recall specifically the time  
2 length of the shots being fired.

3           Q.    And officers that were firing at Officer  
4 Selmani, they were using both AR-15s as well as  
5 9 millimeter pistols, correct?

6           A.    I don't recall.

7           Q.    And you fired at Officer Selmani, right?

8           A.    I don't recall.

9           Q.    You don't remember?

10          A.    No.

11          Q.    Has the SPEAR Team -- this kind of  
12 incident happened ever before at the Bartlett Police  
13 Department, where fellow officers were shot with  
14 Simunition rounds?

15          A.    Not that I'm aware of.

16          Q.    It hasn't happened other than that one  
17 incident in your entire career?

18          A.    Not that I'm aware of.

19          Q.    And you're telling the members of the  
20 Board that you don't remember this particular  
21 incident on that day?

22          A.    I recall the incident. I don't recall  
23 whether or not I shot a round.

24          Q.    So you remember going into the room. Did

1 you have your weapon with you?

2 A. I could only assume I did.

3 Q. Okay. So you assume you did. And you  
4 can't remember whether or not you fired along with  
5 other officers?

6 A. That's correct.

7 Q. Did other officers fire?

8 A. Yes.

9 Q. Did you ever make a statement outside of  
10 this courtroom where you said you assume that you  
11 fired?

12 A. Yes.

13 Q. Okay. So is it fair that, for purposes of  
14 this hearing and the members of the Board that are  
15 hearing your testimony, we can assume you fired at  
16 Officer Selmani?

17 MR. DENHAM: Objection.

18 MR. REIMER: What's the basis of the objection?  
19 Are you saying it mischaracterizes evidence?

20 MR. DENHAM: Yes.

21 MR. RADJA: He just admitted --

22 MR. REIMER: Overruled. You can clarify it.

23 BY MR. RADJA:

24 Q. You just admitted in your prior testimony

1 during the interrogation was that you assumed you  
2 fired at Officer Selmani, right?

3 A. Yes.

4 Q. So for purposes of this hearing, we could  
5 also assume that back in August of 2014, you fired  
6 at Officer Selmani?

7 A. That's up to this body to decide.

8 Q. You want them to believe that you don't  
9 remember whether or not you fired during an incident  
10 that's only occurred once in this department where a  
11 fellow officer was shot at with Simunition?

12 A. Could you repeat the question?

13 Q. You want the members of the Board to  
14 believe that you cannot remember whether or not you  
15 shot -- other officers shot, but you can't remember  
16 whether or not you shot for this one incident that's  
17 never occurred before up until that time?

18 A. That's correct.

19 Q. You didn't think it was a good idea when  
20 you testified at the interrogation -- well, strike  
21 that. Let me word that better.

22 When you testified at the interrogation,  
23 you told the interrogators you didn't think it was a  
24 good idea to fire at Officer Selmani, right?

1           A.    I don't recall verbatim what I said to  
2 them in that regard.

3           Q.    Is there anything that would refresh your  
4 recollection?

5           A.    Yes.

6           Q.    Okay.  You -- you gave a statement, and  
7 you were interrogated at the department on or about  
8 March 1st of 2019, correct?

9           A.    That's correct.

10          Q.    Okay.

11          MR. REIMER:  If you're going to refresh his  
12 recollection, let's identify it -- or mark it for  
13 identification.

14          BY MR. RADJA:

15                Q.    Okay.  So we'll mark for identification  
16 purposes the testimony of Officer Bubis that took  
17 place at the Bartlett Police Department on March 1st  
18 of 2019, transcribed by Nicole Koziol, a certified  
19 shorthand court reporter.

20                MR. REIMER:  So we're going to mark that as  
21 Applicant Exhibit 3 for identification purposes.

22                THE COURT REPORTER:  Excuse me.  Applicant  
23 Exhibit?

24                MR. REIMER:  3, for ID.



1                   Do you have the transcript or just the  
2 computer --

3           MR. RADJA: I have just the electronic version.  
4 I can certainly supplement. I'm going to read the  
5 question and the answer.

6           MR. REIMER: Well, I think the right way to do  
7 it is to show the witness. It's his statement.

8                   Officer, is your memory exhausted at this  
9 time?

10           THE WITNESS: With regard to what I said  
11 verbatim, yes.

12           MR. REIMER: Yes. At the interrogation. And  
13 would the transcript of the interrogation refresh  
14 your recollection?

15           THE WITNESS: Yes.

16           MR. REIMER: Okay. So I think, Mr. Radja, if  
17 you don't mind showing him --

18           MR. RADJA: If I can approach.

19           MR. REIMER: Yes, you can. Again, just so the  
20 record's clear, the witness is being shown  
21 Applicant's Exhibit No. 3 for ID only, which is a  
22 transcript of the interrogation of March 1st, 2019.

23 BY MR. RADJA:

24           Q. I'm just going to direct your attention to

1 Page 29 of the transcript, specifically Lines 17  
2 through 19.

3 Were you asked this question and did you  
4 give this answer:

5 QUESTION: You don't think it was a good  
6 idea to do this?

7 ANSWER: Ultimately, no.

8 A. Yes --

9 Q. Do you recall being asked that question  
10 and giving that answer?

11 A. Yes.

12 Q. Why didn't you think it was a good idea to  
13 shoot at a fellow officer with Simunition?

14 A. Why was it not a good idea?

15 Q. Yeah.

16 A. Potentially could cause cuts, bruises to  
17 the skin.

18 Q. Was it a safety concern?

19 A. Again, it could potentially cause cuts and  
20 bruises to the skin.

21 Q. And you could have injured Officer  
22 Selmani, right?

23 A. I would consider cuts and bruises as  
24 injuries, yes.

Officer Gzim Selamni

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1 Q. Is it a fair statement that you were  
2 approximately 15 feet away from Officer Selmani when  
3 you shot this Simunition at him?

4 A. I don't recall whether or not I shot at  
5 Officer Selmani, and I don't recall exactly the  
6 distance that I was from him.

7 Q. If another officer, during their  
8 transcript -- their interrogation, said it was  
9 approximately 15 feet away, would you have any  
10 reason to disagree with that estimation?

11 A. That sounds approximate.

12 Q. And the purpose of this exercise was to  
13 initiate or haze Officer Selmani; isn't that right?

14 A. I don't know the purpose of -- whoever  
15 came up with the idea, what their intention was. I  
16 assumed it was a welcome-to-the-team type activity.

17 Q. Would you agree that this would be  
18 considered hazing?

19 A. I don't know the legal definition of  
20 hazing.

21 Q. Well, how about this: I want to read you  
22 the definition I have, and you could tell me if you  
23 agree or disagree that what the officers did on  
24 August 14th [sic] was hazing.

1 MR. DENHAM: Objection, calls for a legal  
2 conclusion.

3 MR. REIMER: You know, I don't know that it --  
4 what's your response, Mr. Radja?

5 MR. RADJA: It's not a legal conclusion. This  
6 is proper cross. He wouldn't consider it hazing. I  
7 want to read him the definition and ask if he thinks  
8 that's hazing.

9 MR. DENHAM: Yeah. I don't think -- I think it  
10 is. Again, we're so far outside of the questioning  
11 that I had for this witness. We're not even  
12 disputing -- we haven't produced one witness to  
13 dispute what happened during that SPEAR Team  
14 incident. So --

15 MR. REIMER: Understand.

16 MR. DENHAM: -- to the extent that my witness  
17 is getting grilled about an incident that we've  
18 already been disciplined for, I don't think that's  
19 fair and I don't think that's appropriate.

20 MR. REIMER: So overruled. I understand your  
21 objection. I think that Mr. Radja is entitled to  
22 understand and inquire of this witness what he  
23 believed happened.

24 So you can ask him -- I don't think it's a

1 legal definition, but I would also tend to agree  
2 that, you know, you're probably to the point where  
3 I'm going to tell you to move on.

4 MR. RADJA: Fair enough.

5 BY MR. RADJA:

6 Q. Officer, would you agree with this  
7 definition of hazing: It's conduct that subjects  
8 another person -- whether physically, mentally or  
9 emotionally or psychologically -- to anything that  
10 may endanger, abuse, humiliate, degrade, or  
11 intimidate that person as a condition of joining or  
12 being accepted into a group or team?

13 MR. DENHAM: Objection, calls for -- elicits a  
14 response about facts that are not in evidence and/or  
15 it calls for a legal conclusion.

16 MR. REIMER: Okay. I'm going to sustain -- not  
17 on those grounds.

18 Does it matter what the state of mind of  
19 the hazers was?

20 MR. DENHAM: No.

21 MR. REIMER: Okay. So I'll sustain it.

22 BY MR. RADJA:

23 Q. Officer, you had indicated through your  
24 interrogation that you wished the team hadn't done

1 the conduct on August 2014, correct?

2 A. Yes.

3 Q. Why do you wish that they hadn't done  
4 that?

5 MR. DENHAM: Objection. Again, we're going so  
6 far outside.

7 MR. REIMER: I'll sustain.

8 BY MR. RADJA:

9 Q. When officers on the SPEAR Team were  
10 shooting Simunition rounds at Officer Selmani, you  
11 acknowledged that physical and/or psychological  
12 injuries could have resulted from that, right?

13 MR. DENHAM: Objection. Same objection.

14 MR. REIMER: I'll sustain it.

15 BY MR. RADJA:

16 Q. You're aware that Officer Selmani had  
17 injuries where his skin was broke by Simunition?

18 A. No.

19 Q. Did you ever talk or joke around with him  
20 about that?

21 A. About injuries?

22 Q. About injuries he sustained.

23 A. I don't recall joking about injuries that  
24 he sustained, no.

1 Q. And as a result of this incident, you were  
2 suspended for 40 hours, right?

3 A. That sounds about right.

4 Q. So a week's worth of pay?

5 A. Yes.

6 Q. Do you know if Officer Selmani was  
7 disciplined as a result of this incident?

8 A. I don't know.

9 Q. Do you know if he's been suspended without  
10 pay?

11 A. I don't know.

12 Q. With regard to your discipline, it was the  
13 result of breaking a number of rules at the Bartlett  
14 Police Department, correct?

15 A. That's correct.

16 Q. And there's a laundry list of them that  
17 were cited, but I'm just going to go to the main  
18 ones here.

19 MR. DENHAM: Objection, improper form of  
20 question.

21 MR. RADJA: Haven't even asked the question  
22 yet.

23 MR. DENHAM: Well, you just said there was a  
24 laundry list, so I'm not sure where you're getting

1 it.

2 MR. REIMER: All right. So let me ask you  
3 this: What's the intent -- are you -- is the intent  
4 of this line of questioning to ascertain the  
5 credibility of this witness?

6 MR. RADJA: I want to ask what he was  
7 disciplined for. He said he was disciplined for  
8 40 hours. What rules and regulations of the  
9 department he was accused of violating?

10 MR. REIMER: Okay. So what difference does it  
11 make what he was -- what he was disciplined for?  
12 He's admitting he was disciplined.

13 MR. RADJA: Well, I think it's important with  
14 respect to the -- the disability implication is the  
15 significance of the conduct towards him, whether or  
16 not that caused his injuries. That seems to be the  
17 main issue that this Board has to decide.

18 MR. REIMER: Okay. I'll -- I'm going to  
19 sustain that. I don't know how whatever Officer  
20 Bubis may have been disciplined for as a result of  
21 that incident is relevant. How does that help the  
22 Board decide, A, whether it's a disability; and, B,  
23 whether it's a line of duty disability? And I don't  
24 know that his -- that if I allow that line of



1 questioning, I don't know that that would make any  
2 relevant -- provide any relevant information.

3 BY MR. RADJA:

4 Q. Would you agree that Officer Selmani  
5 received a battery on that day from fellow officers?

6 MR. DENHAM: Objection. Same objection.

7 MR. REIMER: That probably calls for a legal  
8 conclusion. Sustained.

9 He can testify what he observed, what he  
10 saw, or what Officer Selmani told him. I think  
11 that's certainly fair game.

12 BY MR. RADJA:

13 Q. During the SPEAR trainings on August 14th  
14 [sic], did you observe Officer Selmani being  
15 battered?

16 MR. DENHAM: Objection. Same objection, plus  
17 calls for a legal conclusion.

18 MR. REIMER: The same -- again, Mr. Radja, I  
19 think you can ask him what are the injuries that he  
20 observed on that day. I think that's absolutely  
21 fair game.

22 MR. RADJA: I'm asking what he observed other  
23 officers doing, whether or not he considered that a  
24 battery. That's his observations on that day.

1 MR. DENHAM: Whether he considers it a battery  
2 calls for a legal conclusion.

3 MR. REIMER: Right. You -- you can ask him --  
4 again, and I thought you did -- what you saw other  
5 officers --

6 MR. RADJA: That's fine. I'll move on.

7 BY MR. RADJA:

8 Q. Did you ever hear the phrase: What  
9 happens in SPEAR stays in SPEAR?

10 A. I've heard that phrase, yes.

11 Q. Okay. And when you were interrogated by  
12 the police department, you said you never heard that  
13 phrase; isn't that right?

14 A. At the time, yes.

15 Q. So you -- prior to being interrogated, you  
16 never heard the phrase "what happens in SPEAR stays  
17 in SPEAR"?

18 A. Yes.

19 Q. Would it surprise you to learn that other  
20 officers that were interrogated, and sergeants and  
21 commanders, said that it was a team motto?

22 MR. DENHAM: Objection, calls for speculation.

23 MR. REIMER: Overrule that. I think he can ask  
24 if it would surprise him if that was the team motto.

1 THE WITNESS: That would surprise me if that  
2 was our team motto.

3 BY MR. RADJA:

4 Q. So if Commander Naydenoff testified under  
5 oath at an interrogation that the expression "what  
6 happens in SPEAR stays in SPEAR" was a team motto,  
7 you would disagree with that testimony?

8 MR. DENHAM: Objection, calls for a conclusion  
9 about facts that are not in evidence.

10 MR. RADJA: It's proper cross-examination.

11 MR. REIMER: Yes, it is cross. I don't know  
12 that it calls for a conclusion. I think the  
13 question was: Would it surprise you to know that  
14 Commander Naydenoff -- Naydenoff said that it was  
15 the team motto.

16 MR. DENHAM: About something that Commander  
17 Naydenoff said that's not in evidence here? I don't  
18 even know what he's talking about. It's evidence  
19 that's not before the Board. And it's completely  
20 irrelevant to the question before the Board.

21 MR. REIMER: He can answer the question.

22 THE WITNESS: Yeah. If he said that was our  
23 team motto, yes.

24

1 BY MR. RADJA:

2 Q. And if Sergeant Rakiewicz said under oath  
3 that that expression was used -- it was kind of like  
4 "what happens in Vegas stays in Vegas" expression  
5 utilized by the SPEAR Team, he'd be lying?

6 MR. DENHAM: Same objection, for the record.

7 MR. REIMER: Okay. Overruled. Remember, I  
8 think you opened that door when you asked him about  
9 the interrogation, what he said, what he was  
10 questioned about. So I think, unfortunately, it's  
11 fair game.

12 MR. DENHAM: I just asked him if he was part of  
13 an investigation.

14 MR. REIMER: Understood.

15 You can answer that question, Officer.

16 THE WITNESS: I'm certainly not going to call  
17 Officer Rakiewicz a liar. If that's his opinion,  
18 that's his opinion.

19 BY MR. RADJA:

20 Q. And if a member of this Board, Gary  
21 Mitchell, during his interrogation, said that was an  
22 expression that he heard with regard to the SPEAR  
23 Team, he'd be lying too?

24 A. Again, I'm certainly not going to call

1 Officer Mitchell a liar. That's his opinion.

2 Q. You're aware that Officer Selmani resigned  
3 from the SPEAR Team, right?

4 A. Yes.

5 Q. And that was on or about -- that was in  
6 November of 2017?

7 A. I don't recall the exact month.

8 Q. Well, around the time he resigned, you  
9 were concerned that he would notify members of the  
10 police department that this hazing incident occurred  
11 in August of 2014; isn't that right?

12 A. I don't recall if I was specifically  
13 concerned at that point.

14 Q. Well, didn't you tell him not to report it  
15 because that would be his ace in the hole to get  
16 everybody fired?

17 A. I don't recall saying that to him.

18 Q. Do you recall being in the Bartlett  
19 Aquatic Center in November of 2017, car to car with  
20 Officer Selmani on midnights, where you said, you  
21 know: Did you report the hazing incident when you  
22 resigned?

23 A. I don't remember.

24 Q. Do you remember being at a training in

1 September of 2017 where all the members of the SPEAR  
2 Team were at the -- what's called the Site, S-I-T-E?

3 A. In 2017?

4 Q. Correct. September.

5 A. Yes.

6 Q. And after the training for the day,  
7 everyone spent the night at the Site; is that right?

8 A. I can't remember that year if everybody  
9 spent the night.

10 Q. Do you remember sitting around a campfire  
11 and drinking alcohol with the rest of the members of  
12 the team?

13 A. Yes.

14 Q. Okay. And during that night, do you  
15 recall having a conversation with Officer Selmani  
16 where you told him you know he's not having a good  
17 time on SPEAR, and you asked him not to report the  
18 hazing incident of August of 2014?

19 MR. DENHAM: Objection, calls for a compound  
20 question.

21 MR. REIMER: Overruled.

22 THE WITNESS: I don't recall that specific  
23 conversation.

24

1 BY MR. RADJA:

2 Q. Do you recall telling him not to report it  
3 because you were afraid you were going to get fired?

4 A. I don't specifically remember saying that.

5 Q. And during your interrogation, you said  
6 this comment about "ace in the hole," that was a  
7 joke and not serious, right?

8 A. That was how I interpreted it, yes. He  
9 seemed to be joking. I was joking.

10 Q. And you said -- you testified on direct  
11 that this "ace in the hole" comment, that it was in  
12 reference to avoiding discipline, if I understand  
13 your testimony right?

14 A. That was a joke, that it would somehow get  
15 him out of receiving discipline.

16 Q. And the phrase "ace in the hole," that's  
17 something you said, right, not Officer Selmani?

18 A. We both said it.

19 Q. What did you mean by "ace in the hole"?  
20 That he could use this hazing at any time or  
21 something along those lines?

22 A. Again, in the context of a joke, it would  
23 potentially get him out of discipline. Again, in  
24 the context of a joke.

1 Q. You're not aware in November of 2017  
2 Officer Selmani being subject to any discipline, are  
3 you?

4 A. I am not, no.

5 Q. Okay. And in January of 2019, Officer  
6 Selmani was not under any type of disciplinary  
7 allegations, correct?

8 A. Not that I know of, no.

9 MR. RADJA: That's all the questions I have.

10 MR. REIMER: All right. Members of the Board,  
11 do you have any questions of Mr. Bubis? This is  
12 your opportunity to ask Officer Bubis any questions  
13 you may have concerning his testimony.

14 Give me one moment, please.

15 CROSS-EXAMINATION

16 BY TRUSTEE PALMER:

17 Q. In your testimony, you stated you assumed  
18 it was a team event. What led you to that  
19 assumption?

20 A. I don't know. That was just my  
21 assumption.

22 Q. Okay. How did this organize? You said  
23 two were in the middle and 11 were standing out some  
24 feet?



1           A.    I don't recall if it was exactly 11.  And  
2  again, I don't recall specifically who came up with  
3  the idea, how it was specifically communicated to  
4  us.  I don't recall.

5           Q.    But it was communicated to you?

6           A.    Yes.

7           Q.    Wasn't this part of -- this wasn't any  
8  lesson plan for the training, was it?

9           A.    As far as I know, it was not.

10          Q.    And you don't recall who directed you?

11          A.    No.

12          TRUSTEE PALMER:  That's all.

13          MR. REIMER:  Any other members of the Board?

14                    Redirect?

15          MR. DENHAM:  I just have a couple follow-up.

16                    REDIRECT EXAMINATION

17          BY MR. DENHAM:

18           Q.    You were asked some questions about  
19  protective gear.  I believe you were asked a  
20  question about whether the throat protection that  
21  you wore covered your entire throat.  And you  
22  responded:  Part of the throat.  Is that right?

23           A.    Yes.  The SPEAR vest that I would wear  
24  would cover part of the throat.  There were, I

1 think, some members who would also wear additional  
2 throat protectors.

3 Q. In terms of your experience, would it be  
4 possible for you to actually get hit with a  
5 Simunition round to some part of the throat?

6 A. The way I set up my gear?

7 Q. Yes.

8 A. Yes.

9 Q. Did you wear sleeves during these types of  
10 trainings?

11 A. Sometimes I did, sometimes I did not.

12 Q. You were previously asked a question by  
13 Counsel about whether these sorts of Simunition  
14 rounds hurt. Do you recall that?

15 A. Yes.

16 Q. Did you respond that these sorts of  
17 Simunition rounds hurt because you had experiences  
18 getting hit by the Simunition rounds?

19 A. Yes. I have been hit many times by  
20 Simunition rounds.

21 Q. Was that your expectation going into one  
22 of these SPEAR Team trainings, that you might get  
23 hit by a Simunition round?

24 A. Yes.

1 MR. DENHAM: I have no further questions.

2 MR. RADJA: I have some follow-up to that.

3 MR. REIMER: Yep. Brief. I am -- just under  
4 the rules of the Board, in order to limit this, I am  
5 going to, in this instance, limit it to the scope of  
6 the redirect. But go ahead.

7 RECROSS-EXAMINATION

8 BY MR. RADJA:

9 Q. You just testified you had an expectation  
10 of going into SPEAR training and being hit with  
11 Simunition rounds, right?

12 A. That's correct.

13 Q. You don't have an expectation that you're  
14 going to be ambushed by fellow officers and shot at  
15 with their weapons at close range, do you?

16 A. I've never had that particular  
17 expectation, no.

18 Q. And, certainly, Officer Selmani didn't  
19 have that expectation; he thought he was doing a  
20 training exercise?

21 MR. DENHAM: Objection, calls for speculation.

22 MR. REIMER: Sustained. Calls for a state of  
23 mind of the applicant, would he do that.

24

1 BY MR. RADJA:

2 Q. Would any officer in the SPEAR training  
3 expect to be shot at at close range from his fellow  
4 officers during a training exercise?

5 MR. DENHAM: Objection, calls for speculation.  
6 He's already testified about his own state of mind.

7 MR. REIMER: Again, I think you already  
8 testified -- this kind of gets to has this witness  
9 ever seen this event happen to any other member of  
10 the SPEAR Team.

11 MR. RADJA: He opened the door and said what  
12 was his expectation when he was going through a  
13 training exercise. So I'm asking was it his  
14 expectation to be ambushed by fellow officers. I  
15 think it's a fair question.

16 MR. REIMER: All right. I'm not going to --  
17 no. I'm going to sustain the objection.

18 BY MR. RADJA:

19 Q. You've never been hit at close range from  
20 fellow officers shooting at you purposefully, right?

21 A. No.

22 MR. RADJA: That's all I have.

23 MR. REIMER: Does that prompt any questions,  
24 gentlemen?

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CROSS-EXAMINATION

BY TRUSTEE MITCHELL:

Q. In other trainings, including SPEAR, have you been shot at at close range by role players?

A. Yes.

Q. And who are those role players, generally?

A. Typically, they would be students of Dr. Kammie Juzwin who would act as the -- the -- for the opposition forces during our -- our scenarios.

Q. So you have been shot at close range by fellow officers and/or students that worked here?

A. Yes.

TRUSTEE MITCHELL: All right.

MR. DENHAM: Just one follow-up question to that.

FURTHER DIRECT EXAMINATION

BY MR. DENHAM:

Q. Did Dr. Kammie and any of those students, are those sworn officers?

A. They are not.

Q. Are they civilians?

A. Yes.

MR. DENHAM: No further questions.

1                                   FURTHER CROSS-EXAMINATION

2   BY MR. RADJA:

3           Q.    So you didn't have sworn officers shooting  
4   at you; you had civilians?

5           A.    Typically, the role players were  
6   civilians.  And I can't recall off the top of my  
7   head how many trainings we may have had members of  
8   the team act as role players.  I just don't recall  
9   off the top of my head.

10          Q.    Okay.  You expected to be shot at?

11          A.    During the training, yes.

12          MR. RADJA:  That's all I have.

13                                   CROSS-EXAMINATION

14   BY MR. REIMER:

15          Q.    Well, now I'm dying to know.  Any of those  
16   civilian role players, were they shot at during  
17   training?

18          A.    Yes.

19          Q.    Were they provided with similar protective  
20   gear, similar to what you wear on the SPEAR Team?

21          A.    They were not provided with the -- the  
22   heavy body armor that we wear, but they were  
23   provided with protective equipment, yes.

24          Q.    Would they be shot -- in the role playing

1 scenarios, would they be shot with the same  
2 Simunition rounds that are used in training with the  
3 SPEAR Team?

4 A. Yes.

5 Q. In other words, there's no different  
6 ammunition used for civilians versus SPEAR Team role  
7 playing?

8 A. That's correct.

9 Q. How frequently would there be civilian  
10 role playing?

11 A. As far as I can recall, every -- just  
12 about every training we had, we would have civilian  
13 role players.

14 Q. Who made the determination when you had a  
15 training evolution on a certain day to bring in  
16 civilians?

17 A. I could only assume the team leaders who  
18 scheduled training made those determinations.

19 Q. You don't know. You don't have any  
20 personal knowledge, correct?

21 A. That's correct.

22 Q. But you can testify that when you  
23 participated in training, it was not uncommon to  
24 have a civilian acting in role playing fashion that

1 might be hit by Simunition rounds --

2 A. That's correct.

3 Q. -- is that true?

4 And how many -- this is -- we've been at  
5 this for a while, so bear with me. How many SPEAR  
6 training situations did you have? How often would  
7 you do that a month?

8 A. If I recall correctly, when I first joined  
9 the team, the first few years it was once a month.  
10 And the last couple of years, it was once every  
11 other -- I would say six times a year.

12 Q. All right. And am I understanding your  
13 testimony correctly that the majority of those times  
14 you would have a civilian acting as a -- in a role  
15 playing capacity?

16 A. Yes.

17 MR. REIMER: Thank you.

18 MR. RADJA: Brief follow-up to that.

19 MR. REIMER: Let's go in order.

20 MR. DENHAM: No follow-up.

21 MR. REIMER: No follow-up. All right.

22 FURTHER CROSS-EXAMINATION

23 BY MR. RADJA:

24 Q. When civilians participated in this, it



1 was a voluntary act on their part, right?

2 A. Yes.

3 Q. They chose to participate in training?

4 A. That's correct.

5 Q. It wasn't a requirement of the police  
6 department that they participate?

7 A. Not that I'm aware of, no.

8 Q. And it wasn't an assignment that they were  
9 provided when they participated in that training?

10 A. In regard to the college they attended, I  
11 do not know.

12 Q. And the civilians were required to wear  
13 protective gear, right?

14 A. Yes.

15 Q. Versus officers had the discretion to wear  
16 whatever gear they chose to wear, right?

17 A. Not necessarily.

18 Q. So officers didn't have to wear sleeves if  
19 they chose not to, right?

20 A. That's correct.

21 Q. Okay. What other items did the officers  
22 get the discretion to not wear?

23 A. That and the specific throat protector.  
24 That's it.

1 Q. How about kneepads?

2 A. Some officers had kneepads that were  
3 stitched into their BDUs, their pants.

4 Q. It wasn't a requirement for officers to  
5 wear kneepads, right?

6 A. Not that I'm aware of, no.

7 Q. And groin protection, is that within the  
8 discretion of the officer?

9 A. Yes.

10 Q. All right. But civilians, when they  
11 participated, they were required to wear that type  
12 of protection, correct?

13 A. Kneepads and groin protection, I don't  
14 recall -- I don't know specifically what they were  
15 required to or asked to wear by the team leaders or  
16 whoever was running the training that day.

17 Q. Was any civilian ever subject to a hazing  
18 or initiation exercise like was done to Officer  
19 Selmani?

20 MR. DENHAM: Again, objection. We're going  
21 outside of the scope of --

22 MR. RADJA: This all has to do with the  
23 civilian questions that were asked, what their  
24 comparison is.

1 MR. REIMER: I'll overrule it.

2 THE WITNESS: No, not that I'm aware of.

3 BY MR. RADJA:

4 Q. I'm sorry?

5 A. No, not that I'm aware of.

6 MR. RADJA: That's all I have.

7 MR. REIMER: Anybody else? Famous lawyer last  
8 words.

9 CROSS-EXAMINATION

10 BY MR. REIMER:

11 Q. Officer, do you have any knowledge as to  
12 whether or not a civilian volunteer participating  
13 in -- participant in this type of training, would  
14 they be put on notice or informed that they would be  
15 shot at with Simunition? Do you know?

16 A. I don't know if there was specific  
17 instructions given to them in that regard.

18 Q. Okay. Fair enough.

19 MR. REIMER: That's all I have.

20 Are we done with this witness?

21 FURTHER DIRECT EXAMINATION

22 BY MR. DENHAM:

23 Q. Would civilians participate in the  
24 training over and over again? Let me rephrase.

1                   Would the same civilians participate in  
2 multiple training incidents?

3           A.    Yes.  There were times that -- that  
4 certain civilians did participate in several  
5 trainings.

6           Q.    Presumably, an individual who got shot in  
7 one Simunition exercise would know that in the next  
8 training, that they would also get shot at; is that  
9 right?

10          A.    Presumably, yes.

11          MR. DENHAM:  No further questions.

12                                   FURTHER CROSS-EXAMINATION

13 BY MR. RADJA:

14          Q.    Any civilian lined up and shot by  
15 11 officers?

16          MR. DENHAM:  Objection.

17          MR. REIMER:  Overruled.  You can answer the  
18 question.  This will be the last one.

19          THE WITNESS:  I don't recall that ever  
20 occurring.

21          MR. RADJA:  Nothing further.

22          MR. REIMER:  Okay.  Officer, thank you.  You're  
23 excused -- I assume?

24          TRUSTEE PALMER:  No, I'm good.

1 MR. REIMER: Thank you, Officer.

2 You want to take a break and call your  
3 next witness?

4 MR. DENHAM: Can I just -- before I call the  
5 witness, I need to have a colloquy, so to speak, to  
6 strategize.

7 MR. REIMER: Sure.

8 MR. DENHAM: At the last hearing --

9 MR. REIMER: Do you want this on the record or  
10 off --

11 MR. DENHAM: Yeah, I want it on the record.

12 MR. REIMER: Okay.

13 MR. DENHAM: At the last hearing, I wanted to  
14 introduce a series of promotional materials that we  
15 found online related to the Simunition ammunition.  
16 There's another competitor that sometimes the  
17 department uses, Force on Force.

18 At some point Mr. Selmani's previous  
19 counsel, Mr. Figlioli, said that he would consider  
20 some sort of stipulation so that we wouldn't have to  
21 call the Chief of Police. Since that time,  
22 Mr. Figlioli no longer represents Mr. Selmani.

23 I can have the chief introduce these  
24 exhibits, but I'm a little tentative with -- based

1 on your rulings, to have the chief of police testify  
2 and have opposing counsel ambush him with God knows  
3 what sorts of questions about the department which  
4 may or may not be relevant to these proceedings, may  
5 or may not be relevant to the civil lawsuit that  
6 Mr. Selmani has filed, as well as any other bone  
7 that they would like to pick.

8 So what I would ask is for you to make a  
9 ruling on Village Exhibits 3, 4, and 5 without any  
10 further authentication. These are all exhibits that  
11 are pulled directly from the internet, which are  
12 clearly promotional materials.

13 MR. REIMER: I believe 3, 4 and -- 3 and 4 are  
14 in. And I believe they are in.

15 MR. RADJA: I don't think so. That was -- that  
16 was left open at the last hearing.

17 I will say this, maybe to streamline it,  
18 though: I don't have an objection to the -- to  
19 Exhibit 3 and 4 dealing -- actually, dealing with  
20 Simunition ammunition. But I do have an objection  
21 to 5, dealing with the Force on Force ammunition,  
22 because that wasn't used back in 2014. And there's  
23 been -- not in these proceedings, but there's been  
24 testimony that that Force on Force ammunition was

1 not used in 2014. So I'd have an objection to that  
2 exhibit. But I would have no objection to  
3 Exhibit -- Village Exhibit 3 and 4, dealing with the  
4 Simunition and --

5 MR. REIMER: Well, I could make it easy then.  
6 3 and 4 is -- according to my notes, they were in.  
7 But if not, Village Exhibit 3 and 4 are admitted  
8 into the record without any further authentication  
9 or foundation.

10 Exhibit 5, I think Mr. Radja raises a fair  
11 point. If the simulation rounds that were -- are  
12 depicted in that, and they were not used at the  
13 time, I don't think they're relevant.

14 So what does that do for you? Do you need  
15 the chief?

16 MR. DENHAM: No. I think we'll agree to that.  
17 And at this point the Village rests.

18 MR. REIMER: So it's clear, then -- and again,  
19 my apologies. I think my notes showed 3 and 4 were  
20 in, but that's fine. They're in.

21 MR. RADJA: Village 5 is withdrawn?

22 MR. DENHAM: We'll withdraw 5. I can pass out  
23 3 and 4 to the Pension Board members.

24 MR. REIMER: I actually brought copies. We

1 wanted to make sure they had copies. There's five  
2 copies of Village Exhibit No. 4.

3 All right. Does -- do both sides rest?

4 MR. RADJA: Applicant rests.

5 MR. DENHAM: Village rests.

6 MR. REIMER: All right. Are you ready for  
7 closing arguments?

8 MR. RADJA: Yes.

9 MR. DENHAM: Yes.

10 MR. REIMER: We're going to take a  
11 ten-minute break -- five-minute break, ten-minute  
12 break.

13 (Short recess.)

14 MR. REIMER: Okay. I will turn to the  
15 applicant.

16 MR. RADJA: I just want to make an objection,  
17 for the record, to allowing the Intervenor to go  
18 second, get to hear the entire argument of the  
19 applicant and rebut that, where the applicant's not  
20 given that same -- not afforded that same  
21 opportunity to proceed.

22 MR. REIMER: Okay. Your objection is noted,  
23 and this is your opportunity to make a closing.

24 MR. RADJA: Very good.



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CLOSING ARGUMENT

BY MR. RADJA:

Thank you, members of the Board, opposing counsel. I appreciate the attentiveness of the Board during these proceedings. It's not common to have three separate hearings over the course of time that we've had here, so I certainly appreciate that. I want to talk about the facts that were presented to this Board during the course of these hearings. And that is --

(Feedback sound happening.)

(Discussion held off the record.)

MR. RADJA: All right. So the facts and the evidence that was presented to you establish that on August 11th, 2014, the first SPEAR training incident -- or the first SPEAR training session that Officer Selmani attended, he was subjected at the end of this training to being -- to a hazing exercise by fellow officers. It's been referred to as an initiation. But counsel for the Village has even tried to introduce a hazing video to somehow demonstrate that there's some similarity between the two. So I think we certainly can refer to what occurred here as a hazing. I read the definition

1 when Officer Bubis testified.

2           And this was certainly something that was  
3 unwelcomed, not expected by Officer Selmani, and it  
4 affected him. It affected him gravely. He was a  
5 fairly new officer on the department, fresh off his  
6 probation, brand new to the SPEAR Team, with fellow  
7 officers that he's supposed to be able to rely on  
8 and trust in a critical incident. And what they do  
9 to him is, his first day, at the end of it, is line  
10 up and all the officers there fire at him.

11           He's hit with between 30 and 50 rounds,  
12 according to his testimony. He suffers injuries. I  
13 submitted to you Applicant's Exhibit 2 today for the  
14 purposes of demonstrating that in June of 2014,  
15 there's clearly no marks on his left arm. Then on  
16 September 6th of 2014, you can see there's a red  
17 mark on his forearm where the Simunition hit him.

18           That wasn't the only injury he testified  
19 about. He testified about having a permanent tattoo  
20 on his left arm, which remains there today. He even  
21 testified to injuries to his leg.

22           But most significantly, it wasn't the  
23 physical injuries that he sustained, it was the  
24 mental injuries. Officer Selmani tried to tough it

1 out, like most police officers do when they're  
2 injured. In fact, he went several years trying to  
3 cope with the effect of that hazing on his own. And  
4 he testified about what those coping mechanisms  
5 were -- he'd work out and do things of that nature  
6 to try to deal with the situation. Unfortunately,  
7 when he suffered a shoulder injury starting in 2016,  
8 those coping mechanisms deteriorated. And the  
9 evidence supports that.

10           Officer Selmani testified he was afraid to  
11 report the incident for fear of retribution, for  
12 fear of being retaliated against, for fear that his  
13 fellow officers would get disciplined and he would  
14 be to blame for it. And that's precisely what  
15 happened here.

16           When Officer Selmani could no longer cope,  
17 he reported it to the police department that this  
18 hazing incident has been affecting him. He wanted  
19 to seek treatment for it. He did seek treatment for  
20 it.

21           And when -- and as soon as he reported it,  
22 what happened? All the officers involved got  
23 interrogated. All the officers got disciplined.  
24 It's all Officer Selmani's fault. One officer

1 retires from the department. He's to blame. And  
2 what does -- does he get rewarded for reporting it?  
3 No. He gets put on an unpaid leave from the  
4 department and more or less punished himself for  
5 what had occurred.

6 There's no dispute that this hazing  
7 incident happened, that fellow officers shot at  
8 Officer Selmani, that he suffered physical injuries  
9 as a result of it, and that he suffered mental  
10 injuries as a result of it. None of that is in  
11 dispute. We know that, based on the evidence that's  
12 been presented to you.

13 You had no less than six physicians'  
14 testimony in this record. You have Dr. Marseilles,  
15 you got Dr. Friedman, you have your four physicians  
16 that you sent Officer Selmani to -- Dr. Catherall,  
17 Dr. Reff, Dr. Weine, Dr. Shaw.

18 Six physicians, all unanimous, all  
19 indicating that this officer's disabled as a result  
20 of PTSD, and the PTSD is because of the hazing  
21 incident on August 11th of 2014. No physician  
22 disputes that, and no physician had an issue.

23 And they were all deposed -- at least your  
24 four physicians. And during their depositions, the

1 Village presented all their alleged inconsistencies  
2 in the record. And none of the physicians found  
3 that there was significant inconsistencies. And in  
4 fact, Dr. Shaw said those inconsistencies were  
5 trivial. Not one physician said any of the  
6 inconsistent -- alleged inconsistencies brought by  
7 the Village were of any significance in either their  
8 diagnosis of PTSD or the fact that Officer Selmani  
9 was disabled and the cause of his disabling PTSD  
10 condition was the hazing incident of 2014.

11 Unanimous. It's very rare -- and I'm sure  
12 Counsel will tell you -- that you get six physicians  
13 in the record, all saying an individual is disabled  
14 and all saying the cause of it is because of a  
15 certain condition.

16 But that's what you have here. Not one  
17 physician wavered during the testimony. I would  
18 invite you to read their testimony because they're  
19 all clear that the alleged inconsistencies that  
20 Counsel brings up weren't inconsistencies at all.  
21 It was actually very consistent with what  
22 Officer Selmani had testified to before this Board  
23 and what he had told all the physicians. He tried  
24 to cope with this thing, with the anger, the

1 animosity. The mental feelings he was having about  
2 this hazing incident built up until he could no  
3 longer cope with it, and he has delayed onset PTSD.

4 Some physicians refer to just regular  
5 PTSD, some say delayed onset PTSD. But they're all  
6 in agreement that it wasn't until sometime in 2019,  
7 when he reported this incident. But that's when he  
8 could no longer cope, and that's when the symptoms  
9 of this incident became too much for him to deal  
10 with and necessitated him to no longer be able to be  
11 a police officer with this department.

12 I think it's important to cite to the  
13 members of the Board just some of the pages in the  
14 record. I realize it's voluminous.

15 But Dr. Marseilles' testimony was: I  
16 would consider Selmani has posttraumatic stress  
17 disorder and the rate of impairment rates most  
18 severe.

19 It's not even a question or issue, does he  
20 have this condition or not. It's most severe,  
21 according to his treating physician.

22 Mr. Selmani should be granted paid leave  
23 for a medical disorder directly caused by being on  
24 duty as a police officer.

Officer Gzim Selamni

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1           Dr. Marseilles also noted that there is no  
2 evidence of a preexisting mental illness, no  
3 evidence of substance abuse or alcohol use, nor is  
4 there malingering or a fictitious disorder.

5           Dr. Marla Friedman, who is a police  
6 psychologist, said, after 40 years of clinical  
7 experience, she can say without hesitation that the  
8 attack on Gzim by his peers was not the proximate  
9 cause of his PTSD, it was the absolute cause of  
10 it -- which she put in italics to make sure that  
11 this Board knew that there's not a question of what  
12 the cause of his PTSD was, that it certainly was  
13 this hazing incident.

14           Dr. Catherall was a neuropsych physician  
15 this Board hired to determine -- to put Officer  
16 Selmani through a number of tests, which he  
17 participated in. The most significant of that test  
18 was the MPS test, and that's the malingering  
19 probability scale. And that determines whether or  
20 not an officer is taking terms off the internet and  
21 is making up his condition and giving all the right  
22 buzz words so that he gets diagnosed with a  
23 condition.

24           Dr. Catherall said that, with absolute

1 uncertainty [sic], that there was no malingering in  
2 this case with respect to Officer Selmani.

3 Dr. Catherall said it's significantly hard to fake  
4 this type of a test and that, as an expert in this  
5 field, he don't think he could fake the test with  
6 respect to the malingering probability scale.

7 Dr. Catherall said the PTSD was a direct  
8 result of the hazing incident on August 11th,  
9 prevents him from doing his job and is disabling.

10 Dr. Catherall also recognized that the  
11 fears that he had harbored from 2014 through 2019,  
12 that if he reported this, he'd be subjected to --  
13 he'd be blamed for it and he would put other  
14 officers in jeopardy and subject them to discipline,  
15 that that absolutely came through, and what he was  
16 fearing came to fruition.

17 Dr. Reff was the first of your three IME  
18 doctors. Said Officer Selmani was totally disabled  
19 due to PTSD, major depressive disorder, and it was  
20 all a result of the August '14 hazing incident.  
21 That's at Page 1859. He does not believe  
22 Officer Selmani was malingering, Page 2540.  
23 Officer Selmani was truthful, 2554.

24 He was also seen by Dr. Weine, another of



1 your expert physicians that you hired to evaluate  
2 Officer Selmani.

3 And by the way, these doctors didn't just  
4 give a report and that was the end of it. They gave  
5 a report, they provided a supplemental report, and  
6 they all were subject to cross-examination by the  
7 Village. Not one of them wavered in their opinions,  
8 not one of them said that any issues of reporting or  
9 his treatment had any effect on their opinions that  
10 he has PTSD and it's related to his condition.

11 Dr. Weine also found Officer Selmani  
12 disabled as a result of PTSD, OCD, panic disorder,  
13 and major depression due to the hazing incident.

14 Dr. Weine found that Officer Selmani was  
15 resilient in his job despite having these symptoms.  
16 He was able to work through it. And that's a common  
17 thing with people with PTSD, that they will often  
18 try to hide their symptoms or work through their  
19 symptoms, especially with respect to police  
20 officers -- that that is common, and experts in this  
21 field see that happen.

22 Dr. Weine did not feel that there was any  
23 evidence of Officer Selmani malingering. He found  
24 him to be truthful. Dr. Weine said the hazing

1 incident caused the PTSD and these other  
2 disorders -- the OCD, the panic disorder, and the  
3 major depression -- and it was the direct result of  
4 the hazing incident.

5 Dr. Shaw was the last of your three IME  
6 physicians. Dr. Shaw found Officer Selmani disabled  
7 because of PTSD, a direct result of the hazing  
8 incident. No evidence of malingering or feigning  
9 symptoms.

10 That was the focus of the Village  
11 throughout the entirety of the deposition: Was  
12 Officer Selmani malingering, was he faking symptoms?  
13 And unanimously, all the doctors found no evidence  
14 of that whatsoever.

15 The Village tries to point out a bunch of  
16 different issues with respect to Officer Selmani's  
17 credibility. The only issue of Officer Selmani's  
18 credibility that's at issue here is: Is he disabled  
19 from PTSD, and was it because of the hazing  
20 incident?

21 All the other stuff is the Village  
22 cherry-picking through the record, trying to find  
23 little instances where they could maybe find some  
24 sort of discrepancy that really wasn't there and

1 demonstrate that he doesn't suffer from a condition  
2 that he does.

3           According to the Village, Officer Selmani  
4 should have, from day one, been complaining of  
5 symptoms, reporting it to everybody, going to every  
6 doctor he could and saying, I have PTSD.

7           Well, that's not how the condition works.  
8 And we know that because your expert physicians said  
9 that's not how the condition works.

10           There was many issues the Village brought  
11 up, claiming that there was some sort of fraud  
12 involved. There was no allegations of discipline --  
13 no allegations of misconduct or discipline to  
14 Officer Selmani for any type of alleged Workers'  
15 Compensation fraud or insurance fraud. It's simply  
16 manufactured for purposes of this hearing.

17           He's never served with a notice of  
18 allegations. If there was an issue that  
19 Officer Selmani didn't have a knee injury, didn't  
20 have a shoulder injury, didn't have PTSD and was  
21 making it up, I think the Village certainly had an  
22 opportunity to investigate that, certainly had an  
23 opportunity to bring allegations of misconduct if  
24 they felt that he was making up these things.

1           None of the doctors found that this was  
2 some sort of scam or made-up incident by  
3 Officer Selmani. Nor should you.

4           We ask that you consider all the  
5 evidence -- again, the unanimous evidence of the  
6 physicians that both addressed Officer Selmani's  
7 credibility as well as the medical testimony when  
8 you deliberate on whether or not Officer Selmani is  
9 disabled and whether or not it's an act of duty.

10           The last thing I want to address is the  
11 act of duty part. I expect the Village is going to  
12 try to say -- because they brought that up in  
13 argument -- that Officer Selmani being subject to a  
14 hazing incident is somehow -- that's something the  
15 average citizen in the ordinary walks of life  
16 experiences.

17           Well, that's just not truthful, and it's  
18 not practical. And I can't see a court of law in  
19 the land upholding that argument if you were to find  
20 that a civilian engages in the same type of activity  
21 that Officer Selmani was.

22           First of all, this was a training  
23 exercise. Officer Selmani was under the impression  
24 the entire time that he was engaged in a training

1 exercise on behalf of the SPEAR Team, a required  
2 mandatory training exercise that he's required to  
3 participate in as part of the SPEAR Team.

4 No civilian is required to go to a  
5 training exercise and get shot at by Simunition.  
6 You heard the testimony. They may volunteer to  
7 participate because they want to help out the police  
8 department or whatever their own purpose or reasons  
9 are. But there's no requirement that a civilian  
10 participate in training and get shot at by  
11 Simunition.

12 This video with the paintball hazing  
13 incident has absolutely no relevance to these  
14 proceedings. Officer -- it's not even closely  
15 related to what happened here. When you join a  
16 fraternity, you're expected to be hazed. You know  
17 you're a pledge and you know other people are going  
18 to haze you during your pledgship. It's common  
19 knowledge that you're probably going to get hazed if  
20 you pledge to a fraternity.

21 They used paintballs. They didn't use  
22 Simunition utilized by a police department. There  
23 was no training involved in how these people were to  
24 be shot at or how they were to participate in the

1 exercise. We don't know anything about that video.  
2 We don't know what the participants were told  
3 beforehand. We don't know how far they are from the  
4 participants when they're shooting at them. We  
5 don't know what type of paintballs they used. We  
6 don't know what type of guns they utilized.

7 But you do here. You know that they used  
8 AR-15s, which I'm fairly certain aren't going to be  
9 used in a fraternity hazing incident that these  
10 civilians are engaged in. They're using  
11 9 millimeter pistols. And this Simunition is  
12 entirely different than paintballs. It's  
13 manufactured specifically for police departments.

14 There's no question that a court of law  
15 will find this as an act of duty, separate and apart  
16 from what an ordinary citizen does in the ordinary  
17 walks of life.

18 Officer Selmani's intention, when he  
19 participated in this training, was certainly that he  
20 was engaged in a training exercise on behalf of the  
21 police department. And, unfortunately, he was  
22 subjected to a really stupid act by these officers.  
23 He was subjected to a battery. He's got physical  
24 injuries and mental injuries because of it. He

1 should be the last one whose credibility is  
2 questioned.

3           If we're going to question anybody's  
4 credibility, it should be Officer Bubis, that came  
5 up here and tried to tell you that he doesn't  
6 remember this incident, he doesn't remember if he  
7 shot at Officer Selmani. That is ridiculous. It's  
8 never happened before. It's never happened since.  
9 But he just showed up and doesn't know if he shot.  
10 He doesn't remember. That is absolutely incredible  
11 that he would come before you and make that  
12 testimony. And if you were to rely upon him,  
13 there's not a court in this land that would find  
14 that that judgment by this Board was appropriate.

15           A psychological injury is one that you  
16 really can't put your finger on. Unfortunately, you  
17 have to rely upon the medical evidence to determine  
18 whether or not it's an act of duty and whether or  
19 not the individual is disabled.

20           Certain events affect certain people in  
21 different ways. You may sit up there and say, oh,  
22 I've been shot with Simunition many times. I got  
23 bruises all over me. I got cuts, I got scrapes.  
24 And you know what, I don't have PTSD.

1 Well, you weren't in the situation of  
2 Officer Selmani. You weren't a new individual on  
3 the department. You weren't expecting that this was  
4 going to happen to you.

5 It affected Officer Selmani differently.  
6 And, unfortunately, you know, that's resulted in  
7 PTSD. It's resulted in him having other issues that  
8 have affected other aspects of his life.

9 But it's certainly clear that the PTSD  
10 prevents him from performing full unrestricted  
11 duties as a police officer, and it's certainly clear  
12 that it was that hazing incident that caused that  
13 and that this hazing incident was certainly an act  
14 of duty.

15 We ask that you deliberate over the  
16 evidence -- I understand it's voluminous -- that you  
17 review the evidence of your physicians, you review  
18 the testimony of your physicians, and you find that  
19 Officer Selmani is entitled to a duty-related  
20 disability. Thank you.

21 MR. REIMER: Thank you.

22 Mr. Denham.

23 MR. DENHAM: Yes. Thank you.

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CLOSING ARGUMENT

BY MR. DENHAM:

First, I also would like to thank you for allowing the Village to intervene during this hearing. I think all of the attorneys here would recognize that when you have an intervenor, sometimes these hearings take a lot longer. But as I've alluded to before, the Village has a lot of interest in appearing before you today and the earlier hearings. And the Village really appreciates you allowing the Village to participate.

You should realize that the applicant has the burden of proof here. In particular, applicant's burden of proof is a preponderance of the evidence.

In that respect, the Village is not required to disprove Officer Selmani's claims, although I think, as you might have realized during this closing, the Village has disproved a lot of Officer Selmani's claims.

Instead, Selmani has the burden to prove his allegations by a preponderance of the evidence. And when I say the preponderance of the evidence, Selmani needs to claim -- or needs to prove that it

1 is more likely than not that he suffered some sort  
2 of duty-related psychological injury, and his  
3 alleged injury is more likely than not what the  
4 Pension Code calls an act of duty.

5 As Mr. Radja alluded to, most of the  
6 medical -- comments will be in the context of  
7 Officer Selmani's credibility issues and his lack of  
8 truthfulness.

9 In a few moments, I hope to go through a  
10 timeline of events with you that will clearly  
11 establish that Officer Selmani never suffered a  
12 psychological injury, at least the psychological  
13 injury that he alleges.

14 The record is clear that since Officer  
15 Selmani filed for a pension in April of 2019, he has  
16 been making up symptoms to support his alleged  
17 disability. However, there are numerous reasons as  
18 to why Officer Selmani is malingering for secondary  
19 gain.

20 As you have just heard from Officer Bubis,  
21 the SPEAR Team incident is what Selmani called his  
22 ace in the hole. Officer Selmani started receiving  
23 citizen complaints in late 2017 and early 2018. He  
24 was accused of faking a Workers' Comp type injury in

Officer Gzim Selamni

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1 December of 2019. This was his response. Since  
2 that time, Officer Selmani has not returned back to  
3 work.

4 Mr. Radja criticizes the Village for never  
5 taking any steps to investigate or discipline  
6 Officer Selmani based upon this December 2019  
7 incident. He wasn't working. He was on FMLA. He  
8 was on an extended leave of absence, which hasn't  
9 ended.

10 Since that time, Officer Selmani has filed  
11 a federal lawsuit against the Village and other  
12 officers. By his own admission, Officer Selmani  
13 thinks that this was to be some sort of  
14 multi-million dollar cash cow, which will allow him  
15 to retire in his early 30s. He's now also seeking  
16 lucrative line-of-duty disability benefits before  
17 this Pension Board.

18 Let's focus, though, first on this  
19 question of act of duty. Now, I don't think there's  
20 any reason whatsoever to believe Officer Selmani's  
21 claims about the symptoms he purports to have  
22 suffered following this alleged incident in 2014.  
23 But even assuming Officer Selmani is credible about  
24 those claims, he still cannot show that this was an

1 injury that was incurred in or resulting from what  
2 the Pension Board calls an act of duty.

3 And, frankly, I'm a -- I'm a visual  
4 person. Instead of just speaking to you, I was  
5 hoping to actually provide some demonstrative  
6 exhibits to you based on the law, based on all of  
7 the record evidence. I was hoping --

8 MR. REIMER: Why don't you approach and show  
9 Mr. Radja what you intend on offering.

10 MR. DENHAM: So Demonstrative Exhibit 1, the  
11 first page is merely the statutes that are involved.  
12 The second and third pages are comparing what's  
13 required by the statute with different facts that  
14 are in evidence. All of the facts that are cited  
15 specifically cite with pinpoint accuracy where in  
16 the record you can find these things.

17 MR. REIMER: Well, here's what I'd do. First  
18 of all, let Mr. Radja take a look at this. And if  
19 he has objections, then I want --

20 MR. RADJA: Yeah, I'm going to object. I don't  
21 think this is a proper demonstrative exhibit. He's  
22 basically citing the ultimate issue that the Board  
23 has to determine. It's essentially a written brief  
24 that the Board -- that wasn't authorized.

1 MR. DENHAM: If I may respond. I was just  
2 accused by opposing counsel of cherry-picking facts  
3 from the record. This is Demonstrative Exhibit 1.  
4 I also have Demonstrative Exhibits 2 and 3, which  
5 are entirely facts from the record, which are  
6 entirely a timeline of events from the date that  
7 this alleged incident occurred in 2014 to the  
8 present. I don't know why this would be unfair or  
9 not a proper demonstrative exhibit.

10 MR. REIMER: You know, unfortunately, I agree  
11 with Mr. Radja as far as that goes. Because a  
12 demonstrative exhibit would be one that the trier of  
13 fact would see, but it wouldn't be admitted into the  
14 record. So it would be a chart or a graph or  
15 something like this.

16 So to give this to each member of the  
17 Board, you know, I don't think that's appropriate.

18 And in addition, I haven't seen your other  
19 two exhibits. But if you -- if you want that to  
20 happen, then here's my recommendation to the Board:  
21 Do not accept these. I'll make a ruling on them.  
22 But if the Board is inclined to see those, I think  
23 you have to give Mr. Radja an opportunity to review  
24 them and file a brief as well. I think that's the

1 only fair way to neutralize it.

2 Again, I --

3 MR. DENHAM: I could easily read Demonstrative  
4 Exhibit 1 into the record. But 2 and 3 are merely  
5 timelines. I don't know how the Pension Board  
6 wouldn't want to read along with me as I'm going  
7 through a timeline of events about what happened.

8 MR. REIMER: Yeah. I -- again, the  
9 demonstrative evidence would be -- exhibit would be  
10 not admitted into the record. It would be a chart  
11 or a graph that you would show the jury or the trier  
12 of fact. It would not get admitted into evidence.

13 You're asking -- as I understand it,  
14 you're asking each one of these trustees to review  
15 the document you prepared.

16 MR. DENHAM: To follow along with me as I make  
17 my closing arguments. I can simply read these  
18 exhibits into the record right now.

19 MR. REIMER: You want to write a brief?

20 MR. RADJA: That's essentially what this is, is  
21 a written brief.

22 MR. REIMER: Well, I agree.

23 MR. RADJA: It's a written brief to the Board,  
24 which -- you know, I was under the impression we'd

1 do closing arguments and the Board would begin  
2 deliberating today.

3 MR. REIMER: Right.

4 TRUSTEE PALMER: I think that's where I'm at  
5 too. I mean, I thought we were presented evidence  
6 and it was cross-examined and presented and  
7 redirected and such. And now we're in closing  
8 arguments and we're back to exhibits.

9 MR. REIMER: Yeah.

10 TRUSTEE PALMER: So how does it work, Counsel?

11 MR. REIMER: Let me see. Let me -- could I see  
12 your other two exhibits, Mr. Denham?

13 MR. DENHAM: Sure.

14 MR. REIMER: Or demonstrative exhibits.

15 So the first one you handed me was a  
16 statute. Yeah, that's something I would -- I would  
17 instruct the Board on. And I don't need -- I don't  
18 think they need an exhibit on that. But let me see  
19 these other two documents.

20 Have you shown those to Mr. Radja?

21 MR. DENHAM: No.

22 MR. REIMER: Would you, please?

23 TRUSTEE MITCHELL: I don't know the rules of  
24 evidence, but if he did read it during his closing,

1 I'd be fine to follow along with it. But I don't  
2 know, it's up to Mr. Reimer. I would like to see  
3 it.

4 TRUSTEE PALMER: Mike?

5 TRUSTEE POREMBA: I'm indifferent.

6 TRUSTEE BANSLEY: I think a timeline would be  
7 helpful.

8 THE COURT REPORTER: Excuse me, sir?

9 TRUSTEE BANSLEY: I think a timeline would be  
10 helpful.

11 TRUSTEE SIAS: I -- I don't know the rules.

12 MR. REIMER: Well, because this is an  
13 administrative hearing as opposed to a trial, you  
14 know, the rules are very relaxed. But to be honest  
15 with you, it's a matter -- I think it's a matter of  
16 fairness. This isn't necessarily -- and I'm only  
17 looking through No. 2 here.

18 MR. DENHAM: The second and third exhibits are  
19 merely a timeline. It's all factual assertions.  
20 There's no argument, there's no --

21 MR. RADJA: For the record, I would object to  
22 Exhibit 2 and Exhibit 3. Again, these aren't  
23 demonstrative exhibits. These are formal written  
24 briefs where he's arguing facts into evidence to the



1 Board in written form.

2 MR. DENHAM: Well, what is the --

3 MR. RADJA: And in all fairness, we weren't  
4 given that opportunity.

5 MR. DENHAM: You were given the opportunity.  
6 We had a hearing today. We knew we were going to  
7 give closing arguments.

8 The fact that I prepared something in  
9 writing -- there was no rule about being prohibited  
10 from preparing for closing arguments, especially  
11 based on the fact that opposing counsel has now  
12 accused the Village of cherry-picking facts, which  
13 clearly, based on these 30 pages, is not accurate.

14 MR. RADJA: So it's exactly -- what the Village  
15 did is they submitted a 30-page written brief to the  
16 Board which cherry-picks the facts that obviously  
17 they think are important, which if the trier of fact  
18 wants to argue it, go ahead and argue it. We'll  
19 probably be here for another two hours.

20 MR. REIMER: All right. So here's my  
21 suggestion. I've looked through all these. I  
22 believe that the Board might find this probative, so  
23 you may want to look at it. But I think the only  
24 way to fairly do it to both sides is to give

1 Mr. Radja an opportunity -- and lawyers hate -- I  
2 know we hate writing briefs. But he should be given  
3 this, allowed a reasonable amount of time to submit  
4 a brief. Everybody gets this, but you also get his  
5 side of the story as well. So he should get an  
6 opportunity to rebut that.

7 All that means, gentlemen, is you're not  
8 finishing today.

9 All I can tell you is I work for you. I'm  
10 the hearing officer. If you want to overrule me,  
11 you can. I think that's the only fair way to do  
12 this.

13 TRUSTEE PALMER: I think -- I gather at least a  
14 couple of people here wanted to see it. So, in  
15 fairness, I do think if you're going to present an  
16 exhibit, you get to more or less cross or digest or  
17 respond to it as well. So I agree we're not going  
18 to finish today.

19 TRUSTEE MITCHELL: May I ask a question  
20 regarding the rules? Is this something that you  
21 could read in closing and we could follow along with  
22 it?

23 MR. DENHAM: Sure.

24 TRUSTEE MITCHELL: Is that -- I don't know what

1 the rules are.

2 MR. REIMER: Well --

3 TRUSTEE MITCHELL: So we could finish it today.

4 MR. REIMER: Yes, we could.

5 MR. DENHAM: And I'll suggest that. Instead of  
6 actually allowing the Pension Board members to  
7 follow along, I'll read the evidence to you. Now, I  
8 can probably speed this up a little bit, hopefully,  
9 to summarize some things, but --

10 TRUSTEE PALMER: We've come this far. I think  
11 if you want to present that, we've given you a  
12 little indication we're going to accept it. But at  
13 the same time, we're not going to finish today.  
14 We're going to afford, in fairness to both sides,  
15 and we're going to fully digest everybody's final  
16 thoughts.

17 MR. DENHAM: Can I just -- for the record, why  
18 was applicant not afforded the ability to look at  
19 the record and to summarize facts in a written  
20 document or verbally?

21 MR. REIMER: Well, listen. I think, in  
22 fairness, he was. I thought he did an excellent  
23 job. He wasn't prepared that there would be any  
24 written submission. I think he probably -- I don't

1 want to presume to speak for Mr. Radja. He was  
2 probably under the impression that he was going to  
3 sit here and make a closing argument and there  
4 wasn't a need to bring in documentation.

5 You brought written documentation in. And  
6 we're saying the Board will take this. But I think  
7 you've got to give Mr. Radja an opportunity to  
8 review this and to file a response, because --

9 MR. RADJA: And for the record, from the  
10 applicant's perspective, he's been without pay since  
11 June of 2019. And we were hoping that at least --  
12 good, bad, indifferent -- that the Board would get  
13 to ruling on this matter in an expeditious manner.

14 If we're going to have written submissions  
15 now that the Village apparently wants the Board to  
16 review, it's going to be another 30, 60, 90 days  
17 before this Board can come back together and rule on  
18 this case, on evidence that you have before you.  
19 This isn't evidence. This is argument.

20 MR. REIMER: It is.

21 MR. RADJA: So the Board can go through the  
22 records and review it and determine what you find is  
23 important based on discussion with your counsel.

24 Again, if he wants to argue here today,

1 and we can finish it today, from my client's  
2 perspective, again, he's been without pay for a long  
3 period of time. We'd like to wrap this thing up and  
4 not have it be delayed for another three, four, six  
5 months.

6 MR. REIMER: And if he's entitled to benefits,  
7 he will be given retroactive benefits. No question  
8 about that.

9 So it's your call. The Board's indicating  
10 they want to see it. I will try to give you an  
11 opportunity.

12 TRUSTEE SIAS: I'm personally not resigned  
13 to -- that we need to see it. I'm more interested  
14 in voting and deciding this today. That's just my  
15 take.

16 MR. REIMER: Okay.

17 TRUSTEE PALMER: I'm sorry?

18 TRUSTEE SIAS: I'm most interested in coming to  
19 a conclusion today. I don't know how everybody else  
20 feels.

21 MR. REIMER: What do you want to do about this?

22 TRUSTEE PALMER: Fellows, decide. I mean, I --  
23 there was some interest in allowing it. Yes, this  
24 isn't the strict rules of court, but -- actually,

1 I've actually seen an arbitrator and a judge both  
2 get annoyed when somebody tries to present it at  
3 this stage.

4 So that was my inclination. But I thought  
5 I sensed too that Mike wanted to hear it.

6 TRUSTEE POREMBA: I'm not sure what it's going  
7 to change. I do feel like it's a bit -- could be  
8 one-sided. I don't know. You know, even though  
9 it's factual, could be certain facts that were, you  
10 know, picked from the array of facts that we've  
11 heard. So it's really difficult to say I look at  
12 this document and I'm going to make a, you know,  
13 decision one way another. I feel like the verbal  
14 discussions that we've had and -- the timeline's  
15 already been kind of clear in my mind. I don't need  
16 anything to clarify the timeline. I'm not sure that  
17 it will make, you know, a difference in my opinion  
18 at all.

19 MR. REIMER: Well, just to make it clear --  
20 because you haven't seen this. So, you know, you're  
21 all at a disadvantage. And I don't want to taint  
22 any proceedings by having you see this when it  
23 hasn't been admitted. Okay?

24 TRUSTEE PALMER: Somebody feels strongly pro or

1 con, make a motion. We'll see where it goes.

2 TRUSTEE SIAS: I'll make a motion to deliberate  
3 today. How that impacts that document, I don't have  
4 total clarity on.

5 MR. REIMER: Well, here's -- here's how it  
6 would -- this is argument, right? So Mr. Denham  
7 could sit there and read this. So this isn't  
8 necessarily a timeline as much as what Mr. Denham  
9 believes the relevant discrepancies are and why he  
10 believes you should vote a certain way. So, you  
11 know, it's not as simple as a timeline.

12 But by the same token, you know, this  
13 could be just his spin. And Mr. Radja should have  
14 an opportunity to review this and reply to this, to  
15 do it fairly.

16 Measure once -- right? Measure twice, cut  
17 once. Do it once, do it right. I know you're all  
18 in a hurry to get it done. It's been a long time.  
19 You've spent a lot of money. Don't make a mistake  
20 now, is all I'm telling you. That's my advice.

21 TRUSTEE PALMER: I have a motion. Do I hear a  
22 second?

23 TRUSTEE POREMBA: What was the motion again?  
24 I'm sorry.

1 MR. REIMER: Motion to deliberate today, which  
2 means -- what I think this means is then counsel  
3 would read this.

4 TRUSTEE POREMBA: Is there an option for the  
5 counsel to read it and we can follow along; and then  
6 if we go to deliberation and we feel strongly that  
7 this feels one-sided, that we can give opposing  
8 counsel or plaintiff enough time to respond?

9 MR. REIMER: Yes, you could. But -- and then I  
10 would reverse my ruling that he doesn't get -- he is  
11 not allowed to do rebuttal.

12 To me, this is a surprise. And I don't  
13 think there should be a trial by surprise.

14 MR. DENHAM: Listen, I don't want to -- I don't  
15 want to surprise the applicant. I'm more than  
16 willing to try to summarize the timeline for the  
17 Board. I'm more than willing to move forward so we  
18 can complete it today.

19 I would ask, Mr. Reimer, that you keep  
20 copies of these documents. And for whatever reason,  
21 if the Pension Board votes in my favor, I think that  
22 some of these citations, which I meticulously  
23 created to try to help you out, might be something  
24 that you'd want to look at.



1 MR. REIMER: And I'm not saying that that's not  
2 true and that's not -- it's not appreciated. The  
3 problem is I think that puts Mr. Radja and Mr. --  
4 Officer Selmani at an unfair advantage.

5 MR. DENHAM: My only issue, though, is reading  
6 this document instead of producing it, I'm going to  
7 have to take some time to talk about every Board  
8 exhibit, every citation --

9 TRUSTEE MITCHELL: Can I ask a clarifying  
10 question?

11 MR. DENHAM: Sure.

12 TRUSTEE MITCHELL: Is, basically, the document  
13 a summary of your closing argument?

14 MR. DENHAM: Yes, for what it's worth.

15 TRUSTEE MITCHELL: So I make a motion to go  
16 ahead and allow him to go through it or read it as  
17 his closing argument.

18 TRUSTEE PALMER: We already have a motion on  
19 the floor. Let's finish up --

20 MR. REIMER: Let's finish that motion.

21 There was a question because we haven't  
22 resolved -- what are we going to do, then, with  
23 Mr. Radja? Because -- and you can do that. I work  
24 for you. You would let him read it. What that

1 means is you're going to be here all day.

2 MR. DENHAM: No, no, no. I'm not saying I'm  
3 going to read this verbatim. I'm going to summarize  
4 the timeline of events.

5 MR. REIMER: I would then allow -- because of  
6 this, I would then allow Mr. Radja rebuttal.

7 Can you rebut this? I know you haven't  
8 had an opportunity to review it. So I would allow  
9 you rebuttal argument, because that's pretty much  
10 what he's doing.

11 MR. RADJA: Yeah. I would give a rebuttal  
12 argument to his closing, if that is the way the  
13 Board goes.

14 MR. REIMER: That's the question.

15 MR. RADJA: Yes.

16 MR. REIMER: Okay. All right. So for now,  
17 these documents are not in. You can refer to them.  
18 I think what's most helpful is the date and then  
19 directing the Board's attention when you have a  
20 specific page of the transcript or exhibit.

21 MR. DENHAM: Sure. First, I want to talk to  
22 them about the act of duty standard.

23 MR. REIMER: Let's -- let's pass the motion.

24 So there's a motion -- a motion to allow

1 Mr. Denham to summarize his Demonstrative Exhibits  
2 No. 1, 2, and 3. Then we'll allow Mr. Radja an  
3 opportunity to rebut those, and then you will  
4 hopefully deliberate today.

5 TRUSTEE SIAS: Thank you. That's exactly what  
6 I was going to say.

7 MR. REIMER: Motion.

8 TRUSTEE BANSLEY: I second.

9 MR. REIMER: There's a second.

10 Is there any discussion?

11 If not, a roll call.

12 TRUSTEE MITCHELL: Dan Palmer?

13 TRUSTEE PALMER: Yes.

14 TRUSTEE MITCHELL: John Sias?

15 TRUSTEE SIAS: Yes.

16 TRUSTEE MITCHELL: Derek Bansley?

17 TRUSTEE BANSLEY: Yes.

18 TRUSTEE MITCHELL: Mike Poremba?

19 TRUSTEE POREMBA: Yes.

20 TRUSTEE MITCHELL: Gary Mitchell, yes.

21 MR. REIMER: Okay. I'm sorry. Go ahead.

22 MR. DENHAM: Sure.

23 Let's focus on the act of duty standard  
24 for a second. I'll read the entire statute to you

1 and then I'll break it down piece by piece.

2 (As read:) An act of duty is defined as  
3 an act of police duty inherently involving special  
4 risk not ordinarily assumed by a citizen in the  
5 ordinary walks of life, imposed on a policeman by  
6 the statutes of the State, whereby the ordinance or  
7 police regulations of the city in which this article  
8 is in effect, or by special assignment, or any act  
9 of heroism performed in the city having for its  
10 direct purpose the saving of life or property of a  
11 person other than the policeman.

12 During Mr. Radja's comments, I believe he  
13 focused primarily on the first part of this test,  
14 that -- any act of police duty inherently involving  
15 a special risk not ordinarily assumed by a citizen  
16 in the ordinary walks of life.

17 When Selmani was first asked about this  
18 incident, he was asked by Mr. Figlioli, on Board  
19 Exhibit 19, at transcript 95: Were these A type  
20 pellets or rounds?

21 Answer: Correct.

22 Selmani testified that this training  
23 involved role players and that these civilian role  
24 players would get hit by Simunition rounds during

1 the SPEAR Team trainings. You also heard Officer  
2 Bubis testify today about how the civilians would  
3 also shoot at the officers, the officers would shoot  
4 at the civilians.

5 Officer Selmani testified consistently  
6 with Officer Bubis that civilians would include  
7 Dr. Kammie and her student civilians, non-officers.  
8 Officer Selmani testified that officers were trained  
9 to shoot at civilian volunteers at center mass.

10 In addition, during the hearings, Selmani  
11 volunteered that he is not sure whether he used  
12 chest protection and/or cup protection every single  
13 SPEAR Team training session. You heard Officer  
14 Bubis testify that sometimes he didn't wear sleeves.  
15 Officer Bubis also testified that there was a  
16 possibility that you could get shot because of  
17 the -- a gap in his throat protection.

18 Switching gears a little, Officer Selmani  
19 wrote that he thought that the SPEAR Team members  
20 had engaged in crimes that could result in, and I  
21 quote: Open-and-shut criminal charges.

22 Are police officers asked to engage in  
23 criminal activity? No. Officer Selmani has a  
24 lawsuit against the Village. And perhaps his claims

1 about some sort of civil or criminal liability are  
2 appropriate in that forum. But that's not your role  
3 as a Pension Board. Your Pension Board is to  
4 determine whether this is actually an act of duty.

5 That leads us into the issue of hazing.  
6 What is hazing? Hazing, by Officer Selmani's own  
7 admission, is something that is primarily found in  
8 college universities, sports teams in high school.  
9 How does that have anything to do with this  
10 standard: Any act of police duty inherently  
11 involving special risk not ordinarily assumed by a  
12 citizen in the ordinary walks of life?

13 We know that the University of Oklahoma,  
14 based on the exhibit that was introduced today, had  
15 a hazing video where they were shot -- pledges were  
16 shot with about -- for about 50 seconds with  
17 paintball guns.

18 Now, even assuming Officer Selmani can  
19 somehow satisfy this first prong, remember, there  
20 are multiple prongs of this test. Clearly, whatever  
21 this August 2014 incident was was not imposed on a  
22 policeman by the statutes of the State. It was not  
23 imposed by any ordinances of the Village.

24 To the extent that Officer Selmani argues

1 that it was imposed by police regulations in the  
2 city where this article was in effect, Selmani  
3 testified that SPEAR Team members' conduct violated  
4 department rules and regulations. This wasn't  
5 consistent with rules and regulations. It was  
6 contrary to rules and regulations. You had  
7 Mr. Radja argue that during his closing arguments.

8 In fact, in the letter that Officer  
9 Selmani sent to the Village administrator, Board  
10 Exhibit 8, at 645, Officer Selmani wrote: Again, I  
11 really hope neither you nor the police  
12 administration take this letter personally, because  
13 I know none of you had any doing in this matter.

14 Officer Selmani acknowledged that he did  
15 not believe or otherwise have information to suggest  
16 that the alleged 2014 incident was ordered by the  
17 former chief, by the former deputy chiefs of the  
18 department.

19 And then the last potential test is: Or  
20 by special assignment. Again, this isn't a special  
21 assignment that was ordered by the department. In  
22 fact, at transcript 134 to 135 in Board Exhibit 19,  
23 Officer Selmani was asked:

24 [QUESTION:] Okay. This initiation, it

1 was not a sanctioned activity of the police  
2 department, was it?

3 ANSWER: Not that I'm aware of.

4 QUESTION: In fact, you've made statements  
5 that actions of the SPEAR Team members that day were  
6 criminal, right?

7 ANSWER: I believe they were. Correct.

8 And, clearly, whatever happened with the  
9 SPEAR Team in 2014 was not an act of heroism  
10 performed in the city having for its direct purpose  
11 the saving of life or property of a person other  
12 than a policeman.

13 And let me be clear: The Village does not  
14 condone what happened with the SPEAR Team. It has  
15 investigated this incident and it has fully  
16 disciplined the officers.

17 Officer Selmani complains that -- in the  
18 past, that I've used the term "alleged incident"  
19 with respect to what happened in August of 2014.  
20 I'm not saying "alleged incident" because we're  
21 necessarily saying that the SPEAR Team didn't do  
22 anything. Now, Officer Selmani has expressly stated  
23 that he's unclear about some of the specifics. So  
24 I'm not sure I'd concede that everything he says is



1 accurate.

2           What we are fighting about here is whether  
3 he actually was injured as a result. Yes, he has a  
4 mark on his arm. Other than that, this whole  
5 proceeding has to do with whether he actually  
6 suffered psychological injury. And I don't think  
7 there is any evidence whatsoever that he's suffered  
8 psychological injuries as a result of this incident.

9           And unlike other situations where someone  
10 might be claiming delayed onset PTSD months, years  
11 after the fact of an incident, what makes this  
12 actually somewhat unique is Officer Selmani actually  
13 did seek some psychological treatment.

14           We have notes, we have historical records  
15 of him visiting a physician assistant at the Winters  
16 Family Clinic. We have records of him going to  
17 St. Joseph's Hospital in 2017. We have him visiting  
18 Dr. Waliuddin in 2017 as well. The things he was  
19 complaining about in 2017 is clearly not what he  
20 started complaining about in 2019.

21           August 11th, 2014, is the date of the  
22 alleged incident. There's credible evidence --  
23 there's no credible evidence that Officer Selmani  
24 was affected by the SPEAR Team incident. At first,

1 Selmani did not take any absences from work  
2 following the alleged incident. The Village has  
3 produced payroll records which show that Selmani  
4 just took one sick day in November of 2014 and one  
5 sick day during the entire year -- calendar year of  
6 2015.

7 In fact, before this hearing, one of the  
8 exhibits that Officer Selmani introduced was a  
9 photograph of him just less than a month after the  
10 alleged incident where he's holding his son with his  
11 left arm, smiling in front of a happy birthday sign.  
12 He's trying to claim that, based off that incident,  
13 there's some sort of psychological problems. Yet,  
14 clearly, that photograph doesn't support that claim.

15 And he didn't take any time off. In fact,  
16 Officer Selmani testified during the hearing that he  
17 did not take a psychological leave of absence until  
18 2019.

19 He has consistently claimed that this  
20 alleged incident was a violation of departmental  
21 policy. It was a crime, even. He never reported  
22 this incident consistent with Rules 49 and 50 of the  
23 department's code of conduct.

24 Officer Selmani continued to participate

1 in the SPEAR Team for years after the alleged  
2 incident, which further undermines his claims.  
3 Officer Selmani concedes that during the trainings,  
4 he and other officers and civilians would be hit by  
5 these Simunition rounds, which he claims caused him  
6 some sort of psychological injury. His allegations  
7 simply do not pass the smell test.

8 Moving ahead in the timeline, you might  
9 recall Officer Selmani testified that a few days or  
10 a week after the August 11, 2014, incident, Officer  
11 Selmani complained to one of his supervisors about  
12 this and actually said he wanted to take steps to  
13 get the dye removed from his arm.

14 However, approximately a month -- five  
15 weeks, six weeks after the incident, Officer Selmani  
16 visited Cynthia Applehoff at the Winters Family  
17 Clinic for treatment related to a shoulder issue.  
18 During that visit, he did not seek any sort of  
19 physical or psychological treatment for the alleged  
20 incident. In fact, those records, those Winters  
21 Family Clinic records repeatedly state that  
22 Officer Selmani was asked questions about  
23 depression. There was something called a Whooley  
24 depression scale. On every one of these records, he

1 was asked: During the past month, have you often  
2 been bothered by feeling down, depressed, or  
3 hopeless? And during the past month, have you often  
4 had little interest and pleasure in doing things?

5 During this September 24th, 2014,  
6 visited -- or his visit to the clinic, Officer  
7 Selmani said: No.

8 He never sought any sort of treatment. If  
9 he felt like he wanted to get some sort of dye  
10 removed from his arm, he certainly didn't ask the  
11 physician assistant during this visit.

12 He actually visited the Winters Family  
13 Clinic about three weeks later, on October 13th,  
14 2014. Again, he answered no to those questions on  
15 the Whooley depression scale.

16 It was a routine physical. As -- in  
17 accordance with a routine physical, according to the  
18 notes, Officer Selmani was asked whether he was  
19 suffering from depression, anxiety, memory loss,  
20 mental disturbance, suicidal ideation,  
21 hallucinations, paranoia. Officer Selmani said,  
22 just a few months after this alleged incident: No.

23 During the -- interestingly, during that  
24 visit, he actually had a wart removed. So he

1 actually did have something physically removed from  
2 his body. Not the dye on his left arm, not the dye  
3 on his left arm that he paraded around this hearing  
4 room. He had a wart removed.

5 In November of 2015, he had another  
6 physical. Again, during that visit, he denied  
7 having depression, anxiety, memory loss, mental  
8 disturbance, suicidal ideation, hallucinations,  
9 paranoia. Again, he denied signs and symptoms of  
10 depression.

11 During that visit, he actually sought  
12 treatment for acne, but he didn't take any steps to  
13 have the dye removed from his arm.

14 He visited the Winters Family Clinic again  
15 on April 25th, 2016, and again denied symptoms  
16 related to depression.

17 Officer Selmani then testified that he had  
18 a shoulder injury in June of 2016. He was off work,  
19 based on having shoulder surgery in October of 2016,  
20 and he didn't return to light duty until the  
21 following February, February 17th, 2017.

22 Now, in March of 2017, there are records  
23 from St. Joseph's Hospital that Officer Selmani  
24 visited the emergency room and claimed that he was

1 suffering from panic attacks. You might remember  
2 Officer Selmani's initial testimony at the hearing.  
3 He unambiguously testified that panic attacks were  
4 the reason for this visit. Officer Selmani's  
5 testimony was actually consistent with the  
6 treatment, at least initially.

7           According to hospital records,  
8 Officer Selmani arrived by himself. Officer Selmani  
9 mentioned panic attacks to the hospital social  
10 worker. At the hospital, Officer Selmani said he  
11 had been experiencing an increase in anxiety over  
12 the past week over family stressors. He expressly  
13 denied suicidal or homicidal ideations.

14           Officer Selmani asked the social worker  
15 for resources to talk to someone to manage the  
16 stress better. He denied having any problems with  
17 daily functioning due to the stress, that he was  
18 able to work and be active. He denied having  
19 problems with daily functioning. Ultimately,  
20 Officer Selmani was treated for anxiety and  
21 prescribed Xanax by the hospital.

22           He then visited the Winters Family Clinic  
23 again about six, seven weeks later, on May 3rd,  
24 2017. Officer Selmani, during that visit, was

## Officer Gzim Selamni

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1 ultimately prescribed Lexapro to deal with some  
2 anxiety that he had previously communicated to the  
3 hospital.

4           Notwithstanding, I should note that  
5 Officer Selmani expressly denied any suicidal or  
6 homicidal ideations or episodes of mania. He also  
7 expressly denied symptoms of depression during this  
8 visit. He merely told the physician assistant that  
9 he was stressed about his son's eye condition and  
10 stress involving his marriage.

11           On May 24th, 2017, Officer Selmani visited  
12 a psychiatrist, Syed Waliuddin. Officer Selmani  
13 told Dr. Waliuddin, according to the treatment  
14 notes, that he felt down on some. However, Selmani  
15 also denied a lack of motivation, denied having any  
16 changes in sleep or appetite, denied having suicidal  
17 or homicidal ideations, denied irritability, denied  
18 auditory or verbal hallucinations, denied having  
19 delusions, denied having nightmares and flashbacks,  
20 denied having a history of ADHD, and denied any sort  
21 of history of inpatient or outpatient treatment.

22           Dr. Waliuddin referred Officer Selmani to  
23 individual psychotherapy, which, by his own  
24 admission, Officer Selmani never attended.

1           On the same day, Officer Selmani visited  
2 the Winters Family Clinic on May 24th, 2017. During  
3 that appointment, Officer Selmani told the physician  
4 assistant that the Lexapro prescription was working  
5 well, but he was still having some trouble feeling  
6 guilty about his son's eye condition.

7           Notwithstanding, again, Officer Selmani  
8 denied any suicidal or homicidal ideations or  
9 episodes of mania. He denied symptoms of  
10 depression.

11           Officer Selmani complains about the  
12 training at this incident. Yet on November 7th,  
13 2017, career development form, Officer Selmani wrote  
14 that he thought the department, and I quote: Did a  
15 great job in assigning police officers training that  
16 would help in the field.

17           A few days later, on November 11th, 2017,  
18 an angry citizen complained to the department about  
19 Selmani. You just heard Officer Bubis talk about  
20 their conversation in the context of potential  
21 discipline, in the context of potential citizen  
22 complaints.

23           If you actually look at Officer Selmani's  
24 resignation from the SPEAR Team, it was just four



1 days after this first citizen complaint. Do you  
2 think that it's a coincidence, that just four days,  
3 on November 15th, 2017, in the context of Officer  
4 Selmani saying that this incident was his ace in the  
5 hole, do you think that there's a coincidence that  
6 he resigned from the SPEAR Team? It's starting --  
7 his plan is starting to go in motion.

8 In late 2017 and early 2018, there were  
9 multiple citizen complaints. Selmani was placed on  
10 a performance improvement plan, which was later  
11 extended throughout 2018.

12 That being said, again, Officer Selmani  
13 visited the Winters Family Clinic in January, on  
14 January 15th, 2018. Officer Selmani, according to  
15 the notes, reported that his anxiety was persistent  
16 but again improved after starting Lexapro. Again,  
17 Officer Selmani denied any suicidal or homicidal  
18 ideations or episodes of mania or any symptoms  
19 related to depression.

20 Now, if you recall, in early 2018, on  
21 February 22nd, 2018, Officer Selmani must have  
22 gotten into some sort of altercation with another  
23 officer. For the record, Officer Selmani drafted a  
24 memo. He also filled out paperwork for Workers'

1 Compensation purposes, claiming that he reinjured  
2 his shoulder.

3 Now, Mr. Radja and Officer Selmani have  
4 claimed that there was some sort of code of silence  
5 in the department; that there's some sort of  
6 expectation, rightly or wrongly, that you didn't  
7 discuss information, you didn't discuss incidents  
8 that could be viewed as problematic or as being a  
9 whistleblower.

10 However, with respect to this incident  
11 with the other officer, Officer Selmani drafted a  
12 memo saying -- stating, and I quote: During  
13 Officer Solesky's battery, I also felt a sharp pain  
14 in my surgically repaired left shoulder. Being  
15 battered in any instance is unacceptable, but having  
16 a fellow police officer do it to you is  
17 disheartening and embarrassing. I would like to  
18 reiterate, during this entire confrontation Officer  
19 Solesky engaged in, he, without any doubt, was the  
20 only aggressor and the only person who acted  
21 inappropriately.

22 So I guess the code of silence is out the  
23 window with respect to this particular incident.

24 There just is no credibility in anything

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1 that Officer Selmani says.

2 But the interesting thing is, about two  
3 weeks -- ten days after writing this memo, for the  
4 first time, Officer Selmani seeks treatment on his  
5 alleged reinjured shoulder. He again visits the  
6 physician assistant at the Winters Family Clinic.

7 According to the notes, according to  
8 Officer Selmani's testimony, Officer Selmani stated  
9 that he was doing a defensive drill where another  
10 officer took his arm and grabbed it and pulled it  
11 behind his back.

12 So to the department, Officer Selmani is  
13 claiming that he was battered. It had nothing to do  
14 with any sort of training. On cross-examination,  
15 Officer Selmani acknowledged that this reinjury,  
16 this alleged reinjury of the shoulder had nothing to  
17 do with training. Yet, for whatever reason, he's  
18 telling the physician assistant at Winters Family  
19 Clinic something that's false.

20 Keep that in mind, because this is not  
21 going to be the last false claim that he makes to  
22 any sort of medical practitioner over the next  
23 eight, nine, 10, 12 months.

24 He was only out for a little bit. He

1 returned to work in March of 2018. There was  
2 another citizen complaint in April of 2018. That's  
3 when Officer Selmani -- his performance  
4 improvement -- when he was extended another six  
5 months.

6 That brings us to the alleged knee injury  
7 on December 13th, 2018. During the hearing,  
8 Officer Selmani testified that, initially, during  
9 the morning training scenario, he did not feel any  
10 pain in his knee but then felt pain after his  
11 adrenaline wore down. He then notified Sergeant  
12 Sweeney, who allowed Selmani to sit out.

13 During the hearing, you heard the  
14 testimony, the credible testimony of Officer  
15 Tavolacci. I believe Officer Tavolacci is now  
16 Sergeant Tavolacci. Prior to the defensive tactic  
17 drills, Sergeant Tavolacci overhead Selmani saying,  
18 I'm about to go out on Workers' Comp, and I don't  
19 care, I'll go out on Workers' Comp, on more than one  
20 occasion. Sergeant Tavolacci took this to mean that  
21 Officer Selmani was about to try and go out on  
22 Workers' Comp.

23 Sure enough, Sergeant Tavolacci testified  
24 that he acted as the bad guy during this first

1 scenario with Officer Selmani. Sergeant Tavolacci  
2 testified that he did not notice anything irregular  
3 related to Officer Selmani, and he did think that  
4 Officer Selmani was injured. However, Officer  
5 Selmani reported that he hurt his knee after this  
6 first exercise.

7           During the hearing, you also heard from  
8 Officer Dendinger, who provided similar testimony,  
9 where she heard Officer Selmani shout the phrase  
10 "Workers' Comp" several times. She also testified  
11 that she did not observe anything unusual or  
12 injurious happen to Officer Selmani during his  
13 exercise, but then Officer Selmani later told the  
14 instructors that he injured his knee.

15           Officer Selmani visited the Winters Family  
16 Clinic the next day. There's a note, again, that he  
17 denied any symptoms of depression. He is ultimately  
18 diagnosed with a knee sprain.

19           There's notes in the record that  
20 Officer Selmani reported back to work in a light  
21 duty capacity on January 14th, or around  
22 January 14th of 2019.

23           Clearly, Officer Selmani realized that he  
24 might be accused of faking injuries at that point.

1 The officers had already written their memos.  
2 There's actually a note in one of his psychiatrists'  
3 note later in that year that he was accused of  
4 faking injuries. He knew that he had to pull his  
5 ace in the hole.

6 As such, in late January of 2019, Officer  
7 Selmani reported the August 2014 SPEAR Team  
8 incident.

9 There are a few things that I want you to  
10 keep in mind. First, when Officer Selmani reported  
11 the incident, he reported the wrong date. He  
12 actually alleged that this incident occurred in  
13 December of 2014 when, in reality, after the  
14 investigation was initiated, it actually occurred in  
15 August of 2014. Again, there's another thing to  
16 keep in mind that undermines Officer Selmani's  
17 credibility.

18 Second, Officer Selmani wrote Deputy Chief  
19 Snider that no other SPEAR Team member who had  
20 joined the team after him was subjected to any  
21 hazing or initiation by the SPEAR Team. You might  
22 see a different claim that Selmani made to one of  
23 the IME evaluators that you've hired.

24 Finally, and perhaps most importantly,

1 during his initial conversation with Commander  
2 Naydenoff, Selmani raises the possibility that he  
3 had PTSD for the first time. In four and a half  
4 years of treatment notes that preceded this  
5 conversation, you're not going to see any mention  
6 whatsoever of PTSD. You're not going to find any  
7 mention whatsoever related to the 2014 SPEAR Team  
8 incident.

9 Now, according to Commander Naydenoff's  
10 memorandum, which Officer Selmani actually testified  
11 was accurate, Officer Selmani said he was shot in  
12 the arm, which caused a permanent paint color mark  
13 on his arm. He said that he was also shot in the  
14 leg, which led to a protruding vein he did not have  
15 prior to the incident.

16 Officer Selmani said that from that point  
17 on, he promised himself that he wouldn't take any  
18 shit from any officer. He said that the incident  
19 caused him to change his attitude towards employees  
20 internally.

21 Officer Selmani said that he feels like he  
22 has PTSD from the incident, because when he looks at  
23 the paint color on his arm, he thinks of the SPEAR  
24 Team. He said it does not affect him on a daily

1 basis, but he gets -- but when -- he gets upset when  
2 he thinks about the incident.

3           Officer Selmani said that he later quit  
4 the team because of the incident. He said he never  
5 told his wife about the incident or how it made him  
6 feel because she did not want him to join the SPEAR  
7 Team in the first place.

8           Now, I asked some of the IME evaluators  
9 during the evidence depositions what they thought  
10 about Officer Selmani's reporting to Officer  
11 Naydenoff, whether what he reported to Officer  
12 Naydenoff would actually be the grounds for a PTSD  
13 diagnosis.

14           When I asked that to Dr. Reff, he said:  
15 Well, not completely.

16           I asked: In what ways would it fall  
17 short?

18           Dr. Reff said: In this paragraph, he does  
19 not describe flashbacks or reexperiencing of the  
20 incident. He does not talk about the incident, the  
21 specific incident himself. He becomes upset when he  
22 thinks about it. But, you know, he's not having --  
23 at least he doesn't appear to be having any  
24 dissociative episodes. He doesn't describe reliving



1 it. He doesn't describe at this point being  
2 triggered by the incident or episodes or anything  
3 that's reminiscent thereof. He certainly doesn't  
4 describe nightmares. He doesn't talk to some -- he  
5 does talk, to some extent, about interruption in the  
6 relationship with his wife and with others. So, I  
7 mean, there are parts -- there are parts of what he  
8 described that could be consistent with. But that  
9 paragraph in and of itself does not provide enough  
10 information to meet the diagnosis.

11 I asked the same thing to Dr. Catherall.  
12 I asked him: Another diagnostic criteria of PTSD  
13 are intrusive symptoms; is that right?

14 Dr. Catherall said: Yes.

15 [QUESTION:] Would Selmani's report that  
16 he would get upset every few days be consistent with  
17 the type of intrusive thoughts necessary for a PTSD  
18 diagnosis?

19 [ANSWER:] No.

20 February 19th, 2019, Selmani visits the  
21 Winters Family Clinic for an FMLA certification.  
22 Even though Officer Selmani started to claim that he  
23 had a psychological condition that prevented him  
24 from working for the next four months -- I'm sorry.

1 Even though he claimed that he suffered from the  
2 psychological condition, for the next four months,  
3 Selmani did not seek any psychiatric treatment.

4 He went to the Winters Family Clinic in  
5 February of 2019. According to the note,  
6 Officer Selmani said that he and a coworker reported  
7 a supervisor for misconduct. Of course, that  
8 statement is not true also. Selmani also claims  
9 that he visited EAP for counseling twice in  
10 February. However, there is no treatment, no  
11 counseling, nothing until after April, when  
12 Officer Selmani has filed for his pension.

13 On April 1st, 2019, Officer Selmani wrote  
14 a ten-page letter to the Village administrator. We  
15 discussed parts of this letter during  
16 cross-examination. This is the same letter where  
17 Officer Selmani said that he could retire in his  
18 early 30s if he sued the Village.

19 One point I would like to make, and I  
20 think one of the trustees actually asked a question  
21 about this statement. In early April of 2019,  
22 Officer Selmani might be communicating that he needs  
23 to be on leave as a police officer. But within that  
24 correspondence to the Village administrator, he's

1 claiming to be one of the best patrol officers in  
2 the department. Why does Officer Selmani need a  
3 leave of absence if he feels like he's working as a  
4 patrol officer at such a high level?

5 And if you look at all of the performance  
6 reviews that Officer Selmani had since August 2014,  
7 for the most part, he would receive superior and  
8 exemplary marks.

9 Now, just four days after telling the  
10 Village administrator that he knew he was doing a  
11 good job with police duties, out of the blue, on  
12 April 4th, 2019, Officer Selmani takes steps to file  
13 for this line of duty disability pension.

14 Now, before I focus on how Selmani's  
15 stories start to change, I just want to make a few  
16 points.

17 First, during the hearing, Officer Selmani  
18 expressly acknowledged that he was untruthful on the  
19 cover correspondence of his pension application.

20 I asked him: In your cover letter with  
21 this disability pension, you mentioned that my MAP  
22 union, my whistleblower attorney, and pension, also  
23 have this information; is that right?

24 Officer Selmani responded: Yeah. But

1 they didn't have it. I didn't have a whistleblower  
2 attorney at the time.

3 I asked: Oh, so that was untruthful?

4 Officer Selmani responded: Yes, it was.

5 During a later part of the hearing, in  
6 this following exchange, Officer Selmani also seemed  
7 to suggest that officers do not have an obligation  
8 to tell the truth.

9 I asked: You were familiar with the fact  
10 that all police officers are always supposed to tell  
11 the truth, right?

12 Officer Selmani's response: Sure,  
13 allegedly.

14 My question: What do you mean by  
15 allegedly?

16 In response, Officer Selmani said:  
17 Everybody's supposed to be honest? Are they? I  
18 mean, I don't know how to answer that.

19 I then followed up by asking him: Well,  
20 police officers actually have a responsibility to  
21 testify honestly and truthfully in court; is that  
22 right?

23 [ANSWER:] That's correct.

24 [QUESTION:] And any sort of dishonesty

1 can impair the department's mission with respect to  
2 prosecuting wrongdoers; is that right?

3 [ANSWER:] Yes.

4 [QUESTION:] And any sort of instance  
5 where an officer has been untruthful in the past may  
6 be a situation where it's problematic for the  
7 officer to testify in court. Do you agree?

8 [ANSWER:] Sure.

9 This is the individual who wants you to  
10 believe his claims about suffering from symptoms  
11 related to PTSD, the same individual who thinks that  
12 officers only allegedly have some sort of obligation  
13 to tell the truth.

14 In any event, during the hearings,  
15 Officer Selmani acknowledged during the hearing that  
16 when he first applied for a pension, he did not  
17 answer the question concerning the reason as to why  
18 he could not perform his duties. The reason  
19 Officer Selmani did not report a condition is that  
20 he had not been diagnosed with anything up to that  
21 point.

22 Other than the single 2017 visit to  
23 Dr. Waliuddin for anxiety, Officer Selmani did not  
24 even seek psychiatric treatment prior to May of

1 2019. Although he started complaining about PTSD to  
2 Commander Naydenoff in January of 2019, he had not  
3 communicated anything that would suggest he was  
4 suffering from PTSD or a debilitating psychological  
5 condition up to that point. And there are years,  
6 years that I just went through of doctors' notes  
7 which confirm that Officer Selmani did not have  
8 mental health issues related to the SPEAR Team  
9 incident.

10 So what does he do? Well, in my opinion,  
11 in the Village's opinion, Officer Selmani found  
12 friendly doctors. He researched PTSD and its  
13 symptoms, and he started making them up.

14 Before I get into some of the things he  
15 alleged after filing for his pension, I asked  
16 several of the IME evaluators to define the word  
17 "malingering."

18 Dr. Weine defined malingerer as  
19 intentional false statements about your condition or  
20 your experience in order to try to give the  
21 impression of illness or disability.

22 Dr. Reff defined malingerer as a  
23 conscious act in which an individual attempts  
24 consciously to make themselves impaired for

1 secondary gain.

2 In terms of some motivations for  
3 malingering, Dr. Weine suggested that an individual  
4 could be motivated by money, to try to get a  
5 disability payment or some other kind of court  
6 settlement. It could be motivated by evading  
7 responsibility for something that you've been  
8 expected to do. It could also be responsibility for  
9 someone's own behavior, like if one's alleged to  
10 have committed a criminal act. It could be  
11 vengeance, if you're trying to get back at somebody  
12 or some institution.

13 I think we can all agree that Officer  
14 Selmani has all of those motivations.

15 During his evidence deposition, Dr. Reff  
16 also acknowledged that malingering could be to get  
17 out of punishment, discipline, or some sort of  
18 penalty. And remember Officer Selmani's ace in the  
19 hole comment.

20 Dr. Weine also made the point that  
21 psychiatry is unlike other types of medical science  
22 that have laboratory tests, X-rays, and blood  
23 markers that you can use to determine whether  
24 someone has the disease.

1           During his evidence deposition, Dr. Reff  
2           acknowledged that malingering could -- I'm sorry.  
3           Strike that.

4           Dr. Weine also conceded that his causation  
5           analysis depends on accurate self-reporting and  
6           acknowledged: I could be fooled.

7           Dr. Reff agreed that the symptoms of PTSD  
8           could be feigned for financial gain, to reduce  
9           criminal charges, or to obtain disability benefits,  
10          etcetera, etcetera.

11          Dr. Catherall conceded that he had seen  
12          studies where PTSD malingering may occur in over  
13          30 percent of litigation in the personal injury  
14          context.

15          At one point during his deposition,  
16          Dr. Reff agreed with a statement out of this  
17          treatise I have here (indicating), and I quote:  
18          PTSD is an easy disorder to fake. The diagnosis is  
19          based almost entirely on the individual's subjective  
20          report of symptoms which are very difficult to  
21          verify independently. Furthermore, in an effort to  
22          educate the public, the diagnostic criteria has been  
23          made widely available in print and on the internet,  
24          allowing unscrupulous individuals to familiarize



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1 themselves with which symptoms to falsely report.

2           On April 11th, 2019, just one week after  
3 filing his pension, Officer Selmani visits the  
4 Winters Family Clinic again. He tells the physician  
5 assistant that he was not completely honest during  
6 prior appointments. Selmani complains about anxiety  
7 and states that his anxiety is controlled with his  
8 Lexapro prescription.

9           Officer Selmani also complains that he has  
10 had insomnia, which has been present intermittently  
11 in the past few years; but in the past few months,  
12 it has been nightly. Officer Selmani stated that he  
13 has been taking melatonin, and it has helped in the  
14 past but is no longer working. So for the first  
15 time, he's starting to complain about sleep  
16 disturbances. Yet, keep in mind, the sleep  
17 disturbance he's talking about is intermittent  
18 insomnia.

19           And then in May of 2019, Officer Selmani  
20 visits Dr. Marseilles at the Alliance Clinical  
21 Associates. Before I get into some of the new  
22 symptoms that Officer Selmani is now reporting to  
23 Dr. Marseilles, I wanted you to make a mental note  
24 that Officer Selmani expressly denies suicidal

1 ideation and homicidal ideation during this  
2 appointment with Dr. Marseilles.

3           During these appointments with  
4 Dr. Marseilles, nonetheless, Officer Selmani  
5 reported experiencing ritualistic and compulsive  
6 behaviors, flashbacks, depressed mood for more than  
7 two weeks, anhedonia, sadness, energy lethargy,  
8 amotivation, loss of appetite, and hopelessness and  
9 nightmares.

10           Now, remember, April of 2019, Officer  
11 Selmani told the Winters Family Clinic about  
12 intermittent insomnia. Now, in May of 2019, just  
13 one month later, Officer Selmani is telling  
14 Dr. Marseilles that after the targeting incident, he  
15 was unable to sleep for months and he had nightmares  
16 thinking that they were real bullets.

17           These new claims are completely different  
18 than prior treatment notes that we have just  
19 discussed. Remember, in 2017, to Dr. Waliuddin,  
20 Officer Selmani expressly denied suffering from  
21 nightmares or otherwise any type of changes to sleep  
22 or appetite. Officer Selmani expressly denied  
23 having flashbacks. Officer Selmani expressly told  
24 St. Joseph's Hospital in March of 2017 that he did

1 not have any problems with daily functioning.

2 By the time that we get to Dr. Marseilles'  
3 written letter on June 2nd, 2019, Officer Selmani is  
4 allegedly experiencing symptoms that were never  
5 reported in the five years earlier. Dr. Marseilles  
6 wrote that Selmani told him he reported years of  
7 frequent insomnia, when just two months prior to  
8 that he had reported intermittent insomnia to his  
9 own physician.

10 So I question you, the fact-finders in  
11 this case: If you're going to believe Officer  
12 Selmani's allegations, which story are you going to  
13 believe?

14 For Selmani to be successful, he has to  
15 prove to you that he was lying from 2014 to 2019 and  
16 then, all of a sudden, he just started deciding to  
17 tell the truth.

18 However, the Village strongly believes you  
19 have to make a finding that Selmani is simply not  
20 credible. You cannot believe anything he says.

21 I just want to make a few points before I  
22 wrap up.

23 Officer Selmani's claims to the IME  
24 evaluators were even more significant, even more

1 egregious than what he was reporting to his own  
2 psychiatrist in 2019.

3 Before we get there, though, I want to  
4 make a note that in June of 2019, Officer Selmani  
5 applied with the Village for PEDA benefits. Selmani  
6 refused to provide the Village with a medical  
7 release so that the Village could investigate his  
8 claim and/or send Officer Selmani out for a  
9 psychological evaluation.

10 During his deposition, Dr. Reff conceded  
11 that a situation where an applicant refuses to  
12 participate in psychological testing or is unwilling  
13 to share medical records would potentially cause  
14 some concern. Why is Officer Selmani not  
15 cooperating with the Village's process to be  
16 evaluated, to disclose all of these medical records  
17 which clearly do not establish his claim?

18 If you look at Dr. Marseilles' treatment  
19 notes in September of 2019, Selmani again denies  
20 suicidal or homicidal ideations. In addition,  
21 during this appointment, it's clear that  
22 Officer Selmani and/or his union or pension attorney  
23 were coaching Dr. Marseilles about what to put in  
24 his opinion letter. If you look at the

1 September 6th, 2019, treatment notes, Officer  
2 Selmani told Dr. Marseilles: Do not write there is  
3 a permanent disability. They're not going to  
4 believe -- you're a medical doctor.

5 Sure enough, four days later,  
6 Dr. Marseilles provides another written note.  
7 Selmani told Dr. Marseilles to say that the  
8 condition was not permanent; and, sure enough,  
9 Dr. Marseilles opines that, with proper treatment,  
10 Dr. -- Officer Selmani might be able to return to  
11 work.

12 Opposing counsel wants you to take a look  
13 at officers -- I'm sorry. Opposing counsel wants  
14 you to take a look at Dr. Marseilles' notes, wants  
15 you to take a look at his opinions and rule off  
16 that, to forget all the contradictions in the  
17 record. But, in reality, Officer Selmani is telling  
18 Dr. Marseilles what to put in his letters, and  
19 Dr. Marseilles is obliging.

20 If you -- there was some testimony that  
21 Officer Selmani believed that the lawsuit that he  
22 actually filed against the Village and other  
23 individuals was filed in April of 2020. So, again,  
24 Officer Selmani has additional motivation to carry

1 this PTSD claim out till its end.

2 By the time Officer Selmani was evaluated  
3 by the Pension Board evaluators in 2020, he started  
4 to make up even more severe allegations, which not  
5 only contradicted the medical records prior to his  
6 pension allegations, but these new allegations also  
7 contradict statements Dr. -- Officer Selmani made to  
8 his own psychiatrist, Dr. Marseilles, in 2019.

9 For instance, I've just gone through a lot  
10 of records where Officer Selmani denies, expressly  
11 denies suicidal or homicidal ideations. However, in  
12 July of 2020, Officer Selmani told Dr. Reff that he,  
13 and I quote: Became so angry that he began to  
14 develop revenge fantasies of wanting to kill  
15 everyone who was involved in the SPEAR Team matter.

16 Selmani made similar statements about  
17 revenge fantasies to two other IME evaluators.

18 So throughout the record, even after he  
19 sought psychological treatment, Officer Selmani was  
20 denying homicidal ideations. Now he's saying he  
21 wants to kill everyone involved.

22 By 2020, Officer Selmani was telling  
23 another IME evaluator that he was suffering from  
24 severe and -- severe anxiety and depression. Again,

1 I just went through notes from the Winters Family  
2 practice, at least nine instances where Selmani  
3 denied any sort of symptoms related to depression.

4 Although Officer Selmani told  
5 Dr. Waliuddin in May of 2017 that he felt down, he  
6 also denied a lack of motivation, denied having any  
7 changes to his sleep or appetite, denied suicidal or  
8 homicidal ideations, he denied irritability, he  
9 denied verbal hallucinations, denied having  
10 nightmares or flashbacks, the same nightmares or  
11 flashbacks he's now claiming to have alleged in this  
12 case.

13 There are multiple Winters Family Clinic  
14 notes which talk about the anxiety problems that  
15 Officer Selmani having. He thought the Lexapro was  
16 helping his anxiety.

17 You might recall that Officer Selmani  
18 visited St. Joseph's Hospital in 2017 due to panic  
19 attacks. And at the start of the hearing, that's  
20 how Officer Selmani testified. However, I noticed  
21 one comment in Dr. Weine's IME report about Selmani  
22 going to the hospital on that instance because he  
23 wanted to kill himself.

24 You might recall I asked Officer Selmani

1 about that comment during cross-examination. In the  
2 response, Officer Selmani provided this elaborate  
3 anecdote about how he almost committed suicide: His  
4 wife took his keys. He then took his hammer and  
5 destroyed the glove compartment box of his vehicle.  
6 His wife then somehow unlocked the glove compartment  
7 box, took out his gun, gave him the keys back so  
8 that he could then drive himself to the hospital.

9           You're not going to find that anecdote in  
10 any medical record, in any record whatsoever, other  
11 than this one small reference in Dr. Weine's IME  
12 report.

13           As this matter has progressed, Officer  
14 Selmani's stories keep getting more outrageous, keep  
15 getting more exaggerated. And when you're talking  
16 out of both sides of your mouth, you can't help but  
17 contradict yourself.

18           In Dr. Weine's report, there's also a note  
19 about how Officer Selmani saw another guy getting  
20 hazed after the initial incident. As you know, he  
21 has expressly denied that same allegation in other  
22 parts of the record.

23           One final thing that I'll mention is that  
24 opposing counsel talked about Dr. Catherall's



1 objective testing. Dr. Catherall ultimately  
2 administered four different tests, different  
3 objective tests on Officer Selmani. One of these  
4 tests, the TSI-2, has a type of atypical response  
5 scale. And Officer Selmani actually endorsed all of  
6 the items on the atypical response scale. These  
7 items all referenced PTSD symptoms but in scenarios  
8 that are unlikely to be endorsed by most PTSD  
9 patients.

10 So on this test, Officer Selmani is  
11 endorsing symptoms that are unlikely to have, such  
12 as having flashbacks multiple times per day for  
13 weeks at a time. That is what -- one of the  
14 examples that Dr. Catherall gave.

15 Well, Dr. Catherall stated that endorsing  
16 excessive and/or unlikely symptom descriptions is  
17 suggestive of malingering. He ultimately opined  
18 that -- for whatever reason, that Officer Selmani  
19 was not malingering.

20 Nevertheless, I just would point out for  
21 the record that there is some evidence on the record  
22 that within these objective tests, Officer Selmani  
23 might be malingering. And I think this subjective  
24 evidence is crystal clear that Officer Selmani has

1 been malingering. It wasn't until he filed this  
2 pension claim that he even started suggesting he  
3 suffered from these symptoms; and even then, he  
4 couldn't keep his story straight.

5           You are the fact-finders. There are two  
6 cases which expressly give you the ability to make  
7 this finding of malingering. As your attorney,  
8 Mr. Reimer, is aware, a pension board he represents  
9 in Oak Lawn was successful in a 2019 Appellate Court  
10 case. In that case, the Oak Lawn Police Pension  
11 Fund found that an applicant by the name of Daniel  
12 Miller was not being credible about a PTSD  
13 allegation. That pension board found that an  
14 officer engaged in a pattern of misrepresentation  
15 and exaggeration as to the cause of his disability.  
16 As a result, the Board discounted the opinion of an  
17 independent medical examiner who had opined that the  
18 officer's disability was caused by an act of duty.

19           More recently, in a Rule 23 decision,  
20 which is not precedential but can now be looked at  
21 persuasively by the Board and by the courts, the  
22 Second District Court of Appeals upheld the pension  
23 board's credibility findings against an officer.

24           In that case, the Appellate Court upheld

1 the pension board's finding that the applicant was  
2 not truthful with respect to his causation claims,  
3 even though all of the IME opinions supported the  
4 line of duty disability claim.

5 To summarize the facts, a North Chicago  
6 police officer claimed he injured his back while on  
7 duty in the pursuit of a suspect. After the officer  
8 filed for a pension, the pension board sent him to  
9 three IME evaluators, who all found that the officer  
10 was disabled. The evaluators also found that the  
11 officer's disability was consistent with the  
12 officer's explanation about how it occurred.

13 However, there were numerous reasons to  
14 deny -- to doubt the applicant's credibility. Among  
15 other things, the officer did not initially seek  
16 medical treatment, there were inconsistencies and  
17 contradictions within the medical records, and the  
18 officer had previously been reprimanded for failing  
19 to tell the truth.

20 Ultimately, based on these issues, the  
21 pension board found that the officer was not  
22 credible; and as a result, the officer did not prove  
23 that he was disabled and/or cannot prove causation.

24 In affirming the pension board's decision

1 with respect to the causation issue, the Second  
2 District Court of Appeals persuasively wrote: When  
3 a doctor documents what a patient has told him in a  
4 patient history, that information may or may not be  
5 consistent with the medical evidence. Stated  
6 otherwise, a doctor's causation opinion may, in some  
7 instances, rely in whole or in part upon the  
8 patient's truthfulness.

9 The Court of Appeals also wrote that the  
10 Board's assessment of Strong's overall credibility  
11 guided them to credit or discount other evidence,  
12 such as the examining doctor's opinions on  
13 causation. The Board's determination that the  
14 accident did not cause Strong's back injury was not  
15 against the manifest weight of the evidence.

16 With that, I leave you. I urge you to  
17 look at this evidence, to look at all the  
18 contradictions, to look at Selmani's own  
19 acknowledgements that he doesn't even have to be  
20 truthful, that he hasn't been truthful.

21 I urge you to find that he's not credible,  
22 that he's not suffering from this disability. Even  
23 if you believe his credibility, he's still not shown  
24 an act of duty. Thank you.

Officer Gzim Selamni

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1 MR. REIMER: Okay. We're going to take a  
2 break, give you a couple minutes. You ready to  
3 make a --

4 MR. RADJA: Yes. Ready to go.

5 MR. REIMER: Okay.

6 (Short recess.)

7 MR. REIMER: Mr. Radja.

8 MR. RADJA: All right. Members of the Board,  
9 counsel for the Village obviously submitted a lot of  
10 arguments, almost the entirety of which is either  
11 fabricated by him or was presented to your experts  
12 and they refuted each and every one of those items  
13 as not being relevant to: Is the officer disabled  
14 and is his disability the result of an act of duty?  
15 That's what your job is here to determine.

16 Counsel asked you: What story does  
17 Officer Selmani want you to believe? He wants you  
18 to believe the truth. And the truth isn't he was  
19 coached to talk about what his symptoms are. Just  
20 pulled that out of midair. That's hyperbole. His  
21 speculation.

22 The officer, when he was coached, he must  
23 have been coached from August of 2014 what to tell  
24 every physician, what to tell every individual in

1 the police department, and how to get an injury. He  
2 planned this all the way back in 2014, that he would  
3 go out on a disability claim. He was coached to say  
4 what his symptoms are.

5 And, apparently, all of your experts must  
6 have been coached as well, not just Dr. Marseilles,  
7 because Dr. Marseilles is consistent with every  
8 other expert. So they must have all been coached  
9 what to say as well by Officer Selmani or one of his  
10 lawyers, which is absolutely ridiculous, has no  
11 basis whatsoever in this record, and you really  
12 shouldn't give it any credibility. The fact that  
13 Counsel has to stoop to that, to suggest that the  
14 officer has been coached, demonstrates to you how  
15 desperate they are.

16 And they have a vested interest in this  
17 case. Don't pretend for a second they don't. The  
18 Village is concerned that should this Board give  
19 Officer Selmani a line of duty disability, maybe  
20 he'll seek other types of benefits and maybe that  
21 will affect his federal lawsuit.

22 And does he have a federal claim? You're  
23 damn right he does. Because when somebody commits a  
24 criminal act, an act of blatant disregard for the

1 rules and regulations of the police department, and  
2 then the police department, instead of having this  
3 guy's back, they retaliate against him, that's an  
4 actionable claim. And there's nothing wrong with  
5 him pursuing his rights under the law.

6 But Counsel wants you to think because  
7 he's pursuing his rights that somehow he's making  
8 all this stuff up. But not one of the experts in  
9 this case said for a second that he was making it  
10 up.

11 And it's not just about his subjective  
12 complaints. He performed a myriad of objective  
13 testing by Dr. Catherall. All these little points  
14 that Counsel brought up to you guys, and I'll go  
15 through some of them here, they were all addressed  
16 during the deposition transcripts of your experts.  
17 It was presented to each one of them. And one of  
18 the experts says those are trivial. They're nothing  
19 to do with: Is he disabled, and is his disability  
20 the result of his PTSD diagnosis?

21 Counsel wants you to think he was coached,  
22 he made stories up, that certain things didn't occur  
23 that did occur, or he didn't have symptoms  
24 immediately following the incident.

1           Well, your own experts say a PTSD  
2 diagnosis cannot be made within a month of the  
3 injury. It cannot even be diagnosed within a month  
4 of the injury. Yet he's arguing to you, hey, look,  
5 within a month of the injury, he wasn't complaining  
6 about PTSD symptoms.

7           Well, your medical experts say that  
8 doesn't happen. Individuals don't, after a month,  
9 say, I have PTSD. If he did do that, then I would  
10 suggest that may be a sign of malingering or being  
11 false to this Board or to anyone else.

12           But your doctors didn't -- didn't -- not  
13 one doctor, not one doctor found any evidence of  
14 malingering. And in PTSD cases, they all say,  
15 that's what we look for.

16           Read, please read the testimony of your  
17 experts in their totality. Because what Counsel  
18 tried to do was bring up these little points that he  
19 presented to each expert, and each expert shot down  
20 unanimously. Not one expert said, that has affected  
21 my opinion in the slightest.

22           They all said he has PTSD. It's delayed  
23 onset. The fact that he didn't report consistently  
24 about symptoms that are consistent with PTSD for the



1 four years, five years -- one doctor says seven,  
2 eight years -- that's common for a person to try to  
3 mask their symptoms, work through their symptoms.  
4 And it wasn't until he could no longer do that,  
5 starting in 2017, 2018, is when he -- the symptoms  
6 became more apparent and he could no longer perform  
7 the duties of a police officer.

8 Counsel wants you to believe that  
9 these other injuries somehow go to the credibility  
10 of his PTSD and whether or not he's disabled from  
11 that. They don't, first of all. But even if they  
12 did, not one of -- there is no evidence in this  
13 record of any investigation that Officer Selmani was  
14 untruthful from 2014 till today. He wasn't  
15 interrogated about whether or not he was being  
16 truthful about any of those injuries.

17 In fact, the Village paid for all his  
18 necessary medical treatment regarding those  
19 injuries. The record is loaded with different  
20 records indicating, here's what happened, here's how  
21 the injury occurred.

22 Why did he report the shoulder injury?  
23 Because there was a sergeant present when there was  
24 a fight between him and another officer. It was in

1 the vicinity, heard what was going on, compelled  
2 them to report what happened with respect to that,  
3 with respect to Officer Selmani and the other  
4 officer getting into an altercation where his  
5 shoulder was injured.

6 There's objective evidence that he had an  
7 injury to his shoulder. There's objective evidence  
8 that he had an injury to his knee. In fact, your  
9 own treating -- your own expert physician said he  
10 saw a photo when he evaluated Officer Selmani, and  
11 he -- and it looked like it was swollen to him.  
12 That's a medical professional.

13 The Village wants you to ignore all the  
14 medical professionals in this case and instead say,  
15 we don't find Officer Selmani credible, and take  
16 their cherry-picked evidence that none of your own  
17 doctors agreed with were significant and have that  
18 be the basis for you denying this claim.

19 You shouldn't do it. I'm confident that,  
20 based on the case law, that your decision will be  
21 reversed if you do rely upon that. But that's  
22 ultimately your prerogative. You're the  
23 fact-finders.

24 And I trust that you will review the

1 evidence of your physicians, the testimony that they  
2 provided, and look at that where Counsel says, he  
3 didn't complain within a few months; and they say,  
4 well, you don't complain within a few months. If he  
5 did, there would be something wrong with that.

6 Doctors addressed the denials of Selmani  
7 about certain symptoms of posttraumatic stress  
8 disorder. They said that's common with all people  
9 with PTSD, but it's even more common with police  
10 officers. They don't say what all their symptoms  
11 are because they don't want to have their gun and  
12 badge taken away, they don't want to be stigmatized  
13 in the police department as having this  
14 psychological disability, because they know it could  
15 very well be the end of their career if they start  
16 complaining about that stuff.

17 Counsel for the Village presented these  
18 arguments to your experts that there wasn't  
19 significant symptoms between 2014 and 2019. Doctors  
20 said, performing your job well does not have any  
21 impact whatsoever on a PTSD diagnosis. In fact,  
22 that in and of itself may be a coping mechanism to  
23 try to demonstrate that you could do the job well  
24 despite having the underlying mental issues.

1           Both with respect to shoulder and knee,  
2 the Village did not find anything wrong with Officer  
3 Selmani's complaints. They didn't investigate it.  
4 They didn't find any allegations of misconduct. And  
5 in fact, again, they paid for all his necessary  
6 medical treatment.

7           With respect to the date of the hazing  
8 incident, I don't think there's any dispute that  
9 this happened in August of 2014. Counsel indicated  
10 that Officer Selmani said December. That's simply  
11 not borne out by the facts in this record. If you  
12 look at the memo from Selmani to Deputy Chief  
13 Snider, he said it was at the very first training  
14 date with SPEAR when this incident happened.

15           And coincidentally, or maybe not  
16 coincidentally, there is no mention in the logbook  
17 of an incident on August of 2014. Could that be  
18 because there was a hazing that occurred that day  
19 and the officers didn't want that date to come out?

20           Officer Selmani testified he showed the  
21 injuries to Sergeant Rummell. He showed him the  
22 mark on his arm. He asked that it be treated.  
23 Well, I'd have to fill out some forms. And it never  
24 got addressed by Sergeant Rummell. Again, is it

1 because if he had put in writing that  
2 Officer Selmani was injured, that there would be an  
3 investigation into the hazing and people would be  
4 disciplined?

5 Dr. Catherall explained at length why the  
6 points that the Village attorney -- the arguments he  
7 makes to you, why they don't have any credibility  
8 with respect to the posttraumatic stress disorder  
9 diagnosis and with respect to the disability. He  
10 says he adopted certain exaggerated affects on the  
11 testing. Dr. Catherall explained why that is. He  
12 explained why that would be consistent with his  
13 posttraumatic stress disorder, why that would be  
14 consistent with this being an act of duty.

15 Again, please read the transcripts of the  
16 three doctors. They addressed every single argument  
17 the Village tried to make for you. He wants you to  
18 disregard the opinions of your experts and come to  
19 your own conclusions about what causes PTSD, what  
20 the symptoms are of PTSD, when you should start  
21 complaining about PTSD, and forget about what the  
22 doctors said.

23 The testimony about him going to  
24 manufacture a Workers' Compensation injury is -- was

1 wholly rebutted by three other officers that were in  
2 the same room. Said, we didn't hear that being  
3 said.

4           So when Officer Selmani's asked, you know,  
5 are officers honest, it's no wonder why he says,  
6 they're supposed to be. Because he sat through this  
7 hearing and watched two officers get on the stand,  
8 testify under oath to something that he didn't say.  
9 He watched Officer Bubis get on the stand today and  
10 testify he couldn't remember one incident of  
11 shooting at another officer, whether or not he did  
12 it. Officers are supposed to be honest, but I  
13 submit to you they weren't honest during these  
14 proceedings.

15           Who was honest was Officer Selmani. He  
16 hasn't changed his statements to anybody. He's been  
17 consistent with all the doctors as to what he told  
18 them. He's been consistent with this Board as to  
19 what he told them. And he was again, under oath,  
20 subject to all your questioning. He was forthright  
21 with everything that occurred. His diagnosis has  
22 not been questioned by any of the physicians, nor  
23 the causation of it.

24           Let's get to the act of duty part of this.

1 Clearly, there's no evidence in this record to --  
2 before I get to that, disability. Not one scintilla  
3 of evidence in this record to indicate Officer  
4 Selmani can return to this job in a full and  
5 unrestricted duty as a police officer. His  
6 posttraumatic stress disorder, his OCD, his anxiety  
7 disorder, all of those prevent him from returning to  
8 a full and unrestricted capacity. Every single  
9 physician has found him disabled.

10 Moving on to whether or not it was caused  
11 by an act of duty, the statute is clear. And  
12 Counsel will go through it with you. But it's  
13 what -- it's not an act of duty of ordinary citizens  
14 in the ordinary walks of life performing the same  
15 function. The case law in this usually involves  
16 someone falling down stairs. Because ordinary  
17 citizens in ordinary walks of life go up and down  
18 stairs. Sitting in a chair, you fall. Ordinary  
19 citizens in the ordinary walks of life sit in  
20 chairs.

21 You're not going to find any case that  
22 demonstrates an officer during training is injured,  
23 and that's somehow -- that officer -- that ordinary  
24 citizens in the ordinary walks of life perform.

1 Even the citizens that performed it here weren't  
2 ordinary citizens. They volunteered to be shot at  
3 during the course of a police training. That's not  
4 something ordinary citizens do in the ordinary walks  
5 of their life. These people volunteered to do that  
6 and said, I realize I could be injured or hurt, and  
7 I want to wear protective clothing, but I'm willing  
8 to do it.

9 That's not what an ordinary citizen does.  
10 You don't hear about people just signing up to do  
11 that every day. Signing up for training isn't in  
12 the ordinary walks of life. We're not out driving a  
13 vehicle or getting in and out of a car, going up and  
14 down stairs, walking in a parking lot, things of  
15 that nature where you would see ordinary citizens  
16 doing it.

17 Again, there's not one case on point where  
18 Counsel could say, look, here's what somebody was  
19 doing and it shows this was an ordinary citizen.  
20 Because there isn't any. And you'd be hard-pressed  
21 to find a court that would find -- if you were to  
22 deny this based on ordinary citizens in the ordinary  
23 walks of life, we're doing this, I can't -- I do not  
24 believe a court in this state would affirm your



1 decision.

2 Ordinary citizens in the ordinary walks of  
3 life aren't ambushed by fellow officers. And that's  
4 what happened here. Officer Selmani was ambushed  
5 when he thought he was performing training.  
6 Instead, he got shot at by his fellow officers.  
7 That is a fact in the record, undisputed,  
8 un rebutted.

9 By the Village logic, if Officer Selmani  
10 had been hit in the neck with one those of  
11 Simunition rounds and, God forbid, passed away as a  
12 result of it, that's not an act of duty. Him being  
13 involved in training and shot by another officer  
14 wouldn't be an act of duty, by their logic. And  
15 that's crazy.

16 Counsel for the Village said there's no  
17 evidence in this record that he suffered a  
18 psychological injury. And he looked at you with a  
19 straight face and said that.

20 Well, other than the six experts that say  
21 he has a diagnosed condition of posttraumatic stress  
22 disorder. I would consider that evidence of a  
23 psychological disability. Other than the objective  
24 testing done by the experts. I would consider that

1 really good evidence of a disability. And I would  
2 consider six medical experts saying, here's his  
3 diagnosed condition. I've interviewed him, I took a  
4 history from him, I've reviewed all the medical  
5 evidence in the record, and I find that he has a  
6 diagnosable condition of PTSD, among other things,  
7 and it's a result of his act of duty. I would  
8 consider that really good evidence to support a  
9 line-of-duty disability. I would consider it beyond  
10 a preponderance of the evidence but in fact within  
11 the manifest weight of the evidence.

12 I'll end on this. The photo that was  
13 presented to you of Officer Selmani smiling and  
14 holding his kid on his birthday, that was because of  
15 questions asked by this Board and its counsel: Do  
16 you have any photographs of the injuries you  
17 sustained?

18 He went through his stuff and found that  
19 there was one of him demonstrating the injury to his  
20 arm, just to support the fact that he was shot with  
21 this Simunition, that it did result in some physical  
22 injury in addition to the mental injury.

23 You know, just because you sustain a duty  
24 disability injury and even a psychological injury

1 doesn't mean you got to walk around miserable. The  
2 fact that he's smiling at his kid's birthday party,  
3 really? We're going to say that that's evidence  
4 that he is somehow being untruthful or doesn't have  
5 a duty disability?

6 Just because you have a psychological  
7 disability doesn't mean you got to walk around  
8 miserable, doesn't mean your life ends, should not  
9 have been utilized against him. It was a shame that  
10 it was here.

11 We ask that you use your common sense,  
12 your good judgment, you review the record. And  
13 don't accept the cherry-picked so-called evidence  
14 that Counsel has just cited to you and said, use  
15 your common sense.

16 Review the experts' testimony, rely upon  
17 the experts. Because this is a psychological  
18 disability where you need to do that to a large  
19 degree, and that you come back with a finding that  
20 Officer Selmani is entitled to a line-of-duty  
21 disability. Thank you.

22 MR. REIMER: All right. Board's here --

23 MR. DENHAM: Just on the record, I was accused  
24 of personal misconduct, of making stuff up.

1 MR. REIMER: Okay. Just keep it --

2 MR. DENHAM: I want to state for the record --

3 MR. RADJA: Coaching a witness by the lawyers  
4 is making stuff up. Sorry.

5 MR. REIMER: That's it. We're done. We're not  
6 going to hear any more arguments.

7 All right. Gentlemen, you've heard the  
8 evidence. You've heard lengthy arguments. It's now  
9 decision time. Basically, three ways you can come  
10 to a decision.

11 One way would be to discuss it openly here  
12 in public, in a public forum and public session. If  
13 at any time you want to do that, you want to ask me  
14 my legal opinion, I give you legal advice, that's  
15 fine. I'm happy to do it. But keep in mind you  
16 waive the attorney-client privilege due to the  
17 presence of people that are not my clients. But  
18 it's not my privilege, it's the Board's privilege,  
19 and the Board can waive it if they so choose.

20 Second option is you can adjourn into  
21 executive or closed session per Section 2(c)(4) of  
22 the Open Meetings Act for purposes of deliberation  
23 after an evidentiary hearing. In the event you want  
24 to go into executive or closed session, you would

1 have to have an audio or video verbatim transcript  
2 to the proceedings. Typically, what we do is we  
3 have our court reporter audiotape it and, as a  
4 backup, transcribe it.

5 The second thing you need to know about  
6 executive session, you can't vote. You can just  
7 discuss and deliberate and act like 12 angry men and  
8 women and try to come to a consensus. Then you have  
9 to come out and vote publicly.

10 Your third option is you can take the  
11 matter under advisement, get a copy of the  
12 transcript. But that would mean you come back. You  
13 wouldn't be making a decision today.

14 Those are your three options. There's no  
15 right or wrong answer. What's your preference?

16 Do you want to adjourn to executive or  
17 closed session?

18 TRUSTEE POREMBA: Yeah. I would like to.

19 TRUSTEE PALMER: I got questions. I'm sure you  
20 do as well.

21 MR. REIMER: All right.

22 TRUSTEE MITCHELL: I'll make a motion.

23 MR. REIMER: Yeah. Let me help you with that,  
24 if you don't mind. No extra charge.

1                   So it's now 4:13. The Board will  
2 entertain a motion to adjourn into executive or  
3 closed session under Section 2(c)(4) of the Open  
4 Meetings Act for purposes of deliberations following  
5 the conclusion of the evidentiary hearing in the  
6 Officer Selmani disability claim.

7           TRUSTEE PALMER: So motioned.

8           MR. REIMER: Motion.

9           TRUSTEE MITCHELL: I second.

10          MR. REIMER: There's a second.

11                   Is there any discussion?

12                   If not, would you call the roll, please?

13          TRUSTEE MITCHELL: Dan Palmer?

14          TRUSTEE PALMER: Yes.

15          TRUSTEE MITCHELL: John Sias?

16          TRUSTEE SIAS: Yes.

17          TRUSTEE MITCHELL: Derek Bansley?

18          TRUSTEE BANSLEY: Yes.

19          TRUSTEE MITCHELL: Mike Poremba?

20          TRUSTEE POREMBA: Yes.

21          TRUSTEE MITCHELL: Gary Mitchell, yes.

22          MR. REIMER: Okay. My suggestion is -- I know  
23 we've done this in the past where we've gone back  
24 there. Would probably be better off to stay here

1 and ask everybody else to leave -- the studio  
2 audience to leave. That way, we don't have to  
3 uproot everything.

4 (Whereupon, a closed session was had  
5 not herein transcribed.)

6 MR. REIMER: All right. It's now 6:36 [sic].  
7 The Board needs to entertain a motion to return to  
8 public or open session.

9 Is there such a motion?

10 TRUSTEE MITCHELL: Hold on. It's 5.

11 MR. REIMER: What did I say, 6? 5:36. Pardon  
12 me. I'm on bar time. Thank you.

13 Is there a motion?

14 TRUSTEE SIAS: I'll make a motion to come back  
15 in session.

16 MR. REIMER: Motion. Second?

17 TRUSTEE PALMER: Second.

18 MR. REIMER: Any discussion?

19 If not, roll call vote.

20 TRUSTEE MITCHELL: Dan Palmer?

21 TRUSTEE PALMER: Yes.

22 TRUSTEE MITCHELL: John Sias?

23 TRUSTEE SIAS: Yes.

24 TRUSTEE MITCHELL: Derek Bansley?

1 TRUSTEE BANSLEY: Yes.

2 TRUSTEE MITCHELL: Mike Poremba?

3 TRUSTEE POREMBA: Yes.

4 TRUSTEE MITCHELL: Gary Mitchell, yes.

5 MR. REIMER: Okay. The Board is now back in  
6 public or open session. The Board's met in  
7 executive or closed session under Section 2(c)(4) of  
8 the Open Meetings Act. The matter audio-recorded as  
9 required by law. The Board considered the evidence,  
10 considered the arguments, but no final action was  
11 taken.

12 It's my understanding, based on the Board  
13 deliberations, the Board wishes to entertain the  
14 following motion: It would be a motion to award  
15 Officer Selmani a line of duty disability pension  
16 retroactive to the date of suspension from duty due  
17 to disability.

18 Is there a motion?

19 TRUSTEE POREMBA: I'll make that motion.

20 MR. REIMER: There's a motion.

21 Is there a second?

22 TRUSTEE SIAS: I'll second.

23 MR. REIMER: There's a second.

24 Is there any discussion?



1 TRUSTEE PALMER: Oh, yeah. Anybody else care  
2 to say anything?

3 This Board has spent a great deal of time  
4 on this issue. I'd like to convey my annoyance for  
5 a couple of things. I don't know that everybody  
6 shares it to the same degree that I do, but we're  
7 all charged with making the same decision.

8 We're charged with making a decision based  
9 on a preponderance of the evidence, 51 percent, not  
10 beyond reasonable doubt. We have six doctors --  
11 four doctors -- six doctors who say this man is  
12 disabled as a result of something that happened in a  
13 training session that probably should not have  
14 happened. We have one or two witnesses who have  
15 specific recall and that don't have specific recall.  
16 So we weigh all that and come to different decisions  
17 on our own.

18 I feel muddled. I feel pushed in a  
19 corner. Is it true? Is it not true? I don't know.  
20 I mean, I know what the preponderance is and I know  
21 what the doctors say. And I don't like this Board  
22 having our finances jeopardized for something that  
23 was completely unnecessary, in my mind.

24 And that's my say. That's my piece. It

1 shouldn't have come here. It's outside the scope.  
2 But from what Counsel tells me, it's inside the  
3 scope. So, again, I feel pushed into a corner.

4 Anybody else?

5 MR. REIMER: Any other discussion before you do  
6 a roll call vote on that?

7 Okay. So now you need to do a roll call  
8 vote, a yes is to award the line of duty disability  
9 pension.

10 TRUSTEE MITCHELL: Dan Palmer?

11 TRUSTEE PALMER: Yes.

12 TRUSTEE MITCHELL: John Sias?

13 TRUSTEE SIAS: Yes.

14 TRUSTEE MITCHELL: Derek Bansley?

15 TRUSTEE BANSLEY: Yes.

16 TRUSTEE MITCHELL: Mike Poremba?

17 TRUSTEE POREMBA: Yes.

18 TRUSTEE MITCHELL: Gary Mitchell, no.

19 MR. REIMER: Okay. The ayes have it, four to  
20 one vote.

21 So congratulations, Officer. You've been  
22 awarded a line of duty disability pension. We'll  
23 have to determine the actual date that the -- your  
24 pay stopped, and that will be effective the very

1 next day. The Board is going to determine that  
2 that's the date that you were suspended due to a  
3 disability.

4 I will need to prepare a written decision  
5 and order. So I would ask that the Board entertain  
6 a motion to authorize our court reporter to prepare  
7 the transcript of the executive and the public  
8 sessions here today. I need a motion, a second, and  
9 a roll call vote on that.

10 TRUSTEE PALMER: So moved.

11 TRUSTEE MITCHELL: I second.

12 Dan Palmer?

13 TRUSTEE PALMER: Yes.

14 TRUSTEE MITCHELL: John Sias?

15 TRUSTEE SIAS: Yes.

16 TRUSTEE MITCHELL: Derek Bansley?

17 TRUSTEE BANSLEY: Yes.

18 TRUSTEE MITCHELL: Mike Poremba?

19 TRUSTEE POREMBA: Yes.

20 TRUSTEE MITCHELL: Gary Mitchell, yes.

21 MR. REIMER: Okay. Upon receipt, I'll prepare  
22 a written decision and order. It will become the  
23 final decision and order for purposes of any  
24 administrative review. I will serve Officer

1 Selmani, I will serve Mr. Denham on behalf of the  
2 Intervenor Village, as well as Mr. Radja.

3 That does not mean you have to wait for  
4 the written decision and order to commence payments.  
5 If somebody from the Village can determine the date  
6 that it should be effective, if you can get that  
7 going right away, but don't wait for the transcript  
8 and the decision and order attachment. Probably --  
9 Patty is usually good about that. A couple -- ten  
10 days would be -- a couple weeks is good.

11 But it will take me some time to sift  
12 through everything and write a decision and order.  
13 Because it's very possible there may be an  
14 administrative review on this, so we want to make  
15 sure we get it right.

16 I will get that done. I will send it to  
17 you in draft form, and you'll have to do a motion in  
18 public session at a Board meeting to adopt and  
19 publish the decision and order.

20 So I think your next meeting is, when?  
21 October --

22 TRUSTEE PALMER: November --

23 TRUSTEE SIAS: Is it the 3rd?

24 TRUSTEE PALMER: November 18th --

Officer Gzim Selamni

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1 MR. REIMER: Okay. So --

2 TRUSTEE PALMER: -- 2:00 o'clock.

3 MR. REIMER: -- I'll see that we get it done by  
4 then and to you and -- but, again, you don't need to  
5 wait to process benefit payments.

6 Who should Officer Selmani contact on the  
7 Board or at payroll to get that going?

8 TRUSTEE MITCHELL: Beth Pruchnick or --

9 THE COURT REPORTER: Excuse me, sir?

10 TRUSTEE MITCHELL: Beth Pruchnick. I don't  
11 know her spelling.

12 THE COURT REPORTER: Beth?

13 TRUSTEE MITCHELL: Beth. She's in payroll.

14 TRUSTEE PALMER: Yeah. I would imagine HR has  
15 some --

16 TRUSTEE MITCHELL: Yeah.

17 TRUSTEE PALMER: -- hand in this too. Janelle  
18 or Tracy, maybe start there, and all those other  
19 people.

20 MR. REIMER: Can you make sure you let them  
21 know that they may be getting a call from -- I don't  
22 if, Tom, you want to do it or --

23 MR. RADJA: Yeah. If there's any paperwork  
24 that needs to be completed, feel free to e-mail that

1 to me, Mr. Reimer.

2 MR. REIMER: So if somebody can double-check  
3 with whoever, and we'll get it to Mr. Radja. If you  
4 want to get it to me, I can get it to them. That  
5 way, you're not putting anybody in the middle.

6 TRUSTEE MITCHELL: I guess my question is:  
7 What paperwork? Just the starting -- the date of  
8 compensation?

9 MR. REIMER: Well, here's the --

10 TRUSTEE PALMER: You got to calculate numbers.  
11 You got to --

12 TRUSTEE MITCHELL: Right. But what paperwork?

13 TRUSTEE PALMER: -- determine --

14 MR. REIMER: Paperwork would be needed -- to  
15 start him on benefits would be -- he'd have to do a  
16 tax withholding document, he'd have to probably give  
17 a check so there's -- I assume you pay ACH, right?  
18 You do a direct deposit? You don't write checks, do  
19 you, for benefits?

20 TRUSTEE PALMER: Only if they don't file or  
21 fill out their form every January.

22 MR. REIMER: Well, we want him to fill out the  
23 form. Whatever forms you have to initiate payment  
24 to either your retiree or disability. There's going

1 to be something out there. I just don't know what  
2 it is.

3 All right. Is there any other business to  
4 come before this Board?

5 Public comment? Always have to do public  
6 comment.

7 There being none, does the Board wish to  
8 entertain a motion to adjourn at 5:44?

9 TRUSTEE PALMER: So moved.

10 TRUSTEE BANSLEY: I second.

11 TRUSTEE PALMER: Aye.

12 TRUSTEE SIAS: Aye.

13 TRUSTEE BANSLEY: Aye.

14 TRUSTEE POREMBA: Aye.

15 TRUSTEE MITCHELL: Aye.

16 MR. REIMER: All right. Thank you, all.

17 MR. RADJA: Thank you for your time.

18 (End of Open Session.)

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1 STATE OF ILLINOIS )  
2 COUNTY OF DUPAGE ) SS:

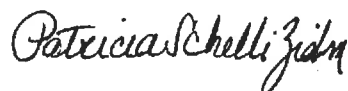
3  
4 I, Patricia Schelli Ziehm, a Certified  
5 Shorthand Reporter of the State of Illinois and  
6 Notary Public of the County of DuPage, do hereby  
7 certify that I reported in shorthand the proceedings  
8 had at the examination aforesaid, and the foregoing  
9 is a true, complete and correct transcript of the  
10 proceedings of said hearing as appears from my  
11 stenographic notes so taken and transcribed under my  
12 personal direction.

13 IN WITNESS WHEREOF, I do hereunto set my  
14 hand this 30th day of September, 2021, at Lisle,  
15 Illinois.

16

17

18



19

20

Patricia Schelli Ziehm, CSR  
C.S.R. Certificate No. 084-002954  
Notary Public, DuPage County, Illinois

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**Board of Trustees of the Bartlett Police Pension Fund  
Disability Application**

**Officer Gzim Selamni  
September 14, 2021**

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