- could be a whole of things. So it may even have started as a sick leave abuse and then you found additional misconduct.
 - Q. So if somebody sort falsifies a sick report, and ends up playing golf or not being sick at all or not being where they're supposed to be, that would not constitute an absence without leave in terms of charges or disciplinary charges?
 - A. It's really dependant on the advocate, the attorneys in the department advocate's office. How they want to write up a specific charge. I may request five different charges. They would have to then figure out if there's enough to support each of those charges. Then they would look at the case law and figure out what they wanted to charge specifically.
 - Q. With regard to sick leave, specifically, how does a uniformed member of the service go sick?
 - A. Well, you're going to call your place of employment, your command, let's say, the guides states that it should be

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done two hours before the start of your tour of duty and then in addition at the tail end of 2010 it changed to where you'd also have to call the sick desk and also report that you had reported sick.

- Q. But in 2009, specifically --
- A. Right.
 - Q. What --
 - A. 2009, you would just call your command, speak to your supervisor and say I am reporting sick and then the command would be responsible to call the medical division.
 - Q. So the member going sick would not be required to call the sick desk?
 - A. Not at that time, not in 2009. Their only obligation was to call the command.
 - Q. And what is the response of the command; does the command have like an opportunity to say no, deny sick even though somebody says I'm sick, I don't feel well; or is it almost automatic, where they say okay, then they fill out paperwork?

MR. KRETZ: Objection. You can

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- A. You can't deny someone to go sick. The desk officer has the ability to decide whether or not you would be granted administrative sick or regular sick.

 Administrative sick is a one-day sick event, and you're not required to see a doctor, you don't have to provide any records. And regular sick you're required to see our police department surgeon. The desk officer has the ability to make a determination which one of those you would be granted.
- Q. Administrative sick versus regular sick?
- A. Correct. You could have line of duty sick, but that would be a workplace accident. You would already be at work for that. Then the administrative sick, you could call in for day two. So you could actually get two days out sick, day one administrative, day two administrative and that doesn't require a doctor's visit, doesn't require any medical documentation.
 - Q. What is the -- so if the member

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| 2 | as of this date.) |
| 3 | MR. LENOIR: This is, I will |
| 4 | represent, a copy of patrol guide |
| 5 | 2016-13. And I would just say that |
| 6 | highlighted version comes from the |
| 7 | source. This is not my highlighting. |
| 8 | Q. So you said if an investigation |
| 9 | rises to a point where you would need to |
| 10 | interrogate a subject of an investigation, |
| 11 | you would be guided by 206-13? |
| 12 | A. Yes. |
| 13 | Q. On the first page, in the |
| 14 | italicized part, which is italicized and |
| 15 | highlighted. Again, the italics and |
| 16 | highlighting is in the original that we got |
| 17 | from the source. |
| 18 | Let me ask you to read into the |
| 19 | record the first paragraph there, where it |
| 20 | says all members of the service. |
| 21 | A. All members of the service who |
| 22 | are the subject of an official investigation |
| 23 | or are a witness in the official |
| 24 | investigation shall be given a reasonable |

period of time to obtain and confer with

- 2 counsel prior to questioning.
- 3 Interrogations of members in routine
- 4 noncritical matters should be scheduled
- 5 during business hours on a day when the
- 6 member is scheduled to work.
- Q. In the following paragraph where
- 8 it addresses interrogations in an emerging
- 9 investigation, where there's a need to
- 10 gather timely information -- let me just ask
- 11 you -- rather than me to parse out. I know
- 12 it's a little longer, but let me ask you to
- 13 read that into the record, as well.
- 14 A. Interrogations in emerging
- 15 investigations, where there is a need to
- 16 gather timely information should usually be
- 17 done after all preliminary steps and
- 18 conferrals have been completed and the
- 19 member to be questioned has been afforded a
- 20 reasonable time to obtain and confer with
- 21 counsel. In determining what is a
- 22 reasonable period of time, consideration
- 23 should be given to the nature of the
- 24 investigation, the need for the department
- 25 to have the information possessed by the

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| 2 | member in a timely manner and the stage the |
| 3 | investigation is at when the need to |
| 4 | question a member has been determined. The |
| 5 | emergent nature and exigent circumstances of |
| 6 | each investigation will determine a length |
| 7 | of time afforded the member before |
| 8 | questioning is conducted. |
| 9 | However, in all cases the |
| 10 | determination as to what is a reasonable |
| 11 | time will be made by the captain or above in |
| 12 | charge of the investigation. |
| 13 | Q. Thank you. Lieutenant, have |
| 14 | you, either conducted or supervised |
| 15 | investigations of this nature where you have |
| 16 | noticed the subject of an investigation or |
| 17 | an interrogation? |
| 18 | A. Have I conducted 206-13 |
| 19 | investigations? Is that what you're asking? |
| 2 0 | Q. Yes. |
| 21 | A. Yes. |
| 22 | Q. As a matter of practice, is this |
| 23 | policy followed in your experience? |

beyond the scope of the notice.

MR. SHAFFER: Objection.

That's

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| 2 | MR. LENOIR: We are talking |
| 3 | after the policies and practices of the |
| 4 | NYPD. I have the policy. I am asking |
| 5 | about the practice. |
| 6 | MR. SHAFFER: As it pertains to |
| 7 | sick leave investigations. If you want |
| 8 | to ask him more specific questions. |
| 9 | MR. LENOIR: Investigations are |
| 10 | governed by 206-13, and I am speaking |
| 11 | specifically about 206-13 |
| 12 | investigations. |
| 13 | MR. SHAFFER: Note my objection. |
| 14 | If you want to ask the question again. |
| 15 | Go ahead. |
| 16 | A. Can you repeat the question |
| 17 | again? |
| 18 | Q. In your experience in conducting |
| 19 | and supervising 206-13 investigations, is it |
| 20 | the actual practice to afford a subject |
| 21 | officer time to confer with counsel or union |
| 22 | representation and things of that nature? |
| 23 | A. Yes. |
| 24 | Q. Have you ever been involved, |

either as a supervisor or investigator, in

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| 2 | which you basically directed a subject of a |
| 3 | 206-13 investigation forthwith immediately? |
| 4 | A. Meaning what? Without counsel? |
| 5 | Q. Without counsel? |
| 6 | A. No. |
| 7 | Q. An officer who is found to have |
| 8 | violated the sick leave policy, does that |
| 9 | generally result in a command discipline or |
| LO | specifications and charges? |
| ۱1 | A. No, it would be charges and |
| L 2 | specifications. |
| L 3 | Q. Is that due to the nature of the |
| L 4 | offense, if it's a higher level of offense, |
| ۱5 | then a command discipline? |
| ۱6 | MR. SHAFFER: Objection. Go |
| L 7 | ahead. |
| L 8 | A. Charges and specifications is a |
| L 9 | higher level of offense. The department has |
| 2 0 | a certain amount of time that could be |
| 21 | deducted on the lower level command |
| 22 | discipline, which is usually upwards of five |
| 23 | days or even eight days. Anything beyond |
| 2 4 | that would have to be charges and |

specifications.

- Q. You mean five days or eight days of unauthorized use of sick leave?
- A. No, in other words; if -command discipline is lower level discipline
 that a commanding officer can use against a
 member to address routine -- things of the
 routine nature that happened, you know, you
 didn't sign out, you didn't properly fill
 out a form, you missed a court appearance,
 things of that nature, anything that rises
 to a level of misconduct is normally going
 to be handled as charges and specifications.
- Q. Typically, as a general matter, the issues that you investigate, you and your unit, result in charges and specifications as opposed to command disciplines?
- A. Yes. The unit doesn't prepare a lot of command disciplines. The majority of the disciplinary actions is charges and specifications.
- Q. With regard to your unit's taking on a case or investigation, how is the matter brought to your attention; how do

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you get the assignment?

- A. Could come a number of ways. It could come directly from internal affairs, which most of the cases come that way, from internal affairs. Could come from a command calling in directly, could come anonymously, somebody just calling up or write a letter or it could come from my own commanding officer.
- Q. Is there a typical path to your office; would you say that most cases come from the internal affairs or from the command or anonymous complaints?
- A. I would say that it's evenly split. You have commands calling in some misconduct and have other allegations come in through internal affairs. Then, you know, you get a small number that are anonymous, where they refuse to leave their name.
- Q. What are you talking about in terms of volume; again, we are talking 2007, 2008, 2009 through 2010, just an approximate number of cases that your unit would have