

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
THE CIVIC ASSOCIATION OF THE DEAF OF :
NEW YORK CITY, INC. (also known as :
the New York City Civic Association :
of the Deaf) and STEVEN G. YOUNGER II, :
on behalf of themselves and all :
others similarly situated, :

Plaintiffs, :

95 Civ. 8591 (RWS)

V. :

RUDOLPH GIULIANI, as Mayor of the :
City of New York, HOWARD SAFIR, as :

Commissioner of the Fire Department :
of the City of New York, CARLOS :
CUEVAS, as City Clerk and Clerk of :
The New York City Council, PETER :
VALLONE, as Speaker and Majority :
Leader of the New York City Council, :
THOMAS OGNIBENE, as minority Leader :
of the New York City Council, and :
the CITY OF NEW YORK, :

Defendants. :

**CORRECTED
DECLARATION OF
ROBERT B. STULBERG
IN SUPPORT OF
PLAINTIFFS'
OPPOSITION TO
DEFENDANTS' MOTION
TO VACATE OR
MODIFY INJUNCTION**

-----X
EXHIBIT 4

1

1 12hdgued
2 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
3

4 THE CIVIC ASSOCIATION OF THE
4 DEAF OF NEW YORK CITY, INC.
5 (also known as the New York
5 City Civic Association of the
6 Deaf) and STEVEN G. YOUNGER II,
6 on behalf of themselves and all
7 others similarly situated,

8 Plaintiffs,

9 v. 95-CV-8591 (RWS)

10 RUDOLPH GIULIANI, as Mayor of the
10 City of New York, HOWARD SAFIR, as
11 Commissioner of the Fire Department
11 of the City of New York, CARLOS
12 CUEVAS, as City Clerk and Clerk of
12 The New York City Council, PETER
13 VALLONE, as Speaker and Majority
13 Leader of the New York City Council,
14 THOMAS OGNIBENE, as Minority Leader
14 of the New York City Council, and
15 THE CITY OF NEW YORK,

16 Defendants.

17 -----x

18 February 17, 2011
18 10:28 a.m.

20 Deposition of VINCENT GUERRIERA,
21 pursuant to notice, at the United States
22 District Court, Southern District of New York,
23 500 Pearl Street, New York, New York, before
24 Vincent J. Bologna, RMR-CRR-CSR and Notary
25 Public of the State of New York.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

8

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

12hdgued

Guerriera

Q. OK. If at any point when I'm referring to 911 or E-911, if there is any confusion, please let me know, if you can.

A. OK.

Q. OK. From where do calls to 911 come from -- from where do calls to 911 come from? What are the sources of calls for 911, or the mechanisms one can use to call 911?

A. You can call from your home phone, which we consider a landline. You can call from a wireless device, cell phone. You can use a computer, which is voice over IP. Some homes have voice over IP. And you can get into the 911 system by pressing the fire alarm boxes.

Q. Are there any other mechanisms one can use to call 911?

A. The general public has no other way to get into 911.

Q. OK. Is there any way to -- how would one determine -- strike that.

Is it possible for one to determine how many calls to 911 in a given year were made from the street, as opposed to a home, office, internal structure or structure?

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

9

1 12hdgued. Guerriera

2 MR. PINES: I object to the form. You
3 can answer it.

4 A. There may be a way to search the
5 system to see if it came from pay phones.

6 Q. Are you surmising that or do you know?

7 A. I know that when calls come in, they
8 come in with a class of service, whether it is
9 residential, wireless. I don't know if we
10 currently distinguish pay phones. And we get
11 that information from Verizon.

12 Q. What is the information you get from
13 Verizon?

14 A. That's what we would have to ask to
15 gather that information.

16 Q. OK. To your knowledge, has that ever
17 been done? Has there ever been any inquiry or
18 study done by the Police Department of the
19 number of calls that would have been made from
20 the street to 911, as opposed to from landlines,
21 internal, you know, in a house or a building?

22 A. I don't know if we've ever checked
23 specifically for pay phones.

24 Q. And in addition to pay phones, is
25 there any way to tell whether -- strike that.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

10

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

12hdgued

Guerriera

Is it possible to determine the number of calls from cellular or wireless phones or communication devices that are made from the street as opposed to from a home or a building?

MR. PINES: A wireless call from a home or a building as well?

MS. SHULMAN: Yes.

MR. PINES: I see.

A. No.

Q. We talked about this generally before, but what are your responsibilities regarding the 911 system?

A. Can you -- the system itself I don't -- I'm not responsible for the system. I'm an operations guy. I make sure that people are doing what they have to do. I do report on the status of the system.

Q. OK. So your responsibility is for the persons who answer calls made to the 911 system -- through the 911 system?

A. Yes.

Q. OK. When you say report on the status of the system, what types of reports do you make -- strike that.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

15

1 12hdgued Guerriera

2 When someone calls 911, you can't block -- like
3 if you are trying -- some people try and call
4 block their ID. You can't block your caller ID
5 to 911; we always get your phone number. So ANI
6 is Caller ID. We get your phone number.

7 ALI is the location that you're
8 calling from.

9 Q. And from where does the department
10 obtain the information that's communicated to it
11 through the ANI-ALI system?

12 A. All of that information is owned or
13 maintained by the telephone service providers.

14 Q. Are you talking about -- when you say
15 "telephone service providers," are you referring
16 to the mobile service providers and landline
17 providers and the VOIP providers?

18 A. Yes.

19 Q. And does ANI-ALI -- strike that.

20 Is the Police Department able to --
21 strike that.

22 What information, if any, can the
23 Police Department obtain through the ANI-ALI
24 system when a call is made from a pay phone?

25 A. The Police Department doesn't obtain
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

16

1

12hdgued Guerriera

2

the information. We are sent the information.

3

Q. And who sends it to you?

4

A. Again, it would be the providers' information. So it's sent from the providers' database to us when the call comes in.

5

6

7

Q. And what information would be sent or -- strike that.

8

9

What information is sent when a call is made from a pay phone?

10

11

A. If there is a phone number, it should be the phone number associated with that pay phone and then the location of that pay phone.

12

13

14

Q. How is the location of a pay phone described in the ANI-ALI system?

15

16

17

A. Without looking at a specific phone, it could be either a cross street, the corner of, of front of a location, in the lobby of a location. It could be specific or -- as specific as that or very general, at the corner of.

18

19

20

21

22

Q. And the information is that which is input by the telephone service provider?

23

24

25

MR. PINES: Could you read the question back? I'm sorry.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

17

1 12hdgued Guerriera

2 (Question read)

3 BY MS. SHULMAN:

4 Q. The information as to the location of
5 a pay phone is information provided by the
6 telephone service provider?

7 A. Yes.

8 Q. OK. What, if anything -- strike that.
9 Who is responsible for monitoring the
10 accuracy of the information that is sent to the
11 Police Department through the ANI-ALI system?

12 A. That would be the owners of those
13 databases.

14 Q. The owners of the phone systems?

15 A. Or the -- Verizon has the database and
16 I don't know who enters that information into
17 their database. Intrado is another company who
18 has information in their database that we
19 access. But I don't know how it gets into
20 those -- physically gets into those databases.

21 Q. What, if anything -- strike that.

22 Are Verizon and Intrado required to
23 provide accurate information?

24 MR. PINES: Objection to the form.

25 You can answer it, if you can.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

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

12hdgued Guerriera

Q. Does the city conduct any tests of the accuracy of information provided through the ANI-ALI system?

MR. PINES: I object to the form. You can answer.

A. Can you be a little bit more specific?

Q. Sure. What, if anything, does the city do to test whether the information it is receiving, the automatic number and location information that it is receiving from the database owners, is accurate?

MR. PINES: Objection to the form. You can answer it.

Let me just. It is just police versus city. I mean, he can tell you about the police.

MS. SHULMAN: OK.

A. We, the Police Department, will facilitate testing for the phone companies and for certain providers. We are not attesting to the accuracy. We are -- when they call in, we tell them what we see and they are testing their own accuracy.

We don't test it, if that makes sense.

Q. Yes.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

20

1

12hdgued

Guerriera

2

A. We don't test them. We verify for them what's coming in.

3

4

Q. OK. So, in other words, is it accurate to say that the database owners, who you've identified as Verizon and Intrado --

5

6

7

A. And others.

8

9

Q. -- oh, and the other phone service providers?

10

A. Right.

11

Q. So how many data bases are there? Is there more than one database?

12

13

A. There is more than one. For certain calls we go through Verizon up a certain way, and then I believe wireless calls come -- they go through a different database.

14

15

16

17

Q. And each of those databases -- does the Verizon database contain information regarding telephone numbers that are provided by service companies other than Verizon?

18

19

20

21

A. I don't know.

22

23

Q. OK. In other words, does the Verizon database contain information on telephone numbers that are AT&T telephone numbers?

24

25

A. Yes.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

23

1

12hdgued

Guerriera

2

that call -- where we're seeing that call coming from.

3

4

Q. OK. How often does Verizon do those tests?

5

6

A. Often. I don't know how often, but we get requests often from Verizon as well as other service providers to do testing.

7

8

9

Q. Does the Police Department maintain documents regarding those tests conducted by Verizon?

10

11

12

A. No.

13

14

Q. How do you know that Verizon does the tests often?

15

16

A. Because they call people who work for me and say we want to do testing, can we do it at this time. How about if I want to make 20 test calls, when can we do it?

17

18

19

So, you know, my people let me know that Verizon called and MetroPCS called, this company called, and they want to do testing. So anecdotally I hear that people are calling in asking to do tests.

20

21

22

23

24

Q. How are those tests conducted, if you know?

25

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

24

1 12hdgued Guerriera

2 A. We give them a time and a timeframe to
3 do the test calls. We alert our folks, our call
4 takers, that there will be -- that MetroPCS, for
5 example, is doing test calls, expect 20 test
6 calls from MetroPCS. So everyone is alerted.

7 And they will call -- MetroPCS will
8 call in and say this is MetroPCS. Do you see
9 what phone number I'm calling from? Where do
10 you see this call coming from?

11 And that's how we do the test.

12 Q. OK. And what are the phones that
13 they're calling from to do the tests?

14 A. I don't know.

15 Q. Oh, OK. And is that true for Verizon,
16 do you know what phones they are calling from?

17 A. No.

18 Q. So you don't know how the test is done
19 on their end?

20 A. No.

21 Q. On the Verizon end or the MetroPCS end
22 or other service providers' end?

23 A. No, I don't know.

24 Q. Do you know one way or another whether
25 the Verizon or other service providers maintain

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

25

1 12hdgued Guerriera

2 records regarding those tests?

3 A. I don't know.

4 Q. OK. And the Police Department doesn't
5 do any tests on its own of the accuracy of the
6 ANI-ALI system information?

7 A. No.

8 Q. Is it possible to tell from the
9 information that comes through the ANI-ALI
10 system whether a call to 911 is being made from
11 a pay phone?

12 A. That goes back to one of the previous
13 questions, where we are supposed to get a class
14 of service.

15 Q. Oh, right.

16 A. And I'm not sure if we distinguish
17 that class of service that it's a pay phone.

18 Q. OK. When was the -- when did the
19 Police Department implement the ANI-ALI system?

20 MR. PINES: Objection to the form.
21 You can answer.

22 Q. Start using the ANI-ALI system? If
23 that is more clear.

24 A. I don't know exactly when. It is a
25 number of years ago. That's what the enhanced

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

32

1 12hdgued Guerriera

2 A. Yes.

3 Q. OK. And since when has it been
4 effective, if you know?

5 A. Since then.

6 Q. Since then. OK.

7 Now, it says here, "The ALI-ANI
8 database is now virtually 100 percent accurate."

9 If you know, what are the facts which
10 show that the database is now virtually
11 100 percent accurate?

12 A. By the numbers of discrepancy reports
13 that we report and fill out.

14 Q. OK. Since when has the database been
15 virtually a hundred percent -- the ANI-ALI or
16 ALI -- is it ANI-ALI --

17 A. It's usually ANI-ALI. The number
18 comes before the location.

19 Q. So since when has the ANI-ALI
20 database --

21 MR. PINES: Just say ANI-ALI. You
22 don't have to spell it.

23 MS. SHULMAN: Sorry.

24 Q. Since when has the ANI-ALI database
25 been virtually 100 percent accurate?

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

38

1 12hdgued Guerriera

2 regarding information -- strike that.

3 I am trying to make this as clear as
4 possible and I certainly haven't succeeded yet.

5 But the Police Department only has
6 accuracy regarding information about calls
7 which -- ANI-ALI information about calls which
8 were made to 911, correct?

9 MR. PINES: Objection to the form.

10 Read it back.

11 (Question read)

12 MS. SHULMAN: I will rephrase it.

13 Q. The Police Department -- strike that.

14 Do you have any information regarding
15 the accuracy of the ANI-ALI database information
16 other than information regarding numbers from
17 which calls were made to 911?

18 MR. PINES: I object to the form, but
19 you can answer the question.

20 A. I don't have that information.

21 Q. OK. So when it says -- when you said
22 that the ANI-ALI system is approximately
23 100 percent accurate, that's based on the calls
24 that have been made to 911?

25 A. That's correct.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

39

1 12hdgued Guerriera

2 Q. OK. That's not a statement that
3 refers to the accuracy of the entire database?

4 A. That's correct. Yes.

5 Q. OK. Sorry. That is a kind of
6 tortuous way of getting that out.

7 And is there an entry in ANI-ALI for
8 every phone that's in the city?

9 MR. PINES: I'm sorry. Read that
10 back.

11 (Question read)

12 MR. PINES: Objection to form.

13 You can answer.

14 A. Theoretically, there should be an
15 ANI-ALI for every landline in the city. There
16 are certain cell phone calls that do not come in
17 with a phone number.

18 Q. What would be the reason for that?

19 A. Something called an uninitiated phone.
20 That phone may be a prepaid phone, it may be a
21 stolen or cloned phone, where there is no
22 billing information on that and we wouldn't get
23 a phone number on that phone.

24 Q. Is there an ANI-ALI entry for every
25 pay phone in the city?

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

44

1 12hdgued Guerriera

2 MS. SHULMAN: 1818. So just give me
3 back the other two pages.

4 BY MS. SHULMAN:

5 Q. What is 1818?

6 A. It's a memo that was put out by my
7 office alerting people to a new caption that was
8 put onto the discrepancy report.

9 Q. OK. Is there any monitoring that the
10 Police Department does to ensure that a
11 discrepancy report is prepared every time an
12 operator is notified of a discrepancy?

13 A. No.

14 Q. Is the operator the only person
15 responsible for recording a discrepancy for the
16 Police Department?

17 MR. PINES: With respect to 911 calls?

18 MS. SHULMAN: Yes.

19 A. Yes.

20 Q. And there is no -- how, if at all, is
21 a response to a call placed to 911 impacted by
22 whether or not a discrepancy report is prepared?

23 MR. PINES: Objection to the form.

24 You can answer.

25 A. I don't understand that question.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

45

1 12hdgued Guerriera

2 Q. I'm not surprised because it wasn't a
3 very good one.

4 In the event that there is a
5 discrepancy in the ANI-ALI information, will a
6 caller receive an emergency response, if
7 necessary, even if a discrepancy report is not
8 prepared?

9 A. Yes.

10 Q. OK. And is there any other -- strike
11 that.

12 The discrepancy report is the only
13 record regarding any discrepancy between -- any
14 inaccuracy in the ANI-ALI information?

15 MR. PINES: Objection to form.

16 Q. That the Police Department has?

17 A. Yes.

18 Q. And if an operator who is advised of a
19 discrepancy doesn't prepare a discrepancy
20 report, the Police Department has no other means
21 of knowing about the discrepancy?

22 A. Correct, unless it was brought to us
23 by some other means, but yes.

24 Q. OK. In other words, that would be the
25 only record of a discrepancy of which an

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

54

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

12hdgued
Guerriera
that, which is what the ANI gave us.
Q. Is a SPRINT report prepared for every
call made to 911?
A. No.
Q. For what types of calls is a SPRINT
report prepared?
A. For any crime, any fire response, any
police response, any EMS response.
Q. When would a SPRINT report not be
prepared for a call to 911?
A. It might not be prepared if someone --
if it is a 311 transfer, if it is a mistaken
call, a misdial.
Q. How many calls per year generally is a
SPRINT report not prepared for, if you know?
A. I couldn't tell without looking at the
records.
Q. Are there records that show that?
A. Yeah. Well, there are records that
show how many calls come in and then how many
SPRINT reports are prepared.
Q. I see. And what type of document
would that record be?
A. It is one of my either yearly or --
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

57

1 12hdgued Guerriera

2 ahead. Ask me.

3 Q. OK. Is the document on this page 1819
4 a SPRINT report?

5 A. Yes.

6 Q. OK. Now, does anything on here state
7 whether the call came from a pay phone?

8 A. I can't say -- I see where it looks
9 like it's coming from. I can't testify that
10 that's what that means, though, because I don't
11 know. You see where it says "COS dollar sign
12 2WY"?

13 Q. Mm-hmm.

14 A. I can't testify whether that means pay
15 phone, but that's where the type of service
16 would be.

17 Q. OK. Does "COS" mean class of service?

18 A. Yes.

19 Q. So you don't know whether dollar sign
20 2WY refers to a pay phone?

21 A. Right. I can't testify to that.

22 Q. Or whether there is a code for that
23 field that refers to pay phones?

24 A. I don't know.

25 Q. Now, if you look on 1820, it says at
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

70

1 12hdgued Guerriera

2 Q. OK. Got you. OK.

3 You can put these away for now.

4 Now, we touched on this before, but
5 how is the ANI-ALI system able to provide the --
6 able to identify the location of a public
7 telephone from which a call for emergency
8 services is made?

9 MR. PINES: Objection to the form.
10 You can answer.

11 A. That information should be in the
12 database.

13 Q. So it would be information entered by
14 the owner of the phone?

15 A. Yes.

16 Q. In one of the databases that supplies
17 information to the Police Department?

18 A. Yes.

19 Q. And that's all automatically
20 transmitted to the Police Department when the
21 call is made from the phone?

22 A. No. The way it works is that when the
23 call comes in, the phone number comes in, we
24 always know -- if there is a phone number that
25 we can get, the phone number always comes in.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

71

1 12hdgued Guerriera
2 Then our computer system sends that phone number
3 out to Verizon, and then it comes back with the
4 information. Very quickly.

5 Q. Are there any occasions in which the
6 computer sends a phone number out to Verizon and
7 no location information comes back?

8 A. I don't know.

9 Q. Are there any records that would show
10 that, whether that's happened?

11 A. Probably it would be a discrepancy
12 report.

13 Q. Is there any other document that would
14 show when there is not -- well, that wouldn't be
15 a discrepancy, right, because there is no
16 difference in information? So is there any --

17 A. Well --

18 Q. Sorry. Go ahead.

19 A. The operator might -- would tell
20 someone, listen, this came back with no
21 information, came back or didn't come back.

22 Q. OK. Who would the operator tell?

23 A. A supervisor.

24 Q. OK. So that's not something that --
25 that's a type of instance -- strike that.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

72

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

12hdgued Guerriera
The absence of location information
might not be reported in an ALI-ANI -- ANI-ALI
report?

A. Correct.

Q. It might be orally communicated to a
supervisor?

A. Yes.

Q. Are any records maintained of that
type of situation, when there is no location
information?

MR. PINES: Objection to the form, but
you can answer it.

A. I don't believe we keep any records.
We would call -- we would call that in to
Verizon, and they would have what they call a
ticket.

Q. So the communication to Verizon
regarding a number that didn't come back with
location information would be orally transmitted
to Verizon?

A. Yes.

MR. PINES: Objection to the form.
You can answer it.

A. Yes. We call them on a -- I forget
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

73

1 12hdgued Guerriera
2 what it's called. It's a service number.
3 Q. A service number, OK.
4 Are any records of that call
5 maintained by the Police Department?
6 A. No.
7 Q. Have you ever had to make that type of
8 call, or have you every made that type of call?
9 MR. PINES: Specifically for location
10 information?
11 Q. For the location information.
12 A. No.
13 Q. Do you know anyone who has?
14 A. No.
15 Q. Is there a written procedure that
16 addresses what an operator should do when there
17 is no location information?
18 MR. PINES: Objection to the form.
19 You can answer.
20 A. It's more of a general procedure. If
21 there is any anomalies with the system, they
22 should notify a supervisor.
23 Q. Is that what you were -- strike that.
24 So do you have specific information --
25 strike that.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

74

1 12hdgued

Guerriera

2 How do you know that an operator might
3 tell a supervisor when there was no location
4 information?

5 MR. PINES: Objection to the form.
6 You can answer.

7 A. I'm sorry. Repeat it.

8 Q. On what were you basing your statement
9 that an operator might tell a supervisor orally,
10 as opposed to preparing a written form, that
11 there was no location information?

12 MR. PINES: Objection to the form.
13 Go ahead.

14 A. Anecdotally, there are sometimes when
15 one of the computers fails a module, and the
16 operator says I have a problem with this. I
17 hear stories. You know, we had a problem with
18 two or three computers, we had to replace
19 something.

20 Q. OK.

21 A. And it got fixed.

22 Q. OK. Have you heard anecdotally of
23 instances in which there was no location
24 information with a call?

25 A. Yes.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

75

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

12hdgued

Guerriera

Q. How did you hear that information?

A. From my -- someone -- one of my supervisors.

Q. Someone who reports to you?

A. Yes.

Q. OK. When was that?

A. Oh, I don't remember.

Q. Was it one time or more than once?

A. It may -- there was probably more than one occasion.

Q. Do you remember when any of those occasions were?

A. No.

Q. Do you remember -- do you have any approximation -- and I don't want you to guess, but if you can approximate the number of occasions that happened, I would like you to give an estimate.

A. No.

Q. You don't know whether it was more than five, less than five?

A. No.

Q. OK. One way or another?

A. Yes. I don't know.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

76

1 12hdgued Guerriera

2 Q. OK. And you don't know one way or
3 another whether other supervisors -- strike
4 that -- whether other commanding -- are you the
5 only commanding officer of the communications
6 section?

7 A. Yes.

8 Q. You don't know whether supervisors
9 other than the ones who reported instances of no
10 location to you have been advised that there was
11 no location information?

12 MR. PINES: Objection to form.
13 You can answer it.

14 A. I don't know.

15 Q. Let me try to make that awful question
16 clearer.

17 You don't know one way or another
18 whether persons other than yourselves -- other
19 than the supervisors who reported to you -- have
20 been advised that there was no location
21 information in the ANI-ALI system?

22 A. Correct.

23 Q. OK. What, if you know, currently is a
24 way that a deaf or hearing impaired person can
25 contact 911 from the street other than by using

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

77

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

12hdgued Guerriera

an alarm box?

A. They could use a cell phone.

Q. Do you know one way or another whether deaf people can use cell phones?

A. I don't know. They could use a pay phone.

Q. How would a deaf person use a pay phone to call 911?

A. They can dial 911 and then use the tapping procedure.

Q. Can they also remain silent?

A. Yes.

Q. What is the tapping procedure that you are referring to?

A. It is a procedure that we've used for deaf and hard of hearing, hearing impaired people so that if they are at a location and they can't communicate with us, that they -- they tap. If it is a steady tap, it is for police. If it is a quicker tap, they want some sort of fire assistance.

(Indicating)

MS. SHULMAN: Can you just read that back?

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

78

1 12hdgued Guerriera

2 (Answer read)

3 Q. So how quickly would a deaf person
4 have to tap to seek fire assistance through a
5 pay phone?

6 A. Like a steady double tap, like a
7 (indicating).

8 Q. A sort of steady double tap?

9 A. Yes.

10 Q. How would a deaf person know if a
11 payphone -- if the phone is not working, it
12 can't be used to call 911, right?

13 MR. PINES: Objection to form.

14 A. What do you mean by "not working"? If
15 you had a dial tone, yes. If you can't put
16 money in it, you know, you can dial 911 even if
17 the mechanism is broken. As long as you have a
18 dial tone you can get 911.

19 Q. If there is no dial tone you can't get
20 911?

21 A. No.

22 Q. And if there is no handset you can't
23 call 911 because you can't hear if there is a
24 dial tone, right?

25 A. Correct.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

79

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

12hdgued Guerriera

Q. How, if you know, is a deaf person able to determine whether there is a dial tone on a pay phone?

MR. PINES: Objection to form. You can answer.

A. I wouldn't know.

Q. OK. Now, what happens if a call comes into 911 where the operator does not hear -- strike that.

What's the procedure for silent calls that you mentioned that come to 911?

A. It becomes -- it's very subjective. If it's a silent call, nothing on the line, more than likely we would not send on that. They are taught that you have to listen in the background, and if you hear something that would indicate some sort of response, a commotion, people yelling, a fight, there is some sort of disturbance, then they send on that. But silent calls are -- it is very subjective on a totally silent call.

Q. What about a silent call -- what about a call in which there is no communication from a caller but there is ambient street noise heard

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

82

1 12hdgued Guerriera
2 and the hearing impaired?" the second paragraph
3 says: "The NYPD" -- strike that.
4 The second sentence of that second
5 paragraph says: "When a hearing or speech
6 impaired person calls 911, they can use the
7 tapping protocol or can remain silent or the
8 call will come in with a tone alert from the
9 caller's TTY, and the NYPD" -- it says "we will
10 automatically engage the TDD to respond."
11 Is the "remain silent" portion of that
12 accurate?
13 A. No. As far as I'm concerned, it's not
14 accurate.
15 Q. OK. Have you communicated -- strike
16 that.
17 You can put that aside.
18 You submitted a declaration in this
19 case.
20 A. Yes.
21 Q. And is it your understanding that that
22 declaration was in support of a motion to remove
23 the alarm boxes that are on the street?
24 A. Yes.
25 Q. What is the alternative to alarm boxes

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

83

1 12hdgued Guerriera
2 that the city is proposing deaf people use to
3 report emergencies from the street?

4 MR. PINES: Objection to the form.
5 You can answer it.

6 A. I'm not sure what the city is
7 proposing. I mean, they can --

8 Q. Do you have an understanding -- is it
9 your understanding that any city agency is
10 making any proposed alternative to alarm boxes
11 in connection with the city's --

12 A. The pay phones.

13 Q. Who is proposing the pay phones?

14 A. I don't know.

15 Q. So how do you know that that is a
16 proposal?

17 A. I'm not sure. I'm saying that's an
18 alternative. I don't know what -- I said I
19 didn't know what the city was proposing.

20 Q. Is the Police Department proposing
21 there be any notification -- strike that.

22 Is the Police Department proposing any
23 alternative to alarm boxes that deaf people use
24 to report emergencies from the street in
25 connection with the motion?

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

84

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

12hdgued

Guerriera

MR. PINES: I am going to object.
You can answer, if you can.

A. Not that I know of.

Q. Do you know whether the Fire
Department is making any proposed --
miniproposal for another form -- excuse me.

What, if you know, is the notification
alternative to alarm boxes that the Fire
Department, if anything, is proposing as an
alternative to alarm boxes for reporting
emergencies from the street?

MR. PINES: Objection to the form.
You can answer the question.

A. I don't know.

Q. Why, if you know, is the city moving
to modify or vacate the injunction now, as
opposed to anytime within the last 14 years, or
I should say 10 years?

MR. PINES: Objection.

You can answer the question.

A. I don't know why the city is.

Q. OK. Have you had -- other than
communications with your attorney, with the
city's attorney, have you communicated with

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

91

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

12hdgued

Guerriera

A. I don't know to what -- whomever wrote this, I don't know to what they were referring. So I don't know.

Q. Are you aware of any changes in technology that would allow the call boxes to be deactivated without jeopardizing public safety?

MR. PINES: Objection to the form.

You can answer the question.

Q. I'm not talking about --

A. You are not talking about this?

Q. I'm not talking about what he's saying.

I'm asking you, what is your understanding as to whether there have been changes in technology over the last 15 years that would allow call boxes to be deactivated without jeopardizing public safety?

MR. PINES: I still have an objection to form, but you can answer the question.

A. The proliferation of cell phones by the general public and the fact that we are getting better and better with the locations.

Q. Meaning the -- when you say "better and better with locations," you mean the

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

92

1 12hdgued Guerriera

2 latitude-longitude information?

3 A. Yes.

4 Q. And that's for cell phones -- that's
5 information that corresponds to a call placed
6 from a cell phone?

7 A. Yes.

8 Q. I would like to show you -- you can
9 put that aside.

10 (Plaintiff's Exhibit 000 marked for
11 identification)

12 Q. What you have been handed is a
13 document that contains -- that has Bates numbers
14 NYC 7633 to 7634. If you can just take a moment
15 to review this.

16 It is a series of e-mails that have
17 been sent or received by Stephen Rush, Caroline
18 Kretz and/or Michael Vecchi.

19 (Pause)

20 A. OK.

21 Q. OK. If you look at the top, it says
22 "NYPD" -- strike that.

23 The middle e-mail from Michael Vecchi
24 says: "I do not know what the NYPD's position
25 on the proposal is."

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

98

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

12hdgued
Guerriera
any tests of the tapping protocol on any types
of phones?
A. Could you just clarify? What you do
you mean by "tests"?
Q. Has the Police Department conducted
any tests of the tapping protocol and whether
call takers have responded to the tapping
protocol -- and how call takers responded to the
tapping protocol?
A. No.
Q. Then that's true so that there's been
no tests of a call taker's response to the
tapping protocol for calls coming from pay
phones?
A. Correct.
Q. And has the Police Department
conducted any tests of the tapping protocol as
communicated through an ERS alarm box?
A. No.
Q. OK. If you look at what's been marked
as triple P, have you ever seen this before?
A. Most likely, I've seen this memo
before.
Q. Do you recall seeing it or you --
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

109

1 12hdgued Guerriera
2 don't do EMS calls. We do listen to the initial
3 call for EMS but we conference them in and they
4 handle the rest of the call.

5 This sentence is referring that in the
6 final end state of UCT was going to be that the
7 UCT will handle the call from beginning to end
8 and never conference in fire or EMS and they
9 would handle the whole call.

10 Q. When is that transition expected to be
11 completed?

12 A. There is no date right now on that.

13 Q. What is the current status?

14 A. Right now, obviously we handle all of
15 the police calls and we handle the fire calls.
16 However, we're in a modified position.
17 Originally, we were going to handle fire calls
18 to the end and not conference in fire. Now what
19 we're doing is we're taking the information for
20 the fire call. We're prereleasing it to the
21 fire decision dispatcher, but before we hang up
22 we conference that person in to the fire IARD to
23 verify the address the second time.

24 And then with EMS, we take the initial
25 information. We figure out what's going on,

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

110

1

12hdgued Guerriera

2

whether it's a crime related to the medical condition, and then we conference in EMS and they handle the questioning, the medical triage questioning.

3

4

5

6

Q. OK. When you said now handle fire calls, you meant your PCTs receive them and conference in fire if it is a fire call?

7

8

9

A. We receive the call and we actually process the call.

10

11

Q. OK. What does that mean?

12

A. We enter all the information and send it over to the fire dispatcher before we even conference in the fire call taker. So the whole purpose of UCT was to reduce response times and eliminate the caller from having to tell his or her story to two different people. So we get the information, get it out to the dispatcher so he can dispatch it, and then we -- there were a few issues with address errors so that the Fire Department decided they wanted to listen to the address a second time.

13

14

15

16

17

18

19

20

21

22

Q. What were the issues with address errors?

23

24

25

A. There were -- there are a small number
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

111

1 12hdgued Guerriera

2 of occasions when the police call taker will get
3 the address incorrectly and enter an incorrect
4 address into the SPRINT system.

5 Q. And where would they get the incorrect
6 address from?

7 A. Some are caller errors. Some are
8 communication errors between people who have
9 thick accents and they can't get it, and others
10 are genuine mistakes on the part of the Police
11 Department call taker, just put their -- they
12 transpose a number, they leave a number out,
13 something like that, where they get the address
14 wrong. Human error.

15 Q. Human error. OK.

16 And is the ANI-ALI address information
17 transmitted as well?

18 MR. PINES: I'm sorry. I object to
19 the form. In what --

20 MS. SHULMAN: I mean, from the police
21 to the Fire Department.

22 A. Yes. It is.

23 Q. OK. Along with the address
24 information taken down by the call taker?

25 A. Yes.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

112
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

12hdgued Guerriera

Q. OK. So which addresses were there problems with that caused the Fire Department to ask for an address verification process?

MR. PINES: Can I have the question read back?

(Question read)

MR. PINES: Objection to the form. You can answer.

Q. The address entered by the call taker or the ANI-ALI address?

MR. PINES: Objection to the form. You can answer it.

A. They requested to get on the phone after there were a series of mistakes made by Police Department call takers. They requested a change in the process, in the call flow process, not for specific incidents.

Q. OK. To make this easier, what was the process before this change occurred?

A. Before UCT, if a call came in and the person -- if it was a call for the Fire Department, we would get the address for ourselves.

Q. From the person calling?

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

113

1

12hdgued Guerriera

2

A. From the person. We would get the address from the caller. Code it as we would normally code it for a Police Department response. The person said my house is on fire. We would immediately conference in the Fire Department. They would then requestion the person again and enter their own information into their own Starfire System.

3

4

5

6

7

8

9

10

Q. Where would they get that information from?

11

12

A. From the caller.

13

And back then, we could not transmit the ANI-ALI to them.

14

15

Q. OK. What period of time was that process you just described used, in what period of time?

16

17

18

A. That was since the dawn of 911 until May of '09.

19

20

Q. OK. And what's been the process since May of '09?

21

22

A. It's changed in between then.

23

Q. OK.

24

A. From May through October or November of '09 -- I don't know which date -- was when we

25

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

114

1 12hdgued Guerriera
2 started the UCT calling. The Police Department
3 operator got the call, entered the information
4 into the SPRINT system, and the SPRINT system
5 sent it right to the Fire Department dispatcher.
6 We never -- and then we did not conference in
7 anyone. There were very specific occasions when
8 we would conference -- only if there was a
9 trapped caller or if we couldn't get an address
10 for some reason.

11 Q. OK. Before May 2009, was the ANI-ALI
12 address information transmitted to the Fire
13 Department when a caller requested fire service?

14 A. No.

15 Q. OK. And so how in that case would the
16 Fire Department know the address to which it
17 should send emergency service responses?

18 A. They queried the caller.

19 Q. OK. And if the caller was deaf, how
20 would they know the address to send a fire truck
21 to?

22 A. Then they would ask us, do you have an
23 ANI-ALI -- well, we wouldn't -- well, let me
24 rephrase.

25

We wouldn't conference a deaf person
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

115

1 12hdgued Guerriera
2 into them because we would have no communication
3 with them.

4 Q. OK. So what would you do in that
5 instance?

6 A. We would have to just call --
7 conference them in and just tell them we have a
8 deaf tap coming from this address, our ANI-ALI
9 address.

10 Q. And the caller would be on the line at
11 that point or wouldn't?

12 A. May or may not.

13 Q. OK. So then police would send a
14 response and fire would send a response?

15 A. Right.

16 Q. OK. And after May 2009, what's been
17 the procedure for handling double-tap calls?

18 A. We would get the call, and they would
19 double tap. If it was a 59, a fire, we would
20 just hit -- type the call as a 59Q. It would be
21 electronically sent to the decision dispatcher.
22 Whatever they -- you know, whatever resources
23 they send, they would send. And we would not
24 conference in any caller.

25 Q. OK. You mentioned that there was
SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

116

1 12hdgued Guerriera
2 another iteration of the process since May 2009
3 regarding calls for fire assistance. What was
4 that other process?

5 A. Between May and either October or
6 November, there were a small number of mistakes
7 that were made by Police Department call takers
8 and they were pretty well publicized. And the
9 union had a grievance, the Fire Department
10 union. So we got together and we decided to
11 modify the call taking procedure.

12 So now instead of just getting the
13 call and sending the information electronically,
14 we get the call, we send the them information
15 electronically, but then we also, in addition,
16 conference in the caller.

17 Q. OK.

18 A. So that they can reverify the address.

19 Q. To the Fire Department?

20 A. To the Fire Department.

21 Q. What is a small number of mistakes?

22 A. I don't have the numbers in front of
23 me. But it averaged -- some of the months was
24 .0002 to .0004 was the error rate. That's the
25 percentage of errors that -- the number of calls

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

129

1 12hdgued Guerriera

2 the form of the question.

3 A. I don't know how they would have been
4 informed.

5 Q. Do you know if they were informed?

6 A. I don't know.

7 Q. Do you know which deaf, hearing
8 impaired and speech impaired persons were
9 informed?

10 A. No. I wasn't around in '96.

11 Q. Since 1996, are you aware of any
12 attempts by the Police Department to advise
13 deaf, hearing impaired or speech impaired
14 persons on the tapping procedure?

15 A. No.

16 Q. OK. If you look at -- do the
17 instructions on E1, do these apply to calls to
18 E-911 from all phones, all types of phones?

19 A. Back in '96, hardly anybody had a cell
20 phone but --

21 Q. All types of phones that were in
22 existence at that time?

23 A. Yes.

24 Q. Does this also apply to alarm boxes,
25 the ERS boxes?

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

130

1 12hdgued Guerriera

2 A. No, not according to this. And I
3 don't know what year we got the blue button.

4 Q. OK. Is there any difference in the
5 procedure used -- since you have been commanding
6 officer, what, if any, difference has there been
7 in the way call takers handle deaf tap calls
8 made via the blue button on an ERS box other
9 than -- as opposed to phones?

10 A. There is no difference.

11 Q. OK. If you look at E2, it says: "The
12 hearing impaired and speech impaired communities
13 use a specific series of taps to request
14 emergency assistance."

15 Which hearing impaired and speech
16 impaired communities is that referring to, if
17 you know?

18 A. I don't know.

19 Q. And how, if you know, does the --
20 strike that.

21 How does the Police Department, or did
22 the Police Department know that the hearing
23 impaired and speech impaired community used a
24 series of taps to request emergency assistance?

25 A. I don't know.

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300

152

1 12hdgued Guerriera

2 A. We won't go.

3 Q. OK. That's true for all hours of the
4 day?

5 A. Yes.

6 Q. Since when has that been the case?
7 MR. PINES: Objection to the form.
8 You can answer.

9 A. As long as I --

10 Q. To your knowledge?

11 A. As long as I've been there.

12 Q. OK. What, if any, records does the
13 Police Department maintain of ERS blue button
14 alarm triggers that are not responded to?

15 A. We don't keep any records of that.

16 Q. OK. Does the Police Department keep
17 any records of triggers of the blue button ERS
18 box or alarm?

19 MR. PINES: Sorry. Could I have the
20 question back?

21 MS. SHULMAN: Let me rephrase it.

22 Q. Does the Police Department maintain
23 any records of -- regarding triggers of the blue
24 button on the ERS boxes?

25 A. I don't know if it is in any of my
SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

153

1 12hdgued Guerriera

2 reports but it can be searched.

3 Q. What would one search to look for that
4 information?

5 A. The class of service would come up.

6 Q. OK. So if a call taker received a
7 response -- strike that.

8 For nonsilent calls made from an ERS
9 box, the call taker inputs a SPRINT entry?

10 Strike that.

11 What does a call taker do when they
12 receive a call from a blue button on an ERS box?

13 A. It depends what they hear. You
14 know --

15 Q. So what are the various circumstances
16 that that may happen?

17 A. Someone communicates with them that
18 something's -- that they need police assistance,
19 and they'll code it as that -- as it is needed.

20 Q. In the SPRINT system?

21 A. In the SPRINT System.

22 Q. OK. What is the other potential
23 circumstance?

24 A. That's it. Or they hear -- no one is
25 communicating but they hear shouting or a fight

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

154

1

12hdgued Guerriera

2

or sirens in the background or something like
3 there is a fire or something, they'll put
4 something in.

3

4

5

Q. OK. What about if they hear double
6 taps?

6

7

A. They'll put a 59Q.

8

Q. And e-mail it and transmit it to fire?

9

A. Yes. Correct.

10

Q. What if they hear any form of tapping?

11

A. Then they'll probably put in a 1010Y,
12 which is a police response.

13

Q. If they don't hear any of those types
14 of responses, or any of the noise you mentioned,
15 then the call is terminated and no report is
16 generated?

14

15

16

A. Correct.

17

18

Q. OK. I would just like to show you
19 what's marked as Exhibit S.

19

20

Have you ever seen this document
21 before?

21

22

A. No.

23

Q. OK. Can you tell whether it is a
24 police document or fire document?

24

25

A. This is not a police document.

SOUTHERN DISTRICT REPORTERS, P.C.

(212) 805-0300

157

1 12hdgued Guerriera

2 Q. OK. Are you aware of any tests
3 conducted by the Police Department at all
4 regarding the deaf tap procedure, whether on
5 phones or ERS boxes?

6 A. No.

7 Q. OK. And I mean at any time.

8 A. No.

9 Q. OK. You can put that aside.

10 MS. SHULMAN: I think that's it.

11 (Pause)

12 I'm done. Thank you very much for
13 your time today, Mr. Guerriera.

14 THE WITNESS: You are welcome.

15 MR. PINES: No questions.

16 We are reserving our right to review
17 and everything else.

18 MS. SHULMAN: Yes.

19 (Time noted at 2:53 p.m.)

20

20

21

VINCENT GUERRIERA

21

22

22 Subscribed and sworn to
23 before me this day
23 of 2011.

24

24

25

SOUTHERN DISTRICT REPORTERS, P.C.
(212) 805-0300