

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE CENTRAL DISTRICT OF ILLINOIS  
3 STATE OF ILLINOIS

4 GORDON RANDY STEIDL, )  
5 Plaintiff, )  
6 vs. ) No. 05-CV-2127  
7 CITY OF PARIS, Present and Former )  
8 Paris Police Officials Chief Gene )  
9 Ray and Detective James Parrish; )  
10 former Illinois State Trooper Jack )  
11 Eckerty; former Edgar County )  
12 State's Attorney Michael )  
13 McFatrige; EDGAR COUNTY; and )  
14 Illinois State Police Officials )  
15 Steven M. Fermon, Diane Carper, )  
16 Charles E. Brueggemann, Andre )  
17 Parker and Kenneth Kaupus, )  
18 Defendants. )

11 ----- )  
12 HERBERT WHITLOCK, )  
13 Plaintiff, ) No 08-CV-2055  
14 vs. )  
15 CITY OF PARIS, Present and Former )  
16 Paris Police Officials Chief Gene )  
17 Ray and Detective James Parrish; )  
18 former Illinois State Trooper Jack )  
19 Eckerty; former Edgar County )  
20 State's Attorney Michael )  
21 McFatrige; EDGAR COUNTY; and )  
22 Illinois State Police Officials )  
23 Steven M. Fermon, Diane Carper, )  
24 Charles E. Brueggemann, Andre )  
Parker, Kenneth Kaupus and Jeff )  
Marlow; and Deborah Rienbolt, )  
Defendants. )

21 DEPOSITION OF JACK ECKERTY  
22 July 23rd, 2009  
23 10:00 AM

22 Amy Prillaman Neubaum: CSR #084-003275  
23 Area Wide Reporting and Video Conferencing  
24 301 West White Street  
Champaign, Illinois 61820

(800) 747-6789

I N D E X

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ALSO PRESENT:

Mr. Jeff Marlow  
Mr. James Parrish

EXAMINATION BY:

BY: MR. FLINT TAYLOR: 5

Eckerty Group Exhibit 1 15



1 (Commencing at 10:04 a.m.)

2 JACK ECKERTY,

3 having been first duly sworn, testified as follows:

4 MS. EKL: Before we get started I just  
5 wanted to put on the record as I have in regard to my  
6 other clients that we have agreed to present  
7 Mr. Eckerty for two days of testimony, today and  
8 tomorrow, that we do intend that the testimony be  
9 concluded at the end of the second day.

10 Mr. Eckerty has indicated that he is  
11 willing to go long and late if need be to complete  
12 all of your questioning, but please keep in mind and  
13 apportion your time appropriately so that we can  
14 complete it in two days.

15 MR. TAYLOR: We will do the best we can and  
16 we will see where we're at when we finish.

17 EXAMINATION:

18 BY: MR. FLINT TAYLOR:

19 Q. Could you state your name, spell your last  
20 name for the record, please.

21 A. Jack Eckerty, E C K E R T Y.

22 Q. And Mr. Eckerty, you are a defendant in  
23 these two lawsuits, the Whitlock and Steidl cases --

24 A. Yes, sir.

1 Q. -- is that correct? And you have been a  
2 defendant in the Steidl case since May of 19 -- I  
3 mean 2005; is that right?

4 A. Since it started.

5 Q. Yes. And you were served approximately a  
6 month after it was filed in June of 2005; is that  
7 right?

8 A. I don't remember the date, but probably  
9 that date. I'd have to see something to -- for a  
10 particular date, but --

11 Q. Well, within a few weeks of being served  
12 you contacted the brass at the ISP to get the files,  
13 isn't that right?

14 MS. EKL: Objection to the form of the  
15 question. You can answer.

16 A. I contacted -- could you --

17 Q. You contacted persons within the ISP to  
18 obtain files with regard to the case, didn't you?

19 A. Yes, I did.

20 Q. And who did you contact?

21 A. Randy Rushing.

22 Q. And who is he?

23 A. You know, Mr. Taylor, I don't know his  
24 title. He's in the director's office. I don't know

1 his title.

2 Q. And the director at that time was whom?

3 A. Larry Trent.

4 Q. All right. And, sir, was he a colonel or a  
5 commander or -- Rushing.

6 A. Rushing? You know, I don't know if he --  
7 he's retired and he was on a call back, so I don't  
8 know if he was part of the uniform or part of a  
9 civilian. I just don't know his position. I knew  
10 him from years previous.

11 Q. Okay. And where was he in relationship to  
12 the chain of command with Trent, the director?

13 MR. ACKERMAN: Object to the lack of  
14 foundation.

15 MR. TAYLOR: Who was that?

16 MR. ACKERMAN: That was Phil Ackerman.

17 A. I'm not sure what rank he was or what  
18 relationship to him he was. He was in the office.

19 Q. Why did you contact him?

20 A. I knew him personally.

21 Q. Uh-huh. And you had worked with him back  
22 when you were in the --

23 A. Yes, sir.

24 Q. Okay. And in fact you became an Illinois

1 State Police officer in '68, am I right?

2 A. Yes, sir.

3 Q. And you went to the Academy in '67?

4 A. Yes, sir.

5 Q. All right. And you received certain  
6 training before you became an officer; is that right?

7 A. Yes, sir.

8 Q. Okay. And where was that training  
9 obtained?

10 A. Springfield, Illinois.

11 Q. When you were first assigned were you  
12 assigned as an officer, patrol officer?

13 A. Yes, sir.

14 Q. And what district or zone were you assigned  
15 to?

16 A. District 10.

17 Q. All right. And did you have a partner at  
18 that time?

19 A. A training partner.

20 Q. And who was that?

21 A. Oh, Trooper Gene Crean, C R E A N.

22 Q. Where in your career from '67 to your  
23 retirement in '93 -- am I right, you retired in '93?

24 A. Yes, sir.



1 Q. Where did you first start to deal with  
2 Rushing?

3 A. Probably when I was in DCI or CIB.

4 Q. When was that?

5 A. In '75, '76.

6 Q. What's CIB?

7 A. Criminal Investigation Bureau.

8 Q. And is that out of Springfield or Champaign  
9 or where is that out of?

10 A. Well, it's with the state police.

11 Q. Uh-huh.

12 A. Out of Springfield. Champaign. The same  
13 as DCI is now.

14 Q. Okay. Now, what was your rank and what was  
15 his rank at that time?

16 A. It would be troopers, investigators.

17 Q. So you were of equal rank at that time?

18 A. Yes, sir.

19 Q. And did you work as partners?

20 A. No, sir. Went to the Academy, detective  
21 school together.

22 Q. Uh-huh. When did you go to detective  
23 school?

24 A. In 1976.

1 Q. And after you went to detective school with  
2 him you say did you then work with him in CBI?

3 Rushing that is.

4 A. I don't think I ever actually -- I don't  
5 remember ever actually working a case with him, we  
6 were just in the same unit or same division of the  
7 state police.

8 Q. And did you work out of the same  
9 headquarters?

10 A. No, sir.

11 Q. Did you ever work cases with him?

12 A. Not to my knowledge.

13 Q. Were you ever in a direct command with him?  
14 In other words, he was above you, you were above him?

15 A. To my knowledge, no, that I can remember.

16 Q. But you -- did you have a personal  
17 relationship with him? Was he a friend of yours?

18 A. Yes, sir.

19 Q. All right. And how did you develop that  
20 friendship?

21 A. Probably by going through the DCI school or  
22 CIB school at the time, pardon me, and different  
23 trainings that we would have, I would meet with him.

24 Q. Now, after you left the Illinois State

1 Police in 1993, were you on retired status or were  
2 you working another job somewhere?

3 MS. EKL: I believe you meant to say 2003  
4 instead of 1993.

5 Q. When did you leave the Illinois State  
6 Police?

7 A. I retired?

8 Q. Uh-huh.

9 A. 1993.

10 MS. EKL: Oh. Sorry.

11 Q. And when -- after you retired did you take  
12 other employment?

13 A. Self-employed.

14 Q. And what kind of self-employment?

15 A. A boat salesman.

16 Q. Did you do that prior to retirement or did  
17 you take that up afterwards?

18 A. Yes, I did.

19 Q. And where did you -- you had a retail or  
20 wholesale or what kind of boat salesman were you?

21 A. I worked for other people.

22 Q. Okay.

23 A. Yeah.

24 Q. Did you do that before you retired as an

1       ISP officer or only afterwards?

2           A.    As a part-time job.

3           Q.    You had a part-time job.  Okay.  When did  
4 you start being a boat salesman?

5           A.    I'll estimate two years or so before I  
6 retired maybe.

7           Q.    And who did you work for?  Whom did you  
8 work for?

9           A.    Findlay Marina.

10          Q.    Where is that located?

11          A.    Lake Shelbyville.

12          Q.    And are you still working for them?

13          A.    Yes, sir.

14          Q.    So you've been working for them for 20  
15 years or so?

16          A.    Uh-huh.  I'd say so, yes.

17          Q.    And is that a full-time job now?

18          A.    No, sir.

19          Q.    Still part-time?

20          A.    Yes.

21          Q.    Do you hold any other employment?

22          A.    No, sir.

23          Q.    Do you get a pension from the Illinois  
24 State Police?

1 A. [REDACTED]

2 Q. [REDACTED]

3 A. [REDACTED]

4 Q. [REDACTED]

5 [REDACTED]

6 A. [REDACTED]

7 Q. And you left as a sergeant; is that right?

8 A. Acting master sergeant.

9 Q. Does that mean that you were not officially  
10 a sergeant? Or you were a sergeant but not a master  
11 sergeant when you left?

12 A. I left under a pay code of a master  
13 sergeant.

14 Q. Uh-huh. And that is a grade above  
15 sergeant; is that right?

16 A. Yes, sir.

17 Q. All right. And when did you become a  
18 sergeant?

19 A. You know, I don't recall. I wouldn't want  
20 to be held to it. 1984 maybe. I'm -- that is -- I  
21 don't remember. Sorry.

22 Q. Would your personnel file with the Illinois  
23 State Police reveal that?

24 A. It should, yes.

1 MR. TAYLOR: I don't think we ever got  
2 that.

3 MS. EKL: You did. I don't have it with  
4 me, I don't have the bates stamp number, but I'm sure  
5 you did. You got it through actually ISP so it  
6 should be bates stamped ISP.

7 BY MR. TAYLOR:

8 Q. Now, had you had prior contact with Rushing  
9 about the ongoing case in the sense of Steidl and  
10 Whitlock's case prior to calling him to -- to obtain  
11 the files?

12 A. No, sir.

13 Q. Had you had meetings with people within the  
14 ISP prior to you being sued in 2005?

15 A. No, sir.

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22 Q. Okay. Well, let me mark this as an  
23 exhibit. We'll call this, if I can find it, mark  
24 this as Exhibit 1, ISP 69128, et cetera.

1 MR. RAUB: Is that the one that was  
2 recently produced?

3 MS. EKL: Just for the record, because I  
4 know Phil and Iain aren't here, that's the DII report  
5 that was recently produced and pursuant to an e-mail  
6 from Mr. Johnson it should be marked confidential and  
7 we should write on the top of that since it's being  
8 marked as an exhibit.

9 MR. TAYLOR: It's marked on the bottom.

10 MS. EKL: I'm sorry. I didn't realize it  
11 was.

12 (Whereupon Eckerty Group Exhibit 1 was  
13 marked for identification.)

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

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15 [REDACTED]  
16 [REDACTED]

17 [REDACTED] [REDACTED]

18 Q. So you may have had one prior conversation  
19 with Marlow, right?

20 A. Yes.

21 Q. And I -- just so we're clear, you recognize  
22 Marlow being there with the laptop, looking very  
23 studious at this point?

24 A. Yes, sir.

1 Q. And when did you first come to deal with --  
2 know Mr. Marlow?

3 A. Before I was retired. He was a trooper,  
4 then he was assigned to DCI.

5 Q. All right. Did you know anything about his  
6 reputation within the ISP?

7 A. Not other than he was approved to come into  
8 DCI, you know.

9 Q. So he had to have a pretty good reputation  
10 to -- and track record to be approved to come into  
11 DCI?

12 A. Yes, sir.

13 MS. EKL: I'm sorry, Jack. If you could be  
14 careful and wait until he finishes his question, and  
15 she can't get you both talking at the same time.

16 Q. So you first met him sometime before 1993;  
17 is that right?

18 A. Yes, sir.

19 Q. All right. But at that time did you have  
20 any occasion to talk to him about the case as we've  
21 referred to it and defined it?

22 A. Could you do the question -- yeah.

23 Q. Sure. My understanding of your testimony  
24 was that you first met or dealt with Marlow before

1 you retired on one occasion you said, right?

2 A. My understanding of the first question,  
3 have you ever had a conversation with Marlow prior to  
4 this meeting that you were talking about, and my  
5 understanding to that question would be from the time  
6 I retired to this meeting.

7 Q. All right. Okay.

8 A. I had many conversations with Marlow before  
9 1993. We worked in the same office.

10 Q. All right. And that was DCI?

11 A. Yes.

12 Q. And it was the same office in, where,  
13 Springfield or Champaign?

14 A. Champaign.

15 Q. Okay. Did you ever work cases with him?

16 A. Probably did.

17 Q. Do you recall any cases you worked with  
18 him?

19 A. No, sir, I don't.

20 Q. All right. Now, while you were at --  
21 working still with the ISP did you ever have a  
22 conversation with him about the case?

23 A. While I was working?

24 Q. Yes.

1           A.    I -- I would not even recall that.  The  
2           case -- he wasn't working with DCI when the case  
3           originated.  I have no knowledge of talking to him  
4           about that case.

5           Q.    Now DCI stands for Department of Criminal  
6           Investigations?

7           A.    Yes, sir.

8           Q.    All right.

9           A.    Sorry.

10          Q.    And that's where the detectives were?

11          A.    Yes, sir.

12          [REDACTED]

13          [REDACTED]

14          [REDACTED]

15          [REDACTED]

16          [REDACTED]

17          Q.    Uh-huh.

18          A.    I knew that Marlow was working the Rhoads  
19          homicide with Callahan and had been working it for a  
20          while.  And I think Jeff came by the marina and I  
21          just asked him why they hadn't talked to any of the  
22          original investigators.

23          [REDACTED]

24          [REDACTED]



1

2

3

Q. All right. But my understanding is that Marlow was assigned to investigate this case or to be involved in the reinvestigation or whatever you want to call it sometime in June of 2003. If that in fact is accurate, would it have been after he was assigned to the investigation? So we are talking about a time frame somewhere between June, summer of 2003, and May of 2004 that the first conversation about the case occurred between you and Marlow.

12

A. It's probably quite obvious I can't remember years, okay? And I'm sorry about that. But -- and I have no records of actually when he did start working on the case.

16

Q. Right. But just -- I'm asking --

17

A. To my recollection I thought it was maybe a little bit before 2003.

19

Q. All right.

20

A. And I think he started about the same time as Mr. Callahan did on the case, whenever that was. You got the paperwork on that. I don't know.

23

Q. Well, whatever -- would it be fair to say that it was your understanding when he came by that

24

1 you and he understood that he was working -- working  
2 the case at that time?

3 A. Yes, sir.

4 Q. All right.

5 MR. ACKERMAN: Object to foundation.

6 Sorry. This is Phil. Object to foundation.

7 Q. And he came by your marina in Shelbyville,  
8 right?

9 A. Findlay, Illinois. Yes.

10 Q. Findlay. Okay. And he asked you -- you  
11 asked him why they hadn't talked to the original  
12 investigators, right?

13 A. (Witness nods head).

14 Q. You have to answer yes or no. You can't  
15 just nod your head.

16 A. Yes, sir.

17 Q. All right. And how -- how did he respond  
18 to that?

19 A. That -- I remember he said Callahan was  
20 running the case and he said eventually they probably  
21 would.

22 Q. All right. Did you talk about any of the  
23 aspects of the case with him that day?

24 A. No, I don't think because I was just -- I

1 wondered why they hadn't talked to us, you know. If  
2 we worked the homicide you would think they would  
3 talk to the -- originally the investigators who  
4 worked the case.

5 Q. And eventually they did talk to you, right?

6 A. No, sir.

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. Okay.

11 A. This was when the new captain got assigned  
12 to the case.

13 Q. By that group, whom do you mean?

14 A. The Callahan.

15 Q. Well, you had talked to Callahan prior to  
16 Marlow coming by, right?

17 A. No, sir.

18 Q. Well, hadn't you had a phone conversation  
19 with Callahan?

20 A. I don't know if that was before. I had one  
21 phone conversation with Callahan.

22 Q. All right. And during that phone  
23 conversation you made certain statements to him and  
24 he asked you certain questions, right?

1           A.    I received a phone call that Mr. Callahan  
2           wanted me to call him and the phone call was from  
3           Charlie McGrew and before that phone call I had  
4           received different information over the days and  
5           weeks and whatever that Callahan was saying that we  
6           were tied in with a guy by the name of Bob Morgan and  
7           associated us with mob type people on the case.

8                    I received a phone call from Charlie McGrew  
9           saying that Callahan had been trying to get ahold of  
10          me but was unable to call me at my home.  And Charlie  
11          said, "Well, he works at the marina and you can call  
12          him there."  So Charlie called me, says, "Here's the  
13          number where he is at if you want to call him."  I  
14          did call him, yes.

15          Q.    Okay.  And Charlie was -- strike that.

16                   Was this before the Marlow conversation or  
17          after?

18          A.    I don't recall.

19          Q.    If I were to tell you that other evidence  
20          in the case indicates that your conversation with  
21          Callahan was in the year 2000 or 2001 and your  
22          conversation with Marlow was sometime in the year  
23          2003 or early 2004, would that be consistent with  
24          your memory?

1 A. If you would show me.

2 Q. If I were to tell you that.

3 A. Not if you told me. If you showed me.

4 Q. All right. So you're not arguing -- if I'm  
5 accurate you wouldn't argue with that as -- as the  
6 chronology of it, is that fair to say?

7 MS. EKL: Objection to form.

8 A. Well, I would just like to see dates on  
9 reports if I'm going to say yes, that's when that  
10 happened.

11 Q. All right.

12 A. If that's okay with you.

13 Q. That's fine.

14 A. Okay. I'm not trying -- you know, I did  
15 have a conversation at one time. When it was, I  
16 don't know the dates.

17 Q. Now we have the conversation with Callahan,  
18 we have a conversation at the marina with Marlow, ■

19 [REDACTED]

20 [REDACTED]. [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

24 [REDACTED] [REDACTED]

1 MR. TAYLOR: All right. You put your hand  
2 up.

3 Q. And did you have any subsequent  
4 conversations with either Callahan or Marlow or  
5 Dixon?

6 MS. EKL: Objection to foundation.

7 Q. Subsequent to these three that I've  
8 mentioned.

9 MS. EKL: Are you talking about  
10 conversations in general or about the case?

11 Q. About this case.

12 A. With Marlow?

13 Q. With -- let's say with Marlow first.

14 A. I had a conversation with Jeff sometime in  
15 there and during that conversation the only thing I  
16 do remember is Marlow told me at that time that he  
17 did believe that we had the right two guys, but  
18 others were involved.

19 Q. Marlow told you that you had the right two  
20 guys or you didn't have?

21 A. Did. We did. And but he felt that other  
22 people were involved. And during that conversation I  
23 don't recall anything else we talked about. We  
24 talked about the case probably, but I don't recall

1 anything else, but I do remember that part. And that  
2 was sometime between probably 2000 and 2004 or 2005.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. All right. And when in terms of the  
7 chronology setting, April two thousand -- in the  
8 scheme of between the year 2000 and April and May of  
9 2004, where in that time frame did this Marlow  
10 conversation take place?

11 A. Just sometime in there, and I do wish that  
12 I could remember dates a lot better because I could  
13 clarify a lot of it, but I can't remember, but it was  
14 right in there within the years on it.

15 Q. Was it before or after the -- the marina  
16 meeting?

17 A. It was probably after.

18 Q. But it was -- so it's in between the marina  
19 meeting and [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A. I would be comfortable with that, yes.

23 Q. All right. And was anyone else present  
24 other than yourself and Marlow?

1 A. No. No.

2 Q. And where did this meeting take place?

3 A. I don't even recall where the meeting took  
4 place. I just remember talking to him about that.

5 Q. Was anyone with him?

6 A. I don't recall that either.

7 Q. Well, was it at a -- was it at a place --  
8 was it at your place of work or residence or was it  
9 at --

10 A. It seems like we had coffee or something  
11 some place. That was probably at Howie's Truck Stop  
12 maybe, not too far from Jeff's house. Right next to  
13 the marina.

14 Q. Okay. So Marlow and you live -- he lives  
15 fairly close to where you work?

16 A. Where I work, yes.

17 Q. Now, did he initiate that meeting or did  
18 you?

19 A. You know, I don't think that even it was  
20 initiated, we just was there at that place at the  
21 same time probably.

22 Q. All right. Now, did -- but he was working  
23 the case at that time; is that right?

24 A. Yes, sir.



1 Q. And did he take any notes while you and he  
2 were talking?

3 A. No, sir.

4 Q. And during this conversation did he ask you  
5 certain questions about the initial investigation?

6 A. You know, as I stated, I don't really  
7 recall what we really talked about. I do recall that  
8 he thought that we had the right two people, but he  
9 did feel like there was other people involved.

10 Q. Well, do you remember whether you gave him  
11 any information about what you knew about the case?

12 A. He had all my information.

13 Q. And he had your documents, right?

14 A. Yes, sir.

15 Q. Did he have all the information about what  
16 you knew about the case that wasn't -- that wasn't in  
17 documents?

18 MS. EKL: Objection. Form. Assumes facts  
19 not in evidence.

20 A. Well, I don't imagine I could have added  
21 too much to what wasn't on the documents, but --

22 Q. Well, he didn't ask you -- for instance,  
23 did you discuss the credibility of any of the  
24 witnesses in the original case?

1           A.    He -- I don't recall -- I don't recall  
2 anything that we said in that meeting, but what  
3 stands out after that meeting is those two things,  
4 you know.  And I wish I could recall that meeting.

5           Q.    So that doesn't refresh your recollection  
6 as to any aspects of the -- of your involvement that  
7 you might have talked about with Marlow; is that  
8 right?

9           A.    No, it does not.

10          Q.    Well, let me call your attention, if I can  
11 again to the group exhibit, and I want to call your  
12 attention to a memorandum that's included in this  
13 group exhibit.  It is a document dated 9-26-05.  It  
14 doesn't have a bates stamp on it, but it's --

15               MS. EKL:  Is this the same one?

16               MR. TAYLOR:  Does it say draft on the top?

17               Yes.

18               MS. EKL:  It's bates stamped ISP 29681.

19               That's the same one.

20               BY MR. TAYLOR:

21               Q.    All right.  I'm going to ask you right now  
22 to take -- take a look at page eight of this  
23 particular document, if you look at the top left.

24               A.    Okay.  I'm on page eight.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

23 Q. It says here that the case against -- well,  
24 let me ask you, is that in fact an accurate

1 characterization of Rienbolt, that she changed her  
2 story every time she was interviewed? Is that pretty  
3 much accurate from your knowledge of the  
4 investigation, your involvement?

5 A. She would change little bits each time.

6 Q. All right. Well, more than little bits,  
7 right?

8 A. She never got off the basics, she never got  
9 off the basic things. She would change little things  
10 all the time but not --

11 Q. Well, would you call at that little thing  
12 where the knife came from, whether it came from Vic  
13 or it came from Whitlock? That's not a little thing,  
14 is it?

15 MS. EKL: Objection. Form.

16 Q. Would you agree with me that's not a little  
17 thing; that's a pretty significant thing, isn't it?

18 A. I would agree with you.

19 Q. And would you agree with me that from not  
20 going into the house to witnessing certain things in  
21 the house to holding down Karen Rhoads, that's some  
22 pretty significant changes, right?

23 A. From statement to statement, yes.

24 Q. Yes. Isn't that right?

1 A. Yes.

2 Q. So in fact, we can agree that she didn't  
3 just change little things, she changed big things  
4 too, right?

5 A. Yes.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

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11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. Well, there was a motive, Morgan had a  
7 motive according to the evidence that you developed,  
8 right?

9 MS. EKL: Objection. Form.

10 A. You are going to have to tell me the  
11 motive.

12 Q. Well, I -- don't you remember having  
13 information from Busby and others that Karen Rhoads  
14 had seen some criminal activity late at night that  
15 Morgan and Smoke Burba were involved in?

16 A. I do remember that. I think the day after  
17 the homicide I interviewed Tim Busby, that was an  
18 ex-boyfriend, as you know, and during that interview  
19 Busby had said that earlier that year, that was in  
20 July that I was talking to him, in the fall of the  
21 last year he had talked to Karen over the phone and  
22 Karen had made the statement that she had seen her  
23 boss, Bob Morgan, and Smoke Burba with a briefcase of  
24 money and what she believed a machine gun. And that

1 was documented.

2 The next day, two days after the homicide,  
3 the next day after I talked to Tim, I interviewed  
4 Karen Rhoads' sister and I think her name's Lon  
5 Gardner, and she had said that she had talked to Tim  
6 Busby the day before and Busby had told her the same  
7 story about the gun and the money. And from that  
8 point on I never received that information from  
9 anybody.

10 Q. Okay. Well, you didn't attempt to elicit  
11 it either, right?

12 A. Yes, I did. Sorry about that. Yes, I did.

13 Q. Okay. Well, I just want -- you sat through  
14 Mr. Parrish's deposition, right?

15 A. Uh-huh.

16 Q. And you were working as an investigative  
17 team with Mr. Parrish, Mr. Ray and Mr. McFatridge,  
18 right?

19 MR. RAUB: Objection.

20 MS. STANKER: Join in the objection.

21 Q. Right?

22 A. You're going to have to re --

23 Q. I said and you were working as an  
24 investigative team with Parrish, Ray, McFatridge.



1 MR. RAUB: Same objection.

2 Q. Right?

3 A. Yes, I was.

4 Q. And you heard Parrish's testimony at some  
5 length at his deposition saying that the team decided  
6 not to follow up on that investigation and asked  
7 others at Morgan Manufacturing about that information  
8 because at that time in his terms that they didn't  
9 want to talk to every Tom, Dick and Harry about that;  
10 do you remember that testimony?

11 MS. EKL: Objection. Form, foundation.

12 A. I honestly don't know what Jim -- remember  
13 exactly what he said. I think the question was, and  
14 correct me if I'm receiving this wrong, okay, did I  
15 do anything to follow up on what Tim Busby told you.  
16 My follow-up would have been to talk to employees at  
17 the Morgan Manufacturing plant to see if Karen  
18 Busby -- Karen Rhoads would have had problems with  
19 any of the employees or with anybody there. I  
20 consider that a follow-up.

21 Q. Did you ever ask --

22 A. To approach --

23 Q. I'm sorry. Go right ahead.

24 A. Yes. To approach Bob Morgan about this, I

1 would think I would need more bullets in my gun  
2 before I talked to him about that, and waiting around  
3 for something to surface, whether talking to any of  
4 the employees or what else or anything on the  
5 streets, that never did surface.

6 Q. Well, did you ever -- I know that between  
7 you and the others on the investigative team you  
8 talked to some 10, 15 people from Morgan  
9 Manufacturing that either worked with Karen and  
10 worked under Bob Morgan, right? Would you say --

11 A. Yes, we talked to several people.

12 Q. And you never asked them directly did you  
13 ever see any illegal or unusual activities going on  
14 with regard to Morgan and Smoke Burba, did you?

15 A. That question wasn't asked, no, but -- and  
16 if I was to do it again I probably would not bring  
17 that up at that point.

18 Q. And that is because of the Tom, Dick and  
19 Harry theory?

20 A. Tom, Dick and Harry?

21 Q. Yeah, the Parrish theory that it was not a  
22 good idea to -- to confront anybody with the actual  
23 facts that you had.

24 MS. EKL: Objection. Form. Foundation.

1 Q. With regard to Morgan and illegal activity.

2 MS. EKL: Objection. Form. Foundation.

3 Q. Is that right?

4 A. And what is your question?

5 Q. My question is is that the reason that you  
6 didn't directly and you wouldn't today directly ask  
7 people about this evidence?

8 A. Not until I had more information.

9 Q. Okay. Well, how did you expect to get more  
10 information if you didn't ask people about it?

11 A. By interviewing people on voluntary  
12 information.

13 Q. Or you were hoping someone else would tell  
14 you the same thing, right?

15 A. Yes, sir.

16 Q. But is that how you approached the whole  
17 investigation, you didn't ask anybody anything  
18 directly, you just hoped they would tell you  
19 something?

20 A. Well, there's a different circumstance to  
21 each thing we did.

22 Q. You're a detective, right?

23 A. Yes, sir.

24 Q. And you were a detective for quite a while

1 before this investigation, right?

2 A. Yes, I was.

3 Q. And they brought you in because you had  
4 experience and this was kind of a small town and you  
5 had perhaps done more homicide and -- investigations  
6 than some of the staff at Paris, right?

7 A. Yes, sir.

8 Q. And so your sophistication exceeded those  
9 of the others on the team, right, in terms of  
10 investigative skills?

11 MS. EKL: Objection. Form. Foundation.

12 A. We were supposed to have the knowledge and  
13 the manpower to help.

14 Q. And yet with all of that knowledge and  
15 experience that you had, you determined that someone  
16 who was identified if not as a main suspect,  
17 certainly as a serious suspect, that you weren't  
18 going to ask direct questions either of him or of any  
19 of his employees about the information you had  
20 implicating him, right?

21 MS. EKL: Objection. Foundation.

22 Q. Is that fair to say?

23 A. Not the first part, I guess. I think you  
24 called him a serious suspect.

1 Q. I did, yes.

2 A. And I can't call him a serious suspect at  
3 this point.

4 Q. You did then, though, didn't you?

5 A. Then?

6 Q. Yeah.

7 A. Serious?

8 Q. Yeah, a serious, main, whatever you want to  
9 call it.

10 A. I called him a suspect I think.

11 Q. All right. When you got another suspect, a  
12 guy named Sexton, you aggressively approached the  
13 information you had, didn't you, to find out whether  
14 he had an alibi, to find out why he had a knife, to  
15 find out all the kinds of things that you were  
16 learning about him that might have implicated him in  
17 the crime, right?

18 A. Yes, sir, I think that like we talked about  
19 circumstances, Sexton had used a knife and threatened  
20 people and was quite interested right then on that,  
21 you know, to see why and where he was at.

22 Q. So you very aggressively went out and  
23 talked to all the witnesses that you knew of that  
24 could either clear him or implicate him and asked

1       them a series of very pointed and direct questions,  
2       right?

3             A.    Yes, sir.

4             Q.    You didn't do that with Morgan, did you?

5             A.    Not over that one --

6             Q.    No.

7             A.    -- thing.

8             Q.    Well, there's more than one thing, right?

9       He was out there trying to pass out a \$25,000 reward,  
10       right?

11             MS. EKL:  Objection.  Form.

12             Q.    Is that right?

13             A.    He was her employer and --

14             Q.    But is that true, he was -- you knew that  
15       he was offering a \$25,000 reward for information?

16             A.    Oh, yes, sir.

17             Q.    And you knew that he was at the scene right  
18       after the fire, right?  He came down there, right?

19             A.    I was told he was at the scene, yes.

20             Q.    So you knew that there was more than just  
21       that piece of information, right?

22             A.    Being at the scene?

23             Q.    Well, and you also knew that he -- that

24       Karen Rhoads had told people that the problems at the

1 place were going to cause her to leave the  
2 employment, right?

3 A. I don't think I received that information  
4 on interviewing anybody about the problems with the  
5 gun and money was going to make her leave. She had  
6 problems with personnel.

7 Q. And she had problems with Smoke Burba who  
8 was the other person implicated, right?

9 A. Yes, sir.

10 Q. And you got other information about Smoke  
11 Burba that he had been harassing her and saying he  
12 wasn't going to take any orders from her and doing  
13 those kinds of things, right?

14 A. Yes, sir.

15 Q. So now you had information with regard to  
16 Burba that corroborated to some degree a motivation  
17 or an involvement that he might have with regard to  
18 Morgan and the murders, right?

19 MS. EKL: Objection, form, as to who you  
20 mean by "he".

21 Q. Is that right?

22 A. I totally got lost.

23 Q. All right. You want to read the question  
24 back, please?

1 (Whereupon the requested portion of the  
2 record was read by the reporter.)

3 MS. EKL: Same objection.

4 A. I guess I don't understand exactly what you  
5 are wanting on that.

6 Q. Well, what I'm trying to do --

7 A. And it's my problem probably.

8 Q. What I am asking you is what knowledge you  
9 had that linked or corroborated the motivation that  
10 Morgan and Burba would have had to have killed or  
11 ordered the murder of Karen and Dyke Rhoads, and I'm  
12 asking you whether the fact that Burba had an  
13 antagonistic relationship with Rhoads and you had  
14 that information, you admitted that, didn't you? I  
15 asked you that, right?

16 MS. EKL: Objection. Form. Foundation.

17 A. I interviewed -- she had told someone that  
18 she had had problems with Smoke Burba, he wasn't  
19 going to take orders from a woman. I don't take that  
20 as a threat.

21 Q. But you would read that in connection with  
22 the other information you had with regard to him and  
23 Morgan, right?

24 A. Other information?



1 Q. Yes.

2 A. Back to --

3 Q. The Chicago information, for instance,  
4 that --

5 A. That come from Tim Busby.

6 Q. Right. Exactly.

7 A. Yes.

8 Q. All right. And also Marilyn Busby had also  
9 told you that Karen had said about Bob and Smoke and  
10 the guns as well, right? So you had another person  
11 who corroborated that information, right?

12 A. I'm not sure that Marilyn Busby did say  
13 that. I'd have to read -- if you show me the report  
14 on that, if you would, please.

15 Q. We'll get to it. You did know, however,  
16 that Morgan had visited at Karen's house a few times  
17 before she got married, right?

18 A. Yes, one of the witnesses said that.

19 Q. And you also knew that he had bought a  
20 burial plot for her for some reason, right?

21 MS. EKL: Objection. Form. Foundation.

22 MR. ACKERMAN: Objection.

23 A. I didn't know that, no.

24 Q. That wasn't among the information that

1 you --

2 A. I did not know that.

3 Q. Going back to your discussion with Marlow,  
4 would it be fair to say, taking out the word main  
5 suspect, that once the focus was towards Whitlock and  
6 Steidl, then Morgan was no longer a suspect,  
7 considered a suspect?

8 A. I don't think you could ever say he was  
9 never completely wiped out as a suspect, not a  
10 suspect.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. All right. Now, let me show you what --  
21 actually I think it's in here. This is an exhibit of  
22 Kaupus, I believe. Here we go. This is already  
23 marked. It's Kaupus No. 10.

24 MS. EKL: For the record, this is ISP 26597

1 through ISP 26606.

2 Q. I want to call your attention to page nine  
3 of that document. I'm going to try to find my copy.  
4 All right. Actually -- yes, page nine. Now this is  
5 a draft of a memo that Marlow wrote to Zywiec on the  
6 7th of July, 2005, and the crossouts and edits are  
7 from Zywiec and not from Marlow, the record has shown  
8 that in the past.

9 I want to call your attention to this  
10 particular entry that says, [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. The memo is on July 7th of '05.

19 Q. Right. But he is referencing a prior  
20 conversation. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 A. No, sir, I didn't to my recollection,

1 didn't at all.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

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7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]

10 Q. Well, did he ever tell you that he didn't  
11 want negative information reported?

12 A. Sure, on the reports, that he didn't want  
13 two people to write the same report on the same  
14 interview because it created a negative report on it.  
15 And --

16 Q. In what way did it create a negative --

17 A. There's not two people, whether they be  
18 police officers, attorneys or whatever, could  
19 interview someone and write the exact same report  
20 after it's over with.

21 Q. Why does that make it a negative -- one of  
22 them a negative report?

23 A. Someone could look at the reports and find  
24 negative stuff about it, on it. Well, this person

1 said this in his report, this person said this in his  
2 report.

3 Q. Well, you both -- both you and Parrish were  
4 seasoned detectives, right?

5 A. We are allowed to make mistakes.

6 Q. Well, but you wouldn't make mistakes in  
7 terms of significant information that you were  
8 recording, would you?

9 A. It happened in this case.

10 Q. All right. And how did that happen? Why  
11 don't you give me --

12 A. I noticed a couple interviews. Oh, for  
13 example? After reviewing the case before I came in  
14 here, there was an interview with Darrell Herrington.  
15 I can't remember the date, the first one.

16 Q. Uh-huh.

17 A. That --

18 Q. Well, the first one, there was no record of  
19 it, right?

20 A. I wasn't there on the first one.

21 Q. Well, the first one -- you understood --

22 A. Gene Ray's house.

23 Q. Yeah.

24 A. I -- for the first paragraph I forgot to

1 put Mike McFatridge as being there.

2 Q. But is that negative information? Is that  
3 what you understood Mike McFatridge to mean when he  
4 said don't record any negative information?

5 A. To me -- Jim had him in there, I didn't  
6 have him in there, you know? Gene had the  
7 interview -- Jim had the interview at Gene's house.  
8 I didn't have the interview at Gene's house. I said  
9 he was interviewed. To me that's negative, that was  
10 negative for Mike. It was pretty precise.

11 Q. Well, it would also be negative if, for  
12 instance, Herrington had named two other people other  
13 than Steidl and Whitlock before he named Steidl and  
14 Whitlock. That would be very negative, wouldn't it?

15 MS. EKL: Objection. Form, foundation.

16 MR. RAUB: Objection. Argumentative.

17 A. It would be negative, but I don't recall  
18 that.

19 Q. All right. The -- did McFatridge give you  
20 any directions about what you should write down and  
21 what you shouldn't write down?

22 A. No, sir.

23 MS. STANKER: Objection to foundation,  
24 form.



1 Q. You may answer. You said no.

2 A. He never told us what to write down or  
3 nothing, no.

4 Q. So if there's any omissions in either your  
5 reports or Parrish's reports, that's not because of  
6 McFatridge, that's because you guys left the stuff  
7 out, right?

8 A. If it was left out, yeah. Tried to put  
9 everything in there.

10 Q. Well --

11 A. But as I said, I forgot on that one report.

12 Q. Well, let me ask you this. In -- you sat  
13 through Parrish's deposition, right?

14 A. I did.

15 Q. And you heard him testify that he and Gene  
16 Ray questioned Darrell Herrington on a Friday from  
17 12:00 midnight to 5:00 in the morning, in which  
18 Darrell gave what he said was the first information  
19 about knowing about the murders, right?

20 A. Yes, sir.

21 Q. And he also during that interview said that  
22 Darrell had mentioned at first the people who were  
23 involved as two people named Jim and Ed, right?

24 A. In his deposition, yes.

1 Q. He said that, right?

2 A. Yes.

3 Q. And the first time you had heard about the  
4 Jim and Ed thing was prior to Herrington's polygraph,  
5 right?

6 A. I don't ever recall Jim and Ed. I don't  
7 recall Herrington's polygraph and I'm sorry, I don't  
8 recall that polygraph.

9 Q. Well --

10 A. I don't recall Jim and Ed.

11 Q. We'll go back into that later.

12 A. Okay.

13 Q. But my question now is as a detective,  
14 experienced detective at the Department of Criminal  
15 Investigations, the Illinois State Police, would it  
16 have been your practice to have yourself or the  
17 person who was interviewing with you, in that case  
18 Ray or Parrish, to have taken notes and to have  
19 recorded to the best of their ability what this  
20 witness was telling them about the murder?

21 A. On which interview?

22 Q. That first interview that you heard the  
23 testimony about, the five hour interview on the early  
24 morning of the Saturday before the Gene Ray on

1 Sunday.

2 A. I was not there.

3 Q. I'm asking you in your experience should  
4 they have written that down?

5 A. Yes.

6 Q. All right. And even though you weren't  
7 there, you had a meeting on the weekend with the  
8 team, that being McFatrige and Ray and you and  
9 Eckerty, to discuss this break-through information,  
10 didn't you?

11 MR. RAUB: Objection.

12 MS. STANKER: Objection. Form.

13 Q. Do you remember having a meeting like on  
14 the Saturday just before you went to Gene Ray's house  
15 at which time that Parrish and Gene Ray briefed you  
16 and McFatrige about what Herrington had said the  
17 night before?

18 A. No, sir.

19 Q. So you went to Gene Ray's house for the  
20 interview with Darrell Herrington without being  
21 briefed about what had gone on before?

22 MS. EKL: Objection. Form.

23 A. I received a phone call.

24 Q. All right. Who was the phone call from?

1           A.     Probably Jim.  He was at Gene's house and  
2     talked to a person who had information on the  
3     murders.

4           Q.     He didn't tell you what the information  
5     was?

6           A.     You know, he could have.  I can't remember.  
7     I just remember I think it was on a Sunday and we met  
8     at Gene's house with McFatridge.

9           Q.     Okay.  Well --

10          A.     Not at the PD.

11          Q.     Did you ask either Gene or Parrish for a  
12     report, to read a report that they had written prior  
13     to going there on Sunday to participate in the  
14     questioning of Darrell Herrington?

15          A.     No.

16          Q.     Wouldn't that be a kind of -- a kind of a  
17     standard thing you would do to prepare for -- if you  
18     knew a guy had been interviewed and you were going to  
19     interview him again, wouldn't you ask the person who  
20     did the interview, hey, let me see what you've got on  
21     this so I'll be prepared?

22                 MS. EKL:  Objection.  Assumes facts not in  
23     evidence.

24          Q.     Fair to say that that would be a good

1 technique?

2 A. I think it's fair to say you could do it  
3 verbally, talk about it.

4 Q. So you think that in fact he gave you  
5 enough information verbally so that you could  
6 participate in the questioning of Herrington, is that  
7 what you're telling me?

8 A. Yes, sir.

9 Q. All right. And would you expect that he  
10 would also tell you that the witness had given  
11 contrary information, that being he first said Jim  
12 and Ed and then he later said Steidl and Whitlock,  
13 that that would be something that you would expect  
14 one experienced investigator to tell another to be  
15 aware of in case that happened again?

16 A. He would give me contrary information?

17 Q. Wouldn't he have -- wouldn't it have been  
18 good practice at least for him to have told you that  
19 there was this contradiction in the witness's story;  
20 that is, he first named one set of people and then he  
21 went on and named another set? Wouldn't that be  
22 something that one investigator would tell another  
23 one ordinarily?

24 A. Jim probably briefed us and we would have

1 probably sat down with Darrell, not recalling the  
2 whole thing, and then our interview with him to see  
3 what he was going to tell us.

4 Q. But my question is, is wouldn't it have  
5 been normal practice, at least as you understood an  
6 investigation, that the two investigators, if one  
7 investigator took a statement or did an extensive  
8 interview with a witness and then you were both going  
9 to do a subsequent one, that he would inform you not  
10 only of the parameters of what the witness said, but  
11 also any significant contradictions or  
12 inconsistencies in his statement?

13 A. I think we were there to interview Darrell  
14 and they briefed us and we were probably satisfied  
15 with that for our investigation to go ahead and  
16 interview Darrell ourselves, Mike was there, and to  
17 see what Darrell had to say about the homicide.

18 Q. So it's your testimony you don't really  
19 know the substance at this point of the briefing, but  
20 you would expect that you had significant information  
21 to intelligently participate in the questioning of  
22 Darrell on Sunday; is that right?

23 A. Yes.

24 Q. All right. And if I put you in Parrish's

1 shoes and said that you conducted a five hour  
2 questioning of the witness and in fact during that  
3 questioning he had identified different suspects at  
4 different points in his statement and then you went  
5 on to brief Parrish, in other words, the opposite  
6 situation that did occur, that you would have told  
7 Parrish about this contradiction between the names --  
8 the sets of names that he named first and then he  
9 named second, is that fair to say?

10 MS. EKL: Objection. Form. Foundation.

11 A. I can't say that I would because I'd have  
12 to put myself in what really happened. I don't know  
13 what really happened on how he mentioned this Jim  
14 and --

15 Q. Ed.

16 A. -- Ed. I don't know how that came out.  
17 People sometimes when they talk, they'll say so and  
18 so did a crime and right after that they'll say, no,  
19 so and so did it, you know. I've seen that happen.  
20 But like I --

21 Q. Did you write that down?

22 A. The Ed and Jim thing, I don't ever recall  
23 that ever coming up. And what I would have done if I  
24 would have interviewed him and what I would have told

1 Jim, I think that's your question, isn't it?

2 Q. Yes.

3 A. Yes. I would have probably gave him the  
4 most important things that he had told us and you  
5 guys interview him and see what you think and  
6 that's --

7 Q. Well, you would have written a report,  
8 though, right?

9 A. I did write a report on mine.

10 Q. But you would have written a report on the  
11 Friday thing, on the Friday interview of you --

12 A. Probably sometime -- this was a Saturday  
13 they interviewed him I believe.

14 Q. It was early Saturday morning, yeah. They  
15 picked him up at midnight on Friday night.

16 A. Yeah, so...

17 Q. So you would have written a report if you  
18 were in Parrish's shoes, right?

19 A. A report probably should have been written.

20 Q. And if you wrote a report you would have  
21 included the fact that the witness first named one  
22 set of people and then named another, wouldn't you?

23 A. If -- I'd have to do the interview myself  
24 to find out exactly how it came out, yes.



1 Q. Well, even -- even if he said Jim and Ed,  
2 no, Harry and Jack, you'd write down he said Jim and  
3 Ed and then said, no, Harry and Jack, right? I mean  
4 you wouldn't just write down he said Harry and Jack.  
5 That wouldn't be proper investigation, would it?

6 MS. EKL: Objection. Form. Foundation.

7 A. As you just said it, I probably wouldn't  
8 write that down.

9 Q. You wouldn't?

10 A. Just like you just said it, just whipping  
11 names out? You know, I'd want more to go with it.  
12 You know, how about this guy? How about them? How  
13 about this? You know, how about this? So I think  
14 you've got to go to the circumstance, not trying to  
15 defend this thing at all, but it's -- every  
16 circumstance has got its own thing.

17 Q. All right. Let's --

18 A. I wasn't there.

19 Q. I understand you weren't there. But you  
20 also had some training about what was important to  
21 write down and what wasn't, right?

22 A. Yes, sir.

23 Q. I mean you weren't given a lot of  
24 discretion in terms of what you were to write in a

1 report and what you were to leave out, right?

2 A. No, sir.

3 Q. And you were supposed to write down  
4 everything that the witness said, weren't you?

5 A. Make notes, yes.

6 Q. And then those notes you were supposed to  
7 accurately transcribe in an official report, right?

8 A. To your knowledge.

9 Q. And -- yes? The answer is yes?

10 A. Yes.

11 Q. And that report you understood would go to  
12 the prosecutor and ultimately to defense counsel,  
13 right?

14 A. Yes, sir.

15 Q. And you certainly understood that if a  
16 witness had identified someone else, even only  
17 fleetingly, and then changed to the second set of  
18 people that that would be evidence that would be  
19 required to be given to that -- the lawyers for the  
20 people that were arrested, right? Am I right?

21 A. Yes, sir.

22 Q. So then it is true, is it not, that should  
23 have written down Jim and Ed even if he said it and  
24 then took it right back, it should be in the report,

1 it should be in the report, right?

2 MS. EKL: Objection. Foundation.

3 Q. Right?

4 A. Like I said, I wasn't there so I don't know  
5 how it was brought out, so --

6 Q. No matter how it was brought out, it should  
7 be in there, shouldn't it?

8 A. Well, listen, your kind of synopsis of the  
9 thing and I wasn't there, I can't judge that, you  
10 know. You know, I can't. I can't judge that.

11 Q. Well, I am asking you can you think of any  
12 circumstances where an identification of two suspects  
13 was made by a witness that you would not include that  
14 in a contemporaneous note and then in a report.

15 MS. EKL: Objection. Form.

16 Q. Can you think of a circumstance?

17 A. No, I can't, no.

18 Q. And you have never done it, right?

19 A. I don't know what I --

20 Q. You can't think of a time you ever did it,  
21 right, left out the name of two suspects that were  
22 named by a witness. Can you think of any other  
23 circumstance?

24 A. I can't think of any.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 Q. Okay. Was Sexton always a suspect?

14 A. Who?

15 Q. Sexton.

16 A. Is that the guy from Springfield?

17 Q. Uh-huh, with the knives.

18 A. Sure he was a suspect. We interviewed and  
19 followed up on that one.

20 Q. Well, is he always a suspect or did he come  
21 off the list at some point?

22 MS. EKL: Objection. Form.

23 A. I'd say I kept him in my mind all the time.

24 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED]

9 Q. Did I understand you correctly to basically  
10 be saying that the case went to trial too early?

11 A. I -- my statement all along has been I just  
12 wanted more time before the arrest was made.

13 Q. Before the arrest was made.

14 A. Yes.

15 Q. Because you wanted to do more  
16 investigation.

17 A. I also thought there was somebody else  
18 involved with them.

19 Q. All right. And you didn't want to arrest  
20 Steidl and Whitlock till you further checked out  
21 whether there were other people involved; is that  
22 right?

23 A. We were satisfied with the arrest. We had  
24 indictments, I believe, any time we wanted to serve

1       them.

2           Q.    You had an arrest warrant.

3           A.    Yeah.

4           Q.    You didn't have an indictment.

5           A.    There you go, yeah.

6           Q.    Now, I want to show you now what -- what  
7       did you mean when you said you were satisfied with  
8       the arrests?  On the one hand you said you wanted  
9       more time before you made the arrests and on the  
10      other hand you said you were satisfied with the  
11      arrests.  I don't understand how those fit together.  
12      Could you explain to me a little bit what you mean?

13          A.    My answer to that too was you asked me  
14      about McFatridge going to trial too quick or  
15      something like that.  I don't know if that was the  
16      answer to that or not on it.  I'm satisfied with the  
17      arrest of the two people and I just wanted a few more  
18      days before we did that arrest.

19          Q.    And why did you want the few more days?

20          A.    To see if we could surface any more  
21      information before the arrest.

22          Q.    And was it possible you might surface  
23      information that would lead you to the decision not  
24      to make an arrest?

1 A. No, that decision had already been made.

2 Q. And that decision was made collectively by  
3 the four of you?

4 A. The state's attorney, yes.

5 Q. With your input?

6 A. Yes.

7 Q. And with Parrish's input?

8 A. Yes.

9 Q. And with Ray's input, right?

10 A. Yes.

11 Q. And you all agreed that the arrests should  
12 be made?

13 A. Yes.

14 Q. And you all agreed that the charges should  
15 be brought of murder against Whitlock and Steidl  
16 sometime between the 17th and the 19th of February,  
17 right?

18 A. Yes.

19 Q. Okay.

20 MR. TAYLOR: Want to take a short break  
21 while I am looking through this?

22 (Whereupon a break was taken and the  
23 deposition continued as follows:)

24 BY MR. TAYLOR:

1 Q. Okay. I want to show you what I'm going  
2 to -- what has been previously marked, I believe, as  
3 Fermon Exhibit No. 5. I want to call your attention  
4 to a certain page here. By the way, when did you  
5 first meet Mike McFatrige?

6 A. I don't know whether he was an assistant  
7 state's attorney before he was state's attorney, but  
8 when he was -- if he was an assistant I would have  
9 met him in that county or after he was a state's  
10 attorney.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED] [REDACTED]

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14 [REDACTED] [REDACTED] [REDACTED]  
15 [REDACTED] [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 Q. Now at this point you were not -- you were  
20 an investigator, not a sergeant; is that right?

21 A. I did the same thing as an investigator as  
22 a sergeant.

23 Q. No, but I mean your rank was investigator,  
24 right?

1 A. At that time?

2 Q. Yeah, '86 and '87.

3 A. I was a sergeant.

4 Q. Oh, you were a sergeant then. When did you  
5 become a sergeant?

6 A. You asked me that before and I forgot.  
7 Probably around '84 maybe. I honestly don't know and  
8 you could get my personnel records and it will tell  
9 you. I really don't remember that. Sorry.

10 Q. So you were the ranking officer with regard  
11 to Parrish and you -- even though you were in  
12 different agencies, you were a sergeant, he was a  
13 detective, right?

14 A. I was a sergeant from my department and he  
15 was a detective from his department.

16 Q. Now -- and was McGrew your master sergeant,  
17 was he over you at that time?

18 A. He was.

19 Q. Okay. And was he involved in the  
20 investigation as well?

21 A. He went over all the reports, he was  
22 briefed daily and he would probably come down once in  
23 a while. He was in one of the reports that I  
24 interviewed.

1 Q. He was briefed separately from meetings  
2 that you had with Ray and McFatridge and Parrish; is  
3 that right?

4 A. Yes. Yes.

5 Q. Was he in on decisions such as whether to  
6 interrogate or question a certain witness or whether  
7 to charge somebody? Did he participate in those  
8 decisions or were those decisions made by the four of  
9 you?

10 A. He would make his opinion.

11 Q. And did he voice an opinion with regard to  
12 whether and when to arrest Steidl and Whitlock in  
13 February of '87?

14 A. I'm not for sure if he expressed an opinion  
15 in that.

16 Q. But he wasn't involved in the actual  
17 meeting that decided that, is that fair to say?

18 A. Not -- I really can't remember that part,  
19 the actual time thing, who was there, what.

20 Q. Okay.

21 A. It was decided over a period of time  
22 probably.

23 Q. Now, I want to call your attention to page  
24 two of exhibit --

1 MS. SUSLER: Ask him if he's okay.

2 A. Sinus headache. Go ahead. I got a  
3 headache. It's a headache, it hit me.

4 Q. You want to take a break?

5 A. No, I'm fine. Let's go.

6 Q. Okay. I'm looking at Fermon Deposition  
7 Exhibit No. 5. This is a document from Callahan to  
8 Casella August 15th, 2001. I want to call your  
9 attention to page two of this document.

10 MS. EKL: Can I look at the page numbers?  
11 There's no prefix, it's just 966 through 984. I  
12 think this was produced by ISP but there is no ISP  
13 prefix.

14 A. What page was that, Mr. Taylor? I forgot.

15 Q. Page two.

16 A. Okay.

17 Q. Page two of this memo from August 15th,  
18 2001, from Callahan to Casella. Now, had you dealt  
19 with Callahan in the DCI prior to his involvement in  
20 the investigation of the Rhoads homicide?

21 A. I do not know Mr. Callahan.

22 Q. You did not know him at all until --

23 A. I never met him as of today, other than him  
24 sitting here at a deposition and on TV.



1 Q. Okay. Now -- but you did speak to him on  
2 the phone, right?

3 A. One time.

4 Q. Now, in the second point here that Callahan  
5 writes, it says, "Bob Morgan, according to retired  
6 ISP Sergeant Jack Eckerty and James Parrish, was one  
7 of the main suspects in the Rhoads homicide. When  
8 the two eye witnesses, Rienbolt and Herrington, came  
9 forward, Morgan was no longer a suspect in the case."

10 Did you tell Callahan that?

11 A. I don't remember telling Mr. Callahan --  
12 maybe we should talk about the phone conversation and  
13 the only thing I remember about that phone  
14 conversation. I called him as directed by McGrew  
15 because Callahan wanted me to call him. And I was  
16 pretty hot, him associating me covering up a case,  
17 and Bob Morgan, saying that I covered up for Bob  
18 Morgan in a homicide. I told him I was a good cop, I  
19 wouldn't associate with stuff like that. And I was  
20 pretty hot.

21 Q. You were pretty what, hot?

22 A. I had been accused of that.

23 Q. By hot you mean angry?

24 A. Yes. I didn't understand why he hadn't

1 been talking to me because I was the case agent on  
2 it, and he says, "I'm coming down to talk to you."  
3 That was all that I recall about that conversation.  
4 It was a very short conversation, "I'll be down to  
5 talk to you." So this stuff, I don't recall. I  
6 don't.

7 Q. Are you saying you didn't say it or --

8 A. I'm saying I don't recall that on it. And  
9 as far as Bob Morgan being a suspect, I think we  
10 established a while ago that he was a suspect, you  
11 know, whether I told it to him or not, you know.

12 Q. Again, it has here he was one of the main  
13 suspects. You disagree with that; is that right?

14 A. He was a suspect. Tim Busby is a suspect,  
15 Bob Morgan is a suspect, he was at the fire. Randy  
16 Steidl was at the fire.

17 Q. My question is do you disagree with the  
18 characterization that he was a main suspect?

19 A. Oh, yes.

20 Q. You do?

21 A. Yes.

22 Q. And so I take it that if you disagree with  
23 it, you are denying that you told Callahan that.

24 A. I don't recall what I told Callahan on it.

1 And there's no -- and I will not say that I said  
2 something. If I recall something, I'll say it on it.  
3 But my conversation with Callahan was that I didn't  
4 appreciate being -- him considering me covering up a  
5 homicide. I wasn't associated with the man, I was a  
6 good cop and I didn't do stuff like that, and we  
7 should talk and he said "I'll be down to talk to  
8 you."

9 Q. Did he come down to see you?

10 A. Never did. I never talked to the man.

11 Q. Now, in this paragraph he says, the next  
12 paragraph, "Retired ISP Sergeant Eckerty, unknown to  
13 RA, contacted me at the investigations office." That  
14 in fact is true, although you say that McGrew told  
15 you to call him.

16 A. Yes, sir. He called McGrew to find out how  
17 to get ahold of me.

18 Q. According to McGrew, right?

19 A. According to McGrew?

20 Q. Yeah.

21 A. I was called by McGrew.

22 Q. Right. McGrew called you and said Callahan  
23 called me --

24 A. Yes.

1 Q. -- trying to find you.

2 A. Gotcha. Yes. Yes.

3 Q. So my point, my question is that McGrew  
4 told you that Callahan was looking for you.

5 A. Yes.

6 Q. So -- and his statement that you contacted  
7 him is accurate, right?

8 A. That McGrew contacted me?

9 Q. No, that you contacted Callahan.

10 A. Very much so.

11 Q. And it says in effect he stated that you  
12 wanted him to know that he was a good cop --

13 A. I was a good cop.

14 Q. Yeah, that you were a good cop, that you  
15 hadn't done anything wrong and that you didn't want  
16 your reputation ruined. That's all accurate, right?

17 A. Since -- I told you what -- I didn't  
18 remember what the -- the thing was. Word for word  
19 I'm not going to be able to remember that.

20 Q. But you actually told him that you were a  
21 good cop, right?

22 A. Yes, sir, I did.

23 Q. And you told him that you hadn't done  
24 anything wrong?

1 A. Yes, I did.

2 Q. Right? And you told him that you didn't  
3 want your reputation ruined, right?

4 A. I don't recall saying that. I was a good  
5 cop. I told him I was a good cop.

6 Q. You were worried that your reputation --

7 A. He was the one accusing me -- yeah. Yeah.

8 Q. But you were worried that your reputation  
9 would somehow be compromised and that's -- and you  
10 made that statement to him, right?

11 A. Some day when I die I would like to be  
12 remembered as a good cop, yeah.

13 Q. Okay. But I am talking now about your  
14 reputation. You were worried about your reputation  
15 and you told him that, didn't you?

16 MS. EKL: Objection. Asked and answered.

17 A. I don't recall saying that. You know, I'm  
18 sorry. I don't recall that.

19 Q. All right.

20 A. If I remembered that, I would say it.

21 Q. Now, it says that McGrew contacted him the  
22 same day and requested "Don't make us old-timers look  
23 bad on this case." Did McGrew tell you that he had  
24 said something to that effect to Eckerty?

1 A. Has McGrew told me that?

2 Q. Yeah.

3 A. No.

4 Q. Did you -- were you a -- did you request  
5 that McGrew put in a good word for you with Callahan?

6 A. To my knowledge, McGrew has never called  
7 Mr. Callahan other than Mr. Callahan calling McGrew.

8 Q. And that's from what McGrew has told you?

9 A. Yes, sir.

10 Q. Have you discussed this paragraph with  
11 McGrew in the past?

12 A. I have. I have.

13 Q. And does McGrew deny that he says -- said  
14 anything to the effect to Callahan like don't make us  
15 old-timers look bad on this case?

16 A. I -- Charlie didn't tell me he said that.

17 Q. Did Charlie deny that he said that?

18 A. I didn't ask him about it.

19 Q. Well, you said you discussed this  
20 paragraph.

21 A. Oh, well, I discussed the paragraph -- the  
22 paragraph, the contents of the paragraph. Did  
23 Charlie McGrew talk to Callahan? He sure did. Did  
24 Charlie McGrew ever call Callahan? No, he never did.

1 Did Callahan call Charlie? He did. Their  
2 conversations I don't know. You would have to talk  
3 to Charlie about that, you know, because I can't  
4 remember that. I don't know what their conversation  
5 is.

6 Q. Do you know someone named Robert Corley?

7 A. Yes, I do.

8 Q. And who is he?

9 A. Bob Corley? He lives in Florida. He used  
10 to be a car dealer in Sullivan, Illinois.

11 Q. In Sullivan. Where -- where do you live?

12 A. I live in Oakland. Sullivan is over by the  
13 lake, over by Lake Shelbyville.

14 Q. Okay. And how close are those two  
15 locations?

16 A. The marina and that?

17 Q. Well, how close is your home to --

18 A. 40 minutes.

19 Q. 40 minutes. And so how do you know Corley?  
20 What relationship do you have with him?

21 A. A personal relationship with him. I sold  
22 him a boat. I spend a short time in Florida in the  
23 wintertime and he lives in Florida in the wintertime  
24 and I see him down there.

1 Q. So he is a friend of yours?

2 A. Yes.

3 Q. Was he a friend of yours back in the year  
4 2000 when --

5 A. I hope so. I mean, yeah, I considered him  
6 a friend.

7 Q. All right. And did you -- you sold him a  
8 boat?

9 A. Yes, I did.

10 Q. And is it fair -- Corley, according to this  
11 document, told Eckerty that he was a close friend of  
12 yours. Is that -- was that a fair characterization?

13 MS. EKL: Objection. I think you just said  
14 that Corley told Eckerty that he was a close friend  
15 of Eckerty. I think you misspoke.

16 Q. I didn't mean to say that. If he was a  
17 close friend of Mr. Eckerty's. Were you close  
18 friends?

19 A. I don't know how close you can get, but  
20 we're friends, sure.

21 Q. And he -- according to Callahan, Corley  
22 told him that you were very nervous and that -- that  
23 he was looking into the Bob Morgan and the Rhoads  
24 case. Did you tell Corley something along those



1 lines that you were very worried about the situation?

2 A. No, sir.

3 Q. Did you tell him that you were upset that  
4 Callahan was looking into the Morgan and Rhoads case?

5 A. Never was I upset. I encouraged the  
6 investigation, even whenever Kaupus and -- Kaupus, I  
7 hope I am pronouncing his name right, was there,  
8 because I always knew there was somebody else  
9 involved and I thought there's an investigation, they  
10 are going to find out who else was involved. Never  
11 was I upset about anybody that was looking into the  
12 case, never.

13 Q. Do you have any suspects who you considered  
14 to be involved other than I take it you -- you say  
15 there were additional people involved.

16 A. Uh-huh.

17 Q. Who were those people in your estimation?

18 A. My suspects?

19 Q. Yes.

20 A. Probably Jeb Ashley and Ovid Chambers.

21 Q. And when did you conclude that they were  
22 additional suspects?

23 A. When did I decide they were or when I  
24 thought they were?

1 Q. Yes. Yes.

2 A. During the investigation.

3 Q. During the original investigation?

4 A. Yeah. Yeah.

5 Q. And you say you always encouraged the ISP  
6 to continue their investigation; is that right?

7 A. I better rephrase that because I never  
8 talked to the ISP, they never did talk to me about  
9 their investigation, but I -- let's put it this way,  
10 when I first knew that Callahan and some other guys  
11 were looking at it, I was encouraged about that. And  
12 when they continued on after Mr. Callahan left the  
13 case, I was still encouraged.

14 Q. Okay. And from whom did you learn that  
15 they were -- Callahan was investigating the case?

16 A. I would get all my information from  
17 probably the -- Charlie McGrew and Tony Snyder was  
18 still working with the task force, Charlie as a  
19 civilian, as an evidence man, and Tony was still  
20 employed with the ISP and assigned to the task force.  
21 So that's how I would find out. I had no connection  
22 at all with anybody.

23 Q. Tony Snyder being the detective that you  
24 worked with on the original investigation?

1 A. Yes, sir. Yeah.

2 Q. So they were telling you from time to time  
3 what was going on with this case; is that right?

4 A. That it was being worked on, uh-huh.

5 Q. And this was in the years of 2000, 2001,  
6 that area?

7 A. Yeah. Yes.

8 Q. Calling your attention down a couple more  
9 paragraphs, this term "negative information" comes up  
10 again. Callahan writes "negative information or  
11 information leading to the innocence of defendants,  
12 the defendants, was not disclosed as in Eckerty's own  
13 words McFatridge didn't want any negative reports  
14 that would hurt the case."

15 Now, did you tell Callahan that?

16 A. I did not tell him that.

17 Q. What did you tell Callahan about negative  
18 information?

19 MS. EKL: Objection. Assumes facts not in  
20 evidence.

21 Q. Did you tell Callahan anything about --

22 A. I recall I told Callahan, as I spoke  
23 before, about him accusing me of covering up the  
24 thing, a very short conversation, and Mr. Callahan

1 was going to come down to talk to me and we was going  
2 to talk about it. He never came, so I don't recall  
3 anything else about talking to Callahan.

4 Q. Well, you have --

5 A. Very short conversation.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. So here it appears again.

11 A. It does appear again.

12 Q. And this is three years before, we are  
13 talking about sometime before August 15th, 2001,  
14 right?

15 A. (No response).

16 Q. Right?

17 A. Yes.

18 Q. And in fact if you called Callahan at the  
19 time he was assigned, that would have been a whole  
20 year earlier, that would have been in the year 2000,  
21 because Callahan was assigned in sometime between  
22 March and May of 2000, right?

23 MS. EKL: Objection. Form, foundation.

24 A. I don't know.

1 Q. But you'll take my word for that, right?

2 MS. EKL: Objection. Form.

3 A. I don't know when he was assigned, sorry.

4 Q. But in any event, sometime before August  
5 15th, 2001, Callahan has you saying the same thing,  
6 using the same term as you admit now that you used  
7 three or four years later [REDACTED]

8 [REDACTED]

9 MS. EKL: Objection. Form, foundation, as  
10 to what specifically you are talking about.

11 Q. The term "negative information".

12 A. I don't recall ever saying that to Mike  
13 Callahan.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. But you have no recollection of telling  
24 Callahan that negative information or information

1 leading to the innocence of the defendants was not  
2 disclosed at the original trial because, quote,  
3 "McFatrige didn't want any negative reports that  
4 would hurt the case"?

5 A. I would have never said that.

6 Q. So you deny saying that?

7 A. Yes, I do.

8 Q. Even though you don't remember what you  
9 said?

10 A. But I would -- I don't remember it, but I  
11 would never have made that statement.

12 Q. So is it your testimony now that McFatrige  
13 never told you or anyone else in your presence that  
14 he didn't want any negative reports?

15 A. Other than report writing.

16 Q. What do you mean other than report --

17 A. Double report writing.

18 Q. Double report writing?

19 A. Right.

20 Q. So he told you I don't want any negative  
21 reports and I mean by that don't you both write  
22 reports on the same witness, is that what you are  
23 telling us?

24 A. That's right.

1 Q. That's what McFatridge said?

2 A. Yes.

3 Q. And he didn't say anything about negative  
4 reports being reports that might hurt the case?

5 A. No.

6 Q. But he was telling you that double report  
7 writing would hurt the case, wasn't he?

8 MS. EKL: Objection. Form. Argumentative.

9 A. As you're putting it that way, yes, it  
10 probably is, but it's not the same thing. He never  
11 said not to put anything negative you get out there,  
12 don't put it in there if it's bad. He did not say  
13 that and we wouldn't have done that. We wouldn't  
14 have run an investigation like that. I don't care  
15 what a state's attorney would have told us, we never  
16 would have done an investigation that way. We would  
17 have wrote the interview as an interview was on it  
18 and that's the way it is. You know -- you know,  
19 that's the way we conducted our work.

20 Q. Well, when was it that McFatridge told you  
21 don't double report write?

22 A. I don't know when that would have been.

23 Q. Well --

24 A. During the investigation sometime. He

1 probably ran into an interview and -- and he would  
2 say just one guy write a report, okay?

3 Q. Well, was it right after the Darrell  
4 Herrington report when you mentioned that --

5 A. That was the one that I just kind of picked  
6 out a while ago. And, you know, I don't know when he  
7 would have said that.

8 Q. Well, that would be a logical time, right,  
9 because --

10 A. Probably one of them, yeah. Yeah.

11 Q. Well, when would be another time?

12 A. Well, I would have to go through -- I would  
13 have no idea. We could go through the case file and  
14 find out, you know. I don't know how many reports  
15 were written doubly, you know, on an interview.

16 Q. Would it have been after the last report  
17 that was written doubly or the first --

18 A. I'm sorry, I just don't recall.

19 Q. Was Parrish present when he told you this  
20 about don't double write the reports?

21 A. I'm sure he was.

22 Q. Okay. And so he was addressing this to  
23 both you and Parrish, right?

24 A. Sure he was.



1 Q. All right. And was Gene Ray also present?

2 A. I'm not for sure on that. Gene didn't  
3 write reports on the case, so --

4 Q. But he was present for a lot of the  
5 meetings.

6 A. Yes, he was. Could have well been.

7 Q. And it's your testimony that regardless of  
8 what McFatridge was telling you that you would not  
9 have omitted any information that you considered --  
10 you wouldn't have omitted any information that you  
11 would receive in your reports; is that right?

12 A. I would try not, yes.

13 MR. MANCINI: Objection as to form.

14 Q. Would you make decisions not to write  
15 reports at some point?

16 A. Oh, no.

17 Q. You would always write a report if you  
18 talked to a witness?

19 A. If I would choose not to write a negative  
20 report, is that your -- what you are asking me?

21 Q. No, my question is do you always write  
22 reports when you talk to a witness?

23 A. I try to but sometimes I mess up and forget  
24 them.

1 Q. But assuming that you don't mess up and  
2 forget to write a report, you would write a report if  
3 you talked to a witness.

4 A. Yes, sir.

5 Q. Unless it was McFatridge or somebody like  
6 that.

7 A. Unless?

8 Q. Unless it was McFatridge.

9 MS. EKL: Objection. Form. Foundation.

10 MR. RAUB: Objection.

11 A. I don't understand where -- you'll have to  
12 break that down. About McFatridge you said?

13 Q. Yeah, you didn't write a report when you  
14 talked to McFatridge, right?

15 MR. MANCINI: Objection. Form.

16 MS. EKL: Objection. Foundation.

17 A. About what?

18 Q. What you and he discussed.

19 MS. EKL: Objection. Form. Foundation.

20 A. About what?

21 Q. About the drugs.

22 A. No, I wouldn't have wrote a report on that.  
23 That was a personal thing and, you know, I just would  
24 not have written a report on that. No, I wouldn't

1 have.

2 Q. If it wasn't a personal thing then you  
3 would have written a report unless you messed up and  
4 forgot in any circumstance if you talked to someone  
5 in an investigation, is that fair to say?

6 MS. EKL: Objection. Form. Foundation.

7 A. So I get on the same page with you, okay,  
8 Mike's -- the rumors on his drugs, I would consider  
9 that as somebody saying you got a drinking problem or  
10 what, you know. We discussed that personally. If  
11 there was anything -- allegations came in any more  
12 than that, we would have taken care of that  
13 professionally and there would have been reports and  
14 I would have probably called in somebody else. For  
15 me to not elect to say that I wouldn't write reports  
16 on anything else I interviewed, everything would have  
17 its own circumstances. So I would have to answer it  
18 that way and that's probably as clear as mud to you I  
19 guess.

20 Q. I just want you to answer what I have.

21 A. Okay. I'm sorry I got confused.

22 Q. If it wasn't a personal thing, you would  
23 have written a report unless you messed up and  
24 forgot; is that right?

1 MS. EKL: Objection. Form, foundation. I  
2 believe he just answered that.

3 Q. You may answer.

4 A. I think I did answer it.

5 Q. Well, I am asking you to answer it  
6 directly.

7 MS. EKL: Objection to the statement. I  
8 believe he did answer it directly.

9 A. I would write a report on an interview.  
10 And if I forgot to write a report, I might have  
11 forgot, but not intentionally.

12 Q. Okay. Now, going back now to what we were  
13 discussing towards the beginning of the deposition,  
14 you made a request for all of the reports in the file  
15 after -- shortly after you were served with summons  
16 in the Steidl lawsuit, right?

17 A. Yes, I did.

18 Q. You did that through Rushing; is that  
19 correct?

20 A. Yes, I did.

21 Q. And did Rushing initially give  
22 authorization for you to get the file?

23 A. He did.

24 Q. All right. And did you in fact get the

1 file?

2 A. No.

3 Q. You got part of the file, right?

4 A. I got what pertained to my working case,  
5 yeah.

6 Q. So they gave you the 1986 and 1987 portion  
7 of the file; is that right?

8 A. '86.

9 Q. And they --

10 A. Well, yes, I'm sorry. Yes.

11 Q. Up until the trials, right?

12 A. Yes.

13 Q. And -- but they did not give you what you  
14 had originally requested which was the entire  
15 investigation, right?

16 A. Yes, I requested that.

17 Q. And why did you request the entire  
18 investigation?

19 A. Well, if I was going to be involved in a  
20 civil suit then I wanted to know what was going on in  
21 the case. And not knowing the law or anything, I  
22 figured I had -- would have access to the case file.

23 Q. All right. And at -- you made requests for  
24 three separate kinds of information, did you not?

1 That was the original case file, the investigative  
2 reports -- I'm sorry -- the investigative notes, your  
3 investigative notes, and the file that had been done  
4 on the reinvestigation, right?

5 A. Yes.

6 Q. And with regard -- what investigative notes  
7 were you seeking?

8 A. When I retired in '93, of course the  
9 homicide file was left there and it was a death  
10 penalty case, and I thought there was notes in there  
11 in the file that I would have left in there, and I  
12 wanted my notes.

13 Q. And these are notes that you took --

14 A. I might have kept them, yes.

15 Q. Wait a minute. I hadn't finished my  
16 question. What were the nature of these notes? Were  
17 they notes that you took that were later transcribed  
18 into reports?

19 A. They could have been field notes, you know,  
20 just wanted to look in the file and see what  
21 everything was.

22 Q. Okay. Well, I'm trying to -- to find out  
23 from you what kind of notes you took during the  
24 original investigation.

1 A. Well, I don't recall.

2 Q. But you just knew you took notes.

3 A. It had been a long time.

4 Q. What do you mean by field notes?

5 A. Oh, when you are out working a case you  
6 would write notes and you would put it in your  
7 briefcase, you know, and sometimes you would keep  
8 them in the case file, you know, to remind you of  
9 things.

10 Q. Okay.

11 A. Yes.

12 Q. So wouldn't it sometimes be kind of notes,  
13 handwritten notes you might pass on to Parrish or to  
14 someone else?

15 A. No. If I was going to pass them to Parrish  
16 I would have gave them to him. But just I requested  
17 my case file, the active case file, and any notes  
18 that were in the file.

19 Q. And the notes, would you write down  
20 thoughts that you had, for instance, I need to do  
21 this, I should follow up and do that, that kind of  
22 thing?

23 A. I don't think I would have notes like that.  
24 You know, anything that was there I was interested in

1 looking at, I was interested in that file.

2 Q. But you specifically --

3 A. I thought I had the right to look at it.

4 Q. But you specifically asked for your  
5 original investigative notes, right?

6 A. Uh-huh, if they were in there.

7 Q. And so you had to have known that there was  
8 some notes in there when you left that file.

9 MS. EKL: Objection. Form. Argumentative.

10 A. If there was notes in there I wanted  
11 everything that pertained to the case so that I could  
12 go over it.

13 Q. Now, you had an office at that time in the  
14 Paris Police Department, right?

15 MS. EKL: Objection. Foundation as to time  
16 period.

17 Q. During the investigation didn't you have a  
18 small room that they let you work out of?

19 A. Sure, I used their office.

20 Q. All right. And did you keep your own file  
21 or did you put the information you had in the files  
22 there in Paris?

23 A. I would keep my file in my squad car.

24 Q. So you had a file on the case, correct?



1 A. Yes.

2 Q. When you wrote an official report, you sent  
3 a copy to the Paris Police Department, right?

4 A. And state's attorney's office.

5 Q. Okay. So those official reports would  
6 go -- they were addressed to Gene Ray but they would  
7 end up with Parrish, right?

8 A. Yes.

9 Q. And that copy of the report would end up in  
10 the Paris files, right?

11 A. Yes.

12 Q. And then you wrote one that would go to the  
13 state's attorney.

14 A. Yes, sir.

15 Q. And then the third copy you would keep in  
16 your file, right?

17 A. In Champaign.

18 Q. Okay. And so the fourth copy you would  
19 keep in your own --

20 A. The fourth copy would go to Springfield. I  
21 wouldn't keep a copy of the files or a copy of  
22 reports that had been written.

23 Q. You would not?

24 A. No.

1 Q. But --

2 A. Not with me.

3 Q. But you would keep your notes?

4 A. Yes.

5 Q. Now, your notes would end up where?

6 A. In my briefcase.

7 Q. All right. And when you concluded your  
8 work on this case in '87, what did you do with those  
9 notes?

10 A. Most -- you know, I don't recall. That's  
11 why I asked if there was any notes in that file, I  
12 would sure like to have them.

13 Q. But you didn't ask if there was, you asked  
14 for them.

15 A. Right.

16 Q. Right?

17 A. Right.

18 Q. So my question is where would -- did those  
19 notes -- where were those notes when you left in '87?  
20 You didn't leave them -- when you got off the case  
21 you didn't leave them in your briefcase?

22 A. I would have left them in the file. If  
23 there was notes in that case they would have been  
24 left in that file.

1 Q. And that file would have been the ISP's  
2 file in Champaign?

3 A. The same one that Callahan used, right.  
4 Those guys used to pick up the case and go with it,  
5 they would be in the same file.

6 Q. Now, if you look at the e-mail that's dated  
7 7-7-05, to Rushing from Zywiec, or it's a chain of  
8 e-mails actually, in this group exhibit, the ISP main  
9 report, Exhibit 1, and it's towards the back. It  
10 looks like this. I guess mine got cut off.

11 MS. EKL: Is it in this exhibit here?

12 MR. TAYLOR: No, it's in this exhibit.

13 MS. EKL: Let me look at it.

14 MR. TAYLOR: It's in the back. In the back  
15 20, 25 pages, there is a series of e-mails and  
16 reports. Why don't I just try to find it.

17 MS. EKL: Is it -- what's the date on it?

18 MS. SUSLER: 7-7-05. It's about this much.

19 MR. TAYLOR: What do you mean this much?

20 MS. SUSLER: From the back.

21 MR. TAYLOR: You are good at finding  
22 things, why don't you see if you can find it.

23 MS. EKL: I believe it's --

24 MR. BALSON: 29777.

1 A. That's the page?

2 MS. SUSLER: It's open to the page, yeah.

3 A. Okay.

4 MS. EKL: Did you guys get that on the  
5 phone?

6 MR. ACKERMAN: Yes, ISP 29777?

7 MR. MANCINI: Thanks, Phil.

8 BY MR. TAYLOR:

9 Q. The first e-mail at the bottom of the page  
10 is from Dickson to Henn and it says "Atkinson". Now  
11 you know who Atkinson is?

12 A. I think he's an agent with DCI.

13 Q. All right.

14 A. I'm not good with names. I think I met him  
15 once or twice.

16 Q. But it says that you called him about the  
17 file, right?

18 A. I spoke with probably him or a couple  
19 people at Zone 10 headquarters.

20 Q. And it says, "Atkinson stated Eckerty  
21 advised him he had permission from Captain Zywiec in  
22 Springfield to look at the Rhoads case file."

23 Did you tell him that?

24 A. I have no reason to deny that, yes. I mean

1 I was originally told by Springfield that I could see  
2 the file. Then they changed it.

3 Q. Is Captain Zywiec in Springfield?

4 A. I don't even know who Captain Zywiec is.  
5 He could have been in that zone and I -- I really  
6 don't know how that format is.

7 Q. Did you speak to -- did you get permission  
8 from Captain Zywiec?

9 A. I don't know who I got permission from. If  
10 it says that these guys got e-mails going and if it  
11 says that he did do that, I don't know. You read  
12 them. Does it say in there?

13 Q. It says right here, what I'm reading to  
14 you, that you -- "Atkinson stated Eckerty advised him  
15 he had permission from Zywiec in Springfield to look  
16 at the Rhoads case." And I'm asking you did you get  
17 permission from Captain Zywiec?

18 A. I don't recall. I kind of recall talking  
19 to Captain Zywiec. I don't know who he is, if he was  
20 a captain at Zone 10, if he was a captain in  
21 Springfield. I kind of think if you talk to these  
22 fellows, Randy Rushing probably had me to call him,  
23 but I don't know any of the command because I've been  
24 gone so long.

1 Q. Now, if you look on the next page, as this  
2 e-mail goes along, it says that, "Marlow advised me  
3 that Eckerty had telephoned the office and spoke with  
4 him regarding the Rodney Roderick homicide. Marlow  
5 stated Eckerty had made arrangements with Zone 5  
6 investigations to come in on Tuesday, July 12th, to  
7 review the case file on the Rhoads homicide original  
8 investigators' notes and all interoffice memos and  
9 documents generated after the department started  
10 reviewing the case."

11 Now, is this another occasion when you  
12 talked to Marlow, this being sometime after the  
13 lawsuit was filed and before July 12th of 2005?

14 A. It was after the lawsuit was filed, it was  
15 in a matter -- all of this happened in a matter of  
16 one or two days together. I talked to Randy Rushing,  
17 he says no problem, I'll call the zone, you call so  
18 and so. I don't know who so and so was now. And I  
19 pick them up and they call back, say, no, you can't  
20 have all of that.

21 And before that I called Marlow and says,  
22 you know, I'm coming up certain, certain time and  
23 then it was all said the reports will be delivered to  
24 you. Who I talked to at what time, I don't know, I'm

1       sorry, because I don't know these fellows. I don't  
2       know who -- what they are captains of, but I am sure  
3       that if it's in this report, I did talk to them folks  
4       and I'm sorry I don't know, I don't remember their  
5       names, but it all happened within a day or so that I  
6       talked with Randy Rushing out of Springfield.

7           Q.     All right. And again, this says that you  
8       were to -- you were going to review the case file on  
9       the Rhoads homicide original investigators' notes.  
10      So again, you had requested your notes, the original  
11      notes, right?

12           A.     I sure did. And you don't know how many  
13      files are down there in that zone, and there's  
14      probably some notes in some of those files and I  
15      wanted to see if I had any original notes in there.  
16      I thought I had a right to see my investigation.

17           Q.     Okay. Now -- and then you advised Marlow  
18      that you had permission to see all of the documents  
19      and all the files from Zywiec and Rushing, right?

20           A.     At the time I advised Marlow I probably was  
21      under the understanding I could, and I believe it  
22      should be in there later, I think Marlow called me  
23      back and says "I'll bring a copy down to you", he  
24      said, "you can't see all the filings." Probably

1 Randy called me and says, "We'll give you the  
2 original case file." And then Randy says, "I think  
3 one of those guys told me there are no original notes  
4 in there." I said, "Well, just can I have whatever I  
5 can have," and they brought me the original file.

6 Q. So they --

7 A. A copy, not the original file. A copy.

8 Q. And do you have that copy of what they gave  
9 you?

10 A. Yes.

11 Q. All right. And have you given that to your  
12 lawyer?

13 A. Have I given it to my lawyer?

14 Q. Yeah, have you given a copy to your lawyer?

15 MS. EKL: Every report you have been --  
16 that we have you have been tendered early on in the  
17 investigation pursuant to disclosure. So whatever  
18 Jack Eckerty had and was given to us, we gave to you.

19 Q. But you still have a file, you still have  
20 what the ISP gave you, right?

21 A. Yes.

22 Q. All right. And you could make that  
23 available to us so that we could see what they gave  
24 you, right?



1 A. Sure. Sure I can.

2 Q. Now this e-mail says that they didn't have  
3 any of your investigative notes but they had seen  
4 investigative notes at the Paris Police Department  
5 during a recent interview on the Rhoads evidence. Do  
6 you see that next to the -- the third paragraph from  
7 the bottom on page two?

8 A. Third? I see that.

9 Q. Yes. Now, to your knowledge did you leave  
10 any of your investigative notes in the file at Paris?

11 A. I would have no need to do that, no. No, I  
12 wouldn't.

13 Q. So somehow --

14 A. Might be something in there in my  
15 handwriting or something, but I would have no  
16 personal notes of mine.

17 Q. So your notes were not in the ISP file, but  
18 may have been in the Paris file?

19 A. No.

20 MS. EKL: Objection. Form. Foundation.

21 A. I have no need to leave notes in that file.

22 Q. I'm not saying you left them there, but one  
23 possibility is that the notes that you thought  
24 were -- that you had left in your file ended up in

1 the Paris file, right?

2 MS. EKL: Objection. Form. Foundation.

3 A. I don't think the third paragraph says they  
4 were my notes. They said they were notes in the --  
5 the way I read it, that there was notes found there,  
6 okay? I didn't say they were my notes.

7 Q. When you took notes, what did you take them  
8 on, what kind of -- did you have a note pad, did you  
9 have a book?

10 A. Anything was laying there, any piece of  
11 paper that was laying around I would take different  
12 notes. Probably you would make -- like yours there,  
13 different notes.

14 Q. So you did it on loose pieces of paper?

15 A. I had no system, yeah.

16 Q. And you would throw it in your file, your  
17 own personal file?

18 A. Yeah. Right.

19 Q. And what did you -- you left that personal  
20 file at the end of the case, did you file that  
21 somewhere?

22 A. My personal file?

23 Q. Yeah.

24 A. When I retired it was -- at that time there

1 was a file room with all the cases in these file  
2 cabinets and that was a quite large file, it was  
3 probably in a big envelope type thing and everything  
4 in that case pertaining to that case was left there  
5 for the next guy.

6 Q. So you left your own personal file in  
7 the --

8 A. I had no -- the file -- I'm probably not  
9 explaining this well for you, but it's a case file,  
10 every report that was written, lab reports, anything  
11 that was written was in that file. I didn't carry  
12 that file with me. That was a file that was kept in  
13 our zone office. So that -- when I left, that file  
14 was left there. There was one there and there was  
15 one in Springfield, Illinois, and there's probably  
16 one at the Paris PD and one definitely at the State's  
17 Attorney's office with the same identical papers.

18 Q. But didn't you carry some sort of file on  
19 the street with you?

20 A. Well, sure, a working file, not -- not --  
21 not reports that I've already written. I wouldn't  
22 carry them with me. You can't pack everything with  
23 you.

24 Q. So where would the notes be? Would they be

1 in your own personal file or would they be up in  
2 Champaign?

3 A. Oh --

4 MS. EKL: Objection. Form. Foundation.

5 A. My personal file would be in my briefcase.

6 Q. Okay. So that's what I'm trying to get at.  
7 I'm trying to get at the nonofficial reports, okay,  
8 the ones that didn't go to Champaign and on to the  
9 state's attorney.

10 A. Okay.

11 MS. EKL: Objection. Form. Foundation.

12 There's been no evidence that there were nonofficial  
13 reports that were written.

14 Q. Notes. Notes, you didn't circulate, right?  
15 In that form, you didn't send notes to McFatridge or  
16 you didn't send notes to Parrish or Ray, you  
17 didn't -- is that correct?

18 A. Oh, no.

19 Q. All right.

20 MS. SUSLER: Wait. That's not a clear  
21 answer.

22 Q. No, you didn't, right?

23 A. What --

24 Q. You didn't circulate them?

1 A. No, I would not.

2 Q. You would put them at least initially in  
3 your file in your briefcase?

4 A. Those notes were for me things to do.

5 Q. And where did those notes end up when you  
6 left?

7 A. I don't know.

8 MR. MANCINI: Object to foundation.

9 A. I probably would have discarded a lot of  
10 them. I would have no idea. My inquiry to Randy  
11 Rushing if there was notes in my personal -- I want  
12 my notes, if there's notes there, I would have left  
13 them there, and if there's an original file and I  
14 also wanted to see the new file.

15 Q. So if there were notes, they would have  
16 been in the file in Champaign is your understanding.

17 A. My understanding. That's the only place I  
18 would have left them.

19 Q. Okay. Now, you were also questioned in the  
20 ISP investigation about how a Marlow e-mail got into  
21 the public domain with the Chicago Tribune; is that  
22 right?

23 A. Yes.

24 Q. And that was sometime in 2005; is that

1 right?

2 A. I'm sorry. I don't know the date.

3 Q. Okay. Well, you reluctantly talked to  
4 them, is that fair to say?

5 A. I -- I think that I didn't -- I didn't know  
6 whether I should talk to them without -- because I  
7 had counsel at that time.

8 Q. Okay.

9 A. I think that's what you're asking.

10 Q. Yes. But you did discuss with them what  
11 you knew and what you had heard about that e-mail,  
12 right?

13 A. Yes, sir, I did.

14 Q. And there's a 403 that indicates your  
15 interview; is that right?

16 MR. ACKERMAN: Object to the form.

17 Q. That records your interview; is that right?

18 A. Is it in this right here?

19 Q. Yes.

20 A. Can you tell me what page it's on?

21 Q. I haven't been able to find it, I just know  
22 it's in there.

23 A. What's it look like?

24 Q. It's a 403, towards the back.

1 A. Very back?

2 Q. Uh-huh.

3 MS. EKL: I believe it's ISP 29788.

4 A. Here it is. Do you need it for anything?

5 Q. Thank you. So you were interviewed on  
6 January 25, 2006; is that right?

7 A. Yes, sir.

8 Q. And you were very reluctant to be  
9 interviewed because of the lawsuit; is that right?

10 A. Yes, sir.

11 Q. But you did submit to an interview on the  
12 limited question of the e-mail and what you knew  
13 about it, right?

14 A. Yes, sir.

15 Q. Now, you had long since left the ISP before  
16 this e-mail surfaced, right?

17 A. Yes, sir.

18 Q. And in fact, the e-mail was dated in July  
19 of 2005, right?

20 A. I don't know exactly what date it was.

21 Q. Well, it appeared in the newspaper  
22 according to your 403 on November 12th, 2005.

23 A. This is not my 403.

24 Q. I mean the 403 of your interview. Right?

1 A. Yeah.

2 Q. So had you seen the Tribune article prior  
3 to your interview, the Chicago Tribune article?

4 A. Yes.

5 Q. And how did you happen to see that?

6 A. At the Chicago Tribune newspaper.

7 Q. Right. Do you get the Chicago Tribune?

8 A. On line.

9 Q. Uh-huh. So did someone call your attention  
10 to it?

11 A. I was -- I monitor it once in a while.

12 Q. I'm sorry?

13 A. I look at it once in a while, the articles.

14 Q. The Chicago Tribune?

15 A. Yes, sir.

16 Q. So you just happened to stumble on it or  
17 did someone from the ISP call you and say, hey, check  
18 this out?

19 A. I don't know how this particular one came  
20 up, whether I did stumble on it or someone told me it  
21 was on there.

22 Q. Well, did you realize that in the e-mail --  
23 yeah, in the e-mail that made it into the newspaper  
24 that Marlow was making the statement that Steidl and



1 Whitlock were not proven guilty beyond a reasonable  
2 doubt?

3 MR. MANCINI: Object to the form.

4 MS. EKL: Same objection.

5 Q. Did you realize that?

6 A. Do I remember exactly what was on the  
7 e-mail? That wasn't what my interview was about  
8 here.

9 Q. Well, did you -- did you ever see the  
10 e-mail itself?

11 A. Yes.

12 Q. And where did you obtain that?

13 A. Oh, I didn't see the original e-mail.  
14 Probably through the Chicago Tribune. What was in  
15 the Chicago Tribune is what I would have saw.

16 Q. So nobody ever got you a copy of the actual  
17 e-mail?

18 A. No.

19 Q. You just saw the Chicago Tribune?

20 A. I have no contact, no.

21 Q. But you discussed the Chicago Tribune  
22 article after you saw it in the newspaper; is that  
23 right?

24 A. I'm just bringing -- is it okay if I read

1 this?

2 Q. Sure. By the way, have you had a chance to  
3 read it before -- in preparation of the deposition?

4 A. Just for a second, not long, yesterday,  
5 okay?

6 Q. Uh-huh.

7 A. I think the whole interview was that I had  
8 information from Tony Snyder, information that he  
9 received that Dixon had released Marlow's e-mail to  
10 Rory Steidl and Rory Steidl released it to Baker and  
11 that's how the Chicago Tribune got it. That's what  
12 the information I gave to them.

13 Q. That's what you told them?

14 A. Yes. It's right here.

15 Q. But you had no firsthand knowledge of that?

16 A. Oh, I did not.

17 Q. Where did you get that information?

18 A. It says here Tony Snyder.

19 Q. All right. And so you were still in touch  
20 with Tony Snyder?

21 A. Sure.

22 Q. So did Tony Snyder call you up and -- and  
23 advise you of that?

24 A. Tony lives right next to the marina where

1 I'm employed.

2 Q. So you and he bumped into each other and  
3 were discussing the --

4 A. Quite often.

5 Q. -- the Tribune; is that right?

6 A. We see each other every day or all the  
7 time.

8 Q. Did he have a copy of the e-mail, the  
9 Marlow e-mail?

10 A. I don't recall that.

11 Q. So he told you that he got some information  
12 from a friend -- strike that.

13 Did he tell you where he got his  
14 information that Dixon was the one who gave the  
15 e-mail up?

16 A. No.

17 Q. He just told you that was his opinion?

18 A. No, he got some information.

19 Q. He told you he had some information but he  
20 didn't tell you from where; is that right?

21 A. I'm trying to read here.

22 Q. Sure. Take your time.

23 A. I don't know where Tony got the  
24 information. I can't really -- by reading this I

1 can't understand it.

2 Q. Well, it says that "Snyder was alleged to  
3 have been told this by another unknown retired ISP  
4 officer whose name Eckerty could not recall." Do you  
5 see that?

6 A. Yes, I see that.

7 Q. So you told the investigators in 2006 that  
8 there was a retired ISP officer who told Snyder this  
9 information who then told you the information, but  
10 you couldn't remember the name of that officer,  
11 right?

12 A. I don't know whether Snyder didn't tell me  
13 or what, but -- you know.

14 Q. It says you couldn't recall the name, not  
15 that you -- that you weren't told it, right?

16 A. Yeah, right.

17 Q. So that would indicate to you, would it  
18 not, that you were told the name of the retired ISP  
19 officer but you couldn't remember it at the time you  
20 were interviewed --

21 A. Right.

22 MS. EKL: Object to form.

23 Q. -- is that right? I'm sorry. I didn't  
24 hear your answer because of the objection.

1           A.    It says the officer got it from Marlow on  
2 here.  Is that what it says on your report?

3           Q.    I'm sorry.  What did you say?  "According  
4 to Eckerty the information was provided by Marlow",  
5 right?

6           A.    "Marlow during conversations over coffee  
7 near Marlow's residence.  Eckerty advised Marlow has  
8 always discussed his opinion with the Rhoads  
9 review..."

10           MS. SUSLER:  He already told you the name.

11           Q.    Yeah, I was talking about the passage in  
12 your -- in the 403 of your interview that "Snyder was  
13 alleged to have been told this by another unknown  
14 retired ISP officer whose name Eckerty could not  
15 recall", right?

16           A.    Yeah.

17           Q.    So in fact, Snyder told you the name of the  
18 person that told him, but at the time of your  
19 interview you could not recall the name; is that  
20 right?

21           A.    That's the way it's written here.  That's  
22 the way it's written.  That's the way you can read it  
23 and that's the way it's written here.

24           Q.    Is that accurate?

1           A.     That's the way the guy wrote it.  Whether  
2     Snyder didn't recall the guy's name or whether I  
3     didn't recall the guy's name, the only thing I know  
4     is that Tony did tell me about it and it was passed  
5     on.

6           Q.     All right.  And then it goes on and says,  
7     "The unknown officer allegedly received the  
8     information concerning the release of the e-mail by  
9     Dixon to Steidl from Marlow."  Is that right?  Is  
10    that accurate?  Did you pass that information on in  
11    that form to this investigator on January 25th?

12          A.     I don't remember exactly what we were  
13    talking -- we talked about, but I do remember the  
14    interview, I do remember the -- it was over the  
15    e-mail, and that -- how it was related to me by  
16    Snyder, how it got up the chain on it, and...

17          Q.     Well, the interview was with someone by the  
18    name of Sergeant B. G. Willam; is that right?

19          A.     I don't remember his name.

20          Q.     You see the name on the report?

21          A.     Yes, I do, but I don't recall who it was.

22          Q.     Had you had any dealings with him before he  
23    interviewed you?

24          A.     No, sir, never knew him.

1 Q. Would you expect that a sergeant in the DII  
2 who was doing an interview with you would accurately  
3 record what you told him?

4 A. Yes, I would.

5 MS. EKL: Objection. Form. Foundation.

6 Q. So you have no reason to disbelieve or  
7 anything that is attributed to you in this report, do  
8 you?

9 A. No.

10 Q. All right. And it goes on to say that  
11 according to you that the information was provided by  
12 Marlow during conversations over coffee at a  
13 restaurant near Marlow's residence; is that right?

14 A. That's what it says.

15 Q. And in fact, did you -- you have no reason  
16 to quibble with the fact that this accurately  
17 reflects what you told him, right, that being  
18 Wilhelm.

19 A. I have no -- no -- quibble, was that the  
20 word you used?

21 Q. Yeah, I used quibble.

22 A. No, I don't have any reason to quibble  
23 about it.

24 Q. All right. Now it also says that "Marlow

1 has also discussed his opinion on the Rhoads review  
2 and how he believed Gordon Randy Steidl and Herb  
3 Whitlock were involved in the Rhoads homicide."

4 Do you see that?

5 A. Yes, I do.

6 Q. Now, in this statement are you telling the  
7 DII investigator that Marlow told you his opinion on  
8 the Rhoads review and how he believed Steidl and  
9 Whitlock were involved in the Rhoads homicide?

10 A. Yes.

11 Q. Okay. And when did he tell you that  
12 opinion?

13 A. It doesn't have a date here and I don't  
14 know when that was.

15 Q. All right. Well, was it at the 2004 --

16 A. Now I don't recall when that was done. You  
17 know, we went over it before, and if I recall, I wish  
18 I could, I wish I could -- I wish I could remember  
19 every date, you know, but I can't, you know.

20 Q. Well, was it at a -- at the time that you  
21 saw him down in -- at the marina?

22 MS. EKL: Objection. Foundation. He's  
23 already told you he doesn't recall.

24 A. Yeah.



1 Q. You may answer.

2 A. I don't recall. I'm sorry. I lost my page  
3 now. What page was that on? Excuse me. What's that  
4 number?

5 MS. EKL: 788.

6 A. All right. Go ahead.

7 Q. Was it around the time of this interview,  
8 that being in July -- I'm sorry -- in January of  
9 2006?

10 A. I'm sorry, Mr. Taylor, I don't recall that.

11 Q. All right. Was it after the -- the May --  
12 strike that -- [REDACTED]

13 [REDACTED]

14 A. I don't recall that either.

15 Q. Did Marlow on more than one occasion tell  
16 you the opinion that you attribute to him here, that  
17 is that Steidl and Whitlock were involved in the  
18 homicides?

19 A. Yes.

20 Q. He told you more than once?

21 A. Yes.

22 Q. All right. How many occasions did he tell  
23 you that?

24 A. I have no idea. I only talked to him two

1 to four times, other than him coming in the marina,  
2 he's a customer, he has a boat there, talked to him  
3 like that, see him quite often, he comes every  
4 weekend on his boat, two to four times on this whole  
5 case, you know.

6 Q. Did you say two to four or three to four?

7 A. I said two to four, you know. So it could  
8 be three to four, but it's two to four, okay?

9 Q. Are you counting the big meeting as one of  
10 them or is that --

11 A. No, probably not.

12 Q. All right. So we got the big meeting with  
13 the three of them and then you got --

14 A. Yes.

15 Q. -- two to four other occasions?

16 A. Yes.

17 Q. And on each of those other two to four  
18 occasions he told you his opinion that they -- that  
19 Steidl and Whitlock were involved in the case; is  
20 that right?

21 A. I feel comfortable by saying that more than  
22 once he's told me that he thought that they were the  
23 two guilty ones, along with someone else.

24 Q. All right. Did he also tell you that he

1 thought that the witnesses against Steidl and  
2 Whitlock were incredible? Incredible or not  
3 believable?

4 A. Yes.

5 Q. And how many occasions did he tell you  
6 that?

7 A. A couples times.

8 Q. How many?

9 A. Probably twice or more probably.

10 Q. Probably?

11 A. I don't know. Yeah.

12 Q. Did you agree with him based on your view  
13 of the case that Herrington and Rienbolt were not  
14 believable?

15 A. I would not have picked them as witnesses.

16 Q. All right. And does that mean that you did  
17 not think they were credible?

18 A. Oh, they knew certain things that were  
19 inside that homicide that no one else knew on it. As  
20 far as witnesses, I wouldn't have picked either one  
21 of them as being a witness on it if I was going out  
22 and picking somebody as a witness. But they both  
23 knew certain things that were inside that murder  
24 scene.

1 Q. But they didn't know that the other one was  
2 there, right?

3 A. They did not.

4 Q. That was important, wasn't it?

5 A. I don't know.

6 Q. Well, didn't that strike you right from the  
7 beginning that two people said they were there and  
8 they both told stories about how this crime went down  
9 and neither of them saw the other one there? Right?  
10 That was an important contradiction, wasn't it?

11 MS. EKL: Objection. Form. Foundation.

12 A. It was important.

13 Q. Went to their credibility, went to part of  
14 their credibility, didn't it?

15 A. I wouldn't say that. It was something that  
16 had to be figured out.

17 Q. Did you figure it out?

18 A. Never have.

19 Q. Never have?

20 A. No.

21 Q. Still a mystery, right?

22 A. But they knew what was inside there.

23 Q. Well, a lot of people knew what was inside  
24 there by the --

1 A. Not at that time.

2 Q. -- by several months after the crime.

3 A. Not at that time.

4 Q. You don't think so?

5 A. (Witness shakes head).

6 Q. So there was only two ways they could have  
7 learned that, either being there or being told that  
8 by someone such as the investigators in the case,  
9 right?

10 A. Had to get it from some place, being there.

11 Q. Being there is one possibility, right?

12 A. That's true.

13 Q. Another one is that the investigators in  
14 their questioning suggested information to them,  
15 right?

16 A. Are you suggesting that I did?

17 Q. I'm not suggesting anything. I'm asking  
18 questions.

19 A. I'm just asking. I'll answer that question  
20 as this investigator did not.

21 Q. All right. Well, did Parrish in your  
22 presence?

23 A. Oh, no. Oh, no.

24 Q. So it would have had to have been outside

1 of your presence, right?

2 MS. EKL: Objection. Form.

3 A. I have never had any knowledge of that  
4 whatsoever.

5 Q. Well, let's break this down a little bit.  
6 What was it that Herrington knew that was consistent  
7 with what you understood of the crime, how the crime  
8 happened or the evidence in the case?

9 A. He knew about the pillow over the face.

10 Q. Okay.

11 A. How the room was laid out, the bed.

12 Q. What did he say about the bed that you  
13 thought was --

14 A. I'm going to have to pull the report  
15 because I can't recall everything on it, but I can go  
16 over the report with you and would be glad to on it,  
17 but for everything -- you asked me to pick some  
18 things and that's the things I'm picking. But  
19 everything, we could go over the report if you would  
20 like.

21 Q. Give me what you got before we go over the  
22 report, all right?

23 A. Let's use the pillow for a big deal. I  
24 think that's a big deal.

1 Q. Say that again, the pillow?

2 A. The pillow.

3 Q. Over the face. So either he had to have  
4 seen her body with a pillow over the face or someone  
5 told him that, right?

6 A. Yes.

7 Q. So you're saying that to your knowledge you  
8 didn't tell him that, right?

9 A. I did not tell him that, not to my  
10 knowledge. I did not tell him that.

11 Q. Well, did you ask him the question was  
12 there a pillow over her face?

13 A. No, sir.

14 Q. Did Parrish or Gene Ray or anyone else in  
15 your presence ask was there a pillow over her face?

16 A. No, sir.

17 Q. But you don't know what Gene Ray and  
18 Parrish asked them in that late night, early morning  
19 session that preceded your session, right?

20 A. I was not there.

21 Q. You weren't there. And you didn't have the  
22 benefit of a report to know what he said at that  
23 meeting or questioning that went on for some five  
24 hours two days before, right?

1 A. I wasn't there.

2 Q. You weren't there. So you had no report,  
3 right? There was no report.

4 A. No.

5 Q. And in the briefing did he tell -- did they  
6 tell you in the briefing that on the 19th, that being  
7 that Friday night and early Saturday morning, that in  
8 fact Herrington said she had a pillow over her face?  
9 Do you remember that being part of that phone call  
10 that you say you had from Parrish saying, hey, we got  
11 a witness?

12 A. I think I have stated that I don't remember  
13 what was in the phone call other than that they had a  
14 witness who was at the homicide and was setting a  
15 time up for McFatrige and I to come over and talk to  
16 him. That's the only thing I recall about it.

17 Q. Now, you have given us several things that  
18 to you were important that you say Herrington knew.  
19 Tell me anything else that you recall that Herrington  
20 knew other than what you've told us already.

21 A. I get them both mixed up on what they both  
22 knew. I think he knew the locations of the bodies --

23 Q. Uh-huh.

24 A. -- in that room. There was something about



1 how -- how Karen was dressed with him, with  
2 Herrington, yeah. Those are the things off the top  
3 of my head. Without looking at the reports and going  
4 over them, yeah, I am comfortable with that.

5 Q. All right. How -- what was the description  
6 of how she was dressed or undressed that Herrington  
7 gave that you felt was consistent with the physical  
8 evidence?

9 A. I can't remember if she had something  
10 laying over her and I don't know if she had a top on  
11 or something, but he described it pretty well to a T  
12 how it was.

13 Q. All right. And how about, you said that he  
14 knew the layout of the -- of the bedroom, is that  
15 what you said?

16 A. The layout, yes, sir.

17 Q. And did you say specifically he -- you  
18 thought that he knew the location of the mattress and  
19 the bed?

20 A. The body between the -- I think he -- I  
21 feel uncomfortable without looking at the report and  
22 I'm not going to say that until I look at the report.

23 Q. How about the location of the mattress on  
24 the bed, do you remember anything about that?

1           A.    No, I don't.  I want to look at the report  
2    on that.  I'm sorry about that.

3           Q.    All right.  Now, with regard to Rienbolt,  
4    what do you cite to that she knew about the crime  
5    that was consistent with your knowledge of the crime?

6           A.    She also knew the location of the bodies  
7    and she talked about the lamp that we are all talking  
8    about or vase or whatever.  She talked about the --  
9    did I say the bodies?

10          Q.    Yes.

11          A.    Okay.  I said that.  And there was  
12   something else that without looking at the report --  
13   I could look at the report and bring all the things  
14   that really comes to my mind about it.

15          Q.    Before we get into the reports, anything  
16   else?

17          A.    No.

18          Q.    All right.  But she was wrong about the  
19   knife, right?

20                MS. EKL:  Objection.  Form.  Foundation.

21          A.    I don't really -- I can't answer that, I'm  
22   not an expert.  I think that the knife that she  
23   presented, I think that one of the pathologists said  
24   that it could have been used, so I don't know if she

1 is wrong about the knife or right about the knife.

2 Q. All right.

3 A. I don't think it's ever been professionally  
4 or how do you want to say that, determined what you  
5 said was a wrong knife.

6 Q. So it was an open question in your mind  
7 whether it was the right knife or the wrong knife, is  
8 that fair to say?

9 MS. EKL: Did you say "it is" or "it was"?

10 A. No.

11 MR. TAYLOR: "It was".

12 MS. EKL: Objection. Foundation.

13 A. It wasn't an open question in my mind.

14 Q. So you -- you concluded that that knife,  
15 the length was consistent with the murder, is that  
16 right, the murders?

17 A. The pathologist stated that, I believe, in  
18 the report.

19 Q. Okay. That was contradicted at some later  
20 point, right, by another pathologist?

21 A. During that murder trial?

22 Q. Subsequently.

23 A. Well, I can't recall that. Sorry.

24 Q. All right. Now, going back to the report

1 we were looking at of your interview, "Eckerty  
2 indicated he has never heard of any specific  
3 information being discussed by Marlow regarding the  
4 current review." Is that right? Did they ask you  
5 that?

6 A. Is that on that 88 thing?

7 Q. Yes, the last --

8 A. That I have never heard?

9 Q. That you never heard of any specific  
10 information being discussed by Marlow regarding the  
11 current interview, right?

12 A. Was it on this? The first time that I  
13 talked to anybody from the ISP except for the  
14 meeting, the big meeting.

15 Q. Well, and except for Marlow.

16 A. Yeah, Marlow -- no, he hasn't said anything  
17 about it other than we had the right guys.

18 Q. He never told you why?

19 A. Why we had the right guys?

20 Q. Yeah.

21 A. I knew why we had the right guys. The  
22 evidence was there. He had a feeling, he felt the  
23 same as we did that there was someone else involved.

24 Q. So he did tell you a few things about the

1 investigation, he told you that he felt other people  
2 were involved and he told you that the witnesses were  
3 not believable, right?

4 A. Yeah.

5 Q. He told you those two things, didn't he?

6 A. He did. And I believe if you are reading  
7 on the DII report on that certain date, that most of  
8 the questions were specific -- I can't say that  
9 word -- the things --

10 Q. Specific?

11 A. Thank you.

12 Q. Uh-huh.

13 A. Things that happened on that was between  
14 their current investigation when Callahan, Dixon and  
15 all of them were involved and all that, I never knew  
16 what was going on there, and Marlow never told me  
17 what was going on, what information they developed,  
18 you know. The information I had received on this  
19 case on what's going on in this case on the last  
20 investigation has been through depositions.

21 Q. Well, you said that he said that they --  
22 that he agreed with you that these guys were -- were  
23 the right ones but there were others involved, right?  
24 Am I right?

1 A. He had a feeling.

2 Q. Well, he was the investigator, he had more  
3 than a feeling, right?

4 MS. EKL: Objection. Foundation.

5 MS. WADE: Objection to foundation.

6 MR. ACKERMAN: This is Phil. Object to  
7 foundation.

8 Q. He wasn't telling you about his feelings,  
9 he was telling you about what he had investigated,  
10 right?

11 MS. WADE: Objection. Foundation.

12 MR. ACKERMAN: Same objection.

13 A. I also had a feeling when I was working a  
14 case, but I couldn't tell you the people --

15 Q. You couldn't what --

16 A. I had a feeling, we have discussed that, I  
17 had a feeling there was other people involved, and  
18 after everything has developed and everything, my  
19 feelings back then, Ovid Chambers and Jeb Ashley  
20 were -- could be involved, and we had feelings,  
21 sometimes you can't put that together.

22 Q. Well, did Marlow tell you who he felt was  
23 involved?

24 A. He did not. He did not.

1 Q. Did you -- did you tell him who you felt  
2 was involved?

3 A. No.

4 Q. So here's the guy who investigated the case  
5 talking to the guy who's now investigating the case  
6 and they both have a feeling that there are two  
7 people loose who are -- how many ever people are  
8 loose who have never been apprehended in this crime  
9 and neither of them says to the other one who they  
10 are, is that your testimony?

11 A. My testimony?

12 Q. Yeah.

13 A. I think -- I probably always suggested to  
14 him, if anything, Jeb Ashley, you know. I might have  
15 related that to him, but I don't know -- I can't  
16 recall. And there's no sense of me sitting here  
17 speculating on what I told him and did not tell him  
18 because I just flat can't recall, you know. I just  
19 can't do it. I'm sorry.

20 Q. Would you agree with me that it would be  
21 logical that if he said that and -- and you were on  
22 the same page with him and you knew he was  
23 investigating now and he knew you were investigating  
24 then that you would exchange your views about who you

1 thought was still on the loose who committed this  
2 crime?

3 MS. EKL: Objection. Form. Foundation.

4 MR. ACKERMAN: Objection to form.

5 MS. WADE: I join the objections.

6 A. I'm sure it was discussed that -- sometime,  
7 I'm not sure. No, I can't say that because I don't  
8 recall even having conversations, you know.

9 Q. Well, you started to say you're sure it was  
10 discussed, then you say you can't recall, but my  
11 question was --

12 A. My memory was Ovid Chambers and Jeb Ashley.

13 Q. How about Morgan?

14 A. He was a suspect, but ah...

15 Q. Well, you went "ah". That doesn't get  
16 reflected on the record.

17 A. No, it shows no place in my investigative  
18 report, other than Tim Busby, seeing a gun. And  
19 Morgan, no place does it show that in my report.

20 Q. You had testified earlier that you were  
21 upset that Callahan hadn't contacted you, right?

22 A. Yes.

23 Q. Now you have the guy who was in the  
24 investigation contacting you several times, right?



1 MR. ACKERMAN: Objection to form.

2 Q. Or you were in touch with him certainly and  
3 talking to him on several occasions, right?

4 A. No, not several occasions. I said two --

5 Q. Two to four, that's several, isn't it?

6 A. And very limited on it.

7 Q. Well, what was it that you wanted to talk  
8 to Callahan about a few years before that --

9 A. I wasn't -- I wasn't involved in a lawsuit  
10 then and we were told not to talk to people.

11 Q. Okay. So you kind of changed your view  
12 about whether you wanted to talk about it from the  
13 time that Callahan was in touch with you on the one  
14 occasion to the time when Marlow was talking to you;  
15 is that right?

16 A. Yes, sir. That's right.

17 Q. But is it fair to say that this isn't  
18 entirely accurate that you said you never heard of  
19 any specific information being discussed by Marlow  
20 regarding the current review? You did have some  
21 discussion about some of the specific information,  
22 isn't that right?

23 A. I'm trying to get my dates and when this  
24 was done and everything else and I want to be very

1 truthful about the thing. And I said we have had  
2 some discussions with Marlow, I trusted the DII man  
3 who wrote this report, that's what came out in this  
4 report, and if we had discussed current things it  
5 would have been minute what we have just talked  
6 about.

7 Q. So to the extent we have --

8 A. I am comfortable with that.

9 Q. You are comfortable with what you said you  
10 and Marlow discussed concerning the specifics; is  
11 that right?

12 A. Yes.

13 MS. EKL: Objection to form.

14 MR. TAYLOR: Let's take a lunch break.

15 (Whereupon a luncheon break was taken at  
16 1:05 PM and the deposition continued as follows at  
17 2:10 PM:)

18 BY MR. TAYLOR:

19 Q. I want to go back to page two of your 403,  
20 the 403 interview of you that we were discussing  
21 earlier, dated --

22 A. Is that 888?

23 Q. Yeah.

24 A. 297888. Page two you said?

1 Q. Yeah. Now, you know who Rory Steidl is,  
2 right?

3 A. Yes, sir.

4 Q. And when did you first meet Rory Steidl?

5 A. Before he went on the Illinois State  
6 Police.

7 Q. Before that?

8 A. Yes.

9 Q. Where did you meet him?

10 A. Probably -- I think Rory was a police  
11 officer at Danville maybe, but he would hang around  
12 the sheriff's office at Paris.

13 Q. And you ran into him there?

14 A. Yeah, I think that's how -- I don't think  
15 he was a Paris police officer. I think he was -- he  
16 did hang around the sheriff's office, maybe from  
17 there.

18 Q. Did you work with him when he -- either  
19 before he was a Paris police officer -- I mean before  
20 he was an ISP officer or afterwards?

21 A. Not directly with him. Maybe been on the  
22 same detail while in ISP.

23 Q. All right. Did he -- did you have an  
24 opinion or a belief concerning his reputation for

1 honesty?

2 MS. EKL: Objection. Foundation. Are you  
3 talking about when he first came on?

4 Q. During the period of time you knew him.

5 A. What period?

6 Q. Any time through there.

7 A. I first knew him when he was on ISP. I  
8 thought he was a pretty sharp person, pretty sharp  
9 guy.

10 Q. Have you changed your opinion of him?

11 A. Yes, sir.

12 Q. And when did you change your opinion of  
13 him?

14 A. Well, he has done stuff as an Illinois  
15 State Police employee that probably shouldn't have  
16 been done on this case, you know. He's had access to  
17 reports.

18 Q. He's what?

19 A. He's had access to some reports.

20 Q. What reports are those?

21 A. I think he's had access to the whole case  
22 file.

23 Q. And what makes you say that?

24 A. Well, with Clutter and Callahan, I'm just

1 saying that. You asked me what I thought.

2 Q. And -- and you mentioned Callahan and  
3 Clutter. What do you mean?

4 A. He was very good friends of theirs.

5 Q. And how does that translate into him having  
6 the entire case report -- case file?

7 A. It was my idea that he did.

8 Q. So that's your conclusion, you have no  
9 proof?

10 A. I have no proof. No, sir.

11 Q. And do you have any proof of anything else  
12 that he has allegedly done that has altered your  
13 opinion of him from being a very sharp police officer  
14 to what your opinion is now?

15 A. Only rumors.

16 Q. All right. And what rumors are you  
17 changing your opinion on?

18 A. Giving information to the press.

19 Q. Do you have any hard information with  
20 regard to that?

21 A. Only rumors, sir.

22 Q. And where did you get those rumors from?

23 A. Just different sources of people.

24 Q. Could you tell me --

1           A.    No, I can't. I don't even remember, you  
2 know.

3           Q.    Are they sources within the Illinois State  
4 Police?

5           A.    Yes.

6           Q.    All right. And are they people you worked  
7 with?

8           A.    Most of my sources came from people  
9 secondhanded and -- I didn't work with people. When  
10 I was retired I didn't work with these people.

11          Q.    So you would run into somebody and they  
12 would tell you something about Rory Steidl?

13          A.    Yeah.

14          Q.    And you had no way to know whether that was  
15 accurate or not?

16          A.    No, not whatsoever, I did not.

17          Q.    Other than those -- what you have already  
18 told us, anything else that led you to alter your  
19 opinion about Rory Steidl over the years?

20          A.    Nothing comes to my mind right now.

21          Q.    Now, on page two of this report it says  
22 that you told the investigator that you believed that  
23 Rory Steidl was involved in the release of  
24 information concerning the Rhoads case review.

1 "Eckerty explained Steidl was once the District 10  
2 public information officer and still had several  
3 connections to the press."

4 Now, did you tell the investigator who  
5 wrote this report the information that I just read to  
6 you?

7 A. Yes, sir.

8 Q. All right. And you say, "Eckerty heard  
9 Steidl was alleged to have told another District 10  
10 officer once the civil suit involving Steidl's  
11 brother was settled, he would not have to worry about  
12 money."

13 Did you tell him that?

14 A. Yes.

15 Q. All right. And you say that you had heard  
16 Steidl was alleged to have told. So Steidl didn't  
17 tell you that, right?

18 A. Oh, no, sir.

19 Q. And who told you that Rory Steidl had said  
20 that?

21 A. I don't know how it got to me, but it was a  
22 rumor that came out of the state police down to  
23 somebody who told me that.

24 Q. So this is a --

1 A. Rumors.

2 Q. You couldn't even call it thirdhand, it  
3 could have been tenth-hand for all you know, it was  
4 some kind of hearsay-on-hearsay rumor; is that right?

5 A. Yes, sir.

6 Q. And you can't even attribute it to anybody  
7 as you sit here today; is that right?

8 A. I could not.

9 Q. When you gave this report to the ISP  
10 investigator you could not attribute it to someone  
11 either -- at that time either?

12 A. No, sir.

13 Q. And it wasn't that you were withholding  
14 information, it was that you truthfully didn't know  
15 where you had learned this information, is that fair  
16 to say?

17 A. Yes.

18 Q. Now, you also advised that you were  
19 informed that Dixon and Callahan were, quote, very  
20 tight and were discussing working together as private  
21 investigators; right?

22 A. Yes.

23 Q. You told him that, right?

24 A. I told him that.



1 Q. And again, where did you learn that from?

2 A. You know, I can't recall where I would have  
3 learned that either. Just from the same people that  
4 would be talking to me, you know, just different  
5 things that I would pick up.

6 Q. All right. So again it was --

7 A. I had no contacts with the ISP really.

8 Q. Well, scuttlebutt with ISP people that you  
9 would run into here and there in coffee shops and  
10 that; is that right?

11 A. Yes. Yes.

12 Q. Again, you couldn't -- couldn't attribute  
13 this to anyone in particular at the time?

14 A. No, sir.

15 Q. All right. And it says that you were  
16 further informed that Callahan and Dixon may be  
17 currently working under the license of private  
18 investigator Bill Clutter until they are able to  
19 obtain their own license; is that right?

20 A. Yes, sir.

21 Q. You told him that, right?

22 A. Yes, sir.

23 Q. And once again, what was your information  
24 that supported that statement?

1           A.     Strictly the same rumors that I had got  
2 before.

3           Q.     Same rumors which you had no way to verify  
4 or not verify; is that right?

5           A.     That's true, sir.

6           Q.     Do you know that they subsequently looked  
7 into this and found out that that was not accurate  
8 information?

9           MS. EKL:  Objection.  Form.  Foundation.

10          MR. ACKERMAN:  Same objection.

11          A.     I don't know that.

12          Q.     Okay.  So then it says that you admitted to  
13 them at the time that most of this information you  
14 were providing was merely rumor or second- or  
15 thirdhand information, right?

16          A.     Yes, sir.

17          Q.     In fact all of it was, right?

18          A.     It all was.

19          Q.     Yes.  Okay.  Any other rumors about Rory  
20 other than what you have told us?

21          A.     Not that I can recall at this point.

22          Q.     And so what is your opinion now of Rory?  
23 He is still on the force, right?

24          A.     Yes, sir.

1 Q. What's your opinion of him?

2 A. It's a personal opinion.

3 Q. What is it?

4 A. That I still think he has violated the  
5 policy.

6 Q. All right. Based on the rumors you think  
7 he has violated policy?

8 A. Yeah.

9 Q. And what policies are those?

10 A. Well, I'm not too familiar with the  
11 policies, but I know when we were involved with the  
12 state police and the uniform, I was in uniform, I was  
13 in investigation, it was pretty much a military  
14 organization and what was in the department stayed  
15 within the department. So I'm sure that, you know --  
16 my own personal opinion. I'll go back to that.

17 Q. Is that he violated policy by letting  
18 information outside of the organization?

19 A. That's my opinion.

20 Q. But in fact, you yourself had asked for  
21 information after you left the organization, right?

22 A. After I was involved in a civil suit.

23 Q. But you were no longer working for ISP,  
24 right?

1 A. No, sir.

2 Q. What was the policy when you were there  
3 about giving former or retired officers access to  
4 files?

5 A. I went to the chain of command to get the  
6 files. You know, I just -- I went through Randy  
7 Rushing, the only person I knew, to see if I could  
8 get them.

9 Q. But what -- I was asking you did you know  
10 what the policy was with regard to giving information  
11 and files out?

12 A. No, I didn't. I sure didn't, no. Sorry.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. How about in the two to four other  
9 conversations you had with Marlow, in any of those  
10 conversations did you tell him about the double  
11 report writing statement by McFatrige and -- and how  
12 that connected to no negative information?

13 A. I don't remember having a conversation with  
14 Marlow about that.

15 Q. Have you -- do you remember ever telling  
16 anyone prior to your telling us today at this  
17 deposition, and I exclude for a moment any  
18 conversations you had with your lawyer, did you  
19 ever -- do you have any memory of telling anyone else  
20 before today that McFatrige had told you not to  
21 record negative information but had defined that as  
22 being negative information in the form of double  
23 reports?

24 A. I don't remember if I told anybody that or

1 not.

2 Q. So you have no memory of telling anybody  
3 else before --

4 A. No, sir.

5 Q. -- before today; is that right?

6 A. No, sir.

7 Q. Have you had any conversations with  
8 McFatrige since this lawsuit has been filed?

9 A. Yes, sir.

10 Q. On how many occasions have you spoken with  
11 him?

12 A. Probably talking -- talked to Mike maybe,  
13 oh, once, twice a year since that's happened.

14 Q. And is there any special occasions you talk  
15 to him on once or twice a year or is that just how it  
16 so happens in the last three or four years you have  
17 talked to him once or twice a year?

18 A. At first, when it first started, of course  
19 we were both in a lawsuit, all of us in a lawsuit.  
20 We talked. You know, I have thought about Mike a lot  
21 and I have called him up to see how he and his wife  
22 and family were getting along. And not much, we used  
23 to play golf.

24 Q. When did you play golf?

1           A.     Played golf in August of every year with a  
2     law enforcement deal, but I think ever since -- I  
3     don't think the last three years we have played  
4     because he's been on vacation or something, but we  
5     have played on the same team, and I have not played  
6     there either.

7           Q.     Now I have showed you one of Callahan's  
8     memos here, the one that was dated in August of 2001,  
9     and he's also written a couple of other memos similar  
10    in terms of detailed information.  When's the first  
11    time before today that you've seen this August 2001  
12    memo?

13          A.     I don't know about this particular memo,  
14    when is the first time I saw it, if I have saw it, I  
15    probably have, but I don't know when for the first  
16    time.

17          Q.     Was it around the time that it was written  
18    or is it --

19          A.     Oh.  I never saw anything in this until  
20    probably Callahan's deposition, which I was present  
21    at.

22          Q.     Callahan's deposition in his --

23          A.     Right here.

24          Q.     Oh, here.  That was, what, 2007 or 2008?

1 A. 2008.

2 Q. This memo was quoted in the lawsuit, right,  
3 in 2005, that you were served?

4 A. What's in the memo?

5 Q. Well, do you remember there being  
6 allegations about Callahan and the information  
7 Callahan had and how the ISP didn't turn that  
8 information over; do you remember that?

9 A. Yes.

10 Q. And do you remember allegations that  
11 concerned information regarding McFatriidge that was  
12 attributed to you? You remember that we made those  
13 allegations in the lawsuit, right?

14 A. Yeah, I don't recall what they were, but  
15 I'm sure you'll share that with me there.

16 Q. Yeah, I will. Do you recall the negative  
17 information part of the Callahan memo being  
18 specifically relied on in the lawsuit that the,  
19 quote, "The negative information or information  
20 leading to the innocence of the defendants was not  
21 disclosed as in Eckerty's own words McFatriidge didn't  
22 want any negative reports that would hurt the case."

23 You remember that being in our lawsuit when  
24 you got it, right? That caught your attention,

1 didn't it?

2 MS. EKL: Objection. Form. Foundation.

3 A. I don't remember that. I have read it,  
4 sure.

5 Q. Okay. Had you read that part of -- of  
6 Callahan's memo prior to the filing of our lawsuit or  
7 was the first time you heard about it through our  
8 lawsuit?

9 A. If that's in the lawsuit, the first time I  
10 would have seen it was in the lawsuit. The memo, the  
11 first time here.

12 Q. Okay. Now, after you first heard about  
13 this being attributed to you, that is that you were  
14 saying that negative -- according to Callahan the  
15 negative information or information leading to the  
16 innocence of the defendants was not disclosed as in  
17 Eckerty's own words McFatridge didn't want any  
18 negative reports that would hurt the case, did you  
19 discuss that with McFatridge in any of these one or  
20 two conversations per year that you had with him?

21 A. I can't recall that I did.

22 Q. Well, did you ever tell McFatridge, hey,  
23 Callahan hasn't got that right. What I remember is  
24 you told us not to double report write? Did you ever

1 tell him that?

2 A. I don't recall any -- what conversation we  
3 would have had about the lawsuit papers and what  
4 allegations were made. I don't recall that at all.

5 Q. Did you have conversation with him about  
6 the lawsuit and what the allegations were against him  
7 and you?

8 A. I'm sure we did. You know, I'm sure we did  
9 and just because they're allegations doesn't mean  
10 they're true.

11 Q. Well, I'm asking you specifically about an  
12 allegation that came out of a law -- out of the  
13 lawsuit that came out of Callahan's memo which  
14 attributed to you specific statements with regard to  
15 McFatridge.

16 MS. EKL: Objection. Form. That's not a  
17 question.

18 Q. You understand I am asking you about that  
19 particular statement of fact from Callahan's memo,  
20 right?

21 MS. EKL: Flint.

22 MR. ACKERMAN: Objection to form and  
23 foundation.

24 MS. EKL: Object to form and I'd ask for

1 some clarification. You asked him if he had any  
2 conversations with McFatriidge regarding the  
3 allegations in the case, and now you are telling him  
4 that you meant did he have conversations regarding  
5 that specific allegation. So I just ask that you  
6 clarify your question. I think it's unfair and it's  
7 misleading.

8 Q. Well, you understand what I am talking  
9 about now that she's objected, don't you?

10 A. Yeah, could you ask me a question?

11 MR. TAYLOR: You want to read it back,  
12 please?

13 THE REPORTER: If I can find it.

14 Q. Well, I'll ask it. In fact, your testimony  
15 now is that you don't remember what conversations you  
16 had with McFatriidge about the specifics of the  
17 lawsuit, right?

18 A. Oh, no, sir, I don't.

19 Q. All right. Would you -- but you do agree  
20 that you did discuss the lawsuit and the facts  
21 alleged in the lawsuit with him, right?

22 MS. EKL: Objection. Form, foundation, as  
23 to which specific facts you're referring to.

24 Q. Any facts.

1           A.    Our main discussion, I don't know what they  
2 were, was discussing the homicide, the case that we  
3 worked.

4           Q.    Right.  And of course --

5           A.    And if this stuff came up, I couldn't  
6 recall that.

7           Q.    Well, did McFatridge ever ask you, hey, is  
8 it true what they say in this lawsuit about what you  
9 say about me, about negative reports?

10          A.    Not to my knowledge he never did.

11          Q.    Did he ever tell you what his memory of the  
12 discussion you say he had with him -- you had with  
13 him concerning negative reports, did he ever tell you  
14 what his view of it was?

15          A.    I can't recall that he would have done  
16 that.

17          Q.    So you have no memory of any discussion  
18 about the allegations that Callahan had originated  
19 that ended up in our lawsuit about negative  
20 information being involved in the -- that McFatridge  
21 had told you he didn't want any negative information?

22                MS. EKL:  Objection.  Form.

23          A.    I have no memory of that.

24          Q.    Okay.  When's the last time you talked to



1 McFatridge?

2 A. You know, I probably talked to Mike one or  
3 two months ago to see how he was doing, the family.

4 Q. Did you tell him you were going to be  
5 deposed in July?

6 A. I think I did.

7 Q. Did he tell you he was going to be deposed  
8 a week before you?

9 A. I'm sure that came up.

10 Q. And did you have any discussion about any  
11 facts that you thought that you and he might be asked  
12 at the depositions?

13 A. No discussion.

14 Q. So it was just a, hey, just kind of  
15 pleasantries, telling each other you were going to be  
16 deposed, right?

17 A. My concern was asking how his family was,  
18 his two girls. He's got two girls that's growing up  
19 in Paris.

20 Q. So you were asking about his family.

21 A. Sure, always do. Always do.

22 Q. Uh-huh. And what does he ask you or what  
23 does he say to you?

24 A. Asked me the same thing, how my kids are

1 doing and everything else. And, you know, we have  
2 spoken about the case, you know, you know, what else  
3 could be done.

4 Q. Now, at some point in 2003 or 2004 you're  
5 involved with the -- with the potential of testifying  
6 in Randy -- excuse me -- in Herbie Whitlock's  
7 postconviction case; is that right?

8 A. Yes.

9 Q. And at some point McFatridge came on your  
10 boat and went through boxes of documents with you,  
11 isn't that right?

12 A. May I ask you to back up? Whose  
13 postconviction was that?

14 Q. That was Whitlock's. Or let me withdraw  
15 that. Randy's postconviction.

16 A. Yes.

17 Q. And when was that? What year?

18 A. You know, I don't know what year that was.

19 Q. You're retired, right?

20 A. I was retired, yes. I don't remember what  
21 year that was. I don't know exactly.

22 Q. Was it in the late '90s or early 2000s?

23 A. I'd be guessing 2000, early 2000s.

24 Q. Was it before or after you obtained the

1 file from the ISP?

2 MS. EKL: Just to be clear, Flint, the last  
3 question you asked him was regarding when the hearing  
4 took place and I just want to make sure that that's  
5 the question you intended, that you are not asking  
6 him about the earlier portion about the going on the  
7 boat thing because I don't think that that's been  
8 established that that took place and I want to make  
9 sure everyone is -- he's answering the question that  
10 you intended to be asking.

11 MR. TAYLOR: All right.

12 Q. Is it your testimony that you went on or  
13 were on your boat with McFatrige going through boxes  
14 of documents?

15 A. At one point, I don't know what time it  
16 was, and with the Attorney General's Office.

17 Q. It was not McFatrige or it was McFatrige  
18 and the Attorney General?

19 A. Yes.

20 Q. So who from the Attorney General's Office  
21 was it?

22 A. I don't recall who it was.

23 Q. Was it Ellen Mandeltort?

24 A. You know, I don't recall and I am just

1 terrible with names and you have to overlook that,  
2 but I don't know. I just don't recall who that was.

3 Q. Was it a woman or a man?

4 A. To my recollection I think it was a man. I  
5 do, I think it was a man.

6 Q. And it was your boat?

7 A. Yes, it was.

8 Q. And it was on what lake?

9 A. Lake Shelbyville.

10 Q. And what time of year was it?

11 A. Probably warm.

12 Q. Okay. And where did the documents come  
13 from?

14 A. The Attorney General's Office.

15 Q. And so did someone contact you and ask you  
16 to go through those documents with them?

17 A. Yes.

18 Q. And who contacted you?

19 A. Somebody from the Attorney General's  
20 Office.

21 Q. And did you then contact McFatridge and ask  
22 him to join you?

23 A. He was probably contacted also by the  
24 attorney general's office. I don't know how that

1 happened that they set up the deal.

2 Q. How did it come about that it was going to  
3 be on your boat?

4 A. It was kind of a central location is the  
5 only thing it was. It was a central location.

6 Q. Not central for -- was this Attorney  
7 General out of Chicago?

8 A. Springfield.

9 Q. Springfield. Okay.

10 Now, what -- what boxes of documents did  
11 you go through?

12 A. I don't know, Mr. Taylor, what was in the  
13 boxes. It was the Rhoads homicide. So I don't know  
14 what was in there.

15 Q. Was there more in the boxes than just your  
16 investigation, meaning your -- the investigation in  
17 '86 or '87?

18 A. I don't remember. I would say they brought  
19 the whole case file with them.

20 Q. All right. So you don't remember whether  
21 there was documents that went beyond '86 and '87 time  
22 frame, but you are assuming they did?

23 A. I am assuming they didn't.

24 Q. I'm sorry?

1           A.    I am assuming it was our case file.  They  
2    didn't -- I'm sure they didn't have a copy of the  
3    recent stuff.

4           Q.    Okay.  So it was limited to your original  
5    investigation?

6           A.    Yes.

7           Q.    Okay.  So that's -- when you say the whole  
8    case file, that's what you mean?

9           A.    There was more than one box, I do remember  
10   that.  What was in the boxes I do not.  I'm sorry.

11          Q.    Now, have you had a face-to-face meeting  
12   with McFatridge in the past few years or are all  
13   these telephonic conversations?

14          A.    I had one face to face.

15          Q.    And when was that?

16          A.    Right after the initial lawsuit.

17          Q.    And where was that?

18          A.    At his house.

19          Q.    And who besides yourself was present?

20          A.    Parrish.

21          Q.    All right.  And did you discuss the  
22   lawsuit?

23          A.    We did.

24          Q.    And did you discuss the allegations that

1 were made against you and McFatrige and Parrish and  
2 Ray?

3 A. I don't remember the allegations against  
4 us. We sure discussed the case.

5 Q. And what were the specifics of your  
6 discussion?

7 A. On how we handled the case, trying to think  
8 of anything, if any, anything ever that we done wrong  
9 in that case or would have done different.

10 Q. What did you -- did you come to any  
11 conclusions?

12 A. I did.

13 Q. Well, how about was there any -- what was  
14 your conclusion?

15 A. I did do something wrong by doing my job on  
16 it. We found nothing wrong that we were -- nothing  
17 wrong at all other than doing our job.

18 Q. So even as of 2005, after Steidl had been  
19 released, you had no second thoughts whatsoever about  
20 the investigation and the results of the  
21 investigation, is that --

22 A. No, sir.

23 Q. -- fair to say?

24 A. No, no.

1 Q. Did Parrish articulate any second thoughts  
2 whatsoever, anything he would have done differently  
3 in the investigation at your meeting with McFatridge  
4 and him?

5 A. Not to my knowledge.

6 Q. All right. And how about McFatridge? Did  
7 he articulate any regrets, second thoughts, anything  
8 he thought should have been done different during the  
9 investigation?

10 A. Not that I can remember, none that he would  
11 change.

12 Q. And did you talk about Morgan at that point  
13 as a suspect?

14 A. I don't recall if he -- if Morgan's name  
15 came up at all, you know, during that time.

16 Q. All right. Did you at that point discuss  
17 the fact that you were going to obtain the complete  
18 file if you could of the ISP investigation?

19 A. Oh, I don't know if that was discussed at  
20 all, you know.

21 Q. It's about the same time as you made the  
22 request, right? Am I correct in that?

23 A. Shortly right after the lawsuit, yes.

24 Q. And after you got the file that they gave



1 you, did you share it with Parrish and McFatridge?

2 A. I did not.

3 Q. Did Parrish say that he would attempt to  
4 obtain the Parrish -- the -- did Parrish say that he  
5 would attempt to obtain the Paris file?

6 A. I'm not for sure if he said anything, he  
7 was going to try to obtain it or not.

8 Q. Did you know whether he had access to the  
9 Paris file at that point?

10 A. You know, I'm not for sure.

11 Q. How about McFatridge, what was McFatridge  
12 doing, what was his line of work in 2005 when you had  
13 this meeting?

14 A. He was probably at his same job that he has  
15 now at the VA Hospital.

16 Q. What does he do there if you know?

17 A. He is an attorney and --

18 Q. Counsel for the VA?

19 A. I really don't know what he does, yeah.

20 Q. Did he say that he would attempt to obtain  
21 the state's attorney's file in the case?

22 A. I couldn't recall that, you know.

23 Q. Did you discuss at all the contacts that  
24 you had had and -- with the current investigator,

1 Mr. Marlow?

2 MS. EKL: I'm sorry. Could you repeat  
3 that? I missed a part of it.

4 MS. SUSLER: Did you discuss the contacts  
5 you had with Marlow.

6 MS. EKL: Sorry. I object to foundation.

7 A. I don't recall that.

8 Q. Tell us what you do specifically recall  
9 about that meeting.

10 A. I think I have stated we got together, we  
11 had all been served in a civil suit, we went over the  
12 case thinking we had no documents, no reports, just  
13 going with things that we remembered happened when we  
14 were investigating the case, trying to think of  
15 anything that we would have done that was wrong or  
16 this or that and -- you know.

17 Q. Couldn't come up with any?

18 A. We did not.

19 Q. All right. Did you discuss whether you had  
20 failed to produce evidence that was material to the  
21 case? Did you discuss that issue which was a major  
22 issue in the lawsuit?

23 A. I don't think that was a discussion.

24 Q. Did you discuss the issue of Jim and Ed,

1 that information?

2 A. I don't recall that.

3 Q. All right. Did you discuss the lie  
4 detector or polygraph examination of -- of  
5 Herrington?

6 A. I don't recall if we did discuss that  
7 whatsoever.

8 Q. Did you discuss your -- anyone's  
9 conclusions about the credibility or lack of  
10 credibility of Rienbolt and Herrington?

11 A. I don't recall what parts we would have  
12 discussed, you know. I know there was a meeting,  
13 beside that what was discussed at that time just -- I  
14 just don't recall which individual things were.

15 Q. Now, you have known Mr. Parrish for a long  
16 time, right?

17 A. Since he's been a policeman probably. I  
18 don't know how long that is.

19 Q. Well, didn't you grow up next door to him?

20 A. Oh, no, I didn't. I'm not from that town.

21 Q. Your wife, did your wife grow up --

22 A. [REDACTED]

23 Q. [REDACTED]

24 [REDACTED]

1 A. [REDACTED],

2 [REDACTED].

3 Q. So you've known Parrish since that time or  
4 not?

5 A. No, I didn't know them, just his dad.

6 Q. So the first time you met Parrish was when?

7 A. Probably when he was a policeman.

8 Q. And was that his first tour of duty?

9 A. Yes, probably. You know, I don't recall  
10 knowing him before that, I possibly could have known  
11 him before that, but I don't recall that.

12 Q. Had you worked other cases with him prior  
13 to the Rhoads homicide case?

14 A. Yes.

15 Q. What other cases have you worked with him?

16 A. I don't recall. About anything that was a  
17 felony that they needed assistance on, I probably  
18 helped them with it and I don't recall what cases  
19 that would be. We always had something going on  
20 there.

21 Q. Did you work any homicide cases with him?

22 A. I'm thinking. I'm not for sure.

23 Nothing -- I don't recall any right now, but any

24 homicide that would have happened in Paris or Edgar

1 County we would have handled.

2 Q. Now, the Rhoads homicide happened in July  
3 of '86; is that right?

4 A. That's right.

5 Q. And would you agree with Parrish's  
6 assessment that it was the most sensational case that  
7 had happened certainly in his career as an officer --

8 MS. EKL: Objection. Foundation.

9 Q. -- that he had worked?

10 A. In Paris?

11 Q. Yeah.

12 A. I probably wouldn't describe it as a  
13 sensation, a great sensation, no. It was a terrible  
14 homicide. A terrible case. It was a serious case.

15 Q. And it was a high profile case, right?

16 A. I don't know what -- I don't know what you  
17 consider a high profile case.

18 Q. Well, what do you consider a high profile  
19 case?

20 A. Oh, probably somebody famous getting killed  
21 and stuff, you know. It was a terrible homicide, it  
22 was a double homicide.

23 Q. And it was a homicide that wasn't -- didn't  
24 lend itself to being solved over the first few

1 months, right?

2 A. No, it was not solved over the first few  
3 months.

4 Q. And that added pressure to law enforcement,  
5 including yourself, to try to find or to solve the  
6 crime, right?

7 MS. EKL: Objection, foundation, as to what  
8 pressure put on other people.

9 A. You know, Mr. Taylor, I don't know about  
10 the pressure that was -- that was put on us or as  
11 myself as solving it. You sure would like to have  
12 solved it for the family's sake.

13 Q. But there was also in terms of the  
14 community, there was a lot of concern and pressure  
15 from the community to solve the crime, wasn't there?

16 A. I never felt pressure from the community in  
17 solving that. Not pressure.

18 Q. Did you see this as an unusual case in  
19 terms of your career as an investigator or did you  
20 see it as just like any other case that you had been  
21 involved in?

22 A. Oh, no, it was -- I didn't say it was a  
23 usual case. It was a double homicide. You know, it  
24 was -- it was more so than any homicide, one person

1 being killed, there was two people murdered.

2 Q. And had you ever handled a double homicide  
3 in Edgar County prior to this, a double homicide?

4 A. Not that county.

5 Q. And --

6 A. I don't think, no.

7 Q. -- had you ever handled a double homicide  
8 where it remained unsolved for this long a period of  
9 time?

10 A. Yes, sir.

11 Q. And where did you handle such a case?

12 A. I think we had a double homicide in  
13 Champaign county.

14 Q. When was that?

15 A. I don't know. Sometime between 1975 and  
16 '85 probably. Sometime in there.

17 Q. So it was before the Rhoads case?

18 A. Yeah.

19 Q. And how long did it remain unsolved?

20 A. You know, it seemed like six, eight, nine  
21 months.

22 Q. So roughly the same amount of time as  
23 before you made an arrest --

24 A. Probably so.

1 Q. -- in the Rhoads case; is that right?

2 A. Yes, sir.

3 Q. And did that get the same kind of newspaper  
4 coverage as did the Rhoads homicide?

5 MS. EKL: Objection. Foundation, form.

6 A. You know, I don't recall what kind of  
7 coverage that would have got.

8 Q. All right. Now, did you become -- when did  
9 you first come to know an individual by the name of  
10 Darrell Herrington?

11 A. Probably the first time that I recall  
12 meeting him personally was during this case.

13 Q. In your investigations in the Paris area  
14 did you learn of his reputation prior to this case?

15 A. I knew of him.

16 Q. And what did you know about him?

17 A. I knew that he rode a bicycle, he had no  
18 driver's license and he was a good drywaller.

19 Q. Okay. Did you also know he was known as  
20 the town drunk?

21 A. I know he drank a lot and didn't have a  
22 driver's license and still ran a business, yeah.

23 Q. So you knew that he had lost his license  
24 due to drunken driving?



1 A. Yes, sir, I did.

2 Q. And did you know that he had a history of  
3 domestic violence with his wife?

4 A. You know, I don't think I am aware of that  
5 at that point.

6 Q. Were you aware of the fact that he had a  
7 reputation for exaggeration and even lying in the  
8 community?

9 MS. EKL: Objection. Foundation.

10 A. I don't recall that I even knew that  
11 either.

12 Q. Okay. Anything else you knew about Darrell  
13 Herrington other than what you've told us?

14 A. I just always knew that -- been told that  
15 if he wouldn't have drank so much he would have been  
16 one of the -- he's a fabulous drywaller and he had a  
17 good business, would have had a good business.  
18 That's about it.

19 Q. Who told you that?

20 A. Just different folks that would talk about  
21 him.

22 Q. When you were working in Paris did you ever  
23 have an occasion to go into any of the bars?

24 A. Yes, sir.

1 Q. Did you ever see Herrington in those bars?

2 A. I don't recall I did.

3 Q. Did you used to drink in those bars or did  
4 you only go in there for investigations?

5 A. I drank in those bars.

6 Q. How frequently?

7 A. Every so often, you know.

8 Q. Okay. And how often did you drink during  
9 those days?

10 A. How often did I drink?

11 Q. Uh-huh.

12 A. Oh, I probably would have a cocktail  
13 after -- every other day or so.

14 Q. And so you -- when you were in Paris you  
15 would have those cocktails in the bars there?

16 A. Probably so.

17 Q. Was there a particular bar that you  
18 frequented more than others?

19 A. There probably were.

20 Q. Which ones were those?

21 A. The Bowling Alley, Mr. Charlie's. I think  
22 it was called The Station, I think, and maybe  
23 Maribelle's once in a while.

24 Q. And did you drink with Parrish from time to

1 time there?

2 A. Yes.

3 Q. All right. How often would you say you  
4 drank with Parrish?

5 A. If we were working a case with Parrish, we  
6 probably would have a beer with him.

7 Q. How often?

8 A. As in any town.

9 Q. How often would you say that was prior to  
10 the Rhoads investigation?

11 A. I would have no recollection of what -- how  
12 often that would be. I don't know what to put on  
13 that, you know. If we were in town working, I worked  
14 other counties, you know, so...

15 Q. Let's talk about when you were working in  
16 Paris. How frequently would you drink with Parrish?

17 A. If I was working in Paris we would probably  
18 have a drink almost every afternoon, maybe not,  
19 unless I had to go someplace else or what was  
20 scheduled.

21 Q. And you would talk shop or talk cases when  
22 you had a beer?

23 A. Sure.

24 Q. Okay. And was that -- would that hold true

1 for the Rhoads investigation? Since you were in town  
2 for such a long period of time, did you and Parrish  
3 have drinks regularly during the investigation?

4 A. Yes, sir.

5 Q. And you would talk about the case and the  
6 evidence you had, that kind of thing?

7 A. I'm sure we did.

8 Q. And did you also talk about the  
9 frustrations that you both felt because you weren't  
10 able to solve the crime for many months?

11 A. I wouldn't call them frustrations.  
12 Probably talk about different -- different things we  
13 should do. Whatever.

14 Q. You never discussed the fact that it was  
15 frustrating to both of you to -- to not be able to  
16 make an arrest, an arrest in the case?

17 A. Well, everybody always wants to solve a  
18 case, you know. But you got to -- some just don't  
19 happen overnight.

20 Q. But of course that's what your job is is to  
21 solve cases as expeditiously and -- and correctly as  
22 possible, right?

23 A. Correctly as possible.

24 Q. Is that right?

1           A.    I don't know about the ex -- expedited, I  
2    don't know about that part, but correctly as  
3    possible.

4           Q.    Let me ask you as a law enforcement agent  
5    of many years, isn't it important to a community not  
6    to have people who commit double homicides free and  
7    loose in that community?

8           MS. EKL:  Objection.

9           Q.    That's a fair thing to say, isn't it?

10          MS. EKL:  Objection.  Form.  Foundation.

11          A.    Well, I'm sure that people wanted to find  
12    out who committed those murders, you know.  And --  
13    but you can't hurry that process up.

14          Q.    But in fact it's important to not only  
15    solve a crime correctly and get the people who  
16    perpetrated it, but to solve the crime as  
17    expeditiously as a law enforcement officer can, isn't  
18    that right?

19          MS. EKL:  Objection.  Form.

20          A.    I don't know about the ex -- about the  
21    expedited or do it fast.  I don't know if that's a  
22    pressure that's put on any police officer, you know.  
23    I guess I have trouble with that word, you know.  I'm  
24    sorry.

1 Q. All right. So it wasn't particularly  
2 getting you in any way nervous the fact that you  
3 weren't able to solve the crime over the first six or  
4 seven months that you were investigating it?

5 A. Oh, I sure wanted to solve it and everybody  
6 wanted it solved on it. But...

7 Q. When you and Parrish would drink in the  
8 bars there in Paris, did McFatridge ever join you at  
9 any time?

10 A. Yes.

11 Q. All right. And how often would he join  
12 you?

13 A. Quite often.

14 Q. And would that hold true as well during the  
15 investigation in the Rhoads homicide, he would join  
16 you along with Parrish in the bars during the  
17 investigation?

18 A. Yes, sir.

19 Q. Okay. And did I understand you correctly  
20 to say that that would have been on a -- when you  
21 were in Paris, that would be on a regular if not  
22 daily basis?

23 A. I wouldn't say daily, but it was --

24 Q. Regular, several times a week?

1           A.    Well, there's five days in a week, so maybe  
2    three of those.

3           Q.    And now would you -- I take it McFatridge  
4    would be involved in talking about the investigation  
5    in the same way Parrish was, right?

6           A.    Yes.

7           Q.    All right.  And you would talk about things  
8    to do, things that you had learned, that kind of  
9    thing?

10          A.    Yes, sir.

11          Q.    And would McFatridge put any pressure on  
12    you to attempt to get the case solved?

13          A.    I don't remember any pressure whatsoever  
14    that Mike put on us.

15          Q.    Was he concerned that the investigation was  
16    going on for several months without any arrests being  
17    made?

18                   MR. MANCINI:  Objection as to form.

19                   MS. EKL:  Objection.  Foundation.

20          A.    I'm not aware of Mike being nervous about  
21    it taking so long to solve it.  Mike would put his  
22    input on it, what he felt we should do next and --  
23    and things like that, but he never put any pressures  
24    whatsoever on it.  Sure he would like to have had it

1 solved, you know, and -- but he never put any  
2 pressures whatsoever.

3 Q. All right. Did Gene Ray join in your  
4 gatherings in the bar with McFatridge and Parrish?

5 A. No, sir.

6 Q. All right. So Ray's involvement was in  
7 terms of this team or group of four was limited to  
8 formal meetings that you had, but he didn't join you  
9 in the bars to further discuss the case; is that fair  
10 to say?

11 A. That is true.

12 Q. Okay. So if you'd come up with something  
13 new at a meeting over -- over, for lack of a better  
14 word, a couple cold ones, that would have to be  
15 communicated to Ray independently because he wasn't  
16 there; is that right?

17 A. That would be true.

18 Q. Okay. So would you expect, was there  
19 someone who was more or less the conduit back to Ray  
20 when he wasn't there? Was Jim Parrish the one who  
21 usually communicated directly to Ray if he wasn't  
22 involved in a meeting?

23 A. I'm sure Jim kept Gene up to par on  
24 everything, you know, that happened during the day,



1 you know.

2 Q. Now, there was a restaurant in -- that was  
3 frequented by quite a few people in Paris called the  
4 Bon-Ton; is that right? Do you remember that  
5 restaurant?

6 A. Yes, I do.

7 Q. Did you used to go in there for breakfast  
8 sometimes or coffee?

9 A. I'm pretty sure that I didn't use that  
10 restaurant. I stopped at Mr. Charlie's once in a  
11 while for breakfast, but I'm not for sure I have ever  
12 went there.

13 Q. All right. Did you have breakfast with any  
14 other members of the team when you were in Paris?

15 A. I did.

16 Q. Okay. And who would you normally have  
17 breakfast with then?

18 A. At times whatever agents were working with  
19 DCI would meet. Gene Ray would meet and then Jim  
20 would meet us.

21 Q. And --

22 A. Probably the meeting place of the day,  
23 yeah.

24 Q. And would McFatridge meet as well in the

1 morning for breakfast with you and Parrish and Ray  
2 and the others?

3 A. I presume he did on occasions.

4 Q. And would you again talk about the  
5 investigation?

6 A. Oh, yes.

7 Q. About what you were going to do and what  
8 you had learned and -- and strategies and tactics of  
9 the investigation, is that fair to say?

10 A. Yes.

11 Q. And everybody, you and Parrish and Ray and  
12 McFatridge, would all contribute as a kind of joint  
13 effort to try to determine -- to share information  
14 and determine what to do next, is that fair to say?

15 A. Yes.

16 MR. MANCINI: Objection to form,  
17 foundation.

18 Q. And that would include what witnesses to  
19 talk to and to call in and -- and who to bring in the  
20 station, that kind of thing?

21 A. Probably discussed what we was going to do  
22 that day.

23 Q. And that would include those things that I  
24 just mentioned, right, from time to time?

1 A. Yes.

2 Q. Now, would it also be fair to say that you  
3 were the ISP's lead investigator in the Rhoads  
4 homicide?

5 A. I was the case agent.

6 Q. And in fact they kept you as the case agent  
7 right through to today on the reports, right?

8 MS. EKL: Objection. Foundation.

9 MR. ACKERMAN: Objection. Form.  
10 Foundation.

11 A. I'm not sure about that, about today.

12 Q. Now, I want to put in front of you a couple  
13 of exhibits from the Ray -- well, strike that.

14 So would it be fair to say that McFatrige,  
15 Ray and Parrish and you were not only receiving the  
16 formal reports that you and Parrish and the others  
17 were writing, but you were receiving additional  
18 information through your meetings in the morning and  
19 in the evening?

20 A. Yes.

21 Q. And would some of that information come out  
22 in notes -- strike that -- on your notes that you  
23 might have written up that day and had in your  
24 briefcase?

1           A.    Would have obtained information, might have  
2 wrote it down so we would remember the next day to  
3 tell everybody and taken care of it, tossed it away.

4           Q.    Tossed it away afterwards?

5           A.    Yeah, after it was done.

6           Q.    After you told somebody?

7           A.    After it was done, yeah.

8           Q.    How about the strategies and tactics that  
9 you talked about, were those written down anywhere?

10          A.    I don't recall that they were.

11          Q.    Okay. That wouldn't be the kind of thing  
12 you would put in an official report, right?

13          A.    Your daily duties of what you were going to  
14 do?

15          Q.    Well, no. Yeah, what I said was your  
16 tactics, your strategies, the kind of focus of your  
17 investigation, that kind of thing you wouldn't put in  
18 a day-to-day report that you would write and file,  
19 would you?

20          A.    No.

21                MS. EKL: Objection. Form. Foundation.  
22 There's been no testimony about any day-to-day report  
23 that was created and filed.

24          Q.    Can you finish your answer? I know you

1 started.

2 A. I wouldn't have put my strategy down on a  
3 piece of paper in a report.

4 Q. You would not have?

5 A. If we were going to do something today, I  
6 wouldn't write a strategy report on what we were  
7 going to do today.

8 Q. So it wouldn't go in these reports that you  
9 wrote such as this -- this Group Exhibit 2. Those  
10 are your reports here. You wouldn't put that in  
11 those reports, right?

12 A. No.

13 Q. Okay. I take it from time to time to time  
14 you would discuss with your team various witnesses  
15 and whether they were believable and whether to  
16 follow up further with regard to a particular  
17 suspect, right?

18 A. I presume we did that, yes.

19 Q. And, again, that wouldn't -- in terms of  
20 whether you believed somebody or not or you thought  
21 there should be further corroboration, that  
22 conclusion that you or the others might draw in one  
23 of these meetings, either in the morning or the  
24 evening, you wouldn't put that in the official

1 reports either, is that fair to say?

2 A. I guess you're kind of losing me on that.

3 Could you go over it one more time?

4 Q. Sure. When you discussed tactics and  
5 strategies in terms of -- strike that.

6 When you discussed the -- a certain  
7 witness, let's say, and you discussed whether that  
8 person was believable or whether you needed more  
9 corroboration for that witness and just had a frank  
10 discussion about whether this -- what you thought of  
11 this particular witness, that wouldn't be the kind of  
12 thing you would write in an official report such as  
13 the ones, the ISP reports that are Exhibit 2, would  
14 you?

15 MS. EKL: Objection. Form.

16 A. I still don't think I'm following you quite  
17 right. I presume that if work needed to be done,  
18 you're asking if we wrote a report that work needed  
19 to be done to interview a witness. We would not  
20 write a report saying so and so needs to be  
21 interviewed, we would assign that to someone to go  
22 interview them. And I believe you probably got a  
23 copy, there's a card file made, you probably have a  
24 copy of the card file that was left at the PD, and

1 everybody would give it a name, and what they would  
2 of supposedly, allegedly know, and that's how we kept  
3 track of everything, on that card file.

4 Q. Let me give you an example. Let's -- let's  
5 say that at one of the meetings you discussed whether  
6 Steidl, when he was questioned, whether he was  
7 telling the truth or not, okay? And you came to a  
8 conclusion that you didn't believe him or you  
9 believed him. That wouldn't be the kind of thing you  
10 would write down in a report, that conclusion, am  
11 I -- am I right in understanding that? Or should I  
12 be able to find in these reports conclusions that you  
13 all drew about witnesses that you interviewed?

14 MS. EKL: Objection. Form. Foundation.

15 A. There wouldn't be a conclusion written any  
16 place, there is an interview in here with Steidl,  
17 4-3.

18 Q. But you're missing my point. My point is  
19 would conclusions about that witness, whether it's  
20 Steidl or Carey Sexton or anyone else, would the  
21 conclusions that you all might draw in your meetings  
22 about whether they're believable or not, would that  
23 be in these reports?

24 A. No.

1 Q. Would you write that down in your notes?

2 A. No.

3 Q. So that would be something that would be  
4 kind of work product that you and the others on the  
5 team would have, but we wouldn't be able to -- to  
6 find reports about that -- those conclusions, right?

7 MS. EKL: Objection to the form.

8 Q. Is that right? There are no such reports  
9 that you know of?

10 A. Any comments --

11 Q. Yeah.

12 A. -- would have been made on any witness or  
13 anybody that's interviewed?

14 Q. Uh-huh.

15 A. The comments would have been written on  
16 those cards if there were any comments written down,  
17 the ones you have.

18 Q. That would be the only place we could find  
19 them?

20 A. Yes.

21 Q. And those cards went nowhere other than in  
22 the PD's office?

23 A. Yes, sir.

24 Q. And did McFatridge have access to your --



1 to the cards?

2 A. I'm sure he did.

3 Q. Did you ever see him going through the  
4 cards?

5 A. I don't recall seeing that, but he was at  
6 the PD almost every day.

7 Q. Is it fair to say, though, that a  
8 significant part of a team of investigators on a  
9 double homicide is to discuss the credibility of the  
10 evidence that you are evaluating, is that fair to  
11 say?

12 MS. EKL: Objection. Form. Foundation.

13 MR. ACKERMAN: Same objection.

14 A. Could you just run it by me one more time  
15 because I'm having a real hard time following you on  
16 that, okay.

17 Q. Sure. My question is you have a team of  
18 investigators, yourself and Ray and McFatridge and  
19 Parrish, right? And you're meeting often, you're  
20 writing reports, you have formal meetings and  
21 informal meetings and this is consuming a lot of time  
22 and energy, right?

23 A. Yes, sir.

24 Q. And you are needing to do all of this

1 because the case hasn't been solved yet, right?

2 A. Yes, sir.

3 Q. So you are constantly getting more  
4 information, good information, bad information and  
5 different information, information that seems  
6 important and information that doesn't seem  
7 important, right?

8 A. (Witness nods head).

9 Q. You are nodding your head yes, right? We  
10 are on the same page, right?

11 A. Yes.

12 Q. Okay. So it's important for that team to  
13 evaluate that information to determine what's  
14 credible, what's not credible, what to follow up on,  
15 what not to follow up on, right?

16 A. (Witness nods head).

17 Q. You are nodding with me again, right?

18 A. I'm nodding with you. I think I answered  
19 that by we would make out a note card, as you seen,  
20 put that person's name on a note card and say what  
21 they might know and that person would go interview  
22 that person. He may come back and say Parrish and --  
23 we interviewed that person and there would be a  
24 report written. And if there was any comments it

1 would have been written on that card, the only place  
2 we would have to write anything just to keep tabs on  
3 things.

4 Q. But if we were to look through the cards  
5 and not see any comments about whether somebody's  
6 believable or not, then it's fair to say that it's  
7 not recorded anywhere else, right?

8 A. It's fair to say there was no comment on  
9 the card.

10 Q. All right. Well, but if there was no  
11 comment on the card, then it wouldn't -- there  
12 wouldn't be anything in writing about that witness's  
13 credibility, is that fair to say?

14 A. On the credibility? There would be  
15 probably a 4-3 written on that witness being  
16 interviewed, but the credibility, as to what that  
17 person had to say about --

18 Q. Right. We are going around in a circle  
19 here because I thought we established that if you  
20 determined that this person didn't have credibility,  
21 that that wouldn't be something that was in your  
22 report, just the interview itself would be in the  
23 report, but not the investigator or the team's  
24 conclusion about the credibility.

1 MS. EKL: Objection. Form. Foundation.

2 Q. Did I misunderstand you when I thought you  
3 said that?

4 MS. EKL: Objection. Form. Foundation.

5 Flint, you keep jumping back and forth between  
6 credibility generally to and if you didn't believe  
7 anyone at all, and there is a distinction and you are  
8 trying to mislead him with your questions by asking  
9 two questions in the same one question. So I object  
10 to form.

11 Q. You may answer.

12 A. I truthfully don't know how to answer that.  
13 Credibility? I don't think on any report have you  
14 seen with a police writing of the credibility of the  
15 witness? The credibility?

16 Q. Yes.

17 A. You have seen that?

18 Q. No. No.

19 A. I wouldn't write about credibility. We  
20 would write what that person had to say so I guess  
21 I'm not following you. I'm sorry. It's totally my  
22 fault.

23 Q. No, you are following it and I was  
24 following you that you would not write down in a

1 report whether you thought the person was believable  
2 or not. We're on the same page, right?

3 A. I would not -- come again.

4 Q. You would not write down whether you found  
5 that witness that you interviewed was believable or  
6 not, that wouldn't be part of your report.

7 A. No, sir.

8 Q. But my --

9 MS. SUSLER: The answer is not clear.

10 A. No, sir, answer.

11 Q. It would not be part of the report?

12 A. No, sir.

13 MS. SUSLER: Correct or not?

14 Q. That's correct, right?

15 A. I -- you're really getting me confused.

16 MS. EKL: Objection. Asked and answered.

17 He said no, it would not be in the report. He said  
18 it three times it would not be in the report.

19 MR. TAYLOR: Thank you. That's what  
20 apparently she's not hearing it.

21 MS. EKL: I don't know why she's not  
22 hearing it. The question has been asked three times.

23 MS. SUSLER: I'm hearing it, Beth. I don't  
24 think it's clear and I'll say if I don't think it's

1 clear.

2 MS. EKL: The question (sic) was no. If  
3 you don't like the question, then tell Flint to ask a  
4 different question.

5 MS. SUSLER: I'm not going to argue with  
6 you. Ask a different question.

7 MS. EKL: The answer is no. I don't know  
8 what could be more clear about that. The answer is  
9 no. Is it in the report? No.

10 MS. SUSLER: Ask a different question.

11 BY MR. TAYLOR:

12 Q. And correct me if I'm wrong, but you said  
13 that that evaluation might appear in the card  
14 catalog. Did I misunderstand you on that?

15 A. If there was a comment, that would be the  
16 place it would be.

17 Q. And that comment about the credibility of a  
18 witness would go in the card catalog?

19 A. Possibly could.

20 Q. All right. But not always?

21 A. Not -- I -- quite frankly I have not seen  
22 that card catalog since 1986 and I don't really know  
23 what all the information we did put on that, but that  
24 was one of the deals we used in a larger case where a

1 lot of people had to be interviewed so we could keep  
2 track of the people, the folks that have been talked  
3 to and the folks that cannot be talked to. And there  
4 might be comments written on it. Jim was very good  
5 about writing comments on things.

6 Q. How about you? Not so good?

7 A. Probably not.

8 Q. But if you all had a conversation at  
9 Charlie's, did you say, in the morning or at one of  
10 the bars in the evening and you -- you said -- and  
11 you discussed the credibility of a witness, you  
12 wouldn't necessarily -- nobody would necessarily run  
13 back to the card catalog and write your opinion down  
14 in that card catalog; is that right?

15 A. Write it down on a piece of paper and put  
16 it in your pocket until you got back there.

17 Q. And then you -- so was there some kind of  
18 understanding that you'd go -- if you discussed the  
19 credibility of a witness and came to some conclusion,  
20 you'd go back to the card catalog and write it into  
21 the card catalog?

22 A. I don't know if this is your question. The  
23 understanding was if you had a witness to be  
24 interviewed, please put their name, put all the

1 information you have in that thing, address, phone  
2 number, and -- so you can keep track of who that  
3 person -- does that person need to be interviewed and  
4 when they were interviewed. I don't know if that's  
5 your question.

6 Q. That's not my question. I'm not talking  
7 about the straight up information about the person.  
8 I am talking about the person -- the evaluation of  
9 the person's credibility.

10 A. Anything that would be written would be on  
11 a 4-3 or a Paris Police Department report.

12 Q. I thought you just got through telling me  
13 that a 4-3 wouldn't have an evaluation of the  
14 credibility or believability of a witness.

15 A. Well, I don't know we would write it down  
16 any place, those two things, you know?

17 Q. Okay. So --

18 A. Yeah.

19 Q. -- normally you wouldn't write it down  
20 anywhere, am I right on that?

21 A. I guess I'm getting mixed up between  
22 interviewing a person and writing what the interview  
23 is about and then you come back and want the  
24 credibility of that. We didn't keep track of the



1 credibility on that.

2 Q. All right. That's what I'm -- all I'm  
3 trying to say. You didn't keep track in writing  
4 about credibility?

5 A. I'm trying to answer as honestly and as  
6 knowledgeable as I can.

7 Q. So let's just make sure we understand each  
8 other, that you wouldn't normally record in writing  
9 credibility evaluations that the team made about  
10 witnesses, am I -- are you and I understanding each  
11 other correctly? Is that fair to say?

12 A. We probably normally would not write that  
13 down.

14 Q. All right. Let's take a break.

15 (Whereupon a break was taken and the  
16 deposition continued as follows:)

17 BY MR. TAYLOR:

18 Q. I want you to keep in front of you two  
19 documents, one is Ray 2, you can keep that to the  
20 side, and the other is Ray 9. They are group  
21 exhibits. One is the group of ISP reports, yours and  
22 other fellow investigators, and 9 is the collection  
23 of Paris reports, more specifically Parrish's  
24 reports.

1 Now?

2 MS. EKL: Just for the record, Flint, I  
3 know that when you introduced those at Ray's  
4 depositions I think there were two sets of ISP  
5 reports. Which set is this? Is this the complete  
6 set or this was one that didn't have everything in  
7 it?

8 MR. TAYLOR: No, that was Parrish reports,  
9 there were three of them, there was 7, 8, 9. This is  
10 the complete --

11 MS. EKL: I wanted to make sure.

12 MR. TAYLOR: It's complete as far as I  
13 know.

14 BY MR. TAYLOR:

15 Q. Now, calling your attention to July 6th, in  
16 the morning, you had an occasion to be called to the  
17 scene of the Rhoads homicide and arson; is that  
18 correct?

19 A. Yes.

20 Q. And who called you?

21 A. I'm not for sure who called me. Somebody  
22 from the Paris PD. Whether it was Parrish or  
23 whoever, somebody called me.

24 Q. Now I want you to look at the third page

1 of -- I'm sorry -- the fourth page of this Group  
2 Exhibit 2. It's 00002 and it also says Steidl 12209.  
3 Do you see that document?

4 A. I'm looking at 12210.

5 Q. 12209. So it would be the page before  
6 that.

7 A. 12209?

8 Q. Uh-huh.

9 A. Yes, sir.

10 Q. Now, does that -- is that a report that you  
11 wrote dated July 6th through August 1st, 1986?

12 A. Yes.

13 Q. And in fact you can tell that because your  
14 name comes first and also because it refers to you as  
15 the reporting agent, is that correct, in the first  
16 line of the document?

17 A. Yes, sir.

18 Q. Now, this is a document that records  
19 information starting on the 6th of July, 1986, and  
20 goes all the way through to, according to the  
21 document, August 1st; is that right?

22 A. The last page in the group you're talking?

23 Q. Well, I'm looking at the front page where  
24 it says reporting dates, July 6th through August 1st.

1 Is that right?

2 A. Yes.

3 Q. Does that indicate to you that this -- that  
4 the time frame of this report is from July 6th  
5 through August 1st?

6 A. Yes.

7 Q. Is that right?

8 A. It indicates that, yes.

9 Q. And it also indicates, does it not, that  
10 you wrote it on or after August 1st; is that right?

11 MS. EKL: Actually I'm going to object to  
12 the form of the question to the extent it implies  
13 that he wrote anything.

14 A. I can only presume that this was finished  
15 on August 1st, okay? I don't know when it was typed.  
16 This report was finished on August 1st.

17 Q. By you?

18 A. Not typed by me, but --

19 Q. Well, if you look up in the right-hand  
20 corner it says "typed by M. W., 8-5-86".

21 A. Okay. It's August 5th then it was typed.

22 Q. Typed on August 5th.

23 A. Right. Not by me.

24 Q. Who is M. W.?

1 A. I don't know.

2 Q. A secretary in the Champaign office?

3 A. Could be there, Springfield, yeah.

4 Q. All right. And what was your -- what was  
5 your procedure in terms of writing a report such as  
6 this? Did you dictate it, did you write it up in  
7 longhand to be typed up? Was there some other way  
8 that this information that we find, almost a month's  
9 worth of information, on your -- of your work on the  
10 investigation made it into one coordinated report?

11 A. I would have dictated it and kept -- I  
12 might have had a continuous thing.

13 Q. So it was continuous dictation or would you  
14 have dictated it from your notes on August 1st, '86?

15 A. I have no way to know that, whether I did  
16 some on one day or kept it on the tape recorder and  
17 some the next day and just kept adding to it. I have  
18 no way to -- to -- to tell you that.

19 Q. All right. Well, what was your normal  
20 practice in 1986?

21 A. I didn't have a practice. Sometimes I  
22 would dictate after I interviewed somebody, I would  
23 dictate it on the cassette. And maybe the next day I  
24 would have somebody else, I would put that on the

1 cassette, and continue. On some things I would just  
2 dictate that particular thing on cassette.

3 Q. But concerning all the information in this  
4 report which spans almost a month, there was no  
5 official report about this information until it was  
6 typed on the 5th of August; is that right?

7 MS. EKL: Objection. Form, foundation, as  
8 to what information you're referring to. There is a  
9 lot of information on that page.

10 Q. All the information in this report did not  
11 get entered into an official report and disseminated  
12 until after it was typed on August 5th; is that  
13 right?

14 MS. EKL: Objection. Foundation.

15 A. All the information on this report that I  
16 am looking at at this point was typed August the 5th,  
17 1986. It would then have been disseminated.

18 Q. So prior to that time it was not  
19 disseminated officially in any report; is that  
20 correct?

21 MS. EKL: Objection. Foundation.

22 A. No, sir.

23 Q. No, sir?

24 A. There is not -- it wasn't disseminated

1 until it was typed. Is that the answer to your  
2 question?

3 Q. Yes, right, that's what the answer is.

4 A. All right.

5 Q. And in the dissemination box at the bottom  
6 it says that it was sent to the coroner, the State's  
7 Attorney McFatridge and to Gene Ray; is that right?

8 A. That's correct.

9 Q. Now, you didn't normally disseminate your  
10 reports to the coroner, did you?

11 A. Yes, sir.

12 Q. You did all -- all the reports or just the  
13 ones --

14 A. The primary. We have to have an inquest.

15 Q. Okay. Was there an inquest in this case?

16 A. Yes, sir.

17 Q. And when was that?

18 A. I have no idea.

19 Q. Did you testify at that inquest?

20 A. Yeah, I'm sure myself or Jim, either one.

21 Only one person would have testified.

22 Q. Okay. But one or the other of you would  
23 have; is that right?

24 A. I'm pretty sure it was either one of us,

1 yeah. I can't swear by that.

2 Q. All right. Now, this report indicates  
3 that -- that you were contacted at approximately  
4 7:10 AM and that you arrived at the scene of a double  
5 homicide on 8:40 AM; is that right?

6 A. Yes, sir.

7 Q. And where were you when you were contacted?

8 A. It was on a Sunday and I had spent the  
9 night on my boat at Findlay Marina.

10 Q. Okay. And Parrish knew how to reach you  
11 there?

12 A. Yes, I had a telephone.

13 Q. On your boat?

14 A. (Witness nods head).

15 Q. Okay. Now, when you arrived on the 6th  
16 Parrish was already there; is that right?

17 A. It says on the report that approximately at  
18 8:40 AM I arrived and met with James Parrish.

19 Q. Okay. And so that's consistent with your  
20 memory of that day?

21 A. I totally don't remember meeting with Jim  
22 at that time, but that's what it says on the report.

23 Q. All right. You wrote the report; is that  
24 right?



1 A. I wrote this report.

2 Q. Okay. Now, did you take a walk through the  
3 building when you got there?

4 A. I believe we did.

5 Q. All right. And did you note at that time  
6 the location of various aspects of evidence,  
7 potential evidence on the downstairs and upstairs  
8 part of the house?

9 A. I would have made a visual view of the  
10 house.

11 Q. Now, when you were there I take that you  
12 had some kind of ability to take notes?

13 A. I'm sure I probably did.

14 Q. All right. And is it fair to say that the  
15 entries that we see here that go on for looks like  
16 two pages of this report, the first two pages, that  
17 that was dictated later by you based on notes that  
18 you took?

19 A. Yes, sir.

20 Q. All right. And would those notes be some  
21 of the notes that you expected to be in the file when  
22 you requested notes some decades later in 2005?

23 A. Oh, no, sir. After they were dictated I  
24 would tear them up. You couldn't keep that many --

1 that much stuff. You get rid of them. There's no  
2 need to keep them, you know.

3 Q. All right. Does this report reflect when  
4 you dictated this particular portion of this report?

5 A. No. Like I said before, it reflects only  
6 the dates that is covered, not only what I dictated  
7 it. It doesn't mean it wasn't in the office four or  
8 five days before it was typed. It doesn't mean that  
9 at all.

10 Q. All right. So sometime between --

11 A. It was typed that day.

12 Q. -- between the 6th of July and the 1st of  
13 August you dictated this particular two pages of  
14 entries having to do with your on-the-scene  
15 activities on the 6th of July; is that right?

16 A. That's right, sir.

17 Q. Was there any requirement within the ISP at  
18 that time in terms of how soon after you received  
19 information that it had to be reduced to an official  
20 report, was it a week, a month, a year? Was there  
21 any kind of regulation within the ISP that required  
22 you to file a report on some kind of time frame in  
23 relation to when you got the information?

24 A. You know, there was a policy. I don't

1 remember the days and I can't remember the names of  
2 the reports, but I think you first opened a case up,  
3 would be a 401, a piece of paper, and briefly  
4 describe what it would be, and you had so many days  
5 after that one was filed to file another one, which  
6 would be a 4-3, okay? And then I don't know what the  
7 days were, that could be found out through the state  
8 police, but you had so many days you had to report  
9 again.

10 Q. All right. So this is a 4-3, this report  
11 that --

12 A. Which report are you looking at?

13 Q. Is that right?

14 A. Yeah. I don't know what you got on your  
15 hand.

16 Q. I am looking at the same thing you're  
17 looking at, the report of July 6th through August  
18 1st.

19 A. Yes, that's a 4-3.

20 Q. And was there a requirement that you file  
21 this report on a certain number of days after July  
22 6th, which was the day you first got the information?

23 A. My first report I would have filed and I  
24 wouldn't have been in the office to file it and I

1 would have done it by phone through my supervisor,  
2 Charles McGrew, it would be a 4-1. That was to open  
3 the case up, give it a case number and briefly in  
4 short what the case was about and that would be  
5 sufficient for I don't know how many days. I don't  
6 know how many days that was.

7 Q. How many -- well, was it --

8 A. I have no idea.

9 Q. -- was it a month?

10 A. I have no idea how many days it was. I  
11 don't recall that.

12 Q. When you say days --

13 A. I'm sure you can ask one of your guys.

14 Q. -- was it within two weeks that you had to  
15 do the report?

16 A. Mr. Taylor, I don't recall how many days it  
17 was. I know you had the 401 and you had so many days  
18 before you had the 4-3 coming in and I don't know the  
19 days that it was.

20 Q. So you don't know whether this report was  
21 in compliance with regulations or outside of  
22 compliance; is that right?

23 A. As far as timely manner, I probably could  
24 not answer that.

1 Q. Now, when you did the walk-through on the  
2 second floor, in the bedroom where the bodies were  
3 found did you observe the bed in the room?

4 A. Yes.

5 Q. Okay. And did you make any notation in  
6 your notes that subsequently appeared in this report  
7 about the location of the bed and the condition of  
8 the bed?

9 A. When the walk-through was initially made on  
10 this particular date it was a quick walk-through  
11 before the crime scene got there. I was informed  
12 that the two bodies had been removed. I just wanted  
13 to make a quick walk-through to see what the house  
14 layout was, the stairway and all that. I made a  
15 mental note of most of that until Gary Knight got  
16 there, the crime scene tech, and then he done the  
17 rest.

18 Q. Did you call Gary Knight?

19 A. I did or the Paris PD did. I don't know  
20 who actually called Gary. I think by reading the  
21 reports here in the last couple weeks I observed it  
22 was Gary Knight beat me there I think. I don't know.  
23 But he might not have, you know. But I would -- it  
24 made no difference whether I called him or Paris PD

1 called him.

2 Q. On page two of the report, which is also  
3 00003 stamped on the report, that's the second page  
4 of this report, it says on the pillow and also on  
5 portions of the couch were what appeared to be blood  
6 spots, lying behind the couch was a bed sheet with  
7 what appeared to be blood stains.

8 Now this was something you observed, right?

9 A. Yes.

10 Q. Now I take it that that evidence was -- was  
11 taken and secured for testing; is that right?

12 A. Gary Knight would have done that.

13 Q. And what results did you receive with  
14 regard to whether this was blood, and if so, whose  
15 blood?

16 A. I don't recall the results on that sheet.  
17 And what else did you say was there?

18 Q. Blood.

19 A. Yeah. I don't recall.

20 Q. Sheet and pillow.

21 A. I don't recall if it was -- without reading  
22 a report I don't recall exactly if it was determined  
23 to be blood or -- or whatever foreign substance was  
24 on it.

1 Q. And if we go down two paragraphs, you are  
2 now talking about the bedroom of Karen and Dyke  
3 Rhoads where they were found. Now the bodies of  
4 course were not there when you got there, right?

5 A. No, sir.

6 Q. And it says before entering you observed a  
7 lamp lying outside the door, broken, and what  
8 appeared to be blood on the lamp; right?

9 A. That's what it says.

10 Q. This is the lamp that's had so much  
11 discussion and testimony about whether it was broken  
12 before or after, right?

13 A. Yes, sir.

14 Q. All right. And you're aware that the  
15 scientific testing ultimately established that the  
16 lamp had to have been broken after the crime, not  
17 before or during; isn't that right?

18 MS. EKL: Objection. Form. Foundation.

19 MR. ACKERMAN: Same objection.

20 A. I don't know what the scientific finding  
21 was. I think I know after talking to Gary Knight,  
22 our technician, explained it, it may not be so, and I  
23 respect his comments. Gary is probably one of the  
24 best crime scene technicians that ever worked the

1 state of Illinois. He and Tom Martin are probably  
2 the best and I'm sure you checked that out, thorough  
3 and everything else, and pretty much what Gary told  
4 me I would believe him. I have no idea about that  
5 stuff, you know. But --

6 Q. What did --

7 A. I'm not an expert on that lamp.

8 Q. But what did Gary tell you about the lamp?  
9 Did he tell you that it had been broken -- that the  
10 smoke showed that it had been broken after the fact  
11 rather than during or prior to the crime?

12 MS. EKL: Objection. Form.

13 A. I can't even remember and I'm sure you have  
14 talked to him, but --

15 Q. You don't remember what he tells you?

16 A. My answer to your question, if I have the  
17 question right, was you said an expert said something  
18 about the lamp and I have no knowledge of what the  
19 expert says right now. I'm sure I did have  
20 knowledge, but without reading the report I have no  
21 knowledge of that.

22 I do recall Gary Knight telling me about  
23 the lamp and he wasn't for sure about that, that that  
24 was the way it could have happened before the fire on



1 it, and -- but I'm sure you have talked to him, so --

2 Q. Are you saying -- when did you talk to Gary  
3 Knight about his opinion as to whether the lamp was  
4 broken during the crime or after the crime?

5 A. Well, at the time, you know, I do remember  
6 that. But I probably talked to Gary later on after  
7 that too.

8 Q. And what did he tell you?

9 A. What did he tell me?

10 Q. Uh-huh.

11 A. I don't recall. He says that lamp could  
12 have went either way.

13 Q. So you do recall what he told you.

14 A. According to what expert you have.

15 Q. Oh, he told you that at the beginning,  
16 depending on what expert you have --

17 A. This is probably later, you know. This is  
18 probably later there, but I -- I respect his opinion.

19 Q. Okay. But I'm asking you what his opinion  
20 was that you respect.

21 A. He told me at one time or the other that  
22 that lamp could have just as well been broken before  
23 that fire.

24 Q. Did he tell you what led him to that

1 conclusion given the fact that there was no smoke  
2 stains where there would be if the lamp was broken  
3 before or during the fire?

4 MS. EKL: Objection. Foundation.

5 A. You know, I don't recall his -- his  
6 response, but Gary would have had a response. You  
7 know, I don't recall his response.

8 Q. Now, it says you also noted "In observing  
9 the bedroom it was noted that the mattress was  
10 disarranged on the bed."

11 You wrote that; is that right?

12 A. I wrote that.

13 Q. And that was your observations, right?

14 A. Yes, sir.

15 Q. Now, in what manner was the mattress  
16 disarranged on the bed?

17 A. I don't recall exactly what direction at  
18 that point it was. I know it just wasn't straight.

19 Q. All right. Well, was it at a 45 degree  
20 angle or was it a slightly disarranged angle of a  
21 few -- you know, of a smaller -- much smaller angle?  
22 What do you remember?

23 A. I have to repeat, I don't remember exactly  
24 what angle. I know the top mattress was not actually

1 straight. Which angle it was pointing, I don't know.  
2 Dyke -- Gary made a diagram of how it was and I don't  
3 recall exactly what angle it was.

4 Q. All right. Well, I'm not asking you  
5 exactly, I'm asking you was it -- was it at a  
6 distinct angle, somewhere in the area of 45 degrees  
7 or was it at a very -- just a small angle where it  
8 was just off of being straight but not very far off?

9 A. I'm going to answer that as it was on an  
10 angle and I don't recall. I just remember an angle.  
11 I don't know whether it was -- what angle it was at,  
12 okay?

13 Q. All right.

14 A. Yes.

15 Q. Okay. Now, I want to bring you back for a  
16 second to the second -- third -- third page of this  
17 document.

18 A. You got a number?

19 Q. Yeah, it's Edgar County -- it says on it  
20 Edgar County Circuit Clerk file No. 04817.

21 MS. EKL: You have a different version than  
22 Flint because that's not what you have in front of  
23 him.

24 MR. RAUB: Can we just use the page

1 numbers?

2 A. I don't know where this came from.

3 Q. This document, I can't see upside down.

4 Now this is a document -- this is another official  
5 report, ISP; is that right?

6 A. It is.

7 Q. It's dated the 7th of July, '86, right?

8 A. Yes.

9 Q. And it was typed by FP on 4-27-87, right?

10 A. I'm sure that's a typographical error.

11 Q. Okay. Well, what do you --

12 A. I'm sure the date is typographical.

13 Q. Well, what would be the correct date on it?

14 A. I -- I would have no idea. I would say  
15 that I interviewed him -- her or Phil Fox it says on  
16 July 6th of 1986. And --

17 Q. And your reporting date, according to the  
18 document, is the 7th, the day after, right?

19 A. Uh-huh.

20 Q. Yes?

21 A. It is.

22 Q. And what do you mean by reporting date? Is  
23 that the date that you would have finalized the  
24 report?

1           A.    Well, the reporting date, if there wasn't a  
2    typographical error, would have been the same day  
3    as -- as the interview.  And just by looking at the  
4    report, there's a typographical error.

5           Q.    What's the -- we've got several, right?  If  
6    it was supposed to be the same day, then the  
7    reporting date should be 7-6-86, not 7-7?

8           A.    Right.  It was about observing a Mustang.

9           Q.    I'm sorry.  I'm asking you should the  
10   reporting date have been July 6th, '86, since that's  
11   the date you interviewed him or --

12          A.    It should be.

13          Q.    So that's one typo we've got on this little  
14   report, right?

15          A.    Yes.

16          Q.    And then we have it typed by F. P.  Who is  
17   F. P.?

18          A.    I don't know.

19          Q.    Is there a typist in McFatridge's office by  
20   the name of Faye Phillippi?

21          A.    Yes, sir, there is.

22          Q.    And is that an initial, that -- F. P., that  
23   would be her initial, wouldn't it?

24          A.    They're initials, but I think on the other

1 reports she's written she's put F. Phillippi. I  
2 don't know if we had somebody in our office with  
3 that. I just tell you she doesn't -- I don't know  
4 who that is. It could very well be.

5 Q. All right. Well, did she type some of your  
6 reports?

7 A. Yes, sir.

8 Q. Okay. And she also typed for McFatridge,  
9 right?

10 A. Yes, sir.

11 MS. EKL: Objection. Foundation.

12 MR. MANCINI: Objection. Form.

13 Foundation.

14 Q. Did she also type for Parrish? Did she  
15 type some of Parrish's reports?

16 MS. EKL: Objection. Foundation.

17 A. You know, I'm not -- I don't remember who  
18 typed Jim's reports.

19 Q. Okay. But now we have a situation where  
20 the date that it was typed is 04-27-87, right?

21 A. That's what it says on the report, yes.

22 Q. And that would be the -- a couple of weeks  
23 before Whitlock went to trial, right?

24 A. I don't know what the trial date was.

1 Q. Well, do you remember that Whitlock went to  
2 trial in May of '87, right?

3 A. I'm not for sure the date he went to trial.

4 Q. Well --

5 A. I can't remember that. I'm sorry.

6 Q. Well, if you -- take my word for it that he  
7 went to trial sometime in May of '87, okay? If  
8 that's the case, then this report was typed within a  
9 month of the time he went to trial and almost nine  
10 months from the time that you reported, right?

11 A. If the dates are right on this, yes.

12 Q. Okay. And if they're a typo, then this  
13 date is a triple typo. It wouldn't have been April,  
14 it wouldn't have been 27, and it wouldn't have been  
15 '87, right? The date would have been sometime in  
16 July or early July of '86, wouldn't that be a more  
17 appropriate time to type up a one -- a six sentence  
18 report?

19 MS. EKL: Objection. Form. Foundation.

20 A. That would have been the appropriate time  
21 it was typed up in, yes.

22 Q. So if we take your testimony, we've got  
23 quadruple typos on a report and another F. P. other  
24 than Faye Phillippi; is that what we are looking at

1 here?

2 MS. EKL: Objection. Form. Foundation.

3 A. This could have been Faye Phillippi. I'm  
4 saying I think if you observe, and you have, that  
5 some of the reports was typed by Faye Phillippi and  
6 it was "F. Phillippi" as typed. This is -- I don't  
7 know if there is anybody -- if she done some more  
8 with F. P., possibly could have been. I cannot  
9 explain why the different dates are on here.

10 Q. Well, any idea of why this report might  
11 have been typed nine months after you got the  
12 information?

13 A. I told you I had no knowledge because I  
14 just -- the substance of it is, you know -- it means  
15 nothing to me right now. And why this is -- I'm not  
16 going to be able to answer that question for you.

17 Q. Let me ask you this, why -- wouldn't you  
18 expect that this entry on July 6th would have gone  
19 into your July 6th through August 1st report rather  
20 than to be its own report sitting there by itself?

21 MS. EKL: Objection. Form.

22 A. I can't explain why it was not.

23 Q. Okay. Now going back to your major first  
24 report, which is the 403 dated from July 6th through



1 August 1st --

2 A. 02?

3 Q. I am now looking at 0005, Steidl 12212.

4 A. Yes, sir.

5 Q. Now, you were at this point -- had -- you  
6 and Parrish had interviewed someone named Terry  
7 Newman who was -- going back to the page before, the  
8 bottom of the page before --

9 MR. BALSON: What page is this?

10 Q. 1211 Steidl. Page three and four of the  
11 report.

12 MR. BALSON: Okay. Thank you.

13 BY MR. TAYLOR:

14 Q. That you and Parrish interviewed a Terry  
15 Newman and she talked about prowlers in the  
16 neighborhood where the double homicide took place; is  
17 that right?

18 A. If I'm on the same -- I'm on 004.

19 Q. Right, at the bottom.

20 A. 7-6 of '86 at 3:00 PM.

21 Q. Yes.

22 A. And it starts out that she heard a noise at  
23 4:00 AM and the noise sounded like glass breaking and  
24 she stated she put her clothes on and ran over to the

1 residence. I'm not seeing what she heard about  
2 prowlers yet. I'm sorry. And it's a he, it's not a  
3 she I think; is that correct?

4 Q. You're right. Do you see in the next page  
5 he stated, "On Thursday before the fire his wife had  
6 heard prowlers at his residence"?

7 A. Yes, sir.

8 Q. It says, "See Paris Police Department  
9 report"?

10 A. Yes, sir.

11 Q. Would you have included the Paris Police  
12 Department report with your report?

13 A. Yes, I would have.

14 Q. All right. So that would have been an  
15 attachment to this?

16 A. An attachment.

17 Q. Okay. And so you and Parrish, as of the  
18 first day, had what could have been a lead, which was  
19 that there were prowlers around in the neighborhood  
20 in the days before the crime; is that right?

21 A. Yes, sir.

22 Q. All right. And so at that point did you  
23 consider that to be a lead, possible lead?

24 A. Yes, sir.

1 Q. And then it indicates a couple hours later  
2 you interviewed someone named Diane Whitton, do you  
3 see that next entry?

4 A. Yes, sir.

5 Q. And this person was a good friend of Karen  
6 Rhoads; is that right?

7 A. Yes.

8 Q. And she gave you the first bit of  
9 information concerning Morgan's Manufacturing  
10 Company, and specifically about Smoke Burba; is that  
11 right?

12 A. Yes.

13 Q. And that they had a personality conflict,  
14 she and Smoke Burba; is that right?

15 A. Yes.

16 Q. And you then went on to have some other  
17 interviews with Parrish on the 6th to get more  
18 information about the two victims; is that right?

19 A. There was more interviews done, uh-huh.

20 Q. And on the 6th of -- of July, 1986, in the  
21 evening, at 7:15, you and Parrish interviewed Jeb  
22 Ashley; is that right? On the next page.

23 A. Yes, sir.

24 Q. And prior to this interview did you know

1 who Jeb Ashley was?

2 A. I did not.

3 Q. All right. Was Jeb Ashley, did you know  
4 whether he had some kind of handicap, did he have a  
5 limp or some kind of problem of one leg being shorter  
6 than the other?

7 A. I couldn't remember that if he did. After  
8 reviewing the report someone brought up that he did  
9 have a -- some kind of injury that made him limp.

10 Q. Now you learn in this interview that he  
11 said that he was very friendly from a very young age  
12 with Dyke Rhoads; is that right?

13 A. Yes.

14 Q. And you learned about an ex-boyfriend named  
15 Tim, right?

16 A. Yes.

17 Q. And did you later learn that that was Tim  
18 Busby?

19 A. Yes.

20 Q. All right. And Ashley also said that he  
21 had no knowledge of any drug activity by either Karen  
22 or Dyke; is that right?

23 A. Yes.

24 Q. All right. At that point did you have any

1 information that Jeb Ashley was in any way connected  
2 to the homicides?

3 A. I don't see anything documented up to that  
4 point.

5 Q. All right. Is there anything that's not  
6 documented that you knew about Jeb Ashley?

7 A. Well, no, sir.

8 Q. All right. Now, you also on the next day  
9 learned about the Kloch Service Station (phonetic)  
10 and talked to people there; is that right?

11 A. What page you on there?

12 Q. The next entry.

13 A. Okay. What page? Give me a page, please.

14 Q. Page 12213, page five of the report.

15 A. I'm sorry. I totally overlooked that.

16 Yes.

17 Q. And did you by that time have information  
18 that Brian Jones, who was on the late shift at the  
19 gas station, had observed someone buying gas in small  
20 containers, filling three seven gallon containers  
21 with gasoline?

22 A. Well, the reason I'm taking so long,  
23 Mr. Taylor, I don't see that in this paragraph about  
24 containers. I received --

1 Q. It's not.

2 A. Okay. Sorry.

3 Q. It's not. I'm asking you independent of  
4 this entry whether you had learned that.

5 A. I have no idea.

6 Q. Did you learn that at some time around that  
7 period of time?

8 A. I don't know if that particular gas station  
9 or not.

10 Q. Well, did you learn that there was a gas  
11 station where someone in a car that was with  
12 out-of-state license plates had purchased three  
13 containers worth of gas in the late evening of the  
14 night of the crime?

15 A. If I could find that in the report, someone  
16 bought some gas containers, somebody from out of  
17 state was at a filling station. I don't know if  
18 that's the same person, but I'll be glad to read that  
19 report to see which gas station that was at, so just  
20 direct me quickly to that page.

21 Q. Well, I'm asking you right now whether that  
22 refreshes your recollection independent of the  
23 report.

24 A. Independent of the report I do recall

1 someone buying gas in gas cans and I do remember an  
2 out-of-state car. I do not recall if that was the  
3 same person or not.

4 Q. All right. Now going on to the next page,  
5 that being page six of your report, there's an entry  
6 on 7-8-86, which would be the next day, July 8th,  
7 '86, in the afternoon, that you interviewed Lon  
8 Gardner. Now you've made a reference to Lon Gardner  
9 previously in your deposition; is that correct?

10 A. Yes, I have.

11 Q. And this was in Terre Haute; is that right?  
12 Did you go to Terre Haute to interview her or did she  
13 come to --

14 A. I believe it states on the report,  
15 interview at the Colonial Kitchen parking lot in  
16 Chrisman, Illinois.

17 Q. And where is Chrisman in relation to Terre  
18 Haute and Paris?

19 A. Chrisman is approximately 14 miles straight  
20 north of Paris.

21 Q. Okay. And Lon Gardner was an inlaw to  
22 Karen Rhoads; is that right?

23 A. She was a sister of Karen Rhoads.

24 Q. So she was --

1 A. No. Can I go back?

2 Q. Yes, sir.

3 A. Lon Gardner must be -- is the husband of  
4 Jean Gardner, sister of Karen Rhoads, okay? Sorry.  
5 I read it wrong.

6 Q. Now Tim Busby came up in this interview; is  
7 that right?

8 A. He did.

9 Q. And according to her -- I mean to him,  
10 Busby had told both him and his wife, who was Karen's  
11 sister, about -- about Karen having said that she had  
12 observed at work that Bob Morgan, the owner of the  
13 company, and a man by the name of Smoke loaded a  
14 machine gun and a briefcase containing money into the  
15 trunk of Bob Morgan's Corvette and that both subjects  
16 went to Chicago; is that right?

17 A. That's what it says.

18 Q. And in fact you were told that on the 8th  
19 of July, 1986; is that right?

20 A. Yes, sir.

21 Q. And so at this point you had two bits of  
22 information about Smoke and one about Morgan with  
23 regard to a possible motive for the killing of Karen  
24 and Dyke Rhoads; is that right?



1           A.     Two people we have talked to coming up with  
2     the same person, Tim Busby had told us and Tim Busby  
3     had told Lon and Jean also the same story.

4           Q.     Right.  But what I'm saying, you also had  
5     independent information from someone else, that being  
6     Diane Whitton, that she -- that she was having  
7     trouble with Smoke Burba.  That didn't come from Lon  
8     or Jean or anyone else, other than --

9           A.     Personality conflict, true.

10          Q.     Now, Gardner said during your interview  
11     with him that he and his wife were very much afraid  
12     and were making plans to move to another address,  
13     right?

14          A.     That's what it says.

15          Q.     And he told you that, right?

16          A.     Yes.

17          Q.     And he was afraid because he thought that  
18     if in fact this motive were correct that he might and  
19     his wife might be vulnerable for knowing this  
20     information that Karen knew; isn't that right?

21                 MS. EKL:  Objection.  Foundation.

22          A.     He didn't state that that motive was why,  
23     he said just he was making plans to move to a  
24     different address.

1 Q. He said they were very much afraid, right?

2 A. They were very afraid.

3 Q. And that was right after he told you about  
4 Karen telling them about Morgan being involved in  
5 criminal -- apparent criminal activity with Smoke,  
6 right?

7 A. Yes, sir.

8 Q. So in fact, didn't you understand at that  
9 time that he was saying that he and his wife were  
10 very much afraid because they feared Morgan and Smoke  
11 in the same way that he -- that they feared Morgan  
12 and Smoke?

13 MS. EKL: They feared Morgan and Smoke in  
14 the same way --

15 MR. TAYLOR: No, period. I stopped.

16 Q. Right?

17 A. I didn't write it as such that they feared  
18 Morgan and Smoke. They feared. They was afraid.  
19 They don't know who killed her sister and they were  
20 afraid -- afraid of that. They did mention about the  
21 Corvette, the gun and the money. So the only thing I  
22 have to go on by answering your question at this  
23 point after this many years is what I have to read  
24 here. And that's the only thing I can go -- I do not

1 remember the people, I don't remember what they said,  
2 but they were scared of something, okay?

3 Q. Well, as an investigator you're -- it's  
4 important to you to deal with people who are  
5 endangered due to knowledge of a crime, right?

6 A. Yes, sir.

7 Q. And so it concerned you that these folks  
8 were worried they were close relatives to the victim  
9 in a very serious double homicide, right?

10 A. Yes, sir.

11 Q. And the only thing you have written down  
12 that would give any explanation beyond the general  
13 relationship is the fact that they possessed  
14 information that one of the victims possessed about  
15 criminal activity by the employer, right?

16 A. Yes, sir.

17 MS. EKL: Objection. Form. Foundation.

18 Q. So is it fair to conclude from this entry  
19 that at least one of the reasons that they were very  
20 much afraid and making plans to move was because they  
21 were in possession of information that -- about  
22 Morgan and Smoke that they felt might jeopardize them  
23 in the same way that they thought it jeopardized  
24 Karen?

1 MS. EKL: Objection to form. Calls for  
2 speculation.

3 Q. Is that right?

4 A. I'm not coming to that conclusion by  
5 reading it at this point, Mr. Taylor. I mean the way  
6 I have written it, I guess a person can come to any  
7 conclusion on that. Maybe I -- it was poorly  
8 written. It could have been they were afraid of  
9 Mr. Morgan and Smoke and they were afraid of whoever  
10 killed Karen may come after them. That's the way I'm  
11 interpreting this.

12 Q. All right. Well, did you try to make  
13 your -- your entries when you dictated them  
14 chronological?

15 A. One --

16 Q. Yeah, chronological. One, you know, in  
17 date, one would follow the next.

18 A. Tried to.

19 Q. Yeah. Okay. Well, looking at this report,  
20 we got -- going back to page five, we got an entry  
21 7-6, 7:15 PM; then we have 7-6, no time; then we have  
22 7-7, 1:30 PM; then we have 7-7, 3:00 PM. So up until  
23 that point we are chronological, right?

24 A. Yes.

1 Q. Okay. Then we go to 7-8 at 4:15 PM, which  
2 is 25 hours later, right? And that's where you enter  
3 the Lon Gardner interview; is that right?

4 A. That's very true.

5 Q. And then we go to the next entry, which is  
6 7-7 at 2:30 PM, right?

7 A. That's correct.

8 Q. So if in fact the time that you entered is  
9 correct, you would have talked to Tim Busby, which is  
10 the 7-7, 2:30 PM entry, prior to talking to Lon  
11 Gardner; is that right?

12 A. I think I testified to that earlier today  
13 that my first person I talked to one day after the  
14 homicide was Tim Busby, and the second person was the  
15 one day after that, after I talked to Tim Busby. I  
16 did say Lon Gardner and I think I said sister and  
17 it's not a sister, it's a brother-in-law, about that.  
18 Why they are not typed right by each other, probably  
19 totally 100 percent my error, and when I was putting  
20 it on tape I probably got that sheet before that one,  
21 one sheet before that. That's the only way I can  
22 explain that.

23 Q. Now, okay, so we'll make the assumption now  
24 that it's correctly dated, but is out of order in

1 your report. That's what your testimony is, that you  
2 talked to Busby before you talked to Gardner, right?

3 A. I have no knowledge -- it says I  
4 interviewed Busby on 7-7-86, and it says I done Lon  
5 Gardner on 7-8 of '86. And probably when I was  
6 dictating I got one piece of paper mixed up with the  
7 other and dictated it like that and it's totally 100  
8 percent my error.

9 Q. But the error is in the --

10 A. Typing.

11 Q. But what I'm trying to establish is the  
12 date's correct, the order in the report is wrong, is  
13 that what you testified?

14 A. Again, I accept the responsibility for  
15 that. It's 100 percent my fault.

16 Q. So you interviewed him with Tony Snyder; is  
17 that right?

18 A. That's correct.

19 Q. And you did a detailed interview with him,  
20 is that right, because he was a boyfriend of many  
21 years, right?

22 A. Yes.

23 Q. And you had also received some information  
24 that he was a jealous boyfriend, right?

1 A. I had.

2 Q. Yes. So you had some suspicions about him  
3 as a possible suspect; is that correct?

4 A. I did.

5 Q. And when you interviewed him he told you  
6 that he -- even though they had broken up that they  
7 remained best of friends, him and Karen; is that  
8 right?

9 A. I believe so, yes.

10 Q. Okay. Did you ever develop any information  
11 contrary to the fact that they remained friends?

12 A. Not to my knowledge I ever developed any  
13 other information other than they were -- they broke  
14 up, good friends, and --

15 Q. Okay. And he told you that he had only a  
16 few days before the homicide contacted by sending a  
17 letter or card to Karen and told her that any time  
18 she wanted to talk to him about her problems that he  
19 would be open to do so, right?

20 A. He did.

21 Q. And he -- that was because he saw her a  
22 couple days before at a basketball game and she  
23 seemed to be troubled; is that right?

24 A. Yes.

1 Q. And he then went on to tell you that "the  
2 previous fall that Karen had observed Bob -- told him  
3 that she had observed Bob Morgan of the Bob Morgan  
4 Manufacturing Company, an employee named Smoke, put a  
5 machine gun and bags of money in the trunk of  
6 Morgan's car and she made the statement to Busby that  
7 a lot of cash comes through the business and she did  
8 not understand this because the products were not  
9 paid for by cash. Busby did not know the date of  
10 this conversation but did know it was prior to both  
11 of their marriages. He stated that Karen told him  
12 that after putting the gun and money in the car, both  
13 Smoke and Bob Morgan went to Chicago." Right? He  
14 told her that, right? I mean he told you that.

15 A. Well, I didn't know you was reading it  
16 and -- and I do apologize. You lost me. If you  
17 would just give me a question and I'll answer it, but  
18 I -- or if you want us to read it together, I'll  
19 follow you and I'll answer the question, but it's my  
20 fault for not following you as you were reading,  
21 okay.

22 Q. I am at the very bottom of the page.

23 A. Okay. Thank you.

24 Q. And it starts out that "Busby stated that



1 on one occasion", do you see that?

2 A. Yes.

3 Q. And then what I just read you is the --  
4 starting there and going to almost the bottom of the  
5 paragraph, first paragraph on the next page.

6 A. Okay. Are you asking me if -- if this all  
7 written here is what I put down?

8 Q. No, I am asking you whether Busby told you  
9 that information on the 7th.

10 A. In this report Busby told me that, told me  
11 this.

12 Q. Well, in this -- if it's in the report he  
13 told you, right?

14 A. Yes.

15 Q. Is that what you testified?

16 A. That's my answer, he did tell me this in  
17 this report.

18 Q. Thank you. Now, there's an additional  
19 piece of information in the Busby interview that was  
20 not in the Lon Gardner interview; is that right?

21 A. Which piece of information are you  
22 talking --

23 Q. Actually there's two pieces. The first  
24 piece is that she said that a lot of cash went

1 through the business and she did not understand this  
2 because their products were not paid for by cash,  
3 right?

4 A. Correct. Yes.

5 Q. And so at that point you understood that  
6 there was a lot of -- of, if not information,  
7 certainly rumor that Morgan was running some kind of  
8 drug operation out of his business; is that right?

9 MS. EKL: Objection. Foundation.

10 MR. RAUB: Speculation of a massive degree.

11 A. There is nothing that is brought up about  
12 drugs at this point. Nothing at all that I could  
13 see. And if I'm missing it, tell me, but nothing at  
14 this point was talking about drugs, cash and -- you  
15 are talking cash. I have no idea where the cash came  
16 from. Drugs? No speculation on the drugs.

17 Q. I'm sorry. I don't think you understood my  
18 question. I'm not asking you whether it's in the  
19 four corners of your document. I'm asking you  
20 whether as an investigator who was familiar with the  
21 Paris area and had done prior investigations there  
22 and worked with Parrish and others in Paris, you were  
23 familiar, were you not, with rumors and at the very  
24 least that Morgan was involved in some illegal

1 activity that emanated out of his business?

2 A. The answer to that is I had no -- everybody  
3 always was speculating.

4 Q. What was the speculation? That's what I'm  
5 asking you.

6 A. He made a lot of money, the guy had made a  
7 lot of money. I had never heard about drugs to this  
8 point, never heard that information that he was  
9 selling drugs or involved in drugs. Not selling  
10 drugs, but involved in drugs. The man had made a lot  
11 of money and everybody said, you know, he's got to be  
12 illegal some place. And that was strictly street  
13 rumor as we have talked about before on these things.  
14 I had no proof. But drugs didn't even come to my  
15 mind with him at that point.

16 Q. Well, did -- did you ever have a discussion  
17 with Parrish about the days when he worked the  
18 midnight shift over at Morgan Manufacturing?

19 MS. EKL: Objection. Foundation.

20 A. During this time? I didn't even know Jim  
21 worked at Morgan's.

22 Q. Did Jim ever tell you that he had seen some  
23 pallets or a pallet of -- of goods in the -- when he  
24 was working there that he later connected to possible

1 drug trafficking to Las Vegas?

2 A. Somewhere along the line, and not during  
3 right in here, we had a conversation about that, but  
4 it was way down -- like I say, I didn't associate  
5 Morgan with drugs, nothing whatsoever at this time.  
6 Anything else, maybe, but not drugs.

7 Q. So when did Parrish tell you about the --  
8 his work at the Morgan Manufacturing and seeing a  
9 suspicious pallet of stuff?

10 A. I'm sure it was two separate conversations.  
11 During the investigation Jim would have probably told  
12 me that he worked at Morgan's. And then maybe later  
13 on because it came up about that pallet and that was  
14 quite later on, and to pinpoint the date, time, when,  
15 I'm not going to be able to do that for you. I'm  
16 sorry.

17 Q. Well, was Parrish still working for the PD,  
18 for the Paris PD when he told you this?

19 A. Yes, sir.

20 Q. So that would have been -- if he left in  
21 '88, it would have been sometime before or during  
22 1988?

23 A. Yeah, I don't even know how it came up.  
24 Yes.

1 Q. And so you were still working as a --

2 A. Yes.

3 Q. -- as a detective.

4 A. Sorry. I answered that quick.

5 Q. I mean as a sergeant, right?

6 A. Yes.

7 Q. And even -- what did you think when you  
8 heard that she had said that Morgan and Smoke put a  
9 machine gun and bags of money in the trunk of  
10 Morgan's car? If you didn't connect it to drugs,  
11 what kind of activity did you connect it to?

12 A. Well, I didn't connect it to anything, but  
13 I sure filed it in the back of my mind.

14 Q. Well, you are an investigator, you are  
15 taught to be suspicious, right?

16 A. I was suspicious, that's why I filed it.

17 Q. But you're taught to then try to solve  
18 crimes and to draw conclusions from evidence that you  
19 are told, right?

20 A. Yes, sir.

21 Q. Well, you were told on the 7th a couple of  
22 things here. One that you admit was suspicious, that  
23 was a machine gun and bags of money in Morgan's car,  
24 going to Chicago with him and a guy named Smoke who

1 worked for him, and that -- that Karen had said that  
2 a lot of cash went through a business where cash  
3 wasn't the normal way that they transacted their  
4 affairs, right? That's two pretty suspicious,  
5 connected facts, right?

6 A. And I took note of it and filed it in my  
7 brain for later on.

8 Q. You filed it in your brain.

9 A. Yeah.

10 Q. But did your brain tell you anything about  
11 what it meant --

12 MS. EKL: Objection. Form.

13 Q. -- as an investigator? I mean was it --  
14 was it drugs? Was it -- were they running machine  
15 guns? What -- what did it occur to you as a seasoned  
16 sergeant and detective in the DCI?

17 A. I -- as a seasoned sergeant --

18 MS. EKL: Objection. Form.

19 A. -- I would have no idea what -- it would be  
20 very suspicious. The cash is very suspicious. I  
21 have no idea if he didn't do a cash business. The  
22 gun was suspicious. And later on we found out the  
23 gun was not -- or it was found out by somebody where  
24 the gun came from.

1 Q. Oh, really. Where did you find out?

2 A. Jim Parrish said it came -- somebody was  
3 showing it to him or something, you know. That was  
4 one reason he wasn't talked about. I said we got to  
5 get more information. Now if I thought --

6 Q. Let me --

7 A. -- if that money came from drugs and I said  
8 "Bob, you all be selling drugs down there?" And he  
9 was shipping out something else, he knew damn well  
10 what I wasn't talking about, correct? So you all  
11 better get some bullets in my gun before I go talk to  
12 him about that cash.

13 Q. Well, did you normally --

14 A. Sorry about that.

15 Q. That's all right. Was it a frequent  
16 occasion that businessmen in the Paris area had  
17 machine guns on them?

18 MS. EKL: Objection. Foundation.

19 A. No, I don't think it would be.

20 Q. All right. So that was unusual, right,  
21 particularly for an icon of the community, a guy who  
22 was maybe the richest guy in the community, right?

23 MS. EKL: Objection. Form.

24 Q. Right?

1 A. Unusual.

2 Q. And unusual to connect that with a bag of  
3 cash, right?

4 A. Are you asking me if it was unusual for me  
5 not to connect it with a bag of cash?

6 Q. No, I'm saying it was unusual that the  
7 machine gun was being shipped with a bag of cash,  
8 right?

9 MS. EKL: Objection. Form.

10 A. I have stated it was unusual.

11 Q. And did you conclude that perhaps they were  
12 running machine guns?

13 A. I didn't conclude anything.

14 Q. All right. And you said that -- and you  
15 had someone who worked there for many years and who  
16 was a trusted employee and who was now dead saying  
17 not only did she see the machine gun and the money,  
18 but that they didn't do business by cash and yet she  
19 saw a lot of it going through. That was, if in fact  
20 Busby was telling the truth, that was very  
21 significant information about Morgan and also about a  
22 possible motive; isn't that right?

23 A. It was -- this observation was supposed to  
24 have taken place several months before the homicide,



1 in the fall of the year before.

2 Q. Didn't make it any less valid, though, did  
3 it?

4 A. Sure did not.

5 Q. Okay. And in fact, in your experience a --  
6 a somewhat frequent at least motivation for someone  
7 killing somebody else is because that person has  
8 information about that person's criminal activities,  
9 right?

10 MR. MANCINI: Objection to form and  
11 foundation.

12 A. It could be, yes.

13 Q. Not only could be, it is, isn't it?

14 MS. EKL: Objection.

15 A. I can't get that direct, but it could be.

16 Q. So as an investigator, your ears perk up  
17 when someone says that -- or there's evidence that  
18 someone had information about someone else's criminal  
19 activity and that person ends up dead, right?

20 MS. EKL: Objection. Form.

21 A. (No response).

22 Q. Am I right?

23 A. I said it's suspicious, yes.

24 Q. But you won't concede that that suspicion

1 had to do with potential drug activities?

2 A. Oh, no, sir.

3 Q. Well, did you know about the Pizza  
4 Connection Case?

5 A. Yes, sir.

6 Q. And in fact, that Pizza Connection Case had  
7 to do with a drug running ring that came out of a  
8 pizza shop in Paris, right?

9 A. It did.

10 Q. And in fact, did you know that people that  
11 were connected to Morgan were involved in that case?

12 MS. EKL: Objection. Foundation.

13 MR. ACKERMAN: Same objection.

14 A. I was not aware of that.

15 Q. And as you sit here today you are not aware  
16 of that?

17 A. No, sir.

18 Q. All right. Did you know that there was a  
19 substantial drug problem, a criminal drug problem in  
20 Paris, Illinois, in 1986?

21 A. Not other than any other town or county we  
22 worked.

23 Q. All right. So it didn't -- to you the  
24 Pizza Connection Case and whatever else you knew

1 didn't distinguish Paris from any other county that  
2 you worked with regard to drug trafficking; is that  
3 right?

4 MS. EKL: Objection. Form.

5 A. Well, I answered that. The Pizza  
6 Connection was a unique drug case. It was  
7 investigated all over -- I'm not that familiar with  
8 it, you know, different states and all this. And it  
9 happened to be one of their places was in Paris,  
10 Illinois. And to my knowledge I never have learned  
11 that they was distributing drugs in the Paris,  
12 Illinois area. Probably was going through there or  
13 money was going through there. And to this date I  
14 really don't know what the connection was there other  
15 than the money deal and Joe Vitale and he had to  
16 spend some jail time.

17 But to my knowledge he wasn't distributing  
18 any of the drugs in the Paris, Illinois area, which  
19 would add to the, I guess what you are saying, the  
20 drug problem in Paris.

21 Q. Well, some years later when you got wind of  
22 the fact that Callahan was trying to connect you to  
23 Morgan and criminal activity, you got quite upset,  
24 right?

1 A. I did.

2 Q. Well, if there was no basis in your mind  
3 for Morgan being connected to drug trafficking, why  
4 did it upset you to be connected to Morgan?

5 A. The information that I received that he was  
6 saying that Morgan was involved with the mob and I  
7 was covering up a homicide that he was involved in.

8 Q. All right. Who told you that?

9 A. You know, probably some with Charlie,  
10 probably some with Tony, it probably come out of the  
11 task force. Those are the only people I had  
12 connection with. I didn't have connection with  
13 anybody. Didn't know what was going on.

14 Q. You knew enough about what was going on  
15 to -- to get very upset about what you had heard  
16 Callahan was doing, right?

17 A. Associating me with that, with -- saying I  
18 was with the mob. It did, yes.

19 Q. Did you tell anyone that your investigation  
20 did not connect Morgan to the mob in any way?

21 A. No one ever talked to me about it.

22 Q. Well, you had a chance to talk to Callahan  
23 on the phone, right?

24 A. He was to come down to talk to me, he told

1 me on the phone he was going to come down some day at  
2 the marina and just talk to me about it.

3 Q. But on that phone call you did not tell him  
4 that you were offended about --

5 A. I did.

6 Q. You didn't tell him that you -- did you  
7 tell him whether you had any information which either  
8 exonerated Morgan or connected Morgan to the -- to  
9 the drug activity in --

10 A. I think I testified earlier today that my  
11 conversation with Callahan that I recall was I was  
12 upset about him associating me with Mr. Morgan and  
13 that if he -- well, I was a good cop, I wouldn't have  
14 done that, and that he said that he was going to  
15 make -- come down and talk to me. And that's my  
16 recollection all day long on that. And I can't  
17 recall anything else. I wished I knew every word I  
18 told that man.

19 Q. Well, did you -- after you got the Busby  
20 and Gardner information did you change your opinion  
21 that there was nothing but rumor with regard to  
22 Morgan's criminal activity in Paris? Did this give  
23 you a stronger basis to conclude that Morgan was  
24 involved in criminal activity than you had before you

1 interviewed Gardner and -- and Busby?

2 MS. EKL: Objection. Form.

3 A. I think that's one main reason we  
4 interviewed so many people that worked at the Morgan  
5 company, thinking something might come out of some of  
6 their interviews.

7 Q. Is that a yes?

8 A. Well --

9 MS. EKL: I object to the form.

10 A. You got to go back to the question again.

11 Q. Can you read it back, please?

12 (Whereupon the requested portion of the  
13 record was read by the reporter.)

14 MS. EKL: Objection. Form. There's two  
15 questions in that one.

16 Q. Was your answer yes to that question?

17 A. Your last question was with regard to  
18 Callahan, was it not? I don't know.

19 Q. No, this is -- that's the question that I  
20 asked you whether your answer that you gave was yes  
21 to that question.

22 A. It wasn't about Callahan?

23 Q. No, she's got the right question.

24 A. Okay. Well, I'm sorry.

1 MS. EKL: I don't believe he can answer the  
2 question as it's been posed, I don't think he can  
3 understand it, if you can ask it again.

4 MR. TAYLOR: I think he's capable -- I  
5 think it's a good question, I would like an answer to  
6 it.

7 MS. EKL: I don't think he can answer it,  
8 there's two questions in that question. You started  
9 off asking him --

10 MR. TAYLOR: I'll ask it again.

11 BY MR. TAYLOR:

12 Q. After you got the Gardner and the Busby  
13 information on the 7th of July and 8th of July of  
14 1986, did you have a stronger basis to believe that  
15 Morgan was involved in criminal activity than you did  
16 before you received that information?

17 A. I had additional information, yes.

18 Q. And was it stronger information than just  
19 the rumor that you heard before?

20 A. I don't know whether I would use the word  
21 stronger. It was -- I had not received that  
22 information before on Mr. Morgan.

23 Q. Well, it was more than a rumor now, wasn't  
24 it? It was two witnesses saying what they had heard

1 from the deceased, right?

2 A. They had heard, yes.

3 Q. The deceased couldn't tell you that --

4 A. No, she was dead.

5 Q. -- but this is the next best thing because  
6 these are the people who talked to her, correct?

7 A. Yes.

8 Q. And so that wasn't a rumor, that was some  
9 solvent evidence that you had, right?

10 MS. EKL: Objection to form.

11 Q. Is that right?

12 A. Tim had told me that he had received that  
13 information from Karen and -- and I said before, it  
14 is very suspicious to me and -- and if I'm not  
15 answering that question, I don't know what else I can  
16 do on it.

17 Q. Did at some point you ask Callahan whether  
18 he wanted to buy a boat from you?

19 A. No.

20 Q. You deny that categorically?

21 A. I initiated the phone call to Mr. Callahan.  
22 Charlie McGrew told me to call him.

23 Q. Okay. We can maybe save a little time.

24 A. Well, you think that I would have asked him



1 you want to buy a boat after I accused him of  
2 accusing me of being in the mob? His coming down to  
3 talk to me, no, I did not sell him a boat, I did not  
4 ask him if he wanted to buy a boat.

5 Q. Let's take a short break.

6 (Whereupon a break was taken and the  
7 deposition continued as follows:)

8 MS. EKL: I wanted to put on the record we  
9 had a discussion about going late tonight till 6:00  
10 or 6:30. I am optimistically hopeful that  
11 Mr. Taylor, and in addition to everyone else,  
12 plaintiff's counsel, are working reasonably toward  
13 completing this deposition, that I am not being taken  
14 advantage of by giving more time tonight and starting  
15 early tomorrow to find that we're just going to be  
16 asking for more time from the court, that we are  
17 making reasonable efforts to complete this deposition  
18 in two days because we do not intend on coming back  
19 and we are giving extended periods of time for the  
20 specific reason that there is multiple counsel here  
21 and I understand you have a lot of questions.

22 But again, as we have argued in the past,  
23 you know, there's a point in time you have to choose  
24 your questions and move on so we can get it done in a

1 reasonable amount of time. So I just wanted to make  
2 that of record.

3 BY MR. TAYLOR:

4 Q. Now, you had testified earlier in this  
5 deposition that you considered Busby a possible  
6 suspect because of his previous relationship with  
7 Karen Rhoads, right?

8 A. Yes, sir.

9 Q. And after he spoke to you about his  
10 knowledge of Karen Rhoads and her relationship  
11 with -- with Morgan, did you change your opinion as  
12 to whether he was a potential suspect?

13 A. I changed my opinion a little bit on that  
14 part, yes.

15 Q. And that was -- why did you change the  
16 opinion?

17 A. Just by talking to him, interviewing him,  
18 the way he came across to us.

19 Q. So he came --

20 A. Just a personal opinion of mine, but still  
21 a suspect.

22 Q. Did you communicate that to the others in  
23 the investigation that you had talked to him and that  
24 he had had at least to some degree impressed you that

1 he was credible?

2 A. I'm sure I communicated to everybody else,  
3 yes.

4 Q. And that's not something that appeared in  
5 your report, right?

6 A. No.

7 Q. And in fact, did he at some point take a  
8 lie detector test voluntarily?

9 A. Yes, sir, he did.

10 Q. And how long after your interview with him  
11 did he submit to a lie detector test?

12 A. I'm not for sure of that and I was only --  
13 brought to my attention when I read the case file  
14 again, I saw the polygraph in there. That's the only  
15 reason I knew that. I don't remember him taking a  
16 polygraph, but it's in there. The date I don't know.

17 Q. And it's also in there that he was found to  
18 be truthful in the polygraph when he said he wasn't  
19 involved in the crime, right?

20 A. Yes, sir.

21 Q. And he also was found to be truthful when  
22 he said that Karen had told him this information  
23 about Morgan, right?

24 A. Yes.

1 Q. And so I take it that that bolstered your  
2 opinion that he was credible; is that right?

3 A. The polygraph -- I'll use a polygraph -- I  
4 used a polygraph when I was an investigator as a tool  
5 and a tool only.

6 Q. A tool what?

7 A. A tool, investigative tool.

8 Q. Right. And did you use it as an  
9 investigative tool to determine whether a person was  
10 credible or not?

11 A. No.

12 Q. What did you use it for?

13 A. My opinion when I used the polygraph and I  
14 was an investigator, it was a tool to say, well,  
15 let's take a polygraph. It was how the person's  
16 reaction was, whether they wanted to take a polygraph  
17 or didn't want to take a polygraph. And a lot of  
18 times things would come out, then he'd say yes, we  
19 would go ahead and put him on a polygraph, you know.  
20 The results, they fluctuate on it. But I don't rest  
21 my whole 100 percent opinion on the polygraph. My  
22 opinion only, okay?

23 Q. Well, you used it in order to get a  
24 reaction from the witness to see if he was fearful of

1 taking a polygraph or not; is that right?

2 A. Yes, sir.

3 Q. And you also used it because you could do  
4 further questioning of him, as well as the polygraph  
5 examiner would do questioning of him, right?

6 A. Reaction, yes.

7 Q. And that would give you further opportunity  
8 to check out that person's credibility and to ask  
9 further questions that you might not be able to ask  
10 if you were just doing a one-and-done interview; is  
11 that right?

12 A. It was used as a tool, yes, that's it.

13 Q. And that would be one of the ways you used  
14 it as a tool, right?

15 A. Could be, yes.

16 Q. And then you would get some results that  
17 would tell you from the polygrapher's point of view  
18 whether that person was telling the truth, was lying  
19 or was somehow inconclusive, right?

20 A. Was your question on that we would get the  
21 results from the polygraph examiner, get his opinion?

22 Q. Yes.

23 A. His opinion would be written on the thing  
24 whether he passed or not.

1 Q. And you -- and that would be if you were  
2 the investigator involved in ordering the --  
3 requesting the polygraph, you would get the report  
4 back from the polygraph examiner, right?

5 A. Yes, sir.

6 Q. And you're not saying you dismissed that --  
7 those findings. That would be part of the  
8 credibility evaluation as well, would it not?

9 A. In cases, yes, it would be.

10 Q. All right. And would it at least be a  
11 factor if someone passed a polygraph to make -- to  
12 bolster that person's credibility?

13 A. It could be a factor, but it's not  
14 necessarily 100 percent if a person passes a  
15 polygraph whether he has guilt or not guilt.

16 Q. And if -- if the person didn't pass the  
17 polygraph, that would be a factor as well in  
18 determining credibility, isn't that right?

19 A. The same as it being guilt.

20 Q. Right. So it would be a factor but you  
21 wouldn't -- it wouldn't be the only factor that you  
22 would evaluate; is that right?

23 A. That's true.

24 Q. So if a witness said yeah, I'll take a

1 polygraph but then flunked it, you -- that wouldn't  
2 help his credibility in your mind, would it?

3 A. No, it would not.

4 Q. But if somebody volunteered and said I'll  
5 take a polygraph and then passed it, that would  
6 bolster your view of his credibility in your mind,  
7 wouldn't it?

8 A. Yes, it probably would.

9 Q. And that's what happened with Busby, right?

10 A. It did.

11 Q. Okay. Now, going on to the next entry we  
12 have here, is -- discusses a reconstruction. Do you  
13 see that on page eight of your report, it's an entry  
14 on the 9th of July, 1986, at the top of the page.

15 A. Okay.

16 Q. Do you see that?

17 A. Yes, I do.

18 Q. Okay. And that's an entry that you made  
19 in --

20 A. 7-9, "the following firemen"?

21 Q. Yes.

22 A. Yes, sir.

23 Q. And you were at the reconstruction of  
24 the -- of the scene; is that right?

1 A. Yes, sir.

2 Q. And McFatrige and Parrish were as well; is  
3 that right?

4 A. Yes, sir.

5 Q. And there were several firemen, that being  
6 Phil McConchie, Steve Dosch, Herman Taylor, and the  
7 Captain, Frank Wallace; is that right?

8 A. Yes, sir.

9 Q. Is that the entire Paris Fire Department or  
10 were there others that weren't there?

11 A. I would say there was others that were not  
12 there. That wouldn't have been the entire fire  
13 department. I have no knowledge of how many they  
14 have.

15 Q. Was this all the firemen that reported to  
16 the scene of the fire?

17 A. I have not known if this is all of them,  
18 but there's a probability that it is.

19 Q. Okay. Now, in this particular report  
20 you -- you discuss certain aspects of the  
21 reconstruction; is that right?

22 A. Yes, sir.

23 Q. And you put in there that each fireman  
24 stated where each body was lying in the bedroom at



1 their arrival; is that right?

2 A. Yes, sir.

3 Q. But you don't write in your report where  
4 they said those bodies were; is that right?

5 A. No, that was -- Gary Knight was there. Was  
6 Gary Knight there?

7 Q. No, he wasn't, was he, according to your  
8 report.

9 A. It's not in this report here.

10 Q. And Gary Knight wasn't there, right?

11 A. It doesn't say so in the report.

12 Q. Do you have any memory of him being there?

13 A. I don't remember this at all, but I think  
14 Gary Knight would have been there.

15 Q. You would expect him to have been there,  
16 right?

17 A. Yes.

18 Q. And you would have expected that either you  
19 or Mike McFatridge or Parrish would have called him  
20 and asked him to come, right?

21 A. Yes. I have no explanation of that.

22 Q. My question is one of you would expect to  
23 have called him because he was the expert, right?

24 A. I would have expected him to be there, yes,

1 sir.

2 Q. And did you call him and for some reason he  
3 didn't come?

4 A. Sir, I don't recall that, and surprised  
5 that his name wasn't on there.

6 Q. Now, you -- there's nothing in this report  
7 about the location of the mattress; is that right?

8 A. No, sir.

9 Q. All right. And did any of the firemen  
10 state how the mattress was when they first arrived at  
11 the scene?

12 A. In this report, no. Is there another  
13 report on that? May I ask that?

14 Q. You certainly can ask that. But before we  
15 look to see if there is any other reports on this, I  
16 want to ask you whether there's anything in your  
17 report.

18 A. There is nothing in my report.

19 Q. Okay. Is there anything in your memory  
20 bank about any of the firemen positioning the  
21 mattress?

22 A. No, sir.

23 Q. And were there any pictures taken of the  
24 reconstruction?

1 A. I don't recall that.

2 Q. All right. Have you had an occasion to  
3 review this particular report prior to the  
4 deposition?

5 A. You know, I have.

6 Q. Okay. Have you also had an occasion to  
7 review the report of Parrish, the main report that he  
8 wrote?

9 A. I did, sir.

10 Q. Okay. Did you notice anything in his  
11 report about this reconstruction?

12 A. I don't recall that at this point.

13 Q. Would this be the kind of thing that you  
14 would expect there to be double reports on or not?

15 A. No, sir.

16 Q. Would -- I'm sorry. The answer --  
17 apparently the question was bad. Would you expect  
18 that there would have been duplicate reports or dual  
19 reports, one from Parrish and one from you, on the  
20 question on the issue of the reconstruction?

21 A. There could have been dual reports, I'm not  
22 aware. I'm just aware of what's in my report. But I  
23 guess I was asking is there another report on this?

24 Q. Well, what I am asking you is did -- after

1 these reports were filed was there an occasion where  
2 McFatridge told you not to double up on the reports?

3 MR. MANCINI: Objection. Foundation.

4 A. I don't recall that, sir.

5 Q. Okay. I could be wrong, but I'm looking  
6 quickly through Exhibit 9, which is the Parrish  
7 report, and I don't see any reference to the  
8 reconstruction. I don't find any in there, so in  
9 answer to your question I don't believe there is  
10 another report.

11 A. Even Gary Knight's --

12 Q. Well, Gary Knight wasn't there, so it would  
13 be hard for him to have a report.

14 A. I could have missed him. I could have  
15 missed him.

16 Q. I believe he's testified he wasn't there.

17 In any event, you after this  
18 reconstruction -- well, strike that.

19 Was there any discussion at the  
20 reconstruction about the pillow that was found on  
21 Karen Rhoads' face?

22 A. I don't recall if there was a discussion on  
23 that.

24 Q. And was there -- did you learn during this

1 reconstruction or at any time previous to the  
2 reconstruction who the firemen were who got there  
3 first?

4 A. I don't recall that either.

5 Q. Okay. Well, there's a list of four or five  
6 firemen that were at the reconstruction. I am  
7 assuming, tell me if I'm wrong, that those were the  
8 firemen that were at the scene at some point on the  
9 6th of July; is that right?

10 A. Yes.

11 Q. And of those firemen, did you learn that  
12 any of them got there initially or did all of them  
13 come at the same time and -- do you know?

14 A. I don't know.

15 Q. All right. Now, the next entry that we  
16 have here -- I take it that that reconstruction was  
17 in the morning, is that right?

18 A. I have no idea. I don't recall what time  
19 of day it would have been done.

20 Q. If you were following chronologically then,  
21 it would have been before 11:30 AM because your next  
22 entry is at 11:30 AM having to do with you and Bensyl  
23 interviewing Norma Pruitt; is that right?

24 A. If it's in order.

1 Q. If it's in order then reconstruction would  
2 have been in the morning; is that right?

3 A. We have found out that some of them aren't  
4 in order, so it -- yes.

5 Q. But I am asking you if it were in order  
6 then it would have happened in the morning, right?

7 A. If it was in order, yes, sir.

8 Q. The next entry, the Norma Pruitt entry.  
9 Now did you know Norma Pruitt before you interviewed  
10 her on the 9th?

11 A. No.

12 Q. Did you know who she was?

13 A. When I interviewed her?

14 Q. Uh-huh.

15 A. I probably knew that she was a secretary to  
16 Bob Morgan.

17 Q. All right. So she was a close associate of  
18 Morgan and should have known quite a bit about the  
19 operation, right?

20 A. She was the secretary, yes.

21 MS. EKL: Objection. Foundation.

22 Q. Would you expect she probably knew about  
23 the operation having worked there as his personal  
24 secretary for nine years?

1 A. Yes, sir.

2 Q. Would you expect that she might have some  
3 information about whether there was some illegal  
4 activity going on at the Morgan Manufacturing?

5 A. There's a possibility she might have.

6 Q. And she also stated that she worked closely  
7 with Karen Rhoads; isn't that right?

8 A. Yes.

9 Q. And that was for the previous two years or  
10 year and a half that Karen had worked there; is that  
11 right?

12 A. Yes.

13 Q. And Karen was a secretary as well and was  
14 also involved in quality control according to what  
15 Norma Pruitt told you; is that right?

16 A. Yes, sir.

17 Q. Now she told you that one past employee by  
18 the name of Simmons or Simons had made her uneasy,  
19 that meaning Karen; is that right?

20 A. She did.

21 Q. Yes. Norma told you that, right?

22 A. Yes.

23 Q. All right. And that on one occasion Simons  
24 had gone over to her apartment; is that right?

1 A. That's correct.

2 Q. Uninvited I take it; is that right?

3 A. It appears so.

4 Q. All right. And she also stated that she  
5 corroborated the fact that Busby had sent her a card  
6 as he had said that he did and that she had in fact  
7 received that a few days later, that being July 2nd  
8 or July 3rd, from Busby; is that right?

9 A. Yes.

10 Q. And that he had said it was good to see her  
11 the previous weekend and referenced the fact it was  
12 good to have someone to talk to; is that right?

13 A. Yes, sir.

14 Q. Now, she also gave you some information  
15 about how much Karen made, what her take-home pay  
16 was, and said that in her opinion Karen was satisfied  
17 with her job; is that right?

18 A. Yes, sir.

19 Q. Now, you didn't ask Norma Pruitt about any  
20 knowledge she might have had of any illegal activity  
21 at Morgan Manufacturing, did you?

22 A. That question was not put to her, no.

23 Q. And the question, any question that would  
24 have elicited information about the guns and the



1 money that Busby had told you about, no question was  
2 directed to that information either, was it?

3 MS. EKL: Objection. Form.

4 A. That's not -- nothing in the report.

5 Q. And if it's not in the report, then you  
6 didn't ask it, right?

7 A. Yes.

8 Q. Okay. Any particular reason why you didn't  
9 ask the secretary that was perhaps the closest  
10 employee to Morgan about the information you had  
11 learned from Busby and Gardner?

12 A. I don't recall any particular reasons for  
13 not asking her. I'm still waiting for someone  
14 probably to come by with some voluntary information  
15 on this instead of starting something.

16 Q. All right. And then later on in the  
17 evening you spoke to another employee of -- of Morgan  
18 and that was a plant manager who was a fairly high up  
19 person in the company; is that right?

20 A. Are you speaking of George Wimsett?

21 Q. Yes, I am.

22 A. Yes, sir.

23 Q. And you did speak with him that evening; is  
24 that right?

1 A. Yes, sir.

2 Q. And again, he told you -- he corroborated  
3 the Jeff Simons problems that Karen had; is that  
4 right?

5 A. Yes, sir.

6 Q. And that he gave some additional  
7 information which is that Simons had tried to kiss  
8 Karen while at work; is that right?

9 A. Yes, sir.

10 Q. Okay. And -- but again -- and he also said  
11 that she would sometimes have to go back to work at  
12 night, that being Karen, and stated that the plant  
13 manufacturers dog food and dog food had to maintain a  
14 certain temperature, right?

15 A. Yeah, quality, yeah.

16 Q. So she -- because she was in quality  
17 control she sometimes had to go back there at night,  
18 right?

19 A. Yes, sir.

20 Q. And that bit of information actually  
21 corroborated Busby and Gardner in the sense that it  
22 would establish that at least on some occasions she'd  
23 be there at night when this machine gun and drug  
24 incident occurred -- I mean machine gun and money

1 incident occurred; is that right?

2 MS. EKL: Objection. Foundation.

3 A. I don't recall if there was ever a time of  
4 day when she observed that, Tim Busby telling us  
5 that. I might have missed that.

6 Q. So you're -- it wasn't at night that  
7 anybody told you that happened?

8 A. I'm saying I could have missed that.

9 Q. I'm asking you what your memory is.

10 A. My memory is I don't recall there was a  
11 time of day.

12 Q. Okay.

13 A. But...

14 Q. Did you ever have any information it  
15 happened in broad daylight?

16 A. I had no information -- I had no time on  
17 this thing I think. We could review this report here  
18 a minute.

19 Q. Okay. So you have no memory of when it  
20 took place; is that right?

21 MS. EKL: Objection. Form.

22 Q. I'm asking you -- I'm not asking you to  
23 look in the report, I'm asking you --

24 A. I have no memory, no, of that, no.

1 Q. Now, on the 9th you also had an occasion to  
2 be involved in the arrest and questioning of Whitlock  
3 and Steidl; is that right?

4 A. They weren't arrested.

5 Q. They were taken into custody?

6 A. They weren't taken into custody, they were  
7 brought in for questioning at the Paris Police  
8 Department.

9 Q. Well, they were in the custody of the Paris  
10 Police Department at the time they were questioned,  
11 were they not?

12 A. I'm not -- no, they weren't in custody.  
13 They were brought to the Paris Police Department for  
14 questioning.

15 Q. But they were brought by Parrish and Ray  
16 and other Paris police officers, right?

17 A. I don't know who brought them down, but  
18 they were at the Paris Police --

19 Q. Well, you were there when they brought them  
20 in, right?

21 A. I don't know who brought them in.

22 Q. I'm sorry?

23 A. I don't recall who brought them in.

24 Q. But you were there when they were brought

1 in.

2 A. Yes, sir.

3 Q. And you knew they were being brought in  
4 from the Tap Room Pump.

5 A. Yes, sir.

6 Q. The Tap Room --

7 MS. SUSLER: Tap Room.

8 Q. The Tap Room. From the Tap Room, right,  
9 which was a bar; is that right?

10 A. Yes, it is.

11 Q. And how did you happen to be at the Paris  
12 Police Station when they brought Herb Whitlock and  
13 Randy Steidl there?

14 A. Well, we had received information that  
15 Steidl and Whitlock was at the Tap Room making  
16 comments about the Rhoads homicide.

17 Q. All right.

18 A. And --

19 Q. Okay. Go ahead.

20 A. And I don't know how the information got to  
21 us at the PD, but I do remember calling the Tap Room  
22 and asking them to come down.

23 Q. You remember calling the Tap Room?

24 A. And asking for either Randy or Whitlock.

1 And we asked them to come down to the PD to talk to  
2 them.

3 Q. Did you speak to either of them?

4 A. Somebody spoke to one of them. The word  
5 got to them and they just didn't come, so we -- the  
6 PD went down to get them and bring them down, we was  
7 going to talk to them about that.

8 Q. All right. So when did you receive  
9 information that they had been talking about the  
10 homicide in the Tap Room?

11 A. On that same date.

12 Q. All right. Was it before or after the  
13 11:30 interview that you had with Norma Pruitt?

14 A. Oh, I don't recall the times, but it  
15 would -- yeah, I don't recall that. I don't know  
16 whether I could answer that at all what time of day  
17 it was, you know, before or afterwards.

18 Q. All right. Well, in the -- if your entries  
19 are correct, in the morning you had the  
20 reconstruction, followed by the 11:30 interview with  
21 Pruitt; is that right?

22 A. Yes, sir.

23 Q. All right. And would it be -- and we don't  
24 have any entry in your report that indicates the

1 information that you got concerning Herb and Randy  
2 allegedly making comments about the homicide at the  
3 bar; is that right?

4 A. There's none there.

5 Q. There's none there did you say?

6 A. I don't see one.

7 Q. That would be something you would expect  
8 either you or Parrish would put in your report,  
9 wouldn't you?

10 A. If we just had a phone call come in and  
11 that, we probably tried to get them to come down and  
12 talk to them, like there's probably not a report on  
13 any of the witnesses that we have interviewed, how we  
14 got their name.

15 Q. So if someone called you up and said  
16 someone confessed at the Tap Room Pub and said X, Y  
17 and Z, you would write that down at least in your  
18 notes, wouldn't you?

19 MS. EKL: Objection. Form. Incomplete  
20 hypothetical.

21 A. Not necessarily if I was going to talk to  
22 them right then.

23 Q. Okay. You're saying that if you got  
24 information from an informant on the phone that

1 someone had admitted to a double homicide that you  
2 would not write a note about it and you wouldn't put  
3 it in your report until you got that person in the  
4 station; is that right?

5 A. I think my statement, they were talking  
6 about the homicide. I don't think I said they  
7 admitted the homicide. They were talking about the  
8 homicide in the bar and the information we got, they  
9 were talking about Karen gurgling and all that. So  
10 they weren't admitting it, they were talking about  
11 it. And we -- we probably immediately went down to  
12 get them or asked them to come down to talk to us.

13 Q. Well, everybody was talking about the  
14 homicides in Paris, weren't they?

15 A. Not being at the scene and hearing somebody  
16 gurgle they weren't.

17 Q. So the information you got was that either  
18 Herb or Randy had been at the scene and were -- at  
19 least were saying in the bar that they had been at  
20 the scene and heard Karen gurgle; is that right?

21 A. Similar to that, yes.

22 Q. And so you construed that to mean that they  
23 were admitting -- one of them was admitting to being  
24 at the scene at the time she was killed, right?



1           A.    We wanted to talk to them about it, yes,  
2    after that.

3           Q.    Well, in fact if they heard her gurgling,  
4    that told you that they heard her in the last -- last  
5    stages of her life, that she was dying at the time,  
6    right?

7           A.    Yes, sir.

8           Q.    And so this was more than them just talking  
9    about it, it was them saying that they at least were  
10   present when she was killed; is that right?

11          A.    We wanted to talk to them to verify some  
12   things.

13          Q.    Well, I'm asking you, you wanted to talk to  
14   them because the information you got was that at  
15   least one of them was saying in the bar that he was  
16   present when she was killed, right?

17          A.    Talking about the homicides.  What they  
18   were talking about I have no memory on that.  I do  
19   remember about the gurgling on it.  I do remember  
20   that.  And then that's the reason we wanted to  
21   interview them.

22          Q.    And what I'm asking you is that you  
23   concluded from that information that at least one of  
24   them was stating in a public bar that he was present

1 when she was killed, right? That's what you wanted  
2 to talk to them about, right?

3 A. I concluded that we needed to talk to them  
4 about that, yes.

5 Q. And that was based on this information, the  
6 details of which you don't remember beyond the fact  
7 that they said that they were present or one of them  
8 at least said they were present and heard her gurgle;  
9 is that right?

10 A. Yes, sir.

11 Q. But you didn't write that down anywhere,  
12 did you?

13 A. No, sir. We immediately tried to interview  
14 them.

15 Q. And they didn't come down, right?

16 A. They did not.

17 Q. Well, did you at least jot it in a note  
18 that you had a potential break-through in the case  
19 and that is you had someone who was saying that they  
20 were present for the crime?

21 A. Well, no, sir, that wouldn't have been  
22 written down.

23 Q. Not written down by you?

24 A. No, we would have done -- our next action

1 was to go talk to them.

2 Q. Well, you did later -- you never wrote in  
3 this report. You had until August 1st to put that in  
4 this report. You never did, did you?

5 A. What? In what report now, sir?

6 Q. There's nothing in your report that we are  
7 looking at here, the one that's supposed to cover  
8 from July 6th to August 1st, nothing in this report  
9 that says anything about Steidl and Whitlock on the  
10 9th, does it?

11 A. I'll go through that page to page. It's in  
12 there some place. I don't remember where it's at. I  
13 remember seeing it, but I will...

14 Q. Try looking at the entries on the 9th.

15 A. On what?

16 Q. On the 9th.

17 A. I have. Here we come back here to the 7th,  
18 the 6th, in Bensyl's report, Snyder's report.

19 Q. Well, my question to you, sir, is it's not  
20 in the July 6th through August 1st report, is it?

21 MS. EKL: If you could let him take an  
22 opportunity to look through it. He's told you --

23 MR. TAYLOR: He's past that, he's looked at  
24 other reports.

1           A.    It could have been in somebody else's  
2    report.

3           Q.    But it's not in your report from July 1st  
4    to August 6th, right?  That's a 12 page report  
5    starting at Steidl 12209 and going to Steidl 12220;  
6    is that right?  It's not in that?

7           A.    It's in here some place, but I'm --

8           Q.    But it's not in this report is what I'm  
9    asking you, not in here some place, meaning the  
10   entire group exhibit.  I'm not asking you that.  I'm  
11   asking you if you put it in your July 6th through  
12   August 1st report of 12 pages.

13          A.    It's not in that part, but it could have  
14   been written by another agent.

15          Q.    That's fine.  All I'm asking you --

16          A.    Yes.

17          Q.    -- is whether it's in this report.

18          A.    But it is in this file, do we agree on  
19   that?

20          Q.    I'm asking you the questions, sir.  And at  
21   this point I'm asking you whether you included it in  
22   your summary report of the witnesses that you talked  
23   to from the 6th through the 1st, and your answer is  
24   no, right?

1           A.    In my bunch here it's not included.  It  
2    could be included in another agent's report.

3           Q.    I understand that, okay?  But it's not in  
4    your report, right?

5           A.    But it could have been in another agent's  
6    report.

7           Q.    I get that, okay?  I get that, all right?

8           A.    Okay.

9           Q.    All I'm asking you is whether it's in this  
10   report, that's all you've got to answer.  You don't  
11   have to tell me whether it's on the moon or under my  
12   shoe or in my back pocket, okay?

13          A.    I am interpreting this -- as you said  
14   there's no report written on it, of us interviewing  
15   them.  There is a report written there.

16          Q.    I didn't ask you that.

17          A.    That's the way I interpreted it.  I'm  
18   sorry.

19          Q.    Well, please listen to my question.  All  
20   you have to do is answer my question, not some other  
21   question that you are anticipating.

22                MS. EKL:  Flint, don't argue with him.  
23   He's telling you that's how he understood it.  
24   Obviously he didn't understand the question you

1 asked. So that's what he was looking for.

2 MS. SUSLER: Oh, please.

3 BY MR. TAYLOR:

4 Q. All right. I want to call your attention  
5 now to -- strike that.

6 You were at the station when the call came  
7 in that Steidl and Whitlock were in the -- please  
8 listen to my question. I am not asking you to look  
9 in the exhibit right now, okay?

10 A. Okay.

11 Q. Thank you. You were in the station when  
12 the call came in that said that Steidl and Whitlock  
13 were in the bar talking about the case and the  
14 gurgling, right?

15 A. Yes, sir.

16 Q. All right. And was Parrish in the station  
17 at that time?

18 A. I don't know who was there.

19 Q. All right. Was McFatridge in the station  
20 at that time?

21 A. During the day probably not.

22 Q. Okay. But you placed the call to the bars  
23 and got one of the two of them on the phone and said  
24 would you please come down, we want to talk to you,

1 right?

2 A. We probably would have called McFatridge  
3 and told him about it.

4 Q. And after you called McFatridge and told  
5 him about it, he said call the bar and bring them  
6 down, right?

7 A. Yes, sir.

8 Q. And you called the bar and said come on  
9 down to either Steidl or Whitlock, we want you both  
10 to come in, we got some questions for you, right?

11 A. Yes, sir.

12 Q. All right. And that was sometime in the  
13 early afternoon; is that right?

14 A. I can't read -- I can't look at this report  
15 written on top?

16 Q. I just want to know what your memory is  
17 right now.

18 A. Memory, I don't have no idea of the time.

19 Q. Well, you said that they didn't come after  
20 you called, right?

21 A. Yes.

22 Q. And for how long did you wait after they  
23 didn't come until you sent the Paris PD, including  
24 the chief, out to the bar?

1 A. I don't recall.

2 Q. Was it an hour or was it two hours?

3 A. I don't recall.

4 Q. How much time did you give them before you  
5 went to get them?

6 A. I don't recall.

7 Q. So was it a matter of days or hours or  
8 minutes?

9 A. Same day.

10 Q. Same day?

11 A. (Witness nods head).

12 Q. Was it within a matter of two hours or are  
13 we talking you gave them 30 minutes or how long did  
14 you give them?

15 A. I answered the question, I don't recall.

16 Q. But the -- Ray and Parrish and several  
17 others went up to the back and front of the bar and  
18 brought them down to the station, right?

19 MS. EKL: Objection. Foundation. He's  
20 already testified he wasn't there.

21 Q. That's your understanding of what happened,  
22 right?

23 A. Someone brought them to the PD.

24 Q. Your understanding was that they went out



1 and when they came back they had them, right? Both  
2 of them.

3 A. Yes, sir.

4 Q. Right. Now once they got them there, you  
5 were involved in questioning Whitlock, right?

6 A. I believe so.

7 Q. And you wrote a report having to do with  
8 your questioning of Whitlock; is that right?

9 A. Yes, sir.

10 Q. And that's on the -- that's Steidl 11976,  
11 right?

12 A. Yes, sir.

13 Q. And Snyder and Parrish interviewed Steidl;  
14 is that right?

15 A. That's correct.

16 Q. And they filed -- and Snyder filed a report  
17 on that; is that right?

18 A. Verifying it, yeah, in front of me. I  
19 would not know that.

20 Q. Pardon me?

21 A. As I look at the report, yes.

22 Q. All right. And did you know at the time  
23 that you called up to the bar Steidl or Whitlock's  
24 voices?

1           A.    I don't recall if I knew their voices or  
2   not.

3           Q.    But did you talk to the barkeep up there?

4           A.    I don't know who made the phone call and  
5   who we talked to.

6           Q.    I'm sorry?

7           A.    I don't know who made the phone call to the  
8   bar or who we talked to, but we talked to one of  
9   them.  Somebody talked to somebody.  Somebody at the  
10   PD talked to one of the people, other people we  
11   wanted to talk to at the bar.

12          Q.    Okay.  So you're saying it wasn't you that  
13   made the call?

14          A.    I don't recall who made that phone call.

15          Q.    It was you or someone working with you at  
16   that time?

17          A.    Possibly could have been me.  It was  
18   somebody that was at the PD.

19          Q.    And was it you who received the call about  
20   the information that there was the gurgling or was  
21   that just communicated to you by whomever took the  
22   call at the PD?

23          A.    That's communicated to me.  I wouldn't have  
24   took the call.

1 Q. Who communicated it to you?

2 A. I have no idea.

3 Q. Was Parrish present when that information  
4 was --

5 A. I have no idea who was present at the PD  
6 during this.

7 Q. All right. Now, where did you interview  
8 Herb Whitlock?

9 A. May I look at the report?

10 Q. Sure.

11 A. It's at the PD. They were brought to the  
12 PD.

13 Q. I'm asking you where -- by PD we are  
14 talking Paris PD, right?

15 A. Uh-huh.

16 MS. SUSLER: Is that a yes?

17 A. Yes.

18 Q. And where in the police department did you  
19 interview Herbie Whitlock?

20 A. They have an interview room and they also  
21 had a detective office in the back, so one of them  
22 rooms.

23 Q. And Bensyl was present with you; is that  
24 right?

1 A. Yes, sir.

2 Q. And he's no longer alive; is that right?

3 A. No, he's not.

4 Q. And at that time based on the information  
5 that you had from the bar that one or both of them  
6 were saying that they were present at the time of the  
7 killings of Karen Rhoads, did you give or did Bensyl  
8 or you give Whitlock his Miranda warnings?

9 A. He was not under arrest.

10 Q. Was he a suspect at that time based on what  
11 he or his -- or Steidl had said?

12 A. He brought -- was brought in as a witness  
13 and probably a suspect.

14 Q. All right.

15 A. Not interrogation. A witness.

16 Q. But if he's probably a suspect then he's  
17 entitled to Mirandas, wasn't he?

18 A. He was not interrogated, he was  
19 interviewed.

20 Q. What's your definition of interrogation?

21 A. When it goes to accusing someone of -- oh,  
22 interrogation. There's a difference between  
23 interview and interrogation.

24 Q. What is it?

1           A.    I didn't know I was in school.  Interview,  
2    you don't give rights to my knowledge.  And  
3    interrogation, you give rights when you're  
4    interrogating somebody about a crime.

5           Q.    But the -- but the determination of whether  
6    you -- you're interrogating somebody or you are  
7    interviewing somebody is based on the status of that  
8    person, right?

9           A.    When I make a decision at what point the  
10   interview goes into an interrogation, at that point  
11   you would give the Miranda rights.

12          Q.    Well, if someone is a suspect then you are  
13   interrogating them, right?

14          A.    Well, Tim Busby was a suspect.

15          Q.    All right.  Did you give him his warnings?

16          A.    No.

17          Q.    Shouldn't you have?

18          A.    No.

19          Q.    All right.  So --

20          A.    We interviewed him.

21          Q.    All right.  So when do you cross the line  
22   from being a suspect that you don't give the warnings  
23   to to a suspect that you do giving the warnings to?

24          A.    I don't recall the legal term anymore.  I

1 just can't recall that. There is a line between  
2 interview and interrogation, that's when you have to  
3 give the Miranda rights, and it's been so many years  
4 since I've worked in law enforcement I don't recall  
5 what the definition of that is.

6 Q. Give me your best try at what that  
7 definition is.

8 A. My best try is I don't recall what that  
9 definition is.

10 Q. Isn't that what you worked with day in and  
11 day out as a detective and a sergeant for like 25  
12 years, questioning people, isn't that really your  
13 stock and trade as a detective and a sergeant?

14 MS. EKL: Objection. Form.

15 A. I really don't recall the definition of an  
16 interview and an interrogation, and I wish I did.

17 Q. Well, how many interviews did you  
18 participate in this one homicide? Would you say 50?

19 A. A bunch.

20 Q. At least 50, maybe 100, right?

21 A. Probably.

22 Q. We could go through and count them up --

23 A. I never did say this was an interrogation.

24 Q. I'm asking you how many witnesses and

1 suspects you had interrogated in this one case and  
2 you are saying at least 50, right?

3 A. Put a number on them, I don't know.

4 Q. Well, you said a bunch, right?

5 A. Okay. We'll say 50.

6 Q. All right. And in fact, if you multiply  
7 that by 20 or 25 years that you have been doing this  
8 work, you've got a real bunch, right? You've got  
9 thousands of people you interviewed, right?

10 A. (Witness nods head).

11 Q. You are nodding your head yes, right?

12 A. Yes.

13 Q. And in a lot of those situations you had to  
14 determine whether it was an interrogation or an  
15 interview, right?

16 A. Yes, and as I --

17 Q. Is that right?

18 MS. EKL: Could you let him finish?

19 A. Is there any answering that question at  
20 this point?

21 MR. TAYLOR: He kind of --

22 A. I'm not --

23 MR. TAYLOR: He didn't actually answer --  
24 you know, he started to say yes, but I don't think

1 the court reporter heard him and that's why I --

2 MS. EKL: You cut him off. I'm saying let  
3 him finish so you know what his answer is, but you  
4 just cut him off, so just let him finish.

5 Q. My question was a yes or no question. Was  
6 your answer yes? Did I hear you say yes?

7 A. You didn't hear me say yes.

8 MR. TAYLOR: Could you read back the  
9 question, please?

10 (Whereupon the requested portion of the  
11 record was read by the reporter: "Q. And in a lot of  
12 those situations you had to determine whether it was  
13 an interrogation or an interview, right? A. Yes,  
14 and as I --")

15 Q. So you did answer yes. Do you agree with  
16 the court reporter you did answer yes to that  
17 question?

18 A. I'm going to answer the question that --  
19 and I am embarrassed that I can't answer the question  
20 between interview and interrogation at this point,  
21 it's lost completely out of my mind, the legal  
22 definition I'm not going to be able to answer that  
23 for you.

24 Q. How about the detective's definition for



1 purposes of being in the -- in the interview room and  
2 making a determination whether to give someone their  
3 rights or not?

4 A. That would be the same legal definition of  
5 those two things.

6 Q. And despite --

7 A. And I can't -- despite me I'm not going to  
8 be able to answer that question the difference at  
9 this point.

10 Q. Is that because you don't remember or  
11 because you don't want to answer the question?

12 A. That's because I can't remember, sir.

13 Q. Now, in any event, regardless -- despite  
14 what you had heard about what Steidl or Whitlock had  
15 said at the bar, you didn't believe -- strike that.

16 You didn't give Whitlock his rights?

17 A. I did not.

18 Q. And Bensyl didn't give Whitlock his rights?

19 A. He did not.

20 Q. And did you and Bensyl discuss whether he  
21 crossed the line into suspect and interrogation or  
22 not and determine collectively not to give him his  
23 rights?

24 MS. EKL: Just to be clear, are you talking

1 about Steidl or Whitlock?

2 MR. TAYLOR: I am talking about Whitlock.

3 A. As I look at the interview with Whitlock,  
4 it was a very short interview.

5 Q. Right.

6 A. And there would have been no -- no reason  
7 at all to give him his rights.

8 Q. All right. But don't you -- you don't know  
9 going into an interrogation how long it's going to be  
10 or what the answers are going to be. You have to  
11 make the determination before you know whether it's a  
12 short interview or not, don't you?

13 MS. EKL: Objection. Form. Foundation.

14 A. You have to make that decision at one point  
15 whether you want -- if you were to give him his  
16 rights and he has the rights for a lawyer at that  
17 time, he could be placed under arrest or what else.  
18 These folks weren't placed under arrest at this time.  
19 We were strictly interviewing them on a statement we  
20 heard they had said at the bar. I find nothing in  
21 there that they should have, the knowledge that I  
22 have, been given their rights.

23 Q. Well, in the first sentence you summarize  
24 what he said, "Whitlock stated that he did not know

1 Dyke or Karen Rhoads and he had never been at the  
2 Rhoads residence and he didn't know anything about  
3 the homicide."

4 For all you knew, in this short interview  
5 he could have said he did know Dyke and Karen Rhoads,  
6 he had been at their residence and that he did  
7 participate in the killings.

8 A. And at that point I would give him his  
9 rights.

10 Q. And your case would be screwed if that  
11 happened, wouldn't it?

12 A. It would not.

13 MS. EKL: Objection. Calls for a legal  
14 conclusion.

15 Q. Well, in fact if you didn't give him his  
16 warnings and he confessed to you, you would have a  
17 major problem in using that confession, wouldn't you?

18 MS. EKL: Objection. Form. Foundation.

19 A. My answer to that is in the legal knowledge  
20 that I still have, which is probably none, is that I  
21 would give him his rights at that point.

22 Q. After the cat was out of the bag you would  
23 give him his rights, is that your testimony?

24 MS. EKL: Objection. Form.

1 Q. Am I right? The cat would have been out of  
2 bag after he made those admissions.

3 A. I would have felt the need to give him his  
4 rights at that point.

5 Q. Yeah, but not before.

6 A. But he was not given his rights because  
7 nothing come out.

8 Q. So you waited to see whether he confessed  
9 or not and then you would give him his rights if he  
10 did, is that your testimony?

11 A. No, sir.

12 Q. All right. What did I misunderstand about  
13 what you just said?

14 A. We was merely asking about the statements  
15 they were making in the Tap Room tavern or lounge or  
16 whatever it was. I felt that neither -- either  
17 Snyder and Parrish this thing --

18 THE REPORTER: I'm sorry?

19 A. Yeah, I'm sorry. On the report was Tony  
20 Snyder and Jim, when they interviewed Randy Steidl, I  
21 felt no need to give them rights, no one was under  
22 arrest.

23 Q. Well, yeah, and would it be fair to say  
24 that you and Parrish and Snyder and Bensyl

1 coordinated the fact that neither -- that you didn't  
2 think that either of them should have been given  
3 their rights or was that just some kind of happy  
4 coincidence that neither of them were given their  
5 rights?

6 MS. EKL: Objection. Form.

7 A. Well, I don't know what happened at that  
8 time, I can't remember, but I don't think there was  
9 any need to give them their rights.

10 Q. But what I'm asking you is whether that was  
11 a coordinated decision between you and Parrish and  
12 the other two ISP personnel that were involved in the  
13 questioning.

14 A. I don't recall what we decided, and that  
15 would probably not have been done, no.

16 Q. Well, in looking at this report, it's dated  
17 6-9-86; is that right?

18 A. Are you talking about Whitlock?

19 Q. Yeah.

20 A. Yes, sir.

21 Q. And in fact, is that a typo?

22 A. Said the interview happened 6-9-86, sir.

23 Q. Did it?

24 A. It is a typo.

1 Q. Should be 7-9-86?

2 A. Yes. Sorry about that.

3 Q. You don't have to apologize to me. But it  
4 also says it was typed by Faye Phillippi, right?

5 A. That's correct.

6 Q. And she typed it on 3-27-87; is that right?

7 A. I got a 3-27 on there, but I can't see the  
8 date.

9 Q. Well, it wouldn't have been 3-27-86 because  
10 it's before the fact, right?

11 A. True.

12 Q. And so it would have to be 3-27-87 or  
13 3-27-88, but we can agree it's 3-27-87, right?

14 A. Right.

15 Q. So that would mean that the report was  
16 typed out, if this is -- if she accurately put that  
17 in there, that she typed this out six or seven months  
18 later, right?

19 A. It's always typed here, the typewriter,  
20 yes.

21 Q. And in fact, it would have been after  
22 Whitlock was arrested and -- in February, wouldn't  
23 it, if this is accurate. That would have been in --  
24 March 27th, 1987, is a month and some days after

1 Whitlock and Steidl were arrested, right?

2 A. If it's accurate.

3 Q. And in fact it was after the indictment of  
4 Steidl and Whitlock in early March of '87, right?

5 A. If those dates were right.

6 Q. Okay. Well, did you go to Faye Phillippi  
7 and say, whoa, we better type this baby up, these  
8 guys have been charged and indicted?

9 A. No, I don't recall that and I'm sure it  
10 didn't happen.

11 Q. Well, this is certain -- well, you knew  
12 her, Faye Phillippi, right?

13 A. I did.

14 Q. And you in fact had a relationship with her  
15 outside of work, didn't you?

16 A. In 1990.

17 Q. In 1990.

18 A. Yes, sir.

19 Q. So at this point you did not have a  
20 relationship with her?

21 A. No, sir.

22 Q. So that happened several years later, is  
23 that your testimony?

24 A. It did, sir, yes.

1 Q. So at this point you only had a business  
2 and professional relationship with her; is that  
3 correct?

4 A. Yes, sir.

5 Q. All right. But she was a trusted employee  
6 of McFatrige's office whom not only he used as a  
7 secretary but you used as a secretary to type up your  
8 reports, right?

9 A. Yes, to help out the work load.

10 Q. And in fact you have no reason to  
11 disbelieve the fact that she would have put the  
12 correct date on with regard to when she typed it,  
13 right?

14 A. Well, the interview date's off too.

15 Q. Right. But that's a simple, just hitting a  
16 6 instead of a 7, right?

17 A. Typo could have been simple too. It was  
18 the wrong date.

19 Q. Well, wait a minute. Wait a minute. Let's  
20 stop for a moment. The typo on the date that you  
21 reported says 6-9-86. That could be explained as a  
22 simple typo between an 06 and an 07, one number off,  
23 right?

24 A. Yes, sir.



1 Q. Typo is a little more problematic when she  
2 types a date 3-27-87 when in fact the date should  
3 have been sometime in 7 of '86. That's a hell of a  
4 typo, isn't it?

5 MS. EKL: Objection. Form.

6 A. I -- I have no answer for that.

7 Q. Isn't it a logical conclusion from looking  
8 at this report that you didn't dictate this report or  
9 have it written up until after Whitlock was charged  
10 and arrested?

11 MS. EKL: Objection. Form. Compound.

12 Q. Isn't that in fact what happened?

13 A. Well, I -- I cannot say that's what  
14 happened, it could have been one of my notes that  
15 didn't get typed up. I have no recollection what  
16 happened on that thing. It was typed up at some  
17 point, it was sent to the state's attorney and on to  
18 whatever and...

19 Q. Well, it's not in your chronological report  
20 on 7-9 even though everything else is, right?

21 A. We have agreed on that, there's other  
22 reports that weren't right either.

23 Q. Okay. And it's not -- and according to the  
24 face of it it's not typed up until seven or eight

1 months later, right?

2 A. It appears so there.

3 Q. Okay. So we could draw the conclusion and  
4 it would be logical that in fact it was not dictated  
5 and typed up until after Whitlock was charged and  
6 made the -- not only the focus of the investigation  
7 but was now in -- actually arrested and charged for  
8 the offense, isn't that the most logical explanation  
9 for what we have here?

10 MS. EKL: Objection. Form. Compound.

11 A. I can't come to the conclusion that it was  
12 dictated on that date.

13 Q. Well, can you --

14 A. I can't come to that conclusion.

15 Q. Well, can you give me any other reason  
16 that's as logical as mine?

17 A. I can't give you a reason.

18 Q. Okay. All right. Now, we look at the  
19 other report which has to do with the interview of  
20 Randy Steidl that is Snyder's report, right?

21 A. Yes, sir.

22 Q. Now, it was -- you saw this report on or  
23 about the 9th of -- of July, right? Did you see this  
24 report then?

1           A.    Did I see it?  I don't know if I seen --  
2   they done the interview on the 9th of July.

3           Q.    Did they tell you about the interview?

4           A.    I was there.  Not in the interview, in the  
5   building.

6           Q.    But you were in the room talking to  
7   Whitlock, right?

8           A.    Sure.

9           Q.    But you guys then came out and talked to  
10   each other about what you learned and hadn't learned  
11   in the two relatively brief interviews, right?

12          A.    Yes, sir.

13          Q.    Because it was a big deal to go to the bar  
14   and bring these guys down in broad daylight to the  
15   police station, wasn't it?

16                MS. EKL:  Objection.  Form.

17          A.    It wouldn't be a big deal to bring them  
18   down in broad daylight.  We wanted to talk to them  
19   about the rumor we just received.

20          Q.    Had you dragged anybody else to the police  
21   station in broad daylight in the town that was  
22   buzzing about a double homicide?

23                MS. EKL:  Objection.  Form.  Assumes facts  
24   not in evidence.

1           A.    I don't know how many we had, but some of  
2 these witnesses were probably picked up and brought  
3 down to the PD.

4           Q.    Can you tell me one that you remember?

5           A.    I don't remember, but I would say that some  
6 of them were probably brought to the PD.

7           Q.    But you don't have any memory of it?

8           A.    Sure don't.

9           Q.    Well, now we are looking at the Snyder  
10 report and in fact Steidl also, like Whitlock, denied  
11 any involvement, right?

12          A.    Yes.

13          Q.    Now looking at this report, Snyder got the  
14 date of the report right; is that right? 7-9-86,  
15 right?

16          A.    Yes, sir.

17          Q.    And -- but M. W., you don't know who in  
18 your office was M. W., right?

19          A.    I don't.

20          Q.    Different typist than Faye Phillippi,  
21 right?

22          A.    Yes.

23          Q.    But she typed this up or he did on the --  
24 on March 26, '87, as well, right?

1 A. Yes, sir, I see that.

2 Q. So now we've got both of these reports that  
3 were supposedly recording what happened when Whitlock  
4 and Steidl were arrested, excuse me, taken to the  
5 police station, on the 9th of July, '86, and both of  
6 them were typed up in March of '87, according to the  
7 reports; is that right?

8 A. Yes, sir.

9 Q. And in fact, now we've got two different  
10 secretaries who would have had to make a fairly  
11 monumental series of typos to come up with this fact  
12 that somehow these two reports dealing with denials  
13 by both of the persons that were arrested for the  
14 double homicide were in fact not contemporaneously  
15 reported but in fact were only reported after they  
16 were arrested and charged, right?

17 MS. EKL: Objection. Form. Foundation.

18 A. I can't explain those dates. I have no  
19 idea why.

20 Q. Well, is one explanation of those dates the  
21 fact that in fact after they were charged you felt  
22 that you better get a report on file about these --  
23 them being taken into custody because they certainly  
24 knew they had been taken into custody and you surely

1 wouldn't look very good if you hadn't written any  
2 report?

3 MS. EKL: Objection. Form. Foundation.

4 Q. Is that right?

5 A. They weren't in custody.

6 Q. They were in custody and charged in '87,  
7 right?

8 A. Yes, sir.

9 Q. And it wouldn't look very good if you  
10 didn't have any report whatsoever concerning the  
11 interviews you did with these two guys charged with a  
12 double homicide a few days after the incident, you  
13 didn't have anything, that wouldn't look good, would  
14 it?

15 MS. EKL: Objection to form.

16 A. I don't recall what happened on the dates  
17 that were typed. I have no explanation on that.

18 Q. But it wouldn't look good if you didn't  
19 record these reports?

20 A. I'm sure it wasn't done because it didn't  
21 look good.

22 Q. You just don't have any explanation?

23 A. I have none.

24 Q. All right. But in neither of those reports

1 do either you or Snyder put in anything about the  
2 content of the call that you got from the bar to the  
3 station in your presence which was that they were  
4 present at the scene, at least one of them, and there  
5 was gurgling, they heard gurgling. There's nothing  
6 that in any way reflects that information, is there?

7 A. There is not.

8 Q. So when you were telling us earlier you  
9 thought there was a report that reflected that call  
10 and the contents of that call, you were wrong, right?

11 A. I don't think I told you there as a report  
12 reflecting that call, did I?

13 Q. I thought that's what you were trying to  
14 tell us, but if you -- if you're not telling us that,  
15 so much the better. Go ahead. You can answer my  
16 question.

17 A. Okay. I didn't make that -- I never said  
18 there was a report made with the call that was  
19 received from someone at the Tap Room. I never said  
20 there was a report made on that.

21 Q. So we can agree that there was no report or  
22 entry in any report?

23 A. Not to my knowledge, no. And I could have  
24 discussed it, there wouldn't have been one made, we

1 would have went and talked to them. I think we  
2 discussed that.

3 Q. All right. But there's nothing in here  
4 that reflects that you asked Whitlock about whether  
5 he heard gurgling of Karen Rhoads; is that right?

6 A. No, there is not.

7 Q. Did you ask him specifically whether he  
8 heard Karen Rhoads gurgling?

9 A. I don't recall if I did.

10 Q. Okay. And is there anything that reflects  
11 that they asked Steidl whether he heard gurgling by  
12 Karen Rhoads?

13 A. It doesn't appear in the report.

14 Q. After you had brought -- had Steidl and  
15 Whitlock brought to the station on the 9th and these  
16 interviews were done, did you all discuss the results  
17 of these interviews? And by you all, I mean you and  
18 Parrish and Ray and McFatridge, did you all discuss  
19 what had happened?

20 A. I'm sure we did.

21 Q. All right. And did you draw any  
22 conclusions about whether Steidl and Whitlock were  
23 suspects in the case after the bar call and the  
24 interviews that you did?



1           A.    I don't think we come to the conclusion at  
2    all.  I don't remember that.

3           Q.    Were they suspects?  You said they were at  
4    least --

5           A.    I'm sure they were.

6           Q.    They were suspects both before and after?

7           A.    I'm sure they were.

8           Q.    All right.  But not sufficient suspects to  
9    give them their warnings, right?

10          A.    That's right.

11          Q.    All right.  Did you do anything else at  
12   that time to follow up on the suspect -- Steidl and  
13   Whitlock as a suspect?

14          A.    I don't recall that we did.

15          Q.    Well, did you go back up to the bar, find a  
16   person who said that they were talking or bragging  
17   about this knowledge and do a more formalized  
18   interview?

19          A.    I don't recall that we did that.

20          Q.    In fact your reports don't show that you  
21   went back to the bar and did any kind of attempt to  
22   find who these witnesses were that said they were  
23   running their mouths off, right?

24          A.    It does not.

1 Q. And in fact if you had a witness who could  
2 confirm that he sat -- that she sat there and heard  
3 either Steidl and Whitlock say that they were present  
4 and heard Karen dying, that would be an important  
5 witness to have, right?

6 A. If someone had heard that it would be, yes.

7 Q. And in fact, that would put that witness on  
8 a level with Herrington, someone who was at the scene  
9 of the crime and could give information about the  
10 murders if not a suspect in those murders, right?

11 A. Yes, sir.

12 Q. But yet you didn't do anything about it.  
13 Why not?

14 A. I can't answer that.

15 Q. Okay.

16 MR. BALSON: Two seconds.

17 (Whereupon a break was taken and the  
18 deposition continued as follows:)

19 BY MR. TAYLOR:

20 Q. Now, can you -- are there any other reports  
21 that -- of information that you got before Whitlock  
22 and Steidl were charged in February of '87 that were  
23 not transcribed until afterwards, that being in March  
24 of '87? Do you know of any other reports?

1 A. I am not aware of them at this time.

2 Q. Have you reviewed all your reports prior to  
3 this deposition?

4 A. I've looked them over, yes.

5 Q. And have you noticed the dates that they  
6 were -- the reporting dates and compared them to the  
7 typing dates? Have you done that on these reports?

8 A. I did not do that.

9 Q. Were you aware of any discrepancies with  
10 regard to reporting dates and dates of typing prior  
11 to this deposition?

12 A. I was not.

13 Q. So the first that you are learning of these  
14 discrepancies that I am calling to your attention is  
15 now; is that correct?

16 A. Yes, sir.

17 Q. And in fact you have no explanation for  
18 these discrepancies, do you?

19 A. I have none.

20 Q. And in fact, it would not be consistent  
21 with the regulations and practices of the Illinois  
22 Department of State Police to wait seven or eight  
23 months from the time you got information until you  
24 filed the report; that would be fair to say, wouldn't

1 it?

2 MR. ACKERMAN: Object to foundation.

3 A. I have no explanation why this is like  
4 that.

5 Q. But that's not my question. My question is  
6 you said that there were regulations that gave you a  
7 certain amount of days to report after you got  
8 information, right?

9 A. The regulation is when you have an active  
10 case you open it on a 4-1. That gives you so many  
11 days to report on that case again. And the 4-3 has  
12 to come through. You write a 4-3 and then you have  
13 so many days until another 4-3 comes through. There  
14 is no regulation on what -- how soon a report has to  
15 be written, but you have to follow up on that case  
16 with a 4-3 ever so many days. I don't know the days,  
17 but it doesn't matter what report comes in. You have  
18 to respond in that case file to your case agent, your  
19 supervisor, so many days, ever so many days with that  
20 4-3.

21 Q. You were a sergeant, right?

22 A. Yes.

23 Q. So as a sergeant was one of your duties to  
24 review reports written by investigators?

1 A. No, sir, not till later on.

2 Q. Your master sergeant reviewed your reports?

3 A. Yes.

4 Q. And are you saying that in the Illinois  
5 State Police Department at that time in 1986 there  
6 was no regulation with regard to timely reporting of  
7 information that you got?

8 A. I'm not aware of that regulation if there  
9 was.

10 Q. So you could have written this report three  
11 years after you got the information, there was  
12 nothing in the department that said you shouldn't,  
13 right?

14 A. The question was, I think, was I aware of a  
15 regulation. I am not aware of a regulation.

16 Q. Well, you went to training, right? You  
17 were trained as an Illinois police officer for --  
18 state police officer, weren't you?

19 A. Yes, I were.

20 Q. And part of that training was the  
21 regulations, right, of the -- and requirements and  
22 orders of the department, right?

23 A. Yeah, and I don't remember -- the only  
24 thing I remember is your timely thing --

1 Q. Was that part of your training, the  
2 regulations?

3 A. At one time it probably was.

4 Q. And you had updates, didn't you? Didn't  
5 you get written regulations as they changed them and  
6 you were required to read them and put them in a book  
7 somewhere so that you would have all the regulations  
8 because in fact it was a paramilitary organization  
9 and you followed the regulations or ran the risk of  
10 being disciplined, right?

11 A. You were to follow regulations, yes, sir.

12 Q. And if you had your hat on sideways you  
13 could be disciplined, right?

14 A. Yes, sir.

15 Q. So you certainly could be disciplined if in  
16 fact you violated a regulation having to do with a  
17 report writing; isn't that right?

18 A. If it was violated.

19 Q. Yes. And in fact that would indicate to  
20 you that it was the kind of regulation as a detective  
21 who was -- and a sergeant who was writing reports  
22 every day that you ought to know what those  
23 regulations were in terms of the timeliness of those  
24 reports; isn't that right?

1 MS. EKL: Objection. Form. Foundation.

2 A. I'm not so sure that I would know that  
3 regulation. Maybe I should have known it.

4 Q. You should have known it, shouldn't you?

5 A. I should have known a lot of stuff.

6 MS. EKL: Objection. Form. Foundation.

7 Q. Asking about this.

8 A. Yeah, but I'm not for sure why these dates  
9 were like this. I have no recollection of that.

10 Q. Well, I'm asking you about the regulations  
11 and you don't know about those either, is that what  
12 you're saying with regard to timely report writing?

13 MS. EKL: Objection. Foundation. Assumes  
14 facts not in evidence that there was in fact a  
15 regulation that said he had to file that within a  
16 certain period of time.

17 Q. You may answer.

18 A. What was the question?

19 Q. The question was in fact you weren't aware  
20 of any regulation that required a timely reporting;  
21 is that right?

22 A. As I am sitting here today the regulations  
23 I am aware of is there was a time on which you had to  
24 respond to your case and that's the only regulation I

1 am aware of at this point.

2 Q. Okay. Now, looking at page 12217, which is  
3 the 10th of July, 1986, at 5:30 PM, you and Parrish  
4 interviewed someone named Robert D. Artis; is that  
5 correct? That's page nine of your report and page  
6 12217 of Steidl numbers, that's the main report that  
7 you wrote.

8 A. Okay. Who we talking to now?

9 Q. I am looking at the entry at 7-10-86 at  
10 5:30 PM. Do you see that entry?

11 A. Yes, sir, I do.

12 Q. And it says that you interviewed a Robert  
13 D. Artis; is that right?

14 A. Yes, sir.

15 Q. And you and Parrish did that interview  
16 together; is that right?

17 A. Yes, sir.

18 Q. And in fact you -- also that same day,  
19 earlier in the day you and Bensyl interviewed Morgan;  
20 is that right?

21 A. Yes, sir.

22 Q. Now, when you interviewed Morgan you had  
23 the Busby information; is that right?

24 A. Yes, sir.



1 Q. You had the Gardner information, right?

2 A. Yes, sir.

3 Q. You had talked to Norma Pruitt by that  
4 time; is that right?

5 A. I believe so.

6 Q. All right. And you had talked to Wimsett  
7 who was a plant manager, right?

8 A. Yes, sir.

9 Q. Now when you talked to Wimsett you did not  
10 ask him about the Smoke Burba and Morgan information,  
11 that being the information about the machine gun and  
12 the money, did you?

13 A. No.

14 Q. And again, that was because you were hoping  
15 to have him volunteer it or someone else to volunteer  
16 it, but you didn't want to really ask anybody  
17 directly about it; is that right?

18 A. That's true.

19 Q. All right. And that's a kind of another  
20 version of what you heard Parrish talk about, which  
21 was the Tom, Dick and Harry theory, right?

22 MS. EKL: Objection. Form. Foundation.

23 Q. Do you remember him testifying about that?

24 MS. EKL: Objection. Foundation.

1 A. I didn't hear his testimony.

2 Q. You weren't listening on the phone or on  
3 the video?

4 A. No, sir, I was not.

5 Q. But this was a strategy that you and  
6 Parrish and Ray and McFatridge agreed on in either  
7 your formal or informal meetings that you would not  
8 directly confront Morgan and his employees about the  
9 information you had, that wasn't just you on your own  
10 to say?

11 A. No.

12 MR. RAUB: Objection to form, foundation.

13 MR. MANCINI: Object to form, foundation.

14 Q. So it was the team of investigators decided  
15 that, that team I'm using the term as you understand  
16 it to be primarily McFatridge, Ray, Parrish and  
17 yourself, right?

18 MR. MANCINI: Objection to form,  
19 foundation.

20 A. Everyone was aware of the information that  
21 we had.

22 Q. And you made a collective decision not to  
23 directly confront Morgan or his underlings about the  
24 information that Busby and Gardner gave you; is that

1 right?

2 MR. MANCINI: Objection as to form,  
3 foundation.

4 A. I don't recall how the -- the decision was  
5 made.

6 Q. But it was a decision you didn't make  
7 yourself, but rather was made by the team, isn't that  
8 right?

9 A. Yes, sir.

10 MR. MANCINI: Objection to form,  
11 foundation.

12 Q. Now, looking at the Parrish report, which  
13 is the -- you were receiving his information the same  
14 way he was receiving yours; is that right?

15 A. Yes, sir.

16 Q. And he had talked to some people from  
17 Morgan Manufacturing as well, during that same few  
18 days that you were, isn't that right?

19 A. I'm sure he did.

20 Q. Okay. And one of those persons was someone  
21 named Darren Rothenberger; is that right?

22 A. What page is that on, sir?

23 Q. That's on page eight of Exhibit 9, which is  
24 Ray Exhibit 9, Steidl 12320.

1 A. Okay.

2 Q. And you see an entry at 1:15 PM on July  
3 9th, Parrish conducted an interview with Darren  
4 Rothenberger and you see that it says he was an  
5 employee of Morgan; is that right?

6 A. I do, sir.

7 Q. Okay. So that you were aware at least  
8 generally of the information that he was getting at  
9 the same time you were getting information from Norma  
10 Pruitt and Busby about Morgan Manufacturing, is that  
11 right?

12 A. Yes.

13 Q. And also again that same day, July 9th,  
14 Parrish had talked to Charles Graham who also worked  
15 at Morgan Manufacturing and worked with Karen; is  
16 that right? You see the next entry?

17 A. I do.

18 Q. And in fact he had also talked, if you look  
19 on July 9th -- excuse me -- July 9th, next page at  
20 the bottom, approximately 10:45 PM on July 9th  
21 Parrish conducted an interview with John M. Henry,  
22 another employee of Morgan Manufacturing who worked  
23 the midnight shift; is that right?

24 A. Yes, sir.

1 Q. And in fact, in all of those circumstances  
2 Parrish was following the same decision that you were  
3 following, which was not to confront these people  
4 about the information you had from Busby, but rather  
5 to hope that they would voluntarily give you  
6 information; is that right?

7 MS. EKL: Objection. Foundation.

8 A. It doesn't appear these people were asked  
9 that, yes.

10 Q. That was a conscious decision on all of  
11 your behalf, all your part, not to do that, right?

12 MS. EKL: Objection, foundation, as to  
13 other people.

14 A. Yeah.

15 Q. Okay. You heard the answer, he said yeah.

16 A. Well --

17 Q. Well, don't change it. You said yeah,  
18 didn't you?

19 MR. RAUB: He's entitled --

20 Q. First of all, you can say what you want,  
21 but you did say "yeah", right?

22 A. Could I have the question again, please?

23 (Whereupon the requested portion of the  
24 record was read by the reporter.)

1 A. It was a decision --

2 Q. You want to elaborate on your answer?

3 A. No, sir.

4 Q. No? Okay.

5 All right. So it looks to me, and correct  
6 me if I'm wrong, that at the very least there had  
7 been seven interviews with Morgan people by you and  
8 Parrish prior to the interview on the 10th with  
9 Morgan that you and Bensyl conducted; is that right?

10 A. Several.

11 Q. Several meaning?

12 A. More than five.

13 Q. Okay. Thank you. And Bensyl was with you  
14 when you went to talk to Morgan, right?

15 A. He was.

16 Q. And pursuant to your joint decision you did  
17 not either directly or indirectly ask him about the  
18 information that Busby and Gardner had given you  
19 concerning his purported illegal activities that  
20 Karen had said; is that right?

21 A. We did not ask anybody.

22 Q. And that was a conscious decision, right?

23 A. Yes, sir.

24 Q. Did you consider him a suspect when you

1 talked to him on the 10th?

2 A. I think he was a suspect along with  
3 everybody else at this point.

4 Q. Well, not everybody was a suspect. The  
5 mayor wasn't a suspect, was he?

6 A. I don't think so.

7 Q. All right. So he was -- but you're saying  
8 Herb and Randy were suspects, right?

9 A. Yes, sir.

10 Q. And at that point Busby was no longer a  
11 suspect or was he --

12 A. He was still a suspect.

13 Q. Even though he had impressed you with his  
14 credibility, right?

15 A. Yes.

16 Q. Anyone else that were suspects other than  
17 Morgan, to a lesser degree Busby, and Randy and Herb?

18 A. At this point I don't know who we bypassed  
19 on here, but...

20 Q. Well, was Smoke Burba a suspect based on  
21 the info you had?

22 A. Yes.

23 Q. Anyone else you can think of?

24 A. Carey Sexton, but that was later on. I am

1 just trying to figure out what's what.

2 Q. All right. So you can't think of anyone  
3 else other than whom you've named that at this point  
4 when you talked to Morgan were suspects; is that  
5 right?

6 A. No, I just -- I can't think of that.

7 Q. Did you consider giving Morgan his rights?

8 A. No, sir.

9 Q. Did you discuss that with the team or was  
10 that an individual decision?

11 A. That was merely an interview with Morgan.

12 Q. And was that -- but that was a conscious  
13 decision that you all made that it would be an  
14 interview, not, what did you call it, an  
15 interrogation?

16 MR. RAUB: Objection to the phrase "you  
17 all". There's no -- there's no information  
18 anybody --

19 MR. BALSON: Wait. Don't --

20 MR. TAYLOR: You want to testify?

21 MS. SUSLER: The question was is that a  
22 conscious decision you all made.

23 Q. Do you understand the question?

24 A. I don't now with the --



1 Q. The question was, was that --

2 A. You'll get mad, but you'll have to do it  
3 again.

4 Q. That was a conscious decision you all made,  
5 meaning the team.

6 A. We went to Mr. Morgan at that particular  
7 time as an employer, to interview him as an employer.

8 Q. But my question was that was a joint  
9 decision you made. You didn't make that decision on  
10 your own to approach him as an employer and interview  
11 him rather than to approach him as a suspect --

12 A. Yes.

13 Q. -- is that right?

14 A. It was a joint decision, yes.

15 Q. All right. Thank you.

16 Now, Morgan, though, volunteered a -- a  
17 motive that was different than the motive that Busby  
18 and Gardner had suggested; is that right?

19 MS. EKL: Objection. Form.

20 A. He had an idea. His personal opinion? You  
21 said motive?

22 Q. Right. Isn't that what as an investigator  
23 you would consider the fact that -- strike that.

24 Yes. I am looking at the bottom

1 here, "Morgan stated that it was his opinion that it  
2 was at least two or more suspects with the intention  
3 of rape and it was an impulse killing." Morgan  
4 volunteered that to you; is that right?

5 A. He did.

6 Q. And in fact when I say motive, I'm talking  
7 about that the motive was rape, that's what he was  
8 saying; is that right?

9 A. It was his opinion that that could have  
10 happened.

11 Q. Right. And that's very different than the  
12 motive that you could draw from the Busby  
13 information, which was it was to kill a witness who  
14 had information, right?

15 MS. EKL: Objection.

16 Q. Those are two very different motives and  
17 point towards different people; is that right?

18 MS. EKL: Objection. Form.

19 A. Busby's information was a rumor that he had  
20 heard from the deceased. So it was -- and it  
21 wasn't -- Busby did not indicate that's why she was  
22 killed. He was passing on the information that he  
23 had received months before. He did not pass that  
24 information on as his idea of how she was killed,

1 only the information he had received from the  
2 deceased.

3 Q. Well, correct me if I'm wrong, but as an  
4 investigator, you're looking for motives in an  
5 unsolved crime; isn't that right?

6 A. Yes, sir.

7 Q. And didn't we agree earlier in the  
8 deposition that in fact if someone had information  
9 about criminal activity against someone else that it  
10 could be a motive of that person to kill the person  
11 who had the information? Didn't we agree to that?

12 MS. EKL: Objection. Form. Foundation.

13 A. It could be in cases. I don't know whether  
14 we agreed upon that, but I'll agree that that could  
15 happen in cases, yes.

16 Q. And in fact that could have been the motive  
17 in this case given what Busby and Gardner gave you,  
18 told you, isn't that right?

19 A. But Busby didn't give it to us as a motive,  
20 he gave it to us as information. Is that correct?

21 Q. But you as a detective or a sergeant drew  
22 from that that it was a possible motive, didn't you?

23 A. It was a suspicion.

24 Q. And a suspicion as with regard to a motive,

1 right?

2 A. Could be a motive.

3 Q. Okay. And my question to you is that rape  
4 is a very different motive than the motive that it  
5 could have been -- could have been and that you did  
6 draw as a possibility with regard to Busby; isn't  
7 that right? That's a very different motive, isn't  
8 it?

9 MS. EKL: Objection. Form.

10 A. Rape is a different motive than guns, it's  
11 a different subject.

12 Q. And in fact, did it occur to you that  
13 Morgan could have been trying to draw -- throw you  
14 off in terms of the fact that he was involved by  
15 giving -- suggesting other people and suggesting a  
16 different motive?

17 A. It didn't occur to me, no, it did not.

18 Q. Does that seem logical to you now as a  
19 possibility?

20 A. I never even gave it a second thought.

21 Q. Well, I'm asking you to give it a second  
22 thought now --

23 A. No.

24 Q. -- and tell me as a former investigator

1 whether that is a possibility that you should have  
2 considered.

3 A. That was his opinion and I'm sure we all --  
4 it was all taken back and we all talked about that  
5 also, you know.

6 Q. Who all talked about it?

7 A. Well, the people that were investigating  
8 this thing at this time.

9 Q. That team, McFatridge --

10 A. Snyder, Bensyl, all of us that was working  
11 on it at this time, up till this date.

12 Q. Parrish?

13 A. Sure.

14 Q. Ray, McFatridge?

15 A. Yes.

16 Q. Okay. And you all discussed the  
17 possibility of -- of a rape as a motive, right?

18 A. We discussed -- the probability, I don't  
19 remember. We discussed what Morgan's reply was about  
20 his opinion on what could have happened.

21 Q. And did you also --

22 A. It was only opinion.

23 Q. Did you discuss the possibility that Morgan  
24 was trying to distract you from his possible

1 involvement in the case?

2 A. I don't recall discussing that at all.

3 Q. That didn't occur to any on the team?

4 A. I don't recall that at all.

5 Q. All right. But he did give you the names  
6 of the people that he considered to be the suspects,  
7 the two or more suspects, didn't he?

8 A. I must be missing that.

9 Q. Well, it's not in the report, right, the  
10 names?

11 A. I don't recall him giving us any names of  
12 anybody.

13 Q. But it's not in the report in any event, is  
14 it?

15 MS. EKL: Objection. Foundation. Assumes  
16 facts not in evidence.

17 Q. I'm asking you --

18 MR. TAYLOR: No, it doesn't. I asked him  
19 whether it's in that report and it isn't, is it.

20 MS. EKL: But it assumes that he gave him  
21 names. He just said I don't recall him giving me  
22 names and you are asking him whether --

23 Q. There are no names in the report --

24 MS. SUSLER: He didn't say that.

1 Q. -- attached to the suspects that Morgan  
2 stated -- Morgan stated it was his opinion that it  
3 was at least two or more suspects with the intention  
4 of rape and it is not -- and it was an impulse  
5 killing. There is no mention in the report of any  
6 names as to any suspects that Morgan referred to, is  
7 there?

8 A. There is no mention of that and I don't  
9 recall that.

10 Q. And you don't recall that. Fine.

11 Well, I want to show you what's marked as  
12 Ray Exhibit No. 13, which is -- well, I'll let you  
13 tell me what this is.

14 MS. EKL: For the record this is Steidl  
15 12637 through 12736. You asked about Ray 14 on here  
16 too. Did you mean to do that?

17 MR. TAYLOR: No, 14 shouldn't be in there.

18 MR. RAUB: Beth, can you describe  
19 generically what it is?

20 MS. SUSLER: Wait. That's part of the  
21 question, he just said --

22 MR. RAUB: I would like to see the document  
23 so I can find --

24 MS. SUSLER: That's fine. Let the witness

1 do it.

2 BY MR. TAYLOR:

3 Q. Does that appear to you, take a quick look  
4 through it so counsel can be informed, does that  
5 appear to be that card catalog that you referred to  
6 that was kept at the Paris Police Department?

7 A. It appears to be.

8 Q. All right. And did you make entries in  
9 this card catalog?

10 A. I'm sure at some time I did.

11 Q. If you thumb through it quickly can you  
12 tell us -- well, go to Steidl 12644, okay?

13 A. 12644?

14 Q. Right.

15 A. Okay.

16 Q. Do you see the entry Busby, Timothy A.?

17 A. Yes.

18 Q. Is that your writing?

19 A. No, sir.

20 Q. And in fact is this -- do you recognize  
21 this to be Parrish's writing?

22 A. I don't recognize Parrish's writing. I  
23 mean he is a very good writer but I don't know --

24 Q. Okay. The entry below that, do you see



1 that entry?

2 A. I do.

3 Q. Do you recognize that handwriting?

4 A. I don't recognize the handwriting, no.

5 Q. All right. Take a look at 12709.

6 A. 12709?

7 Q. Yeah.

8 A. Yes, sir.

9 Q. And do you see the entry there, Norma  
10 Pruitt, is that right?

11 A. Yes.

12 Q. And it says "interviewed by Eckerty".  
13 That's accurate, you interviewed her, right?

14 A. Yes.

15 Q. Is that your handwriting?

16 A. It appears not to be my handwriting. You  
17 know, I don't think so.

18 Q. Now, this appears to be in alphabetical  
19 order in the same way that the card catalog itself  
20 was; is that right?

21 A. I haven't noticed that part. Well, yeah,  
22 it looks like the things are there, yeah.

23 Q. Okay. Let's take a look at 12685.

24 A. Yes, sir.

1 Q. Now, if you look at the second entry it  
2 says, "Morgan, Robert, Sulphur Springs, Paris, 46  
3 years, telephone No. 466-4100"; is that right?

4 A. Yes, sir.

5 Q. And it says, "Interviewed by Eckerty and  
6 Bensyl, 7-10, 9:20 AM." So this is the interview  
7 that we were just looking at that's recorded in your  
8 report; is that right?

9 A. Yes, sir.

10 Q. And now it says, "Suspects impulse killing,  
11 at least two or more suspects, intention of rape."  
12 Now that's consistent with your report, isn't it?

13 A. Yes.

14 Q. Then it goes on and says, "Has been  
15 contacting people, offering money for information."  
16 That's consistent with your report as well, right?  
17 Morgan stated during the interview that he had been  
18 to several bars, approached several people in the  
19 Paris area and had offered money to anyone giving  
20 information, right?

21 A. Yes.

22 Q. So that's consistent, the card catalog is  
23 consistent with your report; is that right?

24 A. Yes, sir.

1 Q. And now it also says -- what does that  
2 say, "does not believe drug relations" or "does not  
3 believe" -- can you read that last word?

4 MS. SUSLER: Related.

5 Q. "Does not believe drug related", right?

6 A. If that's what that word is. I --

7 Q. And is that consistent with your entry or  
8 is that something that was not in -- is not in your  
9 report?

10 A. I don't know if he said that on here or  
11 not. A real quick look I don't see that in here.

12 Q. So at least on this entry -- and then it  
13 says "Named Kenny Ziegler and Jeff Simons"; is that  
14 right?

15 A. Yeah. I don't know what that means.

16 Q. Well, didn't that mean that those were the  
17 suspects that he was identifying as possible persons  
18 who were involved in the rape and murder?

19 MS. EKL: Objection. Foundation.

20 A. It doesn't say they were suspects. You  
21 just got two names here. There's two names here.

22 Q. Well, are you telling me it's not logical  
23 that in fact that the names that he gave were names  
24 that he identified with -- with the suspects that he

1 was referring on the impulse killing?

2 MS. EKL: Objection. Form. Foundation.

3 A. No, sir. I don't interpret that  
4 whatsoever. He just named these two names and I  
5 don't know without looking at the reports who they  
6 are, but I don't see them as suspects or anything  
7 like that.

8 Q. Is that your writing?

9 A. That's my interpretation. That is not my  
10 writing.

11 Q. So you would assume this was either -- is  
12 that Bensyl's writing?

13 A. I don't know.

14 Q. All right. Does this refresh your  
15 recollection that in fact Ziegler, Kenny Ziegler and  
16 Jeff Simons were named by Morgan?

17 A. No, it doesn't refresh my recollection. I  
18 don't know why these names are written here. Seems  
19 like Simons was interviewed some place. I don't  
20 know -- no, it doesn't -- doesn't at all.

21 Q. Everything else in this entry, with the  
22 exception of "does not believe drug related" and  
23 "named Kenny Ziegler and Jeff Simons" is in your  
24 report, right? Everything else is consistent with

1 your report; is that right?

2 A. Right.

3 Q. There's nothing that's inconsistent with  
4 your report in this entry, is there?

5 A. No, I don't believe so.

6 Q. So there's additional information that's  
7 not in your report, but it's not inconsistent with  
8 your report, is it?

9 A. These two guys' names are not in my report,  
10 that's correct.

11 Q. And drug related is not in your report,  
12 right?

13 A. It's not.

14 Q. But neither of those are inconsistent with  
15 what the information that is on your report, is it?  
16 Are they?

17 A. They're not in the report.

18 Q. That's not my question. My question is  
19 whether the two things that weren't in your report,  
20 that being it's not -- that Morgan said they're not  
21 drug related and he named Kenny Ziegler and Jeff  
22 Simons, that's not inconsistent with your report, is  
23 it?

24 A. No.

1 Q. And in fact if he named Kenny Ziegler and  
2 Jeff Simons, that would be significant information  
3 that you would expect to put in your report, wouldn't  
4 you?

5 A. I don't know who wrote this, I don't  
6 know -- I have no recollection of this and I don't  
7 know why their names are in there. It doesn't say  
8 they are a suspect, it doesn't say he named them.  
9 You know, I'm not going to be able to answer that  
10 thing for you.

11 Q. All right. Well, I'm asking you if in fact  
12 they were named as suspects by Morgan, that would be  
13 significant, would it not?

14 A. I think if it was a suspect of Morgan, it  
15 would be in there with the rape deal.

16 Q. It is, isn't it, the next sentence, he had  
17 at least two or more suspects, intention of rape, has  
18 been -- has been contacting people offering money for  
19 information. Does not believe drug related. Named  
20 Kenny Ziegler and Jef Simons.

21 A. It just says he believed it was two or more  
22 suspects who done the rape.

23 Q. These are two names that he named?

24 A. There's two names here but it doesn't say

1 what they're for. If he wrote that in there I don't  
2 know.

3 Q. Who had access to this card catalog other  
4 than yourself and -- and -- and Parrish?

5 A. Every agent that worked on the case.

6 Q. So Bensyl would have, right?

7 A. Yes, sir.

8 Q. So he would be a logical person to have  
9 written this since he did the interview, right?

10 A. Bensyl, Wheat, Snyder.

11 Q. Well, Snyder and Wheat and Parrish weren't  
12 involved in the Morgan interview, were they?

13 A. No, they weren't.

14 Q. So they would have had -- if they entered  
15 it into it -- into the report they would have had to  
16 do it based on what you or Bensyl told them, right?

17 A. I have no explanation why those two names  
18 are on there.

19 Q. I'm asking you whether -- all right. I'm  
20 trying to find out from you who other than yourself,  
21 Bensyl, Snyder, Parrish, had access to this card  
22 catalog if anyone?

23 MS. EKL: Objection. Asked and answered.

24 A. Did you name Wheat?

1 Q. Wheat. Who else?

2 A. Gene Ray. Patrick -- everybody had --

3 Q. McFatridge too?

4 A. Everybody that worked in there knew where  
5 the card file was on it, if that's your question.

6 Q. Well, everybody -- not flat foots that  
7 weren't involved in the case, right? I mean patrol,  
8 Paris police officers didn't have --

9 A. Paris police officers did not.

10 Q. So only people working the case had access,  
11 right?

12 A. Yes.

13 Q. And you would expect, would you not, that  
14 the people who made these entries were the ones who  
15 either got the information or who talked to the  
16 people who got the information?

17 MS. EKL: Objection. Form. Foundation.

18 A. I don't -- I can't answer why that's there.

19 Q. Okay.

20 A. And I don't consider them named as suspects  
21 because it isn't named as suspects there.

22 Q. Okay. Do you want --

23 A. Maybe someone else can.

24 Q. Could you thumb through this for me and --



1 and tell me where, if anywhere, you recognize your  
2 handwriting and just identify it by Steidl number.

3 A. The one John -- page 721 is mine.

4 Q. 721?

5 A. Yes, sir.

6 Q. Anything before that? It's John Sanderson  
7 for the record.

8 A. 717, Jeffrey Simons.

9 Q. Now Jeffrey Simons is the person that's  
10 named -- one of the two people that's named by  
11 Morgan, right?

12 A. The names are there, but this is all  
13 Morgan's card. Correct. Very correct.

14 Q. And you didn't enter when you interviewed  
15 him or did you?

16 A. It's not -- no.

17 Q. Okay. And you wrote -- the key information  
18 you wrote down here is that he worked for Morgan and  
19 he had a crush on Karen; is that right?

20 A. Yes, sir.

21 Q. He admitted that to you, right?

22 A. Yes.

23 Q. So that would kind of fit the idea that  
24 he -- that -- of rape motivation for him, wouldn't

1 it?

2 A. That he worked for Morgan?

3 Q. No, that he had a crush on Karen.

4 A. We talked to him.

5 Q. Would that imply to you that you asked him  
6 about Morgan's allegation that it was a rape?

7 A. I don't know -- without looking at the  
8 interview I don't know what we asked him, but I'm  
9 sure there's an interview some place I guess, right?

10 Q. Can you show me any other of your  
11 handwriting?

12 A. 7-12.

13 Q. Okay.

14 A. Lacey. L A C E Y. I don't know.

15 Q. Clifford Lacey?

16 A. Yes, sir.

17 Q. All right. And that was -- on that one you  
18 put a date, right?

19 A. 7-18-86 on that one.

20 Q. And that has to do with Carey Sexton; is  
21 that right? Am I right?

22 A. It did I think. Did it? No, that has to  
23 do with Clifford Lacey. No, Carey Sexton. I'm  
24 sorry. It was Carey Sexton.

1 Q. That was the subject, right?

2 A. Yes.

3 Q. Okay. How about the Norma Pruitt  
4 interview? You said that's not your handwriting,  
5 right?

6 A. Okay. Just a minute. I'm not there.

7 Q. 7-09.

8 A. No.

9 Q. Okay. Any others that you as we go through  
10 it from back to front, any others you recognize?

11 A. (No response).

12 Q. Let me ask you this, stop at page 12704.

13 A. Yes, sir.

14 Q. You see Debra Rienbolt?

15 A. Yes.

16 Q. And it says "Parrish and Eckerty" do you  
17 see that?

18 A. Yes.

19 Q. And then it's blank, right?

20 A. Yes.

21 Q. Any idea who wrote that?

22 A. No, I don't.

23 Q. Okay. Any idea why such a significant  
24 witness would have a blank?

1           A.    I would say Debra Rienbolt has a card and  
2 Parrish and Eckerty interviewed her.

3           Q.    But no information about the interviews,  
4 right?

5           A.    No, but she had a card.

6           Q.    And in fact she was interviewed at great  
7 length by you and Parrish over a period of months in  
8 '87; isn't that right?

9           A.    I think I interviewed Mrs. Rienbolt twice.

10          Q.    But you also were present when -- at  
11 various times when she was prepared for testimony in  
12 the trial, were you not?

13          A.    I was present, yes.

14          Q.    Okay. Now let's keep going.

15          A.    699.

16          Q.    Okay. Let me drop you back to the one  
17 before that, 12700, it says "Eckerty 7-18-86, James  
18 Rhoads", is that your writing?

19          A.    Yes.

20          Q.    Tony Rhoads, is that your writing?

21          A.    Yes, it is.

22          Q.    So you missed that one, right?

23          A.    I did. I'm sorry.

24          Q.    And 19 -- I mean 699, Eckerty, Parrish, Sam

1 Roberts, that's you?

2 A. It is.

3 Q. And how about Rhoads, Forrest, Anna Frog  
4 (phonetic)?

5 A. No, sir.

6 Q. Next one, Rothenberger is not you; is that  
7 right?

8 A. It's not.

9 Q. Okay. Do you recognize that to be Snyder's  
10 handwriting?

11 A. I don't recognize it.

12 Q. You don't. Okay. Where is the next one  
13 that's yours? How about Terry Newman on 12691, it  
14 says "interview Eckerty", is that --

15 A. No, that's too neat for me.

16 Q. That's too neat for you. Okay. How about  
17 Terry and Margaret on the previous page?

18 A. No, sir. You talking about 690?

19 Q. Yeah.

20 A. No.

21 Q. McClaskey, no? 688?

22 A. Just a minute.

23 Q. Okay.

24 A. No.

1 MS. EKL: I was going to say what if he  
2 spelled his name wrong.

3 Q. Ruth Murphy, 12684?

4 A. Oh, I didn't see her. No.

5 Q. Do you remember an interview with Ruth  
6 Murphy?

7 A. I do.

8 Q. Do you remember the substance of that  
9 interview?

10 A. She had some information on Herb Whitlock  
11 and both Steidl I guess.

12 Q. 12681, Virgil Lacey, is that you?

13 A. Just a minute. No, sir.

14 Q. I'm sorry?

15 A. No, sir.

16 Q. Okay.

17 A. 676.

18 Q. All right.

19 A. I don't know how you pronounce that,  
20 "KOOSE"?

21 Q. Mark Knuth?

22 A. Yeah. Sorry about that. Mark and his --  
23 there's two Marks on there.

24 Q. Yeah, Mark and Mark A.

1           A.    Appears to be about the same person.  I  
2    don't know, different addresses.  Same date of birth,  
3    though.  Okay.

4           Q.    Okay.  Any others?

5           A.    Well, I'm still working.

6           Q.    Okay.

7           A.    669.

8           Q.    Okay.  Pamela Henson?

9           A.    Yes, sir.

10          Q.    How about 12666, Lon Gardner?

11          A.    Just a minute.  No, sir.

12          Q.    That's not your entry?

13          A.    No, not at all.

14          Q.    All right.  Now, in this card there's  
15    information that I didn't notice in your -- in your  
16    report and it says that Morgan's business --

17                MS. EKL:  What part are you referring to?

18          Q.    I'm referring to 12666, the Gardner card.  
19    "At Morgan's business all employees very upset over  
20    deaths.  Morgan advised there had to be two people  
21    involved."

22                Do you see that?

23          A.    Yes, sir, I do.

24          Q.    And was that among the information that you

1 were told?

2 A. I didn't write that there. I don't recall  
3 receiving that information.

4 Q. But it attributes it to an interview that  
5 you did. Is that consistent --

6 A. I interviewed Lon Gardner.

7 Q. Right. And did he tell you that Morgan's  
8 employees were all very upset and Morgan had told his  
9 employees that there had to be two people?

10 A. I don't recall that part, no.

11 Q. Do you have any reason to believe that  
12 that's not an accurate entry?

13 A. I don't recall that.

14 Q. All right. Well, my question is do you  
15 have any reason to believe it's not accurate?

16 A. I didn't write it on there, so I don't  
17 recall why it's on there. I do recall interviewing  
18 Lon Gardner and his wife at the Colonial Kitchen in  
19 Chrisman, I do remember that, the interview, the  
20 substance of it anyway, okay? I didn't write that  
21 part down there.

22 Q. Okay. Well, if we go to 12664, the actual  
23 number is blotted out, but there are two entries,  
24 Jane A. Gardner and Fred Gosnell, G O S N E L L. Is



1 that your handwriting?

2 A. For sure Fred Gosnell is.

3 Q. How about Jane Gardner?

4 A. It probably is. I don't know. No, I would  
5 say that was mine.

6 Q. When you interviewed Lon and Jane you  
7 interviewed them together?

8 A. Lon is definitely not my handwriting.

9 Q. No, but my question is you did interview  
10 them together at the same time?

11 A. I did.

12 Q. And they confirmed -- they both confirmed  
13 the story about the guns to Chicago, right? They  
14 both heard that from Karen; is that right?

15 A. Yes. Yeah.

16 Q. Okay. J. C. Foley on 12662, is that your  
17 writing?

18 A. Uh-huh.

19 Q. Uh-huh is yes?

20 A. Yes, sir.

21 Q. Okay. And you interviewed Foley, right?

22 A. I'd have to look at the report, but it says  
23 Snyder and Eckerty did.

24 Q. Okay. So that -- and it's your writing so

1 that would indicate to you that that -- that that in  
2 fact was your interview, right?

3 A. 660.

4 Q. Which one or both?

5 A. I believe both of them look like mine. The  
6 firemen?

7 Q. Yeah.

8 A. Eckerty. The bottom -- I'm sorry, Melody  
9 Forcum, is that Forcum?

10 Q. Uh-huh. Those are both your entries; is  
11 that right?

12 A. Yes, sir.

13 Q. Okay. Next, Becky Etchison?

14 A. No, that's not mine.

15 Q. All right.

16 A. 653.

17 Q. That's Ernest Darkis?

18 A. Yes, sir.

19 Q. All right. How about 12654, Jean Anne  
20 Dagley?

21 A. No. Jean who? Oh, Dagley or -- no.

22 Q. No? Okay.

23 A. Did I give you 653?

24 Q. Yes, you did.

1 A. 650.

2 Q. Which ones are those entries?

3 A. That's McClaskey or Cassidy, drives a black  
4 car T-top.

5 Q. Anybody else on that page?

6 A. No, sir.

7 Q. No, that's 649, isn't it?

8 A. Well, it's the same. I'm sorry. There's  
9 one on 650, do you see it there? But yes, it's --  
10 you got it, 649, okay?

11 Q. All right.

12 A. 648, Sherry.

13 Q. Cassidy? Okay.

14 A. I believe 645.

15 Q. Is that Randy Bramlet?

16 A. Both of those would be mine.

17 Q. David Butler?

18 A. Yes.

19 Q. Okay. Gerald Burba on 12643, yes or no?

20 A. No, sir. 642.

21 Q. 642, Marilyn Busby?

22 A. Yes, sir.

23 Q. And that's the mother of Tim Busby; is that  
24 right?

1 A. That is.

2 Q. And she corroborated what Tim Busby told  
3 you with regard to Smoke Burba and Morgan, did she  
4 not?

5 A. I would like to read that before I answer  
6 that question, if I can, if that's okay with you.

7 Q. You don't have any memory of that?

8 A. I don't.

9 Q. All right. Any other entries?

10 A. Yes.

11 Q. Okay.

12 A. 640.

13 Q. And that is Robert Artis?

14 A. Yes.

15 Q. How about Stan Acklen?

16 A. No.

17 Q. Any others? How about Jeb Ashley on 12639?

18 A. I don't think that's mine, huh-uh.

19 Q. There's two different writings on there it  
20 appears, doesn't it?

21 A. Pardon?

22 Q. It looks like two different writings?

23 A. There is, Cardinal Cable is different than  
24 the thing.

1 Q. Not your writing on either of them?

2 A. No.

3 Q. And to the best of your knowledge is that a  
4 complete copy of the card catalog?

5 A. Oh, I -- I don't know if there is any more  
6 or not, I really don't. Sorry about that.

7 MR. TAYLOR: Good time to break for the  
8 night.

9 (Concluding at 6:42 PM, to be continued the  
10 following day.)

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1 STATE OF ILLINOIS )  
 )  
2 COUNTY OF VERMILION)  
3

4 I, Amy Prillaman Neubaum, a Certified Shorthand  
Reporter, in and for the County of Vermilion, State  
5 of Illinois, do hereby certify that JACK ECKERTY, the  
deponent herein, was by me first duly sworn to tell  
6 the truth, the whole truth and nothing but the truth,  
in the aforementioned cause of action.

7 That the foregoing deposition was taken on  
behalf of the Plaintiff, at the offices of Area Wide  
Reporting, 301 West White, Champaign, Illinois, on  
8 July 23, 2009;

9 That said deposition is a true record of the  
testimony given by the deponent and was taken down in  
stenograph notes and afterwards reduced to  
10 typewriting under my instruction; and that it was  
agreed by and between the witness and attorneys that  
11 said signature on said deposition would not be  
waived.

12 I do hereby certify that I am a disinterested  
person in this cause of action; that I am not a  
13 relative of any party or any attorney of record in  
this cause, or an attorney for any party herein, or  
14 otherwise interested in the event of this action, and  
am not in the employ of the attorneys for either  
15 party.

16 IN WITNESS WHEREOF, I have hereunto set my hand  
this date day of July, 2009.  
17

18 \_\_\_\_\_  
19 AMY PRILLAMAN NEUBAUM, CSR, FCRR  
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21  
22  
23  
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