

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
9 Gene Ray and Detective James Parrish;
10 former Illinois State Trooper Jack
11 Eckerty; former Edgar County
12 State's Attorney Michael McFatrige;
13 EDGAR COUNTY; and Illinois State
14 Police Officials Steven M. Fermon,
15 Diane Carper, Charles E. Brueggemann
16 Andre Parker and Kenneth Kaupus,
17 Defendants.

18 -----
19 HERBERT WHITLOCK,
20 Plaintiff,

21 vs.

No. 08-CV-2055

22 CITY OF PARIS, Present and Former
23 Paris Police Officials Chief Gene
24 Ray and Detective James Parrish;
former Illinois State Trooper Jack
Eckerty; former Edgar County
State's Attorney Michael McFatrige;
EDGAR COUNTY; and Illinois State
Police Officials Steven M. Fermon,
Diane Carper, Charles E. Brueggemann
Andre Parker, Kenneth Kaupus and
Jeff Marlow; and Debra Reinbolt,
Defendants.

CONTINUED DEPOSITION OF JACK ECKERTY
Area Wide Reporting
301 W. White
Champaign, Illinois
July 27, 2009
9:00 a.m.

Barbara A. Glover, CSR # 084-001223
Area Wide Reporting and Video Conferencing
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17 ALSO PRESENT: Jeff Marlow and James Parrish

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1 STIPULATION

2

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IT IS HEREBY EXPRESSLY STIPULATED AND

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AGREED by and between the parties that the

5

continued deposition of JACK ECKERTY may be taken

6

on July 24, 2009, at Area Wide Reporting, 301 W.

7

White, Champaign, Illinois, pursuant to the Rules

8

of the Federal Court and the Rules of Federal

9

Procedure governing said depositions.

10

IT IS FURTHER STIPULATED that the

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necessity for calling the Court Reporter for

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impeachment purposes is not waived.

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1 9:06 a.m.

2 EXAMINATION CONDUCTED

3 BY: MR. TAYLOR

4

5 Q. All right. I want to go back a moment
6 to Ray No. 2 which is the series of ISP reports,
7 including several of yours. I want to go back
8 specifically to the Morgan entry, which I believe
9 is on page 9 of your report in Steidl No. 12217.

10 A. Morgan.

11 Q. Okay. Yes.

12 A. Okay.

13 Q. Now, overnight have you had a chance
14 to look at anything? No?

15 A. No.

16 Q. Haven't reviewed any of the reports --

17 A. No.

18 Q. -- or discussed anything? Is that
19 right? Is that correct?

20 A. No, that's no. I'm sorry. No.

21 Q. No, it's not correct, or, no, you
22 haven't?

23 A. I did not discuss anything other than
24 what we did here yesterday. Talked to our

1 attorney in the car to the hotel, and I went
2 home. No.

3 Q. Any discussion with Parrish overnight?

4 A. We rode together, yes, sir.

5 Q. Did you have any discussion about the
6 deposition?

7 A. Yes, sir.

8 Q. And what did you discuss?

9 A. What occurred yesterday in the
10 deposition.

11 Q. Did he have anything to say about your
12 memory and the relationship to what he remembered
13 about events?

14 A. Not other than what we just talked
15 about in here yesterday.

16 Q. Well, did you talk at all about the
17 McFATRIDGE negative information piece?

18 A. I don't think that was even discussed,
19 I don't think so.

20 Q. What specific aspects of yesterday did
21 you discuss with Parrish?

22 A. He was totally unaware of how we
23 started yesterday with the reports that you had
24 just got, I think maybe just got the DII things.

1 Q. Uh-huh.

2 A. That we discussed all that. He was
3 not aware of any of that stuff. He was totally
4 unaware of a memo by Jeff Marlow back then. That
5 was our biggest -- yeah.

6 Q. Did you discuss the Morgan as a
7 suspect aspect of the deposition yesterday?

8 A. I would say we did. To what aspect, I
9 don't know.

10 Q. Did you discuss specifically what his
11 view was about whether Morgan was a main suspect
12 or not?

13 A. With his view?

14 Q. Yes.

15 A. His view is about my same view.

16 Q. All right. So he didn't tell you that
17 he testified previously that he considered Morgan
18 to be a main or a principal suspect at any point
19 in the investigation?

20 A. He did not say that.

21 Q. Okay. In the car he told you that he
22 agreed with your position about Morgan being a
23 suspect but not a particularly outstanding one in
24 relationship to all the other ones. Is that

1 right?

2 A. Yes, sir.

3 Q. Anything else you discussed?

4 A. We mainly discussed his kids.

5 Q. All right. Now, looking at the 7/10

6 entry in your interview at 10:30 a.m. with

7 Morgan --

8 A. Yes, sir.

9 Q. -- it indicates that Morgan admitted

10 at that point that he had been to several bars

11 and approached several people in the Paris area

12 and had offered money to anyone giving

13 information about the death of Karen and Dyke

14 Rhoads. Do you see that entry?

15 A. Yes, sir.

16 Q. Did he tell you who he had approached

17 in the bars?

18 A. No, sir.

19 Q. Did he tell you specifically that he

20 had approached Randy Steidl or Herb Whitlock in

21 the bars?

22 A. I don't recall who he said he

23 approached. He said he had been in the bars.

24 Q. Did you ask him who he had approached?

1 A. I don't recall if I did or not.

2 Q. Did you think that might be
3 significant to find out who he had approached and
4 offered rewards to?

5 A. I think the way it was stated, he was
6 in the bar, and he was offering the money if
7 somebody could come up with some information.

8 Q. Did he tell you it was \$25,000 that he
9 was offering?

10 A. I don't know if that was discussed at
11 that point, but I later learned that it was
12 \$25,000. From somebody, I would have learned
13 that.

14 Q. That's a large amount of money. Was
15 it not?

16 MS. EKL: Objection.

17 THE WITNESS: It is a large amount of
18 money.

19 BY MR. TAYLOR:

20 Q. Was that probably more than you were
21 making at that time or about the same amount as
22 you were making?

23 A. Probably so.

24 Q. All right. Did you have any

1 discussion with him about whether you thought it
2 was appropriate for him to be offering that large
3 a reward in a case like this?

4 A. I don't recall if I had even a
5 discussion with him about the reward money. I
6 did not have any second thoughts about that. He
7 had been an employer of a company. I thought it
8 was quite all right for him to offer that reward.
9 My personal opinion.

10 Q. Did anyone ever disagree with you on
11 that opinion?

12 A. I don't recall if they did.

13 Q. Did you ever tell Morgan, hey, stop
14 offering that reward. You might taint the
15 investigation by getting people to come forward
16 to come up with information that was not
17 credible?

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

19 Q. All right. So you have no memory of
20 at any point telling Morgan pull that reward off
21 the table?

22 A. No, I don't have any memory of that.

23 Q. Did Morgan pull that reward off the
24 table at any point?

1 A. I don't even remember if he did or if
2 he did not.

3 Q. So you have no memory of him ever
4 rescinding that reward?

5 A. No, sir.

6 Q. Was that an issue that you discussed
7 with other members of your team, that Morgan had
8 a reward out there of \$25,000?

9 A. I don't know if it was discussed, but
10 everybody was probably aware of that.

11 Q. And did everybody concur that that was
12 appropriate and not something that Morgan should
13 be approached about in terms of rescinding it?

14 MS. EKL: Objection. Foundation.

15 THE WITNESS: I don't recall at this
16 point whether anybody had any -- opposed it or
17 not. I just don't recall that.

18 BY MR. TAYLOR:

19 Q. But certainly you didn't oppose it and
20 didn't write anything in your report that would
21 indicate that you told him not to continue with
22 the reward. Is that right?

23 A. There's nothing in this report,
24 correct.

1 Q. And did you ever learn any information
2 that he had given that reward to Darrell
3 Herrington?

4 A. No.

5 Q. Did you ever see any evidence from
6 Darrell Herrington or anyone else that he had
7 received a lot of money subsequent to coming
8 forward?

9 A. No.

10 Q. Did you notice in your dealings with
11 Darrell Herrington after he came forward in
12 September that his financial situation had
13 changed to the positive?

14 MS. EKL: Objection. Foundation.

15 THE WITNESS: When are you referring
16 to when it changed?

17 BY MR. TAYLOR:

18 Q. At any time after September when he --
19 when he was interviewed by you and others,
20 anytime from that point forward.

21 A. Later on, and I don't know whether
22 we're talking years or a year or years, Darrell
23 quit drinking. I think I stated before he's a
24 very successful drywaller, and when he quit

1 drinking, he got his mind in a job.

2 He had a lot of guys working for him,
3 so he was bound to have more money coming in and
4 not spending it on drinking.

5 Q. So you did notice a somewhat drastic
6 change in his financial situation sometime
7 subsequent to September of '86. Is that right?

8 A. Before '86?

9 Q. No, sometime after September of 1986.

10 A. I personally didn't observe it. It
11 was sometime after the trials, and I wasn't
12 around that much. I just heard that he was doing
13 real well in his business. He had quit drinking,
14 and things were going good for him.

15 Q. Okay. So you talked to Morgan about
16 10:30 a.m., according to the report. Then we
17 look on the next page, 12218, and that evening
18 you spoke with Jeff Simon. Is that right?

19 A. Yes.

20 Q. Now, Jeff Simon is the same person who
21 is one of the two people named by Morgan in the
22 card in the -- in the file card that we looked at
23 yesterday. Right?

24 A. Jeff Simon's name is the same name

1 that's on Morgan's card.

2 Q. And we had a discussion about whether
3 you understood that that was one of the two
4 suspects that Morgan was naming in connection
5 with the motivation of rape. You said you didn't
6 see it that way. Right?

7 A. Yes.

8 Q. But --

9 A. I did not see it that way.

10 Q. But, for whatever reason, you went and
11 talked to Jeff Simon directly the same day after
12 Morgan had named those two people, one being
13 Simon. Right?

14 A. I'm not for sure if Morgan named them
15 two people, Simon. Simon's name was on Morgan's
16 card. I believe there was somebody else that we
17 had interviewed.

18 Q. Ziegler and Simon were the two that
19 were on his card. Right?

20 A. Simon it is, I think. If you show me
21 the card -- I can get the card. What page is
22 that on?

23 Q. Simon M. It's 12685. The last line
24 in the card, name Kenny Ziegler and Jeff Simons.

1 Right?

2 A. Those were the two names, yes.

3 Q. And it says name. I assume you agree
4 with me that the card is saying that Morgan named
5 those two people?

6 MS. EKL: Objection. Foundation.

7 THE WITNESS: I'm presuming that it's
8 on Robert Morgan's card. It's on the last line,
9 and it says named Ken Ziegler and Jeff Simons.
10 It doesn't say what for, who named it, or what,
11 and I can't come to a conclusion on that card.

12 BY MR. TAYLOR:

13 Q. All right. So if you were reading
14 this card, even though you did the interview with
15 Morgan, you wouldn't come to the conclusion that
16 Morgan named Ziegler and Simons? He's the one
17 who gave the names, even though it's under his
18 card entry. Is that your testimony?

19 A. My testimony is I don't know what it's
20 on there for, how it came on there. I didn't
21 write the card.

22 Q. Well, in any event, you talked to
23 Morgan at 10:30 a.m. Morgan's card indicates
24 that at that interview he named Ziegler and

1 Simon, and within eight hours you talked to
2 Simon. Right? That's all accurate. Isn't it?

3 A. I still have a problem with named --
4 he named them. I don't have a problem with their
5 names being on the card. If I knew he named them
6 as that, I would have no problem with saying
7 that.

8 Q. I'm not asking whether you agree that
9 he named them as anything. It just says he named
10 them. He could have been naming them as the pope
11 and the pope's brother-in-law, but he did name
12 them. You just disagree with what he named them
13 for. Right?

14 A. Yes.

15 Q. Okay. So my question is after he
16 named them, for whatever purpose in the morning
17 of July 10th you went within eight hours with
18 Parrish and talked to Simon. Right?

19 A. It appears so.

20 Q. All right. And when you talked to
21 him, you learned that he worked for Morgan for
22 four or five years in the past. Right?

23 A. Yes.

24 Q. And you also learned that he thought

1 that Karen Rhoads was, indeed, a very attractive
2 person. Right?

3 A. Yes.

4 Q. And you also learned, did you not,
5 that he did stop by Karen's apartment and visit
6 with her. Right?

7 A. Yes.

8 Q. So those were pieces of information
9 that would in some manner support the possibility
10 that he had been involved in sexually assaulting
11 her. Isn't that right?

12 A. I would say just not because he
13 thought she was attractive that he sexually
14 assaulted anybody.

15 Q. Well, there's three things here that
16 you wrote down that you found significant enough
17 to write down: that he did, indeed, think she
18 was very attractive, that he stopped by her house
19 on one occasion, and he did probably have a crush
20 on her, all things having to do with possible
21 attractions, sexually and physically, that he had
22 to the victim. Right?

23 A. No doubt he said he's attracted to the
24 person. No doubt.

1 Q. Now, as an investigator, that would be
2 something that would raise possible suspicions.

3 Isn't that right?

4 A. You would take note of this, yes.

5 Q. And you did take note of it. Right?

6 A. Yes.

7 Q. Okay. So would it be fair to say that
8 you were following up on information that Morgan
9 gave you with regard to Simon?

10 A. I believe someone else also gave us
11 that information. Isn't that correct?

12 Q. You tell me. They're your reports not
13 mine.

14 A. If I could -- I'll review my reports,
15 if you want me to here, but there's someone else
16 that gave us that information.

17 Q. Okay.

18 A. Can I review these reports?

19 Q. No, I'll take your word for it. If
20 you think there was someone else that also gave
21 you information about Simon, that's fine with me.

22 So you were following up on
23 information you got from Morgan and from someone
24 else. Is that fair to say?

1 A. That's fair to say, yes.

2 Q. Okay. But -- and you got some
3 information with regard to Simon that had to do
4 with Allen Spesard, right, or Spesard. Allen
5 Spesard?

6 A. Spesard. That's the defendant's last
7 name.

8 Q. Now, after you did this interview with
9 Parrish on the evening of the 10th of July, did
10 you consider Simon to be a suspect?

11 A. I don't recall what we really
12 considered after the actual interview, if that's
13 what you're asking on it. He -- along with
14 everybody else, he would be a suspect at this
15 point.

16 Q. Well, you know, I think we can agree
17 that everybody else wasn't a suspect. There have
18 been some people who are suspect. There were
19 some people who weren't. Right?

20 A. Very true.

21 Q. And there's a list that you have given
22 us of people that you thought was a suspect at
23 that time. Right?

24 A. Yes.

1 Q. And there were some people you thought
2 were sufficient suspects that -- to give them
3 warnings, that is Miranda warnings and others who
4 did not cross that threshold in terms of giving
5 them warnings. Right?

6 A. Yes, sir.

7 Q. And with regard to Steidl and
8 Whitlock, you determined that they didn't cross
9 the warning threshold as suspects. Right?

10 A. Yes, sir.

11 Q. And the same with Morgan, you didn't
12 give him warnings?

13 A. No.

14 Q. He didn't cross the threshold. Right?

15 MS. EKL: Objection. Form.

16 THE WITNESS: You need to do an
17 interrogation to give them Miranda warnings. If
18 they're talking?

19 BY MR. TAYLOR:

20 Q. Yes.

21 A. Okay.

22 Q. And the same with Simon, he didn't
23 cross the threshold with you to give him
24 warnings?

1 MS. EKL: Objection. Form.

2 THE WITNESS: We interviewed him. We
3 didn't interrogate him.

4 BY MR. TAYLOR:

5 Q. And Sexton, again, did you give him
6 warnings?

7 A. I don't recall if we did.

8 Q. Because your report doesn't indicate
9 you did. Right?

10 A. I don't know -- did I interview
11 Sexton?

12 Q. Well, there's an entry. It doesn't
13 say who arrested him. Yes -- I'll withdraw the
14 question. There's no sense in looking for that
15 at this point.

16 Let me call your attention to page
17 12219. Okay.

18 A. Yes, sir.

19 Q. Now, it says that on July 18, 1986,
20 you received a telephone call from a Harry
21 Rothenberg from Morgan Manufacturing. Is that
22 correct?

23 A. I see that.

24 Q. And, in fact, you did receive that

1 call. Right?

2 A. Yes.

3 Q. And he told you that he was cleaning
4 out Karen Rhoads' desk, and he found a
5 handwritten letter addressed to Tim from Karen.
6 Is that right?

7 A. Yes, sir.

8 Q. Now, he gave you a copy of that
9 letter. Is that right?

10 A. It states that.

11 Q. All right. And that's the case. It
12 not only states that, but that's accurate. Isn't
13 it?

14 A. It says -- I wrote that it says he
15 gave me a letter.

16 Q. And did he?

17 A. I presume. I don't remember -- recall
18 that letter.

19 Q. Now, this was a letter that Busby had
20 mentioned. Is that right? Busby had mentioned
21 he had sent her a letter. Right?

22 A. He did mention that, yes.

23 Q. And the letter that Rothenberger gave
24 you was a letter that appeared to be a response

1 to the letter Busby told you he sent her. Is
2 that correct?

3 A. In the report it says it was a
4 handwritten letter addressed to Tim from Karen.

5 Q. And it goes on to say that you believe
6 that this letter was in answer to the letter
7 Karen received from Busby on 7/2/86?

8 A. Yes, sir.

9 Q. And, in fact, that was a letter in
10 which Busby said that he would be willing to talk
11 to her, right, if she had any problems she wanted
12 to talk to him about?

13 A. Yes, sir.

14 Q. Now, you reviewed that letter at the
15 time you got it. Is that right?

16 A. I don't recall what was in the letter,
17 but I do imagine that I did review that letter.

18 Q. Now, it says here see attached letter.
19 Is that correct?

20 A. I see that.

21 Q. Did you attach it to your original
22 report?

23 A. It would have been, yes.

24 Q. Have you seen that letter at any time

1 since you attached it to the report in 1986?

2 A. I've not seen it during this time that
3 I've reviewed my reports.

4 Q. All right. When's the last time you
5 recall seeing that letter?

6 A. I don't recall the last time I saw the
7 letter.

8 Q. What do you remember about the content
9 of the letter?

10 A. I stated I don't recall what was in
11 the letter.

12 Q. Well, given what Busby had said about
13 previous problems and information that Karen had
14 witnessed with regard to Morgan, the contents of
15 that letter would be important. Wouldn't it?

16 MS. EKL: Objection. Foundation.

17 THE WITNESS: I don't recall what was
18 in the letter.

19 BY MR. TAYLOR:

20 Q. Do you have any memory of whether
21 there was any reference in the letter to her
22 employment status with regard to Morgan?

23 A. I don't recall anything that was in
24 that letter at this point.

1 Q. Do you recall whether, in fact, she
2 discussed the previous witnessing of the guns
3 and -- machine gun and money going to Chicago?
4 Did she discuss that in this five-paged letter
5 with Busby?

6 A. I recall nothing in that letter.

7 Q. So have you made any effort to find
8 that letter since this lawsuit has been
9 initiated?

10 A. No, sir.

11 Q. Do you know whether it presently
12 exists, that letter?

13 MS. EKL: Objection. For the record,
14 that letter has been turned over to you, Flint.
15 You have it.

16 BY MR. TAYLOR:

17 Q. Do you know?

18 A. I don't know.

19 Q. Now, around a week or ten days after
20 the murders did you have an occasion to
21 participate in a briefing of the family members
22 of the victims?

23 A. After reviewing my reports, I was
24 refreshed that I did have a briefing.

1 Q. Okay. And the other members of the
2 team were present, McFatrige and Parrish, at
3 least?

4 A. I don't recall who was present. It's
5 in the report someplace, if you have the report
6 there who was present. I don't recall right now
7 who was present.

8 Q. Okay. Who was present in terms of the
9 family members?

10 A. I don't recall that either.

11 Q. All right. Did you write a report
12 about it, or was this something that was written
13 by Parrish, or did you both write about it?

14 A. There was a report that I remembered
15 when I was going through the reports that
16 somebody had written it. We had a meeting with
17 the family.

18 Q. Okay. I'm not seeing it in your
19 report. Perhaps it's in the Parrish report. Let
20 me see.

21 MS. EKL: If you look at 12233 just to
22 speed things along.

23 MR. RAUB: What date is that, Beth?

24 MS. EKL: It's Jim Parrish's report

1 from July 14th.

2 BY MR. TAYLOR:

3 Q. Okay. 12325. This briefing took
4 place at the courthouse. Is that right?

5 A. Yes, sir. That's what the report
6 says.

7 Q. Okay. We're looking at Parrish's
8 report now, so he wrote it up rather than you.
9 Is that right?

10 A. We are, sir.

11 Q. All right. And is that the case, that
12 he wrote it up rather than you?

13 A. Yes.

14 Q. Okay. At this time it says: The
15 family was allowed to ask -- excuse me, a
16 briefing was conducted at the Edgar County
17 courthouse in the lower courtroom for the Rhoads
18 and Spesard families. This time the family was
19 allowed to ask questions, and Agent Eckerty
20 reported on the progress of the case. Is that
21 accurate -- and what to expect?

22 Is that an accurate recitation of what
23 happened?

24 A. It is.

1 Q. And it says McFatrige was present at
2 the meeting, Steidl, Snyder, Bensyl, and Parrish
3 were also present at the meeting. Is that right?

4 A. Yes.

5 Q. All right. So the only person who is
6 not noted as being present of the main elements
7 of the investigation is Ray. Is that correct?

8 MS. EKL: Objection. Form.

9 MR. MANCINI: I join.

10 THE WITNESS: It doesn't state Ray's
11 name here, no. That's correct.

12 BY MR. TAYLOR:

13 Q. Do you remember whether Ray was, in
14 fact, there?

15 A. I recall having a meeting with the
16 family, but I just can't recall who was there.
17 I'm sorry about that.

18 Q. Well, do you remember that McFatrige
19 was there?

20 A. I don't remember. I just remember us
21 having a meeting with the family, and I don't
22 know who was there, but it states here McFatrige
23 was there.

24 Q. Okay. And how about Parrish, do you

1 remember Parrish being there?

2 A. It states in this report he was there.

3 Q. I'm asking you do you remember
4 independently of his report that he was there?

5 A. No, I don't remember who was there.

6 Q. All right. And did you brief them on
7 -- the families on the present status of the
8 case?

9 A. I presume we did.

10 Q. All right. And it indicates that --
11 correct me if I am wrong, but the report
12 indicates that you reported on the progress of
13 the case and what to expect, is that right, to
14 the families?

15 A. Yes, sir.

16 Q. All right. And what did you tell
17 them?

18 A. I have no idea what we told them at
19 that point.

20 Q. Did you tell them whether you had any
21 suspects?

22 A. I have no recollection of that.

23 Q. All right. Did you talk to them at
24 all about the bringing in of Herb and Randy a few

1 days previous thereto?

2 A. I have no recollection of that.

3 Q. Would that have been something you
4 talked about, the suspects or lack of suspects
5 that you have in the case?

6 A. I don't have any recollection of what
7 we would have talked about on the case.

8 Q. Okay. So you don't even know
9 generally what you would have talked about?

10 A. About the homicide, who was working on
11 it, and for me to say anything further than that,
12 I would just be strictly guessing on that.

13 Q. Do you have any recollection of any
14 questions that they asked?

15 A. I just don't have any recollection of
16 what was conducted in the meeting, questions
17 asked or what information that was provided.

18 Q. Were they concerned that as of eight
19 or nine days after the murders of their loved
20 ones that there had been no arrests?

21 MS. EKL: Objection. Foundation.

22 THE WITNESS: I have no recollection
23 at all of that. It's not unusual to have a
24 meeting with the family after a homicide or

1 something.

2 BY MR. TAYLOR:

3 Q. Okay. Is it unusual for families to
4 be very upset after their loved ones have been
5 killed?

6 A. Oh, yes.

7 Q. Oh, yes, it's unusual? I asked if it
8 was unusual.

9 A. Okay. Can I take back my answer?

10 Q. Sure.

11 A. It's unusual if they weren't upset.

12 Q. And also it would be unusual if they
13 weren't concerned if there hadn't been arrests
14 after a period of time. Isn't that right?

15 A. They would be concerned on who
16 committed the homicides, yes, sir.

17 Q. And, unfortunately, at this briefing
18 you were unable to tell them that you made
19 arrests or had someone in custody for the crimes?

20 A. That's very true.

21 Q. Okay. Did you assure them that you
22 were doing everything you could to try to solve
23 the crime?

24 A. I have no recollection of that, but

1 I'm sure we did.

2 Q. Okay. Did you give them any specifics
3 about what you were doing?

4 A. I have no recollection on what we told
5 them.

6 Q. Other than this meeting you had on the
7 14th of July, did you have any subsequent or
8 prior meetings with the family, either before the
9 14th of July or after the 14th of July where you
10 briefed them on the status of the case?

11 A. I am not aware of any, recollection of
12 any at this point. As I went through my reports,
13 I don't think I have read anymore, unless I
14 missed one in the reports.

15 Q. Okay. So during the eight or so
16 months until -- from the time of the murders in
17 July until they were arrested in February, you
18 didn't have any subsequent meetings that you
19 remember to discuss with the family the fact that
20 there continued to be no arrests in the case?

21 A. I don't recall of any meetings.

22 Q. All right. Now, would it be fair to
23 say having reviewed the reports, your reports and
24 Parrish's reports, that you did not talk to

1 Ziegler, the other person on the card, on
2 Morgan's card?

3 A. I don't recall if Ziegler was
4 interviewed.

5 Q. Okay. You don't recall whether he was
6 interviewed, but there's nothing in your reports
7 that indicate that he was. Is that right?

8 A. I don't recall if I did read his
9 interview, if it was in Parrish's or mine. I
10 don't recall that name. I'll be glad to look it
11 up. You probably have --

12 Q. Right. I went through them last
13 night, and I see no reference in either of the
14 reports to him. If that's accurate, would that
15 indicate to you that you didn't interview them or
16 that perhaps you interviewed them but didn't
17 write it down?

18 A. I would say if it's not in the
19 reports, as you say, he probably was not
20 interviewed.

21 Q. All right. Do you know any reason why
22 he was not?

23 A. I wouldn't recall that at all. I
24 don't know. I have no reason.

1 Q. All right. Now, I'm looking at the
2 reports, and your reports -- the first major one
3 here, the last entry is on July 24th. Am I right
4 on that?

5 A. Is that in Parrish's?

6 Q. No, I'm sorry. I'm looking at yours
7 right now, or I should be. That's Exhibit No. 2.

8 MS. EKL: You're saying on that
9 specific report?

10 BY MR. TAYLOR:

11 Q. Yes. Actually, the last entry in that
12 report is what date do you see?

13 A. May I have a page number?

14 Q. I'm looking at the last page of your
15 report that's -- that goes from the 6th of July
16 to the 1st of August, and I'm looking at page 12
17 of that report which appears to be the last page,
18 and the last entry is a Marilyn Busby entry on
19 July 24th. Is that correct?

20 A. That's correct.

21 Q. All right. And then the next report I
22 have of yours is July 6th through July 8th -- I'm
23 sorry, that's not yours. Keep going here. The
24 next report I have of yours is a four-page

1 report -- I'm sorry, it's a report dated 8/19 and
2 8/20 of '86. Do you see that report? It's
3 Steidl 12442, and it concerns a Jeffery Seeback.
4 Do you see that?

5 MS. EKL: Can I get that number again?

6 MR. TAYLOR: Jeffery Seeback.

7 MS. EKL: The number.

8 BY MR. TAYLOR:

9 Q. 12442.

10 A. 1242?

11 Q. 12442, Steidl, and it's a report of
12 yours, 8/19 and 8/20.

13 A. For some reason I can't find that.

14 MS. EKL: I don't know if you gave it
15 to him. This doesn't have that number in here.
16 They're out of order.

17 MR. RAUB: That doesn't sound like the
18 one you're actually referring to, but that's the
19 next one chronologically.

20 MS. EKL: Which one is that?

21 MR. RAUB: It has bunch of dates on
22 the top. It says Eckerty.

23 MS. SUSLER: Well, they all say
24 Eckerty.

1 MR. RAUB: I gotcha. I gotcha. Oh, I
2 see.

3 MS. EKL: Are you saying the last date
4 after August?

5 MR. TAYLOR: Pardon me?

6 MS. EKL: Are you saying the last date
7 after August?

8 BY MR. TAYLOR:

9 Q. I was saying the dates of the Seeback
10 interview.

11 MS. SUSLER: 8/19 and 8/20 is what he
12 is saying.

13 MS. EKL: There's an Eckerty report
14 before that, though.

15 MR. TAYLOR: What one is that?

16 MS. EKL: Actually, I'm sorry. I take
17 that back.

18 BY MR. TAYLOR:

19 Q. Well, let me show you my copy of it
20 which is a report dated 8/19 and 8/20/86, an
21 Eckerty report having to do with you and
22 Parrish's going to North Carolina to interview
23 Seeback.

24 A. Yes, sir.

1 Q. Do you remember that?

2 A. I don't remember the trip.

3 Q. You don't?

4 A. I'm sorry. I don't.

5 Q. Okay. Now, this, at least from
6 piecing the reports together, would indicate that
7 there were no reports or no entries made from
8 July 24th until August 19th. Was there a period
9 of time during that period where there was no
10 investigation going on?

11 MS. EKL: Objection to the form of the
12 question. Foundation.

13 THE WITNESS: The investigation
14 continued every day.

15 BY MR. TAYLOR:

16 Q. But you weren't developing information
17 that was worthy of writing down during that month
18 period, is that fair to say?

19 A. I can't recall what was going on
20 during that time or who was being interviewed or
21 what was going on.

22 Q. Okay. So the report -- I'm looking at
23 Parrish's report, and there's an entry on July
24 28th by -- a telephone interview with Danny

1 Patterson -- Peterson, and then the next entry on
2 his report, this is pages 21 and 22 of Ray
3 Exhibit 9, that is 5:00 p.m. on August 22nd, so
4 roughly the same period of time, that being from
5 the end of July to close to the end of August he
6 has no entries as well, so would it be fair to
7 say if these reports are accurate that from the
8 end of July to the end of August, roughly, there
9 was no -- the investigation had not turned up any
10 information that was worthy in the
11 investigation's view of recording?

12 MS. EKL: Objection. Form and
13 foundation.

14 THE WITNESS: I don't recall. I
15 recall nothing during this time period. It's not
16 unusual whatsoever on any case, major case, small
17 case, whatever, that your interviews will dwindle
18 down after the first couple weeks. You have more
19 interviews at the first than you will later on.

20 What happened during this time period,
21 I just don't recall and couldn't give you an
22 answer for that.

23 BY MR. TAYLOR:

24 Q. Okay. Now, looking at your reports,

1 the next report you write after this 8/19 and
2 8/20 report is the one that's dated 9/21, and et
3 cetera, having to do with Darrell Herrington. Do
4 you see that report in Exhibit 9? Here. Let me
5 take mine back.

6 A. Do you have mine?

7 Q. Do I have yours? Yes, I do.

8 MS. EKL: Just for the record, what
9 are we looking at again?

10 BY MR. TAYLOR:

11 Q. We're looking at Steidl 12254.

12 A. 12 --

13 Q. -- 254, the recording dates are 9/21
14 to -- it's Eckerty report dated 9/21, 9/22, 9/24,
15 9/25 and 10/6.

16 MR. MANCINI: Are we in Ray Exhibit 2?

17 MR. TAYLOR: Yes, we are. Okay.

18 Thank you.

19 BY MR. TAYLOR:

20 Q. I think you're too far.

21 A. I know I didn't find it there either.

22 I'm sorry.

23 Q. Here they are.

24 A. Thank you, sir.

1 Q. I'm showing you the report of 9/21,
2 9/22, 9/24 and 25, and this is -- the first entry
3 has to do with Darrell Herrington. Do you see
4 that?

5 A. I see that, yes.

6 Q. And so if the reports that I have
7 shown you are accurate, you had no entries from
8 the 20th of August when you went to North
9 Carolina to September 21st, about a month, when
10 you were involved in talking to Darrell
11 Herrington. Is that fair to say?

12 MS. EKL: Objection. Form and
13 foundation. I dispute your representation that
14 there wasn't another interview. I think there
15 are other reports.

16 MR. TAYLOR: By him?

17 MS. EKL: Correct.

18 MR. TAYLOR: What are they?

19 MS. EKL: I don't have a page number.
20 There's a Pat Ostettler. I believe that's Jack's
21 report from August 26th. There's also -- I
22 believe that there was also some polygraphs
23 during that time period that relate to him.

24 THE WITNESS: There's four reports.

1 MS. EKL: But to the extent you said
2 there's no reports that relate to him, he wasn't
3 doing anything on the investigation, I'm saying
4 that's an inaccurate representation. You're
5 asking him to accept your representation.

6 MR. TAYLOR: I'm not arguing with you.
7 I'm glad to hear that there was more evidence
8 that isn't in any of his reports that I have.

9 MS. EKL: You have all the reports,
10 and there's reports by other officers that relate
11 to things that Jack did, so it's not fair to say
12 that he wasn't doing anything just because he
13 didn't write the report and perhaps his partner
14 did.

15 BY MR. TAYLOR:

16 Q. But can you tell us what you were
17 doing between the 26th of August, 1986, when you
18 interviewed Ostettler along with Parrish and the
19 21st of September when you were involved in the
20 interview with Darrell Herrington?

21 A. I don't recall what we were doing.

22 Q. Were you doing some polygraph
23 examinations of people?

24 A. I don't recall. If there's reports,

1 it was mentioned here awhile ago. There's four
2 polygraph pages.

3 Q. But those weren't in your official
4 reports. Were they?

5 A. They sure were.

6 Q. Can you point to me where they were in
7 your official reports?

8 A. I've not looked at this one that you
9 have.

10 MS. EKL: I don't think you have the
11 polygraph reports contained in here.

12 THE WITNESS: I just have one. This
13 is one of Jeb Ashley.

14 BY MR. TAYLOR:

15 Q. What was your practice in terms of
16 reporting polygraphs?

17 A. Mark Murphy's report.

18 Q. And would that be part of the
19 documentation that would go to the file in
20 Champaign?

21 A. Yes, sir.

22 Q. All right. So the -- you would have
23 received Mark Murphy's reports from -- on the
24 various polygraphs. Is that right?

1 A. Yes, sir.

2 Q. It's your testimony when you got those
3 reports you would have included them in the
4 official file of the case. Is that right?

5 A. And disseminate it.

6 Q. And is it your testimony you did that
7 with the polygraph of Darrell Herrington?

8 A. Yes, sir.

9 Q. You received the report?

10 A. I have the report.

11 Q. All right. And your testimony now is
12 that you put that as part of the official file?

13 A. It's in my official file.

14 Q. And you gave it to Mike McFatridge?

15 A. I disseminated it.

16 Q. All right. So in fact you were the
17 agent that was involved in the polygraph of
18 Darrell Herrington. Isn't that right?

19 A. Could you rephrase your question or
20 not rephrase it, just tell me what you said,
21 because I missed it.

22 Q. I'm saying in fact you were the agent
23 that took Darrell Herrington to the polygraph.
24 Correct?

1 A. I didn't recall who took him to the
2 polygraph. Darrell Herrington had a polygraph at
3 the Paris Police Department. I requested that
4 polygraph be given. I don't know who took him
5 there, whether Darrell Herrington came to the
6 Paris PD himself. I don't even recall the
7 polygraph, but there is polygraph results in the
8 file.

9 Q. Okay. And is this the file -- was it
10 in the file that you got from the ISP?

11 A. Yes.

12 Q. All right. So that file you got from
13 the ISP included the Mark Murphy polygraph
14 report?

15 A. In that file, and there's an index
16 here, if you'll look at the front of your page
17 here, if you'll turn to that, there's an index,
18 and there's four polygraphs that were listed
19 together in the index.

20 Q. Okay.

21 A. Just a minute here. Okay. On the
22 original report, I don't know whether yours is
23 numbered, on pages 193, 194, 195, 196, 197, 198
24 are polygraph report results. 193 and 195 is a

1 polygraph result from Darrell Herrington. 195
2 and 196 is a polygraph result from Nancy Land.
3 197 is a polygraph result from Tim Busby, and 198
4 is a polygraph result from Lisa Wheeler.

5 Q. Okay. And this is some kind of
6 inventory of your file. Is that right?

7 A. It's an inventory of the case file,
8 yes, sir.

9 Q. And it's an inventory you did on
10 4/1/87. Is that correct?

11 A. It appears so.

12 Q. All right. And for whom did you do
13 this inventory?

14 A. It's a policy with the Illinois State
15 Police. We make an index for our files.

16 Q. All right. So --

17 A. It's simply how to look up something
18 fast.

19 Q. All right. And so the -- you're
20 saying that each of the entries on this index
21 that you created after April 1st, 1987, were in
22 your file?

23 A. Yes, sir.

24 Q. All right. And to whom did you send

1 this memorandum with this listing?

2 MS. EKL: Object to the form of the
3 question, specifically the phrase memorandum.

4 THE WITNESS: It's called -- we call
5 it disseminate, and it was disseminated. One
6 would have been to the Paris PD, the Edgar County
7 State's Attorney's Office. One would have been
8 kept in our files in Champaign, Illinois, and one
9 would have been sent to Springfield.

10 BY MR. TAYLOR:

11 Q. Okay. And the report listing the
12 information that's in the file, the complete
13 file, according to this cover sheet was sent to
14 Mike McFatridge and Gene Ray. Is that right?
15 Steidl 11914, is that the first page of this
16 index that you were talking about?

17 A. I don't think you're looking at the
18 same page. Well, I don't think you're looking at
19 the same page. I'm sorry. You are. Yes.

20 Q. So as of the 15th of April when this
21 was typed, McFatridge and Ray and presumably
22 Parrish had a listing of what was in your file.
23 Is that right?

24 A. May I ask if you're looking at Steidl

1 11914?

2 Q. I am, and the pages that go on --
3 including the one that you referenced me with
4 regard to the polygraphs. It's all a part of the
5 same report.

6 A. Okay. Everything would have been
7 disseminated as it says: Mike McFatridge and the
8 Paris Police Department.

9 Q. So did you send the complete file, all
10 two hundred and some odd entries that you've
11 listed here, pages 235 to 236, in other words,
12 the 236 pages that you listed here, did you send
13 that entire file to McFatridge and Ray at the
14 time that you sent them the index?

15 A. Everything that's in this report,
16 everything in this file, case file was sent to
17 both the State's Attorney's Office and Paris
18 Police Department.

19 Q. So you sent the results -- so you sent
20 a two-page report, polygraph report results to
21 Darrell Herrington, pages 193 and 194, that's
22 what you sent to the other people on your team,
23 that being Ray, McFatridge, and Parrish. Is that
24 right?

1 MR. MANCINI: Objection as to form.

2 THE WITNESS: I would have sent just
3 one to the Parrish PD, not two to Gene Ray and
4 Parrish himself. One would have went to them
5 together, to the PD.

6 BY MR. TAYLOR:

7 Q. The entire file? All 235 pages?

8 A. They received everything that's in
9 this file.

10 Q. Did you send it to them on the 15th to
11 make sure they had it, or had you sent it to them
12 previously?

13 A. Most of it's been sent to them
14 previously.

15 Q. How did you know what you sent them
16 before?

17 A. My index form here -- right here at
18 the top, sorry about that, it's called an
19 investigative summary, and that was made -- typed
20 out on, it appears, April 15th, 1987. This is
21 called an investigative summary.

22 Q. Okay. I'm following you. Go ahead.

23 A. They have received most of all of this
24 stuff before that date.

1 Q. Well, did you do a checklist to make
2 sure you knew what they had and what they didn't
3 have and make sure that they got what they didn't
4 have?

5 A. Didn't have to do a checklist.
6 Everything that was sent through our office
7 originally was disseminated to them. Every
8 report that came through was disseminated to
9 them.

10 Q. Okay. So it's your testimony that the
11 lie detector report was disseminated to Ray and
12 disseminated to McFatridge at the time it came
13 in. Is that your testimony?

14 A. Yes, sir.

15 Q. All right. Well, let me show you what
16 I'm going to mark -- or not going to mark but has
17 already been marked as Murphy Exhibit No. 4 which
18 is a two-page report with some five or six pages
19 of notes and ask you to take a look at that.

20 Excuse me. Can I have it back for a
21 second? I don't think I gave you the entire
22 exhibit here.

23 MS. EKL: Could you put page numbers
24 in the record just so people on the phone have it

1 in the record?

2 MR. TAYLOR: This is a report, ISP
3 023-9697, and then there's a series of notes that
4 don't have stamps on them.

5 THE WITNESS: Okay.

6 BY MR. TAYLOR:

7 Q. Okay. Now, the first two pages of
8 that document is a polygraph report. Is that
9 correct?

10 A. 396 and 397 is a polygraph report.

11 Q. And it is a polygraph report from
12 Murphy directed to your attention. Is that
13 correct?

14 A. Yes, sir.

15 Q. And it is the polygraph of Darrell
16 Herrington. Is that correct?

17 A. Yes.

18 Q. And this is the polygraph report --
19 what's the date on that?

20 A. It says October 15th, 1986.

21 Q. Now, you received that report on or
22 about that date. Is that right?

23 A. I presume so.

24 Q. And that's a report that's referred to

1 as pages 193 and 194, is that right, on that
2 inventory that you say was sent to the other
3 people involved in the case?

4 A. Yes.

5 Q. And that is -- is that an accurate
6 copy of the document you received on or about the
7 15th of October?

8 A. It appears to be.

9 Q. All right. Now, I've also showed you
10 what has been previously identified in the Murphy
11 deposition as his notes with regard to the
12 polygraph. That is these pages -- some, one,
13 two, three, four, five, six pages.

14 Did you receive a copy of his notes
15 along with the report?

16 A. No, I did not.

17 Q. Did you include any notes in the
18 materials that you sent to McFatridge and Ray and
19 the Paris Police Department?

20 A. The only thing I would have received
21 from Mark Murphy are these two reports that are
22 marked -- well, if you want to refer them as page
23 193 and 194, those are the only two pages I
24 received.

1 Q. All right. Now, you participated with
2 Ray and McFatridge and Parrish in determining
3 that -- to send Herrington to a polygraph.
4 Right?

5 MR. MANCINI: Objection to form.

6 THE WITNESS: It was decided to have
7 him to be polygraphed.

8 BY MR. TAYLOR:

9 Q. And you were part of that decision.
10 Were you not?

11 A. Yes, sir.

12 Q. And so was Ray, McFatridge, and
13 Parrish. Right?

14 A. I presume so.

15 Q. All right. Well, looking at those
16 notes, when is the last time you've seen them
17 prior to my showing them to you today?

18 MS. EKL: Objection. Foundation. It
19 assumes facts not in evidence.

20 THE WITNESS: I think I can truthfully
21 say I have never seen this page.

22 BY MR. TAYLOR:

23 Q. All right. That's a page that says
24 Darrell Herrington. You're saying you never saw

1 it?

2 A. No, sir.

3 Q. And the chart that it says on the top
4 Darrell Herrington?

5 A. And I have saw one page kind of like
6 this. It was shown to me twice: once before I
7 testified in Whitlock's pretrial -- no
8 post-trial, and once by my attorney a couple days
9 ago. That's the only two times I was shown -- it
10 was a sheet with notes like this. I have not
11 seen any of the rest of this stuff.

12 Q. So the page that you were shown on two
13 occasions was one part of these series of notes,
14 just one page of it. Is that right?

15 A. Yeah.

16 Q. Okay.

17 MR. BALSON: What's the number of that
18 page?

19 THE WITNESS: Well, I don't know what
20 is the name of them. They're not numbered.

21 MS. EKL: They're not numbered. I'll
22 just represent, please correct me if I'm wrong, I
23 think Mark Murphy talked about this as maybe a
24 pretest interview. It starts at the top. It's

1 typewritten, and it has different numbers. One
2 says one, work; two, you; three, suspect, and
3 then there's some handwriting portions underneath
4 it.

5 BY MR. TAYLOR:

6 Q. Now, you are familiar with taking
7 people to a polygraph in general as a detective.
8 Isn't that right?

9 A. Yes, sir.

10 Q. And you've done that on numerous
11 occasions over your career. Right?

12 A. Yes, sir.

13 Q. And Murphy was one you dealt with
14 quite often, right, in a polygraph manner?

15 A. He was the polygraph.

16 Q. And you trusted his results when he
17 did tests. Right?

18 A. He was a polygraph operator.

19 Q. Well, did you trust his results?

20 A. I did not a hundred percent, no.

21 Q. Did you find him to be professionally
22 competent?

23 A. Incompetent?

24 Q. Competent.

1 A. I think I testified earlier that I use
2 a polygraph as a tool.

3 Q. Did you find him --

4 A. I was not a hundred percent sold on a
5 polygraph. That was my personal opinion only.

6 Q. Well, my question to you is did you
7 find Murphy as a polygraph examiner to be
8 competent in his field?

9 A. As the average polygraph operator.

10 Q. Now, when you brought someone to the
11 polygraph, did you have a briefing with the
12 examiner to let him know the basic facts of the
13 case that you were bringing the witness or the
14 suspect in for and to help him to determine what
15 the relevant questions were to ask on the
16 polygraph?

17 A. Are you referring to that polygraph?

18 Q. I'm asking generally.

19 A. Generally, that's correct.

20 Q. You would sit down with Murphy?

21 A. Somebody would.

22 Q. Well, whoever the detective was who
23 brought the witness, right?

24 A. Or whoever was -- at that police

1 station or county or at that time was going to be
2 handling that person, bringing him in to Mark.

3 Q. So if it were you, then you would sit
4 down with Mark Murphy, or whoever the examiner
5 was, and discuss with him the case and the
6 pertinent facts of the case. Right?

7 A. But not what questions to be asked.
8 That was his --

9 Q. He determined what questions, but he
10 based that on what you told him. Right?

11 A. Yes, sir.

12 MR. EKL: Objection. Foundation.

13 BY MR. TAYLOR:

14 Q. And at the time you sat down with him,
15 the witness would not be there. Right? It would
16 be you and the examiner before he then started to
17 work with the witness. Is that fair to say?

18 A. Yes, sir.

19 Q. All right. So if you were the one who
20 brought Herrington to Murphy, you would have sat
21 down with him and talked to him prior to
22 Herrington being questioned both by Murphy. Is
23 that right?

24 A. If I were the one.

1 Q. Yes. And, in fact, he addressed the
2 report to you rather than to Parrish or Ray or
3 McFatridge. Right?

4 A. Because I was the case agent, and I
5 probably requested the exam. It doesn't mean I
6 was at the exam.

7 Q. All right. And so is it your
8 testimony you were not at the exam or that you
9 don't have memory of whether you were at the
10 exam?

11 A. My testimony has always been I don't
12 even recall a polygraph at all.

13 Q. All right. So you don't recall
14 whether you sat down with Murphy before
15 Herrington's polygraph or not?

16 A. No, sir.

17 Q. But whoever brought him to the
18 polygraph told him information that he based his
19 questioning on. Is that right?

20 A. Yes, sir.

21 Q. And the actual questions that he did
22 the test on are referred to in his report. Is
23 that correct?

24 A. I believe so, yes, sir.

1 Q. And those are the questions: Were you
2 with Herbie Whitlock and Randy Steidl the night
3 Rhoads were killed?

4 Answer: Yes.

5 Did you kill them?

6 No.

7 Did Whitlock and Steidl have blood on
8 their clothes?

9 Yes.

10 Did you see Karen Rhoads in her
11 bedroom after she was killed?

12 Yes.

13 Besides the first time you talked to
14 the police, did you make any other false
15 statements about this case?

16 No.

17 Those are the questions and answers.

18 Right?

19 MS. EKL: Objection. Foundation.

20 THE WITNESS: You're reading them to
21 me, yeah.

22 BY MR. TAYLOR:

23 Q. That's the report that was sent to
24 you. Right?

1 A. Yes.

2 Q. Okay. And the conclusion in the
3 report was that he, meaning Herrington, had acted
4 with purposeful non-cooperation during his
5 polygraph exam, and that the examiner was
6 precluded from rendering any opinion to his
7 truthfulness to the above questions. It has been
8 the experience of the examiner, however, that
9 when a subject purposefully distorts his
10 polygraph, he is usually not telling the truth to
11 one or more of the issues under investigation.
12 It is recommended that this subject be
13 administered a second polygraph exam to further
14 investigate his truthfulness in this matter.

15 That, in fact, was the report that was
16 sent to you on or about the 15th of October,
17 1986. Is that right?

18 A. Yes, sir.

19 Q. And that was with regard to the
20 polygraph that was administered to Darrell
21 Herrington on September 29th, 1986. Is that
22 right?

23 A. Yes, sir.

24 Q. And that polygraph was administered to

1 Herrington the week after you had participated in
2 his interview at Gene Ray's house. Is that
3 right?

4 A. Yes.

5 Q. Now, the one page that you have been
6 shown previously by your lawyer and also at the
7 post-conviction proceedings has to do with the
8 interview that whomever brought -- whoever
9 brought Darrell Herrington to Murphy, the
10 information that that person gave to Murphy.
11 Right?

12 MS. EKL: Objection. Foundation.

13 THE WITNESS: I don't know where the
14 notes are from.

15 BY MR. TAYLOR:

16 Q. All right. Well, they're notes that
17 are connected to the polygraph. Are they not?

18 MS. EKL: Objection. Foundation.

19 THE WITNESS: They're connected with
20 Mark Murphy's report.

21 BY MR. TAYLOR:

22 Q. Okay.

23 A. I don't know what they're from or
24 what. I didn't have a copy of that.

1 Q. Well, these are notes that appear to
2 be -- that have to do with Darrell Herrington and
3 information that he had given to the police.
4 That's fair to say. Isn't it?

5 A. They're notes of Mark Murphy's.

6 Q. They're notes from Mark Murphy that
7 refer to Darrell Herrington. Isn't that right?

8 MS. EKL: Objection. Foundation.

9 THE WITNESS: That's in a file with
10 Mark Murphy's report. If they're Herrington's
11 notes, that's -- if he gave them to you or
12 whatever, that's his notes from that thing. I
13 don't know. I would go over them a little bit.

14 BY MR. TAYLOR:

15 Q. Well, let me go over them with you.
16 I'm looking at the page that you say that you've
17 seen a couple of times, but you're saying you
18 didn't see these notes at the time that you got
19 the report from the -- from Murphy. Is that
20 right?

21 A. It wouldn't have been sent to me, no.

22 Q. So number one, it says --

23 MS. EKL: I ask that you give him a
24 copy of it so he can look at what you're asking

1 him about.

2 BY MR. TAYLOR:

3 Q. The first item it says: General
4 contracting, self-employed.

5 That is information about Darrell
6 Herrington. Isn't it?

7 MS. EKL: Objection. Foundation.

8 BY MR. TAYLOR:

9 Q. He was a contractor. He was
10 self-employed. Right?

11 A. Well, I'm not trying to be difficult,
12 but I don't see anything on there that says
13 Darrell Herrington, and I presume -- I presume
14 that this is from that file.

15 Q. All I'm asking you is Darrell
16 Herrington was a general contractor. Wasn't he?

17 A. If I'm going to say yes or no to
18 something, I want to make sure.

19 Q. Well, I'm asking you, Darrell
20 Herrington was a general contractor. Wasn't he?

21 A. Yes, sir.

22 Q. And he was self-employed. Right?

23 A. Yes, sir.

24 Q. All right. So that's consistent with

1 Herrington. Right?

2 A. Consistent with him, yes.

3 Q. Okay. And then it says, see if I'm
4 telling the truth, only I know about the names,
5 and then it says Jim and Ed. Do you see that?

6 A. I see that.

7 Q. All right. Now, Jim and Ed we know
8 now was the name that Parrish and Ray say that
9 Herrington originally gave him on the 19th. We
10 all can agree that that's the testimony in this
11 case. Is that correct?

12 A. Yes.

13 Q. Now, someone told Murphy the names Jim
14 and Ed at the time of the polygraph. Right?

15 MS. EKL: Objection. Foundation.

16 THE WITNESS: It's written in this
17 report. Jim and Ed was there. I'll agree to
18 that, yes.

19 BY MR. TAYLOR:

20 Q. And according to Murphy, you are the
21 one who gave him that name?

22 MS. EKL: Objection.

23 BY MR. TAYLOR:

24 Q. Does that refresh your recollection?

1 MS. EKL: Objection. Foundation. Not
2 supported in the record.

3 MR. MANCINI: Same objection.

4 THE WITNESS: Did Mark Murphy testify
5 that I was the one that directly gave him that
6 information?

7 BY MR. TAYLOR:

8 Q. Uh-huh.

9 MS. EKL: He did not, Flint. Don't
10 misrepresent the record. I just read it last
11 night. He did not say that.

12 BY MR. TAYLOR:

13 Q. Did you give this information to Mark
14 Murphy?

15 A. I don't recall the polygraph.

16 Q. So you don't know whether you did or
17 not. Is that right?

18 A. I don't recall. I don't recall the
19 polygraph whatsoever.

20 Q. Did you ever discuss with Parrish
21 whether he was present for the polygraph?

22 A. You know, I don't think I have even
23 asked Jim. I've told everybody that I don't
24 recall the polygraph. There's a lot of things I

1 don't recall. It's been so many years ago, that
2 I just don't recall that.

3 Q. Last night when you talked to Parrish
4 did you talk to him about the Jim and Ed
5 information?

6 A. No.

7 Q. Did you talk about whether he was
8 present for the polygraph?

9 A. No.

10 Q. Did you talk about whether he was the
11 one who gave the information to Murphy that he
12 wrote down the name Jim and Ed?

13 A. I don't remember having conversation
14 with Jim about the polygraph.

15 Q. Now, would that -- taking Herrington
16 to the polygraph, would that be something that
17 McPatridge would do?

18 A. No. No.

19 Q. Would that be something that Parrish
20 could have done?

21 A. He could have done.

22 Q. And you were the case agent?

23 A. I could have done it.

24 Q. All right. Anyone else?

1 A. Snyder could have done it. Bensyl
2 could have done it. Anybody could have done it.
3 Whoever is free at that time.

4 Q. But they would have had to have enough
5 information about the case to tell Murphy about
6 Jim and Ed. Right?

7 A. Yes, sir. I presume that, yes.

8 Q. And you knew about Jim and Ed by this
9 time, that being polygraph time. Didn't you?

10 A. I'm not for sure what I remembered
11 about Jim and Ed, because it wasn't a factor. My
12 interview with Darrell Herrington, it's not even
13 -- it's not even a factor.

14 Q. Because it wasn't asked at your
15 interview. Right?

16 A. It was not.

17 Q. But it was -- came out in a prior
18 interview that you weren't present for. Right?

19 A. I wasn't present for that interview.

20 Q. And it's your testimony that you don't
21 recall whether you were briefed about that
22 particular aspect of Herrington's prior
23 statement?

24 A. I don't recall that.

1 Q. Okay. So as case agent, would you
2 permit someone who wasn't familiar with the case
3 to take Herrington to the polygraph?

4 A. That would not have been done. It
5 would have been one of the people that was on the
6 team who would have introduced him to Mark.

7 Q. So can we narrow it down to it was
8 either you or Ray or Parrish, since it wouldn't
9 be McFatridge?

10 A. Snyder, Bensyl.

11 Q. Possibly Snyder or Bensyl. Is that
12 right?

13 A. They were working on the case.

14 Q. But they weren't involved with
15 Herrington? They weren't at either of the
16 interviews?

17 A. They were working on the case.

18 Q. But my question is the people who were
19 dealing with Herrington were Ray, you,
20 McFatridge, and Parrish. Right?

21 MR. MANCINI: Objection to form.

22 THE WITNESS: On the interviews that
23 were conducted with Herrington, those were the
24 people that had done the interviews. On the

1 Rhoads homicide, excuse me, this is another thing
2 that was done, the polygraph.

3 I don't know what I was doing that
4 day. I don't know what Jim was doing that day,
5 or I don't know what Lee was doing or Tony. I
6 don't know what they were doing that day, but if
7 one of us was someplace else doing something,
8 then someone else would have taken care of this
9 polygraph.

10 I'm sorry. I don't recall that
11 polygraph, and I don't recall Jim and Ed until it
12 was brought up.

13 BY MR. TAYLOR:

14 Q. And when was it -- you don't recall it
15 until it was brought up. What do you mean? When
16 was it brought up?

17 A. Your post-trials and this stuff. I
18 don't recall that at all.

19 Q. And you certainly didn't give any
20 information to McFatrige about Jim and Ed. Is
21 that fair to say?

22 A. I, myself?

23 Q. Yes.

24 A. I would not.

1 Q. And there was no report that you knew
2 of that recorded Jim and Ed as people that were
3 named by Darrell Herrington in his interviews, is
4 that right, no report that you know of beyond
5 these notes. Right?

6 A. The reason that I have seen this note,
7 it was showed to me by Rands with the appellate
8 prosecutor's office -- just before I was on the
9 stand about the Jim and Ed, and I was shown by my
10 attorney.

11 That's the only place I have ever seen
12 the two names. That's the only reason I have
13 seen that form.

14 Q. So the answer to my question is, no,
15 there were no reports that you know of other than
16 these notes --

17 A. Yes.

18 Q. -- that have the name Jim and Ed. Is
19 that right?

20 A. Yes.

21 Q. Certainly there's no Paris police
22 report that you know of that has Jim and Ed in
23 it. Right?

24 A. I've not seen any.

1 Q. And there's no Illinois State Police
2 report that has the name Jim and Ed in it?

3 A. I've not seen any.

4 Q. At the point that the polygraph was
5 given, Herrington was the only witness you had
6 that claimed that he was at the scene of the
7 crime when the crime happened. Right?

8 A. At that point, yes.

9 Q. And you had some serious questions
10 about his credibility. Right?

11 A. Well, you always have questions about
12 the credibility of a witness.

13 Q. Well, you had sufficient questions
14 about his credibility to send him to the
15 polygraph. Right?

16 A. We had polygraphed before that, I
17 think Tim Busby, maybe a Nancy Land, maybe Lisa
18 Wheeler. There was four polygraphs I think we
19 had conducted before -- three before he.

20 Q. But the reason you polygraphed him was
21 to further your investigation?

22 A. It was a tool.

23 Q. And the tool -- one factor in the
24 tool, use of that tool is to determine whether

1 the guy is telling the truth or not according to
2 the polygraph examiner. Right?

3 A. Yes, sir.

4 Q. And another is to find out information
5 that he might not have given you previously in
6 your interviews. Right?

7 A. There's all kind of things that can
8 happen.

9 Q. All right. Now, was it your
10 understanding that the question about -- that was
11 asked on the polygraph about besides the first
12 time you talked to the police, did you make any
13 other false statements about the case? You
14 remember when you read the report that that was
15 one of the six questions Murphy decided to ask
16 based on the information he got from whomever the
17 investigator was who brought Herrington. Right?

18 A. Yes, sir.

19 Q. And so from this question, you knew
20 that the investigation felt that Herrington had
21 made false statements in that first interview
22 that you weren't present for. Right?

23 MS. EKL: Objection to form. What do
24 you mean by the investigation thought?

1 BY MR. TAYLOR:

2 Q. The team. I'm sorry. You and Ray and
3 McFatridge and Parrish had come to the conclusion
4 that he had made a false statement the first time
5 he was interviewed, that being with Ray and
6 Parrish. Right?

7 MR. MANCINI: Objection as to form.

8 MS. EKL: And foundation.

9 THE WITNESS: I was not aware he made
10 a false statement.

11 BY MR. TAYLOR:

12 Q. Well, why -- when you read this
13 question you knew that Murphy had concluded to
14 ask him the question: Besides the first time you
15 talked to the police, did you make any other
16 false statements about the case. Right?

17 A. Yes. It's on there, yes.

18 Q. And he said no. Right?

19 A. He said that, yes.

20 Q. So he didn't say I didn't make any
21 false statements the first time I talked to the
22 police? The assumption in his question is that
23 he gave false statements to the police the first
24 time he talked to them. Right?

1 A. I don't see the assumption there at
2 all.

3 Q. Besides the first time you talked to
4 the police, did you make any other false
5 statements about the case. Right. That was the
6 question he was asked. Right?

7 A. Yes.

8 Q. And he said, no, I didn't make any
9 other false statements other than the first time
10 I talked to the police. Right?

11 A. I don't think it says all that on
12 there.

13 Q. Well, that's what --

14 A. It says: Besides the first time you
15 talked with the police, did you make any false
16 statements about this case? That's it.

17 Q. Right. So that question assumes that
18 he made false statements the first time he talked
19 to the police. Right? We can agree on that.
20 Can't we?

21 MR. MANCINI: Objection to form.

22 THE WITNESS: I'm not aware of the
23 first false statement, and I don't recall any of
24 this, but...

1 BY MR. TAYLOR:

2 Q. All I'm asking you is when you looked
3 at this question and answer, did it occur to you
4 that that first interview that Ray and Parrish
5 had with Herrington that someone, either
6 Herrington or Ray and Parrish were saying that he
7 gave false statements to them. Right? That's
8 what that question -- not implies. It's what it
9 says. Right?

10 A. It would be hard for me to answer what
11 occurred to me when I read this. I don't even
12 remember the polygraph on it. After reading it
13 as it was shown to me, and if it was done today,
14 I would have doubts about the polygraph, my
15 personal opinion, I'm not a professional, because
16 Darrell Herrington wore a voice box.

17 I think this is mentioned someplace
18 here that -- even Murphy noted that he had a
19 voice box, so not me being educated on a
20 polygraph, I would have quite wonders about if
21 the voice box works on a polygraph, but what
22 my reaction was when I read this report, I can't
23 tell you, because I just don't even remember
24 giving Darrell Herrington the polygraph. I do

1 remember giving him -- after the polygraph -- or
2 I remember taking him for hypnosis. I remember
3 him being under hypnosis. I don't even remember
4 taking him down there, but I do remember that
5 part, but I would have a problem if it was done
6 today, and I imagine I would have had the problem
7 then with the voice box.

8 Q. Well, you didn't take him, but you're
9 the one who contacted Murphy to set up the --

10 A. I did.

11 Q. You knew that Herrington had a voice
12 box when you set it up?

13 A. I did.

14 Q. And you set it up anyway?

15 A. I did.

16 Q. And you must have talked to Murphy and
17 said this guy has a voice box. Is this going to
18 interfere with the polygraph? Did you do that?

19 A. And I don't know what his answer would
20 have been.

21 Q. Well, if his answer was yes, you
22 wouldn't have sent him. Would you?

23 A. Maybe he didn't have a clear cut
24 answer.

1 Q. Well, what did he say?

2 A. I use the polygraph as a tool. I
3 think we discussed that before, and to ask
4 someone if they'll take a polygraph to see if
5 they'll go all the way through with it, but
6 that's my opinion on the polygraph.

7 Q. Well, all right. Did you have any
8 discussion with Ray and Parrish about Herrington
9 being untruthful in that first interview?

10 A. I don't recall even having that
11 discussion with them.

12 Q. Did you have discussion about -- with
13 them about Herrington being untruthful when he
14 named Jim and Ed?

15 A. I don't recall that at all.

16 Q. Did you have any discussion about
17 Herrington being untruthful when he named Herbie
18 and Randy?

19 A. I don't recall that at all.

20 Q. So he told the story -- you did know
21 at some point where he gave two sets of names.
22 He first said Jim and Ed, and then he changed it
23 to Randy and Herbie. Right?

24 A. I knew that? Is that your question?

1 Q. Yeah.

2 A. I'm not saying I ever knew that. I
3 probably did, but to answer that question, I
4 would be strictly speculating, and I just have to
5 tell you I don't recall that.

6 Q. Now, at some point you went to
7 Charleston with Eckerty after Herrington had been
8 brought to the Charleston Inn? Is that correct?

9 MS. EKL: Parrish.

10 BY MR. TAYLOR:

11 Q. Parrish, I'm sorry. When you went to
12 the -- you went to the Charleston Inn when
13 Herrington was there, being kept there, do you
14 remember that?

15 A. Taken over to Charleston, yes.

16 Q. And he had been taken over to
17 Charleston by Wheat. Is that right?

18 A. Yes, sir.

19 Q. And that was before the electronic
20 overhears were attempted in September of '86. Is
21 that right?

22 A. Yes, sir. I learned that later. I
23 always thought it was the grand jury, but it was
24 eavesdropped.

1 Q. And, in fact, it was on the Saturday
2 in between the Friday interview and the Sunday
3 interview. Isn't that right?

4 A. No, sir. I don't think so. Whatever
5 the eavesdrop -- I don't know. Whatever the
6 eavesdrop order was, and there's a report by
7 Duane Hill, the technician, on his first
8 eavesdrop, it would have been the day before
9 that.

10 Q. So you say you always thought it was
11 the grand jury which was in March. Right?

12 A. I didn't recall it. I knew they had
13 him over there.

14 Q. Well, you testified at the
15 post-conviction that it was at the grand jury?

16 A. I sure did.

17 Q. And what caused you to change your
18 testimony from it being the grand jury in March
19 until making it before the eavesdrop?

20 A. When I testified, it was the
21 post-hearing --

22 Q. Yes.

23 A. -- I had seen no reports except that
24 one little page. I had seen none of my reports

1 whatsoever for years, no reports. Never
2 discussed the case over one hour with the
3 attorney.

4 Q. That's Rands?

5 A. Rands, yes, sir. Never saw a report.

6 Q. Okay.

7 A. He saw no need in it, and it's just my
8 recollection -- I knew it was an important deal
9 for Darrell to talk, and I just figured it was a
10 grand jury, and I said grand jury, and I was
11 totally one hundred percent wrong, until I read
12 my reports and put these together, there was an
13 eavesdropping thing, and there's an affidavit
14 signed.

15 He had that affidavit at the time he
16 asked the question, and it was right before the
17 eavesdropping.

18 Q. Okay. But there's nothing in any of
19 your reports about what went on at the Charleston
20 Inn?

21 A. No, sir.

22 Q. And, in fact, Wheat took Darrell to
23 the Charleston Inn. Right?

24 A. Yes, sir.

1 Q. I believe that Wheat was under the
2 impression that it was on a weekend that he took
3 him.

4 A. It would be easy to check out. It was
5 the day before the eavesdropping.

6 Q. So you're testifying now that it was
7 before the eavesdropping not in between the
8 Friday interview and the Sunday interview of
9 Herrington?

10 MS. EKL: Objection. Form.
11 Foundation.

12 THE WITNESS: Unless I read it wrong,
13 there's documentation proof that I signed and a
14 notary that there was eavesdropping.

15 BY MR. TAYLOR:

16 Q. But the eavesdropping doesn't refer to
17 when he was kept in Charleston. Right?

18 A. I think it does. I think that this
19 document was -- it's easy to pinpoint the date,
20 the day of the week by that. I'm not saying --
21 I've not done that, but he was taken over there,
22 yes.

23 Q. All right. And he was taken by Gary
24 Wheat?

1 A. Yes, sir.

2 Q. And that was at the direction of Gene
3 Ray or who --

4 A. Probably all of us.

5 Q. All right. And at that point Wheat
6 was given money to buy food and drink for
7 Herrington. Is that right?

8 A. He was.

9 Q. And, in fact, did you participate in
10 that purchase of alcohol for him?

11 A. I didn't purchase, no. Not my money,
12 no.

13 Q. But that was authorized by the group?

14 A. It was.

15 Q. All right.

16 MR. MANCINI: Objection as to form.

17 BY MR. TAYLOR:

18 Q. And you were part of that group.
19 Right?

20 A. I was part of that group.

21 Q. And you also -- it was a discussion
22 you all had that it would be -- it was approved
23 that he could -- that beer and alcohol could be
24 bought for Herrington while he was at the

1 Charleston Ian. Is that right?

2 MR. MANCINI: Objection as to form and
3 foundation.

4 THE WITNESS: Darrell was an
5 alcoholic.

6 BY MR. TAYLOR:

7 Q. Right. So your answer is, yes, you
8 fed his alcoholism, so to speak?

9 MS. EKL: Objection. Form.

10 BY MR. TAYLOR:

11 Q. Is that right?

12 A. Keep him comfortable.

13 Q. And to make an alcoholic comfortable,
14 you need to give them liquor. Right?

15 A. He was going to spend the night.

16 Q. And you sent him to the Charleston
17 Inn. You also wanted to interview him again.

18 Right?

19 A. We didn't interview him. We spent the
20 night trying to find something to fix his voice
21 box.

22 Q. And so his voice box broke at some
23 point?

24 A. It did.

1 Q. And you were there when it broke?

2 A. I was aware of it.

3 Q. Were you in Charleston when you became
4 aware of it?

5 A. I was contacted somehow that it was
6 broke.

7 Q. Do you remember whether you were in
8 Charleston?

9 A. I don't recall that.

10 Q. Had you gone with Eckerty -- with
11 Parrish to interview him in Charleston?

12 A. I know Jim and I spent the whole
13 evening trying to find -- I don't know what was
14 wrong with his voice box. We spent time at the
15 VA Hospital in Danville. We spent time with the
16 hospital in Mattoon -- or Sarah Bush, I think
17 that was the hospital. We spent quite a bit of
18 time that night trying to find the fix, whatever
19 that fix was. I don't remember what it was.

20 Q. And was Herrington with you when you
21 were trying to get his voice box fixed?

22 A. No, sir, just Jim and I.

23 Q. So you took his voice box to the VA
24 Hospital?

1 A. You know, I'm not for sure whether we
2 had the numbers off of it, what was wrong with
3 it, but we had whatever we had to have with us to
4 try to get whatever it was to fix it.

5 Q. Was anybody else other than you and
6 Parrish present when you went to try to get this
7 voice box fixed?

8 A. I don't believe they were.

9 Q. Where was Herrington at this time?

10 A. He was at the hotel.

11 Q. And was -- who was taking care of him,
12 looking after him?

13 A. Gary Wheat.

14 Q. And that's at the time that he had
15 bought the fifth of whiskey and the six pack of
16 beer for him?

17 MS. EKL: Objection. Foundation.

18 THE WITNESS: I don't know what he
19 bought.

20 BY MR. TAYLOR:

21 Q. But you know he had liquor that
22 Darrell was -- had access to while you were
23 trying to fix his voice box?

24 A. I was aware of that.

1 Q. All right. And why were you -- so you
2 had to physically go to Charleston to get the
3 voice box? Didn't you?

4 A. I presume we did, yes.

5 Q. All right. And why were you in
6 Charleston at that time?

7 A. We could have been in Charleston to
8 get the voice box.

9 Q. You were also there to interview him
10 further?

11 A. He was -- the purpose of him at the
12 hotel was not to interview him.

13 Q. What was the purpose?

14 A. The only thing I remember about
15 that -- that I recall, that he was nervous, and
16 he was going to do an eavesdrop, and he just
17 wanted to get out of town for a while.

18 Q. He was nervous, you say?

19 A. Yeah.

20 Q. And what was he nervous about?

21 A. I don't know. I don't recall.

22 Q. So you were going to do the eavesdrop
23 the next day after the evening where you were
24 getting the voice box repaired. Is that right?

1 A. Yes, sir. And I presume that was the
2 urgency of getting it fixed that night.

3 Q. And did you get it fixed?

4 A. We did.

5 Q. And did you bring it back to him?

6 A. At some time.

7 Q. Now, did you talk to Darrell at that
8 point about what kinds of questions he should ask
9 on the eavesdrops?

10 MS. EKL: Objection. Foundation as to
11 what you mean by at that point.

12 BY MR. TAYLOR:

13 Q. That evening when you were in
14 Charleston.

15 A. I don't recall talking to Darrell that
16 night. I recall going all over trying to get the
17 voice box fixed.

18 Q. Well, Darrell -- the eavesdrops that
19 you were going to have him try to accomplish were
20 with Steidl and Whitlock. Isn't that right?

21 A. Yes, sir.

22 Q. And you needed to brief him on what
23 kinds of questions to ask Steidl and Whitlock in
24 order to try to develop the kind of information

1 that you wanted to develop. Right?

2 A. Not recalling that, but that would
3 have probably been done right before the
4 eavesdrop, and the technician would have also
5 have been part of that, and that would have been
6 done before we done the eavesdrop.

7 Q. Well, by that you mean the next day?

8 A. Sure.

9 Q. So you didn't talk to Darrell that
10 evening about what you wanted him to do and what
11 questions you thought he should ask Steidl and
12 Whitlock?

13 A. No, I don't recall talking to Darrell
14 at all that night.

15 Q. So the next day did you bring Darrell
16 back to Paris?

17 A. I did not.

18 Q. Was he brought back to Paris?

19 A. Yes, he was.

20 Q. And who brought him back?

21 A. I presume Wheat did.

22 Q. And was he brought to Parrish's cabin?

23 A. Yes, sir. I got that from the
24 reports, yes.

1 Q. And were you present at the cabin?

2 A. I was.

3 Q. All right. And did you participate
4 with the technician in helping Darrell to learn
5 the questions he needed to ask during the
6 eavesdrops?

7 A. I don't recall that. I presume I did.

8 Q. And what questions did you guide him
9 to ask?

10 MS. EKL: Objection. Form and
11 foundation.

12 THE WITNESS: I don't recall what
13 questions we asked him to ask.

14 BY MR. TAYLOR:

15 Q. Well, you were seeking to have
16 Whitlock and Steidl make admissions about their
17 alleged involvement in the crimes. Right?

18 A. I don't recall which questions we had
19 him to ask.

20 Q. Your approach was to have Darrell ask
21 questions that would elicit inculpatory
22 information or admissions by Steidl and Whitlock
23 that would develop further evidence against them
24 in the case. Right?

1 A. Yes, sir.

2 Q. Because at that point you didn't feel
3 you had sufficient evidence to arrest and charge
4 them. Right?

5 A. Yes, sir.

6 Q. Yes, sir?

7 A. We were furthering our investigation.

8 Q. At that point you did not have
9 sufficient evidence?

10 A. Furthering our investigation.

11 Q. Excuse me. Let me finish my question.
12 At that point you did not have sufficient
13 evidence to arrest them. Is that correct?

14 MS. EKL: Objection. Calls for a
15 legal conclusion.

16 THE WITNESS: We were furthering our
17 investigation on it.

18 BY MR. TAYLOR:

19 Q. But my question is did you have
20 sufficient evidence to arrest them at that point?

21 MS. EKL: Objection. Calls for a
22 legal conclusion.

23 THE WITNESS: I'll answer it by saying
24 I did not think so.

1 BY MR. TAYLOR:

2 Q. All right. And the others agreed with
3 you. Didn't they?

4 A. I presume so.

5 Q. When I say the others, I'm talking
6 about McFatrige and Ray and Parrish. Right?

7 MS. EKL: Objection. Foundation.

8 MR. MANCINI: Objection to form.

9 THE WITNESS: Yes.

10 BY MR. TAYLOR:

11 Q. Now, you said that today you testified
12 that you had only seen one page of your reports
13 at the time you testified at the post-conviction
14 hearing. Right?

15 MS. EKL: Objection. Misstates his
16 testimony.

17 THE WITNESS: That I only saw one page
18 of Mark Murphy's report?

19 BY MR. TAYLOR:

20 Q. Yes.

21 A. Is that your question?

22 Q. Well, my understanding of your
23 testimony was that at the point you testified,
24 you really hadn't seen your files. You hadn't

1 seen any documentation other than the one page
2 that Rands showed you of the Jim and Ed page.
3 Right?

4 A. I was showed a page by Attorney Rands,
5 and on that page it says you're going to be asked
6 a question about Jim and Ed, and it had Jim and
7 Ed on it.

8 After the -- I was -- I give my
9 testimony, and then we had the civil suit. I was
10 trying to find a report that had Jim and Ed on it
11 that I would have been shown, and at that time my
12 attorney says this is the only form that we can
13 see that Jim and Ed is on, and I presumed that
14 was the same form that I was shown.

15 Q. But -- so you didn't have -- you
16 hadn't seen your reports in some time prior to
17 the testimony?

18 A. A long time.

19 Q. And that's why you say you said that
20 the Charleston situation was in March rather than
21 in September. Right? That's because you hadn't
22 seen your reports --

23 MS. EKL: Object to foundation and
24 misstates the testimony.

1 THE WITNESS: I think I said in my
2 testimony then that it was before the grand jury,
3 and I was totally wrong on that, and I don't know
4 what month the grand jury was in, but I later
5 learned it was before an eavesdropping.

6 BY MR. TAYLOR:

7 Q. Did I misunderstand you when I heard
8 you say that the reason that you made that
9 mistake was because you hadn't seen the reports
10 that indicated that it was -- at least connected
11 in your mind the Charleston with the
12 eavesdropping. Right?

13 A. And I think I made the statement
14 before that the reason that I thought in my mind,
15 without looking at reports, that it was a grand
16 jury, I only knew that it was important that
17 night, because his voice box broke, and he had to
18 use it the next day, and when I was testifying, I
19 thought he testified in a grand jury.

20 I was even wrong about that. He
21 didn't even testify in a grand jury, so I was
22 totally off base, but I was right that he was at
23 the Charleston Inn, you know.

24 Q. Okay. But you had reviewed your

1 reports on the boat with McFatridge a fairly
2 short time before the PC testimony. Hadn't you?

3 A. I think that was quite some time.
4 Whenever the hearing was, is that 1992, is that
5 correct, when I had read the reports?

6 Q. You tell me.

7 A. Well, I don't know dates, but it was
8 quite some time before this last time. It was a
9 long time for me to remember something.

10 Q. Now, Darrell -- so are you clear that
11 it wasn't in between the Friday interview with
12 Ray and Parrish, the Herrington interview on the
13 Friday night and early Saturday morning and the
14 Sunday evening interview that you participated
15 in, the Herrington interview, that he went to
16 Charleston?

17 A. I think I can testify that I am clear
18 it was done the night before the eavesdrop, the
19 first eavesdrop, so whatever date that was.

20 Q. And the eavesdrop was subsequent to
21 the interview on Sunday. Is that right?

22 A. It was after?

23 Q. Yes.

24 A. Yes, it was after that.

1 Q. All right. So in your chronology,
2 there's the interview on Friday night and
3 Saturday morning with Ray and Parrish. Right?

4 A. Yes, sir.

5 Q. Followed by a Sunday evening interview
6 with Herrington at which you and McFatridge and
7 Ray were all present?

8 A. Yes, sir.

9 Q. And Parrish. Right?

10 A. Yes, sir.

11 Q. In between those two, you got a phone
12 call and some kind of briefing that had been sent
13 Friday night. Right?

14 A. Yes, sir.

15 Q. But you don't recall whether Jim and
16 Ed was told to you during that phone call?

17 A. Not whatsoever.

18 Q. And you don't recall whether it was
19 discussed that Herrington had given false
20 information in that first interview?

21 A. I don't recall that.

22 Q. Okay. Subsequent early the next week
23 after the Sunday interview came the eavesdrop?

24 A. You know, if you want to clarify it,

1 we'll look up the eavesdrop and see when that
2 date was.

3 Q. I believe it was the 24th and the
4 25th.

5 A. Is that correct?

6 Q. Yes. That's what your report says.

7 A. There's an eavesdrop by Duane Hill.

8 Q. Uh-huh.

9 MS. EKL: I'll stipulate that the
10 eavesdrop reports were the 24th and the 25th.

11 THE WITNESS: Okay.

12 BY MR. TAYLOR:

13 Q. And the interview with Herrington was
14 the 21st. Right?

15 A. Yes, sir.

16 Q. All right. So our chronology goes
17 along, and after the eavesdrops, the eavesdrops
18 did not generate any inculpatory information
19 either from Whitlock or Steidl. Right?

20 A. It did not.

21 Q. So that was a wash -- not wash. That
22 didn't get you any additional information.
23 Right?

24 A. It did not.

1 Q. So your case stood where it stood
2 before you did the eavesdrops, which is at that
3 point you didn't have enough evidence to charge,
4 right, or to arrest?

5 A. That's correct.

6 Q. So the next thing you did was you
7 contacted Murphy to set up this polygraph.
8 Right?

9 A. Is that in order? I don't know when
10 that was done.

11 Q. Well, if we look at the report it
12 says: At the request of Jack Eckerty --

13 A. Yeah, that's the date.

14 Q. -- the above listed witness was
15 examined on September 29th. Okay.

16 A. That would be the next thing.

17 Q. So the next move is the polygraph.
18 Right?

19 A. I agree.

20 Q. And the polygraph comes back in mid
21 October and says he's purposeful non-cooperation.
22 He can't give an opinion. He thinks that when --
23 purposeful distortion, he's usually not telling
24 the truth, and he recommends that there be a

1 second polygraph.

2 Am I accurately summarizing what
3 Murphy told you in the report to you on the 15th?

4 A. Yes.

5 Q. And you shared the -- his conclusions
6 with the other three, that being Parrish,
7 McFatridge, and Ray. Is that fair to say?

8 A. I don't recall we did. I'm sure we
9 did.

10 Q. All right. You're sure you did.
11 Okay. And did you then make a joint decision not
12 to send him back for the second polygraph?

13 A. I don't recall what decision was made.
14 I'm telling you my problem now would be with the
15 voice things. A decision was made to put him
16 under hypnosis.

17 Q. So the decision was made to put him
18 under hypnosis rather than to send him back for a
19 second polygraph. Right?

20 A. Right.

21 Q. And that was a joint decision. Right?

22 A. It was.

23 MR. MANCINI: Objection. Foundation.

24

1 BY MR. TAYLOR:

2 Q. Was it based again on your -- on a
3 collective view that the voice box would somehow
4 make it worthless for you to do a second
5 polygraph?

6 MS. EKL: Objection. Form and
7 foundation.

8 THE WITNESS: I don't recall if that
9 was it. I would surmise that would probably be
10 part of it. We was going to use a different
11 method.

12 BY MR. TAYLOR:

13 Q. Well, it certainly wouldn't have
14 enhanced Darrell's credibility if the second
15 polygraph came back and said he was either
16 purposefully distorting or that he was lying.
17 Right?

18 A. We chose a different method to see if
19 we could -- that's what we did.

20 Q. Well, let me ask you this: Would it
21 be fair to say that in the group's view that
22 after you received this report about his
23 purposeful non-cooperation and that -- the
24 conclusion that the distortion usually meant that

1 he was not telling the truth, did you consider
2 his credibility to be impacted negatively?

3 MR. MANCINI: Objection to form and
4 foundation.

5 THE WITNESS: Well, my answer to that
6 is that I don't even recall whatsoever the
7 polygraph, so for me to comment on what decisions
8 were made afterwards or before, I would be
9 speculating, and I'm totally -- I am unable to
10 answer anything on that polygraph.

11 For some reason, I don't remember the
12 polygraph. I do remember him going under
13 hypnosis on it, so what our decisions was after
14 that, there's no way, if I don't remember that,
15 that I can answer that question. I'm sorry.

16 BY MR. TAYLOR:

17 Q. But if an investigator who got a
18 report that said that your witness was most
19 likely lying and distorting, that would be
20 something that would be important. Wouldn't it?

21 MS. EKL: Objection. Form and
22 foundation. Calls for speculation.

23 THE WITNESS: It would be important.
24 I have no idea what discussion we had on that,

1 because I don't recall that.

2 BY MR. TAYLOR:

3 Q. Well, I'm asking you --

4 A. I could speculate all day what we did
5 on that. I would never have any answer to
6 actually what happened, you know, and I wish I
7 knew. I would tell. You know, a hundred percent
8 memory on this, and we have no problems.

9 Q. Let me ask you a different question
10 then.

11 Was Darrell Herrington's credibility
12 diminished by the polygraph report that you
13 received on or about October 15th of 1986 that he
14 was purposefully distorting?

15 A. We had chosen other methods, so we
16 must have wanted something else done.

17 Q. So your answer is yes?

18 A. I would say we doubted it at that
19 time, and we wanted another method. Not knowing,
20 and I'm going to go back to my original thing
21 about the electronic voice box, and I don't think
22 anybody has ever testified that that affects a
23 polygraph.

24 I don't know what Mr. Murphy told you.

1 You do. I don't. You know, if he says it
2 doesn't, it doesn't, but I don't think he would
3 say that.

4 Q. Well, did you get on the phone and ask
5 him, well, could this distortion come from the
6 voice box, or are you confident that it's coming
7 from him and his purposeful distortion? Did you
8 ask him that?

9 MS. EKL: Objection. Form and
10 foundation.

11 THE WITNESS: Again, I can't answer
12 that question, because I don't recall the test.

13 BY MR. TAYLOR:

14 Q. But in his opinion he doesn't say I'm
15 concerned about that it might be unintentionally
16 caused by his voice box. He said that it was
17 purposeful, meaning that Herrington did this
18 intentionally, not cooperated intentionally
19 during his polygraph. Right?

20 MS. EKL: Objection. Form and
21 foundation.

22 BY MR. TAYLOR:

23 Q. So that tells you when you read this
24 report that it wasn't something that was

1 unintentional or caused by other forces such as a
2 voice box, but rather it was caused by Herrington
3 in Murphy's view. Right?

4 MS. EKL: Objection. Foundation.

5 THE WITNESS: I still can't answer the
6 question, because I don't recall it.

7 BY MR. TAYLOR:

8 Q. I'm asking you what you understood him
9 to mean about purposeful non-cooperation in light
10 of your hypothesis that it might have been the
11 voice box.

12 A. I don't know what he -- because I
13 don't recall at that time even talking to him
14 about it or anything.

15 Q. All right. But -- so it's fair to say
16 that you felt that his credibility had been
17 impacted negatively by his polygraph, so you
18 wanted to turn in a different direction,
19 hypnosis, to see if his credibility could be
20 restored. Is that fair to say?

21 A. I would answer that as I wanted a
22 different method, and not knowingly why, but as I
23 review now, if I was doing it now, the voice box
24 would have had a concern with me.

1 Q. All right. But you don't remember
2 what had a concern with you?

3 A. If you ask me now, you know, no, it
4 doesn't. I don't remember. I don't recall
5 anything.

6 Q. My question is can we agree that after
7 you got the report that you and the other three
8 on the team came to the conclusion that
9 Herrington's credibility had been negatively
10 affected by the results?

11 MS. EKL: Objection. Form and
12 foundation.

13 THE WITNESS: Can we agree that we
14 decided to do a different method?

15 BY MR. TAYLOR:

16 Q. No, I'm asking you whether you agreed
17 that his credibility had been negatively
18 impacted.

19 MS. EKL: Same objection.

20 THE WITNESS: I don't recall what our
21 comments was. I do recall that we decided to do
22 a different method. I don't recall any of our
23 conversations. I don't remember the polygraph.
24 I just don't recall it.

1 MR. TAYLOR: Let's take a short break.

2 (At this point a short recess was
3 taken.)

4 MR. TAYLOR: Now, I just want to make
5 the record clear that in the break we checked the
6 Murphy deposition, and that at pages 175, lines
7 19 to 20, 177, lines 21 to 23, 178, lines 3 to 4,
8 190 and 194, lines 7 to 14, Murphy testifies that
9 Eckerty brought Herrington in, and Eckerty told
10 Murphy about Jim and Ed.

11 MS. EKL: I'd like to look at it. I
12 looked at it last night, and what I saw him
13 testifying to was the fact that he didn't recall,
14 that he speculated that is what occurred based on
15 the reports, but that he does not recall
16 independently that Eckerty brought him, and that
17 he does not know whether or not Eckerty told him
18 those things, and it was all speculation.

19 MS. SUSLER: You should read the
20 transcript.

21 MS. EKL: I did read the transcript
22 last night.

23 BY MR. TAYLOR:

24 Q. I just wanted to make it clear,

1 because at that point I didn't have at my
2 fingertips the testimony of Murphy, but at the
3 break, we have looked at it.

4 Now, you testified at some length
5 about that PC hearing in 2005 that you testified
6 at when Mr. Kling and Mr. Rands were the lawyers.
7 Right?

8 A. Yes, sir.

9 Q. And I want to call your attention to
10 some questions and answers that you gave at that
11 deposition -- at that testimony, and that is at
12 pages 467 and 468. And I'll read you the
13 question and answers, and if you'd like, you can
14 also take a look at this after I read it?

15 MS. EKL: Could you provide him with a
16 copy as you read it?

17 BY MR. TAYLOR:

18 Q. No, I'm going to read it and give him
19 a copy.

20 MS. EKL: At least let me get to it
21 myself so I can follow along.

22 MR. TAYLOR: Sure. I have no problem,
23 but I only have one copy. That's why I'm saying,
24 no, I can't do that, not to be rude.

1 MR. KLING: So the record is clear,
2 what date is that?

3 MR. TAYLOR: That is the April 15th,
4 2005.

5 MS. EKL: It's at pages what?

6 MR. TAYLOR: At pages 467 and 468. I
7 want -- I'm going to start at line 10.

8 Question --

9 MS. EKL: Hold on one second.

10 MR. TAYLOR: Ready?

11 MS. EKL: All right. Line ten?

12 BY MR. TAYLOR:

13 Q. Yeah. Question: Prior to the time
14 that Darrell Herrington -- let me try it a
15 different way, Mr. Eckerty.

16 Prior to the time that Darrell
17 Herrington was administered a polygraph test by
18 Mark Murphy, you interviewed Darrell Herrington.
19 Did you not?

20 Answer: Yes, sir.

21 Question: And in the course of that
22 interview, Darrell Herrington told you about
23 somebody named Jim and Ed who might have been
24 involved in the Rhoads homicides. Correct?

1 Answer: Yes. I didn't recall that
2 until I refreshed my memory here in the last day
3 or so with reports. I didn't recall those two
4 names.

5 Question: But as you sit here now,
6 you do recall that's what Herrington told you?

7 Answer: Yeah. It was in the reports,
8 yes.

9 Question: And when you say it's in
10 the reports, that's in the reports of Mark
11 Murphy. Right?

12 Answer: Yes, sir.

13 Now, you gave those answers to those
14 questions back in 2005. Is that right?

15 A. Yeah.

16 Q. And those were truthful at that time.
17 Is that right?

18 A. Yeah.

19 MS. ORTIZ: Is that a yes?

20 COURT REPORTER: He said yeah.

21 BY MR. TAYLOR:

22 Q. Those are truthful answers. Right?

23 A. On that sheet. At that time I had
24 never seen any of the reports, except the one

1 that I was shown, if that was the one from Mark
2 Murphy, and I presume true. I didn't interview
3 Darrell Herrington, and the question all together
4 I thought that the yes was I had to see -- the
5 names was Jim and Ed that was on Murphy's report
6 on it, so I answered the yes, that I had seen
7 those names prior to coming in.

8 Q. And those are truthful answers.
9 Right?

10 A. That I had seen those names before I
11 came into that court that day.

12 Q. Well, my question is are those
13 truthful answers to those questions?

14 A. That I had seen those names.

15 Q. No, I'm asking you as I read you those
16 questions and answers, are they truthful, or is
17 there something untruthful about what you said?

18 MS. EKL: Objection to the form of the
19 question.

20 THE WITNESS: Darrell Herrington never
21 told me about Jim and Ed. Is that the first
22 question you asked me?

23 BY MR. TAYLOR:

24 Q. I didn't ask you anything. I asked

1 you whether -- all right. Let's break it down.

2 A. May I look at the question?

3 Q. Sure. Question: And in the course of
4 that interview, Darrell Herrington told you about
5 somebody named Jim and Ed who might have been
6 involved in the homicides. Correct?

7 Answer: Yes. I didn't recall that
8 until I refreshed my memory here in the last day
9 or so with the reports. I didn't recall those
10 two names.

11 Your answer is truthful. Is it not?

12 A. Darrell Herrington never told me about
13 Jim and Ed.

14 Q. So this is wrong then is what you're
15 telling me?

16 A. If I took it wrong, the question wrong
17 at that time, Darrell Herrington never told me
18 about Jim and Ed.

19 Q. So you're taking this testimony back.
20 Is that right?

21 A. I don't know how you do that?

22 Q. Well, you just did it. Didn't you?

23 A. I would like to say that Darrell
24 Herrington never told me about Jim and Ed.

1 Q. All right. So that's what your
2 testimony is today 20 some odd years later. Is
3 that right?

4 A. Yes, it is.

5 Q. And it's your testimony now that
6 you're a defendant in a lawsuit rather than a
7 witness. Right?

8 A. My testimony today is that during my
9 interview with Darrell Herrington, it's not in my
10 report that he told me about Jim and Ed. I
11 recall nothing else about that. It's not in that
12 report.

13 Q. You're not telling me that you
14 weren't -- you're not telling me you were
15 confused when you were asked these questions and
16 answers. Are you?

17 A. Quite frankly, I was confused.

18 Q. Well --

19 A. I had no briefing at all when I went
20 into that court.

21 Q. Well, let me ask you this: You were
22 asked a question: In the course of that
23 interview, Darrell Herrington told you about
24 somebody named Jim and Ed who might have been

1 involved in the Rhoads homicides. Correct?

2 You said yes. I didn't recall that
3 until I refreshed my memory here in the last day
4 or so with the reports. I didn't recall those
5 two names.

6 You now recall those two names after
7 refreshing your memory and answered yes to the
8 question of whether Darrell Herrington told you
9 those two names. Right? That's the answer to
10 the question that you gave. Right?

11 A. My answer today is Darrell Herrington
12 never told me about Jim and Ed, that I can
13 recall. Yes, I did see Jim and Ed's name on Mark
14 Murphy's report before I went on the stand.

15 Q. All right. So your -- and then you
16 were asked a second question by Mr. Kling.

17 But as you sit here now, you do recall
18 that's what Herrington told you?

19 Answer: Yeah. It was in the reports.
20 Yeah.

21 And when you say it's in the reports,
22 that's the reports of Murphy. Right?

23 Answer: Yes, sir.

24 So you answered two questions, one

1 right after the other, that Herrington told you
2 about Jim and Ed at the hearing in 2005 when you
3 were not represented by counsel. Correct?

4 MS. EKL: Objection to the form of the
5 question.

6 THE WITNESS: I answered the question
7 unless, yes, I did see Jim and Ed on the report
8 of -- Mark Murphy's report.

9 To my recollection, and I have stated
10 that time over, that I never have heard Jim and
11 Ed -- recall hearing Jim and Ed's name, and
12 Darrell Herrington did not tell me that.

13 BY MR. TAYLOR:

14 Q. But you recalled in 2005 after you
15 looked at the reports when Mr. Kling asked you
16 two very clear questions about whether Darrell
17 Herrington told you about Jim and Ed, you twice,
18 one right after the other, said yes. Am I right?

19 MS. EKL: Objection. Mischaracterizes
20 his testimony.

21 THE WITNESS: The only way I can
22 answer that is truthfully I don't recall that and
23 -- truthfully --

24

1 BY MR. TAYLOR:

2 Q. You don't recall what when you say
3 that?

4 A. I don't recall if Darrell Herrington
5 ever told me about Jim and Ed. It is not in any
6 of my reports and --

7 Q. So basically you didn't recall it
8 until Mr. Kling showed you the reports of Murphy
9 in 2005. Then you recalled it, and now you don't
10 recall it again? Is that what your testimony is?

11 A. I would say I didn't even understand
12 the question.

13 Q. Did you ask Mr. Kling to clarify his
14 question?

15 A. I don't recall if I did that or not.

16 Q. You understood, in fact, that this was
17 an important aspect of Mr. Kling's case. Didn't
18 you?

19 A. I don't recall if I answered it -- I'm
20 stating that I never -- Darrell Herrington, to my
21 recollection, never told me anything about those
22 two gentlemen's names. The other time that I
23 ever saw those two gentlemen's names that I
24 recall is on Mark Murphy's report.

1 Q. Now, how many times have you testified
2 in your career as a detective?

3 A. Quite a bit.

4 Q. Hundreds of times. Right?

5 A. The first time I ever testified
6 without seeing a report in ten years.

7 Q. Well, when you did see the report, you
8 remembered? Isn't that what the whole thrust of
9 this --

10 A. I'm agreeing to that part that I
11 remembered it. I did see Jim and Ed. I'm
12 agreeing to that part. I didn't see that report,
13 and I'm agreeing that I did see Jim and Ed's
14 name. I'm agreeing to that.

15 Q. But you're not agreeing to what your
16 answer was, which is Herrington told you about
17 Jim and Ed?

18 A. I'm sorry. I can't agree with that
19 because --

20 Q. Because you're a defendant in the
21 case, and it would hurt your case if you did.
22 Right?

23 MS. EKL: Objection to the form of the
24 question.

1 THE WITNESS: That has nothing to do
2 with that. I'm being truthful.

3 BY MR. TAYLOR:

4 Q. Well, why are you changing your
5 testimony?

6 A. I'm not. I might have been confused
7 there. I have no answer to that. I have no
8 answer whatsoever for that.

9 Q. You have no answer why under oath in a
10 case where a man was trying to challenge a
11 conviction and a life sentence that you said
12 something which you now say you didn't understand
13 the question, and you didn't mean what the clear
14 import of the answer was?

15 Is that what your testimony as you sit
16 here today is?

17 MS. EKL: Objection to the form of the
18 question.

19 THE WITNESS: I'm saying that I don't
20 recall Darrell Herrington ever telling me about
21 Jim and Ed, and it's not in any of my reports. I
22 do recall seeing Jim and Ed's name on Mark
23 Murphy's report.

24 BY MR. TAYLOR:

1 Q. And since you became a detective in
2 1968 and up until 2005 after you retired would
3 you say that you've testified in over a hundred
4 cases as a witness testifying about information
5 that people gave you over the course of an
6 investigation?

7 A. I retired in '03.

8 Q. Did you hear my question?

9 A. You said I retired in 2005. Maybe I
10 misunderstood that also. I'm sorry.

11 Q. Thank you for correcting me. Do you
12 want to answer my question, or do you want to
13 just correct that question?

14 A. I testified many times. Is that your
15 question?

16 Q. Yes, over a hundred times. Right?

17 A. Yes, probably.

18 Q. And in those -- in that testimony, you
19 were called upon to testify about information
20 that was given to you in investigations that you
21 did. Right?

22 A. When I testified in that hearing, I
23 was completely unprepared, completely unprepared.
24 I hadn't seen a report in this case for over I

1 don't know how many years. The only report that
2 I saw before I went on that stand was this one
3 from Jim and Ed.

4 Q. All right. And so because you saw a
5 report that mentioned Jim and Ed, you testified
6 that Herrington told you about Jim and Ed, but
7 you were wrong. Is that what you're testifying
8 now?

9 A. Yes, sir.

10 Q. You were at Gene Ray's house in the
11 evening of the 21st of September 1986 along with
12 McFatridge, Gene Ray, McFatridge, Parrish, and
13 yourself about 6:15 in the evening. Is that
14 correct?

15 A. Yes, sir.

16 Q. And how did you happen to come there
17 at 6:15 in the evening?

18 A. I received a telephone call.

19 Q. And who called you?

20 A. Somebody from the Paris PD, Jim, Gene,
21 one of those two people called me.

22 Q. Okay. And they summonsed you over to
23 Gene's house to participate in a follow-up
24 interview with Darrell Herrington. Right?

1 A. Yes, sir.

2 Q. And before -- when you got there, did
3 you all have some kind of meeting to discuss any
4 approach that you were going to take with
5 Herrington?

6 A. As I recall, it wasn't an approach or
7 if Darrell was already there or -- I know that we
8 interviewed Darrell.

9 Q. You know that you interviewed Darrell?

10 A. There's a report reflecting that.

11 Q. But you don't know what went on before
12 that?

13 A. No, I don't recall that.

14 Q. Well, did -- you knew at the time that
15 you participated in the questioning of Herrington
16 at Ray's house that he had given a prior
17 statement on the early morning of the day before,
18 right, that being Saturday morning?

19 A. Yes, sir.

20 Q. And were you briefed at the Sunday
21 questioning of Darrell Herrington prior to the
22 start of the questioning about the prior
23 statement?

24 A. I don't recall the briefing, but I'm

1 sure we did. We probably were told that Darrell
2 had information on the Rhoads homicide.

3 Q. And did Ray or Parrish say in this
4 briefing that we don't believe some of the
5 information that he gave us at the Friday night,
6 early Saturday morning investigation or
7 questioning, excuse me?

8 A. I don't recall that.

9 Q. All right. So the -- what shows up in
10 Murphy's report about him giving false statements
11 in his first interview, you don't recall that
12 being discussed Sunday evening prior to the time
13 that Darrell was questioned. Is that right?

14 A. I'm going to have to ask you to repeat
15 that. I just lost it there. Okay? Please.

16 Q. Prior to the time on Sunday, prior to
17 the initiation of the questioning of Darrell
18 Herrington on Sunday at Gene Ray's house, you
19 don't recall whether there was any discussion
20 about Darrell having given false information in
21 his prior interview. Is that your testimony?

22 A. I don't recall that at all.

23 Q. And was the Jim and Ed statement by
24 Darrell Herrington brought up at Gene Ray's house

1 prior to the time that the questioning started?

2 A. I don't recall that.

3 Q. All right. Well, I want you now to
4 open up to the two reports --

5 A. Yes, sir.

6 Q. -- the one that you made on the
7 interview and the one that Parrish made. Do you
8 find them?

9 A. I'm still looking in Jim's. Do you
10 know what page that's on?

11 Q. Yeah, it's on page 22. Well, actually
12 23 --

13 A. That bottom number.

14 Q. Oh, Steidl 12335. Page 23 of his
15 report.

16 A. 12345?

17 Q. Yeah, 12335.

18 A. Well, 12335?

19 Q. Uh-huh, it's page 23 of his report.

20 A. I've got it there. Look. It starts
21 at the very bottom.

22 MS. EKL: I think the version you gave
23 him has got --

24

1 BY MR. TAYLOR:

2 Q. It's got a little post-it on it. I
3 think we can understand it.

4 Okay. So in your report -- have you
5 found it in your report as well?

6 A. I have.

7 Q. All right. And that's at page --

8 A. 254.

9 Q. 12254. Right. So both you and
10 Parrish filed detailed reports on the interview
11 that was conducted by you and Parrish and Ray and
12 McFatridge. Is that right?

13 A. Yes, sir.

14 Q. Now, was the format of this
15 questioning that -- was there someone that was
16 primarily responsible for the questioning, or did
17 all four of you participate in the questioning?

18 A. I don't recall who questioned. I
19 imagine everybody had an input on it.

20 Q. All right. Now, before we go into the
21 details of these reports, I want to ask you I do
22 not see anything about Jim and Ed in either of
23 the reports. Is that fair?

24 A. That's fair.

1 Q. Did anyone of the four of you ask
2 Darrell Herrington anything about Jim and Ed at
3 this interview?

4 A. I don't recall that ever happening,
5 and I don't see it in the reports.

6 Q. All right. Now, in your report I
7 see -- strike that.

8 I take it that as of the 21st of
9 September 1986 Mike McFatriidge had not told you
10 and Parrish not to do negative reporting and
11 explained that to be duplicate reports? He
12 hadn't told you that as of the 21st. Had he?

13 A. If he had, we did wrong on this one.

14 Q. Yes, because you would have ignored
15 him, if you did?

16 A. Very much so.

17 Q. Okay. So you did do -- you both did
18 reports, and we have them here today. Now, did
19 you or someone in your presence give Darrell
20 Herrington his Miranda warnings?

21 A. I don't see that it is.

22 Q. Okay. So in your report you don't
23 make mention of the Mirandas. Right?

24 A. No, sir.

1 Q. But it is -- in the Parrish report it
2 says -- if you look on the next page -- prior to
3 the interview, Darrell Herrington was read his
4 constitutional rights and warnings. Is that
5 right?

6 A. It is in Jim's report.

7 Q. Now, you would expect that if, in
8 fact, he was read his rights, you would put it in
9 your report. Wouldn't you?

10 A. You would have thought so.

11 Q. So either Parrish is wrong and the
12 rights weren't read, or you omitted a very
13 important part of the interview. Is that fair to
14 say?

15 MS. EKL: Objection to the form.

16 THE WITNESS: They're different. The
17 two reports are totally different in that regard.

18 BY MR. TAYLOR:

19 Q. And my question is that you would
20 expect that you would have put it in if it
21 happened. Right?

22 A. I forgot to put it in if McFatridge
23 was there also, if you'll notice that.

24 Q. Well, right. You forgot to put in

1 McFatridge was there.

2 A. Yes.

3 Q. And he apparently forgot to put in
4 that Ray was there, so we have discrepancies in
5 who was there in the report. We have
6 discrepancies in how the -- whether the rights
7 were given. Those are two problems right from
8 the start. Am I right?

9 A. Yes, sir.

10 Q. Now, the report then goes on to talk
11 about -- it talks about -- in your report it says
12 that Herrington stated on this date he met his
13 wife at Jody's restaurant in Paris at noon for
14 lunch. He stated that during lunch he and his
15 wife had an argument, and his wife left the
16 restaurant and told Herrington that she was going
17 to move out of the house. Then it goes on. Do
18 you see that?

19 A. Yes, I do.

20 Q. And that's -- that's your best
21 recording of what Herrington said concerning his
22 wife and lunch. Is that right?

23 A. That's what I've written in the
24 report.

1 Q. And you wrote that based on notes that
2 you were taking at the time?

3 A. Yes, sir.

4 Q. All right. And I take it Parrish was
5 taking notes as well?

6 A. I take it, he was.

7 Q. But it wasn't being recorded verbatim.
8 Is that correct?

9 A. Not to my knowledge.

10 Q. Okay. Now, if we look at Parrish's
11 report, he says: Darrell stated that at
12 approximately 12:00 noon that he had met his wife
13 at Jean's restaurant in Paris, Illinois, for
14 dinner and had gotten into an argument; that
15 after getting into the argument with Betty, that
16 he decided to get drunk. Right?

17 A. It does.

18 Q. That's what it says. Now, is Jody's
19 also called Jean's, or is that two different
20 restaurants, or is that just two different people
21 hearing two different things about the name that
22 Herrington said?

23 A. I don't recall a Jody's or Jean's
24 restaurant, where it is, what the name of it is.

1 It's obvious that we do have different
2 restaurants' names on this.

3 Q. All right. And was there ever any
4 attempt to clarify between the two of you which
5 restaurant it was?

6 A. I don't recall it ever being brought
7 up.

8 Q. Did you ever discuss -- strike that.

9 Now, in this document you -- the
10 argument is mentioned by both of you, but Parrish
11 mentions that he's going to go get drunk, and you
12 don't. Is that right?

13 A. Herrington stated at this time he went
14 to Poor Robert's.

15 Q. Right. But you don't write in there
16 that Herrington said that after he had the fight
17 with his wife he was going to go get drunk.

18 Right?

19 A. I did not write that.

20 Q. But Parrish did. Right?

21 A. He did.

22 Q. And does that refresh your
23 recollection that that's something that
24 Herrington said that you didn't write down, or is

1 this a possible discrepancy in what you heard and
2 what Parrish heard?

3 A. There's no way that I can recall this
4 conversation with Herrington, exactly what he
5 said on this. No way.

6 Q. Okay.

7 A. The only thing I can go by is my
8 notes, and, like I say, it doesn't agree with
9 Jim's on certain things. That's what you get
10 when you've got two people writing the same
11 interview.

12 Q. All right. Now, in Parrish's report,
13 if we go down we see that he says that the
14 chronology was he went to Poor Robert's. He went
15 to the Horseshoe, and then he went to Joe's
16 Tavern. Do you see that?

17 A. Horseshoe.

18 Q. So it's Poor Robert's, Horseshoe,
19 Joe's Tavern is where they go. Right?

20 A. That's what it says.

21 Q. All right. Now, if we go to your
22 report, you've got -- you've got the same, Poor
23 Robert's, Horseshoe, Joe's Tavern. Right?

24 A. Yes, sir.

1 Q. Okay. And -- but at Joe's Tavern
2 Parrish has that Darrell stated that he bought
3 Randy drinks and bought some jar tickets, and you
4 don't have the jar tickets in your report. Is
5 that right?

6 A. It appears I didn't have the jar
7 tickets there.

8 Q. Does it refresh your recollection that
9 Darrell said that, or is that a discrepancy that
10 you don't know how to explain?

11 A. There's no way I can answer that,
12 because I don't recall that.

13 Q. Okay. Now, when we go to Joe's
14 Tavern, in Parrish's report there are people
15 named who are there, and that's Eileen Armstrong,
16 the bartender, Beecher, and Carol Lynch and John
17 Armstrong. Okay?

18 Those are names that Parrish has that
19 Herrington told him were at the bar. Right?

20 A. Yes.

21 Q. Now, if we go to your report, we have
22 Carol Lynch and Larry Temples as being there. Is
23 that right?

24 A. Yes, sir.

1 Q. And you have an Elaine as the
2 bartender. Right?

3 A. Yes, sir.

4 Q. So, again, there's more information in
5 terms of people there in Parrish's report than
6 yours. Is that right?

7 A. There is.

8 Q. All right. Do you have any way of
9 explaining whether, in fact, those names that you
10 have are more accurate or whether Parrish's names
11 are more accurate in terms of what Darrell
12 actually said?

13 MS. EKL: Objection to form.

14 THE WITNESS: There's no way I can
15 explain. I don't recall it.

16 BY MR. TAYLOR:

17 Q. Okay. Now, in Ray's report -- I'm
18 sorry, Parrish's report he mentions that Darrell
19 says that the only time he drinks is when he and
20 his wife have been fighting. Do you see that?

21 A. In Jim's report?

22 Q. Yeah.

23 A. Is that on 336 here? I'll try to find
24 it.

1 Q. Yes. It's down toward the bottom
2 third of the page. It says: Darrell stated that
3 he hadn't been in the bar since last December,
4 and the only time that Darrell drinks is when he
5 and his wife, Betty, are in an argument or a
6 fight. Is that right?

7 A. Yes, I see that.

8 Q. You didn't put that in. Right?

9 A. In mine? It's not in mine.

10 Q. Did you not put that in because you
11 were aware that it was not truthful information
12 coming from a guy who was -- had a long history
13 of being a town drunk?

14 A. I don't recall the information, but
15 the answer on it, I would never withdraw
16 information that I wouldn't think was truthful.

17 Q. You would put it in, even if you
18 didn't think it was truthful?

19 A. Yes, sir, I would.

20 Q. So you have no explanation for why
21 that's not in there?

22 A. I don't.

23 Q. Okay. Now, then there is mention of
24 the Horseshoe, going to the -- in the Horseshoe.

1 There is mention of going back to Joe's Tavern
2 and also mention a witness by the name of Mike
3 Wilhoit and Sherman Wright. Do you see that?

4 A. Yes, sir, I do.

5 Q. Do you know who those people are?

6 A. I don't.

7 Q. Do you know who Larry Temples and
8 Carol Lynch or Carol Finch is?

9 A. I know Larry Temples.

10 Q. Who is Larry Temples?

11 A. He was killed right after that in a
12 motorcycle wreck. That's how I know that. No,
13 he committed suicide.

14 Q. Okay. Do you mention in your report a
15 Mike Wilhoit and a Sherm Wright, or is that only
16 in Parrish's report?

17 A. I've got to read it now. I lost my...
18 it appears I did not -- or Sherm Wright is in
19 here.

20 Q. Right. But is Wilhoit?

21 A. I don't see it, sir.

22 Q. Okay. And later on it goes on to have
23 Herrington recount what he says occurred with
24 regard to the -- Randy and Herb and going to the

1 house where the homicides took place, that being
2 Dyke and Karen Rhoads. Is that right?

3 A. Flip the page now?

4 Q. Right. Right.

5 A. 337 on Parrish's? Correct?

6 Q. Yeah.

7 A. And --

8 Q. And on your report I think it starts
9 at 12255.

10 A. Okay.

11 Q. Now, in your report you -- it
12 indicates that they parked the car, Steidl parked
13 the car next to the front door. Do you see that?
14 That's in the top paragraph.

15 A. Okay. They parked next to the front
16 door, correct.

17 Q. Okay. And in Parrish's report if you
18 look it says that Darrell stated that Randy
19 parked the car in the Rhoads' residence in the
20 driveway. Do you see that?

21 MS. EKL: I think you skipped, Flint,
22 on that report, because earlier on in Parrish's
23 report it says: Darrell states that had Randy
24 pulled the car up on the house on the north side

1 of the residence closest to the front door.

2 You skipped the second time and went
3 back to the house, so this is about the top third
4 of Parrish's report on that page. It wasn't
5 until later that he says it was in the driveway.

6 BY MR. TAYLOR:

7 Q. All right. Did both of you --

8 A. Is there another page?

9 Q. Okay.

10 A. What page are you all on?

11 MS. EKL: It's on this page.

12 A. North side of the residence.

13 BY MR. TAYLOR:

14 Q. Do you recall whether Darrell
15 Herrington said that he parked next to the front
16 door or that he said he parked in the driveway?

17 MS. EKL: Objection to the
18 mischaracterization. Again, both reports say
19 front door.

20 THE WITNESS: I don't recall that.

21 BY MR. TAYLOR:

22 Q. Okay. Now, in your report you record
23 that Herrington believed that the car that Randy
24 was driving was a cream-colored Chrysler. Do you

1 see that at the top of the page?

2 A. I see that.

3 Q. All right. And Parrish doesn't report
4 that. Does he?

5 A. I haven't found it yet.

6 Q. Okay.

7 A. I don't see it.

8 Q. Okay. Did Herrington state that Randy
9 was driving a cream-colored Chrysler?

10 A. I don't recall. The only thing I can
11 go by is my report.

12 Q. All right. Now, Darrell then told a
13 story about how he had heard and seen certain
14 things and ultimately had gone into the house
15 where the homicides took place. Is that right?

16 A. You're referring to what page, sir?

17 Q. Now, I'm talking generally. In the
18 interview he talked about being present at the --
19 sitting outside in the car and then going into
20 the house and seeing certain things with regard
21 to Randy Steidl and Herb Whitlock. Is that
22 right?

23 A. After looking at the report, that's in
24 general what he said.

1 Q. And he also said something about
2 seeing the bodies and that kind of thing in the
3 place. Is that right?

4 A. Yes, I read that in the report.

5 Q. Okay. He -- in both reports there's
6 reference to his seeing Karen Rhoads, the body of
7 Karen Rhoads. Is that correct?

8 A. What page is that on?

9 Q. Okay. On your report I believe it's
10 on 12256.

11 A. Yes, sir.

12 Q. All right. And if you look on the
13 second paragraph, it says: Herrington stated
14 that when Whitlock -- I'm sorry, if you look down
15 further, he says: Herrington stated that he
16 observed a female laying in a 45-degree angle
17 across the bed with blood all over her. He
18 observed the female had no top on but short pants
19 on.

20 That's what you wrote in your report.
21 Right?

22 A. I did, sir.

23 Q. Now, if we look at what Parrish said,
24 he says that -- if you look on page 12338,

1 Darrell stated that a female was lying on her
2 back at a 45 degree angle, no clothing on the top
3 of her body?

4 MS. EKL: Just for the record, it was
5 a 45-degree angle on the bed.

6 BY MR. TAYLOR:

7 Q. Had no clothing on the top portion of
8 her body but had a garment on the lower part of
9 her body?

10 A. I'm trying to find that. Just maybe
11 direct me to what part of the page.

12 Q. It's at the bottom of the page.

13 A. Okay.

14 Q. And he says --

15 A. Okay.

16 Q. -- that he -- in Parrish's report he
17 says that he -- Darrell said that he observed
18 blood covering the chest area of the female, so
19 in your report you say that Herrington said he
20 saw blood all over her, and Parrish says he saw
21 it on the chest of Karen Rhoads. Can you tell us
22 which of those two versions Herrington actually
23 said?

24 A. I could not.

1 Q. Okay. Now, he also says that he
2 mentions the knife, and the knife that Steidl
3 supposedly had is referenced in both reports. Is
4 that right?

5 A. Can I try to find a knife on Jim's
6 report first? And if you direct me so it won't
7 take so much time about what paragraph it's in.

8 Q. All right. I'll help you find that,
9 if I can.

10 A. Randy was carrying a fish filet knife.
11 Is that what you want to talk about?

12 Q. Yeah.

13 A. It's middle ways.

14 Q. What page are you on?

15 A. 338.

16 Q. Okay. And --

17 A. I better look and see if that's what
18 he's talking about.

19 Q. It says: Darrell stated that Randy
20 had blood on both arms and his clothes, and that
21 Randy was carrying a fish filet knife with
22 approximately a six-inch blade?

23 A. Right.

24 Q. That's how Parrish recorded what

1 Herrington said about the knife. Is that right?

2 A. Yes, sir.

3 Q. And you also have reference to the
4 knife in your report. Is that right?

5 A. I'm trying to find that.

6 Q. Okay.

7 A. I suppose that's on 256.

8 Q. Okay. Look at the top.

9 A. The first paragraph. I see that.

10 Q. Herrington stated that Steidl was
11 carrying a knife that looked like a filet knife.
12 Is that right?

13 A. Yes, sir. Yes, sir.

14 Q. So in your report, you don't mention
15 that Darrell said it was six inches, and you have
16 it as looking like a filet knife and Parrish has
17 it as a filet knife. Is that correct?

18 A. That's correct.

19 Q. And can you tell me what it was that
20 Darrell Herrington actually said, which of those
21 two versions that we have in the reports?

22 A. I'm not able to recall that other than
23 what's in my report.

24 Q. Okay. Now, Darrell also tells a story

1 about leaving the house where the murders took
2 place and going home, right, and some version of
3 that is recorded in each report. Right?

4 A. Tell me what you've got on Jim's, the
5 page on that.

6 Q. Okay. As far as Parrish, we're
7 looking at the bottom of 12338?

8 A. Okay.

9 Q. And the top of 12339.

10 A. There's some writing on the bottom.

11 Q. Yeah, but I believe it starts actually
12 on the top of the next page.

13 At this time he stated to his
14 residence on South Central. I assuming he meant
15 to write he started to his residence on South
16 Central in Paris, Illinois, and about the time he
17 got home, he heard sirens.

18 Darrell stated that after getting at
19 his house, he passed out on the floor, and a very
20 short time later he woke up, and it was daylight.

21 That's what Parrish wrote with regard
22 to what Darrell said concerning leaving the scene
23 and going home early in the morning. Right?

24 A. Yes, sir.

1 Q. Now, you also have a version of that
2 as well. Is that right? If we look at the next
3 to last paragraph, it says: Herrington said at
4 this time he took off running from the residence.
5 He said he fell down a couple of times running
6 home and did not know if he passed out at these
7 times or not because he was so drunk.

8 Herrington said that just before
9 arriving at his residence he heard what appeared
10 to be a fire truck siren. Herrington went inside
11 his residence and went to sleep just before it
12 became daylight. He advised he was not sure of
13 the time that he had gotten back to his residence
14 on this date.

15 So that is what you wrote down with
16 regard to what Herrington told you -- or what you
17 heard Herrington say with regard to leaving the
18 residence and going home. Right?

19 A. Yes, sir.

20 Q. And there are several differences in
21 the two versions. Right?

22 A. There's differences, yes, sir.

23 Q. And one difference is that in your
24 version you have Herrington running, and Eckerty

1 does not mention that, right? I'm sorry.

2 Parrish does not mention that?

3 A. No, he does not.

4 Q. And in your version you have him
5 falling down a couple of times running home and
6 not knowing whether he passed out because he was
7 so drunk. Right?

8 A. Yes, sir.

9 Q. And Parrish doesn't mention that
10 either. Right?

11 A. He does not.

12 Q. Now, you also have that Herrington
13 said that just before he arrived at the residence
14 he heard what appeared to be a fire truck siren.
15 Right?

16 A. That's what I wrote.

17 Q. Yes, and you're attributing that to
18 Darrell Herrington in this interview. Is that
19 correct?

20 A. Yes, sir.

21 Q. And Parrish says and about the time he
22 got home, he heard sirens, plural. Right?

23 A. That's what it says, yes, sir.

24 Q. And doesn't specify them to be fire

1 sirens. Right?

2 A. It does not.

3 Q. Okay. And Parrish says that after
4 getting home, he passed out on the floor, and you
5 characterize it as that he went to sleep just
6 before it became daylight. Right?

7 A. Yes, sir.

8 Q. All right. So you don't say he passed
9 out. You say he went to sleep. Right?

10 A. Yes, sir.

11 Q. Okay. Now, I know I haven't found all
12 of the differences in the reports, but we can
13 agree that there are numerous differences between
14 the two reports, even though it was the same
15 interview that you were both recording. Is that
16 right?

17 A. Yes, sir.

18 Q. And you were both participating in the
19 questioning at this time. Right?

20 A. Yes, sir.

21 Q. Okay. And Herrington was giving you
22 answers, and you were writing down the -- the
23 responses. Right?

24 A. Yes, sir.

1 Q. And you wrote your report with regard
2 to this interview -- well, it's typed on the 7th
3 of November which is 25 days after the interview.
4 Right?

5 A. Yes, sir.

6 Q. And the report and this summary of
7 what Darrell Herrington said at this interview
8 was the -- came initially from your notes. Is
9 that right? It came from your notes and then
10 were dictated. Is that what you did?

11 A. Yes, sir.

12 Q. And would it be fair to say that they
13 were not dictated until on or after the 6th of
14 October which is the last reporting date in the
15 report?

16 A. Like I said before, sometimes I would
17 have a blank cassette in my recorder, and I would
18 do them one -- a couple of days later, put
19 another on there, so I don't know when it was put
20 on tapes, but it was typed 11/7/86, as you said.

21 Q. Okay. So what was the lag time
22 between the time that you gave a dictation tape
23 to the typist and the time that it took to type?

24 A. It was just according to how busy they

1 were at the office, how many cases they had to
2 go. Sometimes, you know, I would just be
3 estimating, three or four days, maybe. Maybe if
4 it was a long cassette, it would be longer.

5 Q. All right. Now, but the earliest you
6 would have actually given the tape to the typist
7 would have been the 6th of October. Is that
8 right?

9 A. Yes, because there's interviews on the
10 6th on here.

11 Q. And these reports -- then they were
12 typed up. It looks like Parrish's report --
13 well, we can't tell from the face of it when his
14 was typed up, but I think it was sometime around
15 the same period of time?

16 MS. EKL: I object to your speculation
17 as to when you think it was typed. There's no
18 evidence of when it was typed.

19 BY MR. TAYLOR:

20 Q. But both of these reports went to Mike
21 McFatridge. Right?

22 A. They did.

23 Q. And was it as a result of all of these
24 differences in the two reports, some of which I

1 have pointed out to you and others I'm sure I've
2 missed, that McFatrige told you and Parrish not
3 to do duplicative reports that would create
4 negative information that might impact the case?

5 MR. MANCINI: Objection to form and
6 speculation.

7 THE WITNESS: I don't recall if it was
8 these two reports. If not, it should have been.
9 He should have got on our butts about -- excuse
10 me, about that. That's what creates negative,
11 yeah.

12 BY MR. TAYLOR:

13 Q. Because a defense lawyer could take
14 the differences in the reports and question the
15 veracity of the testimony of the witness. Isn't
16 that right?

17 A. Yes, sir.

18 Q. And that's why --

19 A. Mike doesn't want that.

20 Q. Mike didn't want any challenges to
21 Herrington's credibility? He had enough problems
22 with Herrington's credibility without two
23 reports?

24 MS. EKL: Let me just object to form

1 and foundation.

2 MR. MANCINI: Objection.

3 BY MR. TAYLOR:

4 Q. I'll withdraw the question.

5 McFATRIDGE did not want any problems in terms of

6 negative information that would impact on

7 Herrington. Right?

8 MR. MANCINI: Objection as to form.

9 THE WITNESS: He did not want anything

10 negative on any interview, and that's -- I don't

11 know when he told us about the two reports. I

12 have no knowledge of that.

13 I don't recall, but I know that he was

14 a stickler on that, and I imagine if he had told

15 us a month before and this one came in, we

16 probably were very much told about it, you know,

17 not for a negative report -- not for anything

18 negative against Darrell Herrington or anything,

19 but you need one interviewer's report.

20 BY MR. TAYLOR:

21 Q. Because, as he just said, there's

22 discrepancies between two interviewers that can

23 impact negatively on the witness?

24 A. And that can happen with any two

1 interviewers.

2 Q. And it particularly can happen in a
3 lengthy interview with several people present
4 where a witness such as Darrell that is a voice
5 box and drinking problem and also other
6 variables. Is that right?

7 A. It could happen interviewing Darrell
8 or anybody.

9 Q. But I'm saying that it could more
10 likely happen, as it did with someone like
11 Darrell, because of all of the factors, such as
12 his voice box and such as the fact that he had
13 changed what he had said and other questions
14 about him. Is that right?

15 MS. EKL: Objection. Form and
16 foundation.

17 THE WITNESS: I don't think it would
18 be any different with Darrell or interviewing
19 anybody else. I mean two people have a different
20 opinion. That's been explained to me sometimes,
21 whether two attorneys or two policemen talking to
22 the same person, it's going to come out not
23 exactly right.

24

1 BY MR. TAYLOR:

2 Q. This certainly didn't come out exactly
3 right?

4 A. It did not.

5 Q. Okay. And that's an understatement.
6 Right?

7 MS. EKL: Objection to form.

8 THE WITNESS: I agree.

9 BY MR. TAYLOR:

10 Q. So it's hard to imagine that when
11 McFatridge got these two reports that he didn't
12 make the statement that he didn't want these kind
13 of duplicative reports, because it would have
14 negative impact on his case?

15 MR. MANCINI: Objection to form and
16 foundation.

17 BY MR. TAYLOR:

18 Q. On your case, I should say.

19 MR. MANCINI: Same objection.

20 BY MR. TAYLOR:

21 Q. Let me withdraw that. At this point
22 it would have negative impact on his
23 investigation?

24 A. I'm trying to figure that out.

1 Q. Okay.

2 A. It's obvious there's different --
3 things in here that are different. You wouldn't
4 want that. That's why Mike always told us one
5 person write a report on it. I guess you shake
6 them both out, and it all basically said the same
7 thing, but Mike was a stickler on writing
8 reports, and interviewing Darrell was nobody
9 different than interviewing anybody else, whether
10 he was an alcoholic or what.

11 Everybody was to understand him about
12 the same way, because they had the difficulty of
13 understanding him, so I don't know what else I
14 could answer there.

15 BY MR. TAYLOR:

16 Q. Now, at the time that you heard
17 Darrell tell this story under questioning by all
18 of you at one point or another, did this story
19 seem credible or incredible to you?

20 A. This story -- I don't recall how it
21 seemed at that time.

22 Q. Well, did it seem strange to you that
23 people who were about to savagely kill a young
24 husband and wife and burn down their apartment

1 would bring a town drunk along with them to watch
2 it happen? Didn't that seem kind of unusual to
3 you and unlikely?

4 A. Well, I don't know how it seemed at
5 that time. Any homicide is unusual how they
6 happen, and it sure required some more
7 investigation on trying to put things together.

8 Q. Okay. And in the two statements or
9 the two reports there was quite a bit of
10 information that you could attempt to
11 corroborate. Right?

12 Well, let me ask you specifically.
13 Between the two reports there were many names who
14 could either corroborate or dispute Darrell's
15 contention that he was drinking with Randy and
16 Herb at various bars, that being Joe's and
17 Horseshoe and then Joe's again, and then -- and
18 Friendly Tavern as well, according to Parrish's
19 report.

20 There were names that included -- that
21 he gave, including Elaine Armstrong, John
22 Armstrong, Lynch -- Carol Lynch, Larry Temples,
23 Mike Wilhoit, Sherm Wright, those people were all
24 named as people -- somebody named Beecher were

1 all named as people who were in the bars along
2 with Randy and Herb, and according to Darrell --
3 Darrell on the night just prior to the murders
4 that could have been talked to and to find out
5 whether, in fact, Herrington was telling the
6 truth about being with Randy and Herb that night.
7 Right?

8 A. There were several names mentioned.

9 Q. All those names I just read. Right?

10 A. You just read them, yes.

11 Q. And, in fact, as I look through the
12 report, you didn't -- at least in the next month
13 or two didn't talk to any of those people. Did
14 you?

15 A. I think several people were talked to
16 on there. I don't know when and what time, but I
17 think that most of the bartenders were talked to.

18 Q. Well, can you point me to anywhere in
19 your reports, particularly in the next two or
20 three months, where any of the bartenders or
21 other people that I just named -- names that I
22 just read were interviewed to see whether they
23 were in fact -- could put Whitlock and Steidl and
24 Herrington together in any of the bars that

1 Herrington said they were in?

2 A. I don't recall without going through
3 that. I think prior to that a lot of the
4 bartenders had been interviewed. Correct me if I
5 am wrong.

6 Q. Prior to the Herrington interview?

7 A. Yes.

8 Q. At that point you didn't have any
9 information -- I'll ask the question. Thank you.

10 If they were interviewed prior to the
11 time that you interviewed Herrington, then the
12 question of whether Herrington was together with
13 Steidl and Whitlock wouldn't have come up.
14 Right?

15 A. That's right.

16 Q. Okay. So you needed to go back out
17 and interview those people again and find out,
18 well, did you see Whitlock and Steidl with
19 Herrington that night at such and such a bar.

20 Right?

21 A. Yes, sir.

22 Q. And that didn't happen. Did it?

23 A. I don't recall without looking more.

24 Q. Well, you know, feel free to look.

1 A. There were several people that were
2 interviewed.

3 Q. Well, no one named Beecher --

4 A. I don't know if Beecher was.

5 Q. And nobody named Lynch was, right,
6 Carol Lynch?

7 A. I take it that you say it's not, and I
8 trust that you're telling me that they weren't.

9 Q. And Larry Temples you said was killed
10 a short time thereafter?

11 A. He was killed himself. I think he
12 killed himself sometime in there. I don't know
13 when it was, but I do remember that.

14 Q. And there was no interview with Sherm
15 Wright or Mike Wilhoit within the next few months
16 after the questioning. Was there?

17 A. I don't recall where. I think I read
18 a Sherm Wright interview.

19 Q. Okay. Where and when? Do you know?

20 A. You know, I think it was in Jim
21 Parrish's report.

22 Q. And when was that?

23 A. I don't know. I just am saying -- I'm
24 just picking that one. I don't know when he was

1 interviewed.

2 Somehow Sherm Wright's name came up.

3 I don't know. That rings a bell, and maybe it's
4 just ringing the wrong bell. I just read it in
5 that report.

6 Q. That may be it. I haven't seen it,
7 particularly not in any of the --

8 A. Let me go through this -- let me go
9 through the index here and -- okay. I could be
10 wrong. I don't see it, but I just remember
11 seeing his name.

12 Q. So you have an index there of all the
13 interviews. Right?

14 A. The ones we talked to -- talked about.

15 Q. And you didn't see any of those names
16 in there?

17 A. Well, I was looking for Sherm Wright.

18 Q. Okay.

19 A. I could be mistaken.

20 Q. Well, let me ask you this question.

21 Nothing in your subsequent interviews, you
22 weren't able to corroborate Herrington's
23 statement that he was in Joe's Tavern or the
24 Horseshoe or the Friendly Tavern with Randy or

1 Herb on the night of the 5th. Did you?

2 A. We interviewed a bartender, I don't
3 know which one it was, who at the time of the
4 interview told us that Herrington, Steidl, and
5 Whitlock were in the tavern, and Herrington was
6 buying them beer or liquor.

7 Q. Can you point me to that one?

8 A. Well --

9 Q. Can you tell me when and who and where
10 that was?

11 A. I'm going to start from the first of
12 my report, and one of them was -- because I
13 forget the names of what person was tending bar
14 at what bar. I'm sure at the time --

15 Q. Well, the only thing I've seen is an
16 entry several months later on the 24th of
17 February, 1987, at page 00066 starting 12273 in
18 Marsha Edwards, who was a bartender at the Barn
19 Tavern, which isn't one of the taverns that
20 Darrell mentioned, and that she says that Steidl
21 was in that bar, and she could not remember
22 whether Whitlock or Herrington had been in the
23 bar.

24 Is that to whom you're referring?

1 A. No, that's not. It could be in Jim's.

2 Q. Well, at a break or at lunch you can
3 take a further look and see what you recall.

4 A. I will do that.

5 Q. But you found nothing in your reports?

6 A. It could have been there. I'm trying
7 to save you time. I could be wrong, but it
8 sticks in my head that there was a bartender.

9 Q. Was it any of the people here that
10 Herrington mentioned that were in these bars,
11 Temples, Finch?

12 A. It was a bartender.

13 Q. All right. It was a bartender. Okay.
14 We'll go back to that later.

15 A. We sure will. I'll get it. If it's
16 there, I'll get it.

17 Q. Darrell says that Randy was driving a
18 cream-colored Chrysler with a back fender dent.

19 Did you make any attempt to check the
20 records to see if Randy or anyone in his family
21 had a cream-colored Chrysler? Did you make any
22 effort to corroborate or refute the idea that
23 Randy could have been or was driving a
24 cream-colored Chrysler with a back fender dent

1 when -- the night that he, according to
2 Herrington, went to the Rhoads' residence the
3 night of the murders?

4 A. I think -- was your question if we
5 followed up on the white Chrysler? Is that your
6 question?

7 Q. The cream-colored Chrysler.

8 A. I don't recall what investigation
9 there was on that, but I'm sure it was looked
10 into.

11 Q. There's nothing in the reports?

12 A. Nothing in the reports that I can
13 recall.

14 Q. All right. And wouldn't you have
15 found it important to put in the reports if it
16 didn't corroborate Herrington, or is that
17 something that Mike McFtridge didn't want in the
18 reports, because it was made up?

19 A. Mike never told us not to put
20 something in the report like that. If we would
21 have found it, we would probably document it.

22 Q. Would you document the fact that you
23 couldn't make any connection between Steidl and
24 the cream-colored Chrysler?

1 A. No.

2 Q. Wouldn't that be important? I don't
3 see anything in the reports that says you made
4 any effort to run anything to find out whether
5 Steidl had a cream-colored Chrysler or anyone in
6 his family did, any of his friends did? Is there
7 any record of it at all, any kind of
8 investigation?

9 A. I don't recall seeing a record of it.

10 Q. Okay. And, in fact, there couldn't
11 have been too many Chryslers in Paris, a small
12 town like Paris. Right?

13 MS. EKL: Objection. Foundation.

14 THE WITNESS: Could I have the
15 question one more time?

16 BY MR. TAYLOR:

17 Q. Well, there couldn't have been too
18 many cream-colored Chryslers with a back fender
19 dent in the Paris area in 1986, could there?

20 A. Probably not.

21 Q. It would be pretty easy to find out
22 it, I would assume, wouldn't it?

23 A. Yes.

24 Q. And you didn't find it. Right?

1 MS. EKL: Flint, just for the record,
2 you've indicated that you looked through the
3 records, and you haven't seen any indication that
4 he looked into any cars that Steidl owned, and I
5 just want to put on the record that there is an
6 intelligence report, and it's Bates stamped 336
7 by Jack Eckerty in which he looked at the
8 registration for Gordon Steidl's car, so just to
9 correct -- not that you intentionally
10 misrepresented, but I did want to indicate that
11 it is in there.

12 MR. TAYLOR: All right. And --

13 MS. EKL: It's Bates stamped 336.
14 There's no prefix to it, so it must be from the
15 Exhibit 5.

16 MR. TAYLOR: And what's the date on
17 that?

18 MS. EKL: April 20th, 1987.

19 BY MR. TAYLOR:

20 Q. So you didn't --

21 A. I can correct this other thing for
22 you, if you would like for it to be corrected. I
23 wasn't dreaming. It's on page 12356 of Parrish's
24 report.

1 Q. Okay.

2 A. Carol Robinson, midways down.

3 Q. Is 2356?

4 A. I think there's an affidavit also
5 signed by her saying this.

6 Q. So what's the date -- again, that's
7 a --

8 A. March 25th, 1987.

9 Q. All right. So both with looking at
10 the car March 20th --

11 A. No, we're talking about serving
12 alcohol, that we're talking about Darrell
13 Herrington buying Randy Steidl drinks.

14 Q. What's the cite again?

15 A. 12356.

16 MR. RAUB: It's page 43 of
17 Mr. Parrish's report.

18 BY MR. TAYLOR:

19 Q. And the date on that interview is
20 March 25th, 1987?

21 A. It is, sir.

22 Q. And that's some six months after
23 Herrington gave you the information where he said
24 he was --

1 A. It would be.

2 Q. -- with him -- with Steidl. Right?

3 A. Yes, sir. There is also an affidavit
4 someplace that's notarized or something that she
5 swears to that.

6 Q. Okay. But my point is that prior to
7 March 25th, 1987, you hadn't spoken with her.
8 Had you?

9 A. I don't recall ever speaking to her or
10 if we have or not spoken to her. I thought your
11 question before was have we ever investigated him
12 being in any of the bars, and you said there was
13 no report, and I just thought there was a
14 bartender who did serve him, and that's -- I
15 guess that's what I was really trying to find.

16 Q. I understand that, and my point is
17 this was quite some time after Herrington made
18 his statements?

19 A. But you asked me --

20 Q. Just answer my question. This is six
21 months --

22 A. Sure.

23 Q. -- after?

24 A. Yes.

1 Q. And with regard to the searching for
2 Steidl's car was a report dated 4/20/87,
3 according to counsel, and we've found it here, so
4 that was after Steidl had been charged as well?
5 Is that right?

6 A. That would be after he was charged.

7 Q. Now, that is a handwritten report.
8 Right?

9 A. It is.

10 Q. And it's called an Inquiry Control
11 Form. Is that right?

12 A. I don't know what it's called. Just a
13 minute.

14 Q. Intelligence Inquiry Control Form?

15 A. It is.

16 Q. And what you found out on this was
17 that Steidl had a car which was a '76 Buick. Is
18 that right?

19 A. It appears so.

20 Q. And what color was it?

21 A. I can't see on here.

22 Q. It doesn't say. So is this document
23 something that was in the file, or is this an
24 administrative document?

1 A. It was in the file. I guess -- I
2 don't know -- she's got it. I don't know where
3 it was at. It's not in my file that I had.

4 MS. EKL: I believe you said that
5 she's showing him her computer, and I said
6 because you don't have hard copies, I'm showing
7 him what you're referring to, so he can read
8 along.

9 And also, just for the record, the
10 results of that intelligence report are at pages
11 1521 through -- it appears to be 1530.

12 MS. SUSLER: That's different from
13 what you said before was 336.

14 MS. EKL: This is, I think, the
15 results of that request. These are the documents
16 that came as a result of that request. The
17 documents regarding Gordon Randy Steidl's car are
18 at 1521 through 1530.

19 MR. TAYLOR: What's the date on those
20 reports?

21 MS. EKL: They're not reports.
22 They're documents from the car title and so
23 forth.

24 MR. TAYLOR: So they're attached to

1 this 420 report?

2 MS. EKL: I just got them
3 electronically. They appear to be the result of
4 the request.

5 MR. TAYLOR: And the request is dated
6 4/20?

7 MS. EKL: Correct.

8 BY MR. TAYLOR:

9 Q. So sometime subsequent to April 20th
10 of 1987 you received some information about Randy
11 Steidl's car. And it wasn't a cream colored
12 Chrysler. Is that right?

13 A. It appears we got some information.
14 Was it determined what color it was here?

15 Q. Well, it wasn't a Chrysler. Right?

16 A. It was a Buick.

17 Q. Now, also Darrell Herrington,
18 according to his statement that you took down,
19 was in close proximity to a large amount of blood
20 of the victims on the night of the murders.
21 Right?

22 A. I have to go back to that statement
23 again.

24 Q. Well, he went into the bedroom.

1 Right?

2 A. I can't remember. I want to be kind
3 of right. Okay. Okay. I've got my report, my
4 Herrington interview. Okay.

5 Q. And he said he went into the
6 apartment, went into the bedroom, and at that
7 point he saw a large amount of blood on one
8 victim, that being Karen Rhoads, and he also saw
9 Dyke Rhoads lying in the floor area with numerous
10 stab wounds. Right?

11 A. Are you reading that in a certain
12 paragraph?

13 Q. Well, I'm asking you -- well, let me
14 ask you this question. He definitely mentioned
15 that Karen Rhoads had blood either all over her
16 or in the chest. Right?

17 A. I am listening. I'm trying to read.

18 Q. I'm not asking you to read. We've
19 already gone over this. If you remember,
20 Herrington, according to the report, said that
21 she had a large amount of blood either on her
22 chest area or all over her body. Right?

23 A. That's why I'm reading, because I
24 don't know exactly how he described it.

1 Q. You can read whatever you want.

2 MS. EKL: Well, you're asking him if
3 it's in the report.

4 MR. TAYLOR: No, I'm not. I'm not
5 asking him that. I'm asking him if he remembers
6 that.

7 MS. EKL: You said do you remember
8 that it's in the reports.

9 BY MR. TAYLOR:

10 Q. I'll ask you a different question.

11 When you went through the apartment a
12 few hours afterwards, after the fire had been put
13 out, did you see blood in the bedroom?

14 A. What appeared to be blood. I do
15 recall that.

16 Q. Was there blood on the floor?

17 A. My recollection of that, I remember
18 only seeing blood on the bed, and there was blood
19 different places, but I can't recall the whole
20 scene. I just can't recall that.

21 Q. And you saw the bodies too. Right?

22 A. I didn't see the bodies. They were
23 removed.

24 Q. But you went to the morgue after some

1 point. Didn't you?

2 A. I went to the hospital, yes.

3 Q. And you saw that they had been stabbed
4 numerous times?

5 A. We did.

6 Q. So by the time that Darrell Herrington
7 was giving you the statement, you knew that in
8 all likelihood there was a great deal of blood in
9 that house and particularly in the bedroom area
10 that he said he went into. Right?

11 A. Yes, sir.

12 Q. And you knew, did you not, that there
13 would be a good possibility that either his
14 clothes and/or his shoes or boots that he were
15 wearing might have blood on them. Right?

16 A. Yes, sir.

17 Q. And did you make any effort to get the
18 clothes that Darrell Herrington said he was
19 wearing that night and test them for blood?

20 A. I think they sent his shoes. Am I
21 correct on that? I think we sent his shoes to
22 the crime lab.

23 Q. And did you ask him what shoes he was
24 wearing that night?

1 A. We sent some shoes. I don't recall if
2 we asked him, but we had some shoes. I recalled
3 that by just looking at the reports. I don't
4 remember doing that. I don't remember doing it
5 at all, but it was in the report.

6 Q. Did he at that time tell you that he
7 had a cut on his hand that he got while he was at
8 the -- at the building?

9 A. He stated in the second interview, the
10 interview that was a tape made of his interview
11 that he had -- while running home, he fell down
12 and cut his hand.

13 Q. All right. And did you ever make a
14 report of that?

15 A. It's on a taped interview.

16 Q. So that's in his taped interview?

17 A. Yes, sir.

18 Q. Now, you said that -- were you ever
19 able to ask him or obtain from him any clothing
20 that he said he had on the night of the murders?

21 A. I don't recall that we did that.

22 Q. Did you have him -- I don't notice in
23 the reports -- is there somewhere you asked him
24 to describe what he was wearing?

1 A. I don't recall that we did that.

2 Q. He was a drywaller, you said?

3 A. Yes, sir.

4 Q. So I would assume he wore boots when
5 he worked?

6 MS. EKL: Objection. Foundation.

7 THE WITNESS: I don't recall what he
8 wore.

9 BY MR. TAYLOR:

10 Q. Did you make any effort to get all of
11 the shoes and boots that he wore, or did you just
12 send one pair of shoes to the lab?

13 A. It appears to me after looking at the
14 reports we sent a pair of shoes to the lab.

15 Q. And can you tell us why you sent that
16 particular pair of shoes to the lab rather than
17 other pairs of shoes and boots that he had?

18 A. I can't recall that at this time.

19 Q. Okay. Shall we take a break now or a
20 short lunch break? We could take one or the
21 other?

22 MS. EKL: How long do you guys want to
23 take?

24 MR. TAYLOR: How long do you think?

1 MS. SUSLER: Why don't we try to be
2 back by 1:30.

3 MR. RAUB: That sounds reasonable.

4 MS. EKL: Why don't we try to start at
5 1:30?

6 (At this point a noon recess was
7 taken.)

8 BY MR. TAYLOR:

9 Q. Just before lunch you had testified
10 that Darrell Herrington said that he had a cut on
11 his hand. Right?

12 MS. EKL: Objection. Assumes facts
13 not in evidence. Mischaracterizes his testimony.
14 Go ahead.

15 THE WITNESS: I believe that was a
16 taped statement, the second taped statement that
17 he fell.

18 BY MR. TAYLOR:

19 Q. The second taped statement being the
20 one in November?

21 A. The second statement, yes, that was
22 the one that was on tape.

23 Q. Was there more than one taped
24 statement?

1 A. No, there was not. It was the second
2 statement.

3 Q. Weren't there -- wasn't there the
4 hypnosis on tape as well, part of it, at least?

5 A. I'll recant that. It was the second
6 statement that I was involved in. The first
7 statement, Gene Ray's house. The second
8 statement was a taped statement at the PD.

9 Q. In the second taped statement, it's
10 your memory that he mentioned that his hand was
11 cut?

12 A. He fell and noticed that he had hurt
13 his hand in the statement.

14 Q. Hurt his hand or cut his hand?

15 A. I'll tell you exactly what he said.
16 May I look at this?

17 Q. Sure.

18 A. I'm trying to find the page that this
19 statement starts on.

20 Q. What page are you looking at?

21 A. I'm looking for the taped statement
22 that would have been taken in the month of
23 November.

24 Q. Uh-huh.

1 A. I believe. That's what I'm looking
2 for.

3 MS. EKL: Do you know if it's in this
4 packet, Flint.

5 MR. TAYLOR: I have no idea.

6 BY MR. TAYLOR:

7 Q. You're looking for his November taped
8 statement?

9 A. Yes, I am.

10 MS. EKL: Do you want to just look off
11 of the computer?

12 THE WITNESS: May I look at the
13 computer? Have you got it there?

14 BY MR. TAYLOR:

15 Q. Go right ahead. Read what you have.

16 MR. RAUB: I have a hard copy.

17 THE WITNESS: I fell down in the
18 gravel, because the next day I still had gravel
19 in my hand where I fell down.

20 BY MR. TAYLOR:

21 Q. All right.

22 MS. SUSLER: Which page is that?

23 MS. EKL: This is on the transcript of
24 his taped statement at page 8.

1 BY MR. TAYLOR:

2 Q. But in that taped statement he doesn't
3 say he had a cut on his hand. Right? It just
4 says he has gravel in his hand. Right?

5 A. Anyplace in my statements, that's the
6 only place that I can find that he had a cut that
7 -- it was written down that he had caught, and I
8 figured that was probably what was talked about
9 back then.

10 Q. Well, didn't you tell the woman at the
11 crime lab, a woman named Debra Helton in October
12 of '86 that Herrington had a cut on his hand?

13 A. I don't recall even talking to Debra
14 Helton.

15 Q. All right. And so has her report been
16 shown to you in which she attributes to you the
17 statement that Herrington had a cut on his hand?

18 A. I believe that it was shown to me in
19 the post-hearing for Whitlock by Attorney Kling
20 and asked if I could read something on it, and I
21 couldn't, and he verified that he could read it
22 for me, if that's the same report.

23 Q. Yes, you've seen that then. Right?

24 A. Yes.

1 Q. Did that refresh your recollection at
2 the hearing that in fact you told Debra Helton
3 that Herrington had a cut on his hand?

4 A. I don't think it refreshed my memory
5 at all, because I still didn't remember ever
6 talking to her.

7 Q. All right. But, in any event, you
8 never wrote a report that said that Herrington
9 had a cut on his hand. Did you?

10 A. Not other than this one that I was
11 just mentioning to you.

12 Q. You didn't write that report. That's
13 just a verbatim tape. Right?

14 A. That's a taped statement, yes, sir.

15 Q. In that he doesn't say -- would it be
16 fair to say that you would characterize what he
17 said having gravel, falling down, and having
18 gravel in his hand the next day as a cut, or is
19 that something different, in your mind?

20 A. That's the only thing I could find in
21 any reports that refers back to a cut. That
22 would be a cut to me. If I had gravel in my
23 hand, that would be a cut.

24 Q. So if you told Debra Helton that he

1 had a cut on his hand, you were referring to this
2 videotaped statement where he said he had gravel
3 in his hand?

4 A. I don't recall talking to Debra
5 Helton. I don't recall what I was referring to.

6 Q. All right. Did Herrington ever tell
7 you that he had a cut on his hand that was
8 connected to his being in the building rather
9 than a falling down after he left?

10 A. I don't recall that at all.

11 Q. All right. You have no report that
12 reflects that he had any cut that he received in
13 the building while he was in there in any way
14 connected to the killings. Is that right?

15 A. No, I don't have a report to that.

16 Q. And if he had told you that he had a
17 cut, you would have reflected that in the report.
18 Right?

19 A. Other than the one that was in the
20 taped statement, yes.

21 Q. Right. But I mean if he said cut and
22 didn't say I had gravel in my hand the next day
23 after I fell down, you would put down cut, not I
24 had gravel in his hand. Correct?

1 A. That was in a taped statement. That
2 was his words.

3 Q. Right. But if he told you he had a
4 cut, you would put down cut. Right?

5 MS. EKL: Objection. Mischaracterizes
6 his testimony.

7 THE WITNESS: I don't recall him
8 telling me cut. In his statement he says he fell
9 down in the gravel, and I don't recall even
10 talking to Debra Helton about it.

11 BY MR. TAYLOR:

12 Q. Okay. Now, prior to this deposition,
13 have you had an occasion to look at any reports
14 written by Tony Snyder?

15 A. Yes, I probably have.

16 Q. Okay.

17 A. But I don't recall which ones.

18 Q. All right. Let me show you, and this
19 is Snyder 4 and Snyder 5 at this deposition, and
20 I've opened it to the page that I want to call
21 your attention to.

22 If you can look, these are -- appear
23 to be the same report, July 6th to July 22nd,
24 Bensyl and Eckerty, it says are the reporting --

1 Snyder, Bensyl, and Eckerty are the three
2 reporting officers in the case.

3 My sense from the report is that the
4 reporting officer is Snyder. You can tell me if
5 I'm correct or not. You can flip to the first
6 page of that report, and that is Snyder Exhibit
7 No. 5, and this is Snyder Exhibit No. 4.

8 MS. EKL: I think actually this one is
9 marked 4. They're both marked 4.

10 MR. TAYLOR: All right. I gave you
11 two of the same. Let me give you Snyder 5.
12 Okay.

13 MS. EKL: Let me just put these
14 numbers in the record real quick, so we've got
15 Snyder No. 4 is Steidl 6084 through 6089, and
16 Snyder No. 5 is Steidl 11575 through Steidl
17 11579.

18 BY MR. TAYLOR:

19 Q. Okay. Looking at the first page
20 briefly without losing the place, let's compare 4
21 and 5. It appears that they're both dated July
22 6th to July 22nd. They both appear to be Snyder,
23 Bensyl, and Eckerty reports with an initial TAS,
24 which I assume is Snyder's initials, and they

1 both start with the same entry on 7/7/86, so at
2 least looking at the first page they appear to be
3 the same report. Is that right?

4 A. With a quick scan. It appears to be
5 the same report, yes sir.

6 Q. All right. And if your name appears
7 as both the case agent and as one of the three
8 reporting officers but not the reporting officer
9 who actually wrote the report, what role do you
10 have, if any, in the report itself? I'm asking
11 you a specific question, not anything about the
12 report right now.

13 I'm asking you -- indicated that you
14 need to look at it.

15 I'm asking you if you -- like in this
16 report, you are the third name on the reporting
17 agent, and you also are listed as a case agent.

18 Would that mean that you reviewed the
19 report, that you contributed to the report, that
20 you approved the report, or what role would you
21 have in such a report?

22 A. If my name was put on that line, I had
23 something do with what the material was in the
24 report.

1 Q. Would you have reviewed it?

2 A. I've reviewed this. Yes, I have
3 reviewed it.

4 Q. I mean at the time when it was
5 written, would you have reviewed the report?

6 A. I have no memory of that, but I would
7 have, yes.

8 Q. Okay. Now, I think we can agree, and
9 perhaps we can even stipulate, counsel, that the
10 first three pages of this report are identical in
11 terms of the entries. In fact, the first four
12 pages I believe are identical with regard to the
13 entries.

14 A. Okay.

15 Q. All right. Now, what I want to ask
16 you about is page 5 of this report. On Snyder
17 Exhibit No. 4 there are entries, and there's
18 actually an extra page on 4 that we can take out
19 at the end, but there's an entry at 7/18 Pamela
20 Henson, and then there's an entry -- this is on
21 Exhibit 4?

22 A. Page 4. Correct.

23 Q. Page 5, I'm sorry. Page 5?

24 A. Okay.

1 Q. There's an entry at 7/18 you see that
2 says RA, I assume Snyder, interviewed Henson. Do
3 you see that?

4 A. I do.

5 Q. The next seems to be some kind of line
6 there, and then the next entry is on 722 RA and
7 Parrish interview Tona Lee Quinn. Do you see
8 that?

9 A. I don't see a line on one page, but
10 there's a line, a photographic line, because this
11 is a blurry copy here.

12 Q. Whatever it is, there's some kind of
13 marking in between the two entries?

14 A. Yes, I know where you're talking.

15 Q. Okay. Now, if we look at Exhibit 5,
16 we can find the Pamela Henson entry, do we not?

17 A. Yes, sir.

18 Q. And, in fact, the first four entries
19 on page 5 are identical on both pages, right, on
20 both copies, on the Exhibit 4 and Exhibit 5. Is
21 that right?

22 A. First three copies, you say, first
23 three paragraphs?

24 Q. I'm sorry, the first four entries.

1 A. First four paragraphs?

2 Q. Yes. Appear to be identical. Right?

3 A. Appear to be.

4 Q. So up and until the fifth entry on
5 page 5, we appear to have the same report. Is
6 that right?

7 A. Yes.

8 Q. Okay. Now, we get to the fifth entry
9 on Exhibit 5, and it is an -- it's an entry that
10 you and Snyder interviewed a Ruth Rose about Gary
11 Sexton. Do you see that?

12 A. Yes, sir.

13 Q. And that doesn't appear on Exhibit 4.
14 Does it?

15 A. It does not.

16 Q. And then there is a second entry also
17 date 7/18, and it says Snyder interviewed Virgil
18 Lacy, and this is also about Gary Sexton. Is
19 that right? We're on 5 now.

20 A. Yes, sir.

21 Q. Do you see that?

22 A. Reporting agent interviewed Virgil
23 Lacy.

24 Q. Yes, and, again, that isn't an entry

1 on the Exhibit 4. Is that correct? It's only
2 on 5?

3 A. That's correct.

4 Q. All right. And so after Lacy, we then
5 have an entry on both documents on 7/22/86 which
6 says that Parrish interviewed a Tona Lee Quinn,
7 and that's on both documents. Right?

8 A. It is.

9 Q. All right. So what appears here is
10 that the two entries having to do with Gary
11 Sexton, that being Lacy and Ruth Rose were
12 deleted or omitted from one copy of the document,
13 that being Exhibit No. 4. Is that correct?

14 A. It appears, yes.

15 Q. And it appears that it might have even
16 been cut and pasted, given that line that we see.
17 Is that right?

18 MS. EKL: Objection. Calls for
19 speculation and foundation.

20 THE WITNESS: The photocopies are
21 totally different, and that line, I have no idea
22 what the line is.

23 BY MR. TAYLOR:

24 Q. Well, whatever, in between where that

1 line is on the second document there's two
2 entries. Right?

3 A. There is.

4 Q. Okay. And was it a practice --
5 or strike that.

6 Was it -- sometimes were you either
7 requested to or did you instruct agents to delete
8 certain entries in a report?

9 A. Nothing was ever instructed to delete
10 an entry on our reports.

11 Q. Do you have any knowledge as to how
12 these reports came to be different, even though
13 they appear to be the same report, that one has
14 two entries about Gary Sexton taken out of it,
15 and the other has Gary Sexton in it?

16 A. I have no knowledge whatsoever of why
17 they're different.

18 Q. Now, would it be a practice of yours
19 or anyone working with you to delete certain
20 information that you didn't want to go into the
21 file of the Illinois State Police such as these
22 two entries on Gary Sexton?

23 MS. EKL: Objection. Form and
24 foundation as to his knowledge as to what other

1 people's motivations may be for deleting things
2 out.

3 MR. MANCINI: I also have an objection
4 on foundation and form. Thanks.

5 THE WITNESS: To my knowledge, that
6 was not done in our office. Just not done.

7 BY MR. TAYLOR:

8 Q. All right. And that would not be --
9 that would be -- would that violate regulations
10 of the Illinois State Police?

11 A. We didn't delete any information from
12 a report purposely.

13 Q. Do you have any knowledge of why this
14 information was deleted?

15 A. I don't have any knowledge whatsoever.

16 Q. Did you review either version of this
17 report on or about the date that it was typed
18 which is the 31st of July, 1986?

19 A. I don't recall reviewing the report,
20 but if it was submitted to my case file, I would
21 have looked it over.

22 Q. And have you had an occasion to look
23 in your case file to see which version of this
24 report was in the file?

1 A. I haven't had that occasion to compare
2 which report.

3 Q. Would this -- now, you do have a set
4 of your reports at home. Right?

5 A. Yes.

6 Q. Okay. And you would expect that
7 either one or both of these versions of the
8 report would be in that file. Would they not?

9 A. Yes.

10 MR. TAYLOR: Okay. Well, we would ask
11 for you to produce that file, and we can take a
12 look and see what's in there.

13 MS. EKL: I'll again represent we have
14 produced it. I believe it's probably the first
15 full set, because it doesn't have the numbers
16 marked on it from the court like the second one
17 does, but we can reproduce it again so that you
18 have it in its entirety, and you know which one
19 it is?

20 MR. TAYLOR: That's what I'm
21 interested in, what he as a defendant has rather
22 than what counsel has.

23 MS. EKL: I'm just representing to you
24 that we have given you copies of what he has

1 already.

2 MR. TAYLOR: We just didn't understand
3 what it was, so we appreciate you giving us the
4 version that he has.

5 MS. EKL: And just so you're clear,
6 these are our Bates stamped numbers. On the
7 second version here where it says C 108, that
8 represents that that was a number given to it in
9 the court file.

10 Look at the appellate record or the
11 lower court part of the record. That's how you
12 can distinguish which one was from the court file
13 versus some other place.

14 MR. TAYLOR: Okay. So C 108 and C 104
15 was in the court file?

16 MS. EKL: Right.

17 MR. TAYLOR: So Exhibit 4 was in the
18 court file, meaning that it was produced in the
19 criminal case?

20 MS. EKL: I can't represent whether it
21 was produced in the criminal case or not. I can
22 only represent that that's where we got it from
23 was from the Circuit Court file in Edgar County.

24 MR. TAYLOR: And C is the common law

1 record?

2 MS. EKL: I believe so.

3 BY MR. TAYLOR:

4 Q. Okay. Now, you testified earlier that
5 after you got the results back from Murphy you
6 chose to take the route of hypnosis. Right?

7 A. I don't recall getting the results
8 from Murphy, because I don't recall the
9 polygraph, but I did choose hypnosis.

10 Q. But you don't contest the fact that
11 since the report was directed to you, that you
12 are the one who got the report from Murphy?

13 A. That's true.

14 Q. And the group, meaning you and
15 McFatridge and Ray and Parrish, then decided to
16 take Darrell to a hypnotist. Right?

17 MR. MANCINI: Objection to form and
18 foundation.

19 THE WITNESS: We decided at one point
20 to take him to a hypnotist.

21 BY MR. TAYLOR:

22 Q. Right. And that was, I think you
23 said, after you got the polygraph you decided to
24 go in a different direction?

1 A. I don't recall the polygraph. I think
2 we understand that, but I don't recall the
3 polygraph whatsoever, but I do recall taking him
4 to the hypnosis.

5 Q. All right. And did you -- this
6 hypnotist was in St. Louis?

7 A. Yes, sir.

8 Q. Did you participate in transporting
9 him?

10 A. I don't recall that, but, yes, I did.

11 Q. All right. And who else went with
12 you?

13 A. I think it says in the report -- I
14 think it's in the report, Jim Parrish and Mike
15 McFatridge.

16 Q. And did you go by car or by plane?

17 A. We would have went by car.

18 Q. And this was sometime in November or
19 October? Do you know?

20 A. I don't recall that, sir.

21 Q. Is there a report that you wrote that
22 documents the occasion?

23 A. I think Jim wrote a report. There's a
24 report by one of us that says we went down there.

1 Q. All right. And the hypnotist's name
2 was Lee -- Lum, I'm sorry. Is that right, L-u-m?

3 A. That sounds right. That sounds right.

4 Q. And how was it determined to seek out
5 a hypnotist by the name of Lum in St. Louis?

6 A. I don't recall how we picked that
7 particular person.

8 Q. Had you -- in any previous case that
9 you've participated in, had you ever gone to a --
10 taken a witness to a hypnotist?

11 A. I had.

12 Q. You had not?

13 A. I have.

14 Q. All right. And on how many prior
15 occasions had you done so?

16 A. Before that? Before this?

17 Q. Yes.

18 A. I don't recall how many.

19 Q. Two or three times?

20 A. Possibly that, yes, at the most, okay.

21 Q. All right. So at least one other
22 time?

23 A. Yes.

24 Q. All right. And do you remember the

1 case that you did it in?

2 A. I don't.

3 Q. Do you remember the nature of the
4 case? Was it a murder case or a robbery case or
5 a drug case?

6 A. I had a case of an armed robbery one
7 time. I don't know where it was even at, but we
8 used a hypnotist on that early. That's before we
9 had our own.

10 Q. So in '86 you didn't have your own
11 in-house?

12 A. I don't believe so.

13 Q. Before you retired, did the Illinois
14 State Police have a hypnotist on staff?

15 A. They did.

16 Q. And did the hypnotist, was it that
17 person's job description to hypnotize witnesses?

18 A. If he was called upon to do that.

19 Q. So he was -- was he on staff but --
20 that wasn't his only --

21 A. He was a regular agent.

22 Q. Okay. So he was an agent who was
23 trained in hypnotism?

24 A. Yes.

1 Q. Now, was the man that you took Darrell
2 to, was he a law enforcement related hypnotist?

3 A. I believe on the report it says
4 doctor. Maybe not, but...

5 Q. Do you know if he worked for a police
6 department or a police agency?

7 A. I have no knowledge of that.

8 Q. Okay. Had you used him before in
9 other cases?

10 A. I don't recall if we have or not.

11 Q. All right. Did you know him prior to
12 taking Darrell there?

13 A. I don't recall that either.

14 Q. All right. Now, did you call Darrell
15 in and get his agreement to be hypnotized?

16 A. We did.

17 Q. And who met with him to explain to him
18 that you wished him to be hypnotized?

19 A. I don't recall who was at that time
20 when we asked him.

21 Q. Were you present?

22 A. I don't recall that.

23 Q. All right. Now, did someone, either
24 yourself or someone else, to your knowledge, tell

1 Darrell Herrington that he had not passed the
2 polygraph?

3 A. I have no knowledge of that.

4 Q. Well, one of the reasons you do a
5 polygraph is so that if a person isn't telling
6 the truth you can confront him with that, and
7 hopefully he will then tell the truth?

8 A. I have no knowledge if he was ever
9 approached saying that he did not do well on a
10 polygraph, because I can't even remember the
11 polygraph itself.

12 Q. But isn't that one of the ways that
13 you used a polygraph ordinarily, that if the
14 person failed, you would tell him he failed and
15 that you would hope would then cause him to be
16 more forthright in terms of what his knowledge
17 was of a case?

18 A. Yes, sir.

19 Q. All right. And so if you were
20 following your normal practice, you would have
21 confronted Darrell with the fact that he was
22 found to be non-cooperative and to have failed
23 the polygraph. Right?

24 A. I don't recall ever confronting him,

1 because I just cannot recall the polygraph.

2 Q. My question is if you were following
3 your normal practice, you would have done that?
4 You just don't remember whether you did, but
5 normally you would have. Right?

6 A. Yes.

7 Q. All right. And I take it that you do
8 not recall what Herrington's reaction was if he
9 was confronted with this polygraph result. Is
10 that right?

11 A. I don't recall that, no, I don't.

12 Q. But subsequently either in the same
13 conversation or in some subsequent conversation
14 he was informed that you wanted him to submit to
15 hypnosis. Right?

16 MS. EKL: Objection. Form.

17 THE WITNESS: He was asked about the
18 hypnosis.

19 BY MR. TAYLOR:

20 Q. And what did he say?

21 A. I have no knowledge of what he said to
22 that. Evidently he agreed to do that, because we
23 went to the hypnosis.

24 Q. Okay. Whose car did you drive him

1 down in?

2 A. I have no knowledge. I don't remember
3 the trip.

4 Q. All right. Do you remember actually
5 getting to the hypnotist's office?

6 A. I'm sorry. I don't remember that
7 trip. I'm sorry.

8 Q. Did you make any arrangements with the
9 hypnotist to record any portion of the
10 examination that he was going to do of Darrell
11 Herrington?

12 A. I don't recall that, but I do think
13 there was a video made of that.

14 Q. And, in fact, was that video -- it did
15 not include the actual hypnosis process. Did it?

16 A. I don't recall what the video really
17 was actually about. I did see it at one time,
18 but I don't recall the video.

19 Q. All right. Well, was it the practice
20 -- in terms of a few times that you did hypnosis
21 was it your practice to videotape the questioning
22 or the interview that the hypnotist would do
23 after the person was hypnotized?

24 MS. EKL: Objection. Form.

1 THE WITNESS: I don't really recall
2 what the normal practice was.

3 BY MR. TAYLOR:

4 Q. Do you know what your normal practice
5 was?

6 A. I don't recall that practice. I don't
7 know what the practice was for us.

8 Q. All right. Would it have been
9 appropriate practice to have videotaped a
10 hypnotic procedure?

11 A. I'm sure it was.

12 Q. Do you know any reason why the process
13 of hypnosis was not videotaped but only the
14 interview itself was taped in the Herrington
15 case?

16 A. It's my understanding that the
17 hypnosis was videotaped.

18 Q. Your understanding was that the actual
19 process of hypnotizing him was videotaped?

20 A. I don't recall. I could be totally
21 wrong on that, but I've not seen that tape. I
22 didn't know there was a hypnosis made, but there
23 was a tape made that -- if you're talking about a
24 cassette tape, that was made the day before he

1 went down for hypnosis. That was made by us, the
2 tape.

3 I'm going to have to answer the
4 question I don't recall about any tape.

5 Q. Didn't you just say previously that
6 you did look at the tape at some point?

7 A. I thought there was a tape. There has
8 to be a videotape of the hypnosis. It's probably
9 someplace in the report, and I believe it might
10 be in Jim Parrish's, if you want to look at that.

11 Q. All right. Well, let's take a look at
12 your report of 11/24 and 25 and 12/1 and 12/2.
13 That's at 11951.

14 A. It's in my report. I was mistaken.

15 Q. And it indicates that it was November
16 25th that -- 1986 that yourself and McFatridge
17 and Parrish took Darrell Herrington to St. Louis.
18 Is that right?

19 A. Yes, to Dr. John Lum.

20 Q. Right. And he was a psychiatrist. Is
21 that right?

22 A. Does it say that?

23 Q. If you look at the second paragraph.

24 A. Licensed doctor, yes. It says that.

1 Q. In psychiatry. Right?

2 A. It does say that.

3 Q. And this is your report?

4 A. It is my report.

5 Q. And it says that he inducted -- I
6 assume it should be induced Darrell Herrington
7 into hypnosis, and while under hypnosis, Dr. Lum
8 and Herrington talked about incidents that had
9 occurred on July 5th and 6th of '68. Right?

10 A. That's correct.

11 Q. Okay. That was the purpose of taking
12 Darrell down there. Right?

13 A. That's correct.

14 Q. And that was an investigative tool, in
15 your judgment?

16 A. Yes, sir.

17 Q. And that was something that was agreed
18 upon by everybody, and in fact everybody but Ray
19 went along and actually accompanied him. Right?

20 A. Yes, sir.

21 Q. And it says during this time the
22 discussion was taped and put on a VCR. The VCR
23 of this hypnosis is being obtained by the Paris
24 Police Department, so I take it that the Paris

1 Police Department did obtain that VCR tape and
2 that you viewed it at some point. Is that right?

3 A. Yes, sir.

4 Q. Because you were not -- none of the
5 three of you were present when he was questioned
6 by the hypnotist. Is that right?

7 A. I don't recall that we were, no.

8 Q. And you -- were you present when he
9 put Darrell Herrington under hypnosis?

10 A. I don't recall going down there, so I
11 can't recall that part.

12 Q. All right. Now, you're reporting in
13 your report that the discussion was taped and put
14 on a VCR. Am I reading that correctly, that the
15 hypnosis itself was not taped, but the discussion
16 that proceeded after the hypnotic state was
17 induced was taped?

18 MS. EKL: Objection. Mischaracterizes
19 the report.

20 THE WITNESS: I wrote and report
21 during this time the discussion was taped and put
22 on a VCR. The VCR and hypnosis was being
23 obtained by the Paris Police Department.

24 I take it from that that the hypnosis

1 part was probably -- you would have to look at
2 the tape, I guess, because I can't remember the
3 tape, what was on it.

4 BY MR. TAYLOR:

5 Q. So you read your report to indicate
6 that not only the discussion but also the act of
7 the hypnosis itself was also videotaped. Is that
8 correct?

9 MS. EKL: Objection to form.

10 THE WITNESS: I read it as the
11 hypnosis part. I use the word discussion as the
12 doctor talking to Darrell. That's how I read it.
13 It may not be read the same way, but that's how I
14 read that report.

15 BY MR. TAYLOR:

16 Q. Okay. So do you read the report to
17 state that the VCR or the tape included the
18 actual process of hypnotizing him?

19 A. I read it as that.

20 Q. All right. And do you have any memory
21 of when you looked at the VCR tape as to whether,
22 in fact, the process of hypnosis was videotaped?

23 A. I have no memory of the tapes, and I
24 guess when we're discussing hypnosis, are you

1 talking about putting a subject under the
2 hypnosis?

3 Q. Uh-huh.

4 A. I don't know if that particular part
5 is put there. Probably so. I don't remember the
6 tape whatsoever, but, as I read this, it appears
7 to me that probably maybe the statement what he
8 said and the hypnosis is on the tape. We would
9 have to look at the VCR to make sure of that. I
10 don't recall that. I'm sorry.

11 Q. Now, in your report you don't indicate
12 what, in fact, Darrell said under hypnosis. Do
13 you?

14 A. No, I don't.

15 Q. You're relying on the videotape. Is
16 that right?

17 A. Yes, sir.

18 Q. Was there any comparison made by you
19 or any of the others on the team between what
20 Darrell said under hypnosis and what he had
21 previously said on prior occasions to you and to
22 others in interviews?

23 A. I just can't recall what was on that
24 tape.

1 Q. Without recalling what was on the
2 tape, did you or anyone else on the team draw a
3 conclusion as to whether you had gained any
4 additional information from the hypnotized
5 statement?

6 A. I don't recall if we did or not.

7 Q. Was that the hope that he would, in
8 fact, be more forthcoming in terms of what he
9 said happened?

10 A. I don't recall what information there
11 was that we got from the hypnosis at all.

12 Q. But what I'm asking you is the plan
13 was to have him hypnotized so that you could get
14 more information from him than he was giving up
15 in a non-hypnotic state in the past. Right?

16 A. Yes, sir.

17 Q. And so my question is did you get more
18 information?

19 MS. EKL: Objection. Asked and
20 answered.

21 THE WITNESS: I don't recall what was
22 on the VCR.

23 BY MR. TAYLOR:

24 Q. All right. So you don't know. Did

1 you -- was the interview that was done under
2 hypnosis inconsistent in any way -- significant
3 way with what he had said previously?

4 MS. EKL: Objection.

5 THE WITNESS: I don't recall without
6 the VCR.

7 BY MR. TAYLOR:

8 Q. And you didn't record in your report
9 any analysis of what he said under hypnosis in
10 comparison to what he had said previously. Is
11 that right?

12 A. Only the VCR is in Paris PD.

13 Q. So if someone wanted to know or draw
14 conclusions about the comparative statements that
15 were made by Herrington on the hypnosis and
16 previously while not under hypnosis, they would
17 have to look at the VCR tape and compare it to
18 the prior reports. Is that right?

19 MS. EKL: Objection. Form and
20 foundation.

21 THE WITNESS: Yes.

22 BY MR. TAYLOR:

23 Q. Did you do that?

24 A. Compare it?

1 Q. Yeah.

2 A. I don't recall what's on the tape.

3 Q. I'm not asking you --

4 A. I'm sure that I watched the tape. I'm

5 sure that I watched that tape, but I can't --

6 after years, I can't remember what's on that

7 tape. I have never seen it since.

8 Q. And you didn't write anything down

9 about any comparative analysis or --

10 A. Nothing.

11 Q. All right. Did you have any

12 discussion with McFatrige or Parrish about the

13 hypnotic statement?

14 A. I'm sure we did. I don't recall what

15 discussion we had.

16 Q. Did you conclude whether it was a

17 worthwhile endeavor to have him hypnotized, or

18 were you basically in the same position when

19 you -- after the hypnosis with regard to

20 Herrington's usefulness as a witness that you

21 were before he was hypnotized?

22 A. I don't recall what conversation we

23 did have with McFatrige and Parrish about the

24 hypnosis.

1 Q. All right. But my question is without
2 recalling conversations, was Herrington basically
3 in the same position as a witness in terms of his
4 credibility and usefulness after the hypnosis as
5 he was before?

6 MS. EKL: Objection. Form and
7 foundation. He's already testified about five
8 times -- at least five times he doesn't recall
9 what was on the hypnosis tape.

10 BY MR. TAYLOR:

11 Q. Right.

12 A. I don't recall.

13 Q. That's not my question. Okay. All
14 right. And was Herrington's credibility further
15 diminished by what he said under hypnosis?

16 MS. EKL: Objection to form.

17 THE WITNESS: I don't recall what was
18 on the VCR tape.

19 BY MR. TAYLOR:

20 Q. I'm not asking you what's on the VCR
21 tape. I'm asking if you have any memory of
22 whether he was a diminished witness after the
23 interview or not?

24 A. Well, I would think I would have to

1 know what was on the VCR tape before I could
2 answer your question whether it was a plus or
3 minus.

4 Q. I don't believe that's so, because I'm
5 not asking you to make the comparison now. I'm
6 asking whether you remember a conclusion that you
7 drew then as to his credibility after the
8 hypnotic episode?

9 A. And I don't recall what our diagnosis
10 was.

11 Q. And you don't remember what yours was
12 either. Right?

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

14 Q. Okay. Now, in your reports after the
15 hypnotic trip, which was on November 25th, I
16 believe, of 1986 there's another entry in early
17 December. Is that right?

18 A. Are you talking about the same page?

19 Q. Yeah.

20 A. Are you talking about Marsha Edwards?

21 Q. Yeah.

22 A. Yes.

23 Q. And that's, what, December 2nd?

24 A. No, it's 1. 12/1.

1 Q. And that's the last entry in your
2 report dated November and December of 1986. Is
3 that right?

4 A. There's one that's on 12/2.

5 Q. Okay. Is that the last one, the 12/2
6 entry?

7 A. It appears that it is. That's on
8 11952.

9 Q. 11952?

10 A. Nancy Land.

11 Q. So there's the last entry in that
12 report. Is that right?

13 A. That appears so.

14 Q. Okay. And the next report that you
15 made in the case was dated February 17th. Is
16 that right?

17 A. That's the next one in this sheet
18 here, yes.

19 Q. Do you know of any other reports that
20 you did that were related to this case and put in
21 this case file between December 2nd and February
22 6th?

23 A. At this time, I have no knowledge of
24 that anymore.

1 Q. All right. Now, on the 17th you had
2 an interview with Debra Rienbolt. Is that
3 correct?

4 A. I did.

5 Q. Now, what, if anything, were you doing
6 in terms of the investigation from December 2nd
7 to February 17th?

8 A. I would have no recollection of what
9 was going on between then and now.

10 Q. But it's fair to say that you -- there
11 was nothing that you did of significant enough
12 importance that you reduced it to a report. Is
13 that fair to say?

14 MS. EKL: Objection. Form.
15 Foundation.

16 THE WITNESS: There were other reports
17 coming in. I could have been away from Paris
18 working on another case also. I had other cases
19 to work on.

20 BY MR. TAYLOR:

21 Q. Does that seem likely to you that you
22 took a break, of sorts, from this particular
23 investigation, because it had reached a certain
24 point that there was no new information

1 developing so that you went and worked on other
2 cases?

3 A. I had other responsibilities that I
4 had to keep up, you know, updating reports and
5 other cases, so I don't know where I would have
6 been during that time. I could have been in
7 Paris all that time, but I did have other
8 responsibilities.

9 Q. But assuming for a moment that there
10 are no other reports from you in that two
11 month -- or a two and a half month time frame, we
12 can assume that you were most likely working
13 other cases. Is that fair to say?

14 A. I have no idea. I was working
15 someplace, either there -- some other case or
16 here.

17 Q. Okay. Now, did you in January of 1987
18 did you have an occasion to work an investigation
19 of a suicide by someone named Phil Stark?

20 A. I did.

21 MR. TAYLOR: And could we mark this as
22 Exhibit No. 2?

23

24

1 (At this point the court reporter
2 marked Eckerty No. 2 for purposes of
3 identification.)

4 MS. EKL: This is probably a good time
5 to put on the record that it is 2:15, and we plan
6 on completing the deposition by 5:00 today.

7 However, if at 5:00 I'm told that
8 there's some questions that are additional that
9 we think will wrap it up, we would be willing to
10 stay until 6:00 at the latest if that's going to
11 make the deposition be completely over, but if at
12 5:00 we're told that we still have several hours
13 left and that you don't intend on wrapping it up
14 today, then we'll be completing the dep by 5:00,
15 but, as we've said all along with all three of my
16 clients, we presented them for two full days. We
17 came early today, stayed late yesterday, gave you
18 an additional hour, so I hope that you're using
19 your time accordingly and attempting to complete
20 the deposition in the time period that we've
21 allotted.

22 BY MR. TAYLOR:

23 Q. Now, I'm showing you a group exhibit
24 that I've marked as Exhibit No. 2. You see

1 there's a five page handwritten --

2 MS. EKL: For the people on the phone,
3 we've marked 17562 through 17604.

4 BY MR. TAYLOR:

5 Q. Now, the -- the first document we see
6 here is a handwritten part called a follow-up
7 report, No. 030187. Do you see that?

8 A. Yes, sir.

9 Q. And do you recognize that to be a
10 report written by Mr. Parrish?

11 A. It appears to be that he's the
12 reporting officer here.

13 Q. All right. And looking at page 4 of
14 this handwritten report, he references an
15 interview you did at about 5:30 p.m. on
16 January 7th, 1987. Do you see that?

17 A. Okay. Is that the bottom right-hand
18 side, is that 69?

19 Q. Yes. And you're talking about the one
20 right in the middle at 5:30 p.m.?

21 A. Yeah.

22 Q. Now, did you either before or during
23 this Stark's investigation of this suicide were
24 you aware of evidence that indicated that he had

1 been involved in sexual activities with minors?

2 A. I don't recall that I had that
3 information.

4 Q. All right. Was that something that
5 you indicated in your report?

6 A. I don't know what was indicated in the
7 report. Is this the report that you're talking
8 about right here in front of me?

9 Q. No. I'm talking -- in this packet do
10 you see a report dated January 5th, 6th, and 7th,
11 1987?

12 MS. EKL: What's the Bates stamp
13 number?

14 MR. TAYLOR: That's Bates stamped
15 No. 17582.

16 THE WITNESS: Okay. I find my reports
17 now. What page would that be on, sir?

18 BY MR. TAYLOR:

19 Q. That would be on 017582.

20 A. On the interview with --

21 Q. That is a report that you did that has
22 several interviews that you did. Is that
23 correct?

24 A. Yes.

1 Q. And this was -- this interview, along
2 with the rest of the file was -- had a case
3 number that was different than the Rhoads
4 homicide. Is that correct?

5 A. Yes.

6 Q. And this -- your documents would,
7 therefore, be filed in a different file than the
8 Rhoads file. Is that correct?

9 A. Yes, sir.

10 Q. And did you in your investigation
11 develop any information that Starks was connected
12 to the Rhoads homicide?

13 A. I don't recall what information we
14 developed in working Phil's death. I would have
15 to read the report and tell you. I don't recall
16 any information -- what information we did
17 develop.

18 Q. Okay. Do you remember that Starks,
19 according to his wife, had told her about a dream
20 he had either the night of or the night after the
21 murders of the Rhoads in which he dreamed that he
22 had, in fact, stabbed them?

23 A. I don't recall that, but you're
24 reading that there on the certain page?

1 Q. It's in the handwritten report of
2 Parrish.

3 A. I don't recall that.

4 Q. In the Parrish report it says that at
5 4:15 and 4:30 Phil was in bed asleep, and he woke
6 up. He was having a nightmare. He was in a cold
7 sweat, and he stated that Phil made the statement
8 that he saw a knife going up and down.

9 Do you see that on page 3? Better
10 yet, let me show you it to you in your report.

11 Take a look at page 3 of your report.
12 Nancy stated the day of --

13 A. I'm not with you. Let me get there,
14 please.

15 Q. This is Plaintiff 017584.

16 A. Nancy Stark, top interview.

17 Q. Yes.

18 A. Okay --

19 Q. And if you look at the second
20 paragraph, Nancy stated the day of or the day
21 after, she could not remember, the Rhoads
22 homicide that Phillip woke up in a cold sweat.
23 He told her that he had dreamt of stabbing
24 someone; that he was continually worried about

1 whether he had committed the homicide, meaning
2 the Rhoads homicide.

3 Nancy stated that she would sit and
4 talk with him many times about the homicide and
5 then agreed that Phil could not have committed
6 the homicide, because he had been working that
7 day. She said -- and then it goes on about that
8 he talked to others about his worries about the
9 homicide.

10 You, in fact, participated in an
11 interview with her on or about January 7th, 1987,
12 which you reduced to this report in which it had
13 information about Phillip Starks' potential
14 connection to the Rhoads homicides. Is that
15 right?

16 A. Yes.

17 Q. Now, this report went into the Starks
18 file but not into the Rhoads homicide file. Is
19 that right?

20 A. It did.

21 Q. And would you agree with me that this
22 contained information that could have been
23 relevant to the homicide, the Rhoads homicide, or
24 did you determine that it had no relevance?

1 A. It was in a separate case altogether.
2 It was a death investigation of Phil Stark, and
3 so it was a separate case number, separate
4 case -- totally different than the Rhoads
5 homicide.

6 Q. I understand that, but, as an
7 investigator, sometimes you might develop
8 information that was relevant to two different
9 cases. Right?

10 A. Yes, sir.

11 Q. And if you did develop information
12 that was relevant to two different cases, would
13 you send a copy of the document to the two
14 different files to make sure that both cases had
15 the information that was relevant to the -- to
16 that particular case?

17 A. I don't recall how we handled that.

18 Q. Well, you could do that. Couldn't
19 you?

20 A. Or it could have been done with
21 indices.

22 Q. I'm sorry. What did you say?

23 A. Indices.

24 Q. What is that?

1 A. Name check. I don't know if that's
2 possible either. I don't know how we really
3 handled that. I can't recall that part.

4 Q. Wouldn't it be good investigative
5 practice to make sure that reports that had
6 relevance to two different cases would go into
7 both files so there would be no possible problem
8 with the fact that one case might not have the
9 information that could be relevant to it?

10 A. I don't recall -- evidently there was
11 not one sent to that -- how we handled that.
12 This would have been handled under a separate
13 case number, because it was a death
14 investigation. I'm sure you realize that. It's
15 a separate deal altogether.

16 Q. But I'm asking you a different
17 question. I'm asking you whether it would have
18 been a better -- strike that.

19 Could you read back the question that
20 I just asked him?

21 (AT this point the court reporter read
22 aloud the requested portion of the
23 transcript.)

24 THE WITNESS: It would probably be

1 good, but I don't know legally if you could do
2 that. Certain parts of this case should not be
3 put in another case.

4 BY MR. TAYLOR:

5 Q. Well, if it were relevant --

6 A. You know that, but if it was legal, I
7 don't know.

8 Q. Of course, it would have to be legal,
9 would it not, to put information that was
10 relevant to a homicide investigation, to put it
11 in the file of that homicide?

12 A. I'm just thinking about scratching
13 this paragraph out and that paragraph out and
14 just put this paragraph in another file.

15 Q. Well, these files were under security
16 at the Illinois State Police. Were they not?
17 They weren't handed out to the public. Were
18 they?

19 A. They were not.

20 Q. So you didn't have to worry about the
21 fact that a report that might have some
22 information that would be somewhat sensitive with
23 regard to a suicide would get into the wrong
24 hands if you sent that to the Rhoads homicide

1 file, because it had relevance to Rhoads. Isn't
2 that right?

3 A. And I don't know why it wasn't done.

4 Q. And, in fact, you made no effort to
5 have it done. Is that right? In other words,
6 you didn't put two case numbers on it. Did you?

7 A. There's no way you could have done
8 that.

9 Q. Why not?

10 A. Put two case numbers on it? Well, the
11 way our system is set up, it goes into one case
12 number.

13 Q. So you couldn't have put 87-L-0072 and
14 then 86, whatever the Rhoads case number was, and
15 then send one copy of this file to Rhoads and one
16 copy of this file to Starks, the suicide file?
17 You couldn't have done that?

18 A. Probably could have disseminated it at
19 the bottom of my -- that probably could have been
20 done, and I don't know why that was not done.

21 Q. You did not do it?

22 A. I did not do it.

23 Q. So in the dissemination box, you could
24 have put one copy, Rhoads file?

1 A. I don't recall ever doing that in any
2 case.

3 Q. But you could have?

4 A. It's possible. I would have to check
5 with the way their reporting system is.

6 Q. Well, another way you could have done
7 it, could you not, could have reproduced the
8 report and changed the case number and just sent
9 the report under another case number, under the
10 Rhoads case number to that file as well? Would
11 that have been another way?

12 A. I don't know if that could have been
13 done. This report was written for this case
14 number.

15 Q. Now --

16 A. I don't know why it was not done.

17 Q. Okay. Was there anything preventing
18 you from writing a separate report that would
19 have gone to the Rhoads file that would have
20 contained any and all information that might have
21 been relevant to that case?

22 A. I probably can't think of anything
23 that would have prevented me from doing that.

24 Q. Okay. At that time were you familiar

1 with another very high profile case that was
2 being prosecuted I think with the assistance of
3 the Attorney General's Office, the Nicarico case?

4 A. Nicarico?

5 Q. Yeah, the Cruz and Hernandez case up
6 in DuPage County?

7 A. No.

8 Q. You weren't familiar with that
9 particular case? There was a dream statement
10 that a defendant made that he was convicted on.

11 A. I'm not familiar with that one. I'm
12 sorry.

13 Q. But have you ever had a case where a
14 witness had said that he dreamed about committing
15 a murder, and then evidence was used as an
16 admission against him?

17 A. I don't recall one that I had.

18 Q. It's possible, though. Right?

19 A. I just don't recall that.

20 Q. Well, do you remember the Gary Gauger
21 case, another case up in the northern part of the
22 state where he gave a statement where he said
23 that he had dreamed that he had killed his
24 parents, and that that was used to convict him?

1 A. Sorry. I don't recall that.

2 Q. But you would agree with me that in
3 certain circumstances a dream statement saying
4 that someone dreamed that they committed a
5 homicide could be used against them in a case and
6 could make them a suspect in a case. Right?

7 A. I suppose there's a possibility of
8 that.

9 Q. Did you consider Starks to be a
10 suspect when you -- when you received the
11 information about his dream statement?

12 A. We documented all the information we
13 had about Phil, and everybody is a suspect, and I
14 think that we probably -- we documented
15 everything that we had, and I believe, if I'm not
16 mistaken, we took hair samples of Phil.

17 I stand to be corrected. I think we
18 did and sent them to the crime lab, because he
19 was going to be buried in case something
20 developed after his funeral.

21 Q. Did you take blood samples as well?

22 A. Took something. Two or three things.
23 There's a lab report. I'm sure you got the lab
24 report, maybe.

1 Q. Well, if he was going to be buried,
2 you probably should take all of his bodily fluids
3 that could be tested, right, not just his hair?

4 MS. EKL: Objection. Form.

5 THE WITNESS: That's part of the
6 Rhoads homicide case that's on one of those
7 evidence logs that was logged in.

8 BY MR. TAYLOR:

9 Q. But these reports were not in there?

10 A. These were not, but that lab thing
11 was, so he was a suspect.

12 Q. Okay. He was a suspect. Okay. I'm
13 just going to have to take a quick bathroom
14 break.

15 (At this point a short recess was
16 taken.)

17 BY MR. TAYLOR:

18 Q. I want to show you what was previously
19 marked at Parrish's Deposition Exhibit 3, and
20 I've opened it to the page that I want to
21 initially ask you about which is Plaintiff's
22 No. 020952. This is an FBI BUTEL or AIRTEL, and
23 I want to ask you specifically about statements
24 that are attributed to Parrish here, and Parrish

1 has testified about this at his deposition.

2 It says: Parrish advised the suspects
3 who he names as Steidl and Whitlock were
4 developed through informant information; however,
5 advised he considered the source to be a poor
6 witness.

7 Now, Parrish has said that the
8 suspects, of course, are named, Steidl and
9 Whitlock, and that the informant is Herrington.
10 Given that testimony, would you agree that as of
11 January 21st, 1987, that Herrington was a poor
12 witness?

13 A. I don't recall ever seeing this
14 report, but Jim has written that there.

15 Q. I'm asking you do you agree with Jim's
16 assessment?

17 A. I agree with what he's -- what I'm
18 reading, I can read that he says that he's a poor
19 witness.

20 Q. I'm asking if you agree with that
21 assessment by Jim?

22 A. If I agree -- I'm just trying to see
23 what you're trying to ask me. If I agree that
24 Herrington at this point is a poor witness?

1 BY MR. TAYLOR:

2 Q. Yes. As of January 21st, 1987, which
3 is after the polygraph and after the statements
4 and after the hypnosis?

5 A. I personally would not consider him a
6 poor witness.

7 Q. All right. And do you know whether it
8 was the consensus of others on the team, that
9 being McFatrige and Ray, that he was a poor
10 witness?

11 A. I don't recall what their thinking was
12 on this.

13 Q. All right. You say that -- what kind
14 of witness would you say that Herrington was as
15 of the 21st of January, 1987?

16 A. I would not describe him as poor.

17 Q. What would you describe him as?
18 Mediocre?

19 A. I would describe Darrell as above
20 average information.

21 Q. Above average information or above
22 average witness?

23 A. Darrell was an alcoholic, and if I was
24 to was to pick a witness, I probably wouldn't

1 pick Darrell as my witness, but sometimes you
2 don't have choices of who is going to be a
3 witness in your case, so I don't know whether
4 we're talking about him -- if I was going to pick
5 a witness, you can't groom your witnesses, but as
6 far as a witness, I would probably consider him
7 at this point above average.

8 Q. Above average?

9 A. Average to above.

10 Q. All right. Do you know how McPatridge
11 evaluated him?

12 A. I don't recall that.

13 Q. And do you know how Ray evaluated him?

14 A. Don't recall that.

15 Q. All right. But would you agree with
16 Parrish that, in fact, as of the 20th or the 21st
17 of January of 1, '87, that he was -- that Steidl
18 and Whitlock were suspects?

19 A. Yes, sir.

20 Q. And if you look at the next page, it
21 says: Parrish advised that they had not
22 determined a motive for these crimes. As of
23 January of '87 did you agree with Parrish's
24 statement that you had not determined a motive

1 for the crimes as of yet?

2 A. Not a positive motive.

3 Q. I'm sorry?

4 A. Not a positive motive, no.

5 Q. So you agreed with him?

6 A. Well, let me see how he stated it.

7 Q. Parrish advised that they have not
8 determined a motive for these crimes.

9 A. Yes.

10 Q. Do you agree with that?

11 A. Yes.

12 Q. And it says also that Parrish said to
13 date they do not have a probable cause for arrest
14 of the suspects. Do you agree with that
15 assessment at that point?

16 A. To date?

17 Q. Yes, to date as of January 21st, '87.

18 A. Yes, sir.

19 Q. So you disagree with Parrish on what
20 kind of witness Darrell was, but you agree with
21 him on the lack of probable cause and on the fact
22 that Steidl and Whitlock were suspects as of that
23 date. Is that correct?

24 A. Yes.

1 Q. Okay. And, now, was it also the
2 conclusion not only of you and Parrish but of the
3 others of the team, that being McFatridge and
4 Ray, that as of January 21st, 1987, there wasn't
5 probable cause to arrest?

6 MS. EKL: Objection. Foundation.

7 MR. MANCINI: Objection as to form.

8 THE WITNESS: I don't recall what
9 their conclusion was on this date with everybody.
10 BY MR. TAYLOR:

11 Q. But in the aftermath of the hypnosis
12 around Christmastime and early in '87 before you
13 had gotten Rienbolt, was there a consensus among
14 the team that there wasn't sufficient probable
15 cause to arrest?

16 MR. MANCINI: Objection to form and
17 foundation.

18 THE WITNESS: Did you ask me if there
19 was not enough?

20 BY MR. TAYLOR:

21 Q. Was there a consensus that there was
22 not enough evidence to arrest -- not enough
23 probable cause to arrest?

24 A. I don't recall that, but probably

1 there wasn't, because there wasn't an arrest
2 made.

3 Q. Okay. Now, I want to call your
4 attention to another portion of this group
5 exhibit, and I want you to look at Plaintiff's
6 Exhibit 17179 which is a newspaper report.

7 A. Yes, sir.

8 Q. And it's a Beacon News Paris,
9 Illinois, Monday, February 2nd. Do you see that?

10 A. Yes, sir.

11 Q. All right. Now, the Beacon News was
12 the main, if not only, newspaper locally in
13 Paris. Is that right?

14 A. Yes, sir.

15 Q. And were they from time to time
16 running articles about the investigation with
17 regard to the Rhoads homicides?

18 A. I suppose they did, yes.

19 Q. Now, did you have any communication
20 with the media with regard to the Rhoads case?

21 A. From time to time they probably came
22 by to see if anything was going on. It's a small
23 town.

24 Q. So from time to time you might give

1 them any information that you have that you felt
2 that was -- that you were authorized to
3 publicize?

4 A. I would not. Mike McFatridge would.

5 Q. So you would direct any inquiries that
6 you got from the media to Mike McFatridge?

7 A. Yeah, he was running the case.

8 Q. Well, he was one of the people running
9 the case?

10 A. He was the boss. We were working for
11 him. That's why we always considered, whatever
12 county we're working in, that State's Attorney,
13 we worked for him and worked the case the way he
14 wanted it.

15 Q. But you also were working for the
16 police chief of Paris?

17 A. Oh, yes, were assisting them, yes,
18 sir.

19 Q. So, in that sense, I guess you would
20 say both Ray and McFatridge were the bosses?

21 A. They were in charge of the press
22 releases, what they wanted to tell.

23 Q. Now, in this particular statement he
24 refers to, and I'm talking about McFatridge, said

1 that -- he mentions that you and Parrish and
2 Eckerty are regularly meeting, you and Parrish
3 and he, McFatridge, are regularly meeting and
4 discussing the case. Is that right?

5 A. Well, I'm having a heck of a time
6 reading this thing, but you tell me just about
7 where you're at, and I'll try to focus in on
8 that.

9 Q. It says -- the paragraph on the second
10 column --

11 A. Yes, sir.

12 Q. -- Paris City Detective Parrish and
13 Department of Criminal Investigation Detective
14 Jack Eckerty are working on the case, McFatridge
15 said?

16 A. I follow you, yes, sir.

17 Q. The three men met in Champaign Friday
18 to discuss the crime lab -- at the crime lab to
19 discuss exactly what evidence has been obtained
20 and what analysis could be performed.

21 Is that accurate in terms of the
22 meeting you had about that time at the crime lab
23 in Champaign?

24 A. That's accurate on what's in this

1 newspaper article.

2 Q. Well, is it accurate in terms of you
3 did have such a meeting?

4 A. I don't recall that meeting, but this
5 is accurate in the newspaper. That's what the
6 article says. I don't recall that meeting.

7 Q. And it says McFatridge said the three
8 men meet weekly to discuss the case. As long as
9 there are matters to investigate, then the
10 outlook has to be considered positive in solving
11 the murders, the State's Attorney said.

12 So is this accurate, not only in the
13 fact that it was in the newspaper, but that, in
14 fact, you were meeting at least weekly to discuss
15 the case in January of 1987?

16 A. It's February.

17 Q. Well, yeah, February 2nd. I assume
18 he's talking about the period just before that.
19 At the time -- all right. At the time on or
20 about February 2nd were you meeting weekly with
21 McFatridge and --

22 A. I would say at least weekly, yes.

23 Q. All right. Now, the next paragraph he
24 says: A crime screen reconstruction expert

1 continues to work on the flow chart time study in
2 the case. Contrary to what investigators
3 believed at the beginning of the investigation,
4 the reconstruction expert does not sequence the
5 crime. It is really not like an accident
6 reconstruction expert, McFatrige said.

7 Now, were you working with this crime
8 scene reconstruction expert?

9 A. I don't recall a crime scene
10 reconstruction expert.

11 Q. All right. Did you have any knowledge
12 of a crime scene reconstruction expert?

13 A. I would have had in the case, but I
14 don't remember one now. There could have been,
15 but I don't recall one.

16 Q. Were there any reports from this
17 reconstruction expert?

18 A. I've not found any.

19 Q. And you have not seen -- did you see
20 any flow chart with regard to the time study in
21 the case that a crime scene reconstruction expert
22 was doing?

23 A. I don't think there was any in my file
24 of that. I've not seen a thing.

1 Q. If it weren't in your file, do you
2 remember there being a flow chart?

3 A. No, sir.

4 Q. Or and any kind of time study. Is
5 that right?

6 A. No, I don't recall one. There could
7 have been. I just don't recall it. Yeah.

8 Q. Now, Herrington had said that the --
9 he had first headed out to the Rhoads' house
10 right after the bars closed around 12:00 or
11 12:30. Right?

12 A. I think so. Yes.

13 Q. And then he said that shortly
14 thereafter, according to him, Steidl and Whitlock
15 had gone up into the building, and then shortly
16 thereafter that he went up, and shortly after
17 that, he left. Right? You're nodding your head
18 yes?

19 A. Yes.

20 Q. So time-wise, that would make the
21 murders happen somewhere around 1:00 at night.
22 Right?

23 A. Could have.

24 Q. Well, when you looked at -- and yet

1 Herrington then said he ran home and got there
2 just before dawn. Right?

3 A. I said it could have happened then.
4 We can't determine when it happened.

5 Q. When you look at Herrington's story,
6 did you have some questions about the credibility
7 of it, given the fact that he seemed to be
8 telling a story that took place in about 30 to 45
9 minutes, and he was saying that it started around
10 1:00, and it ended around 6:00 or 7:00 in the
11 morning? In other words, didn't it occur to you
12 when you analyzed his statement that he had
13 unaccounted for four or five hours in there from
14 the time that he said that they got to the
15 building and the murders took place to the time
16 he got home?

17 MS. EKL: Objection to form.

18 MR. MANCINI: Objection to form.

19 THE WITNESS: I don't recall what we
20 were thinking about his statement at that time.

21 We never put a time on it. I have no
22 recollection of our thinking on that.

23 BY MR. TAYLOR:

24 Q. Well, you knew that the firemen got to

1 the scene about 4:30, 4:40 in the morning.

2 Right. That, you had documented. Right?

3 A. No problem with that, yes.

4 Q. And you knew that the bars closed at

5 12:00 in Paris?

6 A. Or so.

7 Q. So you had a time frame for

8 Herrington's statement that fit between 12:30 and

9 4:30, to round it off? You've got a window there

10 of about four hours that he has this happening.

11 Right?

12 MR. MANCINI: Objection to form.

13 THE WITNESS: Yes, sir.

14 BY MR. TAYLOR:

15 Q. And yet what he has happened takes

16 place only at the most for perhaps 40, 50 minutes

17 over that four-hour period. Right?

18 MS. EKL: Objection. Form and

19 foundation.

20 BY MR. TAYLOR:

21 Q. Am I right?

22 A. He was intoxicated, so time would mean

23 nothing to him.

24 Q. Okay. So, in other words, he could

1 have totally messed up on either when he left the
2 -- when they first got to the house and went in
3 or when he got home, because he was intoxicated.
4 Right?

5 A. I'm sure that had a factor to play in
6 it.

7 Q. All right. And when you say he was an
8 above average witness were you taking into
9 account the fact that he had a four-hour period
10 of time from when the incident started to when
11 the incident ended and could only really account
12 for a very short part of that four-hour period?

13 MS. EKL: Objection. Form.

14 THE WITNESS: Well, I'm sure we were
15 considering that, thinking about that. No doubt
16 about that.

17 BY MR. TAYLOR:

18 Q. Is that perhaps why, one of the
19 reasons that Parrish called him a poor witness?

20 MS. EKL: Objection. Foundation.

21 THE WITNESS: You'll have ask to ask
22 him about that.

23 BY MR. TAYLOR:

24 Q. Well, would you still say he's an

1 above average witness after you consider the fact
2 that he had these kind of glaring problems with
3 regard to timing?

4 A. His reason for me putting him above
5 average, he knew certain things inside the crime
6 scene that one that was not there would not have
7 known. One of the big things is a pillow over
8 her face, and I consider that pretty important.

9 Q. Did Debbie Rienbolt ever say she saw a
10 pillow over Karen Rhoads' face?

11 A. I would have to look at her
12 statements, but I don't think she did.

13 Q. All right. So one of them was wrong
14 in terms of the pillow. Right?

15 MS. EKL: Objection. Form and
16 foundation.

17 THE WITNESS: I think that the way, if
18 you put both statements together, Debra was the
19 first one in there while the murders was
20 committed, and Dale went up afterwards, so Debra
21 would not notice if there was a pillow over a
22 face, because Darrell came in later to put the
23 pillow over the face.

24

1 BY MR. TAYLOR:

2 Q. All right. So did you and the others
3 on the team sit down and after Rienbolt told her
4 third version of the story, which was she put
5 herself in the apartment when the murders were
6 happening, did you sit down and coordinate a
7 story that would somehow take into account the
8 fact that Rienbolt and Herrington didn't ever see
9 each other?

10 MS. EKL: Objection. Form.

11 MR. MANCINI: Join.

12 THE WITNESS: I don't like the word
13 coordinate a story. We'll put the two statements
14 together.

15 BY MR. TAYLOR:

16 Q. So you put them together in a way that
17 was -- that would not make either of the stories
18 unbelievable. Right?

19 MR. MANCINI: Objection. Form.

20 THE WITNESS: We put the information
21 out of each statement together, not making one
22 believable or one not believable.

23 BY MR. TAYLOR:

24 Q. Well, at least when you first looked

1 at these two stories, they weren't compatible
2 with each other. Were they?

3 MR. MANCINI: Objection to form.

4 THE WITNESS: They were different, but
5 there was certain things that were inside the
6 crime scene that both of them knew.

7 BY MR. TAYLOR:

8 Q. And some of those things were wrong.
9 Right?

10 A. I can't recall which were wrong and
11 which were right at this point, but I could by
12 looking at the statements.

13 Q. Well, the broken vase or the broken
14 lamp was wrong. Right?

15 MS. EKL: Objection. Foundation.

16 THE WITNESS: It was broken. I don't
17 know whether they was wrong or right.

18 BY MR. TAYLOR:

19 Q. Well, it was broken -- it couldn't
20 have been broken when Rienbolt said she was in
21 the room prior to the fire. Right?

22 MS. EKL: Objection. Form and
23 foundation.

24 THE WITNESS: To my knowledge, that

1 was never scientifically ever -- some people say
2 it was after the fire. Some people say it was
3 before the fire. I do know that there was a
4 broken vase in the hallway.

5 BY MR. TAYLOR:

6 Q. You didn't -- just like with
7 Herrington, you didn't have the first interview
8 with Herrington. You didn't have the first
9 contact with Rienbolt either. Did you?

10 A. No, I did not.

11 Q. In fact, Ann Parrish, Jim's wife, had
12 the first contact with her. Right?

13 A. As I understand it.

14 Q. And then the second contact was that
15 she was at Parrish's house, and Parrish talked to
16 her. Right?

17 A. I don't know where that was at.

18 Q. Did Jim tell you that she came out to
19 the house and that he talked to her in his dining
20 room?

21 A. He probably did, and I don't recall
22 exactly where that was, whether it was the PD,
23 her house, or his house.

24 Q. In that circumstance, like the

1 Herrington circumstance, you don't know what
2 transpired between Parrish and Rienbolt in terms
3 of what they talked about or what the substance
4 of what Parrish may have suggested to her with
5 regard to questioning. Do you?

6 MS. EKL: Objection to form.

7 THE WITNESS: I was not there.

8 BY MR. TAYLOR:

9 Q. So, for all you know, Parrish could
10 have asked her a question about the vase, and she
11 could have -- could have suggested to her that
12 there was a broken vase there. Right?

13 A. I would have no knowledge of what was
14 talked about.

15 Q. But on the 17th -- strike that.

16 Did Parrish call you and have you come
17 to the Paris Police Department after he had
18 talked to Rienbolt on the 17th of February?

19 A. I don't know when I was contacted.
20 I'm sure it was in a report when I went over to
21 interview Mrs. Rienbolt or Debbie Rienbolt.

22 Q. Did you know Debbie Rienbolt before
23 that day, that being in February when you first
24 were involved in an interview with her?

1 A. I don't think I ever met her before.

2 Q. All right. Now, did Parrish tell you
3 that -- when Herrington first was picked up
4 around midnight on the 19th of September that he
5 told them, "Don't ask me about the murders?"

6 Does that ring a bell with you that
7 Parrish told you that that's how -- now he said
8 they got turned on to the possibility that
9 Herrington might have information?

10 A. I don't recall exactly what Jim did
11 tell me, but that does sound familiar.

12 Q. Did he also tell you that when he
13 brought Debbie out to his house in February of
14 '87 that she also said something similar: "I
15 don't want to talk about the murders?"

16 A. I don't recall that at all.

17 Q. Does that sound familiar to you?

18 A. No, it does not. That part doesn't,
19 yes.

20 Q. Would that be unusual to you that two
21 separate witnesses would both tell investigators
22 in one case that they didn't want to talk about
23 something?

24 A. I don't know about the unusual part of

1 it.

2 Q. Have you ever had a case where two --
3 the only two eyewitnesses initiated conversations
4 with you or other investigators by saying don't
5 ask me about the crime?

6 A. I'm sure that's happened before.

7 Q. Do you remember an occasion?

8 A. I don't remember that, but I'm sure it
9 has.

10 Q. What makes you so sure?

11 A. I don't think it would be uncommon.

12 Q. Okay. Now, what were the
13 circumstances of you being informed about Debbie
14 Rienbolt by Parrish? What did he tell you?

15 A. I don't recall what he told me or how
16 he contacted me, but I do know and there's
17 records of him coming over and talking to her.

18 Q. And coming over to where?

19 A. Paris, Illinois.

20 Q. I'm sorry?

21 A. Paris, Illinois.

22 Q. Where were you when he contacted you?

23 A. I would not recall that at all where I
24 was at.

1 Q. Is there -- do you have any report
2 that indicates any information that Parrish gave
3 about how he came to come into contact with
4 Debbie Rienbolt?

5 A. No, I don't.

6 Q. And do you know whether Parrish
7 recorded in his reports anything having to do
8 with the conversation he had with Debbie Rienbolt
9 at his house?

10 A. I don't remember if he did or not.

11 Q. Okay. Well, let me call your
12 attention to Parrish's report, and I want you to
13 take a look at page 33 of his report. Actually,
14 starting at page 32.

15 Do you see an entry at 4:30 p.m. on
16 February 17th, Agent Eckerty and RO conducted an
17 interview of Debra Rienbolt. Do you see that?

18 A. Yes, sir, I do.

19 Q. And you see that his previous entry
20 was on December 2nd, 1986. Right? Is that
21 right?

22 A. Yes, sir.

23 Q. Okay. So he has a gap from December
24 2nd to February 17th in his report the same way

1 that you do. Right?

2 A. It appears that way, yes.

3 Q. So at that point really the only thing
4 that had any relationship to Rhoads that is
5 documented in either your or his reports are --
6 is the Starks situation. Is that fair to say?

7 A. I think you asked me the only thing we
8 considered so far is the Stark information?

9 Q. No, I said between December 2nd and
10 February 17th the only thing that's documented by
11 either you or Parrish in your reports is the
12 Starks situation? That did not appear in the
13 Rhoads file. Is that correct?

14 A. That's correct.

15 MS. EKL: You're saying not including
16 that FBI memo that you just showed him?

17 MR. TAYLOR: Right. I'm not including
18 that, because that's not a report by him or by
19 Parrish.

20 MS. EKL: I'm talking about the FBI
21 report that you showed him that was authored by
22 Parrish.

23 BY MR. TAYLOR:

24 Q. I understand. I know it has

1 information from Parrish. Yeah.

2 Now -- so there's no entry in
3 Parrish's report about any meeting he had with
4 Debra Rienbolt on the 16th of February or earlier
5 on the 17th. Is that right?

6 A. No, sir.

7 Q. And -- but you are aware and were
8 aware on the 17th that he had met with Debbie
9 Rienbolt prior to you being called to the
10 station. Is that right?

11 A. He related that he had done that.

12 Q. All right. And did he also relate to
13 you that she had turned over a knife to him?

14 A. I don't recall if he had at that time
15 or not, what he related to me.

16 Q. Okay. Did he show you a knife?

17 A. I don't recall him showing me a knife
18 either.

19 Q. All right. Now, you were aware from
20 Herrington's statement that he had mentioned a
21 filet type of knife about six inches long.
22 Right?

23 A. Yes, I was aware of that.

24 Q. And that's kind of a thin-bladed

1 knife. Is that right?

2 A. Yes, sir.

3 Q. Does it fold up?

4 A. There are filet knives that do fold
5 up, and there are filet knives that are stiff.

6 Q. Did you ask Darrell whether the knife
7 that he said he saw Randy Steidl with was a fold
8 up knife or not?

9 A. I don't believe that was asked.

10 Q. Okay. Now, did you know Ann Parrish
11 prior to February 17th?

12 A. I did.

13 Q. For how long had you known her?

14 A. She was a probation officer in the
15 courthouse, so I would have probably known her
16 from her work, not knowing how long before.

17 Q. Did you socialize with him at all, him
18 or his wife, Jim Parrish or his wife, Ann?

19 A. Other than Jim and I would have a
20 beer, no, we didn't socialize.

21 Q. Okay. But you did socialize with Mike
22 McFatridge?

23 A. I did.

24 Q. Did you say you played golf with him

1 as well?

2 A. Used to.

3 Q. Back in the day when this was
4 happening and previously, did you play golf with
5 him from time to time?

6 A. We probably did a little bit, I think.

7 Q. Did you work on his campaign at all
8 politically?

9 A. No, sir.

10 Q. Did you contribute to his campaign?

11 A. No, I don't believe I did.

12 Q. You don't believe you did?

13 A. Back then, we didn't do that.

14 Q. You do now?

15 A. Huh?

16 Q. You do now? You said back then you
17 don't.

18 A. We're allowed to. I'm not a State
19 Policeman anymore.

20 Q. Now, in the fall of 1986, did you go
21 to a festival called Honey Bee Festival that was
22 an annual affair in Paris?

23 A. I don't know if I did or not.

24 Q. Did you go to that festivity from time

1 to time in Paris, if you happened to be there?

2 A. If I happened to be there, I probably
3 would. It was uptown on the square.

4 Q. Did you know Debbie Rienbolt in the
5 fall of 1986?

6 A. I don't believe so.

7 Q. Did you have any contact with Debbie
8 Rienbolt at the Honey Bee Festival, that you know
9 of, in 1986?

10 A. I don't have any recollection that I
11 did.

12 Q. But you don't know either way?

13 A. No. I just -- my recollection at this
14 point the first time I saw her was in the PD when
15 we interviewed her, but I could have. It doesn't
16 ring a bell to me.

17 Q. Now, other than yourself and Eckerty,
18 was anyone else present at the Paris Police
19 Department on February 17th in the afternoon when
20 you started to participate in an interview with
21 Debra Rienbolt?

22 A. Myself and Parrish?

23 Q. Uh-huh. Anyone else?

24 A. It's in the report that myself and

1 Parrish was there.

2 Q. All right. Now, at what point did you
3 become aware that Debra Rienbolt had a drug
4 problem?

5 A. I'm not sure at what point. I'm not
6 for sure at what point I was aware of that or was
7 told that.

8 Q. Well, when you were involved in the
9 interview on the 17th of February, 1987, did she
10 appear to be under the influence of either drugs
11 or alcohol?

12 A. No.

13 Q. Did anyone ask her whether she was
14 under the influence of drugs or alcohol, either
15 you or Parrish?

16 A. I don't recall if somebody did or not.

17 Q. Okay. Would that be something that as
18 an investigator questioning a witness that you
19 would want to determine, whether the person was
20 in any way under any kind of influence of drugs
21 or alcohol?

22 MS. EKL: Objection. Form.

23 THE WITNESS: If you was interviewing
24 somebody, and it appeared that they were

1 intoxicated, you would probably ask, yes.

2 BY MR. TAYLOR:

3 Q. Well, did Parrish ask her whether she
4 was in any way under the influence of either
5 drugs or alcohol?

6 A. I don't recall her being under the
7 influence. I don't recall anybody asking her
8 that either.

9 Q. Well, did you over the next few months
10 learn that she did have a serious drug problem?

11 A. I did.

12 Q. All right. And did you learn that she
13 was a daily user of drugs?

14 A. I don't know if I was aware that she
15 was a daily user of drugs. I know she used booze
16 and drugs.

17 Q. And that she not only used them but
18 abused them. Right?

19 A. Probably so, yes.

20 Q. And at some point in the next month or
21 two you were aware that she was placed in a detox
22 center. Right?

23 A. I'm aware of it now, and I was aware
24 it then probably too. I don't recall when she

1 went into the detox, but after now we're back
2 into this, I do remember -- or it's been brought
3 to my attention she went to detox.

4 Q. It was before the trials?

5 A. Yes, it was.

6 Q. And did you -- you participated in the
7 decision to have her put in detox. Didn't you?

8 A. No, I don't recall that I was in the
9 decision of doing that.

10 Q. All right. Did you participate in
11 transporting her to detox?

12 A. I don't recall that at all.

13 Q. Did you interview her while she was at
14 the detox center?

15 A. I don't recall that. I don't imagine
16 we would have been allowed to.

17 Q. Did you have an occasion to visit her
18 while she was at the detox?

19 A. I don't recall that I did that either.

20 Q. Did you learn that the first time she
21 was taken to the detox center she walked away on
22 the same day that she checked in?

23 A. I don't recall that either.

24 Q. You don't recall that either?

1 A. No, I don't.

2 Q. Now, calling your attention to your
3 report, on the 17th of February of '87, according
4 to your report Rienbolt talked about how she was
5 employed at the Paris Health Care Center from
6 4:00 p.m. to 12:00 midnight. Is that right?

7 A. If I looked at times, that's where she
8 was employed.

9 Q. That's what she said. Right?

10 A. Yes, she was employed there.

11 Q. And she stated that she decided that
12 she was not going to work and made a telephone
13 call to a fellow worker named Bev Johnson and
14 asked her to clock her in at the center and clock
15 her out at 12:00 midnight. Right?

16 MS. EKL: If you could just stop for
17 one second? I don't know he's got his reports in
18 front of him. You're referring to his reports.

19 THE WITNESS: Oh, mine? I'm sorry.
20 Okay.

21 BY MR. TAYLOR:

22 Q. All right. Do you see that, that he
23 -- that she had asked a fellow worker named Bev
24 Johnson to clock her in at the Paris Health

1 Center and to clock her out again at 12:00
2 midnight?

3 A. I do see that.

4 Q. And she told you that or something
5 along those lines?

6 A. That's in my report.

7 Q. And she also told a story about having
8 obtaining a car, is that right, from someone she
9 called Tammy?

10 A. She did.

11 Q. Now, subsequently -- subsequent
12 investigation showed that in fact she had not, in
13 fact, taken off work that day but was, in fact,
14 at work. Right?

15 MS. EKL: Objection. Foundation.

16 THE WITNESS: Could you repeat just
17 what you asked me there?

18 BY MR. TAYLOR:

19 Q. Subsequent investigation showed that,
20 in fact, she was not telling the truth when she
21 said that she had someone named Bev Johnson clock
22 her in and clock her out rather than to actually
23 go to work?

24 A. I think after reviewing the reports

1 that we interviewed Bev Johnson, and she did say
2 that she had clocked her out some day.

3 Q. But not this day?

4 A. I think the first interview -- if you
5 will -- we'll look it up. I don't know if I'm
6 wrong. I could be wrong. Do you want me to look
7 it up?

8 Q. Take a quick look. Go right ahead.

9 MS. EKL: I think it's in Jim's
10 report.

11 THE WITNESS: Jim's report?

12 MS. EKL: Page 36 of Jim's report at
13 the top.

14 THE WITNESS: Thank you. Bev had
15 stated on one occasion in the summer that Debra
16 Rienbolt called her at home and wanted Beverly to
17 punch her in at work that day, because she was
18 not going to come to work. Beverly stated at
19 approximately 3:45 p.m. that she punched herself
20 and Debra Rienbolt into work.

21 BY MR. TAYLOR:

22 Q. You were never able to establish that
23 that was the night in question. Were you?

24 A. When we talked to her on February

1 20th, she didn't appear to remember the date.

2 Q. So --

3 A. But she had clocked her in. That's
4 what I was remembering that part there.

5 Q. You remember that part, but did she
6 tell you that it wasn't on the night of the
7 murders?

8 A. I don't see anyplace that she says it
9 was not the night of the murders.

10 Q. Let me ask you this: The whole
11 purpose to go talk to Beverly Johnson was to find
12 out whether she could corroborate Debra
13 Rienbolt's statement that she clocked her in on
14 the night of July 5th at 3:45 p.m. and clocked
15 her out at 12:00. Right?

16 A. Yes, sir.

17 Q. And, in fact, in your report it says
18 that she stated on one occasion in the summer
19 that Debra Rienbolt called her at home and wanted
20 Beverly to punch her in at work that day, because
21 she was not going to come to work. I'm sorry,
22 not your report, but in Parrish's report
23 recounting an interview that you and he did.
24 Right?

1 A. Yes, sir.

2 Q. Now, the most important element of
3 this questioning of her is missing. Right? That
4 is whether it was July 5th or some other day in
5 the summer of 1986. Right?

6 A. I believe that Jim wrote it down as
7 she stated it was on one occasion in the summer,
8 and it was that she did clock her in and clock
9 her out.

10 Q. But if she had said that it was July
11 5th, 1986, that certainly would appear in the
12 report. Wouldn't it?

13 A. Certainly would.

14 Q. And if she said it wasn't July 5th,
15 1986, you would expect that you should put that
16 in the report as well. Am I right?

17 A. It appears to me that she just says in
18 the summer.

19 Q. And so in the summer could be anytime
20 in a three-month period until early September
21 when she says that she left work, didn't work
22 there anymore. Right?

23 A. Yes, sir.

24 Q. Did you obtain the punch card for

1 Debra Rienbolt from work?

2 A. I'm not for sure if we ever did or
3 not. I don't recall that.

4 Q. Did the punch card show that she was
5 punched in and punched out that night?

6 A. Like I said, I'm not for sure if we
7 did that. I don't recall getting the time card.

8 Q. All right. If she did punch in and
9 punch out, then -- on that -- on that night of
10 the July 5th, there's two plausible explanations:
11 One is that she was at work, and she's lying
12 about punching and having someone punch in and
13 punch out, or, in fact, someone did punch in and
14 punch out for her when she wasn't there. Right?

15 MS. EKL: Objection to form.

16 THE WITNESS: I agree.

17 BY MR. TAYLOR:

18 Q. So did you ever come to a conclusion,
19 you and Parrish and the others involved in the
20 investigative team, which scenario was, in fact,
21 true, that she was lying about this and,
22 therefore, putting her whole story into question
23 or that in fact Barb -- Bev Johnson just had a
24 poor memory with regard to when, in fact, she

1 punched Debbie Rienbolt out?

2 MS. EKL: Objection. Form.

3 MR. MANCINI: Join.

4 THE WITNESS: We never determined --

5 Bev Johnson did tell us that on one time in the

6 summertime she did, in fact, do as Debra said.

7 Couldn't determine exactly what day that was, but

8 it was done during the summer.

9 BY MR. TAYLOR:

10 Q. Okay. Now, did you ever talk to any

11 other employees of the Paris Health Care Center

12 to find out whether they remembered whether

13 Debbie Rienbolt was working on the afternoon and

14 evening hours of July 5th, contrary to her

15 statement to you?

16 A. I don't recall -- we talked to Nancy

17 Davis. I think she was the administrator at that

18 time. I don't know who wrote the interview or

19 who the interviewer was, but she was the

20 administrator.

21 Q. What did Nancy Davis say?

22 A. We would have to find that report. I

23 don't recall.

24 MS. EKL: It's on page 5 of your

1 report.

2 THE WITNESS: Of my report?

3 MS. EKL: February 20th, '87.

4 THE WITNESS: Nancy Davis, the
5 administrator at the Paris Hospital, said at this
6 time the reporting agent was advised by Davis
7 that Debbie Rienbolt was employed at the Paris
8 Health Center on July 5th and July 6th. On both
9 days time cards showed Rienbolt working at
10 3:45 p.m. to 12:00 midnight.

11 BY MR. TAYLOR:

12 Q. So this was a telephone conversation
13 you had, is that right, RA -- well, you had more
14 than one conversation. Is that right?

15 A. With Nancy?

16 Q. Yeah.

17 A. I'm not for sure if I did have more
18 than one, but this one here is the one I'm
19 looking at.

20 Q. It says conversations. Doesn't it?

21 A. Well, there is an S there, but...

22 Q. Well, and during that conversation did
23 you ask her as the administrator of the health
24 center whether she had any firsthand knowledge as

1 to whether Debbie Rienbolt was at work on either
2 the 5th from 3:45 p.m. to 12:00 midnight or on
3 the 6th from 3:45 to 12:00 midnight?

4 A. I believe, as I read this, Mrs. Davis
5 stated that her time card was punched.

6 Q. Right. I understand that.

7 A. I don't think she had any knowledge at
8 all if she was actually working or not working.

9 Q. But you didn't record any information
10 as to whether she, in fact, had any knowledge
11 about whether she was working or not? You're
12 just assuming from the silence of the report that
13 she didn't know. Is that right?

14 A. Time cards were punched, and she
15 probably didn't know. I don't know.

16 Q. You're just guessing?

17 A. I have no recollection of what she
18 said.

19 Q. Looking back now in terms of
20 completeness of your reporting, it would have
21 been better if you had asked her whether she knew
22 firsthand whether Debbie was there to write down
23 either she saw Debbie there, she didn't see
24 Debbie there, or she didn't know whether Debbie

1 was there? That would make it much clearer than
2 the report is now. Right?

3 MS. EKL: Objection. Form.

4 THE WITNESS: In an ideal report, that
5 would have been great.

6 BY MR. TAYLOR:

7 Q. And, in fact, in terms of the
8 information that both the prosecutor and the
9 defense lawyers could use in their case, it would
10 be better for them to have all the information
11 with regard to Nancy Davis, but it isn't there.
12 Is that correct?

13 A. We established that she was employed
14 there at night, had a time card, and whether
15 Nancy was working that night herself, I don't
16 know.

17 She was an administrator. That would
18 probably have been on a Saturday night, and I
19 doubt if she was working herself.

20 Q. You doubt that she was there, but you
21 never wrote down that she wasn't?

22 A. I did not write that down.

23 Q. Now, let's go back to your report and
24 the interview with Debra Rienbolt which you

1 participated in. Now, Rienbolt stated that there
2 was a person named Tammy who she obtained the car
3 and that she said she rode around in getting high
4 that evening rather than going to work. Right?

5 A. Yes.

6 Q. And so you knew at that point that she
7 had some sort of drug problem, because she was
8 describing having both drinking and taking pills
9 the night that she was telling you about, that
10 being the night of the murders. Is that right?

11 A. Yes, sir.

12 Q. All right. And Tammy that she
13 described whose car she obtained, that was not
14 true, right, in terms of the name?

15 A. In terms of the name?

16 Q. Yes.

17 A. Yeah, it turned out to be not true.

18 Q. It turned out she got the car from
19 someone named Wakefield, Della Wakefield. Is
20 that right?

21 A. I think that's the name, yes.

22 Q. And when did you find out that that
23 part of her story was untrue?

24 A. I don't recall just exactly when we

1 found that out.

2 Q. But it was sometime shortly after
3 interviewing her on the 17th. Wasn't it?

4 A. Yes, sir.

5 Q. Okay. And she also said that she
6 drove the car to Barbara Furry, F-u-r-r-y, and
7 that she and Furry smoked marijuana cigarettes
8 and that they drove around in the car and that
9 she and Furry smoked some more marijuana.

10 Now, it turned out that when you
11 checked with Barbara Furry, she did not support
12 that part of Rienbolt's story. Did she?

13 A. That's true.

14 Q. It's true that she did not?

15 A. True, that she did not.

16 Q. Okay. So right off the bat, we have
17 the first three things of substance she's telling
18 you, two of them are clearly untrue, and the
19 third is, at best, questionable, and that being
20 the Bev Johnson piece. Is that right?

21 A. Yes, sir.

22 Q. All right. So then she said that she
23 went to the Tap Room Lounge. Is that right?

24 A. I think I jumped a page. Sorry.

1 Q. I'm still on the same page.

2 A. I'm the one that turned the page.

3 Yes, sir.

4 Q. And at that point she says that she
5 sees Whitlock in the Tap Room Lounge. Is that
6 right?

7 A. She says that.

8 Q. And she says that Furry was someplace
9 else in the lounge. Is that right?

10 A. I don't see Furry yet.

11 Q. If you look on the same page, it says
12 Rienbolt stated that Furry went someplace else in
13 the lounge at this time. Do you see that last
14 paragraph, page 12216?

15 A. I was just overlooking it. Yes, I see
16 in there.

17 Q. And, in fact, Furry denied that too.
18 Didn't she?

19 A. I believe she did.

20 Q. Okay. Now, she has Whitlock in the
21 next page taking a knife from his back rear
22 pocket, opening the knife, and opening a letter,
23 and she described it as a black knife with a long
24 blade measuring 13 inches in total. Do you see

1 that?

2 A. I see that.

3 Q. All right. Now, she later changed
4 that part of the story with regards to the knife
5 and said that the knife in question came from her
6 husband, Vic, rather than was in Whitlock's
7 possession. Isn't that right?

8 A. I don't recall when she changed that
9 or when that was --

10 Q. Well, she did change it, though,
11 right, regardless of when? It's an aspect of the
12 story she's telling you on the 17th that turned
13 out that she changed. Right?

14 A. But I don't know when.

15 Q. I'm not asking you when. I said did
16 she change it?

17 A. I think it turned out it was Vic's
18 knife.

19 Q. Yes, rather than Whitlock producing
20 it.

21 A. Yes.

22 Q. According to her now. We're just
23 talking about her, what she's saying. We're not
24 -- I'm certainly not vouching for her, and I

1 think at this point you probably wouldn't vouch
2 for her either. Would you? Would you at this
3 point?

4 A. Would I vouch for her?

5 Q. Yeah.

6 A. At this point?

7 Q. Right. No, at this point meaning now,
8 not then.

9 A. I would not pick her to be a witness.

10 Q. Just like you wouldn't have picked --

11 A. But she knew a lot of stuff going on
12 inside of that place that was going on.

13 Q. Now, she then has Rienbolt -- I mean
14 having Whitlock talking about some people knowing
15 too much, and it had to do with drugs, and that's
16 in the second paragraph?

17 A. Yes, I see that.

18 Q. Now, she says that while they're in
19 the Tap Room she has Herrington there. Is that
20 right?

21 A. Yes, she does.

22 Q. All right. And this is in
23 contradiction to what Herrington told you a few
24 months before. Isn't it? Herrington never put

1 himself in the Tap Room with Whitlock and Steidl.

2 He put himself in some other taverns in town.

3 Right?

4 MS. EKL: Objection. Form.

5 THE WITNESS: I don't recall exactly

6 what taverns without putting them both together

7 where each one of them was at.

8 BY MR. TAYLOR:

9 Q. If I can refresh your recollection as
10 to the Herrington report, I believe that both you
11 and Parrish reported that according to Herrington
12 he was at Joe's Tavern with them, and he was at
13 the Horseshoe. Is that consistent with your
14 recollection of where Herrington said he was with
15 Randy and Herb?

16 A. My recollection is he was at a couple
17 or three bars. I know Joe's, Horseshoe, and I
18 can't remember exactly what bars they were.

19 Q. Well, can you agree with me that
20 Herrington never said that he was -- on the night
21 of the murders that he was in the Tap Room or Tap
22 Room with Herb and Randy as Rienbolt says they
23 were?

24 A. If you're telling me to your

1 observation that Herrington was not -- did not
2 ever tell us that he was in the Tap Room?

3 Q. With Randy and Herb.

4 A. I'll agree on that.

5 Q. Thank you. So this is another either
6 Herrington is wrong or Rienbolt is wrong on that
7 particular aspect. Is that right?

8 A. Or one of them was drinking too much
9 and didn't know where they were at.

10 Q. Well, both of them were loaded.
11 Right?

12 A. Pretty well.

13 Q. And Herrington was drunk, and she was
14 on all sorts of pills and marijuana and booze.
15 Right?

16 A. Yes, sir.

17 Q. So that's what you mean when you said
18 that you wouldn't have selected these witnesses.
19 Right?

20 A. Yes, sir.

21 Q. And you and I would agree that not
22 only we wouldn't select them, but that we would
23 have to have some severe questions about their
24 ability to observe and recount and identify

1 information if they were that loaded. Right?

2 MR. MANCINI: Objection as to form and
3 foundation.

4 BY MR. TAYLOR:

5 Q. Do you agree with me?

6 A. Unless they identified information
7 that I knew was for a fact there.

8 Q. Generally speaking, their ability to
9 observe and to identify and to recount would be
10 diminished by their being completely drunk or
11 completely loaded on drugs. Do we agree on that?

12 A. It would be a lot different, yes, sir.

13 Q. All right. Now, would you disagree
14 with me too that if you're drunk or you're loaded
15 that you are more suggestible in terms of someone
16 telling you information and you then being open
17 to accepting that without really knowing whether
18 it's a fact or not?

19 MS. EKL: Objection. Form and
20 foundation.

21 THE WITNESS: I presume you would be
22 more susceptible.

23 BY MR. TAYLOR:

24 Q. Okay. So it would be easier for me to

1 take someone who had had 18 drinks and some
2 Codeine and convince them that they were involved
3 in something that they were not than if that
4 person was stone sober and sitting here in total
5 command of their faculties. We agree on that.
6 Right?

7 MS. EKL: Objection to foundation.

8 THE WITNESS: What are you referring
9 to, who convinced who here?

10 BY MR. TAYLOR:

11 Q. I'm not asking you about anything
12 specific.

13 A. I think we agreed that it was
14 susceptible if you've got drugs and booze. We'll
15 agree on that.

16 Q. Thank you. Now, she makes reference
17 to a good looking tall subject in this statement
18 that she makes.

19 Had you ever been able to identify who
20 she might be referring to with regard to this
21 tall male subject who Rienbolt described as a
22 very good looking person? Do you know who that
23 was? Did she ever tell you who that was, or did
24 you ever figure that out through subsequent

1 investigation?

2 A. You know, as I was reading the file
3 over, I read that. I don't recall us determining
4 exactly who that person could have been, but I
5 read that, and I don't recall us ever determining
6 who that might be.

7 Q. All right. Did you have any
8 suspicions or possibilities with regard to that
9 person?

10 A. I just said I don't recall anybody.

11 Q. At all?

12 A. Yes, I'm sorry.

13 Q. All right. Now, she also indicates
14 that after leaving the Tap Room that she and
15 Furry drove around and that she took some
16 codeine. Is that right? Do you see that in the
17 bottom paragraph?

18 A. Yes, sir, I do.

19 Q. Okay. And she said that she then went
20 to the Legion bar where she claims that she saw
21 Randy and Herb again. Is that right?

22 A. Yes, sir.

23 Q. Now, Herrington's story never puts
24 Herb or Randy at the American Legion. Does it?

1 MS. EKL: I'm sorry. It doesn't --

2 BY MR. TAYLOR:

3 Q. It doesn't put Randy and Herb and he
4 at the Legion. Is that right?

5 A. I don't recall that it did.

6 Q. All right. Now, she also says that
7 she then asked her friend, Barb Furry, to find
8 out from someone in the American Legion where
9 Dyke and Karen Rhoads lived. Right?

10 A. Yes.

11 Q. Now, in the face -- in the four
12 corners of your report, that comes completely out
13 of the blue. Doesn't it?

14 MS. EKL: Objection. Form.

15 THE WITNESS: I don't understand how
16 you say it comes out of the blue. She made the
17 statement there.

18 BY MR. TAYLOR:

19 Q. What I'm saying is she doesn't give
20 any reason for why she would ask a friend where
21 Dyke and Karen Rhoads live. Does she?

22 A. Not as is written in the report, no.

23 Q. In fact, she's going to go on and tell
24 a story about how she was -- went by there and

1 saw certain people there. Right?

2 MS. EKL: Objection. Form.

3 THE WITNESS: She's going to give us
4 the rest of the statement here, yes.

5 BY MR. TAYLOR:

6 Q. Yes. And that's going to have a
7 statement about how she went by the house, the
8 murder scene, and then she saw Whitlock there.
9 Right?

10 A. Later on, yes.

11 Q. But she doesn't give any reason for
12 why she asked somebody to go to the Rhoads'
13 house. How do I get there, she said, right?

14 A. In this statement, yes.

15 Q. Did you ask her why did you happen to
16 ask where the Rhoads lived?

17 A. I don't recall if that question was
18 asked her or not.

19 Q. That would be a logical thing to ask
20 her, wouldn't it, looking at this statement?

21 A. As we're looking at it at this point,
22 it does.

23 Q. And wouldn't it also be something that
24 you would -- as a seasoned investigator would

1 start to leave some questions in your mind as to
2 the story she's telling, that she's just out of
3 the blue suggests that she wants to find out
4 where the house is that turns out to be the
5 murder scene?

6 MS. EKL: Objection. Form.

7 THE WITNESS: I'm not for sure if it's
8 that part there would leave questions in my mind.
9 It's how she was talking about it.

10 I'm not sure that it's just that one
11 point would leave a question in my mind, sir.
12 That was your question. Is that correct?

13 BY MR. TAYLOR:

14 Q. My question was whether this would
15 raise a question?

16 A. Yeah. Okay.

17 Q. In the context of what she had already
18 said that also -- strike that.

19 Going back to the knife, the knife was
20 not only inconsistent with what she said later
21 about the knife coming from Vic Rienbolt, but it
22 also was inconsistent with what Herrington said
23 about the kind of knife that he said he saw at
24 the scene. Right?

1 MS. EKL: Objection. Foundation.

2 THE WITNESS: One thing -- they
3 probably both measured about the same.

4 BY MR. TAYLOR:

5 Q. Well, she certainly didn't say it was
6 a filet knife, a fish filet knife. That's a
7 pretty distinctive kind of knife. Isn't it?

8 A. If a lady knows what a fish filet
9 knife is?

10 Q. You would think so. Don't ladies as
11 well as men filet fish?

12 A. Some do.

13 Q. It's a peculiar kind of knife. Isn't
14 it?

15 A. It is to a man or to me, I know that.
16 I know what it is. Yes, I do.

17 Q. But she didn't describe it as a filet
18 knife?

19 A. She did not. A 13-inch knife, yes,
20 she did.

21 Q. And so it would at least be likely
22 that she's describing a different kind of knife
23 than Herrington is. Wouldn't you agree with me
24 on that?

1 A. I would be unable to determine that.
2 The length, you know...

3 Q. Well, did you press her a little bit
4 on it -- well, strike that.

5 You had a knife that she said was the
6 knife. Right? That's what she gave to Parrish
7 and his wife. Right?

8 A. I'm not sure if we had it at that
9 point.

10 Q. Well, according to Parrish and Jim,
11 that's what turned you on to her, that she came
12 to the house, told Jim she had a knife, Jim sent
13 Ann to pick up the knife at her house, Ann
14 brought it in a paper bag to the police station,
15 Jim called you in after he got the knife.

16 Didn't he tell you that that was how
17 the sequence of how this all got set up with
18 Rienbolt?

19 A. I don't recall if that was the exact
20 sequence of that happening, and, like I say, we
21 had the knife at one point. I'm not for sure if
22 we had it at this particular interview. Possibly
23 we did, but I can't honestly tell you I had that
24 knife right here at this time.

1 Q. Well, did you go and take a look at
2 the knife either after she described it or at any
3 time after this interview and compare it to the
4 description that Darrell Herrington had given to
5 see whether they were at all compatible, the two
6 kinds of knives that were being discussed by your
7 two different witnesses?

8 A. I'm sure we did look at the knife.
9 I'm sure I did look at it.

10 Q. And what did you conclude with regard
11 to the knife that she brought in and claimed that
12 was involved in the crime and the knife that was
13 described by Darrell Herrington? Did you
14 conclude that they were similar? Did you
15 conclude they were different? Did you conclude
16 they were a totally different style and kinds of
17 knives? What did you conclude?

18 A. I don't recall what we concluded at
19 that point. As I'm reading the report today, I
20 could say that they would be similar. At that
21 point what we concluded, I don't know, but she
22 described it a 13-inch knife. It's approximately
23 I think what a filet knife would be in length,
24 and that's, to me, making a call at this time, 20

1 some years later, but at that point, I don't know
2 what.

3 Q. Well, Darrell said the blade was six
4 inches. Right?

5 A. Plus handle.

6 Q. But he said -- he said the blade was
7 six inches?

8 A. Yes, sir.

9 Q. And how long was the blade of the
10 knife that Debbie brought in?

11 A. You know, I'm not for sure. I don't
12 recall how long it was.

13 Q. Wasn't it a kitchen knife that she
14 brought in?

15 A. I don't really recall the knife.

16 Q. Well, a kitchen knife wouldn't be the
17 same as a filet knife. Would it?

18 A. I don't really recall what the knife
19 looked like.

20 Q. I'm not asking you. I'm saying a
21 kitchen knife would not be the same as a filet
22 knife. Would it?

23 A. We have a kitchen knife in our bunch
24 of knives that we have in our little wood thing

1 there.

2 Q. In your house?

3 A. And there's one that pretty well looks
4 like a filet knife in there. That's just from
5 hearing me talking, you know.

6 Q. I'm not asking to hear you talking.

7 I'm asking you --

8 A. You asked me if it looked like a
9 kitchen knife. Is that correct?

10 Q. Right. I asked you whether in your
11 experience a filet knife was the same thing as a
12 kitchen knife.

13 A. I'm saying they could look like one.

14 MR. BALSON: Can we take three
15 minutes, if you don't mind?

16 (At this point a short recess was
17 taken.)

18 BY MR. TAYLOR:

19 Q. All right. Now, going back to the
20 statement that you and Parrish took from Debra
21 Rienbolt on the 17th of February, 1987, she --
22 all that she said about Randy Steidl -- strike
23 that.

24 What she said about Herb Whitlock was

1 that she saw Herb Whitlock around the property of
2 the -- where the murder took place, the Rhoads'
3 house around the time it happened. She said that
4 about him. Right?

5 A. I'm trying to see what she said about
6 Herb. Would that be on page 3 of that report?

7 Q. Yes, page 3. She said that Whitlock
8 was walking toward the left part of the house at
9 this time. She said she knew it was Whitlock by
10 his hairdo and the way he walks.

11 MS. EKL: Where are you reading from?

12 BY MR. TAYLOR:

13 Q. In the middle of the first paragraph.

14 A. I'm with you.

15 Q. Okay. And that she said that about
16 Whitlock, that having to do with the night of the
17 murders. Is that right?

18 A. Yes.

19 Q. And she also said that Whitlock gave
20 her a knife the next day. Is that right?

21 A. Yes.

22 Q. And she said that the knife had some
23 blood on it. Right?

24 A. Yes.

1 Q. And she said that Randy Steidl was
2 with Whitlock earlier in the night and said he
3 would meet him later. Is that right?

4 A. I'm trying to see where I said that
5 at, sir. Is that in the same paragraph?

6 Q. No, that's earlier. It said:
7 Rienbolt stated that Randy Steidl exited the
8 front door at which time Whitlock said to Steidl
9 I'll see you later. I'll be there in a little
10 while.

11 A. Was that back a page or so, sir?

12 Q. Yes.

13 A. Yes, sir.

14 Q. All right. And is there anything else
15 that she told you that implicated Whitlock or
16 Steidl in the murders on the 17th other than
17 those points that I just asked you?

18 A. I would have to look at the report to
19 see for sure, sir. Page 4, there's something she
20 was talking about Herb Whitlock at an AA meeting,
21 the top paragraph. I'm scanning it real fast,
22 the report. I see nothing else besides that
23 right now.

24 Q. All right. Now, let me focus on

1 Steidl. Given what Debra Rienbolt said about
2 Steidl, that he said he would see Herb later and
3 that she saw Herb around the murder site around
4 the time that it happened and that Herb later
5 gave him -- gave her a knife that had blood on
6 it, did you consider that that was enough
7 additional information with regard to Randy
8 Steidl to go along with what Herrington had said
9 in order to have probable cause to arrest Randy
10 Steidl?

11 A. He wasn't arrested.

12 Q. He was arrested?

13 A. He was not arrested then.

14 Q. Within a couple of days he was.

15 Right?

16 A. But not at this point.

17 Q. But no additional information was
18 developed on Randy Steidl from the 17th when you
19 talked to Rienbolt until the 19th when he was
20 arrested. Was there?

21 A. Not on the 17th, no, sir.

22 Q. And not on the 18th either. Right?

23 A. Not on the 18th.

24 Q. And, in fact, the overhear on the 19th

1 with regard to both Whitlock and Steidl turned up
2 no additional evidence against them. Isn't that
3 right?

4 A. It did not.

5 Q. All right. So my question to you is
6 was there sufficient additional information
7 supplied by Rienbolt on the 17th to constitute
8 the basis to arrest Randy Steidl?

9 MS. EKL: Objection. Calls for a
10 legal conclusion.

11 THE WITNESS: I believe we don't have
12 any more information from Debra.

13 BY MR. TAYLOR:

14 Q. So a decision was made not to arrest
15 her and Randy on the 17th after you received the
16 information that you received in the interview.
17 Right?

18 A. That's right, yes.

19 Q. And that was a collective decision by
20 the team. Is that right?

21 A. Yes, it was.

22 Q. And the decision was rather to try to
23 develop additional information through overhears
24 of Steidl and Whitlock. Is that right?

1 A. Yes.

2 Q. And that didn't develop anything new.

3 Is that right?

4 A. That's correct.

5 Q. But yet on the 19th the team decided

6 to arrest both of them. Right?

7 A. If that was the date. I believe that

8 was the date, yes, sir.

9 Q. And that was against your better

10 judgment, that you should perhaps take a little

11 more time to develop more information. Is that

12 right?

13 A. My personal opinion, I wanted to wait

14 a little bit.

15 Q. And was one of the reasons you wanted

16 to wait a little bit because you didn't feel it

17 was sufficient evidence with regard to Randy

18 Steidl?

19 A. Just get more information, if I could.

20 Q. My question is that because Rienbolt

21 hadn't given you anything of substance additional

22 on Steidl that would support a probable cause to

23 arrest?

24 A. I don't recall what information that

1 we needed more on Randy Steidl. Up until this,
2 both names had been mentioned quite a bit in the
3 report up until this time, but I don't recall
4 exactly how that was called, that judgment was
5 made.

6 Q. Well, as of -- prior to Rienbolt
7 coming in, everybody agreed that there wasn't
8 sufficient probable cause to arrests either of
9 them. Right?

10 MS. EKL: Objection. Foundation.

11 BY MR. TAYLOR:

12 Q. That was in January?

13 MR. MANCINI: Same objection.

14 BY MR. TAYLOR:

15 Q. About a month before. Right?

16 A. No one was arrested before then.

17 Q. We went through this before, and that
18 was because you agreed with Parrish and the
19 others that there was not probable cause?

20 MS. EKL: Objection. Form and
21 foundation.

22 THE WITNESS: Wanted more information.

23 BY MR. TAYLOR:

24 Q. Because there wasn't sufficient

1 probable cause. Right?

2 A. Wanted more information.

3 Q. Excuse me, I'm asking you --

4 A. I wanted more information.

5 Q. Because there wasn't probable cause.

6 Right?

7 MR. MANCINI: Objection to form and
8 foundation.

9 THE WITNESS: I didn't say there
10 wasn't probable cause. I wanted more
11 information.

12 BY MR. TAYLOR:

13 Q. And on the 17th, you still felt that
14 you needed more information. Right?

15 A. Yes, sir.

16 Q. And that was particularly true with
17 Steidl, because she didn't say anything about him
18 with regard to a knife, with regard to being at
19 the scene. Right? She didn't really say
20 anything about him other than that she was with
21 Whitlock. Right?

22 A. Yes, sir.

23 Q. That's it. Right?

24 A. Yes, sir.

1 Q. Okay. And what she said about
2 Whitlock only had to do with him having a knife
3 and being at the scene. Right?

4 A. Yes, sir.

5 Q. And you wanted more information on
6 Whitlock, even though she gave you a little bit
7 more on Whitlock than she did on Steidl. Right?

8 A. I just would like to have had more
9 information.

10 Q. In fact, you didn't get any more
11 information on either of them before the decision
12 was made by the group to arrest them. Right?

13 A. Yes.

14 Q. Is that right? And why did you make
15 the decision to arrest them without any
16 additional information?

17 A. I didn't make that decision.

18 Q. Who made that decision, the rest of
19 the group?

20 A. It was made by McFatridge and Nuxoll
21 and Ray.

22 Q. All right. So you didn't participate
23 in that decision?

24 A. Not the time -- no.

1 Q. No? So that was Nuxoll, Ray, and
2 McFatridge made the decision to arrest, and you
3 didn't concur in that. Am I understanding you
4 correctly?

5 A. If I recall correctly, they were both
6 riding in the same car, and they decided to
7 arrest Herb Whitlock.

8 Q. And at that point you were still
9 operating under the approach that you needed more
10 information. Right?

11 A. I thought we were going to wait
12 another time for an eavesdrop.

13 Q. You wanted to do another eavesdrop to
14 see if you could get some more information that
15 would support an arrest. Is that right?

16 A. Yes, sir, I did.

17 Q. And that didn't happen?

18 A. It did not happen.

19 Q. Did you and Parrish agree on that,
20 that you wanted to develop more information
21 before you would make the arrests of Steidl and
22 Whitlock?

23 A. No, I don't recall what Parrish and I
24 agreed on.

1 Q. So you don't know what Parrish's
2 position was? You only know --

3 A. Don't recall that.

4 Q. You only know that your position was
5 different than Ray's, Nuxoll, and who was the
6 third -- McFatriidge were the ones who make the
7 decision to arrest based on the information that
8 they had on the 19th. Right?

9 A. Yes, sir.

10 Q. Okay. But once they made the
11 decision, then you participated in the arrest.
12 Is that correct?

13 A. Yes, sir.

14 Q. And they -- there was no discussion
15 with McFatriidge and Ray and Nuxoll about the
16 reasons why they decided to make the arrests at
17 that point. Was there?

18 MR. MANCINI: Objection as to form.

19 BY MR. TAYLOR:

20 Q. Or was there?

21 A. As I recall, we were on an eavesdrop
22 at the time, and we was doing the eavesdrop, and
23 a call was made -- I don't think Jim and I were
24 even in the -- we were in a car, but we weren't

1 at the point where Herb Whitlock was at, and the
2 arrest was made.

3 Q. Now --

4 A. Nuxoll made the arrest or was helping
5 make the arrest.

6 Q. After the arrest, a prisoner was put
7 in the same cell with Randy Steidl by the name of
8 Vernon Wells, is that right -- Ferlin Wells?

9 MS. EKL: Object to foundation.

10 BY MR. TAYLOR:

11 Q. Ferlin, F-e-r-l-i-n.

12 A. They were in the same cell. Mr. Wells
13 wasn't put in that cell with Randy. They were in
14 the same cell.

15 Q. All right. And subsequently you got a
16 call to talk to Ferlin Wells along with Parrish.
17 Is that right?

18 A. We did get a phone call, yes, or
19 Parrish got a phone call, or we were contacted by
20 somebody.

21 Q. And did you talk to Ferlin Wells about
22 information that he said that he had elicited
23 from Randy Steidl?

24 A. We did.

1 MS. EKL: Object to form.

2 THE WITNESS: No. We did talk to him.
3 I'd like to answer your question that we did talk
4 to Ferlin Wells.

5 BY MR. TAYLOR:

6 Q. Right. After the objection. Right?

7 A. Okay.

8 Q. Now, before you talked to Ferlin
9 Wells, did you check his background?

10 A. I don't believe I knew Ferlin Wells.

11 Q. By the way, did you decide -- after
12 you talked to Debbie Rienbolt on the 17th of
13 February did you decide -- did you consider
14 giving her a lie detector test like you had given
15 to Busby and Herrington and several others?

16 A. I don't recall if that was ever
17 discussed.

18 Q. Well, would that not have been a good
19 investigative technique with her as well?

20 A. I don't recall if that was even
21 discussed between us about doing that.

22 Q. I'm not asking you that. I'm asking
23 would it have been a good investigative technique
24 with her to try to get more information from her

1 and to determine whether she was telling the
2 truth or fabricating?

3 A. Yes, it probably would be, yes.

4 Q. Okay. And, in fact, Ferlin Wells was
5 in jail for participating in a burglary of
6 McFatridge's office. Right?

7 A. I'm not for sure. I don't recall that
8 part.

9 Q. Well, do you remember there being --

10 A. He was in jail.

11 Q. He was in jail. Do you remember there
12 being a burglary of McFatridge's office around
13 that time?

14 A. I don't recall that.

15 Q. Did you -- before or after you talked
16 to Ferlin Wells did you become aware that he was
17 given a lie detector on the question of whether
18 he participated in the burglary of the
19 courthouse?

20 A. I was not aware of that.

21 Q. You never became aware of that?

22 A. I'm not aware of it at this point. If
23 I was aware of it then, I'm not aware of at this
24 point that I knew anything about it then.

1 Q. Is it in that inventory of documents
2 that you pointed us to earlier? Is there a Wells
3 polygraph in that -- in that listing? Do you
4 know?

5 A. I don't know.

6 Q. Let's take a look at it.

7 A. Okay. I didn't think it was on the
8 list, but it could be.

9 Q. We're looking at Steidl --

10 A. There's four of them all listed
11 together, Mr. Taylor. I think it's like 190
12 something.

13 Q. 11919.

14 A. Is that it?

15 Q. Yeah. That's in the middle of it,
16 actually, but I think that's where the inventory
17 list, the table of contents is.

18 A. 19394, it starts there at 198. In
19 those four, his name is not there, but I'm not
20 saying it's not someplace else in the report.

21 Q. All right. So the polygraph reports
22 that you listed were Herrington, Land, Busby and
23 Wheeler in this particular report. Is that
24 right?

1 A. Yes, sir, those four right there.

2 Q. So on or about March 25th did you
3 become aware that Wells was subjected to a lie
4 detector?

5 A. March 25th?

6 Q. Uh-huh.

7 A. I don't recall that.

8 Q. Now, if you had become aware that
9 Ferlin Wells had been subjected to a lie
10 detector, that would have been a report that
11 would have been relevant to the defense in the
12 Steidl and Whitlock cases. Isn't that right?

13 A. I guess I'm not clear what he was
14 given a polygraph for. Was that for a burglary
15 in his crime he committed?

16 Q. Yes.

17 A. I see no reason to submit it in this
18 report.

19 Q. So you don't see any reason to submit
20 a lie detector that was given to Ferlin Wells
21 during the same period of time that you were
22 talking to him about information he said he got
23 from Randy Steidl. Is that right?

24 A. If the polygraph was given for the

1 reason you told me for another burglary --

2 Q. Yes --

3 A. Yes, it would have no substance at all
4 in this case.

5 Q. You don't think that the determination
6 of whether a witness is credible with regard to
7 another crime that he had committed would be
8 possibly relevant to this case?

9 MS. EKL: Objection. Form.
10 Argumentative.

11 BY MR. TAYLOR:

12 Q. If he were to become a witness in this
13 case?

14 MS. EKL: Same objection.

15 THE WITNESS: I don't think so.

16 BY MR. TAYLOR:

17 Q. So it would be your determination not
18 to produce that kind of material in the Rhoads
19 case, because, in your view, such a lie detector
20 would not be relevant?

21 MS. EKL: Objection to form.

22 THE WITNESS: I think you asked me if
23 I thought that should be added to the Rhoads
24 case. It would be not my determination whether

1 that should be submitted in the Rhoads case. I
2 wouldn't make that decision, but I would see no
3 reason for it to be there.

4 BY MR. TAYLOR:

5 Q. You would make that decision if you
6 were aware of the polygraph. Wouldn't you?

7 A. If it was a totally unrelated case on
8 a burglary case and the question was related to
9 that burglary case, I see no reason to submit it
10 to another file.

11 Q. Well, as an investigator, you were
12 aware of the problems that jailhouse snitches or
13 jailhouse witnesses presented in cases. Weren't
14 you?

15 A. I was aware of problems. You had to
16 research them a little bit.

17 Q. And, in fact, the credibility of such
18 witnesses was always a serious concern in cases.
19 Isn't that right?

20 MS. EKL: Objection. Foundation and
21 form.

22 THE WITNESS: It's another reasoning
23 for them coming forth with some information.

24

1 BY MR. TAYLOR:

2 Q. Say that again.

3 A. What reason they came forth with
4 information.

5 Q. And the reason would often be because
6 they would be trying to get some kind of break on
7 their sentence or early release or parole or
8 probation. Right?

9 MS. EKL: Objection. Form and
10 foundation.

11 THE WITNESS: Different reasons.

12 BY MR. TAYLOR:

13 Q. In fact, that was one of the reasons
14 that Debbie Rienbolt gave the information she
15 gave. Right?

16 MS. EKL: Objection. Form and
17 foundation.

18 THE WITNESS: I'm not aware that
19 Debbie was even on some charges at this point.
20 Maybe I was then, but I'm not aware right now.

21 BY MR. TAYLOR:

22 Q. She was ultimately charged with
23 concealing a homicide. Right?

24 A. You told me that's why she came forth

1 with the information that -- I'm taking that as a
2 question, that she had a charge she was trying to
3 beat.

4 Q. So in that sense, she was different
5 than Ferlin Wells, because at that point she
6 hadn't been charged with anything?

7 A. She didn't have any charges other than
8 what she was coming forth on.

9 Q. Now, on page 101 it says report re:
10 Parrish interview, Lester Wells, and that's on
11 11923. Do you see that?

12 A. Page 101.

13 Q. Yeah?

14 A. Parrish interview, Robert Magetta.

15 Q. Lester Wells. Right under there.

16 A. I see it.

17 Q. Now, with regard to a jailhouse snitch
18 such as Lester Wells, or Ferlin Lester Wells as
19 he was known, would it have been a good idea to
20 polygraph him with regard to the information he
21 was giving about Randy Steidl?

22 MS. EKL: Objection to form.

23 THE WITNESS: I don't recall that
24 circumstances. We went in to interview him, took

1 the information, and that was what we did with
2 him.

3 BY MR. TAYLOR:

4 Q. Well, I'm asking you whether it would
5 have been a good idea to check his credibility
6 where they polygraph in the same way you did with
7 Darrell Herrington?

8 MS. EKL: Same objection.

9 THE WITNESS: I don't know if we done
10 anything with Lester Wells' information, other
11 than he did have some information, I don't know
12 exactly what it was now, that was so on this
13 case, but I would see no reason to polygraph
14 Lester Wells.

15 BY MR. TAYLOR:

16 Q. Well, he ended up being a witness
17 against Randy Steidl. Didn't he?

18 A. He what?

19 Q. He ended up being a witness against
20 Randy Steidl. Didn't he?

21 A. He was a witness.

22 Q. For the prosecution. Right?

23 A. Yes.

24 Q. All right. And, in fact, he testified

1 to certain things that he said Randy Steidl said
2 that were inculpatory to Randy Steidl, at least
3 could be construed that way. Right?

4 A. He made some statements that Randy
5 Steidl had told him.

6 Q. And those statements the prosecution
7 felt, at least, was helpful to its case against
8 Randy Steidl. Right?

9 A. He must have thought it was helpful if
10 he was a witness.

11 Q. And yet as an investigator, it was one
12 of your functions to make sure that the witnesses
13 that you developed and presented to prosecutors
14 were credible and not lying. Right?

15 A. We would have interviewed Lester
16 Wells. We would have submitted the report to the
17 State's Attorney, and he would suggest what he
18 would like to do from there.

19 Q. But you wouldn't present a witness,
20 would you, that you knew was lying about what he
21 or she was saying. Would you?

22 A. If I knew for sure they were lying?
23 No, I wouldn't, but I didn't know for sure Lester
24 Wells was lying. He wasn't on part of it.

1 Q. My question is wouldn't it have been a
2 good idea given the obvious questions of
3 credibility of someone who is a jailhouse snitch
4 such as Lester Wells to have subjected him to a
5 lie detector as you did to various other people,
6 including Busby and Herrington?

7 MS. EKL: Objection. Form and
8 foundation.

9 THE WITNESS: I would answer you could
10 have gave him a polygraph. Why we didn't give
11 him a polygraph? I have no explanation about
12 that.

13 BY MR. TAYLOR:

14 Q. All right. Now, at some point were
15 you -- did you participate in the monitoring of
16 Debra Rienbolt when she was on house arrest
17 before she testified at trial?

18 A. Could you -- what do you mean by
19 monitoring?

20 Q. Well, were you present at her house?

21 A. I don't recall ever going to Debra's
22 house. I might have been, but I don't recall
23 that I was. I didn't stand guard. I don't
24 recall that.

1 Q. Did she ever call you to come to her
2 house to talk to you?

3 A. I don't recall that she did do that.

4 Q. Okay. Now, at some point earlier
5 yesterday you mentioned that you were of the
6 opinion -- because of the opinion at some point
7 that there were others involved in this case
8 similar to what you said Marlow's view was.
9 Right?

10 A. Yes, sir.

11 Q. Okay. And it was your view that there
12 were others involved in the case, not instead of
13 Steidl and Whitlock but along with Steidl and
14 Whitlock. Right?

15 A. Yes, sir.

16 Q. And did you come to that conclusion
17 during the original investigation, or have you
18 come to that conclusion subsequently?

19 A. I came up with the original -- the
20 original investigation, I think I stated maybe
21 the first day here, or whatever, I always thought
22 that there was someone else involved with them.

23 Q. And did you at some point come to any
24 conclusion as to who you thought were those

1 someones that were involved as well?

2 A. There were numerous suspects. I think
3 that maybe I mentioned the first day -- that was
4 yesterday -- Owen Chambers and Ashley was a
5 suspect.

6 Q. Well, was --

7 A. Busby was a suspect.

8 Q. Was Herrington a suspect as well to
9 have participated in -- more in the crime than he
10 said?

11 A. I never thought of Herrington being a
12 suspect.

13 Q. How about Rienbolt, she certainly was
14 a suspect. She was charged with it right?

15 A. She was charged with something.

16 Q. Concealment of a homicide. Right?

17 A. Yes, sir.

18 Q. But, in fact, she could have been
19 charged with the murder given the fact -- given
20 her own statement that she was holding down Karen
21 Rhoads. Right?

22 MR. MANCINI: Objection as to form.

23 THE WITNESS: It was a decision made
24 by the State's Attorney.

1 BY MR. TAYLOR:

2 Q. All right. But I'm saying you as
3 knowing what circumstances you could arrest
4 somebody, she could have been arrested for
5 actually participating in a homicide if her story
6 that she held down Karen Rhoads was believable.
7 Right?

8 A. That would be up -- every case would
9 be different, and that decision would have been
10 made by the State's Attorney on how to handle
11 that.

12 Q. I'm asking you as an officer that is
13 charged with the responsibility to arrest with
14 probable cause after an investigation, whether if
15 someone admitted to you that he or she held a
16 victim while someone else stabbed that person to
17 death, whether if you believed that story that
18 you could and should charge that person with
19 murder, not concealment of a homicide?

20 MS. EKL: Objection. Form and
21 foundation. Calls for a legal conclusion.

22 THE WITNESS: I believe that any
23 county or city that we would have worked, we
24 would consult with the State's Attorney on that

1 particular charge on any case.

2 BY MR. TAYLOR:

3 Q. I'm not asking you who you would
4 consult with. I'm asking you your decision as a
5 law enforcement officer, not consultation. I'm
6 asking what your decision would be.

7 MS. EKL: Same objection.

8 THE WITNESS: My decision would be to
9 talk to the State's Attorney.

10 BY MR. TAYLOR:

11 Q. Would you agree with me that there
12 would be -- that there was probable cause to
13 arrest Debbie Rienbolt for murder after she said
14 to you and Eckerty that she had held Karen Rhoads
15 while she was stabbed --

16 MS. EKL: This is Eckerty.

17 BY MR. TAYLOR:

18 Q. -- and killed?

19 MS. EKL: This is Eckerty. Your
20 statement said you and Eckerty.

21 BY MR. TAYLOR:

22 Q. You and Parrish.

23 A. I won't agree with that. I will agree
24 that that should be taken to the State's

1 Attorney. No matter what case you're in and no
2 matter what county you're in, that particular
3 thing should be taken to the State's Attorney,
4 and that State's Attorney would make that
5 decision on that.

6 Q. What happened if you didn't have --
7 you didn't have access to the State's Attorney,
8 you were on the street and someone admitted to
9 you having done that, and you had the power to
10 arrest that person at that time based on that
11 statement, would you have arrested someone if you
12 believed that someone to have been telling the
13 truth when he or she said that she participated
14 in a homicide by holding somebody while someone
15 else stabbed them to death?

16 MS. EKL: Objection. Form and
17 foundation.

18 BY MR. TAYLOR:

19 Q. Would you make that arrest?

20 MS. EKL: Objection. Form and
21 foundation. Incomplete hypothetical.

22 THE WITNESS: I would probably hold
23 that stuff and contact the State's Attorney.
24 They're always available.

1 BY MR. TAYLOR:

2 Q. So you don't see the participation
3 sufficient in circumstances like Debbie Rienbolt
4 ultimately told of holding someone while someone
5 else murdered them to make a decision as a law
6 enforcement officer on your own without the input
7 of the State's Attorney as to whether to charge
8 for murder. Is that your testimony?

9 MS. EKL: Objection. Form.

10 THE WITNESS: I would always consult
11 with the State's Attorney office, and that would
12 be his call.

13 BY MR. TAYLOR:

14 Q. Did you always consult the State's
15 Attorney before you made an arrest?

16 A. On a serious charge I would, yes.
17 It's going to be his case.

18 Q. Okay. What information and when did
19 you first learn it led you to conclude that Jeb
20 Ashley was involved in this crime?

21 A. I think during the interviews his name
22 kept popping up as possibly being involved in
23 drugs with Dyke.

24 Q. And so that's basically what -- the

1 information that made you suspect him as a
2 possible participant, that being that he,
3 according to other people, sold drugs to Dyke
4 Rhoads?

5 A. There was information that Ashley was
6 involved with drugs with Whitlock and Dyke
7 Rhoads.

8 Q. So those -- that information, both
9 Whitlock connecting Whitlock, Rhoads, and Ashley
10 was information that made you suspect Ashley as a
11 potential participant in the crime. Is that
12 right?

13 A. Could have been.

14 Q. Anything else?

15 A. The drugs, yes.

16 Q. You said that.

17 A. Close association. Florida came up a
18 lot. He moved to Florida.

19 Q. Anything else?

20 A. Not that I can recall at this point.

21 Q. Did you go to interview Jeb Ashley
22 sometime in the spring of 1987?

23 A. I did.

24 Q. All right. And after you interviewed

1 him, did you develop any new information that
2 connected him?

3 A. Only what I think that he stated he
4 did -- was involved in drugs, but not as much as
5 I would like to have developed.

6 Q. So basically after you talked to
7 Ashley, you had no new information in addition to
8 what you already had about him and his connection
9 to Rhoads on the one hand and Whitlock on the
10 other?

11 A. I would like to develop more
12 information on the interview than I did.

13 Q. Did you have any information directly
14 connecting Ashley with Randy Steidl?

15 A. I don't know. Can I read the
16 interview? I don't know exactly what he said
17 now.

18 Q. Do you know of any information without
19 reading all the reports?

20 A. I don't recall that.

21 Q. Okay. Now, you also said that you
22 made a conclusion that Ovid Chambers was possibly
23 a suspect as another person involved in this
24 crime along with Whitlock, Steidl, Debbie

1 Rienbolt, possibly Herrington, and Ashley.

2 Right? We've got five people. Ovid Chambers is
3 the sixth. Right?

4 A. You're talking about Ovid Chambers
5 now?

6 Q. Right.

7 A. He was a suspect.

8 Q. And what information did you have that
9 connected him in any way?

10 A. Information that he was in town for
11 the weekend.

12 Q. All right. There were a lot of people
13 in town for the weekend?

14 A. From Florida.

15 Q. All right. So the fact that he was in
16 town from Florida, anything else, any other
17 information you had to connect him?

18 A. I don't recall right now but possibly
19 did.

20 Q. Okay. And did you interview Chambers
21 when you went to Florida in April?

22 A. We did.

23 Q. And what, if anything, did you learn
24 about him?

1 A. I didn't get the information -- all
2 the information that I thought I should have got.

3 Q. All right. So at that point you got
4 no additional information? Can we take a short
5 break?

6 MS. EKL: I would like to note it's
7 4:30. We're rounding the corner on 13 hours.

8 MR. BALSON: It's going to be my turn
9 now, and I promise to finish by 6:00. You're
10 done now, Flint. It's my turn.

11 MS. SUSLER: Wait. Wait.

12 (At this point a short recess was
13 taken.)

14 MR. TAYLOR: For the record, I'm
15 handing off to Ron. I'm all but finished, and
16 depending on what he covers, I don't think I'll
17 have any further questions.

18 EXAMINATION CONDUCTED

19 BY: MR. BALSON

20 Q. Good afternoon, Mr. Eckerty. My name
21 is Ron Balson, and I represent Herb Whitlock.

22 A. Yes, sir.

23 Q. You came into this investigation on
24 July 6th. Right?

1 A. Yes, I did.

2 Q. Did you know Herb Whitlock on July
3 6th?

4 A. I did.

5 Q. And how did you know Herb?

6 A. I had known Herb quite some time. I
7 know Herb's mom and dad. His dad and mom have
8 been to my house. They're in the Shrine Club
9 together, but I've known Herb, I don't know how
10 many years, but I had known him for a while.

11 Q. Did you know him to be a violent man?

12 A. Only drugs activity.

13 Q. You knew him to have drug activity?

14 A. Yeah.

15 Q. What did you know about his drug
16 activity?

17 A. I knew he had been arrested a couple
18 times. That's about it. One time he beat up on
19 one of his girlfriends. I don't know where that
20 was at, but that's the -- I knew Herb.

21 Q. Did you know Randy Steidl?

22 A. Not as well, probably. I don't recall
23 how well I knew him. I know when I was a
24 uniformed trooper, there was a couple times I was

1 working a late shift or something in Edgar
2 County, and on one time especially the PD asked
3 for a backup, and the backup was Randy was having
4 problems with a female. I backed up on it. I
5 did back them up, but I had no confrontation with
6 him.

7 Q. And when you investigated -- when you
8 were called to the scene on July 6th, 1986, you
9 didn't have any reason on that date to suspect
10 either Mr. Steidl or Mr. Whitlock committing those
11 crimes. Did you?

12 A. No, sir, I didn't.

13 Q. And then I think you've testified to
14 the interviews and reports you did over the
15 ensuing few days. Right? Between July 6th and
16 July 9th you interviewed a number of people. Did
17 you not?

18 A. Yes, we did.

19 Q. And in any of those interviews did
20 anyone mention Herb Whitlock?

21 A. I don't recall if they did.

22 Q. In fact, nobody gave you any evidence
23 between the time you first got involved and the
24 time Herb Whitlock was taken into questioning

1 that Herb Whitlock was involved at all in these
2 crimes. Isn't that right?

3 A. If I recall it right, the first time I
4 heard their names was when they were brought down
5 to the PD, and we talked to them that day,
6 whatever date that was.

7 Q. That was July 9th.

8 A. Okay.

9 Q. And I'd like to talk to you about
10 that.

11 A. Okay.

12 Q. You say that someone called the
13 station. Is that right? Was that how that came
14 about?

15 A. That's the way I remember that.

16 Q. Did they talk to you personally?

17 A. I'm not sure who they did talk to,
18 whether it was a dispatcher or whether that was
19 brought back to us or where we were even at.

20 Q. So the dispatcher might have said to
21 you someone is calling and saying what?

22 A. The information, as I recall it, was
23 something as the source that Randy and Herb were
24 in the Tap Room, I believe that was the tavern,

1 and they were making statements about the Rhoads
2 homicide. That's about what they were saying.

3 Q. Okay. And at this particular time
4 around July 9th were a lot of people in town
5 talking about these homicides?

6 A. I do imagine so.

7 Q. Almost everyone in town would be
8 talking about these homicides?

9 A. Yes.

10 Q. So it wouldn't be unusual that someone
11 was talking about the homicides. Would it?

12 A. It would not be.

13 Q. But I think you mentioned that in this
14 particular case there was something about these
15 statements which caused you to go out or to have
16 the police go out and bring these boys in.
17 Right?

18 A. There was.

19 Q. And what were those statements?

20 A. I don't recall the exact statements,
21 but they were making accusations about something
22 about the murders that brought our attention to
23 wanting to talk to them about it.

24 Q. And as an investigator did that seem

1 reasonable to you that people who had committed a
2 murder would go out and start making comments
3 about how they committed a murder?

4 A. It can when you're in a tavern
5 drinking.

6 Q. And that's what you thought when you
7 brought -- when you interviewed Mr. Whitlock that
8 day when he was brought in. Right?

9 A. Yes, I did.

10 Q. Was he drunk?

11 A. I don't recall --

12 Q. All right.

13 A. -- you know, if that was real obvious
14 or not.

15 Q. When they called in was that call
16 logged, whoever called this -- was it an
17 anonymous call?

18 A. I don't recall if it was logged or
19 not.

20 Q. And was -- I think you've said that
21 there was no report made of this call. Right?

22 A. I'm not aware at this time if there
23 was.

24 Q. So, as you sit here today, really

1 other than your testimony, or what not, there is
2 absolutely no proof that this call was ever even
3 made. Is there?

4 MS. EKL: Objection. Form.

5 THE WITNESS: Other than my telling
6 you that, yes.

7 BY MR. BALSON:

8 Q. Okay. Was the police department
9 getting a lot of calls during this period of time
10 about people who thought they had information
11 about the murders?

12 A. There could have been -- I imagine
13 people were calling. I don't know what they
14 were, you know.

15 Q. That would be a typical case.
16 Wouldn't it?

17 A. It would be.

18 Q. After some sensational murder, people
19 would call up with tips. Right?

20 A. Yes, sir.

21 Q. And they were being followed up, were
22 they not, the tips?

23 A. Yes, sir.

24 Q. And were they being logged into some

1 kind of a written or permanent fashion that --
2 the information that was being given?

3 A. The only thing that comes to my mind
4 right off the top of my head is that we would
5 make the card -- if a call is made and say so and
6 so made a card on them, and that would be
7 followed up at some point.

8 Q. So if a call came in with somebody
9 with that information or a tip or whatever, it
10 would be put on a card?

11 A. Usually it would be, yes.

12 Q. And if it wasn't put on a card, then
13 it wouldn't be recorded in any other way, to your
14 knowledge?

15 A. To my knowledge, it wouldn't be.

16 Q. There wasn't any log or book that was
17 kept of tips on the Rhoads homicides. Right?

18 A. Only that card file.

19 Q. Okay. And so whatever this person
20 said, the police acted rather promptly in this
21 case to bring Whitlock and Steidl into the police
22 station. Right?

23 A. It was given to somebody in our group,
24 and it was decided to call down and have them

1 come down.

2 Q. Tell me who you mean by your group.

3 A. Well, myself. We had Parrish. There
4 was Gary Wheat from the PD. There was Lee
5 Bensyl, and there's Tony Snyder at that point,
6 and Gene Ray at that point was working on the
7 case.

8 Q. When this call came in, did you call
9 Mike McFatridge and tell him about it?

10 A. I don't recall that we did, but we
11 probably would have.

12 Q. Was Mike McFatridge helping you with
13 the investigation at that time?

14 A. Yes, sir.

15 Q. I think the first thing you said you
16 did was to call out to the bar. Is that right?

17 A. I recall that we did that.

18 Q. You called, and did you talk to Randy
19 Steidl?

20 A. I don't know who talked to who, you
21 know, who made the phone call and who we talked
22 to, but I do recall a phone call was made.

23 Q. So if Randy Steidl said that you
24 called him, you would have no reason to disagree

1 with that. Would you?

2 A. If Randy told me --

3 Q. If Randy Steidl was to say that
4 Mr. Eckerty called me at the Tap Room bar and
5 said he wanted to talk to me about the murders,
6 you would have no reason to disagree with that.
7 Would you?

8 A. I don't recall who talked to who.

9 Q. You wouldn't have any reason to
10 disagree that that wasn't the case. Would you?

11 A. It could have happened.

12 Q. Okay. And so you -- I think you
13 testified that you asked them to come in, right,
14 so that you could talk to them?

15 A. Yes, sir.

16 Q. Both Steidl and Whitlock?

17 A. Yes, sir.

18 Q. How long was it between that telephone
19 call and the time the police went out to the Tap
20 Room?

21 A. I think I testified earlier I just
22 don't recall how long it was. It must have been
23 enough to where we decided for somebody to go
24 down and bring them down so we could talk to

1 them.

2 Q. Was it less than ten minutes?

3 A. I would say not.

4 Q. You would say it's more than ten
5 minutes?

6 A. Yes.

7 Q. And then I think you just said, if I
8 heard you right, that somebody ought to go down
9 and get them. Right?

10 A. Bring them down so we could talk to
11 them.

12 Q. How many people went out to the Tap
13 Room to bring them down so you could talk to
14 them?

15 A. I don't recall that.

16 Q. Was it more than four?

17 A. I would probably think not.

18 Q. Did they go in the back door or in the
19 front door?

20 A. I wasn't there. I would have no
21 knowledge of that.

22 Q. You waited at the station?

23 A. I believe I did.

24 Q. Were they brought back in a police

1 car?

2 A. I don't recall that, but they probably
3 did, was brought back in a police car.

4 Q. So the policemen went out to the Tap
5 Room bar and brought them back in in the police
6 car. Right?

7 MS. EKL: Objection. Mischaracterizes
8 the evidence.

9 MR. BALSON: Is that right?

10 MS. EKL: Foundation.

11 THE WITNESS: The policemen went out
12 to the bar, you said?

13 BY MR. BALSON:

14 Q. Out to the bar and brought in
15 Mr. Steidl and Mr. Whitlock back to the police
16 station in police cars?

17 MS. EKL: Same objection.

18 THE WITNESS: So we could talk to
19 them.

20 BY MR. BALSON:

21 Q. Yes. And your answer was yes? I
22 didn't hear. Ms. Ekl was talking.

23 A. Your question was the police went to
24 the Tap Room to bring Steidl and Whitlock back?

1 Q. In the police cars.

2 A. I suppose that's the way they came
3 back in police cars.

4 Q. They didn't walk them back. Did they?

5 A. I don't imagine.

6 Q. Okay. Now, when they got back to the
7 police station, you didn't question them
8 together. Did you?

9 A. No, sir.

10 Q. You questioned one, and Mr. Bensyl
11 questioned the other. Is that right?

12 A. I don't know which one. I talked to
13 Whitlock, and somebody was with me. I don't
14 recall who was with me. Was that Bensyl? I'll
15 look it up, if you want me to.

16 Q. In a minute.

17 A. Okay.

18 Q. What I'm interested in now is if they
19 were making statements that were at all culpable
20 at this bar such that you thought it was
21 necessary to bring them in? Did the policemen,
22 any policemen stay at the bar and take statements
23 from the other people in the bar?

24 MS. EKL: Objection. Foundation.

1 THE WITNESS: I have no knowledge of
2 that.

3 BY MR. BALSON:

4 Q. Well, did you tell anybody to do that?

5 A. I don't recall that.

6 Q. Did you think it was important to do
7 that?

8 A. I don't recall that that was done, and
9 it could have been done.

10 Q. Well, you thought it was important
11 enough whatever they had said to send the police
12 out to bring them in. Right?

13 A. Yes, sir.

14 Q. Wouldn't it have been important, in
15 your judgment, to have somebody go out there and
16 take statements from people who heard them make
17 these statements?

18 MS. EKL: Objection. Form.

19 THE WITNESS: It would have been.

20 BY MR. BALSON:

21 Q. But it wasn't done. Was it?

22 A. I didn't see any reports on that.

23 Q. Okay. So, again, whatever -- strike
24 that.

1 Again, there is no written evidence
2 that we can look at that either Mr. Steidl,
3 Mr. Whitlock, or anybody in that Tap Room bar
4 heard them say anything. Is there?

5 MS. EKL: Objection to form.

6 THE WITNESS: No, there is not.

7 BY MR. BALSON:

8 Q. Can you tell me over this first week
9 or two of the investigation how many times you
10 sent the police out to surround a place and bring
11 a witness in for questioning?

12 A. I don't know of any time we surrounded
13 a place, but I do imagine the police went out to
14 pick up some people to bring in for us to talk
15 to, and I don't recall of who, but I do recall --
16 it's a practice you do.

17 Some people don't have a ride. Some
18 people -- if we're still in uniform, you go by
19 see if someone is home, bring them in, and we'll
20 talk to them.

21 Q. On this occasion the police came in
22 the back door and the front door. Didn't give
23 them much a choice. Did they?

24 MS. EKL: Objection to form and

1 foundation.

2 THE WITNESS: Didn't give who much a
3 chance?

4 BY MR. BALSON:

5 Q. Mr. Whitlock and Mr. Steidl didn't
6 have much a choice. Did they? They were being
7 brought in for questioning. Right?

8 MS. EKL: Objection. Form and
9 foundation.

10 THE WITNESS: We wanted to talk to
11 them, yes.

12 BY MR. BALSON:

13 Q. They weren't told you don't have to go
14 with us if you don't want to?

15 MS. EKL: Objection. Form and
16 foundation.

17 THE WITNESS: They weren't under
18 arrest.

19 BY MR. BALSON:

20 Q. That wasn't my question. Were they
21 told you don't have to come with us, if you don't
22 want to?

23 MS. EKL: Objection. Form and
24 foundation.

1 THE WITNESS: I wasn't there to bring
2 them in, so I guess I don't know what exactly
3 they were told.

4 BY MR. BALSON:

5 Q. Well, Mr. Ray was there, and he's
6 given his deposition. He testified the policeman
7 came in the back door and the front door, and he
8 was there. Is that a situation that you know of
9 that was repeated with any other witnesses during
10 the first couple of weeks during this
11 investigation?

12 MS. EKL: Objection. Form.

13 THE WITNESS: If the police were going
14 down to a bar and thought there might be a
15 confrontation or something like that, that would
16 be a way to approach that.

17 BY MR. BALSON:

18 Q. I can understand that would be your
19 general concept. I'm asking if you know of such
20 a situation. Did such a situation exist, to your
21 knowledge, over the first two, maybe two months
22 of this investigation?

23 A. No, sir.

24 Q. Okay. When was it, in your judgment,

1 that Mr. Steidl and Mr. Whitlock were focused
2 upon as the principal suspects in this case? Can
3 you give me a time?

4 A. I don't recall the exact time.

5 Q. Would it have been then on July 9th?

6 A. That was the first time we had contact
7 with them. It was like Tim Busby and all the
8 rest of them, so they would be a suspect starting
9 at the time, yes, sir.

10 Q. Because of something that was
11 supposedly said in the bar?

12 A. Yes, sir.

13 Q. Were you in the police station on July
14 11th when Mike Dunlap supposedly came to visit
15 Mr. Parrish?

16 A. I just -- I don't recall if I was in
17 the police station then or not.

18 Q. Did you hear Mr. Parrish tell Mike
19 Dunlap on July 11th that he knew that Herb
20 Whitlock was guilty of the crimes?

21 A. I don't recall hearing that.

22 Q. But you participated in questioning
23 Mr. Whitlock when he came in. Right?

24 A. I did.

1 Q. Did you take notes?

2 A. I presume I did take notes.

3 Q. Did you put them on a card?

4 A. I don't know for sure if I put notes
5 on a card or not.

6 Q. Well, you later had them typed up on
7 this report that you identified earlier today.
8 Right?

9 A. Yes, sir.

10 Q. The one which was typed on 3/26/87?

11 A. That's what it says, yes.

12 Q. Right, typed by Faye Phillippi?

13 A. Yes.

14 Q. That's the woman you had a
15 relationship with?

16 A. It is, sir.

17 Q. Were you having a relationship with
18 her in 1986?

19 A. I was not.

20 Q. Were you good friends with her then?

21 A. I knew she was the secretary.

22 Q. She was not a secretary for the
23 Illinois State Police. Was she?

24 A. State's Attorney.

1 Q. For the State's Attorney's Office.
2 Why was it that reports were submitted to the
3 State's Attorney to be typed up by his office
4 rather than having your reports typed up by the
5 appropriate people at the Illinois State Police?

6 MS. EKL: Objection to form.

7 THE WITNESS: That was decided by my
8 office that we were down there a lot and to have
9 the reports typed up there. We took our
10 stationery down there, and they were typed up at
11 one point. Not at the very first, but --

12 BY MR. BALSON:

13 Q. After the indictment? Well, this was
14 after the indictment. Wasn't it?

15 A. You can tell by the forms of when it
16 was. There are different types.

17 Q. Why was it that you put together a
18 whole bunch of reports and had Faye Phillippi
19 type them up after the indictment?

20 MS. EKL: Objection. Form and
21 foundation.

22 THE WITNESS: I would have no idea why
23 I did that.

24 BY MR. BALSON:

1 Q. Just coincidental. Was it?

2 A. I would put them on tape, and whenever
3 I turned them in, I turned them in.

4 Q. Did Mr. McFatridge require you to give
5 him his reports so that he could have Faye
6 Phillippi type them up?

7 MR. MANCINI: Objection as to form.

8 THE WITNESS: His personal reports?

9 BY MR. BALSON:

10 Q. No, the reports, these reports that
11 were typed up in March, and there's a number of
12 them. There's the one for Herb Whitlock.
13 There's the one for Luanne Wakefield where Debbie
14 Rienbolt's knife fell out of her purse. There's
15 one for -- well, I don't know. There are several
16 of them, and they were all typed up by Faye
17 Phillippi on March 26th and 27th.

18 Did Mr. McFatridge -- my question to
19 you is did Mr. McFatridge require you to submit
20 these reports through his office so that he could
21 have his office type them up?

22 A. No, sir, he did not. That decision
23 was made.

24 Q. That was your idea?

1 A. It was not my idea. That was my
2 office in Champaign who suggested just have them
3 typed up there, bring them back here, because I
4 wasn't traveling back and forth to the office
5 that much.

6 Q. Who in Champaign directed you to do
7 that?

8 A. I would say it would have been talked
9 over with my supervisor, McGrew.

10 Q. McGrew told you to do that?

11 A. Talked over with McGrew and whoever,
12 yes.

13 Q. So McGrew told you instead of having
14 the Champaign office type up these reports that
15 you had been putting together for the last eight
16 or nine months, you should submit them to
17 McFatrige's secretary for typing?

18 A. No, the last eight or nine months,
19 they weren't. The first ones were typed up at
20 our office.

21 Q. Well, this one, this report that Faye
22 Phillipi typed up on March 26th is dated -- well,
23 it's dated 6/9/86. That is really 7/9/86? Isn't
24 it?

1 A. Yes.

2 MS. EKL: Wait. Wait. Wait. Stop.

3 Stop. Stop.

4 You're saying -- we're referring to a
5 report and saying this report. Can you please
6 identify what report you're talking about?

7 BY MR. BALSON:

8 Q. It's already been identified. I think
9 you know which one I'm talking about, but I can
10 identify it. It's marked at the bottom Plaintiff
11 3745.

12 MS. EKL: Who was the subject of that
13 report?

14 BY MR. BALSON:

15 Q. The subject of the report is Herbert
16 Whitlock. But you were asked about this earlier
17 in your testimony?

18 A. Yes, I was.

19 Q. You remember this?

20 A. I remember this.

21 Q. This is about nine months old, right?
22 The original interview typed up some nine months
23 later by McFatridge's office?

24 A. It is, but I can't explain the dates

1 on there.

2 Q. So you have no explanation why
3 McFatridge's office typed up all these reports
4 after the indictment?

5 MS. EKL: Objection to the form of the
6 question, specifically the reference to all these
7 reports.

8 MR. MANCINI: I object to the form
9 also for different reasons.

10 THE WITNESS: The only thing I recall
11 in the reports it was suggested from my office
12 that they be typed up down in the State's
13 Attorney's Office, because it was a long ways
14 from Paris to my office.

15 BY MR. BALSON:

16 Q. I'm going to ask you if you would look
17 at this. I know we've identified it earlier, but
18 I don't remember the number, but it's the
19 Whitlock report from 3745.

20 A. Yes, sir.

21 Q. When you wrote this down -- may I
22 assume that you took notes and wrote down what
23 you felt was important from that interview?

24 A. Yes, sir.

1 Q. All right. And so when Mr. Whitlock
2 stated he didn't know anything about the
3 homicide, you wrote that down, because that's
4 what he said. Right?

5 A. It's in my notes.

6 Q. Yeah. And when he was asked if he and
7 Randy Steidl made statements at the Tap Room
8 tavern, he denied that. Didn't he?

9 A. He did.

10 Q. And did he on that very occasion after
11 you questioned him offer to take a lie detector
12 test?

13 A. I don't have anything in these notes
14 about that.

15 Q. I'm going to show you a card from
16 Mr. Ray's file. This is Ray Deposition Exhibit
17 No. 13. It's Steidl 12734 and ask you to take a
18 look at that. Would that be your handwriting?

19 A. That's not my handwriting, no. No,
20 sir.

21 Q. Well, how is that card made then?

22 A. I don't know.

23 Q. Whoever was in the room with you?

24 MS. EKL: Objection. Foundation.

1 THE WITNESS: I'll identify my
2 handwriting. That's too good for me.

3 BY MR. BALSON:

4 Q. Was that whoever was in the room with
5 you, then?

6 A. It could have been. Somebody made
7 that card.

8 Q. In that card do you see where it says
9 would take polygraph?

10 A. I see that.

11 Q. And I think that you testified earlier
12 in your deposition that when someone offers to
13 take a polygraph, that's a very positive effect
14 upon their credibility. Isn't it?

15 A. It's a tool to ask them if they'll
16 take a polygraph, yes.

17 Q. It's a positive effect upon their
18 credibility. Isn't it?

19 A. Yes.

20 Q. Makes one more credible if he says
21 I'll be happy to take a lie detector test.
22 Right?

23 A. It would.

24 Q. Why isn't it that you didn't put that

1 into your report that you wrote up after his
2 indictment?

3 A. I can't explain that.

4 Q. Did Mr. McPatridge cut that out?

5 A. Oh, he would not have done that.

6 Q. Why not?

7 A. Because I would have written it the
8 way I wanted to write it. I wouldn't have
9 omitted that.

10 Q. You assume he wouldn't have done that.
11 Right?

12 MR. MANCINI: Objection to form.

13 BY MR. BALSON:

14 Q. Is that true, or do you know that for
15 a fact?

16 MR. MANCINI: Objection to form.

17 THE WITNESS: I would have written
18 that report. It would have been written as I had
19 written it.

20 BY MR. BALSON:

21 Q. Why didn't you put that on there?

22 A. It was an error on my part.

23 Q. You have testified that you thought
24 this lawsuit was brought too fast. You said that

1 a few times. Right?

2 A. A lawsuit?

3 Q. I'm sorry, the indictment. Not the
4 lawsuit. The indictment.

5 MS. EKL: Objection to form.

6 BY MR. BALSON:

7 Q. Is that right? The arrests and
8 indictment of Steidl and Whitlock.

9 A. It was my opinion to wait a few days
10 just to see what else I could get.

11 Q. And you thought all along that others
12 were involved. Right?

13 A. I did.

14 Q. Did you ever come to a conclusion who
15 these others are?

16 A. I have not worked on the case.

17 Q. But as of the time you stopped working
18 on the case, you had no opinion who the others
19 were. Right?

20 A. My own opinion. I never could prove
21 it.

22 Q. Wasn't it the theory of your group
23 that the killings resulted from a drug deal gone
24 bad?

1 MS. EKL: Objection to form.

2 THE WITNESS: At one time.

3 BY MR. BALSON:

4 Q. What time?

5 A. When we got further on into the case
6 and we started interviewing people. The people
7 that Dyke had associated -- was truly involved in
8 drugs. He was involved in drugs.

9 Q. Dyke was?

10 A. He used cocaine.

11 Q. How do you know that?

12 A. His brother made a statement.

13 Q. His brother made a statement that he
14 used cocaine?

15 A. Jeb Ashley sold it to him. Jeb Ashley
16 I think said that Herb sold Jeb his coke and also
17 Dyke, and Dyke knew that Herb was selling coke.

18 Q. When you -- when you went into the
19 Rhoads premises and did your investigation, did
20 you find any drugs?

21 A. No, I don't recall any drugs being
22 found at all.

23 Q. Any drug paraphernalia?

24 A. Did not.

1 Q. The -- you said at one time you
2 thought it was a drug deal. Is that a final
3 theory that you came up with, that it was a drug
4 deal gone back?

5 MS. EKL: Objection to form.

6 BY MR. TAYLOR:

7 Q. Was there a theory that you came up
8 with at one time and then later decided that
9 wasn't the cause?

10 A. I believe the interviews that we made
11 later on and during the thing, drugs entered into
12 it.

13 Q. Jeb Ashley in his first statement to
14 the police, he didn't say anything about drugs.
15 Did he?

16 A. I don't believe the first statement.

17 Q. Okay. Did you ever settle in your own
18 mind upon a motive for these murders?

19 A. A positive motive?

20 Q. I don't know what that means, positive
21 motive. In your mind did you ever settle on what
22 you believed to be the motive for these murders?

23 A. I believe it was drugs.

24 Q. It was drugs. Okay. And what about

1 the drugs caused them to be killed?

2 A. I believe there was a non-payment
3 someplace along the line.

4 Q. They failed to pay for drugs, and
5 that's why they were killed?

6 A. Yes, somewhere along the line.

7 Q. Were the Rhoads a wealthy couple?

8 A. To my knowledge, no.

9 Q. How much money did they have in their
10 bank account at the time they were killed?

11 A. I don't recall, but it wasn't much.

12 Q. It was like \$200. Wasn't it?

13 A. It wasn't much.

14 Q. And did you see any large withdrawals
15 from that bank account in the month prior to the
16 murders?

17 A. I don't think we did.

18 Q. Do you have any evidence of large drug
19 transactions in the month prior to their murders?

20 A. I did not.

21 Q. Did you ever in your investigation or
22 did others in your group, to your knowledge, ever
23 suspect that this was a random killing by a
24 transient?

1 MS. EKL: Objection to foundation as
2 to other people.

3 THE WITNESS: The first couple three
4 days we had no idea.

5 BY MR. BALSON:

6 Q. Right?

7 A. So it could have been just anything,
8 yes.

9 Q. Okay. But the question -- that was
10 not the question. The question was did you and
11 your group, to your knowledge, because you
12 discussed this all the time, ever hypothesize
13 that this could have been a random killing by a
14 transient, some slasher going through Paris?

15 A. I don't recall if we had a discussion
16 about that part or not.

17 Q. You --

18 A. We considered everything.

19 Q. And that possibility also?

20 A. Possibly could have been that, yes.

21 Q. Did it ever come to your attention
22 that a certain Richard Smith was in town that
23 night?

24 A. I don't recall that name at this point

1 as we're speaking.

2 Q. Well, there was a transient in Paris
3 that night who was taken by the police to the
4 Hotel France. Did you have information on that?

5 MS. EKL: Objection. Foundation.

6 THE WITNESS: I don't recall the date
7 if we did, but possibly I did have that
8 information, but I don't recall right now.

9 BY MR. BALSON:

10 Q. Was it the practice, if you know, of
11 the Paris police when a transient was found in
12 town late at night to put him up at the Hotel
13 France?

14 MS. EKL: Objection. Foundation.

15 BY MR. BALSON:

16 Q. And then to escort him out of town in
17 the morning?

18 A. I'm not aware of what they did with
19 them.

20 Q. Huh?

21 A. I'm not aware of what they did.

22 Q. You're not aware of that practice?

23 A. I wouldn't have been.

24 Q. And it was never brought to your

1 attention that there was a transient identified
2 as Richard Smith the night of the murders in
3 Paris?

4 MS. EKL: Objection. Foundation.

5 THE WITNESS: I don't recall that
6 today. Maybe it was brought to our attention at
7 that time, but that does not -- I don't recall
8 that name.

9 BY MR. BALSON:

10 Q. Any investigation done of the room he
11 stayed at at the Hotel France, if you know?

12 MS. EKL: Objection. Foundation.

13 THE WITNESS: As far as a report
14 written on that, I have never seen a report, I
15 don't believe.

16 BY MR. BALSON:

17 Q. I think you testified earlier when
18 Mr. Taylor asked you about Bob Morgan and the
19 fact that it was reported that Karen Rhoads had
20 seen guns and bags of money at Morgan's premises
21 in a car, I think you said you would have had to
22 have more bullets in your gun to go out and ask
23 Morgan about that. Is that right? Am I right?

24 A. It was a suitcase full of money.

1 Wasn't it? It doesn't make any difference. It
2 was money. The bullets in my gun is an
3 expression I use.

4 Q. Expression is fine. I guess that
5 means you need a little more meat on the bone to
6 go out and ask him something?

7 A. Yes, sir.

8 Q. What did you do to get a little more
9 bullets in your gun or a little more meat on your
10 bone?

11 A. We interviewed a lot of people or
12 interviewed some people at the Morgan place, see
13 if anything voluntary was coming out of there and
14 always kept that in our mind.

15 Q. Did it ever occur to you that Bob
16 Morgan might have relationships, financial
17 relationships with either Chief Ray or Parrish or
18 McFatridge?

19 A. It never occurred to me that, no. No,
20 sir.

21 Q. So no one ever looked into any
22 financial dealings that Bob Morgan might have had
23 with McFatridge or Mr. Parrish or Mr. Ray?

24 A. I would have had no reason to.

1 Q. Did you ever make the statement that
2 Mr. McFatriidge after Whitlock and Rhoads --
3 Whitlock and Steidl were identified as suspects
4 steered the investigation away from Bob Morgan?

5 A. Never had that information.

6 Q. You never made that statement?

7 A. No.

8 Q. In fact, is that true? Did
9 Mr. McFatriidge steer the investigation away from
10 Bob Morgan?

11 A. At no time that I was aware of that.

12 Q. Other than -- other than the fact that
13 Marilyn Busby and others had mentioned that Karen
14 had seen things at Bob Morgan's plant that she
15 shouldn't have seen, were there other
16 circumstances that gave you cause to think Bob
17 Morgan might have been involved in Karen Rhoads'
18 murder?

19 A. There was none.

20 Q. Go ahead. Did you learn that he had
21 purchased a burial plot next to Karen?

22 MS. EKL: Objection. Foundation.

23 THE WITNESS: I was not aware of that.
24 It was brought up maybe yesterday or someplace.

1 I wasn't aware of that at all.

2 BY MR. BALSON:

3 Q. Is that what her father told you,
4 Harold Rhoads?

5 A. To my knowledge, I was never aware of
6 that.

7 Q. Was that in Harold Rhoads' report?

8 A. It could be. Right now, I don't have
9 any knowledge.

10 Q. Might have overlooked it or forgot it?

11 A. I could have. Could have been.

12 Q. And you knew about the problems with
13 Smoke Burba. Did you not?

14 A. Yes, sir.

15 Q. And you knew that Bob Morgan had
16 offered a \$25,000 reward. Is that correct?

17 A. I did.

18 Q. Did you ever question him as to why he
19 offered such a large reward?

20 A. You know, I did not, and a personal
21 opinion on that, he was a businessman. He
22 employed a lot of people, and I didn't think too
23 much of that.

24 Q. You were asked yesterday about whether

1 Mr. McFatriidge was involved in any drug activity
2 in the Paris area, and I think you said it was
3 strictly rumors. You talked to Parrish about it,
4 and you talked to McFatriidge, and if there was
5 any proof, you would have taken action. Did I
6 summarize that correctly?

7 A. You did.

8 Q. So I think you said if you had an
9 inkling something was going on, the DCI agent
10 wouldn't even work in that county. Isn't that
11 what you said?

12 A. That's true.

13 Q. Mike Dunlap was one of the witnesses
14 in this case. Is that right?

15 A. I remember his name. I don't remember
16 what he said.

17 Q. One of the things that he said is that
18 he saw McFatriidge snorting cocaine at a party.
19 Do you remember reading that?

20 MS. EKL: Objection. Foundation as to
21 when.

22 THE WITNESS: I don't remember reading
23 that, but I imagine if he was interviewed, bring
24 the evidence.

1 BY MR. BALSON:

2 Q. Might have been something you read,
3 but it slipped your mind?

4 A. And I'm sure -- if you said it's in
5 there, it's in there, but it has slipped my mind,
6 and I don't recall it at this point, but if that
7 was information that was received, I would have
8 go back to what my statement is. If people can
9 produce information, we would take action.

10 Q. Well, did you choose not to believe
11 Mr. Dunlap's statement that he saw McFtridge
12 snorting cocaine at a party?

13 MS. EKL: Objection. Foundation.
14 There's no foundation that he heard that from
15 Mike Dunlap or knew about it back then.

16 MR. BALSON: Read it I think is what I
17 suggested.

18 MR. MANCINI: Join in my objection.

19 MS. EKL: Are you talking about read
20 it now or read it back then? That's why my
21 objection is foundation.

22 MR. MANCINI: I have the same
23 objection.

24 THE WITNESS: I'm going to answer that

1 as I don't recall ever receiving or reading that
2 information, but, if I did, we would have done
3 something, asked -- if I was talking to the
4 gentleman, we would have wanted proof. That's a
5 very serious thing to me.

6 BY MR. BALSON:

7 Q. Do you know a Paris police officer
8 named John McKenna?

9 A. Yes.

10 Q. Do you know whether or not he wrote to
11 the Attorney General about McFatridge and his
12 connection with drugs?

13 A. I don't think I recall that. He was a
14 policeman earlier. I don't recall that ever
15 happening.

16 Q. That's not something that you're aware
17 of either?

18 A. It could have happened. I don't
19 recall that. I'm not saying it didn't.

20 Q. Did you ever hear -- I mean you heard
21 rumors about his drug use which you chose to
22 dismiss. Did you ever hear rumors about his
23 connection with gambling in Paris?

24 MS. EKL: Objection. Foundation,

1 form. There's been no evidence that he chose to
2 dismiss any evidence or had any evidence that
3 Mike McFatrige was actually doing drugs.

4 MR. MANCINI: Join the objection.

5 BY MR. BALSON:

6 Q. Well, he just testified -- I don't
7 want to get into a colloquy with you, and I
8 prefer that you not make speaking objections, but
9 he just testified that he did hear the rumors,
10 and he chose to dismiss them. That's what he
11 just testified.

12 MS. EKL: Your question was evidence.
13 Your question was evidence, and he said I had no
14 evidence, so my objection is to your use of the
15 word -- slipping evidence in there when said he
16 heard rumors. He said if I had evidence, I would
17 have done something.

18 BY MR. BALSON:

19 Q. I think I said rumors. Did you ever
20 hear rumors about his gambling activities?

21 A. No, sir.

22 Q. Did anyone ever tell you that he was
23 selling jar numbers?

24 MR. RAUB: Jar numbers?

1 BY MR. BALSON:

2 Q. Jar tickets.

3 MR. MANCINI: Object to foundation.

4 THE WITNESS: Is that ticket boards?

5 I don't know what jar tickets are.

6 BY MR. BALSON:

7 Q. It could be?

8 A. But the answer is no.

9 Q. The pull-aparts?

10 A. Yes, the answer is no.

11 Q. Would that have been a criminal

12 activity on his part?

13 A. If he was selling them personally?

14 Q. Yes. Yes.

15 A. It sure would be, but I wouldn't know

16 where he would be doing that at. I have no

17 knowledge of that.

18 Q. You don't have any knowledge of it?

19 A. No, I don't, I'm sorry.

20 Q. And you haven't heard that as a rumor?

21 A. No, sir.

22 Q. Did you ever hear that Mr. Steidl and

23 Mr. Whitlock went to talk to the FBI about

24 Mr. McFatrige's drug and gambling activities?

1 MR. RAUB: Objection. Misstates the
2 evidence.

3 THE WITNESS: I heard of that long
4 after the fact.

5 BY MR. BALSON:

6 Q. In fact, they went in April of '86.
7 Didn't they?

8 A. But I didn't know that then.

9 Q. Just a couple of months before the
10 murders. Right?

11 A. I had no knowledge of that.

12 Q. And did they meet with someone named
13 Ken Temples?

14 MS. EKL: Objection. Foundation.

15 BY MR. BALSON:

16 Q. If you know?

17 A. Do I know Ken Temples?

18 Q. Yes.

19 A. I know Ken Temples.

20 Q. How well do you know Ken Temples?

21 A. Probably worked a case or two with
22 him. Not many. He was the agent for the area.

23 Q. Did you know him in '86?

24 A. If he was assigned to the area in

1 '86 -- yes, I did, yes.

2 Q. Was he in Danville?

3 A. Yes, he was.

4 Q. And did he happen to mention to you
5 that Steidl and Whitlock had come and had
6 complained to him about illegal gambling and drug
7 activities of McFatrige in Paris?

8 A. I don't recall Ken Temples telling me
9 about that.

10 Q. You don't recall that?

11 A. No.

12 Q. Okay. You thought Busby was a
13 suspect, is that right, Tim Busby?

14 A. Yes, I did.

15 Q. And he was a suspect, because he would
16 have a motive as a jealous boyfriend. Is that
17 right?

18 A. Yes, sir.

19 Q. Did you ever ask the police to bring
20 him into the station in a police car to question
21 him?

22 A. No, sir, I believe he lived maybe
23 Danville or north. I'm not sure where he lived.
24 He didn't live in town.

1 Q. Was there some way that the Illinois
2 State Police could bring him in for questioning
3 if they wanted to?

4 A. There could have been.

5 Q. Did you have -- did you hypothesize a
6 theory of how Tim Busby, an ex-boyfriend, would
7 get up into the bedroom of Dyke and Karen Rhoads
8 while they were naked in the middle of the night?

9 A. I don't recall ever working up a
10 theory on how he got in the bedroom.

11 Q. In fact, they were killed in the
12 middle of the night while they were naked in
13 their bedroom?

14 MS. EKL: Objection. Foundation.

15 THE WITNESS: That's what it appeared.

16 BY MR. BALSON:

17 Q. Okay. When Mr. Herrington said in his
18 statement that they pulled up to the house, and
19 he could see the lights on inside of the house,
20 did that give you an idea about what time of
21 night it would be?

22 A. It did not.

23 Q. Did not? And then he stated that --

24 MS. EKL: Tell me what you're looking

1 at.

2 MR. BALSON: I'm looking at Steidl

3 12255 which is Herrington's statement.

4 MS. EKL: Which date?

5 THE WITNESS: Mine or Jim's?

6 MR. BALSON: This is yours, sir, and

7 it is --

8 THE WITNESS: Can we look it up?

9 BY MR. BALSON:

10 Q. Yeah, if you've got it, you can follow

11 along with me.

12 A. Okay.

13 Q. It's the second page of your

14 statement, and I'm looking at the bottom of the

15 middle paragraph.

16 A. Second page. You look at the bottom

17 of the --

18 Q. Middle paragraph, do you see where it

19 says: Herrington stated he could see the lights

20 on inside the house.

21 A. Yes, sir.

22 Q. Did you believe that to be true when

23 he told it to you?

24 A. I had no reason to not believe it.

1 Q. Okay. And then Herrington stated that
2 a male subject came to the front door -- wait a
3 minute. I'm sorry. I missed something here.

4 Herrington stated that Steidl parked
5 the car close to the front door of the residence,
6 and Whitlock went to the front door and knocked.

7 Do you see that? Did you have any
8 reason to believe that that was true or not true?

9 A. I had no reason to discredit that.

10 Q. All right. So you could accept that
11 as being true?

12 A. I had no reason to not, yes.

13 Q. And then it says: Herrington stated
14 that a male subject came to the front door, and
15 Herrington stated he knew the subject was Dyke
16 Rhoads. Right?

17 A. That's what it says.

18 Q. These are pretty accurate observations
19 by a guy who was so drunk that he wouldn't know
20 what time of night it was. Aren't they?

21 MS. EKL: Objection. Form.

22 THE WITNESS: He said he -- Dyke
23 Rhoads came to the door, yes.

24 BY MR. BALSON:

1 Q. Well, a little earlier today you said
2 that he was probably so drunk he didn't know what
3 time of night it was when Mr. Taylor was asking
4 you what happened with the four hours. Right?

5 MS. EKL: Objection.

6 THE WITNESS: Right.

7 BY MR. BALSON:

8 Q. These are pretty accurate
9 observations. Aren't they?

10 A. Well, not to say that if he knew Dyke
11 Rhoads, he didn't know him drunk or sober.

12 Q. Well, he's sitting in a car, and he
13 sees someone come to the door, and the lights are
14 on, and he can tell you all this, and it's Dyke
15 Rhoads. Right?

16 A. It appeared to him it was Dyke Rhoads.

17 Q. All right. And I'm assuming that Dyke
18 Rhoads is dressed, because if he was naked, he
19 would have probably said so. Right?

20 MS. EKL: Objection. Foundation.

21 THE WITNESS: Probably put some pants
22 on to come down and answer the door.

23 BY MR. BALSON:

24 Q. Well, can you tell me does it make

1 sense to you and did it make sense to you then as
2 an experienced investigator that Dyke Rhoads
3 would have invited the murderers up to his
4 bedroom so that he could get undressed and get
5 into bed with his wife and both be naked up
6 there? Did that ever occur to you as being
7 something which wasn't very plausible?

8 A. It doesn't state that. They were
9 killed in the bedroom. It doesn't say that
10 whoever entered the house didn't talk to Dyke and
11 force Dyke up to the bedroom. It didn't say
12 that.

13 Q. Do you know what? I would like you to
14 tell me in as much detail as you can how you
15 think these murders took place.

16 A. How I think they took place?

17 Q. How you think they took place. You
18 worked this case. You read this file. You read
19 it on your boat with the boxes. You read your
20 reports in preparation for this. You've been
21 sitting here for two days looking at reports.

22 I want to hear it from the horse's
23 mouth. I want you to tell me how you think these
24 murders took place that night, if you could,

1 please, in detail.

2 A. I think Herb and Randy went by there
3 with Herrington in the car, who was probably
4 passed out or drunk. They went up to the house.
5 At some point Debbie comes by and she goes in, as
6 she said.

7 Q. Let me stop you for just a second.
8 When they go into the house, does Dyke Rhoads let
9 them in the house like Herrington says?

10 A. Dyke knows Herb.

11 Q. Dyke knows Herb?

12 A. Yes.

13 Q. So he lets him in the house and
14 invites him up to his bedroom?

15 A. No, sir. I think they forced their
16 way up -- after they opened the door, I think
17 somehow they forced theirselves in, and they went
18 upstairs, and I think --

19 Q. Told him to take his clothes off?

20 A. I'm saying they told him -- they may
21 have took them off of him.

22 Q. They took his clothes off of him?

23 A. You're asking me.

24 Q. I'm asking you how you figure this

1 took place.

2 A. That's what I'm saying, and Debbie
3 comes by. She comes in just like she did.
4 Everything went down. She leaves. Herrington
5 wanders in there, and exactly that's how it
6 happened. They didn't either see each other.

7 Q. Now, Debbie Herrington says she gave
8 him the knife at the scene?

9 MS. EKL: Debbie Rienbolt?

10 BY MR. BALSON:

11 Q. Debbie Rienbolt. Debbie Rienbolt says
12 she gave him the knife at the scene. Do you
13 remember her saying that?

14 A. I forget. I don't recall exactly
15 where she gave him the knife.

16 Q. Okay. So if they force their way in,
17 and they force -- so if I understand you correct,
18 they drive -- what car are they using? Are they
19 using a cream-colored car with a dent in the
20 back, or are they using Steidl's car?

21 A. I don't know what kind of car they was
22 using.

23 Q. Did you think it's possible that
24 Herrington is so drunk that he gets into a

1 cream-colored car, and he thinks he's with
2 Steidl, but he's not. It's a possibility. Isn't
3 it?

4 A. Everything is a possibility.

5 Q. So he lets them in the house, and they
6 force them upstairs to his bedroom where his wife
7 is sleeping. Is that what your theory is, or is
8 she awake, and they force them both upstairs?

9 A. I think that Dyke came down and
10 answered the door.

11 Q. What time of night is it?

12 A. I have no idea what time of night that
13 is. I'll put it after midnight.

14 Q. After midnight. Well, after midnight
15 is between midnight and 6:00 in the morning.

16 A. Sometime between 1:00 and 4:00.

17 Q. That's the best you can do?

18 A. The best I can do.

19 Q. What time did the fire take place?

20 A. I think that the fire department --
21 I'm going to estimate around 4:30 in the morning.
22 It could be off there but approximately then.

23 Q. How long did they stay at the house?

24 A. Not long.

1 Q. Okay. Did they go there from the bars
2 like Herrington and Rienbolt said?

3 A. They probably went there after Dyke
4 and Karen got home from wherever they were.

5 Q. And so it would have been about 12:30,
6 in your mind, is that about right?

7 A. It could have been, yes.

8 Q. Bars close at 12:00?

9 A. 12:00, 1:00. You know, around
10 Paris --

11 Q. They close at 12:00?

12 A. Well, they do, but sometimes they
13 don't quite close the doors.

14 Q. All right. So let's say 1:00.

15 A. Okay.

16 Q. So Dyke answers the door, and Whitlock
17 and Steidl force their way in. Right?

18 A. It could have been the way it
19 happened, yes.

20 Q. And then what happens?

21 A. I think as Herbie is standing out
22 there, Debbie was driving by and sees Herbie.

23 Q. On the front porch?

24 A. Yeah, she said that, yeah, and she

1 goes in, as suggested. I honestly thought they
2 went by there just to rough him up for some
3 money. I don't think that they actually were
4 going to kill.

5 Q. Although, there's absolutely no
6 evidence of that whatsoever, is there?

7 A. Yes.

8 Q. And so it's your theory they force him
9 up stairs into the bedroom where they make them
10 take their clothes off. Right? They're found
11 naked.

12 A. Pardon?

13 Q. Well, they're found naked. Aren't
14 they?

15 A. I think Karen had something on or
16 placed over her. You know, it appeared they
17 didn't have many clothes on. I don't really
18 recall exactly at this point what clothing they
19 had on or if they had any clothing.

20 Q. They had stab wounds all over them.
21 Were there any stab wounds in any clothes?

22 A. I don't recall where the stab wounds
23 were at or through clothes or not.

24 Q. I don't think there's any evidence of

1 stab wounds in clothes where it was inventoried.

2 Is there?

3 A. I don't recall that for sure.

4 Q. Okay. So they're collecting the money
5 up in the bedroom. Is that your idea?

6 A. I think they went by to collect money
7 and decided maybe to rough them up or something
8 by the statements that have been made, some dates
9 coming down, and all of that, and it exactly
10 happened as Debbie went up. She leaves.

11 Q. Wait. Wait. I don't want to take
12 this too fast.

13 A. Okay.

14 Q. Statements have been made that
15 something big is coming down. Who made that
16 statement?

17 A. Randy.

18 Q. Was Randy a drug dealer?

19 A. I don't know if Randy ever was or not.
20 I'll be truthful.

21 Q. When did he make that statement?

22 A. He made it to someone. I don't recall
23 who.

24 Q. How much in advance of the murders was

1 that statement made?

2 A. I don't recall if that was made in
3 advance -- of the murders?

4 Q. Yeah.

5 A. The weekend.

6 Q. Or about a week. Wasn't it?

7 A. Yes.

8 Q. Someone reported him saying about a
9 week before the 4th of July that something big
10 was going to come down in Paris.

11 A. I recall it that way.

12 Q. So you think he meant they were going
13 to come down there and rough up somebody?

14 A. I have no idea.

15 Q. He knew there would be a drug deal
16 going bad, and he was going to rough up somebody,
17 and that's you think is going down here?

18 A. And that's not saying who else was
19 with him when they went up there.

20 Q. I don't understand that statement.
21 What do you mean?

22 A. I'm not saying they went in the house
23 by themselves.

24 Q. Oh, somebody else is with them?

1 A. My theory. You asked me for my
2 theory.

3 Q. So there's more than two that went up
4 in the bedroom?

5 A. I believe so.

6 Q. Although there's no evidence of that,
7 because no one saw them. Right?

8 A. No one saw them, no.

9 Q. So you think Randy and Herb and
10 someone else went into the house to rough up Dyke
11 Rhoads in his bedroom, and that was what was big
12 was coming down, to rough them up?

13 A. That's my theory.

14 Q. Okay. And then Debbie Rienbolt comes
15 by and goes upstairs, but where is the other
16 person? She doesn't say anything about another
17 person. Does she?

18 A. She does not.

19 Q. Is she lying?

20 A. She didn't say anything about anybody
21 else.

22 Q. And she doesn't see Darrell Herrington
23 at all. Does she?

24 A. She does not.

1 Q. And she says that Herb comes by the
2 next day with the bloody knife and gives it back
3 to her. Right?

4 A. She says that.

5 Q. And that makes sense to you as an
6 investigator that someone would give a bloody
7 murder weapon to somebody and say here's your
8 knife back? Does that make sense to you?

9 A. No.

10 Q. You know, Mr. Marlow stated that he
11 didn't believe these murders resulted from a drug
12 deal. Do you agree with him?

13 A. I haven't been involved in the later
14 part of the investigation that they had been
15 involved in since what, 2000, year 2000, maybe.
16 I don't know, so I don't know what evidence they
17 have. The only evidence I have is right here.

18 Q. Mr. Marlow stated he believed the
19 murders were a hit by organized crime. Did you
20 consider that possibility?

21 A. Do I think that's a possibility?

22 Q. Did you consider that as a
23 possibility?

24 A. I don't think we ever considered that.

1 Q. Was there ever any organized crime
2 activity in Paris, Illinois?

3 A. The only organized crime that I am
4 familiar with is with the old Pizza Connection.

5 Q. Was there a Pizza Connection activity
6 in the '80s?

7 A. In '70s.

8 Q. Not in the '80s?

9 A. I'm not for sure about that, but I
10 know the investigation was over I believe in the
11 '80s -- or '70s. I could be off on the years.

12 Q. Were there ever any accusations that
13 you learned of that Bob Morgan was involved in
14 organized crime activities?

15 A. Not that I had knowledge of.

16 Q. There was an OCDETF case on him.
17 Wasn't there?

18 MR. MANCINI: Objection to form and
19 foundation.

20 THE WITNESS: I would not have been
21 aware of it.

22 BY MR. BALSON:

23 Q. Nobody told you ever? You knew people
24 on the task force. Didn't you?

1 A. That OCDETF was the one Callahan was
2 involved? I retired in '93.

3 Q. Yes, the one Callahan was involved in,
4 operation Eiffel Tower.

5 A. I don't know what it was. No, I was
6 retired. I retired in '93. I believe that thing
7 was formed way after that. I wasn't aware of
8 that, wasn't a part of it. I just was not. I
9 retired in '93.

10 Q. Did it make sense to you that Debra
11 Rienbolt in her drunken, drugged up condition was
12 capable of holding an athletic girl like Karen
13 Rhoads while they were killing her husband? Did
14 you ever believe that?

15 A. She's a pretty good-sized girl.

16 Q. Do you believe that to be the case
17 then?

18 A. She's a pretty good-sized girl.

19 Q. Drugged up full of codeine, marijuana,
20 alcohol, I don't know what all, makes her way up
21 to the second floor in the middle of the night
22 and is capable of holding a strong girl like
23 Karen Rhoads, you believe that was so?

24 A. I just recall her as being a pretty

1 good-sized girl. Probably can handle her own
2 weight.

3 Q. When did you promise to pay Debbie
4 Rienbolt money?

5 MS. EKL: Objection. Form and
6 foundation. Assumes facts not in evidence.

7 BY MR. BALSON:

8 Q. Sir?

9 A. I never promised to pay her money.

10 Q. Do you remember testifying in the
11 post-conviction evidentiary hearing People versus
12 Herb Whitlock?

13 A. Oh, yes. I paid her money out of our
14 OAF funds, but I never promised her any money at
15 any time.

16 Q. You just showed up and gave her money?

17 A. It was decided -- I don't ever recall
18 how that was decided, but the money -- at first,
19 I didn't even know how the money was requested.
20 I had forgot that it came through our funds, but
21 it was requested through our funds. The money
22 was okayed out of Springfield, and it did come
23 from us. Whether McFatridge --

24 Q. You asked for it. Didn't you?

1 A. It was through me as a case agent.
2 McPatridge might have asked for it through our
3 area commander. I don't know and have never
4 found out exactly how that was done.

5 Q. So you don't know who promised to pay
6 her the money?

7 A. I know there was relocation money
8 paid, and then until this all came up, I wasn't
9 for sure exactly how -- where it came from.

10 I thought it always came from the
11 State's Attorney's Office, but it's clear it came
12 from ours, the Illinois State Police, OAF funds.

13 Q. And you asked Mr. McGrew for this
14 money. Right?

15 A. Someone went up the chain of command,
16 Charlie would have asked -- Charlie knew about
17 it, and our area commander at that time would be
18 Kenneth Midcalf, I do believe, and I may be off,
19 but that was the guy who would have put the okay
20 on it. It would have been a verbal okay.

21 Q. How many times in your career, sir,
22 have you paid thousands of dollars to a
23 cold-blooded killer?

24 MS. EKL: Objection. Form.

1 THE WITNESS: I don't believe I've
2 paid thousands of dollars this time.

3 BY MR. BALSON:

4 Q. \$2,500?

5 A. \$2,500 to a witness.

6 Q. To a cold-blooded killer?

7 MS. EKL: Objection. Form.

8 THE WITNESS: To a witness in trial
9 and to relocate her family.

10 BY MR. BALSON:

11 Q. Was she a cold-blooded killer?

12 MS. EKL: Objection. Asked and
13 answered.

14 THE WITNESS: She concealed a
15 homicide.

16 BY MR. BALSON:

17 Q. Was she a cold-blooded killer?

18 A. She concealed a homicide.

19 Q. You're not answering my question.
20 Somebody who holds somebody while somebody else
21 slices their throat is a killer. Aren't they?

22 MS. EKL: Objection to form.

23 BY MR. BALSON:

24 Q. Don't you know how to answer that

1 question?

2 MS. EKL: Objection. Form.

3 THE WITNESS: We've discussed that.

4 BY MR. BALSON:

5 Q. No. No. You and I are discussing it
6 now.

7 A. Yes.

8 Q. Somebody who holds an innocent girl
9 while some monster slices her throat is a
10 cold-blooded killer. Isn't she?

11 A. I would not describe her as that. She
12 was a witness in our homicides. She was --

13 Q. She was more than a witness, sir.
14 She's a participant, an active participant in a
15 murder.

16 A. It was decided by the State's
17 Attorney's office to charge her with concealment
18 of a homicide.

19 Q. That wasn't my question. Was she an
20 active participant in murdering a young girl?

21 A. She was there.

22 Q. She was more than there, wasn't she,
23 because you said she's a pretty big girl, and she
24 could hold Karen Rhoads while somebody sliced

1 that poor girl's throat. Right?

2 A. Participate.

3 Q. She participated. That made her a
4 killer. Didn't it? You're a police officer.

5 A. Not that she actually killed anybody.

6 Q. She didn't kill?

7 A. I don't know. So to call her a
8 cold-blooded killer, I would have to say, no, she
9 would have to kill somebody.

10 Q. If she held Karen so she couldn't get
11 away while some monster sliced that poor girl's
12 throat, you don't think she's a killer? I want
13 an answer on that, please, because I'll get it
14 here or in court.

15 A. She's involved in the homicide.

16 Q. And that's the most you're going to
17 give me is she's involved in a homicide, and
18 she's a witness?

19 A. She was involved in the killing of
20 Dyke and Karen Rhoads.

21 Q. All right. And for that conduct she's
22 deserving of \$2,500?

23 MS. EKL: Objection. Form and
24 foundation.

1 BY MR. BALSON:

2 Q. Well, you gave it to her. You gave it
3 to her.

4 A. Her family.

5 Q. You gave it to her. Didn't you?

6 MS. EKL: Objection. Form and
7 foundation.

8 BY MR. BALSON:

9 Q. You, yourself, handed that money to
10 her, didn't you, the check, made out to Debra
11 Rienbolt?

12 A. I think part of it was given to her to
13 pay the rent, and I think a thousand dollars was
14 put into a safe at the PD.

15 Q. The check was issued by the Illinois
16 State Police?

17 A. It was cash.

18 Q. \$2,500. You, yourself, showed up at
19 the jail, had her sign that check, didn't you?
20 It was made out to Debra Rienbolt?

21 A. I had her sign the receipt.

22 Q. Okay. Do you know who Donald Dust is?

23 A. Last name?

24 Q. Donald Dust, Debbie Rienbolt's

1 ex-husband.

2 A. No, I don't.

3 Q. Did he ever show up at Debbie
4 Rienbolt's house when you were there?

5 A. I have no knowledge of him.

6 Q. Did you tell Dust that you were
7 staying at Debbie Rienbolt's house, because she
8 was in protective custody?

9 MS. EKL: Objection. Form and
10 foundation.

11 A. I have no knowledge ever talking to
12 Dust.

13 BY MR. BALSON:

14 Q. I want to talk to you about Debbie
15 Rienbolt's overhear.

16 A. Yes, sir.

17 Q. Okay. Who wired her for the overhear?

18 A. Duane Hill.

19 Q. You were present?

20 A. I probably was.

21 Q. And she went to a church, didn't she,
22 to do this overhear?

23 A. Yes, sir.

24 Q. Okay. What was going on at the

1 church? An AA meeting?

2 A. It was.

3 Q. And you knew that Herb Whitlock was in
4 AA and would have been in that church. Right?

5 A. Debra knew that.

6 Q. Because he was a recovering alcoholic.
7 Right?

8 A. Yes, sir.

9 Q. And she was also -- well, a recovering
10 alcoholic but not so recovering. Right?

11 A. Yes, sir.

12 Q. All right. And that night, even
13 though she didn't have a license, you let her
14 drive over to the church. Didn't you?

15 MS. EKL: Objection. Foundation.

16 THE WITNESS: I'm not aware as we're
17 speaking now that she didn't have a driver's
18 license at that point.

19 BY MR. BALSON:

20 Q. Well, you followed her in a car?

21 A. I don't know how that was done.

22 Q. Were you listening?

23 A. I was listening.

24 Q. Okay. And did you hear when she

1 walked into the church her speak to Stan Acklin?

2 A. I don't recall what was said, no.

3 Q. Okay. Did you hear her say to Stan
4 Acklin, can you point out Herb Whitlock for me?

5 A. I don't recall that, but if that
6 happened...

7 Q. Okay. In any event, nothing came of
8 that overhear. It wasn't successful. Was it?

9 A. It did not.

10 Q. I want to go over some of the things
11 that Debra Rienbolt says about you. She says
12 that in the summer of '86 -- you know Maria
13 Tellschow is?

14 A. Yes, I do.

15 Q. She said Maria Tellschow told her that
16 you said she knew something about the murders.
17 Did you say that to Maria Tellschow in the summer
18 of '86?

19 A. I would not have said that.

20 Q. She said you were giving her looks at
21 the street fair, that Honey Bee Festival. Were
22 you doing that?

23 A. Marie Tellschow?

24 Q. No, Debra Rienbolt, giving her

1 suspicious looks like she was guilty of
2 something.

3 A. If that was before I interviewed her,
4 I don't think I even knew her.

5 Q. She said she saw you in a restaurant a
6 few days later. You were sitting at the counter
7 staring at her, and she walked out and said to
8 you: "Do you have a fucking problem?"

9 Did that happen?

10 A. I don't recall that happening.

11 Q. When did you first meet Debra
12 Rienbolt?

13 A. As I recall, it was when we
14 interviewed her the very first time.

15 Q. Where did that interview take place?

16 A. I believe it happened at the Paris
17 police station.

18 Q. Did you interview her out at Gene
19 Ray's house?

20 A. Debra Rienbolt?

21 Q. Yes.

22 A. No, sir. I don't believe so.

23 Q. Were you there when she was questioned
24 by Mr. Parrish?

1 MS. EKL: Objection. Assumes facts
2 not in evidence.

3 THE WITNESS: On which date?

4 BY MR. BALSON:

5 Q. On any date.

6 A. That time he was questioning, Parrish
7 was there.

8 Q. Okay. Did Mr. Parrish slam his hand
9 on the table that day?

10 MS. EKL: Objection as to foundation.
11 What day are you referring to?

12 BY MR. BALSON:

13 Q. Beg your pardon?

14 A. I don't know what day. If you are
15 talking about when I wasn't there or when he was
16 there by himself or whether I was there?

17 Q. Debra Rienbolt said she yelled at him,
18 he slammed his hand on the table and broke his
19 finger?

20 MS. EKL: What testimony are you
21 reading from?

22 BY MR. BALSON:

23 Q. It doesn't matter. Is that true?

24 MS. EKL: Objection to foundation and

1 to what time frame you're referring to.

2 BY MR. BALSON:

3 Q. Is that true?

4 A. I don't recall Jim Parrish having a
5 broken finger.

6 Q. Did he slam his hand on the table and
7 yell at her?

8 MS. EKL: Objection. Foundation.

9 BY MR. TAYLOR:

10 Q. To your memory.

11 A. During my interview with Debra
12 Rienbolt, I don't recall that happening.

13 Q. After she did the overhear, did you
14 and Parrish come by her home, pick her up and
15 drive her to the police station and show her a
16 red lighter, a Bic lighter?

17 A. I don't recall that happening.

18 Q. When did you show her the red Bic
19 lighter?

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

22 THE WITNESS: I don't recall even
23 showing the red Bic lighter.

24

1 BY MR. BALSON:

2 Q. Did you tell her her fingerprints were
3 on the red Bic lighter?

4 MS. EKL: Objection. Foundation,
5 form.

6 THE WITNESS: I don't recall ever
7 telling her that.

8 BY MR. BALSON:

9 Q. Were her fingerprints on the red Bic
10 lighter?

11 A. I don't recall that they were.

12 Q. How many times did you go over the
13 story with Debra Rienbolt before she testified?

14 MS. EKL: Objection. Form.

15 THE WITNESS: Two, for sure.

16 BY MR. BALSON:

17 Q. Did you talk to her about the pillow?

18 A. I don't recall if we did or not.

19 Q. Did you tell her -- never mind.

20 Strike that.

21 Were you there at the courthouse when
22 they practiced for Debra Rienbolt's testimony?

23 MS. EKL: Objection. Foundation.

24 THE WITNESS: If there was a practice

1 in there, I would probably have been there. I
2 don't recall being there, but I probably would
3 have been there.

4 BY MR. BALSON:

5 Q. So you would have heard the practice
6 question and answers from McFatridge to Debra
7 Rienbolt. Right?

8 A. What those were done for is to get the
9 witness familiar with the courtroom. We done
10 that in a lot of counties. Sitting in a witness
11 box, familiar with the courtroom, here's where
12 the State's Attorney is going stand and all that.

13 Whether there was any questioning, I
14 don't recall any questioning at all.

15 Q. Well, someone played the defense
16 attorney. Right?

17 MS. EKL: Objection to form.

18 BY MR. BALSON:

19 Q. You don't remember that?

20 A. I don't recall that.

21 Q. But you do remember her practicing for
22 her testimony?

23 A. I think my answer to your question was
24 I don't recall that, but, if one was done, I

1 would have probably more likely have been there.

2 Q. Okay. I just have a couple more
3 things. You sell boats?

4 A. Yes.

5 Q. How long have you been selling boats?

6 A. Probably in the '90s, early '90s,
7 maybe. Probably late '80s.

8 Q. Do you have your own company, or do
9 you work for another company?

10 A. I work for Findlay Marina.

11 Q. What?

12 A. Findlay Marina, yes.

13 Q. What kind of boats do they sell?

14 A. Strictly brokers right now.

15 Q. They're brokers?

16 A. Yeah.

17 Q. So they'll go out and find you a boat?

18 A. What's in the marina, we resell, like
19 a real estate salesman.

20 Q. Houseboats?

21 A. Houseboats.

22 Q. That people live on there?

23 A. Do they live there?

24 Q. In the summer or whatever.

1 A. They can.

2 Q. All right. And this is on Lake
3 Shelbyville?

4 A. It is.

5 Q. Are there power boat restrictions on
6 Lake Shelbyville?

7 A. There is none.

8 Q. Okay. Did you offer to sell a boat to
9 Michale Callahan?

10 A. I did not.

11 Q. When he says that, he's not telling
12 the truth?

13 A. He is not.

14 Q. Did you offer to sell a boat to Judge
15 Komada?

16 A. I have.

17 Q. Did you sell him a boat?

18 A. I have.

19 Q. Did he pay \$80,000 for it?

20 A. No.

21 Q. How much did he pay for it?

22 A. I'm not for sure. It was in 1989, and
23 we had a new houseboat. Probably list on it was
24 seventy-nine, and we took a 25-foot cruiser in on

1 trade.

2 Q. So he didn't pay any cash at all?

3 A. I think we had -- we turned around and
4 had nothing in his cruiser and sold the cruiser
5 for \$15,000, so 15 into the 79, so he paid the
6 difference of that. Yeah.

7 Q. The information I had was that he
8 purchased the boat for 79, but the boat was
9 valued at 120,000?

10 A. That's incorrect.

11 Q. Not correct?

12 A. That's not correct.

13 Q. Did he get a good deal on the boat?

14 A. Well, I mentioned he thinks he did.
15 We made \$15,000 off of it, so I think we did
16 pretty well.

17 Q. Just a couple more things.

18 A. Sure.

19 Q. In the normal course of police
20 activity, when you polygraph someone is there a
21 police report made?

22 A. The polygraph report is the report.

23 Q. No, I don't mean Mark Murphy's
24 polygraph report. I mean is there a police

1 report also made that so and so was submitted to
2 a polygraph and all this and that?

3 A. Sometimes it will say John Doe
4 polygraph was given, see report. That's it.

5 Q. No report was made -- no police report
6 was made of Darrell Herrington's polygraph. Was
7 there?

8 A. I did not see one.

9 Q. And a decision was made not to
10 polygraph Debbie Rienbolt. Is that right?

11 A. She was not given one.

12 Q. Why is that?

13 A. I do not recall why that was not done.

14 Q. Her story changed so many times and
15 was bizarre in a lot of ways. Wasn't it?

16 MS. EKL: Objection. Form.

17 THE WITNESS: She would change points
18 in her statement.

19 BY MR. BALSON:

20 Q. Why didn't your group decide to
21 polygraph her?

22 A. I don't recall why that was not done.

23 Q. You know Mr. Marlow said that she was
24 nothing but a damn liar?

1 MR. ACKERMAN: Could you read that
2 question back?

3 BY MR. BALSON:

4 Q. Mr. Marlow said she was nothing but a
5 damn liar. Do you agree with that?

6 MR. ACKERMAN: Object to the form and
7 foundation.

8 MS. WADE: I join the objection.

9 BY MR. BALSON:

10 Q. Do you agree with that?

11 A. I will agree that the truth sometimes
12 is not there.

13 Q. Okay. I'll accept that. He's also
14 said that she's looney and from outer space. Do
15 you agree with that?

16 MR. ACKERMAN: Same objection.

17 MS. WADE: Object to form.

18 THE WITNESS: Has Mr. Marlow ever
19 interviewed her?

20 BY MR. BALSON:

21 Q. I can't tell you. I don't know.

22 A. I guess I shouldn't be asking you the
23 questions.

24 Q. Actually, the way this works, I ask

1 questions. You give answers.

2 A. Strike it.

3 MR. RAUB: And you can object too.

4 MR. BALSON: Give me one minute.

5 Okay?

6 THE WITNESS: Do I have time to go to

7 the bathroom?

8 (At this point a short recess was

9 taken.)

10 MR. BALSON: I'm going to pass the

11 witness now.

12 MS. EKL: We're done.

13 MR. TAYLOR: No, I have --

14 MS. EKL: No, no, we're not going

15 back.

16 MR. BALSON: He's got a couple more.

17 Let him finish.

18 MS. SUSLER: Ten minutes.

19 MS. EKL: We are not going one minute

20 past.

21 MR. TAYLOR: That's ridiculous.

22 MS. SUSLER: Don't waste the time and

23 let him ask the questions.

24

1 RE-EXAMINATION CONDUCTED

2 BY: MR. TAYLOR

3 Q. I want to mark this as Exhibit 3.

4 It's a Group Exhibit 3.

5 (At this point the court reporter
6 marked Eckerty No. 3 for purposes of
7 identification.)

8 BY MR. TAYLOR:

9 Q. I'm going to call your attention to
10 the last document in it which is an interview of
11 July 31st, 1998, Eckerty by Clutter, and I want
12 to ask you to look at the top question which has
13 to do with -- if you need to look at the question
14 on the previous page about McClaskey, you can do
15 that as well.

16 Were you aware, the question goes,
17 that prior to that conversation with McClaskey
18 Mr. Steidl had recently returned from meeting
19 with agents of the FBI in Danville and provided
20 information concerning gambling and political
21 corruption in Paris.

22 Do you see that on page 4?

23 A. All right.

24 MS. EKL: Can we just put this in

1 context, so you're referring to --

2 BY MR. TAYLOR:

3 Q. The Clutter statement --

4 MS. EKL: Clutter memorandum of
5 interview that purports to be an interview of
6 Jack Eckerty on July 31st, 1998. For the people
7 on the phone, it's W 13016 through 19.

8 BY MR. TAYLOR:

9 Q. Okay. And you answered according to
10 this: No, I was aware of one during the murder
11 trial. I was pissed.

12 So when Mr. -- is that an accurate
13 transcription of the question and answer that you
14 and Mr. Clutter had back in 1998?

15 A. I was aware of the interview of the
16 FBI during the murder trial.

17 Q. Right.

18 A. I think my interpretation with him was
19 was you aware of the one a couple months prior
20 to -- are we on the same page?

21 Q. Yes, we are.

22 A. But I was definitely aware of the one
23 during the murder trial.

24 Q. And were you angry or pissed off that

1 Steidl went during his trial to the FBI and
2 reported alleged gambling and political
3 corruption in Paris?

4 A. I was. I think we've discussed that I
5 have been involved in numerous court trials and
6 homicides. It was the first time on any
7 homicides that I had a trial going on and they
8 asked for the trial to be stopped during the day
9 for an interview.

10 Rory Steidl, the defendant's brother,
11 had lined up the FBI, because he said his brother
12 had some hot information. The trial was stopped
13 during the day, during the afternoon, and that
14 interview was conducted. I thought the interview
15 could have been conducted at nighttime.

16 Q. Were you -- as the case agent, did you
17 sit in the courtroom during the trials?

18 A. No, sir.

19 Q. All right. Did you participate in the
20 preparation of witnesses, particularly the
21 witnesses that you had a role in, that being
22 Rienbolt and Herrington?

23 A. We would have, yes.

24 Q. We, you mean you and Parrish?

1 A. Yes, Parrish, McFatridge.

2 Q. Did you also do a mock trial with
3 Herrington as well as with Rienbolt?

4 MS. EKL: Objection. Form.

5 THE WITNESS: I don't recall one, but
6 one might have been done.

7 BY MR. TAYLOR:

8 Q. And did you know whether there was any
9 money given to Darrell Herrington either before,
10 during, or after the trial?

11 A. I have no knowledge of money given to
12 him.

13 Q. Was the \$2,500 relocation money that
14 you requested and tendered to Ms. Rienbolt, was
15 that for her testimony?

16 A. That was for relocation money. I
17 think it was an agreement between her attorney,
18 and her attorney has signed something on there,
19 and McFatridge.

20 Q. Did you write this report in August
21 of 1987, which I would mark as Exhibit 4, and the
22 bottom paragraph of that report which says that
23 the convictions of Steidl and Whitlock would not
24 have been possible without Ms. Rienbolt's

1 testimony?

2 (At this point the court reporter
3 marked Eckerty No. 4 for purposes of
4 identification.)

5 THE WITNESS: That was -- I wrote that
6 report, that's true.

7 BY MR. TAYLOR:

8 Q. So in fact you were requesting that
9 money, the relocation money based on the fact
10 that she had been essential in the convictions of
11 Steidl and Whitlock. Isn't that right?

12 A. I think there's -- if you have all of
13 the reports here, isn't there another one that
14 goes with this? You don't have it here, but
15 there's one there with her attorney on it, and it
16 was saying where the money went, 6/9 1,000, and
17 her attorney signed it, and it was for relocation
18 for -- I do remember that part.

19 Q. Whether it was -- how it was used, the
20 request that you made based the request on the
21 fact that she had given invaluable testimony for
22 the convictions. You wrote that in your report.
23 Didn't you?

24 MS. EKL: Objection. Form.

1 BY MR. TAYLOR:

2 Q. Yes or no?

3 A. I'm going to explain this to you.
4 When you give money out, that is OAF, I don't
5 know what that means, but that's our drug money
6 and funds. You will sign for the money. You
7 will have the person sign for the money. You
8 will write a 4-3 explaining where the money went.

9 Q. Is this the 4-3 right here?

10 A. It is.

11 Q. And that's all I'm asking you.

12 A. That wasn't the request for the money.
13 The request was already done before that.

14 Q. But 4-3 was explaining why the money
15 was requested. Right?

16 A. Yes, sir.

17 Q. And that's your writing? You wrote
18 that report?

19 A. I typed it. I didn't type it.
20 Somebody did.

21 Q. What you put in the report was the
22 basis of what I just read you, was her testimony
23 was invaluable in the convictions of Steidl and
24 Whitlock. Right?

1 MS. EKL: Objection to form.

2 BY MR. TAYLOR:

3 Q. That's what you wrote in that report?

4 A. You're aware there was another report.

5 Q. I'm not asking you about another
6 report. There could be a hundred other reports.
7 I'm asking you about this report. That's what
8 you put in this report. Right?

9 A. Yes, that's in there. That's my
10 report.

11 Q. And did you know a psychologist by the
12 name of Brofee who evaluated Rienbolt?

13 A. I know a Brofee, yes.

14 Q. Did you know him back in '86?

15 A. I knew him at one time and probably
16 '86. If he worked there in '86, I knew him.

17 Q. And did he -- would you become aware
18 of a psychological evaluation that he did of
19 Rienbolt either just prior to or during the
20 trials in '86?

21 A. I'm not aware of that. I don't recall
22 that.

23 Q. Now, in April of 1987 the -- you were
24 called in to participate in a second, as far as

1 you knew, interview with Rienbolt. That was on
2 April 11th. Right?

3 MS. EKL: I'm hoping this is a leading
4 question, that it's leading to another short
5 question. We're not going to get into a whole
6 another long recitation regarding his interview
7 of Debra Rienbolt.

8 It is now after 6:00. He's been
9 sitting here for about 14 and a half hours.
10 We're not sitting here more than -- unless you're
11 telling me you're wrapping it up.

12 Q. That's what I'm doing. I'm wrapping
13 it up.

14 MS. EKL: We're not getting into a
15 full another what happened in an interview where
16 we go through each line by line.

17 BY MR. TAYLOR:

18 Q. No, we're not going to do that. I
19 promise you. Okay?

20 On the 11th, was it, that you
21 participated in a second interview with Debbie
22 Rienbolt?

23 A. Is that the same interview that her
24 attorney was there?

1 Q. Uh-huh.

2 A. I participated in that.

3 Q. Who else besides you and the attorney?

4 A. Jim Parrish.

5 Q. All right. And at that point you gave
6 her her rights. Is that right?

7 A. I did.

8 Q. And because at that point did you
9 anticipate that she was going to implicate
10 herself more fully in the case?

11 A. She could.

12 Q. All right. And in fact at that point
13 she told a totally different story about what she
14 knew than she had told you back in February.
15 Isn't that right?

16 A. She did. Not totally. She changed.

17 Q. She changed it in remarkable detail.
18 Right?

19 A. It was changed.

20 Q. Substantially changed?

21 A. It was changed.

22 Q. Substantially?

23 A. She went in the house.

24 Q. And held down --

1 A. She changed it. I don't know what the
2 word would be, but she changed her statement.

3 Q. Substantially would you agree with
4 me --

5 MS. EKL: Objection to form.

6 THE WITNESS: With her attorney
7 present, yes.

8 BY MR. TAYLOR:

9 Q. And at that point did you conclude
10 that she had participated in the murder of Karen
11 Rhoads?

12 A. During that statement she had stated
13 that she was in the murders, she was -- observed
14 the murders.

15 Q. She participated in them by holding
16 her down?

17 MS. EKL: Objection. Asked and
18 answered. We've already been down this road with
19 Mr. Balson.

20 BY MR. TAYLOR:

21 Q. This is a different question. I asked
22 him whether he after this interview agreed that
23 she said in this interview that she participated
24 in the murder of Karen Rhoads. Simple question.

1 She did. Didn't she?

2 A. She was there when the murders
3 happened, yes.

4 Q. Did she say that she participated? I
5 just want an answer. Why won't you give me an
6 answer?

7 A. Sure, she participated.

8 Q. Thank you. And was she on drugs at
9 that time?

10 MS. EKL: Objection. Foundation.

11 THE WITNESS: During what time, that
12 interview?

13 BY MR. TAYLOR:

14 Q. Yeah.

15 A. Alcohol, I'm almost pretty sure she
16 wasn't. Drugged, I couldn't tell that.

17 Q. Was she in detox at that time?

18 A. I have no idea.

19 Q. All right. Had she returned from
20 detox at that time?

21 A. I don't know when she was in detox.

22 Q. Did you know of a drug counselor that
23 was dealing with her by the name of Leann
24 Chambers or Lee Chambers, a woman?

1 A. I've heard the name. I don't know --

2 I knew that LeAnn Chambers was a counselor to
3 her.

4 Q. Did you have any conversations with
5 Lee Chambers or LeAnn Chambers about Ms. Rienbolt
6 and her ability to comprehend and to observe
7 based on her drug problems?

8 A. I don't recall a conversation with
9 her. It's possible I would have had a
10 conversation with her.

11 MR. TAYLOR: I have no further
12 questions.

13 THE WITNESS: Thank you.

14 MS. EKL: We'll reserve.

15 (Deponent is excused at 6:05 p.m.)

16

17

18

19

20

21

22

23

24

CERTIFICATE

1
2
3 I, BARBARA A. GLOVER, Certified
4 Shorthand Reporter, do hereby certify that JACK
5 ECKERTY, the deponent herein, was by me first
6 duly sworn to tell the truth, the whole truth and
7 nothing but the truth in the aforementioned cause
8 of action.

9 That the foregoing deposition was
10 taken on behalf of the Plaintiff on July 24,
11 2009.

12 That said deposition was taken down in
13 stenograph notes and afterwards reduced to
14 typewriting under my instruction and said
15 transcription is a true record of the testimony
16 given; and that it was agreed by and between the
17 witness and attorneys that said signature on said
18 deposition would be not waived.

19 I do hereby certify that I am a
20 disinterested person in this cause of action;
21 that I am not a relative of any party or any
22 attorney of record in this cause, or an attorney
23 for any party herein, or otherwise interested in
24 the event of this action, and am not in the
employ of the attorneys for either party.

Dated this 4th day of August, 2009.

Barbara A. Glover, CSR, RPR
CRR, CCR

1 IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

2 STATE OF ILLINOIS

3

GORDON RANDY STEIDL,

4 Plaintiff,

vs.

No. 05-CV-2127

5 CITY OF PARIS, et al.,

6

7 This is to certify that I have read
8 the transcript of my deposition taken in the
9 above-entitled cause, and that the foregoing
10 transcript taken on July 24, 2009 accurately
11 states the questions asked and the answers given
12 by me, with the exception of the corrections
13 noted, if any, on the attached errata sheet(s).

14

15

16

JACK ECKERTY

17 Subscribed and Sworn before

18 me this _____ day of

19 _____, 2009.

20

Notary Public

22 Return to Area Wide Reporting, 301 W. White,

23 Champaign, IL 61820.

24