

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

4 GORDON RANDY STEIDL,)
)
5 Plaintiff,)

6 vs.)

No. 05 CV 2127
Judge Harold Baker
Magistrate Bernthal

7 CITY OF PARIS, et al.,)
)
8 Defendants.)

9 HERBERT WHITLOCK,)
)
10 Plaintiff,)

11 vs.)

No. 08 CV 2055
Judge Harold Baker
Magistrate Bernthal

12 CITY OF PARIS, et al.,)
)
13 Defendants.)

14 VOLUME I - PAGES 1 - 244

15 The deposition of DIANE CARPER, pursuant to
16 notice and pursuant to the Federal Rules of Civil
17 Procedure for the United States District Courts
18 pertaining to the taking of depositions, taken before
19 Carmella T. Fagan, C.S.R., R.P.R., Notary Public
20 within and for the County of Cook and State of
21 Illinois, at Two Prudential Plaza, 180 North Stetson
22 Avenue, Suite 2000, in the City of Chicago; Cook
23 County, Illinois, commencing at 10:06 a.m. on the
24 20th day of March, 2009.

1 There were present during the taking
2 of this deposition the following counsel:

3
4 MICHAEL, BEST & FRIEDRICH, L.L.P.,

5 BY: MR. RONALD H. BALSON

6 (Two Prudential Plaza
7 180 North Stetson Avenue
8 Suite 2000
9 Chicago, Illinois 60601)
10 (312) 596-5818

11 Appeared on behalf of

12 Herbert Whitlock;

13 MICHAEL, BEST & FRIEDRICH, L.L.P.,

14 BY: MS. CARRIE A. HALL

15 (Two Prudential Plaza
16 180 North Stetson Avenue
17 Suite 2000
18 Chicago, Illinois 60601)
19 (312) 596-5819

20 Appeared on behalf of

21 Herbert Whitlock;

22 PEOPLE'S LAW OFFICE,

23 BY: MR. G. FLINT TAYLOR

24 (1180 North Milwaukee Avenue
 Chicago, Illinois 60622)
 (773) 235-0070

 Appeared on behalf of

 Gordon Randy Steidl;

 PEOPLE'S LAW OFFICE,

 BY: MS. JANIS M. SUSLER

 (1180 North Milwaukee Avenue
 Chicago, Illinois 60622)
 (773) 235-0070

 Appeared on behalf of

 Gordon Randy Steidl;

25

1 There were present during the taking
2 of this deposition the following counsel:

3
4 JOHNSTON, GREENE, L.L.C.,
5 BY: MR. IAIN D. JOHNSTON
6 (542 South Dearborn Street
7 Suite 1310
8 Chicago, Illinois 60605)
9 (312) 341-3900

10 Appeared on behalf of
11 Charles E. Brueggemann,
12 Diane Carper, Steven M. Fermon,
13 Kenneth Kaupas, Jeffrey Marlow,
14 and Andre Parker;

15 JAMES G. SOTOS & ASSOCIATES, LTD.,
16 BY: MS. ELIZABETH K. BARTON
17 (550 East Devon Avenue
18 Suite 150
19 Itasca, Illinois 60143)
20 (630) 735-3300

21 Appeared on behalf of the City of
22 Paris, Eugene Ray, James Parrish,
23 and Jack Eckerty;

24 WEBBER & THIES, P.C.,
25 BY: MR. JOHN E. THIES
26 (P.O. Box 189
27 202 Lincoln Square
28 Urbana, Illinois 61803-0189)
29 (217) 367-1126

30 Appeared on behalf of
31 Andre Parker and Jeff Marlow;

32 WEBBER & THIES, P.C.,
33 BY: MS. KARA J. WADE
34 (P.O. Box 189
35 202 Lincoln Square
36 Urbana, Illinois 61803-0189)
37 (217) 367-1126

38 Appeared on behalf of Andre
39 Parker and Jeff Marlow;

40

1 There were present during the taking
2 of this deposition the following counsel:

3
4 HEYL, ROYSTER, VOELKER & ALLEN, P.C.,

5 BY: MR. BRIAN M. SMITH

6 (102 East Main Street

7 Suite 300

8 Urbana, Illinois 61801)

9 (217) 344-0060

10 Appeared on behalf of

11 Edgar County;

12 EKL, WILLIAMS, P.L.L.C.,

13 BY: MR. VINCENT C. MANCINI

14 (Two Arboretum Lakes

15 901 Warrenville Road

16 Suite 175

17 Lisle, Illinois 60532)

18 (630) 242-8235

19 Appeared Telephonically on behalf

20 of Michael McFatridge.

21
22
23
24

I N D E X

1
2
3 WITNESS: PAGE
4 DIANE CARPER

5
6 Examination by Mr. Balson: 6
7 Continued examination by Mr. Balson: 96
8

E X H I B I T S

9
10 Carper No. 1 17
11 Carper No. 2 33
12 Carper No. 3 37
13 Carper No. 4 39
14 Carper No. 5 54
15 Carper No. 6 63
16 Carper No. 7 71
17 Carper No. 8 77
18 Carper No. 9 81
19 Carper No. 10 88
20 Carper No. 11 96
21 Carper No. 12 187
22 Carper No. 13 201
23 Carper No. 14 203
24 Carper No. 15 215
Carper No. 16 221
Carper No. 17 228
Carper No. 18 232

1 (WHEREUPON, the Witness was
2 sworn.)

3 DIANE CARPER,

4 called as a witness herein, having been first
5 duly sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. BALSON:

8 Q Would you state your name.

9 A It's Diane Carper, C-a-r-p-e-r.

10 Q Ms. Carper, I'm going to ask you a
11 number of questions today, the first one to this
12 deposition, which is taken subject to the Federal
13 Rules of Civil Procedure and the rules of the United
14 States District Court for the Central District of
15 Illinois.

16 I know you've given depositions before
17 and I know you've testified before, but let's, for
18 the record, in any event, cover the ground rules.
19 The questions I'm going to ask you today concern your
20 background, your professional career, the service
21 that you've rendered to the Illinois State Police,
22 and specifically your involvement in matters
23 concerning the Rhoads homicides, Herbert Whitlock,
24 and Randy Steidl.

1 If at any time you don't hear my
2 question or need it repeated, just tell me. If I ask
3 you a question and you think it's confusing or you
4 don't understand it, don't answer it. Just tell me
5 and I'll try to make it clearer or restate it for
6 you.

7 All of your responses today need to be
8 vocalized. You need to answer with words and not
9 shrugs and nods and "uh-huhs" and "uh-uhs," that sort
10 of thing, because the record gets confusing.
11 Yesterday Colonel Brueggemann who testified, every
12 once a while he would let his voice drop down and
13 people at the table here couldn't hear him, so I
14 would request that you keep the volume up so that all
15 of us sitting around this table can hear, and so that
16 Vince, who is on the telephone, he can hear, too.

17 Can you hear okay, Vince?

18 MR. MANCINI: Perfect.

19 BY MR. BALSON:

20 Q Finally, since everything is being
21 transcribed by the court reporter, it's necessary
22 that I not talk while you're talking and you not talk
23 while I'm not talking, because it gets hard for her.
24 Do you understand each of these instructions as I've

1 given them to you?

2 A Yes.

3 Q Okay. Prior to coming here today,
4 have you discussed this deposition and your testimony
5 with anyone other than your attorney?

6 A No, I have not.

7 Q So you haven't discussed it with
8 Mr. Brueggemann or Mr. Parker or any other member of
9 the Illinois State Police, right?

10 A No. I have not.

11 Q Have you reviewed any documents?

12 A Yes, I have.

13 Q Can you tell me what documents you
14 reviewed, please.

15 A The -- my depositions from the Michale
16 Callahan lawsuit, my interrogatories from the
17 Callahan lawsuit, the complaints, Mr. Whitlock's
18 complaint and Mr. Steidl's complaint; my
19 interrogatories for this proceeding, and the answers
20 to those complaints.

21 Q Did you review your trial testimony
22 from the Callahan --

23 A Yes.

24 Q -- case?

1 A Yes, I did.

2 Q In the course of your review, did you
3 review any other documents such as e-mails or reports
4 or memos?

5 A I did review some of the e-mails I
6 submitted for discovery.

7 Q Were these e-mails going back to the
8 year 2000?

9 A Yes. Some of them were just gleaned,
10 gleaned through them very quickly.

11 Q Did you review reports that were
12 submitted by Michale Callahan?

13 A Yes.

14 Q How much time would you say you spent
15 reviewing documents in preparation for this
16 deposition?

17 A In reading through all the things that
18 I've listed, probably -- I don't know. I can't -- I
19 don't know if I can quantify it. I just --

20 Q More than --

21 A -- read through them.

22 Q -- three hours?

23 A Yeah, more than three hours.

24 Q More than five hours?

1 A Sure.

2 Q More than ten hours?

3 A Sure.

4 Q More than 20 hours?

5 A It's probably between six and 20.

6 Q How many times did you meet with your

7 lawyers in preparation for this deposition?

8 A Three times.

9 Q How many hours did you spend with your

10 lawyers?

11 A Oh, let's see. Probably about 15

12 hours.

13 MR. TAYLOR: How many? I'm sorry.

14 THE WITNESS: About 15 hours.

15 BY MR. BALSON:

16 Q Please keep your voice up.

17 A I'm sorry.

18 Q Are you currently employed?

19 A No, I'm not.

20 Q Are you retired?

21 A Yes.

22 Q When is the last time you were

23 employed?

24 A January 31st, 2008.

1 Q What was your rank at the time you
2 retired?

3 A My title was lieutenant colonel.

4 Q I'm assuming the last time you said
5 you were employed that was by the Illinois State
6 Police, right?

7 A Yes.

8 Q And you retired on January 31st, 2008?

9 A Yes.

10 Q And you were a lieutenant colonel.
11 Where were you stationed?

12 A Springfield.

13 Q At the date that you retired, who was
14 your direct supervisor?

15 A Deputy Director Greg Muller.

16 Q How long did you serve in the position
17 of lieutenant colonel?

18 A Within my last position?

19 Q Yes.

20 A I was there in my last position two
21 years.

22 Q So '06 to '08. What was your last
23 position?

24 A Lieutenant colonel in the Division of

1 Administration.

2 Q Prior to '06, what was your position?

3 A Lieutenant colonel in the Division of
4 Operations.

5 Q Also stationed in Springfield?

6 A Yes.

7 Q How long did you serve in that
8 position?

9 A About 1999 to the end of 2005.

10 Q Prior to that, what was your position?

11 A I was the -- called CIRCOM, Critical
12 Incident Response Command, commander.

13 Q What was your rank?

14 A Captain.

15 Q Where were you stationed?

16 A Springfield.

17 Q What period of time did you serve in
18 that capacity?

19 A Approximately seven months. It would
20 have been the summer of '98 until around February of
21 '99.

22 Q Prior to the summer of '98, what was
23 your position?

24 A District 16 commander.

1 Q Where is District 16?

2 A Main headquarters is in Pecatonica,
3 just west of Rockford, Illinois.

4 Q Where were you stationed, there in --

5 A Pecatonica.

6 Q -- Pecatonica? What period of time
7 did you serve in that position?

8 A I was the district commander for
9 approximately two years.

10 Q Prior to '96, what was your position?

11 A For about two months in 1996, I was
12 the lieutenant in Investigations in District 16,
13 stationed in Rockford.

14 Q Why only two months?

15 A It was a crossing-training
16 opportunity. The commander of the district had
17 determined that he was going to switch the patrol
18 lieutenant and the investigative lieutenant so that
19 we would get experience in each other's areas.

20 Q So I take it before that you were a
21 patrol lieutenant?

22 A Yes.

23 Q In District 16?

24 A Yes.

1 Q How long did you serve in that
2 position?

3 A Approximately two years.

4 Q That would be from, like, '94?

5 A Yes.

6 Q What was your position prior to that?

7 A I was in a staff officer's position in
8 Springfield for the area commanders at that time.

9 Q Who did you report to?

10 A Randy Rushing, Larry Mulcrone, and
11 Larry Drager.

12 Q How long did you serve as a staff
13 officer?

14 A Probably about three months.

15 Q Prior to that, what were you doing?

16 A I was at the Illinois State Police
17 Academy.

18 Q What did you do there?

19 A I was there for approximately nine
20 years, and there was a whole different variety of
21 assignments I performed there.

22 Q Well, that would take us back, I
23 think, to about '85, right?

24 A Yes.

1 Q When did you join the Illinois State
2 Police?

3 A November 1980.

4 Q And you went to the academy?

5 A Yes.

6 Q Then were you out on patrol?

7 A Yes. I was -- after graduating from
8 the academy, I went to District 10, Pesotum.

9 Q Where did you grow up?

10 A Champaign County.

11 Q Specifically what town?

12 A Seymour.

13 Q I know this question is somewhat
14 indelicate, Ms. Carper, but how old are you? What's
15 your birth date?

16 A I'm 51.

17 Q What's your birth date?

18 A Oh. REDACTED.

19 Q If my notes are correct, on July 6,
20 1986, you were at the academy, correct?

21 A Yes.

22 Q What was your position in 1986, if you
23 recall?

24 A It would have been either the

1 Instructor Development supervisor or Cadet Class
2 coordinator. I transitioned in that year from one
3 position to the other within the academy.

4 Q In 1986, did you know Jack Eckerty?

5 A I did not know him.

6 Q Have you ever met Jack Eckerty?

7 A I have.

8 Q When did you first meet him?

9 A The first time I recall meeting him
10 was in, I think, 2005.

11 MS. SUSLER: Excuse me. There's a lot of
12 competition from the heating and air-conditioning
13 system. I'm having a little trouble hearing. Would
14 you both keep your voices up, please? Thank you.

15 BY MR. BALSON:

16 Q Under what circumstances did you meet
17 Jack Eckerty?

18 A We were called to the Illinois State
19 Police Legal Office in Springfield.

20 Q Was this in connection with the
21 lawsuit?

22 A Yes.

23 Q Steidl's lawsuit?

24 A Yes.

1 Q Had you spoken to Jack Eckerty prior
2 to that time?

3 A No.

4 Q When did you first learn that there
5 was -- first learn about the Rhoads homicides?

6 A Probably around the beginning of 2000.

7 Q Are you acquainted with Jim Parrish?

8 A Only through proceedings. I had not
9 met him prior to seeing him in Champaign at another
10 deposition.

11 Q How about Gene Ray? Do you know Gene
12 Ray?

13 A I do not.

14 Q Do you know Michael McFatridge?

15 A I do not.

16 Q I take it you've never worked with any
17 of those individuals?

18 A I have not.

19 MR. BALSON: Mark this, please.

20 (WHEREUPON, Carper Exhibit 1 was
21 marked and tendered to Witness.)

22 BY MR. BALSON:

23 Q I'm showing you a document we have
24 marked as Carper Deposition Exhibit Number 1. You

1 may need to take apart the document -- it's a
2 two-page document. You may need to take it apart
3 because I'm going to ask you a question that's kind
4 of buried by the staple.

5 A All right.

6 Q Exhibit 1 is a string of e-mails
7 beginning on the bottom with an e-mail from Frank
8 Young to Captain John Strohl entitled "'48 Hours" CBS
9 Interview." Do you see that?

10 A Yes.

11 Q When did you first learn that CBS was
12 going to do a show on the Rhoads homicide?

13 A I'll not answering in relation to this
14 document, Exhibit Number 1, but I'm answering off the
15 top of my head, my recall. This was in 2000, early
16 2000.

17 Q Was it before or after you think you
18 received this e-mail? This e-mail is dated March 8,
19 2000.

20 A I don't know if there was
21 correspondence or conversations before this.

22 Q I guess my question is, did you know
23 that these Northwestern students were doing their
24 interviews and investigations into the Rhoads

1 homicide down in Paris?

2 A I did not -- I do not recall knowing
3 that at that time.

4 Q Did you know Sergeant Rory Steidl --

5 A Yes.

6 Q -- back in 2000? How did you know
7 Sergeant Steidl?

8 A I can't recall if we worked together
9 in District 10, but he did public information
10 programs and a lot of media presentations for the
11 Illinois State Police.

12 Q Did he work under your command?

13 MR. JOHNSTON: I'll object to the form of the
14 question, time frame.

15 Go ahead and answer as best you can.

16 BY MR. BALSON:

17 Q At this time, March 8, 2000, did he
18 work under your command?

19 A He was in the chain of command. Yes.

20 Q Did you know at this time that he was
21 the brother of a convicted -- of a person convicted
22 of murder?

23 A No.

24 Q This particular e-mail, which was

1 forwarded later in the day to you and subsequently to
2 Andre Parker, informs you, does it not, that Rory
3 Steidl has been asked to appear on the 48 Hours show,
4 right?

5 A What are you saying? Where are you
6 saying that that tells me that?

7 Q Well, down at the bottom. It says --

8 MR. JOHNSTON: On the first page.

9 BY MR. BALSON:

10 Q -- "Sergeant Rory Steidl has been
11 asked to appear on an upcoming 48 Hours show. He
12 will be interviewed about his half brother, Randy
13 Steidl, who was convicted of a double homicide in the
14 early 80's." Do you see that?

15 A Yes, I see that.

16 Q Is that the first time you learned
17 that there was a double homicide, at least the Rhoads
18 homicide? Was that the first time that was brought
19 to your attention?

20 A It was around that time period. I
21 don't know if that's the exact time. I don't know if
22 there was any conversations before this. I just --
23 it was around that time that I first learned it.

24 Q Well, other than through this e-mail,

1 how did you learn about it?

2 A Well, I don't recall. I'm just saying
3 that my recollection is that it was around this time
4 in 2000 that I learned of it.

5 Q Who is Frank Young?

6 A He was a sergeant or a master
7 sergeant, I don't know which, in District 10.

8 Q On the second page, if you can --
9 well, actually, before we get to that, at the bottom
10 of the first page, it starts, "Sergeant Steidl told
11 me he will not appear in uniform and has told 48
12 Hours he will not comment on the investigation, which
13 was handled by our agency." Do you see that?

14 A Yes.

15 Q Was that the first time that you
16 learned that the Illinois State Police had handled
17 the investigation of the Rhoads homicides?

18 A I don't know that the Illinois State
19 Police had handled the investigation. I just know
20 that that is what is in this e-mail.

21 Q I'm a little confused by your answer.
22 You said, "I don't know." You don't know this day
23 that there was investigation activities by the
24 Illinois State Police?

1 A You asked me if that was the first
2 time that I knew the state handled the investigation,
3 and I was telling you that, no, I don't know that the
4 Illinois State Police handled the investigation at
5 that time, and that's just what is reported in this
6 e-mail.

7 Q I'm not trying to nitpick, but I'm a
8 little confused by your answer. When you say, "I
9 don't know," I don't know what you're referring to,
10 if you're referring to right now that you don't know
11 that the Illinois State Police handled the
12 investigation, or that you didn't know that back in
13 March of 2000 when you got this e-mail?

14 A Which of those questions are on the
15 table?

16 Q Do you know as you sit here today that
17 the Illinois State Police handled an investigation of
18 the Rhoads murders back in 1986?

19 A No.

20 Q So no one has brought to your
21 attention that Jack Eckerty was involved in
22 investigating the Rhoads murders back in 1986?

23 A He was assisting, is what was brought
24 to my attention.

1 Q Is there a difference in your mind in
2 "assisting" and "handling"?

3 A Yes.

4 Q What is the difference?

5 A The lead agency is the one handling
6 the case.

7 Q Who was the lead agency investigating
8 the Rhoads homicides?

9 A Paris PD.

10 Q But Jack Eckerty was assisting? Is
11 that your testimony?

12 A He was providing assistance, is what
13 was reported to me, and I don't know if it was at
14 this time.

15 Q What do you mean, "I don't know if it
16 was at this time"? What does that mean?

17 A I didn't answer that question in
18 relation to this document, Exhibit 1.

19 Q You know now as you sit here in this
20 room that Jack Eckerty provided investigatory
21 assistance in the matter of the Rhoads homicides back
22 in 1986 and '87, don't you?

23 A Yes.

24 Q When did you first discover that Jack

1 Eckerty provided that assistance?

2 A It would have been in 2000.

3 Q With this e-mail, Exhibit 1?

4 A Again, there could have been e-mails

5 that occurred prior to this. I don't recall. I

6 don't recall if there were discussions prior to this

7 regarding Mr. Eckerty's involvement.

8 MR. JOHNSTON: Quick, off the record.

9 (WHEREUPON, there was an

10 off-the-record discussion had by

11 the Parties.)

12 BY MR. BALSON:

13 Q Let's continue with page 2. Frank

14 Young writes to Captain Strohl, "Sergeant Steidl has

15 told me he does not feel the lead agent, Jack

16 Eckerty, handled it properly and has strong feelings

17 about that." What was your reaction when you read

18 that, if you remember?

19 A I don't know if I read that at the

20 time that I received this e-mail.

21 Q When John Strohl forwards this to you

22 on the same day and says, "I am confident he will say

23 nothing that would discredit the ISP," do you see

24 that?

1 A Yes.

2 Q That's something of a contradiction,
3 isn't it? If Sergeant Steidl says he doesn't feel
4 that the lead agent handled the investigation
5 properly, and yet John Strohl is confident he will
6 say nothing that will discredit the ISP, that's
7 something of a contradiction, isn't it?

8 MR. JOHNSTON: I'll object to the form of the
9 question, calls for speculation and foun --

10 MS. BARTON: I'll also object to the form of
11 the question.

12 MR. JOHNSTON: And foundation.

13 You can go ahead and answer that.

14 THE WITNESS: I guess those are two things
15 that I didn't compare and draw that conclusion from.
16 That is a conclusion that you have drawn.

17 BY MR. BALSON:

18 Q All right. Did those two e-mails
19 alert you to a situation in which the Illinois State
20 Police could be criticized on a CBS television show?

21 A Could you repeat that?

22 Q Yes. Do these two e-mails that we
23 just referred to, did that alert you to a situation
24 at the time where you felt that the Illinois State

1 Police could be criticized on a CBS television show?

2 A I had no belief that we were going to
3 be criticized.

4 Q Well, if Sergeant Steidl is going to
5 appear on TV and he tells Captain Strohl he doesn't
6 feel that the lead agent, Jack Eckerty, handled the
7 investigation properly and he has strong feelings
8 about that, didn't that lead you to the conclusion
9 that the Illinois State Police could be criticized on
10 national television?

11 MR. JOHNSTON: I'll object to the form of the
12 question.

13 You can go and answer it as best you
14 can.

15 MS. BARTON: I'll also object to the form.

16 THE WITNESS: I did not make that correlation.

17 BY MR. BALSON:

18 Q In any event, you forwarded these
19 e-mails up the chain to Andre Parker, didn't you?

20 A Yes, I did.

21 Q What was Andre Parker's position at
22 that time?

23 A I don't remember Andre Parker's
24 position.

1 Q Were you a lieutenant colonel at that
2 time?

3 A Yes.

4 Q Was Andre Parker a colonel at that
5 time?

6 A He was assistant deputy director.

7 Q He was directly your supervisor, was
8 he not?

9 A Yes.

10 Q All right. So you send these to him
11 and you say, "Sensitive Issue. Let's discuss."
12 Right?

13 A Yes.

14 Q Did you have a discussion with him?

15 A I don't recall a discussion with him
16 regarding the "48 Hours."

17 Q What was the sensitive issue,
18 Ms. Carper?

19 A It was getting national media
20 attention.

21 Q To a potential problem in an
22 investigation, right?

23 A No. It was getting national media
24 attention. It was something that we would report

1 regardless of the subject if it was getting national
2 media attention.

3 Q You mean if there was national media
4 attention of a parade, you would deem that to be a
5 sensitive issue you would want to discuss with the
6 deputy director?

7 MR. JOHNSTON: I'll object to the form of the
8 question, it's argumentative.

9 Go ahead and answer as best you can.

10 THE WITNESS: No, not a parade.

11 BY MR. BALSON:

12 Q So not anytime you would get national
13 media attention, right?

14 A Correct.

15 Q What made this different?

16 A Different from what?

17 Q From a parade. Why was this a
18 sensitive issue?

19 A Because we were getting national media
20 attention on --

21 Q On what?

22 A On what the "48 Hours" was going to
23 cover.

24 Q Well, how did you know what the "48

1 Hours" was going to cover?

2 A I didn't. I just knew that Sergeant
3 Steidl was requesting to appear.

4 Q Well, you knew that it concerned an
5 investigation handled by lead agent Jack Eckerty,
6 right? I mean, the e-mail said that to you.

7 A Well, I don't know if I read Frank
8 Young's attachment. I normally read the
9 commander's -- what the commander has said, but I
10 don't recall reading Frank Young's e-mail at that
11 time.

12 Q You mean it's your practice when you
13 receive e-mails not to read attachments?

14 MR. JOHNSTON: I'll object to the form of the
15 question, it's argumentative.

16 Go ahead and answer as best you can.

17 THE WITNESS: I will read attachments and
18 sometimes I won't read attachments right away.

19 BY MR. BALSON:

20 Q Did you ask John Strohl why he was
21 confident that Sergeant Steidl would say nothing that
22 would discredit the Illinois State Police?

23 A No.

24 Q Was Sergeant Steidl given instructions

1 about what he could and couldn't say?

2 A Yes.

3 Q Who gave him those instructions?

4 A Deputy Director Kent.

5 Q When did he give him those
6 instructions?

7 A I don't know.

8 Q Were you present?

9 A No.

10 Q Then how do you know Deputy Director
11 Kent gave him those instructions?

12 A He signed off on a letter to Sergeant
13 Steidl.

14 Q Well, you say in this e-mail to Andre
15 Parker, "Sensitive Issue. Let's discuss." Right?

16 A Yes.

17 Q What did Andre Parker do in response
18 to this e-mail?

19 A I don't recall.

20 Q You don't recall if you had a
21 discussion or not?

22 A I don't recall if we had a discussion.

23 Q Did Andre Parker tell you at this time
24 that this was too politically sensitive to

1 investigate?

2 MR. JOHNSTON: I'll object to the form of the
3 question. She said she didn't recall having a
4 conversation with Andre Parker.

5 Go ahead and answer as best you can.

6 THE WITNESS: At what time are you defining?

7 BY MR. BALSON:

8 Q At or about the time you sent him this
9 e-mail.

10 A No.

11 Q But at some time he said that to you,
12 right?

13 A No.

14 Q Did he tell at some time that it was
15 politically sensitive?

16 A Yes.

17 Q When did he say that to you?

18 A It would have been on or around May
19 12th.

20 Q Was it at a meeting or over the phone?
21 How did he say this to you?

22 A It was a conversation.

23 Q Where did the conversation take place?

24 A Second floor at the Armory Building in

1 Springfield.

2 Q Who was present?

3 A Colonel Parker and myself.

4 Q Anyone else?

5 A I don't recall.

6 Q Okay. We'll come back to that. At
7 the time of this e-mail in March of 2000, was Michale
8 Callahan serving in your command?

9 A Yes.

10 Q What were his duties?

11 A In March of 2000, he was in Zone 5
12 Investigations.

13 Q Zone 5 was in your command?

14 A Yes. It actually wasn't Zone 5 at
15 that time. It was District 10 Investigations.

16 Q Was he a good investigator?

17 A I don't know.

18 Q Did you have any reason to believe he
19 was not a good investigator?

20 A I didn't have direct contact with him
21 to know either way. I did not -- I did not perceive
22 him to -- I perceived him to be a competent
23 investigator.

24 Q How many times had you worked directly

1 with Michale Callahan by March of 2000?

2 A I don't recall directly working with
3 Michale Callahan in our career. We went to the
4 academy together.

5 MR. BALSON: Would you mark this as Exhibit 2,
6 please.

7 (WHEREUPON, Carper Exhibit 2 was
8 marked and tendered to Witness.)

9 BY MR. BALSON:

10 Q I'm showing you what we've marked as
11 Exhibit Number 2, which is Bates stamped at the
12 bottom ISP17428, which appears to be the same string
13 of e-mails I've just shown you, but with an
14 additional e-mail from William Sheridan to David
15 Sanders, cc: Andre Parker, and it says, "Reference:
16 Note from Diane Carper." Who was William Sheridan in
17 the year 2000?

18 A I believe he was a staff officer from
19 the second floor at the Armory Building in
20 Springfield.

21 Q Who was he a staff officer for?

22 A I'm not sure whether it was for
23 Colonel Parker or Colonel Brueggemann at this point,
24 or Colonel Kent.

1 Q And who was David Sanders?

2 A I believe he was the statewide public
3 information officer.

4 Q The body of the message says,
5 "Lieutenant, Colonel Kent asked that I forward this
6 to you. We will be preparing a letter to Sergeant
7 Steidl reminding him of his role and ISP policy. I
8 will bcc you with a copy of letter. Colonel Kent
9 advised it was up to you whether we should share this
10 with Governor's office. I left a message for you to
11 call me at your convenience. Thanks." Was this
12 e-mail also sent to you --

13 A No.

14 Q -- Ms. Carper?

15 A No.

16 Q Was it discussed with you that Colonel
17 Kent was considering whether they should share this
18 situation with the governor's office as of March 9,
19 2000?

20 A Say that again. I'm sorry.

21 MR. BALSON: Would you read it?

22 (WHEREUPON, the Record was read as
23 follows:

24 "Question: Was it discussed with

1 you that Colonel Kent was
2 considering whether they should
3 share this situation with the
4 governor's office as of March 9,
5 2000?")

6 THE WITNESS: I was -- no. I was not aware of
7 any discussions regarding that.

8 BY MR. BALSON:

9 Q As of March of 2000, what was Colonel
10 Kent's position relative to Andre Parker?

11 A In the chain of command?

12 Q Yes.

13 A Colonel Parker reported directly to
14 Deputy Director Kent. He was the Division of
15 Operations deputy director.

16 Q Did Colonel Kent contact you at or
17 about this time to talk to you about this situation?

18 A No.

19 Q But you were aware, were you not, that
20 Colonel Kent was going to draft a letter reminding
21 Sergeant Steidl of his role and ISP policy; isn't
22 that right?

23 MR. JOHNSTON: I'll object to the form of the
24 question.

1 Go ahead and answer as best you can.

2 THE WITNESS: I was aware that Colonel Kent
3 was going to sign a letter providing direction to
4 Sergeant Steidl regarding ISP policy.

5 BY MR. BALSON:

6 Q Did you see a copy of that letter?

7 A Yes.

8 Q What did it tell Sergeant Steidl about
9 his role and the Illinois State Police policy, to the
10 best of your memory?

11 A To the best of my memory, that he was
12 free to appear on "48 Hours."

13 Q What was the ISP policy?

14 A That he would not represent himself as
15 being a representative of the Illinois State Police
16 in his capacity in the "48 Hours" interview.

17 Q And he couldn't appear in uniform; is
18 that right?

19 A Correct.

20 Q Was he told anything about
21 discrediting the Illinois State Police?

22 A I don't recall the term "discredit"
23 being used.

24 Q Was he told not to say anything

1 negative about the Illinois State Police or its
2 investigations?

3 A I don't remember exactly what the
4 letter said.

5 MR. BALSON: Mark this, please.

6 (WHEREUPON, Carper Exhibit 3 was
7 marked and tendered to Witness.)

8 BY MR. BALSON:

9 Q Showing you what we've marked as
10 Exhibit 3 now, it appears to be, at the top, in any
11 event, an e-mail from yourself to Richard Karpowitz
12 (sic), "Subject: 48 Hours CBS Interview." This is
13 dated March 9th.

14 The body of the letter reads, "Legal
15 and DD Kent drafted a letter to Sergeant Steidl.
16 Captain Strohl will ensure he receives a copy." Were
17 you asked to contribute to the writing of that
18 letter?

19 A No.

20 Q Did you see the letter before it was
21 signed by Deputy Director Kent?

22 A I don't recall seeing a letter before
23 it was signed by Deputy Director Kent.

24 Q Were you asked for your input on the

1 letter?

2 A No.

3 Q Did you contribute in any way to the
4 drafting of that letter?

5 MR. JOHNSTON: I'll object to the form of the
6 question, asked and answered.

7 Go ahead and answer.

8 THE WITNESS: I don't recall contributing in
9 any way to that letter.

10 BY MR. BALSON:

11 Q Did you see it before it was sent to
12 Captain Strohl?

13 A I don't recall seeing it before it was
14 sent to Captain Strohl.

15 Q Was it sent to Captain Strohl to give
16 to Sergeant Steidl?

17 A It was reported to me that that was
18 what was going to occur.

19 Q Who is Richard Karpawicz?

20 A He was a commander, Investigations
21 commander. I don't know if -- he's Investigations
22 commander in one of the districts, like, District 8.

23 Q Why was this memo sent from you to
24 Richard Karpowitz (sic)?

1 A Rick Karpawicz was someone who would
2 be placed in charge of the region if I wasn't
3 available. So I don't know that that was the case
4 here, but those are the circumstances, that I
5 sometimes sent him direction or information on what
6 was going on in the region.

7 Q Did you have a conversation with him
8 relative to a CBS show and Sergeant Steidl's
9 appearance on the show?

10 A I don't recall having any discussions
11 with Rick Karpawicz.

12 Q Did you have a conversation with
13 Sergeant Steidl before the show?

14 MR. BALSON: Could you mark this, please.

15 (WHEREUPON, Carper Exhibit 4 was
16 marked and tendered to Witness.)

17 BY MR. BALSON:

18 Q Ms. Carper, I'm showing you what we
19 have marked as Exhibit Number 4 now. It's a string
20 of e-mails, the first one sent on March 23rd from
21 Gary Rollings to John Strohl, "Subject: Steidl
22 Request." At this time, in March of 2000, what was
23 Gary Rollings' position?

24 A He would have been the Patrol

1 lieutenant in District 10.

2 Q This was sent as an attachment to you
3 by John Strohl on March 27th, 2000, but I want to
4 make reference now to Gary Rollings' e-mail on the
5 bottom, which says, "Sergeant Steidl also indicated
6 that the person to be arrested, Herbert L. Board,
7 12/6/57, Paris, Illinois may have been involved in
8 the Rhoads murder in Paris. As you are aware,
9 Steidl's brother, Randy, and Herbie Whitlock were
10 convicted of murder in the Rhoads case. Sergeant
11 Steidl believes Randy is innocent and alleges
12 misconduct on the part of the ISP investigator on the
13 case, Sergeant Jack Eckerty (retired)." Do you
14 remember reading that on or about March 27th, 2000?

15 A Yes.

16 Q When you got that, what, if anything,
17 did you do about it?

18 A When I got this e-mail, this string of
19 e-mails, or this particular information?

20 Q How about this particular information.

21 A In talking with Captain Strohl, I
22 don't believe I specifically zeroed in on this
23 particular area.

24 MR. BALSON: Would you read back her last two

1 answers, please, the ones just before this. I don't
2 want to misquote her.

3 MS. REPORTER: Sure.

4 (WHEREUPON, the Record was read as
5 follows:

6 "Answer: When I got this e-mail,
7 this string of e-mails, or this
8 particular information?

9 "Question: How about this
10 particular information.")

11 MR. BALSON: Read the one before that.

12 MS. REPORTER: Before that?

13 (WHEREUPON, the Record was read as
14 follows:

15 "Question: Do you remember
16 reading that on or about March
17 27th, 2000?

18 "Answer: Yes.

19 "Question: When you got that,
20 what, if anything, did you do
21 about it?

22 "Answer: When I got this e-mail,
23 this string of e-mails, or this
24 particular information?

1 "Question: How about this
2 particular information.

3 "Answer: In talking with Captain
4 Strohl" --)

5 MR. BALSON: All right.

6 BY MR. BALSON:

7 Q What do you mean, you didn't zero in
8 on this, Ms. Carper? What does that mean?

9 A I had a conversation with Captain
10 Strohl regarding the whole string of e-mails.

11 Q Okay. When did this conversation take
12 place?

13 A It would have been within probably in
14 the same time period as -- as receipt of this e-mail
15 string.

16 Q Where did this conversation take
17 place?

18 A It was a telephone conversation.

19 Q Did you call him or did he call you?

20 A I don't recall who initiated it, the
21 telephone call.

22 Q What do you remember about the
23 telephone call?

24 A Captain Strohl or -- yeah, Captain

1 Strohl wanted to assign -- to have Lieutenant Fermon,
2 or Captain Fermon at that time, serve as a liaison
3 between ISP and the ATF and wanted Fermon involved in
4 the request made by Steidl.

5 Q Well, Steidl's request was to have an
6 Illinois State policeman investigator at any
7 interview regarding the Rhoads murder; is that right?

8 If you look on page 2, you'll see
9 that. It says, "Sergeant Steidl's request is that
10 ISP have an investigator at any interview regarding
11 information on the Rhoads murder. I told him I would
12 forward his request up the chain of command." Is
13 that what you're talking about?

14 MR. JOHNSTON: It's right there in the middle.

15 You're talking about the paragraph
16 that starts, "Sergeant Steidl's request"?

17 MR. BALSON: That's correct.

18 THE WITNESS: Captain Fermon -- or Captain
19 Strohl wanted to use Steve Fermon as the liaison
20 between ATF and ISP and have Steve sit in on the
21 interview.

22 BY MR. BALSON:

23 Q So in response to Sergeant Steidl's
24 request, if I understand you correctly, Captain

1 Strohl wanted to have Captain Fermon as the
2 investigator that would sit in on interviews
3 regarding the Rhoads murder?

4 A Let me clarify: Captain Strohl wanted
5 Steve Fermon to serve as liaison between ISP and ATF
6 to determine what might be occurring in the matters
7 raised in Gary Rollings' e-mail to John Strohl.

8 Q And what would be the function of a
9 liaison?

10 A I don't know what John Strohl's
11 intended function was for that.

12 Q He didn't tell you?

13 A He may have. I just don't recall.

14 Q What does that mean, to act as a
15 liaison?

16 A I don't know how Captain Strohl
17 intended it to mean.

18 Q How did you understand it?

19 A That they would coordinate back and
20 forth with the agency.

21 Q ATF?

22 A ATF.

23 Q Well, he was asking that an Illinois
24 State police officer sit in on the interviews of

1 anything having to do with the Rhoads homicide. What
2 was your response to that?

3 A My response was that Captain Strohl
4 should assign someone who was in District 10
5 Investigations to look into what was occurring or to
6 serve as a liaison.

7 Q And your suggestion was Captain
8 Fermon?

9 A No, I did not suggest Captain Fermon.
10 Captain Strohl suggested Captain Fermon.

11 Q Was that okay with you?

12 A No. I felt Captain Fermon could be
13 used as a resource if they wanted, but that they
14 should assign someone from District 10
15 Investigations.

16 Q Did you come to any decision as to who
17 should be assigned?

18 A No.

19 Q Well, when he wrote in his -- when
20 Gary Rollings wrote in his e-mail, "Sergeant Steidl
21 believes Randy is innocent and alleges misconduct on
22 the part of the ISP investigator on the case,
23 Sergeant Jack Eckerty," what did you do about that?

24 A Again, my conversation with Captain

1 Strohl was that we needed to have somebody from
2 District 10 Investigations look into what Gary
3 Rollings was saying in his e-mail.

4 Q So you wanted somebody from District
5 10 to look into the fact that there may have been
6 misconduct by Jack Eckerty?

7 A I did not specify that to Captain
8 Strohl.

9 Q Well, was that included, in your mind?

10 A In my mind, it was to look into this.
11 District 10 needs to look into this and provide me
12 information.

13 Q What did you do to follow up on that?

14 A Well, it was the responsibility of
15 Captain Strohl to follow up with me on that.

16 Q And did he?

17 A I don't recall at this time. I don't
18 recall.

19 Q Well, didn't you consider that to be
20 serious, when a sergeant in the Illinois State Police
21 said there's been misconduct on the part of an ISP
22 investigator?

23 A Well, if the allegation is true, it's
24 serious.

1 Q Well, how would you know if it's true
2 until you looked into it?

3 A I don't know.

4 Q Well, the question is, did you assign
5 anybody specifically to look into this on or about
6 March 27, 2000?

7 MR. JOHNSTON: Objection, asked and answered.

8 Go ahead.

9 THE WITNESS: No.

10 BY MR. BALSON:

11 Q Okay. Now, if we look at the next
12 e-mail in this string, the one just above it, March
13 27th, from John Strohl to you, he says in the second
14 paragraph, "If arrests are made in this matter that
15 contradict the actions the ISP made several years
16 ago, obviously the fall out would be cause for
17 concern." Did you discuss that sentence with Captain
18 Strohl?

19 MR. JOHNSTON: Did you say the second
20 paragraph?

21 MR. BALSON: Third paragraph.

22 MR. JOHNSTON: Oh. Sorry.

23 MR. BALSON: The last sentence.

24 BY MR. BALSON:

1 Q Take your time and read the sentence.

2 A Could you repeat the question, please?

3 MS. REPORTER: Sure.

4 (WHEREUPON, the Record was read as
5 follows:

6 "Question: Okay. Now, if we
7 look at the next e-mail in this
8 string, the one just above it,
9 March 27th, from John Strohl to
10 you, he says in the second
11 paragraph, "If arrests are made
12 in this matter that contradict
13 the actions the ISP made several
14 years ago, obviously the fall
15 out would be cause for concern."
16 Did you discuss that sentence
17 with Captain Strohl?"

18 THE WITNESS: I don't remember discussing it
19 with Captain Strohl.

20 BY MR. BALSON:

21 Q Did you ask him what he meant by
22 "obviously the fall out would be cause for concern"?

23 A No.

24 Q That sentence didn't trouble you in

1 any way?

2 A I felt Captain Strohl was going to
3 provide direction as far as who would be the liaison
4 and go forward from there, and if additional
5 information came up, I would be apprised.

6 Q Did you think at that time that he was
7 saying that it was in the interest of the department
8 not to expose any wrongdoing by an ISP employee
9 involved in the Rhoads homicide case?

10 MR. JOHNSTON: I'll object to the form of the
11 question.

12 You can go ahead and answer it as best
13 you can.

14 THE WITNESS: Could you repeat it, please?

15 MS. REPORTER: Sure.

16 (WHEREUPON, the Record was read as
17 follows:

18 "Question: Did you think at that
19 time that he was saying that it
20 was in the interest of the
21 department not to expose any
22 wrongdoing by an ISP employee
23 involved in the Rhoads homicide
24 case?")

1 MS. BARTON: I'll also object to form.

2 MR. JOHNSTON: You can answer.

3 THE WITNESS: No.

4 BY MR. BALSON:

5 Q At or about this time, did you discuss
6 the Rhoads homicides with Gary Rollings?

7 A I don't recall having any discussions
8 with Gary Rollings on it.

9 Q Well, did you discuss -- I'm sorry.
10 Your discussions relative to these e-mails took place
11 between yourself and Captain Strohl; is that right?

12 A Yes.

13 Q Did Captain Strohl tell you that Gary
14 Rollings had told him that the right people were in
15 prison?

16 A Gary Rollings had provided information
17 to Captain Strohl. I don't know what the exact words
18 were, though.

19 Q Well, in summary, what do you recall?

20 A I would have to -- I would have to
21 refresh my memory.

22 Q What would refresh your memory,
23 Ms. Carper?

24 A Well, Gary Rollings had sent an

1 e-mail, I believe, to Captain Strohl.

2 Q Is this your handwriting on this
3 document?

4 A Yes.

5 Q Would you read it for me, please.

6 A "Spoke with Captain Strohl, do not
7 need to follow up with Captain Fermon," my initial,
8 "D," and "4/11/00."

9 Q Why was it that you didn't need to
10 follow up with Captain Fermon?

11 A I felt the follow-up should come
12 within the district.

13 Q Is that what you told Captain Strohl?

14 A Yes.

15 Q That you didn't want involvement in
16 this?

17 MR. JOHNSTON: I'll object to the form of the
18 question, mischaracterizes.

19 You can answer as best you can.

20 THE WITNESS: What is your question again?

21 BY MR. BALSON:

22 Q Was it that you didn't want any
23 involvement with this matter?

24 A No.

1 Q Well, then, can you explain to me what
2 you mean by "the follow-up should be within the
3 district"?

4 A Captain Fermon was the statewide
5 investigative coordinator. He was not in my chain of
6 command. Captain Strohl was within my chain of
7 command, and if this was going to be an ongoing
8 matter, I wanted somebody within the chain of command
9 that that was their primary assignment within the
10 division, as opposed to someone who had other duties
11 and responsibilities.

12 Q So if I understand you correctly, you
13 were opposed to appointing Captain Fermon as the
14 liaison at this time; is that right?

15 A I felt Captain Fermon could be used as
16 a resource but that he should not be the one used as
17 a liaison.

18 Q The liaison should come from within
19 the district --

20 A Yes.

21 Q -- is that right? What do you mean by
22 "Captain Fermon could be used as a resource"?

23 A He was the statewide investigative
24 coordinator.

1 Q Because of his particular skill base?

2 What resource functions would he fill?

3 A That would be something determined by
4 Captain Strohl.

5 Q Do you know why Captain Strohl said
6 possibly Steve Fermon?

7 A No. I didn't ask him.

8 Q You don't know why he was suggesting
9 Captain Fermon?

10 A I do not recall him stating why.

11 Q Had they worked together, did you
12 know?

13 A I don't know.

14 MR. BALSON: Incidentally, it's 11:21. I'm
15 just going to give a courtesy five-minute break here.
16 I notice at least one of our lawyers has gotten up.

17 If at any time, Ms. Carper, you feel
18 the need to stand up and stretch your legs or take a
19 break, just let me know and we'll do that, okay? But
20 why don't we take a five-minute break now, give our
21 court reporter a break.

22 MS. REPORTER: Thank you.

23 (WHEREUPON, there was a brief
24 recess had in the proceedings.)

1 Would you mark this, please.

2 (WHEREUPON, Carper Exhibit 5 was
3 marked and tendered to Witness.)

4 BY MR. BALSON:

5 Q Ms. Carper, I'm showing you now what
6 we've marked as Exhibit Number 5, which is a document
7 beginning ISP17483 through ISP17486, the last two
8 pages of which are a letter from Bill Clutter from
9 the law offices of Metnick, Cherry & Frazier, to Sam
10 Nolen, the director of the Illinois State Police, and
11 it's stamped, "Received March 27, 2000," which is the
12 same date as John Strohl's e-mail to you and
13 attaching Gary Rollings' e-mail to him. My first
14 question to you is, did you see this letter at or
15 around March 27, 2000?

16 A It would have been at or around the
17 date shown on the route slip on the front.

18 Q The route slip is dated 3/31; is that
19 right?

20 A Yes.

21 Q Okay. And that checks you off, right,
22 "Region III - Lieutenant Colonel Carper"?

23 A Yes.

24 Q And it also checks off "Prepare

1 response for Director's signature," right?

2 A Right.

3 Q This was sent to you from Deputy

4 Director Kent; is that correct?

5 A Yes. It's on his stationery.

6 Q Was it then your task to prepare a

7 response for Director Nolen's signature to be sent to

8 Bill Clutter?

9 A It was my task to ensure a response

10 was prepared.

11 Q Who prepared it?

12 A Who prepared the response to

13 Mr. Clutter?

14 Q For the director's signature.

15 A For the director's signature? Which

16 time?

17 Q Well, that's true. There were more

18 than one. But he only signed one; isn't that right?

19 A Yes. That's correct.

20 Q Who prepared that one?

21 A It came from District 10, from Captain

22 Strohl.

23 Q Did you approve it?

24 A I did not approve the first draft.

1 Q The first draft, was that also
2 prepared by Captain Strohl?

3 A I don't know who actually authored the
4 note within District 10. I know that they were sent
5 through interoffice mail to my staff.

6 Q When you say you didn't approve it,
7 did you disapprove of it and take steps to make sure
8 that that wasn't sent for the director's signature?

9 A Yes.

10 Q What was your problem with it?

11 A It was a "thanks-but-no-thanks"
12 letter.

13 Q Do you know who authored that letter?
14 Maybe I asked you that already.

15 A No.

16 MR. JOHNSTON: No, he didn't ask you, or, no,
17 you didn't author it?

18 THE WITNESS: Yes, you asked me, and, no, I
19 don't remember who authored it.

20 BY MR. BALSON:

21 Q That's what I thought. The subsequent
22 draft was drafted by Captain Strohl?

23 A The subsequent draft again came from
24 District 10, from Captain Strohl.

1 Q Did you tell Captain Strohl why you
2 didn't like the first draft?

3 A Yes.

4 Q What did you say to Captain Strohl?

5 A I felt that we should go to
6 Mr. Clutter, that if he had information, Mr. Clutter
7 shouldn't have to come to us.

8 Q Actually, the last sentence of
9 Mr. Clutter's letter says, "Further investigation by
10 your agency is warranted, in light of this and other
11 information that I am interested in sharing with the
12 State Police"; is that right?

13 A Yes.

14 Q Therefore, you felt that the state
15 police should find out what other information that
16 was?

17 A I felt we should have someone reach
18 out for Mr. Clutter and go to him to find out what
19 information he had.

20 Q Well, now, he's indicating that an
21 investigation by the agency is warranted of the
22 conviction of Randy Steidl of the murders of Dyke and
23 Karen Rhoads, right?

24 MR. JOHNSTON: I'll object to the form of the

1 question.

2 Go ahead and answer it as best you
3 can.

4 THE WITNESS: Can you read that back, please?

5 MS. REPORTER: Yes.

6 (WHEREUPON, the Record was read as
7 follows:

8 "Question: Well, now, he's
9 indicating that an investigation
10 by the agency is warranted of
11 the conviction of Randy Steidl
12 of the murders of Dyke and Karen
13 Rhoads, right?")

14 THE WITNESS: I -- I don't know that that's
15 right. What he's saying is he's got information that
16 he's interested in sharing with the state police.

17 BY MR. BALSON:

18 Q Well, he says in his letter that one
19 of the witnesses had been offered money and that --
20 to keep his mouth shut, right?

21 A No. I don't see that.

22 Q Well, it's on page 2. It says,
23 "Betty --(within two weeks ago) -- said Darrell told
24 her that Bob Morgan had offered him a bunch of money

1 to keep his mouth shut."

2 A And what is your question?

3 Q I don't remember. I think I asked you
4 whether or not -- well, let me ask you: Does he
5 provide information in this letter which indicates
6 that Randy Steidl may not have received a fair trial?

7 MR. JOHNSTON: I'll object to the form of the
8 question, calls for speculation.

9 Go ahead and answer.

10 THE WITNESS: He provides information -- or he
11 provides information and allegations in the letter
12 that -- and he indicates that he wants to share other
13 information with the state police.

14 BY MR. BALSON:

15 Q Well, this is within the same week
16 that you receive an e-mail indicating that an
17 Illinois State Police sergeant believes that there
18 was misconduct on the part of an ISP investigator in
19 the Rhoads murder case; isn't that right?

20 A I don't know if it was received the
21 same week or not.

22 Q Well, if you need to look at these
23 exhibits, they're sitting right in front of you. The
24 same day that this letter is received is the same day

1 that you received the information from Captain Strohl
2 which said Sergeant Steidl believes that Randy is
3 innocent and alleges misconduct on the part of the
4 ISP investigator on the case, Sergeant Jack Eckerty.
5 That's the same day.

6 A I don't know that that's correct.
7 I -- I don't know what your question is. You lost me
8 after about the third sentence.

9 Q The question is that now within a
10 one-week period of time, you've received information
11 that a -- and maybe the question is prefatory -- that
12 you received information that an Illinois police
13 sergeant alleges misconduct on the part of an ISP
14 investigator, and Bill Clutter alleges that witnesses
15 were paid off in the case.

16 The question, I guess, is, what did
17 you do now when you found out that there were these
18 two allegations relative to this murder conviction?

19 MR. JOHNSTON: I'll object to the form of the
20 question.

21 You can go ahead and answer as best
22 you can.

23 THE WITNESS: First of all, I don't know if I
24 received these within the same time frame. The date

1 shown on the route slip isn't necessarily when I
2 actually received the document. Then, secondly, I
3 didn't correlate at that time these two documents.

4 BY MR. BALSON:

5 Q What does that --

6 A And --

7 Q -- mean, you didn't correlate them?
8 You didn't think they were connected?

9 MR. JOHNSTON: I don't think she was finished
10 with her answer.

11 Go ahead.

12 THE WITNESS: This memorand -- this letter
13 that came through the chain of command to my region
14 was sent to Captain Strohl for him to look into it
15 and prepare a response.

16 BY MR. BALSON:

17 Q It was also sent to Captain Fermon,
18 was it not?

19 A It shows that it was copied, carbon
20 copied, to Captain Fermon.

21 Q That's your handwriting, isn't it?

22 A It is not.

23 Q Oh, I thought the "D" at the bottom is
24 yours. It is not?

1 A The "D" is mine.

2 Q What does "Due: 4/6/00" mean?

3 A That is the deadline from the deputy
4 director's office for a response.

5 Q Did you discuss this letter with
6 either Captain Strohl or Captain Fermon?

7 A Which letter are you talking about?

8 Q Mr. Clutter's letter. Which letter
9 are we talking about? It's the only letter we've
10 got.

11 MR. JOHNSTON: I think the confusion is the
12 e-mail.

13 MR. BALSON: All right. It doesn't matter.
14 We're talking about the Clutter letter.

15 MR. JOHNSTON: Here (indicating).

16 THE WITNESS: I did not discuss it with
17 Captain Fermon.

18 BY MR. BALSON:

19 Q Did you discuss it with Captain
20 Strohl?

21 A I discussed the response that I
22 received with Captain Strohl.

23 Q Did Captain Strohl tell you he needed
24 more time to respond?

1 A There was a request for an extension
2 of time in preparing a response.

3 Q Why would he need more time?

4 A He felt he needed more time to prepare
5 a response.

6 Q Did he tell you why?

7 A I did not inquire as to why.

8 Q How important did you deem this back
9 at that time?

10 A This is extremely important.

11 Q Extremely important?

12 A Um-hum.

13 (WHEREUPON, Carper Exhibit 6 was
14 marked and tendered to Witness.)

15 Q I'll show you what we've marked as
16 Exhibit Number 6, which is ISP17489. It's appears to
17 be an e-mail from John Strohl to Diane Carper and
18 others, "Subject: Letter." Mr. Strohl says, "In
19 order to ensure complete accuracy of the response
20 letter from Director Nolen to Mr. Bill Clutter
21 regarding the Steidl case, we need an extension.
22 This was a complex case and there are many issues
23 that need to be thoroughly reviewed before we prepare
24 a response that may be aired on the TV show '48

1 Hours.'" Did you talk to John Strohl about this
2 e-mail?

3 A No.

4 Q Did you ask him what he meant by the
5 "many issues that need to be thoroughly reviewed"
6 before you could prepare a response?

7 A No.

8 Q The response was relatively simple,
9 wasn't it? It said, "We're going to assign somebody
10 to look into it." Isn't that what it said?

11 MR. JOHNSTON: I'll object to the form of the
12 question.

13 Go ahead and answer.

14 THE WITNESS: The response that was signed by
15 the director was short.

16 BY MR. BALSON:

17 Q It just said that we're going to
18 assign Michale Callahan to look into this, right?

19 MR. JOHNSTON: I'll object to the form of the
20 question.

21 You can answer as best you can.

22 THE WITNESS: The one that was signed by the
23 director indicated that Lieutenant Callahan was going
24 to reach out to Mr. Clutter.

1 BY MR. BALSON:

2 Q Well, why would John Strohl need extra
3 time just to author such a short, little letter like
4 that?

5 MR. JOHNSTON: I'll object to the form of the
6 question, foundation.

7 Go ahead and answer as best you can.

8 THE WITNESS: To determine what he was going
9 to need to put into his response.

10 BY MR. BALSON:

11 Q When you got this, why didn't you call
12 him and ask him what issues needed to be thoroughly
13 reviewed?

14 A He's going to -- he's requesting time
15 to review them, and he will let me know what those
16 are when the time comes. He's preparing a letter and
17 asking for an extension, and that's fine.

18 Q That wasn't the question. The
19 question was, when he wrote to you, "This was a
20 complex case and there are many issues that need to
21 be thoroughly reviewed before we prepare a response,"
22 why didn't you call him and ask him what those issues
23 were?

24 A I don't recall if we had a

1 conversation on those issues, but I didn't -- you
2 know, I didn't feel that I needed to call to see why
3 he needed an extension at that point.

4 Q Well, do you know now what the "many
5 issues that need to be thoroughly reviewed" were?

6 A I don't know specifically what was in
7 his mind when he wrote that.

8 Q Did you know why he thought it was a
9 complex case?

10 MR. JOHNSTON: Objection, foundation.

11 Go ahead.

12 THE WITNESS: I did not know why it was a
13 complex case at the time that I got this e-mail.

14 BY MR. BALSON:

15 Q Was it because Sergeant Steidl thought
16 that there was misconduct by the Illinois State
17 Police?

18 MR. JOHNSTON: Same objection.

19 Go ahead and answer.

20 THE WITNESS: Not in my mind.

21 BY MR. BALSON:

22 Q Why not?

23 A I didn't know what the term "complex
24 case" -- what Captain Strohl was referring to.

1 Q Was the misconduct by the Illinois
2 State Police one of the many issues that needed to be
3 thoroughly reviewed?

4 A At that point, I don't know that --
5 what the "many issues" were.

6 Q Were you concerned about misconduct of
7 the Illinois State Police coming out on the "48
8 Hours" TV show?

9 MR. JOHNSTON: I'll object to the form of the
10 question.

11 Go ahead and answer.

12 THE WITNESS: I don't recall that being
13 something I thought of at that time.

14 BY MR. BALSON:

15 Q Well, Sergeant Steidl wrote it to you
16 in an e-mail.

17 A He didn't write it to me.

18 Q It was sent to you.

19 A It was an attachment on an e-mail.

20 Q And you read it. You said you read
21 it.

22 MR. JOHNSTON: I'll object, that
23 mischaracterizes.

24 Go ahead and answer the best you can.

1 THE WITNESS: Yes, I did say I read it.

2 BY MR. BALSON:

3 Q So my question to you is, were you
4 concerned that misconduct of the Illinois State
5 Police in a murder investigation might come out on
6 the "48 Hours" television show?

7 MR. JOHNSTON: I'll object to the form of the
8 question, asked and answered.

9 Go ahead and answer it again.

10 THE WITNESS: I don't recall that being a
11 concern.

12 BY MR. BALSON:

13 Q Okay. Did you understand that this
14 response that was being sent for the director's
15 signature might itself be shown or mentioned in the
16 TV show?

17 MR. JOHNSTON: I'll object to form,
18 foundation, assumes facts not in evidence.

19 Go ahead and answer as best you can.

20 THE WITNESS: I don't recall any discussions
21 with regard to the letter being signed by the
22 director.

23 BY MR. BALSON:

24 Q Well, the fact that the letter might

1 show?")

2 THE WITNESS: I didn't -- I don't recall ever
3 having a response to that or thinking that in reading
4 this e-mail.

5 MR. BALSON: Let me say this: Iain, the last
6 objection you made contained a narrative, and I would
7 appreciate it, if you're going to object to the form,
8 just simply state, "I'm objecting to the form." It's
9 unnecessary for you to explain the basis for such an
10 objection other than to coach your witness as to what
11 she might answer.

12 So if you're going to object to the
13 form, I would appreciate you just objecting to the
14 form of the question. That will convey the necessary
15 objection to the form.

16 MR. JOHNSTON: I disagree, and I don't think
17 I'm making speaking objections, but I'm trying to be
18 careful. So go ahead and ask the next question.

19 BY MR. BALSON:

20 Q Before we put this down, this last
21 exhibit, it's copied to Cheryl Davis, Master Sergeant
22 Jim Wolf, and Gary Rollings. What was their
23 involvement with this letter?

24 A Cheryl Davis was the Region III

1 administrative assistant.

2 MR. TAYLOR: I'm sorry. I couldn't hear that.

3 THE WITNESS: I'm sorry. Cheryl Davis is the
4 Region III administrative assistant, Master Sergeant
5 Jim Wolf was the Region III staff officer at that
6 time, and Gary Rollings is the Patrol lieutenant in
7 District 10.

8 BY MR. BALSON:

9 Q Why was he getting a copy?

10 A That was up to John Strohl. I don't
11 know why John Strohl copied him.

12 Q Do you recall having a conversation
13 with Gary Rollings at or about that time?

14 A No.

15 (WHEREUPON, Carper Exhibit 7 was
16 marked and tendered to Witness.)

17 Q We're now on Exhibit Number 7, which
18 is an e-mail from Master Sergeant James Wolf to
19 Lieutenant Colonel Diane Carper, dated 4/14/2000,
20 bearing ISP number 17504.

21 He tells you that he spoke with
22 Captain Strohl and he wasn't real receptive about
23 having to continue with this issue. Did Captain
24 Strohl also tell you that?

1 A Not those exact words.

2 Q What were his words?

3 A That if Mr. Clutter has information,
4 he should be coming to us. We shouldn't have to go
5 to him.

6 Q Did he also tell you at that time that
7 he believed the matter should be allowed to play out
8 in the courts without any interference from the
9 Illinois State Police?

10 A I don't recall Captain Strohl saying
11 that.

12 Q Ever?

13 A I don't recall him saying that.

14 Q Did he tell you he was skeptical of
15 Clutter and Metnick because he had dealt with them in
16 the past?

17 A No. And you're talking about Captain
18 Strohl; is that correct?

19 Q That's correct.

20 A Okay.

21 Q Master Sergeant Wolf says, "I think
22 Callahan should take the lead on this and work with
23 Rollings (who is more familiar with this case) to
24 determine if Clutter's information warrants

1 additional investigation." Why was Rollings more
2 familiar with the case?

3 A Rollings had an investigative
4 background and had been in Investigations prior to
5 his Patrol lieutenant assignment, and at some point
6 it's my understanding he had some type of information
7 regarding the Steidl case.

8 Q Did he tell you why he thought Michale
9 Callahan should take the lead on the response?

10 A Well, I don't remember a conversation
11 with Master Sergeant Wolf, but I think he goes on in
12 his e-mails that he feels that gives us additional
13 credibility --

14 Q For the TV show?

15 A -- if we assign the investigative
16 lieutenant.

17 Q Well, he says, "I also think having
18 the Investigations Commander review the case file, et
19 cetera, gives us additional credibility if this
20 should get to a Mike Wallace type," right?

21 A That's what it states.

22 Q That's what it says. Did you talk
23 about that sentence with him?

24 A No, I did not.

1 Q Did he tell you what he meant by
2 getting "to a Mike Wallace type"?

3 A No, he did not.

4 Q Was Callahan selected because he had
5 better credibility for TV?

6 A No.

7 Q Why was he selected?

8 A I felt that Lieutenant Callahan should
9 review Clutter's information, and he would -- it
10 would be more appropriate for an investigative chain
11 of command to follow up on it for continuity
12 purposes. Lieutenant Rollings is in Patrol. He does
13 have an investigative background, but the follow-up
14 is going to come out of Investigations, not Patrol.

15 Q Was Lieutenant Callahan selected
16 because he was the best man for the job?

17 A He was selected because he was the
18 investigative commander.

19 Q Was he selected because he was the
20 best man for the job?

21 MR. JOHNSTON: Objection, asked and answered.

22 Go ahead and answer again.

23 THE WITNESS: He was selected because it fell
24 within his area of responsibility.

1 BY MR. BALSON:

2 Q And you felt that he was capable of
3 doing the job, didn't you?

4 A I felt he was capable of reviewing the
5 matter and providing information on preparing a
6 response.

7 Q Master Sergeant Wolf writes, "Bottom
8 line, we do not want anyone to be embarrassed or put
9 in the hot seat for not investigating this or
10 contacting individuals who state they have
11 information about the incident." Did you discuss
12 that with him?

13 A No.

14 Q Was that why you changed the letter,
15 because you didn't want the ISP to be put in the hot
16 seat for not investigating the matter?

17 A No.

18 Q He ends by saying, "I think John
19 understands what needs to be done but you may want to
20 touch base with him about this and expressed [sic]
21 any concerns you have." Did you do that?

22 A Yes.

23 Q Did you do this shortly after April
24 14th, the date of this e-mail?

1 A I did it sometime after that.

2 Q How did you reach out to him or touch
3 base with him?

4 A I recall it was a telephone
5 conversation.

6 Q What did you say to Michale Callahan?

7 A I didn't talk to Michale Callahan.

8 Q Who did you talk to?

9 A Captain Strohl.

10 Q What did you say to Captain Strohl?

11 A That we needed to go to Mr. Clutter,
12 Mr. Clutter shouldn't have to come to us, and that I
13 believe that Lieutenant Callahan or Investigations
14 should handle looking into the preparation of the
15 response for this matter.

16 Q Did you approve of the appointment of
17 Michale Callahan?

18 A When you say, "appointment," you mean
19 appointment for --

20 Q Assignment.

21 A -- what? Assignment for --

22 Q Appointment to the --

23 A -- what?

24 Q -- task. The assignment --

1 A Yes.

2 Q -- of Michale --

3 A Yes.

4 Q -- Callahan.

5 A Yes.

6 MR. JOHNSTON: Let him finish, Diane.

7 THE WITNESS: I'm sorry.

8 BY MR. BALSON:

9 Q All right. Did you express to John
10 Strohl any concerns that you had?

11 A No, just that I felt Lieutenant
12 Callahan should review it and that we should reach
13 out for Mr. Clutter.

14 Q Did you place any limitations or
15 restrictions on his review?

16 A No.

17 Q Let the chips fall where they may?

18 A I did not place any restrictions on
19 the review.

20 (WHEREUPON, Carper Exhibit 8 was
21 marked and tendered to Witness.)

22 Q Number 8, Exhibit 8, is an e-mail
23 dated May 2nd, from John Strohl to Diane Carper,
24 ISP17552. This e-mail says that "Lieutenant Callahan

1 is preparing a memo outlining some issues he feels
2 warrants further investigation. He has identified
3 some issues Illinois State Police investigators
4 failed to cover during the original investigation."
5 Do you remember receiving this e-mail on or about May
6 2nd, Ms. Carper?

7 A Yes.

8 Q What did you do when you got that
9 information?

10 A I forwarded it to, I believe, Colonel
11 Parker at a later date.

12 Q Did you discuss this e-mail with Andre
13 Parker?

14 A I don't recall discussing it with
15 Andre.

16 Q Well, did it concern you that the "48
17 Hours" show was set to air within two weeks and
18 Lieutenant Callahan had identified some issues that
19 Illinois State Police investigators failed to cover
20 during the original investigation? Did that concern
21 you?

22 A It concerned me if there were things
23 that the original investigations failed to cover.
24 The fact that it was on "48 Hours," or the fact that

1 "48 Hours" was coming up was a notification issue,
2 but it wasn't an issue that was going to determine
3 how we were going to respond.

4 Q Were you able to coordinate in your
5 mind at that time this e-mail with Sergeant Steidl's
6 allegations that there was misconduct by Illinois
7 State Police investigators during the original
8 investigation?

9 A I didn't identify this e-mail as
10 referring to any misconduct.

11 Q That wasn't the question. The
12 question was whether or not you were able at the time
13 to coordinate Mr. Callahan's statements in this
14 e-mail with the statements made by Rory Steidl in
15 March of 2000, which said that there was miss
16 conducted by Illinois State Police investigators at
17 the time of the original investigation?

18 MR. JOHNSTON: I'll object to the form of the
19 question.

20 You can answer it as best you can.

21 THE WITNESS: There were independent
22 communications and I did not see a connection between
23 those two issues.

24 BY MR. BALSON:

1 Q Were you aware that the day Michale
2 Callahan was assigned to do this investigation, he
3 received a telephone call from Jack Eckerty?

4 MR. JOHNSTON: I'll object to the form of the
5 question, it assumes facts not in evidence.

6 Go ahead and answer.

7 THE WITNESS: I'm not aware of the specific
8 date that Lieutenant Callahan was assigned, and I'm
9 not aware that he received a phone call from Jack
10 Eckerty on that date.

11 BY MR. BALSON:

12 Q Are you aware that Lieutenant Callahan
13 says he got a call from Jack Eckerty when he was
14 assigned to do this investigation?

15 A He told me on one occasion that
16 Eckerty called him, and the other occasion he told me
17 that he called Eckerty, so I don't know which it was.

18 Q Did you read his report when he
19 submitted it?

20 MR. JOHNSTON: I'll object to the form of that
21 question, vague.

22 You can go ahead and answer it as best
23 you can.

24 BY MR. BALSON:

1 Q Do you understand that question?

2 A Yes. And I don't know the exact date
3 that he submitted it.

4 Q Well, it doesn't have to be the exact
5 date. Did you read his memorandum when it was
6 prepared on or about the date it was prepared?

7 MR. JOHNSTON: I'll object to the form of that
8 question. Which memorandum?

9 THE WITNESS: I read it at a later date.

10 MR. BALSON: If we could take just minute.

11 (WHEREUPON, there was a brief
12 pause in the proceedings.)

13 (WHEREUPON, Carper Exhibit 9 was
14 marked and tendered to Witness.)

15 BY MR. BALSON:

16 Q Showing you what we have marked as
17 Exhibit Number 9, which is a memorandum prepared --
18 or from Lieutenant Mike Callahan to Captain John
19 Strohl, dated May 2nd, 2000, "Subject: Rhoads
20 Homicide," and the Bates stamp at the bottom says
21 MC-SDT 18080. Ms. Carper, did you see this
22 memorandum?

23 A Sir, can I bring up a point of
24 clarification?

1 Q Yes.

2 A The last page shows 089. Oh, that's a
3 page number. I'm sorry. I was thinking the whole
4 exhibit was named the same thing, and it's not.

5 Q To whom was this memorandum
6 circulated?

7 A It was provided to Colonel Parker and
8 to Rick Stock.

9 Q Who is Rick Stock?

10 A He was with the attorney general's
11 office.

12 Q Who authorized it to be sent to the
13 attorney general's office?

14 A Colonel Parker authorized it to be
15 sent to Rick Stock.

16 Q Was it sent to the Appellate
17 Prosecutor's Office's, do you know?

18 MR. JOHNSTON: Object to the form of the
19 question, time frame.

20 Go ahead and answer as best you can.

21 BY MR. BALSON:

22 Q At or about that time.

23 A I do not know if it was sent to the
24 Appellate Prosecutor's Office's at or about that

1 time.

2 Q Did someone send this outside the
3 chain of command?

4 A Yes.

5 Q Who did?

6 A Lieutenant Callahan.

7 Q Who did he send it to?

8 A He indicated he sent it to Bob Spence.

9 Q Who is Bob Spence?

10 A He was with the attorney general's
11 office.

12 Q I thought you said Colonel Parker
13 authorized it to be sent to the attorney general's
14 office.

15 A I stated he authorized it to be sent
16 to Rick Stock at the attorney general's office.

17 Q How do you know that Callahan sent it
18 to Bob Spence?

19 A He stated that he did.

20 Q When did he state that?

21 A It was on or around May 12th.

22 Q Did he say that Captain Strohl
23 authorized that the document be sent to the attorney
24 general's office?

1 A I recall at a later time that he
2 stated that. I don't know if he stated it that same
3 day.

4 Q Did you say anything to Michale
5 Callahan about the document being sent to Bob Spence?

6 A Yes.

7 Q What did you say?

8 A That people above me should have had
9 an opportunity -- I should have had an opportunity
10 and people above me should have had an opportunity to
11 review it before it was sent outside the agency. And
12 that wasn't my exact words, but that's what I recall.

13 Q Did he tell you he was told to send it
14 outside?

15 A At some point he did. I don't know
16 when I learned that from him.

17 Q Would you agree with me that in some
18 part Lieutenant Callahan's assignment in this matter
19 was to look into the Rhoads homicide and determine
20 whether there was reason to reopen the file?

21 MR. JOHNSTON: I'll object to the form of the
22 question.

23 You can answer as best you can.

24 THE WITNESS: His assignment was to review

1 Mr. Clutter's letter and to get information from
2 Mr. Clutter and prepare a response for the director's
3 signature.

4 BY MR. BALSON:

5 Q Michale Callahan was supposed to
6 prepare a response for the director's signature?

7 A Well, it was up to Captain Strohl to
8 determine who actually penned it, but it was up to
9 Lieutenant -- or however Captain Strohl assigned it.
10 My understanding was that Lieutenant Callahan was
11 reviewing the matter to prepare a response or provide
12 input to a response to Mr. Clutter.

13 Q Was he reviewing the matter to
14 determine the -- so that the department could
15 determine whether there were grounds to reopen the
16 Rhoads homicide investigation?

17 MR. JOHNSTON: I'll object to the form of the
18 question, asked and answered.

19 Go ahead and answer again.

20 THE WITNESS: The intent was for Lieutenant
21 Callahan to review the information that he received
22 in the letter from Mr. Clutter -- or received in the
23 letter from Mr. Clutter that was sent to Director
24 Nolen, and also to determine how we should respond to

1 that letter.

2 BY MR. BALSON:

3 Q I don't think I got an answer to the
4 question. One of Lieutenant Callahan's assign -- or
5 part of Lieutenant Callahan's assignment, was it not,
6 was to recommend whether or not the Rhoads homicide
7 investigation should be reopened?

8 MR. JOHNSTON: I'll object to the form of the
9 question. It's been asked and answered twice now.

10 Go ahead and answer again.

11 THE WITNESS: He was not directed that he was
12 reviewing it for that purpose. He was reviewing it
13 for the purposes of responding, providing a response
14 for information for a response to Mr. Clutter's
15 letter.

16 BY MR. BALSON:

17 Q Who communicated Lieutenant
18 Callahan's -- the purpose to Lieutenant Callahan?

19 MR. JOHNSTON: Object to form, foundation.

20 THE WITNESS: Who communicated that directly
21 to him? I don't know.

22 BY MR. BALSON:

23 Q How do you know that was the purpose
24 of his assignment?

1 A The route slip was sent to the
2 district, to Captain Strohl, that indicated please
3 prepare a response for the director.

4 Q When did you first see this
5 memorandum?

6 A It would be on or around May 12.

7 Q Why did it take so long for it to come
8 to your attention?

9 MR. JOHNSTON: I'll object, form, foundation.

10 Go ahead and answer.

11 THE WITNESS: It didn't take that long.

12 BY MR. BALSON:

13 Q Well, this is dated May 2nd, and you
14 said you didn't see it until May 12th.

15 MR. JOHNSTON: I'll object, if that's a
16 question.

17 Go ahead and answer it if it's a
18 question.

19 BY MR. BALSON:

20 Q Why did it take ten days?

21 MR. JOHNSTON: Object, form, foundation.

22 THE WITNESS: That is a question that Captain
23 Strohl would have to answer. The date on the memo is
24 not necessarily the date that it was penned or it was

1 sent to me. I had not received it, to my knowledge,
2 prior to becoming aware of it on May 12th.

3 (WHEREUPON, Carper Exhibit 10 was
4 marked and tendered to Witness.)

5 BY MR. BALSON:

6 Q Ms. Carper, don't put aside that memo
7 just yet. Exhibit 10 is an e-mail dated May 9th from
8 John Strohl to Diane Carper, copied to Callahan and
9 others, ISP17565, which says, "Lieutenant Callahan
10 brought up several issues in his May 2 memo regarding
11 some discrepancies in the Rhoads Homicide/Randy
12 Steidl that warrant further investigation." This is
13 dated May 9th, correct?

14 A Yes.

15 Q Is it your testimony that you had not
16 seen the May 2nd memo by the time you got this?

17 A That is correct.

18 Q When you got this e-mail, what did you
19 do?

20 A My staff officer had alerted me to the
21 fact that he was looking into the ability to use OAF
22 funds, Official Advanced Funds, for polygraphing a
23 third party outside the agency.

24 Q Did you say, "Where's the memo?"

1 A No, I did not.

2 Q So you're prepared to use funds
3 without even looking at the memo?

4 MR. JOHNSTON: Object, mischaracterizes.

5 Go ahead and answer.

6 THE WITNESS: We're looking into how we can
7 use the funds, and sometimes it takes a while to find
8 out that information.

9 BY MR. BALSON:

10 Q Well, John Strohl is saying, "I concur
11 with Lieutenant Callahan," and then he recommends
12 some things. But you don't even know what he's
13 concurring with because you haven't even seen the
14 memo, right?

15 A I have not seen the memo.

16 Q Why didn't you say, "Get me a copy of
17 the memo"?

18 A Captain Strohl is going to get me the
19 memo, and it's up to him to notify me, to touch base
20 with me to see that I got the memo.

21 Q I don't think I understand that
22 answer. It might be up to Captain Strohl to get you
23 a copy of the memo, but here it is a week after the
24 memo, Captain Strohl is telling you that he's found

1 discrepancies that warrant reinvestigation, he says
2 he concurs with Lieutenant Callahan, you apparently
3 are ready to put money into this, and you haven't
4 even seen the memo. Why didn't you say, "Get me the
5 memo"?

6 MR. JOHNSTON: I'll object to the form of the
7 question, assumes facts not in evidence, prefatory
8 comment, and it's argumentative.

9 You can go ahead and answer.

10 THE WITNESS: What was the question again?

11 MR. JOHNSTON: Would you read it back, please?

12 (WHEREUPON, the Record was read as
13 follows:

14 "Question: I don't think I
15 understand that answer. It
16 might be up to Captain Strohl to
17 get you a copy of the memo, but
18 here it is a week after the
19 memo, Captain Strohl is telling
20 you that he's found
21 discrepancies that warrant
22 reinvestigation, he says he
23 concurs with Lieutenant
24 Callahan, you apparently are

1 ready to put money into this,
2 and you haven't even seen the
3 memo. Why didn't you say, 'Get
4 me the memo'")?)

5 THE WITNESS: One, I don't know what date I
6 actually read this e-mail; two, I know Captain Strohl
7 will be sending me the memo, and we're researching
8 the ability to use the -- or my staff officer is
9 researching the ability to use funds in the event
10 we -- to find out if that's an avenue that we can use
11 the funds for.

12 BY MR. BALSON:

13 Q Lieutenant Colonel Carper, is your
14 practice not to read memos for a few days after you
15 get them?

16 A Well, I --

17 MR. JOHNSTON: I'll Object to the form of the
18 question.

19 Go ahead and answer.

20 THE WITNESS: Well, I had not gotten the memo
21 at the point that I received this e-mail.

22 BY MR. BALSON:

23 Q I didn't mean that. Is it your
24 practice not to read e-mails until a few days after

1 you get them?

2 A I get thousands of e-mails a year, you
3 know, dozens of them in a day. So -- and I'm also
4 out of the office quite extensively, so I read them
5 as soon as I can.

6 Q Do you get thousands of e-mails about
7 CBS doing a show on the Illinois State Police?

8 A No.

9 Q Do you get thousands of e-mails about
10 a case in which one of your sergeants said there was
11 misconduct by the Illinois State Police
12 investigators?

13 A No.

14 Q Do you get thousands of e-mails on
15 what you consider to be politically sensitive issues?

16 A No.

17 Q Did John Strohl say in this particular
18 e-mail that he realized this was a sensitive issue?

19 A Yes.

20 Q Is that your handwriting at the
21 bottom?

22 A No.

23 Q Do you know whose it is?

24 A No.

1 Q In fact, John Strohl is saying to you
2 that this requires higher approval/support, right?

3 A Yes.

4 Q Would that mean Colonel Parker?

5 MR. JOHNSTON: I'll object to the form of the
6 question, foundation.

7 Go ahead and answer as best you can.

8 THE WITNESS: I don't know what he means, at
9 what level.

10 BY MR. BALSON:

11 Q Well, how did you interpret it?

12 A I don't recall what my thoughts were
13 at -- at that time.

14 Q But it's clear from this e-mail, which
15 you get in advance of reading the Callahan
16 memorandum, that John Strohl is suggesting that Randy
17 Steidl be polygraphed, it may indicate he's innocent,
18 then the need to reopen the case ASAP, right?

19 MR. JOHNSTON: I'll object to the form of the
20 question, it assumes facts not in evidence,
21 mischaracterizes.

22 You can go ahead and answer the best
23 that you can.

24 BY MR. BALSON:

1 Q Is that right, Ms. Carper?

2 A No, I don't know that that's right,
3 and I've forgotten what your question is.

4 Q Would you pick up this document and
5 you can read along with me? "I concur with
6 Lieutenant Callahan and recommend the following
7 course of action: Facilitate the polygraph of Randy
8 Steidl. The cost would be approximately \$1,000 which
9 can be paid for with OAF."

10 "2) If the findings of the polygraph
11 indicate Randy Steidl may be innocent, then we need
12 to re-open this case asap." You read that, didn't
13 you?

14 A Yes.

15 Q And, in fact, you were looking into
16 getting funds from OAF, weren't you? At least your
17 staff was.

18 A Yes. My staff officer was looking at
19 the fiscal rules with regard to that.

20 Q Is this the notes of your staff
21 officer at the bottom?

22 A I do not know.

23 Q Because it says it's 450 a day for the
24 polygraph.

1 A I don't know whose handwriting is it.

2 Q Ms. Carper, isn't it true that you
3 quashed the polygraph issue and told them not to do
4 it?

5 A No.

6 MR. BALSON: Okay. I think it might be a good
7 time to take our lunch break before I get into this
8 document, because it might be a while. It's 12:37.
9 Should we say 1:15 maybe? 1:20?

10 MR. JOHNSTON: Sure. That's fine.

11

12 (WHEREUPON, the above-entitled
13 cause was continued to March 20,
14 2009, at 1:30 p.m.)

15

16

17

18

19

20

21

22

23

24

1 MR. BALSON: Would you mark this, please.

2 (WHEREUPON, Carper Exhibit 11 was
3 marked and tendered to Witness.)

4 CONTINUED EXAMINATION

5 BY MR. BALSON:

6 Q I'm placing an exhibit before you,
7 Ms. Carper, labeled Exhibit 11, which appears to be a
8 letter to Bill Clutter from Sam Nolen, dated April
9 27th, 2000. Are you familiar with this letter?

10 A Yes.

11 Q Is this the letter that was drafted
12 for the director's signature?

13 A Yes.

14 Q This letter, I believe your testimony
15 is that John Strohl drafted it for him; is that
16 right?

17 A The draft came from Captain Strohl,
18 and it was refined by my administrative assistant.

19 Q Who is your administrative assistant
20 again?

21 A Cheryl Davis.

22 Q How did she refine it?

23 A Took out typos.

24 Q Oh. But not the content?

1 A I believe she came up with the last
2 sentence in terms of this memo and the draft memo.

3 Q And it was approved by you before it
4 went out; is that right --

5 A Yes.

6 Q -- to the director for his signature?

7 A Yes.

8 Q The first sentence says, "Following
9 receipt of your letter, all documentation was
10 forwarded to the Illinois State Police District 10
11 Headquarters." What documentation are you referring
12 to there?

13 A Whatever came in with the letter.

14 Q What letter?

15 A The letter from Mr. Clutter.

16 Q Was there documentation that came in
17 with that letter?

18 A I don't know if there was anything
19 attached to it or not.

20 Q So this documentation doesn't refer to
21 documentation from the Rhoads homicide file?

22 A I don't recall what it referred to at
23 this point.

24 Q Well, down at the bottom it says, "You

1 will be informed of the results of this inquiry."

2 What does "inquiry" mean?

3 (WHEREUPON, there was a long pause
4 by the Witness.)

5 A It would be looking into the matter.

6 Q Michale Callahan looking into the
7 matter? Is that what you perceive "inquiry" to mean?

8 A The inquiry by Mr. Clutter.

9 Q Mr. Clutter's going to be informed of
10 the results of Mr. Clutter's inquiry? Is that what
11 you're saying?

12 MR. JOHNSTON: I'll object to the form of the
13 question.

14 If you understand the question, Diane,
15 go ahead and answer it as best you can.

16 THE WITNESS: As I interpret it, Mr. Clutter
17 is making an inquiry of us and we're looking into it.

18 BY MR. BALSON:

19 Q Well, what it says is, "Lieutenant
20 Michale Callahan will be contacting you to make
21 arrangements to meet and discuss additional
22 information." Then it says, "You will be informed of
23 the results of this inquiry when a complete and
24 thorough review of all documentation is complete."

1 Now, according to your version of
2 this, because this was approved by you before it was
3 sent to Director Nolen, you're saying that the
4 documentation is Clutter's letter and the inquiry is
5 Clutter's letter.

6 So if I read this the way you are
7 suggesting, it's that Mr. Clutter will be informed of
8 the results of Mr. Clutter's inquiry when a complete
9 and thorough review of Mr. Clutter's documentation is
10 complete. Is that the way you understand this?

11 MR. JOHNSTON: I'll object to the form of the
12 question.

13 You can answer that if you can.

14 THE WITNESS: At this point, I don't know what
15 "all documentation" is specifically referring to.
16 And with regard to the inquiry, it's that we've been
17 sent a letter and we're looking into it.

18 BY MR. BALSON:

19 Q But the letter seems to indicate that
20 the original investigation resulting in the
21 conviction -- I should say the original proceeding
22 resulting in the conviction of Randy Steidl was
23 somehow tainted, there was something wrong with it.
24 That's what the letter seems to indicate, and you're

1 assigning somebody to look into that.

2 Isn't the inquiry then, Ms. Carper,
3 based upon looking into whether or not the original
4 proceeding was correct or fair?

5 MR. JOHNSTON: I'll object to the form of the
6 question, it assumes facts not in evidence,
7 mischaracterizes.

8 You can go ahead and answer it the
9 best you can.

10 THE WITNESS: First of all, I disagree with
11 your characterization of the letter. This letter is
12 simply a response to Mr. Clutter, telling him that
13 Mr. Callahan will be contacting him to find out what
14 information he's interested in sharing with the
15 Illinois State Police.

16 BY MR. BALSON:

17 Q I'm got getting an answer. The last
18 sentence says, "You will be informed of the results
19 of this inquiry when a complete and thorough review
20 of all documentation is complete." I want to know
21 what that means.

22 MR. JOHNSTON: Objection, asked and answered.

23 You can go ahead and answer it again.

24 THE WITNESS: I can't tell you word for word

1 what it means other than the fact that we've received
2 this letter from Mr. Clutter, and it has been
3 assigned to District 10 to provide follow-up with
4 regard to the matters raised by Mr. Clutter.

5 BY MR. BALSON:

6 Q Okay. Then I guess I want to know
7 what is the follow-up?

8 A The follow-up to this letter?

9 Q You just used the word "follow-up."

10 A We're following up on Mr. Clutter's
11 letter.

12 Q What does that mean, to follow up on
13 Mr. Clutter's letter?

14 A For District 10 to prepare a response.

15 Q What is the response?

16 A The response is that Lieutenant
17 Callahan is going to meet with Mr. Clutter and obtain
18 his information.

19 Q That makes no sense. That makes no
20 sense, respectfully, Ms. Carper. When Mr. Clutter is
21 going to be --

22 MR. JOHNSTON: I'll object.

23 MR. BALSON: Just a moment.

24 MR. JOHNSTON: No, no.

1 MR. BALSON: I'm not finished.

2 MR. JOHNSTON: No. You're not even asking a
3 question. You're making statements and you're
4 arguing with the witness.

5 MR. BALSON: And I'm permitted to do that.

6 MR. JOHNSTON: You are not permitted to do
7 that. If you have a question, ask the question, but
8 don't argue with the witness.

9 MR. BALSON: Well, I can -- please. I can
10 certainly tell a witness that the answer makes no
11 sense.

12 MR. JOHNSTON: No, you can't.

13 MR. BALSON: Yes, I can.

14 MR. JOHNSTON: Okay. Fine.

15 BY MR. BALSON:

16 Q Mr. Clutter is being told by the
17 director that he will be informed of the inquiry. To
18 me, ma'am, it makes no sense for Mr. Clutter to be
19 informed that he is going to be informed of his own
20 inquiry.

21 MR. JOHNSTON: Is there a question?

22 BY MR. BALSON:

23 Q The question is, what does this
24 sentence mean, "You will be informed of the results

1 of this inquiry"?

2 MR. JOHNSTON: I'll object to the form of the
3 question. It's been asked and answered three times
4 now.

5 Go ahead and answer it the best you
6 can, Diane.

7 THE WITNESS: Mr. Clutter has sent information
8 to the director and requested -- we've been requested
9 to review by the director's office this letter and
10 provide a response to Mr. Clutter.

11 This letter is that letter that --
12 this letter is the one that went to Mr. Clutter. In
13 the meantime, Callahan is going to -- Lieutenant
14 Callahan, is going to follow up to find out what
15 Mr. Clutter has to share with us.

16 BY MR. BALSON:

17 Q We understand that. That's the second
18 paragraph. It's the third paragraph that I'm
19 concerned about, and that is, what does it mean that
20 Mr. Clutter will be informed of the results of this
21 inquiry.

22 MR. JOHNSTON: Objection, asked and answered
23 for a fourth time now.

24 MR. BALSON: Well, we're going to stay here

1 all day with this until I get the right answer.

2 MR. JOHNSTON: No, we're not, Ron. I'll tell
3 you, she's going to answer it, but if it continues,
4 my only option, unfortunately, is to end the dep and
5 seek a protective order, and I don't think we need to
6 do that. I'm instructing the witness to answer it as
7 best she can.

8 THE WITNESS: After Lieutenant Callahan meets
9 and receives the information from Mr. Clutter, then
10 Mr. Clutter will be given a response of some sort
11 with regard to what we've done with that information.

12 BY MR. BALSON:

13 Q Mr. Clutter said to the director in
14 his letter that based upon the content of his letter,
15 a further investigation by the Illinois State Police
16 is warranted. Isn't that what he said?

17 MS. SUSLER: I think it's Exhibit 5, if that
18 helps.

19 BY MR. BALSON:

20 Q Look at the last sentence of
21 Mr. Clutter's letter.

22 A Yes. That's correct.

23 Q "Further investigation by your agency
24 is warranted;" isn't that what he said?

1 A Yes.

2 Q So isn't the purpose of assigning
3 Callahan to determine whether further investigation
4 by the Illinois State Police into the Rhoads
5 homicides is warranted?

6 MR. JOHNSTON: Object to the form of the
7 question.

8 Go ahead and answer it the best you
9 can.

10 THE WITNESS: Again, when the review is done
11 of this, it's determined how we should respond, and
12 the letter on its face is not going to be a
13 determination of whether further investigation is
14 needed. We want to know what Mr. Clutter -- what
15 else Mr. Clutter has.

16 BY MR. BALSON:

17 Q I'm sure you do. But when he says,
18 Mr. Clutter says, "Further investigation by your
19 agency is warranted," and you assign Lieutenant
20 Michale Callahan, and then you tell Mr. Clutter, "You
21 will be informed of the results of this inquiry,"
22 aren't you saying to him that we're going to inquire
23 into this matter and make a determination whether
24 further investigation by the Illinois State Police is

1 warranted?

2 MR. JOHNSTON: Objection, asked and answered a
3 third time.

4 Go ahead and answer it the best you
5 can.

6 THE WITNESS: We are going to inquire into the
7 matter to see where we need to go with things.

8 BY MR. BALSON:

9 Q To see whether or not further
10 investigation is warranted --

11 MR. JOHNSTON: Object --

12 BY MR. BALSON:

13 Q -- isn't that correct?

14 MR. JOHNSTON: Objection, asked and answered a
15 fourth time on that question now.

16 You can go ahead and answer it the
17 best you can.

18 THE WITNESS: And, again, it's to inquire what
19 Mr. Clutter has to determine where we should go with
20 issues. When he looks at this, initially he's
21 looking at what is going to be our response.

22 Our response was that we need to get
23 his information. We need to meet with him and see
24 what he has to share with us and then determine where

1 we need to go from there.

2 BY MR. BALSON:

3 Q Ma'am, you knew as of April 27, 2000,
4 that the whole purpose of this exercise was to see
5 whether or not the Illinois State Police would reopen
6 the investigation; isn't that true?

7 MR. JOHNSTON: Ob --

8 THE WITNESS: No.

9 MR. JOHNSTON: -- jection, asked and answered.

10 MR. BALSON: Okay. I finally got an answer.

11 MR. JOHNSTON: You had it three times before
12 that, too.

13 BY MR. BALSON:

14 Q Now, if we can pick up that memo.
15 Would you agree with me that this memorandum dated
16 May 2nd, 2000, is the result of Mr. Callahan's
17 inquiry?

18 A Not entirely.

19 Q Would you explain that answer, please.

20 A This memo was generated based upon
21 information from Mr. Clutter and from the file, the
22 case file.

23 Q Okay. On the first page, Mr. Callahan
24 is reporting up his chain of command to Captain

1 Strohl, isn't he?

2 A Yes.

3 Q And he says in the third paragraph,
4 "Based on the case file and documentation provided by
5 Mr. Bill Clutter, Chief Legal Investigator for
6 Metnick Cherry and Frazier Law Offices, I have found
7 many discrepancies in this case which warrant ISP
8 re-evaluating this case." That's his recommendation,
9 isn't it?

10 A Yes.

11 Q Did you agree with it at that time?

12 A At the time that I became aware of the
13 memo --

14 Q Well, that's right. You said it was
15 May 12th.

16 A -- and had an opportunity to read it,
17 I believed that additional follow-up was warranted.

18 Q That wasn't the question. The
19 question was whether you agreed with it.

20 MR. JOHNSTON: Object to the form of the
21 question, it's argumentative.

22 You can go ahead and answer it as best
23 you can.

24 THE WITNESS: I didn't agree and I didn't

1 disagree.

2 BY MR. BALSON:

3 Q You thought that additional
4 investigation was warranted; is that what you said,
5 or additional evaluation?

6 MR. JOHNSTON: Object to --

7 MR. BALSON: What did she say?

8 MR. TAYLOR: "Follow-up."

9 MS. REPORTER: "I believed that additional
10 follow-up was warranted."

11 BY MR. BALSON:

12 Q What did you mean by that,
13 "follow-up"?

14 A That I needed to get more information.

15 Q From whom?

16 A From Mr. Callahan and Mr. Strohl.

17 Q Before you would make a decision on
18 whether to reopen the file?

19 MR. JOHNSTON: Object to the form of the
20 question.

21 THE WITNESS: Before we determined what the
22 next step was.

23 BY MR. BALSON:

24 Q Well, what did you do to get more

1 information from Mr. Callahan and Mr. Strohl?

2 A I met with them on more than one
3 occasion.

4 Q And asked questions?

5 A Yes.

6 Q Did you read their documentation?

7 A I read the memo that was provided.

8 Q Are you speaking about this memo, the
9 one in front of you, the --

10 A The May --

11 Q -- May 2nd memo?

12 A -- 2nd, 2000, memo that's entitled,
13 "Rhoads Homicide."

14 Q Is there anything in this memo which
15 caused you to think that this investigation should be
16 reopened?

17 A I didn't feel I had sufficient
18 information or -- to make that determination at that
19 point.

20 Q I don't think you answered the
21 question. The question was, is there anything in
22 this memo which caused you to think that this
23 investigation should be reopened?

24 MR. JOHNSTON: And she answered that question.

1 MR. BALSON: I don't think so.

2 MR. JOHNSTON: Go ahead and answer it again as
3 best you can.

4 THE WITNESS: Again, this memo in itself
5 wasn't sufficient for me to draw a conclusion.

6 BY MR. BALSON:

7 Q How was it insufficient?

8 A It had contradictory information.

9 Q Can you tell me what information was
10 contradictory in your judgment?

11 A Well, he's indicating that Whitlock's
12 a viable suspect and that this is also an initial
13 review in a compressed time frame of the case file.

14 Q Ma'am, what's contradictory?

15 A Well, on one hand he's saying
16 reevaluate the case; on the other hand he's saying
17 Whitlock is a viable suspect.

18 Q But he didn't say he was guilty, did
19 he?

20 MR. JOHNSTON: I'll object to the form of the
21 question. It's getting argumentative.

22 Go ahead and answer.

23 THE WITNESS: He said the purpose wasn't to
24 determine the guilt or innocence.

1 BY MR. BALSON:

2 Q Correct. It was to determine whether
3 or not it should be reinvestigated, wasn't it?

4 MR. JOHNSTON: Objection, asked and answered.

5 You can answer it again as best you
6 can.

7 THE WITNESS: It was a memorandum of his
8 impressions regarding the case file and the
9 information given to him by Mr. Clutter.

10 BY MR. BALSON:

11 Q Ma'am, you need to answer my
12 questions --

13 MR. JOHNSTON: Objection, Ron. You don't need
14 to instruct the --

15 BY MR. BALSON:

16 Q -- not just make statements. You need
17 to --

18 MR. JOHNSTON: -- witness. She is answering
19 your questions.

20 BY MR. BALSON:

21 Q -- answer the questions that are asked
22 of you. That wasn't the --

23 MR. JOHNSTON: You can ask them all day --

24 BY MR. BALSON:

1 Q -- question that was asked of you.

2 MR. JOHNSTON: -- and she's going to give you
3 the answer to the best of her ability. You can't
4 badger the witness into getting the answer that you
5 want to hear.

6 MR. BALSON: That's --

7 MR. JOHNSTON: You've asked her the question
8 and she's given you the answer.

9 MR. BALSON: That's not responsive.

10 Read back the question, please.

11 (WHEREUPON, the Record was read as
12 follows:

13 "Question: Correct. It was to
14 determine whether or not it
15 should be reinvestigated, wasn't
16 it?

17 "MR. JOHNSTON: Objection, asked
18 and answered.

19 You can answer it again as
20 best you can.

21 "THE WITNESS: It was a
22 memorandum of his impressions
23 regarding the case file and the
24 information given to him by

1 Mr. Clutter.")

2 BY MR. BALSON:

3 Q That's not responsive, ma'am. Please
4 answer the question.

5 MR. JOHNSTON: I'll object.

6 Do you want to read the question back?

7 Answer it as best you can, Diane.

8 (WHEREUPON, the Record was read as
9 follows:

10 "Question: Correct. It was to
11 determine whether or not it
12 should be reinvestigated, wasn't
13 it?")

14 THE WITNESS: The purpose of this memorandum
15 at this point was to determine how we should proceed
16 and not how -- whether we should reopen or not. That
17 was not the threshold question with regard to this
18 document.

19 BY MR. BALSON:

20 Q Well, what were the alternatives as to
21 how you could proceed?

22 A Well, that's what was going -- that
23 was what was -- the discussion spawned from this
24 memo, to determine what alternatives there were or to

1 determine how we should proceed.

2 Q What were the different ways that you
3 could proceed?

4 A The manner in which we did proceed,
5 and that's to gain -- try to get additional
6 information to find out exactly what we're dealing
7 with.

8 Q Was that your instruction then, to get
9 additional information?

10 A My instruction from me?

11 Q Yes.

12 A Yes.

13 Q And how is Lieutenant Callahan
14 supposed to get this additional information?

15 A Through investigative techniques.

16 Q Very good. He says in this first
17 page, "In summarization, the following points lead me
18 to believe that Steidl was not proven guilty beyond a
19 reasonable doubt and that other viable suspects in
20 this case were not thoroughly investigated."

21 Setting aside Mr. Whitlock for the
22 moment and just concentrating on what he said about
23 Mr. Steidl, are those reasons enough to reopen the
24 investigation?

1 (WHEREUPON, there was a long pause
2 by the Witness.)

3 A No.

4 Q Why not?

5 A We need additional information with
6 regard to the whole case.

7 Q Is there such a thing as having a file
8 in review status? Does that mean anything to you?

9 A That doesn't mean anything to me.

10 Q Okay. What status was this file in at
11 this time, May 2nd, 2000?

12 A What file?

13 Q The Rhoads homicide case file at the
14 Illinois State Police.

15 A It was in a closed status.

16 Q Did you open a new file at around this
17 time?

18 A On the case?

19 Q Yes.

20 A No.

21 Q To open a new file, would that mean
22 you would be reopening the investigation?

23 A The case was closed because it was
24 adjudicated. So to reopen, we would have to fill out

1 a 401. It's -- it would be filling out a 401 to
2 reopen it.

3 Q I don't know what a 401 is.

4 A It's a form used by Investigations
5 that is a case opening.

6 Q Well, I guess that's my question: To
7 open a new file, would you have to be reopening the
8 investigation, opening a new investigation into the
9 file -- into the case?

10 A To reopen -- please repeat that.

11 Q Okay. To open a new file, a new case
12 file at the Illinois State Police, filling out this
13 401 form that you're talking about, would that mean
14 to open a new investigation into the case?

15 (WHEREUPON, there was a long pause
16 by the Witness.)

17 MR. JOHNSTON: Do you understand?

18 THE WITNESS: If -- I don't know what the
19 procedure is for reopening a case that's been
20 adjudicated; however, you can open up cases in order
21 to get information you want to look into with regard
22 to the Rhoads homicide or any other homicide.

23 BY MR. BALSON:

24 Q And how do you do that?

1 A You investigate other cases and try to
2 get information through that on the homicide that
3 you're interested in.

4 Q Well, let's say that you were
5 persuaded by this memorandum that the Rhoads homicide
6 case should be reopened, that the investigation
7 should be reopened. How would you go about doing
8 that?

9 MR. JOHNSTON: I'll object to the form of the
10 question, calls for speculation.

11 You can go ahead and answer.

12 THE WITNESS: Typically a prosecutor would
13 request that.

14 BY MR. BALSON:

15 Q That might typically be the case, but
16 it is ever done within the department? Does the
17 department ever reopen an investigation because it
18 decides to do so without a prosecutor's instructions?

19 A I'm not aware of any, but I'm sure
20 that, yes, that's the case.

21 Q You've never done that?

22 A No.

23 Q But you've opened investigations
24 without a prosecutor asking you, haven't you?

1 A What type of investigations are you
2 talking about?

3 Q Criminal investigations.

4 A I don't recall myself personally.

5 Q You've never opened a file unless
6 instructed to do so by a --

7 A No. I don't --

8 Q -- prosecutor?

9 A I don't remember myself ever opening a
10 criminal case using the investigative tool -- or
11 using the investigative forms.

12 Q Well, I apologize. This might be my
13 own ignorance in this area, but it seems to me that
14 at least two people are requesting they be allowed to
15 investigate the Rhoads murder file further.

16 My question to you is, what would be
17 necessary procedure-wise to allow that to happen at
18 the Illinois State Police back in the year 2000?

19 MR. JOHNSTON: I'll object to the form of the
20 question.

21 You can explain it to him, Diane.

22 THE WITNESS: Well, one of the re -- we sent
23 it to the prosecuting -- to the attorney general's
24 office or the prosecutors, and it was also sent to

1 the court of original jurisdiction, or the state's
2 attorney of original jurisdiction, Edgar County, and
3 there were parameters established which would -- they
4 would need to follow in order to proceed with --

5 (WHEREUPON, there was a long pause
6 by the Witness.)

7 BY MR. BALSON:

8 Q Did you finish?

9 A To proceed with completing a 401 to
10 open up the Rhoads homicide again.

11 Q What parameters were established,
12 ma'am?

13 A That they would have case information
14 and information from other sources scanned into the
15 Intelligence databases.

16 Q That's it?

17 A No.

18 Q Okay. What else?

19 A And to have an analysis done of the
20 information that was put into the databases.

21 Q That's all?

22 A To look at the forensic information.

23 Q Anything else?

24 A To assist ATF, FBI in their cases with

1 the hopes that if we help them, they'll help us, and
2 that we'll get information regarding the Rhoads
3 homicide.

4 Q Anything else?

5 A And do a full-force investigation
6 on -- on Mr. Morgan.

7 Q Anything else?

8 A If -- if significant information came
9 up in the course of, you know, investigating others,
10 they should bring that back to the region and
11 divisional level and that the -- you know, take this
12 opportunity to take these steps while the case is
13 being litigated.

14 Q What was being litigated in the year
15 2000?

16 A I'm not sure, since the case was on
17 appeal. It was still working its way through the
18 courts.

19 Q If you wanted to, would you have had
20 the authority to open up a full investigation into
21 the Rhoads homicide in May of 2000?

22 MR. JOHNSTON: I'll object to the form of the
23 question.

24 Go ahead and answer.

1 THE WITNESS: Are you asking me personally if

2 I --

3 BY MR. BALSON:

4 Q Well, you, as a lieutenant colonel.

5 A And please ask the question again.

6 Q If you had wanted to, did you have the
7 authority to open up a full investigation into the
8 Rhoads homicide in the year 2000?

9 A After the steps were taken or
10 information came to us that warranted that, then it
11 would be taken up to Colonel Parker for review.

12 Q So yourself, you would not have had
13 the authority? Is what you're saying?

14 A It -- I wouldn't be the one to reopen
15 it. I wouldn't have reopened it. It would have come
16 at the Investigations level.

17 Q What level is that?

18 A The district or zone commander would
19 be the -- would be the ones that would, once it's
20 reopened, reopen it. I mean, I personally wouldn't
21 open or close or not open the -- I -- I don't process
22 those papers at my level in terms of opening or not
23 opening.

24 Q I'm not talking about filling out

1 papers, ma'am. I'm talking about granting the
2 authority to the investigative level to open an
3 investigation into the Rhoads homicide. Did you have
4 the authority to do that?

5 A We were investigating because they
6 were intertwined, but not -- we were not going to
7 open the case, reopen the case, while it was being --
8 while it was working its way through the court
9 system.

10 Q Listen to my question, because you
11 didn't exactly answer my question. The question was
12 whether you had the authority, if you wanted to.

13 A Not until it was brought back up to
14 the level of the deputy -- assistant deputy director.

15 Q So you would have had to have gone to
16 Colonel Parker before you could have had the
17 authority to open up an investigation or to give the
18 authority to your investigative people to open up an
19 investigation, right?

20 A They -- they were doing investigations
21 on the Rhoads case, but not in a way that would
22 interfere with the litigation or the court system.
23 It allowed the court -- while the appeals were going
24 on, that these steps would be taken to see where we

1 needed to go. There needed to be a strategy,
2 investigative strategy, before it would be reopened.

3 Q I don't want to us get lost in the
4 phraseology. In order to reopen the Rhoads case
5 file, did you have the authority to do that and
6 instruct your investigative branch down the chain of
7 command to go out and open a full investigation into
8 the Rhoads homicide? Did you personally have that
9 authority or did you have to go up the chain to get
10 it?

11 A I didn't --

12 MR. JOHNSTON: I'll object to the form of the
13 question, it assumes facts not in evidence.

14 You can go ahead and answer it the
15 best you can. If you want the court reporter to read
16 it back --

17 THE WITNESS: Yes, please.

18 MR. JOHNSTON: Please read it back.

19 (WHEREUPON, the Record was read as
20 follows:

21 "Question: I don't want to us
22 get lost in the phraseology. In
23 order to reopen the Rhoads case
24 file, did you have the authority

1 to do that and instruct your
2 investigative branch down the
3 chain of command to go out and
4 open a full investigation into
5 the Rhoads homicide? Did you
6 personally have that authority
7 or did you have to go up the
8 chain to get it?")

9 THE WITNESS: I felt before we opened up a 401
10 saying that the case that was closed because of
11 adjudication, that we had to find out more
12 information regarding what the courts had and didn't
13 have, and that unless these steps had been taken, no,
14 I didn't have the authority to say, "You can go open
15 up a 401 on this case."

16 BY MR. BALSON:

17 Q Would you have had to go up the chain
18 of command to Colonel Parker to get that authority?

19 A If, in the course of them taking all
20 of these intelligence and operational and
21 investigative steps, they came across information
22 with regard to the Rhoads homicide, they were allowed
23 to go ahead and get that information and proceed with
24 getting whatever information they could. But they

1 needed to notify the chain of command to reopen the
2 case.

3 Q Okay. Listen to the question, okay?
4 You need to focus on the question.

5 (WHEREUPON, the Record was read as
6 follows:

7 "Question: Would you have had to
8 go up the chain of command to
9 Colonel Parker to get that
10 authority?")

11 MR. JOHNSTON: You need to focus on the
12 answer.

13 Go ahead.

14 MS. REPORTER: Do you want the answer read?

15 MR. JOHNSTON: No.

16 You need to focus on the answer.

17 Go ahead and answer that question,

18 Diane, again.

19 MR. BALSON: Iain, your comments don't help
20 anybody. All they do is confuse this woman and then
21 they have to be asked again.

22 Please ask her the question again.

23 MR. JOHNSTON: Ron, it's your comments that
24 are confusing, and she's answering.

1 MR. BALSON: You weren't making an objection,
2 Iain, you were just making a comment. And all you
3 did was just create more time and confusion for this
4 witness.

5 MR. JOHNSTON: Ron, you're prefacing all these
6 things with your own comments. That's what the
7 problem is.

8 MR. BALSON: Would you please reask the
9 question?

10 MR. JOHNSTON: You're not listening to her.
11 She's answering it.

12 (WHEREUPON, the Record was read as
13 follows:

14 "Question: Would you have had to
15 go up the chain of command to
16 Colonel Parker to get that
17 authority?")

18 THE WITNESS: To get the authority to fill out
19 a 401 for the -- a 401 to be completed to reopen the
20 case.

21 BY MR. BALSON:

22 Q Yes. That's correct.

23 MR. JOHNSTON: Is that a question?

24 BY MR. BALSON:

1 Q Would you have had to go to Colonel
2 Parker to get that authority?

3 A Yes, to open up a 401.

4 Q And you said that you would have
5 needed more information than you had to go to Colonel
6 Parker to ask for that authority; is that right?

7 A Well, there were a number of things
8 discussed with regard to what things we needed to
9 take into consideration with a case that's being
10 litigated.

11 It was highly unusual. This case was
12 highly unusual in that it had been through numerous
13 court processes and appeals, and it had been
14 adjudicated, and you have a jury -- two juries that
15 have convicted these individuals.

16 Q Yes, ma'am. And you also had, at
17 least by this time, some 14 years later, an Illinois
18 State policeman saying that there was wrongdoing in
19 the original investigation and an investigator for a
20 lawyer saying that there was wrongdoing in the
21 investigation.

22 Now you have a memo from Michale
23 Callahan which says, "Steidl was not proven guilty
24 beyond a reasonable doubt and that other viable

1 suspects in this case were not thoroughly
2 investigated." But, in your judgment, that wasn't
3 enough yet to go to Colonel Parker, right?

4 MR. JOHNSTON: Objection to the form of the
5 question.

6 Go ahead and answer.

7 THE WITNESS: Well, Colonel Parker was part of
8 the discussions on this memorandum.

9 BY MR. BALSON:

10 Q Correct. So you did take it to
11 Colonel Parker?

12 A Colonel Parker is the one that
13 authorized and directed that it be sent to Rick Stock
14 at the attorney general's office when we became aware
15 of it.

16 Q Did you ask Colonel Parker if you
17 should reopen the investigation?

18 A We had a discussion in which
19 Lieutenant Callahan made a presentation, but I
20 didn't -- I didn't say, "Colonel Parker, should we
21 reopen this case?"

22 Q Why not?

23 A We were discussing what it was that we
24 needed to do. Those were -- we all agreed that there

1 needed to be follow-up. It was what we needed to do
2 to follow up that was under discussion.

3 Q You say you all agreed. Michale
4 Callahan was asking that he be permitted to reopen
5 the investigation, wasn't he?

6 A And he was indicating that he felt
7 there should be additional follow-up.

8 Q I don't understand that phase,
9 "additional follow-up." What does that --

10 A Everyone in the chain of command felt
11 that we needed to do something in response to this to
12 follow up on the information.

13 Q When did this meeting, this
14 presentation of Michale Callahan, take place with you
15 and Parker?

16 A It was the following week, towards the
17 end of the week after the memo was released outside
18 the agency.

19 Q Was that when you said it was too
20 politically sensitive?

21 A I didn't say that.

22 Q Is that when you said it was
23 politically sensitive?

24 A When are you --

1 Q At this meeting that you're talking
2 about.

3 A I did not say "politically sensitive"
4 at this meeting where Colonel Parker and Lieutenant
5 Callahan and others were at.

6 Q Did Colonel Parker say to you that it
7 was too politically sensitive?

8 MR. JOHNSTON: Objection, asked and answered.

9 THE WITNESS: Not at that meeting.

10 BY MR. BALSON:

11 Q At some other meeting?

12 A It was prior to any meetings.

13 Q He said it to you, what, in a meeting
14 just between you and he?

15 A No. It was when we were trying to
16 figure out what information was sent outside the
17 agency.

18 Q At the time that you found out that
19 this memo was sent outside the agency?

20 A It was the day that the memo was sent
21 outside the agency.

22 Q What day was that?

23 MR. JOHNSTON: Objection, asked and answered.

24 Go ahead and tell him again.

1 THE WITNESS: It was May 12th, on or around
2 May 12th.

3 BY MR. BALSON:

4 Q So on that day, you had a meeting with
5 Colonel Parker?

6 MR. JOHNSTON: Tell him again.

7 THE WITNESS: We had a series of conversations
8 trying to identify what information was sent outside
9 the agency.

10 BY MR. BALSON:

11 Q Where did these series of
12 conversations take place?

13 A On the second floor of the Armory
14 Building.

15 Q Who was present at these series of
16 conversations?

17 A Colonel Parker and I had some
18 conversations, Colonel Kent, and then Lieutenant
19 Callahan.

20 Q How many conversations were there?

21 A I -- I couldn't quantify it.

22 Q But you've identified three here,
23 haven't you, one between you and Colonel Parker, one
24 between -- and I don't know his rank. Ken?

1 A Kent.

2 Q Kent. Oh, all right.

3 A Deputy Director Kent.

4 Q Okay. I guess I misunderstood you.

5 And one at which Lieutenant Callahan was present,
6 right? Those are three different conversations?

7 A There was a series of conversations
8 with different people involved regarding this memo.

9 Q Okay. Tell me about the first
10 conversation you had with Colonel Parker.

11 A It was an inquiry to me as to was I
12 aware of any document that was sent outside the
13 agency from one of my districts.

14 Q What did you say?

15 A I think what we figured out, it was
16 the -- the topic was the Rhoads homicide.

17 Q You figured it out?

18 A I don't remember at what point, you
19 know, that became, you know, known to me.

20 Q Had you read the memo by this time?

21 A I hadn't seen the memo.

22 Q But this is on the 12th, right?

23 A Yes.

24 Q That's the day you saw the memo?

1 A Not before it was sent outside the
2 agency.

3 Q Okay. So you had this conversation
4 with Colonel Parker before you saw the memo?

5 A Yes.

6 Q And Colonel Parker inquired as to
7 whether a document was sent outside the agency?

8 A Was I aware of any document sent
9 outside the agency from my region.

10 Q And what did you say to him?

11 A I wasn't aware that -- you know, I
12 wasn't aware of any memorandum being sent outside the
13 agency.

14 Q Now, this is different from Colonel
15 Parker authorizing it to be sent to Rick Stock?

16 A It's the same day.

17 Q That's outside the agency?

18 A Yes.

19 Q But you're not talking about that.
20 You're talking about sent to Bob Spence.

21 A There was a document sent outside the
22 agency, and later we learned it was from Lieutenant
23 Callahan to Bob Spence.

24 Q How did you learn that?

1 A There was an inquiry made to District
2 10, to Captain Strohl and Lieutenant Callahan.

3 Q Did Captain Strohl tell you that he
4 was the one that ordered it sent to Bob Spence?

5 MR. JOHNSTON: Objection, asked and answered.

6 Go ahead and answer it again, Diane.

7 THE WITNESS: I don't think I found out that
8 day. I think I found out later, you know, that he
9 said that.

10 BY MR. BALSON:

11 Q What else did you talk about with
12 Colonel Parker that day?

13 A That whatever -- I needed to get a
14 hold of the document that was sent outside the
15 agency. He wanted a copy, and --

16 Q Is that the time he -- you said,
17 "And." Are you done?

18 A Yeah.

19 Q Is that the time he told you it was
20 politically sensitive?

21 A No. I don't believe so.

22 Q So how would he know to tell you the
23 document was politically sensitive if he didn't know
24 what it was?

1 MR. JOHNSTON: I'll object to the form of the
2 question.

3 BY MR. BALSON:

4 Q You said there was a second meeting
5 with Deputy Director Kent; is that right?

6 A There was, yeah, a separate
7 conversation.

8 Q How did that conversation take place?

9 A Colonel Kent came to my office.

10 Q What did he say to you?

11 A He asked me to get Lieutenant Callahan
12 on the speakerphone.

13 Q Did you do it?

14 A I did.

15 Q Okay. Tell me about the conversation.

16 A He was inquiring as to what exactly
17 was sent outside the agency and why he sent it
18 outside the agency.

19 Q And did Lieutenant Callahan answer
20 him?

21 A He said, "I'm just a lowly lieutenant.
22 I was just" -- you know, something, not exactly, but
23 "I'm just a lowly lieutenant, why would they feel
24 that this document represented the views of the

1 Illinois State Police?"

2 Q Anything else about that conversation
3 that you remember?

4 A Colonel Kent was trying to advise him
5 that, you know, that memo should have come up through
6 the chain of command for review before it went
7 outside the agency.

8 Q By this time, you knew what that memo
9 was?

10 A Yes.

11 Q By this time, did you know that in
12 that memo Lieutenant Callahan said that there were
13 many discrepancies which warranted reevaluation the
14 case and things led him to believe that Steidl was
15 not proven guilty beyond a reasonable doubt?

16 A No. None of us had reviewed the
17 document at that point.

18 Q Just knew that there was a document
19 and it had gone outside the agency?

20 A Yes.

21 Q Did Deputy Director Kent say this was
22 politically sensitive?

23 A He indicated that it was sensitive.

24 Q "It was sensitive." What was

1 sensitive?

2 A The context in which it was related is
3 that the director was blindsided, he was blindsided.
4 They were surprised by a document sent outside the
5 agency because they didn't have a chance to look at
6 it first.

7 Q How did they find out the document was
8 sent outside the agency?

9 A It's my understanding the attorney
10 general's office called the director to inquire about
11 a document that was sent outside the agency, and I
12 didn't know from whom to whom.

13 Q Was this before it was sent to Rick
14 Stock?

15 A Yes.

16 Q So they were upset that it was being
17 sent to the attorney general's office before they
18 authorized that it be sent to the attorney general's
19 office, right?

20 MR. JOHNSTON: I'll object to the form of the
21 question.

22 Go ahead and answer that as best you
23 can.

24 THE WITNESS: They were upset because they

1 didn't get a chance to review it first, not that it
2 went to the attorney general, but that they didn't
3 get a chance to review it first.

4 MR. BALSON: All right. Let's take a
5 five-minute break.

6 (WHEREUPON, there was a brief
7 recess had in the proceedings.)

8 Back to the fun.

9 BY MR. BALSON:

10 Q You just described three
11 conversations -- actually, two conversations that
12 took place, one with you and Colonel Parker and then
13 the other one with Deputy Director Kent and you and
14 Callahan on the telephone, right?

15 A Yes.

16 Q On the 12th, right?

17 A Yes.

18 Q Were there any other discussions on
19 the 12th?

20 A There was a series of conversations,
21 but I can't isolate them all with independent -- I
22 can't remember them all.

23 Q These conversations, did they all have
24 to do with the document going outside of the agency?

1 A Yeah, what is the document; where did
2 it originate from; what is it about; those types of
3 conversations.

4 Q I think we originally got started in
5 this direction because I asked you if Colonel Parker
6 said it was too politically sensitive. Now, I
7 understand that there's a dispute about what actually
8 was said, whether it was too politically sensitive or
9 politically sensitive. For the purposes of this
10 deposition, we'll adopt your version and say it was
11 politically sensitive, okay? But the question was,
12 did that arise from Colonel Parker, that phrase?

13 A I don't -- first of all, let me say
14 that I disagree with your characterization of the
15 dispute regarding "too politically sensitive."
16 There's no dispute in my mind that that term was not
17 used.

18 Secondly, there was a flurry to see
19 why the director was getting a call on a Friday from
20 the attorney general's office regarding a document
21 that they have not been apprised of yet, and there
22 was an expectation on Colonel Parker's part that he
23 would be seeing this memo, and the issue was that it
24 went outside the agency first before they had a

1 chance to review it.

2 So did the phrase "politically
3 sensitive," arise from Colonel Parker? I don't know.
4 It -- it was thrown out there on that May 12th date
5 when we were trying to figure out what was sent
6 outside the agency.

7 Q Let's go back to the memorandum then.
8 Did you read this memorandum that same day, the 12th?

9 A No, I did not.

10 Q When did you read it?

11 A I believe it was the following week.

12 Q Is there some reason that you didn't
13 read it before the following week?

14 A Other than that there were a lot of
15 things going on that day.

16 Q Well, before lunch we identified a
17 document which was an e-mail sent from Strohl to you
18 referencing this memo and suggesting that a polygraph
19 of Randy Steidl be taken, and if it indicated he was
20 innocent, you needed to reopen the case ASAP. And
21 that was on the 9th, right? We've already talked
22 about this.

23 A Well, there was an e-mail that's dated
24 the 9th.

1 Q Do you think that's wrong? It wasn't
2 sent on the 9th? You think that's a mistake?

3 A I don't say it's a mistake. I'm just
4 saying I don't know if I read it on the 9th.

5 Q You might have read it on the 10th or
6 the 11th or the 12th?

7 A I don't know when I read it in
8 relation to the time that it was received in my
9 in-box in the e-mail system.

10 Q Are you normally slow in looking at
11 e-mails?

12 MR. JOHNSTON: I'll object, asked and
13 answered.

14 You can go ahead and answer again.

15 THE WITNESS: There's numerous e-mails that
16 come in. If I opened and read every one that came
17 in, that's what I would get done for that entire day
18 and nothing else.

19 BY MR. BALSON:

20 Q Do you get numerous e-mails from John
21 Strohl?

22 A I get numerous e-mails from all of the
23 units that report to me.

24 Q So you just make a conscious decision

1 not to read some of them?

2 MR. JOHNSTON: Object to the form of the
3 question.

4 You can go ahead and answer as best
5 you can.

6 THE WITNESS: I try to get to as many of them
7 as possible, but a lot of times I have to open them
8 in order to see what's in them. And it's the
9 responsibility of the commander to give me a call,
10 just not send me an e-mail, if they feel that there's
11 something that I need to look at right away.

12 (WHEREUPON, there was a brief
13 pause in the proceedings.)

14 MR. BALSON: I'm trying to find -- we can keep
15 going. Let me get somebody to Xerox this document
16 and then we can keep going.

17 MR. JOHNSTON: That's fine.

18 MR. BALSON: I apologize, everyone.

19 BY MR. BALSON:

20 Q Let's go back to the memorandum. At
21 least at some time you sat down and read this
22 memorandum, right?

23 A Yes.

24 Q And it might have been a week after

1 the 12th?

2 A Well, it was early the next week. It
3 wasn't a week later. It was in the next week,
4 because May 12th was a Friday.

5 Q Oh, it was?

6 A Yeah.

7 Q How do you know that?

8 MR. JOHNSTON: It was testified to before.

9 THE WITNESS: Yeah. I testified to it before.

10 BY MR. BALSON:

11 Q Okay. Do you know when the "48 Hours"
12 show was aired?

13 A I do not know when it was actually
14 aired.

15 Q It was May 15th. Does that help
16 refresh your memory?

17 A That's when it was stated it would be
18 aired. I didn't know it was actually aired that day.

19 Q Did you watch it?

20 A Not that day.

21 Q How come?

22 A I didn't feel that I needed to watch
23 "48 Hours."

24 Q Okay. But you knew it was going to be

1 at least in some part about an investigation
2 conducted by the Illinois State Police, right?

3 A It was an investigation conducted by
4 Paris PD with assistance from the Illinois State
5 Police.

6 Q Okay. I'll accept that. You knew
7 that was part of the television show, right?

8 A I didn't know to what degree anything
9 would be covered with regard to the Illinois State
10 Police.

11 Q In any event, you didn't feel you
12 needed to watch the show, right?

13 A No.

14 Q But you did watch it at some point?

15 A I'm trying to remember if -- if I
16 watched it at a subsequent airing date sometime
17 later.

18 Q Did you read the memo before the show?

19 MR. JOHNSTON: I'll object to the form of the
20 question, it assumes facts not in evidence.

21 Go ahead and answer it as best you
22 can.

23 THE WITNESS: I -- I don't recall.

24 BY MR. BALSON:

1 Q On page 2, the fifth bullet point down
2 says, "Depositions by two witnesses (Paula Myers and
3 Carol Robinson) state that State's Attorney Michael
4 McFatrige and Detective Jim Parrish (Paris Police
5 Department) had Carol Robinson lie on the stand that
6 Steidl and Herrington were together on July 5th,
7 1986." Do you see that?

8 A Yes, I do.

9 Q Did you read that when you read this
10 memo?

11 A I'm sure I did. I don't recall that
12 independent statement in isolation.

13 Q Suborning perjury to get a conviction,
14 is that serious in your mind?

15 MR. MANCINI: Objection to form.

16 MR. JOHNSTON: You can answer over the
17 objection.

18 THE WITNESS: I don't know what the definition
19 of sub -- something -- I don't know what the word
20 means.

21 BY MR. BALSON:

22 Q You've never heard that phrase before?

23 A Well, I've heard it, but I don't know
24 what it means in the legal context.

1 Q What do you think it means, suborning
2 perjury?

3 A You're ask --

4 MR. JOHNSTON: Objection to the form of the
5 question.

6 Go ahead and answer as best you can.

7 THE WITNESS: I don't know what it means.

8 BY MR. BALSON:

9 Q Let's just use common language.
10 Having a witness lie -- a state's attorney and a
11 detective having a witness lie on a stand, is that a
12 serious offense, in your judgment?

13 A If that is true, yes.

14 Q And when you read this, you had no
15 idea whether it was true or not, did you?

16 MR. JOHNSTON: I'll object to the form of the
17 question. Assumes facts not in evidence.

18 Go ahead and answer as best you can.

19 THE WITNESS: Could you read it?

20 MS. REPORTER: Sure.

21 (WHEREUPON, the Record was read as

22 follows:

23 "Question: And when you read

24 this, you had no idea whether it

1 was true or not, did you?)

2 (WHEREUPON, there was a long pause

3 by the Witness.)

4 THE WITNESS: No. I didn't know if it was

5 Lieutenant Callahan's conclusion or if it was

6 something else. I didn't -- I didn't assess whether

7 it was true or not.

8 BY MR. BALSON:

9 Q Do you have any reason to think that

10 Mr. Callahan was making stuff up in this memo?

11 A What I thought is Lieutenant Callahan

12 was documenting his impressions.

13 Q Is this an impression, depositions by

14 two witnesses state that an attorney and a detective

15 had somebody lie on the stand? Is that an impression

16 or is that a statement of fact?

17 A I don't know if it's a statement of

18 fact.

19 Q Well, you know the difference between

20 facts and impressions, don't you?

21 A I don't know where this information

22 came from other than -- if it came from the

23 investigative file or if it came from Mr. Clutter,

24 and if the prosecution, you know, had looked at this

1 when there was no -- at that point, I don't know if
2 it's fact. I don't know if it's true or if it's just
3 something that was reported.

4 Q That's kind of shocking, isn't it?

5 MR. JOHNSTON: Objection to the form of the
6 question.

7 Do you understand the question?

8 THE WITNESS: Are you asking if that actually
9 occurred, it's shocking?

10 BY MR. BALSON:

11 Q Certainly.

12 A If true, it's very concerning.

13 Q Look at the next item: "In talking
14 with Mark Murphy, Polygraph Examiner, he states D.
15 Herrington failed the polygraph and 'purposely
16 mislead police' in the investigation. Mark Murphy
17 suggested a second polygraph, but one was never
18 done." Did you know Mark Murphy?

19 A I knew his name.

20 Q Did he work for the Illinois State
21 Police?

22 A I believe so.

23 Q Did this particular item cause you any
24 concern, that the -- one of the principal witnesses

1 that was used to convict Steidl and Whitlock
2 purposefully misled police in the investigation and
3 that a second polygraph was suggested by the Illinois
4 State Police but one was never done?

5 MR. JOHNSTON: I'll object to the form of the
6 question.

7 You can go ahead and answer.

8 BY MR. BALSON:

9 Q Did it cause you any concern?

10 MR. JOHNSTON: I'll object to the form of the
11 question.

12 You can go ahead and answer.

13 THE WITNESS: I didn't go through each dot
14 point and analyze each dot point. I took the memo as
15 a whole as being a concern and something we should
16 follow up on.

17 BY MR. BALSON:

18 Q That wasn't the question. The
19 question was whether, in reading this document, that
20 particular item caused you any concern.

21 A Well, again, you're asking me to
22 isolate on one point that -- you know, I took the
23 memo as a whole and felt that there needed to be
24 follow-up with regard to this matter.

1 Q I understand that, ma'am. I
2 understand that you thought there needed to be
3 follow-up. My question to you concerns this
4 particular item that you read where it said that one
5 of the principal witnesses in a polygraph purposely
6 misled the police and a second polygraph was
7 suggested but never done. Did that cause you any
8 concern?

9 A You're asking me to do an analysis
10 now --

11 Q No, ma'am --

12 A -- of --

13 Q -- just this one item.

14 MR. JOHNSTON: Objection.

15 THE WITNESS: -- something that --

16 MR. JOHNSTON: She's answering the question.

17 THE WITNESS: You're asking me to do an
18 analysis now of this dot point --

19 BY MR. BALSON:

20 Q That's right.

21 A -- without my recalling that I did
22 that analysis dot point -- I didn't do that analysis
23 dot point by dot point when I received it.

24 Q Let me ask you: Did you skim the

1 report or did you read it?

2 A I skimmed it initially and I read it
3 later.

4 Q So you read it twice?

5 A I skimmed it. I read it and then I
6 read it in more depth.

7 Q Well, when you read it in more depth,
8 did that item give you any concern?

9 A There were -- the overall information
10 in this memorandum caused me concern. I didn't go
11 through and analyze each dot point and say -- you
12 know, make an analysis of each dot point.

13 Q Let me ask you this: This polygraph
14 examination where D. Herrington purposely misled
15 police, do you know whether that polygraph was ever
16 given to the defendants Whitlock or Steidl?

17 MR. SMITH: Objection to form.

18 MR. JOHNSTON: You can answer if you know.

19 THE WITNESS: Did I personally know? No.

20 BY MR. BALSON:

21 Q Well, that question kind of begs
22 another question. Did somebody tell you that? Did
23 you later find out? I mean, do you know from some
24 other source?

1 A Lieutenant Callahan had indicated in
2 more than one meeting that there wasn't anything that
3 we had that the defense or prosecution didn't have.

4 Q When did he indicate that?

5 A In 2003.

6 Q Was this in the meeting at the academy
7 concerning clemency?

8 A Yes, and a -- yes. The meeting wasn't
9 just clemency, but it was at that meeting.

10 Q What was that meeting about if it
11 wasn't about clemency?

12 MR. JOHNSTON: I'll object to the form of the
13 question.

14 You can answer as best you can.

15 THE WITNESS: It was to provide a briefing to
16 Colonel Brueggemann and also to bring in some
17 investigators to review where we were at and where we
18 needed to go with the case.

19 BY MR. BALSON:

20 Q What case?

21 A The Morgan case and the
22 Rhoads-Steidl-Morgan. It was all kind of balled up
23 in one thing. It was intertwined.

24 Q Was it all one case?

1 A All the issues merged, all the -- you
2 know, if you're investigating one, you're
3 investigating the other.

4 Q Why do you say it was to brief Colonel
5 Brueggemann?

6 A It was to allow him to get up to speed
7 on the case. He was in an acting capacity, I
8 believe, at that time. There was a lot of transition
9 going on in the upper command, and we didn't know if
10 we would be asked for our position on clemency or
11 not.

12 Q You didn't know?

13 A No.

14 Q Didn't you call him the night before
15 at 11:00 o'clock?

16 A Did I call who?

17 Q Colonel Brueggemann.

18 A Yes, I did. I called him the night
19 before. I don't know what time it was.

20 Q He was in bed, wasn't he, when you
21 called?

22 A I don't know if he was in bed.

23 Q And you told him it was essential that
24 you meet the next day because the governor's office

1 wanted to know that day if the Illinois State Police
2 would support a grant of clemency; isn't that so?

3 MR. JOHNSTON: I'll object to the form of the
4 question.

5 Go ahead and answer that, Diane.

6 THE WITNESS: No. I didn't know if we were
7 going to be asked our opinion on clemency. It had
8 been reported that there was an alleged phone call
9 made to Lieutenant Callahan regarding that issue.

10 BY MR. BALSON:

11 Q Who reported it? Who reported the
12 alleged phone call to Callahan?

13 A Lieutenant Callahan.

14 Q He reported an alleged phone call to
15 himself?

16 MR. JOHNSTON: Go ahead and answer his
17 question if you understand what he's asking you.

18 THE WITNESS: He had received a page from Matt
19 Bettenhausen and had a telephone conversation with
20 Matt Bettenhausen.

21 BY MR. BALSON:

22 Q Did you tell Colonel Brueggemann on
23 January the 8th that he needed to convene a meeting
24 the next day because the governor's office was going

1 to ask the Illinois State Police whether it supported
2 a grant of clemency? Yes or no.

3 A It's not a yes-or-no question, because
4 I don't -- I didn't -- I didn't use that phraseology.
5 It had been reported to me that potentially we would
6 be asked if we were going to -- if we had a position
7 on clemency, and I felt -- we had investigative
8 commanders coming in already for a meeting, and I
9 felt that we needed to also take a look at the case
10 as a whole, just not for the clemency issue, but as a
11 whole, to see if there was any more informa -- or if
12 they had any ideas on direction or to assess the
13 case.

14 Q And that was the purpose of your phone
15 call? Yes?

16 A The purpose of my phone call was to
17 report to him that Lieutenant Callahan had had a
18 conversation, or reportedly had had a conversation
19 with Matt Bettenhausen regarding that Bettenhausen
20 had asked his opinion on clemency and he was
21 reporting it to me.

22 Q Did you normally report to Colonel
23 Brueggemann at 11:00 o'clock at night?

24 A It was not unusual for me to have

1 phone calls 24 hours a day, seven days a week.

2 Q You said that investigators were
3 already -- investigative commanders, did you say,
4 were already coming in for a meeting?

5 A Yes.

6 Q Who was that?

7 A It would have been the zone
8 commanders, I think, from around the state.

9 Q Which ones?

10 A I don't know all the ones that were
11 coming to the meeting.

12 Q Was it at this meeting that you were
13 going to brief Colonel Brueggemann?

14 A It was at this meeting that Lieutenant
15 Callahan was going to provide a briefing.

16 Q What did Colonel Brueggemann say to
17 you when you called him?

18 A We decided that we should have a
19 meeting so that he could get briefed up on the case
20 in the event that there is a request that comes in on
21 clemency and also because I wanted to see what -- you
22 know, have a group of investigators look at it and
23 see if there's anything else we should be doing with
24 the case.

1 Q Because by this time, you didn't know
2 what you should be doing on the case?

3 A It's to get other people's ideas.

4 Q In that telephone conversation, did
5 Colonel Brueggemann say that he was going to call
6 Mr. Gryz and Mr. Rukusek and that you should call
7 Mr. Fermon and Mr. Callahan?

8 A No. I suggested that Major Gryz and
9 Lieutenant Colonel Rukusek be invited to the meeting.

10 Q Why?

11 A Lieutenant Callahan had indicated that
12 both of those individuals had been mentors, and I
13 wanted there to be people at the meeting that
14 Lieutenant Callahan was comfortable with and knew.

15 Q Who called Mr. Gryz?

16 A I believe I did.

17 Q Who called Mr. Rukusek?

18 A I -- I don't recall at this point
19 specifically how the contact was made with Mr. Gryz
20 and Mr. Rukusek.

21 Q Who called Mr. Kuba?

22 A I don't know who called Mr. Kuba.

23 Q Did you call Mr. Fermon?

24 A I did.

1 Q Did you call all these people about
2 midnight?

3 A I contacted -- not all of the people.
4 No. I don't know what time it was.

5 Q Did you tell them all to be in
6 Springfield the next morning for a 7:00 o'clock
7 meeting?

8 A The ones that I spoke to were advised
9 to be there early in the morning.

10 Q Well, we'll come back to that later,
11 okay? Let's go back to the memo. If you would look
12 at page 18083. Do you see, like, midway down on the
13 page there's a paragraph that says, "In reviewing
14 this file," but right above that it says, "Debbie
15 Reinbolt states in the deposition that police led her
16 to bring up Steidl as a suspect, but to her knowledge
17 he was not involved in the murders." Do you remember
18 reading that when you read through this memo for the
19 first or second time?

20 MR. JOHNSTON: I'll object to the form of the
21 question, it mischaracterizes her testimony.

22 Go ahead and answer as best you can.

23 THE WITNESS: Yes, I do remember.

24 BY MR. BALSON:

1 Q Did it cause you concern when you read
2 that?

3 A Again, the entire memo caused me
4 concern.

5 Q Well, this particular sentence, did
6 this cause you concern?

7 A Again, I didn't do an individual
8 analysis of each of the dot points.

9 Q Does it cause you concern now as you
10 read it?

11 (WHEREUPON, there was a long pause
12 by the Witness.)

13 A Again, if -- there's information
14 that's concerning in this whole memo to the degree
15 that we got it to the attorney general and the
16 state's attorney to assess and determine what needed
17 to be done with this information.

18 Q Was that the focus of your reading
19 this, to determine whether you should get this to the
20 state's attorney and the attorney general?

21 A That was one of the first things that
22 Colonel Parker and I discussed, and Colonel Parker
23 directed that we get it to Matt Sullivan and to the
24 attorney general's office.

1 Q Next page, please, right at the top of
2 the page, "But to base the conviction on the
3 testimony of Herrington and Reinbolt with all the
4 documented discrepancies and conflicting statements
5 definitely merits review." Do you see that?

6 A Yes.

7 Q Did you agree with -- after you read
8 this, did you agree with Mr. Callahan that it merited
9 review?

10 A And I don't know, after it having gone
11 through several court proceedings and through --
12 presented before juries, what was considered
13 problematic and it was not. I don't know what was
14 considered by others, so I don't have enough
15 information at this point.

16 Q Ma'am, with all due respect, that's a
17 nonresponsive answer. The question was whether you
18 agreed with Mr. Callahan at the time you read this
19 that it merited review.

20 MR. JOHNSTON: I'll object to the form of the
21 question, asked and answered.

22 Go ahead and answer it.

23 THE WITNESS: Again, I didn't look at each
24 individual sentence or dot point in here and

1 determine, you know, do I agree with this statement
2 or do I not agree with this statement. I felt that
3 the whole memo itself warranted us to take actions to
4 follow up on the concerns raised by Lieutenant
5 Callahan.

6 BY MR. BALSON:

7 Q All right. Very good. Any of the
8 handwriting on this page belong to you?

9 A No.

10 Q How about the next page?

11 A No.

12 Q Would you turn ahead, please, to page
13 18087.

14 (WHEREUPON, the Witness complied.)

15 The second to the last bullet point,
16 the last line says, "Darrel [sic] then talked to
17 Morgan at the post office three days later. Later
18 Morgan met Darrel at Darrel's shop and offered him
19 \$25,000.00 cash and property to keep his mouth shut."
20 Do you see that?

21 A Yes.

22 Q Kind of a shocking statement, isn't
23 it?

24 A In the context that it's offered,

1 it's -- these are all pieces of information that I
2 don't know why or why not these things occurred, so I
3 don't know if it's shocking. I don't know what has
4 occurred that this is -- you know, what has happened
5 that this has occurred, I don't know how it's being
6 phrased in relation to the big picture.

7 Q Do you remember reading that when you
8 read this document?

9 A I don't remember reading that number.

10 Q That particular part didn't stick out
11 in your mind?

12 A No. There's a lot of information
13 here.

14 Q Okay. Turn the page, please, 18088.

15 (WHEREUPON, the Witness complied.)

16 Down at the bottom it says, "Based on
17 the aforementioned information many possibilities
18 exist in this investigation. Several avenues need to
19 be investigated and it is likely that this could
20 become a very complex and comprehensive investigation
21 were we to re-open this investigation." Do you see
22 that?

23 A Yes.

24 Q All right. Again, now, the question

1 is, what investigation would need to be reopened? Do
2 you understand this to mean the Rhoads homicide
3 investigation?

4 A I understand it to be looking into the
5 issues, that he's saying we need to look into these
6 issues that are indicated in the memo.

7 Q That wasn't the question. It says,
8 "re-open this investigation," and "reopen" means to
9 me that there's an investigation which is closed and
10 he's seeking to reopen it. What investigations did
11 you have concerning Rhoads that were in a state where
12 they could be reopened?

13 MR. JOHNSTON: I'll object to the form of the
14 question.

15 You can go and answer.

16 THE WITNESS: Could you read that back,
17 please?

18 MS. REPORTER: Sure.

19 (WHEREUPON, the Record was read as
20 follows:

21 "Question: That wasn't the
22 question. It says, "re-open
23 this investigation," and
24 "reopen" means to me that

1 there's an investigation which
2 is closed and he's seeking to
3 reopen it. What investigations
4 did you have concerning Rhoads
5 that were in a state where they
6 could be reopened?")

7 THE WITNESS: And I don't understand the last
8 sentence.

9 BY MR. BALSON:

10 Q All right. Fine. You had a file on
11 the Rhoads homicide which was closed, right?

12 A Yes, because it had been adjudicated.

13 Q And at the time, you didn't have a
14 closed file on Bob Morgan, did you?

15 A Not that I'm aware of.

16 Q So you couldn't reopen a file on Bob
17 Morgan, could you?

18 A We didn't have a file that I'm aware
19 of on Bob Morgan until after this issue had been
20 raised --

21 Q Yes, ma'am.

22 A -- the Rhoads homicide.

23 Q So the only file that could be
24 reopened in this matter was the closed Rhoads

1 homicide file, right?

2 MR. JOHNSTON: I'll object to the form of the
3 question.

4 You can go ahead and answer.

5 THE WITNESS: There's ways to reopen an
6 investigation without reopening the original case.

7 BY MR. BALSON:

8 Q Okay. What ways are those?

9 A That's to direct your investigative
10 efforts towards people that you think are -- might
11 have information, that you have suspicions about,
12 that you can investigate those people or their
13 associates, or the people that they're associated
14 with, and try to go through the back door to try to
15 get information on the case where your concerns exist
16 without interfering with the ongoing litigation.

17 Q Is that what you did?

18 A Yes.

19 Q Which back door did you go through?

20 A There was an investigation on Bob
21 Morgan to see if they could get people close to him
22 and get them to give up information if they had it,
23 if there was information to get, regarding the Rhoads
24 homicide.

1 Q Well, Bob Morgan was only one of the
2 viable suspects, wasn't he?

3 A He was the primary suspect that
4 Lieutenant Callahan felt should be investigated
5 first.

6 Q Well, did Lieutenant Callahan also
7 mention the Board brothers?

8 A Yes. He indicated the Board brothers
9 may have information regarding the Rhoads homicide.

10 Q Did he also mention Dale Peterson?

11 A I don't recall that name.

12 Q Did he also mention members of the
13 Sons of Silence motorcycle gang?

14 A Yes.

15 Q Did he also mention the fact that Jack
16 Eckerty, the Illinois State Police officer, may have
17 been guilty of some wrongdoing in the original
18 investigation?

19 A No.

20 Q Did he also indicate that Jim Parrish
21 of the Paris Police Department may have had witnesses
22 lie?

23 A No.

24 Q Well, we just read that twice --

1 A I don't --

2 Q -- ma'am.

3 A I don't recall where that's at. I
4 don't recall seeing that.

5 Q On page 18081. It's not even a half
6 an hour that we read this.

7 MR. JOHNSTON: I'll object, it's
8 argumentative. She said she didn't remember.

9 BY MR. BALSON:

10 Q "Depositions by two witnesses (Paula
11 Myers and Carol Robinson) state that State's Attorney
12 Michael McFatrige and Detective Jim Parrish (Paris
13 Police Department) had Carol Robinson lie on the
14 stand."

15 A And what is your question?

16 Q Well, did he also indicate that that's
17 someone who should be investigated?

18 A Jim Parrish?

19 Q Yes.

20 MR. JOHNSTON: Object, asked and answered.

21 Go ahead and answer again.

22 THE WITNESS: I don't recall him stating that
23 Detective Parrish should be investigated.

24 BY MR. BALSON:

1 Q Well, didn't you think anyone who was
2 guilty of corrupting a trial should be investigated?

3 A I didn't --

4 MR. MANCINI: Objection to form.

5 MR. JOHNSTON: You can go ahead and answer.

6 THE WITNESS: I didn't know if this was fact
7 at that point.

8 BY MR. BALSON:

9 Q Well, you didn't know if it was or it
10 wasn't.

11 MR. JOHNSTON: Objection, asked and answered.

12 Go ahead and answer again.

13 THE WITNESS: Correct.

14 BY MR. BALSON:

15 Q Well, you didn't know if Bob Morgan
16 was fact either, did you?

17 A Fact about what?

18 Q You were going to investigate Bob
19 Morgan through the back door, right?

20 A It was Lieutenant Callahan's ability
21 to develop investigations on -- on any of those
22 people if he felt that it warranted it.

23 Q Did he have the right to investigate
24 Jack Eckerty and Detective Jim Parrish on behalf of

1 the Illinois State Police Department?

2 MR. JOHNSTON: Object to the form --

3 THE WITNESS: For what?

4 MR. JOHNSTON: -- of the question.

5 BY MR. BALSON:

6 Q For corrupting the trial of Steidl and
7 Whitlock.

8 MS. BARTON: Object to the form.

9 THE WITNESS: I don't know what the
10 prosecutorial authorities have determined, whether
11 that occurred or not.

12 BY MR. BALSON:

13 Q That wasn't the question. When I
14 asked you about Bob Morgan, you said that Lieutenant
15 Callahan could investigate him if he wanted to. Now
16 I ask you, did he have the right also to investigate
17 McFatrige and Parrish if he wanted to, and you told
18 me something about a prosecutor. Did he have the
19 right to go and investigate these people --

20 MR. JOHNSTON: I'll object to the form --

21 BY MR. BALSON:

22 Q -- within the confines of his
23 assignment in the Illinois State Police?

24 MR. JOHNSTON: I'll object to the form of the

1 question, assumes facts not in evidence,
2 mischaracterizes.

3 Go ahead and answer as best you can.

4 THE WITNESS: If he felt there were other
5 people that might have information concerning the
6 Rhoads homicide and he felt that they were involved
7 in some type of wrongdoing, he had the right to
8 investigate them.

9 BY MR. BALSON:

10 Q Did he have the right to do
11 interviews?

12 A Yes.

13 Q Did he have the right to do overhears?

14 A He was doing them.

15 Q Did he have the right to do
16 surveillance?

17 A He was doing that.

18 Q Did he have the right to take
19 polygraphs?

20 A The question didn't come up with
21 regard to Bob Morgan or all these other people.

22 Q Did he have the right to do it if he
23 wanted to?

24 A Yes.

1 Q Okay. On the next page, ma'am, 18089,
2 he says at the top of the page -- are you with me?

3 A 180 --

4 Q 89. It's the last page.

5 A I've got 18087.

6 Q Do you have an incomplete copy?

7 A Oh. Here's 89 on the exhibit.

8 Q Okay. Fine. Look at the top, the top
9 of the page, and it says, "I would like to initiate a
10 new Investigation in this case directed towards Bob
11 Morgan, as a primary suspect in the Rhoads murders."
12 Did you approve that?

13 A No.

14 Q Why not?

15 A It was construed as the same as
16 opening up the Rhoads homicide that had been
17 adjudicated.

18 Q Right. And you did not approve that?

19 A No.

20 Q He also says Mr. Clutter -- I'm just a
21 little bit farther down on the page. "In addition,
22 Mr. Clutter agreed to as did Mr. Steidl to a
23 polygraph examination. I suggest ISP utilize an
24 independent polygraph examiner although Mr. Clutter

1 is so sure of Steidl's innocence he is not against an
2 ISP Polygraph examiner administering the exam." Did
3 you approve that?

4 A The parameters postponed a polygraph
5 of Mr. Steidl.

6 Q Is there something in the Illinois
7 State Police identified as "the parameters"? I mean,
8 is that a department, the Parameters Department, or
9 something?

10 MR. JOHNSTON: I'll object. It's
11 argumentative and --

12 MR. BALSON: It's not.

13 MR. JOHNSTON: -- that obnoxious laughter at
14 the end of the table is un --

15 MR. BALSON: Who laughed?

16 MR. JOHNSTON: -- professional. Not you, Ron.
17 You can answer the question.

18 THE WITNESS: What question would you like me
19 to answer?

20 BY MR. BALSON:

21 Q Was there a Parameters Department?

22 A No.

23 Q Well, who was in charge of parameters?
24 Were those your parameters or someone else's

1 parameters?

2 A They were parameters developed early
3 on in the course of this memo coming to light.

4 Q Are these parameters published
5 anywhere I can read them?

6 A There's two e-mails that talk about
7 the parameters.

8 Q Who wrote those e-mails?

9 A I did.

10 Q So you set the parameters then, right?

11 MR. JOHNSTON: I'll object to the form of the
12 question.

13 Go ahead and answer as best you can.

14 THE WITNESS: No.

15 BY MR. BALSON:

16 Q Who set the parameters?

17 A Colonel Parker.

18 Q So then when did Colonel Parker set
19 these parameters about what could and could not be
20 done in the Rhoads investigation?

21 A Parameters were established in May and
22 early June of 2000.

23 Q And those parameters were established,
24 if I'm correct, by Colonel Parker, right?

1 MR. JOHNSTON: Objection, asked and answered.

2 You can tell him again.

3 THE WITNESS: Yes.

4 BY MR. BALSON:

5 Q Thank you. And that precluded a
6 polygraph, right?

7 MR. JOHNSTON: I'll object, mischaracterizes.
8 Go ahead and answer as best you can.

9 THE WITNESS: The parameters -- here's what I
10 shared with regard to the polygraph: Lieutenant
11 Callahan indicated that he wanted to base reopening
12 the case or furthering the case on whether Randy
13 Steidl passed or did not pass the polygraph. I
14 shared my belief that we should follow through,
15 regardless of what a polygraph would tell us, that
16 the polygraph should not be the threshold for whether
17 we follow up with this or not.

18 Then the parameters were established,
19 that these parameters would be followed with regard
20 to -- you know, the first step is to come up with an
21 investigative strategy, and then we would look at the
22 polygraph and other things.

23 But Lieutenant Callahan had actually
24 suggested the polygraph as way to keep us from

1 getting criticism later on because it would show we
2 did everything we could to, you know, look into this
3 case, and I didn't think the polygraph -- that was
4 the right reason for the polygraph, and I thought we
5 should follow through regardless of the polygraph.

6 BY MR. BALSON:

7 Q Wasn't it Captain Strohl that brought
8 that to your attention?

9 A Brought what to my attention?

10 Q That they wanted to do a polygraph,
11 and if Steidl passed that, that it would reopen the
12 investigation ASAP.

13 A There was the e-mail we reviewed
14 earlier with regard to Captain Strohl indicating his
15 concurrence with the polygraph.

16 Q Now, the Illinois State Police use
17 polygraphs all the time, don't they?

18 A I don't know how frequently they use
19 them, but they use them.

20 Q It's an investigative tool, isn't it?

21 A Yes.

22 Q What would be the harm in
23 administering a polygraph to Randy Steidl who claims
24 he's innocent?

1 MR. JOHNSTON: Object to the form of the
2 question, calls for speculation.

3 Go head and answer as best you can.

4 THE WITNESS: My feeling is whether he passed
5 it or didn't pass it, we should still look into the
6 concerns.

7 BY MR. BALSON:

8 Q Well, no one is saying it's one or the
9 other, are they? They're not saying that if you
10 administrator a polygraph, you can't look into the
11 concerns. They're saying, "Here's an investigative
12 tool, the man claims he's innocent, he's willing to
13 take a polygraph test, he's been sitting in prison
14 for 14 years, he says, wrongfully." Why wouldn't you
15 administrator the polygraph to him?

16 MR. JOHNSTON: Object to the form of the
17 question.

18 Go ahead and answer as best you can.

19 THE WITNESS: Once the parameters were
20 fulfilled, that would be something that, you know, we
21 would look at. I don't know that we really -- once
22 the parameters were established, I don't know whether
23 the issue came up again with regard to polygraphing
24 or not.

1 BY MR. BALSON:

2 Q Well, in your judgment, what had to be
3 done before it would justify giving this man a
4 polygraph test?

5 MR. JOHNSTON: I'll object, calls for
6 speculation.

7 Go ahead.

8 THE WITNESS: I don't know, because I don't
9 remember discussing that at the time.

10 BY MR. BALSON:

11 Q But you do remember that you would not
12 give the authority to let him take a polygraph,
13 right?

14 A I remember indicating that I didn't
15 feel that should be the threshold for our
16 follow-through.

17 Q Did you testify at your trial, page
18 1055 of the Callahan trial: "Well, the ground rules
19 that were established in May of 2000 precluded an
20 immediate polygraph"? Did you testify to that?

21 A Yes, I did.

22 Q What ground rules prohibited an
23 immediate polygraph, ma'am?

24 A It was my understanding that we were

1 to fulfill the parameters before we proceeded with
2 that, but it was not something that I recall
3 discussing. Once the parameters were set up, the --
4 I don't remember the issue of should we or shouldn't
5 we polygraph him coming up.

6 I don't recall them coming back and
7 saying, "Well, do the parameters mean we can or can't
8 polygraph him?" That was a request early on by
9 Lieutenant Callahan and Captain Strohl.

10 Then as the course of the discussions
11 evolved, they devolved (sic) into, "We're going to
12 follow these parameters, come up with an
13 investigative strategy, and determine how we're going
14 to move forward."

15 Q Did it occur to you at that time,
16 ma'am, that Steidl and Whitlock had been sitting in
17 jail for 14 years for crimes they said they didn't
18 do, and that by prohibiting polygraphs, you're making
19 it all the harder for the truth to come out?

20 MR. JOHNSTON: Object to the form of the
21 question.

22 Go ahead and answer as best you can,
23 Diane.

24 It assumes the truth hasn't come out.

1 THE WITNESS: I had not formed an opinion as
2 to -- your question again?

3 MR. BALSON: Can you read it back, please?

4 (WHEREUPON, the Record was read as
5 follows:

6 "Question: Did it occur to you
7 at that time, ma'am, that Steidl
8 and Whitlock had been sitting in
9 jail for 14 years for crimes
10 they said they didn't do, and by
11 prohibiting polygraphs, you're
12 making it all the harder for the
13 truth to come out?")

14 THE WITNESS: It didn't occur to me I was
15 making it harder for the truth. I didn't think it
16 would -- I did not see how it would make it harder.

17 Plus, at that point I knew that the
18 case has been through several appeals, several court
19 levels, and it's been adjudicated through the system,
20 and there were two juries that heard the case. So I
21 hadn't formed an opinion one way or the other. I
22 just went by what the court had decided, and juries.

23 BY MR. BALSON:

24 Q Were you ever aware of a case in the

1 state of Illinois where the jury has convicted
2 somebody who was innocent?

3 MR. JOHNSTON: I'll object to the form of the
4 question.

5 Go ahead and answer.

6 THE WITNESS: I don't know specific case, but
7 there have been, you know, media reports, but I don't
8 know any specific cases.

9 BY MR. BALSON:

10 Q Did you allow for the possibility in
11 May of 2000 that Steidl and Whitlock were indeed
12 innocent?

13 MR. JOHNSTON: I'll object to the form of the
14 question.

15 Go ahead and answer the best you can.

16 THE WITNESS: I didn't have an opinion about
17 that. I was going based upon what the court system
18 had worked through, and also the injuries had heard
19 it.

20 BY MR. BALSON:

21 Q So since the injuries had heard it,
22 that was your state of mind, they were guilty?

23 MR. JOHNSTON: I'll object to the form of the
24 question, it mischaracterizes.

1 Go ahead.

2 THE WITNESS: I didn't have a personal
3 opinion. I was relying upon the court system would
4 sort through the issues.

5 BY MR. BALSON:

6 Q Did you allow for the possibility that
7 their trials were corrupt, as Mr. Callahan seems to
8 think, and that these people were, in fact, innocent?

9 MR. JOHNSTON: Object to the form of the
10 question, mischaracterizes.

11 Go ahead and answer the best you can.

12 THE WITNESS: Again, the thought that the
13 court processes -- my thought was the court processes
14 would sort through things.

15 BY MR. BALSON:

16 Q So you were content to rely on the
17 court processes at that time, right?

18 A We did not just rely upon the court
19 processes. We were taking steps to address the
20 concerns raised by Lieutenant Callahan.

21 Q Those steps included what?

22 A Focusing on Morgan, trying to get
23 information with regard to -- focusing on him on
24 narcotics trafficking, money laundering, other

1 crimes, trying to get information from individuals
2 with regard to what they might have on the Rhoads
3 homicide.

4 We were working with ATF and FBI. ATF
5 was doing -- we were doing search warrants with ATF
6 and participating with them in interviews regarding
7 the Board brothers because it was believed that the
8 Board brothers would have information on the Rhoads
9 homicide.

10 There were interviews being conducted,
11 there were a lot of activities going on with regard
12 to trying to see if we could get information through
13 the back door regarding the Rhoads homicide.

14 Q Was the Illinois State Police asked by
15 the FBI to assist in the Morgan OCEDEF case?

16 A I don't -- it was termed an OC case.
17 I -- we were -- Captain Strohl had indicated to me
18 that we were requested to assist the FBI in their
19 case on Bob Morgan.

20 Q So that's really what you were doing,
21 right, when you say going through the back door, that
22 you were assisting the FBI?

23 MR. JOHNSTON: I'll object to the form of that
24 question, it mischaracterizes.

1 Go ahead.

2 THE WITNESS: The attempt with assisting the
3 federal agencies is if we assist them, they will
4 assist us, and that if we can, in the course of
5 assisting them in their investigation, come across
6 information on the Rhoads homicide or participate in
7 interviews and get information that we should, we
8 would be remiss not to.

9 BY MR. BALSON:

10 Q Right. But you didn't open up a new
11 file on Bob Morgan, you just assisted the federal
12 agencies, right?

13 MR. JOHNSTON: Object to the form of the
14 question.

15 Go ahead and answer.

16 THE WITNESS: I did not know how they were --
17 I didn't know how Lieutenant Callahan was maintaining
18 the documentation. All that mattered to me is that
19 it go into some file.

20 BY MR. BALSON:

21 Q So it was okay for the -- for
22 Lieutenant Callahan and the Illinois State Police to
23 assist the FBI in the Morgan investigation, and if
24 something should happen to fall out concerning the

1 Rhoads matter, then that would be considered, right?

2 MR. JOHNSTON: Objection, mischaracterizes.

3 Go ahead and answer as best you can.

4 THE WITNESS: I don't know what you mean by
5 the term "fall out." But if they could get
6 information on the Rhoads-Steidl case through these
7 other avenues, they should and could.

8 BY MR. BALSON:

9 Q But those were the only avenues that
10 you were going to permit; isn't that right?

11 A What are you characterizing as "the
12 only avenues"?

13 Q Well, you weren't going to reopen the
14 investigation.

15 MR. JOHNSTON: I'll object to the form of the
16 question.

17 Go ahead and answer.

18 THE WITNESS: They were going to take these
19 steps, they were going to do these other
20 investigations, take investigative steps on these
21 other individuals assisting the federal agencies, at
22 the same time, complete these steps that were
23 outlined as parameters, overarching parameters.

24 Then if they came across something

1 significant, they should bring it back to the region
2 level. Once they completed these parameters, they
3 should bring it back to the region and divisional
4 level, and then we would determine how we would
5 proceed from there.

6 BY MR. BALSON:

7 Q Even if they found something
8 significant and brought it back to the regional
9 level, there was still no guarantee that you would
10 reopen the Rhoads case, was there?

11 MR. JOHNSTON: Objection to the form of the
12 question, calls for speculation.

13 Go ahead and answer.

14 THE WITNESS: First of all, if they found
15 something significant, it didn't keep them from going
16 ahead and getting the information and taking steps to
17 get the information that they came across or that
18 they developed.

19 In the meantime, they were to bring it
20 back to the region or divisional level, but that
21 didn't preclude that we weren't going to take
22 additional steps. It wasn't -- you know, if they
23 brought something back significant, then we would
24 adjust or we would look at our approach in what we

1 needed to do differently, if anything.

2 BY MR. BALSON:

3 Q Did you assign any special agents
4 specifically to investigate the Rhoads file?

5 A It would not be up to me to assign
6 specific agents.

7 Q Did you give the authority to Captain
8 Strohl to assign any special agents to investigate
9 the Rhoads file?

10 A Captain Strohl and Lieutenant Callahan
11 had the ability to assign special agents.

12 Q To specifically work on the Rhoads
13 file?

14 A They had the ability to assign special
15 agents as they saw fit within the zone or the
16 region -- or the district at that time.

17 Is this a good time to take a
18 five-minute recycling break?

19 MR. BALSON: Yes, ma'am.

20 MR. JOHNSTON: Sure.

21 (WHEREUPON, there was a brief
22 recess had in the proceedings.)

23 MR. BALSON: This is the next one.

24 (WHEREUPON, Carper Exhibit 12 was

1 marked and tendered to Witness.)

2 BY MR. BALSON:

3 Q I'm showing you what we have marked as
4 Exhibit 12, which a two-page document which is a
5 string of e-mails, "Subject: 48 Hours." The first
6 e-mail is on May 2nd from Strohl to Carper, the last
7 e-mail being on May the 12th from Strohl to Carper.

8 Looking at the last e-mail on the
9 12th, Ms. Carper, it says, "Lieutenant Callahan has
10 reached out to the Appellate Prosecutors Office. It
11 should also be noted that many of the issues
12 Lieutenant Callahan identified in his memo were not
13 issues/questions raised by Mr. Clutter. These issues
14 were the ones he identified as he reviewed the ISP
15 case file."

16 My first question is, you said before
17 that Mr. Callahan was being questioned by Deputy
18 Director Kent and yourself for sending the memo
19 outside the agency to the AG's office. Was it the
20 AG's office or the Appellate Prosecutor's Office?

21 MR. JOHNSTON: I'll object to the form of the
22 question.

23 Go ahead and answer.

24 THE WITNESS: Lieutenant Callahan had sent his

1 memorandum to the attorney general's office.

2 BY MR. BALSON:

3 Q The second question is, did you
4 understand when you were reading this memo that many
5 of the issues in the memo -- many of the facts or the
6 paragraphs that were in the memo were developed by
7 Mr. Callahan and were not issues or questions raised
8 by Mr. Clutter? Did you understand that?

9 A I understood that a large part of the
10 memo was things that Lieutenant Callahan had deduced
11 from the case file.

12 Q Who was Mr. Clutter working for, to
13 your memory?

14 A At some point I learned that he was
15 working for Michael Metnick.

16 Q Who did Michael Metnick represent?

17 A At some point I learned that he was
18 representing Mr. Steidl.

19 Q Mr. Clutter, did he have any
20 relationship at all with Mr. Whitlock or his
21 attorney?

22 A I'm not aware of that one way or the
23 other.

24 Q Was Mr. Callahan's memo given to

1 Mr. Clutter?

2 A I don't know that Mr. Callahan gave
3 his memo to Mr. Clutter.

4 Q Would that be considered sending it
5 outside the agency?

6 MR. JOHNSTON: I'll object to the form of the
7 question.

8 Go ahead and answer as best you can.

9 THE WITNESS: Yes.

10 BY MR. BALSON:

11 Q And you didn't authorize Mr. Callahan
12 to send anything outside the agency, did you?

13 MR. JOHNSTON: Go ahead and answer.

14 THE WITNESS: We didn't discuss that. I
15 didn't tell him that he could or he couldn't.

16 BY MR. BALSON:

17 Q You didn't authorize him to send the
18 document outside the agency, did you?

19 A I didn't know about the document until
20 it was sent outside the agency. I didn't know what
21 the document was.

22 Q Other than the attorney general's
23 office, did you authorize Mr. Callahan to send this
24 document anywhere else outside the agency?

1 A It was sent to Matt Sullivan, the
2 Edgar County state's attorney, and he didn't need my
3 authorization to coordinate with the prosecutorial
4 authorities.

5 Q Well, if he didn't need your
6 authorization to send this memo to the prosecutorial
7 authorities, why is he being called on the carpet for
8 sending it to the AG's office?

9 A Well --

10 MR. JOHNSTON: I'll object to the form of the
11 question.

12 Go ahead and answer it.

13 THE WITNESS: You know, I think I explained
14 that earlier. One, I don't know what you mean by
15 "called on the carpet," but he was asked to explain
16 why he sent the memo outside the agency before the
17 people above him were able to review it, because
18 there was an anticipation that that memorandum was
19 going to come in, and Colonel Parker had been
20 apprised by me that we have a memo coming in through
21 e-mail, I apprised him.

22 So it was something that -- the issue
23 was that the attorney general's office got it first,
24 not that the attorney general's office got it.

1 BY MR. BALSON:

2 Q This is an internal memorandum, isn't
3 it, the memorandum from Callahan to Strohl?

4 A Yes.

5 Q It's not meant for publication outside
6 the agency, is it?

7 A Do we typically have memorandums like
8 this released outside the agency? You know, we share
9 information with criminal justice authority
10 individuals.

11 Q Would it have been okay for him to
12 send this to the newspaper?

13 MR. JOHNSTON: I'll object to the form of the
14 question.

15 Go ahead and answer the best you can.

16 THE WITNESS: Yes.

17 BY MR. BALSON:

18 Q It would have?

19 A Yes.

20 Q So it would have been okay for
21 Callahan to send this memorandum to anybody he wanted
22 to?

23 A I -- I'm sorry. I didn't listen to
24 your question. Was your question that he could send

1 it to the media or he couldn't?

2 Q The question was, would Michale
3 Callahan have been authorized without your authority
4 or his superiors' authority to share this with the
5 general public?

6 A No, he would not have been, nor would
7 he have been able to send it to the media.

8 Q Right. And he wouldn't even be able
9 to send it to Mr. Clutter without your authority or
10 somebody in his chain of command, right?

11 MR. JOHNSTON: I'll object, calls for
12 speculation.

13 Go ahead and answer as best you can.

14 BY MR. BALSON:

15 Q Do you understand --

16 A It's not some --

17 Q -- that question?

18 A Yeah. It's not something he would
19 typically come to me and ask.

20 Q Because he would know that he couldn't
21 do it?

22 MR. JOHNSTON: I'll object to the form of the
23 question, foundation.

24 Go ahead and answer the best you can.

1 THE WITNESS: No, because it's our
2 responsibility, law enforcement, to gather the facts
3 or to get the facts to the prosecution. Mr. Clutter,
4 on the other hand, has -- his avenue is to try to do
5 things that benefit his client. Our review is
6 supposed to be unbiased.

7 BY MR. BALSON:

8 Q Supposed to be unbiased, but it only
9 is on behalf of the prosecution, right?

10 MR. JOHNSTON: I'll object to the form of the
11 question.

12 You can answer if you can.

13 THE WITNESS: I don't know what you're asking
14 me.

15 BY MR. BALSON:

16 Q Well, the question that I really have
17 in mind is, Mr. Clutter is a private detective and he
18 works for a defense attorney. Would Lieutenant
19 Callahan have the authority to send his memorandum to
20 Bill Clutter without authority from a superior?

21 MR. JOHNSTON: Objection to the form of the
22 question for the reasons stated before, and it's been
23 asked and answered.

24 Go ahead and answer again.

1 THE WITNESS: That wouldn't be a question
2 Lieutenant Callahan would ask me.

3 BY MR. BALSON:

4 Q Why not?

5 A It is our responsibility to get the
6 information to the prosecutor, and the prosecutor
7 determines where it goes.

8 Q Well, in essence, this memorandum is
9 being drafted because of the letter that Mr. Clutter
10 sent, right?

11 MR. JOHNSTON: Object to the form of the
12 question.

13 You can go ahead and answer it as best
14 you can.

15 THE WITNESS: The letter to Mr. Clutter was
16 drafted in response -- the letter from Director Nolen
17 was generated to Mr. Clutter in response to his
18 letter.

19 BY MR. BALSON:

20 Q Try and focus on the question.

21 A Okay.

22 Q This memorandum, Mr. Callahan's
23 memorandum, to Captain John Strohl, dated May 2nd,
24 2000, was prepared because of the letter that

1 Mr. Clutter sent to -- to Director Nolen; isn't that
2 right? It's the sequence of events here.

3 MR. JOHNSTON: I'll object to the form of the
4 question.

5 Go ahead and answer as best you can.

6 THE WITNESS: It was prepared because
7 Lieutenant Callahan was reviewing the file and
8 reporting his findings or his deductions, his
9 impressions.

10 BY MR. BALSON:

11 Q But that was all as a consequence of
12 Mr. Clutter's letter to Director Nolen. Nothing was
13 being done on the Rhoads case before that letter,
14 correct?

15 MR. JOHNSTON: I'll object to the form of the
16 question.

17 Go ahead and answer it.

18 THE WITNESS: It was under appeal.

19 BY MR. BALSON:

20 Q Nothing was being done by your
21 department, your agency.

22 A I'm not aware of what was being done
23 with regard to our agency.

24 Q So my question is, if this memorandum

1 is being prepared as a consequence of the letter and
2 inquiry made by Bill Clutter, would Lieutenant
3 Callahan have the authority to say, "Here's what I
4 found out, Mr. Clutter, here's my memorandum"? Could
5 he do that without getting permission from his
6 superiors?

7 MR. JOHNSTON: I'll object to the form of the
8 question, calls for speculation.

9 Go ahead and answer the best you can.

10 THE WITNESS: Policy, and what we're told is
11 that you don't share information typically outside
12 the criminal justice system without there being some
13 prosecutorial authority authorizing that.

14 BY MR. BALSON:

15 Q Did anyone authorize Lieutenant
16 Callahan, to your knowledge, to send this memorandum
17 to Bill Clutter or to the Metnick firm --

18 A I don't know if it was authorized --

19 Q -- to your knowledge?

20 A -- by anyone.

21 Q To your knowledge.

22 A I believe that Mr. Metnick got a copy
23 through the court process.

24 Q This May 2nd memo?

1 A I don't know which memo.

2 Q Well, the one we're talking about.

3 A Yes, I know, but --

4 Q The one we've been talking about for
5 the last two hours.

6 A -- there were two memos. I don't know
7 if it's May 2nd or May 17th. They're essentially the
8 same.

9 Q Either one. He got a copy through the
10 court system?

11 A That's my understanding.

12 Q When did he get a copy through the
13 court system?

14 A Probably not too long after the
15 attorney general's office got it.

16 Q So, to your understanding, if the
17 attorney general's office got it on May 12th, 2000,
18 Mr. Metnick got a copy shortly thereafter; is that
19 your understanding?

20 A That's my belief.

21 Q How about Mr. Whitlock? Did he get a
22 copy?

23 A I don't know if it was -- I don't
24 know.

1 Q Was Mr. Clutter working for
2 Mr. Whitlock at all, do you know?

3 A I don't know.

4 Q Did Michale Callahan communicate with
5 Mr. Whitlock in any way or his attorney?

6 A I don't know. At that point, I don't
7 know if he had any communications with Mr. Whitlock's
8 attorney.

9 Q Okay. If you would look again at this
10 document, 17575, that sits before you --

11 A Yes.

12 Q -- the e-mail towards the bottom from
13 Steven Fermon to Diane Carper says, "Thank you, I
14 would also suggest that before we take Mr. Clutter's
15 'findings'," in quotes, "as truth we establish
16 contact with the person responsible for the appeal.
17 This case has been tried and through a series of
18 appeals over the past 14 years much information has
19 been documented thru [sic] testimony. Transcripts
20 may/should be available. Anything we do should be
21 coordinated with the Appellate Prosecutors Office.
22 They too may they have concerns or a need for
23 follow-up et cetera. Just a few thoughts, mf."
24 Right? Do you follow me?

1 A Yes.

2 Q Was it Mr. Fermon's opinion expressed
3 to you that the Illinois State Police should wait for
4 the completion of the appellate process before
5 opening an investigation?

6 MR. JOHNSTON: I'll object to the form of the
7 question.

8 Go ahead and answer.

9 THE WITNESS: Are you asking me that question
10 in relation to this document, or are you asking it in
11 general?

12 BY MR. BALSON:

13 Q Okay. Let me ask it to you in
14 general: To the extent that Mr. Fermon expressed
15 himself to you, was it his opinion that the Illinois
16 State Police should wait for the completion of the
17 appellate process before opening an investigation?

18 A At this point, he had not expressed
19 his belief to me.

20 Q Did he express that belief to you at a
21 later time?

22 A He expressed a belief, not what you
23 stated, but a belief at a later time.

24 Q What belief was that?

1 A That the courts are set up to work
2 through this process, but that didn't mean they
3 weren't going to go ahead and do investigative
4 activities to try to see if there's other information
5 that they can get with regards to the Rhoads
6 homicide.

7 Q Was he opposed to reopening the file?

8 A We didn't discuss open, reopen. We
9 discussed what do we need to do with this, and, you
10 know, his view was that the court will sort through
11 the Rhoads-Steidl issues through the litigation, but,
12 in the meantime, we'll work on these other avenues to
13 see if we can get more information.

14 Q You mentioned a few minutes ago the
15 May 17th memo. Just so it's clear, I'm going to
16 identify that for the record.

17 (WHEREUPON, Carper Exhibit 13 was
18 marked and tendered to Witness.)

19 I show you Exhibit 13. It is a
20 memorandum from Michale Callahan to Captain Strohl,
21 dated May 17th, and it has a Bates stamp at the
22 bottom of MC-SDT 18090. Is this the memorandum you
23 were speaking about a few minutes ago?

24 A I was speaking about -- there were two

1 memorandums, May 2nd, and one dated May 17th.

2 Q Why were there two? Do you know?

3 A I don't recall why there were two.

4 Q Did this come to your attention on or
5 around May 17th, this memo?

6 A Yes.

7 Q Did you read it?

8 A Yes.

9 Q Did you read it in detail or did you
10 just skim it?

11 A I didn't read it in detail. It looked
12 similar to the -- it looked like the same thing as
13 the May 2nd memorandum.

14 Q So you skimmed it?

15 A I didn't read it in detail, but, yeah,
16 I skimmed it. Yeah.

17 Q Well, you read it enough to know that
18 it was pretty similar to the first one, right?

19 A Yes.

20 Q You didn't personally do any
21 investigations on the Rhoads murders in the year 2000
22 or 2001, did you?

23 A I didn't do any personal
24 investigations. No.

1 Q You didn't do any interviews or
2 anything like that, right?

3 A No.

4 Q You were not in the field, right?

5 A No.

6 Q So you had to take the word of those
7 people that were out in the field, right?

8 A No, I didn't have to take the word of
9 people in the field.

10 Q Well, would you agree that Michale
11 Callahan had more firsthand information about this
12 matter than you did?

13 A Yes.

14 (WHEREUPON, Carper Exhibit 14 was
15 marked and tendered to Witness.)

16 Q I'm going to show you what we've
17 marked as Exhibit Number 14, which is an e-mail dated
18 June 1, 2000, from John Strohl to Diane Carper, and
19 it's identified as ISP17685.

20 Mr. Strohl is advising you that the
21 Edgar County state's attorney has requested that the
22 State of Illinois Appellate Prosecutor's Office take
23 over as the state's representative concerning Randy
24 Steidl's hearing to request a new trial, right?

1 A That's what it states.

2 Q Okay. So at least at this time, you
3 knew that Randy Steidl had a hearing scheduled to
4 request a new trial, right?

5 A I don't know the status of it in terms
6 of whether it was scheduled or not.

7 Q What did you know about Herbert
8 Whitlock other than the fact that he was in jail?

9 (WHEREUPON, there was a long pause
10 by the Witness.)

11 A I don't recall knowing the status of
12 Herbert Whitlock at that point.

13 Q In the next paragraph it says, "On a
14 related note, the FBI contacted Lieutenant Callahan
15 and advised they were planning on opening an OC case
16 on Bob Morgan."

17 So at least as of the time of this
18 e-mail, June 1st, 2000, the FBI had not opened an OC
19 case on Bob Morgan, had it?

20 A It says they're "planning on opening
21 an OC case." I don't know if, in fact, that's the
22 case or not. But --

23 Q Well, do you think Captain Strohl was
24 giving you false information?

1 A No. The FBI might not have told
2 Captain Strohl if they had one opened or not.

3 Q Had they told you?

4 A No.

5 Q Why would they fool Captain Strohl?

6 MR. JOHNSTON: Object to the form of the
7 question.

8 Go ahead and answer as best you can.

9 THE WITNESS: I don't know whether they tried
10 to fool Mr. Strohl, but they don't always want
11 information released on their investigations.

12 BY MR. BALSON:

13 Q Well, you said before when you were
14 considering all of this and thought that it wouldn't
15 be necessary at this time to open -- reopen the
16 investigation of the Rhoads case, it was okay for you
17 to assist the FBI with the Morgan case, right?

18 MR. JOHNSTON: I'll object to the form of the
19 question.

20 BY MR. BALSON:

21 Q You told me that.

22 MR. JOHNSTON: I'll object to the form of the
23 question, mischaracterizes her testimony.

24 Go ahead and answer.

1 THE WITNESS: Could you read that back,
2 please?

3 (WHEREUPON, the Record was read as
4 follows:

5 "Question: Well, you said before
6 when you were considering all of
7 this and thought that it
8 wouldn't be necessary at this
9 time to open -- reopen the
10 investigation of the Rhoads
11 case, it was okay for you to
12 assist the FBI with the Morgan
13 case, right? You told me
14 that.")

15 MR. BALSON: You know what? I'll withdraw
16 that question because I didn't say what I wanted to
17 say.

18 BY MR. BALSON:

19 Q Before when we were talking about what
20 your investigators were allowed to do, you said the
21 investigators were allowed to assist the FBI in Bob
22 Morgan's OC case, and if they found out something
23 about the Rhoads case, then they should bring it to
24 you and you would decide what to do. Is that what

1 you told me?

2 MR. JOHNSTON: Object to the form of the
3 question, it's a partial part of the answer.

4 Go ahead and answer.

5 THE WITNESS: I stated that the ISP was able
6 to assist the FBI and ATF, other agencies.

7 BY MR. BALSON:

8 Q Right.

9 A And in the course of doing that, if
10 they could solicit (sic) or come across information
11 regarding the Rhoads-Steidl homicide, they would be
12 remiss if they didn't pursue it, but in the mean --
13 they should go ahead and pursue it.

14 But, in the meantime, they should
15 bring the information up to the regional and
16 divisional level to determine if we should change the
17 status of the case, the case file.

18 Q Despite -- let's take this in steps.
19 Lieutenant Callahan had requested in his memo that
20 the Rhoads case be reopened so he could investigate
21 it, right?

22 A He's saying if we reopen it, he's --
23 he's made some statement about if we reopen it, these
24 are the things we need to look at.

1 Q Okay. And you were opposed to
2 reopening the Rhoads case, but you weren't opposed to
3 the investigators assisting the FBI in the Morgan OC
4 case because they might come across some Rhoads
5 information, right?

6 MR. JOHNSTON: I'll object to the form of the
7 question.

8 Go ahead and --

9 BY MR. BALSON:

10 Q Is that fair?

11 MR. JOHNSTON: I'll object to the form of the
12 question.

13 Go ahead and answer as best you can.

14 THE WITNESS: I supported following up and
15 following through on the concerns that Lieutenant
16 Callahan raised with regards to the Rhoads-Steidl
17 case and so did the entire chain of command. How.

18 We did that, there were different ways
19 to accomplish that, and one of the ways was to assist
20 these other agencies in the hopes that if we assist
21 them, they will assist us, and that we might come
22 across or we might be able to elicit information
23 regarding the Rhoads/Steidl homicide.

24 BY MR. BALSON:

1 Q And you told me this was a way of
2 doing it through the back door, through the Morgan
3 investigation, right?

4 A That was my term. Yes.

5 Q All right. What I'm trying to get at
6 is on June 1st, Captain Strohl is telling you that
7 the FBI is planning on opening up a case, an OC case,
8 on Bob Morgan, so how could you have your
9 investigators doing a back door investigation,
10 assisting the FBI when the FBI didn't even have a
11 case open on Bob Morgan?

12 MR. JOHNSTON: I'll object to the form of the
13 question, it assumes facts not in evidence.

14 Go ahead and answer the best you can.

15 THE WITNESS: Whether they had one opened at
16 that time or not, the fact is that we participated in
17 assisting other federal agencies at some point
18 relatively close to this time period.

19 BY MR. BALSON:

20 Q You can't assist the FBI on an OC case
21 against Bob Morgan if the FBI doesn't have such a
22 case, can you?

23 MR. JOHNSTON: I'll object to the form of the
24 question.

1 Go ahead and answer as best you can.

2 THE WITNESS: Well, in relation to this
3 memorandum, it's saying they're planning on opening
4 it. It's my understanding they went ahead and opened
5 a case on Bob Morgan, and that we were assisting in
6 that case and we were assisting in other cases with
7 federal agencies.

8 BY MR. BALSON:

9 Q Well, were there other cases opened on
10 Rhoads or Morgan that you knew about?

11 A I didn't know how they were
12 maintaining the files.

13 Q Okay. So at least as of June 1st, you
14 couldn't be assisting the FBI in an OC case on Bob
15 Morgan because it didn't exist yet, right?

16 MR. JOHNSTON: I'll object to the form of the
17 question.

18 Go ahead and answer as --

19 THE WITNESS: I didn't specify the date that
20 we began assisting. I don't know the exact date they
21 began assisting.

22 BY MR. BALSON:

23 Q So at least as of June 1st, you hadn't
24 reopened the Rhoads investigation and you couldn't

1 assist the FBI, right?

2 MR. JOHNSTON: I'll object to the form of the
3 question, mischaracterizes her testimony.

4 Go ahead and answer it the best you
5 can.

6 THE WITNESS: We were following up on the
7 Rhoads case through other avenues, and if federal
8 agencies, we had the opportunity to work with them on
9 other cases, that was something that was acceptable.

10 BY MR. BALSON:

11 Q All right. Now, John Strohl says to
12 you on June 1st in the third paragraph, "We have not
13 made any additional inquiries, et cetera, concerning
14 this entire issue since our meeting with ADD Parker,
15 Lieutenant Colonel Casella, Lex Bitner, and Trish
16 (sic) C." That would be Trish Carnegie, right?

17 MR. JOHNSTON: Tish.

18 BY MR. BALSON:

19 Q Tish.

20 A Yes. Tish Carnegie.

21 Q So no other inquiries had been made
22 since your meeting, right?

23 A No other inquiries on what?

24 Q Concerning this entire issue, subject

1 at the top, "Rhoads Case."

2 A I don't know if there were inquiries
3 or not, I don't remember, prior to this, 6/1.

4 Q Were you present at the meeting with
5 Assistant Deputy Director Parker and Lieutenant
6 Colonel Casella, Lex Bitner, and Tish Carnegie?

7 A I was present at the meeting with ADD
8 Parker, Lieutenant Colonel Casella, and there were
9 other people there. I don't know if I remember
10 specifically that Tish was there, or Lex. I just
11 knew there were Intel analysts there.

12 Q Okay. Was that in connection with
13 putting this Rhoads case into rapid start?

14 A This was in connection to applying the
15 Intelligence databases to the case file and other
16 information that they might have.

17 Q As far as you were concerned, that's
18 as far as it was going to go at that time, right?

19 MR. JOHNSTON: I'll object to the form of the
20 question.

21 Go ahead and answer as best you can.

22 THE WITNESS: At that time, the intelligence
23 was as far as it was going to go?

24 BY MR. BALSON:

1 Q Yes.

2 A That was not as far as it was going to
3 go. That was steps they needed to take. And as part
4 of that analysis and assessment, they were supposed
5 to review what evidence was out there.

6 Q Was that part of your parameters?

7 A That was -- that was discussed at the
8 meeting as something we needed to do while the case
9 was under appeal.

10 Q Was that part of your parameters?

11 MR. JOHNSTON: Object to the form of the
12 question.

13 Go ahead and answer.

14 THE WITNESS: That was stated as something
15 that should be done, but it wasn't stated, "This is a
16 parameter, you must do this." It was something that
17 you would expect the investigators to do. It was
18 something that was part of the whole analysis.

19 BY MR. BALSON:

20 Q Is there a difference between the
21 whole analysis and parameters?

22 A I'm talking about an analytical
23 assessment of the databases and what the information
24 provides.

1 Q You've got me shaking my head here.

2 Do you remember talking before about parameters?

3 A Yes.

4 Q You weren't going to allow the
5 polygraph of Randy Steidl because of your parameters,
6 right?

7 MR. JOHNSTON: I'll object to the form of the
8 question.

9 Go ahead and answer the best you can.

10 THE WITNESS: One, they weren't my parameters;
11 two, the polygraph was something that was raised
12 early on. In the meantime, this meeting occurred and
13 it was my perception that we would -- the polygraph
14 was an option, but only after these other steps had
15 been taken.

16 BY MR. BALSON:

17 Q Well, was it okay as of June 1st to do
18 a polygraph?

19 A The issue of can we do a polygraph, I
20 don't remember it coming up after we had the Intel
21 meeting with ADA Parker and Lieutenant Colonel
22 Casella and Lex Bitner. I don't remember it coming
23 up as can we do it or can't we do it?

24 Q That wasn't my question. Was it okay

1 to do a polygraph as of June 1st, 2000?

2 A We didn't consider that.

3 Q Well, you considered it about 12 days
4 before this and you said he couldn't do it.

5 (WHEREUPON, there was a long pause
6 by the Witness.)

7 A I don't know that I said 12 days
8 before that he couldn't do it. I indicated that my
9 belief was that shouldn't be the threshold for
10 whether we follow through or not with this, on his
11 concerns.

12 (WHEREUPON, Carper Exhibit 15 was
13 marked and tendered to Witness.)

14 Q I show you what we've marked as
15 Exhibit 15, which appears to be an e-mail from John
16 Strohl to Diane Carper, "Subject: Bob Morgan." This
17 is dated June 9th, and Captain Strohl says, "I spoke
18 with Lieutenant Callahan yesterday afternoon. He
19 advised the FBI has opened a drug/OC case on Bob
20 Morgan and has requested the assistance of ISP. To
21 date, we have not been involved. However, this is a
22 separate focus outside the scope of the Rhoads
23 homicide." Was that also your understanding as of
24 June 9th, 2000?

1 A To my understanding -- I -- I didn't
2 have a separate understanding than what John Strohl
3 is telling me in an e-mail.

4 Q You didn't have any information
5 relative to this other than what you were told from
6 Captain Strohl, did you?

7 A I'm not aware of having any other
8 information other than what Captain Strohl is
9 providing to me.

10 Q All right. And he's telling you that
11 the Bob Morgan drug/OC case is outside the scope of
12 the Rhoads homicide, isn't it?

13 A It's "a separate focus outside the
14 scope of the Rhoads homicide," is what he states.

15 Q And you don't have any other
16 information which would contradict that, do you?

17 A I don't have any other information
18 regarding --

19 Q Okay.

20 A -- what he's telling me.

21 Q Okay. Captain Strohl says, "My
22 initial re-action is that we should assist in any way
23 possible since this issue is an entirely different
24 matter," right?

1 A Yes.

2 Q Is he saying that we should assist in
3 any way possible since this issue is entirely
4 different because you have prohibited any
5 investigation into the Rhoads homicides?

6 MR. JOHNSTON: I'll object to the form of the
7 question.

8 You can go ahead and answer it as best
9 you can.

10 THE WITNESS: I don't interpret it as that,
11 and I don't know what was in John Strohl's mind when
12 he wrote that.

13 BY MR. BALSON:

14 Q At the bottom he says, "As I advised
15 yesterday, Bob Morgan is a member of the OP Cool
16 board and he also contributes heavily to Governor
17 Ryan, Attorney General Ryan and other elected
18 officials campaign funds.

19 "We can discuss further next week.
20 Thanks." Right?

21 A Yes.

22 Q Do you know what he means by the OP
23 Cool Board?

24 A Operation Cool Board.

1 Q What is that?

2 A We had a community policing program
3 where it encouraged high school students to wear seat
4 belts, and they gave prizes out for people complying
5 with that.

6 Q Was this the first time that you knew
7 that Bob Morgan was a heavy contributor to Governor
8 Ryan, Attorney General Ryan, and other elected
9 officials?

10 A I didn't know he was a con -- I didn't
11 know what he had contributed.

12 Q Listen to the question. Was this the
13 first time that you knew that he contributed heavily
14 to Governor Ryan, Attorney General Ryan, and other
15 elected campaign -- and other elected officials?

16 MR. JOHNSTON: I'll object to the form of the
17 question, asked and answered.

18 Go ahead and answer.

19 THE WITNESS: I don't remember previous com --
20 communications with regard to this issue.

21 BY MR. BALSON:

22 Q So then this was the first time?

23 A I just don't remember any other
24 conversation coming up or any other communication

1 with regard to this prior to this date.

2 Q Is this also the first time that you
3 were made aware that he was a member of an Illinois
4 State Police board?

5 A I don't know that it's an Illinois
6 State Police board. The Operation Cool Board could
7 be made up of a number of different organizations. I
8 just don't know the makeup of this particular board.

9 Q Did he --

10 A But it's the first time I learned --
11 or at least I remember learning of the fact that he
12 was a member of the Operation Cool Board.

13 Q Was the Operation Cool Board done in
14 coordination or cooperation with the Illinois State
15 Police?

16 A Yes.

17 Q So the Illinois State Police had some
18 participation with the OP Cool Board, right?

19 A Yes.

20 Q And this was the first time that you
21 found out that he was a member of that board, right?

22 A I don't recall when I specifically
23 found out about him being a part of the Operation
24 Cool Board.

1 Q Were you a member of the board
2 yourself?

3 A No.

4 Q Did you know who the members of the OP
5 Cool Board were?

6 A No.

7 Q Did you ask?

8 A No.

9 Q Did that seem troublesome to you, that
10 Bob Morgan was a member of the OP Cool Board and also
11 a heavy contributor to Governor Ryan, Attorney
12 General Ryan, and other elected officials?

13 MR. JOHNSTON: I'll object to the form of the
14 question.

15 Go ahead and answer the best you can.

16 THE WITNESS: I didn't know -- I didn't see
17 what the significance was of the information
18 regarding the campaign funds, how that tied to
19 anything.

20 BY MR. BALSON:

21 Q Did you decide to send this up the
22 chain to Lieutenant Colonel Park -- to Colonel
23 Parker?

24 A I sent a similar e-mail up to

1 Assistant Deputy Director Parker.

2 (WHEREUPON, Carper Exhibit 16 was
3 marked and tendered to Witness.)

4 Q I show you Exhibit Number 16, which
5 appears to be a string of e-mails. The first one is
6 an attached note, the top one goes from Diane Carper
7 to Andre Parker on 6/12, "Subject: Bob Morgan,
8 Reference: Note from John Strohl attached below,"
9 right?

10 A Yes.

11 Q Does this appear to be the same e-mail
12 that we just reviewed of June 9th, the one that
13 Captain Strohl sent to you?

14 A I'm forwarding the June 9th e-mail to
15 Mr. Parker.

16 Q Well, my first question is, look down
17 where it says, "As I advised yesterday, Bob Morgan is
18 a member of the OP Cool board." Do you see that?

19 A Yes.

20 Q If you look at the exhibit we just
21 did, which is 15 then, it says after "board," "and he
22 also contributes heavily to Governor Ryan, Attorney
23 General Ryan and other elected officials campaign
24 funds." That part is left out of this attached note,

1 isn't it?

2 A Yes.

3 Q Did you delete that information?

4 A I had a conversation with Captain
5 Strohl regarding that information.

6 Q What was your conversation?

7 A I was trying to discern why that
8 information was relevant.

9 Q You don't think it's relevant that a
10 potential defendant in an organized crime case and
11 possibly a participant in the murder of the Rhoadses,
12 you don't think it's important that he's also a heavy
13 contributor to the governor, the attorney general,
14 and other elected officials?

15 MR. JOHNSTON: I'll object to the form of the
16 question.

17 Go ahead and answer as best you can.

18 BY MR. BALSON:

19 Q Ma'am?

20 THE WITNESS: Could you read that back,
21 please.

22 MS. REPORTER: Sure.

23 (WHEREUPON, the Record was read as
24 follows:

1 "Question: You don't think it's
2 relevant that a potential
3 defendant in an organized crime
4 case and possibly a participant
5 in the murder of the Rhoadses,
6 you don't think it's important
7 that he's also a heavy
8 contributor to the governor, the
9 attorney general and other
10 elected officials?")

11 THE WITNESS: I don't know at this point he's
12 a defendant in the case. I don't know the -- I guess
13 I'm not going to accept your characterization of that
14 question other than the fact that I'm not clear on
15 why the contributions are -- what they have to do
16 with this whole thing.

17 BY MR. BALSON:

18 Q Okay. Why did you delete them?

19 That's what I want --

20 A I don't know --

21 Q -- to know.

22 A -- that I deleted it.

23 Q Well, you said you had a conversation
24 with Captain Strohl, and it's not included in your

1 e-mail to Andre Parker.

2 A Correct.

3 Q The question is, what conversation did
4 you have with Captain Strohl and why is it not
5 included then in your e-mail?

6 A I don't know --

7 MR. JOHNSTON: Objection, asked and answered.

8 Go ahead and answer again, Diane.

9 THE WITNESS: I had a conversation with
10 Captain Strohl as to what the significance of that
11 particular statement was, and I don't know whether he
12 sent me another e-mail with that absent or if I chose
13 not to include it.

14 BY MR. BALSON:

15 Q Well, whether he deleted it after your
16 conversation or you deleted it, it wasn't sent to
17 Andre Parker.

18 A It was not sent to Andre Parker.

19 Q Why don't you tell me about your
20 conversation with Captain Strohl about this language.

21 A It was just, "What is the relevancy of
22 this, and what does this have to do with the issue?"
23 And his response, I guess, "Nothing." And that's all
24 I remember.

1 Q It's a piece of information, isn't it,
2 about a potential defendant in an OC -- FBI OC case?

3 MR. JOHNSTON: I'll object to the form of the
4 question.

5 Go ahead and answer.

6 THE WITNESS: Again, I don't know what the
7 relevancy of that information is to -- it's not going
8 to affect how we proceed.

9 BY MR. BALSON:

10 Q Was it your job to determine the
11 relevancy of information?

12 (WHEREUPON, there was a long pause
13 by the Witness.)

14 A As a lieutenant colonel, there are
15 times where information, I determine what information
16 goes up to the deputy director and assistant deputy
17 director based upon their notification requirements.

18 Q So you made the decision that Bob
19 Morgan, a potential defendant in the Rhoads murder
20 cases and certainly the focus of an FBI drug/OC case,
21 this would go up to Andre Parker without any
22 information about the fact that he's a heavy
23 contributor to the politicians in this state, right?
24 That was your decision?

1 MR. JOHNSTON: I'll object to the form of the
2 question.

3 Go ahead and answer, Diane.

4 THE WITNESS: Again, your question is too long
5 for me to assimilate all of it, but --

6 BY MR. BALSON:

7 Q We can have it repeated.

8 A -- this information was not forwarded
9 to Colonel Parker.

10 Q By your decision?

11 A And I made that decision not to
12 forward it to Colonel Parker.

13 Q In this e-mail that you send to
14 Colonel Parker, you say, "Subsequent to the 48 Hours
15 show on the Randy Steidl case the FBI received
16 letters and information from people indicating they
17 had observed large amounts of drugs in Morgan's
18 trucks. The FBI has opened up an OC case on Morgan
19 as a result of this information. The FBI has
20 requested the ISP to assist in the narcotics portion
21 of the investigation.

22 "I will set up a meeting with you to
23 discuss the matter," right?

24 A Yes.

1 Q Did you set up a meeting?

2 A Yes.

3 Q Did you tell him at that meeting he
4 was a heavy contributor to Governor Ryan and Attorney
5 General Ryan and other elected officials in the state
6 of Illinois?

7 A No.

8 Q You kept that quiet, huh?

9 MR. JOHNSTON: I'll object to the form of the
10 question, it's argumentative.

11 Go ahead and answer as best you can.

12 THE WITNESS: Again, I didn't see why that
13 information was relevant to anything regarding the
14 case or what we did.

15 BY MR. BALSON:

16 Q When the FBI asks for the cooperation
17 of the Illinois State Police in its OC cases, is it
18 usual and customary for the Illinois State Police to
19 lend its assistance?

20 A It varies, depending upon our
21 availability of resources.

22 Q Sometimes you refuse?

23 A I don't deal directly with the OC
24 cases at my level other than to occasionally receive

1 briefings, but there have been cases where we have
2 declined to assist the federal agencies because of
3 our lack of resources.

4 Q Can you give me any specific instance
5 that you know of within your experience where the
6 Illinois State Police has refused to cooperate or
7 assist the FBI in an OC case?

8 MR. JOHNSTON: Object to the form of the
9 question, mischaracterizes.

10 You can go ahead and answer the best
11 you can.

12 THE WITNESS: Well, first of all, I don't
13 accept your term "refused to cooperate." We try to
14 assist each other to the degree we can. There are
15 times when the FBI can't assist us because of
16 resources, and there are times when we haven't been
17 able to assist them, and there are times we gave up
18 resources when we really didn't have the resources to
19 give them. Can I give you a specific example off the
20 top of my head? I can't right now.

21 (WHEREUPON, Carper Exhibit 17 was
22 marked and tendered to Witness.)

23 BY MR. BALSON:

24 Q Ms. Carper, I'm showing you Exhibit

1 Number 17, MC-SDT 17830, and it is a memo from Diane
2 Carper to John Strohl, and it says, "I guess Parker
3 gets the last laugh." Do you remember sending this?

4 A Yes.

5 Q Why does Parker get the last laugh?

6 A I don't recall what was in my mind
7 when I sent that.

8 Q Do you remember sending it?

9 A Yes.

10 Q But you don't know what you were
11 talking about at that time?

12 A It was the same day as the verdict and
13 a very emotional time, and I don't recall what was in
14 my mind when I sent that.

15 Q This is the same day as the verdict in
16 the Callahan case?

17 A Yes.

18 Q That was the day that the judgment was
19 entered against you, right?

20 (WHEREUPON, there was no
21 response.)

22 Well, you remember a judgment was
23 entered against you?

24 A Yes.

1 Q Parker wasn't a defendant in that
2 case, was he?

3 A No.

4 Q So he got off scot-free, no judgment
5 against him, right?

6 MR. JOHNSTON: Object to the form of the
7 question, mischaracterizes.

8 Go ahead and answer the best you can.

9 THE WITNESS: Not that I accept your form of
10 the question, but he was not a defendant in that
11 case. No.

12 BY MR. BALSON:

13 Q So there was no judgment entered
14 against him.

15 A No.

16 Q Did you write this because what you
17 had done relative to Callahan was to follow the
18 instructions of Colonel Parker?

19 MR. JOHNSTON: I'll object to the form of the
20 question.

21 Go ahead and answer as best you can.

22 THE WITNESS: I truly don't know what was in
23 my mind when I sent this. I was very upset, I was
24 very emotional.

1 BY MR. BALSON:

2 Q Well, I'm asking you now. You're not
3 upset and emotional now. You're cool as a cucumber.
4 I'm asking you now, did you send this because all you
5 did was follow Parker's instructions, and he gets the
6 last laugh because there's no judgment against him?

7 MR. THIES: Objection, asked and answered.

8 MR. JOHNSTON: Same objection.

9 You can go ahead and answer again as
10 best you can.

11 THE WITNESS: I don't remember what was in my
12 mind when I sent this e-mail.

13 BY MR. BALSON:

14 Q Is that possibly why you did it?

15 MR. JOHNSTON: I'll object, calls for
16 speculation.

17 Go ahead and answer the best you can.

18 THE WITNESS: I don't know what was in my mind
19 when I sent this.

20 BY MR. BALSON:

21 Q Is that possibly why you did it?

22 MR. JOHNSTON: I'll object to the form of the
23 question, asked and answered.

24 Go ahead and answer it again.

1 THE WITNESS: Again, I don't know what was in
2 my mind when I sent this.

3 (WHEREUPON, Carper Exhibit 18 was
4 marked and tendered to Witness.)

5 BY MR. BALSON:

6 Q I'm going to show you a document, this
7 is 18, and it's a string of e-mails. If you look at
8 the last page first, Ms. Carper, it's that e-mail
9 that we were just reviewing where you deleted that
10 information relative to his contributions to
11 politicians, okay? It was sent up then to Andre
12 Parker, that's the next one. Then there's one above
13 that, on 6/12, from Diane Carper to John Strohl.

14 You remember that you had said that
15 you were going to set up a meeting, and now you say
16 in this one, "I have a meeting tomorrow with Colonel
17 Parker at 11 a.m. reference this matter. Can you
18 provide me with some additional information as to our
19 specific role in the case," and this is "Subject: Bob
20 Morgan." "What is the case targeting or what is the
21 anatomy of an OC case? To what degree can you
22 predict wether [sic] this case will blend with the
23 Steidl issue? Please confirm the information I
24 provided in the attached e-mail, do you have any

1 additional?" Do you see that?

2 A Yes.

3 Q Now, I guess what I'm asking you at
4 this time is, what did you want to know from Captain
5 Strohl?

6 A I wanted to know what an OC case is,
7 what it involves.

8 Q So as of June 12th, 2000, you didn't
9 know what an OC case was?

10 MR. JOHNSTON: Object to the form of the
11 question.

12 Go ahead and answer it the best you
13 can.

14 THE WITNESS: I wanted to clarify what an OC
15 case was.

16 BY MR. BALSON:

17 Q You understood it was an organized
18 crime case, right?

19 A Well, that "OC," I assumed, meant
20 organized crime, but I didn't know for sure, and I
21 didn't know what specifically it was going to -- what
22 it was specifically that the OC matter entailed.

23 Q Well, you understood that the FBI was
24 focusing on Bob Morgan as the subject of an OC case,

1 didn't you?

2 A Yes.

3 Q And then you said, "To what degree can
4 you predict wether [sic] this case will blend with
5 the Steidl issue?" What were you seeking there?

6 A Just to ensure that I had gleaned
7 information in advance of the meeting to anticipate
8 any questions I might receive.

9 Q Was this in line with your
10 considerations of whether you would authorize an
11 investigation of the Steidl case or reopening of the
12 Steidl case?

13 MR. JOHNSTON: Object to the form of the
14 question.

15 Go ahead and answer.

16 THE WITNESS: This was just to have
17 information to meet with Colonel Parker and clarify
18 what the parameters allowed.

19 BY MR. BALSON:

20 Q Well, to what end, Ms. Carper? To
21 what end? Why would you need information about if it
22 blended with the Steidl case unless you were
23 considering what investigative efforts you would
24 authorize with regard to the Steidl case?

1 MR. JOHNSTON: I'll object to the form of the
2 question.

3 You can answer it as best you can.

4 THE WITNESS: I wasn't considering what would
5 be authorized. I was considering what notification I
6 needed to make, what information I needed to give my
7 boss or anticipate from my boss.

8 BY MR. BALSON:

9 Q What notification? I don't understand
10 that. Who were you notifying?

11 A Well, anytime there's a high-profile
12 case or there's -- since, you know, this had received
13 national media attention, I wanted to make sure I
14 anticipated Colonel Parker's questions and provided
15 notification in addition to seeking clarification.
16 But it wasn't to determine whether we were going to
17 authorize -- what we were going to authorize or not
18 authorize.

19 Q Well, you knew that you were being
20 asked during this period of time, at least by
21 Lieutenant Callahan, for authority to reopen the
22 Rhoads case; isn't that right?

23 MR. JOHNSTON: I'll object to the form of the
24 question.

1 Go ahead and answer.

2 THE WITNESS: I see it as this is Captain
3 Strohl seeking clarification on assisting the FBI on
4 their OC case.

5 BY MR. BALSON:

6 Q Yeah, but you're the one that says, to
7 what degree will it blend in with the Steidl issue.

8 A Yes, I do say that.

9 Q Right. Does Captain Strohl tell you
10 that it wouldn't blend in at all, it's two different
11 cases?

12 A It was never two different cases. It
13 was an opportunity to rece -- to try to find or come
14 across information with regards to the Rhoads-Steidl
15 homicide.

16 Q Look at page 17707, the second page.

17 (WHEREUPON, the Witness complied.)

18 It says at the top, "Our specific role
19 in this would be to provide intel and possibly tech
20 services. It is not very likely that Bob Morgan will
21 ever be connected to Rhoads-Steidl case." Do you see
22 that?

23 A Yes.

24 Q That was his answer to you, wasn't it?

1 you can.

2 THE WITNESS: I read that as Bob Morgan's
3 association or potential association of the
4 Rhoads-Steidl case is going to come through recent
5 criminal activities.

6 BY MR. BALSON:

7 Q How in the world are you reading that?

8 MR. JOHNSTON: I'll object, it's
9 argumentative. It's getting late in the day. Maybe
10 we should --

11 BY MR. BALSON:

12 Q Explain yourself, please.

13 MR. JOHNSTON: I'll object, it's getting
14 argumentative, and it's getting late in the day.

15 But go ahead and answer the best you
16 can.

17 THE WITNESS: I'm reading it as that Captain
18 Strohl is saying that it's not likely Bob Morgan will
19 be ever connected to the Rhoads-Steidl case and any
20 potential charges would most likely stem from recent
21 activities, that this is an opportunity to obtain
22 information with regard to Bob Morgan on the
23 Rhoads-Steidl case.

24 BY MR. BALSON:

1 Q Where in the world do you see that?

2 MR. JOHNSTON: I'll object to the form of the
3 question, asked and answered, and it's --

4 BY MR. BALSON:

5 Q Ma'am.

6 MR. JOHNSTON: -- argumentative.

7 You can go ahead and answer over the
8 objection of it being argumentative and asked and
9 answered.

10 THE WITNESS: I interpret it as any potential
11 charges against Bob Morgan would most likely stem
12 from recent criminal activities.

13 BY MR. BALSON:

14 Q What did you understand "recent
15 criminal activities" to mean? What's recent to the
16 year 2000?

17 A I don't know what Captain Strohl
18 termed as "recent."

19 Q Do you think he meant "recent" could
20 have been 1986?

21 MR. JOHNSTON: I'll object to the form --

22 THE WITNESS: I --

23 MR. JOHNSTON: -- of the question.

24 Go ahead and answer as best you can.

1 THE WITNESS: I didn't ask him what he meant
2 by "recent."

3 BY MR. BALSON:

4 Q Ma'am, I have to tell you, this seems
5 as clear as a bell to me. He says, "Our specific
6 role in this would be to provide intel and possibly
7 tech services. It is not very likely that Bob Morgan
8 will ever be connected to Rhoads-Steidl case. Any
9 potential charges would most likely stem from more
10 recent criminal activities."

11 Isn't he talking about recent
12 activities around the year 2000 concerning organized
13 crime? Isn't that the only possible interpretation?

14 MR. JOHNSTON: I'll object to the form of the
15 question, argumentative, and asked and answered at
16 least three times.

17 Go ahead and answer it again.

18 THE WITNESS: I see it as supportive of the
19 focus on Bob Morgan in an attempt to find information
20 that might connect back to the Rhoads-Steidl case.

21 MR. BALSON: That's your answer.

22 We'll break here.

23

24 (WHEREUPON, the above-entitled

1 cause was adjourned sine die,
2 March 20, 2009, at 5:05 p.m.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

4 GORDON RANDY STEIDL,)
5)
6 Plaintiff,)
7)
8 vs.) No. 05 CV 2127
9) Judge Harold Baker
10 CITY OF PARIS, et al.,) Magistrate Bernthal
11)
12 Defendants.)
13 _____)
14 HERBERT WHITLOCK,)
15)
16 Plaintiff,)
17)
18 vs.) No. 08 CV 2055
19) Judge Harold Baker
20 CITY OF PARIS, et al.,) Magistrate Bernthal
21)
22 Defendants.)

23 WITNESS CERTIFICATION - VOLUME I - PAGES 1 - 244

24 I hereby certify that I have read the foregoing transcript of my deposition, given on the 20th day of March, 2009, at the time and place aforesaid, consisting of pages 1 through 241; and I do again subscribe and make oath that the same is a true, correct, and complete transcript of my deposition so given.

25 I have ____ not ____ submitted errata sheets.

26 Signed: _____

DIANE CARPER, Deponent

27 SUBSCRIBED AND SWORN TO
28 before me this ____ day
29 of _____A.D., ____.

30 _____

1 STATE OF ILLINOIS)

) ss:

2 COUNTY OF C O O K)

3

4 I, CARMELLA T. FAGAN, a Certified
5 Shorthand Reporter and Notary Public within and for
6 the County of Cook and State of Illinois, do hereby
7 certify that heretofore, to-wit, on the 20th day of
8 March, 2009, personally appeared before me at Two
9 Prudential Plaza, 180 North Stetson Avenue, Suite
10 2000, Chicago, Illinois, DIANE CARPER, a witness in a
11 certain cause now pending and undetermined in said
12 Court.

13 I further certify that the said DIANE
14 CARPER, was by me first duly sworn to testify to the
15 truth, the whole truth, and nothing but the truth in
16 the cause aforesaid; that the testimony then given by
17 said witness was reported stenographically by me, in
18 the presence of said witness and afterwards reduced
19 to typewriting via computer-aided transcription, and
20 the foregoing is a true and correct transcript of the
21 testimony so given by said witness as aforesaid.

22 I further certify that the foregoing
23 deposition was adjourned sine die by agreement of
24 counsel for the respective parties.

1 I further certify that the taking of
2 this deposition was pursuant to notice, and that
3 there were appearances as heretofore noted.

4 I further certify that I am not counsel
5 for nor in any way related to any of the parties to
6 this suit, nor am I in any way interested in the
7 outcome thereof.

8 In testimony whereof I have hereunto
9 set my hand and affixed my notarial seal this _____
10 day of _____, _____.
11

12 _____
13 Carmella T. Fagan, C.S.R., R.P.R.
14

15 My notary expires:
16 _____
17
18
19
20
21
22
23
24

ERRATA SHEET – Deposition of Diane Carper, Deponent, March 20, 2009

I wish to make the following changes for the following reasons:

1. Stenographic Error
2. To Clarify
3. To state the Fact

Page 33 Line 24 Change: , no not Brueggemann
Reason: 3

Page 82 Line 8 Change: , and Dan Kent.
Reason: 3

Page 131 Line 12 Change: No, he did not say it was too politically
Reason: sensitive
3

Page 180 Line 14 Change: I did not prohibit polygraphs.
Reason 3



IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

GORDON RANDY STEIDL,)

Plaintiff,)

vs.)

CITY OF PARIS, et al.,)

Defendants.)

No. 05 CV 2127
Judge Harold Baker
Magistrate Bernthal

HERBERT WHITLOCK,)

Plaintiff,)

vs.)

CITY OF PARIS, et al.,)

Defendants.)

No. 08 CV 2055
Judge Harold Baker
Magistrate Bernthal

WITNESS CERTIFICATION - VOLUME I - PAGES 1 - 244

I hereby certify that I have read the foregoing transcript of my deposition, given on the 20th day of March, 2009, at the time and place aforesaid, consisting of pages 1 through 241; and I do again subscribe and make oath that the same is a true, correct, and complete transcript of my deposition so given.

I have not submitted errata sheets.

Signed: Diiane Carper
DIANE CARPER, Deponent

SUBSCRIBED AND SWORN TO
before me this 22nd day
of May A.D., 2009.
[Signature]
NOTARY PUBLIC



**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

| | | |
|-------------------------------|---|----------------------------------|
| GORDON RANDY STEIDL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 05 CV 02127 |
| |) | |
| CITY OF PARIS, et al., |) | Judge Harold A. Baker |
| |) | Magistrate Judge Bernthal |
| Defendants. |) | |

| | | |
|-------------------------------|---|-----------------------|
| HERBERT WHITLOCK, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 08 CV 2055 |
| |) | |
| CITY OF PARIS, et al., |) | |
| |) | |
| Defendants. |) | |

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a copy of the foregoing March 20, 2009 Deposition Transcript of Diane Carper was served upon the following counsel via the Court’s CM/ECF system on the 19th day of March 2010:

Attorneys for City of Paris, Gene Ray, James Parrish and Jack Eckerty:

James G. Sotos
Elizabeth Ekl
Sara Cliffe
Elizabeth K. Barton
John J. Timbo
James G. Sotos & Associates, Ltd.
550 East Devon Avenue, Suite 150
Itasca, IL 60143
jsotos@jsotoslaw.com
eekl@jsotoslaw.com
scliffe@jsotoslaw.com
ebarton@jsotoslaw.com
jtimbo@jsotoslaw.com

Attorneys for Steven M. Fermon, Diane Carper, Charles E. Brueggemann, Andre Parker, Kenneth Kaupas and Jeff Marlow:

Iain D. Johnston
Phil Ackerman
Heidi Steiner
Johnston Greene LLC
542 South Dearborn Street, Suite 1110
Chicago, IL 60605
ijohnston@johnstongreene.com
packerman@johnstongreene.com
hsteiner@johnstongreene.com

Additional Attorneys for Andre Parker and Jeff Marlow:

David C. Thies
John E. Thies
Kara J. Wade
Webber & Thies, P.C.
202 Lincoln Square
P.O. Box 189
Urbana, IL 61803
dthies@webberthies.com
jthies@webberthies.com
kwade@webberthies.com

Attorneys for Michael McFatrige:

Terry A. Ekl
Vincent C. Mancini
Terry Stanker
Ekl Williams PLLC
901 Warrenville Road, Suite 175
Lisle, IL 60532
tekl@eklwilliams.com
vmancini@eklwilliams.com
tstanker@eklwilliams.com

Attorneys for Edgar County:

Michael E. Raub
Brian Smith
Heyl Royster Voelker & Allen
P.O. Box 129
Urbana, IL 61801-0129
mraub@hrva.com
bsmith@hrva.com

The undersigned, an attorney, hereby certifies that a copy of the foregoing March 20, 2009 Deposition Transcript of Diane Carper was served upon the following counsel via email on the 19th day of March 2010:

G. Flint Taylor
Jan Susler
Ben Elson
People's Law Office
1180 North Milwaukee
Chicago, IL 60622
flint.taylor10@gmail.com
jsusler@aol.com
elsonben@aol.com

The undersigned, an attorney, hereby certifies that a copy of the foregoing March 20, 2009 Deposition Transcript of Diane Carper was served upon the following defendant via U.S. first-class mail on the 20th day of March 2010:

Deborah Rienbolt
2116 East Keys Avenue
Springfield, IL 62702

s/ Carrie A. Hall