

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

3 GORDON RANDY STEIDL, )  
4 )  
4 Plaintiff, )  
5 )  
5 -vs- ) 05 CV 02127

6 CITY OF PARIS, et al., )  
7 )  
7 Defendants. )  
8 HERBERT WHITLOCK, )

8 Plaintiff, )  
9 )  
9 -vs- ) 08 CV 2055

10 )  
10 CITY OF PARIS; Present and Former )  
11 Paris Police Officials, Chief Gene )  
11 Ray and Detective James Parrish; )  
12 Former Illinois State Trooper Jack )  
12 Eckerty; Former Edgar County State's )  
13 Attorney Michael McFatridge; EDGAR )  
13 COUNTY; and Illinois State Police )  
14 Officials Steven M. Fermon, Diane )  
14 Carper, Charles E. Brueggemann, )  
15 Andre Parker, Kenneth Kaupus and )  
15 Jeff Marlow; and Deborah Rienbolt, )  
16 )  
16 Defendants. )

17  
18 DEPOSITION OF STEVEN M. FERMON  
19

20 The deposition of STEVEN M. FERMON,  
20 was taken by NICHOLAS W. DIGIOVANNI, C.S.R.,  
21 Notary Public, pursuant to the applicable  
21 provisions of the Federal Code of Civil Procedure  
22 and the Rules of the Supreme Court of the United  
22 States of America, pertaining to the taking of  
23 depositions, at 180 North Stetson Avenue, in the  
23 City of Chicago, Cook County, Illinois, commencing  
24 at approximately 9:45 o'clock a.m. on the 19th day  
24 of February, of the year 2009.

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

3           PEOPLE'S LAW OFFICE, by  
4           Ms. Jan Susler and  
5           Mr. G. Flint Taylor,

6           On behalf of Gordon Randy Steidl;

7           MICHAEL BEST & FRIEDRICH, LLP, by  
8           Mr. Ronald H. Balson and  
9           Ms. Carrie A. Hall,  
10          On behalf of Herbert Whitlock;

11          JOHNSTON GREENE, LLC, by  
12          Mr. Iain D. Johnston,  
13          On behalf of Steven M. Fermon,  
14          Diane Carper, Charles E. Brueggemann,  
15          Andre Parker, Kenneth Kaupus, and  
16          Jeff Marlow;

17          WEBBER & THIES, P.C., by  
18          Mr. David C. Thies,

19          On behalf of Andre Parker and  
20          Jeff Marlow;

21          JAMES G. SOTOS & ASSOCIATES, LTD., by  
22          Ms. Sara Cliffe,  
23          On behalf of City of Paris, Gene Ray,  
24          James Parrish and Jack Eckerty;

          EKL WILLIAMS, PLLC, (Via Telephone),  
          by Mr. Vincent C. Mancini,

          On behalf of Michael McFatrige.

1 HEYL ROYSTER VOELKER & ALLEN,  
 (Via Telephone),  
 2 by Mr. Brian Smith,  
 3 On behalf of Edgar County.  
 4

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1 (Witness sworn.)

2

3 MR. BALSON: Say your full name, please.

4 THE WITNESS: Steven Marion Fermon,

5 F-e-r-m-o-n.

6 MR. BALSON: Let the record show that this  
7 is the deposition of Steven Fermon taken pursuant  
8 to a notice of deposition and the Federal Rules of  
9 Civil Procedure and the rules of the United States  
10 District Court for the Central District of  
11 Illinois.

12 Mr. Fermon, have you had  
13 occasion to give depositions before?

14 THE WITNESS: Yes.

15 MR. BALSON: Well, just so we're all clear  
16 on the ground rules, I'm going to ask a number of  
17 today about you, about your service at the -- in  
18 the Illinois State Police, about your involvement  
19 in the Rhoads investigation.

20 And you've just given your oath  
21 to tell the truth in response to those questions.  
22 If at any time you don't hear my question or don't  
23 understand my question or if it confuses you,  
24 don't answer it. Just tell me, and I'll try to

1 clarify it or restate it or say it louder.

2 Okay?

3 THE WITNESS: Yes.

4 MR. BALSON: All of my questions and all of  
5 your answers are being taken down by the court  
6 reporter. So it's necessary that you vocalize all  
7 your answers.

8 Shrugs of the shoulders,  
9 uh-huhs, um-hums used in normal-day speech don't  
10 always show up right on the transcript. So it's  
11 necessary that you vocalize, give me words in  
12 response to my questions.

13 Finally, if we can both do our  
14 best not to speak while someone else is speaking.  
15 If you wait until I finish my questions before you  
16 start to give an answer, I will try to wait until  
17 you finish giving your answers before I ask the  
18 next question.

19 There may be times when your  
20 attorney raises objections. I suppose we both  
21 should be quiet while he does that and then  
22 respond afterwards.

23 Do you understand these rules  
24 as I've given them to you?

1 THE WITNESS: I believe so, yes.

2 MR. BALSON: All right.

3

4 STEVEN M. FERMON,

5 called as a witness herein, having been first duly

6 sworn, was examined upon oral interrogatories and

7 testified as follows:

8 EXAMINATION

9 by Mr. Balson:

10

11 Q You are a defendant in the case  
12 presently pending brought by Herbert Whitlock, is  
13 that correct?

14 A That's my understanding, yes.

15 Q Well, have you ever read the  
16 complaint?

17 A I don't remember reading the  
18 complaint.

19 Q Do you understand why you're being  
20 sued?

21 A Not really, no, sir.

22 Q No.

23 What is your understanding of  
24 why you're a defendant in this case?

1 MR. JOHNSTON: I'll object, but you can go  
2 ahead and answer as best you can.

3 THE WITNESS: A It's my understanding that  
4 Whitlock and Steidl went through the necessary  
5 process in the Central District of Illinois to  
6 file suit against me and several other defendants.

7 MR. BALSON: Q On what basis? Why did  
8 they sue you?

9 A Sir, I can't tell you why they sued  
10 me.

11 Q You don't have any idea?

12 MR. JOHNSTON: Object to the form of the  
13 question.

14 If you understand what he's  
15 asking you...

16 MR. SMITH: Ron, I'm having a little bit of  
17 a hard time hearing you guys. Can you turn up the  
18 volume or bring the microphone closer?

19 MR. BALSON: We can do that, but we're  
20 going to be moving in about a half hour or so and  
21 we won't have that problem.

22 MR. SMITH: Okay. I can suffer through it  
23 for a half hour.

24 MR. BALSON: Okay.

1 MR. SMITH: All right.

2 MR. BALSON: Q What are the allegations  
3 against you? What does Whitlock say that you did  
4 wrong, from your understanding?

5 THE WITNESS: A I haven't reviewed the  
6 complaint recently, sir. I don't remember what  
7 the allegations were.

8 Q How often do you get sued?

9 A How often do I get sued?

10 Q Do you understand that question?

11 A Sure, I understand it.

12 I don't -- I've been sued or  
13 been a defendant in several federal civil rights  
14 lawsuits, but I don't know with what frequency or  
15 regularity.

16 Q How many times have you been sued in  
17 a civil rights lawsuit?

18 A I believe four or five -- I believe  
19 five.

20 Q Including this one?

21 A As best I recall, sir, yes.

22 Q Okay. Can you give me the names of  
23 each of those cases, please.

24 A I believe one was Donna Beck.



1 Another was Lance Dillon. Another was Michale  
2 Callahan. This case with Steidl and Whitlock.

3 That's all I can remember at  
4 this time.

5 Q What was Donna Beck's case about?

6 A It was a fourth amendment issue,  
7 search and seizure.

8 Q What did she say you did wrong?

9 A I was one of several defendants who  
10 Ms. Beck alleged had unreasonably or unnecessarily  
11 searched her house.

12 Q What was the outcome of that case?

13 A It was settled, but I don't -- I  
14 don't remember the legal terminology under which  
15 it was settled.

16 Q Was money paid to Donna Beck?

17 A I believe so.

18 Q Did you ever see the settlement  
19 agreement?

20 A Not that I remember.

21 Q So as a basis of that settlement  
22 agreement -- no -- as a result of that settlement  
23 agreement she dropped her claims against you?

24 A I don't know the details of the

1 settlement agreement. I mean, it was settled by  
2 the Illinois State Police, the Illinois Attorney  
3 General's Office and Ms. Beck's attorney.

4 Q I don't mean any disrespect, Mr.  
5 Fermon. But when people sue you don't you pay  
6 attention to anything they're saying?

7 MR. JOHNSTON: Objection. Argumentative.  
8 Object to the tone...

9 MR. BALSON: The question --

10 MR. JOHNSTON: I thought we were not going  
11 to interrupt each other.

12 MR. BALSON: Q The question started by  
13 saying I don't mean any disrespect. But when  
14 people sue you don't you pay attention to what  
15 they're saying, what they're charging you with?

16 MR. JOHNSTON: Same objection.

17 Go ahead, Steve.

18 THE WITNESS: A At the time, yes.

19 Ms. Beck's case was in 1994,  
20 some 15 years ago. I mean it was something I  
21 lived through, that I worked with my legal counsel  
22 on and, you know, I moved from that since then.

23 It hasn't been something I  
24 reflected on or actually given a lot of thought

1 until you asked me the question.

2 MR. BALSON: Q What did Lance Dillon sue  
3 you for?

4 A I don't know.

5 I believe that was a first  
6 amendment case where Trooper Dillon was -- sued me  
7 essentially because he felt I had him transferred  
8 to patrol. That was his -- the crux of the  
9 allegation.

10 Q What happened as a result of that  
11 lawsuit?

12 A I won it. It was won.

13 Q It went to trial?

14 A Yes.

15 Q There was a judgment in your favor?

16 A It was a -- it went to trial. It  
17 was -- the outcome of the trial was a mistrial,  
18 and then on appeal there was a judgment entered in  
19 my favor.

20 Q It was only tried once?

21 A Yes.

22 Q Okay. I know about the Callahan  
23 case.

24 And then the Steidl case and

1 the Whitlock case are the only other two times  
2 you've been sued. Is that what you're saying?

3 A As best I can remember. I mean, I'm  
4 trying to think back.

5 In the Callahan case there  
6 was -- I believe it was -- it would be  
7 considered -- it was a suit in Sangamon County  
8 Court, a mandamus type petition or suit by Michale  
9 Callahan and John Baker.

10 Q Do you understand that each of --  
11 both Steidl and Whitlock have sued you alleging a  
12 variety of theories, including a violation of  
13 civil rights?

14 A Yes.

15 Q And that it arises out of their  
16 conviction and continued incarceration? You  
17 understand that?

18 A Yes, sir.

19 Q Okay.

20 Prior to coming here today,  
21 other than with your attorney, Mr. Johnston, or  
22 someone in his office, have you discussed this  
23 case with any other person?

24 A I haven't discussed the case. I let

1 my supervisors know that I'd be giving a  
2 deposition and kind of my whereabouts today. But,  
3 no, sir.

4 Q Did you review any documents before  
5 coming here today?

6 A Yes, sir.

7 Q What did you review?

8 A I reviewed several hundred pages of  
9 documents that my attorney, Mr. Johnston,  
10 provided.

11 Q Tell me, what was in those several  
12 hundred pages?

13 A I don't remember all of them, but  
14 there was -- there was assorted e-mails,  
15 transcripts, interrogatory responses.

16 Q Did you review Michale Callahan's  
17 reports, his memoranda?

18 A I reviewed -- are you referring  
19 specifically to one?

20 Q Any.

21 A Yeah, I reviewed some.

22 Q Which ones?

23 A I don't remember that. I reviewed a  
24 few of them, but I don't remember.

1 Q When did you do this review?

2 A Well, with Mr. Johnston's staff  
3 yesterday. Mr. Johnston and I met last week, I  
4 believe, and reviewed them at that time.

5 Q Did you read through them also on  
6 your own and not in the presence of Mr. Johnston  
7 or his staff?

8 A Yes. I did some independent reading,  
9 but I don't remember which ones I read. There was  
10 several -- several documents.

11 Q The transcripts that you read, which  
12 ones did you read?

13 A I reviewed -- I didn't read them in  
14 their entirety, but I reviewed part of a  
15 deposition transcript in the Callahan case. I  
16 don't even remember what year that was.

17 I reviewed a portion of the  
18 transcript of my trial testimony in the Callahan  
19 case.

20 Q Did you review any investigation  
21 reports, interview reports, reports called 4-3s?

22 A Not that I remember, no.

23 Q What is your current position?

24 A I'm a Captain for the Illinois State

1 Police, and I'm assigned to the division of  
2 operations, critical incident response command,  
3 which is our -- basically our tactical response  
4 team.

5 Q Forgive me. I don't know what the  
6 tactical response team does. Can you tell me?

7 A Yes. Tactical response team, among  
8 other things, provides tactical support for  
9 investigative units, city and local police  
10 departments in circumstances such as execution of  
11 search warrants, hostage, barricade subjects. In  
12 addition it has the responsibilities for the state  
13 weapons of mass destruction team as first  
14 responders in the event of a terrorist incident or  
15 a biohazard, that type of thing.

16 Q I take it as captain your position is  
17 one of supervision. You don't actually go out in  
18 to the field and serve search warrants and all,  
19 right?

20 A Right -- well, correct. That is  
21 partially right.

22 I am basically an  
23 administrative officer now handling the business  
24 end of the weapons of mass destruction team. So

1 I'm not really anyone's direct supervisor. More  
2 like an executive office, business manager.

3 But you're correct that I don't  
4 go out in the field and do the search warrants and  
5 that type of thing.

6 Q How old are you, sir?

7 A 48.

8 Q Where is this division of operations  
9 located, your offices?

10 A My office is located at 4700 Rogers  
11 Street in Springfield.

12 Q Can you briefly give me a history of  
13 your service in the Illinois State Police  
14 beginning with when you started.

15 A I came on with the Illinois State  
16 Police as a cadet in 1983.

17 I was assigned, upon graduation  
18 from the academy, to Illinois State Police  
19 District Nine patrol, which was in Springfield. I  
20 served there until mid-1984, when I went to the  
21 Illinois division of criminal investigation.

22 I was in zone nine, which is  
23 still Springfield, but a different office  
24 location. I was assigned as general criminal



1 investigator.

2 Q What was your rank at that time?

3 A Agent, special agent.

4 Q Okay. How long did you serve there?

5 A I served in zone nine until about  
6 1993, and then I went to -- was assigned to go to  
7 the Vermillion County Metropolitan Enforcement  
8 Group as a director, and that's located in  
9 Danville.

10 Q In '93?

11 A Yes.

12 Q And what is the Vermillion  
13 Metropolitan Enforcement Group?

14 A It's basically a small drug  
15 enforcement unit charged with enforcing state and  
16 federal drug laws in Vermillion County, Illinois.  
17 It's a one-county drug enforcement unit.

18 Q And where were you stationed --  
19 Danville you said?

20 A Danville, yes, sir.

21 Q What was your rank at that time?

22 A Master sergeant.

23 Q How long did you stay in that  
24 capacity?

1 A About five and a half years.

2 Q Then what?

3 A About five and a half years, yeah.

4 Then I was transferred or I  
5 accepted a position -- a temporary position in  
6 Champaign at the Illinois State Police District  
7 Ten investigations.

8 Q Criminal investigations is it?

9 A It was just investigations office,  
10 patrol and investigations.

11 Q How long did you remain -- well was  
12 this in '98 or '99?

13 A I think -- as best I can remember I  
14 was at VMEG about five and a half years. So I  
15 don't remember specifically, but I -- I think  
16 between '98 and '99.

17 Q Okay. You said this was a temporary  
18 posting?

19 A I was -- it was an acting job. I was  
20 acting investigations commander, which was  
21 temporary in nature at that point.

22 Q Why was it temporary in nature?

23 A The lieutenant that had been there,  
24 sir, had been reassigned.

1 Q Who was that?

2 A Rex Ketchum.

3 Q Okay. How long did you stay in your  
4 post as temporary or acting investigations  
5 commander?

6 A I don't remember specifically, but  
7 somewhere in '99 I went to Springfield. I  
8 accepted a position in Springfield as the  
9 statewide investigations administrator.

10 Q What are the duties of the statewide  
11 investigations administrator -- or what were they  
12 in '99?

13 A At that time it was a newly created  
14 type position -- or a new position. The duties  
15 were primarily administrative, identifying --  
16 training, delivering training, identifying  
17 problems, developing solutions or recommendations  
18 for the problems.

19 Q Can you give me an --

20 A Staff...

21 Q -- An example of that? What type of  
22 problems and solutions?

23 A Well at the time the state police was  
24 undergoing sort of changes -- there was movements

1 toward breaking -- enhancing the investigative  
2 activities. So I was part of a work group and  
3 committee, I guess, if you will, to identify what  
4 problems there were and then make recommendations  
5 as to -- or suggestions as to structuring -- to  
6 better serve, you know, the customers, basically,  
7 the people of Illinois.

8 Q These were administrative problems  
9 and how to deploy personnel and that sort of  
10 thing?

11 A Largely administrative.

12 Deployment of personnel -- I  
13 mean it required basically a split of patrol at  
14 that time, state police patrol -- if you were the  
15 patrol commander in district ten, Champaign, then  
16 you were the commander. You were in charge of  
17 both patrol and you were in charge of  
18 investigations.

19 And after -- part of what --  
20 the job I took as the investigations  
21 administrator, part of it was meeting with other  
22 people within the agency, identifying what issues  
23 they were facing.

24 And ultimately the department

1 moved toward having zones, investigative zones,  
2 with a captain in charge of that. So it was sort  
3 of a split away from traditional patrol  
4 activities.

5 Q All right. How long did you remain  
6 in the position of statewide investigation  
7 administrator?

8 A Until about November -- late October,  
9 early November of 2001.

10 Q What post did you assume at that  
11 time?

12 A I was assigned to the -- as the  
13 investigations commander in zone ten, which was --  
14 I'm sorry -- zone five, which was Champaign, which  
15 is Champaign.

16 Q And who did you replace at that time?

17 A Major Edie Cassella.

18 Q To the best of your memory why was  
19 Major Cassella transferred or why did this vacancy  
20 occur?

21 A You asked me two questions.

22 Q Okay. Fair enough.

23 A The vacancy occurred because she was  
24 transferred. Why she was transferred, I don't

1 know.

2 Q You don't know that?

3 A No. I was never told that.

4 Q Okay.

5 And how long did you serve as  
6 investigations commander in zone five?

7 A Until June of 2003.

8 Q What happened then?

9 A I was reassigned to operational  
10 services command in Springfield.

11 Q What were your duties in operational  
12 services command?

13 A That was -- operational services  
14 command, sir, was the overall command. I was  
15 assigned as a bureau chief within that command,  
16 and I went to -- I believe first I went to what  
17 was commonly known as the intelligence bureau, but  
18 we had -- I don't recall the name we had for it.

19 There was a name attached to  
20 it. Special operations bureau or something like  
21 that.

22 Q How long did you remain a bureau  
23 chief in the intelligence bureau?

24 A About -- I think about a year and a

1 half, but that's just an estimate.

2 Q Okay.

3 What was your next assignment?

4 A I was then assigned within  
5 operational services command, and the bureau was  
6 called statewide support services.

7 Q Okay.

8 A And that was basically the bureau  
9 that our second division enforcement, truck  
10 troopers, missing children program, those type of  
11 support -- statewide support programs were under.

12 Q When was this transfer?

13 A I'm sorry?

14 Q I'm sorry. Did you give me a date  
15 when you were transferred to the statewide support  
16 services?

17 A I don't remember the date. I was at  
18 the intelligence bureau about a year and a half  
19 and then was transferred to the support services  
20 bureau.

21 Q '04, '05?

22 A I believe '04.

23 Q Okay.

24 A As best I remember, '04.

1 Q How long did you remain there?

2 A Matter of months, four or five  
3 months.

4 Q Okay.

5 A Short period of time.

6 Q Then where were you assigned?

7 A I was transferred to the State Police  
8 Medicaid Fraud Control Bureau. Responsibilities  
9 were administration of -- investigation of  
10 Medicaid fraud, everything from pharmaceuticals to  
11 medical transport. Part of our responsibilities  
12 were investigation of abuse cases against seniors  
13 in nursing home facilities.

14 Q How long did you remain there?

15 A I don't remember. More than a year,  
16 I believe, but I don't specifically remember.

17 Q Well I'm up to about 2006. Is that  
18 about right?

19 A I believe so.

20 Q What was your next assignment?

21 A I was assigned to the division of  
22 operations more as a special projects officer.  
23 And that was for a short duration. I can't recall  
24 how long.



1           Q       What were the duties of a special  
2 projects officer?

3           A       Basically whatever project -- as I  
4 saw it, whatever project we were asked to do.

5                   I did a study -- was asked to  
6 do some research in to confidential source  
7 payments, administration of confidential source  
8 funds, that type of thing.

9                   I reviewed -- I recall  
10 reviewing how the state police handled -- how we  
11 handled fatal accidents involving youthful  
12 drivers, teenage drivers.

13                   I recall doing some research  
14 on -- preliminary research on Scott's Law and --  
15 and whatever you were asked to do by the colonel  
16 or the deputy director of staff.

17           Q       What was your next assignment?

18           A       Where I am today.

19                   I was first temporarily  
20 assigned to the critical incident response command  
21 and later -- which is, you know, basically  
22 administrative. Then transferred -- assigned to  
23 the critical incident response command. It's been  
24 three years since I've been there.

1 Q When did you attain or achieve the  
2 rank of captain?

3 A I believe it was the spring of 2000.

4 Q That's the rank you still hold,  
5 right?

6 A Yes, sir.

7 Q You know what I'm talking about when  
8 I say the Rhoads murders, don't you?

9 A I know -- I'm familiar with that, but  
10 I don't know what you're talking about.

11 Q All right. Fair enough.

12 In 1986, on July 6th, Dyke and  
13 Karen Rhoads were murdered in their home and their  
14 home was set on fire. Are you aware of that?

15 A Yes.

16 Q Okay. So if I refer to the Rhoads  
17 murders or the Rhoads case, it's any  
18 investigations pertinent to that case and that  
19 case itself.

20 Do you understand that, so that  
21 we're clear on terminology?

22 A Yes. Thank you.

23 Q All right.

24 Are you also familiar with a

1 man named Bob Morgan?

2 A I'm familiar with the name, yes.

3 Q Are you also aware of the fact that  
4 from time to time, by various agencies, Mr. Morgan  
5 has been the subject of investigations?

6 A That's my understanding.

7 Q Okay.

8 And are you familiar with an  
9 operation called Eiffel Tower?

10 A Yes.

11 Q What do you understand Operation  
12 Eiffel Tower to mean?

13 A I don't know how they derived the  
14 designation for the operation as Eiffel Tower.  
15 I'm assuming it's because, when you go in to  
16 Paris, there's a replica, a miniature Eiffel Tower.

17 But that was a -- an open  
18 active case that was -- I know that there were  
19 confidential source payments made under the case,  
20 that there were other operational activities that  
21 were being -- investigative steps being taken  
22 under that case.

23 Q To investigate what? Do you know?

24 A Well it was my understanding they

1 were investigating Bob Morgan and his activities  
2 and any associates or any peripheral people, that  
3 type of thing.

4 Q Was this also an organized crime,  
5 drug enforcement task force case?

6 A Not that I remember.

7 Q Okay.

8 Going back to '93 when you were  
9 with VMEG in Danville, did you have anything to do  
10 with either the Rhoads case, the Morgan case or  
11 Operation Eiffel Tower?

12 A No.

13 Q When you were at your temporary  
14 position in Champaign as acting investigative  
15 commander in '98 and '99 did you have anything to  
16 do with either the Rhoads case, the Morgan case or  
17 Operation Eiffel Tower?

18 MR. TAYLOR: Sorry.

19 MR. BALSON: Don't get settled. We're  
20 going to move in about two minutes.

21 MR. TAYLOR: Okay.

22 THE WITNESS: Can you do me a favor and  
23 repeat the question. I was distracted by them  
24 coming in.

1 MR. BALSON: Q I was taking you through  
2 your various command posts --

3 THE WITNESS: A Right.

4 Q -- Trying to figure out when you  
5 would have been involved. Okay?

6 A Right.

7 Q The question I posed to you a minute  
8 ago was, when you had your temporary posting in  
9 Champaign as acting commander, if you were  
10 involved...

11 A Oh, right. Not that I remember, no.

12 Q All right.

13 When you were posted in '99 as  
14 a statewide investigative administrator, did you  
15 have any involvement in the Rhoads case, the Bob  
16 Morgan case or Operation Eiffel Tower?

17 A In '99, no, sir, not that I remember.

18 Q Where were you in April of 2000?

19 A Where was I assigned?

20 Q Um-hum.

21 A I was assigned to the statewide  
22 investigations administrator job.

23 Q And was that in Springfield?

24 A Yes, sir.

1 Q Who was your supervisor in that  
2 position?

3 A Deputy Director Dan Kent.

4 Q And who was Deputy Director Kent's  
5 supervisor up the chain of command?

6 A Director -- we had First Deputy  
7 Director Doug Brown.

8 Q Okay.

9 A And Director Sam Nolen.

10 Q Okay.

11 A But I don't remember as far as -- you  
12 asked -- as far as Colonel Kent's chain of  
13 command, I don't know which one of those gentlemen  
14 he was accountable to, one or both.

15 Q But you were accountable to Colonel  
16 Kent?

17 A Yes, I reported to Colonel Kent.

18 Q Okay.

19 When you were investigation  
20 commander in zone five from November '01 to June  
21 of '03 did you have involvement in the Rhoads  
22 murder case, the Bob Morgan investigation or  
23 Operation Eiffel Tower?

24 A Yes.

1 Q And at that time who did you report  
2 to?

3 A I reported to Lieutenant Colonel  
4 Diane Carper.

5 Q And if you remember the chain of  
6 command, who did Colonel Carper report to at that  
7 time?

8 A Assistant Deputy Director Andre  
9 Parker for a portion of that time and Assistant  
10 Deputy Director Mike Snyders. I believe that's  
11 it.

12 Q After June of '03 did you have any  
13 more involvement in either the Rhoads case, the  
14 Bob Morgan investigation or Operation Eiffel  
15 Tower?

16 A No.

17 MR. BALSON: We can take ourselves a  
18 five-minute break or so. We're going to switch  
19 rooms and go in to the board room we were in  
20 yesterday.

21

22 (Short recess was had.)

23

24 MR. BALSON: What was my last question and

1 answer?

2 (Record read.)

3

4 MR. BALSON: Q Do you know Jack Eckerty?

5 THE WITNESS: A Yes.

6 Q How long have you known Jack Eckerty?

7 A Since the mid-'80s I'm -- yeah, since  
8 the mid-'80s.

9 Q Under what circumstances did you meet  
10 him?

11 A I don't remember.

12 We were -- I was a young  
13 special agent in the division of criminal  
14 investigation, and I know that Jack Eckerty was an  
15 agent in a similar position in Champaign. I was  
16 assigned to Springfield at the time.

17 Q Do you have a boat?

18 A Yes.

19 Q Do you keep it at Lake Shelbyville?

20 A No.

21 Q Did you ever go boating with Jack  
22 Eckerty?

23 A No.

24 Q Did you ever do any work with Jack



1 Eckerty?

2 A Not that I can remember, no.

3 Q Never did any investigations with  
4 him?

5 A Not that I remember.

6 Q Never?

7 A No.

8 Q Never conducted an interview with  
9 him?

10 A Not that I remember, no.

11 Q Did you ever socialize with Jack  
12 Eckerty?

13 A I recall going to a cook-out or  
14 something many, many years ago, probably mid or  
15 late '80s. That's the extent of it.

16 Q Well when you were at the cook-out  
17 with Jack Eckerty was he in the course of  
18 investigating the Rhoads homicides?

19 A I have no idea.

20 Q Did Jack Eckerty ever have occasion  
21 to discuss his investigations of the Rhoads  
22 homicides with you?

23 A The only time that the -- this  
24 lawsuit has been discussed where Jack Eckerty and

1 I were in the same room was with legal counsel at  
2 the state police armory room.

3 Q When was that?

4 A Couple years ago.

5 Q Is that the last time you spoke to  
6 Jack Eckerty?

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

9 You can answer it as best you  
10 can.

11 THE WITNESS: A I believe so. Yes, sir.

12 MR. BALSON: Q Did you have occasion to  
13 talk to Jack Eckerty about either the Steidl  
14 lawsuit or the Whitlock lawsuit?

15 MS. CLIFFE: Object to the form.

16 MR. JOHNSTON: Is this at the meeting?

17 MR. BALSON: At any time.

18 THE WITNESS: A No, I didn't discuss it  
19 with Jack Eckerty.

20 By the time we were at this  
21 meeting we were all defendants in this litigation,  
22 and I didn't feel it was necessary to talk to him  
23 about it.

24 MR. BALSON: Q Okay.

1 Do you know Jim Parrish?

2 A No.

3 Q Have you ever spoken to Jim Parrish  
4 about this -- either the Steidl case or the  
5 Whitlock case?

6 A I have never spoken to Jim Parrish,  
7 period, sir.

8 Q Okay.

9 Do you know Eugene Ray?

10 A No, sir.

11 Q Have you ever spoken to Eugene Ray?

12 A No, sir.

13 Q Do you know Mike McFatrige?

14 A No, sir.

15 Q Ever speak to Mike McFatrige?

16 A No, sir.

17 Q Do you know Bob Morgan?

18 A No, sir.

19 Q Ever speak to Bob Morgan?

20 A No, sir.

21 Q Where do you live currently?

22 A I live...

23 Q I don't need your home address. Just  
24 give me the town.

1           A       My mailing address is a Chrisman -- I  
2 live in the country. There is no town, sir.

3           Q       What town do you live near?

4           A       Near Chrisman, Chrisman, Illinois,  
5 and Ridgefarm, Illinois, and Dana, Indiana.

6           Q       Farm country?

7           A       Very much so, sir, yes.

8           Q       Are you a farmer?

9           A       No, sir.

10          Q       You just like to live out in the  
11 country?

12          A       Yes.

13          Q       I don't know where those cities are.  
14 Can you tell me where they are in relation to some  
15 cities that I might know?

16          A       Sure.

17                   Basically, Chrisman and  
18 Ridgefarm are on Illinois Route 1, straight south  
19 of Chicago; but the closest mid-level city would  
20 be Danville.

21                   Ridgefarm is about 25 miles,  
22 I'm estimating, south of Danville; and Chrisman is  
23 another seven or eight miles south of that.

24          Q       How big a town is Ridgefarm?

1 A Maybe 300, 400.

2 Q Did you know Karen Rhoads?

3 A Yes.

4 Q When did you first meet Karen Rhoads?

5 A I didn't meet Karen Rhoads. I met  
6 Karen Spessard --

7 Q Okay.

8 A -- In the late -- I don't recall  
9 exactly the date, but in Ridgefarm, Illinois at  
10 basically a kegger. The house was on Illinois  
11 Route 1, and there was myself and several other  
12 college buddies, I guess.

13 Q Can you give me an approximate time,  
14 a date?

15 A Winter, maybe, of '79 or winter of  
16 '80.

17 Q Okay.

18 A Possibly even as late as '81. During  
19 the college days.

20 Q You were in college?

21 A Yes.

22 Q Where?

23 A Danville Area Community College first  
24 and then Indiana State University.

1 Q And you met Karen at a party?

2 A Yes.

3 Q Did you ever date her?

4 A No, sir.

5 Q Did you ever see her socially other  
6 than that one time?

7 A No.

8 Q That's the one and only time you ever  
9 met Karen Spessard?

10 A That's the only time I remember.

11 Q Any friends of yours ever date her?

12 A Acquaintance -- an acquaintance of  
13 mine dated her, a person I met -- it was basically  
14 the same circumstance. We had kind of regular  
15 keggers back then.

16 Q Um-hum.

17 A But she dated Tim Busby.

18 Q Tim Busby was a friend of yours?

19 A I wouldn't -- I wouldn't characterize  
20 him as a friend. He's an acquaintance, someone  
21 I've known for a number of years.

22 He still lives in the  
23 community, but we don't really socialize or have  
24 any relationship.

1 Q Did you have occasion to go out  
2 socializing when Tim Busby was with Karen?

3 A No.

4 Q But you knew that Tim Busby dated  
5 Karen?

6 A That was my understanding, yes.

7 There were several of the  
8 Spessard sisters -- I mean, like half a dozen.  
9 There were a lot of Spessard girls.

10 And this is a small town and,  
11 you know, all the guys are dating the available  
12 girls is what it amounted to.

13 Q Did you ever date a Spessard girl?

14 A No.

15 Q Did you know Marge Spessard?

16 A Marge, no.

17 Q The mother.

18 A No. I've never met her that I know  
19 of.

20 Q Did you know the other Spessard  
21 girls?

22 A Well, I knew a couple of them when I  
23 saw them. But I didn't know them well.

24 Q You didn't socialize with them?

1           A        If they were at the same kegger or  
2 party we were at, if that's socializing -- it was  
3 sort of open door.  People came and went, and that  
4 was the extent of it.

5           Q        Did you know Dyke Rhoads?

6           A        No.

7           Q        You never met Dyke Rhoads?

8           A        No.

9           Q        Did you know Nanette Klein?

10          A        I couldn't hear the name.

11          Q        Nanette Klein.

12          A        No, not that I -- I don't ever  
13 remember anyone of that name.

14          Q        She may have lived in Chrisman.

15          A        No.

16          Q        How about Christie Ferris?

17          A        No, sir.

18          Q        Okay.

19                    How far is your home from  
20 Springfield?

21          A        Somewhere in the vicinity of 140  
22 miles.

23          Q        You make that trip every day?

24          A        No.



1 Q How often do you go to Springfield?

2 A Really just when it's necessary for  
3 meetings and work, but I travel over there --  
4 sometimes four days a week I'm in Springfield and  
5 sometimes one day.

6 Q But that's your office?

7 A That's -- yeah, that's the CIRCUM  
8 office. That's where the headquarters is.

9 Q You have other offices?

10 A I have a small office in Danville at  
11 the Vermillion County MEG unit.

12 And that's about 25 miles from  
13 my home. So it makes it much easier to go to  
14 work.

15 MS. SUSLER: Mr. Fermon, can you do me a  
16 favor? Can you keep your voice up a little more.  
17 We're in a bigger room.

18 MR. SMITH: Also the microphone is cutting  
19 out every other word.

20 MS. HALL: You're cutting up too.

21 MR. REPORTER: I'll keep this off.

22

23 (Discussion held off the record.)

24

1 MR. BALSON: Q Okay. The home that you  
2 live in now, how long have you lived there?

3 THE WITNESS: A Since late -- I think  
4 late '93, sir.

5 Q But you grew up in that area?

6 A No. I grew up in Danville.

7 Q Okay.

8 A And then when I took the job in  
9 Vermillion County at VMEG, in '93 I moved back  
10 east. But I didn't grow up in that area, no.

11 Q Okay. When was the first time in  
12 your memory that the Rhoads homicides came to you  
13 in a professional way, not just reading it in the  
14 paper, but actually came before you as a matter --  
15 an Illinois State Police matter?

16 A Really probably in 2000 -- yeah, 2000  
17 when -- yeah, I believe it was the spring of 2000.

18 Q And how did that happen to come  
19 across your desk or how did that -- how did you  
20 happen to become involved in 2000 in something  
21 concerning the Rhoads matter?

22 MR. JOHNSTON: Object to the form of the  
23 question.

24 Go ahead and answer.

1           THE WITNESS:  A  Lieutenant Colonel  
2           Carper -- it was my understanding the department  
3           had received a letter from Bill Clutter, and  
4           Lieutenant Colonel Carper and I had a conversation  
5           about responding to that letter.

6           MR. BALSON:  Q  Where did this conversation  
7           take place?

8           A        In the armory building in  
9           Springfield.

10          Q        Who was present besides yourself and  
11          Lieutenant Carper?

12          A        It was just the two of us present.

13          Q        What did she say to you on that  
14          occasion?

15          A        I can't recall specifically what she  
16          said, but the discussion was about Clutter's  
17          letter coming in to the department and having a  
18          response prepared, a prepared response by district  
19          ten.

20          Q        Did she give you any assignment at  
21          that time?

22          A        No.

23          Q        Why did she discuss the matter with  
24          you?

1                                   If you know.

2           A        I don't know.

3           Q        Did she ask you for your input on  
4 what the response should be?

5           A        I don't recall her specifically  
6 asking, but I made a suggestion on how to -- what  
7 I thought was the most appropriate way to respond  
8 to the letter.

9           Q        What was your suggestion?

10          A        I suggested that, before the state  
11 police responded or basically sent back a letter  
12 to Mr. Clutter, that our investigations office,  
13 Lieutenant Callahan, review -- you know, review  
14 the case.

15          Q        Did you suggest Lieutenant Callahan?

16          A        I don't remember if I suggested it or  
17 specifically named him at that time.

18                                   But he was the investigations  
19 commander, and I was of the opinion that our  
20 investigations office should be responding to that  
21 type of letter.

22          Q        Who was the letter sent to?

23           MR. JOHNSTON:  Objection to form.

24           MR. BALSON:  Q   The letter by Mr. Clutter.

1 MR. JOHNSTON: You can go ahead and answer  
2 it.

3 THE WITNESS: A If I can recall correctly,  
4 it was sent to the director of the state police,  
5 Sam Nolen at the time.

6 MR. BALSON: Q Did you have any  
7 conversation with Sam Nolen?

8 A No.

9 Q What was Gary Rollings' role in all  
10 of this?

11 If you know.

12 A When you say all of this, I don't  
13 know...

14 Q Well I'm talking about receiving the  
15 letter and assigning someone to evaluate it and  
16 respond to it.

17 A Okay. Thank you.

18 It's my understanding in that  
19 context that Gary Rollings had -- it was my  
20 understanding that Gary Rollings was going to  
21 prepare -- or had been assigned to prepare a  
22 letter responding to Mr. Clutter, and that's  
23 really all the extent that I know of what his  
24 involvement was.

1 Q What was Gary Rollings' position at  
2 that time?

3 A I believe Lieutenant Rollings was the  
4 patrol lieutenant at district ten. I don't recall  
5 if he was -- yeah. That's what his position was  
6 at the time.

7 Q Did you know how Lieutenant Colonel  
8 Carper got involved in this?

9 A No, other -- I don't know how she got  
10 involved, other than the fact that the letter came  
11 in and it came downhill, so to speak, for a  
12 response.

13 Q Did you read the letter, Bill  
14 Clutter's letter?

15 A I've read it at some point. I don't  
16 remember when I actually read it or if I read it  
17 at that time, but at some point over the last  
18 eight or nine or ten years I've read the letter.

19 Q What was your impression when you  
20 read the letter?

21 A I haven't seen the letter in so long,  
22 sir. I don't remember what my impression was at  
23 that time.

24 I don't remember sitting here

1 today what Bill Clutter outlined in the letter.

2 All I can really recall is that I was just  
3 being -- just by the fact that Bill Clutter  
4 originated the letter, I was skeptical of the  
5 information.

6 Q Why were you skeptical?

7 A I knew Bill Clutter to be the private  
8 investigator, investigator, if you will, for Mike  
9 Metnick, the defense attorney there in  
10 Springfield; and I had known both Mr. Metnick and  
11 Mr. Clutter through those -- through cases and  
12 things.

13 Q Why would your knowledge of Mr.  
14 Metnick and Mr. Clutter lead you to be skeptical  
15 about Mr. Clutter's letter?

16 A The fact that they were both what I  
17 would consider -- Mr. Metnick I considered to be a  
18 good attorney. He -- having an responsibility to  
19 advocate for their clients, I just didn't -- I was  
20 skeptical and would be skeptical of anything  
21 coming from really any defense attorney or any  
22 investigator from that office.

23 Q So just generally you would have been  
24 skeptical of such a letter coming from any

1 investigator or defense attorney, not just Mr.  
2 Clutter or Mr. Metnick?

3 MR. JOHNSTON: Object to the form of the  
4 question.

5 MR. BALSON: Q Do I understand you  
6 correctly?

7 MR. JOHNSTON: I'll object to the form of  
8 the question.

9 Go ahead and answer.

10 THE WITNESS: A Yes, I would generally be  
11 skeptical.

12 MR. BALSON: Q But other than the fact  
13 that it came from Mr. Clutter who you understood  
14 worked for Mr. Metnick, you didn't have any  
15 factual basis for being skeptical of this letter  
16 when you first saw it in -- whenever you first saw  
17 it?

18 A Not -- I was just skeptical of  
19 Clutter and Metnick because of my past experience  
20 with them and knowing that they were defense  
21 attorneys.

22 Q Okay.

23 A An advocator for their clients.

24 Q At the time that you first saw this



1 letter what information did you have about the  
2 Rhoads murders?

3 MS. CLIFFE: Object to the form.

4 MR. JOHNSTON: You can go ahead and answer.

5 THE WITNESS: I can't hear what she's  
6 saying.

7 MS. CLIFFE: I objected to the form.

8 MR. BALSON: For some reason she objected  
9 to the form of the question. Go ahead and answer.

10 THE WITNESS: Could you repeat it for me.  
11 I was distracted...

12 MR. BALSON: Q Yeah. At the time that you  
13 read Mr. Clutter's letter what information did you  
14 already know about the Rhoads murders?

15 THE WITNESS: A I -- if I remember  
16 correctly, I already -- I mean, I knew that the  
17 homicides had happened.

18 I knew that there had been --  
19 that Whitlock and Steidl had been tried and  
20 convicted of murder in Edgar County. I knew that  
21 there had been appeals, various natures of appeals  
22 over the years.

23 I knew that -- that's about it.

24 I think that by that time there

1 had been a -- I recall reading in the paper that  
2 there had been a resentencing of one of the  
3 defendants, I believe Mr. Steidl.

4 As best I can remember, that's  
5 what I knew at that point.

6 Q Did you amass this knowledge from any  
7 source within the ISP or the Edgar County State's  
8 Attorney's Office or the Paris Police Department?

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

11 You can go ahead and answer.

12 MS. CLIFFE: I join the objection.

13 THE WITNESS: A No.

14 MR. BALSON: Q So how did you come to this  
15 knowledge?

16 A Pretty much common knowledge. Part  
17 of it was things that I recall seeing in the  
18 paper.

19 I believe when the resentencing  
20 issue -- I read an article in the newspaper at  
21 some point in time on the resentencing issue. I  
22 believe the article -- or the resentencing was in  
23 Clark or Crawford County. So I remember reading  
24 about that.

1                               Pretty much just common

2 knowledge. I mean...

3               Q       You followed it in the papers?

4               A       Well, I don't take the paper. So  
5 occasionally if my mother finds something that's  
6 about -- she's quite a crime buff.

7                               If she finds something, she  
8 saves it for me. That's generally how I get  
9 newspaper information, sir.

10              Q       So you just knew about this through  
11 common knowledge and not through your professional  
12 employment?

13              A       That's correct.

14              Q       Did you follow this case at all  
15 because you knew Karen Spessard?

16              MS. CLIFFE: I'm just going to object to  
17 the form of the question.

18              THE WITNESS: A No, not really. I didn't  
19 know her that well.

20                               But in 1986, you know, when it  
21 happened I don't think I even -- I don't recall  
22 even reading it or hearing about it in the paper.

23                               But a friend of mine from Texas  
24 called and told me. Because of the name -- if not

1 for that, I would have never put her with the name  
2 of Rhoads. So...

3 MR. BALSON: Q Was there -- at the time  
4 that Clutter's letter came to the department and  
5 you had this conversation with Diane Carper, was  
6 there a file in the Illinois State Police office  
7 on this Rhoads murder?

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

10 Go ahead and answer as best you  
11 can.

12 THE WITNESS: A I don't know if there was  
13 or not. I'm assuming that there would be, but I  
14 don't know that for sure.

15 MR. BALSON: Q Did you -- at the time you  
16 had your conversation with Lieutenant Colonel  
17 Carper, did you do any research in to this murder  
18 or the trials or the appeals yourself?

19 A No, sir, I didn't.

20 Q So you just made a suggestion to her  
21 that you thought that Lieutenant Callahan ought to  
22 be assigned to evaluate this and make a report on  
23 it?

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

1 the question. Go ahead -- mischaracterizes the  
2 testimony.

3 Go ahead.

4 THE WITNESS: A I wouldn't say it quite  
5 like that.

6 MR. BALSON: Q What would you say?

7 A What I was suggesting is either  
8 Lieutenant Callahan or the investigative office  
9 review the case. And over the period -- I can't  
10 remember if I specifically said Lieutenant  
11 Callahan or if I specifically said, you know, the  
12 investigative office.

13 But it was just a suggestion,  
14 merely a suggestion, that the investigative office  
15 should review the case.

16 Q Did you see Director Nolen's response  
17 to Bill Clutter, his letter responding to Bill  
18 Clutter?

19 A Not that I remember, no.

20 Q Do you know whether or not Director  
21 Nolen responded directly to Bill Clutter about  
22 what was going to be done by the Illinois State  
23 Police?

24 A No.

1                   Let me back up a second to your  
2 first question, if I had ever seen the letter. At  
3 some point in time I saw -- some point since the  
4 last seven or eight years I saw the letter that  
5 Director Nolen had sent out. I believe I remember  
6 seeing that.

7                   And I say that because there  
8 was -- I recall a line -- I remember a line in the  
9 letter where essentially Mr. Clutter and  
10 Lieutenant Callahan were -- you know, please  
11 contact Lieutenant Callahan type thing and work  
12 with him directly or communicate with him  
13 directly.

14                   So at some point in time I  
15 remember seeing the letter, but I can't tell you  
16 when.

17           Q       Did Director Nolen state that the  
18 foremost interest of the Illinois State Police in  
19 this and in any case is to seek the truth and  
20 ensure justice is done?

21           A       I don't know. I don't remember that.

22           Q       But you would agree with that  
23 statement in any event, wouldn't you?

24           MR. JOHNSTON: Object to the form of the

1 question.

2 Go ahead and answer.

3 MS. CLIFFE: I join.

4 THE WITNESS: I -- if you could repeat the  
5 question. I don't...

6 MR. BALSON: Q The foremost interest of  
7 the Illinois State Police in this or in any case  
8 is to seek the truth and ensure justice is done.

9 THE WITNESS: A Okay.

10 Q And if Director Nolen wrote that in  
11 response to Bill Clutter, you would agree with  
12 that; wouldn't you?

13 MR. JOHNSTON: Object to the form of the  
14 question.

15 You can go ahead and answer.

16 MS. CLIFFE: I join.

17 THE WITNESS: A Yes.

18 MR. BALSON: Q You said that you spoke  
19 with Lieutenant Colonel Carper in the armory about  
20 this letter. Did you also speak with Gary  
21 Rollings at or about that time?

22 A Not that I remember, no.

23 Q Were you present when Gary Rollings  
24 spoke to Michale Callahan?

1           A       Not that I remember, no.

2           Q       Do you know how it was that Gary  
3 Rollings got involved in Michale Callahan's  
4 assignment to investigate this matter?

5           A       No, I don't.

6           Q       Did Director Nolen through the chain  
7 of command tell Gary Rollings to assign this to an  
8 investigator for evaluation?

9           MR. JOHNSTON: Object to the form of the  
10 question.

11                               Go ahead and answer as best you  
12 can.

13           THE WITNESS: A I have no idea what  
14 Director Nolen told anybody in regards to that.

15           MR. BALSON: Q Nobody told you that?

16           A       That's correct.

17           Q       Has it ever been brought to your  
18 attention that Gary Rollings said to Michale  
19 Callahan that he should rubber stamp the previous  
20 findings because the right people were in prison?

21           A       I don't -- I don't remember hearing  
22 that, no.

23           Q       Did Gary Rollings ever say that to  
24 you?



1 A No.

2 Q Did anyone ever say to you at any  
3 time that Callahan should rubber stamp the  
4 previous findings because the right people were in  
5 prison?

6 A No.

7 Q Well, as far as you knew, the  
8 investigation was going to be fair and unbiased?

9 A Yes.

10 MR. BALSON: This would be Fermon  
11 Deposition Exhibit No. 1.

12

13 (Document marked as requested.)

14

15 MR. SMITH: Ron, what are we looking at?

16 MS. HALL: Plaintiff's 16523 and 24. It's  
17 the March 23, 2000 letter from Clutter to Sam  
18 Nolen.

19 MR. JOHNSTON: Did you ask him to review  
20 it?

21 MR. BALSON: Yes.

22 MR. JOHNSTON: Okay. He's reviewed it  
23 already.

24 MR. BALSON: Q Okay, you already did.

1 I'm showing you what we marked  
2 as Fermon Deposition Exhibit No. 1, and I ask you  
3 if this is a copy of the letter that you're  
4 referring to from Bill Clutter.

5 THE WITNESS: A I -- I don't remember  
6 seeing this letter.

7 I mean, the letter is from  
8 Clutter to the director; but I don't remember  
9 seeing it.

10 Q Well are you -- when you're talking  
11 about Clutter's letter, are you talking about a  
12 different letter than this?

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

15 Go ahead and answer as best you  
16 can.

17 THE WITNESS: A I'm just telling you,  
18 sitting here today, I don't remember seeing this  
19 letter. I'm not -- I don't -- I don't have any  
20 reason to believe there's another letter or a  
21 different letter. I just don't remember seeing  
22 it.

23 MR. BALSON: Q In any event, you had this  
24 meeting with Lieutenant Colonel Carper. When was

1 the next time that you had any involvement at all  
2 in the Rhoads case?

3 A I recall getting an e-mail from  
4 Colonel Carper about a 48 Hours episode or  
5 something that was coming up. I recall that, and  
6 I don't know if that was before or after -- I  
7 believe it was after we had had the conversation  
8 about the response letter, but -- and I'm  
9 struggling with that a bit as far as your term of  
10 "involvement". That was the next bit of  
11 information I had.

12 Q Next bit of information works fine  
13 for me.

14 A Okay.

15 Q In this letter that's before you, at  
16 least on page two, Mr. Clutter references a set of  
17 notes attached to an offense -- a domestic battery  
18 report and a separate set of notes attached to an  
19 offense report which said that one of the  
20 witnesses, Darrel Herrington, had been offered a  
21 bunch of money to keep his mouth shut and that  
22 there was more that he knew but didn't say in  
23 court and that he was offered 25,000 in cash and  
24 property.

1 Do you see those referenced in  
2 the letter?

3 MR. JOHNSTON: I object to the form of the  
4 question.

5 Go ahead and answer.

6 MS. CLIFFE: I join.

7 THE WITNESS: A Yes, I see reference to  
8 that.

9 MR. BALSON: Q At the time that you  
10 reviewed this letter or had the conversation with  
11 Lieutenant Colonel Carper do you know whether or  
12 not these notes had ever been produced to Mr.  
13 Steidl or his attorney?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 You can answer as best you can.

17 MS. CLIFFE: I join.

18 THE WITNESS: A First of all, I don't  
19 remember seeing the letter. The second part of  
20 your question was about the notes -- I'm sorry.

21 MR. BALSON: I don't know. What was the  
22 second part?

23 THE WITNESS: There was a few distractions  
24 going on.

1 MR. BALSON: I know. That's the way these  
2 things work.

3 THE WITNESS: I understand.

4

5 (Record read.)

6

7 THE WITNESS: A Okay. My answer is I  
8 don't remember seeing this letter, and I don't  
9 remember anything about the notes at that time.

10 MR. BALSON: Q Okay. This letter, did it  
11 have attachments to it, do you know?

12 MR. JOHNSTON: Object to the form of the  
13 question.

14 You can answer as best you can.

15 THE WITNESS: A I -- on page two there's  
16 the word "enclosures" at the bottom, but I don't  
17 know if there was or wasn't.

18 MR. BALSON: Let me show you something and  
19 see if you recognize any of this.

20 Mark this as number two,  
21 please.

22

23 (Document marked as requested.)

24

1 MS. HALL: Vince and Brian, it's Plaintiff  
2 16562 through 76.

3 MR. BALSON: Okay. If we can go back on  
4 the record, please.

5 Would you take a look at these  
6 documents. Just thumb through them because I'm  
7 going to represent to you that these were the  
8 enclosures in the letter with the exception of the  
9 Sam Nolen response letter. For some reason that's  
10 stuck in the middle of this.

11 THE WITNESS: Okay.

12 MR. BALSON: That's plaintiffs 16574. For  
13 some reason it was produced in this fashion, but  
14 Nolen's response letter obviously was not in the  
15 enclosures.

16 THE WITNESS: A I don't remember ever  
17 seeing these.

18 MR. BALSON: Q So you don't know whether  
19 these were attached to the letter or not because  
20 you don't remember seeing them?

21 A I have no idea, sir, no.

22 Q Okay. I'd like to draw your  
23 attention, if I could, to page 16571 on the  
24 bottom. These are characterized by Clutter in his

1 letter as police notes.

2 And you see at the bottom it  
3 says, Betty, within two weeks ago said Darrel told  
4 her that Bob Morgan had offered him a bunch of  
5 money to keep his mouth shut.

6 Do you see that? I'm just  
7 asking if you see it.

8 A Yes, I see it.

9 Q Now obviously Mr. Steidl through his  
10 attorney and investigator had this note. Do you  
11 know whether or not Mr. Whitlock had this note?

12 A No, I have no idea.

13 Q Actually, if I can back up a minute.

14 In the year 2000, when you had  
15 your conversation with Lieutenant Colonel Carper  
16 and this review by Lieutenant Callahan was  
17 commenced, did you know what Mr. Steidl's  
18 situation was?

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

21 Go ahead and answer it as best  
22 you can.

23 THE WITNESS: A By situation you mean -- I  
24 mean it was my understanding --

1 MR. BALSON: Q Where was he?

2 A -- My understanding he was still  
3 incarcerated.

4 Q He was still incarcerated under a  
5 life sentence for murder, right?

6 A Yes, after the resentencing.

7 Q Mr. Whitlock, did you know that he  
8 was also serving a life sentence for murder?

9 A I believe so. I mean, I don't  
10 remember that specifically, but, yeah, I remember  
11 that they were both serving life sentences.

12 Q Okay. And did you know at the  
13 time -- were you aware at the time of either one  
14 of their post-conviction -- the state of either  
15 one of their post-conviction proceedings?

16 A I wasn't aware of the status or the  
17 timing schedule and that type of thing, no.

18 Q Did you inquire of anyone at the time  
19 as to what the state of Mr. Steidl's or Mr.  
20 Whitlock's post-conviction proceedings were?

21 A No, sir.

22 Q You didn't know whether they had  
23 petitions pending in any way for habeas corpus or  
24 rehearings or anything, did you?



1 A At that time, in 2000?

2 Q Correct.

3 A I had no idea what the status was.

4 Q Okay.

5 And, again, you had no idea  
6 whether or not any of the information that Mr.  
7 Clutter was sending to the Illinois State Police  
8 through Director Nolen was known or not known to  
9 Mr. Whitlock; did you?

10 MR. JOHNSTON: Object to the form of the  
11 question.

12 Go ahead and answer as best you  
13 can.

14 THE WITNESS: A Yes, I have no idea  
15 whether Mr. Clutter shared that information or  
16 not.

17 MR. BALSON: Q And at the time you had  
18 your conversation or made any of your  
19 recommendations as you've just described, did you  
20 undertake to contact Mr. Whitlock or his  
21 attorneys?

22 A Well, firstly, I didn't make what I  
23 would consider to be a recommendation. I made a  
24 suggestion.

1 Q Okay.

2 A Basically as if suggesting this is  
3 how I would handle it, you know, I would have the  
4 investigative office review it.

5 So I didn't make what I  
6 consider to be a recommendation.

7 Q We'll change the question to  
8 suggestion.

9 So at the time you had your  
10 conversation with Lieutenant Colonel Carper and  
11 became aware of the fact that there was this  
12 letter that Mr. Clutter had sent and that Mr.  
13 Nolen was seeking to make a response to it and you  
14 made your suggestion that Lieutenant Callahan  
15 review the matter, did you contact Mr. Whitlock or  
16 anyone who was his attorney?

17 MR. JOHNSTON: I'll object to the form of  
18 the question. I believe it misstates his  
19 testimony.

20 You can answer as best you can.

21 THE WITNESS: A No, I didn't.

22 MR. BALSON: Q Okay.

23 And did you personally contact  
24 Mr. Clutter or Mr. Metnick?

1 A No, sir.

2 Q Okay.

3 Do you understand the term  
4 "Brady material"? Do you understand what that  
5 means?

6 A Yeah, in a sense I do, I mean...

7 Q I mean you've been an investigator  
8 for a lot of years. What is your understanding of  
9 the term "Brady material"?

10 A It's my understanding that it's  
11 information that's relevant to a case and to a  
12 defendant, any information or evidence likely  
13 which would tend to prove guilt or innocence is  
14 the best of my understanding.

15 Q And do you have an understanding  
16 about what an investigator's duty is if he comes  
17 across exculpatory material or material which  
18 might be favorable to an accused?

19 A The responsibility on the  
20 investigator's side is to get that information to  
21 the prosecutor. We have a responsibility to get  
22 that to the prosecutor and not make -- from the  
23 investigator's standpoint, not knowing what's  
24 exculpatory, what's Brady material, not knowing

1 the facts of the case, it's my understanding it's  
2 our responsibility to get it to the prosecutor and  
3 for those folks to make that determination and act  
4 accordingly.

5 Q And how do you come to that  
6 understanding?

7 A Well, I come to that understanding  
8 after 25 years of experience working  
9 investigations, and there's been times when --  
10 from experience that I've had with the prosecutors  
11 prosecuting a case and we provide police reports  
12 and all information we have and then -- or that  
13 you think that you have and later find out that  
14 you might have a surveillance report or some --  
15 some type of report.

16 It's our responsibility to get  
17 that to the prosecutor's and that -- it's my  
18 understanding that that's where our responsibility  
19 ends.

20 If I understand you  
21 correctly -- I don't want to put words in your  
22 mouth.

23 If I understand you correctly,  
24 if as an investigator you come across Brady

1 material or material which in your judgment is  
2 exculpatory or favorable to the defendant, you  
3 have a duty to disclose that information at least  
4 to the prosecutor?

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

7 Go ahead and answer as best you  
8 can.

9 MS. CLIFFE: I join in the objection.

10 THE WITNESS: A Well I wouldn't put it  
11 exactly that way.

12 I would say that we -- if we  
13 were to encounter that type of information, not  
14 making -- it's not the officer's responsibility or  
15 ability to determine whether it's Brady  
16 information or how the case would be impacted by  
17 the information. It's my understanding that it's  
18 our responsibility to get that to the prosecutor.

19 Not at minimum. That's what  
20 our responsibility is, to get that information to  
21 the prosecutor.

22 MR. BALSON: Give me one minute.

23

24 (Discussion held off the record.)

1           MR. BALSON:  Q  A few minutes ago you said  
2           that the next time that this Rhoads matter was  
3           brought to your attention was when Diane Carper  
4           called you and said it was going to be on  
5           television, is that right?

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

8                                 Steve, answer as best you can.

9           THE WITNESS:  A  That is not what I said or  
10          what I intended to say.

11          MR. BALSON:  Q  I apologize.

12                                 When was the next time this  
13          Rhoads case was brought to your attention?

14          A           Through an e-mail that Colonel Carper  
15          had sent, basically an FYI e-mail that said  
16          something to the effect that the case was going to  
17          be on 48 Hours.

18          Q           Okay.  Did you see a report from  
19          Lieutenant Callahan about his review of this  
20          matter before the show came on television?

21          A           Not that I remember, no.

22          Q           If I tell you that the 48 Hours  
23          program was aired on May 15, 2000, does that  
24          refresh your memory in any way as to whether you

1 saw anything before that date?

2 A Not really, no.

3 Q Well the letter to Sam Nolen was  
4 dated March 23, 2000. The program aired on May  
5 15, 2000.

6 I guess my question to you is  
7 what, if anything, did you know about the Rhoads  
8 case between March 23, 2000 and May 15, 2000 other  
9 than this conversation that you had with Diane  
10 Carper.

11 MR. JOHNSTON: Object to the form of the  
12 question.

13 Go ahead and answer as best you  
14 can.

15 THE WITNESS: A What I knew at that point  
16 in time was that Steidl and Whitlock had been  
17 convicted.

18 MR. BALSON: Q Wait a minute. Let me  
19 interrupt. Because that was a bad question.

20 Let me withdraw the question.

21 I'm not asking for your  
22 knowledge of the case in general that you've  
23 already testified about and my question -- and you  
24 were answering it correctly. I mean, it was a bad

1 question.

2                   Between the date of Sam  
3 Nolen's -- the letter of Clutter's to Sam Nolen of  
4 March 23, 2000 and the date that the program aired  
5 on May 15, 2000, did you receive any further  
6 information on the Rhoads case?

7           A       Not that I remember, other than just  
8 the heads-up e-mail that -- the FYI e-mail that 48  
9 Hours was going to air. That's all I recall.

10           Q       Did you know that Lieutenant Callahan  
11 had commenced to do a review? Did anyone tell you  
12 that?

13           A       I don't remember that, not in that  
14 time period. I don't remember that.

15           Q       Okay.

16           A       No.

17           MR. BALSON: Okay. This is the next one.

18

19                   (Document marked as requested.)

20

21           MR. BALSON: Q Mr. Fermon, I don't mean to  
22 shortcut you in any way, and you may want to --  
23 feel free to read that entire document and every  
24 word in it, if you'd like; but it's not necessary



1 for the first few questions I have for you. But  
2 you may if you wish.

3 Okay. Exhibit No. 3 is a  
4 multi-page document entitled memorandum from  
5 Lieutenant Michale Callahan to Captain John  
6 Strohl, district ten commander, dated May 2, 2000,  
7 subject, Rhoads homicide.

8 Are you familiar with this  
9 document?

10 THE WITNESS: A I remember seeing this  
11 document some time in the last few years, yes.  
12 I'm not intimately familiar with it.

13 Q I don't know what intimately familiar  
14 means.

15 A Every detail and every dot point. I  
16 can't recite what's in it.

17 Q But you have seen this document in  
18 the past, is that correct?

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

21 Go ahead and answer.

22 THE WITNESS: A Yes.

23 MR. BALSON: Q Did you see it on or about  
24 May 2, 2000?

1           A        I don't remember seeing this document  
2           or any summary about the Rhoads homicide until I  
3           came on as the investigative commander in November  
4           of '01.

5           Q        Okay.

6                        Did you have any involvement in  
7           the Rhoads homicide investigation after your  
8           initial conversations with Lieutenant Carper?

9           A        Not that I remember, no.

10          Q        You didn't attend any meetings and  
11         didn't review any memorandum? Is that what you're  
12         saying?

13          A        Yeah, I don't remember attending any  
14         meetings or reviewing anything on the matter.

15          Q        And then the first time that you  
16         would have had any involvement was subsequent to  
17         your being transferred on November 1, 2001?

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

20                        You can answer as best you can.

21          THE WITNESS: A Yes, after being assigned  
22         there in November of '01.

23          MR. BALSON: Q How did it happen to come  
24         to your attention at that time?

1           A       Well, there was a file folder on the  
2 desk in the office that had several memos on the  
3 Rhoads homicide case. There wasn't much left on  
4 the desk, but there was a file folder with  
5 documents in it.

6           Q       And did you look through this file  
7 folder?

8           A       Yes.

9           Q       And was this one of the documents in  
10 the file folder?

11          A       I don't remember it specifically, but  
12 I was under the impression that all the documents  
13 or memorandums prepared were in that folder. I  
14 don't remember specifically.

15          Q       Did you understand as of November 1,  
16 2001 that the Rhoads homicide investigation was  
17 now something under your command?

18          A       Yes.

19          Q       Okay.

20          A       Yes.

21          Q       Prior to that Major Cassella had been  
22 in command, correct?

23          A       Yes, sir.

24          Q       Did you have a conversation with

1 Major Cassella about the current state of the  
2 investigation in to the Rhoads homicide?

3 A Not that I remember, no.

4 Q Well you were transitioning in to an  
5 office and she was transitioning out, right?

6 A No, that's not correct.

7 The transition consisted of me  
8 showing up in an office that was vacated. Major  
9 Cassella was gone. There wasn't a transition  
10 period.

11 Q They just threw you in to the office  
12 cold?

13 MR. JOHNSTON: Object to the form of the  
14 question.

15 THE WITNESS: A There wasn't a transition  
16 period.

17 MR. BALSON: Q Did you have occasion,  
18 after assuming your assignment there, to ask Major  
19 Cassella what was happening with the Rhoads  
20 review?

21 A I never spoke to her about it.

22 Q Did you speak to Lieutenant Colonel  
23 Carper about the Rhoads case after you -- well --  
24 before you assumed your assignment on November 1,

1 2001?

2 MR. JOHNSTON: Other than what he's already  
3 testified to?

4 MR. BALSON: Did I say something wrong?

5 MR. JOHNSTON: No. Just other than what  
6 he's already talked about.

7 MR. BALSON: Oh, other than the initial  
8 meeting, that's correct.

9 MR. JOHNSTON: Do you understand the  
10 question with my objection? I apologize.

11 THE WITNESS: I believe so.

12 MR. JOHNSTON: You can go ahead and answer  
13 it.

14 THE WITNESS: A I don't know exactly the  
15 time frame, but in real -- in close proximity to  
16 me taking command of the zone office in November  
17 of '01 Colonel Carper told me that, when I got  
18 acclimated, settled in, that she'd like to discuss  
19 the case with me.

20 MR. BALSON: Q Okay. And when -- and did  
21 you discuss it with her after you got acclimated?

22 A Yeah, briefly we discussed -- we  
23 discussed the case; but I don't know the time  
24 period, I mean, exactly.

1 Q Within a short period of time after  
2 you took command?

3 A I don't remember, but as -- as I  
4 recall, probably within 30 days or so.

5 Q Okay.

6 Where did this conversation  
7 take place?

8 A I believe it was a telephone  
9 conversation. The colonel's office and my office  
10 were separated by 80 or 90 miles.

11 Q So it was a telephone conversation?

12 A I believe so, yes.

13 Q Were you now in Champaign?

14 A Yes.

15 Q Well what did Colonel Carper tell you  
16 in this telephone conversation?

17 A She had told me that there had -- she  
18 had provided -- there had been meetings with Major  
19 Cassella and Lieutenant Callahan on the Rhoads  
20 homicide case and that Colonel Carper had directed  
21 them to do certain things. And Colonel Carper --  
22 as I understood it, Colonel Carper had never  
23 gotten any feedback as to whether those things had  
24 been accomplished or completed.

1           Q       What certain things was she referring  
2 to?

3           A       Well, the -- what I remember is the  
4 Watson -- I believe it's the Watson database,  
5 which was an analytical tool.

6                         It was my understanding from  
7 speaking to Colonel Carper that she had directed  
8 them to have information put in to this analytical  
9 tool, and she wanted to also have it entered in to  
10 another software or -- or a database. I believe it  
11 was Rapid Start. It could have been another type  
12 of tool.

13                         But there was a couple entries  
14 that she had -- it was my understanding that she  
15 had directed them to do.

16           Q       She had never gotten any feedback on  
17 whether or not that was done?

18           A       That was my understanding.

19           Q       So was she asking you to find out if  
20 it had been done?

21           A       Yes, sir.

22           Q       All right. What else did Colonel  
23 Carper tell you in this telephone conversation?

24           A       Well, she made it abundantly clear

1 that she wanted to know if those things had been  
2 completed or not.

3 Q All right.

4 A And the database work that was being  
5 done -- apparently Lieutenant Callahan and Major  
6 Cassella were to provide information to our  
7 analytical section in Springfield. That's who  
8 would be actually doing the input of the  
9 analytical type work for the zone, and it was my  
10 understanding -- and I don't know if this is the  
11 same conversation or not -- it was my  
12 understanding that there had been a couple of  
13 meetings with Major Cassella and Lieutenant  
14 Callahan.

15 Q Did she mention anyone's name in  
16 Springfield in the analytical area?

17 A I don't remember that, sir, but I  
18 pretty much knew most of the people there  
19 personally. So I don't remember who was supposed  
20 to be doing what.

21 Q Did she mention Tish Carneghi's name?

22 A She may well have. I mean, Tish  
23 Carneghi is an analyst and I believe was one at  
24 that time.



1 Q And she asked you to report back to  
2 her when you found out whether or not this had  
3 been put in to the Watson database or the Rapid  
4 Start?

5 A Yes, sir.

6 Q Did she tell you anything else that  
7 she wanted done about this Rhoads review?

8 A Anything else she wanted done?

9 Q Um-hum.

10 A Well, no. I mean, those were the two  
11 things she had asked me -- she had asked me more  
12 than once about those things and about whether or  
13 not those tasks had been completed.

14 Q Was there any conversation with  
15 Lieutenant Colonel Carper at this time about  
16 whether this review could become operational?

17 A No.

18 Q Did she tell you she didn't want it  
19 to become operational?

20 A No.

21 Q Were you restricted in any way from  
22 what you could or could not do relative to  
23 investigating -- having your department  
24 investigate the Rhoads homicides?

1           A       It was my understanding that Colonel  
2       Carper had asked or actually directed Major  
3       Cassella and Lieutenant Callahan to do these --  
4       have this analytical work done and there was no --  
5       what I recall or remember was that she told me  
6       that she had provided them directions and she  
7       explained the directions, that she had told them  
8       that the case was not to be reopened at that time,  
9       but that if additional information or new  
10      information came available, to bring it to her  
11      attention and it would be discussed.

12          Q       Okay.  When did she give you the  
13      instructions that she did not want the case to be  
14      reopened at this time?

15          A       I don't remember specifically.

16          Q       Was it in that first telephone call?

17          A       I don't believe so, no.  Some time  
18      within -- no, I don't believe it was.

19          Q       Well was it shortly thereafter that  
20      she gave you that information that she did not  
21      want the case reopened?

22          A       I don't remember.

23          MR. JOHNSTON:  Object to the form of the  
24      question.

1                   Go ahead and answer.

2                   THE WITNESS:  A  I don't really remember  
3 when the conversation happened.

4                   MR. BALSON:  Q  Did she tell you that the  
5 case was too politically sensitive?

6                   A       No.

7                   Q       Did she mention to you what the  
8 involvement was of Andre Parker?

9                   A       To the extent that she -- when she  
10 said they had met, it was my understanding that  
11 Colonel Parker and Colonel Carper had met with  
12 Major Cassella and Lieutenant Callahan.  But  
13 that's -- other than it was my understanding they  
14 had these meetings, that's my extent of -- that's  
15 what I knew about that.

16                  Q       I understand this was a while ago.  
17 Sometimes when you talk about something enough  
18 memories are refreshed.  So if I keep asking you  
19 these questions about that time, it's my job as a  
20 lawyer to see if I can refresh your memory.

21                               These meetings that she had  
22 with Colonel Parker and Major Cassella and  
23 Lieutenant Callahan, did she tell you when these  
24 meetings took place?

1 A No.

2 Q What was your understanding as to  
3 when the meetings took place?

4 A All I really -- what I remember is  
5 they took place before I ever arrived.

6 I wasn't included in the  
7 meetings. So I didn't -- I didn't really know  
8 when they were.

9 Q Were you provided with any notes from  
10 those meetings?

11 A No.

12 Q Do you know if any notes were made of  
13 those meetings?

14 A I have no idea. I wasn't there.

15 Q When you have meetings of that sort  
16 do you make notes?

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

19 Go ahead and answer as best you  
20 can.

21 THE WITNESS: A Rarely.

22 I'm not a note taker. I can't  
23 read my own writing most of the time.

24 MR. BALSON: Q I suffer from the same

1 affliction.

2 A I see.

3 Q Do you know whether Lieutenant  
4 Colonel Carper was the kind of person who took  
5 notes at a meeting?

6 MR. JOHNSTON: Objection. Form.  
7 Foundation.

8 Answer as best you can.

9 THE WITNESS: A Yes. I mean, I don't --  
10 specifically at that those meetings, I don't know,  
11 but generally speaking Colonel Carper took -- she  
12 had a process of taking notes.

13 MR. BALSON: Q Have you had occasion to  
14 have meetings with Colonel Parker over your  
15 career?

16 A Yes.

17 Q Was Colonel Parker a note taker?

18 A Generally speaking, no. He was  
19 usually -- in the meetings I was in he was usually  
20 a facilitator or that type of thing.

21 The only thing I really ever  
22 noticed Colonel Parker ever had in the way of  
23 notes is he had a Stephen Covey kind of notebook  
24 that he carried, a day planner kind of thing; but

1 I don't recall him really in the past taking lots  
2 of notes.

3 Q Did you keep a day planner?

4 A I kept a day planner off and on --  
5 more off than on -- over the years. I mean -- but  
6 I'm not really good at that.

7 Q Were you off or on in November of  
8 2001?

9 A In November '01 I wasn't -- I don't  
10 recall keeping a day planner then.

11 I just couldn't keep up with  
12 them. It never seemed to work out.

13 Q Do you retain your day planners?

14 A No.

15 MR. JOHNSTON: Object to form. Foundation.

16 MR. BALSON: Q Did you have a day planner  
17 that you kept in the year 2001 or 2002?

18 THE WITNESS: A No.

19 Q What did you understand Lieutenant  
20 Colonel Carper's instruction about the case not to  
21 be reopened to mean?

22 A Well, reopening a case is a --  
23 typically it's a pretty simple matter. I mean,  
24 when I refer to reopening or opening a case, it

1 means filling out an administrative form called a  
2 4-1 and sending it through; and then you have an  
3 open case, if you will, to route paperwork to.

4 Cases are -- you know, to  
5 reopen the case is a really simple matter as far  
6 as the documentation required.

7 Did that -- did I answer your  
8 question?

9 Q No, not exactly.

10 A Okay.

11 Q You testified a little earlier that  
12 Lieutenant Colonel Carper told you, among other  
13 things, that the case was not to be reopened at  
14 this time. What did you understand that to mean?

15 A Well, just that.

16 MR. JOHNSTON: Object to the form of the  
17 question. Mischaracterizes the testimony.

18 Go ahead and answer as best you  
19 can.

20 THE WITNESS: A Just that, that we weren't  
21 to fill out the 4-1 and reopen the case.

22 But if -- what was clear to me  
23 is we weren't to reopen it at that time, but if  
24 there was other information that came up or new

1 information, then she would -- you know, she  
2 wanted to be informed of that, and then a  
3 determination would be made. That's what my  
4 understanding was.

5 MR. BALSON: Q Did she give you any  
6 reasons why she didn't want the case reopened?

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

9 Go ahead and answer.

10 THE WITNESS: A No, not that I remember.  
11 I mean, it was -- the case -- no, she didn't give  
12 me any reason.

13 MR. BALSON: Q Did you ask her why she  
14 didn't want the case to be reopened?

15 MR. JOHNSTON: Object to the form of the  
16 question.

17 Go ahead and answer the best  
18 you can.

19 THE WITNESS: A Not that I remember, no.

20 MR. BALSON: Q This information -- well,  
21 strike that.

22 Her instruction to you that she  
23 didn't want the case to be reopened, did she say  
24 that to you before or after you had an opportunity



1 to read through the file on your desk?

2 MR. JOHNSTON: I'll object to the form of  
3 the question as to what Colonel Carper wanted.

4 You can go ahead and answer as  
5 best you can.

6 THE WITNESS: A I don't really remember  
7 that, the time frame.

8 MR. BALSON: Q Maybe that's not a good  
9 question. I'll try again.

10 A We're talking eight years ago.

11 Q Well, I know. I appreciate it's a  
12 long time ago and all that; but if you talk about  
13 it enough, you'll remember it.

14 So you took over your post, and  
15 there was a file on the desk about the Rhoads  
16 review and it had reports in it. That's the best  
17 of your memory so far, right?

18 A It had memos in it.

19 Q Memos?

20 A Yes, sir.

21 Q Memos like the ones before you?

22 A Similar, yes.

23 Q And you also have testified to a  
24 conversation with Diane Carper where she said the

1 case was not be to reopened at this time.

2 My question to you now is, this  
3 conversation that you had with Diane Carper, did  
4 that occur before or after you had an opportunity  
5 to read through the file on your desk.

6 A And as I sit here today, I don't  
7 know. I can't honestly answer that. I don't know  
8 whether it happened before or whether it happened  
9 after.

10 Q Well how long was it after November  
11 1, 2001 that you happened to pick up this file and  
12 read through it?

13 A I don't remember that either.

14 Q When you read through the file did  
15 you talk to Michale Callahan about it?

16 A I talked to Lieutenant Callahan at  
17 some point about it, but not as I was reading  
18 through or -- you know, we talked about this case  
19 and talked about Bob Morgan and the Paris  
20 investigation.

21 Q Okay. Did you talk to -- and if you  
22 don't know, tell me you don't know.

23 Did you talk to Michale  
24 Callahan before you read through the case file?

1 MR. JOHNSTON: Object to the form of the  
2 question.

3 Go ahead and answer.

4 MR. BALSON: Q About the Rhoads case.

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

7 Go ahead and answer, if you  
8 can.

9 THE WITNESS: A I don't remember. I don't  
10 remember the time frame of it all.

11 MR. BALSON: Q When you read through the  
12 Rhoads case file did you have any questions for  
13 Michale Callahan?

14 MR. JOHNSTON: Object to the form of the  
15 question, the terminology of Rhoads case file.

16 Go ahead and answer as best you  
17 can.

18 THE WITNESS: Um...

19 MR. BALSON: Let's back up here. I don't  
20 want there to be any confusion on the record.

21 MR. JOHNSTON: It's been referred to  
22 throughout the case as the case file.

23 MR. BALSON: Let's not call it the case  
24 file. I'm going to call it the file that was on

1 your desk that had Rhoads documents in it, okay?

2 MR. JOHNSTON: All right.

3 MR. BALSON: The Rhoads file.

4 MR. JOHNSTON: The file folder on his desk.

5 MR. BALSON: Q The file folder on your  
6 desk, after you read through that file folder, did  
7 you have any questions of Lieutenant Callahan?

8 THE WITNESS: A Sure.

9 Q What did you ask him?

10 A Well, I asked him basically to set up  
11 some time where we could sit down and go over the  
12 case and he can tell me about it, where we can  
13 have an exchange, some dialogue about the case.

14 Q Was he agreeable to that?

15 A Yes.

16 Q And did you have such a meeting with  
17 him?

18 A Yes.

19 Q Did you have more than one meeting  
20 with Mr. Callahan about the Rhoads review?

21 Because it wasn't really an  
22 investigation, was it?

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

1                   Answer as best you can.

2                   THE WITNESS:  A  It certainly was an  
3  investigation.  I mean, what we had -- when  
4  Lieutenant Callahan came in we had -- he presented  
5  me and provided me, in addition to these  
6  documents, with photographs that had been taken,  
7  aerial photographs of -- my understanding is the  
8  National Guard had been deployed to take aerial  
9  photographs.

10                  MR. BALSON:  Q  Okay.

11                  A        It was my understanding that we  
12  actively had a covert video camera set up on a  
13  target location.  It was my understanding that we  
14  were doing surveillance, that being Lieutenant  
15  Callahan and Sergeant Dixon; and there were  
16  several other things -- not knowing exactly the  
17  time period, but there were also informant  
18  payments made.

19                  Q        Well let me ask you this.  The photos  
20  and the surveillance -- the camera and the aerial  
21  photographs, was that in connection with the  
22  Rhoads case or the investigation of Bob Morgan?

23                  MR. JOHNSTON:  Object to the form of the  
24  question.



1 (Short recess was had.)

2

3 MR. BALSON: Q We're back on the record,  
4 folks.

5 These initial meetings that you  
6 had with Michale Callahan, did they familiarize  
7 you with the state of the investigation of the  
8 Rhoads murders as it stood at that time?

9 THE WITNESS: A I believe so.

10 I mean, I was trying to get  
11 Lieutenant Callahan and Sergeant Dixon to get me  
12 familiarized with what was going on.

13 Q And did you also meet with Sergeant  
14 Dixon?

15 A Yes.

16 Q So was -- were these meetings then  
17 meetings where both Michale Callahan and Sergeant  
18 Dixon were present?

19 A I can remember at least one meeting  
20 where Lieutenant -- I had asked Lieutenant  
21 Callahan, Sergeant Dixon and Master Sergeant Reid  
22 to basically just -- you know, guys, work out a  
23 time when we can go over it and you guys can  
24 present the information to me and kind of help me

1 understand what's going on.

2 Q Do you remember when this meeting  
3 took place?

4 A No, I don't remember exactly, but I  
5 had tried to get the meeting some time in  
6 December.

7 Q Okay.

8 A Some time in December I wanted to get  
9 that done. I don't recall it happening then. I  
10 think it was in the first part of 2002, within the  
11 first couple months of '02.

12 Q Okay. And where did this meeting take  
13 place?

14 A The meeting I remember took place in  
15 my office at the zone office in Champaign.

16 Q Was anybody at this meeting besides  
17 yourself, Michale Callahan, Greg Dixon and Dan  
18 Reid?

19 A Not that I remember, no, sir.

20 Q Just the four of you?

21 A I believe so, yes.

22 Q Anybody take notes at this meeting?

23 A I don't know, sir.

24 Q Okay.



1                   Did you think that Lieutenant  
2 Callahan and Sergeants Dixon and Reid were  
3 forthcoming with their information?

4           MR. JOHNSTON: Object to the form of the  
5 question.

6                   Answer as best you can.

7           THE WITNESS: A Yeah. I had no reason to  
8 think they weren't forthcoming.

9           MR. BALSON: Q Did they answer all the  
10 questions that you had?

11           A        Mostly -- the meeting was in the form  
12 of a presentation, an oral presentation, by  
13 Lieutenant Callahan and Sergeant Dixon. I had had  
14 some questions, and, yeah -- I mean they answered  
15 whatever questions -- I don't remember what they  
16 were, but I know that they had -- we had dialogue  
17 and discussion about the case.

18           Q        How long did the meeting last? Do  
19 you know?

20           A        I don't remember.

21                   I remember it being a lengthy  
22 meeting, but I don't remember how long it lasted.

23           Q        A few hours?

24           A        I don't remember.

1           Q       Were you satisfied that -- with the  
2 briefing and that you had obtained the information  
3 you were seeking?

4           MR. JOHNSTON: Object to the form of the  
5 question.

6                       Go ahead and answer it the best  
7 you can.

8           THE WITNESS: A Well I was -- you say was  
9 I satisfied -- there was a lot of information as  
10 far as what was going on, what had been done -- a  
11 lot of information to digest in a short period of  
12 time. I didn't feel like, you know, having one  
13 meeting and having information presented to me  
14 that I was getting acclimated or familiarized with  
15 it.

16           MR. BALSON: Q At this meeting did you  
17 review any written documents, any memorandum or  
18 reports?

19           A       I don't remember that.

20           Q       Was it just discussion?

21           A       No, no. Just -- I remember the  
22 discussion and the dialogue we had. I don't  
23 remember -- I know that Lieutenant Callahan and  
24 Sergeant Dixon had what I would describe as poster

1 size or larger aerial photographs. I know that  
2 they had multiple -- they had some analytical  
3 information. They had a box full of information.

4 But I don't remember  
5 specifically what I looked at or read.

6 Q What were the photos of?

7 If you remember.

8 A The one that comes to mind the most  
9 was -- I remember it because I didn't -- it was of  
10 a -- what do I say -- a house, a house, an estate  
11 type property, a rural type photo, a tree-shrowded  
12 home, a long -- extremely long like concrete  
13 driveway.

14 I remember Lieutenant Callahan  
15 talking at length about how long the driveway was  
16 and how much it must have cost.

17 Q Did Michale Callahan at that time  
18 reference any of the memorandum that he had  
19 prepared for Captain Strohl or Edie Cassella?

20 A I don't remember if he did.

21 Q Before you had this meeting had you  
22 read through your file folder?

23 MR. JOHNSTON: Object to the form of the  
24 question.

1                   Go ahead and answer as best you  
2                   can.

3                   THE WITNESS: A I don't remember  
4                   specifically, but I know at some point in time I  
5                   did read through the folder. I read, you know,  
6                   the -- whatever was in it I tried to familiarize  
7                   myself with.

8                   So --

9                   Q Well...

10                  A -- I don't know if it was immediately  
11                  following or when.

12                  Q Okay. Let me try and ask some more  
13                  questions. Maybe you'll remember better.

14                                You testified that when you got  
15                                your assignment there was a file folder on your  
16                                desk and you had materials in it about the Rhoads  
17                                investigation, and then this meeting you testified  
18                                with Callahan, Dixon and Reid occurred some time  
19                                in January or February, which would have been  
20                                three or four months later.

21                                        Between the time you took your  
22                                        assignment and saw this file folder on your desk  
23                                        and the time you had that meeting, I guess my  
24                                        question is did you have occasion to read the

1 reports.

2 MR. JOHNSTON: Object to the form of the  
3 question.

4 Go ahead and answer as best you  
5 can.

6 THE WITNESS: A Part of the time frames  
7 we're talking about are still estimated. I don't  
8 remember reading the reports but, you know, it was  
9 something at the time I'm trying to get up to  
10 speed on, that I'm trying to familiarize myself  
11 with.

12 I don't know the time frame I  
13 read them. I did read them. I did have some  
14 questions, and I had some discussion with  
15 Lieutenant Callahan and Sergeant Dixon.

16 MR. BALSON: Q All right. You testified  
17 that Lieutenant Colonel Carper had talked to you  
18 on the telephone about this case and requested  
19 that you respond to her about any analytical work  
20 that had been done, whether the Watson database or  
21 the Rapid Start had been done.

22 Did you get back to her?

23 MR. JOHNSTON: Object to the form of the  
24 question.

1                   Go ahead and answer as best you  
2                   can.

3                   THE WITNESS:   A   Yes.

4                   MR. BALSON:   Q   When did you get back to  
5                   Lieutenant Colonel Carper?

6                   A           I don't remember that.  I don't  
7                   remember that.

8                                 The colonel had asked  
9                   initial -- she had made similar requests at least  
10                  one other time.  She had asked me at least twice,  
11                  and I wasn't able to provide the answer.  I didn't  
12                  have the information at that point, but I don't  
13                  remember when it was.

14                  Q           Why weren't you able to provide the  
15                  information?

16                  A           I had not had the opportunity to talk  
17                  to Lieutenant Callahan and find out if in fact  
18                  that information had been gotten.

19                  Q           Did you inform Lieutenant Colonel  
20                  Carper that you were going to have this meeting  
21                  with Callahan, Dixon and Reid?

22                  A           I believe so, yes.

23                  Q           And did she tell you to respond to  
24                  her or to tell her what you learned at this

1 meeting?

2 A No, she didn't -- she didn't ask or  
3 direct me to give her a report back or anything,  
4 no.

5 Q Under what circumstances did you tell  
6 her you were going to have this meeting?

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

9 You can answer as best you can.

10 THE WITNESS: A I don't understand what  
11 you mean by under what circumstances.

12 MR. BALSON: Q How did it come about that  
13 you told her you were going to have this meeting?

14 A I --

15 Q Go ahead.

16 A I believe I e-mailed her. I mean, in  
17 the course of business, I e-mailed her to let her  
18 know -- I remember e-mailing her and letting her  
19 know that I was trying to get the meeting  
20 together.

21 And something had come up where  
22 we weren't able to have the meeting, but I  
23 remember -- I remember e-mailing her and letting  
24 her know we were going to have the meeting and

1 that I was trying to get up to speed on it.

2 Q Did Lieutenant Colonel Carper ask you  
3 to convene such a meeting and report to her?

4 A No.

5 Q That was your idea?

6 A Well, yeah. She didn't ask me to do  
7 that, sir. It was -- she had made inquiries, but  
8 it was something I felt needed to be done. It was  
9 what I felt was a responsibility.

10 MR. REPORTER: I need to change my paper.

11

12 (Paper change.)

13 (Discussion held off the record.)

14 (Record read.)

15

16 MR. BALSON: Q Yeah, that's my question.  
17 What inquiries had Lieutenant Colonel Carper made  
18 relative to this case before you had this meeting?

19 MR. JOHNSTON: Objection. Asked and  
20 answered.

21 Go ahead.

22 THE WITNESS: A What we discussed. She  
23 told me she provided direction on the Rapid Start  
24 and Watson database.



1 Q Nothing more than what you've already  
2 testified to?

3 A Not that I remember, no, sir.

4 Q So between the telephone call that  
5 you had initially when you took over your position  
6 about the databases and the time you had your  
7 meeting she had not made any further inquiries?  
8 Is that your testimony?

9 MR. JOHNSTON: Object to the form of the  
10 question.

11 You can answer as best you can.

12 THE WITNESS: A No, that's my not my  
13 testimony.

14 My testimony is I don't  
15 remember if I had any conversations with her,  
16 phone conversations or that type of thing, during  
17 that time period.

18 MR. BALSON: Q Okay. But you decided to  
19 convene this meeting and you informed her of that  
20 in an e-mail, is that right?

21 A I believe so, yes.

22 Q As of this time, the time you had --  
23 let's -- as of the time when you decided to  
24 convene the meeting, had you formed any opinions

1 relative to the guilt or innocence of either  
2 Steidl or Whitlock?

3 A All I knew about the case was that  
4 Steidl and Whitlock had been tried and convicted  
5 of murder. The case was in the court system, had  
6 been through the courts. You know, I felt that's  
7 where the case belonged was in the court system.

8 Q What do you mean by that, that's  
9 where the case belongs?

10 A Well, they had -- it was my  
11 understanding that the legal issues had been  
12 raised. They had been tried and convicted. The  
13 supreme court had upheld the convictions or made  
14 decisions on certain aspects, and it wasn't --  
15 that was it.

16 I mean, it was a court matter.  
17 It was a legal matter.

18 Q Did you understand that there were  
19 claims that the investigations were either corrupt  
20 or faulty?

21 MR. JOHNSTON: Object to the form of the  
22 question.

23 You can answer it as best you  
24 can.

1 MS. CLIFFE: I join the objection.

2 THE WITNESS: A It was my understanding  
3 that Lieutenant Callahan in his memorandums -- or  
4 in a memorandum had identified either  
5 discrepancies or things that he thought either  
6 could have been done or should have been done, and  
7 that information partly intertwined or  
8 intermingled with information received from Bill  
9 Clutter.

10 MR. BALSON: Q And notwithstanding that  
11 information from Michale Callahan you still felt  
12 that the matter was better left to run its course  
13 in the courts, is that right?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 You can answer it as best you  
17 can.

18 THE WITNESS: A Yes, sir.

19 MR. BALSON: Okay. This is a good time to  
20 take a break.

21

22 (Lunch recess was had.)

23

24 MR. BALSON: Q Okay. Let's -- let's

1 starts off by going back to this meeting that you  
2 had with Callahan and Dixon and Reid, which you  
3 say was in the first couple months of '02.

4 At that meeting did you happen  
5 to ask anybody there how it was that there was so  
6 much operational work that had been done when the  
7 file was not supposed to be reopened?

8 THE WITNESS: A No.

9 Q Was -- to your knowledge, if you  
10 know, was Lieutenant Colonel Carper aware that the  
11 photos and the surveillance and the cameras and  
12 the informants and all had been used in this  
13 matter?

14 A I don't know what she was aware of at  
15 that time.

16 Q Okay. She didn't tell you?

17 A Not that I remember, no.

18 Q Okay. I don't know whether I  
19 established whether before this meeting you had  
20 any substantive conversations with Michale  
21 Callahan about what he had done to investigate the  
22 Rhoads homicides.

23 Had you?

24 A I don't remember specifically.

1                                 There was a few times when Mike  
2 would make mention of something and we'd talk  
3 about it in the hallway. But as far as  
4 formalized, what I remember is having tried to get  
5 briefed on the case. That was the meeting I was  
6 referring to.

7                     Q         Okay.

8                                 Incidentally, did you watch the  
9 program, the 48 Hours program?

10                    A         No.

11                    Q         At this meeting did Michale Callahan  
12 tell you that he received this assignment and  
13 prepared a memo before the program was aired?

14                    A         I don't remember that. I don't  
15 remember him saying that.

16                    Q         Did he tell you that the day he got  
17 the assignment, the same day he got the  
18 assignment, he got a call from Jack Eckerty?

19                    A         And you're referencing this meeting,  
20 when we're talking about the meeting?

21                    Q         Yeah.

22                    A         No, sir.

23                    Q         Well, did he tell you that at any  
24 time?

1           A        I don't remember if he told me or if  
2       it was in something I read, in one of the memos or  
3       something he prepared. I don't know which.

4           Q        Do you have any idea how Jack Eckerty  
5       knew Callahan was assigned to inquire in to the  
6       case?

7           A        I have no idea.

8           MS. CLIFFE: Object to the form of the  
9       question.

10          MR. JOHNSTON: You can answer it the best  
11       you can.

12          THE WITNESS: A Yeah, I had no idea how he  
13       knew or wouldn't know.

14          MR. BALSON: Q Did he tell you that  
15       Eckerty offered to sell him a houseboat at his  
16       cost?

17          A        I don't believe so, sir.

18                    Again, I think that I remember  
19       seeing that, but I think it was captured in one of  
20       the memos possibly later in the year. That wasn't  
21       the subject of -- I don't recall discussing that  
22       with him at that point in time.

23          Q        Do you know who Charlie McGrew is?

24          A        Yes.

1 Q How do you know Charlie McGrew?

2 A Charlie McGrew is a retired state  
3 police officer who's now the sheriff of Douglas  
4 County, Illinois.

5 Q Was Charlie McGrew Jack Eckerty's  
6 supervisor in 1986?

7 MS. CLIFFE: Object to the form.

8 MR. JOHNSTON: Join the objection.

9 You can answer as best you can.

10 THE WITNESS: A I really don't know who  
11 his supervisor was.

12 MR. BALSON: Q Did Callahan tell you that  
13 Charlie McGrew also called him on the day that he  
14 got the assignment?

15 A No, I don't remember him telling me  
16 that.

17 Q Do you remember him telling you that  
18 Charlie McGrew told Callahan not to make the old  
19 guys look bad?

20 A I remember words to that effect, but  
21 I don't remember if he had told me or if, again,  
22 that was captured in one of his memorandums.

23 Q But, anyway, it was something you  
24 came to know during your initial looking in to

1 this Rhoads matter?

2 MR. JOHNSTON: I'll object to the form of  
3 the question.

4 You can answer his question as  
5 best you can.

6 THE WITNESS: A Yeah, I wouldn't say it  
7 that way. I don't think I was -- that was -- I  
8 don't think that was brought to my attention at  
9 this meeting.

10 I think those -- you had asked  
11 me questions about McGrew and Eckerty, and I think  
12 those were things that I later learned or reviewed  
13 in documents that Lieutenant Callahan had  
14 prepared.

15 MR. BALSON: Q Would these be documents  
16 that were in that file folder on your desk?

17 A I don't remember.

18 The file folder had documents  
19 that were memos that Lieutenant Callahan prepared.  
20 I don't remember specifically which ones, when he  
21 prepared them, that type of thing; but I believe  
22 that some of that information or the statements  
23 you're talking about in those memos I reviewed at  
24 some point since then.



1           Q       I'd like to talk to you now about the  
2 Callahan memo of May 2, 2000 which you should have  
3 a copy of in front of you.

4           MR. JOHNSTON: Exhibit 3.

5           MR. BALSON: Q Can we agree that this was  
6 one of the documents in the file folder?

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

9                                Answer it as best you can.

10          THE WITNESS: A I couldn't agree to it  
11 because I don't remember if it was or wasn't.

12          MR. BALSON: Q Okay.

13          A        Specifically, I mean.

14          Q        This bears a date of May 2, 2000 and  
15 was prepared in response to -- well -- subsequent  
16 to your talking with Lieutenant Colonel Carper  
17 about suggesting that he be assigned to review  
18 this matter, is that right?

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

21                                Go ahead and answer it as best  
22 you can.

23          THE WITNESS: A I don't really know under  
24 what circumstances Lieutenant Callahan actually

1 prepared this for Captain Strohl. But we talked  
2 about the -- the dates seem to fit the time frame.

3 MR. BALSON: Q Do you know why this  
4 memorandum was prepared for Captain Strohl?

5 A No.

6 Q Did you speak to Captain Strohl about  
7 it?

8 A Not that I remember, no.

9 Q Did you ever speak to Captain Strohl  
10 about the Rhoads homicides?

11 A Not that I remember, no, sir.

12 Q On page one it says in the second  
13 paragraph, in reviewing the case file, both  
14 subjects were subsequently convicted based on the  
15 eyewitness testimony of Darrel Herrington and  
16 Debbie Rienbolt.

17 Do you see that?

18 A Yes, sir.

19 Q Did you know that to be true?

20 A No.

21 Q Okay. You didn't read the case file?

22 A Well...

23 Q Strike that question.

24 A Okay.

1 Q Did you read the case file? Did you  
2 look at the whole case file at the Illinois State  
3 Police headquarters?

4 MR. JOHNSTON: Object to the form of the  
5 question. Time frame.

6 Go ahead and answer the  
7 question.

8 MS. CLIFFE: Join.

9 THE WITNESS: A Yes. At some point I --  
10 when you say whole case file -- I reviewed what  
11 file was there on the Rhoads homicide case.

12 MR. BALSON: Q Where did you review it?

13 A Partially in -- you mean when I read  
14 through it?

15 Q Yes.

16 A Partially in my office in Champaign  
17 and then, as I remember, part of it by taking it  
18 home and reviewing it in the living room.

19 Q And that was -- the original case --  
20 that was the original case file?

21 A That was -- I believe so.

22 Q Okay.

23 A I believe it was this 86 L case.

24 Q Okay.

1 A I can't...

2 Q It was several hundred pages?

3 A It was pretty large. I don't  
4 remember how many pages really.

5 Q Okay.

6 Did you review this case file  
7 before or after your meeting with Callahan, Dixon  
8 and Reid?

9 A I don't remember when I reviewed it.

10 Q You don't know if you reviewed it  
11 before you had this meeting in early '02?

12 MR. JOHNSTON: Objection. Asked and  
13 answered.

14 Go ahead and answer again.

15 THE WITNESS: A Yeah, I reviewed the case,  
16 what was there. I don't remember the time frame  
17 when I did that, whether it was pre that meeting  
18 or post that meeting. I don't remember that.

19 MR. BALSON: Q Why did you review the case  
20 file?

21 A To learn more about it, you know.

22 Q Did you talk to any witnesses?

23 A Any witnesses?

24 Q Did you do any independent

1 investigation other than reading the case file?

2 A No.

3 Q So you didn't talk to any of the  
4 witnesses in the case, did you?

5 A No, sir, I didn't.

6 Q Did you talk to the prosecutor, Mike  
7 McFatridge?

8 A No, sir, I didn't.

9 Q And you didn't seek to talk to either  
10 Steidl or Whitlock, did you?

11 A No, sir, I didn't.

12 Q So did -- then do I understand that  
13 the sum total of your knowledge in this case is  
14 what you read in the case file, in the file folder  
15 on your desk, and what was told to you at this  
16 meeting?

17 MR. JOHNSTON: Object to the form of the  
18 question. Time frame.

19 Go ahead and answer.

20 THE WITNESS: A No, that wouldn't be  
21 entirely correct.

22 What was in the case file --  
23 the case file also contained the -- I believe the  
24 Illinois supreme court rulings on the case.

1 That's where I -- actually, that's where I  
2 actually specifically read through the decisions  
3 at that time. Those were in there in addition to  
4 the documents you mentioned, yes, sir.

5 MR. BALSON: Q Was there anything else  
6 that you read or referred to to find out about the  
7 Rhoads homicide?

8 A Not....

9 MR. JOHNSTON: Objection. Time frame.

10 Go ahead and answer as best you  
11 can.

12 THE WITNESS: A Yeah, not that I remember.

13 MR. BALSON: Q Okay. In the third  
14 paragraph Lieutenant Callahan writes, in  
15 summarization, the following points lead me to  
16 believe that Steidl was not proven guilty beyond a  
17 reasonable doubt and that other viable suspects in  
18 this case were not thoroughly investigated.

19 Do you see that?

20 THE WITNESS: A Yes, sir.

21 Q Do you remember reading that?

22 A I remember reading it this week when  
23 looking through documents.

24 Q But you don't remember reading it

1 before...

2 A I don't -- no, I don't remember  
3 reading it.

4 Q At the time you had your meeting did  
5 you know whether or not Mr. Whitlock was  
6 represented by an attorney?

7 A I don't remember that. I don't think  
8 I did, no.

9 Q This opinion of Lieutenant Callahan's  
10 that Steidl was not proven guilty beyond a  
11 reasonable doubt and that other viable suspects  
12 were not thoroughly investigated, was that still  
13 your opinion?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 Go ahead and answer.

17 MS. CLIFFE: Same objection. Foundation as  
18 well.

19 THE WITNESS: A I don't remember him  
20 expressing that opinion at that meeting. That --  
21 the meeting, again, was more them telling me what  
22 they had been doing, trying to bring me up to  
23 speed on things.

24 I remember reading at some

1 point that statement or that line in another  
2 memo -- it may be in this one. I don't know.

3 He also says that, while he  
4 didn't believe Steidl was proven guilty beyond a  
5 reasonable doubt, Whitlock is still a viable  
6 suspect.

7 I don't know what memo that's  
8 in, but that sticks in my mind.

9 MR. BALSON: Q Did he express an opinion  
10 to you that he thought that the state's attorney,  
11 Michael McFatridge, and Detective Jim Parrish had  
12 suborned perjury?

13 MS. CLIFFE: Object to the form of the  
14 question.

15 THE WITNESS: A Not that I remember. I  
16 don't remember him saying that.

17 MR. BALSON: Q Would you turn to page two.  
18 It's 18081.

19 A Okay.

20 Q The fifth bullet point down,  
21 depositions by two witnesses, Paula Myers and  
22 Carol Robinson, state that State's Attorney  
23 Michael McFatridge and Detective Jim Parrish,  
24 Paris Police Department, had Carol Robinson lie on



1 the stand that Steidl and Herrington were together  
2 on 7/5/86.

3 Do you see that?

4 A Yes.

5 Q If a detective and a state's attorney  
6 had someone lie on the stand, would that be  
7 suborning perjury in your judgment?

8 MR. JOHNSTON: Object to the form of the  
9 question.

10 You can go ahead --

11 MS. CLIFFE: Join the objection. Object on  
12 foundation as well.

13 MR. JOHNSTON: You can go ahead and answer  
14 as best you can.

15 THE WITNESS: A Yeah. If, in fact, it  
16 happened, yes.

17 MR. BALSON: Q Do you know whether Mr.  
18 Whitlock had this information at the time that you  
19 read it?

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

22 You can answer it as best you  
23 can.

24 THE WITNESS: A I have no idea.

1 MR. BALSON: Q Well, did you undertake to  
2 give him that information when you found it out or  
3 when you read it?

4 MR. JOHNSTON: Object to the form of the  
5 question.

6 Go ahead and answer as best you  
7 can.

8 THE WITNESS: A No, sir.

9 MR. BALSON: Q You didn't disclose that  
10 information to Whitlock or his attorneys, did you?

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

13 I'll make my objection once and  
14 I won't repeat it.

15 Mischaracterizes the law, and  
16 therefore it's not a proper question in form  
17 because it assumes -- it does not go to anything  
18 that is reasonably calculated to lead to the  
19 admissibility of evidence.

20 That being said, I won't say it  
21 again. Go ahead and answer the question as best  
22 you can.

23 MR. BALSON: I know there's not a prayer  
24 you remember the question, is there?

1 THE WITNESS: No.

2 MR. BALSON: That's what happens with those  
3 long objections.

4 MR. JOHNSTON: Now we can shortcut it.

5 MR. BALSON: I'll restate the question  
6 then.

7 THE WITNESS: Thank you.

8 MR. BALSON: Q When you read this  
9 information did you disclose it to Whitlock or his  
10 attorneys?

11 MR. JOHNSTON: Go ahead.

12 THE WITNESS: A No. No, I didn't.  
13 I was under no responsibility,  
14 from my understanding, to disclose it directly to  
15 a defendant or to their attorney.

16 MR. BALSON: Q Okay. The question just  
17 asked if you did, okay?

18 A No.

19 Q But that's okay. Maybe that's a  
20 follow-up question.

21 Do you think you had any  
22 responsibility to do that?

23 MR. JOHNSTON: Object to the form of the  
24 question.

1                   Go ahead.

2           THE WITNESS:  A  I do not.

3           MR. BALSON:  Q  Did you disclose it to any  
4 competent authority?

5           A        It was my understanding that these  
6 memos -- or that this memo was shared with the  
7 Illinois Attorney General's Office by -- and this  
8 is this memo to Captain Strohl -- by Lieutenant  
9 Callahan or by Captain Strohl in conjunction with  
10 Lieutenant Callahan.  That's the extent of my  
11 knowledge.

12           MS. SUSLER:  Did you say by Strohl in  
13 conjunction with Callahan?

14           THE WITNESS:  Yes.

15           MS. SUSLER:  I just didn't hear what you  
16 said.

17           THE WITNESS:  By either Lieutenant Callahan  
18 or Captain Strohl -- the memo was to him -- or in  
19 conjunction with him.

20           MR. BALSON:  Q  Okay.  Well then, in any  
21 event, you didn't disclose it to any competent  
22 authority yourself?

23           MR. JOHNSTON:  Object to the form of the  
24 question.

1                                    You can answer as best you can.

2                   THE WITNESS:  A  I don't -- I don't exactly  
3 know what a competent authority is, but I didn't  
4 disclose it to anyone.

5                   MR. BALSON:  Q  You didn't disclose it to  
6 any courts, right?

7                   A       No.

8                   Q       You didn't disclose it yourself to  
9 any judicial personnel, did you?

10                  A       No.

11                  Q       You didn't disclose it yourself to  
12 any attorneys, did you?

13                  A       No.

14                  Q       You didn't disclose it yourself to  
15 the Illinois AG's office either, did you?

16                  A       No.

17                  Q       Did you disclose this information to  
18 anyone up the chain of command?

19                  A       I -- I didn't.  I don't know what  
20 path this memo took.

21                  Q       I'm just asking about you.

22                  A       No, I didn't.

23                  Q       The fact is you don't know what path  
24 this took because you didn't do it, right?

1 MR. JOHNSTON: Object to the form of the  
2 question. Mischaracterizes his testimony.

3 Go ahead and answer as best you  
4 can.

5 THE WITNESS: A That's not exactly how I  
6 would say it.

7 But, no, I didn't do it; and I  
8 wasn't involved in the preparation or distribution  
9 of it.

10 MR. BALSON: Q You said you had an  
11 understanding that this was given to the Illinois  
12 AG's office?

13 A Yes.

14 Q What's the basis for that  
15 understanding?

16 A What I recall is that Lieutenant  
17 Callahan had faxed what I believe to be this memo  
18 to the Illinois Attorney General's Office. I  
19 don't know the time frame, but somewhere early on  
20 in this investigation.

21 Q To whom at the Illinois Attorney  
22 General's Office?

23 A I didn't know at the time, but -- I  
24 heard the name mentioned, but I don't really know

1 who it was.

2 Q What name did you hear mentioned?

3 A Well, the name I heard mentioned back  
4 some time ago was Bob Spence, but I -- in  
5 preparation Mr. Johnston and I talked about...

6 MR. JOHNSTON: Well...

7 MR. BALSON: Q Don't tell me what you  
8 talked about with Mr. Johnston.

9 THE WITNESS: A I don't remember the name.  
10 The name I remember associated with it originally  
11 was Bob Spence.

12 Q And what's the basis that you have  
13 for believing that this was sent to Bob Spence?

14 A The basis -- um -- I -- I was aware  
15 that a memo or a communication on the case was  
16 sent to the Attorney General's Office by Callahan  
17 because Deputy Director Dan Kent told me that he  
18 was upset because Callahan had faxed the memo or  
19 had sent a memo directly to the AG's office and  
20 not through the chain of command.

21 Q Was the AG's office involved at all  
22 in -- with Herbert Whitlock in 2001?

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

1                   You can answer as best you can.

2           THE WITNESS:  A  I don't remember who was  
3  involved -- I don't remember who was involved with  
4  it.

5           MR. BALSON:  Q  Well who at the AG's office  
6  to your understanding was involved with Herbert  
7  Whitlock at any time in 2001 or 2002?

8           MR. JOHNSTON:  Object to the form of the  
9  question.

10                   You can answer as best you can.

11           THE WITNESS:  A  I don't know anyone there  
12  specifically that was involved in it.

13                   It was my impression or  
14  understanding that the Attorney General's  
15  Office -- maybe even erroneously -- that that the  
16  Attorney General's Office was handling or would  
17  handle cases on appeal and it shifted from  
18  whatever county court to the Attorney General's  
19  Office for representation.

20           MR. BALSON:  Q  So you figured that  
21  somehow, this being faxed to the Attorney  
22  General's Office back in the spring of 2000, would  
23  have found its way to whoever was working on  
24  Herbert Whitlock's case?



1 MR. JOHNSTON: Object to the form of the  
2 question.

3 You can answer as best you can.

4 MR. BALSON: Q Is that your understanding?

5 MR. JOHNSTON: I object to the form of the  
6 question.

7 You can answer.

8 THE WITNESS: A My understanding was that  
9 this information would have been sent to someone  
10 at the Attorney General's Office who would make a  
11 decision as to whether there was anything there to  
12 share with them; and if that was the case, they  
13 would provide it with whomever represented the  
14 gentleman.

15 MR. BALSON: Q In the next paragraph it  
16 says, in talking with Mark Murphy, polygraph  
17 examiner, he states that D. Herrington failed the  
18 polygraph and purposely misled police in the  
19 investigation. Mark Murphy suggested a second  
20 polygraph, but one was never done.

21 Did you have occasion to look  
22 at the Murphy polygraph examination report?

23 A I'm a bit behind you. Are you still  
24 on page two?

1 Q Yeah.

2 A Where are we?

3 Q Sixth bullet point.

4 A Okay, thank you. Okay.

5 Q Did you ever read Mark Murphy's  
6 polygraph report on Darrel Herrington?

7 A Not that I remember.

8 Q This statement by Mark Murphy, did it  
9 occur to you when you read this statement that, if  
10 true, it would be important to Whitlock in a  
11 post-trial proceeding?

12 MR. JOHNSTON: Object to the form of the  
13 question.

14 You can go ahead and answer it.

15 MS. CLIFFE: I join in the objection.

16 THE WITNESS: A I didn't particularly know  
17 who it would be important to.

18 He mentions Dale -- Darrel --  
19 D. Herrington failed the polygraph and purposely  
20 misled police. I'm reading it is as you are, but  
21 I don't know whether Mark Murphy, in fact,  
22 suggested one, or I don't know the time frame the  
23 polygraph was conducted or that type of thing.

24 MR. BALSON: Q Did you know who Mark

1 Murphy was?

2 A Yes.

3 Q Was it a simple matter for you to  
4 pick up a telephone and talk to Mark Murphy if you  
5 wanted to?

6 A Yes, I could have.

7 Q You could have looked in to this if  
8 you wanted to at the time, couldn't you?

9 MR. JOHNSTON: Object to the form of the  
10 question, at this time.

11 Go ahead and answer as best you  
12 can.

13 THE WITNESS: A Well, you're still  
14 referencing this 2000...

15 MR. BALSON: Q Um-hum.

16 A Correct?

17 Q Yes.

18 A I told you time and again I don't  
19 know when I actually read it or when I received  
20 it.

21 It was my understanding that  
22 Lieutenant Callahan was -- when he captured this  
23 information he, as easily as I, could have talked  
24 to Mark Murphy; and if, in fact, he did, that was

1 what Mr. Murphy said. He suggested a second  
2 polygraph and one was never done is the ending  
3 line of the sentence.

4 Q That is the ending line of the  
5 sentence.

6 A Yes.

7 Q My question to you is, at the time  
8 you read this, you could have picked up a  
9 telephone and asked Mark Murphy about this if you  
10 wanted to. Couldn't you have?

11 MR. JOHNSTON: Object to the form of the  
12 the question.

13 You can answer.

14 THE WITNESS: A I wouldn't put it exactly  
15 that way. I could have called up Mark Murphy and  
16 asked him about this, yes.

17 MR. BALSON: Q And you didn't do that, did  
18 you?

19 A No, I didn't.

20 Q And may I assume also that you did  
21 not disclose this information to any competent  
22 authority on your own?

23 A That's correct.

24 Q Okay. Nine -- no. Forget that one.

1 Skip that one.

2 Turn the page, please, to  
3 18082. In the fourth bullet point from the  
4 bottom, the one that says in an interview of  
5 Barbara Furry, she states that she has never gone  
6 to the bars with Rienbolt and was not with  
7 Rienbolt at the American Legion on 7/5/86.

8 Do you see that?

9 A I do now, sir.

10 Q Okay. Did you know who Barbara Furry  
11 was?

12 A No.

13 Q Did you know the significance of this  
14 statement when you read it?

15 MR. JOHNSTON: Object to the form of the  
16 question.

17 Go ahead and answer it as best  
18 you can.

19 MS. CLIFFE: I join in the objection.

20 THE WITNESS: A I had no idea of the  
21 significance.

22 MR. BALSON: Q Do you know who interviewed  
23 Barbara Furry?

24 A No.

1 Q Turn the page, please, to 18083, and  
2 the last bullet point paragraph on the top half of  
3 the page, the one that starts "it should be  
4 noted".

5 Do you see that?

6 A Yes, sir.

7 Q Are you with me -- okay.

8 It should be noted that, in the  
9 deposition on 2/17/96 with Debbie Rienbolt, she  
10 recants her testimony at the trial.

11 My question to you is did you  
12 have occasion to read Debbie Rienbolt's testimony  
13 of 2/17/96.

14 A No, sir, I didn't.

15 Q Okay.

16 On the first page do you  
17 remember reading that Mr. Callahan wrote that  
18 the -- both subjects were subsequently convicted  
19 based on the eyewitness testimony of Darrel  
20 Herrington and Debbie Rienbolt? You saw that?

21 A Yes, sir.

22 Q Okay. And then this bullet point  
23 says that on 2/17/96 in a deposition she recants  
24 her testimony. Do you see that?

1           A       Yes, sir.

2           Q       Did you deem that to be significant  
3 when you read it?

4           MR. JOHNSTON: Object to the form of the  
5 question.

6                        You can go ahead and answer it.

7           THE WITNESS: A At some point when I read  
8 this and also -- well, I thought it was  
9 significant until I reviewed the decisions from  
10 the supreme court and they talked about where they  
11 specifically addressed recantation of testimony --  
12 or recantation of witness testimony, and I believe  
13 the time it was brought up that that was still at  
14 issue. But after that, just pretty much, you  
15 know, I knew that these dot points were there and  
16 the information was contained in the memos in some  
17 nature. But I was firmly under the impression  
18 that the Illinois Supreme Court had dealt with the  
19 issue of the recantation of the witness testimony.

20           MR. BALSON: Q Well, later on in this same  
21 paragraph, the next sentence says she states her  
22 testimony wasn't truthful, that she was not at the  
23 Rhoads house the night of 7/5/86. She states that  
24 she was led in to her testimony by

1 Detective Parrish.

2 Do you see that?

3 A No.

4 MR. JOHNSTON: You started with -- did you  
5 start with she states her testimony wasn't  
6 truthful?

7 MR. BALSON: Q In the next sentence she  
8 stated she was led in to her testimony by  
9 Detective Parrish. Do you see that?

10 THE WITNESS: A Yes.

11 Q Okay. And is this another -- strike  
12 that.

13 When you read this did you  
14 understand this to be another assertion by Michale  
15 Callahan that Detective Parrish was suborning  
16 perjury?

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

19 Go ahead and answer.

20 MS. CLIFFE: I join in the objection.

21 THE WITNESS: A No, I wouldn't say it that  
22 way at all.

23 It was my understanding from  
24 reading this that this information had been



1 provided -- my understanding is it had been  
2 provided by Mr. Metnick, and he was making these  
3 assertions and making these allegations.

4 MR. BALSON: Q Well that's not what this  
5 says. This says at her deposition she states she  
6 was led in to her testimony by Detective Parrish.

7 MR. JOHNSTON: Object to the form of the  
8 question. You asked the question. He gave you an  
9 answer.

10 MR. BALSON: Q Mr. Callahan does not  
11 refer -- make reference to the fact that this is a  
12 statement by Mr. Metnick. He says that she states  
13 this in her deposition, doesn't he?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 You can answer it if you  
17 understand it.

18 THE WITNESS: A I answered what my  
19 understanding was.

20 Callahan took a lot of this  
21 information -- the vast majority of it was  
22 provided by Bill Clutter on behalf of Mr.  
23 Metnick -- or however it went. Then he adopted  
24 his own and put it in these memos. It was my

1 understanding that this was one of those points.

2 MR. BALSON: Q So you chose to believe  
3 that this was inaccurate?

4 A No. I think it -- it would be better  
5 stated that I was skeptical of any of the  
6 information that didn't -- I was skeptical of any  
7 of the information.

8 Q Did you tell Michale Callahan you  
9 were skeptical of the information?

10 A Of this information specifically?

11 Q Of any information.

12 MR. JOHNSTON: Object to the form of that  
13 question.

14 Go ahead and answer as best you  
15 can.

16 THE WITNESS: A Not that I specifically  
17 recall.

18 MR. BALSON: Q Okay. But I guess my next  
19 question is whether or not you disclosed to anyone  
20 the information that Debbie Rienbolt stated that  
21 she was led in to her testimony by Detective  
22 Parrish.

23 A No, I didn't tell anyone.

24 Q Down at the bottom of that paragraph

1 it says Debbie Rienbolt states in the deposition  
2 that police led her to bring up Steidl as a  
3 suspect but to her knowledge he was not involved  
4 in the murders.

5 Do you see that?

6 A Yes, sir.

7 Q Okay. Did you believe that this was  
8 another time that Michale Callahan was -- well,  
9 strike that.

10 Were you skeptical that this  
11 information was correct?

12 MR. JOHNSTON: Object to the form of the  
13 question.

14 MS. CLIFFE: I --

15 MR. JOHNSTON: Go ahead.

16 MS. CLIFFE: I object to the form of the  
17 question.

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

20 If you can answer that  
21 question, go ahead.

22 THE WITNESS: A Yes, I was skeptical of  
23 the information.

24 MR. BALSON: Q What was the basis of you

1 being skeptical of that statement?

2 A Well, Lieutenant Callahan in this  
3 memo makes reference that it should be noted in  
4 the deposition, but I don't see any deposition  
5 transcripts or references to lines, pages, as much  
6 as you folks are doing here today, to show me. I  
7 didn't ever see that.

8 I don't recall ever seeing --  
9 during this whole course, I don't recall ever  
10 seeing a deposition transcript in the case file,  
11 which I would have reviewed, that reflected that  
12 information.

13 MR. BALSON: Q Did you ask to see the  
14 deposition transcript?

15 A No.

16 Q Did you inform anyone or disclose to  
17 anyone or any competent authority that Debbie  
18 Rienbolt stated in a deposition that the police  
19 led her to bring up Steidl as a suspect but to her  
20 knowledge he was not involved in the murders?

21 A I didn't. But, again, this -- it was  
22 my understanding this information was sent to the  
23 Illinois Attorney General's Office by Lieutenant  
24 Callahan. I was under the impression it had all

1 been shared with the Illinois Attorney General's  
2 Office.

3 Q The question is whether you did.

4 A I did not.

5 Q Okay.

6 And did you have any knowledge  
7 at all whether Whitlock was in possession of this  
8 information?

9 A I don't understand your question. I  
10 lost the track of thought there.

11 Q That's all right.

12 The information about Debbie  
13 Rienbolt's recantation, her statements that her  
14 testimony wasn't truthful and that she was led in  
15 to this testimony by Detective Parrish, did you  
16 have any knowledge whether Mr. Whitlock was in  
17 possession of that information?

18 A I had no such knowledge.

19 Q Did you undertake in any way to get  
20 that information to Mr. Whitlock?

21 A No, sir.

22 Again, it's my understanding  
23 the responsibility was to get it to the  
24 prosecutors, not to the defense or the defendant.

1 Q Did you make a decision not to get it  
2 to Mr. Whitlock?

3 MR. JOHNSTON: Object to the form of that  
4 question.

5 Go ahead and answer it.

6 THE WITNESS: A No, sir.

7 MR. BALSON: On the next page, 18084, at  
8 the top of the page Mr. Callahan writes but to  
9 base the conviction on the testimony of Herrington  
10 and Rienbolt, with all the documented  
11 discrepancies and conflicting statements,  
12 definitely merits review.

13 Was that Mr. Callahan's  
14 position at the meeting also?

15 A And you're still referencing this  
16 meeting in early '02?

17 Q That's right.

18 A No. He didn't voice any strong  
19 opinions or mention those things.

20 He talked about what they were  
21 doing, cabinet checks, customs checks, trucking,  
22 drug distribution, photographs, aerial photographs  
23 from the state; but he never maintained any  
24 such -- I don't remember that he stated any such

1 position.

2 Q Did he tell you that he wanted to  
3 fully investigate the Rhoads homicides?

4 A No.

5 Q Did he tell you he wanted to reopen  
6 the case?

7 A Not that I remember, no.

8 Q Did he tell you he wanted the  
9 investigation on the Rhoads homicides to be  
10 operational?

11 MR. JOHNSTON: Object to the form of the  
12 question.

13 You can answer as best you can.

14 THE WITNESS: A No, he never said that  
15 either.

16 It was operational. They were  
17 doing operational, investigative activity.

18 MR. BALSON: Q And that was okay with you?

19 A Yeah.

20 Q Tell me, if you can remember, what  
21 operational activity they did specifically on the  
22 Rhoads murder case.

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

1                   You can answer as best you can.

2           A       Well, again, it was my understanding  
3           and my impression that these things were  
4           intertwined, Bod Morgan, the investigation on Bob  
5           Morgan, the investigation on Eiffel Tower, the  
6           Rhoads homicide case, everything -- it was my  
7           understanding or impression of what Lieutenant  
8           Callahan and Sergeant Dixon were doing that they  
9           were trying to develop suspects leading them to  
10          Bob Morgan.

11          Q       Did Lieutenant Colonel Carper tell  
12          Michale Callahan not to go operational on the  
13          Rhoads homicides?

14          MR. JOHNSTON: I'll object to the form of  
15          the question. Foundation as well.

16                   Go ahead and answer as best you  
17          can.

18          THE WITNESS: A I honestly don't know what  
19          she told him.

20          MR. BALSON: Q Okay. Did you ever ask  
21          Lieutenant Colonel Carper whether or not Michale  
22          Callahan could open an investigation on the Rhoads  
23          homicides?

24          A       If I understand your question



1 correctly, you're asking if I ever asked her for  
2 permission --

3 Q That's right.

4 A -- To open a case?

5 Q That's right.

6 A No, sir, I didn't.

7 Q Did you need to ask her for  
8 permission or could you make that decision on your  
9 own?

10 A Well, I would say typically I would  
11 have made that decision on my own.

12 However, at some point I recall  
13 that she said not to reopen the case at this time,  
14 but come back later when you have all these things  
15 done with any additional information.

16 Q Okay. Did she ever rescind that  
17 order not to reopen the file at this time or the  
18 investigation at this time?

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

21 Go ahead and answer as best you  
22 can.

23 THE WITNESS: A Not that I remember.

24 MR. BALSON: Q So during the time that you

1 were serving as commander in zone five until June  
2 of '03 that order of Colonel Carper not to reopen  
3 the investigation was never rescinded?

4 MR. JOHNSTON: I'll object to the form.

5 MR. BALSON: Q Am I correct?

6 MR. JOHNSTON: I'll object to the form of  
7 the question. Assumes facts not in evidence.

8 THE WITNESS: A That's my understanding.

9 MR. BALSON: Q Okay. I don't know if I  
10 covered this before. If I did, I apologize for  
11 asking it again. As Mr. Johnston could tell you,  
12 I forget a lot of things.

13 Lieutenant Colonel Carper  
14 initially asked you about the Watson database and  
15 Rapid Start and the analytical work, right, on the  
16 Rhoads case?

17 A Yes.

18 Q And wanted to find out if it had been  
19 done, correct?

20 A Yes.

21 Q Was it ever done?

22 A Yes.

23 Q When was it done?

24 A I don't remember. It was done -- I

1 mean those things would be date stamped, but I  
2 don't remember when it was done.

3 Q To your memory.

4 A I don't remember.

5 Q All right.

6 After they were done did you  
7 tell Lieutenant Carper -- Lieutenant Colonel  
8 Carper that they were done?

9 A Yes, at some point I did.

10 Q And what did she say then relative to  
11 the Rhoads homicides?

12 A I don't remember that.

13 Q Okay. But when you told her that  
14 those were done did she say it's okay to reopen  
15 the investigation now?

16 A I don't remember what she said.

17 Q She never rescinded her order on not  
18 reopening the case, did she?

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

21 You can answer as best you can.

22 THE WITNESS: A Not that I remember, no.

23 MR. BALSON: Q Okay. If you would turn to  
24 page 18087, please. At the top it says an

1 interview of Mary Eastham in 1991 states that she  
2 observed a white Firebird with gold lettering and  
3 trim circling the Rhoads house several times prior  
4 to the homicide. The individuals in the car had  
5 long blonde hair. Jerry and Herbert Board had  
6 long blonde hair, and Jerry Board owned a white  
7 Firebird.

8 Do you remember reading that  
9 information at any time?

10 A I think I remember reading it.

11 Q Okay.

12 Did you ever read the interview  
13 of Mary Eastham?

14 A Not that I remember, no.

15 Q Do you know whether Mr. Whitlock had  
16 access to the interview of Mary Eastham?

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

19 You can answer it if you know  
20 the answer.

21 THE WITNESS: A No, I don't know if he had  
22 access to it or didn't -- if he did or didn't.

23 MR. BALSON: Q Did you do anything to  
24 disclose this information to Mr. Whitlock or his

1 attorneys?

2 MS. CLIFFE: Object to the form of the  
3 question.

4 MR. JOHNSTON: Objection. Same basis as  
5 before.

6 Go ahead and answer.

7 THE WITNESS: A I did not.

8 MR. BALSON: Q If you'd turn to the last  
9 page of this exhibit. In the middle of the page,  
10 the third paragraph, it says several interviews  
11 need to be conducted of several witnesses, some  
12 old witnesses, some that were overlooked in the  
13 prior investigation.

14 Do you see that?

15 THE WITNESS: A Yes, I do.

16 Q Did you give Mr. Callahan, Mr. Dixon  
17 or Mr. Reid permission to conduct those  
18 interviews?

19 A They were conducting interviews. I  
20 don't know of who. I never saw a list, or I don't  
21 have any particular specifics on who these  
22 witnesses were.

23 But I know that Lieutenant  
24 Callahan and Sergeant Dixon were interviewing

1 people along with the FBI. For one interview I  
2 recall they had traveled to Marion to the prison.

3 Q Were they doing interviews in  
4 connection with the Rhoads case?

5 A Well, once again, most -- in most of  
6 the instances I didn't know who they were  
7 interviewing.

8 Q Okay.

9 A But that they were going to interview  
10 people.

11 Q How is it that they were going to do  
12 interviews in the Rhoads case if Lieutenant  
13 Colonel Carper did not want you to reopen the  
14 investigation?

15 MR. JOHNSTON: Object to the form of the  
16 question.

17 Go ahead and answer as best you  
18 can.

19 THE WITNESS: A Well, once again, you're  
20 making a differentiation or a separation. It was  
21 my understanding that Morgan, the Rhoads case, at  
22 times called the Paris investigation, were more or  
23 less intertwined.

24 I don't know who specifically

1 they were interviewing, for instance, in Marion at  
2 the federal prison; but they were often times in  
3 the company of an FBI agent during their  
4 interviews.

5 Q Was the FBI investigating the Rhoads  
6 homicides?

7 MR. JOHNSTON: Object to the form of the  
8 question. Foundation.

9 Go ahead and answer the  
10 question.

11 THE WITNESS: A I really don't know.

12 MR. BALSON: Q The end of this paragraph  
13 says there are hair, blood and tissue samples that  
14 remain in evidence at the Paris Police Department  
15 and in Edgar County.

16 Did you ask that anything be  
17 done with the hair, blood and tissue samples?

18 MS. CLIFFE: Object to the form of the  
19 question.

20 THE WITNESS: A Yeah, I don't -- I don't  
21 remember ever reading that phrase or hearing that.

22 MR. BALSON: Q Did it occur to you at any  
23 time that, if police detectives were suborning  
24 perjury and creating witnesses, they might also be

1 tampering with evidence?

2 MS. CLIFFE: Object. Foundation.

3 MR. JOHNSTON: Join the objection.

4 You can answer if you can.

5 THE WITNESS: A Your question is did it  
6 occur to me at any time?

7 MR. BALSON: Q Well, yes, at any time  
8 during 2001, 2002, up until June 2003.

9 MS. CLIFFE: Same objection.

10 MR. JOHNSTON: Same objection.

11 Go ahead and answer.

12 THE WITNESS: A No, I never really thought  
13 that.

14 MR. BALSON: Q Okay.

15 Did you have any concerns about  
16 DNA evidence being left at a local police office?

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

19 THE WITNESS: A Well I testified a few  
20 minutes ago -- or a minute ago that I wasn't aware  
21 that it was there. I didn't know it was there. I  
22 don't know to this day if it was actually there.

23 You're taking one sentence out  
24 of this. It doesn't even say in that sentence



1 that it was relative to the Rhoads homicide case,  
2 but...

3 Q Do you think he's talking about  
4 someone else's hair, blood and tissue?

5 MR. JOHNSTON: Objection. You got to let  
6 him finish his answer.

7 You can answer the question.

8 THE WITNESS: A Yeah, I mean, taking this  
9 sentence on its face as you read it, there are  
10 hair, blood and tissue samples that remain in  
11 evidence at the Paris Police Department and Edgar  
12 County, two different facilities, two different  
13 places.

14 MR. BALSON: Q Um-hum.

15 A I didn't know that it existed.

16 Q That what existed?

17 A I didn't know this evidence was  
18 there, if, in fact, it's there.

19 Q He says it is there. Do you have any  
20 reason to doubt him?

21 MR. JOHNSTON: Object to the form of the  
22 question.

23 Go ahead and answer as best you  
24 can.

1 THE WITNESS: A I don't remember reading  
2 this at the time.

3 I have no reason to doubt him  
4 at the time that this was written or whenever I  
5 reviewed it, but I -- I didn't realize or still  
6 don't realize or accept the fact that it was  
7 there.

8 I don't know whether it was or  
9 wasn't.

10 MR. BALSON: Q But you have no reason to  
11 doubt that what he told you was the truth, do you?

12 MR. JOHNSTON: Objection. Asked and  
13 answered.

14 Go ahead and answer as best you  
15 can.

16 MS. CLIFFE: Object to the form.

17 THE WITNESS: A At this point, sir, after  
18 nine years and two civil rights suits and  
19 Lieutenant Callahan making allegations, I'm  
20 skeptical of anything and everything that  
21 Lieutenant Callahan would say.

22 MR. BALSON: Q Well let's go back to the  
23 year 2001 when you were appointed and you received  
24 this memo and had this conversation and it was

1 brought to your attention in this memo, at least  
2 on a few occasions, that there was a possibility  
3 of a local detective suborning perjury to get a  
4 murder conviction.

5 Did it occur to you that it  
6 might not be good police practice to leave hair,  
7 blood and tissue samples at a local police office?

8 MS. CLIFFE: I object. Form and  
9 foundation.

10 MR. JOHNSTON: Join the objection.

11 Go ahead and answer as best you  
12 can.

13 THE WITNESS: A I can't answer that  
14 question.

15 MR. BALSON: Q You can answer it?

16 A It's multi-faceted. You made several  
17 assumptions in there.

18 If you can break the question  
19 down, I'd be more than happy to answer it.

20 MR. BALSON: Q Back in 2001 when you  
21 assumed command and in early 2002 when you had  
22 your meetings and presumably read your file -- do  
23 you remember that?

24 MR. JOHNSTON: I object to the form.

1 MR. BALSON: Q We're okay so far?

2 MR. JOHNSTON: Object to the form.

3 THE WITNESS: A I'm listening.

4 MR. BALSON: Q Okay.

5 And when you read this there  
6 were several sections in here which indicated that  
7 local police officers and police detectives  
8 suborned perjury. Those are the allegations. Do  
9 you remember reading those?

10 MS. CLIFFE: Object to the form of the  
11 question.

12 MR. JOHNSTON: Join the objection.

13 You can answer.

14 THE WITNESS: A No, I don't remember  
15 reading those at the time.

16 MR. BALSON: Q Let's go back.

17 On page two, the -- one, two,  
18 three, four - the fifth bullet point down, Mr.  
19 Callahan says that Paula Myers and Carol Robinson  
20 stated that State's Attorney Michael McFatridge  
21 and Detective Jim Parrish had Carol Robinson lie  
22 on the stand.

23 That's one instance of the  
24 subornation of perjury, isn't it?

1 MS. CLIFFE: Object to form. Foundation.

2 MR. JOHNSTON: Join. Asked and answered.

3 Go ahead and answer as best you  
4 can.

5 MR. BALSON: I wouldn't ask and answer them  
6 if he said he didn't remember.

7 THE WITNESS: A I'm trying to be as  
8 responsive as possible, and I believe with all my  
9 heart I am being responsive.

10 You're read to me from  
11 something I told you I don't remember and then  
12 you're expecting me to accept it as fact; and I  
13 don't remember specifically reading that.

14 MR. BALSON: Q With all due respect,  
15 sir --

16 A And I'm not trying to be  
17 argumentative.

18 Q With all due respect, sir, I'm not  
19 asking you to accept it as fact. I'm asking you  
20 to accept it as a report done by Lieutenant  
21 Callahan in his capacity as an Illinois State  
22 Police investigator, okay?

23 Whether it's true or not  
24 ultimately is not my question. The question is

1 whether he has brought this to your attention that  
2 he believes it to be true.

3 He's the investigator. He's  
4 the on-the-scene man. Okay?

5 MR. JOHNSTON: I'll object to the form of  
6 the question, if that was a question. I don't  
7 think it...

8 MR. BALSON: Let's call it prefatory.

9 MR. JOHNSTON: Call it whatever you want.

10 MR. BALSON: Q All right. This fifth  
11 bullet point is one indication that Lieutenant  
12 Callahan thinks there's been subornation of  
13 perjury, correct?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 THE WITNESS: A Which he documented in  
17 this memo and submitted it to Captain Strohl.

18 Q And which you read?

19 A At some point in time.

20 MR. JOHNSTON: Object to the form.

21 MR. BALSON: Q That's right.

22 In the next one he suggests  
23 Mark Murphy suggested a second polygraph but one  
24 was never done, which indicates manipulation and

1 possible suppression of evidence; doesn't it?

2 MR. JOHNSTON: I'll object to the form of  
3 the question.

4 You can answer as best you can.

5 MS. CLIFFE: Same objection.

6 THE WITNESS: A I wouldn't say that at  
7 all.

8 MR. BALSON: Q This statement that  
9 Herrington failed the polygraph and purposely  
10 misled the police and that Murphy suggested a  
11 second one and he refused to take it, what does  
12 that indicate to you?

13 MR. JOHNSTON: That's not what it says. I  
14 object to the form of the question.

15 Answer the question if you  
16 understand it.

17 MS. CLIFFE: Join.

18 THE WITNESS: A I don't understand the  
19 question because you said he refused to take it.

20 MR. BALSON: Q Who said he refused to take  
21 it?

22 MR. JOHNSTON: You did.

23 MR. BALSON: I didn't say he refused to  
24 take it.

1 MR. JOHNSTON: You can have the record read  
2 back.

3 MR. BALSON: Q If I said that, I didn't  
4 mean it.

5 In talking with Mark Murphy,  
6 polygraph examiner, he states that Darrel  
7 Herrington failed the polygraph and purposely  
8 misled police in the investigation. Mark Murphy  
9 suggested a second polygraph but one was never  
10 done, which leads me to believe that -- maybe you  
11 don't come to the same conclusion -- that the  
12 detectives didn't want the second one done?

13 MS. CLIFFE: I object. Form. Foundation.

14 MR. JOHNSTON: I'll join the objection.

15 If there's a question in there,  
16 you can answer it as best you can.

17 THE WITNESS: A I don't share your  
18 conclusion. I don't know why it wasn't done.

19 To suggest that it was  
20 purposely manipulated based upon this sentence is  
21 a stretch.

22 MR. BALSON: Q Well then we have, on  
23 18083, the statement by Lieutenant Callahan that  
24 Debbie Rienbolt says that the police led her to



1 bring up Steidl as a suspect but to her knowledge  
2 he was not involved in the murders. That would be  
3 another indication where Lieutenant Callahan  
4 believed there was subornation of perjury,  
5 correct?

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

8 MS. CLIFFE: Join the objection. I object  
9 on foundation as well.

10 MR. JOHNSTON: Brian, did you say  
11 something?

12 MR. SMITH: I just want to join in your  
13 objection, Iain.

14 MR. THIES: Can you mute it after you  
15 speak, Brian?

16 MR. SMITH: Oh, okay.

17 MR. THIES: Thank you.

18 MR. BALSON: Read back the question to him,  
19 please.

20

21 (Question read.)

22

23 MR. JOHNSTON: We're objecting.

24 MS. CLIFFE: Continue my objection to form

1 and foundation.

2 MR. JOHNSTON: Go ahead and answer if you  
3 can.

4 THE WITNESS: A I don't know what  
5 Lieutenant Callahan believed.

6 MR. BALSON: Q Well it's not necessary to  
7 know what he believed. It's just necessary to  
8 know what he said.

9 MR. JOHNSTON: That's not what you just  
10 asked him.

11 MR. BALSON: Q He said Debbie Rienbolt  
12 states in the deposition that police led her to  
13 bring up Steidl as a suspect but to her knowledge  
14 he was not involved in the murders.

15 That's an expression that he  
16 believed there was a subornation of perjury, isn't  
17 it?

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

20 MS. CLIFFE: I join.

21 MR. JOHNSTON: Answer as best you can.

22 THE WITNESS: A I don't know. I don't  
23 know what he believed.

24 MR. BALSON: Q How do you interpret that

1 statement?

2 A The statement is there, but...

3 Q How do you interpret that statement?

4 She says she was led in to her testimony by

5 Detective Parrish. How do you interpret that?

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

7 the question.

8 You can answer, Steve.

9 MS. CLIFFE: I join the objection.

10 Foundation as well.

11 THE WITNESS: A You know, I never gave it

12 any thought up until when you asked me the

13 question. How she was -- if she was led --

14 whether he led her by asking leading questions and

15 she responded -- I don't know if the insinuation

16 is he led her to the room, if he led her -- I

17 don't know what he meant. I don't know what he

18 believed.

19 MR. BALSON: Q Do you think it might be he

20 led her to the room?

21 MR. JOHNSTON: Object to the form.

22 THE WITNESS: A I don't know. I'm trying

23 to tell you what I think.

24 MR. BALSON: Q Okay. At the bottom where

1 he says Debbie Rienbolt states in the deposition  
2 that police led her to bring up Steidl as a  
3 suspect, do you think that also might be when they  
4 led her to the room?

5 MS. CLIFFE: I object. Form.

6 MR. JOHNSTON: I'll object to the form.

7 Argumentative as well.

8 You can answer it as best you  
9 can.

10 THE WITNESS: A I don't know how to answer  
11 the question the way it's posed.

12 MR. BALSON: Q I think you do know how to  
13 answer.

14 A No, I don't.

15 Q I didn't give that answer, led her to  
16 the room. You gave me that answer.

17 MR. JOHNSTON: I'll object to the harassing  
18 nature of the question and remind Mr. Balson that  
19 at the beginning of this deposition he told Mr.  
20 Fermon, if he didn't understand a question and he  
21 couldn't answer it, that Mr. Balson would rephrase  
22 or repeat it.

23 MR. BALSON: He didn't tell me he didn't  
24 understand the question.

1 THE WITNESS: You...

2 MR. BALSON: Q In any event, getting back  
3 to where we were before, you didn't think there  
4 was anything wrong with leaving the hair, blood  
5 and tissue samples in evidence at the Paris Police  
6 Department; right?

7 MR. JOHNSTON: I'll object. Asked and  
8 answered five times. He said he didn't remember.

9 MR. BALSON: We cando it a sixth time.

10 MR. JOHNSTON: The objection still stands  
11 he said he didn't remember reading that.

12 Tell him again, Steve.

13 THE WITNESS: A I don't remember reading  
14 that.

15 MR. BALSON: Q Did you ever seek to find  
16 out why a second polygraph wasn't done on Darrel  
17 Herrington?

18 A No.

19 Q Was it important to you?

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

22 Go ahead and answer it as best  
23 you can.

24 Time frame.

1 THE WITNESS: A No. At that time it  
2 didn't seem to be an important issue.

3 MR. BALSON: The 7/12 memo.

4  
5 (Document marked as requested.)

6  
7 MR. BALSON: Q I show you what is marked  
8 as Fermon Deposition Exhibit No. 4, which is a  
9 memorandum prepared on or about July 12, 2000 from  
10 Lieutenant Michale Callahan to Captain John H.  
11 Strohl; and I ask you to turn to page two, please.

12 The Bates number is 963 through  
13 965.

14 The third bullet point from the  
15 bottom, please, sir. Witness stated Darrel  
16 Herrington had a lock box which would go to the  
17 proper authorities when he died which would tell  
18 the real story about the Rhoads murders.

19 Do you see that?

20 THE WITNESS: A Yes.

21 Q Do you remember reading that?

22 MR. JOHNSTON: Object to form. Foundation.

23 Answer as best you can.

24 THE WITNESS: A No, I don't remember

1 reading it.

2 MR. BALSON: Q Did you read this July 12,  
3 2000 memo?

4 A Not that I specifically remember, no.  
5 This is a memo to Captain Strohl.

6 Q From Michale Callahan.

7 A Correct.

8 Q Was this in your file folder?

9 A Not that I remember, but I don't -- I  
10 don't specifically remember whether it was or  
11 wasn't.

12 Q Did you give Michale Callahan the  
13 authority to subpoena the contents of that lock  
14 box.

15 MR. JOHNSTON: I'll object. Assumes all  
16 kinds of facts. Form and foundation.

17 Go ahead and answer as best you  
18 can.

19 MS. CLIFFE: I also object to the form of  
20 the question.

21 THE WITNESS: A I don't have the authority  
22 to grant anyone subpoena powers, sir.

23 MR. BALSON: Q Did you suggest to him that  
24 he subpoena the lock box?

1 MR. JOHNSTON: I'll object. Assumes that  
2 he knew about it.

3 Go ahead and answer the best  
4 you can.

5 THE WITNESS: A No.

6 MR. BALSON: Q Did you disclose to any  
7 person the fact that a witness had stated Darrel  
8 Herrington had a lock box which would go to the  
9 proper authorities when he died which would tell  
10 the real story about the Rhoads murders?

11 MR. JOHNSTON: Same objection.

12 Steve, if you can answer that  
13 question, go ahead and answer it.

14 THE WITNESS: A Well I don't remember  
15 reading it. I don't recall the existence of it,  
16 and I didn't tell anyone.

17 MR. BALSON: Q Okay. The next bullet  
18 point says Rod Rhoads stated former city official  
19 told him that Mike McFatrige, former state's  
20 attorney, was in the mafia's pocket. McFatrige  
21 left St. Louis University and the University of  
22 Illinois Law School with large students loans and  
23 they were paid off for McFatrige when he became  
24 state's attorney by Paris organized crime figures.



1 Do you remember reading that?

2 A I remember -- I remember either  
3 reading it or Lieutenant Callahan saying words to  
4 that effect in a meeting. I can't differentiate  
5 whether I read it or he told me.

6 Q Okay. And you knew that there was an  
7 organized crime investigation going on concerning  
8 the Paris area, did you not?

9 MR. JOHNSTON: Objection. I'll object to  
10 time frame.

11 You can answer as best you can.

12 THE WITNESS: A I knew that there was an  
13 organized crime investigation in Paris? Is that  
14 your question, whether I knew that?

15 MR. BALSON: Q Yes.

16 A No. I don't know anything about it.

17 Q You didn't know there was an OCDETF  
18 investigation entitled Operation Eiffel Tower?

19 MR. JOHNSTON: Objection. He's already  
20 testified that he was not -- go ahead and answer.

21 THE WITNESS: A Yeah. To the best of my  
22 understanding and knowledge, during the time  
23 period that I was zone commander we had tried  
24 working with the United States Attorney's Office

1 to get an organized crime drug enforcement task  
2 force established but that had never been done.  
3 We were in preliminary discussion phases, and it  
4 never materialized.

5 MR. BALSON: Q You were trying to get it  
6 done?

7 A Yes.

8 Q Why were you trying to get it done?

9 A Well, in order to get -- the OCDETF  
10 task force primarily gives you resources and  
11 personnel; and then you have really extrinsic  
12 circumstances when you would have the United  
13 State's Attorney's Office involved.

14 At that point that's when we  
15 have subpoena power. That's when we can request a  
16 subpoena, for instance, you know, in bringing  
17 people in, get whoever is identified as witnesses,  
18 as much as you delivered me with a notice of  
19 deposition; and that's when I felt the  
20 investigation could make some head way.

21 Q And you requested this, right? You  
22 said you requested it?

23 MR. JOHNSTON: Objection to the form of the  
24 question.

1 MR. BALSON: Q You requested that it be  
2 established?

3 MR. JOHNSTON: I object to the form of the  
4 question.

5 You can answer the question as  
6 best you can, Steve.

7 THE WITNESS: A Okay. Understanding the  
8 Organized Crime Drug Enforcement Task Force, I had  
9 suggested that we attempt to establish an OCDETF  
10 task force and also work with the -- work and meet  
11 with the United State's Attorney's Office in an  
12 effort to get that done, to get it established, to  
13 also ask and identify other federal agencies and  
14 officers to be involved in it; but to the best of  
15 my knowledge it never materialized.

16 MR. BALSON: Q Can you give me a time  
17 period when you were making these requests?

18 A Well, I had met -- no, not  
19 specifically. I mean, between '01 -- I know we  
20 were engaged in that in 2002, 2003 -- during my  
21 tenure there.

22 Q What led you to request that an  
23 OCDETF task force be set up?

24 A Well, in my estimation that was -- we

1 didn't have the -- we didn't have -- in the zone  
2 we were in I was about 20 or 25 people short of  
3 what I thought we needed to even conduct daily  
4 operations. We didn't have any grand jury  
5 authority. Unlike federal agencies, we didn't  
6 have administrative subpoena power.

7 In the past -- in my past  
8 experiences, we've had success with the OCDETF  
9 task force in getting people with federal  
10 prosecutorial interest and other agencies, ATF,  
11 FBI, DEA on board in the investigation.

12 Q You were -- you say you were 25 men  
13 short of conducting your operations? Is that what  
14 you said?

15 A That was my estimate, yes.

16 Q What operations did you want to  
17 conduct?

18 A Well, what I said was we were 20 or  
19 25 people short of being able to handle our daily  
20 operations; and at that time we were  
21 responding, -- and I assume still today -- but at  
22 that time we were responding to child sexual  
23 criminal assault cases through DCFS. We were  
24 responding to local police agencies for an

1 assortment of investigations, burglaries, thefts,  
2 police shootings, homicides, that type of thing.

3 I had put forth proposals for  
4 major cases assistance type teams. I just had a  
5 very limited number of people in huge geographical  
6 area with a lot of responsibilities.

7 Q Were you of the opinion during your  
8 tenure in zone five that there was a need for  
9 organized crime and drug enforcement operations to  
10 be done?

11 MS. CLIFFE: Object to the form of the  
12 question.

13 MR. JOHNSTON: Join the objection.

14 You can answer it as best you  
15 can.

16 THE WITNESS: A Yes. Although we didn't  
17 have -- from my experience with the federal  
18 prosecutors, what they typically want is a  
19 seized -- a fresh load of dope, an active witness  
20 that's able to buy dope, drugs or anything else,  
21 from Mr. Balson, for instance, that person can  
22 come in and keep working.

23 In this case we didn't -- that  
24 I was aware of -- we didn't have any fresh load,

1 anything recent in nature like that.

2 The OCDEF task force and the  
3 power of the federal grand jury was the avenue  
4 through which I thought we could get these  
5 previously unidentified type witnesses, financial  
6 records, even possibly overhear authority, that  
7 type of thing.

8 MR. BALSON: Q Did you want to conduct  
9 these operations in Paris?

10 A Paris would have been a major  
11 component of it, yes.

12 Q Were you interested in investigating  
13 Guiseppi Vitale?

14 A The focus of what we discussed was  
15 Bob Morgan and basically wherever else it took us.

16 Q Did it take you to Guiseppi Vitale?

17 A I told you again that the  
18 investigation never got off the ground, that I  
19 know of, the OCDEF.

20 Q Do you know whether or not OCDEF was  
21 ever investigating Guiseppi Vitale?

22 MR. JOHNSTON: Object to form. It assumes  
23 there was an OCDEF.

24 Go ahead and answer.

1 THE WITNESS: A Yeah, not that I remember  
2 that there was.

3 MR. BALSON: Q Did you come to find out  
4 that he was involved in the Pizza Connection case?

5 A Yes.

6 Q Was there some sort of an incident  
7 where you were eating at Guiseppi Vitale's  
8 restaurant while they were conducting overhears?

9 MR. JOHNSTON: Object to the form of the  
10 question. It assumes all kinds of facts.

11 MR. BALSON: Q I seem to recall something  
12 like that.

13 MR. JOHNSTON: Object to form of the  
14 question. It assumes all kind of facts.

15 You can go ahead and answer.

16 THE WITNESS: A Some kind of incident  
17 while I was eating at Joe's Pizza?

18 MR. BALSON: Q Well maybe incident is not  
19 a good word.

20 Were you --

21 A I don't understand your question.

22 Q You do understand it.

23 A No, I don't understand it.

24 Q Okay.

1                   Were you accused of some sort  
2 of inappropriate conduct by eating or dining at  
3 Guiseppi Vitale's restaurant while there was a  
4 federal investigation going on which involved him?

5                   Maybe that's a better way of  
6 stating it.

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

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

11           THE WITNESS: A I don't remember  
12 specifically what Lieutenant Callahan alleged, but  
13 something about me eating at Joe's Pizza caused  
14 him -- or it's part of what he alleged in an  
15 internal investigation.

16           MR. BALSON: Q You don't know much more  
17 than what you just stated? You don't know what  
18 he alleged?

19           A I did at one time because it was at  
20 the forefront of my mind. I don't remember what  
21 specifically the allegation was, what the rules of  
22 conduct allegation was.

23           Q Did you eat there often?

24           MR. JOHNSTON: Object to the form of the



1 question.

2 MR. BALSON: Q At Joe's pizza.

3 MR. JOHNSTON: Object to the form of the  
4 question.

5 You can go ahead and answer  
6 that question if you understand it.

7 THE WITNESS: A Me and my family have  
8 eaten at Joe's Pizza. My wife and I date back to  
9 eating at Joe's Pizza in 19 -- like 1978, when we  
10 were first dating.

11 We have eaten at Joe's Pizza  
12 infrequently since we've moved to Chrisman in  
13 1993.

14 MR. BALSON: Q Well when you lived in  
15 Danville you used to eat at Joe's Pizza, right?

16 A No. When I lived in Danville -- that  
17 was up until about 1981 or so -- there was a Joe's  
18 Pizza in Georgetown, Illinois. That's the one we  
19 ate at.

20 Q Not the same Joe's Pizza?

21 A Well...

22 MR. JOHNSTON: Object to the form of the  
23 question.

24 If you can answer, go ahead.

1 MR. BALSON: Q I'm talking about the Joe's  
2 Pizza in Paris.

3 THE WITNESS: A Yeah, but -- well you  
4 referenced the Pizza Connection case and then  
5 Joe's Pizza, but I believe -- I'll say after the  
6 fact that the Joe's Pizza that was in Georgetown,  
7 Illinois was some way involved in the Pizza  
8 Connection case in the late '70s or early '80s.

9 Q They were related in some way, is  
10 that right?

11 A That's my understanding. I don't  
12 know how specifically, but that was my  
13 understanding.

14 Q I think when you were accused of  
15 inappropriate conduct it was because you were  
16 eating at the Joe's Pizza in Paris, Illinois;  
17 wasn't it?

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

20 You can answer again. I don't  
21 care what he thinks. Answer the question as best  
22 you can.

23 THE WITNESS: A I had eaten at Joe's Pizza  
24 in Paris, Illinois.

1 MR. BALSON: Q And how often did you do  
2 that?

3 MR. JOHNSTON: Objection. Asked and  
4 answered.

5 Go ahead and tell him again.

6 Time frame.

7 Go ahead and answer again.

8 THE WITNESS: A Infrequently. I mean,  
9 occasionally.

10 MR. BALSON: Q At the time you ate there  
11 did you know that Vitale was under a federal  
12 investigation?

13 MR. JOHNSTON: Object to the form of the  
14 question. Assumes facts not in evidence.

15 Go ahead and answer the  
16 question as best you can.

17 THE WITNESS: A No. No, I don't remember  
18 him being under any federal investigation then or  
19 since that I'm aware of.

20 MR. BALSON: Q When you thought that there  
21 were organized crime and drug enforcement  
22 operations needed to be done in your area, was  
23 Joe's Pizza one of the places that you thought  
24 should be investigated?

1 MS. CLIFFE: Object to the form of the  
2 question.

3 MR. JOHNSTON: Join.

4 Go ahead and answer as best you  
5 can.

6 THE WITNESS: A No.

7 You place a great deal of  
8 emphasis on organized crime as it relates to the  
9 Organized Crime Drug Enforcement Task Force.

10 Q Um-hum.

11 A That doesn't focus on what I perceive  
12 you as continually suggesting organized crime as  
13 it relates to Al Capone as such and the mafia.

14 The Organized Crime Drug  
15 Enforcement Task Force just suggests a relation to  
16 things such as distribution units. For instance,  
17 it could be three guys getting a delivery of a  
18 kilo of cocaine from someone on a bicycle.

19 Once the OCDETF task force is  
20 identified and witnesses are brought before the  
21 grand jury, the case goes where the case goes. If  
22 it goes to Danville or Joe's Pizza or wherever the  
23 witness statements take you, that's how you follow  
24 the case and develop the leads.

1 Q Okay. Let's go back to your meeting  
2 then with Callahan, Dixon and Reid.

3 After that meeting was  
4 concluded what, if anything, happened relative to  
5 the Rhoads homicide investigation in your  
6 department?

7 A I don't really remember -- I mean  
8 what happened immediately following or -- we  
9 had -- we had subsequent meetings. I reviewed  
10 whatever I could read at the time. But I don't  
11 remember specifically what happened.

12 Q Okay. How many subsequent meetings  
13 do you think you had about the Rhoads homicide  
14 investigation?

15 A Well, it's difficult for me to be  
16 able to -- to be able to actually answer that  
17 because the time frame -- I'm there for the period  
18 of '01 to '03. During that time we had meetings  
19 which we talked about -- or as I described most  
20 recently with Lieutenant Callahan, Dixon and  
21 Master Sergeant Reid. Then Lieutenant Callahan  
22 and I had a meeting with Dave Lenartowicz from  
23 DEA, from the Drug Enforcement Administration, and  
24 a couple of his -- two other people.

1                   But then as time went on we had  
2 more group meetings, takes force meetings. It's  
3 just hard for me to put it in to a number and a  
4 time frame of when that activity actually  
5 happened.

6           Q        Again, with all these meetings, you  
7 don't really make a distinction between the Rhoads  
8 homicide, the investigation of Bob Morgan or the  
9 Operation Eiffel Tower; is that right? You think  
10 they're all intertwined?

11           A        They were all pretty much intertwined  
12 in my mind, yes.

13           Q        Okay.

14           MS. CLIFFE: Could we possibly take a  
15 five-minute break?

16           MR. BALSON: Sure, you can. It's a good  
17 time for a five-minute break.

18

19                   (Short recess was had.)

20

21           MR. BALSON: Q Okay. We placed before you  
22 what we've labeled Fermon Exhibit No. 5, which  
23 appears to be a memorandum from Michale Callahan  
24 to Edie Cassella, dated August 15, 2001, subject,

1 Rhoads homicide and Bob Morgan investigation.

2 And for those of you scoring at  
3 home, it is 966 through 984.

4 In the first paragraph -- well,  
5 strike that.

6 Is this a document that you  
7 reviewed at some time?

8 THE WITNESS: A I need a few minutes to  
9 read through this one.

10 Q Take your time.

11 A Okay.

12 Q Are you finished?

13 A I reviewed a few pages. Yes, sir.

14 Q Okay. Is this one of the documents  
15 that you reviewed during your tenure as the zone  
16 commander?

17 A After reviewing this, I don't -- I  
18 don't remember ever seeing this document. There  
19 was some pieces of information contained in other  
20 memos, but I don't remember seeing the format of  
21 this document or the document itself.

22 Q Do you know whether this was part of  
23 your file folder that you inherited when you took  
24 over your command?

1 MR. JOHNSTON: Object to the form of the  
2 question.

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

5 THE WITNESS: A Wait. I need to revise or  
6 clarify how you term it.

7 Looking at the back page, I see  
8 something that I've seen before. It is headed --  
9 your page 981, addendum to August 15, '01  
10 memorandum.

11 MR. BALSON: Q Um-hum.

12 A I recall seeing this at some point in  
13 time, but I don't remember -- I don't recall  
14 seeing this August 15th memo.

15 Q Well let me go through a few things  
16 and see if they came to your attention or if you  
17 can remember that they came to your attention.

18 A Okay.

19 Q On the second page Mr. Callahan  
20 writes, of interest and concern to this RA is  
21 that, on the day I received the assignment to look  
22 in to the Rhoads case, retired ISP Sergeant Jack  
23 Eckerty, unknown to RA, contacted me at the  
24 investigations office. In effect, he stated that



1 he, Eckerty, wanted me to know that he was a good  
2 cop, that he hadn't done anything wrong and he  
3 didn't want his reputation ruined.

4 Was that -- well I might as  
5 well read the last sentence.

6 That same date, retired Master  
7 Sergeant Charles McGrew contacted this RA and  
8 requested that I don't make us old timers look bad  
9 on this case.

10 Was that information that came  
11 to your attention during your tenure of command in  
12 zone five?

13 MS. CLIFFE: Object to the form.

14 MR. JOHNSTON: Join.

15 Go ahead and answer.

16 THE WITNESS: A At some point in time I  
17 recall something to that effect about Eckerty and  
18 McGrew, and you asked me about that previously  
19 today.

20 MR. BALSON: Q I did?

21 A Yes.

22 Q You said you didn't know how you got  
23 that information, didn't you?

24 A I said --

1 Q I thought you said to me that you  
2 read it somewhere.

3 A I said I couldn't differentiate  
4 whether I had read it in documentation or if  
5 that's what Lieutenant Callahan told me. From one  
6 of the two places I recall hearing it.

7 Q Is it possible that you read it in  
8 the memo?

9 MR. JOHNSTON: Objection. Speculation.

10 Answer as best you can.

11 THE WITNESS: A I don't remember reading  
12 this memo.

13 MR. BALSON: Q Okay.

14 A I don't remember reading this memo,  
15 but I think it's possible that that statement is  
16 probably in some of the other memos Lieutenant  
17 Callahan prepared as well.

18 Q But it's information that you knew  
19 during your tenure as zone five commander,  
20 correct?

21 MR. JOHNSTON: Object to the form of the  
22 question.

23 Go ahead and answer as best you  
24 can.

1 MS. CLIFFE: I object to the form as well.

2 THE WITNESS: A I believe so, yes.

3 MR. BALSON: Q A little farther down it  
4 says -- three paragraphs down -- negative  
5 information or information leaning to the  
6 innocence of the defendants was not disclosed as,  
7 in Eckerty's own words, McFatrige didn't want any  
8 negative reports that would hurt the case.

9 Do you remember receiving that  
10 information during your tenure as zone commander?

11 MS. CLIFFE: Object to the form.  
12 Foundation as well.

13 MR. JOHNSTON: I'll join.

14 Steve, you can answer as best  
15 you can.

16 THE WITNESS: A I don't remember it, no.

17 MR. BALSON: Q No one ever told you that  
18 McFatrige said he didn't want any negative  
19 reports?

20 MR. JOHNSTON: Object to form.

21 MR. SMITH: Object to form.

22 MR. JOHNSTON: Go ahead and answer.

23 MS. CLIFFE: Join the objection. Form.

24 MR. BALSON: Q Sir?

1 THE WITNESS: A I don't remember anyone  
2 ever telling me that, no.

3 Q Two paragraphs down. In addition,  
4 there are depositions by witnesses that McFatridge  
5 had them lie on the stand and depositions by  
6 witnesses that refute the testimony of the two  
7 eyewitnesses and the time line of events  
8 established by the prosecution for the time of the  
9 murders.

10 Did that information come to  
11 you during your tenure as zone commander?

12 MR. JOHNSTON: Same objection.

13 Go ahead and answer.

14 MS. CLIFFE: I object as to form as well.

15 THE WITNESS: A I don't remember reading  
16 this. I don't -- and I remember the issue of  
17 recantation of eyewitness testimony. I remember  
18 that whole issue, but I don't remember  
19 specifically being told this.

20 MR. BALSON: Q Would you turn to page 970,  
21 please.

22 A Yes, sir.

23 Q Right at the top of the page it says  
24 another concern on the corruption angle is that of

1 the then state's attorney, Mike McFatridge.  
2 McFatridge was known by our own investigators as a  
3 heavy drinker and partier.

4 Did that information come to  
5 you during your tenure?

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

8 Go ahead.

9 THE WITNESS: A I don't remember that  
10 coming up.

11 MR. BALSON: Q Okay.

12 A That he was a heavy drinker and  
13 partier.

14 Q The next sentence. On an ATF  
15 overhear between Herb Board, Sr. and SA Jeff  
16 Marlow, he indicates he has a picture of  
17 McFatridge doing cocaine with his son Jerry Board.  
18 In an interview with Leo Shanks, he indicates  
19 McFatridge was a cocaine user and he was aware of  
20 photos with McFatridge and friends of Shanks doing  
21 cocaine.

22 Did that information come to  
23 you during your tenure?

24 MR. SMITH: Objection. Form.

1 MS. CLIFFE: I join the objection.

2 MR. JOHNSTON: I join.

3 Go ahead.

4 THE WITNESS: A At some point in time what  
5 I remember, Mr. Balson, is -- I don't remember the  
6 names, but someone alleged to have a picture of  
7 McFatridge in some compromising situation. But I  
8 never -- that's all I remember about it.

9 MR. BALSON: Q Okay. Did you disclose  
10 that information to anyone?

11 MR. JOHNSTON: I'll object for the reasons  
12 stated before.

13 Go ahead and answer the  
14 question.

15 MS. CLIFFE: I object to the form of the  
16 question.

17 THE WITNESS: A No.

18 MR. BALSON: Q As a general matter,  
19 Captain Fermon, did you disclose any of the  
20 information that you received during your tenure  
21 as zone commander in zone five to either Mr.  
22 Steidl, his attorneys, Mr. Whitlock, his  
23 attorneys, or any competent authority?

24 MS. CLIFFE: Object to the form of the

1 question.

2 MR. JOHNSTON: Object to the form of the  
3 question. Object for the reasons stated before.

4 Go ahead and answer the  
5 question.

6 THE WITNESS: A At some point in time it  
7 was my understanding that we provided information,  
8 memos, to Assistant U.S. Attorney Tim Bass; but I  
9 don't know -- I couldn't tell you specifically  
10 which forms he received and which ones he didn't.

11 I don't recall ever seeing this  
12 one. I don't remember seeing this one. I  
13 couldn't tell you if we gave him this one or not.

14 That's the extent of the  
15 disclosure.

16 MR. BALSON: Q Other than that -- if we  
17 set whatever disclosure there was to Tim Bass  
18 aside, you did not make any further disclosures to  
19 any party of the Rhoads investigation during your  
20 tenure; correct?

21 MS. CLIFFE: Object to the form.

22 MR. JOHNSTON: Join.

23 Go ahead, Steve.

24 THE WITNESS: A Yes, that's correct.

1 MR. BALSON: Q Okay.

2 Since you don't remember  
3 reading this document, you don't know whether or  
4 not this was sent to the AG's office; do you?

5 A No, sir, I don't know.

6 Q Incidentally, this other document  
7 that we read before, it would be number -- it's  
8 the July 12, 2000 memo.

9 MS. SUSLER: Exhibit 4.

10 MR. BALSON: Q Exhibit No. 4. I have just  
11 a brief question on that.

12 Do you know whether that was  
13 sent to the AG's office?

14 THE WITNESS: A No, I don't know.

15 Q So it's very possible that that memo  
16 was not circulated or distributed outside the  
17 Illinois State Police?

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

20 MR. BALSON: Q Is that right?

21 MR. JOHNSTON: You can answer the question.

22 THE WITNESS: A It would be fair for me to  
23 say that I don't know how it was distributed  
24 outside the state police.



1 MR. BALSON: Q Okay.

2 A Or if it was.

3 Q But you had no information that that  
4 was distributed to the Illinois Attorney General's  
5 Office?

6 MR. JOHNSTON: Object to the form of the  
7 question. Assumes facts not in evidence.

8 Go ahead and answer the best  
9 you can, Steve.

10 THE WITNESS: A That's correct.

11 MR. BALSON: Okay. I'm done with that.

12 THE WITNESS: Number five, sir?

13 MR. BALSON: I'm done with it.

14 THE WITNESS: Okay.

15

16 (Discussion held off the record.)

17 (Document marked as requested.)

18

19 MR. BALSON: Let me know when you're done,  
20 Mr. Fermon.

21 MR. SMITH: What pages are we looking at?

22 MR. BALSON: ISP 4008 and 4009.

23 Are you finished?

24 THE WITNESS: Yes, sir.

1 MR. BALSON: Q Okay. Can you -- do you  
2 recognize this document?

3 THE WITNESS: A Yes. It's an e-mail.

4 Q From you to Diane Carper?

5 A Yes.

6 Q The subject is issues update, is that  
7 right?

8 A Yes, sir.

9 Q Was there a regular -- well, did you  
10 prepare documents like this on a regular basis for  
11 her?

12 A Periodically. I mean, as needed, if  
13 there were a laundry list of items, to be able to  
14 able to get a quick update on it; yes. But not  
15 this formally with any regularity.

16 Q So it wasn't a regular procedure for  
17 you to do this?

18 A Well, on December 12th I had been  
19 there roughly a month and a half. So we really  
20 didn't have regular procedures established. I was  
21 a new commander and working for the lieutenant  
22 colonel. These were issues that I thought needed  
23 to be -- that the lieutenant colonel needed to be  
24 updated on.

1           Q       In the first item it says Lieutenant  
2 Callahan has moved in to the zone five  
3 headquarters office. What issue did that concern?

4           A       Well, the -- Lieutenant Callahan  
5 was -- actually his office was at a task force  
6 office, removed from the Champaign headquarters  
7 office; and Lieutenant Callahan was part of the  
8 command group which I asked him to move back in or  
9 move in to the headquarters office.

10          Q       Why was that made an issue?

11          MR. JOHNSTON: Object to the form.

12                   Go ahead and answer as best you  
13 can.

14          THE WITNESS: A I don't know that it was  
15 made an issue. It's an item of information, an  
16 issue of information.

17          MR. BALSON: Q Okay.

18          A       There wasn't any issue surrounding  
19 it.

20          Q       No controversy?

21          A       No.

22          Q       Okay.

23          A       At least not that I'm aware of. It  
24 was just wanting him to be a part of the command

1 group -- it would be like here where you have a  
2 group of attorneys and having 15 attorneys down  
3 the street instead you all being here together.

4 Q Number nine. If you'll draw your  
5 attention to item nine, Morgan investigation.

6 I have asked Lieutenant  
7 Callahan, Master Sergeant Reid and Sergeant Dixon  
8 to work a mutually acceptable time for us to  
9 discuss this. At this time point in time I don't  
10 really think we can support this investigation.  
11 However, I will reserve decision until I have  
12 heard all of the facts.

13 First of all, this is entitled  
14 Morgan investigation; correct?

15 A Yes, sir.

16 Q Okay. It's not entitled Rhoads  
17 investigation, is it?

18 A It's entitled Morgan investigation.

19 Q Okay.

20 And you've indicated previously  
21 that you thought the investigation of Bob Morgan  
22 was intertwined with the Rhoads case, is that  
23 right?

24 A Yes, sir.

1 Q But the Rhoads case wasn't being  
2 independently investigated, was it?

3 MR. JOHNSTON: Object to the form of the  
4 question.

5 You can answer it as best you  
6 can.

7 THE WITNESS: A No, sir, it wasn't. We  
8 were investigating Morgan in an effort to lead  
9 back in to the Rhoads case is my understanding.

10 MR. BALSON: Q You said at this point in  
11 time, applying value, resources and support, I  
12 don't really think we can support this  
13 investigation. What do you mean by that?

14 A Well, I had been at the zone for a  
15 matter of a few weeks and full well realized that  
16 we were, what I estimated, between 20 to 25 people  
17 short of fulfilling our responsibilities. I just  
18 frankly didn't think we had the bodies, the  
19 investigative bodies, to devote to a long-term  
20 type investigation at that point.

21 Q Did Lieutenant Colonel Carper agree  
22 with you?

23 MR. JOHNSTON: Object to the form of the  
24 question.

1                   You can answer as best you can.

2           THE WITNESS:  A  I don't remember having --  
3  I don't remember that.

4           MR. BALSON:  Q  You said you will reserve  
5  decision until you have heard all of the facts.  
6  When was it that you heard all the facts?

7           A       We talked about that earlier.  I mean  
8  the first meeting was with Lieutenant Callahan,  
9  Sergeant Dixon and Master Sergeant Reid.  I can't  
10 pinpoint exactly when that occurred.

11                   And then information as far as  
12 the investigative activity, that type of thing, I  
13 don't -- I honestly don't think I ever received  
14 all the facts during my tenure there.

15           Q       Well did you ever change your mind  
16 that the value resources and support -- that,  
17 applying the value, resources and support, you  
18 didn't think that you could support the  
19 investigation, did you ever change your mind?

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

22                   You can answer it the best you  
23 can.

24           THE WITNESS:  A  The -- what you're

1 pointing out there is basically on my part kind of  
2 a premature assessment, you know, that I made an  
3 assessment before I heard the facts, that I knew  
4 that at the time.

5                   Being able to support the  
6 investigation to me is -- I could best describe it  
7 as, on a spectrum of we can minimally support  
8 something or we could maximally support something,  
9 I felt we could support it; but I never felt we  
10 could support it and dedicate the people necessary  
11 to do a long-term, complicated, drawn-out  
12 investigation.

13                   So, yes, I thought we could  
14 support it. I never was really comfortable not  
15 having enough people to do our daily jobs and not  
16 being able to assign, you know, other people to  
17 support larger cases.

18                   MR. BALSON: Q Well you said you were  
19 going to reserve decision on it. Did you ever  
20 make a decision?

21                   A I think I consciously made a  
22 decision -- yeah, we supported the investigation.  
23 I supported the investigation.

24                   I wasn't -- I didn't think we

1 had the personnel both in the numbers and with the  
2 particular -- I don't know how to say it -- the  
3 skill set or abilities to be able to work on  
4 something like this.

5                   The Champaign office is 60 or  
6 70 miles away. Agents are dispersed over 12  
7 counties. Which may seem like, you know,  
8 insignificant obstacles; but they end up being  
9 very significant when you're trying to accomplish  
10 something.

11           Q        What skill set and abilities did you  
12 think you lacked to support this investigation?

13           MR. JOHNSTON: Object to the form of the  
14 question.

15                   You can answer it if you  
16 understand it.

17           THE WITNESS: A I thought we -- we the  
18 state police and we in general are always looking  
19 for ways to improve things, and when you're called  
20 to -- people call the police because they expect  
21 you to resolve a situation.

22                   But on the skill set we  
23 don't -- for instance, unlike the Chicago Police  
24 Department, the Illinois State Police doesn't get



1 calls for assistance or responses to hundreds --  
2 fortunately -- hundreds and hundreds of homicides  
3 a year. We get called to a few, once in a while.  
4 And it becomes -- it's not specialized, but we're  
5 still responsible for doing an investigation.

6 So people that have experience  
7 in cold case homicide investigations, extensive  
8 experience, forensics -- we have a great forensic  
9 lab -- at least I think so. When agents come in  
10 they come in just like I did.

11 Just like when you asked me the  
12 question earlier, you know, we have 20 -- 20  
13 something with patrol experience, and we've  
14 written tickets, and we've arrested drunken  
15 drivers, that type of thing; and then all of a  
16 sudden you're immersed in to the world of criminal  
17 investigation.

18 So I've had a lot of young  
19 folks that have had a wide variety of experience  
20 in a broad range of things, but, you know, they  
21 don't have the skill set in particular in being  
22 able to do a cold case investigation -- you know,  
23 the experience, the patience, the persistence,  
24 working with the science aspect of it, if there is

1 one, you know...

2 MR. BALSON: Q Was it your opinion in 2001  
3 that Michale Callahan lacked the skill set or  
4 abilities to do a cold case investigation?

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

7 Go ahead and answer.

8 THE WITNESS: A I think -- repeat the  
9 question again.

10 MR. BALSON: Q Was it your opinion in 2001  
11 that Michale Callahan lacked the skill set and  
12 abilities to do a cold case homicide  
13 investigation?

14 MR. JOHNSTON: Same objection.

15 Go ahead and answer.

16 THE WITNESS: A Lieutenant Callahan's  
17 experience was similar to what mine was, as far as  
18 drug enforcement experience, that type of thing.  
19 We both had the responsibility to investigate  
20 matters.

21 I don't think it's something --  
22 that cold case is -- I don't that cold case  
23 investigation is something that you usually just  
24 do by yourself, that it's just one person, you

1 know, working a case and you're successful at it.

2 I think it has to be a team approach.

3 I think that all the  
4 resources -- much like we were trying to do, all  
5 the resources, DEA, ATF all the king's horses and  
6 all the king's men type of thing, coupled with the  
7 federal grand jury subpoenas, you know, that type  
8 of thing, and the OCDETF. That's what in my  
9 estimation brings -- solidifies those statements  
10 instead of having speculation, that so then we  
11 have statements on the record and something that  
12 we and the prosecutor's can work with.

13 MR. BALSON: Q Did you feel in 2001 that  
14 it was necessary to have all of those disciplines  
15 in order to investigate the Rhoads homicides?

16 A I don't -- actually, as I remember,  
17 in '01, by reviewing this e-mail, I had not been  
18 fully briefed on it. So I don't think I really  
19 formulated -- I hadn't really formulated an  
20 investigative strategy in my own mind just  
21 thinking through it at that point.

22 Q Let's move ahead to after your  
23 meeting then with Callahan, Dixon and Reid.

24 Did you come to a conclusion at

1 that time that Michale Callahan lacked the skill  
2 set and abilities to do a cold case homicide  
3 investigation on the Rhoads matter?

4 MR. JOHNSTON: Object to the form of the  
5 question.

6 You can answer as best you can,  
7 Steve.

8 THE WITNESS: A I can't tell you what I  
9 thought in 2002 about it. I really don't remember  
10 what I was thinking as far as Lieutenant Callahan  
11 and his skill set and what I was thinking about  
12 the case.

13 MR. BALSON: Q Well the only reason that  
14 we're addressing this is because a few minutes ago  
15 you told me that you thought you didn't have the  
16 skill set and abilities to do cold case homicide  
17 investigations.

18 A Well, yes. In part that's right, and  
19 also what I told you was we lacked the number of  
20 personnel and the personnel skill set.

21 My testimony is that we didn't  
22 have the personnel, the number of personnel needed  
23 with the appropriate skill set to be able to move  
24 forward. We were just short personnel. And

1 assigning, you know, a bunch of young  
2 inexperienced personnel to the situation I don't  
3 think was going to help.

4 Q When you came to that conclusion did  
5 you put in a request of Lieutenant Colonel Carper  
6 or anyone else to provide sufficient personnel so  
7 that you could conduct this investigation?

8 A I had made numerous requests for  
9 personnel in general. It was -- I did everything  
10 I could as far as document -- in our lingo or in  
11 the state police time we're talking about tables  
12 of organization and hard tables of organization,  
13 how many people do you need, you know, evaluating  
14 what your responsibilities are, what your  
15 commitments are, how many people do you need to do  
16 the job, how many troopers do you have, how many  
17 agents, you know, by position.

18 And I felt we were down at  
19 least 20 to 25 people. And I put that in writing,  
20 and I submitted a request for the people. And had  
21 those people ever arrived, some would have been  
22 assigned to what I would have called or labeled as  
23 a major case type assistance team. Some would  
24 have went to drug task forces, and some of those

1 people would have augmented our general criminal  
2 investigations units.

3 Q Well are you saying that, pursuant to  
4 your request for personnel, if 20 to 25 people  
5 were assigned to your zone, you would have devoted  
6 some of them to reinvestigating the Rhoads  
7 homicide?

8 MR. JOHNSTON: Object to the form of the  
9 question. Calls for speculation.  
10 Mischaracterizes the testimony.

11 Go ahead and answer.

12 THE WITNESS: A In speculating that I  
13 would have received those people, I would have  
14 certainly made that proposal.

15 MR. BALSON: Q You would have made the  
16 proposal to reinvestigate --

17 A Yes.

18 Q -- The Rhoads case?

19 A Yes.

20 Q Okay. But you didn't get the people,  
21 did you?

22 A No.

23 Q Okay.

24 Again, I asked you this

1 question and you gave me a very long answer; but  
2 I'm not sure I got the answer directly to my  
3 question. And the question was whether you put in  
4 a request to Diane Carper for sufficient personnel  
5 specifically to investigate the Rhoads homicide  
6 case.

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

9 Go ahead and answer it as best  
10 you can.

11 THE WITNESS: A I put in a proposal after  
12 January of '03 requesting additional people for  
13 the Rhoads -- for the Morgan investigation and the  
14 Rhoads homicide intertwined as I've described it  
15 now three or four times.

16 MR. BALSON: Q So you specified at that  
17 time in your request that you wanted people for  
18 the Rhoads and Morgan investigations?

19 A Well, the proposal, the request was  
20 actually entitled Morgan investigation. So, I  
21 mean, that's the title.

22 I don't remember specifically  
23 in the body of the memo how it was worded, but I  
24 asked for someone from zone seven, I believe. I

1 asked for monies to support administrative and  
2 clerical support personnel.

3 Q And what happened pursuant to that  
4 request?

5 A Actually, I don't ever remember  
6 receiving an answer back.

7 Q On February 27, 2002 did you reassign  
8 Lieutenant Callahan from his investigative  
9 activities?

10 A I don't understand the question.

11 Q Did you assign Halloran and Reid to  
12 replace Lieutenant Callahan in his  
13 investigation -- the current investigations that  
14 he was handling on February 27, 2002?

15 A I don't remember the date  
16 specifically, but at some point the assignment was  
17 made.

18 Q Why was the assignment made?

19 A Lieutenant Callahan was -- his  
20 primary responsibility and duties to the zone was  
21 being an investigations narcotics lieutenant. He  
22 was the supervisor of, I believe, four -- multiple  
23 drug units, all pretty busy -- actually, very  
24 busy.



1                   And Master Sergeant Reid was  
2           the -- at that point in time the supervisor of  
3           the -- one of the general criminal investigations  
4           units.

5           Q        So that I understand, Lieutenant  
6           Callahan was reassigned on February 27th to  
7           investigate drug trade for Operation Eiffel Tower;  
8           is that correct?

9           MR. JOHNSTON: Object to the form of the  
10          question.

11                    Answer as best you can.

12          THE WITNESS: A No, I don't understand  
13          the -- the question doesn't make sense to me.

14          MR. BALSON: Q Bad question.

15                    Did you reassign Lieutenant  
16          Callahan on February 27th from doing any  
17          investigations on the Rhoads case to investigating  
18          drug trade in Operation Eiffel Tower?

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

21                    Go ahead and answer as best you  
22          can.

23          THE WITNESS: A I still don't understand  
24          the question. Lieutenant Callahan -- I don't

1 understand the question.

2 MR. BALSON: Q Prior to February 27, 2002  
3 was Lieutenant Callahan also doing investigative  
4 work relative to the Rhoads homicides?

5 A He was doing work -- operational  
6 activities on the Morgan case, it was my  
7 understanding, and the -- whatever file they had  
8 on Eiffel Tower, in addition to his duties as a  
9 lieutenant of the narcotics unit.

10 Q How did his duties change on February  
11 27, 2002?

12 A I don't remember the significance of  
13 that date. I mean, I don't recall that date being  
14 significant.

15 Q How did his duties change when you  
16 assigned Halloran and Reid and reassigned  
17 Lieutenant Callahan, whatever date it was?

18 A His duties would have changed in that  
19 he was -- so that he was actually focusing on the  
20 job that he was in, being the narcotics  
21 lieutenant.

22 Q Did Callahan protest that transfer to  
23 you?

24 A No.

1 Q Did Dixon complain to you about that  
2 transfer?

3 A Not that I remember, no.

4 Q Did it come to your attention in  
5 December 2002 that Governor Ryan was considering  
6 clemency for Whitlock and Steidl?

7 A What I remember was Lieutenant  
8 Callahan telling me that Deputy Governor  
9 Bettenhausen had possibly solicited a clemency  
10 petition, and I remember in the same context  
11 Lieutenant Callahan telling me that Ed Parkinson  
12 from the appellate prosecutor's office had called  
13 him.

14 Q Um-hum.

15 And what did you do when you  
16 got that information?

17 Did you understand the  
18 question? What did you do when you got that  
19 information from Lieutenant Callahan?

20 A I forwarded it to Lieutenant Colonel  
21 Carper.

22 Q By e-mail?

23 A I believe so.

24 Q Did Callahan tell you that he was

1 prepared to recommend that Steidl and Whitlock be  
2 pardoned?

3 A No.

4 Q He never gave you that information?

5 A No.

6 Q Did you ask him to prepare a memo for  
7 you?

8 A I believe -- I don't know if it's in  
9 that same time period, but I asked him to prepare  
10 periodic updates and executive time summaries.  
11 But I don't know if that's in the same time frame  
12 you're speaking of.

13 MR. BALSON: All right. For those of you  
14 on the phone, the next document is ISP 2919.

15

16 (Document marked as requested.)

17

18 MR. BALSON: Q Mr. Fermon, I show you what  
19 we marked as Exhibit 7, which appears to be two  
20 e-mails, one to you and one that you sent to Diane  
21 Carper; is that right?

22 THE WITNESS: A Yes, sir, that's what it  
23 appears to be.

24 Q Okay. The first one is from

1 Michale Callahan to Steven Fermon dated 12/18/02  
2 at 2:44, is that right?

3 A Not -- that's not correct compared to  
4 the one I have.

5 Q I'm reading it wrong. I'm sorry.

6 It's 12/16, right?

7 A Correct.

8 Q Now I'm right, 12/16. Okay.

9 And it says I just received a  
10 phone call from Ed Parkinson of the appellate  
11 prosecutor's office. He has been asked to respond  
12 to a clemency petition filed by Whitlock and  
13 Steidl's attorneys for the governor. He stated  
14 the governor is considering clemency for both  
15 subjects and he wanted to come over and talk to me  
16 to see some of the documentation I have prepared  
17 or obtained in the investigation. He did not  
18 request any time or date to meet but stated he  
19 would contact me later.

20 Did you respond to Michale  
21 Callahan after you got this e-mail?

22 A Not that I remember, no.

23 Q Did you tell Michale Callahan that it  
24 was okay to talk to Ed Parkinson?

1           A       I don't remember responding to him or  
2       what I told him.

3           Q       Did you give Michale Callahan  
4       permission to show the documentation he had  
5       prepared to Ed Parkinson?

6           A       I can only speculate. I don't  
7       remember -- I mean, Ed Parkinson from the  
8       appellate prosecutor's office, we worked with him  
9       on cases before. If Ed Parkinson wanted it or  
10      needed it, then I would have had no problem giving  
11      it to him.

12                                But I don't specifically  
13      remember that discussion.

14          Q       Okay. I don't want you to speculate.

15          A       Okay.

16          Q       I don't want you to guess on what you  
17      might have done.

18                                I asked if you talked to him  
19      about it. You said you don't remember. I asked  
20      you a follow-up question on whether you gave him  
21      permission to show documentation to Ed Parkinson,  
22      and I think you told me you don't remember.

23          A       Yeah, I don't remember.

24          Q       I don't want you to speculate on what

1 you think you would have done.

2 A Okay.

3 Q Okay. If you don't remember, you  
4 don't remember.

5 A Okay.

6 MR. JOHNSTON: I will object to the  
7 instruction to the witness, and the answer stands.

8 MR. BALSON: Q Did you forward this e-mail  
9 to Diane Carper?

10 THE WITNESS: A Yes.

11 Q At the time you forwarded this e-mail  
12 to Diane Carper did you have an opinion on whether  
13 Steidl or Whitlock should be pardoned or, I should  
14 say, should be granted clemency?

15 A My opinion was what I had stated  
16 earlier. From my understanding they had been  
17 tried. They had been convicted. They had been  
18 through the appellate court system.

19 They -- the issue appropriately  
20 was before the courts. I had no control or  
21 influence over what the governor may or may not  
22 do.

23 My opinion was that it was  
24 adequately -- not adequately -- it was

1 appropriately in the court system where it  
2 belonged.

3 Q Did you express that opinion to  
4 Lieutenant Colonel Carper?

5 A In relationship to this memo or this  
6 e-mail?

7 Q Well, you just gave me your  
8 opinion...

9 A I'm just looking for a time frame.

10 Q Yes, at this time.

11 At or about this time, did you  
12 express your opinion to Lieutenant Colonel Carper  
13 as you've expressed it to me today?

14 A I expressed my opinion -- I don't  
15 remember that.

16 Q You don't remember whether you did or  
17 not?

18 A I don't remember expressing that to  
19 Colonel Carper.

20 Q Did you express it to anyone else  
21 besides me today?

22 A Yes.

23 Q To whom did you express that opinion?

24 A I expressed that opinion when we met



1 in a working group at the academy some time  
2 following this, which I think was in January of  
3 '03.

4 Q Okay.

5 A January of '03.

6 Q Okay. Can you recall any other time  
7 when you may have expressed that opinion?

8 A I can't remember that, no.

9 Q At the top of this e-mail that you  
10 sent to Diane Carper you say this is regarding the  
11 Steidl case. Lieutenant Callahan has been advised  
12 that Deputy Governor Bettenhausen had possibly  
13 solicited this clemency petition. Obviously, we  
14 need to discuss before any meetings, this is the  
15 place between the rock and the hard place. SMF.

16 Waht did you mean -- that  
17 second sentence is the one I'm concerned about.  
18 What did you mean by the first phrase, obviously,  
19 we need to discuss before any meetings?

20 A I don't remember what I meant by that  
21 in '02.

22 Q Well did you...

23 A I thought --

24 Q I'm sorry.

1           A       I thought it was a subject that I  
2 needed to discuss with the colonel.

3           Q       Did you mean that you needed to  
4 discuss this with colonel -- Lieutenant Colonel  
5 Carper before Callahan had any meetings with Ed  
6 Parkinson?

7           A       No, I don't believe so.

8           Q       Well what do you think you meant by  
9 that? What meetings were you referring to?

10          A       I can't remember. I don't -- I don't  
11 specifically recall what meetings or if we had  
12 meetings scheduled.

13          Q       Did you have any meetings scheduled  
14 regarding clemency?

15          A       No, I didn't.

16          Q       This is the first time you knew about  
17 the clemency, wasn't it?

18          A       It seems to me that -- I seem to  
19 recall that there was another e-mail talking about  
20 the solicitation preceding Parkinson's e-mail.

21          Q       When did that e-mail come, the one  
22 you think -- you say you think there may have been  
23 another?

24          A       If I remember correctly, it was

1 somewhere within the same time frame, within a few  
2 days preceding, possibly, the 16th.

3 Q In Lieutenant Callahan's e-mail to  
4 you on December 16th he said that Parkinson wanted  
5 to come over and talk to him, right?

6 A Yes, that's what he said.

7 Q And did you then write to Lieutenant  
8 Colonel Carper and say, obviously, we need to  
9 discuss before any meetings?

10 A Yes, that's a portion of the sentence  
11 I wrote in the e-mail.

12 Q So is it logical to assume, Captain  
13 Fermon, that you meant before any meetings between  
14 Ed Parkinson and Michale Callahan?

15 MR. JOHNSTON: Object to the form of the  
16 question.

17 You can answer.

18 THE WITNESS: A We had -- I don't think  
19 it's safe to assume or speculate on anything.

20 The e-mail from Callahan was on  
21 the 16th. I sent this to Colonel Carper two days  
22 later.

23 MR. BALSON: Q No...

24 A There --

1 Q I'm sorry. Go ahead.

2 A There was a two-day time line.

3 Q Well then within those two days did  
4 you talk to Michale Callahan personally about this  
5 e-mail?

6 A I don't remember talking to him about  
7 it.

8 Q Why did it take you two days to  
9 forward this e-mail to Lieutenant Colonel Carper?

10 A I don't remember that either.

11 Q Did you think it wasn't important  
12 enough to send out right away?

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

15 You can answer it, Steve.

16 THE WITNESS: A No, I can't -- I can't --  
17 I can't tell you what I thought on December 18,  
18 '02 or when I got the e-mail.

19 MR. BALSON: Q Well the second part of the  
20 sentence says this is the place between the rock  
21 and the hard place. What did you mean by that?

22 A Well, I have a -- I have a habit of  
23 using kind of country sayings, which this to me --  
24 the place between a rock and a hard place to me

1 meant that we had on one hand the deputy governor  
2 soliciting a clemency petition and on the other  
3 hand the appellate prosecutor, being Mr.  
4 Parkinson, responding to that clemency petition,  
5 and the Illinois State Police in the middle.

6 Q How were you in the middle?

7 A Well, it was my understanding from  
8 Mr. Parkinson contacting the state police wanting  
9 records, information, that type of thing, that --  
10 I mean that's what I viewed as being in the  
11 middle.

12 Q That...

13 A That's --

14 Q I'm sorry.

15 A That's what I viewed as being between  
16 a rock and a hard place.

17 Q Mr. Parkinson was being asked to  
18 respond to the clemency petition?

19 A That's my understanding.

20 Q He was seeking information so that he  
21 could respond. Is that also your understanding?

22 A It's my understanding that he made a  
23 phone call to Lieutenant Callahan as depicted in  
24 this e-mail, yes.

1           Q       Did you know what Mr. Parkinson's  
2           position relative to clemency was at or about  
3           December 18, 2002?

4           A       No. I would have no way of knowing  
5           that.

6           Q       So you don't know if he was in favor  
7           of it or against it, do you?

8           MR. JOHNSTON: Objection. Asked and  
9           answered.

10                               Go ahead and answer, Steve.

11           THE WITNESS: A No, I don't.

12           MR. BALSON: Q So how -- maybe you can  
13           explain this to me. How is Mr. Bettenhausen --  
14           Deputy Governor Bettenhausen on one side and Mr.  
15           Parkinson on the other side? Why aren't they both  
16           on the same side?

17           A       Well, I think, if I said one side,  
18           what I'm meaning is one hand, but on one hand we  
19           have this, on the other hand we have that.

20                               I don't know if they were on  
21           the same side, if they shared the same viewpoints,  
22           or if they didn't. Certainly, if Mr. Parkinson  
23           and Mr. Bettenhausen wanted to talk to one  
24           another, they certainly could have done that

1 without ever calling Lieutenant Callahan or anyone  
2 else.

3 Q Well they could have, except Mr.  
4 Parkinson obviously wanted more information;  
5 right?

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

8 MR. BALSON: Q There's not a great leap of  
9 faith here.

10 THE WITNESS: A No.

11 Q He wanted reports?

12 A You read me the e-mail. He wanted to  
13 come over, but he also didn't set any specific  
14 time or make any specific request.

15 Q Right.

16 A He didn't -- you know, I don't see in  
17 Lieutenant Callahan's e-mail today or then whether  
18 he said give me the case file. If Ed Parkinson  
19 wanted that, all he had to do was ask for it.

20 Q I think he did ask for it.

21 MR. JOHNSTON: I'll object. It's not a  
22 question. Ask a question.

23 MR. BALSON: Q It says he wanted to come  
24 over and talk to me and see some of the

1 documentation I have prepared or obtained in the  
2 investigation.

3 Did you have any objection to  
4 that?

5 THE WITNESS: A Oh, no, sir, not at all.

6 Q Did Lieutenant Colonel Carper have  
7 any objection to that?

8 A Not that I'm aware of.

9 Q Didn't say anything to you about it?

10 A No.

11 Q So then why did you say this is the  
12 place between the rock and the hard place?

13 MR. JOHNSTON: Objection. Asked and  
14 answered for a third time now.

15 MR. BALSON: I'm going to keep asking it  
16 until I get an answer other than it's a country  
17 slogan.

18 MR. JOHNSTON: You'll get the same answer.  
19 After five times, we're done.

20 MR. BALSON: I can tell you what I think...

21 MR. JOHNSTON: We don't care what you  
22 think.

23 MR. BALSON: Some people do.

24 MR. JOHNSTON: Save it for whoever cares.



1 MR. BALSON: Okay.

2 MR. JOHNSTON: Is there a question pending?

3 MR. BALSON: Q Why ask you say this is the  
4 place between the rock and the hard place?

5 MR. JOHNSTON: Objection. Asked and  
6 answered.

7 Tell him again for the fourth  
8 time, Steve.

9 THE WITNESS: A I thought it was a  
10 difficult situation to be in. That's what, to me,  
11 the term "between a rock and a hard place" means.

12 MR. BALSON: Q Now we're getting  
13 somewhere.

14 Why was it a difficult  
15 situation to be in?

16 MR. JOHNSTON: Objection. Asked and  
17 answered.

18 THE WITNESS: A Because on one hand my  
19 understanding is we have the deputy governor,  
20 Deputy Governor Bettenhausen, soliciting a  
21 clemency petition; and on the other hand we have  
22 Ed Parkinson of the appellate prosecutor's office  
23 responding to the clemency petition.

24 I felt that was a difficult

1 situation to be in. You may not agree with me.  
2 You don't have to agree with me. That's how I  
3 felt.

4 MR. BALSON: Q What is difficult about it?

5 A What is difficult about this  
6 situation that I felt we were in?

7 Q Um-hum.

8 A I felt like the state police was in  
9 the middle of it. That's what I felt.

10 Q Why did you feel that way?

11 MR. JOHNSTON: Objection.

12 MR. BALSON: Q I'm not getting an answer.

13 I want to know why you thought it was difficult.

14 What's difficult about it?

15 MR. JOHNSTON: Objection. Asked and  
16 answered.

17 Go ahead, Steve. Tell him  
18 again.

19 THE WITNESS: A Because on one hand we  
20 have the deputy governor requesting -- or he had  
21 solicited a clemency petition. That was my  
22 understanding. On the other hand we have Ed  
23 Parkinson from the appellate prosecutor's office  
24 responding to that clemency petition, and we have

1 the state police in the middle.

2 MR. BALSON: Q Why is that difficult?

3 MR. JOHNSTON: Objection. Asked and  
4 answered.

5 MR. BALSON: Q It seems very simple to me.  
6 Why was it difficult?

7 MR. JOHNSTON: Objection. Asked and  
8 answered. Now we're up to five times.

9 MR. BALSON: We'll go to 25 or until I get  
10 an answer.

11 MR. JOHNSTON: He's given the answer.  
12 We're not getting to 25 times. I'll file a  
13 motion...

14 MR. BALSON: If you want...

15 MR. JOHNSTON: We'll termine the dep and  
16 I'll file...

17 MS. SUSLER: Iain, can we stop the baloney?

18 MR. BALSON: Q Why was it difficult and  
19 how was the Illinois State Police in the middle?

20 MR. JOHNSTON: Objection. Asked and  
21 answered.

22 If you want to state the same  
23 answer, tell him it's the same answer.

24 THE WITNESS: A I've given you my answer.

1 MR. BALSON: Q No, you haven't. You  
2 haven't told me why it was difficult.

3 Why was it between a rock and a  
4 hard place?

5 MR. JOHNSTON: Objection. Asked and  
6 answered.

7 MR. BALSON: Q Was it between a rock and a  
8 hard place because you didn't want them to be  
9 granted clemency?

10 MR. JOHNSTON: Objection. Asked and  
11 answered.

12 MS. CLIFFE: Object to the form of the  
13 question.

14 MR. JOHNSTON: Tell him it's same answer if  
15 you want.

16 MS. SUSLER: Don't tell him what to say. I  
17 object.

18 MR. JOHNSTON: Don't tell me what to tell  
19 the client.

20 MS. SUSLER: You can't tell him what his  
21 answer should be.

22 MR. JOHNSTON: Don't tell me what to say to  
23 my client.

24 MS. SUSLER: Don't point your finger at me.

1 MR. BALSON: All right. Let's stop this.

2 Can I get an answer to the  
3 question, please?

4 MR. JOHNSTON: I will object. Asked and  
5 answered.

6 THE WITNESS: And what question are we  
7 asking now?

8 MR. BALSON: Q Was it between a rock and a  
9 hard place because you didn't want Steidl and  
10 Whitlock to be granted clemency?

11 THE WITNESS: A No, sir. That's not  
12 correct at all. That's not how I would  
13 characterize it.

14 I told you time and again  
15 today, truthfully, that Steidl and Whitlock had  
16 been convicted of murder in Edgar County. They  
17 had been through the appeals process, the Illinois  
18 Supreme Court. Not Steve Fermon.

19 The Illinois Supreme Court  
20 rejected their appeals categorically, and at this  
21 point in '02 the Death Penalty Review Commission  
22 was going on. These were death penalty cases at  
23 that point.

24 To me, that was a difficult

1 situation. If you don't agree with me, I'm sorry.

2 That's a difficult position for a state police

3 captain to be in.

4 But I did not try too influence

5 it. I didn't express the opinion one way or the

6 other to anyone -- well -- to Bettenhausen or

7 Parkinson about clemency.

8 I wasn't opposed to it, but I

9 never voiced an opinion. I appropriately thought

10 the case belonged in the courts.

11 Q Was it still in the courts at the

12 time they were seeking clemency or had the

13 Illinois supreme court already ruled on it?

14 A I don't remember specifically, it

15 was -- it was my understanding it is was in the

16 court at some phase. Whether that was the

17 early -- forgive me. I don't know the correct

18 legal terms. But the filings were taking the case

19 in to federal court. I don't know when that

20 began, but it was my understanding that the cases

21 were in the Court system.

22 Q At this time you knew what Michale

23 Callahan felt about these prosecutions, didn't

24 you?

1                   You had read the memos...

2           MR. JOHNSTON: I'll object. Let him answer  
3 the question before you interject a view.

4                   Go ahead and answer.

5           THE WITNESS: Q When you say I know what  
6 he felt -- I don't know what he felt. I don't  
7 know what he thought.

8           MR. BALSON: Q You don't know what his  
9 opinion was about these prosecutions?

10          A        That's not what you asked me, sir.

11          Q        Okay. Fair enough.

12                   By this time, December 2002,  
13 you knew what Michale Callahan's opinions were  
14 relative to the conviction of Steidl and Whitlock;  
15 didn't you?

16          A        As I remember, Lieutenant Callahan  
17 was of the opinion that Steidl -- he didn't feel  
18 Steidl had been convicted beyond a reasonable  
19 doubt and that Whitlock was still a viable  
20 suspect. That's what I recall him saying.

21          Q        Did you want him expressing that  
22 opinion to Ed Parkinson?

23          A        I had no -- no concern about that.

24          Q        Did Lieutenant Colonel Carper ask you

1 to have Michale Callahan prepare a memorandum so  
2 that everyone -- well -- so that you would have an  
3 understanding of the Rhoads homicide investigation  
4 prior to responding to Ed Parkinson?

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

7 Go ahead and answer to the best  
8 you can.

9 THE WITNESS: A Not that I remember, no.

10 MR. BALSON: This would be -- the next  
11 exhibit is Plaintiff's 7893 through 7901.

12

13 (Discussion held off the record.)

14

15 MR. BALSON: Q Before we get to this  
16 document, how long was it until Lieutenant Colonel  
17 Carper responded to your e-mail?

18 MR. JOHNSTON: Object. Assumption facts  
19 not in evidence.

20 Go ahead and answer.

21 THE WITNESS: A I don't remember the time  
22 frame.

23 MR. BALSON: Q Did she respond to your  
24 e-mail?



1           A       Following that e-mail I had a  
2 telephone conversation with her.

3           Q       With Diane Carper?

4           A       Yes.

5           Q       Okay. When did that take place?

6           A       I don't remember that. I mean,  
7 following me sending the e-mail we talked about.

8           Q       Okay. What did she say to you in  
9 that telephone conversation and what did you say  
10 to her?

11          A       It was a brief conversation. She  
12 asked me if I had spoken with Ed Parkinson, and I  
13 told her I hadn't. And she told me or led me to  
14 believe that she was going to give Ed Parkinson a  
15 call.

16          Q       That's the totality of the  
17 conversation?

18          A       As best I can remember, yes.

19          Q       When's the next time you spoke to  
20 Lieutenant Colonel Carper about the clemency  
21 petition?

22          A       Well, we weren't really speaking --  
23 it was a follow-up phone call that I described. I  
24 mean -- but I don't -- I recall lieutenant -- I

1 recall Lieutenant Callahan called me at home one  
2 night and told me that he had been paged to a  
3 number he didn't recognize.

4 He called the number back, and  
5 the phone was answered by -- by either -- I can't  
6 remember. He used the names a couple times --  
7 either Marshall or Protess -- and that then they  
8 handed the phone to Deputy Governor Bettenhausen,  
9 and he let me know that Deputy Governor  
10 Bettenhausen had called him and asked him  
11 questions about the case.

12 Q That was a call from Lieutenant  
13 Callahan to you?

14 A Yes.

15 Q And was he asking for permission to  
16 speak to Deputy Governor Bettenhausen?

17 A No. He didn't request permission to  
18 speak to him. He had already spoken with him.

19 He was -- I mean, I thought the  
20 reason he called me was informational, to let me  
21 know the phone call had happened.

22 And after I spoke with  
23 Lieutenant Callahan I told him that -- told him to  
24 call Lieutenant Colonel Carper directly and talk

1 to her about it, that type of thing.

2 Q What did Lieutenant Callahan tell you  
3 that he said to Deputy Governor Bettenhausen?

4 A I don't -- I don't remember what he  
5 said.

6 He told me -- I mean, just what  
7 I had said, the whole thing about being paged. He  
8 calls -- um -- oh, he -- he said something to the  
9 effect that he -- deputy -- he wanted -- let's  
10 see. How was it?

11 I can't remember specifically.  
12 Something about his opinion, that the deputy  
13 governor wanted to know what his opinion was and  
14 that he didn't -- Mike -- Lieutenant Callahan  
15 didn't feel comfortable talking directly to the  
16 deputy governor.

17 So that, too, was a brief  
18 conversation, but I suggested -- I actually told  
19 him to call Lieutenant Colonel Carper so that  
20 essentially nothing was lost in the translation.

21 Q When he talked to you was Doug Brown  
22 also on the phone?

23 A No, sir.

24 Q Do you know whether Doug Brown was on

1 the phone when he was speaking to Deputy Governor  
2 Bettenhausen?

3 MR. JOHNSTON: Object to the form of the  
4 question.

5 If you can answer, answer.

6 THE WITNESS: A I have no idea.

7 MR. BALSON: Q Did you during this period  
8 of time speak to Doug Brown?

9 A Period of time?

10 Q December 2002, January 2003, while  
11 this clemency petition was under consideration.

12 A The only time that I spoke with or  
13 was in a meeting with First Deputy Brown was  
14 January of 2003 at the academy meeting. Otherwise  
15 I never spoke to him again.

16 Q Okay. So your best memory is that  
17 you told Lieutenant Callahan to call Lieutenant  
18 Colonel Carper directly?

19 MR. JOHNSTON: Objection. Asked and  
20 answered.

21 Tell him again, Steve.

22 THE WITNESS: A Yes, I remember telling  
23 him to call Lieutenant Colonel Carper direct.

24 MR. BALSON: Q What was the next thing

1 that happened relative to the clemency petition,  
2 in your memory?

3 A In my memory, the -- and I don't know  
4 the time frame that it happened or period of  
5 time -- but in my memory, it was Lieutenant  
6 Colonel Carper calling me at home late at night  
7 and directing me to be at the State Police Academy  
8 for a meeting in early January.

9 Q Would it have been January 8th?

10 MR. JOHNSTON: Objection.

11 THE WITNESS: A Possibly the 8th or the  
12 9th, in that time frame.

13 I got -- I was kind of confused  
14 on that date before. I believe it was the first  
15 or second week of January.

16 MR. BALSON: Q The document we placed  
17 before -- I think it's eight -- Exhibit 8.

18 Fermon Exhibit 8 is a  
19 memorandum from Lieutenant Michale Callahan to  
20 Captain Steve Fermon dated December 30, 2002. Was  
21 this memorandum prepared at your request?

22 A Not that I remember.

23 The first time that I remember  
24 seeing this e-mail -- or this memo was at the

1 academy -- January academy meeting.

2 Q Did you read it?

3 A At the meeting?

4 Q Yeah, whenever you got it.

5 A I don't remember reading it, but I --

6 I mean, that -- let me take a couple minutes to

7 review it.

8 Q Sure. Take your time.

9 Are you finished?

10 Okay. In the second paragraph

11 Mr. Callahan says Richard Kling, Whitlock, and

12 Larry Marshall, Steidl, are the pro bono attorneys

13 who have filed petitions for clemency.

14 Do you see that?

15 A Yes.

16 Q Okay. So this memorandum was

17 prepared during the clemency petition

18 consideration, was it not?

19 MR. JOHNSTON: Object to the form of the

20 question.

21 Answer as best you can.

22 THE WITNESS: A I don't really know when

23 it was prepared.

24 MR. BALSON: Q Well, it says 12/30/2002;

1 doesn't it?

2 Do you have any reason to  
3 believe that date is not accurate?

4 A I -- I didn't see this -- this is a  
5 memo Lieutenant Callahan delivered at the academy  
6 meeting some time in January.

7 I didn't see it before then. I  
8 didn't initial it. I frankly don't remember  
9 reading it.

10 Q Do you know whether or not this memo  
11 is information that Mr. Callahan wanted to give to  
12 either Mr. Parkinson or Deputy Governor  
13 Bettenhausen?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 Go ahead and answer.

17 THE WITNESS: A No, I don't know.

18 All I know is he distributed it  
19 at this meeting to everybody in attendance.

20 MR. BALSON: Q Who was in attendance at  
21 the meeting?

22 A Myself, Lieutenant Callahan, Major  
23 Joe Gryz...

24 MR. TAYLOR: Excuse me. Joe who?

1           THE WITNESS: A Major Joe Gryz, Lieutenant  
2 Colonel Rick Rokusek, Greg Koehler, Dennis Kuba,  
3 Lieutenant Colonel Carper and Deputy Director  
4 Brueggemann; and then later in the day, for a  
5 portion of meeting, First Deputy Director Doug  
6 Brown and Deputy Director Ken Bouche.

7                           That's the best I can remember  
8 at this point.

9           MR. BALSON: Q Who assembled all these  
10 attendees?

11           A I don't really know who did. I was  
12 called and told to be there.

13           Q You didn't put together the meeting?

14           A No, sir.

15           Q At this meeting did Lieutenant  
16 Callahan say that he was in favor of clemency for  
17 Steidl and Whitlock?

18           A I don't remember him saying that, no.

19           Q In your judgment is there anyone --  
20 well, strike that.

21                           In your judgment was there  
22 anyone at this meeting who had more information,  
23 more firsthand information, about the Rhoads  
24 murder case than Michale Callahan?



1 MR. JOHNSTON: I'll object to the form of  
2 the question.

3 Go ahead and answer as best you  
4 can.

5 THE WITNESS: A No, I don't believe so.

6 MR. BALSON: Q And did Michale Callahan  
7 express any opinions at all on what should be done  
8 with the clemency petitions?

9 A Not that I remember, no.

10 Q Well, to the best of your memory,  
11 tell me what was said in the meeting at the  
12 academy.

13 A By Lieutenant Callahan are you  
14 asking?

15 Q By anyone.

16 A Okay.

17 MR. JOHNSTON: I'll object to the form of  
18 the question. Calls for a narrative.

19 Do as best you can.

20 MR. BALSON: It does call for a narrative.  
21 Go ahead...

22 MR. JOHNSTON: That's why I'm objecting.

23 THE WITNESS: A The meeting was held at  
24 the Illinois State Police Academy. I mentioned

1 everyone I can remember being in attendance.

2 Deputy Brueggemann and  
3 Lieutenant Colonel Carper told us that -- told the  
4 other attendees that they were going to be in and  
5 out of the room, in and out of the meeting,  
6 several times during the day because they had -- I  
7 believe there was a zone commander meeting in the  
8 building, the same building, that day.

9 I remember Colonel Brueggemann  
10 basically opening or facilitating the meeting.

11 MR. BALSON: Q Let me stop you for just a  
12 minute.

13 What was Colonel Brueggemann's  
14 position at that time?

15 A I believe he was the -- either the --  
16 he was either the -- there was a period when he  
17 was either the assistant Deputy director of  
18 operations or the deputy director of operations,  
19 but he was -- from my estimation, he was running  
20 the division of operations at that time.

21 Q Was he the highest ranking member at  
22 the meeting?

23 MR. JOHNSTON: Objection. Time frame.

24 MR. BALSON: I said at the meeting.

1 MR. JOHNSTON: Objection. Time frame.

2 THE WITNESS: A At the January '03 academy  
3 meeting, yes, until First Deputy Brown came in.

4 MR. BALSON: Q And who was conducting the  
5 meeting? Was there someone in charge? Who was  
6 conducting the meeting?

7 A Colonel Brueggemann actually just  
8 opened up the meeting and asked us to -- everyone  
9 in attendance to review the documentation, discuss  
10 it and kind of get familiarized with the case; and  
11 he indicated or told us that later in the day the  
12 director would probably be coming in to the  
13 meeting.

14 Q Director who? Nolen?

15 A I believe it would have been --  
16 January of '03 -- yeah -- there was a transition  
17 period. So I don't remember who the director was.  
18 Either Nolen -- it could have been Director Nolen.

19 Q Okay.

20 Well, when Colonel Brueggemann  
21 said that he wanted everyone to review the  
22 documentation and discuss this matter, what  
23 documentation was he referring to?

24 A Lieutenant Callahan had been asked to

1 bring -- it was my understanding he had been asked  
2 to bring in documentation, and we had three-ring  
3 binders and a case file type of thing on the desk.

4 Q I think you previously testified that  
5 this memorandum, Exhibit 8, was also distributed  
6 at that meeting?

7 A Yes.

8 Q Was it in the binders or was it  
9 distributed separately?

10 A I don't remember that.

11 Q Tell me to the best of your memory  
12 what was in the binders.

13 A The -- well, I recall seeing a  
14 portion -- well, I recall seeing the case file.  
15 I mentioned investigative reports -- 4-3s is how  
16 they're referred to. I believe that that was the  
17 majority of the information as far as volume.

18 I don't remember -- I remember  
19 contained in the case file was the -- again, the  
20 Illinois Supreme Court decisions. There was --  
21 we're just talking about the case file at this  
22 point, or the binders?

23 Q The binders.

24 A I'm sorry. The binders?

1 Q Yeah.

2 A Lieutenant Callahan had brought quite  
3 a bit of information, that Bob Morgan information,  
4 in binders and that type of thing. But I don't  
5 remember --

6 Q Okay.

7 A I don't remember specifically all the  
8 documents.

9 Q I interrupted you before when you  
10 said that Colonel Brueggemann had opened up the  
11 meeting by saying that everyone should review the  
12 documentation.

13 What happened next?

14 A Well, we spent really most of the --  
15 most of the day trying to read -- some of the  
16 other -- some of the officers were, you know,  
17 reading documents, reading the case file, asking  
18 questions.

19 Q Of whom?

20 A Some questions were posed to  
21 Lieutenant Callahan. I don't remember  
22 specifically what they were.

23 Basically just dialogue amongst  
24 people in the room about the case. That's about

1 what I remember.

2 Q All right. And then a lot of time  
3 was spent going through the documentation and  
4 asking questions. And then what happened?

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

7 You can go ahead and state what  
8 happened.

9 THE WITNESS: A Well, I don't know if --  
10 what the sequence was, but at some point in time  
11 Lieutenant Callahan gave an oral --

12 MR. BALSON: Q Presentation?

13 A -- Kind of an informal oral rendition  
14 of information to the group.

15 It was a -- other than the  
16 opening of the meeting, you know, it was a pretty  
17 informal group of people with their sleeves rolled  
18 up basically talking about the case.

19 So he gave an oral -- oral  
20 presentation or rendition, exchange of questions,  
21 that type of thing.

22 Q Did you ask any questions?

23 A I don't remember asking any.

24 Q What happened after the oral

1 presentation?

2 A Again, I don't know what sequence  
3 things happened in, but we spent most of the day  
4 talking about -- you know, talking about the case.

5 Later in the day First Deputy  
6 Director Brown and Colonel Bouche came in.

7 Q What happened then?

8 A When Colonel Bouche and First Deputy  
9 Brown came in, really what I remember was First  
10 Deputy Brown asking questions.

11 Q Of whom?

12 A He asked questions of Lieutenant  
13 Callahan.

14 Q Anyone else?

15 A I think the -- we were all present in  
16 the room, all in close proximity. I mean, I think  
17 the questions were posed -- I mean, it was within  
18 earshot of everyone there.

19 Lieutenant Callahan answered  
20 the questions, but -- the questions appeared to be  
21 posed to him, but we were all there.

22 Q Well who else had information to give  
23 besides Lieutenant Callahan?

24 MR. JOHNSTON: Object to the form of the

1 question.

2 Answer as best you can, Steve.

3 THE WITNESS: A Well I think everyone in  
4 the room at that point had some information to  
5 give. Just -- you know, I didn't know what to  
6 anticipate as far as questions or that type of  
7 thing.

8 MR. BALSON: Q Everyone in the room had  
9 information to give on Steidl and Whitlock?

10 MR. JOHNSTON: Objection. Please let him  
11 finish.

12 MR. BALSON: Q Is that your testimony?

13 THE WITNESS: A They had some information  
14 from reviewing the files. I mean, they spent an  
15 entire day -- most of the day looking through the  
16 information, asking questions.

17 So some information -- I don't  
18 know -- I couldn't judge the value of it or  
19 anything else, but everyone -- we were all there  
20 to add value to it.

21 MR. BALSON: Q Certainly everyone could  
22 read. Was anyone at that meeting -- well, was  
23 there anyone at the meeting besides Lieutenant  
24 Callahan who had actually done any investigation



1 on the Steidl and Whitlock cases?

2 A Not that I'm aware of.

3 MR. SMITH: Objection to the form and  
4 foundation. Assumes facts not in evidence.

5 MR. BALSON: Q All right. What happened  
6 when Doug Brown came in then?

7 THE WITNESS: A He basically asked  
8 questions.

9 Q What questions did he ask?

10 A He asked if there was any evidence of  
11 prosecutorial misconduct, to which Lieutenant  
12 Callahan answered no.

13 He asked if there was any  
14 evidence of police misconduct, and the Lieutenant  
15 Callahan answered no.

16 He asked if there was any --  
17 any evidence that hadn't been put before the Court  
18 or wasn't before the Court in the matter, and  
19 Lieutenant Callahan answered no.

20 Q Did Lieutenant Callahan say that he  
21 wasn't allowed to develop evidence?

22 A No.

23 Q Did Lieutenant Callahan say that he  
24 had suspicions of prosecutorial misconduct?

1 A No.

2 Q All right. After these three  
3 questions were asked of Lieutenant Callahan, what  
4 happened next?

5 A Then there was discussion -- or  
6 continued discussion about Morgan, Bob Morgan, his  
7 associates, that type of thing.

8 Lieutenant Callahan, as I  
9 remember, gave some additional information; and  
10 Colonel Brueggemann directed he and I to develop a  
11 proposal to continue the investigation.

12 Q What decisions were made relative to  
13 Mr. Bettenhausen's request about clemency?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 Go ahead and answer to the best  
17 you can, Steve.

18 THE WITNESS: A I have no idea.

19 MR. BALSON: Q Was Mr. Bettenhausen's  
20 request discussed at the meeting?

21 A I don't remember it being discussed,  
22 no.

23 Q Was it discussed at the meeting  
24 whether the Illinois State Police would take a

1 position on clemency?

2 A What I remember being stated was  
3 that -- by Colonel Brueggemann was that we were  
4 all there to review the information in order to be  
5 able to provide well-informed information to the  
6 director should the Illinois State Police be asked  
7 about the position -- the state police  
8 departmental position on clemency. That was my  
9 understanding.

10 Q Were the Illinois State Police asked  
11 their departmental position on clemency?

12 A I don't know.

13 Q It wasn't asked of you?

14 A No.

15 Q Did you give an opinion at this  
16 meeting?

17 A No.

18 Q Well I think you said a little while  
19 ago that the opinion you expressed at the meeting  
20 was that the courts had done their job and you  
21 should leave it in the courts. Isn't that what  
22 you said.

23 MR. JOHNSTON: Object to the form of the  
24 question.

1                   Go ahead and answer the best  
2     you can, Steve.

3                   THE WITNESS:  A  What I said about the --  
4     about it being in the courts, I made that  
5     statement in the work group when we were talking  
6     about the issues of recantation of witness  
7     testimony and some of the other things in the  
8     decision.  I made that statement there.

9                   But we didn't -- this wasn't a  
10    meeting where we were all asked to vote or an all  
11    in favor say I type thing.  It was -- we were  
12    there.  We reviewed it.  The first deputy came in  
13    and asked a few questions.

14                   What decisions were made or  
15    were not made or whether we were asked or ever  
16    asked I have no -- no knowledge of that.

17                   MR. BALSON:  Q  What contributions did you  
18    make in this meeting?

19                   A     I was directed to be at the meeting.  
20    I went.  I reviewed the information.

21                   I was told at the end of the  
22    meeting to develop a proposal, which I did  
23    subsequently.

24                   As far as what contributions I

1 made, I -- you, I'm not exactly sure.

2 Q Did you say anything at the meeting?

3 MR. JOHNSTON: Objection. Anything beyond  
4 what he's already testified to?

5 Go ahead and answer.

6 THE WITNESS: A Yes, I spoke at the  
7 meeting, and I told you...

8 MR. BALSON: Q What do you remember saying  
9 at the meeting?

10 MR. JOHNSTON: Objection. Asked and  
11 answered. Let him finish.

12 Go ahead.

13 THE WITNESS: A I remember talking about  
14 the Illinois Supreme Court decisions.

15 I remember talking about the  
16 recantation of witness testimony in relationship  
17 to those decisions.

18 I remember talking about  
19 incompetent counsel in the same light, in  
20 relationship to those Supreme Court decisions.

21 I was asked some questions --  
22 I don't remember what they were -- by some of the  
23 other work group people in our informal session.

24 It was a low-key meeting.

1 Everyone was civil.

2 MR. BALSON: Q Why shouldn't they be  
3 civil?

4 MR. JOHNSTON: I'll object to the form.  
5 Go ahead and answer the best  
6 you can.

7 THE WITNESS: A I was just describing the  
8 setting. Sometimes a word alone doesn't describe  
9 it. I'm just saying it was a low-key meeting, and  
10 there was a level of civility at the meeting.

11 Q All of your -- these were all  
12 officers in the Illinois State Police.

13 Do you know whether any of the  
14 materials that were distributed at this academy  
15 meeting were ever given to Steidl, Whitlock or  
16 their attorneys?

17 MR. JOHNSTON: I'll object for the reasons  
18 stated before.

19 Go ahead and answer, Steve.

20 THE WITNESS: A No, I have no way of  
21 knowing that.

22 MR. BALSON: Q Do you know if they were  
23 distributed outside of the Illinois State Police?

24 A I don't know.

1 Q The Supreme Court decision that you  
2 read, what was the date of that decision?

3 A Actually, I read two -- I believe I  
4 read two separate decisions, from what I remember.  
5 I don't remember the dates on them. One -- I  
6 don't remember the dates.

7 Q Were those Supreme Court decisions  
8 based on a record that included Lieutenant  
9 Callahan's findings from his investigations?

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

12 Answer it as best you can.

13 THE WITNESS: A Not that I remember, no.

14 MR. BALSON: Q Okay. Well, you said that  
15 you were asked to develop a proposal. Did you do  
16 that?

17 MR. JOHNSTON: Objection. Asked and  
18 answered.

19 Tell him again, Steve.

20 THE WITNESS: A Yes.

21 MR. BALSON: Q And what was your proposal?

22 A The proposal -- it was a written  
23 proposal which I sent to Lieutenant Colonel  
24 Carper.

1 Q Did -- do you remember the date of  
2 this written proposal, the date of it?

3 A It was following the January 8th or  
4 9th meeting. So I remember it being January of  
5 '03, but I don't remember the date.

6 Q What was the subject matter of the  
7 proposal?

8 A As best I remember, it was Bob Morgan  
9 as the subject.

10 Q Can you summarize for me what your  
11 proposal was?

12 A The proposal requested additional  
13 resources, monies, for administrative, clerical  
14 support, additional personnel, and basically  
15 outlined -- if I remember correctly -- basically  
16 outlined the kind of a two-pronged investigative  
17 approach to it.

18 Q Anywhere in the proposal did you  
19 mention the Rhoads, Dyke or Karen Rhoads?

20 A I don't remember that.

21 Q It mostly concerned Bob Morgan,  
22 didn't it?

23 MR. JOHNSTON: Object to the form of the  
24 question.



1                             Answer as best you can, Steve.

2             THE WITNESS:   A   Yes.

3             MR. BALSON:   Q   Okay.  How did you send  
4   this to Lieutenant Colonel Carper?

5             A             I believe by e-mail.

6             MR. BALSON:   Okay.  Take a five-minute  
7   break.  I may be just about done.

8             MR. JOHNSTON:  Okay.

9

10                            (Short recess was had.)

11

12             MR. BALSON:   Back on the record?

13             MR. JOHNSTON:  Yes.

14             MR. BALSON:   Everybody ready?

15                            Vince, are you ready?

16             MR. MANCINI:   Ready.

17             MR. BALSON:   Brian, are you there?

18             MR. SMITH:    Ready.

19             MR. BALSON:   Okay.  I have no further  
20  questions at this time.  I pass the witness.

21             MS. SUSLER:   Okay.  Captain Fermon, my name  
22  is Jan Susler.  I'm one of Randy Steidl's lawyers.

23                            I got some follow-up questions.

24             So buckle your seat belt.

1 I'm not going to go in any  
2 particular order. So just bear with me. I'm  
3 going to be jumping around because a lot of it's  
4 follow up.

5

6

EXAMINATION

7

by Ms. Susler:

8

9 Q When you said you were sued by Lance  
10 Dillon, that it was a first amendment action, what  
11 exactly did he claim?

12 A As I remember, Trooper Dillon claimed  
13 that he had spoke out on an issue involving Leo  
14 Shanks, a former VMEG employee, and that -- if I  
15 understood -- remember correctly, that he was --  
16 he alleged he was retaliated against because of  
17 speaking out on this issue on Shanks and removed  
18 from investigations to patrol.

19 Q Sorry. I got a little distracted.

20 He claimed that you basically  
21 demoted him in retaliation for his speaking out  
22 about another ISP employee?

23 A ISP VMEG employee, not a state police  
24 employee, another Metropolitan Enforcement Group

1 employee.

2 Q What was it that he had said about  
3 Mr. Shanks?

4 If you recall.

5 A I don't remember.

6 Q Do you remember what he said, what  
7 you didn't like about it, that you would retaliate  
8 against him for?

9 A No, I don't remember.

10 Q When was that underlying incident  
11 that he sued you about?

12 MR. JOHNSTON: Do you understand what she  
13 means by underlying incident?

14 THE WITNESS: I believe so.

15 MR. JOHNSTON: Okay.

16 THE WITNESS: A I don't remember when that  
17 was.

18 MS. SUSLER: Q All right. If you'll look  
19 at Exhibit 6, paragraph 12 on the first page, it  
20 refers to -- it looks like Special Agent Dillon  
21 received a suspension of 90 days.

22 Does this have any relationship  
23 to the lawsuit that you are telling me about?

24 A Well, when Trooper Dillon -- when S/A

1 Dillion was transferred to patrol, it was following  
2 his being suspended by the Illinois State Police  
3 Merit Board for 90 days. He was transferred to  
4 patrol, took exception to it, and then  
5 subsequently filed suit against me.

6 Q And forgive me if I forgot, but did  
7 you testify about the results of that lawsuit,  
8 what had happened...

9 A Yes.

10 Q It was settled? Is that what you  
11 said?

12 A No.

13 MR. JOHNSTON: Go ahead and answer the  
14 question. Tell her what happened.

15 THE WITNESS: A Case went to trial and it  
16 was a mistrial.

17 MS. SUSLER: Q Oh, that's right.

18 A There was a judgment entered in my  
19 favor following the appeal.

20 Q All right.

21 Were you ever sued by a member  
22 of the ISP named Perkins?

23 A What's the last name?

24 Q Perkins.

1 A No.

2 Q Okay. Let me refer you back to  
3 Exhibit 6 which you still have in your hand.

4 Look at the second page,  
5 paragraph 13. It says Marlow, internal  
6 investigation, reviewed and discussed, any word on  
7 final action.

8 Is that referring to Jeff  
9 Marlow?

10 A Yes, ma'am.

11 Q Can you explain to me what this is  
12 about?

13 A When I came in to the zone there  
14 after November of '01, these disciplinary issues  
15 were things that I was -- that were there waiting  
16 for me, so to speak.

17 But in Marlow's case what I  
18 recall is, while working with agents from another  
19 zone, it was alleged that he had made -- I  
20 believe -- made an inappropriate comment, and  
21 another agent complained.

22 And then a state police  
23 internal investigation was conducted, and then  
24 Lieutenant Colonel Carper and I -- I talked to

1 Lieutenant Colonel about it and made a  
2 recommendation giving him some form of written --  
3 a written reprimand or counseling. I don't  
4 remember which. But that's what I had  
5 recommended.

6 And then my question about any  
7 word on final action, I was trying to determine if  
8 that was my -- if my recommendation was  
9 acceptable.

10 Q And who makes the final action in  
11 that kind of a disciplinary situation?

12 A I don't know. Dependent upon -- I  
13 mean everything is case dependent or dependent  
14 upon the allegation in the case, that type of  
15 thing.

16 I was under the impression that  
17 the -- I don't know, ma'am. I needed a  
18 recommendation, and I was trying to see if I can  
19 go ahead and issue the discipline and close the  
20 case out and be done with it.

21 Q This was a matter relating to his  
22 misconduct during an interview with a witness, was  
23 it not?

24 A I believe so.

1                   What I remember is that there  
2 was a female involved and some type of  
3 inappropriate -- what one the other agents thought  
4 was an inappropriate comment made by Agent Marlow  
5 at that time.

6                   That's the best I remember. I  
7 don't know if it was a witness or a suspect or a  
8 victim.

9           Q       What's your recollection about what  
10 the comment was?

11           A       If I remember correctly, something  
12 about a tattoo, a tattoo on the breast or upper  
13 chest.

14           Q       What else do you remember about that  
15 comment?

16           A       That's about it.

17           Q       Do you know what happened as a result  
18 of your recommendation?

19           A       I was -- I issued Agent Marlow a  
20 written counseling report as discipline in the  
21 final part of the matter.

22           Q       I'm done with that exhibit for the  
23 moment.

24                   You mentioned something about

1 another lawsuit regarding Mr. Callahan in Sangamon  
2 County. I believe you said it was in the nature  
3 of a mandamus?

4 A Yes, ma'am.

5 Q And that was following his having won  
6 his civil rights case in the Central District of  
7 Illinois?

8 MR. JOHNSTON: Object to the form of the  
9 question.

10 Answer as best you can.

11 THE WITNESS: A Yes.

12 MS. SUSLER: Q All right. And you were a  
13 defendant in that case and the jury came back with  
14 a verdict against you and in favor of Mr.  
15 Callahan, is that right?

16 MR. JOHNSTON: Object to the form of the  
17 question as to that case.

18 You can answer it as best you  
19 can.

20 MS. SUSLER: Q You know that I'm talking  
21 about the federal civil rights case, don't you,  
22 Mr. Fermon?

23 THE WITNESS: A Yes.

24 Q Okay. So the mandamus was following



1 the jury's verdict in favor of Mr. Callahan?

2 A Yes, ma'am.

3 Q And he was trying to enforce an  
4 Illinois statute, was he not?

5 A As I understood it, Mr. Baker, the  
6 attorney for Callahan, and Callahan were trying  
7 to -- had filed a suit in Sangamon County Circuit  
8 Court attempting to -- if I understood it  
9 correctly -- force the Merit Board or the  
10 governor -- I can't remember which -- to terminate  
11 employment.

12 That's what I remember the crux  
13 of it being.

14 Q He was asking the Court his  
15 version -- or his interpretation of the statute,  
16 which was that, once there's a civil judgment  
17 against the employee, the employee is required to  
18 be terminated; is that right?

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

21 You can answer as best you can.

22 THE WITNESS: A It's partially correct.  
23 It had to do with the policy maker statute, not  
24 just that it was an employee. But there was quite

1 a bit -- as you would imagine -- of legal  
2 wrangling over the definitions. But the policy  
3 maker statute is what they had filed in Sangamon  
4 County.

5 MS. SUSLER: Q He had gone over your job,  
6 is that right?

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

9 Answer as best you can.

10 THE WITNESS: A He made allegations and  
11 filed lawsuits, and from my point of view he was  
12 taking every possible avenue to at least make it  
13 difficult; yes.

14 MS. SUSLER: Q Well I guess what I'm  
15 asking is that, in addition to having won a  
16 substantial jury verdict against you, he was  
17 asking the Sangamon County Circuit Court to  
18 enforce a law that he thought would fire you.

19 Do you understand that's what  
20 he was trying to do in that mandamus action?

21 MR. JOHNSTON: Object to the form of the  
22 question and on multiple other bases, including  
23 facts not in evidence.

24 You can answer as best you can.

1           THE WITNESS:  A  With my limited  
2           understanding of a mandamus and the whole process,  
3           you know, it was my understanding that that's what  
4           he was trying to accomplish.

5           MS. SUSLER:  Q  Was it your understanding,  
6           if he had won that mandamus action, that you would  
7           have been fired?

8           MR. JOHNSTON:  Object to the form of the  
9           question.  Calls for speculation.  Form.  
10          Foundation.

11                                Go ahead and answer as best you  
12          can.

13                                You can answer.

14          THE WITNESS:  A  I don't -- I didn't really  
15          know, honestly, what to expect.  All I knew is  
16          they had filed the action.

17                                I would anticipate that,  
18          whatever the decision was, that it would be  
19          appealed; and that, from my perspective and what I  
20          was being told, the Illinois State Police Merit  
21          Board was basically the only hiring and firing  
22          entity or body.

23          MS. SUSLER:  Q  In any event, you  
24          understood that he was trying to get you fired,

1 whether or not in fact you agreed that the process  
2 that he was pursuing was the correct one?

3 MR. JOHNSTON: Object to the form of the  
4 question.

5 Go ahead and answer it.

6 THE WITNESS: A Yeah, I think that's what  
7 he was trying to do.

8 MS. SUSLER: Q And that wasn't just about  
9 you either, was it? It was about Diane Carper as  
10 well?

11 A If you mean about the mandamus  
12 petition, then, yes.

13 Q Yes.

14 A Yes. I think we were both named.

15 Q Okay.

16 Now you were represented by  
17 someone, an attorney who was either part of the  
18 ISP or was paid for by the ISP; is that correct?

19 A Again...

20 MR. JOHNSTON: Go ahead. She's asking a  
21 follow-up question.

22 MS. SUSLER: Q In your civil rights case  
23 that Mr. Callahan was suing you in.

24 THE WITNESS: A We're shifting from the

1 mandamus now?

2 Q I'm going back to the civil rights  
3 case now.

4 A All state police officers are  
5 represented by the Illinois Attorney General's  
6 Office.

7 Q Okay. So you were represented by a  
8 state's attorney?

9 A Yes, ma'am.

10 Q Okay.

11 And in the mandamus action was  
12 that true as well?

13 A Partially.

14 Q Partially what?

15 A Partially true.

16 Q Tell me the whole story.

17 A The Illinois Attorney General's  
18 Office was originally representing us, and then --  
19 or me, and I don't know whether it was a  
20 co-counsel or joint counsel type thing; but then I  
21 asked for and received representation from the  
22 Illinois State Police Command Officers  
23 Association, and an attorney was hired to  
24 represent me.

1 Q Do you know who paid that lawyer's  
2 bill?

3 MR. JOHNSTON: Object to the form of the  
4 question and also not likely to lead to  
5 discoverable and admissible evidence.

6 You can go ahead and answer.

7 THE WITNESS: A The Illinois State Police  
8 Command Officers Association, and I paid a portion  
9 at one time.

10 MS. SUSLER: Q In -- throughout Mr.  
11 Callahan's civil rights lawsuit against you and  
12 throughout the mandamus action, would it be fair  
13 to say that you had the support of Director Trent?

14 MR. JOHNSTON: Object to the form of the  
15 question.

16 You can answer it as best you  
17 can.

18 THE WITNESS: A I wouldn't say it that  
19 way.

20 I don't -- after -- I never had  
21 any conversations about support or any -- anything  
22 along those lines.

23 I recall at one time Director  
24 Trent sent out a -- following the Callahan verdict

1 Director Trent sent out an e-mail that was widely  
2 publicized or published, and from that he seemed  
3 to be very supportive; but I don't know...

4 Q What were the contents -- the  
5 substance of Director Trent's e-mail, is that  
6 you're talking about?

7 A I don't remember much of the details.

8 But essentially following that,  
9 the verdict, the director put out an e-mail to, I  
10 believe, all state police employees talking about  
11 the pride of being an Illinois State Police  
12 officer, you know, to wear the uniform with pride;  
13 and it was generally supportive of -- I felt it  
14 was generally supportive of me, anyway. I don't  
15 know if he was reading it that way or not.

16 MS. SUSLER: Q Did you see the newspaper  
17 articles where Director Trent spoke publicly in  
18 support of you after the verdict against you?

19 A I don't remember reading that, no.

20 Q Director Trent -- in his e-mail or in  
21 any other communications that you were aware of,  
22 whether with you directly or with the public or  
23 with other troopers, Director Trent, would it be  
24 fair to say, disparaged Mr. Callahan's litigation

1 against you and condemned the verdict in his  
2 favor?

3 MR. JOHNSTON: I'll object to the form of  
4 the question.

5 You can answer it as best you  
6 can.

7 THE WITNESS: A I don't -- I don't really  
8 remember any sort of condemnation directly of  
9 Callahan by the director.

10 But it's been -- I mean, that  
11 e-mail I talked about has been almost four years  
12 ago now. I haven't seen it since then. I don't  
13 have a good recollection on that.

14 MS. SUSLER: Q What about the other half  
15 of the question?

16 You don't remember anything  
17 about the disparaging part. How about the part  
18 basically condemning or denouncing the verdict  
19 against you?

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

22 You can answer it as best you  
23 can.

24 THE WITNESS: A I don't remember that. I



1 don't remember seeing it or getting that idea in  
2 that strong of terms.

3 All I know is the verdict was  
4 originally against us. We filed appeals, and we  
5 prevailed. There's a judgment entered in our  
6 favor at this point.

7 MS. SUSLER: Q And you know the reason for  
8 that, don't you?

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

11 You can answer as best you can.

12 THE WITNESS: A It's my understanding, on  
13 appeal, the Seventh Circuit Court of Appeals  
14 reversed the case. That's my understanding of it.

15 MS. SUSLER: Q Because of the application  
16 of a U.S. Supreme Court case?

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

19 If you can answer it, go ahead.

20 THE WITNESS: A I don't remember if the  
21 decision I read was that broad. I think the case  
22 that -- I had said it was reversed and remanded --  
23 whatever the legal term is for it.

24 MS. SUSLER: Q You testified that, at some

1 point, you were the special projects officer at  
2 the division of operations?

3 A Yes, ma'am.

4 Q During what period of time was that?

5 A I don't specifically remember when  
6 that -- it seems to me -- I don't specifically  
7 remember, but I think '05, the fall possibly of  
8 '05. For a period until I went to TRT.

9 Q You say you were involved in making a  
10 study of confidential source payments and  
11 administering confidential source funds.

12 A No. What I said was I did research  
13 or was asked to do research on those things, as a  
14 few of the things I could remember I was asked to  
15 do.

16 Q The nature of the research was what  
17 with regard to the confidential sources of  
18 payment?

19 A I went through the confidential  
20 source -- or went to the confidential source file  
21 room, reviewed cases for documentation. I  
22 reviewed them for payment records, payment  
23 frequency, average type payment.

24 Q How far back in time were the cases

1 that you were reviewing?

2 A I reviewed at that point -- at that  
3 point in time I was reviewing just active cases,  
4 cases that were open and people were -- active  
5 confidential source files.

6 Q Were the Rhoads or the Morgan  
7 investigations included in the review of  
8 confidential sources and payments that you  
9 conducted?

10 A No.

11 Q Were there confidential sources and  
12 payments to confidential sources in the Rhoads and  
13 Morgan investigation?

14 MS. CLIFFE: Objection to the form.  
15 Foundation as well.

16 MR. JOHNSTON: I'll join.

17 Go ahead and answer.

18 THE WITNESS: I'm going to ask you to  
19 repeat the question. I'm losing it.

20 MS. SUSLER: Sure.

21 Do you want some caffeine?

22 THE WITNESS: If I drink caffeine -- we're  
23 still on the record -- I have to go to the  
24 bathroom every five minutes.

1 MS. SUSLER: Any time you want a break...

2 THE WITNESS: Caffeine kills me. We'll  
3 never get anything accomplished.

4 MS. SUSLER: If you want a break...

5 THE WITNESS: No.

6 MS. SUSLER: Well just take a deep breath.

7 THE WITNESS: I want to go home.

8 MS. SUSLER: Q Let's try to plow through  
9 this.

10 The question was whether, in  
11 the Rhoads investigation or the Morgan  
12 investigation, you were aware when you were in  
13 zone five and the period before -- let's say, from  
14 June of 2000 to June of 2003, were there, as far  
15 as you know, confidential source and/or payments  
16 in those two investigations, the Rhoads and the  
17 Morgan investigations?

18 MS. CLIFFE: Same objection.

19 MR. JOHNSTON: I'll join.

20 Go ahead and answer.

21 THE WITNESS: A It was my understanding at  
22 least, when I was the zone commander up until  
23 '03 -- or June of '03, that we had made -- or we  
24 had an informant and we had made payments to that

1 person. I don't remember -- I remember that we  
2 had an informant and that there were payments  
3 made.

4 Q Are we talking about the Rhoads  
5 investigation or the Morgan investigation?

6 MR. JOHNSTON: I'll object. Assumes facts  
7 not in evidence.

8 Go ahead.

9 MS. CLIFFE: I'm going to object to form.

10 MR. JOHNSTON: And go ahead answer the best  
11 you can.

12 THE WITNESS: A Again, in my estimation,  
13 they're intertwined.

14 As far as what information the  
15 informant possessed specifically, you know, I  
16 don't know. I didn't interview the person or work  
17 with him directly.

18 MS. SUSLER: Q Do you know who did?

19 A It was my understanding that  
20 Lieutenant Callahan and Sergeant Dixon were  
21 working with the informant trying to settle up  
22 drug wise, making payments, that type of thing.

23 Q If an investigation is for  
24 intelligence only and not operational, is that the

1 kind of activity -- paying a confidential source  
2 and setting up something like a drug buy, is that  
3 considered operational?

4 MR. JOHNSTON: Object to the form of the  
5 question.

6 Go ahead and answer, Steve, the  
7 best you can.

8 THE WITNESS: A Well, certainly making a  
9 drug buy is operational. There's no question in  
10 my mind.

11 MS. SUSLER: Q Is there anything else you  
12 can tell me about their use of this confidential  
13 informant in the Rhoads and/or Morgan  
14 investigations?

15 MS. CLIFFE: Object to the form.

16 MR. JOHNSTON: You can go ahead and answer.

17 THE WITNESS: A What I remember about the  
18 informant was that the informant was a person who  
19 the Vermillion County unit -- VMEG had used, and  
20 it was my understanding that Master Sergeant Danny  
21 Reid introduced the informant to one or both  
22 Lieutenant Callahan and/or Sergeant Dixon and that  
23 they were handling the informant and giving him  
24 assignments and compensating him. And that's

1 really all I remember about it.

2 MS. SUSLER: Q Have you ever seen a  
3 situation since you've been with the Illinois  
4 State Police where there would be money paid to an  
5 informant and not have any documentation, like a  
6 request for authorization of payment or a  
7 cancelled check or something like that?

8 MS. CLIFFE: Object to the form.

9 MR. JOHNSTON: I'll join.

10 Go ahead and answer the  
11 question, Steve.

12 THE WITNESS: A Well, if I understand what  
13 you're asking me correctly, we -- you're asking  
14 are payments made and there's no documentation of  
15 the monies spent?

16 MS. SUSLER: Q That's my question.

17 Have you ever seen a situation  
18 where there's been a confidential informant and  
19 there's been money paid to the informant and  
20 there's no documentation of that payment?

21 MS. CLIFFE: Same objection.

22 MR. JOHNSTON: Go ahead and answer the best  
23 you can.

24 THE WITNESS: A I've never seen it happen.

1 MS. SUSLER: Q That's because generally  
2 there's documentation required before a  
3 confidential informant can be paid?

4 A Yes.

5 Q Was that true, if you know, in 1986  
6 and 1987 as well?

7 MS. CLIFFE: Object to the form.

8 MR. JOHNSTON: Object to form.

9 Go ahead and answer.

10 THE WITNESS: A I don't remember the  
11 policies and procedures specifically in '86 and  
12 '87; but since I've been a special agent, dating  
13 back to about 1984 or five, I don't ever recall  
14 any substantial deviation in the process. It's  
15 always been the same process that I'm aware of.

16 MS. SUSLER: Q Tell me what the process  
17 is.

18 A Starting from?

19 Q You have a confidential informant and  
20 you need money to pay the informant.

21 A Okay. The monies -- first of all,  
22 the monies used to pay informants or buy drugs or  
23 any other investigative expenditures are referred  
24 to OAF, which is Official Advanced Funds. The



1 Official Advanced Funds are agents -- whomever has  
2 the money has to keep a very close accounting on  
3 it, and at the end of every month you have to file  
4 the necessary -- fill out a report and send it in.

5 In order to get the funds  
6 someone has to give them to you, whether -- I  
7 could transfer funds to you, for instance, but  
8 there's a receipt. You sign -- I sign as giving  
9 it to you. You sign as receiving it.

10 And then when the agent, or  
11 whomever is in possession of those funds, would  
12 pay an individual. Then the same receipt is used  
13 only when the confidential source is signing a  
14 fictitious name and you're using a confidential  
15 source number.

16 Going up the other end, the  
17 person has to receive the money. I have to get  
18 the funds from somewhere; and if I get those funds  
19 from Mr. Johnston, then it's all receipted.

20 It's been a number of years  
21 since I've actually reviewed the confidential  
22 source file. There may be a provision in there  
23 for what you're describing, but I don't remember.

24 Q If you want the money to pay a

1 confidential source, how do you justify -- is  
2 there some sort of authorization you go through  
3 and say this is what I need it for? Can you  
4 explain that part of it to me?

5 A Well, there's -- it also -- it  
6 depends on how much money you need. If some  
7 agent -- and supervisors are very frugal.

8 If an informant comes in and  
9 works for five minutes and buys a piece of crack  
10 cocaine, for instance, you might give him ten  
11 bucks; but you still go through the same receipt  
12 process. Another person might pay him a hundred,  
13 but with -- I don't remember what they are.

14 But the higher the  
15 authorization level, that's where you get in to  
16 approvals. If you were to ask me for \$250,000 to  
17 do a reverse role undercover operation, then  
18 documentation is required. Someone at the top  
19 is -- well -- near the top is going to have to  
20 approve that.

21 Q How about \$2500?

22 A Um...

23 MS. CLIFFE: Objection. Foundation.

24 THE WITNESS: A Today I don't know what

1 the approval level is. I haven't looked at that  
2 for so long, as far as the approval levels.

3 That wouldn't be -- I think, if  
4 I remember correctly, 5,000 was the level that we  
5 had to go to the deputy director or higher. But I  
6 don't remember the approval levels at this time.

7 MS. SUSLER: Q So a special agent could  
8 ask for or -- I don't understand.

9 If special agent wants \$2500 to  
10 pay a cooperating witness, what does he have to do  
11 to get that quantity, back in '86 and '87?

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

14 MR. JOHNSTON: Join.

15 Go ahead and answer.

16 THE WITNESS: A Well I was sort of in  
17 those type of situations. So the process I would  
18 be in, it wouldn't be unusual for me to get 2500  
19 or \$3,000.

20 I would talk to my supervisor  
21 and say, you know, I need \$2000 to buy an ounce of  
22 cocaine, and I need 250 or 500 to pay an informant  
23 that's introducing me to make this hand-to-hand  
24 buy.

1 I would call the OAF clerk, the  
2 Official Advanced Funds clerk, and say, you know,  
3 here's who I am, could you cut me a check for  
4 \$2500.

5 I'd go down and pick up the  
6 check. Go to the bank and cash it and do my job.

7 MS. SUSLER: Q So the check would be paid  
8 to you?

9 A It would be -- it's been so long  
10 since I -- it was -- there was an account -- they  
11 were drawing the bank drafts off an Illinois State  
12 Police official draft account. I don't  
13 specifically remember how it was drafted.

14 Q Was there one account for the whole  
15 state?

16 If you know.

17 A That I was aware of, yes.

18 Q Do you know where the bank was that  
19 that account was at?

20 A No.

21 Q All right. Let me just switch  
22 subjects a minute.

23 A Okay.

24 Q You said that back in -- I think you

1 said back in the mid to late '80s that you  
2 socialized with Jack Eckerty.

3 MS. CLIFFE: Object to form.

4 MR. JOHNSTON: Object to the form of the  
5 question.

6 MS. SUSLER: Q Correct me if I'm wrong.

7 THE WITNESS: A I remember one time going  
8 to a cook-out and it was the -- the cook-out was  
9 on -- oh, what's the -- Finley Marina was where  
10 the cook-out was, and Jack Eckerty was there.

11 It was sort of -- I don't know  
12 how you would describe it -- a boat party.  
13 Several people had boats.

14 So, to that extent, yes.

15 Q And did I understand you correctly to  
16 say that since then you have not socialized with  
17 him?

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

20 Go ahead and answer the best  
21 you can.

22 MS. CLIFFE: Join the objection.

23 THE WITNESS: A I haven't socialized with  
24 Jack in many, many years.

1 MS. SUSLER: Q Is there some reason why  
2 you stopped socializing with him?

3 MS. CLIFFE: Object to the form of the  
4 question.

5 MR. JOHNSTON: Join.

6 THE WITNESS: A No.

7 We lived so far apart, and we  
8 weren't ever really, really close. We had similar  
9 jobs, that type of thing; but most of my career --  
10 as we talked about today, I've been in  
11 Springfield; and Jack at the time, I believe,  
12 lived in -- what I considered at one time to be  
13 the hinterlands -- in Oakland or somewhere pretty  
14 far away. I mean, it's a hundred miles apart.

15 MS. SUSLER: Q Do you socialize with Diane  
16 Carper?

17 A Not what I consider socialize. But  
18 Diane and I have lunch -- or have had lunch  
19 occasionally. We've attended retirement type  
20 gatherings -- not together, but we had been at the  
21 same events.

22 And during our trial, I guess,  
23 in '05 we had dinner together or spent time  
24 together just by nature of the circumstances.

1 Q You consider her a friend?

2 A Yes.

3 Q Would it be fair to say she considers  
4 you a friend?

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

7 Answer, if you know.

8 THE WITNESS: A I don't know -- I mean I  
9 would hope so, but I don't know how she feels  
10 about me.

11 MS. SUSLER: Q Would you consider Michale  
12 Callahan a friend?

13 A No.

14 Q Have -- are you aware of any  
15 investigation within the ISP finding a law  
16 enforcement officer or a state's attorney having  
17 committed a wrongdoing?

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

20 You can answer that as best you  
21 can.

22 THE WITNESS: A I'm afraid I didn't  
23 understand the question.

24 MS. SUSLER: Q Okay. I'll see if I can

1 ask it more clearly.

2 Are you aware of any  
3 investigation within the state police finding that  
4 another state police officer committed an act of  
5 wrongdoing?

6 MR. JOHNSTON: Go ahead and answer the  
7 question the best you can.

8 THE WITNESS: A I'm not -- I can't name a  
9 specific investigation. But, I mean, that's part  
10 and parcel of what our division of internal  
11 investigation does.

12 I mean, I can recall over the  
13 years state police officers being arrested for --  
14 or a state police officer being arrested for  
15 possession or delivery of drugs. I can recall a  
16 state police officer being arrested for DUI.

17 Q Other than being arrested for  
18 committing a crime, how about that an  
19 investigation of a state police officer for  
20 misconduct related to the investigation of a  
21 criminal case?

22 MS. CLIFFE: Object to the form.

23 MR. JOHNSTON: I'll join the objection.

24 You can answer it as best you



1 can.

2 THE WITNESS: A I'm not aware of that, but  
3 I wouldn't necessarily be aware of the information  
4 that the division of internal investigations was  
5 acting on.

6 Nothing comes to mind at this  
7 point that I remember.

8 MS. SUSLER: Q Would -- well let me just  
9 ask you about Exhibit 1. That's the letter from  
10 Mr. Clutter to Director Nolen.

11 When you learned about Mr.  
12 Clutter's letter to Director Nolen you learned  
13 that the Steidl team was alleging that there were  
14 improprieties in the investigation and the  
15 prosecution of Randy Steidl; is that correct?

16 MR. JOHNSTON: Object to the form of the  
17 question.

18 You can answer it as best you  
19 can.

20 THE WITNESS: A You know, what I learned  
21 of the letter -- it was my understanding that Mr.  
22 Clutter had put forth some information. I don't  
23 recall -- I don't remember specifically at that  
24 point what exactly he was alleging or anything

1 else, but that he was asking -- that he had sent a  
2 letter to the director of the state police.

3 MS. SUSLER: Q Well you have the letter in  
4 front of you as Exhibit No. 1, and you reviewed it  
5 when Mr. Balson was asking you questions about it.

6 A Yes, ma'am.

7 Q Do you understand from that letter  
8 that Mr. Clutter is alleging that there were  
9 improprieties in the process of investigating and  
10 prosecuting Randy Steidl?

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

13 You can answer it as best you  
14 can.

15 THE WITNESS: A Yes. As I sit here today  
16 and read this letter, I understand that.

17 MS. SUSLER: Q And do you know when Mr.  
18 Steidl obtained the information that's included in  
19 Exhibit 1?

20 MS. CLIFFE: Object to the form.

21 MR. JOHNSTON: Object to form. Foundation.

22 Go ahead and answer.

23 THE WITNESS: A No, I have no idea.

24 MS. SUSLER: Q Well do you understand from

1 the letter that information that's in Exhibit 1  
2 was obtained by Mr. Steidl's defense team  
3 following his conviction?

4 MS. CLIFFE: Same objection.

5 MR. JOHNSTON: I'll join.

6 Go ahead and answer as best you  
7 can.

8 THE WITNESS: A I'm not sure exactly when  
9 they obtained -- there is quite a few different  
10 dates in here, some of which are in the spring of  
11 1986, for instance, right before the Rhoads  
12 homicide case.

13 So part of the information, it  
14 appears, would have been generated before the  
15 murders even; and part of it was generated  
16 afterwards.

17 MS. SUSLER: Q Um-hum.

18 Do you know why Director Nolen  
19 asked someone to review the Rhoads investigation  
20 as a result of Mr. Clutter's letter?

21 MR. JOHNSTON: I'll object to form.  
22 Foundation.

23 Go ahead and answer.

24 THE WITNESS: A No, I don't know what

1 Director Nolen had in mind.

2 MS. SUSLER: Q Well, in your experience at  
3 the Illinois State Police, would you say it was  
4 pretty unusual to have the director of the state  
5 police decide to review a case when an individual  
6 convicted murder's defense team asked him to do  
7 that?

8 MS. CLIFFE: Objection to the form.

9 MR. JOHNSTON: Join.

10 Go ahead and answer.

11 THE WITNESS: A In my experience, I've  
12 never seen it happen.

13 MS. SUSLER: Q This is the one and only  
14 time you've seen it happen?

15 MS. CLIFFE: Objection.

16 MR. JOHNSTON: Join.

17 Go ahead and answer.

18 THE WITNESS: A That I remember, yes.

19 MS. SUSLER: Q Was it your sense that the  
20 director was concerned because there was an  
21 allegation that Mr. Steidl, in fact, might not be  
22 guilty?

23 MR. JOHNSTON: Objection. Form.

24 Foundation.

1                   If you know what Director Nolen  
2 was thinking, go ahead and answer the question.

3           MS. CLIFFE: I join the objection.

4           THE WITNESS: A I have no idea what was on  
5 the director's mind or what he was thinking.

6           MR. BALSON: Well, you know, just a minute.

7                   I object to you giving him the  
8 answer, because that wasn't the question. The  
9 question was did he have a sense of it, and you  
10 told him to answer whether or not he knew what  
11 Director Nolen was thinking. That wasn't the  
12 question.

13                   If you want to make an  
14 objection to form or foundation, fine. Don't put  
15 words in his mouth, and don't make speaking  
16 objections, please.

17                   And I would ask that you re-ask  
18 that question.

19           MR. JOHNSTON: I'll object to your  
20 objection.

21                   I have no problem with you  
22 asking the question again.

23           MS. SUSLER: Do you think you could find  
24 the question?

1 MR. REPORTER: Sure.

2

3 (Question read.)

4

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

7 You can answer the question as  
8 best you can.

9 MS. CLIFFE: I join the objection.

10 THE WITNESS: A I -- first of all, I don't  
11 understand what time frame you're asking me about.  
12 But I don't -- I don't have any sense of what  
13 Director Nolen felt or what he intended.

14 I don't -- I don't remember  
15 seeing this letter during this time frame you're  
16 talking about, which was when the director would  
17 have received it. I had no conversations with  
18 him. I don't -- I don't know -- I don't have a  
19 sense -- I didn't know Sam well enough to know  
20 what he was thinking.

21 I know when a letter comes in  
22 to the state police, regardless of what it is,  
23 some staffer puts a tag on it and sends it out for  
24 a response. Every letter that comes to the state

1 police gets a response.

2 MS. SUSLER: Q Not every criminal  
3 defendant gets a response that his case is going  
4 to be reviewed because he might be innocent. Is  
5 that fair to say?

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

8 Answer if you can.

9 MS. CLIFFE: I join.

10 THE WITNESS: A I wouldn't say it that way  
11 either.

12 I mean, it's ---I don't even  
13 see -- this was Mr. Clutter's letter you've given  
14 me, and I don't see anywhere where it informs a  
15 criminal defendant that the case is going to be  
16 reinvestigated.

17 MS. SUSLER: Q All right. Let me ask you  
18 to look at Exhibit 2, three pages from the end,  
19 which is Bates Plaintiff 016574.

20 This purports to be a letter of  
21 April 27, 2000 from Director Sam Nolen to Mr.  
22 Clutter. So it's about a month after Mr.  
23 Clutter's letter.

24 Have you seen that letter

1 before?

2 A Yes, at some point over the last few  
3 years I've seen this letter.

4 Q And you understand from this letter  
5 that Mr. Nolen is responding to Mr. Clutter's  
6 letter of March 23rd of 2000 to inform him that  
7 Mr. Callahan is going to be conducting an inquiry?

8 MS. CLIFFE: Objection to form.  
9 Foundation.

10 MR. JOHNSTON: I'll join.

11 Go ahead and answer, if you  
12 know.

13 THE WITNESS: A I didn't draw -- I  
14 don't -- I don't understand it that way.

15 I understand this to say that  
16 the director's identified Lieutenant Callahan and  
17 basically telling him that Lieutenant Callahan  
18 would be contacting him to make arrangements to  
19 meet and discuss additional information.

20 I don't read it that Director  
21 Nolen is telling anyone that there's a case  
22 reopened.

23 MS. SUSLER: Q Yeah, I don't either. That  
24 wasn't really my question.



1 A I'm sorry.

2 Q If you look at the third paragraph,  
3 it says, you will be informed of the results of  
4 this inquiry when a complete and thorough review  
5 of all documentation is complete.

6 Do you see where it says that?

7 A Yes, I do.

8 Q So the director is responding to Mr.  
9 Clutter's letter that there's going to be an  
10 inquiry and a review and he'll be told of the  
11 results?

12 MS. CLIFFE: Object. Form. Foundation.

13 MR. JOHNSTON: Join the objection.

14 MS. SUSLER: Q Is that the way you read  
15 it?

16 MS. CLIFFE: Objection. Form. Foundation.

17 MR. JOHNSTON: Join the objection.

18 Answer the question if you can.

19 THE WITNESS: A That's the way it reads on  
20 the letter, yes.

21 MS. SUSLER: Q Now do you know whether  
22 Director Nolen was aware of the fact that the case  
23 had winded its way through the courts and the  
24 Illinois Supreme Court? Do you know that?

1 MR. JOHNSTON: Objection. Form.

2 Foundation.

3 Answer if you can.

4 THE WITNESS: A I don't know what Director

5 Nolen was aware of.

6 MS. SUSLER: Q Well, regardless of the

7 fact that the case had been litigated through the

8 appeal process and to the Illinois Supreme Court,

9 it's apparent that Director Nolen, nevertheless,

10 thought that a review and an inquiry was

11 appropriate; correct?

12 MS. CLIFFE: Objection. Form. Foundation.

13 MR. JOHNSTON: Join.

14 Go ahead and answer the best

15 you can.

16 THE WITNESS: A Well, actually, whomever

17 drafted the response thought it was appropriate

18 and the director -- that went out on the

19 director's name, but I don't know that the

20 director ever actually saw the letter. I don't

21 that.

22 The investigator signed the

23 letter. I don't know -- I don't accept as fact

24 the director's intentions here.

1                   Some of these things are  
2 handled by staff, and the signature -- and the  
3 signature is generated with an auto pen.

4                   I don't know what the director  
5 actually intended. I don't know if the director  
6 ever actually saw Mr. Clutter's letter. I don't  
7 know if he ever drafted this or saw the response.  
8 I don't know those things.

9           Q       Do you know that the director didn't  
10 sign this letter?

11           MR. JOHNSTON: Objection. Asked and  
12 answered.

13                   Go ahead and answer again.

14           THE WITNESS: A No, ma'am, I don't know  
15 that.

16           MS. SUSLER: Q Now, forgive me, but I  
17 think I'm a little confused. You said at some  
18 point before you went to zone five that you had a  
19 conversation with -- was it Carper -- about the  
20 Clutter inquiry.

21                   Am I remembering that  
22 correctly?

23           MR. JOHNSTON: Object to the form of the  
24 question.

1 Answer as best you can.

2 THE WITNESS: A As stated, I don't  
3 remember what you're talking about.

4 MS. SUSLER: Q All right. Did you -- you  
5 have to -- I mean, I have to apologize to you. It  
6 was several hours ago.

7 But I thought I remember you  
8 saying that you were contacted about the Rhoads  
9 review before you came to zone five, is that  
10 correct?

11 MR. JOHNSTON: Object to the form of the  
12 question.

13 Answer as best you can.

14 THE WITNESS: A I don't remember saying  
15 that.

16 MS. SUSLER: Q All right.  
17 Did you have any contact with  
18 the Rhoads review before you went to zone five?

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

21 Go ahead and answer as best you  
22 can.

23 MS. CLIFFE: Join in the objection.

24 THE WITNESS: A Not that I remember, no.

1 MS. SUSLER: This is exhibit nine.

2

3 (Document marked as requested.)

4

5 MS. SUSLER: It's ISP 002947, one page.

6 MR. SMITH: Thank you.

7 MS. SUSLER: Why don't you just let me know  
8 when you've had a chance to look at it.

9 THE WITNESS: Okay.

10 MS. SUSLER: Ready?

11 THE WITNESS: Yes, ma'am.

12 MS. SUSLER: Q All right.

13 This would appear to be an  
14 e-mail from you to Diane Carper dated May 9th of  
15 2000, is that right?

16 THE WITNESS: A Yes, ma'am, a portion of  
17 it is.

18 Q Okay. The bottom portion starts with  
19 "thank you"?

20 A Yes, ma'am.

21 Q And that whole paragraph, that  
22 narrative, is what you wrote to Ms. Carper?

23 A I believe so, yes.

24 Q Okay.

1                                   And it would appear that there  
2 was an earlier e-mail the day before from Carper  
3 to you, Andre Parker and James Wolf; is that  
4 right?

5                   A       Yes.

6                   Q       Okay.

7                                   Back in May of 2000 what was  
8 your position in the ISP?

9                   A       I was the statewide investigations  
10 administrator.

11                   Q       And does this -- do you have any  
12 recollection of having had this communication with  
13 Ms. Carper?

14                   A       I don't remember it, but I recall  
15 seeing the e-mail over the last few years.

16                   Q       Do you know why Ms. Carper would have  
17 communicated with you about Mr. Clutter's letter?

18                   A       Well, I think -- no, I don't. I  
19 don't know why she sent it to me.

20                   Q       But you think something?

21                   A       Well, I think this is -- I was CC'd;  
22 and if I remember this correctly, I think the part  
23 that we're missing is information about the  
24 upcoming 48 Hours episode.

1                   So I believe "thank you" is  
2     thank you for the information, that type of thing.

3           Q        When did you first learn about the 48  
4     Hours episode?

5           MR. JOHNSTON:  Objection.  Asked and  
6     answered.

7                   Go ahead and answer again.

8           THE WITNESS:  A  As best I can recall, I  
9     believe this part of the missing e-mail is what --  
10    I could be wrong, but I believe that part of the  
11    missing e-mail is that I'm getting information  
12    about 48 Hours.

13          MS. SUSLER:  Q  Okay.

14                   In the body of the e-mail  
15    you're saying that you suggest, before taking Mr.  
16    Clutter's findings -- that word is in quotes -- as  
17    truth, we establish contact with the person  
18    responsible for the appeal.

19                   And by "we" are you referring  
20    to -- who are you referring to?

21          A        By we?

22          Q        Yes.

23          A        The department, the Illinois State  
24    Police.

1           Q       This case has been tried and through  
2       a series of appeals over the past 14 years.  Much  
3       info has been documented through testimony.  
4       Transcripts may, should be available.  Anything we  
5       do should be coordinated with the appellate  
6       prosecutor's office.

7                         How did you know the appellate  
8       prosecutor's office was -- had any relationship to  
9       Mr. Steidl's case?

10           A       I don't think I actually did.

11                         It's my understanding that  
12       cases on appeal were handled by the appellate  
13       prosecutor.  I didn't then nor do I really today  
14       have a real good good sense, after a case leaves,  
15       who does what.

16           Q       At the time you wrote this e-mail  
17       what, if anything, did you know about what the  
18       Illinois State Police was doing to review or  
19       inquiry in to the Rhoads homicide?

20           A       I really didn't have any information  
21       about what was going on, other than the  
22       information on 48 Hours and my response to it.

23           Q       The -- is it fair to say that the  
24       opinion you've articulated here today, that the



1 case was in the courts and that's where it should  
2 be, is what's -- is the tone of what's reflected  
3 in your e-mail that's in Exhibit 9?

4 MR. JOHNSTON: I'll object to the form of  
5 the question.

6 Answer it as best you can.

7 THE WITNESS: A No, I don't think that's  
8 fair to say at all.

9 I mean, I had that opinion; but  
10 what I was trying to convey was the  
11 appropriateness of working with the prosecutors,  
12 with -- your responsibilities are to the  
13 prosecutors, whomever is prosecuting the case, to  
14 bring them information or to work with them to  
15 coordinate the case.

16 MS. SUSLER: Q As far as you knew, did the  
17 state police have any official relationship with  
18 the appellate prosecutors in the Steidl case?

19 And by that I mean were you  
20 investigating or prosecuting the case with the  
21 appellate prosecutors at the time you wrote this  
22 e-mail.

23 MR. JOHNSTON: Object to the form of the  
24 question.

1                   You can answer it as best you  
2                   can.

3                   THE WITNESS: A I didn't have any  
4                   knowledge of that or any information.

5                   MS. SUSLER: Q And as far as you were  
6                   concerned, it didn't really matter if there was  
7                   any kind of official ongoing relationship. You  
8                   saw the role of the state police to be who to  
9                   coordinate with and answer to the appellate  
10                  prosecutor in a situation like this?

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

13                  You can answer as best you can.

14                  THE WITNESS: A I don't think that is a  
15                  fair statement.

16                  What I said is that we  
17                  coordinate with them, and I didn't say anything  
18                  about answering to anyone.

19                  It is and it remains my  
20                  understanding that our responsibility with any of  
21                  this information on any of the cases is to the  
22                  prosecuting authority, and to forward the  
23                  information.

24                  You may not have even been

1 correct that it was with the appellate prosecutor.

2 It might have been in the Illinois Attorney

3 General's hands.

4 MS. SUSLER: Q Do you know whether anyone

5 talked to the Illinois Appellate Prosecutor's

6 Office?

7 A I don't know whether anyone did or

8 not.

9 Q Did you have any further interaction

10 with Diane Carper or Andre Parker or anyone else

11 in the chain of command regarding the 48 Hours on

12 the Rhoads case?

13 A No.

14 Q I think you testified earlier that

15 you didn't actually see the 48 Hours. Am I right?

16 A I was asked if I watched it. I said

17 no.

18 Q Did you -- well, let me ask you this.

19 Do you recall another case in

20 which the state police was involved that was

21 covered by that kind of a national syndicated news

22 program?

23 MR. JOHNSTON: Object to the form of the

24 question.

1                   You can answer as best you can.

2           THE WITNESS:  A  Not that I remember, no.

3                   I'm not a big television buff.

4           MS. SUSLER:  Q  Well, whether you actually  
5 are a television buff or not is not really the  
6 question.  The question is...

7           A        My answer was no.

8           Q        Okay.  And was it your sense within  
9 the Illinois State Police that this 48 Hours  
10 program was kind of a big deal?

11          MS. CLIFFE:  Object.  Form.  Foundation.

12          MR. JOHNSTON:  Join the objection.

13                   You can answer as best you can.

14          THE WITNESS:  A  I never really got that  
15 sense, no.  I mean, there was notification right  
16 here that it's going up.  I never got that sense.  
17 I never felt like that.

18          MS. SUSLER:  Q  Was it your sense that  
19 nobody really cared about it?

20          MS. CLIFFE:  Same objection.

21          MR. JOHNSTON:  Join.

22                   Go ahead and answer as best you  
23 can.

24          THE WITNESS:  A  No.

1                   My sense was that, you know, as  
2 far as 48 Hours airing a program, there's nothing  
3 we can do about it. You know, that's in my  
4 estimation something that's out of our control.

5                   MS. SUSLER: Q Well did you know that Jack  
6 Eckerty, who was a special agent of the Illinois  
7 State Police, had been involved in the original  
8 Rhoads homicide investigation?

9                   Did you know that at the time  
10 these e-mails were circulating?

11                   MR. JOHNSTON: Object to the form of the  
12 question.

13                   You can answer it.

14                   MS. CLIFFE: I join in the objection.

15                   THE WITNESS: A I remember that, yes.

16                   MS. SUSLER: Q So there wasn't, as far as  
17 you know, any concern expressed about an expose  
18 about potential inappropriate conduct in the  
19 process of that investigation in which an ISP  
20 special agent had been involved?

21                   MS. CLIFFE: Object to the form.

22                   MR. JOHNSTON: Object to the question.  
23 Calls for speculation. Assumes facts not in  
24 evidence.

1                   Go ahead and answer.

2           THE WITNESS:  A  I don't remember any such  
3 concerns.  No one ever voiced them to me.

4           MS. SUSLER:  Q  Well did you ever talk to  
5 anybody else who saw the 48 Hours right around the  
6 time it aired?

7           A       Not that I remember, no.

8           Q       Nobody ever told you anything about  
9 the program?

10          MR. JOHNSTON:  Object.  He just answered  
11 it.

12          THE WITNESS:  A  Your previous question  
13 asked me right about the time it aired.  My answer  
14 is no.  I don't remember anyone telling me right  
15 about the time it aired.  I didn't watch it.

16          MS. SUSLER:  Q  Whether it's telling you or  
17 whether you heard it being discussed in the  
18 workplace -- did you hear it being discussed in  
19 your workplace, whether someone was addressing a  
20 comment to you directly or not?

21          A       No.

22          Q       Did you at some point, other than  
23 contemporaneous to the time it aired, see or hear  
24 anything about it?

1           A       I watched a portion of a videotape at  
2     some point.

3           Q       When?

4           A       I don't remember when.

5                         Someone videotaped it, and I  
6     watched a portion of it. That's the extent of  
7     what I saw.

8           Q       Well when was it in relation to this  
9     e-mail that you wrote that's in Exhibit 9?

10                        Obviously it was after, but how  
11    long after?

12          A       Quite some time.

13                        I mean, I don't -- it wasn't  
14    anything fresh in my mind during this period of  
15    time. I didn't watch it. I didn't tape it. I  
16    watched this tape many -- I don't remember the  
17    time frame, but it was quite a considerable amount  
18    of time following this.

19          Q       Are we talking weeks or months or  
20    years?

21          A       Many months at least.

22          Q       What was the context of your viewing  
23    the videotape?

24          A       I don't really remember.

1                   There was a tape. I don't  
2 where I got the tape. I don't remember the  
3 context of it.

4                   You asked me if I saw it or  
5 remember watching a portion of the video. I  
6 watched it a short time; and I shut it off, and  
7 that was that.

8           Q       Where were you when you watched it?

9           A       I don't remember.

10          Q       Who was with you?

11          A       I don't remember that.

12          Q       What portion did you see?

13          A       I saw the portion -- in the portion I  
14 saw they were interviewing who was identified as  
15 McFatridge.

16          Q       How was it that you happened to watch  
17 that segment?

18          A       I don't know.

19          Q       Did someone key it up for you and say  
20 I want you to see this part of it, or was it just  
21 random?

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

24                       Answer as best you can.



1 THE WITNESS: A You know, I don't know. I  
2 don't remember. I hit play, and I watched a  
3 portion of it.

4 You asked me what I  
5 remembered -- I think that's what you asked me --  
6 and I told you I shut it off after a short period  
7 of time.

8 MS. SUSLER: Q At the time that you  
9 watched it did you have any conversations with  
10 anybody about it?

11 A No.

12 Q You never told anybody anything about  
13 having seen it or what you thought of it?

14 MR. JOHNSTON: Objection. Asked and  
15 answered.

16 Go ahead, Steve.

17 THE WITNESS: A Not that I remember.

18 MS. SUSLER: Q When you first had a  
19 conversation with Diane Carper about the Rhoads  
20 homicide case did she tell you that she had told  
21 Edie Cassella or Mike Callahan or anybody else  
22 that she didn't authorize reopening the case  
23 because it was too politically sensitive?

24 MR. JOHNSTON: Objection. Asked and

1 answered.

2 Answer the question as best you  
3 can.

4 THE WITNESS: A No, she didn't tell me  
5 that.

6 And the only time I remember  
7 anyone saying that is during the Callahan trial,  
8 that that's when it was brought up.

9 MS. SUSLER: Q If Mike Callahan had made a  
10 statement to people outside of the ISP about his  
11 review of the Rhoads homicide without first  
12 getting permission to do so from the chain of  
13 command, would that have been a problem?

14 MR. JOHNSTON: I'll object to the form of  
15 the question. Speculative.

16 Answer the best you can.

17 THE WITNESS: A I think it is very  
18 speculative, but the -- you're identifying a  
19 problem as what? What are you considering a  
20 problem?

21 MS. SUSLER: Q Well, let's do it this way.  
22 I think we were talking earlier about -- I think  
23 you testified something about Callahan -- I  
24 think -- I don't remember the phrase that you

1 used -- that Callahan got in to trouble somehow  
2 for faxing these memos to the AG, to Bob Spence.  
3 I think -- is that what you said?

4 MR. JOHNSTON: I object. Mischaracterizes  
5 his testimony.

6 Go ahead and answer.

7 THE WITNESS: A Earlier we were discussing  
8 the fact that he had faxed a memo to the Attorney  
9 General's Office and that Colonel Kent coached him  
10 or took exception to that.

11 MS. SUSLER: Q Do you know why?

12 A Yeah. I believe because -- just  
13 because -- it was my understanding that the  
14 director was surprised and didn't know -- the  
15 adage is don't surprise your boss. But the  
16 director was surprised.

17 But as far as trouble, I don't  
18 remember Lieutenant Callahan actually getting in  
19 to any trouble or any disciplinary action being  
20 taken against him.

21 Q And how you avoid surprising your  
22 boss is by getting permission from the chain of  
23 command before you distribute something that's an  
24 ISP document outside of the ISP?

1 MR. JOHNSTON: I'll object to the form of  
2 the question.

3 You can answer as best you can,  
4 Steve.

5 THE WITNESS: A I believe the -- the  
6 Illinois State Police preferred method for any  
7 information is go through the chain of command,  
8 but there are -- it doesn't always work that way.

9 When you say someone gets in  
10 trouble, it's a consequence action -- if by  
11 getting in to trouble you mean getting schooled or  
12 getting coached, then, you know, that's just what  
13 you do to do your job.

14 Q Well, what if you are instructed that  
15 you're not to distribute documents outside the ISP  
16 without going through the chain of command,  
17 wouldn't that be getting in to trouble?

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

20 If you can answer that, go  
21 ahead.

22 THE WITNESS: A Again, I wouldn't state  
23 that as getting in trouble. To me that's  
24 coaching. That's what someone was told, and, you

1 know, in the future that's what you should do,  
2 but...

3 MS. SUSLER: Q The idea -- I'm sorry. I  
4 didn't mean to interrupt you.

5 A Go ahead.

6 Q The idea is to encourage people to  
7 have cold feet about distributing things outside  
8 the ISP without getting permission up the chain of  
9 command?

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

12 If you can answer it, go ahead.

13 THE WITNESS: A No, it's not an idea.

14 I mean, the Illinois State  
15 police is a para-military organization with  
16 troopers and agents at the bottom of the  
17 organizational structure, and the ultimate  
18 decision maker in the organization is the  
19 director. In between there's lots of levels of  
20 rank and command, but almost everything that we do  
21 from requesting a pair of new shoes to information  
22 is something that goes through the chain of  
23 command. It becomes more of a habit -- it's an  
24 engrained culture, if you will.

1 MS. SUSLER: Q You and Mike Callahan met  
2 on more than one occasion with the representatives  
3 of different federal and state agencies around the  
4 Morgan investigation, did you not?

5 A We met with -- we met a couple times  
6 at least. There were several times. I can't  
7 remember exactly when. But we met several times  
8 with Tim Bass, the head of DEA.

9 Q Rick Cox?

10 A Yes, ma'am. Rick Cox was present at  
11 a few meetings, with ATF representatives, the IRS.  
12 Yes, ma'am.

13 Q And the focus of that investigation  
14 in those meetings was Bob Morgan and his  
15 associates and his activities?

16 MR. JOHNSTON: I'll object to the form of  
17 the question.

18 Answer as best you can.

19 THE WITNESS: A Yes, most of it was  
20 focused on Morgan; and it was my understanding --  
21 again, I said this a half dozen times today --  
22 that the goal with Morgan was to try to develop a  
23 case against him and if there were -- if it  
24 related to the Steidl-Whitlock case, then -- or

1 the Rhoads homicide case then that was, you know,  
2 all the better, I guess is how I viewed it.

3 MS. SUSLER: Q If you asked Rick Cox or  
4 Tim Bass or the DEA, would they tell you that they  
5 weren't investigating the murder case?

6 MR. JOHNSTON: I'll object to the form of  
7 the question.

8 Answer as best you can.

9 THE WITNESS: A I don't know what they  
10 would tell you.

11 MS. SUSLER: Q Were you ever present when  
12 they told Mike Callahan that they weren't  
13 investigating the Rhoads case, that this was about  
14 Bob Morgan?

15 A I didn't hear you.

16 Q Were you ever present when Rick Cox  
17 or Tim Bass told Mike Callahan that they weren't  
18 investigating the Rhoads case but that they were  
19 investigating Morgan?

20 A I don't believe I was present -- if  
21 that was said, I don't believe I was present.

22 Q Did anybody in those meetings with  
23 the various federal and state agents ever express  
24 a desire to investigate whether Randy Steidl or

1 Herb Whitlock had ever been convicted -- to  
2 investigate whether Randy Steidl or Herb Whitlock  
3 had been convicted?

4 A Of the meetings I attended I don't  
5 recall that ever being a suggestion or a  
6 recommendation made.

7 Q In fact, you were looking more in to  
8 the organized crime activities of Bob Morgan?

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

11 Go ahead and answer as best you  
12 can.

13 THE WITNESS: A Well it was my  
14 understanding that -- when you say organized  
15 crime -- I mean, we were -- we -- they were  
16 looking in to the financial aspects, drug aspects,  
17 basically -- what were some of the other things --  
18 predatory banking aspects, predatory auto  
19 dealerships.

20 There was so many facets that  
21 Lieutenant Callahan had brought up. Those were  
22 among the things we were looking at.

23 MS. SUSLER: Q I'm going to direct your  
24 attention to Exhibit No. 7.



1 MR. JOHNSTON: Before we do that, do you  
2 have a reasonable estimate on time?

3 He's got an 8:00 o'clock train.

4 MS. SUSLER: I hope I can do that.

5 MR. JOHNSTON: Well...

6 MS. SUSLER: Q Exhibit 7. This is the  
7 December 18th e-mail you wrote about rock and a  
8 hard place.

9 Is rock and a hard place the  
10 kind of expression you and Diane Carper had ever  
11 used between yourselves before talking about the  
12 Rhoads matter?

13 THE WITNESS: A Not that I remember, no,  
14 ma'am. That's just an expression I use.

15 Q It's just an expression you use. I'm  
16 asking you did you use it previously.

17 A I use the expression regularly, like  
18 bur in the saddle. I have the habit of using  
19 those -- I don't know what you call them --  
20 colloquialisms.

21 Q So you had not used it with respect  
22 to Rhoads -- or in relation to the Rhoads case  
23 except with respect to this e-mail?

24 A I can't tell you. I couldn't tell

1 you when I used it or didn't use it.

2 Q What did Diane Carper tell you when  
3 you had this exchange about what was going to  
4 happen with Ed Parkinson? What did she tell you  
5 about what she was going to tell Mr. Parkinson?

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

8 Answer as best you can.

9 THE WITNESS: A Colonel Carper told me --  
10 asked me if I called Ed Parkinson. I said no.

11 She told me she was going to  
12 call Ed Parkinson. She didn't tell me anything  
13 about what she was going to tell him.

14 MS. SUSLER: Q After she spoke to him did  
15 she tell you anything about what she said?

16 MR. JOHNSTON: Object to the form of the  
17 question. It assumption facts.

18 Steve, go ahead and answer as  
19 best you can.

20 THE WITNESS: A Not that I remember.

21 MS. SUSLER: Q Or what Parkinson said.

22 MR. JOHNSTON: Same objection.

23 THE WITNESS: A No, ma'am.

24 MS. SUSLER: Q The academy meeting. I'm

1 going to focus your attention on the academy  
2 meeting -- oh, sorry. Let's go back to Exhibit 7  
3 for a minute.

4 THE WITNESS: I need to take a short break.

5 MS. SUSLER: Sure.

6

7 (Short recess was had.)

8 (Discussion held off the record.)

9

10 MR. SMITH: We're done for today?

11 MR. JOHNSTON: Yeah. He's got to get to a  
12 train.

13 MR. SMITH: You guys have a good night.

14 MR. JOHNSTON: We're breaking from the  
15 deposition. Mr. Fermon has to catch a train.

16 We will produce him for a half  
17 an hour in Champaign at a mutually convenient time  
18 for Ms. Susler. She doesn't believe she can get  
19 done in a half hour. I think we can figure out  
20 when we resume where we stand.

21 MS. SUSLER: There's no agreement that I'm  
22 only going to be able to use a half hour. I'm  
23 willing to indulge Mr. Johnston and his client  
24 because they have a train to catch, but I am not

1 going to concede that I only have another half  
2 hour.

3 MR. JOHNSTON: Can you tell us  
4 approximately how much more time you have?

5 MR. TAYLOR: We're not talking three or  
6 four more hours.

7 MR. JOHNSTON: Just a reasonable estimate  
8 of how much time you have left.

9 MS. SUSLER: I can get done in an hour for  
10 sure.

11 MR. JOHNSTON: We'll work through it.

12 Thanks.

13 MS. SUSLER: I probably only have another  
14 half hour.

15

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DEPOSITION CONTINUED

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1 STATE OF ILLINOIS)  
 ) SS.

2 COUNTY OF C O O K)

3 The within and foregoing deposition  
4 of the witness, STEVEN M. FERMON, was taken before  
5 NICHOLAS W. DIGIOVANNI, C.S.R., Notary Public, at  
6 180 North Stetson Avenue, in the City of Chicago,  
7 on the 19th day of February, the year 2009.

8 There were present during the taking  
9 of this deposition the following counsel:

10 MS. JAN SUSLER and  
 MR. G. FLINT TAYLOR,  
11 On behalf of  
 Gordon Randy Steidl;

12  
 MR. RONALD H. BALSON,  
13 MS. CARRIE A. HALL,  
 On behalf of Herbert Whitlock;

14  
 MR. IAIN D. JOHNSTON,  
15 On behalf of Steven M. Fermon,  
 Diane Carper, Charles E.  
16 Brueggemann, Andre Parker,  
 Kenneth Kaupus, and  
17 Jeff Marlow;

18 MR. DAVID C. THIES,  
 On behalf of Andre Parker and  
19 Jeff Marlow;

20 MS. SARA CLIFFE,  
 On behalf of City of Paris,  
21 Gene Ray, James Parrish and  
 Jack Eckerty;

22  
 (Via Telephone),  
23 MR. VINCENT C. MANCINI,  
 On behalf of  
24 Michael McFatridge.

1 (Via Telephone),

MR. BRIAN SMITH,

2 On behalf of

Edgar County.

3

4 The said witness was first duly sworn

5 and was then examined upon oral interrogatories;

6 the questions and answers were taken down in

7 shorthand by the undersigned, acting as

8 stenographer and Notary Public; and the within and

9 foregoing is a true, accurate and complete record

10 of all of the questions asked of and answers made

11 by the aforementioned witness at the time and

12 place hereinabove referred to.

13 The signature of the witness,

14 STEVEN M. FERMON, was neither waived or reserved

15 as the deposition is not yet completed.

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1                   The undersigned is not interested in  
2 the within case, nor of kin or counsel to any of  
3 the parties.

4                   Witness my official signature and  
5 seal as Notary Public in and for Cook County,  
6 Illinois, on this 23rd day of February, the year  
7 2009.

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NICHOLAS W. DIGIOVANNI, C.S.R., Notary Public  
License No. 084-003060  
105 West Adams Street, Suite 2501  
Chicago, Illinois 60603  
Telephone: 345-6360

**IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS  
URBANA DIVISION**

|                               |   |                                  |
|-------------------------------|---|----------------------------------|
| <b>GORDON RANDY STEIDL,</b>   | ) |                                  |
|                               | ) |                                  |
| <b>Plaintiff,</b>             | ) |                                  |
|                               | ) |                                  |
| v.                            | ) | <b>No. 05 CV 02127</b>           |
|                               | ) |                                  |
| <b>CITY OF PARIS, et al.,</b> | ) | <b>Judge Harold A. Baker</b>     |
|                               | ) | <b>Magistrate Judge Bernthal</b> |
| <b>Defendants.</b>            | ) |                                  |

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|                               |   |                       |
|-------------------------------|---|-----------------------|
| <b>HERBERT WHITLOCK,</b>      | ) |                       |
|                               | ) |                       |
| <b>Plaintiff,</b>             | ) |                       |
|                               | ) |                       |
| v.                            | ) | <b>No. 08 CV 2055</b> |
|                               | ) |                       |
| <b>CITY OF PARIS, et al.,</b> | ) |                       |
|                               | ) |                       |
| <b>Defendants.</b>            | ) |                       |

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that a copy of the foregoing February 19, 2009 Deposition Transcript of Steven Fermon was served upon the following counsel via the Court’s CM/ECF system on the 19<sup>th</sup> 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](mailto:jsotos@jsotoslaw.com)  
[eekl@jsotoslaw.com](mailto:eekl@jsotoslaw.com)  
[scliffe@jsotoslaw.com](mailto:scliffe@jsotoslaw.com)  
[ebarton@jsotoslaw.com](mailto:ebarton@jsotoslaw.com)  
[jtimbo@jsotoslaw.com](mailto: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](mailto:ijohnston@johnstongreene.com)  
[packerman@johnstongreene.com](mailto:packerman@johnstongreene.com)  
[hsteiner@johnstongreene.com](mailto: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](mailto:dthies@webberthies.com)  
[jthies@webberthies.com](mailto:jthies@webberthies.com)  
[kwade@webberthies.com](mailto: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](mailto:tekl@eklwilliams.com)  
[vmancini@eklwilliams.com](mailto:vmancini@eklwilliams.com)  
[tstanker@eklwilliams.com](mailto: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](mailto:mraub@hrva.com)  
[bsmith@hrva.com](mailto:bsmith@hrva.com)

The undersigned, an attorney, hereby certifies that a copy of the foregoing February 19, 2009 Deposition Transcript of Steven Fermon was served upon the following counsel via email on the 19<sup>th</sup> 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](mailto:flint.taylor10@gmail.com)  
[jsusler@aol.com](mailto:jsusler@aol.com)  
[elsonben@aol.com](mailto:elsonben@aol.com)

The undersigned, an attorney, hereby certifies that a copy of the foregoing February 19, 2009 Deposition Transcript of Steven Fermon was served upon the following defendant via U.S. first-class mail on the 20<sup>th</sup> day of March 2010:

Deborah Rienbolt  
2116 East Keys Avenue  
Springfield, IL 62702

s/ Carrie A. Hall