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

GORDON RANDY STEIDL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05 CV 2127
	)	Judge Harold Baker
CITY OF PARIS, et al.,	)	Magistrate Bernthal
	)	
Defendants.	)	
-----		
HERBERT WHITLOCK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 08 CV 2055
	)	Judge Harold Baker
CITY OF PARIS, et al.,	)	Magistrate Bernthal
	)	
Defendants.	)	

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The continued deposition of EUGENE RAY,  
pursuant to notice and pursuant to the Federal Rules  
of Civil Procedure for the United States District  
Courts pertaining to the taking of depositions, taken  
before Carmella T. Fagan, C.S.R., R.P.R., Notary  
Public within and for the County of Cook and State of  
Illinois, at Two Prudential Plaza, 180 North Stetson  
Avenue, Suite 2000, in the City of Chicago; Cook  
County, Illinois, recommencing at 9:30 a.m. on the  
12th day of December, 2008.

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1 (WHEREUPON, the Witness was  
2 previously duly sworn.)  
3 GENE RAY,  
4 called as a witness herein, having been first  
5 duly sworn, was examined and testified as follows:

6 CONTINUED EXAMINATION

7 BY MR. TAYLOR:

8 Q Now, you're the same Gene Ray that  
9 testified yesterday, are you not?

10 A Yes, sir.

11 Q And you know you're still under oath;  
12 is that right?

13 A That's correct.

14 Q And, as far as you know, you're still  
15 a defendant in this case?

16 A Well, nobody told me otherwise yet.

17 Q Yes. That's accurate. At some point  
18 yesterday we were talking about your relationship to  
19 Darrell Herrington over the years. And you did, from  
20 time to time, intervene and attempt to help him with  
21 regard to his legal problems and specifically with  
22 regard to his license, did you not?

23 MS. EKL: Objection, form.

24 THE WITNESS: What do you mean by "intervene"?

1 BY MR. TAYLOR:

2 Q Well, did you write a letter or  
3 letters for him, from time to time, to help him try  
4 to get his license back from --

5 A I wrote one.

6 Q -- the authorities? Okay. Which  
7 letter do you remember writing?

8 A It would have been to the Secretary of  
9 State's office.

10 Q Was that in the time period before the  
11 Rhoads murders or in a time period after the Rhoads  
12 murders?

13 A It would have been after the trial, as  
14 I recall.

15 Q Do you recall when exactly that was?

16 A No, I don't.

17 Q But it was after he had testified?

18 A Yes.

19 Q What were the circumstances of your  
20 writing that letter?

21 A What do you mean, "what were the  
22 circumstances"?

23 Q Well --

24 A I wrote the letter.

1 Q Okay. Did he ask you to write the  
2 letter, or did you do it voluntarily out of the  
3 kindness of your heart? How did that happen?

4 A Well, it was done voluntarily. It  
5 wasn't anything that I had to do.

6 Q Right. But how did --

7 A There was -- at some point, and I  
8 don't recall where the point was, but at some point  
9 the issue came up that Darrell would like to have his  
10 driver's license back because at that time he was  
11 riding a bicycle and trying to work and that kind of  
12 thing. So I indicated that, "Yes, I will write a  
13 letter for you."

14 Q In other words, he asked you or did  
15 someone else ask you?

16 A Probably he asked. It came up in, you  
17 know, a conversation somewhere.

18 Q Do you --

19 A I don't recall where.

20 Q Do you recall how long after the  
21 trial -- when we talk about the trial, we're talking  
22 about the -- actually, the trials went one right  
23 after the other, right?

24 A Yes.

1 Q So when we call it a trial, we --

2 A Yeah, when the trials were completed.

3 Q When the trials were completed.

4 A Yes.

5 Q How long after the trials were  
6 completed did Darrell make this request that you  
7 write the letter?

8 A I don't recall the exact time.

9 Q Well, let's get the best -- let's fix  
10 it to the best degree we can. I know you can't  
11 remember the exact day, but are we talking a month or  
12 two afterwards or are we talking longer than that?

13 A I don't recall how long after the  
14 trials I wrote the letter, so it would be difficult  
15 for me to even guess when we had the conversation.

16 Q Okay. Could you fix it as to whether  
17 it was before or after you went to Northwestern to  
18 the chief's training session?

19 A I believe it was before that.

20 Q So somewhere in the time frame of  
21 between June of '87 and early 1988? Is it fair to  
22 say it was in that time frame?

23 A It could very well have been.

24 Q What exactly did you write in this

1 letter?

2 A Well, I don't remember the exact  
3 wording. It just would be a letter that requested  
4 that they consider returning his driver's license,  
5 that he had been helpful in a homicide investigation  
6 and that they consider returning his license. They  
7 didn't, but I just asked that they consider it.

8 Q How long had Darrell been without his  
9 license prior to your writing the letter?

10 A I don't know, quite some time because  
11 he rode a bicycle for quite a while.

12 Q Had you also been involved in  
13 obtaining payments for Darrell for certain expenses  
14 that he and the City had incurred connected with his  
15 witnessing a -- or being a witness?

16 MS. EKL: Objection, form, foundation.

17 THE WITNESS: The City had incurred? What has  
18 that --

19 BY MR. TAYLOR:

20 Q Either the City or he had incurred,  
21 any expenses related to Darrell Herrington.

22 A I don't understand what you mean by  
23 "the City incurred expense."

24 Q Well, the City of -- well, I'm sorry.

1 The police department had incurred with regard to  
2 Darrell Herrington.

3 A I still don't understand what you're  
4 getting at, that the police department incurred  
5 expenses. I mean --

6 Q Well, let's focus --

7 A -- we had people on the payroll and  
8 that kind of thing that were working the case.

9 Q No, no. I'm talking about directly  
10 related to Darrell Herrington. Did you ever  
11 authorize any payments directly to Darrell Herrington  
12 from City or police department funds?

13 A There may have been. And when we took  
14 him to Charleston to the motel, when Detective Wheat  
15 took him to Charleston to the motel, I may have given  
16 Detective Wheat some money out of a petty cash fund  
17 that I had available.

18 Q And what was that money for?

19 A That was for the motel room and meals.  
20 That kind of thing.

21 Q All right. Other than the money you  
22 gave to Wheat, did you authorize or personally tender  
23 to Darrell Herrington any monies?

24 A At one point in time when we had him

1       secured, not under arrest, but under our care and  
2       custody, he was unable to work, and he had home  
3       expenses; utility bills, food, that type thing, for  
4       Betty. So we would have authorized some money for  
5       expenses. Yes.

6               Q           And this is sometime before the  
7       trials?

8               A           Yes.

9               Q           But after --

10              A           This would have been before the  
11       trials.

12              Q           How long before the trials was this?

13              A           I don't remember exactly. It would  
14       have been in the time period obviously from between  
15       the time that he came under our care to maybe before  
16       Reinbolt came onboard.

17              Q           So on coming under your care, you're  
18       talking about September when -- when you had the  
19       discussions with Darrell Herrington. That's when --

20              A           Probably --

21              Q           -- he first came in your care?

22              A           Probably would have been in that time  
23       period. Yes. I don't remember the exact dates.

24              Q           So it was sometime after that

1 September time frame and the February time frame when  
2 Reinbolt came in?

3 A Yeah. Somewhere in there.

4 Q All right. Was it with regard to the  
5 first three-day session you had with him in September  
6 or was it subsequent thereto?

7 A It was --

8 MS. EKL: Objection, form.

9 THE WITNESS: -- subsequent.

10 BY MR. TAYLOR:

11 Q It was subsequent?

12 A Subsequent, as I recall.

13 Q Let me see if we can break this down  
14 with regard to Darrell's connection with the  
15 department and you from September onward to the time  
16 that Reinbolt was discovered. You had the sessions  
17 that we just referred to with him in September,  
18 right?

19 A Okay.

20 Q Is that correct?

21 A Correct.

22 Q And then you also had -- you dealt  
23 with him in September when he was wired in an  
24 unsuccessful attempt to get some exculpatory

1 statements from the two men that he had said were in  
2 the apartment during the time of the offenses, right?

3 A Right.

4 Q Then you had -- you also took him to a  
5 lie -- "you," I mean the department. We'll go into  
6 the details, but you also took him to a lie detector  
7 test or a series of tests in Springfield, right?

8 MS. EKL: Objection --

9 THE WITNESS: Yes.

10 MS. EKL: -- form.

11 BY MR. TAYLOR:

12 Q And he was also -- was it September or  
13 after that he was wired, that he was taken to St.  
14 Louis to be hypnotized, right?

15 A Yes.

16 Q Now, did the lie detector come first  
17 or did the hypnosis come first?

18 A I believe the polygraph was first.

19 Q The polygraph, and then he was taken  
20 to St. Louis sometime after that?

21 A I believe that's correct. Yes.

22 Q All right. Any other events that you  
23 had with Herrington prior to Reinbolt's being  
24 discovered or -- or being questioned in February of

1 '87 --

2 A They --

3 Q -- other than that we've just gone  
4 through now?

5 A Were there any others?

6 Q Yes.

7 A Not that I recall.

8 Q Now, the payments that you gave  
9 Darrell, were they in connection with any of those  
10 events that I've just outlined with you?

11 A What do you mean, "in connection with  
12 the events"?

13 Q Well --

14 A If he was in our direct care, then he  
15 was unable to work. So the time frame that we would  
16 have given him money for home expenses would have  
17 been during this time frame. I mean --

18 Q Okay.

19 A -- you know.

20 Q You had him for three days when you  
21 first questioned him in September, right?

22 MS. EKL: Objection, form.

23 THE WITNESS: Okay. Three days.

24 BY MR. TAYLOR:

1           Q           All right. And then how many days did  
2 you have him when you were using him to be a -- to  
3 carry a wire or an overhear device for you and the  
4 Illinois State Police?

5           A           Well, I don't have the exact time  
6 frames, but it would have consumed a half a day and  
7 into evening and that kind of thing. So it probably  
8 would have been a full day, if you look at it from an  
9 eight-hour time frame --

10          Q           Okay.

11          A           -- you know, that kind of thing. You  
12 don't drive to St. Louis and back.

13          Q           I'm not talking about St. Louis now.  
14 I'm talking about --

15          A           You're talking about the wire.

16          Q           Um-hum. Yeah.

17          A           Yeah.

18          Q           So we've got a day there. Then we go  
19 to the lie box. How long a period of time did that  
20 take in terms of Herrington?

21          A           Well, again, that depends on how  
22 quickly the polygraph operator gets there and gets  
23 set up and the time it takes to do the test, then  
24 he's got to spend some time with the results. So

1 probably the better part of a day, I suspect.

2 Q Then we're taking him -- not "we," but  
3 your department took him to St. Louis for a hypnosis  
4 session, right?

5 A Correct.

6 Q Would it be fair to say that took a  
7 couple of days?

8 A I don't recall the time frame, but it  
9 would have been definitely a big, full day if they  
10 did it in one day because we're about two and a half  
11 hours from St. Louis.

12 Q So we're talking, if my math is  
13 correct, somewhere along the lines of five to six  
14 days that Darrell would have lost work under your  
15 theory, right?

16 MS. EKL: Objection, form.

17 THE WITNESS: There were other times that he  
18 was in our care other than those specific times, and  
19 it may have just been from an interview status and  
20 that kind of thing. So I guess it's not fair to say  
21 that we only had him for five days where he couldn't  
22 work; there were times that we had him for shorter  
23 periods of time.

24 Q Well, in November he came and gave a

1 formal taped statement or videotaped statement,  
2 right?

3 A I don't recall.

4 Q You don't remember that?

5 A No.

6 Q But assuming that was the case, that  
7 would be another time where he would have lost time  
8 from work and you would have compensated him, right?

9 A Correct.

10 Q So at the very least you compensated  
11 him for six days, and your thinking is it's probably  
12 more than that, during this time period; is that  
13 right?

14 A That's right.

15 Q All payments to -- to witnesses had to  
16 be authorized by you as the chief; am I right there?

17 A Correct.

18 Q And were authorizations and --  
19 applications and authorizations to pay a witness,  
20 were they something that had to be done in writing?

21 A We had a drug enforcement account. It  
22 was supplemented by fines from the court that the  
23 sheriff, the state's attorney, and the chief of  
24 police, any two of the three could sign off and

1 withdraw money from that account for various reasons.  
2 They would meet, talk about it, and it would be  
3 authorized. It took two to --

4 Q So two to --

5 MS. EKL: I'm sorry, Flint. I don't think he  
6 was done.

7 BY MR. TAYLOR:

8 Q Oh, I'm sorry. Were you finished with  
9 your answer?

10 A I guess I am. You stopped me.

11 Q Well, no. Finish.

12 A It took two of the three to authorize  
13 a withdrawal from that account.

14 Q And you were one of the three?

15 A I was one of the three. Yes.

16 Q Who did you say the others were?

17 A The state's attorney and the sheriff?

18 Q The state's attorney being McFatriidge,  
19 right?

20 A Correct.

21 Q And the sheriff being whom?

22 A Carl Farnham.

23 Q Now, Farnham and the sheriff's office  
24 wasn't directly involved in this investigation,

1 right?

2 A Not directly involved, but they  
3 assisted whenever a request was made.

4 Q Did you obtain the agreement or the  
5 authorization of one of the other two of the men you  
6 named in order to get the payments for Darrell?

7 A Yes.

8 Q I would assume -- well, you tell me,  
9 but I'm assuming that it was McFatridge --

10 A That's correct.

11 Q -- who approved it as well as you?

12 A Yes.

13 Q Who wrote up the authorizations, or  
14 did you present them orally?

15 A Mike probably would have written it  
16 up, we both would have had to sign the check. But he  
17 would have author -- I mean, he would have given it  
18 to, I think, the circuit clerk probably, and they  
19 would have written a check.

20 Q So, I take it, there was some kind of  
21 writing that requested the payments, right?

22 A Yes. I would assume so.

23 Q And there would be a check --

24 A Yes.

1 Q -- as written documentation; is that  
2 right?

3 A Yes.

4 Q Now, did these requests come from  
5 Parrish or did you make -- did they come from you?  
6 In other words, did Parrish make the request and then  
7 you were sitting as the role of the chief to  
8 authorize it, or did you initiate the request for  
9 payments and present it to McFatrige?

10 A It probably would have been one of  
11 those times when we were all three or four in a  
12 conversation, and Darrell had indicated that he had  
13 some household expenses that needed to be taken care  
14 of, and so we would have agreed to do that --

15 Q Now --

16 A -- since he wasn't working.

17 Q So were you reimbursing him for days  
18 that he wasn't working or for household --

19 A Reimbursed him for household expenses.  
20 We did not pay him a daily wage.

21 Q So how did the days that he was not --  
22 was prevented from working, how did that figure into  
23 his household expenses? In other words, those seem  
24 to be two different concepts to me.

1           A           Well, in my house, when I work, I'm  
2     able to pay the bills.  Since Betty didn't work -- in  
3     terms of Darrell's wife, Betty was unemployed, so she  
4     had no way of paying the household expenses.  And  
5     Darrell worked.  So if you don't work, you don't get  
6     paid, and you can't pay your household or business  
7     expenses.

8           Q           So he was employed at the time but he  
9     was missing days of work?

10          A           That's correct.

11          Q           So did you arrive at some rough number  
12     of how much per day he was losing in terms of work?

13          A           No.  We didn't talk about how much he  
14     was losing per day.  We talked about the money that  
15     he needed for expenses, and that's what we based it  
16     on.

17          Q           Now, would you expect that Parrish,  
18     being a thorough report writer and detective, would  
19     have made some kind of report or notation in one of  
20     these reports concerning the payments to Darrell?

21          A           Well, not necessarily, I guess.  This  
22     wasn't at the time, I guess, maybe considered to be a  
23     direct part of the interview and that type thing for  
24     evidentiary purposes.

1           Q           Well, you, as chief, you understood,  
2 did you not, that if a person was going to be a  
3 witness in a case, the fact that he had been given  
4 money for whatever reasons would be something that  
5 the defense lawyers should know about, right?

6           A           Well, I would assume so. Yes.

7           Q           So in that sense, it should have been  
8 documented in one form or another so that the defense  
9 lawyers could know about it; is that right?

10          A           Well, it's in the records on the  
11 account where it was withdrawn and given to Darrell.

12          Q           But it wasn't in the police reports,  
13 right?

14          A           Not that I'm aware of. I don't know  
15 whether it was or wasn't. I didn't know.

16          Q           You didn't write a police report on --

17          A           I didn't write a report on it. No.

18          Q           And you haven't seen anything in the  
19 exhibits we've looked at or anything that you  
20 reviewed previously in any of the reports that would  
21 indicate the payments, right?

22          A           I haven't looked at every page of this  
23 pile here (indicating), so -- but I haven't seen  
24 anything at this point.

1           Q           If I represented to you that there is  
2 nothing in any of these reports that we have from  
3 either the ISP or from the -- your department, would  
4 you say that that would be consistent with the  
5 practices of the department at the time in the sense  
6 that there was no requirement that such information  
7 be written in reports?

8           MS. EKL:   Objection, form.

9           THE WITNESS: You know, in a perfect world,  
10 everybody does exactly as they've been trained and  
11 they do exactly what they've been told, and you don't  
12 have to worry about things like little gaps if there  
13 is a little gap. But I'm -- I've never found the  
14 perfect world, so there may or may not be a report  
15 concerning that.

16 BY MR. TAYLOR:

17           Q           I'm not asking you whether there may  
18 or may not be a report. I'm asking you assuming  
19 there isn't a report, would that be consistent with  
20 the practice of your department at that time in the  
21 sense of not feeling a requirement to write such  
22 information that wasn't witness information down?

23           MS. EKL:   Objection, form, assumes facts not  
24 in evidence.

1 THE WITNESS: Pardon?

2 MS. EKL: I said, "Assumes facts not in  
3 evidence," for the record.

4 THE WITNESS: Oh.

5 BY MR. TAYLOR:

6 Q You may answer.

7 A Would that be consistent? Is that  
8 what you're saying?

9 Q Um-hum.

10 A I don't exactly know how to answer  
11 that because you're including a lot of areas that are  
12 gray out here that don't even pertain to this. So is  
13 it a practice or is it an occurrence in this  
14 particular case, so ...

15 MS. EKL: Flint, did you have more? I  
16 thought -- I didn't know if you were done or --

17 THE WITNESS: I'm thinking, perusing.

18 MS. EKL: Oh, okay.

19 THE WITNESS: No, it may not be consistent  
20 with the practices. It may have just been an  
21 oversight or there may be a document there. I don't  
22 know.

23 BY MR. TAYLOR:

24 Q So your normal practice in the

1 department at that time would be to have documented  
2 in an official report any payments to witnesses?

3 A Well, there is a document.

4 Q I'm asking about particular reports  
5 now, not --

6 A Okay.

7 Q -- a document in the bank's records.

8 A It's not --

9 MS. EKL: Let me interpose an objection to the  
10 form and specifically to the phrase "official  
11 report."

12 THE WITNESS: Is a blank piece of paper  
13 without a header on it, is that classified as an  
14 official report?

15 BY MR. TAYLOR:

16 Q No. When I'm referring to official  
17 reports, I'm talking about Paris police department  
18 reports --

19 A On official stationery.

20 Q Right. And they would then go into  
21 the files and become part of the record that the  
22 defense lawyers and prosecutor and everyone would  
23 have. That's what I'm talking about in terms of  
24 official reports. I'm not talking about --

1           A           Well, I could see it being a piece of  
2 paper in file versus -- in the working file versus an  
3 official report.

4           Q           Now, in the working file, you're  
5 talking about the file that the detectives kept?

6           A           I'm talking about the file that they  
7 used to transcribe their notes, their daily working  
8 notes --

9           Q           Um-hum.

10          A           -- that type thing.

11          Q           And the notes and -- would these kind  
12 of materials end up in the file that the prosecutor  
13 would have at trial to give to the defense lawyers,  
14 or would that be a separate file that would not --

15          A           I would think that it would be in the  
16 file.

17          Q           So you would expect that all the notes  
18 that the detectives had and all the unofficial  
19 documents, such as seeking witness payments, would be  
20 in the file that went to the prosecutor?

21          A           How much did you include in that?

22          Q           I included notes of the detectives and  
23 unofficial documents such as witness payment  
24 documents that you referred to.

1 MS. EKL: Object to form, again, to the  
2 characterization of "unofficial reports" or  
3 "unofficial documents."

4 THE WITNESS: It probably would not include  
5 their handwritten notes in terms of what went into  
6 the official documents because those may have been  
7 retained to refer to at a later date.

8 BY MR. TAYLOR:

9 Q But a document that said, "Please  
10 authorize payment of X-amount of money to Darrell  
11 Herrington," even though it isn't an official Paris  
12 police department report, you would expect that that  
13 would not only go into the working file of the  
14 detectives, but that that would be turned over to the  
15 prosecutor; is that right?

16 A I would expect it to. Yes.

17 Q Do you know whether it was in this  
18 case?

19 A No, I don't.

20 Q Now, I saw a number somewhere in these  
21 documents -- files, not documents, that said  
22 something about a hundred dollars a day is what was  
23 authorized for Darrell. Does that refresh your  
24 recollection as to what kind of money was being paid

1 to him?

2 A There was never -- there was never a  
3 time that I told Darrell Herrington we would pay him  
4 a hundred dollars a day. That was never discussed.  
5 We did not -- I did not tell Darrell that we would  
6 pay him a hundred dollars a day.

7 Q But somehow he got that understanding?

8 A That --

9 MS. EKL: Objection, form, foundation.

10 THE WITNESS: That probably was a situation  
11 where Darrell had a conversation and tried to work  
12 that in.

13 BY MR. TAYLOR:

14 Q What you're saying is Darrell might  
15 have fabricate that part of it?

16 A Well, I'm saying that he might have  
17 wanted a hundred dollars a day and told Jim that I  
18 suggested that we could do that, and I didn't.

19 Q Do you remember now having a  
20 conversation with Darrell about a hundred dollars a  
21 day, and you told him, "Well, we can't really do  
22 that, but what we can do is pay your expenses,  
23 utilities bills, that type of thing"?

24 A That's -- that's what I would have

1       said.  It may not have been with Darrell specifically  
2       that I had that conversation, but that was my  
3       statement, that we would pay his expenses.  We would  
4       give him money for household expenses.

5               Q           That was your statement to him?

6               A           It may not have been to him.  It would  
7       have been either to Jim or maybe Jim and Darrell or  
8       maybe Jack was there.  I don't -- I don't  
9       specifically remember having the date and time of the  
10      conversation.

11              Q           So the record is clear, "Jim" is Jim  
12      Parrish?

13              A           Yes.

14              Q           And "Jack" is Jack Eckerty?

15              A           That's correct.

16              Q           And "Mike" is Mike McFatriidge,  
17      correct?

18              A           Correct.

19              Q           And when you said, "The three or four  
20      of us were together most likely when we decided that  
21      Darrell should get compensation," the three or four  
22      meaning you, right, and --

23              A           Right.  I don't know that we were  
24      together at the time.  There was conversation between

1 Jim and I, Jack may or may not have been present, and  
2 then Jim or I had a conversation with McFatriidge, and  
3 Jim or Jack may or may not have been present. But  
4 there was an information exchange.

5 Q Then there were also conversations  
6 that you had with Darrell and that Parrish had with  
7 Darrell; is that right?

8 MS. EKL: Objection, form, foundation, as to  
9 the second part of your question regarding  
10 conversations between Parrish and Herrington.

11 THE WITNESS: I don't remember having a  
12 specific conversation with Darrell Herrington where  
13 he asked me for a hundred dollars a day. But based  
14 on that note, I did not tell anybody that he was  
15 going to get a hundred dollars a day. There may have  
16 been a request and it may or may not have come from  
17 Darrell, okay?

18 BY MR. TAYLOR:

19 Q Where else would it have come from?

20 A Well, it would have come from a  
21 conversation with Jim, more than likely.

22 Q So it's possible --

23 A Because I spoke with Jim more often  
24 than I spoke with the state's attorney.

1 Q Do you recall having a conversation  
2 with Parrish in which you discussed -- strike that.

3 Do you recall having a conversation  
4 with Parrish where he proposed that Darrell be paid a  
5 hundred dollars a day and you rejected that?

6 A I don't recall that specific  
7 conversation. No. I -- I'm basing that on the note.

8 Q And "the note," being the note that --

9 A That you're referring to.

10 Q That refers to a hundred dollars a  
11 day?

12 A Yes.

13 Q Do you know what -- is that a note  
14 that you wrote or --

15 A No, I did not write it.

16 Q Who wrote that note?

17 A It appears to be Jim Parrish's  
18 writing.

19 Q Now, can you tell us how much money  
20 was authorized out of that fund by yourself and  
21 McFatrige to pay Darrell Herrington, first of all,  
22 during the time period between September of 1986 and  
23 February of 1987?

24 A I do not remember the number. No.

1           Q           Can you give me a best estimate? Are  
2 we talking about \$500? Are we talking about a  
3 thousand dollars? Are we talking about more or less  
4 than those numbers?

5           A           Probably 500 or less.

6           Q           Now, subsequently, Darrell testified  
7 at two trials, right?

8           A           Yes.

9           Q           Did you authorize any additional  
10 payments for him for either the preparation -- either  
11 the time that it took to prepare him for trial or for  
12 the testimony at trial?

13          A           He was never paid for testimony at  
14 trial.

15          Q           That's not my question. Was he paid  
16 for his time or -- or his expenses?

17          A           I don't recall any other payment other  
18 than the initial payment. There may have been  
19 another one, but I don't recall it.

20          Q           You don't have a memory of any  
21 discussions with McFatridge or Parrish or Eckerty  
22 about subsequent payments after February of '87 --

23          A           No --

24          Q           -- is that right?

1           A           -- I don't.

2           Q           But the department through yourself  
3           and Parrish as well as the others that I mentioned  
4           were having continuing contact with Darrell from  
5           February at least through the trial -- trials in June  
6           of '87; isn't that right?

7           MS. EKL:    Objection, form, foundation.

8           THE WITNESS:   That's right.

9           BY MR. TAYLOR:

10          Q           And that contact was focused on  
11          preparation of his testimony in the cases; isn't that  
12          right?

13          A           That's correct.

14          Q           And at times he was telling you  
15          different things in terms of what he said happened,  
16          wasn't he?

17          MS. EKL:    Objection, form, foundation.

18          THE WITNESS:   I don't recall that he told us  
19          different things.   No.

20          BY MR. TAYLOR:

21          Q           Well, were you at all concerned about  
22          Darrell Herrington's credibility as a witness?

23          A           That's always a concern when you have  
24          a witness that has an alcohol problem and hangs

1 around in the bars.

2 Q And I know that you were reluctant to  
3 brand Darrell as the town drunk, but would it be --  
4 would you agree with me that he was an alcoholic?

5 A He was definitely an alcoholic. Yes.

6 Q Did you or the department make any  
7 attempts to have him entered into any kind of  
8 program, whether it was Alcoholics Anonymous or any  
9 kinds of detoxification program, during the period of  
10 time that you were dealing with him prior to the  
11 trial?

12 A Not that I'm aware of.

13 Q Did you authorize any monies to be  
14 paid for any detox program or any similar-type  
15 addiction program for Darrell Herrington?

16 A Not that I'm aware of.

17 Q Now, other than the one letter you  
18 wrote to the Secretary of State, did you make any  
19 other attempts to in any way assist Darrell  
20 Herrington with regard to any criminal or traffic  
21 problems that he might have had?

22 MS. EKL: Objection, form.

23 THE WITNESS: No, I didn't.

24 BY MR. TAYLOR:

1 Q All right. Now, do you know at this  
2 point where the canceled checks that were paid to  
3 Darrell Herrington are?

4 A No, I don't know where they are.

5 Q Have you ever seen those checks?

6 A No.

7 Q Do you know where any of the written  
8 documents seeking authorization for payments for  
9 Darrell Herrington, where they presently are?

10 A No, I don't.

11 Q Did you personally make any effort to  
12 assure that those particular documents, that being  
13 the authorization and request documents and the  
14 checks and that kind of thing, were turned over to  
15 the defense lawyers in -- in Whitlock and/or Steidl's  
16 cases?

17 A I was not personally involved in that.  
18 No.

19 Q Do you know whether those documents  
20 were turned over either by Parrish or by anyone else  
21 to the defense attorneys?

22 A Do I know that they were turned over?

23 Q Do you know whether they were?

24 A Whether they were? Well, I'm sure

1 they were.

2 Q What makes you so sure?

3 A Because you have them.

4 Q I'm asking about the defense attorneys  
5 at the criminal trial now, not me 20 years later.

6 You know, there's been a lot of discovery, as they  
7 call it, in this case where a lot of documents have  
8 been turned over that have not been seen in the past.

9 I'm asking you other than you thinking  
10 that I have them now, which may or may not be true,  
11 other than that, do you have any reason to believe  
12 that they were turned over to defense lawyers in '86  
13 or '87 --

14 A I don't have any reason --

15 Q -- when --

16 A -- not to believe that they were  
17 turned over.

18 Q What's your basis for not believing  
19 that they weren't --

20 A My basis for not believing that they  
21 weren't turned over?

22 Q Yes.

23 A Well, the request would have gone to  
24 the Paris police department to the state's attorney's

1 office for that information, and it would have been  
2 turned over.

3 Q So if there was a request for all  
4 information that was relevant in the case, it's your  
5 expectation that these particular documents would  
6 have been turned over by the police department and  
7 the state's attorney's office, right?

8 A That's correct.

9 Q But you don't know whether they were  
10 or not?

11 A No, I don't.

12 Q And you never made any effort to find  
13 out whether they had been; is that right?

14 A No, I didn't.

15 Q Did you follow the trials?

16 A No. I stayed away from the trials.

17 Q But you knew Darrell was testifying at  
18 the trials?

19 A Yes, I did.

20 Q And you knew that his credibility was  
21 a major issue in the cases, right?

22 A Any witness's credibility is a major  
23 issue.

24 Q Well, yes, but as you just told us

1 frankly previously, particularly a witness who has  
2 got an alcohol problem and some other law-related  
3 problems, particularly credibility is a question,  
4 right?

5 A You could assume that. Yes.

6 Q And you also knew as an experienced  
7 law enforcement officer that the fact that monies had  
8 been paid to the witnesses by law enforcement and the  
9 prosecutor for whatever reason would be an important  
10 issue in the case if it were known; isn't that right?

11 A Well, I guess there's a distinction,  
12 as far as I'm concerned, between expense money for  
13 your home and your wife and just paying somebody  
14 money to testify.

15 Q And that's why you made sure that the  
16 money was paid to Darrell not on the hundred dollars  
17 a day for witness fees, but rather for expenses,  
18 right, because you understood the distinction  
19 between --

20 A I didn't make --

21 MS. EKL: Let me interpose an objection.  
22 Please wait until he's finished with his question, so  
23 I can impose an objection if I need to. Form, my  
24 objection is to form.

1 THE WITNESS: It wasn't anything that I  
2 thought about at the time. Darrell needed money for  
3 expenses, so we gave him money for expenses.

4 BY MR. TAYLOR:

5 Q But he wasn't asking for money for  
6 expenses. He was asking for money for the time that  
7 he lost working on a day-to-day basis, and you chose  
8 not to pay him for that, right?

9 MS. EKL: Objection, form.

10 THE WITNESS: No. We didn't pay him for that.

11 BY MR. TAYLOR:

12 Q You did or didn't?

13 A We did not pay him --

14 Q Right.

15 A -- for a hundred dollars a day. No.

16 Q And my question is, you did that  
17 because you understood the distinction between paying  
18 him on a per-diem basis and paying him for discreet  
19 expenses that he might have incurred, right?

20 A I don't know that I even thought about  
21 that. That's been a long time ago.

22 Q Well, why did you make the  
23 determination to pay for, quote, "expenses," rather  
24 than for a per-diem basis?

1 MS. EKL: Objection, form.

2 THE WITNESS: Cheaper.

3 BY MR. TAYLOR:

4 Q That was your only consideration?

5 A Well, yes, I guess.

6 Q And looking back on it, you and I can  
7 agree that you made the right decision in terms of  
8 making it look less like he was being paid for his  
9 testimony rather than if you were forking over a  
10 hundred dollars a day, right?

11 MS. EKL: Objection to form.

12 THE WITNESS: I wasn't trying to make it look  
13 like anything.

14 MR. TAYLOR: But that wasn't my question. I  
15 can't remember exactly what my question was, so I'll  
16 ask the court reporter to read it back.

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

19 "Question: And looking back on  
20 it, you and I can agree that you  
21 made the right decision in terms  
22 of making it look less like he  
23 was being paid for his testimony  
24 rather than if you were forking

1 over a hundred dollars a day,  
2 right?"

3 MS. EKL: And there was an answer.

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

6 "MS. EKL: Objection to form.

7 "THE WITNESS: I wasn't trying to  
8 make it look like anything.")

9 BY MR. TAYLOR:

10 Q I'm not asking you what you were or  
11 weren't trying to do then. I'm asking from what you  
12 know now, it appears that that was a more appropriate  
13 way to pay him in terms of his credibility at trial,  
14 right?

15 MS. EKL: Objection, form.

16 THE WITNESS: Yes. It would appear to be that  
17 way.

18 BY MR. TAYLOR:

19 Q Do you remember what bank it was that  
20 the money was in that Darrell was paid out of?

21 A No, I don't.

22 Q Was there a particular bank in town  
23 that the police department kept its money in?

24 A Well, by "the police department," the

1 police department didn't have any money. The money  
2 belonged to the City of Paris.

3 Q What was the city's bank?

4 A I believe it was the Citizens National  
5 Bank.

6 Q Was that the bank that Bob Morgan was  
7 affiliated with?

8 A That's the Edgar County Bank.

9 Q That's Edgar County?

10 A Yes.

11 Q Do you know where the circuit clerk  
12 kept his or her money?

13 A No, I don't.

14 Q Uh-huh. And do you know where the  
15 state's attorney's office had an account, if it had  
16 one?

17 A No, I don't.

18 Q So you're saying the police department  
19 didn't have an account and that all -- any monies  
20 that the police department handled was out of his  
21 own --

22 A We had --

23 Q -- petty cash drawer?

24 A We had a budget, appropriation account,

1 and any expenses that the police department incurred  
2 were paid by the City. I approved the bills twice a  
3 month, they were submitted to the city clerk, and the  
4 city clerk drew the check, wrote the check.

5 Q So -- but the money that you paid  
6 Herrington didn't go that route; is that right?

7 A No. I believe it came through the  
8 drug account.

9 Q And that direct account was for very  
10 specific purposes?

11 MS. EKL: Objection, form. I think you  
12 misheard him, Flint. You said, "direct account." He  
13 said, "drug account."

14 MR. TAYLOR: Oh, right. All right. Thank  
15 you.

16 BY MR. TAYLOR:

17 Q That drug account was there for very  
18 specific uses, right?

19 A Yes.

20 Q Was there something in writing that  
21 laid out what the money could be used for?

22 A I don't specifically recall what the  
23 parameters were, but there were parameters.

24 Q Were they in writing?

1 A I think so.

2 Q Now --

3 A But, again, I'm not sure.

4 Q If a detective or a patrol officer  
5 paid money out of his pocket for what he considered  
6 to be official business, could he be reimbursed for  
7 those payments?

8 MS. EKL: Objection, form, foundation,  
9 incomplete hypothetical.

10 THE WITNESS: Yes, they would be reimbursed.

11 BY MR. TAYLOR:

12 Q Would that go through you as well?

13 A Yes.

14 Q And would there have to be a receipt  
15 if that were -- if it was something that was -- that  
16 if there was a receipt, you would expect that it  
17 would be turned in?

18 A Yes.

19 Q Now, if a detective had a confidential  
20 informant and was giving money to that informant for  
21 whatever purpose, would that detective seek  
22 reimbursement from you?

23 A If that happens, yes.

24 Q All right. And would the money to pay

1 a detective for that kind of an expense, would that  
2 come out of -- would it go through the channels  
3 through the city like you mentioned, or would it go  
4 through the drug account?

5 A That could go either way, depending on  
6 the type of investigation.

7 Q Let's talk about the Rhoads  
8 investigation. Which way would that have been routed  
9 in that circumstance?

10 MS. EKL: Objection, form, foundation, assumes  
11 facts not in evidence.

12 THE WITNESS: I'm sorry. What was the  
13 question?

14 BY MR. TAYLOR:

15 Q The question was with regard to the  
16 Rhoads investigation, any requests for recompensation  
17 or reimbursements --

18 A Reimbursements.

19 Q -- for payments to witnesses or  
20 informants, would that have come out of the drug  
21 account or would that have come out of the City  
22 account?

23 MS. EKL: Objection, form, compound question.

24 THE WITNESS: It could have come out of either

1 one.

2 BY MR. TAYLOR:

3 Q Do you know which one it would have  
4 been if --

5 A I don't recall that we had any  
6 confidential informants.

7 Q Well, I notice that in several  
8 documents Parrish refers to having a -- an informant  
9 who is giving him information, eyewitness  
10 information, about what happened at the scene.  
11 You're familiar generally with those documents --

12 A Yes.

13 MS. EKL: Objection, form.

14 BY MR. TAYLOR:

15 Q -- right?

16 A Yes.

17 Q I assume that confidential informant  
18 that he's referring to is Herrington, right?

19 MS. EKL: Objection, form.

20 THE WITNESS: I don't know who he's referring  
21 to. There's more than one person that he talked with  
22 during this.

23 BY MR. TAYLOR:

24 Q Well, now, these are documents that

1 preceded Reinbolt's appearance on the scene, so there  
2 was only one informant that you were getting  
3 information from who was saying he was there and saw  
4 what happened, right?

5 MS. EKL: Objection, form, foundation.

6 THE WITNESS: Well, if you phrase it that way,  
7 that being the one who was a witness, then there was  
8 nothing confidential about that.

9 BY MR. TAYLOR:

10 Q All right. So you didn't consider --  
11 so you could call Darrell an informant but not a  
12 confidential informant?

13 A I would call him a witness.

14 Q So you wouldn't agree with Parrish's  
15 characterization of Herrington as an informant?

16 MS. EKL: Objection, form.

17 THE WITNESS: It's just a difference in  
18 personal preference. I considered him a witness. If  
19 Jim considered him an informant, that's fine. That's  
20 his call.

21 BY MR. TAYLOR:

22 Q But either way you didn't consider  
23 what he was telling you was confidential?

24 A Well, it was confidential because

1       apparently he hadn't shared it with anybody else, but  
2       I guess I'm not sure how you're using the word  
3       "confidential."

4               Q           Okay.  So --

5               A           I don't know if you're trying to make  
6       something mysterious or -- I don't understand what  
7       you're trying to do, what you're trying to say.

8               Q           I'm not trying to say anything.  I'm  
9       trying to get to the issue of why you characterized  
10      Darrell as a witness and Parrish characterized him as  
11      an informant.

12              MS. EKL:  Objection, form, foundation, for  
13      your statement that Parrish characterizes him as an  
14      informant.

15      BY MR. TAYLOR:

16              Q           Well, you know -- you may answer.  Why  
17      do you consider him to be a witness rather than a  
18      confidential informant?

19              A           Okay.  Would it make it go faster if I  
20      agree he could be an informant?

21              Q           I don't want you to -- I'm not trying  
22      to make anything go faster.  I need your honest and  
23      complete answers to my questions.  So if that --

24              A           I'm trying to give you an honest

1 answer. The difference is my definition of Darrell  
2 was a witness, okay? And Jim's definition at that  
3 point in time was an informant.

4 Q Okay.

5 A Okay? And it's the same person.

6 Q I want to ask you some questions about  
7 Bob Morgan. First of all, in the early stages of the  
8 investigation, did you and Parrish and Eckerty and  
9 McFatridge identify any suspects in the case?

10 MS. EKL: Objection, foundation, as to the  
11 time period.

12 THE WITNESS: What do you mean, "early  
13 stages"? What part of the early stages are we  
14 talking about?

15 BY MR. TAYLOR:

16 Q All right. In the first month, let's  
17 say, July of 1986, did you identify any suspects in  
18 the case?

19 A I don't recall being involved in any  
20 conversation where we were identifying suspects.

21 Q Did you become aware as to whether  
22 Parrish or Eckerty had identified Morgan as a  
23 potential suspect?

24 A No, I wasn't.

1           Q           All right. Well, I want to ask you to  
2 take a look at Exhibit Number 8, which is one of the  
3 Parrish reports. I'm going to ask you to look at a  
4 particular entry there.

5                       Well, let me ask you first: You were  
6 aware, were you not, that information had been  
7 developed that Karen Rhoads worked for Bob Morgan at  
8 the dog food plant, right?

9           A           Yes.

10          Q           And you knew that she had a job with a  
11 certain amount of responsibility there; is that  
12 right?

13          A           That's right.

14          Q           And you knew, did you not, that  
15 sometimes she would come there in the evening or late  
16 at night to do work that was related to the business;  
17 is that right?

18          A           I did not know that. No.

19          Q           All right. Did you notice that in any  
20 of the reports that either Eckerty or Parrish  
21 supplied you?

22          A           Did I notice what?

23          Q           Did you notice any information about  
24 that?

1           A           Oh, I was aware of that, yes, that she  
2 worked at Morgan's. Yes, I knew that.

3           Q           I'm asking you specifically about the  
4 fact that she came in late at night sometimes and did  
5 certain work for Morgan.

6           A           Well, I don't recall specifically  
7 reading that information. I probably did, but I  
8 don't recall it.

9           Q           All right. I'm going to switch here  
10 to the ISP documents, which is Exhibit Number 2.  
11 Could you put that in front of you, and I'm going to  
12 ask you to look at Steidl 12214.

13                               (WHEREUPON, Ray Exhibit 2 was  
14                               tendered to Witness.)

15           A           What was that number again?

16           Q           Steidl 12214, which is about six or  
17 seven pages into the exhibit.

18           A           Okay.

19           Q           Okay? It is part of a report dated  
20 July 6th through August 1st, and it's a report of  
21 J.R. Eckerty; is that correct?

22           A           Yes.

23           Q           If you look at page 1 of this, which  
24 is Steidl 12209, which is a few pages before that,

1 the one I've identified --

2 A Okay.

3 Q -- this document was sent to you as  
4 well as to McFatridge, right?

5 A Right.

6 Q You would expect that you would have  
7 read it about the time that it was sent to you,  
8 right?

9 A Yes. I would anticipate that.

10 Q Uh-huh. Looking at the entry of July  
11 7th, 1986, at the bottom of the page, page 6 of this  
12 report, it references a Timothy Busby. Do you see  
13 that?

14 A What page are you on? Are you on 09  
15 or are you on 14?

16 Q I'm on 14. I'm sorry.

17 A Okay.

18 Q Do you find that?

19 A Yes.

20 Q It says that Eckerty and Snyder  
21 interviewed Busby and that Busby gave them  
22 information about Karen Spaysard (sic). That's the  
23 maiden name of Karen Rhoads, right?

24 A Spesard. Yes.

1 Q And that Busby was -- had a  
2 relationship with her, although it was no longer  
3 active, right?

4 A Yes.

5 Q And he gave information having to do  
6 with her work with Morgan; is that right, according  
7 to this entry in the report?

8 A That he did what now?

9 Q That he, Busby, told Eckerty and  
10 Snyder information about her working at Bob Morgan's.  
11 Do you see that at the bottom of the page?

12 A Yes.

13 Q Specifically it says, "Busby stated  
14 that on one occasion in the fall of 1985 he had  
15 talked with Karen on the telephone. During that  
16 conversation, Karen had told him that she observed  
17 Bob Morgan of the Morgan Manufacturing Company and an  
18 employee named 'Smoke' put a machine gun and bags of  
19 money in the trunk of Bob Morgan's car. Karen had  
20 made the statement to Busby that a lot of cash comes  
21 through the business. She stated that she did not  
22 understand this because their products were not paid  
23 for by cash. Busby did not know the date of this  
24 conversation but did know it was prior to both their

1 marriages."

2 He said that -- "Busby stated that  
3 Karen told him that after putting the gun and money  
4 in their car both 'Smoke' and Bob Morgan went to  
5 Chicago, Illinois. Busby stated that if Karen had  
6 known of any illegal activities by anyone she would  
7 report the illegal activities to the authorities."

8 Now, did you receive that information  
9 about Bob Morgan on or about 7/7/86, that being July  
10 7th, the day after the report?

11 A I don't recall the date that I  
12 received this. Because it's a compilation, it could  
13 have been at a later time since it runs from 7/6 to  
14 8/1. But I would have likely received this. Yes.

15 Q And this is evidence, at least some  
16 evidence, of criminal activity by Robert Morgan and  
17 "Smoke" Burba; is that right?

18 A It's an allegation. Yes.

19 Q Okay. And it would also be an  
20 allegation that, if proven true, would supply a  
21 motive for Morgan and Burba to have killed Karen  
22 Rhoads; am I right?

23 A That's -- appears to be the case.  
24 Yes.

1           Q           So if, in fact, this information were  
2           credited, that would make Busby -- excuse me -- that  
3           would make Morgan and Burba suspects in the case,  
4           right?

5           A           Yes. That appears to be so.

6           Q           Did you have any discussions with  
7           Parrish or McFatridge or Eckerty about Morgan as a  
8           suspect in the early stages of the investigation?

9           A           I don't recall having any specific  
10          conversation. No.

11          Q           Would you expect that Parrish, if he  
12          had this information, being an experienced and  
13          dedicated detective, would have followed up on this  
14          information?

15          A           It appears that they did on 7/10 of  
16          '86.

17          Q           And in what way did they follow up?

18          A           They had an interview with Bob Morgan.

19          Q           All right. Let's look a little more  
20          carefully at that interview by Parrish. Was Parrish  
21          involved in that interview?

22          A           No. It was Bensyl and Eckerty.

23          Q           All right. So there was a follow-up  
24          according to this document, right?

1           A           Yes.

2           Q           But if we look at the -- at least the  
3 entries made in this report, it doesn't appear that  
4 Morgan was asked about the machine gun or the bag of  
5 drugs or going to Chicago, anything along those  
6 lines; isn't that right?

7           A           I don't see it in that paragraph. No.

8           Q           You would expect that -- you also knew  
9 Eckerty, didn't you?

10          A           Yes.

11          Q           Did you know him to be an experienced  
12 and thorough detective?

13          A           Yes.

14          Q           And you would expect that he would ask  
15 such a question after having information of the  
16 nature that made Morgan into a suspect, wouldn't you?

17          A           Well, I would anticipate it, but it's  
18 possible that they saved it for a later date for some  
19 reason. I don't know.

20          Q           Well, tell me the -- around the same  
21 time, Morgan had issued a reward, hadn't he?

22          A           Yes, I believe he had. I -- I don't  
23 know when he did it, but I seem to recall that he  
24 did. Yes.

1           Q           He was also going around to the bars  
2 talking to people, wasn't he, offering up his reward?

3           A           Could have been. I don't recall  
4 specifically.

5           Q           And did you at some point in this time  
6 frame learn that Darrell had been flashing a check  
7 from Morgan around in the bars?

8           A           No. Don't recall that.

9           Q           Did you ever learn that, ever hear of  
10 that?

11          A           No, I don't recall that I ever heard  
12 it.

13          Q           All right. So you said that perhaps  
14 they would have withheld asking Morgan about the  
15 potential motive for killing Karen Rhoads to a later  
16 time rather than to confront him with it on the 10th  
17 for some reason. What --

18          A           Well, I don't --

19          Q           -- reason would you think it would be?

20          A           I can't get into their heads and know  
21 what they were thinking at the time that they  
22 interviewed him. So, I mean, I would be guessing if  
23 I hazarded a guess as to why they did or didn't.

24          Q           Now, if we talk about the information

1 that was crossing your desk and that Parrish was  
2 involved in obtaining, we not only have Karen working  
3 in a responsible position for -- with Morgan, but we  
4 also have Morgan and -- she seeing criminal activity  
5 at the place which involved Morgan and Burba.

6 Did you also know at that time, as  
7 some reports have reflected, that the Rhoads house  
8 was sold to them by Bob Morgan's wife, Roberta  
9 Morgan?

10 A I wasn't aware of that. No.

11 Q Do you know who Roberta Morgan is?

12 A Well, if you're saying that that's  
13 Bob's wife, then -- I don't know her personally.

14 Q You've done work at Morgan's house as  
15 a plumber, haven't you?

16 A Yes.

17 Q Have you also done work at Morgan's  
18 place of business as a plumber?

19 A Yes.

20 Q When did you do the work at Morgan's  
21 place of business as a plumber?

22 A I don't recall the specific dates. I  
23 repaired some faucets in -- installed, I believe I  
24 installed new faucets in the kitchen, repaired a

1 rotten floor in a back bathroom on one occasion, and  
2 installed two new shut-offs on the washer on another  
3 occasion.

4 Q Was this during the time period when  
5 you were both working on the department and  
6 continuing to be a plumber?

7 A No.

8 Q Was it after you ceased being a police  
9 officer?

10 A It's been in the last five years, four  
11 or five years.

12 Q So the work that you did at his place  
13 of business was within the last --

14 A Yes.

15 Q -- five years? Was it on one job or  
16 more than one job?

17 A Multiple jobs.

18 Q Multiple?

19 A Yes.

20 Q How many?

21 A I replaced a section of rotted water  
22 line in an office on South Central, repaired a stool,  
23 a flush stool; repaired a urinal, repaired a set of  
24 faucets at a utility sink. So that was probably

1 three occasions, four occasions.

2 Q How much did Morgan end up paying you  
3 for those jobs?

4 A Whatever I billed him for the service  
5 call, which would have been [REDACTED] for the service  
6 call, and the parts.

7 Q What about the labor, the time you put  
8 in?

9 A Well, that was -- then if we -- on the  
10 water line repair, you know, he would have paid for  
11 the individual with the backhoe. He reimbursed me  
12 for the backhoe because I paid the backhoe operator,  
13 and put my time in the job, which would have probably  
14 been two, three hours.

15 Q How much do you get an hour?

16 A [REDACTED] depending on the time frame.  
17 It's [REDACTED] several years ago.

18 Q So how much total would he have paid  
19 you? What would the bill have been to you?

20 A Which bill?

21 Q Well, let's add them up.

22 A So you're talking the total income?

23 Q Yeah.

24 A [REDACTED]

1           Q           You say you also did work at his  
2 residence?

3           A           Well, I'm including that, his  
4 residence.

5           Q           Oh. When did you do work at his  
6 residence?

7           A           It would have been within the last  
8 five years.

9           Q           What did you do at his house?

10          A           Replaced -- well, I pulled a stool.  
11 They had a stool that was leaking, so I removed the  
12 stool. They had a floor that was rotting, so I got  
13 another contractor, a building contractor, to come in  
14 and cut out the old floor and replace the new section  
15 of floor, and I went in and reset the stool.

16          Q           And how much was that?

17          A           My part wasn't very much because all I  
18 did was pull the stool and replace the stool. The  
19 other contractor billed Bob direct for his time.

20          Q           When you did the work at Bob's house,  
21 did you get an occasion to meet his wife?

22          A           No.

23          Q           So you've had no contact with her?

24          A           I've had no contact with her.

1 Q Have you done work for the bank that  
2 he's involved with, the --

3 A No.

4 Q -- Edgar County Bank?

5 A No.

6 Q Do you have any accounts at the Edgar  
7 County Bank?

8 A [REDACTED]

9 [REDACTED]

10 Q What kind of account do you have  
11 there?

12 A [REDACTED]

13 Q Do you have any personal accounts  
14 there?

15 A [REDACTED]

16 [REDACTED] [REDACTED]

17 Q [REDACTED]

18 [REDACTED]

19 A [REDACTED] [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q [REDACTED]

23 [REDACTED]

24 A [REDACTED] [REDACTED]

1

2 Q Do you have any loans with Edgar  
3 County?

4

A

5

Q

6 How about any credit cards from that  
7 bank?

8

A

9

Q

10 Now, did you at the department in '86  
11 have some kind of card catalog where witnesses were  
12 cataloged and their names entered into some kind of a  
13 catalog?

14

A

15 I, personally?

16

Q

17 Did the department?

18

A

19 Have --

20

Q

21 Yeah, a --

22

A

23 What are you calling a catalog? You  
24 mean, like, a computer file?

25

Q

26 No. I wouldn't think you had a  
27 computer.

28

A

29 No, I didn't.

30

Q

31 No. Just a card, a three-by-five card  
32 or whatever size it would be, in some kind of file  
33 cabinet where you might have an alphabetical listing  
34 of witnesses and what they said, that kind of thing.

1           A           I know that Jim had a card file. But  
2 as to their filing system, I'm not -- I didn't go  
3 back there and prowl through it.

4           Q           Was this filing system a general  
5 filing system for all cases or a filing system for  
6 the Rhoads case?

7           A           I don't know.

8           MS. EKL: If we get to a point, can we just  
9 take a quick break?

10          MR. TAYLOR: Sure. Why don't we take a break  
11 now.

12          MS. EKL: All right. We've been going awhile.

13                       (WHEREUPON, there was a brief  
14                       recess had in the proceedings.)

15                       (WHEREUPON, Ray Exhibit 13 was  
16                       marked and tendered to Witness.)

17          MR. TAYLOR: You marked this as Plaintiff's  
18 13, right?

19          MS. REPORTER: Ray 13.

20          MR. TAYLOR: Ray 13.

21 BY MR. TAYLOR:

22          Q           This is a lengthy exhibit, starting at  
23 Steidl 12637 and going to Steidl 12736. This appears  
24 to be -- if you thumb through it --

1           A           Yes, I did.

2           Q           -- it appears to be a Xerox of some  
3 sort of card file, isn't --

4           A           Yes.

5           Q           -- it?

6           A           That would appear to be Jim's card  
7 file.

8           Q           "Jim," meaning Jim Parrish; is that  
9 right?

10          A           Yes.

11          Q           This is something that he kept as a  
12 matter of course as a detective at the time of the  
13 Rhoads murders?

14          A           Well, and probably other times.

15          Q           Okay.

16          A           I mean, this may include other cases  
17 that he was working on. I don't know.

18          Q           Do these look to you like they're all  
19 witnesses that have to do with the Rhoads case?

20          A           I don't remember all the witnesses  
21 that had to do with the Rhoads case, but just  
22 glancing through it, it appears that the bulk of the  
23 entries that I'm seeing appear to be connected with  
24 that.

1 Q Okay. By the way, before we go into  
2 this in any detail, the mention of "Smoke" Burba in  
3 the report that we were looking at before, did you  
4 know who "Smoke" Burba was back in '86?

5 A I don't know whether I really -- I  
6 don't know how well or if I knew him at that time or  
7 not.

8 Q Okay.

9 A I -- I knew his older brother Gerald  
10 because Gerald had -- Gerald's father had purchased a  
11 car off Dad when he had the agency. That's how I  
12 came to know Gerald.

13 Q Gerald isn't "Smoke," though.

14 A No. Gerald isn't "Smoke." Gerald is  
15 Gerald.

16 Q Now, is "Smoke" still around in Paris?

17 A Yes.

18 Q What does he do now?

19 A He works for Bob Morgan.

20 Q What does he do for Bob Morgan?

21 A I don't have a clue.

22 Q Do you deal with him at all?

23 A No, other than occasionally I see him  
24 in a restaurant and we speak. That's it.

1 Q Now, this card catalog, were you aware  
2 that Parrish was keeping this card catalog with  
3 regard to witnesses in the case of the Rhoads murders  
4 in 1986 and 1987 while he was doing it?

5 A I believe I said a while ago that I  
6 thought he had a card file.

7 Q So did you have access to it if you  
8 wanted to look up a particular --

9 A Sure.

10 Q -- file?

11 A If I wanted to look at it, all I had  
12 to do was look at it.

13 Q Did you, from time to time, ever look  
14 at his card catalog?

15 A I don't recall that I ever did. No.

16 Q Now, I take it, this card catalog was  
17 not made available to the defense lawyers and the  
18 criminal defendants?

19 A I don't --

20 MS. EKL: Objection, foundation.

21 THE WITNESS: -- know. I don't know.

22 BY MR. TAYLOR:

23 Q Would it have been consistent or  
24 inconsistent with your practice and policy at the

1 department in 1986 to produce copies of the card  
2 catalog to defense lawyers?

3 A On --

4 MS. EKL: Objection, foundation. There's been  
5 nothing laid to suggest that there was a prior card  
6 catalog establishing any type of a practice.

7 MR. TAYLOR: Well, he said that he kept a card  
8 catalog.

9 THE WITNESS: On this particular case? I -- I  
10 don't know --

11 BY MR. TAYLOR:

12 Q I thought your testimony was you  
13 didn't know whether it was on this --

14 A I didn't --

15 Q -- case or --

16 A -- know whether it was on this case or  
17 not. So I -- I knew there was a card catalog --

18 Q Right.

19 A -- at this particular point in time.

20 Q Then my question is, did you have a  
21 practice or procedure in the department about whether  
22 you produced portions or all of the card catalog in  
23 criminal cases for the defense lawyers?

24 MS. EKL: Objection, foundation.

1 BY MR. TAYLOR:

2 Q You may answer.

3 A Okay. You're asking if there was a  
4 policy or procedure or --

5 Q With regard to the --

6 A With regard to --

7 Q -- card catalog.

8 A -- the card catalog. Not that I  
9 recall.

10 Q So would it have been up to Parrish as  
11 to whether he gave the card catalog or a copy of the  
12 information in the card catalog to either the defense  
13 attorneys or to the state's attorney?

14 A Well, I don't know that he didn't.

15 Q But I'm asking you, it would have been  
16 up to him, right? Not up to -- there was nothing  
17 that told him to do it or not to do it. That's my  
18 question.

19 A Well, there would have been nothing  
20 that -- no.

21 Q All right. Did McFatridge as state's  
22 attorney have access to this card catalog?

23 A Yes, he would have. If he had  
24 requested to see it, he could have.

1 Q Well, do you know whether he actually  
2 knew about it or not?

3 A No, I don't.

4 Q So if he had said to Parrish, "Hey,  
5 you got a card catalog," Parrish, as far as you know,  
6 would --

7 A Would have --

8 Q -- have told him --

9 A -- responded yes.

10 Q And made it available to him?

11 A Yes.

12 Q All right. Now, I'm going to first  
13 call your attention to Steidl page 12644, which is --  
14 appears to be under chronological order. Under the  
15 B's, there's "Busby." Do you see that?

16 A Yes.

17 Q And it appears to reference the  
18 Eckerty/Snyder interview that I showed you of the 7th  
19 of -- I mean, the 8th of July when they talked to  
20 Busby and he talked about Karen, right?

21 A Um-hum.

22 MS. SUSLER: Is that a yes?

23 THE WITNESS: Yes. I'm sorry.

24 BY MR. TAYLOR:

1 Q If you notice, in this card entry it  
2 says, "Info - Morgan Meeting," right?

3 A Yes.

4 Q Did you discuss with Parrish or anyone  
5 else any meeting with Morgan?

6 A Not that I recall. No.

7 Q Now, other than that reference to  
8 Morgan, there's no other reference concerning the  
9 information that Busby gave to Eckerty and Snyder  
10 with regard to Karen's seeing criminal activity of  
11 Morgan and "Smoke" Burba, is there?

12 A You mean in this --

13 Q In this note.

14 A -- brief paragraph?

15 Q Yes.

16 A No.

17 MS. EKL: Just for the record, Flint, I would  
18 disagree with your characterization of "Morgan  
19 Meeting." I think it says, "Info - Morgan  
20 Manufacturing," so I'm --

21 MR. TAYLOR: Oh.

22 MS. EKL: -- just disagreeing with your  
23 characterization.

24 MR. TAYLOR: That's probably true.

1 BY MR. TAYLOR:

2 Q So it's "Info - Morgan Manufacturing,"  
3 right?

4 A That's what it says. Yes.

5 Q So it could be referencing the  
6 information about Morgan as a suspect, but it doesn't  
7 say anything specific about it, right?

8 A That's correct.

9 Q Did you ever have any conversation  
10 with Parrish about what he meant by "Info - Morgan  
11 Manufacturing"?

12 MS. EKL: Objection, foundation. I don't  
13 think there's been anything to establish that this  
14 particular index card was written by Parrish.

15 MR. TAYLOR: Okay.

16 BY MR. TAYLOR:

17 Q You may answer.

18 A I didn't look at the card file.

19 Q All right. Do you recognize the  
20 handwriting on this particular entry?

21 A It appears to be Parrish.

22 Q Okay. Thank you. Are any of the  
23 entries in this card catalog in your handwriting?

24 A I was never in the card catalog.

1 Q Okay. Now, other than -- do you see  
2 anybody -- do you recognize anybody else's  
3 handwriting on any of the entries as you thumb  
4 through this?

5 A Well, I haven't thumbed through the  
6 whole thing.

7 Q Okay.

8 A So give me a minute.

9 (WHEREUPON, Witness was reading  
10 Ray Exhibit 13.)

11 Q If you see any writing other than  
12 Parrish's, stop and make a note on it.

13 A Well, I've seen some.

14 Q Okay. What have you seen so far?

15 A There appears to be some different  
16 sections of handwriting. The one that I'm looking at  
17 right now is on twelve-six-five-four.

18 Q Okay.

19 A That's with a Dagley, Jean Ann Dagley,  
20 interviewed with Special Agent Snyder.

21 Q All right.

22 A This could have been added to the card  
23 file by Snyder. So, I mean, I -- that doesn't look  
24 exactly like Jim's writing.

1 Q Okay. Let me ask you this: Was it  
2 your understanding that Eckerty and the ISP were also  
3 contributing to the card file as well as Parrish?

4 A The information -- the information  
5 that's there includes interviews by the --

6 Q I understand that. But that --

7 A Yes.

8 Q -- could also have been Parrish  
9 writing down certain aspects of the reports that he  
10 was getting from the ISP. So my -- that's possible,  
11 right?

12 A That's a possibility. Yes.

13 Q So my question is, do you have  
14 knowledge as to whether anyone other than people in  
15 the Paris police department, yourself, if you wanted  
16 to, Parrish, and others from the department were  
17 actually writing in this card catalog?

18 A What do you mean by "others from the  
19 department"?

20 Q Well, there's another detective,  
21 Wheat, for instance.

22 A Okay. Wheat --

23 Q I don't know. Someone else, maybe a  
24 patrolman.

1           A           I would anticipate that Wheat could  
2           have contributed to the file along with Bensyl,  
3           Snyder, and Eckerty.

4           MS. EKL:    Flint, can you clarify, because you  
5           cut him off again when he was answering.  If you  
6           could both --

7           MR. TAYLOR:  My apologizes.

8           MS. EKL:    -- wait.

9           BY MR. TAYLOR:

10          Q           What I'm asking you is, to your  
11          knowledge, did the ISP investigators, particularly  
12          Eckerty, have access to this card catalog, and were  
13          they making entries in this?

14          A           They would have had access to it, but  
15          I don't know that they were making entries in it.

16          Q           All right.

17          A           I didn't see them fill out a card, so  
18          I don't know.

19          Q           So you're seeing some entries that  
20          were written by -- appear to be written by other  
21          people other than Parrish, but do you see any  
22          handwriting that you recognize other than Parrish's  
23          in --

24          A           No, I don't.

1           Q           -- this one? Oh. All right. Let  
2 me --

3           A           Do you want me to continue to go  
4 through this?

5           Q           Yeah. Why don't you, so you've looked  
6 at all of it and it's complete.

7                                 (WHEREUPON, the Witness was  
8                                 reading Ray Exhibit 13.)

9           A           Okay.

10          Q           All right. Did you see other entries  
11 that looked like they were written by people other  
12 than Parrish?

13          A           Yes.

14          Q           How many?

15          A           The number?

16          Q           Yeah, approximately.

17          A           There appeared to be probably a couple  
18 of dozen or more.

19          Q           Do they appear to be in the same  
20 handwriting other than -- just not to be Parrish's  
21 or --

22          A           Yes, there are other than Parrish's.

23          Q           Do they appear to be more than one  
24 other person's handwriting?

1           A           Could be more than two people  
2           contributing to the card file.

3           Q           Do you recognize any of the  
4           handwriting other than Parrish's?

5           A           No, I don't.

6           Q           But if we wanted to have a sample of  
7           Parrish's handwriting, the one that we just looked at  
8           with regard to Busby, that is in Parrish's  
9           handwriting, right?

10          A           Which one are we talking about?  
11          What's the number?

12          Q           The one about Busby where --

13          A           What's the page number?

14          Q           Oh. 12644.

15          A           44? Yes, that does appear to be  
16          Parrish's handwriting.

17          Q           All right. I want to call you next --  
18          next to -- now, you said that you noticed some  
19          follow-up that was done with regard to the  
20          information that Busby had given concerning Morgan,  
21          right?

22          A           Yes. They would have followed that  
23          up.

24          Q           And you would have expected that that

1 would be an important lead that they would follow; is  
2 that right?

3 A Yes.

4 Q That's what you would have expected --  
5 let's look a moment here at Steidl page 12685. Do  
6 you see that page?

7 A Um-hum. Yes.

8 Q The second entry "Morgan Robert."

9 A Yes.

10 Q Does that appear also to be the  
11 handwriting of Parrish?

12 A Let's see.

13 Q Are you doing what I am? You're  
14 comparing the "Busby" writing --

15 A Yes.

16 Q -- and the writing --

17 A Yes.

18 Q Okay. Go right ahead.

19 (WHEREUPON, the Witness was  
20 reading Ray Exhibit 13.)

21 A Well, it may not be. I can't be  
22 certain because Jim normally wrote in script and this  
23 entry is printed.

24 Q All right.

1           A           So it's possible. I mean, it's  
2 possible that it's Jim's, but I can't say absolutely.

3           Q           Well, if you look at the "K" in  
4 Eckerty and the "B" in Busby, those look similar?

5           MS. EKL:    Objection, foundation.

6           BY MR. TAYLOR:

7           Q           They look similar, and I'm not a  
8 handwriting expert, but they do look similar, don't  
9 they?

10          A           Neither am I.

11          Q           But they do look similar, don't they?

12          A           Well, the "B" in Brinkley (sic) and  
13 the "B" in Bensyl don't look the same.

14          Q           Okay. All right. So we'll stop  
15 trying to analyze it.

16          MS. EKL:    You can ask Parrish.

17          THE WITNESS: Yeah. I'm sure Jim will tell  
18 you.

19          BY MR. TAYLOR:

20          Q           On the Morgan entry, this says on the  
21 10th, Eckerty and Bensyl were -- interviewed Morgan  
22 and that the information was passed on to either  
23 Parrish or someone else that entered it in the card  
24 catalog, right?

1           A           Yes, that would appear to be the case.

2           Q           In this it says that -- it doesn't  
3 appear again that any questioning was done or any  
4 information obtained concerning the allegations that  
5 he and Burba had been involved in criminal activity  
6 that was seen by Karen Rhoads, does it?

7           A           Not in those six sentences. No.

8           Q           So now we have both the report and the  
9 card entry, and neither of them reveal any  
10 questioning of Morgan on that key aspect of his  
11 potential as a suspect; is that right?

12          A           I don't see anything there that  
13 indicates that.

14          Q           But there is something in this card  
15 reference that's not in the report, and that is that  
16 Morgan says -- names two people as suspects, Kenny  
17 Z-i-e-g-l-e-r and --

18          A           Ziegler.

19          Q           Ziegler and Jeff Simons, right?

20          MS. EKL: I'm going to object to that  
21 characterization. There's nothing in there that says  
22 "suspect."

23 BY MR. TAYLOR:

24          Q           It says, "Named Kenny Ziegler and Jeff

1 Simons," right?

2 A Could be. It's possible they're  
3 witnesses.

4 Q All right. Well, let's go back to --

5 A Well, you're just surmising, and so am  
6 I.

7 Q Well, no. I'm doing more than that,  
8 I'm afraid, and that is that I'm doing that in  
9 connection with the report. And the report says --

10 MS. EKL: Could you give us a page number,  
11 Flint?

12 MR. TAYLOR: Yeah. It's Steidl 12217, and  
13 it's the entry on the interview of Robert Morgan.

14 THE WITNESS: Which pile is that, the number  
15 of the pile?

16 MR. TAYLOR: It's 2.

17 MS. EKL: What's the date on it? Maybe that  
18 will help us get to the right page.

19 THE WITNESS: Is that 2, package 2?

20 BY MR. TAYLOR:

21 Q Yeah, page 9 -- 10 of the first main  
22 report. It's Steidl 12217. We're looking at the  
23 Morgan entry. Now, if you see at the bottom, Morgan  
24 stated that, in his opinion, "It was his opinion that

1 it was at least two or more suspects, with the  
2 intention of rape, and it was an impulse killing,"  
3 right?

4 A That appears to be Bob's opinion.  
5 Yes.

6 Q Yes. Then you look at the card  
7 catalog and it says, "Named Kenny Ziegler and Jeff  
8 Simons." I would say since there were no other  
9 people named as suspects, since there's no names in  
10 the report, but here it says, "Named Kenny Ziegler  
11 and Jeff Simons," it's more than a legitimate  
12 assumption, is it not, that those "two or more  
13 suspects" were Ziegler and Simons, according to  
14 Morgan; is that right?

15 MS. EKL: Objection, form, foundation.

16 MR. ACKERMAN: Same objections.

17 BY MR. TAYLOR:

18 Q Is that right?

19 A That appears to be right. Yes.

20 Q Okay. And do you know who Kenny  
21 Ziegler and Jeff Simons are?

22 A I know who Ken Ziegler is, don't know  
23 that I know Jeff Simons.

24 Q Who's Jeff Ziegler?

1           A           He's a little, itty-bitty, scrawny guy  
2           that lives in Paris, used to do snow removing, lawn  
3           mowing, that kind of thing, and I believe he had a  
4           job in one of the factories in Paris, but I don't  
5           know which one it was.

6           Q           Did he ever work for Morgan?

7           A           I don't know. I don't know where he  
8           worked.

9           Q           And Simon (sic) apparently was  
10          interviewed by Parrish that same day, right?

11          A           I don't know.

12          Q           Well, if you turn to the next page of  
13          this report, the first entry is 6:00 p.m. on the  
14          10th, and Parrish and Eckerty interviewed Simon,  
15          right?

16          A           Yes. That's the case.

17          Q           He stated that he worked for Morgan  
18          Manufacturing for four or five years; is that right?

19          A           Yes.

20          Q           So Morgan had named someone as a  
21          suspect who used to work for him, right?

22                MS. EKL: Objection, foundation.

23                MR. ACKERMAN: Same objection.

24                THE WITNESS: I don't know whether he was a

1 suspect or a witness. I mean, I -- he named him.

2 One reference is as a suspect --

3 BY MR. TAYLOR:

4 Q And the other reference --

5 A Not the card file, but whatever page  
6 it was.

7 Q It just says his name.

8 A On the 7/10 one, that was an interview  
9 by Eckerty and Bensyl and --

10 Q Okay.

11 A So --

12 Q Well, we won't quibble over the word.  
13 It appears from the one report he was named as a  
14 suspect, and from the witness card, it just says  
15 "named" and doesn't say "suspect."

16 MS. EKL: I would object --

17 BY MR. TAYLOR:

18 Q Can we agree to that extent?

19 A Yes.

20 Q All right. So whatever he was,  
21 Parrish and Eckerty went right out and talked to him  
22 the same day, right?

23 A Yes.

24 Q And he said that he had worked for

1 Morgan for four or five years, right?

2 A Yes.

3 Q But that he had stopped working for  
4 him in '84 and had moved away for a while, right?

5 A Yes.

6 Q So it appears that what Morgan was  
7 trying to do, for whatever reason, is throw the scent  
8 off of himself and onto someone else, right?

9 MS. EKL: Objection, form, foundation.

10 MR. ACKERMAN: Same objections.

11 BY MR. TAYLOR:

12 Q Would that be fair to say?

13 MS. EKL: Same objections.

14 MR. ACKERMAN: Same objections.

15 THE WITNESS: I suppose.

16 BY MR. TAYLOR:

17 Q Because, first of all, he's saying  
18 it's a rape, right?

19 MS. EKL: Objection, form.

20 BY MR. TAYLOR:

21 Q Well, he --

22 A He didn't say it was a rape.

23 Q He's suggested the motive --

24 A He suggested it was a possibility.

1 Yes.

2 Q And it's your testimony that that  
3 wasn't a motive that you all had considered as likely  
4 at that time, right?

5 A I'm sure that that was batted around  
6 in the initial -- during the initial investigation.  
7 I'm sure that was one of the possibilities that was  
8 discussed.

9 Q Okay. But that wasn't a theory that  
10 you were going on at that time, right?

11 A At that particular point in time, it  
12 didn't appear to be a theory.

13 Q No, right?

14 A It didn't.

15 Q Did it become a theory at any time?

16 A Not that I can recall. No.

17 Q Okay. Thank you. But Simon was asked  
18 about his relationship or his attitude towards Rhoads  
19 and -- Karen Rhoads, and he said that she was an  
20 attractive person and that he did stop by her  
21 apartment to visit with her and he had a crush on  
22 her, right?

23 A Yes.

24 Q So it would appear that Parrish and

1 Eckerty were following up on Morgan's suggestion that  
2 perhaps the motive was rape and that Simon was one of  
3 the perpetrators and had a sexual motive, right?

4 MS. EKL: Objection, form, foundation.

5 THE WITNESS: Is that like a person of  
6 interest?

7 BY MR. TAYLOR:

8 Q I'm sorry?

9 A Is that like a person of interest?

10 Q I don't know what you mean by that  
11 answer.

12 A Well, that's, you know, a person that  
13 you're looking at as a possibility, a person of  
14 interest.

15 Q Okay.

16 A That's the latest catch word.

17 Q If you want to use that term, that's  
18 fine. But would you agree with my -- my  
19 characterization of what's going on there?

20 A I agree it says that he probably did  
21 have a crush on her. And what else?

22 Q Well, what I'm asking you is, does it  
23 appear to you that Parrish and Eckerty are following  
24 up on Morgan's assertion that it was -- that it

1 wasn't drug-related, that rape might have been the  
2 motive, and that Ziegler and Simons would be either  
3 suspects or perhaps witnesses?

4 MS. EKL: Objection, form, foundation.

5 MR. ACKERMAN: Same objections.

6 THE WITNESS: They were following up on  
7 information that they had received from Bob Morgan,  
8 that's what they were doing, whether they classified  
9 him as a suspect or a witness or whatever.

10 BY MR. TAYLOR:

11 Q Simon also stated that his wife was  
12 now -- now is the ex-wife of Allen Spesard, who is  
13 the brother of Karen Rhoads, right?

14 A Yes. I would assume so. I don't know  
15 Allen.

16 Q But that "Simon stated that his wife  
17 has stated that on several occasions Allen had  
18 threatened her with a butcher knife or different  
19 types of knives while they were married," right?

20 A Yes.

21 Q And this is information Simon is  
22 giving, right?

23 A Yes.

24 Q And, again, within two weeks, that

1 Allen had dressed up as Rambo and was carrying a  
2 knife during a visitation that he had with his kids,  
3 right?

4 A Yes.

5 Q Now, the crime, you knew at that time,  
6 had been committed with a knife or knives, right?

7 A Yes.

8 Q So did this make Allen Spesard a  
9 suspect at this time?

10 A Well, it certainly would have been  
11 somebody they would like to have talked to.

12 Q And it would be someone that you would  
13 look for evidence that might support a theory that he  
14 was involved in the case, right?

15 A Yes.

16 Q All right. Now, to your knowledge,  
17 was any follow-up done with regard to Kenny Ziegler?

18 A Not to my knowledge.

19 Q Did Ziegler have any criminal record,  
20 to your knowledge, in 1986?

21 A Not that I recall.

22 Q Was any additional information  
23 developed that corroborated in any way Morgan's  
24 assertion that the motive for the case might well be

1 rape?

2 A I don't know.

3 Q Given your review of the documents  
4 back then, your conversations with Eckerty and  
5 McPatridge and Parrish during that time, is there  
6 anything you recall coming up in discussions that  
7 would have confirmed in an evidentiary way either  
8 Morgan's theory that it was a rape or that either  
9 Ziegler or Simons was involved in it?

10 MS. EKL: Objection, foundation.

11 THE WITNESS: I don't recall any conversation  
12 of that nature.

13 BY MR. TAYLOR:

14 Q All right. Now, the entry with regard  
15 to Simon, who worked at Morgan for four --  
16 Manufacturing, for four or five years, does not  
17 indicate that he was asked any questions or gave any  
18 answers concerning the -- whether he knew anything  
19 about any criminal activity that Morgan was involved  
20 in with "Smoke" Burba as recounted by Busby; is that  
21 right?

22 A I don't see anything here that  
23 indicates that. No.

24 Q Okay. And the reports indicate that

1 other people who worked at Morgan Manufacturing --  
2 I'm going back now to page 8 and 9 of the report, and  
3 that's styled 12216 and 12217 -- do you see the entry  
4 with regard to Norma Pruiett?

5 A What page are you on, 8 or 9?

6 Q I'm on 8.

7 A Okay.

8 Q Do you see the 7/9/86 Norma Pruiett  
9 entry? Without reading it --

10 A On page 8?

11 Q On page 8. Yes.

12 A No, I don't see Norma Pruiett. I see  
13 Charles McClaskey dated the 9th.

14 Q He's looking at one-eight, not page 8.

15 A Oh. I thought he changed numbering  
16 systems on me.

17 Q Do you see the Pruiett entry?

18 A It's dated the 9th?

19 Q Yes.

20 A I don't have one on this page that's  
21 dated the 9th. You're talking about  
22 twelve-two-eighteen?

23 Q I'm talking about twelve-two-sixteen.

24 MS. EKL: Oh. Sorry.

1 THE WITNESS: Oh. Yes.

2 BY MR. TAYLOR:

3 Q Now you see it, right?

4 A Yes. There it is.

5 Q Do you know who Norma Pruiett was and  
6 is?

7 A I know her, but not well. I mean, I  
8 probably couldn't identify her if I saw her on the  
9 street.

10 Q But you knew that she worked for  
11 Morgan, right?

12 A I knew that she worked for Morgan.  
13 Yes.

14 Q And she was actually his right-hand  
15 person in the sense that she was his secretary and  
16 all that, right?

17 A Yes.

18 MS. EKL: Objection, form.

19 BY MR. TAYLOR:

20 Q All right. Now, Bensyl and Eckerty  
21 interviewed her, according to this report, on the  
22 9th, which is after the Busby information had been  
23 obtained, right?

24 A Yes.

1 Q Now, she also mentions Jeff Simons and  
2 said that Simons made her a little uneasy, right?  
3 I'm looking at --

4 A Yes, I see that. Yes.

5 Q And she recounts an incident between  
6 Simons and Karen in which Simons made her uneasy,  
7 went to her house and all that; is that right?

8 A Yes.

9 Q And, in fact, Tim Busby was discussed  
10 because Norma Pruiett brought it up and said there  
11 was a card that was brought up -- I mean, there was a  
12 card that Busby had sent to her, right?

13 A Yes.

14 Q Now, even though Busby's name again  
15 was mentioned by Pruiett, there's no mention in here  
16 of any questions or any answers having to do with  
17 Busby's statement that Karen had seen Morgan and  
18 Burba engaged in criminal activity with regard to a  
19 machine gun and drugs, right?

20 A I don't see anything there.

21 Q And wouldn't you expect that these  
22 detectives would have asked her about that  
23 information?

24 A Oh, at some point. Yes.

1           Q           And would you expect that they would  
2           have asked her at some point in this questioning of  
3           her?

4           A           At some point I would think they would  
5           ask those questions.   Yes.

6           Q           Okay.   And then the next entry again  
7           is on the 9th in the evening, 9:15 p.m., and they  
8           track down George Wimsett.   And this is Parrish and  
9           Eckerty, right?

10          A           Yes.

11          Q           And he's the plant manager at Morgan  
12          Manufacturing, right?

13          A           Yes.

14          Q           And he's talking about Jeff Simons as  
15          well, right?

16          A           Yes.

17          Q           And he gets more specific about some  
18          unwanted advances that Simons had made in attempting  
19          to kiss Karen while at work; is that right?

20          A           Well, it appears to be a rumor.

21          Q           Right.

22          A           I mean, it doesn't appear to be a  
23          factual statement, "that he thought."

24          Q           Yeah.   He said "he thought that."   So,

1       again, it appears that Eckerty and Parrish are  
2       pursuing Morgan's theory that Simons may have been  
3       involved in some kind of sexual attack on Karen  
4       rather than Busby's information that Morgan, himself,  
5       had a motive along with "Smoke" Burba based on what  
6       Karen had seen at the plant; is that right?

7               MS. EKL:  Objection, form.  If I can.

8               MR. ACKERMAN:  Same objection.  Karen.

9               THE WITNESS:  You mean that they're pursuing  
10       this lead?

11       BY MR. TAYLOR:

12               Q           Yeah, that they're pursuing the lead  
13       that Morgan gave them and --

14               A           Yes.

15               Q           -- not the lead that Busby gave them.

16               A           Well, not on this page number.

17               Q           And Wimsett was not asked nor gave any  
18       answers concerning Morgan and Burba's activity,  
19       illegal as recounted by Karen and as allegedly  
20       overseen by -- "overseen" isn't the right word --  
21       allegedly viewed by Karen Rhoads; is that --

22               A           You --

23               Q           -- right?

24               A           -- said Morgan and Busby's alleged

1 illegal activity?

2 Q Busby and Burba.

3 MS. SUSLER: Morgan and Burba.

4 THE WITNESS: That's like "Blagojevich."

5 (WHEREUPON, there was laughter.)

6 BY MR. TAYLOR:

7 Q Exactly. What I'm saying is, there's  
8 nothing in this entry or interview that Parrish and  
9 Eckerty did with Wimsett, the plant manager, that  
10 indicates any questions or answers given with regard  
11 to the statements that Busby had made concerning  
12 Morgan and Burba's involvement in criminal activities  
13 at the plant which Karen had allegedly viewed; is  
14 that --

15 A I don't see anything in this page that  
16 indicates that. No.

17 Q All right. So they talked to Pruiett  
18 and Wimsett prior to talking to Morgan, yet they  
19 didn't develop any additional information to confront  
20 Morgan with in terms of what Busby and -- had said;  
21 is that right?

22 A I don't see anything here on these  
23 pages to indicate that. No.

24 Q Would you expect as good detectives

1 following leads that they should have done that?

2 A I don't know that they didn't.

3 Q All right. But you would expect  
4 that --

5 A Yes.

6 Q -- they would, right?

7 A I would expect them to follow up.  
8 Yes.

9 Q I want to go back to the scene for a  
10 moment and ask you: With regard specifically to the  
11 bed, you testified that it was going in a north/south  
12 direction, right?

13 A I believe that's correct. Yes.

14 Q And there was a bed -- a box spring  
15 and then a mattress on top, right?

16 A Yes.

17 Q Did you notice the location of the  
18 mattress in connection or in relationship to the box  
19 spring?

20 A I don't specifically recall it from  
21 the day I was there, but I've seen it in pictures  
22 that were taken of the scene.

23 Q When you went there, did you notice  
24 anything unusual about the relationship in terms of

1       how it was positioned, the mattress vis-a-vis the box  
2       spring?

3               A           Well, any recollection I have would be  
4       from the photograph.

5               Q           What's your recollection from the  
6       photograph?

7               A           That it was canted at a fairly abrupt  
8       angle.

9               Q           How much of an angle?

10              A           Oh, an angle probably almost corner to  
11       corner of the top mattress. The center of the  
12       mattress would have been adjacent to the corner of  
13       the box spring, so probably a 45-degree angle.

14              Q           45-degree angle?

15              A           Approximately. Yes.

16              Q           45-degree or perpendicular?

17              A           Well, if they weren't together, the  
18       mattress was twisted.

19              Q           That mattress was twisted at a  
20       45-degree angle to the box spring?

21              A           Approximately.

22              Q           That's what your memory is from the  
23       pictures?

24              A           From the pictures. I don't

1 specifically remember from the day I was there.

2 Q Okay. Are these pictures of the  
3 reconstruction or pictures contemporaneously taken by  
4 Knight and others at the scene?

5 MS. EKL: Objection, foundation.

6 THE WITNESS: I don't know. I didn't see a  
7 date and time on the pictures.

8 BY MR. TAYLOR:

9 Q Okay. Well, let me show you what I'm  
10 going to mark as Group Exhibit 14.

11 A Are we done with 13?

12 Q For now. We'll never be done with it  
13 totally.

14 A Um-hum.

15 MR. TAYLOR: This is a three-page document  
16 that -- or it's a set of three pictures, so if you  
17 could mark those.

18 MS. EKL: Do you want to refer to it as Knight  
19 13A so we don't have to keep renaming the same  
20 exhibits? It appears that these are already numbered  
21 from this case. If we're going to do what you  
22 proposed yesterday, it might be easier to refer to  
23 the one exhibit number that's already on there.

24 MR. TAYLOR: Why don't we do this both ways.

1 MS. EKL: But it's Knight. Why not refer to  
2 it as Knight 13A?

3 MS. SUSLER: I don't know if it's all of 13A,  
4 though.

5 MS. EKL: It's 13A, 13B, so we can refer to  
6 them that way.

7 MR. TAYLOR: All right. This has also  
8 previously been marked in the Knight deposition as  
9 13A, B, and C.

10 MS. EKL: I was going to propose not adding a  
11 new number to it, just referring to them as Knight.

12 MR. TAYLOR: All right. We will strike the  
13 designation as 14 and refer to it as Knight's.

14 (WHEREUPON, Knight Exhibit 13A,  
15 13B, and 13C were tendered to  
16 Witness.)

17 BY MR. TAYLOR:

18 Q Now, have you had an occasion to look  
19 at those three exhibits, Knight 13A, B, and C?

20 A Yes, I have.

21 Q Now, do those roughly correspond to --  
22 are those the pictures that you looked at that you're  
23 testifying about?

24 A No.

1           Q           All right. Those are pictures that  
2 Knight took at the scene. Is that consistent with --  
3 does that refresh your recollection as to how the  
4 mattress looked when you saw it?

5           A           Yes.

6           Q           Did the mattress look like that?

7           A           Yes, I would assume, so since Gary  
8 Knight took the pictures. I trust Gary Knight.

9           Q           But you saw some pictures where the  
10 mattress was in a much different position, right?

11          A           Yes. It was -- the angle would be a  
12 little bit more.

13          Q           Let me show you some pictures that  
14 might be those. This is Knight 15A, 15B, 15C. Do I  
15 need to hand those out or do you have access to  
16 those?

17           MS. EKL: I don't today because I didn't go  
18 back to the office.

19           MR. TAYLOR: Well, I'll give this directly to  
20 the witness.

21                                 (WHEREUPON, Knight Exhibit 15A,  
22                                 15B, and 15C were tendered to  
23                                 Witness.)

24           BY MR. TAYLOR:

1           Q           Looking at Knight 15A, B, and C, do  
2 those appear to be the pictures that you were  
3 referring to, the way the mattress was much -- you  
4 said it was at a 45-degree angle and it might have  
5 even been more than a 45-degree angle?

6           A           They could be.

7           Q           Now, are these pictures more like the  
8 ones that you were referring to in terms of the  
9 ones -- the angle of the mattress?

10          A           Those are more closely -- closer to  
11 what I remember versus the photographs I just saw.

12          Q           These are photographs of the  
13 reconstruction that was done on July 9 that I'm  
14 showing you now. Were you aware that photographs  
15 were taken at a reconstruction on July 9th?

16          A           No. I didn't specifically recall it.

17          Q           I think I asked you this before, but  
18 were you present for a reconstruction on the 9th?

19          A           I don't believe that I was.

20          Q           Now, you would agree with me, however,  
21 that the pictures that I've shown you that are Knight  
22 13A, B, and C more accurately depict how the mattress  
23 was on the -- just after the crime scene was  
24 discovered than the ones that are depicted in 15A;

1 is --

2 A Yes.

3 Q -- that right?

4 A If 15 was the reconstruction, yes.

5 Q Yes. The 9th of July was a busy day  
6 in connection with the investigation, wasn't it?

7 A Excuse me just a second.

8 Q Um-hum.

9 (WHEREUPON, the Witness was  
10 reading Knight Exhibits 13A, 13B,  
11 13C, and 15A, 15B, and 15C.)

12 A I'm assuming since they're both dated  
13 9/17, that they were taken at the same time.

14 Q No. The 9/17 is the -- that's the  
15 deposition date. That has nothing to do with the  
16 pictures and the day they were taken. All I'm trying  
17 to determine is if this is the crime scene --

18 A Right.

19 Q -- if they removed evidence for  
20 processing, if they took additional pictures at the  
21 time to have additional pictures.

22 A No. No.

23 MR. TAYLOR: Can we stipulate that the first  
24 set of pictures, 13A, B, and C, were taken at the

1 crime scene on the 6th, and the second set, which is  
2 15A through C, were taken on the 9th at the  
3 reconstruction?

4 MS. EKL: Yes.

5 MR. TAYLOR: Okay. That's to be accepted.

6 THE WITNESS: Okay.

7 BY MR. TAYLOR:

8 Q So, the 9th, even though you weren't  
9 there, there was a reconstruction done with others,  
10 including Parrish and McFatridge, right?

11 A Yes. It appears so.

12 Q Also that day you participated in the  
13 arrest or the taking into custody of Whitlock and  
14 Steidl; is that right?

15 A That's not right.

16 Q Okay. You didn't participate?

17 A I participated in Whitlock's arrest,  
18 not Steidl's.

19 Q That was at the Tap Room? Is that the  
20 name of the bar?

21 A Which arrest are you talking about?

22 Q Whitlock.

23 A I don't know where that took place.

24 Q Didn't you just say you

1 participated --

2 A Oh, Whitlock. I'm sorry. Which  
3 arrest are you talking about? The one --

4 Q I'm talking about the one in July only  
5 a few days after the incident where Steidl and  
6 Whitlock were taken to the police station and  
7 charged.

8 A That was an arrest?

9 Q Well, let's talk about what happened,  
10 all right? You were involved, right?

11 MS. EKL: Objection, form.

12 THE WITNESS: I don't recall that I was. No.

13 BY MR. TAYLOR:

14 Q Let's see if we can refresh your  
15 recollection at all --

16 A All right.

17 Q -- on this one. Let me mark this  
18 as -- it doesn't have any prior markings on it, so  
19 we'll call this one 14.

20 (WHEREUPON, Ray Exhibit 14 was  
21 marked and tendered to Witness.)

22 Do you recognize this to be a log or  
23 what's called here a Daily Activity Report --

24 A Yes.

1 Q -- for the 9th of July of 1986, that  
2 being the day we're talking about right now?

3 A Yes.

4 Q Do you agree with the designations on  
5 the top there that you were 10, that Lieutenant Jones  
6 was 11, and that 16 was Humphrey, but he was off that  
7 day?

8 A Oh, Officer Humphrey.

9 Q Officer Humphrey, is he a detective?

10 A No, he was a patrol officer.

11 Q And Gordon was 13?

12 A Yes.

13 Q Who is Gordon?

14 A Pam Gordon, the dispatcher.

15 Q So would she be the one who was typing  
16 up the reports?

17 A No. I don't recall that she was.

18 Q There was another dispatcher other  
19 than Pam Gordon?

20 A We had, I think, four full-time and  
21 maybe a part-time or two.

22 Q Do you know who was typing up the  
23 Parrish reports of those four?

24 A I don't specifically recall. No.

1 Q Do you remember any other names other  
2 than Pam Gordon?

3 A We had a lot of turnover with  
4 dispatchers, so we had Jenny Rogers, but I don't  
5 recall whether she worked there at that particular  
6 time. We had Jan Reardon, Rosemary -- I can't  
7 remember her last name.

8 Q Rosemary Woods?

9 (WHEREUPON, there was laughter.)

10 A No. I don't recall all the  
11 dispatchers because of the turnover.

12 Q And D-1 is Wheat?

13 A Yes.

14 Q And D-2 is Parrish?

15 A Yes.

16 Q That's how we interpret those entries,  
17 right?

18 A Yes.

19 Q Are these call-ins?

20 A Yes.

21 Q And Humphrey, this is 16, is -- and  
22 I'm at "10-8."

23 A Yes. That means back in service.

24 Q 10-8 means back in service?

1 A Yes.

2 Q And this looks like it spans an  
3 afternoon of entries from about 2:46 p.m. to 5:04  
4 p.m., right?

5 A Yes.

6 Q Why would this be typed up in this  
7 manner? Was it normally that each day a log was  
8 created?

9 A Yes.

10 Q And that is typed -- that is just  
11 typed up from --

12 A As the task occurred.

13 Q So somebody's sitting at a typewriter  
14 and they answer the phone and they type it in?

15 A They answered the phones, "Paris  
16 police department," and if somebody wants to talk to  
17 somebody -- in the case of "2:47 p.m., David Dick  
18 called for Eckerty," and she advised him to call the  
19 state's attorney's office because that's where  
20 Eckerty was at.

21 Q Who is David Dick?

22 A That's an insurance salesman, and he  
23 probably -- at that time I believe he might have been  
24 the coroner.

1 Q Then it says, "2:52, Cindy Belton  
2 called for Jack." That's Eckerty, too, right?

3 A Yes.

4 Q As Cindy Belton is who?

5 A I don't know.

6 Q And Sarah called for Detective Wheat,  
7 right?

8 A Yes. He took the call. Yes.

9 Q Do you know who Sarah Williams is?

10 A No, I don't.

11 Q And "Faye SA called for Jack." What  
12 does that mean?

13 A "SA" is the state's attorney's office,  
14 and "Jack" is Eckerty.

15 Q And "A-d-v 10 to relay message"?

16 A That means I was probably at the  
17 state's attorney's office and she asked me to tell  
18 Jack.

19 Q What does "Adv" refer to?

20 A Advised.

21 Q So it appears that afternoon that you  
22 were at McFatridge's office with Eckerty; is that  
23 right?

24 A Yes. It would appear to be so.

1 Q Do you know why you were there?

2 A No, but it appears that I was with  
3 Jack.

4 Q Okay.

5 A So I was with Jack wherever that was  
6 and I told Jack that the state's attorney's office  
7 had called him.

8 Q And then the Decatur Herald called for  
9 news?

10 A Yes.

11 Q I take it they wanted information, if  
12 there was any to be had, about the progress of the  
13 investigation; is that right?

14 A Sometimes we had newspapers calling  
15 for just daily news releases.

16 Q Were you giving daily news releases at  
17 that time about the investigation?

18 A We were not. No. All releases  
19 concerning the Rhoads situation were handled through  
20 the state's attorney's office.

21 Q Okay. This says, "111/McDaniel." Is  
22 that an officer?

23 A Yes. That was Deputy Dick McDaniel.

24 Q By "Deputy" --

1           A           Well, no. He was a deputy for a while  
2           and he worked for us for about a year, and it may  
3           have been during this time frame. Actually, instead  
4           of 111 -- well, because 11 was Jones, so he may have  
5           been a deputy at that time.

6           Q           "Deputy," meaning deputy sheriff?

7           A           Deputy sheriff. Yes.

8           Q           And "10-23 scene." What does that  
9           mean?

10          A           That means arrived at wherever he was  
11          dispatched to.

12          Q           That says "10-23." Is that a beat  
13          number?

14          A           No. That's a 10 code. "10-23" means  
15          I've arrived. Rather than say -- when you radio in,  
16          rather than "I'm here" or "I'm on the scene," you  
17          just say, "Unit 11, 10-23."

18          Q           Does McDaniel have any connection with  
19          the investigation of the Rhoads murders?

20          A           I don't believe so.

21          Q           And "Ring 10-42," what does that mean?

22          A           That means he's off duty. That was  
23          Officer Ring. The way it looks, he stayed over for  
24          an hour because normally 2:30 is the time that --

1 2:30 to 3:00 o'clock is the shift change time.

2 Q Okay. I notice here you have a  
3 Lieutenant Jones.

4 A Yes.

5 Q My understanding from the testimony  
6 the other day was that you got rid of the designation  
7 of lieutenant. Am I wrong?

8 A This would have been July of '86. I  
9 had just started, so I hadn't accomplished that yet.

10 Q What's Jones' full name?

11 A Chuck. Charles. Charles Jones.

12 Q Is he still on the force?

13 A No. He left and went to Bullhead  
14 City, Arizona.

15 Q He's retired there?

16 A I would assume so. Yes. I haven't  
17 talked to him in a long time.

18 Q By the way, just before I forget it,  
19 would you expect that Parrish and Eckerty would have  
20 talked to "Smoke" Burba, given the information that  
21 they got from Tim Busby?

22 A I would expect it. Yes.

23 Q Did you ever see any such  
24 documentation that any such interview was done?

1           A           I don't recall seeing any  
2           documentation.  No.

3           Q           I asked you whether Morgan was a  
4           suspect.  I would assume that Burba would also be a  
5           suspect, given Busby's information; is that fair to  
6           say?

7           A           That's fair to say.

8           Q           Now, would it be fair to say also that  
9           Spaysard (sic) --

10          A           Spesard.

11          Q           Spesard, Allen Spesard, given the  
12          information you had, would also be a suspect as well?

13          A           I would assume so.  Yes.

14          Q           Now, let's continue with this.  "Gary  
15          Knight," that's, of course, the --

16          A           Crime scene detective.

17          Q           ISP crime scene tech.  He's calling  
18          for Parrish or Eckerty, right?

19          A           Yes.

20          Q           It says, "Wheat took the call."  That  
21          implies that you and Parrish and Eckerty are out of  
22          the office somewhere, right?

23          A           Yes.

24          Q           And "Hunt 10-41."  What's a 10-41?

1           A           It means that you're on duty. 10-41  
2 means you're on duty.

3           Q           Hunt is a patrolman?

4           A           Yes, because I saw a reference to a  
5 Mark Hunt in one of the other documents, and he's  
6 one, I think, that worked for us for a brief period  
7 of time, but I didn't remember that he worked for us.

8           Q           It says, "Joe Johnson on station for  
9 offense report." What does that mean?

10          A           It means Joe Johnson came in for a  
11 copy of an offense report. They may have had some  
12 vandalism to a vehicle or something of that nature,  
13 and he needed a copy for his insurance company.

14          Q           "Freeda called for McFatridge." Who  
15 is Freeda?

16          A           That's McFatridge's secretary, another  
17 one of his secretaries.

18          Q           What's her full name?

19          A           Freeda Witter. She's retired.

20          Q           Is she still in the Paris area?

21          A           Yeah.

22          Q           She called for McFatridge --  
23 apparently the state's attorney's office thought he  
24 was there, but he wasn't, right?

1           A           They called and they relayed the  
2 message to me.

3           Q           Again, this confirms the idea that you  
4 were with McFatrige at the time?

5           A           Yes.

6           Q           Okay. Does this -- and this is at  
7 4:00 o'clock. So this is -- you're still together an  
8 hour or two later, right --

9           A           Yes.

10          Q           -- after the first -- all right. Now,  
11 it says that at 4:09, D-2 is -- which is Parrish,  
12 right?

13          A           Yes.

14          Q           "Out on Douglas Street." What is  
15 Douglas Street? Is that where either Whitlock or  
16 Steidl lived?

17          A           No.

18          Q           Do you know why he was out on Douglas  
19 Street?

20          A           Well, if you look down at the next  
21 entry, he ran a 10-28 on an Illinois license [REDACTED]  
22 and this was valid to Herb Whitlock, [REDACTED] '72  
23 Triumph, "Vehicle sitting on the square." He was out  
24 on Douglas for a few minutes and then he left. I

1 don't know why he was out on Douglas. So apparently  
2 the Douglas Street is not related to the 10-28 that  
3 he ran a few minutes later.

4 Q He can run that 10-28 from his auto,  
5 right?

6 A No. No. This is before computers.

7 Q So how did he -- was he in the station  
8 at this point?

9 A No. He called in on the radio.

10 Q I see.

11 A That's the request. David-2 requests  
12 a 10-28, which is a license check, to see if it's  
13 valid and who it comes back to on that plate number.

14 Q So it looks at this point as if  
15 they're focusing on Whitlock?

16 A Well, the next entry is an "Out at  
17 Steidl residence on North Main."

18 Q So it looks like they're attempting to  
19 locate Steidl and Whitlock, right?

20 A It appears. Yes.

21 Q Well, it appears that --

22 A It appears that Parrish is. Yes.

23 Q This is odd. Does this make sense  
24 that the 4:24 entry would come before the 4:19 and

1 4:20?

2 A This was an error on the dispatcher's  
3 part. She hit "2" instead of "1."

4 Q So it should have been 4:14?

5 A 4:14. Yes.

6 Q Five minutes later he's out at the  
7 Steidl residence on [REDACTED] is that right?

8 A Yes.

9 Q Where on [REDACTED] was the Steidl  
10 residence?

11 A Right next to the [REDACTED]

12 Q And by the "Steidl residence," who  
13 lived there?

14 A Ben Steidl.

15 Q Who is?

16 A Randy's stepfather.

17 Q Who else lived there?

18 A Randy's mother, I believe.

19 Q Was it thought that Randy lived there  
20 as well or did he live somewhere else?

21 A I think Randy may have lived there,  
22 but whether he was there that night or not, I don't  
23 know.

24 Q All right.

1           A           I can't honestly say that he  
2 absolutely lived there.

3           Q           But it says one minute after he's at  
4 the Steidl residence, it's a 10-8, which you've told  
5 us he's back in service, right?

6           A           Which one are you looking at?

7           Q           4:20.

8           A           4:20. Okay.

9           Q           That's Parrish back in service, right?

10          A           Yes, back in service. Yes.

11          Q           Does that mean that he's available,  
12 that he's able to do something else?

13          A           That means that he's back in the car.

14          Q           All right. So "Out at Steidl  
15 residence," does that mean he got out of the car?

16          A           Yes.

17          Q           It doesn't mean he just was in the  
18 car?

19          A           If he's 10-6, he's busy. You say,  
20 "I'll be 10-6 at the Steidl residence," so you know  
21 that he's got activity. But if he says that he's  
22 10-7 for supper, then he's out of the car, but he's  
23 not necessarily out of service. You just know that  
24 he's trying to be unavailable to each lunch or

1       whatever.

2               Q           But we don't have a code for "Out at  
3       the Steidl residence." We just know he's out of his  
4       car.

5               A           Yeah. Out at the Steidl residence, he  
6       probably just said, "Out of the car at the Steidl  
7       residence," so that's what she typed instead of  
8       saying "10-6."

9               Q           So he got out of the car perhaps to go  
10      to the door or something like that?

11              A           Yes.

12              Q           So at 4:28, you've got Lieutenant  
13      Jones out at the Tap Room, right?

14              A           Yes.

15              Q           The Tap Room is a bar; is that right?

16              A           That's correct.

17              Q           Where is that located?

18              A           I think that's the one on North Main  
19      Street just behind the jail. It's no longer there,  
20      but I think that's the Tap Room.

21              Q           How close is it to the police station?

22              A           Well, that's the one we talked about  
23      the other day. It's probably three to four blocks.

24              Q           And at that point, do you know why

1 Lieutenant Jones was out at the Tap Room?

2 A No, I don't.

3 Q Again, he's out of his car at 4:28 at  
4 the Tap Room?

5 A Yes.

6 Q Then at 4:29, it says that you and  
7 Wheat are "back 10-8," right?

8 A Yes.

9 Q That means you're back in your car?

10 A Yes. I'm either in my car or with  
11 Wheat.

12 Q At the same moment, Parrish is back in  
13 his car, and it says, "10-25." What does that mean?

14 A That means he's coming to the PD.

15 Q Coming to the department?

16 A Yes.

17 Q 11, who is Jones, gets back in his  
18 car, right?

19 A Yes.

20 Q Now, sometime that afternoon, Steidl  
21 and Whitlock were picked up at the Tap Room, weren't  
22 they?

23 A I don't recall.

24 Q Were you at the Tap Room?

1           A           I don't know.

2           Q           Well, let's look at 4:26, "D-1 and  
3           Unit 10 out at backdoor of Tap Room. D-1 front of  
4           Tap Room, Advised 11." Then two minutes later --

5           MS. EKL:   Wait. Hold on a second.

6                        He's right here on the page  
7           (indicating).

8           THE WITNESS: Oh, okay. I thought we had  
9           already talked about that.

10          BY MR. TAYLOR:

11          Q           No. I missed that one for some  
12          reason. Two minutes later, Jones get out at the Tap  
13          Room. So at 4:26, you have yourself and Wheat at the  
14          back door of the Tap Room, but you have D-1, he's  
15          both at the -- he must go to the front of the Tap  
16          Room, and Jones is advised and he gets out at the Tap  
17          Room a couple minutes later, right?

18          A           Yes.

19          Q           Then a minute after that, you and  
20          Wheat get back into your car, right?

21          A           Yes.

22          Q           So does --

23          A           Jones.

24          Q           -- Jones. And so does Parrish, right?

1 A Yes.

2 Q And comes back to the station, right?

3 A Yes.

4 Q So, in fact, at that time, you were  
5 taking into custody Whitlock and Steidl, were you  
6 not?

7 A No. We were looking for them.

8 Q Did you not -- didn't you find them at  
9 the Tap Room?

10 A Apparently not. I don't recall that  
11 we did, and I don't see anything in there that  
12 indicates that we were 10-95 with anybody.

13 Q Let's take a look at another report,  
14 see if this may help -- what's a 10-95?

15 A A report -- one in custody.

16 Q So you would expect that you would  
17 have seen a 10-95 on there?

18 A If he was arrested.

19 Q All right. Let's look at -- there's  
20 no mention of this in any of the Parrish reports that  
21 are group exhibits in this deposition, are there?  
22 You haven't seen anything with regard to any mention  
23 of taking Steidl or Whitlock into custody, right?

24 MS. EKL: You're saying as to any of these

1 exhibits you've shown him so far today?

2 MR. TAYLOR: Well, any of the city exhibits.

3 THE WITNESS: I haven't looked at all of them,  
4 so I don't know if there's any reference in there.

5 BY MR. TAYLOR:

6 Q Assume for a moment there isn't,  
7 because I certainly haven't found any.

8 A Okay.

9 Q Would you expect that if Whitlock  
10 and/or Steidl were taken into custody and questioned  
11 at the police station, that there would be a report  
12 by either by some -- one of the detectives or  
13 officers who took them into custody?

14 A I would anticipate there would be a  
15 report. Yes.

16 Q Let's take a look at Exhibit 2. That  
17 is -- I wanted you to look at the second page, which  
18 is a report by Tony Snyder of the ISP.

19 A What page are you on?

20 Q Well, it's the 7/9/86 Tony Snyder  
21 report. Are we on the same report?

22 A Yes. Page 1, though.

23 Q It starts, "On Wednesday, 7-9-86, at  
24 approximately 4:35 P.M."?

1 A Okay.

2 Q Snyder and Parrish interviewed Gordon  
3 R. Steidl, [REDACTED] The  
4 interview was conducted at the Paris police  
5 department, right?

6 A Yes.

7 Q If at 4:29 Steidl was taken into  
8 custody at the Tap Room Pub --

9 A It doesn't say that.

10 Q But I'm asking you, it would take  
11 approximately five minutes to get back to the police  
12 station, right?

13 A Approximately.

14 Q So that would pretty much indicate  
15 that you did take Steidl into custody at --

16 A No, it doesn't.

17 Q Well --

18 A We could have asked to talk to him and  
19 he could have voluntarily driven to the police  
20 station.

21 Q All right. Is that what happened, to  
22 your memory?

23 A I don't know. I don't remember.

24 Q But it does refresh your recollection

1 that you went to the Tap Room just prior to the time  
2 that Randy Steidl was questioned at the police  
3 station, right?

4 A Yes. According to the daily log I  
5 did.

6 Q And Parrish was there as well, right?

7 A Yes.

8 Q As well as Wheat and Jones, right?

9 A Yes.

10 Q So that would indicate that there were  
11 four officers there just prior to the time that  
12 Steidl showed up at the police station, right?

13 A Yes.

14 Q Now, in this report it says that  
15 Steidl stated some information about where he was the  
16 night of the murders, right?

17 A Yes.

18 Q You hadn't taken anyone else into  
19 custody in order to question them before Wednesday,  
20 the 9th of July, had you?

21 A Are you implying that Steidl was in  
22 custody at this time?

23 Q No, I'm not implying anything. I'm  
24 asking if you had taken anybody into custody --

1 A Not that I --

2 Q -- prior to that.

3 A Not that I recall.

4 Q And subsequently no one was taken into  
5 custody after July 9th until Steidl and Whitlock were  
6 arrested in February of the next year, right?

7 A Not that I recall.

8 Q Okay. Do you have any knowledge as to  
9 whether at this particular time, the 9th of July,  
10 Randy Steidl was a suspect in the Rhoads homicides?

11 A I'm sorry. Repeat that.

12 MR. TAYLOR: Could you read that back?

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

15 "Question: Okay. Do you have  
16 any knowledge as to whether at  
17 this particular time, the 9th of  
18 July, Randy Steidl was a suspect  
19 in the Rhoads homicides?")

20 THE WITNESS: I don't recall.

21 BY MR. TAYLOR:

22 Q Were you present at 4:35 p.m. at the  
23 Parrish police department when Randy Steidl was  
24 questioned by Parrish and Eckerty -- I'm sorry -- and

1 Snyder?

2 A Was I present at the police  
3 department?

4 Q Yes.

5 A Meaning was I in the building?

6 Q Okay. We'll start with that. Yes.

7 A I mean, I don't know that I was. I  
8 don't know. I indicated here that I was back 10-8,  
9 but I don't know that I went directly to the police  
10 department.

11 Q Well, okay. But the log does indicate  
12 that -- what did you say "10-25" was?

13 A Jim came to the station. "10-25"  
14 means report to a certain spot. If an officer gets  
15 back in the car and he says, "I'm 10-8, 10-25," it  
16 means he's saying, "I'm coming to the station." If  
17 you have an individual that calls in for service and  
18 they want an officer to meet them, then you'll say,  
19 "10-25 to," and certain location when you dispatch  
20 the car.

21 Q But if you had gone someplace else,  
22 this log probably would have told us, right?

23 A No, it would not.

24 Q So the log doesn't tell us whether you

1       came back to the police station or went somewhere  
2       else; is that right?

3               A           That's correct.

4               Q           Is it -- do you have -- did you  
5       participate in the questioning of Randy Steidl on the  
6       9th?

7               A           Not that I recall.

8               Q           Did you --

9               A           If Eckerty and Snyder interviewed him,  
10      I probably did not.

11              Q           Was there a particular place in the  
12      police department where witnesses or suspects were  
13      interviewed?

14              A           Yes. We had a small interview room  
15      towards the back of the building.

16              Q           Would that be normally where you would  
17      take someone like Steidl when you were going to  
18      question him?

19              MS. EKL:   Objection, form. What do you mean  
20      by "someone like"?

21              THE WITNESS: It's where you take anybody to  
22      interview them. We didn't interview in any other  
23      section of the building except in the interview room.

24      BY MR. TAYLOR:

1           Q           All right. Was there -- excuse me.  
2                           (WHEREUPON, there was an  
3                           off-the-record discussion had by  
4                           Mr. Taylor and Ms. Susler.)

5                           This report indicates that Steidl  
6 answered some questions about where he was on the  
7 night and early morning of the murders; is that  
8 right?

9           A           Yes.

10          Q           And that he denied that he had been  
11 involved in the murders, right?

12          A           Yes.

13          Q           And he also stated -- brought up the  
14 name Bob Morgan, and said that Morgan and "Smoke"  
15 Burba and asked him infor -- about having information  
16 about the deaths, right?

17          A           Yes.

18          Q           Those are the same two people that  
19 Busby had pointed out as potential -- as suspects two  
20 days before, right?

21          A           Well, suspects or individuals  
22 concerning an incident? I mean --

23          Q           Well, Morgan and Burba -- would you  
24 find that suspicious, that people who may have had a

1 motive for the murder and were under scrutiny by the  
2 department for involvement in the murders were going  
3 around and asking people about whether they had  
4 information about the deaths?

5 A What's the question?

6 Q Would you find that to be suspicious?

7 MS. EKL: Could you reread the --

8 MR. TAYLOR: I'll restate it.

9 BY MR. TAYLOR:

10 Q Would you find it to be suspicious  
11 that two suspects or, as you put it now, some people  
12 of interest, they were going around and asking people  
13 whether they had information about the deaths?

14 A Everything that happens in a case like  
15 this is suspicious.

16 Q I'm asking you about this, what I  
17 just -- what I just asked you about.

18 A Well, you could look at it that way.

19 Q Yes. Well, you're the off -- you're  
20 the chief. Would you look at it that way?

21 A You could look at it both ways: One,  
22 they were concerned and they wanted to help resolve  
23 the case by offering a reward or finding out  
24 information to help, or whether they were, in fact,

1 suspects.

2 Q As detectives and investigators,  
3 though, you're trained to look at information from  
4 the suspicious point of view and the corroborating  
5 point of view, right? You look at it from all  
6 possibilities.

7 A Yes.

8 Q And you knew at that time that Morgan  
9 was also offering a large reward, right?

10 A Yes.

11 Q And you could look at that either way,  
12 right?

13 A Yes, either way. Right.

14 Q And it says --

15 A Yes.

16 Q And it says, "Steidl denied making any  
17 statements to other persons about being involved in  
18 the murders," right?

19 A Yes.

20 Q Did the department at that time have  
21 any information that Steidl had made statements to  
22 others that he had been involved in the murders?

23 A I don't recall.

24 Q Well, there's only two interpretations

1 of this, and, at the present, tell me if there are  
2 others: One is that the department had information  
3 or the investigators had information that others were  
4 reporting that Steidl was talking about the murders,  
5 or someone out of the blue, the investigators asked  
6 them if he had been talking about it, right?

7 MS. EKL: Objection, form.

8 BY MR. TAYLOR:

9 Q Am I right? Those are two --

10 A Possibilities? One, that he was  
11 talking about the murders, and the other is that he  
12 wasn't and somebody was lying? Is that what you're  
13 saying?

14 Q No. I'm sorry. One possibility is  
15 that the detectives had information from people who  
16 said that Steidl had been talking about the murders,  
17 right?

18 A Yes. That's a possibility.

19 Q Now, if that were, in fact, true, you  
20 would expect that there would be a report either by  
21 Eckerty or by Parrish or both that was to recount who  
22 it was that said that Steidl was making these  
23 comments, you know, when it was, and any additional  
24 information that that person had about Steidl's

1 inculpatory statements, right?

2 A Right.

3 Q And we haven't seen any documents like  
4 that, right?

5 A I haven't.

6 MS. EKL: Objection to form.

7 THE WITNESS: I mean, I'm not aware of any.

8 BY MR. TAYLOR:

9 Q All right. On July 9th, were you  
10 aware of whether Steidl -- well, you had information,  
11 "you" meaning the investigation, had information that  
12 Steidl was making statements about involvement in the  
13 murders?

14 A You're saying on July 9th --

15 Q Right.

16 A -- we had that information?

17 Q Did you?

18 A I don't know. I don't know whether  
19 that was just a remark that Steidl threw out or  
20 whether we actually had information --

21 Q Well, when someone says --

22 A -- of that type.

23 Q -- "denied making any statements to  
24 other persons about being involved," you would expect

1 that he was responding to a question, right?

2 MS. EKL: Objection --

3 THE WITNESS: It's possible. Yes.

4 MS. EKL: Hold on. Objection to form.

5 BY MR. TAYLOR:

6 Q It also indicates that at some point  
7 Steidl became belligerent and uncooperative; is that  
8 right?

9 A That's what it says. Yes.

10 Q Do you have any memory of that  
11 happening?

12 A No.

13 Q Let's go on to the next page, which is  
14 another report, this one by Eckerty. This says that  
15 on 6/9/86 -- and I assume it means 7/9/86?

16 A Yes. I would think so.

17 Q Eckerty and Bensyl interviewed  
18 Whitlock, right?

19 A Yes.

20 Q Now, it doesn't indicate where that  
21 interview took place, does it?

22 A Not that I see.

23 Q All right. Did this interview take  
24 place at the Paris police department as the Steidl

1 one did?

2 A I would anticipate that it did since  
3 they were assisting us and using our facilities.

4 Q Did you have any involvement in that  
5 interview?

6 A Not that I recall.

7 Q Do you have any memory that Steidl and  
8 Whitlock were brought into the police station at  
9 about the same time on the 9th?

10 A I don't have a definite memory of  
11 that.

12 Q Do you have a memory of seeing those  
13 reports?

14 A There's a vague recollection that,  
15 yes, that occurred, but I don't recall the time or  
16 the date.

17 Q Okay. And if they were brought in --  
18 and just so we're clear: You don't recall the date,  
19 but it was early on in the investigation that we're  
20 talking about?

21 A Yes. At some point early. Yes.

22 Q They were brought in -- do you know  
23 why they were brought in?

24 A Yes, because --

1 Q Yes?

2 A -- we felt they may have had  
3 information about the homicide.

4 Q What led you to them? What led you to  
5 believe that they had information about the  
6 homicides?

7 A I don't know. I don't recall the  
8 specific conversations that led up to why we  
9 determined that we should bring them in other than  
10 the fact that it appears to be some rumors that were  
11 picked up in a bar that they were denying involvement  
12 or implying involvement, whichever.

13 Q So rumors, I would take it, if they  
14 indicated involvement, would be written down so that  
15 we would have a record of it; isn't that right?

16 MS. EKL: Objection, form.

17 THE WITNESS: I don't know that it isn't in  
18 one of these interviews with other people.

19 BY MR. TAYLOR:

20 Q All right. But it should be,  
21 shouldn't it?

22 A I would think so. Yes.

23 Q In this report with Eckerty, he says  
24 that he and Bensyl interviewed Whitlock and he also

1 denied knowing anything about the murders, right?

2 A Yes.

3 Q And he supposedly said something -- it  
4 says, "And said anything it would get him killed."  
5 Do you know what that means?

6 A Well, yes. If he said anything, it  
7 would get him killed. That's pretty obvious.

8 Q But that's not what it says. "And  
9 said anything it would get him killed." It doesn't  
10 say anything about what he said would get him killed.

11 A No. The way I read it, he was asked  
12 if he knew anything about the homicide, and if he  
13 said anything -- he said that if he said anything, it  
14 would get him killed.

15 Q So it's just poorly written, in your  
16 view?

17 A Yes.

18 Q Now, it says specifically here that  
19 "Whitlock was asked that if he and Randy Steidl had  
20 made statements at the Tap Room on this date  
21 regarding the homicide death of Dyke and Karen  
22 Rhoads," right?

23 A Yes.

24 Q And so this is directly -- this

1 directly indicates that there was -- that the  
2 investigation, and particularly Eckerty and Bensyl  
3 and, I take it, Parrish as well, had information that  
4 Whitlock and Steidl were making statements at the Tap  
5 Room Tavern that day regarding the death of Dyke and  
6 Karen Rhoads; is that right?

7 MS. EKL: Objection, form, foundation.

8 THE WITNESS: That's a pretty long question.  
9 You're asking if the --

10 BY MR. TAYLOR:

11 Q The investigation, and particularly  
12 the investigators Parrish and Eckerty, had  
13 information before they brought Steidl and Whitlock  
14 in to -- that they were making statements in the Tap  
15 Room Tavern that very day about the homicide deaths  
16 of Karen Rhoads and Dyke Rhoads?

17 MS. EKL: Objection, foundation.

18 THE WITNESS: It appears that they had  
19 information that they were making statements, that  
20 Steidl and Whitlock were making statements, in the  
21 tavern.

22 BY MR. TAYLOR:

23 Q Okay. If you --

24 A That's why they brought them in, to

1 talk to them about it.

2 Q And if you look at Steidl and Whitlock  
3 together, would you assume that they not only were  
4 making statements, but that they were making  
5 statements that implicated themselves?

6 MS. EKL: Objection, form.

7 THE WITNESS: That would appear to be the  
8 case.

9 BY MR. TAYLOR:

10 Q But yet we -- and you would certainly  
11 expect that what they said and who was saying they  
12 said it would be the subject of reports that would be  
13 filed with the police department and the Illinois  
14 State Police, right?

15 A I would anticipate that they would be  
16 filed. Yes.

17 Q And would it be fair to say that if  
18 you had received information that Randy and Herb were  
19 making statements that day in the Tap Room Tavern  
20 that implicated themselves, that that would give you  
21 the impetus to take them into the station and  
22 question them about it?

23 MS. EKL: Objection, form.

24 THE WITNESS: We did do that.

1 BY MR. TAYLOR:

2 Q And that's what you did, right?

3 A That's correct.

4 Q Did you take them in handcuffs?

5 A They weren't under arrest.

6 Q So you did not handcuff them?

7 A No. When somebody comes to the  
8 station voluntarily for a statement -- because it  
9 indicates the interview was terminated on Steidl, he  
10 got belligerent and the interview was terminated and  
11 so he left, and that's the same thing here with --  
12 with Whitlock. It doesn't indicate that they were  
13 under arrest, and at the time of the interview, they  
14 left.

15 Q All right. Were they considered to be  
16 suspects when they were brought in?

17 A They were being questioned with  
18 potential to be a suspect. Yes.

19 Q And that's based on statements that  
20 they had allegedly made in the Tap Room Pub that day,  
21 right?

22 A Yes.

23 Q Were they given their rights? Strike  
24 that.

1                   The reports don't indicate that they  
2                   were given their Mirandas, right?

3                   A            It doesn't indicate that. No.

4                   Q            You said you were -- you didn't say  
5                   they were suspects. You said they -- what was the  
6                   exact term you used -- that they were brought in for  
7                   what purpose?

8                   A            Voluntary statement to come to the  
9                   station.

10                  Q            How did you characterize their status?

11                  A            I don't know that I did characterize  
12                  it.

13                  Q            You said they had the potential to be  
14                  suspects, right?

15                  A            Well, everybody that you talk to in a  
16                  case like this has the potential to be a suspect.

17                  Q            Yeah. But someone who allegedly said  
18                  and made inculpatory statements about being involved  
19                  in the crime, that puts them in a different category  
20                  than someone who might have been a witness, right?

21                  A            There's a difference between an  
22                  interview and an interrogation.

23                  Q            Okay. What's the distinction?

24                  A            The interview is just you're gathering

1 information. An interrogation is where you have  
2 information and you're trying to get the individual  
3 to admit to whatever it is that you're alleging that  
4 they have done.

5 Q And this was an interrogation rather  
6 than --

7 A This was an interview.

8 Q This was an interview?

9 A This was an interview. Yes.

10 Q So if it was an interview, then you're  
11 telling me if you have information that people --  
12 from people that people -- that these individuals  
13 that you're questioning admitted to the crime, that  
14 they are still witnesses rather than suspects?

15 MS. EKL: Objection, form.

16 THE WITNESS: I don't know that I would call  
17 them a witness and I don't know that I would call  
18 them a suspect because you don't have all the  
19 information you need to make that determination.

20 BY MR. TAYLOR:

21 Q As an experienced police officer,  
22 would you have given the Mirandas to Steidl and  
23 Whitlock in this particular instance?

24 A In this particular instance, if I had

1       been speaking to Randy or Herbie, either one, and if  
2       I said, "You know, there's rumors that you've been  
3       talking to people in the bars that you were involved  
4       with these homicides," and if he had said, "Yep,  
5       you're right," I was -- right then I would have  
6       stopped and given him his Miranda rights.

7               Q           But not before?

8               A           And then asked him if he wanted to  
9       talk to me.

10              Q           A little bit late to give it to him  
11       then, isn't it?

12              MS. EKL:   Objection to the commentary.

13       BY MR. TAYLOR:

14              Q           I'll withdraw that. You should have  
15       given them Mirandas before you started questioning  
16       them if you have information that they have admitted  
17       to a crime; is that --

18              A           So you're saying that everybody that  
19       we talk to that has information about a crime should  
20       be read their Miranda rights?

21              Q           No. Let me -- I'm sorry if you  
22       misunderstood my question. Isn't it true that anyone  
23       who has allegedly admitted to a crime previous to  
24       your questioning of him or her should be given their

1 rights?

2 MS. EKL: Objection, form, calls for a legal  
3 conclusion.

4 THE WITNESS: We didn't know for a fact that  
5 they had admitted to a crime. We were just following  
6 information. So should we have -- when we talked to  
7 Bob Morgan and "Smoke" Burba, since they were  
8 potential suspects, should we have advised them of  
9 their rights?

10 BY MR. TAYLOR:

11 Q Well, you tell me.

12 A I mean, I'm trying to determine how  
13 you're separating all this out.

14 Q Well, in your view, should Morgan have  
15 been given his rights?

16 A No, because it was just a simple  
17 interview.

18 Q And should -- do you have any  
19 information that "Smoke" Burba was ever interviewed?

20 A No.

21 Q One way to avoid having to give Morgan  
22 his rights would be not to ask him anything about his  
23 own involvement in the case, right?

24 MS. EKL: Objection, form.

1 THE WITNESS: One could look at it that way.

2 Yes.

3 BY MR. TAYLOR:

4 Q Now, on the 9th, it was three days  
5 after the murders were discovered, right?

6 A Yes.

7 Q And at that point you made no arrests,  
8 right?

9 A Right.

10 Q And it was an extremely hot case at  
11 that point, right?

12 A Yes.

13 Q The media was calling and saying, "You  
14 got anything? You got anything on this?" Right?

15 A Yes. I suppose so.

16 Q And the murders were very gory and  
17 sensational, two young attractive people with no  
18 apparent motive to the outside world, right?

19 A I don't know that we had gory and  
20 sensational slayings. We just released "homicides."

21 Q But the press knew that two people had  
22 been stabbed repeatedly in that bedroom, didn't they?

23 A No.

24 Q Okay. What was known about the crime

1 to the public?

2 A Just that they had been killed. I  
3 don't remember the exact pictures, but we did not  
4 release the numbers of stab wounds or that type of  
5 thing.

6 Q Well, they knew that they were a young  
7 couple killed in their bedroom late at night or early  
8 in the morning and that their house was put on fire,  
9 right?

10 A Yes.

11 Q And it was, in your own estimation,  
12 the most sensational murder in your lifetime in  
13 Paris, right?

14 A Well, sensational, yes, if you want to  
15 use that term. It was a difficult time.

16 Q And I would take it then you felt a  
17 lot of heat or pressure on you to solve the crime as  
18 law enforcement officers.

19 A I don't know that I felt pressure.  
20 Are you talking external pressure or internal  
21 pressure?

22 Q Just pressure to solve the crime.

23 A You always want to solve something  
24 like this.

1 Q Right. As chief, you certainly hadn't  
2 had a case like this?

3 A No.

4 Q So on the 9th, according to these  
5 reports, you get information that Randy and Herbie  
6 are making exculp -- inculpatory statements at the  
7 Tap Room, right?

8 A Yes.

9 Q And you go right out there, right, and  
10 you go to the front and the back of the building,  
11 right?

12 A Yes.

13 Q And you go to the front and back of  
14 the building because you were going to take them into  
15 custody, right?

16 A No.

17 Q Then why did you go to the front and  
18 back? Why didn't you just walk into the bar and see  
19 if they were there?

20 A I don't know if more than one officer  
21 went into the building. Parrish may have gone in and  
22 told Randy, "Hey, we'd like to talk to you, could you  
23 come down to the PD."

24 Q Well, why did you go to the back door?

1       Isn't that the kind of law enforcement you do when  
2       you're going to take them into custody and don't want  
3       them to flee?

4               A           If they had come out of the back door,  
5       we would have asked them and then we would.

6               Q           In a way you were ensuring that he and  
7       Herbie were not going to be able to get out or flee,  
8       get out of your potential -- get them into custody,  
9       right?

10              MS. EKL:    Objection, form.

11              MR. ACKERMAN:   Same objection.

12              THE WITNESS:   Say that again.

13              BY MR. TAYLOR:

14              Q           You covered the front and back door  
15       because you didn't want them to leave and escape your  
16       attempts to question them, right?

17              A           Yes.

18              Q           Did you, in fact, take them out of the  
19       bar or did they attempt to go out the front or the  
20       back?

21              A           I don't recall that we took them out  
22       of the bar.

23              Q           So --

24              A           If we had taken them out of the bar in

1 custody, then it would indicate that.

2 Q If you took them out of the bar in  
3 custody, you would have taken them out in handcuffs,  
4 right?

5 A Probably.

6 Q Would it be fair to say that if, in  
7 fact, these statements were credible that you were  
8 getting from patrons at the bar, this was one of the  
9 first big breaks in your case, right?

10 A I wouldn't call this a break. No.

11 Q Why not?

12 A It was just a piece of information  
13 just like all the other information that we had, only  
14 it appeared to be a little more intense than what we  
15 had.

16 Q That's why --

17 A But I wouldn't call it a big break.  
18 No.

19 Q In fact, after you talked to both of  
20 them, you determined that they weren't suspects,  
21 right?

22 A We let them go. We didn't make a  
23 determination as to whether they were suspects or  
24 not. We talked to them and they left.

1 Q Well, what --

2 A As far as a determination, it's one of  
3 those things that you would definitely like to talk  
4 to them again at some point, and there were  
5 follow-ups with some of the other witnesses, I'm  
6 sure, that were talked to multiple times.

7 Q At this point, would it be fair to say  
8 that Steidl and Whitlock were suspects?

9 A They were on the list.

10 Q And you had a fairly long list at that  
11 time, right?

12 A At that time.

13 Q We've talked about some of them  
14 already, right?

15 A Yes.

16 Q And there were others? Any others you  
17 can think of?

18 A None I can think of. No.

19 Q Carrie Sexton, does that ring a bell?

20 A Who?

21 Q Carrie Sexton.

22 A Carrie Sexton? I don't recall that  
23 name. No.

24 MS. EKL: Flint, how much more do you think

1       you've got?

2                               (WHEREUPON, there was an  
3                               off-the-record discussion had by  
4                               the Parties.)

5                               (WHEREUPON, the above-entitled  
6                               cause was continued to December  
7                               12, 2008, at 1:01 p.m.)

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CONTINUED EXAMINATION

BY MR. TAYLOR:

Q You're the same Gene Ray that was  
testifying earlier today?

A That's correct.

Q And you understand you're still under  
oath; is that correct?

A That's correct.

Q Now --

MS. EKL: Just for the record, I just want to  
make you aware of the time. We're going past the --  
what is obviously the seven-hour limit that's imposed  
by law, you know, it's 14 hours, and we're not going  
today past 5:00 o'clock for all defense counsel.  
That would be way beyond the seven-hour limit  
allowable by law. But please just keep that in mind  
as you go through your questions, and tailor them  
accordingly.

MR. TAYLOR: I will be questioning him on all  
relevant areas, and if we don't finish by today, we  
will seek whatever remedy we need to seek. Let's  
proceed.

BY MR. TAYLOR:

Q From the day that you released from

1 the police station Whitlock and Steidl to the time  
2 that you picked up Darrell Herrington a couple -- two  
3 and a half months later in September, did you or  
4 anyone in the investigation, to your knowledge, take  
5 any steps to surveil either Whitlock or Herring --  
6 Whitlock or Steidl?

7 A I don't recall that there was any  
8 surveillance, unless you happen to be referring to  
9 the wires. Is that what you're referring to?

10 Q No. I'm not referring to anything.

11 A Okay.

12 Q I'm asking you specifically before  
13 September when the wires were --

14 A Okay. No. I don't recall any  
15 surveillance at that time.

16 Q Was there any attempt to have any  
17 informants obtain any information with regard to  
18 Whitlock and Steidl during that time period?

19 A Not that I'm aware of.

20 Q And what, if any, steps were taken by  
21 the investigation to attempt to further investigate  
22 whether Steidl and Whitlock might be the perpetrators  
23 of the crime?

24 A You're saying what, if any, steps were

1 taken?

2 Q What, if any, steps --

3 A What, if any? I'm not aware of any.

4 Q Now, calling your attention to  
5 September 19, 1986, did you have an occasion during  
6 that day or evening to pick up an individual by the  
7 name of Darrell Herrington?

8 A I don't recall what I did on that  
9 date.

10 Q Well, do you remember on a Friday  
11 night in September picking up Darrell Herrington and  
12 taking him to the police station?

13 A No, I don't specifically remember  
14 that.

15 Q Well, do you remember anything  
16 concerning any questioning you did of Darrell  
17 Herrington in September of --

18 A Okay.

19 Q -- 1986?

20 A You're talking about the night that  
21 Darrell first became a witness? Is that the time  
22 frame you're talking about?

23 Q That's the --

24 A I don't recall the specific date. Is

1 that the time we're talking about --

2 Q Yes.

3 A -- when Parrish and I picked him up?

4 Q Yes.

5 A Okay. That, I remember. I don't  
6 remember what the date was.

7 Q Was that a Friday night?

8 A Yes.

9 Q What were the weather conditions that  
10 night?

11 A Rain.

12 Q How did you encounter Darrell  
13 Herrington that night?

14 A Jim and I were in a car and we were  
15 driving north on Main Street, just north of the  
16 square, and we saw Darrell come out of an alley half  
17 a block off the square and start walking north, and  
18 he was very wet. So we stopped and offered him a  
19 ride to take him home.

20 Q At that point, did he appear to you to  
21 be inebriated?

22 A He was intoxicated. Yes.

23 Q Was the temperature warm? Cold?

24 A I don't recall the specific

1 temperature without looking at the daily log.

2 Q Were you and Parrish out working on  
3 the investigation at that time?

4 A We weren't specifically working on  
5 anything. We -- I was very restless, so I just  
6 happened to go into the PD and Jim was there, and we  
7 just got in a car together to patrol for a while.

8 Q What were your normal hours as the  
9 chief? When did you work?

10 A My normal hours was whenever I decided  
11 to work, but daily.

12 Q But did you have --

13 A Normally 7:00 in the morning until  
14 4:00 in the afternoon.

15 Q So this was after your normal working  
16 hours?

17 A Yes.

18 Q And then you had been home and you  
19 came back to the police station?

20 A That's correct.

21 Q Did Parrish call you to come in?

22 A No.

23 Q Would it be a daily activity log that  
24 would show what was going on on that particular day?

1 A You mean during that day?

2 Q Yeah.

3 A Yeah, there would be.

4 Q So could you tell us what time it was  
5 when you came back into the station?

6 A Oh, it would have been prior to  
7 midnight sometime. I don't remember the exact time.

8 Q But it was sometime late night in  
9 terms of --

10 A Yes. Late evening, very late evening.

11 Q After you came in, how was it that you  
12 ended up in a police car with Parrish?

13 A That's what I chose to do.

14 Q Well, as the chief, did you often ride  
15 with detectives on investigations?

16 A Sometimes I rode with detectives,  
17 sometimes I rode with patrol officers.

18 Q Would you say the bulk of your time as  
19 chief was spent in the police department headquarters  
20 or out on the street?

21 A Probably two-thirds of my time was  
22 spent in the office, the other third of the time I  
23 usually got out and made the rounds on the square,  
24 stopped into the bank if I was on foot, stopped into

1 the banks and businesses, that type of thing.

2 Q Did you have your own police vehicle?

3 A I had one that I used that was also  
4 available as a backup unit should one of the other  
5 cars fail.

6 Q Did it have a particular car number?

7 A It was car 14.

8 Q So that was one that was -- the  
9 chief's car, in other words?

10 A No, technically it wasn't the chief's  
11 car. It was a spare car that I drove.

12 Q But when you did office-related work  
13 or police-related work, you normally used that car if  
14 you were going to be out and --

15 A If I was -- yes, I would use that car  
16 if it was there. If it wasn't there, I would use  
17 something else.

18 Q Now, when you went out with Parrish,  
19 what was your destination that evening?

20 A We didn't have a destination. We just  
21 were driving around, patrolling.

22 Q Now, do detectives -- strike that.

23 Was the normal function of patrol  
24 officers to do the patrolling of the various beats

1 within the city of Paris?

2 A Well, we didn't have beats, we had the  
3 city of Paris, and everybody patrolled the city of  
4 Paris.

5 Q Was that primarily a patrolman's  
6 function?

7 A Well, "patrol" can mean different  
8 things. You're a patrolman and you're patrolling,  
9 you may be doing building security, that type of  
10 thing, or traffic enforcement or something of that  
11 nature.

12 If you're a detective/investigator,  
13 you could be checking the whereabouts of individuals  
14 as to where their car was parked or that type thing,  
15 looking for somebody that you couldn't find in the  
16 daytime but could likely be found at night.

17 Q So that would be more of an  
18 investigative patrol, looking for specific  
19 information or individuals; is that right?

20 A It could very well be, yes, but --

21 Q And when you went out with Parrish  
22 that night, were you looking for particular  
23 individuals or information?

24 A No, we weren't. I mean, I wasn't.

1 Jim was there. I don't know what he was doing or  
2 what he had in mind, but I just got in the car and  
3 rode with him for a while.

4 Q How often did you ride with Parrish  
5 when you went out on this kind of detective patrol?

6 A Not very often.

7 Q Can you think of any other instance  
8 other than this evening?

9 A Not off the top of my head. No.

10 Q Would it be fair to say it was  
11 somewhat unusual for you to go out on investigations  
12 with detectives in their car?

13 A Yes.

14 Q Were you in radio contact with the  
15 dispatcher while you were with Parrish?

16 A Yes.

17 Q Was Parrish working a particular shift  
18 when -- during this period of time?

19 A During this period of time, you worked  
20 as required.

21 Q So --

22 A So he could be working all day and he  
23 could be working half the night.

24 Q This was two, three months after the

1 Rhoads killings, right?

2 A Yes.

3 Q Was it because the Rhoads  
4 investigation was still pending that people were  
5 working as required?

6 A Jim was working as required. All the  
7 other officers on the department had their normal  
8 shifts.

9 Q So he was -- because of his focus as  
10 the key person or one of the key people from your  
11 department involved in the unsolved murders, he  
12 was -- you had him on a much more accelerated type of  
13 schedule; is that right?

14 A I didn't give Jim a specific shift.  
15 He worked as he needed to work to gather the  
16 information that he needed to gather.

17 Q Was --

18 A So I didn't tell him to work ten hours  
19 or 12 hours or anything of that nature.

20 Q Did you notice that he was working a  
21 lot during that period of time?

22 A Yes. I knew he was.

23 Q Would you be seeing his time sheets,  
24 so you knew how much he was working?

1           A           I would see his time sheets, but, as I  
2           recall, the time sheets didn't always reflect the  
3           amount of work that he was putting in.

4           Q           So they understated the amount of  
5           hours he was putting in?

6           A           There were times that nothing was  
7           happening that he didn't write his time down. I  
8           didn't have a specific thing on his hours. I mean,  
9           he did his time sheet, I reviewed it.

10          Q           Was he working exclusively on the  
11          Rhoads investigation or was he also working on other  
12          cases?

13          A           There were other cases. A lot of the  
14          smaller stuff got handed off to Wheat, but Jim's time  
15          was primarily focused on the Rhoads investigation.  
16          But that doesn't mean to say there weren't times that  
17          he was working on something else.

18          Q           Did Eckerty have a -- did he work out  
19          of the Paris physical plant, the police department,  
20          when he was working on the investigation?

21          A           For the most part.

22          Q           Did he have an office that he was  
23          working out of?

24          A           Our office.

1 Q But, I mean, within --

2 A There was --

3 Q -- in the building?

4 A Yes. There was an office in the back  
5 where the detectives had their office, and that's  
6 where he worked out of.

7 Q And when the other ISP investigators  
8 were in town working, did they also work out of that  
9 office?

10 A Yes.

11 Q Did McFatrige come there when you  
12 were having joint discussions about the  
13 investigation, or did you go to his office or what?

14 A Both. I think most of the time it  
15 probably occurred at his office, but I'm sure there  
16 were some times that he was down at ours.

17 Q Where did you say the alley was that  
18 you saw Darrell walk out of?

19 A A half a block south of the square on  
20 Main Street.

21 Q Did you say you saw him coming out of  
22 a tavern?

23 A Coming out of the alley.

24 Q And was there a tavern in the

1 vicinity?

2 A There was a tavern on the opposite  
3 side of the alley where he came out of. Yes.

4 Q What's the name of that tavern?

5 A That's the one I couldn't remember the  
6 other day. It's the one that's on -- right next to  
7 the old CIPS office. I don't recall the name of that  
8 tavern.

9 Q Is it still there?

10 A No.

11 Q Is there a tavern there now?

12 A That's a tavern in the old CIPS  
13 office.

14 Q What's CIPS?

15 A Central Illinois Public Service  
16 Utility Company.

17 Q So you pulled up next to Darrell and  
18 offered him a ride?

19 A Well, we didn't pull up next to him.  
20 We pulled up, rolled the window down, and said, "Hey,  
21 Darrell, get in, we'll take you home."

22 Q So you weren't taking him into custody  
23 for anything at that time?

24 A We said we would take him home.

1 Q Did you, from time to time, take  
2 Darrell home when you found him wandering around, so  
3 to speak, inebriated?

4 A I've done it, and there's a  
5 possibility that others have done it, too.

6 Q How often would you say that you've  
7 done it?

8 A Oh, probably two, maybe three times,  
9 over the years.

10 Q How many times were you aware of that  
11 detectives such as Parrish would have done it?

12 A I wasn't aware of any times.

13 Q This is one of the two or three times  
14 that you've been involved with it over your career?

15 A Yes. This is back when I was on  
16 patrol.

17 Q Any other occasion other than this  
18 time while you were chief that you had been involved  
19 in picking up Darrell and taking him home?

20 A I don't recall any other instances.

21 Q So did you -- what was the name of the  
22 guy that you anointed as the town drunk?

23 MS. SUSLER: "Squeaky."

24 THE WITNESS: "Squeaky" Forcum.

1 BY MR. TAYLOR:

2 Q Did you use to pick up "Squeaky," from  
3 time to time, and take him home?

4 A Sometimes. But most of the time when  
5 you woke "Squeaky" up, you had a fight on your hands,  
6 so most of the time we left him alone.

7 Q Were there any other town drunks that  
8 you took home, from time to time?

9 A None that I can recall off the top of  
10 my head.

11 Q Now, when you picked Darrell up, did  
12 it appear that he was -- he was coming out of an  
13 alley, so you didn't know where he was going?

14 A Didn't know where he was going. No.

15 Q What direction from where you picked  
16 him up was his house?

17 A Opposite.

18 Q What do you mean, "opposite"?

19 A He was going north and his house is  
20 south.

21 Q So he was coming out of an alley,  
22 going in the opposite direction from his house?

23 A Yes.

24 Q And you said, "Darrell, come on, I'll

1 give you a ride"?

2 A "Get in and I'll take you home."

3 Q And you were in Parrish's car or your  
4 own?

5 A I've thought about this. I thought I  
6 was in my squad, but we could have been in Parrish's.  
7 I just don't remember specifically.

8 Q But you were in a police auto and --

9 A Yes. It was --

10 Q -- had your personal radio?

11 A -- one of the police vehicles.

12 Q And you were going in what direction  
13 when you saw him?

14 A We were going north. One-way north is  
15 Main Street.

16 Q But then the alley, though, if it  
17 emptied out onto Main Street, it wouldn't have been  
18 going --

19 A The alley was east and west.

20 Q How did you know he was going in the  
21 opposite direction if he was coming out of an alley?

22 A He had already turned the corner,  
23 going north.

24 Q Did you ask him where he was going?

1           A           No.

2           Q           So what did he say when you said,  
3 "Here, we'll give you a ride home"?

4           A           "Okay." And got in the backseat of  
5 the car.

6           Q           Were you driving or was Parrish?

7           A           Well, there were times I thought I was  
8 driving, but I might not have been. That's one of  
9 the areas I don't specifically recall. If I was in  
10 Parrish's car, he would have been driving. If we  
11 were in my old car, I would have been driving.

12          Q           So you don't remember as you sit here  
13 now?

14          A           I can't say with certainty.

15          Q           Both of you would have been in the  
16 front seat?

17          A           Yes.

18          Q           And after you got him into the car,  
19 what did you do in terms of the vehicle?

20          A           Put it in gear and started taking him  
21 home.

22          Q           So you had to turn around, right?

23          A           No. Main Street is one-way north, so  
24 we couldn't turn around. We had to go to an

1 intersection, and the square is one way around the  
2 square, so we had to go at least a block and a half  
3 before we could have made a turn to the south.

4 Q Is that what you did?

5 A I don't remember the specific route  
6 that we took to take him.

7 Q How far down [REDACTED] did he live  
8 south?

9 A [REDACTED]

10 Q Did you take him all the way to his  
11 house or -- or what happened?

12 A No. We didn't get to his house. At  
13 some point -- I don't recall the exact spot or how  
14 long we had been in the car, but he blurted out that  
15 "Whatever you do, don't ask me about the murders."

16 Q This is just a chance -- what's the  
17 word I'm looking for -- encounter that you had with  
18 him, right?

19 A Yes.

20 Q And you had only picked him up once or  
21 twice in the past prior to this time, right?

22 A I had picked him up once or twice in  
23 the past during my patrol days.

24 Q Right. Before this time.

1           A           Yes.

2           Q           How far had you gone down Main Street  
3 or whatever street --

4           A           Central.

5           Q           -- Central -- to the south had you  
6 gotten before Darrell blurted this out, according to  
7 you?

8           A           I still don't remember.

9           Q           Were you more than halfway or --

10          A           I don't know. I don't remember.

11          Q           Was there conversation going on before  
12 he blurted this out?

13          A           Yes. Probably. I don't recall what  
14 was being said or anything like that, but Darrell was  
15 in the back, talking. We were having a conversation,  
16 and at some point he blurted that out.

17          Q           Were you asking him questions?

18          A           No. No, we weren't questioning him.  
19 We were taking him home.

20          Q           So it was totally out of the blue that  
21 he said this --

22          A           Yes.

23          Q           -- unrelated to anything that you and  
24 Parrish were talking to him about?

1           A           Right.

2           Q           And what happened when he said that?

3           A           I looked at Jim, and it's just kind of  
4 one of those profound things that you can't believe  
5 you heard what you heard. So at that time we turned  
6 and went back to the police station.

7           Q           Right. And at that point when he  
8 said, "Don't ask me about the murders," you felt that  
9 was a case-breaker, right?

10          A           We felt that was a pretty significant  
11 statement at that point anyway. We didn't have any  
12 information other than that remark, but we decided  
13 that we would like to talk to him further.

14          Q           Well, you had quite a bit of  
15 information from other people that had to do with  
16 what they said people were saying about the murder,  
17 right?

18          A           Well, we had that information. But  
19 I'm saying that we needed to talk to Darrell some  
20 more.

21          Q           At this point, you hadn't had any --  
22 you still didn't have any leads -- strike that.

23                      You still had not solved the crime,  
24 right?

1           A           Well, that's correct.

2           Q           And you didn't have probable cause to  
3 believe that any particular person or persons had  
4 committed the crime; is that right?

5           A           We didn't have enough information to  
6 make an arrest, if that's what you're saying.

7           Q           Well, you need probable cause to make  
8 an arrest, right?

9           A           Right.

10          Q           That made you and Parrish quite  
11 receptive as to what Darrell might have been talking  
12 about; is that right?

13          MS. EKL:    Objection, form.

14          THE WITNESS: I don't know about receptive.  
15 We were interested in what he had to say.

16          BY MR. TAYLOR:

17          Q           Very interested, right?

18          A           Yes.

19          Q           So you turned the car around and  
20 headed to the police station?

21          A           Yeah. Yes.

22          Q           Did you ask Darrell, "Is it all right  
23 if I come down and if I ask you what you just told us  
24 not to ask you about?"

1           A           We probably made some remark to some  
2           respect that, "Darrell, we need to discuss this  
3           further, so come on in and we'll talk about this."

4           Q           Did he say, "No thanks, I want to go  
5           home"?

6           A           If he had said that, we would have  
7           taken him home.

8           Q           You're saying he didn't say that?

9           A           He walked in and sat down.

10          Q           But he made no protest whatsoever? He  
11          knew you were turning the car around, or was he too  
12          drunk to know where you were headed?

13          A           Well, I don't know what was in his  
14          head, so I don't know if he knew we turned the car  
15          around.

16          Q           But you knew whatever he was saying  
17          was totally nonresponsive to what you were saying and  
18          was said in a drunken state, right?

19          MS. EKL:    Objection to form.

20          THE WITNESS:   What's the difference between  
21          drunken and intoxicated? Is there a difference in  
22          the definition?

23          BY MR. TAYLOR:

24          Q           Well, I'm not making one. Are you?

1           A           Well, "drunken" implies totally out of  
2 control. "Intoxicated" implies that you've had some  
3 drinks, too many drinks.

4           Q           Well, as a police officer, "drunk" and  
5 "intoxicated" basically means the same thing, doesn't  
6 it?

7           A           Well, if you say, "Are you drunk" or  
8 "Are you intoxicated?" Yes, that means the same.  
9 But if you're implying that he was in a drunken  
10 state, which means to me that he was slobbering and  
11 laying on the backseat or the floorboard, then that's  
12 not what he was.

13          Q           He was drunk when he said this, right?

14          A           Yes. He was intoxicated.

15          Q           But he was -- he was passive in the  
16 sense that he didn't protest when you turned around  
17 and headed to the station?

18          A           No, he didn't.

19          Q           So you took him to the station, right?

20          A           Yes.

21          Q           Now, is it before midnight or after  
22 midnight?

23          A           Close to midnight. I don't know what  
24 side of midnight we were on.

1           Q           Now, did you -- given the significance  
2 of what you felt he had said, did you contact Eckerty  
3 at that point?

4           A           No.

5           Q           All right. Was there anyone else at  
6 the police station when you got there?

7           A           As I can recall, I think it was just  
8 Jim and I there initially.

9           Q           So --

10          A           I don't recall that we called anybody  
11 else.

12          Q           So had you basically closed the  
13 station down when you left to go for the ride or was  
14 there anybody --

15          A           The station is never closed down.

16          Q           So who was there?

17          A           The dispatcher.

18          Q           And who was working that night?

19          A           I don't recall.

20          Q           Were all the dispatchers female?

21          A           We've had male dispatchers at some  
22 points.

23          Q           Well, I'm asking you then, back in  
24 '86.

1           A           Well, I don't specifically recall who  
2 was working at that time. We may have had a male  
3 dispatcher at that time. I don't know.

4           Q           Where did the dispatcher sit?

5           A           In the front of the building.

6           Q           Where did you take Darrell?

7           A           Back of the building.

8           Q           Were there several entrances to the  
9 building?

10          A           Front and back door.

11          Q           Where did you bring Darrell in?

12          A           Probably the back door.

13          Q           Would you have been informing the  
14 dispatcher that -- the way that the log shows that we  
15 looked at previously for the 9th of July, would you  
16 have been informing him or her of your progress in  
17 terms of picking Darrell up and bringing him back to  
18 the station?

19          A           May or may not have.

20          Q           Well, if you were following normal  
21 police procedure, you would have given those various  
22 10-whatevers, like, back in service, picking someone  
23 up, coming back to the station, all those different  
24 things that you said and others said on the 9th, you

1 would have said in the context of bringing Darrell  
2 back to the station, wouldn't you?

3 A Not necessarily.

4 Q Why not?

5 A Sometimes I came and left the police  
6 department without calling in or out of the car if I  
7 had a person to see or something like that. If I  
8 walked up to the front, city hall, to see the city  
9 administrator, I didn't always tell them where I was  
10 going because I always had a radio. If they had to  
11 get a hold of me, they could.

12 Q Well, how about Parrish? Was he  
13 expected to chart his comings and goings like he did  
14 on the 9th of July with the dispatcher? Was he  
15 expected to report his whereabouts while on duty when  
16 out of the police station as part of the procedures  
17 of the police department as he did on July 9th?

18 A I don't recall whether we said we were  
19 in the back or not. We may have walked in the back  
20 door and we may have called up front on the phone and  
21 said, "We're in the back room."

22 Q But the dispatcher would not have  
23 known unless you informed her or him that you came in  
24 the back of the building, because you came in the

1 back door and they sat in the front, right?

2 MS. EKL: Objection, foundation.

3 THE WITNESS: They can usually hear the door  
4 slam.

5 BY MR. TAYLOR:

6 Q So they knew somebody was coming in,  
7 right?

8 A Yes.

9 Q When you brought Darrell into the  
10 interview room, did both you and Parrish go in there  
11 with him?

12 A Yes.

13 Q Were you armed at this time?

14 A I probably was because I usually  
15 didn't get in the squad car unless I was armed.

16 Q Was Parrish armed?

17 A Yes.

18 Q Where did you carry your weapon?

19 A That evening it would have been -- I  
20 wouldn't have been in uniform, so it would have been,  
21 you know, back -- back holster.

22 Q Was it visible?

23 A It could have been. I don't know what  
24 the weather was. If the weather was cool, I might

1 have had a Windbreaker on. In that case, I was  
2 carrying a shoulder holster.

3 Q When you came inside, you most likely  
4 would have taken the Windbreaker off and your gun  
5 would probably be visible; is that right?

6 A Probably.

7 Q Parrish, where was he carrying his gun  
8 that night?

9 A Let's see. He was right-handed, I  
10 believe, so his would have been on the right side.

11 Q You're pointing to the shoulder? You  
12 mean a shoulder holster?

13 A No, on the hip.

14 Q Back of the hip or the --

15 A On his hip.

16 Q So the handle of the gun would have  
17 been in a holster, right?

18 A Yes.

19 Q So you would have been able to see the  
20 gun if he didn't have some kind of coat --

21 A Yes.

22 Q -- covering it, right?

23 A Yes.

24 Q Did you have any occasion to search

1 Darrell before you brought him in?

2 A No.

3 Q You had no worries that he would be  
4 armed?

5 A No.

6 Q Did you ever know Darrell to carry a  
7 gun or a knife or anything like that?

8 A No.

9 Q When he had been alleged to have been  
10 violent with his wife Betty, did he ever use any kind  
11 of weapon?

12 A Not that I'm aware of.

13 Q Now, you bring him in around midnight,  
14 right?

15 A Yes.

16 Q Okay. Did you normally carry a radio  
17 with you personally? Was there a kind that you would  
18 carry with you or would it be in the car or --

19 A Well, there was a radio in the car and  
20 we had portables. When I was in uniform or normally  
21 in the car, I normally tried to keep my radio with  
22 me. I left my radio at the station, so, I mean, I  
23 didn't take it home with me.

24 Q When you brought Darrell in, did you

1 start to question him?

2 A At some point. Yes.

3 Q At what point?

4 A Well, we probably sat there for a  
5 minute or two or three. I mean --

6 Q Before you started to question him,  
7 did you give him any kind of Miranda warnings?

8 A I don't recall.

9 Q Given what you said you knew at the  
10 time, that he had said, "Don't question me about the  
11 murders," did -- would it have been appropriate to  
12 give him Miranda warnings?

13 MS. EKL: Objection, calls for a legal  
14 conclusion.

15 THE WITNESS: We didn't give everybody else  
16 that we talked to the Miranda warnings, so there was  
17 no reason to treat this one any differently.

18 BY MR. TAYLOR:

19 Q So you weren't giving anybody  
20 warnings?

21 A Not in interviews. No.

22 Q So after you started -- how did you  
23 start out the questioning?

24 A I don't recall.

1           Q           Were both you and Parrish questioning  
2           him?

3           A           One at a time. We weren't ganging up  
4           on him, if that's what you mean.

5           Q           Well, you were both there --

6           A           We were both there.

7           Q           And you would take turns asking  
8           questions?

9           A           Yes.

10          Q           Were you sitting at some sort of a  
11          table?

12          A           Yes, there was a table.

13          Q           How big of a room is this?

14          A           Oh, the room was probably 10 by 12 or  
15          12 by 12. I don't remember the exact dimensions, but  
16          it wasn't a huge room.

17          Q           So there was a table and, I take it,  
18          some chairs?

19          A           Table, chairs.

20          Q           Anything else in the room?

21          A           Probably a cabinet. There was a  
22          cabinet along one wall, I think, because it was  
23          remodeled once, so there would have been a cabinet on  
24          the east wall, I believe.

1 Q Was there a phone in the room?

2 A Yes.

3 Q And was there any kind of recording  
4 device that was available to record any of the  
5 statements that you were taking?

6 A We didn't have -- you mean, on the  
7 phone?

8 Q No. I mean --

9 A Oh, we would have had a tape recorder  
10 available. Yes.

11 Q Did you use a tape recorder that  
12 evening?

13 A Don't recall.

14 Q Do you know if there was any kind of  
15 tape made of what Darrell said that evening?

16 A No. Don't recall.

17 Q Was there any type of practice or  
18 procedure of when, if at all, you would use a tape  
19 recorder in taking a statement from a witness or  
20 suspect?

21 A If we had an individual that had  
22 admitted complicity in some type of event, then we  
23 would record that.

24 Q Any other circumstances where you

1 would record?

2 A Nothing comes to mind.

3 Q So you made a decision, you and  
4 Parrish, not to record what Darrell was saying?

5 A Well, apparently.

6 Q Okay. Was this the first time in the  
7 Rhoads investigation that you had participated in the  
8 questioning of a witness or suspect, or had you been  
9 involved in other prior questionings?

10 A No. This would have been the first  
11 time.

12 Q Did you contact your wife and let her  
13 know that you might be out even later that night?

14 A No, and I got in trouble for it.

15 Q For not, right?

16 A For not calling her. Yes.

17 Q Your wife's name is [REDACTED] right?

18 A That's correct.

19 Q [REDACTED]

20 [REDACTED]

21 A [REDACTED]

22 Q [REDACTED]

23 A [REDACTED] [REDACTED]

24 Q [REDACTED]

1 A [REDACTED]

2 Q [REDACTED]

3 [REDACTED]

4 A [REDACTED]

5 [REDACTED]

6 Q Now, when you started to question  
7 Darrell, what kinds of questions were you and Parrish  
8 asking?

9 A Just trying to determine what he meant  
10 by "Don't ask me about the murders."

11 Q So all three of you were sitting  
12 around the table?

13 A Yes.

14 Q At that point, were you familiar with  
15 a kind -- are you familiar with a kind of questioning  
16 technique that was called good cop/bad cop or Mutt  
17 and Jeff? It was called various --

18 A I've heard that. Yes.

19 Q Were you familiar with how to do such  
20 a kind of questioning?

21 A No.

22 Q You knew generally that one cop would  
23 be nice to the witness and the other would be --

24 A I knew that -- the other would be

1 heavy-handed.

2 Q Right.

3 A But I wasn't familiar with that type  
4 of questioning. I wasn't practiced in it.

5 Q Right. In fact, you had never been a  
6 detective, right?

7 A Right.

8 Q So you really didn't have a lot of  
9 experience in the kind of interrogation or  
10 questioning that was happening with Darrell  
11 Herrington, right?

12 MS. EKL: Objection, form, foundation.

13 THE WITNESS: I didn't have what now?

14 BY MR. TAYLOR:

15 Q A lot of experience in that kind of  
16 questioning.

17 A No, I didn't.

18 Q But Parrish had?

19 MS. EKL: Ob --

20 THE WITNESS: Yes.

21 BY MR. TAYLOR:

22 Q That's what he was paid to do  
23 basically in the department, right?

24 A (Witness nodding head.)

1 MS. EKL: Objection to the previous questions  
2 referring back to your phrase the "kind of  
3 questioning" that was being done of Darrell  
4 Herrington.

5 MR. TAYLOR: Well, he nodded his head yes.

6 BY MR. TAYLOR:

7 Q So your answer is yes?

8 A Jim had done more than I had.

9 Q That's what he was basically paid to  
10 do --

11 A Yes.

12 Q -- in the department?

13 A That was his job responsibility. Yes.

14 Q Did he take the lead in the  
15 questioning with Darrell or did you, because you had  
16 the relationship with him?

17 A I don't specifically remember how we  
18 talked to Darrell.

19 Q Would it be fair to say that you --  
20 one of the reasons you were involved in the  
21 questioning was because you did have a relationship  
22 with Darrell?

23 A Well, I suppose so. Again,  
24 "relationship," I don't know what you mean by

1 "relationship." He's somebody that I knew.

2 Q Well, he trusted you, didn't he?

3 MS. EKL: Objection, foundation.

4 THE WITNESS: I don't know whether he did or  
5 not. He never said that he trusted me, he didn't say  
6 that he didn't trust me.

7 BY MR. TAYLOR:

8 Q But at the very least, you knew each  
9 other and he wasn't hostile to you on the occasions  
10 that you -- and you had helped him out, from time to  
11 time, hadn't you?

12 A Yes. I arrested him, from time to  
13 time.

14 Q You arrested him but also helped him  
15 out --

16 A Yes.

17 Q -- through taking him home, helped him  
18 out on at least one other occasion on this case,  
19 right?

20 MS. EKL: Objection, foundation.

21 THE WITNESS: What do you mean by "one other  
22 occasion"?

23 BY MR. TAYLOR:

24 Q On one occasion with regard to his

1       DUI.

2               MS. EKL:  Objection, foundation.  What time  
3       periods are you talking about now?

4               MR. TAYLOR:  Okay.  Let me withdraw it.

5       BY MR. TAYLOR:

6               Q           So how did the questioning start?  
7       What kinds of questions were asked?

8               A           Well, I don't recall the specific  
9       questions, but you would start by, "What do you mean  
10      by 'Don't ask me about the murders'?"  And you start  
11      there.

12              Q           What did he say?

13              A           Huh?

14              Q           What did he say?

15              A           I don't recall specifically the first  
16      answer out of his mouth.  He generally admitted that  
17      he knew something but that he didn't want to say, and  
18      that he had a fear for his safety if he did tell us.

19              Q           Did he tell you whom he feared?

20              A           He would never outright say it  
21      initially.

22              Q           By "initially," what do you mean?

23              A           Well, during the first hour or two.

24              Q           All right.  So for an hour or two, he

1 was saying he knew something about the murders --

2 A Yes.

3 Q -- but he wasn't saying what he knew?

4 A He would give us little pieces at a  
5 time, and then as -- as we continued to question him,  
6 he gradually gave us a little more information, and  
7 that led us to believe that in all probability -- it  
8 was a high probability that he had actually been in  
9 the house because he was talking about things that we  
10 had not released to the public.

11 Q What did he tell you that was not  
12 released to the public?

13 A I don't recall specifically, but I do  
14 remember one time his motions of indicating of  
15 stabbing with a knife, indicating multiple stab  
16 wounds.

17 Q You're saying that three months after  
18 the offense happened, that it was not public  
19 knowledge in the town of Paris that there were --  
20 that these people were killed with multiple stab  
21 wounds?

22 A Multiple, but not how multiple.

23 Q In other words, it wasn't known  
24 whether it was ten or 20 or 30 stabs?

1           A           Or three.

2           Q           And Darrell told you how many stab  
3 wounds you knew there was?

4           A           He didn't say. No.

5           Q           What did he say that led you to  
6 believe that he knew more about the stabbings than  
7 was publicly known either from the rumor mill or in  
8 the media in Paris?

9           A           He had indicated the information about  
10 the mattress and the sheet, that type of thing.

11          Q           What did he say about the mattress?

12          A           The blood.

13          Q           All right. So he -- he told you that  
14 he saw blood on a mattress?

15          A           Yes.

16          Q           All right. Wouldn't that have been  
17 something that anybody would have known in Paris --

18          A           Yes.

19          Q           -- three months later?

20          A           Yes.

21          Q           What else did he tell you, if  
22 anything, that occurred to you to be something that  
23 he knew only because he witnessed the events rather  
24 than from the -- both the known and the rumored

1 information in Paris three months after the crime?

2 A I don't specifically recall at the  
3 time he said it. It wasn't significant to me because  
4 I don't -- I didn't recall that particular  
5 information. But after reading some of the re --  
6 reports and -- on the interviews and his testimony,  
7 that type thing, it indicated that he had put a  
8 pillow over her face.

9 Q Is that Darrell Herrington, himself?

10 A Yes. Yes.

11 Q Why was that significant?

12 A That was something that nobody knew.

13 Q All right. Well, that was in a report  
14 somewhere?

15 A That was in some information  
16 somewhere. Yes.

17 Q That a pillow -- when her body was  
18 found, there was a pillow on her head?

19 A Yes. I believe so.

20 Q Was there anything else that he told  
21 you that, in your opinion, was something that either  
22 the general public or a person who was interested in  
23 what had happened at the scene would not have known?

24 A Nothing that I can recall.

1 Q All right. Now, at some point -- how  
2 long did you question him for that morning, early  
3 mor -- in these early-morning hours of Saturday,  
4 September 20th?

5 A I don't recall the exact time frame.  
6 I know there were times that we stopped and took a  
7 bathroom break and coffee break and that type thing.  
8 So it wasn't an intense thing.

9 Q At any time did Darrell ask you for  
10 any alcoholic beverage?

11 A No.

12 Q You know he testified that you gave  
13 him some alcohol at the police station. You're  
14 saying you didn't?

15 MS. EKL: Objection, foundation, assumes facts  
16 not in evidence.

17 THE WITNESS: When was this?

18 BY MR. TAYLOR:

19 Q At one of the trials or in an  
20 affidavit.

21 A No. When did we give him --

22 MS. EKL: Objection.

23 BY MR. TAYLOR:

24 Q Oh. In the police station at some

1 time.

2 A Any particular time? What are we  
3 referring to?

4 Q Let's fix the time. How long was  
5 Darrell at the police station on the -- after you  
6 brought him in late on the 19th? When did he leave  
7 the station?

8 A Probably we were there until at least  
9 5:00, if not a little later.

10 Q In the morning?

11 A Yes. I don't recall the exact time.

12 Q Where did you take him after that?

13 A I don't recall that I took him  
14 anywhere. I don't know where he went, unless he went  
15 back home.

16 Q So you released him -- you let him go  
17 at that point?

18 A Well, I don't re --

19 MS. EKL: Objection, form.

20 THE WITNESS: I don't recall what happened to  
21 him at that time. I don't know where he went. I  
22 don't know what happened.

23 BY MR. TAYLOR:

24 Q So at any time from, say, midnight

1       when you got him in the interview room until 5:00  
2       a.m. when he left the police station, did you bring  
3       him any alcoholic beverages?

4               A           Not that I recall.

5               Q           Did you take him out at any time  
6       during those five hours so that he could get a drink  
7       anywhere?

8               A           No.

9               Q           So it's your testimony that he had no  
10      additional alcohol from 12:00 midnight until 5:00 in  
11      the morning when you let him go?

12              A           Not that I recall, not that I remember  
13      that he had any, and we wouldn't have given him any  
14      if he asked for it.

15              Q           Was there any kind of regulation or  
16      procedure in the police department which forbade you  
17      from bringing alcoholic beverages into the police  
18      station for purposes of giving them to a witness in  
19      order to help facilitate questioning of that  
20      witnesses -- witness?

21              A           You don't do it. I don't know that  
22      there was a rule or regulation, but it's something  
23      that we didn't do.

24              Q           It's your testimony that you had never

1 done that --

2 A Not to my knowledge.

3 Q -- in the past? And is it your  
4 testimony that you did not do it with regard to  
5 Darrell Herrington or that you don't recall doing it?

6 A I don't recall doing it.

7 Q So it's possible you did, but you  
8 don't remember?

9 A I think if we had done that, I would  
10 have remembered that.

11 Q All right. Now, from that five-hour  
12 period, Darrell named a couple of people that he said  
13 were involved in the murder, didn't he?

14 A He could have. Yes.

15 Q And, in fact, didn't he tell you the  
16 names of two people named Jim and Ed?

17 A I don't recall those particular names,  
18 Jim and Ed.

19 Q You recall him giving you two names,  
20 but you don't remember what they are?

21 A I remember that he gave me two names,  
22 yes, but I don't recall that he gave me four names.

23 Q All right. Are you saying that by the  
24 time you let him go home or wherever he went at 5:00

1 a.m., you remember him giving you two names?

2 A I remember two names. Yes.

3 Q What two names are you telling us that  
4 you remember?

5 A Randy and Herbie.

6 Q You're saying that he had told you  
7 "Randy" and "Herbie," meaning Randy Steidl and Herbie  
8 Whitlock, sometime between 12:00 and 5:00 in that  
9 first session you had at the police station, right?

10 A Well, by "first session," you mean  
11 that five-hour time period?

12 Q Yes.

13 A Yes. During that time period, he said  
14 that.

15 Q When during that period?

16 A It was later, more than halfway  
17 through. I mean, I don't recall the exact time.

18 Q So sometime at 3:00 o'clock or  
19 sometime after 3:00 o'clock in the morning?

20 A Probably.

21 Q Did he tell you anything about -- but  
22 you don't remember him previously to that or  
23 subsequent to that saying the two people were Jim and  
24 Ed?

1           A           No, I don't recall him saying that,  
2           Jim and Ed.

3           Q           You know that he has said he said  
4           that, right?

5           MS. EKL:    Objection.  You're making stuff up.  
6           Assumes facts not in evidence.

7           MR. TAYLOR:  Al right.  We will take a little  
8           more time and bring him back.  I'll find the  
9           document.

10          BY MR. TAYLOR:

11          Q           You know that it's been documented  
12          that he told -- detailed to investigators that he  
13          first said "Jim" and "Ed," don't you?

14          A           I heard that.  Yes.

15          Q           Does that refresh your recollection  
16          that he did tell you that?

17          A           No, it doesn't.

18          Q           Now, Parrish as the detective and you  
19          as the chief, either during -- were you taking notes,  
20          either of you, during this five-hour session?

21          A           I wasn't.

22          Q           Well, Parrish as the detective with  
23          all the experience in interrogating witnesses, was  
24          he?

1 A I don't recall.

2 Q You weren't taping it?

3 A No.

4 Q And you don't remember if he was  
5 taking notes?

6 A No. I don't remember.

7 Q If he took some goods notes or you  
8 took notes -- strike that.

9 In a situation where two officers are  
10 questioning a witness or a suspect, normally one will  
11 take notes, right?

12 MS. EKL: Objection to form, specifically the  
13 word "suspect."

14 THE WITNESS: It's possible, yes, that one  
15 could take notes.

16 BY MR. TAYLOR:

17 Q Weren't you taught that in basic  
18 training about questioning witnesses or suspects,  
19 that if two officers were involved, one would take  
20 notes and the other would take primary responsibility  
21 for the questioning, right?

22 A Okay.

23 Q That's right, isn't it?

24 A Normally. Yes.

1           Q           And, in fact, in this situation, would  
2           it be fair to say that Parrish had primary  
3           responsibility for the questioning, and you, under  
4           normal circumstances, would have been the one charged  
5           with taking the notes, right?

6           MS. EKL:    Objection, form of the question.

7           THE WITNESS:  Not necessarily.  You could talk  
8           and take notes, too.  It wasn't like we had agreed  
9           ahead of time to the Mutt and Jeff thing, if that's  
10          what you're meaning.

11          BY MR. TAYLOR:

12          Q           No.  What I'm trying to find out is  
13          wouldn't it have been normal practice for one of the  
14          two of you to take notes when you got this very  
15          significant break in your case?

16                    You got a guy now talking about the  
17          murders, he's naming people involved in the murders,  
18          he's telling you stuff that you think only he would  
19          know if he were involved in some way in witnessing or  
20          participating in the murders.  Shouldn't you have  
21          taken notes?

22          A           Well, I would have thought there were  
23          notes taken.

24          Q           Were there?

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

2           Q           You've never seen any notes, have you?

3           A           No.

4           Q           Have you ever seen a report that in  
5           any way documents the fact that a witness for the  
6           first time is not only saying that he witnessed this  
7           double murder but that he's giving you information  
8           that you feel is credible in terms of that he only  
9           could know this information if he were a witness, and  
10          he's giving you two names, or four names for that  
11          matter?

12                               (WHEREUPON, there was a long pause  
13                               by the Witness.)

14                               You may answer the question.

15          A           I'm sorry. I thought it was a  
16          statement.

17          Q           No. It was a question. Do you want  
18          me to have it read back?

19          A           Yes, please.

20          MR. TAYLOR: Could you read it back, please?

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

23                               "Question: Have you ever seen a  
24                               report that in any way documents

1                   the fact that a witness for the  
2                   first time is not only saying  
3                   that he witnessed this double  
4                   murder but that he's giving you  
5                   information that you feel is  
6                   credible in terms of that he  
7                   only could know this information  
8                   if he were a witness, and he's  
9                   giving you two names, or four  
10                  names for that matter?")

11                 THE WITNESS: I've never seen a report. No.

12                 BY MR. TAYLOR:

13                 Q           It would be highly unusual and  
14                 contrary to any kind of police practice that you  
15                 would know of not to have a report on this, wouldn't  
16                 it?

17                 A           Yes, it would be unusual.

18                 Q           And, in fact, it would be important to  
19                 anybody that would end up defending Steidl and  
20                 Whitlock with Herrington as a witness to have  
21                 documentation of when Herrington identified two other  
22                 people other than Steidl and Whitlock as the persons  
23                 that were involved in the murder?

24                 MS. EKL: Objection, foundation.

1 BY MR. TAYLOR:

2 Q Do you agree with me on that?

3 A It would be what, unusual?

4 Q No. Important.

5 A Important.

6 Q Important to the lawyers to have that  
7 information.

8 MS. EKL: Same objection.

9 THE WITNESS: Yes.

10 BY MR. TAYLOR:

11 Q And it would be doubly important for  
12 them to have it in writing with time and place and  
13 who was there and the details of what Herrington said  
14 with regard to Jim and Ed, wouldn't it be?

15 MS. EKL: Same objection, foundation.

16 THE WITNESS: Yes.

17 BY MR. TAYLOR:

18 Q And yet we have nothing that you know  
19 of in writing by experienced Detective Parrish or the  
20 chief of police with regard to that session and  
21 particularly what Herrington said about Jim and Ed;  
22 am I right?

23 MS. EKL: Objection, foundation.

24 THE WITNESS: Yes.

1 BY MR. TAYLOR:

2 Q Now, you got the information that you  
3 said, at least two names and all sorts of new and  
4 unique information from Darrell, and you let him go,  
5 right?

6 A I don't know that we did. I don't  
7 know what happened to Darrell after we were finished.  
8 He may have gone home and we may have continued.

9 Q You went home? Is that why you don't  
10 know what happened to him?

11 A No. I think Jim and I went to  
12 breakfast.

13 Q Where was Darrell when you went to  
14 breakfast?

15 A I don't know.

16 Q Just kind of vaporized?

17 MS. EKL: Objection.

18 MR. TAYLOR: Excuse me. I withdraw that  
19 question.

20 BY MR. TAYLOR:

21 Q Isn't it important to keep your eye on  
22 a witness who just gave you the case -- the most  
23 important case in the history of Paris, gave you the  
24 biggest breakthrough in the case after three months

1 of heat on a case that hadn't been solved, wouldn't  
2 it be important to keep track of a witness who just  
3 did that for you?

4 A I don't know that we didn't keep track  
5 of him.

6 Q All right.

7 A As I said, I don't know where he went.  
8 I don't know what happened after that. I don't  
9 remember.

10 Q If you had documented it, we would  
11 know, right?

12 A Yes.

13 Q But --

14 A I assume so.

15 Q -- we don't know. 20 years later, we  
16 don't know, right?

17 MS. EKL: Objection, foundation, as to what  
18 you know.

19 MR. TAYLOR: "We" he said.

20 MS. EKL: Right. I object to him saying what  
21 you know. You can --

22 MR. TAYLOR: That's very well-noted.

23 BY MR. TAYLOR:

24 Q You may answer.

1           A           I'm sorry. I lost the question.

2           Q           Let me withdraw it.

3                        Did your wife join you at breakfast?

4           A           Yes.

5           Q           So it was you, Jim, and [REDACTED], right?

6           A           And Ann.

7           Q           Ann, meaning Ann Parrish?

8           A           Jim's wife.

9           Q           Was Parrish's wife a law enforcement

10          officer?

11          A           Well, she worked in the probation

12          department. I don't know whether she was classified

13          as a law enforcement officer or what. I don't know

14          what her classification was.

15          Q           So you met the wives for breakfast in

16          the early morning where?

17          A           I don't remember where we went.

18          Q           Was anyone else present?

19          A           You mean other than Jim and Ann --

20          Q           Um-hum. Everyone.

21          A           -- and [REDACTED]?

22          Q           Yes.

23          A           No.

24          Q           At breakfast did you share with your

1 wives the exciting information that you now had a  
2 witness that was now giving you information that in  
3 all likelihood would break the case?

4 A We just indicated that there had been  
5 a break in the case, and that was all we talked about  
6 because I was already in trouble for not calling my  
7 wife and letting her know where I was at.

8 Q Well, you had to give a pretty good  
9 explanation for why you stayed in the station, right?

10 A She knew because of the nature of the  
11 job.

12 Q You told her the reason you were there  
13 until 5:00 is because you and Jim were talking to a  
14 witness who gave you a significant break in the case,  
15 right?

16 A That's essentially it. Yes.

17 Q Did you tell them it was Darrell  
18 Herrington?

19 A No.

20 Q Did the wives know who Darrell  
21 Herrington was? Was he pretty well-known by  
22 everybody?

23 MS. EKL: Objection -- sorry. I thought you  
24 were finished.

1 MR. TAYLOR: I am.

2 MS. EKL: Objection, foundation.

3 THE WITNESS: I'm presuming they knew Darrell.

4 I think Ann probably knew Darrell more so than [REDACTED].

5 BY MR. TAYLOR:

6 Q Well, Darrell, had he been on  
7 probation?

8 A I don't know. I don't know what his  
9 probationary record was if he had one.

10 Q Now, after this session with Darrell  
11 that went into the early morning hours, did you have  
12 a second session with him on that Saturday?

13 A I don't recall.

14 Q Well, did you and Parrish inform  
15 Eckerty that you had this witness?

16 A Yes. I suspect that we would have  
17 called Eckerty and probably McFatrige to let them  
18 know that we had made this contact.

19 Q Did you then have some kind of  
20 discussion either on the phone or did you have a  
21 meeting that Saturday to discuss this very  
22 significant new information that you --

23 A I don't recall.

24 Q -- had? If you had the meeting, it

1 would have probably been at the police department or  
2 at McFatridge's office?

3 A Probably one or the other.

4 Q What is the location of McFatridge's  
5 office in relation to the police department?

6 A The courthouse is in the middle of the  
7 square, and we're approximately two blocks off the  
8 square.

9 Q So it would be fair to assume that you  
10 all either by phone or -- or in person had a  
11 discussion about the information that you had gotten  
12 from Darrell on that Saturday; is that right?

13 A Well, again, since I don't recall the  
14 meeting, I don't know whether we had one or not.

15 Q Okay. But you made a decision, did  
16 you not, to take Darrell to a motel in Charleston?

17 A At some point, yes. I don't recall  
18 the date.

19 Q Was it in this sequence of events in  
20 September?

21 A It could have been. I don't recall  
22 the date.

23 Q If I were to tell you that Detective  
24 Wheat -- strike that.

1                   Did Detective Wheat take Darrell to  
2 the Charleston Inn?

3                   A           Did he?

4                   Q           Yes.

5                   A           Yes.

6                   Q           If I were to tell you that Wheat  
7 testified that it was that Saturday that we're  
8 talking about, the same Saturday that you finished  
9 the session with him at 5:00 a.m., would that refresh  
10 your recollection as to what -- when in the sequence  
11 of events with Darrell that he was taken to  
12 Charleston?

13                   MS. EKL:  Objection.  Detective Wheat  
14 testified that he didn't know anything about the  
15 first conversation, so he couldn't have testified  
16 that it was the day after.  Again, you're misstating  
17 the report.

18                   MR. TAYLOR:  That's not true at all.

19                   MS. EKL:  You said it was the Saturday after,  
20 and he did not testify to that.

21                   MR. RAUB:  Why don't we use the date and that  
22 way we won't fight about it.

23                   MR. TAYLOR:  Say that again.

24                   MR. RAUB:  Why don't you use the date, so that

1 way we don't fight about it.

2 MR. TAYLOR: Wheat said that was that  
3 Saturday, the 20th of September, that he took Darrell  
4 to Charleston. I don't think there's any argument  
5 about that.

6 MS. EKL: My objection is with "that  
7 Saturday," because Mr. Ray testified that he didn't  
8 know the date. He said it was a Friday. If Wheat  
9 testified that was a Saturday, there's no testimony  
10 tying it to the Saturday after the -- it could have  
11 been, but I'm just saying that's mischaracterizing  
12 it.

13 BY MR. TAYLOR:

14 Q Does that refresh your recollection as  
15 to whether the next event with Darrell in sequence  
16 after the police station interrogation was Wheat  
17 taking him to Charleston?

18 A Okay. If -- if I have documentation  
19 in front of me that says that Gary took him to the  
20 Charleston motel on Saturday, then, yes, that's what  
21 happened.

22 Q And you authorized Gary to do that,  
23 right?

24 A Yes, I did.

1 Q And you also told Gary that you would  
2 pay for any expenses that were incurred in getting  
3 the hotel room and feeding and getting drinks to  
4 Darrell, right?

5 MS. EKL: Objection, form.

6 THE WITNESS: I told him that he could get a  
7 room, meals, and anything that was necessary.

8 BY MR. TAYLOR:

9 Q By "anything that was necessary," you  
10 contemplated that would include alcoholic beverages,  
11 right?

12 A If Darrell wanted a beer, a beer, then  
13 that would have been appropriate, but he wasn't to  
14 get intoxicated.

15 Q Well, is that what you told Wheat?

16 A I don't recall that I told Wheat that,  
17 but that would have been the parameters.

18 Q Could Darrell have had a six-pack?  
19 Was that okay under what you were contemplating in  
20 terms of authorizing payment?

21 A You mean give him a six-pack all at  
22 once?

23 Q Buy a six-pack for his use.

24 A I don't know what was bought for his

1 use.

2 Q Well, I'm asking you, would it have  
3 been appropriate to get him a six-pack?

4 A For two or three days, yes. Probably.

5 Q How about for an overnight?

6 A Just because you buy a six-pack,  
7 doesn't mean you drink all of it.

8 Q I'm not asking you that. I'm asking  
9 you whether it would have been appropriate to buy a  
10 six-pack to make that available to --

11 A It might have been appropriate to buy  
12 a six-pack. Yes.

13 Q For Darrell, right?

14 A Yes.

15 Q Would it also have been appropriate to  
16 buy him a bottle of whiskey to go along with the  
17 six-pack?

18 A Probably not, but it could have  
19 happened. I don't know.

20 Q Well, did Wheat inform you either  
21 orally or through applying for reimbursement that he  
22 had, in fact, bought a six-pack and a bottle, a fifth  
23 or so, of whiskey for Darrell to have while he was at  
24 the Charleston Inn?

1           A           If it was on his expense sheet, then  
2 he got reimbursed for it.

3           Q           Did Wheat discuss with you how much  
4 liquor he was going to buy and make available for  
5 Darrell Herrington?

6           A           Not that I recall specifically. No.

7           Q           Would that have been appropriate for  
8 Wheat to have bought that amount of liquor for use by  
9 Darrell Herrington?

10          A           What are you alleging that he bought?

11          Q           A six-pack and a fifth of whiskey.

12          A           Do you know for a fact that he did?

13          Q           I'm not -- you're not -- I'm asking  
14 you.

15          A           You're surmising that he bought a  
16 bottle, and I don't know whether he did or not.

17          Q           I'm not asking you to say whether he  
18 did or not. I'm asking you whether that would have  
19 been appropriate or not for him to have done that.

20          A           It might have been. He might have  
21 done it.

22          Q           Even if he might have done it doesn't  
23 mean it was appropriate or not appropriate. The  
24 question is, as police chief, was that appropriate in

1 your mind when you authorized Wheat to buy as  
2 necessary what Darrell needed, that he buy a six-pack  
3 and a fifth of whiskey?

4 MS. EKL: Objection, form, argumentative.

5 Also, it assumes facts not in evidence.

6 BY MR. TAYLOR:

7 Q You may answer.

8 A (Laughter.) I'm trying to decide, I  
9 guess, if you have an alcoholic that's used to  
10 drinking a lot and you have him under your care and  
11 custody for two or three days or whatever the time  
12 length is, a six-pack and a fifth of whiskey would be  
13 more appropriate than three six packs and three  
14 fifths of whiskey.

15 Q I suppose it would have been more  
16 appropriate than six cases of beer and five quarts of  
17 whiskey, right? But what I'm asking --

18 A (Witness nodding head.)

19 Q You're nodding yes?

20 A Yes.

21 Q But I'm asking you whether it would  
22 have been appropriate, that amount, not that it would  
23 have been less or more appropriate than some other  
24 amount.

1 MS. EKL: Again, I'm objecting to form. Your  
2 hypothetical at this point is incomplete because your  
3 question is assuming that this amount of alcohol was  
4 given to Darrell. Your question seems to ask whether  
5 or not it was appropriate to buy it, but yet your  
6 question is implying that it was all given to  
7 Darrell.

8 BY MR. TAYLOR:

9 Q You can answer the question.

10 A Well, yes, it appears to be  
11 appropriate.

12 Q Would you say that was then consistent  
13 with the practices of the department, to buy that  
14 amount of liquor for a witness?

15 A Since that probably was the first  
16 time, there wasn't a practice, which a practice  
17 implies that it's something that we did on a regular  
18 basis.

19 Q Other than the times that you had  
20 bought, either you personally or your department  
21 bought liquor for Darrell Herrington, were there any  
22 other occasions with any other witnesses that you  
23 know of where alcohol was bought for them while they  
24 were in the custody or control of the department?

1 A Not that I'm aware of.

2 Q And that covers your entire career as  
3 a law enforcement officer; am I right?

4 A Not that I'm aware of.

5 Q Right?

6 A Yes.

7 Q As chief, certainly you should have  
8 been aware of any other circumstances that if your  
9 detectives and investigators were being honest with  
10 you, they would have to go through you to do it,  
11 right?

12 A Yes.

13 Q And they knew that pursuant to policy  
14 and practice in the department, you don't go and  
15 liquor-up or go buy liquor -- I'll change that to buy  
16 liquor -- for a witness without clearing it with the  
17 chief, right?

18 A Yes.

19 Q And Parrish certainly knew that,  
20 right?

21 A Yes.

22 MS. EKL: Objection, foundation.

23 THE WITNESS: Sorry.

24 BY MR. TAYLOR:

1           Q           Now, at some point after Darrell --  
2           strike that.

3                       Why was Darrell taken to Charleston?

4           A           Get him out of town, let him cool off,  
5           give him a little time to rest and that type of  
6           thing, take some of the pressure off of him from  
7           being in town since he did have some fear of  
8           retribution for any information he might give us.

9           Q           Let him kick back, have a few beers,  
10          that kind of thing?

11          A           Let him kick back and relax. I don't  
12          know if you can say, "have a few beers," because I  
13          don't know how much there was.

14          Q           However many beers that he had up to  
15          the 6th that he was --

16          A           He was limited.

17          Q           However many shots of whiskey up to  
18          the limit of the bottle?

19                       MS. EKL: Objection, foundation.

20                       BY MR. TAYLOR:

21          Q           Well, actually, I don't know how many  
22          shots you've got in a bottle.

23          A           Neither do I, because I don't drink.

24          Q           But that would be it in terms of his

1 relaxing?

2 A Yes.

3 MS. EKL: Objection.

4 THE WITNESS: Sorry.

5 BY MR. TAYLOR:

6 Q Now, he was taken over there -- was he  
7 taken over there in the evening of that Saturday, do  
8 you know?

9 A I don't know what time it was.

10 Q Did he stay overnight or did you put  
11 him back at some point to --

12 A I think there was more than one night.  
13 It may have been two, may have been three. I don't  
14 recall.

15 Q Are you sure of that?

16 A No. I don't recall.

17 Q But at some point, you called him back  
18 and he went to your house, right?

19 A I don't recall.

20 Q Well, do you remember Darrell coming  
21 to your house?

22 A I don't remember the time frames on  
23 this.

24 Q Okay. Was it right after he was in

1 Charleston that he was brought back to Paris and came  
2 to your house?

3 A I don't recall. You have a specific  
4 date there that you're pointing to or --

5 Q Yes. If you look at the report --

6 A Do you have a piece of paper that --

7 Q By the way, there was no report, was  
8 there, in terms of Darrell being in Charleston?

9 A I don't know.

10 Q You didn't write a report, right?

11 A No, I didn't.

12 Q You never saw a report, right?

13 A No, didn't see one.

14 Q Was there any report that reflected  
15 that Darrell had been given or there had been a  
16 purchase of -- of alcohol for Darrell?

17 A I don't know.

18 Q You never wrote such a report, right?

19 A No, I didn't.

20 Q Do you know of any such report?

21 A I'm not aware of any report. No.

22 Q So as far as you know, given what --  
23 given your memory and also the exhibit that contains  
24 the Parrish police reports, there's nothing in there

1 about the Charleston trip or the questioning at the  
2 police department the night before, right?

3 A I'm not aware of it. No.

4 Q All right. In fact, the only entry,  
5 as far as we know, in the police records or police  
6 reports is September 21st with regard to the  
7 questioning of Darrell and his alleged revealing of  
8 the involvement of Steidl and Whitlock, right?

9 A Well, the 21st or --

10 Q Yes. Why don't you take a look at  
11 Exhibit 8.

12 MS. EKL: Are you going to direct him to all  
13 the reports or just --

14 MR. RAUB: Is this 12444?

15 MR. TAYLOR: I think you've got it. No, no.  
16 That one is Reinbolt.

17 MR. RAUB: It says that on 9/21, they  
18 interviewed Darrell Herrington?

19 MR. TAYLOR: 123 -- what did you say?

20 MR. RAUB: I said 12444.

21 MR. TAYLOR: Oh, you're looking at the  
22 exhibit?

23 MR. RAUB: I'm looking at the -- what I think  
24 you're using as the exhibits.

1 BY MR. TAYLOR:

2 Q Do you see the entry with regard to  
3 Darrell Herrington?

4 A You're talking to me?

5 Q Yeah.

6 A You haven't told me what page you're  
7 on yet.

8 Q Oh. I thought she had made that  
9 available.

10 MS. EKL: What page are you talking about?  
11 What page number?

12 MR. TAYLOR: Here. I'll look for it.

13 (WHEREUPON, Ray Exhibit 8 was  
14 tendered to Witness.)

15 I'm looking at Ray Exhibit Number 8  
16 and I'm looking specifically within that document,  
17 it's a Steidl 12005, and it goes on for several  
18 pages. I would ask you to look at the bottom of that  
19 page and the entry of September 21st. Do you see  
20 that?

21 A Yes.

22 Q So the entry directly above this in  
23 Parrish's report is September 9th, right?

24 A Yes.

1           Q           So it's fair to say that nothing  
2           having to do with the 19th, that being the Friday  
3           when you picked Darrell up, and Saturday morning or  
4           the trip to Charleston appears in this Parrish  
5           report, right?

6           MS. EKL:    I'm again objecting to the dates  
7           that you're putting into the record that have not  
8           been established by anyone as far as it being Friday  
9           and the next day Saturday of going to Charleston.  No  
10          one has established that.

11         BY MR. TAYLOR:

12          Q           Let me put it this way:  We agree that  
13          the Friday was the 19th.  There's nothing in there  
14          about that, right?

15          A           I don't see any entry in this  
16          particular report --

17          Q           All right.

18          A           -- between September the 9th and  
19          September the 21st.

20          Q           So if, in fact, he was taken to  
21          Charleston on the 20th, that's not in the report  
22          either, right?

23          A           That's not in here.  No.

24          Q           Looking at the next entry, it's the

1 evening of the 21st, right?

2 A Next entry after what?

3 Q After September the 9th, the next one  
4 is September the 21st, right?

5 A Oh, yes. Yes.

6 Q And September 21st indicates an  
7 interview with Darrell at your home, right?

8 A Yes.

9 Q Do you remember that?

10 A Not specifically. No.

11 Q You don't remember Darrell coming to  
12 your home?

13 A No.

14 Q Is it possible that Parrish could have  
15 brought Darrell to your home and questioned him for  
16 several hours and you not be there?

17 A Not likely. No.

18 Q All right. Well, when you look at  
19 this report, it goes on for several pages about what  
20 Darrell said; is that right, or at least what Parrish  
21 says that Darrell said; am I right?

22 A Yes. It appears to be so. How far  
23 are you going in the pages?

24 Q Well, it goes from 12335 all the way

1 to 1233 -- well, actually, it goes even farther than  
2 that.

3 A You're talking 12335?

4 Q Through 12340, right?

5 A I'm on 12006.

6 Q Oh, right. Okay. I see what you're  
7 saying. Let's look at the page of the report -- page  
8 28 of the report.

9 A I'm on page 23.

10 Q And it ends at page 28, doesn't it?

11 A Yes. It appears to.

12 Q So there's a five-page -- four or five  
13 pages of solid type here about what Darrell  
14 supposedly said at your -- Chief Ray's residence. It  
15 says that present at the interview was Jack Eckerty  
16 and Mike McFatriidge. So it doesn't indicate that you  
17 were there, right?

18 A No, it doesn't.

19 Q Do you have any idea why, or if --  
20 well, why it does not indicate that you were present  
21 at your home when Darrell was questioned?

22 A I don't have any idea why. I may not  
23 have been at the meeting.

24 Q All right. Was Darrell intoxicated,

1 to your knowledge, when he was at your house at 7:30  
2 p.m. on September 21st for a period of time  
3 thereafter while he was interviewed by Parrish and  
4 Eckerty?

5 A Well, if I don't remember being at the  
6 meeting and it doesn't indicate that I was at the  
7 meeting, then I wouldn't know if he was intoxicated  
8 or not.

9 Q Well, looking at page 26 of the  
10 document, do you see some handwriting on that  
11 document, about five or six lines up that says --

12 A From the bottom?

13 Q Yes.

14 A Yes, I see that.

15 Q Do you recognize that handwriting?

16 A Well, on my copy it's pretty vague.

17 Q So you can't recognize it?

18 A Do you have a better copy than I do?

19 Q Not really. So you don't recognize --

20 A I don't see enough of it to say for  
21 sure I recognize it.

22 Q Now, if you weren't present at this  
23 detailed interview that McFatriidge and Eckerty were  
24 present for, you certainly were informed of it at

1 some time right around the time that it happened;  
2 isn't that fair to say?

3 A Yes, it's fair to say that if they  
4 were going to come out and be at my residence, then,  
5 yes, I would be aware of it.

6 Q All right. And after this detailed  
7 statement was take -- I have to apologize because it  
8 appears that -- and correct the record, because it  
9 appears that this interview with Darrell ends on page  
10 27 at the top. Then there's an entry about Carol  
11 Arbuckle after that. So I want to amend that.

12 In any event, when you were informed  
13 of all the detail that was said by Darrell at your  
14 home, did you form an opinion as to whether this  
15 provided probable cause to arrest Whitlock and Steidl  
16 for the murders of Dyke Rhoads and Karen Rhoads?

17 A Did I form an opinion --

18 Q Yes.

19 A -- as to whether it was probable cause  
20 or not? This is something that, again, we would have  
21 discussed with the state's attorney's office, and we  
22 may have felt that there was probable cause, but he  
23 apparently didn't want to go ahead with an arrest at  
24 that time.

1           Q           You say, "apparently." I want to ask  
2           you specifically: Was it McFatridge's call not to  
3           proceed with the arrest at that time or was it a  
4           joint decision by you as the chief of police,  
5           McFatridge as the state's attorney, and the key  
6           investigators on the case, that being Eckerty and  
7           Parrish?

8           MR. RAUB: I'll object unless we have some  
9           parameters as to when and where this supposed meeting  
10          took place.

11          MR. TAYLOR: I'm not asking about a meeting  
12          right now. I'm asking about a decision.

13          MR. RAUB: But what was the decision made by?  
14          Telepathy?

15          MS. EKL: I just object to the form that the  
16          question is compound.

17          BY MR. TAYLOR:

18          Q           You may answer.

19          A           Okay. If there appeared to be  
20          probable cause? Was that the question?

21          Q           My question was, yeah, who made the  
22          decision not to arrest on the basis that there was  
23          not probable cause?

24          A           I don't recall whether it was an

1 individual or a group decision. I don't recall.

2 Q So you don't know whether it was a  
3 group decision --

4 A No.

5 Q -- by the four individuals I named or  
6 whether it was an individual decision by Mike  
7 McFatridge?

8 A That's correct. I do not know.

9 Q Sitting here today, can you tell us  
10 that it was not your decision by yourself?

11 A It wouldn't have been my decision by  
12 myself.

13 Q And it wasn't yours and Parrish's  
14 decision by yourself either, right?

15 A Right.

16 Q And it wasn't your decision with  
17 Parrish, Eckerty and yourself, right?

18 A Correct.

19 Q It's your best memory that McFatridge  
20 would have been involved in the decision; is that  
21 right?

22 A (Witness nodding head.)

23 MR. RAUB: Objection. He said he had no  
24 recollection.

1 MR. TAYLOR: He's nodding his head yeah.

2 BY MR. TAYLOR:

3 Q Your answer is yes?

4 A If you're surmising that, then, yes,  
5 that is probably pretty accurate.

6 Q As you sit here today, given what you  
7 know in terms of what Darrell said in those  
8 interviews, do you remember there to have been  
9 probable cause to arrest Herbert and -- and Randy  
10 after the interview was concluded at your house on  
11 the 21st of September?

12 A There may have been probable cause,  
13 yes. I mean, in all likelihood, there was a good  
14 case for probable cause, adequate probable cause.

15 Q So your opinion today is that there  
16 was adequate probable cause to arrest him; is that  
17 right?

18 MS. EKL: Objection to the form and calls for  
19 a legal conclusion.

20 MR. TAYLOR: Well, he's an officer and makes  
21 arrests every --

22 MS. SUSLER: Just go ahead.

23 BY MR. TAYLOR:

24 Q Sorry. You may answer.

1           A           At this particular time, not  
2 remembering exactly what was going on at the time and  
3 that kind of thing, in some cases, yes, this would be  
4 adequate probable cause to make an arrest.

5           Q           How about in this case?

6           A           Well, it appears to be adequate at  
7 this point, but obviously there was not an arrest  
8 made at that point.

9           Q           So at that point the decision, whether  
10 it was group or individual, is that there was not  
11 probable cause to arrest; is that right?

12          A           Yes --

13          MS. EKL: Let me just object that it calls for  
14 speculation because he has indicated that it was not  
15 his decision, and there are other reasons other than  
16 lack of probable cause that could have caused an  
17 arrest not being made at that time. So object to  
18 form, speculation, and assumes facts not in evidence.

19 BY MR. TAYLOR:

20          Q           You started your answer by nodding  
21 your head and saying "Yes." Did you have more that  
22 you want to answer or did you --

23          A           I don't recall the --

24          MR. TAYLOR: Well, you were answering it yes,

1 right?

2 MS. EKL: Well, he doesn't recall the  
3 question.

4 THE WITNESS: Ask the question again.

5 MR. TAYLOR: I'll have the question read back,  
6 if I could.

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

9 "Question: So at that point the  
10 decision, whether it was group  
11 or individual, is that there was  
12 not probable cause to arrest; is  
13 that right?

14 "Answer: Yes --")

15 MS. EKL: Same objection.

16 BY MR. TAYLOR:

17 Q Did you want to add anything to your  
18 answer?

19 A Yes. It appears that there was  
20 probable cause, but for whatever reasons that were  
21 talked about at the time, an arrest was not made.

22 Q I think you just gave an answer to a  
23 different question than the one that you started to  
24 answer.

1                   My question was, whether it was an  
2 individual or group decision, at that time the  
3 decision was that there was not sufficient probable  
4 cause to arrest Herbie and Randy; isn't that right?

5                   MS. EKL: Objection, form, and foundation as  
6 to everything else.

7                   MR. RAUB: He just answered that question,  
8 besides.

9 BY MR. TAYLOR:

10                  Q            You may answer.

11                  A            Yes, there was not adequate probable  
12 cause.

13                  Q            Now, the next thing that happened  
14 after this series of events was that Herrington was  
15 wired by the Illinois State Police to attempt to get  
16 inculpatory statements from Whitlock and Steidl;  
17 isn't that right?

18                  A            Yes. At some point we did that.

19                  Q            And that was unsuccessful, right?

20                  A            That's correct.

21                  Q            What was your role, if any, in the  
22 wiring and overhears of -- of Herrington and his  
23 attempts to get Steidl and Whitlock to make  
24 statements?

1           A           I was present during the Steidl wire,  
2           and I was in the van during the overhear attempt.

3           Q           Let me stop you there. With regard to  
4           Steidl then, then you heard firsthand the fact that  
5           Steidl vehemently denied any involvement when  
6           Herrington tried to get him to make admissions; is  
7           that fair to say?

8           A           I don't recall Herrington's actual  
9           statements and I don't recall Steidl's statements.

10          Q           But without recalling the actual  
11          statements, it would be fair to say that Steidl  
12          denied involvement on the wire, right, and that you  
13          heard that?

14          A           I don't know that I heard him say, "I  
15          didn't do it." I don't know that I heard him say  
16          that.

17          Q           Well, did you know that he said that  
18          whether you --

19          A           No, I don't know that he said that.

20          Q           So what is your memory of what he  
21          said?

22          A           That -- I don't have a memory of what  
23          he actually said. The only thing I have of a memory  
24          is that the wire was not successful. But I don't

1 recall the exact words that were said.

2 Q So it was not successful in the sense  
3 that neither Steidl nor Whitlock said anything that  
4 inculpated them; is that right?

5 A I wasn't present at Whitlock.

6 Q Do you know -- okay. Well, with  
7 regard to Steidl --

8 A With regard to Steidl, yes.

9 Q And with regard to Whitlock, you  
10 received a report, did you not, from those that did  
11 the wire that said that Whitlock, too, that he had  
12 either denied involvement or that there had been no  
13 inculpatory statements made by him, right?

14 A There was likely a report that came  
15 across the desk. Right.

16 Q And that was what it said, right?

17 A I don't recall the report, the  
18 specific report.

19 Q But do you remember generally that  
20 Whitlock had also not made any inculpatory statements  
21 on the wire?

22 A Generally. Yes.

23 Q At some point during -- after Darrell  
24 gave you this statement and the decision not to

1       arrest was made and the decision to do a wire was  
2       made, a decision was made to take Darrell to a lie  
3       detector, right?

4               A           Yes.  At some point that decision was  
5       made.

6               Q           And that decision was implemented in  
7       October, a few weeks after the September events that  
8       you've just testified about?

9               A           Could be.  I don't recall the specific  
10      date.

11              Q           All right.  Were you involved in  
12      making that decision?

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

14              Q           Well, were you aware that that  
15      decision was made?

16              A           I was aware that it was going to  
17      happen.  Yes.

18              Q           Was it McFatridge and Parrish and  
19      Eckerty who made that decision?

20              A           In all likelihood, yes.

21              Q           Did you get an occasion to -- did you  
22      have an occasion to be informed of the results of the  
23      lie detector tests?

24              A           Yes.  I probably was informed.

1 Q All right. Now, this has already been  
2 marked as Murphy Exhibit Number 4. I'll show you  
3 that. Would anybody like a copy of that?

4 MR. ACKERMAN: I'll take one, Flint. Thanks.

5 MS. EKL: And myself.

6 MR. TAYLOR: Okay. Would you like one, Beth?

7 MS. EKL: Yes. Thank you.

8 (WHEREUPON, Murphy Exhibit 4 was  
9 tendered to Witness.)

10 BY MR. TAYLOR:

11 Q Well, let me ask you preliminarily in  
12 order to correct the record: The lie detector test  
13 was given by Agent Murphy of the Illinois State  
14 Police on September 29th, 1986, right --

15 A Yes.

16 Q -- according to the report?

17 A According to the report. Yes.

18 Q And looking at this report, does this  
19 accurately reflect the results that you were informed  
20 of on or about that time?

21 A Well, if this is the same report I  
22 read at the time, then, yes, this would reflect that  
23 information.

24 Q It concludes that there was

1 "purposeful noncooperation by Darrell"; is that  
2 right?

3 A That's what it says.

4 Q And that was the opinion that you  
5 received on or about the 29th when you saw the report  
6 or were orally informed of the results; is that  
7 right?

8 A Yes.

9 Q And that he purposefully attempted to  
10 distort his polygraph test; is that right?

11 A That's what it says.

12 Q All right. Now, did you and  
13 McFatridge and Parrish and Eckerty, or any  
14 combination of those folks, discuss what to do, if  
15 anything, with regard to Darrell after he had  
16 purposefully noncooperated with his lie detector  
17 test?

18 A I don't recall any conversation. No.

19 Q But it would be fair to say that his  
20 credibility was not enhanced or -- strike that.

21 It would be fair to say that his  
22 credibility was diminished, at least to some degree,  
23 by the fact that he had this negative lie detector  
24 report?

1 MS. EKL: Objection --

2 BY MR. TAYLOR:

3 Q Wouldn't that be fair to say?

4 MS. EKL: Objection to the extent you're  
5 asking him an opinion of others other than himself.

6 BY MR. TAYLOR:

7 Q You may answer.

8 A My opinion?

9 Q Yeah.

10 A Well, certainly it didn't help.

11 Q Okay. And that was an opinion that  
12 was shared by the group, McFatridge, Eckerty and  
13 Parrish, right?

14 MS. EKL: Objection.

15 MR. RAUB: Ob --

16 THE WITNESS: Since I don't remember the  
17 conversation, I don't remember what their feelings  
18 were.

19 MR. RAUB: Objection.

20 MS. EKL: If you could just -- if there's  
21 objections, let the objections finish before you  
22 answer.

23 BY MR. TAYLOR:

24 Q Do you recall a conversation about the

1 lie detector with the others?

2 A No, I don't.

3 Q Would it be fair to say that this was  
4 a significant-enough event in the investigation that  
5 in all likelihood this would have been discussed?

6 A In all likelihood, it would have been  
7 discussed. Yes.

8 Q Do you remember anybody articulating a  
9 contrary opinion to the one you've told us, which is  
10 that the credibility of Herrington certainly wasn't  
11 helped by this negative result?

12 A That sounds fair.

13 Q All right. If you look at the notes  
14 that were attached to that report, they indicate that  
15 Darrell had named Jim and Ed; is that right?

16 MR. RAUB: Objection. There's no evidence  
17 what, if anything, he saw with regard to the  
18 polygraph report, whether he saw just the short  
19 two-page summary or saw the entire material of the  
20 polygraph report.

21 MS. EKL: Maybe there's a misunderstanding  
22 regarding your question. You're asking him what are  
23 on these pieces of paper that he's read now or what  
24 he knew back then?

1 MR. TAYLOR: No. That was a preliminary  
2 question. I think that the record will show that.

3 MS. EKL: Can you answer me or do we need to  
4 have the question read back? I just wanted to make  
5 sure I'm clear in my mind.

6 MR. TAYLOR: Well, I need to get a copy of it.

7 MR. ACKERMAN: You can have this one.

8 MR. BALSON: Here. Take mine.

9 (WHEREUPON, Murphy Exhibit 4 was  
10 tendered to Counsel.)

11 BY MR. TAYLOR:

12 Q Looking at the notes here, which I  
13 think have been identified as Murphy's notes to his  
14 deposition, if you look at -- I'm trying to find  
15 the --

16 A Are you looking at the long copy or  
17 the short copy?

18 BY MR. TAYLOR:

19 Q I'm looking at the long copy.

20 A This one (indicating)?

21 Q Yes. If you look at the top left, it  
22 says, "number 2, about the names Jim and Ed." Do you  
23 see that?

24 A No. I am having a hard time reading

1 this. Which -- where are you at?

2 MS. SUSLER: Look. It's right here  
3 (indicating).

4 THE WITNESS: Okay.

5 BY MR. TAYLOR:

6 Q It says, "number 2, about the names  
7 Jim and Ed." Do you see that?

8 A Yes, I do.

9 Q So that was discussed with the  
10 polygraph examiner, Mr. Murphy, on the 29th,  
11 according to his notes, right?

12 MS. EKL: Objection, foundation.

13 THE WITNESS: Well, I don't know that it was  
14 discussed. I mean, I don't know the -- since I'm not  
15 familiar with Mark Murphy's method of operating the  
16 polygraph, I don't know how he does his notes as to  
17 what. I mean, I can see that it's there, but I don't  
18 know what context it's written in.

19 BY MR. TAYLOR:

20 Q Well, let me ask you this: You say  
21 that you now don't presently remember whether Jim and  
22 Ed was brought up by Darrell on the 19th at the  
23 police station, right?

24 A Right.

1 Q But we know without any doubt that  
2 Mark Murphy wouldn't have known about Jim and Ed  
3 unless he was told by somebody, right?

4 A Okay. Right.

5 Q Now, who was present with Darrell at  
6 the lie detector? Was Parrish?

7 MS. EKL: Objection, foundation.

8 THE WITNESS: Where was it done? Was it done  
9 at our place?

10 BY MR. TAYLOR:

11 Q It was done at the department, I  
12 believe.

13 A At the police department?

14 Q Yes.

15 A If it was done at the police  
16 department, then it's highly likely that Jim was  
17 present.

18 Q And it's also likely that Eckerty  
19 might have been present as well?

20 A Yes, since he contacted Murphy.

21 Q Were you present?

22 A I may or may not have been in the  
23 building. I don't know.

24 Q But the only way that Murphy could

1 have learned about Jim and Ed would have been from  
2 Darrell or from the -- any of the police officers who  
3 had heard it if Darrell told them on the 19th?

4 A Right.

5 Q When you're saying, "police officers"  
6 were you referring to investigators, detectives?

7 A Yes.

8 Q And the only investigators present on  
9 the 19th were yourself and Parrish, right --

10 A No.

11 Q -- at the police station?

12 A The 19th? That's --

13 Q That's the Friday night.

14 A So 19th into the 20th --

15 Q Yes.

16 A -- because it was --

17 Q I'm sorry. You're exactly right.

18 A Yes. Jim and I were there that night  
19 and early morning.

20 Q So the only three people who would  
21 have known about Jim and Ed would have been you,  
22 Parrish, and Darrell, right?

23 MS. EKL: Objection, foundation, as to what  
24 time period? Are you talking about on that day when

1 he told them, these individuals?

2 MR. TAYLOR: Right.

3 THE WITNESS: Yes.

4 BY MR. TAYLOR:

5 Q Okay. By process of elimination,  
6 since you were not present with Murphy, it would have  
7 had to have been either or both of Darrell and  
8 Parrish who told Murphy about Jim and Ed; am I right?

9 MS. EKL: Objection, calls for speculation and  
10 assumes facts not in evidence, that those statements  
11 were not related to any other person that could have  
12 related them to Murphy.

13 BY MR. TAYLOR:

14 Q You may answer.

15 A I'm sure that Jim shared that  
16 information with Jack and with probably the state's  
17 attorney.

18 Q So Jim and Ed was known not only by  
19 you and Parrish, but also by Eckerty and the state's  
20 attorney?

21 A Well, as I said --

22 MS. EKL: Objection, foundation.

23 MR. RAUB: Objection. How do you get from  
24 what he said to there?

1 MR. TAYLOR: He just said it.

2 MR. RAUB: He said he's surmising.

3 MS. SUSLER: So your objection should be  
4 "mischaracterizes."

5 BY MR. TAYLOR:

6 Q He said he was sure that they know,  
7 but I'm going to withdraw the question.

8 Prior to seeing these notes today,  
9 have you ever previously seen these notes?

10 A Not that I recall on all of these.  
11 No.

12 MR. TAYLOR: Okay. Let's take five minutes  
13 and give Carm a break.

14 MS. REPORTER: Thank you.

15 (WHEREUPON, there was a brief  
16 recess had in the proceedings.)

17 BY MR. TAYLOR:

18 Q Now, calling your attention to page 2  
19 of the typewritten report that you reviewed about the  
20 time that Murphy sent it, there's a question on page  
21 2 that says --

22 A Is that this one (indicating)?

23 Q Yes. If you look at page 2, you'll  
24 see the second question on the page, which is

1 referring to questions that were asked at the lie  
2 detector and the answers.

3 It says, "Besides the first time you  
4 talked with the police, did you make any other false  
5 statements about this case?" Herrington answers,  
6 "No."

7 But the lie detector man found that he  
8 was attempting to be intentionally deceptive, right?

9 MS. EKL: Objection --

10 MR. ACKERMAN: Objection.

11 MS. EKL: -- to this wit -- mischaracterizes  
12 the report and to this witness's knowledge as to what  
13 Mark Murphy found other than what's in this report.

14 MR. RAUB: And there's no -- he didn't  
15 necessarily see that report at or near the time of  
16 it.

17 MR. ACKERMAN: I'll join in those objections.

18 MR. TAYLOR: Let me restate it.

19 BY MR. TAYLOR:

20 Q He found that Herrington had  
21 purposefully distorted on his polygraph, and one of  
22 those questions that he purposefully distorted on was  
23 whether he lied to the police other than the first  
24 time he talked to them, right?

1           A           You don't know that that's a question  
2           that he was purposefully noncooperative on. It might  
3           have been one of the others or two or three of the  
4           others.

5           Q           Well, we --

6           A           So I don't know if it was all of the  
7           questions or part of the questions or what.

8           Q           Did you make an effort to get in touch  
9           with Murphy to find out --

10          A           No, I didn't.

11          Q           -- whether it was all of the questions  
12          or singly (sic) of them?

13          A           No.

14          Q           Didn't it concern you as a law  
15          enforcement officer that it was possible, at least,  
16          if not probable that he had distorted in giving an  
17          answer to a question about whether he had lied to  
18          you?

19          MS. EKL:    Objection, form.

20          MR. ACKERMAN:  Same objection.

21          MR. RAUB:   And foundation. I would like to  
22          clarify, and I don't recall the answer to the  
23          question of did he receive this report at the time it  
24          was done, or are we talking retroreflective analysis

1 now?

2 BY MR. TAYLOR:

3 Q You may answer.

4 A I don't specifically recall receiving  
5 this report. I may or I may not have. I may have  
6 just been informed by one of the other officers that  
7 he did not do well on the polygraph.

8 Q Well, looking at it now, whether you  
9 received it then, it's troubling, is it not, that he  
10 was found to be distorting his answers? One of the  
11 answers (sic) was, "Besides the first time you talked  
12 with the police, did you make any other false  
13 statements," and his answer, "No," was found to be  
14 potentially distorting, right?

15 MS. EKL: Objection, form, argumentative.

16 BY MR. TAYLOR:

17 Q Am I right?

18 MS. EKL: That it's troubling?

19 MR. TAYLOR: Yeah, as a law enforcement agent.

20 THE WITNESS: The question is, was it  
21 troubling?

22 BY MR. TAYLOR:

23 Q Yes.

24 A Yes, the fact that he didn't pass his

1 polygraph was troubling.

2 Q And particularly on the question of  
3 whether he was lying to you guys when he told you  
4 that Randy Steidl and Herb Whitlock were involved in  
5 the murders, right?

6 MS. EKL: Objection, form, foundation.

7 BY MR. TAYLOR:

8 Q That's particularly troubling, isn't  
9 it? Shouldn't it be?

10 MS. EKL: Objection, foundation.

11 BY MR. TAYLOR:

12 Q You may answer.

13 A It would be if it was fact. Yes.

14 Q And the fact that apparently he has  
15 admitted that he lied to the police the first time he  
16 talked to them, that in and of itself is very  
17 troubling, right?

18 A Are you still referring to that same  
19 sentence?

20 Q Yes.

21 A I thought I already said that was  
22 dis -- troubling.

23 Q It was so troubling, was it not, that  
24 you and the others that were involved in this ongoing

1 investigation, that being McFatridge, Parrish, and  
2 Eckerty, decide that he should be taken to St. Louis  
3 to be hypnotized, right?

4 MS. EKL: Ob --

5 MR. RAUB: Objection. There's no evidence he  
6 saw this report.

7 MR. BALSON: Okay. Let's not make speaking  
8 objections.

9 MR. RAUB: That's the basis for my objection.

10 MR. BALSON: Make an objection, not a speaking  
11 objection, if you want to feed answers to this  
12 witness.

13 MR. RAUB: I'm not -- I'm saying why I'm  
14 making my objection.

15 MR. BALSON: You can't do that. The rules  
16 don't allow you to do that. If it's a form  
17 objection, make it, but "Objection, form," is all you  
18 need to say, "Objection, foundation," or whatever it  
19 is. Don't make a speaking objection.

20 BY MR. TAYLOR:

21 Q You may answer.

22 A What was --

23 Q After the lie detector was -- lie  
24 detector results were learned, the four of you

1 decided that Darrell should be taken to St. Louis to  
2 be hypnotized, right?

3 A I don't recall that the four of us had  
4 a conversation regarding that. I don't recall being  
5 involved in a conversation like that.

6 Q Who made the decision to have him  
7 hypnotized?

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

9 Q Did you participate in that decision?

10 A I don't recall that I did.

11 Q Were you informed of it prior to it  
12 happening?

13 A I was informed of it prior to it  
14 happening. Yes.

15 Q So as the chief of police, I take it  
16 that if you had said, "No, that's a bad idea," that  
17 would have had an impact on whether he was taken to  
18 St. Louis, right?

19 A It's possible it might have. Yes.

20 Q You didn't tell them, "Don't do it to  
21 my witness," did you?

22 A To your witness?

23 Q To Darrell.

24 A Oh. No, I didn't tell them, "Don't

1 take him."

2 Q In fact, you thought it was an okay  
3 idea, right?

4 A It appeared to be a plausible idea.

5 Q Why?

6 A Why?

7 Q Yeah.

8 A Well, because I've always heard, read,  
9 that that type thing, that a lot of times people will  
10 say things under hypnosis that they might not say if  
11 you ask them because of outside pressures.

12 Q Well, what did you think he would say  
13 that he had not supposedly already told you?

14 A I just wanted to confirm that he had  
15 said if it was true or whether it was not true. So  
16 you're just looking for additional confirmation.

17 Q You felt that if he told a similar  
18 story under hypnosis, then that would be confirming?

19 A Well, I didn't feel anything. They  
20 took him to -- we took him to St. Louis, and I don't  
21 recall that I had a specific feeling about it.

22 Q Well, wasn't your understanding of why  
23 you hypnotized people was to have them -- to see if  
24 they can remember details that they can't remember

1 otherwise because of some kind of blocking in their  
2 conscious memory; is that right?

3 A That's the theory behind hypnotism.  
4 Yes.

5 Q What I'm asking you is, what was it  
6 that you were looking to get from Darrell  
7 additionally other than what you say he had told you  
8 or told the investigators at your house about Randy  
9 and Herbie and it happening in a certain way that he  
10 had witnessed? What more was it that you thought he  
11 might remember under hypnosis that he hadn't already  
12 told you?

13 A I don't know. I can't answer that  
14 question.

15 Q Was it because --

16 A I don't know.

17 Q Because what he was telling you was  
18 not credible in the sense that not only had he given  
19 you different names at different times, but also that  
20 he, the lie detector man, was saying that he was  
21 distorting a lie detector when you were trying to  
22 find out whether he was telling the truth.

23 A I'm sorry. I was listening, but I  
24 lost the first part of the question.

1 MS. EKL: I'm going to object to form and  
2 foundation, assumes facts not in evidence.

3 THE WITNESS: Could you reword that?

4 BY MR. TAYLOR:

5 Q Okay. Was one of the reasons you  
6 wanted him to be hypnotized because when you sent him  
7 to the -- or you had him take a lie detector to find  
8 out whether he was telling the truth, he consciously  
9 attempted to distort it?

10 MS. EKL: Objection to the characterization of  
11 "consciously attempted to distort."

12 THE WITNESS: I still don't understand the  
13 question. Ask me again.

14 BY MR. TAYLOR:

15 Q All right. Would you have -- would he  
16 have been taken to be hypnotized if he had passed the  
17 lie detector?

18 A It's possible.

19 Q Well, would it have changed your  
20 opinion that he should have been hypnotized if he  
21 passed the lie detector rather than you having the  
22 results that you did?

23 A Well, as I said, I don't recall being  
24 in the conversation as to having him taken to be

1 hypnotized.

2 Q All right. Did you or anyone else, to  
3 your knowledge, have any conversation with Darrell  
4 and say, "Why the heck did you try to distort your  
5 lie detector on the questions that -- on the  
6 information that you told us in the interview?" Did  
7 you --

8 MS. EKL: Objection, foundation, as to what  
9 anyone else asked Darrell.

10 THE WITNESS: I didn't, and I don't know that  
11 any other conversation was held by anybody else. I  
12 have no knowledge of that.

13 BY MR. TAYLOR:

14 Q Was Darrell ever asked by anyone  
15 involved in the investigation; that being yourself,  
16 McFatriidge, Eckerty and Parrish, why he had attempted  
17 to distort the lie detector?

18 MS. EKL: Objection, foundation, as to what --  
19 whether he was asked by anyone other than Mr. Ray,  
20 and, objection, form, in regard to -- just objection,  
21 form.

22 THE WITNESS: I have no recollection of anyone  
23 asking him that question. No.

24 BY MR. TAYLOR:

1 Q Going back for a moment to July 9th  
2 when you -- when officers went to the front of --  
3 including yourself, went to the front and back door  
4 of the Tap Room when Randy and Herbie were in  
5 there --

6 A I thought it was just Randy.

7 Q All right. Then let's say when Randy  
8 was in there. In fact, if Herbie, or Herbie and  
9 Randy, or Randy, any of those three combinations,  
10 were taken out of the Tap Room, taken into the police  
11 station and questioned publicly like that, that would  
12 start the rumor mill in that little town in terms of  
13 the -- that the police suspected them of being the  
14 perpetrators of the crime, wouldn't it?

15 A Are you supposing that it would?  
16 That's -- is that what you're saying?

17 Q I'm asking if it would.

18 MS. EKL: Objection to form.

19 THE WITNESS: Probably would in a small town.  
20 Yes.

21 BY MR. TAYLOR:

22 Q In fact, after the 9th and after the  
23 questioning of Herbie and Randy, in fact, the rumor  
24 mill started about Randy and Herbie, right?

1 MS. EKL: Objection, foundation.

2 THE WITNESS: I don't know when the rumor mill  
3 started.

4 BY MR. TAYLOR:

5 Q Well, but there was rumors floating  
6 around after that about them, right?

7 MS. EKL: Objection, foundation.

8 THE WITNESS: "After that," meaning what?

9 BY MR. TAYLOR:

10 Q After the 9th, after the questioning  
11 of Herbie and Randy at the police station.

12 MS. EKL: Same objection.

13 THE WITNESS: Well, the rumor mill actually  
14 never stops. It just churns out different things.

15 BY MR. TAYLOR:

16 Q But I'm asking about in terms of the  
17 rumor mill in the town, the rumor mill started to  
18 focus more on Herbie and Randy, right?

19 MS. EKL: Objection, foundation.

20 THE WITNESS: Well, I suppose so. I don't  
21 know for a fact.

22 BY MR. TAYLOR:

23 Q Darrell could have picked that up  
24 quite easily by being someone who hung around the

1 bars and was intoxicated and might have heard half of  
2 this and a little bit of that, right?

3 MS. EKL: Objection, form, foundation.

4 THE WITNESS: You're talking prior to --

5 BY MR. TAYLOR:

6 Q September.

7 A -- the homicides?

8 Q No. After the 9th of July and before  
9 he told you, "Don't ask me about the murders,"  
10 Darrell could have easily picked up on the rumors  
11 floating around in Paris concerning Herbie and Randy,  
12 right?

13 MS. EKL: Objection, foundation.

14 THE WITNESS: It's possible. Yes.

15 BY MR. TAYLOR:

16 Q Was that a concern of yours when you  
17 picked up a stumbling Herrington around midnight on  
18 the 20 -- on the 19th of September and he said,  
19 "Don't ask me about the murders"?

20 Were you concerned that maybe he, as  
21 someone who was an alcoholic and hung around the  
22 bars, that he was repeating back to you information  
23 that he might have heard in the bars?

24 MS. EKL: Objection, form.

1 THE WITNESS: I don't recall him stumbling,  
2 but it's certainly something that could have been  
3 thought about.

4 BY MR. TAYLOR:

5 Q Is that another reason why you would  
6 expect that the lie detector was ordered?

7 A Unless --

8 MS. EKL: Objection, form.

9 THE WITNESS: I suspect the lie detector was  
10 ordered just to try to confirm and add to the  
11 information that we already had.

12 BY MR. TAYLOR:

13 Q Well, you were now more than three  
14 months into the investigation, right?

15 A If you're -- what's the date?

16 Q The 19th of September.

17 A Pretty close to three months. Yes.

18 Q And certainly the rumor mill had been  
19 circulating and accelerating almost daily as there  
20 were nonarrests, right?

21 MS. EKL: Objection, form, foundation.

22 THE WITNESS: The rumor mill was circulating.  
23 Yes.

24 BY MR. TAYLOR:

1 Q And increasing because of its  
2 intensity because there was no arrest?

3 MS. EKL: Objection, foundation.

4 THE WITNESS: It could have been speculation.

5 BY MR. TAYLOR:

6 Q I'm asking you. You were there, I was  
7 not.

8 A It's a rumor mill. It was there.

9 Q Yeah. And, in fact, the only people  
10 that you went to the front and back of a place they  
11 were in and then either took them into custody or  
12 they were taken into custody, or actually -- were  
13 Randy and Herbie during that three-month period,  
14 right?

15 MS. EKL: Objection, form, assumes facts not  
16 in evidence.

17 THE WITNESS: I don't recall that we took them  
18 into custody. I think they came to the police  
19 department voluntarily.

20 BY MR. TAYLOR:

21 Q Well, can you remember any other  
22 witnesses or suspects during that three-month period  
23 where you went to the front and back door in a public  
24 way and that they then appeared at the police station

1 whether they were taken into custody or whether they  
2 voluntarily went there? Was there anybody else like  
3 that that you remember?

4 A I don't specifically recall anybody  
5 else. No.

6 MS. EKL: Just for the record, I want to put  
7 on the record that it is now slightly after 4:00  
8 o'clock. I made statements as well at the beginning  
9 of the deposition today that we're not going past two  
10 days of deposition with Mr. Ray. We're absolutely  
11 not agreeing to that.

12 We are approaching ten hours of  
13 questioning and Mr. Balson has not asked a question  
14 yet. I'm assuming, based on the fact that it's a  
15 consolidated deposition, that the length of time has  
16 been known to all the parties and that Mr. Balson  
17 will be adopting Mr. Taylor's questioning as his own  
18 because we're not going past 5:00 o'clock unless  
19 Mr. Taylor is going to wrap up soon and Mr.  
20 Mr. Balson wants an opportunity to ask questions.

21 MR. BALSON: Beth, you know what they say  
22 about assumptions. Let's not make those assumptions  
23 for me. Please do not read into the record what you  
24 assume I'm doing or not doing. Mr. Taylor is asking

1 his questions, and I certainly reserve the right to  
2 whatever I think is necessary to conduct discovery on  
3 behalf of Herbert Whitlock.

4 I do not abide by what you have as  
5 your conclusions relative to your client's  
6 availability. So we'll continue with this  
7 deposition, and at such time as Mr. Taylor finishes,  
8 I will make my decision on what I need to ask this  
9 witness. If you choose to walk out of the room or  
10 not produce him, I guess I'll have to deal with that  
11 in the course of this case. But don't make  
12 assumptions on the record for me.

13 MS. EKL: Well, I am putting on the record the  
14 fact that the law says you are entitled to seven  
15 hours for a dep unless by agreement of the parties.  
16 We agreed to extend this deposition with the  
17 understanding that it would be a consolidated  
18 deposition and that all parties would be given an  
19 opportunity to ask their questions.

20 If Mr. Taylor -- I did not extend it  
21 so that Mr. Taylor could have an additional five  
22 hours of questioning at the expense of having to  
23 start over and give you a third day of questioning.  
24 This is clearly something that was orchestrated by

1 all of you because you've been talking during breaks  
2 and talking about questions. So to the extent --

3 MS. SUSLER: You don't know what we were  
4 talking about.

5 MS. EKL: I don't know what you were talking  
6 about.

7 MS. SUSLER: Then don't make assumptions.

8 MR. BALSON: Can we stop this? It's  
9 posturing.

10 MS. EKL: It is posturing by --

11 MR. BALSON: Then let's continue. We're  
12 sitting at the table. Let Mr. Taylor continue with  
13 his questions before we waste any more time  
14 posturing. We understand your position.

15 MS. EKL: I just want it clear on the record  
16 so that you don't say, "Well, I didn't get an  
17 opportunity to ask a question."

18 MR. BALSON: Oh, I may very well say that, and  
19 you should know that.

20 MS. EKL: Well, my position is --

21 MR. BALSON: You should know that. It is  
22 posturing.

23 MS. EKL: One more thing: Are you objecting  
24 to Mr. Taylor taking up your time? That's what I

1 would like to know.

2 MR. BALSON: Beth, I'm listening to Mr. Taylor  
3 ask his questions, and I don't know what stage of  
4 this he's at right now, but I'm going to do what I  
5 need to do to defend -- or to prosecute my client's  
6 case. When Mr. Taylor's finished with his questions,  
7 I will make my decision as to what needs to be done  
8 as far as my client is concerned.

9 I entered this with the understanding  
10 that it would be a 14-hour deposition. That's what I  
11 was told. But I don't want to posture about this  
12 anymore. Everyone knows everyone's position, so  
13 let's go on with this while the sun is setting.

14 MS. EKL: One last comment so it's clear on  
15 the record: From here on out, we're not agreeing to  
16 anything beyond seven hours. We will have to get  
17 approval by the court, because clearly you're taking  
18 advantage of the fact that we gave you additional  
19 time and --

20 MR. TAYLOR: How do you know that until we get  
21 time and you just -- you're going to bolt for the  
22 day? You're just killing time here.

23 MS. EKL: Go ahead.

24 MS. TAYLOR: Let's get on with --

1 MS. EKL: Go ahead.

2 MR. TAYLOR: -- the deposition.

3 BY MR. TAYLOR:

4 Q Did you go to St. Louis with Darrell  
5 Herrington to be hypnotized?

6 A No.

7 Q Were you aware that he was being taken  
8 to St. Louis?

9 A Yes.

10 Q Who took him to St. Louis?

11 A I don't remember.

12 Q Was it -- was McFatrige involved in  
13 that?

14 A I don't remember.

15 Q How about Parrish?

16 A I don't remember.

17 Q Is there anything that would refresh  
18 your recollection as to that?

19 A Do you have something?

20 Q I'm asking you whether you know of  
21 anything.

22 A I don't know of anything. No.

23 Q Well, there's no report, is there,  
24 that in any way reflects the lie detector results

1 that was -- in terms -- not the lie detector results.  
2 There's no Parrish report that you know of that  
3 indicates anything about the lie detector; is that  
4 right?

5 A You have Murphy's report.

6 Q I asked you whether there was any  
7 reports from Parrish of the police department.

8 A Not that I'm aware of.

9 Q And would you expect that either  
10 Murphy's report or some notation by Parrish in his  
11 reports would exist in terms of the negative lie  
12 detector tests?

13 MS. EKL: Objection, form.

14 THE WITNESS: I would anticipate that there  
15 would be a note in there. Yes.

16 BY MR. TAYLOR:

17 Q And if you were a -- "you," as a law  
18 enforcement officer, if you had information about a  
19 negative result with regard to a lie detector test of  
20 a key witness, that would be information that you  
21 would make available to the defense lawyers; isn't  
22 that right?

23 A Yes.

24 Q And did you make any effort to make

1 what you knew about the lie detector results  
2 available to the defense attorneys?

3 A As far as I know, everything we had  
4 was turned over to the defense attorneys.

5 Q Well, did you personally make any  
6 effort to turn anything over?

7 A I did not personally turn over  
8 anything. No.

9 Q Do you know whether Parrish turned  
10 over anything having to do with lie detectors?

11 A You mean physically handed somebody  
12 something? Is that what you're saying?

13 Q Or make sure that it was produced.

14 A We had the case files which include  
15 all the information of the investigation, and that  
16 information would have been copied and turned over to  
17 the defense attorneys.

18 Q But if there was nothing in the  
19 reports, that wouldn't have been turned over?

20 A If it wasn't there, then obviously you  
21 can't make a copy of it.

22 Q Okay. Now, were you informed about  
23 what happened at the hypnosis?

24 A Yes.

1 Q Who informed you?

2 A Probably Parrish.

3 Q What were you told about the hypnosis?

4 A Just a general overview of what  
5 occurred.

6 Q And what was that?

7 A I don't recall. It's been a long  
8 time.

9 Q Were you told whether there was any  
10 additional information that -- that Darrell had  
11 stated in his hypnotic statement or not?

12 A I don't recall.

13 Q Were you told whether the hypnotic  
14 statement was in any way in conflict with what he  
15 told you prior or whether it was consistent or  
16 anything along those lines?

17 A I don't recall what was said.

18 Q Did you see any reports either from  
19 Eckerty or the hypno -- hypnotist or from Parrish  
20 which recorded what happened at the hypnotist?

21 A I don't recall specifically reading a  
22 report. No.

23 Q If your -- if Parrish had been  
24 involved in the interview that -- with the hypnotist

1 or had been present and involved in the circumstances  
2 of the hypnosis, would you expect that he would have  
3 reported that in a Paris police department report?

4 A You mean if he had been in the room  
5 with the hypnotist?

6 Q Well, if he had information. Let's  
7 say he was informed of what Darrell had said and all  
8 of that. Whether he was in the room or not, that  
9 would be something that you would expect that Parrish  
10 would write down in a police report, wouldn't you?

11 MS. EKL: Objection, form.

12 THE WITNESS: I don't know what he was told.  
13 I mean, I don't know what he was told, if he was told  
14 anything at that location.

15 BY MR. TAYLOR:

16 Q Well, you were told something, right?

17 A Well, he told me when he got back at  
18 some point.

19 Q Did you tell him, "Write it down so we  
20 have a record of this hypnosis"?

21 A No.

22 Q Would you expect that he would have  
23 written it down?

24 A I expect that he would have written it

1 down. Yes.

2 Q And you would have expected that he  
3 would have written it down and that would have ended  
4 up with the defense lawyers so they would have all  
5 the evidence relevant to Herrington if he testified?

6 A I would expect that to happen.

7 Q And do you know whether that happened  
8 or not?

9 A No, I don't.

10 Q Now, subsequent to the hypnosis, a  
11 recorded statement was taken by Eckerty and Parrish  
12 of Herrington; is that right?

13 MS. EKL: Objection, form, foundation.

14 THE WITNESS: I don't know. What page are you  
15 on?

16 MR. TAYLOR: Well let me mark this as?

17 MS. REPORTER: Exhibit 15.

18 (WHEREUPON, Ray Exhibit 15 was  
19 marked and tendered to Witness.)

20 MR. TAYLOR: It's Steidl 12113. Okay. Let's  
21 look at Plaintiff -- I'm sorry -- Ray Exhibit 15,  
22 right?

23 MS. REPORTER: Yes.

24 BY MR. TAYLOR:

1           Q           This is a multi-page document. The  
2 first page says that the following is a recorded  
3 statement given to Eckerty and Parrish of Herrington;  
4 is that right?

5           A           Yes.

6           Q           All right. And the date on here,  
7 11 -- oh, I see. It was actually on Darrell's  
8 birthday, right?

9           A           Yes.

10          Q           And this was a videotaped statement;  
11 is that right?

12          A           A voice and VCR. Yes.

13          Q           "VCR," meaning?

14          A           Video camcorder.

15          Q           Did the department have its own video  
16 camera?

17          A           We may have. I know we were trying to  
18 upgrade things. I don't recall whether we had a VCR  
19 or whether we borrowed one.

20          Q           This was at the police station that it  
21 was taken or somewhere else?

22          A           It says it's at the Paris police  
23 department.

24          Q           And it was in the evening at 7:35

1 p.m.?

2 A Yes, if you have the same copy.

3 Q With alcoholics, as the day goes on,  
4 they tend to drink?

5 MS. EKL: Objection, foundation.

6 BY MR. TAYLOR:

7 Q Am I right?

8 A That tends to be the case. Yes.

9 Q So an alcoholic at 9:00 is probably  
10 going to have drunk less alcohol than he would at  
11 7:35 p.m., right?

12 MS. EKL: Objection, form, foundation.

13 THE WITNESS: Depends what he did the prior  
14 nine hours.

15 BY MR. TAYLOR:

16 Q I'm asking you, generally speaking,  
17 you would expect an alcoholic would have had more to  
18 drink by the evening time than he would have when he  
19 got up in the morning, right?

20 MS. EKL: Objection, form, foundation.

21 THE WITNESS: Well, you're assuming that he  
22 didn't work, he just drank all day. Is that -- I  
23 mean, I don't know what Darrell did during that day.  
24 I don't -- so he may not have had the opportunity to

1 drink anything.

2 BY MR. TAYLOR:

3 Q Well, were you present when he gave  
4 this statement?

5 A Not that I recall.

6 Q Were you informed of the contents of  
7 this statement after he gave it?

8 A I'm sure I was.

9 Q And did you ever see the videotape  
10 around that time that was made of the interview?

11 A I don't specifically recall seeing the  
12 videotape. No.

13 Q I'm looking to see here whether he was  
14 asked on the record at least with regard to his  
15 alcoholic condition at the time he was giving this  
16 statement, and I see nothing.

17 Do you see anything in this statement  
18 that would indicate that he was asked what his -- how  
19 many drinks he had had prior to giving this  
20 statement --

21 MS. EKL: Objection --

22 BY MR. TAYLOR:

23 Q -- if any?

24 MS. EKL: -- the documents speaks for itself.

1 BY MR. TAYLOR:

2 Q There isn't any, right?

3 A On the -- not on the first page, but I  
4 only looked at the first page.

5 Q When you have an alcoholic and it's  
6 the evening hours, would you expect that the  
7 questioner would put on the record the mental and  
8 alcoholic state or nonstate of the witness?

9 MS. EKL: Objection, form, foundation.

10 THE WITNESS: I wouldn't expect him to  
11 interview him if he was intoxicated.

12 BY MR. TAYLOR:

13 Q All right. But both from the point of  
14 view of protecting your own self in terms of the  
15 credibility of the statement and in terms of  
16 establishing whether he was in a proper condition to  
17 give a statement, that kind of questioning would be  
18 appropriate, wouldn't it?

19 MS. EKL: Objection, form.

20 THE WITNESS: Again, I wouldn't expect him to  
21 do a video-voice interview if he was in an  
22 intoxicated condition.

23 BY MR. TAYLOR:

24 Q Well, you had a guy who you all knew

1 was an alcoholic, right?

2 A Yes.

3 Q And you also knew that he needed his  
4 alcohol sufficiently that you authorized the  
5 detective to buy some for him when you were going to  
6 have him in custody for a period of time, right?

7 A That's --

8 Q Am I right?

9 A It appears that that was the case.

10 Q So wouldn't it have been appropriate  
11 for Parrish or Eckerty to ask Herrington on the  
12 record, a known alcoholic, "How many drinks have you  
13 had today before you gave this statement"?

14 MS. EKL: Objection, form.

15 THE WITNESS: They may have asked him, but it  
16 may not have been recorded, so I don't know. I can't  
17 respond to that question.

18 BY MR. TAYLOR:

19 Q With you as a law officer, it would be  
20 good to put it on the record one way or the other,  
21 wouldn't it?

22 MS. EKL: Objection, form.

23 THE WITNESS: It would be nice. Yeah.

24 BY MR. TAYLOR:

1 Q I'm sorry. Did you say around the  
2 time that it was taken you actually got to view the  
3 videotape?

4 A No. I said I may have gotten to see  
5 it. I don't recall.

6 Q Do you have any recollection of seeing  
7 the videotape and observing the condition, at least  
8 as far as it could be transmitted on a videotape,  
9 Darrell's condition, with regard to his sobriety?

10 A I can't respond to what his condition  
11 was because I don't recall seeing the tape.

12 Q So nothing in either the transcript or  
13 in your memory helps us to understand whether Darrell  
14 was intoxicated, in a state of coherence or  
15 incoherence; is that right?

16 MS. EKL: Objection, form.

17 THE WITNESS: That's right. There's nothing  
18 here to indicate.

19 BY MR. TAYLOR:

20 Q Okay. If, in fact, it weren't on the  
21 record, would you expect that either Eckerty or  
22 Parrish or both would in some kind of police report  
23 document that they took this statement and document  
24 the circumstances in terms of where they picked him

1 up, whether they picked him up in a bar or -- and any  
2 questions they asked him prior to putting it on the  
3 record, such as "Have you been drinking," that kind  
4 of thing?

5 MS. EKL: Objection, assumes facts not in  
6 evidence.

7 BY MR. TAYLOR:

8 Q You would expect there to be such a  
9 report, wouldn't you?

10 A Well, just having a single report  
11 dated the 24th of November in my hands, I don't have  
12 any information to indicate what Darrell did during  
13 the day or the prior day. So --

14 Q That's what I'm asking you. Actually,  
15 you have a recorded, verbatim statement that came  
16 from a videotape, right?

17 A Yes.

18 Q And what I'm asking you is, would you  
19 expect there to be a police report that Parrish wrote  
20 which would document the circumstances of taking of  
21 this statement, particularly such things as whether  
22 Darrell had been asked if he had been drinking, how  
23 he appeared, that kind of thing, where he was when he  
24 was picked up?

1 A Well, I would anticipate it. Yes.

2 Q And have you ever seen such a report?

3 A I don't recall that I've ever seen a  
4 report like that.

5 Q And there's no such report in anything  
6 I've shown you today, right?

7 A I don't know. I haven't looked at all  
8 of it. You haven't shown me anything.

9 Q Today or yesterday, I should say.

10 A Right. That's -- I believe you  
11 haven't shown me everything.

12 Q After you did the hypnosis -- strike  
13 that.

14 After the lie detector test, the  
15 hypnosis, and the videotaped statement in November of  
16 1986, the decision of the persons involved in the  
17 investigation, that being yourself, McFatrige,  
18 Parrish and Eckerty, the decision was not to charge  
19 Randy and Herbie at that time, right?

20 MS. EKL: Objection, foundation, as to any  
21 other persons other than Mr. Ray.

22 THE WITNESS: You're asking if there was a  
23 group decision?

24 BY MR. TAYLOR:

1 Q Right.

2 A Whether to charge? Get arrest  
3 warrants or --

4 Q Yes.

5 A I don't recall participating in a  
6 conversation like that.

7 Q Well, you --

8 A I mean, I don't recall.

9 Q Well, you all, meaning the four of you  
10 in various groupings, including McFatridge in many of  
11 them, were making decisions about the investigation,  
12 right?

13 A Yes.

14 MS. EKL: Objection, foundation, as to your  
15 phrase, "various groupings," if they don't include  
16 Mr. Ray.

17 BY MR. TAYLOR:

18 Q And an important aspect of this  
19 investigation was the Herrington-as-a-witness issue,  
20 right?

21 A Yes.

22 Q And those decisions were being made by  
23 that group and various members of them, which  
24 included the hypnosis, the videotape, the lie

1 detector. All those were decisions being made,  
2 right, by -- by one or more of the group of four that  
3 was in charge of the investigation, right?

4 A Yes.

5 MS. EKL: Objection, form, foundation.

6 THE WITNESS: Yes.

7 BY MR. TAYLOR:

8 Q And also that group was making  
9 decisions about whether to bring charges against  
10 Randy and Herbie as more events were happening with  
11 Herrington from September through November, right?

12 MS. EKL: Objection, foundation, as to time.

13 THE WITNESS: What was the first part of the  
14 question again?

15 MR. TAYLOR: Can you read it back, Carm?

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

18 "Question: And also that group  
19 was making decisions about  
20 whether to bring charges against  
21 Randy and Herbie as more events  
22 were happening with Herrington  
23 from September through November,  
24 right?")

1 BY MR. TAYLOR:

2 Q Is that right?

3 A Yes.

4 Q And the decision was made even after  
5 the videotaped statement in November not to bring  
6 charges, right?

7 A Yes, the apparent -- that's apparently  
8 correct.

9 Q And, in fact, that was because the  
10 decision was made by that group that there was not  
11 sufficient probable cause to charge, right?

12 MS. EKL: Objection, foundation.

13 THE WITNESS: I don't know that that's the  
14 reason that it was made.

15 BY MR. TAYLOR:

16 Q All right. Well --

17 A I don't recall the reason that it was  
18 made.

19 Q Okay. You don't recall --

20 A There was a decision made.

21 Q Okay. So from November 24th, '86, to  
22 the arrival of Deborah Reinbolt on the scene in  
23 mid-February of '87, no charges were brought; is that  
24 right?

1           A           That's correct.

2           Q           And the investigation continued,  
3 right?

4           A           Yes.

5           Q           And the four of you continued to be  
6 the main persons involved in the investigation,  
7 right?

8           A           Yes.

9           Q           All right. I want to show you what  
10 I'm going to mark as Exhibit 16.

11                               (WHEREUPON, Ray Exhibit 16 was  
12                               marked and tendered to Witness.)

13           MS. EKL: Flint, do you have an extra copy?

14           MR. TAYLOR: Yes. Sorry.

15                               (WHEREUPON, Ray Exhibit 16 was  
16                               tendered to Counsel.)

17 BY MR. TAYLOR:

18           Q           This is W 017498, 7499, and 7500.

19 This document -- have you seen this document before?

20           A           I don't specifically recall it. No.

21           Q           All right. Well, it has a date of  
22 December 20th, 1988, right?

23           A           Yes.

24           Q           And it says, "PPD Chief Gene Ray Re:

1 Darrell Herrington"?

2 A Yes.

3 Q Do you recognize the handwriting?

4 A It looks like Parrish's.

5 Q And it appears -- the first thing  
6 says, "S/A informed GR that street talk indicates DH  
7 is in bars stating that police will get him out of  
8 trouble." Now, "S/A," is that "State's Attorney"?

9 A Yes.

10 Q And "GR," Gene Ray?

11 A Yes.

12 Q And "DH," Darrell Herrington?

13 A Yes.

14 Q So is this accurate in terms of what  
15 it reflects, that you were told by McFatrige that  
16 Herrington was in the bars, stating that the police  
17 would get him out of trouble?

18 A Well, it's on the report. I don't  
19 recall seeing the report or -- I don't remember  
20 seeing it.

21 Q Well, do you recall the state's  
22 attorney telling you that?

23 A No, I don't recall the state's  
24 attorney telling me that. I don't recall this

1 particular incident.

2 Q But you have no reason to disbelieve  
3 it if --

4 A I have no reason to doubt that it's  
5 fact.

6 Q All right. Let's jump down to "S/A  
7 asked GR to promise to reimburse DH for out of pocket  
8 expenses and lost jobs during murder investigation  
9 and trial." Now, "S/A," again, is McFatrige, right?

10 A Yes.

11 Q And "GR" is Gene Ray, right?

12 A Yes.

13 Q And, again, "DH" is Darrell  
14 Herrington?

15 A Yes.

16 Q What this is saying is McFatrige  
17 asked you to promise to reimburse Herrington for  
18 out-of-pocket expenses and for lost jobs during the  
19 murder investigation and the trial, right?

20 MS. EKL: Objection, foundation.

21 THE WITNESS: I'm trying to read the sentence.

22 BY MR. TAYLOR:

23 Q Okay. Are you reading beyond where I  
24 read?

1           A           I'm reading where it says that I  
2 indicated that --

3           Q           Right. Let me stop you and ask you  
4 just to focus on the sentence I read to you before we  
5 keep going, okay?

6           A           Read the sentence again. Which one  
7 was it?

8           Q           "S/A asked GR to promise to reimburse  
9 DH for out of pocket expenses and lost jobs during  
10 murder investigation and trial," okay? Does that  
11 appear to say -- is that what that document appears  
12 to say?

13          A           State's attorney asked me to promise  
14 to reimburse Darrell Herrington for out-of-pocket  
15 expenses and lost jobs during the murder  
16 investigation and trial?

17          MS. EKL: Flint, would you stipulate --

18          THE WITNESS: Beyond the context of the  
19 sentence, I mean, Gene Ray asked -- Gene Ray, meaning  
20 me, asked GR to promise -- I don't understand.

21          BY MR. TAYLOR:

22          Q           Well, I assume it means asked Gene Ray  
23 to reimburse.

24          MS. EKL: Flint, it appears to me that -- I

1 read this differently than you do. It's "about  
2 promise." It looks like an "about" sign. Like, in  
3 the sentence above, it says, "State's attorney  
4 informed GR about Mike Morgan situation." I think  
5 that's an "about."

6 MR. TAYLOR: Oh. So you think that means  
7 "about"?

8 MS. EKL: I guess it doesn't matter. None of  
9 us wrote this, but you're saying it says "to." I  
10 think it's "like."

11 BY MR. TAYLOR:

12 Q Let me ask you this: Did you make a  
13 promise to reimburse Darrell for out-of-pocket  
14 expenses and lost jobs during the murder  
15 investigation and trial?

16 A I recall the out-of-pocket expenses,  
17 but I do not recall lost jobs.

18 Q And this doesn't refresh your  
19 recollection as to lost jobs?

20 A No.

21 Q All right. Now, it also says, "GR  
22 indicates that DH paid \$240 to cover part-time help  
23 for job and figures DH had more unreimbursed expenses  
24 coming." Do you see that? Do you agree with me that

1 that's what that says?

2 A Yes. That's what it appears to say.

3 Q Is that, in fact, the case? As of  
4 December 1988, Darrell Herrington had been paid \$240  
5 to cover part-time help for a job; is that accurate?

6 A That's what it appears to say. Yes.

7 Q I'm asking you whether that's true.  
8 Is that accurate that --

9 A Well, I don't recall. I'm just going  
10 by what's written here. Based on what's written  
11 here, that appears to be the case, and I don't recall  
12 it.

13 Q And it doesn't refresh your  
14 recollection one way or --

15 A No.

16 Q -- the other?

17 A It does not.

18 Q It says you figured Darrell had more  
19 unreimbursed expenses coming; is that accurate?

20 A That's what it says. I don't recall.

21 Q But you don't recall that either?

22 A No, I do not.

23 Q And it says, "State's attorney states  
24 that DH needs to pay court costs of outstanding

1 charges, but perhaps fines could be waived." Do you  
2 see that?

3 A Yes.

4 Q Were you aware as of December of 1988  
5 that, in fact, the group was requiring that Darrell  
6 needed to pay court costs -- strike that -- that the  
7 state's attorney was stating that Herrington needed  
8 to pay court costs on the outstanding charges, but  
9 perhaps any fines could be waived?

10 A That's what it says here.

11 Q Do you recall that being the case?

12 A I don't specifically recall it. No.

13 Q And that the state's attorney suggests  
14 that you talk to Darrell Herrington about the above,  
15 and tell Darrell Herrington to relax. Do you agree  
16 with me that's what it says?

17 A That's what it says. Yes.

18 Q Did McFatrige about that time suggest  
19 that you talk to Darrell Herrington about these --  
20 this information above and tell Darrell to relax?

21 A It says that. I don't recall doing  
22 it.

23 Q You --

24 A No. I don't recall.

1           Q           You don't know whether you did that or  
2 not?

3           A           I don't know whether I did that or  
4 not. I don't recall.

5           Q           All right. Is -- it looks like it  
6 says, "Gene Ray - Darrell Herrington to contact  
7 state's attorney about money, but has paid some money  
8 to clerk. State's Attorney - Gene Ray to ask Darrell  
9 Herrington for copy of altered statement to Steidl  
10 attorney."

11           MS. EKL:   Again, I think you misread that,  
12 Flint.

13           MR. TAYLOR: Oh. "Gene Ray to ask Darrell  
14 Herrington about copy of altered statement to Steidl  
15 attorney." Does that accurately reflect what is  
16 written there?

17           A           Copy of a statement? What is that  
18 word prior to "statement"?

19           Q           "Altered."

20           A           I don't recall it, but that's what it  
21 says.

22           Q           So you don't -- do you recall whether  
23 you asked Darrell for a copy or about a copy of an  
24 altered statement to Steidl's attorney?

1 A No. I don't recall.

2 Q Do you know anything about that?

3 A I don't recall anything about it. No.

4 Q And does that say "Telecom"? Is that  
5 what that says there?

6 A I don't know what it says.

7 Q T-e-l-e-c-o-m?

8 A "T" or an "H."

9 Q Is there such a thing as a Telecom?

10 A I don't know, but it's the same thing  
11 up above.

12 Q What is a Telecom, if you know?

13 A I don't know.

14 Q All right. Then on the next page, it  
15 says, "Darrell Herrington State to pay fines owing  
16 and DH to pay costs of following cases": And it  
17 looks like an "83" and "85" and another "85" case.  
18 "Exact money to be determined at next P/A date." Do  
19 you see that?

20 A The three cases?

21 Q Well, do you agree with me what I read  
22 was accurate?

23 A "State to pay fines owing and DH to  
24 pay costs of following cases: 83 CH 278, 85 TR 255,

1 85 TR 2214."

2 Q Um-hum. And "Exact amount to be  
3 determined" --

4 A Something "Dollars to be determined at  
5 next" --

6 Q Something "date."

7 A "P/A date."

8 Q And I think it's "exact."

9 A Oh, "exact."

10 Q Were you aware that the State was  
11 going to pay Darrell Herrington's fines and Darrell  
12 was going to pay the costs in those three cases?

13 A I don't recall. No.

14 Q Did you communicate that to Darrell?

15 A I don't know that I did. No.

16 Q The next paragraph: "Chief Ray agreed  
17 that money to reimburse Darrell for lost employment  
18 during trials was still owed." Did I read that  
19 accurately?

20 A Yes.

21 Q And, in fact, is that the case, that  
22 you, on or about January 13th, 1989, agreed that the  
23 money to reimburse Darrell for lost employment during  
24 the trials was still owed to him?

1 A That's what it says.

2 Q Well, is that accurate in terms of  
3 the --

4 A I don't recall specifically. No.

5 Q Did you, in fact, agree with Darrell  
6 prior to the trial to reimburse him for the lost  
7 employment during the trials?

8 A Did we do it?

9 Q Did you agree to do it?

10 A If it was a thing where we got  
11 together and talked about it and agreed that that's  
12 the thing to do, then we did it.

13 Q By getting together, you mean  
14 McFatridge and you and --

15 A Yes.

16 Q Do you have a memory that you all  
17 agreed to that?

18 A No.

19 Q But if it's written down here by  
20 either Parrish or McFatridge, you would expect it to  
21 be accurate, wouldn't you?

22 A I would expect so. Yes.

23 Q Even though you're saying you don't  
24 recall these various entries I read to you, if this

1 was written by either McFatridge or Parrish, you  
2 would have no reason to disbelieve that those items  
3 are accurate, right?

4 A Yes. As long as it's not an altered  
5 document, I believe that it's accurate.

6 Q Turn to the third page. It says,  
7 "\$240 to D. Herrington Rhoads Investigation November  
8 87," and then in parentheses, "Help." Do you see  
9 that?

10 A Yes.

11 Q Do you know whose writing that is?

12 A That's mine.

13 Q What does that indicate?

14 A Well, it indicates that that was my  
15 note on \$240 given to Darrell Herrington.

16 Q And that was in November of '87?

17 A It appears so. Yes.

18 Q And what does the "Help" mean?

19 A I don't know, unless it would have  
20 been something in terms of going through the drug  
21 fund to get a reimbursement for petty cash, because I  
22 don't recall specifically where this came from.

23 Q In the prior part of the document, it  
24 refers at some point that some of the money was to

1 help to cover part-time help for job. Do you see  
2 that on page 1, "Gene Ray indicates that Herrington  
3 paid \$240 to cover part-time help for job." So would  
4 that --

5 A That would appear what that 240 was  
6 for.

7 Q So you're writing there that that's  
8 for the help, to pay the help?

9 A Oh, the help. That's what it would  
10 be.

11 Q So it was to pay Darrell for  
12 work-related expenses, not home-related expenses,  
13 right?

14 A Yes. This particular one was for work  
15 expenses.

16 Q But the other ones were for home  
17 expenses, right?

18 A Yeah. I don't recall specific days or  
19 amounts. But, yes, we paid him.

20 Q This note that you wrote, was this  
21 ever in the file, do you know, this kind of  
22 handwritten note?

23 A It may have been. I don't know. This  
24 would have been -- again, I don't know where the

1 funds were drawn from. I don't know whether that  
2 came out of the working petty cash fund that I had or  
3 whether it came from another source.

4 Q All right. Do you know whether that  
5 document was either turned over to McFatrige or the  
6 defense attorneys?

7 A No. I don't know. By "that  
8 document," you mean this whole thing.

9 Q Yes?

10 MR. RAUB: Are you talking about the third  
11 page?

12 MR. TAYLOR: First, I'm asking about the whole  
13 thing.

14 THE WITNESS: The whole thing? No.

15 BY MR. TAYLOR:

16 Q Do you know whether your note was ever  
17 turned over?

18 A No, I don't.

19 Q Okay. Now, when you picked up Darrell  
20 and he said, "Don't ask me about the murders," then  
21 he talked about the murders sometime subsequent after  
22 you questioned him, right?

23 A Yes.

24 Q Did he ever say that the reason that

1 he was talking was because Herb Whitlock had beaten  
2 him up previously?

3 A I don't recall that statement. No.

4 Q Did you ever read or hear anything  
5 along those lines?

6 A I don't recall reading anything like  
7 that or hearing it.

8 Q Would the credibility of Herrington be  
9 diminished in any way if, in fact, it was in  
10 retribution for some kind of physical violence that  
11 was visited on him by Whitlock?

12 A I'm sorry?

13 Q In other words, retribution. If, in  
14 fact, Darrell was naming Whitlock in retribution for  
15 some real or imagined attack, would that in any way  
16 impact on the credibility of Darrell Herrington, in  
17 your law enforcement view?

18 A I think you're asking me if Darrell  
19 was beaten up and he claimed that Herbie did it,  
20 would that add credibility? Is that what you're  
21 saying?

22 Q And, as a result, that's why he came  
23 forward and actually named Herbie, would that impact  
24 negatively on his credibility?

1           A           Would it impact negatively?

2           Q           Yes, because he would be doing this in  
3           retribution for what Herbie allegedly did to him.

4           MS. EKL:    Objection, form.

5           THE WITNESS:  I'm trying -- I'm trying --

6           BY MR. TAYLOR:

7           Q           Okay.  Well, I --

8           A           If the impact would be in Darrell's  
9           favor or not in his favor?

10          Q           All right.

11          A           I mean, is that what you're saying?

12          Q           I'm asking you, yeah, either way.

13          Would it be against his credibility because he was  
14          possibly doing it to get back at Herbie rather than  
15          because it's true?  That's one possibility, right?

16          A           Yes.

17          Q           Okay.  That's what I was asking.

18          A           There's other possibilities, too.

19          Q           What other possibilities are there?

20          A           That Herbie did, in fact, beat him up,  
21          and it would add to Darrell's credibility.

22          Q           All right.  Now, even if Herbie did  
23          beat him up, if Darrell was coming forward to get  
24          revenge against Herbie for beating him up, that

1 wouldn't necessarily add to his credibility. That  
2 would diminish it, wouldn't it?

3 A Are we talking hypothetical?

4 Q Yes, I'm talking if it did happen.

5 A If it did happen? I don't recall it  
6 did happen.

7 Q Well, this is a hypothetical.

8 A Oh, this is a hypothetical question?

9 Q Yeah. If he, in fact, was beaten up  
10 by Herbie --

11 A Hypothetically?

12 Q Yeah. And he came forward like he did  
13 and fingered Herbie, one explanation could be that it  
14 was in retribution for Herbie beating him up.

15 A Yes. That would be one of the  
16 explanations. Yes.

17 Q Right. That's what I'm asking. Now,  
18 in February of 2007, you received information from  
19 Deborah Reinbolt; am I right?

20 MS. SUSLER: 1987.

21 MR. TAYLOR: What did I say?

22 MS. EKL: You said --

23 MS. SUSLER: "2007."

24 MS. EKL: -- "2007."

1 BY MR. TAYLOR:

2 Q In February of 1987, you received some  
3 information from Deborah Reinbolt concerning the  
4 homicide, right?

5 A I, meaning me, personally?

6 Q No, meaning the investigative team.

7 A Yes.

8 Q And after you received that  
9 information in mid-February, a decision was made by  
10 that team, meaning you, McFatridge, Parrish and  
11 Eckerty, to arrest Herbie and Steidl; is that right?

12 A At some point after that. Yes.

13 Q Okay. I believe it was within a  
14 couple of days, that being February 17th when she  
15 gave her statement, and February 19th when you got  
16 the arrest warrants; is that right?

17 A I don't recall the exact dates. No.

18 Q If that's what the record reflects --

19 A If that's what the record reflects,  
20 that's when it was.

21 Q So at that point, the group, being the  
22 four of you, determined that there was probable cause  
23 sufficient to arrest them, right?

24 A Yes.

1 Q And that was based on the fact that  
2 Reinbolt's statement you found sufficiently credible  
3 to support probable cause?

4 MS. EKL: Objection, form.

5 (WHEREUPON, there was an  
6 off-the-record discussion had by  
7 Ms. Ekl and the Witness.)

8 THE WITNESS: I'm sorry.

9 BY MR. TAYLOR:

10 Q Did you have an occasion to speak with  
11 your lawyer?

12 A Well, no. It's nothing she can do.

13 MS. EKL: Just for the record, I didn't talk  
14 to him about what he was going to -- I told him I  
15 couldn't talk to him about it. I told him until he  
16 finished his question, I couldn't help him.

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

19 "Question: And that was based on  
20 the fact that Reinbolt's  
21 statement you found sufficiently  
22 credible to support probable  
23 cause?")

24 MR. RAUB: Does that question make reference

1 to a particular statement of Reinbolt's testimony or  
2 just her statement in general?

3 MR. TAYLOR: The February 17th statement.

4 MR. RAUB: Okay. That's part of the record.  
5 Okay.

6 THE WITNESS: Okay. Yes. We made the arrest  
7 at that time.

8 BY MR. TAYLOR:

9 Q Now, at any point when you were  
10 looking at the statement that Herrington gave you,  
11 did you have any question about the fact that one  
12 knife and two people could have accomplished the  
13 multiple stabbings of these two young, athletic  
14 people? Was there any question you had about the  
15 actual way that Herrington described the offense?

16 MS. EKL: Objection, form.

17 THE WITNESS: Well, at this point, I don't  
18 recall his exact statement.

19 BY MR. TAYLOR:

20 Q Well, whether you recall his exact  
21 statement, would you say that it was somewhat  
22 problematic, assuming that those -- that that was a  
23 way that the homicide could have happened, that one  
24 knife could have killed those two young, athletic

1 people and that two people could have accomplished  
2 that?

3 A Yes.

4 MS. EKL: Objection, form.

5 BY MR. TAYLOR:

6 Q You didn't find that at all  
7 problematic?

8 A That two people could kill one  
9 person -- two people with one knife?

10 Q No. Two people could kill two people  
11 with one knife in the circumstances in the way that  
12 Herrington has described.

13 MS. EKL: Same objection.

14 THE WITNESS: I didn't see it as a problem.  
15 No.

16 MR. TAYLOR: Let's mark this as Number 17.

17 (WHEREUPON, Ray Exhibit 17 was  
18 marked and tendered to Witness.)

19 BY MR. TAYLOR:

20 Q I will ask you to take a look at the  
21 first page of 17. And this is a Paris police  
22 department offense report?

23 A Incomplete.

24 Q Why do you say, "incomplete"?

1           A           It's not been given a number, it's not  
2 signed, there's no narrative.

3           Q           Did any officer sign this?

4           A           I just indicated that it wasn't  
5 signed.

6           Q           So there's no indication of what  
7 officer made this out; is that right?

8           A           No. That's correct.

9           Q           Although it's on an official Paris  
10 document, it -- it's an offense report, right?

11          A           Yes.

12          Q           Would an offense report be a report  
13 that would lead to charges, or is it simply writing  
14 up, like you mentioned before --

15          A           Informational.

16          Q           This is an informational document?

17          A           (Witness nodding head.)

18          Q           You're nodding your head yes?

19          A           That could lead to an arrest.

20          Q           But it says "battery," right?

21          A           Yes.

22          Q           And Betty Herrington, of course, was  
23 the wife of Darrell Herrington right?

24          A           Yes.

1 Q And this would be consistent with some  
2 of the other instances that you were aware of with  
3 regard to Darrell allegedly battering Betty; is that  
4 right?

5 A Yes. Uh-huh.

6 Q Now, have you ever seen this report  
7 before?

8 A Just in the last day or two. Yes.

9 Q And other than the last day or two,  
10 have you seen it?

11 A No. Not that I recall.

12 Q It has two witnesses listed here,  
13 right?

14 A Yes.

15 Q It looks like Jess -- Jessie --  
16 Jessile Thomas, it looks like. Do you know who that  
17 is?

18 A No.

19 Q Are these the children of Betty?

20 A They could be, yes, relatives. Yes.

21 Q All right. That address, [REDACTED] -- is  
22 it -- it looks like [REDACTED]?

23 A [REDACTED], it looks like.

24 Q Where is that in relationship to [REDACTED]

1 or [REDACTED]?

2 A Well, it would be nine blocks north  
3 and a little bit west.

4 Q Okay. Do you recognize the  
5 handwriting on this report, on the first --

6 A No --

7 Q -- page?

8 A -- I do not.

9 Q If we look at the second page, do you  
10 recognize the handwriting on that?

11 A No.

12 Q It appears to be recounting things  
13 that Darrell said, right?

14 MS. EKL: Objection, foundation, form.

15 BY MR. TAYLOR:

16 Q Well, it appears to be a conversation  
17 between Darrell and someone named Paula, right?

18 MS. EKL: Objection, foundation, form.

19 BY MR. TAYLOR:

20 Q You can answer.

21 A I see "Darrell," I see "Paula." I'm  
22 trying to determine what it actually is, whether it's  
23 a conversation that somebody is recording or whether  
24 it's a conversation that is being passed along by one

1 person. I -- it's hard to tell.

2 Q It does appear to be a dialogue  
3 between Darrell and Paula, right?

4 MS. EKL: Objection, foundation, form.

5 THE WITNESS: It appears to be a dialogue of  
6 some sort.

7 BY MR. TAYLOR:

8 Q Between those two names, right?

9 A Yes.

10 MS. EKL: Objections, foundation.

11 BY MR. TAYLOR:

12 Q Is there a Paula by the name of Paula  
13 Myers?

14 A Yes.

15 Q Was she someone who was an  
16 acquaintance or friend of either Darrell or Betty?

17 A I don't know what the relationship  
18 was.

19 Q Well, what do you know about her?

20 A I just know that it's a name that I've  
21 seen in reference to this case.

22 Q Okay. As I'm looking here, it says,  
23 "There is - I am going to see to it the big guy was  
24 put away - Herb and Randy are set free. I seen

1 something at the bottom of the stairway before I saw  
2 Randy or Herb - Nobody know about that."

3 Paula says, according to this  
4 document, "I think they walked in on - when you  
5 walked in on." And then it says, "Darrell - It  
6 didn't happen like that at all."

7 Were you at all aware of this  
8 purported conversation between Darrell and Paula?

9 MS. EKL: Objection, form, foundation.

10 MR. RAUB: Objection. You left out a sentence  
11 when you read the narrative. You skipped a sentence.  
12 I don't know if you did so intentionally or not.

13 BY MR. TAYLOR:

14 Q Okay. Well, I'm asking you, looking  
15 at this, what appears to be a narrative of a  
16 conversation, were you aware of this particular  
17 conversation?

18 A No, I wasn't.

19 Q All right. It says, "Darrell -  
20 somebody had offered him" -- it looks like "25,000,"  
21 or some kind of thousand -- "to testify to something  
22 he know. What it is isn't [sic] true."

23 MS. EKL: Flint, if you're going to read it,  
24 at least read the words that appear to be printed on

1 the page.

2 MR. TAYLOR: "What it is is true."

3 MR. RAUB: Yes.

4 MR. TAYLOR: I'm sorry. I thought --

5 BY MR. TAYLOR:

6 Q Well, did you become familiar with  
7 that information?

8 A I don't recall seeing this document.  
9 No.

10 Q And then it says, "Betty," and I  
11 assume that would refer to Betty Herrington; is that  
12 right?

13 MS. EKL: Objection, foundation. He's never  
14 testified that he knows anything about this document,  
15 its author, the making of this document, nor that  
16 he's ever seen it at any time before the last two  
17 days, and you're asking him questions about what  
18 things mean. It's completely inappropriate.

19 MR. TAYLOR: I assume the objection is  
20 foundation.

21 MR. RAUB: And it's also 5:00 o'clock.

22 MS. EKL: You've got three minutes. You  
23 started this deposition today early.

24 BY MR. TAYLOR:

1           Q           "Darrell told her that Bob Morgan had  
2 offered him a bunch of money to keep his mouth shut.  
3 He also told him he could have a job and would [sic]  
4 have" -- "wouldn't have to do anything."

5                       It says, "Darrell said that Bob M. was  
6 shipping dope in the bags of dog food. One bag of  
7 dog food would have dope in it. Betty said Bob M. is  
8 always speaking to her and asking how she is."

9                       Have you ever heard that statement  
10 about Bob Morgan before?

11           A           Not that I recall. No.

12           Q           Now, that certainly would be  
13 information that would be relevant to the question of  
14 Bob Morgan as a potential suspect in the case; isn't  
15 that right?

16           A           It would appear so. Yes.

17           Q           And yet that was never brought to your  
18 attention?

19           A           Well, I don't know. It may have been,  
20 but I don't recall seeing this document.

21           Q           Okay. Now, let's go to the next page.  
22 Do you recognize any of the handwriting on that page?  
23 First let's look at the top one, two, three, four,  
24 five, six lines. Do you recognize that handwriting?

1           A           Well, that could be Jim's, but I'm not  
2           positive.

3           Q           Have you ever seen that before, that  
4           portion of this note?

5           A           No, I have not, that I recall.

6           Q           Looking at the second thing starting  
7           with, "Saw Bob Morgan standing at bottom of stairs  
8           when he entered the residence. Bob told Darrell 'you  
9           didn't see me,' and Darrell said 'okay.' Darrell  
10          talked to Morgan at Post Office 3 days later Bob met  
11          Darryll at Darryll's shop and offered Darryll \$25,000  
12          cash and \$25,000 property to keep his mouth shut."  
13          Do you recognize the handwriting?

14          A           No.

15          Q           Have you ever seen that information  
16          prior to a day or two ago --

17          A           Not that I recall.

18          Q           -- when you saw this?

19          A           Not that I recall. No.

20          Q           That obviously was information that  
21          was highly relevant to the investigation of the case  
22          with regard to the murders, right?

23          A           Yes.

24          Q           And, in fact, if you had that kind of

1 information, that would be the kind of information  
2 that should be both investigated and turned over to  
3 defense lawyers, right?

4 A Yes.

5 Q All right. Was it, in fact, to your  
6 knowledge?

7 A Not to my recollection.

8 Q Was any investigation done to ask Bob  
9 Morgan about this statement that was attributed to  
10 either Betty or to Darrell?

11 A Not that I recall.

12 Q Now, the fourth page has on the top,  
13 "Herrington Drywall and General Construction" and  
14 "[REDACTED]," right?

15 A Yes.

16 Q And that looks to be some kind of  
17 official document that Darrell's business used at  
18 that time?

19 A It looks more like a shopping list for  
20 the house.

21 Q Where do you get the -- oh, okay. In  
22 this it says, "Since trial has remembered," and  
23 "August 19, 1987 11:00 p.m. Darrell, Gene, Gary, Jim  
24 at Darrell's house."

1                   Were you at Darrell Herrington's house  
2                   at or about 11:00 p.m. on August 19th, 1987?

3                   A            I don't recall a specific meeting.  
4                   No.

5                   Q            Well, do you recall going after the  
6                   trial to Darrell's house to discuss things that  
7                   Darrell had remembered since the trial?

8                   A            No. I don't recall that. No.

9                   Q            Regardless of any date; is that right?

10                  A            Regardless of any date, I do not  
11                  recall it. No.

12                  Q            It also says, "Had conversation with  
13                  Paula Myers said there was more that Darrell knew but  
14                  didn't say in court." Do you see that?

15                  A            Yes.

16                  Q            Do you recognize this handwriting?

17                  A            That would appear to be Parrish's or  
18                  maybe even Wheat's.

19                  Q            And Gary --

20                  A            I don't -- it's not mine.

21                  Q            All right. Did you have a  
22                  conversation or were you present for a conversation  
23                  with Darrell after the trial in which Paula Myers'  
24                  name came up and there was some conversation about

1 Darrell saying there was more that Darrell knew  
2 that -- or someone saying that there was more that  
3 Darrell knew but didn't say in court?

4 A I don't recall the meeting. No. I  
5 don't recall the statement.

6 Q You don't recall either the statement  
7 or the meeting; is that right?

8 A No, I don't.

9 Q Would you agree with me that that  
10 particular document should have been furnished to  
11 defense lawyers as evidence -- as potential evidence  
12 that might help the defense?

13 A It would appear to be so.

14 Q And it would certainly go to the  
15 credibility of Darrell Herrington, wouldn't it --

16 A Possibly. Yes.

17 Q -- if he was saying now he knew new  
18 stuff in addition to what he had said before, right?

19 A Right.

20 Q Now, to your knowledge, was any  
21 additional investigation done into any involvement  
22 that Bob Morgan may have had at any time after the  
23 trial?

24 A I don't recall.

1           Q           All right.  Would you agree with me  
2           that there should have been additional information --  
3           I mean, investigation done if, in fact, there was any  
4           credence to the fact that Bob Morgan was standing at  
5           the bottom of the stairs when Darrell entered the  
6           residence and that Bob told Darrell, "You didn't see  
7           me," and Darrell said, "Okay"?  That certainly should  
8           lead to more investigation, shouldn't it?

9           A           Certainly.

10          Q           And, to your knowledge, neither  
11          Parrish nor anyone else at the PPD did any additional  
12          investigation based on that information; is that  
13          right?

14          A           I don't recall.  I don't recall.

15          Q           You don't recall any?

16          A           I don't recall any.  I don't recall  
17          what happened.

18          Q           I assume then you don't recall any  
19          results that would have come from any investigation  
20          based on this information?

21          A           No, I don't.

22          Q           Did you or someone who had a  
23          relationship with Darrell ask him about whether he,  
24          in fact, had said the kinds of things that are here

1 in this note; that is, that you didn't -- that Morgan  
2 was at the scene of the crime about the same time  
3 Darrell was and that subsequently Morgan had tried to  
4 buy his silence?

5 A I don't recall that I ever had a  
6 conversation with Darrell about that. No.

7 Q If, in fact, Morgan had tried to buy  
8 Darrell's silence with \$25,000 in cash and \$25,000 in  
9 property, that would be a criminal offense, wouldn't  
10 it?

11 A What? Bribing him, you mean?

12 Q Yeah.

13 A Yes, that would be.

14 Q \$50,000 to keep a witness's mouth shut  
15 would be a felony, wouldn't it, if it were proven?

16 A Yes. I would think so.

17 Q And you would expect that if you had  
18 that information, you would jump on that to  
19 investigate it, right?

20 A Yes.

21 Q And, in fact, we have no record that  
22 you did anything of the sort, right?

23 A I don't recall what happened after  
24 that because I don't recall seeing the document.

1 Q But you were still the police chief in  
2 1987 and 1988, right?

3 A Yes.

4 Q And Parrish was still on the force at  
5 that time, right?

6 A Yes. I believe so.

7 Q And you knew, did you not, that  
8 Parrish had a relationship with Morgan, right?

9 MS. EKL: Objection, form, foundation. It  
10 assumes facts not in evidence.

11 THE WITNESS: What do you mean by "a  
12 relationship"?

13 BY MR. TAYLOR:

14 Q Well, he knew Morgan, right?

15 MS. EKL: Objection, foundation.

16 THE WITNESS: Well, yeah. Does that mean if  
17 you know somebody, you have a relationship? I  
18 mean --

19 BY MR. TAYLOR:

20 Q Well, let me ask you the next  
21 question: You knew that Parrish had left the police  
22 department at some point and had gone to work for  
23 Morgan; is that right?

24 A I knew that Jim had worked there

1           sometime in the past.    Yes.

2                   Q           And he worked there for how long a  
3           period of time?

4                   A           I do not know.

5                   Q           Did you feel that because he had  
6           worked for Morgan, that there was any kind of  
7           conflict in relying on Parrish to aggressively  
8           investigate any involvement that Morgan might have  
9           had in the murders of -- the Rhoads murders?

10                  A           Jim didn't like Morgan.

11                  Q           And how do you know that?

12                  A           He told me.

13                  Q           What did he say about Morgan?

14                  A           "I don't like Morgan."

15                  Q           Did he say why?

16                  A           No, he didn't specifically say why.  
17           He just said he didn't like him.   He had worked for  
18           him and he didn't like him.

19                  Q           Did anyone ask Parrish whether he knew  
20           anything about drug trafficking coming out of  
21           Morgan's shop?

22                   MS. EKL:   Objection, foundation.

23                   THE WITNESS:  I'm sure if Jim knew about drug  
24           trafficking, he would have been down there making

1 arrests, getting search warrants, and --

2 BY MR. TAYLOR:

3 Q You're sure of that because of what  
4 you know about him as a detective, right?

5 A And the fact that he did not like  
6 Morgan.

7 Q Do you have any explanation for why,  
8 if Parrish didn't like Morgan, that he never  
9 confronted Morgan around the evidence that Tim Busby  
10 had brought in?

11 MS. EKL: Objection, form, foundation, assumes  
12 facts not in evidence.

13 THE WITNESS: No. I have no recollection of  
14 whether he did or didn't.

15 MS. EKL: I think this is about where we need  
16 to wrap it up. I've given you two full days. The  
17 agreement was we would come up here to Chicago. It's  
18 now 5:06 or 5:07, and you were able to use your time  
19 as you wished.

20 MR. BALSON: Beth, just a minute. I don't  
21 agree with you, but I would like to ask one follow-up  
22 question here. I'm not indicating this is all my  
23 questions, but if it's okay, I would like to ask one  
24 follow-up question just over this document. Can I do

1 that?

2 MS. EKL: Go ahead.

3 EXAMINATION

4 BY MR. BALSON:

5 Q Do you remember being at Darrell  
6 Herrington's house the day that this document was  
7 written?

8 A No, I don't.

9 Q Let me try to refresh your memory. Do  
10 you know who Gary Wheat is?

11 A Yes.

12 Q If Gary Wheat said that he was there  
13 and you were there and Parrish was there and that  
14 this document is in Parrish's handwriting, does that  
15 help refresh your recollection?

16 A I believe I probably was there due to  
17 the fact that Gary testified to it, but I do not  
18 remember the meeting. I mean, it's just as simple as  
19 that. I do not remember. It's been a long time ago.

20 Q Just so that we're clear: Following  
21 this meeting, you didn't do anything relative to  
22 following up any of these matters we have just talked  
23 about, right?

24 A I personally did not follow up on it.

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No .

MS. EKL: All right. Thank you.

FURTHER DEPONENT SAYETH NAUGHT  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
URBANA DIVISION

GORDON RANDY STEIDL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05 CV 2127
	)	Judge Harold Baker
CITY OF PARIS, et al.,	)	Magistrate Bernthal
	)	
Defendants.	)	
-----	)	-----
HERBERT WHITLOCK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 08 CV 2055
	)	Judge Harold Baker
CITY OF PARIS, et al.,	)	Magistrate Bernthal
	)	
Defendants.	)	

WITNESS CERTIFICATION - VOLUME II - PAGES 269 - 593

I hereby certify that I have read the foregoing transcript of my deposition, given on the 11th day of December, 2008, and 12th day of December, 2008, at the time and place aforesaid, consisting of pages 1 through 590; and I do again subscribe and make oath that the same is a true, correct, and complete transcript of my deposition so given.

I have \_\_\_ not \_\_\_ submitted errata sheets.

Signed: \_\_\_\_\_  
EUGENE RAY, Deponent

SUBSCRIBED AND SWORN TO  
before me this \_\_\_ day  
of \_\_\_\_\_ A.D., \_\_\_\_\_.

\_\_\_\_\_

1 STATE OF ILLINOIS )  
2 ) ss:  
3 COUNTY OF C O O K )

4 I, CARMELLA T. FAGAN, a Certified  
5 Shorthand Reporter and Notary Public within and for  
6 the County of Cook and State of Illinois, do hereby  
7 certify that heretofore, to-wit, on the 11th day of  
8 December, 2008, and 12th day of December, 2008,  
9 personally appeared before me at Two Prudential  
10 Plaza, 180 North Stetson Avenue, Suite 2000, Chicago,  
11 Illinois, EUGENE RAY, a witness in a certain cause  
12 now pending and undetermined in said Court.

13 I further certify that the said EUGENE  
14 RAY, was by me first duly sworn to testify to the  
15 truth, the whole truth, and nothing but the truth in  
16 the cause aforesaid; that the testimony then given by  
17 said witness was reported stenographically by me, in  
18 the presence of said witness and afterwards reduced  
19 to typewriting via computer-aided transcription, and  
20 the foregoing is a true and correct transcript of the  
21 testimony so given by said witness as aforesaid.

22 I further certify that the signature of  
23 the witness to the foregoing deposition was reserved  
24 by agreement of counsel for the respective parties.

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I further certify that the taking of this deposition was pursuant to notice, and that there were appearances as heretofore noted.

I further certify that I am not counsel for nor in any way related to any of the parties to this suit, nor am I in any way interested in the outcome thereof.

In testimony whereof I have hereunto set my hand and affixed my notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

-----  
Carmella T. Fagan, C.S.R., R.P.R.

My notary expires:  
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