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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
STATE OF ILLINOIS

GORDON RANDY STEIDL,  
Plaintiff,

-vs- No. 05 CV 2127

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

HERBERT WHITLOCK,  
Plaintiff,

vs. No. 08 CV 2055

CITY OF PARIS, Present and Former  
Paris Police Officials Chief Gene  
Ray and Detective James Parrish;  
former Illinois State Trooper Jack  
Eckerty; former Edgar County  
State's attorney Michael McFatrige;  
EDGAR COUNTY; and Illinois State  
Police officials Steven M. Fermon,  
Diane Carper, Charles E. Bruggemann,  
Andre Parker, Kenneth Kaupus and  
Jeff Marlow; and Deborah Rienbolt.

Defendants

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CONTINUED DEPOSITION OF STEVE FERMON

July 9th, 2009

2:30 PM

Deann K. Parkinson: CSR 84-002089  
Area Wide Reporting & Video Conferencing  
301 West White  
Champaign, Illinois 61820  
(800)747-6789

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APPEARANCES:

PRESENT BY TELEPHONE:

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Kaupus, and Jeffrey Marlow

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DEPOSITION

The Deposition of STEVE FERMON, a citizen of the State of Illinois, a witness of lawful age; produced, sworn, and examined upon his corporeal oath, at Area Wide Reporting, 301 West White, Champaign, Illinois on July 9th, 2009, before Deann K. Parkinson, CSR, Notary Public in and for the County of Champaign and State of Illinois, as a witness in a certain suit and matter now pending and undetermined in the United States District Court for the Central District of Illinois.

CSR License No. 84-002089

1 (Whereupon the deposition began at 2:40 PM.)

2 STEVE FERMON,

3 the deponent herein, called as a witness, after

4 having been first duly sworn, testified as

5 follows:

6 DIRECT EXAMINATION

7 BY MR. TAYLOR:

8 Q. Mr. Fermon, my name is Flint Taylor. I  
9 represent Randy Steidl. I'm here in Chicago on  
10 the phone, and I will be continuing with the  
11 examination on behalf of Mr. Steidl that was  
12 commenced by my partner, Jan Susler, at the last  
13 sitting of the deposition.

14 Okay?

15 A. Yes, sir.

16 Q. All right. Now, you are the same Steve  
17 Fermon who is a defendant in this lawsuit and who  
18 has previously sat for a deposition several months  
19 ago earlier this year, is that right?

20 A. Yes, sir.

21 Q. And you understand you are still under  
22 oath?

23 A. Yes, sir. I was just sworn in.

24 Q. Okay. Very good. Now, I want to call

1 your attention back to the years of 2000 and 2001,  
2 and I want to ask you specifically, did Colonel  
3 Carper ever tell you that she told Major Casella  
4 that she did not authorize the reopening of the  
5 Rhodes investigation because it was politically  
6 sensitive?

7 A. I'm afraid -- is that in the form of a  
8 question or a statement, sir?

9 Q. It's in the form of a question. Would  
10 you like me to repeat it?

11 A. Please do.

12 Q. Did Colonel Carper ever tell you that  
13 she had told Major Casella that she did not  
14 authorize the reopening of the Rhodes  
15 investigation because it was politically  
16 sensitive?

17 A. No.

18 Q. I'm sorry?

19 A. No.

20 Q. Similarly, did Carper ever tell you she  
21 told Callahan that she did not authorize the  
22 reopening of the Rhodes investigation because it  
23 was politically sensitive?

24 A. No, sir.

1 Q. Did Carper tell you she told anyone else  
2 in the chain of command or otherwise in the employ  
3 of the Illinois State Police that she did not  
4 authorize the reopening of the Rhodes  
5 investigation because it was politically  
6 sensitive?

7 A. No, sir.

8 Q. Did Carper ever talk to you about any  
9 conversations or communications she had with  
10 Parker about it?

11 A. About it being --

12 Q. I'm sorry, let me rephrase it. About  
13 the reopening of the investigation?

14 A. Sir, I just need some clarification. Up  
15 until this point you have inserted the term  
16 politically sensitive into every phrase. Have you  
17 shifted? It's hard to tell without looking at you  
18 and getting the clarification.

19 A. Okay.

20 Q. Well, I'm sorry you can't look at me and  
21 I can't look at you.

22 A. Probably better for both of us, sir.

23 Q. We will not follow-up on that comment.

24 A. Thank you.



1 Q. Let me restate the question. Did Carper  
2 talk with you about any conversations or  
3 communications she had with Colonel Parker about  
4 the reopening of the Rhodes investigation?

5 A. Not that I remember, sir, no.

6 Q. And so I would ask you specifically, did  
7 Carper speak with you about conversations or  
8 communications with Parker about the question of  
9 the political sensitivity of the investigation?

10 A. No, sir.

11 Q. Did you learn any information about  
12 Parker's concerns about campaign contributions  
13 that had been made by the person of interest to  
14 certain Republican officials?

15 MR. JOHNSTON: I'll object to the form of  
16 the question. Foundation. Assumes facts not in  
17 evidence. Go ahead and answer, Steve.

18 A. Yeah. I'm afraid I don't understand the  
19 question as far as Parker's statement and you are  
20 talking about --I mean everybody's name as far as  
21 I understand, Mr. Taylor, is on the table, on the  
22 record and everything else. So --

23 Q. All right. Well, let me ask you, if you  
24 don't understand the question, did you have any

1 conversations concerning the question of campaign  
2 contributions made by a person of interest, that  
3 being Robert Morgan, to high ranking Republican  
4 officials, that being Governor Ryan, and that  
5 being attorney general Jim Ryan?

6 MR. JOHNSTON: Same objection. Go ahead  
7 and answer.

8 A. Well, again, I'm losing you here. Did I  
9 have any questions about it?

10 Q. No, did you have any conversations about  
11 it.

12 A. With whom, sir?

13 Q. With Carper?

14 A. Not that I remember, no, sir.

15 Q. All right. How about with anyone else?

16 A. The only person I ever remember bringing  
17 up anything about any political contributions to  
18 anybody was Lieutenant Callahan.

19 Q. When did he bring that up to you?

20 A. In the time line of events, sir, I don't  
21 know. It would have -- after I became the zone  
22 commander in November of '01. Sometime after  
23 that. But I can't tell you when. Or I don't  
24 remember when.

1 Q. All right. So, was it ever communicated  
2 to you that Parker had any concerns about the  
3 question of political contributions?

4 A. No, sir.

5 Q. All right. Now, in your prior  
6 deposition you made reference to a previous e-mail  
7 that you received concerning the question of the  
8 Governor and Bettenhausen and the question of  
9 clemency. I want to ask you to take a look at  
10 what I have previously marked as Exhibit 14, and  
11 even though that is out of order. It's Fermon 14,  
12 which is an e-mail to you, carbon copied to  
13 Valdimir Talley Junior, 12/2/02. I ask, Miss  
14 Court Reporter, if you could tender him a copy of  
15 that, please. For the record it's ISP 18575.

16 MR. JOHNSTON: You said 14, right? Got  
17 it.

18 Q. Do you have a copy of that before you?

19 A. Yes, sir.

20 Q. All right. And is that in fact an  
21 e-mail that you received from Michale Callahan on  
22 or about the 2nd of December, 2002?

23 A. It appears to be, yes, sir.

24 Q. And in fact is a carbon copy to one

1 Valdimir Talley Junior. Who is that, if I might  
2 ask?

3 A. Valdimir Tally Junior is a, or was a  
4 master sergeant with the state police who I, if I  
5 remember correctly, sir, was serving as a staff  
6 assistant or a staff officer for me at the time.

7 Q. All right. And did he have any role in  
8 the investigation with regard to Morgan and  
9 others?

10 A. Not that I recall. He didn't have a  
11 role in the investigation of Morgan or the Rhodes  
12 homicides or the Paris investigation or anything.  
13 He was basically a staff officer whose role was to  
14 really just help with the flow of paper, sir.

15 Q. Now, this references an earlier  
16 discussion; did you have an earlier discussion  
17 with Mr. Callahan prior to or on December 2, 2002,  
18 the subject of possible clemency petition on  
19 behalf of Whitlock and Steidl?

20 A. If you would, sir, just give me a minute  
21 to read through this.

22 Q. Certainly.

23 A. Okay, sir. I have completed reading the  
24 e-mail that you have referenced, No. 14. I don't

1 recall the earlier conversation of Lieutenant  
2 Callahan is referencing. I have no recollection  
3 of that. I do recall in this that it was my  
4 interpretation that basically Mr. Bettenhausen,  
5 the deputy governor, was soliciting a clemency  
6 petition.

7 Q. And that was your understanding as of  
8 the 2nd of December, 2002, is that right?

9 A. Yes, sir. As I sit here and read this  
10 today, I mean that's -- yes. That's what I  
11 recall.

12 Q. All right. Now, upon receiving this  
13 e-mail, what if anything did you do?

14 A. I don't remember that, sir. I mean  
15 that's -- more than seven years ago. I don't  
16 know. I don't remember.

17 Q. If we look at Exhibit No. 7, which is an  
18 e-mail from you to Carper on the 18th of December,  
19 2002, can you find that?

20 MR. JOHNSTON: Flint, you broke up, a  
21 truck went by, we couldn't hear you. You  
22 referenced an Exhibit 7?

23 Q. Yes. An e-mail from him to Colonel  
24 Carper dated the 18th, which is Exhibit No. 7.

1 Can you locate that?

2 A. Yes, sir. I have it right now.

3 MS. STANKER: I'm sorry, can you put the  
4 Bates numbers in, please?

5 MR. JOHNSTON: It's ISP 02919.

6 Q. Okay. Actually I have ISP 18592, but I  
7 take it it's the same document. The document --  
8 well, hold on a moment. Maybe I have the wrong  
9 one here.

10 Now, this is an e-mail, there's two of  
11 them here. One from Callahan on the 16th to you.  
12 Again, the carbon to Mr. Tally. Referencing a  
13 phone call concerning a clemency petition that was  
14 filed by Whitlock and Steidl's attorneys.

15 Now I want to ask you from the 2nd of  
16 December, when you received the e-mail that I just  
17 showed you, which has been marked as 14 from  
18 Callahan, until the 16th, that being about exactly  
19 two weeks, what if anything did you do with regard  
20 to Mr. Callahan's indication that the Governor was  
21 soliciting a clemency petition from Steidl and  
22 Whitlock?

23 A. Well, your question has got several  
24 facets to it. Number one, I don't remember what I

1 did or didn't do after getting the e-mail from  
2 Lieutenant Callahan. But, it was my recollection  
3 from reading the last Exhibit 14 that governor, or  
4 Deputy Governor Bettenhausen, it was my  
5 interpretation that he was actually soliciting the  
6 clemency petition as opposed to what you just  
7 asked me as being the Governor.

8 Q. Thank you for the clarification. But  
9 the rest of my question is, as you have addressed,  
10 is what if anything did you do upon receiving what  
11 Callahan characterized as a request for a clemency  
12 petition?

13 A. I just don't remember, sir.

14 Q. All right. Did you have any  
15 conversations that you recall with Colonel Carper  
16 about it in that time frame of two weeks?

17 A. I don't remember, sir.

18 Q. Well, did you form an opinion as to the  
19 -- as to the merits of any clemency petition that  
20 would be filed on behalf of Steidl or Whitlock in  
21 that two-week period?

22 A. As to the merits of the clemency  
23 petition? No, sir. I didn't.

24 Q. All right. Now, you did, two days

1 later, send an e-mail through Carper, that being  
2 the 18th, two days after the 16th e-mail from  
3 Callahan to Fermon telling you that the petition  
4 had been filed, you sent the rock and a hard place  
5 e-mail that's also on Exhibit 7, is that correct?

6 MR. JOHNSTON: I'll object to the form of  
7 the question. Go ahead and answer as best you  
8 can.

9 A. Sir, I'm having trouble following your  
10 method as far as giving me a question and making a  
11 statement. I'm not trying to be argumentative or  
12 --

13 Q. All right. If you would like me to  
14 rephrase it. This e-mail of 12-18 from you to  
15 Carper, which is part of Exhibit No. 7, in it you  
16 made reference to being between a rock and a hard  
17 place. Is that correct?

18 A. Yes, sir.

19 Q. And that e-mail sent on the 18th was two  
20 days after you learned that the clemency petition  
21 had in fact been filed, right?

22 MR. JOHNSTON: Object to the form of the  
23 question. Go ahead and answer as best you can.

24 A. Well, I would agree. I wouldn't say it



1 that way. I would agree that the e-mail I sent to  
2 Lieutenant Colonel Carper was two days followings  
3 the information from Lieutenant Callahan. I don't  
4 know for a fact that there was a clemency petition  
5 filed at that point. All I know is that that was  
6 the terminology that Lieutenant Callahan had in  
7 there. I didn't have any factual basis to know  
8 that as a fact.

9 Q. You knew that Callahan believed that  
10 that had happened, right?

11 MR. JOHNSTON: Object to the form of the  
12 question. Answer as best you can.

13 A. Sir, I don't know what Lieutenant  
14 Callahan believed.

15 Q. Well, he told you that, and you had no  
16 reason to disbelieve that he in fact thought that  
17 that was the case, did you?

18 MR. JOHNSTON: Object to the form of the  
19 question. Compound. Go ahead and answer as best  
20 you can.

21 A. I don't think I can answer it. I can't  
22 tell you what he believed. I mean, I don't know  
23 what he believed.

24 Q. I didn't ask you that, but rather than

1 to quibble, I'm not going to have the question  
2 reread. Please try to listen to my questions,  
3 and I would appreciate it, and just answer what I  
4 asked and not anything else.

5 I want to go to your statement that you  
6 obviously need to discuss before any meetings,  
7 this is the place between the rock and the hard  
8 place.

9 Now, when you said the rock, was the  
10 rock the ISP and the special appellate  
11 prosecutor's position with regard to clemency?

12 A. No, sir. What I was using was the  
13 terminology the rock and a hard place, as I've  
14 explained in previous deposition countless times,  
15 the rock and the hard place is basically a  
16 colloquialism of saying that I've used time and  
17 again. What I meant, and intended, and I felt  
18 like my interpretation was, that from on one hand  
19 of the situation we have Deputy Governor  
20 Bettenhausen soliciting a clemency petition. And  
21 on the other hand of the situation we have got the  
22 appellate prosecutor's office responding to the  
23 solicited clemency petition.

24 I felt like that was a very difficult

1 situation for the state police to be in.

2 Q. And was that because your understanding  
3 was that the Governor was, in his office, Mr.  
4 Bettenhausen, was in favor of the petition, and  
5 that the special prosecutor was opposed to that  
6 position? Is that why you have a rock on the one  
7 hand and the hard place on the other?

8 A. No, sir. I had no idea whether, what  
9 Mr. Parkinson's position was, and I had no idea  
10 what Mr. Bettenhausen's situation was, other than  
11 one from the information I got from Lieutenant  
12 Callahan, that Bettenhausen had solicited the  
13 clemency petition. And that Parkinson was  
14 responding to it. And the rock and the hard place  
15 is that the state police is in the middle.

16 Q. Okay. And you say this is a  
17 colloquialism that you often used, right?

18 A. Yes. Such as burr in the saddle. Pain  
19 in the ass. Various things, you know, that's just  
20 a figure of speech. It's maybe a bad habit I have  
21 using those type of terms.

22 Q. Well, did it not communicate -- did you  
23 not mean to communicate to Colonel Carper that  
24 there were two opposing positions here that the

1       ISP was in the middle between? That being on the  
2       one hand the position of the governor's office,  
3       and on the other hand the position of the state  
4       appellate prosecutor?

5               MR. JOHNSTON: I will object to the form  
6       of the question. Go ahead and answer as best you  
7       can.

8               A.     No, sir. If I understand your question  
9       correctly, what I was trying to communicate was  
10      that it was something that we needed to discuss.  
11      I didn't know what the position of either  
12      gentleman or either of their agencies was. I  
13      don't know if they agreed, whether they disagreed.  
14      I had no way of knowing that. All I know is that  
15      on each end of the spectrum someone is working on  
16      this case. And that we, as the state police, in  
17      the middle. And if Governor Ryan or whatever  
18      governor had wanted to grant clemency, they didn't  
19      need to reach out to me or Lieutenant Callahan or  
20      anyone else.

21              Q.     Well, you wouldn't have been in the  
22      middle unless there were two opposing positions,  
23      would you?

24              MR. JOHNSTON: Object to the form of the

1 question. Go ahead and answer.

2 A. Yes. You can have three children, sir,  
3 and one in the middle and they are not opposed to  
4 the other two.

5 Q. Then it isn't a rock and a hard place;  
6 it's three people agreeing with each other, isn't  
7 it?

8 MR. JOHNSTON: Object to the form of the  
9 question. Go ahead and answer as best you can.

10 A. I think that's dependent.

11 Q. Pardon me?

12 A. That's dependent whether they agree or  
13 not, if you have three. I just didn't see it that  
14 way. I have explained to you what my  
15 interpretation was of it. I have explained it at  
16 length in this deposition, the last one; in court.  
17 I'm sorry that you don't agree or don't understand  
18 with what I have tried to explain to you.

19 Q. It's not a question of whether I  
20 understand or not. I'm asking you certain  
21 questions, and I expect you to answer them.  
22 That's the way this goes.

23 A. And I have answered the question you  
24 have asked to the best of my ability.

1 Q. Would it be fair to say that on the 18th  
2 when you sent this e-mail that you opposed  
3 clemency?

4 A. No, sir. That wouldn't be fair to say  
5 at all.

6 Q. All right. Well, what was your position  
7 at that time on clemency?

8 MR. JOHNSTON: I'll object. Asked and  
9 answered. Go ahead and answer again.

10 A. I didn't have a position on clemency. I  
11 wasn't asked for it.

12 Q. Did you understand when the term  
13 clemency was used, that the question was, that it  
14 meant that there was going to be a pardon on the  
15 basis of innocence that would release these men  
16 from the penitentiary? That was what was at  
17 issue. Did you understand that was what was being  
18 discussed?

19 A. Well, apparently not, because in my  
20 estimation there is a difference between being  
21 granted clemency and being granted a pardon. I  
22 mean, maybe there isn't. I don't know. There is  
23 two different things there to me. I didn't have a  
24 position on it. I wasn't opposed to it. I wasn't

1 in favor of it.

2 Q. What did you understand clemency to be?

3 A. Well, you know, I don't know 100 percent  
4 to be honest with you. I know what a pardon is;  
5 if they received a full pardon. But I don't have  
6 much experience in that type of thing, sir.

7 Q. Well, you were, when you were  
8 considering this issue in the month of December  
9 and early January, what did you understand the  
10 question of clemency meant?

11 MR. JOHNSTON: Object to the form of the  
12 question, considering this issue. Go ahead and  
13 answer as best you can.

14 A. Well, I thought it meant that -- I mean,  
15 when you say that they're considering clemency or  
16 petitioning for clemency, obviously the defense  
17 attorneys are trying to get these subjects  
18 released from custody.

19 But, in my -- that's different in my  
20 understanding from a pardon.

21 Q. All right. And a pardon you understood  
22 to be what?

23 A. Well, the only pardon that I've ever  
24 read about was a full pardon, for instance

1 executive privilege of the Governor or the  
2 director, basically saying you get out of jail  
3 free.

4 Q. So, what did you see as the distinction  
5 between the getting out of custody that a clemency  
6 would provide and getting out of jail free that  
7 the pardon would provide?

8 A. Well, I don't know at the time that I  
9 gave it any thought, sir. We are talking about in  
10 '02. I don't remember needing to make the  
11 differentiation. But I also know that they didn't  
12 petition, or the terminology we have been dealing  
13 with in Exhibit 14 and Exhibit 7 makes no mention  
14 of pardon by Lieutenant Callahan or in the  
15 e-mails. The clemency, it's something that I had  
16 never dealt with. Maybe you read about it once in  
17 a while. But, I didn't have any personal,  
18 firsthand knowledge or information about it.

19 Q. Did you conclude at any time in December  
20 or early January that Parkinson's response to the  
21 clemency petition was going to be opposition?

22 A. If I understand your question correctly,  
23 I had no idea what position Mr. Parkinson had.  
24 Whether Mr. Parkinson was opposed to it, or Mr.



1        Parkinson was supportive of it. I had no idea.

2            Q.        So, is it your testimony that you  
3 yourself had no position with regard to whether  
4 Steidl and Whitlock should be released from  
5 custody pursuant to a clemency granted by the  
6 Governor?

7            MR. JOHNSTON: Objection, asked and  
8 answered. Go ahead and answer.

9            A.        I had no position. I wasn't prepared to  
10 be for it. I wasn't prepared to be in favor of  
11 it.

12          Q.        All right. Now, why, what was your  
13 reason for putting this particular e-mail in all  
14 capitals?

15          MR. JOHNSTON: I'll object. Assumes  
16 facts not in evidence. Go ahead.

17          A.        Well, you know, looking back seven years  
18 and the questions and things I've answered on this  
19 in the past, I don't -- a couple possibilities are  
20 that the caps key was on, which I do pretty  
21 frequently. I'm not very technologically adept.  
22 But, another scenario is possibly I sent an e-mail  
23 to Colonel Carper and didn't get a response.

24                But I felt like this was something that

1 we needed to talk about.

2 Q. So, one possibility would be that you  
3 were trying to emphasize what you were saying and  
4 make sure people got the attention called to it,  
5 is that fair to say?

6 MR. JOHNSTON: I'll object to the form of  
7 the question. Answer as best you can.

8 A. Well, I mean, what's fair to say is that  
9 I sent this e-mail to Lieutenant Colonel Carper,  
10 letting her know that this was something that I  
11 thought we needed to discuss.

12 Q. All right. Now, at any time in December  
13 or early January did you come to the understanding  
14 that the Governor or the governor's office was  
15 seriously considering granting clemency?

16 MR. JOHNSTON: Object to the form of the  
17 question. Go ahead and answer as best you can.

18 A. And you mentioned a time and you said  
19 January of --

20 Q. I said any time in December or early  
21 January, did you come to understand that clemency  
22 was being seriously considered by the governor's  
23 office?

24 MR. JOHNSTON: Same objection.

1           A.     Well, you said being seriously  
2     considered. I don't know whether it was ever  
3     being seriously considered by the Governor's  
4     office or not. I have no way of knowing that.

5           Q.     What did you understand the governor's  
6     attitude or position was, if any, with regard to  
7     granting clemency?

8           A.     Sir, I had no idea or no way of knowing  
9     that.

10          Q.     Was that, was there any communication to  
11     you, either by e-mail or in meetings or at the  
12     academy meetings, which informed you that the  
13     Governor was seriously considering the issue of  
14     clemency?

15          A.     No.

16          Q.     Now, in your earlier deposition you  
17     testified about a three ring binder that was  
18     distributed at the academy meeting on January 9th.  
19     Do you recall that testimony?

20          A.     No, sir.

21          Q.     Was there in fact a three ring binder  
22     that was distributed to people at the meeting?

23          A.     Well, there was -- I mean, first of all,  
24     you asked me if I remembered a three ring binder.

1 I do not. There was a lot of information there,  
2 like a banker's box that had binders and whether  
3 the information was in a binder or stapled  
4 together, but there was information provided by  
5 Lieutenant Callahan to the group of people at the  
6 academy meeting.

7 Q. All right. Well, who put that  
8 information together, whether it was in a binder  
9 or in a box?

10 A. Well, I can tell you I didn't. I mean,  
11 definitively I didn't bring anything to the  
12 meeting, any documents. I know Lieutenant  
13 Callahan brought documents and memorandum, and I  
14 don't know if anyone else brought anything. I  
15 don't think that's the case.

16 Q. Do you know whether that information  
17 that was brought to the meeting was given to  
18 Parkinson?

19 A. I have no idea, sir.

20 Q. Do you know whether that information  
21 that was brought to the meeting, whether it was in  
22 a binder or box or whatever, was given to  
23 Bettenhausen or the governor's office?

24 A. No. I don't know, sir.

1 Q. All right. Now, I want to call your  
2 attention to Exhibit 8, which is the memo from  
3 Callahan to you dated December 30th, you were  
4 questioned about at the prior deposition. Do you  
5 have that before you?

6 MR. JOHNSTON: Hold on a second, Flint.

7 Q. Okay.

8 MR. JOHNSTON: It's plaintiff's 7893.  
9 Also marked Callahan 759. Flint, do you want him  
10 to remove that document?

11 Q. No, I just wanted him to have it in  
12 front of him at this point. To your knowledge was  
13 that memorandum of December 30th, 2002, given to  
14 Parkinson?

15 A. I don't know, sir.

16 Q. Was that memo given to the Governor's  
17 office or to Bettenhausen?

18 A. I don't know, sir.

19 Q. Do you know whether it was given to the  
20 attorney general's office or not?

21 A. I don't know.

22 Q. I want to show you what has been  
23 previously marked as Fermon Exhibit No. 10.

24 A. Are we finished with number 8, sir?

1 Q. We are, sir.

2 A. Thank you.

3 MR. BALSON: I don't have a previously  
4 marked No. 10.

5 MR. THIES: He means previous to right  
6 now. It's one of the new ones.

7 MR. JOHNSTON: Flint, this is the  
8 affidavit of Michale Callahan?

9 Q. It is. And it actually doesn't have a  
10 Bates stamped on it. It's marked as Exhibit F.  
11 23 pages, I believe. And it has a date of  
12 February 21, 2005. Do you have that document?

13 A. I believe so, sir. I don't see. Is the  
14 date on the last page?

15 Q. Yes.

16 A. Yes, sir. I have it.

17 Q. All right. And I want to call your  
18 attention to page 11 of this affidavit, call your  
19 attention to paragraph 36, which Mr. Callahan  
20 makes certain statements of fact, and he's talking  
21 about a January 9th, 2003, and he says Lieutenant  
22 Carper advised me that we were going to meet to  
23 discuss the department's stance on the clemency  
24 issue after I briefed first deputy Doug Brown who

1 would be meeting at some time with the governor's  
2 office reference clemency for Steidl and Whitlock.

3 Was that your understanding of the  
4 meeting of January 9th, 2003, that you were going  
5 to discuss the department and the clemency issue  
6 with regard to Steidl and Whitlock?

7 A. If you would allow me just a second to  
8 read it. Okay. Sir, I would agree that what you  
9 read me is accurate as far as what's in number 36.  
10 I don't agree with how it's stated as far as  
11 discuss the department's stance.

12 What we were told at the academy meeting  
13 was that we were there to discuss the Steidl  
14 Whitlock case, a whole consortium of people, or a  
15 group of people. And be able to provide  
16 information to the director of the state police in  
17 the event or should he be asked about the Steidl  
18 Whitlock case.

19 Q. Okay. So, you do not agree with  
20 Callahan's statement that the question was the  
21 position or the stance of the ISP with regard to  
22 Steidl and Whitlock's clemency, is that right?

23 MR. JOHNSTON: I'll object to the form of  
24 the question. Answer as best you can.

1           A.     Yes, sir. I don't agree with what 36  
2     says as far as the department's stance. I  
3     explained to you what my, what was told to us at  
4     the meeting, and what my understanding was.

5           Q.     All right. Now I want to go down  
6     further in that 36 to the next paragraph, and  
7     Callahan says that he provided, he says there's an  
8     initial meeting, and he names all of the people  
9     that he says were there; Brueggemann, Carper,  
10    Rokusek, Gryz, Fermon, Koehler and Kuba and  
11    himself. And then he says, Carper left for  
12    another meeting shortly after this meeting got  
13    underway. Is that consistent with your memory of  
14    who was there and that Carper left early on?

15          A.     With the exception of Carper leaving  
16    early on, I mean I think the people identified as  
17    being present initially is accurate as best as I  
18    can recall. I couldn't tell you -- I can't tell  
19    you definitively, I don't remember whether Colonel  
20    Carper left ten minutes or an hour into the  
21    meeting. But I know that she came and went during  
22    the day in the meeting.

23          Q.     Okay. And then he says later down in  
24    that paragraph, I provided the group with



1 memorandums I had prepared since May of 2000 and  
2 other documentation gathered in that time frame.  
3 Is that accurate?

4 A. I don't really remember specifically  
5 what he provided. I mean, again, he had a  
6 banker's box full of information. But  
7 specifically what was there you had me review this  
8 exhibit a few minutes ago, Exhibit No. 8. I do  
9 recall that is one of the documents that was at  
10 the meeting. But, I don't recall any other  
11 documents specifically being there.

12 Q. All right. I want to ask you, then he  
13 goes on to talk about what he said at that initial  
14 meeting, which you were present at. I want to see  
15 if what he says he mentioned is consistent with  
16 what you remember.

17 Did Callahan in your presence point out  
18 the weaknesses of the two eyewitnesses testimony  
19 concerning contradictions in their stories and the  
20 depiction of the crime scene and the time lines in  
21 evidence?

22 A. Well, I mean there is several different  
23 facets to that statements. Contradictions in  
24 stories, depictions to the crime scene, time lines

1 in evidence. I mean, Lieutenant Callahan gave a  
2 summary of the double homicide case. He talked  
3 about witness recantation.

4 Q. Okay. And that's number two, several  
5 recantations by both eyewitnesss. Do you remember  
6 that, is that right?

7 MR. JOHNSTON: Object to the form of the  
8 question. Go ahead. Tell him what you recall.

9 A. Well, I don't recall the weakness  
10 aspect. I remember contradictions, that he  
11 represented that there were contradictions, and  
12 that the witnesses had recanted their testimony,  
13 which was addressed at some point in time by the  
14 Illinois Supreme Court.

15 Q. That's your editorial edition to it,  
16 right?

17 A. No, that's the truth, sir. It was --  
18 the recantation of witness testimony was addressed  
19 in this case by the Illinois Supreme Court, I  
20 believe, on two different occasions. I read the  
21 opinion at some point.

22 Q. Did you read the opinion of Judge  
23 McCuskey and the ultimate opinion in the Whitlock  
24 case?

1 A. No, sir, I don't recall reading that.

2 Q. Okay. Third one, did he discuss  
3 discrepancies in time lines in the case based on  
4 witness statement?

5 A. I don't remember that he did  
6 specifically. I don't remember that, sir.

7 Q. Did he mention names of witnesses who  
8 had not been brought forward that would have  
9 discredited the eyewitness testimony?

10 A. Again, I just told you I don't remember  
11 what he said, specifically names or witnesses or  
12 potential witnesses. I don't remember that.

13 Q. Did he mention in your presence at this  
14 meeting, this initial meeting that you were  
15 present for, statements made by Herrington to the  
16 victim's family proclaiming that Steidl and  
17 Whitlock were innocent?

18 MR. JOHNSTON: Flint, are you on the same  
19 document or are you just asking questions?

20 Q. On the next page.

21 MR. JOHNSTON: So you are looking at  
22 bullet point two on the next page, page 12 of 23.

23 A. And you are asking me, Mr. Taylor, if I  
24 remember this second dot point statements made by

1 Herrington to the victim's family?

2 Q. Ask you, yes, whether Callahan made  
3 that, set forth that information in your presence  
4 on the 9th at the first academy meeting?

5 A. I don't remember that, sir. No.

6 Q. All right. How about police reports  
7 made by Herrington that were not given in  
8 discovery which indicated that Steidl and Whitlock  
9 were innocent and implicated the person of  
10 interest, i.e. Morgan, as being behind the  
11 murders? That's the third point on page 12?

12 A. Yes, sir. I'm refreshing reading it  
13 here. Yeah, I don't recall that being brought up.

14 Q. How about the polygraph of Herrington  
15 showing untruthfulness, which was not disclosed?

16 A. I remember that Lieutenant Callahan  
17 talked about a polygraph, excuse me, a polygraph  
18 examination being conducted by Mark Murphy, but I  
19 don't remember who the subject of it was. And  
20 basically he said that a polygraph was conducted  
21 of, and that the outcome was that he was deceptive  
22 or manipulating the polygraph exam. I don't  
23 remember which.

24 Q. Was it Herrington's polygraph?

1           A.     No, sir. I couldn't truthfully tell you  
2 definitively who it was. But there was some  
3 discussion about a polygraph exam.

4           Q.     Was there discussion about State's  
5 Attorney's Mike McFatriidge, the person who  
6 prosecuted Steidl and Whitlock? Did Callahan  
7 mention him?

8           A.     Um, what I recall him mentioning about  
9 McFatriidge was, and he was in the context of him  
10 being the State's Attorney prosecuting the case,  
11 or which had prosecuted the case, was that there  
12 was information, speculation, folk lore, that  
13 McFatriidge was a partier. Something to the effect  
14 that he was -- something to the effect that  
15 organized crime figures had paid his student loans  
16 or something to that effect.

17                     But I don't remember specifically  
18 cocaine or Brady issues or that. But that is what  
19 I recall him saying at that meeting about  
20 McFatriidge.

21           Q.     Did he mention anything about McFatriidge  
22 telling the investigators, including ISP  
23 Investigator Eckerty, that they should not produce  
24 or retain what he called negative information that

1 would harm the case?

2 A. No, he didn't.

3 Q. Made no mention of any such statement by  
4 McPatridge, is that right?

5 A. Not that I recall. No, sir.

6 Q. Did he mention statements by law  
7 enforcement in Paris, in Edgar County, that Steidl  
8 and Whitlock were being railroaded, or were  
9 railroaded?

10 A. I don't remember that specifically. I  
11 mean, what I remember is that Lieutenant Callahan,  
12 when he discussed this, didn't ever provide  
13 specific information. It was people said this.  
14 And law enforcement said that. So, I don't  
15 remember Edgar County or Paris law enforcement or  
16 any names attached to anybody saying that type of  
17 thing. He talked about sort of like community  
18 folk lore type things.

19 Q. Did he call it community folk lore or is  
20 that your characterization of it?

21 A. I don't recall him calling it that, but  
22 I think that would be, as I sit here today, that's  
23 my characterization of it in that the information  
24 lacked any specificity, anything that you could

1 actually go back and corroborate. The, you know,  
2 the general term of statements by Edgar County and  
3 Paris law enforcement personnel, I mean it has to  
4 come to mind to ask the question of who is that?  
5 Who?

6 Q. Well, did you ask that question?

7 MR. JOHNSTON: I will object to the form  
8 of the question. It assumes facts not in  
9 evidence. Go ahead and answer as best you can.

10 A. I don't remember asking the question  
11 during that meeting sir, no.

12 Q. Did anyone else?

13 A. I don't recall that. I don't know what  
14 they asked him.

15 Q. There's a reference in this paragraph as  
16 well to the fact that a person of interest, i.e.  
17 Morgan, was behind the murders. Do you remember  
18 Callahan on one or more occasions in this briefing  
19 that he was giving at the January 9th meeting  
20 mentioning Morgan as the person who was behind the  
21 murders?

22 A. I think it would be fair for me to say  
23 that Lieutenant Callahan during that meeting at  
24 least suspected that Morgan played some role in

1 these murders. But, I never did really hear, you  
2 know, I don't recall hearing what it was.  
3 Lieutenant Callahan talked about the night of the  
4 murder, or actually when the house was, the crime  
5 scene was still there, that Morgan, he had some  
6 information or felt that Morgan was there that  
7 night at the scene of the crime. But, I don't  
8 remember specifically.

9 Q. Now, in the next paragraph there's  
10 reference down towards the end that Callahan told  
11 you all at that initial January 9th meeting that  
12 informants had told him and the FBI that the  
13 State's Attorney, i.e. McFatrige, and the  
14 investigators, i.e. Parrish and Eckerty, were paid  
15 off. Do you remember him saying that?

16 A. No.

17 Q. That would be something that would stick  
18 in your memory, wouldn't it?

19 A. Yes.

20 Q. You have no memory of it, is that  
21 correct?

22 A. That's correct.

23 Q. All right. Now, jumping down a couple  
24 here to letters from Reinbolt referencing



1 McFatriidge's visits to her at Dwight. Did, in  
2 your presence at that meeting, did Callahan  
3 mention letters from eyewitness or purported  
4 eyewitness Deborah Reinbolt that referenced  
5 McFatriidge's visits to her while she was in prison  
6 at Dwight?

7 A. I don't recall hearing that. Not at  
8 all, sir.

9 Q. That had been something that would have  
10 been important for you to, if you had heard it?

11 MR. JOHNSTON: I'll object to the form of  
12 the question. Go ahead and answer.

13 MR. SMITH: Same objection.

14 A. Well, it certainly would have caused  
15 question. The importantance would yet to be  
16 determined whether the letters, whether there was  
17 actually any validity to it. On one hand  
18 Lieutenant Callahan is saying that Reinbolt  
19 recanted her testimony. And then, you know, in  
20 this dot point you have had me review here and we  
21 have discussed, now we are expected to believe  
22 that she is telling us the State's Attorney is  
23 coming to visit her. So, I mean --

24 Q. Well, it would be easy to check out.

1 Any investigators could get the records from  
2 Dwight and find out whether McFatridge had been  
3 there, right?

4 A. Yes, sir. I think that would be  
5 relatively easy.

6 Q. Or you could ask McFatridge and  
7 hopefully he would tell the truth, right?

8 MR. SMITH: Objection to form.

9 MR. JOHNSTON: You can answer.

10 A. Yes.

11 Q. All right. Let's go on to the next  
12 page. The fact that Herrington went from being  
13 the town drunk to one of the wealthier people in  
14 Paris, and his connections to Morgan.

15 MR. JOHNSTON: Hold on a second, Flint.

16 Q. That's the second dot on page 13.

17 MR. JOHNSTON: Just stop talking for a  
18 second. Right here. We got it. Hold on. Let  
19 him review.

20 Q. Did Callahan mention in the meeting  
21 during his briefing to all of you that Herrington  
22 had gone from being the town drunk to one of the  
23 wealthier men in Paris and that he had connections  
24 to the person of interest, i.e. Morgan? And that

1 he got his driver's license back after years of  
2 being revoked?

3 A. Well, I remember, I don't know if it was  
4 specifically at the academy meeting we are  
5 discussing, but Lieutenant Callahan spoke of two  
6 people in the, what I would call the rags to  
7 riches scenario.

8 One was this was something that he said  
9 about Herrington going from the town drunk to a  
10 wealthy man. And then the other thing he made the  
11 same statements about Bob Morgan. That he went  
12 from rags to riches type of maturity, I guess you  
13 would say. But, I don't remember specifically  
14 hearing this at the meeting, but I had heard it,  
15 this being town drunk, rags to riches.

16 Q. All right. How about the driver's  
17 license then?

18 A. Yeah, I don't even -- sitting here today  
19 reviewing this, Mr. Taylor, I don't even see what  
20 the, this part about his receiving his driver's  
21 license back after years of being revoked, what  
22 that possibly has to do about anything.

23 Q. All right. So you didn't go link that  
24 to the fact that officials intervened on

1 Herrington's behalf to get him his license back?

2 MR. JOHNSTON: I'll object to the form of  
3 the question. Answer as best you can.

4 A. No, I don't remember that part being  
5 discussed at the academy meeting. And I don't --  
6 frankly I don't remember that ever being discussed  
7 or something that I heard about.

8 Q. The next point. Did Callahan say in  
9 your presence at the initial meeting that the  
10 original jury did not hear the truth, they heard  
11 lies; that they did not see the real evidence  
12 presented. That neither eyewitness was  
13 believable or credible. And that the ethics and  
14 work of the investigators and prosecution was  
15 somewhat suspect.

16 Did Callahan say that?

17 A. As I am sitting here reading this, I  
18 mean this is sort of -- I mean, this is what he  
19 has put together in the complaint. But, what I  
20 recall Lieutenant Callahan saying, this is not  
21 what I recall him saying.

22 What I recall him saying is that he felt  
23 that Bob Morgan was still a suspect, or was a  
24 suspect. And that as far as Steidl went, the --

1 he didn't feel, or said he didn't feel that Steidl  
2 was proven guilty beyond a reasonable doubt. And  
3 he always maintained that Whitlock was still a  
4 suspect. But, I don't recall all of these things  
5 that you read in this statement.

6 Q. All right. Well, he also says, makes  
7 reference to when he talks about the prosecution  
8 was somewhat suspect, he says Brady issues,  
9 recantations, McFatriidge's statement to not  
10 introduce anything negative in the case to the  
11 innocence of Steidl and Whitlock, statements to me  
12 by Jack Eckerty.

13 Now, does this refresh your recollection  
14 that Callahan did in fact talk about Eckerty  
15 telling him that he was told by McFatriidge not to  
16 bring up or introduce anything negative in the  
17 case which led to the innocence of Steidl or  
18 Whitlock?

19 MR. JOHNSTON: Object to the form of the  
20 question. Answer as best you can.

21 A. All I can say is no. It's my  
22 understanding that -- you are speaking relative to  
23 Jack Eckerty, that what Lieutenant Callahan said  
24 at the academy meeting in essence was that he

1 thought that the original case investigators did  
2 sloppy work.

3 He didn't -- we did talk about, as I  
4 previously stated, recantations of witness  
5 testimony. Which you accused me of  
6 editorializing, it was heard by the Illinois  
7 Supreme Court. But, all of these things here,  
8 what he said was Jack Eckerty, he thought that the  
9 original case investigators did sloppy work.

10 Q. All right. And the next point, Callahan  
11 says that he stated at the meeting with you that  
12 it was his opinion that the two defendants, that  
13 is Whitlock and Steidl, while he could not prove  
14 their innocence 100 percent, were definitely not  
15 proven guilty beyond a reasonable doubt in the  
16 original trial, and that he believed them to be  
17 innocent.

18 Did Callahan, as he says he said, did he  
19 say that in your presence?

20 A. No, sir.

21 Q. You deny that?

22 A. No, I don't deny it. It's not true.  
23 What he said was that he felt that Steidl had not  
24 been convicted beyond a reasonable doubt. And

1 Whitlock was a viable suspect. He had that in his  
2 memos that you've shown me at the previous  
3 deposition. And he said that throughout. He  
4 never mentioned the word innocent. It was his  
5 feeling that Steidl wasn't proven innocent (sic)  
6 beyond a reasonable doubt, and that Whitlock was  
7 still a suspect.

8 Q. So, you're saying that even at this  
9 academy meeting, it is your testimony that he did  
10 not say that they, in his opinion, were innocent?

11 MR. JOHNSTON: Object to the form of the  
12 question. Go ahead and answer as best you can.

13 A. If I understand you correctly, yes, sir.

14 Q. All right. And did he say that at one  
15 time the person of interest, i.e. Morgan, was the  
16 focus of the investigation, and that he still  
17 should have been the focus of the Rhodes homicide  
18 investigation?

19 A. As best I can characterize it, is  
20 Lieutenant Callahan conveyed that he thought Bob  
21 Morgan was a suspect. And that he didn't feel  
22 that the original investigators fully explored  
23 Morgan as a suspect.

24 Q. All right. I want to go down to the

1 next paragraph, 37. And Callahan says that during  
2 the meeting Fermon participated as well. Captain  
3 Fermon's input in the briefing conflicted with my  
4 opinions, in that he stated that a jury of their  
5 peers, that is Steidl and Whitlock --

6 MR. JOHNSTON: Hold on, where are you?

7 Q. I'm at the bottom of 13 and top of 14.

8 MR. JOHNSTON: So paragraph 37?

9 Q. Yeah.

10 MR. JOHNSTON: Okay.

11 Q. That a jury of their peers, Steidl and  
12 Whitlock, had found them guilty, and that is how  
13 the system works. Is that an accurate statement  
14 with regard to your position and your position  
15 with regard to Mr. Callahan?

16 A. No. It's not. What Lieutenant Callahan  
17 in point 37 here basically says my input in the  
18 briefing conflicted with his opinions. We weren't  
19 in an adversarial role. It wasn't a debate. At  
20 that meeting we provided viewpoints. For  
21 instance, the issue that I brought up, and you  
22 have brought up, about recantation. Things that  
23 were addressed before the court.

24 I still, yes, I said the statement of,



1 or that the part about being found guilty. They  
2 were found guilty by an Edgar County jury. And  
3 that conviction was upheld by the Illinois Supreme  
4 Court on at least two occasions. That is what I  
5 knew about it.

6 Q. Well, did you say that that is how the  
7 system works? That in this country that is the  
8 system we acknowledge, and as an agency that you  
9 did not have the right to counteract what a jury  
10 had concluded in the original trial?

11 MR. JOHNSTON: Hold on a second, Flint.  
12 I'm going to show him where you are at. It starts  
13 here.

14 A. No, sir. That is not true or accurate  
15 at all.

16 Q. All right. Tell me what's not, what's  
17 accurate and what's not accurate about it.

18 A. Well, none of it is accurate. I never  
19 said it.

20 Q. All right. So, did you say that the  
21 case had been through several appeals and the  
22 appeals had been upheld?

23 A. Yes, sir. And I have said that today.

24 Q. All right. So, previously you

1 mentioned, or argued that the appeals, there had  
2 been several appeals and they had been upheld.  
3 But, you dispute the fact that you talked about  
4 the, that this is how the system works, and that  
5 as an agency you didn't have a right to counteract  
6 what a jury has concluded. Is that right?

7 MR. JOHNSTON: Do you understand the  
8 question?

9 A. I didn't hear a question.

10 Q. Could you read it back, please, Miss  
11 Court Reporter.

12 (At this point the court reporter read  
13 the requested portion of the record.)

14 A. No.

15 Q. Tell me what is inaccurate about that.

16 A. I think I told you that just a minute  
17 ago that none of it was accurate.

18 Q. All right. Did you concur, as Callahan  
19 says in this paragraph, did you concur that the  
20 investigation was sloppily done and that there was  
21 a lot to be desired in the ISP's work?

22 A. Now this is, Mr. Taylor, this is  
23 Lieutenant Callahan's own statement. I mean, he  
24 said that -- he said and contended that the

1 original investigation and the investigators who  
2 conducted the original investigation did sloppy  
3 work.

4 Q. He is saying you concurred with that.  
5 Did you?

6 A. No. I didn't concur with him at the  
7 meeting on it. I didn't go there for the purpose  
8 of debating the work. I mean, he said it was  
9 sloppy work. I didn't stand up and say no, they  
10 did excellent work. I mean, I didn't comment on  
11 it.

12 Q. Well, the word concur means agree; did  
13 you agree with his statement that the work was  
14 sloppily done, and that there was a lot to be  
15 desired in the ISP's work in the case?

16 A. No.

17 Q. And did you state that you, you meaning  
18 the ISP, had to abide by the original jury's  
19 decision and the appellate court decisions that  
20 followed?

21 MR. JOHNSTON: Are you looking at another  
22 sentence on here, Flint?

23 Q. It's the second part of that same  
24 sentence.

1 MR. JOHNSTON: Okay. Sir.

2 A. Sir, I never concurred. I didn't agree  
3 with Lieutenant Callahan, or didn't state any  
4 agreement or disagreement about the work. I  
5 didn't tell him that there was a lot to be  
6 desired. I didn't agree to it. And I didn't tell  
7 him that we had to abide by anything.

8 What I did was point out when he hit  
9 topics of recantation, for instance, or a specific  
10 topic, I would point out that it was addressed,  
11 that issue, in particular, was addressed by the  
12 Illinois Supreme Court.

13 It was my understanding at this time,  
14 even at this time, I don't know specifically where  
15 that both Steidl and Whitlock had legal issues in  
16 process. And it was then, and it is today, my  
17 feeling that that's where the case appropriately  
18 remained.

19 The legal issues are best resolved by  
20 the court.

21 Q. So, by taking that position then and  
22 now, you are saying that it was inappropriate for  
23 them to be granted clemency by the Governor, isn't  
24 that right?

1 MR. JOHNSTON: I'll object to the form of  
2 the question. Go ahead and answer as best you  
3 can.

4 A. No, that's not at all what I'm saying.

5 Q. If you are saying that the court should  
6 decide it, then you are at least implicitly saying  
7 that the Governor should not, right?

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

10 A. What I was responding to is on page 14  
11 of 23 of this Callahan complaint where you were  
12 asking me questions about abiding by the original  
13 jury's decision and the appellate court decision  
14 that followed.

15 Q. What I'm asking you is your answer said  
16 that you believed then and you believe now that it  
17 should stay in the courts, right?

18 MR. JOHNSTON: I'll object.  
19 Mischaracterizes. Go ahead and answer as best you  
20 can.

21 A. Yes.

22 Q. And so if it stays in the courts, then  
23 it's not appropriate to be determined outside of  
24 the courts by the executive branch, i.e the

1 Governor, wasn't that your position?

2 MR. JOHNSTON: Object to the form of the  
3 question. Go ahead and answer.

4 A. No, sir.

5 Q. So your position was that it was  
6 appropriate to stay in the courts, the courts had  
7 made the decision.

8 Well, let me ask you this: If that  
9 wasn't your position, was your position then that  
10 the Governor should decide against clemency  
11 because the court had upheld the convictions of  
12 Steidl and Whitlock?

13 MR. JOHNSTON: I'll object. Asked and  
14 answered a few times now. Go ahead and answer.

15 A. Could you repeat the question.

16 Q. Well, you have told me that it wasn't  
17 your position that the court should be the  
18 determination of these cases rather than the  
19 Governor. But, that you did rely on the Supreme  
20 Court's decision with regard to the issues in the  
21 case that were important. Right?

22 MR. JOHNSTON: I'll object.  
23 Mischaracterizes.

24 A. I can't follow any of it. It's not like

1 to track a --

2 MR. JOHNSTON: Why don't you have the  
3 court reporter read it back, please.

4 (At this point the court reporter read  
5 the requested portion of the record.)

6 MR. JOHNSTON: Answer the best you can if  
7 you can answer it. If you want to restate it.

8 A. I have explained myself as best I can,  
9 Mr. Taylor.

10 Q. Okay. My question is, did you take a  
11 position that the Governor should decide in the  
12 same manner as the courts had decided? That is,  
13 not to grant clemency?

14 MR. JOHNSTON: I'll object to the form of  
15 the question. Answer as best you can.

16 A. I'm afraid I must be missing something.  
17 I'm not getting it.

18 Q. Maybe I'm not getting it. You have told  
19 us again and again that you relied on the Supreme  
20 Court's decision affirming the convictions of  
21 Whitlock and Steidl. And specifically, their  
22 treatment of the recantations and not accepting  
23 those recantations.

24 My question to you is, when you took

1 that position were you taking that position in  
2 support of the Governor rejecting clemency? Or in  
3 arguing that the Governor should not intervene in  
4 a situation where the courts had ruled?

5 MR. JOHNSTON: I'll object to the form of  
6 the question. Assumes facts not in evidence.  
7 Argumentative. Compound. Answer as best you can.  
8 Mischaracterizes his testimony.

9 A. If I understand your statement  
10 correctly, I have no opposition, I didn't voice  
11 any opposition over the governor's office or the  
12 Governor or the president of the United States  
13 granting, exercising executive power. That's one  
14 of the checks and balances.

15 We are discussing, or at least I thought  
16 we were discussing the issues here at the academy  
17 meeting. But no, I didn't -- I don't have any  
18 problem with the director or the Governor or the  
19 president of the United States executing their  
20 office and exercising their privileges.

21 Q. And that includes, that included at the  
22 academy meeting on January 9th, 2003, you had no  
23 opposition to the Governor granting clemency to  
24 Steidl and Whitlock, is that your testimony?



1 MR. JOHNSTON: Objection, asked and  
2 answered. Go ahead and answer again.

3 A. That's absolutely correct.

4 Q. All right. So what purpose was it for  
5 you to argue or to state that repeatedly, as  
6 you've said, that the courts had already ruled on  
7 this, specifically the Supreme Court?

8 MR. JOHNSTON: I'll object.  
9 Mischaracterizes. Go ahead and explain again.

10 A. Okay. First of all, Mr. Taylor, I  
11 didn't argue about it. I mainly, or basically  
12 made a statement of fact. The fact remains that  
13 in the case file in the room that day there were  
14 Illinois Supreme Court decisions pertaining to  
15 this case.

16 It wasn't point/counterpoint. It wasn't  
17 a debate. It wasn't a dual. We were presenting,  
18 we were challenged with presenting all of the  
19 information available in a short amount of time to  
20 other investigators so that the director of the  
21 Illinois State Police would have information in  
22 the event that the governor's office would ask the  
23 director anything about the case.

24 Q. Let me go to paragraph 38 on page 15.

1 Callahan says, after this initial meeting in which  
2 he did a certain briefing and you made certain  
3 statements, there was a break in the meeting, and  
4 you and he were excused so the other participants  
5 could discuss what had been discussed in that  
6 initial meeting.

7 Is that accurate? Is that consistent  
8 with your memory?

9 A. Yes, sir.

10 Q. All right. And he goes on to say that  
11 you and he were called back in when First Deputy  
12 Brown arrived for the one PM meeting with the  
13 group, is that right? Is that accurate?

14 A. For the most part. I don't remember  
15 what time or when, whether the first deputy was in  
16 the room when we got there, but yes, we were  
17 subsequently called back into the room.

18 Q. And he says then when we were called  
19 back in, that he, that meaning Callahan, gave a  
20 brief synopsis of the case. Is that true?

21 MR. JOHNSTON: Where is that, Flint?

22 Q. It's in the middle of paragraph 38.  
23 About eight or nine lines down.

24 A. Okay. We found it.

1 Q. Yes. And I asked you that in this  
2 second meeting that did Callahan give a brief  
3 synopsis of the case?

4 MR. JOHNSTON: I'll object to the  
5 characterization of the second meeting. Go ahead  
6 and answer as best you can.

7 A. Yes. He gave a brief synopsis of the  
8 case.

9 Q. Okay. And he says that in that synopsis  
10 he said that he felt that Steidl and Whitlock had  
11 not been proven guilty beyond a reasonable doubt,  
12 and that he felt they were innocent. Is that  
13 consistent with your recollection of what he said  
14 in his synopsis?

15 A. No.

16 Q. All right. And what is your  
17 recollection of, if any, of what he said?

18 A. When he came back in he was basically  
19 giving a synopsis of Morgan's suspected  
20 involvement. He never at that meeting, as I've  
21 told you before, he never said that they were  
22 innocent. He did say, I don't know that during  
23 the summary if he said that he felt that Steidl  
24 had not been proven guilty beyond a reasonable

1 doubt. I don't know if he said that in the later  
2 meeting. But I know that he made that statement  
3 or words to that effect previously in the day.

4 Q. All right. But you do agree with that  
5 he says that he stated that the person of interest  
6 was involved and behind the murders of Rhodes.  
7 You do agree that he said that, is that right?

8 MR. JOHNSTON: I'll object.  
9 Mischaracterizes. Go ahead and tell him again.  
10 He is on to the next sentence.

11 A. Sometime during the day, yes, whether  
12 that was specifically -- yeah, that was in the  
13 afternoon. I mean, he basically focused a lot on  
14 Morgan. The summary was what Lieutenant Callahan  
15 focused on Morgan's suspected drug trafficking,  
16 money laundering, included along with these --  
17 with the Rhodes homicide case.

18 Q. Okay. Then he goes on to say, did you  
19 then speak in this meeting as well after Callahan  
20 did?

21 A. I don't believe so, sir, no.

22 Q. All right. So, he says that you spoke  
23 to the Morgan question. Is that accurate or  
24 inaccurate?

1 MR. JOHNSTON: I'll object.

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

4 A. Spoke to the Morgan question. I don't  
5 understand.

6 Q. Did you, in this second meeting, or this  
7 subsequent meeting at the academy on the 9th, did  
8 you speak about Morgan?

9 MR. JOHNSTON: Again, I'll object to the  
10 characterization as a second meeting.

11 Q. Or the person at interest, i.e. Morgan?

12 MR. JOHNSTON: Same objection.

13 A. I don't remember specifically, sir. I  
14 don't.

15 Q. All right. Well, he says that you said  
16 that you had -- that the ISP had no proof that the  
17 person of interest was nothing more than just a  
18 good business man. Did you say that?

19 A. No, sir.

20 Q. Did you say anything along those lines,  
21 that there was no proof that Morgan was anything  
22 other than a good business man?

23 A. Not that I ever recall, sir, no.

24 Q. Did you state that, again state that the

1 jury, or did you state that a jury had found  
2 Steidl and Whitlock guilty, and the appellate  
3 courts had upheld their convictions, and that --  
4 let's break that down.

5 Did you say that a jury had found Steidl  
6 and Whitlock guilty?

7 A. Well, you are talking about the  
8 afternoon meeting at the academy?

9 Q. Yes.

10 A. Not that I recall, sir, but that would  
11 have been relatively obvious.

12 Q. Well, did you say it at the morning  
13 meeting or the earlier meeting on the 9th at the  
14 academy?

15 A. Yes. And I testified to that today.

16 Q. Okay. Did you, at this afternoon  
17 meeting, say that the courts, whether it be the  
18 appellate court or the Supreme Court, had upheld  
19 their convictions?

20 MR. JOHNSTON: Again, object to the  
21 characterization of the second meeting or  
22 afternoon meeting. Go ahead and answer.

23 A. Yeah, I told you I don't think that I  
24 gave him a summary. The afternoon meeting was

1 very short in duration. I did make those comments  
2 earlier in the day, but I don't recall having much  
3 of a speaking role in the afternoon.

4 Q. All right. Now, he also says that in  
5 the afternoon meeting that you said that the ISP  
6 should not interfere in the system. Did you say  
7 that in the afternoon meeting?

8 MR. JOHNSTON: Where are we now?

9 Q. Same sentence with the last phrase in  
10 it.

11 A. No, sir.

12 Q. Did you say that at any time, either in  
13 the earlier meeting or in the --

14 A. This guy is driving me nuts, Ian.

15 MR. JOHNSTON: Flint, we're going to take  
16 a break, or just let him finish the question. You  
17 broke up. You're walking away.

18 Q. All right. Did you say, in the earlier  
19 meeting --

20 MR. JOHNSTON: Hold on a second.

21 Q. Oh, I'm sorry. Are we taking a break?

22 MR. JOHNSTON: No, go ahead and ask the  
23 question. We will take a break after he answers  
24 the question.

1 Q. Did you at the earlier meeting on the  
2 9th say anything about that the ISP should not  
3 interfere with the system?

4 A. No, sir.

5 Q. That being the legal system?

6 A. Right. I mean, sir, we are part of the  
7 legal system.

8 Q. Okay. We can take the break now.

9 (Break taken at 4:12.)

10 MR. JOHNSTON: Flint, do you have an  
11 estimate on how much longer we're going to take?

12 MR. TAYLOR: I would guess a half hour,  
13 45 minutes.

14 MR. JOHNSTON: We can give you a half  
15 hour, but we have got meetings scheduled. I'm  
16 trying to get to Zone 5. So go ahead.

17 BY MR. TAYLOR:

18 Q. All right. We're going back to this  
19 affidavit of Mr. Callahan, with regard to the  
20 January 9th meeting or meetings at the academy.  
21 Was there discussion among the people who were at  
22 the meeting, this second or afternoon meeting,  
23 about the information that Callahan had presented?

24 A. Yes, sir. There was general discussion.



1 I mean, the people in attendance at the meeting  
2 were reviewing documents, and sort of  
3 spontaneously would ask a question if they came to  
4 something. I mean, it was a dialogue about the  
5 case.

6 Q. Okay. Now, in this afternoon meeting,  
7 according to Callahan at the bottom of page 15, he  
8 says he argued that the jury never heard the  
9 truth, saw the real evidence, heard credible  
10 testimony, and he said, according to him, that  
11 would anyone in the room want their life on the  
12 line based on two people like Herrington and  
13 Reinbolt testifying against them.

14 Does that accurately reflect what  
15 Callahan said in your presence at the afternoon  
16 meeting at the academy?

17 A. No, sir.

18 Q. Did he say any of these things in your  
19 presence?

20 A. No, sir.

21 Q. Now, it goes on to say, according to  
22 Callahan, that he went over the discovery issues  
23 in the case, and the suspicious actions of the  
24 investigators and State's Attorney. Did he do

1 that in the afternoon meeting at the academy on  
2 the 9th?

3 A. Not that I remember. No, sir.

4 Q. All right. Well, did he say anything  
5 about that there was suspicions of prosecutorial  
6 and investigator misconduct that he had?

7 A. No, sir. He didn't. In fact, later in  
8 that day, what you are calling the second meeting  
9 in the afternoon, First Deputy Director Brown  
10 asked him if there was any evidence of  
11 prosecutorial misconduct, and he said no.

12 Q. But he did say that he had suspicions,  
13 but wasn't allowed to investigate them, didn't he?

14 MR. JOHNSTON: Object to the form of the  
15 question. Go ahead and answer.

16 A. No, sir.

17 Q. In fact, you had blocked him from  
18 investigating that, hadn't you?

19 A. No, sir.

20 Q. You had concurred with Carper in not  
21 permitting him or anyone else to reopen the Rhodes  
22 investigation, hadn't you?

23 MR. JOHNSTON: Objection to the form of  
24 the question. Go ahead and answer as best you

1 can.

2 A. No, sir.

3 Q. Did you ever agree to Callahan's request  
4 that he be able to reopen the Rhodes  
5 investigation?

6 MR. JOHNSTON: Object to the form of the  
7 question. Mischaracterizes. Assumes facts not in  
8 evidence. Foundation. Go ahead and answer as  
9 best you can.

10 A. Well, first of all Lieutenant Callahan  
11 never asked me, that I recall, if he could reopen  
12 the investigation. What I was aware of was the  
13 fact that he, Nate Williams from the FBI, Greg  
14 Dixon, had, were traveling, I say traveling; were  
15 doing interviews. One I recall they went to  
16 Marion to the prison. I don't know who they  
17 interviewed or what the context of it was.

18 They went to Indiana and interviewed a  
19 person. So there was, despite this reopening, the  
20 formality of reopening the case, they were  
21 actively working an investigation. They had  
22 photographs. They did surveillance. Video  
23 cameras. Informants.

24 Q. Didn't have anything to do with Rhodes;

1 it had to do with Morgan, didn't it?

2 MR. JOHNSTON: Object to the form of the  
3 question. Go ahead and answer as best you can.

4 A. Well, certainly I think it had something  
5 to do with the Rhodes homicide case because  
6 Lieutenant Callahan suspected that Morgan had  
7 something to do with these things. And what he  
8 was trying to do, at least my interpretation, what  
9 he was trying to do was to, I don't know, shake  
10 the bushes, so to speak, trying to identify  
11 criminal wrongdoing. Trying to make a case  
12 against Morgan.

13 Q. Okay. Let's go back to the bottom of  
14 page 15. Callahan says that in this afternoon  
15 portion of the meeting, that everyone there agreed  
16 that the two eyewitnesses lacked credibility and  
17 that the case was sloppily done. Do you agree  
18 with that, that statement by him?

19 MR. JOHNSTON: Hold on a second.

20 A. No, I don't remember everyone agreeing  
21 or being put to a vote or being polled on it. I  
22 remember Mike had talked about the witness  
23 recantation. But I don't remember everyone  
24 agreeing to that.

1 Q. Well, did you agree that the witnesses  
2 lacked credibility?

3 A. I wouldn't say it that way. What I  
4 would say is there was, with the information we  
5 were presented, or with information there that a  
6 lot of what -- a lot of things lend itself to  
7 questioning.

8 Q. Including the witness credibility?

9 A. I believe in any case the witness's  
10 credibility is something that lends itself to  
11 questioning, sir.

12 Q. I'm talking about this case, and this  
13 evidence and this presentation, not some other  
14 case. Did you agree that the two eyewitnesses  
15 lacked credibility?

16 A. You're talking about at this meeting?

17 Q. Right. Either vocally or in your own  
18 mind that you didn't articulate?

19 A. No, I mean best I can tell you I felt  
20 like everything was questionable. You know. It  
21 deserved some questions about it. I don't know, I  
22 mean I couldn't determine anyone's credibility  
23 based upon what we were given or what we had  
24 there.

1 Q. So, you thought the question was up for  
2 grabs, so to speak, whether the witnesses were  
3 credible or not?

4 MR. JOHNSTON: I'll object to the form of  
5 the question. Answer as best you can.

6 A. No, as I read this question on the  
7 monitor here, I don't -- what I remember that day  
8 is with the witness recantation issue specifically  
9 on, was it Reinbolt? On Deborah Reinbolt, that  
10 she had made statements and recanted them. She  
11 had recanted the recantations. And at some point  
12 I think even went a step further and recanted the  
13 recantations of the recantations.

14 So, I didn't -- you know, I didn't know,  
15 I don't know what level of credibility you would  
16 assign to that after there is so many  
17 recantations. That's why when I talk about this  
18 supreme, or the Illinois Supreme Court upholding  
19 the issue of recantations, that's why I relied on  
20 that.

21 Q. All right. So, you felt that there was  
22 so many changes in her testimony that you would  
23 rely on the court's decision there rather than  
24 your own interpretation? Is that right?

1 MR. JOHNSTON: Object to the form of the  
2 question. Go ahead and answer.

3 A. Well, I don't understand what you mean  
4 by the court's decision. What court?

5 Q. You just said the Illinois Supreme  
6 Court, didn't you?

7 A. Yes, sir, I did. But you didn't.

8 Q. Is that what you were relying on, the  
9 Illinois Supreme Court's decision with regard to  
10 the credibility of the witnesses, rather than your  
11 own determination on it?

12 A. Yes, sir.

13 Q. And Callahan then goes on to say that  
14 you brought up that without a review of the  
15 appellate court's decision we had no right, being  
16 the ISP, had no right reversing what the jury  
17 determined?

18 MR. JOHNSTON: Hold on a second.

19 Q. It's at the bottom of 15, top of 16.  
20 You certainly believed that then, and you believe  
21 that now, right?

22 MR. JOHNSTON: Object to the form of the  
23 question. Go ahead and answer the best you can.

24 A. Mr. Taylor, all I can tell you is that

1 statement is not true.

2 Q. What part of it, is it just completely  
3 not true? Or is parts of it not true?

4 A. Well, it's scattered. I'm trying to  
5 read it on the monitor here and it's scattered  
6 over about two pages.

7 Q. Well, let me read it to you. Fermon  
8 again brought up that without a review of the  
9 appellate court's decisions, we had no right to  
10 give an opinion reversing what the jury  
11 determined.

12 A. Thank you for rereading that. None of  
13 that is true.

14 Q. So it's not true that you said that, is  
15 that right?

16 A. That's right.

17 Q. But you did believe that at that time,  
18 didn't you?

19 A. No.

20 Q. Well, isn't that what you just told us a  
21 couple of answers ago? That in fact you thought  
22 that it was not -- it was not your place to have,  
23 to put your opinion in the stead of what the  
24 courts had decided with regard to credibility,



1 right?

2 MR. JOHNSTON: I'll object to the form of  
3 the question. Mischaracterizes. Go ahead and  
4 answer as best you can.

5 A. I don't recall testifying to that a few  
6 minutes ago, as you indicated. I did talk about  
7 reviewing the appellate court decisions, as I've  
8 told you. I never made any statement about we  
9 have no right to give an opinion reversing what  
10 the jury determined.

11 Q. All right. But, did you give an opinion  
12 that you had no -- it wasn't your place to give an  
13 opinion that was contrary to the Supreme Court's  
14 decision in the case with regard to credibility?

15 A. No, I never said that.

16 Q. Did you believe that?

17 MR. JOHNSTON: Object to the form of the  
18 question. Go ahead.

19 A. Well, first of all in your question you  
20 are referencing credibility. What I specifically  
21 talked about was the Illinois Supreme Court  
22 addressing the issue of recantation of witness  
23 testimony.

24 Q. Well, isn't that about credibility?

1 Recantation? Wouldn't that be about their  
2 credibility?

3 MR. JOHNSTON: Answer as best you can.

4 A. I think it certainly would be, but I'm  
5 sitting here under oath trying to be as specific  
6 as possible about, and answer your question.

7 Q. Okay. Now, according to Callahan he  
8 then for the second time in this afternoon  
9 meeting, and for the third time in the -- counting  
10 the morning meeting, he stated that he felt that  
11 Whitlock and Steidl were not proven guilty beyond  
12 a reasonable doubt in the original trial, and that  
13 based on his review he felt they were innocent.  
14 Did he say that at that point in the meeting?

15 A. No, sir.

16 Q. And did he again bring up the fact that  
17 Morgan, quote, "the person of interest", should  
18 have been the focus, that at one time he was the  
19 focus of the investigation? Did he bring it up at  
20 that point, that being later on in the afternoon  
21 meeting?

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

24 A. When you say focus, I mean what I

1 remember is he felt what historically back at the  
2 time of the double homicide, that Morgan was a  
3 suspect, and Lieutenant Callahan, it was my  
4 understanding or interpretation that Lieutenant  
5 Callahan felt that Morgan still had some role in  
6 it.

7 Q. By the way, was there anyone taking  
8 notes at this meeting or series of meetings?

9 A. Not that I recall, sir. I didn't.

10 Q. Was it being recorded? Either tape  
11 recorded or video recorded or anything like that?

12 A. No, sir. Not that I am aware of. We  
13 were at a big classroom at the Illinois State  
14 Police Academy. But, not anything that was  
15 visible or that I was aware of.

16 Q. Now, in paragraph 39, did, at any point  
17 in this afternoon meeting, did Callahan point out  
18 that Morgan, i.e. the person of interest, had  
19 become extremely wealthy, and he explained that he  
20 felt that he was tied to organized crime?

21 A. Well, he -- now you are saying at any  
22 point in the afternoon? I mean, I can't  
23 differentiate exactly whether it was in the  
24 morning or in the afternoon, but he continually

1 had this rags to riches story line or rags to  
2 riches type wealth accumulation tied to Morgan.

3 Q. Okay. How about this portion? Did he  
4 say either in the morning or in the afternoon that  
5 Morgan was politically powerful, and that he had  
6 made campaign contributions to George Ryan, the  
7 Governor?

8 A. I don't recall that. I recall -- I  
9 don't recall him saying that on January 9th. I  
10 don't know when I first heard it. I don't know  
11 when he said it. But, Lieutenant Callahan had  
12 indicated or alleged that Morgan was a political  
13 contributor. I don't know how big. I don't know,  
14 I don't remember specifically to who.

15 Q. All right. And did he, did Callahan at  
16 this meeting, either in the morning or in the  
17 afternoon, as he says here, state that not to  
18 pursue Morgan would give the pretense that he  
19 appeared to everyone that he was above the law?

20 MR. JOHNSTON: I'll object to the form of  
21 the question. Mischaracterizes his answer.  
22 Answer as best you can.

23 A. No, I don't recall him ever saying that.  
24 I mean, he had been pursuing Morgan off and on for

1 some time.

2 Q. Okay. And he says in the next paragraph  
3 that at the close of the afternoon portion of the  
4 meeting, first Deputy Director Brown asked him,  
5 advised him, that he had the right to his own  
6 opinion, but that he could not express it as the  
7 opinion of the Illinois State Police. Do you  
8 remember that, Director Brown, saying that to  
9 Callahan in your presence?

10 MR. JOHNSTON: Object to the form of the  
11 question. Go ahead and answer as best you can.

12 A. No, sir.

13 Q. So, I take it that if you don't remember  
14 Brown saying that, you don't remember Morgan --  
15 Callahan responding that he didn't understand, is  
16 that right?

17 MR. JOHNSTON: Object to the form of the  
18 question. Answer this as best you can, Steve.

19 A. No, that exchange or that statement  
20 wasn't made in my presence, if it was made at all.  
21 I didn't ever hear that.

22 Q. What if any conclusion was drawn by the  
23 ISP command personnel at this meeting in your  
24 presence with regard to the clemency of Steidl and

1 Whitlock?

2 MR. JOHNSTON: Object to the form of the  
3 question. Foundation. Assumes facts not in  
4 evidence. Go ahead and answer as best you can.

5 A. Well, first of all, sir, the room was  
6 full of ISP command level personnel. Everybody in  
7 there I think was ranking ISP members. But, I  
8 don't remember any conclusion whatsoever. We  
9 weren't polled. There wasn't a survey. We  
10 weren't asked what our opinion was. We weren't  
11 told, you know, we were basically told thank you  
12 for your time and goodbye.

13 Q. All right. So, to your knowledge, it's  
14 your testimony that there was no decision made as  
15 to whether to take a position, or what position to  
16 take with regard to Steidl and Whitlock's  
17 clemency, is that right?

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

20 A. Yes, sir.

21 Q. All right. Now, did you at any time  
22 subsequent to this meeting learn that Callahan had  
23 made allegations about your connection or alleged  
24 connection to organized crime?

1           A.     Yes, I had learned that Lieutenant  
2 Callahan made allegations.

3           Q.     And when was that?  When did you learn  
4 that?

5           A.     Sometime in the spring of '03.

6           Q.     Now, did you at some point participate  
7 in the transfer of Lieutenant Callahan from the  
8 Morgan investigation?

9                   MR. JOHNSTON: Object to the form of the  
10 question.  Go ahead and answer as best you can.

11          A.     I'm afraid, Mr. Taylor, I don't  
12 understand the question.  A transfer?

13          Q.     Well, at some point Callahan was taken  
14 off of the investigation of Morgan, wasn't he?

15                   MR. JOHNSTON: Object.  Assumes facts not  
16 in evidence.  Go ahead and answer as best you can.

17          A.     Yes.  But, I don't recall when that was.

18          Q.     Was it before or after the academy  
19 meeting?

20          A.     I believe it would have been before the  
21 meeting.

22          Q.     So, wasn't Callahan after the meeting  
23 given a role in investigating Morgan with regard  
24 to federal and state potential crimes?

1           A.     After the academy meeting, Mr. Taylor,  
2     we were asked to develop basically a plan of  
3     attack on how to investigate Morgan, and both  
4     Lieutenant Callahan and I attended or attended and  
5     coordinated meetings with state, local and federal  
6     authorities.

7           Q.     And as a result of your proposals, there  
8     was an investigation of Morgan with regard to  
9     certain federal and state crimes, isn't that  
10    right?

11          A.     Well, Mr. Taylor, when I submitted the  
12    proposal for the investigation, which was sometime  
13    shortly after the meeting at the Illinois State  
14    Police Academy, it was some time before I actually  
15    got any form of response back. And I was  
16    reassigned, transferred, in June of '03.

17          Q.     Prior to June of '03 did you participate  
18    in any way in reassigning Lieutenant Callahan from  
19    the investigation of Morgan?

20                MR. JOHNSTON: Do you understand the  
21    question, Steve?

22          A.     Not really.

23                MR. JOHNSTON: Are you reading it?

24          A.     Trying to. I'm afraid I don't



1 understand the reassignment portion. But after  
2 the meeting it was my recommendation or suggestion  
3 that Lieutenant Callahan basically spear head, if  
4 you will, the investigation.

5 Q. Right. But, after you made that  
6 recommendation, and after he did participate for a  
7 certain period of time, he was removed from that  
8 spear heading role, was he not?

9 A. Not that I recall. No, sir. I mean, I  
10 don't remember that.

11 Q. So, you didn't participate in it, if he  
12 was, is that your testimony? The removal?

13 A. Not that I remember. No, sir.

14 Q. All right. Well, let me ask you to take  
15 a look at Plaintiff's Exhibit No. 11. The draft  
16 memorandum from Marlow to Zywiec dated 7/7/05.

17 MR. SMITH: What are the numbers on that?

18 A. Plaintiff's Exhibit No. 11.

19 MR. JOHNSTON: ISP 26597.

20 A. Okay. I have it before me.

21 Q. Okay. First of all, do you know Agent  
22 Jeff Marlow?

23 A. Yes.

24 Q. Has he ever worked for you?

1 A. Yes.

2 Q. When did he work for you?

3 A. During my tenure as a zone commander in  
4 Zone 5 from about November of '01 through June of  
5 '03.

6 Q. And during part of that time was he  
7 involved in the Morgan investigation?

8 A. Not that I am aware of.

9 Q. Now, have you ever seen a memo from  
10 Marlow dated approximately this time? In other  
11 words, have you seen this memo before in any  
12 version?

13 A. No, sir.

14 Q. Did you become aware at some point that  
15 Marlow had sent an e-mail to Zywiec dated about  
16 the same time concerning his involvement in the  
17 Rhodes homicide investigation or reinvestigation?

18 A. No, sir. In July of '05 I was not in  
19 that office or command or anything. I don't know  
20 anything about what was going on then.

21 Q. All right. And did you read about it in  
22 the newspaper?

23 A. No, sir.

24 Q. Okay. Well, let me show you Exhibit No.

1 12, which is an e-mail from Marlow to Zywiec July  
2 of '05. Do you see that?

3 A. Yes, sir. I have it before me, I think  
4 dated 090905.

5 Q. Yes.

6 A. Yes, sir. I have it right here.

7 Q. Have you ever seen that memo before?

8 MR. JOHNSTON: I'll object. It's an  
9 e-mail.

10 A. No, sir. I have never seen this.

11 Q. Okay. Did you read about this e-mail in  
12 the press when it was -- or when it became public?

13 MR. JOHNSTON: I'll object. Asked and  
14 answered. Go and answer again.

15 A. No, sir. I don't take the paper. I  
16 don't recall ever hearing or reading anything  
17 about this. And I didn't see this e-mail.

18 Q. Okay. Give me about two minutes to  
19 check my notes and to find a couple of things. I  
20 think we are very close to the end of this.

21 I want to call your attention to Exhibit  
22 11 one more time. I want to call your attention  
23 to specifically page eight of that memo.

24 A. This is the Marlow memo, Mr. Taylor?

1 Q. Yes, it is, sir.

2 A. Okay. Page eight.

3 Q. Okay. If you look at the paragraph that  
4 says Debbie Reinbolt. And I want to call your  
5 attention to kind of the middle of that page. It  
6 says sergeant Jack Eckerty pointed out that  
7 Reinbolt was a habitual liar. And that Reinbolt  
8 wore a wire. Do you see that about that sentence  
9 about Eckerty pointed out that Reinbolt was a  
10 habitual liar?

11 A. Yes, sir, I see that sentence.

12 Q. Were you aware of that information when  
13 you were at the academy meeting in December of --  
14 in January of 2003?

15 MS. EKL: Objection, form.

16 MR. JOHNSTON: Go ahead and answer.

17 A. No, sir.

18 Q. Was that conclusion of Eckerty's  
19 consistent with your evaluation of the credibility  
20 of Deborah Reinbolt?

21 MS. EKL: Objection, form, foundation.

22 MR. JOHNSTON: Join the objection. You  
23 can go ahead and answer.

24 A. I wouldn't say it that way. I mean,

1 what I said and what I believe is that there was  
2 original statements, there was recantations, there  
3 was subsequent recantations. I don't know what  
4 led to it. I don't know, it certainly would cause  
5 question. But, I -- that's how I would state it.

6 Q. Well, if Eckerty had told you as the  
7 investigator in the original investigation that  
8 Reinbolt in his opinion was a habitual liar, would  
9 that have changed your opinion with regard to the  
10 credibility of Reinbolt?

11 MR. JOHNSTON: Object to the form of the  
12 question. Speculative. Go ahead and answer.

13 A. Yeah, I mean I can only speculate. I  
14 don't know what impact it would have had. But it  
15 certainly would have been something that, you  
16 know, would cause question, or cause you to look  
17 into it deeper.

18 Q. Okay. One second, please.

19 A. Yes, sir.

20 Q. At any time did you have any  
21 communication with Rory Steidl about the Rhodes  
22 homicides?

23 A. No, sir.

24 Q. And did you have any communication with

1 Commander Kaupus concerning the Rhodes  
2 investigation?

3 A. Yes. I had what I would consider sort  
4 of a minimal conversation with him about it. Yes,  
5 sir.

6 Q. When was that?

7 A. I can't really tell you the time frame.  
8 It was after, other than it was after June of '03  
9 when I was transferred from the zone. And while  
10 he was working on the Rhodes homicide case. But,  
11 I don't remember specifically when or even the  
12 month or the year.

13 Q. Can you tell us the substance of that  
14 conversation?

15 A. Yes, sir.

16 Q. What was it?

17 A. Captain Kaupus called me on the  
18 telephone and asked me if I was aware that there  
19 was some -- I think he characterized it as  
20 evidence, that if there was some evidence in the  
21 Steidl case, and he -- I remember he talked about  
22 some type of, whether it was a bed sheet, a pillow  
23 case, something, some type of what I would call  
24 bed dressing. And an article of woman's clothing.

1 Q. Okay. And was this some item that was  
2 either missing or relocated?

3 A. I don't recall it being something  
4 missing. I mean, Captain Kaupus was -- I don't  
5 know what the genesis was. He was trying to get  
6 to the bottom of this item. So, the way I, at  
7 least interpreted it at the time, was there was  
8 items of evidence that had recently come to light.  
9 Or that he had just become aware of. And he was  
10 being asked to explain those items.

11 Q. Okay. Did you at any time discuss the  
12 substance of the Rhodes investigation beyond this  
13 specific evidence with Kaupus?

14 A. No, sir.

15 Q. And what was the basis of your transfer  
16 in June of 2003?

17 A. Well, in June of '03 both myself and  
18 Lieutenant Callahan on the same day were given new  
19 assignments.

20 Q. And who gave you those assignments?

21 A. The order for reassignment was delivered  
22 by Lieutenant Colonel Carper and Lieutenant  
23 Colonel Richard Woods.

24 Q. So, at that point both you and Callahan

1 were moved from the positions that had you  
2 involved with the Morgan investigation to other  
3 assignments that removed you from those  
4 investigations? Is that correct?

5 MR. JOHNSTON: Object to the form of the  
6 question. Answer as best you can.

7 A. Well, Lieutenant Callahan was  
8 transferred to District 10 patrol, and I was  
9 transferred to the operational services command.  
10 And headed up our intelligence unit.

11 Q. And neither of those had any role in the  
12 continuing investigation of Morgan or the Rhodes  
13 homicides, is that right?

14 MR. JOHNSTON: I'll object to the form of  
15 the question. Foundation. Go ahead. Answer as  
16 best you can.

17 A. Well, Lieutenant Callahan as an  
18 assignment to patrol did not. My assignment with  
19 the intelligence bureau was basically, I was the  
20 supervisor of the entire intelligence unit. And  
21 we had intelligence personnel aware of the case,  
22 working on the case, and it was my understanding  
23 that Captain Kaupus was assigned to work the case  
24 and he worked closely with our intelligence people



1 under my command.

2 Q. Were you receiving reports while you  
3 were the head of intelligence concerning the  
4 continuing investigation into Morgan?

5 A. No, sir.

6 Q. Now, at any time until the 2003, June of  
7 2003, to your knowledge was there an investigation  
8 reopened with regard to the Rhodes homicides?

9 A. No, there wasn't a 4-1. There wasn't a  
10 form filled out to reopen the investigation, no.

11 Q. And who would have had the authority to  
12 reopen that investigation?

13 A. Well, sir, generally speaking the 4-1s,  
14 the cases are opened, reopened, as needed, by  
15 whomever the case agent is. It could be a trooper  
16 or an agent.

17 Q. That wasn't the case in the Rhodes  
18 homicide, was it?

19 MR. JOHNSTON: Object to the form of the  
20 question. Go ahead and answer as best you can.

21 A. No.

22 Q. In fact, would Colonel Carper have to  
23 give the authorization to reopen the Rhodes  
24 homicide investigation?

1 MR. JOHNSTON: Object to the form of the  
2 question. Go ahead and answer.

3 A. I believe that was my understanding,  
4 yes.

5 Q. Did you have the power to reopen that  
6 investigation without the authorization of Colonel  
7 Carper?

8 A. Mr. Taylor, to reopen the investigation  
9 you merely fill out a form and send it to  
10 headquarters. I could have, I mean anyone,  
11 Lieutenant Callahan, Sergeant Dixon, could have  
12 filled out the 4-1 and sent it to headquarters,  
13 and no one would have ever been the wiser to  
14 reopen the case.

15 Lieutenant Colonel Carper it was my  
16 understanding basically asked that the case not be  
17 reopened until there was some element of proof or  
18 evidence gathered.

19 Q. And so to that point, in June of 2003  
20 she never countermanded that order that she gave  
21 not to reopen it until and unless, is that right?

22 MR. JOHNSTON: Object to the form of the  
23 question. Answer as best you can.

24 A. Not that I'm aware of, no, sir.

1 Q. And you never made any requests of her  
2 to reopen it, is that correct?

3 A. No.

4 Q. I have nothing further.

5 MR. JOHNSTON: Beth?

6 MS. EKL: Nothing here. Thank you.

7 MS. STANKER: I have nothing.

8 MR. SMITH: Nothing for me.

9 MR. JOHNSTON: Okay. We will reserve.

10 (Deposition adjourned at 4:51.)

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

4 GORDON RANDY STEIDL,

5 Plaintiff,

6 -vs-

No. 05 CV 2127

7 CITY OF PARIS, et al.,

8 Defendants.

9 HERBERT WHITLOCK,

10 Plaintiff,

11 vs.

No. 08 CV 2055

12 CITY OF PARIS, et al.,

13 Defendant.

14  
15 This is to certify that I have read the  
16 transcript of my deposition taken in the  
17 above-entitled cause, and that the foregoing  
18 transcript taken on July 9th, 2009 accurately  
states the questions asked and the answers given  
by me, with the exception of the corrections  
noted, if any, on the attached errata sheet(s).

19 \_\_\_\_\_  
STEVE FERMON

20 Subscribed and Sworn before  
21 me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2009.

22 \_\_\_\_\_  
Notary Public  
23  
24

1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF CHAMPAIGN )

3 I, DEANN K. PARKINSON, a Notary Public  
in and for the County of Champaign State of  
4 Illinois, do hereby certify that STEVE FERMON, the  
deponent herein, was by me first duly sworn to  
5 tell the truth, the whole truth and nothing but  
the truth in the aforementioned cause of action.

6 That the foregoing deposition was taken  
on July 9th, 2009.

7 That said deposition was taken down in  
stenographic notes and afterwards reduced to  
8 typewriting under my instruction and said  
transcription is a true record of the testimony  
9 given; and that it was agreed by and between the  
witness and attorneys that said signature on said  
10 deposition would be not waived.

I do hereby certify that I am a  
11 disinterested person in this cause of action; that  
I am not a relative of any party or any attorney  
12 of record in this cause, or an attorney for any  
party herein, or otherwise interested in the event  
13 of this action, and am not in the employ of the  
attorneys for either party.

14 In witness whereof, I have hereunto set  
my hand and affixed my notarial seal July 14th,  
15 2009.

16

17 \_\_\_\_\_  
DEANN K. PARKINSON, CSR  
NOTARY PUBLIC

18

19 "OFFICIAL SEAL"  
DEANN K. PARKINSON  
20 Notary Public, State of Illinois  
My Commission Expires 11-16-2012

21

22

23

24

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

<b>GORDON RANDY STEIDL,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 05 CV 02127</b>
	)	
<b>CITY OF PARIS, et al.,</b>	)	<b>Judge Harold A. Baker</b>
	)	<b>Magistrate Judge Bernthal</b>
<b>Defendants.</b>	)	

---

<b>HERBERT WHITLOCK,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 08 CV 2055</b>
	)	
<b>CITY OF PARIS, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that a copy of the foregoing July 9, 2009 Deposition Transcript of Steven Fermon was served upon the following counsel via the Court's CM/ECF system on the 19<sup>th</sup> day of March 2010:

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The undersigned, an attorney, hereby certifies that a copy of the foregoing July 9, 2009 Deposition Transcript of Steven Fermon was served upon the following defendant via U.S. first-class mail on the 20<sup>th</sup> day of March 2010:

Deborah Rienbolt  
2116 East Keys Avenue  
Springfield, IL 62702

s/ Carrie A. Hall