

Case No. 125617

**IN THE  
SUPREME COURT OF ILLINOIS**

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ALAN BEAMAN,  
*Plaintiff-Appellant,*

On Appeal from the  
Appellate Court of Illinois,  
Fourth District, No. 4-16-0527

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

There Heard on Appeal from the  
Circuit Court of McClean County,  
Illinois, Eleventh Judicial Circuit,  
No. 14 L51

The Honorable Richard L. Broch  
Judge Presiding

*Defendants-Appellees.*

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**BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN**

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**TABLE OF POINTS AND AUTHORITIES**

<b>NATURE OF THE CASE</b> .....	1
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	1
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	1
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	1
<b>ISSUES PRESENTED FOR REVIEW</b> .....	2
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	2
<b>JURISDICTIONAL STATEMENT</b> .....	3
<b>STATEMENT OF FACTS</b> .....	3
<b>A. Introduction and Summary</b> .....	3
<b>B. The Murder</b> .....	4
<b>C. A Witness Makes a Guess, and Freesmeyer Fixates on Beaman as the         Primary Suspect</b> .....	4
<b>D. Alan Beaman and Jennifer Lockmiller</b> .....	5
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	6
<b>E. Suspects Ignored</b> .....	6
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	8
<b>F. Warner Conceals a Report of Murray’s Polygraph</b> .....	9
<b>G. Attempts To Obtain a Confession Fail</b> .....	10
<b>H. No Physical or Eyewitness Evidence</b> .....	10
<b>I. Freesmeyer Manipulates Time Trials</b> .....	11
<b>J. Defendants Disregard David Singley’s Time of Death Evidence</b> .....	14
<b>K. The Decision To Arrest Beaman</b> .....	14
<b>L. Beaman Arrested: “I Think We Needed To Work on it Some More”</b> .....	15
<b>M. Indictment and Conviction</b> .....	16
<i>People v. Beaman</i> , No. 4–95–0396 (4th Dist. May 23, 1996) .....	16
<b>N. Beaman Clears His Name</b> .....	17
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	17, 18
<b>O. Procedural History: Federal Litigation</b> .....	18
<i>Beaman v. Souk</i> , 7 F. Supp. 3d 805 (C.D. Ill. 2014) .....	18, 19
<i>Beaman v. Freesmeyer</i> , 776 F.3d 500 (7th Cir. 2015) .....	18, 19
<i>People v. Morris</i> , 219 Ill. 2d 373 (2006) .....	18
<i>Chicago &amp; A.R. Co. v. Keegan</i> , 152 Ill. 413 (1894) .....	18
42 U.S.C. § 1983 .....	19

<b>P. Procedural History: The Instant Case</b> .....	19
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	20
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	20
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	20, 21
<b>ARGUMENT</b> .....	21
<b>A. Summary of Argument</b> .....	21
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	21, 22
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	22
<b>B. Standard of Review</b> .....	23
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	23
<i>Jackson v. TLC Assocs., Inc.</i> , 185 Ill. 2d 418 (1998).....	23
<b>C. The Appellate Court Abdicated its Duty to Review the Record</b> .....	23
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	23, 24
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	24
<b>D. The Malicious Prosecution Claim Should Proceed to Trial</b> .....	25
<b>1. Commencement or Continuance Prong: A Reasonable Juror Could Find That The Defendants Caused the Malicious Prosecution.</b> .....	25
<b>a. The Fourth District Defied This Court’s Clear Instruction: “Wrongful or Bad-Faith Conduct Instrumental in the Initiation of the Prosecution” Can Establish Commencement or Continuance.</b> .....	25
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	25, 26, 27
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	25, 26
<b>b. A Rational Juror Could Find That Defendants Commenced or Continued The Prosecution By Hiding The Murray Polygraph, Misleading the Grand Jury, and Manipulating Time Trials.</b> .....	28
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	28, 30
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	28, 29
<i>Beaman v. Souk</i> , 7 F. Supp. 3d 805 (C.D. Ill. 2014).....	28
<i>People v. Beaman</i> , 368 Ill. App. 3d 759 (4th Dist. 2006).....	29
<i>Beaman v. Freesmeyer</i> , 776 F.3d 500 (7th Cir. 2015).....	30
<b>c. A Rational Juror Could Find That The Defendants’ Misconduct Was A Cause In Fact And Legal Cause of the Prosecution.</b> .....	31
<i>Evans v. Shannon</i> , 201 Ill. 2d 424 (2002).....	31
<i>Lee v. Chicago Transit Auth.</i> , 152 Ill. 2d 432 (1992).....	31
<i>French v. City of Springfield</i> , 65 Ill. 2d 74 (1976) .....	31

<i>Ney v. Yellow Cab Co.</i> , 2 Ill. 2d 74 (1954) .....	31
<i>Davis v. Marathon Oil Co.</i> , 64 Ill. 2d 380 (1976) .....	31
<i>Neering v. Illinois Cent. R. Co.</i> , 383 Ill. 366 (1943).....	31
<i>First Springfield Bank &amp; Trust v. Galman</i> , 188 Ill. 2d 252 (1999) .....	31, 32, 33
<i>City of Chicago v. Beretta U.S.A. Corp.</i> , 213 Ill. 2d 351 (2004).....	31, 32
<i>Price v. Philip Morris, Inc.</i> , 219 Ill. 2d 182 (2005).....	32
<i>Thacker v. UNR Industries, Inc.</i> , 151 Ill. 2d 343 (1992) .....	32, 33
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	32
725 ILCS 5/111-2(a) & (b) .....	33
725 ILCS 5/111-3(b).....	33
<i>Turner v. Roesner</i> , 193 Ill. App. 3d 482 (2d Dist. 1990).....	33
<i>Espinoza v. Elgin, Joliet and E. Ry. Co.</i> , 165 Ill. 2d 107 (1995).....	33
<i>Krywin v. Chicago Transit Auth.</i> , 238 Ill. 2d 215 (2010).....	33
<i>Abrams v. City of Chicago</i> , 211 Ill. 2d 251 (2004).....	33
<i>Bentley v. Saunemin Twp.</i> , 83 Ill. 2d 10 (1980).....	33
<i>Merlo v. Public Service Co. of Northern Illinois</i> , 381 Ill. 300 (1942).....	33
<i>McGee v. City of Chicago</i> , 2012 IL App (1st) 111084.....	33
<i>Logan v. City of Chicago</i> , 891 F. Supp. 2d 897 (N.D. Ill. 2012).....	33
<i>Grayson v. City of Aurora</i> , 157 F. Supp. 3d 725 (N.D. Ill. 2016) .....	33
<i>Sanders v. City of Chicago Heights</i> , No. 13 C 0221, 2014 WL 5801181 (N.D. Ill. Nov. 7, 2014).....	33
<i>Aguirre v. City of Chicago</i> , 382 Ill. App. 3d 89 (1st Dist. 2008).....	33
<i>Jimenez v. City of Chicago</i> , 877 F. Supp. 2d 649 (N.D. Ill. 2012).....	33
<i>Porter v. City of Chicago</i> , 393 Ill. App. 3d 855 (1st Dist. 2009).....	33
<i>Gauger v. Hendle</i> , 2011 IL App (2d) 100316.....	33
<i>Wilson v. Baptiste</i> , No. 13 CV 07845, 2016 WL 521000 (N.D. Ill. Feb. 10, 2016).....	33
<i>Reno v. City of Chicago</i> , No. 10 C 6114, 2012 WL 2368409 (N.D. Ill. June 21, 2012) .....	33
<i>Chagolla v. City of Chicago</i> , No. 07 C 4557, 2012 WL 403920 (N.D. Ill. Feb. 8, 2012).....	33
<i>Lyons v. Vill. of Woodridge</i> , No. 08 C 5063, 2011 WL 2292299 (N.D. Ill. June 8, 2011) .....	33
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654.....	34, 35
<b>2. Absence of Probable Cause Prong: A Reasonable Juror Could Find that Defendants Lacked Probable Cause To Arrest Beaman for Murder. ....</b>	<b>36</b>

<b>a. The Appellate Court’s Revolutionary Holding on the Lack of Probable Cause Prong Grants Officers Unprecedented Immunity From Malicious Prosecution Claims.....</b>	36
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	36
<i>Rivera v. Guevara</i> , 319 F. Supp. 3d 1004 (N.D. Ill. 2018).....	36
<i>Noel v. Coltri</i> ,	
No. 10 C 8188, 2017 WL 4620868 (N.D. Ill. Oct. 13, 2017).....	36
<i>Patrick v. City of Chicago</i> , 213 F. Supp. 3d 1033 (N.D. Ill. 2016) .....	36
<i>Grayson v. City of Aurora</i> , 157 F. Supp. 3d 725 (N.D. Ill. 2016) .....	36
<i>Sanders v. City of Chicago Heights</i> ,	
No. 13 C 0221, 2016 WL 2866097 (N.D. Ill. May 17, 2016) .....	36
<i>Fields v. City of Chicago</i> ,	
No. 10 C 1168, 2014 WL 477394 (N.D. Ill. Feb. 6, 2014).....	37
<i>Lyons v. Vill. of Woodridge</i> ,	
No. 08 C 5063, 2011 WL 2292299 (N.D. Ill. June 8, 2011) .....	37
<i>Thompson v. City of Chicago</i> ,	
No. 07 C 1130, 2009 WL 674353 (N.D. Ill. Mar. 12, 2009) .....	37
<i>Evans v. City of Chicago</i> ,	
No. 04C3570, 2006 WL 463041 (N.D. Ill. Jan. 6, 2006) .....	37
<i>Logan v. City of Chicago</i> , 891 F. Supp. 2d 897 (N.D. Ill. 2012).....	37
<i>Patterson v. Dorrough</i> ,	
No. 10 C 1491, 2012 WL 5381328 (N.D. Ill. Oct. 31, 2012).....	37
<i>Hill v. City of Chicago</i> ,	
No. 19 C 6080, 2020 WL 509031 (N.D. Ill. Jan. 31, 2020) .....	37
<i>Patterson v. Burge</i> , 328 F. Supp. 2d 878 (N.D. Ill. 2004).....	37
<i>Swick v. Liautaud</i> , 169 Ill. 2d 504 (1996).....	37, 38
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	38
<i>Simon v. Northwestern University</i> ,	
No. 15-cv-1433, 2017 WL 55076 (N.D. Ill. Jan. 3, 2017).....	38
<i>Starks v. City of Waukegan</i> , 946 F. Supp. 2d 780 (N.D. Ill. 2013).....	38
<i>Thompson v. City of Chicago</i> ,	
No. 07 C 1130, 2008 WL 780631 (N.D. Ill. Mar. 20, 2008) .....	38
<i>Rich v. Baldwin</i> , 133 Ill. App. 3d 712 (5th Dist. 1985) .....	38
<i>Walden v. City of Chicago</i> , 391 F. Supp. 2d 660 (N.D. Ill. 2005).....	38
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	37
<i>Schlup v. Delo</i> , 513 U.S. 298 (1995) .....	38
<b>b. Probable Cause Is an Issue For Trial.....</b>	38

<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	39
<i>Seymour v. Collins</i> , 2015 IL 118432 .....	39
<i>Carney v. Union Pacific R. Co.</i> , 2016 IL 118984.....	39
<i>Frye v. O’Neill</i> , 166 Ill. App. 3d 963 (4th Dist. 1988) .....	39
<i>Skorupa v. Guzick</i> , 2015 IL App (1st) 133082-U .....	39
<i>Fabiano v. City of Palos Hills</i> , 336 Ill. App. 3d 635 (1st Dist. 2002) .....	39
<i>Maxwell v. City of Indianapolis</i> , 998 F.2d 431 (7th Cir. 1993).....	39
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	40
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654.....	42
<b>3. Malice Prong: A Reasonable Juror Could Infer Malice from the Defendants’ Conduct.</b> .....	42
<i>Hardin v. Gouveneur</i> , 69 Ill. 140 (1873) .....	42
<i>Murphy v. Larson</i> , 77 Ill. 172 (1875).....	42
<i>Mack v. First Sec. Bank of Chicago</i> , 158 Ill. App. 3d 497 (1st Dist. 1987) .....	42
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	45
<b>4. Favorable Termination Prong: The Unanimous Reversal of Beaman’s Conviction, the Abandonment of Charges, the Certificate of Innocence, and the Governor’s Pardon Demonstrate Favorable Termination.</b> .....	46
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	46
<i>Rich v. Baldwin</i> , 133 Ill. App. 3d 712 (5th Dist. 1985) .....	46
<i>Kluppelberg v. Burge</i> , 84 F. Supp. 3d 741 (N.D. Ill. 2015).....	46
<i>Walden v. City of Chicago</i> , 391 F. Supp. 2d 660 (N.D. Ill. 2005).....	46
<b>E. Beaman’s Remaining Claims Should Proceed to Trial</b> .....	47
<b>1. The Intentional Infliction of Emotional Distress Claim Should Proceed to Trial.</b> .....	47
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	47
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	47
<i>Carrocia v. Anderson</i> , 249 F. Supp. 2d 1016 (N.D. Ill. 2003) .....	48
<i>Treece v. Vill. of Naperville</i> , 903 F. Supp. 1251 (N.D. Ill. 1995), <i>aff’d</i> , 213 F.3d 360 (7th Cir. 2000) .....	48
<i>Padilla v. City of Chicago</i> , 932 F. Supp. 2d 907 (N.D. Ill. 2013) .....	48
<i>Wallace v. City of Zion</i> , No. 11 C 2859, 2011 WL 3205495 (N.D. Ill. July 28, 2011).....	48
<i>Fox v. Tomczak</i> , No. 04 C 7309, 2006 WL 1157466 (N.D. Ill. Apr. 26, 2006).....	48

<i>McDonald v. Vill. of Winnetka</i> , No. 00 C 3199, 2001 WL 477148 (N.D. Ill. May 3, 2001) .....	48
<i>McGrath v. Fahey</i> , 126 Ill. 2d 78 (1988).....	48
<i>Vancura v. Katris</i> , 238 Ill. 2d. 352 (2010).....	49
<b>2. The Civil Conspiracy Claim Should Proceed to Trial</b> .....	49
<i>Beaman v. Freesmeyer</i> , 2019 IL App (4th) 160527 .....	49
<i>Rosee v. Chicago Bd. Of Trade</i> , 43 Ill. App. 3d 203 (1st Dist. 1976) .....	49
<i>People v. Small</i> , 319 Ill. 437 (1925) .....	49
<i>Pearce v. Thiry</i> , No. CIV.A.08 C 4483, 2009 WL 3172148 (N.D. Ill. Oct. 1, 2009) .....	50
<i>Newsome v. James</i> , No. 96 C 7680, 2000 WL 528475 (N.D. Ill. Apr. 26, 2000).....	50
<i>Rainey v. City of Chicago</i> , No. 10 C 07506, 2013 WL 941968 (N.D. Ill. Mar. 11, 2013) .....	50
<b>3. The Respondeat Superior and Indemnification Claims Should Proceed to Trial</b> .....	50
<b>CONCLUSION</b> .....	50

## NATURE OF THE CASE

In Alan Beaman’s post-conviction appeal, this Court unanimously reversed the Fourth District and threw out the conviction, underscoring “the tenuous nature of the circumstantial evidence against [Beaman]” and holding that the State concealed evidence exculpating him of the murder of Jennifer Lockmiller. *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). The prosecution then dropped all charges, Beaman emerged from prison after a dozen years of wrongful incarceration, the Circuit Court of McLean County granted him a certificate of innocence, and the governor pardoned him, noting his innocence. Appendix (“A.”) 340-42, 2961, 3377.

Beaman brought this suit, sounding principally in malicious prosecution, and named as defendants the detectives responsible for his wrongful conviction. A.308-37. The tort consists of five elements: (1) commencement or continuance of an original criminal or civil judicial proceeding by the defendant; (2) termination of the proceeding in favor of the plaintiff; (3) absence of probable cause for such proceeding; (4) malice; and (5) damages resulting to the plaintiff. *Beaman v. Freesmeyer*, 2019 IL 122654, ¶ 26.

The circuit court granted summary judgment against Beaman under the first four elements. A.27-33. The Fourth District affirmed under the commencement or continuance element alone, applying the “pressure, influence, or misstatement” test to this prong and finding as a matter of law that the defendants did not pressure, influence, or mislead the prosecutors. *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527, ¶¶ 58, 60-72. That erroneous holding required this Court to unanimously reverse the Fourth District a second time and to explain that the lower court erred in selecting the “pressure, influence, or

misstatement” test as the governing standard for commencement or continuance. *Beaman*, 2019 IL 122654, ¶ 47.

On remand, the Fourth District again affirmed the grant of summary judgment. Retaining the central reasoning of its prior, vacated decision—and copying from that opinion liberally and often verbatim—the appellate court again found as a matter of law that the defendants did not commence or continue the prosecution. The Fourth District also addressed probable cause by creating a new rule: So long as the criminal proceeding does not include a finding of insufficient evidence, probable cause automatically obtains, and a wrongfully convicted plaintiff always loses a malicious prosecution claim. This Court granted *Beaman* leave to appeal—a second time in this civil case and a third time overall.

### **ISSUES PRESENTED FOR REVIEW**

The issues concern the first four elements of the malicious prosecution tort:

1. Commencement or continuance: Could a reasonable juror find that “defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding” by “play[ing] a significant role in *Beaman*’s prosecution”? *Beaman*, 2019 IL 122654, ¶ 47.

2. Absence of probable cause: A. Does probable cause immunize the defendants from a malicious prosecution suit as a matter of law because *Beaman*’s exoneration did not result in a finding of insufficient evidence? B. On the facts, does probable cause against *Beaman* present an issue for the jury given the lack of evidence against him, his lack of opportunity to commit a murder 130 miles from his home, and the existence of more viable suspects?

3. Malice: Could a reasonable juror find that the defendants acted with malice where they immediately selected *Beaman* as the killer, hid evidence, misled the grand jury,

manipulated time trials, and conducted a bad faith investigation?

4. Favorable termination: Could a reasonable juror find that the proceedings against Beaman concluded in his favor, where this Court unanimously vacated his conviction, the State dismissed the indictment after remand, Beaman won a certificate of innocence, and the governor pardoned him on the basis of innocence?

### **JURISDICTIONAL STATEMENT**

Beaman petitioned for leave to appeal from the appellate court on February 25, 2017. The Supreme Court allowed the petition on May 27, 2020.

### **STATEMENT OF FACTS**

#### **A. Introduction and Summary**

As the summer of 1993 gave way to fall, Alan Beaman was home in Rockford, where he spent the final weeks of the summer catching up with childhood friends, working nights at his uncle's grocery store, singing and playing guitar at his family's church, and preparing to start his senior year at Illinois Wesleyan University. A.518-19, 951-52, 966, 2900. On August 28, Jennifer Lockmiller, Beaman's former girlfriend, was found dead in her apartment in Normal, some 130 miles away. A.38.

Defendant Timothy Freesmeyer, a detective in the Normal Police Department, immediately selected Beaman as the primary suspect. A.1400-02, 1576. Freesmeyer appeared to have solved the murder of a college student in a small town and testified as the prosecution's principal witness at trial. A.2971, 2975. He garnered a promotion and a glowing recommendation from the lead prosecutor. A.1400-02, 2971, 3207. In the words of Plaintiff's expert witness, an FBI agent with 45 years of criminal investigation experience, Freesmeyer led an investigation that "showed an utter disregard for the truth"

and “not only denied justice for Mr. Beaman, but also needlessly endangered the public by leaving a murderer on the streets free to kill again.” A.3242, 3248-49.

**B. The Murder**

Jennifer Lockmiller was last seen alive around noon on August 25, 1993. A.1601; R.2635. Three days later, her body was found in the bedroom of her apartment. A.38. Her shirt was pulled up exposing her breasts, her shorts and underwear were pulled down, a pair of scissors protruded from her chest, and an alarm clock cord was tied around her neck. A.38, 41.

**C. A Witness Makes a Guess, and Freesmeyer Fixates on Beaman as the Primary Suspect**

On Day One of the investigation, Defendant Freesmeyer, who was to become the lead investigator in the case, viewed Beaman as the primary suspect. A.1419. Morgan Keefe, an acquaintance of the victim, had discovered the body and told the police Beaman might be the killer, though she had no personal knowledge of the crime. A.1371-72, 1374. As she admitted, she was “guessing.” A.1374.

On the first day of the investigation, no alibi had been investigated, there were no eyewitness accounts, no physical evidence linked Beaman to the crime, and the autopsy had not been completed. A.3213, 3305-07. The crime scene suggested a killer of considerable strength and power, as an expert witness on crime scene analysis explained, but Beaman was thin and small. A.1360, 3221-22.

Lockmiller lived on a busy thoroughfare in a transient college town; this produced, in the words of Defendant Zayas, the overall head of the detective division, “an open case” with “so many possibilities.” A.1353. The victim might have been killed by an intimate partner. Or a man she had recently met. A.1716-18, 1723-25, 1731, 1733. Or a would-be

burglar she discovered in the apartment. A.1358-62. Defendant Zayas agreed that “there were a lot of different factors that pointed to a potentially broad range of suspects.” A.1353. The scene suggested a stranger because Lockmiller’s apartment, usually tidy, was in disarray. A.1359, 1372-73. Someone appeared to have rummaged through the closet, A.1359, left food and dishes out on the kitchen counter, and tossed a garbage bag on the living room couch. A.71-72, 1359-60, 1372-73, 1594-95. One of Lockmiller’s earrings was on the floor near the door, and a shoe was near the bedroom. A.1360. The scene also suggested that the assailant attacked Lockmiller at the entry to her apartment, overpowered her, forced her into the bedroom, raped her, and killed her. A.1360.

Any number of men who drank and used drugs with Lockmiller could have been potential killers. A.1288, 1292. A new paramour had moved in with her two or three weeks before the murder. A.1727-28. She had broken up with another man who wanted her back. The two planned to see each other two days after the murder. A.1729-30.

Late at night on the first day of the investigation, Beaman agreed to a lengthy interview by two detectives, voluntarily accompanied them to a police station, agreed to have the interview taped, declared his innocence throughout the interview, and discontinued the interview only when it became highly accusatory. A.2900-48. Nevertheless, Freesmeyer admitted that, within hours of the discovery of the body, he had already designated Alan Beaman as the primary suspect and likely killer. A.1576.

#### **D. Alan Beaman and Jennifer Lockmiller**

Alan Beaman grew up in Rockford in a devout Methodist family. A.948-51. His father worked as an engineer. A.944. His mother taught math at the local high school. A.943, 964, 2580. He was in the high school marching band. A. 978. Like his parents, Beaman was

active in the local Methodist parish, where he played guitar for the youth group. A.948-51. A student at Illinois Wesleyan University in Normal, A.355, he had no criminal history save a single juvenile arrest for shoplifting that was resolved without a court appearance, A.782-84.

Beaman had ended his romantic relationship with Lockmiller a month before the murder. A.2951-52. The relationship was unhappy, while it lasted. Lockmiller was intimate with other men, including Michael Swaine, Beaman's roommate and close friend. A.1752, 3314-15. The couple fought. Beaman displayed his temper more than once, raising his voice at Lockmiller and, on two occasions when she was being unfaithful, kicking open the door to her apartment. A.1752, 3314-16. But there was no indication that Beaman ever directed violence at any person, and police were informed that he was "not physical." A.2950; *Beaman*, 229 Ill. 2d at 78-79 (noting that "the State established that petitioner had been violent toward objects, but not people").

A few days before her death, Lockmiller called Beaman many times, trying to restart their relationship. A.1044, 1046-48. Beaman refused. A.1046-48. He had begun seeing someone else. A.1145.

#### **E. Suspects Ignored**

Defendants ignored potential suspects by declining to find out if other burglaries or sexual assaults had been reported nearby. A.3243, 3246. They chose not to interview all the people Lockmiller encountered in the days and hours before her death. A.1650-51, 2584.

While they confirmed alibis for two suspects, Stacey Gates and Michael Swaine, the defendants disregarded the rest. A.3231, 3242. For example, Lockmiller flirted with and

rejected several men on August 21, four days before the murder. At a bar called “Spanky’s,” Lockmiller met a long-haired stranger. A.1716-17. Lockmiller, described by her friend as “the queen of scamming drinks off guys,” flirted with the stranger, and then “kind of walked off.” A.1723. This man called Lockmiller two days before the murder. He asked Lockmiller on a date and was rebuffed. A.1725, 1731. But this man kept calling her. A.1733. Lockmiller encountered two other men that night, one of whom gave her his phone number, writing it on a piece of paper with lipstick that he borrowed from Lockmiller’s friend. A.1717-18, 1725. On the day before the murder, one of Lockmiller’s friends encountered these two men again. A.1718. They asked why Lockmiller had not called them and told Lockmiller’s friend to have Lockmiller call them. A.1718. Investigators did not attempt to locate these potential suspects. A.1653-54, 2867-70.

John Murray had an on-again, off-again sexual relationship with Lockmiller and was seeking to rekindle the relationship when she was killed. A.1733, 1752, 1757, 1764-65. Murray bragged to police: “[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me.” A.1752.

The crime scene, plaintiff’s expert on crime scene analysis explained, corresponded to a murderer who, unlike Beaman, was of “considerable strength and power.” A.1360. Murray was a frightening, physically imposing man. A.1773, 1775, 1777 (stating that Murray “was big. He was big and long, curly dark hair and just—I don’t know how to say it more than he was kind of a scary person”; describing Murray as “someone that could be explosive in his anger”; stating that Murray was “physically large” and “scary”).

Murray was a drug dealer, and he sold drugs to Lockmiller. A.1795-96. In fact, she owed him money for drugs at the time of her death. A.1795. Although Murray’s story was

that Lockmiller owed him approximately \$20, Detective Daniels, a member of the investigative team, thought that she might have owed Murray more money for drugs. A.2348-49. This could have added to Murray's motive to kill her. A.1824, 2348-49.

The investigators learned that Murray beat women. A.2561. On October 7, 1994, He beat his girlfriend, Deborah Mackoway, pinning her to the floor and elbowing her repeatedly in the chest. A.2543-44. He grabbed her and bruised her. A.2545. He beat her, she reported, "on a continual basis." A.2543. Murray abused steroids both before and after the Lockmiller murder, and these drugs made him violent and erratic. A.2558, 2559, 2547. Murray had been using steroids (and cocaine) in 1993, the year Lockmiller was killed. A.2558-59. In 1994, Murray was again experimenting with street steroid injections, making his behavior "unexplainable," as Mackoway put it. A.2547. He gave her a black eye while on the drugs. A.2547. Murray was violent toward other women as well. He slapped a different girlfriend and may have abused yet a third. A.1773, 2561.

During the investigation, Murray lied to detectives about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he left the Normal apartment that he shared with Mackoway, some one and one half miles from the site of Lockmiller's murder, and left town for his parents' home at 3:00 p.m. on August 24, the day before the murder. A.1741, 1783; *Beaman*, 229 Ill. 2d at 66. Mackoway, however, told investigators that Murray did not leave town until after 4:20 p.m. on *August 25*, the day of the murder. A.2563. Furthermore, no one could account for Murray's whereabouts on August 25 between when Mackoway left for work in the morning and 2 p.m. A.2563-64. Murray also lied to investigators about several other matters, including the fact that he sold Lockmiller drugs, A.1746, 1795-96, drove over to her

apartment shortly before she was killed, A.1738-40, 1791, and was having sex with her while she was dating Beaman (not just “talking,” as Murray originally claimed), A.1744, 1752, 2347-48.

Murray refused to comply with a polygrapher’s instructions during a lie detector test about whether he murdered Jennifer Lockmiller. The polygrapher reported: “After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.” A.2586. During his deposition in this case, Murray refused to answer any questions about his role in the Lockmiller murder, invoking the Fifth Amendment. A.1769-70.

**F. Warner Conceals a Report of Murray’s Polygraph**

The Murray polygraph report was concealed from the prosecution. A.3268-69. Defendant Warner received the report from the polygrapher, and was the last person to have the report before it disappeared. A.2744-45. Warner claims to have handed the Murray polygraph report to Detective Daniels, but Daniels has no recollection of it. A.2239, 2477-78, 2535, 2744-45. Warner’s story that he gave the report to Daniels (and no one else) violates the three-prong policy he was trained to follow upon receipt of such a report: (1) ensure that the head of the detective division received a copy, (2) submit the report to central records, and (3) disseminate copies to all investigators on the case. A.1354-55. Warner failed to perform all three of these mandatory steps. A.2744-45.

Zayas testified that the polygraph report would have been a “red flag” to the prosecutors or defense attorneys had it not been concealed from them. A.3402-03. Daniels agreed that “Murray’s noncooperation in the polygraph [and] failure to schedule a repeat polygraph, ...

would be important information for anybody who was evaluating Murray as a possible suspect.” A.2360. James Souk, the lead prosecutor, testified:

And certainly I would have been interested in what the polygrapher had to say or what had happened. It’s a strange report. It’s different than any I think I have ever seen in terms of apparently didn’t get through the entire process. So it’s not an opinion that the guy was lying, it’s not even inconclusive. It’s an incomplete. *I would have found it of interest and asked some questions I think, yeah.*

...

I would have asked some questions and looked at it more, and, you know, polygraph evidence, while totally inadmissible, is *useful for investigative purposes*. In fact, we used [other polygraph evidence] in this case for investigative purposes.

A.3423 (emphasis added).

#### **G. Attempts To Obtain a Confession Fail**

Defendants repeatedly tried—and failed—to obtain an incriminating admission from Beaman. A.1305-06, 1308-11, 1320, 1326, 1328-29, 1334-35. Freesmeyer spoke with Beaman many times during the nine-month investigation of the Lockmiller homicide, often wearing a wire. A.1320, 1328-29, 1334-35. The defendants convinced Beaman’s friend and roommate to wear a wire and engage Beaman in two separate conversations about the murder. A.1305-06, 1308-11, 3328-44, 3345-54, 3320-23. Beaman made no incriminating statements and maintained his innocence over a series of interrogations in which defendants insisted he was the killer. A.1316, 2613-14, 2900-48. Freesmeyer threatened Beaman with the death penalty if he refused to confess. A.1318. Beaman did not waiver.

#### **H. No Physical or Eyewitness Evidence**

No probative physical evidence connected Beaman to the crime. A.1356-57. Two of his fingerprints were found on the alarm clock at the crime scene, but that fact lacked evidentiary significance. A.1587, 2332-33, 2967, 2969, 3253, 3266. Beaman had repeatedly been an overnight visitor in Lockmiller’s apartment and used the alarm clock.

A.875-76, 953, 2332-33. Michael Swaine had also stayed overnight at Lockmiller's apartment and used the alarm clock. Four of Swaine's prints were found on the alarm clock, as well as an unidentified fingerprint. A.3305-07. No other physical evidence linked Beaman to the crime.

The defendants turned to collecting stories from college students about Beaman's sometimes tumultuous relationship with Lockmiller. Beaman had yelled at her, become jealous enough to search her wastebasket for contraception, become angry over her infidelity, and called her crude names, A.1033, 1764, 3297. But no witness (or evidence) placed him in Normal on the day of the murder. A.3226. Abundant evidence placed him in Rockford on that day, most of the time in the home he shared with his parents. A.1485; R.1437, 4142, 4160, 10350, 11401-02.

#### **I. Freesmeyer Manipulates Time Trials**

Freesmeyer adhered to his first-day guess that Beaman was the perpetrator even when an alibi made that guess impossible. A.1576, 2620. A security video showed Beaman at his bank in Rockford, some 130 miles from Lockmiller's apartment, at 10:11 a.m. on the day of the murder. A.1312. At 10:37 and 10:39 a.m., two calls were placed from the Beaman family residence to Beaman's youth minister. A.3285. Alan was the only member of that household with any conceivable reason to call the minister. A.3279-80; R.7865-67. When Beaman's mother returned home at approximately 2:15 p.m. that afternoon, Beaman was in his room asleep, with the family dog lying in the adjacent hallway. A.3271-78. It would have been impossible for Beaman to leave the family home in Rockford following the 10:39 a.m. call, drive the 130 miles to Normal, kill and rape Lockmiller, and return 130 miles to his bedroom prior to his mother's 2:15 p.m. return. A.2955-59.

Freesmeyer therefore set out to support a fanciful scenario in which Beaman did not make the calls. A.1339, 3219-20. Scrupulously adhering to speed limits and using a downtown route on city streets—not the “bypass route” used by locals—Freesmeyer purported to establish that Beaman did not have time to get home from the bank to make the calls. A.1339, 3219-20. On the other hand, taking the bypass route—even while never exceeding the speed limit—would have given Beaman ample time to make the calls. A.2958, 3219-20. In fact, Freesmeyer did a time trial using the bypass route, which proved this very point, even while he drove the entire route on an interstate highway without exceeding the speed limit. A.3219-20. But he omitted the exculpatory time trial from his detailed police report and avoided telling the jury about it at trial. A.1339, 2648-50, 3070-71, 3427-28, 3430-32. Not so for the other time trial that suggested Beaman could not have made the calls. Freesmsyer recorded that in his report, and he let the jury know about it. A.1339, 3070-71. All told, Freesmeyer recorded at least 14 time trials but omitted only the exculpatory one. A. 1339, 1345-46.

Only Beaman could have made the calls. His father was undeniably at work. A.957. Plaintiff’s mother, Carol Beaman, also stated that she did not make the calls. A.3279. Records confirm that Carol signed her elderly mother in at the convalescence facility where she was a resident at 10 a.m. that morning, after taking her mother on an outing. A.2572-73. The facility was more than ten miles from the Beaman residence. A.955. Carol Beaman spent 20 to 30 minutes settling her mother back into her room and then went to a Walmart—which was directly across the street—where she shopped for school supplies and stood in a check-out line. A.2574-75, 2577-81, 3279-80. A receipt proved that Carol Beaman checked out of Walmart at 11:10 a.m., meaning that she could not have made the crucial

10:37 a.m. call because she was at the Walmart across town. A.2577. Beaman was the only remaining person with access to the phone. A.3280.

Carol Beaman stated that she naturally went from the convalescence facility to the Walmart right across the street, but that did not fit with Freesmeyer's theory, which required her to return home, in between leaving the facility and going to the Walmart, to call the youth minister (with whom she had no reason to communicate) from her home. A.2576, 2581, 3279-90; R.7865-67. Freesmeyer decided that she must have driven 10 miles from the facility to her home, made the call and then driven ten miles back to the Walmart across the street from where she had started. A.2660.

Even assuming Beaman *did not* make the calls, committing the murder would have been nearly impossible. That scenario would have Beaman leaving the Rockford bank around 10:11, driving 130 miles to Lockmiller's apartment in Normal, committing a rape and murder, driving 130 miles back to his family home in Rockford, and returning before his mother's arrival at 2:15. In testing this scenario, Freesmeyer first observed the speed limit, but the trip took four hours and eleven minutes—more time than the four hours and four minutes between the bank video at 10:11 and Carol Beaman's confirmation of Beaman's presence home in Rockford at 2:15. A.1339. To discredit the alibi, Freesmeyer then drove much faster, at an *average* speed of 75 miles per hour. A.1345-46. Freesmeyer was able to make the trip in three hours and 44 minutes. A.1345-46. But Beaman could not have coaxed his Ford Escort to travel at such a high average speed for well over 100 miles: the car frequently broke down, could not sustain high speeds, and was described by one passenger as a "piece of crap." A. 1772-73. Even then, Beaman would have had but a 20-minute window to commit the rape and murder. A.1345-46, 3283-84. This scenario also

required Beaman's mother to have placed the calls, meaning she left the convalescence facility, drove 10 miles home to make two telephone calls, drove 10 miles back to Walmart (directly across from the convalescence facility), and then drove home again.

**J. Defendants Disregard David Singley's Time of Death Evidence**

In addition to dismissing Beaman's alibi, the defendants ignored evidence that exculpated him. David Singley lived in the second-floor apartment directly across the hall from Lockmiller. A.3290. Singley told the investigators that, as he arrived home from class at approximately 2 p.m. on the day of the murder, he heard someone quickly slam shut the door to Lockmiller's apartment. A.3300-01, 3304. He also heard the stereo on in Lockmiller's apartment. A.3300-01, 3304. About 10 minutes later, Singley heard Lockmiller's door open and shut again, followed by footsteps going down the stairs and the outside door to the building being opened. A.3300-01, 3304. Singley's information established either that Lockmiller was alive at 2 p.m. or, or at least that the killer remained in the apartment. That made it impossible for Beaman to have killed Lockmiller. Beaman was home in Rockford, some 130 miles away, no later than 2:15 p.m. A.3271-78.

**K. The Decision To Arrest Beaman**

The defendants' investigation resulted in the arrest and indictment of Beaman. The prosecutors did not direct the defendants' handling of the investigation. A.1702-03. Freesmeyer does not recall whether Souk even made recommendations for the investigation prior to the charge. A.1442-43. The State's Attorney, Charles Reynard, testified that the investigators "were furnishing us information as to what evidence they had uncovered during their investigation." A.3408. Reynard's opinions as to Beaman's guilt were "formed on the apprehension of evidence as it was reported to [him] back during

the course of the investigation.” A.3407. Souk testified that there were “several meetings” between him and the detectives during the investigation. A.3420. Freesmeyer had as many as 50 contacts with Souk about the case before deciding to charge Beaman. A.1441.

The investigators and prosecutors held one of these meetings on May 16, 1994 and decided to charge Beaman. Souk testified the “purpose of the meeting” with the investigators was “to see if there was anything from the Normal Police Department to— that would have any impact on the decision, either, you know, pro or con as to whether [Beaman] should be charged.” A.3413. As one investigator put it, the focus of the meeting was “the case in general, the merits of the case.” A.3411. According to Souk, the decision to charge Beaman reflected the totality of the defendants’ investigation:

- Q: [The investigators’] input in effect was not just what they said at the May 16 meeting, their input included all the things that they’d done in the investigation up till that point in time, their input into the charging decision; is that a fair summary?
- A: Well, I think the totality of their investigation, plus whatever might have been said at the meeting was taken into account, yes.

A.3415.

Attendees recall that all investigators voiced support to arrest Beaman for murder. A.3411. Freesmeyer was adamant that none of the investigators expressed any doubt at the meeting that Beaman should be arrested. A.1458-59.

**L. Beaman Arrested: “I Think We Needed To Work on it Some More”**

Beaman was arrested in May 1994. A.1335. Five months later, Zayas admitted that that the evidence was still not sufficient for the case to be ready for prosecution:

- Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?
- A. No. I don’t think we had all the information needed at the time when I left.  
That was still in limbo.

....

I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.

A.1356.

### **M. Indictment and Conviction**

Following Beaman's arrest, Freesmeyer moved into the State's Attorney's Office and worked on the case full time through Beaman's trial and conviction. A.2595. He was the principal witness before the grand jury and testified over the course of three days. A.3217, 3223. He lied about alternative suspects, particularly Murray, claiming that investigators had not "locate[d] any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller." A.3218. He also misled the grand jury about Singley's critical time of death evidence that exculpated Beaman, falsely stating that investigators learned no relevant information from Lockmiller's neighbors. A.3417-18. The grand jury indicted.

At trial, Freesmeyer, now a sergeant, testified as the star witness for the prosecution over the course of two days. A.3217, 3223. Alan Beaman was convicted on April 1, 1995. As another investigator agreed, Freesmeyer would garner the most credit for solving the case and would have received the most blame if it went unsolved. A.1384. The prosecutor congratulated Freesmeyer in a letter to the Chief of Police: "Beyond any question in my mind, this case would not have been won without Tim Freesmeyer." A.3207. Beaman was sentenced to 50 years in prison. This Court affirmed on direct appeal, over the vigorous dissent of Justice Cook, who found the evidence insufficient to prove guilt. *People v. Beaman*, No. 4-95-0396 (4th Dist. May 23, 1996) (unpublished order under Supreme Court Rule 23) (Cook, J., dissenting).

**N. Beaman Clears His Name**

The jury that convicted Beaman never heard the evidence against Murray. For that reason, this Court unanimously vacated the conviction in 2008. *People v. Beaman*, 229 Ill. 2d 56 (2008). The case against Beaman had fallen apart when his post-conviction lawyers unearthed evidence hidden from the defense that inculpated Murray: (1) Murray failed under suspicious circumstances to complete a polygraph examination about whether he killed Lockmiller, (2) he was charged with beating his girlfriend and did so “on numerous prior occasions,” (3) he was charged with marijuana distribution, and (4) his abuse of steroids “caused him to act erratically.” *Id.* at 66, 74-75, 80.

In particular, this Court found that the suppressed polygraph evidence was important because it “would have bolstered a claim by petitioner that [Murray] was a viable suspect not only because the circumstances may be viewed as evasive, but also because the polygraph examiner indicated that [Murray] was specifically identified as a suspect.” *Id.* at 76. This Court noted that the evidence against Murray was especially critical given the weakness of the evidence against Beaman. *Id.* at 79. “It is clear,” this Court found, “that the evidence of petitioner’s opportunity to commit the murder is not as strong as that against [Murray].” *Id.* Indeed, Murray “had a clear opportunity to commit the offense. He lived approximately 1 ½ miles from Jennifer’s apartment and did not have any verification of his location before 1 p.m. on the day of the murder.” *Id.* at 80. Moreover, Murray lied about his alibi—he “gave a false alibi stating he left town the day before the murder. That false exculpatory statement could be used as probative evidence of consciousness of guilt.” *Id.* at 80-81. Finally, Murray had a “motive to commit the murder”—he wanted to rekindle his sexual relationship with Lockmiller, but she was entangled with another man. *Id.* at 80.

This Court explained that the paucity of incriminating evidence and the concealment of exculpatory evidence made the conviction a nullity: “We cannot have confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence.” *Id.* at 81.

After the Court’s unanimous ruling, the State’s Attorney’s Office dropped all charges against Beaman. A.2961. He then petitioned for a certificate of innocence. After DNA testing requested and directed by the State provided yet further evidence of Beaman’s innocence, A.3355-58, the State dropped its opposition to the petition, A.51. On April 29, 2013, Alan Beaman was granted a certificate of innocence by the Circuit Court for the Eleventh Judicial District. A.340-41. Even after the certificate of innocence, the Governor of Illinois granted a pardon to Beaman “based upon innocence as if no conviction.”<sup>1</sup>

#### **O. Procedural History: Federal Litigation**

Beaman brought a federal lawsuit. *Beaman v. Souk*, 7 F. Supp. 3d 805 (C.D. Ill. 2014), *aff’d sub nom. Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015). Beaman’s principal claim was that the defendants withheld exculpatory evidence under *Brady v. Maryland. Id.* at 820. The district court held that most of the suppressed exculpatory evidence was not actionable because the defendants provided it to the prosecutor, who enjoyed absolute immunity under federal law for his failure to disclose the *Brady* material. *Id.* at 826.

The Murray polygraph was different. The federal court found that a reasonable jury could conclude that Warner concealed the polygraph from the prosecution deliberately. *Id.*

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<sup>1</sup> The pardon (A.3377) is not in the circuit court record but is judicially noticeable. *People v. Morris*, 219 Ill. 2d 373, 394-95 (2006) (Karmeier, J., dissenting) (taking judicial notice of governor’s speech discussing commutations); *Chicago & A.R. Co. v. Keegan*, 152 Ill. 413, 416-17 (1894).

at 827. The federal court explained: “Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Id.* at 830 n.8.

Despite the genuine issue of material fact over Warner’s deliberate suppression of the polygraph, the district court nonetheless granted summary judgment to Warner on the ground of qualified immunity, a doctrine that pertains to federal damages claims arising under 42 U.S.C. § 1983. *Id.* at 831. Although a jury could find that Warner violated the Constitution, he enjoyed qualified immunity because the right of a criminal defendant to receive polygraph reports incriminating alternative suspects had not yet been clearly established at the time Warner suppressed the evidence. *Id.*

Having dismissed Beaman’s federal law claims, the court was divested of supplemental jurisdiction over his state law claims and dismissed them without prejudice, not reaching their merits. *Id.* The Seventh Circuit affirmed. *Beaman*, 776 F.3d at 503.

**P. Procedural History: The Instant Case**

Beaman brought the current action in the Circuit Court of McLean County in April 2014, pleading the state law claims that the federal court had dismissed without prejudice. A.308-37. He requested and was granted assignment of an out-of-circuit judge. The circuit court granted the defendants’ motion for summary judgment, concluding that Beaman could not satisfy the commencement or continuance, lack of probable cause, malice, and favorable termination prongs of malicious prosecution. A.28-33. The circuit court dismissed the remaining claims (conspiracy, intentional infliction of emotional distress, respondeat superior, and indemnification) as dependent on the malicious prosecution claim. *Id.*

The Fourth District affirmed summary judgment on the commencement or continuance element of malicious prosecution. *Beaman*, 2017 IL App (4th) 160527, ¶ 50. The appellate court selected the “pressure, influence, or misstatement” test for commencement or continuance, concluding that the defendants did not misrepresent the investigation to the prosecution or pressure or influence the State’s Attorneys. *Id.* ¶ 58.

This Court unanimously reversed because the Fourth District erred by adopting the “pressure, influence, or misstatement” test. This Court instructed that “the appellate court must examine whether the defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants played a significant role in Beaman’s prosecution.” *Beaman*, 2019 IL 122654, ¶ 47. The Court explained that investigators can cause malicious prosecutions because prosecutors necessarily rely on them: “This court has recognized that prosecutors ordinarily rely on police and other agencies to investigate criminal acts. Significantly, ‘it is the recognized practice that the State’s Attorney sensibly defers to the investigative duties of the police.’” *Id.* ¶ 43 (quoting *People v. Ringland*, 2017 IL 119484, ¶ 24).

On remand, the appellate court affirmed summary judgment again. Rather than reviewing the record, the appellate court relied “primarily on the facts provided in the published cases on the matter” to draw its conclusions. *Beaman v. Freesmeyer*, 2019 IL App (4th) 160527, ¶ 8. The appellate court again held that the defendants did not commence or continue Beaman’s prosecution. *Id.* ¶ 106. And now the court addressed probable cause as well, opining that the facts created no genuine issue of material fact on that issue. *Id.* ¶ 80-81. In addition, per the appellate court, Beaman “could never successfully meet his burden of showing probable cause did not exist” because this Court

unanimously threw out his criminal conviction without addressing the sufficiency of the evidence *Id.* ¶ 82.

## ARGUMENT

### A. Summary of Argument

The Fourth District’s new decision repackages its vacated opinion without changing its substance. In malicious prosecution suits against police detectives, the Fourth District’s prior decision would have recognized commencement or continuance only where investigators pressured, influenced, or misled a prosecutor. Wrong, said this Court, explaining that detectives may also commence or continue a prosecution through a fourth category of action—“engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Beaman*, 2019 IL 122654, ¶ 45.

In its new opinion, the Fourth District recited that fourth category while disregarding its substance. The appellate court ignored *Beaman*’s showing that the detectives in fact engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution by conducting a dishonest campaign to pin the crime on him regardless of his innocence or guilt and opting not to investigate alternative suspects. By disregarding that evidence, the appellate court dispensed with the fourth category, in effect resurrecting the erroneous three-category approach that the appellate court preferred all along—the “pressure, influence, or misstatement” test disavowed by this Court. Moreover, the appellate court refused to draw disputed inferences in *Beaman*’s favor and appointed itself a trier of fact in discounting *Beaman*’s evidence that the defendants concealed exculpatory evidence, manipulated time trials, and misled the grand jury.

The Fourth District next turned to probable cause, which it had declined to consider in its prior opinion. On this prong, the appellate court's opinion revolutionized the law by holding that probable cause automatically obtains, and a wrongfully-convicted plaintiff therefore loses a malicious prosecution claim, unless a court made a finding of insufficient evidence for the conviction in the criminal proceedings. No court in this state has ever adopted such a rule, which would have dictated the opposite result in at least thirteen state-law malicious prosecution claims by wrongfully-convicted plaintiffs that survived dispositive motions in federal court. Such a rule would undermine accountability for wrongful convictions, closing the courthouse door to most exonorees.

The appellate court also found probable cause to arrest Beaman as a matter of law without adhering to its duty to examine the record, which presented a thicket of disputed facts and inferences. Instead, the court "rel[ied] primarily on the facts provided in the published cases on this matter," declined to "search the voluminous record," ignored critical facts, and failed to draw the inferences in Beaman's favor. *Beaman*, 2019 IL App (4th) 160527, ¶ 8. The summary judgment standard requires just the opposite, and this Court's previous opinion underscores that very point: "Summary judgment is a drastic means of disposing of litigation and should be allowed only when the right of the moving party is clear and free from doubt." *Beaman*, 2019 IL 122654, ¶ 22 (citation omitted). Summary judgment on the probable cause prong was not warranted here.

Next, the appellate court left undisturbed the circuit court's finding of no malice as a matter of law, despite the bad faith and misconduct that pervaded the investigation. Finally, the appellate court did not address the circuit court's remarkable conclusion that the proceedings against Beaman did not terminate in his favor, even though this Court

unanimously vacated his conviction, the State dropped all charges, Beaman won a certificate of innocence, and the Governor pardoned him on the basis of innocence.

After two unanimous reversals, the Fourth District continues to disobey this Court's precedent and to deny Alan Beaman a trial for the atrocity the defendants caused—a dozen years caged in a prison for a crime he obviously did not commit. This Court should not permit yet further delay. The Court should address every basis on which the circuit court granted summary judgment, reverse the appellate court, and order the case to trial on an expedited basis.

### **B. Standard of Review**

This Court's previous decision underscores the drastic nature of summary judgment and the rigorous showing it demands: "Summary judgment is a *drastic means* of disposing of litigation and should be allowed only when the right of the moving party is clear and free from doubt." *Beaman*, 2019 IL 122654, ¶ 22 (emphasis added)(citation omitted). Summary judgment must not be granted "where reasonable persons could draw divergent inferences from the undisputed material facts or where there is a dispute as to a material fact." *Id.* Courts must construe the record "strictly against the movant and liberally in favor of the opponent." *Id.* Appellate review is *de novo*. *Jackson v. TLC Assocs., Inc.*, 185 Ill. 2d 418, 424 (1998).

### **C. The Appellate Court Abdicated its Duty to Review the Record.**

The appellate court ignored the record: "[W]e rely primarily on the facts provided in the published cases on this matter." *Beaman*, 2019 IL App (4th) 160527, ¶ 8. Except when the court found the facts "readily verifiable," it declined to "search the voluminous record to find support for every alleged fact." *Id.*

The court had no legitimate reason to disregard the factual record. While it sought to justify doing so by faulting both parties' citations, the appellate court acknowledged that the defendants were the real culprits: "The parties, *defendants more so*," failed to provide specific cites to the record and "defendants routinely cited the first page of a deposition, instead of the page on which the support for the alleged fact may be found. By doing so, defendants ask this court to review hundreds of pages of deposition testimony to find the one or two pages containing specific facts in support of their defense." *Id.* ¶ 6 (emphasis added). In sharp contrast, the only citation transgression even partially attributable to Beaman was that "[b]oth sides cited their statements of material facts filed in the trial court without providing citations to the appellate record for this court to verify those facts." *Id.* But what the appellate court did not acknowledge is that Beaman did so a mere four times in his brief, which contained 330 citations to the record. *See* A.3572-627.

Many briefs contain four imperfect citations. They should not. But that is no basis for a court to disregard the facts entirely, especially where one party causes most of the problem, and the other party suffers all of the prejudice. Nor did three argumentative headings in petitioner's statement of facts justify ignoring the record. *See Beaman*, 2019 IL App (4th) 160527, ¶ 7. *Every one* of those headings appeared *verbatim* in plaintiff's brief before this Court and did not prevent appellate review. A.3434-89. In effect, the appellate court rewarded the defendants for providing unusable citations by granting them summary judgment, even though it was their burden, and not Beaman's, to show a clear entitlement to that "drastic" remedy. *See Beaman*, 2019 IL 122654, ¶ 22.<sup>2</sup>

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<sup>2</sup> Moreover, on remand, defendants moved the appellate court to strike the statement of facts as argumentative, A.3716-20; Plaintiff opposed the motion but offered to file an amended brief, A.3725-36. The appellate court denied defendants' motion to strike

**D. The Malicious Prosecution Claim Should Proceed to Trial**

**1. Commencement or Continuance Prong: A Reasonable Juror Could Find That The Defendants Caused the Malicious Prosecution.**

**a. The Fourth District Defied This Court’s Clear Instruction: “Wrongful or Bad-Faith Conduct Instrumental in the Initiation of the Prosecution” Can Establish Commencement or Continuance.**

This Court could not have been more clear: Police officers can commence or continue a prosecution through four distinct types of action: “improperly exert[ing] pressure on the prosecutor [Category 1], knowingly provid[ing] misinformation to him or her [Category 2], conceal[ing] exculpatory evidence [Category 3], or otherwise engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution [Category 4].” *Beaman*, 2019 IL 122654, ¶ 45 (citations omitted). The Court disavowed the Fourth District’s “pressure, influence, or misstatement test,” which narrowed commencement or continuance to three categories of action—pressuring, influencing, or misleading prosecutors. *Beaman*, 2017 IL App (4th) 160527, ¶ 58. That test disregarded the fourth category—“otherwise engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution [Category 4].” *Beaman*, 2019 IL 122654, ¶ 45.

On remand, the appellate court thumbed its nose at this Court’s unanimous reversal by refusing to consider Category 4, copying large portions of its decision verbatim from its unanimously reversed prior opinion, and clinging to its previous faulty logic. *Compare Beaman*, 2017 IL App (4th) 160527, ¶¶ 61, 64, 62, 63, 67, 72 *with Beaman*, 2019 IL App (4th) 160527, ¶¶ 96, 97, 100, 101, 108, 120. The new opinion lips the words of this Court’s test while ignoring its meaning.

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*outright*, without taking plaintiff up on his proposal to file an amended brief. Instead, the court announced in its opinion many months later that it would not review the record for the same reasons stated in defendants’ motion, which it had denied.

Specifically, the appellate court considered whether: (1) “Freesmeyer pressured or exerted influence on [the prosecutor’s] decision to prosecute plaintiff” (Category 1—improper pressure); (2) “whether a reasonable juror could find Freesmeyer provided false information to [prosecutors] to influence the commencement or continuation of plaintiff’s prosecution” (Category 2—providing misinformation); and (3) whether Freesmeyer failed to disclose information “in his reports,” “conceal[ed] ... information” and lied to the grand jury (Categories 2 and 3—misinformation and concealing evidence). *Beaman*, 2019 IL App (4th) 160527, ¶¶ 100-104. But the Fourth District stopped there and effectively skipped Category 4—“otherwise engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Beaman*, 2019 IL 122654, ¶ 45. In effect, the Fourth District resurrected the pressure, influence, or misstatement test that this Court unanimously rejected.

The court skipped the Category 4 inquiry and thereby nullified this Court’s mandate with a statement that disregarded the record and briefing: “Plaintiff points to no other wrongful or bad-faith conduct by Freesmeyer.” *Beaman*, 2019 IL App (4th) 160527, ¶ 106. In truth, Beaman argued that the defendants showed bad faith by “arbitrarily selecting Beaman as the killer on Day One and working backwards from there.” A.3600. A juror could conclude that Freesmeyer was motivated not by a desire to bring the true perpetrator to justice but by the improper purpose of advancing his career by obtaining a conviction, regardless of where the evidence led. As another investigator agreed, Freesmeyer would garner the lion’s share of the credit for “solving” the case and would have received the most blame if it had gone unsolved. A.1384. Freesmeyer decided seven months before the investigation ended that Beaman “was going to be arrested for Jennifer’s death at one point

or another,” A.1318, and threatened to push for Beaman’s execution if he did not confess, A.1318. Freesmeyer supposedly solved the murder of a college student in a small town and testified as the prosecution’s star witness at trial. A.2971, 2975. At the end of the case, the prosecutor praised Freesmeyer in a letter to the Chief of Police: “Beyond any question in my mind, this case would not have been won without Tim Freesmeyer.” A.3207. Freesmeyer walked out of the case not only with this glowing recommendation but also with a sergeant’s chevrons.A.1401-03, 3207.

If the investigation had been conducted in good faith, Beaman argued, someone else would have been indicted, and the murderer could have been caught. A.3603. A rational juror could find that Beaman never would have been charged if defendants took the steps that any investigator looking for the truth would have taken, steps such as (1) identifying similar burglaries or sexual assaults in the area, (2) attempting to locate the stranger who would not stop calling Lockmiller, and (3) looking for the other stranger who gave Lockmiller his phone number in lipstick just before her death. A.3445-46, 3465; *see also supra* at 6-7. A reasonable juror could find that Beaman would not have been charged if the defendants examined Murray the way they examined Beaman—if they had bugged his conversations with friends, threatened him with the death penalty if he did not confess, interrogated his friends about every time he yelled at someone or made a crude remark, or, for that matter, investigated Murray’s history of beating women, abusing steroids, and selling drugs. A.3465. The appellate court simply ignored all of this, thereby dispensing with the fourth category—“engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Beaman*, 2019 IL 122654, ¶ 45.

**b. A Rational Juror Could Find That Defendants Commenced or Continued The Prosecution By Hiding The Murray Polygraph, Misleading the Grand Jury, and Manipulating Time Trials.**

A juror could also find that the defendants acted in bad faith and concealed evidence by burying the Murray polygraph, misleading the grand jury, and manipulating time trials to dishonestly discredit Beaman’s alibi. For starters, the appellate court conceded that a juror could find that “Warner intentionally concealed the . . . polygraph report.” *Beaman*, 2019 IL App (4th) 160527, ¶ 110.

The appellate court erred, however, in writing off the importance of that report. “[T]he polygraph report,” ventured the lower court, “adds little if anything to the prosecution’s existing knowledge of Murray.” *Id.* ¶ 116. This Court saw it differently: “[T]he circumstances of the polygraph examination indicate that [Murray] intentionally avoided the test. He did not comply with the polygraph examiner’s instructions during the first attempt and failed to cooperate in scheduling a second attempt.” *Beaman*, 229 Ill. 2d at 76. So did the federal district court: “Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Beaman*, 7 F. Supp. 3d at 830 n.8. The lead prosecutor himself testified that polygraph evidence is “useful for investigative purposes,” and that if he had known about the Murray polygraph, he would have “asked some questions and looked at it more.” A.3423.<sup>3</sup> Empaneled as *jurors*,

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<sup>3</sup> Even this may have been downplaying it. Knowing that he was immunized from liability, Souk was motivated to suggest that he had sole responsibility for the decision to prosecute and thereby protect the investigators who skewed the investigation and concealed the polygraph report. A rational juror could certainly discount as misleading Souk’s statements about responsibility for the decision to prosecute. It would not be the first misleading statement Souk made in the course of this litigation. As this Court knows, he deliberately misled the jury in the criminal proceedings. *See Beaman*, 229 Ill. 2d at 80 (noting that Souk “relied upon the assertion that all other potential suspects had been eliminated from consideration” in closing argument even though Beaman “could have established [Murray] as a strong alternative suspect” had the Murray evidence not been suppressed); *see also*

the Fourth District Justices might have brushed aside the report, but they overstepped the role of *jurists* considering summary judgment.

Aside from hiding the Murray polygraph report, a reasonable juror could find that the defendants misled the grand jury about other suspects with a motive to kill Lockmiller. A.3218. Despite knowing the facts about John Murray that were withheld from the defense, Freesmeyer testified as follows:

Q. [O]ther than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had *any conceivable motive* to kill Jennifer Lockmiller?

A. No, not necessarily.

A.3218 (emphasis added). This was a serious falsehood. By hiding Murray’s motive to kill Lockmiller, Freesmeyer performed before the grand jury the very concealment that, when replicated by the prosecution at trial, rendered the conviction invalid. *Beaman*, 229 Ill. 2d at 80. It was clear to every member of this Court that Murray had a motive: “[Murray] may have also had a motive to commit the offense based on his status as a drug dealer and Jennifer’s drug debt.” *Id.* at 80. Maybe Freesmeyer failed to grasp that obvious reality, but a juror could also conclude otherwise: Freesmeyer understood Murray’s motive but hid it.

A juror could also find that Freesmeyer falsely told the grand jury that no helpful information had been learned from Lockmiller’s neighbors during the investigation—even though Singley’s interview established the murderer’s actions on the day of the crime and ruled plaintiff out as a viable suspect. A.3417-18. The appellate court interpreted Freesmeyer’s testimony concealing that evidence, A.3417-18, in the light most favorable to the defendants, not to Beaman, when it opined that the false testimony was merely “a

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*People v. Beaman*, 368 Ill. App. 3d 759, 775 (4th Dist. 2006) (Cook, J., dissenting) (stating that Souk “le[ft] the jury to believe no one else had the motive and opportunity”).

conclusion [Freesmeyer] did not find the information helpful.” *Beaman*, 2019 IL App (4th) 160527, ¶ 97.

A juror could rely on Freesmeyer’s manipulation of the time trials as further evidence of misconduct. The appellate court’s opinion incorrectly stated, “there is no proof in the record Freesmeyer tainted or falsely reported the time trials.” *Id.* ¶ 101. That conclusion fails to grapple with the fact that Freesmeyer included every single time trial in his police report *except* the exculpatory time trial that showed Beaman easily could have made it home from the bank in time to make the 10:37 and 10:39 calls by using the bypass route. A.3427-28. The results of 14 other time trials were included in Freesmeyer’s report. A.1339, 1345-46. It is particularly noteworthy that Freesmeyer *did* include the time trial from the bank to the Beaman home that would not have allowed Beaman to make the critical 10:37 and 10:39 calls, but did *not* include the bypass route time trial between the same two points that showed Beaman *could* have made the calls. *See supra* at 12. A juror could view the omission of the exculpatory time trial as an honest mistake, but that certainly is not the only rational inference that could be drawn. Given that Freesmeyer did record multiple time trials that he considered inculpatory, it would not be unreasonable to conclude that he omitted the exculpatory time trial intentionally. After all, Freesmeyer was fixated on nailing Beaman. He selected Beaman as the prime suspect on Day One and decided that Beaman would be arrested for the murder in the early stages of the investigation, seven months before a decision had been made to charge him. A.1318.<sup>4</sup>

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<sup>4</sup> The Seventh Circuit concluded that Freesmeyer did not lie about one element of the time trials—the speeds at which he drove. *Beaman*, 776 F.3d at 512 (“Freesmeyer did not lie about the speeds at which he drove, and he was subject to cross-examination at trial about the speeds and alternative routes.”). No one has ever claimed that Freesmeyer lied about his speeds.

**c. A Rational Juror Could Find That The Defendants' Misconduct Was A Cause In Fact And Legal Cause of the Prosecution.**

A fact finder could conclude that the defendants' bad-faith conduct was a proximate cause of the malicious prosecution. The connection between bad-faith and causation in this case is simple: The defendants caused the malicious prosecution and wrongful conviction of Alan Beaman by selecting him as their man on Day One, and then conducting a bad faith investigation and concealing evidence to reach the predetermined result. The prosecution of the wrong person was the natural and foreseeable result of the defendants' bad faith investigation and their concealment of evidence. But for their misconduct, the malicious prosecution would not have occurred.

"[P]roximate cause consists of two distinct elements: cause in fact and legal cause." *Evans v. Shannon*, 201 Ill. 2d 424, 434 (2002). Both are "factual matters for the jury to decide."<sup>5</sup> A rational juror could find that the malicious prosecution of Beaman: (1) never would have happened if defendants undertook a good faith investigation motivated by the search for truth (cause in fact), and (2) resulted foreseeably of defendants' bad-faith misconduct (legal cause).<sup>6</sup>

As for cause in fact, Souk all but admitted Freesmeyer was a "but for" cause when he wrote that the conviction could not have been obtained "without Tim Freesmeyer." A.3207. Without the defendants conducting a dishonest and bad faith investigation, hiding evidence, manipulating time trials, misleading the grand jury, and ignoring exculpatory

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<sup>5</sup> *Lee v. Chicago Transit Auth.*, 152 Ill. 2d 432, 454 (1992); *French v. City of Springfield*, 65 Ill. 2d 74, 79 (1976); *Ney v. Yellow Cab Co.*, 2 Ill. 2d 74, 84 (1954); *Davis v. Marathon Oil Co.*, 64 Ill. 2d 380, 395 (1976); *Neering v. Illinois Cent. R. Co.*, 383 Ill. 366, 381 (1943).

<sup>6</sup> Legal cause "is essentially a question of foreseeability." *First Springfield Bank & Trust v. Galman*, 188 Ill. 2d 252, 258 (1999); *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill. 2d 351, 395 (2004).

facts, the prosecution would not have been brought and continued, and Beaman would not have gone to prison. *See Price v. Philip Morris, Inc.*, 219 Ill. 2d 182, 269 (2005) (“[T]he relevant inquiry is whether the harm would have occurred absent the defendant’s conduct.”); *Thacker v. UNR Industries, Inc.*, 151 Ill. 2d 343, 354-55 (1992). At the very least, the record does not foreclose a juror’s inference that the defendants were a factual cause of the wrongful indictment and prosecution.

A rational juror could also find legal causation, which “is essentially a question of foreseeability.” *First Springfield Bank & Trust v. Galman*, 188 Ill. 2d 252, 258 (1999). The inquiry is “whether the injury is of a type that a reasonable person would see as a likely result of his conduct.” *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill. 2d 351, 395 (2004). Legal causation is easily satisfied here because the malicious prosecution and wrongful conviction of Alan Beaman were the natural and foreseeable results of defendants’ malicious fixation on him, their dishonest investigation, their misleading grand jury testimony, and their suppression of evidence.

On remand, the appellate court concluded that “[t]he evidence shows the prosecutors, Reynard and Souk, made the decision to prosecute plaintiff.” *Beaman*, 2019 IL App (4th) 160527, ¶ 100. But that argument proves too much—prosecutors make the final decision to prosecute in *every* case. If it were true that only those who make final felony charging decisions could be held liable for malicious prosecution, then no one maliciously prosecuted for a felony would ever have a claim against the responsible investigators

because felony prosecutions can be initiated only by a prosecutor. 725 ILCS 5/111-2(a) & (b); 725 ILCS 5/111-3(b).<sup>7</sup>

The fact that Reynard and Souk played a necessary role in the charging decision does not change the fact that the investigators were also a factual and legal cause. Even if the prosecutor were an additional “but for” cause of the prosecution, the actions of two or more individuals can be necessary to inflict an injury. *See Turner v. Roesner*, 193 Ill. App. 3d 482, 490 (2d Dist. 1990). A “but for” cause need not be “the sole cause” of an injury. *Id.*; *see also Espinoza v. Elgin, Joliet and E. Ry. Co.*, 165 Ill. 2d 107, 118 (1995). At minimum, the defendants’ malfeasance was a cause in fact because it was “a material element and a substantial factor” in causing the injury. *Thacker*, 151 Ill. 2d at 354 (1992); *Krywin v. Chicago Transit Auth.*, 238 Ill. 2d 215, 226 (2010); *Abrams v. City of Chicago*, 211 Ill. 2d 251, 258 (2004). A reasonable juror therefore could find causation in fact.

So too for legal cause: The prosecutor’s charging decision might be viewed as an intervening cause of the injury, but a *foreseeable* intervening cause does not defeat legal causation. *Bentley v. Saunemin Twp.*, 83 Ill. 2d 10, 16 (1980); *Merlo v. Public Service Co. of Northern Illinois*, 381 Ill. 300, 316-17 (1942); *First Springfield Bank*, 188 Ill. 2d at 257.

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<sup>7</sup> Malicious prosecution suits against investigators based on felony prosecution nonetheless go forward routinely. *See, e.g., McGee v. City of Chicago*, 2012 IL App (1st) 111084, ¶ 2; *Logan v. City of Chicago*, 891 F. Supp. 2d 897, 906 (N.D. Ill. 2012); *Grayson v. City of Aurora*, 157 F. Supp. 3d 725, 746 (N.D. Ill. 2016); *Sanders v. City of Chicago Heights*, No. 13 C 0221, 2014 WL 5801181, at \*1, \*5 (N.D. Ill. Nov. 7, 2014); *Aguirre v. City of Chicago*, 382 Ill. App. 3d 89, 90 (1st Dist. 2008); *Jimenez v. City of Chicago*, 877 F. Supp. 2d 649, 667 (N.D. Ill. 2012), *aff’d*, 732 F.3d 710 (7th Cir. 2013); *Porter v. City of Chicago*, 393 Ill. App. 3d 855, 857 (1st Dist. 2009); *Gauger v. Hendle*, 2011 IL App (2d) 100316, ¶ 12; *Wilson v. Baptiste*, No. 13 CV 07845, 2016 WL 521000, at \*9 (N.D. Ill. Feb. 10, 2016); *Reno v. City of Chicago*, No. 10 C 6114, 2012 WL 2368409, at \*6 (N.D. Ill. June 21, 2012); *Chagolla v. City of Chicago*, No. 07 C 4557, 2012 WL 403920 at \*2, \*9 (N.D. Ill. Feb. 8, 2012); *Lyons v. Vill. of Woodridge*, No. 08 C 5063, 2011 WL 2292299, at \*10 (N.D. Ill. June 8, 2011).

And of course the charging decision was foreseeable: The very purpose of the defendants' misconduct was to get Beaman charged. The charging decision therefore does not negate legal causation or the defendants' liability.

Contrary to the appellate court, prosecutorial independence cannot be so radically expanded as to negate the fourth category of commencement or continuance, "otherwise engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution." *Beaman*, 2019 IL 122654, ¶ 45. Prosecutorial independence does not mean prosecutors are expected to personally reinvestigate cases. Handed a bad faith investigation, the prosecutor here was in no position to investigate the entire case on his own, and a rational juror could find that he would not have indicted Beaman absent the defendants' own misconduct.

As the Court recognized in this case, prosecutorial decisions about whom to charge with a crime are heavily influenced by the manner in which the police conduct the investigation: "This court has recognized that prosecutors ordinarily rely on police and other agencies to investigate criminal acts. Significantly, 'it is the recognized practice that the State's Attorney sensibly defers to the investigative duties of the police.'" *Id.* ¶ 43 (quoting *People v. Ringland*, 2017 IL 119484, ¶ 24). In this case, a rational juror could find that Beaman never would have been charged if the defendants had conducted a good-faith investigation. If there had been such an investigation—one without concealed evidence, bad-faith fixation on a manifestly innocent man, and manipulation of time trials—the real killer might not have escaped.

The prosecutors made the final charging decision at the May 16, 1994 meeting with defendants, but their final control over the decision does not matter: "Contrary to the

appellate court's standard . . . this court established long ago . . . that a person can be liable for commencing or continuing a malicious prosecution even if that person does not ultimately wield prosecutorial power . . . ." *Id.*

The decision to charge was the foreseeable result of the defendants' bad faith investigation. The final meeting did not occur in a vacuum, as if unaffected by and unconnected to the investigation that preceded it. Freesmeyer had decided that Beaman would be arrested seven months before the meeting, when he told plaintiff he was "going to be arrested for Jennifer's death at one point or another." A.1318. Souk and Freesmeyer discussed the investigation on as many as 50 occasions before the decision to charge Beaman was made at the May 16 meeting. A.1441. The charging decision reflected the "investigator's input," A.3405, and was based on the "evidence [the detectives] had uncovered during their investigation." A.3408. The investigators' input included "the totality of their investigation, plus whatever might have been said at the meeting." A.3415. And the very "purpose of the meeting" was "to see if there was anything from the Normal Police Department to – that would have any impact on the decision, either, you know, pro or con as to whether he should be charged." A.3413.

The decision at the meeting reflected a "consensus" of "[a]ll those in attendance," not unilateral action by the prosecutors. A.3411. "There was no doubt expressed in arresting Mr. Beaman," and "[n]o one raised objection to the arrest." A.1459. Taking these accounts as true, a juror could find that the defendants "played a significant role" in commencing or continuing the prosecution. *Beaman*, 2019 IL 122654, ¶ 47.

2. **Absence of Probable Cause Prong: A Reasonable Juror Could Find that Defendants Lacked Probable Cause To Arrest Beaman for Murder.**
  - a. **The Appellate Court’s Revolutionary Holding on the Lack of Probable Cause Prong Grants Officers Unprecedented Immunity From Malicious Prosecution Claims.**

The opinion below radically transforms the law. The court held that a malicious prosecution case brought by an exoneree will *always fail* unless the criminal proceedings resulted in a finding of insufficient evidence:

[W]e also conclude plaintiff could *never* successfully meet his burden of showing probable cause did not exist. The trial court denied plaintiff’s motion for a directed verdict at his trial for first degree murder. The jury convicted him. This court affirmed [the] conviction and rejected his claim the State’s evidence was not sufficient to support his conviction. No court, in the multiple reviews of his convictions, has ever deemed the evidence against him insufficient to sustain his conviction—quite the opposite.

*Beaman*, 2019 IL App (4th) 160527, ¶ 82 (emphasis added). For a wrongfully-convicted plaintiff, that holding effectively adds a new element to the malicious prosecution tort: a prior finding of insufficient evidence in criminal proceedings.

That holding functionally reverses at least thirteen federal decisions on state law malicious prosecution, all of which allowed such claims to proceed despite the lack of a prior finding that the evidence was not sufficient.<sup>8</sup> One member of the appellate court

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<sup>8</sup> See *Rivera v. Guevara*, 319 F. Supp. 3d 1004, 1054-55 (N.D. Ill. 2018) (denying summary judgment motion challenging lack of probable cause element of Illinois malicious prosecution where plaintiff’s conviction was affirmed over a challenge to the sufficiency of the evidence in *People v. Rivera*, 254 Ill. App. 3d 1114 (1st Dist. 1993)); *Noel v. Coltri*, No. 10 C 8188, 2017 WL 4620868, at \*2, \*4 (N.D. Ill. Oct. 13, 2017) (same outcome where “the appellate court upheld [plaintiff’s] conviction”); *Grayson v. City of Aurora*, 157 F. Supp. 3d 725, 736 (N.D. Ill. 2016) (same outcome where conviction “affirmed over [plaintiff’s] challenge to the sufficiency of the evidence”); *Patrick v. City of Chicago*, 213 F. Supp. 3d 1033, 1040, 1057 (N.D. Ill. 2016) (same outcome where conviction affirmed over sufficiency challenge in *People v. Patrick*, 298 Ill. App. 3d 16, 31-32 (1st Dist. 1998)); *Sanders v. City of Chicago Heights*, No. 13 C 0221, 2016 WL 2866097, at \*14 (N.D. Ill. May 17, 2016) (same outcome where conviction affirmed in *People v. Sanders*, 288 Ill.

expressed indifference to the effect on federal litigation.<sup>9</sup>

The Fourth District’s holding is legally incorrect. The favorable termination prong of malicious prosecution, not the probable cause prong, addresses the outcome of criminal proceedings. Plaintiffs must show “the termination of the proceeding in [their] favor,” *Beaman*, 2019 IL 122654, ¶ 26, and that element does *not* require a prior finding of evidentiary insufficiency.<sup>10</sup> The decision below purported to create such a rule through the

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App. 3d 1105 (1st Dist. 1997)); *Fields v. City of Chicago*, No. 10 C 1168, 2014 WL 477394, at \*2, \*13 (N.D. Ill. Feb. 6, 2014) (same outcome where conviction affirmed over sufficiency challenge in *People v. Fields*, 135 Ill. 2d 18 (1990)); *Lyons v. Vill. of Woodridge*, No. 08 C 5063, 2011 WL 2292299, at \*4, \*11 (N.D. Ill. June 8, 2011) (same outcome where plaintiff was convicted and attorney failed to file appeal, *see* Nat’l Registry of Exonerations, [www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3398](http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3398)); *Thompson v. City of Chicago*, No. 07 C 1130, 2009 WL 674353, at \*1, \*5 (N.D. Ill. Mar. 12, 2009) (same outcome where conviction overturned but not on sufficiency grounds in *People v. Pearson*, 356 Ill. App. 3d 390 (1st Dist. 2005)); *Evans v. City of Chicago*, No. 04C3570, 2006 WL 463041, at \*5, \*6, \*18 (N.D. Ill. Jan. 6, 2006) (same outcome where conviction affirmed over sufficiency challenge in *People v. Evans*, 80 Ill. App. 3d 444 (1st Dist. 1979)); *see also Logan v. City of Chicago*, 891 F. Supp. 2d 897, 900 (N.D. Ill. 2012) (malicious prosecution claim survives summary judgment where conviction affirmed over sufficiency challenge in *People v. Logan*, 138 Ill. App. 3d 1162 (1986)); *Patterson v. Dorough*, No. 10 C 1491, 2012 WL 5381328, at \*1, \*5 (N.D. Ill. Oct. 31, 2012) (same outcome where conviction reversed based on unlawful search, *see* Nat’l Registry of Exonerations, [www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3448](http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3448)); *Hill v. City of Chicago*, No. 19 C 6080, 2020 WL 509031, at \*2, \*6 (N.D. Ill. Jan. 31, 2020) (malicious prosecution claim survives motion to dismiss where conviction affirmed over sufficiency challenge in *People v. Hill*, 2017 IL App (1st) 141039-U); *Patterson v. Burge*, 328 F. Supp. 2d 878, 882, 901 (N.D. Ill. 2004) (same outcome where conviction affirmed over sufficiency challenge in *People v. Patterson*, 154 Ill. 2d 414 (1992)).

<sup>9</sup> Audio: [multimedia.illinois.gov/court/AppellateCourt/Audio/2019/4th/091119\\_4-16-0527.mp3](http://multimedia.illinois.gov/court/AppellateCourt/Audio/2019/4th/091119_4-16-0527.mp3), 47:41-48:00 (COUNSEL FOR BEAMAN: . . . It happens all the time that a conviction gets thrown out, and the prosecutor drops the charges, and there’s a malicious prosecution suit. THE COURT: . . . I don’t pretend to know what’s going on in federal courts. I’m not sure I want to know what’s going on in federal courts. . . .”).

<sup>10</sup> In *Swick v. Liautaud*, 169 Ill. 2d 504, 513 (1996), this Court held that a *nolle prosequi* constitutes a favorable termination unless the abandonment is for reasons not indicative of the innocence of the accused *i.e.*, “the result of an agreement or compromise with the accused, misconduct on the part of the accused for the purpose of preventing trial, mercy requested or accepted by the accused, the institution of new criminal proceedings, or the

back door of probable cause. And that rule creates absurdity, as this case shows. Beaman obtained a unanimous decision declaring that this Court “cannot have confidence in the verdict finding [Beaman] guilty of this crime,” *Beaman*, 229 Ill. 2d at 81, followed by a dismissal of all charges, followed by a certificate of innocence, followed by a pardon on the basis of innocence.<sup>11</sup> But without an insufficiency finding, the appellate court reasoned that the fact of the wrongful conviction meant Beaman had no claim based on the wrongful conviction.

“[C]oncern about the injustice that results from the conviction of an innocent person has long been at the core of our criminal justice system.” *Schlup v. Delo*, 513 U.S. 298, 325 (1995). That principle has particular urgency in Illinois, the state second only to Texas in wrongful convictions. The courts of this state should not make up new doctrines to stymie accountability for wrongful convictions.

#### **b. Probable Cause Is an Issue For Trial.**

A jury should decide whether defendants had probable cause to arrest and jail Beaman because the record is beset with complex facts from which rational individuals could draw

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impossibility or impracticability of bringing the accused to trial.” *Id. See e.g., Simon v. Northwestern University*, No. 15-cv-1433, 2017 WL 55076, at \*2, \*4 (N.D. Ill. Jan. 3, 2017) (denying defendant’s motion on the pleadings based on termination element where plaintiff pled guilty and state issued *nolle prosequi* after investigation prompted by plaintiff’s post-conviction petition); *Starks v. City of Waukegan*, 946 F. Supp. 2d 780, 785-86, 794 (N.D. Ill. 2013) (denying motion to dismiss based on challenge to favorable termination where plaintiff’s conviction was affirmed on appeal and state issued *nolle prosequi* following post-conviction DNA testing); *Thompson v. City of Chicago*, No. 07 C 1130, 2008 WL 780631, at \*6 (N.D. Ill. Mar. 20, 2008) (denying defendant’s motion to dismiss based on termination element where *nolle prosequi* issued months after conviction overturned but not on sufficiency grounds).

<sup>11</sup> *See Rich v. Baldwin*, 133 Ill. App. 3d 712, 715 (5th Dist. 1985) (“[D]ismissal of a . . . charge against the plaintiff at the instance of the prosecutor” generally suffices to show favorable termination.); *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 664, 680 (N.D. Ill. 2005) (pardon based on innocence establishes favorable termination).

competing inferences. In its cursory analysis of the probable cause facts, the appellate court erred by drawing the inferences in favor of the non-movants. As this Court underscored, “[s]ummary judgment is a drastic means of disposing of litigation” and can be granted only where the movant’s right to it “is clear and free from doubt.” *Beaman*, 2019 IL 122654, ¶ 22. In particular, summary judgment must not be granted “[1] where reasonable persons could draw divergent inferences from the undisputed material facts or [2] where there is a dispute as to a material fact.” *Id.*; *Seymour v. Collins*, 2015 IL 118432 ¶ 42; *Carney v. Union Pacific R. Co.*, 2016 IL 118984, ¶ 25; *Frye v. O’Neill*, 166 Ill. App. 3d 963, 972-73 (4th Dist. 1988); *Skorupa v. Guzick*, 2015 IL App (1st) 133082-U, ¶¶ 17-18; *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 642 (1st Dist. 2002); *Maxwell v. City of Indianapolis*, 998 F.2d 431, 434 (7th Cir. 1993).

In this case, a reasonable juror could find probable cause wanting based on the facts and the “divergent inferences” that can be drawn from them. *Beaman*, 2019 IL 122654, ¶ 22. In particular, at the time of Beaman’s arrest:

- There was no physical evidence connecting Beaman to the scene or even to the Town of Normal on the day of the murder. *See supra* at 11.
- No eye witness connected Beaman to the scene or even to the Town of Normal on the day of the murder. *See supra* at 11.
- Beaman maintained his innocence despite a barrage of accusatory interrogations, surreptitious overhears, and death penalty threats. *See supra* at 5, 10-11.
- Any number of men (known and unknown) could have committed the crime. *See supra* at 4-5, 6-9.

- The statement of the victim's across-the-hall neighbor indicated that the murder occurred after 2:00 pm, which eliminated any possibility for Beaman to commit the crime. *See supra* at 14.
- In the late morning on the day of the murder, Beaman was at a bank in Rockford, some 130 miles from the scene of the crime. A.1312.
- The crime scene indicated that the killer was a stranger. *See supra* at 4-5.
- The crime scene indicated that the killer was a much larger and more powerful man than Beaman. *See supra* at 4.
- The evidence against Murray was much stronger than the case against Beaman. *See supra* at 7-9.

In light of these facts, the statements that the appellate court recited from defendants' brief fail to establish probable cause as a matter of law. These conclusions also draw inferences *against* Beaman. We address them in turn.

*Petitioner and Lockmiller's tumultuous relationship:* Beaman had terminated the relationship well before the murder and begun seeing someone else. A.1145, 2951-54. Those who saw Beaman during the summer told police he was calm and over Lockmiller.<sup>12</sup>

*Lockmiller's expressed fear of petitioner:* Subjective fears are irrelevant. The appellate court ignored both the fact that petitioner had no criminal history and this Court's statement that he "had been violent toward objects, but not people." 229 Ill. 2d at 78-79.

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<sup>12</sup> *See* R.8739-40 (noting that, by this time, Beaman "seemed to me to be in an overall good mood and he'd finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite a while."); R.8749 (noting that, by this time, "things were ironed out" between Lockmiller and Beaman, and Beaman "seemed ok").

*Love letters and threats of suicide:* The letters were old, almost all from 1992, A.546-84, and making statements about suicide is not probative of murder.

*Swaine's relationship with Lockmiller and kicking down the door:* Anger over infidelity hardly equates to capacity for murder. As Beaman arrived at Lockmiller's apartment, his girlfriend and roommate (Swain) had just completed oral sex and were headed to the bedroom. A.3314-15. Although Beaman became angry and kicked the door open, his anger did not move him, even in those circumstances, to lay a finger on Lockmiller or Swaine; instead, he calmly gave Swaine a ride back to their shared apartment. A.3317, 3318-19.

*Fingerprints:* The alarm clock console had seven prints—two Beaman's, four belonging to Swaine, one unidentified. A.3264-65. The prints did not inculcate Beaman: he had used the alarm clock previously, and fingerprints cannot be dated. A.1587, 3253. Freesmeyer decided to treat the prints as evidence of guilt based "solely on [his] own interpretation." A.1587.

*Garbage Bag:* The murder scene included a garbage bag left out on the sofa. A.3263. If this evidence had any significance, it pointed to a burglar; they often seek out sacks and other receptacles in which to carry the loot. A.1361.

*Lack of signs of a forced entry:* Forced entry often does not leave obvious signs. A.1360. And there was certainly evidence of burglary: in addition to the garbage bag, Lockmiller's usually tidy apartment was in disarray. A.1359-60, 1372-73, 1594-95.

*Lockmiller's relationship with Swaine:* At the time of her murder, Beaman and Lockmiller were no longer dating. Beaman had ended the relationship and did not return many calls from Lockmiller before her death. A.338-39, 1047-48.

*Window for the crime:* There was no window. Singley’s testimony that he heard noises in the apartment until 2:00 p.m. established the killer was there while Beaman was in Rockford. A.3300-01, 3304.

Because it is a jury’s job to evaluate these facts and any “divergent inferences” that come from them, probable cause is an issue for trial. The defendants might advocate one set of inferences, but others are permissible. As this Court stated in this case, “[W]here reasonable persons could draw divergent inferences from the undisputed material facts or where there is a dispute as to a material fact, summary judgment should be denied and the issue decided by the trier of fact.” *Beaman*, 2019 IL 122654, ¶ 22 (alteration in original).

### **3. Malice Prong: A Reasonable Juror Could Infer Malice from the Defendants’ Conduct.**

The defendants’ dishonest investigation of the Lockmiller homicide—everything from the immediate fixation on Beaman, to the refusal to undertake a serious investigation of other viable suspects, to misleading the grand jury, to manipulating time trials, to concealment of evidence—demonstrates their malice and lack of good faith. At minimum, a jury must resolve the question. “Good faith is a question of fact, and is for the determination of the jury.” *Hardin v. Gouveneur*, 69 Ill. 140, 143 (1873); *Murphy v. Larson*, 77 Ill. 172, 177 (1875) (holding in a malicious prosecution case that whether a defendant “acted in good faith . . . was a question for the jury”); *Mack v. First Sec. Bank of Chicago*, 158 Ill. App. 3d 497, 503 (1st Dist. 1987) (stating that “good faith is a factual determination . . . and is properly reserved to the sound discretion of the trier of fact”).

The appellate court did not disturb the circuit court’s unsupportable reasoning. The circuit court opined that malice was implausible because “in the minds of the prosecutors, there was sufficient reason . . . to proceed solely against the plaintiff.” A.31. But every

prosecution of a single-perpetrator crime includes a prosecutor who decides to “proceed solely” against one defendant—it is unheard-of to indict two people for the same crime just to see what happens. By the circuit court’s logic, any investigation that results in a wrongful conviction in a single-perpetrator offense is malice-free as a matter of law.

To compound the error, the circuit court expressed the view that the wrongful conviction itself negated a finding of malice: “At a jury trial, the State provided the jury with proof beyond a reasonable doubt that plaintiff had both motive and opportunity to commit the murder.” A.31. Needless to say, the fact that the defendants succeeded in obtaining a wrongful conviction through misconduct does not negate a finding of malice.

*Freesmeyer’s Malice:* A rational juror could infer that Freesmeyer acted in bad faith. Freesmeyer selected Beaman as the primary suspect on Day One despite the obvious weakness of the evidence against him. *See supra* at 4-5. There was little that pointed to him other than “guessing” by Morgan Keefe, Lockmiller’s friend who had discovered the body; no work had been done to check alibis, to process fingerprints, or to obtain autopsy results; there were no eyewitnesses to the crime, or even anyone who could place Beaman in the same city as the victim on the day of the murder; Beaman maintained his innocence in the face of an aggressive interrogation; there was no physical evidence implicating him; and the state of the crime scene pointed to a burglary-turned-rape and suggested a perpetrator of much larger size and physical power than Beaman. *See supra* at 4, 7, 10, 11.

The case against Beaman only deteriorated from there, but Freesmeyer held on to the idea that Beaman was his man. When the time-of-death evidence obtained by the victim’s neighbor made it impossible for Beaman to have committed the crime, Freesmeyer ignored it. *See supra* at 14. When the fingerprint evidence proved fruitless, Freesmeyer seized on

it based “solely on [his] own interpretation.” A.1587. When the state of the crime scene pointed away from Beaman, Freesmeyer construed it as evidence of guilt. A.1358-62, 1577, 1579. When Beaman denied guilt in seven surreptitiously recorded conversations, Freesmeyer fixated on a few crude comments and decided they were incriminating. A.1579-81.

The pattern continued as Freesmeyer labored to discredit Beaman’s alibi. Freesmeyer careened at speeds Beaman never could have reached when driving to and from the crime scene because speeding during those time trials hurt the alibi. *See supra* at 13-14. But when a slower speed would hurt the alibi, Freesmeyer selected the slower route and crawled along between the bank and the Beaman home at the posted limit. *See supra* at 12. Freesmeyer went on to conceal the time trial that showed that Beaman easily could have made the trip from the bank to his home in time for the 10:37 and 10:39 calls by omitting it from his report and trial testimony. *See supra* at 12. When Carol Beaman said that she did not make the calls because she was with her mother at her retirement home and then across the street shopping at Walmart, Freesmeyer set out to show that she drove 20 miles home and back between seeing her mother and visiting the Walmart, rather than just crossing the street. *See supra* at 13. Freesmeyer threatened Beaman with the death penalty, and later arrested him, even though his supervisor, Zayas, thought the crime was unsolved, “in limbo,” and not ready to be prosecuted. A.1318-23, 1356. Plaintiff’s expert in criminal investigations, a former FBI agent with 45 years of criminal investigation experience, opined that “[t]he defendants violated the basic standards for police investigations” and “showed an utter disregard for the truth that not only denied justice for Mr. Beaman, but

also needlessly endangered the public by leaving a murderer on the streets free to kill again.” A.3248-49.

Competing inferences could be drawn from the record regarding Freesmeyer’s credibility and subjective state of mind. Maybe he ignored the evidence exculpating Beaman, omitted the exculpatory time trial, and misled the grand jury out of gross incompetence, or maybe he did so due to malice. In our system of justice, we get to the truth about these issues through a trial, which is what must occur in this case.

*Warner’s Malice:* Whether defendant Warner contributed to the malicious prosecution by intentionally burying the Murray polygraph report presents a genuine issue of material fact. *See supra* at 19, 28. Even the Fourth District Court concluded that a jury question exists as to whether Warner “intentionally concealed” evidence that could have changed the trajectory of the case. *Beaman*, 2019 IL App (4th) 160527, ¶ 10.

*Zayas’s Malice:* Frank Zayas was in charge of the Criminal Investigations Division, making him the boss of Freesmeyer and the other detectives. A.1416-17, 2296-97. He participated in the May 16 meeting where the decision was made to arrest Beaman and, despite his direct authority over Freesmeyer, acquiesced in the arrest and did nothing to stop it. A.1334, A.1458-59, 2296-97. He has admitted that at the time of the arrest and even months later—in November of 1994—the case was not ready for charging and prosecution:

- Q. When you left you felt that the case against Beaman was – was weak? Is that a fair statement?
- A. At that point – I’ll put it this way.  
I don’t think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.
- Q. And that was true in November of ’94 when you retired?
- A. Yes, sir.

A.1356-57. Direct admissions of malice are exceedingly rare. A defendant never breaks down at the deposition table and admits to acting maliciously. This is as close as it gets to a direct admission: Zayas knew that the case was not ready “to be sent to the State,” but he let it happen anyway. At minimum, this admission makes his malice a jury question.

**4. Favorable Termination Prong: The Unanimous Reversal of Beaman’s Conviction, the Abandonment of Charges, the Certificate of Innocence, and the Governor’s Pardon Demonstrate Favorable Termination.**

There are three reasons, each sufficient standing alone, that the circuit court erred in granting summary judgment on the favorable termination prong. First, the prosecution dropped all charges after this Court unanimously threw out Beaman’s conviction and declared: “We cannot have confidence in the verdict finding [Beaman] guilty of this crime given the tenuous nature of the circumstantial evidence against him . . . .” *Beaman*, 229 Ill. 2d at 81. The “dismissal of a . . . charge against the plaintiff at the instance of the prosecutor” generally suffices to show favorable termination. *Rich v. Baldwin*, 133 Ill. App. 3d 712, 715 (5th Dist. 1985). Second, a certificate of innocence is “relevant at least to the ‘indicative of innocence’ element of plaintiff’s malicious prosecution claim.” *Kluppelberg v. Burge*, 84 F. Supp. 3d 741, 744, 745 (N.D. Ill. 2015). The instant case comes to this Court on summary judgment; therefore, “relevant evidence,” *id.*, satisfies plaintiff’s burden. Third, the gubernatorial pardon on the basis of innocence, A.3377, establishes that the proceedings concluded in Beaman’s favor, *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 664, 680 (N.D. Ill. 2005).

The circuit court postulated that the State’s Attorney’s Office declined to re-prosecute the case because it would have been difficult to reconstruct the facts after so many years, rather than because of Beaman’s innocence. A.32. There is no evidence for this conclusion. The court cited paragraph 124 of Defendants’ Statement of Material Facts, A.68, which in

turn relies entirely on a deposition in which the original prosecutor speculated that staleness might have affected the decision to drop all charges, A.2962-66. But the prosecutor had long since departed the State's Attorney's Office and was speculating without personal knowledge about the possible reasons his successors theoretically might have had for dismissing the charges. A.2962-66.

The purpose of the favorable termination prong is to ensure that innocent people—and only innocent people—reap the benefit of the malicious prosecution tort. It is difficult to imagine a plaintiff with greater proof of innocence than Alan Beaman, equipped as he is with a unanimous reversal of his conviction by this Court, a certificate of innocence, and a pardon based on innocence.

**E. Beaman's Remaining Claims Should Proceed to Trial.**

In addition to the malicious prosecution claim, Beaman also brought claims for intentional infliction of emotional distress, civil conspiracy, respondeat superior, and indemnification. Each claim rises or falls with the malicious prosecution claim. If the Court reinstates the malicious prosecution claim, it should also reinstate these claims.

**1. The Intentional Infliction of Emotional Distress Claim Should Proceed to Trial.**

The appellate court erred in its first decision by holding that Beaman waived his intentional infliction of emotional distress claim on appeal and in hewing to that conclusion in its second opinion. *Beaman*, 2017 IL App (4th) 160527, ¶ 74; *Beaman*, 2019 IL App (4th) 160527, ¶¶ 121-24. To begin, there is no dispute that Beaman briefed the issue adequately in the Fourth District during the last round in that court. Since this Court had vacated the Fourth District's prior opinion in its entirety, the court should have based its new opinion on the parties' new briefs.

In any case, the Fourth District is simply wrong that Beaman did not preserve the issue in the prior appeal. Section D.1 of Beaman's appellate brief was captioned "The Intentional Infliction of Emotional Distress Claim (Count II) Should Proceed To Trial." A. 3379. This argument was followed by a string cite to six cases in which courts in Illinois have allowed intentional infliction of emotional distress claims to proceed on facts that relate principally to malicious prosecution. A.3379.

The point was straightforward and did not require lengthy explication. In many prior cases, courts in Illinois have held that emotional distress claims may proceed when attached to viable malicious prosecution claims. *See Carrocia v. Anderson*, 249 F. Supp. 2d 1016, 1028 (N.D. Ill. 2003); *Treece v. Vill. of Naperville*, 903 F. Supp. 1251, 1259-60 (N.D. Ill. 1995), *aff'd*, 213 F.3d 360 (7th Cir. 2000); *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 930 (N.D. Ill. 2013); *Wallace v. City of Zion*, No. 11 C 2859, 2011 WL 3205495, at \*6 (N.D. Ill. July 28, 2011); *Fox v. Tomczak*, No. 04 C 7309, 2006 WL 1157466, at \*6 (N.D. Ill. Apr. 26, 2006); *McDonald v. Vill. of Winnetka*, No. 00 C 3199, 2001 WL 477148, at \*6 (N.D. Ill. May 3, 2001). To our knowledge, no case has ever allowed a malicious prosecution claim to proceed while rejecting an emotional distress claim (or *vice-versa*). The reasons are obvious: Robbing a person of liberty maliciously and without probable cause is the very sort of "extreme and outrageous" intentional conduct that constitutes intentional infliction of emotional distress. *McGrath v. Fahey*, 126 Ill. 2d 78, 86 (1988). In this case, the defendants' bad faith investigation, dishonest testimony, manipulation of time trials, and concealment of evidence constitute such outrageous conduct.

Waiver occurs if: (1) no authority is cited, (2) no argument is made, or (3) an argument is merely “listed or included in a vague allegation of error.” *Vancura v. Katris*, 238 Ill. 2d. 352, 369-70 (2010). Nothing of the sort happened in this case.

## **2. The Civil Conspiracy Claim Should Proceed to Trial.**

The appellate court rejected the civil conspiracy claim solely because that claim rested on the malicious prosecution claim. *Beaman*, 2019 IL App (4th) 160527, ¶ 126. Therefore, the Court should reinstate this claim along with the malicious prosecution claim.

“Since conspiracies are generally evolved under the cloak of secrecy, the courts have traditionally permitted proof of a conspiracy by indirect or circumstantial evidence . . . .” *Rosee v. Chicago Bd. Of Trade*, 43 Ill. App. 3d 203, 239 (1st Dist. 1976). Here, the defendants collaborated closely on the case, met frequently, and shared information. A.1297, 1302, 1303, 1306, 1308, 1334, 1343. They all read each other’s detailed reports. A.1352. From the content of those reports, they would know the state of the case and the absence of any basis for arrest or prosecution—the lack of any physical evidence, the lack of eyewitness testimony, Beaman’s alibi, the vast universe of alternative suspects, and the fact that Murray was a more likely suspect. It would have been a remarkable coincidence if they all fixated on Beaman independently despite the lack of evidence against him, and if all of their parallel actions in the bad faith investigation were uncoordinated. *People v. Small*, 319 Ill. 437, 449 (1925) (“[W]hen taken in connection with other acts, it may appear clearly that the series of wrongful acts result from concerted and associated action.”).

Freesmeyer ignored exculpatory evidence and alternative suspects, misled the grand jury, and skewed the time trials (*see supra* at 6-9, 11-14, 16); Warner buried a polygraph that helped to exculpate Beaman (*see supra* at 9-10, 17-18); and Zayas let the arrest go forward, knowing that the evidence could not justify it (*see supra* at 46). Based on the

defendants' close collaboration on the case and their parallel acts of malfeasance—each of which was aimed at wrongfully convicting Beaman—a reasonable juror could infer a conspiracy. *See Pearce v. Thiry*, No. CIV.A.08 C 4483, 2009 WL 3172148, at \*9 (N.D. Ill. Oct. 1, 2009) (evidence that police officers “engaged in concerted acts sufficient to raise a reasonable inference of mutual understanding” can prove a conspiracy); *Newsome v. James*, No. 96 C 7680, 2000 WL 528475, at \*16 (N.D. Ill. Apr. 26, 2000); *Rainey v. City of Chicago*, No. 10 C 07506, 2013 WL 941968, at \*11 (N.D. Ill. Mar. 11, 2013).

**3. The Respondeat Superior and Indemnification Claims Should Proceed to Trial.**

The appellate court rejected the respondeat superior and indemnification claims based entirely on the same reasons that the claims discussed above were rejected. Because there was no independent basis to dismiss the respondeat superior and indemnification claims, they should be reinstated.

**CONCLUSION**

The Court should remand this case for a trial on the merits.

Respectfully submitted,

**ALAN BEAMAN**

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Case No. 125617

**IN THE  
SUPREME COURT OF ILLINOIS**

ALAN BEAMAN,	) On Appeal from the
	) Appellate Court of Illinois,
	) Fourth District, No. 4-16-0527
Plaintiff-Appellant,	)
	) There Heard on Appeal
v.	) from the Circuit Court of McLean County,
	) Illinois, Eleventh Judicial Circuit,
TIM FREESMEYER, Former Normal	) No. 14 L 51
Police Detective; DAVE WARNER,	) The Honorable Richard L. Broch
Former Normal Police Detective;	) Judge Presiding
FRANK ZAYAS, Former Normal	)
Police Lieutenant;	)
and TOWN OF NORMAL, ILLINOIS,	)
	)
Defendants-Appellees.	)

**CERTIFICATE OF COMPLIANCE**

I, David M. Shapiro, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 50 pages.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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## Case No. 125617

**IN THE  
SUPREME COURT OF ILLINOIS**

ALAN BEAMAN,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth District, No. 4-16-0527
Plaintiff-Appellant,	)	
	)	There Heard on Appeal
v.	)	from the Circuit Court of McLean County,
	)	Illinois, Eleventh Judicial Circuit,
TIM FREESMEYER, Former Normal	)	No. 14 L 51
Police Detective; DAVE WARNER,	)	The Honorable Richard L. Broch
Former Normal Police Detective;	)	Judge Presiding
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that on August 5, 2020, the foregoing BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN was filed by electronic means with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701. I further certify that the same were served by electronic transmission on:

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Case No. 125617

**IN THE  
SUPREME COURT OF ILLINOIS**

---

ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

---

On Appeal from the  
Appellate Court of Illinois,  
Fourth District, No. 4-16-0527

There Heard on Appeal from the  
Circuit Court of McClean County,  
Illinois, Eleventh Judicial Circuit,  
No. 14 L51

The Honorable Richard L. Broch  
Judge Presiding

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**APPENDIX VOLUME I**

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## APPENDIX TABLE OF CONTENTS

### VOLUME I

Appellate Court Opinion (Aug. 4, 2017) .....	A1
Circuit Court Opinion (June 22, 2016) .....	A27
Defendant’s Statement of Material Facts.....	A34
Plaintiff’s Statement of Material Facts .....	A69
Plaintiff’s Response to Defendant’s Statement of Facts.....	A124
Defendant’s Response to Plaintiff’s Statement of Material Facts.....	A210
Complaint.....	A308
Defendants’ Exhibit 30: Stipulation to Phone Records between Beaman & Lockmiller .....	A338
Plaintiff’s Exhibit 1: Order Granting Certificate of Innocence.....	A340
Plaintiff’s Exhibit 2: Deposition of Alan Wayne Beaman .....	A343
Plaintiff’s Exhibit 3 (excerpts): Deposition of Carol Jeanne Beaman .....	A942
Plaintiff’s Exhibit 4 (excerpts): James Souk Grand Jury Transcript.....	A945
Plaintiff’s Exhibit 5 (excerpts): Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief .....	A954
Plaintiff’s Exhibit 6: Alan Beaman Trial Transcript .....	A965

### VOLUME II

Plaintiff’s Exhibit 7: Freesmeyer Police Report .....	A1287
Plaintiff’s Exhibit 8 (excerpts): Deposition of Frank Zayas.....	A1351
Plaintiff’s Exhibit 9: Kenneth Moses Expert Report—Crime Scene Analysis.....	A1358
Plaintiff’s Exhibit 10: Kenneth Moses CV .....	A1363
Plaintiff’s Exhibit 11: Videotaped Deposition of Morgan Hartman .....	A1370
Plaintiff’s Exhibit 13: Crime Scene Photo from Hartman Deposition Kitchen Sink/Garbage.....	A1381
Plaintiff’s Exhibit 14 (excerpts): Videotaped Deposition of John Brown.....	A1382
Plaintiff’s Exhibit 16: Deposition of Timothy John Freesmeyer .....	A1385
Plaintiff’s Exhibit 17: Criminal Death Investigation—Witness Face Sheet for Kelly Hamburg.....	A1713
Plaintiff’s Exhibit 18 (excerpts): Morgan Keefe’s Statement September 10, 1993 .....	A1722

Plaintiff's Exhibit 19 (excerpts): Criminal Death Investigation—Witness Face Sheet for Morgan Keefe.....	A1726
Plaintiff's Exhibit 20 (excerpts): Videotaped Deposition of John Brown.....	A1732
Plaintiff's Exhibit 21: John Murray's Statement—September 2, 1993.....	A1737
Plaintiff's Exhibit 22: Laura McKeown's Statement Excerpts—September 9, 1993 .....	A1763
Plaintiff's Exhibit 23 (excerpts): Discovery Deposition of Larbi John Murray taken May 31, 2013 .....	A1768
Plaintiff's Exhibit 24 (excerpts): Deposition of Leigh Kuyper taken February 28, 2013 .....	A1771
Plaintiff's Exhibit 25: John Murray's Statement—September 8, 1993.....	A1781
Plaintiff's Exhibit 26: Deposition of Tony L. Daniels .....	A1811

### **VOLUME III**

Plaintiff's Exhibit 27 (excerpts): Murray Arrest Documents—Police Initial Case Report .....	A2543
Plaintiff's Exhibit 28 (excerpts): Deposition of Terrence McCann .....	A2560
Plaintiff's Exhibit 29: Deborah Mackoway's statement—September 8, 1993.....	A2563
Plaintiff's Exhibit 30 (excerpts): Hearing on Second Verified Amended Petition for Post-Conviction Relief .....	A2581
Plaintiff's Exhibit 31 (excerpts): Deposition of Robert A. Hospelhorn .....	A2582
Plaintiff's Exhibit 32 (excerpts): John Murray polygraph documents .....	A2585
Plaintiff's Exhibit 34: Deposition of Timothy J. Freesmeyer.....	A2587
Plaintiff's Exhibit 41: Deposition of David Warner.....	A2707
Plaintiff's Exhibit 42: Alan Beaman's statement - August 28, 1993 .....	A2900
Plaintiff's Exhibit 44 (excerpts): Criminal Death Investigation—Witness Face Sheet for Michael Swaine.....	A2949
Plaintiff's Exhibit 45: Robert K. Seyfried Expert Report—August 11, 2015 .....	A2955
Plaintiff's Exhibit 47 (excerpts): Deposition of James Souk taken December 10, 2012.....	A2960
Plaintiff's Exhibit 50: Freesmeyer Trial Transcript .....	A2971
Plaintiff's Exhibit 51: James E. Souk letter to Chief Taylor—April 17, 1995 .....	A3207
Plaintiff's Exhibit 52: Illinois State Police crime scene report by Dean Kennedy .....	A3208
Plaintiff's Exhibit 53 (excerpts): Timothy Freesmeyer Grand Jury Transcript .....	A3217
Plaintiff's Exhibit 55: Gregg McCrary Expert Report - August 17, 2015.....	A3224

Plaintiff's Exhibit 56 (excerpts): John Dierker Trial Transcript.....	A3252
Plaintiff's Exhibit 57 (excerpts): Deposition of James Souk taken March 22, 2004 .....	A3267
Plaintiff's Exhibit 59 (excerpts): Carol Beaman Trial Transcript.....	A3270
Plaintiff's Exhibit 60 (excerpts): Deposition of Joshua Whitney .....	A3281
Plaintiff's Exhibit 61: Beaman Residence Call Details.....	A3285
Plaintiff's Exhibit 62: David Singley's Statement—August 31, 1993.....	A3286
Plaintiff's Exhibit 63 (excerpts): David Singley's Statement September 8, 1993 .....	A3299
Plaintiff's Exhibit 64: John Dierker Report—January 3, 1994.....	A3305
Plaintiff's Exhibit 67: Bedroom Photo .....	A3308
Plaintiff's Exhibit 68: Bedroom Photo .....	A3309
Plaintiff's Exhibit 69 (excerpts): Deposition of Michael Swaine .....	A3310
Plaintiff's Exhibit 71: Swaine telephone overhear—September 2, 1993 .....	A3324
Plaintiff's Exhibit 72: Swaine telephone overhear —September 8, 1993 .....	A3328
Plaintiff's Exhibit 73: Swaine telephone overhear —September 15, 1993 .....	A3345
Plaintiff's Exhibit 74 (excerpts): DNA report #1 from Genetic Technologies.....	A3355
Plaintiff's Exhibit 75: DNA report #2 from Genetic Technologies .....	A3359
Plaintiff Beaman's Filed Notice of Appeal 06.07.16 .....	A3368
Table of Contents to Record .....	A3371
Alan Beaman Gubernatorial Pardon.....	A3377
Appellate Opening Brief (excerpts).....	A3378
Appellate Reply Brief (excerpts).....	A3380
Defendant's Appellate Brief (excerpts).....	A3382
Supreme Court Opinion (Feb. 7, 2019) .....	A3385
Defendants' Exhibit 4 (excerpt): Videotaped Deposition of Frank L. Zayas.....	A3401
Defendants' Exhibit 6 (excerpt): Videotaped Deposition of James Souk taken December 10, 2012 .....	A3404
Defendants' Exhibit 17 (excerpts): Deposition of Charles Reynard.....	A3406
Plaintiff's Exhibit 14 (excerpts): Videotaped Deposition of John Brown.....	A3409
Plaintiff's Exhibit 47 (excerpts): Deposition of James Souk taken December 10, 2012.....	A3412

Plaintiff's Exhibit 53 (excerpts): Timothy Freesmeyer Grand Jury Transcript .....	A3416
Plaintiff's Exhibit 57 (excerpts): Deposition of James Souk taken March 22, 2004 .....	A3419
Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief. Transcript of Proceedings Volume I- File Stamped August 10, 2005 .....	A3424
Plaintiff Supreme Court Brief (Jan. 12, 2018).....	A3434
Defendant Supreme Court Brief (Apr. 30, 2018) .....	A3493
Plaintiff Supreme Court Reply Brief (June 12, 2018) .....	A3545
Plaintiff Opening Brief on Remand (Apr. 29, 2019) .....	A3572
Defendant Brief on Remand (July 3, 2019).....	A3630
Plaintiff Reply on Remand (Aug. 5, 2019).....	A3691
Defendants' Motion to Strike (June 20, 2019).....	A3716
Plaintiff's Response to Motion to Strike (June 24, 2019).....	A3725
Appellate Court Opinion on Remand (Dec. 17, 2019) .....	A3740

**FILED**

August 4, 2017

Carla Bender

4<sup>th</sup> District Appellate

Court, IL

2017 IL App (4th) 160527

No. 4-16-0527

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

ALAN BEAMAN,	)	Appeal from
Plaintiff-Appellant,	)	Circuit Court of
v.	)	McLean County
TIM FREESMEYER, Former Normal Police	)	No. 14L51
Detective; DAVE WARNER, Former Normal	)	
Police Detective; FRANK ZAYAS, Former	)	
Normal Police Lieutenant; and THE TOWN OF	)	Honorable
NORMAL, ILLINOIS,	)	Richard L. Broch,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court, with opinion.  
Justices Harris and Steigmann concurred in the judgment and opinion.

**OPINION**

¶ 1 In 2008, the Illinois Supreme Court overturned plaintiff's conviction for the murder of his ex-girlfriend, Jennifer Lockmiller, upon concluding the State violated his right to due process when it failed to disclose material and exculpatory information about an alternative suspect. *People v. Beaman*, 229 Ill. 2d 56, 890 N.E.2d 500 (2008). In April 2014, plaintiff initiated this action, alleging defendants, Tim Freesmeyer, Dave Warner, and Frank Zayas, former officers with the Normal police department, acted maliciously in investigating him and aiding in his prosecution. Against these individual defendants, plaintiff asserted claims of malicious prosecution, intentional infliction of emotional distress, and conspiracy. Plaintiff requested damages from defendant, the Town of Normal, on theories of *respondeat superior* and

**APPENDIX 000001**

indemnification.

¶ 2 In June 2016, the trial court, finding no genuine issue of material fact as to plaintiff's claims of malicious prosecution, granted defendants' motion for summary judgment. Plaintiff appeals, arguing, in part, a reasonable jury could find in his favor on each of the elements of his malicious-prosecution claim. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Lockmiller's Murder and the Investigation

¶ 5 On August 28, 1993, the body of Jennifer Lockmiller, a 21-year-old student at Illinois State University, was found in her Normal, Illinois, apartment. Lockmiller's shirt was pulled up, exposing her breasts. Her shorts and underwear were down around one of her legs. The electrical cord of an alarm clock was around Lockmiller's throat. A pair of scissors protruded from her chest. A box fan had been placed over Lockmiller's face. Lockmiller died from ligature strangulation with the cord of the alarm clock. The investigators found no one who had seen Lockmiller alive after her class ended at 11:50 a.m. on August 25, 1993.

¶ 6 A number of police officers from the Normal police department were involved in the investigation. These officers included defendants Tim Freesmeyer, a detective; Dave Warner, a detective; and Frank Zayas, a lieutenant. Early in the investigation, starting in October or November 1993, Freesmeyer served as the principal detective on the investigation. Warner's role included serving as an evidence custodian and investigating one of the suspects, Stacey Gates. Zayas supervised the detectives who worked on the investigation until he retired in November 1994. Other individuals involved in the investigation included Charles Reynard, the McLean County State's Attorney, and James Souk, assistant State's Attorney (ASA). Souk acted as the

lead prosecutor in plaintiff's criminal case.

¶ 7 As Lockmiller's apartment showed no sign of forced entry, the police focused the investigation on individuals Lockmiller knew. The police questioned Lockmiller's then-current boyfriend, Michael Swaine, as well as former boyfriends, including plaintiff, Stacey Gates, and Larbi John Murray. Swaine, who was once plaintiff's roommate, had an alibi. On August 25, 1993, the date Lockmiller was murdered, Swaine was working at a bookstore in Elmhurst, Illinois. Gates, who had moved to Peoria to be closer to Lockmiller, also had an alibi. Records from a Peoria school showed Gates was at work on August 25.

¶ 8 Through their investigation, police learned Murray was Lockmiller's drug dealer. The two had also been lovers. Murray was twice interviewed by police. Initially, Murray reported leaving town on August 24, 1993. Murray's girlfriend, Debbie Mackoway, however, told police they did not leave town until the afternoon of August 25. Murray then amended his story, and his version was consistent with Mackoway's report. Murray informed officers he was alone at home before 2 p.m. on August 25. Murray resided 1.5 miles from Lockmiller. Murray had a criminal history. He faced charges of drug possession with intent to deliver and of domestic violence for the abuse of Mackoway. According to Mackoway, Murray also began using steroids, which caused him to behave erratically. Both cocaine and steroids had been found in Murray's apartment. Murray agreed to submit a polygraph examination. At the start of the examination, Murray failed to follow instructions. The examiner terminated the examination.

¶ 9 The police focused their investigation on plaintiff. Plaintiff and Lockmiller began dating in July 1992. Their relationship was tumultuous. According to letters found in Lockmiller's apartment, plaintiff wanted their relationship to be monogamous, but he suspected

Lockmiller saw other men. The two ended and rekindled their relationship multiple times over the following year. In that time, Lockmiller also became involved with Swaine, plaintiff's roommate.

¶ 10 At the time of Lockmiller's murder, plaintiff was residing with his parents in Rockford, Illinois. Rockford is approximately two hours from Normal by car. The State's theory of the case was that on August 25, plaintiff, after visiting a Rockford bank at 10:11 a.m., drove to Normal, killed Lockmiller at noon, and returned to Rockford, where his mother saw him in his room at 2:15 p.m. Freesmeyer, by performing a time trial, was able to establish plaintiff could have made the trip in the time allotted by driving over the speed limit the entire way.

Freesmeyer, in another time trial, found it impossible for plaintiff to have made a 10:37 a.m. call from the residence he shared with his parents after having been at the bank at 10:11 a.m. In this time trial, however, Freesmeyer took the slower route and obeyed speed limits.

¶ 11 The investigation recovered seven fingerprints from the alarm clock. Two belonged to plaintiff, four to Swaine, and one remained unidentified.

¶ 12 During the investigation, investigators interviewed David Singley, Lockmiller's neighbor. Singley informed investigators he arrived home from class at 2 p.m. on August 25 and heard someone slam the door to Lockmiller's apartment. Singley stated he heard the stereo, the door open and close a second time, and footsteps. Singley also reported noticing, around 4:30 p.m., the stereo was off and the television had been turned on.

¶ 13 On May 16, 1994, a meeting was held to determine whether to arrest plaintiff for Lockmiller's murder. Those in attendance included State's Attorney Reynard, ASA Souk, Freesmeyer, Zayas, Normal police chief James Taylor, and Detective Tony Daniels. During the

meeting, Reynard decided to charge plaintiff. Souk agreed. At his deposition, Daniels testified he suggested a list of investigative avenues to pursue before arresting plaintiff. Souk responded, “I think we’ve got our guy” and stated, “we went as far as we can with this case.” Souk stated they were going to go ahead and issue a warrant for plaintiff’s arrest.

¶ 14 As of August 29, 1993, Souk had concluded plaintiff was the only suspect. He did not believe Murray had a motive to kill Lockmiller. While prosecuting plaintiff, Souk knew Murray provided Lockmiller with narcotics and marijuana and conflicting statements had been made about whether Lockmiller owed Murray money. Souk also knew Murray made a mistake regarding his alibi and corrected that mistake in a second interview. Souk did not find the mistake suspicious. At the time of the trial, Souk knew Murray began taking steroids in January 1994 and he had begun acting erratically. Before that time, Murray had not been physically violent toward Mackoway.

¶ 15 Before trial, the State filed a motion *in limine* to exclude evidence of Lockmiller’s relationships with men other than plaintiff and Swaine. The trial court reserved ruling on the motion. Later, the State and plaintiff’s defense counsel discussed Lockmiller’s relationship with an individual identified as “John Doe,” who was Murray. Souk told the court Doe had “nothing to do with the case.” Souk had not disclosed to plaintiff’s trial counsel Murray’s criminal records, which exposed his drug and steroid use as well as the incidents of domestic violence, or the incomplete polygraph examination. Plaintiff’s trial counsel had no specific evidence pointing to another individual who could have committed the offense. The trial court granted the motion *in limine*.

¶ 16 B. Plaintiff’s Trial and Conviction

¶ 17 At trial, evidence established plaintiff, then a student at Illinois Wesleyan University, used Lockmiller's alarm clock to wake up for class. During the course of their relationship, plaintiff stayed the night at Lockmiller's up to four or five times a week.

¶ 18 Lockmiller's neighbor, Mike Singley, testified at trial. During the 1993 spring semester, Singley on multiple occasions heard plaintiff pounding on Lockmiller's door late at night. He also reported hearing plaintiff and Lockmiller yelling at each other.

¶ 19 Plaintiff testified, on an unspecified night that same spring, Lockmiller called him to end their relationship. Plaintiff went to Lockmiller's residence to retrieve his compact disc player. Upon arriving at the apartment, plaintiff observed "John Doe's" car in the parking lot. Plaintiff pounded on Lockmiller's apartment door. Lockmiller refused to let him enter her apartment. Plaintiff continued pounding on the door and began kicking it, causing the door to break. Plaintiff discovered Doe and Lockmiller inside the apartment. Plaintiff grabbed his compact disc player and left. He yelled while inside the apartment but made no physical contact with Doe or Lockmiller.

¶ 20 Evidence established another incident during which plaintiff forcefully broke Lockmiller's apartment door. In the summer of 1993, Lockmiller was in a relationship with Michael Swaine, plaintiff's roommate. One night in July 1993, plaintiff suspected Swaine was at Lockmiller's apartment. He broke the apartment door by pounding and kicking it. Upon entering the apartment, plaintiff did not see Swaine. Plaintiff verbally confronted Lockmiller but made no physical contact. Plaintiff remained at the apartment for 30 to 45 minutes.

¶ 21 Plaintiff testified his night shift at his uncle's grocery store ended at 9 a.m. on August 25. Plaintiff drove home to retrieve some cash and a check. He drove to the bank to make

a deposit. Plaintiff's trip to the bank was confirmed by a bank security videotape that showed him leaving the bank at 10:11 a.m. Plaintiff returned home and slept until 5 p.m.

¶ 22 Telephone records demonstrated two calls were made from the Beaman residence at 10:37 and 10:39 a.m. on August 25. The first call was to the Beaman's church, the second to the church's director of music and youth ministries. Only two people could have made those calls: plaintiff or his mother, Carol Beaman. Plaintiff did not recall placing those calls but stated he could have done so. Carol denied making the calls. She testified she left the Beaman residence around 7 a.m. and drove to her mother's assisted-living facility. Carol took her mother to the clinic and returned to the facility around 10 a.m. Carol testified she spent 15 to 20 minutes with her mother inside the facility before driving to the Walmart store across the street. A receipt shows Carol checked out at Walmart at 11:10 a.m. after having purchased copy paper, poster frames, blue jeans, and magazine holders. Before returning home, Carol drove to other stores. Her last stop was a grocery store, where she purchased perishable items. She checked out at 2:03 p.m. and headed home. Carol testified she was home by 2:16 p.m., but she had previously told officers she arrived home around 3 p.m. When Carol arrived home, she noticed plaintiff's car in the driveway. Carol awoke plaintiff for dinner at approximately 6 p.m.

¶ 23 Freesmeyer testified regarding road tests he performed to test plaintiff's opportunity to murder Lockmiller. According to Freesmeyer, the distance between plaintiff's bank and Lockmiller's apartment was 126.7 miles. Freesmeyer's test indicated plaintiff, having left his bank at 10:11 a.m., could have arrived at Lockmiller's apartment before noon if plaintiff drove 10 miles per hour over the speed limit. Freesmeyer further testified 139.7 miles separated the Beaman residence and Lockmiller's apartment. He averred plaintiff could have made that trip

in just under two hours if he drove at a speed 10 miles per hour over the posted limit.

¶ 24 Freesmeyer performed a road test from plaintiff's bank to the Beaman residence to see if it was possible to make the phone call from the Beaman residence at 10:37 a.m. He testified he drove through downtown Rockford, the "most direct route," obeyed all speed limits, and concluded it took 31 minutes to make the trip. Freesmeyer concluded plaintiff would have arrived at 10:42 a.m. Freesmeyer testified it took him 15 minutes to drive from the Beaman residence to the Walmart Carol shopped at on August 25. On cross-examination, Freesmeyer acknowledged plaintiff did not state he drove through downtown Rockford on August 25. Freesmeyer also agreed the route he took was through downtown Rockford and not on "the high speed bypass" around the city.

¶ 25 In rebuttal argument, the State argued all of the other possible suspects were excluded due to alibis: "Did we look at Mr. Swaine? You bet we did. Did we look at [Gates]? You bet we did. Did we look at a lot of people and interview a lot of witnesses? You bet we did. And guess who sits in the courtroom \*\*\* with the gap in his alibi still unclosed even after all this?"

¶ 26 The jury found plaintiff guilty of first degree murder. He was sentenced to 50 years' imprisonment. On direct appeal, a majority affirmed plaintiff's conviction. *People v. Beaman*, No. 4-95-0396 (May 23, 1996) (unpublished order under Supreme Court Rule 23).

¶ 27 C. Proceedings on Plaintiff's Petition for Postconviction Relief

¶ 28 In April 1997, plaintiff filed a petition for postconviction relief. Subsequently, several amendments were made to the petition. In its final form, plaintiff alleged, in part, the State violated his right to due process by failing to disclose material information regarding

Murray's viability as a suspect. An evidentiary hearing was held on plaintiff's petition. After an evidentiary hearing, the circuit court denied the postconviction petition. This court, with Justice Cook dissenting, affirmed the denial. *People v. Beaman*, 368 Ill. App. 3d 759, 772, 858 N.E.2d 78, 91 (2006).

¶ 29 In 2008, the Illinois Supreme Court found the State violated plaintiff's constitutional right to due process of law when it failed to disclose the evidence related to Murray and reversed the circuit court order denying his postconviction petition. *People v. Beaman*, 229 Ill. 2d 56, 81-82, 890 N.E.2d 500, 514-15 (2008). The supreme court summarized the undisclosed evidence as consisting of four points: "(1) [Murray] failed to complete the polygraph examination; (2) [Murray] was charged with domestic battery and possession of marijuana with intent to deliver prior to [plaintiff's] trial; (3) [Murray] had physically abused his girlfriend on numerous prior occasions; and (4) [Murray's] use of steroids had caused him to act erratically." *Id.* at 74, 890 N.E.2d at 511. The supreme court concluded the State's case against plaintiff "was not particularly strong" and "tenuous," supporting the admission by plaintiff "of the similarly probative alternative suspect evidence on" Murray. *Id.* at 77-78, 890 N.E.2d at 512. The supreme court further found, "[w]e cannot have confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence that would have countered the State's argument that all other potential suspects had been eliminated from consideration." *Id.* at 81, 890 N.E.2d at 514.

¶ 30 Plaintiff's conviction was vacated and remanded. The State declined to re-prosecute plaintiff and dismissed the charges against him. Plaintiff was released from prison in

June 2008, and the State of Illinois, in April 2013, certified his innocence. *Beaman v. Freesmeyer*, 776 F.3d 500, 505 (7th Cir. 2015). The Governor of Illinois pardoned plaintiff “based upon innocence as if no conviction.”

¶ 31 D. Plaintiff’s Federal Civil Suit

¶ 32 In January 2010, plaintiff filed a section 1983 complaint (42 U.S.C. § 1983 (2006)) against defendants Freesmeyer, Warner, and Zayas as well as against Souk, Reynard, and other detectives. Plaintiff alleged three federal claims: (1) defendants acting individually and in conspiracy withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963) (individual liability); (2) defendants conspired to deprive plaintiff of exculpatory evidence (conspiracy liability); and (3) defendants failed to intervene to prevent the violation of his rights. *Beaman*, 776 F.3d at 505. Plaintiff included state law claims for malicious prosecution, civil conspiracy, and intentional infliction of emotional distress against the Town of Normal. *Id.*

¶ 33 The claims against Souk and Reynard were dismissed based on absolute immunity or qualified immunity. *Id.* at 506. The claims against the other detectives, individuals who are not named defendants in this case, were dismissed after discovery revealed those detectives were not involved in the suppression of evidence. *Id.*

¶ 34 The district court granted summary judgment on the federal claims to the remaining defendants, Freesmeyer, Warner, and Zayas, and the Seventh Circuit affirmed. The court found insufficient evidence from which a jury could infer an agreement between the defendants to withhold the Murray evidence. *Id.* at 513. The Seventh Circuit concluded “[t]he defendants did not falsify any physical evidence or use any knowingly false testimony at trial.”

*Id.* at 512. As to Freesmeyer, the Seventh Circuit discounted plaintiff’s argument Freesmeyer prepared a “deceptive” police report regarding the time trials. The court found “Freesmeyer did not lie about the speeds at which he drove, and he was subject to cross-examination at trial about the speeds and alternative routes.” *Id.* The court observed, “[t]his is the type of behavior that will be present in every criminal prosecution—valid pursuit of a conviction.” *Id.* The court also found “the defendants are entitled to qualified immunity for their failure to turn over the Murray polygraph report to the prosecution and Beaman’s defense counsel.” *Id.* at 510. The court did so after framing the question as to whether *inadmissible* information inculcating another suspect could be *Brady* material. *Id.* Neither the district court nor the Seventh Circuit addressed the state law claims of malicious prosecution, intentional infliction of emotional distress, or conspiracy against the Town of Normal for lack of jurisdiction. *Id.* at 506.

¶ 35

## E. Plaintiff’s State Civil Lawsuit

¶ 36 In April 2014, plaintiff filed this action against defendants Freesmeyer, Warner, Zayas, and the Town of Normal. The complaint contained five claims: (1) malicious prosecution, (2) intentional infliction of emotional distress, (3) civil conspiracy, (4) *respondeat superior*, and (5) indemnification. In his complaint, plaintiff asserted the three individual defendants played significant roles in his prosecution and wrongful conviction.

¶ 37 Plaintiff asserted Freesmeyer “advocated for, approved, and physically effected” his arrest. Plaintiff alleged Freesmeyer moved into an office in the State’s Attorney’s office to work full-time on plaintiff’s case and decided on the first day of the investigation plaintiff was “the primary suspect.” Freesmeyer did so, according to plaintiff, even though the crime scene suggested the murderer was “a perpetrator of considerable size and power” while “plaintiff was

thin and small” and Lockmiller’s drug use and “behavior” pointed to a number of other possible suspects and “unsavory characters.” Plaintiff identifies Murray as the most significant suspect in that he was a drug dealer, Lockmiller’s “sex partner,” used steroids and cocaine, beat women, and lied about his alibi.

¶ 38 Plaintiff alleged Freesmeyer had a “continued fixation on plaintiff despite [a] lack of evidence.” Plaintiff contends the evidence showed Freesmeyer and other detectives did not investigate area burglaries or sexual assaults, did not interview individuals with whom Lockmiller had been in contact before her murder, and failed to listen to other detectives “who questioned their singular fixation.” Plaintiff contends Freesmeyer doctored the time trials by driving within the speed limit and using the downtown route, not the bypass route favored by Rockford locals, in order to secure plaintiff’s conviction, thereby “creat[ing] evidence” indicating plaintiff did not make the calls from the Beaman residence. Freesmeyer further avoided telling the jury he tested the bypass route and found, had plaintiff used the bypass route, he could have made those calls. In contrast, when attempting to establish plaintiff could have made the trip to Normal, Freesmeyer drove over the speed limit. Plaintiff highlights evidence Freesmeyer threatened the death penalty during an interview of plaintiff and Freesmeyer’s repeated efforts to secretly tape inculpatory statements from him.

¶ 39 Before the trial court, plaintiff alleged Warner was liable to plaintiff for damages as a result of burying a report regarding Murray’s polygraph. The report was addressed to Warner. Warner testified he gave the report to Daniels, but Daniels had no memory of receiving it. The State’s Attorney’s office did not receive a copy. According to the report, Murray denied strangling Lockmiller and denied knowing who did. The report, however, was inconclusive,

given Murray's failure to comply with specific directions:

“Throughout the course of this polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination.

After being advised several times to follow directions, the subject informed this examiner that he was not able to comply.

Subsequently, the subject was dismissed from this laboratory.”

¶ 40 Defendants moved for summary judgment on plaintiff's claims. Defendants maintained no evidence established a genuine issue of material fact on four of the five elements of his malicious-prosecution claim. Defendants contended, as a result, they are entitled to judgment as a matter of law on the malicious-prosecution claim and the remaining claims, which plaintiff predicated on the contention he was maliciously prosecuted.

¶ 41 F. Summary Judgment Order

¶ 42 In June 2016, the trial court granted defendants' motion for summary judgment. After listing the elements for a claim of malicious prosecution, the court found the prosecutors who handled the case, not the defendant officers, decided to prosecute plaintiff. In support, the court highlighted Daniels's deposition testimony. The court pointed to Daniels's statement that, during the May 1994 meeting with investigating officers and lead prosecutors, Souk rejected Daniels's suggestions to investigate other avenues. Souk stated the investigation was complete and an arrest warrant would be issued for plaintiff. The court explicitly found defendants “did not exert any unusual influence on the prosecutors which caused a malicious prosecution to take place against plaintiff.”

¶ 43 The trial court further found no genuine issue of material fact as to the remaining malicious-prosecution elements or to plaintiff's claims of intentional infliction of emotional distress, conspiracy, *respondeat superior*, and indemnification.

¶ 44 This appeal followed.

¶ 45 II. ANALYSIS

¶ 46 A. Summary Judgment Standard and Standard of Review

¶ 47 When considering a motion for summary judgment, the court's role is to ascertain whether a genuine issue of material facts exists and not to resolve factual questions. *Williams v. Manchester*, 228 Ill. 2d 404, 417, 888 N.E.2d 1, 8 (2008). A court should grant said motion only when the depositions, pleadings, affidavits, and admissions, viewed in the light most favorable to the nonmovant, show no genuine issue of material fact and demonstrate the movant is, as a matter of law, entitled to a judgment. *Pontiac National Bank v. Vales*, 2013 IL App (4th) 111088, ¶ 29, 993 N.E.2d 463 (citing 735 ILCS 5/2-1005(c) (West 2008)). Because summary judgment is a drastic means to resolve a case, a trial court should grant summary judgment only when the moving party's right to a judgment is clear and free from doubt. *Id.* On appeal, we review summary judgment orders *de novo*. *Rettig v. Heiser*, 2013 IL App (4th) 120985, ¶ 30, 996 N.E.2d 1220.

¶ 48 B. Malicious Prosecution

¶ 49 Under Illinois law, a claim of malicious prosecution requires proof of each of the following elements: "(1) the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s]; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and

(5) damages resulting to the plaintiff.” (Internal quotation marks omitted.) *Swick v. Liautaud*, 169 Ill. 2d 504, 512, 662 N.E.2d 1238, 1242 (1996). The failure to prove any one element prevents recovery on the claim. *Id.* In this case, the trial court granted summary judgment upon concluding plaintiff could not establish the first four elements of his malicious-prosecution claim.

¶ 50 We begin with the first element: “the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s].” (Internal quotation marks omitted.) *Id.* Plaintiff acknowledges defendants did not sign the criminal complaint or initiate the criminal proceedings against him, but he argues the element is satisfied so long as defendants played a “significant role” in commencing or continuing his prosecution. Plaintiff, highlighting the detectives’ conduct in (1) assisting the prosecution, (2) testifying before the grand jury, and (3) conducting time trials, contends the element requires only proof of a significant role: “[t]he standard is satisfied if a defendant played a ‘significant role’ in commencing or continuing a prosecution.”

¶ 51 The “significant role” language, used by plaintiff and in malicious-prosecution litigation, originated in *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975, 520 N.E.2d 1233, 1240 (1988), a decision plaintiff relies upon. In *Frye*, we considered a malicious-prosecution claim against a police officer, not a prosecutor. *Id.* at 967, 520 N.E.2d at 1235. While the parties did not dispute whether the officer commenced or continued the plaintiff’s prosecution, this court, in defining the malicious-prosecution tort, clarified the suit could proceed against the officer even though the officer did not sign the complaint against the plaintiff. We stated the following: “Liability for malicious criminal prosecution is not confined to situations where the defendant

signed a complaint against the plaintiff. Rather, liability extends to all persons who played a significant role in causing the prosecution of the plaintiff, provided all of the elements of the tort are present.” *Id.* at 975, 520 N.E.2d at 1240 (citing 54 C.J.S. *Malicious Prosecution* §§ 18, 19 (1987)).

¶ 52 Interestingly, the language used by this court does not show a conclusion that a “significant role” would satisfy the commenced-or-continued element. We stated those who had a significant role could still be liable for malicious prosecution so long as “*all of the elements of the tort are present.*” (Emphasis added.) *Id.* Under *Frye*, the term “significant role” does not relieve the plaintiff of proving any element of malicious prosecution, including the commenced-or-continued element.

¶ 53 Tracing the use of the “significant role” language from *Frye* to other Illinois decisions shows a transition to use of the “significant role” language as proof of the commencement element without any analysis of the element and its role in malicious-prosecution suits. The First District in *Rodgers v. Peoples Gas, Light & Coke Co.*, 315 Ill. App. 3d 340, 348-49, 733 N.E.2d 835, 842 (2000), cited *Frye* as showing “liability extends to all persons who played a significant role in causing the prosecution of the plaintiff, *provided all of the elements of the tort are present.*” (Emphasis added.) The *Rodgers* court then concluded sufficient evidence precluded summary judgment against an officer who allegedly participated in a scheme to entrap the plaintiff as a question of fact existed as to “whether his actions caused the institution of the criminal proceedings.” See *id.* at 349-50, 733 N.E.2d at 842-43. The Northern District of Illinois, in *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 928 (N.D. Ill. 2013), cited *Rodgers* but dropped the “provided all of the elements of the tort are present” language and

stated, so long as the officer played a “significant role in causing the prosecution, he can be held liable.” The *Padilla* court then determined, without any further analysis of the prerequisite finding an individual commenced or continued litigation against the plaintiff, the officers commenced or continued the prosecution as the prosecutor relied on the observations of the arresting officers. *Id.* at 928-29. Similarly, the Second District in *Bianchi v. McQueen*, 2016 IL App (2d) 150646, ¶ 72, 58 N.E.3d 680, cites *Rodgers* but failed to include the “provided all of the elements of the tort are present” language and considered only whether the defendants “played a significant role in causing the prosecution of the plaintiff[s]” when evaluating whether the commenced-or-continued element was sufficiently proved.

¶ 54 We question the propriety of limiting consideration of the commencement element to only the significance of one’s role in instituting the prosecution. Such a limitation exposes police officers to undue malicious-prosecution cases for performing usual investigatory police work when a prosecutor makes a mistaken decision to pursue a conviction.

¶ 55 Defendants, on the other hand, contend proof of the element requires a causal link, such as undue influence, between the conduct of the police officer and the prosecutor’s decision to prosecute. In support of this contention, defendants largely rely on two cases: *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 647, 784 N.E.2d 258, 270 (2002), and *Kim v. City of Chicago*, 368 Ill. App. 3d 648, 660, 858 N.E.2d 569, 579 (2006). *Fabiano*, however, does not support defendants’ contention. While the *Fabiano* court considered affidavits from prosecutors asserting the ASAs decided to prosecute with no influence by the officers, the *Fabiano* court did not consider or hold whether proof of undue influence was necessary. *Fabiano*, 336 Ill. App. 3d at 649-50, 784 N.E.2d at 272. The court in *Kim* concluded “the record does not

indicate that the detectives engineered plaintiff's prosecution or prevented the assistant State's Attorney from exercising her independent discretion to proceed with charges and the prosecution." *Kim*, 368 Ill. App. 3d at 660, 858 N.E.2d at 579. The court did so, however, in *dicta*, after concluding the case failed due to no evidence of a lack of probable cause and without citing or considering relevant case law.

¶ 56 Two other cases mentioned in defendants' brief, however, demonstrate, in the case of a civilian reporting a crime to a police officer, the civilian is not deemed to have commenced or continued the proceeding absent pressure or direction the officer make an arrest or knowingly providing false information to that officer. In *Denton v. Allstate Insurance Co.*, 152 Ill. App. 3d 578, 504 N.E.2d 756 (1986), for example, the court concluded judgment for the defendant insurance company on plaintiff's malicious-prosecution claim was proper because there was no evidence the defendant knowingly gave false statements to the police or pressured the officer into swearing out a complaint. *Id.* at 583-84, 504 N.E.2d at 760. The court did not examine the significance of the role the insurance company played in the prosecution, but whether the insurance company initiated the criminal proceeding or its "participation [was] of so active and positive a character as to amount to advice and cooperation." *Id.* at 583, 504 N.E.2d at 760. *Geisberger v. Vella*, 62 Ill. App. 3d 941, 943, 379 N.E.2d 947, 949 (1978), provides the same: "Such an attribution would require a showing that a defendant requested, directed, or pressured the officer into swearing out the complaint for the plaintiff's arrest or that one of the defendants knowingly gave false information to the police."

¶ 57 Recently, the Seventh Circuit Court of Appeals, when considering Illinois's malicious-prosecution law, reached a similar conclusion as to an arresting police officer's report

to a prosecutor who decided to prosecute. *Colbert v. City of Chicago*, 851 F.3d 649 (7th Cir. 2017). The court held an arresting police officer could not be held liable for malicious prosecution absent “ ‘an allegation of pressure or influence exerted by the police officers, or knowing misstatements by the officers to the prosecutor.’ ” *Id.* at 655 (quoting *Reed v. City of Chicago*, 77 F.3d 1049, 1053 (7th Cir. 1996)). The *Colbert* court observed it had previously noted malicious-prosecution cases against police officers “can often be ‘anomalous,’ ” explaining as follows:

“ ‘[T]he State’s Attorney, not the police, prosecutes a criminal action. It is conceivable that a wrongful arrest could be the first step towards a malicious prosecution. However, *the chain of causation is broken by an indictment*, absent an allegation of pressure or influence exerted by the police officers, or knowing misstatements by the officers to the prosecutor.’ ” (Emphasis in original.) *Id.* (quoting *Reed*, 77 F.3d at 1053).

The Seventh Circuit held a plaintiff must show “ ‘some postarrest action which influenced the prosecutor’s decision to indict.’ ” *Id.* (quoting *Snodderly v. R.U.F.F. Drug Enforcement Task Force*, 239 F.3d 892, 902 (7th Cir. 2001)). The Seventh Circuit examined the record to determine if there was any evidence the alleged false statement influenced the decision to indict or that the prosecutor relied on the false statement to obtain the indictment and found none. *Id.*

¶ 58 The same test used in malicious-prosecution cases against a civilian who reports a crime and in cases against arresting officers who provide information to a State’s Attorney should apply here, where police officers investigated a crime and reported findings to a State’s

Attorney who decided to prosecute the plaintiff. We hold in order to find a police officer usurped the State's Attorney's decision-making role and that officer is responsible for commencing or continuing a criminal action against a plaintiff, the plaintiff must establish that officer pressured or exerted influence on the prosecutor's decision or made knowing misstatements upon which the prosecutor relied. See *id.* This holding protects officers in their performance of their police work while allowing plaintiffs to seek redress from officers who use fabrications or exert pressure on the prosecutor to secure prosecution of the innocent.

¶ 59 We turn to the facts to determine whether sufficient evidence exists to withstand summary judgment against each individual defendant.

¶ 60 1. *Defendant Freesmeyer*

¶ 61 In asserting sufficient evidence exists for a jury question on the commenced-or-continued element in his claim against Freesmeyer, plaintiff contends Freesmeyer "headed the investigation \*\*\*, lied to the grand jury, doctored the time trials, omitted exculpatory evidence from his police reports, threatened plaintiff with the death penalty, moved into the prosecutor's office, gave misleading trial testimony, and disregarded every fact that did not fit his theory of the crime." Plaintiff does not, however, identify any facts showing Freesmeyer pressured or exerted influence on the State's Attorney and ASA's decision to prosecute plaintiff. In fact, the evidence proves otherwise. Souk testified the decision was his. Daniels, who was present at the May 1994 meeting, supported that conclusion by showing Souk shut down any effort to leave the case open.

¶ 62 None of these "facts" support a finding Freesmeyer pressured or exerted influence on Souk's decision to prosecute plaintiff. The evidence shows the prosecutors, Reynard and

Souk, made the decision to prosecute plaintiff. No witness testimony contradicts this conclusion. And, as the trial court concluded, the testimony of Detective Daniels shows Souk, during the May 1994 meeting, refused to consider additional evidence and decided it was time to prosecute plaintiff.

¶ 63 We then turn to the question of whether Freesmeyer provided false information to Souk or Reynard to influence the commencement or continuation of plaintiff's prosecution. Plaintiff's conclusory statements identify two types of evidence that were allegedly fabricated: the time trials and Freesmeyer's testimony before the grand jury. This evidence, however, does not support plaintiff's conclusion. For instance, there is no proof in the record Freesmeyer tainted or falsely reported the time trials. Indeed, the Seventh Circuit examined similar allegations against Freesmeyer and found "Freesmeyer did not lie." *Beaman*, 776 F.3d at 512. We find Freesmeyer's efforts were to show plaintiff's conduct could have fit within the State's theory of the case. "This is the type of behavior that will be present in every criminal prosecution—valid pursuit of a conviction." *Id.*

¶ 64 We disagree with plaintiff's statement Freesmeyer lied to the grand jury about his interview with Singley. Plaintiff contends Freesmeyer, ignoring Singley's statements, told the grand jury no helpful information had been learned from Lockmiller's neighbors during the investigation, but Singley's interview helped rule out plaintiff as a suspect. Freesmeyer's statement is a conclusion he did not find the information helpful:

"Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?"

A. Yes. \*\*\*.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and no information that turned out [to] be particularly helpful in the investigation?

A. That's correct."

Testimony from plaintiff's trial shows Freesmeyer identified a reason for that belief:

"Q. You're aware, I take it, or you were aware very early in the investigation when Mr. Singly gave his statement of his observations about having heard doors open and close, and people walking up and down stairs at certain times on—and also air conditioning going on and off at certain times on Wednesday?

A. Yes, I'm aware of that, sir.

Q. Fairly early in the investigation did you discount Mr. Singly's observations as being inaccurate?

A. Yes, sir, I did.

\*\*\*

A. Well, first of all, nobody could pick out Mr. Swaine's vehicle from the photos we showed them. Second of all, Mr. Singly stated he heard the door, that same door open and close on Friday as he did on Wednesday, and everybody on the team was in agreement that Miss Lockmiller was deceased long before Friday. And also he stated he saw Swaine's vehicle there on Wednesday,

and I'd already spoken with Miss Betteridge from Elmhurst. She stated that Mr. Swaine was at her side until 3:15 that day. There was absolutely no way that that car could have been in Normal on Wednesday."

¶ 65 We conclude plaintiff has identified no evidence from which a reasonable jury could conclude Freesmeyer pressured or exerted influence on Souk or Reynard in making the decision to prosecute plaintiff or provided knowingly false statements leading to plaintiff's prosecution or allowing its continuation. We affirm the order granting summary judgment to Freesmeyer on this claim.

¶ 66 *2. Defendant Warner*

¶ 67 Regarding Warner, plaintiff contends a genuine issue of material fact exists as to whether Warner is liable for malicious prosecution for burying the Murray polygraph report, a report he asserts both the Northern District of Illinois and the Illinois Supreme Court found to be "material and exculpatory." In his role in the investigation, Warner was to ensure Zayas received a copy of the report, submit the report for record keeping, and disseminate copies to the investigators working on the case. Plaintiff's contention the evidence is sufficient to create a genuine issue of material fact on the commenced-or-continued element is predicated on the fact Warner's role was significant and the record was material to the case.

¶ 68 First, we note plaintiff misstates the holdings of the federal district court and our supreme court. Neither court found the failed and inadmissible polygraph result, considered alone, to be material and exculpatory. In his federal litigation against defendants, the district court found all evidence related to Murray, "[t]hough not strong evidence, *taken together*,

Murray’s erratic behavior from steroids, history of domestic assault including elbowing his girlfriend in the chest, and possible evasion during the polygraph \*\*\* suggest he could have been the culprit.” (Emphasis added.) *Beaman v. Souk*, 7 F. Supp. 3d 805, 823 (C.D. Ill. 2014). The Illinois Supreme Court plainly found the failure to disclose the information related to Warner, including the incomplete polygraph examination, the domestic battery and drug charges, the prior physical abuse of his girlfriend, and his use of steroids and erratic behavior, material. *Beaman*, 229 Ill. 2d at 58-59, 74-75, 890 N.E.2d at 502-03, 510-11.

¶ 69 We find the evidence does not create a genuine issue of material fact on the question of whether Warner commenced or continued the prosecution. No evidence shows Warner encouraged or exerted pressure on Souk to prosecute. No evidence shows Warner knowingly provided Souk false information. It would be speculative for a jury to find a polygraph report, indicating only that the test was incomplete due to a failure to follow instructions, would have had any bearing on Souk’s decision to prosecute plaintiff. In his deposition, Souk testified Murray had no motive to kill Lockmiller. Souk knew about Murray when he decided to arrest plaintiff. During the prosecution, Souk knew Murray and Lockmiller had been involved sexually. Souk knew Murray had made two separate statements about the time he left town, meaning Murray potentially lied and Murray was in town when Lockmiller was murdered. During the prosecution of plaintiff and before plaintiff’s trial, Souk learned of Murray’s steroid use and erratic behavior and the domestic abuse allegations, and he continued prosecuting plaintiff. Souk already knew Murray’s character was questionable. The report did not establish a motive to murder Lockmiller or provide evidence establishing Murray as the killer—the two bases for Souk’s decision ruling out Murray as a suspect.

¶ 70 The trial court properly granted summary judgment in Warner’s favor.

¶ 71 *3. Defendant Zayas*

¶ 72 Plaintiff made three allegations regarding Zayas’s role leading to his prosecution:

(1) Zayas participated in the May 1994 meeting, during which the decision was made to prosecute plaintiff; (2) Zayas supervised the detectives who worked on the case; and (3) Zayas allowed the arrest to occur, knowing the “case was half-baked.” Plaintiff, however, points to no evidence from which a jury could conclude Zayas commenced or continued the criminal suit against him. No evidence shows Zayas pressured or exerted influence over Reynard and Souk’s decision to prosecute, and there is no evidence of any false statements by Zayas to the prosecutor. Because plaintiff cannot establish the first element of his malicious-prosecution claim, Zayas is entitled to summary judgment.

¶ 73 *C. Intentional Infliction of Emotional Distress*

¶ 74 The trial court held plaintiff’s claim of intentional infliction of emotional distress was based and contingent upon his malicious-prosecution claims against defendants and granted summary judgment on that claim. On appeal, plaintiff’s only challenge to that holding is the conduct in “pursuing plaintiff’s conviction maliciously, disregarding and manipulating the evidence, and sending an innocent man to prison for a dozen years for a crime he could not have committed” constitutes extreme and outrageous conduct. Plaintiff fails to develop this argument or cite relevant authority. He has forfeited this claim. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016); see also *Elder v. Bryant*, 324 Ill. App. 3d 526, 533, 755 N.E.2d 515, 521-22 (2001) (“Mere contentions, without argument or citation of authority, do not merit consideration on appeal.”).

¶ 75 *D. Conspiracy*

¶ 76 The elements of a civil-conspiracy claim are as follows: (1) a combination of two or more individuals, (2) for the purpose of accomplishing by concerted action an unlawful purpose or a lawful purpose by unlawful means, (3) in the furtherance of which one of the conspirators committed an overt tortious or unlawful act. *Fritz v. Johnston*, 209 Ill. 2d 302, 317, 807 N.E.2d 461, 470 (2004). The tortious or unlawful act alleged is defendants' alleged malicious prosecution of plaintiff. Because we have found defendants Freesmeyer, Warner, and Zayas are entitled to summary judgment on plaintiff's malicious-prosecution claims, plaintiff cannot establish the third element of his civil-conspiracy claim. We affirm the trial court's order granting summary judgment to defendants on plaintiff's conspiracy claim.

¶ 77 E. *Respondeat Superior* and Indemnification Claims

¶ 78 Plaintiff, on appeal, acknowledges the *respondeat superior* and indemnification claims are dependent on the claims against the individual defendants. Given our finding summary judgment was properly granted on the individual claims, we conclude the trial court properly granted summary judgment on the *respondeat superior* and indemnification claims.

¶ 79 III. CONCLUSION

¶ 80 We affirm the trial court's judgment.

¶ 81 Affirmed.

STATE OF ILLINOIS  
CIRCUIT COURT  
SIXTH JUDICIAL CIRCUIT

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CIRCUIT JUDGE  
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June 22, 2016

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Re: Alan Beaman, Plaintiff,

vs.

Tim Freesmeyer, Dave Warner, Frank Zayas and Town of Normal, Illinois,  
Defendants.

McLean Co. Case # : 2014-L-51

C12494

APPENDIX 000027

Dear Counsel:

This date, I have entered the following Order in the above-entitled cause, to-wit:

“Cause removed from advisement this date as to hearing on the Defendant’s Motion For Summary Judgment. The Court has considered the pleadings, depositions and any admissions on file together with any affidavits, and has viewed those in the light most favorable to the non-moving party. Having done so, the Court finds that there is no genuine issue as to any material fact as alleged in Plaintiff’s Five- Count Complaint, and that the moving party is entitled to a judgment as a matter of law.” Defendant’s Motion For Summary Judgment is therefore granted.”

The Court specifically finds as follows:

1. Plaintiff, Alan Beaman, (hereafter referred to as “plaintiff”), has filed a five-Count Complaint in state court against defendants, Tim Freesmeyer, former Normal Police Detective, (hereafter referred to as “ Freesmeyer”); Dave Warner, former Normal Police Detective, (hereafter referred to as “Warner”); Frank Zayas, former Normal Police Lieutenant, (hereafter referred to as “ Zayas”); and Town of Normal, Illinois, (hereafter referred to as “Town of Normal”).
2. Count I alleges Malicious Prosecution by all of the defendants and others, including other investigators and McLean County prosecutors, acting individually, jointly, and in conspiracy, in that they initiated and continued a prosecution against plaintiff, knowing that probable cause did not exist to arrest and prosecute him for the arrest of Jennifer Lockmiller.
3. Count II alleges Intentional Infliction of Emotional Distress, in that the acts and conduct of the individual defendants set forth, were extreme and outrageous in that they willfully and maliciously framed plaintiff for a crime he did not commit; specifically, that defendants' actions were rooted in the abuse of power, and were undertaken with intent to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to plaintiff. The specific misconduct described in this Count was allegedly undertaken with malice, willfulness and reckless indifference to the rights of others.

C12495

APPENDIX 000028

4. Count III alleges Civil Conspiracy, in that defendants, acting in concert with one another, and with other investigators and McLean County prosecutors, conspired by concerted action to accomplish an unlawful purpose by unlawful means; specifically that defendants entered into an agreement in or around August, 1993, to maliciously prosecute plaintiff for the murder of Jennifer Lockmiller, knowing there was no probable cause to do so, in order to close the Lockmiller murder case. Again, the misconduct described in this Count was alleged to have been undertaken intentionally, with malice, willfulness and reckless indifference to the rights of others.
5. Count IV alleges Respondent Superior Against Town of Normal, in that in committing the acts alleged in the Complaint, and in Counts I through III, each of the individual defendants were members of the Normal Police Department, acting at all relevant times within the scope of their employment. That due to that fact, the Town of Normal is liable as principal for all torts in violation of State law committed by its agents.
6. Lastly, Count V alleges 745 ILCS 10/9-102 Complaint against the Town of Normal, in that in committing the acts alleged in the Complaint, and in Counts I through III, each of the individual defendants were members of, and agents of, the Normal Police Department, acting at all times within the scope of their employment. That as such, the defendant Town of Normal is liable as principal for all torts in violation of State law committed by its agents.
7. Defendants have filed a Motion For Summary Judgment on all claims against them.
8. Summary Judgment shall be granted "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact, and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c).

#### **COUNT I- Malicious Prosecution**

1. The elements of a cause of malicious prosecution as alleged in plaintiff's Count I, require proof of: 1) commencement or continuation of a criminal proceeding by the defendant; 2) absence of probable cause for the proceeding; 3) malice; 4) termination of the proceeding in a manner indicative of the plaintiff's innocence; and 5) damages. All five of these elements must be present to defeat a motion for summary judgment.

C12496

2. In this action, the individual defendants were police officers who investigated the case for, and at the direction of the McLean County Prosecutor's Office. (See depositions of former McLean County State's Attorney, Charles Reynard, (Ex. 17 p. 71, line 8 to p. 72, line 12), and former prosecutor, James Souk, Ex. 6, p.139, line 15, to p. 140, line 16)). These depositions by the prosecutors handling the case show that it was they, and not the defendant police officers, who had the decision-making capacity as to whom would be charged with the murder of Jennifer Lockmiller. The Court has also considered the deposition testimony of non-party, Officer Tony Davis, who sat in on the meeting of investigating officers and lead prosecutors in May of 1994, at the time the decision was made to charge the plaintiff with the murder of Lockmiller. At that meeting, Daniels stated he attempted to discuss notes he had taken during an "Unresolved Homicide Class" conference he had recently attended in Florida, which he felt may have been important to now plaintiff Beaman's criminal case, but was interrupted by Prosecutor, Souk, who stated that the investigation had gone on far enough, and that a warrant would be issued for plaintiff's arrest, (Ex.5, p.11, lines 13 to p. 12, line 4, then Ex. 5, p. 472, line 21, to p. 473, line 14, then Ex. 5, p.338, line 9, to p. 341, line 22.) This corroborates the defendants' claim in this case that the officers had no ability to initiate a criminal prosecution against plaintiff. The record presented to the Court shows that The McLain County State's Attorney's Office alone made the decision to prosecute plaintiff for the murder of Jennifer Lockmiller after considering all evidence, including evidence concerning other potential suspects in the case. The Court also finds that defendants' did not exert any unusual influence on the prosecutors which caused a malicious prosecution to take place against plaintiff.
3. **The Court finds that probable cause existed for the arrest and prosecution of plaintiff for the murder of Jennifer Lockmiller.**
4. Probable Cause is defined as "a state of facts that would lead a person of ordinary caution and prudence to believe, or to entertain an honest and strong suspicion, that the person arrested committed the offense charged." Reynolds v. Menard, Inc, 365 Ill. App.3d 812, 820, 850 N.E.2d 831, 838 (1st Dist., 2006); Sang Ken Kim v. City of Chicago, 368 Ill. App.3d 648, 654, 858 N.E.2d 569, 575 (1st Dist., 2006). The existence of probable Cause depends on the "totality of the circumstances" at the time of the arrest. Gauger v. Hendle, 2011 Ill. App.2d 100316 para 112. And, as cited by defendants', probable cause can be based upon the "collective knowledge of the officers involved in the investigation. People v. Long, 369 Ill. App. 3d 860, 867, 861 N.E. 2d 335 (2d Dist., 2007). In this case, grounds for probable cause to charge plaintiff with murder existed as specifically stated in paragraphs (a) through (p) of Defendants'

C12497

Memorandum of Law In Support Of Defendants' Motion For Summary Judgment, filed in this cause, recounting the facts in defendant, Freesmeyer's deposition. Defendants' Statement of Facts (SOF), Para 98.

5. Assistant State's Attorney, James Souk, one of the two lead prosecutors in the case, also determined that probable existed for the arrest of plaintiff as stated in (SOF, para's 99 -108), which was concurred with by the State's Attorney. The Court also notes that beyond the issue as to reasonable doubt, the above evidence presented at plaintiff's jury trial, was sufficient to prove his guilt beyond a reasonable doubt.
6. Based upon the above, the Court finds that probable cause was properly established in this case, and that no jury could reasonably decide otherwise.
- 7. The Court finds no malice on the part of the defendants in the initiation or continuation of the prosecution of the case.**
8. Absence of malice can be decided on summary judgment where the record is devoid of any affirmative evidence of malice, an element on which the plaintiff bears the ultimate burden of proof. Turner v City of Chicago, 91 Ill.App. 3d 931, 937, 415 N.E. 2d 481 (1st Dist. 1980). Malice has been defined as "the initiation of a prosecution for any reason other than to bring a party to justice". Sczcesniak v. CJC Auto Parts, Inc, 2014 Ill.App.2d 130636\*19. Here, the evidence has shown that more than probable cause existed for the prosecution to bring plaintiff to trial. Further, that in the minds of the prosecutors, there was sufficient reason to exclude other potential suspects in the case, either due to alibi evidence or lack of evidence, to proceed solely against the plaintiff. At jury trial, the State provided the jury with proof beyond a reasonable doubt that plaintiff had both motive and opportunity to commit the murder. Evidence also showed a history of violence and threats between plaintiff and Lockmiller causing Lockmiller to fear for her safety. Therefore, the Court cannot find that sufficient facts exist to show that the defendants' involvement in this case were motivated by any other reason than to bring a party to justice. The evidence further shows that the defendants acted upon the advice and orders of the State's Attorney and his Assistant, which would vitiate any claim of malice. See Salmen v. Kamberos, 206 IllApp 3d 686, 692, 565 N.E. 2d 686 (1st Dist. 1990).
- 9. The Court finds that plaintiff cannot prove the termination of his prosecution was indicative of his innocence.**

C12498

10. In this matter, the plaintiff's conviction was reversed by the Illinois Supreme Court, and the case remanded for trial. The Court specifically held that no part of its decision would suggest insufficient evidence or preclude a retrial. People v Beaman, 229 Ill.2d 56, 82, 890 N.E.2d 500 (2008). On remand, it was the McLean County State's Attorney who decided not to re-prosecute the plaintiff. As noted by the defense, there was nothing in the State's Attorney's decision to suggest the plaintiff's innocence, but rather a matter of impracticality of reconstructing the evidence and relocating witnesses after so many years had passed. (SOF Para 124). There is no evidence that defendants continued to press for re-trial of the case following the State's decision.

The Court therefore enters summary judgment in favor defendants and against plaintiff on malicious prosecution claim in Count I.

#### **COUNT II - Intentional Infliction of Emotional Distress**

1. Plaintiff's claim of intentional infliction of emotional distress ("IIED") is again based upon his claim of malicious prosecution, and is dependent upon that claim. Jiminez v City of Chicago, 830 F. Supp.2d 432, 451 (N.D.ILL. 2011). Further, that plaintiff's IIED claim is contingent or "intertwined" with the malicious prosecution claim. Walden v. City of Chicago, 755 F.Supp.2d 942, 962 (N.D.ILL. 2010). To prove a claim for IIED under Illinois law, plaintiff must establish that: (1) the defendants' conduct was extreme and outrageous; (2) the defendants' either intended that their conduct should inflict severe emotional distress; and (3) the defendants' conduct in fact caused severe emotional distress. Extreme and outrageous conduct is that which goes "beyond all bounds of decency and is considered intolerable in a civilized society." The Court finds that paras. (1) and (2) have not been shown to be the case. As to para (3), severe and emotional distress would seem to accompany convictions for the offense of murder.
2. Based upon the above, the Court enters summary judgment in favor of the defendants' and against the plaintiff as to Count II of the Complaint.

#### **COUNT III - Civil Conspiracy**

1. In order to prevail on this allegation, plaintiff would need to show that the defendants conspired with themselves and with the prosecution to maliciously prosecute him. As defendants point out, there is nothing conspiratorial or

C12499

unusual about the fact that police officers worked together and with prosecutors to prepare a case for prosecution. The Court believes this would include an officer moving into the State's attorney's Office to work full time on a case of this magnitude. The plaintiff has failed to show an agreement by defendants to accomplish either an unlawful purpose, or a lawful purpose by any unlawful means to prove a civil conspiracy. Mosley v City of Chicago, 614 F. 3d 391 (7th Cir. 2010).

Therefore, the Court enters summary judgment in favor of defendants and against plaintiff on plaintiff's Count III State Law Conspiracy Claim.

COUNTS IV and V

1. These Counts contain plaintiff's derivative claims against the City of Normal based upon substantive claims against the individual defendants' in Counts I through III. In light of the Court's findings in Counts I through III, summary judgment is entered in favor of defendants' and against plaintiff in Counts IV and V.

Judgment is entered on the findings herein.

Dated : 6/22/14

Enter : Richard L. Broad  
Circuit Judge

C12500

APPENDIX 000033

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN,

Beaman,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Formal Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants.

No. 14 L 51

FILED  
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MCLEAN COUNTY

**DEFENDANTS' STATEMENT OF MATERIAL FACTS IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT**

Defendants, by their counsel, Ancel, Glink, Diamond, Bush, DiCianni and Krafthefer, P.C., submit the following as their Statement of Material Facts in support of their Motion for Summary Judgment:

Filed in Support of this Motion for Summary Judgment are the following:

1. Timothy Freesmeyer's Deposition Transcript (Exhibit 1);
2. Robert Hospelhorn's Deposition Transcript (Exhibit 2);
3. David Warner's Deposition Transcript (Exhibit 3);
4. Frank Zayas' Deposition Transcript (Exhibit 4);
5. Tony Daniels' Deposition Transcripts (Exhibit 5);
6. James Souk's Deposition Transcript (Exhibit 6);
7. Morgan Keefe's Interview Transcript (Exhibit 7);
8. Timothy Freesmeyer's Report (Exhibit 8);
9. Robert Hospelhorn's Report (Exhibit 9);

C00323

APPENDIX 000034

10. John Murray September 2, 1993 Interview Transcript (Exhibit 10);
11. John Murray September 8, 1993 Interview Transcript (Exhibit 11);
12. Debra Mackoway's Interview Transcripts (Exhibit 12);
13. Post-Conviction Hearing Transcript (Exhibit 13);
14. Grand Jury Transcript (Exhibit 14);
15. State's Attorney's Case File (Exhibit 15);
16. Jennifer Lockmiller's Telephone Records (Exhibit 16);
17. Charles Reynard Deposition Transcript (Exhibit 17);
18. Dean Kennedy Trial Testimony (Exhibit 18);
19. Freesmeyer Trial Testimony (Exhibit 19);
20. Freesmeyer Grand Jury Testimony (Exhibit 20);
21. Morgan Keefe (Hartman) Deposition Transcript (Exhibit 21);
22. Debra Mackoway (Bluestein) Deposition Transcript (Exhibit 22);
23. Todd Heyse Deposition Transcript (Exhibit 23);
24. Swaine Statements (Exhibit 24);
25. Crime Scene Report (Exhibit 25);
26. 911 Transcript (Exhibit 26);
27. Heidi Steinman Statement (Exhibit 27);
28. Katy Corbett Statement (Exhibit 28);
29. Amy Endicott Statement (Exhibit 29);
30. Stipulation – phone records (Exhibit 30);
31. Overhear Transcription – 2/16/94 (Exhibit 31);
32. Mike Mackey Statement (Exhibit 32);
33. Jennifer Seig Statement (Exhibit 33);
34. Meredith Haynes Statement (Exhibit 34);

C00324

35. Plaintiff's Statement – 8/28/93 (Exhibit 35);
36. Coroner's Report (Exhibit 36);
37. McCann Deposition Transcript (Exhibit 37);
38. Todd Barth Statement (Exhibit 38).

### PARTIES/PARTICIPANTS

1. On April 1, 1995, Plaintiff, Alan Beaman was found guilty by a jury of the murder of Jennifer Lockmiller. Beaman was sentenced to 50 years in the Illinois Department of Corrections. Beaman spent 13 years in prison, and was released in 2008 based on the Illinois Supreme Court's decision in *People v. Beaman*, 229 Ill.2d 56 (2008). (Compl. ¶91). The Court held the State violated Beaman's right to due process under *Brady v. Maryland*, 373 U.S. 83 (1963) by failing to disclose material information about a viable alternative suspect -- John Murray. *Beaman*, 229 Ill.2d 56. The undisclosed evidence consisted of four points: (1) Murray failed to complete a polygraph examination; (2) Murray was charged with domestic battery and possession of marijuana with intent to deliver prior to Beaman's trial; (3) Murray had physically abused his girlfriend on numerous prior occasions; and (4) Murray's use of steroids caused him to act erratically. *Id.* at 75.

2. Defendant Timothy Freesmeyer was a police officer for the Town of Normal Police Department ("NPD"), from March 12, 1990 until August, 2000. (Ex. 1, Freesmeyer, pp. 16, 21). Freesmeyer worked as a detective in the NPD's Criminal Investigations Division (CID) from 1991 to 1995. (Ex. 1, Freesmeyer, pp. 17, 19).

3. Defendant Dave Warner started as a police officer in the NPD in 1983. He worked as a detective for seven years, as an evidence technician, arson investigator, as a patrol

C00325

and administrative sergeant, an administrator lieutenant, and currently serves as the NPD's day shift lieutenant. (Ex. 3, Warner, pp. 30-32).

4. Defendant Frank Zayas started his employment with the NPD in 1968. (Ex. 4, Zayas p. 16). He was the lieutenant in charge of CID at the time of the Lockmiller murder and throughout the murder investigation until his retirement in November, 1994, except he was assigned out of CID from February until June, 1994, when he resumed his position in CID. (Ex. 4, Zayas, pp. 20, 23; Ex. 5, Daniels, p. 683).

5. Rob Hospelhorn was a detective in CID part of the time of the Lockmiller murder investigation. He has worked for the NPD from 1988 to the present. (Ex. 9, Hospelhorn, p.17).

6. Tony Daniels was a detective in CID at the time of the Lockmiller murder investigation. He was assigned as the temporary head of CID on Zayas' departure, from March 7, 1994, until Zayas' return in June of 1994. (Ex. 5, Daniels, pp. 683-84). He later served as the head of CID. (Ex. 5, Daniels, p. 392).

7. James Souk was the Chief of the Felony Division in the McLean County State's Attorney's Office at the time of the Lockmiller murder. In January, 1997, Souk left that position to become an Associate Judge in McLean County, and was later elected Circuit Court Judge. Souk was the lead prosecutor for Beaman's prosecution for Lockmiller's murder. (Ex. 6, Souk, pp. 28, 51).

8. Charles Reynard was the elected State's Attorney for McLean County at the time of the Lockmiller murder and Beaman's prosecution. He is currently a Circuit Court Judge in McLean County. (Ex. 18, Reynard, pp. 16, 30).

C00326

**THE MURDER**

9. On August 28, 1993, Jennifer Lockmiller's decomposed body was found in her apartment at 412 N. Main Street, Normal, Illinois. Lockmiller was a student at Illinois State University (ISU) at the time. Lockmiller had been strangled with an electrical cord from an alarm clock in her bedroom and had been stabbed in the chest with a pair of scissors. (Compl. ¶91). Zayas, who went to the crime scene with Warner, described it as "gruesome." (Ex. 4, Zayas, p. 89).

10. Lockmiller's body was found by her girlfriend, Morgan Keefe (Hartman), who after attempting to contact Lockmiller for several days, went to her apartment, found the body and called the police. Keefe identified Alan Beaman as the killer -- Lockmiller's ex-boyfriend who Lockmiller was afraid of because of his behavior. According to Keefe, Beaman broke down Lockmiller's door several times and threatened suicide if she broke up with him. (Ex. 3, Warner, p. 52-53, 159; Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27).

11. The crime scene was a two-story frame apartment building containing four apartments. (Ex. 18, Kennedy Trial Tr., pp. 213-216; Ex. 25, NPD Crime Scene Rpt., p. 73). Lockmiller's body was found in apartment No. 4, which was on the west end of the second floor. (Ex. 18, Kennedy Trial Tr., p. 216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 8, Freesmeyer Rpt., p. 1).

12. When the police arrived at the scene, the main entrance to the 412 N. Main apartment building was unlocked. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 73; Ex. 7, Keefe Stmt., p. 15; Ex. 20, Freesmeyer GJ Tr., p. 135). The door to Lockmiller's apartment had a deadbolt and chain. (Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 18, Kennedy Trial Tr., pp. 211-212). NPD detectives learned Lockmiller always locked her door. (Ex. 1, Freesmeyer Dep., pp. 212-213).

C00327

13. The door to Lockmiller's apartment contained signs of damage which included a crack in the door frame and marks on the inside of the door frame that appeared to be from the deadbolt lock being left in the lock position when the door was closed. (Ex. 18, Kennedy Trial Tr., pp. 219-220; Ex. 25, NPD Crime Scene Rpt., p. 74). NPD detectives learned the door damage was present prior to the date of Lockmiller's murder. (Ex. 18, Kennedy Trial Tr., pp. 211-220; Ex. 20, Freesmeyer GJ Tr., pp. 134-35). There were no visible signs of recent forced entry to Lockmiller's apartment. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex.1, Freesmeyer, pp. 211-213, 264; Ex. 20, Freesmeyer GJ Tr., pp. 134-35).

14. A gold-colored, hoop-type earring was found lying on the floor approximately three feet inside the doorway. (Ex. 18, Kennedy Trial Tr., pp. 211-221, 239-240; Ex. 25, NPD Crime Scene Rpt., p. 74). A red shoe was lying in the hallway outside the bedroom door and a gold colored earring similar to the earring by the entrance door was found on the bathroom floor. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 239-240; Ex. 25, NPD Crime Scene Rpt., p. 74).

15. Dirty dishes were in the sink, the left cabinet door under the kitchen sink was open and a plastic garbage can was lying on its side in front of the open cabinet. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., p. 135). A bag of garbage was found on the living room sofa filled with trash, with its contents spilling out. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 135-36).

16. Two book bags and Lockmiller's purse were found on a table; all three were closed and did not appear to have been disturbed. (Ex. 19, Kennedy Trial Tr., pp. 234-236;

C00328

Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Lockmiller's purse contained her driver's license and other identification, a brown wallet with \$17.71 in cash, various credit cards and other personal effects. (Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Officers did not detect any signs that there had been a burglary because items of value were not disturbed on the premises. (Ex. 5, Daniels; pp. 90-91; Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137). The television was on and the air conditioning unit was running, and both were located in the living room. (Ex. 18, Kennedy Trial Tr., pp. 215-216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 137-38).

17. NPD detectives learned that Lockmiller's grey Pontiac Sunbird had been parked outside the front door to the building for several days. (Ex. 20, Freesmeyer GJ Tr., p. 138; Ex. 8, Freesmeyer Rpt., p. 189; Ex. 18, Kennedy Trial Tr., pp. 237-238; Ex. 19, Freesmeyer Trial Tr., pp. 798-799).

18. The door to Lockmiller's bedroom was found open. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). A hole, approximately ten inches in diameter, was found on the south wall of the bedroom. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). NPD detectives learned that the hole in the bedroom was made by Alan Beaman prior to Lockmiller's murder. (Ex. 24, Swaine 8/28/93 Stmt., p. 6; Ex. 24, Swaine 8/29/93 Stmt., p. 45).

19. The bedroom contained a single bed and a set of bunk beds; Lockmiller's body was found on the floor in-between the beds. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 223-224; Ex. 25, NPD Crime Scene Rpt., p. 75). Lockmiller's body was found in a supine position, with her arms extended straight out from the shoulders, her legs spread apart and

C00329

bent at the knees, and her feet extended back toward her head. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., pp. 130-31). Lockmiller's shirt and bra were pushed up, exposing her chest; and her shorts, belt, and underwear were pulled down around her left calf and ankle but there was no physical evidence of rape. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 130, 156-58). A red shoe, similar to the shoe found in the hallway outside the bedroom door, was on Lockmiller's left foot. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 239-240).

20. A pair of scissors with red plastic handles was embedded in the center of Lockmiller's chest. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). The autopsy revealed the scissors found in Lockmiller's chest could have been put there post-mortem or when her heart was barely beating. (Ex. 20, Freesmeyer GJ Tr., pp. 132, 139-40). Multiple other stab wounds were noted in the skin on Lockmiller's chest, which had apparently been made with the scissors. (NPD Rpt., p. 75).

21. A clock radio was on the floor east of Lockmiller's head, and the cord from the clock radio was wrapped around Lockmiller's neck and tied in the front of her neck. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 225-227, 243-244; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

22. A box fan was resting on the scissors in Lockmiller's chest, covering her face. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

C00330

23. Several letters were located under Lockmiller's bed and placed into evidence. (Ex. 19, Freesmeyer Trial Tr., p. 804; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 8, Freesmeyer Rpt., p. 7-11).

24. Although the apartment was processed for latent finger and palm print impressions, no identifiable latent prints were developed. (Ex. 18, Kennedy Trial Tr., pp. 246-250; Ex. 25, NPD Crime Scene Rpt., p. 75). Two of Alan Beaman's fingerprints were later identified on the clock used to strangle Lockmiller by the Morton Crime Laboratory. (Ex. 18, Kennedy Trial Tr., p. 236; Ex. 25, NPD Crime Scene Rpt., pp. 94-96; Ex. 20, Freesmeyer GJ Tr., pp. 162-63). One of Beaman's fingerprints was identified on the back of the Lockmiller clock near the cord and another on the bottom of the clock. (Ex. 20, Freesmeyer GJ Tr., pp. 275-277).

25. The cause of death was determined to be ligature strangulation. (Ex. 25, NPD Crime Scene Rpt., pp.104-110.) The post-mortem examination of Lockmiller found no defensive wounds on her body. (Ex. 20, Freesmeyer GJ Tr., p. 140).

26. NPD detectives believed the murder was a crime of passion, involving an act of vengeance. (Ex. 5, Daniels, pp. 90-92; Ex. 1, Freesmeyer, p. 205). NPD detectives concluded that Lockmiller knew her killer. (Ex. 3, Warner, pp. 59-60; Ex. 1, Freesmeyer, pp. 197, 203-205, 211-212).

#### **THE MURDER INVESTIGATION**

27. On the day Lockmiller's body was discovered, a meeting was held in the NPD with NPD Police Chief James Taylor, several CID detectives, Souk, and McLean County Coroner Dan Brady to discuss the case. (Ex. 1, Freesmeyer, p. 72). The group discovered

**C00331**

that Beaman was in Rockford where he lived, and Tony Daniels and Hospelhorn were assigned to go to Rockford to interview Beaman that night. (Ex. 2, Hospelhorn, pp. 44-45).

28. Daniels and Hospelhorn were able to conduct a short interview of Beaman in Rockford on the night of August 28, 1993, which Beaman terminated abruptly. (Ex. 5, Daniels, p. 115, 124-25, 30). Daniels and Hospelhorn came away from the Beaman interview believing Beaman's conduct was highly suspicious. They were particularly interested that while Beaman was questioned about his relationship with Lockmiller, he never asked if something had happened to her. (Ex. 5, Daniels, p. 129). Daniels and Hospelhorn returned to Rockford the following day to attempt to talk to Beaman again, but were told Beaman was represented by counsel and would not talk to the detectives. (Ex. 5, Daniels, p. 143-44).

29. Throughout the first six weeks after the murder, every detective in CID worked on the investigation. Dozens of friends, neighbors, boyfriends, relatives and acquaintances were interviewed. (Ex. 3, Warner, pp. 66-68). Zayas, as the head of CID, assigned various parts of the investigation to the detectives. (Ex. 4, Zayas, p. 69). Each detective then worked on various facets of the cases. (Ex. 1, Freesmeyer, p. 37).

30. The detectives in CID had periodic meetings to discuss the investigation. (Ex. 1, Freesmeyer, pp. 36-37). At times Souk or other attorneys from the State's Attorney's Office attended as well. (Ex. 6, Souk, p. 224).

31. Early in the investigation Freesmeyer focused on investigating Mike Swaine, who appeared at Lockmiller's apartment while Freesmeyer was at the crime scene. (Ex. 1, Freesmeyer p. 73). Swaine was Beaman's roommate, and had begun dating Lockmiller. After Swaine's alibi checked out and he passed a polygraph, Freesmeyer worked with Swaine to

CU0332

obtain recorded conversations with Beaman. (Ex. 1, Freesmeyer, pp. 220, 192-93; Ex. 8, Freesmeyer Report, pp. 19, 24).

**Morgan Keefe**

32. Morgan Keefe (Hartman) was Lockmiller's best friend. (Ex. 21, Keefe (Hartman), p. 26; Ex. 20, Freesmeyer GJ Tr., pp. 127, 142). Immediately after discovering Lockmiller's body, Keefe called 911 and told the dispatcher that "I know who did it .... [Lockmiller] had this psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door." (Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27; Ex. 21; Ex. 26, 911 Transcript).

33. On August 28, 1993, shortly after Keefe discovered Lockmiller's body, Detective Warner interviewed Keefe at NPD. (Ex. 7, Keefe Stmt.). Keefe provided the following information to Detective Warner:

- (a) She and Lockmiller went to a movie on Tuesday night before Lockmiller was found; they left the theater around midnight and that was the last time Keefe saw or spoke with Lockmiller. (Ex. 7, Keefe Stmt., p. 1-2.)
- (b) Lockmiller was dating Alan Beaman. (Ex. 7, Keefe Stmt., p. 3.)
- (c) Lockmiller didn't like Beaman very much and when Lockmiller tried to stay away from Beaman, he would threaten suicide. (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pp. 18-19).
- (d) Beaman broke down the door to Lockmiller's apartment a couple of times and Lockmiller's landlord fixed the lock. (Ex. 7, Keefe Stmt., p. 3).
- (e) One night Keefe arrived at Lockmiller's apartment and there was a chair and a big beam against the front door. When she opened the door, Lockmiller started screaming and Keefe told her, "Jen, it's me. It's ok," and Lockmiller said, "Oh, well, Alan [Beaman] broke down the door awhile ago." (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pps. 25-26). Keefe described Lockmiller as scared of Beaman. (Ex. 21, Keefe (Hartman), p. 26).

C00333

- (f) Lockmiller told Keefe that she was looking forward to Beaman going home over the summer, so that she could finally spend time with Swaine. (Ex. 7, Keefe Stmt., p. 4.)
- (g) Beaman moved home on August 4, 1993 and Swaine moved into Lockmiller's apartment with her around August 15 because he didn't have a place to live. (Ex. 7, Keefe Stmt., pp. 4-5.)
- (h) Lockmiller told Keefe on August 24 that she recently had sex with Swaine. (Ex. 7, Keefe Stmt., p. 6.)
- (i) Keefe had been trying to contact Lockmiller since Wednesday around 3:30 p.m. (Ex. 7, Keefe Stmt., p. 12.)
- (j) Keefe found the door to Lockmiller's apartment unlocked when she arrived and discovered Lockmiller's body. (Ex. 7, Keefe Stmt., p. 15.)

34. Keefe knew Lockmiller was afraid of Beaman. Lockmiller told Keefe "over and over again" that she was afraid of Beaman. (Ex. 21, Keefe (Hartman), pp. 18, 30). Keefe knew Beaman was possessive, verbally aggressive, and that he would call Lockmiller's apartment repeatedly in a harassing manner. (Ex. 21, Keefe (Hartman), pp. 18-19, 25).

#### Lockmiller's Neighbors

35. Liza Everett and Lori Solomon, who lived directly below Lockmiller in apartment No. 2, told NPD detectives they overheard fights between Lockmiller and a man who drove a silver Ford Escort. (Ex. 8, Freesmeyer Rpt., p. 2). Beaman drove a silver/grey Ford Escort. (Ex. 19, Freesmeyer Trial Tr., p. 824).

36. David Singley, who lived directly across the hall from Lockmiller told NPD detectives that approximately a month before Lockmiller's murder he overheard an early morning argument between Lockmiller and Beaman, during which Beaman tried to break into Lockmiller's apartment three to four times by kicking it and throwing himself against her apartment door. (Ex. 8, Freesmeyer Rpt., p. 3). Singley also told NPD detectives that on that morning when Beaman could not gain access to Lockmiller's apartment, Beaman ran around

C00334

the apartment parking lot yelling "slut," returning to her apartment a short time later to yell something like "I see your cherry stain on the bed" and "you slept with him but you wouldn't sleep with me;" and "the only reason you dated me was to go to bed with my friend." (Ex. 8, Freesmeyer Rpt., p. 3).

37. Susan Jenkins, who lived with David Singley, described this same incident to NPD, telling detectives that Beaman seemed so "absolutely crazed" that she was afraid to call the police because she thought that if she did Beaman would beat Lockmiller as a result. (Ex. 8, Freesmeyer Rpt., p. 3).

#### **Time of Death**

38. Dan Brady, the McLean County Coroner, opined that Lockmiller's body was in her apartment for 2-4 days before she was discovered. (Ex. 25, NPD Crime Scene Rpt., p. 120; Ex. 20, Freesmeyer GJ Tr., pp. 141-142, 157). The coroner estimated the time of death being between 9:00 a.m. on August 25, 1993 and 9:00 a.m. on August 27, 1993. (Ex. 36, Coroner's Rpt., pp. 332-333).

39. Claudine Moss told NPD detectives she spoke to Lockmiller at 8:00 a.m. on August 25, 1993 about a kitten Lockmiller was advertising for sale. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47; Ex. 16, Lockmiller's Telephone Records). Moss told NPD detectives she and her husband went to Lockmiller's apartment to look at the cat around 4:20 p.m. on August 25, 1993, but Lockmiller did not answer her door. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47).

40. NPD detectives obtained Lockmiller's class schedule for August 25, 1993 and learned that she had four classes/on that date: (a) 9:00-9:50 a.m.; (b) 10:00-10:50 a.m.; (c) 11:00-11:50; and (d) 2:00-2:50 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45). NPD detectives learned that Lockmiller attended her first three classes, but did not attend her fourth class,

C00335

which began at 2:00 p.m. (Ex. 8, Freesmeyer Rpt., p. 441; Ex. 20, Freesmeyer GJ Tr., pp. 144-45, 261). They learned that Lockmiller failed to attend a meeting at the Vidette Newspaper, where she worked, at 8:00 p.m. on August 25. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45).

41. NPD detectives were unable to find any person who saw Lockmiller alive after her 11:00-11:50 a.m. class on August 25, 1993. (Ex. 20, Freesmeyer GJ Tr., p. 147).

#### Alan Beaman's Alibi

42. On October 12, 1993, Alan Beaman was interviewed by Detective Freesmeyer at the NPD. (Ex. 8, Freesmeyer Rpt., pp. 215-217). During the interview Beaman stated that on August 25, he arrived home from work between 9:00-10:00 a.m. and was there alone, sleeping until his parents woke him up at 3:30-4:00 p.m. when they got home. (Ex. 8, Freesmeyer Rpt., pp. 216-217, 221; Ex. 20, Freesmeyer GJ Tr., pp. 204-05, 228-229).

43. Beaman's supervisor, Dennis Clark, confirmed to NPD detectives that Beaman got off work on August 25 at 9:00 a.m. (Ex. 20, Freesmeyer GJ Tr., pp. 152-53).

44. On October 11, 1993, the day before Freesmeyer's interview of Beaman, NPD detectives learned that Beaman made a deposit at Bell Federal Savings and Loan Bank, located at 1466 S. Alpine Road, Rockford, at approximately 10:11 a.m. on August 25. (Ex. 8, Freesmeyer Rpt., p. 214; Ex. 20, Freesmeyer GJ Tr., pp. 154-56).

45. Based on the distance between Rockford and Bloomington, NPD detectives believed it was possible for Beaman to have left Bell Federal, traveled to Bloomington to commit the murder and return to Rockford by 3:00 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 233-239; Ex. 1, Freesmeyer Dep., pp. 213-289).

**Beaman's Relationship with Lockmiller**

46. The detectives discovered that Beaman and Lockmiller had broken off their stormy relationship about one month before her murder. During their two-year relationship, Beaman and Lockmiller broke up and reunited about 18 times. They had many loud arguments, witnessed by their friends and neighbors, one of which resulted in Beaman drinking a bottle of nail polish remover and the police being called. (Ex. 1, Freesmeyer, pp. 193, 209; Ex. 6, Souk, p. 446; Ex. 20, Freesmeyer GJ Tr., p. 249).

47. In the course of the investigation, Freesmeyer reviewed the undated letters recovered from under Lockmiller's bed. (Ex. 8, Freesmeyer Rpt., pp. 7-11). The letters were written to Lockmiller by Beaman and contained among others, the following statements (Ex. 19, Freesmeyer Trial Tr., pp. 804-805; Ex. 8, Freesmeyer Rpt., pp. 7-11):

- (a) I love you more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason. Don't worry, I won't kill anybody, I don't believe in that. I do unto others as I would have them unto me (from now on).
- (b) I really just want you to be with me and only me.
- (c) I'm sorry that I've been such an ass lately. It seems like every time I don't get my way I freak out and do something stupid. I know that it's a problem, and I'm really trying to mellow out about things like that, but it's hard for me because I always expect to get the run-around. Needless to say this whole Bubba thing has got me freaked out more than you could possibly imagine. With the most confusing and passionate love ever imaginable in anyone's wildest dreams.
- (d) I can't bear any longer to stare into your eyes to see the barrage of countless past lovers of your life. I cannot look at you, if I cannot touch you.

(Ex. 8, Freesmeyer Rpt., pp. 7-10).

48. In June, 1993, Beaman broke in the door of Lockmiller's apartment because she was hosting her friend and sometimes lover, Larbi John Murray ("Murray"). (Ex. 6, Souk, p. 386; Ex. 10, Murray September 2, 1993 Interview Transcript). Todd Barth,

C00337

Lockmiller's friend, told NPD detectives that around 3 a.m. on July 5 or 6, 2015, Lockmiller called him because Beaman was trying to break in and they had to move a dresser in front of the door. (Ex. 37, Barth Stmt., pp. 1, 9-100).

49. On July 25, 1993, Beaman suspected that Lockmiller was seeing and possibly sleeping with Beaman's roommate, Michael Swaine, and again knocked down Lockmiller's apartment door. (Ex. 1, Freesmeyer, p. 257). Swaine asked Beaman around 2:00 a.m. that night to borrow his car to go to a party. Thinking Swaine was lying, Beaman followed Swaine on his bicycle to Lockmiller's apartment because he "wanted to watch them." (Ex. 36, Pl. Stmt., p. 19; Ex. 24, Swaine 8/28/93 Stmt., p. 10). Beaman banged on the door yelling, "I knew it! I know you are in there!" (Ex.24, Swaine Stmt., pp. 16-18). Beaman kicked in the door and looked for Swaine, who was hiding in the closet. (Ex. 35, Beaman Stmt., p. 19; Ex. 24, Swaine 8/28/93 Stmt.; Ex. 24, Swaine 8/29/93 Stmt).

50. On another occasion, Beaman pushed his way into Lockmiller's apartment and rummaged through Lockmiller's trash looking for Swaine's used condoms as evidence. (Ex. 1, Freesmeyer, pp. 195, 201).

51. Hospelhorn interviewed Kris Perry, a friend of Lockmiller and Beaman. Perry told Hospelhorn that Lockmiller told Perry that Beaman once said he would kill Lockmiller then kill himself. (Ex. 2, Hospelhorn, p. 109). When Hospelhorn interviewed Perry again on another day, Perry changed his report to take out that Beaman said he would kill Lockmiller, and changed his statement to say that Beaman only said he would kill himself. (Ex. 2, Hospelhorn p. 110-11).

52. Friends and family told NPD that Lockmiller was afraid of Beaman and she intended to seek an order of protection. (Ex. 4, Zayas, pp. 190-95).

C00338

53. Heidi Steinman, a close friend of Lockmiller's, told NPD detectives that Beaman treated Lockmiller like she was his property. (Ex. 27, Steinman Stmt., p. 10). Steinman told NPD detectives Lockmiller told her that Beaman had thrown a glass at Lockmiller and had also thrown and broken a lamp when he was angry at her. (Ex. 28, Steinman Stmt., pp. 2-3).

54. Michael Swaine explained to NPD detectives that Lockmiller thought Beaman was infatuated with her and Beaman thought Lockmiller was the only woman for him (Ex. 24, Swaine 8/28/93 Stmt., p. 9).

55. Mike Mackey, a friend of Beaman's, told NPD detectives Lockmiller would "fuck with his [Beaman's] head so much that he would just go crazy, I mean, he would be irrational and mood swings and she would just drive him nuts and he would, I mean, for months on end that's all he ever talked about was him and Jen [Lockmiller] and how she was pissing him off . . . it just made him suicidal I mean it was just nuts and she just drove him crazy." (Ex. 32, Mackey Stmt., p. MCC 1679).

56. NPD detectives learned that in the summer of 1993 Beaman was seeing a psychiatrist, wasn't eating or sleeping, and "was just a mess" and "a mental wreck" because of what he was "going through with Jen." (Ex. 24, Swaine 8/28/93 Stmt., pp. 9-14).

57. Jennifer Seig told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together. (Ex. 33, Seig Stmt., p. 6).

58. Katy Corbett, Beaman's friend, told NPD detectives she and Lockmiller were talking about relationships and Lockmiller was ready to call it quits with Beaman, but she did not because Beaman "went through these times when he would be violent and you know he punched a huge hole in her wall at her apartment and just you know times that he would get

C00339

really upset.” Corbett also said that Lockmiller told her she was going to wait until the end of the summer to break it off because Lockmiller didn’t want to make Beaman upset while he was still working here at the theater. (Ex. 28, Corbett Stmt., p. 7). Corbett stated that Swaine was “definitely not” a violent individual, but “if Alan [Beaman] were (sic) in the right frame of mine (sic), he could be violent.” (Ex. 28, Corbett Stmt., p. 5). Corbett said every time she saw Beaman “in these violent rages he would usually take it out on something else, like there is holes in the apartment walls everywhere at our complex . . . he would bash things . . .” (Ex. 28, Corbett Stmt., p. 8).

59. Swaine also told NPD detectives Beaman got violent and punched a large hole in Lockmiller’s bedroom wall. (Ex. 24, Swaine 8/28/93 Stmt., pp. 6-7; Ex. 24, Swaine 8/29/93 Stmt., p. 71).

60. Michael Bowen, Lockmiller’s friend, told NPD detectives Lockmiller told him Beaman “pushed her before.” (Ex. 9, Hospelhorn Rpt., p. 8).

61. Meredith Haynes, a friend of Lockmiller’s who had been romantically interested in Beaman in the past, stated that Lockmiller told her Beaman broke into her (Lockmiller’s) apartment or broke down the door several times, pushed her around and knocked things over. (Ex. 34, Haynes Stmt., pp. 1-2, 6-7).

#### **Swaine’s Relationship with Lockmiller**

62. During the summer of 1993, Michael Swaine and Beaman were roommates and working together at the Illinois Wesleyan theater. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50). Swaine began a sexual relationship with Lockmiller in June 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50; Ex. 24, Swaine 8/29/93 Stmt., p. 304, 221). Swaine and Lockmiller had sex for the first time on June 11, 1993, when Beaman was driving to/from Rockford to get

C00340

marijuana for Lockmiller. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., pp. 405, 22).

63. Swaine told NPD Beaman gets “real jealous” and “would make everything real dramatic” when he thought that “something is going on” between Lockmiller and another man. Consequently, Swaine and Lockmiller attempted to hide their relationship from Beaman for a time. (Ex. 24, Swaine 8/29/93 Stmt., pp. 3-11; Ex. 24, Swaine 8/28/93 Stmt., pp. 5-6). The Monday after Swaine slept with Lockmiller for the first time, he told Beaman that he had just “kissed her” causing Beaman to get “mad at her and not me [Swaine].” (Ex. 24, Swaine 8/29/93 Stmt., pp. 4-7.)

#### **Beaman’s Discovery of Lockmiller’s Letters to Swaine**

64. On July 25, 1993, Beaman searched Swaine’s bedroom while Swaine was at work because Beaman “had to have evidence” of Lockmiller and Swaine’s relationship. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 33, Seig Stmt., p. 5-6). During his search of Swaine’s bedroom, Beaman found two letters from Lockmiller to Swaine, which Beaman felt confirmed his suspicions that more had happened between them than Swaine told Beaman. (Ex. 24, Swaine 8/29/93 Stmt., pp. 7-8, 26; Ex. 20, Freesmeyer GJ Tr., pp. 251-53). Beaman also found an opened box of condoms in his and Swaine’s apartment and believed some condoms were missing from the box. (Ex. 29, Endicott Stmt., pp. 5-6). Beaman thought the missing condoms meant Swaine was having sex with Lockmiller. (Ex. 29, Endicott Stmt., pp. 5-6).

65. Beaman took the letters he found in Swaine’s bedroom to the theater where he and Swaine worked together, and angrily confronted Swaine about his relationship with

C00341

Lockmiller, accusing Swaine of “fucking my girlfriend.” (Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 28, Ex. 28, Corbett Stmt., pp. 3-4).

66. Immediately thereafter, Beaman went to Lockmiller’s apartment to confront her. (Ex. 27, Steinman Stmt., pp. 2-3). Lockmiller’s apartment door was locked, so Beaman pounded on Lockmiller’s door until he was let in. (Ex. 27, Steinman Stmt., pp. 2-3).

67. Steinman, who was with Lockmiller in her apartment at that time, told NPD detectives that Beaman said, “Don’t do this to me Jen. I’m going to kill myself” and kept threatening suicide until he was let into Lockmiller’s apartment. (Ex. 27, Steinman Stmt., pp. 23). Once inside, Beaman angrily confronted Lockmiller with the letters he believed was evidence of her relationship with Swaine. (Ex. 27, Steinman Stmt., p. 2-3). He went through Lockmiller’s bathroom garbage, found a tampon applicator, and said, “See this is prophylactic. I know it, I know it. You had sex with him.” (Ex. 27, Steinman Stmt., p. 3).

#### **Beaman Leaves for Ohio**

68. Beaman left Bloomington on July 25 after confronting Swaine and Lockmiller and went to Ohio, where he stayed with a friend, until August 4. (Ex. 24, Swaine, pp. 26).

69. Before leaving Bloomington, Beaman left his theater professor, Dr. Brown, a note stating, “I know this is unprofessional and childish, but this has been chewing at me since early July. I’m too damn tired of this to be professional. If that makes me a nobody or means that I’m through at IWU, okay. But the things that I’ve found out and witnessed about my aforementioned roommate and my ex-fiancé have crushed any spirit. I had to get out of the slump, and it’s really just time for me to leave. I’m just afraid I’d cause even more hell to break loose.” (Ex. 20, Freesmeyer GJ Tr., pp. 250-52). Beaman attached the two letters he

C00342

found in Swaine's room to the note he left for Dr. Brown. (Ex. 20, Freesmeyer GJ Tr., pp. 251-53).

70. While he was in Ohio, Beaman called Lockmiller eight times. (Ex. 30, Stipulation-Phone records, McLean 1306-1307; Ex. 16).

### **Beaman Returns to Illinois**

71. On August 4, Beaman returned to Bloomington to retrieve his car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69). Upon arriving in Bloomington, Beaman went to the apartment he shared with Swaine and saw Swaine driving in Lockmiller's car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69).

72. That same day, Beaman went to Lockmiller's apartment for about 30-45 minutes "to talk to her because we had broken up." (Pl. Stmt., p. 13). Beaman then drove Lockmiller to class, and when he dropped her off, she kissed him goodbye and he told her, "that might be the last time we ever kissed" because he did not think he could ever trust her again. (Ex. 35, Pl. Stmt., p. 14).

73. Beaman told NPD detectives that August 4, 1993 was the last time he saw Lockmiller and that he had "no idea" if she was dating anyone "and didn't want to know." (Ex. 35, Pl. Stmt., pp. 9, 13; Ex. 20, Freesmeyer GJ Tr., p. 179).

74. Beaman returned to Rockford on August 4, 1993. (Ex. 35, Pl. Stmt., pp. 2-3, 1013).

### **Swaine Moves in with Lockmiller**

75. Swaine moved out of the apartment he shared with Beaman and began living with Lockmiller in her apartment around August 14 or 15, 1993. (Ex. 24, Swaine 8/28/93 Stmt., pp. 23; Ex. 24, Swaine 8/29/93 Stmt., pp. 2-3; Ex. 8, Freesmeyer Rpt., pp. 12). At the

C00343

time of the murder, Swaine was living with Lockmiller but had gone home to Elmhurst, Illinois the previous week to work. (Ex. 24, Swaine 8/29/93 Stmt., pp. 33-34, 5362).

76. Swaine's belongings were in Lockmiller's apartment after he moved in: his "stuff" was on the top bunk in the bedroom, his alarm clock was on the floor of her bedroom, his clothes were in Lockmiller's closet and drawers, his box fan was in her bedroom, a box of his letters was in the living room and his phone list was near the TV. (Ex. 24, Swaine 8/29/93 Stmt., pp. 35-51).

77. Swaine told detectives that when he talked to Lockmiller on Sunday, August 21, Lockmiller said that she had not told Beaman she was living with Swaine. (Ex. 24, Swaine 8/29/93 Stmt., p. 70).

#### **Beaman's Contact with Lockmiller from Rockford**

78. Steinman told NPD detectives Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he was hearing from friends that she had gone out with a guy. (Ex. 27, Steinman Stmt., p. 4; Ex. 13, Ex. 20, Freesmeyer GJ Tr., pp. 150-51).

79. Lockmiller's phone records show she made 28 calls to Beaman's Rockford residence on August 22, 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 148-49; Ex. 16). The next day, August 23, Beaman and Lockmiller spoke on the telephone for 13 minutes. (Ex. 20, Freesmeyer GJ Tr., p. 150; Ex. 16).

80. Beaman told Detective Freesmeyer Lockmiller was asking to get back together with him during the August 23 call, but Beaman said "No, I don't want to talk to you. You fucked my fucking roommate and I don't want to talk to you." Then, he hung up the phone. (Ex. 31, 2/16/94 Overhear Tr., p. 35).

C00344

### THE OTHER SUSPECTS

81. In addition to Beaman and Swaine, Stacey "Bubba" Gates, John Murray, and Rob Curtis had early on in the investigation been investigated as possible suspects. (Ex 4, Zayas, p. 103; Ex. 1, Freesmeyer, p. 63; Ex. 8, Freesmeyer Rpt.). Freesmeyer began focusing exclusively on Beaman. (Ex. 1, Freesmeyer, p. 192).

82. Gates was eliminated as a suspect early on when his alibi was verified. (Ex. 1, Freesmeyer, p. 90). He was teaching at a school in Peoria when Lockmiller was murdered. (Ex. 1, Freesmeyer, p. 277).

83. Tony Daniels was in charge of investigating Murray. (Ex. 5, Daniels, p. 131). Daniels and Hospelhorn interrogated Murray on two occasions, and tape recorded the statements. (Ex. 2, Hospelhorn, pp. 33, 151-50; Ex. 9, Hospelhorn Rpt., pp. B, 1; Ex 10 and 11, Murray Interview Transcripts). The September 2, 1993 interview with Murray revealed the following:

- (a) Murray previously dated Lockmiller.
- (b) Murray visited Lockmiller's apartment sometime between August 19 and 23.
- (c) Murray believed he left Bloomington to go to Byron, Illinois on August 24 at 3 p.m.
- (d) Murray was in Byron until September 1.
- (e) While Beaman and Lockmiller were dating, Beaman "freaked out" and kicked in Lockmiller's door when Murray was inside, and grabbed Lockmiller's arm.
- (f) Lockmiller told Murray she was scared to break up with Beaman because she "did not know what he was going to do" and that Beaman was a "psycho."

(Ex. 10, September 2, 1993 Murray Interview Transcript, pp. 1, 5, 13-14, 17).

84. Daniels and Hospelhorn's September 8, 1993 interview with Murray revealed the following:

C00345

- (a) Murray clarified the last time he saw Lockmiller was on August 21, a date he recalled based on his live-in girlfriend Debbie Mackoway's work schedule.
- (b) Mackoway left their apartment for work at approximately 6:30 a.m. on August 25, and returned to their apartment at 1 p.m.
- (c) Murray was at home from the time Mackoway left for work until the time she returned at 1 p.m.
- (d) Murray was with Mackoway from 1 p.m. to 4 p.m. on August 25.
- (e) Murray left Bloomington for Byron, Illinois on August 25 at 4 p.m.
- (f) Murray returned to Bloomington on September 2.
- (g) Murray sold Lockmiller marijuana.
- (h) Lockmiller owed Murray \$20.
- (i) Murray offered to take a polygraph.
- (j) Murray offered to provide his telephone records to the NPD.
- (k) On the day Murray learned of Lockmiller's death, he and Mackoway moved into a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman.

(Ex. 11, September 8, 1993 Murray Interview Transcript, pp. 2-7, 13-14, 18, 23; Ex. 2, Hospelhorn, pp.151-53).

85. Daniels and Hospelhorn also interviewed Murray's live-in girlfriend, Debbie Mackoway on September 3, 1993 and September 8, 1993. (Ex. 2, Hospelhorn, pp. 33, 151; Ex. 9, Hospelhorn Rpt., pp. 9-10, 4434; Ex. 12, Mackoway Interview Transcripts). Those interviews revealed the following:

- (a) Mackoway was with Murray at their apartment from 2 p.m. to 4:20 p.m. on August 25.
- (b) Murray left Bloomington for Byron, Illinois on August 25 at approximately 4:20 p.m.
- (c) Murray returned to Bloomington on September 1.

- (d) Mackoway last saw Lockmiller on August 21. Mackoway was with Murray when they saw Lockmiller, which she believed was the last time Murray saw Lockmiller as well.

(Ex. 12, Mackoway September 3 and 8, 1993 Interview Transcripts; Ex. 9, Hospelhorn Rpt., p. 10; Ex. 2 Hospelhorn, pp. 154-55).

86. On September 30, 1993, Daniels took Murray to the Morton Crime Lab for a polygraph. (Ex. 5, Daniels, pp. 169, 256, 277-278). Terrance McCann was the polygraph examiner who administered the test to Murray. (Ex. 5, Daniels, p. 254). McCann tried to administer the test to Murray, but was unable to get a result because Murray was unable to comply with McCann's directions. (Ex. 37, McCann, pp. 47-48). McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Ex. 37, McCann, pp.198-99). McCann explained to Daniels that the test could not be completed. (Ex. 5, Daniels, P. 261). While driving Murray back to Bloomington, Daniels discussed with Murray taking another polygraph with a female examiner, which might relax Murray so that he could complete the test. (Ex. 5, Daniels, p. 270).

87. During the course of the investigation, Warner received a polygraph report regarding Murray. The report was requested by Daniels, who was the CID detective who was assigned to investigate Murray. Warner made the appointment for the polygraph by calling the polygraph examiner and asking him to set up the Murray examination. (Ex. 3, Warner, p. 38). When Warner received that report, he gave it to Daniels. (Ex. 3, Warner, p. 39). He did not know what Daniels did with the report. (Ex. 3, Warner, pp.45-46).

88. Warner understood that reports that were received from the State Police Lab were also sent directly to the State's Attorney's Office by the State Police Lab. Warner believed that the Murray polygraph report, in addition to being sent to the NPD, would also be

C00347

sent directly by the State Crime Lab to the State's Attorney's Office. (Ex. 3, Warner, pp. 39-40).

89. Daniels does not deny getting the Murray polygraph report from Warner, but he has no memory of it. (Ex. 5, Daniels, pp. 279-80, 677).

90. Daniels has no reason to believe Warner would have done anything to intentionally suppress the Murray polygraph report. During Daniels' deposition, the following colloquy occurred:

Q: Would it be fair to say you don't feel like Dave Warner – well, you don't believe Dave Warner did anything wrong in this case?

A: In my opinion, Dave Warner did not do anything that would have been illegal or unprofessional.

Q: Okay. You have no reason to believe that Dave Warner would have done something to intentionally hide that polygraph report from anybody?

A: In my opinion, I don't believe he had any motive, anything to gain by that, nor did he do it.

(Ex. 5, Daniels, pp. 435-436).

91. Daniels describes the possible explanations for the Murray polygraph report not being turned over to the State's Attorney as follows:

- (a) Warner gave it to Daniels and Daniels misplaced it. (Ex. 5, Daniels, pp. 677-78);
- (b) An NPD intern who made copies for the file could have misplaced it. (Ex 5, Daniels, pp. 223-24);
- (c) Daniels could have put it in a different file accidentally. (Ex. 5, Daniels, p. 677); and
- (d) The report could have otherwise fallen through the cracks somewhere in the NPD. (Ex. 5, Daniels, pp. 675-66).

92. Freesmeyer's entire knowledge regarding Murray was documented in a comprehensive report Freesmeyer completed. (Ex. 1, Freesmeyer, p. 220; Ex. 8, Freesmeyer

C00348

Rpt.). Kenneth Frankenberry, a state polygraph examiner from Rockford had set up three polygraph examinations at the NPD on October 12, 1993. One was for Beaman's friend, Chris Carbone, one was for Murray, and one for Beaman. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp.26-271). Murray did not show up for his examination, and Beaman refused. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp. 26, 29). Freesmeyer was aware that Daniels' interviewing style scared off a lot of the young people he interviewed. (Ex. 1, Freesmeyer, p. 140). Murray's not showing up for a polygraph did not indicate anything suspicious to Freesmeyer. (Ex. 1, Freesmeyer, p. 140). Freesmeyer had no other involvement with the investigation of Murray. Freesmeyer did not interview Murray, and likely never met with him. (Ex. 1, Freesmeyer, p. 87).

93. In February, 1994, several NPD investigators met with homicide detectives at the Chicago Police Department to discuss the investigation. (Ex. 5, Daniels, pp. 318-20). According to Daniels, alternative suspects, including Murray, came up at that meeting. (Ex. 5, Daniels, pp. 325-26). The Chicago detectives recommended that the NPD investigators continue to focus on Beaman as the prime suspect. (Ex. 5, Daniels, p. 321).

#### **THE DECISION TO CHARGE BEAMAN**

94. On May 16, 1994, a meeting was held to decide if Beaman should be arrested for Lockmiller's murder. Attending the meeting were NPD Chief James Taylor, Zayas, Daniels, Freesmeyer, State's Attorney Reynard, and Assistant State's Attorney Souk. (Ex. 6, Souk, pp. 232-36).

95. The investigators provided input on what the nine month investigation had produced. As a result of that discussion, State's Attorney Reynard decided that Beaman should be charged with Lockmiller's murder. (Ex. 6, Souk, p. 140). None of the NPD

C00349

investigators lobbied or urged the State's Attorney to charge Beaman. (Ex. 6, Souk, p. 442). The decision was solely made by Reynard. (Ex. 6, Souk, p. 140). Souk agreed with the decision. (Ex. 6, Souk, p. 179). According to Souk, no one at the meeting expressed any opposition to the decision to charge Beaman. (Ex. 6, Souk, p. 237).

96. In April, 1994, Tony Daniels attended a conference for police agencies on cold case investigations. Daniels was authorized to attend, and planned to discuss the Rostock murder which was unsolved in Normal since the 1970's. NPD Assistant Police Chief Walt Clark suggested that Daniels instead discuss the Lockmiller murder. (Ex. 5, Daniels, pp. 327-28). Daniels copied the entire Lockmiller file in the NPD, and brought it with him to Florida to discuss the case. Daniels returned with a list of investigative avenues that had been suggested for the case. (Ex. 5, Daniels, pp. 205-06, 330).

97. According to Daniels, he brought the list from the Florida conference to the May 16, 1994 meeting and suggested they pursue the list before they proceed with Beaman's arrest. (Ex. 5, Daniels, p. 337). According to Daniels, Souk said "I think we've got our guy" in response to the Daniels suggestion. (Ex. 5, Daniels, p. 463). Souk also said that "we went as far as we can with this case. We are going to go ahead and issue a warrant for [Beaman's] arrest." (Ex. 5, Daniels, p. 340).

98. Freesmeyer agreed with the decision to proceed against Beaman. Freesmeyer concluded there was probable cause for the arrest and prosecution of Beaman based on the following information developed during the murder investigation. (Ex. 1, Freesmeyer, p. 193; Ex. 8, Freesmeyer Rpt.).

- Beaman's fingerprint was on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Ex. 1, Freesmeyer, pp. 193, 201);

- The crime scene matched something Beaman confessed about during one of the overhears. (Ex. 1, Freesmeyer, pp. 195-96). Beaman admitted that one time he pulled a garbage bag out of a garbage can in Lockmiller's apartment to search for evidence of condoms deposited by Swaine or some other Lockmiller lover. (Ex. 1, Freesmeyer, p. 210). The police found a garbage bag that had been pulled out of the can and was sitting on the living room couch at the crime scene. (Ex. 1, Freesmeyer, pp. 210-11).
- The police found voluminous letters Beaman had written Lockmiller, which showed an intense passion for her. Telephone records showed 28 phone calls from the Lockmiller residence to Beaman's home residence within the days before the murder. (Ex. 1, Freesmeyer, p. 193).
- There was a hole in Beaman's alibi. (Ex. 1, Freesmeyer, p. 193).
- Beaman had broken down Lockmiller's apartment door to get into her apartment twice before. (Ex. 1, Freesmeyer, p. 193).
- Freesmeyer had asked Beaman several times in interviewed whether he had any evidence or information that could clear him. Beaman's response was that he had nothing. (Ex. 1, Freesmeyer, p. 194).
- Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not. In reality, Beaman had gone to a bank in Rockford that morning. A video from the bank showed Beaman in the bank at 10:11 a.m., when Beaman had told the police he got off work at 9:00 a.m., and went straight to bed. (Ex. 1, Freesmeyer, pp. 194, 200).
- Beaman's attorney had requested and received the videotape from the Rockford bank in September, 1993, so Freesmeyer concluded Beaman was lying when he said he went straight to bed. (Ex. 1, Freesmeyer, pp. 194, 199).
- Beaman made several suspicious statements on the overhear with Swaine. Beaman said Lockmiller had "dug into him with ounce of sharp silver she had." Freesmeyer concluded that the statement, not generally used as an expression matched that Lockmiller was stabbed in the chest with silver scissors, which had not been reported when the statement was made. (Ex. 1, Freesmeyer, pp. 195-96).
- Beaman told Swaine on the overhear that he knew Swaine was sleeping with Lockmiller because "that pussy never tasted the same," which seemed to be a crude reference about somebody he supposedly loved, immediately after her death. (Ex. 1, Freesmeyer, p. 196).
- Beaman told Swaine that Lockmiller was never going to be happy. In Freesmeyer's homicide investigation training, a killer will often say something

C00351

like that as an effort to justify his action in his own mind. (Ex. 1, Freesmeyer, p. 197).

- Beaman told Swaine that “she (Lockmiller) trained me good and she would have trained you just the same.” Freesmeyer saw the statement as another justification for his actions. (Ex. 1, Freesmeyer, p. 197).
- A fan covered Lockmiller’s face, which Freesmeyer saw as fitting a pattern where a person murders someone he knows than cannot face it. (Ex. 1, Freesmeyer, p. 203).
- Lockmiller was stabbed multiple times after she was already dead. According to the coroner’s report Lockmiller died of strangulation. There was no blood spatter at the crime scene which indicated Lockmiller’s heart was not pumping when stabbed. It was inconsistent with the act of a random person, and indicated the killer had vengeance as a goal. Lockmiller had hurt Beaman very deeply, and no else was known to have any passionate feelings about Lockmiller. (Ex. 1, Freesmeyer, p. 197).
- There was no forced entry. Valuables lying around the apartment. Her purse was laying right there. A burglar would have taken those things and there would have been a forced entry of some type. (Ex. 1, Freesmeyer, p. 211).

99. Souk considered it significant that Beaman’s fingerprints were only found on the clock radio, the murder weapon, and not anywhere else in the apartment. (Ex. 6, Souk, p. 128). Souk considered that there was sufficient evidence to establish probable cause, and a reasonable chance of prevailing at trial. (Ex. 6, Souk, p. 241).

100. Souk considered that Beaman’s motive was based on his intense, passionate love affair with Lockmiller over many months, their stormy relationship, his explosive temper, his acting out on that temper on a number of occasions and Beaman’s reaction when approached by the police after Lockmiller’s body was found. (Ex. 6, Souk, p. 242). Souk thought Beaman’s reaction to Lockmiller’s death was very strange for a person with his passionate love and bitterness toward Lockmiller. (Ex. 6, Souk, p. 244).

101. Souk thought it significant that Freesmeyer interviewed Beaman’s neighbor, Mr. Van Barringer, who said that immediately after Hospelhorn and Daniels interviewed

C00352

Beaman on August 28, 1993, he came to Van Barringer's house and told Van Barringer that he (Beaman) had odometer evidence that would clear him for the murder. (Ex. 6, Souk, p. 243).

102. Souk was aware that someone reported that at some point in time Lockmiller said Beaman threatened to kill her and himself. (Ex. 6, Souk, p. 247).

103. Souk was aware that Murray was investigated as a possible suspect by the police. Souk read two interviews of Murray's girlfriend, Debbie Mackoway and the recorded interviews of Murray. Souk had to make a determination whether they should continue to investigate Murray and decided they would not. (Ex. 6, Souk, p. 258).

104. Souk read Freesmeyer's long report regarding the case. (Ex. 6, Souk, p. 268). Souk thought significant the in-depth evidence of Beaman and Lockmiller's relationship; Beaman's obsession with her; their relationship difficulties; that Beaman broke her door down twice; Beaman drank fingernail polish remover as a result of a fight with Lockmiller; Beaman had called the police falsely reporting Lockmiller was going to kill herself; and a confrontation Beaman had with Swaine at IWU over Lockmiller. (Ex. 6, Souk, p. 279).

105. Souk considered it significant that when Beaman was questioned by Freesmeyer early in the investigation and was asked about his activities of the week of the murder, Beaman immediately began with the day of the murder. (Ex. 6, Souk, p. 281).

106. Todd Heyse, the owner of 412 Main Street, where Lockmiller lived and the murder occurred, told the police that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day. (Ex. 6, Souk, p. 287). Heyse did not contact the NPD until June 1994, after he saw a picture of Beaman in the paper after Beaman's arrest in May 1994. (Ex. 23, Heyse, p. 80). Seeing the photograph of Beaman

C00353

jarred his memory of seeing the two people and prompted him to call the police. (Ex. 23, Heyse, p. 79-81).

107. Souk thought the evidence ruled out a burglar because there was no forced entry, Lockmiller's books and purse were on the kitchen counter and did not look like they were moved, there was no robbery or disarray of the apartment, Lockmiller's remote and car keys were placed on a counter with the television on as though she had just come in, and there was evidence Lockmiller was dragged into the bedroom. (Ex. 6, Souk, p. 287).

108. Souk believed Beaman came to Lockmiller's apartment, got upset when he saw that Swaine had moved in, and killed Lockmiller. (Ex. 6, Souk, p. 288).

109. Souk considered Swaine and Gates excluded by alibis. (Ex. 6, Souk, p. 381).

110. Souk thought that Beaman's motive was the most powerful motive evidence one would ever hear in a court of law. (Ex. 6, Souk, p. 395).

#### THE PROSECUTION

111. Souk was the lead prosecutor in Beaman's case. ASA Terri Dimmick was Souk's second chair for the prosecution. (Ex. 6, Souk, pp. 51, 387).

112. Souk presented the case to the grand jury. (Ex. 6, Souk, p. 83). Freesmeyer, Beaman, Beaman's parents, the director of Beaman's church Youth Ministries, Beaman's co-worker, and Beaman's employer all testified before the grand jury. The Grand Jury concluded on July 14, 1994 and returned a true bill. (Ex. 14, Grand Jury Transcript). Around January 1, 1995, Freesmeyer would move into the State's Attorney's Office as they began to prepare for the Beaman trial. (Ex. 1, Freesmeyer, p. 52).

113. In Souk's mind, Beaman was the only real suspect. (Ex. 6, Souk, p. 194). Souk concluded after reviewing all the information he had about Murray that he was not a

C00354

person of interest. (Ex. 6, Souk, p. 373). At the time of Beaman's prosecution, Souk did not believe there was any evidence to suggest that Murray killed Lockmiller. (Ex. 6, Souk, p. 373). Souk did not believe Murray had any motive to kill Lockmiller, even though Souk was aware of their sexual relationship in the year before her death, that Murray gave narcotics and marijuana to Lockmiller, and that there were some conflicting statements about whether Lockmiller owed Murray money for drugs. (Ex. 6, Souk, pp. 165-167). Souk was aware at the time of the prosecution that Murray claimed Lockmiller owed him some small amount of money, about \$20, for drugs. (Ex. 6, Souk, p. 167).

114. Souk knew at the time of Beaman's prosecution that Murray made a mistake regarding his alibi in his first interview with Daniels and Hospelhorn and corrected it in his second interview. Souk did not consider that to be suspicious. (Ex. 6, Souk, p. 364).

115. Every felony case prosecuted in the McLean County State's Attorney's Office at the time of Beaman's prosecution went through Souk's desk. (Ex. 6, Souk, p. 394).

116. By the end of 1994, Souk was aware of three charges against Murray, two for possession with intent to deliver, and one for domestic violence. The two drug charges were felonies, the domestic battery case was a misdemeanor. (Ex. 6, Souk, p. 170). Souk knew at the time of Beaman's trial that Murray had a domestic battery charge against him by his girlfriend, Debbie Mackoway (Bluestein). (Ex. 6, Souk, pp. 167-68).

117. Souk was aware at the time of Beaman's trial that Mackoway reported that Murray was taking steroids in January, 1994, and that she did not have problems with Murray before that. Mackoway related that Murray had been acting erratically, which she attributed to Murray taking steroids. (Ex. 6, Souk, pp. 325-26).

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118. Murray was never physically violent toward Mackoway until January, 1994. She and Murray had been in a peaceful relationship for the previous four years. (Ex. 22, Mackoway (Bluestein), pp. 34-35).

119. Murray began taking steroids in late 1993/early 1994. Mackoway saw a connection between Murray's steroid use and his violent behavior. (Ex. 22, Mackoway (Bluestein), pp. 36-37). When Mackoway was interviewed by the NPD about Lockmiller's murder in September, 1993, Murray had not been taking steroids and no physical abuse had been occurring at that time. (Ex. 22, Mackoway (Bluestein), p. 41).

120. In September, 1993, Mackoway did not believe Murray killed Lockmiller. (Ex. 22, Mackoway (Bluestein), p. 41). Mackoway has never come to believe that Murray killed Lockmiller. (Ex. 22, Mackoway (Bluestein), pp. 41-42).

121. The state subpoenaed Murray for the Beaman trial and he was on Souk's witness list. (Ex. 6, Souk, p. 387). ASA Dimmick interviewed Murray prior to the trial. (Ex. 6, Souk, p. 388). The state decided not to call Murray. (Ex. 6, Souk, p. 389).

122. Souk flagged information in the State's Attorney's file regarding Murray's pending cases so that the Assistant State's Attorney handling those cases, Robert Freitag, would not offer Murray a plea, in case they wanted to call Murray in the Beaman trial. If there was a plea taken in Murray's pending cases, it could have been used to impeach Murray had the state decided to call him as a witness. (Ex. 6, Souk, pp. 388-89). Souk put a note on that file saying that Murray was a witness in the Beaman case and that Freitag should see Souk before any deals were made with Murray. (Ex. 6, Souk, p. 393; Ex. 15, State's Attorney Case File).

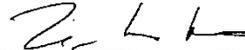
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123. Souk did not consider the face of the polygraph to indicate any wrongdoing or effort to deceive by Murray. (Ex. 6, Souk, p. 440).

124. Souk was not surprised that the McLean County State's Attorney chose not to re prosecute Beaman, because 13 years had passed since the trial, and it would be a monumental effort on the part of police and prosecutors to gather up all of the witnesses and evidence again. (Ex. 6, Souk, p. 66).

Ancel, Glink, Diamond, Bush, DiCianni &  
Krafthefer, P.C.

By:



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4850-2427-6779, v. 1

000357

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

McLEAN COUNTY  
FILED  
DEC 16 2015  
CIRCUIT CLERK

ALAN BEAMAN, )  
)  
Plaintiff, )  
)  
v. )  
)  
TIM FREESMEYER, Former Normal Police )  
Detective; DAVE WARNER, Former Normal )  
Police Detective; FRANK ZAYAS, Former )  
Normal Police Lieutenant; and TOWN OF )  
NORMAL, ILLINOIS, )  
)  
Defendants. )

Case No. 14 L 51

The Hon. Richard L. Broch

PLAINTIFF'S STATEMENT OF MATERIAL FACTS

**I. CERTIFICATE OF INNOCENCE**

1. Alan Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District on April 29, 2013. Certificate of Innocence (Pl. Ex. 1) at 1-2. The Certificate of Innocence states that Mr. Beaman "is innocent of the offenses charged in the indictment." *Id.* at 1.

2. Five years earlier, on May 22, 2008, the Supreme Court of Illinois ordered Mr. Beaman's conviction vacated in an unanimous opinion based on the State's failure to disclose exculpatory evidence. *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). This decision came after Mr. Beaman more than a dozen years incarcerated for a crime he did not commit.

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## II. ALAN BEAMAN

3. Aside from his wrongful conviction, Mr. Beaman has never been convicted of a crime. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 408-10.

4. With his parents and older brother, Mr. Beaman spent a quiet childhood in Rockford, Illinois. His mother taught math at the local high school; his father was an engineer. Carol Beaman Dep. (Pl. Ex. 3) at 97, 293. Mr. Beaman was the best man at his older brother's wedding, worked summers at his uncle's grocery store, and joined his family every night at the dinner table. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 163-64, 175, 178. They worshipped at the local Methodist church and were active members of the congregation. Souk Grand Jury Testimony (Pl. Ex. 4) at 3-5. He attended bible study classes and was described by his youth minister as an "interested, curious student." Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex. 5) at 37. *Id.* at 160.

5. Music was an important part of Mr. Beaman's life; for as long as he could remember he had been singing, and in the sixth grade he took up the saxophone. Pl. Trial Trans. (Pl. Ex. 6) (Part I) at 1651. In high school, he played in the jazz band and was part of his high school's marching band. *Id.* at 1652. He often played guitar and saxophone at church and was described by his pastor as "[a] natural in music." Olson Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex 5) at 37.

6. As a high school senior, Mr. Beaman discovered the theater. He designed the lighting for a school play, which sparked an interest in the production side of the stage. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 16. He decided to attend Illinois Wesleyan University in Bloomington, where he became a theater major. *Id.* at 13. Before long, he was taking an active

role in university and community theater productions, both in Rockford and Bloomington. He played guitar, appeared in one-act plays, and worked on the production side. *Id.* at 14.

7. Mr. Beaman's college career was cut short at the end of his senior year, when he was arrested for the murder of his former girlfriend, Jennifer Lockmiller, and incarcerated for over a dozen years. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

### III. THE VAST UNIVERSE OF POTENTIAL KILLERS

#### A. Unidentified Potential Killers

8. Defendant Frank Zayas, the head of the Normal Police Department Criminal Investigation Division, testified Lockmiller murder could have been committed by a large universe of potential suspects: "In a college town, I mean, there's so many possibilities." Zayas Dep. (Pl. Ex. 8) at 90. Zayas elaborated as follows:

A. The transient nature of the campus. The activities during the day and night, you know. A lot of parties. Kids are always out, all hours of the night and day. The crime scene is on – right on a main thoroughfare, Route 51 ... [I]t was kind of like an open case. We – we had no idea where to go.

....

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

*Id.* at 90-92.

9. The crime scene suggested that the murder began as a home invasion. Moses Report (Pl. Ex. 9) at 2. Kenneth Moses, Plaintiff's expert in crime scene investigation, has 40 years of experience in the analysis of forensic evidence. Moses CV (Pl. Ex. 10) at 1. According to Moses, features of the scene that matched the profile of a home invasion include: the time of the murder, the weakened condition of Ms. Lockmiller's lock, the apartment's location on the

top floor of the building, the location of the victim's shoe and earring, the positioning of the body, the placement of a floor fan over the victim's face, the wound pattern on the body, the apparent removal of a bag from the kitchen wastebasket, the apartment's general state of disarray, and food items left on the kitchen counter. Moses Report (Pl. Ex. 9) at 2-4.

10. A close friend testified that Ms. Lockmiller kept a clean apartment, and that the mess depicted in the crime scene photos was inconsistent with the victim's habits. Hartman Dep. (Pl. Ex. 11) at 29, 36. One crime scene photo was inconsistent with the typical state of the apartment because it showed a calendar on the floor and a cooking pot out on a desk. Hartman Dep. (Pl. Ex. 11) at 34; Crime Scene Photo, Ex. 8 in Hartman Dep. (Pl. Ex. 12). Another photo, which showed a pot on the stove and a mess of food out on the kitchen counter, was "really atypical" in light of Ms. Lockmiller's habits. Hartman Dep. (Pl. Ex. 11) at 30-31; Crime Scene Photo, Ex. 6 in Hartman Dep. (Pl. Ex. 13). Burglars often eat and drink their victims' food and dishevel their homes by rummaging around. Moses Report (Pl. Ex. 9) at 3, 4.

11. Jennifer Lockmiller's lifestyle—in particular, frequent drug abuse and multiple sexual partners—brought her into contact with a large and shifting group of dangerous individuals. Brown Dep. (Pl. Ex. 14) at 151-52, 216 (Ms. Lockmiller "liked drugs" and "was always asking for pills," especially Percodan and Darvocet; Belcher Dep. (Pl. Ex. 15) at 139, 142-43 (Ms. Lockmiller had several sources of cocaine and would ask people she had just met for pills).

12. Defendant Timothy Freesmeyer knew that Ms. Lockmiller drank a lot, frequently used drugs, drank and did drugs with several different people, got drugs from a number of different sources, and had multiple sexual partners. Freesmeyer Dep. (Pl. Ex. 16) at 263-64. Freesmeyer did not know whether the investigation excluded the possibility that the murderer

was a drifter or unknown sexual partner and could recall no effort to look for drifters or unknown sexual partners who could have committed the murder. *Id.* at 264-65.

13. On August 21, four days before the murder, Ms. Lockmiller went to various bars with her friends, Morgan Keefe and Kelly Hamburg. At one of the bars, "Spanky's," Lockmiller met a stranger whom Hamburg described as "a long haired guy." Hamburg Interview (Pl. Ex. 17) at AB001654-55. Keefe described this encounter as follows:

Jen is kind of the queen of scamming drinks off of guys. She kind of flirts, you know, and whatever and he bought her a bunch of drinks and then he suggested going to a party afterwards . . . Jen didn't want to go. She just basically wanted drinks from him and then we kind of walked off and . . . I had forgotten about it until Tuesday when we went to the movie she said that that particular guy had called.

Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 6-7. The man with long hair called Ms. Lockmiller on Monday, August 23, two days before the murder. He asked Ms. Lockmiller on a date and was rebuffed. Keefe Interview, Aug. 28, 1993 (Pl. Ex. 19) at 10. *See also* Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. This man "kept calling" Ms. Lockmiller. Steinman Interview (Pl. Ex. 20) at 8.

14. When Keefe, Hamburg, and Lockmiller left Spanky's and were en route to another bar, they encountered two other men. Hamburg Interview (Pl. Ex. 17) at AB001655-56. Lockmiller spoke with the two men for approximately ten minutes. *Id.* One of the men gave Lockmiller his phone number, writing it on a piece of paper with lipstick that he borrowed from Keefe. *Id.* at AB001656; Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. Lockmiller threw the piece of paper with the man's phone number away. *Id.*

15. On the day before the murder, Hamburg encountered these men again. Hamburg Interview (Pl. Ex. 17) at AB001656. They asked Hamburg why Lockmiller had not called them, and one of them told Hamburg to have Lockmiller call him. *Id.*

**B. Known Paramours With Motives to Murder Ms. Lockmiller**

16. John Murray had an on-again, off-again sexual relationship with Jennifer Lockmiller. Steinman Interview (Pl. Ex. 20) at 8; Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16, 21. At the time of her death, he was seeking to rekindle his relationship with her. Steinman Interview (Pl. Ex. 20) at 8; McKeown Interview Excerpts (Pl. Ex. 22) at 4-5; *Beaman*, 229 Ill. 2d at 67. After Ms. Lockmiller's murder, Murray bragged to police: "[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me." Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16.

17. During his deposition in this case, Murray invoked his Fifth Amendment right against self-incrimination in response to all questions regarding his involvement in the Lockmiller murder:

Q. Were you involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Can you tell me anything at all about whether you were involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Are you asserting your Fifth Amendment privileges to any questions that would be asked regarding the homicide of Jennifer Lockmiller?

A. Yes, I am asserting my Fifth Amendment privilege.

Q. Do you know who killed Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Murray Dep. (Pl. Ex. 23) at 18-19.

18. The crime scene suggested that the murder would have required a person who, unlike Mr. Beaman, was of “considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck.” Moses Report (Pl. Ex. 9) at 3.

19. At the time of the Lockmiller murder, Murray was a frightening, physically imposing man. Kuyper Dep. (Pl. Ex. 24) at 63, 65, 117 (stating that Murray “was big. He was big and long, curly dark hair and just – I don’t know how to say it more than he was kind of a scary person”; describing Murray as “someone that could be explosive in his anger”; agreeing that Murray was “physically large” and “scary”).

20. Murray was also a drug dealer, and he sold drugs to Ms. Lockmiller. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 14-15.

21. At the time of her death, Ms. Lockmiller owed Murray money for drugs. *Id.* at 14. Although Murray’s story was that Ms. Lockmiller owed him approximately \$20, *id.*, Detective Daniels testified that Ms. Lockmiller’s debt indicated that there may “have been other instances where the amount of money that she owed him could have been greater,” and that the fact that there had been financial transactions between Ms. Lockmiller and Murray with respect to illegal substances might have been a motivating factor in Ms. Lockmiller’s homicide. Daniels Dep. (Pl. Ex. 26) at 538-39. This could have contributed to his motive to kill Ms. Lockmiller. *Id.* at 538-39; *Beaman*, 229 Ill. 2d at 67.

22. John Murray beat women. On October 7, 1994, Murray beat his girlfriend, Deborah Mackoway. Mackoway told police officers that she was “the victim of physical abuse” at Murray’s hands “on a continual basis.” Murray Arrest Docs. (Pl. Ex. 27) at 1. Murray “pinned [Mackoway] down on the floor ... and elbowed her repeatedly in the chest.” *Id.* at 1-2. “A friend

of Mackoway ... was present and did verify that there was a prominent red mark between Mackoway's breasts where she had been elbowed." *Id.* at 2.

23. Also on October 7th, Mackoway "reported that there was another argument the night before in which [Murray] grabbed her and scratched her right wrist and caused a bruise on her left arm. Both injuries were evident. She also reported that in the last week she received a bruise to her upper left thigh. She showed this bruise to [police]." *Id.* at 3. Murray was arrested for domestic battery and taken to the McLean County Jail. *Id.*

24. According to Detective Daniels, the information about Murray beating Mackoway was particularly significant because of the manner in which Murray attacked Mackoway – he elbowed her repeatedly in the chest, just as Lockmiller was stabbed in the chest with a scissors. Daniels Dep. (Pl. Ex. 26) at 552.

25. On October 11, 1994, Mackoway filed a Petition for Order of Protection against Murray in the Eleventh Judicial Circuit. Murray Arrest Docs. (Pl. Ex. 27) at 68-78. In the Petition, Mackoway stated that Murray had been experimenting with "street 'steroid' injections," and that as a result of the steroid use, Murray's "behavior since has been unexplainable." *Id.* at 69. She reported that Murray repeatedly inflicted "bruises/injuries including a black eye." *Id.*

26. The court found that Mackoway was "abused within [the Domestic Violence Act]" and entered an emergency order of protection against Murray. Murray Arrest Docs. (Pl. Ex. 27) at 61.

27. Murray had also been using steroids in 1993, the year Ms. Lockmiller was killed. In January of 1993, a search of Mr. Murray's apartment uncovered drugs that included cocaine and steroids. Murray Arrest Docs. (Pl. Ex. 27) at 145. Murray admitted that he had purchased fifteen vials of steroids and had used eleven of them. *Id.* at 104.

28. Murray was violent toward other women as well. He confessed to the polygraph examiner in the Lockmiller homicide investigation that he had slapped a girlfriend four years earlier. McCann Dep. (Pl. Ex. 28) at 176. Leigh Kuyper believed that Mr. Murray "had been violent with" a friend of hers with whom Kuyper worked at a library. Kuyper Dep. (Pl. Ex. 24) at 63.

29. During his deposition, Murray refused to answer any questions about his history of beating women, asserting the Fifth Amendment. Murray. Dep. (Pl. Ex. 23) at 22-23.

30. During the Lockmiller homicide investigation, Murray lied to investigators about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he had left Normal and driven home to the area of Rockford at 3:00 p.m. on August 24, the day before the murder. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 5. Murray claimed that he did not return to Normal until September 1. *Id.*

31. Following this interview with Murray, investigators spoke with Deborah Mackoway. Mackoway told investigators that Murray did not leave for Rockford until after 4:20 p.m. on *August 25*, the day of the murder. Mackoway Interview Sept. 8, 1993 (Pl. Ex. 29) at AB001715. Furthermore, on August 25, Murray was alone in his apartment between the time when Mackoway left for work in the morning and 2:00 p.m., when she returned from work. *Id.* at AB001715-16.

32. After interviewing Mackoway, investigators spoke with Murray a second time. Murray confessed that the information he provided in his first interview was not true; that he in fact was in his apartment in Normal on the day of the murder; that, on that day, he was alone beginning at 6:30 a.m. when Mackoway left for work; and that he did not leave for Rockford

until late afternoon or early evening of August 25. Murray Interview, Sept. 8, 1993 (Pl. Ex. 25) at 4-6.

33. At the time of the Lockmiller murder, Murray “resided in Bloomington... approximately 1.5 miles from Jennifer's apartment.” *Beaman*, 229 Ill. 2d at 67; Daniels Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 123.

34. These shifting claims by Murray as to his whereabouts on the day of the murder elevated suspicion that he committed the crime. Daniels Dep. (Pl. Ex. 26) at 534-35. A suspect’s putting forth a false alibi is “a red flag.” Hospelhorn Dep. (Pl. Ex. 31) at 157.

35. Murray was also dishonest regarding several other matters during his interviews with police:

- a. *Drug Transactions with Ms. Lockmiller*: Murray told investigators in the first interview, “I am not sure where [Jennifer Lockmiller] got the marijuana from.” Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 10. In the second interview, he admitted that he sold her drugs, including marijuana. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 14-15.
- b. *Attempts to Collect Payment for Drugs from Ms. Lockmiller*: During the first interview, Murray claimed in a recent encounter he had with Jennifer and another love interest of hers, the three of them “just talked, you know about you know partying.” Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 4. During the second interview, however, Murray confessed that Lockmiller drove over because Lockmiller owed Murray money for drugs. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 1, 14.

c. *Sex with Ms. Lockmiller*: During the first interview, Murray told investigators he and Ms. Lockmiller were just “talking all night” on a night when Mr. Beaman kicked down the door to Ms. Lockmiller’s apartment. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 8. Later in the same interview, he confessed that he had sex with Ms. Lockmiller that night. *Id.* at 16. *See also* Daniels Dep. (Pl. Ex. 26) at 537-38 (Murray gave evasive answers with regard to his sexual relationship with Ms. Lockmiller).

36. Murray also failed to comply with a polygrapher’s instructions during a polygraph examination administered to him in connection with the Lockmiller killing on September 30, 1993. Murray Polygraph Docs. (Pl. Ex. 32) at 2. The questions included, among others, “[a]bout August 25, 1993, did you strangle Jennifer Lockmiller at her apartment?” McCann Post-Conviction Hearing Testimony (Pl. Ex. 33) at 154. The polygrapher’s report stated:

Throughout the course of his polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination. After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.

Murray Polygraph Docs. (Pl. Ex. 32) at 2.

37. During the incomplete polygraph examination, Murray took nineteen deep breaths and a gulp. McCann Dep. (Pl. Ex. 28) at 171-72. Each of these nineteen deep breaths caused a disruption to the examination. *Id.* at 173. During this process, McCann admonished Murray six times to stop taking deep breaths, but Murray continued to do so. *Id.* at 172-73. Murray sometimes failed to comply with McCann’s instructions to answer the questions “yes” or “no.” *Id.* at 174-75. Murray also smoked marijuana two days before the polygraph and may have done so to foil the examination. *Id.* at 180-81.

38. The polygraph examiner testified that refusing to comply with instructions could have been a strategy to deliberately thwart the examination:

Q. And that response, the response of not following directions, not sitting still, that can be an intentional response on behalf of a suspect; isn't that true?

A. It could be.

McCann Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex. 5) at 160.

39. Detective Daniels, during his two lengthy interviews of Murray, did not notice any behavior that suggested Murray would be unable to sit still for a polygraph examination. Daniels Dep. (Pl. Ex. 26) at 541-43. To Daniels, Murray's failure to cooperate with the polygraph examination was an indication that he needed to be investigated further. *Id.* at 546.

40. During his recent deposition in this case, Murray refused to answer questions about defying the polygrapher's instructions and attempting to foil the examination, asserting the Fifth Amendment. Murray Dep. (Pl. Ex. 23) at 19-20.

41. In October of 1994, Freesmeyer signed the police reports regarding Murray's arrest on a domestic violence charge. Freesmeyer Dep. (Pl. Ex. 16) at 107-09. He affixed his signature to such police reports at least twelve times. Murray Arrest Docs. (Pl. Ex. 27) at 1-160.

42. These reports included the details cited above, *see* ¶¶ 22-27, *supra*, including the fact that Mackoway was "the victim of physical abuse" at Murray's hands "on a continual basis"; that Murray had pinned her to the floor and elbowed her in the chest, leaving "a prominent red mark between Mackoway's breasts,;" and that Murray had battered Mackoway on the previous night as well, leaving "evident injuries." Murray Arrest Docs. (Pl. Ex. 27) at 1-3.

43. Freesmeyer read and signed these reports before Mr. Beaman's trial. Freesmeyer Dep. (Pl. Ex. 16) at 109-10. At the time he received the reports, Freesmeyer "was familiar that Larbi Murray was being investigated in the [Lockmiller] case." Freesmeyer Dep. (Pl. Ex. 16) at 114.

44. Freesmeyer also learned of Murray's steroid use prior to charging Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 91; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 97. Freesmeyer had no reason to doubt that in the course of the investigation, Murray's failure to cooperate in the polygraph was discussed among the investigators. Freesmeyer Dep. (Pl. Ex. 16) at 145. In fact, he assumed that it would have been discussed in at least one meeting among investigators. *Id.* at 155. *See also* Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 90 (admitting that he "may have been aware" of the John Murray polygraph); Zayas Dep. (Pl. Ex. 8) at 69 (the officers working on a case would be made aware of polygraph reports received in that case).

## 2. Stacy ("Bubba") Gates

45. Stacy Gates, known as "Bubba," was a former boyfriend of Ms. Lockmiller who believed that he and Ms. Lockmiller had a "committed" relationship between January 1991 and July 1993 (the month before the murder), when Ms. Lockmiller broke up with him. Gates Trial Testimony Excerpts (Pl. Ex. 35) at 406. Gates stated that in July, "I received a letter from [Jennifer] breaking up. I didn't want to break up. I screamed and yelled and f[ou]ght." McCann Dep. (Pl. Ex. 28) at 58.

46. At the time of Ms. Lockmiller's death, and despite the break up, Gates considered himself to be Ms. Lockmiller's "boyfriend, her man" and the most important person in her life. Gates Interview (Pl. Ex. 36) at AB002329-30. He viewed Ms. Lockmiller as "the love of [his]

life,” and believed he would marry her and have children with her. *Id.* at AB002309, AB002330-31.

47. Laura McKeown, a close friend of Ms. Lockmiller’s, told investigators that Gates tied Ms. Lockmiller to a curtain rod to do something to her involving cold water. Laura McKeown Stmt. Excerpts (Pl. Ex. 22) at 8. *See also* Gates Dep. (Pl. Ex. 37) at 173 (Q. Have you ever tied Jennifer Lockmiller to a shower rod? A. Yes, to a shower rod.”).

48. Gates moved to Peoria, Illinois from Janesville, Wisconsin just three days before the murder. Gates Interview (Pl. Ex. 36) at AB002333. He relocated in order to be closer to Ms. Lockmiller. McKeown Interview Excerpts (Pl. Ex. 22) at 1.

49. Gates and Ms. Lockmiller made plans to get together the weekend of August 28, *i.e.*, the weekend after the murder. Gates Interview (Pl. Ex. 36) at AB002309, AB002321-22. Gates believed that the purpose of this meeting was to get back together as a couple, that he and Ms. Lockmiller “would be back together officially,” and that he and Ms. Lockmiller missed each other sexually. *Id.* at AB002321-22. At the same time, when Gates and Ms. Lockmiller spoke on the phone on Sunday, August 22nd, Gates was concerned that Ms. Lockmiller might back out on the plan to get together with him. *Id.* at AB002333.

50. Gates left a series of messages on Ms. Lockmiller’s answering machine in the days after her death, including one that said: “This is the Dr. Rev. Martin Luther King, Jr. talking to you all. I’m the teacher of the most niggers.” Gates Trial Testimony (Pl. Ex. 35) at 413.

51. An attempt was made to polygraph Mr. Gates on September 8, 1993. Gates Polygraph Docs. (Pl. Ex. 38) at 2. According to the polygrapher’s report:

There were erratic and inconsistent responses on the subject’s polygraph records which preclude the examiner from rendering an opinion on the following questions:

About two weeks ago, did you strangle Jennifer Lockmiller at her apartment[?]  
Answer: No

Did you strangle Jennifer Lockmiller?  
Answer: No.

Were you present at Jennifer Lockmiller's apartment when she was strangled?  
Answer: No.

Do you know who strangled Jennifer Lockmiller?  
Answer: No.

*Id.* at 2-3.

52. The polygraph examiner scored every answer that Gates gave as "doubtful"/"inconclusive," and agreed it was possible that every one of Gates' responses was a lie. McCann Dep. (Pl. Ex. 28) at 170, 185-86.

53. In speaking with the polygraph examiner, Gates initially denied -- and later confessed -- to having sex with a minor. *Id.* at 162-64.

54. Defendant Freesmeyer interviewed the principal of the school where Mr. Gates was working as a physical education teacher at the time of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 35-36. According to the principal, Gates was present at school from 8:00 a.m. to 4:00 p.m. each weekday of the week of the murder, but this recollection was based solely on an attendance sheet that recorded only daily attendance and did not indicate whether Mr. Gates had left campus during the day. *Id.* at 36; Gates Attendance Sheet (Pl. Ex. 39) at 1.

55. It would have been impossible for the principal to monitor the presence of Mr. Gates, and every other teacher, throughout the day. Freesmeyer Dep. (Pl. Ex. 16) at 284-85. Gates had no recollection of whether the principal typically walked through his class once a day, or even once a week. Gates Dep. (Pl. Ex. 37) at 85.

**C. Other Suspicious Characters**

56. Roughly one month after the murder, Defendant Warner and Detective Hospelhorn went to an abandoned truck stop approximately 2.3 miles from Ms. Lockmiller's apartment and "met with a transient who was identified as Danny R Hosey." Danny Hosey Report (Pl. Ex. 40) at 1. Another officer had reported to Warner and Hospelhorn that Hosey had "knives in his car with what appeared to be blood." *Id.* at 1. During a subsequent interview on the following day, "Hosey seemed somewhat disoriented when [Detective Hospelhorn] spoke with him. . . . [Hospelhorn] asked Hosey if he could come to NPD for a[n] interview to which [Hosey] stated he did not think that was necessary. Hosey then started to recite some passages from the Bible and talked about his life at this time." *Id.* at 1.

57. Stacy Gates told Defendant Warner that during the summer before the murder, an individual knocked at the door to Ms. Lockmiller's apartment at two or three in the morning. Gates Interview (Pl. Ex. 36) at AB002326. Standing in the doorway was a man in an overcoat who was "powerfully built" and had a "big rack of shoulders." *Id.* The man said words to the effect of, "I want to talk to her." *Id.* at AB002327.

58. Gates refused to let the individual speak with Ms. Lockmiller, and the individual responded with words to the effect of, "don't you sass me," and, "don't you talk to me that way um or I'll come up there and break the fucking door down." *Id.* at AB002327. Three other males accompanied this individual and were waiting in a car parked outside. *Id.*

59. Gates told Detective Warner that this mysterious figure should be considered a suspect. *Id.* at AB002326. Defendant Warner agreed that the investigators should have followed up on the individual described by Gates. Warner Dep. (Pl. Ex. 41) at 133. The record lacks any indication of follow up regarding this individual.

60. Gates also told Defendant Warner that an individual known as "Psycho Bill," who had dated Ms. Lockmiller, should be considered a suspect. "Psycho Bill" was rumored to lure women into his room and film them, and at one point seemed to be guiding Ms. Lockmiller toward a closet. Gates Interview (Pl. Ex. 36) at AB002328.

61. Investigators learned that Ms. Lockmiller had dated an individual named Cory Price and another individual with the nickname "Joey Yok Yok Monster," and that there was an individual named Jason who was "obsessed" with Ms. Lockmiller. Belcher Dep. (Pl. Ex. 15) 143-44, 151-52.

#### **IV. MR. BEAMAN'S RELATIONSHIP WITH MS. LOCKMILLER**

62. While there was tumult in their relationship during the time when they were dating, Mr. Beaman and Ms. Lockmiller broke up by mutual decision on or about July 25, 1993, at which point Mr. Beaman left Bloomington-Normal and traveled to Cincinnati with a friend. Pl. Trial. Trans. (Pl. Ex. 6) at 1690. Following their break-up, Mr. Beaman and Ms. Lockmiller maintained a civil relationship. When Mr. Beaman last saw Ms. Lockmiller at the beginning of August, Ms. Lockmiller "seemed stable" and the two talked calmly for a short period of time before Mr. Beaman dropped her off at class and then drove home to Rockford. Pl Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 13. Mr. Beaman stated that when he left Ms. Lockmiller on this last occasion, he "felt good[.]" *Id.* at 14.

63. Mr. Beaman and Ms. Lockmiller's mutual friend, Josh Whitney, told investigators that after the break-up, in early August 1993, Mr. Beaman "seemed to me to be in an overall good mood and he had finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite a while." Whitney

Stmt. (Pl. Ex. 43) at 3-4. Michael Swaine also stated that when Mr. Beaman returned from Ohio, “things were ironed out” between Ms. Lockmiller and Mr. Beaman “seemed ok.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001450. In August, Mr. Beaman began dating again, seeing a woman in Rockford named Beth Terresi. Pl. Trial Trans. (Pl. Ex. 6) at 1737-39, 1821.

64. Ms. Lockmiller called Mr. Beaman 28 times on Sunday, August 22nd, but none of those calls were answered. *Id.* at 1717. Mr. Beaman did not know about the phone calls until the phone records were produced as part of the criminal trial. *Id.* Mr. Beaman and Ms. Lockmiller did speak with one another on Monday, August 23rd, on a phone call, initiated by Lockmiller, in which Lockmiller told him she wanted to get back together because Michael Swaine, one of the men she was dating at the time, did not want to see her anymore. *Id.* at 1719-21; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1438-41. Mr. Beaman told Ms. Lockmiller that their relationship was over and that he did not want to see her again. Pl Trial Trans. (Pl. Ex. 6) at 1721; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1442.

65. During the period when the two had been dating, there were two occasions on which Mr. Beaman forced open Ms. Lockmiller’s door by kicking it. Both incidents occurred on nights when Ms. Lockmiller was dating Mr. Beaman but having sex with other men, Murray and Swaine. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 16. In the incident with Swaine, Mr. Beaman arrived just after Swaine and Lockmiller had oral sex; they were kissing on the way into her bedroom. Swaine Dep. (Ex. 69) at 77-78. Swaine ran into Lockmiller’s closet. *Id.* at 78. Mr. Beaman did not lay a finger on either Lockmiller or Swaine; instead, he gave Swaine, his friend, a ride home, and was calm throughout the drive. *Id.* 82, 85-87, 89-90. Swaine does not recall having any fear for his physical safety at any point that evening. *Id.* at 85.

66. Defendants Freesmeyer and Warner did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**V. LACK OF EVIDENCE AGAINST MR. BEAMAN**

67. Mr. Beaman was at his parents' home in Rockford when the murder occurred in Bloomington-Normal, some 130 miles away. He made calls from his parents' home at 10:37 a.m. and 10:39 a.m. *See infra* ¶¶ 144-45. He was also home at 2:15 p.m., when his mother returned home. *See infra* ¶¶ 135-36 It would have been impossible to leave his parents' home, drive to Ms. Lockmiller's, and get back within that timeframe. Seyfried Report (Pl. Ex. 45) at 4.

68. Since his first interview with police on August 28, 1993, Pl. Stmt. (Pl. Ex. 42) at 9, 38-39, Mr. Beaman has maintained his innocence despite several unsuccessful efforts to elicit a confession:

- a. An accusatory interrogation, conducted late at night on the day body was discovered. *Id.* at 1, 37-49.
- b. An interrogation in which Detective Brown accused Mr. Beaman of the killing and told him "I think you do know" what happened on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 30.
- c. Two occasions on which Michael Swaine, a friend and former roommate of Mr. Beaman, wore a concealed body wire and spoke to Mr. Beaman about the murder while investigators taped the conversation. *Id.* at 23-25.
- d. An interrogation in which Freesmeyer told Mr. Beaman, "[I]f this facade continues, we're going for the death penalty." *Id.* at 32.

69. No witness placed Mr. Beaman in Bloomington-Normal, much less in the vicinity of Ms. Lockmiller's apartment, on August 25, 1993. Todd Heyse testified that, while driving on a major thoroughfare and not slowing down, he saw a man and a woman walking towards Ms. Lockmiller's apartment. Heyse Trial Testimony (Pl. Ex. 46) at 463-66. He did not see these individuals during the week of the murder. His recollection of when he saw these individuals was connected to the date when he purchased a building. *Id.* at 477 ("Q: And what you saw occurred within apparently four or five days after you purchased the White Horse [building]? A: Yes."). *See also id.* at 465, 467. Heyse purchased the building on August 4, 1993, 21 days before the murder. *Id.* at 1150-53.

70. Heyse's description of the man did not match Mr. Beaman. He told police that the man was wearing "trendy Euro-type of clothing." *Id.* at 476. On August 25, however, the bank video showed Mr. Beaman wearing jeans and a t-shirt. Pl. Trial Trans. (Pl. Ex. 6) at 1729, 1869. Heyse also testified that he did not have a good enough look to be able to identify either of the individuals again if he saw them. Heyse Trial Testimony (Pl. Ex. 46) at 467.

71. As Detective Daniels agreed, no eyewitness could reliably place Mr. Beaman in Bloomington-Normal on the day of the murder. Daniels Dep. (Pl. Ex. 26) at 529,

72. There was no physical evidence implicating Mr. Beaman in the murder. *See infra* ¶¶ 93, 96.

73. The lead prosecutor, James Souk, acknowledged in his deposition that the Beaman prosecution "was a difficult circumstantial case" because of the dearth of physical evidence, the lack of a confession, and the lack of any eyewitness testimony. Souk Dep. (Pl. Ex. 47) at 137. Defendants Freesmeyer and Warner also stated that the evidence against Mr. Beaman

was entirely circumstantial. Freesmeyer Dep. (Pl. Ex. 16 ) at 263; Warner Dep. (Pl. Ex. 41) at 149.

74. When the Supreme Court of Illinois vacated Mr. Beaman's conviction in 2008, the Court noted the "tenuous nature of the circumstantial evidence against Mr. Beaman." *People v. Beaman*, 229 Ill. 2d 56, 80 (2008).

## **VI. DEFENDANTS' ROLES IN THE INVESTIGATION**

### **A. Defendant Timothy Freesmeyer**

75. Early in the case, Defendant Timothy Freesmeyer assumed the role of principal investigator. Daniels Dep. (Pl. Ex. 26) at 66, 184-85, 495-96. He was also the principal detective investigating Alan Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 28.

76. On the first day of the investigation, Freesmeyer had concluded that Mr. Beaman was "the primary suspect." Freesmeyer Dep. (Pl. Ex. 16) at 192.

77. While with the Normal Police Department, Freesmeyer had a disciplinary history that included pepper spraying an individual who was handcuffed and arresting a person without probable cause. Freesmeyer Disciplinary Reports (Pl. Ex. 48) at DEF 97-99.

78. Freesmeyer stated that during the investigation, he and Assistant States Attorney James Souk, the lead prosecutor in the criminal case against Mr. Beaman, worked as a team together. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 36-37. Freesmeyer would receive the most of the credit if the Lockmiller case was solved, and the most blame if it remained unsolved. Brown Dep. (Pl. Ex. 14) at 114. The Lockmiller homicide investigation was the most high-profile case of Defendant Freesmeyer's career, and he had never been the lead investigator in a murder case. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 21.

79. Freesmeyer arrested Mr. Beaman on May 17, 1994. Freesmeyer Police Reports (Pl. Ex. 7) at 48-49. Approximately four months later he was promoted to sergeant. Freesmeyer Trial Trans. (Pl. Ex. 50) at 954.

80. Two months prior to trial Freesmeyer began working out of the States Attorney's office. Freesmeyer Post-Conviction Dep. (Pl. Ex 34) at 9.

81. Shortly after Mr. Beaman's conviction, Souk wrote a letter to the Chief of Police, which stated: "Beyond any question in my mind, this case would not have been won without Tim Freesmeyer." Souk Letter (Pl. Ex. 51).

**B. Defendant David Warner**

82. Defendant David Warner was the "evidence technician" when he served as an investigator in the Lockmiller homicide investigation. Warner Dep. (Pl. Ex. 41) at 32; Freesmeyer Police Reports (Pl. Ex. 7) at 39. If an officer wanted evidence analyzed by the lab, Warner would "prepare the paperwork, take it to the lab, pick it up." Warner Dep. (Pl. Ex. 41) at 33. As evidence technician Warner retrieved all of the physical evidence produced in the investigation, including the latent prints obtained from Ms. Lockmiller's apartment. Freesmeyer Police Reports (Pl. Ex. 7) at 39.

83. Defendant Warner was also in charge of investigating Stacy Gates, an alternative suspect. Warner interviewed Gates, from which Warner determined that Gates was in love with Lockmiller but had "over-inflated views of how [Lockmiller] perceived him." Warner Dep. (Pl. Ex. 41) at 116-19. Warner testified that, during the interview, Gates was rambling and incoherent; following the interview, Warner told Zayas that "some more work might need to be done on [Gates]," meaning he had to be investigated further. *Id.* at 120-22. Warner

acknowledged that Gates may have had a motive for Lockmiller's murder. *Id.* at 127-28. Warner did not ever rule Gates out as a suspect. *Id.* at 144-45.

84. Warner also requested and received the polygraph reports for both Gates and John Murray. Warner Dep. (Pl. Ex. 41) at 38, 108-12, 115-16, 135-36. He agreed that following Murray's failed polygraph, further investigation of Murray was warranted. *Id.* at 115-16.

85. On May 17, 1994, Warner aided in Plaintiff's arrest, including by monitoring the conversation that Freesmeyer, who was wearing a body wire, had with Mr. Beaman as Mr. Beaman was taken into custody. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

**C. Defendant Frank Zayas**

86. Defendant Frank Zayas was the Lieutenant "in charge of the detective division," "had ultimate responsibility for [the Lockmiller] case," and supervised the detectives working on the case. Freesmeyer Dep. (Pl. Ex. 16) at 32-33; Zayas Dep. (Pl. Ex. 8) at 69; Daniels Dep. (Pl. Ex. 26) at 486-87. Defendant Zayas continued to supervise the Lockmiller investigation until his retirement in November 1994, six months after Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 28, 289; Hospelhorn Dep. (Pl. Ex. 31) at 30-32. He participated in the May 16, 1994 meeting where the decision was made to arrest Mr. Beaman. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**D. Information Sharing and Contact Among the Defendants**

87. There was a high level of information sharing among the investigators involved in the Lockmiller homicide investigation. Belcher Dep. (Pl. Ex. 15) at 43.

88. Defendant Freesmeyer's reports document that during the Lockmiller homicide investigation, nine investigators' meetings were held, and there may have been even more meetings among investigators not documented in his reports. Freesmeyer Police Reports (Pl. Ex.

7) at 11, 16, 17, 20, 22, 35, 48, 57; Freesmeyer Dep. (Pl. Ex. 16) at 67. Such meetings were held throughout the investigation to “[s]hare information, assignments, who’s doing what.” Warner Dep. (Pl. Ex. 41) at 78; Belcher Dep. (Pl. Ex. 15) at 41-42 (“[W]e had meetings ... to discuss the -- the progress of the case and such.”).

89. Most of the detectives worked all in “one big office . . . It was a cubicle situation. It was very open. And they could talk amongst [themselves].” *Id.* See also Daniels Dep. (Pl. Ex. 26) at 73 (investigators shared information during the investigation).

90. Officers received copies of each other’s reports “throughout the investigation” and were required to read them in order for detectives to stay “all on the same page.” Zayas Dep. (Pl. Ex. 8) at 41-42. See also *id.* at 39; Daniels Dep. (Pl. Ex. 26) at 647.

#### VII. AUGUST 28, 1993: DAY ONE OF THE INVESTIGATION

91. On August 28, 1993, Ms. Lockmiller’s partially decomposed body was discovered by Morgan Keefe, an acquaintance of the victim, who called 911. Hartman Dep. (Pl. Ex. 11) at 5, 12. Keefe informed police about various potential suspects, including the unknown men with whom Ms. Lockmiller had flirted in the days before her death. See *supra* ¶¶ 13-14. Keefe also mentioned Alan Beaman. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. Hartman Dep. (Pl. Ex. 11) at 15-16.

92. Keefe testified in her deposition that she was “guessing” when she told the police Mr. Beaman might be the killer, and she didn’t expect that the guesses she expressed to the police would “carry a lot of weight.” Hartman Dep. (Pl. Ex. 11) at 15-16.

93. As August 28, 1993, drew to a close:

a. The investigators had done nothing to investigate anyone’s alibi.

- b. The investigators had obtained no eye-witness accounts of the murder.
- c. The investigators had obtained no physical evidence linking Mr. Beaman to the crime.
- d. The autopsy had not been completed and no finger prints had been tested. Kennedy Report (Pl. Ex. 52) at 6; Dierker Report Jan. 4, 1994 (Pl. Ex. 64).
- e. The investigators knew that Ms. Lockmiller's apartment lay on a busy thoroughfare in a college town, factors that, according to Defendant Zayas pointed to a broad range of potential suspects. *See supra* ¶ 8.
- f. The investigators had visited the crime scene, Freesmeyer Police Reports (Pl. Ex. 7) at 1-2. which pointed to a burglary-turned-rape as the origin of the murder, *see supra* ¶ 9, and suggested that the crime "would have required a person of considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck." Moses Report (Pl. Ex. 9) at 3.
- g. The investigators had learned by interviewing Mr. Beaman that he was thin and of small stature. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 244-45 ("Alan's ... not a real big man. He's maybe 120 pounds.")
- h. The investigators had been informed that Ms. Lockmiller was a "partier" who used marijuana, heroin, and LSD, "stayed up late at night," dressed in an "almost sleazy" manner, and engaged in "excessive drinking," Freesmeyer Police Reports (Pl. Ex. 7) at 2, 6.
- i. The investigators had learned about Ms. Lockmiller's various encounters with unidentified men in the days before her death. *See supra* ¶¶ 13-14.
- j. The investigators had obtained Ms. Keefe's guesses about possible suspects. *See supra* ¶ 91.
- k. The investigators had learned that the new paramour, Swaine, had moved in with Ms. Lockmiller two to three weeks before the murder. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4-5.
- l. The investigators had learned that arguments had occurred several months ago between Mr. Beaman and Ms. Lockmiller Freesmeyer Police Reports (Pl. Ex. 7) at 2, and that Mr. Beaman had broken down Ms. Lockmiller's door. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 18) at 16.

- m. The investigators had received no indication that Mr. Beaman had ever directed violence at any person, and had been told that by Swaine that Mr. Beaman was “not physical.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001455.
- n. The investigators had learned from Swaine that Mr. Beaman had left the Bloomington-Normal area in July to disengage from the relationship with Ms. Lockmiller. *Id.* at AB001456-58. Ms. Lockmiller also told Swaine that Beaman had said he was over her and did not love her any more. *Id.* at AB001459.
- o. The investigators had discovered that Ms. Lockmiller had broken up with Gates, but that Gates wanted to get back together, and that the two had plans to see each other two days after the murder occurred. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 7-8.
- p. The investigators had reviewed letters from Gates in which he stated, “I know if your pussy isn’t shaved, I want to shave it or have you do it for me,” Gates Letters (Pl. Ex. 82), and old letters from Beaman to Lockmiller which Freesmeyer thought expressed “an enormous love for Jennifer,” Freesmeyer Police Reports (Pl. Ex. 7) at 7.
- q. The investigators knew that Mr. Beaman voluntarily consented to a lengthy interview late at night by two detectives, agreed to accompany them to a police station, agreed to have the interview taped, declared his innocence during the interview, and discontinued the interview only when it became highly accusatory. Hospelhorn Police Report (Pl. Ex. 54) at 2; Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 37-49.

94. With the evidence in the state described above on Day One of the investigation, Defendant Freesmeyer immediately concluded that Alan Beaman was the primary suspect—and he clung to this conclusion throughout the investigation:

- Q. ... When did Alan Beaman become the prime suspect in this case?
- A. Immediately.
- Q. And did he ever in your mind become something other than the prime suspect?
- A. No.

Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 34. *See also* Freesmeyer Dep. (Pl. Ex. 16) at 192.

95. Other investigators did not share Freesmeyer's view that Beaman should immediately have been considered the primary suspect:

- a. Detective Daniels stated that Ms. Lockmiller "did have and wanted one boyfriend after the other which is why there were so many suspects that weren't excluded in the investigation at first." Daniels Dep. (Pl. Ex. 26) at 160.
- b. Detective Daniels believed that the evening of August 28 was too early to even interview or interrogate Mr. Beaman. *Id.* at 508.
- c. Detective Hospelhorn testified that even after he and Detective Daniels interviewed Mr. Beaman on August 28, they did not form any suspicion as to Mr. Beaman's guilt. Hospelhorn Dep. (Pl. Ex. 31) at 77.
- d. During the investigation, Detective Hospelhorn was skeptical as to Mr. Beaman's guilt and discussed that view with Detective Daniels. Daniels Dep. (Pl. Ex. 26) at 483-84.
- e. During the investigation, Detective Daniels expressed to Defendant Zayas the view that "we didn't have sufficient evidence yet" and that "[i]t was all circumstantial." Zayas Dep. (Pl. Ex. 8) at 117.

96. Defendant Zayas admitted that at the time of his retirement in November 1994 – five months after Mr. Beaman's arrest in May 1994 – the case against Mr. Beaman was "in limbo," "needed more work" and was not ready to be prosecuted:

Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?

A. No. I don't think we had all the information needed at the time when I left. That was still in limbo. They were still working on it. So at the point, I didn't know.

....

Q ...But it was your sense when you retired that there were still loose ends in the case?

A. Still work to be done.

Q. And that no one could reasonably say with certain[ty] that Alan Beaman was the killer, right?

A. That's true.

MS. EKL: Objection; foundation.

A. My opinion at the time is true.

Q. Was there anything to -- that caused you to doubt whether Alan Beaman was the killer?

A. I think most of the evidence was circumstantial. I like physical evidence, and it wasn't there. It was all, you know, a time frame. So at the time I -- I -- they didn't have it. When I left, they didn't.

Q. When you left you felt that the case against Beaman was -- was weak? Is that a fair statement?

A. At that point -- I'll put it this way.

*I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.*

Q. And that was true in November of '94 when you retired?

A. Yes, sir.

*Id.* at 179-81 (emphasis added).

97. Chief Walter Clark instructed Detective Daniels to present the Beaman case at a conference on unresolved cases, entitled "Techniques for Resolving 'Uncleared' Homicides," in Florida in April 1994. Daniels Dep. (Pl. Ex. 26) at 582. Daniels had proposed presenting another case to the conference, but Clark instructed him to present the Lockmiller case, so that it would receive another look. *Id.* at 328, 582.

98. Plaintiffs' expert in criminal investigations, Gregg O. McCrary, who has investigated more than 1000 homicides, McCrary Report (Pl. Ex. 55) at 2, opined that the immediate focus on Mr. Beaman as the primary suspect narrowed and tainted the investigation in two ways. McCrary Report (Pl. Ex. 55) at 3, 9.

99. First, despite a dearth of evidence that Ms. Lockmiller was murdered by a close acquaintance, "the immediate working hypothesis was that a current or former intimate partner had murdered Ms. Lockmiller. While that is one hypothesis, properly trained investigators know that they have to consider all reasonable hypotheses, being careful not to rush to judgment regarding potential suspects or motivations. There is little indication that the defendants seriously considered that the homicide of Ms. Lockmiller was anything other than an intimate partner homicide. In effect, the die was cast." McCrary Report (Pl. Ex. 55) at 9.

100. Second, the list of intimate partner suspects "immediately became a list of one, Alan Beaman." This focus occurred "before any meaningful investigation had even begun, including an autopsy." McCrary Report (Pl. Ex. 55) at 21.

#### **VIII. DISTORTION OF EVIDENCE TO FIT THE IMMEDIATE, UNSUPPORTED CONCLUSION THAT MR. BEAMAN WAS GUILTY**

101. According to McCrary, the Defendants' focus on Mr. Beaman did not end after Day One, but instead continued for the entire investigation, throughout which they "intentionally creat[ed] this false narrative." McCrary Report (Pl. Ex. 55) at 3. "[T]he defendants chose to believe [Mr. Beaman] was guilty and the record clearly shows that they set out to prove that he committed the murder in spite of their protestations of being objective." *Id.*

102. On October 27, 1993, Freesmeyer "informed" Mr. Beaman "that he was going to be arrested for Jennifer's death at one point or another." Freesmeyer Police Reports (Pl. Ex. 7) at

32. Freesmeyer, by his own account, threatened Mr. Beaman with the death penalty, telling Mr. Beaman, “if this façade continues, we’re going for the death penalty.” *Id.*

103. According to McCrary, “[t]hreatening a suspect with the death penalty violates basic police practices. It is coercive and should never be used, especially to try and leverage a confession as it was in this situation. This exchange is clear evidence that Detective Freesmeyer has prematurely concluded that Mr. Beaman is guilty of the murder despite any concrete evidence to support that conclusion and with a large amount of logical investigation incomplete.” McCrary Report (Pl. Ex. 55) at 12-13.

**A. Defendants Focus on a Non-probative Fingerprint**

104. The only piece of physical evidence consisted of fingerprints on Ms. Lockmiller’s alarm clock. The alarm clock revealed seven latent prints – four of which were Michael Swaine’s, two of which were Mr. Beaman’s, and a remaining unidentified print. Dierker Trial Trans. (Pl. Ex. 56) at 503-04. Mr. Beaman’s finger prints were *not* found on the cord of the alarm clock, which was used to strangle Ms. Lockmiller, or on the scissors lodged in her chest. *Id.* at 492-95.

105. There is no way to determine when finger prints are placed on an object. *Id.* at 485, 512.

106. Mr. Beaman had previously spent the night at Ms. Lockmiller’s apartment and used the clock while at her home. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 501-02; Souk Grand Jury Trans. (Pl. Ex. 4) at 277. This provided, as Mr. Souk agreed, “a reasonable alternate explanation for the fingerprints” because there was no scientific evidence to suggest that Mr. Beaman’s fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125. *See also* Daniels Dep. (Pl. Ex. 26) at 522-23; *Beaman*, 229 Ill. 2d at 77-78 (stating that the

“fingerprints on the clock radio . . . were explained by [Mr. Beaman’s] relationship with Jennifer”).

107. Defendant Freesmeyer identified Mr. Beaman’s finger-print on the clock as an important piece of evidence against Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 26. He admitted that his view that the fingerprint evidence held any significance was based “solely on [his] own interpretation.” Freesmeyer Dep. (Pl. Ex. 16) at 203.

108. Neither Freesmeyer nor any other Defendant ran the unidentified print found on the clock radio through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993. The investigators also failed to dust the dishes left out on the counter for finger-prints, even though the home invader/killer might have used them to prepare a snack. Moses Report (Pl. Ex. 9) at 4; *see supra* ¶¶ 9-10.

**B. Defendants Construe Exculpatory Recorded Statements as Evidence of Guilt**

109. Freesmeyer engineered a series of four telephonic overhears and in-person meetings between Mr. Beaman and his friend, Swaine, in which Swaine wore a wire. Freesmeyer Police Reports (Pl. Ex. 7) at 19-20, 22-25; Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70); Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). The purpose of the surreptitiously recorded conversations with Swaine was to “see if [Mr. Beaman] said anything incriminating,” and Swaine put himself forward “as an emotional wreck in order to get [Mr. Beaman] talking.” Swaine Dep. (Ex. 69) at 180-81, 185-86.

110. Freesmeyer also wore a wire during at least three conversations that he had with Mr. Beaman “in the event that he would make . . . incriminating statements.” Freesmeyer Police Reports (Pl. Ex. 7) at 34, 40, 42-43, 48-49.

111. During all of these surreptitiously recorded interactions with Swaine and Freesmeyer, Mr. Beaman did not inculcate himself in the murder. Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70); Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). When Swaine said he just wanted to know what happened to Ms. Lockmiller, Mr. Beaman replied, "Dude, I don't know shit, that's the problem." In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72) at 2. Mr. Beaman also made it clear to Swaine that he no longer had a romantic interest in Ms. Lockmiller at the time of her death. *Id* at 5.

112. After reviewing the transcripts of the various surreptitious recordings, McCrary opined:

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller's relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants' theory. It also refutes the defendant's hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swaine was working as an agent for law enforcement and that he was recording this conversation.

McCrary Report (Pl. Ex. 55) at 12.

113. Freesmeyer, however, seized on the fruitless overhears as evidence of guilt and a basis for probable cause, imagining, due to some crude comments about Mr. Beaman's prior romantic relationship with Ms. Lockmiller, that the overhears contained "a number of incriminating statements . . . which to me seemed totally out of place and very alerting." Freesmeyer Dep. (Pl. Ex. 16) at 195.

### **C. Defendants Treat an Exculpatory Crime Scene As Evidence of Guilt**

114. Freesmeyer treated exculpatory features of the crime scene as affirmatively inculpatory and a basis for probable cause. *See infra* ¶¶ 116, 118, 121.

#### **1. Stab Wounds**

115. The pattern and small number of stab wounds inflicted upon Ms. Lockmiller correlate with a murder by a stranger, not an emotionally-charged interaction with a close acquaintance: “Emotionally charged stabbings generally have far greater number of wounds in a frantic pattern.” Moses Report (Pl. Ex. 9) at 4.

116. Freesmeyer, however, interpreted the manner of stabbing as indicating an “act of vengeance over somebody that [Lockmiller] had hurt deeply,” not as “the act of a random person.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

#### **2. Garbage Bag Removed From Kitchen**

117. The fact that the perpetrator pulled a garbage bag out of a kitchen waste basket also correlates with burglary: “Burglars often seek out containers in the form of suitcases, pillow cases, garbage cans, or garbage bags with which to carry out stolen goods. These containers like the garbage container in Jennifer’s kitchen are often left in the middle of the floor if they are not needed.” Moses Report (Pl. Ex. 9) at 4.

118. Freesmeyer claimed that the garbage bag inculcated Mr. Beaman and provided a basis for probable cause because Mr. Beaman once looked through Ms. Lockmiller’s trash for birth control, because he believed she was cheating on him. Freesmeyer Dep. (Pl. Ex. 16) at 210-11.

119. The trash can in Ms. Lockmiller’s bedroom was undisturbed. Bedroom Photos (Pl. Exs. 67-68).

### 3. Box Fan

120. The box fan laid on top of the victim's face also correlates with burglary rather than murder by an acquaintance—it could have been knocked over during a burglar's rummaging, and it is also “not uncommon for a perpetrator to cover the head of his victim while he conducts his search.” Moses Report (Pl. Ex. 9) at 3.

121. Freesmeyer testified that one basis for probable cause was “[t]he fact that at the scene, there was a fan pulled down over her face which oftentimes is done when the victim – the suspect knows the victim.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

#### D. Defendants Treat Mr. Beaman's Disengagement from the Relationship As Evidence of Guilt

122. Mr. Beaman and Ms. Lockmiller mutually decided to end their relationship in July 1993. *See supra* ¶¶ 62-63. Ms. Lockmiller tried to rekindle their relationship, but Mr. Beaman was not interested. She called him 28 times shortly before her death, none of these calls were answered or returned. *See supra* ¶ 64. When the two did speak, on August 23rd, Mr. Beaman told Ms. Lockmiller he was no longer interested in dating. *See supra* ¶ 64.

123. According to McCrary, these circumstances would have demonstrated to reasonable investigators that Mr. Beaman was no longer interested in Ms. Lockmiller: “At the time Ms. Lockmiller was murdered it appears that she was attempting to rekindle her relationship with Mr. Beaman, but he wanted her out of his life. It was she who called Mr. Beaman repeatedly. He did not call her at all. There is no indication that he was demanding that she not leave him. In fact, he consistently maintained that he was done with her and wanted her out of his life.” McCrary Report (Pl. Ex. 55) at 24.

124. Freesmeyer somehow interpreted Ms. Lockmiller's calls, and her unrequited romantic interest in Mr. Beaman as evidence of his guilt and a basis for probable cause. Freesmeyer Dep. (Pl. Ex. 16) at 209-10.

**E. Defendants Hide Evidence Inculcating John Murray**

125. In *People v. Beaman*, the Supreme Court of Illinois unanimously held that Mr. Beaman's criminal defense attorney did not receive material, exculpatory evidence to which he was entitled under *Brady v. Maryland*, including the report of Murray's polygraph. *Beaman*, 229 Ill. 2d 56 at 80-81.<sup>1</sup>

126. The attempt to polygraph John Murray on September 30, 1993, was made "[a]t the request of Detective David Warner." Murray Polygraph Docs. (Pl. Ex. 32) at 2. The polygraph examiner's report was sent by the crime lab addressed to "Detective David Warner," and Defendant Warner received the report. Murray Polygraph Docs. (Pl. Ex. 32) at 2. *See also* Zayas Dep. (Pl. Ex. 8) at 120-22.

127. Upon receiving the polygraph report regarding John Murray, the proper procedure would have been for to read it, submit it to central records, make copies of the report, disseminate copies of the report to all investigators working on the case, and ensure that Defendant Zayas received a copy of the report. Zayas Dep. (Pl. Ex. 8) at 120-22. Defendant Warner had been trained to follow this procedure. *Id.* *See also* Daniels Dep. (Pl. Ex.26) at 662-66.

128. Rather than acting in accordance with this training, and providing a copy of the polygraph report to his supervisor (Defendant Zayas), Defendant Warner claimed that he handed the report to Detective Daniels (who was not Warner's supervisor). Warner Dep. (Pl. Ex. 41) at

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<sup>1</sup> In the Supreme Court opinion, John Murray is referred to as "John Doe."

38, 45-47. Detective Daniels, however, had no recollection of ever receiving the polygraph during the investigation. Daniels Dep. (Pl. Ex. 26) at 429. Detective Daniels had no reason whatsoever to believe that he lost or misplaced the polygraph report, and could not remember ever losing or misplacing an original copy of any investigative report in the course of his career. *Id.* at 725. *See also id.* at 667-68.

129. Warner never gave the Murray polygraph report to Souk. Souk Post-Conviction Dep. (Pl. Ex. 57) at 48.

**F. Defendants Construe a Bank Video Showing Mr. Beaman 125 Miles from the Crime Scene on the Day of the Murder as Evidence of Guilt**

130. On September 24, 1993, Freesmeyer learned from Mr. Beaman's bank, the Bell Federal Savings and Loan in Rockford, that Mr. Beaman made a videotaped deposit at 10:11 am on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 26.

131. Freesmeyer retrieved the video on October 11. *Id.*

132. The bank in Rockford lay approximately 125 miles from Ms. Lockmiller's apartment in Normal. See [www.mapquest.com](http://www.mapquest.com) (distance between 1466 S. Alpine in Rockford and 412 N. Main in Normal).

133. Rather than viewing the bank video as exculpatory, Freesmeyer considered it inculpatory and a basis for Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

134. Freesmeyer thought that Mr. Beaman's not remembering his trip to the bank and not bringing it up when asked if he had information that would demonstrate his innocence somehow suggested dishonesty and guilt. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

**G. Freesmeyer Manipulates Time Trials To Cast Doubt on Mr. Beaman's Alibi**

**1. Time Trials Involving the Drive to the Victim's Apartment**

135. Mr. Beaman's mother, Carol Beaman returned to her home, and could verify that Mr. Beaman was there, on August 25 at 2:15 p.m. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1483-85; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 51.

136. Mr. Beaman could not have left Rockford at 10:11 a.m. (when bank video shows him making a deposit), killed Ms. Lockmiller, and been home by 2:15 p.m. Such a scenario would have given Mr. Beaman a window of **four hours and four minutes** (the time between the bank deposit at 10:11 and his mother's return home at 2:15) to drive from the Bell Federal Bank in Rockford to Ms. Lockmiller's apartment in Normal, remove most of Ms. Lockmiller's clothing and rape her, strangle Ms. Lockmiller, drive a pair of scissors into her chest, and drive back to his family residence in Rockford. *See* Souk Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 207 (agreeing that "generally" the prosecution's theory at trial required Mr. Beaman to "average 75 miles an hour, commit an unplanned crime in 5 to 15 minutes, and return home at the same speed").

137. When Defendant Freesmeyer drove at the speed limit from the Bell Federal Savings and Loan, to Ms. Lockmiller's apartment, and back to the Beaman family residence, it took him **four hours and eleven minutes**. Freesmeyer Police Reports (Pl. Ex. 7) at 53.

138. Freesmeyer then decided to drive faster, exceeding the speed limit and driving at "an average [speed] of 75 mph." *Id.* at 59, 60. At this speed, it took him one hour and forty-eight minutes to drive from Bell Federal Savings and Loan to Ms. Lockmiller's apartment. *Id.* at 60. It took Freesmeyer one hour and fifty-six minutes to drive at this speed from Ms. Lockmiller's

apartment to Mr. Beaman's family residence. *Id.* at 59. The total time for the two legs was **three hours and forty-four minutes**, which would have left Mr. Beaman only 20 minutes – to enter the apartment, commit the rape and murder, and leave.

139. Mr. Beaman could not have driven at an “average speed” of 75 miles per hour, *id.* at 59, 60. To average 75 miles per hour, one must, for example, drive at 90 miles an hour to compensate for any period of time during which one drives at 60 miles per hour. Joshua Whitney testified as follows regarding the condition of Mr. Beaman's car:

Q. So what about [Mr. Beaman's] piece of junk car, as you call it, would not allow him to get to and from Bloomington?

A. It was frequently breaking down. It had engine problems, suspension problems. We commonly referred to it as the millennium falcon, which in the Star Wars motif it was constantly breaking down and having problems that just wouldn't allow for it to drive two hours down and two hours back without fitting into a perfect time frame as was being presented at the time.

....

Q. Well, Alan had that piece of junk car in Bloomington, right?

A. Yes. And he had nursed it back up to Rockford on more than one occasion where he had to stop and get some part working, or he had to get it towed, I believe, on one occasion because it just stopped running.

....

Q. Did it break down during the time you were riding in it?

A. It did not break down at that time, but he had to do several sort of preventive maintenance things to keep it running, check the coolant, refill it, make sure that certain parts of it were working.

Whitney Dep. Excerpts (Pl. Ex. 60) at 70-72 .

140. A college acquaintance of Mr. Beaman described the condition of Mr. Beaman's car during a drive from Bloomington to Tinley Park (a distance of approximately 114 miles) in the summer of 1993: “[I]t was kind of a joke at the time, because the car couldn't go very fast,

you know, and having the other cars around us passing us. And it was kind of a piece of crap, you know...” Kuyper Dep. (Pl. Ex. 24) at 11. *See also id.* at 120-21.

141. Defendants knew about the condition of Mr. Beaman’s car. Freesmeyer had seen the car at least twice: He took pictures of it and helped tow it. Freesmeyer Dep. (Pl. Ex. 16) at 223.

142. Freesmeyer never performed a time trial using a car similar to Mr. Beaman’s, and could not recall whether it would have been possible for Mr. Beaman’s car to travel at an average speed of 75 miles an hour – the speed at which Freesmeyer traveled – on an interstate highway. Freesmeyer Dep. (Pl. Ex. 16) at 224-25.

143. Other investigators were “doubtful” that Mr. Beaman could have made the trip from Rockford to Normal and back in time, considering the condition of Mr. Beaman’s car. Daniels Dep. (Pl. Ex. 26) at 514.

## **2. Time Trials Between the Bank and the Beaman Residence**

144. After visiting the bank, Mr. Beaman returned to his parents’ residence, where he made phone calls at 10:37 a.m. and 10:39 a.m. It was undisputed that two calls were placed from the Beaman residence at 10:37 and 10:39. Beaman Residence Call Detail (Pl. Ex. 61) at 1; *Beaman*, 229 Ill. 2d at 62. The first call was placed to the church office of Mitch Olson, Mr. Beaman’s youth minister; the second was placed to Mr. Olson at his home. Beaman Residence Call Detail (Pl. Ex. 61) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 151; *Beaman*, 229 Ill. 2d at 62. The calls lasted two minutes and one minute, respectively. Beaman Residence Call Detail (Pl. Ex. 61) at 1.

145. Alan Beaman placed the calls at 10:37 and 10:39. While Mr. Beaman did not specifically remember making the calls, no one else could have done so. Carol Beaman Trial

Testimony (Pl. Ex. 59) at 1500. Because Mr. Beaman's father, Barry Beaman, was at work at the time, there were only two individuals who could have made the calls – Mr. Beaman and his mother, Carol Beaman. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 215; *Beaman*, 229 Ill. 2d at 62. Carol Beaman, a retired high school math teacher, was certain, both at trial and in Mr. Beaman's post-conviction hearing, that she did not make the calls. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 44-45.

146. Mrs. Beaman had no business with Mr. Olson on August 25, and she had never called Mr. Olson at his home. *Id.* at 45, 47. As a youth minister, Mr. Olson had a closer relationship with Mr. Beaman than with his mother. *See* Olson Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 35-38, 41-42.

147. Mr. Beaman had a reason to call Mr. Olson on August 25. At an upcoming church performance on Sunday, August 29, Mr. Beaman was going to sing and play the guitar, and Mr. Olson was going to accompany him on the keyboard; it was therefore necessary for them to arrange a time to practice. *Id.* at 45-48.

148. The fact that Mr. Beaman was accounted for at his family's home at 10:37 and 10:39 provided a complete alibi. According to Robert Seyfried, Plaintiffs' expert in traffic engineering, it would have been impossible for Mr. Beaman to drive from his parents' residence to Ms. Lockmiller's apartment and back in the allotted time, except by averaging 81 miles per hour, a speed at which he "would have been observed by traffic enforcement personnel and he would have been cited for speeding." Seyfried Report (Pl. Ex. 45) at 4-5.

149. Freesmeyer agreed that Mr. Beaman's returning to the family residence after leaving the Bell Federal Bank "would have crunched the opportunity down considerably," and made it very difficult to conceive of a scenario in which Mr. Beaman committed the murder. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 65.

150. To support his theory that Mr. Beaman drove straight from the bank to Ms. Lockmiller's apartment, and did not make the 10:37 and 10:39 calls, Freesmeyer set out to discredit Mr. Beaman's ability to leave the bank at 10:11 and arrive at his parent's home by 10:37. Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. Freesmeyer knew there were two possible routes from the Bell Federal Savings and Loan to the Beaman residence: through downtown Rockford, and using Route 20 (the "bypass route"). *Id.* He performed time trials using both routes. *Id.* The trip through town took him 30 or 31 minutes. Freesmeyer Police Reports (Pl. Ex. 7) at 53; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. The trip using the bypass route took only 25 minutes, Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 238, and showed that Mr. Beaman could have left the bank at 10:11 and made the calls at 10:37 and 10:39.

151. Freesmeyer memorialized only the *longer* time trial: "The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53. He omitted the 25-minute time trial from his report. *Id.* at 1-61; Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 91. Freesmeyer then destroyed his notes regarding time trials. Freesmeyer Dep. (Pl. Ex. 16) at 182-83.

152. While Freesmeyer mentioned the faster time trial to the grand jury, he concealed it at trial, as in his report. Freesmeyer Trial Testimony (Pl. Ex. 50) at 887-88.

153. In reality there was plenty of time between the bank deposit at 10:11 and the first call at 10:37 for Mr. Beaman to drive from the bank to his parents' home: "[H]e could have easily made a bank transaction at 10:11 a.m. and traveled to his residence in time to make a phone call at 10:37 a.m." Seyfried Report (Pl. Ex. 45) at 4.

154. Freesmeyer agreed that his testimony at trial left the false impression that he had only tested the slower route through town. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 62, 64.

155. Freesmeyer lied in his report about his reasons for driving the slower route from the bank to the Beaman residence, claiming that he did so because Mr. Beaman told him that he took the slower route: "We then drove the routes that were given us by Alan *during numerous interviews*. The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53 (emphasis added). Freesmeyer later admitted at trial that this statement in the report was untrue: "I don't recall he told me what route he took. He just said he went to the bank and back." Freesmeyer Trial Testimony (Pl. Ex. 50) at 928.

156. Freesmeyer also could not explain why he did not perform a time trial from the bank to the Beaman residence at a speed that exceeded the posted limit, just as he had done when measuring travel time from the bank, to Ms. Lockmiller's apartment, and then back to the Beaman family home. Freesmeyer Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5), at 89.

157. As McCrary opined: "It is noteworthy that Detective Freesmeyer observed all speed limits when he drove the route through Rockford in support of his theory that [Mr. Beaman] could not have gotten home in time to make those phone calls, but admittedly sped as

he drove to and from Normal to prove that he could make that trip before his mother got home and saw his car.” McCrary Report (Pl. Ex. 55) at 18.

158. Freesmeyer also lied about whether he performed the time trials from the bank to the Beaman family home prior to arresting Mr. Beaman. First, he claimed to have done so. Freesmeyer Dep. (Pl. Ex. 16) at 240-41. Then he admitted that he did not conduct the time trials until after arresting Mr. Beaman. *Id.* at 241-42. At that point, Freesmeyer could not explain his failure to conduct the time trials before the arrest. *Id.* at 242-43.

159. According to McCrary, Freesmeyer’s failure to investigate Mr. Beaman’s alibi prior to arresting him was “completely contrary to the expectations of a reasonable law enforcement investigation. Reasonable law enforcement investigations require that all logical investigation be completed in order to make a determination if probable cause exists to charge anyone.” McCrary Report (Pl. Ex. 55) at 16.

### 3. Time Trials Involving Carol Beaman’s Route

160. In addition to the fact that Alan Beaman had plenty of time to leave the bank at 10:11 and arrive home well before placing the 10:37 call, *see supra* ¶ 153, records made it clear that Carol Beaman could not have been home at 10:37 and therefore could not have placed the calls. Carol Beaman’s schedule that morning was well documented. She had signed in her mother at a convalescence facility, Independence Village, at 10:00 a.m. Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 33. Mrs. Beaman recalled with specificity what she did to assist her mother at the facility, and after describing those tasks, estimated that she spent 20 to 30 minutes in her mother’s room following the sign-in at 10:00 a.m. *Id.* at 33-36.

161. After completing the process of settling her mother into her room, Mrs. Beaman went shopping at a Wal-Mart. *Id.* at 37. The Wal-Mart register receipt shows that Mrs. Beaman paid for her items at 11:10 a.m., and that she purchased numerous objects at various locations within the vast store. *Id.* at 40-43. Mrs. Beaman went directly from Independence Village to the Wal-Mart, and did not drive home between those trips. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499-1500. Mrs. Beaman stated she did not make the 10:37 and 10:39 a.m. phone calls. *Id.*

162. Additionally, the Wal-Mart was “directly across the street from Independence Village.” Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 37. It would have been silly to visit Independence Village, drive home, and then drive *back* to the Wal-Mart, a twenty-one-mile round trip. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20.

163. Nonetheless, Detective Freesmeyer set out to show that Mrs. Beaman had the time to go home, place the 10:37 and 10:39 phone calls, return to the Wal-Mart, accomplish her shopping, get in line to make her purchases, and finish her transaction by 11:10. Freesmeyer cannot recall and made no record of the route he took between the Beaman home and the Wal-Mart. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 115-16. Nor does he have a record or recollection of how fast he drove on the unknown route. *Id.* at 119. His timing was from on the street by the Beaman residence, rather than replicating Mrs. Beaman walking from her front door, getting situated in her car, and backing the vehicle out of the driveway. When he arrived at the Wal-Mart, Freesmeyer stayed in his car, rather than entering the store in order to reproduce the walking done by Mrs. Beaman. *Id.* at 120. Freesmeyer ultimately stated that it took him 15

minutes to drive between these locations, but qualified that figure as an approximation. *Id.* at 114-15. Freesmeyer stated he made no effort to quantify or replicate how long Mrs. Beaman was in the store. He conceded that he did not bring with him a copy of the receipt showing her purchases while inside Wal-Mart. Though Mrs. Beaman's shopping was two days before the start of school, Freesmeyer made no inquiries about the how long the cashier lines would be at that time. *Id.* at 121-22.

164. Anthony Matens, an investigator engaged by Plaintiff's counsel, did measure the travel times required from just inside the Beaman home to just inside the Wal-Mart. He did multiple trials, and the least amount of time required was 19 minutes and 25 seconds. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20-22. He calculated that by leaving that residence at 10:41, allowing under two minutes after the second phone call, Mrs. Beaman would not have pulled into the Wal-Mart parking lot until 11:00 a.m. *Id.* at 25.

**H. Defendants Ignore Evidence from the Victim's Neighbor that Eliminated Mr. Beaman as A Suspect.**

165. Ms. Lockmiller and David Singley lived directly across from each other in the small apartment building at 412 North Main Street. Hospelhorn Police Reports (Pl. Ex. 54) at 15; Singley Interview, Aug. 31, 1993 (Pl. Ex. 62) at 1. The proximity of the two apartments and the fact that the "walls [were] thin" enabled Singley to hear noises coming from Ms. Lockmiller's apartment. *Id.* at 7.

166. When Singley returned to his apartment from class at approximately 2:00 p.m. on the day of the murder, he heard the door to Ms. Lockmiller's apartment being "slammed shut real quick." *Id.* at 5. Approximately five to ten minutes later, he heard the door to Ms. Lockmiller's apartment "open and close again." *Id.* At this time, Singley heard that the stereo in Ms.

Lockmiller's apartment was on. *Id.* at 6. Singley next heard footsteps going downstairs from Ms. Lockmiller's apartment and then exiting the door that leads from the building to the parking lot. Singley Interview, Sept. 8 1993 (Pl. Ex. 63) at 16.

167. When Singley returned to his apartment later that day at approximately 4:30 p.m., the stereo in Ms. Lockmiller's apartment had been turned off, and the TV had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 7-8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 8. The TV remained on until Saturday, August 28, the day the body was discovered. Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 14.

168. Around 2:00 p.m. on the day of the murder, Singley could also hear that the air conditioning to Ms. Lockmiller's apartment was off. *Id.* at 9. By 5:15, however, Singley reported that the air conditioning in Ms. Lockmiller's apartment had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 9.

169. Defendant Freesmeyer himself had conducted an interview of Mr. Singley, which was neither recorded nor transcribed, on the day the body was discovered. Freesmeyer Police Reports (Pl. Ex. 7) at 3.

170. Mr. Singley's statement suggested that Ms. Lockmiller was still alive at approximately 2:00, and that either she or someone else had changed the TV, stereo, and air conditioning well after 12:00 p.m. Souk Dep. (Pl. Ex. 47) at 312.

171. The Singley evidence exculpated Mr. Beaman because it was well known early on in the investigation that Mr. Beaman was with his family in Rockford on the afternoon and early evening of August 25. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 6-7.

172. According to McCrary, based on Mr. Singley's statements, "the time of death could easily have been closer to 2:00 PM and Mr. Beaman would then be eliminated as a

suspect. Instead, the defendants purposely chose to ignore Mr. Singley's observations." McCrary Report (Pl. Ex. 55) at 20.

173. On July 11, 1994, Defendant Freesmeyer committed perjury by telling the grand jury that no important information had been gleaned from Ms. Lockmiller's neighbors—thereby concealing the Singley evidence—during a portion of his testimony that involved the time of Ms. Lockmiller's death:

Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?

A. Yes. Actually while the crime scene technician was in processing the scene, I waited outside for people to come home. I was able to make contact with the majority of people who lived in that apartment. And they were subsequently asked to come to the station and statements were taken within several days.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and **no information that turned out to be particularly helpful in the investigation?**

A. **That's correct.**

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 141-42 (emphasis added).

174. Freesmeyer also perjured himself by lying about the existence of alternative suspects, especially John Murray. Although there was substantial evidence that John Murray had a motive and opportunity to commit the murder, *Beaman*, 229 Ill. 2d at 76-77; *see also* ¶¶ 16-49, *supra*, Freesmeyer testified as follows to the grand jury:

Q. [O]ther than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller?"

A. No, not necessarily.

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 172.

**IX. FAIULRE TO INVESTIGATE ALTERNATIVE SCENARIOS AND SUSPECTS**

175. The record in this case contains no indication that Defendants considered similar crimes committed in the same geographical area, using other crimes as a potential source of leads in the Lockmiller murder investigation. Warner Dep. (Pl. Ex. 41) at 168; Brown Dep. (Pl. Ex. 14) at 212; Hospelhorn Dep. (Pl. Ex. 31) at 98; Souk Dep. (Pl. Ex. 47) at 210-211.

176. Defendant Warner agreed that it would have been a good practice to check for crimes similar to the Lockmiller homicide. Warner Dep. (Pl. Ex. 41) at 172. The Mid-States Organized Crime Information Center (“MOCIC”) maintains a database that enables investigators to gain leads in one crime by ascertaining whether similar crimes have occurred. *Id.* at 169-70.

177. Defendant Warner knew that Ms. Lockmiller spent time with several different men, would go to bars and meet people, had a number of sexual partners, and had a number of people moving in and out of her life. Warner Dep. (Pl. Ex. 41) at 153-54. Warner had no idea whether any investigation was undertaken as to whether the killer was an unknown sexual partner or “just some random person.” *Id.* at 149-51.

178. Defendant Zayas knew that Ms. Lockmiller “was always at parties, drank heavily, was very sexually active[.]” Zayas Dep. (Pl. Ex. 8) at 91. He could identify no piece of evidence that excluded the possibility that Ms. Lockmiller was killed by an unknown drifter. *Id.* at 178-79.

179. There also was no systematic effort to contact the individuals with whom Ms. Lockmiller had class, including the 11:00 a.m. class she likely attended immediately before the murder, in order to identify such individuals and find out who had last seen Ms. Lockmiller alive. The record is devoid of any evidence that such efforts were systematically undertaken, and Defendants have no recollection of such efforts. *See* Freesmeyer Dep. (Pl. Ex. 16) at 266-67; Hospelhorn Dep. (Pl. Ex. 31) at 99.

180. According to McCrary: “The lack of a thorough victimology and failure to look for prior similar crimes, as well as known sex offenders and burglars in the area . . . unduly limited the scope of this investigation.” McCrary Report (Pl. Ex. 55) at 23.

181. Although investigators learned that Ms. Lockmiller encountered and flirted with various unknown men in the days before her death, *see supra* ¶¶ 13-15, there was no effort to find and identify these individuals. While Kelly Hamburg did not know the full names of the men, he offered to find out. Hamburg Interview (Pl. Ex. 17) at AB001658. He believed that one of them was named Jeremy or Justin, and that an individual named Arthur Berron would be able to provide their identities. *Id.*

182. The record contains no indication that investigators followed up on these leads. Defendant Warner admitted that these leads should have been investigated, but was not aware of any effort to do so. Warner Dep. (Pl. Ex. 41) at 161-64; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 269-70.

183. The record contains no evidence that investigators canvassed the bars that Ms. Lockmiller frequented or made a systematic effort to speak with bartenders, other staff, or bar regulars, regarding potential leads. Freesmeyer Dep. (Pl. Ex. 16) at 265; Brown Dep. (Pl. Ex. 14) at 213, 216; Warner Dep. (Pl. Ex. 41) at 150-53.

184. The record lacks any indication of follow up regarding Mr. Hosey, *see supra* ¶56, including testing the substance that resembled blood or performing a criminal background check. Warner Dep. (Pl. Ex. 41) at 167-68; Freesmeyer Dep. (Pl. Ex. 16) at 271-72. A criminal background check should have been performed on Hosey, Warner Dep. (Pl. Ex. 41) at 167-68, and would have been an easy thing to do. Freesmeyer Dep. (Pl. Ex. 16) at 271.

185. The record contains no evidence of any follow up regarding “Psycho Bill,” *see supra* ¶ 60. There was a database maintained by the Normal Police Department to identify individuals based on nicknames, but Warner was unaware of anyone using the database to attempt to identify “Psycho Bill.” Warner Dep. (Pl. Ex. 41) at 134-35.

186. There is no evidence in the record of any follow up regarding Cory Price, “Joey Yok Yok Monster,” and “Jason,” who was “obsessed” with Ms. Lockmiller. *See supra* ¶ 61; Belcher Dep. (Pl. Ex. 15) at 143-44, 151-52.

187. Defendant Zayas admitted that as of his retirement in November 1994 (well after Mr. Beaman’s arrest in May 1994), the investigation had not excluded other suspects.

Q. And that process of foreclosing other suspects, in your mind, had not been accomplished as of November ’94?

A. No, still had a lot of work to do.

Zayas Dep. (Pl. Ex. 8) at 182.

188. Defendant Freesmeyer could not remember whether he even cared about the existence of alternative suspects:

Q. Would you have cared about the possibility of there being an alternative suspect in the Lockmiller homicide investigation?

....

THE WITNESS: Looking back now, yes, I would have cared; *but I can’t remember what my feelings were at that point, sir.*

Freesmeyer Dep. (Pl. Ex. 16) at 134 (emphasis added). Freesmeyer also did not remember whether he considered the evidence against Murray prior to the decision to arrest Mr. Beaman. *Id.* at 248.

189. McCrary opines, “it is clear that John Murray was a more viable suspect than Mr. Beaman,” but Freesmeyer “devalued all of this information about John Murray stating that the

totality of those circumstances, ‘did not raise a red flag that this is our person.’” McCrary Report (Pl. Ex. 55) at 21-22.

190. Defendants did not compare the unidentified finger-print on the murder weapon, *see* ¶ 104, *supra*, to Murray’s fingerprints. *See* Dierker Trial Testimony (Pl. Ex. 56) at 489, 503-04 (indicating that the fingerprints on the clock were only checked against the known fingerprints of Alan Beaman, Michael Swaine, and Jennifer Lockmiller); Dierker Report Jan. 4, 1994 (Pl. Ex. 64) at AB000162.

191. According to Detective Daniels, the case against Mr. Beaman was not ready for charges to be filed because suspects such as Murray had not been eliminated, and the evidence implicating Murray was as strong, or stronger, than the evidence implicating Mr. Beaman. Daniels Dep. (Pl. Ex. 26) at 531, 559-60, 705; Hospelhorn Dep. (Pl. Ex. 31) at 158-59. The October 1994 arrest of John Murray on domestic violence charges, *see* ¶¶ 40-42, *supra*, deserved “more attention” in connection with the Lockmiller homicide investigation. Daniels Dep. (Pl. Ex. 26) at 500-01; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 148 (stating that by the end of the investigation, Murray’s alibi should have been thoroughly investigated); Warner Dep. (Pl. Ex. 41) at 115-16 (stating that the John Murray polygraph report suggested that further investigation of John Murray was necessary).

192. Even though Mr. Beaman became the primary suspect on Day One, there was “no attempt to seize and conduct forensic examinations of his clothing and footwear for injuries and trace evidence,” the absence of which would have helped to clear him. Moses Report (Pl. Ex. 9) at 5.

**X. ARREST, FREEDOM, AND EXONERATION**

193. On May 16, 1999, at a meeting among investigators and prosecutors, a decision was made to charge Mr. Beaman with Ms. Lockmiller's murder. Daniels Dep. (Pl. Ex. 26) at 337-40; Freesmeyer Police Reports (Pl. Ex. 7) at 48.

194. At the meeting, Freesmeyer supported the decision to arrest Mr. Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 79.

195. Zayas, the head of the detective division, also participated in the meeting. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

196. Daniels told his superiors that "if a warrant came down and they wanted me to execute the warrant on Alan Beaman, that I was going to refuse." Daniels Dep. (Pl. Ex. 26) at 619.

197. At the time of Mr. Beaman's arrest, other investigators within the Normal Police Department did not believe that John Murray had been eliminated as a suspect. Arney Dep. (Pl. Ex. 65) at 14-15; Pantograph Article April 12, 1997 (Pl. Ex. 66).

198. Defendant Warner testified that he did not know whether all potential suspects in Lockmiller's homicide, including Gates, were ever cleared. Warner Dep. (Pl. Ex. 41) at 142, 144-45.

199. Freesmeyer testified that, among the NPD investigators "there may have been doubts as to whether we had enough to convict [Mr. Beaman]." Freesmeyer Dep (Pl. Ex. 16) at 76.

200. Mr. Beaman was arrested in May 1994 primarily because the spring semester was coming to a close; the Defendants had no reason to consider Mr. Beaman a flight risk. *Id.* at 312-13; Warner Dep. (Pl. Ex. 41) at 64-66.

201. Nearly fifteen years later, on May 22, 2008, the Supreme Court of Illinois granted Mr. Beaman's post-conviction petition and vacated his conviction, allowing him to be released from prison. *People v Beaman*, 229 Ill. 2d 56 (2008). The States Attorney's Office then dropped all charges. Souk Dep. (Pl. Ex. 47) at 63.

202. Mr. Beaman petitioned for a certificate of innocence. After receiving DNA testing requested and directed by the State, DNA Reports (Pl. Exs. 74 and 75), the State dropped its opposition to the petition, Certificate of Innocence (Pl. Ex. 1) at 1.

203. On April 29, 2013, Mr. Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District. Certificate of Innocence (Pl. Ex. 1) at 1-2.

204. The Normal Police Department has never attempted to run the recovered DNA through a national database.

205. Ms. Lockmiller's murderer remains at large.

Respectfully submitted,

**ALAN BEAMAN**

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**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that I caused the foregoing document to be served upon:

Thomas G. DiCianni  
Lucy B. Bednarek  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
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Chicago, Illinois 60603

by electronic transmission and by placing the same in a properly addressed, postage pre-paid envelope for delivery by U.S. Mail before the hour of 5:00 p.m. on Tuesday, December 15, 2015.

s/David M. Shapiro

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

McLEAN COUNTY  
**FILED**  
DEC 16 2015  
CIRCUIT CLERK

ALAN BEAMAN, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TIM FREESMEYER, Former Normal Police )  
Detective; DAVE WARNER, Former Normal )  
Police Detective; FRANK ZAYAS, Former )  
Normal Police Lieutenant; and TOWN OF )  
NORMAL, ILLINOIS, )  
 )  
Defendants. )

Case No. 14 L 51  
The Hon. Richard L. Broch

**PLAINTIFF'S RESPONSE TO DEFENDANTS' STATEMENT OF FACTS**

**Statement No. 1 reads:** On April 1, 1995, Plaintiff, Alan Beaman was found guilty by a jury of the murder of Jennifer Lockmiller. Beaman was sentenced to 50 years in the Illinois Department of Corrections. Beaman spent 13 years in prison, and was released in 2008 based on the Illinois Supreme Court's decision in *People v. Beaman*, 229 Ill.2d 56 (2008). (2d. Am. Compl. ¶60). The Court held the State violated Beaman's right to due process under *Brady v. Maryland*, 373 U.S. 83 (1963) by failing to disclose material information about a viable alternative suspect – John Murray. *Beaman*, 229 Ill.2d 56. The undisclosed evidence consisted of four points: (1) Murray failed to complete a polygraph examination; (2) Murray was charged with domestic battery and possession of marijuana with intent to deliver prior to Beaman's trial; (3) Murray had physically abused his girlfriend on numerous prior occasions; and (4) Murray's use of steroids caused him to act erratically. *Id.* at 75.

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**RESPONSE:** Disputed. This statement does not set forth the entirety of Mr. Beaman's post-conviction legal proceedings. Mr. Beaman received a Certificate of Innocence on April 29, 2013 from Judge Jeffrey Ford of the Circuit Court of McLean County. Certificate of Innocence (Pl. Ex. 1); *see also* Plaintiff's Statement of Facts ("Pl. SOF") ¶¶ 1-2.

**Statement No. 2 reads:** Defendant Timothy Freesmeyer was a police officer for the Town of Normal Police Department ("NPD"), from March 12, 1990 until August, 2000. (Ex. 1, Freesmeyer, pp. 16, 21). Freesmeyer worked as a detective in the NPD's Criminal Investigations Division (CID) from 1991 to 1995. (Ex. 1, Freesmeyer, pp. 17, 19).

**RESPONSE:** Undisputed

**Statement No. 3 reads:** Defendant Dave Warner started as a police officer in the NPD in 1983. He worked as a detective for seven years, as an evidence technician, arson investigator, as a patrol and administrative sergeant, an administrator lieutenant, and currently serves as the NPD's day shift lieutenant. (Warner, pp. 30-32).

**RESPONSE:** Undisputed.

**Statement No. 4 reads:** Defendant Frank Zayas started his employment with the NPD in 1968. (Ex. 4, Zayas p. 16). He was the lieutenant in charge of CID at the time of the Lockmiller murder and throughout the murder investigation until his retirement in November, 1994, except he was assigned out of CID from February until June, 1994, when he resumed his position in CID. (Ex. 4, Zayas, pp. 20, 23; Ex. 5, Daniels, p. 683).

**RESPONSE:** Disputed. Zayas was a CID investigator throughout the entirety of the Lockmiller investigation, including from February to June 1994. Zayas Dep. (Pl. Ex. 8) at 20-23 (stating that he was a lieutenant in charge of CID “at the time of the Lockmiller homicide investigation,” until his retirement from NPD in November 1994); Freesmeyer Police Reports (Pl. Ex. 7) at 44 (documenting 2/18/84 meeting between Zayas, Daniels, and Freesmeyer and members of the Chicago Police Department Violent Crimes Unit to discuss progress of Lockmiller investigation); *id.* at 48 (documenting May 16, 1994 meeting, attended by Zayas and the other defendants, at which the decision was made to arrest Mr. Beaman for Ms. Lockmiller’s murder); Daniels Dep. (Pl. Ex. 26) at 658-59 (testifying that Zayas served as a lieutenant in the CID at the time of both the February 1994 and May 1994 meetings documented in Freesmeyer’s report).

**Statement No. 5 reads:** Rob Hospelhorn was a detective in CID part of the time of the Lockmiller murder investigation. He has worked for the NPD from 1988 to the present. (Ex. 9, Hospelhorn, p.17).

**RESPONSE:** Undisputed.

**Statement No. 6 reads:** Tony Daniels was a detective in CID at the time of the Lockmiller murder investigation. He was assigned as the temporary head of CID on Zayas’ departure, from March 7, 1994, until Zayas’ return in June of 1994. (Ex. 5, Daniels, pp. 683-84). He later served as the head of CID. (Ex. 5, Daniels, p. 392).

**RESPONSE:** Disputed. Daniels stated that he was not head of CID until after Zayas retired from NPD. Daniels Dep. (Pl. Ex. 26) at 392. *See also* Plaintiff’s Response to Defendants’ Statement of Facts (“Pl. Resp. to Def. SOF”) ¶ 4.

Statement No. 7 reads: James Souk was the Chief of the Felony Division in the McLean County State's Attorney's Office at the time of the Lockmiller murder. In January, 1997, Souk left that position to become an Associate Judge in McLean County, and was later elected Circuit Court Judge. Souk was the lead prosecutor for Beaman's prosecution for Lockmiller's murder. (Ex. 6, Souk, pp. 28, 51).

**RESPONSE:** Undisputed.

Statement No. 8 reads: Charles Reynard was the elected State's Attorney for McLean County at the time of the Lockmiller murder and Beaman's prosecution. He is currently a Circuit Court Judge in McLean County. (Ex. 18, Reynard, pp. 16, 30).

**RESPONSE:** Undisputed.

Statement No. 9 reads: On August 28, 1993, Jennifer Lockmiller's decomposed body was found in her apartment at 412 N. Main Street, Normal, Illinois. Lockmiller was a student at Illinois State University (ISU) at the time. Lockmiller had been strangled with an electrical cord from an alarm clock in her bedroom and had been stabbed in the chest with a pair of scissors. (Compl. ¶91). Zayas, who went to the crime scene with Warner, described it as "gruesome." (Ex. 4, Zayas, p. 89).

**RESPONSE:** Undisputed.

Statement No. 10 reads: Lockmiller's body was found by her girlfriend, Morgan Keefe (Hartman), who after attempting to contact Lockmiller for several days, went to her apartment,

found the body and called the police. Keefe identified Alan Beaman as the killer -- Lockmiller's ex-boyfriend who Lockmiller was afraid of because of his behavior. According to Keefe, Beaman broke down Lockmiller's door several times and threatened suicide if she broke up with him. (Ex. 3, Warner, p. 52-53, 159; Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27).

**RESPONSE:** Disputed. Keefe had absolutely no personal knowledge related to the murder. Hartman Dep. (Pl. Ex. 11) at 14-15. Keefe testified in her deposition that she was "guessing" when she told the police Mr. Beaman might be the killer, and she "didn't expect that the guesses [she] expressed to the police would carry a lot of weight." *Id.* at 15-16. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. *Id.*

The claim that Mr. Beaman forced open Ms. Lockmiller's door "several times" by kicking it untrue. Investigators learned that this happened on two occasions during the period when Mr. Beaman was dating Ms. Lockmiller and on nights when Ms. Lockmiller was having sex with other men. Pl. SOF ¶ 65.

This statement is also disputed in that it implies that the interview only pointed toward Mr. Beaman as a suspect. Keefe also identified Ms. Lockmiller's ex-boyfriend, Stacey "Bubba" Gates and current love interest Michael Swaine as potential persons of interest. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 5-8. Keefe also identified suspicious individuals whom Ms. Lockmiller encountered during a bar outing shortly before her death. *See* Pl. SOF ¶¶ 13-15.

**Statement No. 11 reads:** The crime scene was a two-story frame apartment building containing four apartments. (Ex. 18, Kennedy Trial Tr., pp. 213-216; Ex. 25, NPD Crime Scene Rpt., p. 73). Lockmiller's body was found in apartment No. 4, which was on the west end of the second floor.

(Ex. 18, Kennedy Trial Tr., p. 216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 8, Freesmeyer Rpt., p. 1).

**RESPONSE:** Disputed. It is misleading to assert that the victim's apartment was at the "west end" of the second floor. Only two apartments were located on the second floor, Ms. Lockmiller's and that of her neighbor, David Singley. The two apartments were separated by a landing, which was just slightly wider than the flight of stairs that led to it. See Singley Stmt. Aug. 31, 1993 (Pl. Ex. 62) at 5; Singley Stmt., Sept. 8, 1993 (Pl. Ex. 63) a 3

**Statement No. 12 reads:** When the police arrived at the scene, the main entrance to the 412 N. Main apartment building was unlocked. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 73; Ex. 7, Keefe Stmt., p. 15; Ex. 20, Freesmeyer GJ Tr., p. 135). The door to Lockmiller's apartment had a deadbolt and chain. (Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 18, Kennedy Trial Tr., pp. 211-212). NPD detectives learned Lockmiller always locked her door. (Ex. 1, Freesmeyer Dep., pp. 212-213).

**RESPONSE:** Disputed. While there was a deadbolt on the door, the crime scene technician testified—in the very portion of his testimony that Defendants cite above—that there was evidence of "the deadbolt being left open periodically." Kennedy Trial Tr. (Pl. Ex. 79) at 211-12. Freesmeyer testified, in the portion of his deposition that the Defendants cite, that the victim "typically" locked the door—and he said nothing about dead bolting it. Freesmeyer Dep. (Pl. Ex. 16) at 212-13. Freesmeyer agreed that it "would have been a possible [for the perpetrator] to unlock the door without leaving a sign of having done so." *Id.* Plaintiff's expert on crime scene analysis noted that the state of the crime scene indicated a home invasion that turned into a rape when the intruder found Ms. Lockmiller in the apartment and that home invaders often open

doors with pieces of plastic called "loids" that leave no signs of forced entry. Moses Report (Pl Ex. 9) at 2-5.

**Statement No. 13 reads:** The door to Lockmiller's apartment contained signs of damage which included a crack in the door frame and marks on the inside of the door frame that appeared to be from the deadbolt lock being left in the lock position when the door was closed. (Ex. 18, Kennedy Trial Tr., pp. 219-220; Ex. 25, NPD Crime Scene Rpt., p. 74). NPD detectives learned the door damage was present prior to the date of Lockmiller's murder. (Ex. 18, Kennedy Trial Tr., pp. 211-220; Ex. 20, Freesmeyer GJ Tr., pp. 134-35). There were no visible signs of recent forced entry to Lockmiller's apartment. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex.1, Freesmeyer, pp. 211-213, 264; Ex. 20, Freesmeyer GJ Tr., pp. 134-35).

**RESPONSE:** Disputed. While there were not visible signs of forced entry, the door easily could have been opened by a home invader without leaving any such signs. *See* Pl. Resp. to Def. SOF ¶ 12. Ms. Lockmiller periodically left the deadbolt open. Kennedy Trial Tr. (Pl. Ex. 79) at 211-12. Moreover, the crime scene as a whole suggested a home invasion turned rape. Moses Report (Pl Ex. 9) at 2-5.

**Statement No. 14 reads:** A gold-colored, hoop-type earring was found lying on the floor approximately three feet inside the doorway. (Ex. 18, Kennedy Trial Tr., pp. 211-221, 239-240; Ex. 25, NPD Crime Scene Rpt., p. 74). A red shoe was lying in the hallway outside the bedroom door and a gold colored earring similar to the earring by the entrance door was found on the

bathroom floor. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 239-240; Ex. 25, NPD Crime Scene Rpt., p.74).

**RESPONSE:** Undisputed.

**Statement No. 15 reads:** Dirty dishes were in the sink, the left cabinet door under the kitchen sink was open and a plastic garbage can was lying on its side in front of the open cabinet. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., p. 135). A bag of garbage was found on the living room sofa filled with trash, with its contents spilling out. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 135-36).

**RESPONSE:** Undisputed but incomplete. Both the dishes in the sink and the removal of the kitchen garbage bag suggested that the crime involved a home invasion and included burglary as a motive. Moses Report (Pl. Ex. 9) at 4.

**Statement No. 16 reads:** Two book bags and Lockmiller's purse were found on a table; all three were closed and did not appear to have been disturbed. (Ex. 19, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Lockmiller's purse contained her driver's license and other identification, a brown wallet with \$17.71 in cash, various credit cards and other personal effects. (Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Officers did not detect any signs that there had been a burglary because items of value were not disturbed on the premises. (Ex. 5, Daniels, pp. 90-91; Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137). The television was on and the air conditioning unit was running, and both were located in

the living room. (Ex. 18, Kennedy Trial Tr., pp. 215-216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 137-38).

**RESPONSE:** Disputed. The crime scene suggested a home invasion in numerous respects, including the fact that the apartment had been rummaged through. Pl. SOF ¶¶ 9-10. While there were not obvious signs of certain items being disturbed, this is consistent with Moses' analysis of the crime scene as a rape that began as a home invasion because "[t]here was nothing in the Lockmiller living room that would be irresistible value-wise to a burglar. Jennifer's purse was on the kitchen table but it was sandwiched between her book bags and not plainly visible." Moses Report (Pl. Ex. 9) at 4.

**Statement No. 17 reads:** NPD detectives learned that Lockmiller's grey Pontiac Sunbird had been parked outside the front door to the building for several days. (Ex. 20, Freesmeyer GJ Tr., p. 138; Ex. 8, Freesmeyer Rpt., p. 189; Ex. 18, Kennedy Trial Tr., pp. 237-238; Ex. 19, Freesmeyer Trial Tr., pp. 798-799).

**RESPONSE:** Undisputed.

**Statement No. 18 reads:** The door to Lockmiller's bedroom was found open. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). A hole, approximately ten inches in diameter, was found on the south wall of the bedroom. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). NPD detectives learned that the hole in the bedroom was made by Alan Beaman prior to Lockmiller's murder. (Ex. 24, Swaine 8/28/93 Stmt., p. 6; Ex. 24, Swaine 8/29/93 Stmt., p. 45).

**RESPONSE:** Disputed. While Swaine, who was himself a suspect at the time, stated that Ms. Lockmiller told him that Mr. Beaman made the hole in the bedroom, Defendants' citations do not establish that this was in fact the case.

**Statement No. 19 reads:** The bedroom contained a single bed and a set of bunk beds; Lockmiller's body was found on the floor in-between the beds. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 223-224; Ex. 25, NPD Crime Scene Rpt., p. 75). Lockmiller's body was found in a supine position, with her arms extended straight out from the shoulders, her legs spread apart and bent at the knees, and her feet extended back toward her head. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., pp. 130-31). Lockmiller's shirt and bra were pushed up, exposing her chest; and her shorts, belt, and underwear were pulled down around her left calf and ankle but there was no physical evidence of rape. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 130, 156-58). A red shoe, similar to the shoe found in the hallway outside the bedroom door, was on Lockmiller's left foot. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 239-240).

**RESPONSE:** Disputed. There was physical evidence of rape, including the position of the body, the victim's state of undress, and indications of a "blitz like attack" that commenced at the front door with the victim "driven straight back to the bedroom." Moses Report (Pl. Ex. 9) at 3. "The position of the body suggests that the perpetrator stood with his back to the twin bed with the victim on her knees in front of him. He then probably forced her backwards and may have raped her before plunging the scissors into her chest." *Id.* There was no evidence suggesting that these indications of rape had been staged. *Id.* at 4. Indeed, the medical examiner who performed the

autopsy believed that “Jennifer Lockmiller may have been sexually assaulted based on the position of her body and the position of her clothing.” Schnittker Affidavit (Pl. Ex. 77) at 1-3. Plaintiffs’ expert in forensic pathology opines that the murder was a sexually motivated homicide. Spitz Report (Pl. Ex. 76) at 3.

**Statement No. 20 reads:** A pair of scissors with red plastic handles was embedded in the center of Lockmiller’s chest. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). The autopsy revealed the scissors found in Lockmiller’s chest could have been put there post-mortem or when her heart was barely beating. (Ex. 20, Freesmeyer GJ Tr., pp. 132, 139-40). Multiple other stab wounds were noted in the skin on Lockmiller’s chest, which had apparently been made with the scissors. (NPD Rpt., p. 75).

**RESPONSE:** Disputed as to “multiple other stab wounds.” The limited number of stab wounds indicated that the killing was not particularly emotionally charged and could have been committed by a stranger: “Freesmeyer’s opinion that the stab wounds in the victim’s chest were . . . an expression of emotion and vengeance on the part of the assailant is . . . incorrect . . . Emotionally charged stabbings generally have far greater number of wounds in a frantic pattern.” Moses Report (Pl. Ex. 9) at 4.

**Statement No. 21 reads:** A clock radio was on the floor east of Lockmiller’s head, and the cord from the clock radio was wrapped around Lockmiller’s neck and tied in the front of her neck. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 225-227, 243-244; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

**RESPONSE:** Undisputed.

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**Statement No. 22 reads:** A box fan was resting on the scissors in Lockmiller's chest, covering her face. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

**RESPONSE:** Undisputed.

**Statement No. 23 reads:** Several letters were located under Lockmiller's bed and placed into evidence. (Ex. 19, Freesmeyer Trial Tr., p. 804; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 8, Freesmeyer Rpt., p. 7-11).

**RESPONSE:** Undisputed.

**Statement No. 24 reads:** Although the apartment was processed for latent finger and palm print impressions, no identifiable latent prints were developed. (Ex. 18, Kennedy Trial Tr., pp. 246-250; Ex. 25, NPD Crime Scene Rpt., p. 75). Two of Alan Beaman's fingerprints were later identified on the clock used to strangle Lockmiller by the Morton Crime Laboratory. (Ex. 18, Kennedy Trial Tr., p. 236; Ex. 25, NPD Crime Scene Rpt., pp. 94-96; Ex. 20, Freesmeyer GJ Tr., pp. 162-63). One of Beaman's fingerprints was identified on the back of the Lockmiller clock near the cord and another on the bottom of the clock. (Ex. 20, Freesmeyer GJ Tr., pp. 275-277).

**RESPONSE:** Disputed. Defendants do not cite any support for the claim that one of Mr. Beaman's fingerprints was found near the cord, other than Freesmeyer's own self-serving testimony before the grand jury, a proceeding in which he committed perjury in other respects. Pl. SOF ¶¶ 173-74.

C03345

The alarm clock revealed seven latent prints—two of which were Mr. Beaman’s, four of which were Michael Swaine’s, and a remaining unidentified print. Dierker Trial Trans. (Pl. Ex. 56) at 503-504. No latent prints were found on Ms. Lockmiller’s belt, her lighter, the scissors, or the electrical cord of the alarm clock with which Lockmiller was strangled. *Id.* at 492-95.

Mr. Beaman had previously spent the night at Ms. Lockmiller’s apartment and used the clock while at her home. Pl. Dep. (Pl. Ex. 2) at 501-02; Souk Grand Jury Trans. (Pl. Ex. 4) at 277-78. This provided, as Mr. Souk agreed, “a reasonable alternate explanation for the fingerprints” because there was no scientific evidence to suggest that Mr. Beaman’s fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125; *see also* Daniels Dep. (Pl. Ex. 26) at 522-23; *People v. Beaman*, 229 Ill. 2d at 78 (stating that the “fingerprints on the clock radio . . . were explained by [Mr. Beaman’s] relationship with Jennifer”).

Moreover, Kennedy, the crime scene technician, did not process Ms. Lockmiller’s entire apartment for fingerprints. Instead, Kennedy collected a set of items from the crime scene suspected to have evidentiary value, and transported them to the Morton Crime Lab for further fingerprint testing. Kennedy Trial Trans. (Pl. Ex. 79) at 236, 238-46. Dierker, the ISP fingerprint specialist, conducted a more in-depth analysis of the items collected by Kennedy, which included the clock radio (the cord from which was used to strangle Lockmiller), the scissors found stabbed in her abdomen, a pink lighter belonging to Ms. Lockmiller, her belt and shoes, the garbage bag from Ms. Lockmiller’s bathroom, the garbage bag found on the sofa in her living room, and the garbage can found overturned in her kitchen. Dierker Report Jan. 4, 1994 (Pl. Ex. 64); Dierker Report Jan. 23, 1995 (Pl. Ex. 80). Dierker discovered that Michael Swaine’s prints were on the garbage can in the kitchen. Dierker Trial Trans. (Pl. Ex. 56) at 499. Ms. Lockmiller’s prints were

C03346

discovered on the garbage bag in the bathroom, as were a Normal detective's prints and four unidentified prints. *Id.* at 499-501. Ms. Lockmiller's prints, along with two additional prints that were not identified, were also found on the garbage bag on the sofa in the living room. *Id.* at 501-02. There were no prints found on one of Ms. Lockmiller's shoes, though a set of Kennedy's own prints were discovered on the other shoe. *Id.* at 493, 502-03.

Dierker identified a total of three to four different items at the crime scene that contained unidentified prints. Neither Freesmeyer nor any other detective on the case ran the unidentified prints through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993. The investigators also failed to dust the dishes left out on the counter, which a burglar-killer may have used to prepare a snack, for fingerprints. Moses Report (Pl. Ex. 9) at 4.

**Statement No. 25 reads:** The cause of death was determined to be ligature strangulation. (Ex. 25, NPD Crime Scene Rpt., pp.104-110.) The post-mortem examination of Lockmiller found no defensive wounds on her body. (Ex. 20, Freesmeyer GJ Tr., p. 140).

**RESPONSE:** Disputed. Freesmeyer testified that skin was found under the victim's nails "which correlated to the neck area where she might have been grasping for the cord." Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 140.

**Statement No. 26 reads:** NPD detectives believed the murder was a crime of passion, involving an act of vengeance. (Ex. 5, Daniels, pp. 90-92; Ex. 1, Freesmeyer, p. 205). NPD detectives concluded that Lockmiller knew her killer. (Ex. 3, Warner, pp. 59-60; Ex. 1, Freesmeyer, pp. 197, 203-205, 211-212).

**RESPONSE:** Disputed. While Freesmeyer claims to have held the idiosyncratic view that the murder was a crime of passion committed by an acquaintance, the crime scene was far more suggestive of home invasion and rape: “Many rapes are merely crimes of opportunity where the burglar unexpectedly finds the victim at home. My overall impression of the murder of Jennifer Lockmiller is that it fits this type of crime . . . ” Moses Report (Pl. Ex. 9) at 2. There were obvious signs that the apartment had been rummaged through.

Nor did other investigators agree with Freesmeyer’s hypothesis that the murderer knew the victim. Defendant Frank Zayas, the head of the Normal Police Department Criminal Investigation Division, testified that the Lockmiller murder could have been committed by a large universe of potential suspects: “In a college town, I mean, there’s so many possibilities.” Zayas Dep. (Pl. Ex. 8) at 90. Zayas elaborated as follows:

The transient nature of the campus. The activities during the day and night, you know. A lot of parties. Kids are always out, all hours of the night and day. The crime scene is on – right on a main thoroughfare, Route 51 . . . [I]t was kind of like an open case. We – we had no idea where to go.

....

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

*Id.* at 90-93.

**Statement No. 27 reads:** On the day Lockmiller’s body was discovered, a meeting was held in the NPD with NPD Police Chief James Taylor, several CID detectives, Souk, and McLean County Coroner Dan Brady to discuss the case. (Ex. 1, Freesmeyer, p. 72). The group discovered

that Beaman was in Rockford where he lived, and Tony Daniels and Hospelhorn were assigned to go to Rockford to interview Beaman that night. (Ex. 2, Hospelhorn, pp. 44-45).

**RESPONSE:** Disputed. “[A]ll detectives in this case” attended the meeting, which would include Defendants Freesmeyer, Warner, and Zayas. Freesmeyer Police Reports (Pl. Ex. 7) at 11.

**Statement No. 28 reads:** Daniels and Hospelhorn were able to conduct a short interview of Beaman in Rockford on the night of August 28, 1993, which Beaman terminated abruptly. (Ex. 5, Daniels, p. 115, 124-25, 30). Daniels and Hospelhorn came away from the Beaman interview believing Beaman’s conduct was highly suspicious. They were particularly interested that while Beaman was questioned about his relationship with Lockmiller, he never asked if something had happened to her. (Ex. 5, Daniels, p. 129). Daniels and Hospelhorn returned to Rockford the following day to attempt to talk to Beaman again, but were told Beaman was represented by counsel and would not talk to the detectives. (Ex. 5, Daniels, p. 143-44).

**RESPONSE:** Disputed. Daniels and Hospelhorn subjected Mr. Beaman to an interrogation, not a mere witness interview. Daniels testified that in his interactions with Mr. Beaman, he moved quickly to the “finger-pointing stage” and employed “trickery” as an “interrogation technique,” telling Mr. Beaman that Ms. Lockmiller “really wasn’t dead, that [she] was in the hospital and that [she] had asked for [Mr. Beaman].” Daniels Dep. (Pl. Ex. 26) at 126-27, 131-32. Mr. Beaman testified that throughout the interrogation he felt “very intimidated . . . and confused” because of “the shocking experience of being put in handcuffs, taken to the police station and questioned and intimidated by the person questioning me.” Pl. Dep. (Pl. Ex. 2) at 179-180.

This statement is also disputed as to the Defendants’ description of the interrogation as “short.” Mr. Beaman was first detained by officers with the Winnebago County Sheriff’s

Department shortly after 10:20 p.m., and transported to the Sheriff's Department in Rockford. Daniels Police Reports (Pl. Ex. 94) at 1-2. The actual interrogation lasted over an hour, from 11:02 p.m. on August 28th to 12:10 a.m. on August 29th. *Id.* at 2. Consequently, Mr. Beaman was in police custody for a total of almost two hours.

Hospelhorn also testified to the opposite of what the Defendants' claim he took away from the Beaman interview—he did not think Mr. Beaman's actions were "highly suspicious."

Q. As a result of your interview with Beaman on August 28, the one you did with Daniels, did you and/or Daniels form any suspicion as to whether Beaman might be guilty of murdering Jennifer Lockmiller?

MR. DiCIANNI: I'll object to foundation as to Daniels.

THE WITNESS: No.

Q. (By Mr. Bowman) No suspicions at all?

A. No.

Q. Okay. So it would be fair to say that to the best of your recollection, there was nothing that Beaman did in the course of that interview that aroused suspicion in any way. Is that a fair statement?

MS. BARTON: Objection.

MR. DiCIANNI: To him?

Q. (By Mr. Bowman) To you.

A. Again, it was hard to base any type of thing with the limited amount of information we had at that time. I would say no at that time.

Q. Right, because you basically had no information at that stage of the investigation other than the fact that Beaman's name had come up and Lockmiller was dead, fair summary?

A. At that time?

Q. Right.

A. Correct.

C03350

Q. Okay. Was there anything in Beaman's demeanor during the interview on August 28 that aroused your suspicions?

A. I don't remember.

Q. Is there anything about Beaman's responses to questions, the way he answered questions that aroused any suspicions from you on August 28 when you spoke with him?

A. I don't remember.

Q. Is there anything that you can point to about Beaman's demeanor that aroused suspicions?

A. No.

Hospelhorn Dep. (Pl. Ex. 31) at 77-79.

Additionally, the claim that Daniels and Hospelhorn found Mr. Beaman's conduct to be "highly suspicious" is not supported by the Defendants' citation. This statement is also disputed in that it implies that Mr. Beaman was not concerned about Ms. Lockmiller's welfare during and after the police interrogation. After the police interrogation, Mr. Beaman was "shaken up," and he wanted to call down to Normal "to find out what happened to Jen." Freesmeyer Police Reports (Pl. Ex. 7) at 21-22; *see also* Pl. Resp. to Def. SOF ¶ 20.

Finally, the Defendants' claim that Beaman would not talk to detectives is incomplete. On August 29, 1993, the day after the interrogation, Daniels and Hospelhorn returned to Rockford and went to Mr. Beaman's home. Mr. Beaman's parents, Carol and Barry Beaman, invited Hospelhorn and Daniels into the house, but informed the detectives that they had just contacted an attorney, a family friend named Tom Laughlin, who had instructed them not to allow Mr. Beaman to speak to anyone. Daniels Dep. (Pl. Ex. 26) at 143-44; Carol Beaman Dep. (Pl. Ex. 3) at 261-62. Daniels and Hospelhorn remained at the Beaman's home until Laughlin arrived and confirmed that the detectives were not to speak to Mr. Beaman. *Id.* at 264. Daniels

and Hospelhorn told the Beamans that they would be in touch the following week, after Mr. Beaman had hired a criminal defense attorney. *Id.* at 264-65. However, Hospelhorn and Daniels did not contact the Beamans at any point during the investigation. *Id.* at 265. Furthermore, Mr. Beaman voluntarily spoke with Freesemeyer and another investigator, John Brown, on multiple occasions. Pl. SOF ¶¶ 68, 110-111.

**Statement No. 29 reads:** Throughout the first six weeks after the murder, every detective in CID worked on the investigation. Dozens of friends, neighbors, boyfriends, relatives and acquaintances were interviewed. (Ex. 3, Warner, pp. 66-68). Zayas, as the head of CID, assigned various parts of the investigation to the detectives. (Ex. 4, Zayas, p. 69). Each detective then worked on various facets of the cases. (Ex. 1, Freesmeyer, p. 37).

**RESPONSE:** Undisputed but incomplete. Zayas, as the head of CID, supervised the investigators working on the Lockmiller case, while Freesmeyer served as the lead detective on the homicide investigation, which meant that he had more responsibility for the case, made “more of the decisions about the direction of the case,” and would incur most of the blame if the case were not solved. Brown Dep. (Pl. Ex. 14) at 109-14; *see also* Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 10, 12, 21, 88, 90; Souk Post-Conviction Dep. (Pl. Ex. 57) at 12; Pl. SOF ¶¶ 94-96.

**Statement No. 30 reads:** The detectives in CID had periodic meetings to discuss the investigation. (Ex. 1, Freesmeyer, pp. 36-37). At times Souk or other attorneys from the State’s Attorney’s Office attended as well. (Ex. 6, Souk, p. 224).

**RESPONSE:** Undisputed.

**Statement No. 31 reads:** Early in the investigation Freesmeyer focused on investigating Mike Swaine, who appeared at Lockmiller's apartment while Freesmeyer was at the crime scene. (Ex. 1, Freesmeyer p. 73). Swaine was Beaman's roommate, and had begun dating Lockmiller. After Swaine's alibi checked out and he passed a polygraph, Freesmeyer worked with Swaine to obtain recorded conversations with Beaman. (Ex. 1, Freesmeyer, pp. 220, 192-93; Ex. 8, Freesmeyer Report, pp. 19, 24).

**RESPONSE:** Undisputed but incomplete. The Defendants, particularly Defendant Freesmeyer, quickly ruled out Swaine as a suspect, only four days after Ms. Lockmiller's body was discovered. Freesmeyer Police Reports (Pl. Ex. 7) at 19; Freesmeyer Trial Trans. (Pl. Ex. 50) at 821-22. After ruling him out, Freesmeyer "gave [Swaine] several reasons why [the detectives] felt that Alan Beaman was a strong suspect in the homicide of Jennifer Lockmiller." Freesmeyer Police Reports (Pl. Ex. 7) at 19. Freesmeyer then asked Swaine to cooperate in a series of overhears with Mr. Beaman and talked "in detail" with Swaine about what he should discuss with Mr. Beaman during these overhears. *Id.* at 19-24; Pl. SOF ¶ 109.

**Statement No. 32 reads:** Morgan Keefe (Hartman) was Lockmiller's best friend. (Ex. 21, Keefe (Hartman), p. 26; Ex. 20, Freesmeyer GJ Tr., pp. 127, 142). Immediately after discovering Lockmiller's body, Keefe called 911 and told the dispatcher that "I know who did it ... [Lockmiller] had this psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door." (Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27; Ex. 21; Ex. 26, 911 Transcript).

C03353

**RESPONSE:** Disputed. Keefe testified in her deposition that she was “guessing” when she told the police Mr. Beaman might be the killer, and she “didn’t expect that the guesses [she] expressed to the police would carry a lot of weight.” Hartman Evidence Dep. (Pl. Ex. 11) 15-16. When Keefe made these statements, she had just discovered the body and was calling 911 in a panicked state—she was “extremely shaken and distraught.” *Id.* at 14. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. *Id.* at 15-16.

Keefe also informed police about various potential suspects, including the unknown men with whom Ms. Lockmiller had flirted in the days before her death. *See* Pl. SOF ¶¶ 13-15. Keefe also told the police that Stacy Gates was a former boyfriend of the victim, that Gates was romantically attached to her, that she did not requite his feelings, that the two had plans to meet in the near future, and that Lockmiller’s attitude toward Gates was “flippant.” Hartman Evidence Dep. (Pl. Ex. 11) at 19-20.

This statement is also disputed as to the characterization of Ms. Keefe as Ms. Lockmiller’s “best friend.” During an interview, Detective Warner asked Keefe: “Do you know someone that would uh, she would talk to more often than you that maybe we could talk to, maybe a closer friend? Is there anybody.” Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) a 6. Keefe responded by giving the name of a different friend of the victim. *Id.*

**Statement No. 33 reads:** On August 28, 1993, shortly after Keefe discovered Lockmiller’s body, Detective Warner interviewed Keefe at NPD. (Ex. 7, Keefe Stmt.). Keefe provided the following information to Detective Warner:

**RESPONSE:** The items in Defendants’ Statement 33 are addressed individually below:

(a) She and Lockmiller went to a movie on Tuesday night before Lockmiller was found; they left the theater around midnight and that was the last time Keefe saw or spoke with Lockmiller. (Ex. 7, Keefe Stmt., p. 1-2.)

**RESPONSE:** Undisputed.

(b) Lockmiller was dating Alan Beaman. (Ex. 7, Keefe Stmt., p. 3.)

**RESPONSE:** Disputed. Keefe informed Warner that Ms. Lockmiller and Mr. Beaman *used to date*. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 3.

(c) Lockmiller didn't like Beaman very much and when Lockmiller tried to stay away from Beaman, he would threaten suicide. (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pp. 18-19).

**REPOSENSE:** These statements referred to the period during which Mr. Beaman and Ms. Lockmiller had been dating. Keefe Statement (Def. Ex. 7) at 3.

(d) Beaman broke down the door to Lockmiller's apartment a couple of times and Lockmiller's landlord fixed the lock. (Ex. 7, Keefe Stmt., p. 3).

**REPOSENSE:** Undisputed that Keefe made these statements and that Mr. Beaman forced open the door on two occasions by kicking it, but Defendants' characterization of the circumstances is incomplete. *See* Pl. SOF ¶ 65.

(e) One night Keefe arrived at Lockmiller's apartment and there was a chair and a big beam against the front door. When she opened the door, Lockmiller started screaming

and Keefe told her, "Jen, it's me. It's ok," and Lockmiller said, "Oh, well, Alan [Beaman] broke down the door awhile ago." (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pps. 25-26). Keefe described Lockmiller as scared of Beaman. (Ex. 21, Keefe (Hartman), p. 26).

**RESPONSE:** Undisputed that Keefe made statements of this nature, but she was, by her own admission, merely "guessing" as to Mr. Beaman's guilt, was not afraid of him, and did not consider him physically violent. *See* Pl. Resp. to Def. SOF ¶ 32.

(f) Lockmiller told Keefe that she was looking forward to Beaman going home over the summer, so that she could finally spend time with Swaine. (Ex. 7, Keefe Stmt., p. 4.)

**RESPONSE:** Disputed. Keefe prefaced this statement by saying "I really don't know the story, so, this is hearsay. This isn't true, maybe not." Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4.

(g) Beaman moved home on August 4, 1993 and Swaine moved into Lockmiller's apartment with her around August 15 because he didn't have a place to live. (Ex. 7, Keefe Stmt., pp. 4-5.)

**RESPONSE:** Disputed. Keefe did not give precise dates and prefaced this statement by saying "I really don't know the story, so, this is hearsay. This isn't true, maybe not." Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4.

(h) Lockmiller told Keefe on August 24 that she recently had sex with Swaine. (Ex. 7, Keefe Stmt., p. 6.)

**RESPONSE:** Undisputed that Keefe made this statement.

(i) Keefe had been trying to contact Lockmiller since Wednesday around 3:30 p.m. (Ex. 7, Keefe Stmt., p. 12.)

**RESPONSE:** Undisputed that Keefe made this statement.

(j) Keefe found the door to Lockmiller's apartment unlocked when she arrived and discovered Lockmiller's body. (Ex. 7, Keefe Stmt., p. 15.)

**RESPONSE:** Undisputed.

**Statement No. 34 reads:** Keefe knew Lockmiller was afraid of Beaman. Lockmiller told Keefe "over and over again" that she was afraid of Beaman. (Ex. 21, Keefe (Hartman), pp. 18, 30). Keefe knew Beaman was possessive, verbally aggressive, and that he would call Lockmiller's apartment repeatedly in a harassing manner. (Ex. 21, Keefe (Hartman), pp. 18-19, 25).

**RESPONSE:** Disputed. Keefe was not afraid of Mr. Beaman and did not consider him violent. Hartman Evidence Dep. (Pl. Ex.11) at 15.

**Statement No. 35 reads:** Liza Everett and Lori Solomon, who lived directly below Lockmiller in apartment No. 2, told NPD detectives they overheard fights between Lockmiller and a man who drove a silver Ford Escort. (Ex. 8, Freesmeyer Rpt., p. 2). Beaman drove a silver/grey Ford Escort. (Ex. 19, Freesmeyer Trial Tr., p. 824).

**RESPONSE:** Disputed. The only source Defendants cite for the claim that these neighbors overheard arguments between Mr. Beaman and Ms. Lockmiller is Freesmeyer's own report.

There is no transcript or recording of Freesmeyer's interview with Everett and Solomon, and Freesmeyer did not provide his notes to the States Attorney's Office and destroyed them. Freesmeyer Dep. (Pl. Ex. 16) at 182. Statements made by Freesmeyer in his report are of dubious credibility because he omitted exculpatory evidence from his report and lied to the grand jury. Pl. SOF ¶¶ 173-74; 150-52. When other investigators interviewed Everett (and actually recorded the interview), she did not mention any arguments between Mr. Beam and Ms. Lockmiller. Everett Stmt. (Pl. Ex. 85).

**Statement No. 36 reads:** David Singley, who lived directly across the hall from Lockmiller told NPD detectives that approximately a month before Lockmiller's murder he overheard an early morning argument between Lockmiller and Beaman, during which Beaman tried to break into Lockmiller's apartment three to four times by kicking it and throwing himself against her apartment door. (Ex. 8, Freesmeyer Rpt., p. 3). Singley also told NPD detectives that on that morning when Beaman could not gain access to Lockmiller's apartment, Beaman ran around the apartment parking lot yelling "slut," returning to her apartment a short time later to yell something like "I see your cherry stain on the bed" and "you slept with him but you wouldn't sleep with me;" and "the only reason you dated me was to go to bed with my friend." (Ex. 8, Freesmeyer Rpt., p. 3).

**RESPONSE:** Disputed. The only source Defendants cite for the claim that Singley made these statements is Freesmeyer's own report, and even that does not contain any mention of Singley claiming that Mr. Beaman called Ms. Lockmiller a "slut." Freesmeyer Report (Def. Ex. 8) at 3. There is no transcript or recording of Freesmeyer's interview with Singley, and Freesmeyer did not provide his notes to the States Attorney's Office and destroyed them. Freesmeyer Dep. (Pl.

Ex. 16) at 182. Defendants' also omit from their account the time of death evidence provided by Singley, which eliminated Mr. Beaman's opportunity to commit the murder. *See* Pl. SOF ¶¶ 165-74.

While it is not disputed that Mr. Beaman forced the door open by kicking it on two occasions during the period that the two had been dating, on those occasions Ms. Lockmiller was having sex or about to have sex with other men, and Mr. Beaman, upon entering the apartment, did not do anything violent to Ms. Lockmiller or anyone else. *See* Pl. SOF ¶ 65.

**Statement No. 37 reads:** Susan Jenkins, who lived with David Singley, described this same incident to NPD, telling detectives that Beaman seemed so "absolutely crazed" that she was afraid to call the police because she thought that if she did Beaman would beat Lockmiller as a result. (Ex.8, Freesmeyer Rpt., p. 3).

**RESPONSE:** Disputed. The only source Defendants cite for the claim that Jenkins made these statements is Freesmeyer's own report, and even that does not support their assertion. Freesmeyer Report (Def. Ex. 8) at 3. There is no transcript or recording of Freesmeyer's interview with Jenkins and Freesmeyer did not provide his notes to the States Attorney's Office and destroyed them. Freesmeyer Dep. (Pl. Ex. 16) at 182. Statements made by Freesmeyer in his report are of dubious credibility because he omitted exculpatory evidence from his report and lied to the grand jury. *See* Pl. SOF ¶¶ 173-74.

**Statement No. 38 reads:** Dan Brady, the McLean County Coroner, opined that Lockmiller's body was in her apartment for 2-4 days before she was discovered. (Ex. 25, NPD Crime Scene Rpt., p. 120; Ex. 20, Freesmeyer GJ Tr., pp. 141-142, 157). The coroner estimated the time of

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death being between 9:00 a.m. on August 25, 1993 and 9:00 a.m. on August 27, 1993. (Ex. 36, Coroner's Rpt., pp. 332-333).

**RESPONSE:** Undisputed.

**Statement No. 39 reads:** Claudine Moss told NPD detectives she spoke to Lockmiller at 8:00 a.m. on August 25, 1993 about a kitten Lockmiller was advertising for sale. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47; Ex. 16, Lockmiller's Telephone Records). Moss told NPD detectives she and her husband went to Lockmiller's apartment to look at the cat around 4:20 p.m. on August 25, 1993, but Lockmiller did not answer her door. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47).

**RESPONSE:** Undisputed.

**Statement No. 40 reads:** NPD detectives obtained Lockmiller's class schedule for August 25, 1993 and learned that she had four classes on that date: (a) 9:00-9:50 a.m.; (b) 10:00-10:50 a.m.; (c) 11:00-11:50; and (d) 2:00-2:50 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45). NPD detectives learned that Lockmiller attended her first three classes, but did not attend her fourth class, which began at 2:00 p.m. (Ex. 8, Freesmeyer Rpt., p. 441; Ex. 20, Freesmeyer GJ Tr., pp. 144- 45, 261). They learned that Lockmiller failed to attend a meeting at the Vidette Newspaper, where she worked, at 8:00 p.m. on August 25. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45).

**RESPONSE:** Undisputed.

**Statement No. 41 reads:** NPD detectives were unable to find any person who saw Lockmiller alive after her 11:00-11:50 a.m. class on August 25, 1993. (Ex. 20, Freesmeyer GJ Tr., p. 147).

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**RESPONSE:** Disputed. Ryan Campbell stated that he might have seen Ms. Lockmiller at 1:30 p.m. on Wednesday, August 25. Hospelhorn Police Reports (Pl. Ex. 54) at 13 (“Campbell stated that he believes he saw Jennifer on Wednesday 08-25-93 at approx 1330 hrs but stated it could have been Tuesday.”). Moreover, David Singley’s observations about the noises he heard coming from Ms. Lockmiller’s apartment made it clear that the killer was present until at least 2 p.m. on Wednesday, August 25, a fact that eliminated any opportunity for Mr. Beaman to have committed the crime. *See* Pl. SOF ¶¶ 165-72.

**Statement No. 42 reads:** On October 12, 1993, Alan Beaman was interviewed by Detective Freesmeyer at the NPD. (Ex. 8, Freesmeyer Rpt., pp. 215-217). During the interview Beaman stated that on August 25, he arrived home from work between 9:00-10:00 a.m. and was there alone, sleeping until his parents woke him up at 3:30-4:00 p.m. when they got home. (Ex. 8, Freesmeyer Rpt., pp. 216-217, 221; Ex. 20, Freesmeyer GJ Tr., pp. 204-05, 228-229).

**RESPONSE:** Undisputed, but these times were an approximation. It was established that Mr. Beaman was at his parents’ home in Rockford at 10:39 a.m. and 2:15 p.m., which made it impossible for him to have committed the murder. Pl. SOF ¶ 67.

**Statement No. 43 reads:** Beaman’s supervisor, Dennis Clark, confirmed to NPD detectives that Beaman got off work on August 25 at 9:00 a.m. (Ex. 20, Freesmeyer GJ Tr., pp. 152-53).

**RESPONSE:** Undisputed.

**Statement No. 44 reads:** On October 11, 1993, the day before Freesmeyer’s interview of Beaman, NPD detectives learned that Beaman made a deposit at Bell Federal Savings and Loan

Bank, located at 1466 S. Alpine Road, Rockford, at approximately 10:11 a.m. on August 25. (Ex. 8, Freesmeyer Rpt., p. 214; Ex. 20, Freesmeyer GJ Tr., pp. 154-56).

**RESPONSE:** Disputed. Freesmeyer learned about the 10:11 a.m. bank deposit on September 24. Freesmeyer Police Reports (Def. Ex. 8) at 26.

**Statement No. 45 reads:** Based on the distance between Rockford and Bloomington, NPD detectives believed it was possible for Beaman to have left Bell Federal, traveled to Bloomington to commit the murder and return to Rockford by 3:00 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 233-239; Ex. 1, Freesmeyer Dep., pp. 213-289).

**RESPONSE:** Disputed. It was established that Mr. Beaman was at his parents' home in Rockford at 10:39 a.m. and 2:15 p.m., which made it impossible for him to have committed the murder. Pl. SOF ¶ 67.

**Statement No. 46 reads:** The detectives discovered that Beaman and Lockmiller had broken off their stormy relationship about one month before her murder. During their two-year relationship, Beaman and Lockmiller broke up and reunited about 18 times. They had many loud arguments, witnessed by their friends and neighbors, one of which resulted in Beaman drinking a bottle of nail polish remover and the police being called. (Ex. 1, Freesmeyer, pp. 193, 209; Ex. 6, Souk, p. 446; Ex. 20, Freesmeyer GJ Tr., p. 249).

**RESPONSE:** The alleged fact that "friends and neighbors" witnessed "loud arguments" between Ms. Lockmiller and Mr. Beaman is not supported by the Defendants' citations. This statement is also disputed as to the characterization of the nail polish incident. Mr. Beaman drank a small amount of nail polish remover – not a "bottle" – in December 1992; Mr. Beaman stated

that he and Ms. Lockmiller were having “an argument [] about [another girl] and I was attempting to escape the—the argument. And I did a stupid thing, I drank the nail polish remover, got sick, and that’s that.” Pl. Dep. (Pl. Ex. 2) at 24. Ms. Lockmiller thereafter took Mr. Beaman to the hospital out of concern for Mr. Beaman’s health. *Id.* at 25-27.

This statement is also disputed as to the description of Mr. Beaman and Ms. Lockmiller’s break-up. *See* Pl. SOF ¶¶ 62-63.

**Statement No. 47 reads:** In the course of the investigation, Freesmeyer reviewed the undated letters recovered from under Lockmiller’s bed. (Ex. 8, Freesmeyer Rpt., pp. 7-11). The letters were written to Lockmiller by Beaman and contained among others, the following statements (Ex. 19, Freesmeyer Trial Tr., pp. 804-805; Ex. 8, Freesmeyer Rpt., pp. 7-11):

(a) I love you more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason. Don’t worry, I won’t kill anybody, I don’t believe in that. I do unto others as I would have them untome (from now on).

(b) I really just want you to be with me and only me.

(c) I’m sorry that I’ve been such an ass lately. It seems like every time I don’t get my way I freak out and do something stupid. I know that it’s a problem, and I’m really trying to mellow out about things like that, but it’s hard for me because I always expect to get the run-around. Needless to say this whole Bubba thing has got me freaked out more than you could possibly imagine. With the most confusing and passionate love ever imaginable in anyone’s wildest dreams.

(d) I can't bear any longer to stare into your eyes to see the barrage of countless past lovers of your life. I cannot look at you, if I cannot touch you. (Ex. 8, Freesmeyer Rpt., pp. 7-10).

**RESPONSE:** Disputed. It is misleading to characterize the letters as "undated" because dates for many of them are established. The majority of Mr. Beaman's letters to Ms. Lockmiller were written in the summer of 1992, when he first began dating Ms. Lockmiller and over a year before her murder. Pl. Dep. (Pl. Ex. 2) at 200. As for the specific letters Defendants quote:

Letter referenced subparagraph (a)—August 1992. Beaman Dep. (Pl. Ex. 2) at 208-15.

Letter referenced in subparagraph (b)—Defendants have not established a timeframe. *Id.* at 232-33.

Letter referenced in subparagraph (c)—Defendants have not established a timeframe. *Id.* at 230-32.

Letter referenced in subparagraph (d)—August 1992. *Id.* at 221-22.

Illinois State Police crime scene technician, Dean Kennedy, located many letters under Ms. Lockmiller's bed from numerous people, including from Stacey ("Bubba") Gates, John Murray, Morgan Keefe, Dean Cauley, Heidi Steinman, and Mr. Beaman, as well as letters that Ms. Lockmiller had written to other people, including to Kris Perry, Michael Swaine, and Bubba Gates. Freesmeyer Police Reports (Pl. Ex. 7) at 7; Lockmiller Letters (Pl. Ex. 83).

**Statement No. 48 reads:** In June, 1993, Beaman broke in the door of Lockmiller's apartment because she was hosting her friend and sometimes lover, Larbi John Murray ("Murray"). (Ex. 6,

Souk, p. 386; Ex. 10, Murray September 2, 1993 Interview Transcript). Todd Barth, Lockmiller's friend, told NPD detectives that around 3 a.m. on July 5 or 6, 2015, Lockmiller called him because Beaman was trying to break in and they had to move a dresser in front of the door. (Ex. 37, Barth Stmt., pp. 1, 9-100.

**RESPONSE:** Disputed. Defendants' characterization of this incident is incomplete. *See* Pl. SOF ¶ 65. Additionally, the portion about the dresser was fourth-hand—Ms. Lockmiller allegedly told Swaine, who told Barth, who told an investigator. Barth Statement (Def. Ex. 38) at 10.

**Statement No. 49 reads:** On July 25, 1993, Beaman suspected that Lockmiller was seeing and possibly sleeping with Beaman's roommate, Michael Swaine, and again knocked down Lockmiller's apartment door. (Ex. 1, Freesmeyer, p. 257). Swaine asked Beaman around 2:00 a.m. that night to borrow his car to go to a party. Thinking Swaine was lying, Beaman followed Swaine on his bicycle to Lockmiller's apartment because he "wanted to watch them." (Ex. 36, Pl. Stmt., p 19; Ex. 24, Swaine 8/28/93 Stmt., p. 10). Beaman banged on the door yelling, "I knew it! I know you are in there!" (Ex.24, Swaine Stmt., pp. 16-18). Beaman kicked in the door and looked for Swaine, who was hiding in the closet. (Ex. 35, Beaman Stmt., p. 19; Ex. 24, Swaine 8/28/93 Stmt.; Ex. 24, Swaine 8/29/93 Stmt).

**RESPONSE:** Disputed. Defendants' claim that Mr. Beaman went to Ms. Lockmiller's because he "wanted to watch them" is a quote that the Defendants simply made up, and there is no support for it whatsoever. Furthermore, this description of the incident is incomplete in many respects, including omission of the fact that Swaine had received oral sex from Ms. Lockmiller, who was dating Mr. Beaman, that evening and was heading into Ms. Lockmiller's bedroom

while kissing her when Mr. Beaman arrived, the fact that Mr. Beaman did nothing physically violent to any person, the fact that Swaine did not feel at all afraid of Mr. Beaman that evening, and the fact that Mr. Beaman quickly calmed down—indeed, he gave Swaine a ride home. Pl. SOF ¶ 65.

**Statement No. 50 reads:** On another occasion, Beaman pushed his way into Lockmiller's apartment and rummaged through Lockmiller's trash looking for Swaine's used condoms as evidence. (Ex.1, Freesmeyer, pp. 195, 201).

**RESPONSE:** The alleged fact that Mr. Beaman went through Ms. Lockmiller's trash is not supported by the Defendants' citation.

**Statement No. 51 reads:** Hospelhorn interviewed Kris Perry, a friend of Lockmiller and Beaman. Perry told Hospelhorn that Lockmiller told Perry that Beaman once said he would kill Lockmiller then kill himself. (Ex. 2, Hospelhorn, p. 109). When Hospelhorn interviewed Perry again on another day, Perry changed his report to take out that Beaman said he would kill Lockmiller, and changed his statement to say that Beaman only said he would kill himself. (Ex. 2, Hospelhorn p. 110-11).

**RESPONSE:** Contrary to what is contained in Hospelhorn's report, *see* Hospelhorn Report (Pl. Ex. 54) at 8, there is no transcript in the Common Law Record indicating that Perry told detectives that Ms. Lockmiller told him that Mr. Beaman said he was going to commit homicide. According to the only recorded statement from Perry that is in the record, Perry told Hospelhorn that Mr. Beaman never said he would kill Ms. Lockmiller. Perry Stmt. (Pl. Ex. 87) at 7. When confronted with Perry's alleged "first" statement during an overhear conversation with Swaine,

Mr. Beaman stated unequivocally that he “never said that.” In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72) at 15.

**Statement No. 52 reads:** Friends and family told NPD that Lockmiller was afraid of Beaman and she intended to seek an order of protection. (Ex. 4, Zayas, pp. 190-95).

**RESPONSE:** Disputed. While Zayas’ notes refer to Jennifer Lockmiller potentially seeking an order of protection, he had absolutely no idea whether this was an order of protection sought against Mr. Beaman or against someone else. Zayas Dep. (Def. Ex. 4) at 190-95. And Defendants’ claim regarding friends and family telling NPD that Lockmiller was afraid of Beaman is wholly unsupported by their record citation.

**Statement No. 53 reads:** Heidi Steinman, a close friend of Lockmiller’s, told NPD detectives that Beaman treated Lockmiller like she was his property. (Ex. 27, Steinman Stmt., p. 10). Steinman told NPD detectives Lockmiller told her that Beaman had thrown a glass at Lockmiller and had also thrown and broken a lamp when he was angry at her. (Ex. 28, Steinman Stmt., pp. 2-3).

**RESPONSE:** Disputed. The timeframe of this alleged event is entirely unclear. In any case, Ms. Lockmiller threw the glass at Mr. Beaman, not the other way around. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 19. Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**Statement No. 54 reads:** Michael Swaine explained to NPD detectives that Lockmiller thought Beaman was infatuated with her and Beaman thought Lockmiller was the only woman for him (Ex. 24, Swaine 8/28/93 Stmt., p. 9).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See* Pl. SOF ¶¶ 62-63. In the same interview that Defendants reference, Swaine also said that everything was different in the later summer: “I saw [Alan] and talked to him and he seemed fine.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 12. Swaine also stated that in the later part of the summer, Mr. Beaman and Ms. Lockmiller spoke, and Mr. Beaman “said that he was over her, he didn't love her anymore.” *Id.* at 13. These characterizations were fully consistent with others’ observations that Mr. Beaman had gotten over the relationship in the later part of the summer, as well as the statements made by Mr. Beaman in surreptitiously recorded conversations with Swaine. *See* Pl. SOF ¶¶ 62-63; 111-112.

In the same interview, Swaine also stated that Mr. Beaman is “not physical” and “wouldn't have done this,” referring to the murder. Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 6, 9.

**Statement No. 55 reads:** Mike Mackey, a friend of Beaman's, told NPD detectives Lockmiller would “fuck with his [Beaman's] head so much that he would just go crazy, I mean, he would be irrational and mood swings and she would just drive him nuts and he would, I mean, for months on end that's all he ever talked about was him and Jen [Lockmiller] and how she was pissing him

off . . . it just made him suicidal I mean it was just nuts and she just drove him crazy.” (Ex. 32, Mackey Stmt., p. MCC 1679).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See supra* Pl. Resp. to Def. SOF ¶ 62-63.

**Statement No. 56 reads:** NPD detectives learned that in the summer of 1993 Beaman was seeing a psychiatrist, wasn’t eating or sleeping, and “was just a mess” and “a mental wreck” because of what he was “going through with Jen.” (Ex. 24, Swaine 8/28/93 Stmt., pp. 9-14).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See* Pl. SOF ¶¶ 62-63. In the same interview that Defendants reference, Swaine also said that everything was different in the later summer: “I saw [Alan] and talked to him and he seemed fine.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 12. Swaine also stated that in the later part of the summer, Mr. Beaman and Ms. Lockmiller spoke, and Mr. Beaman “said that he was over her, he didn’t love her anymore.” *Id.* at 13. These characterizations were fully consistent with others’ observations that Mr. Beaman had gotten over the relationship in the later part of the summer, as well as the statements made by Mr. Beaman in surreptitiously recorded conversations with Swaine. *See* Pl. SOF ¶¶ 62-63; 111-112.

In the same interview, Swaine also stated that Mr. Beaman is “not physical” and “wouldn’t have done this,” referring to the murder. Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 6, 9.

**Statement No. 57 reads:** Jennifer Seig told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together. (Ex. 33, Seig Stmt., p. 6).

**RESPONSE:** Disputed. Seig made it clear when she said this that she was struggling to distinguish between reality and her dreams:

See that's where I'm having problems because this will sound really weird to you, but I, for some reason, I remember him saying that if he ever caught them in bed together that he would kill both of them. But I don't know if that was, it's hard to explain, but **I don't know if he said that or if that's the, or if I had it in a dream or something**, but for some reason, it sticks out in my mind that he said something like that.

Seig Stmt. (Def. Ex. 33) at 6 (emphasis added).

**Statement No. 58 reads:** Katy Corbett, Beaman's friend, told NPD detectives she and Lockmiller were talking about relationships and Lockmiller was ready to call it quits with Beaman, but she did not because Beaman "went through these times when he would be violent and you know he punched a huge hole in her wall at her apartment and just you know times that he would get really upset." Corbett also said that Lockmiller told her she was going to wait until the end of the summer to break it off because Lockmiller didn't want to make Beaman upset while he was still working here at the theater. (Ex. 28, Corbett Stmt., p. 7). Corbett stated that Swaine was "definitely not" a violent individual, but "if Alan [Beaman] were (sic) in the right frame of mine (sic), he could be violent." (Ex. 28, Corbett Stmt., p. 5). Corbett said every time she saw Beaman "in these violent rages he would usually take it out on something else, like there is holes in the apartment walls everywhere at our complex . . . he would bash things . . ." (Ex. 28, Corbett Stmt., p. 8).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See supra* Pl. Resp. to Def. SOF ¶¶ 62-63.

The final quote has been strategically edited to remove a critical qualification Corbett made—Mr. Beaman was never violent toward people: “He would bash *things*, you know what I mean, *I never saw him actually go towards someone, another person.*” Corbett Statement (Def. Ex. 28) at 8 (emphasis added). Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**Statement No. 59 reads:** Swaine also told NPD detectives Beaman got violent and punched a large hole in Lockmiller’s bedroom wall. (Ex. 24, Swaine 8/28/93 Stmt., pp. 6-7; Ex. 24, Swaine 8/29/93 Stmt., p. 71).

**RESPONSE:** Disputed as to the characterization “got violent,” as there is no indication that Mr. Beaman directed violence as at a person. The described incident happened during the period that Mr. Beaman and Ms. Lockmiller had been dating, on an evening when Mr. Beaman found Ms. Lockmiller having sex with John Murray. Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 6-7; Pl. SOF ¶ 65.

**Statement No. 60 reads:** Michael Bowen, Lockmiller’s friend, told NPD detectives Lockmiller told him Beaman “pushed her before.” (Ex. 9, Hospelhorn Rpt., p. 8).

**RESPONSE:** Disputed. While the vast majority of interviews in the Lockmiller homicide investigation were recorded, this one was not. There is no way to know whether Bowen actually

said this. Notably, Hospelhorn's report deviated significantly from what a witness actually said in at least one other instance in this case. *See* Pl. Resp. to Def. SOF ¶ 51. Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**Statement No. 61 reads:** Meredith Haynes, a friend of Lockmiller's who had been romantically interested in Beaman in the past, stated that Lockmiller told her Beaman broke into her (Lockmiller's) apartment or broke down the door several times, pushed her around and knocked things over. (Ex. 34, Haynes Stmt., pp. 1-2, 6-7).

**RESPONSE:** Disputed. Haynes did not tell investigators that Mr. Beaman had broken down the door "several times," nor was that the case. On two occasions, when Ms. Lockmiller was having sex with John Murray and later Michael Swaine, Mr. Beaman indeed kicked open the door. Pl. SOF ¶ 65. There was absolutely no evidence that Mr. Beaman did anything violent to anyone on either occasion, and Swaine affirmatively said otherwise. *Id.* Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173. Indeed, in the same statement Defendants cite above, Haynes, referring to the murder, said, "I really don't think that [Alan] would have anything to do with something like that." Haynes Stmt. (Def. Ex. 34) at 8.

**Statement No. 62 reads:** During the summer of 1993, Michael Swaine and Beaman were roommates and working together at the Illinois Wesleyan theater. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50). Swaine began a sexual relationship with Lockmiller in June 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50; Ex. 24, Swaine 8/29/93 Stmt., p. 304, 221). Swaine and

Lockmiller had sex for the first time on June 11, 1993, when Beaman was driving to/from Rockford to get marijuana for Lockmiller. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., pp. 405, 22).

**RESPONSE:** Disputed. While Freesmeyer told the grand jury testimony that Mr. Beaman was traveling to Rockford to get marijuana for Ms. Lockmiller, it is not clear what he based this on, and Defendants' other citations do not support this portion of the statement.

**Statement No. 63 reads:** Swaine told NPD Beaman gets "real jealous" and "would make everything real dramatic" when he thought that "something is going on" between Lockmiller and another man. Consequently, Swaine and Lockmiller attempted to hide their relationship from Beaman for a time. (Ex. 24, Swaine 8/29/93 Stmt., pp. 3-11; Ex. 24, Swaine 8/28/93 Stmt., pp. 5-6). The Monday after Swaine slept with Lockmiller for the first time, he told Beaman that he had just "kissed her" causing Beaman to get "mad at her and not me [Swaine]." (Ex. 24, Swaine 8/29/93 Stmt., pp. 4-7.)

**RESPONSE:** Disputed. These comments referred -- at the latest -- to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See supra* Pl. Resp. to Def. SOF ¶¶ 62-63.

**Statement No. 64 reads:** On July 25, 1993, Beaman searched Swaine's bedroom while Swaine was at work because Beaman "had to have evidence" of Lockmiller and Swaine's relationship. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 33, Seig Stmt., p. 5-6). During his search of Swaine's bedroom, Beaman found two letters from Lockmiller to Swaine, which Beaman felt confirmed his suspicions that more had happened between them than

Swaine told Beaman. (Ex. 24, Swaine 8/29/93 Stmt., pp. 7-8, 26; Ex. 20, Freesmeyer GJ Tr., pp. 251-53). Beaman also found an opened box of condoms in his and Swaine's apartment and believed some condoms were missing from the box. (Ex. 29, Endicott Stmt., pp. 5-6). Beaman thought the missing condoms meant Swaine was having sex with Lockmiller. (Ex. 29, Endicott Stmt., pp. 5-6).

**RESPONSE:** Disputed as to the characterization "had to have evidence," which is not supported by Defendants' citations.

**Statement No. 65 reads:** Beaman took the letters he found in Swaine's bedroom to the theater where he and Swaine worked together, and angrily confronted Swaine about his relationship with Lockmiller, accusing Swaine of "fucking my girlfriend." (Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 28, Ex. 28, Corbett Stmt., pp. 3-4).

**RESPONSE:** Undisputed.

**Statement No. 66 reads:** Immediately thereafter, Beaman went to Lockmiller's apartment to confront her. (Ex. 27, Steinman Stmt., pp. 2-3). Lockmiller's apartment door was locked, so Beaman pounded on Lockmiller's door until he was let in. (Ex. 27, Steinman Stmt., pp. 2-3).

**RESPONSE:** Disputed as to the claim that Mr. Beaman "pounded on Ms. Lockmiller's door," which is not supported by the record citation.

**Statement No. 67 reads:** Steinman, who was with Lockmiller in her apartment at that time, told NPD detectives that Beaman said, "Don't do this to me Jen. I'm going to kill myself" and kept threatening suicide until he was let into Lockmiller's apartment. (Ex. 27, Steinman Stmt., pp.

23). Once inside, Beaman angrily confronted Lockmiller with the letters he believed was evidence of her relationship with Swaine. (Ex. 27, Steinman Stmt., p. 2-3). He went through Lockmiller's bathroom garbage, found a tampon applicator, and said, "See this is prophylactic. I know it, I know it. You had sex with him." (Ex. 27, Steinman Stmt., p. 3).

**RESPONSE:** Undisputed that Steinman made this statement.

**Statement No. 68 reads:** Beaman left Bloomington on July 25 after confronting Swaine and Lockmiller and went to Ohio, where he stayed with a friend, until August 4. (Ex. 24, Swaine, pp. 26).

**RESPONSE:** Undisputed

**Statement No. 69 reads:** Before leaving Bloomington, Beaman left his theater professor, Dr. Brown, a note stating, "I know this is unprofessional and childish, but this has been chewing at me since early July. I'm too damn tired of this to be professional. If that makes me a nobody or means that I'm through at IWU, okay. But the things that I've found out and witnessed about my aforementioned roommate and my ex-fiancé have crushed my spirit. I had to get out of the slump, and it's really just time for me to leave. I'm just afraid I'd cause even more hell to break loose." (Ex. 20, Freesmeyer GJ Tr., pp. 250-52). Beaman attached the two letters he found in Swaine's room to the note he left for Dr. Brown. (Ex. 20, Freesmeyer GJ Tr., pp. 251-53).

**RESPONSE:** Undisputed.

**Statement No. 70 reads:** While he was in Ohio, Beaman called Lockmiller eight times. (Ex. 30, Stipulation-Phone records, McLean 1306-1307; Ex. 16).

**RESPONSE:** Undisputed.

**Statement No. 71 reads:** On August 4, Beaman returned to Bloomington to retrieve his car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69). Upon arriving in Bloomington, Beaman went to the apartment he shared with Swaine and saw Swaine driving in Lockmiller's car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69).

**RESPONSE:** Undisputed. Indeed, Swaine noted that during this encounter, which occurred after Mr. Beaman had spent time in Ohio and with his parents in Rockford, "I saw [Alan] and talked to him and he seemed fine." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 12. Swaine described the tenor of the conversation as "peaceful" Swaine Dep. (Pl. Ex. 69) at 131.

**Statement No. 72 reads:** That same day, Beaman went to Lockmiller's apartment for about 30-45 minutes "to talk to her because we had broken up." (Pl. Stmt., p. 13). Beaman then drove Lockmiller to class, and when he dropped her off, she kissed him goodbye and he told her, "that might be the last time we ever kissed" because he did not think he could ever trust her again. (Ex. 35, Pl. Stmt., p. 14).

**RESPONSE:** Undisputed. Swaine, who had talked to Ms. Lockmiller about this meeting with Beaman, reported to Freesmeyer that Ms. Lockmiller said that she and Mr. Beaman had ironed things out: "[H]e went to talk to her, and I guess things were ironed out she said he was calmed down." Swaine also stated that Mr. Beaman told Ms. Lockmiller that "he was over her." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 4 (AB 1450). Indeed, this was the last time Mr. Beaman saw Ms. Lockmiller, and he left the conversation feeling that he had put things behind him. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 14 (AB 1460).

Statement No. 73 reads: Beaman told NPD detectives that August 4, 1993 was the last time he saw Lockmiller and that he had “no idea” if she was dating anyone “and didn’t want to know.” (Ex. 35, Pl. Stmt., pp. 9, 13; Ex. 20, Freesmeyer GJ Tr., p. 179).

**RESPONSE:** Undisputed.

Statement No. 74 reads: Beaman returned to Rockford on August 4, 1993. (Ex. 35, Pl. Stmt., pp. 2-3, 1013).

**RESPONSE:** Undisputed.

Statement No. 75 reads: Swaine moved out of the apartment he shared with Beaman and began living with Lockmiller in her apartment around August 14 or 15, 1993. (Ex. 24, Swaine 8/28/93 Stmt., pp. 23; Ex. 24, Swaine 8/29/93 Stmt., pp. 2-3; Ex. 8, Freesmeyer Rpt., pp. 12). At the time of the murder, Swaine was living with Lockmiller but had gone home to Elmhurst, Illinois the previous week to work. (Ex. 24, Swaine 8/29/93 Stmt., pp. 33-34, 5362).

**RESPONSE:** Undisputed.

Statement No. 76 reads: Swaine’s belongings were in Lockmiller’s apartment after he moved in: his “stuff” was on the top bunk in the bedroom, his alarm clock was on the floor of her bedroom, his clothes were in Lockmiller’s closet and drawers, his box fan was in her bedroom, a box of his letters was in the living room and his phone list was near the TV. (Ex. 24, Swaine 8/29/93 Stmt., pp. 35-51).

**RESPONSE:** Disputed in that Swaine had hung up one of his personal belongings, a sign that said “Swaine Street,” in Ms. Lockmiller’s apartment by July 1993. Swaine Trial Trans. (Pl. Ex. 93) at 731; *see also* Swaine Dep. (Pl. Ex. 69) at 124-26. Mr. Beaman saw the Swaine sign in Ms. Lockmiller’s living room when he visited her apartment on August 4th. Pl. Dep. (Pl. Ex. 2) at 123, 495.

**Statement No. 77 reads:** Swaine told detectives that when he talked to Lockmiller on Sunday, August 21, Lockmiller said that she had not told Beaman she was living with Swaine. (Ex. 24, Swaine 8/29/93 Stmt., p. 70).

**RESPONSE:** Disputed in that the record citations do not make it clear when the conversation between Swaine and Lockmiller occurred. In any case, Mr. Beaman saw Swaine’s sign in Ms. Lockmiller’s apartment on August 4. *See* Pl. Resp. to Def. SOF ¶ 76.

**Statement No. 78 reads:** Steinman told NPD detectives Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he was hearing from friends that she had gone out with a guy. (Ex. 27, Steinman Stmt., p. 4; Ex. 13, Ex. 20, Freesmeyer GJ Tr., pp. 150-51).

**RESPONSE:** Disputed. Steinman indeed made this statement, but the claim that Mr. Beaman called Ms. Lockmiller to say he loved her was obviously false—during the period after his visit to Ohio, Mr. Beaman generally was not even returning Ms. Lockmiller’s calls. Lockmiller-Beaman Phone Records (Pl. Ex. 99) (showing that during this period, Ms. Lockmiller called Mr. Beaman repeatedly, and he called her only once).

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**Statement No. 79 reads:** Lockmiller's phone records show she made 28 calls to Beaman's Rockford residence on August 22, 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 148-49; Ex. 16). The next day, August 23, Beaman and Lockmiller spoke on the telephone for 13 minutes. (Ex. 20, Freesmeyer GJ Tr., p. 150; Ex. 16).

**RESPONSE:** Undisputed.

**Statement No. 80 reads:** Beaman told Detective Freesmeyer Lockmiller was asking to get back together with him during the August 23 call, but Beaman said "No, I don't want to talk to you. You fucked my fucking roommate and I don't want to talk to you." Then, he hung up the phone. (Ex. 31, 2/16/94 Overhear Tr., p. 35).

**RESPONSE:** Undisputed.

**Statement No. 81 reads:** In addition to Beaman and Swaine, Stacey "Bubba" Gates, John Murray, and Rob Curtis had early on in the investigation been investigated as possible suspects. (Ex 4, Zayas, p. 103; Ex. 1, Freesmeyer, p. 63; Ex. 8, Freesmeyer Rpt.). Freesmeyer began focusing exclusively on Beaman. (Ex. 1, Freesmeyer, p. 192).

**RESPONSE:** Disputed. Freesmeyer testified that by Saturday, August 28 (the day Ms. Lockmiller's body was found), Mr. Beaman was the primary suspect in his mind. Freesmeyer Dep. (Pl. Ex. 16) at 192. This statement is also disputed in that it suggests that that the investigation ultimately uncovered information that ruled out Gates, Murray, and Curtis as suspects. *See* Pl. SOF ¶¶ 16-55.

**Statement No. 82 reads:** Gates was eliminated as a suspect early on when his alibi was verified. (Ex. 1, Freesmeyer, p. 90). He was teaching at a school in Peoria when Lockmiller was murdered. (Ex. 1, Freesmeyer, p. 277).

**RESPONSE:** Disputed. Freesmeyer, who was tasked with verifying Gates' alibi, did not investigate the possibility that Gates had left the school in Peoria at some point during the course of the day that Ms. Lockmiller was murdered. Freesmeyer Dep. (Pl. Ex. 16) at 277-85. Warner, who was in charge of interviewing Gates, admitted that Gates was never cleared as a potential suspect. *See* Pl. SOF ¶ 83.

**Statement No. 83 reads:** Tony Daniels was in charge of investigating Murray. (Ex. 5, Daniels, p. 131). Daniels and Hospelhorn interrogated Murray on two occasions, and tape recorded the statements. (Ex. 2, Hospelhorn, pp. 33, 151-50; Ex. 9, Hospelhorn Rpt., pp. B, 1; Ex 10 and 11, Murray Interview Transcripts). The September 2, 1993 interview with Murray revealed the following:

- (a) Murray previously dated Lockmiller.
- (b) Murray visited Lockmiller's apartment sometime between August 19 and 23.
- (c) Murray believed he left Bloomington to go to Byron, Illinois on August 24 at 3 p.m.
- (d) Murray was in Byron until September 1.
- (e) While Beaman and Lockmiller were dating, Beaman "freaked out" and kicked in Lockmiller's door when Murray was inside, and grabbed Lockmiller's arm.
- (f) Lockmiller told Murray she was scared to break up with Beaman because she "did not know what he was going to do" and that Beaman was a "psycho."

(Ex. 10, September 2, 1993 Murray Interview Transcript, pp. 1, 5, 13-14, 17).

**RESPONSE:** Disputed. Murray made several other incriminating statements, including the fact that he was a drug dealer. *See* Pl. SOF ¶¶ 20-21. This statement is also disputed in that it presumes that what Murray “revealed” was truthful and reliable information. Each of the sub-points is addressed separately:

a. Murray previously dated Lockmiller.

**RESPONSE:** Undisputed.

b. Murray visited Lockmiller’s apartment sometime between August 19 and 23.

**RESPONSE:** Murray changed his story as to whether this was the last time he saw Ms. Lockmiller alive. *See* Murray Stmt. Sept. 2, 1993 (Pl. Ex. 21) at 4-5; Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 2-3.

c. Murray believed he left Bloomington to go to Byron, Illinois on August 24 at 3 p.m.

**RESPONSE:** Murray was lying about this supposed alibi. *See* Pl. Resp. to Def. SOF ¶ 83(b); Pl. SOF ¶¶ 30-34.

d. Murray was in Byron until September 1.

**RESPONSE:** Undisputed.

e. While Beaman and Lockmiller were dating, Beaman “freaked out” and kicked in Lockmiller’s door when Murray was inside, and grabbed Lockmiller’s arm.

**RESPONSE:** On the referenced occasion, Murray was having sexual intercourse with Ms. Lockmiller and both individuals were trying to conceal that fact from Mr. Beaman, whom Ms. Lockmiller was dating at the time. Murray Stmt. Sept. 2, 1993 (Pl. Ex. 21) at 16; Pl. Dep. (Pl. Ex. 2) at 142-43, 146-47. Furthermore, Murray, as a suspect in the case and a drug dealer who lied several times to the police, is not a reliable witness. *See* Pl. SOF ¶¶ 30-35.

f. Lockmiller told Murray she was scared to break up with Beaman because she “did not know what he was going to do” and that Beaman was a “psycho.” *See* Pl. SOF ¶¶ 30-35.

**RESPONSE:** Murray, as a suspect in the case and a drug dealer who lied several times to the police, is not a reliable witness. *See* Pl. SOF ¶¶ 30-35.

**Statement No. 84 reads:** Daniels and Hospelhorn’s September 8, 1993 interview with Murray revealed the following:

- (a) Murray clarified the last time he saw Lockmiller was on August 21, a date he recalled based on his live-in girlfriend Debbie Mackoway’s work schedule.
- (b) Mackoway left their apartment for work at approximately 6:30 a.m. on August 25, and returned to their apartment at 1 p.m.
- (c) Murray was at home from the time Mackoway left for work until the time she returned at 1 p.m.
- (d) Murray was with Mackoway from 1 p.m. to 4 p.m. on August 25.
- (e) Murray left Bloomington for Byron, Illinois on August 25 at 4 p.m.
- (f) Murray returned to Bloomington on September 2.

(g) Murray sold Lockmiller marijuana.

(h) Lockmiller owed Murray \$20.

(i) Murray offered to take a polygraph.

(j) Murray offered to provide his telephone records to the NPD.

(k) On the day Murray learned of Lockmiller's death, he and Mackoway moved into a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman.

(Ex. 11, September 8, 1993 Murray Interview Transcript, pp. 2-7, 13-14, 18, 23; Ex. 2, Hospelhorn, pp.151-53).

**RESPONSE:** Disputed. This statement presumes that what Murray "revealed" was truthful and reliable information. Each of the sub-points is addressed separately:

a. Murray clarified the last time he saw Lockmiller was on August 21, a date he recalled based on his live-in girlfriend Debbie Mackoway's work schedule.

**RESPONSE:** Murray, as a suspect in the case and a drug dealer, is not a reliable witness. This statement is also disputed in that Murray gave inconsistent statements as to the last time he saw Ms. Lockmiller alive. Pl. Resp. to Def. SOF ¶ 83(b).

b. Mackoway left their apartment for work at approximately 6:30 a.m. on August 25, and returned to their apartment at 1 p.m.

**RESPONSE:** Mackoway did not return to the apartment she shared with Murray at 1 p.m. Rather, she stated that Murray was with her from about 2 p.m. until 4:20 p.m. on Wednesday, August 25, 1993. Daniels Report Sept. 4, 1993 (Pl. Ex. 53). *See also* Pl. SOF ¶¶ 31.

c. Murray was at home from the time Mackoway left for work until the time she returned at 1 p.m.

**RESPONSE:** There is no evidence in the record that supports Murray's statement that he was home the morning and early afternoon of August 25th.

d. Murray was with Mackoway from 1 p.m. to 4 p.m. on August 25.

**RESPONSE:** See Pl. Resp. to Def. SOF 84(b).

e. Murray left Bloomington for Byron, Illinois on August 25 at 4 p.m.

**RESPONSE:** Mackoway left Murray at approximately 4:20 p.m. She returned to their shared apartment at 6:30 p.m., at which time Murray was no longer there. Daniels Report Sept. 4, 1993 (Pl. Ex. 98); Hospelhorn Reports (Pl. Ex. 54) at 14. There is no evidence in the record that supports Murray's statement that he left for Bloomington around 4 p.m.

f. Murray returned to Bloomington on September 2.

**RESPONSE:** Undisputed.

g. Murray sold Lockmiller marijuana.

**RESPONSE:** Undisputed.

h. Lockmiller owed Murray \$20.

**RESPONSE:** Murray told Normal police officers that Lockmiller bought an eighth or a quarter of marijuana from him about once per month, that she owed him "like 20 bucks"

for the drugs, and that at the time of her death she would not pay Murray back. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 14-16.

i. Murray offered to take a polygraph.

**RESPONSE:** Disputed. After Murray failed to complete the first polygraph, Freesmeyer arranged for Murray to take a second polygraph but he never showed up. Freesmeyer Police Reports (Pl. Ex. 7) at 26-27; Freesmeyer Dep. (Pl. Ex. 16) at 98.

j. Murray offered to provide his telephone records to the NPD.

**RESPONSE:** Disputed. Murray mentioned the phone records in response to an investigator's demand that he prove his whereabouts. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 25.

k. On the day Murray learned of Lockmiller's death, he and Mackoway moved into a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman.

**RESPONSE:** See Sealed Addendum.

**Statement No. 85 reads:** Daniels and Hospelhorn also interviewed Murray's live-in girlfriend, Debbie Mackoway on September 3, 1993 and September 8, 1993. (Ex. 2, Hospelhorn, pp. 33, 151; Ex. 9, Hospelhorn Rpt., pp. 9-10, 4434; Ex. 12, Mackoway Interview Transcripts). Those interviews revealed the following:

(a) Mackoway was with Murray at their apartment from 2 p.m. to 4:20 p.m. on

August 25.

(b) Murray left Bloomington for Byron, Illinois on August 25 at approximately 4:20 p.m.

(c) Murray returned to Bloomington on September 1.

(d) Mackoway last saw Lockmiller on August 21. Mackoway was with Murray when they last saw Lockmiller, which she believed was the last time Murray saw Lockmiller as well.

(Ex. 12, Mackoway September 3 and 8, 1993 Interview Transcripts; Hospelhorn Report, p. AB004430; Ex. 2 Hospelhorn, pp. 154-55).

**RESPONSE:** Each of the sub-points is addressed separately:

a. Mackoway was with Murray at their apartment from 2 p.m. to 4:20 p.m. on August 25.

**RESPONSE:** Undisputed

b. Murray left Bloomington for Byron, Illinois on August 25 at approximately 4:20 p.m.

**RESPONSE:** Mackoway left Murray at approximately 4:20 p.m. She returned to their shared apartment at 6:30 p.m., at which time Murray was no longer there. Mackoway had no first-hand knowledge of when Murray left their apartment. Daniels Report Sept. 4, 1993 (Pl. Ex. 98).

c. Murray returned to Bloomington on September 1.

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**RESPONSE:** Undisputed.

d. Mackoway last saw Lockmiller on August 21. Mackoway was with Murray when they last saw Lockmiller, which she believed was the last time Murray saw Lockmiller as well.

**RESPONSE:** Disputed. Mackoway had no first-hand knowledge of when Murray last saw Ms. Lockmiller.

**Statement No. 86 reads:** On September 30, 1993, Daniels took Murray to the Morton Crime Lab for a polygraph. (Ex. 5, Daniels, pp. 169, 256, 277-278). Terrance McCann was the polygraph examiner who administered the test to Murray. (Ex. 5, Daniels, p. 254). McCann tried to administer the test to Murray, but was unable to get a result because Murray was unable to comply with McCann's directions. (Ex. 37, McCann, pp. 47-48). McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Ex. 37, McCann, pp.198-99). McCann explained to Daniels that the test could not be completed. (Ex. 5, Daniels, P. 261). While driving Murray back to Bloomington, Daniels discussed with Murray taking another polygraph with a female examiner, which might relax Murray so that he could complete the test. (Ex. 5, Daniels, p. 270).

**RESPONSE:** Disputed. There is substantial evidence in the record suggesting that Murray intentionally foiled the polygraph. See Pl. SOF ¶¶ 36-40. Regarding Daniel's discussion with Murray of taking another polygraph with a female examiner, Daniels testified that he made this statement merely as "a ploy...to try to solicit another polygraph from [] Murray." Daniels Dep. (Pl. Ex. 26) at 270-71.

**Statement No. 87 reads:** During the course of the investigation, Warner received a polygraph report regarding Murray. The report was requested by Daniels, who was the CID detective who was assigned to investigate Murray. Warner made the appointment for the polygraph by calling the polygraph examiner and asking him to set up the Murray examination. (Ex. 3, Warner, p. 38). When Warner received that report, he gave it to Daniels. (Ex. 3, Warner, p. 39). He did not know what Daniels did with the report. (Ex. 3, Warner, pp.45-46).

**RESPONSE:** Disputed. Warner requested the polygraph. It is disputed whether Warner, when he received the polygraph report, ever gave the report to Daniels. See Pl. SOF ¶¶ 125-129.

**Statement No. 88 reads:** Warner understood that reports that were received from the State Police Lab were also sent directly to the State's Attorney's Office by the State Police Lab. Warner believed that the Murray polygraph report, in addition to being sent to the NPD, would also be sent directly by the State Crime Lab to the State's Attorney's Office. (Ex. 3, Warner, pp. 39-40).

**RESPONSE:** Disputed. Warner testified he had no first-hand knowledge of whether such reports were provided to the State's Attorney's Office. Warner Dep. (Pl. Ex. 41) at 138-39. Terrence McCann, the polygrapher, testified that he sent the report only to the requesting officer; he did not provide the report to the State's Attorney's Office. McCann Dep. (Pl. Ex. 28) at 143-144; Murray Polygraph Docs. (Pl. Ex. 32); Gates Polygraph Docs. (Pl. Ex. 38).

**Statement No. 89 reads:** Daniels does not deny getting the Murray polygraph report from Warner, but he has no memory of it. (Ex. 5, Daniels, pp. 279-80, 677).

**RESPONSE:** Disputed. *See* Pl. Resp. to Def. SOF ¶ 87.

**Statement No. 90 reads:** Daniels has no reason to believe Warner would have done anything to intentionally suppress the Murray polygraph report. During Daniels' deposition, the following colloquy occurred:

Q: Would it be fair to say you don't feel like Dave Warner – well, you don't believe Dave Warner did anything wrong in this case?

A: In my opinion, Dave Warner did not do anything that would have been illegal or unprofessional.

Q: Okay. You have no reason to believe that Dave Warner would have done something to intentionally hide that polygraph report from anybody?

A: In my opinion, I don't believe he had any motive, anything to gain by that, nor did he do it.

(Ex. 5, Daniels, pp. 435-436).

**RESPONSE:** Disputed. Daniels also testified that he did not know what happened to the polygraph report after Warner received it from McCann. Daniels Dep. (Pl. Ex. 26) at 666.

**Statement No. 91 reads:** Daniels describes the possible explanations for the Murray polygraph report not being turned over to the State's Attorney as follows:

- (a) Warner gave it to Daniels and Daniels misplaced it. (Ex. 5, Daniels, pp. 677-78);
  - (b) An NPD intern who made copies for the file could have misplaced it. (Ex 5, Daniels, pp. 223-24);
  - (c) Daniels could have put it in a different file accidentally. (Ex. 5, Daniels, p. 677);
- and
- (d) The report could have otherwise fallen through the cracks somewhere in the NPD.

(Ex. 5, Daniels, pp. 675-66).

**RESPONSE:** Each item is addressed separately below.

a. Warner gave it to Daniels and Daniels misplaced it. (Daniels, pp. 677-78);

**RESPONSE:** Disputed. Detective Daniels had no reason whatsoever to believe that he lost or misplaced the polygraph report, and could not remember ever losing or misplacing an original copy of any investigative report in the course of his career. Daniels Dep. (Pl. Ex. 26) at 725. *See also id.* at 667-668.

b. An NPD intern who made copies for the file could have misplaced it.  
(Daniels, pp. 223-24);

**RESPONSE:** Disputed. This alleged fact is entirely unsupported by the Defendants' citation to the record. There is no mention in Daniels deposition that any NPD intern had the polygraph report in his possession, made copies of the polygraph report and/or misplaced the polygraph report.

c. Daniels could have put it in a different file accidentally. (Daniels, p. 677);

**RESPONSE:** *See* Pl. Resp. to Def. SOF ¶ 91(a). The statement that Daniels "put it in a different file accidentally" was a hypothetical question posed by defense counsel, which lacked foundation in the record; it was not a statement made by Daniels. Daniels Dep. (Pl. Ex. 26) at 677-68.

d. The report could have otherwise fallen through the cracks somewhere in the NPD. (Daniels, pp. 675-66).

**RESPONSE:** This alleged fact is entirely unsupported by the Defendants' citation to the record. Daniels did not testify that the polygraph report did or could have fallen "through the cracks." Daniels Dep. (Pl. Ex. 26) at 675.

**Statement No. 92 reads:** Freesmeyer's entire knowledge regarding Murray was documented in a comprehensive report Freesmeyer completed. (Ex. 1, Freesmeyer, p. 220; Ex. 8, Freesmeyer .). Kenneth Frankenberry, a state polygraph examiner from Rockford had set up three polygraph examinations at the NPD on October 12, 1993. One was for Beaman's friend, Chris Carbone, one was for Murray, and one for Beaman. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp.26-271). Murray did not show up for his examination, and Beaman refused. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp. 26, 29). Freesmeyer was aware that Daniels' interviewing style scared off a lot of the young people he interviewed. (Ex. 1, Freesmeyer, p. 140). Murray's not showing up for a polygraph did not indicate anything suspicious to Freesmeyer. (Ex. 1, Freesmeyer, p. 140). Freesmeyer had no other involvement with the investigation of Murray. Freesmeyer did not interview Murray, and likely never met with him. (Ex. 1, Freesmeyer, p. 87).

**RESPONSE:** Disputed. First, the claim that Freesmeyer's police reports fully document his knowledge of Murray wholly misstates the record. Freesmeyer's Police Reports, (Pl. Ex. 7), contain none of the following information, even though Freesmeyer had knowledge about the following information about Murray:

- a. The fact that Murray beat his girlfriend on a continual basis. Pl. SOF ¶¶ 41-42.
- b. The fact that Murray abused steroids. Pl. SOF ¶ 44.
- c. The fact that Murray was a drug dealer. Pl. SOF ¶ 35.

d. The fact that Murray had taken a polygraph examination. Pl. SOF ¶44.

Additionally, the intentional omission of exculpatory time trial evidence from Freesmeyer's reports, *see* Pl. SOF ¶ 151, suggests that Freesmeyer may also have intentionally concealed the information about Murray in his reports.

Second, regarding the request to polygraph Mr. Beaman, Mr. Beaman initially told Freesmeyer that he would take the polygraph if he could get his lawyer's approval. Freesmeyer Police Reports (Pl. Ex. 7) at 33. Mr. Beaman's attorney ultimately did not allow Mr. Beaman to take a polygraph, and Mr. Beaman informed Freesmeyer of his attorney's position. *Id.* at 47. Mr. Beaman told Freesmeyer that he "could not go against his lawyer[']s decision." *Id.*

Third, this statement is disputed as to the claim that Daniels' interview style intimidated witnesses. Freesmeyer admitted under oath that he did not document this alleged fact in any report. Freesmeyer Dep. (Pl. Ex. 16) at 140-41. Murray did end up taking a polygraph on September 30, 1993, Pl. SOF ¶ 36, after Daniels had already interviewed Murray twice.

Fourth, this statement is further disputed as to the claim that Murray's failure to show up for a polygraph examination was not suspicious to Freesmeyer, since it presumes Freesmeyer's belief was reasonable. Murray was the only documented witness and/or suspect who was scheduled to take a polygraph and who did not show up. Freesmeyer Police Reports (Pl. Ex. 7) at 27. Freesmeyer was also aware of a trove of evidence inculcating Murray in Ms. Lockmiller's homicide, as noted above.

**Statement No. 93 reads:** In February, 1994, several NPD investigators met with homicide detectives at the Chicago Police Department to discuss the investigation. (Ex. 5, Daniels, pp. 318-20). According to Daniels, alternative suspects, including Murray, came up at that meeting.

(Ex. 5, Daniels, pp. 325-26). The Chicago detectives recommended that the NPD investigators continue to focus on Beaman as the prime suspect. (Ex. 5, Daniels, p. 321).

**RESPONSE:** Disputed. The Chicago detectives suggested that Freesmeyer continue attempting to talk to Mr. Beaman while the rest of the investigative team continued to talk to other potential suspects, including John Murray. Daniels Dep. (Pl. Ex. 26) at 325-27; Daniels Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief (Pl. Ex. 30) at 121-22.

**Statement No. 94 reads:** On May 16, 1994, a meeting was held to decide if Beaman should be arrested for Lockmiller's murder. Attending the meeting were NPD Chief James Taylor, Zayas, Daniels, Freesmeyer, State's Attorney Reynard, and Assistant State's Attorney Souk. (Ex. 6, Souk, pp. 232-36).

**RESPONSE:** This statement is disputed as to the claim that the meeting was held to "decide" whether to arrest Mr. Beaman. In reality, Freesmeyer had decided to do so long before; Freesmeyer Police Reports (Pl. Ex. 7) at 32 (On October 27, 1993, Freesmeyer "informed" Mr. Beaman "that he was going to be arrested for Jennifer's death at one point or another.").

**Statement No. 95 reads:** The investigators provided input on what the nine month investigation had produced. As a result of that discussion, State's Attorney Reynard decided that Beaman should be charged with Lockmiller's murder. (Ex. 6, Souk, p. 140). None of the NPD investigators lobbied or urged the State's Attorney to charge Beaman. (Ex. 6, Souk, p. 442). The decision was solely made by Reynard. (Ex. 6, Souk, p. 140). Souk agreed with the decision. (Ex.

6, Souk, p. 179). According to Souk, no one at the meeting expressed any opposition to the decision to charge Beaman. (Ex. 6, Souk, p. 237).

**RESPONSE:** Disputed. Defendants claim that Souk testified that none of the investigators lobbied *for* the arrest, but in fact, Souk merely testified that he did not recall any investigator lobbying *against* the arrest:

Q. Okay. Do you recall any particular investigator lobbying or, or advocating either strongly in favor of the arrest, or strongly or in any way not in favor of the arrest?

A. A. I don't recall anyone lobbying **not in favor of the arrest**.

Souk Dep. (Pl. Ex. 47) at 442 (emphasis added). Regardless of what happened at this one meeting, however, Defendants had been pushing for Mr. Beaman's arrest from the first day of the investigation, when Freesmeyer selected him as the primary suspect. Pl. SOF ¶ 94. From there, Defendants concealed and ignored the evidence in order to bring about his arrest. Pl. SOF ¶¶ 101-174.

**Statement No. 96 reads:** In April, 1994, Tony Daniels attended a conference for police agencies on cold case investigations. Daniels was authorized to attend, and planned to discuss the Rostock murder which was unsolved in Normal since the 1970's. NPD Assistant Police Chief Walt Clark suggested that Daniels instead discuss the Lockmiller murder. (Ex. 5, Daniels, pp. 327- 28). Daniels copied the entire Lockmiller file in the NPD, and brought it with him to Florida to discuss the case. Daniels returned with a list of investigative avenues that had been suggested for the case. (Ex. 5, Daniels, pp. 205-06, 330).

**RESPONSE:** This statement is disputed as to the claim that Daniels copied the entire file. He copied certain documents. Daniels Dep. (Pl. Ex. 26) at 205-06.

**Statement No. 97 reads:** According to Daniels, he brought the list from the Florida conference to the May 16, 1994 meeting and suggested they pursue the list before they proceed with Beaman's arrest. (Ex. 5, Daniels, p. 337). According to Daniels, Souk said "I think we've got our guy" in response to the Daniels suggestion. (Ex. 5, Daniels, p. 463). Souk also said that "we went as far as we can with this case. We are going to go ahead and issue a warrant for [Beaman's] arrest." (Ex. 5, Daniels, p. 340).

**RESPONSE:** Undisputed that Daniels stated that Souk made these statements, but Souk did not have the power to control the investigation or to prevent the Defendants from properly investigating the case. While Souk at times made requests to Freesmeyer, he did not "direct his ... investigative strategies." Souk Post-Conviction Dep. (Pl. Ex. 57) at 17.

**Statement No. 98 reads:** Freesmeyer agreed with the decision to proceed against Beaman. Freesmeyer concluded there was probable cause for the arrest and prosecution of Beaman based on the following information developed during the murder investigation. (Ex. 1, Freesmeyer, p. 193; Ex. 8, Freesmeyer Rpt.).

**RESPONSE:** Disputed. There was no basis for probable cause. Each of the Defendants' sub-points is addressed separately:

- a) Beaman's fingerprint was on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Freesmeyer, pp. 193, 201);

**RESPONSE:** Mr. Beaman's prints were *not* found on the cord of the alarm clock, which was used to strangle Ms. Lockmiller, or the scissors, which were lodged in her chest. No prints were recovered from either the cord or scissors. Dierker Trial Trans. (Pl. Ex. 56) at 492-95; Dierker Report Jan. 4, 1994 (Pl. Ex. 64).

The body of the alarm clock revealed seven latent prints—two of which were Mr. Beaman's, four of which were Michael Swaine's, and a remaining unidentified print. There is no scientific means by which to "age" fingerprints, so it was impossible to determine when the prints were placed on the body of the clock and the order in which the fingerprints were placed. Dierker Trial Trans. (Pl. Ex. 56) at 485, 512; Souk Grand Jury Trans. (Pl. Ex. 4) at 241; Freesmeyer Dep. (Pl. Ex. 16) at 202-203. Mr. Beaman had previously spent the night at Ms. Lockmiller's apartment and used the clock while at her home. Pl. Dep. (Pl. Ex. 2) at 501-02; *see also* Souk Grand Jury Trans. (Pl. Ex. 4) at 277. This provided, as Souk agreed, "a reasonable alternate explanation for the fingerprints" because there was no scientific evidence to suggest that Mr. Beaman's fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125. *See also* Daniels Dep. (Pl. Ex. 26) at 522-523; *Beaman*, 229 Ill. 2d at 78 (stating that the "fingerprints on the clock radio . . . were explained by [Mr. Beaman's] relationship with Jennifer").

Defendant Freesmeyer admitted that his view that Mr. Beaman's fingerprint held any significance was based "solely on [his] own interpretation." Freesmeyer Dep. (Pl. Ex. 16) at 203.

b) The crime scene matched something Beaman confessed about during one of the overhears. (Freesmeyer, pp. 195-96). Beaman admitted that one time he pulled a garbage bag out of a garbage can in Lockmiller's apartment to search for evidence of condoms deposited by Swaine or some other Lockmiller lover. (Freesmeyer, p. 210). The police found a garbage bag that had been pulled out of the can and was sitting on the living room couch at the crime scene. (Freesmeyer, pp. 210-11).

**RESPONSE:** Disputed. The removal of the garbage bag and several other features of the crime scene suggested that the crime began as a home invasion. Pl. SOF ¶¶ 9-11. Freesmeyer's theory that Mr. Beaman was searching for condoms because the kitchen wastebasket was disturbed is inconsistent with the fact that the bedroom wastebasket was left undisturbed. Pl. SOF ¶ 119.

Furthermore, fingerprint testing on the garbage bag revealed Ms. Lockmiller's fingerprints and two unidentified fingerprints. Mr. Beaman's fingerprints were not discovered on the bag. No fingerprints were identified from the contents of the garbage. Dierker Trial Trans. (Pl. Ex. 56) at 501-02. Michael Swaine's fingerprints were discovered on the garbage can from which the garbage bag had been taken. *Id.* at 499; Dierker Report Jan. 4, 1993 (Pl. Ex. 64); ISP Crime Scene Report (Pl. Ex. 84) at 2. In short, there was no physical evidence linking Mr. Beaman to any garbage bag or garbage can at the crime scene.

c) The police found voluminous letters Beaman had written Lockmiller, which showed an intense passion for her. Telephone records showed 28 phone calls

from the Lockmiller residence to Beaman's home residence within the days before the murder. (Freesmeyer, p. 193).

**RESPONSE:** The majority of Mr. Beaman's letters to Ms. Lockmiller were written in the summer of 1992, when he first began dating Ms. Lockmiller and over a year before her murder. Pl. Dep. (Pl. Ex. 2) at 200. Only two of the letters were written in 1993; one in March 1993 and the other in early summer 1993. Pl. Trial Trans. (Pl. Ex. 6) at 1668, 1673-74 (describing exhibits 4-B-17 to 4-B-19 and 4-B-20 referring to Lockmiller Letters).

Illinois State Police crime scene technician, Dean Kennedy, located many letters under Ms. Lockmiller's bed from numerous people, including from Stacey ("Bubba") Gates, John Murray, Morgan Keefe, Dean Cauley, Heidi Steinman, and Mr. Beaman, as well as letters that Ms. Lockmiller had written to other people, including to Kris Perry, Michael Swaine, and Bubba Gates. Freesmeyer Police Reports (Pl. Ex. 7) at 7; Lockmiller Letters (Pl. Ex. 83).

d) There was a hole in Beaman's alibi. (Freesmeyer, p. 193).

**RESPONSE:** There was no hole. Mr. Beaman had no opportunity to commit the murder. See Pl. SOF ¶ 67

e) Beaman had broken down Lockmiller's apartment door to get into her apartment twice before. (Freesmeyer, p. 193).

**RESPONSE:** On both those occasions, Ms. Lockmiller was having sex with other men and attempting to conceal her actions from Mr. Beaman. *See Swaine Dep. (Pl. Ex. 69) at 77; Pl. SOF ¶ 65.*

f) Freesmeyer had asked Beaman several times in interviewed [sic] whether he had any evidence or information that could clear him. Beaman's response was that he had nothing. (Freesmeyer, p. 194)

**RESPONSE:** This statement is disputed in that it implies that Mr. Beaman's response is probative of his guilt. In this same conversation, Mr. Beaman also told Freesmeyer that he would not confess, stating "I didn't do it." Freesmeyer Police Reports (Pl. Ex. 7) at 33.

g) Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not. In reality, Beaman had gone to a bank in Rockford that morning. A video from the bank showed Beaman in the bank at 10:11 a.m., when Beaman had told the police he got off work at 9:00 a.m., and went straight to bed. (Freesmeyer, pp. 194, 200).

**RESPONSE:** Mr. Beaman's presence at the Bell Federal Savings and Loan bank on August 25, 1993 confirms his alibi, *i.e.*, that he was in Rockford, and not Normal, at the time of the murder. *See Pl. SOF ¶¶ 130-134; see also Freesmeyer Dep. (Pl. Ex. 16) at 200* (admitting that Mr. Beaman's presence at the bank on August 25 "cut both ways" in that it could have been helpful in bolstering Mr. Beaman's alibi).

h) Beaman's attorney had requested and received the videotape from the Rockford bank in September, 1993, so Freesmeyer concluded Beaman was lying when he said he went straight to bed. (Freesmeyer, pp. 194, 199).

**RESPONSE:** Mr. Beaman was not lying—like most college students, he did not memorize every time he went to the bank. Mr. Beaman testified that when his attorney, William Beu, obtained the videotape early in the investigation, “I was not directly involved with what my attorney was doing at that time. I was in Bloomington. My family was in Rockford. They were communicating with my attorney and I was focusing on school. So I was not really even paying attention to what was going on in Rockford.” Pl. Dep. (Pl. Ex. 2) at 374. While Mr. Beaman was away at college, his mother, Carol Beaman, made efforts to retrace Mr. Beaman's steps the week of Ms. Lockmiller's murder. Carol Beaman Dep. (Pl. Ex. 3) at 42-43, 49-50, 56. Mrs. Beaman knew that Mr. Beaman had gone to the bank on August 25th because she prepared the deposits for him the night before and told him to go to the bank after work the following day. Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief (Pl. Ex. 30) at 26-27. Mr. Beaman's defense counsel, Mr. Beu, testified that he obtained the Bell Federal video early in the investigation, while also attempting to retrace Mr. Beaman's steps, using the family's information about Mr. Beaman's whereabouts the week of Ms. Lockmiller's murder. Beu Dep. (Pl. Ex. 49) at 55-56, 156.

Mr. Beu stated that the Bell Federal video did not appear significant to the case until after Mr. Beaman was arrested, when the defense team discovered the State's theory of Lockmiller's time of death. Beu stated that until the trial proceedings began, the investigators were “closed-mouthed with respect to the alleged time of [Lockmiller's]

death.” *Id.* at 157. Beu testified that, as a result, “[t]here was no significance specifically to Bell Federal until we found out whether or not that time [that Mr. Beaman was at the bank] was going to be significant[.]” *Id.* at 75.

i) Beaman made several suspicious statements on the overhear with Swaine. Beaman said Lockmiller had “dug into him with ounce of sharp silver she had.” Freesmeyer concluded that the statement, not generally used as an expression matched that Lockmiller was stabbed in the chest with silver scissors, which had not been reported when the statement was made. (Freesmeyer, pp. 195-96).

**RESPONSE:** The overhears were exculpatory, not inculpatory. The numerous surreptitious recordings were designed to elicit an admission of guilt, but completely failed to do so. As McCrary stated:

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller’s relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants’ theory. It also refutes the defendant’s hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swaine was working as an agent for law enforcement and that he was recording this conversation.

McCrary Report (Pl. Ex. 55) at 12.

j) Beaman told Swaine on the overhear that he knew Swaine was sleeping with Lockmiller because “that pussy never tasted the same,” which seemed to be a crude reference about somebody he supposedly loved, immediately after her death. (Freesmeyer, p. 196).

**RESPONSE:** While crude, this statement is hardly evidence of murder. *See* item i, immediately above.

k) Beaman told Swaine that Lockmiller was never going to be happy. In Freesmeyer's homicide investigation training, a killer will often say something like that as an effort to justify his action in his own mind. (Freesmeyer, p. 197).

**RESPONSE:** *See* item i above. Furthermore, the ploy used by Defendants and Swaine in the overhears was for Swaine to pretend to be an emotional wreck over the death of a woman he was dating, so that Mr. Beaman would attempt to comfort him. Swaine Dep. (Pl. Ex. 69) at 181. Mr. Beaman told Swaine in this same overhear conversation that Ms. Lockmiller was in "a better place." Pl. Dep. (Pl. Ex. 2) at 516. Mr. Beaman testified that "[n]one of my statements to Michael Swaine [during the overhear]... were ever intended to suggest that Jennifer was better off dead. Michael Swaine expressed deep grieving over her death. He was – appeared to be hurting and very sorrowful and confused about it. And I was trying to comfort him." *Id.* at 513.

l) Beaman told Swaine that "she (Lockmiller) trained me good and she would have trained you just the same." Freesmeyer saw the statement as another justification for his actions. (Freesmeyer, p. 197).

**RESPONSE:** *See* item i above. Mr. Beaman's statement suggested that he was trying to mitigate Swaine's feigned grief over the loss of a love interest.

- m) A fan covered Lockmiller's face, which Freesmeyer saw as fitting a pattern where a person murders someone he knows than cannot face it. (Freesmeyer, p. 203).

**RESPONSE:** In reality, the fan covering the victim's face suggested a home invasion, not a personal crime. Pl. SOF. ¶ 120-121.

- n) Lockmiller was stabbed multiple times after she was already dead. According to the coroner's report Lockmiller died of strangulation. There was no blood spatter at the crime scene which indicated Lockmiller's heart was not pumping when stabbed. It was inconsistent with the act of a random person, and indicated the killer had vengeance as a goal. Lockmiller had hurt Beaman very deeply, and no else was known to have any passionate feelings about Lockmiller. (Freesmeyer, p. 197).

**RESPONSE:** Disputed as to Freesmeyer's belief that the crime scene was "inconsistent with the act of a random person." On the contrary, the nature of the wounds suggested that the killer was a stranger. Pl. SOF ¶¶ 115-116. Freesmeyer has no expertise in crime scene technology or analysis. The Defendants provide no support in the record, other than Freesmeyer's personal opinion, that Ms. Lockmiller was murdered as an act of revenge.

This statement is also disputed as to the claim that "no [one] else was known have any passionate feelings about Lockmiller." See Pl. SOF ¶¶ 16-55.

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- o) There was no forced entry. Valuables lying around the apartment. Her purse was laying right there. A burglar would have taken those things and there would have been a forced entry of some type. (Freesmeyer, p. 211).

**RESPONSE:** There were numerous elements of the scene that pointed to a crime that began as a home invasion. Pl. SOF ¶¶ 9-10. Certain items being left undisturbed was not inconsistent with a home invasion because “[t]here was nothing in the Lockmiller living room that would be irresistible value-wise to a burglar. Jennifer’s purse was on the kitchen table but it was sandwiched between her book bags and not plainly visible.” Moses Report (Pl. Ex. 9) at 4. While there were not obvious signs of forced entry, it would have been entirely possible for a home invader to enter without leaving such signs. *Id.* at 3.

**Statement No. 99 reads:** Souk considered it significant that Beaman’s fingerprints were only found on the clock radio, the murder weapon, and not anywhere else in the apartment. (Ex. 6, Souk, p. 128). Souk considered that there was sufficient evidence to establish probable cause, and a reasonable chance of prevailing at trial. (Ex. 6, Souk, p. 241).

**RESPONSE:** Disputed. Souk stated that because Mr. Beaman had spent the night with Ms. Lockmiller on previous occasions, there was “a reasonable alternate explanation for the fingerprints.” Souk Dep. (Pl. Ex. 47) at 284, 125. *See* Pl. Resp. to Def. SOF ¶ 24.

Moreover, Kennedy, the crime scene technician, did not process Ms. Lockmiller’s entire apartment for fingerprints. Instead, Kennedy collected a set of items from the crime scene suspected to have evidentiary value, and transported them to the Morton Crime Lab for further fingerprint testing. Kennedy Trial Trans. (Pl. Ex. 79) at 236, 238-46. Dierker, the ISP fingerprint

specialist, conducted a more in-depth analysis of the items collected by Kennedy, which included the clock radio (the cord from which was used to strangle Lockmiller), the scissors found lodged in her abdomen, a pink lighter belonging to Ms. Lockmiller, her belt and shoes, the garbage bag from Ms. Lockmiller's bathroom, the garbage bag found on the sofa in her living room, and the garbage can found overturned in her kitchen. Dierker Report Jan. 4, 1994 (Pl. Ex. 64); Dierker Report Jan. 23, 1995 (Pl. Ex. 51). Dierker discovered that Michael Swaine's prints were on the garbage can in the kitchen. Dierker Trial Trans. (Pl. Ex. 56) at 499. Ms. Lockmiller's prints were discovered on the garbage bag in the bathroom, as were a Normal detective's prints and four unidentified prints. *Id.* at 500. Ms. Lockmiller's prints, along with two additional prints that were not identified, were also found on the garbage bag on the sofa in the living room. *Id.* at 501-02. There were no prints found on one of Ms. Lockmiller's shoes, though a set of Kennedy's own prints were discovered on the other shoe. *Id.* at 502-03. The alarm clock revealed seven latent prints—two of which were Mr. Beaman's, four of which were Michael Swaine's, and a remaining unidentified print. *Id.* at 503-504. No latent prints were found on Ms. Lockmiller's belt, her lighter, the scissors, or the electrical cord of the alarm clock with which Lockmiller was strangled. *Id.* at 492-94.

Dierker identified a total of three to four different items at the crime scene that contained unidentified prints. Neither Freesmeyer nor any other detective on the case ran the unidentified prints through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993.

This statement is disputed also in that it presumes Souk's belief was reasonable. The Defendants never developed any physical evidence implicating Mr. Beaman in Ms. Lockmiller's death; Mr. Beaman never confessed to the crime; and Mr. Beaman did not have the opportunity

to commit the crime. See Pl. SOF ¶¶ 67-74. Throughout the investigation, neither Freesmeyer nor any of the other Normal Police investigators developed any evidence that actually implicated Mr. Beaman in Ms. Lockmiller's murder. Defendant Freesmeyer, Defendant Warner, and Souk agreed that the case against Mr. Beaman was entirely circumstantial. Souk Dep. (Pl. Ex. 47) at 137; Freesmeyer Dep. (Pl. Ex. 16) at 263; Warner Dep. (Pl. Ex. 41) at 149.

**Statement No. 100 reads:** Souk considered that Beaman's motive was based on his intense, passionate love affair with Lockmiller over many months, their stormy relationship, his explosive temper, his acting out on that temper on a number of occasions and Beaman's reaction when approached by the police after Lockmiller's body was found. (Ex. 6, Souk, p. 242). Souk thought Beaman's reaction to Lockmiller's death was very strange for a person with his passionate love and bitterness toward Lockmiller. (Ex. 6, Souk, p. 244).

**RESPONSE:** Disputed. The motive evidence is greatly overstated in this paragraph:

*"Stormy Relationship"*: The relationship was terminated a month prior to the murder by mutual decision. Pl. SOF ¶ 63-64.

*"Explosive Temper"*: Mr. Beaman, in contrast to Murray, was never physically violent toward any individual. See Freesmeyer Dep. (Pl. Ex. 16) at 208; Pl. SOF ¶¶ 65-66.

*"Beaman's Reaction"*: Mr. Beaman never "reacted" to news of Ms. Lockmiller's death in front of investigators because the police deceived him as to the fact that she had been murdered. Pl. Dep. (Pl. Ex. 2) at 312; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1451. Mr. Beaman did not find out Ms. Lockmiller had been killed until Sunday, August 29th, when he was told by his parents, who had learned it from Plaintiff's friend, Don Jones. Pl. Dep. (Pl. Ex. 2) at 313; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1453.

Furthermore, at the time of Ms. Lockmiller's murder, Mr. Beaman was no longer in love with or bitter towards Lockmiller. Following their break-up in July 1993, the two maintained a civil relationship. When Mr. Beaman visited her for the last time in Normal at the beginning of August, Ms. Lockmiller "seemed stable" and the two talked calmly for a short period of time before Mr. Beaman dropped her off at a class and returned home to Rockford. Mr. Beaman stated that when he left Ms. Lockmiller that last time, he "felt good[.]" Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 13-14. During an initial interview, Swaine told Defendant Freesmeyer that, after they broke up, Mr. Beaman told Ms. Lockmiller that he was over her. Swaine also stated that when Mr. Beaman returned from Ohio, "things were ironed out" between Ms. Lockmiller and Mr. Beaman and Mr. Beaman "seemed ok." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 4 or AB001450.

In August, Mr. Beaman began dating again, seeing a woman in Rockford named Beth Terresi. Pl. Trial Trans. (Pl. Ex. 6) at 1737-39, 1821. Mr. Beaman's and Ms. Lockmiller's friend, Josh Whitney, told investigators that after the break-up in early August 1993, Mr. Beaman "seemed to me to be in an overall good mood and he'd finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite awhile." Whitney Stmt. (Pl. Ex. 43) at 3-4.

**Statement No. 101 reads:** Souk thought it significant that Freesmeyer interviewed Beaman's neighbor, Mr. Van Berringer, who said that immediately after Hospelhorn and Daniels interviewed Beaman on August 28, 1993, he came to Van Berringer's house and told Van

Berringer that he (Beaman) had odometer evidence that would clear him for the murder. (Ex. 6, Souk, p. 243).

**RESPONSE:** This statement is disputed as to the claim that the conversation regarding odometer evidence happened “immediately” after Mr. Beaman’s first interview. Van Berringer’s testimony was the subject of a post-trial motion filed on May 3, 1995, following Mr. Beaman’s conviction. Second Supplemental Post-Trial Motion (Pl. Ex 88). At trial, Van Berringer initially and mistakenly testified that, following Ms. Lockmiller’s murder, he had a single conversation with Mr. Beaman between 2:00 a.m. and 2:30 a.m. on August 29, 1993, and that during that conversation, Mr. Beaman disclosed that he recently had his tires changed, that there was a receipt indicating the mileage, and that he had not driven over 300 miles since buying the tires. In fact, Van Berringer and Mr. Beaman had spoken on several occasions between August 29, 1993 and September 3, 1993. *Id.* Van Berringer could not remember during which conversation Mr. Beaman talked about tires and mileage. Van Berringer Affidavit (Pl. Ex. 95).

Subsequent to the verdict, Van Berringer disclosed to Mr. Beaman that that his testimony as to the date and time of their conversation about tires and miles was mistaken. *Id.* Van Berringer executed an affidavit stating his trial testimony was inaccurate, explaining “I became confused during my testimony while Attorney Beu was questioning me.” His affidavit also revealed “long-standing difficulties, documented during my school years, in the areas of auditory retention and conceptualization . . . which may well have contributed to [his] inaccurate testimony under questioning at trial.” *Id.* at 2.

**Statement No. 102 reads:** Souk was aware that someone reported that at some point in time Lockmiller said Beaman threatened to kill her and himself. (Souk, p. 247).

**RESPONSE:** Disputed. Ms. Lockmiller's friends told investigators that Mr. Beaman never threatened to cause or caused physical harm to Ms. Lockmiller. McKeown Stmt. (Pl. Ex. 22) at 10; Minion Stmt. (Pl. Ex. 96) at 7; Haynes Stmt. (Pl. Ex. 81) at 6-7; Corbett Stmt. (Pl. Ex. 92) at 7; Perry Stmt. (Pl. Ex. 87) at 7.

**Statement No. 103 reads:** Souk was aware that Murray was investigated as a possible suspect by the police. Souk read two interviews of Murray's girlfriend, Debbie Mackoway and the recorded interviews of Murray. Souk had to make a determination whether they should continue to investigate Murray and decided they would not. (Souk, p. 258).

**RESPONSE:** Disputed. Souk did not have the power to control the investigation or to prevent the Defendants from properly investigating Murray. While Souk at times made requests to Freesmeyer, he did not "direct his ... investigative strategies." Souk Post-Conviction Dep. (Pl. Ex. 57) at 17.

**Statement No. 104 reads:** Souk read Freesmeyer's long report regarding the case. (Ex. 6, Souk, p. 268). Souk thought significant the in-depth evidence of Beaman and Lockmiller's relationship; Beaman's obsession with her; their relationship difficulties; that Beaman broke her door down twice; Beaman drank fingernail polish remover as a result of a fight with Lockmiller; Beaman had called the police saying Lockmiller was going to kill herself; and a confrontation Beaman had with Swaine at IWU over Lockmiller. (Souk, p. 279).

**RESPONSE:** Disputed. In particular:

- Mr. Beaman was not obsessed with Ms. Lockmiller; they broke up in July 1993, after which Mr. Beaman moved home to Rockford and moved on with his life. *See* Pl. SOF ¶¶ 63-64
- Mr. Beaman drank a small amount of nail polish remover in December 1992, eight months before the murder; Mr. Beaman stated that he and Ms. Lockmiller were having “an argument [] about [another girl] and I was attempting to escape the—the argument. And I did a stupid thing, I drank the nail polish remover, got sick, and that’s that.” Pl. Dep. (Pl. Ex. 2) at 24. Ms. Lockmiller thereafter took Mr. Beaman to the hospital out of concern for Mr. Beaman’s health. *Id.* at 25-27.
- Ms. Lockmiller regularly abused prescription pills and frequently threatened to commit suicide in front of Mr. Beaman. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 18, 29; Steinman Stmt. (Pl. Ex. 20) at 19; Revis Stmt. Sept. 3, 1993 (Pl. Ex. 91) at 1-2. In June 1993, Ms. Lockmiller called Mr. Beaman and told him that she had taken 30 pills. Afraid that she was trying to kill herself, Mr. Beaman called 911 and met the ambulance at Ms. Lockmiller’s apartment. When Mr. Beaman arrived, he discovered that Ms. Lockmiller was fine; she told him that she was not killing herself and that he was overreacting. Pl. Dep. (Pl. Ex. 2) at 30-32; Pl. Trial Trans. (Pl. Ex. 6) at 1688-89; BroMenn Report June 24, 1993 (Pl. Ex. 97).
- On July 25, 1993, Mr. Beaman confronted Swaine at the IWU theater where both students worked. Mr. Beaman had previously discovered that Ms. Lockmiller was in a sexual relationship with Swaine. Pl. Dep. (Pl. Ex. 2) at 72-75. At the theater, Mr. Beaman asked Swaine if he was sleeping with Lockmiller. Swaine lied and replied “no, fuck you.” Swaine Stmt. Aug. 29, 1993 (Pl. Ex. 90) at 26; Swaine Dep. (Pl. Ex. 69) at 105, 112. Mr.

Beaman then left the theater, and Swaine chased after him, giving Mr. Beaman the finger. Pl. Dep. (Pl. Ex.2) at 79. After leaving the theater, Mr. Beaman traveled to Ohio for a week with his friend, Jamie Thurman, before returning to Rockford for the rest of the summer. Carol Beaman Grand Jury Trans. (Pl. Ex. 89) at 28; Pl. Trial Trans. (Pl. Ex. 6) at 1808-13.

**Statement No. 105 reads:** Souk considered it significant that when Beaman was questioned by Freesmeyer early in the investigation and was asked about his activities of the week, Beaman immediately began with the day of the murder. (Souk, p. 281).

**RESPONSE:** Disputed. Mr. Beaman testified that he began with Wednesday, August 25th because that day's activities stood out in his mind. On Wednesday, he had an ice cream social at his church, followed by a music rehearsal, and it was the night of that week that he saw Chris Carbone, his college roommate and good friend. Pl. Trial Trans. (Pl. Ex. 6) at 1748, 1854-56.

**Statement No. 106 reads:** Todd Heyse, the owner of 412 Main Street, where Lockmiller lived and the murder occurred, told the police that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day. (Ex. 6, Souk, p. 287). Heyse did not contact the NPD until June 1994, after he saw a picture of Beaman in the paper after Beaman's arrest in May 1994. (Ex. 23, Heyse, p. 80). Seeing the photograph of Beaman jarred his memory of seeing the two people and prompted him to call the police. (Ex. 23, Heyse, p. 79-81).

**RESPONSE:** Disputed. The man Heyse saw did not match Beaman, and he did not observe the two people on the day of the murder. *See* Pl. SOF ¶¶ 69-70.

**Statement No. 107 reads:** Souk thought the evidence ruled out a burglar because there was no forced entry, Lockmiller's books and purse were on the kitchen counter and did not look like they were moved, there was no robbery or disarray of the apartment, Lockmiller's remote and car keys were placed on a counter with the television on as though she had just come in, and there was evidence Lockmiller was dragged into the bedroom. (Ex. 6, Souk, p. 287).

**RESPONSE:** Disputed. The state of the crime scene strongly suggested that the crime began as a home invasion. Pl. SOF ¶¶ 9-10. This statement is also disputed in that an analysis of the crime scene requires expert testimony.

**Statement No. 108 reads:** Souk believed Beaman came to Lockmiller's apartment, got upset when he saw that Swaine had moved in, and killed Lockmiller. (Ex. 6, Souk, p. 288).

**RESPONSE:** Disputed. Mr. Beaman knew Swaine had moved into Ms. Lockmiller's apartment before Mr. Beaman returned to Rockford on August 4, 1993, so a sudden discovery on August 25 that Swaine had moved in with Lockmiller could not have precipitated the crime. Pl. Dep. (Pl. Ex. 2) at 123. Morgan Keefe, Ms. Lockmiller's close friend, told Defendant Warner that Swaine had been living with Lockmiller "for the past maybe three weeks or so," meaning since early August 1993. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4. Swaine also testified that one of his personal belongings, a sign that said "Swaine Street," was hanging up in Ms. Lockmiller's apartment by July 1993. Swaine Trial Trans. (Pl. Ex. 93) at 731; *see also* Swaine Dep. Pl. (Ex. 69) at 124-26. Mr. Beaman saw the Swaine sign in Ms. Lockmiller's living room when he visited her apartment on August 4th. Pl. Dep. (Pl. Ex. 2) at 123, 495. Therefore, even if Mr. Beaman had

visited Ms. Lockmiller's apartment on August 25, the presence of Swaine's belongings would not have surprised him.

**Statement No. 109 reads:** Souk considered Swaine and Gates excluded by alibis. (Ex. 6, Souk, p. 381).

**RESPONSE:** Gates was not, in fact, ever excluded. *See* Pl. SOF ¶¶ 54-55.

**Statement No. 110 reads:** Souk thought that Beaman's motive was the most powerful motive evidence one would ever hear in a court of law. (Ex. 6, Souk, p. 395).

**RESPONSE:** This was closing argument rhetoric. Mr. Beaman had disengaged from the relationship and was doing well. Pl. Resp. to Defs. SOF ¶ 100; Pl. SOF ¶¶ 62-63.

**Statement No. 111 reads:** Souk was the lead prosecutor in Beaman's case. ASA Terri Dimmick was Souk's second chair for the prosecution. (Ex. 6, Souk, pp. 51, 387).

**RESPONSE:** Undisputed.

**Statement No. 112 reads:** Souk presented the case to the grand jury. (Ex. 6, Souk, p. 83). Freesmeyer, Beaman, Beaman's parents, the director of Beaman's church Youth Ministries, Beaman's coworker, and Beaman's employer all testified before the grand jury. The Grand Jury concluded on July 14, 1994 and returned a true bill. (Ex. 14, Grand Jury Transcript). Around January 1, 1995, Freesmeyer would move into the State's Attorney's Office as they began to prepare for the Beaman trial. (Ex. 1, Freesmeyer, p. 52).

**RESPONSE:** The indictment was based on Freesmeyer's concealment of evidence from the grand jury during Souk's examination of him. *See* Pl. SOF ¶¶173-74.

**Statement No. 113 reads:** In Souk's mind, Beaman was the only real suspect. (Ex. 6, Souk, p. 194). Souk concluded after reviewing all the information he had about Murray that he was not a person of interest. (Ex. 6, Souk, p. 373). At the time of Beaman's prosecution, Souk did not believe there was any evidence to suggest that Murray killed Lockmiller. (Ex. 6, Souk, p. 373). Souk did not believe Murray had any motive to kill Lockmiller, even though Souk was aware of their sexual relationship in the year before her death, that Murray gave narcotics and marijuana to Lockmiller, and that there were some conflicting statements about whether Lockmiller owed Murray money for drugs. (Ex. 6, Souk, pp. 165-167). Souk was aware at the time of the prosecution that Murray claimed Lockmiller owed him some small amount of money, about \$20, for drugs. (Ex. 6, Souk, p. 167).

**RESPONSE:** Disputed. Murray was a very likely suspect who beat women, dealt drugs, and lied about his alibi. Pl. SOF ¶¶ 16-44. Indeed, "the strongest suspect was not Alan Beaman, but John Murray." McCrary Report (Pl. Ex. 55) at 22.

**Statement No. 114 reads:** Souk knew at the time of Beaman's prosecution that Murray made a mistake regarding his alibi in his first interview with Daniels and Hospelhorn and corrected it in his second interview. Souk did not consider that to be suspicious. (Ex. 6, Souk, p. 364).

**RESPONSE:** This statement is disputed in that it presumes Murray "made a mistake" as to his alibi in his first interview with police. The evidence suggests that Murray deliberately lied about his alibi, telling police that he was out of town the day of Ms. Lockmiller's murder, until he was

forced to tell the truth after his girlfriend, Deborah Mackoway, informed police that Murray was at his apartment in Normal, IL (located approximately one mile from Ms. Lockmiller's apartment) the day of her death. See Pl. SOF ¶¶ 30-34.

**Statement No. 115 reads:** Every felony case prosecuted in the McLean County State's Attorney's Office at the time of Beaman's prosecution went through Souk's desk. (Ex. 6, Souk, p. 394).

**RESPONSE:** Undisputed.

**Statement No. 116 reads:** By the end of 1994, Souk was aware of three charges against Murray, two for possession with intent to deliver, and one for domestic violence. The two drug charges were felonies, the domestic battery case was a misdemeanor. (Ex. 6, Souk, p. 170). Souk knew at the time of Beaman's trial that Murray had a domestic battery charge against him by his girlfriend, Debbie Mackoway (Bluestein). (Ex. 6, Souk, pp. 167-68).

**RESPONSE:** Undisputed.

**Statement No. 117 reads:** Souk was aware at the time of Beaman's trial that Mackoway reported that Murray was taking steroids in January, 1994, and that she did not have problems with Murray before that. Mackoway related that Murray had been acting erratically, which she attributed to Murray taking steroids. (Ex. 6, Souk, pp. 325-26).

**RESPONSE:** Disputed. Murray had been taking steroids since at least January 1993; Murray Arrest Docs. (Pl. Ex. 27) at 93-94, 103-04. Furthermore, while Mackoway did not report being beaten by Murray until January 1994, he had a history of beating other women. Pl. SOF ¶ 28.

**Statement No. 118 reads:** Murray was never physically violent toward Mackoway until January, 1994. She and Murray had been in a peaceful relationship for the previous four years. (Ex. 22, Mackoway (Bluestein), pp. 34-35).

**RESPONSE:** Disputed. *See* Pl. Resp. to Def. ¶ 117.

**Statement No. 119 reads:** See Sealed Addendum.

**Statement No. 120 reads:** See Sealed Addendum.

**Statement No. 121 reads:** The state subpoenaed Murray for the Beaman trial and he was on Souk's witness list. (Ex. 6, Souk, p. 387). ASA Dimmick interviewed Murray prior to the trial. (Ex. 6, Souk, p. 388). The state decided not to call Murray. (Ex. 6, Souk, p. 389).

**RESPONSE:** This statement omits the reason why the State decided not to call Murray as a witness at Mr. Beaman's trial. Assistant State's Attorney Teri Dimmick testified that she and Souk believed that, if we "put [Murray] on the stand, we'll definitely have to reveal that he has these two pending [criminal drug and domestic violence cases], and that's going to destroy his credibility." Dimmick Dep. Excerpts (Pl. Ex. 86) at 134-37.

**Statement No. 122 reads:** Souk flagged information in the State's Attorney's file regarding Murray's pending cases so that the Assistant State's Attorney handling those cases, Robert Freitag, would not offer Murray a plea, in case they wanted to call Murray in the Beaman trial. If there was a plea taken in Murray's pending cases, it could have been used to impeach Murray

had the state decided to call him as a witness. (Ex. 6, Souk, pp. 388-89). Souk put a note on that file saying that Murray was a witness in the Beaman case and that Freitag should see Souk before any deals were made with Murray. (Ex. 6, Souk, p. 393; Ex. 15, State's Attorney Case File).

**RESPONSE:** Undisputed.

**Statement No. 123 reads:** Souk did not consider the face of the polygraph to indicate any wrongdoing or effort to deceive by Murray. (Ex. 6, Souk, p. 440).

**RESPONSE:** Disputed. Murray's behavior on the polygraph suggested purposeful evasion. *See* Pl. SOF ¶¶ 36-39.

**Statement No. 124 reads:** Souk was not surprised that the McLean County State's Attorney chose not to re prosecute Beaman, because 13 years had passed since the trial, and it would be a monumental effort on the part of police and prosecutors to gather up all of the witnesses and evidence again. (Ex. 6, Souk, p. 66).

**RESPONSE:** Disputed. Souk was not involved in the decision not to prosecute Mr. Beaman a second time. Souk Dep. (Pl. Ex. 47) at 63. The decision not to prosecute Mr. Beaman again reflected the fact that there never had been real evidence against him. When the decision was made by the McLean County States Attorney's Office, the unanimous decision of the Illinois Supreme Court had concluded that there was nothing but "tenuous . . . circumstantial evidence against [Mr. Beaman]." *People v. Beaman*, 229 Ill. 2d 56, 81 (2008).

Respectfully submitted,

ALAN BEAMAN

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**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that I caused the foregoing document to be served upon:

Thomas G. DiCianni  
Lucy B. Bednarek  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
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Chicago, Illinois 60603

by electronic transmission and by placing the same in a properly addressed, postage pre-paid envelope for delivery by U.S. Mail before the hour of 5:00 p.m. on Tuesday, December 15, 2015.

s/David M. Shapiro

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN,

Plaintiff,

v.

No. 14 L 51

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Former Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants.

FILED  
JAN 22 2016  
CIRCUIT CLERK  
MCLEAN COUNTY

**TOWN OF NORMAL DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT OF  
MATERIAL FACTS**

The Town of Normal Defendants, by and through their attorneys, Ancel Glink Diamond Bush DiCianni & Krafthefer, P.C., respond to Plaintiff's Statement of Material Facts as follows:

**I. CERTIFICATE OF INNOCENCE**

1. Alan Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District on April 29, 2013. Certificate of Innocence (Pl. Ex. 1) at 1-2. The Certificate of Innocence states that Mr. Beaman "is innocent of the offenses charged in the indictment." *Id.* at 1.

**RESPONSE:** Undisputed but immaterial. Alan Beaman's receipt of a certificate of innocence 18 years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Moreover, under 735 ILCS 5/2-702(j), any finding made in a Certificate of Innocence proceeding has no impact in this civil proceeding.

2. Five years earlier, on May 22, 2008, the Supreme Court of Illinois ordered Mr. Beaman's conviction vacated in a unanimous opinion based on the State's failure to disclose

C11659

exculpatory evidence. *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). This decision came after Mr. Beaman more than a dozen years incarcerated for a crime he did not commit.

**RESPONSE:** The first sentence of paragraph 2 is undisputed but immaterial. The Illinois Supreme Court's decision to vacate Beaman's conviction 13 years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). The second sentence of paragraph 2 is disputed. Defendants contest plaintiff's assertion that Beaman did not murder Jennifer Lockmiller. (Def. St. Facts ¶¶1, 98-110).

## II. ALAN BEAMAN

3. Aside from his wrongful conviction, Mr. Beaman has never been convicted of a crime. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 408-10.

**RESPONSE:** It is undisputed that Beaman has only been convicted of the murder of Jennifer Lockmiller but this fact is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

4. With his parents and older brother, Mr. Beaman spent a quiet childhood in Rockford, Illinois. His mother taught math at the local high school; his father was an engineer. Carol Beaman Dep. (Pl. Ex. 3) at 97, 293. Mr. Beaman was the best man at his older brother's wedding, worked summers at his uncle's grocery store, and joined his family every night at the dinner table. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 163-64, 175, 178. They worshipped at the local Methodist church and were active members of the congregation. Souk Grand Jury Testimony (Pl. Ex. 4) at 3-5. He attended bible study classes and was described by his youth minister as an

C11660

“interested, curious student.” Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex. 5) at 37. *Id.* at 160.

**RESPONSE:** The first sentence of paragraph 4 is not supported by a citation to the record and is therefore disputed. The remaining alleged facts set forth in paragraph 4 are undisputed but immaterial because the evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

5. Music was an important part of Mr. Beaman’s life; for as long as he could remember he had been singing, and in the sixth grade he took up the saxophone. Pl. Trial Trans. (Pl. Ex. 6) (Part I) at 1651. In high school, he played in the jazz band and was part of his high school’s marching band. *Id.* at 1652. He often played guitar and saxophone at church and was described by his pastor as “[a] natural in music.” Olson Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex 5) at 37.

**RESPONSE:** Undisputed but immaterial because the evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

6. As a high school senior, Mr. Beaman discovered the theater. He designed the lighting for a school play, which sparked an interest in the production side of the stage. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 16. He decided to attend Illinois Wesleyan University in Bloomington, where he became a theater major. *Id.* at 13. Before long, he was taking an active role in university and community theater productions, both in Rockford and Bloomington. He played guitar, appeared in one-act plays, and worked on the production side. *Id.* at 14.

**RESPONSE:** The first and fourth sentences of paragraph 6 are not supported by citations to the record and therefore defendants dispute them. The remaining sentences in paragraph 6 are

C11661

undisputed but immaterial because evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

7. Mr. Beaman's college career was cut short at the end of his senior year, when he was arrested for the murder of his former girlfriend, Jennifer Lockmiller, and incarcerated for over a dozen years. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

**RESPONSE:** Paragraph 7 contains improper argument with regard to Beaman's college career. It is undisputed that Beaman was arrested for the murder of Jennifer Lockmiller and incarcerated for over a dozen years.

### **III. THE VAST UNIVERSE OF POTENTIAL KILLERS**

#### **A. Unidentified Potential Killers**

8. Defendant Frank Zayas, the head of the Normal Police Department Criminal Investigation Division, testified Lockmiller murder could have been committed by a large universe of potential suspects: "In a college town, I mean, there's so many possibilities." Zayas Dep. (Pl. Ex. 8) at 90. Zayas elaborated as follows:

A. The transient nature of the campus. The activities during the day and night, you know. A lot of parties. Kids are always out, all hours of the night and day. The crime scene is on – right on a main thoroughfare, Route 51 ... [I]t was kind of like an open case. We – we had no idea where to go.

....

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

*Id.* at 90-92.

**RESPONSE:** The first sentence of paragraph 8 contains improper argument and is not supported by a citation to the record. As a result, defendants dispute it. It is undisputed that Zayas testified as set forth in paragraph 8, but these alleged facts are immaterial. Enough evidence developed

C11662

during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

9. The crime scene suggested that the murder began as a home invasion. Moses Report (Pl. Ex. 9) at 2. Kenneth Moses, Plaintiff's expert in crime scene investigation, has 40 years of experience in the analysis of forensic evidence. Moses CV (Pl. Ex. 10) at 1. According to Moses, features of the scene that matched the profile of a home invasion include: the time of the murder, the weakened condition of Ms. Lockmiller's lock, the apartment's location on the top floor of the building, the location of the victim's shoe and earring, the positioning of the body, the placement of a floor fan over the victim's face, the wound pattern on the body, the apparent removal of a bag from the kitchen wastebasket, the apartment's general state of disarray, and food items left on the kitchen counter. Moses Report (Pl. Ex. 9) at 2-4.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 9 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. Further, defendants dispute the crime scene suggested that a murder began as a home invasion. (Def. St. Facts ¶98-110).

10. A close friend testified that Ms. Lockmiller kept a clean apartment, and that the mess depicted in the crime scene photos was inconsistent with the victim's habits. Hartman Dep. (Pl. Ex. 11) at 29, 36. One crime scene photo was inconsistent with the typical state of the apartment because it showed a calendar on the floor and a cooking pot out on a desk. Hartman Dep. (Pl. Ex. 11) at 34; Crime Scene Photo, Ex. 8 in Hartman Dep. (Pl. Ex. 12). Another photo, which showed a pot on the stove and a mess of food out on the kitchen counter, was "really atypical" in light of Ms. Lockmiller's habits. Hartman Dep. (Pl. Ex. 11) at 30-31; Crime Scene

C11663

Photo, Ex. 6 in Hartman Dep. (Pl. Ex 13). Burglars often eat and drink their victims' food and dishevel their homes by rummaging around. Moses Report (Pl. Ex. 9) at 3, 4.

**RESPONSE:** The first sentence of paragraph 10 is disputed. Lockmiller's friend Morgan Hartman (Keefe) testified that she could only give an opinion about Lockmiller's apartment on the weekends, when Hartman was there. (Pl. Ex. 11 at 29). She also testified that Lockmiller, like all college students, was a little messy. (Pl. Ex. 11 at 30). The second and third sentences of paragraph 10 are not supported by the citation to the record and are therefore disputed. In addition, Hartman testified that she could only give an opinion about Lockmiller's apartment on the weekends, when Hartman was there. (Pl. Ex. 11 at 29). It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 10 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. Defendants also dispute that the crime scene suggested a burglary. (Def. St. Facts ¶98-110).

11. Jennifer Lockmiller's lifestyle—in particular, frequent drug abuse and multiple sexual partners—brought her into contact with a large and shifting group of dangerous individuals. Brown Dep. (Pl. Ex. 14) at 151-52, 216 (Ms. Lockmiller "liked drugs" and "was always asking for pills," especially Percodan and Darvocet; Belcher Dep. (Pl. Ex. 15) at 139, 142-43 (Ms. Lockmiller had several sources of cocaine and would ask people she had just met for pills).

**RESPONSE:** The statements in paragraph 11 contain improper argument and are not supported by citations to the record. As a result, defendants dispute them. It is undisputed Brown and Belcher testified as set forth in paragraph 11, but these alleged facts are immaterial because

C11664

enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

12. Defendant Timothy Freesmeyer knew that Ms. Lockmiller drank a lot, frequently used drugs, drank and did drugs with several different people, got drugs from a number of different sources, and had multiple sexual partners. Freesmeyer Dep. (Pl. Ex. 16) at 263-64. Freesmeyer did not know whether the investigation excluded the possibility that the murderer was a drifter or unknown sexual partner and could recall no effort to look for drifters or unknown sexual partners who could have committed the murder. *Id.* at 264-65.

**RESPONSE:** It is undisputed that Freesmeyer testified as set forth in paragraph 12. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, that a drifter or unknown sexual partner was not excluded is disputed. Freesmeyer testified that: "I felt we did everything we could in the case to look at the evidence, to look at prints, to look at DNA statements, swabs, whatever. The door was not broken into. There was no forced entry into the apartment. There was telltale signs of things that Alan had done. And, therefore, I don't recall that we made a widespread effort to look for drifters or homeless people in the area." (Def. St. Fact Ex. 1, at 264).

13. On August 21, four days before the murder, Ms. Lockmiller went to various bars with her friends, Morgan Keefe and Kelly Hamburg. At one of the bars, "Spanky's," Lockmiller met a stranger whom Hamburg described as "a long haired guy." Hamburg Interview (Pl. Ex. 17) at AB001654-55. Keefe described this encounter as follows:

Jen is kind of the queen of scamming drinks off of guys. She kind of flirts, you know, and whatever and he bought her a bunch of drinks and then he suggested going to a party afterwards . . . Jen didn't want to go. She just basically wanted drinks from him and

C11665

then we kind of walked off and . . . I had forgotten about it until Tuesday when we went to the movie she said that that particular guy had called.

Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 6-7. The man with long hair called Ms. Lockmiller on Monday, August 23, two days before the murder. He asked Ms. Lockmiller on a date and was rebuffed. Keefe Interview, Aug. 28, 1993 (Pl. Ex. 19) at 10. *See also* Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. This man “kept calling” Ms. Lockmiller. Steinman Interview (Pl. Ex. 20) at 8.

**RESPONSE:** It is undisputed that Hamburg and Keefe gave these statements to the police and Steinman testified as set forth in paragraph 13, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

14. When Keefe, Hamburg, and Lockmiller left Spanky’s and were en route to another bar, they encountered two other men. Hamburg Interview (Pl. Ex. 17) at AB001655-56. Lockmiller spoke with the two men for approximately ten minutes. *Id.* One of the men gave Lockmiller his phone number, writing it on a piece of paper with lipstick that he borrowed from Keefe. *Id.* at AB001656; Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. Lockmiller threw the piece of paper with the man’s phone number away. *Id.*

**RESPONSE:** It is undisputed Keefe gave these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

15. On the day before the murder, Hamburg encountered these men again. Hamburg Interview (Pl. Ex. 17) at AB001656. They asked Hamburg why Lockmiller had not called them, and one of them told Hamburg to have Lockmiller call him. *Id.*

C11666

**RESPONSE:** It is undisputed that Hamburg gave these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**B. Known Paramours With Motives To Murder Ms. Lockmiller**

16. John Murray had an on-again, off-again sexual relationship with Jennifer Lockmiller. Steinman Interview (Pl. Ex. 20) at 8; Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16, 21. At the time of her death, he was seeking to rekindle his relationship with her. Steinman Interview (Pl. Ex. 20) at 8; McKeown Interview Excerpts (Pl. Ex. 22) at 4-5; *Beaman*, 229 Ill. 2d at 67. After Ms. Lockmiller's murder, Murray bragged to police: "[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me." Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16.

**RESPONSE:** The first sentence of paragraph 16 is undisputed. It is undisputed that Steinman and McKeown made the statements in the second sentence to the police but their opinion about Murray's intent with regard to Lockmiller is improper hearsay and immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, citing to the *Beaman* case is improper evidentiary support. The third sentence contains improper argument with regard to the use of the word "bragged" and is therefore disputed. It is undisputed that Murray made the quoted statement to the police in the third sentence but it is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11667

17. During his deposition in this case, Murray invoked his Fifth Amendment right against self-incrimination in response to all questions regarding his involvement in the Lockmiller murder:

Q. Were you involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Can you tell me anything at all about whether you were involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Are you asserting your Fifth Amendment privileges to any questions that would be asked regarding the homicide of Jennifer Lockmiller?

A. Yes, I am asserting my Fifth Amendment privilege.

Q. Do you know who killed Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Murray Dep. (Pl. Ex. 23) at 18-19.

**RESPONSE:** It is undisputed that Murray testified as set forth in paragraph 17, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

18. The crime scene suggested that the murder would have required a person who, unlike Mr. Beaman, was of "considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck." Moses Report (Pl. Ex. 9) at 3.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 18 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial because the evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11668

19. At the time of the Lockmiller murder, Murray was a frightening, physically imposing man. Kuyper Dep. (Pl. Ex. 24) at 63, 65, 117 (stating that Murray “was big. He was big and long, curly dark hair and just – I don't know how to say it more than he was kind of a scary person”; describing Murray as “someone that could be explosive in his anger”; agreeing that Murray was “physically large” and “scary”).

**RESPONSE:** The first sentence of paragraph 19 is improper argument and an improper characterization of Murray’s appearance. As a result, defendants dispute it. It is undisputed that Kuyper testified as quoted in the second sentence but Kuyper’s opinion about Murray is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

20. Murray was also a drug dealer, and he sold drugs to Ms. Lockmiller. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 14-15.

**RESPONSE:** Undisputed.

21. At the time of her death, Ms. Lockmiller owed Murray money for drugs. *Id.* at 14. Although Murray’s story was that Ms. Lockmiller owed him approximately \$20, *id.*, Detective Daniels testified that Ms. Lockmiller’s debt indicated that there may “have been other instances where the amount of money that she owed him could have been greater,” and that the fact that there had been financial transactions between Ms. Lockmiller and Murray with respect to illegal substances might have been a motivating factor in Ms. Lockmiller’s homicide. Daniels Dep. (Pl. Ex. 26) at 538-39. This could have contributed to his motive to kill Ms. Lockmiller. *Id.* at 53839; *Beaman*, 229 Ill. 2d at 67.

**RESPONSE:** It is undisputed that Murray told the police Lockmiller owed him \$20. It is also undisputed that Daniels testified as set forth in paragraph 21, but these alleged facts are

C11669

immaterial because Daniels admitted there was no evidence Lockmiller owed Murray any amount over \$20. (Def. St. Facts Ex. 5, at 707-708). Therefore, Daniels was only speculating. Moreover, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Finally, citing to the *Beaman* case is improper evidentiary support.

22. John Murray beat women. On October 7, 1994, Murray beat his girlfriend, Deborah Mackoway. Mackoway told police officers that she was “the victim of physical abuse” at Murray’s hands “on a continual basis.” Murray Arrest Docs. (Pl. Ex. 27) at 1. Murray “pinned [Mackoway] down on the floor ... and elbowed her repeatedly in the chest.” *Id.* at 1-2. “A friend of Mackoway ... was present and did verify that there was a prominent red mark between Mackoway’s breasts where she had been elbowed.” *Id.* at 2.

**RESPONSE:** The first sentence of paragraph 22 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. It is undisputed the records reflect Mackoway made the statements to the police as set forth in paragraph 22; however, these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

23. Also on October 7th, Mackoway “reported that there was another argument the night before in which [Murray] grabbed her and scratched her right wrist and caused a bruise on her left arm. Both injuries were evident. She also reported that in the last week she received a bruise to her upper left thigh. She showed this bruise to [police].” *Id.* at 3. Murray was arrested for domestic battery and taken to the McLean County Jail. *Id.*

C11670

**RESPONSE:** It is undisputed the records reflect Mackoway made the statements set forth in paragraph 23 to the police but these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

24. According to Detective Daniels, the information about Murray beating Mackoway was particularly significant because of the manner in which Murray attacked Mackoway – he elbowed her repeatedly in the chest, just as Lockmiller was stabbed in the chest with a scissors. Daniels Dep. (Pl. Ex. 26) at 552.

**RESPONSE:** It is undisputed that Daniels testified as set forth in paragraph 24, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

25. On October 11, 1994, Mackoway filed a Petition for Order of Protection against Murray in the Eleventh Judicial Circuit. Murray Arrest Docs. (Pl. Ex. 27) at 68-78. In the Petition, Mackoway stated that Murray had been experimenting with “street ‘steroid’ injections,” and that as a result of the steroid use, Murray’s “behavior since has been unexplainable.” *Id.* at 69. She reported that Murray repeatedly inflicted “bruises/injuries including a black eye.” *Id.*

**RESPONSE:** It is undisputed the records reflect that Mackoway made the statements set forth in paragraph 25, but these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11671

26. The court found that Mackoway was “abused within [the Domestic Violence Act]” and entered an emergency order of protection against Murray. Murray Arrest Docs. (Pl. Ex. 27) at 61.

**RESPONSE:** It is undisputed the records reflect the alleged facts set forth in paragraph 26, but these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

27. Murray had also been using steroids in 1993, the year Ms. Lockmiller was killed. In January of 1993, a search of Mr. Murray’s apartment uncovered drugs that included cocaine and steroids. Murray Arrest Docs. (Pl. Ex. 27) at 145. Murray admitted that he had purchased fifteen vials of steroids and had used eleven of them. *Id.* at 104.

**RESPONSE:** It is undisputed the records reflect the alleged facts set forth in paragraph 27, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

28. Murray was violent toward other women as well. He confessed to the polygraph examiner in the Lockmiller homicide investigation that he had slapped a girlfriend four years earlier. McCann Dep. (Pl. Ex. 28) at 176. Leigh Kuyper believed that Mr. Murray “had been violent with” a friend of hers with whom Kuyper worked at a library. Kuyper Dep. (Pl. Ex. 24) at 63.

**RESPONSE:** The first sentence of paragraph 28 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. It is undisputed that McCann and Kuyper

C11672

testified as set forth in the second and third sentences but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

29. During his deposition, Murray refused to answer any questions about his history of beating women, asserting the Fifth Amendment. Murray. Dep. (Pl. Ex. 23) at 22-23.

**RESPONSE:** Paragraph 29 contains improper argument and is in an improper characterization of Murray's testimony and the questions asked of Murray at his deposition. As a result, defendants dispute it. It is undisputed that Murray asserted the Fifth Amendment privilege but this fact is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

30. During the Lockmiller homicide investigation, Murray lied to investigators about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he had left Normal and driven home to the area of Rockford at 3:00 p.m. on August 24, the day before the murder. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 5. Murray claimed that he did not return to Normal until September 1. *Id.*

**RESPONSE:** The first sentence of paragraph 30 is improper argument and an improper characterization of Murray's statements to the police. (Pl. Ex. 21). As a result, defendants dispute it. The second and third sentences are undisputed.

31. Following this interview with Murray, investigators spoke with Deborah Mackoway. Mackoway told investigators that Murray did not leave for Rockford until after 4:20 p.m. on August 25, the day of the murder. Mackoway Interview Sept. 8, 1993 (Pl. Ex. 29) at AB001715. Furthermore, on August 25, Murray was alone in his apartment between the time

C11673

when Mackoway left for work in the morning and 2:00 p.m., when she returned from work. *Id.* at AB001715-16.

**RESPONSE:** Undisputed.

32. After interviewing Mackoway, investigators spoke with Murray a second time. Murray confessed that the information he provided in his first interview was not true; that he in fact was in his apartment in Normal on the day of the murder; that, on that day, he was alone beginning at 6:30 a.m. when Mackoway left for work; and that he did not leave for Rockford until late afternoon or early evening of August 25. Murray Interview, Sept. 8, 1993 (Pl. Ex. 25) at 4-6.

**RESPONSE:** The first sentence of paragraph 32 is undisputed. The second sentence of paragraph 32 contains improper argument and an inaccurate characterization of Murray's statements to the police as a "confession." Therefore, defendants dispute it. The remaining portions of the compound second sentence of paragraph 32 are undisputed.

33. At the time of the Lockmiller murder, Murray "resided in Bloomington... approximately 1.5 miles from Jennifer's apartment." *Beaman*, 229 Ill. 2d at 67; Daniels Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 123.

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution.

34. These shifting claims by Murray as to his whereabouts on the day of the murder elevated suspicion that he committed the crime. Daniels Dep. (Pl. Ex. 26) at 534-35. A suspect's putting forth a false alibi is "a red flag." *Hospelhorn* Dep. (Pl. Ex. 31) at 157.

C11674

**RESPONSE:** The first sentence of paragraph 34 is improper argument and an improper characterization of Murray's statements to the police as "shifting claims." Therefore, that characterization is disputed. It is undisputed that Daniels testified that suspicions were elevated after Murray's interviews but that testimony is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). It is undisputed that Hospelhorn testified as set forth in the second sentence of paragraph 34, but these alleged facts are immaterial for the same reason.

35. Murray was also dishonest regarding several other matters during his interviews with police:

- a. *Drug Transactions with Ms. Lockmiller:* Murray told investigators in the first interview, "I am not sure where [Jennifer Lockmiller] got the marijuana from." Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 10. In the second interview, he admitted that he sold her drugs, including marijuana. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 14-15.
- b. *Attempts to Collect Payment for Drugs from Ms. Lockmiller:* During the first interview, Murray claimed in a recent encounter he had with Jennifer and another love interest of hers, the three of them "just talked, you know about you know partying." Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 4. During the second interview, however, Murray confessed that Lockmiller drove over because Lockmiller owed Murray money for drugs. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 1, 14.
- c. *Sex with Ms. Lockmiller:* During the first interview, Murray told investigator he and Ms. Lockmiller were just "talking all night" on a night when Mr. Beaman kicked down the door to Ms. Lockmiller's apartment. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 8. Later in the same interview, he confessed that he had sex with Ms. Lockmiller that night. *Id.* at 16. *See also* Daniels Dep. (Pl. Ex. 26) at 537-38 (Murray gave evasive answers with regard to his sexual relationship with Ms. Lockmiller).

**RESPONSE:** The first sentence of paragraph 35 is improper argument and not supported by a citation to the record. Therefore, defendants dispute it.

Paragraph 35(a): Paragraph 35(a) is disputed because it is a misleading characterization of Murray's statement to the police. Murray told the police he only provided marijuana to

C11675

Lockmiller “once in awhile” so was not sure where she purchased it on other occasions, as he stated in his first interview with the police. (Pl. Ex. 21, at 10; Pl. Ex. 25, at 14-15).

Paragraph 35(b): The first sentence of paragraph 35(b) is undisputed and material. The second sentence is disputed because it is not supported by the record. Murray did not tell the police at this time that Lockmiller owed him money for drugs – only that she owed him a “little bit of money” and also mischaracterizes his statement to the police as a confession. (Pl. Ex. 25, at 1).

Paragraph 35(c): The first sentence of paragraph 35(c) is undisputed. The second sentence contains improper characterization of Murray’s statement as a “confession.” Therefore, defendants dispute it. The remaining portion of the second sentence is undisputed. It is undisputed that Daniels testified as set forth in the third sentence but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

36. Murray also failed to comply with a polygrapher’s instructions during a polygraph examination administered to him in connection with the Lockmiller killing on September 30, 1993. Murray Polygraph Docs. (Pl. Ex. 32) at 2. The questions included, among others, “[a]bout August 25, 1993, did you strangle Jennifer Lockmiller at her apartment?” McCann Post-Conviction Hearing Testimony (Pl. Ex. 33) at 154. The polygrapher’s report stated:

Throughout the course of his polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination. After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.

Murray Polygraph Docs. (Pl. Ex. 32) at 2.

**RESPONSE:** Undisputed.

C11676

37. During the incomplete polygraph examination, Murray took nineteen deep breaths and a gulp. McCann Dep. (Pl. Ex. 28) at 171-72. Each of these nineteen deep breaths caused a disruption to the examination. *Id.* at 173. During this process, McCann admonished Murray six times to stop taking deep breaths, but Murray continued to do so. *Id.* at 172-73. Murray sometimes failed to comply with McCann's instructions to answer the questions "yes" or "no." *Id.* at 174-75. Murray also smoked marijuana two days before the polygraph and may have done so to foil the examination. *Id.* at 180-81.

**RESPONSE:** The first four sentences of paragraph 37 are undisputed. The fifth sentence is disputed because it is not supported by the cited record and is an improper characterization of McCann's testimony. While McCann testified that Murray told him that he had taken drugs two days before the polygraph exam, McCann then only testified as follows: "Q: Is there anything available to you that would enable you to rule out the possibility that Mr. Murray took marijuana shortly before the examination in order to thwart it? A: No." (Pl. Ex. 28, at 181).

38. The polygraph examiner testified that refusing to comply with instructions could have been a strategy to deliberately thwart the examination:

Q. And that response, the response of not following directions, not sitting still, that can be an intentional response on behalf of a suspect; isn't that true?

A. It could be.

**RESPONSE:** The first sentence of paragraph 38 is disputed. McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Pl. Ex. 28, at 198-99). It is undisputed McCann testified as set forth in the remaining sentences of paragraph 38, but these alleged facts are immaterial because McCann did not conclude Murray intentionally prevented a result to deceive the examiner.

C11677

39. Detective Daniels, during his two lengthy interviews of Murray, did not notice any behavior that suggested Murray would be unable to sit still for a polygraph examination. Daniels Dep. (Pl. Ex. 26) at 541-43. To Daniels, Murray's failure to cooperate with the polygraph examination was an indication that he needed to be investigated further. *Id.* at 546.

**RESPONSE:** It is undisputed that Daniels testified as set forth in the first sentence of paragraph 39, but these alleged facts are immaterial. McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Pl. Ex. 28, at 198-99). The second sentence of paragraph 39 is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, Souk made the determination not to continue to investigate Murray. (Def. St. Facts Ex. 6, at 258).

40. During his recent deposition in this case, Murray refused to answer questions about defying the polygrapher's instructions and attempting to foil the examination, asserting the Fifth Amendment. Murray Dep. (Pl. Ex. 23) at 19-20.

**RESPONSE:** Paragraph 40 contains improper argument and an improper characterization of the questions and answers at Murray's deposition. As a result, defendants dispute it. It is undisputed that Murray asserted the Fifth Amendment but this fact is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

41. In October of 1994, Freesmeyer signed the police reports regarding Murray's arrest on a domestic violence charge. Freesmeyer Dep. (Pl. Ex. 16) at 107-09. He affixed his signature to such police reports at least twelve times. Murray Arrest Docs. (Pl. Ex. 27) at 1-160.

C11678

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, Beaman's attorneys Beu and Reu knew Murray had a criminal history prior to trial and how to get Murray's criminal records if they wanted them. (Pl. Ex. 49, at 97, 110, 118, 151).

42. These reports included the details cited above, *see* ¶¶ 22-27, *supra*, including the fact that Mackoway was "the victim of physical abuse" at Murray's hands "on a continual basis"; that Murray had pinned her to the floor and elbowed her in the chest, leaving "a prominent red mark between Mackoway's breasts,"; and that Murray had battered Mackoway on the previous night as well, leaving "evident injuries." Murray Arrest Docs. (Pl. Ex. 27) at 1-3.

**RESPONSE:** It is undisputed the reports contain these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, Beaman's attorneys Beu and Reu knew Murray had a criminal history prior to trial and how to get Murray's criminal records if they wanted them. (Pl. Ex. 49, at 97, 110, 118, 151). Further, Freesmeyer testified that the fact that these reports were not disclosed did not concern him because the evidence against Beaman was "overwhelming." (Def. St. Facts Ex. 1, at 111). Freesmeyer also testified that the police deal with domestic battery complaints frequently and "another domestic battery coming through did not raise a red flag in my mind that this should be a concern." *Id.*

43. Freesmeyer read and signed these reports before Mr. Beaman's trial. Freesmeyer Dep. (Pl. Ex. 16) at 109-10. At the time he received the reports, Freesmeyer "was familiar that

C11679

Larbi Murray was being investigated in the [Lockmiller] case.” Freesmeyer Dep. (Pl. Ex. 16) at 114.

**RESPONSE:** The first sentence of paragraph 43 is undisputed but immaterial for the reasons set forth in defendants’ answer to paragraph 42. The second sentence is disputed. Freesmeyer testified only that at the time he signed the October 7, 1994 report, he “was aware [Murray’s] name was involved in the Lockmiller investigation.” (Def. St. Facts Ex. 1, at 113).

44. Freesmeyer also learned of Murray’s steroid use prior to charging Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 91; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 97. Freesmeyer had no reason to doubt that in the course of the investigation, Murray’s failure to cooperate in the polygraph was discussed among the investigators. Freesmeyer Dep. (Pl. Ex. 16) at 145. In fact, he assumed that it would have been discussed in at least one meeting among investigators. *Id.* at 155. *See also* Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 90 (admitting that he “may have been aware” of the John Murray polygraph); Zayas Dep. (Pl. Ex. 8) at 69 (the officers working on a case would be made aware of polygraph reports received in that case).

**RESPONSE:** The first sentence of paragraph 44 is disputed. Freesmeyer testified that: “steroid use was not an uncommon thing on the Illinois State University campus . . . so Larby Murray did not stand out as one villain amongst an entire city of 50,000.” (Pl. Ex. 34, at 91). Also, defendants dispute Freesmeyer charged Beaman. State’s Attorney Reynard made the decision that Beaman should be charged with Lockmiller’s murder. (Def. St. Facts Ex. 6, at 140). In addition, the steroid-related occurrences were when Beaman had already been charged. (Def. St. Facts Ex. 15, at 1-16). Further, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

C11680

Finally, Beaman's attorneys Beu and Reu knew Murray had a criminal history prior to trial and how to get Murray's criminal records if they wanted them. (Pl. Ex. 49, at 97, 110, 118, 151). The remaining alleged facts in paragraph 44 are disputed and material. Freesmeyer testified he did not remember whether Murray's polygraph report was discussed and that the report "probably would have gone directly to Tony Daniels, because he was the one who requested the polygraph." (Pl. Ex. 34, at 90). It is undisputed that Zayas testified to the last sentence of paragraph 44, but this alleged fact is immaterial because Zayas never testified he saw the Murray report or knew what happened to it. (Def. St. Facts Ex. 4, at 85).

## 2. Stacy ("Bubba") Gates

45. Stacy Gates, known as "Bubba," was a former boyfriend of Ms. Lockmiller who believed that he and Ms. Lockmiller had a "committed" relationship between January 1991 and July 1993 (the month before the murder), when Ms. Lockmiller broke up with him. Gates Trial Testimony Excerpts (Pl. Ex. 35) at 406. Gates stated that in July, "I received a letter from [Jennifer] breaking up. I didn't want to break up. I screamed and yelled and f[ou]ght." McCann Dep. (Pl. Ex. 28) at 58.

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, McCann's testimony about Gates' statements is improper hearsay. Further, Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

46. At the time of Ms. Lockmiller's death, and despite the break up, Gates considered himself to be Ms. Lockmiller's "boyfriend, her man" and the most important person in her life. Gates Interview (Pl. Ex. 36) at AB002329-30. He viewed Ms. Lockmiller as "the love of [his]

C11681

life,” and believed he would marry her and have children with her. *Id.* at AB002309, AB002330-31.

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

47. Laura McKeown, a close friend of Ms. Lockmiller’s, told investigators that Gates tied Ms. Lockmiller to a curtain rod to do something to her involving cold water. Laura McKeown Stmt. Excerpts (Pl. Ex. 22) at 8. *See also* Gates Dep. (Pl. Ex. 37) at 173 (Q. Have you ever tied Jennifer Lockmiller to a shower rod? A. Yes, to a shower rod.”).

**RESPONSE:** It is undisputed that McKeown told the police about Gates’ statements about the curtain rod and that Gates testified as set forth in paragraph 47, but these alleged facts are improper hearsay and immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

48. Gates moved to Peoria, Illinois from Janesville, Wisconsin just three days before the murder. Gates Interview (Pl. Ex. 36) at AB002333. He relocated in order to be closer to Ms. Lockmiller. McKeown Interview Excerpts (Pl. Ex. 22) at 1.

**RESPONSE:** It is undisputed that Gates and McKeown made these statements to the police but McKeown’s statements about Gates’ intent is improper hearsay and both of their statements are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

C11682

49. Gates and Ms. Lockmiller made plans to get together the weekend of August 28, *i.e.*, the weekend after the murder. Gates Interview (Pl. Ex. 36) at AB002309, AB002321-22. Gates believed that the purpose of this meeting was to get back together as a couple, that he and Ms. Lockmiller “would be back together officially,” and that he and Ms. Lockmiller missed each other sexually. *Id.* at AB002321-22. At the same time, when Gates and Ms. Lockmiller spoke on the phone on Sunday, August 22nd, Gates was concerned that Ms. Lockmiller might back out on the plan to get together with him. *Id.* at AB002333.

**RESPONSE:** It is undisputed that Gates made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

50. Gates left a series of messages on Ms. Lockmiller’s answering machine in the days after her death, including one that said: “This is the Dr. Rev. Martin Luther King, Jr. talking to you all. I’m the teacher of the most niggers.” Gates Trial Testimony (Pl. Ex. 35) at 413.

**RESPONSE:** It is undisputed that Gates testified as set forth in paragraph 50, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

51. An attempt was made to polygraph Mr. Gates on September 8, 1993. Gates Polygraph Docs. (Pl. Ex. 38) at 2. According to the polygrapher’s report:

There were erratic and inconsistent responses on the subject’s polygraph records which preclude the examiner from rendering an opinion on the following questions:

About two weeks ago, did you strangle Jennifer Lockmiller at her apartment[?]  
Answer: No

C11683

Did you strangle Jennifer Lockmiller? Answer: No.

Were you present at Jennifer Lockmiller's apartment when she was strangled?  
Answer: No.

Do you know who strangled Jennifer Lockmiller?  
Answer: No.

*Id.* At 2-3.

**RESPONSE:** The first sentence of paragraph 51 is undisputed and material. The second sentence and subsections are undisputed and immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

52. The polygraph examiner scored every answer that Gates gave as “doubtful”/“inconclusive,” and agreed it was possible that every one of Gates’ responses was a lie. McCann Dep. (Pl. Ex. 28) at 170, 185-86.

**RESPONSE:** It is undisputed the polygraph examiner testified as set forth in paragraph 52, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts Ex. ¶82).

53. In speaking with the polygraph examiner, Gates initially denied – and later confessed – to having sex with a minor. *Id.* at 162-64.

**RESPONSE:** Paragraph 53 is improper argument and an improper characterization of Gates’ statements as a “confession” to the polygraph examiner. As a result, defendants dispute it. Further McCann’s testimony regarding Gates’ statement is improper hearsay.

C11684

54. Defendant Freesmeyer interviewed the principal of the school where Mr. Gates was working as a physical education teacher at the time of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 35-36. According to the principal, Gates was present at school from 8:00 a.m. to 4:00 p.m. each weekday of the week of the murder, but this recollection was based solely on an attendance sheet that recorded only daily attendance and did not indicate whether Mr. Gates had left campus during the day. *Id.* at 36; Gates Attendance Sheet (Pl. Ex. 39) at 1.

**RESPONSE:** Undisputed.

55. It would have been impossible for the principal to monitor the presence of Mr. Gates, and every other teacher, throughout the day. Freesmeyer Dep. (Pl. Ex. 16) at 284-85. Gates had no recollection of whether the principal typically walked through his class once a day, or even once a week. Gates Dep. (Pl. Ex. 37) at 85.

**RESPONSE:** Paragraph 55 is disputed. Freesmeyer answered yes to the question: "Would it be impossible for the principal to continually monitor the presence of 34 people throughout the day?" (Def. St. Facts Ex. 1, at 285). However, Freesmeyer also testified that a principal has ways of making sure their teachers are present in the school. (Def. St. Facts Ex. 1, at 284). In addition, Gates testified that while he did not remember how often the principal conducted walk-throughs, the principal "did several walk-throughs, especially of new teachers of which I was one. She did a lot of walk-throughs to check how things were throughout the school because it was also her first year as principal." (Pl. Ex. 37, at 84-85). Finally, Beaman entered a stipulation at the trial that Gates was teaching at a grade school in Peoria at the time of the murder. (Stacey Gates Trial Stipulation, Def. Ex. 39; Pl. Ex. 49, at 129).

**C. Other Suspicious Characters**

C11685

56. Roughly one month after the murder, Defendant Warner and Detective Hospelhorn went to an abandoned truck stop approximately 2.3 miles from Ms. Lockmiller's apartment and "met with a transient who was identified as Danny R Hosey." Danny Hosey Report (Pl. Ex. 40) at 1. Another officer had reported to Warner and Hospelhorn that Hosey had "knives in his car with what appeared to be blood." *Id.* at 1. During a subsequent interview on the following day, "Hosey seemed somewhat disoriented when [Detective Hospelhorn] spoke with him. . . . [Hospelhorn] asked Hosey if he could come to NPD for a[n] interview to which [Hosey] stated he did not think that was necessary. Hosey then started to recite some passages from the Bible and talked about his life at this time." *Id.* at 1.

**RESPONSE:** It is undisputed the police report reflects these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

57. Stacy Gates told Defendant Warner that during the summer before the murder, an individual knocked at the door to Ms. Lockmiller's apartment at two or three in the morning. Gates Interview (Pl. Ex. 36) at AB002326. Standing in the doorway was a man in an overcoat who was "powerfully built" and had a "big rack of shoulders." *Id.* The man said words to the effect of, "I want to talk to her." *Id.* at AB002327.

**RESPONSE:** It is undisputed that Gates made these statements to Warner but these alleged facts are immaterial because the unidentified man was determined to be John Revis, who was incarcerated in Florida at the time of the murder, and enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11686

58. Gates refused to let the individual speak with Ms. Lockmiller, and the individual responded with words to the effect of, “don’t you sass me,” and, “don’t you talk to me that way um or I’ll come up there and break the fucking door down.” *Id.* at AB002327. Three other males accompanied this individual and were waiting in a car parked outside. *Id.*

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

59. Gates told Detective Warner that this mysterious figure should be considered a suspect. *Id.* at AB002326. Defendant Warner agreed that the investigators should have followed up on the individual described by Gates. Warner Dep. (Pl. Ex. 41) at 133. The record lacks any indication of follow up regarding this individual.

**RESPONSE:** It is undisputed that Gates made this statement to Warner and Warner testified as set forth in paragraph 59. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Finally, the last sentence is improper argument and, therefore, defendants dispute it.

60. Gates also told Defendant Warner that an individual known as “Psycho Bill,” who had dated Ms. Lockmiller, should be considered a suspect. “Psycho Bill” was rumored to lure women into his room and film them, and at one point seemed to be guiding Ms. Lockmiller toward a closet. Gates Interview (Pl. Ex. 36) at AB002328.

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11687

61. Investigators learned that Ms. Lockmiller had dated an individual named Cory Price and another individual with the nickname "Joey Yok Yok Monster," and that there was an individual named Jason who was "obsessed" with Ms. Lockmiller. Belcher Dep. (Pl. Ex. 15) 143-44, 151-52.

**RESPONSE:** Paragraph 159 is disputed but immaterial. Warner testified only that he did not recall. (Def. St. Facts Ex. 3, at 135). Belcher also testified just that he did not know. (Pl. Ex. 15, at 143-44, 151-52). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

#### **IV. MR. BEAMAN'S RELATIONSHIP WITH MS. LOCKMILLER**

62. While there was tumult in their relationship during the time when they were dating, Mr. Beaman and Ms. Lockmiller broke up by mutual decision on or about July 25, 1993, at which point Mr. Beaman left Bloomington-Normal and traveled to Cincinnati with a friend. Pl. Trial. Trans. (Pl. Ex. 6) at 1690. Following their break-up, Mr. Beaman and Ms. Lockmiller maintained a civil relationship. When Mr. Beaman last saw Ms. Lockmiller at the beginning of August, Ms. Lockmiller "seemed stable" and the two talked calmly for a short period of time before Mr. Beaman dropped her off at class and then drove home to Rockford. Pl Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 13. Mr. Beaman stated that when he left Ms. Lockmiller on this last occasion, he "felt good[.]" *Id.* at 14.

**RESPONSE:** It is undisputed that Beaman testified as set forth in the first, third and fourth sentences of paragraph 62, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest

C11688

and prosecution. (Def. St. Facts ¶98-110). The second sentence of paragraph 62 is disputed because it is not supported by a citation and immaterial for the same reason as stated above.

63. Mr. Beaman and Ms. Lockmiller's mutual friend, Josh Whitney, told investigators that after the break-up, in early August 1993, Mr. Beaman "seemed to me to be in an overall good mood and he had finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite a while." Whitney Stmt. (Pl. Ex. 43) at 3-4. Michael Swaine also stated that when Mr. Beaman returned from Ohio, "things were ironed out" between Ms. Lockmiller and Mr. Beaman "seemed ok." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001450. In August, Mr. Beaman began dating again, seeing a woman in Rockford named Beth Terresi. Pl. Trial Trans. (Pl. Ex. 6) at 1737-39, 1821.

**RESPONSE:** It is undisputed that these statements were made by Whitney and Swaine, and Beaman testified as set forth in the last sentence of paragraph 63, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

64. Ms. Lockmiller called Mr. Beaman 28 times on Sunday, August 22nd, but none of those calls were answered. *Id.* at 1717. Mr. Beaman did not know about the phone calls until the phone records were produced as part of the criminal trial. *Id.* Mr. Beaman and Ms. Lockmiller did speak with one another on Monday, August 23rd, on a phone call, initiated by Lockmiller, in which Lockmiller told him she wanted to get back together because Michael Swaine, one of the men she was dating at the time, did not want to see her anymore. *Id.* at 1719-21; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1438-41. Mr. Beaman told Ms. Lockmiller that their relationship was

C11689

over and that he did not want to see her again. Pl Trial Trans. (Pl. Ex. 6) at 1721; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1442.

**RESPONSE:** It is undisputed that Beaman and Carol Beaman testified as set forth in paragraph 64, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Moreover, Freesmeyer reasonably did not believe Beaman did not know of the 28 phone calls. (Def. St. Facts Ex. 1, at 249).

65. During the period when the two had been dating, there were two occasions on which Mr. Beaman forced open Ms. Lockmiller's door by kicking it. Both incidents occurred on nights when Ms. Lockmiller was dating Mr. Beaman but having sex with other men, Murray and Swaine. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 16. In the incident with Swaine, Mr. Beaman arrived just after Swaine and Lockmiller had oral sex; they were kissing on the way into her bedroom. Swaine Dep. (Ex. 69) at 77-78. Swaine ran into Lockmiller's closet. *Id.* at 78. Mr. Beaman did not lay a finger on either Lockmiller or Swaine; instead, he gave Swaine, his friend, a ride home, and was calm throughout the drive. *Id.* 82, 85-87, 89-90. Swaine does not recall having any fear for his physical safety at any point that evening. *Id.* at 85.

**RESPONSE:** It undisputed that Beaman forced open Lockmiller's door by kicking it on at least two occasions. The second sentence of paragraph 65 is disputed only because it improperly characterizes Murray's interview statements. Murray referenced only himself in his statement. (Pl. Ex. 21, at 16). It is undisputed that Swaine testified to the statements in the remaining sentences of paragraph 65.

C11690

66. Defendants Freesmeyer and Warner did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**RESPONSE:** Undisputed as to any other individual other than Lockmiller but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

**V. LACK OF EVIDENCE AGAINST MR. BEAMAN**

67. Mr. Beaman was at his parents' home in Rockford when the murder occurred in Bloomington-Normal, some 130 miles away. He made calls from his parents' home at 10:37 a.m. and 10:39 a.m. *See infra* ¶¶ 144-45. He was also home at 2:15 p.m., when his mother returned home. *See infra* ¶¶ 135-36 It would have been impossible to leave his parents' home, drive to Ms. Lockmiller's, and get back within that timeframe. Seyfried Report (Pl. Ex. 45) at 4.

**RESPONSE:** Disputed. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). *See* defendants' response to plaintiff's statement of facts paragraphs 144-145, 135-36. In addition, while it is undisputed that plaintiff's expert opined in his report as set forth in paragraph 67, the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

68. Since his first interview with police on August 28, 1993, Pl. Stmt. (Pl. Ex. 42) at 9, 38-39, Mr. Beaman has maintained his innocence despite several unsuccessful efforts to elicit a confession:

C11691

- a. An accusatory interrogation, conducted late at night on the day body was discovered. *Id.* at 1, 37-49.
- b. An interrogation in which Detective Brown accused Mr. Beaman of the killing and told him “I think you do know” what happened on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 30.
- c. Two occasions on which Michael Swaine, a friend and former roommate of Mr. Beaman, wore a concealed body wire and spoke to Mr. Beaman about the murder while investigators taped the conversation. *Id.* at 23-25.
- d. An interrogation in which Freesmeyer told Mr. Beaman, “[I]f this facade continues, we’re going for the death penalty.” *Id.* at 32.

**RESPONSE:** The first sentence of paragraph 68 regarding “unsuccessful efforts to elicit a confession” is improper argument, and an improper characterization of the police interviews of Beaman. As a result, defendants dispute the first sentence and Beaman’s innocence.

Paragraph 68(a): It is undisputed as forth in Section (a) of paragraph 68 that the police interviewed Beaman on the day Lockmiller’s body was discovered. However, the characterization of the interview is improper argument and therefore disputed.

Paragraphs 68(b) and (d): Undisputed, but what language was used in the interviews to Beaman is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 68(c): Undisputed. Beaman made several suspicious statements on the overhear with Swaine. (Def. St. Facts ¶98).

69. No witness placed Mr. Beaman in Bloomington-Normal, much less in the vicinity of Ms. Lockmiller’s apartment, on August 25, 1993. Todd Heyse testified that, while driving on

C11692

a major thoroughfare and not slowing down, he saw a man and a woman walking towards Ms. Lockmiller's apartment. Heyse Trial Testimony (Pl. Ex. 46) at 463-66. He did not see these individuals during the week of the murder. His recollection of when he saw these individuals was connected to the date when he purchased a building. *Id.* at 477 ("Q: And what you saw occurred within apparently four or five days after you purchased the White Horse [building]? A: Yes."). *See also id.* at 465, 467. Heyse purchased the building on August 4, 1993, 21 days before the murder. *Id.* at 1150-53.

**RESPONSE:** The first sentence of paragraph 69 is improper argument and not supported by a citation. As a result, defendants dispute it. The second sentence is material but disputed because it is not supported by Heyse' testimony as cited in the record. (Pl. Ex. 46, at 465). Heyse told the police that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder possibly on the exact day. (Def. St. Facts Ex. 6, at 287; Def. St. Facts Ex. 23, at 77). The third sentence is disputed and material. Heyse' statement to the police on June 24, 1994 indicated he saw this man and woman on either Tuesday, Wednesday or Thursday of the week of the murder. (Heyse statement, attached as Def. Ex. 40). It is undisputed that Heyse testified as set forth in the fourth and fifth sentences in paragraph 69, but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

70. Heyse's description of the man did not match Mr. Beaman. He told police that the man was wearing "trendy Euro-type of clothing." *Id.* at 476. On August 25, however, the bank video showed Mr. Beaman wearing jeans and a t-shirt. Pl. Trial Trans. (Pl. Ex. 6) at 1729, 1869. Heyse also testified that he did not have a good enough look to be able to identify either of the individuals again if he saw them. Heyse Trial Testimony (Pl. Ex. 46) at 467.

**RESPONSE:** The first sentence of paragraph 70 is improper argument and not supported by a citation in the record. As a result, defendants dispute it. It is undisputed that Heyse testified as set forth in the second and fourth sentences of paragraph 70, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). The third sentence is undisputed but also immaterial for the same reason.

71. As Detective Daniels agreed, no eyewitness could reliably place Mr. Beaman in Bloomington-Normal on the day of the murder. Daniels Dep. (Pl. Ex. 26) at 529.

**RESPONSE:** Paragraph 71 is disputed because it is not supported by the record. Daniels testified only that “to his knowledge,” no eye witness could place Beaman in Normal on the day of Lockmiller’s murder. (Def. St. Facts Ex. 5, at 529). It is also immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

72. There was no physical evidence implicating Mr. Beaman in the murder. *See infra* ¶¶ 93, 96.

**RESPONSE:** Disputed. Beaman’s fingerprints were found on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Def. St. Facts ¶¶98-99).

73. The lead prosecutor, James Souk, acknowledged in his deposition that the Beaman prosecution “was a difficult circumstantial case” because of the dearth of physical evidence, the lack of a confession, and the lack of any eyewitness testimony. Souk Dep. (Pl. Ex. 47) at 137. Defendants Freesmeyer and Warner also stated that the evidence against Mr. Beaman was entirely circumstantial. Freesmeyer Dep. (Pl. Ex. 16 ) at 263; Warner Dep. (Pl. Ex. 41) at 149.

C11694

**RESPONSE:** It undisputed that Souk, Freesmeyer and Warner testified as set forth in paragraph 73, but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

74. When the Supreme Court of Illinois vacated Mr. Beaman's conviction in 2008, the Court noted the "tenuous nature of the circumstantial evidence against Mr. Beaman." *People v. Beaman*, 229 Ill. 2d 56, 80 (2008).

**RESPONSE:** The language in the decision, *People v. Beaman*, is undisputed but language in a state court decision is not proper evidentiary support for facts alleged in response to a motion for summary judgment

## **VI. DEFENDANTS' ROLES IN THE INVESTIGATION**

### **A. Defendant Timothy Freesmeyer**

75. Early in the case, Defendant Timothy Freesmeyer assumed the role of principal investigator. Daniels Dep. (Pl. Ex. 26) at 66, 184-85; 495-96. He was also the principal detective investigating Alan Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 28.

**RESPONSE:** Undisputed.

76. On the first day of the investigation, Freesmeyer had concluded that Mr. Beaman was "the primary suspect." Freesmeyer Dep. (Pl. Ex. 16) at 192.

**RESPONSE:** Paragraph 76 is disputed because it inaccurately quotes Freesmeyer's testimony.

77. While with the Normal Police Department, Freesmeyer had a disciplinary history that included pepper spraying an individual who was handcuffed and arresting a person without probable cause. Freesmeyer Disciplinary Reports (Pl. Ex. 48) at DEF 97-99.

C11695

**RESPONSE:** Defendants object to Exhibit 48 on the basis of lack of foundation. In addition, paragraph 77 is disputed because it does not accurately reflect Freesmeyer's disciplinary report. (Pl. Ex. 48). Further, Freesmeyer's disciplinary history is immaterial as to how he conducted the investigation into the Lockmiller investigation.

78. Freesmeyer stated that during the investigation, he and Assistant States Attorney James Souk, the lead prosecutor in the criminal case against Mr. Beaman, worked as a team together. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 36-37. Freesmeyer would receive the most of the credit if the Lockmiller case was solved, and the most blame if it remained unsolved. Brown Dep. (Pl. Ex. 14) at 114. The Lockmiller homicide investigation was the most high-profile case of Defendant Freesmeyer's career, and he had never been the lead investigator in a murder case. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 21.

**RESPONSE:** The first sentence is undisputed. The second sentence is disputed and immaterial. Brown testified only that Freesmeyer "probably" would receive most of the credit. (Pl. Ex. 14, at 114). Brown was a McHenry County employee and no foundation was established for what knowledge he might have about assessing credit or blame in the Normal Police Department. In addition, any "credit" Freesmeyer would receive for Beaman's conviction is immaterial to Beaman's lawsuit because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third and fourth sentences are undisputed but immaterial for the same reason.

79. Freesmeyer arrested Mr. Beaman on May 17, 1994. Freesmeyer Police Reports (Pl. Ex. 7) at 48-49. Approximately four months later he was promoted to sergeant. Freesmeyer Trial Trans. (Pl. Ex. 50) at 954.

**RESPONSE:** The first sentence is undisputed and material. The second sentence is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

80. Two months prior to trial Freesmeyer began working out of the States Attorney's office. Freesmeyer Post-Conviction Dep. (Pl. Ex 34) at 9.

**RESPONSE:** Undisputed.

81. Shortly after Mr. Beaman's conviction, Souk wrote a letter to the Chief of Police, which stated: "Beyond any question in my mind, this case would not have been won without Tim Freesmeyer." Souk Letter (Pl. Ex. 51).

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**B. Defendant David Warner**

82. Defendant David Warner was the "evidence technician" when he served as an investigator in the Lockmiller homicide investigation. Warner Dep. (Pl. Ex. 41) at 32; Freesmeyer Police Reports (Pl. Ex. 7) at 39. If an officer wanted evidence analyzed by the lab, Warner would "prepare the paperwork, take it to the lab, pick it up." Warner Dep. (Pl. Ex. 41) at 33. As evidence technician Warner retrieved all of the physical evidence produced in the investigation, including the latent prints obtained from Ms. Lockmiller's apartment. Freesmeyer Police Reports (Pl. Ex. 7) at 39.

**RESPONSE:** The first two sentences of paragraph 82 are undisputed. The third sentence is disputed as it mischaracterizes Warner's responsibilities and is not supported by the citation. Freesmeyer police report, page 39, states only that Freesmeyer transported all "evidence from the

C11697

Latent division regarding the Lockmiller case” and “turned it over to [the] evidence custodian, Det. David Warner.” (Def. St. Facts Ex. 8, at 39).

83. Defendant Warner was also in charge of investigating Stacy Gates, an alternative suspect. Warner interviewed Gates, from which Warner determined that Gates was in love with Lockmiller but had “over-inflated views of how [Lockmiller] perceived him.” Warner Dep. (Pl. Ex. 41) at 116-19. Warner testified that, during the interview, Gates was rambling and incoherent; following the interview, Warner told Zayas that “some more work might need to be done on [Gates],” meaning he had to be investigated further. *Id.* at 120-22. Warner acknowledged that Gates may have had a motive for Lockmiller’s murder. *Id.* at 127-28. Warner did not ever rule Gates out as a suspect. *Id.* at 144-45.

**RESPONSE:** The first sentence of paragraph 83 is undisputed. The second sentence is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third sentence is disputed because it is not supported by the record. Warner testified only that Gates was rambling and “changed topics a lot.” (Def. St. Facts Ex. 3, at 120). The remaining part of the third sentence is immaterial for the reasons set forth above. The fourth sentence is undisputed but immaterial for the reasons set forth above. In addition, Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82). The fifth sentence is disputed because it is not supported by the cited record. Warner testified only that he did not know if Gates was ever ruled out as a suspect. (Def. St. Facts Ex. 3, at 144). The fifth sentence is immaterial for the reasons set forth above.

C11698

84. Warner also requested and received the polygraph reports for both Gates and John Murray. Warner Dep. (Pl. Ex. 41) at 38, 108-12, 115-16, 135-36. He agreed that following Murray's failed polygraph, further investigation of Murray was warranted. *Id.* at 115-16.

**RESPONSE:** The first sentence of paragraph 84 is disputed because it is not supported by the cited record. Warner testified Daniels requested the polygraph reports and Warner made the appointment. (Pl. Ex. 95 at 38). Warner testified only that the polygraph reports were directed to his attention and that he gave the report for Murray to Daniels. (Def. St. Facts Ex. 3, at 39, 106). The second sentence of paragraph 84 is disputed in the characterization of the polygraph report as being "failed" and not supported by the citation. Warner only testified that further investigation would be needed if a polygraph report indicated a suspect was unable to complete the exam and comply with the instructions. (Def. St. Facts Ex. 3, at 115); (Pl. Ex. 38, at 47-48, 198-99).

85. On May 17, 1994, Warner aided in Plaintiff's arrest, including by monitoring the conversation that Freesmeyer, who was wearing a body wire, had with Mr. Beaman as Mr. Beaman was taken into custody. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

**RESPONSE:** Undisputed but Warner's assistance in the arrest is immaterial. Warner had no involvement in the murder investigation after the first few weeks of October, 1993. (Def. St. Facts Ex. 3, at 69-70).

**C. Defendant Frank Zayas**

86. Defendant Frank Zayas was the Lieutenant "in charge of the detective division," "had ultimate responsibility for [the Lockmiller] case," and supervised the detectives working on the case. Freesmeyer Dep. (Pl. Ex. 16) at 32-33; Zayas Dep. (Pl. Ex. 8) at 69; Daniels Dep. (Pl. Ex. 26) at 486-87. Defendant Zayas continued to supervise the Lockmiller investigation

until his retirement in November 1994, six months after Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 28, 289; Hospelhorn Dep. (Pl. Ex. 31) at 30-32. He participated in the May 16, 1994 meeting where the decision was made to arrest Mr. Beaman. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**RESPONSE:** The first sentence of paragraph 86 is undisputed. The second sentence is disputed. Documentary evidence, the annual report for the Normal Police Department's Criminal Investigation Division (CID), shows Zayas was reassigned from CID from some time in February until June, 1994. (Def. St. Facts Ex. 4, at 20, 23; See CID report attached as Def. Ex. 41). The last sentence is undisputed and material.

**D. Information Sharing and Contact Among the Defendants**

87. There was a high level of information sharing among the investigators involved in the Lockmiller homicide investigation. Belcher Dep. (Pl. Ex. 15) at 43.

**RESPONSE:** Disputed. Belcher testified only that the investigators kept in touch with each other and that formal meetings were conducted to keep the police chief apprised of the status of the investigation. (Pl. Ex. 15, at 43-44); (Def. St. Facts ¶¶27-30).

88. Defendant Freesmeyer's reports document that during the Lockmiller homicide investigation, nine investigators' meetings were held, and there may have been even more meetings among investigators not documented in his reports. Freesmeyer Police Reports (Pl. Ex. 7) at 11, 16, 17, 20, 22, 35, 48, 57; Freesmeyer Dep. (Pl. Ex. 16) at 67. Such meetings were held throughout the investigation to "[s]hare information, assignments, who's doing what." Warner Dep. (Pl. Ex. 41) at 78; Belcher Dep. (Pl. Ex. 15) at 41-42 ("[W]e had meetings ... to discuss the -- the progress of the case and such.").

**RESPONSE:** Undisputed.

89. Most of the detectives worked all in “one big office . . . It was a cubicle situation. It was very open. And they could talk amongst [themselves].” *Id. See also* Daniels Dep. (Pl. Ex. 26) at 73 (investigators shared information during the investigation).

**RESPONSE:** Undisputed.

90. Officers received copies of each other’s reports “throughout the investigation” and were required to read them in order for detectives to stay “all on the same page.” Zayas Dep. (Pl. Ex. 8) at 41-42. *See also id.* at 39; Daniels Dep. (Pl. Ex. 26) at 647.

**RESPONSE:** Undisputed.

## **VII. AUGUST 28, 1993: DAY ONE OF THE INVESTIGATION**

91. On August 28, 1993, Ms. Lockmiller’s partially decomposed body was discovered by Morgan Keefe, an acquaintance of the victim, who called 911. Hartman Dep. (Pl. Ex. 11) at 5, 12. Keefe informed police about various potential suspects, including the unknown men with whom Ms. Lockmiller had flirted in the days before her death. *See supra* ¶¶ 13-14. Keefe also mentioned Alan Beaman. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. Hartman Dep. (Pl. Ex. 11) at 15-16.

**RESPONSE:** The first and second sentences of paragraph 91 are undisputed other than Hartman (Keefe) was Lockmiller’s best friend, not merely an acquaintance of hers. (Def. St. Facts ¶32). With regard to the third sentence, Hartman (Keefe) not only “mentioned” Beaman but identified him as the murderer in her 911 call to the police. (Def. St. Facts ¶32). The alleged facts in the fourth sentence are an improper characterization of Hartman’s testimony and statements to the police. (Def St. Facts ¶32-34). Hartman testified that although she was not afraid of Beaman

personally, she knew Lockmiller was afraid of Beaman because Lockmiller repeatedly told her so. (Def. St. Facts ¶34).

92. Keefe testified in her deposition that she was “guessing” when she told the police Mr. Beaman might be the killer, and she didn’t expect that the guesses she expressed to the police would “carry a lot of weight.” Hartman Dep. (Pl. Ex. 11) at 15-16.

**RESPONSE:** It is undisputed that Hartman (Keefe) testified that she was only guessing that the killer was Beaman but she also testified she believed Beaman was the killer because Lockmiller told Hartman that she was afraid of Beaman, Beaman broke down Lockmiller’s door, Beaman was possessive about Lockmiller, Beaman made harassing phone calls to Lockmiller and Beaman threatened to commit suicide if Lockmiller broke up with him. (Def. St. Facts ¶34; Pl. Ex. 11, at 17-19).

93. As August 28, 1993, drew to a close:

- a. The investigators had done nothing to investigate anyone’s alibi.
- b. The investigators had obtained no eye-witness accounts of the murder.
- c. The investigators had obtained no physical evidence linking Mr. Beaman to the crime.
- d. The autopsy had not been completed and no finger prints had been tested. Kennedy Report (Pl. Ex. 52) at 6; Dierker Report Jan. 4, 1994 (Pl. Ex. 64).
- e. The investigators knew that Ms. Lockmiller’s apartment lay on a busy thoroughfare in a college town, factors that, according to Defendant Zayas pointed to a broad range of potential suspects. *See supra* ¶ 8.
- f. The investigators had visited the crime scene, Freesmeyer Police Reports (Pl. Ex. 7) at 1-2. which pointed to a burglary-turned-rape as the origin of the murder, *see supra* ¶ 9, and suggested that the crime “would have required a person of considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck.” Moses Report (Pl. Ex. 9) at 3.
- g. The investigators had learned by interviewing Mr. Beaman that he was thin and of small stature. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 244-45 (“Alan’s ... not a real big man. He’s maybe 120 pounds.”)

- h. The investigators had been informed that Ms. Lockmiller was a “partier” who used marijuana, heroin, and LSD, “stayed up late at night,” dressed in an “almost sleazy” manner, and engaged in “excessive drinking,” Freesmeyer Police Reports (Pl. Ex. 7) at 2, 6.
- i. The investigators had learned about Ms. Lockmiller’s various encounters with unidentified men in the days before her death. *See supra* ¶¶ 13-14.
- j. The investigators had obtained Ms. Keefe’s guesses about possible suspects. *See supra* ¶ 91.
- k. The investigators had learned that the new paramour, Swaine, had moved in with Ms. Lockmiller two to three weeks before the murder. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4-5.
- l. The investigators had learned that arguments had occurred several months ago between Mr. Beaman and Ms. Lockmiller Freesmeyer Police Reports (Pl. Ex. 7) at 2, and that Mr. Beaman had broken down Ms. Lockmiller’s door. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 18) at 16.
- m. The investigators had received no indication that Mr. Beaman had ever directed violence at any person, and had been told that by Swaine that Mr. Beaman was “not physical.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001455.
- n. The investigators had learned from Swaine that Mr. Beaman had left the Bloomington-Normal area in July to disengage from the relationship with Ms. Lockmiller. *Id.* at AB001456-58. Ms. Lockmiller also told Swaine that Beaman had said he was over her and did not love her any more. *Id.* at AB001459.
- o. The investigators had discovered that Ms. Lockmiller had broken up with Gates, but that Gates wanted to get back together, and that the two had plans to see each other two days after the murder occurred. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 7-8.
- p. The investigators had reviewed letters from Gates in which he stated, “I know if your pussy isn’t shaved, I want to shave it or have you do it for me,” Gates Letters (Pl. Ex. 82), and old letters from Beaman to Lockmiller which Freesmeyer thought expressed “an enormous love for Jennifer,” Freesmeyer Police Reports (Pl. Ex. 7) at 7.
- q. The investigators knew that Mr. Beaman voluntarily consented to a lengthy interview late at night by two detectives, agreed to accompany them to a police station, agreed to have the interview taped, declared his innocence during the interview, and discontinued the interview only when it became highly accusatory. Hospelhorn Police Report (Pl. Ex. 54) at 2; Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 37-49.

**RESPONSE:**

Paragraph 93(a): Paragraph (a) does not contain a citation to the record and is disputed.

Paragraph 93(b): Paragraph (b) does not contain a citation to the record and is disputed.

Paragraph 93(c): Paragraph (c) does not contain a citation to the record and is disputed. Beaman's fingerprints were found on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Def. St. Facts ¶98-99).

Paragraph 93(d): Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

Paragraph 93(e): See defendants' response to plaintiff's statement of facts paragraph 8.

Paragraph 93(f): It is undisputed that the investigators visited the crime scene. However, it is disputed that the crime scene pointed to a burglary turned rape. (Def. St. Facts ¶98). See defendants' response to plaintiff's statement of facts paragraph 9. It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 93(f) but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

Paragraph 93(g): Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

Paragraph 93(h): Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

Paragraph 93(i): See defendants' response to plaintiff's statement of facts paragraphs 13-14.

Paragraph 93(j): See defendants' response to plaintiff's statement of facts paragraph 91.

Paragraph 93(k): Paragraph 93(k) contains improper argument with regard to characterizing Swaine as a “new paramour” but the remaining part of paragraph 93(k) is undisputed.

Paragraph 93(l): Undisputed.

Paragraph 93(m): Disputed. Swaine only told the investigators that Beaman had never been physical with Swaine. (Pl. Ex. 44, at AB001455). However, the investigators had information that Beaman had been physically violent around Lockmiller, kicked her door in, threw things at her, punched a hole in her wall, and that one of Lockmiller’s neighbors (Susan Jenkins) was afraid to call the police when she overheard fights between Lockmiller and Beaman because she thought if she did Beaman would beat Lockmiller as a result. (Def. St. Facts ¶¶32, 33, 34, 36, 37, 49, 53, 58, 61). Lockmiller’s friend Meredith Haynes told the police that Beaman “pushed” Lockmiller around and knocked things over in her apartment. (Def. St. Facts ¶61).

Paragraph 93(n): The first sentence of paragraph 93(n) is disputed because it mischaracterizes Swaine’s statements to the police about why Beaman left the Bloomington-Normal area. (Pl. Ex. 44, at AB01458). It is undisputed that Swaine made the statement in the second sentence of paragraph 93(n) but this is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

Paragraph 93(o): Undisputed. However, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Further, Gates was eliminated early on as a suspect when his alibi was verified.

Paragraph 93(p): Undisputed. However, Gates was eliminated early on as a suspect when his alibi was verified. (Def. St. Facts ¶82).

Paragraph 93(q): Paragraph 93(q) contains improper argument with regard to the interview being “highly accusatory” and mischaracterizes Hospelhorn’s report relating to Beaman’s interview and Beaman’s statement and as a result, defendants dispute it. It is undisputed that Beaman agreed to an interview at the police station, and agreed to have the interview taped.

94. With the evidence in the state described above on Day One of the investigation, Defendant Freesmeyer immediately concluded that Alan Beaman was the primary suspect—and he clung to this conclusion throughout the investigation:

Q. ... When did Alan Beaman become the prime suspect in this case?

A. Immediately.

Q. did he ever in your mind become something other than the prime suspect?

A. No.

Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 34. *See also* Freesmeyer Dep. (Pl. Ex. 16) at 192.

**RESPONSE:** The first sentence of paragraph 94 is improper argument and as a result, defendants dispute it. It is undisputed that Freesmeyer testified as quoted in paragraph 94.

95. Other investigators did not share Freesmeyer’s view that Beaman should immediately have been considered the primary suspect:

a. Detective Daniels stated that Ms. Lockmiller “did have and wanted one boyfriend after the other which is why there were so many suspects that weren’t excluded in the investigation at first.” Daniels Dep. (Pl. Ex. 26) at 160.

b. Detective Daniels believed that the evening of August 28 was too early to even interview or interrogate Mr. Beaman. *Id.* at 508.

C11706

- c. Detective Hospelhorn testified that even after he and Detective Daniels interviewed Mr. Beaman on August 28, they did not form any suspicion as to Mr. Beaman's guilt. Hospelhorn Dep. (Pl. Ex. 31) at 77.
- d. During the investigation, Detective Hospelhorn was skeptical as to Mr. Beaman's guilt and discussed that view with Detective Daniels. Daniels Dep. (Pl. Ex. 26) at 483-84.
- e. During the investigation, Detective Daniels expressed to Defendant Zayas the view that "we didn't have sufficient evidence yet" and that "[i]t was all circumstantial." Zayas Dep. (Pl. Ex. 8) at 117.

**RESPONSE:** The first sentence of paragraph 95 is improper argument, and not supported by the citations to the record. As a result, defendants dispute it.

Paragraph 95(a): Undisputed that Daniels testified as set forth in paragraph 95(a) but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 95(b): Undisputed that Daniels testified as set forth in paragraph 95(b) but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 95(c): Disputed. Daniels and Hospelhorn came away from the first Beaman interview believing Beaman's conduct was highly suspicious. (Def. St. Facts Ex. 5, at 129).

C11707

Paragraph 95(d): Undisputed that Daniels testified as set forth in paragraph 95(d) but these alleged facts are immaterial. Hospelhorn had no involvement in the murder investigation after the first few weeks of October, 1993. (Def. St. Facts Ex. 2, at 163).

Paragraph 95(e): Undisputed that Zayas testified as set forth in paragraph 95(e) but Daniels' opinion was immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

96. Defendant Zayas admitted that at the time of his retirement in November 1994 – five months after Mr. Beaman's arrest in May 1994 – the case against Mr. Beaman was “in limbo,” “needed more work” and was not ready to be prosecuted:

Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?

A. No. I don't think we had all the information needed at the time when I left. That was still in limbo. They were still working on it. So at the point, I didn't know.

....

Q. ...But it was your sense when you retired that there were still loose ends in the case?

A. Still work to be done.

Q. And that no one could reasonably say with certain[ty] that Alan Beaman was the killer, right?

A. That's true.

MS. EKL: Objection; foundation.

A. My opinion at the time is true.

Q. Was there anything to – that caused you to doubt whether Alan Beaman was the killer?

A. At that point – I'll put it this way.

C11708

*I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.*

Q. And that was true in November of '94 when you retired?

A. Yes, sir.

*Id.* at 179-81 (emphasis added).

**RESPONSE:** It is undisputed that Zayas testified as set forth in paragraph 96, but these alleged facts are immaterial because the decision to charge Beaman was decided solely by State's Attorney Reynard. (Def. St. Facts ¶95-96).

97. Chief Walter Clark instructed Detective Daniels to present the Beaman case at a conference on unresolved cases, entitled "Techniques for Resolving 'Uncleared' Homicides," in Florida in April 1994. Daniels Dep. (Pl. Ex. 26) at 582. Daniels had proposed presenting another case to the conference, but Clark instructed him to present the Lockmiller case, so that it would receive another look. *Id.* at 328, 582.

**RESPONSE:** It is undisputed that Daniels attended the conference but he testified at his deposition that Chief Clark did not tell him the reason to take the Lockmiller case. (Def. St. Facts Ex. 5, at 582). However, these alleged facts are immaterial because even though Daniels brought back some suggestions about possible investigative avenues before arresting Beaman, Souk told him "I think we've got our guy,"—referring to Beaman. (Def. St. Facts ¶96-97).

98. Plaintiffs' expert in criminal investigations, Gregg O. McCrary, who has investigated more than 1000 homicides, McCrary Report (Pl. Ex. 55) at 2, opined that the immediate focus on Mr. Beaman as the primary suspect narrowed and tainted the investigation in two ways. McCrary Report (Pl. Ex. 55) at 3, 9.

C11709

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 98 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

99. First, despite a dearth of evidence that Ms. Lockmiller was murdered by a close acquaintance, "the immediate working hypothesis was that a current or former intimate partner had murdered Ms. Lockmiller. While that is one hypothesis, properly trained investigators know that they have to consider all reasonable hypotheses, being careful not to rush to judgment regarding potential suspects or motivations. There is little indication that the defendants seriously considered that the homicide of Ms. Lockmiller was anything other than an intimate partner homicide. In effect, the die was cast." McCrary Report (Pl. Ex. 55) at 9.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 99 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

100. Second, the list of intimate partner suspects "immediately became a list of one, Alan Beaman." This focus occurred "before any meaningful investigation had even begun, including an autopsy." McCrary Report (Pl. Ex. 55) at 21.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 100 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**VIII. DISTORTION OF EVIDENCE TO FIT THE IMMEDIATE, UNSUPPORTED CONCLUSION THAT MR. BEAMAN WAS GUILTY**

C11710

101. According to McCrary, the Defendants' focus on Mr. Beaman did not end after Day One, but instead continued for the entire investigation, throughout which they "intentionally creat[ed] this false narrative." McCrary Report (Pl. Ex. 55) at 3. "[T]he defendants chose to believe [Mr. Beaman] was guilty and the record clearly shows that they set out to prove that he committed the murder in spite of their protestations of being objective." *Id.*

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 101 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

102. On October 27, 1993, Freesmeyer "informed" Mr. Beaman "that he was going to be arrested for Jennifer's death at one point or another." Freesmeyer Police Reports (Pl. Ex. 7) at 32. Freesmeyer, by his own account, threatened Mr. Beaman with the death penalty, telling Mr. Beaman, "if this façade continues, we're going for the death penalty." *Id.*

**RESPONSE:** It is undisputed that Freesmeyer's report contains these statements but Freesmeyer's report also contains information that Freesmeyer told Beaman that "probable cause for an arrest already existed" (Pl. Ex. 7, at 32), because enough evidence had developed to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

103. According to McCrary, "[t]hreatening a suspect with the death penalty violates basic police practices. It is coercive and should never be used, especially to try and leverage a confession as it was in this situation. This exchange is clear evidence that Detective Freesmeyer has prematurely concluded that Mr. Beaman is guilty of the murder despite any concrete evidence to support that conclusion and with a large amount of logical investigation incomplete." McCrary Report (Pl. Ex. 55) at 12-13.

C11711

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 103 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**A. Defendants Focus on a Non-probative Fingerprint**

104. The only piece of physical evidence consisted of fingerprints on Ms. Lockmiller's alarm clock. The alarm clock revealed seven latent prints – four of which were Michael Swaine's, two of which were Mr. Beaman's, and a remaining unidentified print. Dierker Trial Trans. (Pl. Ex. 56) at 503-04. Mr. Beaman's finger prints were *not* found on the cord of the alarm clock, which was used to strangle Ms. Lockmiller, or on the scissors lodged in her chest. *Id.* at 492-95.

**RESPONSE:** The first sentence of paragraph 104 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. The second sentence of paragraph 104 is undisputed but immaterial with regard to Swaine. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third sentence is disputed because Dierker testified only that there were no "latent [fingerprint] impressions suitable for comparison on the pair of scissors" and that he "found no suitable prints on the electrical cord." (Pl. Ex. 56, at 494-495). However, these facts are immaterial for the same reason.

105. There is no way to determine when finger prints are placed on an object. *Id.* at 485, 512.

C11712

**RESPONSE:** Paragraph 105 is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

106. Mr. Beaman had previously spent the night at Ms. Lockmiller's apartment and used the clock while at her home. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 501-02; Souk Grand Jury Trans. (Pl. Ex. 4) at 277. This provided, as Mr. Souk agreed, "a reasonable alternate explanation for the fingerprints" because there was no scientific evidence to suggest that Mr. Beaman's fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125. *See also* Daniels Dep. (Pl. Ex. 26) at 522-23; *Beaman*, 229 Ill. 2d at 77-78 (stating that the "fingerprints on the clock radio . . . were explained by [Mr. Beaman's] relationship with Jennifer").

**RESPONSE:** The first sentence of paragraph 106 is undisputed and material. With regard to the second sentence, it is undisputed that Souk testified there was a "reasonable alternative explanation for the fingerprints." However, the second part of the second sentence is disputed because it is not supported by the record. Souk testified only that "fingerprint experts won't give you such an opinion [as to the origin date of the fingerprints] or at least they didn't back then." (Def. St. Facts Ex. 6, at 125). Daniels testified only that "Alan had one time or another had to touch that clock and prints cannot be dated." (Def. St. Facts Ex. 5, at 522). However, these facts are immaterial because enough other evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Finally, the citation to the *Beaman* case is improper evidentiary support.

107. Defendant Freesmeyer identified Mr. Beaman's finger-print on the clock as an important piece of evidence against Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34)

C11713

at 26. He admitted that his view that the fingerprint evidence held any significance was based “solely on [his] own interpretation.” Freesmeyer Dep. (Pl. Ex. 16) at 203.

**RESPONSE:** Undisputed.

108. Neither Freesmeyer nor any other Defendant ran the unidentified print found on the clock radio through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993. The investigators also failed to dust the dishes left out on the counter for finger-prints, even though the home invader/killer might have used them to prepare a snack. Moses Report (Pl. Ex. 9) at 4; *see supra* ¶¶ 9-10.

**RESPONSE:** The first sentence of paragraph 108 is disputed. Freesmeyer only testified he had no knowledge of anyone running the unidentified print through a system but it might have been done. (Def. St. Facts Ex. 19, at 993). However, this fact is immaterial. First, an allegedly insufficient investigation does not support a conspiracy claim. *Kunz v. City of Chicago*, 234 F.Supp.2d 820, 824 (N.D.Ill. 2002). Second, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). With regard to the second sentence, it is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 108 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

**B. Defendants Construe Exculpatory Recorded Statements as Evidence of Guilt**

109. Freesmeyer engineered a series of four telephonic overhears and in-person meetings between Mr. Beaman and his friend, Swaine, in which Swaine wore a wire. Freesmeyer Police Reports (Pl. Ex. 7) at 19-20, 22-25; Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70);

Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). The purpose of the surreptitiously recorded conversations with Swaine was to “see if [Mr. Beaman] said anything incriminating,” and Swaine put himself forward “as an emotional wreck in order to get [Mr. Beaman] talking.” Swaine Dep. (Ex. 69) at 180-81, 185-86.

**RESPONSE:** Paragraph 109 contains improper argument with regard to the use of the phrases “engineered” and the “surreptitiously recorded conversations.” The remaining portions of the sentences in paragraph 109 are undisputed.

110. Freesmeyer also wore a wire during at least three conversations that he had with Mr. Beaman “in the event that he would make . . . incriminating statements.” Freesmeyer Police Reports (Pl. Ex. 7) at 34, 40, 42-43, 48-49.

**RESPONSE:** Disputed to the extent it mischaracterizes Freesmeyer’s police report. In his police report, Freesmeyer stated that “in the event that he would make *further* incriminating statements.” (Pl. Ex. 7, at 40).

111. During all of these surreptitiously recorded interactions with Swaine and Freesmeyer, Mr. Beaman did not inculcate himself in the murder. Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70); Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). When Swaine said he just wanted to know what happened to Ms. Lockmiller, Mr. Beaman replied, “Dude, I don’t know shit, that’s the problem.” In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72) at 2. Mr. Beaman also made it clear to Swaine that he no longer had a romantic interest in Ms. Lockmiller at the time of her death. *Id* at 5.

C11715

**RESPONSE:** Paragraph 111 contains improper argument with regard to the use of the phrases “surreptitiously recorded conversations.” The last sentence of paragraph 111 is disputed because it improperly characterizes Beaman’s statements to Swaine. (Pl. Ex. 72, at 5). The remaining portions of the sentences in paragraph 111 are undisputed.

112. After reviewing the transcripts of the various surreptitious recordings, McCrary opined:

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller’s relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants’ theory. It also refutes the defendant’s hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swaine was working as an agent for law enforcement and that he was recording this conversation.

McCrary Report (Pl. Ex. 55) at 12.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 112 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110),

113. Freesmeyer, however, seized on the fruitless overhears as evidence of guilt and a basis for probable cause, imagining, due to some crude comments about Mr. Beaman’s prior romantic relationship with Ms. Lockmiller, that the overhears contained “a number of incriminating statements . . . which to me seemed totally out of place and very alerting.” Freesmeyer Dep. (Pl. Ex. 16) at 195.

C11716

**RESPONSE:** Paragraph 113 contains improper argument and an improper characterization of Freesmeyer's deposition testimony. Freesmeyer testified the statements made by Beaman during the overhears provided part of the basis for probable cause as follows:

A: There were also a number of incriminating statements in the overhears that he made which to me seemed totally out of place and very alerting. He made one comment during an overhear with Mike Swain where he said: That women dug into me with every ounce of sharp silver she had every time she could. I had never heard anybody say the expression "dug into me with every ounce of sharp silver." And that was less than a week and a half after we found the body where she was stabbed in the chest with a pair of silver scissors with a colored handle.

He also made a comment to Simone Weisman that -- when we interviewed her that he told her that he could not watch Basic Instinct with Jennifer anymore because of the time when they were having sex and she reached back as if she was gonna grab something. in the movie, the female in the movie during an act of sexual intercourse reaches back and grabs an ice pick and stabs the victim in the chest with an ice pick. I found that to be odd that that was fresh in his mind, the movie scene, Basic Instinct, which he had been stabbed in the chest. And we don't know if there was a sexual assault or not. He also made the comment when talking to Mike Swain that he knew he was sleeping with her. And Mike said: How do you know that? And he responded: That pussy never tasted the same. That to me was incredibly crude for somebody he supposedly loved a week and a half after her death, and he said it with hardly any remorse whatsoever. He made a comment to Alan, she was never gonna be happy, man. She was never gonna be happy. And in training for homicides, they often say that when somebody makes a terminal statement like that they're definitive that somebody's never gonna be happy, they're trying to justify their own actions.

(Def. St. Facts Ex. 1, at 195-197).

**C. Defendants Treat an Exculpatory Crime Scene As Evidence of Guilt**

114. Freesmeyer treated exculpatory features of the crime scene as affirmatively inculpatory and a basis for probable cause. *See infra* ¶¶ 116, 118, 121.

**RESPONSE:** Paragraph 114 contains improper argument. Further, defendants dispute that there were exculpatory features of the crime scene that overcame the evidence that served as a basis for probable cause to arrest and prosecute Beaman. (Def. St. Facts ¶¶98-110).

**1. Stab Wounds**

C11717

115. The pattern and small number of stab wounds inflicted upon Ms. Lockmiller correlate with a murder by a stranger, not an emotionally-charged interaction with a close acquaintance: “Emotionally charged stabbings generally have far greater number of wounds in a frantic pattern.” Moses Report (Pl. Ex. 9) at 4.

**RESPONSE:** Defendants dispute that Lockmiller’s murder was not one of a crime of passion. (Def. St. Facts ¶99). It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 15 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

116. Freesmeyer, however, interpreted the manner of stabbing as indicating an “act of vengeance over somebody that [Lockmiller] had hurt deeply,” not as “the act of a random person.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

**RESPONSE:** Undisputed.

## **2. Garbage Bag Removed From Kitchen**

117. The fact that the perpetrator pulled a garbage bag out of a kitchen waste basket also correlates with burglary: “Burglars often seek out containers in the form of suitcases, pillow cases, garbage cans, or garbage bags with which to carry out stolen goods. These containers like the garbage container in Jennifer’s kitchen are often left in the middle of the floor if they are not needed.” Moses Report (Pl. Ex. 9) at 4.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 117 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Further, Beaman had a history of going

C11718

through Lockmiller's garbage in order to find evidence of her being with other people. (Def. St. Facts ¶¶98, 67).

118. Freesmeyer claimed that the garbage bag inculpated Mr. Beaman and provided a basis for probable cause because Mr. Beaman once looked through Ms. Lockmiller's trash for birth control, because he believed she was cheating on him. Freesmeyer Dep. (Pl. Ex. 16) at 210-11.

**RESPONSE:** Undisputed.

119. The trash can in Ms. Lockmiller's bedroom was undisturbed. Bedroom Photos (Pl. Exs. 67-68).

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

### 3. Box Fan

120. The box fan laid on top of the victim's face also correlates with burglary rather than murder by an acquaintance—it could have been knocked over during a burglar's rummaging, and it is also “not uncommon for a perpetrator to cover the head of his victim while he conducts his search.” Moses Report (Pl. Ex. 9) at 3.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 120 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Freesmeyer believed the fan covering Lockmiller's face was fitting a pattern where a person murders someone he knows than cannot face it. (Def. St. Facts ¶98). In addition, the box fan was owned by Swaine. (Def. St. Facts ¶76).

121. Freesmeyer testified that one basis for probable cause was “[t]he fact that at the scene, there was a fan pulled down over her face which oftentimes is done when the victim – the suspect knows the victim.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

**RESPONSE:** Undisputed.

**D. Defendants Treat Mr. Beaman’s Disengagement from the Relationship As Evidence of Guilt**

122. Mr. Beaman and Ms. Lockmiller mutually decided to end their relationship in July 1993. *See supra* ¶¶ 62-63. Ms. Lockmiller tried to rekindle their relationship, but Mr. Beaman was not interested. She called him 28 times shortly before her death, none of these calls were answered or returned. *See supra* ¶ 64. When the two did speak, on August 23rd, Mr. Beaman told Ms. Lockmiller he was no longer interested in dating. *See supra* ¶ 64.

**RESPONSE:** See defendants’ response to plaintiff’s statements of facts paragraphs 62-64.

123. According to McCrary, these circumstances would have demonstrated to reasonable investigators that Mr. Beaman was no longer interested in Ms. Lockmiller: “At the time Ms. Lockmiller was murdered it appears that she was attempting to rekindle her relationship with Mr. Beaman, but he wanted her out of his life. It was she who called Mr. Beaman repeatedly. He did not call her at all. There is no indication that he was demanding that she not leave him. In fact, he consistently maintained that he was done with her and wanted her out of his life.” McCrary Report (Pl. Ex. 55) at 24.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 123 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

124. Freesmeyer somehow interpreted Ms. Lockmiller's calls, and her unrequited romantic interest in Mr. Beaman as evidence of his guilt and a basis for probable cause. Freesmeyer Dep. (Pl. Ex. 16) at 209-10.

**RESPONSE:** Paragraph 124 contains improper argument. However, it is undisputed that enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**E. Defendants Hide Evidence Inculcating John Murray**

125. In *People v. Beaman*, the Supreme Court of Illinois unanimously held that Mr. Beaman's criminal defense attorney did not receive material, exculpatory evidence to which he was entitled under *Brady v. Maryland*, including the report of Murray's polygraph. *Beaman*, 229 Ill. 2d 56 at 80-81.<sup>1</sup>

**RESPONSE:** The decision in *People v. Beaman* is undisputed but language in a state court decision is not proper evidentiary support for facts alleged in response to a motion for summary judgment.

126. The attempt to polygraph John Murray on September 30, 1993, was made "[a]t the request of Detective David Warner." Murray Polygraph Docs. (Pl. Ex. 32) at 2. The polygraph examiner's report was sent by the crime lab addressed to "Detective David Warner," and Defendant Warner received the report. Murray Polygraph Docs. (Pl. Ex. 32) at 2. *See also* Zayas Dep. (Pl. Ex. 8) at 120-22.

**RESPONSE:** The first sentence of paragraph 126 is disputed. Warner made Murray's polygraph appointment at the request of Daniels. (Def. St. Facts ¶87). Warner received the report and gave

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<sup>1</sup> In the Supreme Court opinion, John Murray is referred to as "John Doe."

C11721

it to Daniels. (Def. St. Facts ¶87). Further, Zayas testified only that he assumed Warner received it. (Def. St. Facts Ex. 4, at 120-22).

127. Upon receiving the polygraph report regarding John Murray, the proper procedure would have been for to read it, submit it to central records, make copies of the report, disseminate copies of the report to all investigators working on the case, and ensure that Defendant Zayas received a copy of the report. Zayas Dep. (Pl. Ex. 8) at 120-22. Defendant Warner had been trained to follow this procedure. *Id.* See also Daniels Dep. (Pl. Ex.26) at 66266.

**RESPONSE:** It is undisputed that Zayas testified as set forth in paragraph 127 but these alleged facts are immaterial. Warner testified that he gave the report to Daniels upon receipt. (Def. St. Facts ¶87). It is undisputed that Daniels testified that he agreed with Zayas' testimony but could only speculate as to what Warner did with the report. Daniels does not deny getting the Murray polygraph report from Warner, but has no memory of it. (Def. St. Facts ¶89).

128. Rather than acting in accordance with this training, and providing a copy of the polygraph report to his supervisor (Defendant Zayas), Defendant Warner claimed that he handed the report to Detective Daniels (who was not Warner's supervisor). Warner Dep. (Pl. Ex. 41) at 38, 45-47. Detective Daniels, however, had no recollection of ever receiving the polygraph during the investigation. Daniels Dep. (Pl. Ex. 26) at 429. Detective Daniels had no reason whatsoever to believe that he lost or misplaced the polygraph report, and could not remember ever losing or misplacing an original copy of any investigative report in the course of his career. *Id.* at 725. See also *id.* at 667-68.

**RESPONSE:** The first sentence of paragraph 128 contains improper argument with regard to Warner's training. Therefore, defendants dispute it. The remaining portion of the first sentence is

undisputed. Warner gave the report to Daniels because Daniels was the one who requested it and in charge of investigating Murray. (Def. St. Facts ¶87). Warner assumed Daniels would give the report to Zayas (Def. St. Facts Ex. 3, at 46). It is undisputed that Daniels testified as set forth in the last sentence of paragraph 128, but these alleged facts are immaterial to what he did with the Murray report because he has no memory of receiving it.

129. Warner never gave the Murray polygraph report to Souk. Souk Post-Conviction Dep. (Pl. Ex. 57) at 48.

**RESPONSE:** Disputed. Souk testified that he “did not have any recollection” of the Murray polygraph report. (Pl. Ex. 57, at 48). Warner testified that when he received the Murray polygraph report he gave it to Daniels but did not know what Daniels did with the report. (Def. St. Facts ¶87).

**F. Defendants Construe a Bank Video Showing Mr. Beaman 125 Miles from the Crime Scene on the Day of the Murder as Evidence of Guilt**

130. On September 24, 1993, Freesmeyer learned from Mr. Beaman’s bank, the Bell Federal Savings and Loan in Rockford, that Mr. Beaman made a videotaped deposit at 10:11 am on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 26.

**RESPONSE:** Undisputed.

131. Freesmeyer retrieved the video on October 11. *Id.*

**RESPONSE:** Undisputed to the extent that Freesmeyer’s report states that he received the video from the bank on October 11, not that he “retrieved” it on that date. (Pl. Ex. 7, at 26).

132. The bank in Rockford lay approximately 125 miles from Ms. Lockmiller’s apartment in Normal. See [www.mapquest.com](http://www.mapquest.com) (distance between 1466 S. Alpine in Rockford and 412 N. Main in Normal).

**RESPONSE:** Undisputed according to [www.mapquest.com](http://www.mapquest.com).

C11723

133. Rather than viewing the bank video as exculpatory, Freesmeyer considered it inculpatory and a basis for Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

**RESPONSE:** Paragraph 133 contains improper argument. However, it is undisputed that during the course of the investigation, Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not, and went straight to bed. In reality, Beaman had gone to the bank. As a result, Freesmeyer concluded Beaman was lying when he said he went straight to bed, which supported probable cause for Beaman's arrest and prosecution. (Def. St. Facts ¶98).

134. Freesmeyer thought that Mr. Beaman's not remembering his trip to the bank and not bringing it up when asked if he had information that would demonstrate his innocence somehow suggested dishonesty and guilt. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

**RESPONSE:** Paragraph 134 contains improper argument. However, it is undisputed that during the course of the investigation, Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not, and went straight to bed. In reality, Beaman had gone to the bank. As a result, Freesmeyer concluded Beaman was lying when he said he went straight to bed, which supported probable cause for Beaman's arrest and prosecution. (Def. St. Facts ¶98).

**G. Freesmeyer Manipulates Time Trials To Cast Doubt on Mr. Beaman's Alibi**

**1. Time Trials Involving the Drive to the Victim's Apartment**

135. Mr. Beaman's mother, Carol Beaman returned to her home, and could verify that Mr. Beaman was there, on August 25 at 2:15 p.m. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1483-85; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 51.

**RESPONSE:** It is undisputed that Carol Beaman testified as set forth in paragraph 135, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

136. Mr. Beaman could not have left Rockford at 10:11 a.m. (when bank video shows him making a deposit), killed Ms. Lockmiller, and been home by 2:15 p.m. Such a scenario would have given Mr. Beaman a window of four hours and four minutes (the time between the bank deposit at 10:11 and his mother's return home at 2:15) to drive from the Bell Federal Bank in Rockford to Ms. Lockmiller's apartment in Normal, remove most of Ms. Lockmiller's clothing and rape her, strangle Ms. Lockmiller, drive a pair of scissors into her chest, and drive back to his family residence in Rockford. *See* Souk Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 207 (agreeing that "generally" the prosecution's theory at trial required Mr. Beaman to "average 75 miles an hour, commit an unplanned crime in 5 to 15 minutes, and return home at the same speed").

**RESPONSE:** The first and second sentences of paragraph 136 are improper argument and not supported by a citation to the record: As a result, defendants dispute them. With regard to Souk's quote contained in the third sentence, it is undisputed that Souk testified as set forth in paragraph 136. However, it is immaterial because there was enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

137. When Defendant Freesmeyer drove at the speed limit from the Bell Federal Savings and Loan, to Ms. Lockmiller's apartment, and back to the Beaman family residence, it took him four hours and eleven minutes. Freesmeyer Police Reports (Pl. Ex. 7) at 53.

**RESPONSE:** Undisputed.

C11725

138. Freesmeyer then decided to drive faster, exceeding the speed limit and driving at “an average [speed] of 75 mph.” *Id.* at 59, 60. At this speed, it took him one hour and forty-eight minutes to drive from Bell Federal Savings and Loan to Ms. Lockmiller’s apartment. *Id.* at 60. It took Freesmeyer one hour and fifty-six minutes to drive at this speed from Ms. Lockmiller’s apartment to Mr. Beaman’s family residence. *Id.* at 59. The total time for the two legs was three hours and forty-four minutes, which would have left Mr. Beaman only 20 minutes – to enter the apartment, commit the rape and murder, and leave.

**RESPONSE:** The first sentence of paragraph 138 contains improper argument and is an improper characterization of Freesmeyer’s time trial. (Def. St. Facts Ex. 8). The remaining portion of the first sentence of paragraph 138 is undisputed. The second and third sentences of paragraph 138 are undisputed. The fourth sentence of paragraph 138 is improper argument and not supported by a citation to the record. As a result, defendants dispute it.

139. Mr. Beaman could not have driven at an “average speed” of 75 miles per hour, *id.* at 59, 60. To average 75 miles per hour, one must, for example, drive at 90 miles an hour to compensate for any period of time during which one drives at 60 miles per hour. Joshua Whitney testified as follows regarding the condition of Mr. Beaman’s car:

Q. So what about [Mr. Beaman’s] piece of junk car, as you call it, would not allow him to get to and from Bloomington?

A. It was frequently breaking down. It had engine problems, suspension problems. We commonly referred to it as the millennium falcon, which in the Star Wars motif it was constantly breaking down and having problems that just wouldn’t allow for it to drive two hours down and two hours back without fitting into a perfect time frame as was being presented at the time.

....

Q. Well, Alan had that piece of junk car in Bloomington, right?

C11726

A. Yes. And he had nursed it back up to Rockford on more than one occasion where he had to stop and get some part working, or he had to get it towed, I believe, on one occasion because it just stopped running.

....

Q. Did it break down during the time you were riding in it?

A. It did not break down at that time, but he had to do several sort of preventive maintenance things to keep it running, check the coolant, refill it, make sure that certain parts of it were working.

Whitney Dep. Excerpts (Pl. Ex. 60) at 70-72.

**RESPONSE:** The first two sentences of paragraph 139 contain improper argument and are not supported by citations to the record. As a result, defendants dispute them. It is undisputed that Joshua Whitney testified as set forth in paragraph 139, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

140. A college acquaintance of Mr. Beaman described the condition of Mr. Beaman's car during a drive from Bloomington to Tinley Park (a distance of approximately 114 miles) in the summer of 1993: "[I]t was kind of a joke at the time, because the car couldn't go very fast, you know, and having the other cars around us passing us. And it was kind of a piece of crap, you know..." Kuyper Dep. (Pl. Ex. 24) at 11. *See also id.* at 120-21.

**RESPONSE:** It is undisputed that Leigh Kuyper testified as set forth in paragraph 140, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110

141. Defendants knew about the condition of Mr. Beaman's car. Freesmeyer had seen the car at least twice: He took pictures of it and helped tow it. Freesmeyer Dep. (Pl. Ex. 16) at 223.

C11727

**RESPONSE:** The first sentence of paragraph 141 is improper argument and not supported by a citation. Therefore, defendants dispute it. It is undisputed that Freesmeyer testified as set forth in the second sentence of paragraph 141, but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, time trials conducted during the investigation showed Beaman had the opportunity to commit the murder. (Def. St. Facts Ex. 8).

142. Freesmeyer never performed a time trial using a car similar to Mr. Beaman's, and could not recall whether it would have been possible for Mr. Beaman's car to travel at an average speed of 75 miles an hour – the speed at which Freesmeyer traveled – on an interstate highway. Freesmeyer Dep. (Pl. Ex. 16) at 224-25.

**RESPONSE:** It is undisputed that Freesmeyer testified to this but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

143. Other investigators were “doubtful” that Mr. Beaman could have made the trip from Rockford to Normal and back in time, considering the condition of Mr. Beaman's car. Daniels Dep. (Pl. Ex. 26) at 514.

**RESPONSE:** Paragraph 143 is disputed because it is not an accurate summary of Daniels' testimony. (Def. St. Facts Ex. 5, at 514).

## **2. Time Trials Between the Bank and the Beaman Residence**

144. After visiting the bank, Mr. Beaman returned to his parents' residence, where he made phone calls at 10:37 a.m. and 10:39 a.m. It was undisputed that two calls were placed from the Beaman residence at 10:37 and 10:39. Beaman Residence Call Detail (Pl. Ex. 61) at 1; *Beaman*, 229 Ill. 2d at 62. The first call was placed to the church office of Mitch Olson, Mr.

Beaman's youth minister; the second was placed to Mr. Olson at his home. Beaman Residence Call Detail (Pl. Ex. 61) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 151; *Beaman*, 229 Ill. 2d at 62. The calls lasted two minutes and one minute, respectively. Beaman Residence Call Detail (Pl. Ex. 61) at 1.

**RESPONSE:** The first sentence of paragraph 144 contains improper argument, and is not supported by any citation to the record and is therefore disputed. The remaining sentences of paragraph 144 are undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, citing to the *Beaman* case is improper evidentiary support.

145. Alan Beaman placed the calls at 10:37 and 10:39. While Mr. Beaman did not specifically remember making the calls, no one else could have done so. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1500. Because Mr. Beaman's father, Barry Beaman, was at work at the time, there were only two individuals who could have made the calls – Mr. Beaman and his mother, Carol Beaman. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 215; *Beaman*, 229 Ill. 2d at 62. Carol Beaman, a retired high school math teacher, was certain, both at trial and in Mr. Beaman's post-conviction hearing, that she did not make the calls. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 44-45.

**RESPONSE:** The first sentence of paragraph 145 is improper argument, and not supported by a citation to the record. Therefore, defendants dispute it. Beaman testified only that he did not remember making the calls. (Pl. Ex. 6, at 1730-31). The second sentence is also disputed. Carol Beaman testified only that she did not know who made the calls. (Pl. Ex. 59, at 1500). The third

C11729

sentence is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The citation to the *Beaman* case is improper evidentiary support. It is undisputed that Carol Beaman testified as set forth in the fourth sentence but immaterial because, again, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

146. Mrs. Beaman had no business with Mr. Olson on August 25, and she had never called Mr. Olson at his home. *Id.* at 45, 47. As a youth minister, Mr. Olson had a closer relationship with Mr. Beaman than with his mother. *See* Olson Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 35-38, 41-42.

**RESPONSE:** It is undisputed that Carol Beaman and Olsen testified as set forth in paragraph 146. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

147. Mr. Beaman had a reason to call Mr. Olson on August 25. At an upcoming church performance on Sunday, August 29, Mr. Beaman was going to sing and play the guitar, and Mr. Olson was going to accompany him on the keyboard; it was therefore necessary for them to arrange a time to practice. *Id.* at 45-48.

**RESPONSE:** It is undisputed that Carol Beaman testified as set forth in paragraph 147. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11730

148. The fact that Mr. Beaman was accounted for at his family's home at 10:37 and 10:39 provided a complete alibi. According to Robert Seyfried, Plaintiffs' expert in traffic engineering, it would have been impossible for Mr. Beaman to drive from his parents' residence to Ms. Lockmiller's apartment and back in the allotted time, except by averaging 81 miles per hour, a speed at which he "would have been observed by traffic enforcement personnel and he would have been cited for speeding." Seyfried Report (Pl. Ex. 45) at 4-5.

**RESPONSE:** The first sentence of paragraph 148 is disputed. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution, including time travel evidence. (Def. St. Facts ¶98-110). Second, it is undisputed that plaintiff's expert opined in his report as set forth in paragraph 98 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

149. Freesmeyer agreed that Mr. Beaman's returning to the family residence after leaving the Bell Federal Bank "would have crunched the opportunity down considerably," and made it very difficult to conceive of a scenario in which Mr. Beaman committed the murder. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 65.

**RESPONSE:** It is undisputed that Freesmeyer testified as quoted in paragraph 149. However, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The remaining portions of paragraph 65 are disputed. Freesmeyer only testified as follows:

Q: Mr. Souk, I can tell you, has testified in his deposition that it would have made it very very difficult to conceive of that. Those aren't his exact words but that was his sentiment.

A: Sure, I would not disagree with that.

C11731

(Pl. Ex. 34, at 65-66).

150. To support his theory that Mr. Beaman drove straight from the bank to Ms. Lockmiller's apartment, and did not make the 10:37 and 10:39 calls, Freesmeyer set out to discredit Mr. Beaman's ability to leave the bank at 10:11 and arrive at his parent's home by 10:37. Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. Freesmeyer knew there were two possible routes from the Bell Federal Savings and Loan to the Beaman residence: through downtown Rockford, and using Route 20 (the "bypass route"). *Id.* He performed time trials using both routes. *Id.* The trip through town took him 30 or 31 minutes. Freesmeyer Police Reports (Pl. Ex. 7) at 53; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. The trip using the bypass route took only 25 minutes, Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 238, and showed that Mr. Beaman could have left the bank at 10:11 and made the calls at 10:37 and 10:39.

**RESPONSE:** The first sentence of paragraph 150 contains improper argument and an improper characterization of Freesmeyer's testimony. As a result, defendants dispute it. It is undisputed, however, that Beaman did not make the calls. The second, third and fourth sentences of paragraph 150 are undisputed but immaterial because enough evidence developed to establish probable cause for Beaman's arrest and prosecution. (Def. St. Facts ¶98-110). The fifth sentence contains improper argument with regard to whether Beaman could have made the calls, and is not supported by a citation to the record and is, therefore, disputed. The remaining portion of the fourth sentence is undisputed but immaterial for the reasons set forth above.

151. Freesmeyer memorialized only the *longer* time trial: "The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53. He omitted the 25-minute time trial from his report. *Id.* at 1-61; Continued Hearing on Second Verified Amended Petition for Post-

C11732

Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 91. Freesmeyer then destroyed his notes regarding time trials. Freesmeyer Dep. (Pl. Ex. 16) at 182-83.

**RESPONSE:** The first sentence of paragraph 151 is disputed but immaterial because Freesmeyer testified before the grand jury about both routes. (Def. St. Facts Ex. 20, at 237-238). The second and third sentences are undisputed but immaterial for the reasons set forth above.

152. While Freesmeyer mentioned the faster time trial to the grand jury, he concealed it at trial, as in his report. Freesmeyer Trial Testimony (Pl. Ex. 50) at 887-88.

**RESPONSE:** Paragraph 152 is improper argument with regard to Freesmeyer “concealing” anything at trial, and not supported by a citation to the record. Therefore, defendants dispute it. Further, paragraph 152 but immaterial because Freesmeyer testified before the grand jury about both routes. (Def. St. Facts Ex. 20, at 237-238).

153. In reality there was plenty of time between the bank deposit at 10:11 and the first call at 10:37 for Mr. Beaman to drive from the bank to his parents’ home: “[H]e could have easily made a bank transaction at 10:11 a.m. and traveled to his residence in time to make a phone call at 10:37 a.m.” Seyfried Report (Pl. Ex. 45) at 4.

**RESPONSE:** The first portion of paragraph 153 contains improper argument and is disputed. With regard to the quote from Seyfried’s report, it is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 153 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

154. Freesmeyer agreed that his testimony at trial left the false impression that he had only tested the slower route through town. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 62, 64.

C11733

**RESPONSE:** Paragraph 154 is disputed because it improperly characterizes Freesmeyer's testimony. (Pl. Ex. 34, at 62-65).

155. Freesmeyer lied in his report about his reasons for driving the slower route from the bank to the Beaman residence, claiming that he did so because Mr. Beaman told him that he took the slower route: "We then drove the routes that were given us by Alan *during numerous interviews*. The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53 (emphasis added). Freesmeyer later admitted at trial that this statement in the report was untrue: "I don't recall he told me what route he took. He just said he went to the bank and back." Freesmeyer Trial Testimony (Pl. Ex. 50) at 928.

**RESPONSE:** The first sentence of paragraph 155 contains improper argument and therefore, defendants dispute it. Defendants deny that Freesmeyer "lied in his report." It is undisputed that Freesmeyer's police report contains the statements set forth in paragraph 155 but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third sentence of paragraph 155 also contains improper argument and an improper characterization of Freesmeyer's testimony as an "admission" and, therefore, it is disputed. Defendants deny that Freesmeyer admitted the statements in his report were untrue. It is undisputed that Freesmeyer testified as set forth in paragraph 155 but this testimony is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

156. Freesmeyer also could not explain why he did not perform a time trial from the bank to the Beaman residence at a speed that exceeded the posted limit, just as he had done when

measuring travel time from the bank, to Ms. Lockmiller's apartment, and then back to the Beaman family home. Freesmeyer Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5), at 89.

**RESPONSE:** Paragraph 156 contains improper argument and mischaracterizes Freesmeyer's testimony. Therefore, defendants dispute it.

157. As McCrary opined: "It is noteworthy that Detective Freesmeyer observed all speed limits when he drove the route through Rockford in support of his theory that [Mr. Beaman] could not have gotten home in time to make those phone calls, but admittedly sped as he drove to and from Normal to prove that he could make that trip before his mother got home and saw his car." McCrary Report (Pl. Ex. 55) at 18.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 157 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

158. Freesmeyer also lied about whether he performed the time trials from the bank to the Beaman family home prior to arresting Mr. Beaman. First, he claimed to have done so. Freesmeyer Dep. (Pl. Ex. 16) at 240-41. Then he admitted that he did not conduct the time trials until after arresting Mr. Beaman. *Id.* at 241-42. At that point, Freesmeyer could not explain his failure to conduct the time trials before the arrest. *Id.* at 242-43.

**RESPONSE:** Paragraph 158 contains improper argument and mischaracterizes Freesmeyer's testimony. Therefore, defendants dispute it. Defendant deny that Freesmeyer lied.

159. According to McCrary, Freesmeyer's failure to investigate Mr. Beaman's alibi prior to arresting him was "completely contrary to the expectations of a reasonable law

enforcement investigation. Reasonable law enforcement investigations require that all logical investigation be completed in order to make a determination if probable cause exists to charge anyone.” McCrary Report (Pl. Ex. 55) at 16.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 159 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

**3. Time Trials Involving Carol Beaman’s Route**

160. In addition to the fact that Alan Beaman had plenty of time to leave the bank at 10:11 and arrive home well before placing the 10:37 call, *see supra* ¶ 153, records made it clear that Carol Beaman could not have been home at 10:37 and therefore could not have placed the calls. Carol Beaman’s schedule that morning was well documented. She had signed in her mother at a convalescence facility, Independence Village, at 10:00 a.m. Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 33. Mrs. Beaman recalled with specificity what she did to assist her mother at the facility, and after describing those tasks, estimated that she spent 20 to 30 minutes in her mother’s room following the sign-in at 10:00 a.m. *Id.* at 33-36.

**RESPONSE:** The first sentence of paragraph 160 contains improper argument and is disputed. See also response to plaintiff’s statement of facts paragraph 153. It is undisputed that Carol Beaman testified as set forth in paragraph 160 at the post-conviction hearing but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

C11736

161. After completing the process of settling her mother into her room, Mrs. Beaman went shopping at a Wal-Mart. *Id.* at 37. The Wal-Mart register receipt shows that Mrs. Beaman paid for her items at 11:10 a.m., and that she purchased numerous objects at various locations within the vast store. *Id.* at 40-43. Mrs. Beaman went directly from Independence Village to the Wal-Mart, and did not drive home between those trips. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499-1500. Mrs. Beaman stated she did not make the 10:37 and 10:39 a.m. phone calls. *Id.*

**RESPONSE:** It is undisputed that Carol Beaman testified as set forth in paragraph 161 at the trial but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

162. Additionally, the Wal-Mart was “directly across the street from Independence Village.” Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 37. It would have been silly to visit Independence Village, drive home, and then drive *back* to the Wal-Mart, a twenty-one-mile round trip. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20.

**RESPONSE:** It undisputed that Carol Beaman testified as set forth in the first sentence of paragraph 162 at the post-conviction hearing but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence of paragraph 162 contains improper argument and an improper characterization of Matens’ testimony at the post-conviction hearing and is therefore disputed. (Pl. Ex. 5 at 20).

C11737

163. Nonetheless, Detective Freesmeyer set out to show that Mrs. Beaman had the time to go home, place the 10:37 and 10:39 phone calls, return to the Wal-Mart, accomplish her shopping, get in line to make her purchases, and finish her transaction by 11:10. Freesmeyer cannot recall and made no record of the route he took between the Beaman home and the Wal-Mart. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 115-16. Nor does he have a record or recollection of how fast he drove on the unknown route. *Id.* at 119. His timing was from on the street by the Beaman residence, rather than replicating Mrs. Beaman walking from her front door, getting situated in her car, and backing the vehicle out of the driveway. When he arrived at the Wal-Mart, Freesmeyer stayed in his car, rather than entering the store in order to reproduce the walking done by Mrs. Beaman. *Id.* at 120. Freesmeyer ultimately stated that it took him 15 minutes to drive between these locations, but qualified that figure as an approximation. *Id.* at 114-15. Freesmeyer stated he made no effort to quantify or replicate how long Mrs. Beaman was in the store. He conceded that he did not bring with him a copy of the receipt showing her purchases while inside Wal-Mart. Though Mrs. Beaman's shopping was two days before the start of school, Freesmeyer made no inquiries about the how long the cashier lines would be at that time. *Id.* at 121-22.

**RESPONSE:** Paragraph 163 contains improper argument and an improper characterization of Freesmeyer's testimony at the post-conviction hearing and is therefore disputed. The portions of paragraph 163 that are quotes from Freesmeyer's testimony at the post-conviction hearing are not disputed however alleged facts relating to the Wal-mart test are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11738

164. Anthony Matens, an investigator engaged by Plaintiff's counsel, did measure the travel times required from just inside the Beaman home to just inside the Wal-Mart. He did multiple trials, and the least amount of time required was 19 minutes and 25 seconds. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20-22. He calculated that by leaving that residence at 10:41, allowing under two minutes after the second phone call, Mrs. Beaman would not have pulled into the Wal-Mart parking lot until 11:00 a.m. *Id.* at 25.

**RESPONSE:** It is undisputed that Matens testified as set forth in paragraph 164 but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**H. Defendants Ignore Evidence from the Victim's Neighbor that Eliminated Mr. Beaman as A Suspect.**

165. Ms. Lockmiller and David Singley lived directly across from each other in the small apartment building at 412 North Main Street. Hospelhorn Police Reports (Pl. Ex. 54) at 15; Singley Interview, Aug. 31, 1993 (Pl. Ex. 62) at 1. The proximity of the two apartments and the fact that the "walls [were] thin" enabled Singley to hear noises coming from Ms. Lockmiller's apartment. *Id.* at 7.

**RESPONSE:** Undisputed.

166. When Singley returned to his apartment from class at approximately 2:00 p.m. on the day of the murder, he heard the door to Ms. Lockmiller's apartment being "slammed shut real quick." *Id.* at 5. Approximately five to ten minutes later, he heard the door to Ms. Lockmiller's apartment "open and close again." *Id.* At this time, Singley heard that the stereo in Ms. Lockmiller's apartment was on. *Id.* at 6. Singley next heard footsteps going downstairs from Ms.

C11739

Lockmiller's apartment and then exiting the door that leads from the building to the parking lot. Singley Interview, Sept. 8 1993 (Pl. Ex. 63) at 16.

**RESPONSE:** It is undisputed that Singley made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. Souk testified that "we believed [Singley] to be mistaken in some of the things he testified about . . . We had reason to believe he was a mistaken witness . . . Some of the [sounds] might have related to Friday, when it was certainly clear beyond any doubt that she was dead at that point." (Def. St. Facts Ex. 6, at 302-304). Freesmeyer testified during rebuttal in the criminal trial that he discounted Singley's observations as being inaccurate. (Def. St. Facts Ex. 19, at 1998-2000). Freesmeyer testified he believed Singley was inaccurate because: "First of all, nobody could pick out Mr. Swaine's vehicle from the photos we showed them. Second of all, Mr. Singley stated that he heard the door, that same door open and close on Friday as he did on Wednesday, and everybody on the team was in agreement that Miss Lockmiller was deceased long before Friday." (Def. St. Facts Ex. 19, at 2000).

167. When Singley returned to his apartment later that day at approximately 4:30 p.m., the stereo in Ms. Lockmiller's apartment had been turned off, and the TV had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 7-8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 8. The TV remained on until Saturday, August 28, the day the body was discovered. Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 14.

**RESPONSE:** It is undisputed that Singley made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about

C11740

Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

168. Around 2:00 p.m. on the day of the murder, Singley could also hear that the air conditioning to Ms. Lockmiller's apartment was off. *Id.* at 9. By 5:15, however, Singley reported that the air conditioning in Ms. Lockmiller's apartment had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 9.

**RESPONSE:** It is undisputed that Singley made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

169. Defendant Freesmeyer himself had conducted an interview of Mr. Singley, which was neither recorded nor transcribed, on the day the body was discovered. Freesmeyer Police Reports (Pl. Ex. 7) at 3.

**RESPONSE:** It is undisputed that Freesmeyer spoke to Singley on August 28, 1993 and that his police report summarizes his interview of Singley on that date. (Pl. Ex. 7, at 3).

170. Mr. Singley's statement suggested that Ms. Lockmiller was still alive at approximately 2:00, and that either she or someone else had changed the TV, stereo, and air conditioning well after 12:00 p.m. Souk Dep. (Pl. Ex. 47) at 312.

**RESPONSE:** Paragraph 170 contains improper argument and improperly characterizes Souk's testimony. As a result, defendants dispute it. Further, in Souk's mind, Beaman was the only real suspect. (Def. St. Facts. ¶113) and enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Finally, both Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

171. The Singley evidence exculpated Mr. Beaman because it was well known early on in the investigation that Mr. Beaman was with his family in Rockford on the afternoon and early evening of August 25. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 6-7.

**RESPONSE:** Paragraph 171 contains improper argument and is disputed. Further, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110), and both Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

172. According to McCrary, based on Mr. Singley's statements, "the time of death could easily have been closer to 2:00 PM and Mr. Beaman would then be eliminated as a suspect. Instead, the defendants purposely chose to ignore Mr. Singley's observations." McCrary Report (Pl. Ex. 55) at 20.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 172 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11742

173. On July 11, 1994, Defendant Freesmeyer committed perjury by telling the grand jury that no important information had been gleaned from Ms. Lockmiller's neighbors—thereby concealing the Singley evidence—during a portion of his testimony that involved the time of Ms. Lockmiller's death:

Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?

A. Yes. Actually while the crime scene technician was in processing the scene, I waited outside for people to come home. I was able to make contact with the majority of people who lived in that apartment. And they were subsequently asked to come to the station and statements were taken within several days.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and no information that turned out to be particularly helpful in the investigation?

A. That's correct.

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 141-42 (emphasis added).

**RESPONSE:** Paragraph 173 contains improper argument and is disputed. Defendants deny that Freesmeyer committed perjury or concealed evidence. The fact that Freesmeyer testified the neighbor interviews did not provide “information that turned out to be particularly helpful in the investigation” is not the same as saying that “no important information had been gleaned from Ms. Lockmiller's neighbors.”

174. Freesmeyer also perjured himself by lying about the existence of alternative suspects, especially John Murray. Although there was substantial evidence that John Murray had a motive and opportunity to commit the murder, *Beaman*, 229 Ill. 2d at 76-77; *see also* ¶¶ 16-49, *supra*, Freesmeyer testified as follows to the grand jury:

C11743

Q. [O]ther than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller?"

A. No, not necessarily.

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 172.

**RESPONSE:** Paragraph 174 contains improper argument and is disputed. Defendants deny that Freesmeyer committed perjury. It is undisputed that Freesmeyer testified to this, but it is disputed that Murray had a motive to commit the murder or committed the murder. (Def. St. Facts ¶113).

**IX. FAIULRE TO INVESTIGATE ALTERNATIVE SCENARIOS AND SUSPECTS**

175. The record in this case contains no indication that Defendants considered similar crimes committed in the same geographical area, using other crimes as a potential source of leads in the Lockmiller murder investigation. Warner Dep. (Pl. Ex. 41) at 168; Brown Dep. (Pl. Ex. 14) at 212; Hospelhorn Dep. (Pl. Ex. 31) at 98; Souk Dep. (Pl. Ex. 47) at 210-211.

**RESPONSE:** Paragraph 175 contains improper argument with regard to the statement that the "record contains no indication." Therefore, defendants dispute it. The remaining part of paragraph 175 is disputed because it is not supported by the citations to the record. Warner, Brown, Hospelhorn and Souk all testified they did not know about the use of other crimes. Further, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

176. Defendant Warner agreed that it would have been a good practice to check for crimes similar to the Lockmiller homicide. Warner Dep. (Pl. Ex. 41) at 172. The Mid-States Organized Crime Information Center ("MOCIC") maintains a database that enables investigators to gain leads in one crime by ascertaining whether similar crimes have occurred. *Id.* at 169-70.

**RESPONSE:** It is undisputed that Warner testified to this but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

177. Defendant Warner knew that Ms. Lockmiller spent time with several different men, would go to bars and meet people, had a number of sexual partners, and had a number of people moving in and out of her life. Warner Dep. (Pl. Ex. 41) at 153-54. Warner had no idea whether any investigation was undertaken as to whether the killer was an unknown sexual partner or “just some random person.” *Id.* at 149-51.

**RESPONSE:** It is undisputed that Warner testified as set forth in the first sentence of paragraph 177, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence is disputed and immaterial. Warner testified he “did not recall” whether such an investigation was conducted. (Def. St. Facts Ex. 3, at 150). This testimony is immaterial for the same reason as stated above.

178. Defendant Zayas knew that Ms. Lockmiller “was always at parties, drank heavily, was very sexually active[.]” Zayas Dep. (Pl. Ex. 8) at 91. He could identify no piece of evidence that excluded the possibility that Ms. Lockmiller was killed by an unknown drifter. *Id.* at 178-79.

**RESPONSE:** It is undisputed that Zayas testified as set forth in the first sentence of paragraph 178, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence is disputed and immaterial. Zayas testified that they investigated anyone that appeared to be a “likely responsible person.” (Def. St. Facts Ex. 4, at 178). It is immaterial for the same reason as stated above.

179. There also was no systematic effort to contact the individuals with whom Ms. Lockmiller had class, including the 11:00 a.m. class she likely attended immediately before the murder, in order to identify such individuals and find out who had last seen Ms. Lockmiller alive. The record is devoid of any evidence that such efforts were systematically undertaken, and Defendants have no recollection of such efforts. *See* Freesmeyer Dep. (Pl. Ex. 16) at 266-67; Hospelhorn Dep. (Pl. Ex. 31) at 99.

**RESPONSE:** The first sentence of paragraph 179 contains improper argument with regard to the word “systematic” because it is not supported by a citation to the record. Therefore, defendants dispute it. The remaining sentences in paragraph 179 are disputed but immaterial. Freesmeyer testified at his deposition that he did not remember. (Def. St. Facts Ex. 1, at 266). Hospelhorn testified he did not know if class rosters were pulled. (Def. St. Facts Ex. 2, at 99). These alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

180. According to McCrary: “The lack of a thorough victimology and failure to look for prior similar crimes, as well as known sex offenders and burglars in the area . . . unduly limited the scope of this investigation.” McCrary Report (Pl. Ex. 55) at 23.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 180 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

181. Although investigators learned that Ms. Lockmiller encountered and flirted with various unknown men in the days before her death, *see supra* ¶¶ 13-15, there was no effort to

C11746

find and identify these individuals. While Kelly Hamburg did not know the full names of the men, he offered to find out. Hamburg Interview (Pl. Ex. 17) at AB001658. He believed that one of them was named Jeremy or Justin, and that an individual named Arthur Berron would be able to provide their identities. *Id.*

**RESPONSE:** The first sentence of paragraph 181 contains improper argument and is not supported by the record. As a result, defendants dispute it. It is undisputed that Hamburg made the statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

182. The record contains no indication that investigators followed up on these leads. Defendant Warner admitted that these leads should have been investigated, but was not aware of any effort to do so. Warner Dep. (Pl. Ex. 41) at 161-64; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 269-70.

**RESPONSE:** The first sentence of paragraph 182 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. It is undisputed that Warner testified as set forth in the second and third sentences of paragraph 182, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Plaintiff improperly includes a citation to Freesmeyer's deposition testimony but does not include the specific testimony. As a result, defendants cannot answer it. Further, Freesmeyer only testified that he did not know whether their identities were investigated. (Def. St. Fact Ex. 1, at 269-70).

183. The record contains no evidence that investigators canvassed the bars that Ms. Lockmiller frequented or made a systematic effort to speak with bartenders, other staff, or bar

C11747

regulars, regarding potential leads. Freesmeyer Dep. (Pl. Ex. 16) at 265; Brown Dep. (Pl. Ex. 14) at 213, 216; Warner Dep. (Pl. Ex. 41) at 150-53.

**RESPONSE:** Paragraph 183 contains improper argument with regard to the statement that the “record contains no evidence.” Therefore, defendants dispute it. The remaining part of paragraph 150 is disputed. Freesmeyer testified only that the police did not “canvas everybody [Lockmiller] knew.” (Def. St. Facts Ex. 1, at 265). Warner and Brown testified that they did not know. (Def. St. Facts Ex. 3, at 150-153); (Pl. Ex. 14, at 150-153). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

184. The record lacks any indication of follow up regarding Mr. Hosey, *see supra* ¶56, including testing the substance that resembled blood or performing a criminal background check. Warner Dep. (Pl. Ex. 41) at 167-68; Freesmeyer Dep. (Pl. Ex. 16) at 271-72. A criminal background check should have been performed on Hosey, Warner Dep. (Pl. Ex. 41) at 167-68, and would have been an easy thing to do. Freesmeyer Dep. (Pl. Ex. 16) at 271.

**RESPONSE:** The first sentence of paragraph 184 contains improper argument with regard to the statement that the “record lacks any indication.” Therefore, defendants dispute it. Further, the first and second sentences are disputed because Warner testified there was no reason to run a test on the knives because the puncture wound was made by scissors. (Def. St. Facts Ex. 3, at 167). Warner also testified he “had no information” that a criminal background check was not run on Hosey. *Id.* Freesmeyer testified he did not remember about Danny Hosey. (Def. St. Facts Ex. 1, at 271). These alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

C11748

185. The record contains no evidence of any follow up regarding "Psycho Bill," *see supra* ¶ 60. There was a database maintained by the Normal Police Department to identify individuals based on nicknames, but Warner was unaware of anyone using the database to attempt to identify "Psycho Bill." Warner Dep. (Pl. Ex. 41) at 134-35.

**RESPONSE:** The first sentence of paragraph 185 contains improper argument with regard to the statement that the "record contains no evidence" and it is not supported by the record. Therefore, defendants dispute it. The remaining sentence in paragraph 185 is disputed but immaterial. Warner testified only that he did not recall. (Def. St. Facts Ex. 3, at 135). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

186. There is no evidence in the record of any follow up regarding Cory Price, "Joey Yok Yok Monster," and "Jason," who was "obsessed" with Ms. Lockmiller. *See supra* ¶ 61; Belcher Dep. (Pl. Ex. 15) at 143-44, 151-52.

**RESPONSE:** Paragraph 186 is disputed but immaterial. Belcher testified that he did not know. (Pl. Ex. 15, at 143-44, 151-52). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

187. Defendant Zayas admitted that as of his retirement in November 1994 (well after Mr. Beaman's arrest in May 1994), the investigation had not excluded other suspects.

Q. And that process of foreclosing other suspects, in your mind, had not been accomplished as of November '94?

A. No, still had a lot of work to do.

Zayas Dep. (Pl. Ex. 8) at 182.

C11749

**RESPONSE:** It is undisputed that Zayas testified to this but these alleged facts are immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

188. Defendant Freesmeyer could not remember whether he even cared about the existence of alternative suspects:

Q. Would you have cared about the possibility of there being an alternative suspect in the Lockmiller homicide investigation?

....

THE WITNESS: Looking back now, yes, I would have cared; *but I can't remember what my feelings were at that point, sir.*

Freesmeyer Dep. (Pl. Ex. 16) at 134 (emphasis added). Freesmeyer also did not remember whether he considered the evidence against Murray prior to the decision to arrest Mr. Beaman. *Id.* at 248.

**RESPONSE:** The first sentence of paragraph 188 contains improper argument and an improper characterization of Freesmeyer's testimony as cited in the record. Therefore, defendants dispute it. It is undisputed that Freesmeyer testified as set forth in the quote in paragraph 188, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

189. McCrary opines, "it is clear that John Murray was a more viable suspect than Mr. Beaman," but Freesmeyer "devalued all of this information about John Murray stating that the totality of those circumstances, 'did not raise a red flag that this is our person.'" McCrary Report (Pl. Ex. 55) at 21-22.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 189 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough

C11750

evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110, ¶113).

190. Defendants did not compare the unidentified finger-print on the murder weapon, *see* ¶ 104, *supra*, to Murray's fingerprints. *See* Dierker Trial Testimony (Pl. Ex. 56) at 489, 503-04 (indicating that the fingerprints on the clock were only checked against the known fingerprints of Alan Beaman, Michael Swaine, and Jennifer Lockmiller); Dierker Report Jan. 4, 1994 (Pl. Ex. 64) at AB000162.

**RESPONSE:** It is undisputed that Dierker testified as set forth in paragraph 190, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

191. According to Detective Daniels, the case against Mr. Beaman was not ready for charges to be filed because suspects such as Murray had not been eliminated, and the evidence implicating Murray was as strong, or stronger, than the evidence implicating Mr. Beaman. Daniels Dep. (Pl. Ex. 26) at 531, 559-60, 705; Hospelhorn Dep. (Pl. Ex. 31) at 158-59. The October 1994 arrest of John Murray on domestic violence charges, *see* ¶¶ 40-42, *supra*, deserved "more attention" in connection with the Lockmiller homicide investigation. Daniels Dep. (Pl. Ex. 26) at 500-01; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 148 (stating that by the end of the investigation, Murray's alibi should have been thoroughly investigated); Warner Dep. (Pl. Ex. 41) at 115-16 (stating that the John Murray polygraph report suggested that further investigation of John Murray was necessary).

**RESPONSE:** It is undisputed that Daniels testified as set forth in the first and second paragraphs of 191, but his opinion is immaterial because enough evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St.

C11751

Facts ¶98-110). Plaintiff cites to Hospelhorn's deposition but to no specific testimony – as a result, defendants cannot answer it. It is undisputed that Freesmeyer and Warner testified as set forth in paragraph 191, but these alleged facts are immaterial because Souk made the decision not to continue to investigate Murray. (Def. St. Facts ¶103). The quote from Freesmeyer also incorrectly implies Murray's alibi was not thoroughly investigated, so any inference that Murray's alibi was not thoroughly investigated is disputed.

192. Even though Mr. Beaman became the primary suspect on Day One, there was “no attempt to seize and conduct forensic examinations of his clothing and footwear for injuries and trace evidence,” the absence of which would have helped to clear him. Moses Report (Pl. Ex. 9) at 5.

**RESPONSE:** While it is undisputed that plaintiff's expert opined as set forth in paragraph 192, the opinion of plaintiff's expert is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

#### **X. ARREST, FREEDOM, AND EXONERATION**

193. On May 16, 1999, at a meeting among investigators and prosecutors, a decision was made to charge Mr. Beaman with Ms. Lockmiller's murder. Daniels Dep. (Pl. Ex. 26) at 337-40; Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**RESPONSE:** It is undisputed that the decision was made to charge Beaman on May 16, 1994, not 1999. The remaining alleged facts in paragraph 193 are undisputed.

194. At the meeting, Freesmeyer supported the decision to arrest Mr. Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 79.

**RESPONSE:** Undisputed.

C11752

195. Zayas, the head of the detective division, also participated in the meeting. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**RESPONSE:** Undisputed.

196. Daniels told his superiors that “if a warrant came down and they wanted me to execute the warrant on Alan Beaman, that I was going to refuse.” Daniels Dep. (Pl. Ex. 26) at 619.

**RESPONSE:** It is undisputed that Daniels testified as set forth in paragraph 196 but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

197. At the time of Mr. Beaman’s arrest, other investigators within the Normal Police Department did not believe that John Murray had been eliminated as a suspect. Arney Dep. (Pl. Ex. 65) at 14-15; Pantograph Article April 12, 1997 (Pl. Ex. 66).

**RESPONSE:** Paragraph 197 is disputed and immaterial. The opinion of a Pantograph reporter about the investigation is inadmissible based on lack of foundation and, in any event, is immaterial. At the time of Beaman’s arrest, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

198. Defendant Warner testified that he did not know whether all potential suspects in Lockmiller’s homicide, including Gates, were ever cleared. Warner Dep. (Pl. Ex. 41) at 142, 144-45.

**RESPONSE:** Paragraph 198 is disputed and immaterial. Warner testified only that he did not know because it “was not his responsibility to find out.” (Def. St. Facts Ex. 3, at 142).

C11753

199. Freesmeyer testified that, among the NPD investigators “there may have been doubts as to whether we had enough to convict [Mr. Beaman].” Freesmeyer Dep (Pl. Ex. 16) at 76.

**RESPONSE:** Paragraph 199 is disputed. Freesmeyer testified he referred only to Daniels and “there was no doubt as to whether we should arrest Alan Beaman.” (Def. St. Facts Ex. 1, at 76).

200. Mr. Beaman was arrested in May 1994 primarily because the spring semester was coming to a close; the Defendants had no reason to consider Mr. Beaman a flight risk. *Id.* at 312-13; Warner Dep. (Pl. Ex. 41) at 64-66.

**RESPONSE:** Disputed. Beaman was arrested because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

201. Nearly fifteen years later, on May 22, 2008, the Supreme Court of Illinois granted Mr. Beaman’s post-conviction petition and vacated his conviction, allowing him to be released from prison. *People v Beaman*, 229 Ill. 2d 56 (2008). The States Attorney’s Office then dropped all charges. Souk Dep. (Pl. Ex. 47) at 63.

**RESPONSE:** The first sentence of paragraph 201 is undisputed but immaterial. The Illinois Supreme Court’s decision to vacate Beaman’s conviction years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence of paragraph 201 is undisputed. However, 13 years had passed since the trial and it would be a monumental effort on the part of the police and prosecutors to gather up all of the witnesses and evidence again. (Def. St. Facts ¶124).

C11754

202. Mr. Beaman petitioned for a certificate of innocence. After receiving DNA testing requested and directed by the State, DNA Reports (Pl. Exs. 74 and 75), the State dropped its opposition to the petition, Certificate of Innocence (Pl. Ex. 1) at 1.

**RESPONSE:** The first sentence of paragraph 202 is undisputed. The second sentence is disputed. 13 years had passed since the trial and it would be a monumental effort on the part of the police and prosecutors to gather up all of the witnesses and evidence again. (Def. St. Facts 124).

203. On April 29, 2013, Mr. Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District. Certificate of Innocence (Pl. Ex. 1) at 1-2.

**RESPONSE:** Undisputed but immaterial. Alan Beaman's receipt of a certificate of innocence 18 years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Moreover, under 735 ILCS 5/2-702(j), any finding made in a Certificate of Innocence proceeding has no impact in this civil proceeding.

204. The Normal Police Department has never attempted to run the recovered DNA through a national database.

**RESPONSE:** Paragraph 204 is not supported by a citation to the record and defendants dispute it. (Def. St. Facts Ex. 19, at 993).

205. Ms. Lockmiller's murderer remains at large.

**RESPONSE:** Paragraph 205 is not supported by a citation to the record and defendants dispute it.

C11755



IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 TIM FREESMEYER, Former Normal Police )  
 Detective; DAVE WARNER, Former Normal )  
 Police Detective; FRANK ZAYAS, Former )  
 Normal Police Lieutenant; and TOWN OF )  
 NORMAL, ILLINOIS, )  
 )  
 Defendants. )

McLEAN COUNTY  
FILED  
APR 11 2014  
CIRCUIT CLERK

Case No. 14L51

JURY TRIAL DEMANDED

FIRST CASE MANAGEMENT CONFERENCE  
BEFORE JUDGE LAWRENCE  
SET ON 10.2.14 AT 10:00 AM/PM

COMPLAINT

Plaintiff, ALAN BEAMAN, by his undersigned attorneys, for his complaint against former Normal Police Detectives TIM FREESMEYER and DAVE WARNER, former Normal Police Lieutenant FRANK ZAYAS, and TOWN OF NORMAL, ILLINOIS, alleges as follows:

INTRODUCTION

1. Plaintiff Alan Beaman is an innocent man who spent more than 13 years in prison after he was wrongfully convicted at age 22 of the murder of Jennifer Lockmiller. Plaintiff's wrongful conviction was caused by the Defendants' immediate and unjustified fixation upon him as the murderer within hours after Ms. Lockmiller's body was discovered on August 28, 1993 in her Normal, Illinois apartment.

2. Plaintiff could not have committed the murder because, on the day it occurred, Plaintiff was in Rockford, Illinois, approximately 140 miles away, where he was living in his parents' home and working as a maintenance man for his uncle's grocery chain.

C00016

3. Ignoring Plaintiff's alibi, Defendants Freesmeyer, Warner, and Zayas, framed Plaintiff for the murder. To pin the murder on Plaintiff, Defendants, *inter alia*, disregarded the fact that it was physically impossible for Plaintiff to have committed the murder, manipulated driving times in order to fabricate evidence that Plaintiff had an opportunity to commit the crime, withheld exculpatory evidence, lied under oath, ignored evidence exonerating Plaintiff, refused to follow up on obvious leads, and failed to meaningfully investigate suspects with the motive and opportunity to kill Lockmiller. Defendants, in sum, maliciously caused Plaintiff to be prosecuted for Lockmiller's murder.

4. Years later, in 2008, Plaintiff's wrongful conviction was vacated by unanimous vote of the Illinois Supreme Court. On April 29, 2013, after the McLean County State's Attorney dropped its opposition, this Court awarded Plaintiff a Certificate of Innocence, finding that Plaintiff "is innocent" of Lockmiller's murder.

5. By fixating on and prosecuting an innocent man, Defendants not only robbed Plaintiff of much of his life, but recklessly left Lockmiller's true killer on the streets. Plaintiff files this action for malicious prosecution, civil conspiracy, and intentional infliction of emotional distress to ensure the Defendants are held accountable for their actions and to seek compensation for the years of his life that he lost while imprisoned for a crime he did not commit.

#### VENUE

6. Venue is proper under 735 ILCS 5/2-101. The events giving rise to the claims asserted herein occurred in McLean County and Defendant Town of Normal is a municipal corporation located in McLean County.

## THE PARTIES

7. Plaintiff Alan Beaman is a resident of Rockford, Illinois. At the time of the events alleged herein, Plaintiff was a student at Illinois Wesleyan University in Bloomington.

8. Defendant Timothy Freesmeyer was at all times relevant to this action employed as a Detective in the Normal Police Department. Defendant Freesmeyer participated in the Lockmiller murder investigation from its inception and, in or around October 1993, became the lead investigator. He advocated for, approved, and physically effected Plaintiff's arrest.

9. Defendant Dave Warner was at all times relevant to this action employed as a Detective in the Normal Police Department. Defendant Warner participated in the Lockmiller murder investigation and served as the evidence custodian, in charge of retrieving all of the physical evidence produced in the investigation. He interviewed witnesses and suspects, requested and received polygraph reports related to alternative suspects, and participated in Plaintiff's arrest.

10. Defendant Frank Zayas was at all times relevant to this action employed as a Lieutenant in the Normal Police Department. Defendant Zayas participated in, supervised, and ratified the decisions taken in the course of the Lockmiller murder investigation, including the decision to arrest Plaintiff without probable cause, until his retirement in November 1994

11. Defendant Town of Normal is an Illinois municipal corporation. At all times relevant to this action, the Town of Normal was the employer and principal of Defendants Freesmeyer, Warner, and Zayas.

## FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

### **The Murder of Jennifer Lockmiller**

12. On Saturday, August 28, 1993, shortly after 2:00 p.m., Normal police officers, including Defendant Warner, were called to the apartment of Jennifer Lockmiller, a 21-year-old Illinois State University student. There they discovered Lockmiller's severely decomposed and partially unclothed body on the floor of her bedroom, with an electrical cord from an alarm clock wrapped around her throat and a box fan lying across her face. Lockmiller had also been stabbed with a pair of scissors, which were buried in her chest up to the handles. The autopsy, conducted the next morning, indicated that Lockmiller had died of ligature strangulation with the electrical cord from the alarm clock. Based on evidence as to when she was last seen as well as the decomposition of Lockmiller's body at the time of its discovery, investigators concluded that Lockmiller was killed on August 25.

13. The bizarre murder of a college student in her apartment quickly became a high profile story in the college towns of Normal and Bloomington, Illinois. It was just the third murder in the town of Normal in the past ten years. As students returned for the start of a new school year at Illinois State University in Normal and Illinois Wesleyan University in Bloomington, Defendants faced enormous pressure to "solve" the case. In response, they fixated quickly on a prime suspect.

### **Malicious Fixation on Plaintiff**

14. In the summer of 1993, Plaintiff was a 20-year-old student at Illinois Wesleyan University, where he majored in technical theater. In August, Plaintiff had returned home to Rockford, Illinois to live with his parents and to work the night shift doing maintenance work at his uncle's grocery stores until his senior year at IWU began.

**C00019**

15. Plaintiff is completely innocent of any involvement in the Lockmiller murder and has no knowledge of who committed the crime.

16. Plaintiff knew Lockmiller. The two had begun a romantic relationship in or around July 1992 and had broken off their relationship approximately one month prior to the murder. During the relationship, Plaintiff had visited frequently in Lockmiller's apartment (including overnight). The relationship had been marked by occasional conflict.

17. Based upon Plaintiff's past relationship with Lockmiller, investigators determined that Plaintiff should be investigated as a possible suspect. On the day Lockmiller's body was discovered, Town of Normal investigators Tony Daniels and Rob Hospelhorn were sent to Rockford, Illinois to locate and speak with Plaintiff.

18. Around 10:20 p.m. that evening, Plaintiff's car was pulled over in Rockford by the Winnebago County Sheriff's Department. Plaintiff was handcuffed and driven in a police vehicle to the Winnebago County Public Safety Building for questioning by Daniels and Hospelhorn. Daniels conducted an aggressive and accusatory interview in which he attempted to manipulate and browbeat Plaintiff into a confession. Plaintiff repeatedly told Daniels that he had spent the week prior to the discovery of Lockmiller's body in Rockford and had not been in the Bloomington-Normal area since early August.

19. Angry and traumatized by Daniels' unfounded accusations, Plaintiff terminated the interview.

20. By no later than August 29, the Defendants concluded that Plaintiff was the prime suspect in Lockmiller's murder. In their zeal to "clear" the case, Defendants fixated on Plaintiff, almost to the exclusion of every other person. The Defendants sought unsuccessfully to develop evidence showing that Plaintiff had killed Lockmiller. Innumerable investigative leads were

C00020

ignored, disregarded or ineptly pursued as a result of the Defendants' malicious and single-minded fixation on Plaintiff as the perpetrator.

21. On September 1, 1993, Defendants arranged for Michael Swaine (Lockmiller's most recent known romantic partner and Plaintiff's former roommate) to engage Plaintiff in surreptitiously recorded conversations ("overhears") regarding Lockmiller's murder. Two such recorded conversations took place. In both Plaintiff maintained his ignorance of who committed the murder and confirmed that he had been in Rockford during the week Lockmiller's body was found. Thus, the overhears served only to corroborate Plaintiff's innocence of the crime.

22. Nonetheless, no later than October of 1993, having developed no evidence of Plaintiff's guilt and a full seven months before Plaintiff's actual arrest, Defendant Freesmeyer resolved, maliciously and wholly without justification, to arrest Plaintiff for the murder.

23. On October 27, 1993, Defendant Freesmeyer engaged Plaintiff in a conversation that was also surreptitiously recorded and during which Freesmeyer informed Plaintiff that he would, at one point or another, be arrested for the murder. Defendant Freesmeyer attempted to frighten Plaintiff into confessing by suggesting Plaintiff would get the death penalty if he did not confess. Plaintiff continued to maintain his innocence in this conversation and at all times throughout the investigation.

24. The Defendants' investigation never developed any eyewitness evidence placing Plaintiff in Bloomington-Normal, much less in the vicinity of Lockmiller's apartment, during the week prior to the discovery of Lockmiller's body.

25. The Defendants' investigation also failed to develop any physical evidence connecting Plaintiff to the crime. Two of Plaintiff's fingerprints were discovered on Lockmiller's alarm clock. As Defendants knew, Plaintiff often spent the night at Lockmiller's

apartment during the course of their romantic relationship. Plaintiff's fingerprints were placed on the alarm clock on one or more of the occasions on which Plaintiff had spent the night in Lockmiller's apartment.

26. In addition to Plaintiff's fingerprints, the alarm clock also had fingerprints that matched Michael Swaine (whom Defendants eliminated as a suspect) and a single unidentified print. Defendants never ran the unidentified print through a federal, state, or local automated fingerprint indexing system (AFIS). Other than the non-probative fingerprints, no physical evidence even arguably connected Plaintiff to the murder.

#### **Defendants Ignore Plaintiff's Alibi**

27. Plaintiff had a verifiable alibi for August 25, the date on which Defendants concluded that Lockmiller must have been murdered.

28. Lockmiller attended her 11:00 a.m. class on August 25. No witness saw her alive following the class. Lockmiller failed to appear at scheduled classes and meetings later in the day on August 25. When her body was discovered on August 28, it was badly decomposed, suggesting that she had been dead for a period of days. Although the time of Lockmiller's murder could not be precisely determined, this evidence suggested that she was murdered during the afternoon of August 25.

29. On the morning of August 25, Plaintiff went to the Bell Federal Savings & Loan in Rockford to make a deposit. He was shown on videotape leaving the bank at 10:11:43 a.m.

30. After leaving the bank, Plaintiff returned to his home, where he remained for the rest of the day. Phone records showed that at 10:37 a.m. that day, a two-minute phone call was placed to Plaintiff's church from the Rockford residence where Plaintiff was living with his parents, Carol and Barry Beaman. At 10:39 a.m., a one-minute phone call was placed from that

C00022

residence to the home of Mitchell Olson, the church's director of youth ministries and music with whom Plaintiff had been working to prepare for a performance at the church that week. Plaintiff placed both calls. Plaintiff's mother left the family residence in the early morning in order to take her elderly mother to a doctor's appointment and did not return until the afternoon. Plaintiff's father was at work from early morning until evening. Neither could have made the calls and no one else had access to the phone in the residence.

31. Using a time-stamped grocery store receipt, Plaintiff's mother was able to document that she returned home at approximately 2:16 p.m. on August 25. When Mrs. Beaman returned home, Plaintiff's car was in the driveway, the door to Plaintiff's room was shut and the family dog was asleep outside Plaintiff's bedroom door. Plaintiff emerged from his bedroom at dinner time. (Plaintiff worked the night shift and typically slept until dinnertime each day.)

32. The Bell Federal videotape, the Beaman family residence phone records and Carol Beaman's grocery receipt and her observations upon returning home established that Plaintiff could not have murdered Jennifer Lockmiller in Normal on August 25. It is impossible for Plaintiff to have driven the 140 miles from Rockford to Normal, killed Lockmiller and then returned 140 miles to Rockford all within the three hour and 36 minute window between the conclusion of the 10:39 a.m. phone call and Mrs. Beaman's return home at 2:16 p.m.

#### **Defendants Withhold and Fabricate Evidence to Defeat Plaintiff's Alibi**

33. Faced with clear and obvious evidence that Plaintiff could not have committed the crime, the Defendants set about maliciously to defeat Plaintiff's alibi and to make it appear—with no basis in fact—that Plaintiff had an opportunity to murder Lockmiller. The Defendants created a timeline based on the false assumptions that (a) Lockmiller was killed precisely between 12:00 and 12:15 p.m. on August 25 and (b) Plaintiff was able to arrive at Lockmiller's

apartment in time to commit the murders because he was not the one who made the 10:37 and 10:39 a.m. phone calls at his home in Rockford.

34. In accordance with this timeline, if Plaintiff had driven at an average speed of over 70 miles per hour to and from Normal and had gained access to Lockmiller's apartment and killed her within the span of 15 minutes, it was possible (though it remained highly implausible) that Plaintiff committed the crime. To support the false timeline, Defendants needed to lie and withhold evidence from the grand jury regarding the time of Lockmiller's murder and to manipulate and conceal evidence regarding the time of travel between Bell Federal and Plaintiff's residence. Defendants did all of these things.

35. No physical or forensic evidence could actually pinpoint the time of Lockmiller's death. In the course of their investigation, the Defendants learned from David Singley, who lived in the apartment immediately across the hall from Lockmiller, that there had been activity within Lockmiller's apartment *after 2:00 p.m.* on August 25. Singley's apartment door was just a few steps from Lockmiller's, the apartments shared a common wall, and, because the walls were thin and poorly insulated, Singley could easily hear and identify noises emanating from Lockmiller's apartment.

36. Singley returned to his apartment from class at approximately 2:00 p.m. on August 25. As he entered the building, he heard the door to Lockmiller's apartment being slammed shut. Approximately five to ten minutes later, he heard the door to Lockmiller's apartment open and close again and noticed that the stereo in Lockmiller's apartment was on. Moments later, Singley heard footsteps going downstairs from Lockmiller's apartment and the sound of someone leaving the building.

C00024

37. Singley left his apartment for a trip to the pool and returned at approximately 4:30 p.m. At that time, the stereo in Lockmiller's apartment was off and the TV was on at a high volume. (The TV remained on continuously from that point until August 28, when the body was discovered.) Singley also noted at around 5:15 p.m. that the air conditioning in the Lockmiller apartment was on; it had not been turned on earlier in the afternoon.

38. Singley's information flatly contradicted the Defendants' false timeline, in which Plaintiff had to have completed Lockmiller's murder by 12:15 p.m. in order to be sleeping in his bedroom in Rockford when his mother returned home at 2:16. Defendant Freesmeyer therefore withheld Singley's evidence from the grand jury that indicted Plaintiff, and falsely testified (in the portion of his grand jury testimony regarding the time of Lockmiller's death) that no important information had been gleaned from Lockmiller's neighbors.

39. Defendants' false timeline also depended on the theory that Plaintiff was not the one who made the calls in Rockford at 10:37 a.m. and 10:39 a.m. If Plaintiff had done so, it would have been impossible as a practical matter for him to drive the 140 miles to Normal and arrive there at 12:00 p.m. to commit the murder. The Defendants therefore concocted phony time trial evidence to make it appear that Plaintiff could not have driven the distance between Bell Federal and his residence in time to make the first of the calls, at 10:37.

40. There are two possible routes of travel between Bell Federal and Plaintiff's residence: the "bypass route," following U.S. Route 20, a high speed expressway, around Rockford to the residence, and the "downtown route," driving through downtown Rockford. Although the downtown route is more direct, the bypass route is faster. Plaintiff drove the bypass route and arrived home in sufficient time to make the call. If Plaintiff had driven through downtown Rockford (he did not) he likely would not have arrived in time for the call.

41. Defendants were well aware of the alternate routes. Defendant Freesmeyer timed both routes and confirmed that, following the bypass route, even if Plaintiff had scrupulously adhered to the speed limit, he would have arrived home within 25 minutes, in ample time to make the first phone call at 10:37 a.m.

42. Defendant Freesmeyer omitted any mention of this time trial (known as the bypass route time trial) in any written report or memorandum documenting the investigation. Defendant Freesmeyer also omitted any mention of the bypass route time trial in his courtroom testimony at Plaintiff's criminal trial. Instead, Freesmeyer testified that he had conducted a time trial of the *downtown route* and that the result of that time trial made it unlikely that Plaintiff would have arrived home in time to make the call. Freesmeyer testified that the downtown route was the "most direct" route from Bell Federal to Plaintiff's residence (intentionally implying, in order to mislead the jury, that the downtown route was the one Plaintiff took). In fact, Plaintiff did not return home through downtown Rockford; no one familiar with routes of travel in and around Rockford would take the downtown route between Bell Federal and Plaintiff's residence, as Defendants knew or should have known.

43. To account for the fact that someone had initiated the calls from Plaintiff's residence, Defendants and their co-conspirators (other police officers and McLean County prosecutors involved in the investigation and prosecution) concocted an implausible theory that Plaintiff's mother had finished taking her elderly mother to a doctor's appointment, dropped her mother at her nursing home, located ten miles from Plaintiff's residence; driven ten miles across Rockford to the residence in order to use the bathroom or let out the dogs, seen an answering machine message while home and made the 10:37 and 10:39 phone calls; and then returned to

C00026

shop at a WalMart store that is located directly across the street from the nursing home. As Defendants knew, this implausible scenario was completely false.

**Defendants Ignore Evidence against Other Possible Perpetrators**

44. Defendants' fixation on Plaintiff as the murderer caused them to ignore evidence pointing to other possible perpetrators. Defendants brushed aside evidence that Lockmiller might have been killed by John Murray, a former boyfriend; by Stacy Gates, another former boyfriend; or by Rob Curtis, a disappointed suitor. Defendants never investigated the possibility that Lockmiller was killed in a random attack, even though Lockmiller lived on a busy thoroughfare in a transient college town and despite the Defendants' knowledge that Lockmiller led a high risk life style in which criminals, drug dealers, drug users, and short-term romantic partners floated in and out of her life. Defendant Freesmeyer has admitted that he could not remember whether he even cared about the existence of suspects other than Plaintiff at the time of the Lockmiller homicide investigation.

**i. John Murray**

45. John Murray was a physically imposing young man who dealt drugs, including to Lockmiller. Police reports from a 1993 arrest of Murray record that he purchased drugs for resale, and at one point purchased an entire pound of marijuana. Murray had a connection to a major dealer who was bringing in fifteen pounds of marijuana each week from Chicago to Normal.

46. John Murray also had an on-again, off-again sexual relationship with Lockmiller. At the time of her death, he was seeking to rekindle his relationship with her, as Defendants knew. After Lockmiller's murder, Murray bragged to police: "[S]he completely like wanted to

**C00027**

go out with me still. Like if she was alive today she would be calling me wanting to go back out with me.”

47. Defendants also knew that Murray had a history of battering women. On October 7, 1994, Murray beat his girlfriend, who told police officers that she was “the victim of physical violence” at Murray’s hands “on a continual basis.” According to police records, Murray “pinned [the victim] down on the floor ... and elbowed her repeatedly in the chest;” “[a] friend of [the victim] ... was present and did verify that there was a prominent red mark between [the victim’s] breasts where she had been elbowed.”

48. Murray’s girlfriend averred in an October 11, 1994 Petition for Order of Protection that Murray had been experimenting with “street ‘steroid’ injections,” and that as a result of the steroid use, Murray’s “behavior since has been unexplainable.” Defendants knew that Murray’s steroid use began in January 1993. A police search of Murray’s apartment at that time revealed evidence that Murray had purchased fifteen vials of steroids and had used eleven of them.

49. During the Lockmiller homicide investigation, Murray lied to investigators about his whereabouts on the day of the murder. During an initial police interview, Murray falsely claimed that he had left Normal and driven home to the area of Rockford at 3:00 p.m. on August 24, the day before the murder. Murray claimed that he did not return to Normal until September 1.

50. In a second interview, Murray admitted that this information was not true and that, in fact, he had been alone in his apartment in Bloomington (about a mile and a half from Lockmiller’s apartment) on August 25 from 6:30 a.m. until 2:00 p.m. Murray also admitted that

he left Normal in the late afternoon or early evening of August 25. The fact that Murray had given a false alibi was known to Defendants.

51. Defendants also knew that Murray lied about several other matters during his interviews with police, including: (1) the last time he saw Lockmiller alive; (2) his drug transactions with Lockmiller; (3) his attempts to collect payment for drugs from Lockmiller; and (4) his sexual relationship with Lockmiller.

52. Defendants asked Murray to take a polygraph examination in the course of the investigation. During the examination, Murray refused to follow instructions and engaged in behavior (taking deep breaths and failing to follow repeated instructions not to do so) that, according to the polygraph examiner, could have been a strategy to deliberately thwart the examination.

53. Defendant Warner received a polygraph examination report regarding Murray's suspicious polygraph examination. Defendants Freesmeyer and Zayas also learned about the polygraph report. The Defendants maliciously failed to disclose the report (and the fact of Murray's polygraph examination itself) to Plaintiff's criminal defense counsel.

54. Similarly, Defendants knew of the police reports regarding Murray's steroid and cocaine use, and his battery of his girlfriend. Defendants, acting in conspiracy with prosecutors, also secreted these reports, which were never disclosed to Plaintiff's criminal defense counsel.

55. Defendants never eliminated Murray as a suspect in the Lockmiller homicide.

56. During a 2013 deposition, Murray refused to answer any questions about both his history of violence toward women and his role in the Lockmiller homicide, asserting the Fifth Amendment right against self-incrimination.

## ii. Stacy Gates

57. Stacy Gates was a former boyfriend of Lockmiller. Defendant Warner conducted an extensive interview with Gates as a result of which Defendants learned that Gates believed that he and Lockmiller had a committed relationship between January 1991 and July 1993 (the month before the murder), when Lockmiller broke up with him. Defendants further learned that at the time of Lockmiller's death, and despite the break up, Gates considered himself to be Lockmiller's "boyfriend, her man" and the most important person in her life. He viewed Lockmiller as "the love of [his] life," and believed he would marry her and have children with her.

58. Defendants Freesmeyer, Warner, and Zayas knew that Gates moved to Peoria, Illinois from Janesville, Wisconsin just three days before the murder. He relocated in order to be closer to Lockmiller. Gates and Lockmiller made plans to get together the weekend of August 28, *i.e.*, the weekend after the murder.

59. During the investigation, Defendants also attempted to polygraph Gates regarding the murder. The polygraph examiner scored every answer that Gates gave as "doubtful"/"inconclusive," and thought it was possible that every one of Gates' responses was a lie.

60. Defendant Warner requested and received the Gates polygraph report, and Defendants Zayas and Freesmeyer became aware of the report as well. Defendants withheld the Gates polygraph report from defense counsel.

61. Defendants never eliminated Gates as a suspect in the Lockmiller homicide.

C00030

### iii. Rob Curtis

62. Rob Curtis made an attempt to date Jennifer Lockmiller, but she stood him up. A former girlfriend of Curtis described him as a “weird and possessive type of person.” The former girlfriend told Defendants that she was at one point uncomfortable meeting with Curtis in private and insisted on meeting him at a public location. Defendants also learned of reports of Curtis stalking a woman.

63. Defendants also knew that following Lockmiller’s murder (and his unsuccessful attempt to date her), Curtis had reportedly said, “I don’t have to worry about dating her anymore.” Curtis also acknowledged that he “could have been a suspect” in the Lockmiller investigation.

64. Curtis had a criminal history of torturing cats to death. According to police documents, Curtis would hold the cats down while his accomplice broke the cats’ legs or tied them together. In the accomplice’s apartment, the torture included punching and choking the cats; breaking their legs with pliers; and clamping them down with vice grips. Curtis and the accomplice then drove the cats out to remote locations, where the cats were beaten to the point of being almost dead, at which point some of the cats were lit on fire and/or had their tails hacked off while they were still alive. Curtis stated, “I’ve never heard cats hiss like that before” and admitted that he “found [the torture] humorous” and sometimes laughed.

65. Defendants were aware of a trove of police documents in the Lockmiller homicide investigative file linking Curtis to the cat torture described in the preceding paragraph. They secreted this exculpatory evidence from Plaintiff’s trial counsel, who never learned of Curtis’ sadistic past.

66. Defendants never eliminated Curtis as a suspect in the Lockmiller homicide.

67. Despite the fact that Murray, Gates, and Curtis each had a motive to kill Lockmiller, Defendant Freesmeyer lied to the grand jury, claiming that the investigation uncovered no one, other than Mr. Beaman, with “any conceivable motive to kill Jennifer Lockmiller.”

**iv. Other Potential Suspects.**

68. In addition to Murray, Gates and Curtis, Defendants entirely ignored other investigative leads pointing to additional potential suspects.

69. Defendants learned that Lockmiller met a long-haired stranger in a bar just four days before her death. The man kept calling Lockmiller in the final days of her life. Defendants failed to take any steps to locate or investigate this individual.

70. Defendants learned that Lockmiller met two men in between two bars on the same night she encountered the long-haired stranger. One of these men wrote his number on a piece of paper with lipstick and gave it to Lockmiller. Lockmiller threw the piece of paper away. On the day before the murder, one of these men asked an acquaintance of Lockmiller why she had not called. Defendants Freesmeyer, Warner, and Zayas failed to take any steps to locate or investigate these individuals.

71. Defendants learned that a powerfully built man at one point appeared on Lockmiller’s doorstep in an overcoat and demanded to speak with her. He told the person who answered the door that he would “break the fucking door down.” Defendants failed to take any steps to locate or investigate this individual.

72. Defendants learned that an individual named “Psycho Bill” had dated Lockmiller, was rumored to lure women into his room and film them, and at one point seemed to be guiding

Lockmiller toward a closet. Defendants failed to take any steps to locate or investigate this individual.

73. Defendants made no systematic effort to attempt to locate individuals who attended the 11 a.m. class on August 25 with Lockmiller and determine who had last seen Lockmiller alive.

74. Defendants did not consider whether similar crimes committed within the same geographical area could provide a source of leads in the Lockmiller homicide investigation.

**Plaintiff Is Arrested and Charged without Probable Cause**

75. On May 17, 1994, Defendants arrested Plaintiff and caused him to be charged with Jennifer Lockmiller's murder based upon this fraudulent and woefully incomplete investigation.

76. There was no probable cause for the arrest or for the charges. As of May 17, Defendants had developed no evidence against Plaintiff that was not already known to them on August 29, 1993, when they maliciously and without justification fixated on Plaintiff as the murderer:

- i. Plaintiff made no inculpatory statements during the investigation. To the contrary, he repeatedly and steadfastly maintained that he was innocent and had no knowledge of who committed the murder.
- ii. No eyewitness reliably placed Plaintiff anywhere near the murder scene at any time during the week the murder occurred.
- iii. No physical evidence connected Plaintiff to the crime. Plaintiff's fingerprints on Lockmiller's alarm clock merely confirmed the known fact

that Plaintiff had used the clock when he was an overnight guest in Lockmiller's apartment.

77. As of May 17, Defendants' investigation had established that Plaintiff had a verifiable alibi for the date and time of the murder.

78. As of May 17, Defendants' investigation had established that John Murray, Stacy Gates, Rob Curtis and potentially others were suspects in the murder. As of May 17, none of these individuals had been eliminated as a possible perpetrator.

79. Defendant Zayas has admitted that, at the time of his retirement in November 1994 – five months after Plaintiff's arrest in May 1994 – the case against Plaintiff was “in limbo,” “needed more work” and was not ready to be prosecuted.

80. Detective Tony Daniels, who had originally interviewed Plaintiff on August 29, had grave doubts about Plaintiff's guilt, which he expressed to Defendants. Daniels prepared a summary of the Lockmiller investigation for use in a “cold case conference” that he attended in Florida in April 1994 (one month before Plaintiff's arrest) on the instruction of Normal Assistant Chief of Police Walt Clark. Daniels' summary stated: “After nearly 100 interviews, five overhears, several polygraphs, the prime suspect still is Alan Beaman. *There is no real evidence that can point to Beaman as being the person responsible for Jennifer's death.*”

81. In March 1995, Plaintiff stood trial in the Circuit Court of McLean County for the murder of Jennifer Lockmiller. He was convicted and sentenced to a term of 50 years in the Illinois Department of Corrections.

82. Plaintiff's trial was fundamentally unfair, as the Illinois Supreme Court found in a unanimous opinion issued in 2008 that reversed the conviction. During the trial, McLean County prosecutors presented a wholly circumstantial case in which they contended that Plaintiff must

have been the murderer because (a) all other potential suspects were eliminated and (b) Plaintiff's alibi was insufficient.

83. In furtherance of these false contentions, the prosecutors, with the assistance and cooperation of Defendants, concealed and secreted evidence that cast considerable suspicion upon John Murray, and thereby succeeded in preventing the jury from learning about Murray and other individuals who were not eliminated as suspects. In addition, the prosecutors concealed evidence and misled the jury regarding the travel time between Bell Federal and Plaintiff's residence.

**Defendants Conspire Among Themselves  
And With Others to Maliciously Prosecute Plaintiff**

84. Defendants conspired among themselves and with others, including other Town of Normal investigators and McLean County prosecutors, to maliciously prosecute Plaintiff for the murder of Jennifer Lockmiller. They accomplished the goals of their conspiracy in the manner set forth in the preceding paragraphs, including by failing to conduct a complete investigation, pursue leads, and consider alternative suspects; concealing and withholding information concerning alternative suspects; committing perjury; and manipulating time trials to discredit Plaintiff's alibi.

85. The Defendants and their co-conspirators reached their unlawful agreement and formed a common intent during the course of numerous meetings that occurred throughout the Lockmiller murder investigation and Plaintiff's criminal trial. The conspiratorial meetings included meetings on August 28 and August 29 (when Defendants and their co-conspirators agreed to focus their investigation on Plaintiff) and a meeting on May 16 (when Defendants and their co-conspirators agreed to arrest Plaintiff without probable cause).

86. Defendants' co-conspirators included lead prosecutor James Souk and other McLean County prosecutors. In furtherance of the conspiracy, the McLean County prosecutors persuaded a grand jury to indict Plaintiff by failing to inform the jury of the existence of alternative suspects and by concealing evidence concerning the time of Lockmiller's death. After Plaintiff was charged, the prosecutor-co-conspirators assisted in ongoing investigative activities, including participating in phony time trials that were used to falsely discredit Plaintiff's alibi. Prior to trial, the prosecutor-co-conspirators withheld from Plaintiff and his counsel significant information that cast suspicion upon John Murray and was therefore exculpatory of Plaintiff. In motion in limine hearings, the prosecutor-co-conspirators lied to the Court, telling the presiding judge there was no significant evidence that someone other than Plaintiff might have committed the crime and insisting that John Murray had "nothing to do with this case," despite their possession of concealed evidence that suggested the opposite. During closing arguments, co-conspirator Souk falsely told the jury that Plaintiff was the only person without an alibi who might have killed Lockmiller, despite his knowledge that Murray might have committed the crime and lacked any alibi whatsoever.

87. The actions of the prosecutor-co-conspirators, described in the preceding paragraph, were taken in furtherance of the conspiracy that originated with Defendants to charge and convict Plaintiff for the murder of Jennifer Lockmiller without regard to the lack of probable cause against Plaintiff.

88. Each of the Defendants also committed one or more overt acts in furtherance of the conspiracy to maliciously prosecute Plaintiff:

- a. Defendants Freesmeyer, Warner, and Zayas each knew that there was not probable cause to arrest Plaintiff. Defendant Freesmeyer was the lead

investigator on the case. Defendant Zayas was the supervisor in charge of the case. Defendants Freesmeyer and Warner were both involved in Plaintiff's physical arrest. They each had the power to stop the malicious prosecution, but they chose not to do so, and instead pressed for Plaintiff to be falsely arrested for Lockmiller's murder.

- b. Defendants Freesmeyer, Warner, and Zayas each disregarded alternative suspects and leads. They knew about the information developed in the investigation regarding alternative suspects, but they failed to insure that any of it was pursued.
- c. Defendant Freesmeyer manipulated and concealed driving time trials to discredit Plaintiff's alibi.
- d. Defendant Freesmeyer perjured himself before the grand jury in order to obtain Plaintiff's indictment.
- e. Defendant Warner requested and received the polygraph reports regarding Murray and Gates, which inculpated these individuals. Defendants Freesmeyer and Zayas knew about the reports. All three Defendants, acting in conspiracy among themselves and with others, conspired to secrete these reports from Plaintiff and his counsel.
- f. Defendants and McLean County prosecutors knew about Rob Curtis' history of torturing cats but conspired to conceal this information from Plaintiff and his counsel.

89. The Defendants' conspiracy continued throughout Plaintiff's prosecution, conviction, and years of wrongful incarceration as the Defendants continued to conceal their illegal actions from the light of the justice system.

90. As a proximate result of the Defendants' above-described misconduct, Plaintiff, just 22 years old at the time, was wrongfully convicted of murder and sentenced to 50 years in prison.

#### **Favorable Termination of Plaintiff's Prosecution**

91. On May 22, 2008, the Illinois Supreme Court unanimously vacated Plaintiff's conviction and remanded to the circuit court for a new trial. The Court held that the suppression of material exculpatory information relating to John Murray as an alternative suspect violated Plaintiff's constitutional right to due process under *Brady v. Maryland*. In light of "the tenuous nature of the circumstantial evidence against [Mr. Beaman]" and the nondisclosure of this Brady material, the Court concluded that "[w]e cannot have confidence in the verdict finding petitioner guilty of this crime."

92. On January 29, 2009, McLean County prosecutors chose not to re-try Plaintiff and dismissed all charges against him.

93. Thereafter, Plaintiff filed in this Court a Petition for Certificate of Innocence pursuant to 735 ILCS 5/2-702, seeking a judicial determination that he is innocent of the murder of Jennifer Lockmiller. On April 29, 2013, after McLean County prosecutors withdrew their opposition to the Petition, this Court entered an order granting the Petition and finding that Plaintiff "is innocent" of Jennifer Lockmiller's murder.

### Plaintiff's Damages

94. Plaintiff spent more than 13 years in prison for a crime he did not commit. He must now attempt to make a life for himself outside of prison without the benefit of more than a decade of life experiences.

95. The emotional pain and suffering caused by Plaintiff's experience in prison has been substantial. During his incarceration, which began at the age of 22, he was stripped of the basic pleasures of human experience, from the simplest to the most important, which all free people enjoy as a matter of right. While his classmates graduated from college, pursued graduate degrees, built careers, fell in love, and started families, Alan Beaman spent the majority of his twenties and half of his thirties behind bars. He missed the funerals of three grandparents and countless birthdays, holidays, and other family events. He was deprived of the fundamental freedom to live his life as an autonomous human being.

96. During his time in maximum-security facilities, Plaintiff feared for his life on a daily basis. In Menard Correctional Center, where gangs dominated the prison culture, a counselor advised Plaintiff that his best chance of making it out of prison alive was to join a gang. Plaintiff did not do so, and thereby put his life at risk.

97. Plaintiff was 35 years old when he was released from prison. Although he has worked hard to rebuild a life outside of prison, many of the "normal" aspects of daily life remain foreign to him. Plaintiff was deprived of 13 years of life experiences that would have prepared him for his current roles in free society. He lost 13 years of opportunity to work and save for the future. The process of "catching up" on 13 years of life in the outside world is more difficult because of the lingering psychological and emotional effects of imprisonment. Plaintiff suffers from posttraumatic stress disorder and regularly experiences insomnia and anxiety attacks.

98. As a result of the foregoing, Plaintiff has suffered tremendous damage, including but not limited to personal physical injury, pain and suffering, loss of income, and loss of a normal life, all proximately caused by Defendants' misconduct.

99. To this day, Plaintiff continues to experience psychological pain and suffering, and emotional distress, including humiliation, constant fear of law enforcement and imprisonment, anxiety, insomnia, despair, rage, and other physical and psychological effects from his years of wrongful incarceration.

**Count I**  
**Malicious Prosecution**

100. Each paragraph of this Complaint is incorporated as if restated fully herein.

101. All of the individual Defendants and others, including other investigators and McLean County prosecutors, acting individually, jointly, and in conspiracy, initiated and continued a prosecution against Plaintiff, knowing that probable cause did not exist to arrest and prosecute him for the murder of Jennifer Lockmiller.

102. As described above, Defendants knew that no true or reliable evidence implicated Plaintiff in the Lockmiller murder, and that more viable alternative suspects in the crime had not been properly investigated or cleared.

103. Defendants intentionally failed to pursue leads that could have led to the actual assailant, and instead initiated and continued the prosecution of Plaintiff in order to close the Lockmiller murder case, without regard for Plaintiff's guilt or innocence. Defendants concealed evidence and misled the grand jury.

104. The Defendants identified above accused Plaintiff of murdering Lockmiller knowing those accusations to be without probable cause. Defendants made statements to

prosecutors with the intent of exerting influence to institute and continue unjust proceedings against Plaintiff.

105. The initiation and continuation of the criminal proceedings against Plaintiff were the result of improper conduct by the Defendants. All of the individual Defendants intentionally withheld from and misrepresented to Plaintiff, his attorney, the grand jury and the Court facts that implicated alternative suspects, and substantiated Plaintiff's alibi.

106. The judicial proceedings against Plaintiff were instituted and continued maliciously, resulting in injury to Plaintiff.

107. Defendants performed all of the above-described acts deliberately, with malice, and with reckless disregard for Plaintiff's rights.

108. The criminal proceedings against Plaintiff were terminated in Plaintiff's favor. On May 22, 2008, Plaintiff's conviction was vacated, and on January 29, 2009, the McLean County State's Attorney's Office *nolle prossed* his case. On April 29, 2013, Plaintiff was granted a Certificate of Innocence by the Circuit Court for the Eleventh Judicial District, based on a judicial finding that Plaintiff "is innocent" of Lockmiller's murder.

109. As a direct and proximate result of Defendants' misconduct, Plaintiff suffered, and continues to suffer, injuries as set forth above, including personal physical injury, physical and psychological pain and suffering, loss of income and emotional distress.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 and punitive damages in an amount sufficient to deter similar misconduct, jointly and severally from the Defendants named in this Count, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

**Count II**  
**Intentional Infliction of Emotional Distress**

110. Each paragraph of this Complaint is incorporated as if restated fully herein.

111. The acts and conduct of the individual Defendants set forth above were extreme and outrageous. Defendants willfully and maliciously framed Plaintiff for a crime he did not commit. Defendants' actions were rooted in the abuse of power and they were undertaken with intent to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to Plaintiff, as is more fully alleged above.

112. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others, as set forth in Count I.

113. As a direct and proximate result of the Defendants' actions, Plaintiff suffered, and continues to suffer, injuries as set forth including personal physical injury, physical and psychological pain and suffering and emotional distress, such as humiliation, constant fear of law enforcement and imprisonment, anxiety, insomnia, despair, rage, and other physical and psychological effects from his years of wrongful incarceration.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 and punitive damages in an amount sufficient to deter similar misconduct, jointly and severally from the Defendants named in this Count, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

**Count III**  
**Civil Conspiracy**

114. Each paragraph of this Complaint is incorporated as if restated fully herein.

115. As set forth above, Defendants, acting in concert with one another, with other investigators and with McLean County prosecutors, conspired by concerted action to accomplish an unlawful purpose by unlawful means.

116. Each of the Defendants entered into an agreement in or around August 1993 to maliciously prosecute Plaintiff for Jennifer Lockmiller's murder, knowing there was no probable cause to do so, in order to close the Lockmiller murder case.

117. In furtherance of the conspiracy, the Defendants committed overt and unlawful acts as fully set forth above, including obtaining Plaintiff's arrest without probable cause, willfully and maliciously instigating and promoting his prosecution without probable cause, committing perjury in judicial proceedings as to exculpatory evidence revealed during the investigation, withholding exculpatory information from Plaintiff, his attorney, the grand jury, and the Court, and causing the intentional infliction of emotional distress upon Plaintiff, as described in Count II.

118. The misconduct described in this Count was undertaken intentionally, with malice, willfulness, and reckless indifference to the rights of others.

119. As a direct and proximate result of the Defendants' conspiracy, Plaintiff suffered damages, including personal physical injury, severe emotional distress and anguish and loss of income, as is more fully alleged above.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 and punitive damages in an amount sufficient to deter similar misconduct, jointly and severally from the Defendants named in this Count, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

C00043

**Count IV**  
**Respondeat Superior Against Town of Normal**

120. Each paragraph of this Complaint is incorporated as if restated fully herein.

121. In committing the acts alleged in this Complaint and in Counts I through III, each of the individual Defendant were members of, and agents of, the Normal Police Department, acting at all relevant times within the scope of their employment.

122. Defendant Town of Normal is liable as principal for all torts in violation of state law committed by its agents.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 from Defendant Town of Normal, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

**Count V**  
**745 ILCS 10/9-102 Against Town of Normal**

123. Each paragraph of this Complaint is incorporated as if restated fully herein.

124. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

125. The individual Defendants are or were employees of the Normal Police Department who acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, pursuant to 745 ILCS 10/9-102, Plaintiff demands judgment against the Town of Normal in the amounts awarded to Plaintiff against the employee-defendants by way of judgment or settlement, including any and all amounts awarded for compensatory damages and costs and attorneys' fees.

**JURY DEMAND**

Plaintiff, ALAN BEAMAN, hereby demands a trial by jury.

Respectfully submitted,

**ALAN BEAMAN**

By:   
One of his attorneys

Locke E. Bowman  
David Shapiro  
Alexa Van Brunt  
Roderick and Solange MacArthur Justice  
Center  
Northwestern University School of Law  
357 E. Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-0844

Jeffrey Urdangen  
Bluhm Legal Clinic  
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375 East Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-7413

STATE OF ILLINOIS )  
 )  
COUNTY OF MC LEAN )

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT

THE PEOPLE OF THE )  
STATE OF ILLINOIS )

VS. )

NO. 94 cf 476

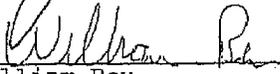
Alan Beaman )

STIPULATION

It is hereby agreed by the People and the defendant that:

1. Exhibit A attached hereto is a listing based on phone company records of telephone calls between Alan Beaman and Jennifer Lockmiller from July 28, 1993 thru August 28, 1993.

  
James Souk  
Assistant State's Attorney

  
William Beu  
Attorney for Defendant

  
Alan Beaman  
Defendant

C03057

PEOPLE'S  
EXHIBIT

R.7K1

McLean 001306

Phone Contacts between Alan Beaman & Jennifer Lockmiller

<u>Date</u>	<u>Time</u>	<u>Origination</u>	<u>Destination</u>	<u>Length</u>
07/28/93 [1533]	0633	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	0644	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	0649	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	02:00
07/28/93 [1533]	0851	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	0931	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	1016	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	84:00
07/31/93 [1533]	1903	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	03:00
07/31/93 [1533]	1907	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	08:00
08/05/93 [1334]	0152	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/08/93 [1389]	1211	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	38:52.4
08/10/93 [1389]	0146	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/10/93 [1389]	1617	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	59:00
08/17/93 [1538]	1143	(815)962-6540 Alan Beaman	(309)452-9913 Jennifer Lockmiller	00:13.8
08/19/93 [1390]	0019	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/22/93 [1369]	0730	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/22/93 [1369]	0825	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/22/93 [1370]	0826	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00

C03058

E 1111 0

McLean 001307

IN THE CIRCUIT COURT  
FOR THE ELEVENTH JUDICIAL DISTRICT  
McLEAN COUNTY, BLOOMINGTON, ILLINOIS

ALAN BEAMAN,  
*Petitioner.*

McLEAN

**FILED**

APR 29 2013

COUNTY

Case No. 09-MR-338

CIRCUIT CLERK  
ORDER GRANTING CERTIFICATE OF INNOCENCE

This cause comes before the Court for hearing on April 25, 2013, on Alan Beaman's Petition for a Certificate of Innocence Pursuant to 735 ILCS 5/2-702.

IT IS ORDERED:

The Court allows late notice of hearing on Petitioner's motion for judgment on the pleadings, which was filed on April 22, 2013.

Petitioner's motion for judgment on the pleadings, filed on April 22, 2013, is ALLOWED against McLean County.

The McLean County State's Attorney's Office having withdrawn its intervention and the Illinois Attorney General's Office not having intervened in this matter, default judgment is ALLOWED and entered against both McLean County and the State of Illinois.

The Court being fully advised finds by a preponderance of evidence that:

1. The Petitioner was convicted of first-degree murder by the State of Illinois in the County of McLean in McLean County case number 94 CF 476 and was subsequently sentenced to a term of imprisonment, and has served part of the sentence;

2. The Petitioner's judgment of conviction was reversed and a new trial was ordered, and he was not retried and all counts in the indictment were dismissed;

3. The Petition for a Certificate of Innocence was filed within 2 years of the dismissal of charges;

4. The Petitioner is innocent of the offenses charged in the indictment; and

5. The Petitioner did not by his own conduct voluntarily cause or bring about his conviction.

C03479

Plaintiff's Exhibit No. 1

APPENDIX 000340

IT IS THEREFORE ORDERED:

1. That the Petition for a Certificate of Innocence is GRANTED.
2. That the Clerk of the Circuit Court of McLean County shall transmit with all due speed a copy of the order granting a Certificate of Innocence to the Clerk of the Court of Claims, together with the Petitioner's current address as indicated on the civil cover sheet.
3. That the order entered in this cause on January 10, 2010, unsealing impounded and sealed court records, is hereby vacated, and it is ordered that the impounded and sealed records of the Clerk of the Circuit Court under *People v. Alan Beaman*, McLean County No. 94 CF 476, be resealed.
4. That the Order to Expunge and Seal entered in *People v. Alan Beaman*, 94 CF 476, on May 4, 2009, remains in full force and effect.
5. That any pretrial and trial dates previously set in this matter are hereby vacated.

Date: April 29, 2013

Enter: \_\_\_\_\_

STATE OF ILLINOIS  
COUNTY OF McLEAN  
I, the undersigned Clerk of the Circuit Court in and for the County of McLean, State of Illinois, do hereby certify that the foregoing is a true copy of the original instrument filed in my office.

Given under my hand and seal this 30  
day of April, 2013

[Signature]  
Clerk of the Circuit Court

[Signature]  
Deputy

STATE OF ILLINOIS  
COUNTY OF McLEAN  
I, the undersigned Clerk of the Circuit  
Court in and for the County of McLean,  
State of Illinois, do hereby certify that the  
 foregoing is a true copy of the original  
 instrument filed in my office.  
Given under my hand and seal this  
\_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Circuit Court

Deputy

03481

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
CENTRAL DIVISION

---

Alan Beaman,

Plaintiff,

vs. Case Number 1:2010cv01019

James Souk, Charles Reynard, Tim Freesmeyer, Rob Hospelhorn, Dave  
Warner, John Brown, Frank Zayas, McLean County, Illinois and Town  
of Normal, Illinois

Defendants.

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Deposition of Alan Wayne Beaman

Friday

December 14th, 2012

-at-

Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer P.C.

140 South Dearborn Street

15th Floor

Chicago, Illinois

1 APPEARANCES

2

3 For the Plaintiff:

4 Locke E Bowman

5 David M Shapiro

6 Alexa Anna Van Brunt

7 Roderick MacArthur Justice Center

8 375 East Chicago Avenue

9 Northwestern University School of Law

10 Chicago, Illinois 60611

11

12 For McLean County:

13 Elizabeth A Ekl

14 Elizabeth Kathleen Barton

15 Sotos Law Firm PC

16 550 East Devon

17 Suite 150

18 Itasca, Illinois 60143

19

20 For Town of Normal:

21 Thomas G DiCianni

22 Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer P.C.

23 140 South Dearborn Street

24 15th Floor

25 Chicago, Illinois 60603

1           RECORDER: And there we go. Today's date is December  
2   14, 2012. The time is 9:41 AM. We're located at the Law Offices  
3   of Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, at 140  
4   South Dearborn Street. We're at the 15th Floor, Chicago,  
5   Illinois. This is the case of Alan Beaman vs. James Soak or Souk?

6           MS. EKL: Souk.

7           RECORDER: Souk. S-o-u-k, and others. It's case  
8   number 1:2010cv01019, and it's a Northern District of Illinois  
9   case for the Central Division it appears. Would that be correct?

10          MS. EKL: Correct.

11          RECORDER: Okay. And the witness today is Alan  
12   Beaman. Mr. Beaman, this is one of those times. You got a middle  
13   name?

14          MR. BEAMAN: Wayne.

15          RECORDER: W-a-y-n-e?

16          MR. BEAMAN: Yes.

17          RECORDER: And Beaman is correctly B-e-a-m-a-n.

18          MR. BEAMAN: Yes.

19          RECORDER: Okay. I'm the notary public. I get to  
20   swear you in.

21          MR. BEAMAN: All right.

22                   (Witness sworn)

23          RECORDER: Counsel, state their appearances for the  
24   record.

25          MS. EKL: Elizabeth Ekl on behalf of the McLean County

1 defendants.

2 MS. BARTON: Elizabeth Barton also on behalf of the  
3 McLean County defendants.

4 MR. DiCIANNI: Thomas DiCianni for the Town of Normal  
5 defendants:

6 MR. BOWMAN: Locke Bowman for Mr. Beaman.

7 MR. SHAPIRO: David Shapiro for Mr. Beaman.

8 MS. VAN BRUNT: Alexa Van Brunt for Mr. Beaman and  
9 this is -- she is working under our supervision as a law student  
10 --

11 RECORDER: Okay. That completes the required  
12 information under Federal Rule 30(b) and we can proceed.

13 MS. EKL: Thank you very much.

14 EXAMINATION

15 BY MS. EKL:

16 Q. Mr. Beaman, you spent over 13 years incarcerated for  
17 the murder of Jennifer Lockmiller, correct?

18 A. Yes.

19 Q. And during those 13 years, have you formulated an  
20 opinion as to who it is that killed Jennifer Lockmiller?

21 A. No.

22 Q. Jennifer was not a stranger to you, correct?

23 A. No.

24 Q. She was someone that you had dated?

25 A. Yes.

1 Q. She was someone that you had -- that you had loved,  
2 correct?

3 A. Yes.

4 Q. In fact, you loved her so deeply, that at one point,  
5 you were engaged to her, correct?

6 A. Yes.

7 Q. And how long did you know Jennifer before her death?

8 A. I think, it was a little over a year. Well, no, we  
9 were dating for a year. It was more like a year and a half to  
10 two.

11 Q. During that time, did you get to know her family?

12 A. Not very well.

13 Q. Did you meet any of her family members?

14 A. I did.

15 Q. And what family members did you get to know?

16 A. Her parents. I got to know her dad a little bit  
17 better than her mom.

18 Q. Did you also meet her friends?

0:01:15 19 A. Yes.

20 Q. And she also met --

21 A. Some of them.

22 Q. Okay. And she met some of your friends?

23 A. Yes.

24 Q. Is it fair to say that you knew about Jennifer's  
25 positive attributes?

1 A. Yes.

2 Q. You knew what it was that she liked?

3 A. Yeah.

4 Q. You knew her likes, in general, is that fair to say?

5 A. Yeah.

6 Q. Okay. And you knew where she liked to hang out?

7 A. Yeah.

8 Q. You knew who she liked to hang out with, correct?

9 A. Sure.

10 Q. You also knew about her faults as well, correct?

11 A. Yes.

12 Q. You knew that she had a number of insecurities?

13 A. Yes.

14 Q. You knew that she also had been involved in various

15 relationships with different men, correct?

16 A. She had been, yeah.

17 Q. You knew about her drug habit?

18 A. Yes.

19 Q. There were points in during your relat -- dating

20 relationships that you actually stayed at Jennifer's apartment,

21 correct?

22 A. Yes.

23 Q. And during those times, did you get to know her habits

24 a little bit better as well?

25 A. Yes.

1 Q. For instance, did you know whether or not she liked to  
2 lock -- she had a habit of locking her door when she came into the  
3 house?

4 A. She did tend to lock her door, yes.

5 Q. Do you think that there was anyone else back in 1993  
6 that knew Jennifer the way that you knew her?

7 MR. BOWMAN: Object to the form of the question. You  
8 can an --

9 WITNESS: Oh, I just keep going though. Okay.

10 MR. BOWMAN: From time to time, Alan, I'll make  
11 objections. If you should not answer the question, I'll tell you  
12 my judgment --

13 WITNESS: Okay.

14 MR. BOWMAN: -- that you shouldn't answer, but unless  
15 you hear that, you -- feel free to go ahead and answer the  
16 question.

17 WITNESS: Okay.

18 MR. BOWMAN: And give me a minute to consider whether  
19 I should make an objection, and then you just go ahead and answer.

20 A. Can you ask it again? I'm sorry.

21 Q. Sure. Sure. Do you think that there was anyone else  
22 that you're aware of, back in 1993 that knew Jennifer the way that  
23 you knew her?

24 MR. BOWMAN: Same objection.

25 A. I'm -- I'm sure there would have been people that knew

C03489

1 her better than me and I think every relationship is an individual  
2 relationship. So I -- I really can't say whether anyone knew her  
3 the way I knew her.

4 Q. Okay. Who do you think knew her better than you?

5 A. I'm sure some of her friends may have known her better  
6 than me.

7 Q. Over the years, while you were incarcerated, have you  
8 had a chance to review the police reports, and the transcripts of  
9 witness interviews that were taken in connection with the  
10 investigation of Jennifer's murder?

11 A. I've read much of them.

12 Q. And you did that while you were trying to fight your  
13 conviction, correct?

0:03:54 14 A. Yes.

15 Q. And during those 13 years, is it your testimony then  
16 that based on your knowledge of her and based on the things that  
17 you've read in the police reports and the things that you've  
18 learned in -- maybe for other -- from other places over those 13  
19 years, you haven't formulated any opinion as to who you think  
20 killed Jennifer?

21 A. I don't believe that I could do that. No, I don't.

22 Q. Did you at any point in time, formulate an opinion as  
23 -- an opinion as to who you think killed Jennifer?

24 A. I think I've been pretty clear over the course of time  
25 that I'm not sure who killed Jennifer.

C03490

1 Q. And taking aside you being sure about who killed her,  
2 who do you think killed her?

3 A. I really don't know.

4 Q. Before we get into further questions, I should go  
5 through some, just ground rules, so that we are on the same page.  
6 Obviously, the deposition's being videotaped as well as it'll  
7 eventually become a transcript, as well.

8 A. Mm-hmm.

9 Q. As a result, it's important that you answer yes or no  
10 to questions instead of saying mm-hmm or uh-huh.

11 A. I will try.

12 Q. Okay. Even though I can sit here and know what you  
13 mean by that by saying mm-hmm or uh-huh, if we're reading it in  
14 the transcript, the answer won't be clear. So if you can --

15 A. Right.

16 Q. -- do your best and I'll try to remind you.

17 A. Okay.

18 Q. It's also important that we don't talk over each  
19 other. So that we have a clear record, we want to have a question  
20 and then an answer. So I'll try to make sure that you've  
21 completed your answer before I ask you a question. Likewise, I'd  
22 ask that you wait until I finish my question. A lot of times in  
23 regular speech, you may guess what I'm going to ask you or know  
24 what -- how I'm going to finish the question, and therefore, be  
25 kind of inclined to answer right away, but if you could just go

1 ahead and let me finish it before I answer, we'll have a more  
2 complete record.

3 A. Okay. I'll try.

4 Q. Okay. Same thing with nodding of the head. If you  
5 can make sure you say yes or no instead of nodding your head up or  
6 down.

0:05:49 7 A. Okay.

8 Q. If at any point in the deposition, I ask you a  
9 question that you don't understand, it's important that you let me  
10 know that. Okay?

11 A. Okay.

12 Q. If you answer the question, I'll just assume that you  
13 understood it. Is that fair?

14 A. Okay.

15 Q. All right. I anticipate we'll probably be here for  
16 all day or at least a good portion of the day, and we'll plan on  
17 taking some regular breaks, but if, at some point, you need a  
18 break for any reason, just let us know, we can do that. The only  
19 thing I'd ask is that if I've asked you a question, you wait 'til  
20 the answer's over with before you ask for the break.

21 A. All right.

22 Q. All right. With that being said, Mr. Beaman, have you  
23 ever gone by any nicknames?

24 A. Not really. There's been nicknames that people have  
25 called me occasionally for a little while.

C03492

1 Q. Okay. What are some of those nicknames?

2 A. There were some people when I was a freshman in  
3 college that called me pup.

4 Q. Pup. And do you know how it is that you received that  
5 nickname?

6 A. I guess I -- I was kind of a follower in that group.  
7 There were several upper class men that I was friends with during  
8 that time, and -- and so because I was younger and impressionable,  
9 I was pup.

10 Q. Any other nicknames?

11 A. Variations of Beaman. Bman, Bmizzle, Beamanator. You  
12 can -- I could go on all day.

13 Q. Okay.

14 RECORDER: Can you spell Bmizzle for me?

15 (Laughter)

16 RECORDER: It's okay.

17 Q. Before your deposition here today, did you do anything  
18 to prepare?

19 A. Yes, I did.

20 Q. What did you do?

21 A. I read the transcripts of interviews and overhears. I  
22 don't know if I read everything, but I read several documents from  
23 discovery and trial. And had meetings to go over that  
24 information, and refresh my memory as best as I can.

25 Q. Who did you meet with?

C03498

0:08:11

1 A. Counsel.

2 Q. When did those meetings take place?

3 A. Over the last couple weeks.

4 Q. Do you remember about how many times you met?

5 A. Twice.

6 Q. And what was the length of each of those meetings?

7 A. Maybe five hours.

8 Q. Was that five hours total or five hours each?

9 A. Each, I would say. That's an approximation.

10 Q. What transcripts of interviews do you recall

11 reviewing?

12 A. I reviewed my interview with Tony Daniels. I reviewed

13 the overhears with Michael Swaine. And that -- as far as

14 interviews, I think that's -- I think that may be it.

15 Q. So were all the interviews that you reviewed,

16 interviews that involved you speaking, whether it was during the

17 overhear or with an officer?

18 A. Yes.

19 Q. Okay. Did you review any interview transcripts of

20 anyone else's interviews, any other witnesses?

21 A. I don't believe so.

22 Q. Okay. You said you also reviewed several documents

23 from discovery and trial. What documents do you recall reviewing?

24 A. I read the grand jury testimony, and I read trial

25 testimony. I think that's it for that too.

C0349

1 Q. And --

2 A. I think there was testimony at the bond hearing or  
3 something that I read, it was very short.

4 Q. And for each of the -- all the testimony that you  
5 reviewed, was it always your testimony that you were reviewing or  
6 did you also review, for instance, in the grand jury, the  
7 testimony of any other witnesses?

8 A. It was me.

9 Q. Okay. Anything else that you looked at or reviewed  
10 before coming here today, in preparation for your deposition?

11 A. Some other documents with the case. I think the  
12 complaint and maybe the interrogatories. I can't be sure I'm  
13 giving you everything.

14 Q. I understand. If there's anything that you think of  
15 that you reviewed as we go along, if you could just let me know  
16 that, I'd appreciate it. In 1993, you attended Illinois Wesleyan,  
17 correct?

18 A. Yes.

19 Q. And what was the ma -- your major or area of focus  
20 when you were studying there?

0:10:29 21 A. Technical theater.

22 Q. Could you just describe for me what that is?

23 A. Scenery and lighting were my primary areas. I did  
24 also study costuming and makeup briefly. But construction,  
25 design, engineering of scenery, rigging, and lighting design and

C03495

1 the rigging of lighting as well.

2 Q. Did you also take classes in acting during that time  
3 period?

4 A. I took the required classes, yes.

5 Q. What -- how many required classes did you have to take  
6 in acting?

7 A. There were two required acting classes. One that was,  
8 I believe, a full year, which was the freshman acting class. And  
9 then -- and then the soph -- I think it was the sophomore acting  
10 class was, I think, one semester, if I'm not mistaken.

11 Q. And throughout your time at school, did you also  
12 participate in the theater at the school or a theater near the  
13 school?

14 A. I mostly had production positions doing lighting,  
15 scenery. I was -- I think, I was course member in one man stage  
16 play, because they needed a guitar player. And I was in a couple  
17 of one acts for other students who were directing one acts. And I  
18 think I did a -- one other student project play.

0:12:06 19 Q. What is a one act?

20 A. It's a very short play that has no intermission.

21 Q. What was your role in that?

22 A. In one -- in one of them, I played a prison warden  
23 actually. And in the other one, I played a guard in a -- in an  
24 insane asylum.

25 Q. So those were actually times when you were acting as

C03496

1 opposed to working on the scenery or the sets?

2 A. Yes.

3 Q. Okay. And then when you said you've also worked on a  
4 -- a student production?

5 A. Those were student productions.

6 Q. Okay. Those were student productions. So those were  
7 the same thing as the one act or am I -- or was there something  
8 different?

9 A. Well, one of them was a one act that was part of a  
10 class, part of a directing class, and the other one was a -- the  
11 other one was a project that someone was doing as an independent  
12 study, in -- in what's called the Phoenix Theater at Wesleyan.  
13 It's much smaller and spartan.

14 Q. Other than the Phoenix Theater, what were the names of  
15 some of the other theaters that you worked in, either acting or  
16 working on scene production and construction engineering?

17 A. McPherson Theater, and I -- I acted in -- in -- yeah,  
18 I acted in one play in the -- in McPherson, I was a chorus member.  
19 And then I did several shows being either an electrician -- stage  
20 electrician, master electrician or tech director for -- for the  
21 McPherson Theater. And then in the Laboratory theater, I -- I  
22 probably had a project in the Lab Theater once or twice a year, at  
23 least.

24 Q. What sort of classes, if any, did you have to take to  
25 become a master electrician?

C03497

1 A. The phrase master electrician refers to the person  
2 who's in charge of the rigging and focusing on the lighting. It's  
3 not a -- it's not a class per se. It's -- it's a -- it's a job.

4 Q. Right. My -- my question is, did -- were there any  
5 classes you had to take to prepare you for that job?

6 A. No.

7 Q. Okay. Did you have any background in, say, electrical  
8 work, prior to going to school and -- and making this one of the  
9 focuses on your -- of your education?

10 A. Just lighting in high school.

11 Q. And could you describe that further, what that was?  
12 Like what kind of a class or what -- what you mean by, just  
13 lighting?

14 A. It's more of learning by doing. I designed lights for  
15 a play in my senior year in high school. And I -- for most of the  
16 plays, while I was there, I did some kind of technical  
17 participation with that, either for lighting or scenery or both.  
18 So by apprenticing with older students who knew more about it, I  
19 learned by doing.

20 Q. Okay. So you actually started in this area in high  
21 school as opposed to just starting in college?

22 A. Yeah.

23 MR. BOWMAN: Objection, vague.

24 Q. Did you understand my question? I just want to make  
25 sure you understood it. You answered it.

C03498

1 A. Can you restate it again?

2 Q. You understood -- under -- you answered it, so I was  
3 just making sure that you understood what you were answering.

4 A. I think so.

5 Q. Okay. Okay. Did you earn a degree from Illinois  
6 Wesleyan?

0:15:51 7 A. I did.

8 Q. And what was -- what degree did you earn?

9 A. Bachelor's of Fine Arts.

10 Q. When did you earn that degree?

11 A. It was 1995.

12 Q. And after 1995, did you continue your education in any  
13 manner?

14 A. While I was in prison, I did.

15 Q. And could you describe that for me? How did you  
16 further your education while you were in prison?

17 A. I took some math classes, and I took a -- an  
18 automotive training course through which I -- the original  
19 intention was to get a -- an associate's degree, but they  
20 cancelled that program halfway through so --

21 Q. Did you switch your focus to -- to earn an associate's  
22 degree in some other area after they cancelled that program?

0:16:51 23 A. No.

24 Q. When did you complete the program regarding the  
25 automotive training course?

C03499

1 A. I wouldn't be able to give you the exact year, it was  
2 -- it was at Western Illinois Correction Center. And I think I  
3 was there from -- sorry.

4 Q. It's okay.

5 A. It was probably either 2001 or 2002.

6 MR. BOWMAN: Alan, you don't need to -- to guess or  
7 make up an answer. If you don't recall, you can just --

8 WITNESS: I -- okay.

9 MR. BOWMAN: -- tell her you don't remember.

10 A. I -- yeah, I really don't remember. I'd have to piece  
11 that together.

12 Q. But your approximate date would be 2001, 2002?

13 A. That could be an approximation, yes.

14 Q. When did you first meet Jennifer Lockmiller?

15 A. I met her while I was attending school at Illinois  
16 Wesleyan.

17 Q. And when was that?

18 A. I believe it was May in sophomore year.

19 Q. Do you recall what year you were a sophomore at  
20 Illinois Wesleyan?

21 A. The '91-'92 school year, I believe.

22 Q. How did you meet Jennifer?

23 A. I met her at The Dugout, which is in the student  
24 center.

25 Q. Is that a place where students can hang out, the

003500

VOLUME XV

ALAN BEAMAN

VS.

TIMOTHY FREESMEYER, DAVE WARNER,  
FRANK ZAY AS, TOWN OF NORMAL, IL,

CASE NO. 14 L 51

APPELLATE CASE NO. 4-16-0527

APPEAL TO THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT

FROM THE CIRCUIT COURT  
OF THE  
ELEVENTH JUDICIAL CIRCUIT  
McLEAN COUNTY, ILLINOIS

Don R. Everhart Jr  
Don R. Everhart, Jr., Circuit Clerk

Sophie Bates  
Deputy

064

~~Vol XV~~

~~VOL VI~~

~~FILED~~  
~~AUG 21 2015~~  
~~CLERK OF THE APPELLATE COURT DISTRICT~~

1 Dugout?

2 A. Hang out, study.

3 Q. And how was it that you met her in the Dugout?

4 A. We were sitting at different tables and I suppose we  
5 were flirting.

6 Q. How did your relationship move on from there after you  
7 were flirting in The Dugout?

8 A. I would see her in the Dugout from time to time after  
9 the first time I saw her there. And I eventually sat with her at  
10 the same table and talked to her and we became friends.

11 Q. And then eventually the two of you started dating,  
12 correct?

13 A. Yes.

14 Q. When did your relationship turn from a friendship more  
15 into a dating relationship?

16 A. It was the summer of -- summer of '92.

17 Q. Do you recall that being July 4th of 1992?

18 A. Thereabouts.

19 Q. How long did you date Jennifer?

20 A. Approximately a year.

21 Q. How would you describe your relationship with her when  
22 you first started dating?

23 A. It was fun and romantic.

24 Q. Did it become a sexual relationship?

25 A. Yes.

003501

1 Q. When did you and Jennifer become engaged to be  
2 married?

3 A. It was maybe October.

4 Q. October of what year?

5 A. Of '92. I'm not 100 percent sure on that.

6 Q. And I appreciate if you are not 100 percent sure, if  
7 you could just let me know, as you did. I appreciate that. How  
8 long were you engaged to Jennifer?

9 A. Well, we were -- we were engaged most of the  
10 relationship. I think, we were just dating later on. It's -- I  
11 guess it's sort of unclear to me, but the engagement kind of went  
12 with the relationship --

13 Q. So it --

14 A. -- after that --

15 Q. Basically, when the relationship ended, is that when  
16 you're saying that -- for, I mean, all intents and purposes, the  
17 engagement ended as well?

18 A. Yes.

19 Q. And prior to that point in time, was there ever a  
20 conversation you had with her where it was stated that we're no  
21 longer -- I'm not going to marry you or we're not longer engaged?

0:21:18 22 A. No, I don't think so.

23 Q. Did the two of you actually exchange rings --

24 A. We did.

25 Q. -- at the time you became engaged?

C03502

1 A. Sorry.

2 Q. That's okay.

3 A. We -- we did exchange rings.

4 Q. Okay. Could you describe your rings for me?

5 A. I originally made her -- I -- I braided some of my  
6 hair into a ring, it was not very easy to do, and it was my first  
7 time trying something like that, and it didn't really hold  
8 together, and then after that started to kind of fall apart, I  
9 went and I got her -- it was -- it was a pretty ring, but it was  
10 not a real diamond, from a local head shop that had lots of neat  
11 rings. And she bought me a -- it was a ring that has three pieces  
12 that are on a hinge. And the three pieces, one of them has a hand  
13 as the boss on it, then the middle one has a heart, and then the  
14 other side has a hand as well, and they fold together to make two  
15 hands over a heart.

16 Q. What happened to the ring that Jennifer gave you?

17 A. I threw it in the Rock River.

18 Q. And where is the Rock River located?

19 A. It's in Rockford.

20 Q. When did you do that?

21 A. Shortly after I got back to Rockford maybe August 5th,  
22 somewhere around there.

23 Q. Of what year?

24 A. Of '93. '93.

25 Q. And just so it's clear for the record, you're on a --

003503

1 a video today, but back in 1993, 1992, you had a significant head  
2 of hair at that point in time, is that fair to say?

3 A. I did.

4 Q. Okay. And you -- your hair was longer?

5 A. Yes.

6 Q. When I say longer, obviously, you don't have hair  
7 today, correct?

8 A. Correct.

9 Q. When I -- you had long hair, is that -- back --

10 A. I --

11 Q. Back in --

12 A. I did have long hair, yes.

13 Q. Okay. Okay. Did your relationship with Jennifer  
14 change at all after your engagement in approximately October of  
15 1992?

16 A. It did.

17 Q. And how did it change?

18 A. It became conflicted.

19 Q. Can you describe further what you mean by, it became  
20 conflicted?

21 A. We had periods where we did not get along well.

22 Q. Was there anything in particular that would, kind of,  
23 spark the animosity between the two of you?

24 MR. BOWMAN: I'm going to object to, animosity. Go  
25 ahead and answer the question as best you can, if -- if you -- if

C03504

1 you can answer it --

2 MS. EKL: I can rephrase it.

3 MR. BOWMAN: -- in that form.

4 Q. Would you say that there was animosity during those  
5 periods of time when you didn't really get along?

6 A. Can you define animosity --

7 Q. Sure.

8 A. -- for me --

9 Q. Sure.

10 A. -- please?

11 Q. Would the two of you be fighting during those time  
12 periods?

13 A. Occasionally.

14 Q. Okay.

15 A. Yes.

16 Q. And would you perhaps be angry at her or her angry at  
17 you during those time periods?

18 A. She was usually angry at me.

19 Q. Okay. And was there something that usually caused  
20 those periods of time where either one of you were angry?

21 A. There were friends of mine that she didn't like me to  
22 be around. There were jealousies that she expressed that would  
23 cause those arguments.

24 Q. Who were some of the friends that she didn't like you  
25 to be around?

C03505

1 A. She didn't like me in -- mostly to be around Meredith  
2 Hanes and -- because her boyfriend was Don Jones, she didn't like  
3 me to be around Don Jones. In addition, there were a number of  
4 female friends she was insecure about.

5 Q. Did she tell you why it was that she didn't want you  
6 to be around Don Jones?

7 A. Because she didn't want me to be around Meredith.

8 Q. Oh, so Don Jones was a friend of yours that she didn't  
9 want you to be around as well, is that -- am I accurately  
10 summarizing that?

11 A. Yes.

12 Q. Okay. And that was because Meredith would be around  
13 Don?

0:25:23 14 A. Yes.

15 Q. In December of 1992, there was an incident where the  
16 police were called in the middle of the night because you drank  
17 some fingernail polish remover, correct?

18 A. Yes.

19 Q. Could you tell from me -- tell me about that incident?  
20 What led up to that?

21 A. It was -- there was an argument again about Meredith  
22 and I was attempting to escape the -- the argument. And I did a  
23 stupid thing, I drank the nail polish remover, got sick, and  
24 that's that.

25 Q. So this argument, did this take place at -- where --

C03506

1 where did this take place?

2 A. At her apartment.

3 Q. Okay. And you said it was over Meredith?

4 A. Yes.

5 Q. Anything in particular about Meredith that caused this  
6 argument?

7 A. I really don't remember.

8 Q. Why did you drink the fingernail polish remover?

9 A. I wanted to escape the argument.

10 Q. What did you think would happen when you drank the  
11 fingernail polish remover?

12 A. I thought I would vomit.

13 Q. Did you think that it might kill you?

14 A. Not if I didn't drink a lot of it.

15 Q. How much of it did you drink?

16 A. A healthy sip.

17 Q. What happened to you after you drank the fingernail  
18 polish remover, physically?

19 A. I vomited --

20 Q. Anything --

21 A. -- several times.

22 Q. Anything other than that?

23 A. I had a sore throat. What did Jennifer do when you  
24 drank the fingernail polish remover?

25 A. I believe she took me to the hospital. She got over

C03507

1 the argument very quickly and took me to the hospital.

2 Q. This took place at approximately 2:30 in the morning,  
3 correct?

4 A. I really don't remember what time it took place.

5 Q. Do you remember it being late in the evening or early  
6 in the --

7 A. I'm sure it was --

8 Q. -- morning hours?

9 A. -- late, yes.

10 Q. Okay. And did Jennifer call the paramedics during --  
11 when this took place?

12 A. I don't remember. She may have.

13 Q. What hospital did Jennifer take you to?

0:27:57

14 A. BroMenn.

15 Q. Were you allowed to leave BroMenn after you -- well  
16 were -- let me back up. Were you admitted to BroMenn?

17 A. Briefly. I left the same night.

18 Q. And did you see any doctors while you were at BroMenn?

19 A. Yes.

20 Q. In addition to -- well, first off, did they physically  
21 examine you to make sure that you were okay physically?

22 A. Yeah.

23 Q. And did you have to --

24 A. Yes.

25 Q. Did you have to speak to any therapists or any other

C03508

1 social workers as a result of this incident?

2 A. I think I did. I don't remember.

3 Q. Do you remember anything about any conversation with  
4 any social workers or therapists at BroMenn?

5 A. Not really.

6 Q. Where was Jennifer when you were in the hospital?

7 A. I think she was with me most of the time. She might  
8 have been waiting outside of a room for part of the time. I  
9 really don't remember.

10 Q. After the incident, did you and Jennifer talk about  
11 what had taken place in terms of you drinking the nail polish  
12 remover?

13 A. Yes.

14 Q. And what do you re -- when did that conversation take  
15 place?

16 A. Immediately after.

17 Q. What do you recall either you saying to her or her  
18 saying to you?

19 A. She was upset with me for having done that. She was  
20 concerned about me, and wanted to assure herself that I would not  
21 do that again. And that was the gist of the conversation.

22 Q. What did -- what, if anything, did you say in response  
23 to her?

24 A. I -- I really -- I really can't say. I could guess.

25 I -- I know that I felt bad for doing it, and that I knew it was a

C03509

1 stupid thing to do. That was probably the gist of my end of the  
2 conversation.

3 Q. How would you describe your relationship after that  
4 incident?

0:30:10

5 A. I don't think it changed.

6 Q. Did there continue to be times when she would get  
7 jealous about your relationship with Meredith or other people?

8 A. Yes.

9 Q. Were there times when you would get jealous about her  
10 relationship with -- with other -- with other guys?

11 A. Only when there would be some kind of evidence to  
12 that. She generally hung out with other male friends and I wasn't  
13 concerned about it.

14 Q. Were you aware of some gentlemen friends that she had  
15 on a regular basis throughout the course of your relationship?

16 A. Yes.

17 Q. What are the names of some of those people?

18 A. John Murray, Michael Swaine, Stacy Gates. I mean, I  
19 can't really begin to give you all of them, but Mike Boeing, I  
20 think. I --

21 Q. And some of those people were friends of yours as  
22 well, correct?

0:31:24

23 A. Yes.

24 Q. For instance, you were friends with Michael Swaine,  
25 correct?

C03510

1 A. Yes.

2 Q. And you were friends with John Murray?

3 A. Yes.

4 Q. Were you friends with Stacy Gates?

5 A. No.

6 Q. What about Michael Boeing?

7 A. I knew him in passing.

8 Q. In June of 1993, was there another incident between a

9 you and Jennifer where the police were called?

10 A. I can't -- I -- I really don't remember dates as far

11 as that's concerned.

12 Q. Do you remember an incident where the police were

13 called because Jennifer had allegedly attempted suicide?

14 A. Yes.

15 Q. What do you remember about that particular incident?

16 A. She had called me and told me that she had taken a

17 pills.

18 Q. Did she tell you how many pills she took?

19 A. No.

20 Q. Had you ever known her prior to that point in time to

21 take an excessive amount of pills?

22 A. Yes.

23 Q. How many other times had she done that?

24 A. She abused her prescription drugs.

25 Q. And what do you mean when you say that, she abused

003512

1 them?

2 A. Took more than was prescribed.

3 Q. Did she ever take, prior to that time, an amount of so  
4 many pills that it required her to be hospitalized or receive some  
5 kind of medical treatment, to your knowledge?

0:32:58

6 A. Not in my experience with her.

7 Q. What did she say, in addition to the fact that she had  
8 taken pills when she talked to you on -- on -- in June of 1993?

9 A. I'm sorry. Can you --

10 Q. Sure. What did -- you said that she had called you on  
11 the telephone, correct?

12 A. Yes.

13 Q. What else do you remember about that conversation,  
14 other than her telling you that she had taken some pills?

15 A. That -- I can't quote her directly, but something to  
16 the effect of that, she was going to end it all.

17 Q. Did you know what she was referring to at that point  
18 in time?

19 A. I believed she was referring to her life.

20 Q. And did you have reason -- or have any basis for  
21 knowing why she would want to end her life?

22 A. She was -- in a tone of voice, seemed to be feeling  
23 sorry for herself, and she said she had taken pills. That was  
24 what I thought she was doing.

25 Q. Do you remember anything more about that conversation?

003512

1 A. No.

2 Q. What did you do in response to that conversation?

3 A. I called 911.

4 Q. And after you called 911, what was the next thing that

5 you remember doing?

6 A. They told me to meet them there. So I went there.

7 Q. Where is there?

8 A. Her apartment.

9 Q. Where was she living at that time?

10 A. On [REDACTED]

11 Q. Is that the same address that she was living at in the

12 summer of 1993 when she was killed?

13 A. Yes.

14 Q. Did you go to that location?

15 A. When --

16 Q. I'm sorry.

17 A. -- they asked me --

18 Q. I'm sorry.

19 A. -- to meet them there?

20 Q. Right. Yes.

21 A. Yes.

22 Q. Okay. And what happened once you got there?

23 A. The paramedics were there. There was an ambulance

24 there, when I got there, I think. They may have arrived shortly

25 after me, I can't remember. And they went in and talked to her

C03513

1 and they were satisfied apparently that she was fine. They left

2 and -- and then I -- I went in to talk to her.

3 Q. So you weren't present for the conversation between  
4 the paramedics and Jennifer then, is that fair to say?

5 A. No, I was not.

6 Q. Okay. Did the police also arrive during that  
7 incident?

8 A. I don't remember. I would imagine.

9 Q. What happened once you went into her apartment?

10 MR. BOWMAN: When he went into the apartment?

11 MS. EKL: Correct.

12 MR. BOWMAN: Okay.

13 A. We talked about it. She said she wasn't killing  
14 herself, and that I was overreacting. I left.

15 Q. Did she tell you why it was she had called you up and  
16 told you that she had taken some pills?

17 A. I don't remember if she specified why she did that,  
18 no.

19 Q. Did you get into an argument on that occasion?

20 A. I don't remember arguing with her about that.

21 Q. Was anyone else in that apartment when the two of you  
22 were talking?

0:36:21

23 A. No.

24 Q. Michael Swaine was not only your friend, he was also  
25 your roommate in 1993, correct?

C03514

1 A. Yes.

2 Q. How did the two of you meet?

3 A. He was my little brother in the theater program.

4 Q. How long were the two of you roommates?

5 A. Just for that summer.

6 Q. When did you first meet him?

7 A. My sophomore year, his freshman year.

8 Q. Jennifer was also a year younger than you, correct, in

9 school?

10 A. No.

11 Q. Okay. So you were in the same year of school as her?

12 A. She had had a disjointed college career. She had come  
13 and gone, and transferred. She's older than me, but she may have  
14 been in a similar grade level.

15 Q. What did it take -- how was it that Michael Swaine  
16 became your little brother in the theater program?

17 A. When -- when they know who -- when the school knows  
18 who the new theater students are going to be, they ask for  
19 volunteers who would like to be a big brother or a big sister.  
20 And they assign each person to a -- to a freshman, to help them  
21 get accustomed to the new place, make sure that they've got  
22 someone to talk to about adjusting.

23 Q. Would that -- did that take place at the beginning  
24 then, of that previous -- of the school year before you lived with  
25 him in the summer or -- let me just ask another way. When did

003515

1 that take -- when did you become his -- his big brother and he,  
2 your little brother?

3 A. At the beginning of my sophomore year.

4 Q. So would that have been in the fall of 1992?

5 A. Fall of '91, I think.

6 Q. Okay. And during that time period, when you helped  
7 him get adjusted, what kind of things did you do to help him?

8 A. Mostly I just hung out with him from time to time. He  
9 -- I don't know. We just became friends. What do friends do.

10 Q. Well, when you hung out, so did you -- would you go  
11 eat together?

12 A. Sure.

13 Q. Would you party together?

14 A. Yeah.

15 Q. Were there times when you were dating Jennifer when he  
16 would be around with the two of you?

17 A. Some of the time.

18 Q. Times when you --

19 A. Especially that summer.

20 Q. Were there times when the two of you would hang out  
21 with other guys?

22 A. Yeah.

23 Q. And then you also worked together at the theater over  
24 the summer, correct?

25 A. Yes.

C03516

1 Q. How would you describe your relationship with him

2 leading up to that summer of 1993?

3 A. I would say it was a little better than

4 acquaintanceship kind of friendship, but not -- he was not my best

5 friend. We were friends.

6 Q. Who was your best friend back then?

7 A. I spent most of the time my freshman and sophomore

8 year with Don Jones. And then -- I don't know, when you say back

9 then, do you -- do you want --

10 Q. I'm sorry.

11 A. -- a chronology or --

12 Q. Well, let's -- let's say 1991 through 1993, who were

13 the people that -- who were the -- the guy -- the male people in

14 your life, or female, either one, that you would --

15 A. That I was closest to?

16 Q. -- that you were closest to?

17 A. Right.

18 Q. Yeah, that's right. Thank you.

19 A. It would have been Don, Chris Carbone, and Jamie

0:40:33 20 Thorman.

21 Q. The fact that you were so close to Don Jones, that

22 caused friction between you and Jennifer when you and Jennifer

23 were dating?

24 A. Yes, it did.

25 Q. Did -- did it affect your relationship with Don Jones,

C03517

1 the fact that Jennifer didn't want you to be hanging out with him?

2 A. Yes, it did.

3 Q. The summer of 1993, you learned that Jennifer had been  
4 unfaithful to you with Michael Swaine, correct?

5 A. Yeah, yes.

6 Q. And when was the first time that you were told that  
7 something was going on between the two of them, other than just a  
8 friendship?

9 A. I think Michael -- Michael himself told me sometime, I  
10 guess, end of June, early July. I don't remember exactly when,  
11 sometime during that summer.

12 Q. And do you remember the circumstances under which he  
13 told you about him and Jennifer?

14 A. I just -- I know that there had been a lot of cryptic  
15 conversation between them, and I don't know whether I asked him or  
16 if he just came out with it or -- I really don't remember.

17 Q. What were some of the circumstances under which you  
18 observed this cryptic conversation?

19 A. When we were hanging out in groups.

20 Q. What did you observe?

21 A. Well, I had thought notes were being passed, and that  
22 may not have been every time, but there were some notes that were  
23 passed.

24 Q. How was it that you came to know that there were notes  
25 that were passed?

C03518

0:42:36

1 A. I found them.

2 Q. And were those the notes that you later found in  
3 Michael Swaine's bedroom?

4 A. Yes.

5 Q. Were there any other notes, other than those, that  
6 you're referring to?

7 A. I really don't know.

8 Q. Other than believing that notes were being passed, was  
9 there anything else about your observations of the two of them  
10 before having the conversation with Michael Swaine that led you to  
11 believe there might be something more than a friendship going on?

12 A. There seemed to be some flirtatious interaction.

13 Q. During that time period, how would you describe your  
14 own relationship with Jennifer?

15 A. Strained.

16 Q. And in what way?

17 A. I don't think we were communicating. I think that we  
18 -- clearly things that were -- were being hidden and that damaged  
19 the communication.

20 Q. And those things, was that in relation to what you  
21 believed was going on with Michael Swaine?

22 A. As far as I know.

23 Q. At that point in time though, you were still engaged  
24 to her, correct?

25 A. Yes.

C03519

1 Q. And you had still in your mind, intended to spend the  
2 rest of your life with her, correct?

3 A. Yes.

4 Q. You were still in love with her?

5 A. Yes.

6 Q. And how -- what do you remember about the conversation  
7 with Michael Swaine where he told you that -- that -- he confirmed  
8 your suspicions?

9 A. He admitted that the two of them had made out on the  
10 couch together.

11 Q. Where were you and Michael Swaine when he told you  
12 this?

13 A. I don't remember.

14 Q. Do you remember if anyone else was present when he was  
15 telling you this?

16 A. I don't remember.

17 Q. Did he give you any more details in terms of aware  
18 that couch was located or what -- when this --

19 A. It was in her apartment.

20 Q. When did this allegedly take place? Or when did he  
21 tell you that it took place?

22 A. He told me that it took place June 11th, I think.

23 Q. What, if anything, did you say in response to him when  
24 he told you that he had kissed your girlfriend?

25 A. I don't remember what I said. I -- I don't remember.

C03520

0:45:13

1 Q. Do you remember anything further he told you other  
2 than the fact that they had kissed on the couch?

3 A. No.

4 Q. Did he tell you anything about whether they intended  
5 to continue in any kind of a relationship beyond a friendship?

6 A. I don't know.

7 Q. Well, would that be -- was that concerning to you, if  
8 -- if they had intended to continue in a relationship beyond just  
9 a friendship?

10 A. At that time, I -- I was, I think, concerned with  
11 wanting to know for certain what happened. And I don't think I  
12 was thinking ahead, necessarily.

13 Q. Did you feel that Michael Swaine was being honest with  
14 you about everything that had taken place between him and  
15 Jennifer?

16 A. No.

17 Q. How did that make you feel at that point in time?

18 A. I guess I -- well, I was hurt by what I knew for sure  
19 did happen. And I was angry that I thought I was still being lied  
20 to.

21 Q. Did you tell people that you were angry about the fact  
22 that your fiancé, Jennifer, was kissing or -- or perhaps doing  
23 something more with your roommate Michael Swaine?

24 A. Which people?

25 Q. Any -- anyone? Did you tell anyone?

C03521

1 A. Yes.

2 Q. And who did you talk to about it?

3 A. I talked to Michael about it. I talked to Jennifer

4 about it. I don't know whether I talked to anybody else about it

5 or not.

6 Q. Did you have anyone that you would confide in between

7 19 2 and -- 1992 and 1993 about any problems or concerns that you

8 may have been having at that time, about your relationship with

9 Jennifer?

10 A. Yes.

11 Q. And who would you -- who did you confide in, back

12 during those time periods?

13 A. I confided in Chris Carbone and Jamie Thorman. I also

14 confided in a counselor through Wesleyan.

15 Q. What was the name of that counselor?

16 A. I don't remember his name.

17 Q. Was that Ronald Mayer? Does that sound familiar?

18 A. That sounds familiar, but I can't swear to it.

19 MR. BOWMAN: Well, when you have -- when you get to a

20 stopping point, could we take a quick break?

21 MS. EKL: Sure. Sure. Can I just ask one --

22 MR. BOWMAN: Sure.

23 MS. EKL: -- a few more things.

24 MR. BOWMAN: Sure.

25 MS. EKL: -- about this and then we'll --

C03522

1 MR. BOWMAN: I -- I don't mean -- I don't want to --

2 MS. EKL: -- before I move on.

3 MR. BOWMAN: -- interrupt. Go ahead.

4 Q. You said you also spoke to Jennifer about this

5 incident, correct?

6 A. Yes.

7 Q. About what Michael had told you about the two of them

8 kissing?

9 A. Yes.

10 Q. When did that take place?

11 A. I -- I really don't know. Shortly after he told me.

12 Q. Within the same day or within days?

13 A. Maybe within the same day, yeah.

14 Q. What you remember about that?

0:48:42 15 A. She denied it.

16 Q. Where was it that you talked to her and had a

17 conversation in which she denied it?

18 A. I really don't remember.

19 Q. Did you confront her about it?

20 A. Yes.

21 Q. And at the time you confronted her, were you angry

22 about it?

23 A. Yes.

24 Q. And what do you remember telling her that you knew

25 about her relationship with Swaine?

C03523

1 A. I told her what he had told me.

2 Q. And what was that?

3 A. That he had told me that they had made out on the  
4 couch.

5 Q. Do you remember her saying anything other than just  
6 denying it?

7 A. I think she said something to the effect that, he  
8 wouldn't say that.

9 Q. Did you believe her when she denied it?

10 A. No.

11 Q. Did you tell her you didn't believe her?

12 A. I don't remember.

13 Q. Do you remember anything else about that conversation  
14 with Jennifer during which you confronted her about Michael  
15 Swaine? That first conversation?

16 A. I'm sorry?

17 Q. Do you remember anything more about that -- that  
18 conversation with Jennifer?

19 A. Not really.

20 MS. EKL: Want to take a break?

21 MR. BOWMAN: Yes.

22 RECORDER: Off the record.

23 (Off the record)

24 RECORDER: We are back on the record. It is 10:45.

25 Q. Mr. Beaman, earlier, before we went off the record,

003524

1 you indicated that one of the people that you would confide in, in  
2 the summer of 1993 was your counselor, correct?

3 A. Yes.

4 Q. And you don't recall his name or her name?

5 A. No, not off the top of my head.

6 Q. When -- when did you first start seeing that counselor  
7 at school?

8 A. I really only saw him once.

9 Q. When was that?

10 A. It was during the summer.

11 Q. Was that summer of 1993?

12 A. I believe so.

13 Q. What was the reason for you seeing the counselor?

14 A. I was feeling stressed from the relationship with  
15 Jennifer.

16 Q. And just to put it in context, since you can't  
17 remember the exact date, what was going on generally in terms of  
18 your relationship with Jennifer at the point in time when you went  
19 to the counselor?

20 A. That may have been after Michael Swaine and Jennifer  
21 had had their romance.

22 Q. Well, are you talking about when they kissed on the  
23 couch or something further?

24 A. Yes.

25 Q. I'm sorry. Which one?

C03525

1 A. I'm sorry. When they -- when they kissed on the  
2 couch.

3 Q. Okay. Okay. At that point in time, is it fair to say  
4 you were having feelings of anger that you wanted to deal with,  
5 correct?

6 A. Yes.

7 Q. And you were seeking out in help in doing that?

0:51:31

8 A. Yes.

9 Q. What do you recall telling the counselor about your  
10 relationship with Jennifer at that point?

11 A. I really don't remember exactly what I told him.

12 Q. Did the counselor give you some tools to work with to  
13 help you cope?

14 A. His advice was to leave town and go somewhere where  
15 nobody expected anything of me, so that I could just relax and  
16 figure out who I was and -- and what -- what I needed to do.

17 Q. You eventually -- and we'll get to it in a minute, but  
18 you did eventually leave town that summer, correct?

19 A. I did.

20 Q. And when in relation to -- how much sooner had you  
21 talked -- I -- sorry. When in relation to when you left town, did  
22 you talk to the counselor?

23 A. I really don't know.

24 Q. Do you think it was within weeks or a month -- or a  
25 month or longer than that?

C03526

1 A. It was -- I believe --

2 Q. Days?

3 A. I believe, it was within the same summer. That's  
4 about as accurate as I could get.

5 Q. Is it possible that you saw the counselor on -- on  
6 more than one occasion?

7 A. I don't think so, but it's possible.

8 Q. At some point in time, you found out that Jennifer and  
9 Michael were involved in a rela -- physical relationship that was  
10 more than just kissing, correct? Or at least, you believed that  
11 they were involved in a physical relationship?

12 A. I believed that they were.

13 Q. Okay. At what point in time, did -- did you formulate  
14 that belief?

15 A. Well, it went along with Michael telling me that --  
16 that they had kissed and he was not -- I did not believe he was  
17 being truthful with me.

18 Q. Did you take steps to try to determine if he was  
19 telling you the truth?

20 A. I did.

21 Q. What did you do?

22 A. I confronted Jennifer with it. And later on, I -- I  
23 had -- well, I searched Michael's room to see if he had letters or  
24 anything that would indicate that they were continuing to be  
25 involved or that it had escalated past what he was telling me.

C03527

1 MS. EKL: Let's stop for one second.

2 (Off the record)

3 MS. EKL: Just to kind of keep it in chronology, did  
4 you -- there was an incident at some point, over that summer,  
5 where you believed that Michael Swaine was inside Jennifer's  
6 apartment, correct?

7 A. Yes.

8 Q. Did you find -- or search for the letters or find the  
9 letters prior to that incident or after that incident?

10 A. After.

11 Q. Okay. So let's back up a little bit then. Tell me  
12 about what the -- the events that led to you going to her  
13 apartment under the belief that Michael Swaine was -- was there?

14 A. Michael was talking on the phone, and I felt that it  
15 was pretty clear that he was -- something was phony about it. He  
16 was trying to make sure I overheard it, and it seemed  
17 disingenuous. And then he asked me if he could borrow my car and  
18 he told me that he was going to go to a party and I said, sure you  
19 can borrow my car. And shortly after he left, I decided that I  
20 should, at least, go and see whether he's being truthful, and so I  
21 rode my bicycle -- or I don't know if it was my bicycle or not. I  
22 rode a bicycle to her apartment, and I found my car sitting in a  
23 parking lot next to -- next to her apartment, and so I -- I went  
24 and knocked on the door.

25 Q. Let me just stop you there. The conversation that you

C03528

1 overheard on -- when Michael was talking on the telephone, where  
2 were you when this took place?

3 A. At our apartment. The apartment I shared with Michael  
4 Swaine and Brendan Komala.

5 Q. So we're still sometime in -- in the summer of 1993?

6 A. Yes.

7 Q. Do you know what month or a more approximate date of  
8 when that incident took place?

0:56:41 9 A. I don't.

10 Q. Was anyone else in the apartment when you overheard  
11 Michael making these comments to someone over the phone?

12 A. I don't know.

13 Q. And prior to hearing him make, what you believed, were  
14 statements that were kind of -- well, let me -- I don't want to --  
15 let me back up and strike that. Prior to overhearing that  
16 conversation, had you done any other activities to try to monitor  
17 or try to figure out whether or not Michael and Jennifer were  
18 involved in some kind of a relationship?

19 A. I don't think so, but I really don't know.

20 Q. Had you followed her at all?

21 A. No.

22 Q. Had you followed him at all?

0:57:18 23 A. No.

24 Q. After he had asked you to borrow your car, you let him

25 borrow the car, correct?

C03529

1 A. Yes.

2 Q. And that was because you wanted to see where he was  
3 going to go?

4 A. No.

5 Q. You believed that he was going to go to Jennifer's,  
6 correct?

7 A. I thought it was possible.

8 Q. You said that you used a bicycle to go over to her  
9 house, correct?

10 A. Yes.

11 Q. You actually followed him in the car over to her  
12 house, correct?

13 A. I left right after him, yes.

14 Q. Okay.

15 A. It's hard to follow a car on a bicycle.

16 Q. Okay. So you went -- so then you went to her house  
17 because that's where you then assumed that he had gone, correct?

18 A. Yes.

19 Q. Could you describe where her house -- where her  
20 apartment was located, just kind of generally? You talked about a  
21 parking lot, but just describe it for us so we can visualize her  
22 apartment building and the parking lot. In terms of, is it off of  
23 a major road or where are parking lots in comparison to the  
24 building? If you could just kind of lay that out for us.

25 A. Her apartment was on [REDACTED]. And the parking lot

C03530

1 was on the other side of the building from [REDACTED].

2 Q. So if you were on [REDACTED], would you make a right  
3 or a left into her apartment complex?

4 A. Well, it depends on which direction you're going. I  
5 think you had to --

6 Q. Oh.

7 A. I think you had to go right, because I don't think the  
8 median -- I don't think the median had an opening there. I really  
9 don't remember for sure, but I know there was something tricky  
10 about getting in and out of that parking lot.

11 Q. Her apartment, was that in a -- it was obviously in a  
12 multi unit building, correct?

13 A. Yes.

14 Q. Was there a complex where there were multiple  
15 apartment buildings? Or was it just one building with a parking  
16 lot that made up where she lived?

17 A. There were several other apartment buildings all in  
18 the same area.

19 Q. Approximately, how many floors were stories was her  
20 apartment building?

21 A. Two.

22 Q. And do you know how -- how many apartments were within  
23 each floor?

24 A. I believe there were two on each floor.

C03531

25 Q. And so to get to the parking lot that you described,

1 could you get to that parking lot from [REDACTED] Street?

2 A. Yes.

3 Q. Okay. So you basically pull into a driveway and then  
4 drive -- would you go past the building to get to the parking lot?

5 A. Yes.

6 Q. Okay. And is that the location where you found your  
7 car or was there another parking lot that you found the car?

8 A. It was another parking lot.

9 Q. Okay. Where was that parking lot located in  
10 comparison to her building?

11 A. On the other side of the building adjacent to her  
12 building.

13 Q. Okay. So if you were going down [REDACTED] Street and  
14 assume that you're going in a direction so that her building was  
15 to your right, does that make sense?

16 A. Okay.

17 Q. Would you then be able to pull off the road directly  
18 right into the driveway?

19 A. Yes.

20 Q. Okay. And then would her building be on the left or  
21 right side of the driveway?

22 A. The left.

23 Q. Okay. Where is this in -- and taking us through that,  
24 where would the other building be where you found --

25 A. On the right.

C03532

1 Q. Okay. So she took a ride into the parking lot -- I'm  
2 sorry, a right into the driveway, the other building is then on  
3 the right hand side of that driveway?

4 A. Correct.

5 Q. Could you enter the lot for that building where you  
6 found your car from the same driveway you entered to get to  
7 Jennifer's lot?

8 A. You cannot.

9 Q. Okay. How do you get to that lot?

10 A. There is an entrance if -- this is complicated. If  
11 you are going in a direction that you can turn right into her  
12 parking lot, then the building just before that had a parking lot,  
13 which is just before it.

14 Q. Okay. So basically, if you're going down [REDACTED] Street  
15 there's a driveway that you would turn into to get into the  
16 parking lot where you found your car, correct?

17 A. Yes.

18 Q. If you didn't make a right into that driveway and kept  
19 going straight, you'd pass a building before you got to another  
20 driveway that you would turn into to get to her building?

21 A. Yes.

22 Q. Okay. Where -- if you were standing in her parking  
23 lot, could you see the parking lot where your car was located?

24 A. Through -- yes, there's a breeze way under the  
25 building.

C03599

1 Q. So were you able to see your car from standing in her  
2 parking lot or did you have to kind of ride around to look for it?

3 A. I saw my car as I was riding towards her apartment, I  
4 believe.

5 Q. Because you would have passed that first driveway  
6 where that parking lot was located before you even got to her  
7 apartment building, correct?

1:01:45 8 A. That's my best recollection.

9 Q. Okay. What did you do upon seeing your car?

10 A. I went to her door.

11 Q. And what -- what did you do when you got to her door?

12 A. I first knocked on the door and I shouted.

13 Q. How were you feeling at that point in time?

14 A. I was angry. I felt betrayed.

15 Q. Okay. And what were you shouting?

16 A. I don't know. I think -- I think I was demanding my  
17 keys.

18 Q. That was the keys to your car?

19 A. Yes.

20 Q. Were you saying anything else?

21 A. I don't remember.

22 Q. All right. Did anyone answer the door?

23 A. No.

24 Q. What did you do at that point?

25 A. I -- I banged on the door louder and I was told that I

C03534

1 couldn't come in.

2 Q. You heard someone's voice say that?

3 A. Yes.

4 Q. And whose voice did you hear?

5 A. It was Jennifer.

6 Q. Did you hear any other voices?

7 A. No.

8 Q. What did you do at that point?

9 A. I broke the door down.

10 Q. And how did you do that?

11 A. I kicked it.

12 Q. Did you have to kick it once or --

13 A. Several times.

14 Q. And what happened -- when you kicked the door, could

15 you describe what happened to the door and the door frame if

16 anything?

17 A. It knocked the -- where the -- the bolt goes into the

18 door jamb, it knocked that out and leaving the bolt still open and

19 the door swung open.

20 Q. So obviously prior to that point in time, you had been

21 to her house a number of times, correct?

22 A. Yes.

23 Q. And you had been in and out of that -- that same door,

24 correct?

25 A. Yes.

C03585

1 Q. How was it that that door -- what kind of locking

2 mechanism was on that door?

3 A. It had a deadbolt.

4 Q. Did she have more than one lock? So in addition to

5 the deadbolt, was there also a lock in the handle itself or was it

6 just the deadbolt?

7 A. I -- I don't remember. There may have been.

8 Q. Okay. After you kicked the door open, tell me about

9 what happened?

10 A. I went in looking for Michael Swaine and demanding my

11 keys.

12 Q. Did you see Jennifer when you came into the apartment?

13 A. I did.

14 Q. Where was she?

15 A. She was standing right on the other side of the door.

16 Q. Okay. What did she say when you -- after you kicked

17 in the door?

18 A. I really don't remember. She was upset.

19 Q. Was she screaming?

20 A. More like yelling at me.

21 Q. Okay. What -- what was she yelling?

22 A. I really don't remember. She was -- I don't know.

23 What are you doing. I -- I really don't remember.

24 Q. Okay. Was she crying?

25 A. No.

003536

1 Q. All right. What did you do after you said that you  
2 wanted your keys?

3 A. I looked around trying to find Mike.

4 Q. Where'd you look?

5 A. I looked in all of the rooms.

6 Q. Can you describe for us the layout of her apartment?

7 So as you enter, just -- just walk us through it. As you walk  
8 into her apartment in that front door, if you could just describe  
9 the layout in terms of the different rooms and the doorways?

10 A. Well, as -- as you walk in the door, there is a short  
11 hallway. There's an entrance to the kitchen on the left and a  
12 closet on the right. And then there's a -- sort of a combined  
13 living room, dining room straight ahead, and then if you dogleg  
14 right, there's a -- a little entryway that leads to both the  
15 bathroom and the bedroom.

16 Q. It was just one bedroom then?

17 A. Yes.

18 Q. Okay. So when you entered that apartment, you started  
19 looking for Michael Swaine. Walk us through the places that you  
20 went within that apartment?

21 A. I just looked in the kitchen and the living room as I  
22 walked in and the bathroom door was probably open. I really don't  
23 remember. And -- and then I walked into the bedroom looking for  
24 him in there.

25 Q. Did you look within any kind of closets or doors or

C03537

1 any places like that within each of the rooms?

2 A. I think I did. It's my recollection I looked in the

3 closet and -- but I didn't find him.

4 Q. What, if anything, were you saying you were walking

5 through these rooms?

6 A. I really don't remember.

7 Q. Is it fair to say you weren't just calmly walking by

8 and looking in the rooms for Michael Swaine? You were upset at

9 that point in time, correct?

10 A. I was upset.

11 Q. And you were walking briskly through these rooms?

1:06:16 12 A. Yes.

13 Q. And what was Jennifer doing while you were going from

14 room to room?

15 A. Yelling at me. I really don't remember what she said.

16 Q. What else did you do other than look through the rooms

17 for Michael Swaine?

18 A. I believe that's all I did.

19 Q. How long do you think you were in that apartment?

20 A. Maybe five minutes.

21 Q. When you -- at what point in time, did you decide you

22 were going to kick the door in when you were standing outside of

23 the apartment?

24 A. I don't know. Like shortly after I started pounding

25 on the door.

C03538

1 Q. Were you -- did you have any concern that you were --  
2 someone would call the police on you?

3 A. Not really, no. I guess, I -- I was probably focused  
4 specifically on trying to catch them.

5 Q. Was there any place that you can think of that Michael  
6 Swaine could have, for lack of a better word, escaped to, if he  
7 was inside that apartment when you entered?

8 A. I thought that maybe he could have climbed out of a  
9 window and I looked outside the building to -- to see if I could  
10 see him hiding outside the building.

11 Q. When did you do that in relation to kicking the door?

12 A. I think it was after I didn't find him in the  
13 apartment.

14 Q. When you were in the apartment, did you ever, at any  
15 point in time, touch or any way physically make contact with  
16 Jennifer?

17 A. No.

18 Q. Okay. When you left the apartment then, what did you  
19 do to try to see if he had escaped out a window?

20 A. There's a -- there's a back step, I walked out on the  
21 back step and then I also walked out front to see if I could see  
22 him walking in the parking lot.

23 Q. Were you saying anything as you were going in these  
24 different locations outside the building?

25 A. I really don't remember.

C03539

1 Q. Do you remember yelling Swaine's name or anything of  
2 that sort?

1:08:27

3 A. Quite possibly.

4 Q. Is there anything else about that incident at  
5 Jennifer's apartment where you kicked in the door looking for  
6 Michael Swain that you can remember that you haven't already  
7 talked to us about?

8 A. I -- I don't know.

9 Q. When you left her apartment building, what was the  
10 next thing that you did? After -- after you made these attempts  
11 to look for him outside the building, what was the next thing you  
12 did?

13 A. Well, whether -- I don't remember whether I went back  
14 in or not after I made those attempts, but if you're asking when I  
15 left --

16 Q. Well, let me -- let me back up then. Did -- did -- is  
17 there -- do you think that you went back into her apartment after  
18 you looked around the outside?

19 A. Again, I don't remember.

20 Q. Okay. Did you make any attempts when you were in the  
21 apartment to look for evidence of -- of Swaine being there?

22 A. No.

23 Q. Other than just his bod -- you know, his person?

24 A. I was looking for Swaine.

25 Q. Okay. Did you look, at that time, for any evidence of

C03540

1 whether or not they had been involved in any kind of sexual  
2 relationship?

3 A. No.

4 Q. So what's the next thing you remember doing after  
5 being outside looking for Swaine on the outside?

6 A. I went home. I went back to my apartment on the  
7 bicycle.

8 Q. Was anyone there when you got there?

9 A. Yes.

10 Q. And who was there?

11 A. Kris Perry.

12 Q. That's Kris Perry with a p?

13 A. Yes. Kris Perry.

14 Q. Okay. And just for the court reporter, does Kris  
15 spell his name for a K?

16 A. I believe so. It's Khristian, so I --

17 Q. Okay.

1:10:04 18 A. I believe he spells it with a K.

19 Q. Okay. Did you have a conversation with Kris Perry?

20 A. I did.

21 Q. And what, if anything, did you say to him or did he  
22 say to you?

23 A. I can't remember the specifics, but I told him what I

24 had just been doing and -- and why. And he offered to go get my

25 keys for me.

003541

1 Q. And you were still upset at the point in time when you  
2 were talking to Kris Perry, correct?

3 A. I was.

4 Q. And he was concerned about you going back yourself to  
5 get the keys, correct?

6 A. Yes.

7 MR. BOWMAN: Objection.

8 Q. And he expressed that to you?

9 MR. BOWMAN: Objection to the foundation for that last  
10 question and answer. Sorry to be late.

11 MS. EKL: It's okay.

12 Q. Let me ask a different question. Did he tell you that  
13 he was concerned about you going back yourself into the apartment?

14 A. He did not say that, no.

15 Q. But there -- was there something about what -- what he  
16 did say or how he acted that led you to believe that?

1:11:06 17 MR. BOWMAN: Objection, foundation.

18 A. I think he was, in general, concerned about the whole  
19 situation, that it was -- that it was an unpleasant situation, and  
20 he wanted to help.

21 Q. And what was it about what he was saying or doing that  
22 led you to believe that he was concerned?

23 A. He was acting as a mediator.

24 Q. When he -- did he, in fact, then go back to Jennifer's  
25 apartment to try to locate your keys?

C03542

1 A. He did.

2 Q. Did you go with him or did you stay at your -- at the  
3 apartment?

4 A. I rode in the car with him.

5 Q. Whose car was it?

6 A. It was his car.

7 Q. Okay. What happened when you got back to her  
8 apartment complex?

9 A. Kris went in. Shortly after that, he came back out  
10 with my keys. And -- and then he took me to my car. Yeah, I  
11 think he took me to my car. And then if not, I may have just  
12 walked. It wasn't that far away, but I really don't remember.

13 Q. Okay.

14 A. And -- and then I started to drive home.

15 Q. What -- what, if anything, happened as you started to  
16 drive home?

17 A. I saw Michael Swaine walking from her apartment.

18 Q. And was that because, as you pulled out of her -- or  
19 pulled out of the driveway where your car had been kept, and  
20 turned onto the street, you were then facing her apartment  
21 building?

22 A. I couldn't turn left out of that parking lot, I had to  
23 turn right, and I went past her apartment building, and he was  
24 walking out of the parking lot.

25 Q. What, if anything, did you do upon seeing him walk out

C03543

1 of her building?

2 A. I stopped, and I opened the door, and I offered him a  
3 ride.

4 Q. And how did you do that?

5 A. I pulled up at the edge of the parking lot there still  
6 on the road, and reached over and pushed the door open, and I  
7 said, get in.

8 Q. Did you say it in that same tone that you just said  
9 now?

1:12:56 10 A. Pretty much, yeah.

11 Q. So where -- when did your mood -- or when did your --  
12 when did you change from being angry to this tone of kind of, ah  
13 get it?

14 A. I began calming down on the ride back to her apartment  
15 with Kris Perry.

16 Q. What was it, if anything, that caused you to be able  
17 to calm down?

18 A. I think being able to talk to somebody and, I think,  
19 when I received my keys, knowing that I was right, was very  
20 helpful as well.

21 Q. And as much as it might be helpful to know that you  
22 were right, were you also upset because you had just confirmed  
23 that he was with and had lied to you about being with her?

24 A. I was upset, but it was confirming something I already  
25 believed, and so if anything, there -- I felt a little more

003544

1 satisfied, I guess.

2 Q. When you said, get in, to Michael Swaine as he was  
3 leaving her building, what did he do?

4 A. He got in.

5 Q. Did he say anything to you before he got in the car?

1:14:07 6 A. I don't remember.

7 Q. And just to back up a little bit, do you remember  
8 anything more about your conversation? Any more specifics about  
9 your conversations with Kris Perry between your apartment and her  
10 apartment and Jennifer's apartment?

11 A. Not specifically. I know that he was -- like I said,  
12 he was acting as a mediator.

13 Q. Is it fair to say he was trying to calm you down?

14 A. Yes.

15 Q. Okay. Once Michael Swaine got in your car, tell me  
16 about what happened then.

17 A. We did have a conversation --

18 Q. And tell me what you said to him --

19 A. -- on the way back.

20 Q. -- or he said to you.

21 A. I -- I can't -- I can't give you specifics really. I  
22 really don't --

23 Q. What do you remember generally about the conversation?

24 A. He was apologetic. He was -- he was probably a little

25 afraid, but I -- yeah, I really -- I don't remember too much about 003545

1 it.

2 Q. What do remember him apologizing for?

3 A. For -- I don't -- well, let's correct that, because I  
4 don't -- I don't know necessarily that he apologized. I -- I  
5 would describe the tone of the conversation as -- that he was --  
6 that he seemed contrite.

7 Q. What, about what he was saying, led you to believe he  
8 was being contrite?

9 A. I believe he was expressing that he knew that  
10 borrowing my car and lying to me about it and then going to see  
11 Jennifer and being deceptive about that was -- was wrong.

12 Q. Did you feel that he was minimizing the situation when  
13 he was talking to you?

1:16:06 14 A. No.

15 Q. You said that you also were under the impression that  
16 he was a little bit afraid. What led you to believe that he was  
17 afraid?

18 A. I think he was -- he was hesitant to get in the car,  
19 but he did get in. And I -- I think his -- well, it may have jut  
20 been his emotional state being -- I don't know, feeling guilty or  
21 something, but it seemed like he was timid.

22 Q. Is it fair to say, at that point in time, you believed  
23 he was afraid of you?

24 A. It's possible. I don't --

25 Q. You had just kicked in Jennifer's door, correct?

003546

1 A. Yes.

2 Q. Okay. Would you agree that that's a pretty violent  
3 act?

4 MR. BOWMAN: Objection, form.

5 A. It depends on the definition of -- of violence. It's  
6 violence against an inanimate object.

7 Q. But my question is, is in your definition of violent,  
8 of something being violent, would you agree with me that under  
9 your definition that it was a violent act to kick in a door?

10 A. It could --

11 MR. BOWMAN: Objection.

12 A. -- be shocking.

13 MR. BOWMAN: Objection, it's -- you -- you haven't  
14 established his definition of violence. So it's the same  
15 objection to his -- to the prior question.

16 Q. What do you think the term violent means?

17 A. I would describe violence as something sudden and  
18 explosive. I could use the word violent to -- to describe a car  
19 crash or I could use it describe a -- something falling off of a  
20 table. Something sudden, shocking, explosive that causes damage

21 --

22 Q. Okay.

23 A. -- to something.

24 Q. Would you agree that the act of kicking in Jennifer's  
25 door that was dead bolted shut, was a violent act under that

C03547

1 definition?

2 A. Under that definition, yes.

3 Q. Okay. And it certainly could have been perceived that  
4 way by Michael Swain and Jennifer Lockmiller?

5 A. Yes.

6 Q. Okay. After that incident with the door, based on the  
7 fact that you didn't end your engagement until after you left for  
8 Rockford, is it fair to say you -- the two of you, despite that,  
9 continued to be engaged?

1:18:38

10 MR. BOWMAN: Objection, to foundation a for that  
11 question.

12 A. We broke up well before I left for Rockford.

13 Q. Well, then let me back up a little bit. Describe your  
14 relationship with Jennifer after that door incident?

15 A. After that door incident, our relationship was  
16 diminished.

17 Q. In what way?

18 A. We were -- we were not -- we were not really a couple  
19 after that. There may have been -- I really -- I really don't  
20 remember time line specific, but I know that -- that after that  
21 incident things were less -- we were not close anymore.

22 Q. When's the next time that you remember talking to her  
23 after that incident?

24 A. I really don't remember. She was around a lot and we  
25 were still talking some, but we weren't close anymore.

C03548

1 Q. Did she, at any point in time, after that incident

2 express to you that she was fearful of you?

1:20:01

3 A. No.

4 Q. Did the two of you continue to have any kind of a

5 sexual relationship at any point in time after that incident with

6 the door?

7 A. Again, I'm not sure of the time line on that. It's

8 possible.

9 Q. When was the last time that you had any kind of sexual

10 relations with Jennifer Lockmiller?

11 A. It was mid July.

12 Q. Where did that take place?

13 A. At my apartment.

14 Q. What do you recall about the events leading up to -- I

15 don't, obviously, want to get into the specifics of you having sex

16 with her, but the specific -- but the events leading up to you

17 being at her apartment and -- and what led to -- to the sexual

18 relations?

19 A. I don't know. There were -- there were a couple of

20 times around that time where we -- we were hanging out together,

21 just the two of us, and I remember she was calling me her new best

22 friend during that period of time. That was an attempt on our

23 part to not be a couple but to still be friends. And I know that

24 -- I believe that once we considered ourselves broken up that we

25 weren't -- that we didn't have sex after that, so I think it was

C03549

1 -- it was right around that same time, but I -- I really -- the  
2 chronology, I couldn't tell you off the top of my head.

3 Q. When was the last time that you had sex with Jennifer  
4 in her apartment?

5 A. It was probably either the end of June or the  
6 beginning of July, somewhere around there.

7 Q. And when do you think that was in relation to the very  
8 last time you had sex with her when it was at your apartment, in  
9 terms of weeks, days, months?

10 A. Well, like I said, the -- the last time was sometime  
11 in mid July.

12 Q. The last time that you had sex with Jennifer in her  
13 apartment, do you remember where in her apartment that took place?

1:22:33 14 A. I don't.

15 Q. Do you remember what time of day it was?

16 A. Probably at night, but I really don't know.

17 Q. Were there times when you would hang out with Jennifer  
18 at her place, just hang -- whether it was having sex or not, when  
19 you would hang out with her during the day, as well as at night?

20 A. During the relationship?

21 Q. Yes.

22 A. Yes.

23 Q. You were working over the summer at Starlight Theater,  
24 correct?

25 A. Which summer?

C03550

1 Q. I'm sorry. The summer of 1993?

2 A. No.

3 Q. No. Okay. Where were you working in the summer of  
4 1993?

5 A. The summer of 1993, I was working at Wesleyan. At the  
6 Wesleyan Summer Theater.

7 Q. Okay. When did you start working there for the  
8 summer?

9 A. The beginning of the summer. I really couldn't give  
10 you a date.

11 Q. Did you have regular hours?

12 A. I did.

13 Q. And what were those hours?

14 A. 9 to 5 in the shop, and then during tech rehearsals  
15 and shows, we also crewed the shows.

16 Q. So what were your job -- job duties or  
17 responsibilities back in the summer of 1993?

18 A. For the first show, I was the technical director. And  
19 for the second show, I was a stage hand, a carpenter, and, I  
20 think, I did some electrics too, and I ran the fly loft during the  
21 show.

22 Q. What does that mean, to run the fly loft?

23 A. Pulling the ropes that move scenery up and down, or  
24 from the floor up into the -- the upper fly gallery.

25 Q. So that would be during the actual production?

C03551

1 A. During the actual product -- performance.

2 Q. Performance. Was Michael Swaine also working at the  
3 Wesleyan Theater with you over that summer?

4 A. Yes. Yes, he was.

5 Q. What were his duties, if you know?

6 A. He was alternating with me as a technical director.

7 He was the technical director for the second show. And I believe,  
8 that's the order they were in. Yeah, it was. And -- and then he  
9 also was a carpenter for the first show.

10 Q. And even though you worked on different shows, is it  
11 fair to say that you were working at the theater at the same time  
12 during those regular hours of 9 to 5?

13 A. We each worked for each other on the other shows.

14 Q. Okay.

15 A. So --

16 Q. So you worked together?

17 A. We worked together.

18 Q. So after this incident at Jennifer's house where you  
19 kicked in the door, is it fair to say, you then had to return to  
20 work and deal with Michael Swaine being there?

21 A. Yes.

22 Q. Okay. How was that relationship between you and  
23 Michael once you had to return to work and spend time with him?

24 A. I -- there were -- there were things that were  
25 unpleasant about it, but we worked together fine. We -- for the

C03552

1 most part, we managed to do our job and get things done. I was  
2 trying to forgive them. I was trying to get along, the three of  
3 us hung out together from time to time. I would have preferred it  
4 had been less often, but --

5 Q. And that -- during that same time period, that's when  
6 Michael Swaine and you were roommates too, correct?

1:26:13

7 A. Yes.

8 Q. Okay. Was it your belief, after the -- the door kick  
9 incident, that they weren't going to continue in any type of a  
10 relationship beyond friendship?

11 A. I don't know, because -- because she was coming around  
12 so much, she was coming to our apartment to hang out. It -- it  
13 seemed like that could go either way, I guess.

14 Q. Well, were they telling you that they were not going  
15 to continue in any type of a relationship beyond --

16 A. I don't know --

17 Q. -- friendship?

18 A. -- if they were telling me they were not, but they  
19 weren't telling me that they were.

20 Q. And is it fair to say that their failure to tell you  
21 about any growing relationship was upsetting to you?

22 A. I -- I don't know. As far as -- the whole situation  
23 was uncomfortable, and I didn't really want to see them together,  
24 but at the point that we weren't a couple anymore, I didn't  
25 consider it something that I should -- I mean, I -- I wanted to

C03553

1 know the truth, but whatever happens in the future, I wasn't

2 really thinking ahead, I don't think.

3 Q. Mr. Beaman, it was more than a little bit

4 uncomfortable. You actually looked for evidence that they were

5 together as a couple?

1:27:42

6 A. I wanted to know the truth, yes.

7 Q. Okay. And you took steps to do that, correct?

8 A. Yes.

9 Q. And you went into Swaine's bedroom, and that's when

10 you looked for those letters, correct?

11 A. Yes.

12 Q. And it was in that time period looking up -- looking

13 -- it was in that time period prior to you looking for the letters

14 that you observed what you believed was them passing the notes,

15 correct?

16 A. Time line again, I'm not 100 percent sure, but that

17 would have been -- that would have certainly been after the door

18 incident.

19 Q. And it was before you found the letters that you saw

20 them passing the letters, correct?

21 A. Yes.

22 Q. Okay. So while the three of you are hanging out and

23 she's trying to make you think that you're her new best friend,

24 you had this growing suspicion that her and Michael Swaine were

25 actually involved in more than a friendship?

C03554

1:28:30

1 A. Yes.

2 MR. BOWMAN: Objection, form.

3 Q. At some point after the door incident, you left both  
4 the theater and you left town, correct?

5 A. Yes.

6 Q. And that was -- do you recall that to be on Sunday,  
7 July 25th of 1993?

8 A. Sometime at the end of July.

9 Q. Where did you go when you left town?

10 A. I went to Cincinnati.

11 Q. Why was it that you left at that particular time?

12 A. I thought that things were uncomfortable enough that I  
13 needed to get out of town and just get away.

14 Q. This was not the time that you had initially planned  
15 to leave school and leave work, correct?

16 A. Correct.

17 Q. You actually left early?

18 A. Yes.

19 Q. And was there something in particular that caused you  
20 to need to leave at that particular time?

21 A. Yeah.

22 Q. What was that?

23 A. I -- that was when I found the letters and I  
24 confronted Michael with them, and I confronted Jennifer with them,  
25 and I felt that I should just get away and get over it all.

C03555

1 Q. Where in particular did you located these letters that  
2 were in Michael Swaine's possession?

3 A. I believe in one of his drawers.

4 Q. So did you search through different places in his  
5 bedroom looking for the letters?

6 A. Yes.

7 Q. Where all did you look before you finally found the  
8 letters?

9 A. I really don't remember where I looked first.

10 Q. How many letters did you find?

11 A. I think it might have been three.

12 Q. And when you found the letters, obviously, did you  
13 read them?

14 A. Yes.

15 Q. And how did that make you feel once you read them?

16 A. I felt that I confirmed my suspicions.

17 Q. And those suspicions were what?

18 A. That -- that more had happened between them on the  
19 night that Michael Swaine told me about the kissing then they had  
20 told me, and -- and that I was correct that notes had been passed.

21 Q. And so did you begin to realize that not only had they  
22 perhaps lied to you about the night that you kicked in the door,  
23 but they had also been lying to you every -- every day since then  
24 about their relationship?

25 A. Again, I don't remember whether they told me that they

C03556

1 weren't having a relationship, but it did confirm my suspicion  
2 that they were.

3 Q. And you felt betrayed at the fact that if they were  
4 having a relationship, they didn't tell you about it?

5 A. No, I felt confirmed about my suspicion that what had  
6 happened on June 11th was more than what I was told.

7 Q. Okay. But this caused you to be upset, correct?

8 A. I was upset.

9 Q. And that's why you went and confronted Michael Swaine  
10 with the letters?

11 A. I confronted him with the letters, 'cause I wanted him  
12 to know that I knew the truth. It was closure.

13 Q. Where did you go to confront Michael Swaine?

1:31:39 14 A. The theater.

15 Q. Do you remember what day of the week that was?

16 A. No, I don't. It was the same day I found the letters,  
17 and I believe, it was the same day that I left.

18 Q. Do you know why he would be at work on a day when you  
19 weren't there?

20 A. I believe, I was supposed to go to work that day and I  
21 was late.

22 Q. Did you and Michael Swaine generally -- usually drive  
23 to work together or separately?

24 A. We walked.

25 Q. Would you walk there at the same time on most days?

1 A. Most days.

2 Q. Okay. So this day was unusual?

3 A. Yes.

4 Q. Was there anything that had happened on that  
5 particular day that caused you to stay behind that look for the  
6 letters?

7 A. I found a -- a box of -- an open box of condoms that  
8 some had been used.

9 Q. And where did you find that box?

10 A. I believe, they were in the bathroom, but I'm not  
11 sure.

12 Q. Was that a bathroom within your apartment?

13 A. Yes.

14 Q. Okay. Did you and Michael Swaine share that apartment  
15 with anyone else or was it just the two of you?

16 A. It was shared with other -- with a -- one other person  
17 at that time.

18 Q. Okay. Who was that?

19 A. That was Brendan Komala.

20 Q. How do you spell Brendan's last name?

21 A. K-o-m-a-l-a. That's to the best of my knowledge.

22 Q. What was it about finding the box of condoms that  
23 caused you to now search for letters within Swaine's possessions?

24 A. I knew that they were not mine and I knew that they  
25 were not Brendan's, or at least, I believed they were not

1 Brendan's, and so I thought that that might be a clue that would  
2 tell me that more had happened than I was told.

3 Q. So you believed that if they were Michael Swaine's  
4 condoms and one was missing or multiple condoms were missing that  
5 it was -- that he must have been having sex with Jennifer?

6 A. Yes.

7 Q. And Jennifer who was still -- would -- at that point,  
8 did you still consider her your fiancé or were you completely  
9 broken up at that point?

1:33:43 10 A. We were broken up.

11 Q. Okay. Did you still consider her your girlfriend even  
12 if -- if you were going through a period of time where you were  
13 broken up?

14 A. No, we were -- we were broken up.

15 Q. Okay. So after you found these letters, you went to  
16 the -- you said you went to the theater to confront Swaine?

17 A. Yes.

18 Q. Okay. Tell me about what happened once you got there.

19 A. I went in looking for him. And when I found out --  
20 when I found him, I -- I think I read him the letter. And he got  
21 angry. And told me to get to work. And so I chewed him out, and  
22 then I -- I think I announced to a lot of people in the room -- or  
23 in the theater what I believed he had done, and that I was  
24 quitting.

25 Q. What words do you recall using when you said you

1 announced it to the theater?

2 A. I believe, I dropped the f bomb. I believe, that I

3 announced that I was quitting because Swaine was f-ing my woman,

4 maybe. Or something like that.

5 Q. Do you remember saying to Swaine, you're fucking my

6 girlfriend?

7 A. It's possible I said something like that.

8 Q. Who else was present at that theater while this was

9 taking place?

10 A. I think Kris Perry was probably there, and maybe Leigh

11 Kuyper.

12 Q. And do you know how Leigh spells -- is it a female or

13 a male, Leigh?

14 A. Female. L-e --

15 Q. Do you know --

16 A. L-e-i-g-h. I think it was Leigh. L-e-i-g-h.

1:35:55 17 K-u-y-p-e-r.

18 Q. Was Katie Corbit also present?

19 A. Yes.

20 Q. Was there anyone else present?

21 A. I don't know.

22 Q. Do you remember anything in speci -- anything in

23 particular that Michael Swaine said to you, other than what you've

24 already said when you confronted him at the theater?

25 A. I don't have a specific memory of anything I said to

1 him, other than that, no.

2 Q. Was there any physical confronta -- confrontation  
3 between you and Michael at that time?

4 A. No.

5 Q. How long did you stay at the theater before leaving on  
6 that particular day?

7 A. I really don't know. I left right after I was done  
8 saying my peace.

9 Q. So how did it conclude?

10 A. I left. I was walking out, and he was kind of chasing  
11 after me, and I believe, he gave me the finger. I -- I don't  
12 know. I might have given it back to him. I don't know. And I  
13 got in my car and I left.

14 Q. What did you do after you left in your car?

15 A. I went to see Jennifer.

16 Q. Why were you going to see Jennifer?

17 A. I wanted her to know that I knew the truth, as well.

18 Q. Is it fair to say, you were upset with her as well?

19 A. Yes.

20 Q. And you were angry with her?

21 A. Yes.

22 Q. What did you do when you got -- did you go -- where  
23 did you go to see her?

24 A. To her apartment.

25 Q. Okay. And what happened once you got there?

1 A. I knocked on the door. I probably pounded on the  
2 door. And I don't think she let me in right away, but I kind of  
3 calmed down, and -- and then she opened the door.

4 Q. Do you remember anything that was said during that  
5 period of time when you were outside of her door before she opened  
6 it?

7 A. Not off the top of my head, no.

8 Q. Had her door been fixed by that point?

9 A. Yes.

10 Q. Do you know how long it took for her door to get fixed  
11 from the time that you kicked it in?

12 A. I fixed it.

13 Q. When did you fix it in comparison to when you kicked  
14 it in?

15 A. The next day. Something like that.

16 Q. Did -- in that time period, going back to between when  
17 you kicked in the door and you fixed the door, did she make  
18 comments to you about being in fear for her safety and not having  
19 a door with a deadbolt?

1:38:47 20 A. Yes.

21 Q. And she blamed you for that?

22 A. Yes.

23 Q. Now, going back to when you returned to her apartment  
24 after you had been to the theater to see Swaine, what happened  
25 after she opened the door?

- 1 A. I began reading the letter to her.
- 2 Q. Did you go into her apartment?
- 3 A. Yes.
- 4 Q. She let you in the apartment?
- 5 A. She didn't stop me from coming in.
- 6 Q. What do you mean by that?
- 7 A. I think I just walked in when she opened the door.
- 8 Q. Okay. Is it fair to say that you kind of stormed into
- 9 the door?
- 10 MR. BOWMAN: Objection, form.
- 11 A. I walked in the door without a concern, whether or not
- 12 I was actually invited into the door.
- 13 Q. When you got in, tell me what happened.
- 14 A. I read the letter to her.
- 15 Q. Where was she when you read it to her?
- 16 A. We started in the hallway, and she led me into the
- 17 bedroom to talk in there.
- 18 Q. And how did she go about leading you into the bedroom?
- 19 A. I don't remember specifics, but her -- her tone seemed
- 20 to be kind of like, calm down, let's talk, and you know, sit down
- 21 and we'll talk about it.
- 22 Q. Was anyone else in that apartment at the time?
- 23 A. Yes.
- 24 Q. Who was there?
- 25 A. Heidi Steinman.

1 Q. Okay. Who is Heidi Steinman?

2 A. A friend of Jennifer's.

3 Q. Did you know Heidi?

4 A. In passing.

5 Q. Do you know how Jennifer and Heidi met?

6 A. I believe they were sorority sisters.

7 Q. Where was -- where was Heidi at the point in time you

8 were being led into the bedroom by Jennifer?

9 A. I think she was kind of standing in the area between  
10 the kitchen and the living room, and bathroom/bedroom entry.

11 Q. And prior to Jennifer leading you back into the  
12 bedroom, had Heidi said anything to you?

13 A. She may have. I -- I know that she had some choice  
14 words for me. I don't remember exactly what they were or when she  
15 said them.

16 Q. Was it --

17 MR. BOWMAN: Heidi did?

18 WITNESS: Yes.

19 Q. Was it fair to say that it was your -- your take from  
20 the situation that Heidi was upset with you for being there?

1:41:10 21 A. Yes.

22 Q. Do you recall anything that she said to you?

23 A. Not -- not specifically, no.

24 Q. How long were you in the hallway before Jennifer lead  
25 you back to the bedroom?

C03564

1 A. I don't think it would have been more than a few  
2 minutes, but I really don't know for sure.

3 Q. Prior to that day, had there been other instances  
4 between you and Jennifer where you were perhaps upset and she  
5 calmed you down by talking to you?

6 A. I don't remember any specific ones. I really don't --  
7 no, I don't remember other times like that.

8 Q. Would you agree with me that Jennifer knew you pretty  
9 well in terms of your personality?

10 A. I would say so.

11 Q. And at least, on this occasion, she believed that she  
12 could talk you down from being upset? At least, that was the  
13 appearance that she was giving you when -- when she was leading  
14 you back into the bedroom?

15 MR. BOWMAN: Objection, form.

16 A. I don't know what she believed. I -- I -- that's what  
17 she did.

18 Q. What happened once you got back into the bedroom?

19 A. We sat on the bed and I finished reading the letter,  
20 and she attempted to minimize the letter.

21 Q. Describe for me her -- her bedroom. When you say you  
22 sat on the bed, there were -- there were more than one -- there  
23 was more than one bed in that room, correct?

24 A. Yes.

25 Q. Okay. So where were the beds -- when you walk into

C03565

1 her bedroom, just again, so we can kind of visualize what it is  
2 you're talking about, if you could describe the furniture in the  
3 room, and then what bed you went to?

4 A. I think we sat on the -- the single bed that -- oh,  
5 I'm sorry. You needed a description?

6 Q. Sure. Let me back up. If you could describe the  
7 room, first.

8 A. There's -- when you first walk into the door of the  
9 bedroom, from the entryway in the -- from the door, it's longer  
10 than it is wide. And at the back on either side, there -- there's  
11 a bunk bed on the right, and single bed on the left, and then by  
12 the door, there's a desk or chest of drawers or something like  
13 that on either side. And -- and then the closet is on the same  
14 wall as the door.

15 Q. Okay. So as you entered the room, did you sit on the  
16 single bed or on the -- on the bunk bed?

1:43:45 17 A. I believe, we sat on the single bed.

18 Q. Okay. What was your tone when you first entered the  
19 room?

20 A. I was reading the letter very loudly, very angrily.

21 Q. And as the two of you entered the room, was the door  
22 left open or did someone close it?

23 A. I don't remember.

24 Q. What did she say in response to you reading loudly  
25 from this letter?

003566

1 A. I don't know specifics of what she said. I know that  
2 she attempted to minimize the -- the -- the evidentiary value of  
3 the letter.

4 Q. Did you believe that she was being untruthful with you  
5 --

6 A. Yes.

7 Q. -- when she was minimizing it?

8 A. Yes.

9 Q. How did that make you feel at that point?

10 A. It was frustrating. I was pretty much angry  
11 throughout that whole conversation.

12 Q. What -- do you remember anything in spe -- in  
13 particular that she said to you during that conversation?

1:44:46 14 A. I don't.

15 Q. Other than reading a letter to her, do you remember  
16 anything else that you said to her?

17 A. No.

18 Q. How long were you in that room with her? In her  
19 bedroom?

20 A. I don't know. Maybe -- maybe 10 minutes, maybe  
21 longer. I --

22 Q. What happened after you finished reading the letter?

23 A. I think that was when I -- I went to the bathroom,  
24 trying to find evidence that birth control had been used.

25 Q. And what did you do within the bathroom to try to find

C03567

1 evidence?

2 A. I looked in the garbage can. I think I dumped it out.

3 Q. Where did you dump it out?

4 A. Like, right there.

5 Q. On the bathroom floor?

6 A. It might have been. I -- I either -- either on the

7 bathroom floor in the -- on the bedroom floor.

8 Q. What were you thinking that you would find within the

9 trash?

10 A. I thought I might find used condoms or birth control

11 gel, syringes.

12 Q. Did you find any of those things?

1:46:14 13 A. No.

14 Q. What was Heidi doing during the time period when you

15 were going into the bathroom and going through the garbage?

16 A. I really don't know what Heidi was doing.

17 Q. What was Jennifer doing?

18 A. I think she was still kind of talking to me, you know,

19 you're being irrational, that kind of -- that kind of tone of

20 conversation.

21 Q. Was she trying to talk you down, as far as you could

22 tell?

23 A. Well, I don't know if she was trying to talk me down

24 or just maybe defending her position.

C03568

25 Q. Did you tell Jennifer, at that point in time, that you

1 were leaving town?

2 A. I may have.

3 Q. Had you already made that decision that you were going

4 to leave town?

5 A. Yes.

6 Q. When you were at the theater, did you tell Swaine that

7 you were leaving town?

8 A. I don't know.

9 Q. How long do you think that you were in her -- in

10 Jennifer's apartment in total that instance when you went over

11 with the letter?

12 A. I -- I could only speculate and I really don't know.

13 Q. Anything else happen in the apartment that you can

14 recall before you left, after you looked for the birth control, or

15 the condoms or the gel?

16 A. I don't think so. I don't know.

17 Q. Do you remember any further conversation that you had

18 with either Heidi or Jennifer?

19 A. There may have been some parting words, but I really

20 don't -- I -- I know that Heidi was -- like I said, Heidi was

21 angry. I think, she -- she thought she was, sort of, coming to

22 Jennifer's defense.

23 Q. How do you --

24 A. She may have told me to leave. I don't know.

25 Q. How do you recall that concluding, in terms of your

003569

1 leaving the apartment?

2 A. I think, I stormed out. I probably didn't give her a  
3 chance to say anything more.

4 Q. And what did you do after you left?

5 A. I went back to my apartment and I don't know whether I  
6 -- I -- I assume I packed the car afterwards, 'cause I was driving  
7 around. So I think, I went back and I packed the car.

8 Q. And what did you put into the car? When you say you  
9 packed it, what do you mean by that?

10 A. Everything that I had in the apartment, except for the  
11 few things I was going to take to Cincinnati with me.

12 Q. Why did you do that?

13 A. Jamie said that I could ride with him, and he would  
14 bring me back.

15 Q. When did you have a conversation with Jamie about  
16 going to Cincinnati?

1:49:02 17 A. That morning.

18 Q. And was it before or after you had located the  
19 letters?

20 A. It was after.

21 Q. Was it before you -- or after you went to the theater?

22 A. I think it was before.

23 Q. What do you remember about your conversation with  
24 Jamie?

25 A. He thought that I shouldn't -- I shouldn't try to get

C03570

1 anymore confirmation about what happened, and I should just leave,  
2 and -- and not -- not make it worse.

3 Q. Did Jamie already have plans to leave?

4 A. I don't know if he was planning to leave that today.

5 He probably was, but I -- I really don't know what his -- his time  
6 line was supposed to be.

7 Q. But any -- in any event, the two -- he agreed to go  
8 with you to Cincinnati or to have you come with him to Cincinnati  
9 on that day that you found the letters?

10 A. Yes, I went with him.

11 Q. Okay. And did the two of you discuss the fact that it  
12 was important for you both, you to go with him on that particular  
13 day as opposed to waiting before leaving?

14 A. I guess we did. I -- I really -- I don't -- I'm not  
15 sure what the content of our conversations were as far as that's  
16 concerned.

17 Q. Okay. When you talked to Jamie, was it in person or  
18 over the phone?

19 A. Jamie was staying at my apartment.

20 Q. So was he there when you found the letters?

21 A. Yes.

22 Q. Did he know that you were looking for the letters or  
23 did you show him the letters after you found them?

24 A. I think he knew I was looking for them.

25 Q. Did he help you?

C03571

1 A. No.

2 Q. What was Jamie's relationship to Michael Swaine at  
3 that point?

4 A. He knew him through me.

5 Q. Do you know if they had a -- a good relationship or --  
6 or if they had a -- disliked each other or if there were any  
7 problems?

8 A. I'm sure they were -- they were fine, as far as I  
9 know.

10 Q. Is it fair to say, Jamie was more your friend than he  
11 was Michael Swaine's friend?

12 A. Yes.

13 Q. So he certainly didn't stop you when you had  
14 suspicions and wanted to look for the letters?

15 A. No.

16 Q. Before you left town with Jamie, did you do anything  
17 to notify anyone else about the fact that you were going to leave?

1:51:27 18 A. Yes.

19 Q. What did you do? Sorry. That didn't even come out.  
20 What did you do?

21 A. I wrote a letter to Dr. Brown, who was in charge of  
22 the summer theater program. And I explained to him what happened,  
23 and I was concerned that he might -- might not accept my  
24 explanation, and so I put the letters in there with it. I felt  
25 that I was being unprofessional leaving, but I thought I needed to

003572

1 leave. And I thought that it was a valid reason to leave.

2 Q. What was your relationship with Dr. Brown, other than  
3 the fact that he was the director of the theater?

4 A. He was also one of my teachers.

5 Q. Was he a person that you would confide in?

6 A. I -- I wasn't particularly close to him, but we got  
7 along fine.

8 Q. Did you ever talk to him about Jennifer before that  
9 day?

10 A. No, I don't think so.

11 Q. Did you have any reason to believe, when you gave him  
12 the letters -- or the letter, that he would know who Jennifer was?

13 A. I don't know if he had ever actually met her, or you  
14 know, at least, knew that she was my girlfriend, but I -- I don't  
15 -- I don't know what he knew about her.

16 MS. EKL: Oops, sorry. If you can mark that.

17 RECORDER: Now, you have this marked as 16.

18 MS. EKL: No, just mark it as Deposition Exhibit 1.

19 RECORDER: Okay.

20 MS. EKL: But don't cover --

21 RECORDER: That's fine.

22 MS. EKL: -- up the -- yeah.

23 RECORDER: Oh, don't need to.

24 MS. EKL: -- previous. Yeah.

25 RECORDER: All right. I mark 'em, this is Exhibit 1,

C03573

1 and then I put AWB, which is the witness's initials. It also  
2 bears today's date and my initials.

3 MS. EKL: Great. Thank you.

4 Q. Okay. Mr. Beaman, I'm showing you what I've marked  
5 Deposition Exhibit Number 1. For the record, it's a 7 page  
6 document. Do you recognize -- if you could take a look at those  
7 pages, do you recognize the -- this document, or this multi-page  
8 document?

9 A. It looks like it's the letter that I wrote to Dr.  
10 Brown and -- and some letters that Jen wrote to Mike.

11 MS. EKL: Is that your conference call?

12 MR. BOWMAN: That means that it's 10 till 12.

13 MS. EKL: And your conference --

14 MR. BOWMAN: And my conference call is at noon, and so  
15 I -- I don't know how much you have to do with this --

16 MS. EKL: I -- I have a few questions. We can go off  
17 for a second, and just discuss. Do we want to take a little bit  
18 early lunch, since you've got your conference call?

19 (Off the record)

20 RECORDER: Back on the record after our lunch break.

21 It says 1:04 P.M.

22 Q. Mr. Beaman, you realize you're still under oath,  
23 correct?

24 A. Yes.

25 Q. Okay. I think, right before we stopped, I asked you

C03574

1 to take a look at Deposition Exhibit Number 1.

2 A. Yes.

3 Q. And have you had a chance to flip through those pages?

4 A. I flipped through it, yes.

5 Q. Okay. Do you recognize each of the pages contained in

6 Exhibit Number 1?

7 A. Yes.

8 Q. All right. What do you recognize that set of

9 documents to be?

10 A. This is the letter and information I gave to Dr.

11 Brown.

12 Q. Okay. And the document, just so it's clear, on the

13 very first page, there's a photocopy, and it looks like a sticker

14 that says, Exhibit and then Grand Jury 16. Do you see that?

1:58:13 15 A. Yes.

16 Q. And is this a sticker that, to your knowledge, was

17 placed onto this document after you -- sometime after you gave it

18 to Dr. Brown during your criminal proceedings?

19 A. That's what it appears to be, yes.

20 Q. Okay. That wasn't on there at the time you gave it to

21 Dr. Brown?

22 A. No.

23 Q. Okay. Let's go through each page of these. I'm going

24 to have you identify them. The very first page of this document,

25 if you could turn back to the first page.

C03575

1 A. Oh.

2 MR. BOWMAN: The very first.

3 Q. Yes, the very --

4 A. The first page.

5 Q. -- first page, yes.

6 A. I'm sorry.

7 Q. Yes. What is this?

8 A. That looks to be like a copy of an envelope.

9 Q. Okay. Do you recognize this copy of the envelope?

10 A. Yes.

11 Q. And what do you recognize that to be?

12 A. It appears to be my handwriting and appears to be the

13 -- the envelope in which I put the note for Dr. Brown.

14 Q. Okay. The second page of this exhibit, do you

15 recognize the second two pages? The second and third page?

16 A. Yes.

17 Q. And what do you --

18 A. Yes.

19 Q. -- recognize that to be?

20 A. That looks like the letter that I -- I gave to Dr.

21 Brown, or that I -- I delivered to him.

22 Q. And is this your handwriting on both of those two

23 pages?

24 A. It appears to be.

25 Q. Okay. I just want to ask you a couple questions about

C03576

1 some of the things that are contained in this letter. In the --  
2 on the first page, the one that's Bates -- just so it's clear,  
3 Bates stamped MC5430. In the second paragraph, it says, My T.D.  
4 has had very close relations with my very recently ex-fiancé (if  
5 you know what I mean.) Who are you referring to when you said my  
6 T.D.?

1:57:46

7 A. Michael Swaine.

8 Q. Okay. And what does T.D. stand for?

9 A. Technical director.

10 Q. Okay. And when you say ex-fiancé, are you referring  
11 to Jennifer Lockmiller?

12 A. Yes.

13 Q. If you could turn to the next page, am I accurate in  
14 stating that it reads, If that makes me a nobody or means I'm  
15 through @IWU - okay but the things that I've found and witnessed  
16 about my aforementioned room-mate and my ex-fiancé have crushed my  
17 spirit. Is that how that reads? Did I read that accurately?

18 A. Yeah, that -- that's how that reads.

19 Q. Okay. What did you mean by the things that you found  
20 and witnessed?

21 A. Particularly, the things I included in -- in the  
22 letter for Dr. Brown. The -- the letters from Jennifer to Swaine,  
23 and the -- what appeared to be a developing closeness between  
24 Jennifer and Mike.

C03577

25 Q. Okay. And that's the closeness that you described

1 earlier that you observed between the two of 'em when you would be  
2 together?

3 A. Yeah.

4 Q. Okay. And then you went on to say, I -- I had to get  
5 -- I'm sorry. I had to get out of the slump and its really just  
6 time. Is that correct?

7 A. It's really just time for me to leave.

8 Q. I'm sorry. Time for me to leave. And were you  
9 referencing there, leaving for Cincinnati?

10 A. Yes, leaving town.

11 Q. And then you state, I'm just afraid I'd 'cause even  
12 more hell to break loose. And I think it says lose there, but did  
13 you mean to say loose?

14 A. I -- probably, yes.

15 Q. Okay. What did you mean by that?

16 A. Well, I -- I -- I felt that there would continue to be  
17 arguments, and probably living with Swaine would have been a  
18 really uncomfortable situation. And I didn't want to risk getting  
19 into further arguments with -- with Michael or with Jennifer.

20 Q. Okay. And that's what you meant when you said, I'm  
21 just afraid I'd cause even more hell to break loose?

1:59:59 22 A. Yeah.

23 Q. Okay. At the end of that page, you say, My parents  
24 will just freak out -- well, it says, I'm going to Ohio - don't  
25 call my home phone, my parents will just freak out. Do you see

C03578

1 that?

2 A. Yes.

3 Q. Why were you worried that your parents would freak  
4 out?

5 A. I hadn't told them yet, I don't think.

6 Q. Hadn't told them what?

7 A. That I was leaving early from the theater company and  
8 going to Ohio.

9 Q. You eventually ended up calling your parents, correct?

10 A. I did.

11 Q. When did you call them?

12 A. I believe, I called them right before I left.

13 Q. So you did tell them that you were leaving for Ohio?

14 A. Yes.

15 Q. Did you explain to them why it was you were going to  
16 Ohio?

17 A. I did.

18 Q. What did you tell them?

19 A. I believe that I said, that my roommate is f-ing my  
20 girlfriend.

21 Q. What did they say in response?

22 A. That was not the entirety of the conversation, but my  
23 parents thought I should come home. They thought it was probably  
24 okay for me to leave early from school given the situation, but  
25 they thought I should just come home, and I felt that -- that I

003579

1 should still go Cincinnati, that that would be more in line with  
2 what the counselor had advised me to do.

3 Q. Had your parents met Michael Swaine or any of your  
4 other roommates at that point in time?

5 A. I'm sure they had. They had been down during the  
6 summer occasionally. I can't say which summer, but they had --  
7 they had been to visit me sometime during some of the -- the shows  
8 that were being done during the summer program.

9 Q. Had they met Jennifer?

10 A. Yes.

11 Q. Okay. If you could turn to the next page, do you  
12 recognize that page?

13 A. Yes.

14 Q. What do you recognize that to be?

15 A. It must have been a -- a label that I put on the  
16 letters from Jennifer, so that Dr. Brown could understand that  
17 that was what was contained in there.

18 Q. And it says on there, from Jen about Swaine?

2:02:17 19 A. Yes.

20 Q. Okay. And are you referencing then the following  
21 page, that's a typed page?

22 A. Yes.

23 Q. I'm just going to read this, and then ask you some  
24 questions about it as we go through it. Okay? The typed page?

25 A. Okay.

C03580

1 Q. Okay. Is it accurate that it states, never before  
2 have i felt so compelled to writ. this afternoon was different: i  
3 awoke with smiles and a light tingling feeling, eager to get up  
4 and think about HIM and last night instead of clinging to the  
5 darkness of my room and despair of my thoughts. the way he looks  
6 at me...my god. the way he looks at anyone with those incredible  
7 deer-like eyes, so deep and brown and innocent. i couldn't, i  
8 can't stop thinking about him, and i don't want to stop. Ashamed  
9 and elated, i knew that this is what it means to be young. i  
10 consume and delight in the simple, unexpected pleasures --

11 MR. BOWMAN: I don't mean -- are -- do you need to --  
12 it -- it's -- it's type written, I don't think there's any dispute  
13 about what it says. Is there a need to --

14 MS. EKL: I'm going to ask some questions after, yeah.

15 MR. BOWMAN: Okay. All right. Go ahead.

16 MS. EKL: i consume and delight in the simple,  
17 unexpected pleasures of his presence -- an electrifying touch, an  
18 unexpected glance, a single coy exchange. Almost too much  
19 happiness to contain. He makes me laugh and think and feel; me,  
20 who is usually someone too numb or analytical to experience the  
21 raw joy of life that i am forever in his debt. i cannot think  
22 about --

23 MR. BOWMAN: It says, for that, i am forever in his  
24 debt.

25 MS. EKL: Thank you.

C03581

1 Q. I cannot think about what is to come; my mind is  
2 reeling with the phenomena of what I have felt with him already.  
3 thoughts of the future just shiver before me like a beautiful  
4 fantasy....this is what has happened, all of these earth-soul  
5 shattering, confusion, passionate, dream-like states. With him.  
6 And it is only the beginning; it has only been two days. And I  
7 still haven't said enough. Did you read all of this on that day  
8 before you gave it to Dr. Brown?

9 A. Yes.

10 Q. And when you read it, did you believe that it was  
11 written by Jennifer?

12 A. Yes.

13 Q. When she refers throughout this to, him, who did you  
14 believe that she was referring to?

2:04:47 15 A. Michael Swaine.

16 Q. And how did this cause you to feel when you read this  
17 state -- this statement by -- or this -- this piece -- this  
18 writing by Jennifer?

19 A. Again, I think I've -- you've asked me about this  
20 before, that I -- I felt that I had found confirmation, to satisfy  
21 my desire to prove that more had happened then -- then what they  
22 told me.

23 Q. Well, isn't it fair to say, it was more than  
24 confirmation? This -- this was -- these were pre -- some pretty  
25 artful words and -- and -- about Jennifer's feelings about Michael

C03582

1 Swaine, correct?

2 A. Yes.

3 MR. BOWMAN: Object to the form of the question.

4 Q. This -- this confirmed more than the fact that they

5 had kissed, correct?

6 MR. BOWMAN: Objection, that's asked and answered.

7 You can -- you can -- you can answer it.

8 A. I think it confirmed a great deal of deep feeling.

9 Q. And Jennifer being someone who you were engaged to --

10 A. Who I had been --

11 Q. -- must have hurt --

12 A. -- engaged to.

13 Q. This must have caused you a lot of pain at that time,

14 correct?

15 MR. BOWMAN: Object to the form of the question.

16 Specifically, engaged to. Not a foundation for that.

17 Q. I -- I'm sorry. You were engaged to Jennifer?

18 A. We had --

19 Q. You testified --

20 A. -- been --

21 Q. -- to that?

22 A. -- engaged.

23 Q. Okay.

24 A. Previously, yes.

25 Q. All right. And maybe there's some confusion, because

C03583

1 I believe, at one point, in -- early in the deposition, you said,

2 that you were engaged until you left for Rockford.

3 A. Until we were broken up.

4 Q. Okay.

5 A. I --

6 Q. And at what -- so when you left for Rockford, at that  
7 point in time, is that when you considered that you were broken up  
8 for -- for good? Or were you referring to an earlier point in  
9 time?

10 A. I think the -- the separation between us was a process  
11 and that process began at a certain time. And -- by the time I  
12 left, that process was definitely over.

13 Q. Okay. So that -- that's my point, is that it was over  
14 -- it was completely over at the point in time you left for  
15 Rockford when you threw that ring -- your engagement ring in the  
16 river, correct?

2:07:03 17 A. That was definitive, yes.

18 Q. Okay. And so even if it was a process, would you  
19 agree that it was over, at that point in time?

20 A. By this point in time, it was over, yes.

21 MR. BOWMAN: Referring to -- and the witness has just  
22 indicated the letter in front of him.

23 Q. Okay. So you're saying, before you threw it in the  
24 river -- before you threw the ring in the river, before you left  
25 for Cincinnati, it was completely over and you didn't have any

C03584

1 expectation that there might -- you might be able to get back  
2 together?

3 A. I had no intention of getting back together with her.

4 Q. Okay. There's some handwritten at the bottom of this  
5 page. It -- do you recognize what that is?

6 A. I can't even tell what it is. It looks like it might  
7 have been some kind of signature.

8 Q. When you found the documents within Swaine's room, was  
9 this -- do you recall whether or not what was written here was a  
10 copy or whether or not it -- there was an original signature  
11 there?

2:07:56 12 A. I don't remember.

13 Q. Okay. Did you recognize what the signature was when  
14 you saw it on the original? Or on the -- the first copy that you  
15 viewed?

16 A. I don't know whether it was there even, but I -- if it  
17 was, I -- I really don't remember.

18 Q. Okay. If you could turn to the next page, and read  
19 what's on that page, please?

20 A. It says, this is someone else's business, but if --  
21 but if you don't understand - then please read it.

22 Q. Okay. And is that in your handwriting?

23 A. Yes, it is.

24 Q. And what are you referring to there?

25 A. I'm referring to the letters from Jennifer to Swaine

C03585

1 or the two letters in the document.

2 Q. Okay. So was this portion of -- of what you sent to  
3 Dr. Brown, was this -- this note or this page actually, I guess,  
4 before the letter that -- the typewritten letter that was in there  
5 regarding what Jennifer wrote?

6 A. Yeah, it would have been the -- sort of, the cover  
7 page to the other two.

8 Q. Okay. The next page, the last page of this document,  
9 do you recognize that page?

10 A. It appears to be a letter that I found. I don't know.  
11 I think -- I think, it's a letter that I found that was in  
12 Swaine's drawer with the letter.

13 Q. Okay. Do you recognize the handwriting that was on  
14 here that starts, Mike, and then goes through until there's a  
15 heart, and then there's -- and some kind of writing after that?  
16 Do you recognize the handwriting?

17 A. Not specifically, no.

18 Q. At the time, did you recognize that to be Jennifer's  
19 handwriting?

20 A. I don't remember.

21 Q. Do you have any reason to doubt that this letter was a  
22 letter from Mike to Jen -- from -- I'm sorry. To Mike from  
23 Jennifer?

24 A. No, I don't.

25 Q. Okay. When you -- well, let me ask you some other --

003586

1 other questions. There is some additional handwriting on this  
2 page, as well, correct?

3 A. Yes.

4 Q. And there's certain things within the letter that are  
5 circled?

6 A. Yeah, it appears to be.

7 Q. Okay.

8 A. Do you recognize the handwriting next to those circled  
9 portions of the letter?

10 A. I -- I believe it was -- it was notes that I made for  
11 Dr. Brown so that he would understand why I believed what I  
12 believed.

13 Q. Okay. So you wrote these things on this letter before  
14 you gave it to Dr. Brown?

2:10:17 15 A. I think so.

16 Q. Do you have any reason to doubt that you were the  
17 person who wrote those things, where -- next to the circled  
18 letters?

19 A. I -- I really don't know. It -- it -- that's what it  
20 appears to be. My recollection of it is not that clear.

21 Q. This states -- well, let me -- let me ask you to -- to  
22 read what you believe that it -- that it -- how it reads. So if  
23 you could read the letter, please.

24 A. It's awfully grainy. It's hard to read some of it.  
25 Mike, Like the Crayola? I thought you would. I'm going to take

C03587

1 care of things as soon as I know he will be all right. It starts

2 -- I don't know what that word there is. I'm sure the original

3 Crayola is probably easier to read than in a photocopy.

4 Q. Do you recall from the original view -- version that

5 you saw it saying, i.e. starts seeing a professional? Does that

6 refresh your recollection --

7 A. That --

8 Q. -- as to what --

9 A. -- may be.

10 Q. -- you observed?

11 A. Yeah.

12 Q. Next to the he, what is written there?

13 A. The circled part with the notation, I think, it says,

14 Alan and then maybe like a slash and it says, me.

15 Q. And then next to the portion that's circled, i.e.

16 starts -- what maybe -- seeing a professional, what is written

17 next to that?

18 A. Maybe, my shrink.

19 Q. And who were you referring to when you said, my

20 shrink?

21 A. I would have been referring to the counselor that I

22 went to see through the Wesleyan referral, I guess.

23 Q. Had you told Jennifer prior to the time when you found

24 these letters that you were seeing a counselor?

25 A. I don't know. I think I may have.

003588

1 Q. Had you talked to her about the fact that you were  
2 going to see a counselor?

3 A. Yes.

4 Q. Had she encouraged you to go see a counselor?

5 A. Yes, she had.

6 Q. And was that based on the fact that you had broken  
7 down her door and she -- and she believed you had some things that  
8 you needed to deal with?

9 A. I don't know if was specifically based on my breaking  
10 down the door, but I think she felt that I had some things I  
11 needed to deal with, yes.

12 Q. Okay. If you could continue reading after where it  
13 says, professional.

14 A. There's some kind of little notation in parentheses  
15 there, that I can't read. And then it says, I'm trying to word  
16 this -- maybe, is that -- as innocuously as possible - hope you  
17 can decipher! Anyway, I agree w/ what you said - the sooner the  
18 better, etc.

19 Q. And let me stop you for just a second. Is that  
20 portion where it says, I agree with what you said - the sooner the  
21 better, etc., is that circled?

22 A. Yes.

23 Q. And there's some writing next to that?

24 A. It says, their plans.

25 Q. And what did you mean by their plans?

C03589

1 A. I really don't -- don't know. I -- I -- perhaps,

2 their plans to start a relationship or -- I don't know.

3 Q. Okay. If you could keep reading.

4 A. I'm sorry for all this has worried you. Is that, if

5 or or?

6 Q. Just to the best of what you believe.

7 A. I'm sorry for all this has worried you. I don't know

8 why I'm -- maybe -- letting you know - I just want you to know I

9 won't be putting us in any "situations". Is that it? And now, I

10 can't make out the next couple of words there. And then it looks

11 like some kind of a little drawing, and then it says, I'm free!

12 And then -- and then it says, I am still something to kill you in

13 -- I'm not sure what it says.

14 Q. It appears to be something might have been cut off,

15 correct?

2:14:27 16 A. Perhaps, yeah.

17 Q. Okay. Next to where it says, situations in quotes,

18 there's some handwriting to the left of that, and I apologize --

19 apologize, it appears that it's -- through the photocopying, cut

20 off, but do you recall or can you tell from looking at it now what

21 it said at one time?

22 A. Probably -- it probably says -- well, I mean -- I -- I

23 -- I would guess it says, getting caught by me, or something like

24 that.

25 Q. Okay. After you left this letter for Dr. Brown, did

C03590

1 you talk to anyone else before you left for Cincinnati?

2 A. I believe, I talked to Amy Krehbiel, and I think I

3 gave this to her.

4 Q. Okay.

5 A. I -- I think, I gave this to her. I don't know if I

6 slipped it under his door or if I gave it to her. I -- my

7 recollection is not clear on that.

8 Q. Who is Amy Krehbiel?

9 A. She's a friend.

10 Q. A friend of yours or --

11 A. A friend of mine.

12 Q. Okay. Why did you give it to her?

13 A. I think I was telling her that I was leaving and that

14 I was going to give this to him and -- and I think she said, she

15 would.

16 Q. How did you know Amy Krehbiel?

17 A. I've known her since high school.

18 Q. And just again, for the court reporter, do you know

19 how to spell her last name?

20 A. I believe it's --

21 Q. You didn't know it would be a spelling test today.

22 A. -- K-r-e-h-b-i-e-l. I'm not 100 percent sure on that.

23 Q. I appreciate you trying. Better than I could do. Was

24 she someone that you confided in about your relationship with

25 Jennifer?

**C03591**

2:16:07

1 A. At that time, yes, I suppose.

2 Q. And on that particular day, did you confide in her  
3 regarding the letters that you had found and -- and your feelings  
4 about what was going on with Jennifer?

5 A. Yes.

6 Q. Okay. And what did you tell her?

7 A. I really don't remember specifics of the conversation  
8 other than that I know I told her that I was going to give this to  
9 Dr. Brown, and that I was going to leave. And I believe, she  
10 offered to give it to him for me.

11 Q. Where did you meet up with Amy Krehbiel to -- to give  
12 her these documents if -- if she did?

13 A. She lived at the same apartment building. I believe,  
14 she lived upstairs.

15 Q. Is there anything that you can recall her saying to  
16 you in response to you telling her that you're going to leave and  
17 those other things?

18 A. I really -- I -- no, I don't remember.

19 Q. Did you talk to anyone other than Amy? Other than  
20 what you've already mentioned before?

21 A. I may have, I just don't know.

22 Q. What's the next thing that you remember doing after  
23 you gave the letters to Amy?

24 A. I don't know whether I packed the car before I gave  
25 her the letters or I did that after. But other than that, that

C03592

111

1 was when Jamie and I left town.

2 Q. Okay. What was the purpose of going to Cincinnati?

3 A. To relax. To have some fun. To get my head clear,

4 get off of the subject matter. Get over Jennifer.

5 Q. And did Jamie -- was he originally from Cincinnati?

6 A. Yes.

7 Q. Did he have family in Cincinnati?

8 A. Yeah.

9 Q. So is that -- did you stay with family members of

10 Jamie's when you went to Cincinnati?

2:17:44 11 A. At his mother's house.

12 Q. How long did you stay there?

13 A. It was about a week and a half.

14 Q. While you were in -- in Cincinnati, did you make any

15 attempts to get in touch with Jennifer?

16 A. I believe, I called her.

17 Q. Okay. And do you remember when it was that you called

18 her?

19 A. No. Sometime during the week. I probably -- I may

20 have even called her more than once. I don't -- I know I spoke to

21 her on the phone more than once.

22 Q. What was the nature of your conversations with her

23 during that time?

24 A. Subdued from the arguments that had been previous. I

25 -- I really don't have a good recollection of the whole

**C03593**

1 conversation, but the -- the gist of it was kind of working  
2 through, hey we're going to have to be around each other, we've  
3 got to get over this and get along and that sort of thing.

4 Q. So --

5 A. I -- I wanted them to -- to tell me what I had been  
6 trying to get them to tell me all along. And -- and -- and they  
7 wanted to have me understand that -- that that was their business,  
8 and -- and that I don't get to tell them what to do and that sort  
9 of thing.

10 Q. Is that what -- is what she said to you or did you  
11 also have a conversation with Michael Swaine?

2:19:11 12 A. I talked to both of them.

13 Q. Okay. So essentially, and I'm -- I don't want to  
14 mischaracterize what you're telling me, so let me know, but are  
15 you saying that they were pretty much acknowledging at that point  
16 in time that they were together?

17 A. I think so, yeah.

18 Q. And that it wasn't any business of yours if they  
19 wanted to be together?

20 A. I wouldn't even characterize it as -- as that kind of  
21 a standoffish approach to it, but that -- but that they wanted me  
22 to -- to be okay with it. They -- they wanted to know that I  
23 understood it and accepted it.

24 Q. Okay. Did Jennifer talk to you about still remaining  
25 friends?

C03594

1 A. Yes.

2 Q. And did she continue to say things about wanting you  
3 to be her new best friend or was that -- had that come and gone?

4 A. I don't know if she still used that terminology  
5 anymore after that. Was that a termin -- terminology that she had  
6 really only used for that short period of time between when things  
7 kind of cooled down between the two of you and -- and then when  
8 you found the letters?

2:20:07 9 A. Probably, yeah.

10 Q. Okay. When you were in Cincinnati, did you write her  
11 any letters?

12 A. I don't think so.

13 Q. Were there times when you would refer to -- when you  
14 would write her letters over the course of the time that the two  
15 of you were together?

16 A. During the course of the time we were together, I did  
17 write her some letters, yes.

18 Q. Okay. Okay. And in some of those letters, did you  
19 ever refer to yourself as her new best friend?

20 A. I don't remember.

21 Q. Okay. When you were in Cincinnati, talking to --  
22 well, let me back up. How many times do you think you talked to  
23 Michael when you were in Cincinnati?

24 A. I really don't know.

**003595**

25 Q. Was it, would you say, less than 6 times or more than

1 6 times?

2 A. I'd say probably less than 6 times

3 Q. Okay. And were you in agreement with this -- with

4 what they proposed in terms of the fact that they were going to be

5 together, but yet you would still be friendly with the -- the two

6 of them?

2:21:07

7 A. I -- I was, yes.

8 Q. Did you express that to them?

9 A. I told Michael that when -- I don't know if I talked

10 to them -- you know, I don't know when -- on the phone I may have

11 said that, but I know that when I went back to Bloomington, I told

12 them -- I told Michael first, and then I told Jennifer.

13 Q. Told -- told Michael first, what?

14 A. That -- I think I said something to the effect of, you

15 know, take good care of her.

16 Q. And then when you talked to Jennifer, what did you say

17 to her in that regard?

18 A. I may have just told her what I told him. I don't

19 know.

20 Q. Okay. Well, let's -- let's get to that point. So you

21 were in Cincinnati for about a week and a half?

22 A. Yes.

23 Q. And then how did you -- when you left Cincinnati,

24 where did you go?

25 A. Jamie's mother drove us back to Bloomington so I could

C03596

1 get my car, and then she had business in Rockford, and that was --  
2 I had been planning to leave sooner, but since she was going there  
3 anyways, we waited and went with her, and they dropped me off at  
4 my car, and I went in to the apartment briefly, I think, maybe to  
5 go to the bathroom or something. I don't know what I was supposed  
6 to do with the keys. I really don't remember how all that went  
7 down.

8 Q. Mm-hmm.

9 A. But Michael wasn't there and when he arrived, I talked  
10 to him, and -- and then I went and I talked to Jennifer, and then  
11 I dropped her off at class, and I went home.

12 Q. Okay. So as you were coming back to Bloomington, did  
13 you -- how did you -- how -- at that point in time, in your mind,  
14 how -- how had you -- what did you think the status of their  
15 relationship was at the point in time when you were coming back to  
16 Bloomington?

17 A. I really wasn't sure. I figured that they were having  
18 a relationship. I -- you know, couldn't have -- I couldn't swear  
19 to it, but --

20 Q. So they hadn't confirmed to you, at that -- when you  
21 were talking to them over the phone when you were in Cincinnati,  
22 they hadn't confirmed to you, now we're going to be a couple,  
23 we're together, right?

24 A. I don't think it was explained to me that way, no.

25 Q. Okay. And when you came back, prior to coming back,

003597

1 did you let either of them know, I'm going to be back on x day?

2 A. I don't think so.

3 Q. Okay. So they weren't necessarily expecting you back,

4 to your knowledge, on the day that you came back?

5 A. Not that I know of, no.

6 Q. Okay. And you said when you came back to the -- to

7 Bloomington, you went to your apartment briefly and that's when

8 you saw Michael Swaine?

9 A. Yes.

10 Q. Okay. Was Michael Swaine in the apartment when you

11 got there?

12 A. No.

13 Q. He actually pulled up as you were outside the

14 apartment, correct?

15 A. Yes, he did.

16 Q. Who was -- whose car was he driving when he pulled up?

2:23:50 17 A. He was driving Jennifer's car.

18 Q. And was that a surprise to you?

19 A. No.

20 Q. Had you seen him drive Jennifer's car in the past?

21 A. I don't think so, but I don't know.

22 Q. Okay. Did it confirm to you that they were, in fact,

23 a couple?

24 A. Yeah.

003598

25 Q. Okay. Tell me about any communication, at that point,

1 that you had with Swaine -- with Michael?

2 A. That's -- that's when I told you before, that I talked  
3 to him and the gist of the conversation was, take good care of  
4 her. I don't remember all of it, but --

5 Q. What was the tone of the conversation?

6 A. It was pretty much -- I probably wanted him to feel  
7 guilty. But -- but I also knew that I needed to be done with that  
8 part of my life, and needed to move on, and -- and so I was okay  
9 with that.

10 Q. Is it fair to say, that you wanted him to feel guilt  
11 -- that in the course of wanting him to feel guilty, you had to  
12 kind of downplay your feelings toward him?

13 A. I'm sorry?

14 Q. Did you have to kind of, down play your feelings? I  
15 mean, you wanted him to feel guilty, but yet you still harbored  
16 some resentment, is that fair to say?

17 A. I was hurt. I wanted him to know that I was hurt.

18 Q. Okay. Do you remember any of the exact words that you  
19 used with him on that day?

20 A. I really don't.

21 Q. Okay. Did you give him any kind of note when you saw  
22 him?

23 A. I don't think so. I -- I don't know.

24 Q. Okay. How long do you think you talked to Michael?

25 A. I don't know. Just standing out front, maybe a few

C03599

1 minutes. I don't think -- I don't know whether I went back in

2 with him or not. I don't think I did, but --

3 Q. Was anyone else -- else out there with the two of you?

4 A. I don't think so.

5 Q. And after you got done talking to him, where did you

6 go from there?

7 A. Then I went to Jennifer's.

8 Q. And is that -- you went back to her apartment at South

9 Main Street?

10 A. Yes.

11 Q. Okay. What happened when you got to her apartment?

12 A. Knocked on the door. She let me in. She -- she was

13 late for class, I think, and couldn't stay and talk long. And I

14 said, well, I'll drive you and then you'll have a few more

15 minutes, and so we talked a little bit, and then I drove her to

16 class.

17 Q. Is it fair to say, that you talked to her for a while

18 in her apartment though before you left --

19 A. Yes.

20 Q. -- for her class?

21 A. Yes.

22 Q. Okay. What time of day was this?

23 A. This was in the afternoon, I think. It might have

24 been late morning.

25 Q. Were you familiar with -- or did you know, at that

C03600

1 time, what class she was late for?

2 A. I don't remember.

3 Q. Did you know what her class schedule was back then?

4 A. No.

5 Q. How would you describe her demeanor toward you when  
6 you met with her on that date?

7 A. Polite, friendly, but distant.

8 Q. And how were you treating -- or acting toward her?

9 A. The same.

10 Q. What can you tell me about the conversation that you  
11 had with her in terms of -- as best you can recall, the things  
12 that you said to her and what she said to you?

13 A. She said, something about a -- a 12 step program or  
14 something. She said, that she was trying to get off of the drugs  
15 that she was taking. She -- her tone was that she felt bad about  
16 the way things had transpired, but at the same time, she didn't  
17 regret -- regret that.

18 Q. What kind of drugs was she taking back in that summer  
19 of 1993, to your knowledge?

20 A. To my knowledge, it would be hard to say, because at  
21 any given time that I -- that I knew her, that varied.

22 Q. Okay. What -- what are -- if you could name the drugs  
23 that you've seen her -- or that you -- that -- well, let's start  
24 with the ones that you've seen her take?

25 A. I had seen her smoke marijuana, and I had seen her use

C03601

2:26:35

1 LSD, alcohol. I don't think I had seen her use anything other  
2 than that, because if I thought that that was going to be part of  
3 her evening, I didn't want to be around.

4 Q. Okay. Well, did you -- were there times when -- let's  
5 start with, did -- would you drink with her during -- during the  
6 --

7 A. I--

8 Q. Let's say from '92 to '93 for my questions, just  
9 during the time of your relationship with her, were there times  
10 when the two of you would drink together?

11 A. Yes.

12 Q. Were there times when you would smoke pot together?

2:28:33

13 A. Yes.

14 Q. Were there times when you would do LSD together?

15 A. Yes.

16 Q. Were there times when you would drop acid together?

17 A. That's LSD.

18 Q. Okay. Same thing. Not -- there's no difference? I

19 didn't -- I don't know.

20 A. No.

21 Q. I'm just asking.

22 A. Yeah. Okay.

23 MS. EKL: Sorry. Busted.

24 MR. BOWMAN: You're not cool enough. You're a

25 newcomer.

C03602

1 MS. EKL: Sorry, I can't --

2 WITNESS: It's good that you don't know that.

3 MS. EKL: And I'm -- I'm faking the -- the blushing,

4 so --

5 MR. BOWMAN: That is one of the most embarrassing

6 moments I have ever seen in a deposition.

7 MS. EKL: I'd rather -- I'd rather embarrass myself

8 with the fact that I don't know what it is --

9 MR. DiCIANNI: Yeah.

10 MS. EKL: -- then the fact that I'm --

11 MR. DiCIANNI: That's true.

12 MS. EKL: -- very familiar. Sorry.

13 WITNESS: I'm going to put that on a t-shirt.

14 MS. EKL: No climbing out of it. Okay.

15 Q. When you arrived at -- sorry, going back to when you  
16 arrived at Jennifer's apartment, what was she doing at that time?

17 A. I think she was getting ready to -- to leave.

18 Q. Okay. Did you have any conversation with her about  
19 the status of her relationship with Michael?

20 A. Maybe a little bit. I don't really remember her  
21 saying anything a whole lot about it, but -- yeah, I really don't  
22 know. Nothing stands out.

23 Q. Did you ask her questions about the status of their  
24 relationship?

25 A. I don't think I did.

003603

1 Q. Did you ask her questions about the fact that Michael  
2 was driving her car?

2:30:08

3 A. I -- I don't know.

4 Q. What was the tone -- and I'm sorry if I asked this  
5 already. I just want to make sure I cover it. What was the tone  
6 of -- of the rela -- of the conversation while you were inside of  
7 her apartment?

8 A. I think you did. Well, you may not have asked, I may  
9 have touched on it. It was that -- well, I -- I did say before  
10 that -- that she felt bad about the way things happened, but she  
11 also didn't regret them, and I was kind of, checking in with her  
12 to make sure we were cool before I left.

13 Q. Did it bother you that she didn't regret what had  
14 happened?

15 A. At that point, I was -- I was kind of facing that as  
16 the reality of things and accepting that.

17 Q. And then you said that you ended up driving her to  
18 class and continued to talk to her in the car?

19 A. Yeah.

20 Q. Okay. And was there anything further about the  
21 conversation in the car that you can recall?

22 A. When she was getting ready to get out of the car when  
23 I dropped her off, she kissed me goodbye, and I told her that's  
24 probably going to be the last time that happens, and -- and that  
25 was that.

C03604

1 Q. Do you remember, about what time it was that you  
2 dropped her off?

3 A. Again, sometime late morning, early afternoon.

4 Q. Now, when you were in her apartment, was that the last  
5 time you had been in her -- you -- you've ever been in her  
6 apartment?

7 A. Yes.

8 Q. Okay. Did you notice anything when you were in the  
9 apartment that was different from the times that you had been  
10 there before?

11 A. It was arranged quite a bit differently.

12 Q. And could you describe what was different, when you  
13 say it was arranged different?

14 A. I think she had -- she had moved -- I'm not sure how  
15 much, but she had moved some of the furniture little bit. And she  
16 had some boxes, like little storage boxes you put together  
17 yourself. And those were, sort of like, under the coffee table  
18 maybe, or something like that. And then Swaine's street sign was  
19 hanging on -- I -- I think above the dart board.

20 Q. How big was that sign?

21 A. It's a full size -- it was a real street sign.

22 Q. Okay. How did you feel when you saw that in the  
23 apartment?

24 A. I thought maybe that suggested that -- that he was  
25 putting down roots in -- in her apartment.

**C03605**

1 Q. And again, was this confirming perhaps, even more than  
2 what you had imagined was going on between him and Jennifer?

3 A. I thought probably, he was going to move in with her.

4 Q. Did you talk to her at all about that?

5 A. I don't know whether I did. I may have --

6 Q. Do you --

2:33:10 7 A. -- indicated it, I just don't know.

8 Q. Do you recall any conversation about the fact that you  
9 -- it appear -- that it appeared that Swaine was putting down  
10 roots in her apartment? Any conversation that you had with her  
11 about that?

12 A. I really don't know.

13 Q. Was that the last time that you saw Jennifer alive?

14 A. Yes.

15 Q. Did you see anyone else after you left Jennifer, after  
16 you dropped her off at her -- at class?

17 A. Not that I know of.

18 Q. Do you remember seeing Jenny Sig?

19 MR. BOWMAN: I'm sorry. Could I have that last  
20 question again? I didn't hear it.

21 MS. EKL: Sure. I said, did you see anyone else after  
22 you left Jennifer?

23 MR. BOWMAN: Thank you.

24 MS. EKL: And he said, he didn't remember.

25 Q. Did -- do you recall seeing Jen Seig or --

C03506

1 A. Jenny Seig? I -- I would have seen her at our  
2 apartment, Mike's and my apartment probably before I went to see  
3 Jennifer, if I -- I really don't remember seeing her, but I  
4 probably did. I think I remember from the record somewhere that.

5 Q. And just for the record, Seig is spelled S-i-e-g,  
6 correct? If you know.

7 A. I thought it was S-e-i-g, but I don't know.

8 Q. Maybe I typed it wrong. Okay. Do you remember seeing  
9 Kathy Corbit, either before or after you went to Jen --

10 A. Katie Corbit.

11 Q. Okay. Before you went to Jennifer's apartment?

12 A. I don't remember seeing her. If I had, it would have  
13 been also -- they were all living in that same apartment complex  
14 where Michael and I were living.

15 Q. And so is it fair to say, that you don't remember any  
16 conversations with either Jen or Ka -- Katie?

2:34:53 17 A. No.

18 Q. If anyone else that you can recall seeing or talking  
19 to before you left Bloomington that day?

20 A. Maybe a gas station attendant. I -- I mean, I always  
21 stopped somewhere, but I really don't -- nobody that I knew.

22 Q. Where did you go from Bloomington? Where was the next  
23 place you went to?

24 A. Rockford.

25 Q. And is it correct that Jamie's mother followed you to

C03607

126

1 Rockford or he followed you to Rockford?

2 A. I think they left before I did. And I was -- I was --  
3 did -- did I follow -- maybe I did, I don't remember. 'Cause I --  
4 I know I went to the house that she was going to and I don't know  
5 if I was given an address or -- this was before GPS in cell  
6 phones. So maybe I did follow, I -- I just don't know.

7 Q. So you remember going to a house in Rockford that  
8 Jamie's mom was going to?

9 A. Yes.

10 Q. In -- in Rockford?

2:35:51 11 A. Yes.

12 Q. Okay. Were you -- what were your plans, in terms of,  
13 how long you were planning on staying in Rockford?

14 A. I was going to stay there until school started again.

15 Q. When was school scheduled to start back up?

16 A. In September, I think. Maybe like, right after Labor  
17 Day. I'm not sure.

18 Q. Did you go straight from Bloomington to Rockford on  
19 that occasion?

20 A. Yes.

21 Q. And what route did you take?

22 A. 39.

23 Q. Does 39 run directly from Bloomington to Rockford?

24 A. It does now. I really don't remember whether, at that  
25 time, it was completed or not. Some -- at some point during the

C03608

1 time I was in school, it was under construction. It may have been  
2 completed by then, I just don't remember.

3 Q. Do you remember that you drove on that particular day,  
4 the same route that you drove every other time, when you would go  
5 back and forth between school --

6 A. That --

7 Q. -- and --

8 A. I would have taken the same normal route, yes.

9 Q. And Jennifer had cheated on you on other times that  
10 you were aware of, before she cheated on you with Swaine, correct?

2:37:12 11 A. I believe so.

12 Q. How many previous times, were you aware of, that she  
13 had cheated on you?

14 A. I believed, that there was one other instance, and I  
15 couldn't prove it.

16 Q. Who was that with?

17 A. With John Murray.

18 Q. Did she ever cheat on you with Stacy -- Stacy Gates,  
19 also known as Bubba?

20 A. I don't know.

21 Q. You are aware that there were times over -- between  
22 1992 and 1993 when she was with Bubba, correct?

23 A. Yes.

24 Q. And were those then times when the two of you had  
25 broken up, or weren't together?

C03609

1 A. There -- there was -- no, those weren't the only  
2 times.

3 Q. So would those be other occasions where she cheated on  
4 you, if -- if she was with you and then she was also with Stacy  
5 Gates?

6 A. If she was doing something that would classify as  
7 cheating. I don't -- I don't know. I mean, she was in his  
8 company at certain times. I don't know whether or not she was  
9 cheating on me with him.

10 Q. Okay. Did you, at any point time, have a relationship  
11 with her, where that was okay? Where the two of you agree, we'll  
12 be together, but if you want to be with someone else romantically,  
13 I'm okay with it?

2:38:36

14 A. No.

15 Q. And is it fair to say that through 1992 and 1993, it  
16 -- is it a fair characterization to say that your relationship was  
17 tumultuous? Do you know what that means?

18 A. Topsy-turvy?

19 Q. There you go. Is it -- is that a fair  
20 characterization of your relationship with her?

21 A. I -- I would say so, yes.

22 Q. That there were times when the two of you would get in  
23 fights and perhaps break up or not be together for a short por --  
24 period of time, and then you would get back together?

25 A. Yes.

C03610

1 Q. What was different about this time, that led you to  
2 decide you were not going to get back together with her?

3 A. Number one, I could prove it. I was certain of it.  
4 And previously, it was hard for me to reject any attempts she  
5 would make of -- of trying to get back together, because I wasn't  
6 certain, and she was denying it. So this time, I knew it was  
7 true. And I could say, okay, I know for sure and I don't want to  
8 be with you.

9 Q. You knew -- you mentioned a couple of times, John  
10 Murray. You knew John Murray back in 1993, correct?

2:39:53 11 A. Yes.

12 Q. He was someone that you considered a friend?

13 A. Yes.

14 Q. Would you have considered -- did you consider him a  
15 good friend?

16 A. No.

17 Q. You knew him also to be a friend of Jennifer's,  
18 correct?

19 A. Yes.

20 Q. And you knew that he sold drugs?

21 A. Yes.

22 Q. What type of drugs did he sell?

23 A. I don't know what everything he sold. I know that --

24 I know for sure he sold marijuana.

25 Q. You were aware that Jennifer would, on occasion, buy

C03611

130

1 marijuana from John Murray, correct?

2 A. Yes.

3 Q. And you indicated earlier that you had, on occasion,

4 smoked marijuana with Jennifer, correct?

5 A. Yes.

6 Q. Did you smoke marijuana with her in 1993?

7 A. At some point in 99 -- 1993, yes.

8 Q. Do you remember when that was?

9 A. Various times throughout the summer, and the school

10 year.

11 Q. How frequently -- just starting off, without

12 necessarily being with Jennifer, how frequently in the summer of

13 1993, did you smoke marijuana?

14 A. During the summer, you're asking?

2:41:06

15 Q. Right.

16 A. Less frequently than during the school year. A couple

17 times a week, maybe.

18 Q. And then, during the school year, how much -- how many

19 times a week did you smoke marijuana?

20 A. It was a little more available, so maybe twice as

21 often as that.

22 Q. What made it more available during the school year

23 versus in the summer?

24 A. Students being there.

C03612

25 Q. So there'd be students that would be able to provide

131

1 it to you?

2 A. Yes.

3 MR. BOWMAN: I'm sorry.

4 Q. In 1993, did you also ingest other -- other drugs?

5 A. I wouldn't be able to say with certainty.

6 Q. Did you -- how about, did you ingest acid in 1993?

7 A. If -- if I ingested any other drugs besides marijuana,

8 that's what it would have been, but I really don't remember.

9 Q. There was a point in time, your sophomore year in  
10 college, when you actually sold LSD, correct?

11 A. Briefly.

12 Q. How long -- approximately, when was that, in terms of  
13 the year?

14 A. Early in the school year, but maybe mid first  
15 semester.

16 Q. And was that at a point in time when the people that  
17 you had hung out with freshman year, that were older than you, had  
18 left and you were starting to hang out with some younger people in  
19 the school?

2:42:54 20 A. People my own age.

21 Q. How -- for how long a period of time, did you sell the  
22 LSD?

23 A. I -- I basically made one purchase. And I sold enough  
24 of it to pay for it. And then shared the rest of it with my  
25 friends.

**C03613**

1 Q. Other than marijuana, did you know John Murray to sell  
2 any other drugs?

3 A. I'm not sure. I know I've -- I may have taken acid  
4 with him, but I don't know whether he sold it. He may have.  
5 Other drugs, I think he dabbled in. I don't know whether he sold  
6 them.

7 Q. At any point, in your life, did you feel that you had  
8 a problem with any type of drugs?

9 A. I didn't feel that I had a drug problem, no.

10 Q. And you smoke marijuana back in 1991, correct?

11 A. Yes.

12 Q. And was there a point in time when you were parents  
13 caught some drug paraphernalia somewhere on your person?

14 A. Yes.

15 Q. Or in your possession?

16 A. Yeah.

17 Q. Based on them finding the drug paraphernalia, did they  
18 express to you that they felt that you had a -- a drug problem?

19 A. I don't even know if they phrased it that way. They  
20 demanded that I stop.

21 Q. And in addition, to demanding that you stop, did they  
22 also require that you go through an outpatient program?

23 A. Yes.

24 Q. Where was that?

25 A. There was a place called the Lighthouse in

C03614

1 Bloomington.

2 Q. When was it that you went to Lighthouse?

3 A. Probably -- probably the whole sophomore year. I'm  
4 not -- or was it -- I think, is was my whole sophomore year.

5 Q. That was --

6 A. Or most of it.

7 Q. Sorry, I didn't mean to cut you off.

8 A. That's okay.

9 Q. That was an outpatient program?

10 A. Yes.

11 Q. Okay. Could you just, kind of, generally, describe  
12 what that entailed, in terms of how frequently you would have to  
13 go in and -- and what kind of treatment you received?

14 A. My first appointment there, I -- I had a meeting with  
15 a counselor. I told her that my parents wanted to be satisfied  
16 that I wasn't smoking pot, so that I needed to do a year, and  
17 screen monthly, that was what they had said they would accept. So  
18 they set -- the counselor set that up for me and I -- that's what  
19 I did once a month. I went in and -- and gave a -- a urinalysis  
20 sample.

21 Q. And that was -- that was during that -- the -- was  
22 that during the 1991-1992 school year, or '92-'93?

23 A. I believe, it was '91-'92. I -- I can't say for  
24 certain. I'm sure it's in the record.

25 Q. And are you aware that -- I'm sorry. Did I cut you

003615

1 off?

2 WITNESS: Oh, no. I was -- I was just going to say,  
3 speaking of urine, sorry. If -- if maybe you can get to a  
4 stopping point sometime soon, I'd like to use the bathroom.

5 MS. EKL: We can take one right now. Go right ahead.

6 WITNESS: I'm sorry.

7 MS. EKL: It's okay. It's certainly your --

8 MR. DiCIANNI: That was pretty funny, Alan.

9 (Off the record)

10 RECORDER: Okay. We are back on the record at 2:08

2:46:35 11 P.M.

12 MS. EKL: You can have some.

13 WITNESS: Okay. I don't want to spill anything on  
14 'em.

15 MS. EKL: That's okay. And I'm sorry. Do you mind --  
16 can you -- is it possible for you to read back the last --

17 RECORDER: Sure.

18 MS. EKL: -- question, 'cause I can't remember exactly  
19 where we were at.

20 MR. BOWMAN: Something about urine.

21 MS. EKL: Yeah, I remember that.

22 MR. DiCIANNI: Oh god.

23 MS. EKL: It was all of us standing -- and good thing  
24 -- what a question I asked regarding that so --

25 MR. DiCIANNI: So unnecessary.

C03616

1 m I think you were on the last three terms for LSD.

2 RECORDER: Why am I not getting sound? Just a second.

3 Right there. Not getting it.

4 MS. EKL: I -- you know what, I think I know where we

5 are if I repeat one question, if you don't -- if you'll indulge

6 me.

7 RECORDER: All right.

8 MS. EKL: We'll --

9 RECORDER: Thanks.

10 MS. EKL: -- just do it that way.

11 RECORDER: All right.

12 Q. Do you recall that Lighthouse, in fact, found that you

13 did not have problematic substance usage?

2:47:51 14 A. Yes.

15 Q. Okay. When you talked to the people over at

16 Lighthouse, did you tell them -- did you admit to them that you

17 had occasionally smoked pot prior to being admitted into their

18 program?

19 A. Oh, do you --

20 Q. At -- at Lighthouse.

21 A. Did I talk to them about my marijuana smoking prior to

22 participating in their program, yes.

23 Q. Yes.

24 A. Yes.

25 Q. Okay. Okay. And did you tell them that you

C03617

1 occasionally smoked pot to deal with stress?

2 A. I may have said that.

3 Q. Is that an accurate statement that you smoked pot

4 occasionally, to deal with stress, back at that time period?

5 A. It would be one of many possible accurate answers.

6 Q. Did Lighthouse recommend that you take some classes

7 about productive ways to handle stress?

8 A. I -- I don't know whether they did. They may have.

9 Q. You don't recall them telling you that?

10 A. I don't remember that, no.

11 Q. Do you recall whether, in fact, you took any classes

12 about productive ways to handle stress?

2:48:52 13 A. No, I -- I don't think I did.

14 Q. And again, I'm sorry, if I'm repeating this question.

15 But were you ever with John Murray and Jennifer, at a time when

16 the two of them were smoking pot?

17 A. Yes.

18 Q. And were you smoking pot with them?

19 A. Yes.

20 Q. Do you remember when the last time was that you and

21 Jennifer and John all smoked pot together?

22 MS. EKL: Bless you.

23 A. I really don't.

24 Q. Did you smoke pot with John Murray and Jennifer back

25 in the summer of 1993?

C03618

137

1 A. I don't remember, specifically. It seems like that  
2 would have been part of the summer.

3 Q. Did you ever buy marijuana from John Murray yourself?

4 A. Yes.

5 Q. About how often?

6 A. He was a fairly regular connection.

7 Q. Did he live fairly close to you?

8 A. He lived right across -- I don't know if it's Main  
9 Street or Center Street, the one that's Northbound, right across  
10 campus -- right -- right across the Wesleyan campus.

11 Q. So approximately, how far would --

12 A. Right --

13 Q. -- that be from where you lived?

14 A. During the summer, two blocks.

15 Q. And how far was that then, from where Jennifer lived  
16 on Main Street?

2:50:15 17 A. Roughly a mile, I think.

18 Q. How frequently, to your knowledge, did Jennifer get  
19 marijuana from John Murray?

20 A. I really don't know. Usually, if one of us had it,  
21 the other one didn't bother. So, beyond that, I really couldn't  
22 say.

23 Q. Well, back in the summer of 1993, were you aware of  
24 any other source from which Jennifer would get marijuana other  
25 than John Murray?

C03619

1 A. There weren't a lot of -- there wasn't -- there wasn't  
2 much marijuana in town during the summer. She may have gotten  
3 some -- I don't -- I -- she may have gotten some from John Ritas  
4 that summer. She may have -- I don't know if Swaine had a  
5 connection somewhere. I went to Rockford and got some for us  
6 once.

7 Q. And the connection -- your connection in Rockford, is  
8 that a connection that you had regularly when you were in  
9 Rockford?

10 A. No, it was a friend's connection.

11 Q. When was that, that you went to Rockford to buy pot or  
12 marijuana?

13 A. I believe it was in June -- I think it was June 11th,  
14 the same -- the same date of -- of when the kissing incident  
15 between Swaine and Jennifer happened while I was in Rockford at  
16 that time.

17 Q. And when you say the kissing incident, you're talking  
18 about when you later found out that the two of them had been  
19 kissing on the couch?

20 A. Yes.

21 Q. And so during that incident, you were actually out  
22 doing something for Jennifer, at the time, she was kissing your --

23 A. Well, both of them.

24 Q. Okay.

25 A. Yes.

**C03620**

1 Q. At the time when she was kissing your roommate --

2 A. Yeah.

3 Q. -- on the couch, correct?

4 A. Yes.

5 Q. And did -- was that something else that added to your

6 feeling of betrayal and -- and frustration or -- or upset in

7 regard to that summer?

2:52:20

8 A. Maybe, marginally.

9 Q. Was that the only time that you had gone to buy pot

10 for Jennifer?

11 A. The only time I went to Rockford to -- to buy pot for

12 anyone during the school year or specifically that way.

13 Q. Okay. But were there certainly other times when,

14 perhaps, you would buy pot from Murray and he wouldn't necessarily

15 be with you and Jennifer, and the two of you would smoke it, is

16 that fair to say?

17 A. We shared.

18 Q. Okay.

19 A. Yes.

20 Q. And when you say, we, you're talking about you and

21 Jennifer?

22 A. Me and Jennifer shared, yeah.

23 Q. And sometimes, was Mike -- was -- was Murray involved

24 -- I mean, not -- sorry, not Murray. Was Michael Swaine a person

25 that you would share pot with?

C03621

1 A. Yes.

2 Q. In the course of your civil litigation, have you  
3 become aware of the fact that there's allegations about Murray  
4 being arrested for selling pot?

5 A. In the course of the civil litigation?

6 Q. I'm sorry. In the course of -- let's just -- let me  
7 -- let me back up and ask it a different way. At some point, did  
8 you become aware of the fact that Murray was selling pot? That  
9 was a really bad question. That he was arrested for selling pot?

10 A. Some point during my appeal, yes.

11 Q. Okay. Was that the first time that you learned that  
12 he had been selling pot and that -- and he was arrested for that?

13 A. That was the first time I learned that he was arrested  
14 for it.

15 Q. Okay. Learning that he had been arrested for selling  
16 pot, that wasn't a surprise to you, correct?

17 A. No, it wasn't a surprise to me.

18 Q. Had you talked to -- had you told your Counsel, back  
19 during your criminal trial about your knowledge of Murray's drug  
20 dealing at -- during the time of trial?

21 MR. BOWMAN: Objection. Yeah that's not happening.

22 MS. EKL: Okay.

23 MR. BOWMAN: And specifically, to be clear on the  
24 record, the conversations between Alan and his criminal defense  
25 Counsel are privileged under the attorney client privilege. So

C03622

1 not only, am I making an objection here, Alan, I'm instructing you  
2 not to answer and be alert to that yourself.

3 Q. And I just want to be -- make sure that I'm clear in  
4 terms of your objection, that my -- my questions, I intended to be  
5 limited to those things that you're claiming were withheld from  
6 Alan and from his defense Counsel. And so my questions were only  
7 to the extent that he may have conveyed information to his  
8 attorney about the things that, for instance, this arrest, and the  
9 other things -- you're preventing him from answering questions  
10 about -- about the things that you're claiming were withheld.

11 MR. BOWMAN: That's my position.

12 MS. EKL: Okay.

13 MR. BOWMAN: Right. I -- and -- and obviously, I'm  
14 not -- to be clear, not specifically seeking to prevent that, but  
15 I am -- I am invoking the -- the privilege, generally, and it  
16 encompasses the -- the subject of your questions about that.

17 MS. EKL: Okay. And I'm not trying to difficult. I  
18 just want to make sure I'm clear, 'cause you said, you're not  
19 intending to prevent that, what do you mean by -- not to put you  
20 at --

21 MR. BOWMAN: No, no.

22 MS. EKL: But just --

23 MR. BOWMAN: No --

24 MS. EKL: -- so it's clear.

25 MR. BOWMAN: What I said is, I'm -- I'm not intending

C03623

1 to prevent that specifically. That -- I -- I just wanted to be  
2 clear. I mean, anything that you want to do to explore the  
3 question of what Counsel knew about whatever is fine. Or anything  
4 that you want to explore about -- you know, to the extent you're  
5 not asking about his work product, you know, it's -- it's not  
6 an area I'm foreclosing. But the communications between Alan  
7 Beaman and his criminal defense Counsel are covered by the  
8 attorney client privilege. And I am not intending to waive that  
9 privilege for any subject, including this one.

10 Q. John Murray was another person with whom Jennifer was  
11 unfaithful to you, correct?

12 A. I believe so.

13 Q. That was someone that you suspected had been having  
14 some kind of intimate relations with Jennifer, correct?

2:56:45 15 A. Yes.

16 Q. When did you first have suspicions that Jennifer and  
17 John were having intimate relations?

18 A. I couldn't tell you the date, but there was a -- an  
19 occasion when Jennifer was supposed to be out at a bar with some  
20 friends, and I went over to John's, and she was there with him  
21 alone.

22 Q. Were there other instances that led you to believe  
23 that the two of them were being intimate?

24 A. Later that night -- that was the same -- I believe,  
25 the same day when she was irritated that I was there at John's.

C03624

1 And I won't try to speculate from an unclear memory as to how, but  
2 she made it clear to me that she didn't really want me to be  
3 there. I was probably a little bit angry about that, but I left.

4 And she called and broke up with me, and so I went to her house to  
5 get my stereo, and his car was there. So that was an indication  
6 to me that they had gone back to her place to be alone.

7 Q. Let me go back a little bit. When the incident -- the  
8 incident where she was supposed to be at a bar and -- and you  
9 found her at John Murray's house, when did that take place?

10 A. I couldn't say for sure, but perhaps sometime in -- it  
11 was sometime in the school year of '92, '93, I -- I don't know  
12 which.

13 Q. Do you believe that to be sometime around the spring  
14 of 1993?

2:58:48 15 A. It's likely.

16 Q. Did you feel that there were times in the spring of  
17 1993, that you were catching Jennifer in what, you believed, to be  
18 lies?

19 A. I don't remember specifically about that. When you  
20 say that she was supposed to be in a bar during that one -- the  
21 first instance that you mentioned, how -- why was it that you --  
22 why -- why do you believe that she was supposed to be in a bar?

23 What do you mean by that?

24 A. I think that's what she told me she was doing.

25 Q. So would that be an example of a time that she told

003625

1 you she was going to the bar and she was somewhere else that she  
2 lied to you?

3 A. That would be a time that, I believed, that she lied  
4 to me, yes.

5 Q. What was it on that occasion, that caused you to go to  
6 John Murray's when -- after she told you she was going to the bar?

2:59:35 7 A. I don't remember.

8 Q. Had you planned to go there to see if she was there?

9 A. I'm not sure if I was trying to look for her or not.

10 Q. Were there any other times that you can recall, as you  
11 sit here today, where she told you she was going to be in one  
12 location and you found her or found out that she was in another  
13 location?

14 A. I can't think of any others, no.

15 Q. And even if you can't remember any specific incidents,  
16 do you have a general memory that that was the case?

17 A. That was not a common thing.

18 Q. You said, there was other times -- or at least,  
19 another time when you were at Murray's house, and she was angry  
20 that you were there?

21 A. That was the same occasion.

22 Q. Okay. So you showed up at Murray's, and she was  
23 there, and then she appeared to be angry that you were there?

24 A. Yes.

25 Q. Okay. And when you arrived and you were there with

C03626

1 the two of t did any kind of argument ensue?

2 A. No, there was no argument.

3 Q. Did you confront her with the fact that she had told  
4 you -- or that she was supposed to be at a bar and then she was  
5 Murray's?

6 A. No, I don't think so.

7 Q. Were there any other times when she said -- told you  
8 truthfully, I'm going to John Murray's house?

9 A. I don't remember.

10 Q. Was the mere fact that she was at Murray's house, was  
11 there anything about that, that led you to believe they were  
12 having a romantic relationship?

13 A. That, by itself, would not have been a problem.

14 Q. Was there anything else going on during that same time  
15 period that made you suspicious that she had some kind of  
16 inappropriate relationship with Murray?

17 A. I don't remember anything specific, other than that.

18 Q. How long did you and Jennifer remain broken up after  
19 she broke up with you, because of the fact that you were there  
20 with her and Murray?

21 A. I think, she came looking for me the next day. It  
22 usually didn't go more than a day or two.

23 Q. Did she break up with you while you were still at  
24 Murray's house?

25 A. No.

C03627

1 Q. Where did she --

2 A. She --

3 Q. Tell me about the break up, how that happened.

4 A. She called me. I don't remember exactly what she  
5 said, but she called me and broke up with me.

6 Q. Did you recall her telling you, that she felt that you  
7 were hassling her and John Murray?

8 A. Probably the -- the gist of the conversation.

9 Q. Where were you living at that time?

10 A. I believe, I was living at Wallace Hall at that time.

11 Q. That was a dorm?

12 A. It was a small dorm, yes.

13 Q. And who did you live with?

14 A. Kris Carbone and I believe, Chris Wary.

15 Q. Did you talk to either one of them about your  
16 suspicions about Jennifer and John Murray?

17 A. I may have talked to Kris Carbone about it.

18 Q. What do you recall about any conversation with Kris  
19 Carbone about John Murray and Jennifer?

20 A. I don't know. He was just somebody I often talked to.

21 Q. He was someone else that you would confide in  
22 regarding maybe issues or -- that you had regarding Jennifer and  
23 your relationship with her?

3:03:13 24 A. Yeah.

25 Q. Was it after she broke up with you, that you then went

C03628

1 to her house?

2 A. Yes.

3 Q. Okay. And tell me about that.

4 A. I went to get my stereo.

5 Q. When you got to her house, you said, that you saw his

6 car?

7 A. Yes.

8 Q. Where did you see his car?

9 A. I believe, it was in her parking lot.

10 Q. What kind of car did he drive back then?

11 A. He drove a Trans Am. A black Trans Am.

12 Q. And did you go to her door?

13 A. Yes.

14 Q. And what happened when you went to her door?

15 A. I think, I pounded on the door and yelled something to

16 the effect of, you better your clothes on. Something like that.

17 Q. Was there anything about the way that they were acting

18 with each other, earlier in the day at his apartment, that led you

19 to believe that they would be unclothed and engaged in some kind

20 of sexual acts in her apartment?

21 A. Yeah, because I -- I felt that she was being -- well,

22 is there anything about the way they were acting, maybe not

23 specifically, other than, just that I felt that there was

24 deception involved.

25 Q. And was there anything -- let me just kind of rephrase

C03629

1 it, was there anything in the manner in which just she was acting  
2 that led you to believe that?

3 A. Again, just the deception and -- and perhaps the fact  
4 that she broke up with me following that deception, probably  
5 indicated that she was clearing her conscious for whatever it was  
6 a that they were going to do.

7 Q. When the three of you were at John Murray's house, did  
8 you smoke pot?

3:05:02 9 A. I don't remember.

10 Q. Did you take LSD?

11 A. No.

12 Q. When's the last time, that you recall in the summer of  
13 1993 taking LSD?

14 A. Again, I really don't remember whether I took any LSD  
15 during that summer. It was not something I took as often as  
16 smoking marijuana.

17 Q. When you knocked on her door, no one answered,  
18 correct?

19 A. I don't believe so.

20 Q. Okay. So what was the next thing that you did?

21 A. I started pounding on the door.

22 Q. And did you receive a response?

23 A. I don't remember.

24 Q. What was next thing you did?

25 A. I kicked the door down.

C03630

1 Q. Before you kicked the door down, did you make any  
2 determination as -- did you do anything to try to determine if  
3 they were inside the apartment?

4 A. I may have looked to see if the lights were on or  
5 something like that.

6 Q. Do you recall whether or nor the lights were on in her  
7 apartment at that time?

8 A. I believe, they were off.

9 Q. Did you hear any noises coming from inside the  
10 apartment?

3:06:00 11 A. No.

12 Q. Was that the first time that you had kicked her door  
13 in?

14 A. That was the first time, yes.

15 Q. And during that first occasion, did she have a  
16 deadbolt on her -- on her door at that time?

17 A. Yes.

18 Q. Were you able to kick it and on the first kick or did  
19 it take several kicks?

20 A. It took several kicks.

21 Q. Do you remember how many?

22 A. No.

23 Q. Were you saying anything as you were kicking her door?

24 A. I might have been yelling.

25 Q. What were you yelling?

C03631

1 A. I really don't know.

2 Q. You don't remember?

3 A. No.

4 Q. You kicked her door in on that occasion in the same  
5 manner that you later kicked it in when you believed Swaine was  
6 inside, correct?

7 A. Yes.

8 Q. What happened once -- well, you were able to kick the  
9 door in, on this occasion, correct? With Mur -- when Murray was  
10 inside?

11 A. Yes.

12 Q. Okay. What happened to the door and or the doorframe  
13 at that time?

14 A. It -- it was pretty much the same. The hinges didn't  
15 come off. Just the -- the deadbolt broke through the door jamb.

16 Q. And did you have any concern on that occasion, that  
17 you would be arrested by the police for kicking in her door?

18 A. I don't think so, at the time. I don't know whether I  
19 worried about that later, but --

20 Q. What happened once you kicked the door in?

21 A. Jennifer came to the door. She was wearing a nightie,  
22 and John was sitting in the bedroom on her bed.

23 Q. As you stood in her doorway, could you see her bed  
24 from the hallway or did you have to go back into the bedroom to  
25 see that?

C03632

1 A. I may have had to come a little ways in, I didn't have  
2 to go into the bedroom, but I may have had to come in a little  
3 ways.

4 Q. So you kicked the door in and then you entered the  
5 apartment?

3:07:57

6 A. I believe so, yes.

7 Q. Okay. And then was it at that point, that Jennifer  
8 started coming out toward the hallway -- or down the hallway?

9 A. I think she came out before I came in, but as I was  
10 breaking the door down.

11 Q. Okay. Did she say anything to you once you were  
12 inside the apartment?

13 A. She might have yelled at me. I really don't remember.

14 Q. What did you say to her?

15 A. I don't know. I probably accused her of having sex  
16 with him. Or I wanted to -- I think I said, I'm getting my  
17 stereo.

18 Q. Did you threaten her at that time?

19 A. No.

20 Q. Did you go back toward the bedroom once you entered  
21 the apartment?

22 A. I don't think so.

23 Q. Where were you standing when you were able to see John  
24 Murray sitting on the bed?

25 A. Again, I said, I probably had to come in a little ways

**C03633**

1 before I would see him.

2 Q. And just so that I'm clear, when you say come in a  
3 little ways, are you talking about into the apartment or into the  
4 bedroom?

5 A. Into the apartment, into the initial hallway entryway.

6 Q. And you had described earlier how the bedroom was kind  
7 of off to the right, correct?

8 A. Yes.

9 Q. Did a you have to go into that area off to the right a  
10 little bit, in order to look into the bedroom?

11 A. No, it's a dogleg.

12 Q. So could you see down into the bedroom? Is my -- my  
13 question is, did you --

14 A. From the hallway, you can see into the bedroom.

15 Q. Okay.

16 A. The door is right on the edge of the hallway, the same  
17 wall --

18 Q. Okay.

19 A. -- that is perpendicular to the hallway.

20 Q. Were the lights on in the bedroom when you walked in?

3:09:33 21 A. I think they were.

22 Q. Do you know at what point in time the lights went from  
23 off to on?

24 A. I don't.

25 Q. Did you say anything to John Murray when you entered

C03634

1 the apartment?

2 A. I don't remember.

3 Q. Did he say anything to you?

4 A. I don't remember. I don't think he got up off the

5 bed.

6 Q. What do you recall about any conversations that took

7 place when you broke down -- after you broke down that door?

8 A. I -- I'm not sure. I really don't. I can't think of

9 anything right now.

10 Q. Was this a significant event in your life, breaking

11 into your girlfriend's or ex-girlfriend's -- at that time, your

12 girlfriend's apartment, correct?

13 A. Technically, she broke up with me.

14 Q. Okay. So ex -- ex for the night?

15 A. Yes, it was a significant event.

16 Q. This wasn't something you had ever done before,

17 correct?

18 A. No.

19 Q. Okay. So is there anything that you took, any kind of

20 drugs or anything else that you can think of that is impairing

21 your ability to recall any conversations you had after you broke

22 down the door and entered her apartment?

23 MR. BOWMAN: Object to the form of the question. You

24 can answer if you understand it.

25 MS. EKL: It's what.

C03635

1 MR. BOWMAN: It's argumentative.

2 A. I really -- I don't know whether I would have been  
3 stoned that night or not. But it was a long time ago.

4 Q. After you entered the apartment, you said, you took  
5 your stereo?

6 A. Yes.

7 Q. Where was your stereo located within the apartment?

8 A. In the living room.

9 Q. What do you remember about that?

10 A. I went and I grabbed it and I stormed out.

11 Q. Was your stereo plugged into the wall?

12 A. It probably was.

13 Q. Do you remember that -- that it was plugged into the  
14 wall?

3:11:23 15 A. I don't.

16 Q. Was your stereo in one piece or did -- were there  
17 multiple --

18 A. It was a one piece.

19 Q. Okay. Is there anything at all, other than grabbing  
20 your stereo, that you can recall happening or you doing, once you  
21 were inside that apartment?

22 A. I don't remember right now.

23 Q. How long were you inside the apartment?

24 A. It wouldn't have been very long.

C03636

25 Q. Approximately, how many minutes?

1 A. Maybe five, at the most. I don't know, maybe even  
2 less. I just don't know.

3 Q. After you grabbed your stereo, did you -- and you left  
4 the apartment, what did you do?

5 A. I probably just went back to my dorm room, but again,  
6 I -- I don't know. I don't remember.

7 Q. Do you remember anything else that you did that night,  
8 after you kicked in the door to Jennifer's apartment?

9 A. I think -- I think, it was the same night John Murray  
10 came looking for me.

11 Q. Where were you when you became aware of the fact that  
12 he was looking for you?

13 A. I think he called me at my -- my room, but I'm not  
14 sure.

15 Q. Did you answer your phone?

16 A. I did.

17 Q. And what did you say?

18 A. I don't remember the specifics of the conversation,  
19 but I know that I agreed to meet him on the Quad at Wesleyan.

20 Q. Do you recall anything that he said to you during that  
21 conversation on the phone?

3:13:01 22 A. Not specifically, no.

23 Q. And what was the purpose of the two of you meeting on  
24 the Quad?

25 A. To -- he wanted to explain. I don't -- I don't think

C03637

1 I called him. I think he called me. My recollection is not  
2 clear.

3 Q. What time of day or night was it when he called you?

4 A. It was -- it was late.

5 Q. Late, like after midnight or late approaching  
6 midnight? Or --

7 A. Probably after midnight. I don't know.

8 Q. And what time was it when you had initially gone over  
9 to her apartment?

10 A. It was late then too.

11 Q. Did you -- you then agreed to meet him at the Quad?

12 A. Yeah.

13 Q. Were you still angry about what had -- what you had  
14 just seen?

15 A. A little bit, yeah.

16 Q. Did you tell anyone back at your dorm about the fact  
17 that you had just broke into Jennifer's apartment and saw her in  
18 there with John Murray?

19 A. I don't know. I may have. I don't even know who was  
20 there when I went back or --

21 Q. And I didn't ask you this, when you saw John Murray  
22 sitting on -- on her bed, do you remember if he was dressed?

23 A. I don't remember. I don't think he -- I don't think  
24 he was naked or anything. I -- I probably would have remembered  
25 that.

C03638

1 Q. So then, did you go to the Quad and meet John Murray?

2 A. Yes.

3 Q. Did you go with anyone?

4 A. No.

5 Q. And to your recollection, did you tell anyone at all

6 that you were going there?

3:14:26

7 A. I don't remember.

8 Q. Did John Murray meet you?

9 A. Yes.

10 Q. And was he with anyone?

11 A. No.

12 Q. Was there -- do you know why it was that the two of

13 you agreed to meet in the Quad as opposed to some other place?

14 A. I don't remember why.

15 Q. Was that your decision -- your suggestion that you meet at

16 the Quad or his?

17 A. I don't remember who suggested it.

18 Q. What happened once you got to the Quad?

19 A. We sat down and talked.

20 Q. Where'd you sit?

21 A. I think we sat on one of the -- there's steam pipes

22 that go under the campus, and there's concrete caps on those, with

23 a manhole over, and those are very warm. And usually we sat on

24 those if you're out there late at night.

25 Q. And what, if anything, do you remember about the

C03639

1 discussion between you and Murray, in terms of what you said to  
2 him and he said to you?

3 A. I think the gist of the conversation was that he was  
4 -- something to the effect that he had kissed her. That he didn't  
5 have sex with her. And that -- I don't know. I -- I basically  
6 told him that, okay I'm -- you know, the conversation was  
7 friendly. I guess, I forgave him. I -- I'm not sure what I said.

8 Q. So did you believe him when he said that he only  
9 kissed her?

10 A. Not really, but I guess, I chose to.

11 Q. Did you also forgive her?

12 A. Yes.

13 Q. When was the next time after being at her apartment  
14 that you had a conversation with Jennifer?

15 A. The next day, I think. Unless -- I don't know. If I  
16 called him, I may have -- I don't -- I don't know, but I think the  
17 next day.

18 Q. And what was the -- what do you recall about the next  
19 -- the next time you talked to her after leaving her apartment?

20 A. She came to me, I think, and wanted to get back  
21 together.

22 Q. And you think that was the next day or so?

23 A. I think it was shortly after.

C03640

24 Q. Did she --

25 A. The next day, maybe two days.

1 Q. Did she express to you during that conversation that  
2 she was, at all, scared of you?

3 A. I don't think so. I don't know.

4 Q. Did she tell you anything about being afraid of your  
5 temper?

6 A. She might have.

7 Q. Did she tell you to try to get -- you needed to get  
8 help for that?

9 A. I don't think she said anything about that, at that  
10 time.

11 Q. Was it at a later point in time, when she told you  
12 that you needed to get help for your temper?

13 A. Well, I know she -- she asked me to -- to go see a  
14 counselor. Again, as I said before, she knew there were some  
15 issues that I had to work through. I -- I'm sure it included my  
16 temper. I don't know if that was the only thing that she was  
17 concerned about.

18 Q. And was that, sort of, a condition to her wanting to  
19 get back to you, was that you get help for your temper or -- and  
20 or other things?

21 A. Well, she -- again, she didn't ask me that after the  
22 John Murray door incident, I don't think.

23 Q. Okay.

24 A. That was later on.

C03641

25 Q. Do you remember how much later after the John Murray

1 door incident when she was at -- talking to you about your temper  
2 and trying to ask you to get help?

3 MR. BOWMAN: Object to the form of the question.

4 Q. Do you understand my question?

5 A. I'm not sure. Can you ask it again?

6 Q. Sure. You said that she -- she encouraged you to get  
7 help for your temper, correct?

8 A. She encouraged me to get help.

9 Q. Okay. When was that, in comparison to the John Murray  
10 incident?

11 A. I believe it was much later, but I'm not sure.

12 Q. What it sometime in the summer of 1993?

13 A. Yeah, I think so, yes.

14 Q. All right. Let's go -- to me back again to -- when  
15 you arrived in Rockford after the incident with Michael Swaine at  
16 the end of the summer of 1993. You lived in Rockford with your  
17 parents, correct?

18 A. Yes.

19 Q. And your parents live at [REDACTED] ?

20 A. Yes.

21 Q. Is that where they currently reside?

22 A. Yes.

23 Q. They lived in that same location back in 1993 too?

24 A. Mm-hmm.

25 Q. Correct?

C03642

3:19:09

1 A. Yes.

2 Q. How many bedrooms are in that house?

3 A. Three.

4 Q. And is it a one story or a two story?

5 A. It's a ranch.

6 Q. Is that the same house that you lived in when you went

7 to high school in Rockford?

8 A. Yes.

9 Q. And where is your room located within the house?

10 A. I've been in both of the non-master bedrooms at

11 different times.

12 Q. Do you have any siblings?

13 A. I have a brother.

14 Q. And what's your brother's name?

15 A. Kelly.

16 Q. Is that K-e-l-l-y or e-y?

17 A. K-e-l-l-y.

18 Q. Is Kelly older or younger than you?

19 A. He's older.

20 Q. How much older?

21 A. Four and a half years.

22 Q. When you came back to your parents' house at the end

23 of the summer in 1993, was Kelly living in the house at that time?

24 A. No.

25 Q. Where are -- if you could just generally, explain

C03643

1 where the bedrooms are in relation to the master bed -- the two  
2 non-master bedrooms are in the relation to the master bedroom?

3 A. They're all in the same cluster at one end of the  
4 house.

5 Q. How long had your parents lived in that house as of  
6 1993?

7 A. As of 1993, I -- we moved in there when I was four.

8 Q. So obviously other -- the other time, other than when  
9 you were living in -- at school, you lived at that address?

10 A. Yes.

11 Q. Other than your parents -- well, let me back up. You  
12 -- at points in time in your life, did you live with Kelly in your  
13 parents house?

14 A. Yes.

15 Q. Okay.

16 A. We were in the same house at points in time, yes.

17 Q. Okay. One of the last time that the two of you lived  
18 in that house together?

19 A. It would have been when he was in college.

20 Q. So probably four and a half years prior -- of four  
21 years or so prior to when you moved back to Rockford in that  
22 summer of 1993?

23 A. Three or four years.

24 Q. Approximately?

25 A. Something like that.

C03644

1 Q. All right. Other than your brother and your parents,  
2 did anyone else live in that house with you at any point in time?

3 A. When I was in junior high school, we had a foreign  
4 exchange student.

5 Q. At any point, when you were staying with your parents  
6 in Rockford in 1993, did your brother come to live or just to  
7 visit?

8 A. He may have come to visit at some point, although  
9 their relationship was -- they were not that close.

10 Q. Was there any particular event that led to that?

11 A. There were breakdowns and dispute between my  
12 sister-in-law and my parents.

13 Q. What was your relationship with your brother between  
14 1991 and 1993?

15 A. I saw him occasionally.

16 Q. Did you ever confide in him about things that were  
17 going on in your life?

18 A. Not that significantly. I -- I may have talked to him  
19 a little bit about Jennifer.

20 Q. Do you remember any specific conversations that you  
21 had with him about Jennifer?

22 A. When he was getting married, I was his best man. And  
23 she didn't come to the wedding with me and she was afraid that I  
24 would cheat on her at the wedding. And I believe I talked to him  
25 about that a little bit.

003645

3:23:14

1 Q. When did your brother get married?

2 A. The beginning of the summer of '93.

3 Q. Where was it that the wedding took place?

4 A. Somewhere in the Chicago area.

5 Q. And was that something that she had told you, that she  
6 was worried that you would cheat on her when you were at the  
7 wedding?

8 A. Yes. Not specifically that way, but she expressed  
9 concern about that.

10 Q. How did she express that?

11 A. I don't really remember. I -- I -- she didn't try to  
12 get me to not go to the wedding, which I thought she might, but --  
13 I don't know. She wasn't happy about it.

14 Q. From the time that you first started dating Jennifer  
15 until the end of 1993, during the times that you were together as  
16 a couple, did you ever cheat on her?

17 A. No.

18 Q. Were there times when she thought that you had cheated  
19 on her?

20 A. Yes.

21 Q. And she expressed that to you?

22 A. Yes.

23 Q. And was that the cause of some of the breakups between  
24 the two of you?

25 A. Yes.

C03646

1 Q. At some point in the summer of 1993, did you become  
2 aware that Jennifer was going off to California to visit her  
3 brother?

4 A. Yes.

5 Q. And how did you learn about that?

6 A. I believe she told me about it.

7 Q. Do you remember when it was in relation to when you  
8 found her -- when you kicked her door in the second time you, when  
9 it was that she was leaving for California?

3:25:00 10 A. I don't know the exact date, but sometime after that.

11 Q. Was she in California during the point in time when  
12 you were in Ohio?

13 A. I don't think so.

14 Q. Was it after you went back to Rockford that you  
15 learned that she had gone --

16 A. I think so.

17 Q. -- to California?

18 A. I think it was -- she may have had something about it  
19 on August 4th or maybe even sooner than that. I don't know.

20 MR. BOWMAN: I'm going to -- I think that there was --

21 I don't think you intended to do this, but your question was  
22 whether -- whether she went to California while he was in

23 Rockford, not whether he learned about her --

24 MS. EKL: Gotcha. I -- you're right. I did not

25 intend to ask it that way.

C03647

1 MR. BOWMAN: Okay.

2 MS. EKL: Let me ask it another way.

3 Q. When you were in Rockford, did you become aware of the  
4 fact that she was in California?

5 A. Again, I don't know when I became aware of it.

6 Q. But you did become aware of while you were in  
7 Rockford?

8 A. I -- I knew that she was going -- going to go, yes.

9 Q. Okay. Did you talk to her at all while she was in  
10 California?

11 A. No.

12 Q. Did you talk to her at all while you were in Rockford?

13 A. Yes.

14 Q. Either -- either when she was at -- in Bloomington or  
15 in California?

16 A. I talked to her while I was in Rockford. I don't -- I  
17 don't remember talking to her when she was in California.

18 Q. Okay. Did you call her or did she call you?

19 A. We both called each other.

20 Q. When was the first time that you talked to her, in  
21 comparison to when you arrived back in Rockford?

22 A. I really don't remember.

23 Q. Do you remember if you called her or if she called  
24 you?

25 A. I think I called her at least once. I don't know if

C03648

3:26:35

1 that was the first one or not.

2 Q. Do you remember what time of day you called her?

3 A. I don't.

4 Q. What do you remember about that first conversation

5 after you left Bloomington and returned to Rockford?

6 A. I don't remember anything about it really.

7 Q. Do you remember how long you talked to her?

8 A. I don't.

9 MR. DICIANNI: I'm sorry. Can I ask a question? When

10 -- when did this conversation take place?

11 MS. EKL: Let me just ask you, rather than me answer.

12 Q. After you returned to Rockford, is that when you spoke

13 to Jennifer on the phone?

14 A. At some point after I returned Rockford.

15 Q. Okay. And that would have been sometime at the end of

16 August or in -- that would have been some time in August after you

17 had already had this blowup with Swaine in the theater, correct?

18 A. Yeah.

19 MR. BOWMAN: Object to the form.

20 Q. And it was sometime after you had returned back from

21 Ohio, correct?

22 A. Perhaps sometime after I returned from Ohio and went

23 back to Rockford I did have a phone conversation with Jennifer.

24 Q. And just so we're clear, is there any more specifics

25 in terms of the date that you can -- that you can give us.

C03649

1 A. No.

2 Q. Okay. During any point in time, when you talked to  
3 her, when you were in Rockford, did you have any discussions with  
4 her about getting back together with her?

5 A. She did ask if we could get back together.

6 Q. And what do you remember about that conversation?

7 A. I told her I didn't want to.

8 Q. Is there anything more about that conversation that  
9 you can recall?

10 A. I believe, that was the phone call -- I believe, she  
11 called me and that was the phone call -- that was the last time I  
12 talked to her.

13 Q. Tell me everything that you recall her saying to you  
14 during that conversation and everything you said back to her.

15 A. I don't remember all of the specifics of that phone  
16 conversation.

17 Q. Just everything you can't recall.

18 A. But I do remember that she asked if we could get back  
19 together, and I said, no. I don't want to see you. And that was  
20 the last time I talked to her.

21 Q. When you were talking to her, was your tone the same  
22 as it is today when we were sitting here, telling me?

23 A. No.

24 Q. Okay. What was your tone during that conversation?

25 A. I think, I was offended that -- that after all that

C03650

1 she was still trying to get back together with me.

2 Q. And why was it that you were offended?

3 A. I think because I -- I felt that I was free of that  
4 whole situation and it needed to be over with and I thought that  
5 she understood that and agreed with it, and I didn't -- I didn't  
6 think it was fair for her to -- to keep trying to get back  
7 together after all that.

8 Q. Did you ask her what the status was of her  
9 relationship with Michael Swaine?

10 A. I don't think I asked her about it.

11 Q. Is that something that you wondered about during that  
12 conversation?

13 A. I really didn't care anymore.

14 Q. Do you remember talking to her about the fact that she  
15 had cheated on you with Michael Swaine during that phone  
16 conversation?

3:30:07 17 A. I may have.

18 Q. Was anyone else in close proximity to you in your  
19 house in Rockford when you were having this phone conversation?

20 A. My parents were in the next room.

21 Q. Did you have any conversations with your parents after  
22 you got off the phone with Jennifer about what they may have  
23 overheard you saying?

24 A. I think so, yes.

C03651

25 Q. And what do you recall about that conversation?

1 A. I think I told them that she wanted to get back  
2 together and I told her no.

3 Q. Did they tell -- give you any advice or tell you  
4 anything in response to that?

5 A. I think, they thought I was making a wise decision.

6 Q. Are there any other communications with Jennifer prior  
7 to that last one that you can remember? And I'm talking about  
8 specifically when you were in Rockford?

9 A. Not specifically. Oh, you are ta -- you are talking  
10 --

11 Q. I -- I'm --

12 A. -- specifically --

13 Q. -- talking about --

14 A. -- when I was in Rockford?

15 Q. Yes.

16 A. I -- I believe we talked on the phone more than once  
17 while I was in Rockford. I'm not sure.

18 Q. Were there any other times in the prior -- previous  
19 conversations where she tried to get back together with you?

20 A. I don't think so, no.

21 Q. What was -- what was the topic or what did the two of  
22 you talk about during those other conversations?

23 A. I really don't remember. I know that I -- I was  
24 concerned about how she was doing, getting over the relationship  
25 and all of that. And I think I called to see if she had gotten

C03652

171

1 home okay from California. I don't remember whether I talked to  
2 her for very long or --

3 Q. Why were you concerned about her getting over the --  
4 you're talking about getting over the relationship with you,  
5 correct?

6 A. Yeah.

7 Q. Why were you concerned that she would have any problem  
8 with that?

9 A. I guess because things had been so topsy-turvy in the  
10 past. I was just concerned.

11 Q. During any of the previous times when the two of you  
12 had gotten in a fight and broken up, she wasn't then -- didn't  
13 start dating another -- another boy immediately, correct?

14 A. Well, I -- I think some of the previous breakups  
15 involved going to see Murray, going to see Bubba. I -- I mean, I  
16 really don't know the specifics of which times she may have gotten  
17 involved with another -- another boy.

18 Q. I'm not -- I'm not talking about the things that led  
19 up to the breakup. I'm saying, in those prior occasions, I think  
20 you previously testified, correct me if I'm wrong, that almost  
21 immediately after you would breakup, she would call you the next  
22 day or you would call her and then the two of you would get back  
23 together, is that fair?

24 A. That's -- yeah, that's fair to say.

25 Q. Okay. In this situation, you had reason to believe

C03653

1 that Murray was there to stay the last time you saw the two of  
2 them together, correct?

3 MR. BOWMAN: Do you mean Swaine?

4 MS. EKL: I'm sorry. I'm sorry.

5 Q. Swaine?

6 MS. EKL: Yes, thank you.

7 A. Yeah.

8 Q. 'Cause you saw his -- his sign in her house, correct?

9 A. Yes.

10 Q. And did you see other items of his belong -- other --  
11 other pieces of his belongings in her house when you went there  
12 that last time?

3:33:24 13 A. No.

14 Q. You saw him driving her car, correct?

15 A. Yes.

16 Q. And you had read those letters in which she talked  
17 about some very deep feelings toward him, correct?

18 A. Yes.

19 Q. So you had -- was there anything that led you to  
20 believe that they were not going to be a couple after -- after you  
21 returned to Rockford?

22 A. Not really.

23 Q. Okay. So what was it, given all that, that caused you  
24 to believe that she would upset about breaking up with you?

25 A. I don't know. I really don't remember all of the -- I

C03654

1 don't remember.

2 Q. At any point in time when you talked to her from  
3 Rockford, did you tell her that you were going to hurt yourself?

4 A. I don't think so.

5 Q. Is that something that you could have said to her?

6 A. I wasn't feeling like that's something I would want to  
7 do.

8 Q. Even if you weren't actually intending on doing that,  
9 was that something that you perhaps told her?

3:34:23 10 A. I don't know. I'm sure it was not.

11 Q. During the course of your criminal trial, did you have  
12 occasion to be aware of the fact that there were a number of phone  
13 records that were obtained?

14 A. Yes.

15 Q. And did you look through those phone records or  
16 summaries of those phone records either at the time of your trial  
17 or -- or sometime thereafter?

18 A. Yes.

19 Q. And did you become aware of the fact, either through  
20 that or some other means, that Jennifer had tried to call you over  
21 20 times on one particular day when you were in Rockford?

22 A. Yes.

23 Q. Did you know of that -- did you know that she had

24 repeatedly call your parents house separate and apart from knowing

25 it through the phone records?

003655

1 A. No.

2 Q. Did you have any conversations with your parents about  
3 the fact that she had repeatedly called their house?

4 A. No.

5 Q. Did your parents have an answering machine back in  
6 1993?

7 A. Yes, they did.

8 Q. And was that an answering machine that Jennifer ever  
9 left messages on?

10 A. I -- probably, I really don't remember specific  
11 messages she would have left there, but --

12 Q. During any of your conversations with Jennifer in  
13 Rockford, did she tell you, hey I was trying repeatedly to get a  
14 hold of you?

15 A. I don't think so.

16 Q. Do remember anything like that?

17 A. I don't remember her -- no, I don't remember her  
18 saying that.

19 Q. During any conversations you had with her, did she  
20 express any kind of urgency to talk to you?

21 A. Well, I think when she called asking to get back  
22 together, she was very intent on pursuing that.

23 Q. What led you to believe that she was intent on  
24 pursuing that?

25 A. She was crying. She was telling me that her and Mike

C03656

1 were not going to be together anymore and she wanted to get back  
2 together with me.

3 Q. Prior to her leaving all of those messages, had you  
4 left a message for her or talked to her and conveyed to her any  
5 intent to either hurt yourself or hurt her if she didn't break up  
6 with Swaine and get back together with you?

7 A. I certainly never expressed any intent to hurt her.  
8 And I don't think I left her any message about hurting myself  
9 either. As far as I can remember, I had moved on.

10 Q. At trial, you presented an alibi for the day of Jen --  
11 the day Jennifer was murdered, correct?

12 A. Yes.

13 Q. You worked for your uncle Clifford Gray when you  
14 returned to Rockford at the end of the summer in 1993?

3:37:08 15 A. Yes.

16 Q. And what type of work did you do for him?

17 A. Maintenance, building maintenance.

18 Q. Where did that take place?

19 A. At his grocery stores, and at his house.

20 Q. And he had a number of grocery stores that were called  
21 IGA, is that correct?

22 A. Gray's IGA.

23 Q. Gray's IGA. Specifically -- well, let me -- let me  
24 ask this first. Did you work late at night when you worked for  
25 him?

C03657

1 A. Yes.

2 Q. What were your hours?

3 A. Normally, I worked from 1:00 in the morning to about  
4 9:00 in the morning. Sometimes, a little bit earlier, sometimes a  
5 little bit later. I think we did some things during the day as  
6 well, but not very often.

7 Q. Was that a Monday to Friday job?

8 A. Yeah.

3:38:02

9 Q. Did you always work at the same location? Or did he  
10 have you work at different stores?

11 A. I worked at different stores.

12 Q. The week of Jennifer's murder, that whole week, were  
13 you working at one particular store or did you move to different  
14 stores every week?

15 A. I was working at the Sandy Hollow store.

16 Q. Do you remember -- or do you know, as you sit here,  
17 what the address is for the Sandy Hollow store?

18 A. I do not.

19 Q. Specifically, on Wednesday, August 25th, did you go to  
20 work at approximately 1:00 in the morning?

21 A. Specifically, approximately, yes, I went to work at  
22 about 1:00 in the morning.

23 Q. Did you have to clock in or check in with anyone when  
24 you arrived there?

25 A. I kept track of my hours.

C03658

1 Q. And how did you do that?

2 A. I wrote them down.

3 Q. Where did you write them down?

4 A. On a piece of paper.

5 Q. And what did you do with the piece of paper when -- af

6 -- after you wrote down --

7 A. I gave it to my uncle.

8 Q. Was that something, to your knowledge, your uncle then

9 kept or did he return that back to you?

3:39:04 10 A. I think he kept.

11 Q. Was there any other manner that you're aware of in

12 which your time was kept or your hours were kept track of during

13 the week of August 25th, 1993?

14 A. Not during that week, no.

15 Q. Specifically, on Wednesday, August 25th, what were

16 your duties within the store on the day?

17 A. Most of the maintenance I had done that week was

18 painting. I also -- I believe we tore a small wall out, and then

19 capped off the exposed internal structure of that wall, and we had

20 painted that as well. I can give you stuff for the week about --

21 Q. That's --

22 A. -- what I did there, but it was --

23 Q. That's okay. Just generally. Did you work on --

24 specifically, on August 25, did you work with anyone else within

25 the store?

003659

1 A. Dennis Clark.

2 Q. What position did Dennis Clark hold?

3 A. He was the full time maintenance person.

4 Q. Was he someone that was able to verify your

5 whereabouts on Wednesday, August 25th?

3:40:19

6 A. Yes.

7 Q. Did you get off work at your regular time that day?

8 A. With the regular time being approximate, yes.

9 Q. And that would have been approximately when?

10 A. Roughly 9:00.

11 Q. Is it fair to say that your regular -- regular routine

12 during the time was to go to work from 1 a.m. to approximately 8

13 or 9 a.m., come home to your parents house, sleep approximately 8

14 hours, get up, eat dinner with your family and maybe spend some

15 time with them before meeting up with friends and then go back to

16 work. Is that your -- just generally, that was your routine

17 through that --

18 A. Yes.

19 Q. -- time period? And in fact, you testified about that

20 when you testified before the grand jury, correct?

21 A. Right. Yeah.

22 Q. And just so the record's clear, you -- your case went

23 to grand jury -- your criminal case went to -- before the grand

24 jury, correct?

25 A. Yes.

C03660

3:41:19

1 Q. And you testified?

2 A. I did.

3 Q. On Wednesday, August 25th, when you got off work, did  
4 you follow that routine or did you do something different?

5 A. I did something different.

6 Q. Okay. What did you do?

7 A. I made a deposit at the bank.

8 Q. And what bank was it that you went to -- to make that  
9 deposit?

10 A. Bell Federal Savings and Loan.

11 Q. Was that a bank where you held an account?

12 A. Yes.

13 Q. You were interviewed after Jennifer was murdered a  
14 number of times, is that fair to say?

15 A. Yes.

16 Q. In the first interview, do you remember talking to an  
17 investigator Daniels and Hospelhorn?

18 A. Yes.

19 Q. And that took place on August 28?

20 A. I believe so.

21 Q. When you were first interviewed, did you tell them  
22 that you had been to the bank on Wednesday the 25th?

3:42:07

23 A. No, I didn't.

24 Q. Why was that?

25 A. I was very intimidated in that conversation and

**C03661**

1 confused and I don't think I had a clear recollection of anything  
2 during that conversation.

3 Q. What was it that caused you to be confused when you  
4 were -- when they asked you what -- what you had done in terms of  
5 your work routine three days prior?

6 A. In terms of that whole conversation, just the shocking  
7 experience of being put in handcuffs, taken to the police station  
8 and questioned and intimidated by the person questioning me, I was  
9 not thinking clearly.

10 Q. And I'll ask you in a little bit some more questions  
11 specifically about that interview, but -- well, let me ask you  
12 this. When you were being questioned by Daniels and Hospelhorn on  
13 the 28th, did you think that they were investigating a homicide?

14 A. I was told that they were investigating a homicide.

15 Q. You were told that by -- by who?

16 A. By, I believe, the sergeant in the Rockford police  
17 force.

18 Q. And at least, for the first 45 minutes or so of the  
19 conversation that you had with investigator Daniels and  
20 investigator Hospelhorn, they didn't tell you that Jennifer  
21 Lockmiller had been murdered, correct?

22 A. No, not at the beginning.

23 Q. Despite the fact that you -- well, let me back up.

24 You indicated that you were handcuffed, correct?

25 A. Yes.

C03662

1 Q. You were handcuffed after you were stopped driving  
2 your car away from your house, correct?

3 A. Yes.

4 Q. You were put into a squad car?

5 A. Yes.

6 Q. And you were asked to answer some questions about some  
7 -- your relationship with some people, correct?

8 A. In the squad car, no.

9 Q. What did they tell you when you were first stopped, as  
10 to why you were being stopped?

11 A. They told me that some police from Normal want to talk  
12 to me about a homicide.

13 Q. Did some Normal police officers then, a short period  
14 of time later, respond to the scene where you were stopped in your  
15 car?

16 A. Yes.

17 Q. In the meantime, had you then been placed in handcuffs  
18 and put into the officers' who stopped you handcuff -- squad car?

19 A. Yes.

20 Q. When the Normal police officers arrived, did they  
21 introduce themselves to you?

22 A. Yes.

23 Q. And that was Hospelhorn and Daniels, correct?

24 A. Yes.

25 Q. Did they tell you why it was that they wanted to talk

C03663

1 to you?

2 A. I asked them why they wanted to talk to me, and they  
3 said, they wanted to ask me some questions about my friend.

4 Q. Did they tell you what friend that was?

5 A. No, they did not.

6 Q. Did you ask?

7 A. No, I felt from the conversation that I was not  
8 welcomed to ask.

9 Q. What about their conversation at the initial point  
10 after they introduced themselves to you led you to believe that  
11 you could not ask them what friend they were talking about?

12 MR. BOWMAN: Objection, form.

13 A. Their answer to my question was very cryptic, and it  
14 seemed that they didn't want to answer my question.

15 Q. Their answer to what question?

16 A. When I asked what -- why they wanted to talk to me. I  
17 believe it was Tony Daniels said, well we want to talk to you  
18 about your friend here. It was not inviting me to -- to ask for  
19 more information. It was dodging the question.

20 Q. They brought you to the police station, they started  
21 asking you specific questions about your relationship with  
22 Jennifer, correct?

23 A. Yes.

24 Q. And they were asking questions about your whereabouts  
25 in the week before -- or the week of -- leading up to the 28th,

C03664

1 when they were questioning you, correct?

2 A. Yes.

3 Q. They were asking you those specific questions about  
4 what you did each day between the time that they were questioning  
5 you all the way back to the previous Sunday, correct?

3:46:35

6 A. Yes.

7 Q. And at that -- during that initial whole 45 minutes,  
8 when they were asking you all these questions, you never, at any  
9 point, during that time asked them who -- you know, why are you  
10 asking me these questions or what's this about?

11 A. No, I didn't.

12 Q. In fact, at the end of that interview, they confronted  
13 you with the fact that you hadn't asked any questions about why  
14 you were there, correct?

15 A. Yes.

16 Q. You remember that specifically?

17 A. I remember being confronted about not asking that,  
18 yes.

19 Q. Do you remember telling them, I just figured you would  
20 tell me?

21 A. Yes.

22 Q. And do you remember telling them, I have a feeling  
23 somebody has killed her or she is missing or something like that,  
24 what's up?

25 A. Yeah.

C03665

1 Q. You didn't tell them, I didn't ask any questions

2 because you intimidated me and I felt like I couldn't?

3 A. I was still intimidated. I wasn't thinking clearly at

4 all.

5 Q. But at that point in time, they made it clear it was

6 up -- that they expected you to ask what was going on, correct?

7 A. Apparently, yes.

8 Q. And that's why you asked, what's up?

9 A. I guess. I -- I don't know why I asked, what's up.

10 Other than it was, they were saying, you didn't ask. Okay. Now,

11 I'm asking.

12 Q. Were you concerned about the well being of Jennifer

13 while you were sitting there being questioned by Daniels and

14 Hospelhorn?

3:48:03 15 A. Yes.

16 Q. At any point, did you ask about her well being?

17 A. Later on.

18 Q. When did you first ask about her well being?

19 A. I don't know if I specifically asked about her

20 well-being, but in the context of the conversation, I believe, he,

21 at one point, told me that she was in a hospital bed calling out

22 for me, and I asked him if he would take me to see her.

23 Q. When you say, he, who are you referring to?

24 A. Tony Daniels.

25 Q. After you talked to Daniels and Hospelhorn during that

C03666

1 first conversation, you knew you were a suspect in some crime,  
2 correct?

3 A. I had been handcuffed.

4 Q. My question is, you knew you were a suspect, correct?

5 A. I -- I believed I was a suspect, yes.

6 Q. When the officers first confirmed for you that  
7 Jennifer had been murdered, did you have any suspicions at that  
8 time, as to who could have done it?

9 A. I think, at that time, I -- I maybe thought it was  
10 Bubba.

11 Q. In fact, that's what you told them, right? That you  
12 thought it --

13 A. I believe so.

14 Q. -- might be Bubba?

15 A. I believe I told them that.

16 Q. Bubba is Stacy Gates?

17 A. Yes.

18 Q. Did you know Stacy Gates back in 1993?

19 A. In passing, through Jennifer only.

20 Q. Okay. Had you ever met and talked to him or did you  
21 just know of him?

22 A. I had met him briefly.

23 Q. When did you meet him?

24 A. He was -- I think I met him -- it was after we were

25 engaged, but I really can't say specifically when it was. It --

C03667

1 it was sometime after we were engaged, but I don't remember.

2 Q. Where was it that you met Bubba?

3 A. At her apartment.

4 Q. And under what circumstances?

5 A. He had come to visit Jennifer.

6 Q. Was that a planned visit or was he -- did he arrive --

7 A. I believe so.

8 Q. You knew that he was someone that Jennifer had dated,

9 correct?

10 A. Yes.

11 Q. What did you know about the relationship at -- and I'm

12 talking about, what did you know as of the time in 1993 when you

13 had Daniels and Hospelhorn that he could have been someone who was

14 responsible for her murder?

15 A. I knew that they had had an on and -- on again off

16 again relationship for many years. That, in between, boyfriends,

17 that she would go back to him and then break up with him and date

18 somebody else, and go back to him again. And that she had

19 confided in me that he had some odd sexual proclivities. He

20 handcuffed her and she went along with it, but then he took

21 pictures and she was angry about that.

22 Q. What was your understanding about the time period

23 during which they had an on again off again relationship?

24 A. What was my understanding about that time period?

25 Q. About the -- time period? Like when did it start?

C03668

1 A. Since she was in high school.

2 Q. And is it fair to say that that relationship off and

3 on would occur even up through 1993?

4 A. I really don't know whether she was his girlfriend

5 during 1993, but in 1992, she was.

6 Q. And when you say that she would date him in between --

7 she would date other people in between dating him or visa versa,

8 were you one of the people that she, at least, at some period --

9 point in time, dated and then stopped dating and dated Stacy and

10 then went back to --

11 A. No, after he -- after she stopped dating me, then she

12 started dating Swaine.

13 Q. But early on in your relationship, back in 1992, were

14 there times when the two of you would break up briefly and she

15 would date Bubba?

16 A. I don't know whether she went to see Bubba

17 specifically on any of the times when we were broken up. But she

18 was with him before -- she broke up with him to start going out

19 with me.

20 Q. She obviously talked to you about Bubba, correct?

21 A. Yes.

22 Q. Other than her saying that he had some odd sexual

23 proclivities, were there other things that she told you about

24 Bubba that led you to believe that he was a sus -- that he could

25 have been responsible for her murder?

C03669

1 A. Nothing specifically that -- I know that he moved to  
2 -- well, she told me that he moved and took a new job so that he  
3 could be closer to her, even while they weren't actually dating.

4 Q. When did she tell you that?

5 A. Sometime around the same time that he made the move, I  
6 believe. Because I think, when we started dating, he was living  
7 in Wisconsin, maybe. I'm not sure. And then sometime early on  
8 while we were dating, he took a job, I thought it was Peoria, but  
9 maybe Pontiac, somewhere nearby, so he could be closer to her.

10 Q. Do you remember generally -- or can you tell us  
11 generally, a time frame that that took place, in terms of what  
12 year or what part of the year?

13 A. I think it was in early -- well, no. The -- the  
14 beginning of the semester in -- the fall semester in 1992, I  
15 think.

16 Q. Did she tell you anything about Bubba's personality  
17 that led you to believe that he was a person that could hurt her?

18 A. She never described him as -- as angry or anything  
19 like that. When I met him, he seemed fine.

20 Q. Was one of the reasons you felt that he could have  
21 been responsible, the fact that he had a -- a boyfriend on again  
22 relationship with her?

3:54:29 23 A. I thought it was relevant.

24 Q. Did you also think that was one of the other reasons,  
25 the fact that, despite the fact that they had this on again off

C03670

1 again relationship, he always still managed to stay in her life?

2 A. Yes.

3 Q. He still called her a regular basis, to your

4 knowledge?

5 A. Yes.

6 Q. Had Jennifer made comments about Bubba being crazy or

7 psycho?

8 A. I don't think so.

9 Q. She never told that to you?

10 A. I don't think so.

11 Q. Did you know that Bubba was moving to Peoria to be

12 closer to Jennifer right before her murder?

13 A. Did it happen right before her murder?

14 Q. Did you know that he had plans to move to Peoria the

15 week of her murder?

3:55:34 16 A. I don't know. I thought it was before that, but --

17 Q. You didn't believe that Michael Swain killed Jennifer,

18 correct?

19 A. I didn't. No, I didn't think he killed her.

20 Q. You never -- you've never thought that at any point in

21 time, correct?

22 A. He's never been a prime suspect for me.

23 Q. Was there a difference, in your mind, between a prime

24 suspect and some other kind of suspect?

25 A. I reserve the right not to rule somebody out.

003671

1 Q. What do you mean when you say prime suspect though?

2 A. Well, a better way to phrase it might be that I -- I

3 didn't think that from what I knew about him that it was likely

4 that he did it.

5 Q. And so the mere fact that Swaine and Jennifer had a

6 romantic relationship, that in and of itself, didn't cause you to

7 believe that he was a suspect, correct? Or a prime suspect?

8 A. No.

9 Q. You knew Michael, correct?

10 A. Yes.

11 Q. And you knew that he didn't have a violent

12 personality, correct?

13 A. I didn't feel that he had a violent personality.

14 Q. And was that part of the basis for which you didn't

15 think that he -- or that you thought he wouldn't have been

16 responsible for this murder?

3:57:12 17 A. I suppose it's part of the basis.

18 Q. In fact, when you talked to Daniels and Hospelhorn,

19 you told 'em that you didn't see why Mike would kill anyone,

20 correct?

21 A. Yes.

22 Q. When you refer to a prime suspect, did you think Bubba

23 was a prime suspect?

24 A. I suppose, maybe.

C03672

25 Q. Was there anything else about what you knew about him

1 or what you later found out about the murder that led you to  
2 believe that Bubba was a prime suspect?

3 A. Not that I can think of, no.

4 Q. Did you feel that Bubba was obsessive at all about  
5 Jennifer?

3:57:58

6 A. I did.

7 Q. Was that part of the reason that led you to believe he  
8 might have been -- might have been the murderer?

9 A. Yes.

10 Q. And his actions of the past of -- of handcuffing her  
11 during the course of their sexual acts, was that something else  
12 that led you to believe that he might be responsible for her  
13 murder?

14 A. I guess it made me think that he was a little strange.

15 Q. Anything else, as you can sit here, that led you to  
16 that belief?

17 A. No.

18 Q. You learned at some point in time about the  
19 circumstances under which she was killed, correct?

20 A. Yes.

21 Q. You learned that someone had entered her home and that  
22 it took place in her apartment, correct?

23 A. Yes.

24 Q. And did you learn that at the time of her murder,  
25 there was no -- there was no signs of forced entry through her

C03673

1 front door?

2 A. I learned that that was -- that was their finding.

3 Q. Okay. Was that another reason that you believed that

4 perhaps Bubba, the person that she knew could have been

5 responsible for the murder?

6 A. There might be a consistency between those, but that

7 to me doesn't necessarily point to Bubba.

8 Q. But was it something that, in your mind, fell in line

9 with your belief that it could have been him?

3:59:24 10 A. It didn't rule him out.

11 Q. Okay. And again, going back to something we talked

12 about earlier, you knew that it was Jennifer's habit to keep her

13 front door locked, correct?

14 A. Yes.

15 Q. And so you had no reason to believe that someone would

16 be able -- a stranger would be able to just walk in with out the

17 door being opened by her from the inside, correct?

18 A. Correct.

19 Q. And would you agree that based on what the

20 investigation revealed, at least as far as what you knew and know

21 today based on the police reports, it -- it didn't appear that --

22 it appeared that she had, in fact, opened the door to let whoever

23 came in, into the apartment?

24 A. It appeared that the door was open when that person

25 came in.

C03674

1 Q. Did the Jennifer ever talk to you about things that --  
2 about -- well, strike that. When you testified before the grand  
3 jury after you were arrested, that took place on July 14 of the  
4 1994, correct?

5 A. I don't know what date the grand jury testimony  
6 occurred on, but

7 Q. Sound about right?

8 A. It sounds like something that would be in the record.

9 Q. Okay. When you were questioned before the grand jury,  
10 was your attorney Mr. Beau present?

11 A. Yes.

12 Q. And you told the grand jury that you and Jennifer were  
13 both friends with John Murray, correct?

14 MR. BOWMAN: Objection to the form of the question. I  
15 think the way to do that is if the -- to read the transcript.

16 Q. That was something that you told the grand jury,  
17 correct?

18 MR. BOWMAN: Same objection. You can answer.

19 A. I believe that's what I told the grand jury.

20 Q. And you told the grand jury that Jennifer was  
21 unfaithful to you with Murray, correct?

22 MR. BOWMAN: Objection. Same objection.

23 A. Without looking at the transcripts, I believe I  
24 probably said that to the grand jury, yes.

25 Q. Do you remember telling the grand jury that she broke

C03675

1 up with you at one point, because she felt that you were hassling  
2 her and Murray?

3 MR. BOWMAN: Objection. Same objection. You can  
4 answer.

5 A. Okay. Again, I -- I believe, that I said that to the  
6 grand jury.

7 Q. And you told the grand jury about how you had gone to  
8 her house and seen Murray's car in the parking lot, and you told  
9 the grand jury that you then kicked in her door, correct?

10 MR. BOWMAN: Objection. Same objection. If you'd  
11 like, we could do a standing objection --

12 MS. EKL: That would be fine.

13 MR. BOWMAN: -- to this -- with respect --

14 MS. EKL: Okay.

15 MR. BOWMAN: -- to this transcript.

16 MS. EKL: Sure.

17 MR. BOWMAN: And then when we get to some other  
18 document, we'll deal with it separately, but for this --

19 MS. EKL: That's fine.

20 MR. BOWMAN: -- transcript, I'll have a standing  
21 objection and then we'll continue with the rest.

22 MS. EKL: Okay.

23 WITNESS: Okay.

24 Q. Do you remember --

25 A. Can you ask it again?

C03676

1 Q. -- telling the grand jury about the fact that you had  
2 kicked in her door when you believed Murray was inside?

3 A. I believe I did tell them that.

4 Q. Okay. When you were in front of the grand jury, you  
5 knew it was important to be truthful, correct?

6 A. Yes.

7 Q. You knew at the time that you were before the grand  
8 jury, that the state was seeking an indictment against you for  
9 murder, correct?

10 A. Yes.

11 Q. And you knew it was important to -- strike that. You  
12 told the grand jury about Jennifer's unfaithfulness to you with  
13 Swaine, as well, correct?

14 A. I believe so.

15 Q. Okay. And you told them about how you had kicked in  
16 the door a second time when Swaine -- when you believed that  
17 Swaine was present in her apartment, correct?

4:03:04 18 A. I believe so.

19 Q. You told the grand jury about the letters you wrote to  
20 Jennifer during your relationship with her, correct?

21 A. I believe so.

22 Q. And some of those letters were provided to the grand  
23 jury as exhibits, correct?

24 A. I believe so.

25 MS. EKL: Let me show you -- we're short a copy.

C03677

1 MR. BOWMAN: Is this going to be a longer section or

2 --

3 MS. EKL: Need a break?

4 MR. BOWMAN: Can I go to the bathroom?

5 MS. EKL: Yes, of course.

6 MR. BOWMAN: I'll be quick.

7 MS. EKL: Do we need a -- do you need another copy?

8 RECORDER: Marking Exhibit 2 and off the record.

9 (Off the record)

10 RECORDER: We are getting ready to go on the record.

11 And back on the record at 3:44.

12 MS. EKL: When we took a break, I had the court  
13 reporter mark two exhibits. Mr. Bowman, yours is right there in  
14 front of that container.

15 Q. I'm going to go ahead and show you Number 3 first,  
16 just to get it out of the way, but showing you what has been  
17 marked Deposition Exhibit Number 3. Do you recognize this  
18 document?

19 A. It says, it's the GRAND JURY PROCEEDINGS.

20 Q. Feel free to look through the pages. I'm -- I want to  
21 know whether or not this is something -- not just what it says,  
22 but whether or not you recognize this, as something that you're  
23 familiar with?

24 A. Just looking at the first couple pages, it looks like  
25 my testimony at the grand jury hearing.

C03678

1 Q. Okay. And you testified at the beg -- is there  
2 something -- you testified at the beginning of your deposition,  
3 that one of the documents that you reviewed in preparation for  
4 your deposition here today was your deposition testimony, correct?

5 MS. BARTON: Grand jury testimony.

6 Q. I'm sorry, grand jury testimony?

7 A. I did review it, yes.

8 Q. Okay. And so in -- when you say you reviewed it, did  
9 you review this document Deposition Exhibit Number 3 in  
10 preparation for today?

4:05:07 11 A. Yes.

12 Q. Okay. In reviewing your grand jury testimony, did you  
13 see anything in there that seemed inaccurate, in terms of the  
14 court reporter didn't get down something that you said, or got it  
15 down ac -- inaccurately?

16 A. Not to my recollection.

17 Q. Okay. I'll just take that from you. All right. Now  
18 showing you what has been marked Deposition Exhibit Number 2. And  
19 I -- just so that everyone knows, I took the staple out of it,  
20 which I'll explain in a minute. And do you recognize what I've  
21 put before you that's been marked as Deposition Exhibit Number 2?

22 A. I mean, most of this -- you know, so far, it just  
23 looks like my handwriting. Letters that I wrote to Jennifer.

24 Q. If you could just flip through each page and make sure  
25 that that is the case with each of those pages? That each, is in

C03679

1 fact, your handwriting and includes letter -- or constitutes

2 letters that you wrote to Jennifer?

3 A. It looks like some of it's song lyrics that I was

4 sharing with her. Some of 'em not by me.

5 Q. When you say some of them not by you, are you

6 referring to the lyrics themselves as opposed to the handwriting

7 in the --

8 A. The lyrics --

9 Q. Okay.

10 A. -- themselves, yes.

11 Q. I'll ask you more specifically about what's contained

12 within the documents, but I just want to make sure at this point

13 that each of those pages constitutes your handwriting and

14 something that you either gave to Jennifer in a letter form or

15 otherwise wrote to her?

16 A. Well, without reading them, you know, all the way --

17 yeah, they're -- all looks like things that I wrote.

18 Q. You say on the first page, there's again a photocopy

19 of what appears to be a sticker that was placed on there at some

20 point in time. It says Grand Jury on the side, and then it says

21 Exhibit 17?

22 A. Yes.

23 Q. PV Beaman? I asked you earlier, whether or not you

24 recall when you were in front of the grand jury being shown

25 letters that you wrote to Jennifer Lockmiller. Do you recall me

C03680

1 asking you that just generally, a few minutes ago?

2 A. About another exhibit, yes.

3 Q. Okay. Do you -- are these the -- the letters that  
4 were shown to you during the grand jury, that were then provided  
5 to the grand jury?

4:10:02 6 A. They appear to be, yes.

7 Q. Okay. I recognize that this may take a couple of  
8 minutes, but is there any way by looking at those letters that you  
9 would be able to put them in order according to when you sent them  
10 to Jennifer?

11 A. Probably not. I can -- I can look through -- I can  
12 maybe give you some rough time periods.

13 Q. Okay. Then perhaps what we'll do -- I'm not intending  
14 to have you read every page of each letter, but as we go through  
15 each one, I'll -- I'll have you do it that way. We'll just ask  
16 you generally rough time periods for each one. Unless you think  
17 that you can put them in groups?

18 A. This might take some time to try and put 'em in  
19 groups. I -- I --

20 Q. When was the last time that you've looked at these  
21 documents?

22 A. These, probably the last time I looked at these was --  
23 was -- I don't know. I may have looked at -- at them sometime  
24 during my appeal, but I don't -- I don't think I would have spent  
25 any real time reading them. I think the -- probably the last time

C03681

1 I saw them was at trial.

2 Q. Based on your recollection from the last time you  
3 looked at it, if you can answer this question, do you know when  
4 the earliest point in time was, that you wrote any of these  
5 letters?

6 A. The earliest point in time --

7 Q. Right.

8 A. -- that I wrote any of these letters? I would -- I  
9 would suspect the majority of them are from the first summer stock  
10 season, when I started Jennifer, and then I went home to live with  
11 my parents for most of August, and then came back to school.

12 Q. What leads you to believe that most of them were from  
13 that time period?

14 A. 'Cause that's when I did most of my writing to her.

15 Q. What year was that?

16 A. I believe the school year of '91-'92.

17 Q. So would that have been -- if it was over the summer,  
18 would it have been the summer --

19 A. I believe, the summer of '92.

20 Q. Okay.

21 A. Yeah.

22 Q. Is it fair to say that, at least, some of those  
23 letters were written during the 9 -- 1993 time period?

24 A. That's something I would have to really specifically  
25 look through for. I don't remember whether I wrote her any

003682

1 letters during that time.

2 Q. Okay. Well, let's -- let's go through them, and then

3 I'll ask that as -- rather than have you go through and try to put

4 them in order.

5 A. Okay.

6 Q. Maybe we can find a faster way to do it.

4:12:39

7 A. Okay.

8 Q. All right. And let me ask you this too, did -- during

9 the time that you were writing Jennifer letters, at any point

10 during your relation -- or -- or at any point during your

11 relationship, did she ever write you letters?

12 A. Yes.

13 Q. Approximately how many letters do you think she wrote

14 you over the course of the time that you knew her?

15 A. I really don't know. I can't say.

16 Q. Did you keep any of those letters?

17 A. I don't have any of them anymore.

18 Q. What did you do with those letters?

19 A. I threw them away at the same time I threw the ring

20 away.

21 Q. So that would have been approximately right after you

22 returned to Rockford at the end of 1993?

23 A. Yeah.

24 Q. Why was it that you threw them away?

25 A. I was closing the books for myself on that

C03683

1 relationship.

2 Q. So you had no intention of going back to Jennifer?

3 MR. BOWMAN: Actually, I'm so sorry to be late on  
4 this, but I think you mean, when he returned to Normal in the  
5 summer of '93?

6 MS. EKL: No.

7 MR. BOWMAN: Okay. All right.

8 MS. EKL: Right.

9 MR. BOWMAN: Okay. Sorry.

10 A. When I returned to Rockford, right, is what you're  
11 saying?

12 Q. When you returned to Rockford? Right.

13 A. Yes.

14 Q. You had no intention at that point, when you returned  
15 to Rockford, of ever getting back together with her?

16 A. No.

17 Q. Okay. And you were saying you disposed of those  
18 letters at the same time you disposed of the ring which was also  
19 in Rockford, correct?

4:13:50 20 A. Yes.

21 Q. Okay. Where did you -- where did you store those  
22 letters prior to that point in time?

23 A. I don't know.

24 Q. Well, was it in Rockford or was it Bloomington or  
25 Normal?

C03684

1 A. I probably had them in one of the boxes that traveled  
2 with me. When I was at school, it was at school with me, and when  
3 I was at home, I was at home. I didn't leave a whole lot at my  
4 parents' house. I didn't have a whole lot so --

5 Q. Do you specifically have a recollection as you sit  
6 here today, of getting rid of those letters when you returned to  
7 Rockford?

8 A. Do I today have a specific recollection of getting rid  
9 of them, no.

10 Q. Do you remember the manner in which you got rid of  
11 them?

12 A. I -- I believe, I may have thrown them in the river  
13 with the ring. I just -- I'm not sure of that.

14 Q. Okay.

15 A. But it was in the same time period.

16 Q. Was there anything else that you can recall of  
17 Jennifer's or anything related to Jennifer that you threw in the  
18 river at the same time as the ring and possibly the letters?

19 A. I don't think so, but I don't -- I can't verify that.

20 Q. Okay. All right. Well, let's go through Deposition  
21 Exhibit Number 2. This first -- if you could identify whether or  
22 not this first page is a complete document or if the letter goes  
23 on into multiple pages. If we can just identify how --

24 A. It looks like it starts and then it's signed at the  
25 end.

C03685

1 Q. Okay. Looking at this letter, are you able to roughly  
2 date when this was given to Jennifer?

3 A. I wrote that song in the summer of '92.

4 Q. And when you say I wrote that song, what portion of  
5 this letter are you referring to?

6 A. The bottom half. It says, song lyrics that I --

7 Q. Is that --

8 A. -- wrote.

9 Q. Is that the portion that starts, confused a fool?

10 A. Mm-hmm.

11 Q. I'm sorry. Is that yes?

12 A. Yes. I'm sorry.

13 Q. And does it continue all the way to the bottom of the  
14 page or does it end before that?

15 A. That's --

16 Q. In terms of the song lyrics?

17 A. It con -- continues until the signature.

18 Q. Okay. So the last part of it is, fear of resolution  
19 is our only sin?

20 A. Yes.

21 Q. Okay. The first paragraph, could you just read for me  
22 the first -- the first five lines from, I'm sitting to drop me?

23 A. Okay. I'm sitting here doing nothing. Can't sleep,  
24 so I just think about you. Thinking about you puts me to sleep at  
25 night and wakes me up in the morning. I'm always afraid that

C03686

1 you'll get scared of "us," and that you'll drop me.

2 Q. Why back sometime after the summer of 1992 or in the  
3 summer of 1992, when you wrote these lyrics, did you have a fear  
4 that she would get scared of "us" and -- meaning -- is that  
5 meaning the two of you?

6 A. Of the relationship.

7 Q. Okay. And that she would drop you?

8 A. I thought that maybe she would be afraid of  
9 commitment.

10 Q. Was this prior to your engagement or after?

4:17:00 11 A. This was prior.

12 Q. Okay. If you could look at the second page, just for  
13 the record, the bottom is marked 6 -- page 619 circled. Is that a  
14 complete -- is that one page, 619, is that a complete document or  
15 does that move on to the next page?

16 A. It doesn't seem to have an introduction.

17 Q. If you can maybe flip through and see if there's  
18 another page you think goes with that. And I apologize. This is  
19 the manner in which we received them, and I just want to make sure  
20 that they're --

21 A. Sure. I understand. I -- those two appear to go  
22 together, the Billy Joel lyrics continue from one page to the  
23 next. I see there's a signature at the end of 620, so what I'm  
24 missing is an introduction to that. So maybe the first page is  
25 missing for some reason.

C03687

206

1 MS. EKL: Why don't we -- if it's okay with everyone  
2 else, just take a couple minutes and on -- without asking you to  
3 have to put them in date order, if you could just take a couple  
4 minutes to try to figure out what goes together in terms of, we  
5 can maybe just criss cross and I think it might speed things up in  
6 the end, if you can just do it all at once.

7 MR. BOWMAN: That's okay with me.

8 RECORDER: Off the record at 4:00 even.

4:19:08

9 (Off the record)

10 RECORDER: Back on the record at 4:10

11 Q. Mr. Beaman, I had you during the break go through the  
12 stack of documents that constitute deposition exhibit number 2,  
13 correct?

14 A. Yes.

15 Q. Okay, and to the best of your ability did you go  
16 through those documents and try to put them together so that the  
17 corresponding pages are next to each other?

18 A. Yes, I believe. To the best -- to the best of my  
19 ability.

20 Q. Okay. And I think that you mentioned off the record  
21 that it appears there might be a few pages missing here or there,  
22 correct?

23 A. Some of the -- some of the pages appear to be missing,

24 perhaps an introduction.

C03688

25 Q. Okay. I'm going to go through each of them in the

1 order in which you've put them together and if it's missing a  
2 page, then I'll have you identify that with each group. So we'll  
3 kind of handle it as we go through and we'll let the rest of  
4 counsel know what pages we're referring to so they can put their  
5 own copies together. All right. So you also handed me two  
6 different stacks. Is there a difference between this stack -- the  
7 first stack of documents and the second?

8 A. This stack of documents appear to have some kind of  
9 introduction and a signature at the end whereas the other stack,  
10 either have one or the other, but don't appear to have both.

11 Q. Okay. All right. I'll start with the documents --  
12 the stack of documents that you believe are complete, and then  
13 we'll just go through to the others. And for Counsel's benefit,  
14 the first group of documents, and I'll refer to the -- the state's  
15 attorney numbers are the bottom that are circled, is 631, 632 --

16 MR. BOWMAN: I'm so sorry, Beth, before you do that,  
17 can we just leave it 618 at the top, so that --

18 MS. EKL: Yes, right. We've already talked about that  
19 one so --

20 MR. BOWMAN: Okay. Sorry.

21 MS. EKL: That's okay. So it's 631, 632, 633, 634,  
22 chronologically through 638, so those appear to be --

23 A. Okay.

24 MR. BOWMAN: Hold on just a second.

25 MS. EKL: Sure.

C03689

1 MR. BOWMAN: 631 through 38 are in order?

2 MS. EKL: Yes.

3 MR. BOWMAN: I'm going to place those at the top under  
4 the 618.

5 WITNESS: Okay. Yeah. The 5 looked like an 8. All  
6 right.

7 Q. All right. All right. Mr. Beaman, by looking at this  
8 particular site of document, are you able to determine, at least,  
9 generally when this letter was written from you to Jennifer  
10 Lockmiller?

11 MR. BOWMAN: So you're at -- I'm sorry. You're asking  
12 now about 631 through 630 --

13 MS. EKL: Right.

14 MR. BOWMAN: -- 38?

15 MS. EKL: I'll let you know if I'm switching, but for  
16 right now we're just referring to that stack of documents.

17 MR. BOWMAN: Thank you.

18 A. This would be during August of '92, because again it  
19 references that I wrote during August of '92. Well, during --  
20 during 1992, during the summer at some point. I think, I wrote  
21 that song while I was home from school, during the summer  
22 sometime.

23 Q. Could you read just the first two sentences of this  
24 document, including the -- the introductory?

25 A. Okay. Babe, I think about you constantly. I don't

C03690

1 sleep, I don't do anything but work, and think about you, and  
2 write songs.

3 Q. What portion of the document is the portion you just  
4 referred to that is the song that you wrote?

5 A. I don't think it contained the lyrics. I don't --  
6 well, I'll have to look for sure, but it references it in the -- I  
7 think, the next sentence after what you had me read.

8 Q. Could you read the portion you're referring to?

9 A. I'm surprised I managed to get my mind off of you long  
10 enough to write "Elegy" for my grandfather.

11 Q. So was Elegy a song that you wrote during that summer  
12 of 1992?

4:21:56 13 A. Yes.

14 Q. Okay. And so that's how you're able to put a general  
15 date -- time frame on these -- on this particular letter?

16 A. Yes.

17 Q. Okay. Referring -- if you could look at the second  
18 page of that document, which is page 632. At the top, there's a  
19 statement in here that says -- if you could read that first  
20 sentence since it's your handwriting?

21 A. The fragment of the sentence there at the top?

22 Q. The first full sentence starting, when.

23 A. Okay.

24 Q. When I say.

25 A. When I say good night to you, I want you to kiss me

C03691

1 good night whether or not Jon, or Slush, or Bubba is watching.

2 Q. Who are you referring to when you say, Jon?

3 A. I believe that -- that would have reference John

4 Murray.

5 Q. And who is Slush?

6 A. What was his name? I can't think of his name off the  
7 top of my head. It may be able to figure it out at some point,  
8 but he was a -- he was a fellow student at Wesleyan. He was a  
9 mutual friend of Jennifer's and mine. And when Jennifer and I  
10 started dating, he was upset with us because he had confided in me  
11 that he had affections for her and he felt that I broke the -- the  
12 man code.

13 Q. And you broke the man code by going after Jennifer?

14 A. By pursuing her when I knew that he was interested in  
15 her, yes.

16 Q. Okay. And I assume, correct me if I'm wrong, Bubba  
17 refers to Stacy Gates --

18 A. Yes.

19 Q. -- who we talked about earlier? Okay. What -- what  
20 was the concern in terms of, why were you talking about Jon, Slush  
21 or Bubba watching?

22 A. Recognizing that this was a long time ago. I -- I  
23 believe there -- there was a -- she had issues with public display  
24 of affection sometimes. And -- but generally, it -- it was  
25 something she didn't want to do around -- or I felt that it was

C03692

211

1 something she didn't want to do around her male friends.

2 Q. Did you ever have any conversations with her about not

3 wanting to be affectionate in front of her male friends?

4:24:16

4 A. I would believe so.

5 Q. Do you recall anything about those conversations?

6 A. I don't remember specifics.

7 Q. We've already talked about how she had some intimate

8 relations with both Murray and, to your belief, with Stacy Gates,

9 correct? With Bubba?

10 A. I believe she may have.

11 Q. Okay. Did you have any reason to believe that she had

12 had intimate relations with Slush?

13 A. Not during our relationship.

14 Q. Did you believe that she had, prior to your

15 relationship?

16 A. Yes.

17 Q. If I could direct your attention down to the next

18 paragraph, the part that starts, I want to if you could read that

19 sentence.

20 A. I want you to let me help you faith things so you

21 don't have to --

22 Q. No, I'm sorry. Bef -- before that.

23 A. Oh.

24 Q. Where it says, I want to get high.

C03693

25 A. Wait. Is that --

1 Q. So see, strength?

2 A. Okay. Yes. Okay. Okay.

3 Q. All right. Could you read that sentence, please?

4 A. I wanna get high with you or drop with you, and have  
5 you include me in what's going on in your trip.

6 Q. And was that a reference to the time that the two of  
7 you would do acid together?

8 A. Well, this time we may have done it together once or  
9 twice. And there may have been some part of that experience where  
10 she was wanting to kind of go off on her own. I don't -- I don't  
11 remember specifically, but I think she tended to chase rainbows in  
12 that kind of situation.

13 Q. So she would trip, like bas -- basically have  
14 hallucinations in -- in connection with the drug experience?

15 A. I don't know whether she had hallucinations.

16 Hallucinations are -- are not --

17 MR. BOWMAN: There's a foundational issue here.

18 MS. EKL: Rainbows and lephrecuans, I don't know.

19 WITNESS: Well --

20 MR. BOWMAN: I suppose I --

21 Q. What are you referencing? Let's ask that question.

22 When you say trip?

23 A. Being allegorical when I say, chase rainbows. And

24 that's probably something I should make clear. It -- I think

25 Jennifer's tendency was to -- to trip by engaging in the wonder of

C03694

1 what was around her and not thinking too much about what other  
2 people were doing. And I suppose I felt that that made us more  
3 separate during those times.

4 Q. And when you say during those times you're talking  
5 about the times when you would get high or you would drop acid?

6 A. I would guess particularly with acid, but I -- I don't  
7 remember if -- I don't remember any times when smoking marijuana  
8 caused that kind of separation, no.

9 Q. Turning to the page that's marked 635.

4:27:45 10 A. Okay.

11 Q. If you could read the paragraph that says, I'm glad  
12 you felt strong enough with me. It's the second paragraph.

13 A. I'm glad you felt strong enough with me to tell me  
14 about what you smoked with Jon. I don't like it, but I'll accept  
15 it as part of the way you are. But if that shit ever hurts you,  
16 I'll cry a thousand tears for each brain cell you lose.

17 Q. What were you talking about in that paragraph?

18 A. It sounds like probably, crack.

19 Q. Had you known Jennifer to do crack on any other  
20 occasions?

21 A. I had never seen her do crack.

22 Q. When you say Jon, who are you referring to there?

23 A. That's probably John Murray as well, but I can't say  
24 for sure. I -- I think so.

25 Q. Were -- was there any other John, that you're aware

C03695

1 of, that she might have been doing drugs with, back in 1992, that  
2 you could have been referencing?

3 A. Well, it could have been Jon -- it might have been Jon  
4 Reevis. Actually, now that -- now that I'm thinking about it, it  
5 might have been more likely to be Jon Reevis.

6 Q. Why do you think it was more likely that it was Jon  
7 Reevis?

8 A. Because I -- I know that he did smoke crack.

9 Q. That Jon Reevis smoked crack?

10 A. Yes. With John Murray, I know that he used harder  
11 drugs than what I saw him with, but I wasn't always privy to  
12 exactly what they were.

13 Q. You didn't have any knowledge of John Murray doing  
14 crack, correct?

15 A. Not directly, no.

16 Q. Did you have any indirect knowledge of him doing  
17 crack?

18 A. I had direct -- indirect knowledge that he used other  
19 drugs besides marijuana and LSD.

20 Q. Okay. But I just meant specifically crack, you hadn't

21 --

22 A. No, no.

23 Q. All right. And then turning to the paged marked 637.

24 A. Okay.

25 Q. If you could read the paragraph --- or the --- from the

C03696

1 top of the page down to, I could really.

2 A. Okay. I love you! -More passionately than Romeo did

3 Juliet. -More hopelessly than Ophelia did Hamlet. -More

4 vengefully than did Medea, Jason -- Medea, Jason. (Don't worry, I

5 won't kill anybody, I don't believe in that.) I do onto others as

6 I would have them do onto me (from now on) That's why I love

7 you...That's why I need you...I could really grow up for you.

8 Q. Is it fair to say that, this was during -- you wrote

9 this during a time period where you did feel very passionately

10 about Jennifer Lockmiller?

11 A. Yes, I did feel very passionately about her.

12 Q. And you were in love with her at that point in time?

13 A. Yes, I was.

14 Q. And at that same point, you were also aware of the

15 fact that she had a number of other -- or at least -- at least

16 some other guys in her life that -- that also were, at least,

17 attracted to her if she -- if not her attracted to them?

18 A. Competition, yes.

19 Q. Okay. Specifically, you refer to Medea and Jason, is

20 that -- what -- what do you mean by that?

21 A. I think I was just referencing passionate classical

22 plays to impress a girl.

23 Q. Okay. And what's your understanding about the story

24 behind -- or the mythology behind Medea and Jason?

25 A. You know, now? Many years later, I don't -- I -- I

003697

1 know we produced the play Medea at Wesleyan at one point. And I  
2 -- I -- about all I can remember about Medea now is that -- I  
3 believe, it was a Greek tragedy. And I believe, she killed her  
4 children and then killed herself or something like that. Maybe  
5 she killed Jason, I can't remember.

6 MR. BOWMAN: It's not a -- it's not a test.

7 Q. Do you recall it to be basically, a love triangle type  
8 situation where Jason cheated on her and then she killed Jason?

4:31:57

9 A. That's possible. I -- I don't remember the play that  
10 well.

11 Q. And you mention that Medea was a play that you  
12 actually helped produce?

13 A. Yeah, I don't remember what posi -- production  
14 position I may have had for that show, but I was involved, at the  
15 very least, in the construction of the scenery.

16 MS. EKL: Okay. Do you have a --

17 WITNESS: I'm sorry. Right after this letter, can I  
18 go to the bathroom again?

19 MS. EKL: Of course. I'm just going to show you this  
20 real quick. Can we mark this as Exhibit Number --

21 RECORDER: 4.

22 MS. EKL: -- 4.

23 WITNESS: It's a program?

24 Q. Exhibit. Showing you what's been marked Deposition

C03698

25 Exhibit Number 4. Do you recognize this?

1 A. It looks like a -- a play bill for Medea from Illinois  
2 Wesleyan University.

3 Q. Can you tell from looking at this play bill, first of  
4 all, when it was that the play Medea came through Illinois  
5 Wesleyan?

6 A. I'm looking for a date here. Okay. Well Elizabeth  
7 Dwyer was there. She was playing Medea, if I remember correctly.  
8 She was, at least a year ahead of me, if I remember correctly.

9 Q. And perhaps if I direct you to page 416, it might help  
10 you.

11 A. Okay. Thank you. 1992. Summer Theatre, 1992.

12 Q. At the time that you wrote the letter that we just  
13 discussed, to Jennifer Lockmiller, had the Medea play already been  
14 produced by Illi -- Illinois Wesleyan?

15 A. Yes, that would have been -- I would have written that  
16 to her while I was in Rockford in August, and it would have been  
17 after the season had concluded.

18 Q. Okay. From looking at this play bill, can you deter  
19 -- or this program, can you determine what your role or position  
20 was in the production of Medea?

21 A. Assistant scene designer.

22 Q. All right. You can put that aside. You can set it  
23 here. Thank you. All right. The next -- you can set that whole  
24 letter aside.

25 A. Okay.

C03699

1 Q. Okay. I'm just trying to get these up.

2 WITNESS: Can I go to the bathroom now?

3 MS. EKL: Yes. I'm sorry. Yes.

4 WITNESS: I will be very quick. I'm very sorry.

5 RECORDER: Off the record, 4:27.

6 (Off the record)

7 RECORDER: Okay. We're getting ready to go back on.

8 And we are back on at 4:33.

9 Q. All right. Now, I'm going to show you the page that's  
10 marked 629 at the bottom. And we're back on Deposition Exhibit  
11 Number 2 for the record. Do you recognize this as another letter  
12 -- or another document that you wrote and gave to Jen?

4:35:16 13 A. It appears to be something that I gave to Jen, yes.

14 Q. Okay. Does it appear to be complete or is it missing  
15 a page?

16 A. I wouldn't -- I can't say it's missing a page,  
17 necessarily, but it does not contain some kind of introduction  
18 like, Dear Jennifer.

19 Q. Okay. At the top of this document, you quote a song,  
20 is that -- is that fair to say? "Still Be Around" by Uncle  
21 Tupelo?

22 A. Yes.

23 Q. Okay. In the last paragraph of this page, you say you  
24 were -- well, if you could read the first sentence of the last  
25 paragraph of this page. Maybe the whole paragraph then.

C03700

1 A. The written paragraph that is not song lyrics?

2 Q. Correct.

3 A. Okay. If you want me to be your NBF, you'll have to  
4 accept that I'll always love you. And you'll have to understand,  
5 and deal with my misconceptions, faults, and fears. I think  
6 (insecurity, etc.) You're not off the hook, it doesn't work that  
7 way. I'll always be here for you. I think, love, Alan.

8 Q. Okay. Is it fair to say, by virtue of the fact that  
9 you're referencing NBF, that this was something that was written  
10 to her -- this is one of the letters that was written to her in 9  
11 -- the summer of 1993?

12 A. Yes.

13 Q. Okay. There is a -- there are several different  
14 paragraphs in here, aside from that first one, where you appear to  
15 be quoting different -- making different literary or song lyric  
16 references, is that fair to say?

17 A. All of this up here you mean?

18 Q. And above it, are there other ones besides just the  
19 first one regarding Uncle Tupelo?

20 A. Above it, the -- everything about the line is a song  
21 by Uncle Tupelo.

22 Q. Okay.

4:36:51 23 A. Yes.

24 Q. Including the paragraph directly above that? Above  
25 the bottom paragraph?

C03701

1 A. Yes.

2 Q. Okay. Could you read those song lyrics?

3 A. The whole thing?

4 Q. From, walked and breathed.

5 A. Okay. Okay. Walked and breathed many a cancerous

6 mile. with a battle in eyes, too slow to beat the coffin. they

7 won't tell it on the TV. they can't say it on the radio. Paint,

8 and move it off the shelf and into our minds. till you can't tell

9 the truth when it's right in front of your eyes.

10 Q. What was the purpose in you including those particular

11 song lyrics in this letter to Jennifer?

12 A. I -- I sent her the whole song, that's part of the

13 song.

14 Q. So the lyrics above it are all part of the same song,

15 is that what you're saying?

16 A. That's correct.

17 Q. Okay. Well, what was the purpose of sending her this

18 particular song? Not just those lyrics in the song.

19 A. The song is about -- I really can't say why I sent it

20 to her, honestly, and specifically, I don't remember why I chose

21 to send her this particular song.

22 Q. And what was your understanding about the meaning

23 behind the song "Still Be Around" by Uncle Tupelo?

24 A. At the time, I suppose, I would say that I believed it

25 was a song about people being there for each other or -- or a

C03702

221

1 person wondering whether people would be there for each other down  
2 the road.

3 Q. Okay. And so was that how you were feeling at that  
4 time when you sent this to Jennifer?

4:38:45 5 A. I would say that's a -- a fair characterization, yes.

6 Q. Go ahead. I'll just put this stack in front of you if  
7 you just want to flip it over after we get done, and we'll keep  
8 the two stacks separate. All right. Now, showing you a group of  
9 pages that you put together, where are marked 646, 647 and 648.  
10 Do these three pages appear to be complete or is it -- or do you  
11 think that they're perhaps missing an introduct -- an  
12 introduction?

13 A. It's possible it's missing an introductory -- an  
14 introduction. I -- I can't say for sure.

15 Q. Okay. Could you repeat the first portion of that  
16 before the -- from the beginning line until it says, Damned if I  
17 do?

18 A. Okay. I can't bear any longer to stare into your eyes  
19 to see the borage of countless past lovers of your life. I cannot  
20 look at you, if I cannot touch you.

21 Q. Is that a song lyric or is that your words to her?

22 A. I don't believe it's a song lyric.

23 Q. When was it that you sent or prepared this letter and  
24 sent it -- gave it to her?

25 A. From looking at that paragraph where it says, After

C03703

1 all, it was you who said you didn't want a commitment, I believe  
2 this would have been from August of 1992.

3 Q. Let me have you look at the second page, see if this  
4 helps maybe date it a little bit better. If you look at the page  
5 marked 6 -- page 647.

6 A. Okay. Oh my.

7 Q. If you could go ahead and read that whole first big  
8 paragraph there.

9 A. Okay. When I'm -- when I'm around you I feel like  
10 falling apart, and I can't handle that anymore. If I thought that  
11 things would ever change with "US", it might make it easier. Your  
12 phrase NBF is just as -- just a sign to me of my failure to be  
13 good enough for you. So that tells me that perhaps I'm wrong  
14 about when it was.

15 Q. Okay. And based on that statement, does that lead you  
16 to believe that this letter was written sometime in the summer of  
17 1993?

18 A. Yes.

19 Q. Okay. If you could continue reading after where you  
20 said, would ever change with "US." If you could keep reading that  
21 full -- full first paragraph. Starting with, your phrase.

22 A. Your phrase NBF is just a sign to me of my failure to  
23 be good enough for you, and your constant reminding me is a living  
24 hell. I want you back and I'll sacrifice my pride to get you  
25 back, but if I can't have you back, then pride is ALL I HAVE. So

C03704

1 don't do me any favors, just do what you want to do. And if I  
2 can't convince you of my love, and we can't get back together to  
3 form a basic trust, then get the f out of my life.

4 Q. Reading this, do you recall now the context in which  
5 your wrote these words to Jennifer?

6 A. This was probably written around the time when we were  
7 broken up and she was coming over and hanging out with me and  
8 Michael Swaine, and running the bases.

9 Q. And this was a time when you thought that there was  
10 something going on with her and Michael Swaine, but she was trying  
11 to be friends with you, having -- calling you her new best friend,  
12 correct?

4:42:23

13 A. Yes.

14 Q. If you could turn to the next page, 648.

15 A. Okay.

16 Q. And go ahead and just read -- let's start with the  
17 first -- the first paragraph?

18 A. The beginning of the page --

19 Q. Oh, you know, actually, I'm sorry. Just why don't we  
20 start with the third -- the third paragraph, and why don't you  
21 read the whole thing. It says, I can't deny, I think.

22 A. That is a song lyric from a song that I wrote.

23 Q. Okay. Can you -- can read that, just so it's clear?

24 A. I can't deny you, but I have to, to love you. so  
25 don't you go marking off grades. you say it's no contest, but I

C03705

1 can't compete with a wild eyed passion for play.

2 Q. When did you write that song?

3 A. I wrote that song actually in -- sometime during the

4 school year -- beginning of the school year of 1992 to 1993.

5 Q. And did you write that -- what was the purpose of

6 writing that song?

4:43:20

7 A. It was about my relationship with Jennifer.

8 Q. Had you in the past, back earlier closer in time to

9 when you wrote the song, had you given her the -- the song lyrics

10 that -- at that time?

11 A. She had -- she had heard it before.

12 Q. Okay. That was a better way of saying it. Thank you.

13 Could you read the next paragraph that starts, I will love you?

14 A. I will love until the day that the breath of life

15 ceases to whisp through my aching body, which aches for your

16 warmth. That which I can never feel again. I will hold my memory

17 of you dearest to my heart, but at the touch of another woman I

18 will shrink away in sorrow and fear wishing she were you.

19 Q. Is that something that you wrote or is that a quote

20 from something?

21 A. I don't think it's a quote.

22 Q. And does that fairly characterize how you were feeling

23 at that time about Jennifer?

24 A. It may have been again, over the top, trying to be

25 impressive, but it's -- it -- I don't think I would have written

C03706

1 that completely dishonestly.

2 Q. Okay. And then if you could read the -- the last line  
3 of the -- of the letter.

4 A. "The rest is silence" -Hamlet.

5 Q. Was that a line that you were familiar with from  
6 Hamlet?

7 A. Yes.

8 Q. Okay. And in what part of the play is -- is that  
9 sentence uttered?

10 A. I don't remember specifically where it's uttered in  
11 the play.

12 MS. EKL: All right. I'm going to stack that.

13 MS. BARTON: This isn't yours.

14 MS. EKL: Okay.

15 WITNESS: Does this go in here?

16 MS. EKL: Oh, I'm sorry. I keep doing that. Yours  
17 goes there, and mine goes here.

18 WITNESS: Okay.

19 MS. EKL: Yeah.

20 WITNESS: I don't even know if they were right side up  
21 or --

22 MS. EKL: We can -- we can get the sides right after.

23 WITNESS: Okay.

24 Q. Okay. Showing you now 644 and 645. If you could --  
25 this is another two page letter that you wrote to Jennifer,

C03707

4:44:41

1 correct?

2 A. It appears to be, yes.

3 Q. Okay. And if you could just take a quick look at it  
4 and see if there's anything in there that can help you put a time  
5 frame on when this was written.

6 A. I -- I don't -- I'm not seeing anything that would  
7 identify a particular time period on this one.

8 Q. Okay. Do you see in the middle of that page where it  
9 says, I have a short temper, I need your help with that? Middle  
10 of the first page?

11 A. Yes.

12 Q. Okay. What were you referring to there?

13 A. I really don't know. I don't remember.

14 Q. It goes on to say and correct me if I'm wrong, I come  
15 down from a trip, and I feel so guilty, and stupid, and  
16 irresponsible. It seems like all there is to do in Rockford is  
17 get high. I'm sorry is that --

18 A. Yes.

19 Q. Is that accurate? Okay. Does that indicate to you  
20 that this was another letter that was written to you -- written  
21 from you to Jennifer during a time period when you were in  
22 Rockford?

23 A. It could have been from a time period I was in  
24 Rockford. It's -- that's possible.

25 Q. Okay. And it was during a time period when you were

C03708

1 dropping acid?

2 A. It's -- it's possible.

3 Q. And that's -- that's based on your statement, I come

4 down from a trip, correct?

5 A. Again, it's possible. I -- I -- that's what it

6 appears to be.

7 Q. Okay. Is there anything else that you can think of,

8 as you sit here, that you could have been referring to?

9 A. Well, coming down from a trip, would be a reference to

10 LSD. It doesn't necessarily mean that I'm saying that during the

11 time I wrote this letter that I was using LSD. But it -- are you

12 asking for a time period reference still?

13 Q. No, I'm just asking if that's what that refers to. So

14 if you -- if you don't have a better recollection than that,

15 that's fine.

16 A. I think it could.

17 Q. Okay. Okay. That's fine. If you'd go ahead and turn

18 that one over. Now, I'm going to ask you to look at pages 639,

19 640 and 641. Those were the three you put together. Was this

20 again, another letter that you wrote to Jen?

21 A. It appears to be.

22 Q. At the bottom of the first page, you refer to my

23 sophomore year, those "friends" -- those "friends" were gone.

24 Does that reference to sophomore year help you reference --

003709

25 A. At the bottom of the page?

1 Q. I'm sorry. At the bottom of the page, does that help  
2 you put in time context, when this letter was written?

3 A. Well, it looks -- it looks like it was after my  
4 sophomore year from that statement. I'm looking for anything else  
5 that gives me a more specific.

6 Q. So that -- would that have been in the summer of 1992  
7 or 1993?

8 A. It's --

9 Q. Or sometime, I shouldn't say, necessarily it's summer.  
10 Would it have been summer?

11 A. I can't narrow it down so far as any later. Well, I  
12 can't say -- it doesn't look like it was any time earlier than my  
13 -- than the summer after my sophomore year. Beyond that, I don't  
14 know.

15 Q. What year was that?

16 A. 90 -- '91-'92.

17 Q. Okay. If you could read on the second page, page 640.  
18 The bottom paragraph, and then onto the top of the next page.  
19 Where it starts, then I met you.

20 A. Then I met you. I felt comfortable with you. I'm --  
21 I'm sorry. Do you want me to read this out loud?

22 Q. Yes, please.

23 A. I felt comfortable with you. I could be myself, and  
24 when you laughed, it was with me. You seemed to know me, and you  
25 needed me, and that was the first time I had to be strong. As I

C03710

1 came to realize that I needed you, I became insecure, and afraid  
2 of losing you. Jealously became all too common. Then when I went  
3 back to school, I felt that you were trying to return to your  
4 past, that you didn't need me or love me. I was walking on eggs,  
5 and I thought you didn't love me anymore. So I ran away. But  
6 when I discovered that you did need me I tried to run to your  
7 rescue, but the damage had been done. You resented me, and what I  
8 had done, as well you should have. So I returned to being the  
9 weak and childish "pup" because it thought I could please you, or  
10 make you laugh.

11 Q. What were you referring to in that portion of the  
12 letter?

13 A. I think, I was referring to the period of time when  
14 she and I were on the outs, because I broke up with her thinking  
15 that she was act -- being crazy, and I thought I might date  
16 Meredith, and then I found out she had had a miscarriage, or  
17 that's what she told me. And -- and so we got back together.

18 Q. You're referring to Jennifer having had a miscarriage?

19 A. Yes.

20 Q. And when did that take place?

21 A. That took place early in the fall semester of 1992.

22 Q. So then this letter would have been written sometime  
23 after?

24 A. Sometime after the fall of 1992.

25 Q. Okay. And is it fair to say that, at least, as you

C03711

1 characterize yourself in this letter, that during, at least, that  
2 point in your relationship, jealousy wasn't just a one way street  
3 on Jennifer's behalf, that you also had times when you were  
4 jealous of her and had insecurities in relation to her?

4:53:03

5 A. Yes.

6 Q. If you could look at page 643. It looks like there's  
7 a comment at the top and the very -- in the very first word is cut  
8 off, but does this appear to be a one page letter from you to Jen?

9 A. It does.

10 Q. Okay. In here you say, could you read the first --  
11 the first two -- three lines?

12 A. I love you. I'm sorry that I've been such an ass  
13 lately, it seems like every time i don't get my way -- I can't say  
14 for sure what that says -- i freak out and so something stupid.

15 Q. And go ahead and read the next line as well.

16 A. Like with Brian, then the phone off the -- I'm not  
17 sure what that says. Phone off the -- maybe -- maybe, hook, and  
18 then over the weekend in Chicago. I know that it's a problem, and  
19 I'm really trying to mellow out about things like that. Do you  
20 want me to keep going?

21 Q. Just to the end of that sentence.

22 A. But its hard for me because I always expect to get the  
23 run-around.

24 Q. Okay. Does that help date this particular letter, the  
25 reference to phone off the, perhaps, hook incident with Brian and

C03712

1 then a weekend in Chicago?

2 A. I'm trying to remember what the phone off the hook

3 thing is. And it's not coming back to me.

4 Q. The over the weekend in Chicago reference, is that a

5 reference to your brother's wedding?

6 A. That might have been.

7 Q. Okay. But in this particular letter, you're

8 referencing you freaking out, correct?

4:55:06 9 A. Yes.

10 Q. Okay. What -- what part of that weekend did you freak

11 out and do something stupid?

12 A. I really don't remember.

13 Q. I don't know if you'll be able to read it, but just

14 because it's poorly written -- or -- or poorly copied. If you

15 could just read the next three sentences, just so we know what

16 they say, 'cause they're -- you might be able to decipher it

17 better than we can.

18 A. I know that you "give it" to me straight, and I just

19 need to accept that. Needless to say --

20 Q. Does it say --

21 A. Something about --

22 Q. This whole Bubba --

23 A. -- Bubba, I think.

24 Q. -- thing?

25 A. Huh?

C03713

1 Q. Does it say, This whole Bubba thing has?

2 A. Maybe -- maybe it's -- I -- I really can't say for

3 sure.

4 Q. Okay.

5 A. But it could be. Has got me freaked out more than you

6 could possible imagine. Please understand that I'm doing the best

7 I can.

8 Q. What Bubba thing are you referring to in that letter?

9 A. That -- I'm not sure, 'cause it -- I know there were

10 times when she would allow him to stay there with her briefly, but

11 I don't -- I don't really have a time frame on -- as to -- to

12 really remember.

13 Q. Are you referring to stay at her house?

14 A. Yeah, but I don't know if that's what this is even

15 referring to.

16 Q. All right. I'm showing you now pages 625 and 626. If

17 you could take a look at those, is that another two pages that you

18 sent to Jennifer?

19 A. Oh, is this something I sent to Jennifer?

20 Q. Yeah.

21 A. It -- it looks like it is.

22 Q. Okay. And based on the -- is that a song lyric that's

23 at the top by the "black rows"?

24 A. It looks like, it says the "Black rows", that --

25 that's not one that I'm remembering as well so I would probably

C03714

233

1 have to hear it.

2 Q. Is there anything in this letter than helps you date

3 when you gave this to Jennifer?

4 A. I see more song lyrics here. I really don't remember

5 when this was.

6 Q. Taking a look at page 621. Oh wait. I'm sorry. All

7 right. 621, 622 and 623. Do you recognize those pages?

4:59:56

8 A. Yes.

9 Q. All right. Again, these are three pages that you

10 believe you wrote to Jennifer?

11 A. I believe so, yes.

12 Q. Okay. The top of the first page, you refer to Slush.

13 Who is Slush?

14 A. You've asked me before --

15 Q. Oh.

16 A. -- about Slush.

17 Q. Sorry.

18 A. And I -- I -- I know who he is. I can't remember his

19 real name. He never went by it, so --

20 Q. Is there anything more identifiable about Slush that

21 you can tell us to help us figure out who he is? Is he a roommate

22 of someone's? Or someone you worked with? How did you know

23 Slush?

24 A. He -- he was a Figi. He was not the prototypical

25 Figi. He was not a big football player.

C03715

1 MR. BOWMAN: A Figi?

2 WITNESS: It was a fraternity on campus.

3 MR. BOWMAN: Ah.

4 MS. EKL: What's a Figi?

5 MS. BARTON: Phi gamma --

6 MS. EKL: Oh, I knew --

7 WITNESS: Yeah, I don't remember exactly what Figi

8 stood for.

9 MS. BARTON: It's phi, gamma something.

10 WITNESS: Was it phi gamma something?

11 MS. EKL: They all had nicknames.

12 MS. BARTON: We had Figis.

13 A. But he was Figi and he was a mutual friend of Jen's

14 and mine. I'm trying to think of anything else.

15 Q. Is he a person that testified in your trial?

16 A. I don't think so. But I'm not sure.

17 Q. Okay. At the bottom of 621, you state, I refuse to be

18 another Bubba, and tell you how to be, but I do love you as friend

19 and lover, and I love you enough that I would be happy being your

20 friend. Is that a fair reading of what you wrote?

5:01:37 21 A. Yes.

22 Q. Okay. What did you mean by, refuse to be another

23 Bubba?

24 A. I'm not sure. Maybe it was -- I really don't know.

25 Q. Is there anything about this document that allows you

C03716

1 to date when it was that you gave this to Jennifer?

2 A. Well, the reference to conversations about Bubba up  
3 here at the top, tells me it's from before Bubba was going to move  
4 into the area or perhaps before he was going to come visit. I  
5 know that when we first got together in the summer of '92, she  
6 talked about breaking it off with me because Bubba was going to be  
7 around. And I think he was going to stay there with her for a  
8 little while.

9 Q. Other than that, were there any other occasions when  
10 Jennifer told you that she wanted to break things off so that she  
11 could be with Bubba?

12 A. I don't specifically remember any other times when she  
13 wanted to break up with me to be with Bubba.

14 Q. All right. You can set that one aside. Now,  
15 referring to -- this one's a little bit out of order here, 624. I  
16 think, this is 627, and the MCC number is 5445. Give me a second  
17 --

18 A. Oh, we're on a different document now?

19 MS. BARTON: Yeah.

20 Q. I'll give it to you in a second --

21 A. Okay.

22 Q. -- as soon as I read it to them.

23 MR. BOWMAN: 5445?

24 MS. EKL: Yes.

25 MR. BOWMAN: 627 is 5445?

C03717

1 MS. EKL: Okay. Right. And then 619 and 620.

2 MR. BOWMAN: These are all one document?

3 MS. EKL: Yes. That's what I'm showing to him now.

4 Q. These are another four pages of that exhibit that you  
5 put together, is that correct? Or do they -- or did two of 'em  
6 end up getting smushed together? Two separate ones, okay.

7 A. They appear to be. I -- I -- yeah.

8 Q. Okay.

9 A. There's two different signatures.

10 Q. Okay. 624 and 627, again is this another two page  
11 letter that you sent to Jennifer?

12 A. This looks like something that I wrote to Jennifer.

13 Q. Okay. Does it appear to be complete to you? And can  
14 you tell if it's complete?

15 A. It does not have -- well, it's cut off at the top and  
16 I don't know whether it contains an introduction or not.

17 Q. Okay. Is it fair to say that this document contains  
18 -- or actually let me ask you this. Does it contain some song  
19 lyrics or all -- or are all of the words in her your words?

20 A. It contains song lyrics.

21 Q. Okay. Based on what's contained in this document, are  
22 you able to put a time frame or a date on those -- on those pages?

23 A. Well, my interest in Pearl Jam, primarily, was from  
24 the summer of '92, if I remember correctly.

25 Q. What's the name of the song that you quoted here?

C03718

1 A. I believe it's called, Black

2 Q. And what was the purpose of quoting the song Black to

3 Jennifer?

4 A. I really don't remember why I quoted this song.

5 Q. Do you know or did you have an understanding as to the  
6 meaning behind the word -- or the song Black, back when you wrote  
7 this?

8 A. No, I didn't have a -- I didn't have a -- you mean the  
9 meaning behind why it was written?

10 Q. Right. Right.

11 A. No.

12 Q. Okay. So is it fair to say that you quoted it to  
13 Jennifer based on the words in the song fitting some emotion that  
14 you were feeling at the time?

15 A. I really don't know. I really don't remember.

16 Q. Okay. Fair enough. If you could now look at the  
17 other document which is pages 619 and 620. Again, is this another  
18 two page letter that you sent to Jennifer?

19 A. This appears to be a Billy Joel song.

20 Q. And is the entire thing, other than the first two  
21 lines, is that a Billy Joel song?

22 A. I think after it says, Bill Joel, is -- is me.

23 Q. And based on the -- the line at the end of the -- of

24 the page, it says, I think this fits with us, and -- and it's

25 circled.

003719

238

1 A. Right.

2 Q. Is it a fair -- fair to say that you felt, at that

3 time, these words fit your relationship with Jennifer?

5:07:10

4 A. I think so.

5 Q. Okay. Do you recall when this was written?

6 A. I really don't.

7 Q. Is there anything about it that help you put a general

8 time frame on it?

9 A. I'm looking. I don't see anything that can date this

10 for me.

11 Q. Okay. Showing you page 630. Do you recognize that

12 one page document?

13 MR. BOWMAN: I'm sorry. This is 630?

14 MS. EKL: 630.

15 A. Referencing the presidential election there, who

16 should be the next president, she was -- she loved Bill Clinton.

17 She was a Bill Clinton fan, and so that would have been -- when

18 was that election?

19 MR. BOWMAN: '92.

20 MR. DiCIANNI: '92.

21 A. All right. So --

22 MR. BOWMAN: So stipulated.

23 Q. Could you read the -- the paragraph that's -- the

24 beginning of the paragraph that starts, okay?

25 A. What appears to be the last paragraph?

C03720

1 Q. I'm sorry.

2 A. Yes.

3 Q. I meant, can you read the beginning of that last  
4 paragraph?

5 A. Okay. All right. Okay, so I'm a fuckin' asshole.  
6 Sorry, I was going to not quote that directly. But I'm not a  
7 drug. You can't just quit me, then come back, then quit again,  
8 then come back over and over. (Sometimes it happens 3 times a  
9 day.)

10 Q. So is it fair to say that at the time of this letter,  
11 you were already going through that portion of your relationship  
12 that was tumultuous in the sense that it was -- you would fight,  
13 get back together, and fight, and get back together?

14 A. It seems like, yes.

15 Q. Okay.

16 MR. BOWMAN: I -- I know that you want to get through  
17 these -- this exhibit, but we're past 5:00 now, and I -- I sense  
18 that Alan's getting a little tired. Is it just a few more  
19 questions?

20 MS. EKL: It's just -- it's the two, and I only have

21 --

22 MR. BOWMAN: Okay.

23 MS. EKL: -- a couple questions --

24 MR. BOWMAN: Okay. All right.

25 MS. EKL: -- on the one and -- and a couple of the

C03721

1 other.

2 MR. BOWMAN: All right.

3 Q. So showing you page 628. Do you recognize that

4 document?

5 A. It looks like a poem that I either wrote or copied.

6 Q. Based on looking at the poem, can you determine

7 whether or not it was one that you actually wrote or one that you

8 quoted from somewhere else?

9 A. Normally, if I quote, I -- I cite the quotation. So I

10 think I wrote it.

5:10:40 11 Q. Do you know when you wrote this?

12 A. Let me read it. This seems like something I would

13 have written earlier on.

14 Q. Meaning sometime back in 1992 at the start of your

15 relationship?

16 A. Probably.

17 Q. All right. And the last one, if you could take a look

18 at page 642. Is this another one page letter that you wrote to

19 Jen?

20 A. It appears to be, yeah.

21 Q. Okay. And if you take a look at this letter, does it

22 appear to be a letter that was written sometime in 1993 after the

23 two of you had been through dating and then friendship and back

24 again? Or the other way around?

25 A. This looks like it would have been after our breakup,

C03722

1 yes.

2 Q. So sometime in 1993?

3 MR. BOWMAN: I'm sorry. What number is that?

4 MS. EKL: It's page 642.

5 MS. BARTON: 642.

6 A. Well, I don't know, 'cause there's no --

7 Q. Let me ask you this. The -- would you say that the

8 happiest or the best part of your relationship with Jennifer

9 Lockmiller was in July of 1992?

10 A. I would say so, yes.

11 Q. Okay. So if this letter in the middle of it refers --

12 says, last July was the happiest time of my life, I hope you - I,

13 and we can return to the way we were then, and through friendship,

14 maybe we can re-discover our identities and our love. Does that

15 indicate to you that it would have been -- this wouldn't have been

16 written during the summer of 1992 but rather in the summer of 1993

17 when you were going through that friendship period?

18 A. Well, it refers to last July twice. Saying we haven't

19 been friends since last July. It might have -- I really -- I

20 really don't remember. I'm looking at it, and I thought maybe it

21 was -- it was a reference to -- when it says, we haven't been

22 friends since last July, I thought I was referring to the July

23 when -- when we broke up, but looking at further context in the

24 letter, it seems like I was referencing the July when we started

25 dating. So that throws off my ability to date it.

C03723

1 Q. Okay. But as far as saying, we haven't been friends  
2 since last July, is it fair to say that from July of 1992 when you  
3 started dating Jennifer Lockmiller, you considered her more than a  
4 friend, you considered her a lover, a girlfriend, and many other  
5 things more than a friend from the sum -- when you started dating  
6 her in July of 1992 until you guys had that incident with Swaine  
7 and -- and tried to be friends or new best -- or you -- she wanted  
8 you to be her new best friend in the summer of 1993?

9 MR. BOWMAN: Object to the form of that question. I  
10 think that's convoluted.

11 A. Okay. That was a pretty long question, and I was  
12 trying to read -- this was while you were asking --

13 Q. Sure.

14 MR. BOWMAN: I -- I think we should take a --

15 MS. EKL: Let me -- but let me finish the last  
16 question.

17 MR. BOWMAN: Okay.

18 MS. EKL: I'm still in the middle of the question.

19 MR. BOWMAN: All right.

20 MS. EKL: And I have no problem with that.

21 MR. BOWMAN: I was just thinking maybe the -- the  
22 questioner and the witness are both tired, but --

23 MS. EKL: He asked me -- he said he was reading.

24 Q. Are you okay with one more question?

25 A. Try again.

C03724

1 Q. Okay. Okay. I'm going to break it down a little bit.

2 You indicated that you were friends with her until the summer of  
3 1992 when you guys began dating in approximately July of 1992,  
4 correct?

5 A. The letter says -- I -- all I can speak to is what the  
6 letter says.

7 Q. I'm not talking about the letter.

8 A. Yeah, I --

9 Q. I'm just --

10 A. I can't really try to interpret it.

11 Q. I know. I'm just breaking down my question without  
12 reference to the letter right now.

13 A. Okay.

14 Q. Is it fair to say that when you first met Jennifer you  
15 were friends with her until you became more than friends with her,  
16 and that was sometime around July of 1992?

17 A. We became more than friends sometime in July of 1992.

18 Q. From July of 1992 until the summer of 1993, would you  
19 agree that you were more than friends, that you dated and became  
20 engaged and were lovers and that you -- you would characterize  
21 yourself as having a relationship with her during that time period  
22 from July of 1992 until, at least, the summer of 1993, as more  
23 than friends?

24 MR. BOWMAN: Well, the summer of 1993 is vague, so  
25 I'll object on that basis.

C03725

1 MS. EKL: And I would clarify, beginning of the summer  
2 of 1993.

3 MR. BOWMAN: Thank you.

4 A. I would say that we were, during that period of time,  
5 either more than friends or not friends at all.

6 Q. Okay.

7 A. Depending on ebb and flow of the relationship.

8 Q. Okay. In the summer of 1993 when things started to  
9 happen between Jennifer and Michael, is it fair to say that that  
10 was the time period that you've already discussed where she wanted  
11 you to be her new best friend and you -- the two of you tried to  
12 work -- tried to become friends again?

13 A. I can't say that there was never a time during that  
14 school year where we didn't discuss trying to be friends again. I  
15 don't remember, specifically. This doesn't make reference to new  
16 best friend. So it doesn't -- it doesn't date it for me.

17 MS. EKL: Okay. That's fair enough. That's all I  
18 have. Not permanently, but that's all I have for tonight. In  
19 that line of questioning, just to be clear. I'm not done.

20 MR. BOWMAN: We're off the record at what time?

21 RECORDER: Every -- anybody want anything else before  
22 I turn the machines off?

23 MR. BOWMAN: No.

24 MS. BARTON: Can we just have the time?

25 MR. BOWMAN: Wait, actually I want to know the elapsed

C03726

1 time?

2 MS. BARTON: Yeah.

3 RECORDER: Oh, five -- five hours and 18 minutes give

4 or take. And we are off the record at 5:15.

5

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C03727

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CERTIFICATION

I certify that the foregoing is a correct  
transcript from the record of proceedings  
in the above-entitled matter.

Frank J Wiener

December 21, 2012

C03728

<p><b>A</b></p> <p><b>ability</b> 153:21 206:15,19 241:25</p> <p><b>able</b> 18:1 50:17 52:1 62:16,18 103:1 130:25 131:5 149:18 150:8 151:23 178:4 192:16,16 199:9 204:1 208:8 209:14 210:7 231:13,16 236:22</p> <p><b>aboveentitled</b> 246:4</p> <p><b>abused</b> 29:24,25</p> <p><b>ac</b> 197:15</p> <p><b>accept</b> 90:23 133:17 213:14 219:4 231:19</p> <p><b>accepted</b> 112:23</p> <p><b>accepting</b> 122:16</p> <p><b>account</b> 179:11</p> <p><b>accurate</b> 45:4 95:13 99:1 136:3 136:5 226:19</p> <p><b>accurately</b> 24:9 95:17</p> <p><b>accused</b> 151:15</p> <p><b>accustomed</b> 33:21</p> <p><b>aches</b> 224:15</p> <p><b>aching</b> 224:15</p> <p><b>acid</b> 120:16 131:6 132:3 212:7 213:5 213:6 227:1</p> <p><b>acknowledging</b> 112:15</p> <p><b>acquaintanceship</b> 35:4</p> <p><b>act</b> 14:19 15:7,9 65:3,9,24,25 229:15</p> <p><b>acted</b> 15:17,18 60:16</p> <p><b>acting</b> 14:2,6,7,8,9 14:25 15:15 60:23 63:12 119:8 147:17,22 148:1</p>	<p><b>actions</b> 191:10</p> <p><b>activities</b> 47:16</p> <p><b>acts</b> 14:17,17 147:20 191:11</p> <p><b>actual</b> 69:25 70:1</p> <p><b>added</b> 139:5</p> <p><b>addition</b> 24:3 26:20 30:7 54:4 132:21</p> <p><b>additional</b> 105:1</p> <p><b>address</b> 31:11 126:5 162:9 176:17</p> <p><b>adjacent</b> 50:11</p> <p><b>adjusted</b> 34:7</p> <p><b>adjusting</b> 33:22</p> <p><b>admit</b> 135:16</p> <p><b>admitted</b> 26:16 38:9 135:17</p> <p><b>advice</b> 44:14 170:3</p> <p><b>advised</b> 98:2</p> <p><b>af</b> 177:5</p> <p><b>affect</b> 35:25</p> <p><b>affection</b> 210:24</p> <p><b>affectionate</b> 211:3</p> <p><b>affections</b> 210:11</p> <p><b>aforementioned</b> 95:16</p> <p><b>afraid</b> 63:25 64:16 64:17,23 96:11,21 159:4 163:23 204:25 205:8 229:1</p> <p><b>afternoon</b> 99:2 118:23 123:3</p> <p><b>age</b> 131:20</p> <p><b>ago</b> 154:3 199:1 210:22</p> <p><b>agree</b> 65:2,8,24 83:8 102:19 107:17,20 128:11 192:19 243:19</p> <p><b>agreed</b> 89:7 155:19 156:11 157:13 169:5</p> <p><b>agreement</b> 114:3</p> <p><b>ah</b> 62:12 234:3</p> <p><b>ahead</b> 7:15,19 10:1</p>	<p>22:25 39:12 41:3 55:13 72:2 99:15 134:5 196:15 217:8 221:6 222:7 223:16 227:17 230:15</p> <p><b>alan</b> 1:5,17 3:5,11 7:10 18:6 106:14 134:8 140:24 141:1,6 142:6 219:7</p> <p><b>alans</b> 239:18</p> <p><b>alcohol</b> 120:1</p> <p><b>alert</b> 141:2</p> <p><b>alexa</b> 2:6 4:8</p> <p><b>alibi</b> 175:10</p> <p><b>alive</b> 124:13</p> <p><b>allegations</b> 140:3</p> <p><b>allegedly</b> 29:13 38:20</p> <p><b>allegorical</b> 212:23</p> <p><b>allow</b> 232:10</p> <p><b>allowed</b> 26:15</p> <p><b>allows</b> 234:25</p> <p><b>alternating</b> 70:6</p> <p><b>alvina</b> 160:19</p> <p><b>ambulance</b> 31:23</p> <p><b>amount</b> 29:21 30:3</p> <p><b>any</b> 109:2,8,16 110:11,19,23</p> <p><b>analytical</b> 99:20</p> <p><b>ancel</b> 1:22 2:22 3:3</p> <p><b>anger</b> 44:4</p> <p><b>angrily</b> 84:20</p> <p><b>angry</b> 23:16,16,18 23:20 39:19,21 41:21 52:14 62:12 77:21 79:20 85:10 87:21 143:3 144:19,23 156:13 186:21 188:18</p> <p><b>animosity</b> 22:23,24 23:4,6</p> <p><b>anna</b> 2:6</p> <p><b>announced</b> 77:22 78:1,3</p> <p><b>answer</b> 7:11,14,15</p>	<p>7:19 9:9,14,20,21 9:25 10:1,12 18:7 22:25 23:1 52:22 60:10 101:7 141:2 153:24 155:15 167:11 181:6 182:13,14,15 193:18 194:4 200:3</p> <p><b>answered</b> 16:25 17:2 101:6 148:17</p> <p><b>answering</b> 17:3 141:9 174:5,8</p> <p><b>answers</b> 10:20 136:5</p> <p><b>anticipate</b> 10:15</p> <p><b>anybody</b> 40:4 215:5 244:21</p> <p><b>anymore</b> 66:21,25 71:24 89:1 113:5 169:13 175:1 201:17 222:10 229:5</p> <p><b>anyway</b> 107:17</p> <p><b>anyways</b> 115:3</p> <p><b>apart</b> 21:8 173:24 222:10</p> <p><b>apartment</b> 6:20 25:2 31:8 32:9,10 32:21 38:19 46:6 46:13,22,23 47:3 47:3,10 48:20,22 48:25 49:3,11,15 49:17,20 52:3,7 54:12 55:6,8,18 55:20 56:19,23 57:7,13,14,18 58:5,9,17,21 59:6 60:13,25 61:3,8 61:17,20,23 62:14 63:9,10,10 67:13 67:17 68:4,8,13 68:13 71:12 76:12 76:14 79:24 80:23 81:2,4,22 87:10 87:13 88:1,5,10 89:19 110:13</p>	<p>115:4 116:7,10,14 118:8,11,18 121:16 122:7 123:4,6,9,23,25 124:10 125:2,2,11 125:13 147:18,20 149:3,7,10 151:5 151:12,21 152:3,5 153:1,12,22 154:4 154:7,21,23 155:4 155:8 156:9,17 158:13,19 186:3 191:22 192:23 195:17</p> <p><b>apartments</b> 49:22</p> <p><b>apologetic</b> 63:24</p> <p><b>apologize</b> 108:18 108:19 205:18</p> <p><b>apologized</b> 64:4</p> <p><b>apologizing</b> 64:2</p> <p><b>apparently</b> 32:1 184:7</p> <p><b>appeal</b> 140:10 199:24</p> <p><b>appear</b> 124:9 192:21 199:6 205:21 206:23 207:8,10,22 218:14 219:14 221:10 230:8 236:7,13 240:22</p> <p><b>appearance</b> 83:13</p> <p><b>appearances</b> 2:1 3:23</p> <p><b>appeared</b> 95:23 124:9 144:23 192:22,24</p> <p><b>appears</b> 3:9 93:19 94:12,12,24 104:10 105:6,20 108:14,19 198:19 206:21 218:13 226:2 227:6,21 237:19 238:25 240:20</p> <p><b>appointment</b> 133:14</p>
--	---	---	---	---

<p><b>appreciate</b> 13:16 20:6,7 109:23 <b>apprenticing</b> 16:18 <b>approach</b> 112:21 <b>approaching</b> 156:5 <b>approximate</b> 18:12 47:7 178:8 <b>approximately</b> 19:20 22:14 26:2 49:19 131:12 137:11 154:25 162:24 176:20,21 178:9,12,13 201:13,21 243:3 <b>approximation</b> 12:9 18:13 <b>area</b> 13:19 16:20 17:22 49:18 82:9 142:6 152:9 164:4 235:4 <b>areas</b> 13:23 <b>arguing</b> 32:20 <b>argument</b> 24:21,22 24:25 25:6,9 26:1 32:19 145:1,2 <b>argumentative</b> 154:1 <b>arguments</b> 23:23 96:17,19 111:24 <b>arranged</b> 123:11 123:13 <b>arrest</b> 141:8 <b>arrested</b> 140:4,9,12 140:13,15 150:17 193:3 <b>arrive</b> 32:6 186:6 <b>arrived</b> 31:24 115:9 121:15,16 144:25 160:15 166:21 176:24 181:20 <b>artful</b> 100:25 <b>arts</b> 17:9 <b>ashamed</b> 99:8 <b>aside</b> 9:1 217:22,24 219:14 235:14 <b>asked</b> 10:19 31:17</p>	<p>36:15 46:17 47:24 92:25 100:19 101:6 122:4,8 134:24 159:13 168:18 169:10 180:4 181:6 182:2 182:16 183:9,13 184:8,9,19,22 198:23 233:14 242:23 <b>asking</b> 58:14 120:21 130:14 142:5 174:21 182:21,24 183:3,8 183:10,17 184:11 199:1 206:2 208:11 227:12,13 242:12 <b>asp</b> 71:22 <b>ass</b> 230:12 <b>asshole</b> 239:5 <b>assign</b> 33:20 <b>assistant</b> 217:21 <b>associates</b> 17:19,21 <b>assume</b> 10:12 50:14 88:6 210:16 <b>assumed</b> 48:17 <b>assure</b> 27:20 <b>asylum</b> 14:24 <b>attempt</b> 67:22 <b>attempted</b> 29:13 83:20 85:2 <b>attempting</b> 24:22 <b>attempts</b> 58:10,14 58:20 111:15 129:4 <b>attendant</b> 125:20 <b>attended</b> 13:16 <b>attending</b> 18:15 <b>attention</b> 211:17 <b>attorney</b> 140:25 141:8 142:8 193:10 207:15 <b>attracted</b> 215:17 215:17 <b>attributes</b> 5:25 <b>august</b> 21:21</p>	<p>165:19 167:16,16 176:19 177:13,15 177:24 178:5 179:3,19 200:11 208:18,19 217:16 222:2 <b>automotive</b> 17:18 17:25 <b>available</b> 130:20,22 <b>avenue</b> 2:8 <b>aware</b> 7:22 28:14 38:17 127:10,12 127:21 129:25 133:25 137:23 140:3,8 155:11 165:2 166:3,5,6 173:12,19 177:11 213:25 215:14 <b>awb</b> 92:1 <b>awfully</b> 105:24 <b>awoke</b> 99:3</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>babe</b> 208:25 <b>bachelors</b> 17:9 <b>back</b> 7:5,22 21:21 22:1,9,11 26:16 35:6,8 40:11 42:24 46:11 47:15 57:20,21 58:13,16 58:17 59:6 60:4 60:13,24 61:7,9 62:14 63:7,19 66:13 69:17 79:12 80:16,23 82:11,25 83:14,18 84:6,10 88:5,7,14 92:20 93:25 103:1,3 113:22 114:11,25 115:12,15,25,25 116:1,3,4,6 118:1 118:8 119:3,18 121:15 126:15 127:5 128:24 129:2,5,10 132:10 134:10,16 136:4 136:24 137:23</p>	<p>140:7,18 143:6,7 147:10 150:24 151:20 155:5 156:16,20 158:20 159:19 160:14,23 161:22 162:11,21 165:14 166:21 167:20,23 168:4,5 168:14,18 169:1,6 170:1,19 171:22 174:5,21 175:1,6 177:9 178:15 180:23 183:5 185:18 186:17,18 187:10,13 192:11 196:11 200:11 202:2,15 205:2 206:10 214:1 218:7,8,10 222:24 222:25,25 223:2 224:8 229:3,17 231:3 237:6 239:7 239:8,13,13 240:14,23 <b>background</b> 16:7 <b>bad</b> 27:25 119:15 122:10 140:9 <b>banged</b> 52:25 <b>bank</b> 179:7,8,11,22 <b>bar</b> 142:19 143:8 143:20,22 144:1,6 145:4 <b>barton</b> 2:14 4:2,2 197:5 225:13 234:5,9,12 235:19 241:5 244:24 245:2 <b>bas</b> 212:13 <b>based</b> 8:16,16 66:6 107:6,9 132:17 192:19,21 200:2 222:15 227:3 232:22 236:21 237:13,23 240:6 <b>bases</b> 223:8 <b>basic</b> 223:3 <b>basically</b> 20:15</p>	<p>50:3 51:14 131:23 158:5 212:13 216:7 <b>basis</b> 28:15 30:20 189:3 190:14,17 243:25 <b>bates</b> 95:2,3 <b>bathroom</b> 55:15,22 76:10,12 82:10 85:23,25 86:5,7 86:15 115:5 134:4 196:4 216:18 218:2 <b>battle</b> 220:6 <b>beaman</b> 1:5,17 3:5 3:12,12,14,16,17 3:17,18,21 4:6,7,8 4:16 10:22 11:11 42:25 72:3 92:4 92:22 142:7 198:23 206:11 208:7 <b>beamanator</b> 11:11 <b>bear</b> 221:18 <b>bears</b> 92:2 <b>beat</b> 220:6 <b>beau</b> 193:10 <b>beautiful</b> 100:3 <b>bed</b> 83:19,22,23 84:3,4,11,11,16 84:16,17 150:22 150:23 151:24 153:5 156:22 162:1 184:21 <b>bedroom</b> 37:3 55:15,16,23 72:9 74:5 81:17,18 82:8,10,12,25 83:14,18,21 84:1 84:9 85:19 86:7 150:22,24 151:2 151:20 152:4,6,10 152:12,14,20 162:2 <b>bedrooms</b> 161:2,10 162:1,2 <b>beds</b> 83:25</p>
---	---	---	---	--

<p><b>bef</b> 211:22  <b>beg</b> 197:1  <b>began</b> 62:14 81:1  102:11 243:3  <b>beginning</b> 33:23  34:3 68:6 69:9  100:6 164:2  180:22 188:14  197:2 221:16  223:18 224:4  238:24 239:3  244:1  <b>behalf</b> 3:25 4:2  230:3  <b>belief</b> 45:14 46:13  71:8 191:16 192:9  211:8  <b>believe</b> 8:21 12:21  14:8 18:18,21  25:25 37:11 42:9  42:11 43:12 45:1  45:3,16 49:24  52:4 56:18 59:16  59:18 60:16,22  64:7,9,16 67:24  70:7 74:3 75:17  75:20 76:10 78:2  78:2 79:11 82:6  84:17 85:4 91:11  97:12,19 100:10  100:14 102:1  105:10,22 108:6  109:2,20 110:9,13  111:16 127:11  133:23 138:13  142:12,22,24  143:13,22 145:11  146:10,14 147:9  147:19 148:2,19  149:8 151:6 158:8  160:11 163:24  165:6 168:10,10  170:16 171:25  172:20,24 174:23  177:18 179:20  180:16 182:10,17  184:20 185:13,15</p>	<p>186:7 187:24  188:6,17 189:17  190:7 191:2,7,12  192:15 193:19,23  194:5 195:3,14,18  195:21,24 200:12  200:16,19 203:12  206:18 207:12  210:3,23 211:4,10  211:11,14 215:5  216:3,3 221:22  222:1,16 233:10  233:11 237:1  <b>believed</b> 30:19  37:21 45:10,12  46:5 47:13 48:5  62:25 64:22 72:14  76:25 77:3,23  83:11,16 105:11  105:12 107:7  127:14 143:17  144:3 150:5 185:5  192:3 195:2,16  220:24  <b>believing</b> 37:8  <b>bell</b> 179:10  <b>belong</b> 172:10  <b>belongings</b> 172:11  <b>benefit</b> 207:13  <b>besst</b> 206:18  <b>best</b> 9:16 11:24  22:25 35:4,6 52:8  67:21 72:23 76:21  108:6 113:3,19  119:11 163:22  206:15,18 223:11  232:6 241:8 242:7  242:8 244:11,16  <b>beth</b> 207:16  <b>betrayal</b> 139:6  <b>betrayed</b> 52:14  75:3  <b>better</b> 5:17 6:24 8:1  8:4,5 35:3 57:6  107:18,21 109:23  147:16 190:2  222:4 224:12</p>	<p>227:14 231:17  <b>beyond</b> 39:5,8  71:10,15 137:21  228:13  <b>bicycle</b> 46:21,21,22  48:8,15 59:7  <b>big</b> 33:19,19 34:1  123:20 222:7  233:25  <b>bill</b> 217:1,3,18  237:22 238:16,17  <b>billy</b> 205:22 237:19  237:21  <b>birth</b> 85:24 86:10  87:14  <b>bit</b> 5:16 6:24 46:11  63:7 64:16 66:13  72:3 92:17 118:15  121:20 123:11,15  143:3,7 152:10  156:15 163:19,25  176:4,5 180:10  222:4 235:15  243:1  <b>black</b> 147:11  232:23,24 237:1,2  237:6  <b>blamed</b> 80:21  <b>bles</b> 136:22  <b>blocks</b> 137:14  <b>bloomington</b>  114:11,25 115:12  115:16 116:7  125:19,22 126:18  126:23 133:1  166:14 167:5  202:24  <b>blowup</b> 167:17  <b>blushing</b> 121:3  <b>bman</b> 11:11  <b>bmizzle</b> 11:11,14  <b>board</b> 123:19  <b>bod</b> 58:23  <b>body</b> 224:15  <b>boeing</b> 28:19 29:6  <b>bolt</b> 53:17,18  <b>bolted</b> 65:25</p>	<p><b>bomb</b> 78:2  <b>bond</b> 13:2  <b>boo</b> 142:5  <b>books</b> 201:25  <b>borage</b> 221:19  <b>borrow</b> 46:17,19  47:24,25  <b>borrowing</b> 64:10  <b>boss</b> 21:13  <b>bother</b> 122:13  137:21  <b>bottom</b> 103:4 204:6  204:13 205:13  207:15 218:10  219:25 227:22,25  228:1,18 234:17  <b>bought</b> 21:11  <b>bowman</b> 2:4 4:6,6  7:7,10,14,18,24  16:23 18:6,9  22:24 23:3 32:10  32:12 40:19,22,24  41:1,3 42:21 60:7  60:9,17 65:4,11  65:13 66:10 73:2  81:10 82:17 83:15  92:12,14 94:2  99:11,15,23 101:3  101:6,15 102:21  120:24 121:5  124:19,23 131:3  134:20 140:21,23  141:11,13,21,23  141:25 153:23  154:1 160:3  165:20 166:1  167:19 172:3  182:12 193:14,18  193:22 194:3,10  194:13,15,17,20  196:1,4,6,13  202:3,7,9 206:7  207:16,20,24  208:1,3,11,14,17  212:17,20 216:6  234:1,3 235:23,25  236:2 238:13,19</p>	<p>238:22 239:16,22  239:24 240:2  241:3 242:9,14,17  242:19,21 243:24  244:3,20,23,25  <b>box</b> 76:7,7,9,22  <b>boxes</b> 123:16,16  203:1  <b>boy</b> 171:13,17  <b>boyfriend</b> 24:2  188:21  <b>boyfriends</b> 186:16  <b>braided</b> 21:5  <b>brain</b> 213:16  <b>break</b> 10:18,20  40:20 42:20 92:20  96:12,21 128:23  145:23 146:3  175:5 186:17  187:14 196:3,12  206:11 235:10,13  243:1  <b>breakdowns</b>  163:11  <b>breaking</b> 107:9  151:10 153:10  172:24 235:6  243:11  <b>breaks</b> 10:17  <b>breakup</b> 171:19,21  240:25  <b>breakups</b> 164:23  171:14  <b>breath</b> 224:14  <b>breathed</b> 220:4,5  <b>breeze</b> 51:24  <b>brendan</b> 47:4  76:19  <b>brendans</b> 76:20,25  77:1  <b>brian</b> 230:16,25  <b>briefly</b> 13:24 26:17  115:4 116:7  131:11 185:22  187:14 232:10  <b>bring</b> 88:14  <b>briskly</b> 56:11</p>
--	--	---	---	--

<p><b>broke</b> 53:9 66:12 143:4 145:19 146:5,25 148:4 150:15 153:7,7,13 153:21 156:17 187:18 193:25 210:11,13 229:14 241:23 <b>broken</b> 67:24 77:9 77:10,13,14 102:3 102:7 107:6 127:25 145:18 171:12 187:17 223:7 <b>bromenn</b> 26:14,15 26:16,18 27:4 <b>brother</b> 33:3,16,19 34:1,2 161:13 163:1,6,13 164:1 165:3 <b>brothers</b> 161:14 231:5 <b>brought</b> 182:20 <b>brown</b> 1:12 90:21 91:2 92:10 93:11 93:18,21 94:13,21 95:22 98:16 99:7 100:8 104:3 105:11,14 108:25 110:9 <b>brunt</b> 2:6 4:8,8 <b>bubba</b> 127:19,22 171:15 185:10,14 185:16 186:2 187:15,16,20,24 189:6,11 190:22 191:2,4 192:4,7 210:1,16,21 211:9 231:22,23 232:1,8 234:18,23 235:2,3 235:6,11,13 <b>bubbas</b> 188:16 <b>building</b> 48:22,24 49:1,12,15,20 50:4,10,11,12,14 50:20,24 51:2,5 51:12,19,20,25</p>	<p>52:7 57:9,10,24 58:9,11 61:21,23 62:1 63:3 110:13 175:17 <b>buildings</b> 49:15,17 <b>bunk</b> 84:11,16 <b>bush</b> 1:22 2:22 3:3 <b>business</b> 103:20 112:7,18 115:1 <b>busted</b> 120:23 <b>buy</b> 129:25 137:3 138:11 139:9,11 139:14</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>california</b> 165:2,9 165:11,17,22 166:4,10,15,17 171:1 <b>call</b> 26:10 57:2 92:11,14,18 96:25 97:11 166:18,18 168:10,11 171:21 171:22 173:20,24 <b>called</b> 10:25 11:3 15:12 24:16 29:9 29:13,16 30:10 31:3,4 32:15 97:12 111:16,17 111:20 132:25 143:4 146:4,5 155:13 156:1,1,3 158:16 166:19,23 166:23,25 167:2 168:11 170:25 174:3,21 175:20 189:3 237:1 <b>calling</b> 67:21 97:9 184:21 223:11 <b>calm</b> 62:17 63:13 81:20 <b>calmed</b> 80:3 83:5 <b>calming</b> 62:14 <b>calmly</b> 56:7 <b>campus</b> 137:10,10 157:22 234:2 <b>cancelled</b> 17:20,22</p>	<p><b>cancerous</b> 220:5 <b>cant</b> 8:2 13:12 27:24 28:19 29:10 30:15 31:25 40:18 43:16 59:23 63:21 63:21 98:6 99:8 103:6 107:15 108:10 121:1 133:23 134:18 144:14,15 153:8 168:17 185:25 201:15 203:19 204:23 210:6 213:23 216:5 218:16 220:7,8,19 221:14,18 222:10 222:25 223:2,2,21 223:24 224:1 228:11,12 230:13 232:2 233:18 239:7 243:10 244:13 <b>capped</b> 177:19 <b>caps</b> 157:22 <b>car</b> 46:17,19,22 47:24,25 48:11,15 50:7,7 51:6,16,23 52:1,3,9,18 61:4,5 61:6,10,11,19 63:5,15 64:10,18 65:18 79:13,14 88:6,7,8 110:24 115:1,4 116:16,17 116:20 122:2,18 122:21,22 143:5 147:6,8,10 172:14 181:2,4,8,15,18 194:8 <b>carbone</b> 35:19 40:13 146:14,17 146:19 <b>care</b> 106:1 114:15 117:3 169:13 <b>career</b> 33:12 <b>carpenter</b> 69:19 70:9 <b>case</b> 1:9 3:5,7,9</p>	<p>13:11 144:16 178:22,23 197:25 <b>catch</b> 57:4 <b>catching</b> 143:17 <b>caught</b> 108:23 132:13 <b>cause</b> 23:23 75:11 88:6 96:11,21 100:16 126:3 134:18 141:18 164:23 172:8 190:6 200:14 231:16 232:9 241:6 <b>caused</b> 23:19 25:5 35:22 62:16 73:19 75:7 76:5,23 101:13 144:5 172:23 180:3 213:8 <b>causes</b> 65:20 <b>ceases</b> 224:15 <b>cell</b> 126:5 213:16 <b>center</b> 2:7 18:2,24 137:9 <b>central</b> 1:3 3:9 <b>certain</b> 39:11 102:11 105:4 128:8 129:3,6 133:24 <b>certainly</b> 66:3 72:17 90:13 134:7 139:13 175:7 <b>certainty</b> 131:5 <b>certification</b> 246:1 <b>certify</b> 246:2 <b>chance</b> 8:8 88:3 93:3 <b>change</b> 22:14,17 62:12 222:11,20 <b>changed</b> 28:5 <b>characterization</b> 128:16,20 221:5 <b>characterize</b> 112:20 224:22 230:1 243:20 <b>charge</b> 16:2 90:21</p>	<p><b>charles</b> 1:11 <b>chase</b> 212:11,23 <b>chasing</b> 79:10 <b>cheat</b> 127:18 163:24 164:6,16 <b>cheated</b> 127:9,10 127:13 128:3 164:18 169:15 216:8 <b>cheating</b> 128:7,9 <b>check</b> 176:23 <b>checking</b> 122:11 <b>chest</b> 84:12 <b>chewed</b> 77:21 <b>chicago</b> 1:25 2:8,10 2:25 3:4 164:4 230:18 231:1,4 <b>childish</b> 229:9 <b>children</b> 216:4 <b>choice</b> 82:13 <b>chorus</b> 15:18 <b>chose</b> 158:10 220:20 <b>chris</b> 35:19 40:13 146:14 <b>chronologically</b> 207:22 <b>chronology</b> 35:11 46:3 68:2 <b>cincinnati</b> 73:10 88:11,16 89:8,8 96:9 98:1 102:25 109:1 111:2,5,7 111:10,14 113:10 113:21,23 114:21 114:23 115:21 <b>circled</b> 105:5,8,17 106:13,15 107:21 205:13 207:15 237:25 <b>circumstances</b> 36:12,17 186:4 191:19 <b>cite</b> 240:9 <b>civil</b> 140:2,5 <b>claiming</b> 141:5,10 <b>clarify</b> 244:1</p>
--	---	---	---	--

003732

<p><b>clark</b> 178:1,2  <b>class</b> 11:7 14:8,10              15:10,10 16:3,12              115:11 118:13,16              118:20 119:1,3              122:18 124:16  <b>classes</b> 14:2,4,5,7              15:24 16:5 17:17              136:6,11  <b>classical</b> 215:21  <b>classify</b> 128:6  <b>clear</b> 8:24 9:14,19              21:25 46:15 93:12              95:2 105:20 109:7              111:3 140:23              141:3,14,18,24              142:2 143:2 152:2              156:2 167:24              178:22 180:1              184:5 212:24              223:23 244:19  <b>clearing</b> 148:5  <b>clearly</b> 37:18 180:9              184:3  <b>client</b> 140:25 142:8  <b>clifford</b> 175:13  <b>climbed</b> 57:8  <b>climbing</b> 121:14  <b>clinging</b> 99:4  <b>clinton</b> 238:16,17  <b>clock</b> 176:23  <b>close</b> 35:21 66:21              66:25 84:22 91:6              95:4 137:7 163:9              169:18  <b>closeness</b> 95:23,25  <b>closer</b> 188:3,9              189:12 224:8  <b>closest</b> 35:15,16  <b>closet</b> 55:12 56:3              84:13  <b>closets</b> 55:25  <b>closing</b> 201:25  <b>closure</b> 75:12  <b>clothes</b> 147:16  <b>clue</b> 77:1  <b>cluster</b> 162:3</p>	<p><b>code</b> 210:12,13  <b>coffee</b> 123:17  <b>coffin</b> 220:6  <b>college</b> 11:3 16:21              33:12 131:10              162:19  <b>combined</b> 55:12  <b>come</b> 33:12 53:1              89:8 90:19 97:23              97:25 100:1 113:3              150:15 151:1,2,25              152:2 163:6,23              178:13 186:5              226:14 227:3              235:4 239:7,8  <b>comfortable</b>              228:20,23  <b>coming</b> 13:10              71:11,12 81:5              87:21 115:12,15              115:25 149:9              151:8 223:7 227:9              231:3  <b>comment</b> 230:7  <b>comments</b> 47:11              80:18 189:6  <b>commitment</b> 205:9              222:1  <b>common</b> 144:17              229:2  <b>communicating</b>              37:17  <b>communication</b>              37:19 116:25  <b>communications</b>              142:6 170:6  <b>company</b> 97:7              128:8  <b>comparison</b> 48:23              50:10 80:13 160:9              166:21  <b>compelled</b> 99:2  <b>compete</b> 224:1  <b>competition</b> 215:18  <b>complaint</b> 13:12  <b>complete</b> 10:2              17:24 203:22</p>	<p>205:14,14 207:12              218:14 221:10              236:13,14  <b>completed</b> 9:21              126:25 127:2  <b>completely</b> 77:8              102:14,25 225:1  <b>completes</b> 4:11  <b>complex</b> 49:3,14              61:8 125:13  <b>complicated</b> 51:10  <b>con</b> 204:17  <b>concern</b> 57:1 81:11              150:16 164:9              210:20  <b>concerned</b> 27:20              28:13 29:11 39:10              60:4,13,18,22              89:16 90:23              159:17 170:24              171:3,7,10 184:12  <b>concerning</b> 39:7  <b>concerns</b> 40:7  <b>conclude</b> 79:9  <b>concluded</b> 217:17  <b>concluding</b> 87:25  <b>concrete</b> 157:22  <b>condition</b> 159:18  <b>condoms</b> 76:7,22              77:4,4 86:10              87:15  <b>conference</b> 92:11              92:13,14,18  <b>confide</b> 40:6,11              43:1 91:5 110:2              146:21 163:16  <b>confided</b> 40:13,14              109:24 186:19              210:10  <b>confirm</b> 75:1              116:22  <b>confirmation</b> 89:1              100:20,24  <b>confirmed</b> 38:7              62:22 74:16 75:5              101:4,8 115:20,22              185:6</p>	<p><b>confirming</b> 62:24              124:1  <b>conflicted</b> 22:18,20  <b>confront</b> 41:19              75:13 77:16 145:3  <b>confrontation</b> 79:2  <b>confronted</b> 41:21              42:14 45:22 73:24              73:24 75:9,11              78:24 183:12,17  <b>confronta</b> 79:2  <b>confused</b> 180:1,3              204:9  <b>confusion</b> 100:5              101:25  <b>connection</b> 8:9              137:6 138:5,7,7,8              138:10 212:14  <b>conscious</b> 148:5  <b>consider</b> 7:18              71:25 77:8,11              129:14  <b>considered</b> 67:24              102:7 129:12,14              242:3,4  <b>consistency</b> 192:6  <b>constant</b> 222:23  <b>constantly</b> 208:25  <b>constitute</b> 206:12  <b>constitutes</b> 198:1              198:13  <b>construction</b> 13:24              15:16 127:1              216:15  <b>consume</b> 99:10,16  <b>contact</b> 57:15  <b>contain</b> 99:19              218:17 236:18  <b>contained</b> 93:5              95:1 98:17 198:11              209:5 236:21  <b>container</b> 196:14  <b>contains</b> 236:16,17              236:20  <b>content</b> 89:15  <b>contest</b> 223:25  <b>context</b> 43:16</p>	<p>184:20 223:4              228:2 241:23  <b>continue</b> 17:12              28:6 39:5,8 67:4              71:9,15 96:16              107:12 113:2              194:21 204:13              205:22 222:19  <b>continued</b> 66:9              122:18  <b>continues</b> 204:17  <b>continuing</b> 45:24  <b>contrite</b> 64:6,8  <b>control</b> 85:24 86:10              87:14  <b>conversation</b> 20:20              27:3,14,21 28:2              30:13,25 31:2              32:3 36:15,18              37:10 38:6 41:17              42:13,15,18 46:25              47:16 59:19 63:8              63:17,23 64:5              85:11,13 86:20              87:17 88:15,23              97:22 110:7 112:1              112:11 117:3,5              119:10 121:18              122:6,21 124:8,10              146:8,18 155:18              155:21 158:3,6,14              159:1 167:4,10,23              168:6,8,14,16,24              169:12,16,19,25              179:25 180:2,6,19              182:7,9 184:20              185:1  <b>conversations</b> 63:9              89:15 111:22              125:16 140:24              153:6,21 163:20              169:21 170:19,22              174:2,12,19 211:2              211:5 235:2  <b>conveyed</b> 141:7              175:4  <b>conviction</b> 8:13</p>
---	--	--	---	---

<p><b>convince</b> 223:2  <b>convoluted</b> 242:10  <b>cool</b> 120:24 122:12  <b>cooled</b> 113:7  <b>cope</b> 44:13  <b>copied</b> 231:14              240:5  <b>copies</b> 207:5  <b>copy</b> 94:8,9 103:10              103:14 195:25              196:7  <b>corbit</b> 78:18 125:9              125:10  <b>correct</b> 3:9,10 4:17              4:22 5:2,5 6:8,10              6:15,21 8:13              13:17 19:12 22:7              22:8 24:17 26:3              28:22,25 30:11              32:11,25 33:8              34:24 36:4 37:24              38:2 41:5 43:2              44:5,18 45:10              46:6 47:25 48:6,9              48:12,17 49:12              51:4,16 52:7              53:21,24 56:9              60:2,5 64:3,25              68:24 71:6 72:7              72:10,15,20 73:4              73:15,16 74:20              75:7 83:23 92:23              96:6 97:9 101:1,5              101:14 102:16              105:2 108:15              116:14 125:6,25              127:10,22 129:10              129:18 130:1,4              131:10 132:10              139:3 140:16              142:11,14 148:18              150:6,9 152:7              153:12,17 160:7              160:17,25 167:17              167:21 171:5,13              171:20 172:2,8,14              172:17 175:11,21</p>	<p>178:20,24 180:21          180:24 181:2,7,23          182:22 183:1,5,14          184:6 185:2,4          186:9 187:20          189:18,21 190:7,9          190:12,20 191:19          191:22 192:13,17          192:18 193:4,13          193:17,21 194:9          195:5,9,13,17,20          195:23 197:4          202:19 206:13,22          210:16 211:9          214:14 219:2          220:16 223:12          226:1,14 227:4          231:8 236:5 243:4          246:2  <b>correction</b> 18:2  <b>correctly</b> 3:17              217:7,8 236:24  <b>corresponding</b>              206:17  <b>costuming</b> 13:24  <b>couch</b> 38:10,18              39:2 42:4 43:23              44:2 138:19 139:3  <b>couldnt</b> 53:1 61:22              68:2 69:9 99:7              115:18,18 118:13              127:15 137:21              142:18 143:10              184:2  <b>counsel</b> 3:23 12:1              140:18,25 141:6              142:3,7 207:4  <b>counselor</b> 40:14,15              43:2,6,13,19 44:9              44:12,22 45:5              98:2 106:21,24              107:2,4 133:15,18              159:14  <b>counsels</b> 207:13  <b>countless</b> 221:19  <b>county</b> 1:12 2:12              3:25 4:3</p>	<p><b>couple</b> 12:3 14:16          66:18 67:19,23          71:24 72:5 94:25          108:10 115:22          116:23 129:9          130:16 164:16          172:20 196:24          199:7 206:2,3          239:23,25  <b>course</b> 8:24 14:15              17:18,25 28:15              113:14,16 117:11              140:2,5,6 173:11              191:11 196:5              201:14 216:19  <b>court</b> 1:1 59:14              109:18 196:12              197:14  <b>cover</b> 91:20 104:6              122:5  <b>covered</b> 142:7  <b>coy</b> 99:18  <b>crack</b> 213:18,19,21              214:8,9,14,17,20  <b>crash</b> 65:19  <b>crayola</b> 105:25              106:3  <b>crazy</b> 189:6 229:15  <b>crewed</b> 69:15  <b>crime</b> 185:1  <b>criminal</b> 93:18              140:19,24 142:7              173:11 178:23  <b>cris</b> 206:5  <b>cross</b> 206:5  <b>crushed</b> 95:16  <b>cry</b> 213:16  <b>crying</b> 54:24              174:25  <b>cryptic</b> 36:14,18              182:13  <b>currently</b> 160:21  <b>cut</b> 108:14,19 133:7              133:25 230:7              236:15</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<p><b>dabbled</b> 132:5  <b>dad</b> 5:16  <b>damage</b> 65:20              229:7  <b>damaged</b> 37:18  <b>damned</b> 221:16  <b>daniels</b> 12:12              179:17 180:12,19              181:23 182:17              184:13,24,25              186:13 190:18  <b>darkness</b> 99:5  <b>dart</b> 123:19  <b>date</b> 3:1 18:12              19:19 43:17 47:7              69:10 92:2 119:6              138:14 142:18              165:10 167:25              186:17 187:6,7,15              193:5 204:2 206:3              209:15 217:6              222:4 229:15              230:24 233:2              235:1 236:22              238:9 241:25              244:16  <b>dated</b> 4:24 186:8              187:9,9 243:19  <b>dates</b> 29:10  <b>dating</b> 5:9 6:19              19:11,15,22 20:10              34:15 35:23              164:14 171:13              187:7,9,11,12              188:3,6,8 210:10              240:23 241:25              242:3,5 243:3  <b>dave</b> 1:11  <b>david</b> 2:5 4:7  <b>day</b> 10:16,16 11:12              41:12,13 68:15,19              74:23 75:15,16,17              75:18,20 76:2,5              79:6 80:15 83:3              89:9,13 91:9              100:7 110:2 116:1              116:4 117:19</p>	<p>118:22 125:19          126:17 127:3          142:25 145:21,22          147:18 156:3          158:15,17,22,25          167:2 171:22          173:21 175:10,11          176:5 177:16          178:7 183:4          224:14 239:9  <b>days</b> 41:12 45:2              68:9 75:25 76:1              100:6 158:25              180:5  <b>dead</b> 65:25  <b>deadbolt</b> 54:3,5,6              80:19 149:16              150:15  <b>deal</b> 44:4 70:20              101:8 107:8,11              136:1,4 194:18              219:5  <b>dealing</b> 140:20  <b>dear</b> 218:18  <b>dearborn</b> 1:23 2:23              3:4  <b>dearest</b> 224:17  <b>death</b> 5:7  <b>debt</b> 99:21,24  <b>dec</b> 157:15  <b>december</b> 1:19 3:1              24:15 246:8  <b>deception</b> 147:24              148:3,4  <b>deceptive</b> 64:11  <b>decide</b> 56:21 129:2  <b>decided</b> 46:19  <b>decipher</b> 107:17              231:16  <b>decision</b> 87:3 170:5  <b>deep</b> 99:7 101:8              172:17  <b>deeply</b> 5:4  <b>deerlike</b> 99:7  <b>defendants</b> 1:15              4:1,3,5  <b>defending</b> 86:24</p>
--	--	--	--	---

003734

<p><b>defense</b> 87:22 140:24 141:6 142:7 <b>define</b> 23:6 <b>definitely</b> 102:12 <b>definition</b> 65:5,7,9 65:14 66:1,2 <b>definitive</b> 102:17 <b>degree</b> 17:5,8,10,19 17:22 <b>delight</b> 99:10,16 <b>delivered</b> 94:21 <b>demanding</b> 132:20 <b>demanding</b> 52:16 54:10 132:21 <b>demeanor</b> 119:5 <b>denied</b> 41:15,17 42:9 <b>dennis</b> 178:1,2 <b>deny</b> 223:21,24 <b>denying</b> 42:6 129:6 <b>depending</b> 244:7 <b>depends</b> 49:4 65:5 <b>deposit</b> 179:7,9 <b>deposition</b> 1:17 10:8 11:17 13:10 91:18 92:5 93:1 102:1 121:6 196:17 197:2,4,4 197:9,18,21 203:20 206:12 216:24 218:10 <b>depositions</b> 9:6 <b>describe</b> 13:22 16:11 17:15 19:21 21:4 22:19 28:3 35:1 37:13 48:19 48:21 53:15 55:6 55:8 64:5 65:17 65:18,19 66:13 83:21 84:2,6 119:5 123:12 133:11 <b>described</b> 49:25 95:25 152:6 188:18 <b>description</b> 84:5</p>	<p><b>design</b> 13:25,25 <b>designed</b> 16:14 <b>designer</b> 217:21 <b>desire</b> 100:21 <b>desk</b> 84:12 <b>despair</b> 99:5 <b>despite</b> 66:8 180:23 188:25 <b>details</b> 38:17 <b>deter</b> 217:18 <b>determination</b> 149:2 <b>determine</b> 45:18 149:2 208:8 217:19 240:6 <b>developing</b> 95:23 <b>devon</b> 2:16 <b>diamond</b> 1:22 2:22 3:3 21:10 <b>dicianni</b> 1:22 2:21 2:22 3:3 4:4,4 121:9,11 134:8,22 134:25 167:9 238:20 <b>didnt</b> 21:7 23:5,21 23:24 24:1,2,5,7,8 25:14 36:1 42:11 51:18 56:3 57:12 66:7 67:25 71:23 71:24 75:4 81:5 88:2 90:13,19 96:18 102:25 109:21 119:16 120:3,19 122:11 122:13 124:20,24 132:9 133:7 137:21 143:2 145:22 150:14 151:1 156:21 158:4 159:21 163:23 164:11 168:7 169:5,5,13 171:12 175:5 179:23 180:20 182:14 183:11 184:1,1,10 189:17 189:19,19 190:3,6</p>	<p>190:11,13,14,19 192:10,21 197:14 203:3,4 210:25 211:1 214:13 222:1 229:4,5 237:8,8 244:14 <b>difference</b> 120:18 189:23 207:6 <b>different</b> 6:15 15:8 19:4 55:9 57:24 60:12 70:10 74:4 99:2 123:9,12,13 129:1 140:7 161:11 176:10,11 176:13 179:4,5 207:6 219:13,15 219:15 235:18 236:9 <b>differently</b> 123:11 <b>difficult</b> 141:17 <b>diminished</b> 66:16 <b>dining</b> 55:13 <b>dinner</b> 178:14 <b>direct</b> 211:17 214:18 217:9 <b>directing</b> 14:17 15:10 <b>direction</b> 49:4 50:14 51:11 <b>directly</b> 30:15 50:17 126:23 214:15 219:24 239:6 <b>director</b> 15:20 69:18 70:6,7 91:3 95:9 <b>discovered</b> 229:6 <b>discovery</b> 11:23 12:23 <b>discuss</b> 89:11 92:17 244:14 <b>discussed</b> 217:13 244:10 <b>discussion</b> 158:1 <b>discussions</b> 168:3 <b>dishonestly</b> 225:1 <b>disingenuous</b> 46:17</p>	<p><b>disjointed</b> 33:12 <b>disliked</b> 90:6 <b>display</b> 210:23 <b>disposed</b> 202:17,18 <b>dispute</b> 99:12 163:11 <b>distant</b> 119:7 <b>district</b> 1:1,2 3:8 <b>division</b> 1:3 3:9 <b>doctors</b> 26:18 <b>document</b> 92:6,7,8 93:12,17,24 104:1 104:8 194:18 196:18 197:9 203:22 205:14 208:8,24 209:3,18 218:12,19 234:25 235:18 236:2,17 236:21 237:17 238:12 240:4 <b>documents</b> 11:22 12:22,23 13:11 93:9 103:8 110:12 197:3 198:12 199:21 206:12,16 207:7,8,11,12,14 208:16 <b>dodging</b> 182:19 <b>doesnt</b> 192:7 205:16 219:6 227:10 228:12 244:15,16,16 <b>dogleg</b> 55:13 152:11 <b>doing</b> 14:14 15:11 16:14,19 27:25 30:24 31:5 39:22 44:7 54:23 56:13 59:4,24 60:21 86:14,16,17 110:22 121:16 128:6 138:22 143:24 154:20 170:24 173:8 204:23 213:2 214:1,13,16 225:16 232:6</p>	<p><b>don</b> 24:2,3,6,8,13 35:8,19,21,25 <b>dont</b> 8:21,21 9:3,18 10:9 11:22 12:21 18:6,7,9,10 20:22 22:6 25:7 26:4,12 27:2,9 28:5 29:10 32:8,17,20 34:9 35:8 36:10,15,16 37:7,17 38:13,16 38:25,25 39:6,11 40:4,16 41:1,1,11 41:18 42:12 43:4 44:11,23 45:7 46:21 47:9,12,14 47:19,19 49:7,8,9 52:16,21 54:7,18 54:22,22,23 55:22 56:6,15,24 57:25 58:8,13,19 61:12 63:6,22,25 64:3,4 64:4,20,24 66:19 66:24 67:15,19 68:14,16 71:11,16 71:22 72:2 74:9 74:25 75:16 78:21 78:25 79:7,11,12 80:2 81:19 82:14 83:1,2,6,6,7,16 84:23 85:1,14,20 86:16,23 87:8,12 87:16,16,20,24 88:5 89:4,5,14 91:10,13,14,15,20 91:23 92:15 96:24 97:5 99:8,11,12 103:12,16,17,21 104:10,20,24 105:19 106:2,25 107:9 108:1,1,2,7 109:5 110:7,18,21 110:24 111:20,25 112:8,13 113:4,12 113:20,24 114:9 114:10,18 115:5,6 115:24 116:2,21 116:21 117:4,20</p>
--	--	---	---	---

<p>117:23,23,25 118:1,1,2,4 119:2 120:1,19 121:2,8 121:20,21,25 122:3 124:5,7,12 125:3,7,12,15,21 126:3,4,6,24 127:2,20 128:7,7 128:8 129:7,23 131:8 132:4,5,19 134:13 135:5 136:8,9,10,13,23 137:1,8,20 138:3 138:4 143:11,19 144:7 145:6,9,17 146:4,20 148:9,14 148:19,23 150:1,2 150:18,18 151:13 151:15,22 152:24 153:2,4,4,8 154:2 154:15,22 155:1,2 155:6,6,18,25,25 156:7,19,19,23,23 156:23 157:7,14 157:17 158:5,15 158:16,16 159:3,3 159:9,16,22 164:11,13 165:10 165:13,19,21 166:5,16,17,22,25 167:3,6,8 168:15 168:19 169:10 170:20,23 171:1 171:16 172:25,25 173:1,4,10 174:10 174:15,17,17 175:8 180:1 184:9 184:19 186:1 187:4,16 189:8,10 189:16 193:5 199:23,24,24 200:25 201:15,17 202:23 203:19,19 206:1 207:10 208:25 209:1,5,5 211:6,21 212:10 212:10,15,18</p>	<p>213:6,7,14 215:4 215:5,25 216:9,13 220:20 221:22 223:1,19,20,25 224:21,25 225:10 225:20 226:6,13 226:13 227:14 228:13 230:13 231:12,13 232:11 232:11,14 233:4 234:7,16,24 235:12 236:16 237:4,15,15 238:6 238:9 241:6,20 244:15 door 7:2,4 46:24 52:10,11,12,22,25 53:9,14,15,15,18 53:19,23 54:1,2,8 54:15,17 55:8,10 55:22 56:22,25 57:11 58:5 62:2,6 64:25 65:9,25 66:6,14,15 67:6 70:19 71:8 72:17 73:3 74:22 80:1,2 80:3,5,8,10,17,17 80:19,25 81:7,9 81:11,12 84:8,9 84:12,14,21 107:7 107:10 109:6 118:12 147:12,14 147:15 148:17,21 148:25 149:1,12 149:16,23 150:4,9 150:12,15,17,20 150:21 151:4,10 152:16 153:7,22 155:8 159:22 160:1 165:8 192:1 192:13,17,22,24 194:9 195:2,16 doorframe 150:12 doors 55:25 doorway 150:23 doorways 55:9 dorm 146:11,12</p>	<p>155:5 156:16 doubt 104:21 105:16 downplay 117:12 dr 90:21 91:2 92:9 93:10,18,21 94:13 94:20 95:22 98:16 100:8 104:3 105:11,14 108:25 110:9 drank 24:16,23 25:10,17,24 drawer 104:12 drawers 74:3 84:12 drawing 108:11 dreamlike 100:5 dressed 156:22 drink 25:8,14,15 120:5,10 drinking 27:11 drive 50:4 61:14,16 75:22 116:20 118:14 147:10 driveway 50:3,18 50:21 51:2,3,6,15 51:18,20 52:5 61:19 driving 88:6 116:16,17 122:2 122:17 172:14 181:1 drop 120:16 204:22 205:1,7 212:4 213:5 dropped 78:2 115:3,11 122:23 123:2 124:16 dropping 227:1 drove 114:25 118:15 127:3,4 147:11 drug 6:17 132:9,13 132:17,18 140:19 212:14 239:7 drugs 29:24 119:14 119:18,22 129:20 129:22 131:4,7</p>	<p>132:2,5,8 153:20 214:1,11,19 dugout 18:23 19:1 19:3,7,8 dump 86:3 dumped 86:2 duties 69:16 70:5 177:16 dwyer 217:7</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p>eager 99:3 earlier 42:25 96:1 102:8 130:3 147:18 152:6 176:4 192:12 198:23 210:19 224:8 228:12 240:13 earliest 200:4,6 early 26:5 36:10 73:17 92:18 97:7 97:24 102:1 123:3 131:14 187:13 188:7,13 229:21 earn 17:5,8,10,21 earthsoul 100:4 easier 106:3 222:11 east 2:8,16 easy 21:6 eat 34:11 178:14 ebb 244:7 edge 62:5 152:16 education 16:9 17:12,16 effect 30:16 42:7 114:14 147:16 158:4 eggs 229:4 either 15:15,19 16:17 18:5 23:20 27:17 35:14 68:5 71:13 84:10,13 86:6,6 87:18 116:1 125:9,16 146:15 166:14,14 173:16,19 175:5,9</p>	<p>198:14 207:10 240:5 244:5 ekl 2:13 3:6,10,25 3:25 4:13,15 23:2 32:11 40:21,23,25 41:2 42:20 46:1,3 60:11 91:16,18,20 91:22,24 92:3,11 92:13,16 99:14,16 99:25 120:23 121:1,3,7,10,12 121:14 124:21,24 134:5,7,12,15,18 134:21,23 135:4,8 135:10 136:22 140:22 141:12,17 141:22,24 153:25 165:24 166:2 167:11 172:4,6 194:12,14,16,19 194:22 195:25 196:3,5,7,12 202:6,8 206:1 207:18,21,25 208:2,13,15 212:18 216:16,19 216:22 218:3 225:12,14,16,19 225:22 234:4,6,11 235:24 236:1,3 238:14 239:20,23 239:25 241:4 242:15,18,20,23 244:1,17 elapsed 244:25 elated 99:9 election 238:15,18 electrical 16:7 electrician 15:19 15:20,20,25 16:1 electric 69:20 electrifying 99:17 elegy 209:10,11 elizabeth 2:13,14 3:25 4:2 217:6 elses 12:20 103:20 em 91:25 96:1</p>
---	---	--	--	--

<p>134:14 190:19                  198:4 199:18                  201:4 236:5  <b>embarrass</b> 121:7  <b>embarrassing</b>                  121:5  <b>emotion</b> 237:13  <b>emotional</b> 64:20  <b>encompasses</b>                  141:16  <b>encouraged</b> 107:4                  160:6,8  <b>ended</b> 20:15,17                  97:9 122:17  <b>engaged</b> 5:5 20:1,8                  20:9,21,25 37:23                  66:9 101:9,12,16                  101:17,22 102:2                  147:19 185:25                  186:1 243:20  <b>engagement</b> 20:11                  20:17 22:14 66:7                  102:15 205:10  <b>engaging</b> 212:25  <b>engineering</b> 13:25                  15:16  <b>ensue</b> 145:1  <b>entailed</b> 133:12  <b>enter</b> 51:5 55:7  <b>entered</b> 51:6 55:18                  57:7 84:15,18,21                  151:4,20 152:25                  153:22 154:4                  191:21  <b>entire</b> 237:20  <b>entirety</b> 97:22  <b>entrance</b> 51:10                  55:11  <b>entry</b> 82:10 191:25  <b>entryway</b> 55:14                  84:9 152:5  <b>envelope</b> 94:8,9,13  <b>escalated</b> 45:25  <b>escape</b> 24:22 25:9  <b>escaped</b> 57:6,19  <b>especially</b> 34:19  <b>essentially</b> 112:13</p>	<p><b>established</b> 65:14  <b>evening</b> 26:5 120:3  <b>event</b> 89:7 153:10                  153:15 163:10  <b>events</b> 46:12 67:14                  67:16  <b>eventually</b> 9:7 19:9                  19:11 44:17,18                  97:9  <b>evidence</b> 28:11                  58:21,25 72:4                  85:24 86:1  <b>evidentiary</b> 85:2  <b>ex</b> 153:14,14  <b>exact</b> 18:1 43:17                  117:18 165:10  <b>exactly</b> 36:10 44:11                  82:14 134:18                  146:4 214:12                  234:7  <b>examination</b> 4:14  <b>examine</b> 26:21  <b>example</b> 143:25  <b>excessive</b> 29:21  <b>exchange</b> 20:23                  21:3 99:18 163:4  <b>exfiancé</b> 95:4,10,16  <b>exgirlfriends</b>                  153:11  <b>exhibit</b> 91:18,25                  92:5 93:1,6,14                  94:14 196:8,17                  197:9,18,21                  198:21 199:2                  203:21 206:12                  216:20,24,25                  218:10 236:4                  239:17  <b>exhibits</b> 195:23                  196:13  <b>expect</b> 230:22  <b>expectation</b> 103:1  <b>expected</b> 44:15                  184:6  <b>expecting</b> 116:3  <b>experience</b> 30:6                  99:20 180:7 212:9</p>	<p>212:14  <b>explain</b> 97:15                  155:25 161:25                  197:20  <b>explained</b> 90:22                  115:24  <b>explanation</b> 90:24  <b>explore</b> 142:2,4  <b>explosive</b> 65:18,20  <b>exposed</b> 177:19  <b>express</b> 67:2 114:8                  132:18 159:1                  164:10 174:20  <b>expressed</b> 23:22                  60:8 164:8,21                  175:7  <b>expressing</b> 64:9  <b>extent</b> 141:7 142:4  <b>ey</b> 161:16  <b>eyed</b> 224:1  <b>eyes</b> 99:7 220:6,9                  221:18</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>facing</b> 61:20                  122:15  <b>fact</b> 5:4 30:7 35:21                  36:1 39:2,21                  60:24 66:7 75:3                  89:11 90:17 91:3                  101:4 107:1,6                  114:4 116:22                  121:8,10 122:1                  124:8 135:12                  136:11 140:3,8                  145:3,10,19 148:3                  155:11 156:16                  166:4 169:14                  173:12,19 174:3                  178:19 180:23                  183:12,13 185:11                  188:21,25,25                  190:5,18 192:22                  195:1 198:1                  215:15 219:8  <b>failure</b> 71:20                  222:12,22</p>	<p><b>fair</b> 5:24 6:4 10:13                  22:2 32:4 44:3                  56:7 63:13 64:22                  66:8 70:11,19                  71:20 79:18 81:8                  82:19 90:10                  100:23 117:10,16                  118:17 125:15                  128:15,16,19                  139:16 169:6                  171:23,24 178:11                  179:14 187:2                  200:22 215:8                  218:20 219:8,16                  221:5 229:25                  234:20 236:17                  237:12,16 238:2,2                  239:10 242:2                  243:14 244:9,17  <b>fairly</b> 137:6,7                  224:22  <b>faith</b> 211:20  <b>faking</b> 121:3  <b>fall</b> 21:8 34:4,5                  188:14 229:21,24  <b>falling</b> 65:19                  222:10  <b>familiar</b> 40:17,18                  118:25 121:12                  196:23 225:5  <b>family</b> 5:11,13,15                  111:7,9 178:14  <b>fan</b> 238:17  <b>fantasy</b> 100:4  <b>far</b> 12:13 29:10                  37:22 61:12 71:22                  86:21 89:15 90:8                  137:11,15 175:9                  192:20 197:22                  228:11 242:1  <b>faster</b> 201:6  <b>faults</b> 6:10 219:5  <b>favors</b> 223:1  <b>fear</b> 80:18 204:18                  205:3 224:18  <b>fearful</b> 67:2  <b>fears</b> 219:5</p>	<p><b>federal</b> 4:12 179:10  <b>feel</b> 7:15 39:13,17                  64:12 74:15 85:9                  99:19 100:16                  117:6,10,11,15                  123:22 132:7,9                  143:16 190:13                  191:4 196:20                  215:9,11 222:9                  224:16 226:15  <b>feeling</b> 30:22 43:14                  52:13 64:20 99:3                  101:8 139:6 173:6                  183:22 221:3                  224:22 237:14  <b>feelings</b> 44:4                  100:25 110:3                  117:12,14 172:17  <b>fell</b> 192:8  <b>fellow</b> 210:8  <b>felt</b> 27:25 46:14                  52:14 62:25 73:25                  74:16 75:3,5                  90:24 96:16 97:25                  99:2 100:2,20                  107:10 119:15                  122:10 132:18                  146:6 147:21,23                  169:3 182:7 184:2                  188:20 194:1                  210:11,25 213:2                  213:12,13 228:20                  228:23 229:3                  238:2  <b>female</b> 24:4 35:14                  78:12,14  <b>fiancé</b> 39:22 77:8  <b>fight</b> 8:12 171:12                  239:12,13  <b>fighting</b> 23:11  <b>fight</b>s 128:23  <b>figi</b> 233:24,25                  234:1,4,7,13  <b>figs</b> 234:12  <b>figure</b> 44:16 47:17                  206:4 210:7                  233:21</p>
--	---	--	--	---

C03737

<b>figured</b> 115:17 183:19	223:17 226:10 227:22 228:25 230:7,10,11 233:12 235:5 237:20 243:14	<b>form</b> 7:7 23:3 65:4 73:2 81:10 83:15 101:3,15 153:23 160:3 167:19 182:12 193:14 198:14 223:3 242:9	<b>frequently</b> 130:11 130:12,16 133:12 137:18	<b>fucking</b> 78:5
<b>finally</b> 74:7	<b>fit</b> 238:3	<b>formulated</b> 8:22 45:13	<b>freshman</b> 11:2 14:8 33:7,20 35:7 131:17	<b>full</b> 14:8 123:21 178:3 209:22 222:21,21
<b>find</b> 46:8,8 55:3 56:3 57:12 74:10 76:9 85:24,25 86:8,10,12 201:6	<b>fits</b> 237:24	<b>formulated</b> 4:19 8:19	<b>friction</b> 35:22	<b>fun</b> 19:23 111:3
<b>finding</b> 76:22 132:17 192:2	<b>fitting</b> 237:13	<b>forth</b> 127:5	<b>friday</b> 1:18 176:7	<b>funny</b> 134:8
<b>fine</b> 17:9 32:1 70:25 90:8 91:7 91:21 142:3 188:19 194:12,19 227:15,17	<b>five</b> 12:7,8,8 56:20 155:1 204:22 245:3,3	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friend</b> 24:8 32:24 35:5,6 67:22 72:23 82:2 90:10 90:11 109:9,10,11 113:3,19 129:12 129:15,17 182:3,4 182:11,18 210:9 223:11 234:13,18 234:20 242:4,5,8 244:11,16	<b>furniture</b> 84:2 123:15
<b>finger</b> 78:3 97:19	<b>fix</b> 80:13	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friendly</b> 114:5 119:7 158:7	<b>further</b> 9:4 16:11 17:16 22:19 39:1 43:23 87:17 96:19 122:20 241:23
<b>finger</b> 79:11	<b>fixed</b> 80:8,10,12,17	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friends</b> 5:18,22 8:5 11:7 19:10 23:21 23:24 24:4 28:12 28:14,21,24 29:2 29:4 34:9,9 35:5 67:23 112:25 131:25 138:10 142:20 178:15 193:13 211:1,3 223:11 227:23,23 241:19,22 242:1,7 243:2,15,15,17,19 243:23 244:5,5,12 244:14	<b>future</b> 72:1 100:3
<b>finingail</b> 24:17 25:8,11,17,24	<b>flip</b> 93:3 197:24 205:17 221:7	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friday</b> 1:18 176:7	<hr/> <b>G</b> <hr/>
<b>finish</b> 9:22,24 10:1 242:15	<b>flipped</b> 93:4	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>gallery</b> 69:24
<b>finished</b> 83:19 85:22	<b>flirtatious</b> 37:12	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friday</b> 1:18 176:7	<b>gamma</b> 234:5,9,10
<b>firm</b> 2:15	<b>flirting</b> 19:5,7	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friday</b> 1:18 176:7	<b>garbage</b> 86:2,15
<b>first</b> 18:14 19:9,22 21:6 26:20 33:6 36:6 42:15 43:6 52:5,12 69:18 70:9 74:9 84:7,8 84:18 93:13,24,25 94:2,4,5 95:2 103:14 114:12,13 131:14 133:14 140:11,13 142:16 143:21 149:12,14 149:15,18 164:14 166:20 167:1,4 175:24 179:16,21 180:18 181:9 184:18 185:1,6 196:15,24 198:18 200:9 203:21,22 204:21,22,22 205:24 207:7,14 208:23 209:19,22 217:3 218:24 219:14,19 221:15 222:7,21 223:17	<b>floor</b> 1:24 2:24 3:4 49:23,24 69:24 86:5,7,7	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>gas</b> 125:20
	<b>floors</b> 49:19	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friday</b> 1:18 176:7	<b>gates</b> 28:18 29:4 127:18 128:5 185:16,18 210:17 211:8
	<b>flow</b> 244:7	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>gel</b> 86:11 87:15
	<b>fly</b> 69:20,22,24	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>general</b> 6:4 60:18 144:16 209:14 238:7
	<b>focus</b> 13:19 17:21	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>generally</b> 28:12 43:17 48:20 63:23 75:22 133:11 141:15 161:25 177:23 178:16 188:10,11 199:1 199:16 208:9 210:24
	<b>focused</b> 57:3	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>gentlemen</b> 28:14
	<b>focuses</b> 16:9	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>getting</b> 49:10 96:18 103:3 108:23 121:17 122:22 135:2,3 151:16 163:22 168:4 170:24 171:3,4 196:10 202:15 203:6,8 218:7 236:6 239:18
	<b>focusing</b> 16:2	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>girl</b> 215:22
	<b>fold</b> 21:14	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	<b>girlfriend</b> 38:24
	<b>follow</b> 48:15 126:3 126:6 179:4	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>followed</b> 47:20,22 48:11 125:25 126:1	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>follower</b> 11:6	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>following</b> 98:20 148:4	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>fool</b> 204:9	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>football</b> 233:25	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>force</b> 180:17	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>forced</b> 191:25	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>foreclosing</b> 142:6	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>foregoing</b> 246:2	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>foreign</b> 163:3	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>forever</b> 99:21,23	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>forgave</b> 158:7	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
	<b>forgive</b> 71:2 158:11	<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
		<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
		<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
		<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
		<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
		<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77:15 77:19,20 89:9,20 89:23 95:15,19 100:20 103:8 104:10,11 106:23 110:3 113:8 135:12 138:18 143:9 144:12,12 165:8 191:1 229:16	<b>friction</b> 35:22	
		<b>found</b> 37:1,2 45:8 46:22 50:6,7,24 51:6,16 72:19 73:23 74:7,12 75:16 76:7 77		

<p>77:11 78:6 91:14 97:20 187:4 242:4 <b>girlfriends</b> 153:11 153:12 <b>gist</b> 27:21 28:1 112:1 117:3 146:8 158:3 <b>give</b> 7:18 18:1 28:19 38:17 44:12 63:21 69:9 88:2 109:12,14 110:8 110:10,11 117:21 167:25 170:3 177:20 199:12 231:18 235:16,20 245:3 <b>given</b> 79:12 97:24 119:21 126:5 172:23 204:2 224:9 <b>gives</b> 228:5 <b>giving</b> 13:13 83:13 <b>glad</b> 213:11,13 <b>glance</b> 99:18 <b>glink</b> 1:22 2:22 3:3 <b>go</b> 3:1 7:15,19 9:4 9:25 11:12,23 13:15 22:24 31:14 34:10 41:3 44:14 46:18,20 48:3,5,8 49:7 50:4 59:24 60:24 61:2 71:13 73:9 75:13,20 79:22,23 81:2,18 89:7,12 92:16 93:23 98:1,24 99:15 107:4 114:24 115:5 118:6 125:22 126:18 127:4 128:19 132:22 133:13 134:5 143:7 144:5,8 145:22 147:12 150:24 151:2,20 152:9 157:1,3,22 159:13 160:14</p>	<p>164:12 166:8 176:19 178:12,15 186:17,18 196:4 196:10,15 199:14 201:2,3 203:20 205:21 206:11,15 206:25 207:3,13 212:10 216:18 218:2,7 221:6 222:7 223:16,25 225:15 227:17 230:15 <b>god</b> 99:6 134:22 <b>goes</b> 53:17 104:14 203:22 205:18 206:4 225:17,17 226:14 <b>going</b> 7:9 9:23,24 16:8 20:21 22:24 30:16 33:18 36:7 37:11,21 43:17 46:12,18 48:3,5 49:4 50:13,14 51:11,14,19 56:13 56:22 57:23 60:4 60:13 64:10 71:9 71:14 77:12 79:16 80:16,23 86:15,15 87:3 88:11,16 90:17 93:23 96:24 97:8,15 98:23 99:14 105:25 107:2 109:14 110:4,8,9,16 111:2 112:2 114:4 115:2,22 116:1 120:2 121:13,15 122:24 124:2,3 126:4,7,8,14 129:2 134:2 144:1 144:6,11 145:8,14 148:6 157:6 163:17 165:2,20 166:8,8 171:15,15 172:20 173:3 175:1 184:6 187:18 192:11</p>	<p>196:1,15 202:2 206:25 208:3 210:13 212:5 216:19 218:9 223:10 225:12 227:18 230:20 235:3,4,6,7 239:6 239:11 241:17 243:1 <b>good</b> 10:16 90:5 102:8 111:25 114:15 117:3 121:2 129:15 134:23 209:25 210:1 222:13,23 <b>goodbye</b> 122:23 <b>gotcha</b> 165:24 <b>gotten</b> 138:2,3 170:25 171:12,16 <b>gps</b> 126:5 <b>grabbed</b> 154:10 155:3 <b>grabbing</b> 154:19 <b>grade</b> 33:14 <b>grades</b> 223:25 <b>rainy</b> 105:24 <b>grand</b> 12:24 13:6 93:14 178:20,23 178:23 193:2,5,9 193:12,16,19,20 193:24,25 194:6,7 194:9 195:1,4,7 195:12,19,22 196:19,25 197:5,6 197:12 198:20,24 199:4,5 <b>grandfather</b> 209:10 <b>gray</b> 175:13 <b>grays</b> 175:22,23 <b>great</b> 92:3 101:8 <b>greek</b> 216:3 <b>grocery</b> 175:19,20 <b>ground</b> 9:5 <b>group</b> 11:6 207:2 207:14 221:8 <b>groups</b> 36:19</p>	<p>199:17,19 <b>grow</b> 215:7 <b>growing</b> 71:21 72:24 <b>guard</b> 14:23 <b>guess</b> 9:23 11:6 18:6 20:11 27:24 36:10 39:18 57:3 63:1 71:13 89:14 104:3 106:22 108:23 158:7,10 171:9 184:9 191:14 213:6 <b>guilt</b> 117:10 <b>guilty</b> 64:20 117:7 117:11,15 226:15 <b>guitar</b> 14:16 <b>guy</b> 35:13 <b>guys</b> 28:10 34:21 215:16 242:6 243:3</p>	<p><b>handcuff</b> 181:18 <b>handcuffed</b> 180:24 181:1 185:3 186:20 <b>handcuffing</b> 191:10 <b>handcuffs</b> 180:7 181:17 <b>handed</b> 207:5 <b>handle</b> 54:5 136:7 136:12 207:3 222:10 <b>hands</b> 21:15 <b>handwriting</b> 94:12 94:22 103:22 104:13,16,19 105:1,8 108:18 197:23 198:1,6,13 209:20 <b>handwritten</b> 103:4 <b>hanes</b> 24:2 <b>hang</b> 6:6,8 18:25 19:2 34:20 68:17 68:18,19 71:12 131:18 <b>hanging</b> 36:1,19 67:20 72:22 123:19 223:7 <b>happen</b> 25:10 39:19 87:13 189:13 244:9 <b>happened</b> 21:16 25:17 31:22 32:9 39:11 53:14,15 54:9 61:7,15 63:16 74:18 75:6 76:4 77:2,18 79:25 80:24 81:13 83:18 85:22 89:1 90:22 100:4,21 118:11 122:10,14 138:15 146:3 147:14 150:8,12 150:20 157:18 <b>happening</b> 140:21 154:20 <b>happens</b> 72:1</p>
---	--	--	---	---

<p>122:24 239:8  <b>happiest</b> 241:8,12  <b>happiness</b> 99:19  <b>happy</b> 164:13                  234:19  <b>harbored</b> 117:15  <b>hard</b> 48:15 105:24                  129:4 230:22  <b>harder</b> 214:10  <b>hassling</b> 146:7                  194:1  <b>havent</b> 8:19 58:6                  65:13 100:7                  241:18,21 242:1  <b>head</b> 10:4,5 21:10                  22:1 43:5 68:2                  80:7 111:3 210:7  <b>healthy</b> 25:16  <b>hear</b> 7:15 53:4,6                  124:20 149:9                  233:1  <b>heard</b> 53:2 119:20                  224:11  <b>hearing</b> 13:2 47:13                  196:25  <b>heart</b> 21:13,15                  104:15 224:17  <b>heidi</b> 81:25 82:1,3                  82:5,7,12,17,20                  86:14,16 87:18,20                  87:20  <b>held</b> 179:11  <b>hell</b> 96:12,21                  222:24  <b>help</b> 33:20 34:7                  44:7,13 60:20                  89:25 159:8,12,19                  160:2,7,8 211:20                  217:9 226:4,9                  227:24 228:1                  230:24 233:21                  238:7  <b>helped</b> 34:6 216:12  <b>helpful</b> 62:20,21  <b>helps</b> 222:4 233:2  <b>hes</b> 46:20 161:19                  189:22</p>	<p><b>hesitant</b> 64:18  <b>hey</b> 112:2 174:13  <b>hidden</b> 37:18  <b>hiding</b> 57:10  <b>high</b> 16:10,15,20                  109:17 161:7                  163:3 187:1                  211:24 212:4                  213:5 226:17  <b>hinge</b> 21:12  <b>hinges</b> 150:14  <b>hold</b> 21:7 174:14                  178:2 207:24                  224:16  <b>hollow</b> 176:15,17  <b>home</b> 59:6 61:14,16                  96:25 97:23,25                  115:11 171:1                  178:13 191:21                  200:10 203:3,3                  208:21  <b>homicide</b> 180:13                  180:14 181:12  <b>honest</b> 39:13  <b>honestly</b> 220:20  <b>hook</b> 219:6 230:17                  230:25 231:2  <b>hope</b> 107:16 241:12  <b>hopelessly</b> 215:3  <b>hospelhorn</b> 1:11                  179:17 180:12,20                  181:23 184:14,25                  186:13 190:18  <b>hospital</b> 25:25 26:1                  26:13 27:6 184:21  <b>hospitalized</b> 30:4  <b>hours</b> 12:7,8,8 26:8                  69:11,13 70:12                  176:2,25 177:12                  178:14 245:3  <b>house</b> 7:3 48:9,12                  48:16,19 53:21                  70:18 111:11                  126:4,7 143:4,9                  144:19 145:8,10                  145:24 147:1,5                  148:7 161:2,6,9</p>	<p>161:22,23 162:4,5                  162:13,16,18                  163:2 169:19                  172:8,11 173:24                  174:3 175:19                  178:13 181:2                  194:8 203:4                  232:13  <b>huh</b> 231:25  <b>hung</b> 28:12 34:8,10                  71:3 131:17  <b>hurt</b> 39:18 101:11                  117:17,17 173:3                  175:5,5,7 188:17  <b>hurting</b> 175:8  <b>hurts</b> 213:15</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>id</b> 9:21 10:19 13:16                  18:10 96:11,21                  114:2 121:7,7                  134:4  <b>identifiable</b> 233:20  <b>identify</b> 93:24                  203:21,23 207:2                  226:7  <b>identities</b> 241:14  <b>iga</b> 175:21,22,23  <b>ill</b> 7:10,11 9:16,20                  10:3,12 118:14                  180:10 194:20                  196:6 197:17,20                  198:11 199:15,15                  201:3 207:2,11,14                  208:15 209:6                  213:14,16 219:4,7                  221:6 222:24                  235:20 243:25  <b>illi</b> 217:14  <b>illinois</b> 1:2,12,13,25                  2:10,18,25 3:5,8                  13:16 17:5 18:2                  18:15,20 217:1,4                  217:14  <b>im</b> 3:19 7:20,25,25                  8:5,25 9:23,24                  13:12 14:10 20:5</p>	<p>20:21 22:24 26:7                  30:9 31:16,18                  35:10 42:16 43:25                  44:1 51:1 67:7                  69:1 72:16 76:10                  84:5 89:14 90:8                  92:4 93:23 94:6                  95:14 96:5,8,11                  96:20,24 98:5,23                  99:14 101:17                  103:25 104:22                  105:25 106:2                  107:15 108:4,7,8                  108:11,13 109:22                  112:13 116:1                  117:13 120:21                  121:3,3,10,13                  122:4 123:14                  124:19 126:17                  128:13 131:3                  132:3 133:3,24,25                  134:6,15 136:14                  136:14 140:6                  141:1,3,13,17,18                  141:25,25 142:6                  144:9 145:8                  151:16 152:2                  153:8 155:13                  158:6,7 159:15                  160:5,11 165:20                  167:9 170:7,11,17                  171:18,18,19,20                  172:4,4 173:10                  184:11 186:11                  188:7 196:15,20                  197:6 199:13                  202:3 203:13                  204:11,12,22,23                  204:25 205:23                  206:25 207:16                  208:3,11,15 209:9                  210:16 211:22                  213:11,13 214:4                  216:17,19 217:6                  218:1,3,4,9 222:9                  222:9,13 223:19                  225:12,16 226:6</p>	<p>226:14,17 227:10                  227:13,18 228:1,4                  228:20,21 230:12                  230:16,19 231:2                  232:6,9,16,25                  233:6 234:14,16                  234:24 236:3                  238:9,13 239:1,5                  239:6 241:3,20                  242:18 243:1,7,9                  243:11 244:19  <b>imagine</b> 32:8 232:6  <b>imagined</b> 124:2  <b>immediately</b> 27:16                  171:13,21  <b>impairing</b> 153:20  <b>important</b> 9:9,18                  10:9 89:12 195:5                  195:11  <b>impress</b> 215:22  <b>impression</b> 64:15  <b>impressionable</b>                  11:8  <b>impressive</b> 224:25  <b>inaccurate</b> 197:13  <b>inaccurately</b>                  197:15  <b>inanimate</b> 65:6  <b>inappropriate</b>                  145:16  <b>incarcerated</b> 4:16                  8:7  <b>incident</b> 24:15,19                  27:1,10 28:4 29:8                  29:12,15 32:7                  41:5 46:4,9,9 47:8                  58:4 66:6,14,15                  66:21,23 67:1,5                  70:18 71:9 72:18                  73:3 138:14,17,21                  143:7,8 159:22                  160:1,10,15                  230:25 242:6  <b>incidents</b> 144:15  <b>inclined</b> 9:25  <b>include</b> 212:5  <b>included</b> 95:21</p>
--	---	--	---	---

C03740

<p>159:15  <b>includes</b> 198:1  <b>including</b> 142:9                  208:24 219:24                  220:10  <b>incredible</b> 99:6  <b>independent</b> 15:11  <b>indicate</b> 45:24                  226:19 241:15  <b>indicated</b> 43:1                  102:22 124:7                  130:3 148:5                  180:24 243:2  <b>indication</b> 143:5  <b>indictment</b> 195:8  <b>indirect</b> 214:16,18  <b>individual</b> 8:1  <b>indulge</b> 135:5  <b>information</b> 4:12                  11:24 93:10 141:7                  182:19  <b>ingest</b> 131:4,6  <b>ingested</b> 131:7  <b>initial</b> 152:5 182:9                  183:7  <b>initially</b> 73:14                  156:8  <b>initials</b> 92:1,2  <b>innocent</b> 99:7  <b>innocuously</b> 107:16  <b>insane</b> 14:24  <b>insecure</b> 24:4 229:1  <b>insecurities</b> 6:12                  230:4  <b>insecurity</b> 219:6  <b>inside</b> 46:5 57:7                  122:6 149:3,9                  150:6,10 151:12                  154:21,23 192:17                  195:2  <b>instance</b> 7:1 13:6                  28:24 87:10                  127:14 141:8                  143:21  <b>instances</b> 83:3                  142:22  <b>instructing</b> 141:1</p>	<p><b>intend</b> 165:25  <b>intended</b> 38:1 39:4                  39:8 141:4 165:21  <b>intending</b> 141:19                  141:25 142:8                  173:8 199:13  <b>intent</b> 174:22,23                  175:5,7  <b>intention</b> 17:19                  103:3 202:2,14  <b>intents</b> 20:16  <b>interaction</b> 37:12  <b>interest</b> 236:23  <b>interested</b> 210:14  <b>intermission</b> 14:20  <b>internal</b> 177:19  <b>interpret</b> 243:10  <b>interrogatories</b>                  13:12  <b>interrupt</b> 41:3  <b>interview</b> 12:12,19                  179:16 180:11                  183:12  <b>interviewed</b> 179:13                  179:21  <b>interviews</b> 8:9                  11:21 12:10,14,15                  12:16,20  <b>intimate</b> 142:14,17                  142:23 211:7,12  <b>intimidated</b> 179:25                  180:8 184:2,3  <b>introduce</b> 181:21  <b>introduced</b> 182:10  <b>introduce</b> 221:11  <b>introduction</b>                  205:16,24 206:24                  207:9 218:17                  221:12,14 236:16  <b>introductory</b>                  208:24 221:13  <b>investigating</b>                  180:13,14  <b>investigation</b> 8:10                  192:20  <b>investigator</b> 179:17                  180:19,20</p>	<p><b>invited</b> 81:12  <b>inviting</b> 182:18  <b>invoking</b> 141:15  <b>involved</b> 6:14                  12:16 45:9,11,25                  47:18 59:1 72:25                  139:23 147:24                  171:15,17 216:14  <b>irrational</b> 86:19  <b>irresponsible</b>                  226:16  <b>irritated</b> 142:25  <b>isnt</b> 100:23 225:13  <b>issue</b> 212:17  <b>issues</b> 146:22                  159:15 210:23  <b>itasca</b> 2:18  <b>items</b> 172:10  <b>itll</b> 9:6  <b>ive</b> 8:11,24 10:19                  92:4 95:15 100:19                  109:17 132:3                  161:10 197:20                  230:12  <b>iwu</b> 95:15</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>jam</b> 236:23  <b>jamb</b> 53:18 150:15  <b>james</b> 1:11 3:5  <b>jamie</b> 35:19 40:13                  88:13,15,24 89:3                  89:17,19 90:10,16                  111:1,5  <b>jamies</b> 90:2 111:10                  114:25 125:25                  126:8  <b>jason</b> 215:4,4,19,24                  216:5,8,8  <b>jealous</b> 28:7,9                  230:4  <b>jealousies</b> 23:22  <b>jealously</b> 229:2                  230:2  <b>jen</b> 92:10 98:18                  104:22 124:25                  125:9,16 175:10</p>	<p>218:12,13 227:20                  230:8 240:19  <b>jennifer</b> 4:17,20,22                  5:7 7:6,22 8:20,23                  8:25 18:14,22                  19:19 20:1,8                  21:16 22:13 25:23                  26:10,13 27:6,10                  29:9,13 32:4 33:8                  34:15 35:22,22                  36:1,3,13 37:14                  39:15,22 40:3,9                  41:4 42:14,18                  43:15,18,20 44:10                  45:8,22 47:17                  53:5 54:12 56:13                  57:16 64:11 66:4                  66:14 67:10 68:3                  68:12,17 73:24                  77:5,7 79:15,16                  82:5,8,11,24 83:4                  83:8 86:17,25                  87:18 91:8,12                  95:11,22,24 96:19                  98:9,16 100:11,18                  101:9,17 103:25                  104:5,23 106:23                  109:25 110:4                  111:4,15 112:24                  114:12,16 115:10                  124:2,13,15,22                  125:3 127:9                  129:25 130:4,12                  136:15,21,24                  137:15,18,24                  138:15,22 139:10                  139:15,21,22                  142:10,14,16,19                  143:17 145:18                  146:16,19,22                  150:21 151:7                  158:14 163:19,21                  164:14 165:2                  167:13,23 169:22                  170:6 173:20                  174:8,12 175:11                  179:13 180:20</p>	<p>182:22 184:12                  185:7,19 186:5,8                  189:6,12,17 190:5                  191:5 193:1,12,20                  195:20 197:23                  198:2,14,25                  199:10 200:10                  201:9 202:2                  203:17 204:2                  208:9 210:9,13                  213:19 215:10                  217:13 218:18                  220:11 221:4                  223:5 224:7,23                  225:25 226:21                  229:18 232:18,19                  233:3,10 235:1,10                  236:11,12 237:3                  237:13,18 238:3                  241:8 242:3                  243:14 244:9  <b>jennifers</b> 5:24 6:20                  8:10 46:5 48:5                  51:7 58:5 60:24                  63:10 64:25 65:24                  70:18 82:2 87:10                  87:22 100:25                  104:18 116:17,20                  118:7 121:16                  125:11 129:17                  155:8 156:17                  176:12 192:12                  195:12 203:17                  210:9 212:25                  230:3  <b>jenny</b> 124:18 125:1  <b>jens</b> 234:13  <b>job</b> 16:3,5 69:16,16                  71:1 176:7 188:2                  188:8  <b>joel</b> 205:22 237:19                  237:21,22  <b>john</b> 1:12 28:18                  29:2 127:17 129:9                  129:10 130:1                  132:1 136:15,21                  136:24 137:3,19</p>
---	---	---	--	--

137:25 138:3 142:10,17 143:9 144:6 145:8 146:7 146:16,19 148:7 150:22 151:23 152:25 155:9 156:18,21 157:1,8 159:22,25 160:9 193:13 210:3 213:23,25 214:10 214:13 <b>johns</b> 142:20,25 <b>jon</b> 210:1,2,20 213:14,22 214:3,3 214:5,6,9 <b>jones</b> 24:2,3,6,8 35:8,21,25 <b>joy</b> 99:21 <b>judgment</b> 7:12 <b>juliet</b> 215:3 <b>july</b> 19:17 36:10 67:11 68:6,11 73:7,8 193:3 241:9,12,18,19,22 241:22,24 242:2,2 242:6 243:3,16,17 243:18,22 <b>june</b> 29:8 30:8 36:10 38:22 68:5 75:6 138:13,13 <b>junior</b> 163:3 <b>jury</b> 12:24 13:6 93:14 178:20,23 178:24 193:3,5,9 193:12,16,19,20 193:24,25 194:6,7 194:9 195:1,4,8 195:12,19,23 196:19,25 197:5,6 197:12 198:20,24 199:4,5 <b>justice</b> 2:7 <b>jut</b> 64:19	<b>kathy</b> 125:9 <b>katie</b> 78:18 125:10 125:16 <b>keep</b> 7:9 46:3 108:3 169:6 192:12 201:16 221:7 222:20 225:16 230:20 <b>kelly</b> 161:15,16,17 161:18,23 162:12 <b>kept</b> 51:18 61:19 176:25 177:9,10 177:12,12 <b>keys</b> 52:17,18 54:11 55:2 59:25 60:5,25 61:10 62:19 115:6 <b>khristian</b> 59:16 <b>kick</b> 53:12 56:22 65:9 71:8 149:18 149:18 150:8 <b>kicked</b> 53:11,14 54:8,16 58:5 64:25 70:19 74:22 80:11,13,17 148:25 149:1,12 150:4,5,20 151:4 155:8 165:8 194:9 195:2,15 <b>kicking</b> 57:11 65:24 149:23 150:17 <b>kicks</b> 149:19,20 <b>kill</b> 25:13 108:12 190:19 215:5 <b>killed</b> 4:20 8:20,23 8:25 9:1,2 31:12 183:23 189:17,19 191:19 216:3,4,5 216:8 <b>killing</b> 32:13 <b>kind</b> 9:25 11:6 16:12,16 20:11 21:8 22:22 28:11 30:5 34:7 35:4 39:5 46:3 47:14 47:18 48:20,24	52:2 54:1 55:25 59:1 62:12 67:4,9 79:10 80:2 81:8 81:20 82:9 84:1 86:18,19,19 103:7 104:15 107:14 108:11 112:1,20 113:7 117:12,14 117:21 119:18 122:11,15 133:11 133:13 142:14 145:1,15 147:10 147:19,25 152:6 153:19 174:20 189:24 207:3,8 212:10,12 213:8 218:17 <b>kiss</b> 209:25 <b>kissed</b> 38:24 39:2 43:22 44:1 45:16 101:5 122:23 158:4,9 <b>kissing</b> 39:22 41:8 45:10 74:19 138:14,17,19,22 139:1 <b>kitchen</b> 55:11,21 82:10 <b>knew</b> 5:24 6:2,4,6,8 6:10,12,14,17 7:6 7:6,22,23,25 8:2,3 8:4 16:18 27:25 29:7 39:18 41:24 64:9 75:12 76:24 76:24 79:17 83:8 89:24 90:4 91:14 91:15 99:9 117:7 119:21 125:21 129:6,9,10,17,20 142:3 159:14 166:8 185:1,4 186:8,15 190:3,9 190:11,25 192:4 192:12,20 195:5,7 195:11 201:14 210:14 234:6 <b>knocked</b> 46:24	52:12 53:17,18 80:1 118:12 148:17 <b>know</b> 5:7,11,15,16 6:23 7:1 9:3,12,23 10:10,18 11:4,22 13:15 20:7 27:25 30:17 33:17 34:9 35:8 36:14,15,24 37:7,22 39:6,11 40:4 41:11 44:23 46:21 47:7,12,19 49:9,22 52:16 54:22 56:24 58:8 58:23 62:21 63:11 64:4,20 66:20 67:19,23 68:16 70:5 71:11,16,22 72:1,6 75:12,18 78:12,15,21 79:7 79:12,12,17 80:10 81:20 82:3,5,13 83:2,16 85:1,1,20 86:16,18,23 87:8 87:12,16,20,24 88:5 89:4,5,22 90:5,9 91:12,13 91:14,15 92:15 95:5 103:16 104:10 105:19 106:1,2,25 107:9 108:1,2,7,8,8 109:5,16,18,21 110:8,21,24 111:20 112:14,22 113:4,24 114:9,10 114:10,11,15,19 115:5,18 116:1,5 116:21 117:17,23 117:25 118:1,25 119:3 120:19 121:2,8,22 122:3 124:5,7,12,17 125:6,7 126:4,4,6 127:20 128:7,8,17 129:7,23,23,24 132:1,3,4,5,19	135:4,4 136:8 137:8,20 138:4 142:4,5 143:11 146:20 150:1,18 151:15 152:22 154:2 155:1,2,6 155:19 156:7,19 156:19 157:12 158:5,6,15,16 159:3,13,16 164:13 165:10,19 166:5,25 170:23 171:16 172:25 173:10,23,23 176:16 183:9 184:9,19 185:18 185:21 186:11,12 187:4,16 188:1 189:11,14,16 192:20 193:5 196:21 197:22 198:16 199:23 200:3 201:15 202:23 207:4 208:15 212:15,18 214:8,10 215:25 216:1 223:19 225:20 226:13 228:14,24 230:18 231:13,15,18 232:9,14 233:18 233:22 234:24 235:5 236:16 237:5,15 239:16 240:11 241:6 243:11 244:25 <b>knowing</b> 30:21 62:19 173:24 <b>knowledge</b> 8:16 30:5 76:21 93:16 116:4 119:19,20 137:18 140:19 177:8 189:4 214:13,16,18 <b>known</b> 8:5 29:20 109:17 127:19 213:19
---	--	--	--	--

C03742

<p><b>knows</b> 33:17 197:19 <b>komala</b> 47:4 76:19 76:21 <b>krafthefer</b> 1:22 2:22 3:3 <b>krehbiel</b> 109:2,8,16 109:22 110:11 <b>kris</b> 59:11,12,13,14 59:19 60:2 61:9 62:15 63:9 78:10 146:14,17,18 <b>kuyper</b> 78:11,17</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>lab</b> 15:22 <b>label</b> 98:15 <b>labor</b> 126:16 <b>laboratory</b> 15:21 <b>lack</b> 57:6 <b>late</b> 26:5,9 60:10 75:21 118:13,24 119:1 123:3 156:4 156:5,5,10 157:24 175:24 202:3 <b>lately</b> 230:13 <b>laugh</b> 99:19 229:10 <b>laughed</b> 228:24 <b>laughter</b> 11:15 <b>law</b> 2:9,15 3:2 4:9 <b>lay</b> 48:24 <b>layout</b> 55:6,9 <b>le</b> 78:14 <b>lead</b> 82:24 222:15 <b>leading</b> 35:2 67:14 67:16 81:18 82:11 83:13 182:25 <b>leads</b> 55:14 200:12 <b>learn</b> 165:5 191:24 <b>learned</b> 8:18 16:19 36:3 140:11,13 165:15,23 191:18 191:21 192:2 <b>learning</b> 16:14 140:15 <b>leave</b> 26:15 44:14 44:18 73:15,15,20</p>	<p>87:4,24 89:1,3,4 90:17 91:1,1 96:7 96:8 97:24 110:9 110:16 115:2 121:17 203:3 207:17 <b>leaving</b> 53:18 63:3 79:5 87:1,7 88:1 89:13 90:25 96:9 96:10 97:7,13 109:13 158:19 165:9 175:3 <b>led</b> 24:20 37:10 46:12 60:16,22 64:7,16 67:17 81:16 82:8 129:1 142:22 145:11 147:18 148:2 163:10 171:18 172:19 174:23 182:10 187:24 188:17 191:1,7,12 191:15 <b>left</b> 26:17 32:1,14 44:21 46:19 48:13 49:3 50:20,22 55:11 57:18 58:9 58:15 61:22 66:7 66:12 73:3,4,9,11 73:17 75:17 79:7 79:10,13,14 84:11 84:22 87:14 88:4 90:16 97:12 102:2 102:6,12,14,24 108:18,25 109:1 111:1 114:23 118:18 122:12 124:15,22 125:19 126:2 131:18 143:3 155:3 167:5 174:9,11 175:4,8 <b>leigh</b> 78:10,12,13 78:16,16,16 <b>length</b> 12:6 <b>lephrecuans</b> 212:18 <b>letter</b> 77:20 81:1,14</p>	<p>83:19,20 84:20,25 85:3,15,22 87:11 90:21 91:12 92:9 93:10 94:20 95:1 95:22 102:22 104:4,4,10,11,12 104:21,22 105:4,9 105:13,23 108:25 198:1,14 199:14 203:22 204:1,5 208:9 209:15 216:17 217:12,24 218:11 220:11 221:23 222:16 225:3,25 226:20 227:11,20 228:2 229:12,22 230:1,8 230:24 231:7 232:8 233:2 236:11 237:18 239:10 240:18,21 240:22 241:11,24 243:5,6,7,12 <b>letters</b> 45:23 46:8,9 72:10,13,19,20 73:23 74:1,5,8,10 74:12 75:10,11,16 76:6,23 77:15 88:19 89:9,20,22 89:23 90:14,24 91:12 92:10 95:22 98:16 103:25 104:1 105:18 106:24 110:3,23 110:25 113:8,11 113:14,17,18 172:16 195:19,22 197:23 198:2,25 199:3,8 200:5,8 200:23 201:1,9,11 201:13,16,18 202:18,22 203:6 203:18 219:10 <b>letting</b> 108:8 <b>level</b> 33:14 <b>lied</b> 39:19 62:23 74:22 144:2,3</p>	<p><b>lies</b> 143:18 <b>life</b> 30:19,21 35:14 38:2 99:21 117:8 132:7 153:10 162:12 163:17 189:1 215:16 221:19 223:3 224:14 241:12 <b>light</b> 99:3 <b>lighthouse</b> 132:25 133:2 135:12,16 135:20 136:6 <b>lighting</b> 13:23,25 14:1,14 16:2,10 16:13,17 <b>lights</b> 16:14 149:4,6 152:20,22 <b>liked</b> 6:2,6,8 7:1 <b>likes</b> 6:4 <b>likewise</b> 9:21 <b>limited</b> 141:5 <b>line</b> 66:20 67:7 72:16 89:6 98:1 192:8 219:20 221:16 225:2,5 230:15 237:23 244:19 <b>lines</b> 204:22 230:11 237:21 <b>literary</b> 219:15 <b>litigation</b> 140:2,5 <b>little</b> 5:8,16 6:24 10:25 33:3,16 34:2 35:3 46:11 55:14 62:25 63:7 63:24 64:16 66:13 72:3 92:17 107:14 108:11 118:15 121:20 123:15,16 130:20 143:3,7 151:1,2,25 152:3 152:10 156:15 163:19,25 176:4,5 180:10 191:14 222:4 235:8,15 239:18 243:1 <b>live</b> 137:7 146:13</p>	<p>160:19 162:12 163:2,6 200:10 <b>lived</b> 33:24 49:16 110:13,14 137:8 137:13,15 160:16 160:23 161:6 162:5,9,17 <b>living</b> 31:9,11 55:13,21 82:10 96:17 125:13,14 146:9,10 154:8 161:23 162:9 188:6 222:23 <b>loan</b> 179:10 <b>local</b> 21:10 <b>locate</b> 60:25 <b>located</b> 3:2 21:18 38:18 48:20 50:9 51:23 52:6 74:1 88:18 154:7 161:9 <b>location</b> 31:14 50:6 144:12,13 160:23 176:9 <b>locations</b> 57:24 <b>lock</b> 7:2,4 54:4,5 <b>locke</b> 2:4 4:6 <b>locked</b> 192:13 <b>locking</b> 7:2 54:1 <b>lockmiller</b> 4:17,20 18:14 66:4 67:10 95:11 180:21 198:25 208:10 215:10 217:13 241:9 242:3 <b>loft</b> 69:20,22 <b>long</b> 5:7 19:19 20:8 22:9,12 33:4 56:19 79:5 80:10 82:24 85:18 87:9 111:12 117:24 118:13 126:13 131:12,21 145:18 154:3,23,24 162:5 167:7 171:2 209:9 210:22 242:11 <b>longer</b> 20:21,21 22:4,6 44:25 84:9</p>
--	---	---	--	--

<p>85:21 196:1 221:18 look 52:2 55:4,25 56:16 58:11,21,25 74:7 76:5 90:14 92:6 93:1 144:9 152:10 173:15 196:20 199:11 200:25 205:12 209:6,17 221:20 222:3,4 226:3 227:18 228:12 230:6 232:17 233:6 237:16 240:17,21 looked 13:9 55:3,5 55:21 56:2 57:9 58:18 72:4,10 74:9 86:2 87:14 149:4 199:20,22 199:23 200:3 208:5 looking 54:10 55:19,23 56:8 58:5,24 59:5 72:12,12,13 74:5 77:19 89:22,24 108:20 145:21 155:10,12 193:23 196:24 199:8 204:1 208:7 217:3 217:6,18 221:25 228:4 238:9 240:6 241:20,23 looks 92:9 93:13 94:8,20 99:5,6 103:6 108:10 196:24 197:23 198:3,17 203:24 217:1 228:3,3 230:6 232:21,24 236:12 240:5,25 loose 96:12,13,21 lose 96:12 213:16 losing 229:2 lot 9:22 25:14 36:14 46:23 48:21</p>	<p>48:22,25 49:10,16 49:25 50:1,4,7,8,9 51:1,5,7,9,12,12 51:16,23,23 52:2 52:6 57:22 61:22 61:24 62:5 66:24 77:22 101:13 121:21 138:1 147:9 194:8 203:3 203:4 lots 21:10 48:23 loud 228:21 louder 52:25 loudly 84:20,24 love 38:4 215:2,6 215:12 216:7 219:4,7 223:2,24 224:13,14 229:4,5 230:12 234:18,19 241:14 loved 5:1,4 238:16 lover 234:19 242:4 lovers 221:19 243:20 lsd 120:1,14,17 131:10,22 135:1 148:10,13,14 214:19 227:10,11 lunch 92:18,20 lying 64:10 74:23 lyric 219:15 221:21 221:22 223:22 232:22 lyrics 198:3,6,8 204:6,16 205:3,22 209:5 219:1 220:2 220:11,14,18 224:9 233:4 236:19,20</p>	<p>51:14 118:9 137:8 137:16 maintenance 175:17,17 177:17 178:3 major 13:19 48:23 majority 200:9 makeup 13:24 making 16:8 17:3 47:11 141:1 170:5 219:15 male 28:12 35:13 78:13 211:1,3 man 14:15 163:22 210:12,13 managed 71:1 189:1 209:9 manhole 157:23 manner 17:13 148:1 150:5 177:11 203:10 205:19 marginally 139:8 marijuana 119:25 129:24 130:1,4,6 130:13,19 131:7 132:1,10 135:21 137:3,19,24 138:2 138:12 148:16 213:7 214:19 mark 91:16,18,25 196:13 216:20 marked 91:17 92:4 196:17 197:18,21 205:13 213:9 214:23 216:24 218:10 221:9 222:5 marking 196:8 223:25 married 20:2 163:22 164:1 marry 20:21 master 15:20,25 16:1 162:1,2 math 17:17 matter 111:4 246:4</p>	<p>mayer 40:17 mc5430 95:3 mcc 235:16 mclean 1:12 2:12 3:25 4:3 mcperson 15:17 15:18,21 mean 9:13 16:12 20:16 22:19 28:18 29:25 41:1 69:22 71:25 81:6 88:9 95:5,19 96:13,15 99:11 107:25 108:22 117:15 125:20 128:7 133:7 139:24 141:19 142:2 143:23 171:15 172:3 190:1 197:22 202:4 215:20 219:17 227:10 234:22 237:8 meaning 205:4,5 220:22 237:6,9 240:14 means 65:16 92:12 95:14 99:9 128:17 173:20 meant 96:20 214:20 239:3 mechanism 54:2 medea 215:4,4,19 215:24 216:1,2,11 217:1,4,7,13,20 median 49:8,8 mediator 60:23 63:12 medical 30:5 meet 5:13,18 11:25 18:14,22 31:6,19 33:2,6 110:11 155:19 156:11 157:1,8,13,15 185:23 meeting 133:14 155:23 178:15</p>	<p>meetings 11:23 12:2,6 mellow 230:19 member 14:15 15:18 members 5:13,15 111:9 memory 11:24 78:25 143:1 144:16 224:16 men 6:15 11:7 mention 216:11 mentioned 110:20 129:9 143:21 206:20 mere 145:10 190:5 meredith 24:1,7,12 24:21 25:3,5 28:7 229:16 message 175:4,8 messages 174:9,11 175:3 met 5:20,22 12:4 18:15,23 19:3 82:5 91:13 98:3,9 119:6 185:20,22 185:24 186:2 188:19 228:19,20 243:14 michael 12:13 28:18,24 29:6 32:24 33:15 36:4 36:9,9 37:3,10,21 38:7,11 39:13,23 40:3 41:7 42:14 43:20 45:9,15 46:5,13,14 47:1,3 47:11,17 54:10 55:19 56:8,17 57:5 58:6 61:17 63:2,15 66:4 70:2 70:20,23 71:6 72:24 73:24 74:2 74:19 75:9,13,22 76:14 77:3 78:23 79:3 90:2,11 95:7 96:19 98:3 100:15</p>
---	--	--	--	--

**M**

03744

100:25 112:11 113:23 114:9,12 114:13 115:9 116:8,10 117:1,24 121:19 122:1 125:14 139:24 160:15 169:9,15 189:17 190:9 223:8,10 244:9 <b>michaels</b> 45:23 <b>mid</b> 67:11 68:11 131:14 <b>middle</b> 3:12 21:13 24:16 226:8,9 241:11 242:18 <b>midnight</b> 156:5,6,7 <b>mike</b> 28:19 55:3 92:10 95:24 104:14,22,22 105:25 139:23 174:25 190:19 <b>mikes</b> 125:2 <b>mile</b> 137:17 220:6 <b>mind</b> 38:1 100:1 115:13 134:15 189:23 192:8 209:9 <b>minds</b> 220:8 <b>mine</b> 23:21 76:24 109:11 210:9 225:17 234:14 <b>minimize</b> 83:20 85:2 <b>minimizing</b> 64:12 85:7 <b>minute</b> 7:18 44:17 197:20 <b>minutes</b> 56:20 83:2 85:20 118:1,15 154:25 180:18 183:7 199:1,8 206:2,4 245:3 <b>miscarriage</b> 229:16 229:18 <b>mischaracterize</b> 112:14 <b>misconceptions</b>	219:5 <b>missing</b> 77:4,4 183:23 205:24,25 206:21,23 207:1 218:14,16 221:11 221:13 <b>mistaken</b> 14:10 <b>mmhmm</b> 9:8,10,13 115:8 160:24 204:10 <b>mom</b> 5:17 126:8 <b>moments</b> 121:6 <b>monday</b> 176:7 <b>monitor</b> 47:16 <b>month</b> 44:24,25 47:7 133:19 <b>monthly</b> 133:17 <b>months</b> 68:9 <b>mood</b> 62:11 <b>morning</b> 26:2,8 88:17 118:24 123:3 176:3,4,20 176:22 204:25 <b>mother</b> 114:25 125:25 <b>mothers</b> 111:11 <b>move</b> 19:6 41:2 69:23 117:8 124:3 176:13 188:5 189:14 205:15 220:8 235:3 <b>moved</b> 123:14,15 162:7,21 175:9 188:1,2 <b>moving</b> 189:11 <b>multi</b> 49:12 <b>multipage</b> 92:7 <b>multiple</b> 49:14 77:4 154:17 203:23 <b>mur</b> 150:9 <b>murder</b> 4:17 8:10 176:12 186:14 187:25 189:12,13 189:15 190:16 191:1,13,24 192:5 195:9 <b>murdered</b> 175:11	179:13 180:21 185:7 <b>murderer</b> 191:8 <b>murray</b> 28:18 29:2 127:17 129:10,10 130:1 132:1 136:15,24 137:3 137:19,25 139:14 139:23,24 140:3,8 142:10 145:16,20 146:7,16,19 150:9 151:24 152:25 155:9 156:18,21 157:1,8 158:1 159:22,25 160:9 171:15 172:1 193:13,21 194:2 195:2 210:4 211:8 213:23 214:10,13 <b>murrays</b> 140:19 143:9 144:6,19,22 145:5,8,10,24 148:7 194:8 <b>mutual</b> 210:9 234:13 <b>mythology</b> 215:24	218:17 227:10 228:9 <b>need</b> 10:17 18:6 73:20 91:23 99:11 99:13 196:3,7,7 215:7 226:9 229:4 229:6 231:19 <b>needed</b> 14:16 44:16 73:13 84:5 90:25 107:8,11 117:7,8 133:16 159:7,12 169:4 228:25 229:1 <b>needless</b> 231:19 <b>never</b> 99:1 175:7 183:8 188:18 189:9,20,20,22 213:21 224:16 233:19 244:13 <b>new</b> 33:18,21 67:21 72:23 113:3,19 188:2 223:11 242:7,8 244:11,15 <b>newcomer</b> 120:25 <b>nickname</b> 11:5 <b>nicknames</b> 10:23 10:24 11:1,10 234:11 <b>night</b> 24:16 26:17 68:16,19 74:19,22 99:4 142:24 153:14 154:3 155:7,9 156:3 157:24 175:24 204:25 209:25 210:1 <b>nightie</b> 150:21 <b>nodding</b> 10:4,5 <b>noises</b> 149:9 <b>nonmaster</b> 161:10 162:2 <b>noon</b> 92:14 <b>normal</b> 1:13 2:20 4:4 127:8 181:11 181:13,20 202:4 202:25 <b>normally</b> 176:3	240:9 <b>north</b> 31:10 <b>northbound</b> 137:9 <b>northern</b> 1:2 3:8 <b>northwestern</b> 2:9 <b>notary</b> 3:19 <b>notation</b> 106:13 107:14 <b>note</b> 94:13 104:3 117:21 <b>notes</b> 36:21,22,24 37:2,5,8 72:14 74:20 105:10 <b>notice</b> 123:8 <b>notify</b> 90:17 <b>numb</b> 99:20 <b>number</b> 1:9 3:8 6:12 24:3 53:21 92:5 93:1,6 129:3 173:12 175:20 179:14 196:15,17 197:9,18,21 203:21 206:12 215:15 216:20,25 218:11 235:16 241:3 <b>numbers</b> 207:15
<b>N</b>				
<b>nail</b> 24:23 27:11 <b>naked</b> 156:24 <b>name</b> 3:13 40:15,16 43:4,4 58:1 59:15 76:20 109:19 119:22 161:14 210:6,6 233:19 236:25 <b>names</b> 15:14 28:17 <b>narrow</b> 228:11 <b>nature</b> 111:22 <b>nbf</b> 219:3,9 222:12 222:22 <b>near</b> 14:12 <b>nearby</b> 188:9 <b>neat</b> 21:10 <b>necessarily</b> 39:12 64:4 116:3 130:12 139:14 192:7	<b>oath</b> 92:22 <b>object</b> 7:7 22:24 65:6 101:3,15 153:23 160:3 167:19 242:9 243:25 <b>objection</b> 7:19,24 16:23 60:7,9,17 65:4,11,13,15 66:10 73:2 81:10 83:15 101:6 140:21 141:1,4 182:12 193:14,18 193:22,22 194:3,3 194:10,10,11,21 <b>objections</b> 7:11 <b>observations</b> 37:9 <b>observe</b> 36:20			
<b>O</b>				

<p><b>observed</b> 36:18 72:14 96:1 106:10 <b>obsessive</b> 191:4 <b>obtained</b> 173:13 <b>obviously</b> 9:6 22:6 49:11 53:20 67:15 74:12 141:13 162:8 187:20 <b>occasion</b> 32:19 45:6 83:11 126:19 129:25 130:3 142:19 144:5,21 149:15 150:4,9,16 173:12 <b>occasionally</b> 10:25 23:13 98:6 135:17 136:1,4 163:15 <b>occasions</b> 128:3 171:19 213:20 235:9 <b>occur</b> 187:3 <b>occurred</b> 193:6 <b>october</b> 20:3,4 22:14 <b>odd</b> 186:19 187:22 <b>offended</b> 168:25 169:2 <b>offered</b> 59:24 62:2 110:10 <b>officer</b> 12:17 <b>officers</b> 181:13,18 181:20 185:6 <b>offices</b> 3:2 <b>oh</b> 7:9 24:8 49:6 84:4 91:23 94:1 134:2,22 135:19 170:9 211:23 222:6 223:19 225:16 232:19 233:6,15 234:6 235:18 245:3 <b>ohio</b> 96:24 97:8,13 97:16 165:12 167:21,22 <b>okay</b> 3:11,19 4:11 5:22 6:6 7:9,13,17 8:4 9:12,17 10:3,4</p>	<p>10:7,10,11,14 11:1,13,16 12:19 12:22 13:9 15:3,6 16:7,20 17:5,5 18:4,8 21:2,4 22:4 22:13,13 23:14,19 24:12 25:3 26:10 26:21 31:22 32:6 32:12 33:11 34:6 44:3,3 45:13 46:11 48:14,16 50:3,6,9,13,16,20 50:23 51:1,9,14 51:22 52:9,15 54:8,16,21,24 55:18 57:18 58:20 58:25 59:14,17,19 60:11 61:7,13 63:15 65:2,22 66:3,6 69:3,7 70:14,22 71:8 72:7,22 75:7 76:2 76:14,18 77:11,15 77:18 79:25 81:8 82:1 83:25 84:15 84:18 89:11,17 91:19 92:4,25 93:5,12,20,23 94:9,14,25 95:8 95:10,15,19,25 96:4,15,20,23 97:24 98:11,20,24 98:25 99:1,15 101:23 102:4,13 102:18,23 103:4 103:13,18,22 104:2,8,13,25 105:7,13 107:12 108:3,17,25 109:4 109:12 110:6 111:2,17 112:13 112:22,24 113:10 113:18,18,21 114:3,20 115:12 115:25 116:3,6,10 116:22,25 117:8 117:18,21,24</p>	<p>118:11,22 119:22 120:4,18,22 121:14,18 122:20 123:8,22 125:8,11 126:12 128:10,11 128:13 129:7 133:8,11 134:7,10 134:13,15 135:15 135:25,25 138:24 139:13,18 140:11 140:15,22 141:12 141:17 144:22,25 147:3 148:20 150:12 151:7,11 152:15,18 153:14 153:19 154:19 158:6 159:23 160:9 162:15,17 166:1,9,18 167:15 168:2,24 171:1,25 172:23 177:23 179:6 184:10 185:20 192:3,11 193:9 194:5,14,22 194:23 195:4,15 197:1,8,12,17 198:9 199:3,7,13 200:20 201:2,5,7 202:7,9,17,21 203:14,20 204:1 204:18,21,23 205:7,12 206:1,7 206:15,20,25 207:11,20,21,23 208:5,25 209:14 209:17,23 210:16 210:19 211:11 212:2,2,2 213:10 214:20,24 215:2 215:19,23 216:16 217:6,11,18,25 218:1,7,14,19,23 219:3,8,13,22 220:2,5,5,17 221:3,15,18 222:6 222:9,15,19 223:15,23 224:12</p>	<p>225:2,8,14,18,23 225:24 226:3,8,12 226:19,25 227:7 227:17,17 228:17 229:25 230:10,24 231:7,10 232:4,22 233:12 234:17,22 235:21 236:1,6,8 236:10,13,17,21 237:12,16 238:5 238:11,24 239:5,5 239:15,22,24 240:21 241:11 242:1,11,17,24 243:1,1,13 244:6 244:8,17 <b>older</b> 16:18 33:13 131:17 161:18,19 161:20 <b>once</b> 15:22 31:22 32:9 43:8 53:12 63:15 67:24 70:23 74:15 77:18 79:25 83:18 111:20,21 133:19 138:6 150:8,20 151:11 151:20 154:20 157:18 166:25 170:16 206:6 212:8 <b>ones</b> 83:6 119:24 219:18 235:15 236:6 <b>oops</b> 91:16 <b>open</b> 53:18,19 54:8 55:22 62:6 76:7 84:22 192:24 <b>opened</b> 62:2 80:3,5 80:25 81:7 192:17 192:22 <b>opening</b> 49:8 <b>ophelia</b> 215:3 <b>opinion</b> 4:20 8:19 8:22,23 <b>opposed</b> 15:1 16:21 89:13 157:13 198:6</p>	<p><b>order</b> 70:8 152:10 199:9 201:4 206:3 207:1 208:1 235:15 <b>original</b> 17:18 103:10,14 106:2,4 <b>originally</b> 21:5 111:5 <b>osme</b> 123:15 <b>outpatient</b> 132:22 133:9 <b>outs</b> 229:14 <b>outside</b> 27:8 56:22 57:9,10,24 58:11 58:18 59:5,5 80:5 116:13 <b>overhear</b> 12:17 <b>overheard</b> 46:16 47:1,10 169:23 <b>overhearing</b> 47:15 <b>overhears</b> 11:21 12:13 <b>overreacting</b> 32:14</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>packed</b> 88:6,7,9 110:24 <b>page</b> 9:5 92:5 93:13 93:23,24,25 94:4 94:5,14,15 95:2 95:13 96:23 98:11 98:12,21,21,24 103:5,18,19 104:3 104:7,8,8,9 105:2 197:24 198:18 199:14 203:22 204:14 205:12,13 205:14,15,18,22 205:24 207:2 209:18,18 213:9 215:1 217:9 218:9 218:15,16,23,25 222:3,4,5 223:14 223:18 225:25 226:8,10 227:22 227:25 228:1,17 228:17,18 230:6,8</p>
---	---	---	---	---

<p>233:6,12 236:10                  237:18,24 238:11                  238:12 240:3,18                  240:18 241:4  <b>paged</b> 214:23  <b>pages</b> 92:7 93:3,5                  94:15,23 196:20                  196:24 197:25                  198:13 203:23                  206:17,21,23                  207:4 221:9,10                  227:18 232:16,17                  233:7,9 236:4,22                  237:17  <b>pain</b> 101:13  <b>paint</b> 220:7  <b>painted</b> 177:20  <b>painting</b> 177:18  <b>paper</b> 177:4,5  <b>paragraph</b> 95:3                  204:21 211:18                  213:11,12,17                  214:25 218:23,25                  218:25 219:1,24                  219:25 221:25                  222:8,21 223:17                  223:20 224:13                  228:18 238:23,24                  238:25 239:4  <b>paragraphs</b> 219:14  <b>paramedics</b> 26:10                  31:23 32:4  <b>paraphernalia</b>                  132:13,17  <b>parentheses</b> 107:14  <b>parents</b> 5:16 96:23                  96:25 97:3,9,23                  98:3 132:12                  133:15 160:17,19                  161:22 162:5,11                  162:13 163:1,5,12                  169:20,21 173:24                  174:2,5 178:13                  200:11 203:4  <b>parking</b> 46:23                  48:21,22,23,25                  49:10,15,25 50:1</p>	<p>50:4,7,8,9 51:1,12                  51:12,16,22,23                  52:2,6 57:22                  61:22,24 62:5                  147:9 194:8  <b>part</b> 15:9,10 27:8                  67:23 71:1 106:13                  117:8 120:2 137:2                  188:12 190:14,17                  191:7 204:18                  211:18 212:9                  213:15 220:12,14                  225:8 231:10                  241:8  <b>participate</b> 14:12  <b>participating</b>                  135:22  <b>participation</b> 16:17  <b>particular</b> 22:22                  25:5 29:15 73:11                  73:19,20 74:1                  76:5 78:23 79:6                  85:13 89:12 110:2                  127:3 163:10                  173:21 176:13                  208:8 209:15                  220:10,18,21                  226:7 230:24                  231:7  <b>particularly</b> 91:6                  95:21 213:6  <b>parting</b> 87:19  <b>party</b> 34:13 46:18  <b>pass</b> 51:19  <b>passed</b> 36:21,23,25                  37:8 52:5 74:20  <b>passing</b> 29:7 72:14                  72:20 82:4 185:19  <b>passion</b> 224:1  <b>passionate</b> 100:5                  215:21  <b>passionately</b> 215:2                  215:9,11  <b>pay</b> 131:24  <b>pc</b> 2:15  <b>peace</b> 79:8  <b>pearl</b> 236:23</p>	<p><b>people</b> 7:25 10:24                  11:2 28:7,17,21                  35:13,13 39:21,24                  43:1 77:22 131:16                  131:18,20 135:15                  181:7 187:7,8                  213:2 220:25                  221:1  <b>peoria</b> 188:8                  189:11,14  <b>perceived</b> 66:3  <b>percent</b> 20:5,6                  72:16 109:22  <b>performance</b> 70:1                  70:2  <b>period</b> 14:3 34:6                  37:13 67:22 71:5                  72:12,13 77:12                  80:5,16 86:14                  113:6 128:24                  131:21 136:4                  145:15 178:19                  181:13 186:22,24                  186:25 187:8                  200:13,23 203:15                  215:9 226:7,21,23                  226:25 227:12                  229:13 241:17                  243:21 244:4,10  <b>periods</b> 22:21 23:5                  23:12,17,20 40:12                  199:12,16  <b>permanently</b>                  244:18  <b>perpendicular</b>                  152:19  <b>perry</b> 59:11,12,13                  59:19 60:2 62:15                  63:9 78:10  <b>person</b> 16:1 33:20                  58:23 76:16 89:17                  91:5 105:17                  132:13 139:24                  142:10 178:3                  180:8 188:17                  192:4,24 221:1                  234:15</p>	<p><b>personality</b> 83:9                  188:16 190:12,13  <b>phenomena</b> 100:2  <b>phi</b> 234:5,9,10  <b>phoenix</b> 15:12,14  <b>phone</b> 46:14 47:11                  89:18 96:25                  111:21 114:10                  115:21 155:15,21                  167:13,23 168:10                  168:11,15 169:15                  169:19,22 170:16                  173:12,15,16,25                  230:16,17,25                  231:2  <b>phones</b> 126:6  <b>phony</b> 46:15  <b>photocopy</b> 93:13                  106:3 198:18  <b>photocopying</b>                  108:19  <b>phrase</b> 16:1 190:2                  222:12,21,22  <b>phrased</b> 132:19  <b>physical</b> 45:9,11                  79:2  <b>physically</b> 25:18                  26:20,21 57:15  <b>pictures</b> 186:21  <b>piece</b> 18:10 100:17                  154:16,18 177:4,5  <b>pieces</b> 21:11,12                  172:11  <b>pills</b> 29:17,18,21                  30:4,8,14,23                  32:16  <b>pipes</b> 157:21  <b>place</b> 12:2 18:25                  24:25 25:1 26:2,4                  26:11 27:11,15                  33:21,23 38:20,21                  38:22 39:14 41:10                  47:2,8 57:5 67:12                  68:13,18 78:9                  125:23 132:25                  143:6,9 153:7                  157:13 164:3</p>	<p>167:10 175:18                  179:19 188:11                  191:22 193:3                  208:3 229:20,21  <b>placed</b> 93:17                  181:17 198:19  <b>places</b> 8:18 55:19                  56:1 74:4  <b>plaintiff</b> 1:7 2:3  <b>plan</b> 10:16  <b>planned</b> 73:14                  144:8 186:6  <b>planning</b> 89:4                  115:2 126:13  <b>plans</b> 89:3 107:24                  107:25 108:2                  126:12 189:14  <b>play</b> 14:16,18,20                  15:18 16:15                  117:14 216:1,9,11                  217:1,3,4,13,18                  224:1 225:8,11  <b>played</b> 14:22,23  <b>player</b> 14:16                  233:25  <b>playing</b> 217:7  <b>plays</b> 16:16 215:22  <b>please</b> 23:10                  103:19,21 105:23                  212:3 228:22                  229:9 232:6  <b>pleasures</b> 99:10,17  <b>plugged</b> 154:11,13  <b>poem</b> 240:5,6  <b>point</b> 5:4 8:22 10:8                  10:17 20:19 22:2                  29:20 30:17 37:23                  39:17 40:20 43:18                  44:3,10 45:8,13                  46:4 52:13,24                  53:8,20 56:9,21                  57:15 60:1 64:22                  67:1,5 71:24 73:3                  77:7,9 80:8 82:7                  85:9 86:25 90:3                  98:4 102:1,7,8,13                  102:14,19,20</p>
--	---	--	---	--

112:15 114:20 115:13,15 116:25 122:15 126:25 128:10 130:7 131:9,16 132:7,12 134:4 140:7,10 151:7 152:22 159:11 163:2,5,8 165:1,11 167:14 168:2 173:2 182:9 183:9 184:5,16,21 187:9 189:20 191:18 192:7 194:1 198:12,20 200:4,6 201:9,10 202:14,22 208:20 210:7 215:12,14 216:1 230:2 <b>points</b> 6:19 162:12 162:16 <b>police</b> 8:8,17 24:16 29:9,12 32:6 57:2 150:17 180:7,16 181:11,13,20 182:20 192:21 <b>polish</b> 24:17,23 25:8,11,18,24 27:11 <b>polite</b> 119:7 <b>pontiac</b> 188:9 <b>poorly</b> 231:14,14 <b>por</b> 128:23 <b>portion</b> 10:16 104:2 106:15 107:20 204:4,9 209:3,3,8 221:15 229:11 239:11 <b>portions</b> 105:9 <b>posi</b> 216:13 <b>position</b> 86:24 141:11 178:2 216:14 217:19 <b>positions</b> 14:14 <b>positive</b> 5:25 <b>possession</b> 74:2 132:15 <b>possessions</b> 76:23	<b>possible</b> 45:5,7 48:7 64:24 67:8 78:7 107:16 134:16 136:5 216:9 221:13 226:24 227:2,5 232:6 <b>possibly</b> 58:3 203:18 <b>pot</b> 120:12 133:16 135:17 136:1,3,16 136:18,21,24 138:11 139:9,11 139:14,25 140:4,8 140:9,12,16 148:8 <b>pounded</b> 80:1 147:15 <b>pounding</b> 56:24 148:21 <b>pre</b> 100:24 <b>preferred</b> 71:3 <b>preparation</b> 13:10 197:3,10 <b>prepare</b> 11:18 16:5 <b>prepared</b> 221:23 <b>prescribed</b> 30:2 <b>prescription</b> 29:24 <b>presence</b> 99:17 <b>present</b> 32:3 38:14 78:8,18,20 193:10 195:17 <b>presented</b> 175:10 <b>president</b> 238:16 <b>presidential</b> 238:15 <b>pretty</b> 8:24 21:9 46:15 62:10 65:2 83:8 85:10 100:24 112:15 117:6 134:8 150:14 242:11 <b>prevent</b> 141:14,19 142:1 <b>preventing</b> 141:9 <b>previous</b> 33:24 91:24 111:24 127:12 170:18 171:11,14 183:5	<b>previously</b> 101:24 129:4 171:20 <b>pride</b> 222:24,25 <b>primarily</b> 236:23 <b>primary</b> 13:23 <b>prime</b> 189:22,23 190:1,7,22,23 191:2 <b>prior</b> 16:8 20:19 29:20 30:3 46:9 47:13,15 53:20 65:15 72:13 82:11 83:3 106:23 115:25 135:17,21 162:20,21 170:6 170:18 171:19 175:3 180:5 202:22 205:10,11 211:14 <b>prison</b> 14:22 17:14 17:16 <b>privilege</b> 140:25 141:15 142:8,9 <b>privileged</b> 140:25 <b>privy</b> 214:11 <b>probably</b> 10:15 15:22 18:5 28:1 55:22 57:3 63:24 68:5,16 78:10 80:1 88:2 89:5 96:14,17 97:23 106:3 108:22,22 111:19 113:9 114:2 117:6 122:24 124:3 125:2,4 133:3,3 143:3 146:8 148:4 151:15,25 154:12 155:5 156:7,24 162:20 174:10 193:24 199:11,22 199:25 203:1 212:24 213:18,23 223:6 232:25 240:16 <b>problem</b> 132:8,9,18 145:13 171:7	230:18 242:20 <b>problematic</b> 135:13 <b>problems</b> 40:7 90:7 <b>proceed</b> 4:12 <b>proceedings</b> 93:18 196:19 246:3 <b>process</b> 102:10,11 102:12,18 <b>proclivities</b> 186:19 187:23 <b>produce</b> 216:12 <b>produced</b> 216:1 217:14 <b>product</b> 70:1 142:5 <b>production</b> 14:14 15:4,16 69:25 216:13 217:20 <b>productions</b> 15:5,6 <b>productive</b> 136:7 136:12 <b>professional</b> 106:5 106:16 107:13 <b>program</b> 17:20,22 17:24 33:3,16 90:22 98:8 119:13 132:22 133:9 135:18,22 216:23 217:19 <b>project</b> 14:18 15:11 15:22 <b>proposed</b> 114:4 <b>prototypical</b> 233:24 <b>prove</b> 100:21 127:15 129:3 <b>provide</b> 130:25 <b>provided</b> 195:22 199:4 <b>proximity</b> 169:18 <b>psycho</b> 189:7 <b>public</b> 3:19 210:23 <b>pull</b> 50:3,17 <b>pulled</b> 61:18,19 62:5 116:13,16 <b>pulling</b> 69:23 <b>pup</b> 11:3,4,9 229:9	<b>purchase</b> 131:23 <b>purpose</b> 111:2 155:23 220:10,17 224:5 237:2 <b>purposes</b> 20:16 <b>pursuing</b> 174:22,24 210:14 <b>pushed</b> 62:6 <b>put</b> 43:16 88:8 90:24 92:1 94:13 98:15 121:13 123:16 141:19 180:7 181:4,18 197:21 199:9,17 199:18 201:3 206:3,16 207:1,4 209:14 217:22 221:6,9 226:4 227:19 228:2 236:5,22 238:7 <b>puts</b> 204:24 <b>putting</b> 108:9 123:25 124:9 <b>pv</b> 198:23
<b>Q</b>				
				<b>quad</b> 155:19,24 156:11 157:1,13 157:16,18 <b>question</b> 7:7,11,16 9:19,21,22,24 10:9,12,19 16:4 16:24 22:25 60:10 60:12 65:7,15 66:11 101:3,15 124:20 134:18,24 135:5 136:14 140:9 142:3 152:13 153:23 160:3,4 165:21 167:9 182:13,14 182:15,19 185:4 193:14 200:3 212:21 242:9,11 242:16,18,24 243:11 <b>questioned</b> 180:8

<p>180:12 184:13 193:9 <b>questioner</b> 242:22 <b>questioning</b> 180:8 183:1,4 244:19 <b>questions</b> 9:4,10 92:16 94:25 98:24 99:14 105:1 120:8 121:23 122:1 141:4,6,9,16 180:10 181:6 182:3,21,24 183:3 183:8,10,13 184:1 239:19,23 <b>quick</b> 40:20 196:6 216:20 218:4 226:3 <b>quickly</b> 26:1 <b>quit</b> 239:7,7 <b>quite</b> 58:3 123:11 <b>quitting</b> 77:24 78:3 <b>quotation</b> 240:9 <b>quote</b> 30:15 218:19 224:19,21 239:6 240:9 <b>quoted</b> 236:25 237:4,12 240:8 <b>quotes</b> 108:17 <b>quoting</b> 219:15 237:2</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>radio</b> 220:7 <b>rainbows</b> 212:11 212:18,23 <b>ran</b> 69:20 229:5 <b>ranch</b> 161:5 <b>raw</b> 99:21 <b>reached</b> 62:6 <b>read</b> 8:11,17 11:21 11:22,22 12:24,24 13:3 74:13,15 77:20 81:14,15 95:17 98:23 100:7 100:10,16 103:18 103:21 105:22,23 105:24 106:3</p>	<p>107:15 134:16 172:16 193:15 199:14 204:21 208:23 209:7,8,19 211:18 212:3 213:11 214:25 218:24 220:2 222:7 223:16,21 223:23 224:13 225:2 228:17,21 230:10,15 231:13 231:15 235:22 238:23 239:3 240:12 242:12 <b>reading</b> 9:13 81:1 83:19 84:20,24 85:15,22 107:12 108:3 198:16 199:25 222:19,20 223:4 234:20 242:23 <b>reads</b> 95:14,17,18 105:22 <b>ready</b> 121:17 122:22 196:10 218:7 <b>real</b> 21:10 123:21 199:25 216:20 233:19 <b>reality</b> 122:16 <b>realize</b> 74:21 92:22 229:1 <b>really</b> 8:2 9:3 10:24 18:10 21:7 23:5 25:7 26:4 27:5,9 27:24,24 28:19 29:10 36:16 37:7 41:11,18 42:19 43:8 44:11,23 47:19 49:8 54:18 54:22,23 55:22 56:6,15 57:3,25 61:12 63:21,22,25 66:18,19,19,24 68:1,16 69:9 71:23 72:2 74:9 79:7 83:2,6 86:16</p>	<p>87:12,19 89:5,14 96:5,7,18 103:17 105:19 108:1 110:7,18 111:25 113:6,24 115:6,17 117:20 121:20,21 124:12 125:3,21 126:24 131:8 136:23 137:20,21 140:9 143:2 148:14 150:1 151:13 153:8 154:2 158:10 164:11 166:22 167:6 169:13 170:23 171:16 172:22,25 174:10 185:25 187:4 200:24 201:15 215:1,7 220:19 226:13 230:19 231:12 232:2,11 232:12 233:4 234:24 237:4,15 237:15 238:6 241:19,20 243:10 <b>reason</b> 10:18 30:20 43:13 91:1,11 104:21 105:16 171:25 191:7 192:3,15 205:25 211:11 <b>reasons</b> 188:20,24 <b>recall</b> 12:10,23 18:7,19 19:17 27:17 43:4 44:9 67:14 73:6 77:25 82:22 87:14,25 103:9 106:4 108:20 110:15 119:11 122:21 124:8,25 125:18 135:12 136:9,11 144:10 146:6,18 148:12 149:6 153:6,21 154:20 155:20 158:18</p>	<p>168:9,13,17 169:25 198:24,25 203:16 211:5 216:7 223:4 238:5 <b>receive</b> 30:4 148:22 <b>received</b> 11:4 62:19 133:13 205:19 <b>recognize</b> 92:6,7 93:5,8 94:9,11,15 94:19 98:12,14 103:5,13 104:9,13 104:16,18 105:8 196:17,22 197:20 199:7 216:25 218:11 233:7 238:11 240:3 <b>recognizing</b> 210:22 <b>recollection</b> 52:8 56:2 105:20 106:6 109:7 111:25 156:1 157:5 180:1 197:16 200:2 203:5,8 227:14 <b>recommend</b> 136:6 <b>record</b> 3:24 9:19 10:2 21:25 42:22 42:23,24,25 46:2 92:5,19,20 125:4 125:5 133:24 134:9,10 140:24 193:8 196:8,9,10 196:11 205:13 206:8,9,10,20 218:5,6,11 244:20 245:4 246:3 <b>recorder</b> 3:1,7,11 3:15,17,19,23 4:11 11:14,16 42:22,24 91:17,19 91:21,23,25 92:20 134:10,17 135:2,7 135:9,11 196:8,10 206:8,10 216:21 218:5,7 244:21 245:3 <b>records</b> 173:13,15 173:16,25 178:22</p>	<p><b>rediscover</b> 241:14 <b>reeling</b> 100:2 <b>reevis</b> 214:4,5,7,9 <b>refer</b> 113:13,19 190:22 207:14 215:19 227:22 233:12 <b>reference</b> 210:3 212:6 227:9,12,24 227:24 230:25 231:4,5 235:2 241:21 243:12 244:15 <b>references</b> 208:19 209:6 219:16 <b>referencing</b> 96:9 98:20 212:21 214:2 215:21 219:9 231:8 238:15 241:24 <b>referral</b> 106:22 <b>referred</b> 209:4 <b>referring</b> 30:17,19 37:6 95:5,10 100:14 102:8,21 103:24,25 106:19 106:21 184:23 198:6 204:5 207:4 208:16 209:8,17 210:2 213:22 226:12 227:8 229:11,13,18 232:8,13,15 235:15 241:22 <b>refers</b> 16:1 100:13 210:17 227:13 241:11,18 <b>refresh</b> 11:24 106:6 <b>refuse</b> 234:17,22 <b>regard</b> 114:17 139:7 <b>regarding</b> 17:24 104:5 110:3 134:24 146:22,22 219:19 <b>regret</b> 119:17,17 122:11,13</p>
--	---	---	---	---

<p><b>regular</b> 9:23 10:17 28:15 69:11 70:12 137:6 178:7,8,11 178:11 189:3 <b>regularly</b> 138:8 <b>rehearsals</b> 69:14 <b>reject</b> 129:4 <b>rela</b> 45:9 122:6 <b>relat</b> 6:19 <b>related</b> 203:17 <b>relation</b> 37:20 44:20,21 57:11 68:7 162:1,2 165:7 201:10 230:4 <b>relations</b> 67:10,18 95:4 142:14,17 211:8,12 <b>relationship</b> 8:1,2 19:6,14,15,21,24 20:10,12,15 22:13 28:3,7,10,15 35:1 35:25 37:14 39:5 39:8 40:8 41:25 43:14,18 44:10 45:9,11 47:18 59:2 66:14,15 67:5 68:20 70:22 71:10,15,21 74:24 75:1,4 90:2,5 91:2 108:2 109:24 115:15,18 120:9 121:19,24 128:10 128:16,20 145:12 145:16 146:23 163:9,13 169:9 170:24 171:4 181:7 182:21 186:11,16,23 187:2,13 188:22 189:1 190:6 195:20 201:11 202:1 205:6 211:13,15 224:7 230:2 238:3 239:11 240:15 241:8 243:21</p>	<p>244:7 <b>relationships</b> 6:15 6:20 <b>relax</b> 44:15 111:3 <b>relevant</b> 188:23 <b>remain</b> 145:18 <b>remaining</b> 112:24 <b>remember</b> 12:4 18:9,10 25:7 26:4 26:5,12 27:2,3,9 29:10,12,15 30:13 30:25 31:5,25 32:8,17,20 36:10 36:12,16 38:6,13 38:14,16,25,25 39:1 40:16 41:14 41:18,24 42:5,12 42:13,17 43:17 44:11 49:9 52:21 54:7,18,22,23 55:23 56:6,15 57:25 58:1,6,13 58:19 59:4,23 61:12 63:6,7,23 63:25 64:2 66:20 66:22,24 67:21 68:13,15 74:9,25 75:15 78:5,22 80:4 81:19 82:14 83:6,7 84:23 85:12,15 87:17 88:23 103:12,17 104:20 110:7,18 110:22 111:17 113:20 115:6 117:4,18 119:2 121:20 123:1 124:18,24 125:3,4 125:8,12,15 126:3 126:7,24 127:2,3 130:8 131:8 134:18,21 136:10 136:20 137:1 143:19 144:7,15 145:9,17 146:4 148:9,14,23 149:21 150:2</p>	<p>151:13 153:2,4 154:9,13,22 155:6 155:7,18 156:22 156:23 157:7,14 157:17,25 159:25 163:20 164:11 165:7 166:17,22 166:23 167:2,4,6 167:7 168:6,15,18 169:14 170:7,23 171:1 172:25 173:1 174:10,16 174:17,17 175:9 176:16 179:16 183:16,17,19,22 186:1 188:10 193:25 194:24 200:25 203:10 211:6 212:11 213:7,7 216:2,5,9 216:13 217:7,8 220:20 225:10 226:13 231:2,12 232:12 233:4,18 234:7 235:12 236:24 237:4,15 241:20 244:15 <b>remembered</b> 156:24 <b>remembering</b> 232:25 <b>remind</b> 9:16 <b>reminding</b> 222:23 <b>remover</b> 24:17,23 25:8,11,18,24 27:12 <b>repeat</b> 135:5 221:15 <b>repeatedly</b> 173:24 174:3,13 <b>repeating</b> 136:14 <b>rephrase</b> 23:2 147:25 <b>reporter</b> 59:14 109:18 196:13 197:14 <b>reports</b> 8:8,17</p>	<p>192:21 <b>require</b> 132:22 <b>required</b> 4:11 14:4 14:5,7 30:4 <b>rescue</b> 229:7 <b>resented</b> 229:7 <b>resentment</b> 117:16 <b>reserve</b> 189:25 <b>reside</b> 160:21 <b>resolution</b> 204:18 <b>respect</b> 194:13 <b>respond</b> 181:14 <b>response</b> 27:22 31:2 38:23 84:24 97:21 110:16 148:22 170:4 <b>responsibilities</b> 69:17 <b>responsible</b> 186:14 187:25 188:21 190:16 191:12 192:5 <b>rest</b> 38:2 131:24 194:21 207:3 225:4 <b>restate</b> 17:1 <b>result</b> 9:9 27:1 <b>return</b> 70:19,23 177:9 229:3 241:13 <b>returned</b> 80:23 167:5,12,14,20,22 172:21 175:14 201:22 202:4,10 202:12,14 203:6 229:8 <b>revealed</b> 192:20 <b>review</b> 8:8 12:19 13:6 197:7,9 <b>reviewed</b> 12:12,12 12:15,22 13:5,9 13:15 197:3,8 <b>reviewing</b> 12:11,23 13:5 197:12 <b>reynard</b> 1:11 <b>rid</b> 203:6,8,10 <b>ride</b> 51:1 52:2 62:3</p>	<p>62:14 88:13 <b>riding</b> 52:3 <b>rigging</b> 13:25 14:1 16:2 <b>right</b> 3:21 9:15,25 10:15,21,22 16:4 31:20 35:17,18 48:13 49:2,7 50:15,18,21,25 51:2,3,11,18 52:22 54:15 55:1 55:12,14 61:23 62:19,22 68:1 79:7 80:2 84:11 86:4 91:25 92:25 93:8 97:12 99:15 101:25 106:1 115:23 126:16 130:15 134:5,5 135:3,7,11 137:8 137:9,10,10,12 141:13 152:7,9,16 153:9 154:22 160:14 163:1 165:24 178:21 185:11 189:12,13 189:25 193:7 196:13 197:17 200:7 201:8,21 202:7,8,10,12 203:20 207:5,11 207:18 208:6,7,7 208:13,16 212:3 214:23 216:17 217:22,23 218:9 220:9 221:8 225:12,20,22 232:16 233:7,9 235:14 236:1 237:10,10 238:1 238:21 239:5,24 240:2,17 242:19 243:12 <b>ring</b> 21:6,9,11,16 102:15,15,24 201:19 202:18 203:13,18</p>
--	---	--	---	---

<p><b>rings</b> 20:23 21:3,4 21:11 <b>risk</b> 96:18 <b>ritas</b> 138:3 <b>river</b> 21:17,18 102:16,24,24 203:12,18 <b>road</b> 48:23 50:17 62:6 160:19 221:2 <b>rob</b> 1:11 <b>rock</b> 21:17,18 <b>rockford</b> 21:19,21 66:8,12 102:2,6 102:15 115:1 125:24 126:1,1,7 126:10,13,18,23 138:5,7,9,11,15 139:11 160:15,16 161:7 162:21 163:6 165:14,23 166:3,7,12,16,21 167:5,12,14,23 168:3 169:19 170:8,14,17 172:21 173:3,21 174:13 175:14 180:16 201:22 202:10,12,15,19 202:24 203:7 217:16 226:16,22 226:24 <b>rode</b> 46:21,22 61:4 <b>roderick</b> 2:7 <b>role</b> 14:21 217:19 <b>romance</b> 43:21 <b>romantic</b> 19:23 145:12 190:6 <b>romantically</b> 128:12 <b>romeo</b> 215:2 <b>ronald</b> 40:17 <b>room</b> 27:8 45:23 55:13,13,21 56:14 56:14 77:22 82:10 83:23 84:3,7,15 84:19,21 85:18 99:5 103:8 154:8</p>	<p>155:5,13 161:9 169:20 <b>roommate</b> 32:25 39:23 95:16 97:19 139:1 233:21 <b>roommates</b> 33:4 71:6 98:4 <b>rooms</b> 55:5,9 56:1 56:5,8,11,16 <b>roots</b> 123:25 124:10 <b>ropes</b> 69:23 <b>rough</b> 199:12,16 <b>roughly</b> 137:17 178:10 204:1 <b>route</b> 126:21 127:4 127:8 <b>routine</b> 178:11,16 179:4 180:5 <b>rows</b> 232:23,24 <b>rule</b> 4:12 189:25 192:10 <b>rules</b> 9:5 <b>run</b> 69:22 126:23 229:6 <b>runaround</b> 230:23 <b>running</b> 223:8</p> <hr/> <p style="text-align: center;"><b>S</b></p> <p><b>sacred</b> 205:1 <b>sacrifice</b> 222:24 <b>safety</b> 80:18 <b>sample</b> 133:20 <b>sandy</b> 176:15,17 <b>sat</b> 19:9 83:19,22 84:4,17 157:19,21 157:23 <b>satisfied</b> 32:1 63:1 133:15 <b>satisfy</b> 100:20 <b>savings</b> 179:10 <b>saw</b> 19:9 43:8 45:5 52:3 61:17 72:19 103:14 106:5 116:8 117:21 123:22 124:13 147:5 156:17,21</p>	<p>163:15 172:1,8,14 200:1 214:11 <b>saying</b> 9:10,13 20:16 27:17,18 42:5 52:20 56:4 57:23 60:21 64:7 78:5 79:8 102:23 106:5 110:15 112:15 121:21 149:23 168:13 169:23 171:19 174:18 184:10 187:22 202:11,17 220:15 224:12 227:10 241:18 242:1 <b>says</b> 92:21 93:14 95:3 96:12,24 98:18 99:13,23 103:20 106:13,14 107:13,15,20,24 108:11,12,13,17 108:22,23 196:19 196:21 198:20,20 204:6 209:19 211:24 213:11 221:16,25 223:21 226:9 230:14,17 232:24 237:22,24 241:12,21 243:5,6 <b>scared</b> 159:2 205:4 <b>scene</b> 15:16 181:14 217:21 <b>scenery</b> 13:23,25 14:15 15:1 16:17 69:23 216:15 <b>schedule</b> 119:3 <b>scheduled</b> 126:15 <b>school</b> 2:9 14:11,12 14:13 16:8,10,15 16:21 18:15,21 33:9,11,17,24 43:7 73:15 97:24 109:17 126:14,15 127:1,5 130:9,16 130:18,22 131:14 131:19 133:22</p>	<p>139:12 143:11 161:7 162:9 163:3 187:1 200:11,16 203:2,2 208:21 224:4,4 229:3 244:14 <b>screaming</b> 54:19 <b>screen</b> 133:17 <b>se</b> 16:3 <b>search</b> 46:8 74:4 76:23 <b>searched</b> 45:23 <b>season</b> 200:10 217:17 <b>second</b> 46:1 69:19 70:7 92:17 94:14 94:15,15 95:3 107:19 135:2 165:8 195:16 205:12 207:7,24 209:17 213:12 222:3 228:17 235:16,20 <b>section</b> 196:1 <b>see</b> 19:8 26:18 45:23 46:20 48:2 51:23 52:1 54:12 57:9,10,19,21,21 64:10 71:23 79:15 79:16,23 80:24 93:14 96:25 106:22 107:2,4 124:15,21 125:2 144:8 147:8 149:4 150:23,25 151:23 152:1,12,14 159:13 168:19 170:25 171:15,15 172:10 184:22 187:16 190:19 197:13 205:17,23 212:1 221:19 222:3 226:4,8 233:4 238:9 <b>seeing</b> 43:6,13 52:9 61:25 106:5,16,24 124:18,25 125:3,8</p>	<p>125:12,18 226:6 <b>seeking</b> 44:7 141:14 195:8 <b>seen</b> 116:20 119:23 119:24,25,25 120:1 121:6 125:1 156:14 194:8 213:21 <b>seig</b> 124:25 125:1,5 125:7 <b>sell</b> 129:22 131:21 132:1 <b>selling</b> 140:4,8,9,12 140:15 <b>semester</b> 14:10 131:15 188:14,14 229:21 <b>send</b> 220:21 <b>sending</b> 220:17 <b>senior</b> 16:15 <b>sense</b> 50:15 239:12 239:17 <b>sent</b> 104:2 199:9 220:12,19 221:4 221:23,24 232:18 232:19 236:11 237:18 <b>sentence</b> 209:7,20 209:21,22 211:19 212:3 218:24 225:9 230:21 <b>sentences</b> 208:23 231:15 <b>separate</b> 173:24 213:3 221:8 236:6 <b>separately</b> 75:23 194:18 <b>separation</b> 102:10 213:8 <b>september</b> 126:16 <b>sergeant</b> 180:16 <b>set</b> 93:8 133:18,18 217:22,23 235:14 <b>sets</b> 15:1 <b>sex</b> 67:15,25 68:3,8 68:12,18 77:5 151:15 158:5</p>
--	---	---	---	---

003751

<p><b>sexual</b> 19:24 59:1 67:5,9,17 147:20 186:19 187:22 191:11 <b>shapiro</b> 2:5 4:7,7 <b>share</b> 76:14 139:25 <b>shared</b> 47:3 76:16 131:24 139:17,22 <b>sharing</b> 198:4 <b>shattering</b> 100:5 <b>shelf</b> 220:8 <b>shes</b> 33:13 72:23 109:9 <b>shit</b> 213:15 <b>shiver</b> 100:3 <b>shocking</b> 65:12,20 180:6 <b>shop</b> 21:10 69:14 <b>short</b> 13:3 14:20 55:10 113:6 128:23 181:13 195:25 226:9 <b>shortly</b> 21:21 31:24 41:11 46:19 56:24 61:9 158:23 <b>shouldnt</b> 7:14 88:25,25 228:9 <b>shouted</b> 52:12 <b>shouting</b> 52:15 <b>show</b> 69:18,19,21 70:7,9 89:23 195:25 196:15 216:14,19 218:9 <b>showed</b> 144:22 <b>showing</b> 92:4 196:16 197:18 216:24 221:8 225:24 232:16 236:3 238:11 240:3 <b>shown</b> 198:24 199:4 <b>shows</b> 15:19 69:15 69:15 70:10,13 98:7 <b>shrink</b> 106:18,20 224:18</p>	<p><b>shut</b> 65:25 <b>siblings</b> 161:12 <b>sick</b> 24:23 <b>side</b> 21:14 49:1 50:11,21 51:3 54:15 84:10,13 198:20 225:20 <b>sides</b> 225:22 <b>sieg</b> 125:5 <b>sig</b> 124:18 <b>sign</b> 123:18,20,21 172:8 222:12,22 <b>signature</b> 103:7,10 103:13 204:17 205:23 207:9 <b>signatures</b> 236:9 <b>signed</b> 203:24 <b>significant</b> 22:1 153:10,15 <b>significantly</b> 163:18 <b>signs</b> 191:25 <b>silence</b> 225:4 <b>similar</b> 33:14 <b>simple</b> 99:10,16 <b>sin</b> 204:19 <b>single</b> 84:4,11,16 84:17 99:18 <b>sip</b> 25:16 <b>sister</b> 33:19 <b>sisterinlaw</b> 163:12 <b>sisters</b> 82:6 <b>sit</b> 9:12 81:20 84:15 144:11 157:20 176:16 191:15 203:5 227:8 <b>site</b> 208:8 <b>sitting</b> 19:4 46:22 150:22 151:24 156:22 168:22 184:13 204:22,23 <b>situation</b> 60:19,19 64:12 71:22 82:20 96:18 97:24 169:4 171:25 212:12 216:8 <b>situations</b> 108:9,17</p>	<p><b>size</b> 123:21 <b>slash</b> 106:14 <b>sleep</b> 178:13 204:23,24 209:1 <b>slipped</b> 109:6 <b>slow</b> 220:6 <b>slump</b> 96:5 <b>slush</b> 210:1,5,20 211:12 233:12,13 233:16,20,23 <b>small</b> 146:12 177:18 <b>smaller</b> 15:13 <b>smiles</b> 99:3 <b>smoke</b> 119:25 120:12 130:6,13 130:19 132:10 136:24 139:15 148:8 214:8 <b>smoked</b> 130:4 135:17 136:1,3,21 213:14 214:9 <b>smoking</b> 133:16 135:21 136:16,18 148:16 213:7 <b>smushed</b> 236:6 <b>soak</b> 3:5 <b>social</b> 27:1,4 <b>sold</b> 129:20,23,24 131:10,23 132:4,5 <b>somebody</b> 62:18 146:20 183:23 186:18 189:25 <b>someones</b> 53:2 233:22 <b>song</b> 198:3 204:3,4 204:6,16 208:21 209:4,11 218:19 219:1,15,20 220:2 220:11,12,13,14 220:18,18,19,21 220:23,25 221:21 221:22 223:22,22 224:2,3,6,9,9 232:22 233:4 236:18,20,25 237:2,4,6,13,19</p>	<p>237:21 <b>songs</b> 209:2 <b>soon</b> 106:1 134:4 235:22 <b>sooner</b> 44:20 107:17,20 115:2 165:19 <b>soph</b> 14:9 <b>sophomore</b> 14:9 18:18,19 33:7 34:3 35:7 131:9 133:3,4 227:23,24 228:4,13 <b>sore</b> 25:23 <b>sorority</b> 82:6 <b>sorrow</b> 224:18 <b>sorry</b> 7:20 18:3 21:1 30:9,23 31:16,18 35:10 42:16 43:25 44:1 44:21 51:2 60:10 69:1 84:5 90:19 91:16 94:6 96:5,8 101:17 104:22 108:4,7 117:13 120:23 121:1,12 121:15 122:4 124:19 131:3 133:7,25 134:3,6 134:15 136:14 139:24 140:6 167:9 172:4,4 197:6 202:3,9 204:11,12 207:16 207:20 208:11 211:22 216:17 218:3,4 223:19 225:16 226:17 228:1,21 230:12 233:6,17 238:13 239:1,6 241:3 <b>sort</b> 15:24 20:11 55:12 58:2 87:21 104:6 112:3,8 123:17 159:18 <b>sotos</b> 2:15 <b>souk</b> 1:11 3:5,6,7,7</p>	<p><b>sound</b> 40:17 135:2 193:7 <b>sounds</b> 40:18 193:8 213:18 <b>source</b> 137:24 <b>south</b> 1:23 2:23 3:4 118:8 <b>spark</b> 22:23 <b>spartan</b> 15:13 <b>spe</b> 85:12 <b>speak</b> 26:25 243:5 <b>speaking</b> 12:16 134:3 <b>speci</b> 78:22 <b>specific</b> 66:20 67:16 78:25 83:6 144:15 145:17 163:20 174:10 182:21 183:3 203:8 228:5 <b>specifically</b> 57:4 63:11 82:23 101:16 104:17 107:9 137:1 139:12 140:23 141:14 142:1 143:19 147:23 155:22 164:8 170:8,9,12 175:23 176:19,21 177:15 177:24 180:11 183:16 184:19 185:25 187:17 188:1 198:11 200:24 203:5 212:11 214:20 215:19 220:20 225:10 235:12 244:15 <b>specifics</b> 59:23 63:8 63:21 67:15 81:19 85:1 110:7 155:18 167:24 168:15 171:16 211:6 <b>specified</b> 32:17 <b>speculate</b> 87:12 143:1</p>
---	---	---	--	---

<p><b>speech</b> 9:23  <b>speed</b> 206:5  <b>spell</b> 11:14 59:15              76:20 109:19  <b>spelled</b> 125:5  <b>spelling</b> 109:21  <b>spells</b> 59:18 78:12  <b>spend</b> 38:1 70:23              178:14  <b>spent</b> 4:16 35:7              199:24  <b>spill</b> 134:13  <b>spirit</b> 95:17  <b>spoke</b> 41:4 111:20              167:12  <b>spring</b> 143:13,16  <b>squad</b> 181:4,8,18  <b>stack</b> 206:12 207:6              207:7,8,9,12              208:16 221:6              225:12  <b>stacks</b> 207:6 221:8  <b>stacy</b> 28:18 29:4              127:18,18 128:4              185:16,18 187:9              210:17 211:8  <b>stage</b> 14:15 15:19              69:19  <b>stamped</b> 95:3  <b>stand</b> 95:8  <b>standing</b> 51:22              52:1 54:15 56:22              82:9 117:25              134:23 151:23              194:11,20  <b>standoffish</b> 112:21  <b>stands</b> 121:22  <b>staple</b> 197:19  <b>stare</b> 221:18  <b>starlight</b> 68:23  <b>start</b> 43:6 69:7              108:2 119:23              120:5 126:15              171:13 186:25              187:18 207:11              223:16,20 240:14  <b>started</b> 16:20 19:11</p>	<p>19:22 21:8 55:18              56:24 61:14,15              81:16 126:14              148:21 151:8              164:14 182:20              187:12 188:6              200:10 210:10              241:24 242:3,5              244:8  <b>starting</b> 16:21              130:11 131:18              209:22 222:21  <b>starts</b> 104:14 106:1              106:5,16 203:24              204:9 211:18              224:13 228:19              238:24  <b>state</b> 3:23 64:20              96:11 100:17              195:8 234:17  <b>stated</b> 20:20  <b>statement</b> 100:17              136:3 209:19              222:15 227:3              228:4  <b>statements</b> 47:14  <b>states</b> 1:1 99:1              100:5 105:21              207:14  <b>stating</b> 95:14  <b>station</b> 125:20              180:7 182:20  <b>status</b> 115:14              121:19,23 169:8  <b>stay</b> 61:2 76:5 79:5              111:9,12 118:13              126:14 172:1              189:1 232:10,13              235:7  <b>stayed</b> 6:20  <b>staying</b> 89:19              126:13 163:5  <b>steam</b> 157:21  <b>steinman</b> 81:25              82:1  <b>step</b> 57:20,21              119:13</p>	<p><b>steps</b> 45:18 72:7  <b>stereo</b> 143:5 147:4              151:17 154:5,7,11              154:16,20 155:3  <b>sticker</b> 93:13,16              198:19  <b>stipulated</b> 238:22  <b>stock</b> 200:9  <b>stoned</b> 154:3  <b>stood</b> 150:23 234:8  <b>stop</b> 46:1,25 81:5              90:13 99:8,8              107:19 132:20,21  <b>stopped</b> 62:2 92:25              125:21 181:1,9,10              181:14,18 187:9              187:11  <b>stopping</b> 40:20              134:4  <b>storage</b> 123:16  <b>store</b> 176:13,15,17              177:16,25 202:21  <b>stores</b> 175:19,20              176:10,11,14  <b>stories</b> 49:19  <b>stormed</b> 81:8 88:2              154:10  <b>story</b> 161:4,4              215:23  <b>straight</b> 51:19              55:13 126:18              231:18  <b>strained</b> 37:15  <b>strange</b> 191:14  <b>stranger</b> 4:22              192:16  <b>street</b> 1:23 2:23 3:4              48:25 49:1,2 50:1              50:13 51:14 61:20              118:9 123:18,21              137:9,9,16 230:2  <b>strength</b> 212:1  <b>stress</b> 136:1,4,7,12  <b>stressed</b> 43:14  <b>strike</b> 47:15 193:2              195:11  <b>strong</b> 213:12,13</p>	<p>228:25  <b>structure</b> 177:19  <b>student</b> 4:9 14:18              15:4,5,6 18:23              163:4 210:8  <b>students</b> 14:17              16:18 18:25 33:18              130:24,25  <b>study</b> 13:24 15:12              19:2  <b>studying</b> 13:20  <b>stuff</b> 177:20  <b>stupid</b> 24:23 28:1              226:15 230:14              231:11  <b>subdued</b> 111:24  <b>subject</b> 111:4              141:16 142:9  <b>substance</b> 135:13  <b>sudden</b> 65:17,20  <b>suggested</b> 123:24              157:17  <b>suggestion</b> 157:15  <b>suicide</b> 29:13  <b>suite</b> 2:17  <b>sum</b> 242:5  <b>summaries</b> 173:16  <b>summarizing</b> 24:10  <b>summer</b> 19:16,16              31:12 33:5,25              34:19,24 35:2              36:3,11 43:2,10              43:11 44:18 45:3              46:4 47:5 68:23              68:25 69:1,3,5,6,8              69:9,17 70:3              90:22 98:6,6,8              119:18 130:9,12              130:14,23 136:25              137:2,14,23 138:2              138:4 139:7              148:12,15 160:12              160:16 161:23              162:22 164:2              165:1 175:14              200:9,17,18,19              202:5 204:3 205:2</p>	<p>205:3 208:20,21              209:11 217:11              219:11 222:16              228:6,9,10,13              235:5 236:24              241:16,16 242:8              243:2,18,22,24              244:1,8  <b>sunday</b> 73:6 183:5  <b>supervision</b> 4:9  <b>suppose</b> 19:4 110:1              190:17,24 212:20              213:2 220:24  <b>supposed</b> 75:20              89:6 115:5 142:19              143:8,20,22 145:4  <b>sure</b> 6:9 7:21,21,25              8:5,25 9:1,20 10:5              13:12 16:25 17:3              20:5,6 23:7,9 26:7              26:21 30:10 33:21              34:12 39:18 40:21              40:21,22,24 46:16              46:18 49:9 67:7              72:16 76:11 83:2              84:6 89:15 90:8              98:5 106:2 108:13              109:22 115:17              122:5,12 123:14              124:21 126:17              129:7,24 132:3              133:24 134:17              141:3,18 143:10              144:9 153:8              155:14 158:7              159:15 160:5,6,11              170:17 173:10              188:7 194:16              197:24 198:12              203:13 205:19,21              207:25 209:6              213:24 221:14              230:14,17 232:3,9              234:16,24 242:13  <b>surprise</b> 116:18              140:16,17  <b>surprised</b> 209:9</p>
---	---	---	---	---

<p><b>sus</b> 187:24  <b>suspect</b> 185:1,4,5  189:22,24,24  190:1,7,7,22,23  191:2 200:9  <b>suspected</b> 142:13  <b>suspicion</b> 72:24  75:1,5  <b>suspicious</b> 38:8  74:16,17 90:14  142:16 146:16  185:7  <b>suspicious</b> 145:15  <b>swain</b> 58:6 66:4  189:17  <b>swaine</b> 12:13 28:18  28:24 32:24 33:15  36:4 37:10,21  38:7,11 39:13,23  41:25 42:15 43:20  46:5,13 47:4  54:10 55:19 56:8  56:17 57:6 58:21  58:24 59:5 61:17  63:2,15 70:2,20  71:6 72:24 74:19  75:9,13,22 76:14  77:16 78:3,5,23  80:24 87:6 90:2  95:7,22 96:17  98:3,18 100:15  101:1 103:25  112:11 116:8,10  117:1 124:9  127:10 138:4,15  139:24 150:5  160:15 167:17  169:9,15 172:3,5  175:6 187:12  190:5 195:13,16  195:17 223:8,10  242:6  <b>swaines</b> 37:3 58:1  72:9 74:2 76:23  77:3 90:11 103:8  104:12 123:18  <b>swear</b> 3:20 40:18</p>	<p>115:18  <b>switch</b> 17:21  <b>switching</b> 208:15  <b>sworn</b> 3:22  <b>swung</b> 53:19  <b>syringes</b> 86:11</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>ta</b> 170:9  <b>table</b> 19:10 65:20  123:17  <b>tables</b> 19:4  <b>take</b> 12:2 14:2,5  15:24 16:5 24:25  25:1 26:13 27:14  29:21 30:3 33:15  33:23 34:1 38:20  40:20 41:10 42:20  45:18 67:12 82:19  88:11 92:6,17  93:1 105:25  114:15 117:3  119:24 126:21  134:5 136:6 143:9  148:10 149:19  167:10 175:18  184:22 197:17  199:7,18 206:2,3  226:3 229:20  232:17 240:17,21  242:14 245:4  <b>taken</b> 8:9 27:11  29:16 30:8,14,23  32:16 39:14 127:8  132:3 180:7  <b>talk</b> 9:18 27:10  32:2 33:22 40:2  44:22 62:18 81:17  81:20,21 83:12  86:21,23 91:8  109:1 110:19  112:24 118:13  122:18 124:4  135:21 146:15  166:9,12 170:22  174:20 181:11,25  182:2,16,17 193:1</p>	<p><b>talked</b> 19:10 30:8  31:25 32:13 40:3  40:3,4 41:16  44:21 48:20 58:7  89:17 107:1 109:2  112:12 113:22  114:9,16 115:9,10  117:2,24 118:15  118:17 135:15  140:18 146:17,20  157:19 158:19  163:18,24 166:16  166:20 167:7  168:2,12,20  170:16 171:1  172:16 173:2  175:4 184:25  185:20 187:20  190:18 192:11  207:18 210:19  211:7 235:6  <b>talking</b> 32:22 43:22  46:14 47:1 60:2  64:13 66:22,25  83:5 84:2 86:18  113:21 115:21  118:5 125:18  138:17 139:20  152:3 160:1  166:17 168:21  169:14 170:7,9,13  171:4,18 179:16  182:11 186:12  210:20 213:4,17  243:7  <b>teachers</b> 91:4  <b>tears</b> 213:16  <b>tech</b> 15:20 69:14  <b>technical</b> 13:21  16:16 69:18 70:6  70:7 95:9  <b>technically</b> 153:13  <b>telephone</b> 30:11  47:1  <b>tell</b> 7:11 18:9 24:5  24:19,19 29:18  32:15 38:21 39:4</p>	<p>39:21,25 42:11  46:11 54:8 60:12  63:15,18 68:2  71:20 75:4 77:2  77:18 81:13 86:22  86:25 87:6 97:13  97:18 103:6  108:20 110:6  112:5,6,8 116:25  119:10 135:16,25  142:18 146:3  147:3 156:16  157:5 159:4,7  168:13 170:3,3  173:3 174:13  179:21 180:20  181:9,25 182:4  183:20 184:1  188:4,10,16 195:3  213:13 217:3  220:7,8 233:21  234:18 236:14  <b>telling</b> 30:14 38:15  41:24 44:9 45:15  45:19,25 71:14,18  71:19 109:13  110:16 112:14  136:9 146:6  168:22 174:25  183:19,22 193:25  195:1  <b>tells</b> 222:13 235:3  <b>temper</b> 159:5,12,16  159:19 160:1,7  226:9  <b>tend</b> 7:4  <b>tended</b> 212:11  <b>tendency</b> 212:25  <b>term</b> 65:16  <b>termin</b> 113:5  <b>terminology</b> 113:4  113:5  <b>terms</b> 27:11 38:17  43:17 48:22 55:9  68:9 83:9 87:25  114:4 119:11  126:12 131:12</p>	<p>133:12 135:1  141:4 158:1  167:25 180:4,6  188:11 197:13  204:16 206:4  210:20  <b>test</b> 109:21 216:6  <b>testified</b> 101:19  171:20 178:19,20  179:1 193:2 197:1  197:2 234:15  <b>testimony</b> 8:15  12:24,25 13:2,4,5  13:7 193:5 196:25  197:4,5,6,12  <b>thank</b> 4:13 35:18  92:3 99:25 124:23  172:6 208:17  217:11,23 224:12  244:3  <b>thanks</b> 135:9  <b>thats</b> 12:9,14,25  21:2 24:24 29:11  35:18 45:3 48:17  52:8 56:18 59:12  65:2 70:8 71:5  72:9 75:9 76:21  83:16 89:15 91:21  93:19 95:2,18,25  96:20 98:21 101:6  102:13 105:19  106:15 116:7  117:2,2 120:17  121:11 122:23  131:8 133:8,18  134:15 137:9  140:21 141:11  143:24 171:24,24  173:6 177:21,23  184:8 185:11  193:19 194:19  197:21 200:14,24  204:15 206:7  207:21 209:14  212:24 213:9,23  215:6,7 216:9  218:9 220:12,16</p>
---	---	---	---	---

<p>221:5 226:24                  227:3,3,5,13,15                  227:17 229:17                  232:14,22,25                  236:3 238:23                  242:10 244:17,17                  244:18  <b>theater</b> 13:21 14:12                  14:12 15:12,14,17                  15:21,21,22 33:3                  33:16,18 34:23                  68:23 69:6 70:3                  70:11 73:4 75:14                  77:16,23 78:1,8                  78:24 79:5 80:24                  87:6 88:21 90:22                  91:3 97:7 167:17  <b>theaters</b> 15:15  <b>theatre</b> 217:11  <b>therapists</b> 26:25                  27:4  <b>thereabouts</b> 19:18  <b>thered</b> 130:25  <b>theres</b> 10:24 13:14                  51:15,24 55:11,12                  55:14 57:20,20                  84:8,10,12 93:13                  99:12 101:25                  103:4 104:14,15                  105:4 107:14,23                  108:18 120:18                  140:3 157:21,22                  198:18 205:17,23                  209:18 212:17                  226:4 230:6 236:9                  241:6  <b>theyre</b> 162:3                  198:17 205:20                  221:11 231:16  <b>theyve</b> 33:21  <b>thing</b> 10:4,19 15:7                  24:23 28:1 31:4                  58:10,11 59:4                  110:22 112:3,9                  120:18 134:23                  144:17 148:20,24                  159:16 220:3</p>	<p>223:21 231:3,24                  232:1,8 237:20  <b>things</b> 8:16,17 34:7                  37:18,20 40:23                  66:21 70:24 71:1                  73:12 86:12 88:11                  95:1,15,19,21                  105:4,13,17 106:1                  107:7,10 110:17                  113:2,6 119:11,16                  122:10,16 141:5,8                  141:9,10 159:20                  163:16 171:9,18                  176:5 187:23                  193:1 198:17                  206:5 211:20                  222:11 230:19                  235:10 242:5                  244:8  <b>think</b> 5:8 7:5,21 8:1                  8:4,19,23,24 9:2                  12:14,14,25 13:2                  13:11,14 14:9,10                  14:15,18 17:4                  18:2 20:10,22                  25:10,13 27:2,7                  28:5,20 31:24                  34:5 36:9 37:17                  37:17 38:22 39:10                  39:11 42:7 44:24                  45:7 47:19 49:5,7                  49:7,8 52:16,16                  56:2,19 57:5,12                  58:17 60:18 61:11                  62:18,18 64:18,19                  65:16 67:25 68:7                  69:20 72:2,23                  74:11 77:20,22                  78:10,16 80:2                  81:7 82:9 83:1                  84:4 85:23 86:2                  86:18 87:9,16,21                  88:2,7,22 89:24                  91:10 92:25 96:12                  97:5 99:4,12,19                  99:21 100:1,19                  101:8 102:10</p>	<p>104:11,11 105:15                  106:13,25 107:10                  109:2,5,13,14                  112:17 113:12,22                  114:14 115:4,14                  115:24 116:2,21                  117:23,24 118:1,2                  118:4,13,23 120:1                  121:17,25 122:8                  123:14,19 125:4                  126:2,16 132:5                  133:4 135:1,4                  136:13 137:17                  138:13 143:24                  144:14 145:6,21                  147:15 150:18                  151:9,16,22                  152:21 153:4,8,20                  155:9,9,13,25                  156:1,23,23                  157:21 158:3,15                  158:16,20,22,23                  159:3,9,22 160:13                  165:13,16,18,20                  165:21 166:25                  168:25 169:3,6,10                  169:24 170:1,5,20                  170:25 171:14,19                  173:4 174:15,21                  175:8 176:5                  177:10 180:1,13                  185:9,24 188:6,13                  188:15,24 189:8                  189:10,19 190:3                  190:15,22 191:3                  191:14 193:15                  199:16,24,25                  201:13 202:4                  203:19 204:24                  205:18 206:5,20                  208:20,25 209:1,5                  209:7 210:6                  212:11,24 213:24                  214:6 215:21                  219:5,7 221:11                  223:21 224:21,25                  227:7,16 229:13</p>	<p>231:23 234:14,16                  235:7,16 237:22                  237:24 238:4                  240:10 242:10,14  <b>thinking</b> 39:12                  72:2 86:8 99:8                  180:9 184:3                  204:24 213:1                  214:4 229:14                  242:21  <b>third</b> 94:15 223:20                  223:20  <b>thomas</b> 2:21 4:4  <b>thorman</b> 35:20                  40:13  <b>thought</b> 25:12                  30:24 36:21 39:19                  48:7 57:8 73:12                  77:1 86:10 87:21                  88:25 90:25 91:1                  97:23,23,25                  105:25 120:2                  123:24 124:3                  125:7 164:12,18                  169:4 170:5 185:9                  185:12 188:8,23                  189:16,20 190:15                  205:8 222:10                  223:9 229:5,9,15                  241:20,22  <b>thoughts</b> 99:5                  100:3  <b>thousand</b> 213:16  <b>threaten</b> 151:18  <b>three</b> 21:11,12 71:2                  72:22 74:11 135:1                  148:7 161:3                  162:23 180:5                  221:10 227:19                  230:11 231:15                  233:9  <b>threw</b> 21:17 102:15                  102:23,24 201:19                  201:19,24 203:17  <b>throat</b> 25:23  <b>thrown</b> 203:12  <b>throws</b> 241:25</p>	<p><b>till</b> 92:12 220:8  <b>tim</b> 1:11  <b>time</b> 3:2 5:11 7:10                  7:10 8:22,24 11:8                  14:2,11 19:8,8,9                  20:19,25 21:7                  22:2 23:5,11,17                  23:20 26:4 27:7,8                  29:20 30:3,18                  31:9 34:6,8,8,17                  35:7 36:6,22                  37:13,23 39:10,17                  40:8,12 41:21                  43:18 44:3 45:8                  45:13 52:13 53:20                  56:9,21 57:15                  58:25 60:1 64:22                  66:20,22 67:1,5,7                  67:9,20,22 68:1,3                  68:8,10,12,15                  70:11,23 71:3,3,5                  72:12,13,16 73:11                  73:14,20 75:25                  76:17 77:12 79:3                  80:5,11,16 81:22                  82:7 86:14,25                  89:5 93:20 96:6,7                  96:8 98:4 101:13                  102:7,9,11,11,14                  102:19,20 104:18                  106:23 108:21                  110:1 111:23                  112:16 113:6,14                  113:16 115:13,15                  118:22 119:1,16                  119:21 120:9                  121:16 122:24                  123:1,5 124:13                  126:25 127:1,4                  128:10,24 129:1,6                  131:9,16,21                  132:12 136:4,15                  136:20 138:16,22                  139:1,9,11 140:11                  140:13,20 143:25                  144:3,19 145:14                  146:9,10 148:12</p>
--	--	---	---	---

<p>149:7,12,14,16                  150:13,18 151:18                  152:22 153:11                  154:3 156:3,8                  158:13,19 159:10                  159:11 161:23                  162:8,12,16,17                  163:2 164:14                  165:8,11 166:20                  167:2,16 168:2,11                  168:20 172:1,12                  173:2,16 177:12                  178:3,7,8,12,15                  178:19 181:14                  183:4,9 184:5                  185:8,9 186:12,22                  186:24,25 187:9                  188:5,11 189:21                  191:18,24 195:7                  195:16 198:20                  199:12,16,18,20                  199:22,25,25                  200:2,4,6,13,23                  201:1,9,14,19                  202:18,22 203:15                  203:18 209:15                  210:22 212:6,8                  215:9,12 217:12                  220:24 221:4                  223:6,9 224:8,10                  224:23 226:4,7,21                  226:23,25 227:11                  227:12 228:2,12                  228:25 229:13                  230:13 232:11                  236:22 237:14                  238:3,8 239:10                  241:12 243:21                  244:4,10,13,20,24                  245:1  <b>times</b> 3:12 6:23                  9:22 12:4 14:25                  25:21 28:6,9                  29:23 34:15,18,20                  53:13,21 67:20                  68:17 83:7 113:13                  113:22,25 114:1,2</p>	<p>120:4,9,12,14,16                  123:9 127:9,12,21                  127:24 128:2,8,22                  129:9 130:9,17,19                  139:13 143:16                  144:10,18 145:7                  161:11 164:15,18                  170:18 171:11,16                  173:21 179:14                  187:14,17 213:3,4                  213:5,7 230:3                  232:10 235:12                  239:8  <b>timid</b> 64:21  <b>tingling</b> 99:3  <b>tired</b> 239:18 242:22  <b>today</b> 3:11 11:17                  13:10 22:1,7 89:4                  109:21 144:11                  168:22 192:21                  197:4,10 203:6,8  <b>today's</b> 3:1 92:2  <b>told</b> 29:16 31:6                  32:16 36:6,9,13                  38:7,11,22,24                  39:1 41:7,11 42:1                  42:1,3 44:11                  46:18 52:25 59:23                  74:19,20,25 75:6                  77:2,21 87:24                  97:5,6 100:22                  106:23 110:8                  114:9,11,12,12,13                  114:13,18,18                  117:2 122:23                  133:15 140:18                  143:24,25 144:6                  144:11 145:3,7                  158:6 159:11                  164:5 165:6 168:7                  170:1,2 173:9                  180:14,15 181:11                  184:21 185:11,15                  187:23 188:2                  189:9 190:19                  193:12,16,19,20                  194:7,8 195:12,15</p>	<p>195:19 229:17                  235:10  <b>tone</b> 30:22 62:8,12                  64:5 81:19 84:18                  86:19 117:5                  119:15 122:4,5                  168:21,24  <b>tonight</b> 244:18  <b>tony</b> 12:12 182:17                  184:24  <b>tools</b> 44:12  <b>top</b> 43:5 68:2 80:7                  207:17 208:3                  209:18,21 210:7                  215:1 218:19                  224:24 228:18                  230:7 232:23                  233:12 235:3                  236:15  <b>topic</b> 170:21  <b>topsyturvy</b> 128:18                  171:9  <b>tore</b> 177:18  <b>total</b> 12:8 87:10  <b>touch</b> 57:15 99:17                  111:15 221:20                  224:17  <b>touched</b> 122:9  <b>town</b> 1:12 2:20 4:4                  44:14,18,21 73:4                  73:9,13 87:1,4,7                  90:16 96:10 111:1                  138:2  <b>track</b> 176:25                  177:12  <b>tragedy</b> 216:3  <b>training</b> 17:18,25  <b>trans</b> 147:11,11  <b>transcript</b> 9:7,14                  193:15 194:15,20                  246:3  <b>transcripts</b> 8:8                  11:21 12:10,19                  193:23  <b>transferred</b> 33:13  <b>transpired</b> 119:16  <b>trash</b> 86:9</p>	<p><b>traveled</b> 203:1  <b>treating</b> 119:8  <b>treatment</b> 30:5                  133:13  <b>trial</b> 11:23 12:23,24                  140:19,20 173:11                  173:16 175:10                  200:1 234:15  <b>triangle</b> 216:7  <b>tricky</b> 49:9  <b>tried</b> 170:19 173:20                  229:6 242:7                  244:11,12  <b>trip</b> 212:5,13,22,25                  226:15 227:4,9  <b>true</b> 121:11 129:7  <b>trust</b> 223:3  <b>truth</b> 45:19 72:1,6                  75:12 79:17 220:9  <b>truthful</b> 45:17                  46:20 195:5  <b>truthfully</b> 145:8  <b>try</b> 9:11,16,20 10:3                  45:18 47:16,17                  57:19 60:25 85:25                  88:25 143:1 149:2                  159:7 164:11                  199:18 201:3                  206:4,16 242:25                  243:10  <b>trying</b> 8:12 21:7                  46:16 55:3 57:4                  63:13 71:2,2                  72:23 85:24 86:21                  86:23 107:15                  109:23 112:6                  119:14 129:5                  141:17 144:9                  160:2 169:1,6                  174:13 218:1                  223:10 224:24                  229:3 230:19                  231:2 234:14                  242:12 244:14  <b>tshirt</b> 121:13  <b>tumultuous</b> 128:17                  239:12</p>	<p><b>tupelo</b> 218:21                  219:19,21 220:23  <b>turn</b> 19:14 51:11                  51:15,20 61:22,23                  93:25 95:13 98:11                  103:18 223:14                  227:17 244:22  <b>turned</b> 61:20  <b>turning</b> 213:9                  214:23  <b>tv</b> 220:7  <b>twice</b> 12:5 15:22                  130:20 212:9                  241:18  <b>two</b> 5:10 14:7 19:11                  20:23 21:14 22:23                  23:11 32:21 33:2                  33:4 34:16,20                  36:7 37:9 38:9                  41:7 49:21,24                  66:8 67:4,21                  76:15 84:21 89:7                  89:11 94:15,22                  96:1 100:6 104:1                  104:7 113:7,14                  114:5 118:3                  120:10 127:24                  128:11,22 136:16                  137:14 138:18                  139:15 142:23                  145:1,22 155:23                  157:12 158:25                  161:4 162:1,17                  164:24 170:21                  171:11,22 172:1                  187:14 196:13                  205:5,21 207:5                  208:23 212:6                  221:8 225:25                  230:11 232:17                  236:5,6,9,10                  237:18,20 239:20                  240:23 244:11  <b>type</b> 71:9,15 99:12                  129:22 132:8                  175:16 216:7  <b>typed</b> 98:21,24</p>
---	---	---	---	---

125:8 <b>typewritten</b> 104:4	62:22,24 75:7,8 79:18 82:20 83:4 83:12 139:6 172:24 210:10	84:1 <b>voice</b> 30:22 53:2,4 <b>voices</b> 53:6 <b>volunteers</b> 33:19 <b>vomit</b> 25:12 <b>vomited</b> 25:19 <b>vs</b> 1:9 3:5	219:3 221:7 222:1 222:24 223:1 228:21 230:20 239:16 244:21,25 <b>wanted</b> 25:9 27:20 44:4 48:2 55:2 60:20 71:25 72:6 75:11 79:17 90:14 112:5,7,19,21,22 117:6,10,15,17 133:15 142:1 151:16 155:25 158:20 170:1 175:1 181:25 182:2,3,16 235:10 235:13 242:7 244:10 <b>wanting</b> 39:11 113:2 117:11 159:18 211:3 212:10 <b>warden</b> 14:22 <b>warm</b> 157:23 <b>warmth</b> 224:16 <b>warner</b> 1:12 <b>wary</b> 146:14 <b>wasnt</b> 28:12 32:13 61:12 72:1 91:6 93:20 112:18 115:9,17 129:5 133:16 138:1,1 140:16,17 153:16 164:13 171:12 173:6 184:3 214:11 230:2 <b>watching</b> 210:1,21 <b>way</b> 7:6,22 8:3 33:25 37:16 51:24 57:15 63:19 66:4 66:17 71:13 99:5 99:6 115:24 119:16 122:10 132:19 135:10 139:12 140:7 147:17,22 164:8 165:25 166:2 183:5 190:2	193:15 196:16 198:16 199:8,15 201:6 204:13 213:15 219:7 224:12 230:2,13 240:24 241:13 <b>wayne</b> 1:17 3:14,15 <b>ways</b> 136:7,12 151:1,3,25 152:3 <b>weak</b> 229:9 <b>wearing</b> 150:21 <b>wedding</b> 163:23,24 164:3,7,12 231:5 <b>wednesday</b> 176:19 177:15 178:5 179:3,22 <b>week</b> 75:15 111:13 111:19 114:21 130:17,19 176:12 176:12,14 177:13 177:14,17,20 182:25,25 189:15 <b>weekend</b> 230:18 231:1,4,10 <b>weeks</b> 12:3 44:24 68:9 <b>welcomed</b> 182:8 <b>wellbeing</b> 184:20 <b>went</b> 20:11 21:9 31:6,25 32:2,9,10 42:25 43:18 45:15 46:23 48:16,16 52:10 54:10 55:20 58:13,17 59:6,6 61:9,23 72:9 73:10 75:9 77:15 77:16,19 79:15 84:3 85:23 87:10 88:5,7,21 89:10 96:4 106:22 111:10 114:11 115:3,4,6,10,11 116:7 118:1,7,8 125:2,9,11,23 126:4 133:2,19 138:5,11 139:11 142:20 143:4	
<b>U</b>		<b>W</b>			
<b>uhhuh</b> 9:10,13 <b>uncle</b> 175:13 177:7 177:8 218:20 219:19,21 220:23 <b>unclear</b> 20:11 143:1 <b>unclothed</b> 147:19 <b>uncomfortable</b> 71:23 72:4 73:12 96:18 <b>understand</b> 10:9 13:14 16:24 98:16 103:21 105:11 112:7 153:24 160:4 205:21 219:4 232:6 <b>understanding</b> 186:22,24 215:23 220:22 237:5 <b>understood</b> 10:13 16:25 17:2,3 112:23 169:5 <b>unexpected</b> 99:10 99:17,18 <b>unfaithful</b> 36:4 142:11 193:21 <b>unfaithfulness</b> 195:12 <b>unit</b> 49:12 <b>united</b> 1:1 <b>university</b> 2:9 217:2 <b>unnecessary</b> 134:25 <b>unpleasant</b> 60:19 70:25 <b>unprofessional</b> 90:25 <b>untruthful</b> 85:4 <b>unusual</b> 76:2 <b>upper</b> 11:7 69:24 <b>upset</b> 27:19 54:18 56:8,10 60:1	<b>upsetting</b> 71:21 <b>upstairs</b> 110:14 <b>urgency</b> 174:20 <b>urinalysis</b> 133:19 <b>urine</b> 134:3,20 <b>usage</b> 135:13 <b>use</b> 65:18,19 119:25 120:1 134:4 <b>usually</b> 23:18,19 75:22 99:20 137:20 145:22 157:23 <b>uttered</b> 225:9,10	<b>wait</b> 9:22 10:19 211:25 233:6 244:25 <b>waited</b> 115:3 <b>waiting</b> 27:8 89:13 <b>waive</b> 142:8 <b>wakes</b> 204:25 <b>walk</b> 55:7,7,10,19 61:25 75:25 83:25 84:8 192:16 <b>walked</b> 55:22,23 57:20,21 61:12 75:24 81:7,11 152:20 220:4,5 <b>walking</b> 56:4,7,11 57:22 61:17,24 79:10 229:4 <b>wall</b> 84:14 152:17 154:11,14 177:18 177:19 <b>wallace</b> 146:10 <b>wanna</b> 212:4 <b>want</b> 9:19 16:24 24:5,7,9 30:21 35:9 36:1 41:1 42:20 47:14 67:15 71:23 92:17 94:25 96:18 99:8 108:8 112:13 120:3 122:5 128:12 129:7 134:13 141:3,18 142:2,4 143:2 168:7,19 173:6 181:11 182:14,17 196:20 198:12 205:19 209:25 210:25 211:1,18,20,24	<b>wait</b> 9:22 10:19 211:25 233:6 244:25 <b>waited</b> 115:3 <b>waiting</b> 27:8 89:13 <b>waive</b> 142:8 <b>wakes</b> 204:25 <b>walk</b> 55:7,7,10,19 61:25 75:25 83:25 84:8 192:16 <b>walked</b> 55:22,23 57:20,21 61:12 75:24 81:7,11 152:20 220:4,5 <b>walking</b> 56:4,7,11 57:22 61:17,24 79:10 229:4 <b>wall</b> 84:14 152:17 154:11,14 177:18 177:19 <b>wallace</b> 146:10 <b>wanna</b> 212:4 <b>want</b> 9:19 16:24 24:5,7,9 30:21 35:9 36:1 41:1 42:20 47:14 67:15 71:23 92:17 94:25 96:18 99:8 108:8 112:13 120:3 122:5 128:12 129:7 134:13 141:3,18 142:2,4 143:2 168:7,19 173:6 181:11 182:14,17 196:20 198:12 205:19 209:25 210:25 211:1,18,20,24		
	<b>V</b>				
	<b>vague</b> 16:23 243:24 <b>valid</b> 91:1 <b>value</b> 85:2 <b>van</b> 2:6 4:8,8 <b>variations</b> 11:11 <b>varied</b> 119:21 <b>various</b> 6:14 130:9 <b>vengefully</b> 215:4 <b>verify</b> 178:4 203:19 <b>versa</b> 187:7 <b>version</b> 106:4 <b>versus</b> 130:23 <b>video</b> 22:1 <b>videotaped</b> 9:6 <b>view</b> 106:4 <b>viewed</b> 103:15 <b>violence</b> 65:5,6,14 65:17 <b>violent</b> 65:2,7,8,9 65:16,18,25 190:11,13 <b>virtue</b> 219:8 <b>visa</b> 187:7 <b>visit</b> 98:7 163:7,8 165:2 186:5,6 235:4 <b>visualize</b> 48:21				

<p>146:25 147:4,14 152:22 154:10 155:5 156:20 161:6 165:14,22 167:22 172:11 176:21 178:22,23 179:8 186:20 187:10,16 200:10 229:2 233:19 <b>wesleyan</b> 13:16 15:12 17:6 18:16 18:20 40:14 69:5 69:6 70:3 106:22 137:10 155:19 210:8 216:1 217:2 217:5,14 <b>western</b> 18:2 <b>weve</b> 112:2 207:18 211:7 <b>whats</b> 15:12 59:4 103:19 110:22 161:14 183:10,24 184:8,9 198:11 212:5 215:23 216:24 234:4 236:21,25 <b>whens</b> 66:22 148:12 <b>whereabouts</b> 178:5 182:24 <b>whered</b> 55:4 157:20 <b>whisp</b> 224:15 <b>whos</b> 16:2 <b>wide</b> 84:10 <b>wiener</b> 246:7 <b>wild</b> 224:1 <b>window</b> 57:9,19 <b>wisconsin</b> 188:7 <b>wise</b> 170:5 <b>wishing</b> 224:18 <b>withheld</b> 141:5,10 <b>witness</b> 3:11,22 7:9 7:13,17 8:9 18:8 82:18 102:21 121:2,13 134:2,6 134:13 194:23</p>	<p>208:5 212:19 216:17,23 218:2,4 225:15,18,20,23 234:2,7,10 242:22 <b>witnessed</b> 95:15,20 <b>witnesses</b> 12:20 13:7 <b>witness</b> 92:1 <b>woman</b> 78:3 224:17 <b>wonder</b> 212:25 <b>wondered</b> 169:11 <b>wondering</b> 221:1 <b>wont</b> 9:14 108:9 143:1 215:5 220:7 <b>word</b> 57:6 65:18 106:2 107:15 230:7 237:6 <b>words</b> 77:25 82:14 87:19 100:25 108:10 117:18 221:21 223:5 236:19,19 237:13 238:3 <b>work</b> 16:8 44:12 70:20,23 73:15 75:18,20,23 77:21 142:5 159:15 175:16,24 176:9 176:10,20,21 177:23,24 178:7 178:12,16 179:3 180:5 209:1 219:6 244:12 <b>worked</b> 15:3,15 34:23 70:10,13,16 70:17,25 175:13 175:24 176:3,11 233:22 <b>workers</b> 27:1,4 <b>working</b> 4:9 15:1 15:16 68:23 69:3 69:5,7 70:2,11 112:1 176:13,15 <b>worried</b> 97:3 108:4 108:7 150:19 164:6 <b>worry</b> 215:4</p>	<p><b>worse</b> 89:2 <b>wouldnt</b> 18:1 42:8 112:20 131:5 139:14 154:24 190:15 218:16 241:15 <b>writ</b> 99:2 <b>write</b> 113:10,14,17 177:3 201:11 209:2,10 224:2,5 <b>writing</b> 100:18 104:15 107:23 200:14 201:9 224:6 <b>written</b> 99:12 100:11 103:9 106:12,16 200:23 208:9 217:15 219:1,9,10 222:16 223:6 224:25 226:5,20,20 228:2 229:22 231:14 237:9 238:5 240:13,22 241:16 <b>wrong</b> 64:11 125:8 171:20 210:16 222:13 226:14 <b>wrote</b> 90:21 92:9 92:10 104:5 105:13,17 177:2,6 195:19 197:23 198:2,15,17,25 200:4,8,25 201:13 204:3,4,8 205:3 208:19,20 209:4 209:11 215:8 217:12 218:12 223:5,22 224:3,9 224:19 225:25 227:11,20 233:10 234:20 236:12 237:6 240:5,7,10 240:11,18</p>	<p><b>yeah</b> 6:3,5,7,16 15:17 16:22 18:10 26:22 34:14,22 35:18 36:5 41:13 61:10 62:10 63:25 70:8 73:21 91:22 91:24 95:18 96:3 96:22 99:14 104:6 105:6 106:11 108:16 111:8 112:17 113:9 116:24 120:22 121:9,21 122:19 132:16 134:21 139:2,22 140:21 146:24 147:21 156:12,15 160:13 167:18 171:6,24 172:7 176:8 178:21 183:25 198:17 200:21 201:23 208:5 216:13 225:19 232:14,20 234:7 235:19 236:7 240:20 243:8 245:2 <b>year</b> 5:8,9,9 14:8 15:22 16:15 18:1 18:18,19,21 19:20 20:4 21:23 33:7,7 33:8,11,24 34:3 35:8 130:10,16,18 130:22 131:9,13 131:14,17 133:3,4 133:16,22 139:12 143:11 188:12,12 200:15,16 217:8 224:4,4 227:23,24 228:4,13,15 244:14 <b>years</b> 4:16,19 8:7 8:15,19 161:21 162:20,21,23 186:16 215:25 <b>yelled</b> 147:15 151:13</p>	<p><b>yelling</b> 54:20,21 56:15 58:1 149:24 149:25 <b>youd</b> 51:19 194:10 227:17 <b>youll</b> 118:14 135:5 205:1,1 219:3,4 231:13 <b>young</b> 99:9 <b>younger</b> 11:8 33:8 131:18 161:18 <b>youre</b> 7:22 20:16 21:25 37:6 49:4 50:14 51:14 58:14 72:23 78:5 84:2 86:19 92:22 102:23 110:16 112:14 120:24,24 130:14 138:17 139:20 141:5,9,10 141:18 142:4 157:24 165:24 171:4 177:11 196:22 202:10 208:11,11 209:8 209:14 213:4,25 219:6,9 220:15 229:18 231:7 <b>youve</b> 8:17,17 9:20 15:3 78:23 92:18 100:19 110:20 119:23,24 123:5 189:20 199:20 207:1 233:14 244:10</p>
<b>Z</b>				
<b>zayas</b> 1:12				
<b>0</b>				
<b>00</b> 176:3,4,20,22 178:10 206:8 239:17				
<b>04</b> 92:21				
<b>08</b> 134:10				
<b>1</b>				
<b>1</b> 1:9 3:8 91:18,25				

<p>92:5,21 93:1,6                  176:3,20,22                  178:12  <b>10</b> 42:24 85:20                  92:12 206:10  <b>100</b> 20:5,6 72:16                  109:22  <b>11th</b> 38:22 75:6                  138:13  <b>12</b> 92:12 119:13  <b>13</b> 4:16,19 8:15,18  <b>14</b> 3:2 193:3  <b>140</b> 1:23 2:23 3:3  <b>14th</b> 1:19  <b>15</b> 245:4  <b>150</b> 2:17  <b>15th</b> 1:24 2:24 3:4  <b>16</b> 91:17 93:14  <b>17</b> 198:21  <b>18</b> 245:3  <b>19</b> 40:7  <b>1991</b> 35:12 132:10                  163:14  <b>19911992</b> 133:22  <b>1992</b> 19:17 22:1,15                  24:15 34:4 40:7                  127:22 128:15                  187:5,13 188:14                  205:2,3 208:20                  209:12 214:1                  217:11,11 222:2                  224:4 228:6                  229:21,24 240:14                  241:9,16 242:2,6                  243:3,16,17,18,22  <b>19923</b> 243:3  <b>1993</b> 7:5,22 13:16                  22:1 29:8 30:8                  31:12 32:25 35:2                  35:12 36:3 40:7                  43:2,11 47:5 69:1                  69:4,5,17 73:7                  119:19 127:22                  128:15 129:10                  130:6,7,13 131:4                  131:6 136:25                  137:23 143:14,17</p>	<p>148:13 160:12,16                  160:23 161:23                  162:6,7,22 163:6                  163:14 164:15                  165:1 174:6                  175:14 177:13                  185:18 186:12                  187:3,5 200:23                  201:22 219:11                  222:17 224:4                  228:7 240:22                  241:2,16 242:8                  243:18,22,24                  244:2,8  <b>1994</b> 193:4  <b>1995</b> 17:11,12</p> <hr/> <p><b>2</b></p> <p>2 26:2 40:7 134:10                  196:8 197:18,21                  203:21 206:12                  218:11  <b>20</b> 173:21  <b>2001</b> 18:5,12  <b>2002</b> 18:5,12  <b>2010cv01019</b> 1:9                  3:8  <b>2012</b> 1:19 3:2 246:8  <b>21</b> 246:8  <b>25</b> 177:24  <b>25th</b> 73:7 176:19                  177:13,15 178:5                  179:3,22  <b>27</b> 218:5  <b>28</b> 179:19  <b>28th</b> 180:13 182:25</p> <hr/> <p><b>3</b></p> <p><b>3</b> 196:11,15,17                  197:9 239:8  <b>30</b> 4:12 26:2  <b>33</b> 218:8  <b>375</b> 2:8  <b>38</b> 208:1,14  <b>39</b> 126:22,23</p> <hr/> <p><b>4</b></p> <p><b>4</b> 206:8,10 216:21</p>	<p>216:22,25 218:5,8  <b>41</b> 3:2  <b>416</b> 217:9  <b>44</b> 196:11  <b>45</b> 42:24 180:18                  183:7  <b>4th</b> 19:17 165:19</p> <hr/> <p><b>5</b></p> <p><b>5</b> 69:14 70:12 208:5                  239:17 245:4  <b>5445</b> 235:16,23,25  <b>550</b> 2:16  <b>5th</b> 21:21</p> <hr/> <p><b>6</b></p> <p><b>6</b> 113:25 114:1,2                  205:13 222:5  <b>60143</b> 2:18  <b>60603</b> 2:25  <b>60611</b> 2:10  <b>618</b> 207:17 208:4  <b>619</b> 205:13,14                  236:1 237:17  <b>620</b> 205:23 236:1                  237:17  <b>621</b> 233:6,7 234:17  <b>622</b> 233:7  <b>623</b> 233:7  <b>624</b> 235:15 236:10  <b>625</b> 232:16  <b>626</b> 232:16  <b>627</b> 235:16,25                  236:10  <b>628</b> 240:3  <b>629</b> 218:10  <b>630</b> 208:12 238:11                  238:13,14  <b>631</b> 207:15,21                  208:1,12  <b>632</b> 207:15,21                  209:18  <b>633</b> 207:21  <b>634</b> 207:21  <b>635</b> 213:9  <b>637</b> 214:23  <b>638</b> 207:22</p>	<p><b>639</b> 227:18  <b>640</b> 227:19 228:17  <b>641</b> 227:19  <b>642</b> 240:18 241:4,5  <b>643</b> 230:6  <b>644</b> 225:24  <b>645</b> 225:24  <b>646</b> 221:9  <b>647</b> 221:9 222:5  <b>648</b> 221:9 223:14  <b>6804</b> 160:19</p> <hr/> <p><b>7</b></p> <p><b>7</b> 92:5</p> <hr/> <p><b>8</b></p> <p><b>8</b> 178:12,13 208:5</p> <hr/> <p><b>9</b></p> <p><b>9</b> 3:2 69:14 70:12                  176:4 178:10,13                  200:23 219:10  <b>90</b> 228:16  <b>91</b> 34:5  <b>911</b> 31:3,4  <b>9192</b> 18:21 133:23                  200:16 228:16  <b>92</b> 19:16 20:5 120:8                  143:11 200:19                  204:3 208:18,19                  235:5 236:24                  238:19,20  <b>9293</b> 133:22  <b>93</b> 21:24,24 120:8                  143:11 164:2                  202:5  <b>99</b> 130:7</p>
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
CENTRAL DIVISION

ALAN BEAMAN, )  
Plaintiff, )  
vs. ) No. 10 CV 1019  
JAMES SOUK, CHARLES REYNARD, )  
TIM FREESMEYER, ROB HOSPELHORN, )  
DAVE WARNER, JOHN BROWN, FRANK )  
ZAYAS, McLEAN COUNTY, ILLINOIS, )  
and TOWN OF NORMAL, ILLINOIS, )  
Defendants. )

The continued videotaped deposition of  
ALAN BEAMAN, called for examination pursuant to  
Notice and the Rules of Civil Procedure for the  
United States District Courts pertaining to the  
taking of depositions, taken before Elizabeth L.  
Vela, a Notary Public within and for the County of  
Cook, State of Illinois, at 140 South Dearborn  
Street, Chicago, Illinois, on the 18th day of  
January, 2013, at the time of 10:08 a.m.

(Proceedings concluded at 6:00 p.m.)

Reported by: Elizabeth L. Vela, CSR

License No.: 084-003650

247

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APPEARANCES:

BLUHM LEGAL CLINIC  
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Dave Warner, Frank Zayas, and Town of  
Normal, Illinois.

ALSO PRESENT:  
Mr. Ben Dixon, Videographer.

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I N D E X

WITNESS	EXAMINATION
ALAN BEAMAN	
BY MS. EKL	251
BY MR. DICIANNI	490

E X H I B I T S

NUMBER	MARKED FOR ID
Beaman Deposition Exhibit	
No. 5	308
No. 6	350
No. 7	364
No. 8	381

1 THE VIDEOGRAPHER: Good morning. My name is  
2 Ben Dixon, Certified Legal Video Specialist with  
3 McCorkle Litigation Services, located at 200 North  
4 LaSalle, Suite 2900, Chicago, Illinois 60601.

5 I am the videographer on January 18th,  
6 2013 for the recording of the deposition of  
7 Alan Beaman, being taken at 140 South Dearborn,  
8 Suite 1700, Chicago, Illinois, at the time of  
9 10:08 a.m., in the matter of Alan Beaman,  
10 Plaintiff vs. James Souk, et al., Defendants, filed  
11 in the United States District Court For the  
12 Northern District of Illinois, Central Division,  
13 Case No. 12010 CV 01019.

14 Will counsel please identify themselves  
15 for the record, beginning with plaintiff's counsel.

16 MR. BOWMAN: My name is Locke Bowman. I  
17 represent Mr. Beaman.

18 MR. SHAPIRO: David Shapiro for Mr. Beaman.

19 MS. EKL: Elizabeth Ekl on behalf of the McLean  
20 County defendants.

21 MR. DICIANNI: Thomas Dicianni for the Town  
22 Normal defendants.

23 THE VIDEOGRAPHER: Will the reporter please  
24 identify herself and swear in the witness?

250

1 THE REPORTER: My name is Elizabeth Vela.

2 (Witness sworn.)

3 ALAN BEAMAN,

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

6 EXAMINATION

7 BY MS. EKL:

8 Q. Good morning, Mr. Beaman.

9 A. Good morning.

10 Q. At the first part of your deposition that  
11 we took a few weeks ago now, you testified that you  
12 had previously testified before the Grand Jury,  
13 correct?

14 A. Yes.

15 Q. Your testimony before the Grand Jury was  
16 not required by the State's Attorney's Office,  
17 correct?

18 A. Correct.

19 Q. And it was not required by the Normal  
20 Police Department, correct?

21 A. Correct.

22 Q. You made the choice to testify before the  
23 Grand Jury?

24 A. I did.

251

1 Q. Did you know that when you testified that  
2 the Grand Jury's job was to determine whether or  
3 not there was evidence to support an indictment for  
4 you to be prosecuted?

5 A. Yeah, that's the gist of it, I guess, that  
6 I understood.

7 Q. You knew that when you testified, you had  
8 a risk that anything that you said could be used  
9 against you by the Grand Jury in determining  
10 whether or not they would, in fact, find -- or  
11 whether, in fact, they would return an indictment,  
12 correct?

13 A. Yes.

14 Q. Why did you take that risk?

15 A. I believed that if they heard from me that  
16 they would understand that I did not murder  
17 Jennifer and that they would then not hand down an  
18 indictment.

19 Q. Was it important to you to provide details  
20 of your alibi to the Grand Jury?

21 A. It was important for me to answer the  
22 questions that were asked, because that was what  
23 was expected by the Grand Jury.

24 Q. Judge Souk did nothing to prevent you from  
252

1 doing that, correct?

2 A. To prevent me from testifying?

3 Q. From -- preventing you from testifying to  
4 anything that you wanted to testify to. I'm sorry?

5 A. No.

6 Q. You told the Grand Jury that on Wednesday,  
7 August 25th, you went home after work, got some  
8 cash for -- that your uncle had given you for --  
9 some cash that he had given you in advance for some  
10 work that you were doing for him, as well as a  
11 hundred dollar check your mom wrote you in exchange  
12 for lending her some of your cash, and took the  
13 cash and the check to the bank to deposit it,  
14 correct?

15 MR. BOWMAN: I'm going to -- predictions always  
16 end up being inaccurate.

17 I am going to object on the basis that  
18 there was a transcript of the Grand Jury testimony.  
19 And I don't think that it's fair to -- or probative  
20 to ask the witness to summarize what's available to  
21 all of us in the transcript. And so that's my  
22 objection.

23 BY MS. EKL:

24 Q. Is it correct that that's a summary of

253

1 what you told the Grand Jury?

2 A. Can you --

3 MR. BOWMAN: Same objection.

4 THE WITNESS: Can you repeat, please?

5 BY MS. EKL:

6 Q. Sure. You told the Grand Jury that on  
7 Wednesday, August 25th, you went home after work,  
8 got some cash and a check in the amount of a  
9 hundred dollars that your mom had wrote to you, and  
10 that you took that cash and check to the bank to  
11 deposit it, correct?

12 MR. BOWMAN: And so that I don't get in your  
13 way, if I could please have a standing objection to  
14 questions of this nature, which will -- to the  
15 extent they summarize the Grand Jury testimony,  
16 then I'll just preserve that and you can ask your  
17 questions.

18 MS. EKL: Sure.

19 MR. BOWMAN: Thank you.

20 THE WITNESS: To my recollection, that was part  
21 of my testifony -- testimony at the Grand Jury.

22 BY MS. EKL:

23 Q. That was a detail that you forgot to tell  
24 the police when they interviewed you several days

254

1 after the murder on August 28th, correct?

2 MR. BOWMAN: Object to the form of the  
3 question. You may answer.

4 THE WITNESS: Can you do it again? I'm sorry.

5 BY MS. EKL:

6 Q. Sure. That was a detail that you forgot  
7 to tell the police when they interviewed you on  
8 August 28th, a few days after the murder, correct?

9 A. Correct.

10 Q. But you were allowed to present that  
11 evidence to the Grand Jury?

12 A. I believe I was asked about it.

13 Q. And you told the Grand Jury about that  
14 fact, correct?

15 A. Yes.

16 Q. Do you still have a recollection in your  
17 mind about your actions on Wednesday, August 25th?

18 A. Somewhat.

19 Q. Where were you working on that particular  
20 day?

21 A. I believe I was working at the Sandy  
22 Hollow Southgate store, my uncle's.

23 Q. What is the address of that Sandy  
24 Hollow --

255

1 A. I don't know the address.

2 Q. That's in Rockford?

3 A. That's in Rockford.

4 Q. Okay. What portion of Rockford is  
5 Sandy Hollow located?

6 A. That is on the southeast side.

7 Q. And that was accurate, that you went home  
8 after leaving the Sandy Hollow store to grab cash  
9 and a check to deposit at the bank, correct?

10 A. Yes.

11 Q. And just to be clear, your home was  
12 located at [REDACTED] in Rockford?

13 A. Yes.

14 Q. How long did it take you to get from the  
15 Sandy Hollow store to your home?

16 A. Maybe 15 minutes.

17 Q. What, if anything, do you remember about  
18 what you did when you arrived home?

19 A. I don't have a specific recollection  
20 beyond going home and getting what I needed for the  
21 bank and then going back to the bank.

22 Q. Was anyone home when you arrived there?

23 A. I don't believe anyone was home.

24 Q. And is there anything else other than

256

1 grabbing the cash and the check that you can recall  
2 about your actions when you were home after being  
3 at Sandy Hollow?

4 A. No.

5 Q. How long did you stay there before you  
6 left for the bank?

7 A. I don't remember.

8 Q. Did you have a bank account at the Bell  
9 Federal Savings & Loan?

10 A. I did.

11 Q. And where was that bank located?

12 A. It was in Colonial Village.

13 Q. Where's Colonial Village?

14 A. It was a -- it's a mall. It's at Alpine  
15 and Charles. Also -- it's like a five-way  
16 intersection. Alpine, Charles, and Broadway.

17 Q. And is it fair to say that that's in the  
18 east central part of Rockford?

19 A. Roughly.

20 Q. Most of your friends lived on the east  
21 side of Rockford, correct?

22 A. That's true.

23 Q. Who were -- what were the names of some of  
24 your friends that lived on the east side of

257

1 Rockford back in 1993?

2 A. Chris Carbone, Mike White, John Luman. I  
3 don't know.

4 Q. Is that all you can think of?

5 A. Well, I suppose we could make a list. I  
6 mean, I -- Ryan Morrison. I don't know. How  
7 thorough do you want me to be here? Do you -- you  
8 know.

9 Q. Did you have friends that you regularly  
10 visited that lived in other parts of Rockford other  
11 than on the east side?

12 A. Did I have friends that I regularly  
13 visited that lived other than the east side?

14 Q. Correct.

15 A. I had friends in my neighborhood that I  
16 sometimes hung out with. Most of my friends were  
17 on the east side, I would say, but --

18 Q. When you drove from [REDACTED] to  
19 Bell Federal, did you drive straight there or did  
20 you make any stops?

21 A. As far as I remember, I drove straight  
22 there.

23 Q. How long did it take you to get to the  
24 bank from your home?

258

1 A. I can do it in about 20 minutes.

2 Q. On that particular day, how long did it  
3 take you?

4 A. I couldn't tell you exactly.

5 Q. Is there more than one way to get from  
6 your home at the time, [REDACTED], to  
7 Bell Federal?

8 A. There's any number of ways.

9 Q. What are the different ways?

10 A. Well, primarily, you would take the  
11 bypass. You'd take Route 20 down Meridian to  
12 Route 20 and then around the city so that you don't  
13 have to stop at traffic lights.

14 And then, you could also -- a quick route  
15 through town would be Kilbourn to the Whitman  
16 Street Bridge. And then, that connects to State  
17 Street and Charles Street after 6th Street. And  
18 Charles street leads right down to the mall there.

19 Q. What route did you take to get to the bank  
20 on August 25th?

21 A. To my recollection, I took the bypass.

22 Q. Did you have a normal route that you took  
23 to get to your friends' houses that lived on the  
24 east side of Rockford?

259

1           A.    That depended on one part -- what part of  
2 the east side but -- and how far east, as well.

3                   My friend Ryan's house is pretty much  
4 right across the bridge. So I would probably take  
5 Auburn Street to get to his house.

6                   I did have some friends in the Edgewater  
7 neighborhood that were right by the river, still on  
8 the west side but almost on the east side. And  
9 then, I would take country roads to get to Main  
10 Street. And then, I would go to their house that  
11 way.

12                   And if -- pretty much, if they were any  
13 further east of -- or any further east or south of  
14 Ryan's house, I would probably take the bypass.

15           Q.    The friends that you -- well, let me back  
16 up.

17                   During that week that you went to the  
18 bank, you had spent some time visiting friends on  
19 the east side of Rockford, correct?

20           A.    Yeah. During the week? Yes.

21           Q.    Okay. And when you would go to visit  
22 those friends, would you generally take the bypass  
23 route or a route through town?

24           A.    It depended on what else I needed to do,

1 either if I needed to make a stop on the way there  
2 or if I was somewhere else before then.

3 Q. So assuming you did not have to make a  
4 stop, how would you get to your friends' houses  
5 that you were hanging out with during the week that  
6 you had gone to Bell Federal?

7 MR. BOWMAN: Object to the form of the  
8 question. Foundation.

9 THE WITNESS: Again, there are different  
10 friends and I would have different routes.

11 BY MS. EKL:

12 Q. You were asked in the Grand Jury whether  
13 when you go there -- and I'll -- let me just -- so  
14 that -- I'm anticipating an objection from counsel.

15 MS. EKL: Let me first ask, did you bring, by  
16 any chance, your copies of the Grand Jury  
17 transcripts?

18 MR. BOWMAN: I did, yes.

19 MS. EKL: I have an extra copy of the excerpt  
20 if -- I don't know. Do you want -- just the  
21 portions I'm going to ask about so --

22 MR. BOWMAN: I think the Grand Jury testimony  
23 was marked as Exhibit 3 last time?

24 MS. EKL: Correct.

261

1 MR. BOWMAN: Okay.

2 MS. EKL: Correct.

3 BY MS. EKL:

4 Q. During the Grand Jury -- and I'm directing  
5 counsel to Page 377. Were you asked these  
6 questions and did you give these answers?

7 "Question: About how long does it take you to  
8 get home from Sandy Hollow store?

9 Answer: Sandy Hollow? About half an hour,  
10 roughly.

11 Question: How long does it take you to get to  
12 the bank from your home?

13 Answer: A little over the same.

14 Question: A little over half an hour?

15 Answer: Well, little -- yeah. Roughly -- I  
16 mean, anywhere on the east side of town is a half  
17 hour.

18 Question: And it's kind of in the east or east  
19 central part of town?

20 Answer: Yes.

21 Question: The bank?

22 Answer: Yes."

23 Were those questions and answers that you  
24 gave and that you received in the Grand Jury?

262

1 A. Yes.

2 MR. BOWMAN: Alan, before you can answer a  
3 question like that, you need to have the transcript  
4 in front of you so that you can --

5 THE WITNESS: Okay.

6 MR. BOWMAN: -- read it, okay?

7 THE WITNESS: Uh-huh.

8 MR. BOWMAN: I wouldn't just assume. I'd want  
9 you to look at it first.

10 THE WITNESS: Okay.

11 BY MS. EKL:

12 Q. Mr. Beaman, I'm putting before you the  
13 deposition Exhibit No. 3. I'll ask you to look at  
14 Pages -- the bottom of Page 377 and the top of 378.

15 Following those questions and directing  
16 you to the last line of 377, were you asked:

17 "When you go there or to your friends that you  
18 mentioned that live on the east side of town, do  
19 you go through Rockford?

20 Answer: Yes.

21 Question: That's your normal route of travel?

22 Answer: Yeah."

23 Were those questions that you were asked  
24 and the answers that you gave?

263

1 A. Yes.

2 Q. So at the time that you testified before  
3 the Grand Jury, you testified that your normal  
4 route of travel to those locations was through  
5 town, correct?

6 MR. BOWMAN: Objection.

7 THE WITNESS: I think I was more or less  
8 answering a fragment of the question.

9 BY MS. EKL:

10 Q. Which fragment of the question were you  
11 answering?

12 A. Well, the latter of the things he asked  
13 about was going to my friends' houses. So that  
14 included all of my friends. So that was what I'm  
15 answering.

16 Q. What included all of your friends?

17 A. His question.

18 Q. So your testimony was that you were not  
19 answering the portion of the question that asked  
20 you when you went to Bell Federal whether or not  
21 you went through town?

22 A. I really couldn't say exactly what I was  
23 thinking at the time as far as answering the  
24 question, but it appears to me that I was answering

264

1 a fragment of the question, because it was  
2 essentially two questions compiled into one.

3 And I was trying to give yes or no answers  
4 and was anticipating follow-up questions.

5 Q. In your answer, you did not clarify which  
6 portion of the question you were answering,  
7 correct?

8 A. That's correct.

9 Q. And you understood him to be asking you  
10 also about your route to the bank, correct?

11 A. As part of that conversation, yes.

12 Q. Mr. Souk also asked you questions  
13 specifically about the bypass route during Grand  
14 Jury, correct?

15 A. It appears here, he did, yes.

16 Q. So specifically, he asked you -- again,  
17 directing counsel to Page 378.

18 "Question: There's sort of a beltway, you might  
19 call it, that kind of goes around Rockford, part of  
20 it? And you answered the bypass.

21 Question: The bypass? What's that called?

22 Answer: Route 20."

23 Were those questions that you were asked  
24 and answers that you gave?

265

1 A. Yes.

2 Q. And after he asked those questions and you  
3 answered in the manner that you did, you did not  
4 specify that you went to the bank by Route 20,  
5 correct?

6 A. No.

7 Q. In fact, you told him that the bypass is  
8 Route 20? It's the same thing, correct?

9 A. Yes.

10 Q. And you told him that you used that route  
11 to get to the Sandy Hollow store because it's on  
12 11th Street right behind the bypass, correct?

13 A. Correct.

14 Q. You also agreed that the bypass route or  
15 Route 20 to 39 was the best way to get from your  
16 home to Bloomington-Normal, correct?

17 MR. BOWMAN: I'm going to object to the -- you  
18 know, again, this is -- there's a way to do this  
19 and I object.

20 BY MS. EKL:

21 Q. Were you asked this -- I'll rephrase it.  
22 Were you asked this question and did you give this  
23 answer?

24 "Question: When you go from your home to

266

1 Bloomington-Normal, that would be the best way to  
2 use the bypass, right?

3 Answer: Route 20 to 39, yes."

4 Were those -- was that the question you  
5 were asked and the answer you gave?

6 A. I would question your vocal inflections in  
7 asking that question, that would be the best way to  
8 use the bypass, right?

9 The best way to use to get to  
10 Bloomington-Normal, not the best way to use the  
11 bypass, but yes, that's the question and answer  
12 that I gave.

13 Q. What did you do after you deposited money  
14 in the bank back on August 25th of 1993?

15 A. After I deposited money in the bank, I  
16 went home.

17 Q. What route did you take to get from Bell  
18 Federal home?

19 A. I would likely have taken the bypass.

20 Q. Do you have a specific recollection of  
21 taking the bypass?

22 A. Not a particular recollection of taking  
23 the bypass, but it wouldn't have made sense to go  
24 any other way.

267

1 Q. The bypass would have been the fastest  
2 route to get home?

3 A. Yes.

4 Q. When you returned home after depositing  
5 your check and the cash, what did you do?

6 A. I went to bed.

7 Q. And in fact, that's what you told the  
8 Grand Jury. And I'm directing you to Page 379.

9 You were asked the question: "Then, after  
10 you went to the bank and made the deposit, what did  
11 you do?" And you answered: "I went home and went  
12 to bed." Correct?

13 A. What page again, please?

14 Q. 379.

15 A. 379. I'm not finding that on 37 -- wait.  
16 Okay. I find it now.

17 Q. Was that a question you were asked and an  
18 answer that you gave?

19 A. Well, I was asked: "Then, after you went  
20 to the bank and made the deposit, what did you do?  
21 I went home and went to bed." Yes.

22 MR. BOWMAN: I want to take a break at this  
23 point. We're going to take a short break.

24 MS. EKL: Can I just finish this line of

268

1 questioning? I have a couple questions.

2 MR. BOWMAN: No. I have -- I want to take a  
3 break now. There's not a question pending.

4 THE VIDEOGRAPHER: We are off the record at  
5 10:29 a.m.

6 (A short break was taken.)

7 THE VIDEOGRAPHER: We are back on the record at  
8 10:37 a.m.

9 BY MS. EKL:

10 Q. You did not tell the Grand Jury that you  
11 made or received any phone calls between the time  
12 that you got home and the time that you went to  
13 bed, correct?

14 THE VIDEOGRAPHER: Microphone.

15 MS. EKL: Was that picked up or do you need it  
16 repeated?

17 THE VIDEOGRAPHER: I got it.

18 THE WITNESS: I did not remember making those  
19 phone calls at the time, but looking at evidence  
20 that's come to light, I have deduced that that  
21 makes the most sense, that I made the phone calls.

22 BY MS. EKL:

23 Q. My question was, you did not tell the  
24 Grand Jury -- regardless of what you've later

269

1 deduced, you did not tell the Grand Jury that you  
2 made any phone calls or received any phone calls  
3 after you arrived home from the bank and before you  
4 went to bed, correct?

5 A. That's correct.

6 Q. And as you sit here today, you can't  
7 truthfully testify that you actually recall making  
8 or receiving any phone calls, correct?

9 A. I don't have an independent recollection  
10 of making those phone calls, but again, it makes  
11 the most sense.

12 Q. If you had remembered talking to Olson  
13 back at the time that you testified before the  
14 Grand Jury, that is something that you would have  
15 wanted to tell the Grand Jury, correct?

16 MR. BOWMAN: Objection. Form. Foundation.

17 THE WITNESS: If I had remembered talking to  
18 Mitch Olson, that is something I would have wanted  
19 to tell the Grand Jury, I would think so, yes.

20 BY MS. EKL:

21 Q. What time did you go to bed that day?

22 A. I couldn't give you a specific time.

23 Q. Was your regular routine to make any  
24 arrangements in your bedroom before you would go to  
270

1 sleep, in terms of, would you do anything to either  
2 block out light or block out sound or anything of  
3 that sort?

4 A. I would usually block out the light, yes.

5 Q. And what -- how would you go about doing  
6 that?

7 A. I would hang a blanket over the curtain  
8 rod to make it thicker so that less light would  
9 come in.

10 Q. Did you take any steps to make it any  
11 quieter in your room?

12 A. I don't remember whether I did. I  
13 think -- I don't remember whether I did.

14 Q. Was it part of your routine to lock your  
15 door when you would go to sleep?

16 A. The door didn't have a lock.

17 Q. What time did you get up on August 25th,  
18 on that Wednesday?

19 A. I believe my mother woke me up. I  
20 wouldn't be able to tell you exactly what time.

21 Q. Was your mother the first person that you  
22 saw that you knew since leaving for work at --  
23 between -- or leaving work between 9:00 and  
24 11:00 a.m.?

271

1 A. Was she the first person I saw that I  
2 knew?

3 Q. Correct.

4 A. After leaving work, yes, I believe so.

5 Q. And other than seeing bank personnel, was  
6 there anyone else that you came across during that  
7 time period that you did not know?

8 A. Not to my knowledge.

9 Q. When you testified before the Grand Jury,  
10 were you aware of the Bell Federal video?

11 A. I'm not sure. I think -- I think I was by  
12 then, but I don't remember for sure.

13 Q. Did you have any documents to back up your  
14 story that you were at the Bell Federal?

15 A. I don't remember.

16 Q. Would you agree that at least as of the  
17 time that you testified before the Grand Jury, you  
18 were unaware of any person who could vouch for your  
19 whereabouts from 11:00 a.m. until your mother woke  
20 you up at 3:00 p.m.?

21 MR. BOWMAN: Objection to the form of that  
22 question. It assumes facts not in evidence.

23 THE WITNESS: You're asking if I'm aware of  
24 anybody who could have confirmed my whereabouts

272

1 after I left the bank until my mother got home?

2 BY MS. EKL:

3 Q. Correct.

4 A. No, I'm not aware of anybody that could  
5 confirm my whereabouts after I left the bank until  
6 my mother got home.

7 Q. When your mother woke you up, did you have  
8 a conversation with her?

9 A. Probably.

10 Q. What time was it that she woke you up?

11 A. I don't remember.

12 Q. If you looked at your Grand Jury  
13 testimony, if you testified to that before the  
14 Grand Jury, would that refresh your recollection?

15 A. It might, yes.

16 Q. If you could -- I'll direct you to  
17 Page 379.

18 If you could take a look at that page and  
19 see if there's anything on there that helps you  
20 remember at what time you got it.

21 A. Right. Yeah. It says I got up about  
22 5:00 o'clock.

23 Q. Does that refresh your recollection that  
24 that's the time that you woke up?

273

1 A. Yes.

2 Q. And I'm sorry, I know I just asked this  
3 question, but what, if anything, do you recall  
4 about the conversation that you had with your  
5 mother when she woke you up?

6 A. I don't really remember.

7 Q. Do you recall her telling you that  
8 Pastor Olson had called?

9 A. I suppose.

10 Q. And she, in fact, told you that he had  
11 called to remind you that you had rehearsal that  
12 night, correct?

13 A. Well, she told me that he had called, I  
14 guess. I don't have a good recollection of all  
15 that.

16 Q. Directing you to Page 379 -- the bottom of  
17 379 and the top of 378 of your Grand Jury  
18 testimony, were you asked these questions and did  
19 you give these answers before the Grand Jury?

20 "Did she, referring to your mother, mention to  
21 you when you got up that Pastor Olson had called  
22 about the rehearsal?

23 Answer: I believe so, yes.

24 Question: I ask you to be as sure as you can.

274

1 You believe so or you -- or you sure?

2 Answer: Yes, I'm sure.

3 Question: What did she tell you?

4 Answer: She told me that he called -- I mean,  
5 that we had rehearsal. He was just reminding me  
6 that I had rehearsal that night."

7 A. Okay.

8 Q. Were those the questions that you were  
9 asked and the answers that you gave?

10 A. Yes.

11 Q. And were those truthful answers before the  
12 Grand Jury?

13 A. To my best recollection.

14 Q. After you woke up, what was the next thing  
15 that you recall doing?

16 A. I think I got ready to go to the  
17 rehearsal.

18 Q. Was there an ice cream social that night  
19 at the church?

20 A. Yes.

21 Q. And did you go to that ice cream social  
22 before you went to rehearsal?

23 A. It was -- yes.

24 Q. Approximately what time was that?

275

1           A.    It was right before the rehearsal.  I  
2 don't remember the exact time.

3           Q.    What time was the rehearsal,  
4 approximately?

5           A.    I couldn't tell you the exact time of that  
6 either.

7           Q.    Can you approximate it?

8           A.    It was in the evening.

9           Q.    You saw Pastor Olson at the ice cream  
10 social, correct?

11          A.    Yes.

12          Q.    And that was the first time that you had  
13 seen him since the previous Sunday, correct?

14          A.    I think so.

15          Q.    What did you do after the ice cream  
16 social?

17          A.    Then, we rehearsed.

18          Q.    And how long did that take place?

19          A.    I don't know.  Maybe -- I don't know  
20 exactly.

21          Q.    Did you go anywhere after rehearsal?

22          A.    After rehearsal, I went to pick up  
23 Chris Carbone.

24          Q.    And where did you pick Chris -- where was

276

1 it that you went to pick him up?

2 A. At his house.

3 Q. And where was that located?

4 A. It's on [REDACTED]. I don't know the  
5 address anymore.

6 Q. After picking up Chris, where did the two  
7 of you go?

8 A. We went to Dave Olson's house. I can't  
9 say whether or not we made any other stops but --

10 Q. And where was Dave Olson's house?

11 A. To my recollection, it's in the -- it's in  
12 a neighborhood off of [REDACTED] along  
13 [REDACTED] maybe. It's in that area. I couldn't  
14 tell you exactly.

15 Q. After going to Dave Olson's house, at some  
16 point, did you go eat at Country Kitchen?

17 A. Yes.

18 Q. And then, did you go to work?

19 A. Yes.

20 Q. What time did you go to work in the early  
21 morning of the 26th?

22 A. I wouldn't be able to tell you exactly  
23 what time but somewhere around 1:00 o'clock.

24 Q. What was your relationship to Dave Olson

277

1 back at that time?

2 A. I didn't really know him. He was having a  
3 party. And friends of mine were at the party and I  
4 went.

5 Q. When did you first meet him?

6 A. At his house that week.

7 Q. Do you know of any reason that he would  
8 deny to the police that he knew who you were?

9 A. He might not want to associate himself  
10 with anything that the police want to know about.

11 Q. I want to ask you a few questions about  
12 Dave Olson's party that week.

13 A. Sure.

14 Q. That party took place over a number of  
15 evenings, correct?

16 A. Yes.

17 Q. How many nights during the week did you  
18 attend Dave Olson's party?

19 A. Every night, as far as I remember. I  
20 might not have gone there on Friday.

21 Q. Approximately how many people attended  
22 each night?

23 A. Maybe 20 or 30.

24 Q. And of those 20 or 30 people, how many of

278

1     them did you know before you got to the party?

2             A.    Well, I know for sure I knew -- I know for  
3     sure I knew two, but I think there were other  
4     people that I knew, as well.

5             Q.    And directing you specifically to the  
6     evening of August 25th, who was it that you knew  
7     that attended on that particular night?

8             A.    Well, Chris Carbone went with me. I  
9     wasn't including him in the two but  
10    Shannon Wallenberg and Sonny Spinello.

11            Q.    And those were two individuals that  
12    testified on your behalf at the -- at your criminal  
13    trial, correct?

14            A.    Yes.

15            Q.    Could you just generally describe the  
16    parties in terms of what was going on and just  
17    describe the parties to me?

18            A.    Teenagers, loud music. It was a party.  
19    What specifically are you looking for?

20            Q.    Was there alcohol at the parties?

21            A.    Yes.

22            Q.    And were there drugs at the parties?

23            A.    Yes.

24            Q.    And specifically, on Wednesday night, were

1 there drugs and alcohol at that particular party?

2 A. I wouldn't be able to specify which nights  
3 there were and weren't. As far as I know, it was  
4 part of the party.

5 Q. Was there any particular -- any night that  
6 you can recall during that whole week where there  
7 was not alcohol being served?

8 A. I don't have a particular recollection of  
9 that not being the case.

10 Q. So you don't recall there not being  
11 alcohol at the party, is that fair to say?

12 A. Correct.

13 Q. Okay. What drugs do you recall being at  
14 the party?

15 A. Marijuana.

16 Q. Any others?

17 A. I don't know.

18 Q. Do you know whether or not  
19 Shannon Wahlberg drank alcohol on Wednesday night?

20 A. I don't.

21 Q. Do you know whether or not she smoked any  
22 marijuana?

23 A. I don't.

24 Q. The same question in regard to

280

1 Chris Carbone.

2 Do you know if he drank any alcohol that  
3 night?

4 A. I don't remember.

5 Q. And do you know whether or not he smoked  
6 any marijuana?

7 A. I don't remember.

8 Q. Did you drink alcohol that -- on Wednesday  
9 when you were at Dave Olson's party?

10 A. I can't specify whether I drank alcohol on  
11 Wednesday, but at periods during the party, at some  
12 point, I did, yes.

13 Q. And when you say at different periods  
14 during the party, are you talking about the party  
15 referring to the whole week or just --

16 A. Throughout the week.

17 Q. -- that night? Throughout the week, did  
18 you smoke marijuana at the party?

19 A. Yes.

20 Q. And in particular, on Wednesday night, did  
21 you smoke marijuana?

22 A. I can't specify, but throughout the week,  
23 I did.

24 Q. In addition to smoking marijuana, were you  
281

1 doing any other drugs during that time period --  
2 not specifically at Dave Olson's party but during  
3 that time period at the end of August of 1993?

4 A. I don't think so.

5 Q. But you're not sure?

6 A. I'm not sure.

7 Q. Where did you typically get your marijuana  
8 from when you were in Rockford during that time  
9 period?

10 A. My friends had connections. I didn't have  
11 any, because I was away at school most of the time.

12 Q. Did you have to pay for it?

13 A. Sometimes I would give money to a friend  
14 to get it for me.

15 Q. Did you give Dave Olson any money for the  
16 alcohol at his party?

17 A. I don't remember whether I did or not.

18 Q. Did you give anyone else at the party  
19 money to pay for alcohol?

20 A. I'm not sure.

21 Q. Did you bring any alcohol to the party?

22 A. No.

23 Q. How did you pay for either alcohol or  
24 marijuana during that end of August of 1993?

282

1           A.    Again, I would -- a friend would go and  
2    get something for me or -- I think I drove Dave to  
3    the liquor store at one point.

4           Q.    My question was, how did you pay for it?  
5    Where did you get the money?

6           A.    I had cash.

7           Q.    Where did you receive the cash?

8           A.    From working.

9           Q.    What time did you get off work on  
10   Thursday, the 26th?

11          A.    It would have been sometime in the  
12   morning. I don't know.

13          Q.    What did you do after that -- after work?

14          A.    I believe Thursday, I went and was sealing  
15   my uncle's driveway.

16          Q.    Did you go home before you went to your  
17   uncle's?

18          A.    It's possible, but I don't remember.

19          Q.    Did you see anyone during that time period  
20   between leaving work and going to your uncle's?

21          A.    Anyone that I knew?

22          Q.    Anyone that you knew.

23          A.    I don't remember.

24          Q.    How long did you stay at your uncle's?

283

1           A.    Most of the rest of the morning, I think,  
2    maybe into the early afternoon. I don't know. I  
3    was -- I think I just sealed the cracks that day.  
4    So it may have been a shorter period of time.

5           Q.    But you don't recall specifically?

6           A.    No.

7           Q.    What did you do after leaving your uncle's  
8    house?

9           A.    To my recollection, after I got done with  
10   what I was doing on his driveway, I went home and I  
11   went to bed.

12          Q.    Did anyone else help you seal your uncle's  
13   driveway or were you by yourself that day?

14          A.    I was by myself.

15          Q.    What time was it that you got home from  
16   your uncle's house?

17          A.    I don't remember.

18          Q.    What time did you -- you got home and you  
19   went to bed?

20          A.    To my recollection.

21          Q.    What time did you get up?

22          A.    I really don't know. I don't remember.

23          Q.    You went with friends back to Dave Olson's  
24   house around 10:00 o'clock later that night,

284

1 correct?

2 A. On Thursday?

3 Q. Correct.

4 A. I don't remember specifically, but I'm  
5 pretty sure I went to his house Thursday night.

6 Q. Do you remember who you were with at that  
7 time?

8 A. Not specifically, no. I might have been  
9 with Sonny and Shannon or I might have been with --  
10 I don't know if -- I'm trying to think of who else  
11 went there but --

12 Q. What did you do from the time that you got  
13 home from -- I'm sorry.

14 From the time that you woke up until the  
15 time that you left to go to Dave Olson's house on  
16 Thursday?

17 A. On Thursday from the time that I woke  
18 up --

19 Q. Correct.

20 A. -- to the time I went to Dave Olson's  
21 house? Probably had dinner with my parents.

22 Q. Do you remember getting into a fight with  
23 your parents on Thursday, August 26, before you  
24 left for Olson's?

285

1 A. I know I did get into a big argument with  
2 them, yes.

3 Q. What was the nature of the argument?

4 A. A friend of mine had written me a check.  
5 And I had deposited that. And it bounced.

6 And there was an argument about my need to  
7 be more responsible and more careful about that  
8 sort of thing. And that was the nature of the  
9 argument. That's what it was about.

10 Q. Is it fair to say that you felt that you  
11 were extreme -- that they were extremely offensive  
12 toward your friend?

13 A. I really don't remember exactly. I  
14 suppose maybe they questioned his character. I  
15 don't know.

16 Q. If I could direct you to Page 382 of your  
17 Grand Jury testimony. Were you asked this question  
18 and did you give this answer?

19 "What argument was that?

20 Answer: Um, there had been a couple of  
21 overdrawn charges from Wesleyan on checks that I  
22 had cashed. And they had been very upset about  
23 that and thought that they were checks that I wrote  
24 and bounced.

286

1           And when the actual check came through the  
2 mail that was returned to me, it was a check that a  
3 friend of mine had written to me. And they were  
4 extremely offensive towards me -- towards my  
5 friend. And I got upset and left the room and said  
6 Jesus Christ as I walked out.

7           And my dad said, quote, don't use that  
8 kind of language with your mother, end quote, and  
9 grabbed me by the shirt."

10           Do you recall being asked that question  
11 and giving that answer?

12           A. Yes.

13           Q. And did your answer go on to say: "And I  
14 pinned him down to my bed to protect myself"?

15           A. Yes.

16           Q. Which friend was it that had sent you a  
17 bad check?

18           A. JC Schrock.

19           Q. Do you remember now getting upset and  
20 uttering the words Jesus Christ?

21           A. Yes.

22           Q. And that your father got upset over that  
23 language and grabbed your shirt?

24           A. Yes.

287

1 Q. And was it a truthful statement when you  
2 told the Grand Jury that you pinned your father to  
3 the bed?

4 A. It was my description of what happened.

5 Q. Why did you do that?

6 A. I think I just reacted to being grabbed.  
7 And I was kind of pushing him away. And the bed  
8 was there. And he fell over on the bed and I went  
9 down with him.

10 Q. Did you feel he was going to hurt you when  
11 he grabbed your shirt?

12 A. No.

13 Q. Did you think that he would strike you?

14 A. No.

15 Q. Had he stricken you in the past?

16 A. No.

17 Q. How big was your father back then?

18 A. He's shorter than I am, but he's smaller  
19 than I am now.

20 Q. Was he smaller than you were back then?

21 A. I don't -- I would never be able to  
22 describe him as a big man, but he's a little  
23 thinner than he used to be.

24 Q. How big were you back then? Could you

288

1 describe your height and your weight?

2 A. I was five nine and I weighed about  
3 130 pounds.

4 Q. Would you say he weighed more or less than  
5 you back in 1993?

6 A. Maybe more.

7 Q. Were words also exchanged between you and  
8 your father?

9 A. I don't remember specific words, but I  
10 think I said something about don't you ever  
11 physically assault me, something like that.

12 Q. And you were angry this he laid a hand on  
13 you, correct?

14 A. I think I was blowing it out of  
15 proportion.

16 Q. But you were angry at the time?

17 A. Yes.

18 Q. Did he say anything in response to you  
19 saying don't ever physically assault me?

20 A. I don't remember.

21 Q. How would you describe your relationship  
22 with your father at the time?

23 A. Normally, we had a good relationship. I  
24 think it was maybe a little bit detached, because I

289

1 was gone so much and coming home and asserting my  
2 individuality, and then, leaving and going away  
3 again and coming back and that.

4 Q. You told the Grand Jury about this  
5 incident with your father, correct?

6 A. Yes.

7 Q. Were there any other times that you can  
8 think of when you used physical force against your  
9 father?

10 A. No.

11 Q. Were there times that you can recall using  
12 physical force against anyone else up until 1993?

13 A. No. I mean, when I was a kid.

14 Q. Can you describe any incident that you can  
15 think of?

16 A. There was a kid bullying me and I punched  
17 him in the nose.

18 Q. When did that take place?

19 A. Grade school.

20 Q. Did you get disciplined in grade school  
21 for doing that?

22 A. It wasn't at school. It was at home.

23 Q. Were you disciplined by your father or  
24 your mother?

290

1 A. I don't remember whether I got in trouble  
2 for that or not.

3 Q. Had your father ever used any physical  
4 force against you throughout your childhood up  
5 until that point in time?

6 A. Very rare spankings when I was a kid.

7 Q. And when you say very rare, let's start  
8 with, how old were you during the times when you  
9 were spanked?

10 A. Very young. I mean, I don't remember him  
11 ever spanking me after grade school age.

12 Q. Were you ever locked in a closet --

13 A. No.

14 Q. -- as part of discipline?

15 A. No.

16 Q. Did you ever tell anyone that you were  
17 locked in a closet as a child?

18 A. No.

19 Q. Did you ever tell that to Ross Minion?

20 A. No.

21 Q. Ross Minion is a friend of yours?

22 A. An acquaintance, yeah. Sort of a friend.

23 Q. How did you know Ross Minion?

24 A. Through school. Through Illinois

291

1 Wesleyan.

2 Q. Any reason that Ross Minion -- that you  
3 can think of that Ross Minion would lie to the  
4 police and tell them that you told Ross that you  
5 had been locked in the closet as a child?

6 A. I can't think of one, no.

7 Q. Did you work every night the week of the  
8 murders -- or the murder? Sorry.

9 A. Yes.

10 Q. Are you sure about that?

11 A. As far as I can remember, yeah.

12 Q. Dennis Clark was your supervisor at that  
13 time, correct?

14 A. Yes.

15 Q. Do you know of any reason that he would  
16 tell the police that you missed a day of work that  
17 week?

18 A. No. I don't remember missing a day so --

19 Q. Do you have any reason to doubt, if he  
20 told the police that you had missed a day of work,  
21 that that was, in fact, true?

22 MR. BOWMAN: There's a double negative in  
23 there. I'm going to object to that, because I  
24 think it's a confusing question.

292

1 BY MS. EKL:

2 Q. Do you understand the question?

3 MR. BOWMAN: I don't think his answer is going  
4 to be clear.

5 THE WITNESS: Could you repeat it, please?

6 MS. EKL: Sure. Actually, can you read it  
7 back? I'm sorry.

8 (Whereupon, the record was read.)

9 THE WITNESS: Are you asking if I would doubt  
10 his credibility or --

11 BY MS. EKL:

12 Q. Correct.

13 MR. BOWMAN: She wants to know if you missed a  
14 day of work or not, Alan.

15 BY MS. EKL:

16 Q. No, that's not my question. My question  
17 is, if he told the police that his recollection was  
18 that you missed a day of work, do you have any  
19 doubt that that statement was true?

20 A. Yes. I don't believe I missed a day of  
21 work.

22 Q. At approximately 10:12 p.m. on Saturday,  
23 August 28th, you were stopped by some officers,  
24 correct?

293

1 A. Yes.

2 Q. And could you describe for me where that  
3 took place?

4 A. I believe that took place on  
5 Kilbourn Avenue.

6 Q. Is that near Trask Bridge Road?

7 A. It turns into Trask Bridge Road, I  
8 believe.

9 Q. What did those officers tell you when they  
10 stopped you?

11 A. One officer told me that some detectives  
12 from Normal wanted to talk to me about a homicide.

13 Q. When they told you that, did you ask them  
14 any questions?

15 A. He told me that as he was putting me in  
16 the car, and then, he walked away.

17 Q. Did you ask him any questions after he  
18 told you he wanted --

19 A. I ask --

20 Q. -- to talk to you about a homicide?

21 A. He was responding to my question --

22 Q. What was your --

23 A. -- when he told me that. My question was  
24 what's this about, what's going on.

294

1 Q. Did you ask any further questions once he  
2 told you that it was about a homicide?

3 A. Again, he put me in the car and walked  
4 away.

5 Q. But my question was, did you ask him any  
6 further questions --

7 A. I did not ask any further questions of  
8 him, no.

9 Q. Did you know what homicide he was  
10 referring to when he asked -- when he told you that  
11 it was about a homicide?

12 A. No.

13 Q. Did you wonder what -- who it was that had  
14 been killed that was part of this homicide?

15 A. Yes, I did.

16 Q. Why didn't you ask him who he was  
17 referring to?

18 A. I didn't have time.

19 Q. What do you mean by you didn't have time?

20 A. He put me in the car. I asked him what  
21 this was about. He said some detectives from  
22 Normal want to talk to you about a homicide and he  
23 walked away.

24 Q. When you were stopped, you were stopped by  
295

1 one police car, correct, initially?

2 A. I don't remember specifically. I mean, I  
3 know one police car pulled me over. I don't know  
4 if there were others there.

5 Q. How many police officers were -- in total  
6 were initially present at the stop?

7 A. I don't remember.

8 Q. When you were put into the police car,  
9 where were the office -- where was the officer or  
10 officers in relation to you?

11 A. Outside the car.

12 Q. Was the door left open or closed?

13 A. It was closed.

14 Q. How long were you outside your car before  
15 you were put into the police car?

16 A. Very briefly.

17 Q. Approximately how long?

18 A. A couple minutes. Long enough for him to  
19 search me, put me in cuffs, and put me in the car.

20 Q. So you were pulled over, and at the time  
21 that you were pulled over, you were initially  
22 seated in your car, correct?

23 A. Yes.

24 Q. Were you still seated in your car when you

296

1 were told that they were pulling you over for a  
2 homicide or was that after you were removed from --

3 A. They told me to get out of the car. I got  
4 out of the car. And he told me about that when he  
5 put me in his car.

6 Q. So you get out of the car and is that when  
7 you first asked what is this about?

8 A. I don't remember exactly when I asked him.  
9 Sometime after he took me out of the car, he was  
10 searching me, and then, he put me in his car. I  
11 think I probably asked him as he sat me down. I  
12 don't remember.

13 Q. So when he first pulled you over, what, if  
14 anything, did he say to you as he walked up to the  
15 car?

16 A. I think he told -- ordered me to get out  
17 of the car.

18 Q. Did you do that?

19 A. Yes.

20 Q. When you got out of the car, what's the  
21 next thing that you recall him saying?

22 A. I really don't remember. I think he asked  
23 me if I had any knives or guns or anything like  
24 that.

297

1 Q. Did you respond to him?

2 A. I think so, yeah. I said no.

3 Q. And at that point, did you ask him why am  
4 I being stopped?

5 A. I'm not sure.

6 Q. What's the next thing he did after asking  
7 you if you had any knives or any other weapons?

8 A. He searched me.

9 Q. And how did he do that?

10 A. He patted me down. He had me facing the  
11 car.

12 Q. During that time period, did you ask him  
13 what's this about?

14 A. I was pretty shocked at that moment. I  
15 wasn't engaging him in conversation. I was a  
16 little scared and it was beyond any experience I  
17 had had with the police.

18 Q. So at that point after he had asked you to  
19 get out of the car and he was searching you, you  
20 didn't ask him why this was?

21 A. I don't think at that point, I did, no.

22 Q. How did he go about searching you?

23 A. He patted me down.

24 Q. Was that on the outside then of your

298

1 clothing?

2 A. Yes.

3 Q. Did he pat you down on the top of your  
4 body and the bottom?

5 A. I don't remember specifically.

6 Q. After he patted you down, did you have any  
7 conversation with him?

8 A. I don't remember. He put me in handcuffs.

9 Q. And were you handcuffed in front or in  
10 back?

11 A. I think I was handcuffed in the back. I'm  
12 not sure, though.

13 Q. Where were you when he put the handcuffs  
14 on you?

15 A. Still faced against the car.

16 Q. And at that point as he's putting  
17 handcuffs on you, did you ask him what's this all  
18 about?

19 A. Again, I'm -- I think I asked him what's  
20 this all about when he sat me down in the car.

21 Q. Why did you think at that point in time  
22 you had been stopped, taken out of your car, patted  
23 down, and put in handcuffs?

24 A. I didn't know.

299

1 Q. And you didn't ask at that point?

2 MR. BOWMAN: I'm sorry. Could I have the  
3 question before read back, please?

4 (Whereupon, the record was read.)

5 MR. BOWMAN: And then, the next question is?

6 (Whereupon, the record was read.)

7 MR. BOWMAN: Okay. Thank you.

8 MS. EKL: And I'm sorry, can -- the very last  
9 question that he hasn't answered yet, could you  
10 repeat that, as well?

11 (Whereupon, the record was read.)

12 THE WITNESS: To my recollection, I didn't ask  
13 at that point.

14 BY MS. EKL:

15 Q. After he put you in handcuffs, how long  
16 were you outside of the car out of your -- outside  
17 of your car before he put you into the squad car?

18 A. Long enough for him to walk me over there.

19 Q. Were you put in the front or the back seat  
20 of the squad car?

21 A. I was put in the front seat.

22 Q. And as you were being put into the squad  
23 car, was there any conversation?

24 A. I think that's when I was asking him

300

1 what's this about.

2 Q. And is it at that point that he told you  
3 it was about a homicide?

4 A. Yes.

5 Q. And did you ask him at -- once he told you  
6 it was about a homicide, at that point, did you ask  
7 him who was it that was killed?

8 A. I didn't ask him any further questions.

9 Q. What's the next thing you recall after  
10 being put into the squad car?

11 A. There was a dog in the back seat. I sat  
12 in the squad car, I don't know how long, and then,  
13 an unmarked car arrived, and then, I was put in the  
14 unmarked car.

15 Q. Who put you into the unmarked car?

16 A. I don't know specifically. It was a  
17 Rockford police officer, to my recollection.

18 Q. Do you remember how many additional  
19 officers arrived in that unmarked car?

20 A. In the unmarked car, there was a Rockford  
21 detective, I believe, and then, Detectives Daniels  
22 and Hospelhorn.

23 Q. Did they introduce themselves to you when  
24 they arrived?

301

1 A. Vaguely.

2 Q. What do you mean by that?

3 A. There was a very brief -- I don't know if  
4 he introduced himself by name or what.

5 I think I asked him what's going on. He  
6 said we want to talk to you about your friend. And  
7 he was very short with that. That was about the  
8 gist of our conversation then.

9 Q. Well, when he said I want to talk to you  
10 about your friend, did you ask him what friend are  
11 you talking about?

12 A. No.

13 MR. DICIANNI: Who's he? I'm sorry.

14 THE WITNESS: Tony Daniels.

15 MR. BOWMAN: Oh.

16 BY MS. EKL:

17 Q. So this conversation is taking place with  
18 Tony Daniels?

19 A. Yes.

20 Q. So you were aware that you had been pulled  
21 over for a homicide and Tony Daniels had told you  
22 that he wanted to talk to you about your friend.

23 Did you believe at that point that you had  
24 a friend, even though you didn't know which friend,

302

1 who was involved in a homicide?

2 A. Yes.

3 Q. You didn't ask him who it was?

4 A. No.

5 Q. Why didn't you?

6 A. I was pretty shocked at that moment. And  
7 he was very short with me with his answer and very  
8 cryptic. And I didn't feel like he wanted to talk  
9 to me about it so --

10 Q. Well, what about --

11 A. I didn't pester him.

12 Q. What about his actions made you feel like  
13 he didn't want you to ask any further questions?

14 A. He didn't volunteer anything more than he  
15 absolutely had to to answer my question.

16 Q. You only asked him the one question,  
17 correct?

18 A. Yes.

19 Q. You didn't try to ask him any further  
20 questions?

21 A. No.

22 Q. He didn't tell you that he wouldn't answer  
23 any of your questions, correct?

24 A. No.

303

1 Q. Tony Daniels and Detective Hospelhorn told  
2 you that you did not have to agree to talk to them,  
3 correct?

4 A. I believe so, yes.

5 Q. But you did agree, right?

6 A. Yes.

7 Q. In fact, you agreed to go with them down  
8 to the sheriff's office in the detective division,  
9 correct?

10 A. I don't believe at the time that I was in  
11 that car that I was agreeing to anything. I felt  
12 that I was in custody at that point. I was wearing  
13 handcuffs and they just drove me there.

14 Q. You specifically told them that you would  
15 go with them, correct?

16 A. I -- I don't remember whether I told them  
17 I would go with them or whether I agreed to talk to  
18 them after we got there.

19 Q. They questioned you at the public safety  
20 building, the county's detective bureau, correct?

21 A. Yeah.

22 Q. How was it that you got there?

23 A. In the unmarked car.

24 Q. What time did you arrive at the county

304

1 building?

2 A. I don't know exactly. I don't remember.

3 Q. Do you recall it to be approximately  
4 11:00 p.m.?

5 A. I really don't remember.

6 Q. What happened when you arrived at the  
7 detective bureau?

8 A. I was placed in an interrogation room.

9 Q. How do you know that it was an  
10 interrogation room?

11 A. It was small and it was empty and it had  
12 nothing but chairs and a table and an ashtray.

13 Q. It didn't have any sign on the door that  
14 said interrogation room --

15 A. Not --

16 Q. -- correct?

17 A. -- to my recollection.

18 Q. The handcuffs were taken off of you as  
19 soon as you arrived, correct?

20 A. I don't remember when the handcuffs were  
21 taken off of me.

22 Q. You were put in the room with  
23 Detective Daniels and Hospelhorn?

24 A. Yeah, I believe they took the handcuffs

305

1 off me. I don't remember for sure.

2 Q. The entire time that you were in that room  
3 with them, they never obstructed your path to leave  
4 through the door, correct?

5 A. No.

6 Q. They never said that you were not allowed  
7 to leave, correct?

8 A. No.

9 Q. In fact, they specifically told you that  
10 you were not under arrest, correct?

11 A. Correct.

12 Q. And they told you specifically that you  
13 could leave at any time?

14 A. Yes.

15 Q. And you understood that at the time?

16 A. Yes.

17 Q. They also told you once you were at that  
18 county building that you did not have to answer any  
19 of their questions, correct?

20 A. I think so, yes.

21 Q. And prior to them saying those things to  
22 you, they hadn't asked you any specific questions  
23 about your knowledge of what had taken place down  
24 in Bloomington-Normal, correct?

306

1 A. No.

2 Q. I'm sorry. I don't --

3 A. They had not answered -- or -- I'm sorry.  
4 They had not asked me anything, if that what you're  
5 asking. I'm sorry.

6 Q. And in fact, you agreed to answer their  
7 questions, correct?

8 A. Yes.

9 Q. And you agreed to allow them to record  
10 those questions and answers, correct?

11 A. Yes.

12 Q. Have you had a chance over the years to  
13 review the transcript of that interview?

14 A. Yes.

15 MS. EKL: I'll go ahead and mark -- I don't  
16 know as far as what number we're on.

17 THE WITNESS: Do you need this anymore?

18 MS. EKL: No.

19 MR. BOWMAN: Can we take another short break?

20 MS. EKL: Sure.

21 THE VIDEOGRAPHER: We are off the record at  
22 11:17 a.m.

23 (A short break was taken.)

24

307

1 (Whereupon, Beaman Deposition  
2 Exhibit No. 5 was marked for  
3 identification.)

4 THE VIDEOGRAPHER: We are back on the record at  
5 11:27 a.m.

6 BY MS. EKL:

7 Q. Mr. Beaman, we've put -- I've put before  
8 you what's been marked Deposition Exhibit No. 5.  
9 Do you recognize this document?

10 A. Not really. Not that page. I recognize  
11 the second page.

12 Q. So the first page is marked witness face  
13 sheet. That's the page that you said that you  
14 don't recognize?

15 A. Yes.

16 Q. Okay. Directing you specifically to the  
17 second page through the end of the document, does  
18 this appear to you to be the transcript of the  
19 questions that you were asked by Detective Daniels  
20 and Detective Hospelhorn back on August 28th of  
21 1993?

22 A. That's what it appears to be, yes.

23 Q. And this is the same transcript that you  
24 indicated that you have had a chance to review over

308

1 the years?

2 A. Yes.

3 Q. During the course of any of your reviews  
4 of this transcript, have you been able to identify  
5 any mistakes or any inaccuracies in the transcript?

6 A. I -- I couldn't speak to that. Mistakes  
7 or inaccuracies? You mean in the way it's  
8 transcribed?

9 Q. Correct. Is there anything that you read  
10 in here in this transcript over the years that you  
11 believe was inaccurately described -- transcribed?

12 A. Transcribed? Not that I know of, no.

13 Q. Were you truthful with the officers during  
14 the interview?

15 A. Yes.

16 Q. How long -- approximately how long did  
17 this interview with the two detectives last?

18 A. I couldn't say how long it was. It was  
19 definitely over an hour. Longer. Maybe two hours  
20 even.

21 Q. You were given a break in the middle of  
22 the interview, correct?

23 A. I don't remember whether I was or not.

24 Q. You were not mistreated during that

309

1 interview, correct?

2 A. Can you be more specific?

3 Q. Do you know what the word -- do you know  
4 what it means to be mistreated?

5 A. Yes.

6 Q. Okay. Did you feel that you were  
7 mistreated during the course of that interview?

8 A. I felt that I was being unfairly accused,  
9 yes.

10 Q. Aside from being unfairly accused, was  
11 there anything else about the manner in which you  
12 were treated while you were in the presence of  
13 Detectives Hospelhorn and Detective Daniels that  
14 caused you to feel that you were being mistreated?

15 A. No.

16 Q. When you wished to conclude the interview,  
17 you were allowed to walk out of that interview  
18 room, correct?

19 A. Yes.

20 Q. And by that point in time, you knew that  
21 the two detectives were investigating  
22 Jennifer Lockmiller's homicide, correct?

23 A. Yes.

24 Q. And that was because they had asked you a

310

1 number of questions about her, correct?

2 A. They had asked me a number of questions  
3 about Jennifer, yes.

4 Q. And you knew she was dead at that point in  
5 time, correct?

6 A. I was not sure about that, because they  
7 had changed what they were saying to me over time  
8 and offered different explanations of whatever had  
9 happened. So I was confused.

10 Q. When you became confused, did you ask them  
11 is Jennifer alive or is she dead?

12 A. I don't remember the specifics. If you  
13 can refer to a page where I said something, I can  
14 look at that but --

15 Q. I'm asking you whether you recall asking  
16 them that question.

17 A. I don't remember asking them that  
18 question, no.

19 Q. Later that night, after you had -- the  
20 interview was concluded, you called a friend of  
21 yours by the name of Don Jones, correct?

22 A. Yes.

23 Q. How do you know Don Jones?

24 A. He's a friend from school.

311

1 Q. Was that a friend from high school or from  
2 college?

3 A. From college.

4 Q. When you called Don Jones, you told him  
5 that the police told you that Jennifer was dead,  
6 correct?

7 A. I don't know whether I told him that or  
8 not. I told him that I wasn't sure whether she was  
9 dead or alive.

10 Q. Describe for me everything that you recall  
11 about that conversation with Don Jones.

12 A. I'm not even sure if I talked to him  
13 personally. I don't remember for sure but -- I  
14 think maybe I did talk to him, but he didn't have  
15 the information I was looking for and I believe he  
16 called back later with that.

17 Q. Well, when you say he didn't have the  
18 information that you were looking for, what do you  
19 recall saying to him or asking him in terms of what  
20 you were looking for?

21 A. I told him that police had told me that  
22 something had happened to Jen, that they were  
23 unclear with me about what actually happened, and I  
24 asked him to find out for me.

312

1 Q. Did you also describe for him what had  
2 taken place in terms of your own interactions with  
3 the police?

4 A. I'm not sure how descriptive I was about  
5 that with him.

6 Q. What was the purpose of calling Don Jones?

7 A. I wanted to know what happened.

8 Q. What did he tell you in response to --  
9 what specifically did he tell you in response to  
10 your question?

11 A. I believe he called back the next day.  
12 And I don't think I talked to him. I think he  
13 talked to one of my parents.

14 Q. But on the night that you talked to him  
15 after you were interviewed by the police, what did  
16 he tell you about knowledge that he had?

17 A. I think he said he didn't know and he was  
18 going to look into it.

19 Q. Where was Don Jones when you called him?

20 A. At his house -- his apartment.

21 Q. And where was that located?

22 A. It was in Bloomington a few blocks off of  
23 the Wesleyan campus.

24 Q. Did you also know Don Jones to be a friend

1 of Jennifer's?

2 A. Yeah, an acquaintance through me.

3 Q. Why was it that you called Don Jones as  
4 opposed to anyone else?

5 A. I really don't know. Maybe I knew his  
6 number better than others. I really don't --  
7 couldn't say.

8 Q. If you had wanted to call Jennifer's  
9 parents, did you have their phone number or have a  
10 way of getting a hold of them?

11 A. I don't know if I still had it.

12 Q. Did you have it at some point in time?

13 A. I did at some point in time, yes.

14 Q. When's the last time that you recall  
15 having their phone number?

16 A. Sometime during that previous school year.

17 Q. Was there any reason you would have got  
18 rid of that number?

19 A. I really don't know what I had it on. So  
20 I couldn't say.

21 Q. Did you know Jennifer's friend  
22 Morgan Keefe?

23 A. Yes.

24 Q. And how did you know Morgan?

314

1 A. Only through Jennifer.

2 Q. You knew her to be a close friend of  
3 Jennifer's, correct?

4 A. Relatively, yes.

5 Q. Did you know that she was down in the  
6 Bloomington-Normal area back during the time that  
7 you were questioned by police?

8 A. I don't know if I knew her whereabouts  
9 then or not.

10 Q. After you walked out of the detective  
11 bureau, did you call your parents?

12 A. Yes.

13 Q. What did you tell them?

14 A. I told them that police had questioned me,  
15 that I didn't know where my car was. Beyond that,  
16 I really don't remember what specifically I told  
17 them.

18 Q. Did you tell them that Jennifer was in the  
19 hospital?

20 A. I may have. I don't know. That was one  
21 of the things that Tony Daniels had told me.

22 Q. Is there anything else that you can recall  
23 telling your parents, other than what you've just  
24 said?

315

1 A. Not specifically, no.

2 Q. Did you tell them to come pick you up?

3 A. I think they said -- they volunteered  
4 that.

5 Q. When you called -- did you call your house  
6 to talk to your parents?

7 A. Yes.

8 Q. And who was it that you were speaking to?  
9 Which of the -- which of your parents?

10 A. I think it was my mom, but I'm not  
11 100 percent sure.

12 Q. Did she agree that they -- one of them or  
13 both of them would come and get you?

14 A. I -- yes.

15 Q. While you were walking away from the  
16 public safety building, did one of the officers  
17 approach you in a squad car?

18 A. One of the detectives from Rockford.

19 Q. Do you know the name of that detective?

20 A. I do not.

21 Q. Where were you walking to when he  
22 approached you?

23 A. I was hoping -- I was walking to  
24 Cafe Esperanto, which was not far from there

316

1 downtown.

2 Q. Why were you going there?

3 A. I didn't have my cigarettes and I was  
4 hoping that they would have some for sale there.

5 Q. When you were approached by the detective,  
6 he asked you if you wanted your car back, correct?

7 A. Yes.

8 Q. And you told him that you did?

9 A. Yes.

10 Q. And you let that detective give you a ride  
11 back to the public safety building to get your car,  
12 correct?

13 A. Yes.

14 Q. What happened after you returned to the  
15 public safety building?

16 A. He drove me down into the parking garage  
17 at the public safety building and that was where my  
18 car was.

19 Q. The detective that drove you, do you  
20 recall his name to be Deputy Cowan, C-o-w-a-n?

21 A. It sounds right.

22 Q. When you returned back to the building,  
23 did you again see Detective Daniels and  
24 Detective Hospelhorn?

317

1 A. Yes.

2 Q. And you allowed them to search your car,  
3 correct?

4 A. They did not search my car that I know.  
5 It had been impounded -- or that's the phrase they  
6 used.

7 There was a concern about what to do with  
8 my car when I was stopped, because I was being  
9 handcuffed and taken to the police station.

10 They weren't sure what to do with my car.  
11 And I wasn't sure whether they had it or not. And  
12 they had taken it back as an impound.

13 Q. But when you returned to get your car, do  
14 you recall them asking you if they could search  
15 your car?

16 A. I don't remember whether they asked me.

17 Q. Do you remember signing a release for your  
18 car?

19 A. I believe so, yes.

20 Q. And at that time, they gave you your keys  
21 to your car, correct?

22 A. I think so.

23 Q. You, in fact, drove your car out of the --

24 A. I drove my car out of the building, yes.

318

1 Q. Did you drive home?

2 A. I did.

3 Q. Before getting home, do you remember  
4 stopping anywhere?

5 A. Well, when I drove out of the building, I  
6 drove out to the front of the building, because I  
7 knew my parents were coming. And I didn't want to  
8 have them get there and me not be there so --

9 Q. Did your parents, in fact, arrive then at  
10 the building?

11 A. Yes.

12 Q. And how long had you been out front before  
13 your parents arrived?

14 A. I really don't know. A few minutes maybe.

15 Q. What happened when your parents got there?

16 A. My mom drove their car home, and then, I  
17 drove my car home with my dad riding with me.

18 Q. Did you have a conversation with your dad  
19 in the car between the public safety building and  
20 home?

21 A. I did.

22 Q. And what, if anything, did you say to him  
23 or did he say to you?

24 A. I don't remember specifically what he said

319

1 to me. I know I was expressing confusion, anger,  
2 frustration with the interrogation. And I didn't  
3 know what was going on and -- so I was very  
4 frustrated.

5 Q. Well, in addition to being frustrated and  
6 angry, were you concerned at all about what had  
7 happened to Jennifer?

8 A. I was concerned about what happened to  
9 Jennifer, yes. I didn't know what happened to her  
10 and I was trying to figure out in my head what's  
11 going on.

12 Q. So even if -- under any version of the  
13 facts that were given to you by Detective Daniels,  
14 you knew that something bad had happened to  
15 Jennifer --

16 A. Yes.

17 Q. -- correct?

18 A. Yes.

19 Q. The best case scenario was that she was in  
20 the hospital hurt and the worst case scenario was  
21 she was dead?

22 A. Yes.

23 Q. Did you express those feelings to your  
24 father?

320

1 A. I did.

2 Q. After you arrived home, did you have any  
3 further conversations with your father and/or your  
4 mother about what had just taken place?

5 A. I believe so, yes.

6 Q. And what did you say to them and did they  
7 say to you?

8 A. I don't remember specific details of the  
9 conversation.

10 Q. Well, did you tell them specifically that  
11 you had been asked questions about Jennifer?

12 A. Yes.

13 Q. And did they ask you what you knew about  
14 what had happened to Jennifer?

15 A. I don't know whether they asked me that or  
16 not.

17 Q. Did you tell your parents that you felt  
18 that you were a suspect?

19 A. Well, I was handcuffed and accused. I  
20 don't -- I don't know whether I told them that I  
21 thought I was a suspect.

22 Q. Did you tell them that the detectives were  
23 accusatory in the manner in which they questioned  
24 you?

321

1 A. I don't remember if I told them that or  
2 not.

3 Q. Did you have any concern at that point in  
4 time that the police were going to come and  
5 question you some more?

6 A. I suppose.

7 Q. And why was that?

8 A. I don't know. Because I left in the  
9 middle of answering questions.

10 Q. Well, when you talked to the police, you  
11 told them about where you were, what your where --  
12 about your whereabouts during the week of the  
13 murder, correct?

14 A. Yes.

15 Q. And you had an answer for them in terms of  
16 all the different places that you had been during  
17 that week, correct?

18 A. I gave them my best recollection.

19 Q. Did you have any reason to believe that  
20 they would doubt that recollection?

21 A. No.

22 Q. Did you have any conversation with your  
23 parents that evening about trying to gather  
24 evidence to prove that you weren't involved in

322

1 either harming or killing Jennifer?

2 A. I don't know whether we had a conversation  
3 about that that night.

4 Q. Were you thinking about how to find -- how  
5 to gather evidence to prove that you were innocent?

6 A. No. I was thinking about trying to find  
7 out what happened to Jennifer.

8 Q. Did you have any discussion with your  
9 parents that evening about the need for an  
10 attorney?

11 A. I don't -- I don't know whether we  
12 discussed that that evening or not.

13 Q. When was the first time that you can  
14 recall having a conversation with your parents  
15 about needing an attorney?

16 A. I know the following night, when I woke  
17 up, a friend of ours from church, who is an  
18 attorney was -- came over to our house and -- to  
19 talk to us.

20 Q. And that wasn't a visit that was planned  
21 prior to your being picked up by the police,  
22 correct?

23 A. No.

24 Q. Do you know who it was that contacted this

323

1 attorney?

2 A. One of my parents or maybe -- maybe the  
3 Pastor.

4 Q. Did you have a discussion with your  
5 parents or the Pastor about the need for an  
6 attorney before the attorney showed up?

7 A. I don't remember having a discussion with  
8 anybody about the need for an attorney before the  
9 attorney showed up.

10 Q. When you say the Pastor, who are you  
11 referring to?

12 A. Jim Moore.

13 Q. How do you spell -- is it M-o-o-r-e or is  
14 it --

15 A. Yes.

16 Q. When was Jim Moore first contacted about  
17 your interaction with the police?

18 A. I didn't contact him. I don't know.

19 Q. Who contacted him?

20 A. I assume one of my parents, but I don't  
21 know.

22 Q. But you know that it was sometime between  
23 the time that you arrived home in the early morning  
24 of Sunday until later that evening, Sunday evening,

324

1 correct?

2 A. Sometime before Jim Moore arrived.

3 Q. But you were picked up by the police on  
4 Saturday, correct?

5 A. Yes.

6 Q. And you know that -- even if you can't  
7 recall the specific time that that was sometime in  
8 the late evening of Saturday?

9 A. Yes.

10 Q. And that you then went home sometime in  
11 the early morning hours of Sunday, correct?

12 A. Yes.

13 Q. And by sometime later on Sunday is when  
14 the Pastor had been contacted, as well as the  
15 attorney, correct?

16 A. Yes.

17 Q. When you got -- when you arrived home in  
18 the early morning hours of Sunday, other than  
19 talking to your parents, did you talk to anyone  
20 else?

21 A. I don't know if I did that day or not.

22 Q. And I should be more specific. We've  
23 already discussed how you talked to -- I forgot his  
24 name.

325

1           You had a conversation with Don Jones,  
2 correct?

3           A.    Yes.

4           Q.    Now, how -- what time was it in the  
5 morning when you called Don Jones?

6           A.    I don't know. Shortly after I got home.

7           Q.    Do you remember going and talking to any  
8 of your neighbors about what had just taken place  
9 on Sunday?

10          A.    At some point during that next couple of  
11 days, but I don't remember which day.

12          Q.    Who was it that you talked to?

13          A.    I talked to Mike VanBerriger.

14          Q.    Who is Mike VanBerriger?

15          A.    My next door neighbor.

16          Q.    And just for the court reporter, could you  
17 spell Mike's last name?

18          A.    V-a-n-b-e-r -- I think it's a double r.  
19 I'm kind of guessing at it. I shouldn't guess.  
20 i-g-e-r, I think, but --

21          Q.    How did you know Mike?

22          A.    I had lived next door to him for many  
23 years.

24          Q.    And how old was Mike back in 1993 when you

326

1 talked to him?

2 A. A couple years younger than me.

3 Q. Was he someone that you considered a  
4 friend?

5 A. Not a very close friend but a neighbor  
6 that I knew well and got along with.

7 Q. Were there times other than this occasion  
8 when you would confide in Mike?

9 A. I hadn't seen him very often in recent  
10 years.

11 Q. When you talked to Mike, how did you do  
12 that? Was it in person or over the phone? How did  
13 that happen?

14 A. I was sitting on my back porch and he was  
15 sitting on his back porch and I walked over and  
16 talked to him.

17 Q. What did you tell him?

18 A. I told him about what had happened to me  
19 that night. I told him I didn't know what was  
20 going on and whether Jennifer was alive or dead and  
21 that I was shocked and freaked out by that. There  
22 was another conversation with him that week.

23 Q. Let me start -- before we go into that,  
24 during the first conversation with him, describe

327

1 for me exactly what you said when you say that you  
2 told him what happened. What did you tell him?

3 A. I don't know exactly what I said.

4 Q. Did you express to him any concern that  
5 the police considered you a suspect?

6 A. I don't remember whether I expressed that  
7 particular concern.

8 Q. How many conversations after that initial  
9 conversation did you have with Mike VanBerriger?

10 A. I talked to him several nights that week  
11 whenever I would be out on the back porch and he  
12 was also out on the back porch.

13 Q. And what, if anything, additional did you  
14 tell him following that first night or that first  
15 day?

16 A. There was another night where I talked to  
17 him about -- that my parents -- my mom had  
18 discovered a mileage receipt that showed what the  
19 mileage of my car was on the day that we bought  
20 tires and that that would show that I couldn't have  
21 gone to Normal.

22 Q. And I'll ask you some more questions about  
23 that mileage receipt in a minute.

24 Anything else that you recall telling him,

1 other than that your mother had found the mileage  
2 receipt?

3 A. Not specifically, no.

4 Q. Do you remember when that conversation  
5 took place about the mileage receipt?

6 A. It was sometime later in the week. I  
7 don't know specifically.

8 Q. Going back to Sunday, the 29th, after  
9 arriving home and talking to your parents and also  
10 having the phone conversation with Don Jones, do  
11 you remember whether or not you went to sleep at  
12 all that night?

13 A. On Saturday night, Sunday morning?

14 Q. Saturday into Sunday, right.

15 A. I don't think I did until later in the --  
16 I think it was after church I slept. I may have  
17 slept a little bit before church, but I don't  
18 really remember.

19 Q. So Sunday morning, after being picked up  
20 by the police, did you go to church with your  
21 parents and sing in the services?

22 A. Yes.

23 Q. How did you get to church?

24 A. I think I rode with them, but I'm not

329

1 sure.

2 Q. Was that something that you would  
3 typically do on a Sunday, ride with your parents to  
4 church, or did you normally drive your own car?

5 A. If I was coming back home, yes, but  
6 normally, I would drive my own car if I was going  
7 somewhere else also.

8 Q. Did you have any concern on Sunday  
9 morning, August 29th, about putting -- adding  
10 mileage to your car?

11 A. I don't think so.

12 Q. Was there any other reason that you can  
13 think of as to why you would have gone with your  
14 parents as opposed to driven your own car?

15 A. Other than that I just didn't get any  
16 sleep and I was tired and we were coming right  
17 back.

18 Q. Who was the attorney that your parents --  
19 that -- who was the attorney that came to your  
20 house later that day on Sunday? What was his name?

21 A. Tom Laughlin.

22 Q. Did you personally know Tom before that  
23 day?

24 A. Yes.

330

1 Q. And how did you know him?

2 A. I went to Sunday school with his  
3 daughters.

4 Q. Did you know him in any other capacity?

5 A. Just through church.

6 Q. Was he a civil or a criminal attorney?

7 A. I'm not sure.

8 Q. Do you know what the difference is between  
9 the two?

10 A. I do.

11 Q. What do you recall about Mr. Laughlin  
12 arriving at your house?

13 A. I think he was there when I came out to  
14 the living room after waking up. I'm not sure, but  
15 I think he was already there.

16 Q. Approximately what time was that when you  
17 woke up?

18 A. In the evening.

19 Q. Would it be sometime before 6:00 o'clock  
20 or after 6:00 o'clock?

21 A. I really don't know.

22 Q. Who else was present when Mr. Laughlin was  
23 there?

24 A. Jim Moore was also there.

331

1 Q. Anyone else?

2 A. My parents. I think my grandparents had  
3 arrived.

4 Q. When had they arrived?

5 A. I can't remember exactly when they  
6 arrived. I think they were there already, though.

7 Q. Were they present when you spoke to  
8 Jim Moore and to Mr. Laughlin?

9 A. I don't think so. I'm not sure.

10 Q. Were you aware that Mr. Laughlin was going  
11 to be coming to the house prior to him arriving?

12 A. No.

13 Q. What do you recall about any conversation  
14 that took place once you woke up and went out to  
15 where Mr. Laughlin and your parents were present  
16 and Mr. Moore?

17 A. Any conversation that took place when?  
18 I'm sorry.

19 Q. When you first got up and you went out  
20 into your house, into the living room or whatever  
21 area of your house and saw that Mr. Moore was there  
22 with Mr. Laughlin and your parents, what do you  
23 recall about any conversation that took place?

24 A. I know that at one point, I think I talked

332

1 to Jim Moore alone for a little bit.

2 And somebody -- I think it was my parents  
3 told me that they had heard from Don Jones and that  
4 Jennifer was dead.

5 Q. What do you recall about any conversation  
6 with Mr. Laughlin about his role or why he was  
7 present at your house?

8 A. He was there because I had been handcuffed  
9 and interrogated.

10 Q. How did you -- when did you learn that  
11 that was the reason for him being there?

12 A. I don't know if I learned that. I think I  
13 just understood that.

14 Q. At any point in time, did your parents --

15 MR. BOWMAN: You know, are you going to ask  
16 more questions about this conversation here?

17 MS. EKL: The conversation in front -- as far  
18 as it took place in front of his parents or his  
19 grandparents, yes, and certainly, his -- any  
20 conversation he had with his parents about why the  
21 attorney was there.

22 MR. BOWMAN: Well, I don't know. I think I  
23 need to -- I hear you. I understand where you're  
24 coming from.

333

1 I'm not sure that I agree. And I think  
2 that -- if you're going to continue on this line, I  
3 think that we ought to take a break and just wrap  
4 our minds around the privilege issues that are  
5 lurking in this.

6 And I do understand where you're coming  
7 from, I understand your point, but I still need to  
8 talk with Mr. Beaman and with Mr. Shapiro about the  
9 situation so that I'm confident we're making an  
10 informed judgment as to what to do.

11 MS. EKL: Okay.

12 THE VIDEOGRAPHER: We are off the record at  
13 11:55 a.m.

14 (A lunch break was taken until  
15 1:15 p.m.)

16 THE VIDEOGRAPHER: We are back on the record at  
17 1:15 p.m.

18 MR. BOWMAN: Let me just say what I said to  
19 counsel during our break.

20 We've had discussion on our side about the  
21 issue of whether Mr. Laughlin's conversations with  
22 the Beaman family are protected by the  
23 attorney-client privilege.

24 And it's our judgment that they may be, to  
334

1 the extent that Mr. Laughlin and the Beaman family  
2 understood that Laughlin was coming to the home on  
3 the day in question to advise the family as a whole  
4 and whether the understanding on the parts of  
5 everyone involved was that that was the case.

6 I have not had the opportunity today to  
7 research that issue factually beyond talking with  
8 Alan, who's here.

9 And under the circumstances, we're going  
10 to protect the privilege and not allow Mr. Beaman  
11 to answer questions regarding the advice that was  
12 communicated from Mr. Laughlin at the time.

13 And I understand that that's a debatable  
14 point and recognize the potential consequences of  
15 the position that we're taking, but that's the  
16 position we're going to take today.

17 MS. EKL: And I don't intend on getting into  
18 that conversation. I have a couple of questions  
19 just generally about Mr. Laughlin but not about any  
20 conversations. And so just to -- so that you're  
21 aware where I plan on going with it.

22 BY MS. EKL:

23 Q. When we -- before we took a break, I had  
24 asked you questions.

335

1           And you had indicated that Mr. Laughlin  
2 was an attorney who came to your house on the  
3 morning after you talked to the police, correct?

4           A.    The evening is my understanding.

5           Q.    Okay.  So he was there on the evening of  
6 Sunday, August 29th?

7           A.    I believe so.

8           Q.    Okay.  Was it your understanding that  
9 Mr. Laughlin was there in a capacity to advise you  
10 just generally in regard to issues related to your  
11 questioning by the police and the Lockmiller  
12 homicide investigation?

13          MR. BOWMAN:  You can answer that question yes  
14 or no.

15          THE WITNESS:  Okay.  My understanding was that  
16 he was there to advise my family as a whole about  
17 how to approach what had been -- what had  
18 transpired the night before.

19          BY MS. EKL:

20          Q.    Was it before or after speaking to  
21 Mr. Laughlin that you and/or other members of your  
22 family took photographs of the car that you were  
23 driving during the week that Jennifer Lockmiller  
24 was murdered?

336

1           A.    I don't remember when.  I think it was my  
2 mom who took those photographs.  And I don't  
3 remember when she took them.

4           Q.    On the following day, on Monday,  
5 August 30th, your parents hired a criminal attorney  
6 for you by the name of Mr. Beu, correct?

7           A.    Yes.

8           Q.    And after Mr. Beu was hired, did you,  
9 yourself, create notes regarding your memory of  
10 events the evening of Jennifer Lockmiller's murder?

11          A.    I believe I did.

12          Q.    Do you remember what date you created  
13 those notes?

14          A.    I don't.

15          Q.    Was it sometime -- would you say that it  
16 was within days of Mr. Beu being hired that you  
17 were asked to do -- or that you did that?

18          A.    It was relatively shortly after my first  
19 visit with Mr. Beu, yeah.

20          Q.    Did you provide those notes to Mr. Beu?

21          A.    I believe so.

22          Q.    And even if you can't remember the  
23 specific date, was it sometime after hiring Mr. Beu  
24 and sometime before your appearance before the

337

1 Grand Jury?

2 A. I believe so, yes.

3 Q. Do you know if your current attorneys have  
4 those notes?

5 A. I don't know.

6 Q. When was the last time that you looked at  
7 those notes?

8 A. I don't remember.

9 Q. So do you know if you have -- if you  
10 currently possess a copy yourself?

11 A. I don't believe I possess them, no.

12 Q. To your knowledge, did your parents also  
13 create notes regarding their whereabouts and what  
14 they recall about the week of Jennifer Lockmiller's  
15 murder?

16 A. I believe they did.

17 Q. And also, to your knowledge, did they  
18 create them about the same time that you did?

19 A. As far as I know.

20 Q. Did you ever, at any point in time, read  
21 those notes that your parents created?

22 A. No.

23 Q. You've never read them?

24 A. I don't think so.

338

1 Q. Have you and your parents ever -- or did  
2 you during that time period after you hired Mr. Beu  
3 sit down and discuss what you remembered about the  
4 week of Jennifer Lockmiller's murder?

5 A. With my family?

6 Q. Correct.

7 A. I don't remember whether I did or not. I  
8 don't -- I think we were instructed not to do that  
9 but to give him independent information.

10 Q. Were your parents generally present for  
11 your conversations with your attorneys?

12 A. Sometimes.

13 Q. So were there times when you would talk to  
14 your attorneys without your parents present?

15 A. Yes.

16 Q. Did you ever talk to your attorneys about  
17 your whereabouts during the week of the Lockmiller  
18 homicide investigation in front of your parents?

19 A. Can you ask it again? I'm sorry.

20 Q. Sure. Did you ever have conversations  
21 with your attorney about your whereabouts the week  
22 of the Lockmiller homicide investigation where  
23 those conversations took place in front of your  
24 parents?

339

1 A. I don't remember.

2 Q. Did you show your parents the notes that  
3 you made about your whereabouts?

4 A. No.

5 Q. Did you have discussions with your parents  
6 about finding ways to prove that you could not have  
7 driven to Bloomington the week of Jennifer's  
8 murder?

9 A. I know that -- I know that my mom and I  
10 did talk about that at one point, I think.

11 Q. Do you remember when that was?

12 A. It was when she realized that there would  
13 be a mileage receipt for the tires.

14 Q. Did you have a discussion with your mom  
15 about what day it was that you believed that the  
16 police were claiming that Jennifer was murdered?

17 A. I don't think so.

18 Q. Did your mom tell you why she believed  
19 that Jennifer was murdered on any particular day?

20 A. I don't think so.

21 Q. What did you -- what do you remember about  
22 your mom's discovery of the mileage receipt?

23 MR. BOWMAN: Objection. Vague. Go ahead.

24 Answer to the best of your ability.

340

1 THE WITNESS: What I remember is that she was  
2 excited about discovering that.

3 BY MS. EKL:

4 Q. Do you remember when that took place?

5 A. It was sometime later in the week.

6 Q. And later in what week?

7 A. I don't know. It was -- I know it was  
8 after Sunday. Beyond that, I can't be sure  
9 exactly.

10 Q. And just so that we're clear for the  
11 record, you're talking about the Sunday -- sometime  
12 the week -- during the week that you were  
13 questioned by the police?

14 So if you were questioned by the police  
15 Saturday into Sunday, you're saying it was sometime  
16 after that particular Sunday?

17 A. It was after the police questioned me. It  
18 was -- it was -- I believe it was after that  
19 Sunday, yeah. I --

20 Q. Did your mom tell you how it was she  
21 discovered the receipt?

22 A. I don't remember.

23 Q. Just because I don't think I've put it  
24 into the record, your mom is Carol Beaman, correct?

341

1 A. Yes.

2 Q. And your father is Barry Beaman?

3 A. Yes.

4 Q. When your mom told you about the receipt,  
5 did you think that it was significant?

6 A. I think so.

7 Q. Why?

8 A. Her interest in it explained to me was  
9 that it would prove how far my car had been driven  
10 during the week after the tires had been replaced  
11 and it would eliminate any possibility that I could  
12 have gone to Bloomington-Normal.

13 Q. And that would be assuming that you drove  
14 the car that you regularly drove, correct?

15 A. It would eliminate my possibility of  
16 driving that car to Bloomington-Normal, yes.

17 Q. What day was it that the receipt was  
18 dated, in terms of, what date were the tires put  
19 onto your car?

20 A. I believe it's in the record. I don't  
21 remember.

22 Q. Do you recall that to be the Tuesday  
23 before Jennifer's murder --

24 A. That could be.

342

1 Q. -- or of Jennifer's murder?

2 A. I really don't remember it.

3 Q. I'm sorry. The Monday before Jennifer's  
4 murder?

5 A. I really don't remember.

6 Q. What did you do, if anything, with the  
7 receipt after your mother found it?

8 A. I don't think I did anything with it. I'm  
9 not sure what she did with it.

10 Q. Did you make any attempt to get that to  
11 the police department to show them that, look, I  
12 couldn't have been involved in the murder?

13 A. No.

14 Q. Why not?

15 A. My mom was going to do something with it.  
16 So I let her.

17 Q. After you talked to your first attorney,  
18 Mr. Laughlin, were you visited again by any police  
19 officers?

20 A. I was not personally visited by police  
21 officers.

22 Q. When was the next contact you had with the  
23 police after that initial stop on Saturday?

24 A. I believe my next contact with the police

343

1 after that was when Tim Freesmeyer came to serve a  
2 warrant for samples.

3 Q. That would have been af --

4 A. Blood samples.

5 Q. I'm sorry. That would have been after you  
6 returned to school?

7 A. Yes.

8 Q. When did you return to school?

9 A. I don't remember specifically.

10 Q. In addition to finding the receipt, was a  
11 photograph also taken of the odometer of your car?

12 A. I believe my mother took a photograph of  
13 it, yes.

14 Q. Do you know when that was taken?

15 A. I think she took it shortly after  
16 discovering the receipt. Maybe the next day. I  
17 don't know.

18 Q. Sometime between when your car got tires  
19 put onto it and the photograph was taken of the  
20 odometer, you had installed a new stereo into your  
21 car, correct?

22 A. Yes.

23 Q. Could you tell me what days in comparison  
24 to when your tires were put onto your car that you

344

1 either attempted to install the stereo or did, in  
2 fact, finally get it installed?

3 A. We purchased the stereo -- I purchased the  
4 stereo the same night that we bought the tires.

5 And I began trying to install it that  
6 night, but I ran out of time. I needed to go. And  
7 so I didn't finish it at that point but --

8 Q. And when you say that night, you're  
9 talking about the same night that you returned  
10 after you had the tires put on, correct?

11 A. Yes.

12 Q. And then, did you attempt to install it on  
13 further nights after that?

14 A. At that point, I was trying to find out  
15 how to deal with the fuse box, because there was a  
16 connector I didn't find that it was supposed to  
17 connect to. And so I was trying to figure that  
18 out, but I never did.

19 Q. Okay. So at some point, you were able to  
20 connect the radio to get it to work, correct?

21 A. I had it working, but it wasn't working  
22 properly.

23 Q. Did you have any experience in installing  
24 stereos or working on cars, either one, back in

345

1 August of 1993?

2 A. I had some experience working on cars.

3 Q. And what experience was that?

4 A. A friend of my dad's had helped me rebuild  
5 the engine in a VW Bug.

6 Q. When did you do that?

7 A. In high school.

8 Q. Were there other times when you had  
9 done -- made repairs or done things to your own  
10 vehicle?

11 A. I changed my own oil, I replaced an  
12 accelerator cable in the VW Bug, did some painting  
13 on it.

14 Q. The car that you were driving in August of  
15 1993, that was a Ford Escort, correct?

16 A. Yes.

17 Q. And that was the one that you were  
18 installing the stereo into?

19 A. Yes.

20 Q. Other than installing the stereo, did you  
21 take any -- do any other repairs or do any other  
22 alterations or changes to that car?

23 A. I changed the oil in that car maybe, but  
24 beyond that, no.

346

1 THE WITNESS: Can I take a break?

2 MS. EKL: Sure.

3 THE WITNESS: Sorry.

4 THE VIDEOGRAPHER: This marks the end of  
5 Tape 1. The time is 1:29 p.m. We are off the  
6 record.

7 (A short break was taken.)

8 THE VIDEOGRAPHER: This marks the beginning of  
9 Tape 2. The time is 1:36 p.m. We are on the  
10 record.

11 BY MS. EKL:

12 Q. Is it fair to say that similar to the  
13 receipt, the photograph was also not provided by  
14 you to Daniels or Hospelhorn?

15 A. I did not provide it to Daniels or  
16 Hospelhorn.

17 Q. And to your knowledge, your mother or your  
18 father, neither one of them provided that -- the  
19 receipt and the photograph to Daniels or  
20 Hospelhorn, correct?

21 A. Not to my knowledge.

22 Q. There were attempts also made to measure  
23 the distances that you drove, correct?

24 A. I believe so, yes.

347

1 Q. And just to be more specific, attempts  
2 were made -- your -- let me back up.

3 Your attorney hired a private investigator  
4 to assist you, correct?

5 A. Yes.

6 Q. Do you remember an investigator by the  
7 name of LaVerne Pickett?

8 A. Yes.

9 Q. You told him that -- the route that you  
10 took around town between August 24th, 1993 and  
11 August 29th of 1993, correct?

12 MR. BOWMAN: Can you hang on for just one  
13 second? I'm guessing that there may be a waiver of  
14 privilege here.

15 MS. EKL: On this issue, yeah.

16 MR. BOWMAN: Can you just -- can you just put  
17 that on the record?

18 MS. EKL: Yeah. I did not make a note of the  
19 specific page numbers of this.

20 MR. BOWMAN: Yeah, just general.

21 MS. EKL: In general, it's my understanding  
22 that this came from -- and I don't know if it was  
23 either the Grand Jury or trial, but I believe it  
24 was his Grand Jury testimony.

348

1 MR. BOWMAN: His being?

2 MS. EKL: Being Alan's.

3 MR. BOWMAN: Okay.

4 MS. EKL: Right.

5 MR. BOWMAN: Okay. I shouldn't do it, but I'm  
6 going to rely on you.

7 MS. EKL: If you want to look at the  
8 transcript, we've got it. I mean, I just --

9 MR. BOWMAN: I hate to -- I hate to take the  
10 time. We'll just take these kinds of issues point  
11 by point.

12 MS. EKL: Okay.

13 MR. BOWMAN: But --

14 MS. EKL: I don't --

15 MR. BOWMAN: -- as far as his conversation with  
16 the investigator regarding his travels in Rockford,  
17 that's okay to answer.

18 BY MS. EKL:

19 Q. You actually drove with Mr. Pickett the  
20 route that you took between Tuesday night at Sears  
21 to your home after the police stop on Saturday,  
22 correct?

23 A. I drove with Mr. Pickett to try to  
24 recreate, to my best recollection, where I drove,

349

1 yes.

2 Q. You and Mr. Pickett drove together over  
3 the course of two different days, correct?

4 A. I don't remember specifically how long it  
5 took.

6 Q. Do you remember Mr. Pickett preparing a  
7 report regarding the distances that you indicated  
8 to him you had driven?

9 A. I know that he did, yes.

10 MS. EKL: Let's go ahead and mark this  
11 Deposition Exhibit No. 6. I think this might  
12 alleviate your concerns about those questions.

13 MR. BOWMAN: Right. Thanks.

14 (Whereupon, Beaman Deposition  
15 Exhibit No. 6 was marked for  
16 identification.)

17 BY MS. EKL:

18 Q. Mr. Beaman, showing you what has been  
19 marked Deposition Exhibit No. 6, do you recognize  
20 that document?

21 A. It's been a long time. I think this is  
22 self-explanatory.

23 Q. Is it accurate to say that this is a memo  
24 or a letter that was written to your Attorney Beu,

350

C03863

1 or at least it purports to be, from  
2 Investigator LaVerne Pickett?

3 A. Yes.

4 Q. And it advises that per Mr. Beu's request,  
5 it states I had Alan Beaman accompany me in my  
6 vehicle so that we could accurately travel the same  
7 routes that he traveled, to the best of his memory,  
8 from approximately 9:00 p.m. on August 24th, 1993  
9 through Sunday, August 29th, 1993.

10 Does that accurately reflect what that  
11 document states?

12 A. Yes.

13 Q. And do you recall that this document  
14 was -- was, in fact, provided to the Grand Jury and  
15 shown to the Grand Jury at the time that you  
16 testified?

17 A. I don't remember what was provided to  
18 them.

19 Q. To your knowledge, what -- were there  
20 other steps that your parents took to investigate  
21 your whereabouts in the week of  
22 Jennifer Lockmiller's murder?

23 A. I really don't know what they did to  
24 investigate. I don't remember it. I'm sure some

351

1 of it's in the record, but I don't remember  
2 specifically what all they did.

3 Q. Can you remember anything at all that they  
4 did beyond what we've already talked about?

5 A. I really can't, no.

6 Q. And I should have asked you before, you  
7 have had a chance in the past to look over this  
8 document, correct?

9 A. I don't remember it. It may have been in  
10 discovery. I don't remember it.

11 Q. Do you have any reason to doubt that the  
12 distances that are indicated within this document  
13 are in any way inaccurate? Or I'm sorry.

14 Do you have any reason to doubt that that  
15 are not accurate?

16 MR. BOWMAN: Objection. That's -- I don't  
17 understand the question. Does he think they're  
18 accurate?

19 MS. EKL: Right.

20 THE WITNESS: This -- I -- I would not be able  
21 to criticize their accuracy sitting down looking at  
22 it right here.

23 BY MS. EKL:

24 Q. The visitation for Jennifer Lockmiller was  
352

1 on Tuesday, August 31st. Did you attend that  
2 visitation?

3 A. No, I did not.

4 Q. Why not?

5 A. I felt that there had been an accusation  
6 towards me and that it might be an awkward  
7 situation for myself and other people involved in  
8 it.

9 Q. And what other people did you feel it  
10 would be awkward for?

11 A. I felt that her family might feel  
12 similarly suspicious of me the way the police had.

13 Q. And up until that time on August 31st, you  
14 had only been questioned by the police on that one  
15 occasion on Saturday, correct?

16 A. Correct.

17 Q. Did you attend her funeral?

18 A. No.

19 Q. And the reason that you -- is the reason  
20 that you did not attend her funeral the same as the  
21 reason you did not attend her visitation?

22 A. Yes.

23 Q. By that point in time, had you talked to  
24 any of your friends or any of Jennifer's family

353

1 members about her death?

2 MR. BOWMAN: I'm sorry. Could I have it back,  
3 please?

4 (Whereupon, the record was read.)

5 THE WITNESS: By the time of the funeral?

6 BY MS. EKL:

7 Q. Correct.

8 A. I don't remember ever talking to anyone in  
9 her family after that, but yes, I talked to -- I  
10 don't remember specifically who all I talked to  
11 about it, honestly.

12 Q. You had, by that point in time, talked to  
13 some of your friends about her death?

14 A. I had, yes.

15 Q. For instance, on September 1st, at about  
16 1:00 o'clock in the morning, do you remember going  
17 to Chris Carbone's house?

18 A. When was this? I'm sorry.

19 Q. September 1st at approximately  
20 1:00 o'clock in the morning.

21 A. What day of the week is that?

22 Q. It must have been a Wednesday. If  
23 August 31st was Tuesday -- so it would have been  
24 Wednesday, September 1st.

354

1 A. Wednesday. I know there were times after  
2 I was first accused that I saw Chris Carbone. And  
3 that might have been one of them.

4 Q. Where was Chris living at that time?

5 A. He was staying at his parents' house.

6 Q. Where did his parents live?

7 A. I told you that before, I think.

8 [REDACTED] Yeah.

9 Q. Do you remember anything that you  
10 discussed with Chris in regard to Jennifer's murder  
11 on September 1st?

12 A. I don't remember specifics.

13 Q. Do you remember generally anything?

14 A. I know he was consoling. Not really.

15 Q. We already talked briefly about some  
16 conversations you had with Michael VanBerriger.

17 Do you remember telling him at any point  
18 in time that you thought that maybe Bubba did the  
19 murder?

20 A. I don't remember whether I told him that.

21 Q. At some point in time, did you visit  
22 Jennifer Lockmiller's grave?

23 A. Yes.

24 Q. And when was that in relation to when her

355

1 visitation took place?

2 A. I don't know in relation to the visitation  
3 but sometime after I went back to school.

4 Q. When -- and I'm sorry if -- you gave me  
5 the date, I think. What date did you go back to  
6 school?

7 A. I told you I didn't remember that either.

8 Q. You didn't remember. I'm sorry. That's  
9 why I don't remember.

10 When you went to see her grave, who did  
11 you go with?

12 A. I went with Chris Carbone and John Murray.

13 Q. Had you had any discussions up until that  
14 point in time with John Murray about why it was  
15 either of you thought -- or who -- how it was that  
16 either of you thought Jennifer was killed?

17 A. No.

18 Q. And you certainly didn't suspect  
19 John Murray at that point in time as having killed  
20 Jennifer, correct?

21 A. No.

22 Q. Both Chris and John were your friends at  
23 that time, right?

24 A. Yes.

356

1 Q. Did you go with anyone else besides the  
2 two of them?

3 A. No.

4 Q. Do you remember that the date that you  
5 went to Jennifer's grave was on Sunday,  
6 September 19th? Does that sound accurate?

7 A. I really couldn't tell you. I don't know.

8 Q. Do you know whether any of them, meaning  
9 Chris Carbone or John Murray, had been interviewed  
10 by the police at the point in time you went to  
11 Jennifer's grave?

12 A. I don't know. I don't remember whether  
13 they had been interviewed at that time.

14 Q. Had you -- did you at any point in time  
15 have any discussions with -- we'll start with  
16 Chris Carbone about any interviews that he had with  
17 the police?

18 A. I believe so.

19 Q. So he, in fact, told you that he had been  
20 interviewed by the police?

21 A. I think so, yeah.

22 Q. Did you have any discussions with  
23 John Murray about the fact that the police had also  
24 interviewed him in regard to Jennifer Lockmiller's

357

1 murder?

2 A. I think so. I really don't remember  
3 specifics.

4 Q. But you generally remember that he told  
5 you that he had, in fact, been interviewed by the  
6 police?

7 A. Yes, I think he did tell me that.

8 Q. And during -- throughout the  
9 investigation, did you keep in contact with  
10 Chris Carbone and advise him about the fact that  
11 you had been talked to more than -- on more than  
12 one occasion by the police?

13 MR. BOWMAN: Object to the form of the  
14 question. Compound.

15 THE WITNESS: Chris Carbone and I had several  
16 conversations during that time.

17 BY MS. EKL:

18 Q. And similarly, did you tell Murr --  
19 Mr. Murray that you had been interviewed by the  
20 police on multiple occasions?

21 A. My contact with John Murray was much less  
22 consistent than that with Chris Carbone.

23 Q. Well, you kept in contact with Mr. Murray  
24 after you returned to school, correct?

358

1 A. Occasionally, in passing.

2 Q. You -- how often would you see Mr. Murray  
3 when you returned to school?

4 A. I saw him around. I attended a couple of  
5 parties at his apartment every now and then. He  
6 wasn't as close a friend as Chris Carbone was --  
7 is.

8 Q. But there wasn't any reason that you would  
9 have stopped talking to Mr. Murray back when you  
10 returned to school in the fall of 1993 --

11 A. No.

12 Q. -- correct? And during those occasions,  
13 did John Murray ever tell you that he felt that he  
14 was a suspect in Jennifer's murder?

15 A. I don't recall him ever telling me that he  
16 felt that he was a suspect.

17 Q. Did he ever tell you about any of the  
18 questions that the police asked him about Jennifer  
19 or his involvement in her murder?

20 A. Can you ask it again? I'm sorry.

21 Q. Sure. Did he -- did John Murray ever tell  
22 you about any of the questions that the police  
23 asked him about his involve -- possible involvement  
24 or involvement in Jennifer's murder?

359

1 A. No.

2 Q. But you were aware that John Murray was  
3 interviewed on multiple occasions by the Normal  
4 Police Department, correct?

5 A. I was aware that he was interviewed.

6 Q. Is there anything that you can recall  
7 about John Murray's -- about the Normal Police  
8 Department's interview of John Murray that was told  
9 to you by John Murray?

10 A. I believe he told me that they wanted a  
11 polygraph.

12 Q. When did he tell you that?

13 A. I don't remember.

14 Q. Did he tell you that he, in fact, did go  
15 down for a polygraph?

16 A. No.

17 Q. Did you ever ask him?

18 A. No.

19 Q. What -- tell me everything that you  
20 remember about what he told you about the fact that  
21 the Normal Police Department wanted him to give a  
22 polygraph.

23 A. He said that he wasn't worried about it.

24 I think he asked -- or he said that if he was

360

1 stoned, it wouldn't be hard to keep from being  
2 nervous.

3 Q. Did he tell you that he was nervous to  
4 take the polygraph?

5 A. Not -- not like that, no.

6 Q. Did you have any discussions with him  
7 about the police wanting you to take a polygraph?

8 A. I don't think so.

9 Q. Was there anything else that Murray told  
10 you about the polygraph that you can remember?

11 A. No.

12 Q. Did he tell you whether or not he thought  
13 that he had passed the polygraph?

14 A. No.

15 Q. Did you ask him?

16 A. No. I don't remember talking to him about  
17 having taken it at all.

18 Q. Did you talk to any other witnesses about  
19 the other witnesses taking polygraphs?

20 A. Chris Carbone told me that he had taken  
21 one.

22 Q. And what did Chris Carbone tell you about  
23 the polygraph?

24 A. He described to me how they set up the

361

1 controls in the polygraph.

2 Q. When did he have that conversation with  
3 you?

4 A. I don't know. Sometime shortly after he  
5 took one.

6 Q. Did you eventually give a polygraph in  
7 this case?

8 A. No.

9 Q. Why not?

10 MR. BOWMAN: I'm going to let you answer that  
11 question.

12 THE WITNESS: Okay. Verne Pickett felt that  
13 polygraphs are unreliable, and that if you're  
14 telling the truth, the polygraph can still hurt  
15 you, and that if you pass the polygraph, it's not  
16 going to take away the police's interest in you.  
17 And so there was no advantage to taking the  
18 polygraph.

19 BY MS. EKL:

20 Q. Did Chris Carbone tell you if he had  
21 knowledge of whether or not he passed the  
22 polygraph?

23 A. I don't remember whether he -- I don't  
24 remember whether they even told him that he passed

362

1 it or how that works. I don't remember specifics  
2 about that.

3 Q. Did you ever have any conversations with  
4 John Murray about whether or not he ever took and  
5 passed or failed a polygraph?

6 A. No.

7 Q. You and John Murray have continued to  
8 maintain a friendship, correct?

9 A. Not really, no.

10 Q. So how would you describe your  
11 relationship, if at all, with John Murray today?

12 A. We don't really have one.

13 Q. Well -- so you don't -- would you consider  
14 him a friend?

15 A. An old friend.

16 Q. When's the last time that you talked to  
17 John Murray?

18 A. I haven't talked to him in years.

19 Q. Well, have you communicated with  
20 John Murray over the years?

21 A. We've -- I sent him a Facebook message,  
22 because there had been an article published about  
23 some developments.

24 MR. BOWMAN: Alan, the question is, have you

363

1 communicated with him --

2 THE WITNESS: Yes.

3 MR. BOWMAN: -- okay?

4 BY MS. EKL:

5 Q. Have you ever met John Murray for lunch?

6 A. No.

7 Q. I'm going to show you what I'll mark as  
8 Deposition Exhibit No. 7.

9 (Whereupon, Beaman Deposition  
10 Exhibit No. 7 was marked for  
11 identification.)

12 MS. EKL: Actually -- sorry.

13 MR. BOWMAN: That's fine.

14 MS. EKL: Psych.

15 BY MS. EKL:

16 Q. Alan, showing you what's been marked  
17 Deposition Exhibit No. 7, which is a two-page  
18 document, do you recognize that document?

19 A. Yes.

20 Q. What do you recognize this to be?

21 A. It's a Facebook message that I sent to  
22 John.

23 Q. Could you read your message to him?

24 A. Thought I should say "hi". I assume you

364

1 saw that the infamous "John doe" is excluded by DNA  
2 evidence, along with the poor schmo they locked up.  
3 I hope they will find the son of a bitches that  
4 killed our friend.

5 I thought about contacting you when I was  
6 looking for a house, but at the time, it seemed  
7 inappropriate. Found a good one. I hope it is not  
8 unseemly that I message you now. Looks like you  
9 are well. Bygones old friend? Alan.

10 Q. When you refer to the infamous "John doe",  
11 who are you referring to?

12 A. I'm referring to John.

13 Q. And you mean John being John Murray?

14 A. Yes.

15 Q. Okay. And the poor schmo they locked up,  
16 is that a reference to yourself?

17 A. Yes.

18 Q. You mentioned that you were thinking about  
19 contacting him when you were looking for a house.

20 Why is it that you thought about  
21 contacting John Murray when you were looking for a  
22 house?

23 A. He's a foreclosure realtor.

24 Q. When you were in school with Mr. Murray,

365

1 he wasn't a foreclosure realtor at that time,  
2 correct?

3 A. No.

4 Q. When did you find out that he was a  
5 foreclosure realtor?

6 A. I'm not sure when I found that out, but  
7 I've seen his name on houses that I've looked at  
8 before.

9 Q. When was the last time before this --  
10 well, let me back up.

11 At the top of this page, it says  
12 conversation started 3 July. Do you see that on  
13 the Facebook page?

14 A. Yeah.

15 Q. Does that give you any point of reference  
16 or do you know when it was that you sent this  
17 message to John Murray?

18 A. That's probably when I sent it.

19 Q. And what year would that have been?

20 A. That would have been this year.

21 Q. Well, 2012? Last year?

22 A. Oh, yes. I'm sorry. It would have been  
23 shortly after the DNA testing.

24 Q. When was the last time prior to July 3rd

366

1 of 2012 that you had had any contact of any kind  
2 with John Murray?

3 A. Before I was arrested, I think. Maybe  
4 while I was out on bond.

5 Q. Had you had any communication with  
6 John Murray through a third person?

7 A. I don't think so.

8 Q. Is it possible?

9 A. I don't see why.

10 Q. Turning to the second page, it says  
11 conversation started 9 July. Do you see that?

12 A. Yes.

13 Q. And it shows a message purportedly from  
14 John Murray, correct?

15 A. Yes.

16 Q. Is this the message that you received in  
17 your Facebook account in response to the message  
18 you sent to John Murray?

19 A. Yes.

20 Q. And that message reads call me, and then,  
21 there's a phone number and let's plan to have lunch  
22 over the next couple of weeks. Love to catch up  
23 and thanks for reaching out to me, John, correct?

24 A. Yes.

367

1 Q. Have you had any communication of any  
2 sort, either directly or indirectly, with  
3 John Murray since receiving this message from him  
4 on July 9th?

5 A. No.

6 Q. When was it that -- how is it that you  
7 first became -- well, let me back up.

8 Did you become Facebook friends with  
9 John Murray?

10 A. No.

11 Q. So this was just a message without  
12 actually sending a friend request?

13 A. Correct.

14 Q. Was there any reason -- did you send a  
15 friend request to John?

16 A. No.

17 Q. Did he send a friend request to you?

18 A. No.

19 Q. Is there any reason why you did not do  
20 that?

21 A. No.

22 Q. Do you have a concern that if you are --  
23 that it would hurt your case if you have contact  
24 with John Murray?

368

1 A. Possibly.

2 Q. And is that perhaps a reason why you have  
3 not friended John Murray or reached out to  
4 John Murray further beyond what this message says?

5 A. I think that given that the nature of the  
6 investigation is not complete, I wanted him to know  
7 about the DNA testing. I felt that that was  
8 something he should hear about, but I'm not sure if  
9 I'm ready to have a relationship with him.

10 Q. You were the one that first reached out to  
11 him, correct?

12 A. Yes.

13 Q. So as far as John Murray knows, you've  
14 just never responded to his invitation for lunch,  
15 correct?

16 A. Correct.

17 Q. Do you have any plans to reach out to  
18 John Murray in the future?

19 A. It's possible.

20 Q. You, in fact, have never at any point in  
21 time suspected that John Murray killed  
22 Jennifer Lockmiller, correct?

23 A. I've never suspected any particular person  
24 at all.

369

1 Q. Well, other than as we spoke about the  
2 last deposition session, you talked about having  
3 suspicions about Bubba at one point in time,  
4 correct?

5 A. I felt that he should be -- that they  
6 should have talked to him.

7 Q. Well, you're aware the police did talk to  
8 Bubba, correct?

9 A. Yes.

10 Q. Okay. But you certainly had more  
11 suspicions of him than you ever did of thinking  
12 that John Murray committed the murder, correct?

13 A. Sure.

14 Q. At what point in time did you recall that  
15 you had gone to Bell Federal?

16 A. I don't think I remembered it until  
17 Freesmeyer brought it up.

18 Q. So to your knowledge, did your attorney do  
19 anything to investigate or corroborate -- I'm  
20 sorry. Did your attorney -- strike that.

21 After learning about Bell Federal from  
22 Freesmeyer, did your attorney, to your knowledge,  
23 do anything to investigate or corroborate your  
24 visit to Bell Federal?

370

1 MR. BOWMAN: Okay. I have an issue here. Can  
2 you explain to me why that's waived?

3 MS. EKL: Why -- I'm not saying it's -- I'm not  
4 necessarily saying it's waived.

5 I mean, there's been a lot of discussions  
6 throughout the proceedings over the years about  
7 different things related to Bell Federal. That  
8 particular question, I don't know that it's been  
9 specifically asked that way.

10 MR. BOWMAN: It's been asked. I mean, has  
11 there been -- are you asking that question because  
12 in general, there's been testimony concerning the  
13 actions of the Beaman defense team in relation to  
14 the -- I mean, are you trying --

15 MS. EKL: There's been --

16 MR. BOWMAN: -- to establish that the video was  
17 acquired by somebody? What's the point of the  
18 question? Why is it necessary?

19 MS. EKL: Well, I mean, without getting into my  
20 own work product --

21 MR. BOWMAN: Yeah.

22 MS. EKL: -- I mean, that causes a problem.  
23 I'm investigating steps that were taken. And I've  
24 been asking questions along this line by both Alan

371

1 and his family, and that also includes people on  
2 their behalf, to show that he didn't commit these  
3 murders. And part of that includes his visit to  
4 Bell Federal.

5 The timing of it is -- has been an issue  
6 throughout the criminal proceedings --

7 MR. BOWMAN: No question --

8 MS. EKL: -- and how -- when information was  
9 developed.

10 So where my next question is going with  
11 this in term -- is -- and I don't know whether he  
12 can answer it is in terms of when information was  
13 uncovered, and then, when it was turned over or not  
14 turned over to the police.

15 And I think that those are areas that have  
16 been in some fashion covered. Now, specifically in  
17 that manner, I can't say without going back to the  
18 transcript.

19 MR. BOWMAN: You may well be right. Let me  
20 talk with Mr. Shapiro and we'll just take a short  
21 break and do that.

22 THE VIDEOGRAPHER: We are off the record at  
23 2:02 p.m.

24 (A short break was taken.)

372

1 THE VIDEOGRAPHER: We are back on the record at  
2 2:13 p.m.

3 MR. BOWMAN: Okay. So we decided you were  
4 right.

5 MS. EKL: Okay.

6 MR. BOWMAN: And -- but to be clear, what I  
7 mean by that, there was obviously a lot of back and  
8 forth about the Bell Federal information, the  
9 acquisition of the video, and the circumstances of  
10 its disclosure to the State in the context of the  
11 criminal pretrial and the criminal trial  
12 proceedings.

13 And with that as backdrop, I'm going to  
14 permit him to answer the questions regarding the  
15 activities of his team in this connection.

16 MS. EKL: And I --

17 MR. BOWMAN: By his team, I mean his family and  
18 those who were working on his behalf.

19 But we're -- you know, to repeat, we're  
20 going to take this topic by topic and that's as far  
21 as that goes.

22 MS. EKL: And I don't plan on taking it very  
23 far, because I believe it has been pretty fairly  
24 flushed out in the past.

373

1 MR. BOWMAN: Right.

2 MS. EKL: So I just have a couple of questions  
3 in this area, and then, I'm going to move on.

4 MR. BOWMAN: Okay.

5 BY MS. EKL:

6 Q. Do you recall my question that I asked  
7 before --

8 A. No.

9 Q. -- we took a break?

10 MR. BOWMAN: Let's have it back.

11 BY MS. EKL:

12 Q. Did your attorney -- after learning from  
13 Freesmeyer that there was information that you had  
14 gone to Bell Federal, did your attorney do -- or an  
15 investigator on behalf of your attorney do anything  
16 to investigate or corroborate your visit to Bell  
17 Federal?

18 A. I was not directly involved with what my  
19 attorney was doing at that time.

20 I was in Bloomington. My family was in  
21 Rockford. They were communicating with my attorney  
22 and I was focussing on school. So I was not really  
23 even paying attention to what was going on in  
24 Rockford.

374

1 Q. So is it your recollection that any of  
2 this information about you being at Bell Federal  
3 was -- that information surfaced from sources other  
4 than yourself?

5 A. Yes, that's correct. It surfaced from  
6 sources other than myself.

7 Q. Do you remember approximately when it was  
8 that the Bell Federal information first became  
9 known to you?

10 A. Freesmeyer told me about it.

11 Q. Do you recall when that was?

12 A. I don't.

13 Q. Is it fair to say that prior to that tape  
14 surfacing that the only person that was claiming  
15 that they were able to verify any of your alibi was  
16 your mother?

17 A. In the context of the time that's relevant  
18 to my mother, yes.

19 Q. What do you mean by that?

20 A. I was asked about my whereabouts that  
21 whole week.

22 Q. In the morning or the day of the -- that  
23 you later learned that the murder was alleged to  
24 have taken place, is it fair to say that as far as

375

1 your alibi for that time period, prior to this tape  
2 surfacing, your mother was the only person who was  
3 able to corroborate or purported to corroborate any  
4 portion of your alibi?

5 A. After I left work, yes.

6 Q. You mentioned that the next time you had  
7 contact with any police officers was -- after you  
8 were initially contacted was with -- when  
9 Detective Freesmeyer came and told you that he had  
10 a search warrant for samples of your hair and your  
11 saliva and your blood, correct?

12 A. Yes.

13 Q. Do you recall that to be approximately  
14 October 12th of 1993?

15 A. I really don't remember specifically.

16 Q. Was anyone with Detective Freesmeyer on  
17 that occasion?

18 A. I believe John Brown was with him.

19 Q. And what's your understanding in terms of  
20 where John Brown worked at that time?

21 A. My understanding was that he was a special  
22 investigator for the State's Attorney's Office.

23 Q. Did he introduce himself to you when you  
24 met him?

376

1           A.    I don't remember whether he did or  
2    Freesmeyer did.

3           Q.    Meaning that maybe perhaps Freesmeyer  
4    introduced Brown to you?

5           A.    I think maybe.  I really don't remember.

6           Q.    You were actually served with a warrant by  
7    the two of them for those samples of your hair and  
8    blood and saliva, correct?

9           A.    Yes, I was served with a warrant.

10          Q.    And they took you to a hospital to have  
11   those samples taken?

12          A.    Yes.

13          Q.    During the drive, the officers read you  
14   your Miranda rights, correct?

15          A.    I really don't remember.

16          Q.    You knew at that time what Miranda rights  
17   were, correct?

18          A.    I knew what I saw on television.

19          Q.    You knew that you had a right to an  
20   attorney, correct?

21          A.    Yes.

22          Q.    And at that point in time, you knew that  
23   you did not have to talk to either Lieutenant Brown  
24   or Detective Freesmeyer, correct?

377

1 A. Yes.

2 Q. And you knew that if you did talk to them  
3 that anything that you said could be used against  
4 you if you were ever criminally prosecuted?

5 A. Yes.

6 Q. Once you were at the hospital, the staff  
7 there are the people that took your blood, hair,  
8 and saliva samples, correct?

9 A. Yes.

10 Q. And then, it was after that that  
11 Freesmeyer and Brown took you back to the Normal  
12 Police Department?

13 A. Yes.

14 Q. What happened once you got back to the  
15 Normal Police Department?

16 A. I believe Freesmeyer needed a photograph  
17 of me and I think maybe he fingerprinted me, too.

18 Q. And after you were printed and  
19 photographed, what's the next thing that you recall  
20 happening?

21 A. I believe we had a conversation in his  
22 office.

23 Q. And do you recall that to be in the  
24 juvenile detective's office?

378

1 A. I really don't remember.

2 Q. But it was somewhere within the Normal  
3 Police Department?

4 A. Yes.

5 Q. Was anyone else present for that  
6 conversation?

7 A. I believe John Brown was there.

8 Q. What do you recall about the room in which  
9 the conversation took place?

10 A. It was an office.

11 Q. Was there -- what kind of furniture was in  
12 the room?

13 A. A desk. I really don't remember the  
14 specific furniture.

15 Q. You were not handcuffed at that time,  
16 correct?

17 A. No.

18 Q. And you were aware again that you did not  
19 have to talk to them if you did not want to,  
20 correct?

21 A. Yes.

22 Q. Do you remember about how long in total  
23 you were at the Normal Police Department?

24 A. I don't.

379

1 Q. How long was the actual portion of being  
2 at the Normal Police Department where you were  
3 interviewed by Detective Freesmeyer and  
4 Lieutenant Brown?

5 A. I really don't remember that.

6 Q. Do you remember that during the course of  
7 that conversation that you -- several breaks were  
8 taken?

9 A. I know at least one was taken.

10 Q. And during that, at least the one break,  
11 you were allowed to step outside and smoke a  
12 cigarette, correct?

13 A. Yes.

14 Q. You did that with Lieutenant Brown?

15 A. Yes.

16 Q. And they -- you knew at that point in time  
17 that if you wanted to stop talking to them that you  
18 could, correct?

19 A. I felt like I shouldn't.

20 Q. And despite your feeling that you  
21 shouldn't, you knew that you could, correct?

22 A. I knew that I could.

23 Q. Was it during that interview that they  
24 asked you to write down a time line of what you

380

1 recalled happening the week of Jennifer's murder?

2 A. I'm not sure when he asked me to do that.

3 Q. Do you recall during an interview with  
4 Freesmeyer and Brown that they asked you to do  
5 that?

6 A. Yes.

7 MS. EKL: Let's go ahead and mark this  
8 Exhibit No. 8.

9 (Whereupon, Beaman Deposition  
10 Exhibit No. 8 was marked for  
11 identification.)

12 BY MS. EKL:

13 Q. I'm asking you to take a look at what I've  
14 put before you, which has been marked as Deposition  
15 Exhibit No. 8. Do you recognize that document?

16 A. Yes.

17 Q. And what do you recognize this to be?

18 A. This was the -- this was the paper  
19 Freesmeyer asked me to write out giving my  
20 whereabouts for the week.

21 Q. And does this document all contain your  
22 handwriting?

23 A. It looks like it's all my handwriting,  
24 yes.

381

1 Q. And you knew at the time that you prepared  
2 this time line that it was important to be as  
3 accurate as possible, correct?

4 A. I was giving him the best of my  
5 recollection.

6 Q. But that was to the -- you were trying to  
7 be as accurate as you could, to the best of your  
8 recollection, correct?

9 A. Yes.

10 Q. Is there anything in this time line that  
11 you now believe is inaccurate?

12 A. I think I may have gone to work a little  
13 earlier than some of these times.

14 I -- from my understanding of the record,  
15 the phone call with Jennifer might have been longer  
16 than five minutes. It's missing the trip to the  
17 bank. Obviously, it's not going to be complete. I  
18 don't remember everything.

19 Q. Back at the time that you created this,  
20 did you know when it was that it was believed that  
21 Jennifer had been killed, what day?

22 A. No.

23 Q. Is it fair to say that at least in this  
24 time line -- well, did you later learn at some

382

1 point it was believed that Jennifer was killed on  
2 Wednesday?

3 A. I did later learn that, yes.

4 Q. Okay. Your time line for Wednesday  
5 starts -- it says ice cream social 7:00 o'clock,  
6 correct?

7 A. Yes.

8 Q. That was 7:00 o'clock p.m., correct?

9 A. Yes.

10 Q. This is the time line that was presented  
11 to the Grand Jury, correct?

12 A. It's in discovery.

13 Q. Do you recall that this document was shown  
14 to you when you testified before the Grand Jury?

15 A. I don't remember specifically what  
16 documents were shown to me.

17 Q. You can go ahead and put that aside. Do  
18 you again recall talking to Detective Freesmeyer  
19 and Lieutenant Brown on October 22nd of 1993?

20 A. I don't remember specific dates of when I  
21 talked to them.

22 Q. Do you remember an occasion where they  
23 came to your dorm to talk to you?

24 A. They may have -- I think they came to pick

383

1 me up maybe. I mean, they showed up at my dorm  
2 more than once but --

3 Q. Do you remember them picking you up at  
4 your dorm and then taking you to the State's  
5 Attorney's Office?

6 A. Yes.

7 Q. Okay. And was that an occasion that took  
8 place after the time line -- the time when you made  
9 the time line --

10 A. I believe so.

11 Q. Okay. And on that occasion when they came  
12 to your dorm, you agreed again to talk to them,  
13 correct?

14 A. Yes.

15 Q. And you knew on that particular day, as  
16 well, that you did not have to go with them,  
17 correct?

18 A. Again, I didn't feel like it was the  
19 responsible thing to do to not go.

20 Q. Well, in fact, you had been advised by  
21 your attorney not to go with the police and not to  
22 talk to the police, correct?

23 A. Yes.

24 Q. And you had been advised by your father

384

1 not to talk to the police, correct?

2 A. I don't remember specifically if my father  
3 advised me that or not.

4 Q. And in fact, when you were talking to  
5 Freesmeyer and Brown, they again on that occasion  
6 informed you that you did not have to go with them,  
7 correct?

8 A. I don't remember specifically if they  
9 informed me on that occasion or not.

10 Q. In any event, you did agree to talk to  
11 them, correct?

12 A. Yes.

13 Q. And you went with them to the State's  
14 Attorney's Office?

15 A. Yes.

16 Q. How is it that you got to the State's  
17 Attorney's Office?

18 A. I believe Tim Freesmeyer drove us there.

19 Q. And you were not in handcuffs during that  
20 occasion, correct?

21 A. No.

22 Q. What do you recall about the interview at  
23 the State's Attorney's Office?

24 A. I remember I walked into the office. I

385

1 sat down. And Lieutenant Brown immediately started  
2 barking at me, why don't you tell us that you did  
3 it.

4 And I felt that he was being combative and  
5 inappropriate. And so I left.

6 Q. And they didn't try to stop you when you  
7 left, correct?

8 A. Tim Freesmeyer did.

9 Q. And how did he do that?

10 A. He followed me down to the lobby, I  
11 believe, as I was leaving the courthouse. And he  
12 told me that I should really try to just talk to  
13 them.

14 Q. He didn't tell you that you had to talk to  
15 them, correct?

16 A. No.

17 Q. Is it a fair characterization that he just  
18 tried to convince you that because -- that he just  
19 tried to convince you to come back and talk to  
20 them, correct?

21 A. Yes.

22 Q. And you knew that despite him coming down  
23 trying to convince you that -- to come back up that  
24 you didn't have to, you could leave and go home,

386

1 correct?

2 A. Yes.

3 Q. Okay. The room that you were in -- that  
4 you were brought into, was that -- could you  
5 describe what type of room that was?

6 A. It was an office.

7 Q. Do you know whose office it was?

8 A. I really don't remember.

9 Q. At any point in time on that day,  
10 October 22nd, 1993, did you have any occasion to  
11 meet any Assistant State's Attorneys?

12 A. At any time on that day, you mean?

13 Q. On that day.

14 A. I don't think so.

15 Q. Is it fair to say that the only two people  
16 you talked to in the State's Attorney's Office, at  
17 least substantively, were Lieutenant Brown and  
18 Detective Freesmeyer?

19 A. Yes.

20 MR. BOWMAN: Are you asking on that day?

21 MS. EKL: On that day.

22 BY MS. EKL:

23 Q. After Detective Freesmeyer tried to

24 convince you to talk some more to them, did you, in  
387

1 fact, go back up and talk to them or did you leave?

2 A. I left.

3 Q. When was the next time you spoke to any  
4 officers?

5 A. I couldn't tell you specifically when.

6 Q. Do you recall being interviewed by  
7 Detective Freesmeyer several days later on  
8 October 27th, 1993?

9 A. Again, I don't remember specific dates of  
10 when I talked to him.

11 Q. Where was the next location that you can  
12 remember talking to Detective Freesmeyer after the  
13 State's Attorney's Office?

14 A. All of my encounters with Tim Freesmeyer  
15 are pretty jumbled together as far as timing.

16 Q. Do you remember an occasion where  
17 Freesmeyer told you that he needed to talk to you  
18 but that it would only take about five minutes?

19 A. No.

20 Q. Do you remember him telling you that you  
21 were going to be arrested and that probable cause  
22 existed?

23 A. I think -- yeah, I remember him saying  
24 something like that.

388

1 Q. And what was your reaction to his  
2 statement?

3 A. I was offended.

4 Q. Did you say anything in response to him?

5 A. I think there were more than one occasion  
6 when he threatened me with arrest. I'm not sure  
7 which occasion this is so --

8 Q. Well, when you say threatened you with  
9 arrest, did he say anything more than the fact that  
10 you were going to be arrested or -- what do you  
11 mean by threatened?

12 A. Well, he -- I think at -- I think at one  
13 point, he suggested that I would get the death  
14 penalty if I didn't confess.

15 Q. When did he suggest that?

16 A. I -- we were in my dorm room.

17 Q. So would this have been on some later  
18 occasion?

19 A. I don't know which occasions were which.

20 Q. You never admitted to Tim Freesmeyer that  
21 you, in fact, had killed Jennifer Lockmiller,  
22 correct?

23 A. I have never confessed to  
24 Jennifer Lockmiller's death, no.

389

1 Q. To anyone, correct?

2 A. No.

3 Q. Did you admit to Detective Freesmeyer that  
4 you had a motive to kill her but deny that you had  
5 actually killed her?

6 A. I don't remember a conversation where I  
7 admitted to having a motive.

8 Q. Would you agree as you sit here today that  
9 you had a motive to have killed her, despite the  
10 fact that you did not kill her?

11 A. I don't think I had a motive to kill her,  
12 no.

13 Q. Do you remember anything specific about  
14 any conversations you had with police in September  
15 and October of 1993, other than what we've already  
16 talked about?

17 MR. BOWMAN: I'm sorry. I need that one back,  
18 too.

19 (Whereupon, the record was read.)

20 MR. BOWMAN: Objection. Vague and overbroad.  
21 You can answer if you --

22 THE WITNESS: I -- I'd have to go through the  
23 record and look at the police reports. I really  
24 don't remember specifics of how many times or when

390

1 or any of that.

2 BY MS. EKL:

3 Q. Do you remember providing a set of  
4 fingerprints to Detective Freesmeyer in February --  
5 on February 16th of 1994?

6 A. That was at the Morton Crime Lab?

7 Q. You recall that?

8 A. Yes.

9 Q. Was anyone else present for that?

10 A. If it's the occasion I'm thinking of, he  
11 drove -- he drove me to Morton and there were  
12 fingerprint experts there -- I think there was more  
13 than one that were involved in taking fingerprints  
14 from me.

15 Q. Did you have any conversations with  
16 Freesmeyer on that occasion about  
17 Jennifer Lockmiller or your involvement in her  
18 murder?

19 A. Well, I was not involved in her murder,  
20 but I did talk to Freesmeyer about -- I answered  
21 his questions. He asked me things. I don't really  
22 remember what all he asked me.

23 Q. All right. As far as your answering his  
24 questions, you knew at that point in time, similar

391

1 to the prior interviews, that you did not have to  
2 answer his questions, correct?

3 A. Yes, I knew that I did not have to answer  
4 his questions.

5 Q. At some point in February, you were also  
6 asked to submit to a polygraph, correct?

7 A. At some point. I don't remember exactly  
8 when but --

9 Q. And you're -- that's when you said that  
10 your attorney advised you against taking the  
11 polygraph, correct?

12 A. Yes.

13 Q. You were arrested on May 16th of 1994?

14 A. I don't remember the specific date. It  
15 sounds right.

16 Q. Okay. What do you recall about that?

17 A. I had finished my last final. And I had  
18 gone to the dining hall at the school. And as I  
19 was leaving, Tim Freesmeyer was walking in. And he  
20 asked me if I would come out and talk with him. So  
21 I did.

22 When we got outside, he told me that I  
23 needed to come with him to the police station and  
24 that I was going to be arrested. I told him, well,

392

1 I'm not going to go with you if you're not  
2 arresting me now.

3 And so he handcuffed me and arrested me  
4 there, put me in his car, and he drove me back to  
5 the police station in Normal.

6 Q. How would you describe your reaction when  
7 he told you that you were going to be arrested on  
8 that day?

9 A. I was stunned.

10 Q. Did you make any other statements to him  
11 at the time that he arrested you that you can  
12 recall?

13 A. I think I chewed him out.

14 Q. And what specifically did you say to him?

15 A. At some point, I think I told him I was  
16 going to sue him.

17 Q. Do you remember saying I'm going to sue  
18 the shit out of this whole place?

19 A. Something to that effect, yes.

20 Q. And in fact, in the car on the way to --  
21 in fact, in the car on the way to the McLean County  
22 Jail, you asked Freesmeyer what was the last  
23 recompense for wrongful arrest the guy got awarded,  
24 \$2 million, something like that? Do you remember

393

1 asking him that question?

2 A. I don't specifically remember that  
3 question but --

4 Q. Were you -- had you become aware of other  
5 people suing the police for wrongful arrests prior  
6 to that date?

7 A. I think I had heard about it.

8 Q. And you heard that people got money for  
9 suing the police for wrongful arrest?

10 A. I remember something about that, yeah.

11 Q. So is it fair to say you were not just  
12 upset by the fact that you were being arrested, you  
13 were very angry, too?

14 A. I was extremely angry, yes.

15 Q. You were transported and processed at the  
16 county jail in McLean County, correct?

17 A. Yes.

18 Q. How many days did you spend in the McLean  
19 County Jail before you bonded out?

20 A. I believe it was 10.

21 Q. During that 10-day period, do you recall  
22 ever seeing a therapist from the Center For Human  
23 Services?

24 A. They had some kind of counselor there at

394

1 the jail that I think I saw more than once.

2 Q. And why did you see that person?

3 A. If it's -- if I -- if it's the same person  
4 I'm thinking of, she was also the one that was  
5 doing like an inprocessing interview of some sort  
6 to classify me, place me within the jail.

7 And then, later on, I saw her because I  
8 was having great emotional difficulty dealing with  
9 the jail environment.

10 Q. And is it fair to say that at that point  
11 in time, you were experiencing feelings of anger,  
12 that you were upset, and that you were experiencing  
13 feelings of frustration?

14 A. I was angry, I was frustrated, I was  
15 confused, I was terrified.

16 Q. And those were all things that you told  
17 the therapist?

18 A. Yes.

19 Q. What was the basis for feeling angry and  
20 upset?

21 A. I was being unfairly accused.

22 Q. Did you express that to the --

23 A. I was --

24 Q. Sorry.

395

1           A.    I was being subjected to a harsh  
2 environment, where I had no experience, and I was  
3 distraught.

4           Q.    What did you do to cope with those  
5 feelings?

6           A.    I tried to -- I tried to watch the TV.  
7 They had a TV in there. I tried to detach from  
8 some of it.

9                    I had a wall up as far as what I wanted to  
10 express and let myself feel, but it was so foreign  
11 to me, it was really difficult to do anything to  
12 cope.

13          Q.    Is it fair to say that the longer you were  
14 in there, the more anger you got?

15          MR. BOWMAN: The longer he was in the McLean  
16 County Jail?

17          MS. EKL: Yes.

18          MR. BOWMAN: That first time before he bonded  
19 out?

20          MS. EKL: During those nine days.

21          MR. BOWMAN: Okay.

22          THE WITNESS: I really couldn't judge the level  
23 of anger. I think I -- I really wouldn't be able  
24 to say.

396

1 BY MS. EKL:

2 Q. On May 26 of 1994, is it fair to say that  
3 you grew so angry and frustrated that you  
4 repeatedly hit your head on a shower?

5 A. I know at some time, I was hitting my head  
6 against something.

7 Q. What do you remember about that?

8 A. I -- my memory is hazy about all of it,  
9 because I was so confused during that time and  
10 terrified. And I know that they separated me and  
11 put me in a separate room where it was easier to  
12 observe me.

13 Q. This was after you hit your head, correct?

14 A. I -- I don't know when exactly, but I  
15 think it was after that, yes. I -- because I was  
16 in that room when I bonded out.

17 Q. You recall that at the time that you were  
18 hitting your head, it was at a point in time when  
19 you were extremely angry, correct?

20 A. I think I was -- I think I had just found  
21 out that there was difficulty in dealing with my  
22 bond, because they couldn't find my passport. And  
23 I was frustrated and I was terrified.

24 Q. What were you hoping to accomplish by

397

1 hitting your head against the wall?

2 A. I don't know.

3 Q. Were there other occasions in your life  
4 prior to the McLean County Jail where you had  
5 expressed anger or frustration in the same manner,  
6 meaning that you had hit your head against the wall  
7 because you were angry or frustrated?

8 MR. BOWMAN: I have to object. That's not  
9 proper as to form, because you're -- if it's  
10 looping in prior testimony, it does so  
11 inaccurately. You can answer to the best of your  
12 ability.

13 THE WITNESS: I have occasionally in the past,  
14 yes, hit my head against a wall or a door or  
15 something like that in frustration.

16 BY MS. EKL:

17 Q. Could you describe some of those  
18 instances?

19 A. When I was first in the county jail, I was  
20 placed in a holding cell. And I was hitting my  
21 head against the glass partition in there.

22 Q. And why did you do that on that occasion?

23 A. I was desperately pleading with anybody  
24 that would listen to please let me out. And I

398

1 think in that instance, I perhaps was trying to  
2 appeal to their sense of compassion.

3 Q. Is it fair to say that it was the same  
4 sort of situation in terms of -- can you compare it  
5 at all to the instance where you took the  
6 fingernail polish remover and drank it to try to  
7 appeal to Jennifer's sense of compassion? Is it  
8 the same sort of thought process?

9 MR. BOWMAN: Objection to the form. Again, you  
10 know, it misstates the prior testimony and it's not  
11 a proper question.

12 THE WITNESS: I don't think I could compare it  
13 to that particular incident.

14 I don't know what I was appealing to  
15 necessarily with Jennifer. I think I was with --  
16 in that situation -- I suppose you could say I was  
17 appealing to her sense of compassion in that  
18 situation. I really just don't know.

19 BY MS. EKL:

20 Q. Going back then to the incident in the  
21 jail, am I fairly characterizing it by saying you  
22 were hitting your head in order to try to get  
23 people on the other side of the jail cell to feel  
24 sorry for you and to let you out?

399

1 A. That may be true. I really don't know. I  
2 was --

3 Q. Did you cause injury to yourself on that  
4 occasion?

5 MR. BOWMAN: Had you finished answering? You  
6 said you --

7 MS. EKL: I'm sorry.

8 MR. BOWMAN: I don't know that the prior answer  
9 was complete. Maybe it was.

10 THE WITNESS: I would just have said that I  
11 don't think my state of mind during the time I was  
12 in the county jail was -- I don't think I would  
13 have been able to collect my thoughts and attempt  
14 to do much of anything. I don't know. I was  
15 terrified. I was --

16 BY MS. EKL:

17 Q. What other prior occasions -- and other  
18 than -- so we've talked about the time when you  
19 were in the shower. You described the prior  
20 incident in the jail cell when you first got in  
21 there.

22 And you said that there were several  
23 occasions. When was another occasion where you had  
24 hit your head out of frustration or anger?

400

1           A.    Well, when I was in high school, there was  
2 a door in the theater.  And when I was -- when I  
3 was particularly frustrated with something, I would  
4 sometimes hit my head on that door.

5           Q.    And could you describe in a little bit  
6 more detail how it is that you would hit your head?

7           A.    Just sort of thumping it against the door,  
8 not intending to do harm to myself but I guess  
9 acting out my frustration.

10          Q.    When you would hit your head, would you  
11 hit the front portion of your head or the back  
12 portion?  How would you do that?

13          A.    My forehead, yes.

14          Q.    And on those occasions, would you hit it  
15 more than once or just one time?

16          A.    I suppose it depended on how frustrated I  
17 was.

18          Q.    How many times do you think in high school  
19 you hit your head on the door frame out of -- or  
20 on -- was it the door or the door frame?

21          A.    It was the door.

22          Q.    On the door out of frustration?

23          A.    I couldn't say.

24          Q.    Can you approximate?

1 A. Somewhere in the neighborhood of 10 maybe.

2 Q. On any of those occasions, did you cause  
3 any injury to your head?

4 A. I don't think so, no.

5 Q. And when you would hit your head on the  
6 door at the theater, were those occasions where  
7 other people were around?

8 A. I really couldn't say specifically if  
9 there were occasions where there were or weren't  
10 people around.

11 I think, yes, there were some occasions  
12 where people were around. I don't -- I wouldn't be  
13 able to differentiate them.

14 Q. Were there other times, other than now in  
15 high school, prior to your arrest when you would --  
16 when you've hit your head out of frustration or  
17 anger?

18 A. I'm not remembering any specific ones, no.

19 Q. Do you recall an occasion when you hit  
20 your head in Jennifer's apartment, specifically in  
21 her living room?

22 A. I think I did do that once, yes.

23 Q. What do you recall about that occasion?

24 A. I think I put a small dent in the drywall.

402

1 Q. What were the facts or what were the  
2 circumstances that led to you hitting your head on  
3 her living room wall?

4 A. I don't remember specifically what led to  
5 that. I -- if I recall, it was -- there was an  
6 argument. And I was feeling like it was a no-win  
7 situation and I was frustrated and I hit my head on  
8 the wall.

9 Q. And you're aware that there were some  
10 other holes in other walls in her apartment,  
11 specifically in her bedroom, correct?

12 A. Yeah, there was a hole in the wall in the  
13 bedroom.

14 Q. Do you know how the hole in the wall in  
15 her bedroom occurred?

16 A. I don't -- I don't remember off the top of  
17 my head right now. That did not come from my  
18 forehead. I'm not sure -- I don't think I put it  
19 there.

20 I think that resulted from Jennifer  
21 slamming a door or throwing something or something  
22 like that. I can't remember.

23 Q. Do you remember testifying in the past  
24 that Jennifer threw some kind of vase or something

403

1 or some kind of item at the wall when -- but aiming  
2 toward you and it hit the wall?

3 A. That sounds familiar, yes.

4 Q. And it caused a hole into her wall?

5 A. Yeah.

6 Q. In addition to -- well, let me -- were  
7 there any other times that we haven't talked about  
8 that you can recall hitting your head on the wall?

9 A. I don't have a specific knowledge of a  
10 specific memory of any other times.

11 Q. In addition to hitting your head on the  
12 wall, were there other times where you kicked holes  
13 in any walls out of frustration and anger?

14 A. I don't remember kicking holes in any  
15 walls. I -- I don't remember.

16 Q. And do you remember in the past after that  
17 incident involving Michael Swaine going to  
18 Jennifer's apartment, coming back to your own  
19 apartment, and kicking a hole in the wall?

20 A. I'd have to look at the record and see if  
21 something was in there about that, but I really  
22 don't remember.

23 Q. And I'm taking aside --

24 A. I think there is something in there about

404

1 that, but I don't remember specifically.

2 Q. You don't recall as you sit here today  
3 doing that?

4 A. Right.

5 Q. We've talked a bit earlier today about the  
6 photograph and the receipts from your car.

7 Is it accurate that those things were not  
8 produced to the police until after you were  
9 arrested?

10 A. I really don't remember how that  
11 transpired. I believe that's correct, but I really  
12 don't remember for sure.

13 Q. And by the time of your arrest, those  
14 things had been in the possession of you or your  
15 family members, including your attorneys --

16 A. I didn't have possession of any of it  
17 but --

18 Q. -- for several months?

19 A. My understanding is that my attorney had  
20 possession of it.

21 Q. You were provided a full bond hearing on  
22 May 25th of 1994, correct?

23 A. I had a bond hearing.

24 Q. A number of witnesses testified on both

405

1 sides?

2 A. I don't know about both sides. A number  
3 of witnesses testified. I really don't remember  
4 how many testified for either side.

5 Q. You recall that you were allowed to  
6 call -- at least your attorney was allowed to call  
7 witnesses on your behalf, correct?

8 A. Yes.

9 Q. And witnesses did testify on your behalf?

10 A. Yes.

11 Q. And evidence was presented on your behalf?

12 A. I believe so.

13 Q. And one of the things that was presented  
14 was that letter that we've marked as Deposition  
15 Exhibit No. 6, the letter from Investigator Pickett  
16 regarding the distances that you traveled in your  
17 car, correct?

18 A. Again, I don't remember what was  
19 presented.

20 Q. Are you aware that after your bond  
21 hearing, your father took your car to someone to  
22 have them look at it to determine if the odometer  
23 had been tampered with?

24 A. I don't remember that. I know that there

406

1 were investigators that had looked at it at some  
2 point but --

3 Q. Do you know that investigators from the  
4 defense side, from your side had looked at it?

5 A. I knew that we had an expert. I think we  
6 had an expert, but I don't remember beyond that  
7 what was done.

8 Q. Do you know why that expert looked to see  
9 whether or not there was tampering?

10 A. I'm not -- I -- I don't know. I think we  
11 were accused of tampering with it.

12 Q. Did you ever tamper with or in any way  
13 fiddle with the odometer in your car?

14 A. No.

15 Q. Bond was eventually posted for your  
16 release, correct?

17 A. Yes.

18 Q. And do you recall that occurring on  
19 May 27th of 1994?

20 A. I don't remember the specific date but --

21 Q. Is there anything else specific, other  
22 than the instances that we already talked about,  
23 that you recall about your time in the McLean  
24 County Jail?

407

1 MR. BOWMAN: That's very vague. I object.

2 THE WITNESS: Can you be more specific --

3 MR. BOWMAN: It's too broad.

4 THE WITNESS: -- or --

5 BY MS. EKL:

6 Q. Sure. Sure. Well, actually, I'll come  
7 back to that.

8 You had a jury trial in this case,  
9 correct?

10 A. I did.

11 Q. And who was the judge that presided over  
12 that trial?

13 A. Judge Freese.

14 Q. Following the jury trial, you were  
15 convicted on July 14th of 1994?

16 A. I was convicted -- I was convicted on  
17 April 1st.

18 Q. Just checking to make sure you're paying  
19 attention. Sorry.

20 You were sentenced to 50 years with a  
21 credit for 45 days in the McLean County Jail,  
22 correct?

23 A. Yes.

24 Q. Prior to your conviction, had you had any

408

1 other arrests or convictions?

2 A. Are you -- I was once arrested as a minor.

3 Q. And tell me about that. What were the  
4 circumstances of -- well, first off, what were you  
5 arrested for?

6 A. Shoplifting.

7 Q. When was that?

8 A. It was before my senior year in high  
9 school, I think.

10 Q. And on that occasion, you were actually  
11 arrested for shoplifting pornographic magazines,  
12 correct?

13 A. Yes.

14 Q. Were you actually adjudicated guilty as a  
15 minor in that case?

16 A. I don't remember how all that went. I was  
17 sent home under the custody of my parents. And I  
18 went to see a parole officer and again went home  
19 under the custody of my parents.

20 So I really don't remember any  
21 adjudication process or how that works. I don't --

22 Q. Did you ever have to go to court to  
23 your -- the best of your recollection?

24 A. Not to court, no.

409

1 Q. How often did you see this parole officer?

2 A. Once.

3 Q. Any other arrests, even if they did not  
4 result in a conviction?

5 A. You're ruling out traffic stops --

6 Q. Right.

7 A. -- and things like that, right? No, there  
8 were no other arrests.

9 Q. Could you just briefly kind of describe to  
10 me by a time line the different correctional  
11 facilities that you were housed in after you were  
12 convicted of the murder of Jennifer Lockmiller?

13 A. I went to Joliet for receiving and  
14 classification. You just want which ones I went to  
15 in order?

16 Q. Right. Right. And if you can, if you  
17 know the dates, if you can approximate. If not,  
18 that's fine.

19 A. I can tell you roughly. I think I was in  
20 Joliet for a week or two.

21 And then, I went to Menard Correctional  
22 Center. And I was there for about -- a little over  
23 two years. And then, I was in Pontiac Correctional  
24 Center for about a month and a half.

410

1           And then, I was in Stateville for I think  
2 a little over three years, where I finally  
3 qualified for medium security and went to Western  
4 Illinois Correctional Center in Mount Sterling.

5           And then, from there, I went to Dixon. I  
6 was in Dixon for about five years.

7           Q.   Starting with Joliet, do you recall any of  
8 your -- the names of your cellmates while you were  
9 at Joliet?

10          A.   I've handed over the best of my  
11 recollection of that in an interrogatory. I mean,  
12 I -- to sit here and try to spout names, I don't  
13 know if that's efficient.

14          Q.   Well, is there anything beyond what you  
15 put in the interrogatory that you can recall in  
16 terms of names of cellmates that you had?

17          MR. BOWMAN: That's a little hard to answer  
18 without the interrogatory answer --

19          THE WITNESS: I --

20          MR. BOWMAN: -- in front of him, you know.

21          THE WITNESS: Yeah. Do you have it?

22          BY MS. EKL:

23          Q.   Well, I can't really answer questions but  
24 I don't.

411

1 A. I'm sorry.

2 Q. I didn't bring it today. I think I had it  
3 last time.

4 Let me ask you a different way. Are there  
5 any -- during any of your incarceration at any of  
6 these facilities, are there any particular  
7 cellmates that you have maintained contact with  
8 that you would say are people that are still --

9 A. There a few --

10 Q. -- acquaintances?

11 A. -- that I consider friends, yes.

12 Q. Okay. So of the people that you've either  
13 listed or that you can't recall, what are the names  
14 of the people that you were the closest to during  
15 the times that you were incarcerated?

16 A. One of the closest friends I had in the  
17 prison system was Kenneth Davis, Jr.,  
18 Udel Campos Castro, Richard Nelson, and  
19 Daniel Scheib.

20 Q. Where were you housed with Kenneth Davis,  
21 Jr.?

22 A. Stateville.

23 Q. And what about Udel?

24 A. Dixon.

412

1 Q. Where were you housed with Richard?

2 A. Dixon.

3 Q. And where were you housed with Daniel?

4 A. Also Dixon.

5 Q. And in addition --

6 A. Those would be the ones that I've kept in  
7 contact with the most.

8 Q. In addition to people that you have kept  
9 in contact with, were there certain people  
10 throughout the time that you were at any of the  
11 institutions with whom you would have considered,  
12 at least under the definition that is used in the  
13 prison system, as an enemy?

14 A. I believe I had an enemy on record in  
15 Menard.

16 Q. And who was that?

17 A. You'd have to look up the records. They  
18 probably have that information, but I -- what is  
19 his -- it's like Shorty G or something.

20 Q. Do you remember anything more specific  
21 about his name than that?

22 A. I want to say Michael Hodges. I don't  
23 know if that's it or not.

24 Q. Okay.

413

1 A. So --

2 Q. Okay. I won't hold you to it. What do  
3 you recall about the circumstances that caused  
4 Shorty G to be on your -- you --

5 A. Bad side?

6 Q. You and him to be enemies?

7 A. I had given him a roll of tape. And he  
8 refused to give it back to me. I was letting him  
9 use it. I wasn't giving it to him. And he refused  
10 to give it back to me.

11 And I got angry and I cussed him out. And  
12 we were on lockdown at the time. I think the next  
13 day or two, I even apologized for cussing him out.  
14 I thought, you know, I let you use the tape. If  
15 you used it all up, whatever. You know, I  
16 shouldn't be that upset about it.

17 And then, we came off of lockdown and we  
18 went to the showers. And he attacked me. He was a  
19 little guy. He wasn't anything I couldn't handle  
20 by myself, but I pushed him down, and then, one of  
21 his buddies jumped in. And you can't fight a whole  
22 gang.

23 Q. What did they do to you physically?

24 A. They beat me up.

414

1 Q. What injuries did you receive as a result?

2 A. Facial injuries, minor bumps on the rest  
3 of the body from falling down and whatnot, but I  
4 had stitches in both my upper and lower lip.

5 Q. How many people were involved in this?

6 A. There were two actually punching me.  
7 There were more standing around me.

8 And when I fell down, I felt like I was in  
9 the middle of a football huddle looking up at a  
10 bunch of guys who were letting me know that if I  
11 wanted to keep fighting, I'd have to fight all of  
12 them.

13 Q. To your knowledge, were Shorty G and the  
14 other individual involved or affiliated with a  
15 street gang?

16 A. To my knowledge, yes. I don't want to say  
17 the wrong gang, because I really -- I don't know  
18 for sure.

19 Q. Were you -- at any point in time when you  
20 were in the penitentiary, were you affiliated with  
21 any gangs --

22 A. No.

23 Q. -- for any point in time?

24 A. No.

415

1 Q. You gave an interview since your release  
2 to a student from Northwestern, correct?

3 A. Yes.

4 Q. And do you recall describing to that  
5 student an incident where there -- you got into an  
6 altercation with someone in the chow line or  
7 someone was giving you a hard time in the chow line  
8 and you talked to them about fighting with them?  
9 Do you recall?

10 A. Oh. That wasn't in the chow line.

11 Q. Do you recall what incident I'm talking  
12 about?

13 A. I think I know what you're talking about,  
14 but that's -- that's -- I don't think you're  
15 stating it correctly.

16 Q. Okay. Well, tell me about the incident  
17 that you described to the Northwestern student.  
18 When did that take place?

19 A. I think you're talking about Stateville  
20 Correctional Center.

21 Q. Okay.

22 A. And there was a guy picking on me. I was  
23 a gallery worker. I was a janitor, basically.

24 And he wanted me to run errands for him.

416

1 And I would try while I was -- if -- I felt that if  
2 I was out, I would want -- I would want people to  
3 do that for me.

4 So I tried whenever I could -- if, you  
5 know, somebody wanted to give a Ramen Noodle to  
6 somebody else or something, I would try to do that  
7 for them.

8 Q. So would this be an instance where there's  
9 inmates who are in cells and they can't --  
10 basically, they're locked in their cells and you're  
11 on the outside?

12 A. Yes.

13 Q. Okay. And you're doing your job as a  
14 janitor?

15 A. Yes.

16 Q. And they want you to take things from cell  
17 to cell on their behalf?

18 A. Yes.

19 Q. Okay. And this individual, when you say  
20 he was picking on you, other than wanting you to  
21 run these errands for him, was there any other  
22 manner that you -- anything else he was doing?

23 A. He was swatting at me through the bars.  
24 He was calling me a punk. He was attempting to

417

1 goad me, maybe attempting to intimidate me.

2 He wasn't happy with the fact that I  
3 hadn't succeeded in carrying out the errand he  
4 wanted carried out and asked me if I was in a gang.  
5 I said no. That's a paraphrase.

6 Q. Do you recall the specific words that he  
7 used?

8 A. What you is. And I told him I'm neutron,  
9 which is someone who's not in a gang.

10 And he made himself a persistent nuisance  
11 to me in that way. And I felt that it was unsafe  
12 for me to let him continue to do that and I needed  
13 to put a stop to that.

14 Q. And how did you do that?

15 A. I knew that he was a Vice Lord. I  
16 approached some Vice Lords that I knew. And  
17 because it was mostly Vice Lords living on that  
18 gallery, I was around a lot of them.

19 And I was the one that moved the phone  
20 around on the gallery. And I asked the chief of  
21 the Vice -- well, I don't know if he was the chief  
22 but a Vice Lord I knew that seemed to have a lot of  
23 respect, because I knew that if he started  
24 something with me, you can't fight a whole gang.

418

1 So I asked --

2 Q. Meaning -- and just to make sure I  
3 understand, you're saying so if he started  
4 something with you, your fear was if you started  
5 something back that the rest of the gang would jump  
6 in?

7 A. If I defended myself, I would -- the rest  
8 of the gang would jump in, yes.

9 Q. Okay.

10 A. And I felt that if I allowed him to  
11 continue being disrespectful toward me in the way  
12 that he was that that would put a bullseye on my  
13 back.

14 And in the prison system, if somebody  
15 calls you a punk and you don't hit them, you're a  
16 punk. And you don't want to be a punk.

17 So I went to his guys that I knew. And I  
18 explained to them the situation. And I asked if I  
19 could have a one-on-one fight, a polite request to  
20 try to get this thing over with and deal with it.

21 They told me that, well, we can't let, you  
22 know, our guy fight a white guy by himself and that  
23 could get misinterpreted. And so they said that  
24 they would talk to him and that he wouldn't bother

419

1 me again.

2 So I accepted that. And a couple days  
3 later, he was right back at it again. And so I  
4 asked them again. And they said, okay, well, we'll  
5 talk to him again, and even if we got to beat him  
6 up ourselves, he's not going to mess with you  
7 anymore.

8 THE VIDEOGRAPHER: I'm sorry. Could you say  
9 that last part again?

10 THE WITNESS: They said we'll talk to him  
11 again, and even if we got to beat him up ourselves,  
12 he's not going to mess with you anymore.

13 THE VIDEOGRAPHER: Thank you. Sorry.

14 BY MS. EKL:

15 Q. And do you know why they offered to beat  
16 him up? He was -- well, let me back up.

17 Was -- this individual that you were  
18 having a problem with, was he a member then,  
19 obviously, of the street gang that you were talking  
20 to?

21 A. That was my understanding of it, yes.

22 Q. Okay.

23 A. Yes.

24 Q. And do you know why the chief or the

420

1 people that were -- is it fair to say more in power  
2 in that gang?

3 Is that a fair characterization of those  
4 people you were talking to?

5 A. Yes.

6 Q. Do you know why it is that they would be  
7 willing to basically back you and take care of it  
8 with him?

9 A. My perception of it is that they felt that  
10 he was in the wrong, that I was in the right, and  
11 that when they had already instructed him to leave  
12 me alone and he didn't that that was a violation of  
13 their code and that if he was not going to observe  
14 his own codes that he was a liability to them.

15 Q. Did you ever end up having any type of  
16 physical altercation with that individual?

17 A. I did not. I was told that the next time  
18 he messed with me that I could go ahead and fight  
19 him right then and there and that they had told him  
20 that. And he never bothered me again.

21 Q. Other than the altercation in the jail  
22 that you described -- I mean -- I'm sorry.

23 In the shower that you described, was  
24 there any other physical altercation that you had

421

1 with anyone while you were incarcerated?

2 A. Not to that extent.

3 Q. At the time that you had that physical  
4 altercation in the shower, that was -- where -- do  
5 you recall where you were at in terms of your  
6 criminal proceedings?

7 A. It was -- it was a few months after I went  
8 to the prison system.

9 Q. Did you have photographs taken of yourself  
10 after you were beat up in the pris -- in the  
11 shower?

12 A. I was photographed in the visiting room,  
13 yes.

14 Q. Okay. And who was it that took those  
15 photographs?

16 A. One of the -- it's -- there's a prisoner  
17 that has a Polaroid. And you purchase photographs  
18 from them. It's a fundraising thing for events  
19 inside the prison.

20 Q. What happened to those photographs after  
21 they were taken?

22 A. I think Simone or my parents -- somebody  
23 took them to Bill Beu. And then, he called the  
24 institution and they placed me in protective

422

1 custody.

2 Q. And do you recall, despite the fact that  
3 it was an unpleasant situation in the shower,  
4 thinking that this was something that you could  
5 then use to your advantage in your criminal  
6 proceedings?

7 A. I was more concerned about making sure I  
8 didn't get beaten up again.

9 Q. Regardless of what you were more concerned  
10 about, do you remember thinking that there was a  
11 way that you could use this to your advantage?

12 A. I don't specifically remember thinking  
13 about that at the time. I -- my focus on the  
14 criminal case was to prove I didn't do it.

15 Q. Do you recall telling anyone that you  
16 could use those photographs to your advantage with  
17 the judge?

18 A. I don't remember telling anybody that.  
19 I -- I don't remember.

20 Q. I'm sorry. I know I just asked you this,  
21 but were there -- you said there weren't any other  
22 physical altercations that you had with anyone, at  
23 least not to that extent. Was it --

24 A. Nothing to that -- nothing that had me in

423

003936

1 the health care facility seeking medical attention.

2 Q. Were there ever any occasions where you  
3 were involved in a physical altercation where the  
4 other person received injuries?

5 A. No.

6 Q. Throughout your time at any of those  
7 institutions, did you have jobs in addition to when  
8 you were a janitor at Stateville?

9 A. I had other jobs, yes.

10 Q. And what other jobs did you have in the  
11 prison system?

12 A. In Menard, I worked in the commissary for  
13 a little while.

14 Q. And what were your duties there?

15 A. Take orders from prisoners who were going  
16 through the commissary line asking for specific  
17 items to be put in their shopping box, and then,  
18 also, to stock shelves and to take orders that were  
19 written down, as well, and pack those orders.

20 Q. Were you compensated at all for that job?

21 A. Yes.

22 Q. And how were you compensated?

23 A. I believe that job paid \$45 a month. And  
24 I was allowed to smoke all of the cigarettes that I

424

1 wanted to while I was at work.

2 Q. So it would be fair to say that was a  
3 pretty good job to have at the time?

4 A. It was a coveted job, yes.

5 Q. Any other jobs while you were at Menard  
6 other than the commissary?

7 A. I also worked as a floor maintenance  
8 person, waxing and buffing, that sort of thing in  
9 the dining hall.

10 And then, I worked in the kitchen as a  
11 breakfast cook. And then, I worked on the serving  
12 line in the kitchen after I refused to take that  
13 job back.

14 Q. After you refused to take which job back?

15 A. The kitchen cook job.

16 Q. When did you -- explain that -- what you  
17 mean by that.

18 Where were -- when were you a kitchen  
19 cook, and then, when did you refuse to go back to  
20 it?

21 A. I was a kitchen cook. And we were not  
22 giving -- being given any days off. We were  
23 supposed to be getting at least one day off every  
24 week. We were only being given the day off, I

425

1 think, once a month at the time.

2 And then, the -- one of the supervisors  
3 said, you know, I'm not going to be able to give  
4 you any days off for a while.

5 And everyone accepted that, under the  
6 understanding that by a certain time that that  
7 would change, that, you know, when they -- they  
8 were able to hire the people they needed to hire,  
9 it would change.

10 And it didn't change. And I confronted  
11 the supervisor. And he chewed me out. So I chewed  
12 him out back. And he wrote me a ticket. And the  
13 ticket was heard and they treated it as a minor  
14 offense. They offered me my job back. And I said  
15 I really don't want to work there anymore.

16 Q. How long were you in commissary out of the  
17 two years that you were at Menard?

18 A. A few months.

19 Q. Where did you spend -- what job did you  
20 have for the majority of the time you were there?

21 A. I would say that with the exception of the  
22 serving line job that they were pretty evenly  
23 spread out among -- around the time that I was in  
24 protective custody.

426

1 Q. And I may have misheard you so -- I  
2 thought that you had indicated that you went into  
3 protective custody as a result of that incident --  
4 oh, I'm sorry. That was with Shorty G that you  
5 went into --

6 A. Yes.

7 Q. -- protective custody. Okay. Okay. What  
8 was the difference between being in protective  
9 custody and being in general population?

10 A. General population was an open joint. It  
11 was gangs in charge of the institution. It was the  
12 gangs determining who lives in what cell and their  
13 bylaws being the peace-keeping factor inside. It  
14 was a dangerous environment for somebody who was  
15 not in a gang.

16 When I first got to the West House in  
17 Menard, I was encouraged by a counselor to join a  
18 gang, that that would be my best way to survive.

19 I didn't agree. I had been certain that  
20 joining a gang would get me into trouble. And so I  
21 chose not to.

22 In protective custody, it's still prison,  
23 it's still a maximum security prison and there are  
24 still people around you that you can't trust that

427

1 you have to guard yourself against, but the gang  
2 element is subdued.

3 Q. Were you aware of that before you went  
4 into protective custody?

5 A. I'm not sure how much I knew about -- I  
6 had never been to protective custody before. I  
7 didn't really understand it. I just knew that it  
8 was supposed to be safer.

9 Q. Did you, at least in hindsight, either  
10 consciously or unconsciously do anything to provoke  
11 that incident in the shower to give you a reason to  
12 be put into protective custody?

13 A. No.

14 Q. Prior to that incident, did you ask to be  
15 put into protective custody?

16 A. Yes.

17 Q. And were you told anything in response to  
18 your request?

19 A. I was asked if I had particular enemies.  
20 And I said no, I don't. And so I was placed in the  
21 kickout gallery.

22 Q. And what -- the kickout gallery is general  
23 population?

24 A. It's a step between requesting protective

428

1 custody and going back to the kickout gallery.

2 Q. Why was it -- do you know why it was that  
3 you were transferred from Menard to Pontiac?

4 A. I requested it.

5 Q. And why did you request the transfer?

6 A. I was told that if I transferred to  
7 Pontiac that I would receive a similar job to what  
8 I was working in Menard. I would be closer to home  
9 and I would receive a \$10 raise.

10 Q. What was the job you were working at the  
11 time that you left Menard that you were hoping to  
12 get that would be similar?

13 A. I was line serving in the kitchen. I was  
14 trying to get closer to home, basically.

15 Q. So was line serving also considered a  
16 pretty good job at the time?

17 A. Not really. It paid less and it -- I  
18 guess the good thing about it was that it was not  
19 an all-day job.

20 Q. And did Pontiac -- when you transferred to  
21 Pontiac, was it what you expected it to be?

22 A. No.

23 Q. What -- describe your time in Pontiac, how  
24 it was different from Menard, if at all.

429

1           A.    I found out that the only people that  
2    could have jobs were people that were in protective  
3    custody.

4           Q.    So when you transferred to Pontiac, you  
5    were no longer in protective custody, correct?

6           A.    Correct.

7           Q.    Could you describe further how it was  
8    different -- once you were in general population,  
9    how that was different from how your time was in  
10   Menard?

11          A.    By the time I got to Pontiac, there had  
12    been a crack-down on the way general populations  
13    operated in the prison system. And it was much --  
14    the gangs were in less control of the environment  
15    at that point.

16                    It was still an obvious element of the  
17    environment, but it was not -- you didn't need to  
18    have approval from a gang member or a gang chief to  
19    live in a certain cell anymore or that sort of  
20    thing.

21          Q.    Was it -- before you went to Pontiac or at  
22    some point in time, was the change due at all to  
23    the things that came about in regard to  
24    Richard Speck?

430

1 A. Yeah, it was the Richard Speck publicity  
2 incident that caused the crack-down.

3 Q. And from an inmate's perspective, although  
4 you no longer had to get approval from the gangs to  
5 live in certain cells, were there certain things  
6 that were allowed when the gangs were in control  
7 that weren't allowed after there was a crack-down?

8 A. There -- before the crack-down, there had  
9 been -- there was more yard privilege. There was  
10 more -- they had picnics, where your family could  
11 come in and visit in a picnic environment.

12 I never -- I never attended one of those,  
13 but there -- privileges were much more -- across  
14 the board much more stringent.

15 Q. At what point? Before or after?

16 A. After the crack-down.

17 Q. Okay. At some point when you were in the  
18 prison system, were you -- or were people able to  
19 get -- whether it was technically allowed or not  
20 able to get alcohol into the system?

21 A. They could make it.

22 Q. And were you ever -- first off, did you  
23 ever make al -- make any kind of alcohol?

24 A. I participated in the making of some

431

1 alcohol, yes.

2 Q. Where did that take place?

3 A. In Menard.

4 Q. Did you also -- well, you -- while you  
5 were in the prison system, at any point in time,  
6 did you smoke marijuana?

7 A. Yes.

8 Q. And where did you smoke marijuana?

9 A. Mostly Menard but also in Stateville.

10 Q. And was that something that was kind of  
11 openly condoned or was that something that was --  
12 you know, how -- what was your understanding in  
13 terms of whether or not that was allowed by the  
14 prison officials that were --

15 A. It was not allowed, yes.

16 Q. Did you ever -- well, before I get to  
17 that, what caused you to leave Pontiac after your  
18 time there to go to Stateville?

19 A. When you're in Pontiac -- Pontiac is a --  
20 it's a disciplinary -- it's a seg joint. If you're  
21 in general population in Pontiac, you're just  
22 waiting to go somewhere else.

23 Q. I take it you didn't realize that when you  
24 requested to go to Pontiac?

432

1           A. My understanding of Pontiac was that I  
2 would be able to have a job and stay there  
3 indefinitely.

4           Q. During the time that you were in Menard,  
5 about how many times did you smoke marijuana?

6           A. I don't know. I really couldn't tell you  
7 exactly. It was --

8           MR. BOWMAN: Alan, you don't need to guess. If  
9 you don't know, you can say you don't know.

10          THE WITNESS: I can't say specifically. I  
11 don't know.

12          BY MS. EKL:

13          Q. Was it daily?

14          A. Not always, no. Occasionally.

15          Q. Would you say at least weekly?

16          A. Not that even necessarily.

17          Q. Where did you get the marijuana?

18          A. From people that were selling it around  
19 the gallery.

20          Q. When you went to Stateville and you smoked  
21 marijuana there, did you do it more frequently or  
22 less frequently?

23          A. I quit while I was in Stateville, but when  
24 I first got there, more frequently.

433

1 Q. And where did you get the marijuana when  
2 you were in Stateville?

3 A. I had a celly that had it.

4 Q. Although you said that Pontiac was a  
5 temporary place before you go into somewhere else,  
6 did you have any kind of influence in terms of your  
7 movement into Stateville?

8 I mean, did you request that or do you  
9 know what -- what specifically --

10 A. I didn't request it --

11 Q. -- caused you to go there?

12 A. -- but I knew that that was -- I shouldn't  
13 say I knew, but it was implied to me that that was  
14 where I would end up if I didn't go into protective  
15 custody there, that they wouldn't send me back to  
16 Menard.

17 Q. And how would you describe your time in  
18 Stateville being any different than it was in  
19 Pontiac or Menard, if at all?

20 A. I was more seasoned. I had a better  
21 understanding of what to expect from my environment  
22 by then and I had matured some.

23 It was more dangerous from a standpoint of  
24 being concerned about volatile events occurring.

434

1 Menard had been the most dangerous when I was in  
2 general population prior to the crack-down.

3 And by the time I got to Stateville, I was  
4 biting. I wasn't -- I wasn't just sitting around  
5 waiting for something to happen. I was trying to  
6 figure out how to live.

7 Q. What jobs, if any, did you have while you  
8 were in Stateville?

9 A. I had a janitor job. I did that for about  
10 a year, maybe a little more. And then, I got a job  
11 in the law library. And I worked there until I  
12 transferred out.

13 Q. And again, were jobs in the law library --  
14 were those considered to be pretty good jobs?

15 A. I think the best thing about the law  
16 library was that you're there all day and it's not  
17 constant work, work, work.

18 I don't know whether it was considered to  
19 be -- I think if you were a law clerk, it might be  
20 better, but I liked it better than the job I had  
21 had previously. It got me out of the building.

22 Q. Other than working or the times that you  
23 were smoking marijuana, what other ways did you --  
24 up until that point in time -- so say through

435

1 Stateville, what other things did you do to help  
2 pass time?

3 A. I watched television. I lifted weights.  
4 I read books. I wrote. I wrote letters.

5 Q. Did you take any classes?

6 A. There were no classes available to me in  
7 Stateville.

8 Q. What about in Pontiac or Menard?

9 A. Nowhere in maximum security.

10 Q. Up through that point in time, did you --  
11 were you participating in any type of  
12 religious-type organizations?

13 A. I went to chapel a few times in Menard.  
14 And then, when I was in protective custody, I  
15 stopped. And then, in Stateville, I started going  
16 again.

17 Q. Were you involved in any type of other  
18 organized activities, whether it was sports or  
19 music or anything else that was organized with  
20 groups?

21 A. There's nothing organized in maximum  
22 security. Like actually presented by the  
23 institution, you're asking?

24 Q. Uh-huh. Right.

436

1           A.    There was nothing really organized, other  
2 than some religious events, and that was pretty  
3 much it.

4           Q.    At some point during your stay, you  
5 were -- you played volleyball pretty regularly,  
6 correct?

7           A.    In Dixon.

8           Q.    In Dixon? Okay. So that was later on?

9           A.    Yeah.

10          Q.    Okay. Did your time change -- well, first  
11 off, why did you go from then Stateville to Western  
12 Illinois Correctional Facility?

13          A.    To get out of maximum security.

14          Q.    Was there something that changed that  
15 allowed you to get out of maximum security?

16          A.    I had done enough time.

17          Q.    And up until going to Western Illinois  
18 Correctional Facility, had you had any major  
19 tickets?

20          A.    I know there were some major tickets. I  
21 wouldn't be able to list them for you.

22          Q.    Do you remember spending any particular --  
23 any particular amounts of time in segregation as a  
24 result of any disciplinary proceedings?

437

1 A. In maximum security?

2 Q. Correct.

3 A. No.

4 Q. Up until the point in time when you went  
5 into Western Illinois.

6 A. No, I had never been to seg at that point.

7 Q. How did things change, if at all, once you  
8 went to Western Illinois?

9 A. I was pretty shocked by the inappropriate  
10 attitude of the staff there. It was very  
11 combative.

12 A polite request for information is met  
13 by, if you'll forgive the terminology, an  
14 ass-chewing. And officers -- there were some that  
15 would routinely just grab you by the shirt and  
16 start telling you what to do and be touching you.  
17 And I thought that was pretty shocking.

18 It seemed to be a place where the staff  
19 was not concerned about any of the rights or  
20 well-being of the prisoners, beyond what they felt  
21 they were absolutely legally required to do.

22 Q. Did you get -- I'm sorry. Were you  
23 finished? I didn't mean to cut you off.

24 A. Well, you're asking me what was different,  
438

1 right?

2 Q. Right. Right. Sorry. Go ahead.

3 A. But there were classes that you didn't --  
4 in maximum security, you had to have -- you had to  
5 fail an aptitude test to get into a class. In  
6 medium security, there was some higher education  
7 available.

8 Q. And did you take advantage of any of  
9 those?

10 A. I did.

11 Q. What classes did you take?

12 A. I took an automotive class. I took some  
13 math classes. That was part of the automotive  
14 certificate degree.

15 Initially, it was supposed to be a --  
16 initially, it was supposed to be an Associates  
17 Degree, but that program was cancelled. So I just  
18 got the certificate.

19 Q. So you did eventually get that --

20 A. I --

21 Q. -- the automotive certificate?

22 A. I got a certificate, yes.

23 Q. And when was -- when did you receive that?

24 A. I don't remember specifically. Maybe

439

1 halfway through while I was there.

2 Q. Any other ways that it was different in  
3 terms of things that you were able to do or --

4 A. I expected that there would be more  
5 movement, but there wasn't. As far as things being  
6 different, I can't think of in terms of maximum  
7 security to medium security.

8 Maybe a little better visiting situation.  
9 You're allowed a little more time for your visits.

10 Q. Was it at Western -- or at Western  
11 Illinois, did you get into an altercation with any  
12 of the guards?

13 A. No, I didn't get into an altercation with  
14 a guard.

15 Q. Did you get disciplined at all for any  
16 interaction with any guards while you were in  
17 Western Illinois?

18 A. I don't think so. I don't remember having  
19 any altercation or -- the guards there, you  
20 didn't -- you didn't want to provoke that.

21 Q. And then -- I guess I didn't write it  
22 down. How long were you at Western Illinois?

23 A. I don't know. Roughly two years, but I  
24 don't know exactly. It's --

1 Q. And then, you spent the last five in  
2 Dixon, correct?

3 A. Yes.

4 Q. All right. And what -- why did you move  
5 from Western Illinois to Dixon?

6 A. To be closer to home. To be in a better  
7 environment.

8 Q. And so is it fair to say that that was  
9 pursuant to your request?

10 A. That I was transferred pursuant to my  
11 request?

12 Q. Right.

13 A. Yes. Yes.

14 Q. Okay. And was Dixon, in your mind, a  
15 better place to live than Western Illinois?

16 A. Yes.

17 Q. And how was it better?

18 A. There were -- there was more liberty.  
19 There was more opportunity for choosing between  
20 activities.

21 Q. And what sorts of activities were you  
22 involved in at that time, in addition to -- you  
23 mentioned that that was where you played  
24 volleyball?



1 was found in possession of a recording of a concert  
2 that the rock band had played. I tried to get it  
3 to my grandmother. I thought she would enjoy  
4 hearing that. And that was a mistake.

5 Q. What sort of punishment did you receive as  
6 a result of either of those tickets?

7 A. The one in Mount Sterling, I was placed on  
8 C Grade for three months, revoked commissary  
9 privileges, revoked phone privileges, and some  
10 activities become less available to you. I don't  
11 specifically remember all about C Grade but --

12 And then, in -- that was eventually  
13 downgraded to one month.

14 And then, in Dixon, I was sent to the  
15 hole. I -- they were going to transfer me to  
16 another secure medium similar to Western Illinois  
17 Correctional Center as part of the punishment and I  
18 did 45 days in the hole.

19 Q. Was that in lieu of being transferred?

20 A. No. That was -- I would have been in the  
21 hole upon being transferred for however long they  
22 sentenced me to being in the hole, but I would have  
23 been shipped to -- I think it was going to be  
24 Galesburg they wanted to send me to.

443

1           And I would have been in the hole there  
2 for the remainder of the time that I was sentenced  
3 to that.

4           MR. DICIANNI: Can I ask what that is?

5           MS. EKL: Sure.

6           THE WITNESS: The hole? Disciplinary  
7 segregation, I think, is what it's termed now.

8           MR. DICIANNI: So you're kept apart from  
9 everyone else?

10          THE WITNESS: You're put in a cell by yourself  
11 and you don't have access to normal privileges.  
12 Your visits are handcuffed through -- and you visit  
13 through glass.

14           You're fed in your cell. You have a  
15 limited amount of personal property compared to  
16 what you normally have. It's being grounded.

17          MR. DICIANNI: Okay. Thank you.

18          BY MS. EKL:

19           Q. In your interrogatory responses, you  
20 indicated that in the fall of 1995, you received  
21 treatment while housed in Menard after beaten in  
22 the face and head by other inmates.

23           Is that in reference to that incident you  
24 talked about in regard to Shorty G?

444

1 A. Yes.

2 Q. Okay. I just wanted to make sure. I'm  
3 going to ask you some questions about your  
4 relationships with people since Jennifer in 1993.  
5 Have you had --

6 A. Are you starting a new line?

7 Q. Yes.

8 A. Can I run to the bathroom first?

9 Q. Yes.

10 A. Thank you.

11 THE VIDEOGRAPHER: This marks the end of  
12 Tape 2. The time is 3:39 p.m. We are off the  
13 record.

14 (A short break was taken.)

15 THE VIDEOGRAPHER: This marks the beginning of  
16 Tape 3. The time is 3:48 p.m. We are on the  
17 record.

18 BY MS. EKL:

19 Q. Before we went off the record, I was  
20 asking you just generally about whether or not you  
21 had had any romantic relationships since your  
22 breakup with Jennifer Lockmiller in 1993.

23 Let me start with while you were in  
24 prison. Did you meet any women and have any kind

445

1 of relationships with anyone while you were in  
2 prison?

3 A. I had a pen pal while I was in prison that  
4 began visiting me. And it became briefly romantic,  
5 but I felt that it was not the right time for me to  
6 be looking into that kind of a thing and -- so I  
7 broke it off with her.

8 Q. What was the name of that person?

9 A. Her name was Amber Hoefle.

10 Q. Can you spell her last name?

11 A. H-o-e-f-l-e, I believe.

12 Q. f-l-e?

13 A. Yeah.

14 Q. How long did that last?

15 A. I mean, from -- she was writing to me for  
16 a while on a friendly basis. I think she probably  
17 was visiting me for -- I don't know. Four or five  
18 months or so maybe. I'm not sure exactly.

19 Q. Did you break off your relationship with  
20 her before you were released from prison?

21 A. Yes.

22 Q. Who is the next person that you had a  
23 romantic relationship with?

24 A. After I got out?

446

1 Q. After Amber. So whether it was in --  
2 while you were incarcerated still or after you got  
3 out.

4 A. It was after I got out.

5 Q. Okay. And who was that?

6 A. I started hanging out with Kate Sullivan,  
7 an old friend. And that became romantic pretty  
8 quickly and we eventually got engaged.

9 Q. You said that Kate was an old friend?

10 A. Yes.

11 Q. When did you first meet Kate?

12 A. I used to work with her at Starlight  
13 Theater. I probably first met her -- I don't  
14 remember specifically, but it was while I was  
15 working at Starlight Theater.

16 So it would have either been the summer  
17 after my senior year or maybe the summer after my  
18 freshman year in college.

19 Q. I was confused for a second. So the  
20 summer after your senior year in high school?

21 A. Yes.

22 Q. And when was it that you started up a  
23 rel -- renewed your relationship with her, even if  
24 it was on a friendship basis, after your release?

447

1           A.    She wrote to me in prison periodically,  
2    but then, after the rel -- after my release, she  
3    came over to my house the next day.

4           Q.    And how long after that do you think the  
5    relationship changed into a romantic relationship?

6           A.    A couple days.

7           Q.    And within that time period, did it also  
8    become a sexual relationship?

9           A.    Not right away, no.

10          Q.    About how long did it take until that  
11    happened?

12          A.    Maybe a month and a half.

13          Q.    Is there anything that you can point to  
14    that you would say caused the two of you to break  
15    up your engagement?

16          A.    It was a strained relationship. We  
17    stopped communicating. We weren't really as  
18    directly involved with each other anymore.

19                And she started having friends outside of  
20    our relationship and wanting to spend time with  
21    them and without me. And I think the way she went  
22    about it was frustrating to me and suspicious  
23    and -- so it just deteriorated.

24          Q.    Did you see any of the same patterns in

448

1 Kate that you had seen in your relationship with  
2 Jennifer?

3 A. The same patterns in my relationship with  
4 Kate as with Jennifer?

5 Q. Let me rephrase it. Were there any  
6 similarities that you saw between Kate that there  
7 were -- did you -- were there any similarities  
8 between Kate and Jennifer in terms of how they were  
9 in the relationship?

10 A. I really don't know how to -- I don't  
11 know -- you'd have to be more specific, I guess.

12 Q. Did you have suspicions that she was  
13 seeing other men outside of your relationship?

14 A. I knew she had a male friend that she was  
15 spending time with on a regular basis.

16 Q. And so I guess would that be an example of  
17 a similarity between her and Jennifer, that you had  
18 suspicions that -- with both of them that they were  
19 having relationships outside of the relationship  
20 with you?

21 A. If -- yeah. As common as that might be, I  
22 would think, but it might be a similarity, yes.

23 Q. Did you ever confirm whether or not that  
24 suspicion was actually true?

449

1 A. No.

2 Q. And did you ever take any steps to try to  
3 confirm it?

4 A. I did.

5 Q. And what did you do?

6 A. I tried to catch her out with him.

7 Q. And how did you go about trying to catch  
8 her out with him?

9 A. I went to a bar that she liked to go to a  
10 lot one night to see if they were there together.

11 Q. When you went to that bar, did you find  
12 the two of them together?

13 A. No.

14 Q. Were there other circumstances where you  
15 tried to catch her with him?

16 A. There were. I'm trying to remember  
17 specifics but --

18 Q. Can you think of any others?

19 A. I -- not off the top of my head. I'd have  
20 to --

21 Q. Is it fair to say that by the end of your  
22 relationship with Kate that she had accused you of,  
23 for lack of a better word, stalking her?

24 A. Not in so many words. I think she --

450

1 well, she expressed concern that my trying to catch  
2 her bore some resemblance to that, yes.

3 Q. That was a word that she actually did use  
4 during some conversations with you about your  
5 behavior in terms of trying to catch her with the  
6 other man?

7 A. Yes.

8 Q. And in fact, that was something that you  
9 relayed or you -- that you told your therapist that  
10 you were seeing after your release, correct?

11 A. Yes.

12 Q. How long were you in a relationship with  
13 Kate Sullivan that was following that initial, you  
14 know, couple-day period, but how long were you in a  
15 relationship with her that was romantic?

16 A. I think through -- well, are you asking  
17 when we broke up or --

18 Q. Right, from when the time that your  
19 relationship became romantic until you broke up,  
20 how long did that -- was that period of time?

21 A. Roughly five to six -- roughly six months.  
22 Six months.

23 Q. And how far were you into that  
24 relationship before the two of you got engaged?

451

1 A. Probably three months, maybe a little  
2 less.

3 Q. And unlike your relationship with  
4 Jennifer, was this an engagement that was announced  
5 to people --

6 A. Yes.

7 Q. -- and that you told? Did you tell your  
8 family members?

9 A. Yes.

10 Q. Did she tell her family members?

11 A. Yes.

12 Q. And you both told your friends?

13 A. Uh-huh.

14 Q. I'm sorry. Is that a yes?

15 A. Yes. I'm sorry.

16 Q. What was the next romantic relationship  
17 that you had following Kate Sullivan?

18 A. I was briefly spending time with another  
19 friend, another old friend.

20 Q. Who was that?

21 MR. DICIANNI: Before you ask the next  
22 question, my secretary is trying to get --

23 MS. EKL: Oh.

24 MR. DICIANNI: -- my attention. And it

452

1 might --

2 MS. EKL: Sure.

3 MR. DICIANNI: -- have something to do with  
4 this room so --

5 THE VIDEOGRAPHER: Should we go off the record?

6 MR. DICIANNI: The building needs to know if  
7 we're going past 5:00.

8 MS. EKL: Let's go off the record for one  
9 second.

10 THE VIDEOGRAPHER: We are off the record at  
11 3:58 p.m.

12 (Discussion off the record.)

13 THE VIDEOGRAPHER: We are back on the record at  
14 3:58 p.m.

15 BY MS. EKL:

16 Q. I'm sorry. What was the name of the woman  
17 that you were friends with that you then had a  
18 relationship with after Kate Sullivan?

19 A. Jennifer Thompson.

20 Q. And when did you first meet  
21 Jennifer Thompson?

22 A. At Starlight Theater when we were in high  
23 school.

24 Q. When did that relationship start, your --

453

1 I'm sorry. When did the romantic relationship  
2 start after your release?

3 A. I was out with some friends. And we ran  
4 into her and she -- I don't know. When was it?

5 It was -- I don't know. It might have  
6 been January-ish, maybe early February. I don't  
7 remember specifically.

8 Q. Of 2012?

9 A. Sometime during the winter.

10 Q. Of 2012?

11 A. No.

12 Q. 200 -- okay.

13 A. Let's see. I want to say 2009.

14 Q. And how long did that romantic  
15 relationship last?

16 A. Just a couple weeks.

17 Q. And was that also a sexual relationship?

18 A. Briefly, yes.

19 Q. And what would you say was the cause of  
20 that relationship ending?

21 A. I felt like she wasn't a good match for  
22 me. I had told her when we first started hanging  
23 out together that I was trying to stay out of  
24 something serious. And I think that's what she

454

1 wanted. So I told her I was going to break it off.

2 Q. And how soon was that relationship  
3 following the breakup with Kate Sullivan?

4 A. A couple months maybe, a month and a half.  
5 I really don't know exactly. Like I said, it  
6 happened sometime in the winter.

7 Q. And then, who was the next person that you  
8 were romantically involved with after  
9 Jennifer Thompson?

10 A. Gretchen, my wife.

11 Q. And what's Gretchen's maiden name?

12 A. Hasenzahl.

13 Q. Can you spell that for me?

14 A. H-a-s-e-n-z-a-h-l.

15 Q. And how was it that you met Gretchen?

16 A. I met her at church.

17 Q. And when did you meet her?

18 A. I met her -- I don't remember the specific  
19 day. I remember that it was the youth group dinner  
20 theater fundraising event for the church youth  
21 group.

22 Q. When was it that the two of you started  
23 dating?

24 A. That was a really gradual process.

455

1 Q. Where it went from being a friendship into  
2 dating?

3 A. Yeah.

4 Q. Okay. When -- approximately how long had  
5 you been dating her before you got engaged?

6 A. Over a year.

7 Q. And when did the two of you get engaged?  
8 This, you better know the answer to.

9 A. Oh, no. She knows. I don't know. It was  
10 the summer of -- I want to say 2010.

11 I know it was after the -- I was finished  
12 with the majority of my work at the theater for the  
13 summer, because I was buried alive during that time  
14 and I wanted to wait until after that.

15 Q. Would you say that your relationship with  
16 Gretchen is a normal, healthy relationship?

17 A. Absolutely.

18 Q. And the two of you have -- well, first  
19 off, you have a stepchild through Gretchen, is that  
20 true?

21 A. Yes.

22 Q. How old is your stepchild?

23 A. [REDACTED] is 9.

24 Q. Can you spell [REDACTED] name?

456

1 A. [REDACTED].

2 Q. And [REDACTED] is your daughter, correct --  
3 your stepdaughter?

4 A. I call her my daughter.

5 Q. Okay. You also have another child with  
6 Gretchen, correct?

7 A. Yes.

8 Q. And is that a boy or a girl?

9 A. It's a girl.

10 Q. And what is her name?

11 A. Her name is [REDACTED].

12 Q. Could you spell that?

13 A. [REDACTED].

14 Q. And how old is [REDACTED] today?

15 A. [REDACTED] is a little over six months old.

16 Q. Do you and your family -- do you live in a  
17 house that you own or rent?

18 A. I own the house.

19 Q. Where is that located, just in terms of  
20 the town? You don't have to give me the specific  
21 address.

22 A. It's in the Rolling Green neighborhood.

23 Q. Does anyone else live in your house other  
24 than you and Gretchen and the two girls?

457

1 A. No.

2 Q. And does [REDACTED] live with you full time  
3 or does she also split time with --

4 A. She lives with us full time.

5 Q. Are you currently employed?

6 A. Yes.

7 Q. And where are you employed?

8 A. Gleason Cutting Tools.

9 Q. What are your job responsibilities at  
10 Gleason?

11 A. I'm a machinist.

12 Q. How long have you held that job?

13 A. It will be two years in August.

14 Q. And what are your job responsibilities  
15 there?

16 A. I make shaper cutters. It's a cutting  
17 tool that's used in manufacturing.

18 I run a profile grinder. It's a machine  
19 that grinds to a smooth finish the rough object.  
20 And then, I -- sometimes I have to inspect them.  
21 And it's the basis -- that's -- the majority of my  
22 duties are in those two things.

23 Q. And how much do you make currently at  
24 Gleason Cutting Tools?

458

1 A. I make \$15.01 an hour.

2 Q. One sent? How many hours do you work a  
3 week?

4 A. Anywhere from 40 to 60.

5 Q. Prior to working at Gleason Cutting Tools,  
6 where did you work?

7 A. Rock Valley College.

8 Q. And when did you first start working at  
9 Rock Valley College?

10 A. July of the year that I came home. July  
11 of 2008.

12 Q. And I don't believe I asked you, what was  
13 the date that you were released from prison?

14 A. June 26th, I think, 2008.

15 Q. So you then started working at Rock Valley  
16 within a month of your release, is that fair to  
17 say?

18 A. Yes.

19 Q. What were your -- what was your title and  
20 your job duties at Rock Valley College?

21 A. I was a technical assistant the first --  
22 at first.

23 Q. And how long did you have that position?

24 A. Two weeks.

459

1 Q. And what was your job after that?

2 A. I was suspended.

3 Q. Why were you suspended?

4 A. Because some people at the college felt  
5 that due to the pending charges that McLean County  
6 still hadn't dropped and was asserting a retrial on  
7 made me a liability to the school.

8 Q. Did -- were you ever rehired back after  
9 you were suspended or was that at the point in time  
10 when your employment terminated with Rock Valley?

11 A. I was hired back about a year later.

12 Q. And to your knowledge, do they know that  
13 there's still -- that the County is still fighting  
14 the certificate of innocence proceedings?

15 A. I don't know what they knew about the COI.  
16 It was not my -- not my direct supervisor's doing  
17 to fire me. So my communications with him, I don't  
18 know what he knew that they knew and vice versa.

19 Q. Is it fair to say that your circumstances  
20 are the -- in terms of any -- as far as being  
21 involved and being a suspect or the position of  
22 your criminal proceedings are still the same as  
23 they were back at the time that you were suspended  
24 initially?

460

1 A. I'm sorry. Can you --

2 Q. Yeah. I'm sorry. That was a bad  
3 question.

4 What's different, if at all, in terms of  
5 your -- the County's treatment of you, as a suspect  
6 or otherwise, than it was at the time that you were  
7 suspended?

8 MR. BOWMAN: I object on foundational grounds.

9 BY MS. EKL:

10 Q. If you know.

11 A. I think the only thing that's different is  
12 that I'm not being charged anymore.

13 Q. So at the time that you were suspended,  
14 you were still charged, you're saying, at that  
15 time?

16 A. Yes.

17 Q. Did you take any other jobs during that  
18 time period where you were suspended from  
19 Rock Valley?

20 A. I worked some odd jobs.

21 Q. What kind of odd jobs did you do?

22 A. Handy-work. Refinishing floors, apartment  
23 rehab, some -- a lot of grounds work, lawn-mowing,  
24 snow removal.

461

1 Q. Is it fair to say that pretty much  
2 continuously since you were released from prison,  
3 you've been able to find some type of employment?

4 A. Some type, yes.

5 Q. Where did you go to live when you were  
6 first released from prison?

7 A. I lived with my parents.

8 Q. And how long did you live with them?

9 A. About a year.

10 Q. And were they still living at that same  
11 location on [REDACTED]?

12 A. Yes.

13 Q. Did anyone else live at the house besides  
14 you and your parents?

15 A. My brother.

16 Q. And that's your brother Kelly?

17 A. Yes.

18 Q. Where did you go after that year-long  
19 period?

20 A. I got an apartment with my brother.

21 Q. And how long did you live in the  
22 apartment?

23 A. One year.

24 Q. What caused you to move from your parents'

462

1 house to the apartment?

2 A. We needed more space.

3 Q. And what happened after living in -- for a  
4 year in the apartment with Kelly?

5 A. He and I moved into a different apartment  
6 that had lower rent and was one that I wouldn't  
7 have to have a long lease, because Gretchen and I  
8 were planning on getting married and I was going to  
9 move into her house then.

10 Q. How would you describe your relationship  
11 with Kelly after you were released from prison?

12 A. My brother and I have always been -- we've  
13 always been friends.

14 Q. Did you talk to him throughout your  
15 incarceration?

16 A. Not that often.

17 Q. Did you talk to him during the time period  
18 when you were awaiting trial?

19 A. Once in a while.

20 Q. Do you know if Kelly came to any of your  
21 criminal proceedings?

22 A. I don't think he did, no.

23 Q. Is your -- would you describe your  
24 relationship with Kelly any different after your

463

1 release than it was before you were incarcerated?

2 A. Well, I think a lot of that, you know --  
3 yeah. We were adults instead of being kids.

4 Q. Did your relationship with your parents  
5 change at all from the time period before your  
6 incarceration and after your release?

7 A. I think I got closer to my parents.

8 Q. After your release?

9 A. You're asking a difference between during  
10 the incarceration and after my release?

11 Q. No. Prior to your incarceration before  
12 you were arrested --

13 A. And after my release.

14 Q. And after. Was your relationship  
15 different?

16 A. Yes.

17 Q. Okay. And are -- when you say you got  
18 closer, were you closer with them before you were  
19 arrested or after your release?

20 A. I was closer with them after my release.

21 Q. In addition to the jobs that you've  
22 described, were there any other means that you had  
23 over the last -- over the years since your  
24 release -- sorry.

464

1           Have you received money from any other  
2 sources during that time period?

3           A.   I received a donation from a friend, who  
4 thought that I would need something to get started  
5 with.

6           Q.   How much was that donation?

7           A.   I don't remember. I think it was \$10,000.  
8 I can't remember.

9           MR. BOWMAN: Alan, if you don't remember, you  
10 should say you don't remember.

11          THE WITNESS: I don't remember --

12          MR. BOWMAN: Don't guess.

13          THE WITNESS: -- specifically, yeah.

14 BY MS. EKL:

15          Q.   Was that a donation that you were not  
16 expected to pay back?

17          A.   Correct.

18          Q.   Have you ever received any money for any  
19 speaking engagements?

20          A.   No.

21          Q.   You do partake in speaking engagement --  
22 I'm sorry. Speaking engagements on occasion,  
23 correct?

24          A.   Yes.

465

1 Q. Approximately how many speaking  
2 engagements have you been a part of since you were  
3 released from custody?

4 A. Five or six. Not -- I mean, not more than  
5 ten.

6 Q. And in addition to speaking engagements,  
7 you've also -- is it fair to say you filmed kind of  
8 a movie about your release or a short little  
9 video --

10 A. I've --

11 Q. -- of your release?

12 A. -- done some promotional videos for the  
13 Center of Wrongful Convictions and -- yeah.

14 Q. In addition -- in addition to the  
15 promotional videos for the wrongful convictions,  
16 you also did a short video called Sweet Freedom?

17 A. I'm not sure what you're talking about.  
18 Can you give more information?

19 Q. Sure. Do you recall doing a video where  
20 it basically showed you on a motorcycle with  
21 Gretchen on the back --

22 A. Okay. Was it --

23 Q. -- and the two of you talked about your  
24 life?

466

1 A. -- in connection to the Reader's Digest?

2 Q. It was called -- the title of it was  
3 called Sweet Freedom.

4 A. I think you're talking about something  
5 that the Reader's Digest did on line maybe, yeah.

6 Q. You're familiar with that Reader's Digest  
7 article?

8 A. Yes.

9 Q. Would you say that it fairly portrays your  
10 life today?

11 A. I think it glamorizes it.

12 Q. What about it do you think glamorizes it  
13 or is not entirely accurate?

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

16 THE WITNESS: That is the sense I get from  
17 remembering what I can about it. I would probably  
18 have to watch it and give you specifics, if that's  
19 what you want.

20 BY MS. EKL:

21 Q. When you say it glamorizes it, though,  
22 what do you mean by that?

23 A. I think it's intended to be an uplifting  
24 story. And it may be -- well, you've heard the

467

1 phrase give me the Reader's Digest version.

2 Q. Fair enough.

3 A. It's the Reader's Digest version.

4 Q. I didn't ask you earlier, just kind of  
5 going back for a second, prior to the time when you  
6 were brought -- when you were charged and arrested  
7 for Jennifer's murder, had you had any contact  
8 whatsoever with Jim Souk?

9 A. Prior to when I was arrested?

10 Q. Correct.

11 A. I don't believe so.

12 Q. Did you have any contact with  
13 Charles Reynard -- Reynard?

14 A. I don't believe so.

15 Q. Other than the two occasions that we  
16 talked about with Lieutenant Brown, did you have  
17 any more contact with him?

18 A. I really don't remember -- I don't  
19 remember any independent contact with him without  
20 Freesmeyer. So I -- however many times he was with  
21 him.

22 Q. How would you describe how the defendants'  
23 actions in this case has affected your life?

24 A. Can you be -- I -- how would I describe

468

1 it's affected my life?

2 Q. Correct.

3 A. I mean, they took 13 years away from me.  
4 They put me in -- they put me in prison. I mean,  
5 they wrongfully convicted me. They put me through  
6 the worst experience I can ever think of having at  
7 this point. I -- wow.

8 They took me away from everything that I  
9 knew and they plunged me into a desperate,  
10 terrifying situation that I was forced to survive  
11 and overcome or die. And I think I'm forever  
12 changed.

13 Q. Would you say that despite your  
14 experiences that you have persevered in your life?

15 A. Have I persevered?

16 Q. Yes.

17 A. I have dug myself out of it and forced  
18 myself to deal with it and forced myself to grow  
19 and forced myself to find something that I can hold  
20 onto to be me through it. And in that way, I have  
21 persevered.

22 Q. Would you say that despite the experiences  
23 that you had in prison, you've been able to  
24 overcome them, maintain relationships, and move

469

1 forward with your life?

2 A. I am working on that. I'm working on  
3 moving forward. I'm working on overcoming.

4 I haven't really even processed everything  
5 that's happened to me. I'm still -- I'm still  
6 dealing with it. I've had a wall up around me  
7 emotionally for so many years that I don't -- I  
8 don't know necessarily how to be free.

9 Q. What sort of steps are you taking to try  
10 to enable yourself to process what's happened to  
11 you?

12 A. I think as I experience life and am  
13 confronted with things that are challenging,  
14 because they're -- because normal life is foreign  
15 to me now, I'm forced to deal with those things and  
16 try to do what I know is supposed to be the normal  
17 way to live, regardless of what my years of  
18 training in prison life instincts would have me do.

19 Q. Would you say that --

20 A. I'm --

21 Q. I'm sorry. I didn't mean to cut you off.  
22 Were you done?

23 A. Go ahead.

24 Q. I was just going to say, would you say

470

1 that as each year goes by, the more time that you  
2 separate between when you were incarcerated and now  
3 that you're out, that gets easier?

4 A. I think I process more of it over time. I  
5 think something being easy or difficult can come  
6 and go.

7 I deal with what I see, what I come  
8 across. I deal with it and I try to find what  
9 normal life is like and move on to the next thing.

10 Q. Would you say that you're -- when you say  
11 that you try to be what you -- I don't want to  
12 paraphrase.

13 I don't want to mis -- or misphrase what  
14 you're saying, but are you trying to say that  
15 you're kind of going through the motions of  
16 being happ -- living a normal life or would you say  
17 that you are, in fact, living a normal life at this  
18 point today?

19 Not necessarily two years ago, three years  
20 ago, but today, as you sit here --

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

23 THE WITNESS: I think in a lot of areas, I'm  
24 burying emotions. And I -- I guess I -- it's hard

471

1 for me to describe it by simply saying a normal  
2 life and abnormal life. I know I've used that  
3 word. I --

4 MR. BOWMAN: Alan, if you can't answer the  
5 question as phrased --

6 MS. EKL: He's --

7 MR. BOWMAN: -- you can say that. I mean, I  
8 don't want to cut him off either but --

9 MS. EKL: Right. He's answering. So I mean --

10 MR. BOWMAN: I think what he's saying is that  
11 the question is impossible to answer as it's  
12 phrased.

13 THE WITNESS: Do you have another way to phrase  
14 it? I --

15 MS. EKL: Can you read back my question,  
16 just -- and then, I'll rephrase from there?

17 (Whereupon, the record was read.)

18 BY MS. EKL:

19 Q. So are you saying that today, as you sit  
20 here -- I asked you before if you're living a  
21 normal healthy life. And I believe your response  
22 was that you are. Is that a fair answer --

23 MR. BOWMAN: Objection.

24

472

1 BY MS. EKL:

2 Q. -- or a fair characterization?

3 MR. BOWMAN: I think that was not the question.  
4 I mean, that's not fair, Beth.

5 MS. EKL: It was a previous question. I'm just  
6 asking --

7 MR. BOWMAN: Right. And that's not --

8 MS. EKL: -- him if it's fair. So can you let  
9 him answer? And if it's incorrect, he can correct  
10 me, and then, I can follow up.

11 MR. BOWMAN: Right. But you're implying that  
12 he's committed to that proposition, when that's  
13 not --

14 MS. EKL: I'm --

15 MR. BOWMAN: -- the question that you asked  
16 before.

17 MS. EKL: -- asking him if that's what he was  
18 saying before.

19 MR. BOWMAN: Okay. Then, I think you should  
20 re -- well, objection. Form, foundation.

21 THE WITNESS: I think I'm going through a  
22 process that is not finished yet. And I can't tell  
23 you what my progress is, because I don't know what  
24 else is going to come up that's going to reveal

473

1 something that is challenging me and overwhelming.

2 BY MS. EKL:

3 Q. Since your release, has -- have you been  
4 faced with anything that seemed overwhelming to  
5 you?

6 A. Yes.

7 Q. What was that?

8 A. When I was starting to get accustomed to  
9 not being in prison, when I was starting to wake up  
10 and realize, okay, I'm not in prison today or -- I  
11 began to experience unreasonable anxieties.

12 Q. When did that take place?

13 A. I guess I started to notice it in the fall  
14 of 2008.

15 Q. And how long did it last?

16 A. I still struggle with it.

17 Q. Are there any things that you encounter in  
18 your life that cause you to have more anxiety than  
19 other things?

20 A. I think what I normally experience is that  
21 if I have -- if I have an emotion that additional  
22 emotion that is similar comes out with that  
23 emotion.

24 I can get very grieved over something very  
474

1 simple, because I'm -- I've been storing up grief  
2 for many years.

3 Q. Can you give me an example of a time that  
4 that's happened?

5 A. Well, a few weeks ago, my wife told me --  
6 I got off work. And I was talking to my wife on  
7 the phone. And she told me that the power was out  
8 in the house.

9 There had been a bill that she had -- that  
10 she thought she had paid. And it was an  
11 overlooking of some amount of the bill and they had  
12 shut the power off.

13 And I was really frustrated by that. And  
14 I felt that we were as a household falling short of  
15 our responsibilities. And I'm feeling behind the  
16 eight ball and trying to catch up in life and we're  
17 getting further behind.

18 And on the way home, I had to pull over in  
19 the parking lot at one of the hospitals in  
20 Rockford, Swedish American, and just park and sit  
21 there for about 20 minutes and try to calm down. I  
22 think I played Angry Birds.

23 And it's -- I guess I would describe it as  
24 feeling like there's a whole bunch of energy in my

475

1 body that has no constructive way to come out.  
2 It's just bouncing around in there and I'm worrying  
3 a mile a minute.

4 Q. And I take it that since your release, you  
5 haven't released frustration or anger in some of  
6 the ways that you've known prior to your  
7 incarceration, such as banging your head on doors  
8 or walls?

9 A. I --

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

12 THE WITNESS: I will say that while I was in  
13 the prison system, I trained myself to keep my  
14 mouth shut and keep my feelings to myself, because  
15 nobody wants to hear it and it might get me into  
16 trouble.

17 BY MS. EKL:

18 Q. And so do you still react in the same  
19 manner as you did then when you were in prison,  
20 being that you keep those things to yourself,  
21 rather than have them manifest in, for instance,  
22 the circumstance where you would bang your head  
23 against a wall?

24 A. I'm certain that I often do.

476

1 Q. Are you claiming as -- are you claiming  
2 that you have a mental illness or disorder as a  
3 result of the acts alleged in your complaint?

4 MR. BOWMAN: Objection to the form of the  
5 question, to the extent it calls upon him to  
6 provide a medical or psychiatric or psychological  
7 opinion. There's not a foundation for it.

8 And I don't know if he can answer it, but  
9 if you can try and answer it, you must do so. I'm  
10 not going to instruct you not to answer.

11 THE WITNESS: I think it's stated in the claim  
12 what I'm claiming.

13 BY MS. EKL:

14 Q. We issued interrogatories to you. And  
15 we've already talked briefly about the fact that --  
16 just that we issued those to you, correct, in this  
17 case?

18 A. Yes.

19 Q. And you signed the interrogatories prior  
20 to them being given to us, correct?

21 A. Yes.

22 Q. Were you the one who actually prepared the  
23 answers to those interrogatories or did someone  
24 else do it on your behalf?

477

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1           A.    My attorneys helped me prepare those  
2 interrogatories.

3           Q.    Were those interrogatories truthful and  
4 based on things that were in your personal  
5 knowledge when you an -- or your answers to those  
6 interrogatories?

7           A.    To the best of my knowledge, yes.

8           Q.    Your response to one of Judge Souk's  
9 interrogatories indicated that you suffer from  
10 anxiety, PTSD or posttraumatic stress disorder --  
11 and I'm quoting now, other mental health problems  
12 stemming from his wrongful conviction and  
13 incarceration.

14                    Do you recall providing that information  
15 to the defendants in your answers to  
16 interrogatories?

17           A.    Yes.

18           Q.    What did you mean by you suffer from  
19 anxiety and posttraumatic stress disorder?

20           A.    I am referring to how I've been counseled  
21 by psych -- a psychiatrist and a -- and my  
22 psychologist.

23           Q.    And are those diagnoses that either your  
24 psychologist or your psychiatrist has made?

478

1 A. Yes.

2 Q. What is the name of your psychologist or  
3 any of -- first off, have you seen one psychologist  
4 or more than one psychologist since your release?

5 A. I've seen -- Kate Cieslak is my therapist.

6 Q. Is she a psychologist or a psychiatrist?

7 A. She is a psychologist.

8 Q. In addition, are you also seeing or have  
9 you seen a psychiatrist since your released --  
10 release?

11 A. Yes.

12 Q. And what's the name of that person?

13 A. Martha Crotts.

14 Q. Is there anyone else besides those two  
15 people that you've seen in the area of either  
16 psychology or psychiatry?

17 A. Dr. Diamond, my general practitioner, has  
18 been treating me with medications.

19 Q. What medications have you taken since your  
20 release?

21 A. With Zoloft.

22 Q. Are you still taking Zoloft?

23 A. Yes.

24 Q. How much -- what is your dosage of Zoloft

479

1 that you take?

2 A. Currently, it's 50 milligrams.

3 Q. Is that per day?

4 A. Yes.

5 Q. What did you mean by other mental health  
6 problems stemming from his, or in this case, your  
7 wrongful conviction and incarceration?

8 A. Again, I -- my attorneys have -- are you  
9 speaking of the -- you're speaking of the  
10 interrogatories?

11 Q. Right.

12 A. I think that's based on a review of the  
13 reports from the files of Dr. Crotts. And I  
14 haven't even read those files but -- and  
15 Kate Cieslak.

16 Q. So you're not aware personally of any  
17 diagnosis related to any other -- in relation to  
18 any mental health problems that you may or may not  
19 have?

20 A. Any further diagnosis?

21 Q. Right.

22 A. I'm not aware of --

23 MR. BOWMAN: Is that further in addition to  
24 what has already been discussed?

480

1 MS. EKL: Right.

2 THE WITNESS: I'm not aware of any further  
3 diagnosis, besides anxiety and posttraumatic stress  
4 disorder.

5 BY MS. EKL:

6 Q. And do you still continue to see both  
7 those doctors, Crotts and Cieslak?

8 A. I'm not currently, no.

9 Q. Is there any reason why you stopped seeing  
10 them?

11 A. Financial.

12 Q. When did you stop seeing Dr. Crotts?

13 A. I stopped seeing Dr. Crotts after I weaned  
14 off of Zoloft for a period of time during the  
15 summer of -- the summer of 2009.

16 Q. When did you -- so when did you wean  
17 off -- so in the summer of 2009, you weaned off of  
18 Zoloft. When did you start taking it again?

19 A. I started taking it again -- I can't  
20 specifically remember. I know it was prescribed by  
21 Dr. Diamond. I can't remember specifically when.

22 Q. And when did you stop seeing Kate Cieslak?

23 A. I don't specifically remember, but it's  
24 been a while.

481

1 Q. Was it before or after you stopped seeing  
2 Martha Crotts?

3 A. I don't know. I can't remember.

4 Q. Are you claiming any physical injuries as  
5 a result of your -- the claims in your complaint?

6 A. In the sense that anxiety is a very  
7 physical experience. I mean, what are you asking  
8 for? Can you give me a specific? Are you --

9 Q. Just --

10 A. What's in the claim is in the claim.

11 Q. I'm just separating -- trying to find out  
12 what your damages are.

13 So you've claimed some mental damages  
14 related to having anxiety, posttraumatic stress  
15 disorder, and then, other undescribed -- or  
16 unspecified mental health problems.

17 I'm just checking to see if there's any  
18 physical injuries. Like is there some diagnosis  
19 you've received or some illness or something that  
20 you're claiming is based on the actions of the  
21 defendants in this case?

22 A. I'm not aware of any diagnosis of a  
23 physical injury, beyond the extent to where I  
24 experience physical issues due to the anxiety that

482

1 I experience.

2 Q. What physical issues do you attribute to  
3 the anxiety?

4 A. I need to take medications that have  
5 side-effects. I have a chronic loose stool.

6 I experience physical anxiety attacks,  
7 where I -- again, as I've described, I have energy  
8 bouncing around inside of me that can occasionally  
9 be -- require me to stop what I'm doing and calm  
10 down.

11 Q. As far as any money that you expect to  
12 receive in this lawsuit, do you have -- have you  
13 promised any of that money to anyone?

14 A. Have I promised any money?

15 Q. Uh-huh. I'm sorry. Yes.

16 A. I would pay back the people that I owe  
17 money.

18 Q. Who do you owe money to?

19 A. Well, I feel that I owe money to my family  
20 for all of the money they spent and lost on my  
21 defense and on fighting to get me out of prison.

22 Q. Other than your family, do you owe any  
23 money to anyone else?

24 A. The bank.

483

1 Q. And what do you owe the mon -- what --

2 A. I have a mortgage. I have other payments  
3 to the bank.

4 Q. When you say other payments, is that in  
5 relation to a loan separate from your mortgage?

6 A. Yeah. I think I have a -- I don't know.  
7 Between my wife and I, we have car loans, we have a  
8 motorcycle loan.

9 Q. How many cars do the two of you own  
10 together?

11 A. Two.

12 Q. And in addition to the two cars, you also  
13 have a motorcycle?

14 A. Yes.

15 Q. What type of car do you drive?

16 A. I drive a Kia Sportage.

17 Q. And how old is that?

18 A. I think it's a 2007.

19 Q. And what about your wife?

20 A. She drives a Honda Pilot. It's also a  
21 2007.

22 Q. And what kind of motorcycle do you have?

23 A. It's a Honda Shadow.

24 Q. And how old is that?

484

1 A. 2009.

2 Q. Other than your -- and what kind of a  
3 mortgage payment do you have on your house?

4 A. What do you mean what kind? I mean --

5 Q. I'm sorry. How much? How much do you pay  
6 each month?

7 A. How much?

8 Q. Sorry. That was a bad question.

9 A. It's -- I think it's -- I don't  
10 specifically know. It's over \$900. That's escrow  
11 included and all of that.

12 Q. Other than paying back your family and  
13 paying off some debt, do you have any other plans  
14 for what you would do with any money that you might  
15 receive in this lawsuit?

16 A. Put my kids through college. Try to catch  
17 up on retirement funds that I don't have because I  
18 haven't been working for as long as I could have or  
19 should have been.

20 Q. Do you have plans generally -- not  
21 necessarily financial plans, but do you have plans  
22 generally for the future?

23 A. Plans? I --

24 MR. BOWMAN: I think that's vague and

485

1 overbroad.

2 BY MS. EKL:

3 Q. For instance, is it fair to say that you  
4 plan to one day hopefully send your kids to school?

5 A. Yes.

6 Q. Do you have plans to take vacations or  
7 anything of that sort?

8 A. If I can afford to do that, yeah.

9 Q. Are those things that you look forward to?

10 A. Yes.

11 Q. Is it fair to say that as of today, you're  
12 happy with your life?

13 A. Am I happy with -- I'm grateful for what I  
14 have, but I still need to -- I'm not caught up.

15 MS. EKL: Can we take just a couple minutes?

16 MR. BOWMAN: Sure.

17 MS. EKL: I might be done and I can pass it  
18 along to Tom.

19 THE VIDEOGRAPHER: We are off the record at  
20 4:42 p.m.

21 (A short break was taken.)

22 THE VIDEOGRAPHER: We are back on the record at  
23 4:52 p.m.

24

486

1 BY MS. EKL:

2 Q. I just have a couple follow-up questions.  
3 You mentioned that one of the sources of your  
4 anxiety -- you gave me an example of having some  
5 financial -- that financial issues cause you  
6 anxiety, is that fair to say?

7 A. That's some of it.

8 Q. Are there other things that cause you in  
9 your daily life anxiety?

10 A. Yes.

11 Q. What things?

12 A. I'm afraid to spit my gum in a garbage  
13 can. If my saliva interacts with something else in  
14 the garbage can that turns out to be evidence in  
15 some case, then I will be implicated.

16 If I'm in traffic and there's a cop, I'm  
17 probably more worried about being pulled over than  
18 other people might be.

19 If -- if -- and I'm anxious about the fact  
20 that this COI case is being dragged out endlessly.  
21 And I want to move on with my life. I don't always  
22 know how to.

23 And I think things that challenge people  
24 on a normal basis that they accept as a normal

487

1 challenge that they're -- have been used to doing  
2 since they got out of college are things that I'm  
3 just now trying to figure out how to do.

4           And I've been deprived of the experience  
5 that a 40-year-old father of two is supposed to  
6 have. And I don't always know how to deal with  
7 that.

8           Q. When you say that you're still dealing  
9 with challenges of learning things that people who  
10 haven't been incarcerated know -- already know how  
11 to do, you've been out for a while now.

12           Can you name any specific examples of  
13 things you still struggle with not knowing how to  
14 do as a result of your incarceration?

15           A. I'm still pretty frustrated by technology.  
16 I'm sure I've done a lot of catching up on  
17 technology, but I guess I'm sometimes the old man  
18 that doesn't know how to program his VCR.

19           And I'm 40. And people that are older  
20 than me are using technology that's more difficult.

21           Q. You've certainly been able to -- and I'm  
22 sorry. I didn't mean to cut you off. Go ahead.  
23 I'm sorry.

24           A. That's fine.

488

1 Q. I apologize.

2 A. Go ahead.

3 Q. You've certainly been able to get up to  
4 speed on, for instance, using Facebook, correct?

5 A. I do okay with Facebook, yes.

6 Q. In addition to those messages that we  
7 talked about earlier with John Murray, you've  
8 reached out to or had other people reach out to a  
9 number of people -- I'm sorry. Strike all that.  
10 You've reached out to a number of people  
11 through Facebook, correct?

12 A. Yes.

13 Q. And they -- a number of people have  
14 reached out to you through Facebook, correct?

15 A. Yes.

16 Q. And you've used Facebook not only to reach  
17 out to people that you know and to respond to them  
18 but also to get out a message from time to time,  
19 correct?

20 A. I've posted some things on Facebook that I  
21 think people need to learn from. And I think it's  
22 my duty to try to make a difference.

23 Q. And those are things that weren't  
24 available to you prior to being incarcerated, but

489

1 you've learned to deal with and it's technology  
2 that you've learned since you've been released,  
3 correct?

4 A. Yes.

5 MS. EKL: I don't have anything further.

6 MR. DICIANNI: Do I need a microphone?

7 MS. EKL: Oh.

8 THE VIDEOGRAPHER: Absolutely.

9 EXAMINATION

10 BY MR. DICIANNI:

11 Q. Mr. Beaman, I don't have too many  
12 additional questions, just a little while.

13 You've been through several legal  
14 proceedings in connection with all we've been  
15 talking about, correct?

16 A. Yes.

17 Q. A criminal trial, post conviction  
18 petition, appeals, the COI, all of that, right?

19 A. Yes.

20 Q. And all of that has generated a lot of  
21 paper, true?

22 A. Generated a lot of paper? Yes.

23 Q. Yeah. Police reports, testimony,  
24 statements, letters, decisions, whatever, correct?

490

1 A. Right.

2 Q. Have you read all of that?

3 A. I very much doubt it.

4 Q. Have you read a lot of it?

5 A. Yes.

6 Q. Do you recall reading a report where  
7 somebody reported to the police that one of -- that  
8 Jennifer told this friend -- that a friend of  
9 Jennifer's reported to the police that Jennifer  
10 told her that at one point in time, you threatened  
11 to kill Jennifer and then kill yourself? Did you  
12 read that?

13 A. I don't know whether I read that or not.

14 Q. Okay. It doesn't ring a bell?

15 A. No.

16 Q. Did that ever happen?

17 A. No.

18 Q. You never threatened to kill Jennifer and  
19 kill yourself?

20 A. No, I've never threatened to kill  
21 Jennifer.

22 Q. Okay. Any reason why Jennifer might  
23 have -- assuming it happened, Jennifer might have  
24 said something like that to a friend?

491

1 MR. BOWMAN: Object to the form of the  
2 question. Foundation.

3 BY MR. DICIANNI:

4 Q. Do you have any explanation why?

5 A. No.

6 Q. No? Would Jennifer -- was she the type of  
7 person, based on how well you know her -- knew her,  
8 that would -- in order to be dramatic or for  
9 attention or for sympathy or whatever would make a  
10 statement like that?

11 A. She -- was she inclined to be dramatic  
12 sometimes? Yes.

13 Q. Is that the type of statement, true or  
14 not, that you would say, oh, there's no way  
15 Jennifer could have made a statement like that or  
16 is it the type of statement you could say, yeah, I  
17 could see Jennifer making a statement like that?

18 A. It's an awfully exceptionally dramatic  
19 statement. So I'm not sure but --

20 Q. Okay. All right. In your -- so you  
21 would -- that's one thing you're not -- you don't  
22 remember reading it, but that's something that if  
23 it's in the records, you would clearly say that's  
24 not true?

492

1 A. Correct.

2 Q. Okay. Is there anything else in the  
3 records that you can recall reading and saying to  
4 yourself that's just not true?

5 MR. BOWMAN: That's so broad.

6 MR. DICIANNI: I'm only --

7 MR. BOWMAN: And that's really --

8 MR. DICIANNI: I'm only asking him what he  
9 remembers.

10 MR. BOWMAN: I really object to that because of  
11 overbreadth and vagueness, and also, because of the  
12 lateness of the hour.

13 MR. DICIANNI: Okay.

14 MR. BOWMAN: It's --

15 MR. DICIANNI: You can go ahead and answer.

16 THE WITNESS: I'm trying to remember --

17 MR. BOWMAN: I mean, apart from the fact that  
18 he's accused of killing somebody he didn't? What's  
19 the --

20 THE WITNESS: Yeah. I mean --

21 BY MR. DICIANNI:

22 Q. Well, I'm not talking about the verdict.  
23 I'm talking about something that appeared in a  
24 police report, something that somebody said you

493

1 said that you claim you didn't say, anything like  
2 that.

3 MR. BOWMAN: Same --

4 BY MR. DICIANNI:

5 Q. As you sit here today, can you remember  
6 anything that as you read that, you thought that  
7 just didn't happen?

8 MR. BOWMAN: Same objection. It's massively  
9 broad, vague. There are, as your prior questions  
10 indicated, hundreds of pages of police reports.

11 MR. DICIANNI: Yeah.

12 MR. BOWMAN: You don't have a foundation to ask  
13 that question.

14 BY MR. DICIANNI:

15 Q. You can go ahead and answer.

16 A. I can't think of anything right now.

17 Q. Okay. You left -- you left Bloomington on  
18 August 4th of 1993 after you returned -- well,  
19 strike that. You went to Cincinnati in late July?

20 A. Yes.

21 Q. Returned to -- returned to Bloomington on  
22 August 4th, correct?

23 A. Yes.

24 Q. And then, left that same day --

494

1 A. Yes.

2 Q. -- to go home --

3 A. Yes.

4 Q. -- to Rockford, correct? And before you  
5 leaf, you went to see Jennifer?

6 A. Yes.

7 Q. You went to her apartment?

8 A. Yes.

9 Q. Okay. Did you have sex with her that day?

10 A. No.

11 Q. Did you see -- you said you saw the  
12 Swaine Street sign on that day?

13 A. Yes.

14 Q. And where was it?

15 A. It was on the wall above the dart board.

16 Q. And what room of the apartment was that  
17 in?

18 A. It was in the living room.

19 Q. Did you see any other of Michael Swaine's  
20 belongings at the apartment that day?

21 A. I don't remember seeing anything else of  
22 his.

23 Q. During your -- all of your interactions  
24 with the Normal Police were the meeting with

1 Hospelhorn and Daniels on the 29th of August, the  
2 meetings with Freesmeyer and Brown when they took  
3 your samples, the different meetings you had with  
4 Freesmeyer where you would talk on campus, and  
5 then, the day you were arrested, is that fair to  
6 say?

7 Is that all the interactions you had with  
8 the Normal Police?

9 A. Is that all --

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

12 THE WITNESS: Were instances where they came to  
13 talk to me about Jennifer, you mean?

14 BY MR. DICIANNI:

15 Q. Yeah.

16 A. Was that all of my --

17 Q. Yeah.

18 A. I've been pulled over in Normal. I don't  
19 really even remember whether it was the Normal  
20 Police or the State Police or County Sheriffs or  
21 what.

22 Q. For traffic violations of some type or  
23 something like that?

24 A. I was pulled over and searched once, but

496

1     yeah.

2           Q.    Is that -- when was that?

3           A.    That was sometime during my junior year of  
4   college, I think.

5           Q.    Okay. All right. But in connection with  
6   the Lockmiller murder, the meeting on the 29th, the  
7   time you went for the samples, the interview with  
8   John Brown and Freesmeyer at the State's Attorney's  
9   Office, the interviews -- well, the meetings and  
10  discussions with Freesmeyer where you would talk,  
11  and then, the arrest, that was all the interactions  
12  you had with the Normal Police?

13          A.    I can't give you a specific yes or no on  
14  that one. I mean --

15          Q.    Can you remember any other connection --  
16  any other contacts?

17          A.    Well, I mean, I -- what I'm saying is, I  
18  don't know -- I don't know how many times that I  
19  talked to them or necessarily how many times I  
20  talked to John Brown or -- I mean, I can't say  
21  every instance you've mentioned is every instance  
22  that happened. I --

23          Q.    Can you think of any others?

24          A.    I cannot think of any others, no.

497

1 Q. Okay. When you left the interview with  
2 Tony Daniels and Rob Hospelhorn on the night of the  
3 29th, that -- you left there thinking that you were  
4 being accused of the murder, is that fair to say?

5 A. Yes.

6 Q. And you relayed that to your parents?

7 A. I felt that I was being accused of  
8 something.

9 Q. Okay. Of something relating to Jennifer?

10 A. Yes.

11 Q. And you had that conversation -- you  
12 relayed that to your parents, that you were  
13 concerned about being accused, correct?

14 A. Yes.

15 Q. And that's what led to the attorney being  
16 retained, correct?

17 A. Yes.

18 Q. And would that have been the only time  
19 that you spoke with Tony Daniels, that night of the  
20 29th?

21 A. The only time I spoke with Tony Daniels  
22 during the investigation?

23 Q. During the investigation.

24 A. Yes.

498

1 Q. Okay.

2 A. I think so.

3 Q. Did he raise his voice during that meeting  
4 with you?

5 A. I felt that he was aggressive at times,  
6 yes.

7 Q. Did Hospelhorn say anything?

8 A. I think Tony Daniels was doing all the --  
9 all the questioning.

10 Q. Okay. So Tony Daniels' questioning was  
11 what got you concerned, correct?

12 A. Yes.

13 Q. Okay. And it was Tony Daniels'  
14 questioning that caused you to pick up and leave  
15 when you did, correct?

16 A. Yes.

17 Q. Were you -- you've probably read -- I'll  
18 ask you if you have.

19 You've read some of the taped  
20 conversations that were had with you, where  
21 somebody was wearing a recording device?

22 A. Yes.

23 Q. Did you ever know that you were being  
24 taped?

499

1 A. No.

2 Q. Did you think at one time that your  
3 apartment was being bugged?

4 A. Yes.

5 Q. And that would have been later on in the  
6 investigation?

7 A. I -- I think it was more of a -- I'm not  
8 sure exactly when.

9 Q. The times you talked to Michael Swaine,  
10 did you have any inkling that he was wearing a  
11 wire?

12 A. No.

13 Q. In the times you talked to Tim Freesmeyer,  
14 did you have any thoughts at all that he might have  
15 been wearing a wire?

16 A. No.

17 Q. How many times did you go through the  
18 garbage at Jennifer's apartment to look for condoms  
19 or any evidence of her having -- cheating on you?

20 A. Once.

21 Q. Okay. And that was the time when  
22 Swaine -- you found out later Swaine was in the  
23 closet? You're not sure?

24 A. No. It was the day that I left for

500

1 Cincinnati.

2 Q. That was -- oh. Okay. It wasn't a day  
3 when you kicked in the door?

4 A. No.

5 Q. And where was that garbage can?

6 A. It was in her bathroom.

7 Q. Where did she keep -- do you -- can you  
8 describe the clock that was used as the murder  
9 weapon?

10 MR. BOWMAN: I'm going to object to the  
11 question. And you know, it was the -- it's not a  
12 big deal, but just to be clear, it's the cord that  
13 was used as the murder weapon, not the clock.

14 BY MR. DICIANNI:

15 Q. Well, let me rephrase the question. There  
16 was a cord -- as far as you know, there was a cord  
17 that was attached to a clock radio that was used to  
18 kill Jennifer, correct?

19 A. That's my understanding, yes.

20 Q. Okay. And did you ever find out what kind  
21 of clock radio that was?

22 A. I just know that it was a clock radio.

23 Q. Okay. You had stayed with Jennifer when  
24 the two of you were going out, right?

501

1 A. Yes.

2 Q. And the last time you had stayed with her  
3 was when?

4 A. I think it's in the record. I really  
5 don't remember specifically.

6 Q. Sometime in June or July of '93?

7 A. Sometime that summer.

8 Q. Yeah. And did you know where the -- did  
9 she have, do you remember, a clock radio in her  
10 apartment?

11 A. Yes, she had a clock radio.

12 Q. Where did she keep it?

13 A. Usually, it was in her bedroom.

14 Q. And what color was it?

15 A. I don't remember.

16 Q. Did you ever turn it on or off?

17 A. Yes.

18 Q. And how would you do that?

19 A. I don't remember whether it had switches  
20 or what. I've had several clock radios in my life  
21 so --

22 Q. Okay. And that was her clock radio?

23 A. That was her clock radio.

24 Q. The day you had the confrontation with

502

1 Michael Swaine at the theater in -- at the  
2 University, you left for Cincinnati the following  
3 day, correct?

4 A. I left for Cincinnati that day.

5 Q. That day. And you gave up that job as the  
6 summer stock -- working for summ -- in the summer  
7 stock program?

8 A. Yes.

9 Q. And that was a coveted job?

10 A. I don't think so, no.

11 Q. No? Was it a credit? Did they give  
12 you -- did you get credit for that?

13 A. No.

14 Q. Were you paid?

15 A. A stipend, yeah. A small amount.

16 Q. So that was not a difficult job to get?

17 A. No.

18 Q. The confrontation or the conflict you had  
19 with your parents on the Thursday, August 26th, I  
20 believe it would have been, that you described,  
21 that's the only time you've ever had any kind of  
22 physical conflict with your parents -- with your  
23 father?

24 A. With my dad?

503

1 Q. Yeah.

2 A. Yes.

3 Q. I assume you've never had a physical  
4 conflict with your mother?

5 A. No.

6 Q. And when you grabbed him and the two of  
7 you went onto the bed, you were pushing him onto  
8 the bed, correct?

9 A. I was pushing him away from myself and we  
10 were both landing on the bed, yes.

11 Q. Okay.

12 A. And I was on top of him.

13 Q. All right. And what prompted that was  
14 that he grabbed your lapel and said don't use that  
15 kind of language --

16 A. Right.

17 Q. -- with your mother?

18 A. I don't know if it was my lapel. He  
19 grabbed me.

20 Q. Something? Your jacket?

21 A. I don't know what.

22 Q. Okay. It wasn't something that injured  
23 you or hurt you?

24 A. I think it was my arm, but I --

504

1 Q. Okay.

2 A. I was not injured, no.

3 Q. Right. You overreacted, you would agree  
4 with me, in what you did that day.

5 A. Yes, I overreacted.

6 Q. You've never acted like -- anything like  
7 that with your parents before, correct?

8 A. No.

9 Q. And you made the statement -- at the time  
10 just before the conflict when they were questioning  
11 you about the bounced check, you made the statement  
12 something along the lines of I don't need this kind  
13 of thing at this time in my life, isn't that true?

14 A. I don't remember exactly what I said.

15 Q. Okay. Did you consider yourself under  
16 some significant kind of stress or -- at that time?

17 A. I was getting over being hurt by two  
18 people that I was close to and I was hurt.

19 Q. Jennifer and Michael?

20 A. Yeah.

21 Q. So that was heavy on your mind on that  
22 day?

23 A. Yes.

24 Q. And would you say that that had something

505

1 to do with you overreacting physically against your  
2 father?

3 A. I felt that they were -- that my parents  
4 were being -- I felt that they were overreacting to  
5 the bounced check during a time when I needed their  
6 support.

7 Q. And the support you needed was because of  
8 this difficult breakup you were going through?

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

11 THE WITNESS: Difficult breakup that I had gone  
12 through.

13 BY MR. DICIANNI:

14 Q. Right.

15 A. And I was wounded. I was hurt by it, yes.

16 Q. Yeah. Okay. When did you find out how  
17 Jennifer was murdered?

18 A. I don't know whether I -- they said  
19 something about that at the bond hearing. I really  
20 don't -- I really don't remember specifically when  
21 I found out how.

22 Q. So you didn't know -- would -- you must  
23 have known she'd been strangled before the bond  
24 hearing?

506

1 A. I don't think so.

2 Q. No?

3 A. I don't know.

4 Q. The first time you found out she had been  
5 strangled was in May of 200 -- of 1994?

6 A. I really don't remember.

7 Q. Sometime late -- late in the investigation  
8 or even after you were arrested?

9 A. I really don't remember.

10 Q. Did you ever hear that she had been  
11 stabbed, as well?

12 A. I don't -- I don't know what I heard. I  
13 don't have a recollection of when I found out the  
14 details of her murder.

15 Q. Okay. As you sit here now, is this the  
16 first time you're hearing that she was also  
17 stabbed?

18 A. No.

19 Q. Okay. When did you first find that out?

20 A. Sometime during court proceedings, I think  
21 that was divulged.

22 Q. Your court proceedings?

23 A. During -- sometime during the pretrial  
24 maybe or something like that.

507

1 Q. Okay.

2 A. I really --

3 Q. You never read any media accounts of that  
4 or any other documents?

5 A. I don't know whether that was in the media  
6 or not. I --

7 Q. Okay. Was there a lot of talk about  
8 the -- or a significant amount of talk about the  
9 murder on campus at IWU?

10 A. There was a lot of attention -- a lot of  
11 attention to it, I think, on campus. There were --  
12 I'll just say yes, there was a lot of attention.

13 Q. Were people asking you about it?

14 A. I remember some people asking me if I was  
15 okay or wanting to comfort me, knowing that she was  
16 someone I had cared about and --

17 Q. Did John Murray attend IWU when you were  
18 there?

19 A. Yes.

20 Q. Did -- was there a rumor going around  
21 campus that he had taken a lie detector test and  
22 passed it?

23 A. I don't remember one.

24 Q. Did you -- were you at the post conviction

508

1 hearing when the testimony was given?

2 A. Yes.

3 Q. You were in court?

4 A. Yes.

5 Q. Do you remember somebody testifying that

6 it was widely being discussed at IWU that

7 John Murray had taken a lie detector test --

8 A. I don't remember --

9 Q. -- and passed it?

10 A. -- anything like that.

11 Q. No? And you never discussed with

12 John Murray that he had taken a lie detector test?

13 A. No.

14 Q. When -- the day you went to the -- get

15 the -- you went to the grave site, you and Swaine

16 and Murray, correct?

17 A. Chris Carbone --

18 Q. And Carbone.

19 A. -- and John Murray, not Swaine.

20 Q. Not Swaine. Okay. You couldn't find her

21 grave, though, right?

22 A. Carbone knew where it was.

23 Q. Oh. You did find it?

24 A. Yes.

509

1 Q. Okay. I think somebody reported that you  
2 couldn't find it.

3 Did -- you never discussed -- during that  
4 whole visit, he never said anything about having  
5 taken a lie detector test?

6 A. No.

7 Q. Did the subject of a lie detector test  
8 ever come up during that conversation -- during  
9 that meeting that day?

10 A. I don't think so.

11 Q. You knew Carbone took a lie detector test?

12 A. Yes.

13 Q. Did you ever see that photograph with the  
14 Three Stooges in it, where it's written on it  
15 Daniel -- I don't have it, but one cop is --  
16 there's two police and the Three Stooges are in it  
17 and there's Daniels, Hospelhorn, and then, three  
18 guys sitting at a table? Have you ever seen that  
19 photograph?

20 A. I'm sorry. I --

21 Q. No?

22 A. I don't -- I'm not sure. I don't --

23 Q. Okay.

24 A. I don't remember that.

510

1 Q. It's just a curiosity. And the three guys  
2 at the table, there's -- the names underneath them  
3 are Pup, Boner, and somebody else. You were Pup,  
4 right?

5 A. I was known as Pup by some people, yes.

6 Q. And Boner, was that Carbone?

7 A. Yeah.

8 Q. Okay. And somebody else was the third  
9 one.

10 And then, do you know who did that, who  
11 wrote that?

12 A. Wow.

13 MR. BOWMAN: I don't think he can answer that  
14 if he hasn't seen it or doesn't recall it.

15 THE WITNESS: I just don't know. I --

16 BY MR. DICIANNI:

17 Q. Okay. Were you and your friends sort of  
18 laughing at Daniels and Hospelhorn as sort of being  
19 kind of stooges of their own?

20 A. I suppose we felt that they were -- that  
21 police were giving unnecessary attention to me and  
22 that that was foolish.

23 Q. Including Daniels and Hospelhorn?

24 A. Yes.

511

1 Q. You didn't like Tony Daniels, did you?

2 A. No.

3 Q. And when John Brown was questioning you at  
4 the State's Attorney's Office when you got up and  
5 stormed out, you said to him you're just like  
6 fucking Daniels?

7 A. I believe I said something to that effect,  
8 yes.

9 Q. And when Freesmeyer wanted to keep the  
10 conversation going and asked if he can come see  
11 you, you said to him as long as it's only you? Do  
12 you remember that?

13 A. Yes.

14 Q. Do you recall the statement you made to  
15 Swaine that Jennifer was better off dead?

16 A. I don't believe I phrased it that way.

17 Q. What -- do -- how do you remember it?

18 MR. BOWMAN: You know, I -- there's a  
19 transcript.

20 MR. DICIANNI: Yeah.

21 MR. BOWMAN: And I think that's the right way  
22 to do it. So I object to questioning in this  
23 fashion.

24

512

1 BY MR. DICIANNI:

2 Q. Well, then, I'll just -- a statement that  
3 the substance of was the same as she's in a better  
4 place or she's better off dead?

5 MR. BOWMAN: Same objection. I think the  
6 transcript is -- should be presented for this line.  
7 I object.

8 BY MR. DICIANNI:

9 Q. All right. You can go ahead and answer.

10 A. None of my statements to Michael Swaine  
11 about that were ever intended to suggest that  
12 Jennifer was better off dead.

13 Michael Swaine expressed deep grieving  
14 over her death. He was -- appeared to be hurting  
15 and very sorrowful and confused about it. And I  
16 was trying to comfort him.

17 Q. Okay. Weren't you bitter, though, about  
18 Jennifer in that conversation?

19 A. I was wrestling back and forth between  
20 knowing that they had hurt me and knowing that this  
21 was bigger than that and that I needed to be there  
22 for my friend.

23 Q. You made the statement she had dug into  
24 you with a sharp piece of silver in that

513

1 conversation?

2 A. She had hurt me.

3 MR. BOWMAN: Same objection.

4 BY MR. DICIANNI:

5 Q. I mean --

6 MR. BOWMAN: You need the transcript for this.

7 I object.

8 MR. DICIANNI: Well, I'm reading from a

9 transcript.

10 BY MR. DICIANNI:

11 Q. You had made the statement that she had  
12 dug into you with a sharp piece of silver?

13 MR. BOWMAN: Same objection. The transcript is  
14 there.

15 BY MR. DICIANNI:

16 Q. Do you remember that?

17 A. Do you have a copy for me to look at?

18 Q. Do you remember saying something along  
19 those lines?

20 I'm not doing this to impeach you about  
21 this, whether you made the statement or not. I'm  
22 just trying to get your explanation of it.

23 MR. BOWMAN: Well, I mean, you know, the  
24 problem is is that, you know, there's a transcript.

514

1 And it says what it says.

2 And you know, earlier in this line of  
3 questioning, you put a spin on it that Mr. Beaman  
4 corrected you on.

5 So I think that the fair and the proper  
6 way to do it is to present him with the transcript  
7 if you want to ask him what he meant by that.

8 Then --

9 MR. DICIANNI: Okay.

10 MR. BOWMAN: -- I won't object.

11 MR. DICIANNI: All right. I'll do that. Let's  
12 take a break.

13 THE VIDEOGRAPHER: We are off the record at  
14 5:22 p.m.

15 (A short break was taken.)

16 THE VIDEOGRAPHER: We are back on the record at  
17 5:30 p.m.

18 BY MR. DICIANNI:

19 Q. Okay. Mr. Beaman, when we broke, we were  
20 talking about the conversation you had with  
21 Michael Swaine that was being taped, but you didn't  
22 realize it. Do you recall that?

23 A. Yes.

24 Q. And this would have been on September 8th

515

1 of 1993. Do you remember the date? I'm sure you  
2 don't, correct?

3 A. I don't remember the date.

4 Q. And the statement -- I had mentioned a  
5 statement along the lines of she's better off dead.

6 Would the statement have been, if you can  
7 recall, she's in a better place?

8 A. I did tell him that she was in a better  
9 place.

10 Q. And are you saying that you were -- you  
11 said that, not that you meant it, but that you were  
12 trying to comfort Michael Swaine?

13 MR. BOWMAN: Object to the form of the  
14 question. That's argumentative.

15 THE WITNESS: I believe she's in a better  
16 place. And I wanted to communicate that to  
17 Michael, as well, and I wanted to comfort him with  
18 that.

19 BY MR. DICIANNI:

20 Q. Okay. You also said to her -- I mean to  
21 him -- you and Mike -- you and him were having a  
22 discussion about why God would let something like  
23 this happen.

24 And you said it just happens, shit

516

1 happens, and shit happens to you, it happens to me,  
2 it happened to Jen all her fucking life. No matter  
3 what you did, her parents were still going to beat  
4 her up. What did you mean by that?

5 A. I would need to read the context of the  
6 conversation.

7 Q. Yeah. All right. Well, I'll just -- I'll  
8 show you Michael Swaine's statement, which I'm  
9 referring to.

10 MR. BOWMAN: So we're handing the witness the  
11 transcript of the --

12 MR. DICIANNI: Yes.

13 MR. BOWMAN: -- September 1993 --

14 MR. DICIANNI: Yeah.

15 MR. BOWMAN: -- tape?

16 MR. DICIANNI: And we can mark it.

17 THE WITNESS: Michael had been talking about  
18 that he should have been there to protect her. He  
19 was blaming himself, apparently, for not being  
20 there to protect her.

21 And some of what I was saying to him  
22 involved trying to help him understand that it was  
23 not his fault, that he was not responsible for  
24 protecting her, and no matter what he tried to do

517

1 to protect her, he couldn't, that life happens,  
2 that the terrible things that happened in life,  
3 that we have to live through that and overcome.

4 And I was trying to encourage him so that  
5 he would not wallow and blame himself.

6 BY MR. DICIANNI:

7 Q. All right. Do you remember what you meant  
8 by the parents -- by the reference to her parents?

9 A. Jennifer had told me -- do you need this  
10 back?

11 Q. Yeah.

12 A. Jennifer had told me that she had been  
13 taken away from them as a child and that they had  
14 abused her.

15 And then, sometime during our  
16 relationship, she told me that her -- one of her  
17 parents -- I think it might have been her father,  
18 but I don't remember specifically, accused her of  
19 being a slut and hit her.

20 Q. And that was recent to this  
21 conversation -- recent to your relationship with  
22 her?

23 A. It had been sometime during our  
24 relationship.

518

1 Q. During your relationship. I'm looking for  
2 the statement about the sharp piece of silver.

3 You don't have a memory of that, of that  
4 statement -- of reading that statement?

5 A. I've read it in the transcript, something  
6 about that.

7 Q. About saying that she stuck you in the --  
8 with a sharp piece of silver?

9 A. I think you're paraphrasing, but it's  
10 something to that effect, yes.

11 Q. Yeah. Do you remember what you meant by  
12 that?

13 A. That she hurt me. I'd have to look at  
14 context --

15 Q. Yeah.

16 A. -- to be sure but --

17 Q. Was the -- was the -- you had several  
18 different times in which you felt like she hurt  
19 you, correct?

20 MR. BOWMAN: I'm sorry. Can I have that  
21 question back?

22 (Whereupon, the record was read.)

23 MR. BOWMAN: Okay.

24 THE WITNESS: Yes.

519

1 BY MR. DICIANNI:

2 Q. Was with Swaine the deepest cut?

3 A. I believe so, yes.

4 Q. Did you know that she had had some affair,  
5 I'll call it, with John Murray?

6 A. I suspected it.

7 Q. Did you know that John Murray had sold her  
8 drugs?

9 A. Yes.

10 Q. Did you know that she owed John Murray  
11 some amount of money for drugs?

12 A. No.

13 Q. Did you ever find out how much that was?

14 MR. BOWMAN: Objection. Foundation. He said  
15 he didn't know it.

16 THE WITNESS: Well, do I know it now from --

17 BY MR. DICIANNI:

18 Q. Yeah. That's what I'm --

19 A. -- the investigation --

20 Q. Yeah.

21 A. -- having read the transcripts or did I --

22 Q. Yeah. Yeah.

23 A. I didn't know it then.

24 Q. Right.

520

1 A. I -- I don't remember the specific amount.  
2 It wasn't a lot. I don't remember the specific  
3 amount.

4 Q. Jennifer would buy drugs occasionally from  
5 various people, correct?

6 A. Yes.

7 Q. And sometimes, she wouldn't pay them up  
8 front, they -- she -- they would -- she would owe  
9 them money, correct?

10 A. Yes.

11 Q. And was that true of you, as well?

12 A. No, not usually.

13 Q. You didn't charge her for drugs, did you?

14 A. Oh.

15 Q. Obtained for her?

16 A. I did not sell her drugs. If she gave me  
17 some money and said go pick this up, I would go  
18 pick it up.

19 Q. Okay. All right.

20 A. And the only thing --

21 (A short break was taken.)

22 BY MR. DICIANNI:

23 Q. Did you -- did you ever think back then  
24 that John Murray had a motive to kill Jennifer?

521

1 A. I don't know.

2 Q. I mean, did you think about that back  
3 then? Did you think that back then?

4 A. Not really, no.

5 Q. Did you -- you and John Murray were  
6 friends at the time?

7 A. We were acquaintances. We sometimes hung  
8 out together.

9 Q. Yeah. You didn't -- it didn't occur to  
10 you that this was a person that might have killed  
11 her back then?

12 A. No, not really.

13 Q. On the other hand, you did think that it  
14 was possible that Bubba may have done it?

15 A. I thought that -- yeah, I thought it was  
16 possible.

17 Q. You never suspected Swaine?

18 A. Not -- not early on, no.

19 Q. Okay. Your conversation with John Brown  
20 and Freesmeyer on the day that you came in to give  
21 the samples, that was not tape-recorded?

22 A. No, I don't think that conversation was  
23 tape-recorded.

24 Q. Do you remember telling Freesmeyer and

522

1 Brown that day that she left you a hollow fucking  
2 shell?

3 A. I'm not sure what I told them specifically  
4 that day.

5 Q. Okay. You had another conversation with  
6 both Alan and Brown -- and this one was the one, I  
7 guess, at the State's Attorney's Office on Oct --  
8 later in October after the day that you gave the  
9 samples.

10 MR. BOWMAN: Do you mean with Freesmeyer and  
11 Brown?

12 MR. DICIANNI: What did I say?

13 MR. BOWMAN: I think you said with Alan and  
14 Brown.

15 BY MR. DICIANNI:

16 Q. With Freesmeyer and Brown?

17 A. Did I have a conversation with them?

18 Q. At the State's Attorney's Office.

19 A. In the building there, yes. I don't know  
20 what office it was in but --

21 Q. And that's the one that ended early,  
22 correct?

23 A. I left.

24 Q. Then, you had another conversation with

523

1 Freesmeyer in Oc -- later in October. And this  
2 would have been outside McPherson Hall?

3 A. I do remember talking to him outside of  
4 McPherson Theater. I don't know what day.

5 Q. Do you recall, is that the time he told  
6 you that you were likely going to be arrested for  
7 Jennifer's death?

8 A. I think that was one of them, yes.

9 Q. Do you recall that you told him that  
10 morning that you did not make any phone calls on  
11 the morning of August 25th?

12 A. I believe he asked me if I made any phone  
13 calls, and because I didn't remember any phone  
14 calls, I said no.

15 Q. Do you recall agreeing with him that you  
16 had a motive to kill her?

17 A. I don't recall agreeing that I had a  
18 motive to kill her.

19 Q. Did you -- do you recall having a  
20 conversation with him about motive to kill  
21 Jennifer?

22 A. I'm not sure.

23 Q. Do you recall admitting to him or agreeing  
24 with him that your -- you did not have an alibi for

524

1 Jennifer's death?

2 A. I don't remember agreeing to that either.

3 Q. Did you disagree with that or do you not  
4 have any memory of it?

5 A. I don't -- I don't remember specifically  
6 him asking me if I had an alibi, other than him  
7 asking me about my whereabouts on other occasions  
8 and --

9 Q. Do you recall telling Simone -- Simone was  
10 your girlfriend after you started school that year,  
11 that '93, '94 school year?

12 A. Yes.

13 Q. Do you remember telling her that you could  
14 never watch Basic Instincts again after Jennifer's  
15 death?

16 A. I don't specifically remember telling her  
17 that, but I don't know.

18 Q. That does not ring any bells?

19 A. I know -- I know that Basic Instinct  
20 became something that somebody wanted to use  
21 against me in court but --

22 Q. Did you have any -- did you link  
23 Jennifer's death in any way to something -- some  
24 scene or something in Basic Instinct?

525

1 A. No.

2 Q. That's the movie with Sharon Stone with  
3 the --

4 A. Yes.

5 Q. -- flashing and all that --

6 A. Yes.

7 Q. -- that became famous? You didn't tell  
8 Tim Freesmeyer about the trip to Bell Federal on  
9 the morning in question because you didn't have any  
10 memory of it? You didn't remember it?

11 A. Not at that time, no.

12 Q. Okay. Swaine described you and Jennifer  
13 as breaking up 18 times. Was that accurate?

14 A. I think so.

15 Q. It was many times?

16 A. It was many times.

17 Q. This -- what's been marked as Exhibit 8,  
18 this is the -- this is the statement -- or the time  
19 line that you made during your meeting with  
20 Freesmeyer and John Brown? Do you recall you  
21 testified about that earlier?

22 A. Yes.

23 Q. You testified that this is your  
24 handwriting on here?

526

1 A. Yes.

2 Q. Now, the Monday, Tuesday, Wednesday,  
3 Thursday, Friday abbreviations, that's not your  
4 handwriting, is it?

5 A. It looks like it is.

6 Q. Well, it looks to me like it isn't. It  
7 looks different from the rest of it. Do you  
8 remember?

9 MR. BOWMAN: Well, I object to the form of the  
10 question. I -- it's -- object to the form.

11 THE WITNESS: I typically printed in all  
12 capitals.

13 BY MR. DICIANNI:

14 Q. Okay. Well, if Freesmeyer said that he  
15 wrote Monday, Tuesday, Wednesday, Thursday, Friday  
16 and you wrote in the rest, does that refresh your  
17 memory that you didn't write in the Monday,  
18 Tuesday, Wednesday, Thursday, Friday?

19 A. I would say that this looks as close to my  
20 handwriting as I could -- I've ever seen.

21 Q. Well, I'm no handwriting expert, but look  
22 at the Ts. Look at the T in Tuesday and Thursday,  
23 and then, look at the Ts in the writing.

24 There's a swirl on the cross on the

527

1 Tuesday and Thursday, and on the Ts in the writing,  
2 it's straight?

3 MR. BOWMAN: That's argumentative.

4 MR. DICIANNI: No, I'm --

5 MR. BOWMAN: It's improper form and it's  
6 just -- it's -- look at, Tom, it's late in the day.  
7 It's almost 6:00 o'clock --

8 MR. DICIANNI: Well, that's not my fault.

9 MR. BOWMAN: Actually, it --

10 MR. DICIANNI: That's not --

11 MR. BOWMAN: -- may or may not be your fault.

12 MR. DICIANNI: Well, it is not my fault.

13 MS. EKL: It's not his fault at all.

14 MR. DICIANNI: So I'm going to ask the  
15 questions --

16 MR. BOWMAN: Okay. It's --

17 MR. DICIANNI: -- I plan on asking. And I  
18 don't have that much more.

19 MR. BOWMAN: It's --

20 MR. DICIANNI: So what's your objection?

21 MR. BOWMAN: My -- thank you. My objection is  
22 is that we had an understanding that we would  
23 exceed the seven-hour limit.

24 And we, you know, have blown through that

528

1 by a significant amount. And you know, we're not  
2 going to sit here indefinitely while you take long  
3 pauses between questions and go through notes and  
4 don't have exhibits ready and just extend this.  
5 We're not going to do that.

6 You said you've got very little more. I'm  
7 going to take you at your word. And there's going  
8 to come a point when it's -- I'm going to stand on  
9 my right to close it off.

10 MR. DICIANNI: Well, everything you've just  
11 said has nothing to do about my -- with my  
12 questions to this exhibit so --

13 MR. BOWMAN: Well, the question is obviously  
14 not a productive question --

15 MR. DICIANNI: That's your --

16 MR. BOWMAN: -- to engage in with this witness.

17 MR. DICIANNI: That's your opinion.

18 MR. BOWMAN: That we haven't established is a  
19 handwriting expert either.

20 MR. DICIANNI: Well, you don't have to be. And  
21 that's your opinion. So let me ask the --

22 MR. BOWMAN: No. That's clear in the record.  
23 He's not a handwriting expert.

24 MR. DICIANNI: Okay. Let me ask the court

529

1 reporter to read back the last question then before  
2 it was -- never mind. Let me just reask the  
3 question.

4 BY MR. DICIANNI:

5 Q. Let me ask you just to look at the Ts and  
6 ask you if that affects your opinion about whether  
7 you wrote in the Monday, Tuesday, Wednesday,  
8 Thursday, and Friday or whether someone else might  
9 have done that?

10 A. If I look at the Ts on the whole page, the  
11 only thing that's consistent about them with each  
12 other throughout the whole document is that they're  
13 capitalized and they're printed.

14 And some of them are a little squigglier  
15 than others, but even some of the Ts in the part  
16 that I don't believe you'll dispute whether I wrote  
17 have differences between them.

18 I tend to scribble, I tend to write  
19 quickly while I print, and I'm sloppy. I can't say  
20 that I'm a handwriting expert and that I know for  
21 sure that that's my handwriting, but I believe it  
22 is.

23 Q. Okay. Good enough. Do you have any  
24 opinions on what caused the jury to -- what

530

1 convinced the jury that you were guilty?

2 MR. BOWMAN: Objection. Foundation.

3 Objection. Relevance.

4 THE WITNESS: I don't believe that there was  
5 evidence to find me guilty.

6 BY MR. DICIANNI:

7 Q. So do you have any opinions about what  
8 caused the jury to find you guilty?

9 MR. BOWMAN: Same objection. Foundation.  
10 Relevance.

11 THE WITNESS: Ignorance.

12 BY MR. DICIANNI:

13 Q. Your defense fees in the criminal case and  
14 for the post conviction proceeding and I suppose  
15 for any of your -- anything else that has been paid  
16 has been paid by your parents, correct?

17 A. Yes.

18 Q. And have you entered into any type of a  
19 promissory note or anything like that with your  
20 parents that would require you to pay them back?

21 A. No.

22 Q. Do you have any kind of a -- any kind of a  
23 deal with them, arrangement with them, agreement  
24 with them that if -- that you are required to pay

531

1 them back?

2 A. No.

3 Q. They paid for your expenses because you're  
4 their son, correct --

5 A. That's correct.

6 Q. -- as far as you know? And that was a  
7 gift, correct?

8 A. They did what they felt they should do.

9 Q. Okay. And in terms of your COI petition,  
10 are you paying for that out-of-pocket or is that  
11 being paid for some other way?

12 A. I'm being represented pro bono.

13 Q. Okay. And in terms of this case, is it a  
14 contingent fee arrangement you have with these  
15 attorneys?

16 MR. BOWMAN: I don't think he needs to answer  
17 that. Don't answer that, Alan.

18 THE WITNESS: Okay.

19 MR. DICIANNI: You instructed him not to  
20 answer?

21 MR. BOWMAN: Yeah. You can instruct me if you  
22 think I'm incorrect, but I don't know what that has  
23 to do with this case.

24 MR. DICIANNI: You're instructing him not to

532

1 answer?

2 MR. BOWMAN: I, as I just said -- if you think  
3 I'm wrong about it, I'll listen to what you have to  
4 say, but yes, I am, unless you --

5 MR. DICIANNI: Well, yeah, we'll --

6 MR. BOWMAN: -- can instruct me that it's --  
7 it's privileged, his arrangements with us. It  
8 doesn't have anything to do with the case.

9 MR. DICIANNI: You have a claim for fees in  
10 your -- you have a claim for fees in your  
11 complaint, don't you?

12 MR. BOWMAN: Yes.

13 MR. DICIANNI: One of the factors that goes  
14 into what fee liability might be is if there was a  
15 contingent fee agreement?

16 MR. BOWMAN: I'm still not tracking. There is  
17 a claim for fees in the complaint --

18 MR. DICIANNI: Right.

19 MR. BOWMAN: -- right. That's because of  
20 Section 1988.

21 MR. DICIANNI: Correct. And one of the issues  
22 that goes into -- one of the factors considered in  
23 fee liability is whether there's a contingent fee  
24 agreement and what that is and what that might be.

533

1 MR. BOWMAN: You can answer yes or no whether  
2 there was a contingent fee agreement in this case,  
3 if you understand the question. If you don't  
4 understand it, tell him you don't understand it.

5 THE WITNESS: Well, by contingent fee -- okay.  
6 Can you get --

7 MR. BOWMAN: No. Don't ask him any questions.

8 THE WITNESS: Okay.

9 MR. BOWMAN: Just answer the questions he's  
10 asked you.

11 THE WITNESS: All right. Okay. To answer, I'm  
12 not sure what a contingent fee means.

13 BY MR. DICIANNI:

14 Q. Okay. You talked about you experience  
15 unreasonable anxiety in -- since your release in  
16 certain situations.

17 And what are your -- how does that  
18 manifest itself, this unreasonable anxiety? How do  
19 you feel?

20 MR. BOWMAN: It's been covered already, Tom.  
21 It's been covered already and it's 6:00 o'clock at  
22 night.

23 MR. DICIANNI: Not to my satisfaction.

24 MR. BOWMAN: It's been covered already.

534

1 MR. DICIANNI: Not to my satisfaction.

2 MR. BOWMAN: You're going to get a few more  
3 minutes, Tom, and then, we're going to stop.

4 BY MR. DICIANNI:

5 Q. Go ahead.

6 A. Okay. Primarily, when I'm saying that I  
7 experience unreasonable anxiety, I am anxious  
8 about -- I'm afraid what has happened to me will  
9 happen again. I'm afraid that I will be accused of  
10 something else because what has happened can happen  
11 again.

12 I'm afraid that the truth about my  
13 innocence will be hidden by those who have the  
14 information to hide it and that I'll never be able  
15 to have accountability.

16 I'm afraid that if I -- again, I've said,  
17 if I spit my gum in the garbage can, that's going  
18 to somehow lead me to a wrongful conviction now.

19 As far as experiencing anxiety, I feel an  
20 overwhelming surge of energy, for lack of a better  
21 word, that I don't know how to channel.

22 And if I sit down and am patient and make  
23 myself calm down, then after a little bit, I can go  
24 back to whatever it was that I'm doing.

535

1 Q. You have not suffered what -- well, do you  
2 know what a panic attack is?

3 A. I believe that's what I'm describing.

4 Q. Have you had nightmares?

5 A. Some, yes.

6 Q. How often do you have nightmares?

7 A. I don't remember all of my dreams, but how  
8 often, I really can't say exactly.

9 Q. Is it something you're still having?

10 A. I'm not sure when the last one I had was,  
11 but I --

12 Q. Well, it sounds like you're not saying  
13 that you're having repeated nightmares that's  
14 causing some kind of sleep deprivation or insomnia  
15 or something like that?

16 A. I don't sleep well.

17 Q. Because of nightmares?

18 A. No, I wouldn't say that it was because of  
19 nightmares.

20 Q. Okay. So it's not causing sleep --  
21 nightmares are not causing sleep deprivation?

22 A. No.

23 Q. Other than the -- other than the one  
24 incident with the gang members in the shower,

536

1 that's the only physical assault you suffered  
2 during your time in prison?

3 A. Yes.

4 MR. DICIANNI: Okay. That's all I have.

5 MR. BOWMAN: Okay. The deposition is  
6 concluded. Signature is reserved.

7 THE VIDEOGRAPHER: This concludes today's  
8 deposition. The time is 6:00 p.m. We are off the  
9 record.

10 (FURTHER DEPONENT SAITH NOT)

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537

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

4 ALAN BEAMAN, )  
5 Plaintiff, )  
6 vs. ) No. 10 CV 1019  
7 JAMES SOUK, et al., )  
8 Defendants. )

9 This is to certify that I have read the  
10 transcript of my deposition taken in the  
11 above-entitled cause by Elizabeth L. Vela,  
12 Certified Shorthand Reporter, on January 18, 2013,  
13 and that the foregoing transcript accurately states  
14 the questions asked and the answers given by me as  
15 they now appear.

16 \_\_\_\_\_

17 ALAN BEAMAN

18 SUBSCRIBED AND SWORN TO  
19 before me this \_\_\_\_\_ day  
20 of \_\_\_\_\_ 2013.

21 \_\_\_\_\_

22 Notary Public

23

24

538

1 STATE OF ILLINOIS )

2 ) SS:

3 COUNTY OF C O O K )

4 I, Elizabeth L. Vela, a notary public within  
5 and for the County of Cook County and State of  
6 Illinois, do hereby certify that heretofore,  
7 to-wit, on the 18th day of January, 2013,  
8 personally appeared before me, at 140 South  
9 Dearborn Street, Chicago, Illinois, ALAN BEAMAN, in  
10 a cause now pending and undetermined in the United  
11 States District Court, wherein ALAN BEAMAN is the  
12 Plaintiff, and JAMES SOUK, et al. are the  
13 Defendants.

14 I further certify that the said witness was  
15 first duly sworn to testify the truth, the whole  
16 truth and nothing but the truth in the cause  
17 aforesaid; that the testimony then given by said  
18 witness was reported stenographically by me in the  
19 presence of the said witness, and afterwards  
20 reduced to typewriting by Computer-Aided  
21 Transcription, and the foregoing is a true and  
22 correct transcript of the testimony so given by  
23 said witness as aforesaid.

24 I further certify that the signature to the

539

McCorkle Litigation Services, Inc.  
Chicago, Illinois (312) 263-0052

C04051

1 foregoing deposition was reserved by counsel for  
2 the respective parties.

3 I further certify that the taking of this  
4 deposition was pursuant to Notice, and that there  
5 were present at the deposition the attorneys  
6 hereinbefore mentioned.

7 I further certify that I am not counsel for nor  
8 in any way related to the parties to this suit, nor  
9 am I in any way interested in the outcome thereof.

10 IN TESTIMONY WHEREOF: I have hereunto set my  
11 hand and affixed my notarial seal this 21st day of  
12 January, 2013.

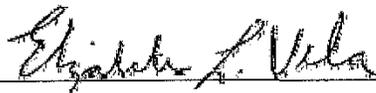
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NOTARY PUBLIC, COOK COUNTY, ILLINOIS

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McCorkle Litigation Services  
200 N. LaSalle Street, Suite 2900  
Chicago, Illinois 60601-1014

DATE: January 21, 2013  
MR. LOCKE E. BOWMAN  
BLUHM LEGAL CLINIC  
NORTHWESTERN UNIVERSITY SCHOOL OF LAW  
375 East Chicago Avenue  
Chicago, IL 60611

IN RE: BEAMAN vs. SOUK  
COURT NUMBER: 10 CV 1019  
DATE TAKEN: January 18, 2013  
DEPONENT: SCOTT SMITH

Dear Mr. Bowman,  
Enclosed is the deposition transcript for the  
aforementioned deponent in the above-entitled  
cause. Also enclosed are additional signature  
pages, if applicable, and errata sheets.

Per your agreement to secure signature, please  
submit the transcript to the deponent for review  
and signature. All changes or corrections must be  
made on the errata sheets, not on the transcript  
itself. All errata sheets should be signed and all  
signature pages need to be signed and notarized.  
After the deponent has completed the above, please  
return all signature pages and errata sheets to me  
at the above address, and I will handle  
distribution to the respective parties.

If you have any questions, please call me at the  
phone number below.

Sincerely,

Margaret Setina	Court Reporter
Signature Department	Elizabeth L. Vela

<b>A</b>					
<b>abbreviations</b>	373:9	<b>486:8</b>	<b>alive</b>	303:15,22	502:10
527:3	<b>acted</b>	<b>aftermentioned</b>	311:11 312:9	306:18 307:6	<b>apologize</b>
<b>ability</b>	505:6	541:11	327:20	322:15	489:1
340:24 398:12	<b>acting</b>	<b>aforsaid</b>	456:13	336:11	<b>apologized</b>
<b>able</b>	401:9	539:17,23	<b>allday</b>	336:13	414:13
271:20 277:22	<b>actions</b>	<b>afraid</b>	429:19	340:24	<b>apparently</b>
280:2 288:21	255:17 257:2	487:12 535:8,9	<b>alleged</b>	349:17	517:19
309:4 345:19	303:12	536:12,16	375:23 477:3	362:10	<b>appeal</b>
352:20	371:13	<b>afternoon</b>	<b>alleviate</b>	372:12	399:2,7
375:15 376:3	468:23	284:2	350:12	373:14	<b>appealing</b>
396:23	482:20	<b>age</b>	<b>allow</b>	390:21 392:2	399:14,17
400:13	<b>activities</b>	291:11	307:9 335:10	392:3 398:11	<b>appeals</b>
402:13 426:3	373:15 436:18	<b>aggressive</b>	<b>allowed</b>	400:8 411:17	490:18
426:8 431:18	441:20,21	499:5	255:10 306:6	411:18,23	<b>appear</b>
431:20 433:2	443:10	<b>ago</b>	310:17 318:2	456:8 472:4	308:18 538:15
437:21 440:3	<b>acts</b>	251:11 471:19	380:11 406:5	472:11,22	<b>appearance</b>
462:3 469:23	477:3	471:20 475:5	406:6 419:10	473:9 477:8	337:24
488:21 489:3	<b>actual</b>	<b>agree</b>	424:24 431:6	477:9,10	<b>appearances</b>
535:14	287:1 380:1	272:16 304:2,5	431:7,19	493:15	248:1
<b>abnormal</b>	<b>adding</b>	316:12 334:1	432:13,15	494:15	<b>appeared</b>
472:2	330:9	386:10 390:8	437:15 440:9	511:13 513:9	493:23 513:14
<b>aboveentitled</b>	<b>addition</b>	427:19 505:3	<b>alpine</b>	532:16,17,20	539:8
538:11 541:11	281:24 320:5	<b>agreed</b>	257:14,16	533:1 534:1	<b>appears</b>
<b>absolutely</b>	344:10 404:6	266:14 304:7	<b>alterations</b>	534:9,11	264:24 265:15
303:15 438:21	404:11 413:5	304:17 307:6	346:22	<b>answered</b>	308:22
456:17 490:8	413:8 424:7	307:9 384:12	<b>altercation</b>	265:20 266:3	<b>applicable</b>
<b>abused</b>	441:22	<b>agreeing</b>	416:8 421:16	268:11 300:9	541:12
518:14	464:21 466:6	304:11 524:15	421:21,24	307:3 391:20	<b>approach</b>
<b>accelerator</b>	466:14 479:8	524:17,23	422:4 424:3	<b>answering</b>	316:17 336:17
346:12	480:23	525:2	440:11,13,19	264:8,11,15,19	<b>approached</b>
<b>accept</b>	484:12 489:6	<b>agreement</b>	<b>altercations</b>	264:23,24	316:22 317:5
487:24	<b>additional</b>	531:23 533:15	423:22	265:6 322:9	418:16
<b>accepted</b>	301:18 328:13	533:24 534:2	<b>alvina</b>	391:23 400:5	<b>approval</b>
420:2 426:5	466:14	541:13	256:12 258:18	472:9	430:18 431:4
<b>access</b>	474:21	<b>ahead</b>	259:6 462:11	<b>answers</b>	<b>approximate</b>
444:11	490:12	307:15 340:23	<b>amber</b>	262:6,23	276:7 401:24
<b>accompany</b>	541:12	350:10 381:7	446:9 447:1	263:24 265:3	410:17
351:5	<b>address</b>	383:17	475:20	265:24	<b>approximately</b>
<b>accomplish</b>	255:23 256:1	421:18 439:2	<b>amount</b>	274:19 275:9	275:24 276:4
397:24	277:5 457:21	470:23	254:8 444:15	275:11	278:21
<b>account</b>	541:18	488:22 489:2	475:11	307:10	293:22
257:8 367:17	<b>adelaide</b>	493:15	503:15 508:8	477:23 478:5	296:17 305:3
<b>accountability</b>	457:11,13,14	494:15 513:9	520:11 521:1	478:15	309:16
535:15	457:15	536:5	521:3 529:1	538:14	331:16 351:8
<b>accounts</b>	<b>adjudicated</b>	<b>aiming</b>	<b>amounts</b>	<b>anticipating</b>	354:19 375:7
508:3	409:14 442:22	404:1	437:23	261:14 265:4	376:13 456:4
<b>accuracy</b>	<b>adjudication</b>	<b>al</b>	<b>ancel</b>	<b>anxieties</b>	466:1
352:21	409:21	250:10 431:23	248:14	474:11	<b>april</b>
<b>accurate</b>	<b>admit</b>	538:7 539:12	<b>ancelglink</b>	<b>anxiety</b>	408:17
256:7 350:23	390:3	<b>alan</b>	248:17	474:18 478:10	<b>aptitude</b>
352:15,18	<b>admitted</b>	247:4,14 249:3	<b>anger</b>	478:19 481:3	439:5
357:6 382:3	389:20 390:7	250:7,9	320:1 395:11	482:6,14,24	<b>area</b>
382:7 405:7	<b>admitting</b>	251:3 263:2	396:14,23	483:3,6	277:13 315:6
467:13	524:23	293:14 335:8	398:5 400:24	487:4,6,9	332:21 374:3
526:13	<b>adults</b>	351:5 363:24	402:17	534:15,18	479:15
<b>accurately</b>	464:3	364:16 365:9	404:13 476:5	535:7,19	<b>areas</b>
351:6,10	<b>advance</b>	371:24 433:8	<b>angry</b>	<b>anxious</b>	372:15 471:23
538:13	253:9	465:9 472:4	289:12,16	487:19 536:7	<b>argument</b>
<b>accusation</b>	<b>advantage</b>	523:6,13	320:6 394:13	<b>anybody</b>	286:1,3,6,9,19
353:5	362:17 423:5	532:17 538:4	394:14	272:24 273:4	403:6 442:21
<b>accusatory</b>	423:11,16	538:17 539:9	395:14,19	324:8 398:23	<b>argumentative</b>
321:23	439:8	539:11	397:3,19	423:18	516:14 528:3
<b>accused</b>	<b>advise</b>	<b>alannah</b>	398:7 414:11	<b>anymore</b>	<b>arm</b>
310:8,10	335:11	456:23 457:1,2	475:22	277:5 307:17	504:24
321:19 355:2	<b>advise</b>	458:2	<b>announced</b>	420:7,12	<b>arrangement</b>
395:21	335:3 336:9,16	456:24	452:4	426:15	531:23 532:14
407:11	358:10	<b>alannahs</b>	<b>answer</b>	430:19	<b>arrangements</b>
450:22	<b>advised</b>	456:24	252:21 255:3	448:18	270:24 533:7
493:18 498:4	384:20,24	<b>alans</b>	262:9,13,15	461:12	<b>arrest</b>
498:7,13	385:3 392:10	349:2	262:20,22	<b>apart</b>	306:10 389:6,9
518:18 535:9	<b>advises</b>	<b>alcohol</b>	263:2,20,22	444:8 493:17	393:23 394:9
<b>accustomed</b>	351:4	279:20 280:1,7	265:5,22	<b>apartment</b>	402:15
474:8	<b>af</b>	280:11,19	266:23 267:3	313:20 359:5	405:13
<b>acquaintance</b>	344:3	281:2,8,10	267:5,11	402:20	497:11
291:22 314:2	<b>affair</b>	282:16,19,21	268:18	403:10	<b>arrested</b>
<b>acquaintances</b>	520:4	282:23	274:23 275:2	404:18,19	367:3 388:21
412:10 522:7	<b>affiliated</b>	431:20,23	275:4 286:18	461:22	389:10
<b>acquired</b>	415:14,20	432:1	286:20	462:20,22	392:13,24
371:17	<b>affixed</b>	<b>alibi</b>	287:11,13	463:1,4,5	393:3,7,11
<b>acquisition</b>	540:11	252:20 375:15	293:3 303:7	495:7,16,20	394:12 405:9
	<b>afford</b>	376:1,4		500:3,18	409:2,5,11
		524:24 525:6			

464:12,19	311:15,17	370:18,20,22	260:15	267:14,15	451:5
468:6,9	312:19	374:12,14,15	267:14 269:7	268:10,20	<b>believe</b>
496:5 507:8	318:14	374:19,21	270:13	270:3 272:5	255:12,21
524:6	371:11,24	377:20	272:13 278:1	273:1,5	256:23
<b>arresting</b>	381:13	384:21	284:23	382:17	271:19 272:4
393:2	387:20 394:1	392:10	288:17,20,24	483:24 484:3	274:23 275:1
<b>arrests</b>	424:16	405:19 406:6	289:5 290:3		283:14
394:5 409:1	436:23	498:15	293:7 299:10	<b>bar</b>	293:20 294:4
410:3,8	438:24	<b>attorney/client</b>	299:11 300:3	450:9,11	294:8 301:21
<b>arrive</b>	445:20	334:23	300:19	<b>barking</b>	302:23 304:4
304:24 319:9	451:16 464:9	<b>attorneys</b>	301:11 308:4	386:2	304:10
<b>arrived</b>	473:6,17	251:16 338:3	308:20	<b>barry</b>	305:24
256:18,22	482:7 493:8	339:11,14,16	312:16	342:2	309:11
270:3 301:13	508:13,14	376:22 384:5	313:11 315:6	<b>bars</b>	312:15
301:19,24	525:6,7	385:14,17,23	317:6,11,22	417:23	313:11
305:6,19	528:17	387:11,16	318:12	<b>based</b>	318:19 321:5
319:13 321:2	<b>assault</b>	388:13	326:24	478:4 480:12	322:19 336:7
324:23 325:2	289:11,19	405:15 478:1	327:14,15	482:20 492:7	337:11,21
325:17 332:3	537:1	480:8 497:8	328:11,12	<b>basic</b>	338:2,11,16
332:4,6	<b>asschewing</b>	512:4 523:7	329:8 330:5	525:14,19,24	341:18
<b>arriving</b>	438:14	523:18	330:17	<b>basically</b>	342:20
329:9 331:12	<b>asserting</b>	532:15 540:5	334:16	416:23 417:10	343:24
332:11	290:1 460:6	<b>attribute</b>	345:24 348:2	421:7 429:14	344:12
<b>article</b>	<b>assist</b>	483:2	354:2 356:3	466:20	347:24
363:22 467:7	348:4	<b>auburn</b>	356:5 359:9	<b>basis</b>	348:23
<b>ashtray</b>	<b>assistant</b>	260:5	366:10 368:7	253:17 395:19	357:18
305:12	387:11 459:21	<b>august</b>	372:17 373:1	446:16	360:10
<b>aside</b>	<b>associate</b>	253:7 254:7	373:7 374:10	447:24	360:10
310:10 383:17	278:9	255:1,8,17	378:11,14	449:15	373:23
404:23	<b>associates</b>	259:20	382:19	458:21	376:18
<b>asked</b>	439:16	267:14	386:19,23	487:24	378:16,21
252:22 255:12	<b>assume</b>	271:17 279:6	388:1 390:17	<b>bathroom</b>	379:7 382:11
261:12 262:5	263:8 324:20	282:3,24	393:4 399:20	445:8 501:6	384:10
263:16,23	364:24 504:3	285:23	401:11	<b>beaman</b>	385:18
264:12,19	<b>assumes</b>	293:23	404:18 408:7	247:4,14 249:3	386:11
265:12,16,23	272:22	308:20 330:9	414:8,10	249:13 250:7	394:20
266:2,21,22	<b>assuming</b>	336:6 337:5	419:5,13	250:9,17,18	405:11
267:5 268:9	261:3 342:13	346:1,14	420:3,16	251:3,8	406:12
268:17,19	491:23	348:10,11	421:7 425:13	263:12 308:1	413:14
274:2,18	<b>attached</b>	351:8,9	422:14 425:13	308:7 334:8	424:23
275:9 286:17	501:17	353:1,13	425:14,19	334:22 335:1	446:11
287:10	<b>attack</b>	354:23	426:12,14	335:10	459:12
295:10,20	536:2	458:13	429:1 434:15	341:24 342:2	468:11,14
297:7,8,11	<b>attacked</b>	494:18,22	453:13 460:8	350:14,18	472:21
297:22	414:18	496:1 503:19	460:11,23	351:5 364:9	503:20 512:7
298:18	<b>attacks</b>	524:11	465:16	371:13 381:9	512:16
299:19 302:5	483:6	<b>automotive</b>	466:21 468:5	490:11 515:3	516:15 520:3
303:16	<b>attempt</b>	439:12,13,21	472:15	515:19 538:4	524:12
306:22 307:4	343:10 345:12	442:18	483:16	538:17 539:9	530:16,21
308:19	400:13	<b>available</b>	485:12	539:11 541:7	531:4 536:3
310:24 311:2	<b>attempted</b>	253:20 436:6	486:22	<b>beat</b>	<b>believed</b>
312:24 317:6	345:1	439:7 443:10	513:19	414:24 420:5	252:15 340:15
318:16	<b>attempting</b>	489:24	515:16	420:11,15	340:18
321:11,15	417:24 418:1	<b>avenue</b>	518:10	422:10 517:3	382:20 383:1
335:24	<b>attempts</b>	248:3 277:13	519:21	<b>beaten</b>	<b>bell</b>
337:17 352:6	347:22 348:1	294:5 541:6	521:23 522:2	423:8 444:21	267:8 258:19
359:18,23	<b>attend</b>	<b>awaiting</b>	522:3,11	<b>bed</b>	259:7 261:6
360:24 371:9	278:18 353:1	463:18	530:1 531:20	268:6,12,21	264:20
371:10 374:6	353:17,20,21	<b>awarded</b>	532:1 535:24	269:13 270:4	267:17
375:20	508:17	393:23	<b>backdrop</b>	270:21	272:10,14
380:24 381:2	<b>attended</b>	272:10,23	373:13	284:11,19	370:15,21,24
381:4,19	278:21 279:7	273:4 302:20	<b>bad</b>	287:14 288:3	371:7 372:4
391:21,22	359:4 431:12	332:10	287:17 320:14	288:7,8	373:8 374:14
392:6,20	<b>attention</b>	335:21 360:2	414:5 461:2	504:7,8,10	374:16 375:2
393:22 418:4	374:23 408:19	360:5 370:7	485:8	<b>bedroom</b>	375:8 491:14
418:20 419:1	424:1 452:24	379:18 394:4	<b>ball</b>	270:24 403:11	526:8
419:18 420:4	492:9 508:10	403:9 406:20	475:16	270:24 403:11	<b>bells</b>
423:20	508:11,12	428:3 480:16	<b>band</b>	403:13,15	525:18
428:19	511:21	480:22 481:2	442:4 443:2	502:13	<b>belongings</b>
459:12	<b>attitude</b>	482:22	<b>bang</b>	<b>began</b>	495:20
472:20	438:10	<b>awfully</b>	476:22	345:5 446:4	<b>beltway</b>
473:15	<b>attorney</b>	492:18	<b>bangling</b>	474:11	265:18
512:10	323:10,15,18	<b>awkward</b>	476:7	<b>beginning</b>	<b>ben</b>
524:12	324:1,6,6,8	353:6,10	<b>bank</b>	250:15 347:8	248:21 250:2
534:10	324:9 325:15	<b>B</b>	253:13 254:10	445:15	<b>best</b>
538:14	330:18,19		256:9,21,21	<b>behalf</b>	266:15 267:1,7
<b>asking</b>	331:6 333:21		257:6,8,11	250:19 279:12	267:9,10
265:9 267:7	336:2 337:5		258:24	372:2 373:18	275:13
272:23 293:9	339:21		259:19	374:15 406:7	320:19
298:6 300:24	343:17 348:3		260:18	406:9,11	322:18
307:5 311:15	350:24		262:12,21	417:17	340:24
			265:10 266:4	477:24	349:24 351:7
				<b>behavior</b>	

382:4,7	248:1 541:5	467:14	408:3 493:5	267:19,21,23	297:17,20
398:11	<b>board</b>	471:21 472:4	494:9	268:1	298:11,19
409:23	431:14 495:15	472:7,10,23	<b>broadway</b>		299:15,20,22
411:10	<b>body</b>	473:3,7,11	257:16	<b>c</b>	300:16,17,17
427:18	299:4 415:3	473:15,19	<b>broke</b>		300:20,23
435:15 478:7	476:1	476:10 477:4	446:7 451:17		301:10,12,13
<b>beth</b>	<b>bond</b>	480:23	451:19	<b>C</b>	301:14,15,19
473:4	367:4 397:22	485:24	515:19	248:8 443:8,11	301:20
<b>better</b>	405:21,23	486:16 492:1	<b>brother</b>	539:3	304:11,23
314:6 434:20	406:20	493:5,7,10	462:15,16,20	<b>cable</b>	315:15
435:20,20	407:15	493:14,17	463:12	346:12	316:17 317:6
440:8 441:6	506:19,23	494:3,8,12	<b>brought</b>	<b>cafe</b>	317:11,18
441:15,17	<b>bonded</b>	496:10	370:17 387:4	316:24	318:2,4,8,10
450:23 456:8	394:19 396:18	501:10 506:9	468:6	<b>call</b>	318:13,15,18
512:15 513:3	397:16	511:13	<b>brown</b>	265:19 314:8	318:21,23,24
513:4,12	<b>boner</b>	512:18,21	247:9 248:11	315:11 316:5	319:16,17,19
516:5,7,8,15	511:3,6	513:5 514:3	376:18,20	367:20	328:19 330:4
535:20	<b>bono</b>	514:6,13,23	377:4,23	382:15 406:6	330:6,10,14
<b>beu</b>	532:12	515:10	378:11 379:7	406:6 467:4	336:22 342:9
337:6,8,16,19	<b>books</b>	516:13	380:4,14	520:5 541:19	342:14,16,19
337:20,23	436:4	517:10,13,15	381:4 383:19	<b>called</b>	344:11,18,21
339:2 350:24	<b>bore</b>	519:20,23	385:5 386:1	247:14 251:4	344:24
422:23	451:2	520:14	387:17	265:21 274:8	346:14,22,23
<b>beus</b>	<b>bother</b>	523:10,13	468:16 496:2	274:11,13,21	393:4,20,21
351:4	419:24	527:9 528:3	497:8,20	275:4 311:20	405:6 406:17
<b>beyond</b>	<b>bothered</b>	528:5,9,11	512:3 522:19	312:4,16	406:21
256:20 298:16	421:20	528:16,19,21	523:1,6,11	313:11,19	407:13 484:7
315:15 335:7	<b>bottom</b>	529:13,16,18	523:14,16	314:3 316:5	484:15
341:8 346:24	263:14 274:16	529:22 531:2	526:20	326:5 422:23	<b>carbone</b>
352:4 369:4	299:4	531:9 532:16	<b>bryn</b>	466:16 467:2	258:2 276:23
407:6 411:14	<b>bought</b>	532:21 533:2	277:4 355:8	467:3	279:8 281:1
438:20	328:19 345:4	533:6,12,16	<b>bubba</b>	<b>calling</b>	355:2 356:12
482:23	<b>bounced</b>	533:19 534:1	355:18 370:3,8	313:6 417:24	357:9,16
<b>big</b>	286:5,24	534:7,9,20	522:14	<b>calls</b>	358:10,15,22
286:1 288:17	505:11 506:5	534:24 535:2	<b>buddies</b>	269:11,19,21	359:6 361:20
288:22,24	<b>bouncing</b>	537:5 541:4	414:21	270:2,2,8,10	361:22
501:12	476:2 483:8	541:10	<b>buffing</b>	419:15 477:5	362:20
<b>bigger</b>	<b>bowman</b>	<b>box</b>	425:8	524:10,13,14	509:17,18,22
513:21	248:2,5 250:16	345:15 424:17	<b>bug</b>	<b>calm</b>	510:11 511:6
<b>bill</b>	250:16	<b>boy</b>	346:5,12	475:21 483:9	<b>carbones</b>
422:23 475:9	253:15 254:3	457:8	<b>bugged</b>	535:23	354:17
475:11	254:12,19	<b>break</b>	500:3	<b>campos</b>	<b>care</b>
<b>birds</b>	255:2 261:7	268:22,23	<b>building</b>	412:18	421:7 424:1
475:22	261:18,22	269:3,6	304:20 305:1	<b>campus</b>	<b>carel</b>
<b>bit</b>	262:1 263:2	307:19,23	306:18	313:23 496:4	508:9,11,21
289:24 329:17	263:6,8	309:21 334:3	316:16	508:9,11,21	<b>cancelled</b>
333:1 401:5	264:6 266:17	334:14,19	317:11,15,17	439:17	439:17
405:5 535:23	268:22 269:2	335:23 347:1	317:22	<b>cant</b>	270:6 277:8
<b>bitches</b>	270:16	347:7 372:21	318:24 319:5	270:6 277:8	281:10,22
365:3	272:21	372:24 374:9	319:6,10,19	281:10,22	292:6 325:6
<b>bitter</b>	292:22 293:3	380:10	435:21 453:6	292:6 325:6	332:5 337:22
513:17	293:13 300:2	445:14	523:19	341:8 352:5	372:17
<b>bitting</b>	300:5,7	446:19	<b>bullseye</b>	372:17	403:22
435:4	302:15	448:14 455:1	419:12	<b>cars</b>	411:23
<b>blame</b>	307:19	486:21	<b>bullying</b>	345:24 346:2	412:13
518:5	333:15,22	515:12,15	290:16	484:9,12	414:21 417:9
<b>blaming</b>	334:18	521:21	<b>bumps</b>	<b>case</b>	418:24
517:19	336:13	<b>breakfast</b>	415:2	250:13 280:9	419:21
<b>blanket</b>	340:23	425:11	<b>bunch</b>	320:19,20	427:24
271:7	348:12,16,20	<b>breaking</b>	415:10 475:24	335:5 362:7	433:10 440:6
<b>block</b>	349:1,3,5,9	526:13	<b>bureau</b>	368:23 408:8	465:8 472:4
271:2,2,4	349:13,15	<b>breaks</b>	304:20 305:7	409:15	473:22
<b>blocks</b>	350:13	380:7	315:11	423:14	481:19,21
313:22	352:16 354:2	<b>breakup</b>	<b>buried</b>	468:23	482:3 494:16
<b>blood</b>	358:13	445:22 455:3	456:13	477:17 480:6	497:13,20
344:4 376:11	362:10	506:8,11	<b>burying</b>	482:21	530:19 536:8
377:8 378:7	363:24 364:3	<b>bridge</b>	471:24	487:15,20	<b>capacity</b>
<b>bloomington</b>	364:13 371:1	259:16 260:4	<b>bush</b>	531:13	331:4 336:9
313:22 340:7	371:10,16,21	294:6,7	248:14	532:13,23	<b>capitalized</b>
374:20	372:7,19	<b>brief</b>	<b>buy</b>	533:8 534:2	530:13
494:17,21	373:3,6,17	302:3	521:4	<b>cash</b>	<b>capitals</b>
<b>bloomington...</b>	374:1,4,10	<b>briefly</b>	<b>bygones</b>	253:8,9,12,13	527:12
266:16 267:1	387:20	296:16 355:15	365:9	254:8,10	<b>car</b>
267:10	390:17,20	410:9 446:4	<b>bylaws</b>	256:8 257:1	294:16 295:3
306:24 315:6	396:15,18,21	452:18	427:13	268:5 283:6	295:20 296:1
342:12,16	398:8 399:9	454:18	<b>bypass</b>	283:7	259:11,21
<b>blowing</b>	400:5,8	477:15	259:11,21	<b>cashd</b>	260:14,22
289:14	408:1,3	<b>bring</b>	260:14,22	286:22	265:13,20,21
<b>blown</b>	411:17,20	281:15 282:21	265:13,20,21	<b>castro</b>	266:7,12,14
528:24	433:8 461:8	412:2	266:7,12,14	412:18	297:3,4,5,6
<b>bluhm</b>	465:9,12	<b>broad</b>	267:2,8,11	<b>catch</b>	297:9,10,15

367:22 450:6 450:7,15 451:1,5 475:16 485:16 <b>catching</b> 488:16 <b>caught</b> 486:14 <b>cause</b> 388:21 400:3 402:2 454:19 474:18 487:5 487:8 538:11 539:10,16 541:12 <b>caused</b> 310:14 404:4 414:3 431:2 432:17 434:11 448:14 462:24 499:14 530:24 531:8 <b>causes</b> 371:22 <b>causing</b> 536:14,20,21 <b>cell</b> 398:20 399:23 400:20 417:16,17 427:12 430:19 444:10,14 <b>cellmates</b> 411:8,16 412:7 <b>cells</b> 417:9,10 431:5 <b>celly</b> 434:3 <b>center</b> 394:22 410:22 410:24 411:4 416:20 442:24 443:17 466:13 <b>central</b> 247:3 250:12 257:18 262:19 538:3 <b>certain</b> 413:9 426:6 427:19 430:19 431:5 431:5 476:24 534:16 <b>certainly</b> 333:19 356:18 370:10 488:21 489:3 <b>certificate</b> 439:14,18,21 439:22 460:14 <b>certified</b> 250:2 538:12 <b>certify</b> 538:9 539:6,14 539:24 540:3 540:7 <b>chairs</b> 305:12 <b>challenge</b> 487:23 488:1 488:9 <b>challenging</b> 470:13 474:1	<b>chance</b> 281:16 307:12 308:24 352:7 <b>change</b> 426:7,9,10 430:22 437:10 438:7 464:5 <b>changed</b> 311:7 346:11 346:23 437:14 448:5 469:12 <b>changes</b> 346:22 541:14 <b>channel</b> 535:21 <b>chapel</b> 436:13 442:3 <b>character</b> 286:14 <b>characteriz...</b> 386:17 421:3 473:2 <b>characterizing</b> 399:21 <b>charge</b> 427:11 521:13 <b>charged</b> 461:12,14 468:6 <b>charges</b> 286:21 460:5 <b>charles</b> 247:7 248:11 257:15,16 259:17,18 277:12 468:13 <b>cheating</b> 500:19 <b>check</b> 253:11,13 254:8,10 256:9 257:1 268:5 286:4 287:1,2,17 505:11 506:5 <b>checking</b> 408:18 482:17 <b>checks</b> 286:21,23 <b>chewed</b> 393:13 426:11 426:11 <b>chicago</b> 247:20 248:3,4 248:16 250:4 250:8 539:9 541:2,6,6 <b>chief</b> 418:20,21 420:24 430:18 <b>child</b> 291:17 292:5 457:5 518:13 <b>childhood</b> 291:4 <b>choice</b> 251:22 <b>choir</b> 442:3 <b>choosing</b> 441:19 <b>chose</b> 427:21 <b>chow</b> 416:6,7,10 <b>chris</b> 258:2 276:23	276:24 277:6 279:8 281:1 354:17 355:2 355:4,10 356:12,22 357:9,16 358:10,15,22 359:6 361:20 361:22 362:20 509:17 <b>christ</b> 287:6,20 <b>chronic</b> 483:5 <b>church</b> 275:19 323:17 329:16,17,20 329:23 330:4 331:5 442:3 455:16,20 <b>cleslak</b> 479:5 480:15 481:7,22 <b>cigarette</b> 380:12 <b>cigarettes</b> 317:3 424:24 <b>cincinnati</b> 494:19 501:1 503:2,4 <b>circumstance</b> 476:22 <b>circumstances</b> 335:9 373:9 403:2 409:4 414:3 442:13 450:14 460:19 <b>city</b> 259:12 <b>civil</b> 247:15 331:6 <b>claim</b> 477:11 482:10 482:10 494:1 533:9,10,17 <b>claimed</b> 442:19 482:13 <b>claiming</b> 340:16 375:14 477:1,1,1,12 482:4,20 <b>claims</b> 482:5 <b>clarify</b> 265:5 <b>clark</b> 292:12 <b>class</b> 439:5,12 442:18,19 <b>classes</b> 436:5,6 439:3 439:11,13 <b>classification</b> 410:14 <b>classify</b> 395:6 <b>clear</b> 256:11 293:4 341:10 373:6 501:12 529:22 <b>clearly</b> 492:23 <b>clerk</b> 435:19 <b>clinic</b> 248:1 541:5 <b>clock</b>	501:8,13,17,21 501:22 502:9 502:11,20,22 502:23 <b>close</b> 315:2 327:5 359:6 505:18 527:19 529:9 <b>closed</b> 296:12,13 <b>closer</b> 429:8,14 441:6 464:7,18,18 464:20 <b>closest</b> 412:14,16 <b>closet</b> 291:12,17 292:5 500:23 <b>clothing</b> 299:1 <b>code</b> 421:13 <b>codes</b> 421:14 <b>col</b> 460:15 487:20 490:18 532:9 <b>collect</b> 400:13 <b>college</b> 312:2,3 447:18 459:7,9,20 460:4 485:16 488:2 497:4 <b>colonial</b> 257:12,13 <b>color</b> 502:14 <b>com</b> 248:17 <b>combative</b> 386:4 438:11 <b>come</b> 269:20 271:9 316:2,13 322:4 386:19 386:23 392:20,23 403:17 408:6 431:11 442:14,17 471:5,7 473:24 476:1 510:8 512:10 529:8 <b>comes</b> 474:22 <b>comfort</b> 508:15 513:16 516:12,17 <b>coming</b> 290:1,3 319:7 330:5,16 332:11 333:24 334:6 335:2 386:22 404:18 <b>commissary</b> 424:12,16 425:6 426:16 443:8 <b>commit</b> 372:2 <b>committed</b> 370:12 473:12 <b>common</b> 449:21 <b>communicate</b> 516:16 <b>communicated</b>	335:12 363:19 364:1 <b>communicating</b> 374:21 448:17 <b>communication</b> 367:5 368:1 <b>communications</b> 460:17 <b>compare</b> 399:4,12 <b>compared</b> 444:15 <b>comparison</b> 344:23 <b>compassion</b> 399:2,7,17 <b>compensated</b> 424:20,22 <b>compiled</b> 265:2 <b>complaint</b> 477:3 482:5 533:11,17 <b>complete</b> 369:6 382:17 400:9 <b>completed</b> 541:17 <b>compound</b> 358:14 <b>computer aided</b> 539:20 <b>concern</b> 318:7 322:3 328:4,7 330:8 368:22 451:1 <b>concerned</b> 320:6,8 423:7 423:9 434:24 438:19 498:13 499:11 <b>concerning</b> 371:12 <b>concerns</b> 350:12 <b>concert</b> 443:1 <b>conclude</b> 310:16 <b>concluded</b> 247:22 311:20 537:6 <b>concludes</b> 537:7 <b>condoms</b> 500:18 <b>condoned</b> 432:11 <b>confess</b> 389:14 <b>confessed</b> 389:23 <b>confide</b> 327:8 <b>confident</b> 334:9 334:9 <b>confirm</b> 273:5 449:23 450:3 <b>confirmed</b> 272:24 <b>conflict</b> 503:18,22 504:4 505:10 <b>confrontation</b> 502:24 503:18 <b>confronted</b> 426:10 470:13 <b>confused</b>	311:9,10 395:15 397:9 447:19 513:15 <b>confusing</b> 292:24 <b>confusion</b> 320:1 <b>connect</b> 345:17,20 <b>connection</b> 373:15 467:1 490:14 497:5 497:15 <b>connections</b> 282:10 <b>connector</b> 345:16 <b>connects</b> 259:16 <b>consciously</b> 428:10 <b>consequences</b> 335:14 <b>consider</b> 363:13 412:11 505:15 <b>considered</b> 327:3 328:5 413:11 429:15 435:14,18 533:22 <b>consistent</b> 358:22 530:11 <b>consoling</b> 355:14 <b>constant</b> 435:17 <b>constructive</b> 476:1 <b>contact</b> 324:18 343:22 343:24 358:9 358:21,23 367:1 368:23 376:7 412:7 413:7,9 468:7,12,17 468:19 <b>contacted</b> 323:24 324:16 324:19 325:14 376:8 <b>contacting</b> 365:5,19,21 <b>contacts</b> 497:16 <b>contain</b> 381:21 <b>context</b> 373:10 375:17 517:5 519:14 <b>contingent</b> 532:14 533:15 533:23 534:2 534:5,12 <b>continue</b> 334:2 418:12 419:11 481:6 <b>continued</b> 247:13 363:7 <b>continuously</b> 462:2 <b>control</b> 430:14 431:6 <b>controls</b> 362:1 <b>conversation</b> 265:11 273:8 274:4 298:15
---	---	---	--	---	---

C04057

302:8,17	266:5,8,12	465:17,23	269:1 286:20	296:19	459:13 516:1
312:11	266:13,16	468:10 469:2	296:18	<b>curiosity</b>	516:3 541:4
319:18 321:9	268:12	473:9 477:16	326:10 327:2	511:1	541:8
322:22 323:2	269:13 270:4	477:20 489:4	335:18 359:4	<b>current</b>	<b>dated</b>
323:14 326:1	270:5,8,15	489:11,14,19	367:22 374:2	338:3	342:18
327:22,24	272:3 273:3	490:3,15,24	420:2 448:6	<b>currently</b>	<b>dates</b>
328:9 329:4	274:12	493:1 494:22	454:16 455:4	338:10 458:5	383:20 388:9
329:10	276:10,13	495:4 498:13	486:15 487:2	458:23 480:2	410:17
332:13,17,23	278:15	498:16	<b>coupleday</b>	481:8	<b>dating</b>
333:5,16,17	279:13	499:11,15	451:14	<b>curtain</b>	455:23 456:2,5
333:20	280:12 285:1	501:18 503:3	<b>course</b>	271:7	<b>daughter</b>
335:18	285:3,19	504:8 505:7	309:3 310:7	<b>cussed</b>	457:2,4
349:16 362:2	289:13 290:5	509:16 516:2	350:3 380:6	414:11	<b>daughters</b>
366:12	292:13	519:19 521:5	<b>court</b>	<b>cusssing</b>	331:3
367:11	293:12,24	521:9 523:22	247:1 250:11	414:13	<b>dave</b>
378:21 379:6	296:1,22	531:16 532:4	326:16	<b>custody</b>	247:9 248:18
379:9 380:7	303:17,23	532:5,7	409:22,24	304:12 409:17	277:8,10,16
390:8 498:11	304:3,9,15	533:21	507:20,22	409:19 423:1	277:24
510:8 512:10	304:20	539:22	509:3 525:21	426:24 427:3	278:12,18
513:18 514:1	305:16,19	<b>corrected</b>	529:24 538:1	427:7,9,22	281:9 282:2
515:20 517:6	306:4,7,10	515:4	539:11 541:8	428:4,6,12	282:15 283:2
518:21	306:11,19,24	<b>correctional</b>	541:23	428:15 429:1	284:23
522:19,22	307:7,10	410:10,21,23	<b>courthouse</b>	430:3,5	285:15,20
523:5,17,24	309:9,22	411:4 416:20	386:11	434:15	<b>david</b>
524:20	310:1,18,22	437:12,18	<b>courts</b>	436:14 466:3	248:3,5 250:18
<b>conversations</b>	311:1,5,21	442:8,22,24	247:16	<b>cut</b>	<b>davis</b>
321:3 328:8	312:6 315:3	443:17	<b>covered</b>	438:23 470:21	412:17,20
334:21	317:6,12	<b>corrections</b>	372:16 534:20	472:8 468:22	<b>day</b>
335:20	318:3,21	541:14	534:21,24	520:2	247:20 255:20
339:11,20,23	320:17	<b>correctly</b>	<b>coveted</b>	<b>cutters</b>	259:2 270:21
355:16	322:13,17	322:13,17	425:4 503:9	458:16	284:3,13
358:16 363:3	323:22 325:1	325:4,11,15	<b>cowan</b>	<b>cutting</b>	292:16,18,20
390:14	326:2 336:3	326:2 336:3	317:20,20	458:8,16,24	293:14,18,20
391:15 451:4	337:6 339:6	337:6 339:6	<b>crackdown</b>	459:5	313:11
499:20	341:24	342:14	430:12 431:2,7	<b>cv</b>	325:21
<b>convicted</b>	344:21	344:21	431:8,16	247:6 250:13	326:11
408:15,16,16	345:10,20	346:15	435:2	538:6 541:8	328:15,19
410:12 469:5	346:15	347:20,23	<b>cracks</b>		330:20,23
<b>conviction</b>	348:4,11	349:22 350:3	284:3	<b>d</b>	335:3 337:4
408:24 410:4	349:22 350:3	352:8 353:15	<b>cream</b>	249:1	340:15,19
478:12 480:7	353:16 354:7	353:16 354:7	275:18,21	<b>dad</b>	342:17
490:17	356:20	358:24	276:9,15	249:1	344:16
508:24	358:24	359:12 360:4	383:5	<b>dad</b>	354:21
531:14	359:12 360:4	363:8 366:2	<b>create</b>	287:7 319:17	375:22
535:18	363:8 366:2	367:14,23	337:9 338:13	319:18	382:21
<b>convictions</b>	368:13	368:13	338:18	503:24	384:15 387:9
409:1 466:13	369:11,15,16	369:22 370:4	<b>created</b>	<b>dads</b>	387:12,13,20
466:15	370:8,12	375:5 376:11	337:12 338:21	346:4	387:21 393:8
<b>convince</b>	377:8,14,17	377:20,24	382:19	<b>daily</b>	414:13
386:18,19,23	378:8 379:16	379:20	<b>credibility</b>	433:13 467:9	425:23,24
387:24	380:12,18,21	382:3,8	293:10	482:12,13	436:16 448:3
<b>convicted</b>	383:6,8,11	384:13,17,22	<b>credit</b>	455:19 480:3	455:19 480:3
531:1	385:1,7,11	385:20 386:7	408:21 503:11	<b>dangerous</b>	486:4 494:24
<b>cook</b>	386:15,20	387:1 389:22	503:12	427:14 434:23	496:9,12,20
247:19 425:11	388:7,14,23	390:1 392:2	<b>crime</b>	435:1	496:5 500:24
425:15,19,21	392:6,11	394:16 16,19	391:6	<b>daniel</b>	501:2 502:24
539:5 540:18	394:16	396:16 398:4	<b>criminal</b>	412:19 413:3	503:3,4,5
<b>cop</b>	397:13,19	398:19	279:12 331:6	510:15	505:4,22
487:16 510:15	403:11	400:12	337:5 372:6	<b>daniel's</b>	509:14 510:9
<b>cope</b>	405:11,22	406:7,17	373:11,11	301:21 302:14	522:20 523:1
396:4,12	407:16 408:9	408:21 460:5	422:6 423:5	302:18,21	523:4,8
<b>copies</b>	409:12 416:2	409:12 416:2	423:14	304:1 305:23	524:4 528:6
261:16	430:5,6	437:6 438:2	460:22	308:19	538:19 539:7
<b>copy</b>	441:2 451:10	441:2 451:10	463:21	310:13	540:11
261:19 338:10	457:2,6	457:2,6	490:17	315:21	<b>days</b>
514:17			531:13	317:23	254:24 255:8
<b>cord</b>			<b>criminally</b>	320:13	326:11
501:12,16,16			378:4	347:14,15,19	337:16
<b>correct</b>			<b>criticize</b>	496:1 498:2	344:23 350:3
251:13,17,18			352:21	498:19,21	388:7 394:18
251:20,21			<b>cross</b>	499:8,10,13	396:20
252:12 253:1			527:24	510:17	408:21 420:2
253:14,24			<b>crots</b>	511:18,23	425:22 426:4
254:11 255:1			479:13 480:13	512:1,6	443:18 448:6
255:8,9,14			481:7,12,13	<b>dart</b>	<b>dead</b>
256:9 257:21			482:2	495:15	311:4,11 312:5
258:14			<b>cryptic</b>	<b>date</b>	312:9 320:21
260:19			303:8	337:12,23	327:20 333:4
261:24 262:2			<b>csr</b>	342:18 356:5	512:15 513:4
264:5 265:7			247:23	356:5 357:4	513:12 516:5
265:8,10,14			<b>cuffs</b>	392:14 394:6	<b>deal</b>
				407:20	

345:15	<b>depositing</b>	316:19 317:5	533:18,21	468:1,3	411:5,6
419:20	268:4	317:10,19,23	534:19,23	<b>dining</b>	412:24 413:2
469:18	<b>deposition</b>	317:24	535:1,4	392:18 425:9	413:4 437:7
470:15 471:7	247:13 249:13	320:13 376:9	537:4	<b>dinner</b>	437:8 441:2
471:8 488:6	250:6 251:10	376:16	<b>ditant</b>	285:21 455:19	441:5,14
490:1 501:12	263:13 308:1	377:24 380:3	271:16 278:2	<b>direct</b>	442:9,24
531:23	308:8 350:11	383:18	282:10	273:16 286:16	443:14
<b>dealing</b>	350:14,19	387:18,23	295:16,18,19	460:16	<b>dna</b>
395:8 397:21	364:8,9,17	388:7,12	298:20	<b>directing</b>	365:1 366:23
470:6 488:8	370:2 381:9	390:3 391:4	299:24 300:1	262:4 263:15	369:7
<b>dear</b>	381:14	<b>detectives</b>	300:12 301:8	265:17 268:8	<b>doctors</b>
541:10	406:14 537:5	294:11 295:21	302:24 303:3	274:16 279:5	481:7
<b>dearborn</b>	537:8 538:10	301:21	303:5,8,11	308:16	<b>document</b>
247:19 248:15	540:1,4,5	309:17	303:13,14,19	<b>directly</b>	308:9,17
250:7 539:9	541:11	310:13,21	303:22	368:2 374:18	350:20
<b>death</b>	<b>depositions</b>	316:18	305:13	448:18	351:11,13
354:1,13	247:17	321:22	312:14,17	<b>disagree</b>	352:8,12
389:13,24	<b>deprivation</b>	378:24	313:17	525:3	364:18,18
513:14 524:7	536:14,21	<b>detector</b>	315:15 317:3	<b>disciplinary</b>	381:15,21
526:1,15,23	<b>deprived</b>	508:21 609:7	319:7 320:2	432:20 437:24	383:13
<b>debatable</b>	488:4	509:12 510:5	320:9 324:18	444:6	530:12
335:13	<b>deputy</b>	510:7,11	327:19	<b>discipline</b>	<b>documents</b>
<b>debt</b>	317:20	<b>deteriorated</b>	330:15 345:7	291:14	272:13 383:16
485:13	<b>describe</b>	448:23	345:16 356:7	<b>disciplined</b>	508:4
<b>decided</b>	279:15,17	<b>determine</b>	356:8,18	290:20,23	<b>doe</b>
373:3	288:22 289:1	252:2 406:22	372:2 384:18	440:15	365:1,10
<b>decisions</b>	289:21	<b>determining</b>	386:6,14,24	<b>disclosure</b>	<b>doesnt</b>
490:24	290:14 294:2	252:9 427:12	389:14	373:10	488:18 491:14
<b>deduced</b>	312:10 313:1	<b>developed</b>	405:16 412:2	<b>discovered</b>	511:14 533:8
269:20 270:1	327:24	372:9	421:12 423:8	328:18 341:21	<b>dog</b>
<b>deep</b>	363:10 387:5	<b>developments</b>	423:14	<b>discovering</b>	301:11
513:13	393:6 398:17	363:23	426:10	341:2 344:16	<b>doing</b>
<b>deepest</b>	401:5 410:9	<b>device</b>	427:19 428:7	<b>discovery</b>	253:1,10 271:5
520:2	429:23 430:7	499:21	430:17	340:22 352:10	275:15 282:1
<b>defendants</b>	434:17	<b>devon</b>	432:23	383:12	284:10
247:12 248:10	442:12	248:9	434:10,14	<b>discuss</b>	290:21
248:17	463:10,23	<b>diagnoses</b>	438:23 439:3	339:3	374:19 395:5
250:10,20,22	468:22,24	478:23	440:13,20,20	<b>discussed</b>	405:3 417:13
468:22	472:1 475:23	<b>diagnosis</b>	440:21 468:4	323:12 325:23	417:22
478:15	501:8	480:17,20	470:21	355:10	460:16
482:21 538:8	<b>described</b>	481:3 482:18	488:22	480:24 509:6	466:19 483:9
539:13	309:11 361:24	482:22	493:18 494:1	509:11 510:3	488:1 499:8
<b>defended</b>	400:19	<b>diamond</b>	494:7 506:22	<b>discussion</b>	514:20
419:7	416:17	248:14 479:17	512:1 515:21	323:8 324:4,7	535:24
<b>defense</b>	421:22,23	481:21	520:15,23	334:20	<b>dollar</b>
371:13 407:4	464:22 483:7	<b>dicianni</b>	521:13 522:9	340:14	253:11
483:21	503:20	248:14,15	522:9 524:13	453:12	<b>dollars</b>
531:13	526:12	249:5 250:21	526:7,9,10	516:22	254:9
<b>definitely</b>	<b>describing</b>	250:21	527:17	<b>discussions</b>	<b>don</b>
309:19	416:4 536:3	302:13 444:4	<b>die</b>	340:5 356:13	311:21,23
<b>definition</b>	<b>description</b>	444:8,17	469:11	357:15,22	312:4,11
413:12	288:4	452:21,24	<b>difference</b>	361:6 371:5	313:6,19,24
<b>degree</b>	<b>descriptive</b>	453:3,6	331:8 427:8	497:10	314:3 326:1
439:14,17	313:4	490:6,10	464:9 489:22	<b>disorder</b>	326:5 329:10
<b>dennis</b>	<b>desk</b>	492:3 493:6	<b>differences</b>	477:2 478:10	333:3
292:12	379:13	493:8,13,15	530:17	478:19 481:4	<b>donation</b>
<b>dent</b>	<b>desperate</b>	493:21 494:4	<b>different</b>	482:15	465:3,6,15
402:24	469:9	494:11,14	259:9 261:9,10	<b>dispute</b>	<b>dont</b>
<b>deny</b>	<b>desperately</b>	496:14	281:13 311:8	530:16	253:19 254:12
278:8 390:4	398:23	501:14	322:16 350:3	<b>disrespectful</b>	256:1,19,23
<b>department</b>	<b>despite</b>	506:13	371:7 410:10	419:11	257:7 258:3
251:20 343:11	380:20 386:22	511:16	412:4 429:24	<b>distances</b>	258:6 259:12
360:4,21	390:9 423:2	512:20 513:1	430:8,9	347:23 350:7	261:20 270:9
378:12,15	469:13,22	513:8 514:4	434:18	352:12	271:12,13
379:3,23	<b>detach</b>	514:8,10,15	438:24 440:2	406:16	272:12,15
380:2 541:23	396:7	515:9,11,18	440:6 461:4	<b>distraught</b>	273:11 274:6
<b>departments</b>	<b>detached</b>	516:19	461:11 463:5	396:3	274:14 276:2
360:8	289:24	517:12,14,16	463:24	<b>distribution</b>	276:19,19
<b>depended</b>	<b>detail</b>	518:6 520:1	464:15 496:3	541:18	277:4 280:8
260:1,24	254:23 255:6	520:17	519:18 527:7	<b>district</b>	280:10,17,20
401:16	401:6	521:22	<b>differentiate</b>	247:1,2,16	280:23 281:4
<b>deponent</b>	<b>details</b>	523:12,15	402:13	250:11,12	281:7 282:4
537:10 541:9	252:19 321:8	527:13 528:4	<b>difficult</b>	538:1,2	282:17
541:11,14,17	507:14	528:8,10,12	396:11 471:5	539:11	283:12,18,23
<b>deposit</b>	<b>detective</b>	528:14,17,20	488:20	<b>division</b>	284:2,5,17
253:13 254:11	301:21 304:1,8	529:10,15,17	503:16 506:8	247:3 250:12	284:22,22
256:9 268:10	304:20 305:7	529:20,24	506:11	304:8 538:3	285:4,10
268:20	305:23	530:4 531:6	<b>difficulty</b>	<b>divulged</b>	286:13,15
<b>deposited</b>	308:19,20	531:12	395:8 397:21	507:21	287:7 288:21
267:13,15	310:13	532:19,24	<b>digest</b>	<b>dtxon</b>	289:9,10,19
286:5	315:10	533:5,9,13	467:1,5,6	248:21 250:2	289:20 291:1

292:18 293:3	405:1,2,10	305:13 306:4	482:24	270:20 273:2	encouraged
293:20 296:2	405:12 406:2	326:15,22	dug	293:1,6,11	427:17
296:3,7	406:3,18,24	398:14 401:2	469:17 513:23	293:15 300:8	ended
297:8,12,22	407:6,10,20	401:4,7,19	514:12	300:14	523:21
298:21 299:5	409:16,20,21	401:20,20,21	duly	302:16	endlessly
299:8 301:12	411:12,24	401:22 402:6	251:4 539:15	307:15,18,20	487:20
301:16 302:3	413:22	403:21 501:3	duties	308:6 333:17	enemies
304:10,16	415:16,17	doors	424:14 458:22	334:11	414:6 428:19
305:2,2,5,20	416:14	476:7	459:20	335:17,22	enemy
306:1 307:2	418:21	dorm	duty	336:19 341:3	413:13,14
307:15	419:15,16	383:23 384:1,4	489:22	347:2,11	energy
308:14	423:12,18,19	384:12		348:15,18,21	475:24 483:7
309:23	426:15	389:16	E	349:2,4,7,12	535:20
311:12,17	428:20 433:6	dosage	e	349:14,18	engage
312:7,13	433:8,9,9,11	479:24	248:2 249:1,11	350:10,17	529:16
313:12 314:5	435:18	double	541:4	352:19,23	engaged
314:6,11,19	439:24	292:22 326:18	292:2 249:1,11	352:19,23	447:8 451:24
315:8,16,20	440:18,18,23	doubt	earlier	362:19 364:4	466:5,7
318:16	440:24	292:19 293:9	382:13 405:5	364:12,14,15	engagement
319:14,24	442:20	293:19	468:4 489:7	371:3,15,19	448:15 452:4
321:8,15,20	443:10	322:20	515:2 526:21	371:22 372:8	465:21
321:20 322:1	444:11	352:11,14	early	373:5,16,22	engagements
322:8 323:2	446:17	491:3	277:20 284:2	374:2,5,11	465:19,22
323:11,11	447:13	downgraded	324:23	381:7,12	466:2,6
324:7,18,20	449:10,10	443:13	325:11,18	387:21,22	engaging
325:21 326:6	454:4,5,6	downtown	454:6 522:18	391:2 396:17	298:15
326:11 328:3	455:5,18	317:1	523:21	396:20 397:1	engine
328:6 329:7	456:9 457:20	dr	easier	398:16	346:5
329:15,17	459:12	479:17 480:13	397:11 471:3	399:19 400:7	enjoy
330:11	460:15,17	481:12,13,21	east	400:16 408:5	443:3
331:21 332:9	463:22 465:7	dragged	248:3,9 257:18	411:22	entered
333:12,22	465:9,10,11	487:20	257:20,24	420:14	531:18
335:17 337:1	465:12	dramatic	258:11,13,17	433:12 444:5	entire
337:2,14	468:11,14,18	492:8,11,18	259:24 260:2	444:18	306:2
338:5,8,11	468:18 470:7	drank	260:2,8,13	445:18	entirely
338:24 339:7	470:8 471:11	280:19 281:2	260:13,19	452:23 453:2	467:13
339:8 340:1	471:13 472:8	281:10 399:6	262:16,18,18	453:8,15	environment
340:17,20	473:23 477:8	dreams	263:18 541:6	461:9 465:14	395:9 396:2
341:7,22,23	481:23 482:3	536:7	easy	467:20 472:6	427:14
342:20 343:2	484:6 485:9	drink	471:5	472:9,15,18	430:14,17
343:5,8	485:17	281:8	eat	473:1,5,8,14	431:11
344:9,17	487:21 488:6	drive	277:16	473:17 474:2	434:21 441:7
348:22	490:5,11	258:19 319:1	edgewater	476:17	errand
349:14 350:4	491:13	330:4,6	260:6	477:13 481:1	418:3
351:17,23,24	492:21	377:13	edu	481:5 486:2	errands
352:1,9,10	494:12	484:15,16	248:5,5	486:15,17	416:24 417:21
352:16 354:8	495:21	driven	education	487:1 490:5	errata
354:10	496:18	330:14 340:7	439:6	490:7 528:13	541:12,15,15
355:12,20	497:18,18	342:9 350:8	effect	element	541:17
356:2,9	502:5,15,19	484:20	393:19 512:7	428:2 430:16	escort
357:7,12,12	503:10	drives	519:10	eliminate	346:15
358:2 359:15	504:14,18,21	484:20	efficient	342:11,15	escrow
360:13 361:8	505:12,14	driveway	411:13	elizabeth	465:10
361:16 362:4	506:18,20,20	283:15 284:10	eight	247:17,23	esperanto
362:23,23	507:1,3,6,9	284:13	475:16	248:8 250:19	316:24
363:1,12,13	507:12,12,13	driving	either	251:1 538:11	essentially
367:7,9	508:5,23	336:23 342:16	261:1 271:1	539:4 541:23	265:2
370:16 371:8	509:8 510:10	346:14	276:6 282:23	emotion	establish
372:11	510:15,22,22	dropped	323:1 345:1	474:21,22,23	371:16
373:22	510:24	460:6	345:24	emotional	established
375:12	511:13,15	drove	348:23 356:7	395:8	529:18
376:15 377:1	512:16 516:2	258:18,21	356:15,16	emotionally	et
377:5,15	516:3 518:18	283:2 304:13	368:2 377:23	470:7	250:10 538:7
379:1,13,24	519:3 521:1	317:16,19	406:4 412:12	emotions	539:12
380:5 382:18	521:2 522:1	318:23,24	428:9 442:7	471:24	evening
383:15,20	522:22	319:5,6,16	442:9 443:6	employed	276:8 279:6
385:2,8	523:19 524:4	319:17	447:16 472:8	456:5,7	322:23 323:9
386:2 387:8	524:17 525:2	342:13,14	478:23	employment	323:12
387:14 388:9	525:5,5,16	347:23	479:15 525:2	460:10 462:3	324:24,24
389:19 390:6	525:17	349:19,23,24	529:19	empty	325:8 331:18
390:11,24	528:18 529:4	350:2 385:18	ekl	305:11	336:4,5
391:21 392:7	529:20	391:11,11	248:8 249:4	enable	337:10
392:14 394:2	530:16 531:4	393:4	250:19,19	470:10	evenings
397:14 398:2	532:16,17,22	drugs	251:7 253:23	enclosed	278:15
399:12,14,18	533:11 534:3	279:22 280:1	254:5,18,22	541:11,12	evenly
400:1,8,11	534:4,7	280:13 282:1	255:5 261:11	encounter	426:22
400:12,14	535:21 536:7	520:8,11	261:15,19,24	474:17	event
402:4,12	536:16	521:4,13,16	262:2,3	encounters	385:10 455:20
403:4,16,16	door	drywall	263:11 264:9	388:14	337:10 422:18
403:18 404:9	271:15,16	402:24	266:20	encourage	434:24 437:2
404:14,15,22	296:12	due	268:24 269:9	518:4	
		430:22 460:5	269:15,22		

<b>eventually</b> 362:6 407:15 439:19 443:12 447:8	482:7, 24 483:1, 6 488:4 534:14 535:7	384:20 385:4 388:1 389:9 389:21 390:10 393:20, 21 394:12 418:2 423:2 451:8 471:17 477:15 487:19 493:17	349:15 369:13 373:20, 23 375:24 388:15 391:23 396:9 440:5 451:23 460:20 483:11 501:16 532:6 535:19	362:12 369:7 370:5 380:19 386:4 415:8 417:1 418:11 419:10 421:9 438:20 446:5 454:21 460:4 475:14 498:7 499:5 506:3 506:4 511:20 519:18 532:8	251:4, 10 261:15 263:9 271:21 272:1 276:12 278:5 297:7, 13 308:12 323:13 324:16 327:24 328:14, 14 332:19 337:18 343:17 355:2 368:7 369:10 375:8 396:18 398:19 400:20 409:4 427:16 431:22 433:24 437:10 445:8 447:11, 13 453:20 454:22 456:18 459:8 459:21, 22 462:6 479:3 507:4, 16, 19 539:15
<b>evidence</b> 252:3 255:11 269:19 272:22 322:24 323:5 365:2 406:11 487:14 500:19 531:5	<b>experiences</b> 469:14, 22 <b>experiencing</b> 395:11, 12 535:19 <b>expert</b> 407:5, 6, 8 527:21 529:19, 23 530:20	<b>factor</b> 427:13 <b>factors</b> 533:13, 22 <b>facts</b> 272:22 320:13 403:1 <b>factually</b> 335:7 <b>fail</b> 439:5 <b>failed</b> 363:5 <b>fair</b> 253:19 257:17 280:11 286:10 347:12 375:13, 24 382:23 386:17 387:15 394:11 395:10 396:13 397:2 399:3 421:1 421:3 425:2 441:8 450:21 459:16 460:19 462:1 466:7 468:2 472:22 473:2 473:4, 8 486:3, 11 487:6 496:5 498:4 515:5	<b>fashion</b> 372:16 512:23 <b>fastest</b> 268:1 <b>father</b> 287:22 288:2 288:17 289:8 289:22 290:5 290:9, 23 291:3 320:24 321:3 342:2 347:18 384:24 385:2 406:21 488:5 503:23 506:2 518:17 <b>fault</b> 517:23 528:8 528:11, 12, 13 <b>fear</b> 419:4 <b>february</b> 391:4, 5 392:5 454:6 <b>fed</b> 444:14 <b>federal</b> 257:9 258:19 259:7 261:6 264:20 267:18 272:10, 14 370:15, 21, 24 371:7 372:4 373:8 374:14 374:17 375:2 375:8 526:8 <b>fee</b> 532:14 533:14 533:15, 23, 23 534:2, 5, 12 <b>feel</b> 288:10 303:8 303:12 310:6 310:14 353:9 353:11 384:18 396:10 399:23 483:19 534:19 535:19 <b>feeling</b> 380:20 395:19 403:6 475:15 475:24 <b>feelings</b> 320:23 395:11 395:13 396:5 476:14 <b>fees</b> 531:13 533:9 533:10, 17 <b>fell</b> 288:8 415:8 <b>felt</b> 286:10 304:11 310:8 321:17 353:5, 11 359:13, 16	<b>fiddle</b> 407:13 <b>fight</b> 285:22 414:21 415:11 418:24 419:19, 22 421:18 <b>fighting</b> 415:11 416:8 460:13 483:21 <b>figure</b> 320:10 345:17 435:6 488:3 <b>filled</b> 250:10 <b>files</b> 480:13, 14 <b>filmed</b> 466:7 <b>final</b> 392:17 <b>finally</b> 345:2 411:2 <b>financial</b> 481:11 485:21 487:5, 5 <b>find</b> 252:10 268:16 312:24 323:4 323:6 345:14 345:16 365:3 366:4 397:22 450:11 462:3 469:19 471:8 482:11 501:20 506:16 507:19 509:20, 23 510:2 520:13 531:5, 8 <b>finding</b> 268:15 340:6 344:10 <b>fine</b> 364:13 410:18 488:24 <b>finger nail</b> 399:6 <b>finger print</b> 391:12 <b>finger printed</b> 378:17 <b>fingerprints</b> 391:4, 13 <b>finish</b> 268:24 345:7 458:19 <b>finished</b> 392:17 400:5 438:23 456:11 473:22 <b>fire</b> 460:17 <b>firm</b> 248:8 <b>first</b>	251:4, 10 261:15 263:9 271:21 272:1 276:12 278:5 297:7, 13 308:12 323:13 324:16 327:24 328:14, 14 332:19 337:18 343:17 355:2 368:7 369:10 375:8 396:18 398:19 400:20 409:4 427:16 431:22 433:24 437:10 445:8 447:11, 13 453:20 454:22 456:18 459:8 459:21, 22 462:6 479:3 507:4, 16, 19 539:15 <b>five</b> 289:2 382:16 388:18 411:6 441:1 446:17 451:21 466:4 <b>five way</b> 257:15 <b>flashing</b> 526:5 <b>file</b> 446:12 <b>floor</b> 425:7 323:6 345:14 345:16 365:3 366:4 397:22 450:11 462:3 469:19 471:8 482:11 501:20 506:16 507:19 509:20, 23 510:2 520:13 531:5, 8 <b>following</b> 263:15 323:16 328:14 337:4 408:14 451:13 452:17 455:3 503:2 <b>follows</b> 251:5 <b>followup</b> 265:4 487:2 <b>foolish</b> 511:22 <b>football</b> 415:9 442:6 <b>force</b> 290:8, 12 291:4 <b>forced</b> 469:10, 17, 18 469:19 470:15 <b>ford</b> 346:15 <b>foreclosure</b> 365:23 366:1, 5 <b>foregoing</b> 538:13 539:21
<b>exact</b> 276:2, 5 <b>exactly</b> 259:4 264:22 271:20 276:20 277:14, 22 286:13 297:8 305:2 328:1 328:3 332:5 341:9 392:7 397:14 433:7 440:24 446:18 455:5 500:8 505:14 536:8	<b>experts</b> 391:12 <b>explain</b> 371:2 425:16 <b>explained</b> 342:8 419:18 <b>explanation</b> 492:4 514:22 <b>explanations</b> 311:8 <b>express</b> 320:23 328:4 395:22 396:10 <b>expressed</b> 328:6 398:5 451:1 513:13 <b>expressing</b> 320:1 <b>extend</b> 529:4 <b>extent</b> 254:15 335:1 422:2 423:23 477:5 482:23 <b>extra</b> 261:19 <b>extreme</b> 286:11 <b>extremely</b> 286:11 287:4 394:14 397:19	<b>fact</b> 427:13 <b>factors</b> 533:13, 22 <b>facts</b> 272:22 320:13 403:1 <b>factually</b> 335:7 <b>fail</b> 439:5 <b>failed</b> 363:5 <b>fair</b> 253:19 257:17 280:11 286:10 347:12 375:13, 24 382:23 386:17 387:15 394:11 395:10 396:13 397:2 399:3 421:1 421:3 425:2 441:8 450:21 459:16 460:19 462:1 466:7 468:2 472:22 473:2 473:4, 8 486:3, 11 487:6 496:5 498:4 515:5 <b>fairly</b> 373:23 399:21 467:9 <b>fall</b> 359:10 444:20 474:13 <b>falling</b> 415:3 475:14 <b>familiar</b> 404:3 467:6 <b>family</b> 334:22 335:1, 3 336:16, 22 339:5 353:11 353:24 354:9 372:1 373:17 374:20 405:15 431:10 452:8 452:10 457:16 483:19, 22 485:12 <b>famous</b> 526:7 <b>far</b> 258:21 260:2 264:23 278:19 280:3 292:11 307:16 316:24 333:17 338:19 342:9	<b>fault</b> 517:23 528:8 528:11, 12, 13 <b>fear</b> 419:4 <b>february</b> 391:4, 5 392:5 454:6 <b>fed</b> 444:14 <b>federal</b> 257:9 258:19 259:7 261:6 264:20 267:18 272:10, 14 370:15, 21, 24 371:7 372:4 373:8 374:14 374:17 375:2 375:8 526:8 <b>fee</b> 532:14 533:14 533:15, 23, 23 534:2, 5, 12 <b>feel</b> 288:10 303:8 303:12 310:6 310:14 353:9 353:11 384:18 396:10 399:23 483:19 534:19 535:19 <b>feeling</b> 380:20 395:19 403:6 475:15 475:24 <b>feelings</b> 320:23 395:11 395:13 396:5 476:14 <b>fees</b> 531:13 533:9 533:10, 17 <b>fell</b> 288:8 415:8 <b>felt</b> 286:10 304:11 310:8 321:17 353:5, 11 359:13, 16	<b>fight</b> 285:22 414:21 415:11 418:24 419:19, 22 421:18 <b>fighting</b> 415:11 416:8 460:13 483:21 <b>figure</b> 320:10 345:17 435:6 488:3 <b>filled</b> 250:10 <b>files</b> 480:13, 14 <b>filmed</b> 466:7 <b>final</b> 392:17 <b>finally</b> 345:2 411:2 <b>financial</b> 481:11 485:21 487:5, 5 <b>find</b> 252:10 268:16 312:24 323:4 323:6 345:14 345:16 365:3 366:4 397:22 450:11 462:3 469:19 471:8 482:11 501:20 506:16 507:19 509:20, 23 510:2 520:13 531:5, 8 <b>finding</b> 268:15 340:6 344:10 <b>fine</b> 364:13 410:18 488:24 <b>finger nail</b> 399:6 <b>finger print</b> 391:12 <b>finger printed</b> 378:17 <b>fingerprints</b> 391:4, 13 <b>finish</b> 268:24 345:7 458:19 <b>finished</b> 392:17 400:5 438:23 456:11 473:22 <b>fire</b> 460:17 <b>firm</b> 248:8 <b>first</b>	251:4, 10 261:15 263:9 271:21 272:1 276:12 278:5 297:7, 13 308:12 323:13 324:16 327:24 328:14, 14 332:19 337:18 343:17 355:2 368:7 369:10 375:8 396:18 398:19 400:20 409:4 427:16 431:22 433:24 437:10 445:8 447:11, 13 453:20 454:22 456:18 459:8 459:21, 22 462:6 479:3 507:4, 16, 19 539:15 <b>five</b> 289:2 382:16 388:18 411:6 441:1 446:17 451:21 466:4 <b>five way</b> 257:15 <b>flashing</b> 526:5 <b>file</b> 446:12 <b>floor</b> 425:7 323:6 345:14 345:16 365:3 366:4 397:22 450:11 462:3 469:19 471:8 482:11 501:20 506:16 507:19 509:20, 23 510:2 520:13 531:5, 8 <b>following</b> 263:15 323:16 328:14 337:4 408:14 451:13 452:17 455:3 503:2 <b>follows</b> 251:5 <b>followup</b> 265:4 487:2 <b>foolish</b> 511:22 <b>football</b> 415:9 442:6 <b>force</b> 290:8, 12 291:4 <b>forced</b> 469:10, 17, 18 469:19 470:15 <b>ford</b> 346:15 <b>foreclosure</b> 365:23 366:1, 5 <b>foregoing</b> 538:13 539:21
<b>examined</b> 251:5 <b>example</b> 449:16 475:3 487:4 <b>examples</b> 488:12 <b>exceptionally</b> 492:18 <b>excerpt</b> 261:19 <b>exchange</b> 253:11 <b>exchanged</b> 289:7 <b>excited</b> 341:2 <b>excluded</b> 365:1 <b>exhibit</b> 249:13 261:23 263:13 308:2 308:8 350:11 350:15, 19 364:8, 10, 17 381:8, 10, 15 406:15 526:17 529:12 <b>exhibits</b> 529:4 <b>existed</b> 388:22 <b>expect</b> 434:21 483:11 <b>expected</b> 252:23 429:21 440:4 465:16 <b>expenses</b> 532:3 <b>experience</b> 298:16 345:23 346:2, 3 396:2 469:6 470:12 474:11, 20	<b>examined</b> 247:14 249:2 251:6 490:9 <b>examined</b> 251:5 <b>example</b> 449:16 475:3 487:4 <b>examples</b> 488:12 <b>exceptionally</b> 492:18 <b>excerpt</b> 261:19 <b>exchange</b> 253:11 <b>exchanged</b> 289:7 <b>excited</b> 341:2 <b>excluded</b> 365:1 <b>exhibit</b> 249:13 261:23 263:13 308:2 308:8 350:11 350:15, 19 364:8, 10, 17 381:8, 10, 15 406:15 526:17 529:12 <b>exhibits</b> 529:4 <b>existed</b> 388:22 <b>expect</b> 434:21 483:11 <b>expected</b> 252:23 429:21 440:4 465:16 <b>expenses</b> 532:3 <b>experience</b> 298:16 345:23 346:2, 3 396:2 469:6 470:12 474:11, 20	<b>examined</b> 247:14 249:2 251:6 490:9 <b>examined</b> 251:5 <b>example</b> 449:16 475:3 487:4 <b>examples</b> 488:12 <b>exceptionally</b> 492:18 <b>excerpt</b> 261:19 <b>exchange</b> 253:11 <b>exchanged</b> 289:7 <b>excited</b> 341:2 <b>excluded</b> 365:1 <b>exhibit</b> 249:13 261:23 263:13 308:2 308:8 350:11 350:15, 19 364:8, 10, 17 381:8, 10, 15 406:15 526:17 529:12 <b>exhibits</b> 529:4 <b>existed</b> 388:22 <b>expect</b> 434:21 483:11 <b>expected</b> 252:23 429:21 440:4 465:16 <b>expenses</b> 532:3 <b>experience</b> 298:16 345:23 346:2, 3 396:2 469:6 470:12 474:11, 20	<b>examined</b> 247:14 249:2 251:6 490:9 <b>examined</b> 251:5 <b>example</b> 449:16 475:3 487:4 <b>examples</b> 488:12 <b>exceptionally</b> 492:18 <b>excerpt</b> 261:19 <b>exchange</b> 253:11 <b>exchanged</b> 289:7 <b>excited</b> 341:2 <b>excluded</b> 365:1 <b>exhibit</b> 249:13 261:23 263:13 308:2 308:8 350:11 350:15, 19 364:8, 10, 17 381:8, 10, 15 406:15 526:17 529:12 <b>exhibits</b> 529:4 <b>existed</b> 388:22 <b>expect</b> 434:21 483:11 <b>expected</b> 252:23 429:21 440:4 465:16 <b>expenses</b> 532:3 <b>experience</b> 298:16 345:23 346:2, 3 396:2 469:6 470:12 474:11, 20	<b>examined</b> 247:14 249:2 251:6 490:9 <b>examined</b> 251:5 <b>example</b> 449:16 475:3 487:4 <b>examples</b> 488:12 <b>exceptionally</b> 492:18 <b>excerpt</b> 261:19 <b>exchange</b> 253:11 <b>exchanged</b> 289:7 <b>excited</b> 341:2 <b>excluded</b> 365:1 <b>exhibit</b> 249:13 261:23 263:13 308:2 308:8 350:11 350:15, 19 364:8, 10, 17 381:8, 10, 15 406:15 526:17 529:12 <b>exhibits</b> 529:4 <b>existed</b> 388:22 <b>expect</b> 434:21 483:11 <b>expected</b> 252:23 429:21 440:4 465:16 <b>expenses</b> 532:3 <b>experience</b> 298:16 345:23 346:2, 3 396:2 469:6 470:12 474:11, 20	<b>examined</b> 247:14 249:2 251:6 490:9 <b>examined</b> 251:5 <b>example</b> 449:16 475:3 487:4 <b>examples</b> 488:12 <b>exceptionally</b> 492:18 <b>excerpt</b> 261:19 <b>exchange</b> 253:11 <b>exchanged</b> 289:7 <b>excited</b> 341:2 <b>excluded</b> 365:1 <b>exhibit</b> 249:13 261:23 263:13 308:2 308:8 350:11 350:15, 19 364:8, 10, 17 381:8, 10, 15 406:15 526:17 529:12 <b>exhibits</b> 529:4 <b>existed</b> 388:22 <b>expect</b> 434:21 483:11 <b>expected</b> 252:23 429:21 440:4 465:16 <b>expenses</b> 532:3 <b>experience</b> 298:16 345:23 346:2, 3 396:2 469:6 470:12 474:11, 20

540:1	496:4 497:8	<b>frustrating</b>	432:21 435:2	276:21 277:7	429:1 436:15
<b>forehead</b>	497:10	448:22	479:17	277:16,18,20	437:17
401:13 403:18	500:13 512:9	<b>frustration</b>	<b>generally</b>	283:1,16	443:15,23
<b>foreign</b>	522:20,24	320:2 395:13	260:22 279:15	285:15	445:3 453:7
396:10 470:14	523:10,16	398:5,15	335:19	287:13	455:1 463:8
<b>forever</b>	524:1 528:8	400:24 401:9	336:10	298:22 304:7	468:5 470:24
469:11	526:20	401:22	339:10	304:15,17	471:15
<b>forgive</b>	527:14	402:16	355:13 358:4	307:15	473:21,24,24
438:13	<b>frequently</b>	404:13 476:5	445:20	327:23	477:10
<b>forgot</b>	433:21,22,24	<b>fucking</b>	485:20,22	329:20	501:10,24
254:23 255:6	<b>freshman</b>	512:6 517:2	<b>generated</b>	340:23 345:6	506:8 508:20
325:23	447:18	523:1	490:20,22	350:10 356:5	512:10 517:3
<b>form</b>	<b>friday</b>	<b>full</b>	<b>getting</b>	356:11 357:1	524:6 528:14
255:2 261:7	278:20 527:3	405:21 458:2,4	256:20 285:22	360:14 381:7	529:2,5,7,7
270:16	527:15,18	<b>fundraising</b>	287:19	383:17	529:8 535:2
272:21	530:8	422:18 455:20	314:10 319:3	384:16,19,21	535:3,17
358:13 398:9	<b>friend</b>	<b>funds</b>	335:17	385:6 386:24	<b>good</b>
399:9 467:14	260:3 282:13	485:17	371:19	388:1 390:22	250:1 251:8,9
471:21	283:1 286:4	<b>funeral</b>	425:23 463:8	393:1 409:22	274:14
473:20	286:12 287:3	353:17,20	475:17	421:18	289:23 365:7
476:10 477:4	287:5,16	354:5	505:17	425:19	425:3 429:16
492:1 496:10	291:21,22	<b>furniture</b>	<b>gift</b>	432:18,22,24	429:18
506:9 516:13	302:6,10,10	379:11,14	532:7	434:5,11,14	435:14
527:9,10	302:22,24,24	<b>further</b>	<b>girl</b>	437:11 439:2	454:21
528:5	311:20,24	260:13,13	457:8,9	442:19 450:7	530:23
<b>forth</b>	312:1 313:24	295:1,6,7	<b>girlfriend</b>	450:9 453:5	<b>grab</b>
373:8 513:19	314:21 315:2	301:8 303:13	525:10	453:8 462:5	256:8 438:15
<b>forward</b>	323:17 327:4	303:19 321:3	<b>girls</b>	462:18	<b>grabbed</b>
470:1,3 486:9	327:5 346:4	345:13 369:4	457:24	470:23 471:6	287:9,23 288:6
<b>found</b>	359:6 363:14	430:7 475:17	<b>gist</b>	488:22 489:2	288:11 504:6
329:1 343:7	363:15 365:4	480:20,23	252:5 302:8	493:15	504:14,19
365:7 366:6	365:9 368:12	481:2 490:5	<b>give</b>	494:15 495:2	<b>grabbing</b>
397:20 430:1	368:15,17	537:10	262:6 265:3	500:17 513:9	257:1
443:1 500:22	447:7,9	539:14,24	266:22	521:17,17	<b>grade</b>
506:21 507:4	449:14	540:3,7	270:22	529:3 535:5	290:19,20
507:13	452:19,19	<b>fuse</b>	274:19	535:23	291:11 443:8
<b>foundation</b>	465:3 491:8	345:15	282:13,15,18	<b>good</b>	443:11
261:8 270:16	491:8,24	<b>future</b>	286:18	418:1	<b>gradual</b>
473:20 477:7	513:22	369:18 485:22	317:10 339:9	<b>god</b>	455:24
492:2 494:12	<b>fridday</b>		360:21 362:6	516:22	<b>grand</b>
520:14 531:2	369:3	<b>G</b>	366:15 414:8	<b>goes</b>	251:12,15,23
531:9	<b>friendly</b>	<b>g</b>	414:10 417:5	265:19 373:21	252:2,9,20
<b>foundational</b>	446:16	248:15 413:19	426:3 428:11	471:1 533:13	252:23 253:6
461:8	<b>friends</b>	414:4 415:13	457:20	533:22	253:18 254:1
<b>four</b>	257:20,24	427:4 444:24	466:18	<b>going</b>	254:6,15,21
446:17	258:9,12,15	<b>galesburg</b>	467:18 468:1	253:15,17	255:11,13
<b>fragment</b>	258:16	443:24	475:3 482:8	256:20,21	261:12,16,22
264:8,10 265:1	259:23 260:6	<b>gallery</b>	497:13	261:21	262:4,24
<b>frame</b>	260:15,18,22	416:23 418:18	503:11	264:13	264:3 265:13
401:19,20	261:4,10	418:20	522:20	266:17	268:8 269:10
<b>frank</b>	263:17	428:21,22	<b>given</b>	268:23	269:24 270:1
247:9 248:18	264:13,14,16	429:1 433:19	253:8,9 309:21	277:15	270:14,15,19
<b>freaked</b>	278:3 282:10	<b>gang</b>	320:13 369:5	279:16	272:9,17
327:21	284:23	414:22 415:15	414:7 425:22	283:20	273:12,14
<b>free</b>	353:24	415:17 418:4	425:24	288:10 290:2	274:17,19
470:8	354:13	418:9,24	477:20 509:1	292:23 293:3	275:12
<b>freedom</b>	356:22 368:8	419:5,8	538:14	294:24 302:5	286:17 288:2
466:16 467:3	412:11,16	420:19 421:2	539:17,22	313:18 317:2	290:4 338:1
<b>freeze</b>	448:19	427:15,18,20	<b>giving</b>	320:3,11	348:23,24
408:13	452:12	428:1 430:18	287:11 381:19	322:4 326:7	351:14,15
<b>freemeyer</b>	453:17 454:3	430:18	382:4 414:9	327:20 329:8	383:11,14
247:8 248:18	463:13	536:24	416:7 425:22	330:6 332:10	<b>grandmother</b>
344:1 370:17	511:17 522:6	<b>gangs</b>	511:21	333:15 334:2	443:3
370:22	<b>friendship</b>	415:21 427:11	<b>glamorizes</b>	335:9,16,21	<b>grandparents</b>
374:13	363:8 447:24	427:12	467:11,12,21	343:15 349:6	332:2 333:19
375:10 376:9	456:1	430:14 431:4	<b>glass</b>	354:16	<b>grateful</b>
376:16 377:2	<b>front</b>	431:6	398:21 444:13	362:10,16	486:13
377:3,24	263:4 299:9	<b>garage</b>	<b>gleason</b>	364:7 372:10	<b>grave</b>
378:11,16	300:19,21	317:16	458:8,10,24	372:17	355:22 356:10
380:3 381:4	319:6,12	<b>garbage</b>	459:5	373:13,20	357:5,11
381:19	333:17,18	487:12,14	<b>glink</b>	374:3,23	509:15,21
383:18 385:5	339:18,23	500:18 501:5	248:14	382:17	<b>great</b>
385:18 386:8	401:11	535:17	<b>go</b>	388:21	395:8
387:18,23	411:20 521:8	<b>gather</b>	260:10,21	389:10	<b>green</b>
388:7,12,14	<b>frustrated</b>	322:23 323:5	261:13	392:24 393:1	457:22
388:17	320:4,5 395:14	<b>general</b>	263:17,19	393:7,16,17	<b>gretchen</b>
389:20 390:3	397:3,23	348:20,21	266:24	399:20	455:10,15
391:4,16,20	398:7 401:3	371:12 427:9	267:23	404:17 420:6	456:16,19
392:19	401:16 403:7	427:10	270:21,24	420:12	457:6,24
393:22	475:13	428:22 430:8	271:5,15	421:13	463:7 466:21
468:20 496:2	488:15	430:12	275:16,21	424:15 426:3	<b>gretchens</b>

455:11	444:12	hazy	hindsight	295:14,22	hurt
<b>grew</b>	<b>handcuffs</b>	397:8	428:9	297:2 301:3	288:10 320:20
397:3	299:8,13,17,23	<b>head</b>	<b>hire</b>	301:6 302:21	362:14
<b>grief</b>	300:15	320:10 397:4,5	426:8,8	303:1 310:22	368:23
475:1	304:13	397:13,18	<b>hired</b>	336:12	504:23
<b>grieved</b>	305:18,20,24	398:1,6,14	337:5,8,16	339:18,22	505:17,18
474:24	385:19	398:21	339:2 348:3		506:15
<b>grieving</b>	<b>handed</b>	399:22	460:11	<b>honda</b>	513:20 514:2
513:13	411:10	400:24 401:4	<b>hiring</b>	484:20,23	519:13,18
<b>grinder</b>	<b>handing</b>	401:6,10,11	337:23	<b>honestly</b>	<b>hurting</b>
458:18	517:10	401:19 402:3	<b>hit</b>	354:11	513:14
<b>grinds</b>	<b>handle</b>	402:5,16,20	397:4,13 398:6	<b>hopa</b>	
468:19	414:19 541:18	403:2,7,17	398:14	365:3,7	
<b>grounded</b>	<b>handwriting</b>	404:8,11	400:24 401:4	<b>hopefully</b>	I
444:16	381:22,23	444:22	401:6,10,11	486:4	<b>ice</b>
<b>grounds</b>	526:24 527:4	450:19 476:7	401:14,19	<b>hoping</b>	275:18,21
461:8,23	527:20,21	476:22	402:5,16,19	316:23 317:4	276:9,15
<b>group</b>	529:19,23	<b>health</b>	403:7 404:2	397:24	383:5
455:19,21	530:20,21	424:1 478:11	419:15	429:11	<b>id</b>
<b>groups</b>	<b>handywork</b>	480:5,18	518:19	<b>hospethorn</b>	249:12 263:8
436:20	461:22	482:16	<b>hitting</b>	247:8 248:18	390:22
<b>grow</b>	<b>hang</b>	<b>healthy</b>	397:5,18 398:1	301:22 304:1	404:20
469:18	271:7 348:12	456:16 472:21	398:20	305:23	415:11
<b>guard</b>	<b>hanging</b>	<b>hear</b>	399:22 403:2	308:20	450:19
428:1 440:14	261:5 447:6	333:23 369:8	404:8,11	310:13	519:13
<b>guards</b>	454:22	476:15	<b>hodge</b>	317:24	<b>identification</b>
440:12,16,19	<b>happ</b>	507:10	413:22	347:14,16,20	308:3 350:16
<b>guess</b>	471:16	<b>heard</b>	<b>hoefle</b>	496:1 498:2	364:11
252:5 274:14	<b>happen</b>	252:15 333:3	446:9,11	499:7 510:17	381:11
326:19 401:8	327:13 435:5	394:7,8	<b>hold</b>	511:18,23	<b>identify</b>
429:18 433:8	491:16 494:7	426:13	314:10 414:2	<b>hospice</b>	250:14,24
440:21	516:23 535:9	467:24	469:19	442:2	309:4
449:11,16	535:10	507:12	<b>holding</b>	<b>hospital</b>	<b>iger</b>
465:12	<b>happened</b>	<b>hearing</b>	398:20	315:19 320:20	326:20
471:24	288:4 305:6	405:21,23	<b>hole</b>	377:10 378:6	<b>ignorance</b>
474:13	311:9 312:22	406:21 443:4	403:12,14	<b>hospitals</b>	531:11
475:23	312:23 313:7	506:19,24	404:4,19	475:19	<b>il</b>
488:17 523:7	317:14	507:16 509:1	443:15,18,21	<b>hour</b>	248:4,9,16
<b>guessing</b>	319:15 320:7	<b>heavy</b>	443:22 444:1	262:9,14,17	541:6
326:19 348:13	320:8,9,14	505:21	444:6	309:19 459:1	<b>ill</b>
<b>guilty</b>	321:14 323:7	<b>height</b>	<b>holes</b>	493:12	254:16 261:13
409:14 442:23	327:18 328:2	289:1	403:10 404:12	<b>hours</b>	263:13
531:1,5,8	378:14	<b>held</b>	404:14	309:19 325:11	266:21
<b>gum</b>	422:20	458:12	<b>hollow</b>	325:18 459:2	273:16
487:12 535:17	448:11 455:6	<b>help</b>	255:22,24	<b>house</b>	307:15
<b>guns</b>	463:3 470:5	284:12 436:1	256:5,8,15	260:3,5,10,14	328:22 364:7
297:23	470:10 475:4	517:22	257:3 262:8	277:2,8,10	408:6 471:21
<b>guy</b>	491:23	<b>helped</b>	262:9 266:11	277:15 278:6	472:16
393:23 414:19	497:22 517:2	346:4 478:1	523:1	284:8,16,24	499:17
416:22	518:2 535:8	<b>helps</b>	<b>home</b>	285:5,15,21	508:12 513:2
419:22,22	535:10	273:19	253:7 254:7	313:20 316:5	515:11 517:7
<b>guys</b>	<b>happening</b>	<b>hereinbefore</b>	256:7,11,15	323:18	517:7 520:5
415:10 419:17	378:20 381:1	540:6	256:18,20,22	330:20	533:3 535:14
510:18 511:1	<b>happens</b>	<b>heretofore</b>	256:23 257:2	331:12	<b>illinois</b>
	516:24 517:1,1	539:6	258:24 259:6	332:11,20,21	247:2,10,11,19
	517:1 518:1	<b>hereunto</b>	262:8,12	333:7 336:2	247:20
<b>H</b>	<b>happy</b>	540:10	266:16,24	354:17 355:5	248:12,19
	418:2 486:12	<b>hes</b>	267:16,18	365:6,19,22	250:4,6,12
<b>h</b>	486:13	288:18,18,22	268:2,4,11	427:16 448:3	291:24 411:4
249:11	<b>hard</b>	299:16	268:21	457:17,18,23	437:12,17
<b>hadnt</b>	361:1 411:17	311:24	269:12 270:3	462:13 463:1	438:5,8
306:22 327:9	416:7 471:24	365:23 420:6	273:1,6	463:9 475:8	441:5,15
418:3 460:6	<b>harm</b>	420:12 472:6	283:16	485:3	442:8 443:16
<b>hair</b>	401:8	472:9,10	284:10,15,18	<b>housed</b>	538:2 539:1
376:10 377:7	<b>harming</b>	473:12	285:13 290:1	410:11 412:20	539:6,9
378:7	323:1	493:18	290:22 319:1	413:1,3	540:18 541:2
<b>half</b>	<b>harsh</b>	529:23 534:9	319:3,16,17	444:21	<b>illness</b>
262:9,14,16	396:1	<b>ht</b>	319:20 321:2	<b>household</b>	477:2 482:19
410:24	<b>hasenzahl</b>	364:24	324:23	475:14	<b>in</b>
448:12 455:4	455:12,14	<b>hidden</b>	325:10,17	<b>houses</b>	253:4,15 255:4
<b>halfway</b>	<b>hasnt</b>	535:13	326:6 329:9	259:23 261:4	261:14,21
440:1	300:9 511:14	<b>hide</b>	330:5 335:2	264:13 366:7	262:4 263:12
<b>hall</b>	<b>hate</b>	535:14	349:21	<b>huddle</b>	264:14
392:18 425:9	349:9,9	<b>high</b>	386:24	415:9	266:17 268:8
524:2	<b>havent</b>	312:1 346:7	409:17,18	<b>human</b>	268:15
<b>hand</b>	363:18 404:7	401:1,18	429:8,14	394:22	272:11,23
252:17 289:12	470:4 476:5	402:15 409:8	441:6 459:10	<b>hundred</b>	273:4 274:2
522:13	480:14	447:20	475:18 495:2	253:11 254:9	275:2 282:6
540:11	485:18	453:22	<b>homicide</b>	<b>hundreds</b>	282:20 285:4
<b>handcuffed</b>	488:10	<b>higher</b>	294:12,20	494:10	285:10,13
299:9,11 318:9	529:18	439:6	295:2,9,11	<b>hung</b>	292:23 293:7
321:19 333:8				258:16 522:7	
379:15 393:3					

298:5 299:11	533:3,16	368:2	<b>instincts</b>	<b>investigating</b>	395:6,9
299:19 300:2	534:11 535:6	<b>individual</b>	470:18 525:14	310:21 371:23	396:16 398:4
300:8 302:13	535:8,9,12	415:14 417:19	<b>institution</b>	<b>investigation</b>	398:19
307:2,3,5	535:16,24	420:17	422:24 427:11	336:12 339:18	399:21,23
311:15	536:3,10	421:16	436:23	339:22 358:9	400:12,20
312:12 313:4	<b>immediate</b>	<b>individuality</b>	<b>institutional</b>	369:6 498:22	407:24
316:10	386:1	290:2	442:4	498:23 500:6	408:21
326:19	<b>impeach</b>	<b>individuals</b>	<b>institutions</b>	507:7 520:19	421:21
329:24 331:7	514:20	279:11	413:11 424:7	<b>investigator</b>	<b>James</b>
331:14 332:9	<b>implicated</b>	<b>infamous</b>	<b>instruct</b>	348:3,6 349:16	247:7 248:11
332:18 334:1	487:15	365:1,10	477:10 532:21	351:2 374:15	250:10 536:7
334:9 339:19	<b>implied</b>	<b>inflections</b>	533:6	376:22	539:12
343:3,8	434:13	267:6	<b>instructed</b>	406:15	<b>janitor</b>
344:5 348:13	<b>implying</b>	<b>influence</b>	339:8 421:11	<b>investigators</b>	416:23 417:14
349:5 351:24	473:11	434:6	532:19	407:1,3	424:8 435:9
352:13 354:2	<b>important</b>	<b>information</b>	<b>instructing</b>	<b>invitation</b>	<b>January</b>
354:18 356:4	252:19,21	312:15,18	532:24	369:14	247:21 250:5
356:8 359:20	382:2	339:9 372:8	<b>intend</b>	<b>involve</b>	538:12 539:7
362:10 364:7	<b>impossible</b>	372:12 373:8	335:17	359:23	540:12 541:4
365:12 366:6	472:11	374:13 375:2	<b>intended</b>	<b>involved</b>	541:8
366:22 369:8	<b>impound</b>	375:3,8	467:23 513:11	303:1 322:24	<b>Januaryish</b>
369:9 370:19	318:12	413:18	<b>intending</b>	335:5 343:12	454:6
371:3,3,23	<b>impounded</b>	438:12	401:8	353:7 374:18	<b>Jo</b>
373:13 374:3	318:5	466:18	<b>interaction</b>	391:13,19	287:18
381:2,13	<b>improper</b>	478:14	324:17 440:16	415:5,14	<b>jen</b>
389:6 390:17	528:5	535:14	<b>interactions</b>	424:3 436:17	312:22 517:2
391:10 393:1	<b>inaccuracies</b>	<b>informed</b>	313:2 495:23	441:22	<b>Jennifer</b>
393:17 395:4	309:6,7	334:10 385:6,9	496:7 497:11	448:18 465:8	252:17 310:22
400:7 402:18	<b>inaccurate</b>	<b>infraction</b>	<b>interacts</b>	460:21	311:3,11
403:18	253:16 352:13	442:23	487:13	517:22	312:5 315:1
404:23	382:11	<b>initial</b>	<b>interest</b>	<b>involvement</b>	315:18 320:7
407:10 412:1	<b>inaccurately</b>	328:8 343:23	342:8 362:16	359:19,23,24	320:9,15
416:11 418:8	309:11 398:11	451:13	<b>interested</b>	391:17	321:11,14
420:8 421:22	<b>inappropriate</b>	<b>initially</b>	540:9	<b>involving</b>	323:1,7
423:20 426:3	365:7 386:5	296:1,6,21	<b>interrogated</b>	404:17	327:20 333:4
427:4 428:5	438:9	378:8 439:15	333:9	<b>isnt</b>	336:23
438:22 445:2	<b>incarcerated</b>	439:16	<b>interrogation</b>	505:13 527:6	337:10
446:18	412:15 422:1	460:24	305:8,10,14	<b>issue</b>	338:14 339:4
450:16	447:2 464:1	<b>injured</b>	320:2	334:21 335:7	340:16,19
452:14,15	471:2 488:10	504:22 505:2	<b>interrogato...</b>	348:15 371:1	351:22
453:16 454:1	489:24	<b>injuries</b>	477:14,19,23	372:5	352:24
458:11 461:1	<b>incarceration</b>	415:1,2 424:4	478:2,3,6,9	<b>issued</b>	355:22
461:2,12	412:5 463:15	482:4,18	478:16	477:14,16	356:16,20
465:22	464:6,10,11	<b>injury</b>	480:10	<b>issues</b>	357:24
466:17	476:7 478:13	400:3 402:3	<b>interrogatory</b>	334:4 336:10	359:18
469:11 470:2	480:7 488:14	482:23	411:11,15,18	349:10	369:22
470:3,5,5,15	<b>incident</b>	<b>inkling</b>	444:19	482:24 483:2	382:15,21
470:20,21	290:5,14	500:10	<b>intersection</b>	487:5 533:21	383:1 389:21
471:23 473:5	399:13,20	<b>inmates</b>	257:16	<b>itasca</b>	389:24
473:14,21	400:20	417:9 431:3	<b>interview</b>	248:9	391:17
474:10 475:1	404:17 416:5	444:22	307:13 309:14	<b>item</b>	399:15
475:16 476:2	416:11,16	<b>innocence</b>	309:17,22	404:1	403:20,24
476:24 477:9	427:3 428:11	460:14 535:13	310:1,7,16	<b>items</b>	410:12 445:4
477:12	428:14 431:2	<b>innocent</b>	310:17	424:17	445:22 449:2
478:11	444:23	323:5	311:20 360:8	<b>ive</b>	449:4,8,17
480:22 481:2	536:24	<b>inprocessing</b>	380:23 381:3	308:7 341:23	452:4 453:19
481:8 482:11	<b>inclined</b>	395:5	385:22 395:5	366:7,7	453:21 455:9
482:17,22	492:11	<b>inside</b>	416:1 497:7	369:23	491:8,9,11
483:9,15	<b>included</b>	422:19 427:13	498:1	371:23	491:18,21,22
485:5 486:13	264:14,16	483:8	<b>interviewed</b>	381:13	491:23 492:6
486:14	485:11	<b>insomnia</b>	254:24 255:7	411:10 413:6	492:15,17
487:12,16,16	<b>includes</b>	536:14	313:15 357:9	466:10 470:6	495:5 496:13
487:19 488:2	372:1,3	<b>inspect</b>	357:13,20,24	472:2 475:1	498:9 501:18
488:15,16,17	<b>including</b>	458:20	358:5,19	478:20 479:5	501:23
488:19,21,23	279:9 405:15	<b>install</b>	360:3,5	483:7 488:4	505:19
489:9 492:19	511:23	345:1,5,12	380:3 388:6	488:16	506:17
493:6,8,16	<b>incorrect</b>	<b>installed</b>	<b>interviews</b>	489:20	512:15
493:22,23	473:9 532:22	344:20 345:2	357:16 392:1	491:20	513:12,18
497:17 500:7	<b>indefinitely</b>	<b>installing</b>	497:9	496:18	518:9,12
501:10	433:3 529:2	345:23 346:18	<b>intimidate</b>	502:20 519:5	521:4,24
510:20,22	<b>independent</b>	346:20	418:1	527:20	524:21
514:8,20,21	270:9 339:9	<b>instance</b>	<b>intramural</b>	536:16	526:12
516:1 517:8	468:19	364:15 399:1,5	442:5	<b>iwu</b>	<b>Jennifers</b>
519:1,20	<b>indicated</b>	417:8 476:21	<b>introduce</b>	508:9,17 509:6	314:1,8,21
520:18 523:3	308:24 336:1	486:3 489:4	301:23 376:23		315:3 340:7
524:22	350:7 352:12	497:21,21	<b>introduced</b>	J	342:23 343:1
527:11 528:4	427:2 444:20	<b>instances</b>	302:4 377:4		343:3 353:24
528:14 529:6	478:9 494:10	398:18 407:22	<b>investigate</b>	<b>jacket</b>	355:10 357:5
529:8 530:19	<b>indictment</b>	496:12	351:20,24	504:20	357:11
530:20	262:3,11,18	<b>instinct</b>	370:19,23	<b>jail</b>	359:14,24
532:12,22	<b>indirectly</b>	525:19,24	374:16	393:22 394:16	381:1 399:7
				394:19 395:1	

402:20	423:17 478:8	<b>kticked</b>	469:9 492:7	421:6 423:20	504:10
404:18 466:7	<b>judgment</b>	404:12 501:3	509:22	426:3,7	<b>lane</b>
491:9 500:18	334:10,24	<b>kicking</b>	510:11	429:2 432:12	277:4
524:7 525:1	<b>july</b>	404:14,19	<b>knives</b>	433:6,9,9,11	<b>language</b>
525:14,23	366:12,24	<b>kickout</b>	297:23 298:7	434:9 435:18	287:8,23
<b>jesus</b>	367:11 368:4	428:21,22	<b>know</b>	437:20	504:15
287:6,20	408:15	429:1	252:1 256:1	440:23,24	<b>lapel</b>
<b>jim</b>	459:10,10	290:13,16	258:3,6,8	446:17	504:14,18
324:12,16	494:19 502:6	291:6	261:20	449:10,11	<b>lasealle</b>
325:2 331:24	<b>jumbled</b>	<b>kids</b>	266:18 272:7	451:14 453:6	250:4 541:1
332:8 333:1	388:15	464:3 485:16	274:2 276:19	454:4,5	<b>late</b>
468:8	<b>jump</b>	486:4	276:19 277:4	455:5 456:8	325:8 494:19
<b>job</b>	419:5,8	<b>killbourn</b>	278:2,7,10	456:9,11	507:7,7
252:2 417:13	<b>jumped</b>	259:15 294:5	279:1,2,2	460:12,15,18	528:6
424:20,23	414:21	<b>kill</b>	280:3,17,18	461:10	<b>lateness</b>
425:3,4,13	<b>june</b>	390:4,10,11	280:21 281:2	463:20 464:2	493:12
425:14,15	459:14 502:6	491:11,11,18	281:5 283:12	470:8,16	<b>laughing</b>
426:14,19,22	<b>junior</b>	491:19,20	284:2,22	472:2 473:23	511:18
429:7,10,16	497:3	501:18	285:10 286:1	477:8 481:20	<b>laughlin</b>
429:19 433:2	<b>jury</b>	521:24	286:15	482:3 484:6	330:21 331:11
435:9,10,20	251:12,15,23	524:16,18,20	291:23	485:10	331:22 332:8
458:9,12,14	252:9,20,23	<b>killed</b>	292:15	487:22 488:6	332:10,15,22
469:20 460:1	253:6,18	295:14 301:7	293:13 295:9	488:10,10,18	333:6 335:1
503:5,9,16	254:1,6,15	356:16,19	296:3,3	489:17	335:2,12,19
<b>jobs</b>	254:21	365:4 369:21	299:24	491:13 492:7	336:1,9,21
424:7,9,10	255:11,13	382:21 383:1	301:12,16	497:18,18	343:18
425:5 430:2	261:12,16,22	389:21 390:5	302:3,24	499:23	<b>laughlins</b>
435:7,13,14	262:4,24	390:9 522:10	305:2,9	501:11,16,22	334:21
461:17,20,21	264:3 265:14	<b>killling</b>	307:16	502:8 504:18	<b>laverne</b>
464:21	268:8 269:10	323:1 493:18	309:12 310:3	504:21	348:7 351:2
<b>john</b>	269:24 270:1	<b>kind</b>	310:3 311:23	506:18,22	<b>law</b>
247:9 248:11	270:14,15,19	262:18 265:19	312:7 313:7	507:3,12	248:2,5,5,8
258:2 356:12	272:9,17	287:8 288:7	313:17,24	508:5 511:10	435:11,13,15
356:14,19,22	273:12,14	326:19 367:1	314:5,11,19	511:15	435:19 541:5
357:9,23	274:17,19	379:11	314:21,24	512:18	<b>lawnmowing</b>
358:21	275:12	394:24	315:5,8,15	514:23,24	461:23
359:13,21	286:17 288:2	403:24 404:1	315:20	515:2 520:4	<b>lawsuit</b>
360:2,7,8,9	290:4 338:1	410:9 431:23	316:19 318:4	520:7,10,15	483:12 485:15
363:4,7,11	348:23,24	432:10 434:6	319:14 320:1	520:16,23	<b>lead</b>
363:17,20	351:14,15	445:24 446:6	320:3,9	522:1 523:19	535:18
364:5,22	383:11,14	461:21 466:7	321:15,20	524:4 525:17	<b>leads</b>
365:1,10,12	408:8,14	468:4 471:15	322:8 323:2	525:19,19	259:18
365:13,13,21	530:24 531:1	484:22 485:2	323:11,16,24	528:24 529:1	<b>leaf</b>
366:17 367:2	531:8	485:4 501:20	324:18,21,22	530:20 532:6	495:5
367:6,14,18	<b>jurys</b>	503:21	325:6,21	532:22	<b>learn</b>
367:23 368:3	252:2	504:15	326:6,21	535:21 536:2	333:10 382:24
368:9,15,24	<b>juvenile</b>	505:12,16	327:19 328:3	<b>knowing</b>	383:3 489:21
369:3,4,13	378:24	511:19	329:7 330:22	488:13 508:15	<b>learned</b>
369:18,21	<b>K</b>	531:22,22	331:1,4,8,21	513:20,20	333:12 375:23
370:12	<b>k</b>	536:14	332:24	<b>knowledge</b>	490:1,2
376:18,20	539:3	<b>kinds</b>	333:12,15,22	272:8 306:23	<b>learning</b>
379:7 489:7	<b>kate</b>	349:10	338:3,5,9,19	313:16	370:21 374:12
497:8,20	447:6,9,11	<b>kitohen</b>	340:9,9	338:12,17	488:9
508:17 509:7	449:1,4,6,8	277:16 425:10	341:7,7	347:17,21	<b>lease</b>
509:12,19	450:22	425:12,15,18	344:14,17	351:19	463:7
512:3 520:5	451:13	425:21	348:22 350:9	362:21	<b>leave</b>
520:7,10	452:17	429:13	351:23 355:1	370:18,22	306:3,7,13
521:24 522:5	453:18 455:3	<b>knew</b>	355:14 356:2	404:9 415:13	386:24 388:1
522:19	479:5 480:15	252:7 271:22	357:7,8,12	415:16	421:11
528:20	481:22	272:2 278:8	362:4 366:16	460:12 478:5	432:17
<b>join</b>	<b>keafe</b>	279:2,3,4,6	369:6 371:8	478:7	499:14
427:17	314:22	283:21,22	372:11	<b>known</b>	<b>leaving</b>
<b>joining</b>	<b>keep</b>	310:20 311:4	373:19 380:9	375:9 476:6	256:8 271:22
427:20	358:9 361:1	314:5 315:2	382:20 387:7	506:23 511:5	271:23 272:4
<b>joint</b>	415:11	315:8 319:7	389:19 397:5	<b>knows</b>	283:20 284:7
427:10 432:20	476:13,14,20	320:14	397:10,14	369:13 456:9	290:2 386:11
<b>joilet</b>	501:7 502:12	321:13 327:6	398:2 399:10	<b>krafthefer</b>	392:19
410:13,20	512:9	377:16,18,19	399:14,18	248:14	<b>led</b>
411:7,9	<b>kelly</b>	377:22 378:2	400:1,8,14	<b>L</b>	403:2,4 498:15
<b>jones</b>	462:16 463:4	380:16,21,22	403:14 406:2	<b>l</b>	257:6 273:1,5
311:21,23	463:11,20,24	382:1 384:15	406:24 407:3	247:17,23	285:15,24
312:4,11	<b>kenneth</b>	386:22	407:8,10	538:11 539:4	287:5 296:12
313:6,19,24	412:17,20	391:24 392:3	410:17	541:23	322:8 376:5
314:3 326:1	<b>kept</b>	407:5 418:15	411:13,20	<b>lab</b>	386:5,7
326:5 329:10	358:23 413:6,8	418:16,22,23	413:23	391:6	388:2 429:11
333:3	444:8	419:17 428:5	414:14,15	<b>tack</b>	494:17,17,24
<b>jr</b>	<b>keys</b>	428:7 434:12	415:10,17	450:23 535:20	498:1,3
412:17,21	318:20	434:13	416:13 417:5	<b>laid</b>	500:24 503:2
<b>judge</b>	<b>kia</b>	449:14	418:21	289:12	503:4 523:1
252:24 396:22	484:16	460:15,18,18	419:22	<b>landing</b>	523:23
408:11,13			420:15,24		

<b>legal</b> 248:1 250:2 490:13 541:5	<b>lines</b> 505:12 514:19 516:5	292:5 365:2 365:15 417:10	398:10 <b>loose</b> 483:5	423:7 431:24 492:17	291:10 295:19 296:2 302:2 309:7
<b>legally</b> 438:21	<b>link</b> 525:22	<b>lockmill</b> 336:11,23 339:17,22	<b>lord</b> 418:15,22	<b>male</b> 449:14	349:8 365:13 371:5,10,14 371:19,22
<b>lending</b> 253:12	<b>lip</b> 415:4	352:24 369:22 389:21 391:17 410:12	<b>lords</b> 418:16,17	<b>mail</b> 257:14 259:18	373:7,17 375:19 384:1 387:12 389:11 411:11
<b>letter</b> 350:24 406:14 406:15	<b>liquor</b> 283:3	445:22 497:6	<b>lost</b> 483:20	<b>man</b> 288:22 461:6 488:17	387:12 389:11 411:11
<b>letters</b> 436:4 490:24	<b>list</b> 258:5 437:21	<b>lockmillers</b> 310:22 337:10 338:14 339:4 351:22 355:22 357:24 389:24	<b>lot</b> 371:5 373:7 418:18,22 450:10 461:23 464:2 471:23 475:19 488:16 490:20,22 491:4 508:7 508:10,10,12 521:2	<b>manifest</b> 476:21 534:18	411:11
<b>letting</b> 414:8 415:10	<b>listed</b> 412:13	<b>long</b> 256:14 257:5 258:23 259:2 262:7,11 276:18 283:24 296:14,17,18 300:15,18 301:12 309:16,16,18 319:12 350:4 350:21 379:22 380:1 426:16 440:22 443:21 446:14 448:4 448:10 451:12,14,20 454:14 456:4 458:12 459:23 462:8 462:21 463:7 474:15 485:18 512:11 529:2	<b>loud</b> 279:18	<b>manner</b> 266:3 310:11 321:23 372:17 398:5 417:22 476:19	421:22 426:17 434:8 438:23 446:15 466:4 467:22 469:3 469:4 470:21 472:7,9 473:4 478:18 480:5 482:7 485:4,4 488:22 493:17,20 496:13 497:14,17,20 514:5,23 516:20 517:4 522:2 523:10
<b>level</b> 396:22	<b>listen</b> 398:24 533:3	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>love</b> 367:22	<b>manufacturing</b> 458:17	472:7,9 473:4 478:18 480:5 482:7 485:4,4 488:22 493:17,20 496:13 497:14,17,20 514:5,23 516:20 517:4 522:2 523:10
<b>liability</b> 421:14 460:7 533:14,23	<b>litigation</b> 250:3 541:1	<b>look</b> 263:9,13 273:18 311:14 313:18 343:11 349:7 352:7 381:13 390:23 404:20 406:22 413:17 486:9 500:18 514:17 519:13 527:21,22,23 528:6 530:5 530:10	<b>lower</b> 415:4 463:6	<b>margaret</b> 541:23	375:19 384:1 387:12 389:11 411:11
<b>liberty</b> 441:18	<b>little</b> 262:13,14,15 288:22 289:24 298:16 329:17 333:1 382:12 401:5 410:22 411:2 411:17 414:19 424:13 435:10 440:8 440:9 452:1 457:15 466:8 490:12 529:6 530:14 535:23	<b>looks</b> 365:8 381:23 527:5,6,7,19	<b>luman</b> 258:2	<b>marijuana</b> 280:15,22 281:6,18,21 281:24 282:7 282:24 432:6 432:8 433:5 433:17,21 434:1 435:23	373:7,17 375:19 384:1 387:12 389:11 411:11
<b>library</b> 435:11,13,16	<b>live</b> 263:18 355:6 430:19 431:5 435:6 441:15 457:16,23 458:2 462:5 462:8,13,21 470:17 518:3	<b>looping</b> 269:19 279:19 312:15,18,20 352:21 365:6 365:19,21 415:9 446:6 519:1	<b>lunch</b> 334:14 364:5 367:21 369:14	<b>mark</b> 307:15 350:10 364:7 381:7 517:16	411:11
<b>license</b> 247:24	<b>life</b> 398:3 466:24 467:10 468:23 469:1 469:14 470:1 470:12,14,18 471:9,16,17 472:2,2,21 474:18 475:18 486:12 487:9 487:21 502:20 505:13 517:2 518:1,2	<b>looping</b> 269:19 279:19 312:15,18,20 352:21 365:6 365:19,21 415:9 446:6 519:1	<b>lurking</b> 334:5	<b>marked</b> 249:12 261:23 308:2,8,12 350:15,19 364:10,16 381:10,14 406:14 526:17	411:11
<b>lie</b> 292:3 508:21 509:7,12 510:5,7,11	<b>lieu</b> 443:19	<b>long</b> 256:14 257:5 258:23 259:2 262:7,11 276:18 283:24 296:14,17,18 300:15,18 301:12 309:16,16,18 319:12 350:4 350:21 379:22 380:1 426:16 440:22 443:21 446:14 448:4 448:10 451:12,14,20 454:14 456:4 458:12 459:23 462:8 462:21 463:7 474:15 485:18 512:11 529:2	<b>lunar</b> 415:4 463:6	<b>marks</b> 347:4,8 445:11 445:15	411:11
<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>married</b> 463:8	411:11
<b>liberty</b> 441:18	<b>life</b> 398:3 466:24 467:10 468:23 469:1 469:14 470:1 470:12,14,18 471:9,16,17 472:2,2,21 474:18 475:18 486:12 487:9 487:21 502:20 505:13 517:2 518:1,2	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>martha</b> 479:13 482:2	411:11
<b>library</b> 435:11,13,16	<b>life</b> 398:3 466:24 467:10 468:23 469:1 469:14 470:1 470:12,14,18 471:9,16,17 472:2,2,21 474:18 475:18 486:12 487:9 487:21 502:20 505:13 517:2 518:1,2	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>massively</b> 250:9 517:2,24 494:8	411:11
<b>license</b> 247:24	<b>lieu</b> 443:19	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>match</b> 445:21	411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>math</b> 439:13	411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>matter</b> 250:9 517:2,24 494:8	411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>matured</b> 434:22	411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>mawr</b> 277:4 355:8	411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>maximum</b> 427:23 436:9 436:21 437:13,15 438:1 439:4 440:6	411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>mccorkle</b> 250:3 541:1 247:10 248:11 250:19 393:21 394:16,18 396:15 398:4 407:23 408:21 460:5	411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>mcpherson</b> 524:2,4	411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>mean</b> 258:6 262:16 275:4 290:13	411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6	<b>making</b> 269:18 270:7 270:10 334:9	411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liberty</b> 441:18	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>library</b> 435:11,13,16	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>license</b> 247:24	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer</b> 309:19 382:15 396:13,15 430:5 431:4	<b>lunar</b> 415:4 463:6		411:11
<b>liability</b> 421:14 460:7 533:14,23	<b>lieutenant</b> 377:23 380:4 380:14 383:19 386:1 387:17 468:16	<b>longer&lt;/</b>			

426:17	278:3 286:4	446:18	370:12	323:9 324:5	<b>nights</b>
427:17 429:3	287:3	451:21,22	375:23 381:1	324:8 333:23	278:17 280:2
429:8,11,24	<b>minion</b>	452:1 455:4	391:18,19	334:7 390:17	328:10
430:10 432:3	291:19,21,23	457:15	410:12 468:7	430:17 433:8	345:13
432:9 433:4	292:2,3	<b>moore</b>	497:6 498:4	465:4 483:4	<b>nine</b>
434:16,19	<b>minor</b>	324:12,13,16	501:8,13	486:14	289:2 396:20
435:1 436:8	409:2,15 415:2	325:2 331:24	507:14 508:9	489:21 490:6	<b>noodle</b>
436:13	426:13	332:8,16,21	<b>murdered</b>	505:12 514:6	417:5
444:21	<b>minute</b>	333:1	338:24 340:16	517:5 518:9	<b>normal</b>
<b>mental</b>	328:23 476:3	<b>morgan</b>	340:19	541:16	247:11 248:19
477:2 478:11	<b>minutes</b>	314:22,24	506:17	<b>needed</b>	250:22
480:5,18	256:16 259:1	<b>morning</b>	<b>murders</b>	256:20 260:24	251:19
482:13,16	296:18	250:1 251:8,9	292:8 372:3	261:1 345:6	259:22
<b>mention</b>	319:14	277:21	<b>murr</b>	378:16	263:21 264:3
274:20	382:16	283:12 284:1	358:18	388:17	294:12
<b>mentioned</b>	388:18	324:23	<b>murray</b>	392:23	295:22
263:18 365:18	475:21	325:11,18	356:12,14,19	418:12 426:8	328:21 360:3
376:6 441:23	486:15 535:3	326:5 329:13	357:9,23	463:2 506:5	360:7,21
487:3 497:21	<b>miranda</b>	329:19 330:9	358:19,21,23	506:7 513:21	378:11,15
516:4 540:6	377:14,16	336:3 354:16	359:2,9,13	<b>needing</b>	379:2,23
<b>meridian</b>	<b>mis</b>	354:20	359:21 360:2	323:15	380:2 393:5
259:11	471:13	375:22	360:8,9	<b>needs</b>	444:11
<b>mess</b>	<b>misheard</b>	524:10,11	361:9 363:4	453:6 532:16	456:16
420:6,12	427:1	526:9	363:7,11,17	<b>negative</b>	470:14,16
<b>message</b>	<b>misinterpreted</b>	<b>morrison</b>	363:20 364:5	292:22	471:9,16,17
363:21 364:21	419:23	258:6	365:13,21,24	<b>neighbor</b>	472:1,21
364:23 365:8	<b>misphrase</b>	<b>mortgage</b>	366:17 367:2	326:15 327:5	487:24,24
366:17	471:13	484:2,5 485:3	367:6,14,18	<b>neighborhood</b>	495:24 496:8
367:13,16,17	<b>missed</b>	<b>morton</b>	368:3,9,24	258:15 260:7	496:18,19
367:20 368:3	292:16,20	391:6,11	369:3,4,13	277:12 402:1	497:12
368:11 369:4	293:13,18,20	<b>mother</b>	369:18,21	457:22	<b>normally</b>
489:18	<b>missing</b>	271:19,21	370:12 489:7	<b>neighbors</b>	289:23 330:4,6
<b>messages</b>	292:18 382:16	272:19 273:1	508:17 509:7	326:8	444:16
489:6	<b>misstates</b>	273:6,7	509:12,16,19	474:20	<b>north</b>
<b>messed</b>	399:10	274:5,20	520:5,7,10	347:18	250:3
421:18	<b>mistake</b>	287:8 290:24	521:24 522:5	<b>nelson</b>	<b>northern</b>
<b>met</b>	443:4	321:4 329:1	<b>murrays</b>	412:18	247:2 250:12
364:5 376:24	<b>mistakes</b>	343:7 344:12	360:7	<b>nervous</b>	538:2
438:12	309:5,6	347:17	<b>music</b>	361:2,3	<b>northwestern</b>
447:13	<b>mistreated</b>	375:16,18	279:18 436:19	<b>neutron</b>	248:2,5,5
455:15,16,18	309:24 310:4,7	376:2 504:4		418:8	416:2,17
<b>michael</b>	310:14	504:17	<b>N</b>	<b>never</b>	541:5
355:16 404:17	<b>mitch</b>	<b>motions</b>	<b>n</b>	288:21 306:3,6	<b>nose</b>
413:22	270:18	471:15	249:1 541:1	338:23	290:17
495:19 500:9	<b>mom</b>	<b>motive</b>	<b>name</b>	345:18	<b>notarial</b>
503:1 505:19	253:11 254:9	390:4,7,9,11	250:1,16 251:1	369:14,20,23	540:11
513:10,13	316:10	521:24	302:4 311:21	389:20,23	<b>notarized</b>
515:21	319:16	524:16,18,20	316:19	421:20 428:6	541:16
516:12,17	328:17 337:2	<b>motorcycle</b>	317:20	431:12,12	<b>notary</b>
517:8,17	340:9,14,18	466:20 484:8	325:24	438:6 491:18	247:18 538:22
<b>microphone</b>	341:20,24	484:13,22	326:17	491:20 504:3	539:4 540:18
269:14 490:6	342:4 343:15	<b>mount</b>	330:20 337:6	505:6 508:3	<b>note</b>
<b>middle</b>	<b>moment</b>	411:4 443:7	348:7 366:7	509:11 510:3	348:18 531:19
309:21 322:9	298:14 303:6	<b>mouth</b>	413:21 446:8	510:4 522:17	<b>notes</b>
415:9	<b>mons</b>	476:14	446:9,10	525:14 530:2	337:9,13,20
<b>mlke</b>	340:22	<b>move</b>	453:16	535:14	338:4,7,13
258:2 326:13	<b>mon</b>	374:3 441:4	455:11	<b>new</b>	338:21 340:2
326:14,21,24	484:1	462:24 463:9	458:24	344:20 445:6	529:3
327:8,11	<b>monday</b>	469:24 471:9	457:10,11	<b>night</b>	<b>notice</b>
328:9 516:21	337:4 343:3	487:21	479:2,12	274:12 275:6	247:15 474:13
<b>mikes</b>	527:2,15,17	<b>moved</b>	488:12	275:18	540:4
326:17	530:7	418:19 463:5	<b>names</b>	278:19,22	<b>nowin</b>
<b>mile</b>	<b>money</b>	<b>movement</b>	257:23 411:8	279:7,24	403:6
476:3	267:13,15	434:7 440:5	411:12,16	280:5,19	<b>nuisance</b>
<b>mileage</b>	282:13,15,19	<b>movie</b>	412:13 511:2	281:3,17,20	418:10
328:18,19,23	283:5 394:8	466:8 526:2	<b>nature</b>	284:24 285:5	<b>number</b>
329:1,5	465:1,18	<b>moving</b>	254:14 286:3,8	292:7 311:19	249:12 259:8
330:10	483:11,13,14	470:3	369:5	313:14 323:3	278:14
340:13,22	483:17,18,19	<b>multiple</b>	<b>near</b>	323:16	307:16 311:1
<b>milligrams</b>	483:20,23	358:20 360:3	294:6	327:19	311:2 314:6
480:2	485:14	<b>murder</b>	<b>necessarily</b>	328:14,16	314:9,15,18
<b>million</b>	520:11 521:9	252:16 255:1,8	371:4 399:15	329:12,13	367:21
393:24	521:17	292:8 322:13	433:16 470:8	336:18 345:4	405:24 406:2
<b>mind</b>	<b>month</b>	337:10	471:19	345:6,8,9	489:9,10,13
255:17 400:11	410:24 424:23	338:15 339:4	485:21	541:8,20	<b>numbers</b>
441:14	426:1 443:13	340:8 342:23	497:19	348:19	
442:14,17	448:12 455:4	343:1,4,12	<b>necessary</b>		
505:21 530:2	459:16 485:6	351:22	371:18		
<b>mins</b>	<b>months</b>	355:10,19	<b>need</b>		
334:4	405:18 422:7	358:1 359:14	263:3 269:15	<b>nightmares</b>	
<b>mine</b>	426:18 443:8	359:19,24	286:6 307:17	536:4,6,13,17	
				536:19,21	
					<b>o</b>

539:3,3	<b>occurring</b>	373:3,5	306:17	<b>owed</b>	462:14,24
<b>object</b>	407:18 434:24	374:4 383:4	332:14 378:6	520:10	464:4,7
253:17 255:2	<b>oclock</b>	384:7,11	378:14 384:2		498:6,12
261:7 266:17	273:22 277:23	387:3 392:16	395:1 401:15	<b>P</b>	503:19,22
266:19	284:24	396:21	402:22 409:2	<b>P</b>	505:7 506:3
292:23	331:19,20	412:12	410:2 426:1	247:22 248:8	517:3 518:8
358:13 398:8	354:16,20	413:24 414:2	430:8 438:7	272:20	518:8,17
408:1 458:19	383:5,8	416:16,21	463:19	293:22 305:4	531:16,20
461:8 467:14	528:7 534:21	417:13,19	496:24	334:15,17	<b>park</b>
471:21	<b>oct</b>	419:9 420:4	500:20	347:5,9	475:20
476:10 492:1	523:7	420:22	<b>oneone</b>	351:8 372:23	<b>parking</b>
493:10	<b>october</b>	422:14 427:7	419:19	373:2 383:8	317:16 475:19
496:10	376:14 383:19	427:7 431:17	<b>ones</b>	445:12,16	<b>parole</b>
501:10 506:9	387:10 388:8	437:8,10	402:18 410:14	453:11,14	409:18 410:1
512:22 513:7	390:15 523:8	441:14	413:6 442:14	486:20,23	<b>part</b>
514:7 515:10	524:1	442:16	<b>open</b>	515:14,17	251:10 254:20
516:13 527:9	<b>odd</b>	444:17 445:2	296:12 427:10	537:8	257:18 260:1
527:10	461:20,21	447:5 454:12	<b>openly</b>	<b>pack</b>	280:1 262:19
<b>objection</b>	<b>odometer</b>	456:4 457:5	432:11	424:19	285:11,19
253:22 254:3	344:11,20	464:17	<b>operated</b>	<b>page</b>	271:14 280:4
254:13	406:22	466:22	430:13	262:5 263:14	291:14
261:14 264:6	407:13	473:19	<b>opinion</b>	265:17 268:8	295:14 372:3
270:16	<b>offended</b>	474:10 489:5	477:7 529:17	268:13	420:9 439:13
272:21	389:3	491:14,22	529:21 530:6	273:17,18	443:17 466:2
340:23	<b>offense</b>	492:20 493:2	<b>opinions</b>	274:16	530:15
352:16	426:14	493:13	530:24 531:7	286:16	<b>partake</b>
390:20 399:9	<b>offensive</b>	494:17 495:9	<b>opportunity</b>	308:10,11,12	465:21
472:23	286:11 287:4	497:5 498:1	335:6 441:19	308:13,17	<b>participated</b>
473:20 477:4	<b>offered</b>	498:9 499:1	<b>opposed</b>	311:13	431:24
494:8 513:5	311:8 420:15	499:10,13	314:4 330:14	348:19	<b>participating</b>
514:3,13	426:14	500:21 501:2	<b>order</b>	366:11,13	436:11
520:14	<b>office</b>	501:20,23	399:22 410:15	367:10	<b>particular</b>
528:20,21	251:16 296:9	502:22	492:8	530:10	255:19 259:2
531:2,3,9	304:8 376:22	504:11,22	<b>ordered</b>	<b>pages</b>	267:22 279:7
<b>observe</b>	378:22,24	505:1,15	297:16	263:14 494:10	280:1,5,8
397:12 421:13	379:10 384:5	506:16	<b>orders</b>	541:12,16,17	281:20 328:7
<b>obstructed</b>	385:14,17,23	507:15,19	424:15,18,19	<b>paid</b>	340:19
306:3	385:24 387:6	508:1,7,15	<b>organizations</b>	424:23 429:17	341:16
<b>obtained</b>	387:7,16	509:20 510:1	436:12	475:10	369:23 371:8
521:15	388:13 497:9	510:23 511:8	<b>organized</b>	503:14	384:15
<b>obvious</b>	512:4 523:7	511:17	436:18,19,21	531:15,16	399:13 412:6
430:16	523:18,20	513:17 515:9	437:1	532:3,11	428:19
<b>obviously</b>	<b>officer</b>	515:19	<b>ought</b>	<b>painting</b>	437:22,23
373:7 382:17	294:11 296:9	516:20	334:3	346:12	<b>particularly</b>
420:19	301:17	519:23	<b>outcome</b>	<b>pat</b>	401:3
529:13	409:18 410:1	521:19	540:9	446:3	<b>parties</b>
<b>oc</b>	442:22	522:19 523:5	<b>outfopocket</b>	<b>panic</b>	279:16,17,20
524:1	<b>officers</b>	526:12	532:10	536:2	279:22 359:5
<b>occasion</b>	293:23 294:9	527:14	<b>outside</b>	<b>paper</b>	540:2,8
327:7 353:15	296:5,10	528:16	296:11,14	381:18 490:21	541:18
358:12	301:19	529:24	298:24	490:22	<b>partition</b>
376:17	309:13	530:23 532:9	300:16,16	<b>paraphrase</b>	398:21
383:22 384:7	316:16	532:13,18	380:11	418:5 471:12	<b>parts</b>
384:11 385:5	343:19,21	534:5,8,11	392:22	519:9	258:10 335:4
385:9,20	376:7 377:13	534:14 535:6	417:11	<b>paraphrasing</b>	<b>party</b>
387:10	388:4 438:14	536:20 537:4	448:19	519:9	278:3,3,12,14
388:16 389:5	<b>officials</b>	537:5	449:13,19	<b>parents</b>	278:18 279:1
389:7,18	432:14	<b>old</b>	524:2,3	285:21,23	279:18 280:1
391:10,16	<b>oh</b>	291:8 326:24	<b>overbreadth</b>	313:13 314:9	280:4,11,14
398:22 400:4	302:15 366:22	363:15 365:9	493:11	315:11,23	281:9,11,14
400:23	416:10 427:4	447:7,9	<b>overbroad</b>	316:6,9	281:14,18
402:19,23	452:23 456:9	452:19	390:20 486:1	319:7,9,13	282:2,16,18
409:10	490:7 492:14	456:22	<b>overcome</b>	319:15	282:21
465:22	501:2 509:23	457:14,15	469:11,24	321:17	<b>pass</b>
<b>occasionally</b>	521:14	484:17,24	518:3	322:23 323:9	362:15 436:2
359:1 398:13	<b>oil</b>	488:17	<b>overcoming</b>	323:14 324:2	486:17
433:14 483:8	346:11,23	<b>older</b>	470:3	324:5,20	<b>passed</b>
521:4	<b>okay</b>	488:19	<b>overdrawn</b>	325:19	361:13 362:21
<b>occasions</b>	256:4 260:21	<b>olson</b>	286:21	328:17 329:9	362:24 363:5
358:20 359:12	262:1 263:5	270:12,18	<b>overlooking</b>	329:21 330:3	508:22 509:9
360:3 389:19	263:6,10	274:8,21	475:11	330:14,18	<b>passing</b>
398:3 400:17	263:16 275:7	276:9 277:24	<b>overreacted</b>	332:2,15,22	359:1
400:23	280:13 300:7	282:15	505:3,5	333:2,14,18	<b>passport</b>
401:14 402:2	308:16 310:6	<b>olsons</b>	<b>overreacting</b>	333:20 337:5	397:22
402:6,9,11	334:11 336:5	277:8,10,15	506:1,4	338:12,21	<b>pastor</b>
424:2 468:15	336:8,15	278:12,18	<b>overwhelming</b>	338:12,21	274:8,21 276:9
525:7	345:19 349:3	281:9 282:2	474:1,4 535:20	339:1,10,14	324:3,5,10
<b>occur</b>	349:5,12,17	284:23	<b>owe</b>	339:18,24	325:14
522:9	362:12 364:3	285:15,20,24	483:16,18,19	340:2,5	<b>pat</b>
<b>occurred</b>	365:15	<b>once</b>	483:22 484:1	351:20 355:5	299:3
403:15	370:10 371:1	295:1 301:5	521:8	355:6 409:17	<b>path</b>
				409:19	
				422:22 462:7	

306:3	373:14	269:15 323:21	268:23 277:16	392:23 393:5	478:10,19
<b>patient</b>	<b>persevered</b>	326:3 329:19	281:12 283:3	394:5,9	481:3 482:14
535:22	469:14,15,21	<b>pickett</b>	291:5 298:3	405:8 490:23	<b>potential</b>
<b>patted</b>	<b>persistent</b>	348:7 349:19	298:18,21	491:7,9	335:14
298:10,23	418:10	349:23 350:2	299:16,21	493:24	<b>pounds</b>
299:6,22	<b>person</b>	350:6 351:2	300:1,13	494:10	289:3
<b>patterns</b>	271:21 272:1	362:12	301:2,6	495:24 496:8	<b>power</b>
448:24 449:3	272:18	406:15	302:23	496:20,20	421:1 475:7,12
<b>pauses</b>	327:12 367:6	<b>picking</b>	304:12	497:12	<b>practitioner</b>
529:3	369:23	277:6 384:3	310:20 311:4	510:16	479:17
<b>pay</b>	375:14 376:2	416:22	314:12,13	511:21	<b>predictions</b>
282:12,19,23	395:2,3	417:20	322:3 326:10	<b>polices</b>	253:15
283:4 465:16	424:4 425:8	<b>picnic</b>	332:24	362:16	<b>prepare</b>
483:16 485:5	446:8,22	431:11	333:14 334:7	<b>polish</b>	478:1
521:7 531:20	455:7 479:12	<b>picnics</b>	335:14	399:6	<b>prepared</b>
531:24	492:7 522:10	431:10	338:20	<b>polite</b>	382:1 477:22
<b>paying</b>	<b>personal</b>	<b>piece</b>	340:10 345:7	419:19 438:12	<b>preparing</b>
374:23 408:18	444:15 478:4	513:24 514:12	345:14,19	<b>polygraph</b>	350:6
485:12,13	<b>personally</b>	519:2,8	349:10,11	360:11,15,22	<b>prescribed</b>
532:10	312:13 330:22	<b>pilot</b>	353:23	361:4,7,10	481:20
<b>payment</b>	343:20	484:20	354:12	361:13,23	<b>presence</b>
485:3	480:16 539:8	<b>pinned</b>	355:17,21	362:1,6,14	310:12 539:19
<b>payments</b>	<b>personnel</b>	287:14 288:2	356:14,19	362:15,18,22	<b>present</b>
484:2,4	272:5	<b>place</b>	357:10,14	363:5 392:6	248:21 255:10
<b>peacekeeping</b>	<b>perspective</b>	276:18 278:14	366:15	392:11	296:6 331:22
427:13	431:3	290:18 294:3	369:20 370:3	<b>polygraphs</b>	332:7,15
<b>pen</b>	<b>pertaining</b>	294:4 302:17	370:14	361:19 362:13	333:7 339:10
446:3	247:16	306:23 313:2	371:17	<b>pontiac</b>	339:14 379:5
<b>penalty</b>	<b>pester</b>	321:4 326:8	377:22	410:23 429:3,7	391:9 515:6
389:14	303:11	329:5 332:14	380:16 383:1	429:20,21,23	540:5
<b>pending</b>	<b>petition</b>	332:17,23	387:9 389:13	430:4,11,21	<b>presented</b>
269:3 460:5	490:18 532:9	333:18	391:24 392:5	432:17,19,19	383:10 406:11
539:10	<b>phone</b>	339:23 341:4	392:7 393:15	432:21,24	406:13,19
<b>penitentiary</b>	269:11,19,21	356:1 375:24	395:10	433:1 434:4	436:22 513:6
415:20	270:2,2,8,10	379:9 384:8	397:18 407:2	434:19 436:8	<b>preserve</b>
<b>people</b>	314:9,15	393:18 395:6	415:19,23	<b>poor</b>	254:16
278:21,24	327:12	416:18 432:2	430:15,22	365:2,15	<b>presided</b>
279:4 353:7	329:10	434:5 438:18	431:15,17	<b>population</b>	408:11
353:9 372:1	367:21	441:15	432:5 435:24	427:9,10	<b>pratrial</b>
378:7 387:15	382:15	474:12 513:4	436:10 437:4	428:23 430:8	373:11 507:23
394:5,8	418:19 443:9	516:7,9,16	438:4,6	432:21 435:2	<b>pretty</b>
399:23 402:7	475:7 524:10	<b>placed</b>	448:13 460:9	<b>populations</b>	260:5,12 285:5
402:10,12	524:12,13	305:8 398:20	469:7 471:18	430:12	298:14 303:6
412:8,12,14	541:20	422:24	491:10 529:8	<b>porch</b>	373:23
413:8,9	<b>photograph</b>	428:20 443:7	<b>polaroid</b>	327:14,15	388:15 425:3
415:5 417:2	344:11,12,19	<b>places</b>	422:17	328:11,12	426:22
421:1,4	347:13,19	322:16 442:10	<b>police</b>	<b>pornographic</b>	429:16
426:8 427:24	378:16 405:6	<b>plaintiff</b>	251:20 254:24	409:11	435:14 437:2
430:1,2	510:13,19	247:5 248:6	255:7 278:8	<b>portion</b>	437:5 438:9
431:18	<b>photographed</b>	250:10 538:5	278:10 292:4	256:4 264:19	438:17 447:7
433:18 445:4	378:19 422:12	539:12	292:16,20	265:6 376:4	462:1 488:15
452:5 460:4	<b>photographs</b>	<b>plaintiffs</b>	293:17 296:1	380:1 401:11	<b>prevent</b>
479:15	336:22 337:2	250:15	296:3,5,8,15	401:12	252:24 253:2
483:16	422:9,15,17	<b>plan</b>	298:17	<b>portions</b>	<b>preventing</b>
487:18,23	422:20	335:21 367:21	301:17 312:5	261:21	253:3
488:9,19	423:16	373:22 486:4	312:21 313:3	<b>portrays</b>	<b>previous</b>
489:8,9,10	<b>phrase</b>	528:17	313:15 315:7	467:9	276:13 314:16
489:13,17,21	318:5 468:1	<b>planned</b>	315:14 318:9	<b>posiiton</b>	473:5
505:18	472:13	323:20	322:4,10	335:15,16	<b>previously</b>
508:13,14	<b>phrased</b>	<b>planning</b>	323:21	459:23	251:12 435:21
511:5 521:5	472:5,12	463:8	324:17 325:3	460:21	<b>primarily</b>
<b>percent</b>	512:16	<b>plans</b>	328:5 329:20	<b>possess</b>	259:10 535:6
316:11	<b>physical</b>	369:17 485:13	336:3,11	338:10,11	<b>print</b>
<b>perception</b>	290:8,12 291:3	485:20,21,21	340:16	<b>possession</b>	530:19
421:9	421:16,24	485:23 486:6	341:13,14,17	405:14,16,20	<b>printed</b>
<b>period</b>	422:3 423:22	<b>played</b>	343:11,18,20	443:1	378:18 527:11
272:7 282:1,3	424:3 482:4	437:5 441:23	343:23,24	<b>possibility</b>	530:13
282:9 283:19	482:7,18,23	442:1,6	349:21	342:11,15	<b>prior</b>
284:4 298:12	482:24 483:2	443:2 475:22	353:12,14	<b>possible</b>	306:21 323:21
339:2 376:1	483:6 503:22	<b>pleading</b>	357:10,17,20	283:18 359:23	332:11
394:21 448:7	504:3 537:1	398:23	357:23 358:6	367:8 369:19	366:24
451:14,20	<b>physically</b>	<b>please</b>	358:12,20	382:3 522:14	375:13 376:1
461:18	289:11,19	250:14,23	359:18,22	522:16	392:1 394:5
462:19	414:23 506:1	254:4,13	360:4,7,21	<b>possibly</b>	398:4,10
463:17 464:5	<b>pick</b>	268:13 293:5	361:7 370:7	369:1	399:10 400:8
465:2 481:14	276:22,24	300:3 354:3	372:14 376:7	<b>post</b>	400:17,19
<b>periodically</b>	277:1 316:2	398:24	378:12,15	490:17 508:24	402:15
448:1	383:24	541:13,17,19	379:3,23	531:14	408:24
<b>periods</b>	499:14	<b>plunged</b>	380:2 384:21	<b>posted</b>	428:14 435:2
281:11,13	521:17,18	469:9	384:22 385:1	407:15 489:20	459:5 464:11
<b>permit</b>	<b>picked</b>	<b>point</b>	390:14,23	<b>posttraumatic</b>	468:5,9

476:6 477:19	394:15 470:4	psychology	485:16 515:3	295:1,6,7	517:5 519:5
489:24 494:9	produced	479:16	putting	301:8 303:13	519:22
pris	405:6	ptsd	263:12 294:15	303:20,23	520:21 530:1
422:10	product	478:10	299:16 330:9	306:19,22	538:9
prison	371:20	public		307:7,10	readers
412:17 413:13	productive	247:18 304:19	<b>Q</b>	308:19 311:1	467:1,5,6
419:14 422:8	529:14	316:16	qualified	311:2 321:11	468:1,3
422:19	profile	317:11,15,17	411:3	322:9 328:22	reading
424:11	458:18	319:19	question	333:16	491:6 492:22
427:22,23	program	538:22 539:4	255:3 261:8	335:11,18,24	493:3 514:8
430:13	439:17 488:18	540:18	262:7,11,14	350:12	519:4
431:18 432:5	503:7	publicity	262:18,21	359:18,22	reads
432:14	progress	431:1	263:3,21	371:24	367:20
445:24 446:2	473:23	published	264:8,10,17	373:14 374:2	ready
446:3,20	promised	363:22	264:19,24	391:21,24	275:16 369:9
448:1 459:13	483:13,14	pull	265:1,6,18	392:2,4	529:4
462:2,6	promissory	475:18	265:21	411:23 445:3	realize
463:11 469:4	531:19	pulled	266:22,24	487:2 490:12	432:23 474:10
469:23	promotional	296:3,20,21	267:4,6,7,11	494:9 528:15	515:22
470:18 474:9	466:12,15	297:13	268:9,17	529:3,12	realized
474:10	prompted	302:20	269:3,23	534:7,9	340:12
476:13,19	504:13	487:17	272:22 274:3	538:14	really
483:21 537:2	proper	496:18,24	274:24 275:3	541:19	264:22 274:6
prisoner	398:9 399:11	pulling	280:24 283:4	quick	278:2 284:22
422:16	515:5	297:1	286:17	259:14	286:13
prisoners	properly	297:1	287:10	quickly	297:22 305:5
424:15 438:20	345:22	290:16	292:24 293:2	447:8 530:19	308:10 314:5
private	property	punching	293:16,16	quieter	314:6,19
348:3	444:15	415:6	294:21,23	271:11	315:16
privilege	proportion	punishment	295:5 300:3	quit	319:14
334:4,23	289:15	443:5,17	300:5,9	433:23	329:18
335:10	proposition	punk	303:15,16	quote	331:21 343:2
348:14 431:9	473:12	417:24 419:15	311:16,18	287:7,8	343:5 351:23
privileged	prosecuted	419:16,16	313:10 322:5	quoting	352:5 355:14
533:7	252:4 378:4	pup	335:3 336:13	478:11	357:7 358:2
privileges	protect	511:3,3,5	352:17		363:9,12
431:13 443:9,9	287:14 335:10	purchase	358:14	<b>R</b>	374:22
444:11	517:18,20	422:17	362:11	r	376:15 377:5
pro	518:1	purchased	363:24 371:8	326:18	377:15 379:1
532:12	protected	345:3,3	371:11,18	radio	379:13 380:5
probable	334:22	purported	372:7,10	345:20 501:17	386:12 367:8
388:21	protecting	376:3	374:6 394:1	501:21,22	390:23
probably	517:24	purportedly	394:3 399:11	502:9,11,22	391:21
260:4,14 273:9	protective	367:13	452:22 461:3	502:23	396:11,22,23
285:21	422:24 426:24	purports	467:15	radios	399:18 400:1
297:11	427:3,7,8,22	351:1	471:22 472:5	502:20	402:8 404:21
366:16	428:4,6,12	purpose	472:11,15	raise	405:10,11
413:18	428:15,24	313:6	473:3,5,15	429:9 499:3	406:3 409:20
446:16	430:2,5	pursuant	476:11 477:5	ramen	411:23
447:13 452:1	434:14	247:14 441:9	485:8 492:2	417:5	415:17
467:17	436:14	441:10 540:4	494:13	ran	426:15 428:7
487:17	prove	pushed	496:11	345:6 454:3	429:17 433:6
499:17	322:24 323:5	414:20	501:11,15	rare	437:1 448:17
probative	340:6 342:9	pushing	506:10	291:6,7	449:10 455:5
253:19	423:14	288:7 504:7,9	516:14	reach	455:24
problem	provide	put	519:21 526:9	369:17 489:8	468:18 470:4
371:22 420:18	252:19 337:20	295:3,20 296:8	527:10	489:16	475:13 493:7
514:24	347:15 477:6	296:15,19,19	529:13,14	reached	493:10
problems	provided	297:5,10	530:1,3	369:3,10 489:8	496:19 502:4
478:11 480:6	347:13,18	299:8,13,23	534:3	489:10,14	506:19,20
480:18	351:14,17	300:15,17,19	questioned	reaching	507:6,9
482:16	405:21	300:21,22	286:14 304:19	367:23	508:2 522:4
procedure	providing	301:10,13,15	315:7,14	react	522:12 536:8
247:15	391:3 478:14	305:22 308:7	321:23	476:18	realtor
proceeding	provoke	308:7 341:23	341:13,14,17	reacted	365:23 366:1,5
531:14	428:10 440:20	342:18	353:14	288:6	reask
proceedings	psych	344:19,24	questioning	reaction	530:2
247:22 371:6	364:14 478:21	345:10	269:1 336:11	389:1 393:6	reason
372:6 373:12	477:6	348:16	499:9,10,14	read	278:7 292:2,15
422:6 423:6	psychiatric	381:14	506:10 512:3	263:6 293:6,8	292:19
437:24	477:6	383:17 393:4	512:22 515:3	300:3,4,6,11	314:17
460:14,22	psychiatrist	397:11	questions	309:9 338:20	322:19
463:21	478:21,24	402:24	252:22 254:14	338:23 354:4	330:12
490:14	479:6,9	403:18	254:17 262:6	364:23	333:11
507:20,22	479:16	411:15	262:23	377:13	352:11,14
process	psychological	418:13	263:15,23	390:19 436:4	353:19,19,21
399:8 409:21	477:6	419:12	265:2,4,12	472:15,17	359:8 368:14
455:24	psychologist	424:17	265:23 266:2	480:14 491:2	368:19 369:2
470:10 471:4	478:22,24	428:12,15	269:1 274:18	491:4,12,13	428:11 481:9
473:22	479:2,3,4,6	444:10 469:4	275:8 278:11	494:6 499:17	491:22
processed	479:7	469:4,5	294:14,17	499:19 508:3	rebuild

346:4	350:19	<b>refused</b>	454:2 459:16	376:15 377:1	<b>repairs</b>
<b>recall</b>	364:18,20	414:8,9 425:12	464:1,6,8,10	377:5,15	346:9,21
257:1 270:7	381:15,17	425:14	464:13,19,20	379:1,13,22	<b>repeat</b>
274:3,7	<b>recollection</b>	442:19	464:24 466:8	380:5,6	254:4 293:5
275:15 280:6	254:20 255:16	<b>regard</b>	466:11 474:3	382:18	300:10
280:10,13	256:19	280:24 336:10	476:4 479:4	383:15,20,22	373:19
284:5 287:10	259:21	355:10	479:10,20	384:3 385:2	<b>repeated</b>
290:11	267:20,22	357:24	534:15	385:8,24	269:16 536:13
297:21 301:9	270:9 273:14	430:23	<b>released</b>	387:8 388:9	<b>repeatedly</b>
305:3 311:15	273:23	444:24	446:20 459:13	388:12,16,20	397:4
312:10,19	274:14	<b>regarding</b>	462:2,6	388:23 390:6	<b>rephrase</b>
314:14	275:13	335:11 337:9	463:11 466:3	390:13,24	266:21 449:5
315:22	277:11 280:8	338:13	476:5 479:9	391:3,22	472:16
317:20	284:9,20	349:16 350:7	490:2	392:7,14	501:15
318:14	293:17	373:14	<b>relevance</b>	393:17,24	<b>replaced</b>
323:14 325:7	300:12	406:16	531:3,10	394:2,10	342:10 346:11
328:24	301:17	<b>regardless</b>	<b>relevant</b>	397:7 403:4	<b>report</b>
331:11	305:17	269:24 423:9	375:17	403:16,22,23	350:7 491:6
332:13,23	322:18,20	470:17	<b>religious</b>	404:14,15,16	493:24
333:5 338:14	349:24 375:1	<b>regular</b>	437:2	404:22 405:1	<b>reported</b>
342:22	382:5,8	270:23 449:15	<b>religiosity</b>	405:10,12	247:23 491:7,9
351:13	409:23	<b>regularly</b>	436:12	406:3,18,24	510:1 539:18
359:15 360:6	411:11	258:9,12	<b>rely</b>	407:6,20	<b>reporter</b>
370:14 374:6	507:13	342:14 437:5	349:6	409:16,20	250:23 251:1
375:11	<b>recompense</b>	<b>rehab</b>	<b>remainder</b>	413:20	326:16 530:1
376:13	461:23	461:23	444:2	423:10,12,18	538:12
378:19,23	<b>record</b>	<b>rehearsal</b>	<b>remember</b>	423:19	541:23
379:8 381:3	250:15 269:4,7	274:11,22	256:17 257:7	437:22	<b>reports</b>
383:13,18	293:8 300:4	275:5,6,17	258:21	439:24	390:23 480:13
385:22 388:6	300:6,11	275:22 276:1	269:18	440:18	490:23
391:7 392:16	307:9,21	276:3,21,22	271:12,13	443:11	494:10
393:12	308:4 334:12	<b>rehearsed</b>	272:12,15	447:14	<b>represent</b>
394:21	334:16	276:17	273:11,20	450:16 454:7	250:17
397:17	341:11,24	<b>rehired</b>	274:6 276:2	455:18,19	<b>represented</b>
402:19,23	342:20 347:6	460:8	278:19 281:4	465:7,8,9,10	532:12
403:5 404:8	347:10	447:23 448:2	281:7 282:17	465:11	<b>representing</b>
405:2 406:5	348:17 352:1	447:23 448:2	283:18,23	468:18,19	248:6,10,17
407:18,23	354:4 372:22	<b>related</b>	284:17,22	481:20,21,23	<b>request</b>
411:7,15	373:1 382:14	336:10 371:7	285:4,6,22	482:3 492:22	351:4 368:12
412:13 414:3	390:19,23	480:17	286:13	493:16 494:5	368:15,17
418:4,9,11	404:20	482:14 540:8	287:19 289:9	495:21	419:19
418:6 422:5	413:14	<b>relating</b>	289:20 291:1	496:19	428:18 429:5
423:2,15	445:13,17,19	498:9	291:10	497:15 502:5	434:8,10
466:19	453:5,8,10	<b>relation</b>	292:11,18	502:9,15,19	438:12 441:9
478:14 491:6	453:12,13	296:10 355:24	296:2,7	505:14	441:11
493:3 511:14	472:17	358:2 371:13	297:8,12,22	506:20 507:6	<b>requested</b>
512:14	486:19,22	480:17 484:5	299:5,8	507:9 508:14	429:4 432:24
515:22 516:7	502:4 515:13	<b>relationship</b>	301:18	508:23 509:5	<b>requesting</b>
524:5,9,15	515:16	277:24 289:21	304:16 305:2	509:8 510:24	428:24
524:17,19,23	519:22	289:23	305:5,20	512:12,17	<b>require</b>
525:9 526:20	529:22 537:9	363:11 369:9	306:1 309:23	514:16,18	483:9 531:20
<b>recalled</b>	<b>recording</b>	448:19,23	311:12,17	516:1,3	<b>required</b>
381:1	250:6 443:1	447:23 448:5	312:13	518:7,18	251:16,19
<b>receipt</b>	499:21	448:5,8,16	315:16	519:11 521:1	438:21
328:18,23	<b>records</b>	448:20 449:1	318:16,17	521:2 522:24	531:24
329:2,5	413:17 492:23	449:3,9,13	319:3,24	524:3,13	<b>research</b>
340:13,22	493:3	449:19	321:8 322:1	525:2,5,13	335:7
341:21 342:4	<b>recreate</b>	450:22	324:7 326:7	525:16	<b>resemblance</b>
342:17 343:7	349:24	451:12,15,19	326:11 328:6	526:10 527:8	451:2
344:10,16	<b>reduced</b>	451:24 452:3	329:4,11,18	536:7	<b>reserved</b>
347:13,19	539:20	452:16	332:5 337:1	<b>remembered</b>	537:6 540:1
<b>receipts</b>	<b>refer</b>	453:18,24	337:3,12,22	270:12,17	<b>respect</b>
405:6	311:13 365:10	454:1,15,17	338:8 339:7	339:3 370:16	418:23
<b>receive</b>	<b>reference</b>	454:20 455:2	340:1,11,21	<b>remembering</b>	<b>respective</b>
283:7 415:1	365:16 368:15	456:15,16	341:1,4,22	402:18 467:17	540:2 541:18
429:7,9	444:23 518:8	463:10,24	342:21 343:2	<b>remembers</b>	<b>respond</b>
439:23 443:5	<b>referring</b>	464:4,14	343:5 344:9	493:9	298:1 489:17
483:12	274:20 281:15	518:16,21,24	348:6 350:4	<b>remind</b>	<b>responded</b>
485:15	295:10,17	519:1	350:6 351:17	274:11	369:14
<b>received</b>	324:11	<b>relationships</b>	351:24 352:1	<b>reminding</b>	<b>responding</b>
262:24 269:11	365:11,12	445:4,21 446:1	352:3,9,10	275:5	294:21
270:2 367:16	478:20 517:9	449:19	354:8,10,16	<b>removal</b>	<b>response</b>
424:4 444:20	<b>refinishing</b>	469:24	355:9,12,13	461:24	289:18 313:8,9
465:1,3,18	461:22	<b>relatively</b>	355:17,20	<b>removed</b>	367:17 389:4
482:19	<b>reflect</b>	315:4 337:18	356:7,8,9	297:2	428:17
<b>receiving</b>	351:10	<b>relayed</b>	357:4,12	<b>remover</b>	472:21 478:8
270:8 368:3	<b>refresh</b>	451:9 498:6,12	358:2,4	399:6	<b>responses</b>
410:13	273:14,23	<b>release</b>	360:13,20	<b>renewed</b>	444:19
<b>recognize</b>	527:16	318:17 407:16	361:10,16	447:23	<b>responsibil...</b>
308:9,10,14	<b>refuse</b>	416:1 447:24	362:23,24	<b>rent</b>	458:9,14
335:14	425:19	448:2 451:10	363:1 375:7	457:17 463:6	475:15

<b>responsible</b> 286:7 384:19 517:23	501:24 504:13,16 505:3 506:14 509:21 511:4 512:21 513:9 515:11 517:7 518:7 520:24 521:19 529:9 533:18,19 534:11	458:19 <b>roughly</b> 257:19 262:10 262:15 410:19 440:23 451:21,21	276:9 332:21 355:2 359:4 365:1 377:18 395:1,7 449:6 495:11	<b>seat</b> 300:19,21 301:11 <b>seated</b> 296:22,24 <b>second</b> 308:11,17 348:13 367:10 447:19 453:9 468:5	287:16 363:21 364:21 366:16,18 367:18 409:17 443:14 459:2 <b>sentenced</b> 408:20 443:22 444:2 <b>separate</b> 397:11 471:2 484:5 <b>separated</b> 397:10 <b>separating</b> 482:11 <b>september</b> 354:15,19,24 355:11 357:6 390:14 515:24 517:13
<b>rest</b> 284:1 415:2 419:5,7 527:7,16	521:19 529:9 533:18,19 534:11	<b>route</b> 259:11,12,14 259:19,22 260:23,23 263:21 264:4 265:10,13,22 266:4,8,10 266:14,15 267:3,17 268:2 348:9 349:20	<b>saying</b> 289:19 297:21 306:21 311:7 312:19 341:15 371:3 371:4 388:23 393:17 399:21 419:3 461:14 471:14 472:1 472:10,19 473:18 493:3 497:17 514:18 516:10 517:21 519:7 535:6 536:12	<b>secretary</b> 452:22 <b>section</b> 533:20 <b>secure</b> 443:16 541:13 <b>security</b> 411:3 427:23 436:9,22 437:13,15 438:1 439:4 439:6 440:7 440:7	<b>serious</b> 454:24 <b>serve</b> 344:1 <b>served</b> 280:7 377:6,9 <b>services</b> 250:3 329:21 394:23 541:1 <b>servicing</b> 425:11 426:22 429:13,15 <b>session</b> 370:2 <b>set</b> 361:24 391:3 540:10 <b>setina</b> 541:23 <b>sevenhour</b> 528:23 <b>sex</b> 495:9 <b>sexual</b> 448:8 454:17 <b>shadow</b> 484:23 <b>shannon</b> 279:10 280:19 285:9 <b>shaper</b> 458:16 <b>shapiro</b> 248:3,5 250:18 250:18 334:8 372:20 <b>sharon</b> 526:2 <b>sharp</b> 513:24 514:12 519:2,8 <b>shed</b> 506:23 <b>sheet</b> 308:13 <b>sheets</b> 541:12,15,15 541:17 <b>shell</b> 523:2 <b>shelves</b> 424:18 <b>sheriffs</b> 304:8 496:20 <b>shes</b> 513:3,4 516:5 516:7,15 <b>shipped</b> 443:23
<b>result</b> 410:4 415:1 427:3 437:24 443:6 477:3 482:5 488:14	<b>rights</b> 377:14,16 438:19	<b>roads</b> 256:12 294:6,7 260:9	<b>says</b> 273:21 366:11 367:10 369:4 383:5 515:1 515:1	<b>see</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>sentencing</b> 443:16 541:13 <b>security</b> 411:3 427:23 436:9,22 437:13,15 438:1 439:4 439:6 440:7 440:7
<b>resulted</b> 403:20 <b>retained</b> 498:16 <b>retirement</b> 485:17 <b>retrial</b> 460:6 <b>return</b> 252:11 344:8 541:17 <b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>ring</b> 491:14 525:18 <b>risk</b> 252:8,14 <b>river</b> 260:7 <b>road</b> 256:12 294:6,7 <b>roads</b> 260:9 <b>rob</b> 247:8 248:18 498:2 <b>rock</b> 442:4 443:2 459:7,9,15 459:20 460:10 461:19 <b>rockford</b> 256:2,3,4,12 257:18,21 258:1,10 259:24 260:19 263:19 265:19 282:8 301:17,20 316:18 349:16 374:21,24 475:20 495:4	<b>routine</b> 270:23 271:14 <b>routinely</b> 438:15 <b>rules</b> 247:15 <b>ruling</b> 410:5 <b>rumor</b> 508:20 <b>run</b> 416:24 417:21 445:8 458:18 <b>ryan</b> 258:6 <b>ryans</b> 260:3,14	<b>scared</b> 298:16 <b>scenario</b> 320:19,20 <b>scene</b> 525:24 <b>scheib</b> 412:19 <b>schmo</b> 365:2,15 <b>school</b> 248:2 282:11 290:19,20,22 291:11,24 311:24 312:1 314:16 331:2 344:6,8 346:7 356:3 356:6 358:24 359:3,10 365:24 374:22 392:18 401:1 401:18 402:15 409:9 447:20 453:23 460:7 486:4 525:10 525:11 541:5	<b>sees</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>serious</b> 454:24 <b>serve</b> 344:1 <b>served</b> 280:7 377:6,9 <b>services</b> 250:3 329:21 394:23 541:1 <b>servicing</b> 425:11 426:22 429:13,15 <b>session</b> 370:2 <b>set</b> 361:24 391:3 540:10 <b>setina</b> 541:23 <b>sevenhour</b> 528:23 <b>sex</b> 495:9 <b>sexual</b> 448:8 454:17 <b>shadow</b> 484:23 <b>shannon</b> 279:10 280:19 285:9 <b>shaper</b> 458:16 <b>shapiro</b> 248:3,5 250:18 250:18 334:8 372:20 <b>sharon</b> 526:2 <b>sharp</b> 513:24 514:12 519:2,8 <b>shed</b> 506:23 <b>sheet</b> 308:13 <b>sheets</b> 541:12,15,15 541:17 <b>shell</b> 523:2 <b>shelves</b> 424:18 <b>sheriffs</b> 304:8 496:20 <b>shes</b> 513:3,4 516:5 516:7,15 <b>shipped</b> 443:23
<b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>ring</b> 491:14 525:18 <b>risk</b> 252:8,14 <b>river</b> 260:7 <b>road</b> 256:12 294:6,7 <b>roads</b> 260:9 <b>rob</b> 247:8 248:18 498:2 <b>rock</b> 442:4 443:2 459:7,9,15 459:20 460:10 461:19 <b>rockford</b> 256:2,3,4,12 257:18,21 258:1,10 259:24 260:19 263:19 265:19 282:8 301:17,20 316:18 349:16 374:21,24 475:20 495:4	<b>roughly</b> 257:19 262:10 262:15 410:19 440:23 451:21,21	<b>scared</b> 298:16 <b>scenario</b> 320:19,20 <b>scene</b> 525:24 <b>scheib</b> 412:19 <b>schmo</b> 365:2,15 <b>school</b> 248:2 282:11 290:19,20,22 291:11,24 311:24 312:1 314:16 331:2 344:6,8 346:7 356:3 356:6 358:24 359:3,10 365:24 374:22 392:18 401:1 401:18 402:15 409:9 447:20 453:23 460:7 486:4 525:10 525:11 541:5	<b>sees</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>sentencing</b> 443:16 541:13 <b>security</b> 411:3 427:23 436:9,22 437:13,15 438:1 439:4 439:6 440:7 440:7
<b>resulted</b> 403:20 <b>retained</b> 498:16 <b>retirement</b> 485:17 <b>retrial</b> 460:6 <b>return</b> 252:11 344:8 541:17 <b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>rights</b> 377:14,16 438:19	<b>route</b> 259:11,12,14 259:19,22 260:23,23 263:21 264:4 265:10,13,22 266:4,8,10 266:14,15 267:3,17 268:2 348:9 349:20	<b>says</b> 273:21 366:11 367:10 369:4 383:5 515:1 515:1	<b>see</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>serious</b> 454:24 <b>serve</b> 344:1 <b>served</b> 280:7 377:6,9 <b>services</b> 250:3 329:21 394:23 541:1 <b>servicing</b> 425:11 426:22 429:13,15 <b>session</b> 370:2 <b>set</b> 361:24 391:3 540:10 <b>setina</b> 541:23 <b>sevenhour</b> 528:23 <b>sex</b> 495:9 <b>sexual</b> 448:8 454:17 <b>shadow</b> 484:23 <b>shannon</b> 279:10 280:19 285:9 <b>shaper</b> 458:16 <b>shapiro</b> 248:3,5 250:18 250:18 334:8 372:20 <b>sharon</b> 526:2 <b>sharp</b> 513:24 514:12 519:2,8 <b>shed</b> 506:23 <b>sheet</b> 308:13 <b>sheets</b> 541:12,15,15 541:17 <b>shell</b> 523:2 <b>shelves</b> 424:18 <b>sheriffs</b> 304:8 496:20 <b>shes</b> 513:3,4 516:5 516:7,15 <b>shipped</b> 443:23
<b>resulted</b> 403:20 <b>retained</b> 498:16 <b>retirement</b> 485:17 <b>retrial</b> 460:6 <b>return</b> 252:11 344:8 541:17 <b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>ring</b> 491:14 525:18 <b>risk</b> 252:8,14 <b>river</b> 260:7 <b>road</b> 256:12 294:6,7 <b>roads</b> 260:9 <b>rob</b> 247:8 248:18 498:2 <b>rock</b> 442:4 443:2 459:7,9,15 459:20 460:10 461:19 <b>rockford</b> 256:2,3,4,12 257:18,21 258:1,10 259:24 260:19 263:19 265:19 282:8 301:17,20 316:18 349:16 374:21,24 475:20 495:4	<b>roughly</b> 257:19 262:10 262:15 410:19 440:23 451:21,21	<b>scared</b> 298:16 <b>scenario</b> 320:19,20 <b>scene</b> 525:24 <b>scheib</b> 412:19 <b>schmo</b> 365:2,15 <b>school</b> 248:2 282:11 290:19,20,22 291:11,24 311:24 312:1 314:16 331:2 344:6,8 346:7 356:3 356:6 358:24 359:3,10 365:24 374:22 392:18 401:1 401:18 402:15 409:9 447:20 453:23 460:7 486:4 525:10 525:11 541:5	<b>sees</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>sentencing</b> 443:16 541:13 <b>security</b> 411:3 427:23 436:9,22 437:13,15 438:1 439:4 439:6 440:7 440:7
<b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>ring</b> 491:14 525:18 <b>risk</b> 252:8,14 <b>river</b> 260:7 <b>road</b> 256:12 294:6,7 <b>roads</b> 260:9 <b>rob</b> 247:8 248:18 498:2 <b>rock</b> 442:4 443:2 459:7,9,15 459:20 460:10 461:19 <b>rockford</b> 256:2,3,4,12 257:18,21 258:1,10 259:24 260:19 263:19 265:19 282:8 301:17,20 316:18 349:16 374:21,24 475:20 495:4	<b>route</b> 259:11,12,14 259:19,22 260:23,23 263:21 264:4 265:10,13,22 266:4,8,10 266:14,15 267:3,17 268:2 348:9 349:20	<b>says</b> 273:21 366:11 367:10 369:4 383:5 515:1 515:1	<b>see</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>serious</b> 454:24 <b>serve</b> 344:1 <b>served</b> 280:7 377:6,9 <b>services</b> 250:3 329:21 394:23 541:1 <b>servicing</b> 425:11 426:22 429:13,15 <b>session</b> 370:2 <b>set</b> 361:24 391:3 540:10 <b>setina</b> 541:23 <b>sevenhour</b> 528:23 <b>sex</b> 495:9 <b>sexual</b> 448:8 454:17 <b>shadow</b> 484:23 <b>shannon</b> 279:10 280:19 285:9 <b>shaper</b> 458:16 <b>shapiro</b> 248:3,5 250:18 250:18 334:8 372:20 <b>sharon</b> 526:2 <b>sharp</b> 513:24 514:12 519:2,8 <b>shed</b> 506:23 <b>sheet</b> 308:13 <b>sheets</b> 541:12,15,15 541:17 <b>shell</b> 523:2 <b>shelves</b> 424:18 <b>sheriffs</b> 304:8 496:20 <b>shes</b> 513:3,4 516:5 516:7,15 <b>shipped</b> 443:23
<b>resulted</b> 403:20 <b>retained</b> 498:16 <b>retirement</b> 485:17 <b>retrial</b> 460:6 <b>return</b> 252:11 344:8 541:17 <b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>rights</b> 377:14,16 438:19	<b>route</b> 259:11,12,14 259:19,22 260:23,23 263:21 264:4 265:10,13,22 266:4,8,10 266:14,15 267:3,17 268:2 348:9 349:20	<b>says</b> 273:21 366:11 367:10 369:4 383:5 515:1 515:1	<b>see</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>serious</b> 454:24 <b>serve</b> 344:1 <b>served</b> 280:7 377:6,9 <b>services</b> 250:3 329:21 394:23 541:1 <b>servicing</b> 425:11 426:22 429:13,15 <b>session</b> 370:2 <b>set</b> 361:24 391:3 540:10 <b>setina</b> 541:23 <b>sevenhour</b> 528:23 <b>sex</b> 495:9 <b>sexual</b> 448:8 454:17 <b>shadow</b> 484:23 <b>shannon</b> 279:10 280:19 285:9 <b>shaper</b> 458:16 <b>shapiro</b> 248:3,5 250:18 250:18 334:8 372:20 <b>sharon</b> 526:2 <b>sharp</b> 513:24 514:12 519:2,8 <b>shed</b> 506:23 <b>sheet</b> 308:13 <b>sheets</b> 541:12,15,15 541:17 <b>shell</b> 523:2 <b>shelves</b> 424:18 <b>sheriffs</b> 304:8 496:20 <b>shes</b> 513:3,4 516:5 516:7,15 <b>shipped</b> 443:23
<b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>ring</b> 491:14 525:18 <b>risk</b> 252:8,14 <b>river</b> 260:7 <b>road</b> 256:12 294:6,7 <b>roads</b> 260:9 <b>rob</b> 247:8 248:18 498:2 <b>rock</b> 442:4 443:2 459:7,9,15 459:20 460:10 461:19 <b>rockford</b> 256:2,3,4,12 257:18,21 258:1,10 259:24 260:19 263:19 265:19 282:8 301:17,20 316:18 349:16 374:21,24 475:20 495:4	<b>roughly</b> 257:19 262:10 262:15 410:19 440:23 451:21,21	<b>scared</b> 298:16 <b>scenario</b> 320:19,20 <b>scene</b> 525:24 <b>scheib</b> 412:19 <b>schmo</b> 365:2,15 <b>school</b> 248:2 282:11 290:19,20,22 291:11,24 311:24 312:1 314:16 331:2 344:6,8 346:7 356:3 356:6 358:24 359:3,10 365:24 374:22 392:18 401:1 401:18 402:15 409:9 447:20 453:23 460:7 486:4 525:10 525:11 541:5	<b>sees</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>sentencing</b> 443:16 541:13 <b>security</b> 411:3 427:23 436:9,22 437:13,15 438:1 439:4 439:6 440:7 440:7
<b>resulted</b> 403:20 <b>retained</b> 498:16 <b>retirement</b> 485:17 <b>retrial</b> 460:6 <b>return</b> 252:11 344:8 541:17 <b>returned</b> 268:4 287:2 317:14,22 318:13 344:6 345:9 358:24 359:3,10 494:18,21,21	<b>rights</b> 377:14,16 438:19	<b>route</b> 259:11,12,14 259:19,22 260:23,23 263:21 264:4 265:10,13,22 266:4,8,10 266:14,15 267:3,17 268:2 348:9 349:20	<b>says</b> 273:21 366:11 367:10 369:4 383:5 515:1 515:1	<b>see</b> 273:19 283:19 317:23 356:10 359:2 366:12 367:9 367:11 395:2 404:20 407:8 409:18 410:1 448:24 450:10 454:13 471:7 481:6 482:17 492:17 495:5 495:11,19 510:13 512:10	<b>serious</b> 454:24 <b>serve</b> 344:1 <b>served</b> 280:7 377:6,9 <b>services</b> 250:3 329:21 394:23 541:1 <b>servicing</b> 425:11 426:22 429:13,15 <b>session</b> 370:2 <b>set</b> 361:24 391:3 540:10 <b>setina</b> 541:23 <b>sevenhour</b> 528:23 <b>sex</b> 495:9 <b>sexual</b> 448:8 454:17 <b>shadow</b> 484:23 <b>shannon</b> 279:10 280:19 285:9 <b>shaper</b> 458:16 <b>shapiro</b> 248:3,5 250:18 250:18 334:8 372:20 <b>sharon</b> 526:2 <b>sharp</b> 513:24 514:12 519:2,8 <b>shed</b> 506:23 <b>sheet</b> 308:13 <b>sheets</b> 541:12,15,15 541:17 <b>shell</b> 523:2 <b>shelves</b> 424:18 <b>sheriffs</b> 304:8 496:20 <b>shes</b> 513:3,4 516:5 516:7,15 <b>shipped</b> 443:23
<b>returned</b> 268:4 287:2 317:14,22 318:13 344					

<b>shirt</b> 287:9,23 288:11 438:15	<b>sideeffects</b> 483:5	<b>518:19</b>	<b>510:20</b>	<b>521:2</b>	<b>spread</b>
<b>shit</b> 393:18 516:24 517:1	<b>sides</b> 406:1,2	<b>small</b> 305:11 402:24 503:15	<b>519:20</b>	<b>specifically</b> 265:13,16	<b>426:23</b>
<b>shocked</b> 298:14 303:6 327:21 438:9	<b>sign</b> 305:13 495:12	<b>smaller</b> 288:18,20	<b>sort</b> 265:18 271:3 286:8 291:22 368:2 395:5 399:4,8 401:7 425:8 430:19 443:5 470:9 486:7 511:17,18	279:5,19,24 282:2 284:5 285:4,8 296:2 299:5 301:16 304:14 306:9 306:12 308:16 313:9 315:16 316:1 319:24 321:10 329:3 329:7 344:9 350:4 352:2 354:10 371:9 372:16 376:15 383:15 385:2 385:8 388:5 393:14 394:2 402:8,20 403:4,11 405:1 423:12 433:10 434:9 439:24 443:11 447:14 454:7 465:13 481:20,21,23 485:10 502:5 506:20 518:18 523:3 525:5,16	<b>squad</b> 300:17,20,22 301:10,12 316:17
<b>shocking</b> 438:17	<b>signature</b> 537:6 539:24 541:12,13,14 541:16,17,23	<b>smith</b> 541:9	<b>sorts</b> 441:21	<b>squigglier</b> 530:14	<b>316:17</b>
<b>shoplifting</b> 409:6,11	<b>signed</b> 477:19 541:15 541:16	<b>smoke</b> 281:18,21 380:11 424:24 432:6 432:8 433:5	<b>sotos</b> 248:8	<b>ss</b> 539:2	<b>stabbed</b> 507:11,17
<b>shopping</b> 424:17	<b>significant</b> 342:5 505:16 508:8 529:1	<b>smoked</b> 280:21 281:5 433:20	<b>souk</b> 247:7 248:11 250:10 252:24 265:12 468:8 538:7 539:12 541:7	<b>stalking</b> 450:23	<b>staff</b> 378:6 438:10 438:18
<b>short</b> 268:23 269:6 302:7 303:7 307:19,23 347:7 372:20 372:24 445:14 466:8 466:16 475:14 486:21 515:15 521:21	<b>signing</b> 318:17	<b>smoking</b> 281:24 435:23	<b>souks</b> 478:8	<b>stand</b> 529:8	<b>stairlight</b> 447:12,15 453:22
<b>shorter</b> 284:4 288:18	<b>silver</b> 513:24 514:12 519:2,8	<b>smooth</b> 458:19	<b>sound</b> 271:2 357:6	<b>standing</b> 254:13 415:7	<b>starlight</b> 447:12,15 453:22
<b>shorthand</b> 538:12	<b>similar</b> 347:12 391:24 429:7,12 443:16 474:22	<b>snow</b> 461:24	<b>sounds</b> 317:21 392:15 404:3 536:12	<b>standpoint</b> 434:23	<b>start</b> 291:7 327:23 357:15 438:16 445:23 453:24 454:2 459:8 481:18
<b>shortly</b> 326:6 337:18 344:15 362:4 366:23	<b>similarities</b> 449:6,7	<b>social</b> 275:18,21 276:10,16 383:5	<b>source</b> 375:3,6 465:2 487:3	<b>start</b> 366:12 367:11 386:1 418:23 419:3,4 436:15 447:6 447:22 448:19 454:22 455:22 459:15 465:4 474:13 481:19 525:10	<b>started</b> 366:12 367:11 386:1 418:23 419:3,4 436:15 447:6 447:22 448:19 454:22 455:22 459:15 465:4 474:13 481:19 525:10
<b>shorty</b> 413:19 414:4 415:13 427:4 444:24	<b>similarity</b> 449:17,22	<b>sold</b> 520:7	<b>south</b> 247:19 248:15 250:7 260:13 539:8	<b>starting</b> 411:7 445:6 474:8,9	<b>starts</b> 383:5
<b>shouldnt</b> 326:19 349:5 380:19,21 414:16 434:12	<b>similarly</b> 353:12 358:18	<b>somebody</b> 333:2 371:17 417:5,6 419:14 422:22 427:14 491:7 493:18,24 499:21 509:5 510:1 511:3 511:8 525:20	<b>southgate</b> 255:22	<b>state</b> 247:19 259:16 373:10 400:11 496:20 539:1 539:5	<b>stated</b> 477:11
<b>show</b> 328:20 340:2 343:11 364:7 372:2 517:8	<b>simone</b> 422:22 525:9,9	<b>somewhat</b> 255:18	<b>space</b> 463:2	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18	<b>statements</b> 393:10 490:24 513:10
<b>showed</b> 324:8,9 328:18 384:1 466:20	<b>simple</b> 475:1	<b>son</b> 365:3 532:4	<b>spaced</b> 291:9	<b>stated</b> 247:1,16 250:11 251:16 351:5 351:11 376:22 384:4	<b>states</b> 247:1,16 250:11 251:16 351:5 351:11 376:22 384:4
<b>shower</b> 397:4 400:19 421:23 422:4 422:11 423:3 428:11 536:24	<b>simply</b> 472:1	<b>sonny</b> 279:10 285:9	<b>spanking</b> 291:11	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
<b>showers</b> 414:18	<b>sincerely</b> 541:21	<b>sorrowful</b> 513:15	<b>spankings</b> 291:8	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
<b>showing</b> 350:18 364:16	<b>sing</b> 329:21	<b>sorry</b> 253:4 255:4 274:2 285:13 292:8 293:7 300:2,8 302:13 307:2 307:3,5 332:18 339:19 343:3 344:5 347:3 352:13 354:2 354:18 356:4 356:8 359:20 364:12 366:22 370:20 390:17 395:24 399:24 400:7 408:19 412:1 420:8,13 421:22 423:20 427:4 438:22 439:2 452:14,15 453:16 454:1 461:1,2 464:24 465:22 470:21 483:15 485:5 485:8 488:22 488:23 489:9	<b>speak</b> 309:6	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
<b>shown</b> 351:15 383:13 383:16	<b>sitting</b> 327:14,15 352:21 435:4 510:18	<b>southern</b> 305:19 455:2	<b>speaking</b> 316:8 336:20 465:19,21,22 466:1,6 480:9,9	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
<b>shows</b> 367:13	<b>situation</b> 334:9 353:7 399:4,16,18 403:7 419:18 423:3 440:8 469:10	<b>sorrowful</b> 513:15	<b>special</b> 376:21	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
<b>shut</b> 475:12 476:14	<b>sit</b> 270:6 339:3 390:8 405:2 411:12 471:20 472:19 475:20 494:5 507:15 529:2 535:22	<b>sorry</b> 253:4 255:4 274:2 285:13 292:8 293:7 300:2,8 302:13 307:2 307:3,5 332:18 339:19 343:3 344:5 347:3 352:13 354:2 354:18 356:4 356:8 359:20 364:12 366:22 370:20 390:17 395:24 399:24 400:7 408:19 412:1 420:8,13 421:22 423:20 427:4 438:22 439:2 452:14,15 453:16 454:1 461:1,2 464:24 465:22 470:21 483:15 485:5 485:8 488:22 488:23 489:9	<b>specialist</b> 250:2	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
<b>side</b> 256:6 257:21 257:24 258:11,13,17 259:24 260:2 260:8,8,19 262:16 263:18 334:20 399:23 406:4 407:4,4 414:5	<b>slamming</b> 403:21	<b>southern</b> 305:19 455:2	<b>specific</b> 256:19 267:20 270:22 289:9 306:22 310:2 321:8 325:7 325:22 337:23 348:1 348:19 379:14 383:20 388:9 390:13 392:14 402:18 404:9 404:10 407:20,21 408:2 413:20 418:6 424:16 449:11 455:18 457:20 482:8 488:12 497:13 521:1	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
	<b>sleep</b> 271:1,15 329:11 330:16 536:14,16,20 536:21	<b>southern</b> 305:19 455:2	<b>speaking</b> 316:8 336:20 465:19,21,22 466:1,6 480:9,9	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
	<b>slept</b> 329:16,17	<b>southern</b> 305:19 455:2	<b>special</b> 376:21	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
	<b>sloppy</b> 530:19	<b>southern</b> 305:19 455:2	<b>specialist</b> 250:2	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18
	<b>slut</b>	<b>southern</b> 305:19 455:2	<b>specific</b> 256:19 267:20 270:22 289:9 306:22 310:2 321:8 325:7 325:22 337:23 348:1 348:19 379:14 383:20 388:9 390:13 392:14 402:18 404:9 404:10 407:20,21 408:2 413:20 418:6 424:16 449:11 455:18 457:20 482:8 488:12 497:13 521:1	<b>stated</b> 477:11	<b>statement</b> 288:1 293:19 389:2 492:10 492:13,15,16 492:17,19 505:9,11 512:14 513:2 513:23 514:11,21 516:4,5,6 517:8 519:2 519:4,4 526:18

385:13,16,23	481:13 482:1	<b>suit</b>	488:16	258:23 259:3	386:12,14,19
387:11,16	<b>stopping</b>	540:8	492:19 500:8	259:10,11,19	387:24 388:1
388:13 497:8	319:4	<b>suite</b>	500:23	260:4,9,14	388:17
512:4 523:7	<b>stops</b>	248:9,15 250:4	510:22 516:1	260:22 262:7	391:20
523:18 538:1	258:20 277:9	250:8 541:1	519:16 523:3	262:11	392:20
538:13	410:5	<b>sullivan</b>	524:22	267:17	419:24 420:5
539:11	<b>store</b>	447:6 461:13	530:21	268:22,23	420:10
<b>stateville</b>	255:22 256:8	462:17	534:12	269:2 271:10	463:14,17
411:1 412:22	256:15 262:8	453:18 455:3	536:10	273:18	496:4,13
416:19 424:8	266:11 283:3	<b>summ</b>	<b>surfaced</b>	276:18	497:10 508:7
432:9,18	475:1	503:6	375:3,5	290:18	508:8
433:20,23	<b>storing</b>	<b>summarize</b>	<b>surfacing</b>	307:19 334:3	<b>talked</b>
434:2,7,18	512:5	253:20 254:15	376:14 376:2	335:16	312:12 313:12
435:3,8	<b>stormed</b>	<b>summary</b>	<b>surge</b>	346:21 347:1	313:13,14
436:1,7,15	512:5	253:24	535:20	349:9,10	322:10
437:11	<b>story</b>	<b>summer</b>	<b>survive</b>	361:4,7	325:23
<b>stating</b>	272:14 467:24	447:16,17,20	427:18 469:10	362:16	326:12,13
416:15	<b>straight</b>	456:10,13	<b>suspect</b>	372:20	327:1,11,16
<b>station</b>	258:19,21	481:15,15,17	321:18,21	373:20	328:10,16
318:9 392:23	528:2	502:7 503:6	328:5 356:18	381:13	332:24 336:3
393:5	<b>strained</b>	448:16	359:14,16	388:18	343:17 352:4
<b>stay</b>	448:16	<b>strangled</b>	460:21 461:5	416:18	353:23 354:9
257:5 283:24	506:23 507:5	<b>street</b>	<b>suspected</b>	417:16 421:7	354:10,12
433:2 437:4	247:20 248:15	247:20 248:15	369:21,23	424:15,18	355:15
454:23	259:16,17,17	325:11,13,18	520:6 522:17	425:12,14	358:11
<b>stayed</b>	259:17,18	326:9 329:8	<b>suspended</b>	432:2,23	363:16,18
501:23 502:2	260:5,10	329:13,14,19	460:2,3,9,23	436:5 439:8	370:2,6
<b>staying</b>	266:12	330:3,8,20	461:7,13,18	439:11	383:21
355:5	277:12	331:2 336:6	<b>suspicion</b>	448:10 450:2	387:16
<b>stemming</b>	415:15	341:8,11,15	449:24	461:17	388:10
478:12 480:6	420:19	341:16,19	<b>suspicious</b>	474:12 476:4	390:16
<b>stenographi...</b>	495:12 539:9	351:9 357:5	370:3,11	480:1 483:4	400:18 404:7
539:18	541:1	<b>supervisor</b>	449:12,18	486:6,15	408:5 407:22
<b>step</b>	<b>stress</b>	292:12 426:11	<b>suspicious</b>	515:12 529:2	416:8 444:24
380:11 428:24	478:10,19	<b>supervisors</b>	353:12 448:22	529:7	466:23
<b>stepchild</b>	481:3 482:14	426:2 460:16	<b>swaine</b>	<b>taken</b>	468:16
456:19,22	505:16	<b>support</b>	404:17 495:12	247:17 250:7	477:15 489:7
<b>stepdaughter</b>	<b>stricken</b>	252:3 506:6,7	500:9,22,22	267:19 269:6	497:19,20
457:3	288:15	<b>suppose</b>	503:1 509:15	299:22	500:9,13
<b>steps</b>	<b>strike</b>	258:5 274:9	509:19,20	305:18,21	534:14
271:10 351:20	288:13 370:20	286:14 322:6	512:15	306:23	<b>talking</b>
371:23 450:2	489:9 494:19	399:16	513:10,13	307:23 313:2	270:12,17
470:9	<b>stringent</b>	401:16	515:21	318:9,12	281:14
<b>stereo</b>	431:14	511:20	516:12 520:2	321:4 326:8	302:11
344:20 345:1,3	<b>struggle</b>	531:14	522:17	334:14	325:19 326:7
345:4 346:18	474:16 488:13	<b>supposed</b>	526:12	344:11,14,19	329:9 335:7
346:20	<b>stuck</b>	345:16 425:23	<b>swaines</b>	347:7 361:17	341:11 345:9
<b>sterios</b>	519:7	428:8 439:15	495:19 517:8	361:20	354:8 359:9
345:24	<b>student</b>	439:16	<b>swatting</b>	371:23	361:16
<b>sterling</b>	416:2,5,17	470:16 488:5	417:23	372:24	380:17
411:4 443:7	<b>stunned</b>	<b>sure</b>	<b>swear</b>	375:24	383:18 385:4
<b>stipend</b>	393:9	254:6,18 255:6	250:24	377:11 380:8	388:12
503:15	<b>subdued</b>	272:11,12	<b>swedish</b>	380:9 422:9	416:11,13,19
<b>stitches</b>	428:2	274:24 275:1	475:20	422:21	420:19 421:4
415:4	<b>subject</b>	275:2 278:13	<b>sweet</b>	445:14	466:17 467:4
<b>stock</b>	510:7	279:2,3	466:16 467:3	479:19	475:6 490:15
424:18 503:6,7	<b>subjected</b>	282:5,6,20	<b>swirl</b>	486:21	493:22,23
<b>stone</b>	396:1	285:5 292:10	527:24	508:21 509:7	515:20
526:2	<b>submit</b>	293:6 298:5	<b>switches</b>	509:12 510:5	517:17 524:3
<b>stoned</b>	299:12 306:1	307:20 311:6	502:19	515:15	<b>tamper</b>
361:1	392:6 541:14	312:8,12,13	<b>sworn</b>	518:13	407:12
<b>stooges</b>	538:18	313:4 316:11	251:2,5 538:18	521:21	<b>tampered</b>
510:14,16	<b>substance</b>	318:10,11	539:15	538:10 541:8	406:23
511:19	513:3	330:1 331:7	<b>sympathy</b>	<b>talk</b>	<b>tampering</b>
<b>stool</b>	<b>substantively</b>	331:14 332:9	492:9	294:12,20	407:9,11
483:5	387:17	334:1 339:20	<b>system</b>	295:22 302:6	<b>tape</b>
<b>stop</b>	<b>succeeded</b>	341:8 343:9	412:17 413:13	302:9,22	347:5,9 375:13
259:13 261:1,4	418:3	347:2 351:24	419:14 422:8	303:8 304:2	376:1 414:7
296:6 343:23	<b>sue</b>	359:21 366:6	424:11	304:17	414:14
349:21	393:16,17	369:8 370:13	430:13	312:14 316:6	445:12,16
380:17 386:6	<b>suffer</b>	381:2 389:6	431:18,20	323:19	517:15
418:13	478:9,18	403:18	432:5 476:13	325:19 334:8	<b>taped</b>
481:12,22	<b>suffered</b>	405:12 408:6	<b>T</b>	339:13,16	499:19,24
483:9 535:3	536:1 537:1	408:6,18	<b>t</b>	340:10	515:21
<b>stopped</b>	<b>suggest</b>	415:18 419:2	249:11 527:22	361:18 370:7	<b>taperecorded</b>
293:23 294:10	389:15 513:11	423:7 428:5	<b>table</b>	372:20	522:21,23
295:24,24	<b>suggested</b>	444:5 445:2	305:12 510:18	377:23 378:2	<b>tdcianni</b>
298:4 299:22	389:13	446:18 453:2	511:2	379:19	248:17
318:8 359:9	<b>suing</b>	466:17,19	<b>take</b>	383:23	<b>team</b>
436:15	394:5,9	486:16	252:14 256:14	384:12,22	371:13 373:15
448:17 481:9				385:1,10	373:17

<b>technical</b>	532:9,13	408:1 410:18	461:11 471:9	396:23	355:18
459:21	<b>terrible</b>	411:13,17	492:21	397:16,20,20	356:15,16
<b>technically</b>	518:2	413:23	505:13	399:1,12,15	361:12
431:19	<b>terrified</b>	416:14,14	521:20	400:11,12	364:24 365:5
<b>technology</b>	395:15 397:10	418:5 454:24	530:11	401:18 402:4	365:20 399:8
488:15,17,20	397:23	458:17,21	<b>things</b>	402:11,22,24	414:14 427:2
490:1	400:15	461:11	264:12 306:21	403:18,20	438:17 443:3
<b>teenagers</b>	<b>terrifying</b>	462:16	315:21 346:9	404:24 407:5	465:4 475:10
279:18	469:10	467:18 470:5	371:7 391:21	407:10 409:9	494:6 522:15
<b>television</b>	<b>test</b>	473:4,7,12	395:16 405:7	410:19 411:1	522:15
377:18 436:3	439:5 508:21	473:17,24	405:14	412:2 414:12	<b>thoughts</b>
<b>tell</b>	509:7,12	475:4 480:12	406:13 410:7	416:13,14,19	400:13 500:14
254:23 255:7	510:5,7,11	485:10,24	417:16	422:22 426:1	<b>threatened</b>
259:4 269:10	<b>testified</b>	487:7 488:20	430:23 431:5	435:15,19	389:6,8,11
269:23 270:1	251:5,11,12	488:24	436:1 438:7	440:6,18	491:10,18,20
270:15,19	252:1,7	492:21,22,23	440:3,5	442:14	<b>three</b>
271:20 275:3	264:2,3	493:4,5,7	458:22	443:23 444:7	411:2 443:8
276:5 277:14	270:13 272:9	498:15	470:13,15	446:16 448:4	452:1 471:19
277:22	272:17	501:19	474:17,19	448:21	510:14,16,17
291:16,19	273:13	503:21	476:20 478:4	449:22	511:1
292:4,16	279:12	512:21	486:9 487:8	450:18,24	<b>threw</b>
294:9 303:22	351:16	516:14	487:11,23	451:16	403:24
313:8,9,16	383:14	520:18	488:2,9,13	454:24	<b>throwing</b>
315:13,18	405:24 406:3	523:21 526:2	489:20,23	459:14	403:21
316:2 321:10	406:4 526:21	527:3 528:3	518:2	461:11	<b>thumping</b>
321:17,22	526:23	528:8,10	<b>think</b>	463:22 464:2	401:7
327:17 328:2	<b>testimony</b>	529:15,17,21	253:19 258:4	464:7 465:7	<b>thursday</b>
328:14	254:21	529:22	261:22 264:7	467:4,11,12	283:10,14
340:18	<b>testify</b>	530:11,21	270:19	467:23 469:6	285:2,5,16
341:20	251:22 253:4	532:5 533:19	271:13	469:11	285:17,23
344:23 357:7	270:7 406:9	535:17 536:3	272:11,11	470:12 471:4	503:19 527:3
358:7,18	539:15	536:13 537:1	275:16	471:5,23	527:15,18,22
359:13,17,21	<b>testifying</b>	537:4	276:14 279:3	472:10 473:3	528:1 530:8
360:12,14,19	253:2,3 403:23	<b>theater</b>	282:4 283:2	473:19,21	<b>ticket</b>
361:3,12,22	509:5	401:2 402:6	284:1,3	474:20	426:12,13
362:20 386:2	<b>testimony</b>	447:13,15	285:10 288:6	475:22	442:23
386:14 388:5	251:15 253:18	453:22	288:13	477:11	<b>tickets</b>
409:3 410:19	254:15,21	455:20	289:10,14,24	480:12 484:6	437:19,20
416:16 433:6	261:22	456:12 503:1	290:8,15	484:18 485:9	442:9 443:6
452:7,10	264:18	524:4	292:3,6,24	485:24	<b>tim</b>
473:22 516:8	273:13	<b>therapist</b>	293:3 297:11	487:23	247:8 248:18
526:7 534:4	274:18	394:22 395:17	297:16,22	489:21,21	344:1 385:18
<b>telling</b>	286:17	451:9 479:5	298:2,21	494:16 497:4	386:8 388:14
274:7 315:23	348:24	<b>thereof</b>	299:11,19,21	497:23,24	389:20
328:24	371:12	540:9	300:24 302:5	499:2,8	392:19
355:17	398:10	<b>theres</b>	306:20	500:2,7	500:13 526:8
359:15	399:10	259:8 265:18	312:14	502:4 503:10	<b>time</b>
362:14	490:23 509:1	266:18 269:3	313:12,12,17	504:24 507:1	247:21 250:8
388:20	539:17,22	273:19	316:3,10	507:20	259:6 260:18
423:15,18	540:10	292:22	318:22	508:11 510:1	261:23 264:2
438:16	<b>testing</b>	367:21 371:5	326:18,20	510:10	264:23
442:21	366:23 369:7	371:12,15	329:15,16,24	511:13	269:11,12,19
522:24 525:9	<b>thank</b>	417:8 422:16	330:11,13	512:21 513:5	270:13,21,22
525:13,16	254:19 300:7	436:21	331:13,15	515:5 518:17	271:17,20
<b>temporary</b>	420:13	460:13	332:2,6,9,24	519:9 521:23	272:7,17
434:5	444:17	475:24 477:7	333:2,12,22	522:2,3,13	273:10,20,24
<b>ten</b>	445:10	482:17	334:1,3	522:22	275:24 276:2
466:5	528:21	487:16	337:1 338:24	523:13 524:8	276:3,5,12
<b>tend</b>	<b>thanks</b>	492:14	339:8 340:10	526:14	277:20,23
530:18,18	350:13 367:23	510:16,17	340:17,20	532:16,22	278:1 282:1
<b>term</b>	<b>thats</b>	511:2 512:18	341:23 342:5	533:2	282:3,8,11
372:11	252:5 253:21	514:24	342:6 343:8	<b>thinking</b>	283:9,19
<b>termed</b>	253:24 256:2	527:24 529:7	344:15	264:23 323:4,6	284:4,15,18
444:7	256:3 257:17	533:23	350:11,21	365:18	284:21 285:7
<b>terminated</b>	257:22	<b>theyre</b>	352:17 355:7	370:11	285:12,14,15
460:10	263:21 265:8	352:17 417:10	356:5 357:21	391:10 395:4	285:17,20
<b>terminology</b>	267:11 268:7	470:14 488:1	358:2,7	423:4,10,12	289:16,22
438:13	269:20 270:5	530:12,13	360:24 361:8	498:3	291:5 292:13
<b>terms</b>	273:24 286:9	<b>thicker</b>	367:3,7	<b>thinner</b>	295:18,19
271:1 279:16	293:16	271:8	369:5 370:16	288:23	296:20
312:19 313:2	300:24	<b>thing</b>	372:15 377:5	<b>third</b>	298:12
322:15	308:13,22	266:8 275:14	378:17	367:6 511:8	299:21
342:18	318:5 335:13	286:8 297:21	382:12	<b>thomas</b>	304:10,24
372:12	335:15	298:6 301:9	383:24	248:15 250:21	306:2,13,15
376:19 399:4	349:17	378:19	387:14	<b>thompson</b>	310:20 311:5
411:16 422:5	352:16 356:8	384:19	388:23 389:5	453:19,21	311:7 314:12
432:13 434:6	364:13	419:20	389:12,12	455:9	314:13,14
440:3,6	366:18 371:2	422:18 425:8	390:11	<b>thorough</b>	315:6 318:20
449:8 451:5	373:20 375:5	429:18	391:12	282:7	322:4 323:13
457:19	375:17 392:9	430:20	393:13,15	<b>thought</b>	324:23 325:7
460:20 461:4	398:8 405:11	435:15 446:6	394:7 395:1	286:23 321:21	326:4 331:16

333:14	537:8	428:17 429:6	441:10	450:7,16	452:13
335:12 338:6	<b>times</b>	451:9 452:7	443:19,21	451:1,5	483:15
338:18,20	290:7,11 291:8	452:12	<b>transpired</b>	452:22	<b>um</b>
339:2 345:6	327:7 339:13	454:22 455:1	336:18 405:11	454:23	286:20
347:5,9	346:8 355:1	475:5,7	<b>transported</b>	471:14	<b>unaware</b>
349:10	382:13	491:8,10	394:15	475:16	272:18
350:21	390:24	518:9,12,16	<b>trask</b>	482:11 488:3	<b>uncle</b>
351:15	401:18	523:3 524:5	294:6,7	493:16	253:8
353:13,23	402:14 404:7	524:9	<b>travel</b>	513:16	<b>unclear</b>
354:5,12	404:10,12	<b>tom</b>	263:21 264:4	514:22	312:23
355:4,18,21	412:15 433:5	330:21,22	351:6	516:12	<b>uncles</b>
356:14,19,23	435:22	486:18 528:6	<b>traveled</b>	517:22 518:4	255:22 283:15
357:10,13,14	436:13	534:20 535:3	351:7 406:16	<b>ts</b>	283:17,20,24
358:16	468:20	<b>tony</b>	<b>travels</b>	527:22,23	284:7,12,16
363:16 365:6	497:18,19	302:14,18,21	349:16	528:1 530:5	<b>unconsciously</b>
366:1,9,24	499:5 500:9	304:1 315:21	<b>treated</b>	530:10,15	428:10
369:21 370:3	500:13,17	498:2,19,21	310:12 426:13	<b>tuesday</b>	<b>uncovered</b>
370:14	519:18	499:8,10,13	<b>treating</b>	342:22 349:20	372:13
374:19	526:13,15,16	512:1	479:18	353:1 354:23	<b>underneath</b>
375:17 376:1	<b>timing</b>	<b>tool</b>	<b>treatment</b>	527:2,15,18	511:2
376:6,20	372:5 388:15	458:17	444:21 461:5	527:22 528:1	<b>understand</b>
377:16,22	<b>tired</b>	<b>tools</b>	<b>trial</b>	530:7	252:16 293:2
379:15	330:16	458:8,24 459:5	279:13 348:23	<b>turn</b>	333:23 334:6
380:16,24	<b>times</b>	<b>top</b>	373:11 408:8	502:16	334:7 335:13
382:1,2,10	328:20 340:13	263:14 274:17	408:12,14	<b>turned</b>	352:17 419:3
382:19,24	342:10,18	299:3 366:11	463:18	372:13,14	428:7 517:22
383:4,10	344:18,24	403:16	490:17	<b>turning</b>	534:3,4,4
384:8,8,9	345:4,10	450:19	<b>tried</b>	367:10	<b>understanding</b>
387:9,12	<b>title</b>	504:12	386:18,19	<b>turns</b>	335:4 336:4,8
388:3 391:24	459:19 467:2	<b>topic</b>	387:23 396:6	294:7 487:14	336:15
393:11	<b>today</b>	373:20,20	396:6,7	<b>tv</b>	348:21
395:11	270:6 335:6,16	<b>total</b>	417:4 443:2	396:6,7	376:19,21
398:18 397:5	363:11 390:8	296:5 379:22	450:6,15	<b>two</b>	382:14
397:9,17,18	406:2,5	<b>touching</b>	517:24	265:2 277:6	405:19
400:11,18	412:2 457:14	438:16	<b>trip</b>	279:3,9,11	420:21 426:6
401:15	467:10	<b>towit</b>	382:16 526:8	309:17,19	432:12 433:1
405:13	471:18,20	539:7	<b>trouble</b>	310:21 331:9	434:21
407:23	472:19	<b>town</b>	291:1 427:20	350:3 357:2	501:19
410:10 412:3	474:10	247:11 248:18	476:16	377:7 387:15	528:22
413:10	486:11 494:5	250:21	<b>true</b>	410:20,23	<b>understood</b>
414:12	<b>today's</b>	259:15	257:22 292:21	414:13 415:6	262:6 265:9
415:19,23	537:7	260:23	293:19 400:1	428:17	306:15
416:7 421:17	<b>told</b>	262:16,19	442:20	440:23 442:7	333:13 335:2
422:3 423:13	253:6 254:1,6	263:18 264:5	449:24	442:15	<b>undescribed</b>
424:6 425:3	255:13 266:7	264:21	456:20	448:14	482:15
426:1,6,20	266:10 268:7	348:10	490:21	450:12	<b>undetermined</b>
426:23	274:10,13	457:20	492:13,24	451:24	539:10
429:11,16,23	275:4 288:2	<b>tracking</b>	493:4 505:13	455:22 456:7	<b>unfairly</b>
430:9,11,22	290:4 292:4	533:16	521:11	456:18	310:8,10
432:5,18	292:20	<b>traffic</b>	539:21	457:24	395:21
433:4 434:17	293:17	259:13 410:5	<b>trust</b>	458:13,22	<b>united</b>
435:3,24	294:11,13,15	487:16	427:24	459:24	247:1,16
436:2,10	294:18,23	496:22	<b>truth</b>	466:23	250:11 538:1
437:10,16,23	295:2,10	<b>trained</b>	362:14 442:21	468:15	539:10
438:4 440:9	297:1,3,4,16	476:13	535:12	471:19	<b>university</b>
441:22 444:2	301:2,5	<b>training</b>	539:15,16,16	479:14 484:9	248:2 503:2
445:12,16	302:21 304:1	470:18	<b>truthful</b>	484:11,12	541:5
446:5 448:7	304:14,16	<b>transcribed</b>	275:11 288:1	488:5 501:24	<b>unmarked</b>
448:20	306:9,12,17	309:8,11,12	309:13 478:3	504:6 505:17	301:13,14,15
449:15	312:4,5,7,8	<b>transcript</b>	<b>truthfully</b>	510:16	301:19,20
451:18,20	312:21,21	253:18,21	270:7	<b>twopage</b>	304:23
452:18	315:14,16,21	263:3 307:13	<b>try</b>	364:17	<b>unnecessary</b>
456:13 458:2	317:8 321:20	308:18,23	303:19 349:23	<b>type</b>	511:21
458:3,4	322:1,11	309:4,5,10	386:6,12	387:5 421:15	<b>unpleasant</b>
460:9,23	327:18,19	349:8 372:18	399:6,22	438:11,17	423:3
461:6,13,15	328:2 333:3	512:19 513:6	411:12 417:1	462:3,4	<b>unreasonable</b>
461:18	342:4 348:9	514:6,9,13	417:6 419:20	484:15 492:6	474:11 534:15
463:17 464:5	355:7,20	514:24 516:6	450:2 470:9	492:13,16	534:18 535:7
465:2 468:5	356:7 357:19	517:11 519:5	470:16 471:8	496:22	<b>unreliable</b>
471:1,4	358:4 360:8	538:10,13	471:11	531:18	362:13
475:3 481:14	360:10,20	539:22	475:21 477:9	<b>typewriting</b>	<b>unsafe</b>
489:18,18	361:9,20	541:11,14,15	485:16	539:20	418:11
491:10 497:7	362:24	<b>transcription</b>	489:22	<b>typically</b>	<b>unseemly</b>
498:18,21	375:10 376:9	539:21	<b>trying</b>	282:7 330:3	365:8
500:2,21	386:12	<b>transcripts</b>	265:3 285:10	527:11	<b>unspecific</b>
502:2 503:21	388:17	261:17 520:21	320:10	<b>U</b>	482:16
505:9,13,16	392:22,24	<b>transfer</b>	322:23 323:6		<b>uplifting</b>
506:5 507:4	393:7,15	429:5 443:15	345:5,14,17		467:23
507:16 522:6	395:16 418:8	<b>transferred</b>	371:14 382:6		<b>upper</b>
524:5 526:11	419:21	429:3,6,20	386:23 399:1		415:4
526:18 537:2	421:17,19	430:4 435:12	429:14 435:5		<b>upset</b>

286:22 287:5 287:19,22 394:12 395:12,20 414:16	515:16 537:7 <b>videos</b> 466:12,15 <b>videotaped</b> 247:13 <b>village</b> 257:12,13 421:12 <b>violations</b> 496:22 <b>visit</b> 260:21 323:20 337:19 355:21 370:24 372:3 374:16 431:11 444:12 510:4 <b>visitation</b> 352:24 353:2 353:21 356:1 356:2 <b>visited</b> 258:10,13 343:18,20 <b>visiting</b> 260:18 422:12 440:8 446:4 446:17 <b>visits</b> 440:9 444:12 <b>vocal</b> 267:6 <b>voice</b> 499:3 <b>volatile</b> 434:24 <b>volleyball</b> 437:5 441:24 442:1,5 <b>volunteer</b> 303:14 442:2 <b>volunteered</b> 316:3 <b>vouch</b> 272:18 <b>vs</b> 247:6 250:10 538:6 541:7 <b>vw</b> 346:5,12	396:9 398:1,6 398:14 403:3 403:8,12,14 404:1,2,4,8 404:12,19 470:6 476:23 495:15 <b>wallenberg</b> 279:10 <b>wallow</b> 518:5 <b>walls</b> 403:10 404:13 404:15 476:8 <b>want</b> 258:7 261:20 263:8 268:22 269:2 278:9 278:10,11 295:22 302:6 302:9 303:13 319:7 349:7 379:19 410:14 413:22 415:16 417:2 417:2,16 419:16 426:15 440:20 454:13 456:10 467:19 471:11,13 472:8 487:21 515:7 <b>wanted</b> 253:4 270:15 270:18 294:12,18 302:22 303:8 313:7 314:8 317:6 360:10 360:21 369:6 380:17 396:9 415:11 416:24 417:5 418:4 425:1 443:24 445:2 455:1 456:14 512:9 516:16 518:17 525:20 <b>wanting</b> 361:7 417:20 448:20 508:15 <b>wants</b> 293:13 476:15 <b>warner</b> 247:9 248:18 <b>warrant</b> 344:2 376:10 377:6,9 <b>wasnt</b> 279:9 290:22 298:15 312:8 318:11 323:20 345:21 359:6 359:8 360:23 366:1 414:9 414:19 416:10 418:2 435:4,4 440:5 454:21 501:2 504:22 521:2 <b>watch</b> 396:6 467:18 525:14	<b>watched</b> 436:3 <b>waxing</b> 425:8 <b>way</b> 254:13 259:5 260:11 261:1 266:15,18 287:1,7,9,10 267:24 309:7 314:10 352:13 353:12 371:9 393:20,21 407:12 412:4 418:11 419:11 423:11 427:18 430:12 448:21 469:20 470:17 472:13 475:18 476:1 492:14 512:16,21 515:6 525:23 532:11 540:8 540:9 <b>ways</b> 259:8,9 340:6 435:23 440:2 476:6 <b>wean</b> 481:16 <b>weaned</b> 481:13,17 <b>weapon</b> 501:9,13 <b>weapons</b> 298:7 <b>wearing</b> 304:12 499:21 500:10,15 <b>wednesday</b> 253:6 254:7 255:17 271:18 279:24 280:19 281:8 281:11,20 354:22,24 355:1 383:2 383:4 527:2 527:15,18 530:7 <b>week</b> 260:17,20 261:5 278:6 278:12,17 280:6 281:15 281:16,17,22 292:7,17 322:12,17 327:22 328:10 329:6 336:23 338:14 339:4 339:17,21 340:7 341:5 341:6,12,12 342:10 351:21 354:21 375:21 381:1 381:20 410:20 425:24 459:3 <b>weekly</b> 433:15	<b>weeks</b> 251:11 367:22 454:16 459:24 475:5 <b>weighed</b> 289:2,4 <b>weight</b> 289:1 <b>weights</b> 436:3 <b>wellbeing</b> 438:20 <b>went</b> 253:7 254:7 256:7 260:17 264:20,21 266:4 267:16 268:6,10,11 268:11,19,21 268:21 269:12 270:4 275:22 276:22 277:1 277:8 278:4 279:8 283:14 283:16 284:10,11,19 284:23 285:5 285:11,20 288:8 325:10 329:11 331:2 332:14,19 356:3,10,12 357:5,10 385:13 409:16,18,18 410:13,14,21 411:3,5 414:18 419:17 422:7 427:2,5 428:3 430:21 433:20 436:13 438:4 438:8 445:19 448:21 450:9 450:11 456:1 494:19 495:5 495:7 497:7 504:7 509:14 509:15 <b>wesleyan</b> 266:21 292:1 313:23 <b>west</b> 260:8 427:16 <b>western</b> 411:3 437:11 437:17 438:5 438:8 440:10 440:10,17,22 441:5,15 442:8,17 443:16 <b>weve</b> 308:7 325:22 334:20 349:8 352:4 363:21 390:15 400:18 405:5 406:14 463:12 477:15 490:14 <b>whatnot</b> 415:3 <b>whats</b> 253:20 265:21 294:24,24 297:20 298:6 298:13	299:17,19 301:1,9 302:5 308:8 320:10 364:16 371:17 376:19 378:19 455:11 461:4 470:10 479:12 482:10 493:18 526:17 528:20 <b>whatsoever</b> 468:8 <b>whens</b> 314:14 363:16 <b>whereabouts</b> 272:19,24 273:5 315:8 322:12 338:13 339:17,21 340:3 351:21 375:20 381:20 525:7 <b>whereof</b> 540:10 <b>wheres</b> 257:13 <b>white</b> 258:2 419:22 <b>whitman</b> 259:15 <b>whos</b> 302:13 335:8 416:9 <b>widely</b> 509:6 <b>wife</b> 455:10 475:5,6 484:7,19 <b>willing</b> 421:7 <b>win</b> 442:20 <b>winter</b> 454:9 455:6 <b>wire</b> 500:11,15 <b>wished</b> 310:16 <b>witness</b> 249:2 250:24 251:2,4 253:20 254:4 254:20 255:4 261:9 263:5 263:7,10 264:7 269:18 270:17 272:23 293:5 293:9 300:12 302:14 307:17 308:12 336:15 341:1 347:1,3 352:20 354:5 358:15 362:12 364:2 390:22 396:22 398:13 399:12 400:10 408:2 408:4 411:19 411:21 420:10	
	<b>V</b> <b>vacations</b> 486:6 <b>vague</b> 340:23 390:20 408:1 485:24 494:9 <b>vaguely</b> 302:1 <b>vagueness</b> 493:11 <b>valley</b> 459:7,9,15,20 460:10 461:19 <b>vanber</b> 326:18 <b>vanberriger</b> 326:13,14 328:9 355:16 <b>various</b> 521:5 <b>vase</b> 403:24 <b>vcr</b> 488:18 <b>vehicle</b> 346:10 351:6 <b>vela</b> 247:18,23 251:1 538:11 539:4 541:23 <b>verdict</b> 493:22 <b>verify</b> 375:15 <b>verne</b> 362:12 <b>versa</b> 460:18 <b>version</b> 320:12 468:1,3 <b>vice</b> 418:15,16,17 418:21,22 460:18 <b>video</b> 250:2 272:10 371:16 373:9 466:9,16,19 <b>videographer</b> 248:21 250:1,5 250:23 269:4 269:7,14,17 307:21 308:4 334:12,16 347:4,8 372:22 373:1 420:8,13 445:11,15 453:5,10,13 486:19,22 490:8 515:13	<b>v</b> <b>vacations</b> 486:6 <b>vague</b> 340:23 390:20 408:1 485:24 494:9 <b>vaguely</b> 302:1 <b>vagueness</b> 493:11 <b>valley</b> 459:7,9,15,20 460:10 461:19 <b>vanber</b> 326:18 <b>vanberriger</b> 326:13,14 328:9 355:16 <b>various</b> 521:5 <b>vase</b> 403:24 <b>vcr</b> 488:18 <b>vehicle</b> 346:10 351:6 <b>vela</b> 247:18,23 251:1 538:11 539:4 541:23 <b>verdict</b> 493:22 <b>verify</b> 375:15 <b>verne</b> 362:12 <b>versa</b> 460:18 <b>version</b> 320:12 468:1,3 <b>vice</b> 418:15,16,17 418:21,22 460:18 <b>video</b> 250:2 272:10 371:16 373:9 466:9,16,19 <b>videographer</b> 248:21 250:1,5 250:23 269:4 269:7,14,17 307:21 308:4 334:12,16 347:4,8 372:22 373:1 420:8,13 445:11,15 453:5,10,13 486:19,22 490:8 515:13	<b>v</b> <b>vacations</b> 486:6 <b>vague</b> 340:23 390:20 408:1 485:24 494:9 <b>vaguely</b> 302:1 <b>vagueness</b> 493:11 <b>valley</b> 459:7,9,15,20 460:10 461:19 <b>vanber</b> 326:18 <b>vanberriger</b> 326:13,14 328:9 355:16 <b>various</b> 521:5 <b>vase</b> 403:24 <b>vcr</b> 488:18 <b>vehicle</b> 346:10 351:6 <b>vela</b> 247:18,23 251:1 538:11 539:4 541:23 <b>verdict</b> 493:22 <b>verify</b> 375:15 <b>verne</b> 362:12 <b>versa</b> 460:18 <b>version</b> 320:12 468:1,3 <b>vice</b> 418:15,16,17 418:21,22 460:18 <b>video</b> 250:2 272:10 371:16 373:9 466:9,16,19 <b>videographer</b> 248:21 250:1,5 250:23 269:4 269:7,14,17 307:21 308:4 334:12,16 347:4,8 372:22 373:1 420:8,13 445:11,15 453:5,10,13 486:19,22 490:8 515:13	<b>v</b> <b>vacations</b> 486:6 <b>vague</b> 340:23 390:20 408:1 485:24 494:9 <b>vaguely</b> 302:1 <b>vagueness</b> 493:11 <b>valley</b> 459:7,9,15,20 460:10 461:19 <b>vanber</b> 326:18 <b>vanberriger</b> 326:13,14 328:9 355:16 <b>various</b> 521:5 <b>vase</b> 403:24 <b>vcr</b> 488:18 <b>vehicle</b> 346:10 351:6 <b>vela</b> 247:18,23 251:1 538:11 539:4 541:23 <b>verdict</b> 493:22 <b>verify</b> 375:15 <b>verne</b> 362:12 <b>versa</b> 460:18 <b>version</b> 320:12 468:1,3 <b>vice</b> 418:15,16,17 418:21,22 460:18 <b>video</b> 250:2 272:10 371:16 373:9 466:9,16,19 <b>videographer</b> 248:21 250:1,5 250:23 269:4 269:7,14,17 307:21 308:4 334:12,16 347:4,8 372:22 373:1 420:8,13 445:11,15 453:5,10,13 486:19,22 490:8 515:13	<b>v</b> <b>vacations</b> 486:6 <b>vague</b> 340:23 390:20 408:1 485:24 494:9 <b>vaguely</b> 302:1 <b>vagueness</b> 493:11 <b>valley</b> 459:7,9,15,20 460:10 461:19 <b>vanber</b> 326:18 <b>vanberriger</b> 326:13,14 328:9 355:16 <b>various</b> 521:5 <b>vase</b> 403:24 <b>vcr</b> 488:18 <b>vehicle</b> 346:10 351:6 <b>vela</b> 247:18,23 251:1 538:11 539:4 541:23 <b>verdict</b> 493:22 <b>verify</b> 375:15 <b>verne</b> 362:12 <b>versa</b> 460:18 <b>version</b> 320:12 468:1,3 <b>vice</b> 418:15,16,17 418:21,22 460:18 <b>video</b> 250:2 272:10 371:16 373:9 466:9,16,19 <b>videographer</b> 248:21 250:1,5 250:23 269:4 269:7,14,17 307:21 308:4 334:12,16 347:4,8 372:22 373:1 420:8,13 445:11,15 453:5,10,13 486:19,22 490:8 515:13	<b>v</b> <b>vacations</b> 486:6 <b>vague</b> 340:23 390:20 408:1 485:24 494:9 <b>vaguely</b> 302:1 <b>vagueness</b> 493:11 <b>valley</b> 459:7,9,15,20 460:10 461:19 <b>vanber</b> 326:18 <b>vanberriger</b> 326:13,14 328:9 355:16 <b>various</b> 521:5 <b>vase</b> 403:24 <b>vcr</b> 488:18 <b>vehicle</b> 346:10 351:6 <b>vela</b> 247:18,23 251:1 538:11 539:4 541:23 <b>verdict</b> 493:22 <b>verify</b> 375:15 <b>verne</b> 362:12 <b>versa</b> 460:18 <b>version</b> 320:12 468:1,3 <b>vice</b> 418:15,16,17 418:21,22 460:18 <b>video</b> 250:2 272:10 371:16 373:9 466:9,16,19 <b>videographer</b> 248:21 250:1,5 250:23 269:4 269:7,14,17 307:21 308:4 334:12,16 347:4,8 372:22 373:1 420:8,13 445:11,15 453:5,10,13 486:19,22 490:8 515:13



<b>29</b> 269:5 347:5 <b>2900</b> 250:4 541:1 <b>29th</b> 329:8 330:9 336:6 348:11 351:9 496:1 497:6 498:3 498:20	<b>5</b> 249:14 273:22 308:2,8 453:7 515:14 515:17 <b>50</b> 408:20 480:2 <b>5030844</b> 248:4 <b>52</b> 486:23 <b>55</b> 334:13 <b>550</b> 248:9 <b>58</b> 453:11,14				
<hr/> <b>3</b> <b>3</b> 261:23 263:13 272:20 366:12 445:12,16,16 453:11,14	<hr/> <b>6</b> <b>6</b> 247:22 249:15 331:19,20 350:11,15,19 406:15 528:7 534:21 537:8 <b>60</b> 459:4 <b>60143</b> 248:9 <b>60601</b> 250:4 <b>606011014</b> 541:2 <b>60603</b> 248:16 <b>60611</b> 248:4 541:6 <b>630</b> 248:10 <b>6804</b> 256:12 258:18 259:6 <b>6th</b> 259:17				
<b>30</b> 278:23,24 515:17 <b>308</b> 249:14 <b>30th</b> 337:5 <b>312</b> 248:4,16 <b>31st</b> 353:1,13 354:23 <b>350</b> 249:15 <b>38</b> 347:9 <b>364</b> 249:16 <b>37</b> 268:15 269:8 <b>375</b> 248:3 541:6 <b>377</b> 262:5 263:14 263:16 <b>378</b> 263:14 265:17 274:17 <b>379</b> 268:8,14,15 273:17 274:16,17 <b>381</b> 249:17 <b>382</b> 286:16 <b>39</b> 266:15 267:3 445:12 <b>3rd</b> 366:24	<hr/> <b>7</b> <b>7</b> 249:16 364:8 364:10,17 383:5,8 <b>7353300</b> 248:10 <b>7827606</b> 248:16				
<hr/> <b>4</b> <b>4</b> 486:20,23 <b>40</b> 459:4 488:19 <b>40yearold</b> 488:5 <b>42</b> 486:20 <b>45</b> 408:21 424:23 443:18 <b>48</b> 445:16 <b>490</b> 249:5 <b>4th</b> 494:18,22	<hr/> <b>8</b> <b>8</b> 249:17 381:8 381:10,15 526:17 <b>8th</b> 515:24				
<hr/> <b>5</b>	<hr/> <b>9</b> <b>9</b> 271:23 351:8 367:11 456:23 <b>900</b> 485:10 <b>93</b> 502:6 525:11 <b>94</b> 525:11 <b>9th</b> 368:4				

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THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	NO. 10-CV-1019
	)	
-vs-	)	
	)	
JAMES SOUK, Former Assistant State's	)	
Attorney, CHARLES REYNARD, Former	)	
McLean County State's Attorney,	)	
TIM FREESMEYER, Former Normal Police	)	
Detective, ROB HOSPELHORN, Former	)	
Normal Police Detective, DAVE WARNER,	)	
Former Normal Police Detective,	)	
JOHN BROWN, Former Normal Police	)	
Lieutenant, FRANK ZAYAS, Former	)	
Normal Police Lieutenant,	)	DEPOSITION OF
COUNTY OF McLEAN, ILLINOIS, and	)	<b>CAROL JEANNE BEAMAN</b>
TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants.	)	

The deposition of Mrs. Carol Jeanne Beaman, called as a witness on behalf of Defendants James Souk, Charles Reynard, John Brown and the County of McLean, Illinois, in the above-entitled action, taken before Amy R. Campos, Certified Shorthand Reporter and Registered Professional Reporter, at Elite Reporting Services, Ltd., 4320 Spring Creek Road, Rockford, Illinois, on March 29, 2013, at 9:30 a.m.

C04081

1 started dating Jen, my father was very ill and died. My  
2 mother, we found out, was -- had dementia and he had been  
3 covering for her. So we're dealing with all of this. The  
4 week he died was the week I started my graduate program.

5 MR. GRILL: Uh-huh.

6 THE WITNESS: I was a full-time student and a  
7 full-time teacher at the same time --

8 MR. GRILL: You testified to this before.

9 THE WITNESS: -- for the next two years. Yeah.

10 MR. GRILL: Yeah, I'm aware of that.

11 THE WITNESS: So in terms of what you worry  
12 about, what you put the most importance on, it becomes how  
13 much can I handle on my plate.

14 Through most of -- well, until after Alan had  
15 actually been arrested -- my mother died within a month of  
16 his being sentenced. She never knew that. She never  
17 understood that.

18 The last communication we had with her was the  
19 week after Freesmeyer interviewed her when she had a  
20 massive stroke. Up to that time she kept saying, I don't  
21 know why this cop from Normal kept asking me these  
22 questions.

23 MR. GRILL: Okay.

24 THE WITNESS: That's the last communication. So

C04177

1 Q. And that reflects your mathematical background  
2 and your background as an amateur astronomer, right?

3 A. Right.

4 Q. And your husband also was an engineer and also  
5 is an astronomer, too, right?

6 A. That's correct.

7 Q. So it's your nature as a scientific and  
8 mathematical person to want empirical proof, right?

9 A. That's right.

10 Q. But as Alan's mother, was there ever any doubt  
11 in your mind whatsoever that Alan was not capable of  
12 murder?

13 A. Careful how you state that.

14 Q. Well, all right. Was --

15 A. Was there any doubt that he was not capable or  
16 was there any doubt that he was capable?

17 Q. Okay, all right. Let me ask a better question.

18 Did you ever think that it was possible that  
19 Alan would be capable of murder?

20 A. No.

21 Q. Okay. One more question regarding . . . Let me  
22 direct your attention, if I could, to Exhibit 5, which is  
23 the letter to the judge, Judge . . .

24 A. Freese.

C04373

COUNTY OF MC LEAN  
IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT  
STATE OF ILLINOIS

GRAND JURY PROCEEDINGS

June 30, July 7, and 14, 1994

RECEIVED

AUG 04 1994

Regarding ALAN W. BEAMAN,

First Degree Murder  
(Two Counts)

STATES ATTORNEY'S OFFICE  
MCLEAN COUNTY

Mr. James Souk, Assistant State's Attorney  
on behalf of the People

Laura J. Ruff  
Court Reporter  
Route 1 Box 185  
Gridley, IL 61744

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COUNTY DEFS. INI. R26 002784

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(599)

Witnesses:

MITCHELL OLSON

Examination by Mr. Souk..... 3  
Examination by Grand Jury..... 18

CAROL JEAN BEAMAN

Examination by Mr. Souk..... 23  
Examination by Grand Jury..... 91

BARRY BEAMAN

Examination by Mr. Souk.....100  
Examination by Grand Jury.....121

C04379

COUNTY DEFS. INI. R26 002785

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Witnesses:

July 7, 1994

TIMOTHY JOHN FREEMEYER

Examination by Mr. Souk..... 126  
Examination by Grand Jury..... 259

July 14, 1994

TIMOTHY JOHN FREESMEYER

Examination by Mr. Souk..... 280  
Examination by Grand Jury..... 287  
Recalled, Examination by Mr. Souk..... 420  
Examination by Grand Jury..... 423

DENNIS CLARK

Examination by Mr. Souk..... 298  
Examination by Grand Jury..... 309

CLIFFORD GRAY

Examination by Mr. Souk..... 312  
Examination by Grand Jury..... 327

ALAN W. BEAMAN

Examination by Mr. Souk..... 330  
Examination by Grand Jury..... 413

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COUNTY DEFS. INI. R26 002786

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(Whereupon the Assistant State's Attorney informed the Grand Jury of its rights pursuant to Illinois Revised Statutes.)

MITCHELL OLSON

having been first duly sworn, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MR. SOUK:

Q Would you state your name Sir?

A Mitchell Olson.

Q You want to spell your last name?

A O-L-S-O-N.

Q Where do you live?

A I live in Rockford.

Q What's your address there?

A [REDACTED].

Q Where are you employed?

A At Christ United Methodist Church.

Q What is the nature of your employment there?

COUNTY DEFS. INI. R26 002787

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A I am the Director of the Youth Ministries and music.

Q Is that fulltime employment?

A Yes it is.

Q How long have you been employed there?

A About six years.

Q In that capacity, do you know Carol and Barry Beaman and their son, Alan Beaman?

A Yes I do.

Q Do you know them because they're members of your church?

A Yes I do.

Q How long have you known them?

A I believe I met them about, shortly after the time when we arrived. Alan was back in the high school age at that point.

Q Did you have some contact with him in your youth ministry when he was in high school?

A Yes I had.

Q Are the elder Beamans active participants in your church and its activities?

A Yes they are.

Q Was Alan Beaman an active participant when he was in high school?

COUNTY DEFS. INI. R26 002788

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A Yes he was.

Q Has that changed somewhat since he's gone off to college?

A Yeah. I've tried to stay in touch with him.

Q When he's home during the summer times, is he in regular attendance at the church?

A Off and on. He's a musician, and being that I'm a musician, that's been a connection we've always shared. So that's always been a good way for us to kind of relate to each other.

Q Calling your attention to last summer of 1993, did you have occasion during August of that month to be involved with Alan Beaman and him doing some musical presentation at your church?

A Yes I did.

Q Was that the first time he had ever done anything like that?

A No it was not.

Q Was that the first time he had done that last summer?

A Right, that summer. We had talked about it like when he first came home. You know, we just said let's get together sometime by August before you go home. That was the extent of it. As we did this summer,

COUNTY DEFS. INI. R26 002789

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you know.

Q So would it be typical for him to maybe sing or do something at church like once when he was home during the summer?

A Yeah, once or twice. We don't have a regular choir that meets so we fill it in with soloists and stuff.

Q He sings?

A He sings and plays.

Q Plays which instruments?

A He plays the guitar and saxophones, the soprano. Actually plays quite a bit like Kenny G. He's very good, very good.

Q Now the arrangements that you made for him to perform at your church in August of '93, what Sunday was that for?

A It was just a regular Sunday. There was an ice cream social on that Wednesday and I knew I'd be there and that he was--we had arranged that that would be a time his parents were coming in so we just all sorta decided that would be a good night to rehearse.

Q The ice cream social was Wednesday night, August 25th?

A That's right.

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Q So the actual singing performance would have been--

A The following Sunday.

Q The following Sunday which was the 29th I think?

A Right. And he still performed. I was unaware of some of the things that had occurred.

Q When he performed that following Sunday morning, you didn't know anything about the situation down here with Jennifer Lockmiller?

A No.

Q Now you had seen him at church I believe briefly the previous Sunday, the 22nd?

A I think I saw him after church. We just scheduled, you know, talked about meeting, you know, Wednesday. You know, I've replayed this tape, you know how that is, over and over in your mind to try to find out. I believe I made some sort of a connection. I was looking through my schedule trying to figure out where I would have been that day. I want to say that I talked to somebody at the house to confirm our appointment that night because I knew that he would be late for the ice cream social, and I don't remember talking about that on Sunday, which was the only other

COUNTY DEFS. INI. R26 002791

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print is right here beside Mike's print. We've not been able to rule out Jennifer because we didn't get the sides. We haven't been able to rule it to be Beaman's. We haven't been able to rule out Swaine.

Q Are there any smudge prints or anything up on the numbers, on the buttons where you set the time?

A There were a ton of smudge prints on the clock. However to get good ones that you can read and that you can match up, these were the six they were able to match up.

BY MR. SOUK: One other thing, let me ask you about the prints. From your investigation, would it be your information that during the term of their relationship up until sometime mid or late June of '93 that Mr. Beaman would have stayed there overnight for sexual purposes or whatever, but that he never lived with Jennifer?

A That's correct. He would stay there over night but he never did actually live with her.

BY MR. SOUK: During this period from mid August up until the murder, had Mr. Swaine actually moved in temporarily?

A Yes, for about a week he was living there. All his stuff was on the top bunk bed in the room, so if

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IN THE CIRCUIT COURT  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
McLEAN COUNTY, BLOOMINGTON, ILLINOIS

THE PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Plaintiff-Respondent, )  
vs. )  
ALAN W. BEAMAN, )  
 )  
Defendant-Petitioner. )

No. 94 CF 476  
**FILED**  
AUG 10 2005  
McLEAN COUNTY  
CIRCUIT CLERK

CONTINUED HEARING ON SECOND VERIFIED AMENDED PETITION FOR  
POST-CONVICTION RELIEF

**TRANSCRIPT OF PROCEEDINGS (VOLUME I)**

BE IT REMEMBERED and CERTIFIED that on, to wit:  
the 14th day of January, 2005, the following proceedings were  
held in the aforesaid cause before The Honorable  
JEFFREY B. FORD, Associate Circuit Judge.

APPEARANCES:

MR. MARK MESSMAN Assistant State's Attorney On behalf of the People	MR. JEFFREY URDANGEN Attorney at Law On behalf of the Defendant
MS. KAREN DANIEL Attorney at Law On behalf of the Defendant	MS. JACQUELINE JOHNSON Pursuant to Supreme Court Rule 711, On behalf of the Defendant

Amy Jennings, CSR, RPR  
Official Court Reporter  
IL CSR No. 084-004135

C04800

Plaintiff's Exhibit No. 5

1 distances. Were there other details that you noted on this  
2 first study?

3 A. Well, there were details about speed limits, the  
4 amount of traffic, and the general area that we were driving  
5 through.

6 Q. At what point did you mark the end of your time  
7 trial?

8 A. The time trial ended once she pulled into the  
9 parking lot at Wal-Mart and parked her vehicle and stopped.

10 Q. And what was the distance that you measured from the  
11 Beaman residence to the Wal-Mart?

12 A. It was 10.6 miles.

13 Q. Was this the same distance you measured for all  
14 three of your trials?

15 A. Yes.

16 Q. And, on this first trial, what was the recorded  
17 drive time?

18 A. Twenty minutes.

19 Q. Directing your attention to the second time trial  
20 you conducted. How did you conduct the second test?

21 A. Actually, the second and third tests I conducted by  
22 myself in my own vehicle. But, again, I recorded details of,  
23 you know, where I was at, at what time, and what the mileage  
24 was on a small tape recorder.

1 impact of it?

2 A. Yes.

3 Q. Now, to revert back to your other question. Alan  
4 Beaman never told you what route he took -- told you, did he?

5 A. I don't recall that he ever did, sir.

6 Q. And yet at the trial you indicated to the jury that  
7 with certainty, with some degree of certainty, that he drove  
8 through the town; did you not?

9 A. I don't recall that I -- and I may be corrected. I  
10 may have to look at the transcript, sir, but I don't recall  
11 telling the jury that Alan drove through town.

12 Q. Okay. Let me read you from the transcript.

13 A. Please do.

14 Q. Tell me if you gave this answer to this question.  
15 This is Mr. Souk asking you a question.

16 "Question: The first slide that we are looking at,  
17 People's Exhibit 70-AX, could you tell us what's depicted on  
18 this slide, Detective?

19 Answer: Yes, sir. That is -- what this is is  
20 basically a blowup of a picture of Rockford out of a road  
21 atlas. Over the top of that I've done an overlay on the  
22 computer which shows the route in yellow that Alan would have  
23 taken from Bell Federal Bank to his residence in Rockford."

24 Did you give that answer to that question?

1 Q. And tell us -- tell the judge what other people you  
2 investigated as to who might have made those calls?

3 A. We did not investigate anybody else who made those  
4 calls.

5 Q. Who else had access to the house other than Mr.  
6 Beaman?

7 A. I have no idea.

8 Q. And Mr. Beaman was at work. You know that from your  
9 investigation, right?

10 A. Yes, Mr. Beaman, Alan's father, was at work.

11 Q. Then tell us the other -- did you -- was this ever  
12 raised in your testimony about somebody else who could have  
13 made those calls?

14 A. I don't believe it was, sir.

15 Q. Did Mr. Souk ever ask you about that?

16 A. I don't believe he did.

17 Q. Did you investigate whether it was plausible or not  
18 for Carol Beaman to have made those phone calls?

19 A. Yes, I did.

20 Q. What did you do?

21 A. I drove the distances from her home to the various  
22 places where she had shopped indicated from the receipts that  
23 she had provided to us after Alan's arrest.

24 Q. And one of the places that you knew she was at was a

1 Q. Really? Take a look at the transcript, sir, and  
2 tell me if it isn't true that you volunteered that information  
3 that there was no video.

4 (Brief pause.)

5 A. I stand corrected, sir. I did volunteer that  
6 answer.

7 Q. (By Mr. Urdangen) Thank you.

8 MR. MESSMAN: Can I ask what page we are looking at?

9 MR. URDANGEN: Same page, 77.

10 Q. (By Mr. Urdangen) But, indeed, you read where you  
11 told the jury that you called about a videotape, correct?

12 A. Yes, I did.

13 Q. Now, did you test the drive time between Carol  
14 Beaman's residence -- Alan's Beaman's residence, forgive me,  
15 and the Wal-Mart?

16 A. Yes, I did.

17 Q. And why did you do this?

18 A. To see about drive times between the residence, to  
19 see if Carol Beaman would have been the person making that  
20 phone call or could have been the person making the phone  
21 call.

22 Q. And what did you determine?

23 A. I, again, would have to look at my police report to  
24 see what the mileages were, sir.

1 Q. Well, how long did it -- did you time the test?  
2 A. Yes, I did.  
3 Q. And how long did it take you to make that drive?  
4 A. Sir, I would have to look at my police report to see  
5 how long that took.  
6 Q. Show you Group No. 5.  
7 A. Yes. From the Beaman residence to Wal-Mart it took  
8 me 15 minutes.  
9 Q. All right. Is that a -- was that a guess by you?  
10 A. No, sir. It would have been the timing on my watch  
11 or stopwatch, whatever mechanism I was using at the time.  
12 Q. All right. Did you give this answer to this  
13 question by Mr. Souk during the trial:  
14 "Question: Well, let's -- did you do some driving  
15 while you were there?  
16 Answer: Yes, sir, I did.  
17 Question: Let's go through that, if you would.  
18 Answer: Okay. I left the Beaman residence at 9:13  
19 a.m. and arrived at Wal-Mart at approximately 9:28 a.m."  
20 Why did you say "approximately"?  
21 A. Probably habit, sir.  
22 Q. Habit?  
23 A. Yes. In --  
24 Q. Wouldn't -- go ahead.

1           A.    In the ten years of my policing, unless you have an  
2 exact number, then you would approximate. And if there is any  
3 way that that number could be off by any smidgen, you would  
4 approximate.

5           Q.    So, was your drive through the city to get between  
6 the bank and the house an approximation?

7           A.    I -- I guess you could say so, because my speed  
8 could have varied. My watch -- I mean, there is any number of  
9 things that could have caused that to be less than an exact  
10 time.

11          Q.    So you feel -- you felt it was important to say  
12 approximately on the Wal-Mart test?

13          A.    Yes, sir.

14          Q.    What was the method of timing on this one?

15          A.    It would have either been my watch or a stopwatch,  
16 sir, and I don't have an independent recollection of which I  
17 would have used.

18          Q.    Do you have a record of that?

19          A.    I don't believe it's in my report.

20          Q.    What route did you take between the Beaman residence  
21 and the Wal-Mart?

22          A.    Sir, from memory, I assume I would have taken the  
23 most direct route. I don't recall as I sit here today exactly  
24 what route I took.

1 Q. Well, you've looked at your report about this just  
2 now, right?

3 A. Yes, I have.

4 Q. Is it in there?

5 A. No, I don't believe the route that I took is in  
6 there. It may have been on the overhead map that we would  
7 have drawn for the courtroom.

8 Q. Well, when you drew the overhead map to use during  
9 the trial, what were you using to draw that map about the  
10 route that you took?

11 A. I don't understand the question, sir.

12 Q. Did you draw a -- did you use an overhead map at  
13 trial to describe the route you drove from the Wal-Mart to the  
14 Beaman -- from the Beaman residence to the Wal-Mart?

15 A. Yes, I did.

16 Q. Who -- who prepared that map?

17 A. I prepared that, sir.

18 Q. Okay. And did you prepare it from?

19 A. It would have been my notes of when I was driving.

20 Q. All right. So you had notes about your route?

21 A. Yes, I did.

22 Q. Where are those notes?

23 A. Those notes were destroyed after they were put into  
24 proper form for the courtroom.

1 into the Wal-Mart store.

2 Q. In your deposition when you said, "Let's go on the  
3 side of error and assume that I didn't get out of the  
4 vehicle," are you talking about going into the parking lot?

5 A. Yes, sir.

6 Q. And that -- that -- were you driving the speed limit  
7 when you made that trip in 15 minutes?

8 A. Sir, unless it's indicated in my report, I do not  
9 recall.

10 Q. Well, you have it up there. Why don't you tell us  
11 if it's in your report.

12 (Brief pause.)

13 A. No, sir, it's not in my report.

14 Q. (By Mr. Urdangen) Thank you. All right, so there  
15 is no notation. How fast did you drive?

16 A. Sir, I don't recall as I sit here today how fast I  
17 drove.

18 Q. Well, was -- was it an important fact how -- whether  
19 or not Carol Beaman could have made it to the Wal-Mart in time  
20 to do her shopping?

21 A. Yes, it is an important fact.

22 Q. Why is that important?

23 A. Because it determines who had the ability to make  
24 those phone calls, sir.

1 store to try to replicate the shopping trip?

2 A. No, sir.

3 Q. You had a receipt with the items that were  
4 purchased, correct?

5 A. I physically -- I did not have that with me. I'd  
6 seen a photocopy of that earlier, and it was in evidence.

7 Q. So when you saw it, you didn't make a copy for your  
8 file?

9 A. I don't think I did. I may have. I don't recall,  
10 sir.

11 Q. Do you think -- would it have been more accurate to  
12 try to replicate the shopping trip?

13 A. Sitting here today, yes. But I could not have  
14 replicated how busy the store would have been on that  
15 particular day, how many people were in the store, how many  
16 lanes would have been opened. So, no, I did not replicate  
17 exactly Carol's shopping experience.

18 Q. What was the date that you went on this time trial?

19 A. This date was January 18th of 1994.

20 Q. And the date in question was August 25th of '93,  
21 right?

22 A. Yes, sir.

23 Q. Did you think that that accurately replicated what  
24 the traffic would have been like going on different dates like

1 that?

2 A. No, sir. I did not assume that traffic would be  
3 exactly the same.

4 Q. Did you -- did you know in your investigation that  
5 this was right before school was going to start, August 25th  
6 of '93?

7 A. School for who, sir?

8 Q. For Carol Beaman?

9 A. Grade school you mean?

10 Q. Yes, Auburn High School?

11 A. Yes, I was aware school would be starting next week.

12 Q. Okay. Did you try to estimate how more or less  
13 crowded the Wal-Mart would be on the day or two before school?

14 A. No, sir, I didn't.

15 Q. Did you go in to look and see how long the lines  
16 were?

17 A. No, sir.

18 Q. Did you do anything to determine how long the  
19 typical credit card processing took?

20 A. No, sir, I don't believe I did.

21 Q. Why not?

22 A. I didn't find it as that crucial to go all the way  
23 in, sir, would be my only guess. I don't -- let me back up.  
24 I don't know why I didn't do it at that time. Sitting here

ALAN W. BEAMAN

1  
2 the Defendant herein, having been called as a witness,  
3 having been first duly sworn on his oath, was examined and  
4 testified as follows, to-wit:

5  
6 DIRECT EXAMINATION.

7  
8 BY MR. BEU:

9  
10 Q Please state your name.

11 A Alan W. Beaman.

12 Q Where do you presently live, Mr. Beaman?

13 A 1003 7th Street in Rockford.

14 Q How long have you lived there?

15 A Since December.

16 Q This past December?

17 A Yes.

18 Q All right. Are you currently employed?

19 A Yes.

20 Q Where?

21 A Gray's IGA.

22 Q What hours are you working at this time?

23 A Currently I'm working -- well, have been working  
24 the day shift in the meat department. I just got switched

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over from working the night shift.

Q Okay. And what is your status at the present time with respect to graduation from Wesleyan?

A I will be graduating in May. I have completed all my requirements, so I'm just waiting to go through ceremony.

Q What will you receive your degree in?

A Technical theater.

Q Okay. In August of 1993, what was your remaining anticipated time to complete your degree?

A A year.

Q Okay, is it correct that you were one class short by the time you finished that next year that you still needed to complete?

A Yes, sir.

Q The last semester that you attended then prior to right now was what semester?

A The last semester was last fall, this past fall.

Q And through December?

A Yes.

Q How soon did you start working again at Gray's IGA at that time?

A Shortly after Christmas.

Q So you were at Wesleyan for like four and a half years?

C05090

1 A Yes.

2 Q Okay. During the period of time that you attended  
3 Illinois Wesleyan, how did you spend the summer in each of  
4 those years?

5 A The first year I believe I went back to Rockford  
6 for the summer and worked out at Starlight Theater as a  
7 technical assistant. And then the second summer I worked  
8 here for the summer program for the first two months of the  
9 summer, and then I went back to Rockford for the last month  
10 and worked for my uncle, and as well as the third summer.  
11 And then the fourth summer I went back to Starlight for the  
12 summer.

13 Q During the -- during the school term while you  
14 were at Wesleyan, did you have on-campus or off-campus  
15 housing, university or non-university housing in each of  
16 those school terms?

17 A I had university housing up through my senior  
18 year, and then the extra semester I stayed I had my own  
19 apartment.

20 Q During the summers when you were here in the  
21 Bloomington/Normal area, what type of housing arrangements  
22 did you have?

23 A Both times I lived at an apartment, 1406 N. East  
24 Street.

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AB018906

APPENDIX 000967

1 Q And you heard the description about that being  
2 like leased by the drama department?  
3 A Correct.  
4 Q Was that the arrangement in each case?  
5 A Yes.  
6 Q What was the number of students involved in the  
7 summer program?  
8 A Fifteen to 20.  
9 Q Okay, but in the unit that you had?  
10 A Oh, in the unit I had, four.  
11 Q Okay. And in each of those summers, did you have  
12 roommates in your apartment?  
13 A Yes.  
14 Q And were there a group of other summer students in  
15 the other apartments each time?  
16 A Yes, they were different places that they had.  
17 Q What, what car were you driving in the period of  
18 August of '93?  
19 A A beat-up '87 Ford Escort.  
20 Q And when had you first begun driving that car as  
21 your regular vehicle?  
22 A I began driving that the summer after my sophomore  
23 year, so summer of '92. Is that right?  
24 Q Who had had it before you?

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AB018907

APPENDIX 000968

1 A My parents.

2 Q After you received that car, where, where did you  
3 have any mechanical work done that the car needed?

4 A Dennison Ford when I was down here. Occasionally  
5 I would take it like to Goodyear or places like that up in  
6 Rockford for whatever, generally for just like fluid changes  
7 and stuff like that there.

8 Q Was there any work on that car that you performed  
9 yourself over the time that you had it?

10 A Changing the oil occasionally.

11 Q Let me show you what I've marked for  
12 identification as Defendant's Exhibits 52 and 52-A thru G  
13 inclusive, and ask you if you can identify those as records  
14 from Dennison Ford?

15 A Yes, sir.

16 Q Do those exhibits, that entire grouping, 52 thru  
17 the group A thru F, I believe -- G, represent each occasion  
18 on which you had the vehicle in to Dennison for service of  
19 any kind?

20 A Yes, sir.

21 Q And is the first sheet in that series of exhibits,  
22 Exhibit 52, is that a computer print-out from Dennison  
23 corresponding with each of the individual itemized invoices?

24 A Yes, it is.

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AB018908

APPENDIX 000969

1 Q Are these invoices in the condition and containing  
2 the same information that they had on each occasion when you  
3 received the invoice from Dennison?

4 A Yes.

5 Q Okay. Did you take the car in on each of the  
6 occasions that it went in for these services?

7 A Sometimes it had to be towed, but on all the other  
8 occasions I drove it in, yes.

9 Q At anytime while you had the use of that vehicle,  
10 did you ever take it anyplace to have any work done that  
11 involved the instrument cluster, or the odometer, or the  
12 cable to the odometer?

13 A No.

14 Q Did you, yourself, ever have occasion to do  
15 anything with it that involved the instrument cluster, like  
16 the odometer or portions of the cable to that cluster?

17 A No, I did not.

18 Q Have you ever had any automotive training?

19 A No.

20 Q Have you had anything even in -- in high school in  
21 connection with automotive servicing or the operation of an  
22 automobile?

23 A No formal training, just tinkering with a Bug I  
24 use to have.

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AB018909

APPENDIX 000970

1 Q By a Bug, you mean a Volkswagen?  
2 A Yes.  
3 Q And what's the most extensive sort of thing that  
4 you did with that Bug?  
5 A I took out the engine, cleaned it all up, and put  
6 it back in.  
7 Q Okay. Do you recall the date in May of '94 when  
8 you were arrested?  
9 A Yes.  
10 Q At the time you were arrested, Alan, where were  
11 you?  
12 A I was on Kilburn Avenue.  
13 Q I'm sorry, May of '94 when you were actually  
14 arrested.  
15 A Oh, when I was arrested here?  
16 Q Yes, right.  
17 A I was in the student center dining commons and  
18 Officer Freesmeyer came up and asked me if I would step  
19 outside with him.  
20 Q Okay. I'm asking you the date, the time, not what  
21 happened.  
22 A May 17th, approximately six o'clock.  
23 Q Okay. And at that time where was your Escort?  
24 A It was in the cabana behind the student center

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APPENDIX 000971

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parking lot.

Q Is that a parking area?

A Yes.

Q How had it gotten to that location?

A I drove it back from Dennison Ford to that location before I went to dinner.

Q Did you ever drive that vehicle again after leaving it there that day?

A No.

Q To the best of your knowledge, has that vehicle been drivable since that day?

A No, it has not.

Q What is your understanding is the mechanical problem with that vehicle?

A Either a cracked head or possible cracked engine block.

Q There's been testimony that during August you had done some work attempting to install a tape deck in your Escort?

A Yes.

Q Did you ever do anything similar to that with any vehicle previously?

A No.

Q Have you done any work about the radio, or tape

C05096

1 deck, or speakers, or anything of that nature in any  
2 vehicle?

3 A No.

4 Q Other than --

5 A Other than that one, no.

6 Q Did you ever get that tape deck installation  
7 completed?

8 A Not really.

9 Q You saw photographs during the trial of wires  
10 coming from the area where the tape deck perhaps should go?

11 A Yes.

12 Q And those pictures were apparently taken in  
13 December of this last year, correct, when they did that  
14 joint examination of the car?

15 A Correct.

16 Q How did those pictures compare with the car in  
17 that part of the car, the tape deck and such, when you last  
18 saw it?

19 A That's how it was.

20 Q Where was the tape deck sitting?

21 A Under the seat.

22 Q And the wires that came back and forth there, did  
23 they somehow connect the battery and the speakers?

24 A Yes.

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APPENDIX 000973

1 Q Okay. How long did it take you to accomplish a  
2 job like that?

3 A Three hours, four hours, it took me awhile.

4 Q Have you had what might be considered technical  
5 training during your lifetime?

6 A Training in the areas of technical theater, yes.

7 Q Did any of that involve taking automobiles on  
8 stage and working on them?

9 A No, sir.

10 Q How about the work you did when you were younger  
11 at Woodward where your father works, what kind of stuff did  
12 you do for them?

13 A That was all assembly line, inspection of a  
14 150,000,000 of the same little-bitty part over and over  
15 again, and in heat-treat I put epoxy on a string and  
16 connected it to another piece and put a stack of those in an  
17 oven. It was fairly simple.

18 Q Okay. On earlier times, I think at the grand  
19 jury, Mr. Souk had asked you about your technical expertise.  
20 Is that about what your technical expertise amounts to,  
21 heat-treat and theater?

22 A Yes.

23 Q What things are generally involved in technical  
24 theater?

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APPENDIX 000974

1           A     Electrics, generally I deal with large cable, and  
2 essentially run cable for lighting instruments and run cable  
3 for sound. It's mostly on a very direct level.

4           Q     What do you mean by that?

5           A     All I do is set things up. If something is broken  
6 beyond repair, we generally send in the light boards and the  
7 sound boards and things like that, somebody else to repair  
8 them. All I really deal with is basically electricity.

9           Q     Okay. Besides the electrical, what type of  
10 technical theater are you trained in?

11          A     Carpentry.

12          Q     Anything beyond that?

13          A     I design both lighting and scenery as well.

14          Q     Okay. Carpentry, making set fixtures and that  
15 sort of thing you mean?

16          A     Yes, and furniture.

17          Q     How about general stage work, getting things set  
18 up so they'll lift up and down off a stage, and things like  
19 that, are you --

20          A     Yes.

21          Q     -- are you trained at that?

22          A     Yes.

23          Q     What did that fall under?

24          A     Rigging.

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AB018914

APPENDIX 000975

1 Q So basically at this period of time between  
2 Starlight and Wesleyan, and the summer program at Wesleyan,  
3 you have had a lot of training in technical aspects of  
4 theater, correct?

5 A Yes, sir.

6 Q Have you also had formal training in the  
7 performing side of theater?

8 A Somewhat, yes.

9 Q To what extent?

10 A I took all the required acting classes for the  
11 theater major at Wesleyan and nothing further --

12 Q What --

13 A -- beyond those.

14 Q What numbered courses were those, if you recall?

15 A Beginning acting is two semesters, or was at the  
16 time when I was a freshman. And then I also took advanced  
17 scene and character study, which was also required. That  
18 was with Dr. Vitka. And then I had begun to take classical  
19 acting at one point -- it was actually during this  
20 investigation -- and I dropped that class.

21 Q Is that the extent of the actual live drama  
22 performing classes that you had taken?

23 A Yes.

24 Q Okay. In any of your work at Starlight or the

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1 summer program at Wesleyan theater, did you ever have acting  
2 roles?  
3 A Yes.  
4 Q How many times?  
5 A Several times, mostly just dancing and singing.  
6 Q Okay, that's what was going to be my next  
7 question. Were you doing what most of us might think of as  
8 an acting role, or what might be called a song and dance  
9 role?  
10 A Chorus, yes.  
11 Q Okay. You ever play the lead in a role where you  
12 had all the speaking parts and that kind of stuff?  
13 A In high school.  
14 Q That the only time, though?  
15 A Yes.  
16 Q Okay. What musical performing are you qualified  
17 to do?  
18 A I play saxophone, several different saxophones  
19 from soprano to baritone, and I play guitar fairly well,  
20 rhythm guitar only, and I sing.  
21 Q How long have you been doing either of those  
22 instrumental or vocal performing?  
23 A I have been singing since I can remember. I've  
24 been playing -- I started playing saxophone in sixth grade,

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APPENDIX 000977

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and I started playing guitar the sophomore year of college.

Q Have you ever performed with a formal group of any type?

A Yes.

Q Here, or Rockford, or where?

A In high school, yes.

Q Okay. What, what type of group did you have?

A I played in the Auburn High School jazz band. I played in the marching band at Auburn also. Throughout high school tried to start a few bands beyond what one would consider -- well, a few rock bands per se, but never really got off the ground with that.

Q Did you ever work with a group that actually performed for pay?

A No.

Q Going back to your '87 Escort, Alan, during the time that you drove that car from like June of '92, I guess, through May of '94, did you ever notice anything visibly wrong with the operation of either the odometer or the speedometer on that car?

A No.

Q Ever have occasion to notice the needle on the speedometer jumping around or anything like that?

A No.

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Q Anything ever appear out of line to you in terms of accumulating mileage on the car?

A No.

Q When did you first meet Jennifer Lockmiller?

A I believe it's actually the winter of '92, spring semester, though.

Q At that time, what school was she attending?

A Illinois Wesleyan.

Q What year in school were you at that time?

A I was a sophomore.

Q She was what?

A I believe she was a junior.

Q What period of time did she continue attending Wesleyan following the time you first met?

A Throughout the rest of that school year.

Q And then what did she do with respect to schooling after that?

A Transferred to ISU the following summer, I guess.

Q Was that the very next school term she was enrolled at ISU?

A Yes.

Q After you and she had met for a period of time, was there a point in time where you began dating?

A Yes.

C05103

1 Q When was that?  
2 A July 2nd of that summer.  
3 Q Of which year is that now?  
4 A '92.  
5 Q So then from the time of your meeting it would  
6 have been the early '92 'til winter and into spring, and  
7 then into that summer I take it?  
8 A Yes.  
9 Q Okay. Were you living on campus at the time?  
10 A Yes.  
11 Q She was living on campus at the time?  
12 A As far as I knew, yes.  
13 Q And what year were you in school at that time  
14 then? In '92 when you started in the fall, what class were  
15 you?  
16 A '92 fall my sophomore year, or are you talking  
17 about --  
18 Q I asked you a very confusing question.  
19 A I'm sorry.  
20 Q Okay, July of '92 was the summer season, correct?  
21 A Right.  
22 Q Between what year of your schooling?  
23 A That's between my sophomore and my junior, yes.  
24 Q So that would have been between what years of her

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APPENDIX 000980

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schooling?

A Junior and senior.

Q Okay. Again, she was like one year ahead of you?

A Half a year ahead of me. I believe she took a semester off --

Q Okay --

A -- at one point there.

Q All right. What was the year that you first enrolled in Wesleyan?

A '90/'91.

Q So the fall of 1990?

A Yes.

Q How long did you continue to have a dating relationship with Jennifer?

A Approximately a year.

Q During any of that period of time, did your relationship ever reach a point where you considered yourself engaged?

A Yes, it did.

Q And at what point was that?

A That was late October.

Q Of '92?

A Yes.

Q How long a period of time did that last?

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A That was on and off right with the relationship throughout until the end of the relationship.

Q Was there ever an exchange of rings?

A Yes.

Q Describe the rings.

A I originally gave her a ring of braided hair, my own hair, in line with a Celtic tradition, and she gave me a ring that was three rings on a central hinge that pulled together with each of the -- each of the two outer rings having a hand grasped over the center ring which had a heart. And at one point the braided hair ring wasn't staying together too well, and so she didn't want to wear it, and so she put it somewhere in the bathroom, and I bought her a ring at Mother Murphy's.

Q You bought her what?

A I bought her a ring at Mother Murphy's.

Q And what type of -- what's Mother Murphy's?

A It's a head shop in downtown Normal.

Q Did she wear that braided ring for any period of time?

A For about a month.

Q How long did it take before it started to disintegrate?

A It was disintegrating as she wore it.

C05106

1 Q Who made that ring?  
2 A Amy Krehbiel helped me make it.  
3 Q What happened to the ring that you received from  
4 Jennifer?  
5 A I threw it in the Rock River on August 5th.  
6 Q On which?  
7 A August 5th.  
8 Q August 5th of what year?  
9 A '93.  
10 Q That was the day after you'd gotten back from  
11 Cincinnati?  
12 A Yes, sir.  
13 Q That's the river that goes directly through  
14 downtown Rockford?  
15 A Yes.  
16 MR. BEU: May we approach, your Honor?  
17 THE COURT: You may.  
18 Off the record.  
19  
20 (WHEREUPON A DISCUSSION WAS HAD AT THE  
21 BENCH OFF THE RECORD.)  
22  
23 THE COURT: Witness may step down. Ladies and  
24 gentlemen, we're going to recess this hearing now until 1:30

C05107

1 this afternoon. I'm going to ask that the bailiffs take  
2 charge of the jury. If you would leave your notebooks where  
3 they are. If you need any additional papers, before we  
4 resume the afternoon session I'm going to ask that you bring  
5 that in with you before we start that session. If the jury  
6 would please stand and exit with the bailiffs.

7  
8 (WHEREUPON THE JURY LEFT THE COURTROOM  
9 AND THE FOLLOWING WAS HAD:)

10  
11 THE COURT: All right, for the record, the jury has  
12 removed itself from the courtroom and the court is now in  
13 recess.

14  
15 (WHEREUPON THE LUNCH RECESS WAS HAD.)

16  
17 THE COURT: All right, back on the record in 94-CF-476.  
18 Counsel and the defendant return to open court. The jury is  
19 presently outside of the courtroom.

20 Mr. Beu, are you ready to proceed with your  
21 evidence?

22 MR. BEU: Yes, your Honor.

23 THE COURT: Mr. Souk?

24 MR. SOUK: Yes, judge.

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THE COURT: All right, call the jury back in.

(WHEREUPON THE JURY ENTERED THE COURTROOM  
AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, the jury has now  
returned to the courtroom. Mr. Beu, you may proceed.

MR. BEU: Yes.

Mr. Beaman, will you take the stand?

THE COURT: Just resume the witness stand, and you are  
still under oath.

A Yes, sir.

Q (By Mr. Beu) Alan, over the approximate year,  
slightly more or less, that you were dating Jennifer  
Lockmiller, would you please identify for us those points in  
time in that relationship which stand out most in your mind?  
Just kind of highlight them for us, and then we'll go back  
into them some.

A In what context, I guess?

Q Well, any portions or points of time, significant  
points, during that relationship which stand out to you.

A Okay. As we first began dating, throughout the  
month of July, it stands out simply because we had a  
particularly good relationship during that time, probably

C05109

1 the only time throughout the entire relationship where we  
2 were happy together. There was a time in early October  
3 where there were extreme difficulties due to a lack of  
4 communication about a miscarriage that took place that I was  
5 not informed of until well after the fact.

6 Q Talking about October of 1992?

7 A Yes.

8 Q And that was something of which you were  
9 ultimately made aware of by whom?

10 A By Jennifer.

11 Q Who had the miscarriage as you understood it?

12 A She did.

13 Q When were you ultimately made aware by her of  
14 that?

15 A When, at one point where I could not deal with the  
16 psychological implications of that miscarriage upon her  
17 behavior in the relationship, I decided to leave her and  
18 then I was informed, and it was held against me consistently  
19 from then on.

20 Q When was it then that you became aware or made  
21 aware of that miscarriage?

22 A Late/middle October, I guess.

23 Q To the best of what you were told, when had that  
24 miscarriage occurred?

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C05110

AB018925

APPENDIX 000986

1 A Right at the beginning of October.

2 Q During some period of time prior to you being made  
3 aware of this miscarriage, you've indicated there were  
4 tensions. When did that period of tensions start as near as  
5 you could relate it back?

6 A Right after I got back to school, so September.

7 Q So late September through October?

8 A Yes.

9 Q And that was what, an emotional period, would you  
10 say, in your relationship?

11 A Yes.

12 Q Any other particular noteworthy points in time in  
13 your relationship that stand out to you now?

14 A June of '93.

15 Q And what was significant about June of '93?

16 A I had come back from a trip to Rockford and  
17 immediately was notified by Jennifer that some friends of  
18 mine would be saying things about her that weren't true, or  
19 were out to get her.

20 Q And did you come to understand what it was that  
21 you were, according to her, to be hearing?

22 A Yes.

23 Q What was that?

24 A That she and Michael Swaine had had relations

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APPENDIX 000987

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while I was gone.

Q Was that the first point in time that you had any knowledge of a relationship developing or having developed between Jennifer and Swaine?

A Yes.

Q During earlier stages of your relationship with her, starting with June of '92 -- July, I'm sorry, had there been a point in time when you had taken a -- a European trip?

A That was during January of '93.

Q January of '93?

A Yes.

Q Okay. In connection with that, what was the circumstances of that trip? Where did you go?

A I went to London.

Q With a group?

A Yes.

Q From where?

A From Wesleyan, a theater class --

Q Okay --

A -- as it were.

Q Was Jennifer aware of that before you went?

A Yes.

Q And aware of it while you were there?

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A Yes.

Q Did anything come up between the two of you arising out of the fact that you were going on that European trip?

A Yes, she was extremely upset that I was going, was worried about the possibility of my meeting somebody in London, or having, as I've said, relations with somebody else.

Q Going back to the September/October of '92 period, where you have described this series of things concerning a miscarriage, what were the basic emotional things that had come either direction, either from you or from her, during that period of time?

A As far as she was concerned it was jealousy, and on my part sheer confusion as to why.

Q How were either you treating her or she treating you during that period of time in general arising out of that miscarriage situation?

A I felt that I was treating her well. I hadn't seen anything in my own actions to deserve the reactions I was getting from her.

Q Which were?

A Throwing things at me, screaming at me, accusing me of cheating on her, accusing me of not caring about her.

C05113

1 Q Did you, at that time, before you were made aware  
2 of this miscarriage, have any knowledge of any circumstances  
3 causing her to be emotional at that time?  
4 A No, I did not.  
5 Q When you did determine or learn from her that  
6 she'd had this miscarriage, did that tend, in your mind, to  
7 make that period of time more understandable?  
8 A Yes, it did.  
9 Q Was it your understanding that she was in some way  
10 reacting as you had somehow let her down and weren't more  
11 supportive of her, and you didn't know why she needed more  
12 support?  
13 A That's correct.  
14 Q Were there any circumstances during that  
15 September/October, '92 period where she had cause to be  
16 jealous of you?  
17 A Somewhat, I suppose.  
18 Q In what way?  
19 A During that time, where I did not understand why I  
20 was being treated that way, I broke up with her and sought  
21 companionship from a friend.  
22 Q Who was?  
23 A Meredith Haynes.  
24 Q And how long did any type of relationship with

C05114

1 Meredith last at that point?

2 A A day, we talked.

3 Q And did you get any specific feedback from  
4 Jennifer concerning yourself and Meredith?

5 A Yes, all the time until the end of the  
6 relationship.

7 Q From what you recall, how long was there an  
8 aftermath that was noticeable in your relationship with  
9 Jennifer arising out of circumstances of that miscarriage?

10 A Until June 11th.

11 Q So you feel that that kind of hung in all the way  
12 along?

13 A Yes, it did.

14 Q From what you can recall, which of you did that  
15 seem to affect more in the long run in terms of the  
16 relationship?

17 A What do you mean? I'm sorry --

18 Q Well, did -- in the way in which it continued to  
19 affect the relationship, did it affect, as you saw it, the  
20 way she treated you or the way you treated her?

21 A It affected mostly the way she treated me.

22 Q And which was?

23 A Consistent jealousy.

24 Q Okay. At some point, according to earlier

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APPENDIX 000991

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testimony, the two of you had become engaged?

A Yes.

Q Was that one of the points that was significant looking back over the relationship?

A Yes.

Q And that again was effective when?

A Late October.

Q By the time of the engagement, had she made you aware of the miscarriage situation?

A Yes.

Q So that was at least an understood situation at that time?

A I wouldn't necessarily call it completely understood, but understood that the act -- the occasion had happened, yes.

Q Okay. It's safe to say, isn't it, Alan, that you had a very strong attraction for Jennifer?

A Yes.

Q And were in love with her?

A Yes.

Q And if you had not had those feelings for her, is it likely you would have stayed in that relationship?

A Definitely not.

Q When the police officers made their crime scene

C05116

1 investigation they found a number of things apparently under  
2 Jen's bed that she had retained that had been identified  
3 apparently as communications in writing from you to her.  
4 And I don't think I have these numbered straightly --  
5 completely in order here. They're numbered, I believe,  
6 People's Exhibit 41-B-1 thru -24, I believe. May I, your  
7 Honor?

8 THE COURT: You may.

9 Q (By Mr. Beu) I'm going to hand you that sheet of  
10 letters, Alan, and ask you, first of all, you've seen those  
11 during the course of the investigation and in preparation  
12 for the trial, haven't you?

13 A Yes, I have.

14 Q Are those, in fact, each letters that you had  
15 written to Jennifer at one point or another?

16 A Yes, they are.

17 Q From looking back through the period of the  
18 relationship, is it possible for you to at least  
19 approximately place those in some sequence by date, or at  
20 least indicate approximately when they were written by you?  
21 The answer to that would be yes or no.

22 A Yes.

23 Q Okay. Let me ask you this, can you, first of all,  
24 separate from that entire packet each of those letters that,

1 to the best of your recollection, was written sometime  
2 during 1993?

3 A These two.

4 Q You've separated out People's Exhibits 4-B-17 and  
5 4-B-20?

6 A Yes.

7 Q 4-B-17 appears to be, 4-B-17, 18 and 19 actually.  
8 It's three pages. Are those successive pages of one letter?

9 A Yes.

10 Q And then 4-B-20, is that a separate communication?

11 A Yes.

12 Q As clearly as you have been able to recall, are  
13 those the only two out of that entire packet of documents  
14 that were written by you during 1993?

15 A Yes.

16 Q Is the corollary true then that the rest of those  
17 documents were all written by you at some time during 1992?

18 A Yes.

19 Q What's the earliest point in time that any of  
20 those documents in 1992 would have been written?

21 A Would have been August.

22 Q What is the latest point in time that those 1992  
23 documents were written to the best of your recollection?

24 A Most of these -- most of these have to do with

1668.

C05118

AB018933

APPENDIX 000994

1 August while I was back in Rockford during the summer of  
2 '92.

3 Q During -- of those '92 documents, were all of them  
4 mailed, or were some of them hand delivered, or what?

5 A Some of them were hand delivered, yes. Most of  
6 them were mailed. I really only wrote to her when I was out  
7 of town, or when there was something that she wanted me to  
8 communicate that I could not necessarily speak to her for  
9 one reason or another.

10 Q Okay. So you say from Rockford, '92, August. Was  
11 that a period, had you been in the summer theater here?

12 A Yes.

13 Q And you were back in Rockford at that point --

14 A Yes.

15 Q -- ending the summer during August?

16 A Hm-mmm.

17 Q And then returned at the start of the semester?

18 A Right.

19 Q Okay. What period of time would you say in your  
20 relationship was the most generally romantic in the sense  
21 that we -- most of us would think of it?

22 A July.

23 Q And then you were gone basically in August?

24 A Hm-mmm, yes.

1669

C05119

AB018934

1 Q Had there been anything happening by the time you  
2 returned to Rockford in August that took the edge off the  
3 earlier relationship?

4 A Yes.

5 Q What was that?

6 A Stacey Gates, Bubba, had gotten a hold of her  
7 sometime at -- in the end of July, right before I went back,  
8 said that he was getting a job in Pontiac coaching, I  
9 believe, and would need a place to stay for a couple of  
10 weeks until he got an apartment.

11 Q Where, how, from whom had you learned these things  
12 about Stacey Gates' plans?

13 A Jennifer.

14 Q Go ahead.

15 A She told me about it.

16 Q Is that mentioned in some of the communications  
17 that you wrote to her in that period of '92?

18 A Yes, I believe so. Yes.

19 Q Is there reference in any of those '92 letters to  
20 the circumstances of the miscarriage that you've described?

21 A Yes.

22 Q Would you identify by exhibit number, Alan, the  
23 ones that you have located there that have references to  
24 that miscarriage situation?

1670

C05120

AB018935

1 A People's Exhibit 4-B-22 and 21.  
2 Q Are those two separate letters?  
3 A Yes.  
4 Q Okay, and how many did you find that referred to  
5 the incident with Bubba that you've described?  
6 A Depends on if we're going by exhibit numbers or  
7 actual letters.  
8 Q Hand me what you find that does refer to Bubba,  
9 and we'll see if we can keep it straight.  
10 A I'm not necessarily directing it to him, but to  
11 the time to which she was staying with him -- or he was  
12 staying with her rather.  
13 Q Each of these separate pages are separately  
14 numbered as exhibits, right?  
15 A Correct.  
16 Q And you've handed me 4-B-1, 2, 3, 4, 5, 9, 10, 11,  
17 12, 13, 14, 15, 16 and 23. That's a lot of pages. Can you  
18 identify how many of those, how many separate communications  
19 or letters those represent, that there are some pages that  
20 aren't associated together that are a single communication?  
21 A There are four separate communications being --  
22 one being two pages, one being one page long.  
23 Q Let me make the record clear. The one-page long  
24 letter, 4-B-23?

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A Yes.

Q The two-page long letter you've pulled out is 4-B-4 and 5?

A Yes.

Q And then another multi-page letter, 4-B-9 thru 4-B-16 inclusive?

A Yes.

Q 4-B-1, 2, and 3?

A Yes.

Q Okay. And from looking back at those, those letters refer either directly or indirectly to the circumstances arising out of the plan that you mentioned, and the fact that Bubba was staying with her for a period of time?

A Yes.

Q Are there any other particularly noticeable references in these letters to points in time in the relationship that stand out to you?

A Just these, or all of them?

Q Any of them.

A Here, "I never wanted to hurt you"; referring to leaving her during the miscarriage, not having knowledge to

--

Q Which letter, which number are you referring to?

1672

C05122

AB018937

1 A That would be 4-B-22.  
2 Q One of the '92 letters?  
3 A Yes.  
4 Q Okay.  
5 A And then, "I love you. I'm sorry that I've been  
6 such an ass lately," also referring to the fact that I left  
7 her during the time in which she needed me.  
8 Q Which time was that?  
9 A The miscarriage.  
10 Q Okay. What was that last reference, the page or  
11 the exhibit number?  
12 A 4-B-21.  
13 Q All right. Any others that you found looking  
14 through that refer to specific points in your relationship?  
15 A Yes -- I mean, all of them do to some degree.  
16 Q Okay. All right, referring to the two that were  
17 written by you in '93 --  
18 A Hm-mm.  
19 Q -- which is the earlier of those two?  
20 A People's Exhibit 4-B-17 would be the earlier of  
21 these two.  
22 Q How many pages? There's multiple pages there.  
23 A Yes, it's three pages. Only on the front.  
24 Q Only one number? I think they're all separately

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APPENDIX 000999

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numbered, aren't they?

A Yeah, 4-B-17, 18 and 19, sorry.

Q Can you tell by looking at that and by thinking back at what point during '93 that letter was written?

A This was written sometime after spring break. There's a reference to going to Starved Rock. Essentially the purpose of this letter was in an attempt to communicate that I didn't feel that we needed to hound on past difficulties at that stage, and that maybe we should find some sort of compromise if we were going to continue together.

Q Spring break was when in '93?

A Late March, that's as specific as I could be about that.

Q Okay. And the other letter in '93, the '93 letter?

A The other letter could have been as late as the beginning of that summer of '93. My recollection is that this was mailed.

Q Now the exhibit number that you're holding and referring to right now is what?

A 4-B-20. It says, "P.S.," at the bottom, "Enclosed is a picture of me and a humorous article." I wouldn't have used an envelope if I was giving it to her by hand.

1674

C05124

AB018939

1 Q So that last one you recall, or you're just  
2 inferring from those circumstances, that you mailed it to  
3 her?

4 A I suppose I'm inferring, yes.

5 Q Okay. Can you tell for sure about the one from  
6 March, the earlier one in '93?

7 A I can't be certain. I drew a little picture as a  
8 pair of lips, "I don't wear lipstick, sorry," the way she  
9 blotted her lipstick on her letters to me. But I do recall  
10 giving this to her the day after talking to her on the  
11 telephone about our relationship, and her asking me to  
12 communicate my feelings with more clarity, and so I chose to  
13 wrote them down -- write them down. So this was probably  
14 hand delivered, but --

15 Q That's the one from March of '93?

16 A Yes.

17 Q Okay. Were you aware over the period of time that  
18 Jennifer was keeping these letters of yours?

19 A No, I was not.

20 Q When were you first aware that she had retained  
21 your letters?

22 A When I believe Tim Freesmeyer told me that he had  
23 my letters.

24 Q Okay. Over the period of your relationship was

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this the extent of letters you'd written to her, or was there more written communication from you to her?

A There may have been one or two more, but this is about it, I would say.

Q Had she, from time to time, also during that period of time written letters to you?

A Yes.

Q Had you retained her letters?

A No.

Q Had you retained them for any period of time to speak of?

A Yes, I did. I also threw them away at the beginning of August.

Q At the beginning of where?

A August of '93.

Q During the course of your period of time dating her, did the two of you have occasion to go to some friends' wedding in May of '93?

A Yes, we did.

Q Who got married at that time?

A Michael and Trisha Mackey.

Q Where was that wedding?

A That was in Morton, Illinois.

Q Roughly how far from here?

1           A    I don't know, approximately half an hour.

2           Q    Were either of you -- did either of you have a

3 formal role in the wedding?

4           A    I was standing up for the groom.

5           Q    Did you and Jen attend that wedding together?

6           A    Yes.

7           Q    At that time, at the time of the wedding, let's

8 say leading up to it, what had been the recent state of your

9 relationship?

10          A    The night before we had had an argument about

11 whether or not I was going to dance with the respective

12 bridemaid that I was supposed to dance with. Other than

13 that, we had been in fairly decent shape at that time.

14          Q    Did you wind up being photographed in some

15 snapshots during the course of that wedding?

16          A    Yes.

17          MR. BEU: Could we have the lights now, your Honor?

18          Q    (By Mr. Beu) Alan, I'm going to show you what is

19 marked for identification as Defendant's Exhibits 24, 25,

20 and 26, first of all, which are photographs, and ask you if,

21 first of all, if you can identify when those photos were

22 taken?

23          A    These were all taken at the wedding.

24          Q    The Mackey wedding?

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APPENDIX 001003

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A The first one --

Q I'll get to each one of them one at a time.

However, they were all taken at that wedding?

A Yes.

Q And in each case do they accurately show the --  
the persons and surroundings at the time the pictures were  
taken?

A Yes.

Q Referring you now, individually show you  
Defendant's Exhibit No. 24, which is also -- well, let's  
see, Defendant's Exhibit 24, which is a slide that I'm  
showing here, 24-X, and ask you who is portrayed in that  
photograph?

A That is myself, Jennifer, and Everett Fitzgerald,  
Michael's grandfather.

Q Michael whose grandfather?

A Michael Mackey.

Q Okay. And then I show you what's identified as  
Defendant's Exhibit 25, and a slide 25-X, and ask you what  
event is being portrayed specifically in that wedding?

A This is --

Q In that picture.

A This is the tossing of the bouquet.

Q Could you step down for a moment please? Would

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APPENDIX 001005

1 you go to the screen with that pointer for us, Alan, and  
2 would you, first of all, indicate, are you -- are you in  
3 that picture?

4 A Yes, I am.

5 Q Can you point yourself out?

6 A (Witness so pointed.)

7 Q So you're there with no jacket at that point,  
8 correct?

9 A Right.

10 Q Okay. Is Jennifer in that picture?

11 A Yes, she is.

12 Q Could you point her out please?

13 A (Witness so pointed.)

14 Q In the red dress?

15 A Yes.

16 Q Okay. Is she wearing the shoes she wore  
17 throughout that entire wedding?

18 A Yes, she is.

19 Q Is that the same shoes that she wore when you were  
20 standing next to her in the picture with the grandfather?

21 A Yes.

22 Q Okay, you may go back and have a seat.

23 Show you Defendant's Exhibit 26, also correlated  
24 with Defendant's Exhibit 26-X, being a slide, and ask you is

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that yourself and Jennifer?

A Yes.

Q As far as you recall, was she wearing shoes in that picture?

A I believe so.

Q As far as you can recall, were you wearing shoes in that picture?

A Yes.

Q Does that accurately show, in that picture, the respective heights of the two of you with respect to each other?

A Yes.

Q Looking at the length of your hair in this picture, is that the length of your hair approximately as it was say in August of '93?

A It was shorter in August.

Q By roughly how much?

A Closer up to my shoulders. Jennifer and Swaine had cut it for me that summer.

Q Okay. Still down at least, if not past, shoulder length, was it?

A Yes.

Q Okay. How about Jennifer, was her hair style approximately the same in July generally as it was at this

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picture in May?

A Yes.

Q Okay. Then I'll show you -- excuse me, one minute, your Honor.

THE COURT: Do you need lights?

MR. BEU: Well, I didn't think so. There it is. I need to move a page of yellow paper off of my exhibits.

Q (By Mr. Beu) Alan, I'll show you Defendant's Exhibit 23 which correlates with slide 23-X on the screen. Who is in that picture?

A That's myself and my grandmother.

Q And do you recall when that picture was taken?

A That picture was taken in August of '93 when my grandparents came to visit shortly after I was stopped by the police.

Q How long were your grandparents visiting with you at that time?

A They got there that Saturday, and I'm not certain exactly how long they stayed, but it was -- they were still there, I believe, when I left for school.

Q So that was a period of how long? When did you go back to school?

A A week and a half to two weeks.

Q I take it sometime during that period in other

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words?

A Yes.

Q Is your hair, to the extent that you can see it in this picture, approximately the same as it had been throughout the month of August?

A Yes.

Q How about facial hair, had you had facial hair to speak of during the month of August to the best you recall?

A Facial hair for me kind of comes and go with whether or not I'm too lazy to shave. I've never ever had any actually specifically groomed facial hair, but it might have been stubbly during certain occasions.

Q Does this picture accurately show you and your grandmother at the time this picture was taken?

A Yes.

MR. BEU: We can have that turned off again now, and the lights back on, I would say.

Q (By Mr. Beu) Alan, over the period of time of your relationship with -- with Jennifer, did your relationship involve sexual relations?

A Yes, it did.

Q Including intercourse?

A Yes.

Q Over the period of your relationship where --

C05133

1 where did intercourse between the two of you occur?

2 A Several places; in her bedroom, in her living  
3 room, in my room at Wallis, on the quad of Wesleyan campus,  
4 Funks Grove, behind her building outside, I couldn't begin  
5 to recall everything.

6 Q Now, did occasions of intercourse occur at your  
7 apartment during the summer of '93?

8 A Yes.

9 Q Now in -- in Jen's apartment was there a part of  
10 the apartment where you would normally have sexual relations  
11 if you were there for that purpose?

12 A Normally in the bedroom.

13 Q Okay. And what prompted using the living room,  
14 for example?

15 MR. SOUK: Judge, may we approach?

16 THE COURT: You may.

17  
18 (WHEREUPON A DISCUSSION WAS HAD AT THE  
19 BENCH AS FOLLOWS:)

20  
21 MR. SOUK: If he wants to say where he was and what he  
22 was touching and that sort of thing, I don't think we need  
23 to get into what between them prompted this sexual act and  
24 that sexual act, if that is where --

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APPENDIX 001010

1 MR. BEU: I'm going into some --

2 THE COURT: I'm not sure I understand what that  
3 question was either. Maybe you could reask your question,  
4 instead of what prompted that --

5 MR. BEU: Got you.

6  
7 (WHEREUPON THE FOLLOWING PROCEEDINGS WERE  
8 HAD IN THE PRESENCE OF THE JURY:)

9  
10 THE COURT: Did you want to reask your question?

11 MR. BEU: I'll ask a somewhat more direct question,  
12 your Honor.

13 THE COURT: All right.

14 Q (By Mr. Beu) Alan, you're familiar with  
15 Jennifer's clock radio?

16 A Yes.

17 Q In what room of the -- her apartment was that  
18 normally kept?

19 A It moved back and forth between the bedroom and  
20 living room.

21 Q And for what purposes, under what circumstances?

22 A Many times we would take both of the mattresses  
23 off of the bottom bunk and put them in the living room and  
24 move the alarm clock out there as well and sleep there for

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APPENDIX 001011

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the night.

Q Why?

A To have a double bed.

Q On occasion when that happened, did you have occasion to move the alarm clock, or did she move it?

A Yes, I had the occasion to move the alarm clock.

Q Had you used her alarm clock or clock radio on occasions besides those, when you moved it back and forth from one room to another?

A Many times to get up for class.

Q Are you familiar with the typical bed coverings that Jennifer owned that she had on either the lower bunk or the single twin bed in her bedroom?

A Yes.

Q When, when you and she had sexual intercourse in her bedroom, did you consistently use one particular one of those beds, or did it vary?

A It varied.

Q Is it accurate that at one time or another you and she had sexual intercourse on each of those beds?

A Yes.

Q At least the bottom of the bunk beds --

A Yes.

Q -- and the one twin? As nearly as you can

C05136

1 presently remember, when is the last time that you and  
2 Jennifer had intercourse?

3 A It would have been sometime in the earlier part of  
4 July.

5 Q '93?

6 A Yes.

7 Q That last occurred where?

8 A In my apartment.

9 Q When is the last time, to your best recollection,  
10 that you and she had intercourse in her apartment?

11 A The end of June.

12 Q Of '93?

13 A Yes.

14 Q Alan, do you recall an incident in December of '92  
15 when the police were called and you had swallowed some  
16 fingernail polish remover?

17 A Yes.

18 Q Tell us, first of all, where were you at the time  
19 that the police came?

20 A I was in between the bathroom and the bedroom.

21 Q Which apartment?

22 A Her apartment.

23 Q Okay. What had precipitated the drinking of that  
24 fingernail polish remover?

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A I was trying to get her to pipe down.

Q What was going on?

A She was yelling at me and screaming at me about Meredith. She was angry at me.

Q How long earlier had it been that you had had that brief contact with Meredith during that turmoil over the miscarriage?

A Several months.

Q Was this the only time after you became aware of her miscarriage that -- that she became this emotional still towards you about that?

A Certainly not.

Q What, what was there about this incident that prompted you to do something drastic as drinking fingernail polish remover?

A I was just tired of it. I was being hounded in front of my face for apparently no reason at that time. Meredith had started going out with my friend, Don Jones, and so I wasn't allowed to hang out with my friend, Don Jones, anymore. And so when I did, I would get yelled at about that. And so finally I just --

Q In your mind, at that time, what was drinking fingernail polish remover accomplishing?

A To get her off of me, and instead discover whether

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1 or not -- whether she would actually be concerned.

2 Q Did you have any idea or any past experience to  
3 indicate what effect that might have on you?

4 A I felt that it might kill me, but I also knew that  
5 if I didn't drink that much of it that I would probably just  
6 throw it back up.

7 Q What did happen to you physically as a result of  
8 drinking this?

9 A I vomited.

10 Q Once, more often than once?

11 A Several times violently.

12 Q Within what span of time?

13 A A few minutes.

14 Q What physical condition were you in generally when  
15 the police officer arrived?

16 A Dazed.

17 Q Do you recall the police being called to Jen's  
18 apartment in -- on June 29th of '93 concerning a report of a  
19 pill overdose?

20 A Yes.

21 Q Tell us what happened on that occasion.

22 A She called me at my apartment, presumably from her  
23 apartment, and stated that she had had enough of our  
24 relationship as well, and that if we couldn't work things

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AB018954

1 out she was just going to end it all. Stated that she had  
2 taken some pills, and that she would be going to sleep  
3 forever.

4 Q About what time of day was that call?

5 A That was late at night, early in the morning.

6 Q What did you do?

7 A I called 9-1-1.

8 Q After that, what did you do?

9 A I went to her apartment, where they told me to  
10 meet them, and waited for them to arrive. I think they  
11 might have already been there when I got there.

12 Q At any rate you and the rescue people showed up  
13 close to each other?

14 A Yes.

15 Q Did you go inside?

16 A I'm not certain if I went inside until after they  
17 had talked to her.

18 Q Did you have a conversation with the police or  
19 rescue people there at that time?

20 A I -- yes, I did.

21 Q And did you describe to them why you were there  
22 and why you had called?

23 A Right.

24 Q Do you recall any details about what was going on

1 in your relationship at about that time prior to that?

2 A That was after the time at which Michael Swaine  
3 had told me that he and Jennifer had had -- well, what he  
4 told me was that they had made out on the couch in our  
5 apartment, and she -- and I had been confronting her with  
6 that, and she had been denying it, and so I believe that was  
7 right about the time of our break-up. But the break-up  
8 didn't happen until after that completely, I guess.

9 Q Okay. Was the relationship in the process of a  
10 final break-up at that point?

11 A Slowly dying, yes.

12 Q When, from your standpoint, do you consider that  
13 you had mutually terminated this relationship?

14 A When I left for Cincinnati.

15 Q And that was that Sunday that's been described,  
16 the 25th of July, something like that?

17 A Yes.

18 Q Can you identify from your recollection at this  
19 time the final significant event which led to that final  
20 break-up?

21 A I had reason to believe that Swaine was not  
22 telling me everything. I certainly had reason to believe  
23 that Jennifer was not, because she wouldn't even tell me  
24 what Swaine would tell me. And so I decided, well, I'd

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APPENDIX 001017

1 better just find out for myself. And I found some letters  
2 that she had written to Swaine in our apartment in his  
3 bedroom, and confronted them both with that and made it  
4 clear that I was in complete understanding of what had been  
5 going on, and that I didn't want to deal with either of them  
6 any more.

7 Q That's when you left for Cincinnati?

8 A Yes.

9 Q I want to go back with you for a moment, Alan, to  
10 the spring of 1993 and ask you whether there was an occasion  
11 during that spring period when you broke through the door of  
12 her apartment building?

13 A Yes.

14 Q Tell us as closely as you can recall when that  
15 was.

16 A Spring about does it, I believe after spring  
17 break.

18 Q Your best recollection?

19 A Yeah.

20 Q What, what occurred on that occasion? From your  
21 standpoint, what did you do?

22 A I had talked to Jen that evening earlier and she  
23 had stated that she was going out with some friends to the  
24 bars, and so I went over to a friend of mine's house, John

1 Murray's, a mutual friend of mine, later on that evening and  
2 found her there with him. Didn't really bother me at that  
3 point that much. It was an inconsistency, but one that I  
4 was willing to overlook. And I was just hanging out with  
5 them, and it seemed like they really didn't want me around.  
6 And then Jennifer got on my case for hassling them when they  
7 wanted to be alone. So I left. She called me later that  
8 night and said that she didn't want to be seeing me anymore.  
9 It was best if we just break up. So I went over to her  
10 place to pick up my CD player. When I got there, I saw John  
11 Murray's car, black Trans Am, in her parking lot.

12 Q What time was that?

13 A That was approximately one in the morning, two in  
14 the morning maybe.

15 Q Okay --

16 A And so I looked around and none of the lights were  
17 on in her apartment. I went up to the door and started  
18 banging on the door. I said, "Better get your clothes on,  
19 I'm just here to pick up my stuff." And they came -- or  
20 they came to the door and were like, "Well, we're not" -- or  
21 she did rather, "You shouldn't, you know, you can't come in,  
22 sorry." And so I kept banging on the door, and finally I  
23 broke it in.

24 Q As near as you can recall, Alan, how long a period

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1 of time were you banging on the door before you broke  
2 through?  
3 A I couldn't even say.  
4 Q Did they ever open the door?  
5 A No.  
6 Q What were you doing verbally at the time that you  
7 were pounding on the door?  
8 A I was yelling, "Let me in."  
9 Q Do you have any recollection at this time as to  
10 how long a period of time you were yelling at the door?  
11 A The whole thing could have taken maybe 15 minutes.  
12 Q Including breaking in, or before you busted the  
13 door?  
14 A Well, it took me awhile to bust the door down.  
15 I had to kick it several times.  
16 Q When the door let go, after you were kicking on  
17 it, what portion of the door received any damage?  
18 A The latch.  
19 Q Was there any noticeable damage at all to the  
20 hinge side of the door?  
21 A No.  
22 Q Once you opened the door in that fashion, what  
23 person did you find inside?  
24 A I found Jennifer and John Murray inside.

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Q What did you do?

A I looked, satisfied my craving for that knowledge to be able to see it with my own eyes, and I walked promptly over to my CD player, picked it up, and said, "Okay, I'm out of here."

Q What was your tone of voice once you were inside?

A I was yelling.

Q Did you physically touch either of them?

A No, I did not.

Q Do you, of your own knowledge, know what repair work was done to that door following that incident?

A The next day she called me saying that maybe we shouldn't have let it go that far, maybe we should have talked it out, and wanted to work out the relationship. I apologized to her. She apologized to me. I told her that I would fix the door, and I did within the next few days.

Q About how much later?

A It could have been pretty soon after that because I remember her sort of giving me a guilt trip, you know, saying, "I hope something terrible happens to me since my door is busted. I can't lock myself in. Wouldn't you feel so terrible if that happens?"

Q Would that indicate that it at least stayed unrepared for a couple of days?

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A Maybe for a whole day.

Q And what repair did it take?

A I just had to shove the door jamb back in and refit some of the screws in the latch and bend the deadbolt back.

Q Did it require any parts?

A No.

Q Now I'd like to go again to the summer of '93 and ask you how you first became aware of what you described as the kissing on the couch incident?

A I, like I said before, first became aware of it when it was said, stated to me by Jennifer, that my friends would be saying terrible things about her. Seemed like she was covering up for something that I was bound to here that might have been true.

Q Did you begin hearing things like that?

A Yes.

Q From whom?

A Well, I -- the next thing that caught my attention to that was Symmonie Steger coming downstairs the following day into our apartment, looking at me, looking at Swaine with an extremely angry expression, and saying, "Swaine, get up here, we've got to talk." And so they went upstairs, and I followed them up shortly after and listened at the door.

C05146

1 They were telling him that he had to tell me about  
2 something. That I was just going to believe her if he  
3 didn't tell me himself.

4 Q Did Mike Swaine ever tell you anything then about  
5 what here you've described as the kissing on the couch  
6 incident?

7 A Yes, he --

8 Q What did he tell you?

9 A He came out of the room. I believe I may have  
10 gone back downstairs by that point. I said, "I hear you've  
11 got something to talk to me about." And then he began to  
12 relay that he had been making out with Jennifer on Friday  
13 night, but -- and then when I questioned him further about  
14 whether or not anything else had happened, he denied it.

15 Q Do you recall approximately when that was?

16 A That was right around June 11th.

17 Q Did you and Jennifer continue to have an ongoing  
18 relationship following that?

19 A Yes, we did.

20 Q Was your last actual sexual contact with her in  
21 your apartment before then or after that?

22 A That was after that.

23 Q What -- what's the next thing that happened that  
24 is significant in the sequence of events leading to the

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1 final break-up?

2 A There was one night where Michael Swaine was  
3 talking on the phone to somebody, and -- and was making  
4 plans to go to a party with that person. And then he got  
5 off the phone and asked me, "Can I borrow your car? I want  
6 to go to this party on Cherry Street." And the whole time  
7 it seemed rather false to me, and so I followed him on my  
8 bicycle -- or rather a bicycle. I don't know whose it was,  
9 somebody that lived there. And sure enough, he went  
10 straight to her house.

11 Q What -- when was this approximately?

12 A Towards the end of June, beginning of July,  
13 somewhere around there I think.

14 Q Where was his car when you got over to Jen's place  
15 on your bike?

16 A My car, that he borrowed, was parked in the lot of  
17 the next building. I think it's been referred to as 410 N.  
18 Main, just behind the breezeway.

19 Q So was your car parked then south of that 410  
20 building?

21 A Correct.

22 Q Okay. What did you do after you got there and  
23 found the car there?

24 A I went straight up to her apartment, noticed that

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1 there were no lights on, and walked straight to the door and  
2 started banging on it.

3 Q What -- tell us what you can, as nearly as you  
4 can, recall of that incident from that point until you left.

5 A As far as I can recall, I banged on the door  
6 several times. I went outside. I looked to see if the  
7 bedroom lights were on. I came back. I banged on the door  
8 again. I kicked it in. I walked in looking for Swaine,  
9 wondered if he had gone out a window. Looked around. I  
10 looked in her closet. I looked in, you know, her bedroom,  
11 and in the living room, and the kitchen for Michael and did  
12 not find him.

13 Q In order to check to see if he'd gone out another  
14 door or window, where did you have to go when you went  
15 outside?

16 A I had to go down the back steps and -- or rather  
17 out on the back steps just to see if he had gone out the  
18 bedroom window, and then went out the front steps to see if  
19 he had made way that way.

20 Q During any of that sequence of events, do you  
21 recall running all the way around the building?

22 A I don't recall running all the way around it, no.

23 Q Do you recall running portions of the way around  
24 the building?

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1 A Certainly.

2 Q Okay. What is your best recollection, as far as  
3 the length of time that this occurred, from the time you  
4 first arrived there until the time that you looked through  
5 the apartment and then left that area?

6 A Approximate time?

7 Q Yeah. How much time?

8 A Oh, 45 minutes, half an hour.

9 Q Pardon me?

10 A Half an hour or 45 minutes.

11 Q While you were outside trying to get in, were you  
12 also making noises as opposed to just pounding?

13 A Yes.

14 Q What were you -- what were you doing?

15 A I was just yelling that I knew he was here. I  
16 knew you were here. Why'd you borrow my car to come see my  
17 ex-girlfriend? I just want my keys back. You're not to  
18 drive my car anymore.

19 Q Did you hear the testimony earlier from Mr.  
20 Singley and Miss Jenkins who had the unit across the hall?

21 A Yes.

22 Q Is your recollection of your conduct on that night  
23 essentially consistent with what they described they saw and  
24 heard?

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1 A Yeah, I guess.  
2 Q Did you touch Jennifer Lockmiller at anytime on  
3 that evening after you gained entrance to the apartment?  
4 A No, I did not.  
5 Q And you did not locate Michael Swaine, correct?  
6 A No, I did not.  
7 Q You didn't see him there?  
8 A No, I did not.  
9 Q Okay. Did you confront her verbally while you  
10 were in there?  
11 A I believe so, yes.  
12 Q Do you recall in what way? What you said to her?  
13 A No, probably something.  
14 Q After you left the apartment, then where did you  
15 go?  
16 A I went home, back to my apartment at 1406 N. East  
17 Street.  
18 Q How'd you get back?  
19 A I rode the bicycle back.  
20 Q Okay. And after you got back, what did you do?  
21 A I rode up to the porch and saw Chris Perry sitting  
22 out on the porch. Stated to him that -- relayed to him what  
23 had happened and asked him if he would go back as a mutual  
24 party and retrieve my keys.

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Q What did you do?

A We got in his car, went to her place. I stayed in the car. He got out and went inside. Shortly after that, he came back out with my keys. We drove around the block. He dropped me off at my car, because you have to drive around the block to get back where the parking lot is for the 410 apartment building. And I got in my car, proceeded to drive back around again to get on University and go back to University which turns into East Street.

Q As you were driving from that location, what happened?

A I saw Michael Swaine coming out of the building.

Q What did you do at that point?

A I stopped and offered him a ride.

Q Did he accept?

A Yes.

Q And where did the two of you go?

A We went back to our apartment.

Q Was there any physical contact between the two of you at that time?

A No, there was not.

Q To your recollection, was there ever any physical contact between you and Swaine in any sort of anger?

A No.

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Q What is the -- the next thing in the sequence of events that you recall leading up to the final break-up?

A The next thing would really be finding the letters and confronting them.

Q Okay. Do you recall an incident where you had gone through her bathroom garbage?

A That was during that confrontation, yes.

Q Was that when you went there with those letters that you had found in your apartment?

A Yes.

Q Okay. What day of the week was this?

A This was a Sunday.

Q What time of day did that whole sequence of events start on that Sunday?

A About 9:30.

Q When you got up, what -- well, at 9:30 at any rate, what persons were present at your apartment?

A Jamie Thorman and myself.

Q What, what did you do while you were there at your apartment that day?

A I woke up shortly after -- or shortly before Swaine left for work. I waited until I was certain that he was gone. The night before I had found some condoms underneath the sink that were opened, an open box, and had

C05153

1 no reason to believe that they were anybody's but Michael's.  
2 Considering I knew my other roommate rather well, and I,  
3 myself, had no use of them, so it led me to believe that  
4 those were Swaine's, and they were used. And I also  
5 recognized that there was some mode of an interest between  
6 Jennifer and Swaine, so that led me to seek for further  
7 evidence.

8 Q What did you ultimately find?

9 A I ultimately found letters from Jennifer to Mike.

10 Q Where did you find them?

11 A In Mike's room.

12 Q And after finding them, what did you do?

13 A I came out of the bedroom. I went to the theater  
14 to confront Mike with them, and all he could say to me is,  
15 "Get to work, dude." And so I went off on him. And then I  
16 left, and he followed me out. I think I said something to  
17 the effect of, "I quit because Swaine's fucking my woman."  
18 And then I walked out. He followed me out shaking his  
19 middle finger, and not knowing really what to say to me I  
20 suppose, and I got in my car and left.

21 Q When you say you went off on him, what did you do?

22 A Verbally, I yelled at him.

23 Q In what part of the theater complex did this take  
24 place?

1           A    This was on the stage.  
2           Q    About how long, to your recollection, were you and  
3 he together on the stage that morning?  
4           A    Five/ten minutes.  
5           Q    How would you generally describe your demeanor and  
6 your voice during that?  
7           A    Angry, shaken.  
8           Q    And how about Swaine?  
9           A    Likewise.  
10          Q    Where did you go from there?  
11          A    I went to Jennifer's.  
12          Q    And what happened at her place?  
13          A    I walked up to the door. I knocked on the door.  
14 She wouldn't answer. I knocked a little harder, and then I  
15 started pounding. And then at one point I started crying,  
16 and just wanting to show her this, wanting to have closure,  
17 wanting to end it by showing her this and having her not  
18 deny it finally, because I could present evidence so that  
19 she could not deny it, and then I would be able to leave.  
20          Q    How'd you get in?  
21          A    I was finally allowed in.  
22          Q    Okay. Who was there when you got in?  
23          A    Heidi Steinman and Jennifer.  
24          Q    So what happened once you got inside?

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C05155

AB018970

1           A    I walked in the door, immediately reading the  
2 letter out loud, the one -- I don't have the exhibit number,  
3 but the one that was typed in the exhibit that you've seen.  
4 Reading that letter out loud as I walked in the door, and  
5 she motioned to the bedroom and said we should talk alone.  
6           Q    Did the two of you go into the bedroom alone?  
7           A    Yes.  
8           Q    For about how long?  
9           A    It couldn't have been that long. I just kept  
10 reading the letter, and she kept telling me to shut up, and  
11 then Heidi got into it.  
12          Q    Was that a calm or a loud confrontation?  
13          A    It was loud.  
14          Q    About how long were you in her apartment that day?  
15          A    Again, 15/20 minutes.  
16          Q    During the course of the period of time that you  
17 were there, what else did you do besides confront her with  
18 the contents of this letter?  
19          A    I dumped out her bathroom garbage can.  
20          Q    In what fashion? How did you do that?  
21          A    I just dumped it.  
22          Q    Where?  
23          A    Picked it up and turned it upside down on the  
24 bathroom floor.

C05156

1 Q Why?  
2 A To see if there were any used condoms in it, or  
3 used syringes of Conceptrol, a gel that she commonly used.  
4 Q Did you find anything?  
5 A No. I thought that I did.  
6 Q Safe to say that you were pretty worked up at that  
7 point?  
8 A Yes.  
9 Q What did you think you found?  
10 A I thought that I found something that resembled a  
11 gel syringe.  
12 Q And what was it that you found?  
13 A To my embarrassment it was an applicator for a  
14 tampon.  
15 Q Did either of the two women there at the time  
16 point that error out to you?  
17 A Yes, they did.  
18 Q Which one?  
19 A Jennifer.  
20 Q In what tone of voice?  
21 A Very -- kind of like a kindergarten teacher  
22 talking about a child that they had been mistaken, and by  
23 the same token trying to be nice about it, but still upset.  
24 Q To your knowledge, Alan, who became aware either

C05157

1 then or later that you had gone through her garbage?  
2 A I couldn't tell you besides those two people  
3 there.  
4 Q From her place, where did you go that day?  
5 A I went back to my apartment.  
6 Q When you got back there, on that occasion, who was  
7 there?  
8 A Jamie Thorman.  
9 Q Just the two of you?  
10 A Yes.  
11 Q At that time, July 25th of '93, what persons  
12 physically occupied your apartment?  
13 A Bill Ingerham had left at the end of the first  
14 show, so the only people left were Swaine, Brandon Komola,  
15 and myself.  
16 Q There were how many bedrooms in that apartment?  
17 A Two.  
18 Q Two persons then to a bedroom?  
19 A Yes.  
20 Q Did you and Swaine have separate bedrooms?  
21 A Yes.  
22 Q Who had been his roommate?  
23 A Bill Ingerham.  
24 Q So on this day you and the other fellow who shared

C05158

1 the room were still living there?

2 A Yes.

3 Q And Swaine?

4 A Yes.

5 Q Okay. What did you do then after you -- after you  
6 got back to your apartment?

7 A I believe I went up to -- or I spoke to Jamie  
8 first, and said something to him about wanting to go with  
9 him to Cincinnati. There's no reason for me to stay here  
10 and have all this flaunted in my face for another week.

11 Q And what did you do as far as your things?

12 A Packed them up and threw them in my car. Took a  
13 few things with me to Cincinnati that I'd be needing there,  
14 and left the rest just locked up in my car.

15 Q Did you and Jamie then, at that point, go in his  
16 car to his residence in the Cincinnati area?

17 A Well, before leaving I spoke to Amy Krehbiel and  
18 had collected those letters and written a letter for Dr.  
19 Brown to explain myself. Having known no first-hand  
20 knowledge of it himself, I felt the need to express why it  
21 was that I was leaving. I felt that it was conceivable that  
22 he would understand. But by the same token, if -- if he did  
23 not understand, that was not going to change whether or not  
24 I was going to leave.

1708

C05159

AB018974

1 Q You were working for a flat summer pay, were you  
2 not, for the summer theater?

3 A Yes.

4 Q And had about a week left to go?

5 A Hm-mmm, I did offer to return that portion of my  
6 pay.

7 Q Is there anything else that you did then before  
8 you and Jamie took off?

9 A I spoke to Amy Krehbiel and gave her the letter,  
10 and asked her to make sure that Dr. Brown got it. She said  
11 that she would call Kelly Ullom, the secretary, and check it  
12 out with her. She did do that in my presence, and then took  
13 -- hung up the phone and told me that it would be okay, just  
14 go, and so I left.

15 Q Okay. How long did you stay with Jamie then out  
16 in Cincinnati?

17 A Approximately a week and a half.

18 Q While you were out there, Alan, how did you  
19 basically spend your time?

20 A Just relaxing, hanging out, met a lot of his  
21 friends. There's a place in Cincinnati called Clifton.  
22 There's a lot of live bands that play in that area. So I  
23 heard a lot of bands and went to some parties, went  
24 swimming, recorded some songs that Jamie and I had

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previously written, wrote more songs.

Q While you were out there, did you have some phone contacts with Jennifer?

A Yes, I did.

Q Who initiated those calls?

A I did.

Q What, what your purpose, at that time, in touching base with her by phone?

A To apologize for being such a whiner.

Q Were any of those calls emotional or upsetting to you, or as far as you could tell, to her?

A Somewhat, but not to the degree that things had been in proximity.

Q More calm and collected than earlier?

A Yes.

Q Do you recall approximately how many phone conversations you had with her while you were out in Cincinnati?

A Oh, gosh, two or three, something like that.

Q Do you recall whether or not on any of those occasions you also spoke with Swaine?

A Yes, I did.

Q Do you recall how many times?

A On one occasion I called and she answered the

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phone and he was there, and --

Q Keep your voice up please.

A Sorry. I called and she answered the phone and he was there, and she said that he wanted to talk to me as well.

Q When did you return then to this area?

A On August 4th.

Q Jamie came out, did he?

A Yes.

Q Who all -- who all came from Cincinnati at that time?

A Initially I was planning on coming back and Jamie was going to bring me back at the end of that week, but then I found out from his mother that she was going to be heading up to Rockford on August 4th anyways. So I called my parents and told them that I would be a few more days, and then just rode back with him and his mother.

Q Okay. Where did you go when you got here to Bloomington?

A I went into my apartment, said good-bye to Jamie, put some of my stuff in his car, because initially he was going to ride to Rockford with me, but him knowing that I was planning on stopping by Jennifer's to say good-bye, he decided that it was best for him not to be there for that.

C05162

1 And so -- and then I went to my apartment and they left.

2 Q Okay. Describe for us the appearance of the  
3 interior of your apartment that day on the 4th of August.

4 A Everything was sort of set up in some semblance of  
5 a moving-type organization. It didn't look lived in. It  
6 didn't look like he was staying there.

7 Q Did -- do you know, at this point, whether or not  
8 your roommate, the one that shared your bedroom, was still  
9 living there or not?

10 A I'm pretty sure I knew that he wasn't.

11 Q That he what?

12 A That he wasn't.

13 Q Okay. So he was gone by then?

14 A Yes.

15 Q Would that have left Swaine as the only remaining  
16 resident of that building once you got your stuff in your  
17 car?

18 A Yes.

19 Q That apartment anyway, the lower apartment?

20 A Yes.

21 Q Did you see Mike Swaine that day, August 4th, when  
22 you got back to town?

23 A Yes.

24 Q Where did you see him?

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C05163

AB018978

1           A     As I was walking out of my apartment he drove up  
2 in Jennifer's car.  
3           Q     Did you and he talk some at that point?  
4           A     Yes.  
5           Q     Was that an emotional conversation or a fairly  
6 calm conversation?  
7           A     I had had a chance to think things out at that  
8 point and realized that if she and I were not good for each  
9 other, that it was best that Swaine had taken that up,  
10 and --  
11          Q     So basically, what was that conversation?  
12          A     Take good care of her.  
13          Q     You say you saw Jen that day?  
14          A     Yes, I did.  
15          Q     Where did you see her?  
16          A     At her apartment.  
17          Q     Did you actually get inside her apartment at that  
18 time?  
19          A     Yes.  
20          Q     What, what part of the apartment did you get into?  
21          A     Her living room.  
22          Q     How long did you and she talk that day?  
23          A     For -- I don't know, 15 minutes, half an hour at  
24 the most. She was late for a class.

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C05164

AB018979

APPENDIX 001040

1 Q How did she get to that class, if you know?  
2 A I took her.  
3 Q While you were inside her apartment, did you see  
4 any of Michael Swaine's belongings?  
5 A Yes, I did.  
6 Q What did you see?  
7 A A sign that said Swaine Street.  
8 Q Where had that sign been when you had last seen  
9 it?  
10 A In my apartment.  
11 Q Who did it belong to?  
12 A Mike Swaine.  
13 Q How long to your --  
14 A Actually the City of Bloomington.  
15 Q Pardon me?  
16 A Actually the City of Bloomington is what it  
17 belonged to.  
18 Q On August 4th, other than seeing Jennifer and  
19 Michael, did you see any of your other friends in  
20 Bloomington that day?  
21 A I don't believe so, no.  
22 Q Once you had picked up your car, talked to  
23 Jennifer, did you then return to Rockford?  
24 A Yes.

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C05165

AB018980

APPENDIX 001041

1 Q What did you then do basically between then and  
2 the end of the summer?

3 A I worked for my uncle.

4 Q Had you done that previously?

5 A Yes.

6 Q Okay --

7 THE COURT: Could I interrupt for just a moment?  
8 Counsel step up for just a moment.

9  
10 (WHEREUPON A DISCUSSION WAS HAD OFF THE  
11 RECORD.)

12  
13 THE COURT: All right, ladies and gentlemen, we're  
14 going to take about a ten-minute recess at this time. If  
15 the bailiffs would take charge of the jury and return them  
16 to the deliberation room. You may leave your notebooks on  
17 your chairs again. The court will be in recess.

18  
19 (WHEREUPON A RECESS WAS HAD.)

20  
21 THE COURT: Okay. Back on the record in case number  
22 94-CF-476. Counsel and the defendant return to open court.  
23 The jury is presently outside the courtroom. Let's ask Mr.  
24 Beaman to resume the witness stand before the jury comes in.

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All right, call the jury back in.

(WHEREUPON THE JURY ENTERED THE COURTROOM  
AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, reflect that the jury has returned to open court. Mr. Beu, you may continue your examination.

MR. BEU: Thank you, judge.

Q (By Mr. Beu) Alan, when you began to work that summer for your uncle, what type of work were you doing for him?

A Maintenance, painting.

Q At which location?

A All four stores.

Q Okay. During the period of time after you left Bloomington on August 4th and up until you found that she had been killed, did you have any contacts or attempted contacts on your part where you tried to reach her, or did reach her?

A I believe I called her just to see if she had made it back from California. Fine, you know, did not reach her, and made no other attempts to contact her until she called me on Monday, the 23rd.

1 Q Okay. Now you've been made aware through the  
2 course of the investigation and trial preparation that her  
3 phone records show that she tried to reach you approximately  
4 29 times on Sunday, Sunday, August 22nd. Do you recall  
5 becoming aware of that through the discovery?

6 A Yes.

7 Q Were you aware of any of those attempts on her  
8 part to reach you?

9 A Prior to that?

10 Q Before you saw it in the phone records.

11 A No, I was not.

12 Q Had she mentioned anything to you in the  
13 conversation you had on the 23rd about all those efforts to  
14 try to reach you?

15 A No.

16 Q Tell us what you did, Alan, best you can recall it  
17 on that 22nd of August, which was a Sunday.

18 A The 22nd of August I went to church that morning  
19 with my parents, talked to Mitch Olson about setting up  
20 arrangements to practice for the following Sunday in which I  
21 was going to play the guitar at the church. Then went home.  
22 As far as I know it was just a lazy day at home.

23 Q Did you have to work that evening?

24 A Yes.

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C05168

AB018983

APPENDIX 001044

1 Q And what time did you go to work that evening or  
2 early Monday morning?  
3 A Approximately one o'clock in the morning.  
4 Q Okay. Where did you go to work that particular  
5 Monday morning?  
6 A That entire week I was at the Sandy Hollow store.  
7 Q During that period of working at the Sandy Hollow  
8 store, how did you typically get there and back each day?  
9 A I drove there.  
10 Q During this week you were driving the Escort,  
11 right?  
12 A Yes.  
13 Q When did you get off work then following that  
14 Sunday -- well, early Monday morning shift?  
15 A Sometime around ten o'clock.  
16 Q And after getting off work that Monday, where did  
17 you go?  
18 A I went home.  
19 Q When you got home, what did you do?  
20 A I went to bed.  
21 Q You had your own room there in the house?  
22 A Yes.  
23 Q Were you making any special arrangements to be  
24 able to sleep days --

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A Yes, I was.

Q -- at home? What arrangements did you make?

A The curtains in the room were not thick enough to keep the sunlight out, and if there's any light I have difficulty getting to sleep. So I normally put a blanket up over those curtains to keep the light out.

Q And were you doing that during the course of this particular week?

A Yes, I was.

Q That fairly routine?

A Yes.

Q On Monday, the best of your recollection, when did you get up?

A I imagine sometime around four or five.

Q Do you recall on Monday whether either of your parents were home at the time that you got back from work in the morning?

A I got back from work in the morning. I believe my mother was there, yes.

Q After you awakened at the end of the afternoon on Monday, what did you do?

A Took a shower, ate dinner with my parents, edited video tape with my father, and then, at that point, Jennifer called.

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C05170

AB018985

1 Q And tell us, best of your recollection, first of  
2 all, how long did that call last?

3 A It seems like it was only ten or 15 minutes long  
4 at the most.

5 Q Where, where were you speaking with her on the  
6 phone? What phone in the house?

7 A In the kitchen.

8 Q And is that a phone that sits on the cabinet, or  
9 phone that hangs on the wall?

10 A It hangs on the wall.

11 Q How close is that phone to the area of the walkway  
12 through into the hallway and towards the living room?

13 A It's four feet from it.

14 Q Tell us basically about that conversation on the  
15 phone.

16 A She called, my mother answered the phone and told  
17 me it was for me, and I took the call. And she wanted to  
18 talk about us, our relationship, wanted to try to make  
19 amends, and was asking me if what she had done with Swaine  
20 was any worse than my leaving her during her miscarriage.  
21 And, I don't know, the hypocrisy of that statement just  
22 angered me, and I really didn't want to talk about it  
23 anyway, and she was asking if maybe we could get back  
24 together during the school year. Swaine didn't want to see

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C05171

AB018986

APPENDIX 001047

1 her anymore. And I told her, "No, we're through. I don't  
2 want to see you again." And then I hung up the phone.

3 Q In what fashion did you hang the phone?

4 A I slammed it down.

5 Q After that, that evening, what did you do?

6 A I went outside and smoked a cigarette.

7 Q And then?

8 A Then I came back in and calmed down and went back  
9 into the office where my father and I were editing video  
10 tape, continued to do so.

11 Q What did you do for the balance of the evening  
12 then?

13 A Roughly around ten o'clock or 11 o'clock I  
14 generally left for work -- or not for work, but to go out  
15 with friends prior to going to work, because I didn't feel  
16 that, you know, it would be much fun to sit in my house  
17 while my parents went to bed and do nothing. So generally I  
18 went out. And Monday night I went and picked up Shannon  
19 from work. She had told me about a party that some friends  
20 of hers were having, and so I went with her.

21 Q Do you recall after picking her up -- first of  
22 all, was that at her home?

23 A No, that was at work.

24 Q I mean the -- you got her from her place of

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employment Monday night?

A Stash O'Neil's.

Q And where was that?

A Stash O'Neil's.

Q And where was this party?

A It was at the residence of a David Olson on 15th Street. His parents were out of town.

Q Did you know David Olson before that party?

A No, I did not.

Q Best of your knowledge, Shannon did know him?

A Yes.

Q How many nights that week were you at the Olson house?

A Every night that week until Friday night.

Q Okay. During the period of time on those various nights that you were there, what persons did you know by name that you could tell us that were also at that party between the whole week?

A I know Shannon Wallenberg, Sonny Spinello, his real name is Guy Spinello, and Chris Carbone went there with me on Wednesday night. Everybody else there I did not previously know. I believe Ed Logason was there Tuesday night, another friend of mine.

Q Okay. During the course of the week coming and

005173

1 going, what numbers of people would you estimate were there?  
2 A Twenty.  
3 Q And at any one time that you were there, what's  
4 your estimate of the numbers that were there?  
5 A Roughly the same.  
6 Q Monday night, when did you leave for work then to  
7 go to work?  
8 A Little before one.  
9 Q Did anyone leave with you, or did you just leave  
10 on your own at that time?  
11 A I left on my own.  
12 Q And where did you go?  
13 A I went to work at the Sandy Hollow store.  
14 Q Okay. How long did you work?  
15 A Eight hours.  
16 Q You got off about when?  
17 A About nine.  
18 Q Okay. So this is now about nine o'clock on  
19 Tuesday morning?  
20 A Hm-mmm.  
21 Q Where did you go?  
22 A Home.  
23 Q And at home you did what?  
24 A Went to bed.

C05174

1 Q Do you recall whether or not on Tuesday when you  
2 got home either of your parents were home?

3 A I believe my mother was also at home on Tuesday  
4 when I got home.

5 Q When did you wake up Tuesday in the afternoon  
6 then?

7 A Not until like five o'clock, four or five.

8 Q What did you do Tuesday evening?

9 A Tuesday evening my parents and I, or my mother and  
10 I had planned Tuesday morning when I got home to go get my  
11 tires changed. She had -- she was under the feeling that  
12 they were bald and I needed new tires. Personally I didn't  
13 necessarily care, but -- and -- but I was really too tired  
14 when I got home from work. I had been at a party the night  
15 before and then I had worked all night, and then didn't  
16 necessarily feel like doing anything else until I had a  
17 chance to sleep.

18 Q So after you woke up, what did you do then, you  
19 and your folks?

20 A So then we went to Sears. And my mom had asked me  
21 to bring a hundred dollars cash with me from my advance so  
22 that she could do some shopping with me for school, and we  
23 could also eat. And she wrote me a check for that hundred  
24 dollars so that I could deposit that into my bank account.

1724

C05175

AB018990

1 Q While the car was being worked on then at Sears,  
2 what happened? What did you do?  
3 A We went into the mall and shopped at some clothing  
4 stores and ate dinner in the food court.  
5 Q What time was it then when you picked up the car?  
6 A The place had just closed, so roughly nine.  
7 Q Did you participate directly at all in the process  
8 of paying for the tires?  
9 A No, I did not.  
10 Q Were you physically present at the time when your  
11 mother took care of those transactions?  
12 A Yes, I was.  
13 Q Okay. She's identified the sales receipt from  
14 Sears. Did you see that transaction yourself?  
15 A Yes.  
16 Q Okay. Who drove your car from Sears?  
17 A I drove my car from Sears.  
18 Q Where did you go?  
19 A Home.  
20 Q What, what route did you take headed from there?  
21 A I took the Route 20 bypass to Meridian, and took  
22 that to Alvina. That's the street I live on.  
23 Q Once you got back to home from Sears, how long  
24 were you home Tuesday night?

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C05176

AB018991

APPENDIX 001052

1           A     Well, I recall trying to install the stereo that I  
2 had bought, having difficulty with finding exactly where to  
3 put what wire. I was out there with an ohmmeter for about  
4 an hour I think, and then after a couple of hours I gave up  
5 on that and then went to David Olson's house.

6           Q     Did, did you go with anybody on that -- on that  
7 Tuesday night?

8           A     Yes, I picked up Shannon.

9           Q     Where did you pick up Shannon on that evening?

10          A     From her home.

11          Q     And then from Shannon's where?

12          A     To Dave Olson's.

13          Q     How long were you at Olson's then on Tuesday  
14 evening?

15          A     Tuesday evening I was only there for a couple of  
16 hours.

17          Q     Where did you go from there?

18          A     Then I went to work.

19          Q     What about Shannon?

20          A     Shannon's boyfriend was there, Guy, so she was on  
21 her own to get home. She would ride with him. A lot of  
22 them were staying there, and so I don't really question  
23 deadheads as to where they're going to stay, because they're  
24 used to doing that. So --

1726

C05177

AB018992

APPENDIX 001053

1 Q What time did you get off work then on Wednesday  
2 morning?  
3 A Approximately nine some time.  
4 Q At that time, where did you go?  
5 A I went home.  
6 Q What route did you take going home from that Sandy  
7 Hollow IGA store?  
8 A I took 20 to Meridian to Alvina.  
9 Q What did you do after you got home?  
10 A I picked up my cash advance and the check that my  
11 mother had written me and took that back to the bank.  
12 Q Where did you bank at that time?  
13 A Bell Federal Savings & Loan.  
14 Q Where do you bank at this point?  
15 A Same place.  
16 Q And where have you ever banked?  
17 A There.  
18 Q Tell us about this advance. This was from your  
19 uncle?  
20 A Yes.  
21 Q When had you gotten it, as best you recall?  
22 A Sometime over that weekend. I don't know if it  
23 was directly given to me or dropped off for me, or how that  
24 exactly transpired, but I had had very little money in my

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C05178

AB018993

1 bank account and I needed some money to live off of during  
2 the time that I would be in town. So he advanced me some of  
3 that money so that, you know, I wouldn't be getting a check  
4 until I went back to school, because the money was for  
5 school. But by the same token, I needed enough to be able  
6 to live off of and be able to buy materials to do his  
7 driveway.

8 Q What was the amount of that advance?

9 A \$495.

10 Q How much did you take to deposit at Bell Federal  
11 that day?

12 A \$400.

13 Q That included the cash and the check?

14 A Right.

15 Q What route did you take getting to Bell Federal?

16 A Route 20 -- I took Meridian to Route 20 and  
17 Alpine.

18 Q When you got to Bell Federal, did you make the  
19 transaction?

20 A Yes.

21 Q I show you what's been marked for identification  
22 as Defendant's Exhibit No. 8. May I, your Honor?

23 THE COURT: You may.

24 Q (By Mr. Beu) Which appears to be a series of

1 photographs from a video tape that the prosecution and  
2 defense have stipulated to being taken that morning at Bell  
3 Federal. From looking through that, those photographs, can  
4 you confirm that the individual shown making the transaction  
5 in the various frames where the person appears, that it is  
6 in fact you?

7 A Yes.

8 Q And the clothes that you're wearing there at that  
9 time, do you recall when or where you had acquired either  
10 the shirt or the slacks?

11 A Where I had acquired, no.

12 Q That's a black and white picture, right?

13 A Yes.

14 Q And do you recall, at that point, anything about  
15 the coloration of either the top that you're wearing, the  
16 shirt or the slacks?

17 A I can't really see the pants I'm wearing here.  
18 Looks like jeans. Jeans is what I would have normally worn  
19 to work. And that shirt is a blue and white striped shirt  
20 with little lace inlay, not really lace, but colorwise  
21 little white and black knotwork in it.

22 Q Okay. Do you recall, at this time, whether you  
23 had changed clothes between the end of the work that day and  
24 the time you went to the bank?

C05180

1 A No, I had not. Wouldn't make sense to change  
2 clothes to go back to go to bed.

3 Q After you made your bank deposit, Alan, where did  
4 you go?

5 A I went home.

6 Q When you got home, then you went to bed?

7 A Yes.

8 Q How long did you sleep then during the day on  
9 Wednesday?

10 A 'Til approximately five o'clock.

11 Q Then what happened about five?

12 A I was awakened by my parents.

13 Q Tell us what happened after you got up?

14 A I got up. I got in the shower. I knew that we  
15 were going to an ice cream social that night, and that I was  
16 supposed to rehearse with Mitch afterwards. My mom reminded  
17 me of that, and said that he had called. And I ate dinner,  
18 and they were already on their way out and I was still  
19 getting ready and getting my guitar ready, and then I  
20 followed 20 minutes after maybe.

21 Q Okay. On that day, did you have any phone contact  
22 yourself with Mitch Olson?

23 A I had no recollection of any phone contact with  
24 Mitch Olson.

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C05181

AB018996

APPENDIX 001057

1 Q You've noticed, have you not, through the  
2 discovery of phone records and such, that there were phone  
3 calls placed from your residence phone at like 10:37 and  
4 10:39 A.M. on that Wednesday morning?

5 A Yes.

6 Q Do you have any recollection as to whether or not  
7 you made calls?

8 A It's entirely possible that I could have made  
9 those calls.

10 Q Do you recall one way or the other?

11 A Not one way or the other, no.

12 Q Okay. When you arrived home that Monday morning,  
13 was anyone home but you?

14 A On Monday morning?

15 Q I'm sorry, Wednesday?

16 A Wednesday morning, no.

17 Q Okay. When you arrived home that Wednesday  
18 morning, what did you find as far as the house and the  
19 condition of things?

20 A The condition of things were as normal. I let the  
21 dogs out of their pen, and let them go outside. And then  
22 let them back in, and I just leave them, let them run around  
23 while I'm there. So --

24 Q After -- I take it then you ate supper Wednesday

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C05182

AB018997

APPENDIX 001058

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night?

A Yes.

Q With the folks at home?

A Hm-mmm.

Q From there, after supper, where did you go?

A I went to the ice cream social at church.

Q Didn't go with your folks, or separately?

A Separately.

Q Which of you got there first, your best recollection?

A They did as far as I know.

Q Do you recall what time it was roughly when you got to the ice cream social?

A A little after seven maybe.

Q Now going back for a minute on the drive from Bell Federal and your home each direction, do you know approximately what time it takes to drive between your home and Bell Federal?

A Approximately a half hour.

Q Okay. If you were to make that drive through the heart of downtown Rockford on more of a crow's line direction --

A Hm-mmm.

Q -- as the crow flies, do you have any basis or

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knowledge for how long that drive would take?

A That would take longer.

Q Have you had occasion to drive directly through town for the sole purpose of going from your home to the bank?

A No, I would only drive that route if I were stopping somewhere else as well.

Q When you got to the ice cream social, what did you do?

A I had enough time to eat a piece of pie and get a little bit of ice cream, and then Mitch and I rehearsed.

Q Okay. Do you recall when it was that you left there?

A Around eight o'clock.

Q Where did you go?

A I went to Chris Carbone's.

Q And from there where did you go?

A We went to Dave Olson's house.

Q Do you recall how or when you had made the arrangements with Chris that you would be going there?

A I don't recall. I may have called him earlier that day, I'm not certain.

Q Carbone is the young man who testified here earlier, right?

C05184

1 A Yes.

2 Q And he's been a friend of yours sometime up there,  
3 correct?

4 A Yes.

5 Q Also a roommate down here?

6 A Right.

7 Q To the best of your knowledge, did he know any of  
8 the other persons at the party at Olsons?

9 A He as well knew Shannon and Guy Spinello, and that  
10 night there was also another friend that I have since been  
11 introduced to that he knew at the time named Jason Jedeo.

12 Q How long were the two of you at Olson's that  
13 evening on Wednesday?

14 A 'Til about one o'clock, maybe a little -- maybe  
15 more like 12:30.

16 Q Where did you go from there?

17 A We went to the Country Kitchen.

18 Q And basically that's a coffee shop type of place?

19 A It's a Denny's/Perkins type place, yes.

20 Q How long were you there?

21 A 'Til a little before two, approximately two.

22 Q Then from there where did you go?

23 A I took him home and I went to work.

24 Q Same location all week long again, right?

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005185

AB019000

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A Yes.

Q At the end of that shift, now we're on to Thursday morning, where did you go after work?

A I stopped by the Broadway store to pick up the leftover blacktop sealer, and crack filler, and the squeegee, and all that stuff that I needed to do my uncle's driveway.

Q Had you been using that stuff previously over there?

A We had used it the week before to do the entire parking lot for the Broadway store.

Q Okay. And once you had stopped by and picked that stuff up, where did you go?

A I went to my uncle's house.

Q When had you and he made arrangements for you to do that, clean up and put sealing on his drive?

A I'm not exactly certain when we had first talked about it. It was prior to his leaving for his vacation. It may have even been talked about right when I got back just in matter of, you know, sometime this month can you do my driveway. But I don't remember exactly.

Q Okay. Does your uncle have a place that he owns someplace out of state?

A Yes.

C05186

1 Q Do you know where that is?  
2 A That's on Fawn Lake in Wisconsin.  
3 Q To the best of your knowledge is that where he and  
4 his wife had gone at that time?  
5 A Yes.  
6 Q To the best of your knowledge, is that a place  
7 where they frequently go and spend time to take a break?  
8 A Yeah.  
9 Q After you got home from the Broadway store, then  
10 what did you do -- well, you said you went to your uncle's?  
11 A Yeah, I worked on the driveway just pulling weeds  
12 and filling up the cracks so that I could seal it.  
13 Q How long were you there at your uncle's that day?  
14 A Thursday I was there until late morning, early  
15 afternoon, sometime around noon/one.  
16 Q And from there where did you go?  
17 A And then I went home.  
18 Q To do what?  
19 A To go to bed.  
20 Q And then how long did you sleep that day?  
21 A I slept later until like six or seven that day.  
22 Q And this was then Thursday late afternoon. What  
23 did you do after you woke up that day?  
24 A Took a shower again, ate with my parents, talked,

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005187

AB019002

APPENDIX 001063

1 with them for awhile. Later on that night, I went back to  
2 Dave Olson's place.

3 Q Okay. Any other stops that evening that you can  
4 recall at this point?

5 A Not that I can recall.

6 Q From Olson's place -- when did you leave there,  
7 first of all?

8 A Approximately the same time as usual, a little  
9 before one.

10 Q From there, where did you go?

11 A To work.

12 Q And then Friday morning, when did you get off?

13 A Friday morning I got off around nine or ten again.

14 Q Drove home?

15 A Drove back to my uncle's house.

16 Q Drove directly to your uncle's on this occasion?

17 A Yes.

18 Q And then tell us what you did after you got to  
19 your uncle's.

20 A I worked on the driveway for the better part of  
21 that morning, and then I went home to change, I believe, or  
22 was that later? I don't know. But eventually I ended up  
23 meeting up with Beth Terresi at Denny's. I believe I picked  
24 her up and we went out for lunch.

1737

C05188

AB019003

APPENDIX 001064

1 Q All right. And what did you do after, after  
2 having lunch?

3 A Then I went home and went to bed.

4 Q How did Beth get home?

5 A I took her home.

6 Q Okay. How long did you sleep then Friday?

7 A I slept until late evening, sometime around eight,  
8 and then I believe I met up with Beth around ten again at  
9 Denny's. A friend of hers had brought her there. We were  
10 just supposed to meet there.

11 Q From home that evening, where did you go?

12 A To Denny's.

13 Q And from Denny's, where did you go?

14 A She and I and her friend got in her friend's Bug,  
15 because I use to have a Bug and I saw them show up in -- I  
16 think it was a '76 Bug. I'm not sure. And I was a little  
17 bit fascinated with the car. I hadn't gotten to play with  
18 one in a long time, so we went to the Cafe Esperato just to  
19 hang out, and I got to ride in the back seat, sticking my  
20 head out the sunroof on the way there.

21 Q What is the Cafe Esperato?

22 A It's kind of a coffee shop. They don't really  
23 serve food, but you can get desserts and liqueurs, and  
24 strange coffees.

1738

C05189

AB019004

APPENDIX 001065

1 Q That's right in downtown Rockford?  
2 A Yes.  
3 Q And from there where did you go?  
4 A We went to Denny's because her friend had to go  
5 home.  
6 Q And from there, where did you go?  
7 A We went to Sinissippi Gardens just to talk and  
8 walk.  
9 Q And from there, where did you go?  
10 A I took Beth home, and then I went home.  
11 Q What time roughly was it when you made it home?  
12 A Four in the morning maybe.  
13 Q Pardon?  
14 A Four in the morning.  
15 Q This is like four A.M.?  
16 A Yes.  
17 Q How long in the day did you sleep on Saturday?  
18 A I slept until at least two or three.  
19 Q And then --  
20 A Something like that. And then I went to church to  
21 rehearse with Mitch.  
22 Q About what time, if you recall?  
23 A Shortly after I got up. I got up specifically for  
24 the purpose of going to church.

C05190

1 Q And then following that rehearsal, where did you  
2 go?

3 A Following that rehearsal I went back home to eat  
4 dinner and just sort of hang out with my grandparents. They  
5 had just gotten there from Florida. And friends of mine  
6 called me that day, or maybe previously, I'm not sure, but  
7 they were going back to school and they wanted to hang out  
8 with me that night. So I told them I'd meet up with them at  
9 Denny's a little after ten.

10 Q Did you head off that direction?

11 A Yes, I did.

12 Q And how far did you get?

13 A I got about halfway down Kilburn Avenue.

14 Q What happened?

15 A I was pulled over by two police cars. They had  
16 been following me for quite some time, and I was wondering  
17 why I was being pulled over, because I wasn't even speeding.

18 Q When you say for quite some time, what do you  
19 mean?

20 A All the way from my house really.

21 Q Okay. What department were those officers from,  
22 if you know?

23 A I believe they were the Rockford Police  
24 Department. Seeing there was a canine unit involved, that

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C05191

AB019006

APPENDIX 001067

1 might have been the sheriff's police, I'm not certain.

2 Q Were you made aware, at that time, as to the  
3 reason you were stopped?

4 A I asked them why I was stopped. They asked me  
5 to get out of the car and spread them, and so I did. And  
6 then while they were putting me into the car, they stated  
7 that some detectives from Normal wanted to talk to me about  
8 a homicide.

9 Q Did any detailed conversation occur out there on  
10 Kilburn Avenue?

11 A No.

12 Q How did you get to the Public Safety Building?

13 A When Detectives Daniels and Hospelhorn arrived,  
14 they were with another Rockford detective, Cowan I believe  
15 is his last name, and they took me in his car back to the  
16 Public Safety Building.

17 Q All right. Now what was done and said about your  
18 car?

19 A They told me that either they would tow it back  
20 there, or they would leave it here.

21 Q What condition were you in as you were being  
22 transported?

23 A Confused.

24 Q How about physically?

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C05192

1           A     I was handcuffed.

2           Q     When you got to the Public Safety Building, how

3 long did they leave the cuffs on you?

4           A     They took the cuffs off of me when we got into the

5 interrogation room.

6           Q     What would be your description of the

7 interrogation room?

8           A     A small room with an ashtray right in the middle

9 of it, sort of staring at me, barely enough room to breathe.

10          Q     Do you smoke?

11          A     Yes.

12          Q     Did you ask if you could smoke?

13          A     Yes, I did. The police had confiscated my

14 tobacco. I roll my own, or had been at that time, and they

15 confiscated my tobacco and would not give it back to me.

16          Q     To the best of your recollection, how long were

17 you in that room with the Normal officers?

18          A     Seemed like several days.

19          Q     Best estimate actually?

20          A     About two to three hours.

21          Q     You heard the tape recording of that -- of that

22 interview session?

23          A     Yes, I have.

24          Q     Okay. Basically can you describe at that point,

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during that session, your frame of mind?

A Confused, simply trying to listen to see what they were going to say to find out what was going on.

Q Okay. When you left that session, do you -- did you feel that you had clearly been told what the condition of Jennifer Lockmiller was?

A No.

Q How did you get home?

A I drove my car home.

Q Okay. Had you had some contact with your parents before doing that?

A I called them after walking out on Daniels and told them that I wasn't sure where my car was, and that if they would -- wouldn't mind coming to get me, that I would be greatly appreciative. Told them that I had been accused of something, but I did not know what it was.

Q Did you see them then downtown before you left?

A Yes.

Q And where did you go then from -- from the Public Safety Building?

A Well, when my father arrived, it -- when I walked out, after calling him, I did -- I still did not have my tobacco. I still did not know where my car was. So I went looking for a place to buy some cigarettes, and the only

C05194

1 place I could think of was the Cafe Esperato, because  
2 there's no gas stations in the downtown area there. So I  
3 was walking towards that when Detective Cowan drove up and  
4 said, "Hey man, do you want your car?" And I'm like, "Oh,  
5 it's here?" And he said, "Yeah." So I rode back to the  
6 station with him. And then we went downstairs where they  
7 keep their cars, and my car was there with yellow tape  
8 around it, and Daniels was standing there by it, and he made  
9 further accusations, and I said, "Look, I was in Rockford."  
10 and I got in my car and left. And I went outside with my  
11 car and waited for my parents to arrive so that they  
12 wouldn't be totally thrown off as to my not being there any  
13 more or anything like that. Then my father rode home with  
14 me to make sure I was okay.

15 Q Okay. And then once you got home, did you make an  
16 effort to try to find out more about what may have happened  
17 to Jennifer?

18 A Yes, I called Don Jones down here.

19 Q Okay --

20 A Asked him if he had heard anything about it.

21 Q All right. During the course of that Sunday,  
22 how'd you basically spend the day?

23 A I went to church and performed as scheduled with  
24 Mitch. Then returned home and stayed home under a veritable

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house arrest.

Q Who, who had suggested that and put you in that status?

A Well, aside from the fact that I hadn't slept the night before so I wouldn't have gone anywheres anyways, my parents had spoken to a friend of the family, who happens to be a lawyer, and he had advised that I don't even leave the property because there would be a chance for them trying to come and pick me up, and handcuff me, and drag me down there again for whatever purpose.

Q Did you meet then in my office on the next day following that?

A Yes.

Q And did you receive some general advice concerning processes that might be used to try to go back and retrace activities on the part of yourself and your parents during that week's time?

A Yes.

Q When did you return to school?

A I returned to school the following Sunday.

Q Okay. In the course of getting that initial legal advice, Alan, did you get any advice concerning future contacts with police investigators?

A Yes.

1 Q What was that advice?  
2 A You stated that I should not even talk to them and  
3 advise them to talk with you.  
4 Q What advice did you receive about going someplace  
5 with them?  
6 A If there was a warrant.  
7 Q To go with them?  
8 A Yes.  
9 Q Did you follow that advice?  
10 A No.  
11 Q What, what was the next contact you received from  
12 police after that late Saturday morning stop -- that  
13 Saturday evening stop?  
14 A Detective Freesmeyer and Lt. John Brown of the  
15 state's attorney's investigator's office walked up to me on  
16 the quad at the theater one day. I had been working on a  
17 show. It was the middle of tech week. I was about to go  
18 into a production meeting, and Detective Freesmeyer served  
19 me a warrant stating that I should give over samples of my  
20 blood, and hair, and all that kind of stuff. And I asked  
21 him if I could attend my production meeting and then go with  
22 him, and he said no, and so I went with him.  
23 Q From that time, going on further during that fall,  
24 did you have further contacts from one or more officers?

C05197

1 A Yes, I did.  
2 Q Did you, on those various occasions, speak with  
3 them about some of the details of that week?  
4 A Yes, I was asked if I would offer assistance to  
5 their investigation and I willingly complied.  
6 Q I want to show you what previously has been  
7 marked, if I may, your Honor?  
8 THE COURT: You may.  
9 Q -- People's Exhibit 44, which is not -- do you  
10 know where it is?  
11 MS. DIMMICK: Should be up there.  
12 MR. BEU: It was before lunch.  
13 MS. DIMMICK: I have a copy.  
14 THE COURT: Let me go off the record.  
15  
16 (WHEREUPON A BRIEF DISCUSSION WAS HAD  
17 OFF THE RECORD.)  
18  
19 MR. BEU: So the record is clear now, your Honor, we  
20 have found what I was looking for. Actually it's an  
21 unmarked piece of paper, but it is an envelope marked  
22 People's Exhibit 44.  
23 THE COURT: All right.  
24 Q (By Mr. Beu) Mr. Beaman, I want to show you what

C05198

1 has been designated as People's Exhibit 44, and ask you if  
2 you recognize that as a document in your handwriting that  
3 was prepared by you on a date that appears on there of  
4 October 10th -- pardon me, October 12th.

5 A Yes, it is.

6 Q Okay. Is that in your handwriting?

7 A Yes, it is.

8 Q And where did you -- where'd you fill that out?

9 A In Tim Freesmeyer's office.

10 Q Okay. You accompanied him voluntarily at his  
11 request on that occasion?

12 A Yes.

13 Q Did you, in the course of talking with him that  
14 day, go through with him your entire week's activities as  
15 you have ultimately traced them back and described here?

16 A To the best of my recollection, yes.

17 Q What, at that point in time, what things in that  
18 week stood out the most strongly for you?

19 A The ice cream social, the rehearsal, the fact that  
20 I was with Chris on Wednesday night. I hadn't seen him any  
21 other night that week, and most of the other people I had  
22 been with were friends, but I hadn't known them as long.

23 Q Okay --

24 A The date with Beth.

1748

C05199

AB019014

1 Q Okay. Anything else that you can recall at this  
2 point?

3 A Everything else.

4 Q Was the phone call from Jennifer anything  
5 particular?

6 A Yeah, I guess. I don't know if I even -- yeah, I  
7 did write that down.

8 Q Okay. Looking at that schedule now, is there  
9 anything that you wrote on there that you did not do on the  
10 day that you told Detective Freesmeyer?

11 A No.

12 Q In any of your conversations with the officers at  
13 anytime thereafter, did you ever tell them to the best of  
14 your recollection that you had done something that you had,  
15 in fact, not done?

16 A No.

17 Q On occasions you have been asked, have you not, by  
18 one or more officers what you did after you got off work  
19 Wednesday morning. Do you recall that?

20 A Yes.

21 Q Do you recall telling them on several occasions  
22 that after you got home -- or off work Wednesday morning  
23 that you went home and went to bed?

24 A Yes.

C05200

1 Q Did any of those officers ever bother to ask you,  
2 "Did you go to the bank on Wednesday morning?"

3 A No.

4 Q Ultimately it was made known to you that they knew  
5 you had gone to a bank, right?

6 A Right.

7 Q Prior to that, did -- did you ever say to any of  
8 these officers, "No, I did not go to the bank Wednesday  
9 morning."?

10 A No.

11 Q They never asked you, did they, --

12 A No.

13 Q -- "On Wednesday morning did you go home and go to  
14 bed?"

15 A No.

16 Q Well, did you go home afterwards and go to bed?

17 A After going to the bank, yes.

18 Q The question is, I'm asking you Wednesday morning,  
19 did you go home and did you go to bed?

20 A Yes.

21 Q You also went to the bank, --

22 A Yes.

23 Q -- right? Okay, and you never told them you  
24 didn't go to the bank?

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A No.

Q Okay. At the time you were first pulled over and questioned at the station here in Rockford, there in Rockford, up there in Rockford, were you told when something had happened to Jennifer what day it had been?

A I was told Tuesday or Wednesday.

Q At anytime after that, up until some later conversation that Officer Freesmeyer had described that he told you that you would ultimately be arrested, did you know specifically a time or a day during the week?

A No, I did not.

Q Had you received the advice, that what we knew we could prove shouldn't be disclosed, because it didn't have to be, until they fessed up to when it was they say a crime had occurred?

A Yes.

Q Had you received the advice that they should make their case, if they were going to come up with some evidence to arrest you, based on evidence?

A Yes.

Q Did you ever tell the police anything that was not true?

A Never.

Q Did they ever ask you incomplete questions which

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you answered?

A Commonly.

Q Did they ever ask you double questions which you answered?

A Commonly..

Q For example, at one point you ultimately testified voluntarily at the grand jury, did you not?

A Yes, I did.

Q You understood, at the time, that you had a choice legally that you could either appear and testify or choose not to?

A Yes.

Q Just as you have that right during this trial, right?

A Correct.

Q And you did appear at the grand jury. The procedure there, was it not, that your attorney could accompany you?

A Yes.

Q But could do nothing else?

A Correct.

Q Could not ask questions?

A Correct.

Q Could just sit and observe?

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A Right.

Q Okay. For example, you were asked a double question on one case there by Mr. Souk, weren't you, about if you're going to go to First Federal or going to visit some of your friends, do you go through town?

MR SOUK: Judge, I'm going to object at this point. If he wants to call his attention and quote from the transcript in the proper context, I don't have any objection. But summarizing and characterizing my questions without doing that is --

THE COURT: All right, do you have a specific --

MR. BEU: I thought the objection might be that I was using a prior inconsistent statement, your Honor, and I thought I could be prepared for that objection. I do have that, your Honor.

THE COURT: I think perhaps if you just want to refer to the specific question and answer, if you would please.

MR. BEU: On page 377 of the grand jury transcript, counsel.

Q (By Mr. Beu) Alan, do you recall being asked, "Where do you bank? Answer: Bell Federal Savings & Loan. Question: When you go there, or to your friends that you mentioned that live on the east side of town, do you go through Rockford? Answer: Yes. Question: That's your

C05204

1 normal route of travel? Answer: Yeah." Do you recall  
2 being asked and answering a series of questions such as  
3 that?

4 A Yes.

5 Q As a matter of fact, if you're going to visit any  
6 of your friends in Rockford, what route would you normally  
7 take?

8 A I would drive through, through Rockford.

9 Q If you were going from your home to the IGA store,  
10 for example, at Sandy Hollow, what route would you take?

11 A I would take Route 20.

12 Q Why?

13 A Why, because it's one specific place far on the  
14 other side of town. There's no point driving through town  
15 if you're not going to stop at places there inside.

16 Q And why is that?

17 A Every one of my friends lives throughout, all over  
18 Rockford -- sorry.

19 Q Okay --

20 A So --

21 Q What is the main difference in driving from your  
22 home directly, for example, to Sandy Hollow IGA store  
23 through town or on the bypass?

24 A The main difference?

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APPENDIX 001081

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Q Yes.

A Time.

Q And what's the main difference in driving from your home to and from Bell Federal either through town or on the bypass?

A Time.

Q When you were first talking to Detective Daniels he told you, did he not, variously that Jennifer had been seriously injured and in the hospital, and then that she was dead, and then that she was seriously injured? Did he make statements like that to you in that first statement?

A Yes.

MR. SOUK: Your Honor, I'm going to object and ask to approach the bench..

THE COURT: You may.

(WHEREUPON THE FOLLOWING DISCUSSION WAS HAD AT THE BENCH:)

MR. SOUK: That question is not based on fact in evidence. The facts that are in evidence from Detective Daniels' testimony and the transcript that the jury heard, he said he was first told that she was dead, and then any conversation about her possibly being injured instead of

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dead occurred after the tape ran out and at the end of the interview. The question he just asked started off with saying did you and did he:

MR. BEU: This is not rebuttal. It's our case in chief.

THE COURT: Well, I understand that.

MR. BEU: His point is whether it's in our case in chief of what questions might have been asked or answered at the grand jury.

THE COURT: I understand that. Hold on just a minute. Objection is overruled.

(WHEREUPON THE FOLLOWING PROCEEDINGS  
WERE HAD IN THE PRESENCE OF THE JURY:)

THE COURT: All right, objection is overruled. You may answer the question.

MR. BEU: I'd like the reporter please to read back the question so that --

THE COURT: All right, would you reread the question back?

(WHEREUPON THE LAST QUESTION WAS READ  
BACK BY THE REPORTER.)

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A Yes.

Q (By Mr. Beu) Was that first conversation with him the first time that you had heard it stated that Jennifer Lockmiller was dead?

A Yes.

Q Later, do you recall conversations with Detective Freesmeyer during October in which he indicated to you that you were going to be arrested?

A Yes.

Q And that they were waiting on some laboratory tests?

A Yes.

Q From anything you have seen in the course of your contacts with the police, did you have any more reason in your mind to believe those statements than you did Detective Daniels' first statements to you?

A No.

Q Did you meet with Verne Pickett, the investigator, and then work with him in retracing your sequence of travel during the period from Sears Tuesday night on August 23rd through your return home after the police stop on Saturday night?

A Yes.

Q You've heard his description here of the process

C05208

1 that was taken, of you describing where he should drive to  
2 retrace those steps, and then him recording the mileage?

3 A Yes.

4 Q Okay. Did you try your best in going through that  
5 with him to direct him the routes that you, in fact, took on  
6 your various travels during that week?

7 A Yes, I did.

8 Q Alan, were you in Bloomington/Normal at anytime  
9 between August 4th of '93 and the beginning of the fall term  
10 of school?

11 A No, I was not.

12 Q Did you kill Jennifer?

13 A No.

14 MR. BEU: No further questions.

15 THE COURT: Cross?

16 MR. SOUK: May we approach, judge?

17 THE COURT: You may. Off the record.

18  
19 (WHEREUPON THE COURT AND COUNSEL WENT INTO  
20 THE CONFERENCE ROOM OFF OF THE COURTROOM  
21 AND HAD A DISCUSSION OFF THE RECORD.)  
22

23 THE COURT: All right, back on the record.

24 Ladies and gentlemen, we're going to recess the trial in

1 juror affidavit which will be filed of record.

2 All right, Mr. Beaman, if you would step forward  
3 and be resworn and take the witness stand again.

4  
5 ALAN W. BEAMAN,

6 the Defendant herein, having been called as a witness,  
7 having been first duly sworn on his oath, was examined and  
8 testified as follows, to-wit:

9  
10 THE COURT: All right, Mr. Souk, you may proceed with  
11 cross examination.

12 MR. SOUK: Thank you, your Honor.

13  
14 CROSS EXAMINATION

15  
16 BY MR. SOUK:

17  
18 Q Mr. Beaman, as I ask you questions, if there's a  
19 question that confuses you, or that you don't understand, or  
20 want repeated or rephrased, would you just ask please?

21 A Yes.

22 Q And if you need to look at any exhibit or any  
23 prior statement that you've made, anything like that, before  
24 you answer a question, if you will ask to do that. All

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right?

A Yes.

Q Apparently, if I understood you yesterday, there's been times during this investigation when you've been confused by things that have been asked of you, even by me in grand jury. Is that right?

A Not necessarily confused, but asked a double question, yes.

Q Some of those happened in grand jury?

A Yes, sir.

Q And you felt, I believe, at one time you expressed you'd been harassed by the police during this investigation?

A Certainly.

Q All winter long, correct?

A Throughout.

Q Now when you were sitting in grand jury and answering questions there, Mr. Beu was sitting about three feet away from you, wasn't he?

A Yes, sir.

Q And you were informed at the beginning of that proceeding, were you not, that even though Mr. Beu couldn't ask questions, that you could consult with him whenever you wanted, right?

A Yes, sir.

C05211

1 Q And correct me if my recollection is wrong, but I  
2 don't seem to recall at anytime during the grand jury you  
3 ever asked to consult with your attorney at all, did you?  
4 A No, I did not.  
5 Q I don't recall that you ever asked me to rephrase  
6 a question, or said that you were confused, or you didn't  
7 understand the question, did you?  
8 A I just did my best to answer your questions.  
9 Q The initial interview that you had in this case  
10 with Detective Daniels, I take it from what you're saying  
11 you felt pretty mistreated during that interview?  
12 A Yes.  
13 Q And what was it about Detective Daniels, was it  
14 him, or Hospelhorn, or both of them?  
15 A It was Daniels.  
16 Q What was it that made you feel pretty mistreated  
17 about him?  
18 A His attitude, he condescended me.  
19 Q And he wasn't -- I mean we've heard the tape,  
20 right --  
21 A Yes.  
22 Q -- in the courtroom? On the tape he wasn't  
23 shouting, or screaming, or that sort of thing at you?  
24 A He was accusatory.

C05212

1 Q He was accusatory, all right. The part off the  
2 tape, is that basically the same thing, he was accusatory?

3 A Yes.

4 Q You were also upset and uncomfortable because it  
5 was a small room and you weren't allowed to smoke?

6 A That's true.

7 Q Anything else about Detective Daniels that upset  
8 you?

9 A Not specifically.

10 Q And at the beginning of that interview, after  
11 they'd gotten you down to the police station, they removed  
12 the cuffs and he told you at the start of the interview that  
13 you didn't have to answer any questions, and you could leave  
14 anytime you wanted to, didn't he?

15 A That is true.

16 Q And, in fact, you did leave when you wanted to,  
17 didn't you?

18 A Yes, I did.

19 Q And after that, the next time that you actually  
20 talked to any police officer was October the 12th when you  
21 talked with Detective Freesmeyer and Lt. Brown, correct?

22 A Correct.

23 Q And on that occasion and every time thereafter  
24 that Detective Freesmeyer talked to you, he read you your

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Miranda Rights, didn't he?

A Yes, he did.

Q And told you that you didn't have to talk to him, right?

A Yes.

Q And he told you that anything that you said could be used in a court of law against you, didn't he?

A Yes.

Q Told you you could stop talking to him at anytime you wanted to, right?

A Yes.

Q And, in fact, on October 12th, you also stopped the interview at -- on your own, correct?

A I believe I had to go to a class.

Q Well, I'm talking -- maybe I have them mixed up, but you correct me if I'm wrong. I'm talking about the interview that was held up in this building in the --

A That was a later interview.

Q Maybe that was the one on the 22nd, the one that was here in this building. I think, you're right, it was the 22nd. That one you terminated on your own, correct?

A Yes, I did.

Q There you got upset with Lt. Brown, right?

A Yes.

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Q And what did he do to make you upset?

A He brought me in, sat me down, and immediately started accusing me and saying, "Well, why don't you just tell me that you did it."

Q I think somewhere in your statement you indicated he yelled at you that day.

A Yes, he did.

Q Did he yell like yell, scream, shout, yelling, is that --

A Forcefully imposed his opinion on me.

Q His opinion was accusatory towards you?

A Yes, it was.

Q Before that session Freesmeyer had also read you your rights, correct?

A I believe so, yes.

Q And you knew that you could leave at any time, right?

A Yes.

Q In fact, you did?

A Yes, I did.

Q Got quite upset, didn't you?

A Yes.

Q That procedure persisted all the way through until your final interview on March the 9th with Detective

1 Freesmeyer, correct?

2 A Correct.

3 Q Even again on that day, he was still telling you  
4 your rights and that you didn't have to talk to him,  
5 correct?

6 A Correct.

7 Q And at some point after you got upset with Lt.  
8 Brown, you made it clear to Detective Freesmeyer that you  
9 would continue to talk, but only to him, correct?

10 A Correct.

11 Q And you continued to do that throughout the winter  
12 against the advice of your own lawyer, right?

13 A Correct.

14 Q Now you've indicated yesterday that your  
15 relationship with Jennifer basically spanned a little bit  
16 over a year, right?

17 A Yes.

18 Q And that early on, the first month, things were  
19 good. And then things started, with the fall semester,  
20 started to change this to a tumultuous relationship, and  
21 that really existed throughout the rest of the relationship?

22 A Yes.

23 Q A lot of ups and downs, right?

24 A Yes.

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APPENDIX 001092

1 Q There was, in December of '94, an incident where  
2 you, in fact, did drink fingernail polish, correct?

3 A Correct.

4 Q And what was that fight over?

5 A It was over Meredith. I wanted to hang out with  
6 my friends and I wasn't allowed to, and so I did anyways,  
7 and then that night she got on my case, and I couldn't take  
8 it any more so I found a way to get her to shut up.

9 Q And the police and rescue came and --

10 A Yes, they did.

11 Q You got sick, but you were okay, right?

12 A Yes.

13 Q Really that incident was her fault, right?

14 A No, it was my fault.

15 Q Well, you were doing it to make her shut up?

16 A So, she didn't tell me to drink polish remover.

17 Q I take it what you said about Meredith, there was  
18 nothing to any relationship with you and Meredith?

19 A No.

20 Q So her jealousy in that regard was unreasonable,  
21 right?

22 A Yes.

23 Q You had what, briefly just talked some with  
24 Meredith after you broke up because of the miscarriage

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APPENDIX 001093

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situation?

A Basically, yes.

Q But there really wasn't any relationship between you to get jealous about?

A Yes.

Q She held that over your head the entire year?

A Yes.

Q Up until the end, even the last conversation that you're having with her on August 23rd on the telephone she's still talking about the Meredith situation, right?

A Yes.

Q So that was a big point of contention between the two of you the whole year, right?

A Correct.

Q But, of course, after you couldn't take any more and you drank the fingernail polish and you got her to shut up, still kept coming back and kept coming back, didn't you?

A She kept coming back, yes.

Q You kept taking her back?

A Yes.

Q Now there was, as you indicated, two door incidents, right?

A Correct.

Q And the first one was well before Mr. Swaine was

1 ever involved in this whole scenario, right?  
2 A That is true.  
3 Q And that one involved Mr. Murray?  
4 A Correct.  
5 Q John Murray?  
6 A Hm-mmm.  
7 Q A mutual friend of this whole group too, right?  
8 A Yes.  
9 Q And if I understood you correctly, she had broken  
10 up with you over the telephone the night that this incident  
11 happened?  
12 A That is correct.  
13 Q And you had been with them earlier, and they  
14 basically were, even though you were supposed to be going  
15 with her, they were making it clear to you that your  
16 presence really wasn't desired?  
17 A That is correct.  
18 Q And so you went on home, and then she called you  
19 and said, "You know, I'm done with you."?  
20 A Hm-mmm.  
21 Q Did she say she was taking up with Mr. Murray at  
22 that point?  
23 A No, she did not.  
24 Q Why did she tell you she was breaking up with you

C05219

1. at that point?

2. A What's that again, sir?

3. Q Why did she tell you she was breaking up with you  
4. at that point?

5. A Because I guess she wasn't happy with the  
6. situation, and I wasn't leaving her alone to go out and  
7. cheat on me.

8. Q And so after that happened, then is when you went  
9. over to her place. She was now, at that point, your ex-  
10. girlfriend, I take it?

11. A Correct.

12. Q And that's when you got upset and kicked in the  
13. door?

14. A Yes.

15. Q And when you went inside, after you kicked in the  
16. door, all you did was pick up your stereo and leave?

17. A I yelled at both of them, picked up my stereo and  
18. walked out.

19. Q But you certainly didn't touch anybody or lay a  
20. glove on anybody, correct?

21. A Certainly not.

22. Q Now previously, I think it was in your grand jury  
23. testimony, you've described your temper as one where you  
24. sometimes have periods of what you call righteous

1 indignation?  
2 A Yes.  
3 Q Was that particular incident what you would  
4 describe as one of your periods of righteous indignation?  
5 A Yes.  
6 Q Same with Lt. Brown?  
7 A Certainly, yes.  
8 Q By the way, when you were first questioned by  
9 Detective Daniels on August the 28th, you didn't tell him  
10 about the Murray door incident, did you?  
11 A No, I did not.  
12 Q In fact, you lied to him about it, didn't you?  
13 A No, I didn't.  
14 Q Do you recall these questions and answers:  
15 "Detective Daniels --  
16 MR. BEU: Page, counsel?  
17 MR. SOUK: I'm sorry, page 27 of the August 28th.  
18 Q (By Mr. Souk) "Detective Daniels: Did you ever  
19 come down just to check to see who she was dating?" Your  
20 answer, "No." "Daniels: Other than finding her with Mike  
21 that one night, you never did find her with anyone else?"  
22 Your answer, "No." "Daniels: Did you ever visit the  
23 apartment and find any occasion of another man staying  
24 there?" Your answer, "No." "Daniels: Have you ever been

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1 told there's another man staying there?" Your answer, "No."  
2 "Daniels: Did you ever see any other men leaving or  
3 entering her apartment?" Your answer, "No." Remember those  
4 questions and answers?

5 A I guess, yes.

6 Q Well, you lied to Daniels, didn't you?

7 A No.

8 Q That's not a lie?

9 A No, it's not a lie. It's possible that I was not  
10 thinking along the same lines that you were thinking along.

11 Q Oh, you just kind of forgot about the Murray door  
12 incident at that point?

13 A It wasn't necessarily imperative. I figured it  
14 was several months ago and shouldn't have had anything to do  
15 with it.

16 Q So you were thinking about it and you just didn't  
17 tell him about it?

18 A No. Like I said, I don't think I was thinking  
19 along the same lines as you're thinking along.

20 Q You remembered during this interview to tell him  
21 about the Swaine door incident, didn't you?

22 A He asked me about Swaine.

23 Q He asked you about your whole relationship with  
24 Jennifer, didn't he?

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APPENDIX 001098

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A Yes.

Q You had only two incidents where you kicked the door in, right?

A I was never specifically asked about John Murray.

Q Other than finding her with Mike that one night, you never did find her with anyone else? That question is not one that would ask you about the Murray door incident?

A Not specifically.

Q What was he supposed to ask you, did you ever find her with John Murray?

A I suppose he should have.

Q Now you've indicated that all the letters that are variously part of People's Exhibit 4 are letters you've written at one time or another, correct?

A Yes.

Q "Thinking of you puts me to sleep at night and wakes me up in the morning." Those words you wrote to Jennifer?

A Yes.

Q "I really just want you to be with me and only me, selfish, but honest." Your words?

A Yes.

Q "I won't be able to handle this much longer without some growth in our relationship." Your words?

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A Hm-mmm, of course.

Q "And now my bitter hands, frayed on broken glass, of what was everything, all the pictures have been washed in black, tattooed all I see, all that I am, all I'll be. I know some day you'll have a beautiful life. I know you'll be in the sun in somebody else's sky. But why, why, why can't it be? Why can't it be mine?" Your words?

A No, Eddie Vetter, Pearl Jam.

Q That's a band?

A Yes.

Q That's from a song?

A Hm-mmm.

Q That was from a song?

A Yes, sir.

Q You were quoting from that to express your feelings for Jennifer?

A Yes, sir.

Q That was included in your letters though, right?

A Correct.

Q "I don't know what my life is for yet, I don't know about anything for sure, but I know that I love you." Your words?

A Certainly.

Q "I know there's things about me that bother you,

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1 but I want to make a change in my lifestyle. I want to be  
2 monogamous, and I want it to be with you." Your words?

3 A Yes.

4 Q "I love you. More passionately than Romeo did  
5 Juliet, more helplessly than Ophelia did Hamlet, more  
6 vengefully than did Medea, Jason. Don't worry, I won't kill  
7 anybody, I don't believe in that." Your words?

8 A Yes.

9 Q "With the most confusing and passionate love ever  
10 imaginable in anyone's wildest dreams, Alan." Your words?

11 A Yes. Taken out of context, but yes.

12 Q But you did have a passionate love for her,  
13 correct?

14 A Indeed.

15 Q And you were engaged at one point?

16 A Yes.

17 Q I take it this was not the kind of engagement that  
18 you put in the paper and you've got a wedding date planned  
19 and all that?

20 A We both felt it was not a good time to go  
21 announcing something like that to parents and family and  
22 such. We were both still in school. It was something that  
23 we had identified for ourselves, and would probably just  
24 cause more problems with families.

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1 Q So it was true she didn't tell her parents, right?

2 A I wouldn't believe she would have, no.

3 Q Did you tell your parents?

4 A Later on, I believe.

5 Q But the engagement was never actually, if you  
6 will, broken until your last break-up?

7 A It was never fully verified after that point. I  
8 mean, it was just announced among friends, and then it was  
9 up to her whether or not we were engaged at that time or not  
10 pretty much.

11 Q Now before you get to the summer of '93, Mr.  
12 Swaine is never in the picture, right?

13 A Correct.

14 Q But, even in addition to the specific incidences  
15 that have been talked about, your having many problems with  
16 Jennifer, right?

17 A Certainly.

18 Q And you remember Mr. Cornell's testimony, the  
19 neighbor?

20 A It's been awhile, but --

21 Q Well, he testified there was a number of occasions  
22 that he heard you over there late at night pounding on the  
23 door, and shouting, and waking people up.

24 A Was there a specific number there?

1778

C05226

1 Q Well, I think he said maybe three to five,  
2 something like that. I guess what I'm asking you --

3 A That would be about right.

4 Q Okay. So there was more than the Murray door  
5 incident, right?

6 A Yes.

7 Q Other occasions --

8 A I never broke the door down on any other  
9 occasions.

10 Q Except for the Swaine incident this summer?

11 A Well, yes.

12 Q There were other incidences that you were over  
13 there, again I take it periods of righteous indignation?

14 A Certainly.

15 Q And just kind of over the same thing? I mean were  
16 these occasions where you thought there was a man in there,  
17 or was something else going on?

18 A Occasions where I needed to talk to Jennifer.

19 Q And she didn't want to talk to you?

20 A Or couldn't.

21 Q Or couldn't? She wasn't home?

22 A I don't feel that I would be allowed to respond  
23 fully to that question.

24 Q Okay. Well, some times she did talk to you

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APPENDIX 001103

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through the door, right?

A Yes.

Q And she told you to get lost, right?

A Yes.

Q And you didn't get lost very easily, did you?

A Not very easily, but obviously I didn't break the door down. When you care about somebody, you worry about that person. You tend to stick around and try to make sure they're all right.

Q Now Mr. Swaine entered the picture basically, shall we call it, the Sigma Chi incident? Is that --

A Whatever.

Q June 11th?

A Yes.

Q Okay. Now on that occasion you were out of town, right?

A Correct.

Q And you came back, and the first you knew about it was one of the girls from upstairs came down and kind of grabbed Swaine and said, "We got to talk to you."?

A Hm-mmm.

Q And you followed along and listened through the door?

A Yes, I did.

1780

C05228

AB017888

APPENDIX 001104

1 Q And you could tell through the door what it was  
2 they were talking to Swaine about?  
3 A Not really, but I could tell it had something to  
4 do with whether I was going to believe them or her, or  
5 something about something between Swaine and Jennifer. It  
6 was not specifically clear, but it did raise questions in my  
7 mind that had already begun to pop up.  
8 Q Well, now maybe I forgot something here, but had  
9 Jennifer already, before that happened, had she already told  
10 you that some people were going to be telling you some  
11 things that you shouldn't believe?  
12 A Yes.  
13 Q That was right after you got back?  
14 A Yes.  
15 Q And she said it would relate to her and Swaine  
16 kissing, or necking, or something like that?  
17 A I don't believe she said, directly said that it  
18 would relate to her and Swaine kissing, but --  
19 Q Her and Swaine?  
20 A I was aware that something was going to be said  
21 about her that supposedly was not true.  
22 Q So she was kind of trying to head that off in  
23 advance, right?  
24 A Yeah, she called it damage control.

C05229

1 Q Then after you listened at the door, Swaine did in  
2 fact talk to you, right?

3 A Yes, he did.

4 Q And he lied to you because he didn't tell you  
5 about Sigma Chi, did he?

6 A No, he didn't.

7 Q He told you they'd been kissing on the couch, or  
8 whatever, right?

9 A Yes.

10 Q And did he apologize to you?

11 A Yes.

12 Q Did you guys kind of say okay, or call a truce, or  
13 whatever?

14 A Well, it was never a comfortable situation from  
15 then on, but I did my best to forgive both of them.

16 Q I think Mr. Swaine had indicated that -- that you  
17 kind of said okay, and that you were more mad at Jennifer  
18 than at him?

19 A Well, she --

20 Q Would that be accurate?

21 A She was the one that was supposed to be my  
22 girlfriend, and she was supposed to be able to make that  
23 decision not to, you know, to be faithful or not to be.

24 Q Well, I take it that after Swaine talked with you,

1 you went and confronted Jennifer right away?

2 A I don't know how long it was, but maybe a day at  
3 the most.

4 Q When you confronted her, did she continue to deny  
5 that she and Swaine did anything?

6 A Yes, she did.

7 Q She denied even what Swaine told you?

8 A Yes, she did.

9 Q But obviously your suspicions were very much  
10 aroused, and that was the topic of interest for you the rest  
11 of the summer, right?

12 A Yes, it was.

13 Q You recall Mr. Swaine's testimony about maybe a  
14 couple of weeks after that incident you and he having a  
15 confrontation at the theater where you both were working?

16 A Yes.

17 Q Did that happen?

18 A What happen?

19 Q Did you have a confrontation with him at the  
20 theater, the two of you?

21 A Yes, we did.

22 Q During that conversation, was he accurate that you  
23 told him that you didn't want to work with somebody that you  
24 wanted to kill?

1783

C05231

AB017891

APPENDIX 001107

1 A No, that is not accurate.  
2 Q You never said that?  
3 A I never said anything about wanting to kill  
4 Michael.  
5 Q Who -- who started that problem, him or you?  
6 A What do you mean?  
7 Q How did the confrontation --  
8 A That conversation?  
9 Q Yes.  
10 A We were in the shop. I think he razzed me for  
11 being late, and I explained to him, "Look, it's not too easy  
12 for me to listen to what you tell me to do, or even have any  
13 respect for you as an employer, if you're sleeping with my  
14 ex-girlfriend and you won't even tell me about it."  
15 Q At that point technically he was your boss, right?  
16 A Yes.  
17 Q Starting with the second show?  
18 A As I was his boss during the time during which he  
19 was sleeping with my girlfriend.  
20 Q So that kind of flip-flopped for the summer. Is  
21 that kind of to give everybody some experience of doing  
22 various things?  
23 A Yes, it does.  
24 Q But these are paying positions, right?

1784

C05232

1 A Correct.

2 Q And even though you had this strained personal  
3 situation, he still is supposed to be in charge of what's  
4 going on there, right?

5 A Supposedly.

6 Q He was razzing you about being late?

7 A Yes, he was.

8 Q Were you late?

9 A Yes.

10 Q Were you late a lot?

11 A Five minutes often, yeah.

12 Q But not very much, and he was just what, kind of  
13 abusing his authority and giving you a hard time?

14 A I think you would get that consensus from anybody  
15 working there that summer, yes.

16 Q His position of power kind of went to his head a  
17 little bit?

18 A Yes, it did indeed.

19 Q By the way, how about the holes in the wall in  
20 Jennifer's apartment, did you make those?

21 A Which ones?

22 Q How many were there?

23 A Well, I've seen two.

24 Q Did you make any of them?

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A I made one of them, yes.

Q Which one was that?

A The small dent in the living room wall is from where my forehead --

Q What was your forehead doing against the wall?

A Boom.

Q One of your periods of righteous indignation?

A More like desperately frustrated and smacked my head against the wall, kind of like, what am I doing, boom.

Q What about the big hole that is in the bedroom wall?

A I believe that's from a glass or a vase of some sort.

Q That she threw?

A Yes.

Q At you?

A Yes.

Q How about the holes in the wall at your apartment on East Street, did she make those?

A There is only one hole on the wall --

Q And who --

A -- on East Street.

Q -- made that?

A That was me.

C05234

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Q That have anything to do with Jennifer?

A Well, had to do more with Swaine. After I dropped him -- or brought him home from the night that he borrowed my car to go over there, I walked in the door and kicked a hole in the wall in the kitchen.

Q That was the night where you had -- after you'd gone back over there, you picked him up and gave him a ride back home?

A Yes.

Q And you two had a peaceful conversation?

A Fairly peaceful, yes.

Q Fairly peaceful. When you got home -- I take it you restrained your urge to punch Mr. Swaine and you punched the wall?

A That would be speculation.

Q I guess let me ask it more directly. Were you so angry with Mr. Swaine that you wanted to hit him?

A No, I didn't hit him.

Q I didn't ask if you hit him. I asked if you wanted to hit him.

A If I wanted to hit him, I would have hit him.

Q But you wanted to hit the wall, so you broke a hole in the wall?

A Yes.

1787

C05235

1 Q Now on, I believe it's June 29th, you had this  
2 incident where you -- you called 9-1-1, right?  
3 A I did.  
4 Q And that was because Jennifer called you and said  
5 she was going to kill herself?  
6 A Yes.  
7 Q She'd taken pills?  
8 A Yes.  
9 Q And when you got over there, lo and behold, she  
10 hadn't taken any pills?  
11 A I don't know, she had a pretty high tolerance to  
12 those.  
13 Q Well, the rescue people came, and they looked at  
14 her, and she didn't need any treatment, right?  
15 A Correct.  
16 Q And everybody left?  
17 A Hm-mmm.  
18 Q And she basically was just playing with your mind  
19 on that occasion, right?  
20 A I would believe so, yes.  
21 Q But, of course, the only way we know whether she  
22 took any pills or said she took any pills is through you,  
23 right?  
24 A I guess. Why would I call 9-1-1 when I didn't

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need to, though?

Q Now sometime in the middle of July is the Swaine door incident, right?

A Correct.

Q Was Jennifer afraid of you?

A I don't know, you'd have to ask her.

Q Did she ever express that she was afraid of you?

A She was afraid of everybody, for that matter. I mean I was loud. I yelled at her. I'd broken her door down twice. I mean, what do you expect?

Q Well, the question was, had she expressed to you that she was afraid of you?

A I suppose, yes.

Q Because of your -- just the door incidences, or these other incidences, too?

A I imagine the door is the most, what would most stick in your mind.

Q But her fear of you always related to either you being loud, or verbally abusive, or damaging property, right?

A Correct.

Q It would be correct, would it not, that you never laid a glove on her, right?

A That is absolutely true.

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Q Or Swaine for that matter, right?

A That is absolutely true, too.

Q Now I believe you indicated yesterday that on that occasion you had loaned Mr. Swaine your car, and then followed him on a bike, right?

A Yes.

Q And he basically, I believe like he testified, kind of phoned up a conversation and told you he was going somewhere different than where he went, right?

A Yes.

Q And when you went over there, it was another of the shout and scream, pound on the door, and finally kick in the door kind of situation?

A Yes, it was.

Q But you couldn't find him?

A No, I couldn't.

Q What were you going to do that time if you found him?

A Get my keys, tell him he wasn't to drive my car, probably chew him out quite a bit.

Q Was his transgression this night for being with Jennifer, or was it for lying to you to get your car?

A I was angry at Michael for lying to me to get to my car, yes, because it didn't seem like to me a very nice

C05238

1 thing for him to do, to lie to me and then go flaunt things  
2 in front of my face, shall we say.

3 Q But I believe you said when you were shouting that  
4 night, you were shouting that at him about borrowing your  
5 car to --

6 A Yes.

7 Q -- to go see your ex-girlfriend, right?

8 A Yes.

9 Q She was your ex-girlfriend at that point, right?

10 A It doesn't matter, he's my roommate.

11 Q The question was, she was your ex-girlfriend at  
12 that point, right?

13 A Yes.

14 Q So the -- strike that. You've indicated that the  
15 testimony of Mr. Singley and Miss Jenkins about that evening  
16 was substantially accurate, correct?

17 A I suppose, yes.

18 Q And do you recall Mr. Singley describing you as  
19 being calm, and then exploding, like then you were out of  
20 control? Do you recall that?

21 A Yes, I recall him saying that.

22 Q Is that the way you get when you're righteously  
23 indignant?

24 A Not most of the time, but I was that night, yes.

1791

C05239

AB017899

APPENDIX 001115

1 Q But this -- was this another period of righteous  
2 indignation that night?

3 A Yes.

4 Q So you were particularly righteously indignant  
5 that night?

6 A No, I went beyond that. I did get angry. There  
7 is a difference.

8 Q His description of you was almost like your  
9 behavior was somewhat psycho. Would you agree with that  
10 description?

11 A Psycho, that's a nebulous term, sir.

12 Q Well, you previously, I think for Detective  
13 Daniels it might have been, somewhere you've described a lot  
14 of Jennifer's behavior as doing psycho kind of stuff,  
15 haven't you?

16 A It's still a nebulous term.

17 Q Well, when you used that to describe Jennifer,  
18 what did you mean by psycho stuff?

19 A Unpredictable, rather predictably unpredictable,  
20 waiting to pounce at any moment on anything that I would say  
21 or do.

22 Q Unreasonable?

23 A Unreasonable, yes.

24 Q Irrational?

1792

C05240

1 A Yes.

2 Q Violent?

3 A You could characterize all those things.

4 Q And she was violent. She didn't -- well, maybe

5 she did. Did she strike you?

6 A She's punched me a few times, yes.

7 Q And she threw things at you?

8 A Yes.

9 Q And obviously she threw at least one thing at you

10 so hard that it knocked a huge hole in her bedroom wall?

11 A Yes, she did.

12 Q What -- obviously as you say, she kept crawling

13 back and you kept taking her back, right?

14 A Essentially.

15 Q I guess we haven't heard anything so far that

16 sounds like Jennifer has any redeeming quality. What was it

17 about this woman that kept you coming back?

18 A She was beautiful. She was intelligent. She was

19 passionate. I loved her.

20 Q But she had a lot of problems?

21 A Yes, she did, and I wanted to help her.

22 Q Now on July -- Sunday, July 25th, that's the day

23 you left town, right?

24 A Correct.

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C05241

AB017901

APPENDIX 001117

1 Q And I believe when you were speaking with Mr. Beu  
2 yesterday that you said that that was really the final  
3 break-up of your relationship, right?

4 A That was the point at which I knew that I wasn't  
5 going to have to worry about her crawling back to me,  
6 because I could leave. Up until that point, she was still  
7 constantly coming over to my apartment when I had told her  
8 and Swaine both that she was not to come over to my  
9 apartment. If they wanted to hang out, they could do it at  
10 her place. They kept coming over, and she kept saying  
11 things about maybe we can get back together.

12 Q And up until the 25th, you were basically feeling  
13 inside that you might still be susceptible to taking her  
14 back yet one more time?

15 A Yes, I felt so.

16 Q But on the 25th, that's when you kind of put some  
17 closure to you, as you said?

18 A When I knew that I had been lied to consistently I  
19 knew that there was no possible reason why I would want to  
20 take her back, and so I was able to leave.

21 Q But actually, if you want to put it in technical  
22 terms, you had, in fact, broken up for the final time even  
23 before the door incident, right?

24 A Yes.

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AB017902

APPENDIX 001118

1 Q Because you were calling her your ex-girlfriend on  
2 that night, right?

3 A Yes.

4 Q And that last break-up, she broke up with you,  
5 right?

6 A Correct.

7 Q And by your count, that was number 18, right?

8 A Roughly.

9 Q And 16 of those she broke up with you, and two  
10 you --

11 A Yes.

12 Q -- you broke up with her?

13 A Correct.

14 Q All 16 that she broke up with you, you came -- or  
15 she came crawling back and you took her back?

16 A Yes.

17 Q So it was the same pattern of the whole year. She  
18 would, for whatever reason, get so upset with your  
19 relationship that she would say, "I'm done with you," and  
20 then a day, or two, or three later, she calls you and she  
21 wants to get back together again, and you take her back?

22 A Yes.

23 Q Now on that day -- well, actually the night  
24 before, the 24th, your suspicions had already been

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APPENDIX 001119

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considerably aroused because you were looking at condoms that night, right?

A Yes.

Q And you saw that there was some condoms somewhere that some were missing out of, right?

A Correct.

Q And you were pretty sure that nobody else in the apartment but Swaine would be using them, so that really set your suspicions on fire, so-to-speak, right?

A If you want to use that sensationalistic terminology, yes.

Q If you think -- I'm sorry, I'll rephrase it. You were suspicious because of that?

A Yes.

Q Was there anything else? I think somebody, I can't remember which witness now, said something about bubble bath and maybe some other things. Was there anything besides the condom that aroused your suspicions?

A I don't recall anything about bubble bath being any part of that, no.

Q But the next morning, on the 25th, everybody else went to work, right?

A Yes.

Q Jamie was visiting with you. Obviously he didn't

1 work with the company, and he was sleeping in, right?  
2 A Correct.  
3 Q And you stayed behind?  
4 A Yes.  
5 Q And you searched Mr. Swaine's room, right?  
6 A Yes, I did.  
7 Q And that's when you found the letters?  
8 A Yes, I did.  
9 Q And those letters confirmed to you that Swaine and  
10 Jennifer were sleeping together?  
11 A Confirmed to me that the night, June 11th, had  
12 gone further than I had been told.  
13 Q What was it in the letters that confirmed that to  
14 you?  
15 A I'd have to see the letter to be able to be more  
16 specific for you. I think it was just the general context  
17 of the letter.  
18 Q Show you People's Exhibits 39-B and C, and ask you  
19 first if those are the letters that we're talking about?  
20 A I believe there is actually one more.  
21 Q Are those the two that you attached to the letter?  
22 A I thought I attached three to that letter to Dr.  
23 Brown, but that's possible that that's not the case.  
24 Q Well, would you look at those two first, please?

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C05245

AB017905

APPENDIX 001121

1           A     Yes, I have the one in my hand that I'm talking  
2 about.

3           Q     Okay. And what is there in that letter that  
4 confirms your suspicions?

5           A     "Never before have I felt" --

6           MR. BEU: Your Honor, can we identify the exhibit  
7 number?

8           THE COURT: Yes, would you --

9           A     39-B, People's Exhibit.

10          THE COURT: All right.

11          A     "Never before have I felt so compelled to write.  
12 This afternoon was different. I awoke with smiles and a  
13 light tingling feeling, eager to get up and think about  
14 him," capital H-I-M, "and last night instead of clinging to  
15 the darkness of my room and despair of my thoughts. The way  
16 he looks at me, my God. The way he looks at anyone with  
17 those incredible deer-like eyes, so deep and brown and  
18 innocent. I couldn't, I can't stop thinking about him, and  
19 I don't want to stop. Ashamed and elated, I knew that this  
20 is what it means to be young. I consume and delight in the  
21 simple unexpected pleasures of his presence, an electrifying  
22 touch, an unexpected glance, a single coy exchange. Almost  
23 too much happiness to contain. He makes me laugh and think  
24 and feel, me, who is usually someone too numb or analytical

1 to experience the raw joy of life. For that, I am forever  
2 in his debt." Just seemed to me like there were specific  
3 sexual emotions displayed.

4 Q And it was after you found those letters --  
5 incidentally, you remember Mr. Thorman said he woke up and  
6 tried to get you to stop searching the room?

7 A He told me that it would not be the best thing for  
8 me to do, and that I really should just get out of there.

9 Q But you ignored that advice, of course?

10 A I had to have proof.

11 Q And then you went to the theater first, and then  
12 Jen's?

13 A Yes.

14 Q And at the theater, was that a -- how should I  
15 distinguish, was that a blow-up or a period of righteous  
16 indignation?

17 A A confrontation.

18 Q Confrontation, that was on your part, a period of  
19 righteous indignation?

20 A I would say at that point I was no better than  
21 Daniels.

22 Q So you went over there to cause a confrontation?

23 A Essentially, yes.

24 Q You had the proof, and you were going to shove it

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C05247

AB017907

1 in Swaine's face, and then quit?  
2 A Yes, I was.  
3 Q That was your purpose in going there?  
4 A Yes.  
5 Q But even though you went there with that purpose,  
6 it was really Swaine who started things off on the wrong  
7 foot when he said, "Get to work, dude." --  
8 A Yes.  
9 Q -- right? That's the first thing he said to you?  
10 A Yes.  
11 Q Even before you had a chance to shout and scream  
12 at him, and throw the letters at him?  
13 A Well, I showed him the letters, and then all he  
14 said was, "Get to work, dude." He knew what I was there  
15 for, and he knew what was up.  
16 Q But you just -- you were calmly showing him the  
17 letters, or you were shouting and screaming?  
18 A I walked in. I said, "Mike, you know, I want to  
19 show you this," and I may have been agitated at that point,  
20 but I was not yelling yet at that point. And then he said,  
21 "Get to work, dude." And then I lost all reason to keep my  
22 cool with him, 'cause he was not listening to me.  
23 Q And the incident from there was pretty much as --  
24 well, let's leave Mr. Swaine out -- I believe Katy and Chris

C05248

1 Perry described it. Was their description pretty accurate  
2 as you recall?

3 A I'm not sure I fully recall their description.

4 Q Well, if I'm understanding you correctly, and I  
5 don't want to put words in your mouth, but it sounds like  
6 after he really pushed the wrong button by saying, "Get to  
7 work, dude.", that you pretty well lost your temper and got  
8 out of control verbally?

9 A Verbally, yes.

10 Q Didn't hit anybody?

11 A No, I did not.

12 Q You didn't damage any property that day, did you?

13 A No, I did not.

14 Q When you left, did you go straight to Jennifer's,  
15 or did you go back to East Street?

16 A I left to go to Jennifer's.

17 Q So it was after you went to Jennifer's that you  
18 went back and packed and left with Jamie?

19 A Yes.

20 Q So about what time was it that you went to  
21 Jennifer's, do you think?

22 A Probably around ten o'clock.

23 Q And when you got there, you've indicated that you  
24 were knocking on the door and calling through the door, and

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C05249

AB017909

1 she didn't want to let you in. How long did it take you to  
2 get in?

3 A Five/ten minutes.

4 Q And I think you said you cried some?

5 A Yes.

6 Q And then they finally opened the door for you?

7 A Yes.

8 Q And was that crying real crying or phony crying?

9 A It was real crying.

10 Q You heard Heidi's testimony, right?

11 A Yes.

12 Q And you heard her describe how you changed from  
13 crying to angry once you got into the door. That wasn't  
14 accurate?

15 A I don't know if it was necessarily such a broad,  
16 drastic shift that she's talking about. I was crying for  
17 part of the time that I was out there simply out of  
18 frustration and wanting to be able to communicate my views  
19 of what had happened with Jennifer, wanting to demand the  
20 truth, and have her finally just tell me the truth. But  
21 obviously that did not happen. She continued to deny it.

22 Q You just walked in?

23 A Yes.

24 Q You didn't shove past Heidi like she said?

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AB017910

APPENDIX 001126

1           A    No, there's no reason to shove when the door has  
2           been opened for you.  
3           Q    But once you got inside, you stopped crying and  
4           you started reading from the letter, right?  
5           A    Yes, I started reading the letter.  
6           Q    And you were very loud?  
7           A    Yes.  
8           Q    And you were reading this out loud to Jennifer to  
9           show her that you knew what you now knew, right?  
10          A    Correct.  
11          Q    And what was she saying?  
12          A    She was asking me to stop reading.  
13          Q    Did she say --  
14          A    Saying, "Shut up."  
15          Q    Did she say she had written that to Swaine?  
16          A    What's that now?  
17          Q    Did she say she had written that to Swaine?  
18          A    I don't remember if she admitted that or not.  
19          Q    Was the signature on the bottom, was that hers, or  
20          was it apparent that it was from her?  
21          A    No, it's not hers, but it's her writing style.  
22          Q    So you assumed it was from her?  
23          A    It was with all the other letters to him from her.  
24          Q    But she didn't -- she didn't say that she had

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written it?

A Swaine had admitted to me it being from her.

Q Swaine did at the theater?

A Yes.

Q And -- but she was just trying to get you to be quiet and leave her alone, or what?

A Pretty much, yes.

Q How long were you there inside the apartment?

A Ten minutes, ten or 15.

Q And I guess even from the letters you weren't really totally sure, firmly convinced, at that point that they had, in fact, been sleeping together, 'cause then you searched the garbage, right?

A Yes, I did.

Q So you were still looking for yet one final piece of confirmation, some physical evidence, that would confirm in your mind that they were actually sleeping together, right?

A Correct.

Q 'Cause neither one of them had yet ever admitted that they had slept together to you, right?

A Correct.

Q That was part of your frustration, is people were lying and covering up and they weren't telling you the

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truth, right?

A That is true.

Q And Heidi was correct that she eventually intervened herself verbally with you and got you to leave basically?

A Yes.

Q And that day, other than dumping the garbage out, you didn't damage any property, did you?

A No, I did not.

Q Never laid a glove on anybody, did you?

A No, I did not.

Q Then you went back and talked with Jamie and arranged to go with him, right?

A Yes, I did.

Q Was that the first time you and Jamie had talked about that?

A I believe it had been mentioned the night before.

Q So he already knew you were under a lot of stress and you were thinking about leaving?

A Yeah.

Q And he'd offered you a place to go cool it for awhile?

A Yes, he had.

Q And that's the point at which you wrote a letter

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to Dr. Brown --

A Yes, it was.

Q -- correct? And you attached 39-B and C along with that letter so he would understand where you were coming from, right?

A Correct.

Q At that point in time, Dr. Brown was kind of the head of the program. You hadn't been sharing on a daily basis what your problem had been, had you?

A No.

Q And that's also when Amy gets involved and calls Kelly Ullom, and at that point did you think you had permission from Dr. Brown to leave?

A As far as I knew it was going to be taken care of. That was the way I would phrase it.

Q But even if it wasn't, you were going to leave anyway, right?

A Yes.

Q You had taken as much as you could take, right?

A Correct.

Q Okay. And these are your words to Dr. Brown, aren't they, "I know this is unprofessional and childish, but they've been chewing at me since early July, and I'm too damn tired of this to be professional. If that means -- if

C05254

1 that makes me a nobody or means I'm through at IWU, okay.  
2 But the things that I found and witnessed about my  
3 aforementioned roommate and my ex-fiance have crushed any  
4 spirit I had to get out of this slump. It's really just  
5 time for me to leave. I'm just afraid I'd cause even more  
6 hell to break loose." Those are your words, aren't they?

7 A Yes, they are.

8 Q Now when you talked with Detective Daniels on  
9 August 28th, you had talked with him about the whole Swaine  
10 situation, right?

11 A Yes.

12 Q And you remember this question and answer --

13 MR. BEU: Page please?

14 MR. SOUK: I'm sorry, 27.

15 Q (By Mr. Souk) "Daniels: "How did you react when  
16 you found out she was dating your roommate, Mike?" Your  
17 answer, "I was pretty -- excuse me, I was pretty calm about  
18 it because, I don't know, it had been deteriorating, a  
19 deteriorating relationship anyways, and I was getting sick  
20 of her always yelling at me about other chicks. So finally  
21 I was like, you know, you got jealous about all these chicks  
22 and you're screwing my roommate, you know. And I was pretty  
23 calm about it and just, you know, I was pretty much  
24 indignant about it and not like screaming and yelling." You

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C05255

AB017915

APPENDIX 001131

1 remember that question and answer?  
2 A Yes, I do.  
3 Q That was a lie too, wasn't it?  
4 A No, it was not. I was calm about it, very calm  
5 about it, up until the time at which Swaine borrowed my car  
6 to go see her, which was well after finding out anything  
7 about it. When first confronted with the issue, I talked to  
8 Swaine about it calmly. I talked to Jennifer about it  
9 calmly. Both of them denied most of it. But even so, I was  
10 maintaining my composure. That's not a lie at all.  
11 Q Nowhere in your statement to Detective Daniels did  
12 you tell him about the blow-up on July 25th, did you?  
13 A No, I didn't.  
14 Q But I guess he didn't ask you about it, did he?  
15 A No, he didn't.  
16 Q So when you left town that day the relationship  
17 was over and you had put closure to it, and you went to Ohio  
18 just to relax and get away from it, correct?  
19 A Yes, I did.  
20 Q That was on Sunday, July 25th, correct?  
21 A Correct.  
22 Q And when did you arrive in Ohio?  
23 A Later the same day.  
24 Q On July the 28th at 6:33 in the morning you

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C05256

1 attempted to reach Jennifer by phone, correct?  
2 A I guess, if that's what's in the phone records,  
3 yes.  
4 Q Well, shows a one-minute phone call. Do you know  
5 why you --  
6 A Must have got the machine.  
7 Q Do you know why you were trying to get ahold of  
8 her that day?  
9 A Just to apologize for being such a jerk when I  
10 left.  
11 Q On July 28th at 6:44 you tried again, and 6:49 you  
12 tried again, and 8:51 you tried again, and 9:31 you tried  
13 again, correct?  
14 A Correct.  
15 Q And that was all for the same purpose, right?  
16 A Yes.  
17 Q And then on July the 28th at 10:16 you tried, and  
18 you got through to her, and you talked to her 84 minutes,  
19 right?  
20 A Correct.  
21 Q Take 84 minutes to apologize?  
22 A No, Swaine was there also.  
23 Q Talked to Swaine some, that's the conversation  
24 that you talked to Swaine some?

C05257

1 A Yes, it was.  
2 Q Everything was calm between the three of you?  
3 A For the most part, yes.  
4 Q You apologized, and you had let go of it at that  
5 point?  
6 A I mean I was in the process of letting go.  
7 Q July the 31st, 7:03 in the evening, you called  
8 Jennifer from Ohio, three-minute phone call. Do you recall  
9 what that was about?  
10 A No, I don't.  
11 Q On the same day at 7:07 you called and have an  
12 eight-minute phone call. Do you recall what that was about?  
13 A No, I do not.  
14 Q Why were you still calling from Ohio at that  
15 point?  
16 A I don't know.  
17 Q Now you then came back through here on the 4th of  
18 August, right?  
19 A Yes.  
20 Q And you had, like everybody has said, you had  
21 packed your car and left it in the parking lot with your  
22 things in it, right?  
23 A Yes.  
24 Q When you came back through, did you see her first

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or Swaine first?

A Swaine first.

Q And you called her from your old apartment and told her you were coming over?

A Yes.

Q She said okay?

A Yes -- actually, I believe Swaine suggested that I call her.

Q And when you saw Swaine, there were no problems between the two of you?

A No.

Q Okay. By that time you definitely had put closure on the situation, 'cause you'd had your time in Cincinnati to get away from --

A Yes.

Q -- and you were cool, right?

A Yes.

Q Everything was okay?

A Yes.

Q And on that day you told Swaine that she's yours?

A Yes.

Q I'm out of here, right?

A Correct.

Q Couldn't take any more of it?

1 A No.

2 Q But you saw him at your old apartment on that day,  
3 right?

4 A Yes, I did.

5 Q Didn't see him at Jennifer's apartment?

6 A No, I didn't.

7 Q And when you went over there, it was during the  
8 noon hour, right?

9 A Correct.

10 Q She had a one o'clock class, correct?

11 A Yes.

12 Q That was still during the summer session, right?

13 A Yes.

14 Q Jennifer was in summer school, right?

15 A Right.

16 Q When you went over there, was she watching All My  
17 Children that day?

18 A I don't recall if she even -- I don't think she  
19 even had the T.V. on.

20 Q But you were aware that that was one of her  
21 favorite programs, right?

22 A Yes.

23 Q I think, as Heidi said, she even scheduled her  
24 classes around that?

1812

C05260

AB017920

APPENDIX 001136

1 A Yes.  
2 Q She loved All My Children?  
3 A Yes.  
4 Q You had a short conversation with her?  
5 A Yeah.  
6 Q Drove her to class, kissed her good-bye?  
7 A Hm-mmm.  
8 Q And that was it as far as you were concerned?  
9 A That was it.  
10 Q You headed for Rockford?  
11 A Yes, I did.  
12 Q You had said your final good-bye to Jennifer  
13 Lockmiller?  
14 A Yes, I had.  
15 Q Now the phone records indicate that the next day,  
16 August the 5th, at 1:52 in the morning, she attempted to  
17 call your home. Shows no time on there. Were you aware she  
18 tried to call you that day?  
19 A No.  
20 Q You were aware that she called you on the 8th day  
21 of August at 12:11 in the afternoon, weren't you?  
22 A Don't -- I don't really remember that.  
23 Q Well, it shows a phone call of 38 minutes, 52  
24 seconds. Recall a fairly lengthy conversation?

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AB017921

APPENDIX 001137

1           A     I suppose I might have talked to her then, because  
2 no one else would talk to her for that long at my house.

3           Q     And on the 10th, at 1:46 in the morning, there's  
4 an attempt to call you that shows no time. Do you recall it  
5 being anybody attempting to call you then?

6           A     No.

7           Q     Then on the 10th, at 4:17 in the afternoon, shows  
8 a 59-minute phone call initiated by Jennifer to your home.  
9 Do you remember that phone call?

10          A     No, I do not.

11          Q     Do you recall talking to her during that time?

12          A     Yes, I do.

13          Q     Before she went to California?

14          A     Yes.

15          Q     All right. This seems to show two rather lengthy  
16 phone conversations. What are you recalling?

17          A     I -- you have the phone records, I don't. I mean  
18 I don't really remember if I talked to her, or what I talked  
19 to her about, either way, so --

20          Q     You don't recall what you talked about?

21          A     No.

22          Q     There's no discussion during that time period  
23 about your relationship?

24          A     Not really. I mean certainly there is, but

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AB017922

APPENDIX 001138

1 there's a relationship between everybody in some way, shape,  
2 or form.

3 Q Well, I thought you said you were done with her?

4 A She still exists, and I still exist, and she calls  
5 me on the phone, so therefore there is a relationship.

6 Q So you were just trying to remain friends at that  
7 point. Is that what you're saying?

8 A Yes.

9 Q Now, at that point, during those two lengthy phone  
10 calls on the 8th and the 10th of August, is she crawling  
11 back at that point?

12 A I don't believe so, no.

13 Q Okay. So you're just talking, and maybe trying to  
14 maintain at least a friendship, or some kind of talking  
15 relationship so you're not mad at each other all the time,  
16 right?

17 A Something like that, yeah.

18 Q You knew she was going to California?

19 A Yes.

20 Q And she must have told you approximately when she  
21 was coming back?

22 A No, not actually. She had been talking about  
23 going to California for months though.

24 Q You did try to reach her on the 17th of August,

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and left an answering machine message, right?

A Yes, I did.

Q Why were you trying to reach her?

A See if she got back yet all right. I didn't know exactly even when she was getting back, and so I called to see if she was all right.

Q The phone records on the 19th indicate at 19 minutes after midnight that she made an attempt to call you. Were you aware of that attempt?

A No.

Q The phone records, as I'm sure you're aware, show on Sunday, the 22nd, a very large number of attempts by Jennifer, most with no time showing, to reach you, most in the morning, but one of them being at 3:57 that afternoon. You weren't aware on that Sunday of any other of those attempts?

A No, I was not.

Q Several of them seemed to show 46 seconds, 29 seconds, a couple that would have been long enough to perhaps leave an answering machine message. But you weren't aware of any answering machine messages that day?

A No, I was not.

Q Your phone at home did have an answering machine, didn't it?

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A Yes.

Q In your statement to Detective Daniels, you remember these questions and answers --

MR. BEU: Page, counsel?

MR. SOUK: Page nine.

Q (By Mr. Souk) "Daniels: When did you last see her?" Your answer, "When did I last see her? I last saw her before I came back to Rockford. Daniels: Which was when?" Your answer, "Which would have been like the 4th of August. Daniels: Okay. Had you called her since then?" Your answer, "I have not called her. She has called me twice." Remember those questions and answers?

A Yes.

Q So when you said, "I've not called her." that was a lie, wasn't it?

A No, it was not. I just didn't remember.

Q You forgot that you tried to call her on the 17th?

A Yes. Maybe it's because I didn't get through.

Q Now on the 23rd of August, the Monday of that week, you've testified about your activities that day, and that you did, in fact, have a phone conversation with Jennifer that evening, correct?

A Yes, I did.

Q The phone records indicate two prior attempts by

C05265

1 her at 12:57 and 5:13, very brief or zero time. I take it  
2 you didn't know of those efforts?

3 A No, I didn't.

4 Q If I recall your testimony, you probably would  
5 have been asleep then?

6 A Yes.

7 Q But then at 7:39 that evening you talked to her  
8 for 13 minutes and 23 seconds. That sound about right?

9 A Sure, it does.

10 Q And in those conversations, now she is crawling  
11 back, as you put it?

12 A Yes.

13 Q Pretty much very similar to the same pattern that  
14 had been followed all year?

15 A Yeah, it took her longer.

16 Q In that conversation she basically was upset and  
17 crying, right?

18 A Yes.

19 Q And she was telling you that what she'd done with  
20 Swaine was not really much worse than what you had done with  
21 Meredith, and that sort of thing, right?

22 A Yes.

23 Q She told you she was lonely, right?

24 A Yes.

1 Q And she told you that Swaine was out of town,  
2 didn't she?

3 A I believe she told me that he had left and did not  
4 want to see her any more.

5 Q Okay. Your -- however she put it, your  
6 interpretation was that after he'd done all this that  
7 summer, now he was turning around and dumping her after he'd  
8 slept with her, right?

9 A Yeah.

10 Q And so again if my interpretation is wrong,  
11 correct me, but basically the gist of it was she didn't have  
12 him any more and so now she tried to get you back?

13 A Correct.

14 Q Did she invite you to come down?

15 A No, she did not.

16 Q Your parents are both mistaken on that point?

17 A Yes, they are.

18 Q Never told either one of your parents that she  
19 invited me to come down that weekend?

20 A No, I never told anyone that she invited me down  
21 there.

22 Q You're sure?

23 A I'm sure.

24 Q And you terminated that conversation pretty much

1 in anger, having told her, "Why would I want to come back to  
2 you when you slept with my roommate and my friend?"

3 A Correct.

4 Q And I'm through with you?

5 A Yes.

6 Q And bang?

7 A Yes.

8 Q It's not only over that night, it had been over  
9 since August the 4th, correct?

10 A Yes, it had been over since June.

11 Q Yet, Mr. Beaman, just a few days later, on August  
12 the 28th of 1993 -- page 36, counsel, the bottom --

13 MR. BEU: Thank you.

14 Q (By Mr. Souk) -- Detective Daniels asked you this  
15 question: "Okay, let's say on a scale of one to ten, one  
16 meaning you greatly despise her and hate her, don't want to  
17 see her again, and then ten meaning I can't live without  
18 her, I'm so madly in love with her." Your answer, "Yes, I  
19 was I can't live without her, up until about last week."  
20 Remember that question and answer?

21 A Yes.

22 Q That's what you told Detective Daniels, right?

23 A Yes.

24 Q He said, "Last week, okay, why do you say last

1 week?" And you said, "Um, I just started dating again. I  
2 met a girl and asked her out and we went out." Remember  
3 that?

4 A Yes.

5 Q Who was that girl?

6 A Beth Terresi.

7 Q That's the girl you had the date with on Friday  
8 that you previously testified about?

9 A Yes.

10 Q Had you had a prior date with her?

11 A No, but I had met her the week before.

12 Q But Friday, the 27th of August, was your first  
13 real date with her?

14 A Yes.

15 Q Now during that initial interview with the police  
16 on August the 28th, you remember a good way into the  
17 interview Detective Daniels asking you this question and you  
18 giving this answer -- 31, at the bottom, counsel --  
19 "Daniels: Okay, we have been sitting here talking  
20 approximately 45 to 50 minutes and you have never asked me  
21 once what this is about. Aren't you one bit curious?" Your  
22 answer, "I just figured you would tell me. I am curious,  
23 yes." Remember that?

24 A Yes.

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AB017929

APPENDIX 001145

1 Q And, in fact, Detective Daniels testified  
2 correctly that up until that point you had not asked any  
3 questions about what all this was about, right?  
4 A Not of him, no.  
5 Q Oh, you did ask some questions?  
6 A Oh, yes.  
7 Q Who did you ask?  
8 A I asked the Rockford Canine Unit that pulled me  
9 over in the first place.  
10 Q And they told you it was about a homicide in  
11 Normal, right?  
12 A Correct.  
13 Q But once you got down and started talking with  
14 Detectives Daniels and Hospelhorn, this exchange occurred  
15 and you had not yet ask him what was going on, had you?  
16 A No. He immediately begun asking me questions, and  
17 so I answered those questions, and his line of questioning  
18 was mostly involved with Jennifer, and so I was fair to make  
19 an inference, I believe, that that's what he was asking me  
20 about. And so I simply waited for him to tell me what was  
21 going on.  
22 Q Okay. So at that point in time you had been told  
23 by the officers who stopped you out on Kilburn Avenue that  
24 there was some detectives from Normal who wanted to talk to

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you, right?

A Correct.

Q About a homicide in Normal, right?

A Correct.

Q And then when you got down to the station and Detective Daniels started talking with you, he told you that he wanted to talk to you about some of your acquaintances in Normal, didn't he?

A He told me in the car on the way there that he wanted to talk to me about my friend, singular.

Q Friend, singular?

A Yes.

Q Not acquaintances?

A No.

Q Did he say what friend?

A No, he did not.

Q Well, after he got through the preliminaries, basically up until this statement I just read to you, the whole conversation was about Jennifer and your relationship with her, right?

A Correct.

Q And it never occurred to you even one time to ask what's the matter; is something wrong with Jennifer?

A Well, I'd already been told there was a homicide,

C05271

1 and I'd been told -- or then rather asked about Jennifer for  
2 45 minutes apparently. I was not aware of the time  
3 previously. So therefore, I felt that that was a good  
4 inference to make.

5 Q So this woman that you couldn't live without until  
6 the week before, so you told Daniels, you were assuming that  
7 she had been killed in a homicide at that point, and you  
8 never asked a question about whether she was dead or alive?

9 A What does a homicide imply, Mr. Souk?

10 MR. SOUK: Your Honor, would you direct Mr. Beaman to  
11 please answer my questions and not ask me questions?

12 THE COURT: If you would just respond to the questions  
13 that are being asked, please.

14 A Yes, sir. Please ask again.

15 Q (By Mr. Souk) You never asked even whether she  
16 was alive or dead?

17 A No, I did not.

18 Q In fact, you couldn't have cared less whether she  
19 was alive or dead, could you?

20 A That is not true.

21 MR. SOUK: This is in the first overhear, counsel, page  
22 283 to 285 of discovery.

23 THE COURT: Just wait a moment, Mr. Souk. Could  
24 counsel step up here for just a moment?

1  
2 (WHEREUPON A BRIEF DISCUSSION WAS HAD  
3 OFF THE RECORD.)  
4

5 THE COURT: All right, proceed.

6 Q (By Mr. Souk) These are your words to Mr. Swaine  
7 on September 8th, aren't they? Didn't you say, "She's,"  
8 referring to Jennifer, "in a better place."?

9 A Yes.

10 Q Didn't you say this, "Ah, see, it's things like  
11 that that make me not grieve about her."?

12 A That's correct.

13 Q He asked you why, and you said, "Why, because she  
14 f-ed me over." Right?

15 A Yeah.

16 Q "All I know is I got dragged through the mud for  
17 ten months, and then she died." Those are your words?

18 A Those are my words.

19 Q "She was never going to be happy, man." Those  
20 your words?

21 A Yes.

22 Q "She is better off than you are." Those your  
23 words?

24 A Yes.

1825

C05273

AB017933

1 Q "Can you imagine that it would be that horrible  
2 for her to be dead?" Those your words?  
3 A I'm not sure, let me see.  
4 Q You need to see the --  
5 A Yes. Taken out of context, but yes, those are my  
6 words.  
7 Q "And the only reason that I don't feel  
8 s-h-i-t-t-y at all, because she was just, you know, she was  
9 f-ing you." Those your words?  
10 A Yes.  
11 Q And, in fact, even back on August the 28th when  
12 you were talking with Daniels -- as a matter of fact, you've  
13 talked some about and so has Detective Daniels, about  
14 whether she was dead or whether she was alive, whether she  
15 was dead or whether she was alive. There was some confusion  
16 about that, right?  
17 A Yes.  
18 Q Okay. But the time when he told you that maybe  
19 she was injured instead of dead, that was the very end of  
20 the conversation, wasn't it?  
21 A I believe so, yes.  
22 Q In fact, it's in the part off the tape, isn't it?  
23 A I'm not certain if that's the case.  
24 Q Okay. Well, in any case, the first thing that he

1 told you, when he finally told you something, was that she  
2 was dead, right?

3 A Correct.

4 Q In fact, you recall these questions and answers --

5 THE COURT: Page?

6 MR. SOUK: I'm sorry, 34.

7 Q (By Mr. Souk) "Detective Daniels: It's very  
8 obvious the reason why we are here and asking you questions,  
9 and especially when the sergeant informed you it was  
10 concerning a homicide in Normal/Bloomington, now whose  
11 homicide do you think that is?" Your answer, "Why don't you  
12 tell me, I don't know. Daniels: Well, I want to hear your  
13 thoughts. Whose homicide do you think that it is?"  
14 Your answer, "I assume it's Jen's because you just keep  
15 saying, asking me questions about her. That's all you  
16 really asked me about. Daniels: Yeah, it is Jennifer's."  
17 Your answer, "Okay."

18 Those are questions and answers that occurred in  
19 that conversation?

20 A Yes.

21 Q That's when you first learned she was dead, right?

22 A Correct.

23 Q At that point you didn't -- hadn't yet heard the  
24 conversation you had about maybe she wasn't dead. You

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AB017935

APPENDIX 001151

1 thought she was dead at that point, right?

2 A Yes.

3 Q You already assumed that, right?

4 A Yes, I did.

5 Q That's all you had to say, okay?

6 A Okay as in, okay, you told me.

7 MR. SOUK: This is a good time for a recess, your  
8 Honor.

9 THE COURT: All right, we'll take about a ten-minute  
10 recess at this time. If you would step down, back to your  
11 table. The bailiffs will take charge of the jury please and  
12 return them back to the deliberation room. If you would  
13 leave your notebooks on the chairs please. The court will  
14 be in recess for ten minutes.

15  
16 (WHEREUPON A RECESS WAS HAD.)

17  
18 THE COURT: All right, once again, this is 94-CF-476.  
19 Counsel and the defendant return to open court. Defendant  
20 will resume the witness stand, and the jury is presently  
21 outside of the courtroom.

22 Are you ready to proceed, Mr. Souk?

23 MR. SOUK: Yes.

24 THE COURT: Mr. Beu?

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MR. BEU: Yes.

THE COURT: All right, call the jury back in.

(WHEREUPON THE JURY ENTERED THE COURTROOM  
AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, the jury has now returned to open court. Mr. Souk, you may continue your examination.

MR. SOUK: Thank you, your Honor.

Q (By Mr. Souk) Mr. Beaman, it's true, is it not, that you didn't attend Jennifer's funeral or the memorial service held down here for her, correct?

A That is true.

Q And I believe, was it Katy Corbett who indicated that they had approached you about that memorial service?

A Yes.

Q And you basically told her that, that it wasn't any affair of yours any more, that she'd been Swaine's, and it was of no interest to you basically, correct?

A Not of no interest to me.

Q Well --

A But it was not my place to be there.

Q You didn't send any flowers, or even a card to her

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parents?

A No.

Q And I believe you expressed at some point to Mr. Swaine that one of the reasons you didn't go to the funeral is that because you were her parents' number one suspect?

A Correct.

Q Why did you think you were her parents' number one suspect?

A Because they didn't like me in the first place.

Q Had you had some problem with Mr. and Mrs. Lockmiller, yourself, or you heard this from Jennifer?

A There was something that Jennifer had mentioned to me that I had called them about and asked them to please explain, and then there was a conversation, a short conversation between myself and Mrs. Lockmiller, about the door incident and she was not happy with me.

Q So you think they knew about one door incident or both door incidences?

A I don't know, it's whatever Jennifer told them.

Q But you said you had a conversation with Mrs. Lockmiller when she said something about a door incident?

A I believe that was previous to the second door incident, so it was still during the school year.

Q Well, was she talking about the first door

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incident?

A Yes.

Q The Murray door incident?

A Yes.

Q So apparently she knew about that?

A Apparently so, yes.

Q Whatever it was you thought she knew about it  
anyway, right?

A Correct.

Q And so you knew that her parents knew some bad  
things that happened between you and Jen, and therefore you  
were the number one suspect anyway, right?

A Correct.

Q You hadn't communicated with her parents at all,  
had you?

A Not after that point, no.

Q I mean, one of her parents, or one of her  
brothers, or somebody in her family didn't communicate  
something to you indicating they thought you were the number  
one suspect, did they?

A No, they did not.

Q After Jennifer was dead, not only were you not  
sorry about her death, but you had bitter feelings towards  
her, didn't you?

C05279

1           A     Somewhat, but I was at the same time not happy she  
2 was dead. I wasn't in any way, shape, or form content with  
3 that.

4           Q     Are these your words to Mr. Swaine -- page eight -  
5 - or page 287 of the discovery -- he asked you, "But why did  
6 you give up?" Your answer, "Why did I give up? 'Cause she  
7 took everything out of me and squished it." He says,  
8 "Then," and you say, "You don't understand it. I'm a hollow  
9 f-ing shell. All right? I have been for ten months.  
10 Stay out of it. I got nothing." He says, "What do I have?"  
11 You say, "I got no heart. I got no soul. I got no mind."  
12 Those your words?

13           A     Yes, they are.

14           Q     Then he says, "When you started to see it all go,  
15 why didn't you say 'f' it and leave her?" And you say,  
16 "Because I -- because the one f-ing thing I do have left is  
17 pride." And he says, "So you didn't want to say good-bye --  
18 I'm sorry, you said, "I wasn't going to be the one to do it,  
19 she was." Those your words?

20           A     That's correct.

21           Q     "Dude, that woman dug into me with every f-ing  
22 ounce of sharp silver she had every single time she could."  
23 Those your words?

24           A     Yes.

1 Q "And after ten months of raking me over the coals  
2 about other chicks, like I'm even going to look at another  
3 chick right after she breaks up with me. Man, you know, she  
4 actually had me trained good. Mike: Why did you let her  
5 train you?" You say, "Powerful woman, man. She would have  
6 trained you, too, ten times worse." Your words?

7 A Yes, out of context, but yes.

8 Q You also told Detective Freesmeyer, didn't you, on  
9 October the 12th that she had raked you over the coals and  
10 left you a hollow shell, right?

11 A Correct.

12 Q Second overhear, page nine, page 303 of discovery.  
13 At the end of your second conversation with Mr. Swaine on  
14 September the 15th of 1993, did you have this exchange? He  
15 says, "And you are totally okay?" You said, "Dude, I'm  
16 freaked out. Okay, I am, but it's just like she wasn't  
17 mine. She didn't love me. She wasn't mine." He says, "But  
18 you said that she did." You say, "I'm just walking away.  
19 Dude, if she f-ed you in the Sigma Chi basement on June  
20 11th --"; he says, "Not in the basement." You say, "She  
21 didn't love me." He says, "That is BS because she f-ed you  
22 after that." You say, "She didn't love me any more." He  
23 says, "But, but she then, if she --" You say, "If she f-ed  
24 you, she didn't love me." He says, "Dude, don't leave."

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C05281

AB017941

APPENDIX 001157

1 You say, "Don't try to tell me s-h-i-t that is not true.  
2 I'll leave." He says, "Alan, you said that she called you  
3 and said I love you, I need you back. Dude, I'm not going  
4 to be able --" And the last thing you said to him was, "She  
5 was b-sing me, and she was just looking for something to do  
6 while you were gone." Is that the conversation between you  
7 and Mr. Swaine?

8 A Yes, it is.

9 Q But she didn't invite you down?

10 A No, she didn't.

11 Q Now during the time period from the fall of '92  
12 'til about March of '93, up until the Murray door incident,  
13 you have previously indicated, I believe, that you were over  
14 there so much and spent the night so many times that you  
15 were practically living with her?

16 A Correct.

17 Q And you had a room on campus somewhere, I take it?

18 A Correct.

19 Q But you were spending a number of nights there?

20 A Yes.

21 Q Seven nights a week, six, five, four --

22 A Five or six, depends on the week.

23 Q And you had some of your stuff over there, but not  
24 all of your stuff?

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C05282

AB017942

APPENDIX 001158

1           A     Yeah, I had some clothing over there, and a razor,  
2 and a brush.

3           Q     During that period of time, I take it, you were  
4 having the sexual relationship you previously talked about  
5 on a fairly frequent basis?

6           A     Yes.

7           Q     After this, the Murray door incident, you go over  
8 there to get your stereo?

9           A     Yes.

10          Q     Is that all you had left there at that point?

11          A     Yes.

12          Q     The other stuff you'd already taken out?

13          A     Hm-mmm.

14          Q     So there'd already been some problems leading up  
15 to the actual door incident?

16          A     Correct.

17          Q     Was Mr. Murray kind of the center of those?

18          A     Not necessarily.

19          Q     Okay. After the Murray door incident you were in  
20 her apartment many, many, times after that, right?

21          A     Correct.

22          Q     And you spent the night there some?

23          A     Yes.

24          Q     All right. From that point on, how often would

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C05283

AB017943

1 you say you were spending the night at her apartment?  
2 A Three or four nights a week.  
3 Q Does that continue up until the final break in  
4 July?  
5 A It continues up until approximately the end of  
6 June.  
7 Q And then because of the Swaine situation, things  
8 rapidly go downhill and you stop spending the night with  
9 her, right?  
10 A Correct.  
11 Q The last time that you had sexual relations in her  
12 bedroom at her apartment was sometime in late June of '93,  
13 correct?  
14 A Correct.  
15 Q Now during this whole time period of your  
16 relationship, from the first time you go over there when you  
17 spend the night, does she have the same clock radio all that  
18 time?  
19 A Yes.  
20 Q And you touched that clock radio many times?  
21 A Yes, I have.  
22 Q That's the one that was used on a regular basis  
23 when you were there to wake people up, whether it was you,  
24 or her, or both, right?

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C05284

AB017944

1 A Right.

2 Q And I take it that during that time period, up

3 through the end of June when you last had sex with her

4 there, that you would have touched almost any other

5 conceivable object in her apartment, correct?

6 A Yes.

7 Q Almost anything in the bedroom, correct?

8 A As far as I know, yeah.

9 Q Anything in the bathroom?

10 A Sure.

11 Q Kitchen?

12 A Sure.

13 Q I take it you were sharing, you know, kitchen

14 facilities and you'd go get stuff out of the fridge or cook

15 stuff --

16 A Correct.

17 Q -- or that sort of thing?

18 A Yes.

19 Q Air-conditioning on and off, close the windows,

20 anything like that?

21 A Yes.

22 Q The last time that you were there the -- her clock

23 radio was still there, as far as you know?

24 A Yeah.

1837

C05285 AB017945

1 Q After the last time that you had sexual relations  
2 with her near the end of June of '93, after that there would  
3 have never been any reason for you to touch that clock  
4 radio?

5 A No.

6 Q I didn't phrase that very good. Would there have  
7 been any reason for you to touch that clock radio again?

8 A No.

9 Q Now we're all obviously aware that you've been  
10 questioned a number of times about your whereabouts during  
11 the week of August 23rd, and in particular the day of August  
12 25th, correct?

13 A Correct.

14 Q And the first of those interviews would have been  
15 the August 28th/early morning of August 29th interview with  
16 Daniels and Hospelhorn, correct?

17 A Correct.

18 Q And during that interview you basically, that day,  
19 indicated that day you were asleep during the -- during the  
20 day, correct?

21 A Correct.

22 Q Which is in one form or another essentially what  
23 you contended, that you were asleep on the 25th, right?

24 A Correct.

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C05286

AB017946

APPENDIX 001162

1 Q And you indicated that -- excuse me -- that you  
2 went home and went to -- went to bed after work, right?  
3 A Yes.  
4 Q And after that interview you've already indicated  
5 that there was some confusion because of Detective Daniels  
6 getting you confused about whether she was alive or dead,  
7 right?  
8 A Correct.  
9 Q And you went home and you called your friend, Don  
10 Jones?  
11 A Correct.  
12 Q Did you make that call, or your parents did?  
13 A I made that call.  
14 Q Were you parents still up?  
15 A Yes.  
16 Q Mr. Jones didn't know at that point. He said he'd  
17 get back to you?  
18 A Yes.  
19 Q Then you went to church as scheduled the next  
20 morning, right?  
21 A Hm-mmm.  
22 Q And you had lunch with -- what's your friend's  
23 name?  
24 A Amy Krehbiel.

C05287

1 Q You did have lunch with her?  
2 A Yes, I did.  
3 Q Then you went home and went to bed until maybe  
4 eight or nine o'clock that night?  
5 A Something like that, yeah.  
6 Q And when Mr. Jones called back that afternoon he  
7 talked to one of your parents, right?  
8 A I don't know. I guess so.  
9 Q Well, when you finally woke up at eight or nine  
10 o'clock, or whatever, one of your parents told you that Jen  
11 was dead for sure, right?  
12 A Yes.  
13 Q At that point in time, the call to Mr. Jones was  
14 the only call you'd made to determine the state of health of  
15 Jennifer, right?  
16 A Yes.  
17 Q Right, so you came home from church and you didn't  
18 know if she was alive or dead, right?  
19 A Correct.  
20 Q And you had this call in to Mr. Jones, right?  
21 A Correct.  
22 Q You didn't call Jennifer's family or anybody else  
23 to check on her welfare?  
24 A I imagine that I wouldn't want to call Jennifer's

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parents.

Q You didn't try any other source?

A No. I had talked to somebody who lived in Bloomington and figured that that person would be capable of finding out.

Q And you went to bed?

A Yes, I did.

Q Now actually the next time that you talked about your whereabouts on the week of the 23rd wasn't with the authorities, but it would have been with your mom and dad on August the 30th, right?

A I didn't talk about it with my mom and dad.

Q Well, they had indicated that there was some consultation with your lawyer, right?

A Yes, I spoke to counsel.

Q And people, at that point, were trying to recreate the prior week, and trying to make some notes about it, and that kind of thing?

A Correct.

Q And you -- just a second. At some point, while you didn't make the notes with your parents, you talked with them about the prior week, I take it?

A Not really in terms of notes, at least.

Q Well, did you see your mother's notes?

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A No.

Q You recall testifying at the grand jury here in this building, correct?

A Correct.

Q I believe that's in July of '93, right?

A Correct.

Q You recall my asking this question: "I take it you had a chance then and since then to see the notes that your mother made?" Your answer, "Yes." Recall that question and that answer?

A Not specifically, no.

Q You're saying now you never saw your mother's notes?

A I don't recall seeing them.

Q You've seen them by now, haven't you?

A Not specifically.

Q Not preparing for the trial you've never seen your mother's notes?

A Unless they were in the discovery reports.

Q You're not aware that your mother's notes said that she was home about three o'clock?

A I don't know.

Q Now on the 12th of October, that was your first conversation with Detective Freesmeyer, right?

C05290

1 A Right.

2 Q And Lt. Brown was somewhat present that day, but  
3 it was mostly you and Detective Freesmeyer, right?

4 A Right.

5 Q And that was the day that you wrote out the  
6 schedule, People's Exhibit 44, I believe it is?

7 A Correct.

8 Q And on that day on the schedule you said you got  
9 home about nine or ten, but you didn't put on the schedule  
10 when you woke up that day, did you?

11 A I guess not, I don't know.

12 Q You need to see the schedule?

13 A Yes, that would be helpful.

14 Q For the record, I'm showing the defendant People's  
15 Exhibit 44.

16 A What --

17 Q Did you put down on that schedule when you got up  
18 on Wednesday?

19 A Apparently not.

20 Q Okay. But when you talked to Detective Freesmeyer  
21 that day you told him that your parents woke you up about  
22 3:30 or four o'clock when they got home, right?

23 A I'm not certain.

24 Q Does that sound familiar, or is that totally

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AB017951

APPENDIX 001167

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inaccurate?

A I --

MR. BEU: Object, your Honor. If he wants to question him about a prior statement he should ask him a specific question.

MR. SOUK: I'll withdraw that.

THE COURT: All right.

Q (By Mr. Souk) What did you tell Detective Freesmeyer?

A I have no idea. I can't look at my report.

Q I'm sorry, you can't look at your report?

A Well --

Q Want to look at his report?

A Sure.

Q Would that -- would that help refresh your recollection?

A It's possible.

Q Showing you, for the record, page 198 of the discovery that's been filed by the People in this case, and I have a highlighted section there. Ask you to read that and see if that refreshes your recollection.

A "I asked what time he woke up on Wednesday and he stated that his parents woke him up at around 3:30 to four when they got home."

1844

C05292

1 Q Does that sound right?  
2 A I suppose.  
3 Q Well, I guess I want to make sure what your memory  
4 is.  
5 A To quote Sgt. Freesmeyer, it has been quite a long  
6 investigation.  
7 Q Well, maybe what I'm asking you is are you  
8 suggesting that Sgt. Freesmeyer would put something  
9 inaccurate down in his report?  
10 A It would not surprise me.  
11 Q He's one of the ones that has harassed you all  
12 year?  
13 A More than several, yes.  
14 Q On the 27th of October you had another  
15 conversation with Detective Freesmeyer, didn't you?  
16 A Yes.  
17 Q And, at that time, you told him that you were home  
18 about ten to 11 o'clock, and that your parents woke you up  
19 about 3:30 to four o'clock, didn't you?  
20 A I guess.  
21 Q And it was, at that time, that you were first told  
22 directly that you were going to be arrested in connection  
23 with this case, right?  
24 A Yes.

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Q And you were told that lab reports were -- lab analyses was still being done, correct?

A Yes.

Q And you were also first told then some of the other evidence against you in the case, weren't you?

A I believe so, yes.

Q You were -- you had given your fingerprints back on the 12th, right?

A Correct.

Q And on the 22nd you were told your fingerprints were on the murder weapon, right?

A Correct.

Q And you were told on that date that there was a lot of evidence about your relationship with Jennifer that might give you a motive for this crime, weren't you?

A Yes.

Q And you were also told that you had a gap in your alibi on Wednesday, the 25th, weren't you?

A That is correct.

Q And when you were told those things, you were communicating them back to your mother and your attorney, weren't you?

A Only to counsel.

Q You didn't tell your parents?

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A No, I did not.

Q Page 72 of the grand jury. Again referring to your July, '93 grand jury testimony, my question: "And during these fall conversations, starting with October 27th, you've indicated before that's the first time that Detective Freesmeyer told you when the murder occurred, when your alibi had a problem, and that you would be arrested, right? Answer: Yes. Question: And I take it when matters that serious, that once the police were telling you that, at that point that you were sharing that with your parents?" Your answer, "Yes, and my attorney." Recall those questions and answers?

A Yes, I do.

Q And during that October 27th conversation Detective Freesmeyer asked you if you had any one over to your house. You told him no, right?

A Correct.

Q And he asked you if you'd made any phone calls that morning, and you told him no, right?

A Correct.

Q And again referring to Wednesday, August 25, 1993?

A Correct.

Q And for the first of a number of times, he, on that day, asked you for any additional evidence that you

C05295

1 might have that would help clear you, right?

2 A Correct.

3 Q Then you had another conversation with Detective  
4 Freesmeyer on the 5th day of November of 1993, correct?

5 A I believe so.

6 Q And during that particular conversation you  
7 indicated that your folks got home and woke you up, that  
8 your mother did probably about fourish, right?

9 A That's what I said, I guess.

10 Q And during that conversation you were again  
11 confronted with some of the evidence and asked again about  
12 the six-hour gap in your alibi from ten to four on  
13 Wednesday, August 25th, right?

14 A Correct.

15 Q I ask you if you recognize these questions and  
16 answers: "Freesmeyer: Have you found any other ways that  
17 we can try to clear you up, Alan? I mean we talked before  
18 that you've got that six-hour gap where you were home from  
19 ten to four." Your answer, "Yeah. Freesmeyer: You told me  
20 you were home sleeping. You told me that twice, right --"  
21 I'm sorry, we're on page 316 of discovery.

22 MR. BEU: Okay.

23 Q (By Mr. Souk) "-- that is not looking good. We  
24 talked about that you have got the motive, man, from all the

1 letters that we saw. The infatuation that you had with her,  
2 and the way she was messing you around, that's not going to  
3 help you out. And I told you about the print that we found,  
4 Alan. You know, I don't know, I thought maybe you might  
5 have thought -- thought of something over the last week that  
6 we could use to try to clear you up." Your answer, "I  
7 haven't had time to think. Freesmeyer: I mean I don't -- I  
8 don't want to drag this thing out any longer than we have  
9 to, and I'm sure you don't either. It's got to be driving  
10 you nuts, too. But at this point it's just a matter of  
11 waiting for lab results, unless you can give us something  
12 else to work with. I got nothing, wait for the lab reports,  
13 I'll be around." His question, "Yeah, what time did you get  
14 home Wednesday, Wednesday morning?" Your answer, "I don't  
15 know, it's too long ago. Question: Can you give me a  
16 ballpark figure? Oh, probably around -- when did I go to  
17 the bank? Was it Wednesday that you have the deposit slip?"  
18 His answer, "Yeah. Probably about 11 then. Freesmeyer:  
19 You got home about 11 Wednesday morning?" Your answer,  
20 "Yep. Freesmeyer: What time did your folks get home to  
21 wake you up then?" Your answer, "Mom got home around  
22 fourish, probably about fourish. Freesmeyer: Your mom got  
23 home around four. What about your dad?" Your answer, "He  
24 doesn't usually get home until about five or six.

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005297

AB017957

APPENDIX 001173

1 Freesmeyer: Five or six. Did you have any friends or  
2 anything over on Wednesday?. You were home asleep by  
3 yourself?" Your answer, "Went home and went to bed."  
4 Recall those questions and answers?

5 A Yes, sir, I recall that.

6 Q On February the 16th of 1994 you had another  
7 interview with Detective Freesmeyer, didn't you?

8 A Yes.

9 Q And on that date he continued to tell you of  
10 evidence against you and asked you for evidence to clear  
11 you, right?

12 A Correct.

13 Q Do you recall him saying to you that day, "And  
14 then hopefully, you know, that I've talked to you about it  
15 enough. I've tried to give you all sorts of different  
16 opportunities. We talked about motive before, and you can  
17 very well tell there's a lot of motive pointing in your  
18 direction. We talked about opportunity, the fact that  
19 you've got that six-hour gap in your alibi. The fact that  
20 Jennifer knows you, and whoever it was appeared that she let  
21 them in the apartment willingly. That tells us that's  
22 somebody that she knows. You mention that you've gone  
23 through a garbage can a couple of times. Well, whoever  
24 committed the crime went through her garbage. Combine that

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005298

1 with the fact we've got your prints on the weapon, you  
2 know." Do you recall being told that that day?

3 A Yes.

4 Q "I'm trying to give you the opportunity to help me  
5 here in ways that I could try to clear you from it. Have  
6 you thought of any other ways we might be able to clear you  
7 out?" Your answer, "I told you everything I have."

8 Remember that?

9 A Yes.

10 Q On the 9th of March you had your last conversation  
11 with Detective Freesmeyer before he arrested you for this  
12 crime on May 17th, correct, last in-person conversation?

13 A Correct.

14 MR. SOUK: Page 207 of discovery.

15 MR. BEU: What was the number again?

16 MR. SOUK: 207.

17 MR. BEU: 207.

18 Q (By Mr. Souk) He again told you that day you were  
19 going to be arrested after the finish of the rest of the lab  
20 work, correct?

21 A Correct.

22 Q He asked you again that day if there was anything  
23 else that you could provide to help clear yourself in this  
24 investigation, correct?

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A Correct.

Q And on that day you said you told him everything, and you said, "Bring it on, I've told you everything I know." Right?

A Correct.

Q After those last two conversations on 11/5 and February the 16th, and again on March the 9th, were you communicating with your lawyer and parents still about what you were talking about with Detective Freesmeyer?

A I was communicating with my counsel, yes.

Q But not your parents?

A I didn't want to worry them with something that was possibly subterfuge.

Q Thought you were being tricked and bluffed?

A Absolutely.

Q So would it be accurate, again I don't want to put words in your mouth, but would it be accurate that during the entire time of the investigation going from August the 28th of 1993 until you were arrested on May 17th of 1994, that the earliest time that you ever mentioned to Detective Freesmeyer that your mother would have come home and awakened you was 3:30 in the afternoon on the 25th?

A To any knowledge I would have while I was asleep, yes.

C05300

1 Q And your mother had not told you, at that point  
2 even, that she was home at approximately three o'clock?

3 A No.

4 Q And she certainly hadn't told you, at that point,  
5 that she was home at 2:15, right?

6 A No.

7 Q And the first time that you ever gave any  
8 statement indicating that your mother knew you were home at  
9 2:15 was when you testified at the grand jury in July of  
10 '93, right?

11 A Correct.

12 Q And you had found that out only in the week or two  
13 prior to the grand jury when your mother found the IGA  
14 receipt, right?

15 A Correct.

16 Q But it sounds like basically you weren't really  
17 talking to your parents any more because you didn't want to  
18 worry them, right?

19 A Correct.

20 Q Again referring to your grand jury testimony, do  
21 you recall these questions and answers: "Question: Well,  
22 obviously since you all started making notes on August 29th  
23 or 30th it was a matter that you talked about immediately  
24 after you knew you were a suspect, right? Answer: Yes.

1853

C05301

AB017961

1 Question: At that point in time, what had she told you  
2 about when she got home? Answer: I really don't know  
3 off-hand, roughly three, I think three. Question: You  
4 never said anything to Detective Freesmeyer about your  
5 mother getting home earlier than the time you were giving,  
6 right? Answer: No." Do you recall those questions and  
7 answers?

8 A Yes, I do.

9 Q Now as we previously mentioned, October the 12th  
10 is when you wrote out the schedule, People's Exhibit 44,  
11 correct?

12 A Correct.

13 Q And you still have that in front of you?

14 A Yes, I do.

15 Q Now I believe you indicated yesterday that, when  
16 Mr. Beu was asking you questions, that the things about that  
17 week that stood out to you were the ice cream social on  
18 Wednesday and seeing Chris Carbone that night, because that  
19 was the only day that you saw him that week?

20 A Correct.

21 Q Correct? And also your date with Beth Terresi on  
22 Friday stood out to you?

23 A Correct.

24 Q Is Detective Freesmeyer correct that when you

1 filled out People's Exhibit 44 that you filled in Wednesday  
2 first?

3 A Correct.

4 Q Do you remember that now?

5 A Yeah.

6 Q Again, calling your attention to the grand jury,  
7 "Question: Could you tell us" -- page 52, counsel. "Could  
8 you tell us how you filled it out? Answer: He walked me  
9 through the week, asked me questions about what I did that  
10 week, and I tried to remember as best I could about it.

11 Question: Did you fill it out from top to bottom, go  
12 through Monday thru Friday, or how did you do it? We just  
13 went from place to place. I don't know. It was just  
14 whatever I remembered as I remembered it." Remember those  
15 questions and answers?

16 A Yes, I do.

17 Q But now you're remembering that he's correct that  
18 you went to Wednesday first?

19 A That doesn't contradict that testimony.

20 Q Well, I'm just asking you for your memory now.  
21 You're clear you went to Wednesday first?

22 A Certainly.

23 Q 'Cause that's what stuck out in your mind that  
24 week?

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C05303

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A Yes.

Q Chris Carbone is a good friend of yours?

A Yes, he is.

Q You'd been roommates for a couple of years?

A Yes. The second year we were roommates was the year after Jennifer's death.

Q Was that the only time -- you said it was the only time that you saw him that week. Why would it be unusual for you to see him?

A He had been gone that summer on an archeological dig.

Q Okay. He'd just gotten back?

A No, that was -- that was this past summer actually. I don't remember where he was that summer.

Q But he had been gone and --

A I had been here and hadn't seen him that much.

Q Okay --

A So -- and I hadn't seen him any other night that week.

Q The week-long party that was held that week, that was the only night he went with you?

A Right.

Q The other nights you were there with other people?

A Correct.

C05304

1 Q Now calling your attention back to the interview  
2 by Detective Daniels on August the 28th, he asked you  
3 actually fairly early in the interview about your  
4 whereabouts the preceding week, correct?  
5 A I believe so, yes.  
6 Q And, in fact, he started with Friday and went  
7 backwards, didn't he?  
8 A Correct.  
9 Q Or started with Saturday and went backwards?  
10 A Yes.  
11 Q And he asked you about Wednesday, didn't he?  
12 A Yes, he did.  
13 Q Along with the other days that week, right?  
14 A Yes.  
15 Q And when he asked you about that basically three  
16 days later, three days after the 25th, did you tell him  
17 about the ice cream social and about Carbone?  
18 A I don't recall. I believe so.  
19 MR. SOUK: The Daniels' statement, page six and seven.  
20 Q (By Mr. Souk) Recall these questions and answers,  
21 "Daniels: On Wednesday, August 25th, what did you do?"  
22 Your answer, "I'm trying to think what went on. I know I  
23 went to Olson's house that night, too. Daniels: Do you  
24 recall what time? Answer: His parents were out of town.

C05305

1 Oh, probably like ten. So I would have gotten up at seven  
2 or eight and went and eaten with my mom and dad. Daniels:  
3 Are you saying ten in the morning?" Your answer, "What?  
4 No, at night. Daniels: Ten P.M. at night, Wednesday  
5 night?" Your answer, "Yeah. Daniels: Who was there?"  
6 Your answer, "Who was there? People. Just friends of mine.  
7 Daniels: Okay, what did you do after you went to this  
8 house? Then I went to work. Daniels: What time did you go  
9 to work? Answer: One in the morning. Daniels: So you  
10 went to his house at 10 P.M. and you stayed there until  
11 about one A.M.? Answer: Yeah. What did you do prior to  
12 ten P.M.?" Your answer, "I hung out with my mom and dad.  
13 Daniels: And where were they?" Your answer, "At home.  
14 Daniels: Then during Wednesday, during the day, you were at  
15 home with your parents?" Your answer, "During the day I was  
16 asleep. Daniels: Okay, where were you sleeping?" Your  
17 answer, "In my bedroom. Daniels: Okay, so you were at  
18 home. Is that correct?" Your answer, "Yeah." Remember  
19 those questions and answers?

20 A Yes, I do.

21 Q So during that interview you not only didn't  
22 mention the ice cream social, you didn't mention going to  
23 church at all or rehearsing with Mitch Olson, did you?

24 A He was questioning me on the spot, and I had not

1 had time to think about what had gone on that week, and I  
2 was just being questioned and answering them to the best of  
3 my ability.

4 Q And you didn't mention anything about going to the  
5 party with Chris Carbone, did you?

6 A No, I did not.

7 Q You just told him what stood out in your mind at  
8 that time?

9 A I just answered his questions to the best of my  
10 ability.

11 Q Do you recall in the second conversation with Mr.  
12 Swaine on September the 15th of 1993?

13 A Yes, I do.

14 MR. SOUK: This is page five and six.

15 Q (By Mr. Souk) And you had a brief conversation  
16 with him about your alibi, right?

17 A Yes.

18 Q And he was from -- well, again correct me if I'm  
19 wrong, but at that point in time, you thought that he also  
20 had you on his list as the number one suspect, right?

21 A Yes.

22 Q And he was questioning you along the lines of what  
23 were you doing, or that sort of thing, right?

24 A Yes. His questions had been phrased in a manner

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APPENDIX 001183

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of accusatory questioning.

Q And do you recall him asking you this, "You said you have an alibi, right?" -- Sorry, this is page 299 of discovery, page five. Your answer, "Yeah, dude, it is totally solid. Mike: What did you do," I'm sorry, "What did you, what were you, what were you --" Answer: "I was out with Carbone Wednesday night. I was at a party every night that week. Carbone and I went to that party Wednesday night, and I have been at work every night." Remember those questions and answers?

A Yes.

Q Now, Mr. Beaman, when did you first know that the murder was alleged to have occurred on Wednesday, August 25th?

A I had no positive confirmation of that until I was told that during the bond hearing. But that had been suggested to me either Tuesday or Wednesday by Tony Daniels during the untaped section of the first interview.

Q Oh, so that's not on the tape?

A Correct.

Q And, I take it, that's also the part where he was confusing you about whether she was dead or alive?

A Correct.

Q But he was telling you that whatever happened,

C05308

1 whether she got injured or got killed, that it happened on  
2 Tuesday or Wednesday?

3 A Correct.

4 Q Actually, the first time you were given any  
5 information like that was by Detective Freesmeyer on October  
6 27th, wasn't it?

7 A I don't know if Freesmeyer told me that as well,  
8 but I was given that information by Daniels. It was a  
9 suggested possibility of time of death.

10 Q Well, initially on the tape, at the start of the  
11 taped conversation, he asked you about the whole week as I  
12 just indicated. Is that correct?

13 A That is correct.

14 Q But you're suggesting off the tape he's  
15 pinpointing that down to Tuesday or Wednesday?

16 A Yes, he was.

17 Q Again, do you recall February the 16th talking  
18 with Freesmeyer on that day?

19 A Yes.

20 Q And do you recall him in the course of a  
21 conversation saying, "But with the time frame that doesn't  
22 make sense, Alan. I could --" And you saying, "I don't  
23 know what time she was killed. I don't know what day she  
24 was killed. Nobody will tell me that." Remember saying

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C05309

AB017969

1 that?  
2 A That is true.  
3 Q Now when you went to the bank on Wednesday  
4 morning, August the 25th, did you go alone?  
5 A Yes.  
6 Q I take it you left work alone?  
7 A Yes.  
8 Q You went home, right?  
9 A Yes.  
10 Q Nobody was there?  
11 A No.  
12 Q You drove alone to the bank?  
13 A Yes.  
14 Q Made your deposit?  
15 A Yes.  
16 Q Went home alone?  
17 A Yes.  
18 Q Went to bed?  
19 A Yes.  
20 Q And on August the 28th and October the 12th you  
21 hadn't told investigators about going to the bank, right?  
22 A Correct.  
23 Q And from -- if I understood your testimony  
24 correctly yesterday, and correct me if I've got the wrong

1 interpretation, but you were saying yesterday that again  
2 that you told them the truth. They just didn't ask the  
3 right questions. Is that what you were saying?

4 A I believe so, yes.

5 Q If they had asked you about the bank, you would  
6 have told them?

7 A Certainly.

8 Q And during either of those conversations, did you  
9 lie?

10 A No.

11 Q Call your attention again to the Daniels'  
12 interview on August the 28th. Question by Daniels, "Okay" -  
13 - I'm sorry, page 40. "Question: Okay, what were your  
14 hours Tuesday night?" Your answer, "Tuesday night I worked  
15 from one in the morning til, what time did I get off  
16 Tuesday, nine, ten. Daniels: Wednesday morning?" Your  
17 answer, "Yeah. Daniels: And where did you go when you got  
18 off of work?" Your answer, "I went home and went to bed."  
19 Do you recall those questions and answers from that  
20 interview?

21 A Yes.

22 Q And what exactly was it that Detective Daniels was  
23 supposed to ask you to get you to say that you went to the  
24 bank?

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A At that time I have no recollection of specifically going to the bank, just like I had no recollection of any other specifics of my week.

Q I thought you just told me about two minutes ago, if somebody had asked you about it you would have told them?

A Yes, but I didn't have the deposit slip. I didn't -- I mean I was not aware that I had gone to the bank. I was not directly remembering that. I mean, this guy just takes me to this little room and starts asking me questions about my week, and I don't have an opportunity to sit and think about it. I just answer questions to the best of my ability.

Q You, during the grand jury, were asked this question, "During those two interviews you indicated to the police that after you got off work you went straight home, correct?" And your answer was, "As far as I knew, yes. I was not reminded of the fact that I'd been to the bank until Freesmeyer told me about my being on the camera. I had forgotten about going to the bank." That's what you said at the grand jury, right?

A Yes, yes.

Q And he further told you that on the interview on October the 27th, right?

A Yes.

C05312

1 Q Okay. And, at that point, he told you for the  
2 first time that he discovered the bank video?  
3 A Yes.  
4 Q Alerting you to being at a bank, correct?  
5 A Yes.  
6 Q And, at that time, during that interview, he  
7 confronted you with the fact that you hadn't told about  
8 going to the bank previously, right?  
9 A Correct.  
10 Q And when he confronted you about that, you didn't  
11 tell him that you forgot, did you?  
12 A No.  
13 Q All you said is, "I didn't go to Normal."  
14 A That is correct.  
15 Q Now at the grand jury I asked you about this too,  
16 didn't I, this subject matter?  
17 A I believe so, yes.  
18 Q You remember these questions and answers:  
19 "Question: And that would have been the next interview on  
20 October 27th that he then pointed out to you, did he not,  
21 that he had discovered that you were -- Answer: Yes.  
22 Question: -- at the bank at 11 minutes after ten on  
23 Wednesday morning, right? Answer: Yes. And he pointed out  
24 to you a conflict in your testimony and asked you to explain

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C05313

AB017973

1 that, didn't he? Answer: Yes. You remember your response?  
2 Answer: All I know is I forgot about going to the bank, and  
3 then that reminded me, so I didn't think it was that  
4 important. Question: You remembered, did you tell him you  
5 forgot? Answer: As far as I know. The conversation took  
6 place a long time ago. I don't remember a lot of these  
7 things. Question: You sure you didn't just tell him, 'I  
8 didn't go to Normal,' and not give him any other  
9 explanation? Answer: Perhaps I said that. He had inferred  
10 that my bank was awfully close to 39." That was the  
11 questions and answers about this topic at the grand jury,  
12 right?

13 A Correct.

14 Q Now the testimony that you gave at the grand jury  
15 was the first time that you had ever indicated to Freesmeyer  
16 or anyone else in law enforcement that you went home before  
17 you went to the bank, right?

18 A I guess.

19 Q I'm not asking you to guess, Mr. Beaman --

20 A Well, could you ask the question again?

21 Q Well, you and Detective Freesmeyer on October the  
22 27th of '93, at that point you had a clear understanding  
23 between the two of you that he knew you went to the bank,  
24 and you knew that he knew, right?

C05314

1 A Correct.

2 Q And you admitted that you went to the bank, right?

3 A Correct.

4 Q But until the grand jury, up until the grand jury,  
5 you had never told anyone that you had gone home first,  
6 correct?

7 A Correct.

8 Q And your purpose in going home was to get your --  
9 your money for a deposit, right?

10 A Correct.

11 Q And you had \$300 in cash and a hundred dollar  
12 check?

13 A Correct.

14 Q Didn't you have some additional cash besides that?

15 A Yes, he gave me \$495.

16 Q So you had another \$95, or at least a portion of  
17 that \$95 left that you also had at home?

18 A Yes.

19 Q And your reason for that was that you didn't want  
20 to take that money to work with you?

21 A I didn't want to take it into Rockford with me.

22 Q Pardon?

23 A I was going to a party, and I was going to work.  
24 I would be in the city. It's not smart to carry that much

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C05315

AB017975

1 cash on you.  
2 Q You didn't think you might lock it in your car?  
3 A I knew better than that.  
4 Q When you went to work -- by the way, the store is  
5 not open at that time of night, right?  
6 A No, it's not.  
7 Q Basically locked inside, right?  
8 A Correct..  
9 Q There's a number of other employees around you and  
10 Mr. Clark, at least several other in the bakery at least,  
11 right?  
12 A Correct.  
13 Q You'd taken some money to the mall the night  
14 before, hadn't you?  
15 A I'd given it to my mother.  
16 Q You had your cash with you at the mall, right?  
17 A No, my mother had money.  
18 Q Where did you give her the money?  
19 A At home.  
20 Q Oh, she asked you for the cash at home?  
21 A Yes.  
22 Q Not at the mall?  
23 A Correct.  
24 Q And you didn't take any money with you to the

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mall?.

A No.

Q You're even scared to take money to the mall?

A No, I just didn't need to take money with me. We were doing school shopping. It was understood that my parents were willing to buy me a few things before I went back to school.

Q So when you got off work on Wednesday morning, if I've got the timing wrong correct me, but basically you did an hour and a half of driving to make a bank deposit?

A Roughly, I mean I wouldn't necessarily think that it would take an entire hour and a half, but I would allow myself an hour and a half for driving.

Q And when you went to the bank that morning, you hadn't showered or cleaned up at all?

A No.

Q And those clothes that show on the bank video, those were the clothes you painted in the night before?

A Correct.

Q Now when was the very first time that you ever remembered about going to the bank once the investigation began on August the 28th?

A I imagine it was right around the same time that he asked me about it, or stated that he had seen evidence

C05317

1 that I was at the bank.

2 Q Okay. And that's the very first time that you  
3 remembered it, when Freesmeyer confronted you with the bank  
4 video evidence, right?

5 A Yes.

6 Q And, in fact, at grand jury when I asked you about  
7 that, you -- and I said you just forgot about that being at  
8 the bank, you said, yeah. I asked you if that was the first  
9 you'd recalled of it, once he told you that he had found  
10 that, and your answer was yes, right?

11 A Correct.

12 Q At that point in time I made you aware of the  
13 first time that you knew of that. In fact, I showed you a  
14 memo from Bell Federal indicating that Mr. Beu had called  
15 there to confirm your presence at the bank on Wednesday  
16 morning, the 25th, and that he had done that on September  
17 the 3rd of '93. I showed you that memo, didn't I?

18 A Yes, you did.

19 Q That was the first time that you knew about that,  
20 about the memo?

21 A Yes.

22 Q That's the first time that you knew that we,  
23 meaning law enforcement, had evidence that your attorney was  
24 making that inquiry on September 3rd, right?

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APPENDIX 001194

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A Certainly.

Q And you're still saying that the first time you ever remembered, once this investigation began, that you were at the bank was when Detective Freesmeyer told you?

A It's certainly possible that my mother found a deposit slip and got all excited and went to my lawyer with it. That's all I recall as far as knowing anything about it. I didn't even know that he had sent that memo until you showed it to me.

Q So you didn't know. Whoever told your lawyer, it was not you?

A That is correct.

Q And you didn't know anything about him making any inquiries?

A That is correct.

Q And your mother found -- well, let me back up a minute. Up until the time -- the work records from that week show that you got off at nine o'clock, right?

A Correct.

Q On Wednesday, correct?

A Yes.

Q And that is when you got off, right?

A Yes.

Q So up until the time that the bank evidence comes

1 into play, your gap in your alibi, if you will, is from nine  
2 o'clock until 3:30 or four in the afternoon, right?

3 A I suppose.

4 Q Okay. Once the bank evidence is uncovered, the  
5 gap in your alibi is cut down by an hour and 11 minutes,  
6 right?

7 A That is correct.

8 Q That proves you were in Rockford at ten minutes --  
9 or 11 minutes after ten, right?

10 A Yes.

11 Q And you're saying that maybe your mother found  
12 your deposit ticket and turned that over to your attorney  
13 and she never said a word to you?

14 A I don't recall anything about it. I was here.  
15 She was in Rockford. He was in Rockford. All of my contact  
16 with them was wrapped up in what I was busy doing at school.  
17 I had a show going up, and I had a lot of things going on in  
18 my life, and I couldn't sit around and think about things I  
19 didn't consider to be valid at all.

20 MR. SOUK: May we approach, judge?

21 THE COURT: You may. Off the record.

22  
23 (WHEREUPON A DISCUSSION WAS HAD AT THE  
24 BENCH OFF THE RECORD.)

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C05320

AB017980

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THE COURT: All right, proceed.

Q (By Mr. Souk) Now you're, of course, now aware that there were two phone calls made out of your home at 10:37 and 10:39 on the morning of Wednesday, the 25th, right?

A That is correct.

Q You didn't know that until you got the phone records and the discovery information, well after your testimony at grand jury, correct?

A Correct.

Q You, as I think you may have already indicated, had directly told Detective Freesmeyer when he asked you direct questions on October the 27th if you had anyone over at the house, or if you made any phone calls, and you told him no, correct?

A Correct.

Q And when you were asked about this topic at the grand jury, you did not recall any phone contact that week between yourself and Pastor Olson of any type, correct?

A No.

Q Right?

A Yes.

Q Just be specific, page 46. "Question: Did she mention to you when you got up, 'referring to Wednesday,'

C05321

1 that Pastor Olson had called about the rehearsal? Answer:  
2 I believe so, yes. Question: I ask you to be as sure as  
3 you can. You believe so or you're sure? Answer: Yes, I'm  
4 sure. Question: What did she tell you? Answer: She told  
5 me that he called. I mean, that we had rehearsal. He was  
6 just reminding me that I had rehearsal that night.  
7 Question: You already knew that? Answer: I knew that,  
8 yes. Question: Sunday it was set up, right? Answer: Yes.  
9 Question: Then did you actually see Pastor Olson after the  
10 ice cream social? Answer: Yes. And you practiced with  
11 him? Answer: Yes. Question: He had talked with your  
12 mother, but that was your first contact with him since  
13 Sunday at church? Answer: Right." Remember those  
14 questions and answers?  
15 A Yes, I do.  
16 Q And then do you remember these questions and  
17 answers involving one of the members of the grand jury?  
18 Question from the grand jury: "From the time that you got  
19 home did you have occasion to see anybody, talk to anybody?  
20 Answer: No, I went to sleep right when I got home. I was  
21 tired. Question: You went to sleep after you came back  
22 from the bank? Answer: Right. Question: You didn't set  
23 up any confirmation with Mr. Olson? Answer: I just knew  
24 that I was supposed to be there that night for the ice cream

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C05322

AB017982

APPENDIX 001198

1 social, so -- Question: Did you get any phone calls at all  
2 that day? Answer: Not me personally." Do you recall those  
3 questions and answers?

4 A Yes, I do.

5 Q You're now indicating that while you don't have  
6 any recollection of the phone calls, it's entirely possible  
7 you made them?

8 A Yes.

9 Q And why, why is that?

10 A Because I would have been home in and about that  
11 time. There's no reason for anybody else that would have  
12 been in my house to call the church from the house at that  
13 time, and I could see it's conceivable my getting home,  
14 thinking, oh, Mitch is going to call me and wake me up if I  
15 don't call him now. So it is entirely possible that I did  
16 try to get ahold of him that morning. However, I have no  
17 direct recollection, nor direct knowledge, of specifically  
18 making any phone calls.

19 Q Nor do you have any recollection, do you, of an  
20 incoming call to your residence of one minute at 10:22 that  
21 morning from the Christ United Methodist Church?

22 A I don't recall that, no.

23 Q That's not in your memory bank either, right?

24 A No.

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C05323

AB017983

APPENDIX 001199

1 Q Now the trip from Bell Federal to your home takes  
2 a little over half an hour, doesn't it?

3 A Approximately.

4 Q And you're now indicating that the route that you  
5 took from --

6 MR. BEU: Objection to the word now, it's an  
7 argumentative question.

8 THE COURT: Objection will be sustained. I'm not sure  
9 where, when you're referring to --

10 Q (By Mr. Souk) In your testimony here, in this  
11 courtroom yesterday, you're indicating that the route that  
12 you took was the bypass route, right?

13 A Correct.

14 Q Not through the center of Rockford --

15 A Correct.

16 Q -- right? And previously to Mr. Pickett, when you  
17 drove those routes with him on September 1st and 2nd of  
18 1994, you told him you went the bypass route, correct?

19 A That is correct.

20 Q And when I asked you about it in grand jury,  
21 that's not what you told me, was it?

22 A What did you ask me?

23 Q Well, did you tell me you went the bypass route?

24 A I don't recall.

1876

C05324

AB017984

1 Q Do you recall these questions and answers -- page  
2 44, counsel -- "Question: About how long does it take you  
3 to get home from Sandy Hollow store? Answer: Sandy Hollow,  
4 about half an hour roughly. Question: How long does it  
5 take you to get to the bank from your home? Answer: Little  
6 over the same. Question: Little over half an hour?  
7 Answer: Well, little -- yeah. Roughly, I mean anywhere on  
8 the east side of town is a half hour. And it's kind of in  
9 the east, or east central part of town? Answer: Yes.  
10 Question: The bank? Answer: Yes. Question: Where do you  
11 bank? Answer: Bell Federal Savings & Loan. Question:  
12 When you go there or to your friends that you mentioned that  
13 live on the east side of town, do you go through Rockford?  
14 Answer: Yes. Question: That's your normal route of  
15 travel? Answer: Yeah." Remember those questions and  
16 answers?

17 A Yes, I do.

18 Q So you told me you went through Rockford to get to  
19 your bank, didn't you?

20 A No, I did not. I was responding to a double  
21 question.

22 Q So it was, it was --

23 A I drove through Rockford to see my friends. I  
24 drive around Rockford to go to somewhere specific on the

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east side.

Q Okay. So that was kind of a tricky, confusing, question that I asked you?

A Yes, it was.

Q You didn't ask me to repeat it or rephrase it though, did you?

A I was answering your questions to the best of my ability.

Q Well, if you were confused, why didn't you ask me to rephrase?

A I was not confused. I imagine I was answering the second half of the question.

Q Didn't ask Mr. Beu for any consultation at that point, did you?

A No, I did not.

Q Then, immediately after that, I asked you these questions, and you gave these answers, right: "Question: There's sort of a beltway, you might call it, that kind of goes around Rockford, part of it? Answer: The bypass. Question: The bypass, what's that called? Answer: Route 20. Question: You use that -- Answer: To get to the Sandy Hollow store, because it's on 11th Street right behind the bypass. Question: When you go from your home to Bloomington/Normal, that would be the best way to use the

C05326

1 bypass, right? Answer: Route 20 to 39, yes. Question: It  
2 just kind of swings around to the south and up to the north,  
3 and then you got on another road, Meridian Road, that goes  
4 north up to where you live in the northwest part of Rockford  
5 area, right? Answer: Right. Question: Where is Bell  
6 Federal located as far as Route 20? Answer: Route 20 goes  
7 along the south side of Rockford, and Bell Federal is  
8 central east. I mean it comes off -- it's off of Alpine  
9 Road. Question: Alpine Road run down into 20? Answer:  
10 It runs down to 20, yes. Question: How far is it from Bell  
11 Federal down to 20? Answer: It's about, I don't know, four  
12 to five miles, something like that." Remember those  
13 questions and answers?

14 A Yes, I do.

15 Q Those questions and answers, you didn't say  
16 anything about going from Bell Federal to home by the  
17 bypass, did you?

18 A I was not asked anything about going from Bell  
19 Federal to home by the bypass.

20 MR. SOUK: May we approach, your Honor?

21 THE COURT: You may.

22  
23 (WHEREUPON A DISCUSSION WAS HAD AT THE  
24 BENCH OFF THE RECORD.)

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APPENDIX 001203

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knowledge, that they were coming down on the hardest from what you saw?

A As far as I knew.

Q They'd come down on you and accused you the same evening that they found the body?

A That is correct.

Q They told you all through August -- I mean October and November that you were the one that was going to be arrested?

A Yes.

Q Had part of your conversations with your counsel during that time been in the area of the legal concept of presumption of innocence?

A Yes.

Q Some questions earlier about the length of time for your drive between home and Bell Federal and back. Do you recall that?

A Yes.

Q And the length of questioning about that, according to the bank -- pardon me, the phone records, there was a phone call initiated, but apparently not answered from your apartment or your home at about 10:37 that morning. According to the bank video tape, you left there at around 10:11. That's about 26 minutes roughly?

C05328

1           A     Roughly.

2           Q     In your manner of speaking is 26 minutes about

3 half an hour?

4           A     That's about half an hour, yes.

5           Q     Would 25 minutes be about half an hour?

6           A     Yes, it would be.

7           Q     How far would you have to be off half an hour,

8 Alan, before you thought it was not about half an hour?

9           A     I would say 20 minutes.

10          Q     If you were to give your best estimate as to

11 comparing the difference in driving the bypass/Meridian

12 route between your place and the bank as opposed to coming

13 through the heart of downtown Rockford as Detective

14 Freesmeyer has inferred in his map diagram, what would be

15 the approximate difference?

16          A     About ten minutes.

17          Q     Does that depend on the time of day?

18          A     Yes, it would depend on the time of day and

19 traffic conditions in Rockford.

20          Q     And we're talking sometime in the vicinity of

21 prior to 11 minutes after ten in the morning, right?

22          A     Correct.

23          Q     On a week day?

24          A     Correct.

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Q To the best of your knowledge, Alan, prior to your arrest, had you or anyone on your behalf actually commissioned anyone to go out and run formal mileage checks on your itinerary for that week?

A No.

Q Had it basically been decided that knowing what you knew at the time, just to sit tight, because it was going to blow over?

A Yes.

Q After you were arrested, is that mileage check that was done by Loyale Slaughter while you were in custody, was that -- that's the first one that was done, correct?

A Yes.

Q By the time that you went around with Verne Pickett and did the mileage that's been presented here, had you had the opportunity to speak with each of the people that you'd been able to recall by going back through your records and confirm the various places that you had, in fact, been during the stages of that week?

A Yes, to some extent.

Q It's true, is it not, in the grand jury testimony that it was Mr. Souk who made the reference to Michael Swaine's things --

A Yes, it was Mr. Souk.

C05330

1 THE COURT: All right, we're going to recess this  
2 hearing now until approximately 1:30 this afternoon. If the  
3 bailiffs would take charge of the jury, return them to the  
4 jury deliberation room. The witness may step down. Leave  
5 your books where they are please, and they'll be secured  
6 over the noon hour.

7  
8 (WHEREUPON THE JURY EXITED THE COURTROOM  
9 AND THE FOLLOWING WAS HAD:)

10  
11 THE COURT: All right, the jury is now outside of the  
12 courtroom. We will be in recess until 1:30.

13  
14 (WHEREUPON THE NOON RECESS WAS HAD.)

15  
16 THE COURT: Okay, back on the record in 94-CF-476.  
17 Counsel and the defendant return to open court. Jury is  
18 presently outside of the courtroom.

19 Mr. Beaman, if you would resume the witness stand  
20 please before the jury comes back in.

21 MR. BEAMAN: Yes, sir.

22 MR. BEU: Also, judge, just one procedural thing, a  
23 return of service to file on the witness from yesterday.

24 THE COURT: All right, that will be filed. Thank you.

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All right, are counsel ready to proceed now?

MR. SOUK: Yes, your Honor.

MR. BEU: Yes, your Honor.

THE COURT: All right, call the jury back in.

(WHEREUPON THE JURY ENTERED THE COURTROOM  
AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, the jury has now returned to the courtroom. Mr. Souk, you may continue your examination.

MR. SOUK: Thank you, your Honor.

Q (By Mr. Souk) Mr. Beaman, before we return to the topic of the odometer, one last question about the bank issue. When you testified at grand jury, after I gave you the memo which reflected Mr. Beu's inquiry and you had a chance to look at that and examine it, I asked you the following question, didn't I, "Question: If you just forgot about the bank, could you offer the ladies and gentlemen of the grand jury an explanation of why your attorney was seeking to confirm your presence at the bank on September the 3rd of 1993?" Remember that question?

A Yes.

Q And you gave this answer, didn't you, "I don't

C05332

1 know, mmm, perhaps that was when I remembered it then, I  
2 don't know. It's been a great long time. It's been a  
3 year."?

4 A Yes.

5 Q You gave that answer?

6 A Yes, I did.

7 Q Now the Ford Escort vehicle, of course, has been  
8 discussed extensively already, and that was the car you were  
9 driving from the summer of '93 basically until May of -- I'm  
10 sorry, the summer of '92 until May of '94, correct?

11 A Correct.

12 Q Prior to the summer of '92, you hadn't had a car  
13 down in school?

14 A No, I had not.

15 Q The car from that point, from either late May or  
16 early June of 1992, was your full-time vehicle?

17 A Yes.

18 Q All right. You drove it both down here at school,  
19 correct?

20 A Yes.

21 Q And trips back and forth to home?

22 A Correct.

23 Q And when you were home it was your car to use  
24 there, too, right?

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A Yes.

Q Part of the Sears trip had been, you took your mother shopping, and one of the things you got was the tape deck, right?

A Right.

Q You went home that night and started putting it in?

A Yes.

Q And I didn't understand this part of your testimony yesterday, and I want to ask you to clarify it. I thought you said something about the tape deck having ended up under a seat?

A Yes.

Q Is that what you said?

A Yes.

Q Did you -- did you mean that after you put it in that you installed it in such a way that it was working, but it was under your seat?

A That is correct.

Q You couldn't get it to fit in the --

A It was too small to fit into the clips that are in the -- 'cause when I took the original stereo out that was much larger than just the little tape deck I put in there, and it didn't have a radio on it.

**C05334**

1 Q But you did get it working?  
2 A Yes, I did.  
3 Q That Tuesday night or --  
4 A No, it wasn't fully working until Saturday  
5 actually.  
6 Q Actually you were working on it quite a bit that  
7 week?  
8 A Yes.  
9 Q And --  
10 A Well, over a period of time, yes.  
11 Q And even Saturday night before you went out and  
12 you were stopped by the police, you were out in your  
13 driveway working on it some more then, correct?  
14 A Correct.  
15 Q Is that when you finally got it hooked up?  
16 A Yes.  
17 Q So it took quite a bit of work?  
18 A Yes, it did.  
19 Q And what was the problem? Did you have to trace  
20 some leads over some wiring or something?  
21 A The directions inside the box for the tape deck  
22 gave me specific instructions to run the power lead to the  
23 fuse box, but it doesn't fit that way on my car, so I had to  
24 find a different way. And finally I just gave up and ran it

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directly to the power for the original stereo and decided not to put the original stereo back in.

Q Okay. So you had been -- your plans were to do a tape deck along with the original stereo?

A Correct.

Q So you changed those plans and then just hooked up the tape deck and --

A Yes.

Q -- put it under the seat?

A I jury rigged it.

Q The fuse box that you're talking about, where is that located?

A That's located on, I believe, the left side underneath the steering column.

Q Is that like little fuses that are part of the electrical system just like in your house?

A It's just a little white box that's got little pin fuses that slip in there. They're really small.

Q And those are fuses that might blow if you have like an overload in the system somewhere?

A Correct, yeah.

Q And you can change them just like you change a fuse in your fuse box at home?

A Yes.

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C05336

AB017996

1 Q So some of the wiring had to go to there, or you  
2 thought it had to go to there?

3 A Well, it was supposed to, but I couldn't find a  
4 way to get that to work.

5 Q And how many hours do you think you had to work on  
6 that altogether to make it work?

7 A A total of four maybe, just 'cause I didn't know  
8 what I was doing.

9 Q Now you never have had any problems with your  
10 speedometer or odometer?

11 A No, I don't.

12 Q Never worked on it yourself?

13 A No, I have not.

14 Q You don't know anything about speedometers or  
15 odometers?

16 A Well, I did learn through proceedings of this  
17 trial something about speedometers and odometers.

18 Q I understand you didn't know anything then?

19 A No, I didn't.

20 Q Didn't know how to unhook or hook up the cable, I  
21 take it?

22 A No.

23 Q And the best of your knowledge it's always worked  
24 properly, both the speedometer and the odometer?

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A Yes.

Q Now when that evidence was discovered, like your parents, you believed that was evidence that would clear you, didn't you?

A Yes.

Q And it would be true that not only did your mom and dad not disclose that evidence to the police until May the 18th, you didn't disclose it to the police either, did you?

A That is true.

Q And, of course, the reason that that would clear you is because you drove too many miles within the City of Rockford to both do that and make a trip to Bloomington and back, right?

A That's is correct.

Q And you obviously -- we've had a lot of testimony about mileage and that sort of thing. You're familiar with all that, right?

A Correct.

Q And obviously at various times in your statements to police you told them various places that you went, right?

A Correct.

Q And you did with Mr. Pickett go last September 1st and 2nd, drive around, and do what he testified was done,

C05338

1 and those mileages were measured, right?  
2 A That is correct.  
3 Q Do you remember the testimony -- I think there's  
4 an exhibit somewhere about Mr. Slaughter doing some prior  
5 mileage checking?  
6 A Yes.  
7 Q Okay. Do you need to see that exhibit, or have  
8 you seen it before?  
9 A I don't know if I've seen it before.  
10 Q People's Exhibit 87?  
11 A It's possible.  
12 Q Do you recognize that?  
13 A Yes.  
14 Q How do you recognize it?  
15 A I believe it was part of discovery.  
16 Q Part of whose discovery?  
17 A Part of our discovery I imagine, I don't know.  
18 Q Well, it's prepared by your investigator, right?  
19 A Yes, but it is a People's Exhibit, so I imagine  
20 you had it.  
21 Q Okay. Do you know Mr. Slaughter?  
22 A No, I do not.  
23 Q Did you ever talk with him or provide information  
24 to him indirectly so that he knew where to drive to do his

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mileage checks?

A No, I did not.

Q Did you know that he was doing some mileage checks?

A I was aware that he was doing mileage checks, yes.

Q Okay. And were you, like your mother, made aware at some point, of some figure of perhaps 250, 280 miles, some figure like that?

A It's possible.

Q Do you know where Mr. Slaughter got his information to make his mileage check?

A I imagine from my counsel. I don't know.

Q Now when you went out with Mr. Pickett on September the 1st and 2nd, everyplace that he went was a place that you directed him, right?

A That is correct.

Q This was not a situation where he already had a written report or written direction from you? It was your setting in the passenger seat and his driving, and your telling him where to go?

A Correct.

Q And at this point in time did you have with yourself -- with you, yourself, at that time, any notes that you were using to direct you?

1 A I wouldn't need that.

2 Q You had a clear memory of where you'd been that  
3 week and the way you got there and back, right?

4 A I have a clear memory of the way I drive through  
5 Rockford, yes.

6 Q Okay. So some of these places, maybe most of  
7 them, were places that you had a regular routine of how you  
8 went?

9 A Yes.

10 Q So when you were giving him directions, were you  
11 giving him the routine that you usually followed, or your  
12 independent recollection of the week of August 23rd?

13 A I would say it would be both. My independent  
14 recollection is that I would have no reason to be driving  
15 any other way than that which is my routine.

16 Q Now that day you -- one of the places you directed  
17 him to go was to Shannon Wallenberg's home?

18 A That is correct.

19 Q You'd never mentioned her name in any statement  
20 that you gave to police before, did you?

21 A I'm not certain.

22 Q You told him that you'd gone to your uncle's on  
23 Thursday and Friday both, right?

24 A Correct.

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Q And, in fact, said that at the grand jury also, didn't you?

A Yes.

Q To Detective Daniels, you told him you went there on Thursday, but you didn't say anything about Friday, did you?

A I don't know, apparently not.

Q And on October 12th when you filled out People's Exhibit 44 you didn't mention your uncle's at all, did you?

A I don't recall seeing that on there, no.

Q You want to look at it again?

A That's not necessary.

Q The Broadway IGA that's mentioned, you went over there you say to pick up sealant and --

A Sealant?

Q For the driveway?

A Oh, sealant. No, actually I picked up the crack filler and the tools that I needed to put the sealant on, but I had to buy the sealant at Farm & Fleet.

Q Before Mr. Pickett, had you mentioned that trip to Broadway IGA to anybody?

A I don't recall.

Q And we've already talked about your testimony at grand jury regarding which way you got from the bank and

C05342

1 back, correct?  
2 A Correct.  
3 Q And you, of course, told Mr. Pickett in September  
4 that you drove the bypass and Meridian, correct?  
5 A Correct.  
6 Q And although apparently you didn't provide the  
7 information, it would appear that Mr. Slaughter in measuring  
8 that distance also measured the Beaman residence to Bell  
9 Federal by the bypass/Meridian route, too, correct?  
10 A Route 20, yes.  
11 Q And you're assuming he got his information from  
12 your attorney, but you're not quite certain?  
13 A I have no idea. I've never even met the man.  
14 Q The route going from the bank to your home by the  
15 bypass, that adds about six miles to the trip each way,  
16 doesn't it?  
17 A Roughly, yes.  
18 Q So the round trip would add 12 miles to your  
19 mileage just by going that way, wouldn't it?  
20 A Sure.  
21 Q Now when that odometer evidence was discovered,  
22 you were around the house, right?  
23 A I believe so, yes.  
24 Q It was your mother who discovered it, right?

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A That is correct.

Q And who was it that recovered the receipt out of the car?

A I'm not certain. It could have been me. It could have been my mother. I remember her getting excited about something --

Q And --

A -- and saying that she had figured it out.

Q Maybe it was you she sent out to the car?

A It's possible.

Q So in any event, you knew about it basically immediately upon its discovery on August the 30th, right?

A Yes, I was in the vicinity.

Q All right. Were you there on that day when she found the Sears receipt and looked at it, and looked at the odometer, and wrote on the back of the Sears receipt the mileage that basically showed 322 miles elapsed?

A I was not present when she wrote the mileage down, nor was I present when the photograph was taken. In fact, I had not been aware that a photograph had been taken.

Q But, at that point on Monday, they'd had you stop driving your car Sunday, right?

A Yes.

Q Then on Monday you met with Mr. Beu, and that's

1 when everybody sits down to recall the prior week, right?

2 A Correct.

3 Q And it's in that process as your mother and father  
4 are talking about this that they remember about Sears, or  
5 your mother remembers. That's when you go get the Sears  
6 receipt, right?

7 A What was that again?

8 Q As your mother and father are talking and making  
9 notes, that's when your mother remembers on Monday, the  
10 30th, right?

11 A I believe so.

12 Q And you were somewhere else in the house?

13 A I was, yes, around the house.

14 Q Were you making your own notes, or doing something  
15 else?

16 A I had been making my own notes during that time.  
17 I don't know if it was the exact same time that my parents  
18 were or not.

19 Q So at that point in time she either goes out, or  
20 she sends you out to get the receipt, because it's in the  
21 glove compartment of your car, right?

22 A As far as I know, yes.

23 Q Did you go -- did you look at the odometer  
24 yourself?

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AB018005

1 A I'm not certain.  
2 Q Somebody told you the mileage, though?  
3 A Somewhere along the line.  
4 Q Well, presumably somebody had to tell you that  
5 there's a little over 300 miles driven so that you could  
6 tell them how many miles you had driven during the week,  
7 right?  
8 A Correct.  
9 Q Somebody had to have some input from you, didn't  
10 they?  
11 A I suppose, yes.  
12 Q Well, you were the guy driving around your car  
13 that week, right?  
14 A Yes.  
15 Q So nobody is going to know, just like Mr. Pickett,  
16 nobody is going to know the mileage unless you told them  
17 where you drove, right?  
18 A That is true.  
19 Q And presumably you did that --  
20 A Yes.  
21 Q -- on Monday, the 30th, right?  
22 A I don't know. I can't recall a specific date or  
23 the specifics about that.  
24 Q Well, let's phrase it another way. Without

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AB018006

APPENDIX 001222

1 recalling specifically what you told your mother and father  
2 about where you had driven, would it be fair to say that you  
3 at least communicated with them to the extent that they knew  
4 that you had driven too many miles to have made a trip to  
5 Bloomington/Normal and back, plus the mileage you drove in  
6 Rockford, right?

7 A I don't know if I did communicate that or not.  
8 That's what I've been trying to say here.

9 Q Well, how would any of you know that it was  
10 evidence that cleared you unless somebody had some idea  
11 where you drove that week?

12 A Well, they knew that I was going to work that  
13 week. They knew that I was going out on the town that week.  
14 They saw my car when they got home every day, and they knew  
15 that I was in my car.

16 Q So they perhaps were just making assumptions  
17 knowing all that?

18 A That is possible.

19 Q However they got the information, they got excited  
20 about it, right?

21 A That is correct.

22 Q Both of them, or just your mom?

23 A I don't know. What I recall is my mom being  
24 excited about the receipt, remembering, oh yeah, that's what

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AB018007

APPENDIX 001223

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we did.

Q Then after somebody looked at the receipt and mileage they were even more excited because it cleared you?

A I believe so, yes.

Q Were you excited about it?

A Yes.

Q And that's all known on August -- Monday, August 30th, right?

A As far as I know. I --

Q You said you weren't there when the photo was taken. I take it you knew about the photo at some point in time?

A I was not aware of the photo until later on. I don't know exactly when. A lot of that going on there was my parents trying to make sure for themselves, so --

Q Make sure of what for themselves?

A Well, somebody gets accused of something you tend to wonder whether or not it's true, and you tend to want to know whether or not it's true. And I imagine they did some investigation on their own.

Q Okay. It wasn't a big issue to you?

A I knew I didn't do it, so there's not much for me to worry about, is there?

Q Well, you just -- the day before, early morning of

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C05348

1 Sunday, been in this very accusatory interview with  
2 Detective Daniels, and you knew that you were in her  
3 parents' eyes the number one suspect, right?

4 A That is correct.

5 Q And you knew you were innocent, right?

6 A That is correct.

7 Q You weren't worried about being wrongly accused  
8 and falsely arrested?

9 A Certainly.

10 Q So you were working with your parents, weren't  
11 you, about developing this evidence, weren't you?

12 A Working on my own.

13 Q When did you know the picture had been taken?

14 A I don't recall.

15 Q Now certainly by whatever you communicated with  
16 your parents, and whenever you communicated, by November 5th  
17 when you had a conversation with Detective Freesmeyer you  
18 knew then about the odometer evidence, right?

19 A I don't know if I even knew about the photograph  
20 at that point.

21 Q Not the photograph --

22 A The odom -- the receipt, yes, I knew about the  
23 receipt.

24 Q The receipt that your mother and father had looked

1898

C05349

AB018009

APPENDIX 001225

1 at the odometer and seen how many miles had elapsed?

2 A Yes.

3 Q As of Monday, the 30th?

4 A That is correct.

5 Q And you knew it was a little bit -- maybe you  
6 didn't know the exact figure, but you knew it was a little  
7 over 300?

8 A That is correct.

9 Q And you knew, therefore, from what you had driven,  
10 this was evidence that cleared you because you couldn't have  
11 driven down here and back?

12 A I suppose.

13 Q And on that date you had a conversation with  
14 Detective Freesmeyer about that, didn't you?

15 A Yes.

16 Q And I ask you if you recall these questions and  
17 answers: "Detective Freesmeyer: What about your car, is  
18 there any way that we could say that your car wasn't here?"  
19 Your answer, "Well, I got new tires Tuesday night, got the  
20 receipt from that." Freesmeyer, "Okay." You say, "You can  
21 try looking at mileage. I have driven a lot of miles since  
22 then. I don't know, but --" Do you remember those  
23 questions and answers?

24 A Yes, I do.

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C05350

AB018010

APPENDIX 001226

1 Q So you told Freesmeyer about the tires, and you  
2 told him about the Sears receipt, didn't you?

3 A Yes, I did.

4 Q But you didn't tell him you had evidence of how  
5 many miles you'd driven that would clear you, did you?

6 A I had no knowledge of any evidence that was  
7 specifically presenting the number of miles I had driven.

8 Q I thought you just said that you knew even when it  
9 happened in August that your mother was --

10 A I was aware of how many miles I had driven, but  
11 that does not mean that I can show that to lieutenant -- to  
12 Sgt. Freesmeyer.

13 Q I guess you're losing me, Mr. Beaman.

14 A You've lost me a long time ago.

15 Q You didn't know about the photograph. Is that  
16 what you're saying?

17 A That is true. I would have told him about it if I  
18 had known it at that time.

19 Q Calling your attention to the grand jury testimony  
20 again, "Question: I take it you had a chance then and since  
21 then to see the notes that your mother made? Answer: Yes.  
22 Question: Who takes that picture?" Your answer, "My  
23 mother, I believe. Question: Do you recall when that was  
24 taken? Answer: That was taken sometime between Saturday

1900

C05351

AB018011

1 and Monday, or maybe on Monday. I didn't deal with it  
2 directly. It was something she was doing. Question: But  
3 you knew it was taken? Answer: Yes. Question: And you  
4 knew what the mileage showed on your odometer, right?  
5 Answer: Not the specific number. I mean I don't -- I know  
6 that it was approximately 300 miles had been driven."  
7 Remember those questions and answers?

8 A Yes, I do.

9 Q So you did know the photograph was taken, didn't  
10 you?

11 A Not at that time that I talked to --

12 MR. BEU: I'm going to object, it did not indicate  
13 anything about when.

14 THE COURT: I'm going to allow the objection. It will  
15 be sustained.

16 Q (By Mr. Souk) When did you know the photograph  
17 was taken?

18 A Sometime prior to the grand jury obviously.

19 Q So your parents had this photograph of the  
20 odometer all year long, and you're the number one prime  
21 suspect in the murder case, and they didn't tell you about  
22 it?

23 A I didn't deal directly with counsel. I was down  
24 here, they were up there.

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005352

AB018012

1 Q Well, when you talked with Detective Freesmeyer on  
2 November the 5th, even if you didn't know there was a  
3 photograph, you knew your parents had looked at the odometer  
4 and were witnesses as to what it said on Monday, August the  
5 30th, didn't you?

6 A They had had several opportunities to talk to my  
7 parents.

8 MR. SOUK: Your Honor, would the court direct the  
9 witness to answer the question?

10 THE COURT: Would you please answer the question that  
11 was put to you by Mr. Souk?

12 A Could I have that read back?

13  
14 (WHEREUPON THE LAST QUESTION WAS READ  
15 BACK BY THE REPORTER.)

16  
17 A Yes.

18 Q (By Mr. Souk) And you didn't tell him that, did  
19 you?

20 A No.

21 Q Why not?

22 A I don't know. Didn't specifically come to mind, I  
23 guess. I told him about the receipt.

24 Q The receipt came to mind, but not the fact that

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you had some witnesses who could verify how many miles you'd driven?

A I don't know how all this stuff works, that's why I have a lawyer.

Q Now when I asked you about this topic in grand jury -- well, let me -- so we're not mistaken, I'll read you the questions and answers. Do you recall these at the grand jury, "Question: During any of those conversations you never mentioned to him, did you, that you had the Sears receipt along with the picture of the odometer, did you? I did mention that to him. I did not have them in my hands to show them to him. It was with my parents. Question: I mentioned two things there. I don't want to confuse you. What exactly was it that you told him? Answer: I told him about the receipt showing mileage. Question: Did you tell him about how many miles you'd driven and the picture on the odometer? Answer: Yes. I don't know if I told him about the picture or not, but I told him about how many miles I'd driven. Question: You sure? Answer: Yeah. Question: Positive? Answer: I told him, look at my mileage. Look at the receipt. I did not have the receipt to show him. Question: That was -- you think that might have been November 5th when you talked with him? Answer: That was whichever one he came to the theater to find me. It was

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C05354

AB018014

1 during tech week of the show I was doing, so that would have  
2 been in the fall." Do you remember those questions and  
3 those answers?

4 A Yes, I do.

5 Q So when I initially asked you about it in grand  
6 jury, you told me that you had told him about the 300 plus  
7 miles, correct?

8 A I guess.

9 Q And then immediately following that were these  
10 questions and answers. Page 70, counsel. "Question: You  
11 remember on November the 5th, Mr. Beaman, Detective  
12 Freesmeyer asking you, "What about your car, is there anyway  
13 that we could say that your car wasn't here?" And you  
14 giving him the answer "Well, I got new tires Tuesday night.  
15 Got the receipt from that." He says, "Okay." You say, "You  
16 can try looking at mileage. I've driven a lot of miles  
17 since then. I don't know, but -- you remember that  
18 conversation?" Your answer --

19 A Yes.

20 Q That's -- I'm reading.

21 A Sorry.

22 Q Your answer, "Yes. Question: So you didn't tell  
23 him anything about 300 miles, did you?" Your answer, "I  
24 guess not. That was a long time ago. Question: You didn't

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AB018015

C05355

APPENDIX 001231

1 mention that your parents had a picture of your odometer  
2 that could prove the mileage, did you? Answer: No.  
3 Why not? I don't know. I guess I was pretty much in  
4 contempt of his investigation because I knew I didn't do  
5 it." Remember those questions and answers as --

6 A Yes, I do.

7 Q So initially when I asked you, you lied, didn't  
8 you?

9 A I'm not aware of any lie.

10 Q You initially told me that you had told Freesmeyer  
11 about the 300 miles driven, didn't you?

12 A I suppose I said that, but I was not in any way,  
13 shape, or form attempting to lie to you or to the grand  
14 jury.

15 Q And right after you said that, as much as I'm  
16 doing here today, I pulled out a piece of paper or something  
17 like this, didn't I, a transcript, and then when I asked  
18 this question about what the conversation had been, you saw  
19 that I was reading from a transcript, didn't you?

20 A I suppose.

21 Q That was the first time that you had any knowledge  
22 or inkling that there might be some tape recording of some  
23 of your conversations with Detective Freesmeyer, wasn't it?

24 A It wouldn't have surprised me.

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C05356

AB018016

1 Q But that's the first time you knew, when I started  
2 reading, wasn't it?

3 A I suppose.

4 Q And then you immediately changed your answer,  
5 didn't you?

6 A I think you might want to reread that statement  
7 and see how those occurrences of quote/unquote changing my  
8 answer happened.

9 Q And the finish of our conversation at grand jury  
10 was as follows, "Question: But you knew from Sunday or  
11 Monday, the 29th and 30th of August, that you and your  
12 parents had in your possession odometer evidence that would  
13 clear you, and you didn't tell Detective Freesmeyer about  
14 that? Answer: I suppose I didn't remember it or think  
15 about it. Question: You didn't remember it or think about  
16 it? Answer: It was tech week. Question: Well, in that  
17 conversation you remembered the Sears receipt, didn't you?  
18 Answer: That was an obvious factor. That's something my  
19 mom had me get out of the car. I was not present when the  
20 picture was taken. Question: But you knew there was a  
21 picture, didn't you? Answer: As far as I know, I knew  
22 there was a picture, yes. Question: You knew that there  
23 was exact mileage that your parents could show, right?  
24 Answer: Uh-huh. Question: You have to answer out loud.

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C05357

AB018017

1 Answer: Yes. Question: You knew your mother had even  
2 written it down -- Answer: Yes. -- on the back of a Sears  
3 receipt, right? Uh-huh. Question: And during these fall  
4 conversations, starting with October 27th, you've indicated  
5 before that's the first time that Detective Freesmeyer told  
6 you when the murder occurred, when your alibi had a problem  
7 and that you would be arrested, right? Answer: Yes."

8 Remember all those questions and answers?

9 A Yes, I do.

10 Q Now as a matter of fact you, of course, knew about  
11 the odometer evidence long before your parents, didn't you?

12 A No.

13 Q Well, why don't you tell us about Mr.  
14 Vanberringer.

15 A What would you like me to tell you about Mr.  
16 Vanberringer?

17 Q Did you talk to him in the early morning hours of  
18 Sunday, August the 29th?

19 A Yes, I did.

20 Q You didn't tell him that you already knew about  
21 the Sears receipt and the odometer reading, and that you'd  
22 driven a little over 300 miles?

23 A I don't believe I told him that then, no.

24 Q He's either lying or mistaken?

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A Yes, probably mistaken.

MR. SOUK: May I have just a moment, your Honor?

THE COURT: You may.

(WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

MR. SOUK: I'm going to need the lights off for just a moment, your Honor.

THE COURT: All right, you need it right now?

MR. SOUK: Yes, please.

Q (By Mr. Souk) Now, Mr. Beaman, there has been some testimony by you and some other evidence regarding what you said in the grand jury about whether you knew Mr. Swaine had moved in when you visited Jennifer on August the 4th. Do you remember that?

A Yes, I do.

Q And you have now testified yesterday that when you were responding to those questions that what you had seen there was a Swaine sign, correct?

A That is correct.

Q And apparently that you had gone over to the apartment on East Street. You saw him there, right?

A That is correct.

Q You saw things there. I don't want to put words

C05359

1 in your mouth. Did you say they were boxed up or looked  
2 like people were moving?

3 A It just didn't look lived in.

4 Q Well, you knew Swaine was the only one still  
5 there, right?

6 A As far as I could tell, yes.

7 Q The other roommates had already left. You knew  
8 that, didn't you?

9 A Yes.

10 Q You saw him there at the apartment?

11 A Yes, he showed up in Jennifer's car.

12 Q Now just so that we're clear, the photograph is  
13 number, People's Exhibit No. 12-H, and the slide is Exhibit  
14 12-H-X, and I take it that the sign up here above the dart  
15 board I'm pointing to has, S-W-A-I-N, appears to be a street  
16 sign, that's the sign that you're talking about, correct?

17 A That is correct.

18 Q And this view that we're looking at, this is the  
19 view basically from the front door to the west wall of the  
20 apartment, correct?

21 A Yes.

22 Q Okay. And the dart board is basically in the  
23 northwest corner of the room, correct?

24 A That is correct.

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APPENDIX 001236

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MR. SOUK: That's all.

THE COURT: Lights.

Q (By Mr. Souk) Now the questions that you were asked at grand jury and the answers you gave were as follows, "Question --"

MR. BEU: Page?

MR. SOUK: I'm sorry, 28.

Q (By Mr. Souk) Well, let's go back a little bit, keep it in context. We were, at that point, going back to page 27, "Question: When you returned on August 4th you saw Jennifer on that day, correct? Answer: Yes. Question: Could you tell us where you saw her and for how long a period of time? Answer: I saw her at her apartment for about ten or 15 minutes, and then I took her to class because she had to go to class, and she was going to walk that day, but she was late, so I gave her a ride. Question: She would still have been in summer school at that time? Answer: Yes. Question: And summer school finished shortly thereafter, right? Answer: Yes, as far as I know. Question: Between summer school and start of the fall semester she went to California, right? Answer: Yes. Question: Were you in her apartment that day? Answer: Yes. Question: Did you two have a sexual relationship that day? Answer: No. Question: Just talked for a little bit?

C05361

1 Answer: Yes. Question: Where were you in the apartment  
2 that day? Answer: In the living room." Now those  
3 questions made it obvious that we were talking about your  
4 last visit you say ever with Jennifer Lockmiller on August  
5 the 4th of 1993, correct?

6 A Correct.

7 Q Then the next question I asked you was, "Did you  
8 know that Mr. Swaine had moved in with her prior?" And your  
9 answer was, "I noticed that when I got there." Do you  
10 recall that question and answer?

11 A Yes, I do.

12 Q So the question I asked you wasn't what things you  
13 saw there, but whether you knew that he had moved in?

14 A Correct.

15 Q And then my question was, "His things," plural,  
16 "things were there?" And your answer was, "Yes." You  
17 recall that question and answer?

18 A Things, not specific, yes.

19 Q And then my question was, "You obviously knew what  
20 his things were because he'd been living with you, right?"  
21 Your answer, "Right. Question: I guess that pretty well  
22 gave you the final confirmation that you'd been right?  
23 Answer: Well, it was obvious, yes. Question: Up until  
24 that point in time you said that before you went to

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C05362

AB018022

APPENDIX 001238

1 Cincinnati Jennifer had continued to deny a sexual  
2 relationship with Swaine, right? Answer: Correct.  
3 Had Swaine, had you confronted him about it? Answer: Yes.  
4 Question: What did he say? Answer: He didn't say  
5 anything. And when you got back on the 4th and you saw that  
6 his things were moved in, did you confront her again?  
7 Answer: No." Do you recall those questions and answers  
8 as --  
9 A Yes, I do.  
10 Q Of course, you didn't say anything there or  
11 anywhere else in the grand jury about the Swain sign, did  
12 you?  
13 A I was never asked about specific things of  
14 Swaine's that I saw.  
15 Q But the things that you saw that caused you to  
16 believe that he had moved in was the Swain sign?  
17 A That is correct.  
18 Q That is all?  
19 A That is correct.  
20 Q Just the Swain sign?  
21 A And also the fact that he was driving her car, and  
22 the apartment did not appear to be lived in.  
23 Q Any other things that you saw over there, just the  
24 Swain sign?

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C05363

AB018023

1 A Yes, sir.  
2 Q That's all?  
3 A Yes, sir.  
4 Q I want to go back one more time to the statement  
5 to Daniels. He asked you some questions about Swaine, too,  
6 did he not?  
7 A I believe so.  
8 Q And referring to Swaine, you were asked these  
9 questions and gave these answers, weren't you, "Daniels:  
10 Okay, when, okay, when did you last see him then? Answer:  
11 The last time I would have seen him would have been August  
12 4th. Question: In Bloomington? Answer: Yeah. Question:  
13 Whereabouts in Bloomington? Answer: At the apartment. I  
14 went back to pick up my stuff and leave them my keys."  
15 Answer or -- "Question: Whose apartment? Answer: Our  
16 apartment. Question: Then you shared the same apartment?  
17 Yeah." Remember those questions and answers?  
18 A Yes, I do.  
19 Q Then a little bit later he asked you, "Yeah, when  
20 was the last time you were in the apartment that the two of  
21 you shared in Bloomington? Answer: The last time I was in  
22 the apartment would -- was August 4th. Question: And when  
23 was the last time you saw Mike? Answer: August 4th.  
24 Question: Okay, where did you see him? Answer: In the

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apartment." Remember those questions and answers?

A Yes, I do.

Q Then I'm going to refer you again to February the 16th when you talked to Detective Freesmeyer. Again, you remember that conversation?

A I'm sure you'll relate it to me.

Q And you remember these questions and answers, starting with a reference to being in Ohio, "Freesmeyer: Did you ever call her from there to talk to her?" Your answer, "Yeah, I called her once. Freesmeyer: What she, what'd she say then? What, what was the attitude?" Your answer, "She was making excuses. Freesmeyer: Yeah, such as?" Your answer, "Covering up, you know, oh Swaine, you know, I mean it was just like, I don't know. The last time I ever saw her was when I came back, inaudible, to get in the car to go up to Rockford from Cincinnati. Freesmeyer: Yeah, what'd she have to say then? Was she still making excuses, or -- how long did you talk with her then? Answer: I went by her house after I called her from our apartment. Actually, it was just Swaine's apartment at that stage. Went by her house, talked to her for a few minutes, took her to class, dropped her off, that was it." Remember those questions and answers?

A Yes, I do.

C05365

1 Q And sometime during the fall of '93 you had a  
2 number of conversations with Jenny Sieg, didn't you?  
3 A I believe so, yes.  
4 Q And during one of those conversations you told  
5 Jenny Sieg that the first time that you knew that Swaine had  
6 moved in was when the detective told you that after Jennifer  
7 was murdered, correct?  
8 A That is correct. That is the first time I had any  
9 positive confirmation telling me that it was a fact that  
10 Swaine had moved in.  
11 Q And on March the 9th Detective Freesmeyer -- oh,  
12 by the way, what detective was it that told you that Swaine  
13 had moved in there?  
14 A I'm not certain. I believe it was Daniels or  
15 Freesmeyer, one of those two.  
16 Q Which conversation?  
17 A I have no idea. There were many conversations.  
18 Q At any rate, on --  
19 A It might have been Swaine, actually now that I  
20 think about it. One of the wire tap times he may have  
21 mentioned it.  
22 Q So it wasn't a detective at all?  
23 A I'm not certain. Somebody told me this.  
24 Q And when you talked with Detective Freesmeyer the

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005366

1 final time before being arrested on March the 9th, he asked  
2 you specifically about that again, and you also told him  
3 that you didn't know that Swaine had moved in until after  
4 she was dead, right?

5 A That is correct.

6 Q When did you first remember about seeing that  
7 Swain sign?

8 A I'm not even certain. If I had been asked  
9 specifically during the grand jury hearing about what I did  
10 see I would have been able to recall that.

11 Q So again, you weren't asked specific enough  
12 questions?

13 A No, I was not.

14 Q And during this entire investigation you have  
15 either been asked double questions, or trick questions, or  
16 questions that weren't specific enough?

17 A Subterfuge, yes, sir.

18 Q That includes the whole Normal Police Department?

19 A Anyone I talked to.

20 Q Including me at the grand jury?

21 A Yes, sir.

22 Q You have reviewed all the discovery materials, I  
23 take it, that have been sent to you?

24 A To some degree, yes.

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APPENDIX 001243

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Q And you were present here in court obviously for the entire trial?

A Yes, sir.

Q And you heard Michael Swaine's testimony?

A Yes, I did.

Q And you heard Mr. Swaine testify here in court about the Swain sign, didn't you?

A Yes, I did.

Q And you heard him say that that was the only object that he owned that was in Jennifer's apartment on August the 4th, didn't you?

A Yes, I did.

MR. SOUK: That's all I have, judge.

THE COURT: All right, counsel step up for just a moment, please.

(WHEREUPON A DISCUSSION WAS HAD AT THE BENCH OFF THE RECORD.)

THE COURT: We're going to take about a ten-minute recess. The witness can step down. Bailiffs can take charge of the jury and return them to the jury deliberation room. You may leave your notebooks where they are.

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(WHEREUPON THE JURY EXITED THE COURTROOM  
AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, note that the jury has removed itself from the courtroom and the court is now in recess.

(WHEREUPON A BRIEF RECESS WAS HAD.)

THE COURT: All right, once again this is 94-CF-476. Counsel and the defendant return to open court. The defendant has now resumed the witness stand. The jury is outside of the courtroom. Are you ready to proceed, Mr. Beu?

MR. BEU: Yes, your Honor.

THE COURT: Mr. Souk?

MR. SOUK: Yes, your Honor.

THE COURT: All right, call the jury back in.

(WHEREUPON THE JURY ENTERED THE COURTROOM  
AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, the jury is now returned to the courtroom. Mr. Beu, you may proceed with

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redirect examination.

MR. BEU: Thank you, your Honor.

REDIRECT EXAMINATION

BY MR. BEU:

Q Mr. Beaman, you recall being asked by Mr. Souk questions concerning several times, three, four, five times perhaps as described by Mr. Cornell, a previous neighbor of Jennifer's?

A Yes.

Q Do you remember being asked about coming there late at night and yelling and trying to gain entrance?

A Yes.

Q And you recall being asked, were those occasions when you wanted to talk and she didn't want to talk, and your response being she usually didn't want to or couldn't?

A Yes.

Q And then you indicated you didn't think you could answer Mr. Souk's question as to why she couldn't. Would it have been your response that you were concerned that she may have ingested some substances which might have made it impossible for her to respond?

1 A Yes.

2 Q Now, Alan, you were arrested, were you not, on May  
3 17th?

4 A Yes.

5 Q Did you stay in custody approximately seven days?

6 A It was approximately ten days.

7 Q Okay. You were arrested on the 17th. There is a  
8 People's Exhibit that you have been referred to here,  
9 Exhibit No. 87.

10 MR. BEU: May I, your Honor?

11 THE COURT: You may.

12 Q (By Mr. Beu) That being the mileage report  
13 prepared by Mr. Slaughter?

14 A Correct.

15 Q Okay. It's correct, is it not, that you were in  
16 custody and had been in custody approximately six days at  
17 the time that was prepared?

18 A That is correct.

19 Q It's correct, is it not, that this was done in  
20 anticipation and preparation for your bond hearing?

21 A As far as I know.

22 Q And this was introduced, was it not, as an exhibit  
23 in your bond hearing?

24 A Yes, it was.

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Q Did you ever meet with Loyale Slaughter?

A No.

Q Had you ever met Loyale Slaughter before or since then?

A No.

Q He's also employed, is he not, by Executive Protection and Investigation?

A Yes.

Q The same agency for which Laverne Pickett works?

A That is true.

Q Now have you looked over the information on this report prepared by Mr. Slaughter?

A Yes.

Q What route is indicated on here, the fourth item on it, Beaman residence to Bell Federal?

A Via Meridian/bypass 20.

Q And why is that?

A Because that's what would make sense.

Q Is that the route that you would routinely take to go to that location?

A Yes.

Q Do you recall at the -- at the grand jury being asked this question and giving this answer: "Where do you bank? Answer: Bell Federal Savings & Loan. When you go

C05372

1 there, or to your friends that you mentioned live on the  
2 east side of town, do you go through Rockford? Yes. That  
3 your normal route of travel? Yes." Do you know what I mean  
4 by a double question?

5 A Yes, I do.

6 Q Which half of that question did you intend to be  
7 answering to Mr. Souk at the grand jury?

8 A What route I took to visit friends.

9 Q Now you have seen the routes that were referred to  
10 by Mr. Pickett during his testimony, correct?

11 A Yes.

12 Q And you observed the routes as he traced them on  
13 the map, and then you also saw some of the map routes that  
14 the state had prepared?

15 A Yes.

16 Q Okay. Are the routes that you directed Mr.  
17 Pickett on the mileage check that he ran both accurate and  
18 normal routes for you for particular places you were going?

19 A Yes.

20 Q Now you did not testify at your bond hearing,  
21 correct?

22 A No, I did not.

23 Q Was that on advice of counsel?

24 A I guess, yes.

1922

C05373

AB018033

1 Q Okay. Is it true that what was presented at the  
2 bond hearing was only that portion of your week's activity  
3 that could be confirmed by people that did testify at your  
4 bond hearing?

5 A That is true.

6 Q Such as your mother?

7 A Yes.

8 Q Your father?

9 A Yes.

10 Q Chris Carbone?

11 A Yes.

12 Q Pastor Mitch Olson?

13 A Yes.

14 Q Cliff Gray?

15 A Yes.

16 Q Is it correct that those people could verify your  
17 basic activities and your basic schedule during that week?

18 A Yes.

19 Q What is your understanding of the basic round-trip  
20 mileage from Rockford to Bloomington -- Normal?

21 A Round-trip approximately a hundred and sixty miles  
22 -- or rather 260 miles from Rockford.

23 Q All right. So out of 320 miles, how many miles  
24 would it take to make it impossible and also made it down to

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Normal?

A It would only take 60, over 62.

Q Did the routes that you took Mr. Pickett on include running to get blacktop sealer for your uncle's drive?

A No, they did not.

Q Did you do that in the course of that job?

A Yes.

Q And what day or days?

A I believe Friday.

Q Where did you get that?

A Farm & Fleet, it's just down the street from my uncle's place.

Q Were there any other miscellaneous pieces of driving that did not get picked up in your basic route then for that week?

A Beer runs for the party. I drove a couple of people who were 21 at the time.

Q Just that kind of miscellaneous stuff?

A Yes.

Q Calling your attention back to August 30th, you recall, I assume, that that was the day after your late night encounter with the police?

A Yes.

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C05375

AB018035

1 Q Two days after -- excuse me, that was --  
2 A Following, yes.  
3 Q You had been taken down I believe to the police  
4 station around 11 o'clock on Saturday evening?  
5 A Roughly, yes.  
6 Q I take it that you returned home sometime  
7 following midnight?  
8 A Yes.  
9 Q So the first meeting you had then in my office was  
10 the following day, but more like closer to two days?  
11 A Correct.  
12 Q Okay. You met with me along with your parents,  
13 correct?  
14 A Yes.  
15 Q Okay. Then along the line early on, did you get  
16 some general advice about contacts with the police about  
17 volunteering information?  
18 A Yes, I did.  
19 Q Did that include saying, saying nothing?  
20 A Yes, that did.  
21 Q Now, you've indicated that you stayed in touch  
22 with counsel during the course of this. Did you, from time  
23 to time, speak to your counsel and let him know that you had  
24 had contacts from one or the other police officers?

C05376

1           A    Yes, over the phone for short calls.  
2           Q    During this period of time, once you returned here  
3 to school, Alan, was it your understanding that your parents  
4 and I were in communication?  
5           A    Yes.  
6           Q    When you had something to relate back here, who  
7 were you primarily calling?  
8           A    You.  
9           Q    Did you tell me on the occasions that you called  
10 that you hadn't talked to them, that they -- they came to  
11 you, but you didn't really talk to them?  
12          A    No, I did not tell you that.  
13          Q    Okay. What -- did your advice you were given ever  
14 change --  
15          A    No.  
16          Q    -- with advisability of not speaking to them?  
17          A    No, it did not.  
18          Q    To your knowledge and understanding, did you ever  
19 tell a mistruth to either any investigator, or during your  
20 grand jury testimony, or during your testimony yesterday?  
21          A    No.  
22          Q    It's true, is it not, that you did not volunteer  
23 certain information?  
24          A    I suppose, yes.

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C05377

AB018037

1 Q Specifically with respect to Bell Federal and some  
2 of the details concerning the odometer readings?

3 A Yes.

4 Q At any time up through and including the bond  
5 hearing, which occurred to your recollection ten days after  
6 your arrest, was it ever stated to your knowledge in any  
7 public way by the authorities here that the crime had  
8 occurred at a definite date?

9 A No.

10 Q Or during some definite period of time?

11 A No.

12 Q And wasn't it for the first time when we called  
13 Tony Daniels to the stand in your bond hearing, that that  
14 was announced for any public consumption?

15 A Yes.

16 Q Had it been part of your advice that until such  
17 time as they made up their mind as far as a date and a time  
18 you should not be disclosing your documentary evidence so  
19 that they could possibly work around it in some fashion?

20 A Yes.

21 Q And is that part of what was on your mind as you  
22 were going through this investigative stage?

23 A Sometimes, yes.

24 Q Do you remember the excerpt basically that Mr.

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C05378

AB018038

APPENDIX 001254

1 Souk was reading to you on cross examination concerning some  
2 of the letters that you had written to Jennifer?

3 A Yes.

4 Q You mentioned for one thing that one excerpt there  
5 was the words from a -- from a song by an Eddie -- what was  
6 the name?

7 A Eddie Vetter.

8 Q Vetter, okay. Do you recall, at this time, during  
9 what part of the relationship you had written that song  
10 lyric to her?

11 A That would have been sometime in the fall.

12 Q Of '90 --

13 A Shortly after the whole miscarriage issue, I  
14 believe.

15 Q All right. Are any of these excerpts, to the best  
16 of your recollection that he read to you during your cross  
17 examination, are -- were any of them to your knowledge part  
18 of the 1993 letters?

19 A I don't believe, no.

20 Q If you had a chance to look at those again --

21 A Yes.

22 Q -- would you perhaps be able to tell? Mr. Beaman,  
23 I show you a copy of the report, I believe of Detective  
24 Freesmeyer's, from which those excerpts were taken earlier.

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C05379

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APPENDIX 001255

1 Ask you to take a look at that and see if you can recall  
2 whether any of those about which Mr. Souk asked you were  
3 from the 1993 letters?

4 A Some of these are really, really, short  
5 statements, and those might be, or might not be from '93, I  
6 can't think. But as far as everything else, as far as  
7 everything else is concerned, no.

8 Q That would put it at least fall or earlier of  
9 1992?

10 A Yes.

11 Q Okay --

12 A There's only one, I believe. It's -- I can't tell  
13 what the exhibit number is from here.

14 Q At any rate, anything more than just a line or  
15 two, is that what you're indicating, was from back in '93?

16 A Yes.

17 Q Okay. You were -- you were asked about when you  
18 entered into Swaine -- pardon me, Jennifer's apartment and  
19 Michael Swaine was, in fact, hiding in the closet. And  
20 referring to -- to Jennifer at that time as your ex-  
21 girlfriend in one or another statements that you have made.

22 A I believe so, yes.

23 Q That was what, July of 1993?

24 A Yes.

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C05380

1 Q Is that the first time that Jennifer had been your  
2 ex-girlfriend?

3 A No.

4 Q How many times before that had she been your ex-  
5 girlfriend?

6 A Seventeen.

7 Q How long had this ex-girlfriend status lasted on  
8 this last occasion as of the date you broke the door down?

9 A I'm not certain. It would have only been a few  
10 days --

11 Q Now --

12 A -- to a week.

13 Q Okay. I'm talking prior to the time that you went  
14 in to Jennifer's apartment through the door with Swaine in  
15 the closet.

16 A Yes.

17 Q Okay. How did that compare with any of the other  
18 previous break-ups in terms of length of the break-up?

19 A It was roughly the same, a little bit longer  
20 though.

21 Q Going to the last day that you were at the summer  
22 program --

23 A Hm-mmm.

24 Q -- that Sunday in August when you got on to the

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APPENDIX 001257

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stage with the document in your hand that you wished to confront Michael Swaine with, do you recall seeing any other persons on the stage area where you and he met?

A No.

Q Do you have independent knowledge of where, for example, Katy and Kris were, Katy Corbett and Kris Perry?

A I believe I saw them up in the prop shop on my way out.

Q Did you see them in the immediate area of the stage at anytime while you and Alan were talking, or yelling, or whatever, at each other?

A No.

Q If -- if as they each recalled they were off stage at the time of the yelling, would that be consistent with your recollection?

A Yes, it would.

Q When you went to Jennifer's that morning, I believe that's the morning then that you went through her garbage, correct?

A Correct.

Q Which garbage in her apartment did you go through?

A The bathroom.

Q Did you touch or go through garbage of hers from any other room at that time?

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A No.

Q Had you ever at any earlier time gone through any of the garbage?

A No, I had not.

Q On the 23rd of August after you were back and working here for awhile, you had a phone conversation on a Monday evening with Jennifer?

A Yes.

Q Recall that? Okay. Do you recall at this point specifically what you said to your parents after you terminated that conversation?

A I don't recall specifically. It would have been something to the effect of, "That was Jen. She was calling to try to get back together with me."

Q Is it very likely, in any way, that you related that she wanted to get together with you?

A Yes.

Q Is it clear, however, in your mind, as far as the conversation with Jennifer, as to whether or not she, as Mr. Souk inferred, invited you down?

A It is clear that she did not.

Q It is true, is it not, Alan, that every one of the police interviews that you had occurred before the authorities here made any public announcement of the date or

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the time of Jennifer's death?

A That is correct.

Q Every one of the interviews that Mr. Souk took you through at length, you were operating under that same situation, were you not?

A Correct.

Q And even on October 27th in talking with Detective Freesmeyer he told you, if I understand correctly, that -- what about the day at that time? Do you remember? Do you remember what he told you about?

A My conversation with Daniels?

Q I'm talking about late October in talking with Detective Freesmeyer. Was there not a conversation that's been described here in which he was telling you you were going to be arrested?

A Yes.

Q And there was a gap in your alibi?

A Yes.

Q And things like that he was saying?

A Correct.

Q What day was he talking about, do you remember?

A I have no idea.

Q Okay. Do you recall that he ever did say to you even a day at that time?

C05384

1 A I don't believe so.

2 Q He did tell you during some of those

3 conversations, Detective Freesmeyer that is, that they had

4 your fingerprint?

5 A Yes.

6 Q And that they were waiting for lab tests?

7 A Yes.

8 Q And that you were going to be arrested after they

9 got the results of the lab tests. Is that correct?

10 A That's correct.

11 Q Did he ever indicate to you what sort of lab tests

12 there was that they were going to be waiting for?

13 A He did not indicate what was being waited for.

14 However, I was, of course, present when those samples were

15 taken from me.

16 Q Okay --

17 A So --

18 Q Did you, from being present, from knowing what

19 kind of samples had been taken, have some reason in your

20 mind to expect what type of reports they were waiting for?

21 A Yes.

22 Q What?

23 A Waiting for DNA samples, or something like that.

24 Q Okay. Did you have any real doubt in your mind,

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C05385

AB018045

1 as far as whether DNA, semen specifically of yours, might  
2 well be around in Jennifer's apartment?

3 A No doubt.

4 Q It was obvious to you from the course of your  
5 police contacts at that point, was it not, that from either  
6 what you told them or from what they gathered and told you  
7 from other people that -- that you and Jennifer had had a  
8 sexual-oriented sexual relationship?

9 A That is correct.

10 Q Didn't seem to you, at the time, did it, that they  
11 were looking for anything that would perhaps have to confirm  
12 that?

13 A No.

14 Q Are you aware of anything that they found in the  
15 way of evidence from that point on, besides your  
16 fingerprints and your semen on a piece of bed clothing  
17 there, between then and the time you were finally arrested?

18 A No.

19 Q I just want to make it clear, Alan, it's correct,  
20 is it not, that you met with me and your folks in the course  
21 of preparing for your appearance before the grand jury?

22 A That is true.

23 Q And it's also true, is it not, that at the grand  
24 jury I was not able to participate, ask questions, or

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APPENDIX 001262

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anything of that sort?

A That is true.

Q Is it correct that you had some -- some advice from counsel with respect to conducting yourself in response to questions at the grand jury?

A Yes.

Q What were those general instructions that you had from counsel?

A Those general instructions were to answer the questions to the best of my ability, and not to necessarily be asking you questions constantly throughout the whole thing, and simply answer the questions.

Q Okay. That advice included answering questions honestly, did it not?

A Yes.

Q Did it also include not going beyond the questions that were asked you?

A That is true.

Q Do you recall the testimony earlier here by Detective Freesmeyer that he had in his possession the Bell Federal security tape recording on September 24th of 1993?

A That's correct.

Q Now he met you, I take it, for interviews on October 12th, and October 22nd, and October 27th?

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A Yes.

Q And you met with him again on November 5th?

A Yes.

Q In any of those interviews, for example in October specifically, did -- did he ever say to you, "Alan, did you make a stop at a bank sometime that day?"

A No, he never did ask that.

Q Did he ever ask you anything about any bank, even in general?

A No, he did not.

Q So is it correct that he had the information that you had been at Bell Federal and was still giving you open-ended questions and inviting you to not answer them?

A That is correct.

Q And ultimately then trying to make that sound like some sort of a lie?

A That is true.

Q It's true, isn't it, that he kept asking you where you went after work?

A Yes.

Q And you responded that you went home and that you went to bed?

A That is correct.

Q Again I'll ask you, did you ever misstate or lie

C05388

1 in your responses on these things?

2 A As far as I know, no.

3 Q It is true that you did not volunteer certain  
4 information. Isn't that right?

5 A That is true.

6 Q In regards to the bank transaction, Mr. Souk asked  
7 you whether you had told anyone about going to the bank  
8 prior to your testimony at the grand jury, and you said you  
9 hadn't told anyone. Were you referring to any police  
10 officers?

11 A Yes.

12 Q You had discussed that within your family and your  
13 counsel.

14 A Yes.

15 Q Correct? Would you have seen any advantage to  
16 yourself at that time, Alan, in trying to suppress  
17 documentary evidence that you were a hundred and sixty some  
18 miles from Normal at the time Jennifer was killed?

19 A No, there would be no reason I would want to  
20 suppress that.

21 Q But, at that time, you still didn't know when they  
22 said you were supposed to have killed her, right?

23 A That is true.

24 Q And you were the one, to the best of your

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APPENDIX 001265

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Q -- on the questioning about August 4th?

A Correct.

Q He ran you through this a little bit ago about where you met up with her, and how long you talked with her, and that sort of thing, correct?

A I'm sorry.

Q Mr. Souk, you recall running you through some of that questioning and answering earlier here today about the lead into these questions about what you saw of Mr. Swaine's in Jennifer's apartment?

A Yes.

Q His question, "Did you know that Mr. Swaine had moved in with her prior? Answer: I noticed that when I got there. Question: His things were there?", Souk's language, right?

A That's correct.

Q "Question: You obviously knew what his things were because he'd been living with you, right? Right. I guess that pretty well gave you the final confirmation that you'd been right? Well, it was obvious, yes." Did you recognize that sign as containing the name of the friend that you had known for four years, had been his big brother at school, and shared an apartment with him during the course of that whole summer?

C05390

1 A Yes, I did.  
2 Q You didn't have any misconception about his name,  
3 did you?  
4 A No.  
5 Q Or about the fact that that was an item personally  
6 obviously his?  
7 A Yes.  
8 Q Mr. Souk never went further about that in his  
9 questioning of you, did he?  
10 A No, he did not.  
11 Q Isn't it correct that right after the exchange:  
12 "I guess that pretty well gave you the final confirmation  
13 that you'd been right? Answer: Well, it was obvious,  
14 yes.", was the next question: "Up until that point in time,  
15 you said that before you went to Cincinnati Jennifer had  
16 continued to deny a sexual relationship with Swaine, right?  
17 Answer: Correct."? Did he ever ask you what things you  
18 saw?  
19 A No, he did not.  
20 Q Did he ever ask you how many things?  
21 A No, he did not.  
22 Q Did he ever make clear to you that he had  
23 intentionally structured a line of questions tossing in the  
24 words, things, so that he could walk into a courtroom later

C05391

1 and try to make it sound like you lied? Is that question  
2 clear?

3 A That, that -- that's clear. I'm not certain how  
4 you're asking it. Just -- phrase it again, please.

5 Q I'll withdraw the question.

6 MR. SOUK: Judge, may we approach?

7 THE COURT: You may.  
8

9 (WHEREUPON A DISCUSSION WAS HAD BETWEEN  
10 COURT AND COUNSEL AT THE BENCH AS FOLLOWS:)  
11

12 MR. SOUK: Despite my patience, it's running out. I'm  
13 giving counsel a lot of leeway without objection here to  
14 numerous questions that are obviously very objectionable.  
15 Are we about done with this, are we?

16 MR. BEU: Oh, I think we're close.

17 THE COURT: What is your objection, leading?

18 MR. SOUK: One of them.

19 MR. BEU: I'm on redirect, given latitude to do so.

20 THE COURT: I understand, you know, I understand that.  
21 I would ask you to just let the witness answer the question.  
22

23 (WHEREUPON THE FOLLOWING PROCEEDINGS  
24 WERE HAD IN THE PRESENCE OF THE JURY:)

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THE COURT: Proceed, Mr. Beu.

MR. BEU: Thank you, judge.

Q (By Mr. Beu) You recall Mr. Souk asking you certain things about the Tony Daniels' interview on Saturday night?

A Yes.

Q And do you recall part of that relating to your responses to him as to where you saw Swaine on August 4th?

A Yes.

Q Mr. Souk asked you, "Didn't you in that conversation meet -- or you said, "I guess I saw him at the apartment."

A Yes.

Q And you referred to it, I guess, as our apartment?

A Yes.

Q And Daniels asked you, "The apartment you shared, was it?"

A Yes.

Q How many people had shared that apartment during the summer?

A Four.

Q You weren't occupying that apartment still at the time, were you?

A No.

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C05393

1 Q The other two who had been there earlier during  
2 the summer were not sharing that apartment at the time, were  
3 they?

4 A No.

5 Q If Mr. Daniels had asked you the apartment that  
6 you shared with one of the other two guys, that would have  
7 been true, too, wouldn't it?

8 A It would have.

9 Q Depending on when you're referring it to --

10 A Yes.

11 Q -- you had shared it with them?

12 A Yes.

13 Q You had shared this apartment with Michael Swaine?

14 A Yes.

15 Q In fact, it wasn't even your apartment at that  
16 time?

17 A That is true.

18 Q Mr. Souk asked you some questions specifically  
19 also again about that Daniels' interview on Saturday night.  
20 For example, your recitation to him about Wednesday as you  
21 went through the week in response to his questions about  
22 when you went to Olson's house, what time you got there, and  
23 what you did during that day. Is it correct that that was  
24 the very first time between 11 and midnight that night that

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C05394

AB018054

1 you'd had any occasion to have to try to think back and  
2 recount your activities during that week?

3 A That is true.

4 Q Isn't it correct that you'd just been stopped on  
5 the way to visit friends?

6 A Yes.

7 Q Handcuffed?

8 A Yes.

9 Q Taken down to the Public Safety Building?

10 A Yes.

11 Q Told by the police that stopped you originally,  
12 the Rockford police, that it was a homicide?

13 A Yes.

14 Q Did they tell you that before or after they  
15 handcuffed you?

16 A During.

17 Q Did you try your best to answer the questions as  
18 accurately as you could during that interview?

19 A Yes, I did.

20 Q Again that August 28th conversation with Daniels,  
21 during this period of time you responded to Mr. Souk that  
22 you were asked and answered the following questions. He  
23 asked you about how did you react when you found out that  
24 Jennifer was dating your roommate?

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APPENDIX 001271

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A Yes.

Q Recall that? He asked you, "Do you recall, did you ever come down just to check to see who she was dating? No." How long had you been out of the Normal area as of that date on August 28th?

A Since August 4th, so 24 days.

Q And then you'd been in Cincinnati before that?

A Right.

Q Okay. You responded, no, you hadn't been down to check who she was dating, right?

A Correct.

Q And then the immediate question with that, "Other than finding her with Mike that night, you never did find her with anyone else? No. Did you ever visit the apartment and find the occasion of another man staying there? Answer: No." Were you intending to withhold information at that point about -- about John Murray?

A No, I was not.

Q Did you think about March of 1993 when you were being questioned between 11 o'clock and midnight in August?

A That is -- no, I did not.

Q Also in that same conversation, Mr. Souk asked you about the following questions and answers: "Daniels: It's very obvious the reason why we're here and asking you

C05396

1 questions, especially when the sergeant informed you it was  
2 concerning a homicide in Normal/Bloomington. Now whose  
3 homicide do you think it is? Alan: Why don't you tell me,  
4 I don't know. Tony: I want to hear your thoughts. Whose  
5 homicide, and who do you think it is? Alan: I assume it's  
6 Jen you're asking me questions about. That's all you're  
7 really asking me about. Daniels: Yeah, it is Jennifer's.  
8 Alan: Okay." Recall being asked that series of questions?

9 A Yes, I do.

10 Q Do you recall immediately following that the  
11 ongoing questions by Detective Daniels were: "Daniels:  
12 Do you want to tell us who is responsible for that? Alan:  
13 I don't know. Tony: You don't know? Do you care? Alan:  
14 I do care. Tony: Do you want to help us with this? Sure.  
15 Tony: Okay, to what degree, to what extent do you want to  
16 help us with this investigation? Alan: What can I do?  
17 I mean, what is there I can do? Tony: Well, I would like  
18 for you to start telling us the truth as far as the last  
19 time you visited Jennifer. Alan: That is the last time I  
20 visited, what I told you. I had not talked to her since I  
21 left Bloomington, except on the phone when she called me  
22 twice. I've been in Rockford."? Recall that sequence  
23 coming immediately after that?

24 A Yes, I do.

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MR. SOUK: What page is that, counsel?

MR. BEU: Oh, I'm sorry, bottom of -- starting on the bottom of 34.

MR. SOUK: Okay.

Q (By Mr. Beu) Finally, I think, Alan, that during the conversations you had, which you now know were tape recorded by Michael Swaine?

A Yes.

Q You heard the tape played during the trial, right?

A Yes.

Q At the point in time when you were talking with him, did you consider him a friend?

A Yes, I did.

Q Did you have any idea that what you were saying was for anybody's ears but his?

A No, I did not.

Q What did his expressed concern to you during those conversations appear to be?

A It appeared to be that he was not able to deal with Jennifer's death. That he was having a great deal of difficulty going on. He, at one point during one of those conversations, told me that he was thinking about just killing himself, and I attempted to intervene.

MR. BEU: Thank you, that's all.

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THE COURT: Any further questions, Mr. Souk?

MR. SOUK: Yes, your Honor.

RE CROSS EXAMINATION

BY MR. SOUK:

Q Okay, am I understanding you, Mr. Beaman, that even at this late date as we sit here now on March, whatever the date is today, I've lost track of time, but late March of '95, that there's more places you went that you didn't tell Mr. Pickett about? Is that what you're saying?

A Short insignificant trips.

Q Well, how short and how insignificant?

A It's probably about a half a mile to a mile from my uncle's house to Farm & Fleet. To Walgreen's from Dave Olson's would only be a few blocks.

Q How many trips did you make?

A I have no idea.

Q You have no idea how many times you went to Farm & Fleet?

A I know I went to Farm & Fleet about three times.

Q Beer runs during the week?

A No clue as to how many.

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Q Well, one or two, or a lot?

A There could have been a maximum of five.

Q Anything else you forgot to tell us about?

A No.

Q Anything else you forgot to tell Mr. Pickett about when you were driving around town that day?

A No.

MR. BEU: Objection, the use of the term forgot is a suggestive question.

THE COURT: Objection is sustained.

Q (By Mr. Souk) Anything else, any other places as you sit there now that you recall that you went that week?

A No.

Q Now let me make sure I have this correct. You came back to school and your lawyer had advised you to say nothing, correct?

A That is correct.

Q And you didn't follow that advice, right?

A No.

Q So rather than say nothing, you gave part of the truth, but not all of the truth, right?

A I gave what I could recall.

Q Well, we've been through the odometer business before. But you really didn't give all the odometer

1952

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AB018060

1 evidence you recalled, did you?

2 A I -- I'm confused. I mean I told lieutenant or  
3 Detective Freemeyer everything that I could in hopes to aid  
4 him in his investigation, and that has now been used against  
5 me.

6 Q Well, it was involving that odometer evidence when  
7 you were asked about that that you basically said that the  
8 reason you weren't giving the full information is that you  
9 were in contempt of the investigation, correct?

10 A I was in contempt of the investigation. I'm not  
11 certain if that was directly the cause of my lack of  
12 recollection of certain bits and pieces of information that  
13 I'm not used to dealing with anyways.

14 Q As a matter of fact, you're still in contempt of  
15 the investigation, aren't you?

16 A Certainly.

17 Q You were never told a definite time for the murder  
18 until the bond hearing, right?

19 A That is true.

20 Q But you were told Tuesday or Wednesday. Didn't  
21 you just testify to that?

22 A Yes, I was.

23 Q You were told that August the 28th by Daniels,  
24 right?

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A Yes.

Q And you're saying that on October the 27th and November the 5th when Detective Freesmeyer was talking to you about the gap in your alibi from ten to four that you didn't understand he was talking about Wednesday, August the 25th?

A No, I didn't.

Q You didn't know what day he was talking about?

A No.

Q You sure?

A I'm very sure. I had nothing to refer to.

MR. SOUK: Page two, counsel, of the overhear.

Q (By Mr. Souk) His question, "Yeah, what time did you get home on Wednesday, Wednesday morning?" Remember that question?

A Yes, I suppose. That's one single question. When was it asked of me?

Q November the 5th.

A Okay.

Q You want to look at this? I'm quoting right off of here.

A Go ahead.

Q You trust me to quote it all right, or do you want to look at it?

1954

C05402

AB018062

1           A    I don't know if I trust you, but I don't think you  
2 could get away with anything.  
3           Q    Not like I did outside of court, right?  
4           A    I'm not sure what you're making reference to.  
5           Q    Well, you were tricked at the grand jury?  
6           A    That's in court, isn't it?  
7           Q    Were you tricked in the grand jury?  
8           A    Yes.  
9           Q    This is a reference on November 5th, right, on the  
10 tape, to Wednesday, Wednesday morning, he's asking you  
11 about, right? You know what day Wednesday was, didn't you?  
12          A    I don't know.  
13          Q    You didn't know what day Wednesday was?  
14          A    I never know the date.  
15          Q    Through the whole investigation I've been talking  
16 to you about the week of August the 23rd of 1993, right?  
17          A    Yes.  
18          Q    You didn't know what day Detective Freesmeyer was  
19 talking to you about?  
20          A    I'm not certain of the specifics.  
21          Q    Your answer, "I don't know, it's too long ago."  
22 Freesmeyer: Can you give me a ballpark figure? Oh,  
23 probably around -- did I go to the bank? Is it Wednesday  
24 that you have the deposit slip? Yeah. Then I guess it was

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Wednesday." Must have been Wednesday, the 25th, right?

A Apparently so.

Q And on October the 27th when he first started talking to you about the gap in your alibi, he was talking to you about Wednesday, the 25th, wasn't he?

A I guess so.

Q Well, I don't want to put words in your mouth, Mr. Beaman. You were answering questions about a ten to four gap in your alibi, and you're saying you didn't even know what day of the week he was talking about? Is that what you're saying?

A Sorry, your Honor, you've lost me.

Q On October the 27th, Detective Freesmeyer first talked to you about a gap in your alibi, right?

A Yes, he did.

Q First told you about the bank on that day, right?

A Yes, he did.

Q Are you -- and he told you it was a ten to four gap in your alibi, right?

A Yes.

Q What day was he talking about?

A I suppose he was talking about Wednesday.

Q Well, you just before, when Mr. Beu asked you, you didn't even know what day he was asking you about --

1           A     Well, I don't -- I'm going on what you can refresh  
2 my memory with from what has been recorded or written down  
3 in a report or whatever.

4           Q     Well, I'm asking you what you're answering that  
5 day. Were you giving answers to Detective Freesmeyer and  
6 you didn't even know what day he was asking about? Is that  
7 what you're saying?

8           A     I'm certain I knew what day he was asking about at  
9 the time, if he was mentioning a day to me.

10          Q     You assumed that there were DNA testing being  
11 done, correct?

12          A     Yes.

13          Q     Got that one right. There was, wasn't there?

14          A     I suppose so, yes.

15          Q     You've seen some DNA reports, haven't you?

16          A     Yes, I have.

17          Q     There's going to be a stipulation about the  
18 results of those, isn't there?

19          A     Yes.

20          Q     You signed it, didn't you?

21          A     Yes.

22          Q     Your final fingerprints were not taken until  
23 February 16th, were they?

24          A     That is correct.

1957

C05405

AB018065

1 Q In fact, that last tape-recorded conversation was  
2 done primarily in the car with you and Freesmeyer going to  
3 the Morton Crime Lab in fact, correct?  
4 A That is correct.  
5 Q Now, when you went to the grand jury your lawyer  
6 advised you what, basically that it would look bad if you  
7 were asking him questions, or whispering to him, or asking  
8 to go out of the room?  
9 A Yes.  
10 Q So you never did consult with him, right?  
11 A No.  
12 Q Surely he told you, didn't he, before you went in  
13 there that if you were asked a question that confused you or  
14 you didn't understand that you should ask me to rephrase it  
15 or to ask it again, didn't he?  
16 A Yes.  
17 Q You never did that during the whole grand jury,  
18 did --  
19 A No.  
20 Q Not even with those double questions?  
21 A No.  
22 Q Didn't seem to confuse you at the time, did they?  
23 A I answered to the best of my ability.  
24 Q The Swain sign, I'm the first one who said things,

C05406

1 right?  
2 A Yes, you are.  
3 Q I always said things, plural, didn't I?  
4 A Yes, you did say thing, plural.  
5 Q What is there plural about a Swain sign?  
6 A Nothing.  
7 Q What is there about a Swain sign that would tell  
8 you that somebody had moved in and was living there?  
9 A It was a possession of Michael Swaine's.  
10 Q What is there about that particular possession  
11 that would tell you that someone had moved in as opposed to  
12 having lent or given it as a souvenir to Jennifer?  
13 A Why would somebody want to borrow a Swain street  
14 sign?  
15 Q Maybe because somebody might be having a  
16 relationship with Swaine possibly. Could that be possible?  
17 A Then it would be a reasonable inference.  
18 Q Because of that sign on the wall that he,  
19 therefore, not only had a relationship, but moved in?  
20 A That was her general practice.  
21 Q Now during the overhears with Swaine -- well, he  
22 was tricking you, too, obviously, correct?  
23 A Obviously.  
24 Q And he was expressing concerns about his own

1959

C05407

AB018067

1 feelings and how he was dealing with the situation, right?

2 A Yes.

3 Q Even to the point where he said some things that  
4 even made you think maybe he was thinking about doing  
5 something to himself?

6 A Yes.

7 Q And so it was out of concern for Michael Swaine  
8 that you said all of those things about Jennifer that I read  
9 to you?

10 A Yes.

11 Q So you thought he would feel better if you made  
12 her look worse?

13 A That was not my intention, to make her look worse.  
14 It was my intention to help him get over the situation by  
15 realizing that he had to get on with his life, and that she  
16 would want him to.

17 Q So you were saying those things to make him feel  
18 better, but they were, in fact, actually true or you thought  
19 they were true?

20 A Yes.

21 Q The excerpts from the letters that I read to you,  
22 Mr. Beu asked you about those, and you basically, I take it,  
23 are indicating most of those are towards the start or maybe  
24 the middle of your relationship, not towards the end?

1960

C05408

AB018068

APPENDIX 001284

1           A     Correct.

2           Q     And that they don't reflect your true feelings  
3 towards Jennifer at the end of the relationship?

4           A     That's true.

5           Q     That basically, by August the 4th anyway, you  
6 didn't love her any more?

7           A     I still loved her.

8           Q     But it wasn't like it was before?

9           A     I cared about her. I was hoping that she would go  
10 on with her life and be the sun in somebody's sky.

11          Q     But she was not, at that point, any longer the  
12 passionate, obsessive, love of your life any more, was she?

13          A     No, she was not.

14          Q     But when you talked with Swaine, even as you were  
15 saying, "Dude, that woman dug into me with every f-ing ounce  
16 of sharp silver she had every single time she could," you  
17 then said, "And I still love her." Didn't you?

18          A     Yes.

19          Q     And in that same conversation, even as you were  
20 saying all these things about her, you still expressed to  
21 Mr. Swaine, "She was on my memory and she still makes me  
22 laugh. She still makes me cry. She still makes me hurt.  
23 She still makes me feel. She still makes me hungry. She is  
24 still inside me and always will be."?

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A That is true.

MR. SOUK: That's all.

THE COURT: Any further redirect?

MR. BEU: One question.

FURTHER REDIRECT EXAMINATION

BY MR. BEU:

Q Alan, did you ever have a relationship with any other girl for as long as you did with Jennifer?

A Not until recently.

Q As of that point in time, you had not?

A Correct.

MR. BEU: That's all.

THE COURT: All right, you may step down.

(WITNESS EXCUSED.)

THE COURT: All right, additional evidence, Mr. Beu?

MR. BEU: No additional testimony, your Honor, just simply admission of exhibits.

THE COURT: Are you prepared to offer those at this time?

1962

C05410

AB018070

Case No. 125617

IN THE  
SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth District, No. 4-16-0527
Plaintiff-Appellant,	)	
	)	There Heard on Appeal
v.	)	from the Circuit Court of McLean County,
	)	Illinois, Eleventh Judicial Circuit,
TIM FREESMEYER, Former Normal	)	No. 14 L 51
Police Detective; DAVE WARNER,	)	The Honorable Richard L. Broch
Former Normal Police Detective;	)	Judge Presiding
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

CERTIFICATE OF SERVICE

I, David M. Shapiro, an attorney, certify that on August 5, 2020, the foregoing APPENDIX VOLUME was filed by electronic means with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701. I further certify that the same were served by electronic transmission on:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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Case No. 125617

IN THE  
SUPREME COURT OF ILLINOIS

---

ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

On Appeal from the  
Appellate Court of Illinois,  
Fourth District, No. 4-16-0527

There Heard on Appeal from the  
Circuit Court of McClean County,  
Illinois, Eleventh Judicial Circuit,  
No. 14 L51

The Honorable Richard L. Broch  
Judge Presiding

---

APPENDIX VOLUME II

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## APPENDIX TABLE OF CONTENTS

### VOLUME I

Appellate Court Opinion (Aug. 4, 2017) .....	A1
Circuit Court Opinion (June 22, 2016).....	A27
Defendant’s Statement of Material Facts.....	A34
Plaintiff’s Statement of Material Facts .....	A69
Plaintiff’s Response to Defendant’s Statement of Facts.....	A124
Defendant’s Response to Plaintiff’s Statement of Material Facts.....	A210
Complaint.....	A308
Defendants’ Exhibit 30: Stipulation to Phone Records between Beaman & Lockmiller .....	A338
Plaintiff’s Exhibit 1: Order Granting Certificate of Innocence.....	A340
Plaintiff’s Exhibit 2: Deposition of Alan Wayne Beaman .....	A343
Plaintiff’s Exhibit 3 (excerpts): Deposition of Carol Jeanne Beaman .....	A942
Plaintiff’s Exhibit 4 (excerpts): James Souk Grand Jury Transcript.....	A945
Plaintiff’s Exhibit 5 (excerpts): Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief .....	A954
Plaintiff’s Exhibit 6: Alan Beaman Trial Transcript .....	A965

### VOLUME II

Plaintiff’s Exhibit 7: Freesmeyer Police Report .....	A1287
Plaintiff’s Exhibit 8 (excerpts): Deposition of Frank Zayas.....	A1351
Plaintiff’s Exhibit 9: Kenneth Moses Expert Report—Crime Scene Analysis.....	A1358
Plaintiff’s Exhibit 10: Kenneth Moses CV .....	A1363
Plaintiff’s Exhibit 11: Videotaped Deposition of Morgan Hartman .....	A1370
Plaintiff’s Exhibit 13: Crime Scene Photo from Hartman Deposition Kitchen Sink/Garbage.....	A1381
Plaintiff’s Exhibit 14 (excerpts): Videotaped Deposition of John Brown.....	A1382
Plaintiff’s Exhibit 16: Deposition of Timothy John Freesmeyer .....	A1385
Plaintiff’s Exhibit 17: Criminal Death Investigation—Witness Face Sheet for Kelly Hamburg.....	A1713
Plaintiff’s Exhibit 18 (excerpts): Morgan Keefe’s Statement September 10, 1993 .....	A1722

Plaintiff's Exhibit 19 (excerpts): Criminal Death Investigation—Witness Face Sheet for Morgan Keefe.....	A1726
Plaintiff's Exhibit 20 (excerpts): Videotaped Deposition of John Brown.....	A1732
Plaintiff's Exhibit 21: John Murray's Statement—September 2, 1993.....	A1737
Plaintiff's Exhibit 22: Laura McKeown's Statement Excerpts—September 9, 1993 .....	A1763
Plaintiff's Exhibit 23 (excerpts): Discovery Deposition of Larbi John Murray taken May 31, 2013 .....	A1768
Plaintiff's Exhibit 24 (excerpts): Deposition of Leigh Kuyper taken February 28, 2013 .....	A1771
Plaintiff's Exhibit 25: John Murray's Statement—September 8, 1993.....	A1781
Plaintiff's Exhibit 26: Deposition of Tony L. Daniels .....	A1811

### **VOLUME III**

Plaintiff's Exhibit 27 (excerpts): Murray Arrest Documents—Police Initial Case Report .....	A2543
Plaintiff's Exhibit 28 (excerpts): Deposition of Terrence McCann .....	A2560
Plaintiff's Exhibit 29: Deborah Mackoway's statement—September 8, 1993.....	A2563
Plaintiff's Exhibit 30 (excerpts): Hearing on Second Verified Amended Petition for Post-Conviction Relief .....	A2581
Plaintiff's Exhibit 31 (excerpts): Deposition of Robert A. Hospelhorn .....	A2582
Plaintiff's Exhibit 32 (excerpts): John Murray polygraph documents .....	A2585
Plaintiff's Exhibit 34: Deposition of Timothy J. Freesmeyer.....	A2587
Plaintiff's Exhibit 41: Deposition of David Warner.....	A2707
Plaintiff's Exhibit 42: Alan Beaman's statement - August 28, 1993 .....	A2900
Plaintiff's Exhibit 44 (excerpts): Criminal Death Investigation—Witness Face Sheet for Michael Swaine.....	A2949
Plaintiff's Exhibit 45: Robert K. Seyfried Expert Report—August 11, 2015 .....	A2955
Plaintiff's Exhibit 47 (excerpts): Deposition of James Souk taken December 10, 2012.....	A2960
Plaintiff's Exhibit 50: Freesmeyer Trial Transcript .....	A2971
Plaintiff's Exhibit 51: James E. Souk letter to Chief Taylor—April 17, 1995 .....	A3207
Plaintiff's Exhibit 52: Illinois State Police crime scene report by Dean Kennedy .....	A3208
Plaintiff's Exhibit 53 (excerpts): Timothy Freesmeyer Grand Jury Transcript .....	A3217
Plaintiff's Exhibit 55: Gregg McCrary Expert Report - August 17, 2015.....	A3224

Plaintiff’s Exhibit 56 (excerpts): John Dierker Trial Transcript.....	A3252
Plaintiff’s Exhibit 57 (excerpts): Deposition of James Souk taken March 22, 2004 .....	A3267
Plaintiff’s Exhibit 59 (excerpts): Carol Beaman Trial Transcript.....	A3270
Plaintiff’s Exhibit 60 (excerpts): Deposition of Joshua Whitney .....	A3281
Plaintiff’s Exhibit 61: Beaman Residence Call Details.....	A3285
Plaintiff’s Exhibit 62: David Singley’s Statement—August 31, 1993.....	A3286
Plaintiff’s Exhibit 63 (excerpts): David Singley’s Statement September 8, 1993 .....	A3299
Plaintiff’s Exhibit 64: John Dierker Report—January 3, 1994.....	A3305
Plaintiff’s Exhibit 67: Bedroom Photo .....	A3308
Plaintiff’s Exhibit 68: Bedroom Photo .....	A3309
Plaintiff’s Exhibit 69 (excerpts): Deposition of Michael Swaine .....	A3310
Plaintiff’s Exhibit 71: Swaine telephone overhear—September 2, 1993 .....	A3324
Plaintiff’s Exhibit 72: Swaine telephone overhear —September 8, 1993 .....	A3328
Plaintiff’s Exhibit 73: Swaine telephone overhear —September 15, 1993 .....	A3345
Plaintiff’s Exhibit 74 (excerpts): DNA report #1 from Genetic Technologies.....	A3355
Plaintiff’s Exhibit 75: DNA report #2 from Genetic Technologies .....	A3359
Plaintiff Beaman’s Filed Notice of Appeal 06.07.16 .....	A3368
Table of Contents to Record .....	A3371
Alan Beaman Gubernatorial Pardon.....	A3377
Appellate Opening Brief (excerpts).....	A3378
Appellate Reply Brief (excerpts).....	A3380
Defendant’s Appellate Brief (excerpts).....	A3382
Supreme Court Opinion (Feb. 7, 2019) .....	A3385
Defendants’ Exhibit 4 (excerpt): Videotaped Deposition of Frank L. Zayas.....	A3401
Defendants’ Exhibit 6 (excerpt): Videotaped Deposition of James Souk taken December 10, 2012 .....	A3404
Defendants’ Exhibit 17 (excerpts): Deposition of Charles Reynard.....	A3406
Plaintiff’s Exhibit 14 (excerpts): Videotaped Deposition of John Brown.....	A3409
Plaintiff’s Exhibit 47 (excerpts): Deposition of James Souk taken December 10, 2012.....	A3412

Plaintiff's Exhibit 53 (excerpts): Timothy Freesmeyer Grand Jury Transcript .....	A3416
Plaintiff's Exhibit 57 (excerpts): Deposition of James Souk taken March 22, 2004 .....	A3419
Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief. Transcript of Proceedings Volume I- File Stamped August 10, 2005 .....	A3424
Plaintiff Supreme Court Brief (Jan. 12, 2018).....	A3434
Defendant Supreme Court Brief (Apr. 30, 2018) .....	A3493
Plaintiff Supreme Court Reply Brief (June 12, 2018) .....	A3545
Plaintiff Opening Brief on Remand (Apr. 29, 2019) .....	A3572
Defendant Brief on Remand (July 3, 2019).....	A3630
Plaintiff Reply on Remand (Aug. 5, 2019).....	A3691
Defendants' Motion to Strike (June 20, 2019).....	A3716
Plaintiff's Response to Motion to Strike (June 24, 2019).....	A3725
Appellate Court Opinion on Remand (Dec. 17, 2019) .....	A3740

NOR POLICE SUPPLEMENTAL CASE REP

Page of Case #  
1 1 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (Or Business Name) Jennifer Lynn Lockmiller Responsible Party

On 08/28/93 at approximately 1410 hours, I was monitoring the Normal Police Radio Channel after returning from a special detail that I was conducting. After hearing Officers respond to [redacted] and then request the Coroner, I returned to the Normal Police Department and telephoned the dispatcher for further information. The dispatcher advised that a body had been discovered at [redacted] and that the circumstances were suspicious.

After retrieving our department's video camera, and other needed equipment, I responded to [redacted] in Normal to meet with our patrol officers on the scene. Upon arrival, I met with Sgt. M. Kotte, who advised that a friend of the resident of [redacted] had been unable to make contact with the resident of [redacted]. The friend eventually drove over to speak with the resident of [redacted] and discovered her body. The friend stated that the door was unlocked when she arrived. After discovering the body, the friend drove to another friend's residence at Kingsley Court and called the Normal Police Department.

After talking with Sgt. Kotte, I began to familiarize myself with the apartment layout and the entries and exits. The apartment complex was a rectangular shape building which contained four separate apartments. There is a main entrance into the apartment building on the south side of the building, directly off the driveway. On the north side of the building, there is a back exit with a set of stairs leading to the upper hall and a few steps leading to the lower hall. There is only one driveway leading into the apartment and that is only wide enough for one vehicle at a time. The parking area for the apartment is located at the east end of the building and consists of a gravel lot. There was a trash dumpster located due south of the main entrance on the south side of the driveway. A silver Pontiac Sunbird, the vehicle identified as belonging to the victim, was parked on the southeast corner of the building between the driveway and the building. The license number on the sunbird was JLL 1111.

As I entered the Main door on the south side of the building, I stepped up one step to a landing. On my left side, I saw four mailboxes, one for each apartment. On the left side of the landing was a small set of stairs leading down to apartment #1 and #2. On the right side of the landing was another set of stairs leading up to apartment #3 and #4. At the top of the stairs to my right, Officer Fogler was securing the door preventing access to the apartment by unauthorized people. While speaking to Officer Fogler, he stated that there were two kittens that were found inside that were trying to get back inside. I asked about Animal Control and Officer Fogler advised that they were on the way. I then took the kittens from Officer Fogler and placed them in my squad car. I asked our department interns, Linda Steil and Racheal Rosenberg, to sit

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 10-January-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: 255

Assigned Investigator: Freesmeyer #694 Status: xxActive Booking #: \_\_\_\_\_  
\_\_\_\_\_ Suspended \_\_\_\_\_ Fail to File Complaint  
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NOK POLICE SUPPLEMENTAL CASE REPC

Page of Case #  
2 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

with the kittens, with the car running and the air conditioning on, until animal control arrived. After their arrival, the kittens were turned over to Animal Control. Before his departure, we also located a black cat that was outside near the apartment door, and turned it over as well. I then went back to talk with Officer Fogler at the door to the apartment. Officer Fogler advised that he arrived shortly after Officer Birkhead and that after rescue confirmed that the victim was deceased, Officer Fogler instructed all parties to leave the apartment immediately. Officer Fogler then closed the door and remained at the hallway to preserve the scene.

After speaking with Officer Fogler, I began to check the perimeter of the apartment building, I walked slowly throughout the parking lot and around all sides of the complex looking for anything suspicious. Upon the conclusion of my search, finding nothing suspicious, I waited at the scene for the crime scene technician from Peoria and also for any witnesses that might arrive or for any neighbors that might happen by.

The first people I made contact with were neighbors that lived directly below the victim. The neighbors I spoke with were Liza Kristen Everett ( ) and Lori Ann Solomon ( ). Liza and Lori live at ( ) in Normal, IL and their phone number is 452-0433. They state they have been living there for approximately one year and know the girl slightly that lived above them. They noticed a smell coming from the apartment but thought that someone had failed to take out their garbage so they did not report it. When asked to describe the girl that lived above them in ( ) they stated she was a white female with long blond hair, approximately 5'3" or 5'4" and weighed about 110 to 120 lbs. They guessed her age to be about 21 to 22 years old. They stated that the silver car parked in the driveway, a 1985 Pontiac Sunbird, was the vehicle belonging to the upstairs neighbor. That vehicle showed an Illinois registration of "JLL 1111". The neighbors stated they had seen the car in place since Sunday, they did not note the vehicle moving since then. When asked about the personal habits of their upstairs neighbor, they stated that they smelled pot coming from her apartment on more than one occasion. They described her as a partier who stayed up late at night. They described her manner of dress as being a 60's style, almost sleazy, but more into a "hippie" style dress. When asked about acquaintances, they described a boyfriend they had seen with long brown hair. They stated they last saw him in June or early July. They described his vehicle as being a small grey car, possibly a Ford Escort two door. They seemed to recall a Star Trek sticker on the back window area. They both seemed to recall large fights between the long haired make and the upstairs neighbor. Those fights they recall occurring in January or February. They stated that the upstairs neighbor stayed in town most weekends and when spoken to,

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
10-January-94 1600

Solvability Referred to: Property Recovered: Value:  
C 256

Assigned Investigator: Status: Booking #:  
Freesmeyer #694 xxActive Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NORI POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
3 93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

she would respond in very short answers.

The next two people I spoke with were David O. Singley ( ) and Susan Jenkins ( ). David and Susan are also neighbors to the victim and they both reside at [redacted] and their phone number is 454-4610. While talking with David and Susan, they revealed the following information. Susan stated that she last saw her neighbor on tuesday at approximately 1:30 pm. Susan stated she was waiting for her roommate, David, to return from his 2:00 class. Susan heard someone walking through the gravel just south of their apartment building and looked out to see her neighbor returning from class. Susan stated that on Friday at about 12:00 pm, she knocked on the door to [redacted] and heard the volume on the television go down, the door was never answered. When asked about acquaintances, Susan described a white male with long black hair with a moustache and goatee. She described him at about 5'9", 140 lbs. She stated that he now had a shorter style haircut, with his hair bobbed on top. They also described another individual who had long black hair. They described that approximately a month ago, they heard an argument ensue between the occupant of [redacted] and the later described individual. During that argument, they heard the male yelling at their neighbor, saying that he thought she was sleeping with someone else. They recalled a direct quote from the male with the longer hair, stating, "I've seen the cherry stain on the bed." I then asked David and Susan if they could recall the last time they saw either of the two cars that belonged to the two males. They stated that on wednesday they saw a white sedan, maybe a chevy or an olds, late eighties style. David recalled seeing the vehicle parked in the driveway at around 2:00 pm when he returned from class. David also stated that when he entered the hallway, he heard the T.V. on at a high volume coming from [redacted]. He remembered this being odd since he usually heard the stereo on instead of the television. I asked David and Susan about a red tag that was left on the door to apartment [redacted]. They stated that they were from the apartment manager and that theirs was on their door on thursday afternoon. The final question I asked was what they recalled their neighbor wearing on tuesday afternoon. Susan recalled the neighbor wearing a light blue top and a dark pair of shorts.

After speaking with Susan and David, I attempted to video-tape the exterior of the apartment. Upon finding our video-camera inoperable, the coroner's department agreed to video-tape using their equipment. I then remained at the scene until the crime scene technician arrived to process the interior of the apartment.

At approximately 3:30 to 4:00pm, the crime scene technician, Dean Kennedy, arrived at the scene and we entered the apartment. At that point, I turned the scene over to

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
C 257

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NOR POLICE SUPPLEMENTAL CASE REPT

Page of Case #  
4 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Dean Kennedy and then remained in the area to assist in any way possible. The interior of the apartment was video-taped by the coroner's department and all evidence was recovered and taken into evidence by Dean Kennedy.

While the scene was being processed, I received radio traffic from Det. Tony Daniels. Det. Daniels advised that there was an individual, Michael J. Swaine, living in that apartment with the victim. In a message left on the victim's answering machine, Michael stated that he was planning on returning to the apartment on either Friday night or Saturday. Det. Daniels advised that he might be driving a late model Pontiac with Massachusetts license plates. I advised Sgt. Ebert and Officer Dave Ludington, who were providing security for the scene, that this vehicle might be in the area and that we definitely wanted to question the driver of that vehicle, Michael Swaine. At approximately 5:00 or 5:30 pm, Sgt Ebert noticed an individual attempting to enter the apartment building at [REDACTED] [REDACTED]. As the individual reached the steps leading to the south door, Sgt Ebert advised that he could not enter the apartment. He stated he was going to see a friend and pointed to apartment [REDACTED]. Sgt. Ebert advised that nobody was allowed into the building and that he would have to return in about an hour. The individual went back through the breeze-way just south of [REDACTED] [REDACTED], and disappeared from sight. Shortly thereafter, Sgt. Ebert observed a white vehicle pull out of the parking lot to the apartment just south of [REDACTED] [REDACTED] and proceed north on Main street. The vehicle had no front plate and as the vehicle passed, Sgt. Ebert noticed that the vehicle had an out of state plate on the back. Sgt. Ebert and Officer Ludington then attempted to catch up to the vehicle but were unable to locate it. Approximately one to one and a half hours later, the occupant of the vehicle returned. Sgt. Ebert recognized the individual from the prior incident and he and Officer Ludington immediately secured that individual near my squad car. The individual identified himself as Michael Swaine and Officer Ludington identified himself as an Officer from our department and stated that we needed to talk with him. Michael was then frisked for any possible weapons, handcuffed, and then placed into my squad car. (See officer Ludington's report for further details.) Due to the nature of the crime and the uncertainty of Michael Swaine's involvement, the handcuffs were placed on him for his safety and also for mine during transport to the Normal Police Department. Since the press had arrived at the scene and were standing by with cameras, a yellow emergency blanket was placed between Michael and the passenger side window to preserve his anonymity from the camera's. Michael Swaine was then transported to the Normal Police Department and escorted to an interview room. After being placed in the interview room, I removed the handcuffs from Michael and stepped outside the room to

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: 258

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NOR POLICE SUPPLEMENTAL CASE REPC

Page of Case #  
5 5 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

speak with Det. Tony Daniels.

After speaking with Det. Daniels, I re-entered the room where Michael was sitting and took a seat next to him. Also located in the room, sitting in plain sight on the table, was a tape recorder and a blank tape. I turned on the tape recorder and advised Michael Swaine that I needed to speak with him. I informed Mike that in order to preserve the integrity of the conversation, I wished to record the conversation. Mike acknowledged my request and agreed to speak with me with the recorder going. I advised Mike that he was not under arrest and that he was free to leave at any time. I then briefly verified that Mike understood why he was handcuffed and also why the blanket was put up near the window to prevent photographs of his face. Mike stated that he understood and that he had no problem with what had taken place. I then advised Mike of his Miranda warnings and asked if he understood and would waive those rights. Mike stated that he understood his rights and would agree to talk with me. We then began an interview.

The interview between Mike and myself lasted about an hour to ninety minutes. The highlights of that interview are as follows:

Mike stated that he lived in the apartment with Jen at [redacted]. This living arrangement was temporary while Mike was waiting to get into his apartment for the fall. Mike stated that he and Jen had a dating relationship and had been seeing each other behind Jennifer's boyfriend's back. Mike stated that Jen's old boyfriend, Alan Beaman, was also Mike's roommate and close friend. Mike stated that he did not want to get too mixed up with Jennifer because of her heavy alcohol use.

I asked Mike to describe Alan. Mike stated that, "yea, he's a friend of mine." He continued by stating that it was "hard to say anything about him without making him seem really evil." Mike stated that Alan gets really jealous when he thinks that something is going on. Mike recalled an incident within the last two months when he was at Jen's apartment and Alan broke the door down to get in. Mike also stated that there were some holes in Jen's apartment that Alan had made. Mike also recalled a time that Alan broke into her apartment while Jen was with John Murray.

According to Mike, Jen and Alan had broken up about 18 times. Mike described Alan's involvement with Jen as an infatuation. When Jen and Alan fought, Mike stated that Jen would go around to the other apartments yelling "help me, save me." Mike stated that Alan had commented that Jen was "messing up his life" due to their relationship. Mike informed me that Alan went to Ohio at the end of July to get away from the situation with Jen. After a week and three days, Alan returned and picked up his things from the apartment that he shared with Mike. On the way out of town, he stopped and spoke with

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

C 259

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freemeyer #694  Active  Suspended  Fail to File Complaint  
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2239 (174)

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NOR POLICE SUPPLEMENTAL CASE REPC

Page of Case #  
6 C93-4033

Offense: Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Jen. Jen told Mike that Alan called and told her that he was over her and didn't love her anymore. Mike stated that Jen did not tell Alan that Mike was living with her. Mike was told by Jennifer that after she broke up with Alan, she was happy.

Mike stated that he last saw Jennifer on Sunday August 22, when they went to Zorba's together. Mike commented to her that night about her excessive drinking. Mike described his own drinking habits as very occasional.

I asked Mike about marijuana use by Alan, Jen, and himself. Mike stated that they all three used marijuana and that he believed Alan and Jen's relationship was based on marijuana. Mike stated that he used pot and tried a whippet one time. Mike stated that Jen used pot, cocaine, LSD, and that she tried heroin once. Mike stated that Alan used pot regularly, and that he tripped on LSD.

I asked Mike to describe his feelings when he returned to the apartment at [redacted]. Mike stated that the first thing he thought of was that Jen got caught for her marijuana use. After arriving at the scene the second time, Mike stated he saw the coroner's van and his thoughts changed. Jennifer's alcohol use and drug habit came to his mind and he thought that maybe she overdosed or was curling her hair while she was drunk and fell into the bathtub. Mike stated that after he walked up to the officers and they handcuffed him, he knew something major had happened.

For further details and a more complete account of the statement, see the transcription of the interview tape done by Jackie Thomas.

After interviewing Michael and discussing the interview with other investigators and obtaining the addresses where Mike would be staying, I called the Path Crisis Team and set up an appointment for him at Brokaw Hospital. After Mike talked to his mother on the phone, we met with two of his friends, Mike Israel and Rich House. Rich and Mike agreed to drive Mike directly to Brokaw Hospital where he could talk with the Path Crisis Team.

I returned to the crime scene and talked with Dean Kennedy. Dean stated that he was almost finished and asked if our department wanted anything from the scene before he sealed the door. After looking through the apartment, I located a word processor on the table and eight data disks from through-out the apartment. I also located several papers on the dresser located in the bedroom and thought that they might reveal something significant. After notifying Dean of what I wished to take for our review, he noted the items and I loaded them into my squad car. After we had finished removing all evidentiary items from the apartment, the apartment management secured a board over the doorway with several woodscrews and a piece of evidence tape was placed and signed over the door.

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
10-January-94 1600

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Booking #:  
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NOR POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
7 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

After returning to the station, I turned on the word processor and began to review the disks that I had found in the apartment. After reviewing the disks, I printed out the contents of the files that might have any significance in this case. I then began looking through the letters that Dean Kennedy had found under Jennifer's bed. I found letters from numerous people including Stacy Gates, Morgan Keefe, Dean Cauley, John, and Alan Beaman along with some letters that Jennifer had written to other people. The letters from Stacy Gates (Bubba) talked mostly about their relationship and the good times they either had together or were planning. One letter from Dean was written in 11/22/91 and contained nothing of importance. The other letter dated 3/30/92 described a relationship that neither of them were sure was right. There was a letter from Jennifer to Stacy Gates in which she was telling him that she had found another guy but still wished to remain friends with him. There was a letter written from Jennifer to Kris Perry in which she was stating that she had never been happier in her life than during the summer of '93 with a new guy that she had met.

The letters from Alan were numerous and contained many descriptions of his feelings, his emotions, and what appeared to be an enormous love for Jennifer. Dates were unable to be found on any of Alan's letters. Due to the length of the letters, only highlights have been put in this supplement, see the enclosed letters for complete context. Following are excerpts from the letters written to Jennifer from Alan:

"Thinking of you puts me to sleep at night and wakes me up in the morning. I'm always scared that you'll get scared of "us", and that you'll drop me."

"Fantasies: Funks Grove - Lots of brush and cover by foliage. There's no one around, and even if there was they couldn't see through all the thick foliage - whadaya say about that one?"

or

In a sleeping bag?

or

Standing up (propping you against a wall or something)

or

you could let me do a certain thing I've wanted to do for a while that you always tell me that I can't do - no pressure of course, but I'll try to make you beg for it next time I'm with you... Beer massage would be nice to do again.

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
10-January-94 1600

Solvability Referred to: Property Recovered: Value: 261

Assigned Investigator: Status: Booking #:  
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NOR POLICE SUPPLEMENTAL CASE REPC

Page of Case #  
8 c93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Damn it, now I'm horny  
In the fly gallery at the theatre at IWU, (I've wanted to do that for years).  
On the quad if your brave enough.  
It would also be fun to go into a one person public restroom and get a little crazy.  
God! the possibilities are endless....(write yours to me)"

"Okay, you got it, all out honesty:  
Here's the things you don't want to hear.  
#1) I really just want you to be with me and only me. Selfish, but honest.  
#2) When I say "I love you" on the phone, I wish you would say it back and not give a shit who is sitting there in your living room!  
#3) I won't be able to handle this much longer without some growth in our relationship.  
#4) I'm not sweet, I'm a selfish asshole with a thorn in my pride and I want to be yours, but only if you're mine.  
#5) Even I sometimes put on a pair of shiny shoes.  
#6) Are you wanting inspiration? You spill your secrets on me, then you tell me with a whisper of things that will never be.- Black Crowes  
#7) Lover cover me with your sleep, let your love light shine. Lover cover me with a good dream, let your love light shine. - Black Crowes  
#8) Yah, I fucked up, I'm only human. If you wanted a demi-god or a martyr, you should have become a nun and chased priests.  
\* I guess that the bad part about boys who don't wear shiny shoes: they have real emotions.  
Love me, need me, want me, trust me and respect me! I'll do the same for you.  
And now my bitter hands, frayed on broken glass of what was everything.  
All the pictures have been washed in black, tattooed all I see, all that I am, all I'll be. I know someday you'll have a beautiful life, I know you'll be the sun in somebody else's sky, but why, why, why can't it be, why can't it be mine!!? I LOVE YOU! STOP DRAGGIN AROUND  
Honesty, from the heart incorporated. Alan"

"Okay, so I'm a fuckin' asshole, but I'm not a drug. You can't just quit

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

262

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freemeyer #694 xxActive \_\_\_\_\_ Suspended \_\_\_\_\_ Fail to File Complaint \_\_\_\_\_  
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NORI POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
9 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

me, then come back, then quit me again, then come back over and over.  
(Sometimes it happens 3 times a day.) I now understand why things have  
been tense these past couple of weeks, and I haven't made it any better.  
I'M SORRY! I never wanted to hurt you. I just want to love you, want you,  
need you, trust you and respect you."

"I'm good and messed up about everything."

"I don't know what my life is for yet, I don't know about anything for  
sure, but I know that I love you."

"When I say goodnight to you, I want you to kiss me goodnight whether or  
not Jon, or Slush, or Bubba is watching."

"I wanna get high with you or drop with you, and have you include me in  
what's going on in your trip."

"I want to be at Peace with you and for you to be at peace with me!"

"I know there's things about me that bother you, but I want to make a  
change in my lifestyle. I want to be monogamous, and I want it to be with  
you."

"I love you !

- More passionately that Romeo did Juliet.
- More hopelessly that Ophelia did Hamlet.
- More vengefully that did Medea, Jason.

(Don't worry, I won't kill anybody, I don't believe in that.) I do unto  
others as I would have them do unto me (from now on). That's why I love  
you... that's why I need you... I could really grow up for you."

"When I show up at your door on friday, you'd better grab me, pull me in,  
shut the door, lock it, throw me down right there on the floor, and make  
love to me. Dig?

P.P.P.S. I don't care if you bleed all over me....."

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: 263

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694 xxActive  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NORMAL POLICE & MENTAL CASE REPORT

Page of Case #  
10 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

"..I was only accepted by people that were just as childish as I was. I began to realize that, and my personality took on a much darker form. People only came to see me to get acid, and then left again quickly on their way to parties and other such places where my presence was scoffed at. I gave up, and crawled into a bottle."

"As I came to realize that I needed you I became insecure, and afraid of losing you. Jealousy became all too common. Then when I went back to school, I felt that you were trying to return to your past, that you didn't need me, or love me. I was walking on eggs, and I thought you didn't love me anymore. So I ran away."

"I love you. I'm sorry that I've been such an ass lately, it seems like every time I don't get my way, I freak out and do something stupid..." "I know that it's a problem, and I'm really trying to mellow out about things like that, but it's hard for me because I always expect to get the run-around." ... "Needless to say, this whole Bubba thing has got me freaked out more than you could possibly imagine." ... "With the most confusing and passionate love ever imaginable in anyone's wildest dreams, Alan"

"I have a short temper. I need your help with that." ... "I feel like a druggie, I don't remember what it's like to be sober on a week night, and be content watching "Who's the Boss" re-runs."

"I can't bear any longer to stare into your eyes to see the barrage of countless past lovers of your life. I cannot look at you, if I cannot touch you. Damned if I do, Damned if I don't. I will not let myself love ever again. I'll just sink back into the hollow, selfish, unhappy, Bottle Crawling piece of a man that found true love for a few brief weeks, and had it stolen by the child in him that merely wanted to make things less sticky for you.

After all, it was you who said you didn't want a commitment, and then when I finally stopped trying to get a commitment, you gave up on me without ever saying that you did want one. That's not fair. That's narrow minded. Remove the log from your eye before removing the twig from mine. GET IT?!

When I'm around you I feel like falling apart, and I can't handle that

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

264

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NORMAL POLICE & MENTAL CASE REPORT

Page of Case #  
11 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

any more. If I thought that things would ever change with "us", It might make it easier. Your phrase NBF is just a sign to me of my failure to be good enough for you, and your constant reminding me is a living Hell. I want you back and I'll sacrifice my pride to get you back, but if I can't have you back, then pride IS ALL I HAVE! So don't do me any favors, just do what you want to do. And if I can't convince you of my love, and we can't get back together to form a basic trust, then get the fuck out of my life."

After reading through the letters, I placed them into a manila envelope to be entered into evidence.

On Sunday, August 29, 1993, I arrived at NPD at 1100 hours for a group meeting with all detectives in this case, the Chief of Police, Dean Kennedy, James Souk, and Coroner Dan Brady. We met for approximately four and a half hours and discussed the facts known at the time. Coroner Brady informed us that the victim, Jennifer Lockmiller, was deceased prior to the insertion of the scissors into her chest. The cause of death had been confirmed at the autopsy Sunday morning as strangulation with an electrical cord from an alarm clock.

While Dean Kennedy was processing the scene on Saturday evening, he came across a pink pad of paper which was lying next to the telephone in the living room. I copied the information off the paper and thought it might be valuable information at the onset of the investigation. On the top page was "████████████████████ 862-0956" on the second page was "828-7868 Robert". An account of these two slips of paper do not appear in the crime scene report.

The two main suspects at that time were Alan Beaman and Michael J. Swaine. It was determined that Det. Daniels and Det. Hospelhorn would return to the Rockford area and attempt to find any further information about any involvement that Alan Beaman could have had in this case. Meanwhile, Det. Warner and myself would make contact once again with Michael J. Swaine and attempt a second interview.

After the meeting ended, Detective Warner and myself, along with several other individuals from the meeting, went back to the apartment to review any details that needed to be confirmed. Detective Warner and I then left to return back to NPD. I called Michael Swaine and established an appointment at 1800 hrs at NPD.

Prior to talking with Michael J. Swaine, we thought it necessary to talk with the individuals that stated they had observed a white car, usually driven by Michael J.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

C 265

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NOR POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
12 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Swaine, outside the apartment building on Wednesday. Those individuals were Susan Jenkins and David Singley. Susan also mentioned that a friend of hers, Lisa Rosnick, that lives across the drive also stated she observed the vehicle on Wednesday night. Detective Warner and myself went to [REDACTED], the apartment where Michael J. Swaine's vehicle was located, and took two photos of his vehicle. We then went to other places in the neighborhood and took pictures of three other cars that were similar in color and appearance from the same angle that we took the pictures of Michael J. Swaine's vehicle.

Susan and David stated that they were sure the car they saw on Wednesday was the same vehicle parked in the lot earlier that summer. Lisa stated that she had seen the car earlier in the summer and was sure that the car she saw that night was the same car. After showing the vehicle pictures to Susan Jenkins, David Singley, and Lisa Rosnick, none of the three could pick out Michael's car from the other three comparison vehicles. Detective Warner and I then returned to NPD.

At 1800 hours, Michael J. Swaine arrived at NPD per our request for a second interview. Michael was taken into the same interview room as before and the tape recorder was turned on once again. Present in the room was Detective D. Warner, Michael J. Swaine, and myself. I advised Mike once again of his Miranda rights and verified that he understood those rights. I then asked Mike if he was willing to waive those rights in order to make a statement regarding our investigation and he stated he would. I advised Mike that I would be recording the conversation and he stated he understood and would consent to the recording. We then began the interview.

Mike stated that he first met Jennifer Lockmiller in October of 1992 while she was dating Alan Beaman, Mike's roommate at the time. In June of 1993, Mike and Jennifer began to have a close relationship. The first time they slept together was in June of 1993 at the Sigma Chi Fraternity House that was still under construction on the IWU campus. In late July, Alan found out about the relationship between Jennifer and Mike and confronted Mike about that relationship. On July 25, 1993, Alan went to Ohio to get away from the situation. Mike stated that Alan returned on August 3rd and picked up his belongings that he left at the apartment that they shared. Mike continued to live alone from August 1 to August 15 until he moved in with Jennifer at [REDACTED] on the weekend of August 15, 1993. He stated that August 15, 1993 was the first time he slept at Jennifer's apartment.

I asked Mike about the classes that Jennifer was taking over the summer. He informed me that Jennifer was taking an "Anthropology of Death" class that ended August 6. He told me the class she was taking met from 8 am to 12 pm and 1 pm to 4 pm.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmayer #694 xxActive Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

266  
C240  
181

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NOR POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
13 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

I asked Mike if he would talk about his sexual relationship with Jennifer. Mike agreed and stated that he remembered having sex with her five times. The first was in June at the Sigma Chi House as mentioned earlier. The second and third times were at his apartment, once in a missionary style and the second time with Jennifer on her knees leaning over the bed and Mike behind her. The last two times were at Jen's apartment and were both missionary style. Mike stated that the last time he had sex with Jennifer Lockmiller was on August 19, 1993. On that date, he did not use a condom.

I asked Mike to tell me once again, about the incident when Alan broke in the apartment and he hid in the closet. Mike stated that it occurred between July 11, 1993 and July 24, 1993. Mike stated that he was so scared of Alan, that he hid in the closet and pulled one of Jennifer's dresses over his head to conceal himself. On July 25, Mike recalled Alan confronting him saying, "You're fucking my girlfriend!"

I asked Mike to tell me about the relationship that Alan and Jen had. Mike stated that Alan and Jen began dating July 4, 1992. Mike stated that Jen had a miscarriage with Alan's baby in October of 1993. They fought continually until they broke up on July 25, 1993.

I asked Mike to describe how the apartment looked when he left on Sunday August 22, 1993. Mike began describing the apartment as if he had just walked in the door. He described the hallway first, then the kitchen, then the living room, the bathroom, and finally the bedroom. Mike described the apartment almost exactly as we had found it, however, Mike provided some additional insight.

As Mike was describing the living room, he stated that there was a coffee can on the table next to the television that contained some pencils and scissors. Mike continued and stated that there was a whipped cream container with some marijuana seeds in it that he was trying to grow. Mike stated that he used a pair of scissors to cut the top of a milk jug off to place over the whipped cream container to make the seeds grow better. While describing how he cut the milk jug, Mike showed me his finger and stated that he cut his finger with the scissors while he was cutting the milk jug. I asked Mike to describe the scissors that he was using. Mike described them as a large pair of metal scissors with orange or pink plastic handles. Mike stated that he put the scissors in the top kitchen drawer when he finished with them.

Mike stated that there were two alarm clocks in the bedroom. The white clock was Jennifer's and the brown clock belonged to Mike. Mike stated that the alarm clocks were both kept on the floor by the corner post of the bunkbeds.

I asked Mike if he ever returned to Bloomington/Normal between 8/23 and 8/27 27

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: C 267

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freemeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NOR POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
14 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

and he replied that he had not. Mike stated that he was in Elmhurst all week working at the bookstore located in his old high school. Mike stated that his presence could be verified by Virginia Betteridge, the supervisor of the bookstore. I told Mike that his car was seen at Jennifer's apartment on Wednesday and he replied, "Oh, really?" He then continued to state that it could not have been his car since it was left at his parents house in Elmhurst all week long. I asked Mike to try to recall where he was each evening during the week of August 23 - August 27. Mike's response is as followed:

- Monday, August 23: Worked at the bookstore from 7am to 4pm and then spent the evening with Anne Flowers (708-383-1008) and Lisa (LNU).
- Tuesday, August 24: Worked at the bookstore from 7:45am to 3:30 pm and spent the evening with his parents watching a video (Mosquito Coast).
- Wednesday, August 25: Worked at the bookstore from 7:45 am to 3:00 pm and spent the evening with his parents watching a video (Time to Kill).
- Thursday, August 26: Slept in, worked at the bookstore from 11:30 am to 3:30 pm. Saw "Sleepless in Seattle" with Tonya Brooks at Stratford Square in Bloomingdale.
- Friday, August 27: Worked at the bookstore from 7:45 am to 11:30 pm. Spent the afternoon at home and then went to a swimming party with Anna Flowers (708-383-1008), Kyle Humphries, and Mark Fletcher.
- Saturday, August 28: Stayed home until 3:30 and then left for Bloomington/Normal.

I asked if anyone else was driving his vehicle that week and he stated "no". Mike stated that he was borrowing the car from his friend and was not supposed to take it out of Bloomington but drove it to Elmhurst anyway. Mike stated that he left the car parked in the driveway all week and walked to work since he lives about a block and a half from the school. Mike stated that his parents have a Midnight Blue mini-van and a White 1979 Buick Skylark.

Before concluding the interview, I asked Mike if he would be willing to take a polygraph exam and he stated that he would. Before Mike left, I obtained his future school address and phone number.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
C 268

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NOR POLICE SUPPLEMENTAL CASE REPE

Page of Case #  
15 93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Michael J. Swaine DL# [redacted]-3128 Home Address:  
[redacted] SS# [redacted] [redacted]  
Bloomington, Il D.O.B. [redacted] Elmhurst, Il. 60126  
Ph# 829-4300 5'11, 148lbs, Brn, Brn (708) 530-5865

Mike stated that he would be staying with friends for a few days. Those friends were Rich House and Mark Israel. (663-0057, [redacted], Bloomington) Mike then left the station.

On Monday, August 30, I received a message on my answering machine from Michael J. Swaine. Mike stated that he talked with his mother and that she wanted him to wait and talk to an attorney before taking a polygraph exam. Mike apologized for the inconvenience and stated that he would talk with me after seeing his attorney. After talking with Mike, I went to IWU to speak with the head of Residential Life. I met with Darcy Greder. Darcy stated that Alan Beaman was scheduled to be living at [redacted] [redacted], upon his return to IWU for the fall of 1993. That address is a residence hall, [redacted], and Alan will be sharing a room with Christopher Carbone and James Thorman. The phone number for room [redacted] is 556-2677. Darcy also provided the following information on Christopher Carbone and James Thorman:

James Thorman [redacted] Christopher Carbone [redacted]  
[redacted] w/m [redacted] w/m  
Milford, Ohio 45150 [redacted] Rockford, Il. 61107  
(513)831-3286 [redacted] (815)398-7658

Darcy stated that Alan lived in the same room last year and shared the room with Chris Carbone and Chris Wharry. Darcy provided the following information for Chris Wharry:

Chris Wharry  
[redacted]  
Canada

I then asked if it was possible for Alan to have a key to room [redacted] at [redacted] from last year. Darcy stated that they collect the keys but that he could have made a duplicate. I asked Darcy if it would be possible to look through the room at 201

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
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Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NOR POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
16 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

Wallis Hall and she stated that I could. Darcy called for IWU security and they agreed to accompany me to [redacted]. Darcy gave me her office number, 556-3113, and extended her offer to help in any way she could.

I then left Darcy's office and met with IWU security. I checked through room [redacted] and found it to be completely empty. I then checked all common areas of the house and found nothing unusual.

After checking Wallis Hall, IWU security suggested that we might want to take a walk through McPherson Hall, the theatre building at IWU. We then went to McPherson Hall and began walking through. While in the building, I made contact with Chris Thunker [redacted] / 556-2440) and Leigh Kuyper ([redacted] / 556-2028). Chris and Leigh both stated that they knew Alan Beaman and Mike Swaine from working the theatre. They described Alan as being a very melodramatic person. They stated that Mike Swaine, on the other hand, was a pacifist. When asked about other people that we could talk with, Leigh and Chris provided the names of: J.C., Mike and Tish Mackey, Ross Minion (827-0441), Don, and Meredith Hanes (828-4737). Chris stated that he was at Jennifer Lockmiller's residence about two weeks earlier and that he knew Mike was staying with Jennifer. Leigh stated that she believed Mike had some belongings that he was storing in the photo lab there at McPherson Hall. After talking with Leigh and Chris, IWU security and I went to the photo lab and looked through the belongings that were being stored there. Since the Photo lab is IWU property and the items were not secured in any closed containers, we felt there was no expectation of privacy. We looked through Mike Swaine's belongings but found nothing that seemed pertinent to this case. I then returned to NPD.

Also, on that same date, I checked with the Credit Bureau for any credit cards listed to Alan Beaman or Michael Swaine. The Credit Bureau showed no credit cards issued to Michael J. Swaine. They showed two credit cards issued to Alan Beaman, a Discover Card and a Citibank Visa. The Discover card showed no usage since it's issuance. I called and spoke with Citibank Visa, they stated the card showed it's last usage on August 12, 1993 at the Denny's restaurant in Rockford.

After checking the credit card usage, I talked with our Records Department Supervisor for any calls that were dispatched to the general area of the victim's apartment during the last two weeks. That report did not reveal anything significant.

At 6:00 pm, we had another investigator's meeting to discuss the results of our various actions thus far.

On Tuesday, August 31, 1993, we began with another investigator's meeting. After the

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NO 1 POLICE SUPPLEMENTAL CASE REF

Page of Case #  
18 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

On Wednesday, September 1, 1993, I went to the McLean County State's Attorney's office and made a request for a court authorized overhear. While there, I requested subpoena's for the following records:

Agency	Records	Phone Number	Subscriber
AT&T 1-800-732-5689 Printiss Hall 33 N. LaSalle St. Chicago, Il. 60602 Anita Floyd (404)552-2121	Toll and MUD calls from	(815)964-5761	Josh Whitney
	7/25/93 through 8/30/93.	(815)962-6540	Alan Beaman
		(708)530-5865	Mike Swaine
		(309)452-9913	Jen Lockmiller
MCI 1133 19th St. Northwest Washington D.C. 20036 Linda Stewart (202)736-6350 Fax (202)736-6072	large computer study from	(815)964-5761	Josh Whitney
	7/25/93 through 8/30/93	(815)962-6540	Alan Beaman
	not on current bill.	(708)530-5865	Mike Swaine
		(309)452-9913	Jen Lockmiller
GTE 1312 E. Empire St. Bloomington, Il. 61701 Sherry C. Thomas 663-3444 Fax (309)662-3371	all incoming and outgoing	(815)964-5761	Josh Whitney
	calls for the following	(815)962-6540	Alan Beaman
	numbers	(708)530-5865	Mike Swaine
		(309)452-9913	Jen Lockmiller
Illinois Bell 212 W. Washington Rm 2G Chicago, Il. 60606 Larry Renfro (312)727-5429 Joy (312)727-6890 Fax (312)845-3521	all incoming and outgoing	(309)828-4737	Don Jones
	calls from 8/1 to present		
	all incoming and outgoing	(309)452-9913	Jen Lockmiller
	calls from 8/1 to 8/23		
Illinois Bell 212 W. Washington Rm 2G Chicago, Il. 60606 Larry Renfro (312)727-5429 Joy (312)727-6890 Fax (312)845-3521	all incoming and outgoing	(815)964-5761	Josh Whitney
	calls from 8/1 to present	(815)962-6540	Alan Beaman
		(708)530-5865	Mike Swaine
		(815)398-7658	Chris Carbone

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 10-January-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: C 272

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NO. 1 POLICE SUPPLEMENTAL CASE REP.

Page of Case #  
19 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmillar

At approximately 1500 hrs, I received consent from Michael Swaine's attorney for a polygraph exam. I had prearranged an appointment for 4:00 with Kenneth Frankkenberry at the Illinois State Police Crime lab in Rockford, Il. After speaking with Michael's attorney, I picked Michael up at the attorney's office and headed for Rockford. While we were enroute to Rockford, Detective Hospelhorn continued the overhear request and obtained the required court order.

Michael Swaine and I arrived in Rockford at approximately 4:45 pm and a polygraph exam was administered by Kenneth Frankkenberry. Mike was asked the following three questions:

- 1) "Between August 23 and August 27, 1993, were you in the company of Jennifer Lockmillar in apartment [redacted] at [redacted] in Normal?" Answer: "No"
- 2) "Did you cause Jennifer's death?" Answer: "No"
- 3) "Have you withheld any information from investigators regarding Jennifer's death?" Answer: "No"

After the polygraph, Ken explained the results of the test and stated that he felt Michael J. Swaine was answering the questions truthfully and that he was not the person responsible for the homicide.

Michael and I then began our return trip back to Normal. During that time, I gave Mike several reasons why we felt that Alan Beaman was a strong suspect in the homicide of Jennifer Lockmillar. I explained to Mike that we were asking for his cooperation in a court authorized overhear during a phone conversation between himself and Alan Beaman. After talking about the aspects of the overhear in detail, Mike agreed to assist our department in any way possible to solve this case.

Mike and I arrived back at NPD at approximately 8:45 pm and met with Lt. Frank Zayas, ASA James Souk, and ASA Keri Mason. After setting up the equipment in the upstairs conference room of the police department, we sat and discussed our strategy for directing the conversation. Upon the conclusion of our discussion, we attempted contact with Alan Beaman at his residence in Rockford (815)962-6540.

On our first attempt at approximately 9:40 pm, an older male voice answered the phone and stated that Alan was sleeping. We called back approximately 5 minutes later and an older female voice answered. The female stated that he is not allowed to talk to anyone right now. The female stated it would be better if Mike did not call back that

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
10-January-94 1600

Solvability Referred to: Property Recovered: Value:  
C 273

Assigned Investigator: Status: Booking #:  
Freesmeyer #694 Active Suspended Fail to File Complaint  
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NC POLICE SUPPLEMENTAL CASE REF

Page of Case #  
20 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (Or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

week. The female also stated that they were advised not to let him talk to anyone.  
We then concluded the session for that evening and I gave Mike a ride back to his residence.

On September 2, 1993, we began the day once again with a group meeting. After the meeting, I went before the Grand Jury of McLean County and was granted approval for the nine subpoenas that I had requested the day before. After leaving the Grand Jury, I stopped and picked up Mike and we attempted another phone call to Alan Beaman. The second attempt was made at the Normal Police Department in the same conference room as before.

We began the second call at approximately 11:28 am. The phone was answered by an older gentleman, believed to be Alan's grandfather. Mike asked if Alan was there and the person first stated he wasn't, then he stated that he was there but that he was sleeping. The person asked who was calling and stated that they were keeping a record of who called. Mike asked if Alan could call him back and the man stated "no". We then concluded the calling session at 11:34 pm. I then took Mike home and then came back to NPD to begin compiling my report and organizing the phone records that I was beginning to receive from GTE.

At approximately 2:00 pm, we held another meeting with the Assistant State's Attorney's and the Chief of Police. Prior to the meeting's start, ASA James Souk gave me the subpoena's that I had requested so that I could serve them to the respective companies. It was decided at that meeting, that we would take Mike Swaine through the apartment to see if there was anything that he would note as unusual. We were also advised to look for a sorority pin, a necklace, and a watch that might be of value. After the meeting, I went to the scene with Kari Mason and Detective Dave Warner. After reviewing the apartment once more, I went to pick up Mike Swaine and then returned to the apartment. Mike was allowed into the apartment and he began to survey the apartment room by room. Mike did not mention anything that was unusual and was successful in helping us locate the sorority pin. The watch and the necklace were also located. After reviewing the apartment, Mike was taken back to his residence.

On Friday, September 3, 1993, I went to Rockford Illinois to attempt to interview Alan Beaman's neighbors regarding anything they might have seen or heard during the prior week. I first met with Sgt. Greg Lindmark of the Rockford Police Department. I advised Sgt. Lindmark that I wished to interview several people in the area regarding Alan Beaman. Sgt. Lindmark was somewhat familiar with the case from assisting Det.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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189

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NO 4 POLICE SUPPLEMENTAL CASE REF

Page of Case #  
21 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Daniels on 8/28/93 and he assigned Detective Al Johnson to accompany me through the city and to serve as a guide to get me where I needed to go.

Detective Johnson and I began by going to the neighborhood where Alan Beaman resides. As we drove past Alan's residence at [REDACTED], we observed an elderly gentleman in the driveway cleaning a mobile home. We also observed a grey Ford Escort with Illinois license plates "BBB 282" sitting in the driveway parked to the left of the garage. After driving past and taking several pictures of the Ford Escort, we began to make attempts at contacting neighbors.

There are five houses that border the Beaman residence. Those residence are:

- 1) Henry Taylor - [REDACTED], Rockford, Il. (Due East of the Beaman)
- 2) Lawrence & Melba Rinaldo - [REDACTED], Rockford, Il. (Northeast of Beaman)
- 3) Schultzes - [REDACTED], Rockford, Il. (Due North of Beaman)
- 4) Unknown - [REDACTED], Rockford, Il. (Northwest of Beaman)
- 5) Michael & Linda VanBarriger - [REDACTED], Rockford, Il. (Due West of Beaman)

Of the five residence, I was able to make contact with only one individual. That individual was Michael P. Vanbarriger (4-8-74) who lives due west of Alan Beaman. Mike is 19 years old and stated that he grew up with Alan Beaman. Mike stated that on the evening that Alan was initially stopped, he came over to Mike's window to talk with him. According to Mike, Alan said he was going to Denny's for coffee when he was pulled over and taken downtown for questioning. He stated to Mike that the detectives were trying to get him to say something. Mike said Alan was shaken up over his old girlfriend and that Alan told him that the police were trying to find out where he was. Alan told Mike that he had a receipt for some tires that were installed on his car. The receipt had the mileage written on it and the mileage had not accrued over three hundred since the tires were put on. Alan stated that it was over 300 miles to Bloomington and back so he couldn't have driven to Bloomington after getting the tires. Alan told Mike that he loved his old girlfriend and wanted to call down and find out what happened to Jen but if the cops thought he did it, he didn't want to start anything. Mike stated that Alan was talking about "Bubba" and how Bubba would bother Alan and Jennifer while they were together. Alan told Mike that they broke up about a month before school let out. Alan did not tell Mike the last time he saw Jennifer.

When asked to describe the vehicles driven by Alan's parents, Mike stated that they had two chryslers, one's grey and the other is pinkish-tan. Mike stated that the car

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
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Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NO. 1 POLICE SUPPLEMENTAL CASE REP

Page of Case #  
22 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (Or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

might be white because he has seen Alan's mom driving a white car. While talking, Mike stated that he doesn't think Alan has a temper. Mike stated that he usually sees Alan's car around 10 am and around 12:30 am. However he added that Alan hasn't been driving the car since we interviewed him because he didn't want to change the mileage.

Alan told Mike that he was originally taken to the station for questioning about a homicide and then after getting to the station he was told that she was beaten up real bad. Mike stated, for a second time, that Alan was shaken up but wasn't crying. Mike then recalled Alan saying something about Jennifer being beat up or cut-up but didn't know if she was raped or not. We then concluded the interview and I left the residence.

After checking the neighborhood, Al Johnson and I went to David Olson's residence located at [redacted] in Rockford. We arrived at the residence at approximately 11:10 am and were unable to make contact with anyone at that residence. We then returned to the Rockford Police Department.

I checked the Rockford City Directory in an attempt to locate Alan's pastor, Frank Moore. I was unable to locate a Universal Church located anywhere in the Rockford Area. I did locate a Frank Moore in the city directory but there was no answer when I called the house.

The only person able to verify Alan's alibi, during the time that the homicide occurred, was his mother, Carol Beaman. Before returning to Normal, I went to Auburn High School to see if I could verify either Alan Beaman's presence or Carol Beaman's presence during the time in question. After arriving at the School, I talked with the Assistant Principal, Mrs. Ann Anderson. (815-966-3305) Mrs. Anderson stated that she remembered seeing Alan and Carol in the school building on the previous week, however, she couldn't remember which day. Mrs. Anderson stated that a lot of teachers come in to prepare their classroom before school starts and that they do not sign in or out when they enter the building. Mrs. Anderson stated that she was at the school every day of the week in question.

After leaving the school, I returned to the Normal Police Department.

On Tuesday, September 7, 1993, I continued to compile phone records that I was receiving from the various subpoena's that were sent out. At approximately 1630 hours, we held another investigators meeting to discuss the various findings of each investigator. On Sunday, September 5, Alan Beaman returned to Bloomington/Normal and moved into his room at [redacted]. After the meeting, I went to Mike Swaine's residence and picked him up for another attempt at the overhear. We returned to the

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
C 276

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freemeyer #694 xxActive \_\_\_\_\_ Suspended \_\_\_\_\_ Fail to File Complaint  
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NC L POLICE SUPPLEMENTAL CASE REF

Page of Case #  
23 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

station and attempted calling Alan at his dorm room at approximately 8:00 pm. We made several attempts and were unable to get an answer at Alan's apartment in [REDACTED]. I asked Mike if he would be willing to assist us by approaching Alan in person and engaging him in a conversation while wearing a body wire. Mike consented and stated that he was to be with Alan the following night at the theatre to set up for a performance. Mike stated that he could ask Alan to go for a walk with him after they were done setting up the theatre. We made temporary plans to conduct a body wire on the following evening and I took Mike back to his residence.

On Wednesday, September 8, 1993, I went to the Mclean County State's Attorney's Office to request a court order for a body wire and also for two additional subpoenas for phone records. The subpoena's requested were due to two requests that were written incorrectly on the week prior. The two additional subpoena's were:

Agency	Records	Phone Records	Subscriber
MCI 1133 19th St. Northwest Washington D.C. 20036 Linda Stewart (202)736-6072 Fax (202)736-6072	Records of all calls terminating at 452-9913 between 7/20 - 8/30	(309)452-9913	Jen Lockmiller
Illinois Bell 212 W. Washington Rm 2G Chicago, IL. 60606 Larry Renfro (312)727-5429 Joy (312)727-6890 Fax (312)845-3521	Large computer study on three numbers from 7/25 to 8/30.	(815)964-5761 (815)962-6540 (708)530-5865	Josh Whitney Alan Beaman Mike Swaine

After presenting Judge Prall with the request for a body wire, the request was approved. I called Tech Services in Springfield Illinois and they agreed to assist our department at 6:30 that evening. I contacted Mike Swaine and picked him up at approximately 12:45 pm. Mike was brought to NPD and fingerprinted so that the lab could begin eliminating his prints. We then made arrangements to do the overhear that night and I took Mike back to his residence.

At 6:30 pm, I picked Mike up again at his residence and brought him to NPD. We then

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 10-January-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: C 277

Assigned Investigator: Freesmeyer #694 Status: xxActive  Suspended  Fail to File Complaint  
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NO. POLICE SUPPLEMENTAL CASE REE

Page of Case #  
24 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

met with Pat Keen and Keith Frederick of ISP Technical Services and discussed the plan for the body wire. It was decided that Mike would be dropped off at about 7:00 pm to work at the theater and we would designate a meeting place at that time. Shortly before they were done working, Mike would slip out to the meeting place and get into the van. We would then strap on the body wire and send him back in. After completing work, Mike would attempt to engage Alan in conversation.

We dropped Mike off at about 7:00 pm and established a meeting point. Pat, Keith, and I returned at about 9:00 pm and found that there was another vehicle in the spot where we were going to meet. We parked across the street from McPherson hall and waited for Mike to come out. At about 9:40 pm, Mike approached the van and entered by the side door. Pat Keen applied the body wire while Keith and I kept watch for pedestrians passing by the van. Mike Swaine stated that Alan was working in a brown house that was located about 30 yards south of the van. After the body wire was installed, Mike exited the vehicle and approached the brown house.

Mike was successful in making contact with Alan Beaman and convinced him to go outside to the front porch to talk. Alan and Mike talked about Jennifer for approximately 50 minutes before Mike terminated the conversation. (For a complete detail of the conversation, see the transcript of the tape prepared by Jackie Thomas.) After the conversation terminated, Mike Swaine began walking towards his residence and we stopped and picked him up along the way to return to NPd. After removing the wire at NPd, I returned Mike to his residence. The original tapes were submitted into evidence and a copy of the tape was made for investigative use.

On Thursday, September 9, 1993, I went before the Grand Jury of McLean County and obtained approval for the last two subpoena's that I requested. After obtaining the subpoenas, I returned to NPd and faxed off the copies to the respective agencies. I then mailed the hard copy to MCI via registered mail and began to update my reports.

On Wednesday, September 15, 1993, we conducted another overhear using a body wire. Mike Swaine was picked up at his residence and escorted to the Normal Police Department by this R/O. After arriving at NPd, we met with Pat Keen from Tech Services and discussed the plans for the overhear. At approximately 1900 hours, the nagra recorder was turned on and Pat Keen and I took a position near Alan Beaman's apartment while John Russell and John Belcher dropped Mike Swaine off near the Walgreen's store located on Center street. At approximately 1915 hrs, Mike was dropped off and began walking towards [redacted] located on the IWU campus. Mike entered the hall and made

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: 278

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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193

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8 3  
NORFOLK POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
25 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

contact with Alan Beaman in Alan's dorm room. Alan consented to talking with Mike and they went to the front porch to talk. The conversation lasted for about 15 to 20 minutes before Alan became upset and walked away. Mike then began walking back to Walgreens where we picked him up and returned him to NPD. After arriving at NPD, the tape was transferred to a cassette copy and the Mike was returned back to his residence. For a complete detail of the conversation between Mike Swaine and Alan Beaman, see the transcription done by Jackie Thomas.

On 09/22/93, Lt. John Brown and I went to Rockford to attempt at interviewing other possible witnesses. We made contact with Dennis Clark and received a hardcopy of Alan's work schedule for the week of August 23, through August 27. According to Dennis, they had been paving parking lots during the evenings and were not in the stores.

After talking to Dennis Clark, we went to the Winnebago County Sheriff's Department and spoke with Detective Chris Cowan. According to Mike Van Barriger, on the evening that Alan was stopped, Alan had told him that he had just had new tires put on his car and had not driven the car over 300 miles since having the new tires installed. Detective Cowan checked to see if a tow sheet was completed on Alan Beaman's vehicle on the night that Detective Daniels and Detective Hospelhorn talked with him. After checking the tow-sheet, we were unable to find any mileage statements that were taken.

Before returning to Normal, we went to [REDACTED] in Rockford. David Olson was the person sponsoring the party that Alan stated he attended on Wednesday night. We arrived at David Olson's house at approximately 1050 and remained there until about 1140. After being unable to make contact with David, we returned to Normal.

On 09/23/93, I went before the McLean County Grand Jury to request a subpoena for banking records of Alan W. Beaman's accounts at Bell Federal Savings and Loan. I also requested a subpoena for the AT&T trap and trace division in order to identify the truncated calls coming into the victim's apartment. Both requests were granted.

After returning to the Normal Police Department, I faxed the subpoena's to AT&T and Bell Federal Savings and Loan. I followed up the fax by mailing out the hardcopies via registered mail.

At approximately 2:30 pm, John Brown and I made contact with Chris Carbone on the IWU campus. I asked Chris if he would be willing to speak with us for a little while and he agreed. We then transported Chris to the McLean County State's Attorney's office and began an interview in Lt. Brown's office. I began by informing Chris that he was still

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
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Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NO. POLICE SUPPLEMENTAL CASE REF.

Page of Case #  
26 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

a suspect and therefore, I needed to advise him of his Miranda rights. I advised Chris of his rights and asked if he understood his rights to which he stated, "yes". I then asked if he was willing to waive those rights and he agreed he would. I began by asking Chris to tell me about himself. Chris talked for about 15 minutes about himself and then began to talk about Alan. We continued to talk for about another 30 minutes and then brought up the issue of the polygraph test. Chris stated that he refused the test because he was unsure where we were going with the interviews. After talking for an extended time regarding the polygraph, Chris stated that he had no problem with the polygraph but would prefer to talk with his family first. Chris stated that he would get back with Lt. Brown next week regarding whether he would take a polygraph or not. After our discussion, Chris was driven back to his dorm on the IWU campus.

On 09/24/93, I had contact with representatives of Bell Federal Savings and Loan. They informed me that Alan Beaman had made a deposit of \$400 at approximately 1011 am on Wednesday August 25, 1993. They further advised that the transaction occurred at the Rockford Illinois branch office and that the transaction was captured on video tape. They agreed to follow up our conversation by mailing copies of the transaction and the video tape to our department. There were no vehicle descriptions obtainable by the video tape. It was also confirmed that Alan Beaman did not have an ATM card.

On 09/25/93, I obtained facsimile copies of the records from Bell Federal. The records show that Alan made a deposit of \$400 on 8/25/93. That deposit was comprised of \$300 cash and a \$100 check from Barry & Carol Beaman (Check #2387).

On 10/11/93, I received the video tape from Bell Federal Savings and Loan. I took the video tape to the First of America bank in Bloomington and reviewed it's contents. After identifying the frames in the video containing Alan Beaman's picture, I made several print-outs of the frames. I also confirmed that the video showed Alan Beaman entering the bank at 10:09:22 on 8-25-93 and remaining there until 10:11:43 on the same date. The tape was placed into evidence at the Normal Police Department and the print-outs were placed with the rest of the report.

On that same date, I also reviewed the copies of Alan Beaman's account statements for the period from June 2 through September 1, 1993. There was nothing of significance in the statements.

On 10/12/93, Kenneth Frankenberry, a polygraph operator from the State Police Crime Lab in Rockford, IL, agreed to come to NPD to administer three polygraph tests. At 0945 hrs, Christopher Carbone arrived at NPD as requested. Christopher was given a polygraph test and passed with no notable problems. An attempt was made to get Larbi

Officer's Name & ID#:                      Date & Time Report Typed                      Supervisor's Name & ID#:                       
10-January-94 1600

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Assigned Investigator:                      Status:                      Booking #:                       
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NO. 1 POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
27 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

Murray to take a polygraph exam at 11:00 that same date but Larbi stated he was not available at that time. The third appointment was reserved for Alan Beaman, should he choose to take the exam.

On that same date, Lt. Brown obtained a search warrant to collect body fluids from Alan Beaman's body. Lt. Brown and I made contact with Alan Beaman on the campus of Illinois Wesleyan at approximately 1200 pm and asked him to accompany us to the hospital. Alan asked at first if he could go after class and we informed him that he was under the effect of a court ordered search warrant to obtain body fluid and hair samples. Alan agreed to come willingly and we escorted him back to my squad car. After the three of us were in the car, I advised Alan of his Miranda rights by reading them straight from a warning card that was provided to me by the Normal Police Department. After verifying that Alan was aware of his Miranda rights, we transported him to the Brokaw emergency room.

After arriving at Brokaw, Alan was registered and we waited in a small waiting area until a room became available. After waiting for approximately five to ten minutes, we were escorted back to an examining room and prepared to collect the samples listed on the search warrant. The attending nurse was Ron Bartlett. We began by opening the collecting kit, supplied by Brokaw E.R. and sorting what items were needed. The first sample taken was saliva, following by head hair samples, blood, and ending with pubic hair samples. The blood sample was drawn from Alan's right forearm by Ron Bartlett. The saliva packet was moistened and placed in the collection package by Alan Beaman. The hair samples were plucked by Alan Beaman from the various parts of his head and pubic region and placed in the collection envelopes by Alan Beaman. The various collection envelopes were sealed in my presence as was the entire collection package. After all seals were placed and signed, the package was turned over to me by Ron Bartlett and we then transported the package and Alan Beaman to the Normal Police Department. After arriving at the Normal Police Department, Alan was taken to the booking area and his fingerprints and photograph were taken. After we concluded in the booking area, we escorted Alan back upstairs to the Juvenile Detective's Office. After arriving in the office, I took a seat at my desk and asked Alan to have a seat next to my desk. Lt. Brown took a seat behind Alan in order to observe the conversation. I verified that Alan remembered his rights and that he understood his rights. I then advised him that the effect of the search warrant was completed and that he was free to leave at any time. Alan stated that he understood. I informed Alan that we had been talking to numerous people regarding this case and that I would appreciate the opportunity to speak to him about the matter. Alan agreed and told me to go ahead and

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 10-January-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: Freemeyer #694 Status:  Active  Suspended  Fail to File Complaint Booking #: C 281  
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NO. 1 POLICE SUPPLEMENTAL CASE REF

Page of Case #  
28 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

ask the questions that I had to ask.

I began by asking Alan about any personal habits that Jennifer maintained. Alan stated that she smoked clove cigarettes, drank Bud Light beer, hated condoms, and liked watching "L.A. Law." I asked Alan about bars that Jennifer used to frequent and he listed The Gallery, Kilarney's, Rhino's, and Rocky's. Alan stated that Jennifer liked listening to "Pearl Jam" and worked for the Vidette and "Inside Edge" as a writer. Alan stated that Jennifer had a lot of problems in her life and that she did not seem to like herself much. Alan stated that she referred to herself as "Jade". We talked for several more minutes regarding Jennifer's habits and recent hang-outs.

As Alan became more comfortable with the conversation, I began to direct the topic towards his relationship with Jennifer. Alan openly admitted that their relationship was very unstable. Alan stated that they broke up about 18 times in one year and that there was a lot of psychological battles that would take place. Alan stated that he would never hit Jennifer, citing that she had been hit enough by her parents. When Alan felt the need to fight with Jennifer, he stated that they would have psychological battles were one would mention the others past boyfriend/girlfriend as a way to irritate the other. Alan stated that Jennifer would always win the psychological battles. While we were talking, I mentioned to Alan that it sounded like Jennifer "really raked him over the coals" to which he agreed. He further commented on a time that she had sexual intercourse with Mike Swaine in the Sig Chi basement during the exact time that Alan was driving to Rockford to obtain marijuana for her. Alan made it clear that she was much less than faithful to him and that she took everything he had to give leaving him "a hollow fucking shell." As we talked, Alan would change the tone of his voice, speaking first in a normal tone and then reducing his voice to a low whisper, then back to his normal voice. At one point in the conversation, Alan's eyes began to tear up and Alan sat back in his chair and stated, "What do you want me to say, I've told you everything." At that point, I explained to Alan that we wanted him to take a polygraph test. I told Alan that if he has told us everything, then he should have nothing to fear from the polygraph test. I informed Alan that we had an operator on hand and that the test could be administered immediately. Alan stated that he did not want to take the test because he did not trust machines. I explained the test further to him and he stated that he would check with his lawyer and then get back with me. After a few more minutes of talking, I called a break and Alan and Lt. Brown stepped outside for a cigarette.

After their return, I asked Alan if he was willing to talk for a while longer. Alan agreed and we continued our conversation. I asked Alan if he would write out a

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694 Active Suspended Fail to File Complaint  
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NO. 1 POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
29 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

schedule of his activities during the week of August 23 through August 27. Alan agreed and I handed him a piece of paper and a pencil. I asked Alan to begin by writing the days of the week on the left hand side and then to fill in the days with his activities. Alan then wrote the days of the week on the left and began to complete each days agenda. Alan went to Wednesday first and wrote in "Church ice cream social 7:00", "rehearse - Mitch Olson - choir director", "Carbone - 8:00 Dave Olson's". After filling in Wednesday, Alan went immediately to Monday and inserted, "Jen called - I hung up about 5 min." After that Alan began to skip around to several different days until he had completed the schedule.

On the schedule, I asked Alan to list the times he went to bed and the time he got up. On Tuesday, Alan reported that he went to bed about 10:00. (am) He wrote, "parents woke me up about 5 or 6". At the end of Tuesday, Alan noted, "(home 9-10 am wed)." Alan did not list a time that he woke up on Wednesday. On Thursday, he documented "9-10 am home in bed parents wake me up at 8-9." On Friday he failed to list a time he went to bed or a time he was awakened.

While writing his activities for Thursday, he stated that he remembered being at home with his parents until around 12:00 am because he was fighting with them. I asked what the fight was about and he stated that his mom was bugging him and he yelled at her stating, "Don't you think I've got enough on my mind right now!" He stated that his father was following him into his bedroom and grabbed him by the shirt. Alan stated that he grabbed his father's hand and pushed it away while stating, "Don't assault me."

After he finished his schedule, I asked what time he woke up on Wednesday and he stated that his parents woke him up at around 3:30 to 4:00 when they got home. We talked a while longer about the week in question before the interview was finally concluded. Alan stated that he would call his attorney to ask about a polygraph and then get back with us.

Alan was then driven back to his residence on the Illinois Wesleyan Campus and I returned to NPD.

On 10/22/92, after getting no return response from Alan regarding the polygraph test, Lt. John Brown and I attempted to make contact with Alan. At approximately 0820 hrs, Lt. Brown and I arrived at Alan's dorm room and I knocked on the door. I was met by Alan's roommate, Chris Carbone, and was informed that Alan was still asleep. I asked Chris to wake Alan so I could talk with him. After waiting for about five minutes, Alan Beaman opened the door and began to walk downstairs towards the door. Alan was completely dressed and had on his shoes and coat. I told Alan that we wanted to talk

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 10-January-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: Freesmeyer #694 Status: Active  Suspended  Fail to File Complaint   
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Booking #:

263 (158)

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NO. 1 POLICE SUPPLEMENTAL CASE REP

Page of Case #  
30 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

with him for a little while and he agreed. After making a restroom stop, Alan, Lt. Brown, and myself left the dorm enroute to the State's Attorney's office.

Since Lt. Brown and I had brought two separate vehicles, Alan rode to the S/A's office with me while Lt. Brown followed. While enroute to the office, I advised Alan that he was not under arrest and that we just wanted to talk with him for a while. I then advised Alan of his Miranda rights once again and verified that he understood his Miranda rights.

After arriving at Lt. Brown's office in the State's Attorney's office, We offered Alan a seat in front of Lt. Brown's desk while I took a seat behind the desk. Lt. Brown took a seat next to Alan and asked Alan if he had been advised of his rights to which Alan stated "yea". Lt. Brown asked if Alan would agree to talk with us once again and he stated he would. Lt. Brown started the conversation by talking about Alan's relationship with Jennifer Lockmiller. Alan began talking about their relationship and stated that he had bought Jennifer a cheap ring at Mother Murphys to verify their engagement. Alan stated that Jennifer lost the ring in June. Lt. Brown asked about the last time that Alan had sex with Jennifer and he stated that it was during the last week of June and the sexual intercourse occurred at Alan's apartment. As he continued to talk, Alan stated once again that their relationship was rocky at best. Alan stated that Jennifer had broken off the relationship with him 16 times in the last year and that he broke off the relationship twice, the second time being the final time.

After Lt. Brown and Alan had talked for about ten to fifteen minutes and the subject of Jennifer's death was brought to the foreground, Lt. Brown asked Alan "what happened that day?" Alan then asked, "What day?" Lt. Brown clarified, "The day Jennifer died?" Alan's response was, "I wasn't there, I don't know." Lt. Brown then stated to Alan, "I think you do know." At that point, Alan's calm demeanor changed completely as he stood up and yelled, "YOUR JUST LIKE FUCKING DANIELS". Alan then grabbed his coat from the back of his chair and bolted for the door of the office. After flinging the door open violently, Alan stormed out of the office stating "I'LL FUCKING WALK HOME!" I immediately got my keys and went after Alan in an attempt to speak with him. I headed for the outer hallway where I found him waiting for the elevator. When Alan saw me he commented, under his breath, "I'll take the fucking stairs." Alan then began to walk down six flights of stairs as I took the elevator to the lobby. After exiting the elevator, I observed Alan walking out the front door of the Law and Justice Center. I yelled to Alan that this was his best chance to talk. After turning once to look at me, he continued to walk away.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_  
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Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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POLICE SUPPLEMENTAL CASE REF

Page of Case #  
31 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

On that same day at approximately 1430 hrs and 1530 hrs, I attempted to make contact with Alan Beaman once again and was unsuccessful.

At 1500 hrs on that same day, I had another interview with Michael J. Swaine. The interview took place on the front step of Michael's residence with only Michael and myself present. I asked Michael if he could remember when the sheets to Jennifer's single bed had last been changed. Michael stated that he remembered thinking to himself that Jennifer changed the sheets for him on August 18. Michael stated that he was almost positive the sheet was changed on August 18, but could not testify to that recollection. Michael stated that he and Jennifer had sex on the sheets on August 19 but he did not recall any stains as a result of that activity. I asked Michael if he remembered any stains at all being on the single bed bedsheets before he left on August 22 and he stated that he did not.

I asked Mike if he recalled Jennifer giving anything to Alan during the time that they were dating. Mike stated that Jennifer had given him a Kappa Kappa Gamma coat which Alan would wear proudly. Mike believed he wore the coat more because of it's affiliation with the Kappa Kappa Gamma Sorority in general than with Jennifer. I asked Mike if he had ever seen Jennifer with a guitar and he stated "no", he then commented that Alan has a guitar.

I asked Mike if he could remember the last time that Alan would have been in Jennifer's bedroom. Mike stated that Alan probably slept with Jennifer for the last time around the end of June. Mike added that Jennifer had been withholding sex from Alan since June 11, 1993. Mike knew of one contact between Alan and Jennifer on July 25th when Alan talked to her. Mike stated that Alan got angry, ripped up some letters, and threw them at Jennifer.

Finally, I asked Mike about the alarm clocks once again that were located in Jennifer's bedroom. Mike stated that the brown clock was his and the white clock was Jennifer's. I asked if Alan had an occasion to touch Jennifer's clock and he stated that Alan used to spend the night over at her place quite frequently. The last time Alan would have stayed over would have been in late June. I asked if Mike had any occasion to touch Jennifer's clock and he stated that he used to set both clocks each night and was usually the one to shut them off in the morning.

After concluding the interview, I returned to NPD.

On 10/27/93, I attempted to make contact with Alan Beaman once again. After trying to reach him at his 10:00 am class and being unsuccessful, I went to McPherson Hall to check at the theater shop. After obtaining approval to check the shop from the

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
10-January-94 1600

Solvability Referred to: Property Recovered: Value:  
C 285

Assigned Investigator: Status: Booking #:  
Freemeyer #694 Active Suspended Fail to File Complaint  
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NO POLICE SUPPLEMENTAL CASE REF

Page of Case #  
32 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

building secretary, I entered the shop area where Michael Swaine, Alan Beaman, and several other individuals were working. Upon my arrival, Alan had his back to me and was speaking with another person. When he concluded talking and turned to see me waiting, Alan pointed outside with a gesture to have me follow and headed for the exit door. Alan and I then stepped out the back door of McPherson Hall to the east side of the building.

I initiated the conversation by telling Alan that I did not want him to accompany me to any other place as before. I told Alan that he was not in custody and that I merely wanted about five minutes of his time in order to talk. I then took a seat on a small wooden bench located next to McPherson and asked Alan to have a seat beside me. After Alan lit a cigarette and took a few deep breaths, he sat down next to me on the bench.

I informed Alan that I was not going to beat around the bush with him and I was not going to mince words. Alan was informed that he was going to be arrested for Jennifer's death at one point or another. I told Alan that probable cause for an arrest already existed and that we were simply waiting for finalized results from the lab before we arrested him and started the timeclock. At that point, Alan once again experienced a mood swing and stood up abruptly and began walking away while swearing at me and the situation. I then stated, "Go ahead Alan, walk away, that's how you seemed to handle everything in this case." I continued to talk to Alan and convince him that walking away was not going to solve the situation. Alan began to pace back and forth for a few minutes before he eventually came back and sat down next to me again.

Alan and I then proceeded to carry on a conversation for the next ten to fifteen minutes. I informed Alan that we had Jennifer's phone records verifying that she had called him 28 times on August 22. I informed Alan that we had copies of his letters which vividly displayed his infatuation for Jennifer and his deep sense of despair when she would break up with him. I explained that we had checked his alibi and he had an unverifiable opening in that alibi at the same time that Jennifer was killed. I informed him that we had a copy of the video tape showing him at his bank at 10:11 am on the south side of Rockford the day Jennifer was killed in direct conflict with his statement that he went straight home from work and went to bed. And finally, I informed Alan that his fingerprint was found on the murder weapon. After explaining what he was facing, I told Alan that if he wanted to talk to be about the incident and get the incident off his chest, that the State's Attorney had authorized me to tell him that we would not go for the death penalty in this case. I followed up by telling him, "But if this facade continues, we're going for the death penalty." At this point, Alan was resting his arms on his legs with his head facing the ground. After waiting a few

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
10-January-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

C 286

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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POLICE SUPPLEMENTAL CASE # \_\_\_\_\_

Page of Case #  
33 93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

seconds, Alan lifted his head and stated "But I didn't do it".

I asked Alan to give me any information that I could use to prove that he wasn't responsible for Jennifer's death. I reminded Alan that we offered a polygraph test and he refused to take it. I then reminded him that he did not even call back to tell us that he wasn't going to take the polygraph, after he said he would call us. I asked Alan if he in fact told us that he went straight home on Wednesday, August 25, after getting off work and he stated that he had in fact told us that. I then pointed out the conflict in his story that arose after we obtained a video tape of his presence in the bank on the opposite side of his place of employment from his house. When asked to explain the inconsistency, Alan simply stated, "I didn't go to Normal." I then asked Alan if he recalled telling me that he was home by himself sleeping on Wednesday until around 1530 to 1600 hrs when his parents arrived home to wake him. Alan then again confirmed that he was home by himself on Wednesday, August 25, from around 1000 or 1100 hrs until his parents arrived home at around 1530 to 1600 hrs. I asked Alan if he had anyone over to his house and he stated no. I asked if he made any phone calls that morning and he stated "no". Once again, I asked Alan to give me any way possible to clear him and he stated that he couldn't.

I then confronted Alan one more time and clarified that he had a definite motive, to which he agreed, he had no alibi for the time of Jennifer's death, to which he agreed, he had an opportunity for the crime since Jennifer knew him, to which he agreed, and that his fingerprint was on the murder weapon, which he acknowledged. I then told him that he would be best off to talk with me now and to get this entire ordeal over with before we have to go to court and ask for the maximum penalty, that being death. Alan once again paused before looking straight at me and stating in a low, soft voice, "I didn't do it."

Before I left, Alan stated that he would take a polygraph if I called his lawyer and got his lawyer's approval. I stated that I would contact his attorney and get back in touch with him. I then asked Alan if I could contact him at his dorm room and he stated "yea".

I then left the area and returned to the State's Attorney's office.

On 10/29/93, I met with Michael J. Swaine once again and escorted him to Brokaw Hospital where he agreed to give voluntary samples of blood, saliva, pubic hair, and head hair to be used for comparison with the samples taken from the scene. After obtaining the samples, they were sealed into an evidence kit and turned back over to my custody. I then returned Michael to his residence and then secured the evidence kit in the evidence refrigerator at NPD.

On 11/1/93, I transported the evidence kit containing Michael J. Swaine's samples to

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: 287

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
34 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

the Morton Crime Lab where I turned them over to Pat Orr of the serology department.

On 11/03/93, I obtained a court order authorizing a third bodywire in this case. The purpose of the bodywire was to tape a conversation between Alan Beaman and myself in which we expected Alan Beaman to verify that he was home alone from 10 am on 8/25/93 to 4 pm on that same date.

On 11/05/93, I met with Tech Services at the Normal Police Department. After having the bodywire attached to my body, I drove to IWU to attempt to speak to Alan Beaman. Pat Keen provided surveillance along with Detective Belcher. I made contact with Alan Beaman after he finished one of his classes and we went to the quad to talk. During the conversation, Alan stated that he was home alone from 10:00 am on 8/25/93 until 4:00 pm when his mother returned from school. Alan stated that his father returned home sometime between 5pm to 6pm. At that time, I asked Alan if he had any other way that we could clear him of this case and he stated "no".

Lt. Brown and I were contacted by John Revis shortly after a reward was offered in this case. We met with John Revis at the McLean County Sheriff's Dept. and began an interview. John stated that a man by the name of Jason Garinger might be a possible suspect in this case. John stated that Jason Garinger lives in Rutland, Illinois. John stated that Jason was a "real psycho" and that he was always talking about strangling people. The reason John felt that Jason was a suspect was because he knew Jennifer and that Jennifer had told him a while back that Jason came over. John couldn't remember when Jennifer had said this but felt it was several months earlier. John also talked about Alan Beaman. He stated that he sold a lot of marijuana to Beaman and also smoked a lot of marijuana with Beaman. John stated that he used to go places with Jennifer and Alan would get very upset over them being together. John stated that he was the reason for the fights between Jennifer and Alan during the summer of 1992. John stated "Alan was very jealous".

When asked about Jennifer's personal habits, John began to describe her drug use. John stated that Jennifer was always asking for pills. Percadin and Darvacet were two of the pills that John recalled Jennifer asking for. He stated that Jennifer also asked for speed, snortable, edible, or smokable. Revis recalled one evening when he obtained cocaine and he and Jennifer smoked it on top of the Law and Justice Parking garage.

Revis also brought up the name of Terry Boyd once again and stated that he knew

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
1-July-94 1600

Solvability Referred to: Property Recovered: Value:  
C 288

Assigned Investigator: Status: Booking #:  
Dreesmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page 35 of Case #  
C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Jennifer. He stated that Terry went to Jennifer's apartment with him once along with Josh Hill. When they arrived, they heard someone inside telling someone else not to answer the door. After returning outside, Jennifer came to the window and told him to come back after the weekend. He then saw a guy known to him as "Bubba" through the window and the man asked him who he was and what he wanted.

After the interview, John was transported back upstairs and Lt. Brown and I left the Sheriff's Dept.

On 11/10/93, at about 1400 hrs, a meeting was held at the Morton Crime Lab to discuss this case. Present for the meeting was Assistant State's Attorney Jim Souk, Assistant State's Attorney Kari Mason, Lt. John Brown, Pat Orr of the serology department, John Derker of the latent prints department, Ken Knight of the microscopy department, George Whitlat who directs the forensic lab, and Susan Johns who is the director of research and development for the forensic lab. We began the meeting by reviewing the facts of the case to determine if any other types of evidence could be found. After reviewing the case, we received a report from each laboratory department regarding their findings as of that date. Susan Johns stated that the DNA testing would begin soon and a result should be obtained in four to eight weeks from that date. Susan stated that if we could obtain blood samples from Jennifer Lockmiller's parents, a better DNA result could be obtained. John Derker also suggested that we submit Jennifer's shoe that was found in the hallway for possible prints.

On 11/11/93, I drove to Decatur and met with Norma and Richard Lockmiller, Jennifer's parents. We met at their doctor's office and blood samples were taken. The samples were drawn by Benita Baker, the RN working at Dr. Newlin's office. They were then packaged in a State Police Evidence kit. I also received a photograph from Norma Lockmiller which was taken in 1989. The photograph was a picture of Jennifer's dorm room at IWU and depicted the clock that was used in her death. I also asked Norma Lockmiller if she recalled Jennifer doing any laundry while she was home in August. Norma stated that she did numerous loads of laundry for Jennifer the last time she was home but could not remember what type of laundry it was. When asked about Jennifer's black bedsheets, Norma stated that she remembered Jennifer having black sheets but could not verify if she washed them or not while she was last home. After obtaining the necessary blood samples, I delivered them straight to the Morton Crime Lab and deposited them into the Serology evidence refrigerator.

On 11/16/93, I drove to Peoria in an attempt to verify Stacy Gates alibi during the time of the homicide. I went to his place of employment, Harrison School, and spoke with the school principal, Miss Aurthur Perkins (672-6522). I explained my purpose of being at her school and Miss Perkins stated that Stacy had informed her of the

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
1-July-94 1600

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Booking #:  
Freemeyer #694 Active Suspended Fail to File Complaint C 289  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
36 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

situation. I asked Miss Perkins if she could verify Stacy's presence during the week of 8/22/93. Miss Perkins pulled the weekly attendance sheets for that week and made a copy for our investigation. Miss Perkins then explained how the sheet was set up and verified that Stacy Gates was present at Harrison School on Monday through Friday from 8:00 am to 4:00 pm. I then left Harrison School and returned to NPD.

When asked about his whereabouts on August 25, 1993, Michael Swaine stated that he was working at York High School at the bookstore until 3:30 when he got off work and walked back to his residence. On 11/17/93, I attempted to verify driving time from Michael Swaine's residence to Jennifer's apartment. I left from the driveway at [redacted] at 9:52 am and drove straight to Michael Swaine's residence in the most direct route I could find. By driving the speed limit the entire way, I arrived at Michael Swaine's residence at [redacted] in Elmhurst at 11:57 am. The trip took two hours and five minutes to complete. I then parked my vehicle in front of Michael Swaine's residence and walked to York Community High School at 355 W. St. Charles Road in Elmhurst. I left my vehicle at 12:20 pm and arrived at the school on foot at 12:33 pm walking a normal to moderate pace. The .8 mile walk took 13 minutes. While at York Community School, I spoke with the building principle, Dr. James W. Nelson. Dr. Nelson stated that he remembered Swaine from his high school days and stated that the scheduling records kept by the bookstore manager, Virginia Betteridge, would be kept at the Unit's Business Office located at Hawthorne School. After getting directions from Dr. Nelson, I walked to Hawthorne school and obtained a copy of Michael Swaine's work schedule for the week of August 22, 1993. The schedule showed Swaine working on the 25th for seven and one half hours. Those hours were reported to be 8:00 am to 3:30 pm. I then returned to Swaine's residence. I left Swaine's residence at 1:33 pm and headed for Jennifer's apartment at [redacted]. For this trip, I was traveling five to ten miles over the speed limit to attempt to approximate a true travel time. I arrived at [redacted] in Normal one hour and fifty-one minutes later at 3:26 pm.

Based on the above findings, The total time for Michael Swaine to walk home from work, drive to Jennifer's apartment, then turn immediately around and return home, would have been 4 hours and 10 minutes. If Michael Swaine got off work at 3:30 as his supervisor can verify, then drove to Normal and back, he would not return home until 7:40 pm. However, phone records reflect a call from Swaine's residence in Elmhurst to Jennifer's apartment at 7:17 pm. This time corresponds to the message left on Jennifer's answering machine by Michael Swaine. This segment of the investigation proves to further clear Michael Swaine of the homicide by eliminating his opportunity.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694 Active  Suspended  Fail to File Complaint   
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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
37 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

On 1/12/94, I went to Illinois Wesleyan University to speak with Samone Weissman. Samone is the current girlfriend of Alan Beaman. I made contact with Samone at 0905 am by phone and asked her to meet me in the lobby of her dormitory, that being [REDACTED]. Samone agreed to speak with me and met me shortly thereafter in the lobby. I introduced myself as a Detective with the Normal Police Department and asked if she would be willing to sit down and talk for a while. Samone agreed and we went into the [REDACTED] lounge where we took a seat on a couch to talk. I informed Samone that she wasn't obligated to talk with me in any way and she stated that she would answer any questions that she felt were appropriate.. She then stated, "You want to talk about Alan don't you".

I began by asking Samone to describe Alan Beaman for me. She stated that Alan was a very gentle person and that he was incapable of hurting anyone. She stated that she has only known Alan since September but that she has never seen him angry or violent. She stated that Alan had never even gone as far as to comment what he would to certain people if he "had them in a dark alley". I asked Samone if Alan ever talked about Jennifer to him. Samone stated that they don't talk about Jennifer since it is such a touchy subject. She stated that he mentioned her once or twice but prefers not to talk about her. I asked Samone if she thought it was strange that Alan dated Jennifer for a year and then could just shut off his emotions for her. Samone stated that she understood that Jennifer was less than faithful to Alan and he could therefore forget her easily.

After talking for a while, I asked Samone about her sexual activity with Alan. Samone was willing to talk about their sex life and stated that everything was pretty much normal. I asked if Alan ever wanted to explore new sexual options and Samone stated that he commented to her that "He could never watch Basic Instinct with me." When asked to explain what she meant, she recalled a scene in the movie where the male actor's hands were tied to the bedpost while the female actor was on top of him. While in this position, they were having sex and the female reached back, grabbed an icepick, and stabbed the male in the chest. I asked Samone if Alan told her this happened with Jennifer and she stated yes. Alan had told Samone that she tied him to the bed and was on top of him. She then stretched back several times which Alan thought to be synonymous with reaching for an object. This was the only unusual instance regarding sexual actions between Alan and Jennifer that Samone could recall hearing from Alan.

At the conclusion of the interview, Samone still believed that Alan was incapable of hurting anyone. She stated she was unaware that Alan had broken into Jennifer's apartment and was unaware of the large amount of phone calls between Jennifer and Alan.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed: 1-July-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: Freesmeyer #694 Status: Active Booking #: C 291  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
38 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

however, she could not believe that Alan could be capable of murder. After thanking Samone for her time, I left [redacted] to return to NPd.

On 2/5/94, at approximately 1015 hrs, I received a call from the Normal Police Dispatcher. They advised Norma and Richard Lockmiller had received a prank call and were wanting to talk with me. I called the Lockmiller's from my residence and talked with them about the phone call. Richard Lockmiller informed me that they were gone from about 5:15 pm to about 10:00 pm on that same date and had received a call on their answering machine during their absence. The caller seemed to be a female voice and it was the Lockmiller's impression that the caller was talking to someone else in the background of the caller's location. The caller stated that the Lockmiller's had an answering machine and then the caller repeated the Lockmiller's phone number. After repeating the Lockmiller's number, the caller spent the next several minutes playing a song into the mouthpiece of the phone. The Lockmiller's stated that they believe the title of the song to be "Can't get you out of my mind." The caller then terminated the call. I informed the Lockmiller's that I would attempt to get a trace on the line to determine where the call came from.

Immediately after hanging up with the Lockmiller's, I contacted a phone operator for the Decatur area. The operator informed me that the Decatur area used Illinois Bell as a local service company. I then called the 1-800 operator to obtain the number for Illinois Bell Security. The number given to me was 1-800-451-2761. I called the number and was told that I would have to call the Illinois Bell Security Office at 1-312-727-5411. I then called that number and received an individual from the answering service. I explained the situation to the answering service employee and stated that I needed a trace put on the line as soon as possible to determine where the incoming call came from. The person stated that there was nobody in the office on the weekends and that I would have to call back on Monday between 9am and 5 pm. I explained the urgency and stated that I wanted to catch the records before they were dumped and she again told me that they could not help me at that time and that I would have to call back and talk with Larry Renfro on Monday morning. I then asked if the records would still be available on Monday and she stated that they would.

On Monday morning at approximately 0900 hours, I called 1-312-727-5411 and asked to speak with Larry Renfro. They stated that Larry was not in and gave me another representative from the security division. I explained the circumstances to them and asked for a listing of all calls coming into that residence on 2-5-94 between the hours of 1715 and 2200. The representative stated that they no longer had those records an

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: 292  
Freesmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
39 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

that they only hold incoming calls for 24 hours. I advised her of the information I received from the answering service on Saturday and she stated that she could not help me any further since the records had been destroyed.

After talking with Illinois Bell, I made contact with the three major long distance carriers in our area and asked for searches for any calls going to the Lockmiller's residence between the time frame in question. The people I talked with were as follows:

AT&T	MCI	Sprint Communications
Warren Volk	De Ogle	Diane Atkins
1-800-648-4936	1-800-877-7330	1-214-701-1221

After thorough checks of their records, all three companies verified that they had no calls going to that residence during that time frame. AT&T stated they had a call connecting to that residence at 10:33 pm for about 5 minutes. After asking, they confirmed that it was a call from my residence during the time that I returned the Lockmiller's call. According to the companies above, they stated that there was a 90% to 95% assurance that their searches did not miss an incoming call. This leads to the final conclusion that it was probably a local incoming call which would not appear on any long distance searches.

On 02/09/94, I drove to Morton and met with John Dierker of the Illinois State Police Crime Lab. John explained the latent print findings once more and described where he located two of Alan Beaman's prints on the clock and four of Michael Swaine's prints on the clock. John stated that he had found a palmprint on the kitchen garbage bag found in Jennifer's apartment and had verified that it did not belong to Michael Swaine. He stated that if he was provided with a palmprint of Alan Beaman he could compare it with the palmprint on the bag. John released all evidence from the Latent division regarding the Lockmiller case to me and I transported it back to Normal where I turned it over to our evidence custodian, Det. David Warner.

At approximately 1415 hours on that same date, I went to Alan Beaman's residence at [redacted] on the IWU campus. I made contact with Alan and asked if he would be willing to accompany me to the Morton Crime Lab for palmprints. Alan agreed and we confirmed a date of 2/16/94 at 0900 hrs. As I was walking down the stairs to leave, Alan made a comment causing me to stop and face him. Alan then made several statements similar to "I've been freaking out on you lately, I'm sorry. I've treated you poorly

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: 293  
Freemeyer #694  Active  Suspended  Fail to File Complaint  
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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
40 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

and I shouldn't have, I apologize." I then told Alan that I understood and that I would pick him up at 9:00 am on Wednesday. At that point I left the residence.

On 2/10/94, Lt. Brown and I met Rob Miller at his girlfriends's residence located at [redacted] in Bloomington. Rob was just getting ready to leave and we talked with him in the driveway to the residence. Rob agreed to meet with us at 1330 hrs on that date and I made plans to pick him up at that location at that time. We asked Rob where we could locate his girlfriend Shane and he stated that she was working at the IWU Rat lab until 7:00 pm.

We then met with Shane (Last name unknown) at the Illinois Wesleyan University Rat Lab. We introduced ourselves to Shane and asked if she would be willing to talk with us for a while. Shane agreed and we went into a conference room located on the lower level of Stevenson Hall at IWU. I began the interview by asking Shane what she could tell us about Jennifer Lockmiller. Shane stated that she really didn't know Jennifer that well but she did live in the apartment over Michael Swaine and Alan Beaman over the summer. She stated that she would see Jennifer around Alan's apartment but really didn't talk with her much. I asked if she had ever seen Alan loose his patience with Jennifer and she recalled one instance. She state that she remembered Alan barging into her apartment on one occasion yelling for Jennifer as if he thought she was in Shane's apartment. Shane stated that Jennifer had left without telling Alan goodbye and he became very upset and loud about the incident. Shane stated that Alan was a very melodramatic person and that he blew everything way out of proportion. Shane remembered times when Alan would get upset and sit on the front stoop of the apartment drinking from a bottle of whiskey until he was inebriated. Shane stated that Alan had called her sometime after Jennifer's death and asked if she knew where he could get some drugs. She recalled Alan making the statement, "Life is getting too boring, I've only lived once, ....." Shane stated that she doesn't associate with Alan very much anymore.

After concluding the interview, we left the rat lab and returned to the McLean County State's Attorney's office. It was the opinion of the investigating team that any direct contact with Beaman in the future should be done with the aid of a bodywire in the event that he would make further incriminating statements. I made contact with the Illinois State Police Technical Services Division and spoke with Pat Keene once again. Pat agreed to meet me at MPD on 2/16/94 at 0800 hours to provide his assistance with a bodywire. In order to get a clear recording on the wire as Alan and I traveled to Morton and back, I made arrangements to get a newer unmarked squadcar to reduce the

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: 294  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
41 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

road noise in the cabin area. I then went to Rebbec Motors in Normal and spoke with the sales manager, Doug Haas. After explaining the circumstances, Doug agreed to loan our department a new buick for tech services to use in following Beaman and I to Morton. The purpose of the loaner was to reduce the cabin volume in the trail car so that the transmitter could be more easily heard and understood. Arrangements were made to pick up the car on 2/15/94.

At 1330 hours, I met Rob Miller at his girlfriend's residence once again and took him to the State's Attorney's office for an interview. Rob stated that he was once part of the group that Alan ran around with but has changed his lifestyle since he joined the ROTC. Rob stated that he had been around Alan at time when he got high and that Alan would sometimes get depressed and just walk off by himself. Other times, Alan would get very happy. Rob stated that when he first knew Alan, alcohol was a bigger problem for Alan than drugs. When asked about drug activity, Rob stated that he knew Alan about involved but Rob has not been a direct part of it for a while. When we asked Rob about his roommate, Linus, Rob agreed that Linus was doing drugs and possibly selling drugs out of his dormroom. Rob technically shares a room with Linus but Rob stays at Shanes' house most often to avoid the situation. I asked Rob what would shake Alan up the most and he stated that if a girl were to break up with him, that would set him off. Pat also described Alan as being very melodramatic and exaggerating all his problems as a way of getting attention. After talking for about 45 minutes, I returned Pat to his girlfriend's residence.

On that same date, I completed a request form for an eavesdropping order and it was submitted to Judge Prall. Judge Prall approved the order allowing for the use of a bodywire from 2/16/94 at 6:00 am to 2/26/94 at 6:00 am to capture conversation between Alan Beaman and myself.

On 2/11/94, I called and informed John Dierker that Alan and I would be arriving on 2/16/94 at approximately 0945 hrs and that I would have Lt. Brown call from a cellular phone just prior to our arrival so that we could limit the number of people that Alan and I have contact with inside the Crime lab.

On 2/15/94 at approximately 1750 hrs, Ross Minion came to NPD and requested to speak with an investigator in reference to the Lockmiller Homicide. Ross and I sat down in my office and we began to discuss the information he wished to share.

Ross stated that he was around John Revis the night before while Revis was high on drugs and that Revis told Ross that he was the one that killed Jennifer Lockmiller. Ross stated that he just wanted to get this thing over with and that is why he is

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
42 93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

coming forward with the information on Revis.

I then proceeded to inform Ross that this was the second or third time Revis had told someone he killed Jennifer when in reality he was incarcerated in a Florida jail. Ross stated that he was unaware of Revis' incarceration and then seemed to understand why Revis had been disregarded as a suspect.

While talking further, Ross stated that he had filed a complaint with Illinois Wesleyan University in reference to the people that have been surveilling his house. Once again, I explained to Ross that there was no surveillance on his house by our investigative team and that if we wished to speak with someone we would approach the house and knock on the door. After addressing Ross' concerns, we began to talk about in depth about the Lockmiller case and about Alan Beaman. Ross stated that he knew Alan was the prime suspect and that he wasn't sure about any possible involvement by Alan in Jennifer's murder. Ross confirmed that Alan's marijuana use has increased over the last several months. He stated that Alan used to use marijuana every other day or so but is now using marijuana every day. Ross explained that Alan uses marijuana as a way to calm his nerves and to even out his moods. I asked Ross if Alan ever talks about Jennifer or her death to anyone and he stated that he does not. Ross informed me that he sees Alan about once a week and the subject is never brought up.

As we continued to talk, Ross asked if I knew anything about Alan's past. Ross stated that Alan spent a lot of his childhood locked in a closet while he was living at home. He stated that he is unaware of any physical abuse but feels that things were certainly not normal at home. It was Ross's opinion that Alan was not capable of homicide but he stated that he had seen Alan acting as a child on many occasions. Ross recalled an instance just prior to Mike and Trish Mackey's wedding when Alan laid on the ground and pounded his fists and feet on the ground like a child. It was Ross's opinion that when Alan feels insecure, he reverts to a child-like behavior.

After we finished talking, I asked Ross if he would keep me informed of anything that he hears on campus regarding Lockmiller. Ross agreed and stated that he and several of his friends want to get this thing over with as soon as possible.

On 02/16/94 at approximately 0815 hrs, I met with Pat Keene and Kenneth Parker of the ISP Technical Services Division. We met at the Normal Police Department and they installed a body wire on my person in accordance with the latest court order that we had obtained. At approximately 0900 hours, I left the station in route to Alan Beaman's residence. Lt. Brown, Pat Keene, and Kenneth Parker followed in the borrowed vehicle and monitored the conversation over the transmitter attached to my side.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: 296  
Freemeyer #694  Active  Suspended  Fail to File Complaint  
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NO. POLICE SUPPLEMENTAL CASE REP.

Page of Case #  
43 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

I pulled in front of Alan's apartment at about 9:05 am as Alan was coming down the stairs. Alan took a seat in the front of my vehicle and we proceeded to the Morton Crime lab. As we started the trip, I reminded Alan that he was not under arrest. However, since it would be hard for him to walk away while we were driving, I advised Alan of his Miranda rights and he stated he understood his rights. I then asked Alan if he would be willing to talk on the way to Morton and back and he agreed.

We conversed for the entire trip to Morton and covered various topics including his childhood and his past and present drug use. Alan stated that he is currently using marijuana four to five times a week. When asked about acid, Alan stated that he still "trips" (uses) occasionally and that he had only had one "bad trip". Alan recounted the fight that he got into with his parents on August 26, 1993 and stated that it was the one and only time that he had ever become physical with his father.

After we arrived at the Morton Crime Lab, we were met by John Dierker and were led to the conference room where they had a fingerprinting table set up. After the appropriate introductions, John spent the next hour taking complete fingerprints and palmprints from Alan Beaman. During this time there was small talk and instructions given to Alan as to how to proceed with the fingerprinting. There was nothing of significant value said during the fingerprinting time.

After the fingerprinting process was completed, Alan and I returned to the car and began the return trip to Bloomington/Normal. As we were leaving Morton, I asked Alan where we would find his fingerprints in the apartment. Alan stated that they would probably be on the bathroom garbage can. When asked why his prints would be there, he stated that he went through her garbage looking for evidence of birth control. I asked if he had done this often and he stated that he went through her garbage several times looking for evidence that she was cheating on him. In an indirect way, Alan confirmed that the last time he would have had the occasion to touch Jennifer's clock would have been prior to July 2, 1993.

As we continued home, Alan mentioned that there was a black truck sitting outside his house on the night he was stopped in Rockford. He stated that the person in the truck was also in the Detective's office when he was being interviewed. As we talked about his interview in Rockford, he stated that he was placed under "house arrest" for three days. I asked what made him say that and he stated that he couldn't talk to anyone or see anyone for three days. I asked if that was his idea or someone else's and he stated that it was his lawyer's decision. When asked why, he stated that he was not allowed to leave the property so that if the police wanted to come and get him they would need

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NO. POLICE SUPPLEMENTAL CASE REP.

Page of Case #  
44 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

a search warrant.

I then asked Alan if there was anyway that he could help me prove that he was not responsible for Jennifer Lockmiller's death. Alan stated that he had told me everything that he could tell me. I explained to Alan that other suspects had taken polygraph and cleared themselves along with giving valid alibis. I went on to remind Alan that he could not verify his alibi and had refused to take a polygraph. Alan stated that he would ask his attorney about a polygraph and then call me back.

As we neared Bloomington/Normal, Alan stated that he had thought he made himself pretty clear that he would talk to no one but myself regarding this investigation. Alan stated that he was beginning to trust me and that if I had any further questions I could come to him and ask. After we arrived back at Wesleyan, I dropped Alan off at his apartment and returned to NPD to meet with Tech Services.

After arriving back at NPD, Tech Services removed the wire and turned over six original transmitter tapes. Pat Keene agreed to send the Nagra recording the following week after he made a cassette copy for our department.

On 2/17/94 upon my arrival at work, I found a message on my answering machine from Alan Beaman. Alan stated that he had tried to reach his attorney but that the attorney was out of town. Alan stated that he would try again when he returned and then get back to me. This marked the first time that Alan initiated contact with our department or returned a call as asked.

On 02/18/94, Det. Daniels, Lt. Zayas, and myself went to Chicago to meet with Jack Regan of the Chicago Police Department's Violent Crimes Unit. We had sent a copy of our report to Lt. Regan and asked that he review the case to see if he could offer any advise for further possible follow-up. It was believed that since their department handled a large volume of homicides each year, they might be able to suggest techniques that worked for them in the past.

We talked with Lt. Regan and one of his fellow investigators for about two hours regarding the case. Both Lt. Regan and his fellow investigator felt that our department had done everything possible as a means of solving this case. They offered a different viewpoint on a few matters and shared their reactions to the reports and interviews contained in the case files. Their main suggestion was that we continue to build a rapport between Alan Beaman and myself until he either took a polygraph exam or ended all communication with us. They felt that as long as Alan Beaman was willing to communicate with us and we were unable to rule him out as a suspect, we should continue to focus our entire effort on him. We then returned to NPD.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

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NORTH POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
45 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

On 2/21/94, At approximately 0800 hours, Melissa Klavins called NPD and asked to meet with Det. Daniels. As per an earlier agreement, Melissa was referred to me and I set up an appointment for 10:30 that morning. At approximately 9:30 am, Melissa came to NPD with her father and we conducted an interview in my office.

Melissa stated that she really didn't know much about the Lockmiller case but stated that she knew Alan Beaman and John Revis. When asked, she stated that she met Alan around February and that she sees him occasionally. She stated that she has known John Revis for about three weeks. Melissa was unable to provide much information at all but stated that she didn't believe Alan was capable of doing anything like this. I asked if Melissa knew where John Revis was staying and she stated that she didn't know but that she would probably see him soon. I gave her my business card and asked if she would have John Revis call me when she saw him. Melissa stated that she was leaving Wesleyan for good and that she could be reached at the following home address if I needed to talk to her.

Melissa Klavins (414) 332-5460  
[REDACTED]  
Milwaukee, Wisconsin  
53217

Shortly after Melissa left, I received a call from John Revis. I asked Revis why he was telling people that he killed Jennifer Lockmiller. John stated that he had not told anyone that he killed Jennifer and that he didn't think that the statement was funny at all. I explained to John that I had heard from others on the Wesleyan campus that he told them he killed Jennifer. John again denied making the statements and stated that he doesn't go to parties anymore since he is in hiding from everyone. I asked John to explain and he stated that there were several people on the IWU campus that wanted to hurt him because of things he had done. I asked if that involved ripping people off during drug deals and he stated that he did that once to Alan Beaman a long time ago. He stated that recently he had stolen a few girlfriends from people and they don't like that. He stated that a guy named Greg Golden was after him for taking his girlfriend and that Alan Beaman and Chris Carbone no longer wanted to be friends with him.

John stated that he was in a real bad predicament at the time and informed me that he had gotten Melissa Klavins pregnant and he has nowhere to go. John gave me his mother's phone number, 827-2343, and stated that if I needed to reach him for any

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
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NC POLICE SUPPLEMENTAL CASE REF

Page of Case #  
46 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

reason that I could leave a message at his mother's house and he would call me back as soon as possible.

At about 11:30 that same day, Jennifer Sieg came to NPD to speak with an investigator in reference to the Lockmiller case. Jennifer had been speaking with Det. Daniels and Lt. Fillipponi and had been referred to me for further interviews. Jennifer stated that she had recalled one item that she had not told Det. Daniels during previous interviews. Jennifer stated that while talking with Alan before break (November 1993 or December 1993) he had told her that he didn't know Swaine was living with Jennifer until the detective told him about it while investigating Jennifer's death. Jennifer stated that she didn't think it was important until she took some time to think about it. Jennifer agreed to call me if she heard anything further from Alan or anything else regarding the Lockmiller investigation.

On 2/22/94, I called Alan Beaman at his residence and asked if he had talked with his attorney yet. Alan stated that his attorney was out of town and would not return until Wednesday, February 23. Alan stated that he would call after he talked with him.

On 2/24/94, upon arriving at work, I found the following message on my answering machine.

"Yea Tim, it's Alan. Uh, I just got off the phone with my lawyer, he still says "no". So, I'm sorry, I can't go against what he says, you know, I just, I don't know what to do. I mean, your just going to have to come up with something better than that I guess. See ya later, I'm sure you'll be around again. Bye.

At about 1600 hours on that same day, Jennifer Seig came to NPD. Jennifer stated that she talked with Alan on Monday, February 21, 1994. After she knocked on the door, Alan allowed her into the room and immediately told her "the pigs are after me again". He then told her that the room was bugged and that her conversation was being recorded. He stated that he believed the phone to be tapped also. As Jennifer was standing in the room, Alan jumped across his bed and yelled "hi you assholes" towards the floor. He informed Jennifer that he would only deal with Freesmeyer because he was the only one that wasn't an asshole towards him. He then went on to tell her that the "pigs" are pressuring him into taking a polygraph. He said he had to wait until his lawyer

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
1-July-94 1600

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Booking #:  
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NC POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
47 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

"got back" (Wednesday) to ask him "whether I can take the damn thing or not". Jennifer asked him if he wanted to take the polygraph or not and he said yes, but he wasn't going to do anything his lawyer didn't want him to do. After talking, Jennifer stated that she left Alan's residence.

While talking with Detective Daniels, I was informed that there were three bags of trash that were removed from the apartment at [redacted] shortly after the body was discovered. The bags had been brought back to the Detective's office and placed in a box for safekeeping until we could determine what to do with them. On 02/24/94, I packaged the bags into paper sacks and submitted them into evidence so that they could be transported to the Morton Crime lab for latent analysis.

On 03/09/94, I visited Alan Beaman at his residence. I arrived at [redacted] at about 11:30 am and was allowed in by another resident. I then went upstairs and knocked on Alan's Dorm room. Chris Carbone answered the door and then woke Alan for me. After Alan awoke, Chris excused himself and stated that he would leave us alone to talk. Alan offered me a seat and we began to talk. I asked Alan about his lawyers decision regarding the polygraph and Alan again stated that he could not go against his attorney's advise. I asked Alan if there was anything else he could add and he stated that he had told me everything. I explained to Alan that I had exhausted all means to prove his innocence. I explained that I had initially set out to prove he was not involved but must now change gears and prove that he was. I explained to Alan that, as it stands at that point, he was going to be arrested once we finished the remainder of the lab work. I explained that he would be incarcerated on a high bond for several months until the court hearing began, would spend several more months while the court hearings continued, and would have his friends and relatives subpoenaed to court. After hearing this, Alan responded by saying "Bring it on, I've told you everything I know." I then asked Alan when he first found out that Michael Swaine was living with Jennifer and he stated that he didn't know until Jennifer was already dead. After talking for a while longer, I asked Alan if he felt I was harassing him by coming to his apartment and he responded "no". I then asked if I could come back to talk with him if i had any further questions and he stated "yea, as long as you come." I then thanked him for his time and left the dorm to return to NPD.

On 3/24/94, I called NCIC directly and requested an off-line search of any inquiries

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 1-July-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

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POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
48 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

made on Alan Beaman, the registration numbers on his vehicle, and the registration numbers on his parents' two vehicles. The off-line search would return with any inquiries made in the U.S. from the first of July, 1993, to the end of August, 1993. The number called was (202)324-6242 and I spoke with Rod Miller. Mr. Miller advised that he should have a response for me in a couple of days. The registration numbers given were "BBB 282", "LW 1057", "AAVSO 44".

On that same date, I called the Financial Crimes Enforcement Network and asked for a FinCEN Search on Alan Wayne Beaman. The search would disclose any credit cards, calling cards, bank accounts, etc. and might possibly produce other leads that could be followed in this case. I was referred to Dora Rentmeister, (217)782-6053, of the Illinois State Police and she faxed the necessary paperwork to me so that we could initiate the search.

On 3/31/94, I received a return from the U.S. Department of Justice regarding the Off-line search that I had requested. According to the off-line search, there was an inquiry on Alan Beaman's Ford Escort license plate on August 22, 1994 by the Loves Park Police Department. The next recorded inquiry was on August 28, 1994 by the Winnebago County Sheriff's Department. There were no inquiries between those times.

On 4/12/94, I received a return from the Financial Crimes Enforcement Network (FinCEN). The report did not contain any significant information that was not already known.

On 05/16/94, a meeting was held to determine the course of action in this case. Present at the meeting was Chief James Taylor, State's Attorney Charlie Reynard, Assistant State's Attorney James Souk, Lt. Frank Zayas, Lt. John Brown, Detective Tony Daniels, and myself. We reviewed the facts of the case once again and then opened the meeting up for input. When the discussion had ended, the decision had been made to effect the arrest of Alan W. Beaman for the homicide of Jennifer Lockmiller.

On 05/17/94, I made contact with the Illinois State Police Technical Services Bureau, and they agreed to assist our department with a fifth consensual overhear via bodywire. I then met with ASA Souk at the McLean County State's Attorney's office and we prepared a petition for a consensual overhear order and a petition for an arrest warrant for Alan W. Beaman. Both petitions were presented to Judge Prall and an overhear order was granted as well as an arrest warrant for Alan W. Beaman on two counts of first degree murder.

At approximately 1530 hours on that same date, I met with tech services at the Normal Police Department. After reviewing the overhear order, the overhear agent, Keith Frederick, prepared the overhear equipment and strapped it in place. After testing the

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
1-July-94 1600

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Booking #:  
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NO. POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
49 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

equipment, I proceeded to the Wesleyan University Campus to attempt to locate Alan Beaman. Keith Frederick was accompanied by Detective Warner and they also proceeded to the Wesleyan Campus in order to monitor the conversation once I made contact with Alan Beaman.

After checking numerous locations, I located Alan Beaman in the main cafeteria located in the Student Union Building. I approached a table where Chris Carbone was sitting and asked if he knew where Alan could be found. Chris stated that he had just gotten up to take his tray to the kitchen and he then pointed towards Alan's location. I located Alan and stated that I needed to talk with him. He agreed and we walked to the south side of the building. As we were walking, Alan was in a pleasant demeanor and was talking freely. After we reached the south door of the building, I led Alan over to my squad car. I then asked Alan if he would accompany me to the Normal Police Department so we could talk for a while. He asked what I wanted to talk about and I told him that I wanted to discuss this case. He asked if he could follow me in his own vehicle and I stated that I would prefer for him to ride with me. I informed Alan that he would not be coming back to Wesleyan and he asked why not. I informed him that he was going to be arrested. Alan then asked if he was under arrest and I stated that I was hoping he would come to the police department willingly so we could talk for a while. Alan stated that I would have to arrest him to get him to go with me. I then informed Alan that he was under arrest for the homicide of Jennifer Lockmiller and I placed him in custody. While I was putting the handcuffs on Alan, he saw an acquaintance walking towards him on the street. The person asked Alan "what was up?" and Alan's reply was "Spread the word, bullshit." Alan was then placed into my squad car and transported to the Normal Police Department.

While enroute to the station, I advised Alan of his Miranda rights and he stated that he understood his rights. Alan then stated "I really wish you would have done this right away so I wouldn't have wasted my entire semester."

After arriving at the station, I led Alan into my office and removed the handcuffs. I asked Alan to have a seat by my desk and readvised him that he was officially under arrest for two counts of first degree murder in the death of Jennifer Lockmiller. I then allowed him to call his attorney and stated once again that I would like to speak with him if he desired to do so. Alan stated that he was not going to talk to anyone until he was in a place where he could smoke a cigarette. I then made arrangements to get his lawyer's phone number from his wallet and also his tobacco that was taken from

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
1-July-94 1600

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

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NO. 1 POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
50 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller  
Responsible Party

him at the time he was picked up. I handed Alan a copy of the warrant and allowed him to review it's contents. After he finished reading the warrant, I allowed him to get his lawyer's phone from his wallet and his tobacco. Alan then attempted to call his lawyer and could not get an answer. He then tried a home number and could not get an answer. He then called his parent's residence in Rockford and got the answering machine. The message he left was "Mom, Dad, it's Alan. I've been arrested. Wonderful thing huh. I'm at the Normal Police station. And I'm just going to sit here until Bill gets here. So if you could get ahold of him somehow, that would be appreciated. Thank you very much, love you, bye." I then told Alan it was his call and he stated that he was just going to sit there until his attorney got there.

As I was completing the booking forms, Alan stated, "Enjoy your job while you got it, cause I'm going to take it away from ya. I'm gonna sue the shit out of this whole place. Guess who'll be fucked?" While inventorying his belongings he stated that two of his keys belonged to the university. I asked, "If the university were to ask for them, do you mind if we give them back?" Alan replied, "I'll be out of here by then."

After Alan's belongings were inventoried, we stepped into the detective's office where Alan was fingerprinted and photographed. After the process was complete, Alan and I left NPD enroute to the McLean County Jail.

While enroute to the McLean County Jail, Alan was riding in the front passenger seat of my squad car and was heard to make several statements. Alan asked "What was the last recompense for wrongful arrest the guy got awarded, two million dollars, something like that?" I responded, "I don't know, I'm unfamiliar with that case Alan." Alan's next response was "I can't wait." He then made a barely audible comment in which he referred to me as a "cut-throat fucker". I told Alan "Alan, I told you what was going on the whole time along, I never lied to you through this whole thing. I told you exactly what was going on." to which he stated "back-stabbing bastard." I told him that "last time I talked to you I told you that we were getting to a T-road." Alan replied "Your a fuckin pig just like the other pigs." He then stated "that's the law". As we got farther down the road Alan stated, "As soon as I get out you'll just come back and bust me for weed because you can .....(inaudible)". He then stated, "You gotta make a scape goat, so you find the weakest guy that nobody will support. I guess you can't fight against the system."

At that point, we arrived at the McLean County Jail and Alan was escorted into the booking area. After Alan was turned over to the correctional staff, I left the sally-

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 1-July-94 1600 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

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NC POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
51 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

port area and met with Keith Frederick where Keith stopped the overheard tape and removed the equipment from my back. I then returned to NPD.

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
53 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

the name of Alan Beaman presented themselves to the Health Department on 8/25/93.  
On June 22, 1994, I travelled to Rockford once again to verify mileages that Alan Beaman would have traveled between August 24th and August 28th. I left the driveway of [redacted] in Normal at 8:28 am and drove straight to Alan Beaman's house driving strictly at the posted speed limit. I arrived at Alan's house at 10:45 am making the trip in 2 hours and 17 minutes. The total mileage from [redacted] to Alan Beaman's residence was 139.7 miles. We then drove the routes that were given us by Alan during numerous interviews. The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes. After we completed our business in Rockford, we returned to Normal. We left Bell Federal bank at 4:43 pm and drove straight to Normal observing the speed limit. We arrived at [redacted] at 6:44 pm. We made one stop along the way which consumed 7 minutes. The return trip therefore took 1 hour and 54 minutes. The total mileage from Bell Federal to [redacted] was 126.7 miles. The trip from Bell Federal, to [redacted], and then back to Alan Beaman's house was a total of 266.4 miles. The total time for the drive was 4 hours and 11 minutes if the speed limit was observed at all times.

Within the next few days, I received a call from Carol Beaman. Mrs. Beaman stated that she was going through some receipts at home and found a receipt from the IGA store on Auburn Road dated August 25, 1993. The receipt showed a check-out time of 14:03 or 2:03 pm. Mrs. Beaman stated that she drove straight home from the store and that would have put her at home by no later than 2:15 pm. I asked why it took her this long to produce a cash register receipt and she stated that she was busy with school and didn't have time to look.

On June 27, 1994, I travelled to Rockford once again for follow-up in this case. Prior to my trip, I had called the IGA store on Auburn Road and asked what type of cash registers they were using. I was informed that the registers were Hugin-Sweda brands and was able to obtain a phone number for the service center that services the store's registers. While speaking with the representative, Heidi Gonzalez, I was informed that the Hugin-Sweda machines print an internal journal of all transactions in addition to the customer's receipt. The machine also produces a report on price changes, date and time changes, and auditor reports. I asked how long it took to change the date and time in the computer and was advised that if I had the right key she could walk me

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
30-January-95 1047

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Booking #:  
Freasmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

C05464

C 2581

C 2542

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AB002600

NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
54 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

through the procedure over the phone in a "matter of seconds". When I arrived in Rockford, I went to the IGA store on Auburn road and made a purchase. The format of the receipt that I received was similar to the receipt received by Mrs. Beaman. I observed one of the pieces of equipment on the register to be a Hugin-Sweda Slip Printer with a model #3456.

While in Rockford, I went to interview Chris Gray, Alan's grandmother. I made contact with Miss Gray at her apartment located on [redacted] road. Miss Gray lives in a retirement village with several hundred other residents. I explained the reason for my visit and asked Miss Gray if she had time to talk. She agreed and invited me into her apartment. I asked Miss Gray if she could remember back to August 25, 1993 when Carol Beaman took her to the doctor's office. She stated that she could not remember the trip as Carol takes her to the doctor quite often. I asked if Carol would have stopped to buy her any groceries or anything and Miss Gray stated "no". She followed her response by telling me to look around the apartment to see that there was no need for food since she eats in the dining area of the retirement center. I asked Miss Gray if she could remember going anywhere else besides the doctor's office such as a restaurant and she stated she could not remember. After thanking her for her time, I left her apartment and proceeded to leave the retirement center. Before leaving, I stopped at the receptionist desk and asked if the residence had to sign in and out of the facility when they leave. The receptionist stated that the residence signed a log sheet for the facility. I asked if they still had the log sheet from August of 1993 and she stated she might. The receptionist then referred me to the retirement village manager and I explained the situation to him. He stated that he believed they still had the records and then left in an attempt to find them. He returned a short time later with the sign in log from August 1993. He allowed me to review the log and I noticed that Chris Gray signed out at 7:30 am and signed back in at 10:00 am. I then asked for a photocopy of the sign-in log and the manager agreed and provided me with a photocopy that accurately represented the actual log.

While in Rockford, I drove the route that Alan reported once again in a different vehicle. The results were consistent with the first time varying by only 1.7 miles. The total mileage for the inner city driving that Alan claims to have driven from the time his tires were changed until the photograph was taken of his odometer was an average of 198.85 miles.

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
30-January-95 1047

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Booking #:  
Freemeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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C05465 C2543  
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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
55

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller  
Responsible Party

On June 30, 1994, I met with Barry Beaman, Carol Beaman, and William Beu. Carol and Barry were at the Law and Justice Center to testify in Grand Jury. Upon my request, Carol Beaman brought a copy of the receipt that she found dated August 25, 1993. She also brought a copy of her canceled check and numerous other items including her notes and her calendar from August 1993. Carol also mentioned that she saved all her receipts and she handed me numerous store receipts from various stores. After testifying in grand jury, Carol brought other receipts from 8/25/93 to our attention including a receipt from Wal-mart at 11:10 am and a receipt from Union Hall at 12:39 pm, both in Rockford.

On June 24, 1994, I conducted an interview with Todd Heyse. Todd came to the Normal Police Department to report an incident that he felt should be forwarded to investigators in this case. Todd informed me that he was the owner of [redacted] street, the apartment that Jennifer Lockmiller was residing in prior to her death. Todd stated that during the week of August 22 through August 28, he was working on some other property that he owns on south Main street in Normal. Todd stated that while working on the other property, he would drive past [redacted] on his way home for lunch. Todd stated that on one particular day, either Tuesday, Wednesday, or Thursday, he drove past [redacted] and observed a man and woman walking up the drive towards the door of the apartment building. Todd stated that he observed a blond female that was about a head shorter than the male. He described the male as having long, dark hair, reminiscent of the seventies, with the hair being parted in the middle and hanging over the back of his shoulders. Todd recalled the time as being late morning to early afternoon and recalled the male wearing dark, "trendy euro" type clothing. A written statement was taken from Todd and he then left the station.

Throughout the month of November, I worked on arrangements to have Alan Beaman's car inspected and to determine the integrity of the speedometer/odometer. On December 5, 1994, the following people met at NPD to inspect Alan Beaman's 1987 Ford Escort:

- Walter Kryszak ..... Morton Crime Lab, Tool mark expert
- James Souk ..... McLean County State's Attorney's Office
- Timothy Freesmeyer ..... Normal Police Department, CID Division
- Marvin D. Van Etten ..... Vehicle Expert for Alan Beaman

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 30-January-95 1047 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: Freesmeyer #694 Status: Active Booking #: \_\_\_\_\_  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
56 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

After meeting at NPD, the individuals listed above traveled to rural Bloomington where Alan Beaman's vehicle was being stored. We were accompanied by two mechanics for the town of Normal, Keith Simpson and David Olson. After both the defense and prosecution had a chance to review and photograph the vehicle, it was towed to the Normal Public Works garage by Keith Simpson using the Town of Normal towtruck. The towtruck was attached to the escort with a hydraulic boom attached to the escort's front wheels. After arriving at the Normal Public Works garage, the vehicle was backed inside the shop and the towtruck was disconnected. Several more photographs were taken after the vehicle was in the shop.

At the direction of the prosecution team, Keith Simpson began to disassemble the vehicle's interior. Throughout the entire process, the vehicle was photographed extensibly by both myself and Dr. Van Etten. The first item removed was the finish panel that surrounded the instrument cluster. There were six screws holding the finish panel in place. There appeared to be tool-marks on the six screws which prompted us to force the plastic panel out from around the head of the screws. After removing the finish panel, we removed the finish panel screws by using a pair of pliers on the outside of the screw. After the finish panel was removed, the instrument cluster could be seen in its entirety. There were four screws holding the instrument cluster in place and the screws had both a hex head on the outside and a phillips's head on the inside. By looking at the four screws, it appeared the phillips's head had been marked by an unknown tool. We removed the screws using a hex-head nut-driver and then placed the screws into a piece of cardboard for safekeeping. At that point, we were prepared to pull out the instrument cluster. With Walter Kryszak sitting in the passenger seat and Keith Simpson in the driver's seat, they began to slowly remove the instrument cluster. The cluster pulled out without resistance and Walter Kryszak informed me to look behind the instrument cluster. Mr. Kryszak pointed out to me that the speedometer/odometer cable was not connected to the instrument cluster and was simply laying in the housing area behind the instrument cluster. Both Dr. Van Etten and myself took numerous photographs while Walter Kryszak held the instrument cluster in the same fashion as he had pulled it out. Dr. Van Etten commented on the fact that the speedometer/odometer cable was not properly snapped into place. After photographing, the instrument cluster was removed and a closer inspection of the area was done.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Fraesmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
57 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

By looking straight into the speedometer/odometer cable, it appeared that the tip of the cable had been bent to one side, possibly by an attempt to force the cable into the housing. I asked the city mechanics to push the car forward and back as I observed the inner cable spinning in the housing as it should. After more photography, the speedometer/odometer cable was disconnected from the transmission and removed from the car. After photographing all items removed from the vehicle, Mr. Van Etten was given another chance to do any type of analysis on the vehicle that he wished. After Dr. Van Etten stated that he was satisfied, the items removed from the vehicle were collected and vehicle was removed to the Public Works parking lot. We then returned to the Normal Police Department where all items were photographed once again and then entered into evidence.

While at NPD, I began to experiment with a new cable and speedometer that I had purchased at Dennison Ford. The parts I had purchased were for a 1987 Ford Escort similar to Alan Beaman's. I found that if I inserted the cable into the speedometer housing, and spun the opposite end of the cable, I could simulate the way the car would keep the mileage. I then unsnapped the cable from the speedometer housing while another person continued to spin the cable. As I slowly pulled the cable out of the housing, the speedometer went from an accurate reading, to a false sporadic reading, to no reading at all. Thus, since the cable was not snapped into place on Alan Beaman's car, it is quite obvious that the integrity of the speedometer/odometer is destroyed.

On December 7, 1994, a meeting was held at NPD to discuss the evidence in this case. Present were Alan Beaman, William Beu, William Beu's investigator, Jim Souk, Terri Dimnick, Detective David Warner, and myself. We reviewed the evidence in this case piece by piece giving the defense team an opportunity to review any piece that they wished to see. Photocopies were made when requested and the evidence was then resecured after the meeting. Before leaving, I asked William Beu if he was aware of what the Beaman family wanted done with the vehicle as it was still sitting at the public works garage. William Beu advised that he would get back with me about the vehicle.

During the week of December 12th, I began to research the 1987 Ford Escort that belonged to Alan Beaman in an attempt to determine who the previous owner was. By

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
58 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

checking with the Secretary of State's office, I was able to determine that the previous owner was "Gervaise Sparhawk" of [redacted] in Roscoe, Illinois. I made phone contact with Gervaise Sparhawk's son, Gilbert Sparhawk, at (815)389-4129 and spoke with him about the vehicle. Gilbert stated that the car belonged to his mother and that she was between the ages of 53 years and 57 years when she owned the car. Gilbert stated that his mother was the principal driver and that he had not had a license for numerous years and he therefore did not drive the car. I set up an interview for he and his mother for December 22, 1994 at their residence.

The Secretary of state was also able to provide information that the car was sold to Strandquist motors in Rockford in 1992. I called Strandquist motors at (815)962-0621 and spoke with Lori Carter. Lori confirmed that Strandquist motors did buy a car from Gervaise Sparhawk and then sold the car to Barry and Carol Beaman. I was able to obtain a subpoena for the records of those sales and informed Lori that I would be coming to Rockford on December 22, 1994.

On December 22, 1994, I traveled to Rockford and met with Lori Carter at Strandquist Motors. Lori provided me with the mileage disclosure statements for the transaction between Strandquist and Gervaise Sparhawk and between Strandquist and Barry Beaman. Lori pointed out that due to the appraisal form when the vehicle was purchased, their agency would not have done any work on the vehicle.

While in Rockford, I stopped at Bell Federal bank and attempted to speak with the teller that took William Beu's original call on September 3, 1993 concerning Alan Beaman's presence on 8/25/93. I found the teller's name to be Kim Schiavo and believe her home phone number to be (815) 229-8441. Kim was on vacation so I was unable to interview her about this case.

At 3:00 pm on that same date, I met with Gervaise and Gilbert Sparhawk at their residence in Roscoe, Il. I was invited in and we began to discuss the 1987 Ford Escort that Gervaise had previously owned. I asked Gervaise if she had ever had any work done on the vehicle while she owned it. Gervaise stated that she had a three year warranty on the car and that she began to have problems with it in late 1991. She stated she began to have electrical problems with the car and then the speedometer quit working in early December of 1991. Her son, Gilbert, replaced the inner cable for the speedometer and it broke a second time just two weeks later, just before Christmas. Gilbert then replaced the inner cable again and she sold the car the following month. While

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freemeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
59 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

speaking to Gilbert, he stated that a friend named "Tom" helped him replace the cable and that they had replaced speedometer cables numerous times before. I asked Gilbert how many cables they had replaced and he stated that he had changed two or three and "Tom" had changed at least ten. I asked Gilbert if he removed the dash to get to the cable and he stated hat "yes" he had. I then asked Gilbert if he knew how the speedometer cable attached to the instrument cluster and he stated that there was a plastic clip that secured the cable to the instrument cluster. Gilbert stated that he believed he used a nut-driver to remove the instrument cluster when he replaced the cables. When asked, Gilbert stated that he bought the cables for the car from Jerry's Auto parts store in Roscoe.

After leaving the Sparhawk residence, I went to Jerry's Auto parts store in Roscoa. I talked with Todd Fehler and asked if they still had their receipts from 1991. Todd stated that their registers are computerized and that they keep duplicate copies for their auditor. Todd pointed out a large number of boxes in the rear of the store and stated that I was welcome to look through the boxes for the receipts that I was looking for. After looking through numerous boxes, I located the receipts for December of 1991. I found four receipts for speedometer cables during the month of December and one return. One receipt was for a local dealership and was ruled out due to the specific part. The other three receipts showed a universal cable that could be used in a number of different vehicles. Of those three remaining receipts, two were about two weeks apart dated 12/13/91 and 12/26/91. The final receipt also showed a purchase for Orange hand Cleaner "DL 23-114" which Gilbert Sparhawk does not recall ever purchasing.

On subsequent calls to Gilbert Sparhawk, he stated that he was familiar with the plastic clips used to hold the speedometer cable to the instrument cluster and state d that they surely would have made sure that the clip was seated after installing the new cable into the sheath.

On 01/18/94, I traveled to Rockford once again to verify mileages between several different locations. I began at [redacted] and drove directly to Alan Beaman's residence at an average of about 75 mph. The total distance was recorded as 138 miles with a driving time of 1 hr and 56 minutes. The following inner-city driving was also recorded:

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page 60 of Case # C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

<u>Origination</u>	<u>Destination</u>	<u>Travel time</u>	<u>Miles</u>
Chris Gray's Residence	Beaman Residence	16 minutes	9.9
Beaman Residence	Wal-Mart	15 minutes	9.7
Wal-mart	Union Hall	7 minutes	1.9
Union Hall	Gray's IGA (Auburn Rd)	13.5 minutes	4.9
Gray's IGA (Auburn)	Auburn High School	4 minutes	1.6
Auburn High School	Beaman Residence	8 minutes	6.3
Beaman Residence	Denny's (State)	26 minutes	11.9
Beaman Residence	Cafe Esperanto	13 minutes	8.2
Cafe Esperanto	Sinissippi Gardens	6.5 minutes	1.8

After finishing the inner-city driving, we checked the distance from Bell Federal to [redacted], Normal, at an average of 75 mph. The total distance was 123.9 miles with a travel time of 1 hour and 48 minutes.

On 1/18/95, I received a copy of the lease for the apartment where Michael Swaine and Alan Beaman were living from May 24, 1993 to August 15, 1993. The lease was in the name of "Theater Arts" bearing the signature of the department secretary, Kelly Ullom.

On that same date, I spoke with Dr. David Eaton from Illinois State University. Dr. Eaton stated that he was teaching a class on Social Gerontology that met on Monday, Wednesday, and Friday at 11:00 am. Dr. Eaton stated that since it was early in the semester, he had not yet established a seating chart as of August 25, 1993. I explained to Dr. Eaton that we had one of Jennifer's notebooks with a page dated Wednesday, August 25, with only one note on the page. Dr. Eaton explained that each time he starts the course, he begins with a handout that they cover for the first few days. He stated that he was probably lecturing from the handout and would therefore not expect many notes in Jennifer's notebook. Dr. Eaton was unable to say that he definitely saw Jennifer in class on Wednesday August 25, 1993 but due to her notes he would assume that she was there.

On 1/19/94, I conducted a brief interview with Dale Janssen of Janssen Construction. Dale stated that on July 22, 1993, he repaired a door for Redbird Apartment Management at [redacted]. Dale stated that he did not remember the occupant, believed to be

Officer's Name & ID#: Date & Time Report Typed Supervisor's Name & ID#:  
30-January-95 1047

Solvability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Routing #  
Freesmeyer #694 Active Suspended Fail to File Complaint  
Cleared Unfounded Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
61 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

Jennifer Lockmiller, saying anything to him while he repaired the door. He stated that it appeared the door had been forced open near the latch and he put several screws into the doorframe so that the door could be secured. Dale stated that he was also the person that responded to [REDACTED] on August 28, 1993 when Jennifer's body was discovered. Dale was asked to come to that address and secure the door so that the crime scene would not be disturbed. Dale examined the door on that date and did not notice any fresh damage since he last repaired it on July 22, 1993. Before Dale left the station, he left his copy of the repair bill that he gave to Redbird Apartment management. Dale stated that the bill was a business record for the business that he owns, Janssen Construction. The bill was placed into evidence and a copy was made for Dale Janssen.

Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
61 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

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30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
61 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Jennifer Lynn Lockmiller Responsible Party

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Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed 30-January-95 1047 Supervisor's Name & ID#: \_\_\_\_\_

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: Freesmeyer #694 Status:  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared Booking #: \_\_\_\_\_

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NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page of Case #  
61 C93-4033

Offense Supervisory Correction of #2 or #3  
Homicide

Victim Name (or Business Name) Responsible Party  
Jennifer Lynn Lockmiller

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Officer's Name & ID#: \_\_\_\_\_ Date & Time Report Typed \_\_\_\_\_ Supervisor's Name & ID#: \_\_\_\_\_  
30-January-95 1047

Solvability Referred to: \_\_\_\_\_ Property Recovered: \_\_\_\_\_ Value: \_\_\_\_\_

Assigned Investigator: \_\_\_\_\_ Status: \_\_\_\_\_ Booking #: \_\_\_\_\_  
Freesmeyer #694  Active  Suspended  Fail to File Complaint  
 Cleared  Unfounded  Exceptionally Cleared

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C 2598

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AB002611

**ORIGINAL**

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

Alan Beaman,

Plaintiff,

v.

No. 10-CV-1019

James Souk, Charles Reynard,  
Tim Freesmeyer, Rob Hospelhorn,  
Dave Warner, John Brown, Frank Zayas,  
McLean County, Illinois,  
Town of Normal, Illinois,

Defendants.

VIDEOTAPED DEPOSITION OF FRANK L. ZAYAS  
Taken on Behalf of the Plaintiff

DATE TAKEN: February 15, 2013  
TIME: 8:58 a.m. - 4:26 p.m.  
PLACE: Holiday Inn - Lakewood Ranch  
6231 Lake Osprey Drive  
Sarasota, Florida

Stenographically Reported by:  
Donna L. Peterson, RDR, CRR  
Registered Diplomat Reporter  
Certified Realtime Reporter

1

INDEX

1		
2		
3	WITNESS	PAGE
4	Called by the Plaintiff:	
5	FRANK L. ZAYAS	
6	DIRECT EXAMINATION BY MR. SHAPIRO	6
7	CROSS EXAMINATION BY MS. EKL	187
8	CROSS EXAMINATION BY MR. DICIANNI	194
9	ERRATA SHEET	198
10	CERTIFICATE OF REPORTER OATH	199
11	REPORTER'S DEPOSITION CERTIFICATE	200
12		
13		
14		
15	EXHIBITS	
16		
17	NUMBER DESCRIPTION PAGE	
18	Exhibit 1 Three pages of handwritten notes	95
19	Exhibit 2 Two-page document consisting of typewritten notes	105
20		
21	Exhibit 3 Copy of a police report that was prepared by Detective Freesmeyer in the Lockmilller case; AB000258	114
22		
23	Exhibit 4 Polygrapher's report regarding Larbi John Murray, dated October 5th, 1993	119
24		

3

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24

2

1 EXHIBITS - continued

2		
3	NUMBER DESCRIPTION PAGE	
4	Exhibit 5 Two-page exhibit, report from a polygraph examiner regarding Stacy Gates; McLean 001496	125
5		
6	Exhibit 6 Exhibit consisting of 433 pages	131
7	Exhibit 7 Composite exhibit; documents involving charges against two individuals, Steven Sedrel and Rob Curtis, in connection with torturing cats	162
8		
9		
10	Exhibit 8 Essentially the first 24 pages of Exhibit 3	172
11		
12	Exhibit 9 Exhibit consisting of last page of Exhibit 8 and its pages 24, 25, and 26 of the longer report shown in Exhibit 3	172
13		
14	Exhibit 10 Notification of Disciplinary Action; DEF0104	185
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

4

1 (Pages 1 to 4)

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1 end, right?  
2 A. Right. It would go to whoever the state  
3 attorney that's handling the case.  
4 Q. Okay. So as I'm understanding, so far what  
5 we've -- what we've talked about with regard to copies  
6 of police reports is that there's an original that  
7 ultimately makes its way to the chief; after the chief's  
8 review there are copies for all the investigators;  
9 there's an original that goes from the chief to the  
10 records office, and ultimately to the state's attorney.  
11 Right?  
12 A. Yes.  
13 Q. Okay. Are there any other copies of a report  
14 that would be generated in that process that we haven't  
15 talked about yet?  
16 A. Not to my knowledge, no, sir.  
17 Q. And as for the part about the investigators all  
18 getting copies of a report, that's something that  
19 happens throughout the investigation, right?  
20 A. Yeah. The investigators are involved in that  
21 particular investigation, not necessarily all of them,  
22 just the ones that are involved. So that would have  
23 been Tony Daniels and Freesmeyer and Warner, I think.  
24 Q. And John Belcher?

41

1 A. Yes, sir, John Belcher.  
2 Q. And your recollection was that Hospelhorn  
3 wasn't working on the investigation?  
4 A. I don't remember working with him. I really  
5 don't. I'm sorry.  
6 Q. Okay. But -- but if you -- if you were, he  
7 would receive copies of the reports, right?  
8 A. Yes, sir.  
9 Q. Okay. What's the purpose of making sure that  
10 all of the investigators in a case receive copies of all  
11 the reports?  
12 MR. DiCIANNI: Object to the form of the  
13 question.  
14 You may answer.  
15 A. You want them to be well informed as to where  
16 the investigation is going and what we're looking at so  
17 we're all on the same page.  
18 Q. And as a supervisor, was it your expectation  
19 that the investigators would read all the reports that  
20 they received?  
21 MR. DiCIANNI: Objection; speculation.  
22 A. I suspect that they did read the reports. That  
23 was their job.  
24 Q. So, for example, as an investigator on the

42

1 case, it would have been part of Freesmeyer's job to  
2 read the reports prepared by other officers, right?  
3 A. Yes, should have, yes.  
4 Q. So we've talked through the process of reports  
5 making their way into the central file. Can you  
6 describe how the process would work for transcripts of a  
7 witness interview?  
8 A. Well, if the transcript -- I don't remember how  
9 they were -- if they were recorded and then transcribed.  
10 Is this what you're talking about? I don't understand  
11 your question.  
12 Q. Right. Typically if an --  
13 Would officers typically record interviews?  
14 A. Sometimes they did, yes.  
15 Q. Okay. In the case of a recorded interview, the  
16 interview would generally be transcribed, right?  
17 A. Yes.  
18 Q. Okay. And who does the transcription?  
19 A. The secretarial staff there. I don't remember  
20 who -- who was there at the time.  
21 Q. So the officer would give the tape to the  
22 secretarial staff?  
23 A. Yes, sir.  
24 Q. And would the secretarial staff then give the

43

1 transcript back to the officer after transcribing it?  
2 A. Yes, sir, and he would review it.  
3 Q. After the officer's review of the -- of the  
4 transcripts, would that be submitted to -- to you as the  
5 lieutenant?  
6 A. Yeah. Then I would -- I would see it and  
7 review it.  
8 Q. And after your review of the transcripts, what  
9 would you do next?  
10 A. Then they would be put in the records file  
11 where -- then the record would -- would put the original  
12 in the -- in the -- in the records. The chief would  
13 probably get a copy of it to -- to review it. Or if he  
14 came down and got the record or the transcript, he may  
15 have taken it upstairs to -- to read it and then brought  
16 it back down. Could have been that way.  
17 Q. So -- so you're not sure whether the transcript  
18 would go to the chief prior to going to records, right?  
19 A. I don't remember how that would -- how that  
20 would have occurred on that particular date and time. I  
21 really don't.  
22 Q. Uh-huh. But safe to say that either after your  
23 review or after the chief's review, the transcript would  
24 go into central records, right?

44

11 (Pages 41 to 44)

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APPENDIX 001352

1 it won't.

2 So the body was first discovered on August 28th

3 of 1993. It was a, you know, pretty -- pretty gruesome

4 crime scene, cord around the victim's neck, significant

5 amount of bloating because it had been some time since

6 the murder occurred.

7 Do you remember how you first became aware that

8 there had been a murder?

9 A. No. I don't remember how the call came in.

10 Q. Do you recall ever visiting the crime scene?

11 A. Yes, I did.

12 Q. When you visited the crime scene, was the

13 victim's body still there or had it been removed --

14 A. No. It was still there.

15 Q. Okay. Did you visit the crime scene on the

16 same day that the call came in?

17 A. Yes, I'm sure it was.

18 Q. What recollections do you have about the crime

19 scene?

20 A. It was -- I think it was like a one-bedroom

21 apartment, shag carpet. I think she had two cats. It

22 was flea infected. I remember seeing the body in the

23 bedroom. Not a pretty scene.

24 Q. Who else was present, if you remember, when you

89

1 were first on the scene?

2 A. I think Officer Warden was with me.

3 Q. Warner?

4 A. Warner, I'm sorry, yeah.

5 Q. And he -- he -- one of his roles was evidence

6 technician, right?

7 A. Yes. Yeah.

8 Q. So he would have been there in connection

9 with --

10 A. Right.

11 Q. -- those duties?

12 A. Yeah.

13 Q. Okay. Based on your seeing the crime scene,

14 did you form any theories or possibilities about the

15 nature of the murder?

16 A. Well, I first thought, you know, whoever

17 committed this was evil. As far as a particular type of

18 suspect or -- no, I didn't have any particular idea. In

19 a college town, I mean, there's so many possibilities.

20 Q. What is it about a college town that -- that

21 causes you to say that there were so many possibilities?

22 A. The transient nature of the campus. The

23 activities during the day and night, you know. A lot of

24 parties. Kids are always out, all hours of the night

90

1 and day. The crime scene is on -- right on a main

2 thoroughfare, Route 51. You know, it -- pretty well, it

3 was kind of like an open case. We -- we had no idea on

4 where to go.

5 Q. As the investigation went forward, do you

6 remember -- well, strike that.

7 You had mentioned partying and the college

8 scene generally.

9 As the investigation went forward, do you

10 recall learning anything about Lockmiller's lifestyle as

11 it related to partying, drugs, alcohol?

12 A. I remember a little bit from the reports that I

13 saw, that she was -- I think she was a volunteer

14 employed at The Vidette, the newspaper, and that she

15 frequented a lot of parties. She was always at parties,

16 drank heavily, was very sexually active, from the

17 reports we were getting.

18 Q. And those are factors that contribute to a wide

19 universe of possible perpetrators. Is that a fair

20 statement?

21 A. No, not -- not just necessarily that. I'm sure

22 there was other factors. Just -- I don't know. Just

23 the area where she lived, the activity. The gas station

24 is right by, the 24-hour operations that were going on

91

1 all the time.

2 Q. So there were a lot of different factors that

3 pointed to a potentially broad range of suspects, right?

4 A. Yes, sir, it did.

5 Q. And during the course of the investigation,

6 what's your recollection of what was done to investigate

7 the whole universe of potential suspects who might have

8 come in and out of Jennifer Lockmiller's life?

9 A. Well, we had the officers canvass the

10 university. Other neighbors were interviewed, service

11 station right there at the corner. The Vidette staff

12 was talked to. Generally tried to track as many

13 friends, family members that may have known something

14 about her whereabouts at the time.

15 Q. When you say "canvass the university," what do

16 you recall of what was done to -- to canvass the

17 university?

18 A. Well, through The Vidette we would be able to

19 get names of people that knew -- knew her, and then we

20 would have tried to interview them. If my memory serves

21 me correctly, I think we even looked into her phone

22 records. I think, the best of my memory, that's all I

23 can remember.

24 Q. Uh-huh. Is it fair to say that on -- strike

92

1 Q. There's nothing that you could testify to as to  
 2 whether anyone at that meeting agreed or disagreed with  
 3 the decision to arrest Mr. Beaman?  
 4 A. No, sir. I don't remember.  
 5 Q. You don't have any recollection of any position  
 6 that you took at that meeting, right?  
 7 A. No, sir, I don't remember.  
 8 Q. Do you have any recollection of who led any of  
 9 the meetings that were held as part of this case?  
 10 A. No, sir, I don't.  
 11 Q. Do you recall any discussions that you had  
 12 with -- with Tony Daniels during the time of the  
 13 Lockmiller homicide case?  
 14 A. Just in a general, I think he -- I mean, at the  
 15 time we didn't have sufficient evidence yet. It was all  
 16 circumstantial. I think we would talk about that. But  
 17 specifically I don't remember, you know, per se what --  
 18 what we actually delved into. But I know that we  
 19 discussed that.  
 20 Q. Have you spoken with Tony Daniels about this  
 21 case subsequent to when you -- when you left the Normal  
 22 Police Department?  
 23 A. No, sir.  
 24 Q. And I think you mentioned earlier that -- that

117

1 you had a conference with Mr. Daniels at some point?  
 2 A. Oh, yeah. We've -- we've communicated. I mean  
 3 we -- when I go to Normal, we get together for coffee or  
 4 something, but we don't talk about the case.  
 5 Q. Understood.  
 6 What's your -- what's your opinion of  
 7 Tony Daniels?  
 8 A. Tony is a very intelligent officer, to the  
 9 point that he could be bullheaded. Sometimes he could  
 10 be difficult. You know, he's very opinionated. But  
 11 he's -- he's pretty honest, straight. What you see is  
 12 what you get with Tony.  
 13 Q. Is he a good cop, in your opinion?  
 14 A. I think -- yeah, I thought he was a good --  
 15 excellent cop, yes, yeah. He's a very caring guy. He's  
 16 kind of a real sensitive-type guy.  
 17 Q. He has good judgment?  
 18 A. You're asking me to speculate. I -- I don't --  
 19 I don't know how to answer that.  
 20 Q. You don't have any reason to doubt his  
 21 judgment, right?  
 22 A. No.  
 23 MS. EKL: Objection; form, foundation.  
 24 Q. Okay. So I understand that you don't have any

118

1 recollection of the meeting to decide whether to arrest  
 2 Beaman or to decide to arrest Mr. Beaman.  
 3 Do you have any recollection of what the  
 4 probable cause to arrest Mr. Beaman consisted of?  
 5 A. No. Sorry, I'm afraid that I didn't read the  
 6 affidavit and I -- I didn't see it. If my memory served  
 7 me correct, he was not -- he was arrested after I had  
 8 left the department, so -- or he was indicted, I think,  
 9 after I left the department. So, no, I don't.  
 10 Q. Okay. Is there any piece of evidence against  
 11 Mr. Beaman that -- that you can recall?  
 12 A. I know that it was mostly circumstantial  
 13 evidence, but specifically I don't remember what it was.  
 14 Q. Okay. Is there -- is there any document you  
 15 could review or anything that I could do to help refresh  
 16 your recollection as to the evidence against Mr. Beaman?  
 17 A. I -- no, I don't think so.  
 18 MR. SHAPIRO: Okay. Would you mark that as  
 19 Exhibit 4, please. Thank you.  
 20 (Zayas Exhibit No. 4 was marked for  
 21 identification.)  
 22 Q. Mr. Zayas, I've shown you a document that's  
 23 been marked as Exhibit 4. Please go ahead and review  
 24 the document and let me know when you've had a chance to

119

1 do so.  
 2 A. Okay.  
 3 Q. So Exhibit 4 is a polygrapher's report  
 4 regarding Larbi John Murray, dated October 5th, 1993,  
 5 right?  
 6 A. Yes, yes, sir.  
 7 Q. Do you recall ever -- ever having seen this  
 8 document?  
 9 A. No, sir, I don't remember it.  
 10 Q. Okay. And we talked earlier about the process  
 11 of receiving reports from outside specialists?  
 12 A. Uh-huh.  
 13 Q. In this case, the report is addressed to  
 14 Detective David Warner. How would this report have been  
 15 routed through the police dependent upon receipt?  
 16 MR. DiCIANNI: I object to lack of foundation,  
 17 speculation.  
 18 MS. EKL: Also form.  
 19 A. I don't know how to answer the question because  
 20 if -- if it came into the police department addressed to  
 21 David Warner, I think he would have gotten it and it  
 22 would -- then he would read it, submit it, run copies of  
 23 it, get the original to -- to records, make sure that,  
 24 you know, I would have gotten a copy of it, the chief

120

30 (Pages 117 to 120)

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1 would have gotten a copy of it. So he would have had to  
 2 disseminate the report. If my memory serves me  
 3 correctly, that's -- should have been the way to process  
 4 that.  
 5 Q. Okay. So let me try to take that step by step  
 6 so I make sure I'm understanding.  
 7 Assuming Detective Warner received the report,  
 8 he should direct the original to records?  
 9 A. Yes. The originals always went to records.  
 10 Q. And by sending it to records, the report would  
 11 become part of the central file for this case?  
 12 A. Right, uh-huh.  
 13 Q. And upon receiving this report, Warner should  
 14 make sure that you get a copy?  
 15 A. Yeah, should have made sure everybody else  
 16 would have gotten a copy of it.  
 17 Q. And when -- when you say "everybody," do you  
 18 mean all of the detectives working on the case?  
 19 A. Working on the case, yes.  
 20 Q. Okay. And he should have also made sure that  
 21 the chief got a copy?  
 22 A. Oh, yes, sir.  
 23 Q. Okay. And upon receiving the report that's  
 24 shown in Exhibit 4, do you have any reason to doubt that

121

1 Detective Warner would have gone through the steps that  
 2 you and I just discussed?  
 3 MR. DICIANNI: Object to speculation.  
 4 A. I -- I don't know. I -- he should have  
 5 followed the procedure, disseminated the information.  
 6 Q. Uh-huh. And he would have been trained to  
 7 follow that procedure?  
 8 A. Yes, sir.  
 9 Q. And assuming the report went to the records  
 10 department and became part of the central file, the  
 11 report would have been transmitted to the State's  
 12 Attorney's Office, right?  
 13 A. Yes.  
 14 MS. EKL: Objection; form, foundation.  
 15 A. It should have been, yes, sir.  
 16 Q. Okay. If the lead state's attorney in this  
 17 case did not receive a copy of this report, would you  
 18 find that surprising?  
 19 A. Yes, I would have, yes.  
 20 Q. Now, I'll represent to you that this report was  
 21 not provided to Mr. Beaman's defense lawyers prior to or  
 22 during his trial. Do you have any explanation of why  
 23 that might have occurred?  
 24 A. No, sir, I don't.

122

1 Q. Would you agree with me that this is a report  
 2 that should have been provided to Mr. Beaman's defense  
 3 lawyers?  
 4 A. Yes, sir.  
 5 MR. DICIANNI: I'll object to speculation, to  
 6 lack of foundation, legal conclusion.  
 7 A. Yeah, they should have gotten a copy of it,  
 8 yes.  
 9 Q. When you were a law enforcement officer, did  
 10 you receive training with regard to the duty to provide  
 11 exculpatory evidence to defendants' lawyers?  
 12 A. Yes, sir.  
 13 Q. And did -- did detectives that you supervise  
 14 also receive that training?  
 15 A. Yes, sir, I'm sure they did.  
 16 Q. Based on the training that the detectives  
 17 working on the Lockmiller case received, should they  
 18 have recognized that the report shown in Exhibit 4 is  
 19 something that ultimately should have been provided to  
 20 the defense?  
 21 MR. DICIANNI: Objection; speculation.  
 22 A. Yes, sir.  
 23 Q. And why is it that the report should have been  
 24 provided to the defense?

123

1 A. It's valuable information. It should have  
 2 relayed to the State, yes.  
 3 Q. And you didn't -- you mentioned relayed to the  
 4 State. And ultimately relayed to the defense, right?  
 5 A. Right, yes, sir.  
 6 Q. And when you say that it's valuable  
 7 information, what's valuable about it?  
 8 MR. DICIANNI: I'll object to asking him to  
 9 speculate about why it would be valuable.  
 10 A. Well, I mean, it's a result of an examination  
 11 conducted on one of the suspects; therefore, it's  
 12 something that should have been relayed to the defense.  
 13 Q. And the report shown in Exhibit 4 indicates  
 14 that Mr. Murray didn't follow directions given to him  
 15 during the polygraph, right?  
 16 A. I'm sorry. Repeat that question again.  
 17 Q. Sure. Does the report indicate that Mr. Murray  
 18 did not follow directions given to him by the polygraph  
 19 examiner?  
 20 A. It says, "Did not follow specific directions."  
 21 That's what it says, yes.  
 22 Q. Uh-huh. And it also says that the subject had  
 23 to be dismissed from the laboratory because he wasn't  
 24 complying with the instructions, right?

124

1' retired and gone for a few months.  
 2 Q. Well, you retired in November of '94, right?  
 3 A. I'm sorry. Yes, sir. Sorry. Yes.  
 4 Ask the question again.  
 5 Q. Sure. Does the 10 January '94 date on the  
 6 first page of the unsigned report indicate to you  
 7 anything about the point at which the state's attorney  
 8 began exercising supervision over Freesmeyer?  
 9 MS. EKL: Same objection.  
 10 A. Again, I couldn't answer that question because  
 11 I don't know.  
 12 Q. If I could ask you to turn to page 33 of  
 13 Exhibit 3, please.  
 14 At the bottom of page 33, in the "date and time  
 15 report typed" field, it says "July 1st, '94," right?  
 16 A. July -- 1600, yes.  
 17 Q. And that's a jump ahead in time from the date  
 18 shown on page 32, which is January 10th, '94, right?  
 19 A. Yes, it is.  
 20 Q. Okay. Does that jump in the date strike you as  
 21 odd in any way?  
 22 A. I don't know. You're asking me to speculate.  
 23 I don't know.  
 24 Q. Do you have any idea why that jump in date

1 Investigators kept an open mind until the end of the  
 2 investigation, but I'm wondering whether there was any  
 3 information or evidence that was obtained that made it  
 4 possible for anyone to rule out the possibility of an  
 5 unknown drifter being responsible.  
 6 A. Not that I can recall, no.  
 7 Q. What about a home invader?  
 8 A. Not that I recall, no.  
 9 Q. Do you recall a victimology ever being  
 10 performed in connection with this case?  
 11 A. No, I don't remember that.  
 12 Q. Do you recall any attempt to create a profile  
 13 as part of this case?  
 14 A. No, I don't remember that.  
 15 Q. How certain are you today that Alan Beaman  
 16 killed Jennifer Lockmiller?  
 17 A. I'm not certain at all. I don't know.  
 18 Q. Were you certain that Alan Beaman killed  
 19 Jennifer Lockmiller at any point prior to your  
 20 retirement?  
 21 A. No. I don't think we had all the information  
 22 needed at the time when I left. That was still in  
 23 limbo. They were still working on it. So at the point,  
 24 I didn't know.

1 would occur in the middle of a report?  
 2 A. Wouldn't have the slightest idea.  
 3 Q. Okay. In your opinion, did the investigation  
 4 of the Lockmiller homicide exclude the possibility that  
 5 some unknown drifter was the murderer?  
 6 MR. DICIANNI: Well, let me object to the point  
 7 in time.  
 8 Are you saying from the beginning or -- or when  
 9 they completed the investigation?  
 10 MR. SHAPIRO: Yeah, I'm saying at any point.  
 11 A. Excluded a drifter? No. I -- I think we tried  
 12 to keep an open mind and tried to look at, you know, all  
 13 the evidence that came in and all the information and  
 14 the suspects. We tried to keep an open mind. We didn't  
 15 want to get tunnel vision and focus in on something that  
 16 wasn't there.  
 17 Q. So there's no piece of evidence that you recall  
 18 that would have closed the possibility that the murderer  
 19 was an unknown drifter; is that a fair statement?  
 20 A. Pretty well. I mean, if it was -- it was still  
 21 open to any suspects that looked like, you know, a  
 22 likely responsible person, yeah, then we would have went  
 23 that way, yes.  
 24 Q. And I understand you're saying that the

1 Q. And do you remember any information or leads  
 2 that were still outstanding in the case?  
 3 A. No, I -- I don't.  
 4 Q. Uh-huh. But it was your sense when you retired  
 5 that there were still loose ends in the case?  
 6 A. Still work to be done.  
 7 Q. And that no one could reasonably say with  
 8 certainty that Alan Beaman was the killer, right?  
 9 A. That's true.  
 10 MS. EKL: Objection; foundation.  
 11 A. My opinion at the time is true.  
 12 Q. Was there anything to -- that caused you to  
 13 doubt whether Alan Beaman was the killer?  
 14 A. I think most of the evidence was  
 15 circumstantial. I like physical evidence, and it wasn't  
 16 there. It was all, you know, a time frame. So at the  
 17 time I -- I -- they didn't have it. When I left, they  
 18 didn't.  
 19 Q. When you left, you felt that the case against  
 20 Beaman was -- was weak? Is that a fair statement?  
 21 A. At this point -- I'll put it this way.  
 22 I don't think it was ready to be sent to the  
 23 State yet. I think we needed to work on it some more.  
 24 Q. And that was true in November of '94, when you

1 retired?  
2 A. Yes, sir.  
3 Q. There were a lot of people who were talked to  
4 in this case who said you ought to look at Alan Beaman,  
5 right?  
6 A. I don't know if I'd categorize it that a lot of  
7 people said to look at Alan Beaman. I think the facts  
8 would -- as they were presented at the time and the  
9 conflicts that he had with Jennifer, I think caused us  
10 to look at him a little bit harder than anybody else.  
11 He was a difficult person to talk to, from what  
12 I understand from the officers. They told me he was  
13 very difficult. So that's probably why, one of the  
14 reasons -- I'm sure there's a lot more -- that caused  
15 the officers to focus in on him.  
16 Q. Would it be fair to say that one of the reasons  
17 Beaman was focused on was speculation that was put  
18 forward by some of his classmates, his acquaintances?  
19 A. I don't know. You're asking me to speculate.  
20 I don't know. I just don't know. I don't know how to  
21 answer that question.  
22 Q. When you retired from the Normal Police  
23 Department in November of '94, did you have any concerns  
24 about other suspects who had not yet been fully

181

1 Investigated?  
2 A. Well, I know they were looking other people at  
3 the time. And I felt confident that they were going to  
4 follow up on that. But I don't know what happened once  
5 I left.  
6 Q. Uh-huh. And that process of foreclosing other  
7 suspects, in your mind, had not been accomplished as of  
8 November '94?  
9 A. No. Still had a lot of work to do.  
10 MR. SHAPIRO: I think I'm getting very close to  
11 done, but let's just take a brief break, if that's  
12 all right.  
13 THE WITNESS: That's fine.  
14 THE VIDEOGRAPHER: We're off the video record  
15 at 4:00 p.m.  
16 (Recess from 4:00 p.m. until 4:09 p.m.)  
17 THE VIDEOGRAPHER: We're on the video record at  
18 4:09 p.m.  
19 BY MR. SHAPIRO:  
20 Q. Mr. Zayas, as I'm sure is obvious to you, my  
21 view is that Mr. Beaman is innocent of the murder of  
22 Jennifer Lockmiller and was in prison for over a decade  
23 for -- for something that he -- he didn't do. And  
24 obviously, I've been asking you questions today in

182

1 connection of my representation of Mr. Beaman in that  
2 matter. But since I wasn't present in the  
3 investigation, I don't always know the best questions to  
4 ask.  
5 So I wanted to ask you if there is anything  
6 that -- about the investigation that you think I should  
7 know or you think Mr. Beaman should know that we haven't  
8 covered in our discussion today.  
9 MS. EKL: Objection; form, vague.  
10 MR. DICIANNI: Yeah, I'll object, too.  
11 You can answer.  
12 A. Well, at the time, I think the team worked well  
13 together. I -- I don't think that they were focusing  
14 unjustly on one particular person or another. They were  
15 looking at the evidence as they saw it coming in.  
16 The documentation was done as -- as it was  
17 performed while I was there. The chief was kept  
18 abreast. The State was kept abreast. They worked  
19 closely with us. And to the best of my knowledge, every  
20 piece of paper that was created by us was forwarded to  
21 the State and should have been in the packet for  
22 discovery purposes.  
23 Q. Okay. I want to ask you just a couple of  
24 questions about discipline, and then -- then I should be

183

1 done.  
2 Did you ever have occasion to discipline any of  
3 the officers who were involved in the Lockmiller case?  
4 A. I -- I did not. There was an incident that the  
5 chief, I think, was involved in with Tony Daniels and  
6 Freesmeyer because there was a little conflict between  
7 those two. But I think that's one of the reasons.  
8 There might have been a little rift between those two.  
9 Q. What was the basis of the conflict between  
10 Daniels and Freesmeyer?  
11 A. I think there was a conflict between of  
12 pursuing different pieces of evidence. Tony had his  
13 particular style, Tim had his, and they would clash  
14 against each other.  
15 Q. Did -- did part of the clash involve different  
16 views regarding the strength of the case against  
17 Mr. Beaman?  
18 A. I don't know -- no, I don't know if it was  
19 anything about the strength. I think just their  
20 particular styles. They're two different personalities,  
21 and that was the big conflict with them.  
22 Q. Okay. When you were with the Normal Police  
23 Department, do you -- do you recall any incidents when  
24 you were disciplined?

184

46 (Pages 181 to 184)

McCorkle Litigation Services, Inc.  
Chicago, Illinois (312) 263-0052

C05523



Forensic  
Identification  
Services

Kenneth R. Moses

Locke E. Bowman  
Attorney of Law  
Roderick and Solange MacArthur Justice Center  
Northwestern University School of Law  
375 E. Chicago Avenue  
Chicago, Illinois 60611

August 12, 2015

Report of Crime Scene Analysis

Beaman v. Freesmeyer et al  
Circuit Court #14L51  
Our Case # 1343

I have been retained to provide an independent review and analysis in the death of Jennifer L. Lockmiller.

*My curriculum vita is attached to this report.*

In rendering my analysis I have reviewed the following materials:

- Initial and supplemental reports prepared by members of the Normal Illinois Police Department in their case #C93-4033.
- Illinois State Police Crime Scene Report G93-1500-9-1 by Dean Kennedy.
- Illinois State Crime Lab Report #P93-2654
- Crime scene, evidence, and autopsy photographs
- Autopsy Report from McLean County Coroner.
- Summary of Trial Testimony of Dr. Sharon Schnittker.
- Transcript of Trial Testimony of Dr. Sharon Schnittker.
- Transcript of the testimony of Dean Kennedy.
- Transcript of the deposition of Timothy Freesmeyer.

Methodology

The reconstruction of any crime scene is an attempt to step back in time to understand a chain of events using physical evidence as a base against which later statements and

C05546

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theories are evaluated. In all scene investigations, missing pieces and variables exist giving rise to more than one possible scenario. Each scenario is constrained by the physical evidence giving more weight to some theories and excluding others as improbable or impossible.

#### Description of Scene

The decomposing body of Jennifer Lockmiller was found inside her second floor apartment at 412 Main St. She had been strangled with her alarm clock cord, stabbed multiple times with a pair of scissors, and sexually assaulted as evidenced by her clothing and the position of her body. The bedroom was in disarray. The closet and several of the drawers showed signs of having been searched. A large floor fan had been placed or fallen on the victim's head. The rest of the house was largely undisturbed except for the kitchen where a plastic can had been removed from under the counter and the contents deposited on the living room sofa. Dirty dishes and food items cluttered the kitchen counter top and sink. The victim's purse was sandwiched between two book bags on the kitchen table. The front door had been damaged and repaired from a previous incident. There was no sign of fresh damage around the locks.

#### Analysis

There is a high correlation between the crimes of rape and the crime of burglary. Nearly all forcible rapes that occur between strangers are committed by perpetrators with burglary records. As such, a rapist will exhibit nearly the same habits or *modus operandi* in a rape as he would in a burglary. Many rapes are merely crimes of opportunity where the burglar unexpectedly finds the victim at home. My overall impression of the murder of Jennifer Lockmiller is that it fits this type of crime based on the totality of the following observations.

1. Most residential burglaries occur in the middle of the day when the residents are away at work or at school. In a multi-floor building, the burglar will commonly go to the top floor to avoid interruptions from first floor residents. (Burglars who

prefer window entries will naturally prefer the first floor.) Once on the top floor, he will select the weakest lock to attack. Weakened doors and locks and doors where the deadbolt is either not engaged or has a very short throw are usually attacked using a thin piece of plastic called a "loid" to slip the lock without leaving visible damage to the wood or the metal. It is common that the intruder will ring the doorbell or knock on the door before attempting entry.

2. One of Jennifer Lockmiller's earrings was located on the floor near the front door; the other earring and one of her shoes was found close to the bedroom door. This indicates that the victim was overpowered by a blitz-like attack and driven straight back to the bedroom. This would have required a person of considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck.

3. The position of the body suggests that the perpetrator stood with his back to the twin bed with the victim on her knees in front of him. He then probably forced her backwards and may have raped her before or after plunging the scissors into her chest. That this was a crime of opportunity is evidenced by the fact that the assailant did not bring with him a weapon or materials for controlling his victim.

4. Once the victim was deceased, the perpetrator rummaged through the closet and drawers searching for valuables. At some point, the floor fan fell or was placed on the victim's head. It is not uncommon for a perpetrator to cover the head of his victim while he conducts his search, however, the covering is usually more opaque such as a blanket or pillows.

5. In cases like this, it is important that the investigator consider the possibility that the scene might have been staged by the perpetrator to throw off the investigation. In all cases, a decision that staging occurred must be based on a rigorous evaluation of the physical evidence and not on mere speculation, suspicion, or rumination. Some of the things in this scene that could indicate staging might include inconsistent patterns of livor mortis, drag trails from urine and

other bodily fluids, unnatural lateral bunching of the victim's clothing, positioning of the body in relation to the furniture to suggest intercourse, and a more obvious forced entry and search pattern. None of the features in the Lockmiller scene would lead me to believe it was staged. However, even without evidence of staging, it was not inconsistent that this crime could have been committed by someone known to the victim.

Freesmeyer's opinion that the stab wounds in the victim's chest were postmortem and an expression of emotion and vengeance on the part of the assailant is not only incorrect but would tend to negate the staging theory by pointing right back to someone she knew instead of diverting the investigation away. According to Dr. Schnittker, Jennifer may have still been alive when stabbed and therefore, the perpetrator may have delivered three closely spaced wounds to ensure her death. Emotionally charged stabbings generally have far greater numbers of wounds in a frantic pattern.

6. Other evidence in this scene correlate to burglary. Burglars often seek out containers in the form of suitcases, pillow cases, garbage cans, or garbage bags with which to carry out stolen goods. These containers like the garbage container in Jennifer's kitchen are often left in the middle of the floor if they are not needed.

Burglars commonly eat, drink, or use the bathroom. I could find nothing in the reports to indicate that the items on the kitchen counter were either brought in or processed for latent fingerprints. Most of those items such as the Pepsi bottle would best be processed in the crime laboratory.

It is not known if anything of value was taken from the apartment. There was nothing in the Lockmiller living room that would be irresistible value-wise to a burglar. Jennifer's purse was on the kitchen table but it was sandwiched between her book bags and not plainly visible.

7. It struck me as unusual that the first items booked into evidence were boxes of the victim's letters and personal papers rather than the physical evidence from the crime. It reflected that at the initial stages of this homicide investigation, the

detectives prematurely ruled out the likelihood that this had been a random attack by a stranger. From all of the reports I saw, the focus remained narrow.

8. Finally, even though Beaman was suspected on the first day of the investigation, I saw no attempt to seize and conduct forensic examinations of his clothing and footwear for injuries and trace evidence.

My observations and conclusions are based on the reports and documentation I have reviewed. Please feel free to contact me if you would like to further discuss these observations or if new facts arise that might alter my hypotheses.

Kenneth R. Moses



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Identification  
Services

Kenneth R. Moses

### Summary of Qualifications:

Kenneth Moses has over forty years of experience in forensic evidence. He established the Crime Scene Investigations Unit of the San Francisco Police Crime Laboratory in 1983 and was instrumental in the installation of automated fingerprint systems in San Francisco and at the California Department of Justice. His experience includes examination of a wide variety of physical evidence in criminal and civil cases. Over the years, he has worked with attorneys, with local, state, and federal agencies, and with private companies in a number of complex investigations. Mr. Moses holds an interim top-secret security clearance for work with the Office of Military Commissions in crimes involving members of the armed forces. He has been active in national efforts to establish professional standards in forensic science. Mr. Moses currently serves in as Laboratory Director of Forensic Identification Services in San Francisco.

### Education:

- Bachelors Degree in Criminology; University of California, Berkeley, 1969
- Chemistry major, University of San Francisco, 1963-65
- Administrative Advanced Latent Fingerprint School; F.B.I., 1972
- Field Evidence Certification Program; Long Beach State University 1971
- Bloodstain Evidence Institute, Elmira College, N.Y., 1981
- Continuing Education, Bloodstain Evidence, IAL, Milwaukee, 1999, 2009, 2010
- Bayesian Networks in Forensic Science, Dept. of Biostatistics, U. of Washington

### Professional Experience:

- Founder, Forensic Identification Services, 1997
- Qualified panel expert in Crime Scene Analysis—Los Angeles Superior Court
- San Francisco Police Inspector (ret.)
- Supervisor, Crime Scene Investigations, Crime Laboratory, 1980-1997
- Firearms and tool mark examiner, 1972-1982
- Latent print examiner and crime scene investigator, Crime Laboratory, San Francisco Police Department, 1971-1998
  - Investigation of 17,000 crime scenes including approximately 500 homicide scenes

Page 1 of 7

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Forensic  
Identification  
Services

Kenneth R. Moses

- Court testimony as an expert witness in crime scene investigations, physical evidence, scene reconstruction, blood spatter analysis, shoe and tire impressions, firearms, gunshot residue and fingerprint identification in 750 cases in State and Federal courts

Systems Manager, Automated Fingerprint Identification System, 1983-1997

- Police Officer, San Francisco Police Department, 1970
- High school chemistry and biology teacher, 1967-1969
- Investigator, Alameda County Coroner's Office, 1966-67

#### Additional Professional Activities

- Interim top-secret security clearance for work with the Office of Military Commissions
- International Conference on Forensic Inference and Statistics, 2011
- Instructor in Biometrics, U.C.L.A., 2002-2007
- Instructor in Criminal Identification, Central Intelligence Agency, 2005
- Consultation to The Innocence Projects (numerous)
- Technical Working Group, Mass Fatalities Incidents, Human Identification, National Institute of Justice, 2001
- Project Director, Infant Identification Program, 2001
- Design and implementation of Digital Image Enhancement System for latent prints, 1989
- National Scientific Working Group for Friction Ridge Analysis, Standards, and Training (SWGFAST), 1998
- Design and construction of Fingerprint Processing Laboratory, SFPD Crime Lab, 1983
- Instructor, Bloodstain Evidence Courses (3), 1986-87, San Francisco Police Academy
- Associate Editor, California Identification Digest, 1997-2001
- Firearms and Tool Mark Examiner, San Francisco Police, 1972-1982
- Lecturer in forensic evidence before the following organizations
  - California Appellate Project
  - National Assoc of Criminal Defense Lawyers
  - DePaul University School of Law
  - USF School of Law
  - Golden Gate U School of Law

Page 2 of 7

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Identification  
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Kenneth R. Moses

- Hastings School of Law
  - The Innocence Project
  - Massachusetts Bar MCLE
  - California State Bar Continuing Education
  - California Attorneys for Criminal Justice
  - California Public Defenders Association
  - Defense Investigators Training Academy
  - San Francisco Public Defenders Office
  - Alameda Public Defenders Office
  - California Attorneys for Criminal Justice
  - International Association for Identification
  - California State Division IAI
  - National Law Enforcement Seminar
  - American Association of Medical Examiners
  - University of San Francisco Law School
  - Northern California Law Enforcement Training Center, Santa Rosa
  - U.S. Postal Inspection Service, San Bruno
  - National Association of Bunco Investigators
  - Attorney General's Advisory Committee on Criminal Identification
- 
- Assistance and advisory to government agencies in implementation of automated fingerprint and image enhancement systems. Some of those agencies include:

Federal Bureau of Investigation, C.J.I.S. advisory committee on latent fingerprints  
U.S. Postal Inspection Service  
California Department of Justice, CAL-ID  
Massachusetts State Police  
Connecticut State Police  
Michigan State Police  
Illinois State Police  
Los Angeles Police Department  
Los Angeles Sheriff's Department  
Boston Police Department  
Chicago Police Department

Page 3 of 7

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Forensic  
Identification  
Services

Kenneth R. Moses

Idaho Department of Public Safety

### Selected Writings and Papers

The Friction Ridge Handbook, Chap 6, "AFIS," National Institute of Justice, 2010  
Encyclopedia of Biometrics, contributing author, "Law Enforcement Applications," Springer, Inc 2009

- "The National Academy of Sciences Report," PDS Annual Forensic Science Conference, Washington, D.C. 2009
- "Legal Issues in Fingerprint Analysis"; Texas Criminal Defense Lawyers Assoc.; Rusty Duncan Conference; 2009
- "Fingerprints—A Paradigm in Transition," Forensic Science Seminar, National Assoc. of Criminal Trial Lawyers, Las Vegas, 2008
- "Professional Investigation of Crime Scenes," Arizona Identification Council, Phoenix 2008
- "Analysis of Error in Fingerprint Identifications," DePaul University School of Law; Chicago, 2006"
- "The Professional Investigation of Burglary Scenes", International Assoc for Identification, Annual Conference, 2006.
- "The Brandon Mayfield Case---Anatomy of Error"; International Assoc for Identification, Annual Conference, 2004
- "Fingerprints in Post-Conviction Cases", National Innocence Conference, 2004
- "The Role of the Independent Expert", CSDIAI, Concord, 2001
- "Crime Scene Evidence Collection and Preservation Issues," California Public Defenders Association, 1999
- "AFIS and Community Policing," International Association for Identification, 1999
- "Productivity of Fingerprint Systems," International Forensic Symposium, FBI, Quantico, 1987
- "Automated Fingerprint Systems," National Assoc. of Criminal Justice Planners, San Diego, 1987
- "Blood Spatter Evidence," California Medical Examiners, 1989
- "The Future of the Identification Profession," IAI, Sacramento, 1988
- "Making AFIS Systems Work," California State Division, IAI, 1987
- "Image Processing of Latent Fingerprints," Police Technology Conference, Canberra,

Page 4 of 7

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Kenneth R. Moses

Australia, 1992

"Chemical Processing of Fingerprints from Documents," National Association of Bunco Investigators, Charleston, S.C., 1994

"DNA at the Crime Scene," DNA Symposium, University of San Francisco, 1994

"Points Revisited, Individuality in Nature," Cal State Division, IAI, 1997

"Fingerprints in the Courtroom--Legal Aspects of Digitized Fingerprint Technologies,"

AFIS Users Groups, 1998 "AFIS and Community Policing," International Association for Identification, 1999

"Daubert Issues in Identification," Arizona Identification Council, 1999

"Forensic Evidence at Crime Scenes," CAJC/CPDA Capital Case Defense Seminar, 2001

"The Role of the Independent Expert," California State IAI, 2001

"Friction Ridge Identification," Defense Investigators Academy, 2001

### Professional Affiliations

- International Association for Identification (IAI)
- Speaker Chair, California State IAI Training Conference, 2009
- Past Chairman, Automated Fingerprint Sub-committee, IAI
- American Academy of Forensic Sciences
- International Association of Bloodstain Pattern Analysts
- Scientific Working Group for Friction Ridge Analysis, Standards, and Training (SWGFAST)

### The Mayfield Effect

In 2004, fingerprint examiners at the Federal Bureau of Investigation erroneously identified the fingerprint of a Portland attorney, Brendan Mayfield, to a latent print lifted in the bombing of a train in Madrid Spain. Later, Mr. Moses was retained to check the work of the FBI examiners, and he too erroneously identified the print as that of Mayfield.

This was not only an error but also a significant scientific discovery. Never before in history had two prints with so many similar features (15) been found to come from two different persons. The cause of the error was not just the similarity of the features, but also the recent expansion of fingerprint computers to search huge databases across international lines. The larger the database searched, the more likely that increasing numbers of similarities and false positives will be found.

As a direct result of the Mayfield case, numerous international governmental and university studies have been

Page 5 of 7

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Identification  
Services

Kenneth R. Moses

initiated and are on-going to refine the standards of fingerprint identification. Mr. Moses is actively engaged in this research.

### **Certifications:**

- Certified Senior Crime Scene Analyst, International Assoc. for Identification
- Certified Latent Print Examiner, International Assoc. for Identification
- California Community College Teaching Credential

### **Honors and Awards:**

- George Pletts Award for Lifetime Distinguished Service, California State Division, International Association for Identification, 2000.
- Life Member; IAI, 2008
- Life Member; California State Division, International Assoc for Identification; 2006
- Outstanding Service Award, 1985, San Francisco Board of Supervisors
- Silver medal of Valor, SFPD, for arrest of an armed homicide suspect, 1972.
- Dedication and Professionalism Award, 1997, Criminal Trial Lawyer's Association
- Police Officer of the Year Award, 1990, San Francisco Chamber of Commerce
- Pursuit of Excellence Award, 1991, U.S. Postal Inspection Service
- Meritorious Conduct Medal, 1993, San Francisco Police Department

Page 6 of 7

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Kenneth R. Moses

**Schedule of Fees:**

Crime Scene Analyses & Consultation	\$225.00/hour
Laboratory Testing	\$225.00/ hour
Travel time billed as above	
Court Appearances & Depositions .....	\$350.00/hour
Initial inquiry and consultation (w/o travel)	No charge

Retainer: \$2500.00 payable in advance

Or

Copy of a court order or government authorization for expert witness fees.

There is a 3-hour minimum charge per case.

Non-billed balance of retainer will be promptly returned upon written notification that no further services will be required.

Court appearances are billed at \$700 per half-day session plus travel and pre-trial conferences.

Travel is billed at the regular hourly rate portal to portal not to exceed 10 hours per day plus travel expenses including airfare, airline luggage or change fees, hotel, meals, car rental or local transportation, parking fees and tolls. Mileage will be billed at the then current government rate. Pre-paid electronic ticketing shall be provided for air travel. Flight segments longer than two hours shall be booked in premium seating.

Page 7 of 7

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IN THE CIRCUIT COURT OF McCLEAN COUNTY, ILLINOIS  
CASE NO.: 14L 51

ALAN BEAMAN,

Plaintiff,

vs.

TIM FREESMEYER, et al.,

Defendants.

---

Thursday, September 24, 2015  
200 South Biscayne Boulevard  
Suite 4900  
Miami, FL 33131  
11:41 a.m. - 12:14 p.m.

VIDEOTAPED DEPOSITION OF MORGAN HARTMAN

Taken before Carol Ann Kridos, Registered  
Professional Reporter and Notary Public in and for  
the State of Florida at Large, pursuant to Notice  
of Taking Deposition filed in the above cause.

**C05560**

Page 2

1 APPEARANCES:  
 2  
 3 On behalf of the Plaintiff:  
 4  
 5 MACARTHUR JUSTICE CENTER  
 375 East Chicago Avenue  
 6 Chicago, IL 60611  
 BY: DAVID M. SHAPIRO, ESQ.  
 7 (312) 503-0711  
 david.shapiro@law.northwestern.edu  
 8  
 9 On behalf of the Town of Normal Defendants:  
 10  
 11 ANCEL, GLINK, DIAMOND, BUSH,  
 12 DiCIANNI & KRAFTHOFFER, PC  
 140 South Dearborn Street  
 13 Chicago, IL 60603  
 BY: LUCY B. BEDNAREK, ATTORNEY AT LAW.  
 14 (312) 782-7606  
 lbednarek@ancelglink.com  
 15  
 16 ALSO PRESENT:  
 17 JASON STAPLETON, VIDEOGRAPHER.  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 4

1 PROCEEDINGS  
 2 THE VIDEOGRAPHER: We're on the record.  
 3 This is Media Unit Number 1.  
 4 We are here today, September 24th, 2015,  
 5 at approximately 11:41 for the video  
 6 deposition of Morgan Hartman in the case  
 7 styled Alan Beaman versus Tim Freesmeyer, et  
 8 al., case number 14L 51.  
 9 The videographer is Jason Stapleton; the  
 10 court reporter is Carol Ann Kridos.  
 11 At this time would counsel please state  
 12 their appearances for the record.  
 13 MR. SHAPIRO: David Shapiro for the  
 14 plaintiff, Alan Beaman. And since there's a  
 15 distinction in Illinois between evidence and  
 16 discovery depositions, I'll just state that  
 17 this is the evidence deposition.  
 18 MS. BEDNAREK: Lucy Bednarek on behalf  
 19 of the Town of Normal defendants.  
 20  
 21  
 22  
 23  
 24  
 25

Page 3

1 INDEX  
 2 WITNESS PAGE  
 3  
 4 MORGAN HARTMAN  
 5 Direct Examination By Mr. Shapiro .....5  
 6 Cross-Examination By Ms. Bednarek .....24  
 7 Redirect Examination By Mr. Shapiro .....30  
 8  
 9  
 10  
 11 PLAINTIFF'S EXHIBITS  
 12  
 13 NUMBER DESCRIPTION PAGE  
 14  
 15 Exhibit 1 911 Call Transcript 12  
 16 Exhibit 2 8/28/93 Interview 13  
 17 Exhibit 3 9/10/93 Interview 13  
 18 Exhibit 4 AB017052 to 017082 14  
 19 Exhibit 5 AB003145 to 003151 14  
 20 Exhibit 6 Photograph 7  
 21 Exhibit 8 Photograph 8  
 22 Exhibit 9 Photograph 10  
 23  
 24  
 25

Page 5

1 Thereupon:  
 2 MORGAN HARTMAN  
 3 Was called as a witness, and having been  
 4 first duly sworn and responding "I do," was  
 5 examined and testified as follows:  
 6 DIRECT EXAMINATION  
 7 BY MR. SHAPIRO:  
 8 Q Miss Hartman, we just took your  
 9 discovery deposition and you recall that at the  
 10 beginning of the deposition I went through some of  
 11 the rules that accompany giving a deposition?  
 12 A Yes.  
 13 Q Okay. Do you recall those rules or  
 14 should I repeat them?  
 15 A I recall them.  
 16 Q Okay. Thank you.  
 17 And your full name is Morgan Hartman and  
 18 it's spelled H-a-r-t-m-a-n; yes?  
 19 A Yes.  
 20 Q Okay. And in 1993 your name was Morgan  
 21 Keefe?  
 22 A Yes.  
 23 Q And you were a friend of Jennifer  
 24 Lockmiller who was murdered in that year; yes?  
 25 A Yes.

Page 6

1 Q And you were the person who discovered  
2 the body of Jennifer Lockmiller in her apartment;  
3 right?  
4 A Yes.  
5 Q Okay. And when the police were  
6 investigating the Lockmiller homicide, you spoke  
7 with them and were interviewed; yes?  
8 A Yes.  
9 Q Okay. During the summer of 1993 you had  
10 spent the night at Jennifer Lockmiller's apartment  
11 four or five times; right?  
12 A Right.  
13 Q And that gave you, along with being a  
14 close friend of hers, some familiarity with her  
15 habits and how she lived; yes?  
16 A Yes.  
17 Q Okay. And with regard to her apartment,  
18 in your experience was Jennifer Lockmiller  
19 generally a clean and tidy person or a messy  
20 person?  
21 A Clean and tidy.  
22 Q Okay. We marked some exhibits during  
23 the discovery deposition. I believe -- do you  
24 still have those in front of you?  
25 A Yes.

Page 7

1 Q Okay. So a number of those exhibits,  
2 the ones that I mention, we're just going to also  
3 treat as exhibits for the evidence deposition as  
4 well.  
5 Let me first direct your attention to  
6 what was marked as Exhibit 6 and which will also  
7 be Exhibit 6 for purposes of this evidence  
8 deposition.  
9 (The referred-to photograph was marked  
10 Plaintiff's Exhibit 6 for Identification by  
11 the Court Reporter.)  
12 BY MR. SHAPIRO:  
13 Q What does Exhibit 6 show?  
14 A A messy kitchen.  
15 Q Okay. And do you recognize it to be the  
16 kitchen of the apartment that Jennifer Lockmiller  
17 occupied in 1993?  
18 A Yes.  
19 Q Okay. And you'll see that there is a  
20 pot left out on the stove, what appears to be the  
21 lid of the pot next to it on the counter, and some  
22 sort of mess next to the lid on the counter.  
23 Do you see that?  
24 A Yes.  
25 Q Okay. Based on what you knew about

Page 8

1 Jennifer Lockmiller's living habits, would it be  
2 typical for Jennifer to have a pot and a lid and  
3 some mess out in this manner in her apartment?  
4 MR. SHAPIRO: Objection --  
5 THE WITNESS: No.  
6 MS. BEDNAREK: -- to form of the  
7 question.  
8 THE WITNESS: No.  
9 BY MR. SHAPIRO:  
10 Q Okay. So fair to say that what you see  
11 depicted in Exhibit 6 of the pot, the lid and the  
12 substance by the lid wasn't typical of Jennifer  
13 Lockmiller's habits as far as you knew them?  
14 MS. BEDNAREK: Same --  
15 THE WITNESS: Not typical.  
16 MS. BEDNAREK: Same objection.  
17 BY MR. SHAPIRO:  
18 Q Okay. Let me ask you to turn to what  
19 was marked as Exhibit 8 for purposes of the  
20 discovery deposition; and we'll also mark this as  
21 Exhibit 8 for purposes of this evidence  
22 deposition.  
23 (The referred-to photograph was marked  
24 Plaintiff's Exhibit 8 for Identification by  
25 the Court Reporter.)

Page 9

1 BY MR. SHAPIRO:  
2 Q Do you recognize Exhibit 8 to be a  
3 picture from Jennifer -- strike that.  
4 Do you recognize Exhibit 8 to be a  
5 picture from the apartment that Jennifer  
6 Lockmiller occupied in 1993?  
7 A Yes.  
8 Q Okay. And does it depict a portion of  
9 her bedroom that includes a desk?  
10 A Yes.  
11 Q Okay. You'll see that there is a  
12 cooking pot out in the -- on the desk in  
13 Exhibit 8; yes?  
14 A Yes.  
15 Q Is having a cooking pot out on the desk  
16 like that consistent with Jennifer Lockmiller's  
17 habits as you knew them?  
18 A No.  
19 Q Okay. You'll also see in Exhibit 8 that  
20 there's a calendar on the floor of the apartment?  
21 A Yes.  
22 Q Okay. Is having a calendar on the floor  
23 of the apartment as it's shown in the picture  
24 consistent with Jennifer Lockmiller's habits as  
25 you understood them?

C05562 3 (Pages 6 - 9)

Page 10

1 A No.  
2 Q Okay. Thank you.  
3 Let's turn now to Exhibit 9. And,  
4 again, Exhibit 9 was marked as Exhibit 9 in the  
5 discovery deposition. We'll mark it as Exhibit 9  
6 also for this -- for this evidence deposition.  
7 (The referred-to photograph was marked  
8 Plaintiff's Exhibit 9 for Identification by  
9 the Court Reporter.)  
10 BY MR. SHAPIRO:  
11 Q Does Exhibit 9 depict the bunk bed that  
12 was in Jennifer Lockmiller's apartment in 1993?  
13 A Yes.  
14 Q Okay. And you'll notice that on the  
15 bunk bed there are towels, what appears to be a  
16 smallish boom box, what appears to be mouthwash,  
17 and some other items; yes?  
18 A Yes.  
19 Q Okay. Now, during the time that you  
20 would sleep over at Jennifer's apartment, you  
21 would sleep on this bunk; right?  
22 A Yes.  
23 Q Okay. So, obviously, it wasn't typical  
24 for Jennifer to have stuff piled up on the bunk  
25 while you were sleeping there; right?

Page 11

1 MS. BEDNAREK: Objection to form.  
2 THE WITNESS: Not typical.  
3 BY MR. SHAPIRO:  
4 Q Okay. Well, let me just ask. So was it  
5 typical when you were sleeping on the bunk in  
6 Jennifer Lockmiller's apartment for her to have  
7 items piled up on the bunk?  
8 A No.  
9 Q Okay. Aside from the fact that it  
10 wouldn't be typical for these things to be piled  
11 up on the bunk while you were sleeping there, was  
12 it consistent with Jennifer's general habits with  
13 regard to cleanliness and housekeeping to have a  
14 number of items piled up in the bed as they're  
15 shown on Exhibit 9?  
16 A I can't recall. All I can speak to is  
17 the weekends that I was there and it -- there  
18 wasn't stuff piled on the bunk when I was there.  
19 Q Okay. Was -- I mean, was it -- based on  
20 what you knew about how she kept her apartment and  
21 whether she kept it clean, would it be normal for  
22 her to leave out towels and a boom box and  
23 mouthwash on a bunk?  
24 MS. BEDNAREK: Objection to form, calls  
25 for speculation as to what she did during the

Page 12

1 week.  
2 THE WITNESS: I -- yeah, I can't answer  
3 to that.  
4 BY MR. SHAPIRO:  
5 Q Okay.  
6 THE VIDEOGRAPHER: You're okay, but just  
7 don't -- don't because...  
8 BY MR. SHAPIRO:  
9 Q I showed you, and we marked, during the  
10 discovery deposition Exhibits 1, 2, 3 and 4. I  
11 just want to identify and mark them for purposes  
12 of this deposition, too. Would you take out -- do  
13 you have Exhibit 1?  
14 A Yes.  
15 Q Okay. And that will be Exhibit 1 for  
16 purposes of this evidence deposition as well.  
17 (The referred-to document was marked  
18 Plaintiff's Exhibit 1 for Identification by  
19 the Court Reporter.)  
20 BY MR. SHAPIRO:  
21 Q On Exhibit 1 is a true and accurate copy  
22 of a 911 call that you placed to the police after  
23 you discovered Jennifer Lockmiller's body; right?  
24 A Yes.  
25 Q Okay. And let's turn to Exhibit 2,

Page 13

1 please. And we'll mark this as Exhibit 2 for  
2 purposes of the evidence deposition as well.  
3 (The referred-to document was marked  
4 Plaintiff's Exhibit 2 for Identification by  
5 the Court Reporter.)  
6 BY MR. SHAPIRO:  
7 Q Is Exhibit 2 a true and accurate copy of  
8 the first interview that you gave to the police on  
9 August 28th?  
10 A Yes.  
11 Q And August 28th was the same day that  
12 you discovered Miss Lockmiller's body; right?  
13 A Yes.  
14 Q And this interview was given on the same  
15 day as the 911 call?  
16 A Yes.  
17 Q Okay. If you could turn, please, to  
18 Exhibit 3. Exhibit 3 is the -- and we'll mark  
19 this as Exhibit 3 for purposes of the evidence  
20 deposition.  
21 (The referred-to document was marked  
22 Plaintiff's Exhibit 3 for Identification by  
23 the Court Reporter.)  
24 BY MR. SHAPIRO:  
25 Q Exhibit 3 is a true and accurate

Page 14

1 transcript of an interview that you gave with  
2 police on September 10th, 1993; right?  
3 A Yes.  
4 Q Okay. And if we could turn to Exhibits  
5 4 and I think it was 5. Exhibit 4 and 5, please.  
6 A Yes.  
7 Q Exhibit -- and we'll mark Exhibits 4 and  
8 5 as Exhibits 4 and 5 for purposes of the evidence  
9 deposition.  
10 (The referred-to documents were marked  
11 Plaintiff's Exhibits 4 and 5, respectively,  
12 for Identification by the Court Reporter.)  
13 BY MR. SHAPIRO:  
14 Q Exhibits 4 and 5 are copies of testimony  
15 that you gave in the prosecution of Alan Beaman;  
16 right?  
17 A Yes.  
18 Q Okay. At the time that you placed the  
19 911 call, is it accurate to say that you were  
20 extremely shaken and distraught?  
21 A Yes.  
22 Q Okay. And you weren't present at the  
23 time that the murder occurred; right?  
24 A Right.  
25 Q Okay. And did you witness the murder?

Page 15

1 A No.  
2 Q Okay. Do you have any knowledge of who  
3 committed the murder?  
4 A No.  
5 Q And you didn't know Alan Beaman at all  
6 well; right?  
7 A No.  
8 Q You had only met him once or twice?  
9 A Yes.  
10 Q And so when you told the police that you  
11 thought Alan Beaman might have been the murderer  
12 you were guessing; right?  
13 A Right.  
14 MS. BEDNAREK: Objection to form.  
15 THE WITNESS: Yes.  
16 BY MR. SHAPIRO:  
17 Q And Jennifer had told you that she was  
18 afraid of Alan but you didn't consider him  
19 violent?  
20 A No.  
21 Q Is that an accurate statement, that she  
22 was afraid but you didn't consider him violent?  
23 A I was not afraid of him.  
24 Q Okay. And you didn't expect that the  
25 guesses you expressed to the police would carry a

Page 16

1 lot of weight; is that accurate?  
2 MS. BEDNAREK: Objection to form.  
3 THE WITNESS: That is accurate.  
4 BY MR. SHAPIRO:  
5 Q And you didn't think that the statements  
6 you made to the police would carry a lot of weight  
7 in the investigation?  
8 MS. BEDNAREK: Objection to form.  
9 THE WITNESS: As I said earlier, I was  
10 22 and I was in shock, probably some  
11 posttraumatic stress; so I really had no idea  
12 of how this would legally play out.  
13 BY MR. SHAPIRO:  
14 Q And Jennifer had never said that Alan  
15 had ever been violent with her or touched her;  
16 right?  
17 A She --  
18 Q I'm sorry, that was an unclear question.  
19 Did Jennifer ever tell you that Alan had  
20 been physically violent with her?  
21 A No.  
22 Q Okay. And did -- you never saw Alan be  
23 physically violent with Jennifer; right?  
24 A No.  
25 Q Okay.

Page 17

1 A I did not.  
2 Q And -- but there was an occasion in  
3 which Jennifer told you that Alan had broken her  
4 door; is that true?  
5 A Yes.  
6 Q Okay. But you never actually saw that  
7 happen; right?  
8 A Right.  
9 Q Okay. Although you did look at the door  
10 afterwards?  
11 A Yes.  
12 Q Okay. And so when you suggested to the  
13 police that Alan might have been the murderer, is  
14 it accurate to say that it was based on what  
15 Jennifer had told you about him kicking down the  
16 door and Jennifer saying she was afraid of him  
17 even though you didn't personally consider him  
18 violent?  
19 A Please say that again.  
20 Q Sure, sure, sure. I just -- I want to  
21 make sure I understand, you know, all of the --  
22 everything that you were basing it on when you  
23 suggested to the police that Alan might have been  
24 the murderer. One thing you were basing it on was  
25 that Jennifer had told you that he had kicked down

Page 18

1 the door?

2 A Yes.

3 Q Okay. And it was also based on Jennifer

4 saying that she was afraid of Alan even though you

5 didn't personally think he was violent; is that

6 accurate?

7 A I knew that she was afraid of him.

8 Q Okay. But you personally weren't afraid

9 of him?

10 A I personally didn't know him well enough

11 and didn't see enough evidence to think that he

12 was violent, but I heard her say over and over and

13 over again that she was afraid of him.

14 Q Okay. Was your statement to the police

15 that Alan might have committed the murder based on

16 anything else than what we've just discussed?

17 A I was aware that he was possessive and

18 that he had told Jen on one occasion -- I didn't

19 witness this. She told me that he told her on one

20 occasion that he would commit suicide if she broke

21 up with him.

22 Q Okay. Anything else?

23 A Well, she would -- he would call her and

24 call her and would -- it was almost harassing.

25 And I was in the apartment a few times when he

Page 19

1 called and she would just be frustrated; but

2 that's as much as I can remember.

3 Q Okay. And if you told police during the

4 911 call that he was a psycho, that Alan was a

5 psycho, that would be based on the same things

6 that you just told me?

7 A Yes.

8 Q Okay. And it's fair to say that you

9 didn't like Alan?

10 A Yes, it's fair to say that.

11 Q Okay. And you told the police that he

12 was really kind of gross, he was greasy?

13 A Yes.

14 Q Okay. You recall that Jennifer had a

15 former boyfriend whose name was Stacey Gates or

16 Bubba Gates; right?

17 A Yes.

18 Q Okay. And you knew that Jennifer had

19 plans to go and see Stacey Gates in Peoria on

20 August 27th; right?

21 A Yes.

22 Q Okay. And she was going to Peoria for

23 the purpose of seeing him --

24 A Yes.

25 Q -- is what she told you?

Page 20

1 Okay. And in romantic terms, is it

2 accurate to say that Bubba Gates was very much

3 into Jennifer Lockmiller but she wasn't really

4 into him?

5 A True.

6 Q Okay. And you described her attitude

7 toward him as kind of flippant; right?

8 A Yes.

9 Q Okay. And during your interviews with

10 police in the Lockmiller homicide investigation

11 you told them that Jennifer was the queen of

12 scamming drinks off --

13 A Yes.

14 Q -- of guys; right?

15 A Yes.

16 Q Okay. And by that you meant that she

17 would meet guys in bars and she would smile and

18 flip her hair and be flirtatious; right?

19 A Yes.

20 Q Okay. On Saturday, the 21st of August

21 of 1993 you went out drinking with Jennifer

22 Lockmiller and a person named Kelly Hamburg;

23 right?

24 A Yes.

25 Q And Kelly Hamburg was a former boyfriend

Page 21

1 of yours and at the time a close friend?

2 A Yes.

3 Q Okay. And you started off at a bar

4 called Spanky's and were going to head over after

5 that to a bar called The Cellar; correct?

6 A Correct.

7 Q Okay. And at Spanky's there was a

8 stranger that Jennifer met and began speaking

9 with; right?

10 A Yes.

11 Q Okay. And that stranger bought Jennifer

12 four or five drinks?

13 A Yes.

14 Q Okay. And she might have given him her

15 phone number in that interaction as far as you

16 know?

17 A There was a phone number exchanged. I

18 don't know who gave it to who.

19 Q Okay.

20 A This is before the lipstick incident.

21 Q Yes. We'll get to -- we'll get to the

22 lipstick incident in a second; right.

23 And that person who Jennifer met and who

24 bought her four or five drinks at Spanky's had

25 said that he lived in Woodstock, Illinois?

Page 22

1 A Yes.  
2 Q Okay. And when you saw Jennifer on  
3 Tuesday, the 24th, she said that the Woodstock guy  
4 from the bar had called her; right?  
5 A Yes.  
6 Q And you surmised that he had called her  
7 the day before, on Monday, the 23rd?  
8 A Yes.  
9 Q Okay. And is it accurate to say that  
10 Jennifer wasn't into this guy but that he was into  
11 her and pursuing her?  
12 A Yes.  
13 Q Okay. And -- so Monday, the 23rd, that  
14 would have been two days before the murder,  
15 assuming it occurred on Wednesday, the 25th?  
16 A Yes.  
17 Q And you told the police in your  
18 interviews with them about the stranger that  
19 Jennifer had met in the bar and who bought her  
20 drinks and who had called her; right?  
21 A Yes.  
22 Q Okay. Now, after you left Spanky's you  
23 were on the way to another bar called The Cellar?  
24 A Yes.  
25 Q Okay. And there -- strike that.

Page 23

1 And you never made it all the way to The  
2 Cellar?  
3 A Right.  
4 Q On the way to The Cellar you and  
5 Jennifer and Kelly Hamburg ran into a group of  
6 men?  
7 A Yes.  
8 Q And you'd never met these guys before?  
9 A No.  
10 Q And as far as you knew, Jennifer had  
11 never met them before either?  
12 A As far as I know, no.  
13 Q Yeah. And there was some exchange where  
14 a phone number was written on a napkin in lipstick  
15 and passed between Jennifer and the --  
16 A Yes.  
17 Q -- men; right?  
18 A Yes.  
19 Q Okay. And you told the police during  
20 your interviews with them about the encounter with  
21 this group of men on the way from Spanky's to The  
22 Cellar; right?  
23 A Yes.  
24 Q Okay. Oh, and when you spoke with the  
25 police on one occasion, you told them that

Page 24

1 Jennifer just always seemed to have pot; right?  
2 A Yes.  
3 MR. SHAPIRO: Those are all of my  
4 questions.  
5 MS. BEDNAREK: Okay. I do have some.  
6 CROSS-EXAMINATION  
7 BY MS. BEDNAREK:  
8 Q You testified that when you called 911  
9 after you discovered Jennifer's body that you were  
10 shaken and distraught; correct?  
11 A Correct.  
12 Q When you were interviewed by the police  
13 on August 28th, 1993 and September 10th, 1993,  
14 were you still shaken and distraught?  
15 A Yes.  
16 Q Would you describe your -- when --  
17 during your interview, though, would you -- were  
18 you able to speak in a -- what you've previously  
19 described as a sane manner or a reasonable manner?  
20 A Yes, I was -- I was clearheaded. I was  
21 just still shaken, that's all.  
22 Q You testified that you didn't -- that  
23 you did not believe that Alan Beaman was violent  
24 towards Jennifer; correct?  
25 A Not physically.

Page 25

1 Q Or you never -- not physically; correct,  
2 but that he was verbally aggressive towards her;  
3 correct?  
4 A Yes.  
5 Q And you described him as kind of pushy  
6 to the police; right?  
7 A Yes.  
8 Q You were -- one of the reasons that you  
9 believed or you told the police that you believed  
10 the killer may be Alan Beaman was based on an  
11 incident where Jennifer told you that Alan broke  
12 down her door; correct?  
13 A Yes.  
14 Q And you saw the door the same day that  
15 that happened; right?  
16 A Yes.  
17 Q Can you describe for me what the door  
18 looked like?  
19 A It was off the hinges. And I remember  
20 that it didn't shut quite right, so it wasn't in  
21 the jam, so it wouldn't latch. So it was -- she  
22 kind of makeshifted a way to keep it up with a  
23 door and I just remember having to push it to get  
24 in.  
25 Q And when you pushed the door to get in,

C05566 7 (Pages 22 - 25)

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APPENDIX 001376

Page 26

1 what happened?  
2 A Jen screamed. And I said, "It's okay.  
3 It's just me." And she said -- she was on the  
4 phone in the corner of the living room like kind  
5 of hunkered down and said Alan had been there and  
6 that she was scared and she was on the phone with  
7 one of our friends.  
8 Q You and Jennifer were very good friends;  
9 right?  
10 A Yes.  
11 Q You would -- you considered her one of  
12 your best friends?  
13 A Yes.  
14 Q And you'd known her for at least five  
15 years prior to the date she was murdered; right?  
16 A Yes. Four years.  
17 Q Four years.  
18 A Let's say four years.  
19 Q When you -- if I could direct your  
20 attention to Exhibit Number I, which is the  
21 audio -- or the transcript of the audio from the  
22 911 call.  
23 A Yes.  
24 Q When you called the 911 after you  
25 discovered her body, you told the 911 operator

Page 27

1 that, quote, "She had this psycho ex-boyfriend  
2 that she broke up with. His name is Alan, he went  
3 to Wesleyan and I only met him once and he was  
4 psycho and he used to harass her all the time and  
5 he used to break down her door;" right?  
6 A Yes.  
7 Q Is that an accurate summary of what you  
8 told the 911 operator after you found her body?  
9 A Yes.  
10 Q You were also asked about one of  
11 Jennifer's previous boyfriends, Stacey Gates, or  
12 Bubba Gates as he was also known. Would you  
13 describe him as a nice individual at the time and  
14 that there was nothing odd about him?  
15 A I thought it was odd that he continued  
16 to pursue her when she kept saying she wasn't  
17 interested, but he wasn't pushy or harassing. He  
18 just -- he just really loved her.  
19 Q Now, you were also asked about a number  
20 of times when Jen and you were out at the bars and  
21 Jen would flirt to get drinks from guys; right?  
22 A Yes.  
23 Q Would you describe -- how would you  
24 describe that flirting?  
25 A Benign. Completely benign. And she

Page 28

1 would -- she -- as far as I remember, she would  
2 collect phone numbers and never act on them or  
3 anything. She just liked to flirt. And it was  
4 almost like a game to see how many drinks she  
5 could get.  
6 Q She didn't promise any of the guys  
7 anything; right?  
8 A No.  
9 Q And she -- you didn't see her physically  
10 touch any of the guys that she was flirting with;  
11 right?  
12 A No. I never saw her follow-up with any  
13 of the guys either.  
14 Q The guys that -- with the lipstick  
15 incident and the guy from Woodstock, was there  
16 anything -- I know that you talked to the police  
17 about those incidents and those men. Did you at  
18 any time believe that any of those men had  
19 anything to do with Jennifer's murder?  
20 A No.  
21 Q And you didn't tell the police that  
22 either; right?  
23 A I don't think so, no. I was just  
24 recalling the last night that she and I had gone  
25 out. Because Tuesday night we went to a movie,

Page 29

1 but Saturday night was the last night that we had  
2 been out at the bars.  
3 Q And you were shown a number of  
4 photographs of the inside of Jennifer's apartment;  
5 right?  
6 A Yes.  
7 Q And those were Exhibits 6, 8 and 9 for  
8 the purposes of this video deposition or this  
9 evidence deposition.  
10 You don't -- do you know when these  
11 photographs were taken?  
12 A No.  
13 Q Do you know who took them?  
14 A No.  
15 Q You were asked about Jen's habits as to  
16 how she kept her -- the inside of her apartment,  
17 you know, whether it was clean or not. Can you --  
18 you were there mostly on the weekends; right?  
19 A Um-hmm.  
20 Q Yes?  
21 A Yes.  
22 Q So are you able to speak to how she kept  
23 the inside of her apartment during the week?  
24 A No. And when I was there, nothing  
25 seemed unusual for a college student; I will say

8.(Pages 26 - 29)

C05567

Page 30

1 that.

2 Q Sometimes college students are messy?

3 A Yeah.

4 MR. SHAPIRO: I'm sorry, I'm going to

5 object to that last question.

6 MS. BEDNAREK: They are.

7 BY MS. BEDNAREK:

8 Q And I apologize. I don't know whether

9 you actually testified to this earlier, but you

10 told the police in your interviews with them that

11 you believed that Jennifer was afraid of Alan

12 Beaman; right?

13 A Yes.

14 MS. BEDNAREK: Give me one second.

15 I have nothing further.

16 MR. SHAPIRO: I just have a couple of

17 quick questions.

18 REDIRECT EXAMINATION

19 BY MR. SHAPIRO:

20 Q In response to questions from

21 Miss Bednarek you said that for Jen scamming

22 drinks from a guy was kind of a game, how many

23 drinks could she get, how many numbers could she

24 get; right?

25 A I know -- not numbers.

Page 31

1 Q Oh, drinks. Okay.

2 A Just drinks.

3 Q Drinks. It was sort of a game, how many

4 drinks she could get?

5 A Um-hmm.

6 Q And sometimes she would take numbers,

7 but she wouldn't give her number out?

8 A I can't remember her giving her number

9 out as a regular thing. Maybe she did once or

10 twice, but I don't remember.

11 Q When you went out with Jennifer and

12 Kelly Hamburg on August 23rd, two days before the

13 murder, you recall testifying that she met a guy

14 from Woodstock at Spanky's; right?

15 A On the 21st, yes.

16 Q Oh, I'm sorry, on the --

17 A Yes.

18 Q You're right, the 21st. 21st.

19 A Yes.

20 Q And she reported to you that that guy

21 had called her and you surmised that that was on

22 Monday, the 23rd, that he called her?

23 A Yes.

24 Q Okay. Did Jennifer explain to you how

25 the guy from Woodstock got her number such that

Page 32

1 she was -- such that he was able to call her?

2 A No.

3 Q Okay.

4 MR. SHAPIRO: Thank you. That's all I

5 have.

6 MS. BEDNAREK: I have nothing further.

7 THE VIDEOGRAPHER: The time is 12:14.

8 Deposition concluded. Off the record.

9 (Witness excused.)

10 (Thereupon, at 12:14 o'clock p.m. the

11 deposition was concluded.)

12 -----

13

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Page 33

1

2 CERTIFICATE OF OATH

3

4 STATE OF FLORIDA )

5 COUNTY OF BROWARD )

6

7 I, Carol Ann Kridos, Registered

8 Professional Reporter, Notary Public in and for

9 the State of Florida at Large, certify that the

10 witness, MORGAN HARTMAN, personally appeared

11 before me on September 24, 2015 and was duly sworn

12 by me.

13 WITNESS my hand and official seal this

14 24th day of September, 2015.

15

16

17

18

19

20

21 

22 Carol Ann Kridos

23 Registered Professional Reporter

24 Notary Public - State of Florida

25 Commission No.: EE185492

My Commission Expires: 4/27/16



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2 2 South Biscayne Boulevard, Suite 2250  
3 Miami, FL 33131  
4 (305) 376-8800

5  
6 September 25, 2015

7 DAVID M. SHAPIRO, ESQ.  
8 MACARTHUR JUSTICE CENTER  
9 375 East Chicago Avenue  
10 Chicago, IL 60611

11 RE: BEAMAN vs. FREESMEYER, et al.

12 DEPO OF: Morgan Hartman

13 TAKEN: September 24, 2015

14 READ & SIGN BY: October 25, 2015

15 Dear Counsel,

16 The original transcript of the deposition  
17 listed above is enclosed for your file. The  
18 witness did not waive reading and signing and has  
19 been sent a letter notifying them to come and read  
20 and sign their deposition transcript.

21 The witness will be provided a copy of their  
22 deposition transcript for reading in our office  
23 should they come in to review the transcript, and  
24 we will forward to you any corrections made by the  
25 witness at that time, along with an original  
signature page which should be attached to the  
original transcript which is in your possession.

Sincerely,

CAROL ANN KRIDOS, RPR  
VERITEXT/FLORIDA REPORTING CO.

C05570

11 (Page 38)

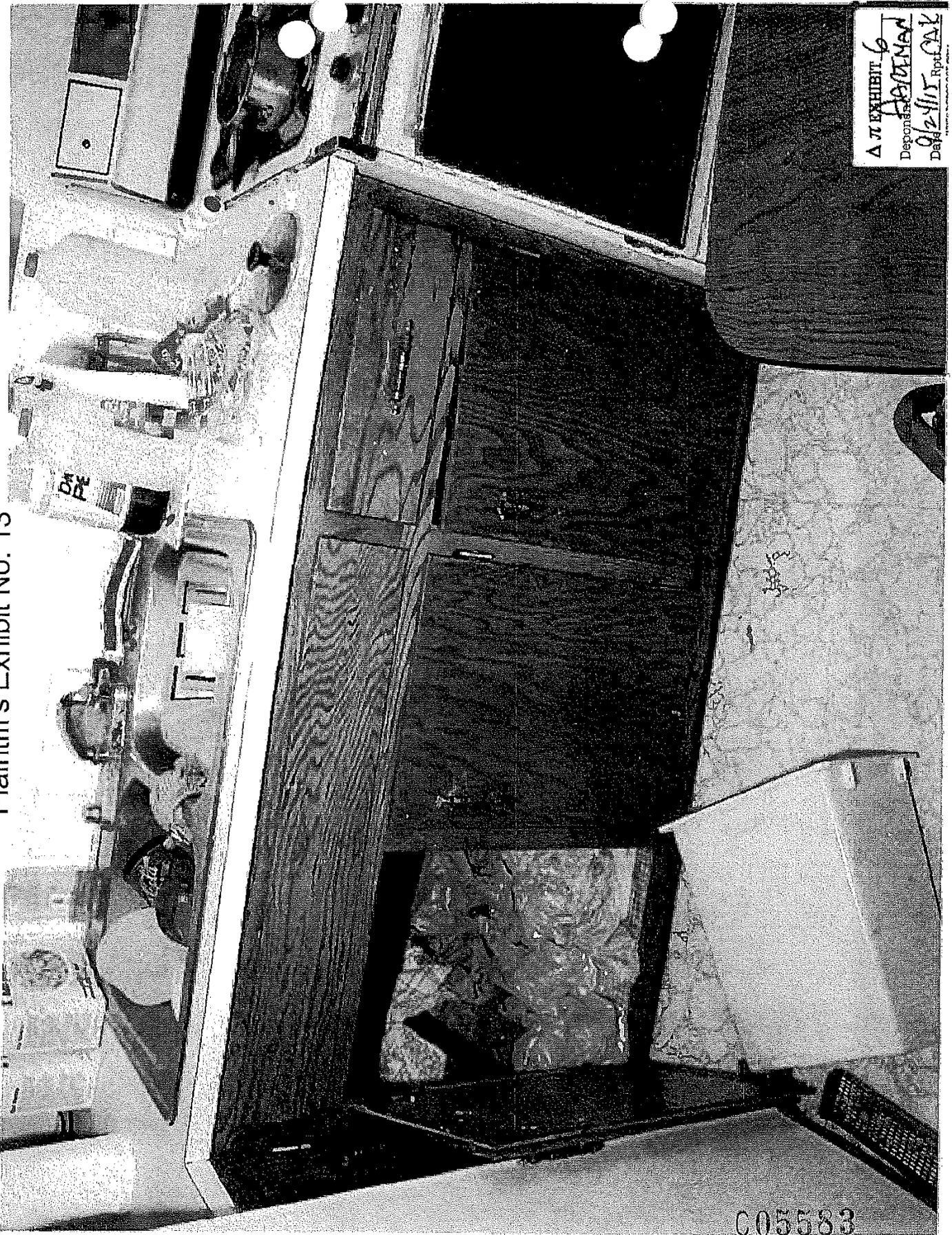
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APPENDIX 001380

Plaintiff's Exhibit No. 13



005583

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

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-CV-1019
	)	
JAMES SOUK, CHARLES REYNARD,	)	
	)	
TIM FREESMEYER, ROB HOSPELHORN,	)	
	)	
DAVE WARNER, JOHN BROWN, FRANK	)	
	)	
ZAYAS, MCLEAN COUNTY, ILLINOIS,	)	
	)	
TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants.	)	

The videotaped deposition of JOHN BROWN taken in the above-entitled cause, before LISA K. HAHN, CSR, RMR, on the 19th day of December, 2012, at the Bloomington-Normal Marriott Hotel and Conference Center, 201 Broadway Street, Normal, Illinois, pursuant to Notice at the hour of 10:05 a.m.

Reported by: Lisa K. Hahn, CSR, RMR

License No. 084-002149

1 Q. Was it before Alan Beaman was charged?

2 A. Yes.

3 Q. Okay. Was it still in 1993, that fall you  
4 started working on the investigation?

5 A. I couldn't be sure.

6 Q. Okay. And do you remember if it was before all  
7 the body wires occurred with Freesmeyer and Alan?

8 MS. BARTON. Object to form.

9 A. I don't recall.

10 Q. Do you know what Daniels' role in the  
11 investigation was after he was no longer lead  
12 investigator?

13 MS. BARTON. I'll object to form.

14 A. I believe he was still investigator.

15 Q. On the case.

16 A. Yes.

17 Q. But he had a less substantive role afterwards?

18 MS. BARTON. Objection to foundation.

19 A. I believe so.

20 Q. When you say that Freesmeyer was the lead  
21 investigator, what does that mean?

22 MS. BARTON. I'll object to foundation.

23 A. He would be the one that would have reported to  
24 the superior on the case, to his Lieutenant on the case.

113

1 He would probably make more of the decisions about the  
2 direction of the case.

3 Q. Would he have more responsibility than others  
4 for the case?

5 MS. BARTON: Objection to foundation.

6 MR. DiCIANNI: I'll object. Speculation;  
7 foundation.

8 A. Yes.

9 Q. Okay. And would he receive the most credit for  
10 solving the case?

11 MS. BARTON: Objection to form; foundation.

12 MR. DiCIANNI: Objection.

13 A. Probably.

14 Q. And if this case were not solved, would he  
15 receive the most blame?

16 MS. BARTON: Same objection.

17 MR. DiCIANNI: Same objection.

18 A. Yes.

19 MS. BARTON: Can we take a short break? Just a  
20 few minutes.

21 MS. VAN BRUNT: Yeah, we'll take a break.

22 VIDEOGRAPHER KOSBERG: Off the record at 12:19.

23 (A brief recess was taken.)

24 Back on the record, 12:32.

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

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-CV-1019
	)	
JAMES SOUK, et al.,	)	
	)	
Defendants.	)	

The videotaped deposition of  
TIMOTHY JOHN FREESMEYER taken in the above-entitled  
cause, before Christine M. Luciano, CSR, on the 11th  
day of December, 2012, at 1601 Jumer Drive,  
Bloomington, Illinois, pursuant to Notice at the hour  
of 10:00 a.m.

Reported by: Christine M. Luciano, CSR  
License No.: 084-004084

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2

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9            BY: MR. LOCKE E. BOWMAN

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23                    and County of McLean, Illinois;

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9                    Representing the Defendants,  
10                   Timothy Freesmeyer, Robert Hospelhorn,  
11                   David Warner, Frank Zayas, and  
12                   Town of Normal, Illinois.

13

14    ALSO PRESENT:

15

16    Mr. Rick Kosberg, Legal Videography

17

18

19                    \*   \*   \*

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I N D E X

WITNESS	EXAMINATION
TIMOTHY JOHN FREESMEYER	
Direct Examination by Mr. Shapiro	6
Cross-Examination by Ms. Barton	318
Redirect Examination by Mr. Shapiro	322

E X H I B I T S

FREESMEYER	MARKED FOR ID
DEPOSITION EXHIBIT	
No. 42	296
No. 43	298
Nos. 44 through 47	301

Exhibit Nos. 1 through 41 were retained by Counsel.

1 THE VIDEOGRAPHER: This is the video  
2 deposition of Timothy Freesmeyer taken by Roderick  
3 MacArthur Justice Center in the matter of Beaman v.  
4 Souk, et al., Case No. 10-CV-1019 held in the Chateau  
5 Hotel and Conference Center, 1601 Jumer Drive,  
6 Bloomington, Illinois. Today is December 7, 2012  
7 {sic}. The time is 10 o'clock.

8 The court reporter is Christine Luciano. The  
9 videographer is Rick Kosberg. If counsel can now  
10 introduce themselves, and the court reporter is free  
11 to administer the oath.

12 MR. SHAPIRO: David Shapiro for the plaintiff  
13 Alan Beaman.

14 MS. VAN BRUNT: Alexa Van Brunt for the  
15 plaintiff Alan Beaman.

16 MR. BOWMAN: Locke Bowman for Mr. Beaman.

17 MS. BARTON: Elizabeth Barton for McLean  
18 County, Reynard, Souk, and Brown.

19 MR. DiCIANNI: Thomas DiCianni for the Town  
20 of Normal defendants including Mr. Freesmeyer.

21 (Witness duly sworn.)

22 TIMOTHY JOHN FREESMEYER,  
23 called as a witness herein, having been first duly  
24 sworn, was examined and testified as follows:

5

1

DIRECT EXAMINATION

2 BY MR. SHAPIRO:

3 Q. All right. Please state your name, sir.

4 A. Timothy John Freesmeyer.

5 Q. Mr. Freesmeyer, you were deposed by my  
6 colleague, Mr. Urdangen, in 2004, correct?

7 A. Yes.

8 Q. And that was the first time you had given a  
9 deposition such as this one today?

10 A. Yes.

11 Q. Have you given a deposition since then?

12 A. No.

13 Q. Okay. Sir, you're somewhat familiar with  
14 the rules of the road based on -- based on that  
15 deposition, but just I'll few -- go through a few  
16 through of them quickly.

17 It's important when I'm asking a question  
18 that you wait for me to finish. You may know what  
19 the question is going to be before I finish, but for  
20 the sake of having a clear record, it's important  
21 that you wait until my question is finished. Will  
22 you try to do that?

23 A. Yes, sir.

24 Q. And relatedly it's important that we try not  
6

1 to talk over each other, okay?

2 A. Yes.

3 Q. And we also -- it's also important that you  
4 answer my question audibly, yes or no where possible.  
5 No uh-huhs or uh-uhs or nods or shakes of the head.  
6 Will you try to do that as well?

7 A. Yes.

8 Q. Okay. And if I ask a question and you don't  
9 understand it, just tell me that you don't understand  
10 it, okay?

11 A. Yes.

12 Q. And if you answer a question, I'll assume  
13 that you understood it, okay?

14 A. Yes.

15 Q. Are you under a doctor's care for any  
16 illness that would interfere with your ability to  
17 testify today?

18 A. No.

19 Q. Are you taking any medication that would  
20 affect your ability to testify?

21 A. No.

22 Q. Is there any reason whatsoever that you  
23 can't give accurate and truthful testimony today?

24 A. No.

7

1 Q. And you understand that you're testifying  
2 today under oath and under penalty of perjury just as  
3 if you were testifying in court?

4 A. Yes.

5 Q. Begin by asking you some questions about  
6 your preparation for today's deposition. What did  
7 you do to prepare for your deposition today?

8 A. I spoke with my attorney. I also reviewed  
9 numerous court documents and also police reports.

10 Q. What court documents did you review?

11 A. I've reviewed my grand jury testimony, my  
12 courtroom testimony in the trial, my posttrial  
13 testimony, my deposition. I believe that's all.

14 Q. Okay. And what police reports did you  
15 review?

16 A. My main police report that I wrote, the  
17 overview -- or the taped overviews or conversations  
18 between Mr. Beaman and Mr. Swain, between Mr. Beaman  
19 and myself.

20 Q. Other than what you mentioned already, are  
21 there any other documents that you reviewed to  
22 prepare yourself today?

23 A. There were some other assorted documents in  
24 the binders that were sent to me such as police

8

1 reports and such.

2 Q. When you say and such, what other documents  
3 are you referring to?

4 A. There was some statements that were taken  
5 from previous owners of Mr. Beaman's Escort, there  
6 were some evidence returns from the crime lab, there  
7 were some -- short list of phone records. I didn't  
8 look deeply at the phone records that were contained  
9 in the binder.

10 Q. Okay. Are there any other documents you  
11 reviewed beyond the ones that you've mentioned so  
12 far?

13 A. Only what was in the binders that were sent  
14 to me by my attorney.

15 Q. And you've stated all the contents of the  
16 binders as you remember them, correct?

17 A. I've stated the majority of them. If you  
18 wanted me to --

19 Q. Just any others that you remember, just tell  
20 me.

21 A. I've given you the ones that stick out in my  
22 mind, sir.

23 Q. Are there any others you remember?

24 A. My police report; the overhears; there was a  
9

1 interview with the Sparhawks; there were a couple of  
2 interviews, I believe. But I may have -- be  
3 confusing those with things that I documented in my  
4 police report. There was a lot to read. I think  
5 I've covered the majority of what I've reviewed.

6 Q. And there are -- you don't remember anything  
7 else that you haven't covered; is that correct?

8 A. Yes.

9 Q. Okay. Did those documents that you reviewed  
10 refresh your recollection as to the facts as to the  
11 Lockmiller homicide and prosecution?

12 A. Yes.

13 Q. Were there particular documents among those  
14 that you mentioned that you focused on?

15 A. Yes.

16 Q. Which were those?

17 A. My main police report, my courtroom  
18 testimony, my grand jury testimony, my deposition  
19 testimony.

20 Q. Let's start with your police report. Were  
21 there particular portions of your police report that  
22 you read with particular care? I'm sorry. Strike  
23 that.

24 When you reviewed your police report, did

10

1 you read it word for word?

2 A. Yes, sir, I did.

3 Q. And were there particular parts that you  
4 focused on with particular care when you were reading  
5 it?

6 A. No.

7 Q. What about your courtroom testimony, did you  
8 focus on any particular portions of that?

9 A. No.

10 Q. What about with regard to your grand jury  
11 testimony, any particular portions of that that you  
12 paid more attention to than less?

13 A. No.

14 Q. Any portions that you skimmed over?

15 A. No.

16 Q. With regard to your deposition testimony,  
17 were there any portions that you skimmed over?

18 A. No.

19 Q. Any portions that you reviewed with greater  
20 care than others?

21 A. No.

22 Q. Other than your attorney, did you meet with  
23 anyone else in preparation for today's deposition?

24 A. No.

11

1 Q. Did you discuss your testimony today with  
2 anyone other than your attorney?

3 A. No.

4 Q. Have you discussed your testimony today with  
5 anyone else who was involved in the Lockmiller  
6 investigation?

7 A. No.

8 Q. When's the last time you had a conversation  
9 with James Souk?

10 A. I believe it was shortly after the last  
11 hearing that was held in the courtroom in McLean  
12 County.

13 Q. Which hearing was that?

14 A. It might have been 2004 or 2005. It was  
15 when Mr. Urdangen was questioning me on the stand.

16 Q. Are you referring to the post-conviction  
17 hearing --

18 A. Yes.

19 Q. -- in which you testified?

20 A. Yes, sir.

21 Q. So you spoke to -- you recall speaking to  
22 Mr. Souk at that hearing?

23 A. I spoke with him, yes.

24 Q. What did you talk about?

12

1 A. Just caught up on how his family was doing,  
2 how his wife was. I believe she was going through  
3 some medical problems at that time. He asked me what  
4 I was doing, where I was living.

5 Q. Did you have any discussion concerning  
6 Alan Beaman or the Lockmiller homicide investigation?

7 A. No, there was -- it may have been  
8 superficial comments over are you okay with what's  
9 happening; but it was nothing in detail of the case.

10 Q. What are the superficial comments that you  
11 remember?

12 A. I don't remember any superficial comments.  
13 I said there may have been --

14 Q. Do you remember --

15 A. -- but I don't remember.

16 Q. Do you remember anything that he said  
17 related to the Lockmiller homicide investigation or  
18 Alan Beaman?

19 A. No, I do not.

20 Q. Did Mr. Souk call you at any time  
21 subsequent -- strike that.

22 Did you have any phone conversations with  
23 Mr. Souk at any time subsequent to that pro -- to  
24 that post-conviction hearing you were just

13

1 describing?

2 A. I remember Jim Souk leaving a message on my  
3 answering machine that Alan Beaman had been released.  
4 That was the last phone conversation I remember  
5 having with Mr. Souk.

6 Q. And did you call him back?

7 A. I believe I did.

8 Q. And did you have a conversation with him  
9 then?

10 A. I don't have an independent recollection of  
11 that, sir.

12 Q. You don't have an independent recollection.  
13 Is there some document that refreshed your  
14 recollection -- when you say -- strike -- when you  
15 say you don't have an independent recollection, it  
16 implies that there may be some source of a  
17 recollection. Do you have any remembrance of what  
18 happened --

19 A. No.

20 Q. -- during that conversation?

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

23 BY MR. SHAPIRO:

24 Q. That was a no, right?

14

1 A. That's a no.

2 Q. Okay.

3 A. I have no documents or notes about that.

4 Q. Mr. Souk call you when this case was filed?

5 A. No.

6 Q. He did not?

7 A. No.

8 Q. Have you spoken to any of Mr. Souk's lawyers  
9 representing him in this case?

10 A. No.

11 Q. How would you characterize the state of your  
12 recollection with regard to the investigation of the  
13 Lockmiller homicide?

14 A. It's been 19 years, sir. Major things in  
15 the investigation are still in my mind, but much of  
16 the details have faded.

17 Q. So there's a lot that you don't remember  
18 about that investigation; is that correct?

19 A. Yes, sir.

20 Q. Ask you a few questions about your  
21 employment history. Prior to joining the Normal  
22 Police Department, you were a correctional officer;  
23 is that correct?

24 A. Yes, sir.

15

1 Q. Okay. And what positions did you hold as a  
2 correctional officer?

3 A. I started as a correctional service officer  
4 with the State of Arizona and the Arizona Department  
5 of Corrections. I held that position for roughly  
6 eight months, moved back to Illinois, and was hired I  
7 believe in the end of 1988 by the Champaign County  
8 Sheriff's Office and worked as a correctional  
9 service officer -- sorry, deputy sheriff correctional  
10 officer I believe was the official title and worked  
11 in the county jail for a period of 12 to 14 months, I  
12 believe, before being hired on the force.

13 Q. And when you joined the Normal Police  
14 Department, that was the first time that you were  
15 employed as a police officer; is that correct?

16 A. Yes, sir.

17 Q. And when was that?

18 A. March 12 of 1990.

19 Q. What was your position when you joined?

20 A. Police officer.

21 Q. And the next position that you held was  
22 detective; is that right?

23 A. Yes, sir.

24 Q. When did that occur?

16

1 A. My memory serves, approximately 11 months  
2 after I graduated from PTI and started on the street.

3 Q. And how old were you approximately when you  
4 became a detective?

5 A. 23, 24 years old.

6 Q. And when you were -- when you became a  
7 detective, that was a promotion from being a police  
8 officer; is that correct?

9 A. It was a different job position. There was  
10 no increase in pay. There was no increase in rank.  
11 It was just a different job function.

12 Q. Was there an increase in prestige and  
13 desirability of the position?

14 A. Not necessarily, sir.

15 Q. Did you apply for the position?

16 A. No, I did not.

17 Q. Did you want the position?

18 A. I was approached by the assistant chief  
19 asking if I would move back into the detective  
20 division.

21 Q. And after serving as a detective, you were  
22 later promoted to detective sergeant; is that right?

23 A. There was no rank of detective sergeant. It  
24 was just sergeant.

17

1 Q. There's no rank of detective sergeant?

2 A. No. There was no distinguishment at the  
3 time in the Normal Police Department as a patrol  
4 sergeant or a detective sergeant. It was just simply  
5 police officer, sergeant, lieutenant, captain,  
6 assistant chief, chief.

7 Q. So the term "detective sergeant" would be  
8 sort of a nonexistent title?

9 A. Correct.

10 Q. When you were promoted to sergeant, did you  
11 have supervisory responsibility over the detectives?

12 A. Not at first, no.

13 Q. When -- when was it that you acquired  
14 supervisory responsibility over the detectives?

15 A. Upon Frank Zayas's retirement.

16 Q. When was that?

17 A. I believe it was around November of 1994.

18 Q. All right. What -- what position did you  
19 hold after being the sergeant with supervisory  
20 responsibilities over the detectives?

21 A. I had supervisory responsibility from  
22 November until the end of December. And at that  
23 point, I was moved to the State's Attorney's Office  
24 to begin prepping for this trial -- excuse me, for

18

1 the original trial.

2 Q. That's November to December of 1994 you were  
3 moved to the State's Attorney's Office?

4 A. It would have been around January 1 of 1995  
5 that I was moved to the State's Attorney's Office.

6 Q. How long were you at the --

7 MR. BOWMAN: What year was that, January of  
8 '95?

9 THE WITNESS: Yes, sir.

10 BY MR. SHAPIRO:

11 Q. How long were you at the State's Attorney's  
12 Office?

13 A. From January 1, I believe, around that time,  
14 up until the trial concluded.

15 Q. And at that point, you moved your office  
16 back to the Normal Police Department?

17 A. No, sir. Upon the end of the trial -- I  
18 believe the trial ended towards the end of the week  
19 on a Friday or a Saturday. The following day, I went  
20 to Northwestern University and was enrolled in the  
21 School of Police Staff and Command, spent the next 10  
22 weeks living in the Omni Orrington Hotel at the  
23 School of Police Staff and Command.

24 Q. During that period, you were still employed  
19

1 by the Normal Police Department; is that correct?

2 A. Yes.

3 Q. Okay. After those 10 weeks at Northwestern,  
4 did you return to your office in the Normal Police  
5 Department?

6 A. I returned back as a sergeant on the patrol  
7 shift on the midnight shift, I believe.

8 Q. What were your responsibilities as sergeant  
9 on the midnight shift?

10 A. I was responsible for the shift, supervising  
11 the shift officers, approving reports, basically  
12 overseeing the patrol force on the midnight shift.

13 Q. In that capacity, were you a detective?

14 A. No, sir.

15 Q. Did you have supervisory responsibilities  
16 over detectives?

17 A. No, sir.

18 Q. Would it be accurate to say that after the  
19 Beaman investigation, you never had responsibilities  
20 as a detective again?

21 A. Yes, that's correct.

22 Q. And you never had supervisory  
23 responsibilities over other detectives after the  
24 Beaman investigation?

20

1 A. Correct.

2 Q. How long did you serve in that position of  
3 sergeant on the midnight shift?

4 A. Would have been a period of approximately  
5 three to four years.

6 Just prior to leaving the department, I did  
7 a few tours on day shift as the day shift supervisor.  
8 So I believe three to four years I spent on  
9 midnights.

10 Q. Uh-huh. And when did you -- when did you  
11 leave the Normal Police Department?

12 A. I left, I believe it was, August of 1990.  
13 I'm sorry. August of 2000.

14 Q. Okay. What position did you assume after  
15 leaving the Normal Police Department?

16 A. I was hired by Northwestern University as a  
17 junior faculty member, and I took over as the  
18 director of the management training division for the  
19 Center For Public Safety at Northwestern University.

20 Q. Did your responsibilities at Northwestern  
21 include teaching in the traffic school in any way?

22 A. Well, the center had changed names from  
23 Traffic Institute to the Center For Public Safety. I  
24 was not teaching in the traffic courses per se. I

21

1 was -- my entire focus was in the management training  
2 division, primarily the School of Police Staff and  
3 Command, the executive management program, and the  
4 staff supervision program.

5 Q. What were your responsibilities in that  
6 position?

7 A. I was the director of that division, so I  
8 was responsible for setting up courses across the  
9 country, hiring faculty, overseeing the curriculum,  
10 reviewing and evaluating faculty; basically  
11 everything to do with the School of Police Staff and  
12 Command, the executive management program, and the  
13 staff supervision program.

14 Q. Did your responsibilities include writing  
15 curricula?

16 A. Most of our curricula was written by the  
17 content experts in that particular area. It would be  
18 more fair to say that I reviewed curriculum rather  
19 than to write the curriculum. I'm not an expert in  
20 all areas of that program.

21 Q. Would it be fair to say you reviewed an  
22 edited curriculum or would that be inaccurate?

23 A. I reviewed and edited my own topics that I  
24 taught, which was resource allocation and staff

22

1 scheduling and computers for law enforcement. The  
2 other curriculum the adjunct instructors were  
3 responsible for editing and correcting their  
4 material.

5 Q. How long were you in that position at  
6 Northwestern?

7 A. For one year, sir.

8 Q. What were the circumstances of your  
9 departure?

10 A. I was traveling extensively. I was on the  
11 road an average of roughly three weeks out of every  
12 month. My children were young at the time. I was  
13 driving 40 miles to work and 40 miles back, which was  
14 a two-hour commute, roughly.

15 There was a particular day when I came home  
16 from a trip on a Friday afternoon, walked into the  
17 house, and my four-year-old son addressed me as  
18 Uncle Tim as opposed to dad, and I realized that I  
19 was losing touch with my family.

20 So after church on that Sunday, I asked my  
21 wife if she was happy in Chicago. She said no. She  
22 asked if I was happy. I said no. We immediately  
23 made a life change and moved to Macomb, Illinois  
24 where we could have time with our family while they

23

1 were young.

2 Q. While you were at Northwestern, were you  
3 ever criticized in any way for your writing  
4 curricula?

5 A. No, sir. I was actually praised for putting  
6 all the curriculum onto CD which saved the institute  
7 a large amount of money in printing costs.

8 Q. And was your departure purely voluntary?

9 A. Yes, it was.

10 Q. What position did you hold after your  
11 departure from Northwestern?

12 A. When I left Northwestern, I was hired from  
13 Wes -- by Western Illinois University. I was hired  
14 as a coordinator for -- I can't remember the exact  
15 title, sir.

16 But there was a training lab that trained  
17 faculty on how to use technology. It was an  
18 instructional services lab. I was hired in two  
19 roles; one, to supervise that instructional services  
20 lab and to be the conduit between the faculty and the  
21 technologists, and the second role was to oversee the  
22 technology that was being infused throughout the  
23 college of education. So I was responsible for their  
24 blackboard system. I was responsible for their user

24

1 services and support which supported their computer  
2 systems. So I supervised a number of people.

3 Q. Okay. And let me just say when -- in the  
4 interest of time and getting through today  
5 efficiently, you know, when I ask a question about --  
6 just what was your position, if -- you know, if I  
7 want you to elaborate, I'll just ask you to do so.  
8 But if you could try to answer my questions as  
9 directly as possible, I'd appreciate that.

10 A. Yes, sir. I'm sorry.

11 Q. When was the time that you assumed the  
12 position that you were just describing?

13 A. I believe it was around September of 2001  
14 that I started with Western Illinois University.

15 Q. And when did you depart that position?

16 A. July 7 of 2004.

17 Q. What position did you assume after that?

18 A. I started my own corporation at that point.  
19 I was teaching for the International Association of  
20 Chiefs of Police, so I was working for them as  
21 adjunct when --

22 Q. Was that Addeco Solutions that you're  
23 referring to?

24 A. Yes, it is.

25

1 Q. Okay. And is that -- that's a position that  
2 you continue to hold today, correct?

3 A. Yes, sir.

4 Q. Okay. All right. I want to ask you some  
5 questions about how the police department files  
6 pertaining to the Lockmiller murder investigation  
7 were maintained at the time.

8 Could you begin by please describing how the  
9 file related to the Lockmiller case was maintained  
10 and organized.

11 A. I don't know how everything was maintained  
12 beyond the control that I had, sir. My documents  
13 were submitted to my supervisor. What he did with  
14 those, I don't know exactly.

15 Q. You became the lead investigator in the case  
16 in October or November of 1993, correct?

17 A. I became the primary investigator in the  
18 case, yes, around October to November of '94.

19 Q. Of '94?

20 A. Yes.

21 Q. As the primary investigator in the case --

22 A. I'm sorry, sir. Let me back up.

23 Q. Yeah.

24 A. The arrest was in May of '94 -- May of

26

1 '94 -- let me say that I was taking more of a lead  
2 role in October-November of '93. I told you '94 a  
3 moment ago.

4 Q. Uh-huh..

5 A. I was taking more of a lead role in October  
6 or November of '94.

7 At that point, however, Frank Zayas was  
8 still the lieutenant in charge, so the case was  
9 ultimately run by him; but I was taking more of a  
10 lead in the case.

11 MR. DiCIANNI: Let me just clarify. You just  
12 said '94 again. Did you mean to say '93?

13 THE WITNESS: I meant to say '93.

14 BY MR. SHAPIRO:

15 Q. All right. So as of October or November of  
16 1993, you began to take more responsibility in the  
17 case; is that correct?

18 A. Yes, that's correct.

19 Q. Okay. And at that time, you were reporting  
20 to Zayas as a supervisor; is that correct?

21 A. Yes.

22 Q. And then in October or November of 1994,  
23 Zayas ceased to be a supervisor?

24 A. Say that again, sir.

27

1 Q. When did it cease to be the case that you  
2 were being supervised by Lieutenant Zayas?

3 A. When he retired.

4 Q. And when was that again?

5 A. I believe it was November of 1994.

6 Q. Okay. So let's talk about the period  
7 between October or November of 1993 and October or  
8 November of 1990 -- I'm sorry.

9 Was it October or November of 1994 that you  
10 said Zayas retired? Did I mishear you?

11 A. Yes, sir, that's correct.

12 Q. Okay. So let's talk about that period  
13 between October or November of 1993 and October or  
14 November of 1994.

15 Is it fair to say that during that period,  
16 even though you were supervised by Zayas, you were  
17 the primary investigator on the case?

18 A. I don't know how much other people were  
19 doing in the background being directed by  
20 Frank Zayas, but I know that I took over the main  
21 interviewing process with Alan Beaman and the main  
22 contacts with Alan Beaman.

23 Q. Was there any other investigator besides  
24 Zayas on the team who was your superior as of

28

1 October-November of '93?

2 A. There were other detectives who had more  
3 seniority than I, but they were not my supervisor.

4 Q. So are you denying, Mr. Freesmeyer, that in  
5 October or November of 1993 you became the lead  
6 investigator in this case?

7 MR. DiCIANNI: I'm going to object to the  
8 form of the question.

9 Go ahead and answer.

10 THE WITNESS: It depends on how you choose to  
11 define lead investigator --

12 BY MR. SHAPIRO:

13 Q. How would you define lead investigator?

14 A. Lead investigator is the person who's taking  
15 the primary role in the investigation. However,  
16 since I was not supervising the case, I can't tell  
17 you what the other investigators were doing. I know  
18 that my role became heavier when I took on the  
19 relationship with Mr. Beaman and the investigation of  
20 Mr. Beaman.

21 Q. So you're saying that even when you became  
22 the primary investigator in the case, you had no idea  
23 what the other detectives were doing in the case; is  
24 that what you're saying?

29

1           A.    I'm not saying I had no idea.  I'm saying  
2    I -- I'm not totally aware of everything that was  
3    being done by everybody else on the case.

4           Q.    Were you working full-time on this case as  
5    of October or November of 1993?

6           A.    I don't believe I was full-time on it.  I  
7    believe there were other cases that I was also  
8    working.

9           Q.    Was there any point at which you were  
10   working full time on this case?

11          A.    Yes, in January of 1995, when I moved to the  
12   State's Attorney's Office.

13          Q.    In October or November of 1993, what  
14   proportion of your time would you say was devoted to  
15   the Lockmiller homicide investigation?

16          A.    I'm speculating 50 to 60 percent of my time,  
17   sir.

18          Q.    What about in December of 1993?

19          A.    I don't know.

20          Q.    Was there anyone besides you who was  
21   spending more time on the Lockmiller homicide  
22   investigator -- investigation?

23          A.    I can't answer that question, sir.  I don't  
24   know what the other detectives were doing.

30

1 Q. You had no idea what the other detectives  
2 were doing with their time; is that correct?

3 MR. DiCIANNI: Objection, characterization of  
4 his -- of that.

5 BY MR. SHAPIRO:

6 Q. It's a question. Did you have any idea what  
7 the other detectives were doing with their time?

8 MR. DiCIANNI: Asked and answered.

9 THE WITNESS: No, sir.

10 BY MR. SHAPIRO:

11 Q. You didn't talk with the other detectives  
12 about what they were doing?

13 A. Sir, I was in a separate room than the other  
14 detectives. I operated out of the juvenile office  
15 where Detective John Belcher and I were stationed.  
16 John Belcher was our vice narcotics guy. The other  
17 detectives were in a separate office in the  
18 detectives' office.

19 Q. So if others in this case testified that you  
20 were the primary investigator in October or November  
21 of 1993, you would disagree with that  
22 characterization?

23 MR. DiCIANNI: Objection, form of the  
24 question.

31

1 MS. BARTON: I'll join the objection.

2 THE WITNESS: Could you repeat the question,  
3 sir?

4 BY MR. SHAPIRO:

5 Q. Uh-huh. If others on the investigation were  
6 to characterize you as the lead investigator  
7 beginning in October or November of 1993, would you  
8 disagree with that characterization?

9 MR. DiCIANNI: Same objection.

10 MS. BARTON: Same objection.

11 THE WITNESS: That would be their opinion,  
12 sir.

13 BY MR. SHAPIRO:

14 Q. I'm asking whether you'd agree with that or  
15 not?

16 A. No.

17 Q. Okay. So is it your testimony,  
18 Mr. Freesmeyer, that there was no lead investigator  
19 in October-November 1993?

20 A. No, that is not my testimony.

21 Q. And that's because Zayas was supervising,  
22 correct?

23 A. That's correct. Lieutenant Zayas was in  
24 charge of the detective division, and he had ultimate

32

1 responsibility for that case.

2 Q. Was it ordinarily the case when -- that  
3 there would be a lead or primary detective on a  
4 particular investigation?

5 A. Would you repeat the question?

6 Q. Sure. When cases were staffed -- not  
7 talking about just the Lockmiller case, I'm talking  
8 about general practices -- was it ordinarily the case  
9 that there would be a lead or primary detective  
10 assigned to each case?

11 A. That occurred.

12 Q. And it's your testimony that it did not  
13 occur in the Lockmiller investigation?

14 MR. DiCIANNI: I object.

15 THE WITNESS: No, sir.

16 BY MR. SHAPIRO:

17 Q. Why do you disagree with that with respect  
18 to the Lockmiller investigation, because of Zayas?

19 MR. DiCIANNI: Objection. Agree with dis --  
20 agree with what or disagree with what? You said why  
21 do you disagree with that.

22 BY MR. SHAPIRO:

23 Q. You disagreed with the characterization that  
24 there was a lead in the Lockmiller investigation

33

1 other than Zayas, right?

2 A. Sir --

3 Q. I'm sorry. Strike that.

4 Other than Zayas, was there any lead  
5 investigator in the Lockmiller investigation?

6 A. We all served as a team on that  
7 investigation, sir. Whether a person was a lead or  
8 not a lead to me would be a matter of opinion of who  
9 you're asking.

10 From a formal hierarchy, Lieutenant Zayas  
11 was the lieutenant of that division; therefore, he  
12 was responsible for every case taking place in that  
13 division.

14 I worked on that case. I testified to you  
15 that my role became heavier in October or November.  
16 You're asking me if I reached a milestone of a lead  
17 detective, and that would depend on who you asked,  
18 sir.

19 Q. I'm not asking you if you reached a  
20 milestone. My question is: Were you the  
21 investigator with primary responsibility for the  
22 Lockmiller investigation as of October-November '93?

23 A. In October-November of '93, my  
24 responsibility focused on Alan Beaman and

34

1 Michael Swain. If they were the primary players or  
2 if Alan Beaman was a primary player in this case and  
3 somebody wanted to assume I was a primary  
4 investigator because I was investigating Alan, they  
5 could make that assumption, sir.

6 Q. When did you become the individual with  
7 primary responsibility for the Beaman investigation?

8 A. Upon Lieutenant Zayas's retirement.

9 Q. And it's your contention that prior to  
10 Lieutenant Zayas's retirement, you did not have  
11 primary responsibility over the Lockmiller  
12 investigation?

13 A. That's correct.

14 Q. And I want to be perfectly clear that I'm  
15 not just talking about supervisory responsibility.  
16 I'm talking about working on the investigation on a  
17 day-to-day basis.

18 Is it your testimony that prior to  
19 Lieutenant Zayas's retirement, you did not have prior  
20 responsibility for working on the Lockmiller homicide  
21 investigation on a day-to-day basis?

22 MR. DiCIANNI: Well, I'm going to object to  
23 the form of the question.

24 Go ahead and answer.

35

1 THE WITNESS: I don't know that I can answer  
2 that question in the form you asked. You're asking me  
3 if I worked more on that case than any other  
4 detective, and I've already told you that we were  
5 working in separate rooms, and I don't know what  
6 Lieutenant Zayas was assigning to those other  
7 detectives while I was doing my part.

8 BY MR. SHAPIRO:

9 Q. So until Lieutenant Zayas's retirement, you  
10 had no idea what the other detectives were doing in  
11 the case; is that right?

12 A. I did not have primary responsibility --

13 Q. That wasn't my question. I said until  
14 Lieutenant Zayas's retirement, did you have any idea  
15 what the other detectives were doing in the case?

16 A. I had marginal information of what they were  
17 doing.

18 Q. You had marginal information about that.  
19 Your in -- your information about what the  
20 other detectives was doing was sketchy and  
21 incomplete; is that what you're saying?

22 A. No, that's not a fair statement.

23 Q. Well, what did you mean by marginal?

24 A. We would have meetings periodically that

36

1 would -- that we would brief each other on what was  
2 happening. But I was not with them day-to-day. I  
3 was not sitting next to them day-to-day to know what  
4 they were doing. We each had a part to play in this  
5 investigation. I was aware of the major things they  
6 were doing; but I didn't read every statement, every  
7 document, every interview.

8 Q. We were talking about files earlier before  
9 we went off in this direction, and I asked you to  
10 describe for me, if you could, what knowledge you had  
11 about the files in the Beaman investigation. Could  
12 you describe those for me?

13 A. Is there a particular file you'd like me to  
14 start with, sir?

15 Q. I'd like you to -- well, first of all, I'd  
16 like you to provide whatever general description you  
17 can of the manner in which files were maintained and  
18 what files there were.

19 A. My police report was written on a computer  
20 in my office, kept on the mainframe. Periodically, I  
21 would give Lieutenant Zayas a copy of the updates to  
22 that report, and it was one running report throughout  
23 the entire investigation.

24 Additional files such as phone records would  
37

1 have either been put into evidence or they would have  
2 been submitted to Lieutenant Zayas who then would  
3 have submitted them, I imagine, to the records  
4 section as an official archive in the case.

5 Q. Was there a central file in the case?

6 A. I believe there was in the records section.

7 Q. Did you maintain an individual file of  
8 documents related to the investigation?

9 A. Only the main police report that I spoke of  
10 which is on my computer.

11 Q. So during the investigation, you didn't have  
12 a file on your desk with documents that you  
13 considered relevant and were working on at any point?

14 A. It would have been a temporary file only --

15 Q. That's what I'm asking you, sure.

16 A. -- so that, yes. There would have been a  
17 temporary file of things that I was working on until  
18 that information was placed into my police report.

19 Q. What would you -- what would you do with the  
20 information once it was placed into your police  
21 report?

22 A. I would throw it away, destroy it.

23 Q. Did you maintain any other sort of working  
24 file throughout the case?

1 A. No.

2 Q. So anything that you had, once it was  
3 described in your police report, was thrown away?

4 A. Or placed into evidence or given to  
5 Lieutenant Zayas to go to the records section.

6 Q. Were there binders of materials that were  
7 distributed to detectives in this case?

8 A. I don't recall, sir.

9 Q. What sort of documents did you keep in your  
10 temporary file?

11 A. It would have been personal notes of times  
12 and dates when people came in; things that I would  
13 want to document in my police report when I had a  
14 moment to catch up my report.

15 Q. Did you ever have, for example, transcripts  
16 of interviews?

17 A. Those would have been done on the computer,  
18 printed out, and submitted to the Lieutenant Zayas,  
19 and then made a record of -- made a record in the  
20 records department.

21 Q. Transcripts of body wire overhears, same  
22 answer?

23 A. Same answer. That tape immediately was --  
24 when the Nagra recorders were done --

39

1 Q. I'm sorry. I'm not talking about the actual  
2 recorder. I'm talking about the transcript.

3 A. The transcripts. I would have received  
4 copies of that transcript to work off of. Once I was  
5 done with it, if it had not been entered into  
6 records, I would have submitted it to Frank Zayas.  
7 If we already had a copy of that, I probably would  
8 have thrown them away.

9 Q. All right. Well, we've covered the computer  
10 file, the central file, and temporary files. Are  
11 there any other types of files that were maintained  
12 during the course of this investigation that you're  
13 aware of?

14 A. Evidentiary material which would have been  
15 filed in the evidence vault.

16 Q. Anything else?

17 A. That's all I can recall, sir.

18 Q. What was supposed to go into the central  
19 file?

20 A. Central file was the police reports, written  
21 statements, transcripts, any other document that  
22 provided information that was not part of an official  
23 police report written by one of the detectives nor  
24 evidence.

40

1 Q. Polygraph reports, do those go into the  
2 central file?

3 A. I don't know if they went in the central  
4 file or if they went into evidence.

5 Q. But they would have gone -- polygraph  
6 reports would have gone either into the central file  
7 or into evidence, correct?

8 A. I believe so.

9 Q. Did other detectives in the case maintain  
10 temporary files?

11 A. I can't answer that, sir. I don't know.

12 Q. Was it the ordinary practice of detectives  
13 to maintain temporary files?

14 A. I don't know what their ordinary practice  
15 was, sir.

16 Q. You've never been in another detective's  
17 office and saw a file related to a case they're  
18 working on?

19 A. The desks were full of files, sir. Many of  
20 them were active cases. I don't know what they kept  
21 as personal notes or what they kept as official  
22 files.

23 Q. Were there any documents that were  
24 distributed to all members of the investigative team?  
41

1 A. Could you expand on the question, what type  
2 of documents you're referring to?

3 Q. Well, I'm asking you. Any sort of doc --  
4 were police reports distributed to everyone working  
5 on the case?

6 A. It would depend on the police report. It  
7 would depend on what type of document it was.

8 Q. Was there -- were there any police reports  
9 you can recall that were distributed to anyone  
10 working on the case?

11 MS. BARTON: Objection to form.

12 THE WITNESS: No, not that I remember.

13 BY MR. SHAPIRO:

14 Q. At any point in the investigation, did you  
15 read the full central file?

16 A. I don't remember doing that, sir.

17 Q. Do you recall reviewing documents from the  
18 central file when you became the lead investigator?

19 A. It's been too long ago, sir. I don't recall  
20 if I did or not.

21 Q. When you became the lead investigator,  
22 didn't you want to inform yourself of the facts of  
23 the case?

24 A. Again, sir, that was 19 years ago. I don't  
42

1 remember exactly what I did then.

2 Q. Well, earlier you characterized your  
3 understanding of what others were doing on the case  
4 as marginal. Do you remember that?

5 A. I remember that, yes.

6 Q. As the lead investigator, would you want to  
7 have a marginal understanding of what was going on  
8 with the case as whole?

9 A. No, sir.

10 Q. So it would have been logical, would it not  
11 have, to review the central file when you became the  
12 lead investigator if your knowledge prior to that was  
13 marginal, right?

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

16 THE WITNESS: Are you asking me if it would  
17 have been logical to look at it?

18 BY MR. SHAPIRO:

19 Q. Yeah.

20 A. Yes.

21 Q. Do you think you did?

22 A. I don't recall, sir.

23 Q. Do you think you did?

24 A. I don't recall, sir.

43

1 Q. Do you think you would have?

2 MR. DiCIANNI: Objection; speculation, form  
3 of the question.

4 THE WITNESS: Sir, I can't tell --

5 MR. DiCIANNI: Asking him to guess.

6 THE WITNESS: I can't tell you what I did 19  
7 years ago. I don't recall.

8 BY MR. SHAPIRO:

9 Q. So you think it's possible that when you  
10 became lead investigator, you made no effort to  
11 inform yourself of the facts of the case; is that --

12 MR. DiCIANNI: Same objection.

13 BY MR. SHAPIRO:

14 Q. -- what you're saying?

15 MR. DiCIANNI: Same objection.

16 THE WITNESS: That is not what I'm saying,  
17 sir.

18 BY MR. SHAPIRO:

19 Q. You're saying when you became the lead  
20 investigator, it's possible that you made no effort  
21 to review the documents in the central file in order  
22 to familiarize yourself with the case?

23 A. I did not say that.

24 MR. DiCIANNI: Objection, objection.

44

1 BY MR. SHAPIRO:

2 Q. Well, I'm asking what you're saying.

3 MR. DiCIANNI: Objection.

4 BY MR. SHAPIRO:

5 Q. I'm asking what you're saying.

6 A. I told you I don't remember, sir.

7 Q. And when you say you don't remember, you're  
8 saying it's possible that you did not review the  
9 central file when you became the lead investigator to  
10 familiarize yourself with the facts of the case?

11 MR. DiCIANNI: Objection; speculation, asked  
12 and answered.

13 THE WITNESS: I'll repeat my answer, sir. I  
14 do not remember.

15 BY MR. SHAPIRO:

16 Q. Would it have been consistent with your --  
17 strike that.

18 As the lead investigator, you'd want to be  
19 familiar with the facts of the case, wouldn't you?

20 A. Yes.

21 Q. And the central file would be an important  
22 repository of information regarding the facts of the  
23 case, right?

24 A. Yes.

45

1 Q. So the responsible thing to do upon becoming  
2 lead investigator would be to review the central  
3 file, right?

4 MR. DiCIANNI: I'll object to the form of the  
5 question.

6 THE WITNESS: Can you repeat your question,  
7 sir?

8 BY MR. SHAPIRO:

9 Q. Yeah. Would you agree with me that the  
10 responsible thing to do upon becoming the lead  
11 investigator would be to review the central file?

12 MR. DiCIANNI: Same objection.

13 THE WITNESS: Yes.

14 BY MR. SHAPIRO:

15 Q. But you're not sure if you did?

16 A. I do not remember.

17 Q. And, therefore, you're not sure?

18 A. I do not remember.

19 Q. How did you remain -- strike that.

20 When you became lead investigator, how did  
21 you remain abreast of developments in the case that  
22 you weren't personally involved in?

23 A. That would have been -- to the best of my  
24 memory, sir, that would have been through meetings

46

1 that we had as an investigative team.

2 Q. So now you're saying that you don't think  
3 you would have reviewed paper files, right?

4 A. I didn't say that, sir. You asked me how  
5 pertinent information would come to my attention.

6 Q. No, I asked you how you remained abreast of  
7 rele -- of developments in the investigation.

8 MR. DiCIANNI: And he answered the question.

9 BY MR. SHAPIRO:

10 Q. Was the only mechanism through which you  
11 remained abreast of developments in the investigation  
12 participating in meetings with the other  
13 investigators?

14 A. I don't remember, sir.

15 Q. So as far as recollection serves, it could  
16 be that that was the only manner in which you  
17 remained abreast of further developments in the  
18 investigation?

19 MR. DiCIANNI: Objection, speculation.

20 THE WITNESS: I don't remember, sir.

21 BY MR. SHAPIRO:

22 Q. Do you have any recollection of whether you  
23 reviewed the central file as it continued to expand  
24 over the course of the investigation?

47

1 A. I don't --

2 MR. DiCIANNI: Same objection.

3 THE WITNESS: -- remember.

4 MR. SHAPIRO: You have an objection to does  
5 he remember if he -- what's your objection?

6 MR. DiCIANNI: You've asked that question  
7 about five times.

8 MR. SHAPIRO: So it's an asked and answered  
9 objection --

10 MR. DiCIANNI: Well, and each time it's a --  
11 you're asking him to speculate because he says he  
12 doesn't remember. So all he can do at this point is  
13 guess. So you're asking him to guess, which I object  
14 to.

15 BY MR. SHAPIRO:

16 Q. Well, let me -- let me rephrase my -- I  
17 don't think I need to rephrase it, but let me restate  
18 it so that it's perfectly clear.

19 Do you have any recollection of reviewing  
20 the central file as it continued to expand over the  
21 course of the investigation?

22 MR. DiCIANNI: Same objection.

23 THE WITNESS: I do not remember.

24

48

1 BY MR. SHAPIRO:

2 Q. Were investigative files provided to the  
3 prosecutor's office at some point?

4 MS. BARTON: Objection to form.

5 THE WITNESS: That was out of my control,  
6 sir. That was not my responsibility, to provide files  
7 to the State's Attorney's Office.

8 BY MR. SHAPIRO:

9 Q. Did you have any responsibility for ensuring  
10 that the State's Attorney's Office received the  
11 relevant files related to the investigation?

12 A. No, sir.

13 Q. None whatsoever?

14 A. No, sir.

15 Q. Who was responsible for doing that?

16 A. That would have been Lieutenant Zayas and  
17 the records section.

18 Q. What about upon Zayas's retirement?

19 A. My responsibility would be providing them to  
20 the records section, which is our official archive of  
21 our documents.

22 Q. Have you received any training regarding the  
23 obligation of law enforcement officers to provide  
24 pertinent exculpatory evidence to prosecutors

1 handling a case?

2 A. Can you explain exculpatory, sir?

3 Q. What does the word "exculpatory" -- do you  
4 know what the word "exculpatory" means?

5 A. No, sir.

6 Q. Okay. Well, I'll define it as evidence that  
7 could be favorable to the defense in a criminal case.

8 Did you receive any sort of training related  
9 to the obligation of a law enforcement officer to  
10 provide exculpatory evidence as I've defined it to  
11 the prosecutor in a criminal case?

12 A. My training from the basic police academy  
13 was to report the documents and the facts, present  
14 all of that information to the State's Attorney's  
15 Office in the situation of an arrest. Or if there's  
16 probable cause, to submit that on.

17 Q. So you're -- you're -- you're -- you did not  
18 receive any training in providing additional  
19 exculpatory evidence post arrest over the course of  
20 the investigation; is that what you're saying?

21 A. I don't recall receiving any training, sir.

22 Q. At the time of the Beaman investigation, did  
23 you understand that you had any obligation to provide  
24 exculpatory evidence to the prosecutors after the

50

1 time of an arrest?

2 A. No, sir.

3 Q. Did you provide any files to the  
4 prosecutor's office in the course of the Beaman  
5 investigation?

6 MR. DiCIANNI: Him personally?

7 MR. SHAPIRO: I'm sorry?

8 MR. DiCIANNI: Him personally, is that what  
9 you're asking?

10 MR. SHAPIRO: Yeah.

11 BY MR. SHAPIRO:

12 Q. I'll ask -- yes, you personally, did you  
13 provide any documents to the prosecutor in the Beaman  
14 investigation?

15 A. I don't recall, sir.

16 Q. Do you recall anyone in the Normal Police  
17 Department providing documents to the prosecution in  
18 the course of the Beaman investigation and  
19 prosecution?

20 A. No, sir. I don't recall the exact process  
21 of how that was provided to them.

22 Q. Is it your testimony that the only people  
23 who were in charge of making sure the prosecutors got  
24 the police files they needed were Lieutenant Zayas

51

1 and the records department?

2 A. Lieutenant Zayas had primary responsibility  
3 for providing that as leader of the detective  
4 division and the supervisor of the detective  
5 division.

6 Q. Did you ever provide a document to Zayas and  
7 say that it's something that in your opinion should  
8 be provided to the State's Attorney?

9 A. I don't have a recollection of that, sir.

10 Q. What was the role of the records department  
11 in ensuring that documents were transferred to the  
12 State's Attorney's Office during the prosecution?

13 MR. DiCIANNI: Object, speculation.

14 THE WITNESS: I didn't work in the records  
15 section, sir. I don't know what their role was.

16 BY MR. SHAPIRO:

17 Q. When you moved to the State's Attorney's  
18 Office -- well, first of all, remind me when you  
19 moved to the State's Attorney's Office, please.

20 A. I believe it was around January 1 of 1995.

21 Q. When you were working out of the State's  
22 Attorney's Office, did there ever come a time when  
23 you needed to access a related to the Beaman  
24 investigation?

52

1 A. I don't recall, sir.

2 Q. What files did you take with you to the  
3 State's Attorney's Office?

4 A. I don't recall, sir.

5 Q. Well, maybe you can help me out here. I'm  
6 just -- and let me set up the question this way. I'm  
7 just having trouble imagining how you're working out  
8 of a completely separate office where presumably you  
9 need, you know, to be reviewing documents in order to  
10 be working on, you know, reports and managing the  
11 progress of the investigation.

12 So I'm just trying to understand what  
13 documents or what type of files you had with you when  
14 you were at the State's Attorney's Office?

15 MS. BARTON: Objection to form.

16 BY MR. SHAPIRO:

17 Q. What type of documents did you have with you  
18 at the State's Attorney Office when you moved there?

19 MR. DiCIANNI: I'll object to form as well.

20 THE WITNESS: I believe the question you  
21 asked me first was what documents --

22 BY MR. SHAPIRO:

23 Q. Well, the pending question is: What  
24 documents did you have with you when you went to the

53

1 State's Attorney's Office?

2 MR. DiCIANNI: In his pocket?

3 MR. SHAPIRO: Yes, in his pocket. No.

4 BY MR. SHAPIRO:

5 Q. What documents did you bring with you when  
6 you went to the State's Attorney's Office?

7 A. Sir, I do not recall what documents I took  
8 with me. I did have at my disposal the case files  
9 that were at the State's Attorney's Office to review.

10 Q. Okay. So when you wanted to access a  
11 document while -- during the period of time when you  
12 were working out of the State's Attorney's Office,  
13 would you generally access it from the State's  
14 Attorney's files?

15 A. Yes, sir.

16 Q. What was James Souk's role in the  
17 investigation and prosecution of Alan Beaman?

18 MS. BARTON: Objection to form, foundation.

19 THE WITNESS: He was the prosecuting attorney  
20 in the case.

21 BY MR. SHAPIRO:

22 Q. What role did he have prior to the charging  
23 of Mr. Beaman with murder?

24 A. He was our liaison, our contact with the

54

1 State's Attorney's Office as we were investigating  
2 the case.

3 Q. What do you mean by a liaison or contact?

4 A. If we had legal questions or if needed to  
5 obtain documents such as a subpoena for phone  
6 records, subpoena for overhears, overhear returns, he  
7 was our primary contact for that.

8 Q. Did he ever suggest that you perform an  
9 investigative task prior to the charging of  
10 Alan Beaman?

11 A. Yes.

12 Q. Which tasks?

13 A. I don't recall.

14 Q. Fair to say that there were several tasks  
15 that he assigned to you prior to the charging of  
16 Alan Beaman?

17 MS. BARTON: Objection to form.

18 THE WITNESS: I don't recall that he assigned  
19 them directly to me. He would have advised the team  
20 in general of things that we should follow up on,  
21 things that we should do.

22 BY MR. SHAPIRO:

23 Q. Uh-huh. Is it accurate to say that he  
24 assigned tasks to the team as a whole?

55

1           A.    He did not assign tasks to the team, sir.  
2           That would have been Frank Zayas's responsibility.  
3           He would have made recommendation on things that we  
4           should do.

5           Q.    Do you recall him ever asking you to do  
6           something in connection with the investigation?

7                    MS. BARTON:  Objection to foundation.

8                    THE WITNESS:  Yes.

9           BY MR. SHAPIRO:

10           Q.    Do you remember him asking you to do  
11           something related to the investigation prior to the  
12           charging of Alan Beaman?

13           A.    I don't recall.

14           Q.    So you think it's possible that prior to the  
15           charging of Alan Beaman in May of 1994, Souk never  
16           asked you to do anything related to the  
17           investigation?

18           A.    My response is I don't recall, sir.

19           Q.    You don't re -- do you think it's possible  
20           that he never asked you to do anything related to the  
21           investigation prior to the charging of Alan Beaman?

22                    MR. DiCIANNI:  Objection, speculation.

23                    MS. BARTON:  Same objection.

24                    THE WITNESS:  I do not recall, sir.

1 BY MR. SHAPIRO:

2 Q. Did you consult with Souk frequently prior  
3 to the decision to charge Mr. Beaman?

4 A. Yes.

5 Q. How frequently?

6 A. I don't recall exactly, sir.

7 Q. Well, let's talk about the period in between  
8 the discovery of the body on August 28 and the  
9 decision to charge him on May 16, 1994.

10 During that period, did you have more or  
11 fewer than 20 conversations with Souk related to the  
12 investigation?

13 A. More than 20.

14 Q. More than 50?

15 A. I don't recall, sir.

16 Q. It could have been as many as 50?

17 A. It could have.

18 Q. That number, are you including telephone  
19 contacts or face-to-face only?

20 A. Telephone contacts.

21 Q. Okay. You're including both?

22 A. Yes, sir.

23 Q. Now, you say prior to the decision to charge  
24 Beaman, Souk issued recommendations with regard to

57

1 the investigation, correct?

2 A. Repeat your question, please, sir.

3 Q. If I am understanding your testimony, you  
4 said that prior to the decision to charge Beaman,  
5 Souk issued recommendations with regard to how the  
6 investigation should be carried out? Did I  
7 understand that right?

8 A. That's not how I recall the question you  
9 asked me, sir. You --

10 Q. Okay.

11 A. -- asked me at any time --

12 Q. Well --

13 A. -- had Souk asked me to do anything. You  
14 didn't specify prior to the arrest or conviction.

15 Q. Prior to the arrest or conviction -- strike  
16 that.

17 Prior to the arrest of Alan Beaman, did Souk  
18 make any recommendations to you with regard to the  
19 manner in which the investigation should be  
20 performed?

21 A. I don't recall.

22 Q. So you think that you had as many as up to  
23 50 contacts with him prior to the decision to charge  
24 Beaman, but you're not sure whether he made any

58

1 recommendations with regard to how the investigation  
2 should be performed?

3 MS. BARTON: Objection to form.

4 BY MR. SHAPIRO:

5 Q. Is that right?

6 A. I don't recall.

7 MR. DiCIANNI: Could you -- sorry. Could you  
8 read back that question.

9 MR. SHAPIRO: I'll just -- you know, I'll  
10 just re-ask it if that's easier.

11 MR. DiCIANNI: Okay.

12 MR. BOWMAN: Actually, can we just take a  
13 break at this point?

14 MR. SHAPIRO: Yeah. Let's do it.

15 THE VIDEOGRAPHER: Off the record, 10:54.

16 (Whereupon, a break was taken,  
17 after which the following  
18 proceedings were had:)

19 THE VIDEOGRAPHER: Back on the record, 11:09.

20 BY MR. SHAPIRO:

21 Q. Mr. Freesmeyer, before the break, we were  
22 talking about some of the recommendations that  
23 Mr. Souk issued in the course of the investigation,  
24 and I wanted to ask you whether you remember any

59

1 conversations in which a recommendation was  
2 mentioned?

3 A. Yes.

4 Q. Tell me about that conversation.

5 A. During the jury trial, there was some new  
6 information that came up during testimony, and so  
7 Jim Souk asked me to go back up and recheck some  
8 mileage in Rockford. So I drove back up on a  
9 Saturday and rechecked some mileage.

10 Also, he asked me to check on some things  
11 that were disclosed during grand jury testimony such  
12 as Carol Beaman's IGA receipts, several other  
13 documents that she had given to us. So I made  
14 several trips to Rockford to check on those.

15 Q. Do you remember any conversations about a  
16 recommendation he made prior to the arrest of Beaman?

17 A. I don't have a remembrance of any.

18 Q. What was Mr. Souk's involvement in the  
19 decision to place a wire on Mr. Swain?

20 MS. BARTON: Objection, foundation.

21 THE WITNESS: Could you repeat the question,  
22 sir?

23 BY MR. SHAPIRO:

24 Q. Yeah. Was -- well, first of all, let me ask  
60

1 you, was Mr. Souk involved in any way on the decision  
2 to place a body wire on Michael Swain?

3 A. I don't know if he was involved in the  
4 decision. I do believe he was present when we  
5 discussed that idea.

6 Q. And what was his role in that process?

7 A. He was an advisor from the State's  
8 Attorney's Office.

9 Q. What advice, if any, did he give in  
10 connection with the body wire?

11 A. I don't recall, sir.

12 Q. You said that he was an advisor, and I think  
13 earlier you characterized him as a liaison. Can you  
14 remember any meetings prior to the charging of Beaman  
15 in which he was present in his capacity as an advisor  
16 or liaison?

17 A. In reviewing my police report, I was  
18 reminded of meetings that were documented in my  
19 police report where he was present.

20 Q. Do you have any recollection what he said at  
21 any of those meetings?

22 A. No, sir.

23 Q. None whatsoever?

24 A. No, sir, unless it's documented in my police  
61

1 report.

2 Q. Did reviewing your police report refresh  
3 your recollection as to anything that he said in any  
4 of those meetings?

5 A. I don't recall any statements of what he had  
6 said in those meetings. And my recollection from  
7 reading those police reports was just stating his  
8 presence and documenting his presence at a couple of  
9 meetings.

10 Q. Do you remember there was a meeting held the  
11 day after the body was discovered, a Sunday?

12 A. I believe there was a meeting then, yes.

13 Q. Everyone had to come in from -- from home  
14 presumably because it was -- it was a Sunday, and the  
15 body discovered the previous day?

16 A. Yes.

17 Q. What was discussed at that meeting?

18 A. If I recall correctly from reviewing my  
19 reports over the last couple of days, that was a  
20 meeting with the coroner, Dan Brady, to verify the  
21 cause of death. The autopsy, I believe, was done  
22 that Sunday morning.

23 Q. What was discussed at that meeting?

24 A. All I can remember is what I read in my

62

1 police report, sir.

2 Q. You don't have any recollection of anything  
3 that Mr. Souk said at that meeting?

4 A. No, sir.

5 Q. Do you recall him being present?

6 A. It's documented in my police report that he  
7 was present at that meeting.

8 Q. Do you have an independent recollection of  
9 his being present?

10 A. No, sir.

11 Q. Now, earlier you said that you were the  
12 principal person working on the investigation of  
13 Beaman specifically, correct?

14 A. Yes, I believe I testified that I was  
15 focusing on Alan Beaman.

16 Q. And if -- would it be fair to infer from  
17 that that if Souk had an issue he wanted to discuss  
18 with regard to Beaman specifically, that would be an  
19 issue he'd discuss with you?

20 MS. BARTON: Objection to form.

21 THE WITNESS: That would be -- I would only  
22 be able to speculate on that, sir.

23 BY MR. SHAPIRO:

24 Q. Well, I'm asking what your -- what you

63

1 think, what your opinion is.

2 MS. BARTON: Same objection.

3 THE WITNESS: Would you restate the question,  
4 please?

5 BY MR. SHAPIRO:

6 Q. Sure. Given that you were the investigator  
7 with primary responsibility for focusing on Beaman  
8 specifically --

9 A. Yes, sir.

10 Q. -- is it a reasonable inference that Souk  
11 would speak with you with regard to issues in the  
12 investigation specifically confirm -- concerning  
13 Beaman?

14 MS. BARTON: Objection to form and  
15 foundation.

16 THE WITNESS: If you're asking me if that's  
17 what Jim would have done --

18 BY MR. SHAPIRO:

19 Q. Uh-huh.

20 A. -- I assume that would be reasonable, but I  
21 can't say if that's what he would have done.

22 Q. That would have been the reasonable thing to  
23 do?

24 MR. DiCIANNI: I'll object.

64

1 MS. BARTON: Same objection.

2 BY MR. SHAPIRO:

3 Q. That's what you said; is that right? You  
4 think that would have been the reasonable thing to  
5 do?

6 A. I'm saying that that would have been a  
7 reasonable thing to do.

8 Q. Uh-huh. Do you recall that a series of  
9 investigators meetings were held throughout the  
10 course of the investigation?

11 A. Yes, there were a number of meetings held.

12 Q. Who was typically present at those meetings?

13 A. I can only tell you who was present in those  
14 times in my police report where I documented those  
15 who were present.

16 Q. I mean, there were a core group of people  
17 who are working on the case and others who were more  
18 peripheral, right?

19 A. Yes.

20 Q. Who were the core group?

21 A. It depends on what the meeting was about and  
22 when the meeting would have been held.

23 The core group would probably have been the  
24 main detectives assigned to the case, which would

65

1 have been Tony Daniels, Dave Warner, Frank Zayas,  
2 Rob Hospelhorn, and myself.

3 Q. You would not include Souk in the -- in sort  
4 of that core group who were involved in the case?

5 A. Sir, the only recollection I have is when I  
6 documented who was present in my police report. I  
7 have no independent recollection of who was there.

8 Q. Well, you just -- you just gave me a  
9 characterization of who were the core people, right?

10 A. Yes, you asked me who the core investigators  
11 were.

12 Q. Was Souk typically present at the  
13 investigators meetings that were held?

14 MS. BARTON: Objection to form.

15 THE WITNESS: I don't recall, sir.

16 BY MR. SHAPIRO:

17 Q. Do you recall his presence at any meetings  
18 prior to the charging of Mr. Beaman other than the  
19 August 29 meeting that we were just discussing?

20 A. I recall, in reading my police report over  
21 the last several days, that I documented his presence  
22 on August -- it would have been right after the  
23 finding of the body and just prior to the arrest of  
24 Mr. Beaman.

66

1 Q. Independent of what's stated in your police  
2 reports, you're saying you have absolutely no  
3 recollection of any investigators meeting in the  
4 course of the Beaman investigation; is that --

5 A. That's correct, sir.

6 MR. DiCIANNI: Could you repeat that question  
7 and answer.

8 (Whereupon, the record was  
9 read as requested.)

10 BY MR. SHAPIRO:

11 Q. When there was a meeting in the course of  
12 the investigation, did you always document it in your  
13 report?

14 A. I made an attempt to document every meeting.  
15 I can't tell you for sure that I documented every one  
16 of them.

17 Q. So -- did -- in -- in -- in each of your --  
18 strike that.

19 In -- you stated that when you were writing  
20 your report, you -- there were some meetings that  
21 were documented, right?

22 A. Yes.

23 Q. Okay. Did you always document who was  
24 present at every meeting?

67

1 A. No.

2 Q. Okay. So it's possible that there would be  
3 some meetings mentioned in your report which do not  
4 refer to a specific individual being present at a  
5 meeting even if the individual were present, right?

6 A. Yes.

7 Q. And that would include Mr. Souk?

8 MS. BARTON: Objection to foundation.

9 THE WITNESS: Yes.

10 BY MR. SHAPIRO:

11 Q. Now, your view is that this case involved a  
12 staged rape; is that correct?

13 A. No, sir.

14 Q. Are you aware that that was the theory  
15 advanced by the prosecution at trial?

16 A. I don't remember that, sir.

17 Q. So your view is the case was not a staged  
18 rape?

19 A. I don't have a view. I do not know if there  
20 was a rape done or -- or not.

21 Q. Okay. So it's your testimony that you have  
22 absolutely no idea whether Jennifer Lockmiller --  
23 strike that.

24 It's your testimony that you have absolutely  
68

1 no idea as to whether the murderer of Jennifer  
2 Lockmiller staged a rape?

3 A. Yes.

4 Q. Yes, you have no idea?

5 A. That is my testimony, yes, sir.

6 Q. Did you sit through the trial in this case?

7 A. Yes, I did.

8 Q. How many days did you miss?

9 A. I don't recall, sir. I don't think I missed  
10 any days.

11 Q. You don't recall there ever being mentioned  
12 at the trial of a staged rape theory?

13 MS. BARTON: Objection to form.

14 THE WITNESS: I'm saying the trial was 19 --  
15 almost 19 years ago. I don't remember that, sir.

16 BY MR. SHAPIRO:

17 Q. Can you recall any evidence that would have  
18 led you to conclude that there was a staged rape?

19 MR. DiCIANNI: I'll object to the form --  
20 foundation and form of the question.

21 THE WITNESS: Could you be more specific,  
22 sir?

23 BY MR. SHAPIRO:

24 Q. I'm asking can you recall any evidence that

69

1 led you to believe that there was a staged rape?

2 MR. DiCIANNI: Objection. He's testified --

3 THE WITNESS: I testified earlier that I  
4 didn't know if there was a staged rape or not.

5 BY MR. SHAPIRO:

6 Q. And I'm asking you whether you are aware of  
7 any evidence that would indicate that there was one?

8 A. No.

9 Q. You mentioned earlier there was a point in  
10 which you began assuming greater and greater  
11 responsibility in the course of the investigation,  
12 right?

13 A. Yes.

14 Q. Was Mr. Souk involved in the decision to  
15 give you greater responsibility in any way?

16 A. I don't know, sir.

17 Q. Was he opposed to it?

18 MS. BARTON: Objection to foundation.

19 THE WITNESS: The same answer, I don't know,  
20 sir.

21 BY MR. SHAPIRO:

22 Q. Do you recall him ever mentioning anything  
23 to you as to whether you should assume greater  
24 responsibilities in the course of the investigation?

70

1 A. I don't recall any such conversations, sir.

2 Q. There was a meeting in which a decision was  
3 made to charge Alan Beaman, right?

4 A. Yes.

5 Q. Do you have any recollection of that meeting  
6 whatsoever?

7 A. Yes.

8 Q. What's your recollection?

9 A. I recall reading about it in the police  
10 report, and I do recall that meeting.

11 Q. You do recall that meeting independently?

12 A. Yes, I recall that that meeting happened.

13 Q. Do you have independent recollection of any  
14 other meeting happening prior to the charging of  
15 Beaman?

16 A. I remember the initial two meetings that we  
17 held on Saturday night and Sunday after the body was  
18 found. They were important meetings.

19 Q. Do you remember any other meetings that you  
20 haven't mentioned so far?

21 A. None.

22 Q. None whatsoever?

23 A. Not a special rec -- recollection of them,  
24 no.

71

1 Q. What happened at the Saturday meeting on the  
2 day the body was discovered?

3 A. It was a meeting to talk about what each one  
4 of us had found and what information we had at that  
5 time.

6 Q. Do you recall anything that was said at the  
7 meeting?

8 A. No, I do not.

9 Q. Who was present at the meeting?

10 A. It's documented in my police report, I  
11 believe. If it's not documented in my police report,  
12 I can't tell you exactly --

13 Q. You have -- you have no independent  
14 recollection of who was present?

15 A. No, sir. I just remember that the meeting  
16 was held.

17 Q. What do you remember about the Sunday  
18 meeting on August 29?

19 A. I remember that we met again that evening to  
20 talk about the developments because we were going in  
21 many different directions.

22 And, again, my memory was sparked by reading  
23 about it in my police report.

24 Q. What -- what -- what different directions

72

1 were you going?

2 A. Again, according to my police report,  
3 Detective Daniels and Detective Hospelhorn were  
4 trying to deal with people up in Rockford,  
5 specifically Alan Beaman and his parents. I was  
6 dealing with Michael Swain because I was present at  
7 the scene when Michael Swain showed up.

8 And so those were two different avenues we  
9 were exploring, and that meeting on Sunday was to  
10 talk about the developments in those two directions.

11 Q. What was said with regard to the  
12 developments?

13 A. I don't recall exactly what was said, sir.

14 Q. Who was -- who was present at that meeting  
15 on August 29?

16 A. Unless it's documented in my police report,  
17 I don't recall.

18 Q. Do you remember Mr. Souk being present?

19 A. Same answer, sir. Unless it's documented in  
20 my police report, I don't recall.

21 Q. Do you remember his being present at the  
22 Saturday meeting, August 28?

23 A. Unless it's documented in my police report,  
24 I don't recall.

73

1 Q. Let's go back to the meeting in May of 1994  
2 regarding the charging decision. How was the  
3 decision made to charge Mr. Beaman at that meeting?

4 A. I don't recall exactly, sir, how the  
5 decision was made.

6 Q. Who chaired the meeting?

7 A. I don't recall who chaired the meeting.

8 Q. Do you remember who led any of the meetings  
9 that we've been talking about?

10 MS. BARTON: Objection, foundation.

11 THE WITNESS: No, sir, I don't recall who led  
12 the meetings.

13 BY MR. SHAPIRO:

14 Q. Was there a show of hands at that meeting?

15 A. I don't recall.

16 Q. Did anyone express doubts about arresting  
17 Mr. Beaman?

18 A. That I do remember. And, no, there was no  
19 hesitation in effecting the arrest of Mr. Beaman at  
20 that meeting.

21 Q. No one expressed any doubt whatsoever about  
22 arresting Mr. Beaman?

23 A. That is my recollection, sir.

24 MS. BARTON: Objection, foundation.

74

1 BY MR. SHAPIRO:

2 Q. I'm sorry. I didn't hear your answer.

3 A. That is my recollection. There was no doubt  
4 expressed in arresting Mr. Beaman.

5 Q. Okay. Your testimony is that Tony Daniels  
6 expressed no doubt whatsoever at that meeting?

7 MS. BARTON: Object.

8 THE WITNESS: My testimony is that I don't  
9 recall exact words that were being said, but what  
10 sticks out in my mind was that was the meeting just  
11 prior to the arrest; and there was no doubts brought  
12 up as to the arrest, should we arrest Alan Beaman --

13 Q. Right.

14 A. -- for the murder of Jennifer Lockmiller.

15 Q. So you're saying you specifically recall  
16 that no one raised any doubts whatsoever?

17 A. No one raised objection to the arrest of  
18 Alan Beaman.

19 Q. So they might have raised doubts, they  
20 just -- you're not -- they just didn't raise  
21 objections; is that what you're saying?

22 A. It may have been doubts as to whether we  
23 have enough information to convict, but there was no  
24 doubt as to whether we should arrest Alan Beaman for

75

1 the murder of Jennifer Lockmiller.

2 Q. So someone said, I doubt that there's enough  
3 information to convict, but I think we should arrest  
4 him anyway?

5 A. Well, you've just put those words in my  
6 mouth, sir.

7 Q. Well, that's -- well, that's -- that was --  
8 well, I understood you to say that there was  
9 hesitation about whether there was enough evidence to  
10 convict; is that correct?

11 A. No, sir.

12 Q. Okay. Well, what were -- what were you  
13 saying about that then?

14 A. If we go back to my answer, I believe I said  
15 that there may have been objections or doubts as to  
16 whether we had enough information to convict; but  
17 there was no doubt as to whether we should arrest  
18 Alan Beaman.

19 Q. What were -- what were the doubts that were  
20 expressed with regard to sufficient evidence to  
21 convict?

22 A. I don't recall what the individual doubts  
23 were, sir. I said there may have been doubts as to  
24 whether we had enough to convict, but I don't

76

1 remember exact circumstances or exact items.

2 MR. BOWMAN: Who had the doubts?

3 BY MR. SHAPIRO:

4 Q. Who had the doubts?

5 A. Sir, I said there may have been doubts. I  
6 don't know if any particular person brought up a  
7 particular doubt.

8 MR. BOWMAN: Why are you saying --

9 BY MR. SHAPIRO:

10 Q. Yeah, why are you saying there may have been  
11 doubts then?

12 A. Because I know after the fact of  
13 Tony Daniels' statements. And so you're asking me if  
14 anybody had any doubt in their mind, I'm saying he  
15 may have had doubt; but there was nothing expressed  
16 in that meeting that said we should not arrest  
17 Alan Beaman for the murder of Jennifer Lockmiller.

18 Q. Wait, wait, wait. So you're -- so you're  
19 saying you don't have -- you're saying that your sole  
20 basis for thinking that Tony Daniels had doubts about  
21 evidence to convict is based on subsequent  
22 information, not your independent recollection of the  
23 meeting?

24 A. I told you I don't remember exact statements

77

1 that were made in that meeting.

2 Q. That wasn't the question.

3 A. Okay. Please state your question --

4 Q. Okay.

5 A. -- again for me, sir.

6 Q. The question is: Do you have any  
7 independent recollection of doubts being expressed at  
8 the meeting with regard to sufficient evidence to  
9 convict?

10 A. No.

11 Q. So the sole basis for your assertion that  
12 there were doubts expressed with regard to evidence  
13 to convict is subsequent statements?

14 A. You've just changed your statement again,  
15 sir.

16 Q. Well, I'm asking a question.

17 A. Okay. You asked -- in my answer, I told you  
18 there may have been doubts. You've just stated that  
19 my sole reason --

20 Q. What is your statement that there may have  
21 been doubts based on?

22 A. My statement that there may have been doubts  
23 based on -- that is that based on subsequent  
24 statements that Tony has made throughout this entire

78

1 process that he may have had doubts at that meeting;  
2 however, there was nothing raised at that meeting  
3 that said we should not arrest Alan Beaman for the  
4 murder of Jennifer Lockmiller.

5 Q. Do you recall anything about this  
6 investigation that's not documented in your police  
7 report?

8 MR. DiCIANNI: I'm going to object to that.  
9 I think that's a vague and broad question.

10 THE WITNESS: No.

11 BY MR. SHAPIRO:

12 Q. The answer is no?

13 A. The answer is no.

14 Q. Did you make it clear at the May 1994  
15 meeting that you thought Beaman should be arrested?

16 A. I don't recall my exact words at that  
17 meeting, sir.

18 Q. I'm not asking you for exact words. I'm  
19 asking you whether you made it clear that you thought  
20 Beaman should be arrested?

21 A. I don't know that I made it clear. I  
22 know at that meeting I was convinced in my mind  
23 that he should be arrested for the murder of  
24 Jennifer Lockmiller.

1 Q. Did Souk make it clear that he thought  
2 Beaman should be arrested?

3 A. Again, sir, I don't remember the exact words  
4 that were said at that meeting. I've told you I  
5 remember the meeting happened; I remember the  
6 importance of the meeting; but I don't remember exact  
7 things that were said there.

8 (Plaintiff's attorneys confer off  
9 the record.)

10 BY MR. SHAPIRO:

11 Q. All right. I'd like to hand you a binder of  
12 exhibits, Mr. Freesmeyer. Get copies for opposing  
13 counsel. These are all premarked.

14 MR. DiCIANNI: Thank you.

15 MS. BARTON: Thanks. So this is not a group  
16 exhibit? It's separate exhibits?

17 MR. SHAPIRO: It's separate exhibits, yes.

18 MS. BARTON: Thanks.

19 BY MR. SHAPIRO:

20 Q. Let's start with Exhibit 6, if you wouldn't  
21 mind, behind tab 6.

22 A. I don't have a tab 6, sir.

23 Q. I'm sorry. I'm sorry. Thanks.

24 You have Plaintiff's Exhibit 6?

80

1 A. I believe so, yes.

2 Q. Okay. Do you know whose notes these are on  
3 Plaintiff's Exhibit 6?

4 A. No, sir.

5 Q. Okay. Take a minute to review the -- the  
6 question I'm going to ask you is whether these are an  
7 investigator's notes related to the Lockmiller  
8 homicide investigation. Take a moment to review them  
9 until you feel you're able to answer that question.

10 MR. DiCIANNI: I'm sorry. What's the  
11 question?

12 BY MR. SHAPIRO:

13 Q. The question is: Are these an  
14 investigator's notes related to the Lockmiller  
15 homicide investigation?

16 A. Sir, they're notes taken by somebody --

17 Q. Uh-huh.

18 A. -- and they mention several people that were  
19 involved in the Lockmiller investigation.

20 Q. Uh-huh. I mean, it's a reasonable inference  
21 that these notes were taken by someone present at an  
22 investigators meeting related to the Lockmiller  
23 homicide investigation on September 7, '93, right?

24 MR. DiCIANNI: I'll object --

81

1 MS. BARTON: Objection; form, foundation.

2 MR. DiCIANNI: Yeah, I'll object to --

3 BY MR. SHAPIRO:

4 Q. Just looking at the face of the document --

5 A. I can't make an inference of what these  
6 notes refer to, sir. I've told you they're notes  
7 taken by somebody, and they mention several people  
8 involved in the Lockmiller homicide.

9 Q. Who else could have taken these notes other  
10 than someone involved in the Lockmiller homicide  
11 investigation?

12 MR. DiCIANNI: Objection, speculation.

13 MS. BARTON: Same objection.

14 THE WITNESS: Sir, I don't know who the notes  
15 were taken by.

16 BY MR. SHAPIRO:

17 Q. That's not the question.

18 A. I've never seen these notes.

19 Q. That's not the question. The question is:  
20 Can you think of any explanation for the existence of  
21 notes -- these notes other than the fact that they  
22 were taken by an investigator in the course of the  
23 Lockmiller homicide investigation?

24 MR. DiCIANNI: Objection, speculation.

82

1 MS. BARTON: I'll join.

2 THE WITNESS: Sir, these notes could have  
3 been written by anybody. I've never seen these notes  
4 before. They could have been written yesterday and  
5 photocopied and handed to me. I didn't --

6 BY MR. SHAPIRO:

7 Q. Well, I'll represent to you that I didn't do  
8 that. Are you willing to take my word that these are  
9 notes -- and I'll further represent that these were  
10 notes produced to us in discovery by your lawyer.

11 You -- okay. You really want to fight me?  
12 Plaintiff's Exhibit Number 6 might not be notes taken  
13 by an investigator in the Lockmiller homicide  
14 investigation?

15 MR. DiCIANNI: He's saying he doesn't know.

16 THE WITNESS: I'm saying I don't know where  
17 these notes came from --

18 BY MR. SHAPIRO:

19 Q. All right. And my question is: Do you have  
20 any basis to doubt that they are?

21 A. If it says Plaintiff's Exhibit 6, I doubt --  
22 I do not doubt that they're official notes, sir --

23 Q. Okay.

24 A. -- if that's what you're asking.

83

1 MR. DiCIANNI: But you don't know?

2 THE WITNESS: No. I've never seen these  
3 before until today.

4 BY MR. SHAPIRO:

5 Q. I'll represent to you that in your report,  
6 you document that you were present at a meeting in  
7 the afternoon of September 7, 1993, for what it's  
8 worth.

9 A. Okay.

10 Q. What do you think the "S" notations on the  
11 left-hand margin indicate?

12 MR. DiCIANNI: I'm going to -- you're asking  
13 him to speculate.

14 MR. SHAPIRO: I'm asking what he thinks.

15 MR. DiCIANNI: That's asking him to  
16 speculate.

17 THE WITNESS: Sir, I have no idea. These are  
18 not my notes. I have no idea.

19 (Plaintiff's attorneys confer off  
20 the record.)

21 BY MR. SHAPIRO:

22 Q. Okay. Was Rob Curtis -- well, strike that.

23 Was John Murray ever a suspect in the  
24 Lockmiller homicide investigation?

84

1 MR. DiCIANNI: Object to it, foundation, form  
2 of the question.

3 MS. BARTON: I'll join.

4 THE WITNESS: I did not have any  
5 involvement with John Murray. That was handled by  
6 Detective Daniels and Hospelhorn. He was a person of  
7 interest.

8 BY MR. SHAPIRO:

9 Q. He was a person of interest?

10 A. Yes.

11 Q. What do you mean by person of interest?

12 A. He was a person that was investigated as  
13 part of this investigation, sir.

14 Q. As someone who could have committed the  
15 murder?

16 A. He was a person who was investigated as part  
17 of this investigation, yes -- so, yes, the answer  
18 would be yes to that question.

19 Q. What's the difference between a suspect and  
20 someone who's investigated as someone who might have  
21 committed the murder?

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

24 THE WITNESS: Could you ask the question

85

1 again, sir?

2 BY MR. SHAPIRO:

3 Q. Yeah. What's -- so -- are you saying he's  
4 not -- are you saying John Murray was never a suspect  
5 in the Lockmiller homicide investigation?

6 A. No, I'm not saying that.

7 Q. Was John Murray a suspect in the Lockmiller  
8 homicide investigation?

9 MR. DiCIANNI: Objection; form of the  
10 question, foundation.

11 MS. BARTON: I'll join.

12 THE WITNESS: I believe in some people's  
13 mind, yes, he was a suspect.

14 BY MR. SHAPIRO:

15 Q. He was never a suspect in your mind; is that  
16 correct?

17 A. I didn't know --

18 MR. DiCIANNI: Same objection.

19 THE WITNESS: I didn't know that much about  
20 Larbi Murray to make a very valid decision on that,  
21 sir.

22 BY MR. SHAPIRO:

23 Q. You couldn't make a valid decision as to  
24 whether Murray was a suspect?

86

1 A. I'm saying that I didn't --

2 MR. DiCIANNI: Same objection.

3 THE WITNESS: I didn't have very much contact  
4 at all with Larbi Murray. I did not interview him. I  
5 don't know that I ever had face-to-face contact with  
6 Larbi Murray.

7 BY MR. SHAPIRO:

8 Q. Do you have any opinion as to whether he  
9 should have been considered as a suspect?

10 MR. DiCIANNI: Same objection.

11 THE WITNESS: My same answer, sir. I had  
12 very limited contact with Larbi Murray. He was not an  
13 area of my responsibility.

14 BY MR. SHAPIRO:

15 Q. And there's no disagreement among us,  
16 Mr. Freesmeyer, that by the time the investigation  
17 ended, you were the lead investigator, right?

18 A. Yes, sir.

19 Q. And as the person who was, by the conclusion  
20 of the investigation the lead investigator in the  
21 Lockmiller homicide investigation, your testimony is  
22 that you don't know whether John Murray should have  
23 been considered a suspect; is that -- is what you're  
24 saying?

87

1 MR. DiCIANNI: Same objection.

2 THE WITNESS: My answer stands. I did not  
3 have that much contact with Larbi Murray through this  
4 investigation, sir.

5 BY MR. SHAPIRO:

6 Q. That's not the question that I asked you, so  
7 let me ask it again.

8 A. Okay.

9 Q. You were the lead investigator by the end of  
10 the investigation? No question about that, right?

11 A. Yes, after Lieutenant Zayas's retirement.

12 Q. Uh-huh. And you do not have a view as to  
13 whether John Murray should have been considered a  
14 suspect, correct?

15 A. I don't recall what that view was, sir.

16 Q. So you're saying you had a view, but you  
17 don't recall what it was?

18 A. I'm saying I don't recall if I had a view or  
19 not, sir.

20 Q. Do you have any view as you sit here today?

21 A. No, sir.

22 Q. All right. So if someone said that  
23 John Murray should have been considered as a suspect  
24 in the Lockmiller homicide investigation, as you sit

88

1 here today, you would had no basis for disagreement  
2 with that, right?

3 MR. DiCIANNI: I'll object to --

4 THE WITNESS: I have no view on that --

5 MR. DiCIANNI: -- the question.

6 THE WITNESS: --sir.

7 MS. BARTON: I'll join the objection.

8 BY MR. SHAPIRO:

9 Q. And you have no basis for disagreeing with  
10 that statement?

11 MR. DiCIANNI: Objection; form of the  
12 question, foundation.

13 THE WITNESS: I have no view on that, sir.

14 MS. BARTON: I'll join the objection.

15 BY MR. SHAPIRO:

16 Q. Who thought that John -- you said that some  
17 people thought John Murray was a suspect. Who were  
18 these people?

19 A. I didn't say that, sir. I said that some  
20 people could have thought him to be a suspect.

21 Q. Who could have thought him to be a suspect?

22 MR. DiCIANNI: Objection, speculation.

23 MS. BARTON: I'll join.

24 THE WITNESS: Evidently from the line of your  
89

1 questioning, Tony Daniels did, sir.

2 BY MR. SHAPIRO:

3 Q. Who else?

4 A. I don't know of anybody else.

5 Q. Was Stacey Gates, also known as Bubba, ever  
6 a suspect in the Lockmiller homicide investigation?

7 MR. DiCIANNI: Same objection; foundation,  
8 form of the question.

9 MS. BARTON: I'll join.

10 THE WITNESS: Yes, for a short time.

11 BY MR. SHAPIRO:

12 Q. What -- during what period of time?

13 A. Early on in the investigation until we were  
14 able to verify his alibi, sir.

15 Q. When was alibi verified?

16 A. I don't remember the exact date.

17 Q. Your testimony is he was a suspect from  
18 early on in the investigation up until the point when  
19 his alibi was verified, right?

20 A. Yes.

21 MR. DiCIANNI: Same objection.

22 I'm going to confer with my client for a  
23 second.

24 Is there a question pending?

90

1 THE COURT REPORTER: No.

2 THE VIDEOGRAPHER: Off the record, 11:40.

3 (Whereupon, a break was taken,  
4 after which the following  
5 proceedings were had:)

6 THE VIDEOGRAPHER: Back on the record, 11:44.

7 BY MR. SHAPIRO:

8 Q. Now, Mr. Freesmeyer, if I'm remembering your  
9 testimony correctly, and forgive me and correct me if  
10 I'm wrong, I believe you said when you're talking  
11 about the meeting in which the decision was made to  
12 charge Mr. Beaman that when I asked you a question  
13 about who raised objections, you said you assumed I  
14 was talking about Tony Daniels; did I get that right?

15 A. Yes -- no.

16 Q. Okay. Well, correct me then, please.

17 A. There were no objections raised. You asked  
18 if anybody had objections, and I misstated my  
19 response because I learned later that Tony did have  
20 questions in his mind. However, at that meeting,  
21 there was no objections raised as far as I recall.

22 Q. So is that why you assumed that my question  
23 was related to Daniels?

24 A. Yes.

91

1 Q. Okay. Now, you said -- I want you to tell  
2 you me everything that you can recall independently  
3 about John Murray as it relates to the Lockmilller  
4 homicide investigation.

5 MR. DiCIANNI: Independently, you mean not  
6 contained in reports?

7 BY MR. SHAPIRO:

8 Q. That's a fair character -- I want -- as you  
9 sit here today, I want you to tell me everything you  
10 can remember about John Murray as it relates to the  
11 Lockmilller homicide investigation.

12 A. I remember that on one particular day, I  
13 called Kenneth Frankenberg down from Rockford to  
14 conduct three polygraph exams; one on Chris Carbon,  
15 one on Larbi Murray, and one on Alan Beaman, if he  
16 agreed to take it. I documented in my police report  
17 that Larbi Murray did not show that day.

18 I also read a police report after the  
19 conviction where Larbi Murray was arrested for, I  
20 believe, domestic violence; and I signed off on that  
21 report as a supervisor on the following shift after  
22 that occurred.

23 That occurred on the 3:00 to 11:00 shift.  
24 The officer stayed over late, dropped the report in

92

1 the box; and as a midnight shift supervisor, I had to  
2 approve it because it was a custody arrest.

3 That is the only thing I can tell you about  
4 Larbi Murray.

5 Q. And that incident where you signed off on a  
6 domestic violence report related to Murray, was that  
7 after -- that was after the arrest of Beaman; is that  
8 right?

9 A. I believe it was, yes.

10 Q. Was it prior to the conviction of Beaman?

11 A. There were two reports, sir. I believe one  
12 was prior. I would have to look at the reports. I'm  
13 sorry. I'm trying to guess on my memory. I would  
14 have to look at the reports to determine when they  
15 were filed.

16 Q. Okay. So you're not sure if those reports  
17 were filed before or after the trial of Alan Beaman?

18 A. That's correct, sir, not as I sit here  
19 today.

20 Q. Can you remember anything else as you sit  
21 here today with respect to Mr. Murray?

22 A. No, sir.

23 Q. Okay. I want to give you a series of  
24 statements about John Murray, and I want you to tell

93

1 me on the basis of those statements, assuming them as  
2 true, and I know you may not agree with them; but I  
3 want you to assume them as true for purposes of this  
4 question whether he should be -- whether he should  
5 have been considered a suspect, okay?

6 First statement is that John Murray had no  
7 alibi at the time of the murder. Second statement is  
8 that John Murray had a history of domestic violence  
9 and steroid use. Third statement is that John Murray  
10 had a series of drug charges against him. Fourth  
11 statement is that Jennifer Lockmiller received  
12 marijuana from Murray and owed him money for it. And  
13 the fifth statement is that John Murray was a former  
14 lover and boyfriend of Lockmiller who was attempting  
15 to rekindle the relationship.

16 Based on those statements, would you agree  
17 that Murray should have been a -- considered a  
18 suspect in the Lockmiller murder?

19 MR. DiCIANNI: I'm going to object on several  
20 bases. First of all, you're asking him something that  
21 may be considered a legal opinion based on a  
22 hypothetical, which I think is an incomplete  
23 hypothetical; you're asking him to speculate; and  
24 there's a -- there's a lack of a complete foundation

94

1 for the question.

2 Apart from that, you can go ahead and answer.

3 MS. BARTON: I will join in all of the  
4 objections.

5 THE WITNESS: If those statements were true,  
6 he would been -- be an individual that we would need  
7 to continue an investigation on.

8 BY MR. SHAPIRO:

9 Q. What do you mean continue investigation?

10 A. I mean those things should have been  
11 investigated.

12 Q. Do you have any reason to doubt that  
13 John Murray lacked an alibi for the Lockmiller  
14 murder?

15 A. Do I have a reason to doubt that he lacked  
16 an alibi?

17 Q. Uh-huh.

18 A. Yes, I do.

19 Q. Which is what?

20 A. Because in the final meeting on May 16, I  
21 don't recall any verbal objection to the arrest of  
22 Alan Beaman.

23 As I stated earlier in my statement, I was  
24 focusing on Alan Beaman and Mike Swain. Other

95

1 members of the team were responsible for focusing on  
2 these other people. And, therefore, if there was an  
3 objection, if that had not been investigated fully,  
4 then that should have been verbalized and brought out  
5 at that meeting; and that -- I did not recall that  
6 happening, sir.

7 (Plaintiff's attorneys confer off  
8 the record.)

9 BY MR. SHAPIRO:

10 Q. If he didn't have an alibi, would that mean  
11 that Beaman should not have been arrested?

12 MR. DiCIANNI: That's speculative. I object  
13 to that.

14 MS. BARTON: I join the objection.

15 THE WITNESS: I'm not saying that, sir.

16 There were a number of people that were acquaintances  
17 with Jennifer that didn't necessarily have an alibi  
18 for that day. Once instant -- just the fact that he  
19 did not have an alibi does not mean that the evidence  
20 is not overwhelming enough for the conviction of  
21 Alan Beaman.

22 BY MR. SHAPIRO:

23 Q. Did you have any other reason beyond nothing  
24 being raised, in your view, in the May 1994 meeting

96

1 to conclude that John Murray had an alibi?

2 A. I'm sorry, sir. Could you state that again?

3 Q. Okay. You gave one basis for why you  
4 thought John Murray did not have an alibi, right?

5 MR. DiCIANNI: Could you repeat the question?

6 THE WITNESS: I don't --

7 MR. DiCIANNI: I'm not following --

8 MR. SHAPIRO: All right.

9 MR. DiCIANNI: I'm not trying --

10 BY MR. SHAPIRO:

11 Q. Maybe my question is not clear. I  
12 understood you to be -- to say -- all right. We'll  
13 move on.

14 Do you have any reason to doubt that  
15 John Murray had a history of domestic violence and  
16 steroid use?

17 A. I recall seeing a police department report  
18 where he was arrested for domestic violence, and it  
19 was rumored that he was on steroids. So if one  
20 incident creates a history, I would agree with you  
21 that he has a history.

22 Q. And you have no reason to disagree, right?

23 A. I saw the police report of the domestic  
24 abuse and the suspicion of the steroid use.

97

1 Q. Uh-huh. Do you have any reason to doubt  
2 that John Murray had a history of drug charges?

3 A. I don't have any independent knowledge of  
4 whether he has a history of drug charges, sir.

5 Q. Do you have any reason to doubt that  
6 John Murray was owed money by Jennifer Lockmiller  
7 for drugs?

8 A. I know nothing about that, sir.

9 Q. And you have no reason to doubt it?

10 A. I know nothing about it.

11 Q. Do you have any reason to doubt that  
12 John Murray was a former lover of Ms. Lockmiller who  
13 was attempting to rekindle the relationship?

14 A. I know nothing about that either, sir.

15 Q. Do you remember what John Murray looked  
16 like?

17 A. No, sir, I don't.

18 Q. If I showed you picture of him, do you think  
19 you could recall?

20 A. I don't know that I ever met him  
21 face-to-face, sir. He didn't show up for the  
22 polygraph exam that I scheduled, and I was not on  
23 duty when he was arrested in the police report. I  
24 simply signed off on the police report after the

98

1 fact.

2 (Plaintiff's attorneys confer off  
3 the record.)

4 BY MR. SHAPIRO:

5 Q. As a lead investigator on this case on  
6 May 16, 1994, were you totally clueless about  
7 John Murray's role in the investigation?

8 MR. DiCIANNI: I'll object to the premise of  
9 the question that he was lead investigator as of  
10 May 16, 1994.

11 I'll also object to the characterization of  
12 clueless. Seems to me to be some type of pejorative  
13 term that I think they made a movie about, but --

14 MR. SHAPIRO: All right. Well, this is  
15 becoming a speaking objection, but let -- if you want  
16 to me re-ask the question.

17 BY MR. SHAPIRO:

18 Q. Were you -- did you consider yourself the  
19 primary investigator as of May 16, '94?

20 A. No, Lieutenant Zayas was still in charge of  
21 the investigation at that point.

22 Q. As of May 16, 1994, fair to say you were  
23 clueless about any potential involvement by  
24 John Murray in the homicide investigation?

99

1 A. No, sir, I was not clueless. His name had  
2 come up in meetings before.

3 Q. What was said about him in meetings?

4 A. I don't recall what was said.

5 Q. Right. So earlier you said that if it's not  
6 in your police report, you don't have any  
7 recollection of it at all, right?

8 A. Correct.

9 Q. And now you're telling me that you, in fact,  
10 remember instances when there were references to --  
11 that you remember that there was discussion of  
12 John Murray at meetings, right?

13 A. No, sir. You asked if I was clueless about  
14 his involvement in this case, yet my police report  
15 says we had meetings periodically about this case.  
16 And obviously he was investigated by Tony Daniels and  
17 Rob Hospelhorn.

18 Q. And that was brought up in meetings?

19 A. Therefore, I'm making the inference it was  
20 brought up in the meetings and discussed. But I do  
21 not recall exact statements that were made during  
22 those meetings or exact conversations.

23 Q. Do you have any basis for disagreeing with  
24 my characterization that on May 16, 1994 you were

100

1 clueless as to whether Murray had any potential  
2 involvement in the murder?

3 MR. DiCIANNI: I'll object, form of the  
4 question.

5 THE WITNESS: Would you ask that question  
6 again, sir?

7 BY MR. SHAPIRO:

8 Q. Do you have any reason to doubt that as of  
9 May 16, 1994, you were clueless as to whether  
10 John Murray could have had any potential role in the  
11 murder?

12 A. I have reason to doubt that I was clueless,  
13 sir. We had meetings periodically. And if he was  
14 being investigated by somebody on the team, that  
15 would have been brought up in the meetings.

16 (Plaintiff's attorneys confer off  
17 the record.)

18 BY MR. SHAPIRO:

19 Q. Was Souk at those meetings?

20 MS. BARTON: Objection to foundation, form.

21 THE WITNESS: I don't recall, sir. I've told  
22 you already if it's in my police report of who was  
23 present, I can tell you that from my police report;  
24 but I don't have an independent recollection of who

101

1 was present at those meetings.

2 BY MR. SHAPIRO:

3 Q. You mentioned that you received and signed  
4 as a supervisor police reports related to  
5 John Murray, right?

6 A. Yes, sir.

7 Q. Did you ever raise with anyone else in the  
8 investigation the possibility that those police  
9 reports related to Murray should be provided to the  
10 defense?

11 MS. BARTON: Objection to form.

12 THE WITNESS: That was not my responsibility,  
13 sir.

14 BY MR. SHAPIRO:

15 Q. Did you ever raise that?

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

17 (Plaintiff's attorneys confer off  
18 the record.)

19 BY MR. SHAPIRO:

20 Q. Yeah, why was it not your responsibility?

21 A. I was a patrol supervisor at that point.

22 That arrest, a copy would have also gone to the  
23 supervisor of detectives. And if it was important to  
24 an investigation, it was their responsibility to make

102

1 sure that's done.

2 Q. Your testimony is that you had no  
3 responsibility whatsoever for determining what  
4 documents related to John Murray should be provided  
5 to the prosecutors; is that right?

6 A. That's correct, sir. I was working the  
7 midnight shift, 11:00 p.m. to 7:00 a.m. My  
8 responsibility in arrest was to make sure that report  
9 was put in the box to go to detectives, and another  
10 copy was put in the box to go to the State's  
11 Attorney's Office for arraignment.

12 Q. Did it concern you at all that during the  
13 time that Beaman was being prosecuted for the murder  
14 of Jennifer Lockmiller reports were coming in  
15 regarding criminal activity by John Murray?

16 A. I don't recall that, sir.

17 Q. Would that have concerned you? Is that  
18 something that should be of concern?

19 MR. DiCIANNI: Objection, speculation.

20 MS. BARTON: Same objection.

21 BY MR. SHAPIRO:

22 Q. Would it have concerned you?

23 A. The time frame again, sir?

24 Q. In between the charging and trial of

103

1 Alan Beaman.

2 A. Uh-huh.

3 Q. You received reports related to criminal  
4 activity by John Murray. Did that concern you?

5 MR. DiCIANNI: Ob -- same -- asked and  
6 answered.

7 THE WITNESS: It's not my responsibility,  
8 sir.

9 BY MR. SHAPIRO:

10 Q. Okay. So if it's not your responsibility,  
11 it wouldn't have concerned you; is that what you're  
12 saying?

13 A. I don't recall if I was concerned by it or  
14 not, sir. I'm saying after 19 years looking back at  
15 my position, that would have not been my  
16 responsibility; but I don't recall if it concerned me  
17 or not.

18 Q. Would it concern you today if there -- in  
19 the middle of the investigation, prosecution of  
20 Beaman, documents regarding Murray were discovered  
21 and signed by you but not disclosed?

22 MR. DiCIANNI: I will -- first of all, I'll  
23 object to the premise of the question because they  
24 were disclosed.

104

1 MR. SHAPIRO: All right. This is -- this  
2 is -- this is speaking objection.

3 MR. DiCIANNI: Well, I mean --

4 MR. SHAPIRO: If you want to state an  
5 objection --

6 MR. DiCIANNI: If you want to make facts up  
7 and just ask him about facts that are completely  
8 fabricated, then we can -- we can --

9 MR. BOWMAN: Don't go there.

10 MR. SHAPIRO: Just let's -- let's -- yeah.

11 MR. BOWMAN: Don't go there. Don't go there.

12 MR. DiCIANNI: Are you saying they weren't  
13 disclosed?

14 MR. SHAPIRO: Yes, but that's not -- yes,  
15 that's what we're saying.

16 MR. DiCIANNI: Didn't we just hear  
17 Judge Souk --

18 MR. BOWMAN: You should --

19 MR. SHAPIRO: Okay. Can you --

20 MR. DiCIANNI: -- say yesterday that he had  
21 that report and he knew all about it?

22 MR. SHAPIRO: I'm saying they weren't  
23 disclosed to defense.

24 MR. DiCIANNI: Oh.

105

1 MR. SHAPIRO: Here's the question --

2 MR. DiCIANNI: Well, all right.

3 MR. SHAPIRO: And I -- I.

4 MR. DiCIANNI: All right. Go ahead. I'm  
5 sorry. Ask the question. I apologize. Go ahead.

6 MR. SHAPIRO: Thank you. Thank you.

7 BY MR. SHAPIRO:

8 Q. Question is: Would it concern you today to  
9 learn that documents regarding John Murray and  
10 criminal activity by him, which were reviewed by you  
11 in between the charging and trial of Alan Beaman,  
12 were not disclosed to the defense?

13 MR. DiCIANNI: Yeah, I will object, lack of  
14 foundation --

15 MS. BARTON: I'll join.

16 MR. DiCIANNI: -- vagueness as to what it  
17 means by concern.

18 MS. BARTON: I'll join the objection.

19 THE WITNESS: Sir, as a police officer, it  
20 was my -- not my responsibility to make sure that  
21 documents were provided to the State's Attorney's  
22 Office.

23 To go back and say that I'm concerned today  
24 that documents were not disclosed, that is outside of  
106

1 my -- outside of my knowledge base. I don't have a  
2 concern over that, sir.

3 BY MR. SHAPIRO:

4 Q. Let's go to Exhibit 25. You know, actually  
5 this is -- all right.

6 So for the record, Exhibit 25 is a lengthy  
7 exhibit, and it actually expands the end of the first  
8 binder and the beginning of the second binder.

9 MR. DiCIANNI: Okay.

10 BY MR. SHAPIRO:

11 Q. Exhibit 25 is the entirety of the  
12 components. Okay. I'd like to direct your attention  
13 to page 1 of Exhibit 25.

14 This is a police report regarding domestic  
15 battery by John Murray, right?

16 A. Yes.

17 Q. It was signed by you, right?

18 A. Yes.

19 Q. This is something you signed as a shift  
20 supervisor?

21 A. Yes.

22 Q. Report indicates that on the third line that  
23 Mackoway was the victim of physical abuse on a  
24 continual basis, right?

107

1 A. Could you repeat your question, please?

2 Q. The document states that according to  
3 Mackoway, she was the victim of physical abuse on a  
4 continual basis, right?

5 A. Yes, it states that.

6 Q. Beginning on the bottom line, it says --  
7 begins: Mackoway said that Murray pinned her down on  
8 the floor today and elbowed her repeatedly in the  
9 chest. Mackoway reported that she was injured and  
10 that there were visible marks on her in between her  
11 breasts. A friend of Mackoway, Melissa M. Huebner,  
12 was present and did verify there was a prominent red  
13 mark between Mackoway's breasts where she had been  
14 elbowed. Both Mackoway and Huebner are registered --  
15 well --

16 THE COURT REPORTER: You have to read slower.  
17 I'm sorry. You have to read slower.

18 MR. SHAPIRO: Sure. I'll provide this to you  
19 at a break.

20 BY MR. SHAPIRO:

21 Q. But did I read that correctly,  
22 Mr. Freesmeyer?

23 A. Yes.

24 Q. Okay. And you -- and you signed both pages

108

1 of this, right?

2 A. Yes, I did.

3 Q. So you knew about Murray's history of  
4 domestic violence against Mackoway, correct?

5 MS. BARTON: Object to form.

6 THE WITNESS: Sir, I - the fact that I signed  
7 off on this report says that I knew what happened in  
8 this instant. It doesn't say that I knew about a past  
9 history.

10 BY MR. SHAPIRO:

11 Q. Well, this refers to a continual -- it  
12 refers to physical abuse on a continual basis, right?

13 A. That was her statement, sir.

14 Q. And you read this and signed it, right?

15 A. Yes, I did.

16 MR. BOWMAN: The date.

17 BY MR. SHAPIRO:

18 Q. Oh, right. And you signed this on  
19 October 10, 1994, correct?

20 A. Yes, I did.

21 Q. And that was in between --

22 MR. DiCIANNI: Whoa, whoa, whoa, whoa.

23 October 7?

24 MR. SHAPIRO: October 7, 1994. Thanks.

109

1 BY MR. SHAPIRO:

2 Q. And that was in between the time when Beaman  
3 was charged and the time when he was tried, correct?

4 A. Yes, it was.

5 Q. Okay. Does it concern you that this  
6 document was not disclosed to the defense in this  
7 case?

8 MR. DiCIANNI: Same objection as before.

9 MS. BARTON: Join the objection.

10 MR. DiCIANNI: Go ahead and answer.

11 THE WITNESS: I don't know that it was not  
12 disclosed, sir.

13 BY MR. SHAPIRO:

14 Q. If it were not disclosed, would that concern  
15 you?

16 MR. DiCIANNI: Same objection as before.

17 THE WITNESS: No, I don't believe so.

18 BY MR. SHAPIRO:

19 Q. Would it concern you that the defense did  
20 not receive a document regarding allegations and  
21 charges of domestic violence against John Murray?

22 A. No.

23 Q. Why would that not concern you?

24 MR. DiCIANNI: Same objection.

110

1 THE WITNESS: Because of the amount of  
2 overwhelming evidence that I knew against Alan Beaman.  
3 I was convinced in my mind that he was the one and  
4 still am convinced in my mind that he was the one that  
5 committed the homicide.

6 In this particular case, we dealt with  
7 domestic batteries a lot. I won't tell -- I don't  
8 know how often, but a lot. And so another domestic  
9 battery coming through did not raise a red flag in my  
10 mind that this should be a concern.

11 BY MR. SHAPIRO:

12 Q. Uh-huh.

13 A. I did not know that much about Larbi Murray  
14 during the investigation. To me, he was not that big  
15 of a concern. And so signing off on this report did  
16 not alert a red flag to me.

17 Q. Part of the reason you're not concerned  
18 about nondisclosure is you think that there was so  
19 much evidence against Beaman that it was -- it wasn't  
20 necessary to disclose; is that fair?

21 A. No, sir. Disclosure is not my  
22 responsibility. I don't know anything about that.

23 You're asking me if I'm concerned that it  
24 wasn't disclosed, and I'm telling you that domestic

111

1 batteries occurred often in the City of Normal. This  
2 was one instance that I signed off on. And knowing  
3 the totality of the case, this did not raise a red  
4 flag to me.

5 Q. So you would have seen no reason to raise  
6 this document with the prosecutors as something that  
7 should possibly be disclosed to the defense, right?

8 A. That was not my responsibility, sir.

9 Q. And you would have seen no reason to do so?

10 A. I don't have an answer for your question.  
11 It was not my responsibility.

12 Q. But --

13 A. I've never contemplated that question  
14 before.

15 Q. Well, you can contemplate it now.

16 A. Okay. Repeat the question, sir.

17 MR. DiCIANNI: Let me just clarify. Go  
18 ahead. Finish --

19 MR. SHAPIRO: Yeah. Read the question back,  
20 please.

21 (Whereupon, the record was  
22 read as requested.)

23 BY MR. SHAPIRO:

24 Q. Well, the question was: Do you think that

112

1 you should have raised this report with the  
2 prosecutors in the Beaman case?

3 MR. DiCIANNI: No, you're -- let me object.  
4 Are you asking him looking at it now --

5 MR. SHAPIRO: Yes.

6 MR. DiCIANNI: -- or back on it?

7 MR. SHAPIRO: Looking at it now, looking at  
8 it now.

9 THE WITNESS: As of what I know now because  
10 of where we are today, yes, this should have been  
11 raised. I don't know that it wasn't. But, yes, it  
12 should have as I sit here today.

13 BY MR. SHAPIRO:

14 Q. Uh-huh. And it should have been disclosed  
15 to the defense?

16 A. As I sit here today, yes.

17 Q. When you signed off on this report, you were  
18 well aware of who Murray was in relation to the  
19 Lockmiller investigation, was?

20 A. I was aware his name was involved in the  
21 Lockmiller investigation.

22 Q. You had been -- you had been briefed on who  
23 he was in the meetings that you attended throughout  
24 the course of the investigation, right?

113

1 A. I was familiar that Larbi Murray was being  
2 investigated in the case, yes.

3 Q. Okay. Let's turn to page 3 of Exhibit 25.  
4 It's another report by you that was -- strike that.

5 This is another report that was signed by  
6 you regarding the same incident of domestic violence  
7 by Murray, correct?

8 A. No, this is not domestic violence. Page --  
9 I must be on the wrong page.

10 Q. Page -- I'm on page 3.

11 A. Okay. I'm sorry. I'm looking at number 3  
12 down here.

13 Q. Page 3 of Exhibit 25.

14 A. It's the supplement?

15 MR. DiCIANNI: Bates stamp 3 --

16 MR. SHAPIRO: Page 3 of Exhibit 25 --

17 MR. DiCIANNI: -- on the right-hand corner.

18 THE WITNESS: Okay. I'm looking at number 3  
19 now. Please repeat your question, sir.

20 BY MR. SHAPIRO:

21 Q. My question is: This is another police  
22 report of the same incident of domestic violence  
23 regarding John Murray that we were discussing a  
24 moment ago, right?

114

1 A. It's a supplemental report from a secondary  
2 officer.

3 Q. Uh-huh. In this report do you see,  
4 beginning about a third of the way down at the end of  
5 the line, it begins she, she reported, on the next  
6 line?

7 A. Yes.

8 Q. She reported that one time he had pinned her  
9 to the floor and was striking her in the chest with  
10 his elbow. She reported that there was another  
11 argument the night before in which he grabbed her and  
12 scratched her right wrist and caused a bruise on her  
13 left arm. Both injuries were evident.

14 Would you agree with me that if Beaman's  
15 defense team had received this document, it's  
16 evidence that could have been used by the defense at  
17 trial?

18 MR. DiCIANNI: I'll object to that. It's  
19 speculation. It's also a legal conclusion.

20 MS. BARTON: Join the objection.

21 THE WITNESS: If they received a copy of  
22 this, I assume they could have used it, yes.

23 BY MR. SHAPIRO:

24 Q. Uh-huh. And they could have used it to put  
115

1 forth a case that Beaman was not guilty of the  
2 murder, right?

3 MR. DiCIANNI: Same objection.

4 MS. BARTON: I'll join.

5 THE WITNESS: I'll agree with you they could  
6 have used it. I don't know how effective it would  
7 have been in the trial.

8 BY MR. SHAPIRO:

9 Q. Could it have been used to cross-examine you  
10 as to why Murray was not investigated further as a  
11 suspect?

12 MR. DiCIANNI: Same objection.

13 MS. BARTON: I'll join.

14 THE WITNESS: Sir, I don't know the rules of  
15 court. I don't know if this could have been used for  
16 cross-examination of me or not. I assume -- I don't  
17 know --

18 MR. DiCIANNI: Let's not assume.

19 THE WITNESS: I'm not going to assume. I  
20 don't know.

21 BY MR. SHAPIRO:

22 Q. When you became the lead investigator in  
23 this case, was it then your responsibility to turn  
24 over documents to the prosecutor?

116

1 MR. DiCIANNI: Objection. What response --  
2 vagueness of responsibility, speculation --

3 MS. BARTON: Join the --

4 MR. DiCIANNI: -- lack of foundation.

5 MS. BARTON: Join the objection.

6 THE WITNESS: In November, when I took over  
7 as the supervisor of CID, it would have been my  
8 responsibility to forward reports to the State's  
9 Attorney's Office. Does that answer your question,  
10 sir?

11 BY MR. SHAPIRO:

12 Q. In November of '94?

13 A. After Frank retired, yes. There was a short  
14 period where I was put in charge of the detective  
15 division.

16 Q. Remind me when that period was again.

17 A. I believe it was November of '94 until  
18 January of '95.

19 Let me clarify, however, that original case  
20 reports like this, if it's an arrest situation, the  
21 report automatically goes to the State's Attorney's  
22 Office because they have arraignment the following  
23 day.

24 So even if I was in charge of detectives, a

117

1 copy would have been sent through the normal process  
2 at the same time that I was receiving a copy in my  
3 office.

4 Q. Would that have ensured that the same  
5 State's Attorney who was working on the Beaman  
6 investigation received a copy of this?

7 MR. DiCIANNI: Objection, speculation.

8 THE WITNESS: I don't know.

9 MS. BARTON: I'll join.

10 BY MR. SHAPIRO:

11 Q. You don't have any -- okay.

12 A. I don't know.

13 Q. All right. Okay. Turn to page 4 of the  
14 exhibit.

15 Pages 4 to 6 of the exhibit are a police  
16 report signed by you regarding drug charges against  
17 John Murray, correct?

18 A. Yes.

19 Q. And you signed them on October 7, 1994,  
20 correct?

21 A. Yes, sir.

22 Q. And if you turn to page 6, second line,  
23 you'll see that Murray was found to be in possession  
24 of 68 grams of cannabis, correct?

118

1 A. Yes.

2 Q. Is this report evidence that could have been  
3 used to put forth Murray as an alternative suspect in  
4 the trial?

5 MR. DiCIANNI: Objection; speculation, legal  
6 conclusion.

7 MS. BARTON: Join.

8 THE WITNESS: I don't know if this report  
9 could be used in the trial or not, sir.

10 BY MR. SHAPIRO:

11 Q. Could the fact that Murray was a drug dealer  
12 been used against you in cross-examination?

13 MR. DiCIANNI: Same objection.

14 MS. BARTON: I'll join.

15 THE WITNESS: I don't know, sir.

16 BY MR. SHAPIRO:

17 Q. Does it concern you in any way today that  
18 this document was not disclosed to the defense in the  
19 Beaman case?

20 MR. DiCIANNI: Same objection as to the  
21 vagueness of concern and speculation --

22 MS. BARTON: Join.

23 MR. DiCIANNI: -- lack of foundation.

24 THE WITNESS: I have a similar answer as to  
119

1 before. As we sit here today, yes, it concerns me  
2 because I'm aware that this was an issue in the case.  
3 At the time, I don't recall that it concerned me. I  
4 don't recall if it did or if it didn't.

5 BY MR. SHAPIRO:

6 Q. What -- why does it concern you now?

7 A. Because this is part of the reason why we're  
8 here, sir. From everything I've put together, this  
9 is part of your discussion, so this is part of the  
10 reason why we're here.

11 Q. Do you have any concern about the fact that  
12 it -- strike that.

13 Do you have any concern related to it's  
14 weakening Beaman's defense as a result of not having  
15 these documents?

16 MR. DiCIANNI: Objection; speculation and  
17 legal conclusion.

18 MS. BARTON: I'll join the objection. And  
19 vagueness.

20 MR. DiCIANNI: Or legal opinion I think is  
21 probably better.

22 THE WITNESS: No, sir. In my mind, nothing  
23 in this report discounts the evidence against  
24 Alan Beaman. It simply clouds the issue that it could

120

1 be somebody else.

2 BY MR. SHAPIRO:

3 Q. This report clouds the issue that it could  
4 be somebody else?

5 A. It's a distraction to me. It doesn't take  
6 away from the evidence against Alan.

7 Q. Let's turn to page 11 of Exhibit 25, please.  
8 Take a moment to review the exhibit and the attached  
9 letter, the letter on page 12 for the record.

10 Look up when you've had a chance to review  
11 it.

12 A. Okay.

13 Q. This document reflects an attempt to -- or  
14 pages 11 to 12 reflect an attempt to seize or forfeit  
15 John Murray's car in connection with drug charges,  
16 right?

17 A. Yes.

18 Q. So you would have been aware of the drug  
19 charges against John Murray at the time you signed  
20 this report, correct, because you signed it on  
21 December 16, 1994, right?

22 A. Yes.

23 Q. And you would have also been aware on  
24 December 16, 1994, that Murray was being investigated

121

1 in connection with the Beaman case, right?

2 A. Yes.

3 Q. And this was during a period during which  
4 Zayas had retired because it's December of '94 and  
5 you had assumed responsibility, right?

6 A. Yes.

7 Q. Did you turn this document over to the  
8 prosecutors, pages 11 to 12, Exhibit 25?

9 A. I don't recall, sir.

10 Q. When this document came across your desk,  
11 did that refresh your recollection as to the drug --  
12 other documents regarding drug charges against  
13 Murray?

14 A. I don't recall, sir.

15 Q. Did you consider when this document came  
16 across the desk whether any of the documents related  
17 to drug or domestic violence charges against Murray  
18 should have been disclosed and provided to the  
19 State's Attorney's Office?

20 A. I don't recall, sir.

21 Q. Let's turn to page 14, please.

22 This is another document signed by you in  
23 connection with drug charges against John Murray,  
24 correct?

122

1           A.    I believe this is the same document we  
2 looked at back at the beginning.

3           Q.    I don't think -- I don't believe you're  
4 right.

5           A.    I'm sorry.  It's a different case number.

6           Q.    Uh-huh.  You also signed this document on  
7 October 7, 1994, right?

8           A.    Excuse me just a moment, sir.

9           Q.    Uh-huh.

10          A.    Comparing these two documents, they happened  
11 on the same date, 10-7-94, at the same time.

12          Q.    Right.  And they have a different case  
13 number because one's a domestic battery charge and  
14 one's related to drugs, right?

15          A.    No, no, they're both domestic battery.

16          Q.    Okay.  But you signed both documents, right?  
17 You clearly signed on multiple times because the case  
18 numbers at the top are different so it's a different  
19 document, right?

20          A.    Okay.  I'll agree that it's a different case  
21 number.

22          Q.    Okay.  And you signed this document,  
23 Exhibit 14 and 15, as well, right?

24          A.    Yes, I did.

123

1 Q. Did you apprise the State's Attorney's  
2 Office of this document or provide a copy to them?

3 MS. BARTON: Objection to form and  
4 foundation.

5 THE WITNESS: I don't recall, sir.

6 All I can tell you is, looking at this  
7 report, there was an arrest, and I signed off on it.  
8 Therefore, a copy would have gone to the file to go to  
9 the State's Attorney's Office for arraignment on that  
10 charge.

11 BY MR. SHAPIRO:

12 Q. And you don't -- you don't recall -- but you  
13 don't recall mentioning this document to Souk?

14 A. I don't recall, sir.

15 Q. In fact, if we look through pages 1 through  
16 16 of Exhibit 25, you don't recall providing any of  
17 these documents to Souk or anyone in the State's  
18 Attorney's Office, correct?

19 MS. BARTON: Objection to foundation.

20 THE WITNESS: No, sir.

21 MR. DiCIANNI: Did you say 1 of 25?

22 MR. SHAPIRO: 1 through 16 of 25.

23 BY MR. SHAPIRO:

24 Q. Mr. Freesmeyer --

124

1 (Plaintiff's attorneys confer off  
2 the record.)

3 THE WITNESS: All of these documents, 1  
4 through 16, all originates out of the same event on  
5 the same day at the same time.

6 BY MR. SHAPIRO:

7 Q. My question is: Did you provide any of  
8 those documents to the State's Attorney's Office?

9 MS. BARTON: Objection --

10 THE WITNESS: I do not recall.

11 MS. BARTON: -- to foundation.

12 BY MR. SHAPIRO:

13 Q. Did you mention any of these documents to  
14 Mr. Souk?

15 MR. DiCIANNI: Wait, whoa, whoa, whoa. She  
16 objected, and then he didn't answer, then you asked  
17 another question. So he's got to answer --

18 MR. SHAPIRO: All right. Okay.

19 MR. DiCIANNI: -- the first question.

20 Could you read back --

21 MR. SHAPIRO: Well, I'll --

22 MR. DiCIANNI: Do it again.

23 BY MR. SHAPIRO:

24 Q. Yeah. Did you provide any of these

125

1 documents, pages 1 through 16 of Exhibit 25, to  
2 Mr. Souk?

3 MS. BARTON: Objection to foundation.

4 THE WITNESS: I do not recall, sir.

5 BY MR. SHAPIRO:

6 Q. Did you mention them to Mr. Souk?

7 MS. BARTON: Objection to foundation.

8 THE WITNESS: I don't recall, sir.

9 BY MR. SHAPIRO:

10 Q. Ask you to turn to page 68 of Exhibit 25.

11 MS. BARTON: What page? I'm sorry.

12 MR. SHAPIRO: 68.

13 MS. BARTON: Thank you.

14 BY MR. SHAPIRO:

15 Q. Are you ready?

16 A. Yes, sir.

17 Q. Do you know whether you received this  
18 document at any point?

19 A. I don't recall receiving this document.

20 Q. Do you know if you ever -- at any -- to be  
21 clear, I'm referring to pages 68 through 72. I may  
22 not have been clear about that so let me give you a  
23 moment.

24 A. I don't recall ever seeing this document,

126

1 sir.

2 Q. Okay. Let me direct your attention to the  
3 bottom of page 69. And it's a little hard to read,  
4 but let me direct you to the second line of the  
5 series of handwritten lines at the bottom of the  
6 page.

7 His behavior since then has been  
8 unexplainable. Do you see that?

9 A. No, sir, I don't.

10 Q. I do apologize. It is a little hard to  
11 read, but the -- on the second line, about two-thirds  
12 along the way in the line, there's a line that begins  
13 "his behavior"?

14 A. Okay.

15 Q. It says: His behavior since then has been  
16 unexplainable, and he has asked daily to leave and to  
17 move out of my house. Did I read that right?

18 A. He has been asked daily to leave and  
19 something out of my house.

20 Q. Okay. And this is a petition for order of  
21 protection that was filed against John Murray by his  
22 girlfriend, Deborah Mackoway, right?

23 A. Yes.

24 Q. And this document also refers to steroid

127

1 injections, is that correct, at the bottom of 69?

2 A. She stated when he experienced -- yes, she  
3 mentioned steroid injections.

4 Q. Do you think it would have been important  
5 for the defense to know in this case that  
6 John Murray's girlfriend, Deborah Mackoway, was  
7 seeking an order of protection against him in  
8 connection with unexplainable behavior connected to  
9 steroid use?

10 MR. DiCIANNI: Objection, form of the  
11 question.

12 MS. BARTON: And foundation.

13 (Plaintiff's attorneys confer off  
14 the record.)

15 THE WITNESS: Could you give me a time frame,  
16 sir? Are you asking if I feel it's important today or  
17 if I feel it was important at the time this document  
18 was given?

19 BY MR. SHAPIRO:

20 Q. Well -- okay. I'll withdraw the question,  
21 actually.

22 Is this a document that would have appeared  
23 in the Normal Police Department files?

24 A. I don't know.

128

1 MR. DiCIANNI: When you say -- you mean Town  
2 of Normal?

3 MR. SHAPIRO: Yes, I mean the Town of Normal,  
4 yes.

5 THE WITNESS: I don't know.

6 BY MR. SHAPIRO:

7 Q. Would this document have been provided to  
8 the State's Attorney's Office in the ordinary course?

9 MS. BARTON: Objection to form, foundation.

10 THE WITNESS: I don't know, sir. I don't  
11 work at the State's Attorney's Office. I don't know  
12 the routing of these documents.

13 BY MR. SHAPIRO:

14 Q. No, no. But I'm asking if it would have  
15 been provided by the Normal Police Department to the  
16 State's Attorney's Office in the ordinary course?

17 A. I don't know, sir.

18 MR. SHAPIRO: All right. I think I'm at a  
19 decent stopping place if you want to break for lunch  
20 or in the alternative, keep going.

21 MR. BOWMAN: Let's break.

22 MR. SHAPIRO: Let's break.

23 THE VIDEOGRAPHER: Off the record, 12:24.

24

129

1 (Whereupon, a break was taken,  
2 after which the following  
3 proceedings were had:)

4 THE VIDEOGRAPHER: Back on the record, 1:39.

5 BY MR. SHAPIRO:

6 Q. Mr. Freesmeyer, in the Lockmiller murder  
7 investigation, what was done to investigate whether  
8 or not John Murray had an alibi?

9 A. I don't know, sir.

10 Q. Having reviewed your police reports and  
11 various other documents and testimony in preparation  
12 for today's deposition, you've -- you have -- you  
13 still have no inkling as to what was done to  
14 investigate his alibi?

15 A. He was not an area of my responsibility  
16 during the investigation.

17 And to prepare for this deposition, I read  
18 my police reports; I read interviews that pertained  
19 -- or overhears that I did; and I read my courtroom  
20 testimony. I did not read all the other police  
21 reports of all the other investigators, so I can't  
22 tell you sitting here today what was done.

23 Q. Was John Murray's girlfriend,  
24 Deborah Mackoway, interviewed at any point?

130

1 A. I don't have an independent recollection of  
2 that, sir.

3 Q. Do you have any recollection of whether  
4 there was any inconsistency between what Murray said  
5 and what Mackoway said?

6 A. I don't remember.

7 Q. Who was in charge of investigating  
8 John Murray?

9 A. Tony Daniels.

10 Q. What did Daniels report to you about what he  
11 learned during the course of invest -- his  
12 investigation of Murray?

13 A. I don't remember that Tony Daniels reported  
14 anything to me, sir.

15 Q. What was done to investigate John Murray's  
16 motive with regard to the Lockmiller murder?

17 A. Same answer, sir. I don't know. It was not  
18 an area of responsibility of mine.

19 Q. As you sit here today, you still have no  
20 recollection of anything that was done to investigate  
21 whether he had a motive?

22 A. No, sir. I have not read Tony Daniels'  
23 reports or any other reports beside my own.

24 Q. Are you aware that John Murray was owed

131

1 money by Jennifer Lockmiller in connection with  
2 narcotics that he provided to her?

3 MS. BARTON: Objection to foundation.

4 THE WITNESS: No, I was not.

5 BY MR. SHAPIRO:

6 Q. You're not aware of that today?

7 A. I'm not aware of that today. I have no  
8 memory of that.

9 Q. As far as you know, you're -- you were never  
10 aware of that?

11 A. I don't -- I don't remember that at all,  
12 sir.

13 Q. Well, I'm having a little trouble here,  
14 Mr. Freesmeyer, because you did become the lead  
15 investigator in this case in October or November of  
16 1994, right?

17 A. Yes. Yes, sir.

18 Q. And you were involved in the prosecution of  
19 Alan Beaman, correct?

20 A. Yes, sir.

21 Q. Did you care whether there was an  
22 alternative suspect who could have been investigated  
23 in connection with the Lockmiller investigation?

24 MR. DiCIANNI: Object to form of the

132

1 question.

2 THE WITNESS: Yes, I would have cared.

3 BY MR. SHAPIRO:

4 Q. Did you do anything to inquire as to whether  
5 he had an alibi, John Murray?

6 A. I don't remember, sir.

7 Q. Did you do anything to inquire as to whether  
8 he had a motive?

9 A. I don't remember, sir.

10 Q. And did you do anything to investigate  
11 whether he owed money to -- whether he was owed money  
12 by Jennifer Lockmiller?

13 A. I don't remember, sir.

14 Q. Did you record anything in your report about  
15 whether John Murray had an alibi, had a motive, or  
16 was owed money?

17 A. I don't remember seeing that in my police  
18 report that I've read over the last couple of days.

19 Q. Well, if you cared about it, why didn't you  
20 put it in your report?

21 MR. DiCIANNI: Well, I'm going to object to  
22 that.

23 THE WITNESS: I responded, sir, that I don't  
24 remember my involvement with that. I don't remember

133

1 having any involvement with Larbi Murray.

2 BY MR. SHAPIRO:

3 Q. Well, I thought you said you would have  
4 cared, right, and I'm -- did you say that?

5 A. I don't remember. I don't remember if I --  
6 if you asked if I cared and I said I didn't remember.

7 Q. Well, let me ask you again. Would you have  
8 cared about the possibility of there being an  
9 alternative suspect in the Lockmiller homicide  
10 investigation?

11 MR. DiCIANNI: I'll object to speculating,  
12 asking him to speculate.

13 MS. BARTON: I'll join the objection.

14 THE WITNESS: Looking back now, yes, I would  
15 have cared; but I can't remember what my feelings were  
16 at that point, sir.

17 BY MR. SHAPIRO:

18 Q. So you might not have cared at the time?

19 A. I didn't say that. I said --

20 MR. DiCIANNI: Objection --

21 THE WITNESS: -- I did not remember.

22 MR. DiCIANNI: -- speculation.

23 BY MR. SHAPIRO:

24 Q. All right. You can't remember if you cared

134

1 at all about the possibility of an alternative  
2 suspect --

3 MR. DiCIANNI: Objection --

4 BY MR. SHAPIRO:

5 Q. -- correct?

6 MR. DiCIANNI: -- speculation.

7 THE WITNESS: You're asking me how I felt 19  
8 years ago. I can't remember what I cared about 19  
9 years ago, sir.

10 BY MR. SHAPIRO:

11 Q. Did you attend meetings where investigators  
12 reported on their activities?

13 A. It's documented in my police report that I  
14 attended meetings.

15 Q. Did you learn about any efforts made to  
16 investigate John Murray as a result of those  
17 meetings?

18 A. Sir, I don't remember the exact  
19 conversations that were taking place in those  
20 meetings.

21 Q. Did you learn anything about the status of  
22 the investigation of Murray?

23 A. I don't have an independent recollection. I  
24 don't remember the conversations held at those

135

1 meetings. I know we held meetings because I  
2 documented several of them in my police report.

3 Q. How is it possible that you were the lead  
4 investigator of this case, but you have no  
5 recollection whatsoever about efforts done to  
6 investigate an alternative suspect?

7 A. Because --

8 MR. DiCIANNI: Form of the question.

9 MS. BARTON: I'm going to join and object to  
10 foundation also.

11 THE WITNESS: Because you're --

12 BY MR. SHAPIRO:

13 Q. How is that possible?

14 A. Because you're asking me to remember  
15 conversations 19 years ago, sir; and I can't remember  
16 those conversations. My memory is not that good.

17 Q. Do you remember testifying in your 2004  
18 deposition this was the highest profile case of your  
19 career, right?

20 A. That's a double question. Do I remember  
21 testifying? Yes, I do remember.

22 Q. Uh-huh.

23 A. Your second question was this is the highest  
24 career -- highest profile in my career. The answer

136

1 is yes to that also.

2 Q. Okay. And your testimony is that you have  
3 absolutely no recollection whatsoever, even though  
4 you were the lead investigator about the -- strike  
5 that.

6 You have no recollection whatsoever  
7 regarding an investigation of John Murray as an  
8 alternative suspect in what you've characterized as  
9 the highest profile case of your career?

10 MR. DiCIANNI: Objection, form of the  
11 question.

12 MS. BARTON: I'll join.

13 THE WITNESS: I'd ask you to re-ask the  
14 question, please.

15 BY MR. SHAPIRO:

16 Q. You have no recollection of any efforts made  
17 to investigate John Murray as an alternative suspect  
18 in the highest profile case of your career; is that  
19 true?

20 A. No, that's not true, sir.

21 Q. Okay. What recollection do you have of  
22 efforts to investigate John Murray?

23 A. I have a recollection that he was a suspect  
24 in the case, and he was being investigated by

137

1 Tony Daniels and Robert Hospelhorn.

2 You've asked me what statements were made  
3 and what was reported to me. I don't remember  
4 exactly what was reported to me or what statements  
5 were made to me, but I remember that he was being  
6 investigated.

7 Q. So all you remember about John Murray is  
8 that there was some guy named John Murray who was  
9 being investigated by Hospelhorn and Daniels; is that  
10 what you're saying?

11 A. I remember John Murray was --

12 Q. That's not my -- I'm sorry. I don't mean to  
13 cut you off, but I just want to be very clear about  
14 the question.

15 Are you saying that you have no recollection  
16 of anything whatsoever about John Murray beyond the  
17 fact that there was someone named John Murray who was  
18 being investigated by Daniels and Hospelhorn?

19 A. How long an answer would you like, sir?

20 Q. I think you can answer that yes or no.

21 MR. DiCIANNI: If you can answer it yes or  
22 no.

23 THE WITNESS: I can answer it -- I cannot  
24 answer it yes or no.

138

1 I already testified to you that I set up a  
2 polygraph time for Larbi Murray, and he did not show.  
3 I testified to you that I signed police reports, a  
4 copy of which is right in front of me, about  
5 Larbi Murray.

6 So to tell you that I knew nothing about  
7 Larbi Murray would not be accurate. I've already  
8 testified to several things about Larbi Murray.

9 Your question is very vague, sir.

10 Q. Well, it sounds like a no to me.

11 So what have we got? We've got you ordered  
12 a police polygraph report on Murray, correct?

13 A. I did not order that, sir. I documented --

14 Q. You documented it --

15 A. I documented in my police report that  
16 Kenneth Frankenberry was brought down from Rockford  
17 to conduct three polygraph exams that day --

18 Q. Uh-huh.

19 A. -- and that Larbi Murray was one of the  
20 three, and he did not show up.

21 I did not document that I contacted Larbi  
22 for that. I didn't document that I wrote a  
23 supplement on it because I have no recollection of  
24 arranging that for Larbi Murray.

139

1 Q. Did it make you suspicious that he didn't  
2 show up for a polygraph examination?

3 A. There's a lot of people that didn't show up  
4 for a polygraph --

5 Q. So the answer is no, it did not make you at  
6 all suspicious --

7 A. No.

8 Q. -- that he did not show up for a polygraph  
9 examination?

10 A. No, it didn't.

11 Q. It did not make you suspicious?

12 A. No, it did.

13 Q. How do you remember that?

14 A. I remember that because Tony Daniels'  
15 interviewing style was scaring all of these younger  
16 people, and a number of people that we asked to take  
17 polygraphs refused polygraphs because of his  
18 interviewing styles.

19 Q. Where's that in your report? Is that in  
20 your report?

21 A. I don't think it's in my report, sir.

22 Q. I -- because I thought you told me that you  
23 didn't remember anything that wasn't in your report.

24 A. You asked me things about the case, and I

140

1 told you I don't remember anything beyond what I've  
2 testified to.

3 Q. When did you testify to the fact that there  
4 were other witnesses who were refusing to take  
5 polygraphs because of Tony Daniels' confrontational  
6 interview style?

7 A. I don't believe I testified to that, sir.

8 Q. That's what I'm saying. Right.

9 A. Okay.

10 Q. You testified, if I understood you, there's  
11 nothing in your -- beyond what's in your report that  
12 you recall; is that right?

13 MR. DiCIANNI: I think you're  
14 mischaracterizing his testimony. He's talking about  
15 meetings and he doesn't remember the -- well --

16 BY MR. SHAPIRO:

17 Q. Okay. Is there anything that you recall  
18 about the investigation that's not documented in your  
19 report?

20 MR. DiCIANNI: I'm going to object to that.  
21 That's too -- I objected the last time you asked the  
22 question. It's too vague and too broad of a question.

23 THE WITNESS: Could you be more specific in  
24 your question?

141

1 BY MR. SHAPIRO:

2 Q. No, I'd like you to -- is there anything you  
3 can remember about the investigation that you're  
4 aware of that's not documented in the report?

5 MR. DiCIANNI: I'll object to the form of the  
6 question. You're asking him to detail a lot  
7 of different -- first of all, he'd have to go through  
8 his report and compare his memory to what's in the  
9 report.

10 MR. SHAPIRO: I'm asking if he's aware of  
11 anything. That's all I'm asking.

12 MR. DiCIANNI: Okay. Objection.

13 THE WITNESS: There's a lot of peripheral  
14 things I'm aware of. I'm aware of the fact that I  
15 operated out of the juvenile office, and the rest of  
16 the detectives operated out of the detectives office;  
17 but I didn't document that in the report. I'm aware I  
18 drove a gray Caprice Classic during that  
19 investigation, but I didn't put that in the police  
20 report. I'm aware that Tony Daniels' interviewing  
21 styles was scaring off suspects and witnesses, but I  
22 didn't document that in the police report.

23 Your question before I understood to mean is  
24 there any other major details of the case that you

142

1 remember, and I answered that no. Now when I make a  
2 comment about peripheral things to the case, you've  
3 tried to back me into a corner, I feel.

4 BY MR. SHAPIRO:

5 Q. All right. Is there anything consequential  
6 about the case that's not included in your police  
7 report as far as you --

8 A. No, anything of major consequence should  
9 have been documented in the report, sir.

10 And I can only speak to my police report. I  
11 cannot speak to other people's reports.

12 Q. Anything of major consequence should have  
13 been documented in the report?

14 A. Yes, it should have.

15 Q. Do you have any reason to doubt that in the  
16 course of the investigation, the alibi of John Murray  
17 was discussed?

18 MS. BARTON: Objection to foundation.

19 THE WITNESS: I don't have a reason to doubt  
20 that.

21 BY MR. SHAPIRO:

22 Q. Do you have any doubt -- did you have any  
23 reason to doubt that in the course of the  
24 investigation the fact that Murray did not have any

143

1 alibi was discussed?

2 MS. BARTON: Same objection.

3 THE WITNESS: I don't remember that  
4 discussion.

5 BY MR. SHAPIRO:

6 Q. Do you have any reason to doubt that it was  
7 discussed?

8 A. I don't have any reason to doubt that it was  
9 discussed --

10 Q. Thank you.

11 A. -- but I don't remember a discussion like  
12 that, sir.

13 Q. Do you have any recollection -- I'm sorry.  
14 Strike that.

15 Do you have any reason to doubt that during  
16 the course of the investigation the fact that  
17 Murray's story change was discussed?

18 MS. BARTON: Same objection.

19 THE WITNESS: I don't remember that anywhere  
20 in the reports, and I don't have an independent  
21 recollection of that, sir.

22 BY MR. SHAPIRO:

23 Q. Do you have any reason to doubt that it was  
24 discussed?

144

1 MS. BARTON: Same objection.

2 THE WITNESS: I don't have any reason to  
3 doubt.

4 BY MR. SHAPIRO:

5 Q. Okay. And that's -- that -- just to be  
6 clear, that is the question I'm asking, do you have  
7 any reason to doubt; so let me ask the next question.

8 Do you have any reason to doubt that in the  
9 course of the investigation the fact that Murray  
10 failed to cooperate in his polygraph examination was  
11 discussed?

12 MS. BARTON: Objection to form, foundation.

13 BY MR. SHAPIRO:

14 Q. Any reason to doubt that? That's the  
15 question.

16 A. No, I don't have any reason to doubt that.

17 Q. Do you have any reason to doubt that all of  
18 these things that I've just mentioned would have been  
19 discussed even if you don't have an independent  
20 recollection of them?

21 MR. DiCIANNI: Let me just -- let me just ask  
22 you for a clarification. You can provide it if you  
23 want or not.

24 When you say discussed, you're talking about

145

1 in the course of the entire investigation between one  
2 person and another, not necessarily with him? That's  
3 the way I've interpreted all your questions. Is that  
4 accurate?

5 MR. SHAPIRO: We can do it again with him if  
6 you want.

7 BY MR. SHAPIRO:

8 Q. Do you have any reason to doubt that in the  
9 course of the investigation the alibi of John Murray  
10 was discussed with you? Do you have any reason to  
11 doubt that?

12 MS. BARTON: Objection to foundation.

13 MR. DiCIANNI: Yeah, I -- well, I will object  
14 to that. But I think that's a -- never mind.

15 THE WITNESS: At what point in the process,  
16 sir? Early on in the investigation or towards the  
17 later stage of the investigation prior to the arrest?

18 BY MR. SHAPIRO:

19 Q. Does your answer change depending on the  
20 stage of the investigation we're talking about?

21 A. I believe it may.

22 Q. How so?

23 A. If there was no alibi for John Murray in the  
24 first week of the investigation, then that means

146

1 that's something that we need to follow up on, and  
2 there's plenty of time to follow up on that. If  
3 there was a question about a hole in his alibi on the  
4 day before Alan's arrest, then that would have been a  
5 totally different issue.

6 So to ask me if I would have had reason to  
7 be concerned over that, it all depends on at what  
8 point in the investigation that was brought to my  
9 attention, if it was brought to my attention.

10 Q. Why would there be a difference in -- with  
11 regard to whether Murray's lack of an alibi would  
12 concern you in the first few days of the  
13 investigation versus before Beaman's arrest?

14 A. Because in the first stages of the  
15 investigation, we would not have made any attempts to  
16 try to verify that alibi. As things went farther  
17 down the road, if that alibi still existed, then that  
18 brings more concern.

19 Q. The al -- I'm talking about the lack of an  
20 alibi.

21 A. Yes, sir.

22 Q. The lack of -- you're saying that there  
23 would be more concern of the lack of an alibi in the  
24 later stages of the investigation?

147



1 thought what I was asking about is whether you were  
2 concerned with these issues. That's not what I'm  
3 asking. I'm asking whether you have any reason to  
4 doubt that they were discussed with you.

5 Do you have any reason to doubt that in the  
6 course of the investigation the alibi of John Murray  
7 was discussed with you?

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

10 You can go ahead and answer.

11 MS. BARTON: I'm going to join the objection  
12 and add foundation.

13 THE WITNESS: I don't remember if that --  
14 you're asking if I have a reason to doubt if it  
15 happened?

16 BY MR. SHAPIRO:

17 Q. Yes.

18 A. I don't have a reason to believe that it did  
19 happen, and I don't have a reason to believe that it  
20 didn't happen, sir.

21 Q. Okay. No reason to doubt that it happened,  
22 right?

23 A. I guess it's a nonanswer, but I didn't  
24 investigate John Murray, and so I don't have a reason

149

1 to doubt or reason to believe.

2 (Plaintiff's attorneys confer off  
3 the record.)

4 BY MR. SHAPIRO:

5 Q. I mean, the status of Murray's alibi is an  
6 element of the investigation, right?

7 A. Yes, it is.

8 Q. And the elements of the investigation and  
9 the progress of the investigation were discussed  
10 during the investigative meetings that you and I have  
11 discussed today, right?

12 MS. BARTON: Objection to form, foundation.

13 MR. DiCIANNI: I'll join.

14 THE WITNESS: I assume they would have been,  
15 yes.

16 BY MR. SHAPIRO:

17 Q. Doesn't that suggest to you that Murray's  
18 alibi would have been discussed among the  
19 investigators during the course of the investigation?

20 MR. DiCIANNI: Objection, speculation.

21 MS. BARTON: Same objection.

22 THE WITNESS: At some point it's possible  
23 that it could have been discussed at a meeting.

24

150

1 BY MR. SHAPIRO:

2 Q. It's likely that it would have been  
3 discussed, isn't it?

4 A. Yes.

5 MR. DiCIANNI: Objection.

6 BY MR. SHAPIRO:

7 Q. And you were present at the investigators  
8 meetings, right?

9 A. I was present at a number of them. I can't  
10 tell you exactly that I was present at every one of  
11 them.

12 Q. Did you think that -- and the fact that  
13 John Murray's story shifted, that would have been an  
14 element of the investigation too, right?

15 MR. DiCIANNI: Objection.

16 MS. BARTON: Objection to form.

17 MR. DiCIANNI: Yeah, form.

18 THE WITNESS: I don't remember John Murray's  
19 story.

20 BY MR. SHAPIRO:

21 Q. That's not the question.

22 I'm asking you whether that was an aspect  
23 of -- a fact that was revealed during the course of  
24 the investigation?

151

1 A. And I --

2 MR. DiCIANNI: Objection, speculation.

3 MS. BARTON: I'll join.

4 THE WITNESS: And I answered that. I don't  
5 recall that being a part of the investigation of  
6 Mr. Murray's story changing.

7 BY MR. SHAPIRO:

8 Q. Assume with me that -- well, let me ask you  
9 this. If there were a suspect whose story changed in  
10 the course of the investigation, that's something  
11 that would be discussed at an investigators meeting  
12 in all likelihood --

13 MR. DiCIANNI: Object --

14 BY MR. SHAPIRO:

15 Q. -- is that a fair statement?

16 MR. DiCIANNI: Objection, speculation.

17 MS. BARTON: Join the objection.

18 THE WITNESS: Depending on the severity of  
19 that story and the severity of that person's  
20 involvement in the case, then it could have.

21 BY MR. SHAPIRO:

22 Q. And if it were someone who were convicted --  
23 who were connected to the murder and a -- and a shift  
24 with regard to a story on the day of the murder, is

152

1 that something that would have been discussed at an  
2 investigative meeting?

3 MS. BARTON: Objection; form, foundation.

4 MR. DiCIANNI: I'll join.

5 THE WITNESS: You're asking me to make an  
6 assumption, sir.

7 BY MR. SHAPIRO:

8 Q. I'm asking you -- yeah, I'm asking you to  
9 draw a conclusion about what would ordinarily be  
10 discussed in these meetings regarding the  
11 investigation?

12 MS. BARTON: Same objection.

13 MR. DiCIANNI: Join.

14 THE WITNESS: Okay. So if somebody's story  
15 changed and they were a part of the investigation and  
16 it surrounded the day of the murder --

17 BY MR. SHAPIRO:

18 Q. Uh-huh.

19 A. -- yes.

20 Q. That would have been discussed?

21 A. That --

22 MR. DiCIANNI: No, that wasn't the question.

23 I'll object.

24 THE WITNESS: That was not the question. You

153

1 asked if that was -- could you repeat the question,  
2 please?

3 BY MR. SHAPIRO:

4 Q. What's the question that you thought you  
5 were answering?

6 A. That's why I just asked her to repeat it,  
7 sir.

8 Q. Why don't I ask you another one.

9 MR. DiCIANNI: Well --

10 THE WITNESS: I'd like to clarify --

11 BY MR. SHAPIRO:

12 Q. That's -- that's --

13 A. -- my answer, please.

14 Q. All right. Mr. Freesmeyer, I'm just going  
15 to continue with the questioning.

16 MR. DiCIANNI: You're withdrawing the last  
17 question?

18 MR. SHAPIRO: Yeah, I'll withdraw the last  
19 question.

20 BY MR. SHAPIRO:

21 Q. Would you agree with me that if there were a  
22 suspect in the investigation whose story changed that  
23 that is something that would have been discussed in  
24 the investigative meetings?

154

1 MR. DiCIANNI: Objection, speculation.

2 MS. BARTON: I'll join.

3 THE WITNESS: I'm making an assumption as we  
4 sit here today that, yes, it would have been talked  
5 about.

6 BY MR. SHAPIRO:

7 Q. Is the fact that John Murray failed to  
8 cooperate in a polygraph examination something that  
9 would have been talked about in investigative  
10 meetings?

11 MR. DiCIANNI: Objection, speculation.

12 MS. BARTON: Objection to form and  
13 foundation.

14 THE WITNESS: As we sit here today, all I can  
15 do is assume, sir, that that would have been discussed  
16 in a meeting.

17 BY MR. SHAPIRO:

18 Q. Is John Murray's potential motive in this  
19 case something that would have been discussed in  
20 investigative meetings?

21 MR. DiCIANNI: Objection, speculation.

22 MS. BARTON: Objection to form and  
23 foundation.

24 THE WITNESS: I'm unaware of what

155

1 John Murray's motive would have been in this case,  
2 sir. I don't remember that.

3 BY MR. SHAPIRO:

4 Q. Well, I'll tell you how the Illinois Supreme  
5 Court characterized it and what -- and what -- and  
6 what the Illinois Supreme Court said was that there  
7 were two possible motives for Murray. One was the  
8 fact that he was a former lover of Lockmiller who was  
9 attempting to rekindle the relationship. The other  
10 was that he was a drug dealer that -- to whom  
11 Lockmiller owed money.

12 Assuming that to be true, is that something  
13 that would have been discussed in investigative  
14 meetings?

15 MR. DiCIANNI: Objection, speculation.

16 MS. BARTON: I'll join.

17 THE WITNESS: If there were truth to those  
18 two, then that would have been -- that could have been  
19 a topic for discussion. I don't recall that, sir.

20 BY MR. SHAPIRO:

21 Q. If an investigator had found that, that  
22 would have been a topic of discussion?

23 MR. DiCIANNI: Spec -- objection to  
24 speculation.

156

1 MS. BARTON: Objection to form and  
2 foundation.

3 THE WITNESS: It could have been a topic for  
4 discussion, sir.

5 BY MR. SHAPIRO:

6 Q. Would you assume that it would have been?

7 MR. DiCIANNI: Objection, asking him to  
8 assume something.

9 MS. BARTON: I'll join.

10 THE WITNESS: I prefer not to make an  
11 assumption, sir. I don't have an independent  
12 recollection of that conversation happening.

13 (Plaintiff's attorneys confer off  
14 the record.)

15 BY MR. SHAPIRO:

16 Q. Would it be good police practice to discuss  
17 such matters at investigative meetings?

18 MR. DiCIANNI: Objection, form of the  
19 question.

20 MS. BARTON: I'll join the objection and add  
21 foundation.

22 THE WITNESS: If it needed to be brought to  
23 the attention of the rest of the team and it wasn't  
24 able to be handled by the people that were dealing

157

1 with it, then yes.

2 MR. DiCIANNI: Let's take a break. I want to  
3 confer.

4 THE VIDEOGRAPHER: Off the record, 2:01.

5 (Whereupon, a break was taken,  
6 after which the following  
7 proceedings were had:)

8 THE VIDEOGRAPHER: Back on the record, 2:02.

9 BY MR. SHAPIRO:

10 Q. Would it be good police practices for all  
11 investigators on a case to be kept apprised of  
12 developments regarding alternative suspects?

13 MR. DiCIANNI: Objection, form of the  
14 question.

15 MS. BARTON: I'll join.

16 THE WITNESS: Yes.

17 BY MR. SHAPIRO:

18 Q. And what -- why would that be a good  
19 practice?

20 MR. DiCIANNI: Same objection.

21 THE WITNESS: For shared knowledge of  
22 everyone handling the case, sir.

23 BY MR. SHAPIRO:

24 Q. So it's a good practice for everyone

158

1 involved to be kept abreast of the developments that  
2 are going on?

3 MS. BARTON: Objection to form and  
4 foundation.

5 MR. DiCIANNI: Join.

6 THE WITNESS: Yes, it would be a good  
7 practice.

8 BY MR. SHAPIRO:

9 Q. And why is it important for everyone to be  
10 kept abreast of what's going on in the investigation?

11 MS. BARTON: Objection to form.

12 THE WITNESS: In order to do a thorough  
13 investigation, sir.

14 BY MR. SHAPIRO:

15 Q. Do you think that a thorough investigation  
16 was -- was conducted in the Lockmiller case?

17 A. Yes, I do.

18 Q. Do you think good police practices were  
19 followed?

20 A. Yes, I do.

21 Q. Would it have been a good police practice to  
22 keep the whole team informed of developments with  
23 regard to John Murray?

24 MS. BARTON: Objection to form and

159

1 foundation.

2 THE WITNESS: Yes, it would.

3 MR. DiCIANNI: Speculation too.

4 BY MR. SHAPIRO:

5 Q. Do you think that was done?

6 MS. BARTON: Objection to form.

7 THE WITNESS: Yes, I do.

8 BY MR. SHAPIRO:

9 Q. So if John Murray lacked an alibi, it would  
10 have been good practices to inform the entire team of  
11 that, correct?

12 MS. BARTON: Objection to form, foundation.

13 MR. DiCIANNI: Object to form.

14 THE WITNESS: Yes.

15 BY MR. SHAPIRO:

16 Q. And that would have been done?

17 MS. BARTON: Same objection.

18 MR. DiCIANNI: Objection, speculation.

19 THE WITNESS: I cannot recall, sir.

20 BY MR. SHAPIRO:

21 Q. I asked do you think it would have been  
22 done.

23 MS. BARTON: Same objection.

24 MR. DiCIANNI: Objection, speculation.

160

1 THE WITNESS: I don't recall, sir.

2 BY MR. SHAPIRO:

3 Q. Do you think good police practices would  
4 have been followed?

5 A. I believe good practices were followed in  
6 the investigation, sir.

7 Q. And would it have been a good police  
8 practice to keep everyone informed of developments  
9 with regard to John Murray's lack of an alibi?

10 MR. DiCIANNI: Objection, asked and answered.

11 MS. BARTON: Form and foundation.

12 MR. DiCIANNI: And form.

13 THE WITNESS: I've already answered that as  
14 yes.

15 BY MR. SHAPIRO:

16 Q. But you're not sure if anyone was informed  
17 of Murray's alibi; is that what you're saying?

18 A. I told you I have no -- no memory of that.

19 Q. Would it have been good police practice to  
20 keep everyone in the investigative team informed of  
21 Murray's alibi? I'm sorry. Strike that.

22 Would it have been good police practice to  
23 keep the full investigative team apprised of Murray's  
24 motive?

161

1 MS. BARTON: Objection to form and  
2 foundation.

3 THE WITNESS: If that rose to a level of  
4 importance, yes.

5 BY MR. SHAPIRO:

6 Q. And assuming with me that Murray was owed  
7 money by the victim in connection with a drug deal  
8 and that he was a former lover seeking to rekindle  
9 the relationship, would that be the sort of important  
10 information that should be shared with the team if  
11 good police practices are being followed?

12 MS. BARTON: Objection to form and  
13 foundation.

14 MR. DiCIANNI: Object, speculation.

15 THE WITNESS: I don't know that -- those  
16 statements to be true, sir.

17 BY MR. SHAPIRO:

18 Q. I understand that. I'm asking you to assume  
19 that they're and with that assumption. Is that the  
20 sort of information that would be shared with the  
21 whole team under good police practices?

22 MR. DiCIANNI: I'll object, form of the  
23 question.

24 MS. BARTON: Same objection.

162

1 THE WITNESS: I don't know, sir.

2 BY MR. SHAPIRO:

3 Q. Wouldn't those be important developments in  
4 the course of the investigation?

5 MS. BARTON: Objection to form.

6 MR. DiCIANNI: I agree -- I agree with that  
7 objection.

8 THE WITNESS: I don't know, sir. I was not  
9 in charge of investigating Larbi Murray.  
10 Detective Daniels and Detective Hospelhorn were  
11 responsible for his investigation.

12 BY MR. SHAPIRO:

13 Q. No, I understand that. But what I'm asking  
14 you is, would you consider it an important  
15 development to learn that he was owed money for drugs  
16 by  
17 Jennifer Lockmiller and that he was a former lover  
18 who was seeking to rekindle the relationship?

19 MS. BARTON: Objection to form.

20 MR. DiCIANNI: Object to form, speculation.

21 THE WITNESS: I don't remember that, sir.

22 BY MR. SHAPIRO:

23 Q. Okay. Did John Murray ever serve as a  
24 confidential informant for the Normal Police

163

1 Department?

2 A. I don't know, sir.

3 Q. Do you have any knowledge of a division or  
4 program of the Normal Police Department referred to  
5 as Task Force 6?

6 A. I'm aware of the existence of Task Force 6.

7 Q. What's Task Force 6?

8 A. It was a drug unit.

9 Q. What were its activities?

10 A. I don't know, sir.

11 Q. Who was assigned to Task Force 6?

12 A. I believe --

13 MR. DiCIANNI: I'll object to the foundation  
14 as to when.

15 THE WITNESS: During my tenure at Normal,  
16 John Belcher was assigned from our agency.

17 BY MR. SHAPIRO:

18 Q. Do you know if there were confidential  
19 informants who worked with Task Force 6?

20 A. I don't know, sir. I didn't work for Task  
21 Force 6.

22 Q. I want to go back for a moment to a  
23 different area. Earlier you were talking about the  
24 process through which files were put in central

164

1 records and transferred to the State's Attorney's  
2 Office.

3 Now, I understand that that's not a process  
4 that you were directly involved in, right?

5 A. Correct.

6 Q. Okay. And I'm just trying to understand how  
7 that -- how that process works.

8 What type of files get sent into central  
9 records?

10 A. Any files that become a part of the official  
11 police report. Would be written case reports; would  
12 be written statements; it could be any document  
13 received by the police department which is not  
14 evidence in fact but informational.

15 Q. Okay. And any evidence received by the  
16 police department which is not evidence would go into  
17 that central file?

18 MR. DiCIANNI: Object to form.

19 THE WITNESS: I wouldn't say any. That's a  
20 broad word, sir.

21 BY MR. SHAPIRO:

22 Q. Okay. Well, I'm not trying to put words in  
23 your mouth. I'm trying to understand.

24 Maybe if you could just continue helping me  
165

1 to understand what exactly goes into that file, we  
2 can take it from there.

3 A. Police reports, written statements,  
4 transcripts, documents received by the police  
5 department from outside agencies which are not in and  
6 of themselves evidence.

7 I can't go through the entire list, sir,  
8 because it's on a case-by-case basis what could go  
9 into records and what would need to go into evidence.

10 Q. Well, maybe you can give me some examples of  
11 one category you provided which is documents received  
12 from outside agencies that are not evidence.

13 What -- what -- what -- can you give me some  
14 examples of those --

15 A. A return from the crime lab on DNA finger --  
16 on latent fingerprints or DNA results. The items  
17 themselves tested would go into evidence, but the  
18 report explaining the results of that would go into  
19 the file and records.

20 Q. And typically that report would take the  
21 form of a letter from the DNA expert to one of the  
22 detectives working on the case; is that --

23 A. Yes.

24 Q. -- is that accurate?

166

1 A. Yes.

2 Q. Okay. Do you think the same would hold  
3 true from a letter from a polygraph examiner to a  
4 detective in the case?

5 A. Yes.

6 Q. That would go into central records?

7 A. That would be -- yes, would be one of the  
8 places it would go.

9 Q. Uh-huh. And one of the purposes of  
10 collecting documents in central records is that those  
11 are documents that at some point are provided to the  
12 State's Attorney?

13 MS. BARTON: Objection to form.

14 BY MR. SHAPIRO:

15 Q. Is that correct?

16 A. They can be. They're not presented every  
17 time depending on the nature of the case. Such as if  
18 we have a deceased body and we get results back on  
19 the deceased body and it's not a criminal prosecution  
20 of anybody, a suicide, for instance, then it may go  
21 into archive in the records section.

22 If it's an arrest situation, then there's a  
23 high potential that that information would then be  
24 forwarded to the State's Attorney's Office.

167

1 Q. I see. Okay. So let's put aside cases that  
2 are not charged in the State's Attorney's Office,  
3 doesn't have any involvement.

4 A. Okay.

5 Q. For cases that the State's Attorney's Office  
6 is involved in --

7 A. Yes.

8 Q. -- prosecuting, the central records files  
9 goes to the State's Attorney's Office?

10 A. A copy of those files, not the original  
11 file.

12 Q. A copy of the file?

13 A. Yes, sir.

14 Q. Okay.

15 (Plaintiff's attorneys confer off  
16 the record.)

17 BY MR. SHAPIRO:

18 Q. So you mentioned that polygraph reports from  
19 the polygraph exam would go into the central file,  
20 correct?

21 A. I believe so.

22 Q. I'd like to direct your attention to  
23 Exhibit 24, please. It's in Volume 1.

24 And you can take a moment to review it and

168

1 just indicate when you're done by looking up.

2 Is the document shown in Plaintiff's  
3 Exhibit 24 something that would have gone into the  
4 central file?

5 A. I believe so, yes.

6 Q. And Exhibit 24 is a letter from polygraph  
7 examiner Terrence McCann to Detective David Warner  
8 regarding an attempted polygraph of John Murray,  
9 right?

10 MS. BARTON: Objection to form. It also  
11 includes several other documents.

12 MR. SHAPIRO: That's fine. Yeah --

13 MS. BARTON: There's 30 pages here.

14 BY MR. SHAPIRO:

15 Q. We can clarify that.

16 Let's start with the first page. First page  
17 of Exhibit 24 is a report from the polygraph examiner  
18 Terrence McCann to Detective David Warner regarding a  
19 polygraph attempt of John Murray in connection with  
20 the Lockmiller investigation, right?

21 A. Yes.

22 Q. Okay. And I don't know if you -- did you  
23 have a chance to go through the pages following the  
24 first page of the exhibit?

169

1 A. No, sir. I just looked at the first page.

2 Q. Yeah, go ahead. Just take ...

3 A. Is there a difference between page 1 and  
4 page 13?

5 Q. I produced it as it was provided to us. It  
6 may be -- there may be a repeat of pages.

7 A. It looks like a duplicate of everything.

8 Q. Well, I'm not trying to hide -- well, the  
9 question is going to be are these the type of  
10 documents that go into the central file, so whatever  
11 level of review --

12 A. Yes, they are.

13 Q. All of these documents are ones that you  
14 believe --

15 A. I --

16 Q. -- would have gone?

17 A. I don't know about all the documents, sir.  
18 I know the cover letter, I believe, would have gone  
19 in.

20 Q. Okay.

21 A. I don't know about the others.

22 Q. They might have, but you're not sure?

23 A. I don't know.

24 Q. Yeah, what would have happened to the other

170

1 documents if they didn't go into the central file?

2 MS. BARTON: Objection, foundation.

3 THE WITNESS: I don't know, sir.

4 MR. BOWMAN: What's the answer?

5 MR. SHAPIRO: I don't know.

6 THE WITNESS: I don't know.

7 BY MR. SHAPIRO:

8 Q. Could you go to Exhibit 5, please. This one  
9 I'm just going to ask you about the second page of 5  
10 so just take a moment to review it. I'm sorry.  
11 Second and third page bears a Bates stamp 1496 and  
12 1497 at the bottom.

13 A. I'm sorry. Did you say --

14 MR. DiCIANNI: Is there a question pending?

15 MR. SHAPIRO: There's not a question pending.

16 I want -- I'm indicating that I'm going to ask a  
17 question --

18 MR. DiCIANNI: Okay.

19 MR. SHAPIRO: -- giving a chance --

20 MR. DiCIANNI: Okay. Before you do that, I  
21 want to confer, okay?

22 MR. SHAPIRO: All right.

23 MR. DiCIANNI: Yeah, before you ask the  
24 question.

171

1 THE VIDEOGRAPHER: Off the record, 2:18.

2 (Whereupon, a break was taken,  
3 after which the following  
4 proceedings were had:)

5 THE VIDEOGRAPHER: Going back on the record,  
6 2:19.

7 BY MR. SHAPIRO:

8 Q. We were talking about pages 2 and 3 of  
9 Exhibit 5 which bear Bates stamp 1496 and 1497.

10 Have you had a chance to review those pages?

11 A. Yes, sir.

12 Q. Uh-huh. Is this a document that would have  
13 gone into the central file in the Lockmiller case?

14 A. I believe so, yes.

15 Q. And these pages are a letter from polygraph  
16 examiner Terrence McCann to Detective David Warner  
17 regarding a polygraph of Stacey Gates in connection  
18 with the Lockmiller investigation, correct?

19 A. Yes.

20 Q. Help me understand the process through which  
21 files in the central record are provided to the  
22 State's Attorney Office. How does that work?

23 A. I can't tell you, sir. I don't know.

24 Q. Who would know how that process works?

172

1 A. I don't know, sir.

2 Q. Well, you said that a copy is provided to  
3 the State's Attorney's Office, right?

4 A. Yes.

5 Q. Is a copy made in the police department and  
6 sent over to the State's Attorney's Office?

7 MS. BARTON: Objection to form.

8 THE WITNESS: I don't know, sir. I didn't  
9 work in the records section.

10 BY MR. SHAPIRO:

11 Q. Okay. But it -- okay. It's something  
12 that's handled by the records section?

13 A. I don't know. I know the reports went to  
14 records.

15 Q. Uh-huh.

16 A. So -- I don't know.

17 Q. Now, when you -- you became the lead  
18 detective -- when you became the lead detective, you  
19 had some responsibility for ensuring that records  
20 were provided to the prosecutor; is that right?

21 A. Yes.

22 Q. Okay. What process did you go through in  
23 order to make sure that documents were provided to  
24 the prosecutor when you were in that role?

173

1           A.    I don't remember, sir. That was one month  
2 between November and December of 1994 that I was in  
3 charge of the detective division before I was moved  
4 straight to the State's Attorney's Office. I don't  
5 remember what process I used for that 30-day period.

6           Q.    Were you the lead investigator in any other  
7 cases in your career and -- within -- in the Normal  
8 Police Department?

9           A.    Oh, yes, many.

10          Q.    Uh-huh. And in those cases, did you have  
11 responsibility for ensuring that the prosecutor  
12 received documents regarding cases you were working  
13 on?

14          A.    I had responsibility for making sure my  
15 supervisor was provided those documents. So I would  
16 provide all of my documents to my supervisor, and he  
17 would have to sign off on them before anything went  
18 to the State's Attorney's Office.

19          Q.    And in the Lockmiller case, would Zayas have  
20 had to sign off on any documents before they went to  
21 the State's Attorney's Office?

22          A.    Zayas. Lieutenant Zayas was responsible for  
23 any case coming out of the detective division, so he  
24 would be responsible for either approving or signing

174

1 off on reports before they were submitted anywhere.

2 Q. Would he have to approve -- strike that.

3 When you say he would approve the reports,  
4 meaning he would sign them and make sure that they  
5 were properly completed, right?

6 A. Yes.

7 Q. And did he also have to sign off on  
8 decisions about which documents to send to the  
9 State's Attorney's Office?

10 MS. BARTON: Objection to form and  
11 foundation.

12 THE WITNESS: That I don't know, sir.

13 BY MR. SHAPIRO:

14 Q. Did he sign off on decisions about which  
15 documents to -- no, strike that. I'm sorry.

16 (Plaintiff's attorneys confer off  
17 the record.)

18 BY MR. SHAPIRO:

19 Q. Irrespective of whose individual  
20 responsibility it was to provide certain documents to  
21 the prosecutor's office, what was your understanding  
22 of a police officer's responsibility for ensuring  
23 that the prosecutor receives documents in the case?

24 MR. DiCIANNI: At Normal?

175

1 MR. SHAPIRO: Yes.

2 MR. DiCIANNI: You're talking about -- you're  
3 not taking about general police practices. You're  
4 talking about --

5 MR. SHAPIRO: Well -- well --

6 MR. DiCIANNI: -- the Normal Police  
7 Department?

8 MR. SHAPIRO: I'll ask both questions.  
9 That's good actually.

10 BY MR. SHAPIRO:

11 Q. What was your understanding -- with regard  
12 to good police practices, what was your understanding  
13 of the role of a police officer in ensuring that  
14 documents are provided to the prosecuting attorney?

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

17 MS. BARTON: And foundation.

18 MR. DiCIANNI: And foundation.

19 THE WITNESS: My understanding at our  
20 department was the police officer was responsible for  
21 reporting the information accurately and submitting  
22 that report to their immediate supervisor. Their  
23 immediate supervisor would then send it to either  
24 their supervisor, or it would be disbursed to the

176

1 records section or the State's Attorney's Office if it  
2 were an arrest situation.

3 BY MR. SHAPIRO:

4 Q. What was your understanding of how the  
5 supervisor would determine which documents would be  
6 sent over?

7 MS. BARTON: Objection to form.

8 THE WITNESS: I don't recall, sir.

9 MR. DiCIANNI: I join.

10 BY MR. SHAPIRO:

11 Q. I mean, would you agree with me that there  
12 are some documents in a police file that are  
13 important to the prosecution and some that are not?

14 MS. BARTON: Objection to foundation.

15 MR. DiCIANNI: Same objection.

16 THE WITNESS: Yeah, I imagine a parking  
17 ticket would not be a concern to the State's  
18 Attorney's Office. So in that light, yes, I guess  
19 some documents would be of their concern and some  
20 would not.

21 MR. SHAPIRO: Uh-huh.

22 (Plaintiff's attorneys confer off  
23 the record.)

24

177

1 BY MR. SHAPIRO:

2 Q. Was it your understanding that the Normal  
3 Police Department had an obligation to provide the  
4 investigative file to the prosecutor's office?

5 MS. BARTON: Objection to form.

6 MR. DiCIANNI: Yeah, I object. And I  
7 don't -- by legal obligation, based on you're asking  
8 him for a legal opinion.

9 BY MR. SHAPIRO:

10 Q. I'm asking you whether in your view the  
11 Normal Police Department had any obligation to  
12 provide the investigative file to the prosecutor's  
13 office.

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

16 MS. BARTON: I'll join.

17 THE WITNESS: I don't know what our  
18 obligation was, sir.

19 (Plaintiff's attorneys confer off  
20 the record.)

21 BY MR. SHAPIRO:

22 Q. Do you have any understanding of the  
23 obligation of the police department to provide  
24 documents exculpating the defendant to the State's

178

1 Attorney's Office?

2 MS. BARTON: Objection to form.

3 MR. DiCIANNI: Yeah, same objection.

4 THE WITNESS: Exculpating the defendant, can  
5 you explain that phrase?

6 BY MR. SHAPIRO:

7 Q. Tending to suggest the defendant's  
8 innocence.

9 MS. BARTON: Same objection.

10 THE WITNESS: Okay. Now would you repeat the  
11 question, please?

12 BY MR. SHAPIRO:

13 Q. Uh-huh. Do you have any understanding of  
14 the Normal Police Department's obligation to provide  
15 exculpatory evidence to the State's Attorney's  
16 Office?

17 A. Well, our responsibility was to provide  
18 information -- factual information in a case, whether  
19 it was positive or negative, to put that into the  
20 report, submit that to our supervisor. The  
21 supervisor then responsible to make sure that those  
22 are going into records or going to the State's  
23 Attorney's Office.

24 Now, I don't know if that helps you, sir, 179

1 but in the Normal police report, that original report  
2 was a triplicate form. There was a pink form, a  
3 yellow form, and a white form. The pink form went to  
4 detectives, I believe the white form went to the  
5 State's Attorney's Office -- I'm sorry. The pink  
6 form went to detectives, the yellow I believe went to  
7 the State's Attorney's Office, and the white went to  
8 the records section.

9 That's the extent of what I know of how  
10 those forms are disseminated to various places.

11 Q. I'm -- I want to be very clear that I'm not  
12 talking about the manner of dissemination right now,  
13 and I'm not talking about the color of the forms.

14 What I'm asking is: Do you have any  
15 understanding of an obligation on behalf of the  
16 Normal Police Department to provide exculpatory  
17 evidence to the prosecutors in a case?

18 MR. DiCIANNI: I'll object, asked and  
19 answered.

20 MS. BARTON: I'll join.

21 MR. DiCIANNI: He's already answered it.

22 THE WITNESS: No, sir.

23 BY MR. SHAPIRO:

24 Q. No understanding?

180

1 A. No understanding.

2 Q. Do you have any understanding of the  
3 obligation of law enforcement to provide exculpatory  
4 evidence to the defense in a criminal case?

5 A. No, sir.

6 Q. In the course of your work in the Lockmiller  
7 homicide investigation, did you do anything at all to  
8 ensure that the State's Attorney's Office received  
9 exculpatory evidence?

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

12 MS. BARTON: Join and add foundation.

13 THE WITNESS: I guess in answer to your

14 question, I just made sure that documents that I  
15 received were submitted to my supervisor and then into  
16 the records section or into evidence if they needed to  
17 be placed into evidence. If they were to go into  
18 records, I would have routed them through my  
19 supervisor. Where they go from there, sir, is not my  
20 responsibility.

21 BY MR. SHAPIRO:

22 Q. Are you talking about documents that you  
23 personally prepared?

24 A. Yes, my 62-page written police report

181

1 submitted to my supervisor.

2 Q. Beyond the fact that you submitted police  
3 reports to your supervisor, did you do anything at  
4 all to ensure that any exculpatory evidence in the  
5 Lockmiller homicide investigation was provided to the  
6 State's Attorney's Office?

7 MR. DiCIANNI: Object to form.

8 MS. BARTON: And foundation.

9 THE WITNESS: I don't recall.

10 BY MR. SHAPIRO:

11 Q. Did you take any handwritten notes in the  
12 course of the investigation in this case?

13 A. Yes, I did.

14 Q. Did you provide any of them to the State's  
15 Attorney's Office?

16 A. No, I did not.

17 Q. Did you ultimately destroy them?

18 A. Yes, I did.

19 Q. When did you destroy them?

20 A. After all that information was transferred  
21 into my police report.

22 Q. So if you had information in a handwritten  
23 note that were not transferred in the police report,  
24 it would not be provided to the State's Attorney's

182

1 Office, right?

2 MR. DiCIANNI: Objection. That's not what  
3 he's saying.

4 MS. BARTON: I'll join the objection.

5 THE WITNESS: My handwritten notes may have  
6 also been put in other types of reports such as phone  
7 records, could have been put into a presentation such  
8 as the one that we used for court purposes.

9 My handwritten notes would have been used as  
10 a temporary way of refreshing what I did until I  
11 completed some final document that would not always be  
12 the police report.

13 BY MR. SHAPIRO:

14 Q. Did you take handwritten notes in the course  
15 of the time trials you performed in this case?

16 A. Yes, I did.

17 MS. BARTON: Form, foundation.

18 BY MR. SHAPIRO:

19 Q. Did you take any handwritten notes relating  
20 to your interviews with Alan Beaman that were not  
21 recorded in report?

22 A. No.

23 Q. How do you remember that?

24 A. Because that was a habit of mine when I was  
183

1 a police officer. If I were to keep every  
2 handwritten note on every case I handled, I would  
3 have volumes and volumes of handwritten notes. So it  
4 was a practice of mine and that was taught in the  
5 academy that when you take information, you jot it  
6 down in your notebook. Once you write the police  
7 report, you destroy your notes.

8 Q. Okay. I think my question probably wasn't  
9 clear to you and -- did you take any handwritten  
10 notes regarding interviews with Beaman that were not  
11 recorded in your report? I'm not asking whether you  
12 kept them.

13 A. Oh, did I take notes?

14 Q. Did you take any notes that weren't recorded  
15 in your report?

16 MR. BOWMAN: No, that were reported.

17 BY MR. SHAPIRO:

18 Q. That were reported.

19 MR. DiCIANNI: Wait.

20 THE WITNESS: You're confusing me.

21 MR. DiCIANNI: Yeah.

22 MR. SHAPIRO: Pardon me.

23 (Plaintiff's attorneys confer off  
24 the record.)

184

1 BY MR. SHAPIRO:

2 Q. All right. There -- I'm sorry. Let me  
3 clarify.

4 There are -- some of your interviews with  
5 Beaman were recorded with a tape recorder and some  
6 were not, right?

7 A. Yes.

8 Q. Okay. Did you take any handwritten notes in  
9 the interviews with Beaman that were not recorded on  
10 the tape recorder?

11 A. Yes.

12 Q. And were those notes ultimately destroyed?

13 A. Yes.

14 Q. As of May 16, 1994, the day that Beaman was  
15 charged, had you reviewed all of the police reports  
16 that had been prepared as of that date?

17 A. I don't remember, sir.

18 Q. Okay. So it's possible that a decision was  
19 made to charge Beaman without your reviewing all of  
20 the police reports that had been prepared?

21 MS. BARTON: Objection, form.

22 MR. DiCIANNI: Objection, speculation.

23 MS. BARTON: Form and foundation.

24 THE WITNESS: I don't remember, sir, if I

185

1 reviewed all the reports or not.

2 BY MR. SHAPIRO:

3 Q. Was there a process by which the  
4 investigators on the team would receive copies of  
5 others' police reports as they were prepared?

6 MS. BARTON: Objection to form.

7 THE WITNESS: I don't remember, sir.

8 BY MR. SHAPIRO:

9 Q. Would that have been a good police practice  
10 in order to keep those on the investigative team  
11 apprised of the progress of other investigators?

12 MS. BARTON: Objection --

13 MR. DiCIANNI: Objection, form of the  
14 question.

15 MS. BARTON: I'll join.

16 THE WITNESS: I don't know, sir.

17 BY MR. SHAPIRO:

18 Q. You don't know if that would be a good  
19 police practice?

20 A. No.

21 Q. Was there any point during the trial at  
22 which you reviewed all of the police reports in this  
23 case?

24 A. I don't remember, sir.

186

1 (Plaintiff's attorneys confer off  
2 the record.)

3 BY MR. SHAPIRO:

4 Q. In the course of your investigation, did you  
5 take any handwritten notes regard -- related to  
6 interviews with Michael Swain?

7 A. I don't remember. It's likely, but I don't  
8 remember.

9 Q. Why do you say that it's likely?

10 A. Just because I could have, sir. But my  
11 interviews with Michael Swain, the first two were  
12 recorded on an auto cassette tape. So there was no  
13 need to take notes. I had the cassette tape backup  
14 to go back to.

15 Q. What about handwritten notes about your  
16 interviews with Alan's classmates?

17 A. Which interviews are you referring to, sir?

18 Q. Any interviews with students at IWU or  
19 Wesleyan?

20 A. I don't have an independent recollection of  
21 any interviews that I did with other students. I  
22 interviewed Alan and Michael Swain. I -- interviews  
23 of other people don't stand out in my mind of other  
24 students.

187

1 Q. Did you take any handwritten notes on  
2 interviews with -- interviews with Alan's neighbors?

3 A. It's possible.

4 Q. Did you take handwritten notes related to  
5 time trials conducted in this case?

6 MS. BARTON: Objection to form.

7 MR. DiCIANNI: That's been asked and  
8 answered.

9 THE WITNESS: You already asked that. Yes, I  
10 have.

11 BY MR. SHAPIRO:

12 Q. You did. Were all of those handwritten  
13 notes recorded in your report?

14 A. You've asked that also. If they weren't in  
15 the police report, they would have been put together  
16 into a presentation used for trial; but they were  
17 transferred to some other final product and then  
18 those notes were destroyed.

19 Q. What presentation are you referring to at  
20 trial?

21 A. There was a map, mileage presentation that  
22 we used at the trial that showed various times and  
23 distances. And I believe I also used that -- I only  
24 recall using it at the trial. It could have been

188

1 other places.

2 Q. Go back to John Murray for a moment, and  
3 Murray claimed in an interview that he and his  
4 girlfriend, Mackoway, were scared after hearing about  
5 the murder and slept in a hotel the first night after  
6 the murder.

7 I assume you don't have a recollection of  
8 that, right?

9 A. No, sir, I don't.

10 Q. Okay. Well, assume with me for now that  
11 it's true.

12 My question is: Was anything done to check  
13 that claim that Murray and Mackoway had slept in a  
14 hotel the night they learned about the murder?

15 MR. DiCIANNI: Objection, speculation.

16 MS. BARTON: Foundation.

17 MR. DiCIANNI: You can always speculate --

18 THE WITNESS: I don't know, sir.

19 BY MR. SHAPIRO:

20 Q. Would that have been an easy thing to check?

21 MS. BARTON: Objection to form and  
22 foundation.

23 MR. DiCIANNI: Yeah, I join.

24 THE WITNESS: I don't know, sir.

189

1 BY MR. SHAPIRO:

2 Q. Well, Mr. Freesmeyer, you've been in law  
3 enforcement for many years. You really don't know  
4 whether it would be a hard thing or an easy thing to  
5 check whether someone had slept in a hotel on a given  
6 night?

7 MS. BARTON: Same objection.

8 MR. DiCIANNI: Same objection.

9 THE WITNESS: I don't know the circumstances  
10 surrounding that if they simply said a hotel or if  
11 they gave an exact hotel in a -- you've given me no  
12 circumstances and I have no independent recollection  
13 of that statement, sir.

14 BY MR. SHAPIRO:

15 Q. Well, let's say they didn't give -- let's  
16 say they did not give a particular hotel. Could they  
17 have been easily asked what hotel they stayed at?

18 MR. DiCIANNI: Objection, speculation.

19 MS. BARTON: I'll join.

20 THE WITNESS: Yes, they could have.

21 BY MR. SHAPIRO:

22 Q. Uh-huh. And having learned and -- would it  
23 then have been easy to check whether they, in fact,  
24 had stayed at that hotel?

190

1 MR. DiCIANNI: Same objection.

2 MS. BARTON: I'll join.

3 THE WITNESS: Yes.

4 MR. BOWMAN: Take a break.

5 MR. SHAPIRO: Let's take a break.

6 THE VIDEOGRAPHER: Off the record, 2:40.

7 (Whereupon, a break was taken,  
8 after which the following  
9 proceedings were had:)

10 THE VIDEOGRAPHER: Back on the record, 2:59.

11 BY MR. SHAPIRO:

12 Q. Mr. Freesmeyer, earlier today we talked  
13 about a meeting that was held on August 29, the day  
14 after the body was discovered?

15 A. Yes.

16 Q. At the time of that -- well, Mr. Souk  
17 testified yesterday that at the time of the -- that  
18 meeting, Beaman was the primary suspect in this case.  
19 Would you agree with that characterization by  
20 Mr. Souk?

21 A. He was a major suspect.

22 Q. Was there anyone else who was a greater  
23 focus than Beaman?

24 A. I wouldn't say a greater focus, but we had

191

1 not yet ruled out Mike Swain, and we had not yet  
2 ruled out Alan Beaman; and both of them had real  
3 close relationships with Jennifer.

4 Q. Uh-huh. So as of August 29, the two primary  
5 suspects were Beaman and Swain?

6 A. Yes.

7 Q. And --

8 A. I'm sorry. Was that Saturday night or  
9 Sunday night you're referring to?

10 Q. Well, I was referring to Sunday, but who  
11 were the primary suspects on Saturday night?

12 A. Well, we had more interest in -- the primary  
13 suspect was Alan Beaman, but the interest in Swain  
14 got less as we continued in to farther conversations  
15 with him.

16 I just wanted to clarify which meeting you  
17 were talking about, the Saturday night or the Sunday  
18 night.

19 Q. So on Saturday night, Beaman was the primary  
20 suspect?

21 A. That would be a fair statement to say, yes.

22 Q. Uh-huh. And that's true on Sunday too?

23 A. Yes.

24 Q. And Swain was a secondary suspect, is that a  
192

1 fair way to put it?

2 A. Initially, yes.

3 Q. Uh-huh. And he was later eliminated as a  
4 suspect based on his alibi, right?

5 A. Yes, sir.

6 Q. I'd like to talk to you about the decision  
7 to arrest Alan Beaman and ask you to list all the  
8 reasons why you believed you had probable cause to  
9 arrest him.

10 A. Okay. First of all, his fingerprint was on  
11 the murder weapon. Second of all, the scene matched  
12 things that he had confessed to me prior on the body  
13 wire such as pulling the garbage out of the garbage  
14 can, going through her garbage for evidence of  
15 contraceptives. That was also shown at the scene  
16 with the garbage pulled out sitting on the living  
17 room couch.

18 The letter -- the voluminous letters that he  
19 had written showing his infatuation for her; 28 phone  
20 calls from her residence to his residence within  
21 the -- I think it was the day before trying to get in  
22 touch with him; his lack of an alibi during the time  
23 of the murder; his past situations of breaking down  
24 her door to get into her apartment. And the

193

1 biggest -- well, no, that came later. Those were  
2 the main things.

3 I was -- and I had gone to him point blank  
4 in interviews asking him, Alan, do you have anything  
5 else that you can give me to help clear you? And his  
6 response each time was, I got nothing or I have  
7 nothing or something to that effect. I asked him  
8 point blank, did you make any phone calls or did you  
9 go anywhere after you got off work on Wednesday  
10 morning? And he told me no, I went home and I went  
11 to bed. We know that's not true. And I know his  
12 attorney knew that wasn't true because his attorney  
13 sequestered the videotape from Bell Bank in  
14 September. So he knew that Alan went to the bank.  
15 So when Alan's making statements that I knew to be  
16 false, that was also part of the reason why I  
17 believed he was responsible.

18 MR. DiCIANNI: Let me -- are you done with  
19 your answer?

20 THE WITNESS: Yes, sir.

21 MR. DiCIANNI: Let's take a break. I want to  
22 confer.

23 THE VIDEOGRAPHER: Off the record, 3:03.

24

194

1 (Whereupon, a break was taken,  
2 after which the following  
3 proceedings were had:)

4 THE VIDEOGRAPHER: Back on the record, 3:06.  
5 BY MR. SHAPIRO:

6 Q. Mr. Freesmeyer, before the brief break, you  
7 gave me a list of reasons why you believe that there  
8 was probable cause to arrest Alan Beaman. Other than  
9 the reasons that you gave me, are there any other  
10 reasons why you believe there was probable cause to  
11 arrest Alan Beaman?

12 A. I mentioned the print on the murder weapon,  
13 I mentioned the letters and the infatuation, I  
14 mentioned the garbage can pulled out, I mentioned the  
15 fact that he had broken into her apartment before, I  
16 mentioned the 28 calls from her apartment to him  
17 trying to get in touch with him.

18 There were also a number of incriminating  
19 statements in the overhears that he made which to me  
20 seemed totally out of place and very alerting.

21 He made one comment during an overhear with  
22 Mike Swain where he said: That women dug into me  
23 with every ounce of sharp silver she had every time  
24 she could. I had never heard anybody say the

195

1 expression "dug into me with every ounce of sharp  
2 silver." And that was less than a week and a half  
3 after we found the body where she was stabbed in the  
4 chest with a pair of silver scissors with a colored  
5 handle.

6 He also made a comment to Simone Weisman  
7 that -- when we interviewed her that he told her that  
8 he could not watch Basic Instinct with Jennifer  
9 anymore because of the time when they were having sex  
10 and she reached back as if she was gonna grab  
11 something. In the movie, the female in the movie  
12 during an act of sexual intercourse reaches back and  
13 grabs an ice pick and stabs the victim in the chest  
14 with an ice pick.

15 I found that to be odd that that was fresh  
16 in his mind, the movie scene, Basic Instinct, which  
17 he had been stabbed in the chest. And we don't know  
18 if there was a sexual assault or not.

19 He also made the comment when talking to  
20 Mike Swain that he knew he was sleeping with her.  
21 And Mike said: How do you know that? And he  
22 responded: That pussy never tasted the same. That  
23 to me was incredibly crude for somebody he supposedly  
24 loved a week and a half after her death, and he said

196

1 it with hardly any remorse whatsoever.

2 He made a comment to Alan, she was never  
3 gonna be happy, man. She was never gonna be happy.  
4 And in training for homicides, they often say that  
5 when somebody makes a terminal statement like that,  
6 that they're definitive that somebody's never gonna  
7 be happy, they're trying to justify their own  
8 actions.

9 He made the comment to Mike Swain: She  
10 trained me, she trained me good, and she'd of trained  
11 you just the same. So, again, he's making those  
12 statements as a matter of fact of what would happen.

13 The fact that at the scene, there was a fan  
14 pulled down over her face which oftentimes is done  
15 when the victim -- the suspect knows the victim.

16 The fact that she was stabbed multiple times  
17 after she was already dead. According to the  
18 coroner's report, she died of strangulation and the  
19 lack of blood indicated that her heart wasn't pumping  
20 anymore when she was stabbed. That's not the act of  
21 a random person. To me, that gave me the indication  
22 that was the act of vengeance over somebody that she  
23 had hurt deeply, and she hurt Alan deeply.

24 Q. Anything else?

197

1           A.   That's about all I can recall right now,  
2   sir.

3           Q.   One of the things that you mentioned was  
4   that when you spoke to Alan and asked him whether  
5   there was anything that could clear him, he didn't  
6   mention the trip to Bell Federal Bank; right?

7           A.   That's correct.  He said he went straight  
8   home and went to bed.

9           Q.   Did you consider that a major piece of  
10  evidence against Mr. Beaman?

11          A.   I wouldn't say major, but I certainly noted  
12  that as an inconsistency especially after finding out  
13  that his attorney was well aware of that video and  
14  had actually sent a request to the bank getting a  
15  copy of the video.

16                 So as of the 1st of September, he was well  
17  aware of the fact that he was at the bank on that  
18  particular day.  And my interviews with him were well  
19  into October, November.  When I asked him if he went  
20  straight home that day, and he said:  Yes, I went  
21  straight home and went to bed.  I even asked:  Did  
22  you go anywhere else?  No, I went straight home and  
23  went to bed.

24          Q.   How do you know Alan as opposed to his

198

1 attorney was familiar with the fact that the Bell  
2 Federal evidence had been recovered?

3 A. I'm sorry. I didn't understand your  
4 question.

5 Q. Well, what you said, if I understood you,  
6 was that prior to that conversation you were  
7 describing --

8 (Plaintiff's attorneys confer off  
9 the record.)

10 BY MR. SHAPIRO:

11 Q. Let me withdraw that question and ask a  
12 different one.

13 What was incriminating, in your opinion,  
14 about Alan's not mentioning Bell Federal Bank?

15 A. It was inconsistent with what we knew to be  
16 the truth. We knew he was at the bank, and his  
17 attorney knew he was at the bank. And I gave him the  
18 opportunity to say he was at the bank, and that's not  
19 what he told me. He told me he went straight home  
20 and went to bed. It was deceit and the deceit to me  
21 was -- was suspicious.

22 Q. I think I understand your view as to why it  
23 was inconsistent. I guess what I'm asking you is why  
24 you view that as incriminating him in the murder.

199

1           A.   Well, because the Bell Federal video showed  
2   that he was out away from home; that he was out and  
3   around and he wasn't home sleeping like he claimed he  
4   was. His statement was that he went straight home  
5   and he went to bed, and his mom woke him up; and the  
6   time she woke him up varies depending on what piece  
7   of paper that you look at.

8           But the fact that he was not home asleep,  
9   that he was stopping at the bank, showed us that's  
10  not consistent with what he told us he did.

11          Q.   The fact that Mr. Beaman visited the bank at  
12  10:11 on August 25 was something that was helpful to  
13  him, right?

14          A.   I don't -- I don't know that it was helpful  
15  or hurtful to him, sir. That could have cut both  
16  ways.

17          Q.   What would you -- would you disagree that  
18  having been at Bell Federal Bank at 10:11 would have  
19  made it difficult for Alan to have been in Normal and  
20  committed a murder at noon?

21          A.   No, it would not have made it difficult.

22          Q.   It would not have made it difficult?

23          A.   It would not have made it difficult.

24          Q.   Why do you say that?

200

1 A. Because of the many time trials that I made  
2 between Bell Federal Bank and the apartment.

3 Q. How long did it take you to get from Bell  
4 Federal to the apartment?

5 A. I would have to look at my notes, sir. It's  
6 in my police report.

7 But I can tell you that the time frame from  
8 10:11 and noon at her apartment was sufficient time  
9 for him to drive from Bell Federal to Jennifer's  
10 apartment.

11 Q. Let me also ask you about your reference to  
12 the fingerprint on the clock. When you refer to the  
13 murder weapon, you're referring to the clock, right?

14 A. Yes.

15 Q. Alan Beaman had lived in that apartment with  
16 Jennifer Lockmiller for a period of time, right?

17 A. I don't believe --

18 Q. Strike that.

19 He had frequently been present in that  
20 apartment with Jennifer Lockmiller for a period of  
21 time, right?

22 A. He had been present, but I don't believe he  
23 had been living there --

24 Q. He -- he --

1 A. -- if I recall correctly.

2 Q. -- had spent the night on many occasions?

3 A. I believe so.

4 Q. Wouldn't that explain his fingerprint on the  
5 clock?

6 A. In my opinion, no.

7 Q. Why -- why do you say that?

8 A. The last time he spent the night, according  
9 to his records, was the end of June. We found the  
10 print on the clock at the end of August. That's two  
11 months down the road. We found Swain's prints on the  
12 clock, but we never found any of Jennifer's prints on  
13 the clock.

14 If he's claiming that his prints can last  
15 two months on that clock, then why didn't we find any  
16 of Jennifer's prints on it as well since she lived  
17 there every day?

18 Q. Was there any fingerprint expert who  
19 indicated to you that it was significant that  
20 Mr. Beaman's prints were on the clock?

21 A. There was a return from the crime lab  
22 showing that there was a print on the clock. I don't  
23 know that it said if it was significant or not.

24 The crime lab typically just returns a

202

1 result of what they found. Whether it's significant  
2 or not I believe is up to the investigative team.

3 Q. Was there any fingerprint expert who  
4 indicated at any point in the course of the  
5 investigation that the fingerprint on the clock was  
6 odd even though Alan Beaman had frequently spent the  
7 night at Lockmiller's apartment?

8 A. I don't recall hearing that.

9 Q. So when you say that the fingerprint was a  
10 significant piece of evidence, you're -- are you  
11 basing that solely on your own interpretation of that  
12 piece of evidence?

13 A. Yes, sir, that's my opinion.

14 Q. You also mentioned the fan that was found on  
15 Lockmiller's body. What was the significance of that  
16 piece of evidence to you?

17 A. To me it was significant because the fan was  
18 covering her face. And from what I had been taught  
19 in prior classes in investigation that when a suspect  
20 does something to someone they love or someone they  
21 know, oftentimes they'll try to cover the face as a  
22 way of dehumanizing the person. And so once they  
23 realize what they've done and unable to look at that  
24 person, that loved one, they'll put something over

203

1 the top of their face so they don't associate that as  
2 their loved one.

3 Q. Is that something you -- strike that.

4 Did you include in your police report a  
5 statement that the position of the fan was something  
6 that suggested Alan Beaman was the killer?

7 A. I don't know that I did, sir.

8 Q. If it was an important aspect of the  
9 investigation, is it something that you -- strike  
10 that.

11 If it was an important piece of evidence  
12 against Beaman, is it something that you would have  
13 included in your report?

14 A. I don't know that I would have necessarily  
15 reported or recorded that in wording. It was  
16 documented where the fan was, and to me that was an  
17 argument that would be up to the State's Attorney's  
18 Office's to point out that during the prosecution if  
19 one were to result.

20 Q. Did you -- did you mention that to the  
21 State's Attorney's Office?

22 A. I don't --

23 MS. BARTON: Objection, foundation.

24 THE WITNESS: I don't recall, sir. Been so  
204

C06225

1 long ago.

2 BY MR. SHAPIRO:

3 Q. What was the significance of the fact that  
4 Lockmiller had been stabbed multiple times in  
5 connection with your view of Beaman's guilt?

6 A. This is my own personal opinion, sir. But  
7 according to the coroner, she was killed by  
8 strangulation. And they stated when she was stabbed  
9 with the scissors, she was already dead, and that was  
10 evident because of the lack of blood flow. The heart  
11 had stopped pumping when the stabbing started.

12 To me that indicated that was a vengeful act  
13 that was done. It was not an act to stop her. It  
14 was not an act to kill her. That was a final  
15 vengeful thing towards her because she was already  
16 dead from the cord.

17 Q. What do you mean when you say it was a  
18 personal opinion?

19 A. That's my opinion, sir, from training that  
20 I've been to and just from my own thinking.

21 Q. Was there any criminologist or crime scene  
22 expert who put forth the view that the fact that  
23 Lockmiller was stabbed with the scissors was  
24 something that suggests Alan Beaman was guilty?

205



1 that she was stabbed multiple times is something that  
2 you think supported probable cause against  
3 Mr. Beaman?

4 A. It supported my belief in why Alan Beaman  
5 was responsible for that murder.

6 Q. And are your personal beliefs relevant to an  
7 establishment of probable cause?

8 A. I don't know, sir.

9 Q. You mentioned letters that were sent by  
10 Alan Beaman to Jennifer Lockmiller. What year were  
11 those letters sent?

12 A. Those letters were undated, sir. I don't  
13 know what year they were sent.

14 Q. Do you remember Mr. Beaman testifying that  
15 nearly all of those letters were from 1992?

16 A. I don't remember that, sir.

17 Q. Would the time when those letters have been  
18 written rele -- be relevant to the strength of  
19 Mr. Beaman's motive?

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

22 MS. BARTON: I'll join.

23 MR. DiCIANNI: Foundation.

24 THE WITNESS: I don't know if they would or  
207

1 not, sir.

2 BY MR. SHAPIRO:

3 Q. You don't think that there's any difference  
4 between a letter expressing feelings for someone in,  
5 you know, a year before the murder versus right  
6 before the murder in terms of their relevance to  
7 someone's motive?

8 MS. BARTON: Objection to form.

9 MR. DiCIANNI: I join.

10 THE WITNESS: I don't know that it makes that  
11 big of a difference. It showed us his level of  
12 infatuation with her. And there was no reason -- I  
13 guess I didn't see any reason to think that that  
14 infatuation had dropped any at all.

15 BY MR. SHAPIRO:

16 Q. You mentioned the breaking down of the door  
17 by Mr. Beaman?

18 A. Yes.

19 Q. Had Mr. Beaman ever been violent to another  
20 person as opposed to a piece of property?

21 MS. BARTON: Objection to foundation.

22 THE WITNESS: I don't know, sir.

23 MR. BOWMAN: I'm sorry. What was the answer?

24 THE WITNESS: I don't know.

208

1 BY MR. SHAPIRO:

2 Q. And you're aware from the domestic violence  
3 report that we reviewed earlier that Mr. Murray, in  
4 fact, had been violent against another person, right?

5 A. Yes.

6 MS. BARTON: Objection to form, foundation.

7 MR. DiCIANNI: Well, allegedly.

8 BY MR. SHAPIRO:

9 Q. You mentioned the 28 phone calls from  
10 Lockmiller to Beaman. Why did you view those phone  
11 calls as significant to the establishment of probable  
12 cause?

13 A. Because 28 phone calls in one night to any  
14 one particular person shows me that there was a deep  
15 interest in trying to communicate with him. He  
16 walked away from her, is my understanding, and she  
17 was reaching back to him.

18 He had told me in overhears numerous times  
19 that she had broke up with him -- some say 16, some  
20 say 18 times. He says twice. So there was a history  
21 of them constantly breaking up, getting back  
22 together, breaking up, getting back together.

23 She calls him 28 times in one night, it  
24 would be consistent in their past pattern for them to

209

1 get back together again, which is consistent with him  
2 coming back down the next day to see her.

3 Q. 28 calls from Lockmiller to Beaman would be  
4 consistent with Lockmiller wanting to get back  
5 together with Beaman, right?

6 A. I believe it could be interpreted that way,  
7 yes. That's the way I understood it was she was  
8 trying to reach him for some reason. And I don't  
9 know what that reason was. We'll never know.

10 Q. What was the significance of the garbage  
11 bag?

12 A. Alan Beaman stated in his letters that he  
13 had a very huge jealousy for Jennifer. Several of  
14 the people had told me he was incredibly jealous of  
15 anybody that was around Jennifer.

16 On the overheard when we drove to Morton, I  
17 actually have him on tape telling me that he had  
18 broken into her -- had gone through her garbage in  
19 the past looking for signs of birth control,  
20 contraceptives, to prove that she was sleeping with  
21 somebody else.

22 Therefore, when we got there and the garbage  
23 had been pulled out and set on the couch and gone --  
24 and appeared to have gone through, that was a

210

1 telltale sign what we found out later of something  
2 Alan used to do.

3 Q. Did you ever explore the possibility that  
4 the garbage bag might have been removed by a burglar  
5 who was looking for something to put items in?

6 MS. BARTON: Objection to form, foundation.

7 THE WITNESS: No, sir, I had not explored  
8 that thought.

9 BY MR. SHAPIRO:

10 Q. And then you smiled when you answered that  
11 question. Why are you smiling?

12 A. Well, because that is -- I'm smiling because  
13 there's just so many hypotheses that we can throw out  
14 here today what about this or what about that, but  
15 most of those things lack motive and lack opportunity  
16 and lack all of the other things in this case that  
17 Alan had.

18 She typically locked her doors. There was  
19 no forced entry into the door. If this was a burglar  
20 coming in, there probably would have been some  
21 damage -- fresh damage to the door. There was not.

22 There were valuables laying around the  
23 apartment. Her purse was laying right there that had  
24 money in it. If somebody wanted -- if a burglar

211

1 wanted to come in, why go through the garbage when a  
2 purse is sitting right on the table. It didn't make  
3 sense for a burglar, sir. That's why I smiled.

4 (Plaintiff's attorneys confer off  
5 the record.)

6 BY MR. SHAPIRO:

7 Q. Did you immediately as of August 28 or  
8 August 29 discount the possibility that the murder  
9 had been the result of a burglar?

10 A. I can't say that we ever discounted that. I  
11 can't say that we considered it or that we discounted  
12 it. I don't have any memory as I sit here today that  
13 that was a strong concern.

14 Q. You don't --

15 MR. BOWMAN: That's fine.

16 BY MR. SHAPIRO:

17 Q. Is it your view that there -- if there had  
18 been a burglar, there would have been signs of forced  
19 entry?

20 A. I believe there would have been signs of  
21 forced entry unless she would have left the door  
22 unlocked. But she -- we were told that she typically  
23 locked the door.

24 Q. You don't think it would have been possible

212

1 to unlock the door without leaving a sign of having  
2 done so?

3 MS. BARTON: Objection to form.

4 THE WITNESS: That could be a possibility,  
5 sir.

6 BY MR. SHAPIRO:

7 Q. You referred to Mr. Beaman's lack of an  
8 alibi. What -- describe to me what you mean when you  
9 say that he lacked an alibi.

10 A. I gave him every attempt to state that he  
11 had gone to the bank, to state that he had made a  
12 phone call to his pastor that came out of that house;  
13 and every one of his statements to me was that he  
14 went home and he went to bed.

15 In running the mileage charts back and forth  
16 and the times, he would have had time to leave Bell  
17 Federal Bank, arrive at Jennifer's apartment just as  
18 she's getting home from class, commit the homicide,  
19 and then drive back to his house before his mom came  
20 home. Therefore, there's a time during when we  
21 believe that murder happened that he cannot account  
22 for his whereabouts, and nobody else can account for  
23 his whereabouts other than him saying, I went home  
24 and I went to bed and my mom woke me up when she got  
213

1 home.

2 And we know from his statements that he  
3 didn't go straight home. We know he went to the  
4 bank. So his deception is right in the middle of  
5 that alibi time.

6 Q. There were two calls placed from Beaman's  
7 home on August 25 at 10:37 and 10:39, right?

8 A. Yes.

9 Q. Is there anyone who could have placed those  
10 calls other than Carol Beaman or Alan Beaman?

11 A. I don't know, sir. We were not watching the  
12 house at that time. I don't know if there could have  
13 been a relative, grandparent. I don't know.

14 Q. Did you doing anything to investigate  
15 whether anyone could have made those calls other than  
16 Carol Beaman or Alan Beaman?

17 A. We did quite a bit to investigate who  
18 answered those calls. We tried to track  
19 Carol Beaman's time on her trial --

20 Q. I'm sorry --

21 A. -- before she --

22 Q. I don't mean to cut you off, but I think you  
23 might not have understood my question.

24 My question was: Did you do anything to

214

1 investigate the possibility that someone other than  
2 Carol Beaman or Alan Beaman had made those calls?

3 A. I'm sorry. No.

4 Q. So you have --

5 A. I'm sorry. Not that I remember.

6 Q. And Carol Beaman stated that she did not  
7 make the calls, correct?

8 A. I believe that's correct.

9 Q. Would you agree with me that it would not  
10 have been possible for Beaman to have committed the  
11 murder if he had made the calls?

12 A. I don't know that that would have totally  
13 ruled him out.

14 Q. What do you mean you don't know that it  
15 would have totally ruled him out?

16 A. It would have delayed his departure from  
17 Rockford from 10:11 to 10:42, and it would have added  
18 an additional distance; the additional distance from  
19 his home to Normal as opposed to Bell Federal to  
20 Normal.

21 But as I sit here today, I can't tell you  
22 that even if he had made those calls and then left  
23 that it still would have closed the gap.

24 Q. Well, Mr. Souk stated in his closing

215

1 arguments in this case, quote, Mr. Beaman is out of  
2 the apartment, meaning Lockmiller's apartment, by  
3 12:15 or thereabouts.

4 Do you agree or disagree with Mr. Souk on  
5 that?

6 A. I don't know, sir. It's been too long since  
7 the case. I couldn't tell you.

8 Q. Well, you testified earlier that you sat  
9 through the trial and didn't miss a day, right?

10 A. Yes, I did.

11 Q. Do you remember -- well, strike that.

12 A. If you'd like me to look at the transcript,  
13 I can tell you if Mr. Souk said that or not; but I  
14 don't have an independent recollection of it, sir.

15 Q. When do you think Jennifer Lockmiller was  
16 killed?

17 A. I believe it was sometime between 12 o'clock  
18 and 2 o'clock.

19 Q. Okay. So just take my word because this is  
20 a direct quote in closing argument. Mr. Beaman is  
21 out of the apartment by 12:15 or thereabouts.

22 In your view, that's -- is that narrowing  
23 the window too much?

24 MR. DiCIANNI: I'll object.

216

1 THE WITNESS: Again, sir, I don't know. It's  
2 been too long since I did all the mileage and the  
3 times and everything. I don't know.

4 BY MR. SHAPIRO:

5 Q. But you just -- I mean, you just said you  
6 thought it happened between 12:00 and 2:00, right,  
7 which is a broader window?

8 A. Yes, I said that happened --

9 MR. DiCIANNI: Objection.

10 THE WITNESS: I told you that we believe it  
11 happened between 12:00 and 2:00 because she got home  
12 from one class at 12:00 and didn't appear to her  
13 2 o'clock class.

14 BY MR. SHAPIRO:

15 Q. So my -- so, again, my question was: Do you  
16 think the statement, Mr. Beaman is out of the  
17 apartment by 12:15 or thereabouts, is narrowing the  
18 window beyond how you would narrow it?

19 MR. DiCIANNI: Objection.

20 MS. BARTON: I'll join the objection, asked  
21 and answered.

22 THE WITNESS: I don't know, sir.

23 BY MR. SHAPIRO:

24 Q. If Alan Beaman made the calls at 10:37 and

217

1 10:39, what do you think is the soonest that he could  
2 have been home, assuming for a moment that he killed  
3 Jennifer Lockmiller?

4 MS. BARTON: Objection to form.

5 MR. DiCIANNI: Join.

6 THE WITNESS: Similar answer that I gave you  
7 before, sir. It's been so long since the time that I  
8 did the driving and the time trials, I can't tell you  
9 as I sit here what that estimated time would be.

10 BY MR. SHAPIRO:

11 Q. Let me help you out a little bit with  
12 Exhibit 19, which is a Mapquest of the route.

13 MR. DiCIANNI: 19?

14 MR. SHAPIRO: Yeah.

15 BY MR. SHAPIRO:

16 Q. All right. This is a Mapquest set of  
17 directions for -- from Beaman's home to Lockmiller's  
18 and back. And I'll represent to you that I just  
19 entered the addresses into Mapquest and asked for  
20 round-trip time, and you'll see the round-trip time  
21 is indicated here as four hours and 37 minutes.

22 Does that strike you as a reasonable time or  
23 unreasonable time for a round-trip?

24 A. I've used Mapquest quite a bit, and the

218

1 times are never that accurate for me when I use  
2 Mapquest.

3 Q. So are you saying you don't think this is a  
4 reasonable time?

5 A. Well, I would totally agree with you about  
6 the mileage that Mapquest gives --

7 Q. I'm just asking you about the time. Do you  
8 think it's an unreasonable time?

9 A. The time? I'm saying it's not an accurate  
10 time. Is it reasonable? It could be reasonable, but  
11 I wouldn't call it accurate.

12 Q. All right. Well, why don't we go with some  
13 of the time trials that you did. And I'll represent  
14 to you that in your report you indicate that once you  
15 traveled from the Beaman residence to the Lockmiller  
16 apartment, driving the posted speed limit it took you  
17 two hours and 17 minutes?

18 A. Could you tell me where that's at in my  
19 report?

20 Q. It's at page 53 of your report.

21 A. Do you have a copy of my report?

22 Q. Yeah, we can do it that way. Turn to  
23 Exhibit 53.

24 A. I'm sorry. What page?

219

1 Q. Just a moment. I apologize. It's actually  
2 Exhibit 4. And, you know, why don't we do -- why  
3 don't we just establish what these documents are.  
4 Sorry for flipping back and forth.

5 Exhibit 3 is a copy of the first report that  
6 you wrote in this case, right?

7 A. Yeah, yes.

8 Q. And Exhibit 4 is a continuation of your  
9 report shown in Exhibit 3?

10 A. That's correct. You said first report. The  
11 other question that it really was just one police  
12 report that I wrote. It was just a continuation of  
13 the one.

14 Q. You would characterize Exhibits 3 and 4 as a  
15 single report collectively; is that correct?

16 A. Yes, sir.

17 Q. Okay. So let's turn to page 53, which is  
18 actually the second page of Exhibit 4.

19 A. Okay.

20 Q. Okay. So I'm looking at left the driveway  
21 at [REDACTED] in Normal at 8:28 -- at 8:28 a.m.  
22 and drove straight to Alan Beaman's house driving  
23 strictly at the posted speed limit. I arrived at  
24 Alan house at 10:45 a.m. making the trip in two hours

220

1 and 17 minutes.

2 A. Yes, that's a statement out of my report,  
3 sir.

4 Q. Yeah. And I read that correctly?

5 A. Yes, you did.

6 Q. Okay. So that indicated on that time trial  
7 that from Lockmiller's to Beaman's, it was two hours  
8 and 17 minutes?

9 A. Yes, sir.

10 Q. Okay. Does that help you to answer the  
11 question that I was asking earlier as to assuming  
12 Beaman made the calls at 10:37 and 10:39 and further  
13 assuming that he had committed the murder what the  
14 soonest time is you think that he could have been  
15 back to his home?

16 A. Well, the two hours and 17 minutes is  
17 driving the posted speed limit, sir. I don't know  
18 how fast Alan would have driven down to Normal and  
19 back to Rockford.

20 I believe there was another trial that I  
21 made where I actually did ten miles over the speed  
22 limit. I drove 65 on the main -- or 75 on the  
23 Interstate and approximately 8 to 10 miles over the  
24 speed limit the rest of the way to his house. That

221

1 was a different time.

2 Do you remember where that's at in --

3 Q. Let's talk about it for a moment.

4 During that time trial, you averaged 75  
5 miles an hour?

6 A. Yes -- well, in the police report I stated I  
7 average 75 miles an hour. When I reached the  
8 Interstate, I would have averaged 75 on the four-lane  
9 Interstate between Bloomington and Rockford.  
10 Obviously I would not have been averaging 75 through  
11 town.

12 Q. Yes. On the Interstate you averaged 75?

13 A. Yes.

14 Q. Okay. What type of a vehicle were you  
15 driving when you averaged 75?

16 A. I don't recall, sir.

17 Q. What type of vehicles did you have access to  
18 in connection with your professional activities at  
19 the time?

20 A. I had a gray Chevy Caprice that I drove as  
21 my main assigned vehicle, and we also had a  
22 Mitsubishi Eclipse which is a vehicle given to us by  
23 Diamond Star Motors. I know I made trips in both of  
24 those vehicles.

222

1 Q. How old were those vehicles?

2 A. I don't recall, sir. Mine was the car that  
3 was the chief's old car, and it was pretty much the  
4 end of the fleet for the detective division, so it  
5 was one of the older cars we had in detectives. And  
6 I don't remember the year of the Mitsubishi Eclipse.

7 Q. Do you recall the condition of Alan Beaman's  
8 car?

9 A. I only saw his car a couple of times. I  
10 took pictures of it when it was in Rockford and  
11 during the investigation of the speedometer where we  
12 towed it into the city garage to inspect the  
13 speedometer.

14 Q. So you took picture of it?

15 A. Yes, I did.

16 Q. You towed it in?

17 A. Uh-huh.

18 Q. You took out the odometer?

19 A. Yes.

20 Q. You went with the two expert witnesses back  
21 down to the car?

22 A. Yes.

23 Q. And, you know, played with the odometer, for  
24 want of a better word, and put the odometer back in

223

1 at that time?

2 A. I don't know that we ever put the odometer  
3 back in.

4 Q. Okay.

5 A. I think we took it out and kept it for  
6 evidence, sir.

7 Q. Okay. So you viewed the car on a number of  
8 occasions, right?

9 A. Yes.

10 Q. What do you remember about its condition?

11 A. I remember when we towed it in, it was  
12 reported to have a cracked head gasket on it. That's  
13 the only thing I remember. And I remember that  
14 because I read it in my police report over the last  
15 couple of days.

16 Q. Did anyone attempt to drive the car at any  
17 point?

18 MS. BARTON: Objection; foundation, form.

19 THE WITNESS: Not that I recall, sir. I  
20 don't remember.

21 BY MR. SHAPIRO:

22 Q. Did you ever -- well, did you ever undertake  
23 a time trial using a car same make and model as  
24 Alan's car and of similar age?

224

1 A. No, sir.

2 Q. Did you make any effort to ascertain whether  
3 it would be feasible for Mr. Beaman to drive 70  
4 miles -- an average of speed of 75 miles on the  
5 Interstate in his car?

6 A. I don't recall if I did or not, sir.

7 Q. The other time trial you're referring to is  
8 on page 59 of your -- of the continuation of your  
9 report.

10 And directing your attention to Exhibit 4,  
11 the page that's marked 59 at the top. You see the  
12 bottom paragraph?

13 A. Yes, sir, I do.

14 Q. Is that the paragraph you were referring to  
15 earlier?

16 A. Yes, it is.

17 Q. This paragraph reads: On January 10, 1994,  
18 I traveled to Rockford once again to verify mileages  
19 between several different locations. I began at  
20 [REDACTED] and drove directly to  
21 Alan Beaman's residence at an average speed of 75  
22 miles per hour. Total distance was recorded as 138  
23 miles with a driving time of one hour and 56 minutes.  
24 The following -- well, we can stop there.

225

1           So this was another time trial in which you  
2   drove from Lockmiller's apartment to Beaman's, right?

3           A.   Yes.

4           Q.   Uh-huh. Did you ever do a time trial in the  
5   reverse direction from Beaman's to Lockmiller's?

6           A.   I might have, sir. I don't recall.

7           Q.   If you had done it, would you have recorded  
8   it in your report?

9           MS. BARTON:  Objection, calls for  
10  speculation.

11          THE WITNESS:  I don't remember, sir.

12  BY MR. SHAPIRO:

13          Q.   I'm asking whether -- whether you would  
14  have.

15          A.   If I had done it the other way, I don't -- I  
16  don't know, sir.

17          Q.   Why did you undertake these time trials?

18          MS. BARTON:  Objection to form.

19          THE WITNESS:  I was trying to verify an  
20  alibi.

21  BY MR. SHAPIRO:

22          Q.   And that alibi depended on how long it took  
23  to get from Beaman's to Lockmiller's and from  
24  Lockmiller's to Beaman's, right?

226

1 A. No.

2 Q. I'm sorry. That -- strike that.

3 It depended on how long it took to get from  
4 Bell Federal to Lockmiller's and then Lockmiller's to  
5 Beaman's, right?

6 A. Yes.

7 Q. Did you -- did you measure the time from  
8 Bell Federal to Lockmiller's?

9 A. I believe I did.

10 Q. If you did, would that have been included in  
11 your report?

12 A. I believe it would have.

13 Q. Would that have been an important aspect of  
14 the investigation?

15 A. Yes, it would have. If you'd like me to  
16 look at my police report, I believe it's in my police  
17 report.

18 Q. Yeah. Well, I -- if you have a moment to  
19 look over it, yeah, sure, if you can direct me to  
20 that.

21 MR. BOWMAN: Why don't we take a short break  
22 while he's looking at the report.

23 THE WITNESS: It's on page 60 after --

24 MR. SHAPIRO: Let's take a break, yeah.

227

1 MR. DiCIANNI: Your answer can -- will be the  
2 first thing we do when we come back from the break.

3 MR. SHAPIRO: Fair enough. I didn't mean to  
4 cut you off there.

5 THE VIDEOGRAPHER: Off the record, 3:42.

6 (Whereupon, a break was taken,  
7 after which the following  
8 proceedings were had:)

9 THE VIDEOGRAPHER: Back on the record at  
10 4 o'clock.

11 BY MR. SHAPIRO:

12 Q. Prior to the break, we were talking about  
13 time trials that you did in this case. You did time  
14 trials from Bell Federal Bank to the Beaman residence  
15 both using the bypass route and going through town,  
16 right?

17 A. Yes.

18 Q. Which of those did you do first?

19 A. I don't recall, sir.

20 Q. So you could have done the bypass route  
21 first, and you could have gone through town first?

22 A. That's correct.

23 Q. When you went through town, how did you  
24 determine the route that you took through town?

228

1 A. To the best of my memory, I took the most  
2 direct route between -- the shortest distance between  
3 Bell Federal and the Beaman residence.

4 Q. How would you -- how did you determine what  
5 was the shortest route?

6 A. I don't know if I indicated that in my  
7 police report. I don't remember exactly how I  
8 determined that shortest route, sir.

9 Q. Did you ever live in Rockford?

10 A. No, sir.

11 Q. How familiar were you with Rockford?

12 A. I was not very familiar, sir.

13 Q. Not -- did Mr. Souk accompany you on any of  
14 the time trials?

15 A. I recall him accompanying me to a trip to  
16 Rockford, but I cannot tell you as I sit here today  
17 if we did time trials on that trip or if we did  
18 something else on that trip.

19 Q. Had he ever lived in Rockford?

20 MS. BARTON: Objection to foundation.

21 THE WITNESS: I don't know, sir.

22 BY MR. SHAPIRO:

23 Q. Did you have any reason to think that he  
24 knew his way around Rockford particularly well?

229

1 A. I don't remember, sir.

2 Q. Did you ask anyone what was the fastest --  
3 strike that.

4 Did you ask anyone what was the most direct  
5 route from Bell Federal to the Beaman residence  
6 assuming one's going through town?

7 A. As I testified a moment ago, sir, I don't  
8 recall how I chose the most direct route, if it was  
9 off of an atlas or if it was off of a city map. I  
10 don't recall exactly what method I used to determine  
11 the most direct route.

12 Q. Do you recall anything about how you  
13 determined the route?

14 A. No, sir.

15 Q. The route you took was an important aspect  
16 of the investigation, right?

17 MS. BARTON: Objection, form and foundation.

18 MR. DiCIANNI: I'll join.

19 THE WITNESS: Yes, it was.

20 BY MR. SHAPIRO:

21 Q. You did not record the time trial from Bell  
22 Federal Bank to the Beaman residence using the bypass  
23 route in your report, right?

24 A. I don't believe I did.

230

1 Q. Why did you not include it?

2 A. I don't know, sir.

3 Q. That was an important piece of evidence,  
4 right?

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

7 MS. BARTON: I'll join.

8 THE WITNESS: Yes, it was. I testified to  
9 that route in grand jury, so it was important.

10 BY MR. SHAPIRO:

11 Q. Why was it important?

12 A. Because it was part of the alibi for the  
13 drive times. That's why we spent time testifying  
14 about it in the grand jury.

15 Q. It was important because it would help to  
16 establish whether or not Beaman could have made it  
17 home from Bell Federal Bank in time to make the calls  
18 at 10:37 and 10:39, right?

19 A. Yes.

20 Q. Given that -- given it's important, why did  
21 you fail to include it in your report?

22 MR. DiCIANNI: Objection, asked and answered.

23 MS. BARTON: Join.

24 MR. DiCIANNI: Speculation.

231

1 THE WITNESS: I don't know, sir.

2 (Plaintiff's attorneys confer off  
3 the record.)

4 BY MR. SHAPIRO:

5 Q. So it's fair to say you didn't actually  
6 include everything that was important in your report,  
7 right?

8 MR. DiCIANNI: Objection, form of the  
9 question.

10 MS. BARTON: I'll join.

11 THE WITNESS: The distance -- I don't think  
12 it's a fair question that you just gave me. A lot of  
13 the information that I -- the notes that I took could  
14 have been recorded in other places besides my official  
15 police report. It could have been in the presentation  
16 that we put together for the jury trial, it could have  
17 been in some other document that I prepared.

18 BY MR. SHAPIRO:

19 Q. Is it --

20 (Plaintiff's attorneys confer off  
21 the record.)

22 BY MR. SHAPIRO:

23 Q. It was in another document -- it was not in  
24 another document that you have prepared, at least one

232

1 that I've seen; and why wasn't it?

2 MS. BARTON: Objection to form, foundation.

3 MR. DiCIANNI: Yeah, I'll object to the  
4 premise and form of the question.

5 THE WITNESS: You're asking me to take your  
6 word that it wasn't in the other document, sir. I  
7 don't recall.

8 BY MR. SHAPIRO:

9 Q. What other important evidence did you not  
10 include in your police report but only put in other  
11 documents?

12 MS. BARTON: Objection to foundation and  
13 form.

14 MR. DiCIANNI: I'll join.

15 THE WITNESS: I don't believe there was any  
16 other important information that I did not document  
17 somewhere else.

18 BY MR. SHAPIRO:

19 Q. You included some time trials in your  
20 report, right?

21 A. Yes, I did.

22 Q. In fact, you included a time trial from  
23 federal -- from Bell Federal Bank to the Beaman  
24 residence not using the bypass route, right?

233

1 A. Yes, I did.

2 Q. Did you testify as to that route at any  
3 point?

4 A. I testified to the in-town route, I believe,  
5 during the jury trial.

6 Q. Okay. So there was some things that you  
7 testified to at the jury trial and included in your  
8 report, correct?

9 A. Yes.

10 Q. So why was the bypass route something that  
11 was testified to at the grand jury but not included  
12 in the report?

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

15 MS. BARTON: I'll join.

16 THE WITNESS: Sir, testifying to it in grand  
17 jury made it a matter of document and a matter of  
18 record.

19 BY MR. SHAPIRO:

20 Q. When you were writing your report, did you  
21 know exactly what you were going to say in the grand  
22 jury?

23 A. No, sir.

24 Q. So how is the fact that you testified to it  
234

1 in the grand jury an explanation for why it's not in  
2 your report?

3 A. I don't know, sir.

4 MR. DiCIANNI: Yeah, I'll object,  
5 speculation.

6 MS. BARTON: I'll join.

7 BY MR. SHAPIRO:

8 Q. Did you make any notes of the time trial by  
9 the bypass route from the bank to the Beaman  
10 residence?

11 A. I believe I would have.

12 Q. And what did you do with those notes?

13 A. Those notes would have been transferred in  
14 to either my police report or some other document  
15 that I prepared.

16 Q. We've established they're not in the police  
17 report, right, as to the time trial?

18 A. I don't believe they're in the police  
19 report, sir.

20 Q. I'm still struggling to understand,  
21 Mr. Freesmeyer. The purpose of the police report is  
22 to record what you did in the investigation, right?

23 A. Yes, sir.

24 Q. Purpose of writing a police report is not to  
235

1 think ahead to what you might testify to and only  
2 include important facts that you're not going to  
3 testify to, right?

4 A. Okay.

5 Q. Right? Would you agree with that?

6 A. Yes.

7 Q. Okay. So why is it that when I ask you why  
8 the bypass route time trial is not in the police  
9 report, you answer that by telling me that you  
10 testified to it in the grand jury?

11 MR. DiCIANNI: I object to the form of the  
12 question.

13 MS. BARTON: I'll join.

14 THE WITNESS: Sir, I responded by telling you  
15 that I don't know why it's not in the police report,  
16 and then I made a statement that I testified to it in  
17 grand jury so it was a matter of record. I didn't say  
18 that it was not in the report because I testified to  
19 it in grand jury.

20 BY MR. SHAPIRO:

21 Q. It's an omission on your part that it's not  
22 included in the report, right?

23 MR. DiCIANNI: Objection.

24 MS. BARTON: Join.

236

1 THE WITNESS: I'll agree with you that it is  
2 not in my police report.

3 BY MR. SHAPIRO:

4 Q. And was that a potentially significant  
5 omission on your part, not knowing at the time you  
6 wrote the report that you were going to testify about  
7 it in the grand jury?

8 A. I don't know, sir.

9 MR. DiCIANNI: I object.

10 BY MR. SHAPIRO:

11 Q. Is one of the purposes of preparing a police  
12 report to apprise the State's Attorney of  
13 everything -- of all the important things that you  
14 did in the course of investigation?

15 MS. BARTON: Objection to form.

16 THE WITNESS: The State's Attorney is one of  
17 many people that read that police report. The purpose  
18 of a police report is to document the facts of a case.

19 BY MR. SHAPIRO:

20 Q. Uh-huh. And one of the people that it's  
21 being documented for is the State's Attorneys, right?

22 A. Yes.

23 Q. And one of the reasons for documenting it as  
24 well is that the police reports are often turned over

237

1 to the defense, right?

2 A. I don't know about that, sir. That's out of  
3 my area of expertise.

4 Q. You've never received any training as to  
5 whether one reason to document investigations is the  
6 provision of that documentation to the defense in a  
7 criminal case?

8 A. I've been trained that the purpose of  
9 writing a police report is to document the facts,  
10 both positive and negative, of what occurred in the  
11 case.

12 Q. Okay. So is the answer to my question no?

13 A. The answer to your question is to document  
14 all the facts not knowing who's going to read that.

15 Q. So you've never received any training with  
16 regard to the need to prepare police reports in part  
17 to document facts for the defense in a case?

18 MS. BARTON: Objection to form.

19 BY MR. SHAPIRO:

20 Q. Is that correct? I think that's a yes or no  
21 question.

22 MR. DiCIANNI: I'm not sure it is.

23 Could you read it back.

24

238

1 (Whereupon, the record was  
2 read as requested.)

3 MR. DiCIANNI: I'll object to form of the  
4 question.

5 THE WITNESS: I don't recall ever receiving  
6 training with a specific focus of documenting facts  
7 for the defense. I know that I have had training in  
8 writing reports to document the facts of a situation  
9 that occurred.

10 Does that answer your question, sir?

11 BY MR. SHAPIRO:

12 Q. Not entirely, but let's move on.

13 Why were the time trials in this case  
14 conducted post arrest?

15 A. Because we received additional information  
16 from grand jury after Alan Beaman testified. We also  
17 received additional information after the arrest from  
18 Carol Beaman that she had been holding for some time  
19 such as the IGA receipts, the mileage photograph of  
20 odometer, the Sears receipt, the union hall receipt.  
21 I believe that's all.

22 Q. To be clear, I'm referring to the time  
23 trials from Bell Federal Bank to the Beaman  
24 residence.

239

1           You knew well before the arrest that  
2 Mr. Beaman had been to Bell Federal Bank, right, at  
3 10:11?

4           A.    Yes.

5           Q.    At what point did you learn that calls had  
6 been made from Mr. Beaman's home at 10:37 and 10:39?

7           A.    Shortly after the incident occurred when we  
8 got the phone records.

9           Q.    When was that?

10          A.    It would have been within the first couple  
11 of months of the investigation.

12          Q.    Okay.  So well before the arrest?

13          A.    Yes.

14          Q.    So well before the arrest, you'd agree with  
15 me that you knew that Mr. Beaman had been at the Bell  
16 Federal Bank at 10:11 and that calls were made from  
17 the Beaman residence on the same day, August 25, at  
18 10:347 and 10:39, right?

19          A.    Yes.

20                MS. BARTON:  Objection to form.

21   BY MR. SHAPIRO:

22          Q.    Was it not important at that point to  
23 determine whether Mr. Beaman could have made it home  
24 from Bell Federal Bank in time to make the calls?

240

1 MS. BARTON: Objection to form.

2 MR. DiCIANNI: I'll join.

3 THE WITNESS: Yes, it was important.

4 BY MR. SHAPIRO:

5 Q. Why was it important?

6 A. You've asked that question before. I'll  
7 answer the same way. To establish his alibi, whether  
8 it was valid or not.

9 Q. Why did you not seek to establish whether  
10 his alibi was valid or not prior to arresting him?

11 MS. BARTON: Objection to form.

12 THE WITNESS: That's a misleading statement,  
13 sir. You asked why I didn't do something which, in  
14 fact, I did. I did seek to get those times prior to  
15 his arrest, I believe.

16 BY MR. SHAPIRO:

17 Q. When did you do so?

18 A. Well, I would have to look at my times. I'm  
19 sorry. I may be mistaken. I'd have to go back to my  
20 report and see if we did any time trials before the  
21 arrest. They may have been all after the arrest.

22 Q. Yeah, go ahead. Take a look.

23 Have you had a chance to review your report?

24 A. I believe I was confusing the time trials

241

1 that I did to Mike Swain's house and back prior to  
2 the arrest with the time trials I did to Alan's  
3 house.

4 Q. Okay. So you'll agree that I was, in fact,  
5 not misleading when I --

6 A. I --

7 Q. -- suggested that there -- you had not done  
8 time trials involving Bell Federal Bank prior to the  
9 arrest of Alan Beaman, right?

10 A. I believe that's a true statement, sir.

11 Q. Okay.

12 MR. BOWMAN: So what's the answer?

13 BY MR. SHAPIRO:

14 Q. Yeah, given the importance of the time  
15 trials to Mr. Beaman's alibi, why didn't you conduct  
16 them prior to his arrest?

17 MS. BARTON: Objection to form.

18 THE WITNESS: I don't have an answer to that,  
19 sir. I don't know. I don't remember.

20 BY MR. SHAPIRO:

21 Q. Whether the person you're about to arrest  
22 has an alibi is an important element of whether  
23 probable cause exists, right?

24 A. Yes.

242

1 Q. So in establishing whether probable cause  
2 exists to arrest Mr. Beaman, it would have been  
3 important to check whether he had an alibi, right?

4 A. Yes.

5 Q. And in determining whether he could have  
6 made the calls from his house after Bell Federal Bank  
7 was an important aspect to determining whether he had  
8 an alibi, correct?

9 A. Yes.

10 Q. While we're on the topic of probable cause,  
11 what do you think probable cause means?

12 A. Probable cause means sufficient evidence to  
13 believe that an individual committed a particular  
14 crime.

15 Q. And when you're considering whether there's  
16 probable cause as to whether individual A committed a  
17 crime, is it also important to consider whether there  
18 is evidence suggesting that individual B committed a  
19 crime?

20 MR. DiCIANNI: I'll object, form of the  
21 question.

22 MS. BARTON: I'll join.

23 THE WITNESS: The fact that criminal B could  
24 commit a crime does not necessarily take away the

243

1 evidence facing criminal A.

2 The amount of evidence against Alan Beaman  
3 indicating that he committed this crime was not --

4 MR. DiCIANNI: I think that's it. You  
5 answered it.

6 MR. SHAPIRO: Well, Tom, that's coaching.  
7 Let him finish the answer.

8 MR. DiCIANNI: That's not coaching.

9 BY MR. SHAPIRO:

10 Q. Were you finished answering the question?

11 A. Yes.

12 Q. What a surprise.

13 Before arresting individual A, wouldn't you  
14 want to ensure yourself that the person who committed  
15 the crime was not individual B?

16 A. Yes.

17 Q. So why wouldn't you take the possibility  
18 that individual B committed the crime into  
19 consideration when determining whether there's  
20 probable cause?

21 MS. BARTON: Objection to form.

22 MR. DiCIANNI: Join.

23 THE WITNESS: Because when we had our meeting  
24 prior to the arrest of Mr. Beaman, there was nobody

244

1 else in the room that raised an objection that he was  
2 not the one responsible for this crime.

3 (Plaintiff's attorneys confer off  
4 the record.)

5 BY MR. SHAPIRO:

6 Q. When you're assessing probable cause against  
7 Mr. Beaman, did you consider evidence inculpatng  
8 Mr. Murray?

9 MS. BARTON: Objection to form, foundation.

10 THE WITNESS: Again, I did not handle  
11 Mr. Murray, so I don't recall the exact conversations  
12 that occurred at those meetings.

13 BY MR. SHAPIRO:

14 Q. So when the decision was made to charge  
15 Mr. Beaman, do you have any recollection of any  
16 consideration being given to the possibility that  
17 Mr. Murray committed the murder?

18 MR. DiCIANNI: Are you referring to that  
19 meeting of May --

20 MR. SHAPIRO: I'm referring to the May 16,  
21 1994 meeting in which the decision was made to charge  
22 Mr. Beaman.

23 MS. BARTON: Indication by anyone? Object to  
24 the form, vague.

245

1 THE WITNESS: Sir, I don't remember  
2 individual comments that were made. But what sticks  
3 out in my mind of that meeting was it was the final  
4 meeting before the day of arrest for Alan, and  
5 everybody present was in unison to effect the arrest  
6 of Mr. Beaman and charge him with the murder of  
7 Jennifer Lockmiller.

8 BY MR. SHAPIRO:

9 Q. So my question -- and I think this is a yes  
10 or no question -- is: Did you in any way consider  
11 evidence against Mr. Murray in making an assessment  
12 as to whether there was probable cause to arrest  
13 Mr. Beaman?

14 MR. DiCIANNI: Objection now. Asked and  
15 answered and speculation. He's already testified --

16 MS. BARTON: I'll join and add --

17 MR. DiCIANNI: He's already answered that  
18 question.

19 MS. BARTON: -- form and foundation.

20 THE WITNESS: As I just stated, in that  
21 meeting I do not recall the exact comments that were  
22 made, the exact conversation. I just remember in that  
23 meeting there was no objection to the fact that Alan  
24 was the man that committed the homicide of Jennifer

246

1 Lockmiller --

2 BY MR. SHAPIRO:

3 Q. And you remember no comments made about --

4 THE COURT REPORTER: I'm sorry. I'm sorry.

5 I can't get both of you at the same time.

6 MR. SHAPIRO: Fair enough. I'm sorry.

7 THE COURT REPORTER: I got Jennifer

8 Lockmiller. That's all I heard.

9 THE WITNESS: Jennifer Lockmiller's death.

10 I do not remember the exact conversation that  
11 took place, sir. That was 19 years ago.

12 BY MR. SHAPIRO:

13 Q. I understand you don't remember the exact  
14 conversation. My question is: Do you remember any  
15 consideration being given to Mr. Murray when the  
16 decision was made to arrest Mr. Beaman? I believe  
17 that is a yes or no question.

18 MS. BARTON: Objection to form.

19 MR. DiCIANNI: Well, I'll object to the  
20 question.

21 THE WITNESS: I don't believe it's a yes or  
22 no question. I have the same answer I gave you the  
23 last two times. I do not remember the individual  
24 conversation or comments that were made at that

247

1 meeting.

2 BY MR. SHAPIRO:

3 Q. You remember no comments about Mr. Murray?

4 MR. DiCIANNI: Objection.

5 THE WITNESS: I do not remember any comments,  
6 individual comments made at that meeting.

7 BY MR. SHAPIRO:

8 Q. You have no recollection of yourself giving  
9 any consideration to Mr. Murray?

10 MR. DiCIANNI: Same objection.

11 THE WITNESS: I have no recollection of  
12 individual comments made at that meeting.

13 BY MR. SHAPIRO:

14 Q. That wasn't the question. The question was  
15 do you have any recollection of yourself considering  
16 the evidence against Murray when the decision was  
17 made to arrest Beaman?

18 A. I do not remember that, sir.

19 Q. Okay. One of the pieces of evidence, if you  
20 want to call it that, indicating probable cause that  
21 you mentioned earlier was the 28 calls made from  
22 Jennifer Lockmiller to Mr. Beaman, right?

23 A. Yes.

24 Q. I'm not sure I understood you the first

248

1 time. Could you explain for me how that contributes  
2 to a finding of probable cause against Mr. Beaman?

3 A. You asked what in my mind led to my reason  
4 believing that he was responsible for the murder, and  
5 I explained to you that they had broken up between 16  
6 and 18 different times according to Alan's statements  
7 to me.

8 In such a relationship, if she's reaching  
9 out to him 28 times in one night to get back  
10 together, that would -- the natural conclusion would  
11 be him driving down the next day and responding to  
12 those 28 calls that she attempted to reach him.

13 Q. Why would the natural conclusion from  
14 someone calling 28 times be driving two hours to go  
15 and see them?

16 A. Because the pattern was fight, break up, one  
17 apologizes, get back together; fight, break up, one  
18 apologizes, get back together. In this case, they  
19 had fought, they broke up. We believe she may have  
20 been calling to try to apologize. He states that she  
21 called wanting him back. That was in one of the  
22 statements that he made, and his comment was, I told  
23 her to forget it.

24 So it follows the pattern of what they had

249

1 done before, fight, break up, apologize, want them  
2 back, get back together. To me that indicated that  
3 he would have a desire to come back and see her again  
4 after she's made 28 attempts to reach him.

5 Q. But if she calls him 28 times and then he  
6 says essentially, I'm no longer interested, how does  
7 that indicate that he wanted to get back together  
8 with her?

9 A. That's if you believe his statement to us  
10 that he told her he's no longer interested. I don't  
11 believe that statement.

12 MR. BOWMAN: What evidence?

13 BY MR. SHAPIRO:

14 Q. What evidence do you have to doubt the  
15 veracity of that statement?

16 A. An entire collection of letters showing his  
17 infatuation for her.

18 Q. Oh, you mean letters from 1992?

19 MS. BARTON: Objection, form --

20 THE WITNESS: They are undated, sir.

21 MS. BARTON: -- and foundation.

22 THE WITNESS: The fact that he's gotten back  
23 together with her 17 prior times or 15 prior times,  
24 depending on which number you want to go with, this

250

1 was a common pattern between the two of them.

2 So for him to say after she called him and  
3 wanted him back that he was not interested and he was  
4 walking away was hard for me to believe.

5 BY MR. SHAPIRO:

6 Q. And when you say that the -- in response to  
7 my comment that the letters were undated, are you  
8 saying that he lied when he testified, referring to  
9 Mr. Beaman, that those letters were from 1992?

10 A. I'm not saying he lied, sir. I'm simply  
11 saying the letters were undated. I don't recall his  
12 testimony on that day, and I'm not saying whether he  
13 lied or not. I'm just making a statement the letters  
14 were undated.

15 Q. What efforts did you make to ascertain the  
16 date of those letters?

17 A. I don't recall.

18 Q. Did you ask Mr. Beaman the dates of those  
19 letters?

20 A. I don't recall.

21 Q. Did you ask any of Jennifer Lockmiller's  
22 close friends whether they could identify when the  
23 letters were sent?

24 A. I don't recall.

1 Q. Do you have any reason to doubt Mr. Beaman's  
2 testimony that almost all of those letters were sent  
3 in 1992?

4 A. I have reason to believe -- reason to doubt  
5 many things that Mr. Beaman said.

6 Q. That wasn't my question. My question was:  
7 Do you have any reason to doubt Mr. Beaman's  
8 testimony that virtually all of those letters to  
9 Lockmiller were sent in 1992?

10 A. Yes.

11 Q. And what is that reason?

12 A. Because he lied to me on many other  
13 important things such as the fact that he didn't go  
14 to Bell Federal, such as the fact that he didn't make  
15 any phone -- I'm sorry. The fact that he went  
16 straight home. I misstated.

17 When I asked him if he went anywhere, he  
18 said, no, I went home. He didn't tell me about the  
19 bank. That's a lie through omission. I asked him if  
20 he made any phone calls when he got home. He said,  
21 no, I didn't make any phone calls.

22 There were a number of inconsistencies. And  
23 if he's lied to me once, then I have a reason to  
24 believe that he's lying on other issues as well.

252

1 MR. DiCIANNI: Let me just say I want to  
2 object to what's going on in the corner over there  
3 where people are making faces and gasping and making  
4 different gestures in reaction to some of the  
5 testimony. I think that's inappropriate at a  
6 deposition.

7 THE WITNESS: It's very distracting.

8 MR. DiCIANNI: And I want to take a break to  
9 confer for a second.

10 MR. BOWMAN: I don't -- I don't mean any  
11 disrespect to you, Mr. Freesmeyer. You know, there  
12 are obviously different opinions about the  
13 significance of all this, and I don't mean any  
14 disrespect to you.

15 MR. DiCIANNI: Thank you.

16 THE VIDEOGRAPHER: Off the record, 4:25.

17 (Whereupon, a break was taken,  
18 after which the following  
19 proceedings were had:)

20 THE VIDEOGRAPHER: Back on the record, 4:35.

21 BY MR. SHAPIRO:

22 Q. Why do you think Alan Beaman -- strike that.  
23 What evidence do you have to support your  
24 view that Alan Beaman lied to you about the Bell

253

1 Federal Bank as opposed to simply not remembering  
2 immediately having gone to the bank that day?

3 A. Because in early September, his attorney,  
4 Bill Beu, sent -- or made a call to Bell Federal  
5 asking for a copy of the tape. Therefore, I know his  
6 attorney was aware of that video.

7 And so when asked several times, did you go  
8 anywhere else that day, he would have been aware of  
9 that. And so his lie was through omission --  
10 omission. Excuse me.

11 Q. Your testimony is that you asked him  
12 specifically where were you on August 25 as opposed  
13 to during the week of the murder?

14 A. I asked about the entire week.

15 Q. Uh-huh. And the omission was  
16 forgetting that he -- strike that.

17 The omission was not mentioning that he had  
18 gone to the bank at some point that week?

19 A. That's correct. Actually, he was asked  
20 several times if he had done anything that day.  
21 It -- just leave it at that.

22 Q. The 28 calls suggests that -- well, strike  
23 that.

24 There was evidence that Beaman was not

254

1 interested in getting back together with Lockmiller;  
2 was there not?

3 MS. BARTON: Objection, form.

4 THE WITNESS: Not that I'm aware of.

5 BY MR. SHAPIRO:

6 Q. Beaman had gone out of town and been in Ohio  
7 for a period after breaking up with Lockmiller,  
8 correct?

9 A. He did leave to go to Ohio for a while, yes.

10 Q. Uh-huh. There had been a call in which Alan  
11 said that Jennifer wanted to get back together with  
12 him, and he was not interested, correct?

13 MS. BARTON: Objection to foundation.

14 THE WITNESS: That was Alan's version of how  
15 that conversation went.

16 BY MR. SHAPIRO:

17 Q. And that was consistent with his parents'  
18 understanding of that conversation based on what Alan  
19 told them immediately after the conversation, right?

20 MS. BARTON: Objection to foundation.

21 THE WITNESS: I don't know anything about the  
22 conversation between he and his parents.

23 BY MR. SHAPIRO:

24 Q. You don't have -- you don't have any

255

1 recollection of Alan's parents stating that he had  
2 told them prior -- immediately after a conversation  
3 with Lockmiller that she was interested in getting  
4 back together but he was not?

5 A. No, sir.

6 MS. BARTON: Objection, foundation.

7 THE WITNESS: I don't remember that.

8 BY MR. SHAPIRO:

9 Q. When you were discussing your view that  
10 there was probable cause to arrest Mr. Beaman, you  
11 discussed evidence that you think suggested a motive  
12 to kill her, right?

13 A. Yes.

14 Q. How is that evidence different from evidence  
15 indicating a bad break-up?

16 A. I don't understand your question, sir.

17 Q. Well, not everyone who has a bad break-up  
18 has a motive to kill their ex, right?

19 A. I guess that would be a fair statement, yes.

20 Q. Okay. So what made Alan Beaman different?

21 A. Well, he had a past history of breaking into  
22 her apartment thinking that Mike Swain was in the  
23 apartment. He had a history of going through her  
24 garbage looking for evidence that she was cheating

256

1 with somebody else. He stated in his letters that he  
2 was incredibly jealous. There were numerous  
3 indications of his jealousy and his rage that he  
4 would go into when finding out that she was  
5 potentially sleeping with somebody else or having  
6 sexual relations with somebody else. That's not  
7 always common in any break-up. That was a very  
8 violent --

9 Q. When did Mr. Beaman learn that  
10 Jennifer Lockmiller was having sexual relations with  
11 Mr. Swain?

12 MS. BARTON: Objection to foundation.

13 THE WITNESS: That's a very good question. I  
14 don't know.

15 BY MR. SHAPIRO:

16 Q. Well, he knew it at the time that he walked  
17 in on a night when Lockmiller was with Swain, right?

18 MS. BARTON: Same objection.

19 THE WITNESS: He had suspicions that  
20 Mike Swain was having a relationship with Jennifer.  
21 When he busted the door in, he didn't see Mike in  
22 there. According to the statements, Mike was hiding  
23 in the closet underneath one of her dresses, so he  
24 didn't see Mike at that time.

257

1 BY MR. SHAPIRO:

2 Q. So you don't think at that point he knew  
3 that there was a sexual relationship between Swain  
4 and Lockmiller?

5 A. My answer is I don't know exactly when he  
6 found out about the relationship between Mike and  
7 Jennifer.

8 Q. What do you think he inferred from the fact  
9 that Swain was, as you just stated, hiding in the  
10 closet behind dresses?

11 A. I'm sorry. Say that again.

12 Q. What do you think Mr. Beaman inferred from  
13 the fact that Mr. Swain was standing in the closet  
14 behind dresses when he walked in?

15 MR. DiCIANNI: Objection, form of the  
16 question, speculation.

17 MS. BARTON: I'll join.

18 THE WITNESS: I don't know what his inference  
19 would be, sir.

20 BY MR. SHAPIRO:

21 Q. He might have attached no significance to  
22 the fact that Mr. Swain was in the -- was hiding in  
23 the closet; is that what you're saying?

24 MR. DiCIANNI: Same objection.

258

1 MS. BARTON: I'll join.

2 THE WITNESS: I don't know exactly what he  
3 was thinking. I believe he did tell me in overhear  
4 that he had suspicion that they were romantic because  
5 he had found out later that after he broke in she was  
6 in the closet.

7 BY MR. SHAPIRO:

8 Q. So when -- when -- when do you think -- and  
9 I realize you view it as an unsubtle question, but  
10 when do you think Mr. Beaman learned there was a  
11 romantic relationship between -- strike that -- a  
12 sexual relationship between Ms. Lockmiller and  
13 Mr. Swain?

14 MR. DiCIANNI: Objection, form of the  
15 question.

16 THE WITNESS: I believe you answered the  
17 question while you asked it. I don't know at what  
18 point he realized that they were having sexual  
19 relations. He made reference to them sleeping  
20 together in the Sigma Chi basement. But as to when  
21 the point came he realized they were sleeping  
22 together, I don't know, sir.

23 BY MR. SHAPIRO:

24 Q. Is the point at which he realized that

259

1 important to establishing his motive in this case?

2 MR. DiCIANNI: Same objection.

3 MS. BARTON: I'll join.

4 THE WITNESS: It could be.

5 BY MR. SHAPIRO:

6 Q. Why is that important?

7 A. We know from the letters that Alan was a  
8 very passionate individual. And if he had discovered  
9 that, you know, recent evidence of them together, it  
10 could have fueled that passion even harder.

11 Q. But you have no idea when that would have  
12 occurred, right?

13 MR. DiCIANNI: Which -- what's that?

14 MR. SHAPIRO: The discovery of the sexual  
15 relationship.

16 MR. DiCIANNI: The knowledge? The knowledge?

17 MR. SHAPIRO: Yes.

18 THE WITNESS: No.

19 BY MR. SHAPIRO:

20 Q. Do you think that Lockmiller wanted to get  
21 together -- get back together with Mr. Beaman?

22 MR. DiCIANNI: Object, speculation.

23 MS. BARTON: Join.

24 THE WITNESS: I have no way of knowing that,  
260

1 sir.

2 BY MR. SHAPIRO:

3 Q. In discussing Mr. Beaman's motive, you made  
4 a reference to Basic Instinct. How -- how -- how did  
5 that inform your view of his motive?

6 MR. DiCIANNI: Let me object to the  
7 characterization. I don't think he said it went to  
8 motive.

9 BY MR. SHAPIRO:

10 Q. All right. Well, how -- fair enough.

11 Did the fact that Mr. Beaman watched the  
12 movie and made a reference to -- purportedly made a  
13 reference to Basic Instinct in your view constitute a  
14 piece of evidence against him?

15 A. No, sir. I found it to be a very weird and  
16 odd coincidence that he would make reference to Basic  
17 Instinct being a movie where during sex someone is  
18 stabbed in the chest.

19 Q. Uh-huh. Are you -- so you did not view it  
20 as a piece of evidence; you viewed it as weird and  
21 odd?

22 A. It was odd. I didn't view it as a piece of  
23 evidence, sir.

24 Q. If you didn't view it as a piece of

261

1 evidence, why did you tell me earlier that it was one  
2 of the bases for believing that you had probable  
3 cause against Mr. Beaman?

4 MR. DiCIANNI: I object to the form of the  
5 question. I mean, I -- go ahead.

6 THE WITNESS: I believe you asked me why I  
7 felt there was enough probable cause against  
8 Mr. Beaman, and that was one of a number of different  
9 things that I listed off that I found odd just as  
10 stating that she dug into him with every ounce of  
11 sharp silver that she had. I didn't consider that  
12 evidence either, but I found it very odd.

13 In this particular case, as you well know,  
14 there's not one smoking gun. But you have to look at  
15 the totality of everything that occurred over the  
16 entire investigation, and there were a number of these  
17 odd things that took place. And when you sit down and  
18 you start looking at them all together, it begins to  
19 build more and more and more of a case.

20 BY MR. SHAPIRO:

21 Q. Uh-huh. Well, while we're talking about  
22 there not being a smoking gun and totality of the  
23 evidence, I'm going to read to you from Mr. Souk's  
24 2004 deposition.

262

1 "Question: This was an  
2 entirely circumstantial case?

3 "Answer: It was."

4 Do you agree with that characterization.

5 A. Yes, I do.

6 Q. In his deposition yesterday, Souk testified  
7 that Lockmiller, quote, had multiple sexual partners,  
8 unquote. Would you agree with that characterization  
9 as well?

10 A. Yes.

11 Q. She liked to go to bars and meet people?

12 A. I don't know that, sir.

13 Q. You don't have any recollection of her going  
14 to bars as part of the investigation?

15 A. I don't remember, sir.

16 Q. Would you agree that Jennifer Lockmiller  
17 drank a lot?

18 A. I read in my police report where Alan or  
19 Mike did not want to get involved with her,  
20 Mike Swain, because of her alcohol use.

21 Q. So you think she drank a lot, right?

22 A. Yes, I believe that's true.

23 Q. Did she frequently use drugs?

24 A. There are several reports that she used

263

1 drugs frequently, yes.

2 Q. Uh-huh. And she drank and did drugs with  
3 multiple different people, some of whom she met  
4 casually?

5 A. I don't know about the "met casually," but I  
6 know she drank and did drugs with several different  
7 people.

8 Q. Did your investigation exclude the  
9 possibility that some drifter or unknown sexual  
10 partner was the murderer?

11 A. I don't know, sir.

12 Q. Can you recall anything that was done to  
13 exclude the possibility of an unknown sexual partner  
14 or drifter being the murderer?

15 A. At the time, I felt we did everything we  
16 could in the case to look at the evidence, to look at  
17 prints, to look at DNA statements, swabs, whatever.  
18 The door was not broken into. There was no forced  
19 entry into the apartment. There was telltale signs  
20 of things that Alan had done.

21 And, therefore, I don't recall that we made  
22 a widespread effort to look for drifters or homeless  
23 people in the area. At least I didn't, sir.

24 Q. And you have no recollection of anyone

264

1 making a widespread effort to look for drifters who  
2 might have been the murderer?

3 A. I don't recall that that was done.

4 Q. Uh-huh. And would you say the same with  
5 regard to unknown sexual partners? In other words,  
6 there was no widespread effort to exclude the  
7 possibility of an unknown sexual partner had been the  
8 murderer?

9 A. I don't know, sir.

10 Q. Did you speak to the regulars at the bars  
11 that Jennifer Lockmiller would visit in connection  
12 with the investigation?

13 A. I did not, sir, and I don't know if anybody  
14 else did.

15 Q. Did you or anyone else involved in the  
16 investigation attempt to canvas everyone that  
17 Jennifer Lockmiller knew or had encountered recently?

18 A. I don't believe we canvassed everybody that  
19 she knew. She was a college student. She attended  
20 classes with a number of different people. She  
21 worked at the Vidette, V-i-d-e-t-t-e. I can't say  
22 that we canvassed everybody that she knew and  
23 everybody that she came in contact with.

24 Q. Did you attempt to speak with everyone she  
265

1 worked with at the Vidette?

2 A. I don't know, sir. I did not personally.

3 Q. And you don't know if the investigation did  
4 that --

5 A. That's correct.

6 Q. -- as a whole. Uh-huh.

7 As part of the investigation, were lists  
8 of the other students who had classes with  
9 Jennifer Lockmiller obtained?

10 A. I don't recall. I recall in my police  
11 report speaking with her professors, and I believe I  
12 might have obtained a roster of the classes that she  
13 was currently in; but I don't recall for sure.

14 Q. Was the purpose of obtaining that roster to  
15 verify her attendance in that class?

16 A. Yes, it was.

17 Q. Okay. Was any -- having obtained that  
18 roster, was any effort made to contact the other  
19 people on the roster?

20 MS. BARTON: Objection to form.

21 THE WITNESS: I don't remember, sir.

22 BY MR. SHAPIRO:

23 Q. Separate from that roster, we were just  
24 speaking about that roster previously, but do you

266

1 recall any effort being made to speak with all of the  
2 individuals that Jennifer Lockmiller had in her  
3 classes?

4 MS. BARTON: Objection to form and  
5 foundation.

6 THE WITNESS: I don't remember, sir.

7 BY MR. SHAPIRO:

8 Q. You talked about bars -- patrons of bars  
9 earlier, but was any effort made to speak with the  
10 bartenders that the bars where Lockmiller frequently  
11 was?

12 MS. BARTON: Same objection.

13 THE WITNESS: I don't remember, sir.

14 BY MR. SHAPIRO:

15 Q. Were any efforts made to locate anyone that  
16 Lockmiller encountered during the period of mental  
17 health treatment?

18 MS. BARTON: Objection, form and foundation.

19 THE WITNESS: I don't remember anything about  
20 mental health treatment.

21 BY MR. SHAPIRO:

22 Q. So you don't remember any effort being made  
23 to track down anyone she might have met during a  
24 period of mental health treatment?

267

1 A. I don't remember that.

2 Q. Do you remember any efforts being made to  
3 track down and speak with people Lockmiller met  
4 during a period she spent at a rehabilitation clinic?

5 A. I don't remember that either, sir.

6 Q. Earlier we discussed the evidence of a piece  
7 of the fan that was found on Ms. Lockmiller. Was any  
8 consideration given to the possibility that that fan  
9 was -- thrown on her was an indication that the  
10 murder was committed by a sociopath?

11 MS. BARTON: Objection to form.

12 THE WITNESS: I don't recall, sir.

13 BY MR. SHAPIRO:

14 Q. Was a victimology ever performed to  
15 determine the killer's likely profile?

16 A. I testified to you earlier I believe written  
17 in the report somewhere that a profiler was  
18 contacted, but I don't recall any results of that  
19 profiler. I don't even recall who met with him.

20 Q. Do you have any recollection what was done  
21 to follow up on any leads suggested by the profiler?

22 A. No, sir.

23 Q. Or any investigative angle suggested by the  
24 profiler?

268

1 A. No, sir. I don't remember anything about  
2 the profiler.

3 Q. Uh-huh. I'll represent to you that in an  
4 interview with Hospelhorn, Kelly Hamburg indicated  
5 that Ms. Lockmiller met two guys on August 24 on the  
6 street on the way between two bars and gave one of  
7 them -- or rather one of them gave her his phone  
8 number.

9 What was done to identify the two men  
10 Lockmiller met in a bar the night before the murder?

11 A. I don't know, sir.

12 Q. Would it have been important to find out who  
13 Jennifer Lockmiller met on the night before she was  
14 killed?

15 A. I -- yes.

16 Q. I'll further represent to you that in that  
17 same interview with Kelly Hamburg, Hamburg stated  
18 that an Arthur Barron did know the two individuals  
19 that Lockmiller encountered on the street on  
20 August 24.

21 Was Arthur Barron interviewed?

22 A. I don't know, sir.

23 Q. Further represent to you that Kelly Hamburg  
24 stated that she -- that Lockmiller had met an

269

1 individual from Woodstock at a bar called Spanky's.

2 Were any efforts made to determine the  
3 identify of this individual?

4 A. I don't know, sir.

5 Q. Do you know if staff at the bar were spoken  
6 to in an effort to determine the identify of this  
7 individual?

8 A. I don't know, sir.

9 Q. Do you know if customers at the bar were  
10 spoken to in an attempt to identify the iden -- to  
11 identify who this individual was?

12 A. I don't know, sir.

13 Q. I'll also represent to you that in an  
14 interview with Heidi Steinman she stated that  
15 Lockmiller met a guy at a bar on August 20 or 21st  
16 who kept calling her.

17 What was done to locate that individual?

18 A. I don't remember, sir.

19 Q. I'll represent to you that a month after the  
20 murder, there was an individual named Danny Hosey who  
21 was found with knives in his car that appeared to  
22 have blood on them.

23 Was anything done to exclude Hosey as a  
24 suspect in the Lockmiller investigation?

270

1 A. I don't remember anything about a  
2 Danny Hosey, sir.

3 Q. Okay. So you don't remember whether there  
4 was any attempt to test the substance on the knives  
5 and determine whether it was blood?

6 A. I don't remember anything about that, sir.

7 Q. Okay. And you don't remember if anyone ran  
8 a criminal background check on Hosey, right?

9 A. That's correct, I don't remember anything  
10 about a Danny Hosey.

11 Q. Okay. And those would have been -- that  
12 would have been a pretty easy to do, right, running a  
13 criminal background check?

14 MS. BARTON: Objection; form, foundation.

15 THE WITNESS: A background check is an easy  
16 thing to do, yes.

17 BY MR. SHAPIRO:

18 Q. And determining whether a substance is blood  
19 is something that's commonly done in investigations?

20 A. I don't know, sir.

21 Q. One could have determined whether the  
22 substance on the knives was blood by sending it to a  
23 lab, right?

24 A. Yes.

271

1 Q. And that lab might have yielded information  
2 about who the blood came from, right?

3 A. Speculation, sir. I don't know.

4 Q. What is the reason that blood is commonly  
5 sent to crime labs in the course of investigations?

6 A. Usually to see if it could be matched to a  
7 particular person. So when a weapon is sent, it  
8 would usually be a match that they're looking to  
9 compare.

10 Q. Uh-huh. You mentioned that you looked into  
11 DNA. What did you do when you were looking into DNA?

12 A. Can you be more specific? When did I  
13 mention that and when was I --

14 Q. Well, I believe you mentioned that earlier  
15 in the deposition. And if I'm misstating that, I  
16 apologize.

17 The question was just what was done in the  
18 course of the investigation with regard to DNA  
19 evidence?

20 A. Detective Warner would be able to answer  
21 that for you better. He handled all of our evidence  
22 and -- throughout -- on the team. I had very limited  
23 ex -- involvement in crime scene processing. I  
24 didn't even videotape them. I can't -- it was bad,

272

1 the battery was bad.

2 So all of that processing was done by  
3 Dean Kennedy from the State Police, and Dave Warner  
4 was the main contact for that.

5 Q. Would your opinion that Alan is the murderer  
6 change if you knew that the -- that a vaginal swab of  
7 Jennifer Lockmiller revealed two male seminal --  
8 seminal profiles that did not match Mr. Beaman,  
9 Mr. Swain, Mr. Murray, or Mr. Gates?

10 A. No.

11 Q. Why not?

12 A. Because of all the other evidence against  
13 Alan Beaman. I'm still convinced to this day that  
14 he's responsible for that homicide.

15 Q. If there were semen that matched another  
16 individual, would it not be important to investigate  
17 who that individual was?

18 MS. BARTON: Objection --

19 MR. DiCIANNI: Object, form of the question.

20 MS. BARTON: Join.

21 THE WITNESS: Yes.

22 BY MR. SHAPIRO:

23 Q. And is that something that could change your  
24 view of Beaman's guilt?

273

1 A. No.

2 MR. DiCIANNI: I'll object, speculation.

3 MR. SHAPIRO: Let's take a break.

4 THE VIDEOGRAPHER: Off the record, 4:55.

5 (Whereupon, a break was taken,  
6 after which the following  
7 proceedings were had:)

8 THE VIDEOGRAPHER: Back on the record, 5:08.

9 BY MR. SHAPIRO:

10 Q. Mr. Freesmeyer, did Mr. Souk advise you in  
11 any way as to how probable cause might be developed  
12 against Mr. Beaman?

13 A. I don't recall, sir.

14 Q. Did he issue any recommend -- did he give  
15 any recommendations with regard to the investigation  
16 of Mr. Beaman?

17 MS. BARTON: Objection to foundation as to  
18 time.

19 THE WITNESS: I don't recall, sir.

20 BY MR. SHAPIRO:

21 Q. You were the person who was in charge of  
22 investigating Mr. Beaman, right?

23 A. In the later stages, yes -- yeah, yes, from  
24 the very beginning, yes. Sorry.

274

1 Q. So -- and as the person who was in charge of  
2 investigating Mr. Beaman and who had numerous  
3 conversations with Mr. Souk, you don't recall whether  
4 Mr. Souk ever made a recommendation with regard to  
5 the investigation of Beaman, right?

6 A. I'm --

7 MR. DiCIANNI: Let me make an objection. You  
8 know, we did this whole thing this morning about what  
9 recommendations Souk made and didn't. I'm not  
10 going --

11 MR. SHAPIRO: Your -- so it's an asked and  
12 answered objection?

13 MR. DiCIANNI: Yeah.

14 MR. SHAPIRO: I understand the objection.

15 MS. BARTON: Join the objection.

16 THE WITNESS: I'll have to change what I said  
17 just a moment ago. I said he did not make  
18 recommendations. He did. One I can remember is  
19 during the trial, he asked me to go up and do some  
20 more time tests based on what was being disclosed  
21 during the trial. So there were occasions where he  
22 would say, "This is something we need to follow up  
23 on," and I would follow up on it.

24

275

1 BY MR. SHAPIRO:

2 Q. But you just stated that you were in charge  
3 of the investigation of Beaman specifically from the  
4 very beginning?

5 A. Yes.

6 Q. And --

7 A. Well, the original contact with Mr. Beaman  
8 was with Tony Daniels and Rob Hospelhorn. So to say  
9 that I was responsible from the very beginning would  
10 not be accurate.

11 Q. Okay. Shortly into the investigation, you  
12 became in charge of --

13 A. When --

14 Q. -- investigating Beaman, right?

15 A. When he returned to campus, then it was  
16 switched to me because he would not talk to Daniels  
17 anymore.

18 Q. Uh-huh. So there was a long period of time  
19 prior to the charges being made against Mr. Beaman in  
20 which you were the person in charge of investigating  
21 him, right?

22 A. Yes.

23 Q. If Souk had a recommendation with regard to  
24 investigating Beaman prior to filing of charges, who

276

1 would he have gone to?

2 MS. BARTON: Objection to form and  
3 foundation.

4 THE WITNESS: Again, he may have come to me.  
5 He may have gone to Frank Zayas. I don't remember  
6 exactly, sir.

7 That's contrary to what I answered before.  
8 You asked me if he had made any recommendations, and I  
9 said no. He may have made recommendations to me, or  
10 he may have made them to Frank Zayas.

11 BY MR. SHAPIRO:

12 Q. Prior to charging?

13 A. Yes.

14 Q. Was Stacey Gates excluded as a suspect in  
15 the Lockmiller murder?

16 A. Yes, he was.

17 Q. How was he excluded?

18 A. By going to his place of employment and  
19 speaking with his employer. And he was in class or  
20 at his employer's place during the time that we  
21 identified as the window of opportunity for her  
22 death.

23 Q. Uh-huh. And when you say his employer, you  
24 mean the principal of the school where he was a

277

1 teacher, right?

2 A. I believe so.

3 Q. Would a principal have been able to verify  
4 Mr. Gates's presence at the school throughout the  
5 entirety of a workday?

6 A. I don't know, sir.

7 MR. DiCIANNI: Objection, speculation.

8 MS. BARTON: Join.

9 BY MR. SHAPIRO:

10 Q. Is it your general understanding that as a  
11 principal, the principal is in class observing what  
12 teachers are doing throughout the entirety of the  
13 school day?

14 MS. BARTON: Objection to foundation, form.

15 THE WITNESS: I don't know, sir, if that  
16 principal was observing him all day or not.

17 BY MR. SHAPIRO:

18 Q. Is it your understanding that it would be a  
19 normal thing for a principal to do, to observe  
20 teachers throughout the entire day?

21 MS. BARTON: Same objection.

22 THE WITNESS: That would not be a normal  
23 thing.

24

278

1 BY MR. SHAPIRO:

2 Q. Do you recall indicating in your report  
3 anywhere that the teacher monitored Mr. Gates's  
4 presence throughout the entire day?

5 MS. BARTON: Objection to form.

6 THE WITNESS: I don't recall documenting that  
7 anywhere.

8 BY MR. SHAPIRO:

9 Q. Uh-huh. Did you obtain Gates's class  
10 schedule indicating when in the day he had classes  
11 and when he had breaks?

12 A. I don't remember, sir.

13 Q. If you did, would it have been in the  
14 record?

15 A. Most likely, but I can't say. It's been too  
16 long ago, sir.

17 Q. Did you ask Mr. Gates's fellow PE teachers  
18 whether Gates asked him to cover any of his classes  
19 on August 25?

20 A. I don't know, sir.

21 Q. Do you recall having a conversation with  
22 anyone at the school where Gates taught other than  
23 the principal?

24 A. I don't recall that, sir.

279

1 Q. And you were the person principally  
2 responsible for investigating Gates's alibi, right?

3 A. I don't know, sir. I believe Dave Warner  
4 may have shared in that. I don't remember exactly.

5 Q. You were the person who went to the school  
6 to investigate his alibi, right?

7 A. I believe that's in my police report, sir.

8 Q. So that's a yes?

9 A. Yes, I believe -- if it's in my police  
10 report that I went, then yes.

11 Q. Were you able to foreclose the possibility  
12 that Gates left the Harrison School for a period of  
13 the day on August 25?

14 A. Would you restate that question, please?

15 Q. Uh-huh. Were you able to foreclose the  
16 possibility that Gates left the Harrison School for  
17 part of the day on August 25?

18 A. I'm sorry, but I'm going to ask you to  
19 repeat that one more time without using the word  
20 foreclose.

21 Q. We'll say eliminate instead.

22 A. All right. Thank you. Please.

23 Q. Were you able to eliminate the possibility  
24 that Gates left the Harrison School for a period on

280

1 August 25?

2 A. I felt that I had sufficiently, yes.

3 Q. How did you do that?

4 A. I don't remember exactly, sir.

5 Q. You don't recall doing anything other than  
6 speaking to the principal, right?

7 A. Again, I don't recall exactly, sir.

8 Q. Direct your attention to Exhibit 18. Is  
9 Exhibit 18 the document you obtained from the school  
10 regarding Mr. Gates's presence during the week of the  
11 murder?

12 A. I don't remember if I obtained this or if  
13 somebody else did, sir.

14 Q. I can direct you to this portion of your  
15 report if you'd like me to, but let me just read it  
16 to you, and you can let me know if it's necessary.

17 A. Okay.

18 Q. It says: Ms. Perkins pulled the weekly  
19 attendance sheets for that week and made a copy for  
20 our investigation.

21 A. Okay.

22 Q. You can see the signature here is Perkins?

23 A. Yes.

24 Q. So would you agree with me that Exhibit 18  
281

1 is the document that you obtained regarding  
2 Mr. Gates's presence in school during the week of the  
3 murder?

4 A. Okay. Yes, yes, I will.

5 Q. This document suggests that the principal  
6 had to verify the attendance of 34 teachers  
7 throughout the week, right?

8 A. That's what it indicates, yes.

9 Q. Uh-huh. And it would appear from the manner  
10 in which this form is filled out that the principal  
11 marked "present" for the 24th and then drew a line  
12 through the rest of the week indicating the presence  
13 of the teachers throughout the entire week, right?

14 A. I believe so.

15 Q. Uh-huh. And that would suggest that the  
16 principal filled out this form all at once with  
17 regard to attendance during the entire week. Is that  
18 a fair inference the way this document's filled out?

19 MS. BARTON: Objection to foundation.

20 THE WITNESS: I can't answer that, sir. I  
21 don't know. I don't know how she filled it out.

22 BY MR. SHAPIRO:

23 Q. Well, you see there's a "P" with a line  
24 through all the dates filled out there, right?

282

1 A. Yes.

2 Q. To me, at least, that very clearly indicates  
3 that someone didn't check off attendance on a daily  
4 basis but wrote a "P" and then a line in one sitting.  
5 You agree with that characterization?

6 MR. DiCIANNI: Object, speculation.

7 THE WITNESS: Again, I don't -- I don't know  
8 if she did that in one sitting, sir.

9 I would agree with you there's a "P" there  
10 and there's a line there; but whether she did all that  
11 at once, I don't know.

12 BY MR. SHAPIRO:

13 Q. Regardless, the document indicates that the  
14 teacher had to monitor the attendance of 34 teachers  
15 throughout the week, right?

16 A. At least 34.

17 Q. At least 34, right?

18 A. Yes.

19 Q. And you would agree with me that it would be  
20 abnormal for a principal to monitor the presence of  
21 34 people continually throughout the day, right?

22 MS. BARTON: Objection to form, foundation.

23 MR. DiCIANNI: I object to form.

24 THE WITNESS: Could you repeat your question  
283

1 again, sir?

2 MR. SHAPIRO: Uh-huh.

3 MR. BOWMAN: Just rephrase it --

4 BY MR. SHAPIRO:

5 Q. Uh-huh. It would be impossible for a  
6 principal to verify the presence throughout the  
7 entire school day of 34 people, right?

8 MR. DiCIANNI: Same objection.

9 MS. BARTON: Same objection.

10 THE WITNESS: I'm sure there's ways that they  
11 have of making sure their teachers are there. If a  
12 teacher is going to go and the teacher has students in  
13 the classroom, then obviously somebody is going to  
14 have to be in that classroom.

15 What we're looking at is a payroll form, and  
16 I'm assuming that the school is going to have some  
17 other way of verifying that a teacher is there, either  
18 in the presence of a substitute if they're not or some  
19 sort of a leave slip that would be submitted if the  
20 teacher was not there.

21 BY MR. SHAPIRO:

22 Q. I think we're talking past each other.

23 A. Okay.

24 Q. I'm not suggesting that the principal failed

284

1 to verify that the teachers were present at some  
2 point during each of the days indicated on this  
3 attendance sheet.

4 What I'm asking you is it would be  
5 impossible for the principal to continually monitor  
6 the presence of 34 people throughout the day, right?

7 A. Yes.

8 MS. BARTON: Object to form and foundation.

9 MR. DiCIANNI: Yeah, I join.

10 BY MR. SHAPIRO:

11 Q. That was a yes, right?

12 A. Yes.

13 Q. Okay. Do you remember an individual  
14 named Rob Curtis who was looked into as part of the  
15 Lockmiller homicide investigation?

16 A. I remember the name from reading through  
17 statements and other items preparing for this  
18 deposition, but I couldn't tell you anything about  
19 Mr. Curtis.

20 Q. You have no recollection of anything  
21 regarding Mr. Curtis beyond his name?

22 A. Not independently, sir.

23 Q. Well, you mentioned that you've reviewed

24 documents in preparation for your deposition, so I'm

285

1 not just asking you for your independent  
2 recollection. I'm asking you whether you have any  
3 knowledge as you sit here today about Rob Curtis?

4 A. I know somewhere in the documents that I've  
5 read over the last three days, I believe there was a  
6 name Ron Curtis or Rob Curtis.

7 Q. Let me direct your attention to Exhibit 32.  
8 Exhibit 32 is a -- 154 pages of documents primarily  
9 relating to Rob Curtis's prior charges in connection  
10 with the torture and killing of cats.

11 Do you know if these documents were ever in  
12 the Beaman investigative files?

13 A. I don't --

14 MS. BARTON: Object to the form.

15 THE WITNESS: -- know, sir.

16 BY MR. SHAPIRO:

17 Q. Have you ever seen these documents before?

18 A. You have to give me a moment to look at  
19 them.

20 Q. Oh, yeah. Please, please. Take a ...

21 A. Can you tell me which agency this came from?

22 Q. Yes, it came from the Town of Normal.

23 A. There's an investigator, Michael Metzler,  
24 here. I don't know a Michael Metzler.

286

1 Q. I'm not saying that all of the reports were  
2 originally prepared by the Town of Normal. I believe  
3 what your -- my understanding of your question was  
4 where did these documents come from? They were  
5 produced to us by Mr. DiCianni.

6 A. Okay. Thank you.

7 Q. Yeah.

8 A. I guess what I'm asking, the police reports  
9 that I'm looking at, sir, what agency are these from?  
10 Is this Urbana, Illinois?

11 Q. Yeah. I believe they're from Champaign if  
12 memory -- if memory serves, but they were provided in  
13 this case.

14 A. I think it's Urbana. There's a --

15 Q. Okay.

16 A. -- U in front of the case number.

17 Sir, I don't recall ever seeing any of these  
18 documents before.

19 Q. Uh-huh. Were any of these documents in  
20 the -- do you believe that there were any documents  
21 related to cat torture by Robert Curtis in the  
22 Lockmiller investigative files?

23 MS. BARTON: Objection, form.

24 THE WITNESS: I do not recall.

287

1 BY MR. SHAPIRO:

2 Q. Were you ever -- do you have any  
3 recollection of Robert Curtis's -- Rob Curtis's  
4 history of torturing cats?

5 A. No, I do not.

6 Q. Are you aware of any connection between  
7 Rob Curtis and John Murray other than the fact that  
8 they were both investigated in connection -- strike  
9 that.

10 Are you aware of any connection between  
11 Rob Curtis and John Murray other than the fact that  
12 they were both connected to Jennifer Lockmiller --

13 MR. DiCIANNI: I'll --

14 BY MR. SHAPIRO:

15 Q. -- one way or another?

16 MR. DiCIANNI: -- object to assuming that  
17 something hasn't been established at all.

18 MS. BARTON: I'll join the objection.

19 THE WITNESS: As I mentioned earlier, I  
20 remember seeing Curtis's name somewhere in the items I  
21 read, but I have no independent recollection of him at  
22 all.

23 BY MR. SHAPIRO:

24 Q. Do you have any explanation of why documents

288

1 regarding Rob Curtis and John Murray would be  
2 intermingled in the Normal Police Department's files?

3 MS. BARTON: Objection, form and foundation.

4 THE WITNESS: No, I have no idea.

5 BY MR. SHAPIRO:

6 Q. Okay. The point at which Zayas retired was  
7 December of 1994; is that correct?

8 A. I believe it was end of November or 1st of  
9 December 1994.

10 Q. Okay. And up until the end of November or  
11 December of 1994, Zayas was your supervisor in the  
12 Lockmiller homicide investigation?

13 A. Zayas, yes.

14 Q. Zayas. I'm sorry.

15 A. That's okay.

16 Q. That was a yes, right? He was a  
17 supervisor --

18 A. Yes, he was my supervisor.

19 Q. Okay. Let me direct your attention to  
20 Exhibit 30.

21 You testified earlier that you wrote one  
22 long police report throughout this case, right?

23 A. Yes, sir.

24 Q. Okay. And Exhibit 30 or -- is the first 24  
289

1 pages of the report as it was written by you; is that  
2 correct?

3 A. It appears to be, yes.

4 Q. Okay. And the date and time indicated on  
5 the first page and the last page at the bottom,  
6 September 14, 1993, would indicate the date when this  
7 portion of the report was prepared; is that right?

8 A. No, it would have been when it was  
9 submitted.

10 Q. When it was submitted?

11 A. Yes.

12 Q. Okay.

13 A. It would have been prepared on an ongoing  
14 basis as the investigation unfolded.

15 Q. Uh-huh. So this portion of the report was  
16 submitted to Lieutenant Zayas on September 14, 1993,  
17 right?

18 A. I would assume that what it's -- I don't  
19 have an independent recollection of exactly when it  
20 was submitted to him, but it would make sense that it  
21 was on 1138. I don't know for sure.

22 THE COURT REPORTER: It was on 1138?

23 THE WITNESS: I'm sorry. September 14 of  
24 '93.

290

1 BY MR. SHAPIRO:

2 Q. If you turn to Exhibit 31, that is the  
3 next portion of your report that was signed by  
4 Lieutenant Zayas, right?

5 A. It would appear to be.

6 Q. Uh-huh. And the September 24, 1993 date on  
7 Plaintiff's Exhibit 31 indicates that it was  
8 submitted to him at that date, right?

9 A. I would -- I would assume so, yes.

10 Q. Okay. Now, I'll represent to you,  
11 Mr. Freesmeyer, that these two portions of your  
12 report are the only ones that we've received with a  
13 signature from Lieutenant Zayas.

14 Can you -- is there any explanation as to  
15 why Lieutenant Zayas would not have signed your  
16 reports after September 24, 1993?

17 A. I have no idea, sir.

18 Q. Did you submit reports to him after  
19 September 24, 1993?

20 A. I believe I did. I can't say for sure, but  
21 that would have been the standard practice was to  
22 submit reports through him as my supervisor.

23 Q. Let's go back to Exhibit 3.

24 MS. BARTON: 3?

291

1 MR. SHAPIRO: 3, yes.

2 BY MR. SHAPIRO:

3 Q. Plaintiff's Exhibit 3 is a 54-page version  
4 of your report, correct? 51-page version of your  
5 report?

6 A. I believe so, yes.

7 Q. On the second to the last page bears Bates  
8 number AB 305. You see the date indicated is July 1,  
9 1994?

10 A. Yes, sir.

11 Q. What does the date indicate on this report?

12 A. Well, I would assume that it indicates when  
13 that report was submitted to Lieutenant Zayas.

14 Q. Uh-huh.

15 A. I don't recall as I sit here if the computer  
16 automatically changed the date each time we logged  
17 in. You know how some word processors will  
18 automatically update certain fields --

19 Q. Uh-huh.

20 A. -- when you open them up? I don't recall if  
21 that was the case, or if I had to go down and  
22 manually change the date before I submitted that. I  
23 simply can't recall.

24 It would seem that that would have been the  
292

1 date that I submitted this report.

2 Q. Uh-huh. And -- and -- and this report would  
3 have been prepared after the reports that we looked  
4 at earlier in exhibits -- I believe it was 30 and 31,  
5 right?

6 A. Yes, because the page number is higher in  
7 sequence.

8 Q. All right. If -- if -- if Zayas was still  
9 supervising your work in the investigation up until  
10 November or December of 1994, why -- why would he not  
11 have signed a report that you apparently submitted on  
12 July 1, 1994?

13 MR. DiCIANNI: Objection, foundation.

14 THE WITNESS: I don't know, sir.

15 BY MR. SHAPIRO:

16 Q. Okay. And you have no explanation  
17 whatsoever why that might be the case, right?

18 A. No, sir.

19 Q. Mr. Freesmeyer, have you ever been  
20 disciplined in any way in connection with your  
21 professional activities?

22 A. In preparation for this testimony, I  
23 reviewed some disciplinary reports that were provided  
24 to my attorney from the Normal Police Department.

293

1 Q. Uh-huh.

2 A. So there were some letter of reprimands that  
3 I received.

4 Q. What letters of reprimand did you receive?

5 A. There was a letter of reprimand, I believe,  
6 because I didn't fully support the fact that patrol  
7 officers should be entering pawn shop reports, and it  
8 should have been the job of the detective division.  
9 I had a different perspective on whether that was a  
10 patrol function or CID function at the time.

11 I believe I was -- I received a letter  
12 because during a altercation with a custody who  
13 continued to fight with us, we used OC spray on that  
14 custody. Rather than putting our hands on him and  
15 having to fight with the individual, we sprayed him  
16 with OC to subdue him. And the administration felt  
17 that was not an appropriate decision, so I was  
18 disciplined for that.

19 There were a couple others. I can't recall  
20 as I sit here, sir. They were insignificant to me,  
21 quite honestly.

22 Q. The others were insignificant to you?

23 A. Quite honestly, I couldn't remember any of  
24 them until my attorney showed them to me.

294

1 Q. Can you remember any others as you sit here  
2 today?

3 A. Not without -- not without looking at them,  
4 sir.

5 Q. Uh-huh. You said that you administered OC  
6 spray to an individual rather than putting your hands  
7 on him?

8 A. Yes.

9 Q. Why would you have had to put your hands on  
10 him if you didn't use OC spray?

11 A. He was in custody. We were trying to get  
12 him into the squad car, if I remember the incident  
13 correctly, and he was continuing to fight us. And so  
14 the only other option was to physically grapple with  
15 him where somebody could be hurt or spray him with  
16 OC. If my memory serves, I believe that's what it  
17 was referring to.

18 Q. Was he handcuffed at the time?

19 A. I believe he was.

20 Q. Was that there a policy in effect on  
21 pepper-spraying or OC spraying individuals who have  
22 been handcuffed?

23 A. Evidently there must have been because I  
24 believe that's what I was disciplined for, sir.

295

1 Q. You're aware that the administration of OC  
2 spray can cause tears, pain, and temporary blindness?

3 MR. DiCIANNI: Object to foundation.

4 THE WITNESS: I've been sprayed with OC  
5 spray, sir. It does bring pain and it does bring  
6 tears and it's hard to see for a brief period of time.

7 BY MR. SHAPIRO:

8 Q. Uh-huh. You're aware that in some cases  
9 it's even been linked to death?

10 MR. DiCIANNI: Objection, lack of foundation.

11 THE WITNESS: I'm unaware of that, sir.

12 MR. SHAPIRO: Do you want to mark this as  
13 Exhibit 42, please.

14 (Whereupon, Freesmeyer Deposition  
15 Exhibit No. 42 was marked for  
16 identification, CML.)

17 BY MR. SHAPIRO:

18 Q. Exhibit 42 is the memorandum you received in  
19 connection with the incident where you administered  
20 OC spray to a handcuffed individual that you were  
21 just describing; is that right?

22 A. Yes, this is what I was referring to.

23 Q. Now, I believe you stated that beyond what  
24 you testified to just now, the other incidents in

296

1 which you've been disciplined were insignificant to  
2 you; is that right?

3 A. They weren't significant enough that I  
4 remembered them, sir. I don't mean to make light of  
5 them, but they weren't things that resulted in time  
6 off or major injury to anyone.

7 Q. Do you remember once being reprimanded in  
8 connection with an unlawful arrest?

9 A. You would have to give me the specifics of  
10 it -- of the incident, sir.

11 Q. So you don't remember offhand being --

12 A. I don't.

13 Q. -- disciplined in connection with an  
14 unlawful arrest?

15 A. No, I don't.

16 Sir, while reviewing with my attorney last  
17 night, there was an incident where an individual  
18 failed to give -- what we failed -- believe failed to  
19 give a real name. I believe that's the incident  
20 you're referring to. When you mentioned unlawful  
21 arrest, that jogged my memory.

22 We arrested an individual because we  
23 believed he was trying to evade arrest on a  
24 situation. Is that the incident you're referring to?

297

1 Q. I believe it is.

2 And let's mark this as Exhibit 43, I  
3 believe.

4 (Whereupon, Freesmeyer Deposition  
5 Exhibit No. 43 was marked for  
6 identification, CML.)

7 BY MR. SHAPIRO:

8 Q. Is Exhibit 43 a copy of the letter of  
9 reprimand that was issued in connection with the  
10 incident you were describing regarding an unlawful  
11 arrest?

12 A. Yes, sir.

13 Q. And it was determined in this incident that  
14 you arrested an individual without probable cause; is  
15 that right?

16 A. Would you give me a moment to finish reading  
17 it, sir?

18 Q. Uh-huh.

19 A. I'm sorry. Sir, please repeat your  
20 question.

21 Q. My question was is this the incident --  
22 strike that.

23 Is this a letter of reprimand issued in  
24 connection with your arresting an individual

298

1 unlawfully without probable cause?

2 A. Yes. At this time I was mistaken on the  
3 policy for obstructing a peace officer, and I  
4 believed he was giving a false name to avoid arrest  
5 for a situation that occurred, an armed robbery we  
6 were investigating. And his significant other  
7 produced a driver's license showing that he was not,  
8 in fact, lying to us; and, therefore, the handcuffs  
9 were removed.

10 Q. Uh-huh. So just to cut to it, I mean, this  
11 is an incident in which you arrested someone who is  
12 innocent and in an arrest for which you lacked  
13 probable cause, right?

14 A. Yes.

15 Q. Okay.

16 (Plaintiff's attorneys confer off  
17 the record.)

18 BY MR. SHAPIRO:

19 Q. Have you been disciplined or counseled  
20 previous to receiving this letter of reprimand in  
21 regard to other unlawful arrests?

22 A. I do not recall any, sir.

23 Q. Directing your attention to the second page  
24 of the exhibit which is -- bears Bates number DEF 99?  
299

1 A. Yes, sir.

2 Q. Do you see the line that begins "I have  
3 exercised"?

4 A. Yes. I've read the statement, sir.

5 Q. Uh-huh. And that reads: I have exercised  
6 progressive discipline on numerous occasions in the  
7 past and feel this case warrants reprimand before it  
8 being issued, right?

9 A. Yes, sir.

10 Q. Okay. What numerous occasions in the past  
11 are being referred to here?

12 A. I have no memory of that, sir. I don't  
13 know.

14 Q. Is it possible that you had made unlawful  
15 arrests in the past that did not result in formal  
16 discipline?

17 A. I do not know, sir. I don't remember any.

18 Q. And, in fact, you had not remembered this  
19 incident until my question about an unlawful arrest  
20 jogged your memory, right?

21 A. That's correct, sir.

22 Q. Mr. Freesmeyer, we can continue to go  
23 through this report by report if you want to, but  
24 really the question that I want to ask you -- and I

300

1 think we've reviewed the same disciplinary records.

2 Was there a clustering of disciplinary  
3 reports against you in the late 1990s?

4 MR. DiCIANNI: I'll object to what --  
5 vagueness of the question, lack of foundation. I  
6 don't know what a clustering means.

7 THE WITNESS: I'm unfamiliar of a clustering.  
8 I've got plenty of time if you'd like to go through  
9 that.

10 MR. SHAPIRO: Let's do it that way.

11 Let's mark these all at once.

12 (Whereupon, Freesmeyer Deposition  
13 Exhibit Nos. 44 through 47 were  
14 marked for identification, CML.)

15 BY MR. SHAPIRO:

16 Q. The easier way to do this, Mr. Freesmeyer,  
17 was for you to have Exhibits 43 through 47 in front  
18 of you.

19 A. Okay.

20 Q. Okay.

21 A. Sure.

22 Q. All right. Exhibit 43, which is the OC  
23 spray incident that we -- no. I'm sorry.

24 Exhibit 42.

301

1 A. Could you give me a moment to read these?

2 Q. Oh, yeah, yeah. Please.

3 A. Okay, sir.

4 Q. Okay. So Exhibit 42, the OC spray incident,  
5 you were talking about before, right?

6 A. Yes, sir.

7 Q. And that occurred in 1998, right?

8 A. Yes, it did.

9 Q. Exhibit 43 is letter of reprimand in  
10 relation to the arrest without probable cause that we  
11 were talking about before, right?

12 A. Yes.

13 Q. And that's dated 1997?

14 A. Yes.

15 Q. Exhibit 44 is a letter of reprimand that was  
16 issued in 1999, right?

17 A. Yes.

18 Q. Exhibit 45 is a counseling memorandum that  
19 was issued to you in July of 1998, right?

20 A. Yes.

21 Q. Exhibit 46 is a letter of counseling issued  
22 to you in 1995, right?

23 A. Yes.

24 Q. And Exhibit 47 is an email of counseling

302

1 dated 1999 and sent to you, right?

2 A. Yes, sir.

3 Q. Okay. So all of these events occurred  
4 between 1995 and 1999, correct?

5 A. Yes.

6 Q. And you had begun working at the Normal  
7 Police Department in 1990, correct?

8 A. Yes.

9 Q. Okay. And between 1990 and 1995, were you  
10 disciplined?

11 A. I don't recall any discipline during that  
12 time.

13 Q. Uh-huh. And between 1995 and 1999, you  
14 received all disciplinary reports that we just ran  
15 through, correct?

16 A. Everything that you showed me, yes.

17 Q. Uh-huh. Why is it, Mr. Freesmeyer, that you  
18 began to receive these disciplinary reports beginning  
19 in 1995 and continuing through 1999?

20 A. Because in 1995 I was assigned to patrol as  
21 a midnight shift watch commander; therefore, all  
22 responsibility for everything that happened on the  
23 midnight shift fell on my shoulders.

24 As a supervisor, my area of responsibility

303

1 was much broader than it was as a detective. So most  
2 of -- many of these things that you see, like the OC  
3 usage of handcuffs subject, I was there because I was  
4 a supervisor, and I got disciplined because I made  
5 the decision as the supervisor on duty.

6 The incident of the armed robbery and  
7 arresting the guy for unlawful arrest, again, I was  
8 the supervisor, and I made a decision as the  
9 supervisor; and, therefore, I was responsible for the  
10 results that happened.

11 The letter of reprimand about duties of pawn  
12 shop entry, this came because I had already set up a  
13 process within the detective division while I was  
14 there to receive all of these pawn shops  
15 electronically to be sent to the shop. They could be  
16 downloaded in one in file and nobody had to enter  
17 this stuff.

18 But because CID failed to continue on that,  
19 they put that upon patrol. And I wrote a letter that  
20 obviously showed my frustration that there was a  
21 process in place, they weren't following it, so it  
22 put more work on patrol shoulders. That's why I  
23 received that.

24 The request for overtime radar training, the  
304

1 only excuse I have there is I incorrectly filled out  
2 an overtime slip.

3           The letter of counseling from  
4 Captain Clingon is a much longer story. At this  
5 particular point, there were two captains or two  
6 people that were put into a captain's position for  
7 six months each on a trial basis, and whoever did the  
8 best out of those two six months periods got the  
9 captain's position. So you had two people that were  
10 vying for a position and doing everything they could  
11 to show what a good captain they were.

12           I was in charge of the detectives at the  
13 time, February 16 of '95. Actually, I had been  
14 preparing for the trial for Beaman. My hands were  
15 full.

16           Clingon came to me and said you need to do  
17 this, this, and gave me a whole stack of things. And  
18 I turned to him and told him: There is no way that I  
19 can get these things done. I have too much on my  
20 plate, and I cannot finish it. And I remember his  
21 response to me. His response was: You'll figure out  
22 a way. And he turned around and he walked away. And  
23 when I was unable to complete all of these items, he  
24 gave me a letter of counseling for not finishing.

305

1           On the shift vacancy, I -- there's an  
2 apology in here. I took full credit for this that I  
3 simply forgot to post a vacancy. It was covered by  
4 Paul Smith. So, again, that had to do the fact that  
5 I was a supervisor, and my responsibility was to fill  
6 that vacancy and I didn't.

7           So the reason that I had more dis -- more  
8 write-ups from 1995 to 1999 is because at that point  
9 I was a supervisor and responsible for an entire  
10 shift, sir.

11          Q. And you didn't address in your answer the  
12 unlawful arrest and the OC spray, right?

13          A. Yes, I believe I did answer that. Again, I  
14 was a supervisor in this scenario --

15          Q. Which -- which -- which exhibit are you  
16 referring to?

17          A. I'm looking the 42, the OC spray.

18                So as a supervisor, I was called to that  
19 scene when they had an arrest and they had a  
20 combative subject. I believe that's how that went.

21                And so as a supervisor, it would have been  
22 my decision to use the OC; and, therefore, it was my  
23 responsibility.

24          Q. Did you physically administer the OC spray

306

1 in this case?

2 A. I don't recall, sir.

3 Q. You don't recall this incident at all, OC  
4 spraying a handcuffed individual?

5 A. I remember the parameters of it, but I can't  
6 remember if I sprayed him, if the other officers  
7 sprayed him. I can't even tell you who was there  
8 with us.

9 Q. So you remember it was necessary to  
10 pepper-spray this guy in order to prevent a physical  
11 altercation, but you have no idea whether you  
12 pepper-sprayed him; is that your testimony?

13 A. Two or three times.

14 Q. That wasn't my question. My question was  
15 I -- why do you remember the fact that it was in your  
16 view necessary to pepper-spray this guy because he  
17 was putting up a fight yet have no recollection as to  
18 whether you were the person who pepper-sprayed him?

19 MR. DiCIANNI: Objection, speculation.

20 THE WITNESS: I believe I just answered that.  
21 In my five years on the street, I only used my pepper  
22 spray two or three times. It was not something that I  
23 did on a daily or a weekly basis, so I remember the  
24 times that I used it.

307

1 I used it once on two people fighting in a  
2 parking lot that were drunk and I was by myself. I  
3 used it here on this subject because he continued to  
4 fight with us. And I used it one other time in trying  
5 to subdue somebody that was confronting us.

6 BY MR. SHAPIRO:

7 Q. Okay. So you do remember personally  
8 pepper-spraying this individual?

9 A. I don't remember if I used -- if I sprayed  
10 the person or if the person that I was with sprayed  
11 the person.

12 When I say use pepper spray, I was in the  
13 presence where pepper spray was used. This was not  
14 something that was done continuously. So I remember  
15 that this individual is handcuffed. He was fighting  
16 us. And so instead of laying our hands on the  
17 person, we pepper-sprayed him.

18 Sir, I don't remember right now as I sit  
19 here whether I administered the OC spray or if the  
20 person that I was with administered the OC spray.  
21 I'm sure it would probably say if we were to look at  
22 the report. I'm sure I wrote a police report about  
23 that.

24 Q. Just so the record is perfectly clear, you

308

1 don't recall whether you pepper-sprayed this person,  
2 but you do recall that they were putting up a fight,  
3 correct?

4 MR. DiCIANNI: Objection, asked and answered.

5 THE WITNESS: I've already answered that  
6 question, sir.

7 BY MR. SHAPIRO:

8 Q. And is that answer yes?

9 A. I don't remember which one of us sprayed us  
10 {sic}. It could have been me. It could have been  
11 the other officer. I don't remember, but I remember  
12 the reason why we sprayed him, and that was because  
13 he was fighting us still.

14 Q. And your contention is that -- the fact that  
15 you were a supervisor explains why you received this  
16 particular disciplinary in connection with using  
17 pepper spray in 1998?

18 A. The fact that I was a supervisor, I had  
19 ultimate responsibility for this incident; and,  
20 therefore, I would have been disciplined for it.  
21 It's possible, as I indicated to you, that I may have  
22 been the one spraying it; and, therefore, that might  
23 have been why I got disciplined. The other person  
24 might have been spraying it, and it might have been

309

1 upon my approval. I really don't remember, sir. But  
2 I have a strong feeling that it was because I was a  
3 supervisor; and, therefore, I was ultimately  
4 responsible for that incident.

5 Q. How does your role as a supervisor help to  
6 explain you're receiving a letter of reprimand in  
7 connection with unlawfully arresting an individual  
8 without probable cause?

9 A. Well, it explains that as a supervisor, I  
10 was responsible for the entire shift, not just for  
11 myself; and, therefore, anything that happened on  
12 that shift, I typically would respond to that as a  
13 supervisor to oversee what was going on. So my  
14 exposure to incidents got much higher as a supervisor  
15 than it did as a simple detective not supervising  
16 anyone.

17 Q. Is it your testimony that you did not  
18 personally effect the arrest of the individual  
19 described in Exhibit 43?

20 A. No, sir, I told you I don't -- I'm sorry.  
21 On 43?

22 Q. 43, the unlawful arrest.

23 A. Okay. We're changing now. We're changing  
24 from the OC to the obstructing justice.

310

1 Q. Yeah. Well, that was -- just to be clear,  
2 that was my question. The question was does your  
3 promotion to a supervisor in any way explain why you  
4 were disciplined in connection with an unlawful  
5 arrest without probable cause?

6 A. Well, my answer remains the same in this as  
7 it would have before. Because of a supervisor, this  
8 office, Officer Passini, probably would have called  
9 me to the scene and asked me what to do in that  
10 situation; and it would have been my call as to  
11 whether we arrest him or if we don't.

12 Q. You see in Exhibit 43 where it says -- and  
13 this is about two-thirds of the way down. First  
14 paragraph begins, "Sergeant Freesmeyer then  
15 arrested." Do you see where I'm reading?

16 A. Yes.

17 Q. Sergeant Freesmeyer then arrested McFarland  
18 for obstructing justice and handcuffed him.

19 A. Uh-huh.

20 Q. Are you saying that you were not the  
21 individual who made the arrest and applied the  
22 handcuffs?

23 A. I'm saying I don't remember, sir.

24 MR. SHAPIRO: Let's take a brief break.

311

1 THE VIDEOGRAPHER: Off the record, 5:54.

2 (Whereupon, a break was taken,  
3 after which the following  
4 proceedings were had:)

5 THE VIDEOGRAPHER: Back on the record, 6:02.

6 BY MR. SHAPIRO:

7 Q. Mr. Freesmeyer, earlier we were discussing  
8 the decision that was made to arrest Alan Beaman on  
9 May 16, 1994.

10 Was there anything in particular that  
11 precipitated the decision at that particular point as  
12 opposed to some other point?

13 A. Yes, he was getting ready to leave for the  
14 semester. The semester was almost over at Wesleyan,  
15 so we had continued to cover everything we could up  
16 until the people he was getting to leave; and we felt  
17 it was appropriate to effect the arrest at that  
18 point.

19 Q. And if he left, presumably he would have  
20 returned home to Rockford; is that right?

21 A. That was our -- that was probably the  
22 thought of where he would go, yes.

23 Q. Why was it important to arrest Mr. Beaman  
24 before he went to Rockford?

312



1 we did everything we possibly could.

2 BY MR. SHAPIRO:

3 Q. So the only regret that you have in  
4 connection with the investigation and prosecution of  
5 Mr. Beaman is that actions that were taken during the  
6 investigation resulted in post-conviction litigation?

7 MS. BARTON: Object to form.

8 MR. DiCIANNI: Yeah, I'll object.

9 THE WITNESS: I don't have any regrets in the  
10 investigation, sir. I thought we handled a very good  
11 investigation. I thought we did a thorough job on a  
12 case that was circumstantial.

13 You asked me today if there's anything I  
14 would have done differently. Yes, there are things  
15 that I would have done differently, but I have no  
16 regrets on the actions that we took.

17 BY MR. SHAPIRO:

18 Q. If it were in your power, would you support  
19 the prosecution of Alan Beaman today for the murder  
20 of Jennifer Lockmiller; in other words, a new  
21 prosecution?

22 MR. DiCIANNI: I'll object to that question.

23 MS. BARTON: Same objection.

24 THE WITNESS: If the County chose to

314

1 prosecute again, I would be willing to testify through  
2 the whole process again. I still believe that  
3 Alan Beaman is guilty of the murder of the  
4 Jennifer Lockmiller.

5           However, at the present time, the prosecutor  
6 is gone. Mr. Souk is no longer in place. I'm no  
7 longer in place to the police department. Most of the  
8 witnesses that we had at that point have moved away  
9 and grown up. And so in order to prosecute such a  
10 circumstantial case again 20 years later with a whole  
11 new set of people would be very, very difficult.

12 BY MR. SHAPIRO:

13           Q. Would you want to see him convicted again if  
14 it were possible?

15           MR. DiCIANNI: I'll object to that. I am  
16 going to instruct the witness not to answer that  
17 question. I think it's inappropriate.

18           MR. SHAPIRO: What's your basis for  
19 instructing him, inappropriate?

20           MR. DiCIANNI: Uh-huh.

21           MR. SHAPIRO: What do you mean inappropriate?

22           MR. DiCIANNI: It's inappropriate.

23           MS. VAN BRUNT: It's not a basis to --

24           MR. SHAPIRO: Yeah, I mean --

315

1 MS. VAN BRUNT: -- instruct him.

2 MR. SHAPIRO: You're not asserting any  
3 privilege, right?

4 MR. DiCIANNI: I think you're asking him to  
5 completely speculate. You're asking him to render an  
6 opinion. I object.

7 MR. SHAPIRO: Yeah. You're entitled to  
8 object if you want to, Tom, but are you going to  
9 instruct the witness not to answer?

10 MR. DiCIANNI: I am. I am.

11 BY MR. SHAPIRO:

12 Q. Let me ask the question again just to make  
13 the record perfectly clear on this point.

14 Would you want to see Mr. Beaman convicted  
15 again for the murder of Jennifer Lockmiller?

16 MR. DiCIANNI: I'm going to object, instruct  
17 him not to answer.

18 BY MR. SHAPIRO:

19 Q. If it were in your power today, would you  
20 pursue -- strike that.

21 If you had the authority to pursue a further  
22 prosecution of Mr. Beaman today, would you do so?

23 MR. DiCIANNI: I'll object. That is a --  
24 speculative.

316

1 Go ahead and answer.

2 THE WITNESS: That case was 20 years ago. I  
3 did, I thought, a good job on that case. I did the  
4 best I could have. I have no regrets.

5 If the State's Attorney were to come back to  
6 me and say, "We've decided to prosecute, will you  
7 testify," I would testify again just as I did before  
8 to the evidence that I knew to be true.

9 However, at this point, the Lockmillers have  
10 moved on in their life. They're quite older now.  
11 Proving this case would be much diff -- more difficult  
12 today than it was 20 years ago with a whole new set.

13 So to answer your question, I wouldn't be the  
14 one spearheading it and saying I think we should  
15 retry. But if the County decided to retry, I would be  
16 willing to testify to the same way I did before.

17 BY MR. SHAPIRO:

18 Q. Now, your lawyer instructed me -- instructed  
19 you not to answer the question as to whether you'd  
20 want to see Mr. Beaman convicted again today. I'm  
21 sure Mr. DiCianni would be -- would agree with me  
22 it's your decision whether or not to follow that  
23 instruction.

24 Do you want to follow that instruction and

317

1 refuse to answer the question?

2 A. I'm going to follow the instruction of my  
3 attorney.

4 MR. SHAPIRO: That's all I have. I may have  
5 some recross depending on your questions.

6 CROSS-EXAMINATION

7 BY MS. BARTON:

8 Q. You testified earlier when Mr. Shapiro was  
9 asking you questions that you believed that  
10 Mr. Souk's role was somewhat of a liaison. Is that  
11 the word that you used?

12 A. Yes, ma'am.

13 Q. Can you explain what you mean by liaison?

14 A. Yes. When we had questions about particular  
15 proceedings from a criminal perspective, he was one  
16 of the people that we would go to. If we needed to  
17 get a subpoena for phone records, Jim would be one of  
18 the people we would go to. If we needed to do  
19 overhears and wanted to know what do we have to do in  
20 order to do an overhear, Jim would be the person that  
21 we would go to.

22 My specialty was in investigation. It was  
23 not in criminal procedure, and that's what I meant by  
24 liaison.

318

006339

1 Q. Acting a liaison, did Mr. Souk ever tell you  
2 how to conduct your investigation?

3 A. No, ma'am.

4 Q. And you testified that in January of 1995  
5 you moved to the State's Attorney's Office?

6 A. Yes.

7 Q. What did you mean by that?

8 A. I began reporting directly to the State's  
9 Attorney's Office, and I was working out of a back  
10 room. It was an unfinished section of that floor.  
11 And I would bounce between that area and John Brown's  
12 office or meeting with Jim in his office. I really  
13 didn't have a home for those couple of months as I  
14 was working.

15 Q. What was your role?

16 A. My role was as an investigator on this case  
17 getting ready for trial, so it was pretrial  
18 investigation.

19 Q. What sort of tasks did you perform while you  
20 were stationed out of the State's Attorney's Office?

21 A. I did mileage trips, checking mileage,  
22 intercity within Rockford, to and from Rockford.

23 I prepared a number of PowerPoint slides.

24 That was before the days of PowerPoint. So I

319

1 actually spent some time at Illinois State University  
2 with their media services taking photographs of the  
3 letters and then putting that all together. It was  
4 kind of techy thing back then in 1995. It wasn't  
5 like PowerPoint today. So that took a long time to  
6 prepare those.

7 Q. What were the PowerPoint slides used for?

8 A. They were used to show the letters that were  
9 written by Alan in his own handwriting so that the  
10 jury could see the letter and see his handwriting.

11 We also used that to show the routes that  
12 were taken, the intercity routes that were measured  
13 so that they had an idea of where everybody was going  
14 and of how things were in relationship to each other.  
15 We felt that a media display would be the best way to  
16 get that across to the jury.

17 Q. Thank you for your answer, but in what  
18 proceeding, I guess, were the PowerPoint slides used?

19 A. I'm sorry. It was in the jury trial in this  
20 case.

21 Q. Okay. Thank you.

22 Did Mr. Souk ever tell you not to disclose  
23 information about the timing of the bypass route?

24 A. No, he did not.

320

1 Q. How about Mr. Reynard, did he ever tell you  
2 that?

3 A. No, he did not.

4 Q. Did Mr. Souk ever tell you not to disclose  
5 any information related to John Murray?

6 A. No, he did not.

7 Q. How about Reynard --

8 A. No.

9 Q. -- did he do that?

10 A. No, he did not.

11 Q. Did Mr. Souk tell you to ignore any leads --

12 A. No.

13 Q. -- during the investigation?

14 A. No.

15 Q. How about Mr. Reynard?

16 A. No.

17 Q. And did Mr. Souk ever tell you to leave  
18 anything out of your reports?

19 A. No, he did not.

20 Q. How about Mr. Reynard?

21 A. No, he did not.

22 MS. BARTON: Okay. Thank you.

23 MR. DiCIANNI: That's all you have?

24 MR. BOWMAN: We'll take -- do you have

321

1 questions?

2 MR. DiCIANNI: No.

3 MR. BOWMAN: Okay. We'll take a short break.

4 THE VIDEOGRAPHER: Off the record, 6:12.

5 (Whereupon, a break was taken,  
6 after which the following  
7 proceedings were had:)

8 THE VIDEOGRAPHER: Back on the record, 6:18.

9 REDIRECT EXAMINATION

10 BY MR. SHAPIRO:

11 Q. Mr. Freesmeyer, on -- you just testified, I  
12 believe, that you went to Souk with questions  
13 regarding the criminal process. What did you mean by  
14 that?

15 A. What we would need to do in order to get an  
16 overhear, for instance, to help us write up a request  
17 for a phone subpoena. Or if there were other  
18 questions such as when Alan's in my car and I'm  
19 driving him to Morton with a body wire, do I have to  
20 read him his Miranda rights, for instance. I had a  
21 pretty good idea I had to because he can't get out of  
22 the car at 65 mile an hour. But at the same time, he  
23 was not under arrest. So those types of questions I  
24 would ask Jim.

322

1 Q. Did you call him with regard to that  
2 question?

3 A. I don't recall. You asked for an example.  
4 That might be an example of something. I don't  
5 recall what I asked him in spec -- in particular.

6 Q. Uh-huh. Is the -- the quantum of evidence  
7 necessary to establish probable cause an element of  
8 the criminal process that you would consult Souk  
9 about?

10 A. It -- it would have been, yes.

11 Q. Did Souk offer suggestions to you throughout  
12 the course of the investigation with Beaman?

13 A. Yes, he would have.

14 Q. He offered advice and recommendations?

15 A. I believe --

16 MS. BARTON: Objection to form.

17 BY MR. SHAPIRO:

18 Q. Fair enough.

19 Did he offer advice?

20 A. I believe he did.

21 Q. Did he ever offer recommendations?

22 A. I believe he did occasionally, yes.

23 Q. Uh-huh. And you talked to him about the  
24 case throughout the development of the evidence,

323

1 right?

2 A. Yes.

3 Q. And throughout your investigation?

4 A. Yes.

5 Q. Uh-huh. You attended meetings with him  
6 throughout the course of the investigation, right?

7 MS. BARTON: Objection to form and  
8 foundation.

9 THE WITNESS: I've only documented two  
10 meetings that I was with him in my police report. I  
11 believe that would have been the meeting right after  
12 the event was found -- the body was found and again  
13 the day before the arrest.

14 BY MR. SHAPIRO:

15 Q. Your testimony is there are only two  
16 reports -- two -- two -- two meetings with Souk in  
17 your police report?

18 A. I told you I remember two from my police  
19 report. I don't remember how many other meetings it  
20 would have been with Jim.

21 Q. You remember whether there were meetings  
22 throughout the course of the investigation?

23 A. Yes.

24 Q. And that -- with Souk?

324

1 A. Some of them probably would have been with  
2 Jim, yes. I don't negate that.

3 Q. And you had contacts with him throughout the  
4 investigation, right?

5 A. Yes, I did.

6 Q. Did Mr. Souk give you any advice about how  
7 to write your reports in this case?

8 A. No, he did not.

9 Q. Did you consult with Mr. Souk about your  
10 reports in any way?

11 A. No, I did not.

12 Q. Did he read your reports -- did you -- did  
13 he read your report as you were writing it?

14 A. No --

15 MS. BARTON: Objection to foundation.

16 THE WITNESS: -- he did not.

17 MR. SHAPIRO: That's all I have at this time.

18 MS. BARTON: I don't have any follow-up.

19 Thank you.

20 MR. DiCIANNI: Nothing.

21 MR. SHAPIRO: Mr. Freesmeyer, thank you for  
22 your time today.

23 THE WITNESS: Uh-huh.

24 THE VIDEOGRAPHER: This concludes the video  
325

1 deposition of Timothy Freesmeyer. The time, 6:20.

2 THE COURT REPORTER: Signature?

3 MR. DiCIANNI: Reserved.

4 (Witness excused at 6:20 p.m.)

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McCorkle Litigation Services, Inc.  
Chicago, Illinois (312) 263-0052

006347

1 STATE OF ILLINOIS )

2 )

3 COUNTY OF COOK )

4

5 I, CHRISTINE M. LUCIANO, Certified Shorthand  
6 Reporter, State of Illinois, DO HEREBY CERTIFY, that  
7 pursuant to agreement between counsel there appeared  
8 before me on December 11, 2012, at 1601 Jumer Drive,  
9 Bloomington, Illinois, TIMOTHY JOHN FREESMEYER, who  
10 was first duly sworn by me to testify to the whole  
11 truth of his knowledge touching upon the matter in  
12 controversy aforesaid so far as he should be  
13 interrogated concerning the same; that he was examined  
14 and his examination was taken down in shorthand by me  
15 and afterwards transcribed by stenographic means; that  
16 the deposition is a true record of the testimony given  
17 by the witness; and that the signature of the deponent  
18 is reserved.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand this 26th day of December, 2012.

21

22 \_\_\_\_\_

23 Christine M. Luciano, CSR

24 CSR #084-004068

327

McCorkle Litigation Services, Inc.  
Chicago, Illinois (312) 263-0052

C06348

1 IN RE: Beaman vs. Souk, et al.

2

I, TIMOTHY JOHN FREESMEYER, Deponent herein,  
3 do hereby certify that I have read the foregoing  
deposition and that it is a true and accurate  
4 transcription of the questions asked of me and the  
answers given by me, with the following change(s):

5

PAGE	LINE	CHANGE	REASON
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24 TIMOTHY JOHN FREESMEYER

328

CRIMINAL DEATH INVESTIGATION

WITNESS FACE SHEET

Classification: \_\_\_\_\_ eyewitness \_\_\_\_\_ circumstances \_\_\_\_\_ motive  
\_\_\_\_\_ flight \_\_\_\_\_ medical  investigative  
\_\_\_\_\_ expert \_\_\_\_\_ identity \_\_\_\_\_ (other) \_\_\_\_\_

Name: Kelly Hamburg Male:  Female: \_\_\_\_\_  
Address: [redacted] Normal Apt No.: \_\_\_\_\_  
Date of Birth: [redacted] Age: 21 Home telephone: (209) 862-4533  
Social Security #: [redacted] Marital Status: M \_\_\_\_\_ S   
D \_\_\_\_\_ SP \_\_\_\_\_

Spouse name: \_\_\_\_\_ Address: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Home telephone: ( ) - - -  
Number of Children: \_\_\_\_\_ Names and Ages: \_\_\_\_\_

Occupation: production  
Company Name: Vidette  
Business Address: \_\_\_\_\_  
Work telephone: ( ) - - - Number of years employed: \_\_\_\_\_  
Areas frequent: \_\_\_\_\_ Place of Birth: Denville NJ

Miscellaneous information: \_\_\_\_\_

Witness knows perpetrator personally? yes \_\_\_\_\_ no   
How? \_\_\_\_\_

Did witness I.D. perpetrator? yes \_\_\_\_\_ no   
How? \_\_\_\_\_

Case #: C93-4033 Crime Classification: Homicide  
Date of Interview: 9-14-93 Interviewing Officer: Gospethon

C 1637

~~11612~~  
(1098)

C06380

AB001651

This is Detective Hospelhorn, it's Tuesday, September 14th, 1993 at approximately 2:14 p.m. We are the Normal Police Department in the middle interview room. Present with myself is Detective Tony Daniels and Mr. Kelly Hamburger Hamburg.

Rob: Mr. Hamburg, could you state your last name spelling it?

Kelly: Hamburg, H-A-M-B-U-R-G

Rob: And your first name is Kelly?

Kelly: K-E-L-L-Y

Rob: Ok, could you give me your date of birth please?

Kelly: Ah, [REDACTED]

Rob: Do you know a Morgan Keefe?

Kelly: Yes

Rob: And how do you know Morgan?

Kelly: Um, I am a good friend of hers.

Rob: Ah, Did Morgan come over to your residence on Saturday, August 28th?

Kelly: Um huh (yes)

Rob: Do you know approximately what time that was?

Kelly: Um, It was probably a little bit after 1:00 in the afternoon somewhere around there.

Rob: Ok, do you know the reason she came over?

Kelly: Yeh, well she came in I was in someone elses room, it's like an apartment kind of, she came running by and said she had to talk to me. And she came in my room and closed the door and told me what she saw.

Rob: Ok, what did she tell you she saw?

Kelly: She saw Jen dead.

Rob: Ok, is that all she said or did she say anything else.

Kelly: She kind of went into what she saw and stuff but I mean she was kind of hysterical she was kind of hard to deal with. So I sat her down and that is when we called 911.

Rob: Ok, you called from your residence at #1.

C 1638  
~~01613~~  
~~01631~~  
(1099)

C06381

AB001652

Kelly: Yeh

Rob: Ok, is there an apartment number over there that you live in?

Kelly: Room, ah, I got it, it's like a fraternity house, it's

Rob:

Kelly: yeh

Rob: Okay, and that was around 1:00.

C 1639

~~C1614~~

(1100)

C06382

AB001653

Kelly: Yeh a little after 1:00 I think it was.

Rob: Ok, was anyone else present besides you and Morgan?

Kelly: In my room, no.

Rob: Ah, was, can you describe Morgan's state of mind at the time that she come over?

Kelly: Um, when she, when she first came and looked at me I could tell something was wrong but she wasn't like freaking out or anything. But then when I got in the room she closed the door and locked it and then she started she was like crying and everthing and she was pretty hysterical.

Rob: Ok, do you know Jennifer Lockmiller?

Kelly: Yeh

Rob: And how long have you known her?

Kelly: Well, I knew her, I used to date Morgan about two years ago, and I knew her then but I hadn't seen her, I hadn't seen Morgan until like a week before that for like a year and that's when I seen Jen, I saw Jen like the Saturday but I mean I have known her but not really that well, but I have known her off and on for like three years.

Rob: You say you seen her that Saturday, would you be referring to the 21st of August?

Kelly: School started the 23rd

Rob: Correct

Kelly: Yeh

Rob: Ok, where did you see her at?

Kelly: Her and Morgan came over to my house for awhile, we sat there and then we went out to Spanky's.

Rob: So it was you Morgan Keefe and Jennifer Lockmiller?

Kelly: Um huh (yes)

Rob: Okay, did you meet anybody over at Spanky's?

Kelly: Yeh, we met some guy I don't know his name, he is a long haired guy. Um, Jen was talking to him alot, I don't really, I I was talking to Morgan about it she has told me more about it I guess he is from Woodstock or something. I, I didn't really talk to him I just saw him.

C 1640

~~1161~~

1161

C06383

AB001654

Rob: Did it appear that Jennifer knew him before that Saturday?

Kelly: No she didn't.

Rob: Do you know if Jennifer gave her address or phone number to this gentleman?

Kelly: Uh, I don't I don't know I have no idea. But we also me those two other guys on our way home. Okay, when we left Spanky's we started to walk down to like towards like the other bars downtown.

Rob: What time did you leave Spanky's?

Kelly: I would say midnight I am not really sure though.

Rob: Ok where were you going when you left Spanky's?

Kelly: We were going to go to Shanigans or Rocky's or somewhere we were on our way. And like right before Watterson like by, like right in front o the parking garage.

Rob: Okay

Kelly: We saw two guys, I I had met before once, you know I didn't really you know, I so we were talking to them for a minute and they ended up talking to her cause me and Morgan kept walking and we really didn't pay attention that she kept talking to them and everything. So we sat there for a long time we didn't really hear the conversation or anything and then we walked back up there to see what was going on and uh these uh, one of the guys gave his phone number to her but I don't think she gave hers to him cause I remember.

Rob: Do you know the names of the two guys?

Kelly: No, I know one of his names is uh, I think his name is Jeremy, I haven't seen him since then. Oh I did see him once since then once, that Tuesday night after that after that Saturday, Tuesday night we were having rush and I guess they were rushing but I don't think they came to our house, they were in the court entrance and I was on my way to work cause that is why I remember when it was it was at 8:45.

Rob: That would have been Tuesday night the 24th of August?

Kelly: Yes.

Rob: Ok, and what time was?

Kelly: At 8:45 exactly.

C 1641

© 1616 (102)

C06384

AB001655

Rob: P.M.

Kelly: Yeh, cause I was on my way to work, I was walking to work, and I saw them and they asked me, they asked me about her, they asked me how come, they asked me why she didn't call them but he was just joking around and I said I don't cause like I said I really didn't know her that well they said all right, so that's also how I figured he didn't have her phone number because he told me to have her to call him.

Rob: Ok. Did he give you the phone number and address?

Kelly: No

Rob: After how long did Jennifer talk to the two guys in front of the parking garage?

Kelly: Probably about ten minutes.

Rob: Ok, but you didn't see her give her phone number to them?

Kelly: No, they did when they were going to exchange number neither of them had a pen and Morgan had some lipstick and they wrote, he wrote his number on this piece of paper with lipstick and gave it to her and she put it in her pocket that is all I saw I don't think she gave her number to them, I am pretty sure.

Rob: After you finished talking, or she finished talking to them did they go on their way?

Kelly: Yeh, they went that way, they went towards where we had just left and then we started to head to the bars and then we realized that it was really getting late so then we started to head home too.

Rob: Ok, headed home to where?

C 1642

~~ETTT~~ (1103)

C06385

AB001656

APPENDIX 001718

Kelly: We walked to Morgan's place and Jen had her car there and I live not too far from there so I walked them home and Jen got in her car and left and then I went in Morgan's for like ten minutes and then I walked home.

Rob: Ok, approximately what time was it when Jennifer left?

Kelly: Oh, I don't, probably around 12:30 or 1:00 cause we didn't go to that bar.

Rob: A.M.

Kelly: Yeh

Rob: Did Jennifer ever talk to you that night about anybody that she was currently dating?

Kelly: Yeh, Mike

Rob: Mike, do you know his last name?

Kelly: No, I just

Rob: Did she say how long she had been dating him?

Kelly: No, not really I she said his last name I know his last name but not from her, I know his last name is Mike Swain, you know, she really didn't say much about him she just we were just on our way from walking from there she was talking about it she wasn't really talking to me I was just kind of in on the conversation. And she said that I thought he was leaving, she said something about he was staying home that night playing Uno or something and I think she said he was leaving the next day.

Rob: Did she say where he was going?

Kelly: I think he was going home, so she said that they were going to go out for breakfast or something the next day.

Rob: Did she talk to you or Morgan about anyone else that she had been seeing either currently or before?

Kelly: Not in front of me, no.

Tony: In calling your attention back to when Morgan came into your room to tell you what she discovered at Jen's apartment, um, did you ask or did she tell you how she knew it was Jennifer?

Kelly: I didn't she just told me she saw her I mean I was kind of shocked to I didn't really think, I mean I could tell by looking at her she must have seen something so I just, actually I just set her down and put a blanket around her

C 1643

C06386

et 678

(1104)

AB001657

APPENDIX 001719

and then she talked a little bit, I can't really remember her saying much of anything.

Tony: Does the name Robert Wright sound familiar to you? Could that have been the young fellow at Spanky's or could that have been one of the guys on the street that she bumped into?

Kelly: I don't recognize the name. I know, see the two guys that she met in front of the parking garage, one of them, the one I know is named Justin or Jeremy or something I think his name is Jeremy but that is not the one that she was talking to, the other guy was a shorter guy and I have no idea what his name is, but I could probably find out who they are for you guys.

Tony: What fraternity did they belong to?

Kelly: They didn't belong to any.

Tony: Ok, so that was the first time that you had met them that night?

Kelly: I had met them, they come, they know one of my friends I mean I don't really see him that much but they know one of my friends and I didn't really recognize them cause they said hi to me and I had met them like a few days before that I guess.

Tony: And who would be that friend they know?

Kelly: Um, Arthur Berron

Tony: And where does Arthur live

Kelly: I have no idea, I can find out.

Tony: Yes we would appreciate it if you would do that for us.

Kelly: I haven't seen him for like a week.

Tony: That night also at Jennifer was out with you and Morgan, uh, she had mentioned, you thought that she had mentioned that Mike Swain was back home in the apartment?

Kelly: Um huh (Yes)

Tony: Did she tell you which apartment, his, or was it her apartment?

Kelly: I I, She didn't say but I think he was staying with her, I don't know she didn't say anything about it though.

Tony: You mentioned that ah he was back, that she said he was

C 1644

21679

006387

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AB001658

back there playing Uno, do you know what Uno is?

Kelly: yeh

Tony: Ok, what is Uno

Kelly: It is a card game.

Tony: Ok, how many people have to play Uno?

Kelly: Usually two

Tony: Ok, did you inquire as to who possibly may be playing Uno with Mike?

Kelly: No, but I think he might not have been, but she wanted he was, she kept saying that she could go home and play Uno with him if she wanted so he might not have been playing Uno but I remember her saying something about it.

Tony: Oh, did ah she seem to be upset or worried about anyone or anything in particular that night?

Kelly: No she was in a good mood

Tony: Did you find it strange for her to be out with you and Morgan when her boyfriend was back home in the apartment?

Kelly: Not really

Tony: Does she do that often?

Kelly: I didn't really hang around with her alot so I don't know, yeh, I guess I understood he really didn't go out alot or anything and I don't think he was 21 either so I don't think he could I am not sure.

Rob: Kelly, is there anything else that you would like to add to this interview?

Kelly: If there are any more questions that I can answer, I really don't know a whole lot about the whole thing really. I was just kind of

Rob: The interview is now concluding September 14, 1993 at 2:25 p.m.

C 1645

~~4620~~

C06388

(11/26)

AB001659

This is Detective Daniels of the NPD, I am conducting an interview with Miss Morgan Keefe. Along in the same room is Detective Rob Hospelhorn of the NPD. This is Friday, September the 10th, 1993 and the time is 11:26 a.m.

Tony: Morgan, would you state your full name please and your date of birth?

Morgan: Morgan Keefe, I don't have a middle name and I was born [REDACTED].

Tony: And how do you spell your last name?

Morgan: Keefe.

Tony: Uh, Morgan do we have your permission to record this interview?

Morgan: Yes

Tony: This interview is in regards to a previous interview we had with you in relation to the Jennifer Lockmiller investigation. Does Jennifer normally walk to her classes or does she take her car?

Morgan: I don't know, I think she drove, but I, I wouldn't be sure because I went to Wesleyan while she was here and..

Tony: Ok, she never talked about leaving her car parked at the apartment building while she walks to class? She never mentioned it?

Morgan: No, but I, no.

Tony: When was the last time that you saw her drive her car?

Morgan: Tuesday night, that Tuesday night, before she was found I guess.

Tony: If I gave you a calendar, could you tell us what Tuesday night that would have been?

Morgan: I might, my time is just...

Tony: Ok, August 28th is when the body was discovered.

Morgan: Ok, it would have been the 24th.

Tony: Of August?

Morgan: Uh-huh.

Tony: Did uh, Jennifer express any interest in uh, Bubba or John Murray or any other man when you had talked to her the evening of the 24th of August?

Morgan: Well she had talked about Bubba um, because he was moving to Peoria for a new job and she was going to go stay with him on the 27th.

Tony: And was that the purpose of her visit to go to Peoria was to be with Bubba that entire weekend?

Morgan: Bubba? No she was just going to go Friday night and, I don't remember if she was planning to spend the night or not I guess I remember assuming she was going to spend the night and I don't know if that was my own...

C06390

C 1350  
E-1327  
(B18)

Morgan: yeh

Tony: Ok, um, when did she talk to you on Sunday the 22nd? What time of the day? Do you recall?

Morgan: We didn't talk on the 22nd.

Tony: Ok, so you saw her and talked to her on the 21st. How about the 23rd, Monday?

Morgan: No.

Tony: Ok, on the 24th, once again, you called her prior to both of you going to the movie together?

Morgan: yes.

Tony: And did she come by your apartment or did you go by hers?

Morgan: She came to my apartment, that is when I last saw her drive, cause she drove over.

Tony: Ok. So you drove in her car to the movies, is that correct?

Morgan: No we drove in my car.

Tony: And left her car at your apartment?

Morgan: yes

Tony: Ok. Do you recall hearing the name Rod? Jennifer possibly could have spoken of Rod, a fellow that she met in a bar a week or two prior to her death?

Morgan: Ok, if it's who I am thinking it is, it would have been Saturday night, when she met this guy.

Tony: And what night?

Morgan: Does he live in Woodstock? Is that who you are talking about?

Tony: That is what the reports indicate.

Morgan: Ok, that was the 21st when she and I and our friend Kelly went out. And, he was sitting at the bar, this guy, I didn't know what his name was.

Tony: Uh-huh.

Morgan: He was sitting at the bar and Jen is, Jen is kind of the queen of scamming drinks off of guys. She kind of flirts, you know, and whatever and he bought her a bunch of drinks and then he suggested going to a party afterwards. He knew, a friend or somebody was having a party and Jen didn't want to go. She just basically wanted drinks from him and then we kind of walked off and um. I didn't think anything of it cause you meet a million people in a bar, you know, and they suggest you go to a party but you probably will never talk to them again, and so I had forgotten about it until Tuesday when we went to the movie she said that that particular guy had called.

Tony: Rod?

6

C 1355

~~C 1332~~

(82)

C06394

AB001368

APPENDIX 001723

Morgan: I guess, if that is who it is? Yeh, and that he lived in Woodstock and didn't have a place to live on campus but was going to ISU and um was commuting. And then he said I am not living there but I will probably will come stay over the weekends would you want to go out sometime. And the way I understood it Jen, Jen probably kind of scurtered around the issue and avoided saying yes or no but the way understood how she felt was "no, she didn't, she wasn't interested in him".

Tony: Did she give you a name of this caller? Or did you assume it was Rod?

Morgan: She might have but I, yeh, I just know that it was the guy from Woodstock that we met at Spanky's.

Tony: Now um, you were to call her Wednesday or you did call her Wednesday which is August the 25th cause the two of you had planned to go out that night right?

Morgan: yes

Tony: Ok, where were you going?

Morgan: We hadn't talked about that yet, we were just probably going to go to the bars.

Tony: Ok, so you were just going to go out for the evening?

Morgan: yes

Tony: Ok. uh, had Jennifer ever stood you up in the past when you had plans to go out?

Morgan: No.

Tony: Ok, how many times in the past would you say that the two of you had made plans to go out and those plans came about?

Morgan: And those plans..?

Tony: Came about.

Morgan: Um, in the last what?

Tony: Since you have known her.

Morgan: Every time we made plans we would go out. I mean every, I don't remember ever making plans with her and having them fall through, and, gosh, I have known her for five years, four years, we have gone alot.

Tony: And this is the first time that she has ever stood you up?

Morgan: Yes

Tony: Ok, and you thought that to be very strange, unlike Jennifer?

Morgan: Well, I kind of assumed, she had a meeting at the Vidette that night and I thought well maybe it has just gone over. And so I, we were going to go out with a friend of mine named Matt who didn't know her..

Tony: Well this came up in the investigation. I think in your interview you indicated that uh, Jennifer perhaps, had written her phone number down on a piece of paper using your lipstick and gave it to one of the young boys whose name was Rod, do you recall saying that?

Morgan: I remember saying, I remember talking about that and I am pretty sure he wrote his phone number down and gave it to her. I am pretty sure she didn't give him her phone number.

Tony: Do you know what she did with that piece of paper?

Morgan: No.

Tony: Did she have her purse with her that night?

Morgan: Yeh, (big pause), but she probably threw it away. See the, I am pretty sure that guy's name was Rob.

Rob: Could you describe Rob?

Morgan: No, he was kind of small, kind of, he was a Freshman at ISU. But the older guy from Spanky's that bought her the drinks had kind of long curly hair, and um ...

Tony: Ok, which person had called her then?

Morgan: The one from Spanky's.

Tony: And his name is?

Morgan: I don't remember.

Tony: Could it possibly be the one from Woodstock?

Morgan: Yes, it is the one from Woodstock.

Tony: Ok, how do you know it is the one from Woodstock.

Morgan: Because Jen told me. When she told me that this guy had called her, she said the guy that I met at Spanky's and I immediately knew who she was talking about.

Tony: And did she refer to the guy that I met at Spanky's who is from Woodstock?

Morgan: Yes.

Tony: Ok. So the one that she met, one of the two that she met the 21st at the other bar which is Rocky's?

Morgan: Yeh, no we didn't, I don't think we even made it to Rocky's.

Tony: Ok, what bar would that have been?

Morgan: We were walking.

Tony: Ok

Morgan: On the sidewalk when she met the second guy.

Tony: Ok, what is his name?

CRIMINAL DEATH INVESTIGATION

WITNESS FACE SHEET

Classification:  eyewitness  circumstances  motive  
 flight  medical  investigative  
 expert  identity  (other)

Name: MORGAN KEEFE Male:  Female:   
Address: [REDACTED], Normal, IL Apt No.: [REDACTED]  
Date of Birth: [REDACTED] Age: 23 Home telephone: (309) 862-1305  
Social Security #: \_\_\_\_\_ Marital Status: M  S   
D  SP

Spouse name: \_\_\_\_\_ Address: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Home telephone: ( ) - -  
Number of Children: \_\_\_\_\_ Names and Ages: \_\_\_\_\_

Occupation: \_\_\_\_\_  
Company Name: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
Work telephone: ( ) - \_\_\_\_\_ Number of years employed: \_\_\_\_\_  
Areas frequent: \_\_\_\_\_  
Place of Birth: \_\_\_\_\_

Miscellaneous information: \_\_\_\_\_

Witness knows perpetrator personally? yes \_\_\_\_\_ no \_\_\_\_\_  
How? \_\_\_\_\_  
Did witness I.D. perpetrator? yes \_\_\_\_\_ no \_\_\_\_\_  
How? \_\_\_\_\_

Case #: C93-4033 Crime Classification: HOMICIDE  
Date of Interview: 28-Aug-93 Interviewing Officer: WARNER

C 1330

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C06412

Morgan: I have no idea, I really. She went out with me and my other friend, Heidi, who I called earlier, who would come and stay. And um, usually when we came and stayed, he wouldn't go out with us. It would just be the three of us girls would go out and so, like I said, I only met him once and I only heard about him through her.

Dave: How often had they been going out? You say you only heard about them two going out. Had they been going out for awhile, or off and on for awhile, or how would you characterize that?

Morgan: Well, she, she is the type of person that if she was going out with somebody, she wouldn't cheat on him. And he would talk her into going out with him so she didn't really cheat on him, ever.

Dave: So how long...

Morgan: So they were exclusive I guess.

Dave: had they been going out? Week? Month?

Morgan: No, they started going out while I was in Washington. No, they started going out right before I left for Washington.

Dave: What month would that have been? Do you know an approximate date?

Morgan: I left in January, I would say probably, probably in November was when I first started hearing about him. And then I heard rumors that they were engaged and whatever, and I hadn't talked to her for awhile because we've both been so wrapped up in school that I didn't, I really don't know the story, so, this is hearsay. This isn't true, maybe not. Um anyway, um she, he lived with a guy named Mike Swaine, who Jen really liked and over the summer she has been talking about how much she was looking forward to Alan going home so that she could finally spend time with Mike. And Mike is, Mike and Alan were like, opposites, from what Jen says. Alan got high all the time, probably did other stuff, was drunk, was, I didn't like him when I met him, he was really kind of gross, he was greasy. And Mike was really, um, kind of anal retentive. Like, she would talk about how he would like to play Uno all the time and he wouldn't smoke pot or do anything like that because he had a guilty conscious or whatever, and. Anyway when Alan moved home, Mike moved in with her because he didn't have a place to live. So they have been living together for the past, maybe three weeks or so.

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*(962)*

Dave: Mike and Alan have been living together?

Morgan: Mike and Jen had, Mike had moved in with Jen.

Dave: Ok.

Morgan: And um, this week he has been gone because Jen said he went home to work, I think. And so she has been living in her apartment by herself. And she likes Mike, she liked Mike, but she kind of found out that he was not her type either because, she is not like a greasy wild women or anything like that, but she smokes pot sometimes and she would get drunk and stuff and then would come home and Mike would make her feel guilty about it, so. And I haven't heard her talk about Alan for probably a couple of weeks. And I haven't asked, just cause I was glad that he was out of the picture.

Dave: When was the last time, when was the last time you saw Mike?

Morgan: I met him once at the beginning of the summer at a play at Wesleyan. It was probably in July.

Dave: You said he's, he was gone for three weeks working, er, I'm sorry, gone for a week working.

Morgan: Just this week, yeh.

Dave: How did you hear about that?

Morgan: Jen told me that he was leaving for the week.

Dave: To go where, do you know?

Morgan: I think he is from Elmhurst. I'm really not sure. Up near Chicago somewhere, he was going to come back today.

Tony: What school does uh, Mike go to?

Morgan: Wesleyan, they all go to Wesleyan except, um, I'm here now and Jen transferred here, two years ago or a year ago maybe. I think this is her second year.

Dave: How did Jen get along with Mike, other than she recently figured out?

Morgan: Well Tuesday night when we out I said to her, I said, "Well maybe you don't like him as much as you thought, maybe he is really not your type". And, um, she said "Well no, I do like him", and I said "well, what are you going to do? Are you going stay with him, or you know,

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and any problems that she might be having or anything like that? Who, does she go out, who does she hang around with, just uh, Mike when she is down here?

Morgan: I really, I, I really don't know. Like I said, cause I haven't lived here, I haven't, I haven't existed in the same place that she has.

Dave: She hasn't, Has she mentioned any other names to you like my friend so and so?

Morgan: Well, she's got a friend named Laura who is in the art department at ISU and I, I don't know her last name.

Dave: A student?

Morgan: But she is from Decatur, which is where Jen is from.

Dave: A student in the art department?

Morgan: Yeh.

Dave: Ok.

Morgan: But I don't think she talks to Laura very often, but they have been good friends since high school.

(pause, tape is shut off and then started again)

Morgan: Um, I don't know his real name, but ever since high school she dated a guy named Bubba who she broke up with.

Dave: Bubba?

Morgan: Yeh. Um, she broke up with Bubba, let's see, she was still seeing him last summer so she probably broke up with him sometime over the school year. And um, he was living at home in Decatur until she, he asked her what he needed to do to get back with her and um she said get a job cause he was kind of a bum so he just got a job in Peoria and she was going to go see him last night. So there's probably..

Dave: Ok. What do you know about Bubba? He lives in Decatur.

Morgan: Uh-huh (yes)

Dave: What about uh, the type of person he is?

Morgan: Well Jen had alot of, um, problems with anorexia through high school and through her first year of college and he was really there for her the whole time. And I don't

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think she ever really was in love with him because he wanted to marry her but um, she, she had strong feelings about him, I mean he was definitely a good friend. I don't know how much in contact they had been since he had been living at home and she had broken up with him, but I know that when he got this job in Peoria, she had told me she was going to go see him Friday night, last night.

Dave: She was going to see Bubba last night?

Morgan: Uh-huh (yes), which was also why it was weird that her car was at her apartment. That's why I was, just something wasn't right.

Dave: Where was she going to see Bubba at?

Morgan: In Peoria. Heidi, who I called, she may know Bubba's real name but I...

Dave: What's Heidi's phone number?

Morgan: Um, 219-924-FUN1.

Dave: F U N 1?

Morgan: Uh-huh (yes), F U N 1.

Dave: What were they going to do in Peoria?

Morgan: I don't know. I think she was gonna maybe help him move in or something?

Dave: This, was supposed to see him last night?

Morgan: Uh-huh (yes). Shoot, I wish I could remember his name. I know I have known it. I have only met him once or twice too.

Dave: What did you guys do on Saturday?

Morgan: When I saw her?

Dave: Yeh.

Morgan: Um, Kelly, my friend out there, Kelly, Jen, and I went to Spanky's.

Dave: Who's Kelly? Oh your...?

Morgan: Um, the guy out there.

Dave: What's his full name?

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Morgan: I don't know who's phone number was given, it might have been her phone number.

Dave: Something was written down?

Morgan: Uh, uh. (yes)

Dave: Jen wrote something down with your lipstick.

Morgan: I, I don't remember who even wrote with my lipstick, I just, one of the guys names was Rod, I think, or Rob.

Dave: Rodney?

Morgan: It might have even been me that wrote it down, I don't know, it was a week ago.

Dave: That's fine, we are just trying to get it straightened out here.

Morgan: And, um, there was another guy that we met at the bar Saturday and I don't know if she gave her phone number to him or not but he bought her four or five drinks.

Dave: Do you remember his name at all?

Morgan: Uh-uh (no), he, he lives in Woodstock, Illinois, and he has been um, commuting to ISU and, um, asked Jen if she'd, I think he called her and asked Jen if she would like to go out sometime and she said no, I think. This was all what she told me Tuesday night, she really didn't tell me what her answer was, she just said I can't believe that he called me to see if I wanted to go out with him. So, um, she probably talked to him Monday night.

Dave: Monday night?

Morgan: Uh-huh (yes).

(Detective Daniels can be heard in the background making a phone call)

Morgan: ...if Alan was ever abusive to her or not, all I know is, he would break down the door, and the fact that she screamed when I came in kind of indicated to me that he scared her.

Dave: She never said anything like he hit her? Did she ever have any bruises, well you didn't see her that often did you?

Morgan: Uh-uh (no).

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APPENDIX 001731

It is September 2, 1993 at 1:22 pm. This is an interview with Heidi Steinman

Dave: Would you state your full name please?

Heidi: Heidi Lorraine Steinman.

Dave: Your date of birth?

Heidi: [REDACTED]

Dave: And your address?

Heidi: [REDACTED], Highland Indiana.

Dave: And your phone?

Heidi: 219-924-3861.

Dave: Ok, and why are you here today?

Heidi: To tell you anything I know about Jennifer Lockmiller.

Dave: When was the last time you had contact with Jen?

Heidi: Oh, ... I talked to her on the phone on last Tuesday, ah last Tuesday at, I don't know the date.

Dave: Ok.

Heidi: Um, it was in the afternoon.

Dave: Approximately what time?

Heidi: I honestly don't know, it's like...

Dave: You know, between what times, would it be before 3:00?

Heidi: Probably about 2:00 or 3:00.

Dave: Ok, and what did you talk about?

Heidi: Um, I was supposed to visit her this weekend, um, the week of September 3rd and we were just solidifying our plans.

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(881)

it was already paid for so...

Dave: Ok, how about relationships though, you said Mike wasn't really a relationship did she have any plans or mention anyone else's name?

Heidi: Uh-uh, no.

Dave: Ok, how about Bubba?

Heidi: Bubba was an ex-boyfriend and she had no plans of getting back together with him. He always, he was always in love with her. I think he always planned on them getting married or whatever, but she was through with him about a year ago.

Dave: How about John Murray?

Heidi: She liked him. He said that if she broke up with Alan, he would break up with his girlfriend and maybe they could date again, cause they had always been dating someone and then the other one would like them and they would switch back and for and I think he broke up with his girlfriend and then, last time I talked to 'em she was like yeh, John broke up with Debbie.

Dave: Debbie who?

Heidi: She is an AOPic at Wesleyan, I don't know her last name. I think I may have met her once, but I...

Dave: Do you know if she saw John in the past few weeks, or?

Heidi: I don't know.

Dave: Would there be any other names that, ah, she had mentioned?

Heidi: I remember she said, I don't know his name, but she said she met a guy at a bar and he kept calling her, but I don't know...

Dave: Do you know when that was?

Heidi: I bet it was like August 20th or 21st, that weekend.

Dave: A bar here in Normal or somewhere else?

Heidi: Ah-huh. (yes). \*\*inaudible\*\*

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AB001433

Heidi: The last concert I knew she went to was Arrowsmith.

Dave: When was that?

Heidi: Oh, gosh, I don't even know, that was, I know it was this summer.

Dave: Ok, so several months ago?

Heidi: Yeh.

Dave: Ok

Heidi: But, yea, we usually go to concerts together.

Dave: Did she mentioned anybody new besides the guy she met at a bar that kept calling her?

Heidi: No.

Dave: Would she?

Heidi: I think so.

Dave: Did she tell you everything?

Heidi: I think so. She was, um, she had been in alot of hospitals for eating disorders and I went to one this summer, and it was the same one that she was at, so we told each other alot about that. It was like another like breaking point for us that we could trust each other more, and it brought us really close.

Dave: It is important that, you know, we hear, ah, even the bad things about her, ah, but you know? It may not be anything, but then again it might. And, ah, we understand that we don't want to, ah, you know hash out all the bad things, but if we could come across something that is important.

Heidi: To my knowledge, I don't, she didn't tell me anything about another guy, but school had started on the 23rd so.

Dave: Was she ever pregnant, do you know?

Heidi: Morgan just told me that. I, I've no clue if she ever was except, Wednesday morning, I got in town on Tuesday.

Dave: Which Wednesday are we talking about?

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AB001439

Heidi: Um, the 1st.

Dave: August?

Heidi: Yesterday, September first.

Dave: Oh, ok. Ok.

Heidi: Um, I spend the night , Tuesday and Wednesday morning I woke up and I had this dream that she had been pregnant. I don't know.

Dave: And you had talked to Morgan and she said something about that?

Heidi: No, I talked to Morgan today and she like, you had asked her if she had ever been pregnant and I just had a dream yesterday that...

Dave: So not to your knowledge?

Heidi: No.

Dave: Ok.

Heidi: I have no clue, but it, it seemed like she didn't trust alot of people and it, she was very wary and very cautious.

Dave: That's the impression we're getting, it is very difficult to find anything out about her. She would tell somebody kind of like what they wanted to know, just enough but not everything.

Heidi: Yeh.

Dave: You know.

Heidi: She wouldn't want to hurt their feelings or something or get a bad impression.

Dave: So it wouldn't be unusual for her to do something with somebody and not tell somebody else about it.

Heidi: Yeh.

Dave: Fer...

Heidi: Cause like the whole drug scene.

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Dave: What about, ah, being approved of, would that be a reason for her not tell somebody?

Heidi: I think so.

Dave: Was she, you know like...

Heidi: I think that is the basis of her eating disorder.

Dave: So, like you being the straight person, she might not tell you the things that she thinks you would disapprove of?

Heidi: All the drugs she did. Yeh, cause I mean, I know so many people that do pot I don't think it would shock me, so she wouldn't, she didn't, she would tell me that. But, that..

Dave: So she did do pot, was it often, or?

Heidi: Um, it was often last year and this summer she was tapering down, cause Mike Swain is very straight, and she, it was like "I like him and if he is straight, I am going to go straight." And she had stopped. That's what she was telling me, that she had stopped and I don't know.

Dave: Would she do something when Mike wasn't around?

Heidi: Yeh, um.

Dave: How about drinking?

Heidi: Yeh, she drank alot.

Dave: Did she have a problem with drinking?

Heidi: Um, see I don't know. Cause her freshman year, I was still in high school and I guess she drank like a fish, and that is when her anorexia was really big, and, um, then my freshman year, she was in the hospitals and then her, she came back so then our sophomore year was the same, and she would drink, but it never occurred to me that she had a problem cause she drank as much as everybody else. Not more, not really less, just an average amount.

Dave: You only saw her drink, when it was appropriate to drink?

Heidi: Right, and, um, I know she had AA books and things because, at the, cause I go to over eaters anonymous and that is what she was into and we would base our stuff on AA and they give you the AA books, but I don't know if she had the AA books because of the eating disorder hospital or if because she drank and she was trying to go into that.

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AB001441

This is Detective Daniels of the Normal Police Department, I am in the middle interview room of the Detective Division of the Normal Police Department. Present with me are Detective Rob Hospelhorn and a Mr. John Murray. This is Thursday afternoon the time is 4:15 p.m. September the 2, 1993.

Tony: John would you state your full name, your date of birth and your address please?

John: My full name is Larvi John Murray, Larvi is spelled L-A-R-V-I, and my date of birth is [REDACTED] and my present address I'm ah going to Illinois Wesleyan, it is [REDACTED] that's Bloomington, Illinois 61701.

Tony: John do you understand the reason we asked you to come down for an interview?

John: Yes I do

Tony: And what is that reason?

John: Ah, It is to ask me questions about the deceased Jen Lockmiller.

Tony: How well do you know Jennifer Lockmiller?

John: Well I used to date her actually about a say a year to two years ago and I go out with her every once in awhile. I was coming back, I was coming back to actually see her school is just starting for me in about Tuesday, cause I go to Illinois Wesleyan and school starts on Tuesday for me and Illinois State already started and I have been back home and I was coming down I was actually going to see her tonight or yesterday I was going to call her up and ask her to go to bad music night. And I just found out yesterday, my brother called me and left a message saying that Jen Lockmiller is dead I didn't believe him at first you know it really hasn't hit me yet to say you know cause I haven't I don't know that much about it yet and I missed the funeral even and my brother said the funeral was what yesterday or two days ago and I have been home the entire time and I didn't hear about it.

Tony: When was the last time that you had any contact with Jennifer what type of contact would that have been?

John: Ah she called me about ah two weeks ago, a week ago, see I can't remember because of the kind of relationship I had with her you know I used to go out with her. And then you know we were still friends after that I knew ah,

she was dating this guy named Alan Beamm right after me, she started going out with this guy named Alan Beaman for about um I don't know I guess they were dating for probably about a year or so. And both of them would come over to my place all time and you know we would party and stuff like that and I would go over there and party and we would just listen to music, you know, drink or whatever and just kind of chill every once in awhile and just kind of chill and every once in awhile I would go out to the bars with her cause she was 21 and Alan wasn't. And you know I sort of had that kind of relationship with her, I just go out and hang with her every once in awhile. And then um like lately um lately ah she started seeing I think she started seeing some guy named Swain or she was living with some guy named Swain and that's when I started losing contact with her because you know I started going back home more often and you know I live in Rockford. and I have been jumping back and forth between like jobs and stuff in Rockford and here ok, and trying to get ready for school and moving and all that and I have just been going back and forth lately and I saw her and Swain a couple times a couple weeks ago and you know and we partied together then and then the last time I talked to her though was probably maybe two weeks ago or maybe a week and half ago sometime around there. And she just called me and asked me what I was doing and you know I said you know I am getting ready to go to school and stuff and we sort of made plans oh well we are going to have to do something coming up soon and I was like well when I get back in town maybe like close to the beginning of September I will give you a call.

Tony: Is it my understanding then that you were in Rockford then when she had called you?

John: Um, yes, I was in Byron.

Tony: And where was she when she called you?

John: I think she was at her house.

Tony: Which is here in Normal?

John: Yeh, its 452-9913 I think is her phone number

Tony: Had she mentioned anything to you during that phone conversation that ah she was going or had been to California?

John: Oh, yeh yeh, she called me from California, too, she called me in California, she took a trip down to California. She just got back and she started ah living

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with Swain and I saw her after her California trip. I think I talked to her once or twice and saw her ah with Swain. Like at our business office I like met 'em they were doing something in there. Swain was getting ready to go to school at Illinois Wesleyan and they both stopped in and I talked to them in the parking lot for about a 1/2 hour.

Tony: Do you recall what day of the week that would have been?

John: Oh, summer all blends together, um I am not, I can't say for sure, it was within it was, I know it was after her California trip cause she told me a little bit about it and she went to California.

Tony: She got back from California on Thursday back to Normal on a Thursday. (John: Um huh (Yes)) which is August 19th, using that as a reference point, do you recall then when you saw her and Michael together?

John: Uh, Swain?

Tony: Yes

John: Um, probably either sometime within the next couple days. Or it had to have been, cause she called me from California on that Thursday and I think I was probably was down here that weekend. Okay, and I probably bumped into them then, see I go back and forth I mean home so much, that I am here one day, there the next day, here one day, I mean I put 3,000 miles on my car in the last couple weeks. You know I have been just driving all over the place so I can't say when for sure but I know it was maybe about two weeks ago, maybe 1 1/2 weeks ago that I saw them.

Tony: You say you saw them together is that right?

John: Yeh

Tony: And where was this that you saw them?

John: At Illinois Wesleyan, um, right outside the busienss office, there is a drive way sort of thing.

Tony: You are not sure whether it could have been a Saturday or Sunday?

John: Um, It could, I don't think it was a Sunday, cause the business office wouldn't be open. It would it could have been Friday or Saturday or even the following Monday.

Tony: What was the conversation about between the three of you?

John: Um, we just talked, you know about you know partying and you know and just we got to get together and go out and that kind of thing just general you hi kind of friend kind of conversations.

Tony: What did she talked to you about to you when she called you from California?

John: Um, I wasn't home, when she called but I got the message on the answering machine and she said hi I am in California. But then I talked to her when she got back from California and she said Oh, I called you from California.

Tony: So she had called you in California, but never reached you, she called you when she got back and then and then after she got back you ran into her and Mike, is that correct?

John: Yes

Tony: Ok, uh, did you ever visit her at her apartment when she got back from California?

John: Um, I am going to have to say I did stop by there I think once.

Tony: Do you recall when?

John; Mmm, It was I think the day after I saw them in the I think the day after I saw them.

Tony: Okay Mikey, what I am going to do, pardon me John, what I am going to do is show you a calendar, and ask you to look at the month of August 1993, the 19th being a Thursday, I do want to make a correction, she got back to Normal on the 18th, not the 19th as previously stated by myself. Would like for you to look at the month of August 1993 and try to determine ah the date that you ran into her and Mike and also the date that you visited her at her apartment in Normal, would you do that please?

John: Sure, um,

Tony: There is the 18th John that she had returned to Normal.

John: I would say it would have it was either let's see now, I went home last, I went home on the 24th. So it was either the 19th, 20th, 21st, 22nd or 23rd that I saw them and talked to them.

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Tony: Ok, when was it that you visited her apartment then?  
John: Um, it was the day after I talked to them.  
Tony: So that would have been what day then?  
John: Up to the 23rd.  
Tony: Did you go?  
John: Cause I didn't stop by on the 24th, that is when I went home.  
Tony: You went home on the 24th  
John: Um huh (Yes)  
Tony: What time did you go home?  
John: About oh about 3 in the afternoon.  
Tony: Ok, how long were you home?  
John: Um I was home, all the way til yesterday.  
Tony: Was that..  
John: I got back. Yes, I got back yesterday night.  
Tony: Yesterday night, that would have been September the 1st?  
John: Um huh (Yes)  
Tony: What time did you arrive back here in Normal?  
John: About 7:00  
Tony: P.M.?  
John: Yes  
Tony: So then you were out of the Normal/Bloomington area around 3:00 p.m. on the 24th of August which is a Tuesday?  
John: Yes  
Tony: And you did not return to this area until around 7:00 p.m. September 2nd ah, correction September the 1st which is on a Wednesday, is that correct?  
John: Uh, Yes

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C06458

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APPENDIX 001741

Tony: You last saw Jennifer in her apartment sometime on the..  
John: Sometime one of these the 19th....  
Tony: The 19th through the 24th or 23rd  
John: Through the 19th through 23rd, I thought her California trip was actually earlier though. I mean it doesn't seem like it was only two weeks away. I mean it seems like it was earlier, it seems like it was somewhere around maybe the 1st of August or something, at least in my mind.  
Tony: Ok  
John: But there again, I don't keep track of time or days during the summer  
Tony: Ok, when you visited her at her apartment do you recall what time of the day it was?  
John: It was just, just a, I just swung by and said hi for a few seconds.  
Tony: Do you do you drive?  
John: yes  
Tony: What kind of car do you drive?  
John: Uh, an 87 Pontiac Firebird, black.  
Tony: Do you know the license plate number  
John: BOLARE 4 B-O-L-A-R-E-4  
Tony: Did she ask you to come over or did you just at the spur of the moment decided to drop by?  
John: I just dropped by, cause we had talked about it the day before, you know me and Swain and her, it's like oh, you know we should drop by sometime so I dropped by by to see what was going on and  
Tony: Was she by herself?  
John: Uh, I believe at the time she was.  
Tony: How long did you stay?  
John: About ten minutes.  
Tony: And what was the purpose of the call again?

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C06459

AB001729

John: I just dropped by to see how she was doing.

Tony: Do you recall what you talked about?

John: Um, we just ah, talked about like you know partying and getting together later and you know how school you know that she was getting ready for school and all that kind of stuff. And you know ah she was basically just talking to me like as a friend. I see her about maybe my relationship with her was about I saw her maybe once every two weeks or once a week sort of thing so you know it wasn't like real imminent or real real close or real special. I mean I did go out with her a couple a year or two ago, but I mean it wasn't I mean now, it's just more like do you want to go to the bars tonight and hang for one night. And you know and I drop her off or something like that and she would like tell me how things were going and she was real excited and she had some kind of um press job with ah um, she was working for somebody that is the same maker's of life magazine, like Time Warner or something like that?

Tony: Was there any

John: She was working she was doing some kind of press thing with some Time Warner thing and she was telling me about that and how she wanted to hopefully to get a job like working for Rolling Stone because that was like her favorite magazine and she was telling me all that.

Tony: Was there anyone present there when you dropped by that day?

John: Um, I think the parking lot was pretty bare actually.

Tony: Well, was anybody in her apartment?

John: Um, no

Tony: Did you go in?

John: Um, no

Tony: Ok, you didn't go in so, therefore there could have been somebody there is that a possibility?

John: It could have been a possibility.

Tony: When was the last time that you saw her and Alan Beaman together?

John: Oh, God, Oh um, the last time I saw them together, I

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(1177)

AB001730

APPENDIX 001743

remember once instance where uh, I was over there you know like I spent the night sort of thing cause we were just up talking and drinking just real casually I mean I have got a girlfriend, but you know she was somebody that I talked to and stuff like that. And we were talking all night and this was like right when her and Alan were breaking up. And I just remember him like Kicking in the door.

Tony: How do you remember that

John: Well, I was just sitting in, we were just sitting there talking and he was knocking on the door and he just kept on knocking and she was like no don't answer it it's just Alan.

Tony: How did she know it was Alan?

John: Um, her was the only one that would drop by you know at like 3:00 in the morning and stuff like that and knock on the door and go Jen let me in, Jen let me in, tsch tsch tsch and like freak out, he was like..

Tony: Were you the only one there with her?

John: Yeh, that time

Tony: Ok, what time was it in the morning?

John: Oh, it was pretty late.

Tony: Do you recall the date?

John: No

Tony: Ok, you say

John: But I am sure the neighbors would know cause I mean every

Tony: Do you recall what time of the morning it was

John: uh, no I don't

Tony: Ok, what was the reason you were there visiting Jennifer at that time in the morning?

John: We just, we ah just went out drinking and then you know, that night, you know I went over there and we were partying a little bit and we were playing UNO or something during the night and listening to music and you know we were just talking. She liked to talk to me about you know like her relationship and just stuff like and

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you know I was just kind of a neutral pole. You know in her life that she could just like explain things to me every once in awhile. And she was just explaining you know some stuff about Beaman basically.

Tony: How would you describe Jennifer's drinking habit

John: Her drinking, well, she liked to party and she was

Tony: How often did she like to party?

John: Umm, quite alot.

Tony: Ok, what is quite alot, could be specific, once, two, five times a week?

John: Well, I would say when she was done with her school work and once she was done with everything she had to do she would like to party.

Tony: Ok, once again, how often would that be?

John: Oh, some weeks it would probably be close to every night and other weeks not at all.

Tony: How often did she use marijuana?

John: Um, I don't know, probably once in awhile. I guess.

Tony: Ok, how often is once in awhile?

John: Maybe, like again, like say drinking.

Tony: Ok

John: Maybe sometimes she would do it alot, other times she wouldn't do it all.

Tony: Ok, what ah kind of state of mind was she in when she would be drinking heavily and using marijuana?

John: Um, well she would be pretty horny, but I mean, not only horny but she would just be fun. I mean not to the point like where she is just horny and sleeping with everybody, but she would be just really fun. She was like a real down to earth girl that you could just pretty much, you know, be mellow with she liked the Door's and stuff like that and you could just pretty much chill with her.

Tony: In your opinion what led to the break up of Alan and Jennifer?

John: Um, Jen really didn't like him.

Tony: Why did she date him then?

John: Well she was dating him, but she would she kept on telling me that she wants to get out of it, Alan is psycho and stuff like that and she just wanted to get out of the relationship but she didn't know how.

Tony: Was he supplying her with her marijuana?

John: I am not sure where she got the marijuana from.

Tony: Did you ever witness both of them smoking marijuana?

John: Well, I witnessed alot of people smoking marijuana.

Tony: Ok, did you ever witness those two people smoking marijuana?

John: Oh, yeh, I witnessed those two smoking marijuana.

Tony: How frequent?

John: Um, well when we party you know alot of times there would be marijuana there I am not sure where it came from there or anything it was just there.

Tony: You don't know where Alan would get his marijuana?

John: No I don't

Tony: Did you see either one of them ah indulge in the use of any other type of drugs?

John: Um, maybe once in a while, they might trip or something.

Tony: Ok, who would?

John: The party there might trip or something.

Tony: Ok, did you

John: Well, I have seen I've seen them party before, it's not a big deal.

Tony: Do you know where Alan got his supply of drugs?

John: No I don't.

Tony: Did he seem to be supplying Jennifer with the drugs?

10

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John: I am not sure, they just, they would just have marijuana every now and then and I would help them smoke it and so I mean I know that they smoke marijuana because I would smoke it with them.

Tony: How about LSD?

John: Uh, that was a little more infrequently, I would say I had tripped with both of them maybe once.

Tony: Once

John: Since I have known them, yeh, so but I know that they probably have done it more than what I know about it.

Tony: Do you recall the last time you saw Alan and Jennifer together?

John: It was before Swain I see, my time periods are messed up but I would say probably before the California trip. I mean judging by what you say here I would say maybe the 10th of August or so it was the last physical time Alan went back to Rockford.

Tony: Do you know when he went back to Rockford?

John: Sometime at the beginning of August.

Tony: Ok, how do you know that?

John: Cause Jen told me, she was like I can't wait Alan is going to be out of here soon. And then she moved in with Swain.

Tony: Ok, she said she can't wait Alan will be out of here pretty soon meaning she can't wait for Alan to leave?

John: Well see, she always see she still liked me so she always flirted with me and made everything seem alot worse than probably what it is. Cause she still wanted to still go out with me and she was everytime she was around Alan, myself, she would always blow off Alan and you know act flirt with me sort of thing and that would make Alan sort of pissy and stuff but he would make Jen, Jen would always flirt with me.

Tony: When was the last time you can really honestly say you saw Alan and Jennifer together?

John: Beginning of August

Tony: Okay, you said ah Alan went back to Rockford at the beginning of August, did you see him return from Rockford and down here in Normal with Jennifer?

John: I haven't been in, I haven't been in Bloomington/Normal that much and I think the whole month of August, I saw Jen like twice?

Tony: Ok,

John: Now, months ah, like last school year I saw her all the time but that.....

Tony: But did you see Alan and Jennifer together after he went home to Rockford,

John: No

Tony: Did you see them together down here?

John: No, I saw only Jennifer and Swain together. During the month of August both times, I saw her or talked to her there was something dealing with Swain there.

Tony: How long have you known Alan?

John: Oh since last year, I met him basically when I met ah I met him actually at a party.

12

C 1721

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APPENDIX 001748

Tony: Where was that party?

John: Just around campus.

Tony: Ok

John: And you know it was just one of those things that we were partying and that's actually where she met, see I was with Jen originally and then Alan came into the picture. We were all partying and Alan came over in the picture too, and then Alan really liked Jen and you know I wanted to go out with someone else and you know we were still kind of flirting around at that point but were definitely broken up. And I was interested in someone else and I am like her I will set you up with...

Tony: With Jen

John: Yeh, with Jen kind of thing

Tony: So it was just fine with the both of them

John: Yeh, Yeh, so you know she started going out with Alan and stuff and she would act like she didn't like him but I think she did.

Tony: How did Mike enter the picture?

John: I don't know, Swain was just a complete surprise, all I know is Swain. See Alan used to live in apartments about a block away from me, and the couple times when ah like ah I like in July, I would go over to Alan's sometimes. Okay, and cause there would be some parties over there that he would have and when I would go over there, Swain was usually over at Alan's. So so I am taking it that Swain and Alan are friends ok, and so ah somehow they met there.

Tony: Okay, did you ever witness any of of a Alan and Jennifer's arguments or fights?

John: Yeh

Tony: Would he describe those for me please?

John: Um, well the most violent one that I saw is when Alan freaked out and kicked in the door.

Tony: Is that when you were in Jennifer's apartment?

John: Yeh, that is when I was in Jennifer's apartment.

13

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Tony: And what did he do after he kicked in the door, he just like he grabbed Jen I gotta talk to you for a second and they were just sitting there and talking and screaming at each other.

Tony: How did he grab her?

John: OH, just by the arm maybe, just like this.

Tony: Was that against her will?

John: Come here you know, yeh, but then she stood there after that like he only grabbed her for a few seconds and then they started talking and I mean he he was pretty much flipped out.

Tony: Do you think he was on drugs at the time?

John: Uh, I don't know.

Tony: Ok

John: But I know that he got pretty intense into her into their relationship, like if she would have just given him the time of day, when he was around me if she would have given him time of day, he would have just been in heaven.

Tony: What ah did you ever ever hear Jennifer speak of Alan in regards to possible Alan committing suicide if their relationship ever deteriorated?

John: I think something like I think she mentioned that once like oh, Alan says he going to kill himself and all this if if something you know if something happened between us and I don't know what he is going to do if we break up. she kept on saying that to me.

Tony: She ever say anything to you that she was afraid that maybe he would bring her harm if they were to break up?

John: She goes I don't know what he would do if he we broke up. She was scared to break for the longest time she was scared to break up with him.

Tony: For what reason?

John: She was she wasn't saying, she was just like, I'm just scared to break up with him cause I don't know what he would do, I think he would freak out way too much. Which I would agree because he would pretty much freak out.

Tony: Do you know a young man by the name of Stacy Gates

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commonly referred to as Bubba?

John: Stacy Gates, oh that ah um that's Jen's ex-boyfriend,  
that is like way ex.

Tony: Was that before you?

John: That was before me.

Tony: So you came after Bubba, Alan came after you and then Bob  
after Alan is that the way you understand it?

John: Bob

15

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APPENDIX 001751

Tony: I am sorry Mike  
John: Mike, yeh  
Tony: Is that the way you understand it  
John: That is the way I understand it  
Tony: So it was Bubba, you, Alan and then Mike  
John: Yeh  
Tony: Was there any other person that you know of for a fact?  
John: That she went out and dated?  
Tony: Yes  
John: Um, she talked about Bubba alot, you know as being her ex and as far as I know not. To the best of my knowledge, no.  
Tony: When was the last time that you had sex with Jennifer?  
John: Um, the last time I had sex with Jennifer, Uh, I guess, I am going to have to admit it was when Alan was going out with her. Probably, the night the Alan kicked in the door.  
Tony: Was that consensual sex?  
John: Uh, yeh.  
Tony: Did you ever have sex with her against her will?  
John: No  
Tony: Did you ever harm her in any way?  
John: No she was so tiny that that no.  
Tony: Did you ever get in arguments with her?  
John: No we never fought, she completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me.  
Tony: And as far as you understand that was the purpose behind the last time that she had called your house?  
John: Yes

16

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Tony: Which was last week sometime, is that correct?

John: I believe so yes.

Tony: Is there anything else you wish to say at this time John concerning your relationship with Jennifer?

John: Uh no

Tony: How about Alan's relationship with Jennifer?

John: Um, well I would seriously if I was you guys talk to Alan and find out cause I mean, in my opinion, I mean I don't want to like you know pass judgement on anybody or anything. But you know I am not saying that Alan is guilty or anything like that but I would find it kind of hard to believe, I mean, to me I have seen Alan do some weird stuff. You know like kick in the door that was pretty much, I mean, I don't think you would do that if you were normal. You know what I mean? And the way Jen was like frightened, she told me I don't how many hundreds of times that she was pretty scared to go, you know, she kept on saying that you know I don't know what he would do if I broke up with him. That is her exact words, she goes I can't wait for him to move back home so you know so I can get rid of him kind of thing, I don't know how much ah I don't what he would do if I broke up with him, he's psycho. That is what she would say. I, am like don't worry about it he is not going to do anything.

Tony: Did she ever show you or tell you of the gifts that Alan would give her?

John: Um, I think flowers and stuff like that.

Tony: Whe ever give, ah did he ever give her any stuffed toys, stuffed animals?

John: There were stuffed animals in her room.

Tony: Were those given to her by Alan or any other boys?

John: I don't ask, I mean there is just some things I mean really she didn't really want to talk to Alan when I was with her. Cause see, cause she liked me so she would pretty much ask me how my life, everytime I saw she was directing questions, like hitting on me sort of thing all the time cause she wanted to go back out with me. So we talked about Alan a little bit you know I would be like what is up with Alan and stuff like, and she would be like well, I am still going out with him but I really

don't want to but he is just so psycho if I break up with him I don't know what he is going to do. I don't know if she was saying that cause she was scared because he might kill himself or because she was scared that he might harm her, I am not sure which, she never really said anymore than that but she did say that over and over again to me.

Rob: John, I just want to reclarify a couple things that Detective Daniels had asked you. You had something earlier about that Alan was psycho?

John: yeh, well no, those were her words quote "Psycho", that is what she called him all the time. I am not passing judgement on him cause every time I was with him he was normal. But she always called him psycho, like if you asked anyone what she would call Alan it would be like oh he is psycho, those were his her words.

Rob: Did you ever hear Alan himself say that he was ah ah going to commit suicide or do any kind (John: No No) of bodily harm to Jennifer or anyone else?

John: No, I, not at all. I I talked with, the night they broke up I talked with Alan and I said you know I was like hey, maybe you guys are not right for each other you know, and so forth and so on and like tried to talk to him about it and stuff like that but he never mentioned anything about suicide or anything like that at that point.

Rob: What was his reaction the night they broke up?

John: He was he was pretty upset, I mean he was like, Alan was 100% into Jen and more than that he was just gung ho for this girl I mean I have never even seen anyone..

Rob: Can you describe his behavior as far as upset do you mean, crying, mad, ah throwing stuff?

John: He was just like really just upset, you know, I mean but this is when he was talking to me. A he was just really really upset at that point. And I am like I am trying to talk to him I am like you don't need to be that upset maybe you guys are not right for each other, you know what I mean, like things like perfect relationships don't always happen and there is always other girls out there and there is always other guys for her?

Rob: Can you describe though, was he crying or was he yelling, was he mad was he..

John: No he wasn't, he wasn't mad sort of, he was more upset like crying kind of emotionally really upset. More so

than anger like holding down like Alan you gotta control yourself, I mean I didn't have to do that.

Rob: Did you ever hear Alan accuse Jennifer of sleeping around on him?

John: Yeh, he did that all the time, he was really jealous, I mean if I was going to label someone jealous, that would be him.

Rob: And there is one more thing, you said that when you stopped by her apartment ath that the last time you had seen her that you didn't go inside there might have been possibly been somebody else there, where were you talking to her at?

John: I just talked to her in the hallway for a brief second, she said she was busy doing something, and I am like well ok, and I just talked for 30 seconds and I am like I am going home, you know the next day or whatever and I'll see you when you get back when school starts again and then we will go out and go to bad music night and soforth and so on.

Rob: Where did ah Jennifer like to hang out around town as far as music spots and so o?

John: I would say her house.

Rob: DId she like to go out to any particular bars, certain bars?

John: Yeh, she'd go out, you didn't mention a name, which kind of strikes me as kind of odd, Mike Bowen, that is her best friend, like in the whole world.

Tony: John you mentioned the name Mike Bowen, would you spell his name, would you spell his last name?

John: B-o-w-e-n, I believe

Tony: And who is Mike?

John: He is like Jen would always say he is like my best friend in the whole world. So

Tony: And where does he reside?

John: Uh, At the Theta Chi House at Illinois Wesleyan, and ah basically she's just is really good friends with him and they would go out drinking alot like she would always meetn Bowen at bars. I mean that is what triggered the

19

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name, when you asked me well where does she hang out or where does she like to go drinking and dancing and stuff she always met Mike at bars.

Tony: When you say met, she was there at the same time Mike Bowan was or did she agree to rondevue there?

John: I am not sure, she would always say like I met Mike at the bars like stuff like that.

Tony: When was the last time you saw the two of them together and where would that be?

John: Um, I would say I'd say about a month ago, but she always talks about them going out, see I didn't go out with her every night, the way, I mean she would go out drinking alot to the bars and stuff and she would go out with Mike alot.

Tony: Would you describe Mike to us please? Mike Bowan.

John: Oh, he is about my height, dark hair, um, real stocky kind of person, you know.

Tony: Was he a white male?

John: Yes

Tony: How did he wear his hair?

John: Short

Tony: Did he have a beard or goatee or mustache?

John: No, he has got a pretty-pretty recognizable he has got a real distiguishable face I mean it is pretty...

Tony: Do you know what kind of car he owns or drives?

John: Well man I should he is in my house, um

Tony: Let's start with the color, what color is the car?

John: No

Tony: You don't know?

John: A truck

Tony: A truck, let's try a truck.

John: I think, I am not sure what he drives.

Tony: So the relationship between Mike Bowan and Jennifer was basically partying from bar to bar is that it?

John: Um, no, I think Mike is from the same, See she is from Decatur,

Tony: Yes

John: And um, I think they are from the same hometown to tell you the truth and I think they are just been friends. She always they have just been friends, you know since they were knee high people, you know.

Tony: Does Mike know about the death of Jennifer?

John: I don't know, I just got into town, I was hopin to talk to these people before I came here so I would find out what happened.

Tony: Ok,

John: I mean I was going, I mean I would like to go talk to Mike, I would like to find Alan and I would like to find Swain and find out what happened, I mean I feel bad I missed the funeral, I didn't even know it was happening. My brother called me last night and told me about the funeral and you know I am like gee it already happened, you know I wish somebody would have called me or told me, you know,

Rob: I got a couple of questions that are personal questions but they might help out the investigation at a later time. (John: All right) It's hard to say. You were talking about the last time that you had had sex with her was the night that Alan broke in the door, ok, um, do was there anything ah different that you would consider kinky or other people would consider kinky that she liked?

John: Um, no I would say, I mean every time I had sex with her it was pretty normal I think.

Rob: Ok, where did that occur at?

John: In her bedroom.

Rob: At [REDACTED]

John: Yeh

Rob: Can you describe the bedroom for me as far as the beds and so on?

John: Ok, you walked in, first of all you walked in the building and you had to walk up the stairs to the left. Okay then you opened the door, and there was ah and if you went all the way back she had some beads hanging ok. If you walked all the back that was the living room right to the immediate left, the first left that you can do, went into the kitchen, turned right like as soon as you walk in you turn right there was a hallway and at the end of that there was a bathroom it was just about a two foot hallway. Then you zigged zagged around like right next to the bathroom but didn't go in it, went in there was her bedroom she had bunkbeds.

Rob: Ok was that the only...

John: I think she had bunkbeds and a bed over here to tell you the truth, ok, she had three beds

Rob: Which bed did she sleep in?

John: Well, the one that we had sex in is the not the bunkbeds, I think she slept in the one that, well I know that she slept in the one that wasn't the bunkbeds.

Rob: Ok

John: And then she had the closets on the other side here and she had a desk I think here.

Rob: Was it always in the bed where you had sex?

John; Yes

Rob: Did ah was there at any time did Jennifer perform oral sex while she was on the floor?

John: Oh yeh

Rob: Ok, where would you be at that time.

John: Well, she like had oral sex with me like in the in the living room I guess on the couch and stuff.

Rob: Back in the bedroom, did she have oral sex with you in the bedroom?

John: Oh yes

Rob: And if she was on the floor, where would you be?

John; On the bed

Rob: You did say that she has done it with her being on the floor correct?

John: I haven't had sex with her on the floor.

Rob: Ok, but oral sex,

John: Yeh

Rob: Ok, she was on the floor and you were on the bed during oral sex?

John: Um, actually, I think she was on the bed, I don't think she was ever kneeling on the floor and me on the bed, I think she was on the bed and I was on the bed and she was just kind of like kneeling sorta down.

Rob: Okay, but she might have been possibly been on the floor somewhat or do you know?

John: No, I don't think she was on the floor.

Rob: Okay, did you ever have sexual relations with her on the floor?

John: Uh, no, it was it was in the bedroom. I mean it was either on the bed or on the couch.

Tony: How was that bedroom cooled?

John: I don't think it really was.

Tony: Was there a window air condition unit in the bedroom?

John: I don't remember win-I don't remember windows in the bedroom at all to tell you the truth, I don't even think there was window.

Tony: Was there any fans in the bedroom?

John: Um, I am trying to think last time I had sex with her like um, I don't know if we needed a fan um let me see, I know that she had an air conditioner in the living room. I don't even think there are even any windows in her bedroom, I am trying to remember, I don't think there is I think there is just all walls, closet and then the door.

Tony: Did she like to get completely undressed when she had sex?

John: Um, yeh

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APPENDIX 001759

Tony: Was there any times that you wasn't completely undressed?

John: Um, yeh when she had oral sex with me, sometimes she wouldn't get undressed.

Rob: Ok, during that time when you did have sex, was is slow moving maybe where you would start with kissing or whatever and then you would slowing take off your clothes

John: Oh, yeh, yeh, it would be

Rob: Or was it you run in there and take you clothes off and you would start

John: No, it was ah pretty slow, we would start in the living room starting kissing kissing or whatever and then we would go into the bedroom and

Rob: At no time that you remember she took her clothes off at one time and then the sex occurred? Did what I'm trying...

John: No she would never like just strip down, at least she never did for me, like just take off all of her clothes and like attack me.

Tony: Did she ever describe her sexual relations with Alan?

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John: Um, no not at all.

Tony: How about with Mike Swain?

John: No I-I in fact I don't know if Mike and her had sex and I am guessing they probably did knowing her, you know cause you mean cause she liked to have sex I think, you know it was my guess.

Tony: Have you heard of other than Alan and Michael Swain, and yourself, have you ever heard of anyone else having sex with her?

John: Um, well Bubba, and I don't know if Mike has or, you see I don't know, I mean I know that she was the kind of girl that liked to party alot you know and she pretty much, you know if she liked you pretty much, I don't know, see Alan would say that she would give blow jobs to people on a dime you know what I mean so she would probably have oral sex with alot of people.

Tony: What did Alan say about his sex ah exploits with Jennifer?

John: He never really talked about it. He like made a few indications at my house, you know like, he wanted to like you know take her home and have oral sex or something like that you know, and she would be like oh stop you know that kind of thing just joking around but I mean I never really I don't ask about other people's sex lives I think it is kind of rude.

Rob: Okay, during any type of sex when you were having it with her, did she like you to use condoms or do you know if she was on any type of birth control?

John: I always thought she was, I never used a condom with her.

Rob: Ok, did she ever ask you to use one?

John: No

Rob: Do you know if she was on any type of birth control?

John: I think she was on birth control, at least she told me she was.

Rob: Ok, do you know what type, did she ever say anything about concerning anything?

John: I think the pill, I mean I can't be more specific than that because I never looked but I think she was on birth

25

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control pills.

Rob: But as far as you know she never had to go into the bathroom and ah insert a sponge or any type of or anything like that?

John; No, as far as I know not.

Tony: John is there anything else that you would like to add to this interview

John; I have been trying to think the whole time, um, not really I mean, I would like to find I would like to go to talk to Mike, talk to Swain and talk to Alan and find out you know more for myself, you know but other than that I don't have anything to add at this point.

Tony: This interview concludes at 4:58 p.m.

26

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APPENDIX 001762

This is Detective Hospelhorn. It is Thursday afternoon at approximately 3:03 p.m. We are the Normal Police Department in the middle interview room. Present with myself is Detective Tony Daniels and a Laura McKeown.

Rob: Ms. McKeown, could you state your name and date of birth and spell you last name.

Laura: Laura Beth McKeown, Mc KEOWN, [REDACTED] [REDACTED].

Rob: Is it alright if I call you Laura?

Laura: Please do.

Rob: Laura, did you know the victim, Jennifer Lockmiller?

Laura: Yes, I did.

Rob: Ok, and how long have you known Jennifer Lockmiller?

Laura: About 12 and 13 years.

Rob: Did you grow up with her back in Decatur?

Laura: Yes.

Rob: When was the last time you had talked to Jennifer prior to her death?

Laura: That Sunday, I believe it was.

Rob: Ok, that would have been?

Laura: Over the weekend.

Rob: Her body was discovered on August 28th which is a Saturday. So you spoke to her on the 22nd of August?

Laura: Right.

Rob: Ok, was that in person or by phone?

Laura: It was by phone.

Rob: Can you tell us what that conversation consisted of?

Laura: She had just gotten back from a trip to California and she was telling me a little bit about that and um she was telling me about what she did with her brother Rick, um she said something about one of her ex-boyfriends, Bubba, um moving to Peoria to get a job to be closer to her and uh I responded with skepticism about

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Rob: And how do you know Alan?  
Laura: Through Jennifer.  
Rob: And when was the last time you seen Alan?  
Laura: That's been a little bit longer, maybe in July.  
Rob: of 1993?  
Laura: of 1993.  
Rob: And where was that at?  
Laura: It must have been it was Jennifer's apartment.  
Rob: Ok, do  
Laura: maybe it was a little longer or before that because she was trying to break up with him.  
Rob: Do you know why she was trying to break up with him?  
Laura: Because um, he was, I guess possessive but then her interests turned toward Michael Swaine, his roommate.  
Rob: How was she going to break up with him was she going to just tell him person to person?  
Laura: Yea.  
Rob: Do you know if she ever did?  
Laura: Yea, yea she told him, she told him.  
Rob: Do you know when that was?  
Laura: No I don't.  
Rob: Do you know a person by the name of John Murray?  
Laura: Yea.  
Rob: Ok. how do you know John?  
Laura: Through Jennifer.  
Rob: And what has Jennifer said about John?  
Laura: That um he is a nice guy and he was going out with somebody else at the time and so was she, she was going out with Alan, I guess and um, they John wanted to start something up with her too.

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(184)

Rob: Do you know when this was?

Laura: See it all took place in the summer.

Rob: This last summer of 93?

Laura: Right.

Rob: Do you know what month?

Laura: No, June, July?

Rob: Did Jennifer ever tell you that she was afraid of either John Murray, Alan Beaman, Michael Swaine?

Laura: The last thing she told me about Michael Swaine was that he was really sweet and naive and that um they had gone to Zorba's one time for breakfast and she had told me the conversation that Mike sat down and told her that maybe perhaps she might drink too much and tried to, I guess, um tell her that and she just kind of laughed and she thought that was sweet that he said that I mean that is what Jennifer was telling me about how he packs his lunch to go to work when he was staying with her.

Rob: Ok, do you know when Michael started staying with Jennifer?

Laura: It was in August and I know he was supposed to be out by the 30th I thought, but I may be wrong I am not sure.

Rob: Be out of where?

Laura: Huh?

Rob: Be out of where by the 30th?

Laura: Out of her apartment.

Rob: Did Jennifer ever tell you about any arguments or fights that she ever had with Alan Beaman?

Laura: Yes, they had quite a bit, quite a few arguments, um, Jennifer would say that she was jealous of one of Alan's friends, I think that he used to go out with I am not sure who it was or who she is.

Rob: Does a Meredith Haynes, do you know a Meredith Haynes?

Laura: Meredith? Maybe.

Rob: Ok. Did Jennifer ever say if any of the arguments or fights that she had gotten in with Alan or any of Michael Swaine or John Murray were physical or if they were verbal?

Laura: Right.

Tony: Ok. Was it Jennifer's desire that Mike move out and find his own place?

Laura: Um, no from what she told me she liked him.

Tony: Was she anxious that he move out or was she going to miss him?

Laura: Yea, she said that she told me a couple times that she doesn't know if this thing with Mike is going to work out.

Tony: Was she looking forward to Mike moving out?

Laura: No, she didn't seem happy about it or she didn't seem extremely sad about it either.

Tony: Was Jennifer pretty open with you as far as her personal life?

Laura: Yes.

Tony: What do you know about her sex life?

Laura: Well, um, I know with Michael um I think they had had sex I think she told me twice, because I think that he was trying to be gentlemanly um, and with Alan I am not quite sure. I really didn't ask but they had sex also.

Tony: Did she go into detail about the times that she would have sex with Mike. Was she descriptive with the actual act itself?

Laura: Um, No, I had tried to, I was asking her questions about that and she would just say that ah I asked him well did he know what he was doing and she said yes and that is about it. It wasn't detailed.

Tony: Did she ever talk to you concerning her sex life about using any type of objects when she had sex with any of her boyfriends?

Laura: Yea, there were, um not blatant, she didn't tell me come right out, and say it but um if, we just all I know is about Bubba her and Bubba played games and did things..

Tony: Like what?

Laura: Um, I just remember one time she told me that they did something in the shower where it was sort of, I don't know, I think maybe she was tied up to the rod, the curtain rod and something with cold water I am not sure.

Laura: Yea, I hadn't seen her with that for a long time.

Tony: Did you ever inquire as to why she didn't have it any more?

Laura: No.

Tony: If she were to get rid of it how would she get rid of it?

Laura: She would have sold it at music store.

Tony: Do you recall when the last time that you saw her with that guitar?

Laura: It was a long time ago. She took lessons a long time ago, 4 or 5 years ago.

Tony: Do you know where she got that to begin with?

Laura: The guitar?

Tony: Yes.

Laura: Her parents probably gave it to her.

Rob: Did Jennifer on the Sunday the 22nd when you talked to her or anytime before that did Jennifer ever tell you of anyone that she was afraid of or that had threatened to do her harm or their self harm?

Laura: Yes, Alan. Alan has told her several times that if she breaks up with him that he is going to do harm to himself he is going to kill himself.

Rob: Did she ever mention anyone saying that they were going to do harm to her, her being Jennifer?

Laura: No, no. All I remember is some phone calls that she was getting that forced her to change her number. I can't remember if they were threatening. I think they were threatening she heard music in the background.

Rob: Do you know what type of music?

Laura: No.

Rob: Do you know when she was receiving these calls?

Laura: Um, in the summer. It must have been in the summer.

Rob: Do you know what month?

Laura: June maybe. She changed her number.

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

ALAN BEAMAN, )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 10-CV-1019  
 )  
 JAMES SOUK, et al., )  
 )  
 Defendants. )

DISCOVERY DEPOSITION  
OF  
LARBI JOHN MURRAY

Discovery deposition of LARBI JOHN MURRAY,  
taken on May 31, 2013, beginning at 10:23 a.m., at  
550 East Devon Avenue, Itasca, Illinois, at the  
instance of the Defendants, pursuant to Subpoena and  
agreement of the parties, before Christine M. Luciano,  
Certified Shorthand Reporter in the State of Illinois.

\* \* \* \* \*

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Decatur, Illinois 62525-5471  
(217) 428-0946

C06487

1 with the Lockmiller homicide?

2 A. I'm asserting my Fifth Amendment privilege.

3 Q. Do you know anything about the current status  
4 of the Lockmiller homicide investigation?

5 A. I'm asserting my Fifth Amendment privilege.

6 Q. Do you have any particular motivation for  
7 invoking your Fifth Amendment privilege today?

8 A. Upon attorney advice.

9 Q. Is there anything that you're particularly  
10 concerned about that causes you to invoke the Fifth  
11 Amendment privilege?

12 A. I'm asserting my Fifth Amendment privilege.

13 Q. Were you involved in the homicide of Jennifer  
14 Lockmiller?

15 A. I'm asserting my Fifth Amendment privilege.

16 Q. Can you tell me anything at all about whether  
17 you were involved in the homicide of Jennifer  
18 Lockmiller?

19 A. I'm asserting my Fifth Amendment privilege.

20 Q. Are you asserting your Fifth Amendment  
21 privileges to any questions that would be asked  
22 regarding the homicide of Jennifer Lockmiller?

23 A. Yes, I am asserting my Fifth Amendment  
24 privilege.

C06504

1 Q. Do you know who killed Jennifer Lockmiller?

2 A. I'm asserting my Fifth Amendment privilege.

3 Q. Were you physically intimate with Jennifer  
4 Lockmiller at any point?

5 A. I'm asserting my Fifth Amendment privilege.

6 Q. Can you tell me anything at all about your  
7 relationship with Jennifer Lockmiller?

8 A. I'm asserting my Fifth Amendment privilege.

9 Q. Are you asserting your Fifth Amendment  
10 privilege as to any question relating to Jennifer  
11 Lockmiller or your relationship with Jennifer  
12 Lockmiller?

13 A. I'm asserting my Fifth Amendment privilege.

14 Q. Did you take a polygraph examination in  
15 connection with the homicide of Jennifer Lockmiller?

16 A. I'm asserting my Fifth Amendment privilege.

17 Q. Did you refuse to follow the polygraph  
18 examiner's instructions during a polygraph examination  
19 administered to you in connection with the homicide of  
20 Jennifer Lockmiller?

21 A. I'm asserting my Fifth Amendment privilege.

22 Q. Did you deliberately attempt to foil a  
23 polygraph examination administered to you in  
24 connection with the homicide of Jennifer Lockmiller?

C06505



1 Q. Okay. And then you also talked with  
2 Mr. Shapiro yesterday about -- you said stuff with  
3 Alan's car?

4 A. Uh-huh.

5 Q. What does that --

6 A. Yes.

7 Q. What does that mean?

8 A. About the speed of the car, how I knew what  
9 it -- you know, how fast his car could go and my  
10 experience of when I was in Alan's car.

11 Q. Okay. So what did you tell Mr. Shapiro with  
12 regard to those issues?

13 A. Excuse me. Back in the summer of '93 the  
14 concert Lollapalooza was going on. And so me and a  
15 couple friends had borrowed Alan's car to take up to --  
16 we drove from Bloomington to Tinley Park in the car for  
17 the concert. So that it was -- it was kind of a joke  
18 at the time, because the car couldn't go very fast, you  
19 know, and having the other cars around us passing us.  
20 And it was kind of a piece of crap, you know, little  
21 car and just that I was sitting in the back seat at the  
22 time, though I wasn't able to actually view the  
23 speedometer, you know, so my opinion that the car could  
24 barely go what the speed limit was may not be accurate

1 official suspect.

2 Q. And so right away you thought there's no way  
3 this could be Alan, right?

4 A. Right.

5 Q. You just mentioned that you thought there  
6 were other people that were even more capable of  
7 committing the murder. Who are some of those people?

8 A. Really one, and that would be John Murray.

9 Q. Okay. What about John Murray makes you feel  
10 like he's capable of committing the murder?

11 A. I -- it was -- he always kind of to me  
12 appeared to be kind of a scary individual, you know,  
13 someone that -- and someone that could be explosive in  
14 his anger.

15 He -- there was a girl I worked with at the  
16 library that I only now think maybe it wasn't his  
17 official girlfriend. It could have been a girl that he  
18 was just fooling around with, but at the time she  
19 believed he was her boyfriend and was upset that he was  
20 spending time with Jen. And it was her words of not  
21 wanting -- not knowing what to say to him or how to  
22 approach him about it that led me to believe that he  
23 had been violent with her. You know, she didn't want  
24 him to get mad at her again. She never told me that he

1 had hit her or anything like that, but it was the  
2 way -- you know, the way she acted about it that made  
3 me think that he had some anger issues.

4 Q. Who was this girl?

5 A. Her name was Gail, and I cannot remember her  
6 last name.

7 Q. You worked with her at the library?

8 A. Yeah.

9 Q. When did you work at the library?

10 A. That was during the school year of '92 to  
11 '93. I can't remember when I started working there. I  
12 think it was in October of '92..

13 Q. And you told me you worked there over the  
14 summer, too, right?

15 A. Correct. During the school year it was work  
16 study, but during the summer it was my job.

17 Q. Was Gail someone that always worked with you,  
18 or when did she start working there that you know of?

19 A. I don't remember how long she worked there.  
20 I just remember her working with me during like the  
21 January -- during the winter. I don't remember if she  
22 worked there throughout the whole year or not.

23 Q. Is this the same -- so January of '93, right?

24 A. Yes.

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1 Q. Is that when you remember talking to Gail  
2 about her relationship with John?

3 A. Yes.

4 Q. So what sorts of things did she tell you that  
5 made you think John could have had anger issues or  
6 however you put?

7 A. She was kind of asking me for -- I don't know  
8 if she was asking me for advice. It seemed like she  
9 was asking for advice on how to talk to him about that  
10 and how to -- you know, she'd be upset, because she  
11 knew that he was spending more -- you know, spending  
12 time around her and found out that he was around Jen  
13 again, you know, and didn't know how to approach him  
14 about it. What should she do? Should I say anything?

15 And I didn't know what to tell her, because I  
16 always found him to be kind of a scary -- you know,  
17 scary guy. He was big. He was big and long, curly  
18 dark hair and just -- I don't know how to say it more  
19 than he was kind of a scary person.

20 Q. At the time you were talking to Gail about  
21 her suspicions that John was hooking up with Jennifer,  
22 did you already know or suspect that John was with  
23 Jennifer?

24 A. Well, that's part of how I had suspected it.

1 I don't remember if at the time that was before or  
2 after the time she -- Jen and John had shown up at our  
3 friend's house. It was around the same time. I didn't  
4 work with Gail on a daily basis, so I don't think -- I  
5 might have said something to her about, oh, yeah, she  
6 showed up with him at -- you know, at Don Jones' the  
7 other day or whatever, and that might have been the  
8 extent of it, but...

9 Q. So what else about -- you've told me about  
10 the fact that John was a big person and then the  
11 conversations you had with Gail. What else led you to  
12 believe that John Murray was capable of committing the  
13 murder?

14 A. I had -- and I cannot remember who told me  
15 this, but I had heard that she had been getting -- Jen  
16 had been getting involved in harder drugs and that some  
17 people were getting kind of worried about her. And  
18 it -- just through the connection that she had kind of  
19 been fooling around with him and that he was the known  
20 guy to go to for those kinds of drugs to me made me  
21 believe that maybe he was the one that did it.

22 And when groups of friends -- when we would  
23 sit around and talk about it, he was the one that would  
24 come up as the one people thought might have -- might

1 BY MR. SHAPIRO:

2 Q. Sure. There had been short-lived break-ups  
3 before between Alan and Jennifer, right?

4 A. Yes.

5 Q. But the break-up that occurred when Alan went  
6 to Ohio was different in character than these  
7 short-term break-ups, right?

8 MS. BARTON: Objection to form and foundation.

9 BY THE WITNESS:

10 A. Yes. This was the end, finally, last straw  
11 finally done. The assumption was that Alan was done.

12 BY MR. SHAPIRO:

13 Q. Now, you were describing John Murray, and I  
14 believe you described him as an individual who was  
15 physically large and who was scary, right?

16 A. Yeah.

17 Q. Fair to say that John Murray wasn't someone  
18 who came off as nerdy, right?

19 A. As nerdy, no.

20 Q. And you sort of smiled and laughed when you  
21 said that. To you the notion that Murray would sort of  
22 be a nerdy or awkward character is sort of ridiculous,  
23 right?

24 A. Correct, yeah.

C06630

1 Q. You mentioned an instance when -- strike  
2 that.

3 You described a time shortly after the  
4 discovery of the body where there were cops outside of  
5 Jennifer Lockmiller's apartment and you talked to  
6 another individual who was named Jennifer, right?

7 A. Right.

8 Q. Is that Jennifer Seig?

9 A. That could be what her last name was. I  
10 don't remember it, though, but that could be.

11 Q. Sure. And you never saw Alan Beaman being  
12 violent to any person ever in your life?

13 A. No, never.

14 Q. You said that in the summer of '93 there was  
15 a time when you were one of the passengers in Alan's  
16 car when Swaine was driving it, right?

17 A. Yes.

18 Q. How would you describe the physical condition  
19 of the car?

20 A. It was kind of a piece of crap. I mean,  
21 don't remember if it was rusty per se, but I just  
22 remember it was kind of a -- you know, a claptrap  
23 vehicle that you were -- it was made for puttering  
24 around town and was -- you know, yes, it was a car we

1 the majority of this drive was on interstate highway,  
2 right?

3 A. Yes, it was almost exclusively highway.

4 Q. And you were sitting in the back seat, so you  
5 didn't actually get to see the odometer and know what  
6 the speed was, right?

7 A. Correct.

8 Q. But you could observe that other cars were  
9 passing you, right?

10 A. Yes, that is correct.

11 Q. And was the car rattling around or anything  
12 like that?

13 A. Yeah, it was -- it was kind of a loud drive.  
14 You know, we could talk if -- I sat in the middle with  
15 my head towards the front. It wasn't a quiet car or a  
16 nice ride. You know, it was college, and it was what  
17 we had available to us, so we, you know, made it work.  
18 It was -- it was loud. I don't remember if the muffler  
19 was bad. I don't think it was, but, you know, it  
20 was -- I don't think it had air conditioning, so we had  
21 the windows down and -- you know, so it was kind of a  
22 rough drive.

23 Q. And fair to say that in terms of the  
24 bumpiness and the roughness of the drive, you know, the

1 faster you're going the more apparent that became?

2 A. Yes, definitely.

3 MR. SHAPIRO: That's all the questions that I  
4 have. Thank you very much.

5 THE WITNESS: Okay.

6 REDIRECT EXAMINATION

7 BY MS. BARTON:

8 Q. I just have one question. You told  
9 Mr. Shapiro that by the time Alan went to Ohio that he  
10 and Jennifer's relationship -- or his and Jennifer's  
11 relationship was done, and it was sort of the last  
12 straw, right?

13 A. Yes.

14 Q. How did you know that?

15 A. You never can say never, but it was the  
16 opinion that Alan was leaving town and going, you know,  
17 away, so, therefore, he was done with the break up and  
18 get back together, because -- and it was -- again, it  
19 was probably something that was a little bit more of a  
20 rumor, because everyone said, you know, Alan said he's  
21 done, and it seems like he's really done. Like he  
22 doesn't have that desire to try and get back together  
23 again and try and make it work again. With him leaving  
24 town seemed to be what made it more definitive.

This is Detective Daniels of the Normal Police Department, present with me in the interview room is Detective Rob Hospelhorn and a Larbi John Murray. This is a taped interview being conducted on Thursday, September the 8th, the time is 2:45 p.m.

Tony: John, would you state your date of birth and Social Security Number please?

John: Uh, My date of birth is [REDACTED] and my Social Security Number is [REDACTED]

Tony: John are you in agreement to have this interview taped?

John: Uh, Yes I am fully aware that it is being taped.

Tony: You are aware that you are not under arrest?

John: Yes I am

Tony: Are you aware of the fact that you do not have to answer any questions that you do not wish to answer?

John: Ah, Yes I Do

Tony: And do you understand that you can leave at any time you wish?

John: Ah, Yes I do

Tony: John, we had talked to you last week in regards to the death of Jennifer Lockmiller and what we are wanting to do is go back over some things with you.

John: Ok

Tony: I am going to ask you to speak loud and clear so you can be picked up by the tape recorder.

John: OK

Tony: John, I am going to give you a calendar and draw your attention to the month of August, 1993 and using this calendar I want you to tell us the day and the date and time that you last saw Jennifer.

John: Ok, the day that I last saw Jennifer Lockmiller I believe it was Saturday, the 21st and she came over and she was in the car with Swain. Swain was driving her car, she's got a gray car with Jen Lockmiller plates, JLL, I don't exactly what they said, but she came over that time uh, and she came over because she owed me a little bit of money ok. And she and she ah, gave me some money, ok and

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she basically just stopped by to talk to and see how I was going because before that I didn't see her for about a week before that. And then that was the last time I saw her and Debbie was there and Debbie's dad was there and we were helping, she was moving in.

Tony: Ok where was this located?

John: It was located at [REDACTED] in the parking lot.

Tony: And who resides there?

John: Uh, myself, I reside in apartment number [REDACTED], I was residing in apartment number [REDACTED] and I moved down to apartment number [REDACTED] that day and Debbie's dad was there helping.

Tony: And who is Debbie?

John: Debbie is my girlfriend.

Tony: Ok, who was with Jennifer at the time?

John: Uh, Swain was.

Tony: And who is Swain?

John: Um, he is the person who I believe that was living with her at the time. She said he was a live in friend until school started at Illinois Wesleyan.

Tony: On the last interview that we had with you which was on September 2nd, which is a Thursday, you informed us that the last time that you saw Jennifer was either Tuesday the 24th or Wednesday the 25th,

John: Yeh

Tony: And now you are telling us it's August 21st, why are you able to tell us today that it's the 21st and not the 24th or the 25th?

John: Well, because uh, I mean, when I first came in, I was pretty, I was pretty I was pretty startled first of all and I didn't really have any concept of the time cause it is summer. And see Debbie Debbie had a set work schedule and she you know and Debbie and my mom ah, basically take care of the times during the summer. Okay, and I pretty much don't know what day it is during week during the summer because there is really no any need for me to know. I just know that school started on September 7th

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and I had to be present on that day. During the summer I barely know what day it is. So that's why you were asking me and I just gave to the best recollection the best that I could recall at the time of the interview. That was what my guess was but now Debbie pointed out that you were here on this Saturday and I had talked to Debbie and I had found out exact dates and I am like well this is the last time I saw her. I believe actually in the tape I said that the last time I saw her was when I was moving out probably in the first tape I said something to that recall but I just had the dates mixed up.

Tony: Ok, when did you go home to Rockford?

John: Uh, I went home to Rockford on, let's see now I was, I, uh, well when I uh, when, when did I go uh, when do you want to know when?

Rob: The very last time that you went home.

John: The very last time that I went home was, I believe, it was Thursday, the (big pause) it was like it was Wednesday or Thursday on the 18th or 19th of August and then I came back I was back in Bloomington on the 25th of August. Wait does that make sense, no, no wait the last time I ah, wait hold on a second, let me figure this out a second, ok, I left, the last time I went home was on the 25th of August and I came back on Tuesday, September 2, right there so I left on the 25th and I came back on the 2nd.

Tony: Who was the last person you were with in the Normal Bloomington area on August 25th?

John: Debbie Mackoway

Tony: And where does she reside?

John: She resides at the AO Pie house, I am not sure of the number ah the, it is on [REDACTED], she was residing in my apartment at the time though.

Tony: When you left here August 25th, who were you with that entire day?

John: Um, I believe I was with Debbie and well actually Debbie was working Wednesday morning so I was, I believe, I slept in and I called her and asked her if she wanted to go out to eat for lunch and she said no cause she had a busy day. She got home from work then I left.

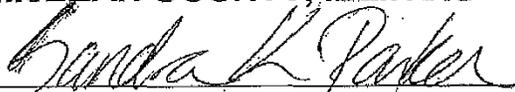
VOLUME VIII

PEOPLE OF THE STATE OF ILLINOIS  
VS  
ALAN BEAMAN

CASE NO. 94 CF 476  
APPELLATE CASE NO. 4-05-0610

APPEAL TO THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT

FROM THE CIRCUIT COURT  
OF THE  
ELEVENTH JUDICIAL CIRCUIT  
McLEAN COUNTY, ILLINOIS

  
Sandra K. Parker, Circuit Clerk

  
Deputy

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Tony: Ok, you say she got home from work, were you at her apartment or were you at your apartment?

John: They were one in the same during the summer.

Tony: You were sharing the same apartment during the summer?

John: Yes

Tony: Ok, so on August 25th she came back to the apartment that both of you shared is that right?

John: Yes

Tony: And what time was that?

John: Oh, I want to say 4:00 uh, she knows the time better than..

Tony: Ok, but I am asking you what time was that?

John: About in the afternoon.

Tony: Ok, what time in the afternoon?

John: Uh, About 4:00 I'd say.

Tony: Ok what time did you leave to go to Rockford?

John: About 4:00

Tony: So as soon as she got back to the apartment August 25th, Wednesday at 4:00, that's when you...

John: Well I think, She got back from work at 1:00 and I went, and I, and I spent a couple hours with her then I left to go to Rockford.

Tony: So you were in the apartment you shared?

John: Yes,

Tony: On Wednesday the 25th?

John: I believe yes.

Tony: Ok

John: I am not telling you fact times.

Tony: Ok, where were you prior to 1:00?

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John: I was probably, I was sleeping in my room.  
Tony: At the same place?  
John: Yes  
Tony: Ok, what time did you get up that morning?  
John: Oh, 11:00 I am guessing.  
Tony: Ok, you don't know for sure?  
John: I don't know any exact times in the day, I just looked up dates.  
Tony: What time did you get in Tuesday night?  
John: I think I got in Monday night because the previous Saturday which would be the  
Tony: Ok, John, hold it for a minute, I don't want to talk about Saturday, I want to talk about Tuesday, so my question is, what time did you get into your apartment Tuesday night?  
John: Uh, I believe I was in my apartment all day on Tuesday.  
Tony: Was there anyone there with you?  
John: Uh, Debbie worked again until 1:00.  
Tony: So she was in your apartment Tuesday from what time?  
John: Um, from 1:00 on.  
Tony: Ok, now are we talking 1:00 a.m. Tuesday morning or are we talking 1:00 p.m..  
John: No 1:00 p.m., one p.m.  
Tony: She was with you from 1:00 p.m. on until when?  
John: Til the rest of the night, we spent the rest of the night and I was with her the rest of the night until she had to go to work again.  
Tony: Ok, where was where was Debbie prior to 1:00 Tuesday?  
John: At work.  
Tony: What time did she go to work?

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John: Uh, 6:30 in the morning or that is when she gets up and gets ready and leaves.

Tony: Ok, so she got up at 6:30 Tuesday morning to get ready to go to work, what time does she leave for work?

John: I am usually back in bed by that point so I think she has to be there like 7:00 or 7:30 I am not sure when.

Tony: Did you leave the apartment Tuesday morning?

John: Uh, no

Tony: You were home all morning?

John: Yes

Tony: Until she got home at what time Tuesday afternoon?

John: I believe she got home at 1:00.

Tony: Ok, why do you believe she got home at 1:00?

John: Well I don't want to say exact times because I am not sure I am going to have to look at her schedule when she worked like I said it is the summer so I don't really keep track of times.

Tony: When she got home what did the two of you do?

John: Um, well usually we just take naps, I am sure we laid down and fell asleep for a couple hours and woke up, ate dinner, watched a movie maybe went out um.

Tony: So you are not for certain what you did together Tuesday night the 24th?

John: No

Tony: So you were together when she got off work at 1:00 Tuesday afternoon until when?

John: Until that following morning, Wednesday morning.

Tony: When she went to work again?

John: Yes

Tony: Then she went to work again, got up at 6:30 went to work and got home at around 1:00 pm. Wednesday afternoon, is that correct?

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C 1741

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AB001756

John: I believe so

Tony: And she was there with you in your apartment you share until 4:00?

John: Uh huh (Yes)

Tony: At that time you left the apartment and went to Rockford.

John: Uh, yes, she's got the schedule so she knows exact times.

Tony: So when you left at 4:00 to go to Rockford, what car was you drivin?

John: Um my the only car I own, an 87 Pontiac black Firebird.

Tony: Ok, what stops did you make when you left here?

John: Um, gas station at Burwells.

Tony: Where is that located?

John: Uh, south of me about by about two blocks.

Tony: In Bloomington

John: Yes

Tony: Ok, you got gas prior to going to Rockford?

John: Yes, I do all the time at Burwells.

Tony: What is your route when you go to Rockford, what route do you take?

John: I drive straight down Main street.

Tony: Is that the route you took that one day?

John: Uh, yes, it is the only way to get to, well its, I don't know of any other way to get to the by pass, to get to fif ah, 39.

Tony: Did you stop off to see Jennifer?

John: Uh, no I didn't

Tony: Why didn't you?

John: Cause I was just going home, um, I had no reason to. I mean, I was just going home.

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C06662

C 1742

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(123)

AB001757

Tony: When was the last time that you had talked to Jennifer either in person or over the phone?

John: It was the day when we had to move out of our apartment which would be Saturday the 21st.

Tony: That was the last time you saw and talked to her?

John: Yes, that was the last time I saw and talked to her.

Tony: You hadn't talked to her on the phone since that day?

John: I believe not, she may have called me at my house, I am not sure, I am going to have to wait until the phone bill comes in for that.

Tony: You ah, stated on your first interview that you did stop by to see her, at her apartment and now you are telling me you were in error that you did not stop by to see her in her apartment prior to going to Rockford?

John: See I can't remember exactly.

C06663

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C 1743

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(E)

AB001758

Tony: You can't remember telling us or you can't remember whether or not you stopped to see her?

John: I can't remember, I can't remember what I said first of all and I don't remember exactly what I did. I mean had I known that I was going to be you know expected to know this information I would have known it better, you know? I just, the summer days just blend blend as one to me I just do not remember exactly what I did at certain times. I don't remember times, I am just being honest, I just you know I partied alot during the summer and I just I just do not remember exact times.

Tony: Is it possible you could have stopped by and seen her?

John: On Tuesday I....

Tony: Or Wednesday?

John: If I did stop by I don't think she was home. I remember stopping by one time when I, when I was just about ready to go to Rockford but she wasn't home.

Tony: I am going to call your attention to the statement that we had taken from you. On page 5 there is a question that I had asked you, again this statement was taken from you on September 2nd, on page 5, I asked you, you saw Jennifer in her apartment sometime on the, you interrupted me, you didn't let me finish the question and you said sometime one of these the 19th, I asked you the 19th through the 24th or the 23rd, you replied through the 19th through the 23rd, I thought her California trip was actually earlier though I meant it doesn't seem like it was only two weeks ago. I mean it seems like it was earlier, it seems like it was somewhere around maybe the first of August or something at least in my mind. I replied Ok, you replied, but there again I don't keep track of time or days during the summer. Ok, I asked when you visited her at her apartment, do you recall what time of day it was, it was just, I just swung by and said hi for a few seconds, then I went on and asked for a description of your car and so forth.

John: Uh, uh

Tony: Then you stated that you just dropped by cause you wanted to talk about it the day before, you know me and Swain and her it's like oh, you know you should drop by sometime so I dropped by to see what was going on. And was she by herself, and you said, I believe at the time she was. I asked how long did you stay and then you said, about ten minutes, what was the purpose of the

C 1744

C06664

AB001759

call, I asked. You stated I just dropped by to see how she was doing. Do you recall what you talked about, you talked about partying and getting together, this conversation John had taken place with Jennifer, between you and Jennifer after she returned to Bloomington from her California trip.

John: Yes, now that happened, you you asked me, I thought that was the last time I talked to her, but it's not, I swung by and talked to her, it was before the 21st. And did that conversation, like I said I go home alot so I get confused which time it is that I went home I did stop by her place and talk to her and I think Swain was there, ok. But, that was not the last time I had talked to her. Now that uh, I think that was around maybe the 16th or 17th cause I went home and came back, then I went home again, ok. So the last time I did talk to her cause I I Debbie Debbie goes well you talked to her that night when uh, when um you were at the uh, when we were moving out, I am like oh yeh, her and Swain stopped by I completely forgot about that, okay. And I, I thought that was, I thought in my mind a couple days ago that's what I told you ahead of time, but, um the last time I did see her was the 21st.

Tony: When was the last time you were at her apartment, at her apartment [REDACTED] in Normal?

John: It would have to be the, I don't know, before that I don't know what day.

Tony: You don't know what day?

John: No

Tony: When did you find out that she had returned from California?

John: She gave me a call, she gave me a call at my place in Byron and she said that she was in California and that she was returning home and then she called here at my apartment several times saying that she was back in town.

Tony: Where were you on the 20th of August?

John: Um, (big pause), stop the tape for a second let me think about this for a second.

Tony: Well stop the tape momentarily, it is ah 3:01. The interview continues it is 3:04 p.m. On the 21st of August is when you last saw Mike Swain and Jennifer and that was together in your parking lot, is that correct?

10

C 1745

C06665

C1720

(12)

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John: Yes that's correct, that's positive, I know that for a fact.

Tony: On 22 August, which is a Sunday, did you talk to Jennifer on a phone?

John: I am not sure about that but I know the last time I physically saw her in person was the 21st of August.

Tony: On the 23rd of August, which is a Monday, did you talk to Jennifer on the phone?

John: If I did she called me, I am not sure though, I did not call her on the 22, 23, 24, 25, 26, 27, 28, the rest of August, I did not call her on the phone, she may have called me.

Tony: Ok, John I am going to ask the questions I want you to answer.

John: Ok

Tony: On the 24th of August did you talk to Jennifer?

John: Uh

Tony: Yes or no John

John: No

Tony: On the 25th did you talk to Jennifer?

John: No

Tony: On the 22nd of August did you see Jennifer, yes or no John?

John: No

Tony: On the 23rd did you see her?

John: no

Tony: Did you see her on the 24th?

John: No

Tony: Did you see her on the 25th?

John: No

Tony: Then why did you sit here last week and tell us that you

C 1746

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C06666

AB001761

stopped by her apartment and saw her and talked to her for ten minutes.

John: Because I had my dates confused.

Tony: You had your dates confused?

John: Yes

Tony: Ok, when did you stop by her apartment and talk to her for ten minutes? Look at the calendar John.

John: The week prior

Tony: Look at the calendar John.

John: Either the 16th or 17th, I don't know I can't remember.

Tony: John, she wasn't here the 16th or the 17th, she wasn't even in this state, now when did you last see her John?

John: I can't remember.

Tony: Could it have been the 25th of August?

John: It was the 21st of August

Tony: Could it have been the 25th of August John, Wednesday?

John: No, I was home.

Tony: How do we know you were home?

John: Uh, cause I have got phone calls to prove it, I've got my mom saw me, I was at home.

Tony: John, what would you say if we said to you that someone saw you at her apartment on the 25th of August?

John: I would say that they are lying through their teeth.

Tony: What about your car being there the 25th of August?

John: There is no way my car could have been there on the 25th of August.

Tony: Are you telling us then that you were not in her apartment on the 25th of August?

John: Yes

Tony: You were not there on the 26th?

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C 1747

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John: Yes, I was definitely not there I was definitely back home, Thursday night I had a, I went out with a girl and Travis and Leslie which are my two best friends from back home and Friday night I went out with them and Saturday I went out with people, I went out with people every single night and I made phone calls every single night.

Tony: How have you been sleeping at night John?

John: Just fine

Tony: No problems at all?

John: No I haven't

Tony: This hasn't been on your mind at all?

John: Uh, I look at like as ah I mean I wasn't I don't I don't even know exactly what even happened. I didn't get to see the funeral I didn't even find out about it until the 2nd of September when I called.

Tony: Ok, answer my question, hasn't this been on your mind at all?

John: It's been on my mind.

Tony: Since you have learned of the news?

John: Yes it has been on my mind.

Tony: Ok how have you have been sleeping at night?

John: I have been, I have been sleeping fine I have been, I the first couple nights when I found out about it I was scared.

Tony: Why were you scared?

John: Me and Debbie slept at a hotel the first night.

Tony: Why were you scared?

John: I was scared that whoever, whoever attacked Jen was going to come after me?

Tony: Why

John: Because I was thinking it was Alan, and Alan was jealous of me because Jen liked me. And Debbie was scared to the point where I I mean I put new locks on the doors and stuff and we still had to go spend the night at a hotel

13

C 1748 ~~Q1723~~

C06668

(209)

AB001763

APPENDIX 001794

I called up my landlord and I said hey I want new deadbolts on the doors.

Tony: Ok, you are telling me when you learned of this news, you thought it was Alan that had killed her and that is the reason why you slept in a hotel?

John: 100%, in my mind.

Tony: I believe that is what you are telling me but I don't believe that is what happened.

John: As soon as I heard

Tony: Why why do you think Alan killed her then, why do you think Alan killed her?

John: Because I know.

Tony: John you are not being truthful with us.

John: I am being truthful.

Tony: Then why do you think Alan killed her?

John: Because of the way, the way he is, what he has done, I had heard that he beat her up the other day too.

Tony: Did you tell you that Jennifer owed you money?

John: She owed me like 20 bucks.

Tony: \$20 from what?

John: From (big pause)

Tony: From what?

John: From some smoke.

Tony: Ok, what do you mean from some smoke, pot?

John: Yes

Tony: Ok, you supplied her drugs then didn't you?

John: Not all the time.

Tony: Not all the time, ok, what time did you supply her marijuana?

John: Just once in awhile.

14

C 1749

C06669

AB001764

Tony: Once, ok, how often is once in awhile? Tell us how often is once in awhile, we are not here to ask you questions.

John: Probably about once a month

Tony: About once a month, ok, how much did she get from you?

John: Maybe a maybe a quarter to and eighth, but I gave it to her.

Tony: You gave it to her,

John: yeh

Tony: And she owed you money for a buy?

C 1750 ~~04725~~

(1211)

C06670

John: Well, she owed me money as a friend.

Tony: Is that why you dropped by to see her before you went to Rockford, to collect some money?

John: No

Tony: You mean she wouldn't give you the money?

John: No

Tony: Did you stop by to have sex with her then?

John: No, I was going out with Debbie.

Tony: Well that's right, you were going out with Debbie but you were also wanting to see Jennifer, we know that for a fact.

Rob: John, you are not telling us everything ok, we are not going to sit here and ask you this stuff if there isn't some reason for us to ask you ok, now you need to start telling us the truth. All right.

John: I do not know the exact dates, I mean I know this looks bad on me because I know that I mean I am involved because of because ah, because of the drugs and I know it looks bad because I probably have the weakest alibi out of everyone that you have talked to.

Tony: Well you were just telling us it was Alan, how do you know it was Alan?

John: I think it was Alan, here is the story....

Tony: Why do you think it was Alan?

John: As soon as I heard....

Tony: Why would Alan want to kill her?

John: Because....

Tony: Because why

John: From what I know of him, he was pretty psycho over her, those were Jen's words, (Tony: Psycho enough to kill her) not my words that is what everyone thought...

Tony: Psycho enough to kill her?

John: Yes, man when he would get mad, like I said I was there

16

C 1751

C 1726

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C06671

AB001766

and he would kick down the door.

17

C06672<sup>C</sup> 1752

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AB001767

Tony: That doesn't mean he killed her?

John: Well, that doesn't mean he killed her....

Tony: You have a reason, she owed you money, drugs, and you was trying to get back with her, weren't you?

John: I was with Debbie.

Tony: We know you were with Debbie?

John: I wasn't trying to go back out with Jen.

Tony: We know you were with Debbie, we also know that you also that you tried to Jennifer again.

John: I did not try to see Jennifer.

Tony: Did she invite you over?

John: She wanted me to go back out with her but I wouldn't let her.

Tony: Did she invite you over?

John: Sometimes

Tony: Is that how it went?

John: Sometimes she does

Tony: It's not a crime to go over to her apartment?

John: I know it's not.

Tony: Then why can't you set here and tell us the truth?

John: Because I don't know exactly what dates I went over there.

Tony: But you did see her after the 21st? Didn't you John?

John: I did not see her after the 21st, I swear to God I'll take a polygram or whatever you want to take I did not see her.

Tony: I want the truth, swearing to God is a mistake John just like going over there seeing her was a mistake, it got out of hand didn't it?

John: I did not do anything.

18

C 1753

C06673

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AB001768

Tony: It got out of hand didn't it?

John: You can, you can

Tony: You went there to collect money for drugs, you went there to have sex with her, it's that simple.

John: No I did not, I did not.

Tony: Alright, then why did you go there?

John: I did not go there, the last day I saw her, Alan or Swain and Jen was the 21st the Saturday when she came over. That was the last time I saw her, now I will swear to God I will do anything to tell you that and the first time I found out about any of this happening was Tuesday night. Which was September 2nd, that was the first time I ever heard about this. Now I'm 100% sure that that's the first time I heard about this and I'm 100% sure that the last time I saw Jen was the 21st of....

Tony: No you are not, you can't get your dates straight you are confused...

John: I do know that date and I do know that was the last time

Tony: John, John, yo're confused about the dates when you were in here September 2nd, just like you are confused about the day, you know why you are confused, you know why you are confused John?

John: Because I don't keep track...

Tony: Because you don't know the truth from the stories that you fabricated.

John: I didn't fabricate any....

Tony: To keep us from finding out the truth.

John: I didn't fabricate any stories.

Tony: You were there, you were the last one to see her, you were in her apartment.

John: I was not the last person to see her, at least I don't think so...

Tony: You went there to collect money and you went there to have sex with her....

John: Swain gave her a ride home on Saturday, I could hardly

C 1754

C06674

say that I am the last person to see her when she dropped by....

Tony: We are not talking about Saturday, we are not talking about Saturday, we are talking about before you went to Rockford.

John: I did not see her.

Tony: You did not leave for Rockford until Wednesday

John: Yes

Tony: Wednesday..

John: That's correct.

Tony: The 25th of September..

John: That's correct...

Tony: Or correct me August.

John: Yes

Tony: That's when you went to Rockford?

John: Yes

Tony: And what time of the day was that?

John: Afternoon

Tony: Why in the afternoon?

John: Cause that is when I felt like going home.

Tony: What's her class...

John: It's not a crime to leave.

Tony: What is her class schedule?

John: I have no idea, I don't even, I didn't even get to talk to her to find out....

Tony: So you you dropped by hoping that she would be home. You dropped by to collect drug money cause you were going to bring her some more marijuana back from Rockford, isn't that the truth John?

John: No that is not the truth...

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Tony: John, John, isn't that the truth?  
John: No that is not the truth  
Tony: That't what you do though, don't you?  
John: No  
Tony: You don't  
John: No  
Tony: Have you ever brought drugs down from Rockford marijuana from Rockford, have you ever?  
John: Have I ever in my life?...  
Tony: Have you ever in your life.  
John: Well yeh, yes I have.  
Tony: Other than for your own personal use?  
John: Uh, not not not very often.  
Tony: Not but very often, but you have done it?  
John: Well yes I have...  
Tony: So you dropped by to see her to collect money so you could bring her some down. Cause she cut ties with Alan and Alan wouldn't do it, isn't that right John? She invited you into that apartment didn't she John? And you wanted a little bit, you wanted a little bit for the way home.....  
John: I didn't go to that apartment...  
Tony: Isn't that right John, isn't that right  
John: No that's not....  
Tony: You figured as long as Debbie was at work...  
John: Oh, come on please....  
Tony: As long as Debbie was at work, out of sight out of mind, what she doesn't know wasn't going to hurt her, isn't that right John?  
John: No that's not correct...

Tony: Isn't that what you did, you went in there.

John: I have not been in Jen's apartment....

Tony: You knocked on her door and you went into her apartment...

John: I haven't been there to her apartment weeks before that...

Tony: John you set there you are lying about the dates you went by and saw her you are lying about your drug activity

John: I am not lying, what am I supposed to do, first of all about the drug activity.....

Tony: John

John: What am I supposed to do, am I supposed to self incriminate myself in front of you guys?

Tony: John why can't you set here and tell us the truth? That's all we want you...

John: I have told you the truth, I told you the truth about the drugs and I told you the truth about what I knew about Jen. I did not do anything with Jen the last time I saw Jen was the 21st of August that Saturday when ah Debbie's dad came down and we moved down from the apartment she stopped by with Swain I haven't had sex with Jen in a couple months.

Tony: When is the last time you had sex with Jen?

John: In a couple months at least.

Tony: You were still going with Debbie...

John: It was last school year, at least...

Tony: You were still going with Debbie correct?....

John: It was last school year, it was way before last school year, no I don't even think I was going out with Debbie.

Tony: You told us in your last statement that the night that Alan came over and broke the door down you spent the night with Jennifer.

John: Yeh, and that was awhile ago.

Tony: And that was this past summer.

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AB001772

John: Yes, no that wasn't this past summer, that was last school year. That was last school year, I know that for a fact.

Tony: Are you willing to take a polygraph John?

John: I I will take a polygraph.

Tony: And what is that polygraph going to tell us when we ask you when you saw her last?

John: That the 21st of August was the last day that I saw her.

Tony: How are you going to do on that polygraph when we ask you that question John?

John: I am going to do just fine.

Tony: Just fine?

John: Cause that is the truth.

Tony: That the 21st was the last time that you saw her.

John: Yes that is the last time that I saw her. And furthermore,

Tony: Has Debbie ever accused you of seeing other girls?

John: Uh, no

Tony: Did you ever give her any reason?

John: Uh no

Tony: That you know of you haven't given her any reason?

John: No

Tony: Does she know that sometimes you stop by and see Jennifer?

John: She knows that I went out with Jennifer sometimes...

Tony: While seeing Debbie, does she know you went out with Jennifer while seeing Debbie?

John: No, but I I only saw, I only saw Jen like once when I was going out with Debbie....

Tony: When did you plan on taking Jennifer or going with Jennifer at bad music night at Rocky's. When did you

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121

plan that, when did you plan on asking her about that?

John: I planned on asking her....

Tony: It's in your statement, it's in your statement..

John: I planned on asking her when I got back to school which would be the 8th.

Tony: And that was Debbie's understanding and she had no problem with that?

John: She wouldn't have any problem if I took Jen out to bad music night. She knows that Jen, Jen came over to my apartment all last year and had parties she was always with Alan though, she just started seeing Swain at the end of the school year.....

Tony: John how are we going to get you clear of this?

John: I have no idea but I just know that, I mean, I just know that, I mean if you guys are accusing me that then that scares me for one because I know that you guys just have no idea who did it then.

Tony: What am I accusing you of John?

John: Well I mean the way you are saying you were there, you were there, that's .....

C 1759

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(15)

Tony: What am I accusing you of John?

John: You are accusing me of being with Jen or the last person of being with Jen....

Tony: Is that a crime?

John: No it's not a crime....

Tony: Then I am not accusing you of anything then am I.

John: I guess not.

Tony: I want to know where you were the 25th of August. And I want to know where you were the 26th of August I want to know where you were the 27th of August, I want to know where you were the 28th of August, how are you going to find out where you were?

John: If you would like more specific dates I will, I will do research, I will find out exact times, I will get a phone bill. I will have every single minute of those days accounted for. If you would like. Okay, I got no problems with that, but I mean I got not problems with that.

Tony: Do you have anything else to say John in regards to ah the last time you saw Jennifer?

John: It was the 21st of August, ah, that Saturday.

Tony: It is now ah 3:18 p.m. we will be temporarily interrupting this interview with John. This interview with John continues, it is now 3:26 p.m.

Tony: John, you stated you saw Alan last night, where and when was this?

John: Ah, it was IWU Illinois Wesleyan Univeristy. It was right outside the main lounge it was about five, the time was about between 5:00 and 5:30 at night. We walked ah, we had decided to meet then, we talked for a little bit. I just asked him well what is up? And you know he is like Jen is dead and I'm like well what do you know about it and he is like I don't know that much ok, and I am like do you know how she died, when she died what happened? And he is like well all that I know is that she was stabbed to death. Okay. I am like stabbed to death I heard she was strangled, you know, and he was like the cops told me she was stabbed. Okay, then and then they first arrested me and then they said that she was stabbed and then they said that she was alive and then they said

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that she was stabbed and then they said she was alive again and then dead again. He said something the fact that she was alive then dead alive then dead and the whole time he was wearing this hat and these real dark sunglasses you know and I was just trying to look at his eyes, and I am like well what do you you know what I mean what are you going to do, I mean, what do you know about this and he's like nothing more besides that. And I am like well and then he said something to fact that uh well Swain was going out with her so Swain is the one that has to black clothes for year not me. I am done. I am over her. And for someone, I mean, he was so emotionally hungup on her to say something like that it just puzzled me.

Tony: What did he ah say in regards to how she did die?  
John: He said she was stabbed with scissors or something.  
Tony: And who told him this?  
John: The cops, you guys.  
Tony: Ok, and he said that she was stabbed with what?  
John: I believe he said scissors.  
Tony: Well where was she stabbed with scissors.  
John: He never told me where he just said stabbed. I didn't pry in and ask further because I said oh, that's weird they told me that she was strangled and I thought she was strangled.  
Tony: Who told you that she was strangled?  
John: I think you guys did.  
Tony: What did your brother Joe tell you?  
John: Maybe it was my brother, my brother said that she was strangled then.  
Tony: What was she strangled with?  
John: Gloves  
Tony: And that's what Joe told you?  
John: yes....  
Tony: And where did Joe get this information?

26

C 1761

C 1736

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John: I have no idea the first time I heard about this was, like I said Tuesday night he called me up really late and he was like Joe ah, John, guess what, and I'm like what. Jen Jennifer Lockmiller is dead. I am like dead, are you serious? And he is like yes, and I am like Jen Lockmiller is dead? And he is like yes. And I am like oh my God you know, and I talked to him for second and I hung up and I told my mom. I'm like I kept on saying. holy shit I can't even believe this. Jen Lockmiller is dead mom, I went out with her.

Tony: Ok, getting back to what the conversation that you and Alan had was about last evening at IWU.

John: Um huh (yes)

Tony: Alan did say that the cops had told him that Jennifer died from being stabbed from with scissors is that correct.

John: Yes

Tony: Did he say anything about being strangled, did he say anything about her being strangled?

John: No, no, he said he didn't even know about her being strangled. He said he just thought she was just stabbed. Which I don't even know what is the truth?

Tony: And he also mentioned that the cops told him that she had died from being stabbed with scissors is that correct?

John: Uh yes, she said she died from stabbing.

Tony: Is that the first time that you have heard of that.

John: That is the first time I have heard of that, and that's the first time I had talked to Alan.

Tony: I thought you had mentioned earlier in this ah conversation concerning your conversation with Alan that you had agreed to meet over there.

John: Well I had talked to him....

Tony: Had you talked to him prior to last night?

John: Oh it was, it was earlier that day about an hour I saw him in passing in the hallway I am like Alan we have to talk later. He's like what time, I am like ok 5:00 conference room.

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(12)

Tony: Ok, who was present when the two of you were talking about Jennifer's death last night?

John: Um, no one we were just sittin' talking on the oh, well Debbie did walk in because I was meeting Debbie at 5:30 or about 5:40 to go upstairs and register. So Debbie walked Debbie approached both of us and Alan said hi like that and Debbie is like who is that? And I am like that was Alan and she was like that was Alan she was like I thought I recognized him she was like you stay away from him. I am like yeh I know, I just wanted to find out what happened and she was like did he say anything and I am like no he just said that she was stabbed. And Debbie was like stabbed I thought she was strangled and that was basically the same.....

Tony: Did Debbie hear any of this conversation between you and Alan?

John: No

Tony: So the conversation switched when she approached?

John: I left when she approached because I didn't want to hang around Alan too long either.

Tony: Is there anything else that you can think of regarding that conversation that you had with Alan that last night, last night?

John: No, no, I met Swain and told him that we had to talk and I haven't talked to him yet.

Tony: You haven't talked to Mike Swain?

John: I haven't talked to Mike Swain yet, I just met him in the lunch line and said hey we have to talk and he was just walking to class...

Tony: Who else have you talked to besides Joe and your friend Debbie and Alan concerning Jennifer's death?

John: No one

Tony: What have you read in the paper concerning Jennifer's death?

John: An article about three lines long in the Rockford paper.

Tony: What did that say?

John: It said that a 22 year old ISU student found from

28

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(1227)

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Decatur, Illinois, Jennifer Lockmiller was found dead in her apartment early Saturday or something, that is it. It was about three lines long, two lines long in the Rockford Register Star.

Tony: When is the last time that you talked to Mike Swain?  
John: It would be that it would be the 21st of August, it would be the 21st of August when Mike and Jennifer came by.  
Tony: Have you talked to Chris Carbone?  
John: Ah, I haven't talked to him since the beginning of summer.  
Tony: Have you talked to Joshua Whitney?  
John: I haven't talked to him since last year.  
Tony: Have you talked to Michael McKay, a Michael Mackey?  
John: I don't even know him.  
Tony: Do you know Jay Schrock?  
John: I don't even know him  
Rob: He goes by J.C.  
John: J.C., no I don't I know Josh....  
Tony: Have you talked to any of Jennifer's female friends?  
John: (Whew) A month ago I talked to Morgan.  
Tony: Morgan Keefe?  
John: Yeh, that's about it.  
Tony: Is there anything else that you can recall concerning the conversation between you and Alan last night?  
John: Um, no  
Tony: This conversation/interview with ah John concludes at 3:33 p.m.

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

ALAN BEAMAN, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 10-CV-1019  
 )  
JAMES SOUK, et al., )  
 )  
Defendants. )

VOLUME I, PAGES 1 - 176

DISCOVERY DEPOSITION  
OF  
TONY L. DANIELS

Discovery deposition of TONY L. DANIELS,  
taken on May 20, 2013, beginning at 10:04 a.m., at  
207 West Jefferson Street, Bloomington, Illinois, at  
the instance of the Defendants, pursuant to Subpoena  
and agreement of the parties, before Christine M.  
Luciano, Certified Shorthand Reporter in the State of  
Illinois.

\* \* \* \* \*

ANCHOR REPORTING, INC.  
P.O. Box 25471  
Decatur, Illinois 62525-5471  
(217) 428-0946

006686

1     A P P E A R A N C E S:

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15          James Souk, Charles Reynard, John Brown,  
16          and County of McLean, Illinois;

17          ANCEL, GLINK, DIAMOND, BUSH,  
18          DiCIANNI & KRAFTHEFER, P.C.  
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24          Timothy Freesmeyer, Robert Hospelhorn,  
            David Warner, Frank Zayas, and  
            Town of Normal, Illinois.

\* \* \*

I N D E X

WITNESS

EXAMINATION

TONY L. DANIELS

By Ms. Barton

4

E X H I B I T S

TONY L. DANIELS  
DEPOSITION EXHIBIT

MARKED FOR ID

No. 1	96
No. 2	100
No. 3	115
No. 4	137
No. 5	138
No. 6	145
No. 7	157
No. 8	160

1 (Witness duly sworn.)

2 TONY L. DANIELS,

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

5 DIRECT EXAMINATION

6 BY MS. BARTON:

7 Q. Can you please state your name and spell it  
8 for the record.

9 A. Tony L. Daniels, D-a-n-i-e-l-s.

10 MS. BARTON: For the record, this is the  
11 deposition of Tony Daniels. It's being taken in the  
12 case Beaman versus Souk, et al., filed in the Central  
13 District of Illinois. It's being taken pursuant to  
14 subpoena, the Federal Rules of Civil Procedure, as  
15 well as the local rules in the Central District.

16 BY MS. BARTON:

17 Q. Mr. Daniels, have you ever given a deposition  
18 before?

19 A. No.

20 Q. Have you testified in court?

21 A. Pardon me?

22 Q. Have you testified in court?

23 A. Oh, yes.

24 Q. Court proceedings?

1 A. Yes.

2 Q. So this is a little bit different. Obviously  
3 the court reporter is taking down everything that we  
4 say, so it's very important that we not talk over one  
5 another. So I'll extend the courtesy to you to wait  
6 until you're finished answering my question. Just  
7 please extend the same courtesy to me. And you might  
8 know where I'm going with a question or what I'm going  
9 to ask you and you might be eager to answer, things  
10 can get conversational, but just make sure that, so we  
11 have a clean record for today, so it's easier on the  
12 court reporter, that you wait until I'm finished  
13 asking my question, okay?

14 A. Okay.

15 Q. If something's confusing or you don't  
16 understand the question, just let me know. I can  
17 certainly rephrase. But if you answer the question,  
18 I'm going to assume that you understood it; is that  
19 fair?

20 A. That's fair.

21 Q. If you have to take a break for any reason,  
22 just let me know. Just answer a question if there's a  
23 question pending before we take the break, okay?

24 A. Sure.

C06690

1 Q. Did you meet with anybody in preparation for  
2 your testimony today?

3 A. Yes, I met with Locke down here.

4 Q. When did you meet with Mr. Bowman?

5 A. I met with him in December of 2012 and also I  
6 think it was in February of 2013.

7 Q. You met with Mr. Bowman in December and in  
8 February?

9 A. Yes.

10 Q. So two times you met with Mr. Bowman in  
11 preparation for your deposition testimony?

12 A. Correct.

13 Q. Was anybody else present other than  
14 Mr. Bowman?

15 A. Yes, one of the assistants from the law firm,  
16 Alexa, on the first meeting.

17 Q. How long did the first meeting last?

18 A. As I recall, approximately two hours and the  
19 same for the second one.

20 Q. Where did you meet with Mr. Bowman and  
21 Ms. Van Brunt?

22 A. On both occasions, it was at Baby Bull's  
23 Restaurant in Pontiac, Illinois.

24 Q. The first time that you met with Mr. Bowman

1 and Ms. Van Brunt, do you recall any of the substance  
2 of the conversation?

3 A. Yes, we talked about circumstances regarding  
4 the death of Jennifer, suspects, evidence reviewed,  
5 evidence that should have been disclosed, people that  
6 should have been talked to, people that were talked  
7 to. I think that's probably about what we talked  
8 about as I can recall.

9 Q. Do you recall any of the specifics about what  
10 evidence you discussed?

11 A. I don't really recall. Without me guessing  
12 what it would have been, important substance in the  
13 case.

14 Q. Did you talk about this lawsuit?

15 A. Yes.

16 Q. What did you talk about this lawsuit?

17 A. Who was being sued and being interviewed --  
18 being interviewed.

19 Q. And what did you talk about with respect to  
20 who was being sued?

21 A. The Normal officers, you know, their names,  
22 Judge Souk. That's about it.

23 Q. Do you remember anything else about what you  
24 discussed with them in December of 2012 with regard to

**006692**

1 this lawsuit in particular?

2 A. Not really. Not in particular, no.

3 Q. Did they talk to you about why you would be  
4 deposed in this case?

5 A. My understanding is that I would be deposed  
6 by Souk's representatives.

7 MS. BARTON: And I'm sorry that I didn't do  
8 this in the beginning of the deposition, but we met  
9 earlier today, and I've spoken to you over the phone.  
10 My name is Elizabeth Barton, and I do represent  
11 Mr. Souk and also Mr. Reynard and John Brown and  
12 McLean County.

13 Do other counsel want to identify themselves  
14 for the record? I apologize I didn't do that earlier.

15 MR. DiCIANNI: Thomas DiCianni for the Town  
16 of Normal defendants.

17 MR. BOWMAN: And my name is Locke Bowman, and  
18 I represent Alan Beaman.

19 MS. BARTON: Thank you.

20 BY MS. BARTON:

21 Q. Did you discuss with Mr. Bowman and  
22 Ms. Van Brunt why your testimony would be needed in  
23 this case?

24 A. Well, if we did, I had forgotten the gist of

1 the conversation regarding that issue.

2 Q. Did you discuss with them in December why you  
3 were not a party to the lawsuit?

4 A. We could have.

5 Q. But you don't recall?

6 A. No, I don't recall specifics, no. It's a  
7 possibility we could have.

8 Q. You also mentioned earlier that you discussed  
9 with Mr. Bowman and Ms. Van Brunt the fact that  
10 certain evidence should have been disclosed. What do  
11 you mean by that?

12 A. Well, my understanding during the trial and  
13 even before that and also after that in my testimony  
14 in one of Alan's appeals was that John Doe, who is  
15 referred to as a viable suspect, that information had  
16 not been disclosed why he was a suspect.

17 Q. And in these proceedings, we can refer to  
18 John Doe by name. So who do you understand John Doe  
19 to be?

20 A. John Larbi Murray.

21 Q. Larbi Murray?

22 A. Uh-huh.

23 Q. What did you discuss with Mr. Beaman's  
24 counsel in December about the John Doe evidence as you

006694

1 referred to it?

2 A. His two interviews that myself and  
3 Officer Hospelhorn conducted, the contents of those  
4 two interviews, the fact that he had motive, he had  
5 the opportunity, and he lived within five or  
6 seven minutes drive of Jennifer, and the fact that  
7 he -- the phone call he made when he got back to his  
8 apartment to his girlfriend, Deborah Mackoway, in my  
9 opinion was a way for him to set up an alibi.

10 Q. And this is what you discussed with  
11 Mr. Beaman's counsel in December of 2012?

12 A. I'm almost 100 percent certain I did.

13 Q. Do you recall anything else that you  
14 discussed with them in December?

15 A. Well, why I thought perhaps that Alan was not  
16 the guilty individual.

17 Q. And what did you talk about then in December  
18 about why you believed that Mr. Beaman is not guilty?

19 A. I may have touched on the victimology, why  
20 she was a victim. The fact that she had many  
21 boyfriends, she was to get back together with  
22 John Larbi. And also the fact that his car couldn't  
23 have taken him from Rockford down to Normal and back  
24 traveling at over 100 miles an hour in order for him

1 to commit the murder. And I may have talked about his  
2 demeanor in the courtroom. I don't know.

3 Q. And by his demeanor, who do you mean?

4 A. Alan Beaman.

5 Q. Anything else that you recall from the  
6 conversation in December?

7 A. No, not offhand that I recall.

8 Q. What about the meeting in February of this  
9 year?

10 A. Basically I think the same thing, but  
11 Mr. Bowman had some selected questions for me, and I  
12 don't recall what they were.

13 Q. Do you recall what the topic of those  
14 questions were?

15 A. Oh, yes, one was the notes that I had brought  
16 back from the April '94 unresolved homicide class that  
17 I attended in Jacksonville, Florida, and the fact that  
18 there was a meeting prior to Alan Beaman's -- a  
19 warrant being issued. And at that meeting, which I  
20 was present, so was Chief Taylor and Jim Souk and a  
21 few other people whose names and faces I don't recall,  
22 as to why I felt that the notes I had were not  
23 important to Mr. Souk because Mr. Souk had interrupted  
24 me when it was my opportunity to discuss these leads

1 from that school.

2 And at that time, he said he thought that  
3 they went far enough in the investigation, that they  
4 were going to go ahead and issue a warrant for  
5 Mr. Beaman's arrest. And shortly after that meeting  
6 broke up, I spoke with Chief Taylor, he's the chief  
7 of -- was the chief of Normal Police Department, and I  
8 expressed my concerns about not having the opportunity  
9 to express those leads to the group of people present  
10 at that meeting. And to no avail, I still wasn't  
11 given the opportunity, but the document was available.

12 Q. And we'll go into more detail with respect to  
13 those issues later.

14 Do you recall anything else that Mr. Bowman  
15 asked you specifically or general topics in the  
16 February meeting?

17 A. Yes, there was another issue, and that had to  
18 do with receiving the results from the Illinois crime  
19 lab in Morton, Illinois, and that was the results of  
20 John Larbi Murray's attempted polygraph exam. There  
21 was a discussion and apparently a misunderstanding as  
22 to who received that letter from -- from the crime lab  
23 and to where it had went.

24 Q. What did Mr. Bowman tell you about that?

1           A.    Well, he informed me as I best recall that  
2    Dave Warner, who at that time was the evidence tech on  
3    this case for Normal, and he informed me that  
4    Dave Warner said that he -- Dave Warner had taken  
5    John Murray over to the crime lab himself and that  
6    when the results came back to the Normal Police  
7    Department, that Dave Warner had given me that letter,  
8    and basically I don't want to say I corrected  
9    Mr. Bowman or Mr. Warner; however, without a doubt,  
10   100 percent surety, I am the one that had taken  
11   John Murray over there because I had a conversation  
12   with him on the way back from the crime lab.

13                And as far as the letter on the results of  
14   the attempted polygraph, where that letter wound up  
15   whether it was in my hands, whether it was in my  
16   mailbox, whether Warner gave it to me, I don't recall.

17           Q.    Did you discuss that with Mr. Bowman and  
18   Ms. Van Brunt in February?

19           A.    I don't know if I discussed it in February --  
20   or, I'm sorry, Mr. Bowman was present in February.  
21   Yeah, that was the issue we discussed. But as far as  
22   December, I don't know if we discussed that in  
23   December.

24           Q.    Any other topics in the February

1 conversation?

2 A. Not that I recall. If Mr. Bowman had notes,  
3 maybe that would refresh my memory, but I don't  
4 recall.

5 Q. So you talked about the -- your notes from  
6 the April '94 class that you took, --

7 A. Correct.

8 Q. -- right?

9 And then Mr. Murray's polygraph examination  
10 or the attempt of the examination?

11 A. Correct.

12 Q. And you don't recall anything else?

13 A. Well, being there two hours, we had to talk  
14 about other issues, but those two stand out.

15 Q. Sure. Any other conversations that you had  
16 in preparation for your testimony today?

17 A. No.

18 Q. Did you --

19 A. Pardon me. Yes, I had a conversation with  
20 the town's attorney, and I think that was back in  
21 December as well.

22 Q. With Mr. DiCianni?

23 A. Yes.

24 Q. Do you recall what you discussed with him?

1 A. Basically the same issues.

2 Q. How about Tony Matens, did you talk to him in  
3 preparation for today?

4 A. Not in preparation for today, no. We had a  
5 couple of conversations of a personal issue and either  
6 I or he would have said have you been deposed yet, and  
7 I said no, but I got one coming up. He would  
8 interject, well, we can't talk about that and I agreed  
9 with him and we did not.

10 Q. Did you review any documents for today?

11 A. Well, I don't know if you want to call them  
12 review, but prior to today, I had taken the documents  
13 that I had maintained during the last 20 years, and I  
14 prepared those by separating them by subject matter  
15 putting them into individual folders and then taking  
16 those up to Itasca to your law office. If you want to  
17 call that review, I --

18 Q. Did you read any of the documents?

19 A. Well, I had to read them to separate them by  
20 subject but for detail or looking for whatever.

21 Q. Sure. So you brought about five boxes,  
22 right, --

23 A. Correct.

24 Q. -- to my office?

1           And that was in response to a subpoena that I  
2 sent you?

3           A.    Correct.

4           Q.    Before you responded to the subpoena, are you  
5 saying that you kind of went through the documents and  
6 then you separated them by category into -- I think  
7 they're blue folders with labels?

8           A.    Well, before I got the subpoena, yes, I did.  
9 I did that as a matter of fact in our meeting in  
10 February with Mr. Bowman. Shortly after that I went  
11 home and started organizing it, and then I got your  
12 subpoena and then I delivered those myself up to your  
13 office.

14          Q.    What sort of state were the documents in  
15 before you began to organize them after your February  
16 meeting with Mr. Bowman?

17          A.    Well, I had four boxes of documents that were  
18 basically from the Court. They were transcripts, they  
19 were discovery, officers -- copies of officers'  
20 reports, videotapes from TV, and I had one box of  
21 miscellaneous. And I hate to use that word  
22 miscellaneous, but I had one box of notes that were  
23 prepared most likely most of them after the issue of  
24 the search warrant, after his trial --

1 Q. Do you mean the arrest warrant?

2 A. Yes, I'm sorry, the arrest warrant on Alan.  
3 Notes that came up in my thoughts during the various  
4 times that Alan had to reappear and appear for his  
5 appeals and information that I had thought about,  
6 questions that I had concerning the case and why was  
7 Alan not a good suspect at the time, why was Murray a  
8 good suspect, things that perhaps that should have  
9 been done that were overlooked or things that would  
10 prove -- might prove to be interesting.

11 Q. And so you said that most of these notes that  
12 you prepared were after Mr. Beaman was arrested?

13 A. Correct. Most of them were, yes, after I  
14 started reviewing the case and getting more  
15 information from discovery, the information that I  
16 wasn't aware of.

17 Q. Where did you keep all these notes or your  
18 miscellaneous box? Where did you maintain that?

19 A. Mostly in my -- well, they all were in my  
20 home.

21 Q. So when you began preparing these notes or  
22 these thoughts, these miscellaneous materials, did you  
23 prepare them at home on your own time?

24 A. Oh, yes, they were kept at my residence.

1 Q. They were always kept at your residence?

2 A. Yes. Perhaps maybe I need to clarify that a  
3 little bit.

4 Q. Sure.

5 A. The Court documents I got from Mr. Beaman's  
6 attorneys, they made copies for me.

7 Q. The five boxes that you provided to my  
8 office, are those all the documents you have related  
9 to the Beaman case?

10 A. That's all I have, yes.

11 Q. Let's go through a little bit of your  
12 background, if you don't mind.

13 A. Okay. No.

14 Q. I'll try to do an abbreviated version, keep  
15 things moving.

16 Did you graduate from high school?

17 A. Yes.

18 Q. What year did you graduate from high school?

19 A. 1960.

20 Q. It's a good example. I know you know what  
21 I'm going to ask you, but just make sure to wait until  
22 I'm finished asking the question so we have a clear  
23 record, okay? Thank you.

24 Where did you graduate from high school?

- 1           A.    Lanphier High School, Springfield, Illinois.
- 2           Q.    Do you have a college degree?
- 3           A.    Two years.
- 4           Q.    An associate's degree?
- 5           A.    Yes.
- 6           Q.    When did you obtain that?
- 7           A.    Late '90s.  I started it in 1970 when I moved
- 8           up here.  The courses I wanted to take were not
- 9           available, so when Heartland Community College started
- 10          up, I was able to complete that.
- 11          Q.    So you have your associate's degree from
- 12          Heartland Community College?
- 13          A.    Yes.
- 14          Q.    Any other college credits?
- 15          A.    Not college credits that would reflect my
- 16          profession, no.  I have taken some other personal
- 17          courses.
- 18          Q.    I understand that you were in the military at
- 19          one point in time?
- 20          A.    Yes.
- 21          Q.    What branch of the military?
- 22          A.    Marine Corps.
- 23          Q.    When did you join the Marine Corps?
- 24          A.    May 1960.

1 Q. And when were you discharged?

2 A. September the 11th, 1970.

3 Q. What was your rank at that time?

4 A. Staff sergeant, E-6.

5 Q. Where were you located during your career in  
6 the Marine Corps?

7 A. Japan; El Toro, California; Vietnam three  
8 times. Basically that's about it. I'm sorry,  
9 Quantico, Virginia for two years, and one year in  
10 D.C. -- Washington, D.C.

11 Q. Did you have any specialties or areas in the  
12 Marine Corps?

13 A. Yes, I was an intelligence analyst.

14 Q. What does that mean?

15 A. Basically what I did would be to analyze  
16 reports. At that time when I first went in, it was a  
17 cold war and you analyze all intelligence reports and  
18 then consolidate them for a final briefing.

19 When I was in Vietnam, I briefed and  
20 debriefed pilots on their combat missions. And then  
21 third time I was in Vietnam, I helped prepare the  
22 intelligence briefings. I also had a Vietnamese  
23 language, secondary, and I taught Vietnamese language  
24 to -- two years in Quantico to Marine officers.

1 Q. Was it an honorable discharge?

2 A. Oh, yes.

3 Q. What did you do after you were discharged in  
4 1970?

5 A. I took a first job that came along in  
6 Springfield. I worked for a wholesale distributor,  
7 wine, liquor and tobacco, while I was attending  
8 part-time school at Lincoln Community College down in  
9 Springfield.

10 Q. What was your first law enforcement position?

11 A. With the Town of Normal, February 1970 -- I'm  
12 sorry, December of 1977.

13 Q. The seven years between 1970 and 1977, were  
14 you in Springfield?

15 A. I was in Springfield for six years, and I had  
16 moved to Bloomington in November of '76. And the  
17 company I was working for in Springfield had a need  
18 for a warehouse supervisor at their wine distribution  
19 center in Bloomington, so I had taken that position,  
20 and a year later I was offered a job with the  
21 Normal Police Department and so I resigned with the  
22 company to join the police department.

23 Q. And when did you retire from the Normal  
24 Police Department?

- 1 A. I retired December the 15th, 2000.
- 2 Q. What was your position at that time?
- 3 A. I was a lieutenant in charge of CID.
- 4 Q. CID, can you --
- 5 A. Criminal Investigations Division.
- 6 Q. Can you run me through your career beginning
- 7 in 1997 at the Normal Police Department.
- 8 A. 1997?
- 9 Q. 1977. Did I misspeak?
- 10 A. Oh, I'm sorry.
- 11 Q. Excuse me.
- 12 A. 1977. Yes, like most recruits, individuals
- 13 who finish their training at PTI were assigned to
- 14 shift -- patrol shift.
- 15 Q. PTI is Police Training Institute?
- 16 A. Police Training Institute in Springfield at
- 17 the Illinois State Police Academy.
- 18 Q. Thank you.
- 19 A. And then a position became available in
- 20 detectives, and I was assigned to that detective
- 21 division for two years, and then we were being
- 22 rotated. With the new chief we had, we were being
- 23 rotated out of the detective division. I had a desire
- 24 to use my skills, if you will, an interest in a

1 civilian profession. So I left in February of '85.

2 And after I left, I moved down to St. Louis.  
3 From St. Louis, I stayed there approximately  
4 two years, moved to Sarasota, Florida, where I was  
5 able to receive a position with the Sarasota County  
6 Sheriff's Department. Personal issues came up with  
7 the wife and the kids, so we came back to Normal.  
8 Fortunately I was able to rejoin the Normal Police  
9 Department in February of '85.

10 And during '85 and 2000 when I retired, I  
11 worked -- or, I'm sorry, I rejoined in February of  
12 '88.

13 Q. Okay.

14 A. I'm sorry.

15 Q. Because you left for St. Louis in February of  
16 '85?

17 A. Right. I was gone for three years from the  
18 Normal Police Department.

19 I was able to retest and was offered a job  
20 back with the Normal Police Department in February of  
21 '88.

22 Q. What was your position at that time?

23 A. I started over as a patrolman and then worked  
24 my way up and worked back in detectives. I got

1 promoted to sergeant and then the lieutenant. All in  
2 all, I spent -- during my 20 years total time, I spent  
3 about 10 years in detectives.

4 Q. When were you promoted to sergeant?

5 A. I would say probably '95. I'm not certain of  
6 those dates. And the lieutenant, probably around '98,  
7 '97.

8 Q. And after you retired in December 2000, did  
9 you continue to do work for Normal PD as an unsworn  
10 civilian?

11 A. I did, but when I retired in 2000, I went to  
12 work as a project manager at Mitsubishi Motors in  
13 Bloomington-Normal. I was a project manager for their  
14 contract, safety, and security operation. I was there  
15 for three years.

16 Then I was offered a temporary position back  
17 at the Normal Police Department as a front desk police  
18 representative because their personnel was -- he was  
19 going in for a hip replacement and I was offered that  
20 position, which I took, and I think that went on for  
21 about three months.

22 And then I had learned that a part-time  
23 position within the police department had opened up  
24 and that title was fleet vehicle maintenance officer.

1 Would you like my duties?

2 Q. Sure.

3 A. I was responsible for taking the cars down to  
4 our city garage to have them repaired. I would take  
5 them over to the car wash and have the people over  
6 there wash them, and then I would do what is called  
7 the court front. In other words, I'd take traffic  
8 tickets and other legal documents down to the  
9 courthouse. That basically was a part-time job,  
10 three, four hours a day, and I did that for about  
11 eight years.

12 Q. And you said you were in -- when you were at  
13 the Normal Police Department, you were within the CID  
14 for about ten years?

15 A. Approximately, yes.

16 Q. Were you ever the supervisor of CID?

17 A. Yes.

18 Q. When you were a sergeant and a lieutenant,  
19 were you a supervisor of CID?

20 A. As a sergeant, I believe I worked under a  
21 captain.

22 Q. How many sergeants were in the department at  
23 that time?

24 A. CID or the entire department?

1 Q. The entire department.

2 A. In the neighborhood of 10 to 12.

3 Q. And so were you a sergeant of just the CID or  
4 were you a sergeant of other areas of Normal Police  
5 Department?

6 A. Well, just CID. We were required -- when I  
7 got reported -- when I got promoted to lieutenant, we  
8 required, I believe it was once a month, to supervise  
9 a patrol shift so we wouldn't lose our connection with  
10 the patrol and our skills.

11 Q. When you became a detective, did you have to  
12 have special training to become a detective?

13 A. Yes.

14 Q. What was the training?

15 A. The training was basic investigations. I  
16 attended three interview interrogation schools,  
17 several other schools that related to investigations.

18 Q. And did you continue your training in  
19 interrogations and detective work throughout your  
20 career?

21 A. As much as I could and was allowed. I would  
22 go to various seminars with specialist in homicide  
23 investigations such as Henry Lee and -- there was  
24 another individual that was in charge. That was part

1 of the school that I attended in April '94. He worked  
2 for the FBI. He was behavioral science unit down  
3 there. I think all in all, there was quite a few  
4 schools.

5 Q. When did you stop working altogether for the  
6 Normal Police Department?

7 A. Part-time as well?

8 Q. Yes.

9 A. November 30 of 2012.

10 Q. And are you currently employed?

11 A. No.

12 Q. Enjoying retirement.

13 A. As much as I can.

14 Q. I just want to establish some definitions  
15 just so that we're all on the same page --

16 A. Sure.

17 Q. -- as we go forward. They may seem obvious  
18 to you, but with all your years experience, I want to  
19 hear in your own words what certain things mean.

20 So can you just define for me what an  
21 investigation is, just generally what an investigation  
22 is.

23 A. Investigation would be actions you would take  
24 to determine if a crime had been committed and

1 identify possible suspects and collect evidence and  
2 present your case to the State's Attorney's Office and  
3 testify if needed.

4 Q. What is a suspect?

5 A. An individual who may have committed a crime.

6 Q. Is that different than a person of interest?

7 A. Well, my understanding the term person of  
8 interest has come up recently in the law enforcement  
9 lingo from the media. Today's use of the word, it's  
10 probably interchangeable.

11 Q. What about during your career in the CID?

12 A. I have never used that word or phrase, person  
13 of interest.

14 Q. So what are the realm of possibilities for  
15 characterizing just a person involved in the  
16 investigation, whether they be a witness, a suspect,  
17 what are those --

18 A. Person who may have knowledge of a crime.

19 Q. So a witness is a person who may have  
20 knowledge of the crime?

21 A. Correct.

22 Q. And a suspect is a person who may have  
23 committed the crime?

24 A. Correct.

1 Q. Any other categories of individuals?

2 A. Other than -- well, you have victim of  
3 course. Other than victim, suspect or witness, I  
4 think that's about it.

5 Q. And what makes a person a suspect? They may  
6 have committed the crime. What does that mean? Can  
7 you elaborate on it?

8 A. Yes. The likelihood that that individual had  
9 the opportunity, the motive and the means to commit a  
10 crime.

11 Q. Do you have to have all three for a person to  
12 become a suspect?

13 A. Not necessarily motive.

14 Q. So if an individual has the means to commit a  
15 crime and the opportunity to commit the crime, they  
16 could be a suspect in any given crime?

17 A. Correct.

18 Q. Why do you say not necessarily a motive to  
19 commit the crime?

20 A. It could be an accident. We're talking about  
21 homicide, are we not, or any crime?

22 Q. Any crime.

23 A. Would you repeat your question, please?

24 Q. Sure. I asked -- well, you said that in

1 order for a person to be a suspect, they have to have  
2 the opportunity to commit the crime and the means to  
3 commit the crime but not necessarily the motive to  
4 commit the crime. And I just asked why not motive to  
5 commit the crime? Why isn't that part of the  
6 consideration?

7 A. Well, it's possible in a homicide, it could  
8 be considered an accident, but you could have a crime  
9 that maybe it's a misdemeanor, and he could do it --  
10 or even a felony for personal gain, monetary gain  
11 perhaps.

12 Q. In your definition of investigation, you also  
13 said one of the duties of an officer is a -- or a  
14 detective is to present the evidence. Can you define  
15 evidence for me?

16 A. Evidence is those items that could be used in  
17 the commission of a crime or identify the perpetrator.

18 Q. And you're familiar with the term probable  
19 cause?

20 A. Yes.

21 Q. Can you define that for me, please.

22 A. Probable cause is a -- let me gather my  
23 thoughts here.

24 Q. Sure.

1           A.    A reason to believe that a person did commit  
2 the crime.

3           Q.    So is the standard, at least as far as you  
4 understand it, reasonable belief?

5           A.    A reasonable belief, well, based upon other  
6 factors.

7           Q.    What are the other factors?

8           A.    Location, time, what a reasonable person may  
9 believe that he had committed a crime.

10          Q.    What's the -- or is there a difference  
11 between an interview and an interrogation?

12          A.    Interview is to collect information.

13          Q.    Collect information about a potential crime?

14          A.    A person, crime, yes.

15                And an interrogation is when you turn an  
16 interview to accusation.

17          Q.    So an interrogation involves more of an  
18 accusation --

19          A.    Correct.

20          Q.    Depending on the circumstances, do you -- did  
21 you use, at least in your time in the CID, different  
22 tactics for an interview versus an interrogation?

23          A.    Oh, yes.

24          Q.    What was the difference?

**C06716**

1           A.    The difference on the interview is  
2           hypothetically I have a person's name in a report or  
3           it was given to me during maybe another interview, and  
4           I would ask that person to come in or I would visit  
5           that person and try to obtain from that person as much  
6           information that person would have recording the crime  
7           and/or person.

8                    An interrogation would be that I have enough  
9           information that I believe that the person I'm talking  
10          with did actually commit the crime and I'm trying to  
11          extract a confession.

12          Q.    Can an interview turn into an interrogation  
13          at the time you're speaking with the individual?

14          A.    Yes.

15          Q.    What sort of circumstances would that happen?

16          A.    The information on the person I would be  
17          interviewing would be available only to the person  
18          that committed the crime.  Then that would turn -- at  
19          that point hopefully it could turn into an  
20          interrogation.  Based upon the totality of the  
21          information that you have about the person and/or the  
22          crime and the evidence.

23          Q.    Are interrogations only of individuals who  
24          you believe committed or could have potentially

1 committed the crime?

2 A. No. You could have a suspect that you  
3 believe committed a crime, but it turns out to be that  
4 he's not and you're interrogating him because you have  
5 reason to believe that he did commit it.

6 Q. Would you interrogate a witness who may have  
7 information about a potential suspect? Is that still  
8 an interrogation?

9 A. No. If he's -- if that person is a witness  
10 and you're interviewing him and you have reason to  
11 believe that he had no involvement or personal  
12 knowledge of who may have committed a crime, he would  
13 still or she would still be considered a witness and  
14 you're interviewing them basically for the purpose of  
15 extracting the information.

16 Q. So an interrogation is always of someone that  
17 you believe could have been involved in the crime?

18 A. Correct.

19 Q. At the Normal Police Department when you  
20 investigated -- I'm sure you investigated a number of  
21 crimes.

22 A. Yes.

23 Q. Can you give me an approximation of how many  
24 investigations you were a part of?

1           A.    How about more than 10 and less than  
2 a thousand.

3           Q.    Fair enough.

4                    In those investigations that you were a part  
5 of, between 10 and a thousand -- I'm sure it was more  
6 than 10.

7           A.    Oh, yes.

8           Q.    I'm sure you could name 10 just sitting here  
9 right now. Was there typically a lead investigator in  
10 those investigations?

11          A.    The ones that I handled?

12          Q.    Yes.

13          A.    If they were assigned to me, then I would be  
14 the lead investigator.

15          Q.    What does it mean when a case is assigned to  
16 an investigator?

17          A.    The supervisor normally under normal  
18 circumstances, the supervisor would read the daily  
19 reports, and he would assign the case to an  
20 investigator, and that investigator would be the lead  
21 investigator under normal circumstances.

22          Q.    And what does that mean to be -- is the term  
23 lead investigator or is there a different term for  
24 that person who was assigned by the supervisor?

1           A.    No.  I think lead investigator is a general  
2 acceptable term in investigations.

3           Q.    And that's what you used at the Normal Police  
4 Department?

5           A.    Yes.

6           Q.    Did every investigation have a lead  
7 investigator?

8           A.    Well, every case that was assigned.  If it  
9 was assigned to more than one investigator, they would  
10 be titled lead investigator there between the two or  
11 three or whatever.  If it's just assigned to one  
12 investigator, it's normally that's his case, that's  
13 her case.

14          Q.    And what does it mean -- or what does it mean  
15 to be the lead investigator of an investigation?

16          A.    Well, to help determine who could be  
17 responsible for the crime if a crime was committed, to  
18 direct all investigation into that particular case as  
19 well as testify.

20          Q.    So they're the person that directs the  
21 investigation?  Is that what I'm understanding you to  
22 say?

23          A.    He's basically in charge of the  
24 investigation.  He'll investigate himself -- or he'll

1 investigate -- he'll be an investigator also. He'll  
2 make assignments.

3 Q. What sort of duties separate him from the  
4 rest of the investigators? If more than one is  
5 assigned to an investigation, what sets the lead  
6 investigator apart?

7 A. Determining what action to take, what avenues  
8 to approach, what leads to follow up on, who to assign  
9 the leads to, and then to analyze what comes back,  
10 feedback from those assignments and to report or to  
11 incorporate into the report.

12 Q. Does the lead investigator, is he the only  
13 one that would write a report on the investigation?

14 A. Normally, no. Every assistant, if you will,  
15 would also write.

16 Q. So all the investigators working on a case  
17 could write reports?

18 A. Yes.

19 Q. It's not just the lead investigator?

20 A. Correct.

21 Q. And what about analyzing leads, is that  
22 something that only the lead investigator can do or is  
23 that something that all the investigators assigned to  
24 the case could do?

1           A.    They all could be assigned -- working under  
2 the same case, they all could be assigned a number of  
3 leads.

4           Q.    And my question was in particular to  
5 analyzing the leads.  First of all, what do you mean  
6 by analyzing leads?  What does that entail?

7           A.    To look up the litany of the information as  
8 well as the person reporting the information if that  
9 is available, and to analyze it with other leads that  
10 come in.

11          Q.    So is that something, analyzing leads, is  
12 that something that all of the investigative team  
13 could do, not just the lead investigator?

14          A.    Well, they could certainly have input as far  
15 as the information they obtain and maybe any thoughts  
16 that went along the same lines.

17          Q.    And the lead investigator was the one who  
18 would assign leads to his fellow investigators?

19          A.    Well, if he was assigned the case and as the  
20 leads came in, I would certainly think so.

21          Q.    What sort of involvement would, let's say, a  
22 sergeant have in an investigation?

23          A.    To oversee each individual investigator in  
24 regards to their status on their reports; to assist,

1 if necessary; and also keep the supervisor abreast.

2 Q. Just the general investigators, would they be  
3 precluded from doing something because they weren't  
4 titled the lead investigator?

5 MR. BOWMAN: Object to the form of the  
6 question. It's vague.

7 You can go ahead and answer.

8 BY MS. BARTON:

9 Q. You can answer. Do you understand the  
10 question?

11 A. Repeat your question.

12 Q. Sure. Could an investigator be precluded  
13 from doing something because they weren't assigned to  
14 be the lead investigator on an investigation?

15 A. That is a possibility, but we had to  
16 understand that we're all working for the general  
17 purpose of solving a crime. And if that investigator  
18 had information, I would surely think they would share  
19 it.

20 Q. Were you ever the lead investigator on  
21 investigations --

22 A. Yes.

23 Q. -- at the Normal Police Department?

24 How many times were you the lead

1 investigator?

2 A. Well, I really could not give you a fair  
3 answer.

4 Q. How about a percentage of times that you were  
5 the lead investigator on your investigations? Was it  
6 half the time?

7 A. Oh, no. I would say maybe, conservative  
8 figure, 10 percent, yes.

9 Q. So 10 percent of the investigations you  
10 worked on, you were the lead, right?

11 A. 10 percent of the cases that I worked on is I  
12 required assistance from other detectives and I was  
13 the lead.

14 Q. Otherwise it might just be you assigned to  
15 the investigation --

16 A. Correct.

17 Q. -- alone?

18 A. Right.

19 Q. So 10 percent of the investigations where  
20 there were multiple investigators working on it, you  
21 being one, 10 percent of the time you were the lead?

22 A. Correct.

23 Q. Was that a formal assignment for someone to  
24 be the lead? For example, there was like a memo that

1 would go out, or how did people come to understand  
2 that somebody would be the lead investigator on an  
3 investigation?

4 A. Supervisor would go to the investigator and  
5 say this is your case, I want detective so-and-so to  
6 assist you with it, but it's your case.

7 Q. So it was more of an oral assignment?

8 A. Yes.

9 Q. Was there a master list somewhere where it  
10 might list out who the lead investigator was and then  
11 who the assisting investigators were?

12 A. No, but there is a list of who is assigned  
13 what case. There could be three or four detectives  
14 assigned, two detectives assigned, and that wouldn't  
15 necessarily indicate who the lead investigator is.

16 Q. But that was sort of understood among the  
17 investigators?

18 A. Sure.

19 Q. And what does the term lead investigator mean  
20 to the outside world? Does the lead investigator --

21 A. He would be supervising the investigative  
22 activities.

23 Q. Is he the point person?

24 A. Yes.

1 Q. Would he be the only point person in an  
2 investigation?

3 A. No.

4 Q. Well, what would be an example of a time  
5 where the lead investigator would be the point person  
6 for a particular subject or situation?

7 A. You mean by point, the person responsible  
8 from beginning to end?

9 Q. Yes.

10 A. Minor cases, but still -- I interject -- but  
11 still in our department, there's a supervisor and a  
12 supervisor has the responsibility to read all reports  
13 and to review those. And if it needed follow-up, he  
14 would reassign that, or if the case was complete to  
15 his satisfaction, he would sign off on it and forward  
16 it up to administration level or the State's  
17 Attorney's Office. Does that make sense?

18 Q. It does. And I have a couple follow-up  
19 questions about that.

20 You said that the supervisor would be  
21 responsible for reading all the reports written on a  
22 particular investigation, right?

23 A. Correct.

24 Q. And the supervisor is different than the lead

1 investigator?

2 A. Correct.

3 Q. Does the lead investigator also have the  
4 responsibility of reading all the reports prepared in  
5 the investigation?

6 A. Yes. Normally I would say that was his  
7 responsibility or her responsibility. But once again,  
8 regardless if it was a petty offense or serial  
9 homicide, supervisor is the one that reads all the  
10 reports and signs off on them.

11 Q. Does the lead investigator sign off on  
12 reports?

13 A. No, not necessarily. The lead investigator  
14 would sign off on his report that he prepared, and  
15 every other subordinate investigator would sign off on  
16 their reports. Now, by sign off, I mean they  
17 completed their report. In their minds, it's ready  
18 for approval or disapproval or whatever.

19 Q. And then it's submitted to the supervisor for  
20 approval or disapproval?

21 A. Correct.

22 Q. Could the lead investigator sign off on  
23 reports?

24 A. You mean as a final okay?

1 Q. Yes.

2 A. Could he? In the absence of the supervisor  
3 being maybe the supervisor is on leave, that's a  
4 possibility, yes. There would be somebody in charge.  
5 Certainly somebody would have to read the reports and  
6 sign off on them.

7 Q. So somebody has to have final say?

8 A. Correct.

9 Q. You also said that the supervisor is charged  
10 with forwarding the reports to administration; is that  
11 right?

12 A. Correct.

13 Q. What does that mean?

14 A. Well, it depends on what time period we're  
15 looking at. Back when I first came on, there were  
16 four copies. One would go to the administration which  
17 is the chief or his assistant; one goes to a binder  
18 where the press would have access to it; one copy  
19 would go to a binder in the roll call room where the  
20 patrol shift would have access to it; and of course  
21 one into records.

22 Q. When was that the practice?

23 A. I don't know when it started. That's the way  
24 it was when I came on.

1 Q. So it was like when you got there in 1977?

2 A. We had typewriters. We didn't have a  
3 computer system.

4 Q. Sure.

5 A. And there were carbon copies, yeah.

6 Q. When did that practice cease?

7 A. Well, it's still a practice as far as how  
8 many copies are printed off with a printer. I don't  
9 know what their practice is now because I left  
10 13 years ago.

11 Q. When you left 13 years ago, it was still the  
12 practice to have four copies of a report?

13 A. Well, I guess in some cases it would and some  
14 it would not. The ones that it would not, they were  
15 still under investigation perhaps, and we didn't want  
16 the news media looking at it. That's probably the  
17 reason for it.

18 Q. So the four copies would be -- so the  
19 administration is the chief and/or his secretary,  
20 right?

21 A. Well, not secretary. His assistant which  
22 could be assistant chief, if you will.

23 Q. And then the binder for the press, where was  
24 that maintained?

1 A. At the front desk.

2 Q. And what about the patrol binder? Would  
3 that -- do you have a patrol room?

4 A. Roll call room, yeah, and then of course  
5 records.

6 Q. And records was a separate department?

7 A. Yes.

8 Q. Or division I should say.

9 And the records division maintained sort of a  
10 central file for all the investigations?

11 A. Correct.

12 Q. Who would be in charge of making sure the  
13 four copies got to those four locations?

14 A. When the supervisor would sign off on, back  
15 then it was his responsibility. He would separate the  
16 different reports and distribute them to the  
17 appropriate place.

18 Q. Did that practice change at some point when  
19 you were at the Normal Police Department?

20 A. I guess it could have. Not that I really  
21 know of. You could print as many -- when the printers  
22 came on line with the computers, you could print as  
23 many copies.

24 Q. Do you recall when the department got

**C06730**

1 computers to type reports roughly?

2 A. I'm going to say roughly in the neighborhood  
3 of the late 1980s. Maybe early '90s. I can't be  
4 certain.

5 Q. So the reports or the copies of the reports  
6 would be sent off to those four locations once the  
7 supervisor signs off on it --

8 A. Yes.

9 Q. -- is that right?

10 So an investigator would submit their reports  
11 to the supervisors --

12 A. Right.

13 Q. -- who would review it. If they needed any  
14 changes, could give it back to the investigator or  
15 sign off on it and the four copies were distributed.

16 A. Right.

17 Q. And whether those four copies were in the  
18 carbon form or from the computer, it was still the  
19 four copies?

20 A. Correct. Presently I believe the -- by  
21 presently, I mean the late or the mid teens of 2000.  
22 I don't believe they make any copies anymore because  
23 everybody can access the computer and read those.  
24 Everybody from -- of course there may be one copy for

1 the press, but everybody from the patrol division to  
2 supervisors to administration. So there may be just  
3 one copy. Cut down on paperwork.

4 MS. BARTON: Can we take a short break?

5 THE WITNESS: Sure.

6 (Whereupon, a break was taken.)

7 BY MS. BARTON:

8 Q. Just in general, during your time as an  
9 investigator, what was your practice in terms of  
10 writing reports? What sort of investigative  
11 activities did you write reports on?

12 A. Any case, of course, I was assigned. If I  
13 were to assist someone, of course, I would write a  
14 report up for them too as well. I guess that's about  
15 it.

16 Q. What did you write reports about, what sort  
17 of activity -- investigative activities?

18 A. Oh, I see. The type of crimes would be --  
19 once again, whatever assigned me which would be from  
20 maybe bad checks, disorderly conduct, phone calls to  
21 homicide.

22 Q. What about your specific activities as an  
23 investigator, for example, interviewing witnesses or  
24 checking out -- running down certain leads? When did

1 you -- what sort of things did you document in your  
2 reports?

3 A. You document that information which is  
4 pertinent to the investigation -- to the case, be it  
5 negative or positive.

6 Q. So interviews, if you interviewed a witness  
7 or a suspect, you would write that in a report?

8 A. Correct.

9 Q. Did you document -- have a way of documenting  
10 all the phone calls you would make in relation to an  
11 investigation?

12 A. Not necessarily.

13 Q. Why is that?

14 A. Depends on the level of crime it was. How  
15 important it was to the case.

16 Q. And was that your decision to make?

17 A. Yes, it was each individual detective's,  
18 yeah.

19 Q. Sometimes you would document the fact that  
20 you'd talk to somebody over the phone.

21 A. Yes.

22 Q. But other times not because it might not be  
23 that important.

24 A. Correct, such as no one at home, no one to

1 answer the phone. That wasn't in there.

2 Q. What about investigative activities in the  
3 case, like -- well, let me start here. What sort of  
4 things did you do as an investigator in investigating  
5 a crime? So you interview witnesses. What other  
6 types of things do you do in an investigation just  
7 generally?

8 A. In most cases normally, you would read their  
9 report, extract the information that is pertinent to  
10 the case to help identify a suspect and what evidence  
11 there is. Then you would take off with trying to  
12 locate witnesses, suspects, and interview them or if  
13 it led to an interrogation, then interrogated them and  
14 then you'd document. And some officers, some  
15 detectives would document as they go along, meaning  
16 they could write a field note or they could put it in  
17 a finished form on a type -- not a typewriter, but a  
18 computer.

19 Q. What about did you ever use a dictation?

20 A. Oh, yes, we've used dictation for interviews,  
21 and that became part of norm after a while, audio and  
22 video.

23 Q. Can you give me examples of other things that  
24 you do to investigate a crime other than interviewing

1 witnesses?

2 A. Oh, sure. You can go to the crime scene.  
3 You would go to, for instance, the victims. If it was  
4 a place of business, you would certainly want to look  
5 at -- if it's a burglary, for instance, you would want  
6 to look at the crime scene, people that may have  
7 knowledge, ask questions concerning procedures to help  
8 identify a suspect, information that they could afford  
9 to give or could give legally.

10 Q. When you were investigating crimes, did you  
11 also try to obtain documentary evidence?

12 A. Oh, yes.

13 Q. What sort of documentary evidence did you try  
14 to obtain?

15 A. Tapes from registers, time cards, any  
16 receipts maybe that would be pertinent to the case  
17 such as maybe travel vouchers, anything that you  
18 thought of that would be important.

19 Q. What about if you were trying to find out  
20 information about a suspect, could you run a criminal  
21 check, stuff like that?

22 A. Absolutely. You would -- you'd want to know  
23 who you're dealing with and what kind of background  
24 exactly. And, of course, it also helps to identify if

1 they maybe owned a car, didn't own a car, where they  
2 lived and their criminal background.

3 Q. And what about contacts with crime labs and  
4 things like that? Did the detectives keep in touch  
5 with -- as the evidence is developing?

6 A. Yes. As far as physical evidence, that would  
7 be collected by an evidence technician most of the  
8 time. And they have a procedure that they have to go  
9 through in regards to logging the evidence in and  
10 storing it and taking it to the crime lab and when  
11 it's returned.

12 Q. When you were collecting documentary evidence  
13 like the receipts you were talking about, is that  
14 something that you would document in your report that  
15 you had located certain documents?

16 A. For the most part. And it also may mention  
17 in your report document such-and-such, copy attached,  
18 original entered into evidence.

19 Now, once again, that depends on the  
20 detective. It wasn't etched in stone that this is the  
21 way it will be done, but to make it a lot easier and  
22 to be able to locate such documents.

23 Q. It would be a good -- finish your sentence  
24 there.

1           A.    It would be a lot easier to locate documents  
2 if it were mentioned in your report, where the  
3 document is, if it's not attached to a report.

4           Q.    So, for example, writing a report saying I --  
5 you know, reporting officer obtained receipt X which  
6 is maintained in the central file or whatever --

7           A.    Right, or it could be attached to the report.

8           Q.    To the report itself.

9           A.    Yeah.

10          Q.    What was your practice in writing reports in  
11 relation to what you were doing? How quickly would  
12 you write your reports?

13          A.    Normally after every step, especially with  
14 the computers, I would document that in my report. If  
15 I had field notes, I'd bring back to our division.  
16 I'd document that in the report and then shred the  
17 field reports once I was satisfied my information was  
18 put into the report.

19          Q.    And did you try to get the information to a  
20 report within a week of --

21          A.    Sooner than that, yeah.

22          Q.    Sooner than that?

23          A.    Yes.

24          Q.    Can you give me an example of something that

1 wouldn't be, as you put it, pertinent to the case, so  
2 it wouldn't be included in a report? You gave me one  
3 example being if you tried to call somebody and you  
4 didn't get an answer. You wouldn't necessarily put  
5 that in your report.

6 Can you think of any other examples like  
7 that?

8 A. Well, using the same kind of example, someone  
9 calls you and says I got some information on this case  
10 or I found my wallet, it wasn't stolen. Of course  
11 that would be documented.

12 Q. What about types of things that wouldn't be  
13 documented in the report? Like the example you gave  
14 me before about if you tried to contact somebody and  
15 they weren't home and you couldn't leave a message,  
16 that wouldn't necessarily be reflected in your report?

17 A. Correct.

18 Q. What other kinds of examples of things that  
19 wouldn't necessarily appear in a report?

20 A. Generalities, maybe a time or a date or a  
21 location. That depends. I wish I could be more  
22 specific without giving you an example of a case. It  
23 all depends upon the particular case.

24 Q. And what's pertinent to that particular

1 investigation --

2 A. Correct.

3 Q. -- in the eyes of the officer?

4 A. Correct, yes. And then sometimes it could be  
5 corrected by your supervisor, well, what happened  
6 here? And he may give it back to you and say, you  
7 need to put that in the report. Your opinions would  
8 not be -- should not be in your reports because those  
9 are strictly opinions.

10 Q. Did you submit your reports to anyone for  
11 review other than your supervisor?

12 A. No, not that I could recall. I mean, there  
13 could have been over the -- see, even when you work  
14 the street as a patrolman, you had cases you had to  
15 follow up on. So I would have to say I couldn't think  
16 of any.

17 Q. When you were working an investigation, did  
18 you -- with other investigators, did you read their  
19 reports as they were prepared?

20 A. Oh, yes.

21 Q. And how would you get copies of their  
22 reports?

23 A. They would give them to me. They could make  
24 a copy. Or if I saw that I needed a copy, then I

1 would make it myself. There would be a copy available  
2 if needed.

3 Q. Let's turn to the Jennifer Lockmiller  
4 homicide investigation, okay? When did you first  
5 learn that a body had been found at [REDACTED] ?

6 A. It was a Saturday afternoon. I was at home,  
7 and one of the officers had called me.

8 Q. Do you recall who that was?

9 A. Kirk, K-i-r-k, Ijams, I-j-a-m-s.

10 Q. And what did Kirk tell you?

11 A. Well, I -- verbatim, I don't recall. But he  
12 said something to the effect that they found a young  
13 girl who'd been dead quite a while on the [REDACTED] block --  
14 he gave me the exact address. I think it was [REDACTED]  
15 [REDACTED] in Normal.

16 Q. Was he on the scene when he called you?

17 A. I don't recall.

18 Q. Was he a detective?

19 A. No, he was patrolman -- either patrolman or  
20 supervisor, sergeant.

21 Q. And why was he contacting you?

22 A. I was on-call detective, one of them.

23 Q. What does that mean?

24 A. That means if the Normal Police Department

1 had a need for a detective, then they would call that  
2 on-call detective, and their primary duty of course  
3 was -- is to respond to the scene or to the station.

4 Q. And so on-call means it wasn't necessarily  
5 your shift, but you had your pager or your --

6 A. Correct.

7 Q. Or you were available by phone?

8 A. Off time.

9 Q. Off time.

10 A. Right.

11 Q. Did you have a pager back then?

12 A. Seems to me I did. I could have had one.

13 Q. You don't recall either way?

14 A. Well, I was home. It was a Saturday  
15 afternoon. I was working on the house. So I probably  
16 didn't have a pager on me, but -- I could have been  
17 paged and then went in and called. I don't recall.

18 Q. Were you one of the first people notified  
19 that you know of?

20 A. First detective that I know of. There were a  
21 few officers on the scene when I got there, uniformed  
22 officers.

23 Q. At this point in 1993, how many death  
24 investigations had you been a part of at the

1 Normal Police Department?

2 MR. BOWMAN: Death investigations?

3 MS. BARTON: Yes.

4 THE WITNESS: Does that include homicide --  
5 I'm sorry. Does that include natural causes and  
6 suicide?

7 BY MS. BARTON:

8 Q. Yes.

9 A. Six perhaps.

10 Q. And how many of those were homicide  
11 investigations?

12 A. Well, let me answer it this way: Lockmiller  
13 was probably my third perhaps.

14 Q. Third homicide investigation?

15 A. Correct. I mean, there were several natural  
16 causes and suicides.

17 Q. About six of those you said?

18 A. No. About three were homicide -- I  
19 investigated, took part in, assisted with about  
20 three homicides as far as Normal PD goes. But there  
21 were other homicides that were and still are  
22 unresolved that I worked on.

23 Q. By 1993, you had worked on -- this was the  
24 third homicide investigation?

1 A. Conservative, yes, I would say three.

2 Q. And was the Normal Police Department the  
3 agency that was investigating the Lockmiller homicide?

4 A. Correct.

5 Q. Were there other agencies assisting in that?

6 A. Oh, yes, there was Illinois State Police,  
7 McLean County Coroner's Office. As the initial  
8 investigation started, there was also Department of  
9 Criminal Investigations that assisted, FBI assisted,  
10 special support technicians in Springfield assisted.

11 Q. What's the Department of Criminal  
12 Investigations?

13 A. That's a joint task force made up of  
14 McLean County, State Police district,  
15 Normal-Bloomington, ISU. And that's about it, I  
16 think. Officers from each department assigned as a  
17 task force.

18 Q. And so that task force assisted in  
19 investigating the Lockmiller homicide?

20 A. They assisted. Now, by that, I don't know  
21 exactly what their limitations were or their purviews  
22 were or exactly what they did. I can tell you they  
23 helped with -- by furnishing information, they helped  
24 identify a suspect or a person of interest. United

1 States Marshals office was one also.

2 Q. What about Bloomington Police Department?

3 A. They could have, yes.

4 Q. Do you know either way?

5 A. Normally something like that one department  
6 will call the other department and offer assistance if  
7 it's needed.

8 Q. And do you recall that happening in this case  
9 with Bloomington Police Department?

10 A. I can't recall one way or the other.

11 Q. How about the McLean County Sheriff's Office?

12 A. Well, coroner's. McLean County Coroner's  
13 Office.

14 Q. Not the sheriff's office?

15 A. Later on they did an investigation. I think  
16 that was Lieutenant John Brown. He assisted basically  
17 with Tim Freesmeyer.

18 Q. And it was at least your understanding that  
19 Lieutenant John Brown was a lieutenant at the  
20 McLean County Sheriff's Office?

21 A. Correct.

22 Q. And there was some assistance with -- by the  
23 Rockford Police Department?

24 A. Oh, yes. Yes, there was. I'm sorry.

1 Q. And what about Winnebago County which is up  
2 in Rockford?

3 A. That's the department, right, Winnebago.

4 Q. How did the FBI assist in this investigation?

5 A. By submitting requests for data information,  
6 locating records I would say. I'm trying to think if  
7 it was this case or a case that happened almost to the  
8 date a year later. VICAP, V-I-C-A-P, that's violent  
9 offenders who have -- they have a database and in that  
10 database is stored information that is obtained from  
11 the FBI regarding -- and other agencies regarding  
12 crimes, major crimes that were committed, information  
13 as far as individuals that did it and what their  
14 motives -- or rather modis operandi was and like  
15 crimes.

16 Q. Do you know if that database was utilized in  
17 this case?

18 A. I don't know if it was that case. It may  
19 have been a different case that I had worked on and  
20 then I requested that information. So once again, I  
21 can't be certain on that.

22 Q. How did the U.S. Marshal's Office assist in  
23 the investigation?

24 A. They located one of the initial persons of

1 interest that was acquainted with the victim, and they  
2 located him down in Florida, and he was being  
3 transported during the period of her death.

4 Q. And I notice that you're using the phrase  
5 person of interest, but we haven't defined it because  
6 I didn't think you used that. Did you use that  
7 term --

8 A. No.

9 Q. -- in the Normal Police Department?

10 MR. BOWMAN: I thought you did define it.

11 BY MS. BARTON:

12 Q. We didn't define person of interest, so maybe  
13 you could define it for me if you're going to be using  
14 it.

15 A. In today's law enforcement language, they use  
16 person of interest; whereas, back in my days, we used  
17 the word suspect title. Basically the same thing.

18 Q. Is there any difference in your mind?

19 A. In my mind there is not, because a person of  
20 interest could be a witness or he could be a suspect  
21 until he's ruled out. A suspect could be a suspect  
22 until they're ruled out or a witness. Interchangeable.

23 Q. So when you're using that phrase, person of  
24 interest, it's interchangeable with suspect?

1 A. I've always used suspect in my mind, and if I  
2 were still investigating, I would say suspect.

3 Q. And the only reason I asked is because you've  
4 used the term a couple of times --

5 A. Since then.

6 Q. -- since you said you don't use the term.

7 With the U.S. Marshal's Office, they located  
8 a person of interest or a suspect, right, in Florida?  
9 Is that what you recall with respect to this case?

10 A. They located the individual who was a  
11 boyfriend of Jennifer Lockmiller.

12 Q. Do you recall who that was?

13 A. John Revis and he was incarcerated at the  
14 time and in their custody.

15 Q. At what time?

16 A. Time of Jennifer's death.

17 Q. You also referred to support technicians --

18 A. Yes.

19 Q. -- that assisted in the case? Who are the  
20 support technicians?

21 A. They're from State Police down in  
22 Springfield. They assist with body wires and wire  
23 taps.

24 Q. They are part of the Illinois State Police?

1 A. Correct.

2 Q. And they assisted in this case with body  
3 wires?

4 A. With Detective Freesmeyer.

5 Q. And what did the coroner's office do in  
6 relation to this case?

7 A. Well, they showed up on the crime scene, took  
8 custody of the body, and then held an autopsy at the  
9 coroner's inquest.

10 Q. And you testified at the coroner's inquest,  
11 right?

12 A. Yes.

13 Q. What about the -- go ahead.

14 A. Let me back up on that. I don't know if I  
15 testified at that one or not. It seems to me that  
16 Officer Marty Fogler may have because he was one of  
17 the first officers on the scene.

18 Q. Other than providing support technicians, how  
19 else did the Illinois State Police assist in the  
20 investigation?

21 A. They sent out a crime scene investigator.  
22 They also had taken John Murray -- attempted to take  
23 John Murray's polygraph examination, attempted to  
24 administer one to him. And according to the reports,

1 they administered two polygraphs to two other of  
2 Jennifer Lockmiller's boyfriends.

3 Q. Did they send out one crime scene  
4 investigator?

5 A. As I recall, yes.

6 Q. Dean Kennedy, is that his name?

7 A. Yes.

8 Q. For this investigation, did the Normal Police  
9 Department have a crime scene technician?

10 A. Dave Warner, and I believe his involvement  
11 was somewhat limited because of the state crime lab  
12 technician being there on account of the type of crime  
13 it was.

14 Q. Within, let's say, the first week after  
15 Ms. Lockmiller's body was found, how many people from  
16 the Normal Police Department were assigned to the  
17 investigation?

18 A. Well, let's see. Four, perhaps five.

19 Q. Were they all detectives?

20 A. Yes.

21 Q. Who were they?

22 A. Tim Freesmeyer, Rob Hospelhorn, Dave Warner,  
23 John Belcher, and myself. And if you want to include  
24 the supervisor, that would have been Frank Zayas,

1 Z-a-y-a-s.

2 Q. Was he a lieutenant at the time?

3 A. Yes.

4 Q. So there were -- so Freesmeyer, Hospelhorn,  
5 Warner, Belcher, and yourself. That's five  
6 detectives. How was -- just describe for me, I guess,  
7 the -- strike that.

8 Of those five individuals, within that first  
9 week of Ms. Lockmiller's body being located, was there  
10 a lead investigator assigned to the homicide  
11 investigation?

12 A. Yes.

13 Q. And who was that?

14 A. That was myself.

15 Q. Who assigned you to be the lead investigator?

16 A. Chief Taylor. I'd like to explain that.

17 Q. Sure.

18 A. Lieutenant Zayas was out of town at the time  
19 and Chief Taylor, along with his assistant, Walt  
20 Clark, came into the police department and came into  
21 the CID and inquired as to whether Lieutenant Zayas  
22 was there, and of course the response was no. And  
23 Chief Taylor, he said to me, looks like you're it  
24 then. At that time, I had taken on the responsibility

1 because of what he had said.

2 Q. When did that occur?

3 A. That same day that the body was found, late  
4 afternoon, Saturday.

5 Q. And he said to you looks like you're it?

6 A. Correct.

7 Q. And to you that means that you were assigned  
8 to be the lead investigator?

9 A. Correct.

10 Q. And what significance did that have in terms  
11 your role in the investigation?

12 A. I assisted with the -- appointing other  
13 detectives at that date and time with certain  
14 responsibilities. Dave Warner was interviewing the  
15 young lady who had discovered the body.  
16 Tim Freesmeyer was interviewing Mike Swaine, who was  
17 Jennifer Lockmiller's last live-in boyfriend.  
18 Rob Hospelhorn and I went up later that -- late  
19 afternoon -- as a matter of fact, it was late evening,  
20 up to Rockford to talk to Alan Beaman. John Belcher  
21 I don't believe was present at that time.

22 Q. Was Detective Hospelhorn your partner?

23 A. Yes.

24 Q. Had he been your partner before this

1 investigation?

2 A. No. I think this is the first one that we  
3 worked together on. He was temporarily assigned to  
4 work in detectives. That's the way the assignment was  
5 for him, temporary.

6 Q. Because otherwise he was in patrol?

7 A. Correct, yes.

8 Q. And how long -- do you know how long his  
9 assignment was in detectives at that time?

10 A. I think it was a six-month period, if not a  
11 two-year. Don't quote me on either one. It's either  
12 six- or a two-year.

13 Q. Were you Officer Hospelhorn's partner during  
14 his six-month or two-year assignment in CID?

15 A. No, just this particular case.

16 Q. And why were the two of you partnered up for  
17 this case?

18 A. He was available.

19 Q. Did all the investigators working on this  
20 case partner up and have partners or was it just you  
21 and Detective Hospelhorn?

22 A. As I recall, it was just he and I together,  
23 and the other ones had certain assignments.

24 Q. Was there something about your assignment

1 that required you to have a partner?

2 A. Well, yes, we were going to go up and talk to  
3 Alan Beaman that night.

4 Q. But Detective Hospelhorn was your partner  
5 throughout your entire work on the Lockmiller homicide  
6 case; is that right?

7 A. Initially. Initially until it was handed  
8 over to Tim Freesmeyer.

9 Q. And when was that? When was it handed over  
10 to Tim Freesmeyer?

11 MR. DiCIANNI: I'm sorry, what was what?  
12 What was handed over?

13 MS. BARTON: He said the case was handed over  
14 to Detective Freesmeyer.

15 THE WITNESS: I don't recall the exact date  
16 of that. It just seems to me that basically we were  
17 out of the investigation except for an assignment or  
18 two later, about maybe a month, month and a half  
19 later. Again, I don't have the exact time.

20 BY MS. BARTON:

21 Q. So between the day the body was found and  
22 when you say that Detective Freesmeyer took the case  
23 over, was Detective Hospelhorn your partner during  
24 that entire time?

1 A. Yes.

2 Q. And what does that mean to be partnered on  
3 the investigation?

4 A. He and I would look at leads, follow those up  
5 together or separately. Depends on what type of a  
6 lead it was. We interviewed and interrogated  
7 together. We went up to Rockford. We went down to  
8 Springfield to, you know, interview. And other places  
9 in Normal-Bloomington that we interviewed associates  
10 of Alan's as well as Jennifer's.

11 Q. So there were some tasks that you performed  
12 separately, but a majority you performed together?

13 A. Correct.

14 Q. And you said that you conducted interviews  
15 and interrogations with Detective Hospelhorn. Did you  
16 take turns asking the questions in the interrogation?

17 A. Yes. I would usually lead off, and then if  
18 Detective Hospelhorn had any questions, of course he  
19 was welcome to ask them.

20 Q. How did you decide that you would be the one  
21 asking questions?

22 A. My experience, experience in investigations.

23 Q. When you conducted the interviews or  
24 interrogations with Detective Hospelhorn, did you take

1 notes?

2 A. Most of the notes were taken by Hospelhorn if  
3 he was present with me or -- I'm sorry.

4 Q. So you would be asking the questions and he  
5 took notes?

6 A. Yes, and there are times that I had taken  
7 notes as well.

8 Q. While he was asking questions?

9 A. Well, while both of us were asking questions,  
10 yeah.

11 Q. And how did you determine who would report on  
12 your activity between you and Detective Hospelhorn?

13 A. Well, Rob took it basically upon himself to  
14 do the final report on each individual activity.

15 Q. But you wrote some reports in the case,  
16 though, too?

17 A. Yes.

18 Q. So what do you mean then by  
19 Detective Hospelhorn took it upon himself to report on  
20 the final activity?

21 A. Well, if we had a witness and we finished  
22 with the interview with him, and what Rob Hospelhorn  
23 would do would type up the report. We interviewed  
24 so-and-so on such date and this is what that witness

1 or person has to say or --

2 Q. Did you read the reports that he prepared?

3 A. Yes.

4 Q. Before he submitted them to his supervisor?

5 A. Oh, yes, he would give them to me. I would  
6 look at them and read them.

7 Q. And Zayas was the supervisor in charge of  
8 this investigation?

9 A. Correct.

10 Q. So you and the other detectives submitted  
11 your reports to Lieutenant Zayas?

12 A. Yes.

13 Q. When you considered yourself the lead  
14 investigator on the investigation, how did you divvy  
15 up the work?

16 A. I was appointed as lead investigator. And  
17 what was your question?

18 Q. Were you the person that assigned one of the  
19 detectives to follow up on certain leads, so one of  
20 the five detectives?

21 A. The following week when Lieutenant Zayas had  
22 come back into town, which was would have been a  
23 Monday, he had then took over the assignments.

24 Q. So Lieutenant Zayas came back to town, what,

006756

1 within a week of Ms. Lockmiller's body being found?

2 A. Well, the body was found on Saturday, and I  
3 believe he was back in the office on a Monday.

4 Q. A few days after the body was found or --

5 A. Correct.

6 Q. -- a week?

7 A. Two days.

8 Q. Two days?

9 A. Yeah.

10 Q. So once he got back to town, Lieutenant Zayas  
11 was the one who assigned each of the detectives to  
12 certain -- to follow up on certain leads or conduct  
13 interviews?

14 A. Correct.

15 Q. But before that time, it was you on that  
16 Saturday and Sunday?

17 A. Correct.

18 Q. From reading all the reports in this case,  
19 it's pretty clear that there were a number of meetings  
20 where the investigators would get together and discuss  
21 the evidence and strategy, things like that. Do you  
22 recall meetings like that happening in the Lockmiller  
23 homicide investigation?

24 A. Well, yes, yes, I do. I believe it was the

1 following Sunday that Rob Hospelhorn -- the following  
2 day which was a Sunday, Rob Hospelhorn and I had went  
3 up to Rockford. We had a meeting. Of course the  
4 chief was there and State's Attorney was there, I  
5 believe. I don't know exactly who was there. And we  
6 discussed what our findings were as a result of the  
7 interview with Alan Beaman.

8 Q. And were there other times where all these  
9 detectives working on this investigation would get  
10 together and discuss the case?

11 A. I don't really recall. There could have  
12 been.

13 Q. Did you share information with other  
14 investigators as you were investigating the case?

15 A. Oh, yes, if we had the information that was,  
16 you know, pertinent and give you direction.

17 Q. How would you go about sharing that  
18 information?

19 A. Well, verbally. Sometimes Lieutenant Zayas  
20 would share it in a report.

21 Q. But you don't recall -- so the one meeting  
22 that you do recall was the Sunday after the body was  
23 found. Do you recall any other meetings among  
24 investigators?

1 A. Just investigators?

2 Q. Uh-huh.

3 A. I don't really.

4 Q. How about meetings with investigators and  
5 other people?

6 A. Yes, with State's Attorney's Office, the  
7 meeting that I described earlier in this deposition  
8 with then the prosecutor, Jim Souk.

9 Q. In May of 1994?

10 A. Yes. As a matter of fact, that's where I'd  
11 been when I had returned from that school. That's  
12 where I'd been prior to his -- Alan Beaman's arrest.

13 Q. Yes. And you went to -- you already  
14 testified that you went to the unsolved homicide class  
15 in April of 1994?

16 A. Correct.

17 Q. And I'll just represent to you that  
18 Mr. Beaman was arrested in May of 1994.

19 A. Okay.

20 Q. Does that jibe with your memory?

21 A. (Nodding.)

22 Q. Do you remember any other meetings between  
23 investigators and somebody from the State's Attorney's  
24 Office during this investigation?

1 A. Up to what point?

2 Q. Well, let's say between the Sunday meeting,  
3 so Sunday, August 29, and then the May 1994 meeting.

4 A. Well, there could have been meetings between  
5 Frank Zayas and the State's Attorney's office,  
6 Frank Zayas and the chief, Freesmeyer and the  
7 State's Attorney's Office.

8 Q. What about meetings where you were present?

9 A. Well, once again, there could have been  
10 meetings, but I don't recall if there were or if, in  
11 fact, there were, how many or what occurred.

12 Q. And you don't recall if they even happened,  
13 right?

14 A. Correct.

15 Q. You've already mentioned Jim Souk being  
16 present at the August 29 meeting which we'll discuss  
17 in a little bit. What was -- I guess how many times  
18 did you speak with Mr. Souk about the Lockmiller  
19 homicide investigation between that Sunday, August 29  
20 meeting, and the May 1994 meeting?

21 A. I was up at the State's Attorney's Office. I  
22 don't know what the purpose of it was. But I asked  
23 him -- he was in his office. I asked him if they were  
24 going to check the speedometer on Alan's car.

1 I also called him at one time, and, again, I  
2 don't remember what time period it was, and I asked  
3 him if he was going to -- if he could reprocess the  
4 evidence. And his response was what for? And I said,  
5 well, if you reprocess the evidence and find out that  
6 Alan did commit the homicide, then you can rest assure  
7 you had the right person. I said, but on the other  
8 hand, if it wasn't him, then you arrested the wrong  
9 person. And his response was, well, you guys did  
10 arrest the right person, didn't you? And I responded  
11 to him, my name was not on that arrest warrant. And  
12 that was about the end of the conversation.

13 Q. So this was --

14 A. Wait. I'm sorry, it wasn't the end. He  
15 responded then and said, well, I think we'll just wait  
16 until after the appeals before we do any reprocessing.

17 Q. So this was the conversation where you called  
18 Mr. Souk?

19 A. Correct.

20 Q. Mr. Beaman had already been arrested?

21 A. Yes.

22 Q. Had Mr. Beaman been convicted at that time?

23 A. I don't recall.

24 Q. And what evidence did you need or did you

1 want to reprocess?

2 A. All evidence, mainly of course her clothing  
3 items, the bed linen, blanket.

4 Q. And why did you call Mr. Souk about that?

5 A. He was the chief prosecutor. He was making  
6 the calls, or I should say directing that particular  
7 case.

8 Q. Well, why would you call the chief prosecutor  
9 regarding reprocessing evidence?

10 A. I had an interest in it. I still had an  
11 interest in it.

12 Q. But why the prosecutor in particular?

13 A. I do not know who else I would call.

14 Q. Did you talk to anybody else about  
15 reprocessing evidence other than Mr. Souk?

16 A. Again, I don't recall if I did. That's  
17 possible.

18 Q. What about the time you said you went to the  
19 State's Attorney's Office and talked to Mr. Souk about  
20 the speedometer, do you mean the speedometer in  
21 Mr. Beaman's vehicle?

22 A. Correct.

23 Q. When did that conversation take place?

24 A. Well, it would have to have been probably

1 prior to the arrest. I did speak -- in regards to  
2 your last question, I did speak to then Police Chief  
3 Walt Clark. Chief Taylor had passed away and  
4 Walt Clark who at that time was his assistant became  
5 the chief, and I was at Evanston School going to a  
6 ten-week command staff school.

7           When I got back, Chief Clark wanted to speak  
8 to each sergeant and lieutenant in regards to any  
9 issues that we may have regarding the department in  
10 general. And he asked me -- Chief Clark asked me if I  
11 had any particular interest. And I said, well, yes, I  
12 got two. I said there are two homicide cases that I  
13 have interest in. He said what are they? I said,  
14 well, there's the Rostadt (phonetic) case and then  
15 there's the Beaman case. He said, well, what about  
16 the Beaman case? I said, in my opinion, you may have  
17 the wrong person in prison. And then his response  
18 was, well, if we got the wrong kid in prison, let's  
19 get him out. I'll even pay to have the evidence  
20 reprocessed.

21           Q.    And what did he say in response?

22           A.    I said okay.

23           Q.    And so where did it go from there with  
24 Chief Clark?

1           A.    I don't know -- well, as far as following  
2 through with his suggestion? At that time, processing  
3 the evidence didn't go anywhere.

4           Q.    Did you call Mr. Souk about reprocessing the  
5 evidence after you talked to Chief Clark?

6           A.    I don't recall if I did.

7           Q.    When in relation to talking to Chief Clark  
8 did you contact Mr. Souk, whether it was before or  
9 after? Was it within a year, a couple days?

10          A.    Well, you know, I'm sorry, I just don't  
11 recall those dates.

12          Q.    I'm just wondering if you walked out of  
13 Chief Clark's office and called Mr. Souk or it might  
14 have been a span -- a period of time in between that?

15          A.    Oh, I see. No, I'm sorry, I can't pinpoint  
16 for you.

17          Q.    And you said you talked to Chief Clark  
18 shortly after you took a ten-week course in Evanston,  
19 and you don't recall when that course took place?

20          A.    No, I don't.

21          Q.    Do you recall when Chief Taylor passed away?

22          A.    Yeah, it would have been shortly -- it was  
23 during that time period because I came back for the  
24 funeral.

1 Q. Came back from where?

2 A. Evanston.

3 Q. Did you go to the ten-week course in Evanston  
4 after Mr. Beaman was convicted?

5 A. I was going there -- did I go there before or  
6 after he was convicted? It might have been even  
7 during.

8 Q. During his criminal trial?

9 A. It could have been -- well, I was there for  
10 testimony in his trial. But when I came back and had  
11 that conversation with Chief Clark, he had already  
12 been in prison, so I would have to attend that class  
13 after he was convicted.

14 Q. Let's go back to the conversation you had  
15 with Mr. Souk at the State's Attorney's Office about  
16 checking the speedometer, and this was before  
17 Mr. Beaman's arrest. Why did you go to Mr. Souk about  
18 the speedometer in Mr. Beaman's vehicle?

19 A. Well, to see if it was tampered with. If  
20 there's a way we could record the mileage off of it.

21 Q. And why did you go to Mr. Souk about that?

22 A. Well, he was in charge of the investigation.  
23 Prosecutor -- he was the chief prosecutor and that was  
24 early into the investigation.

C06765

1 Q. So why did you go to the prosecutor? Were  
2 you trying to get some sort of search warrant or why  
3 did you go to the prosecutor as opposed to somebody at  
4 the police department?

5 A. Because it was just a spur-of-the-moment  
6 thought when I was up there.

7 Q. What did you think Mr. Souk could help you do  
8 in terms of checking out the speedometer?

9 A. Well, he would have to obtain a warrant.

10 Q. Were you seeking to obtain a warrant and  
11 seeking Mr. Souk's assistance in that?

12 A. Suggestion. It was a suggestion.

13 Q. A suggestion that somebody should get a  
14 search warrant?

15 A. Well, yes.

16 Q. But you weren't -- you weren't the one that  
17 was going to get the search warrant?

18 A. Well, if he would have handed it to me and  
19 had me request it, I guess I would have been obligated  
20 to swear in before the judge to get the warrant.

21 Q. Did you talk to any investigators at the  
22 Normal Police Department before you went over to the  
23 State's Attorney's Office about checking the  
24 speedometer?

C06766

1           A.    No.  I was there on another matter.  And,  
2    like I said, it was a spur-of-the-moment thought.

3           Q.    Were you meeting with Mr. Souk on a different  
4    matter?

5           A.    No.

6           Q.    Why were you at the State's Attorney's Office  
7    at that time?

8           A.    I don't know what paperwork I had, but it was  
9    something else.

10          Q.    Unrelated to the Beaman case?

11          A.    Correct.  Correct.

12          Q.    And then you had a spur-of-the-moment thought  
13    and there's Mr. Souk?

14          A.    Yeah.

15          Q.    And you just wanted to talk to him about it?

16          A.    Correct.

17          Q.    What did Mr. Souk say about that?

18          A.    I don't recall what his response was.  
19    Apparently he was in favor of it because a search  
20    warrant was obtained and executed by Tim Freesmeyer.

21          Q.    Did you ever talk to Detective Freesmeyer  
22    about that?

23          A.    No.

24          Q.    Why not?

C06767

1 A. I had no need to.

2 Q. Well, did you share your thoughts -- your  
3 spur-of-the-moment thought about getting a search  
4 warrant for the speedometer, did you share that with  
5 any investigators?

6 A. Possibly. Again, I don't recall.

7 Q. Were you still the lead investigator at the  
8 time?

9 A. No.

10 Q. What about any other conversations you recall  
11 having with Mr. Souk prior to Mr. Beaman's conviction?

12 A. That's all I recall having with him.

13 Q. What about after the conviction?

14 A. No, other than that phone call.

15 Q. The one we've already discussed?

16 A. Correct.

17 Q. What about with Mr. Reynard who was the  
18 State's Attorney for McLean County at the time of the  
19 investigation?

20 A. I recall having two conversations with  
21 Mr. Reynard. The first conversation was via telephone  
22 from the CID office at Normal, and he was home. We  
23 had a question regarding that Saturday night prior to  
24 going to Rockford regarding possibility of making an

C06768

1 arrest of Alan Beaman if, in fact, we determined he  
2 was the suspect.

3 Q. So you called Mr. Reynard at home when he was  
4 at home and you were at the CID --

5 A. Correct.

6 Q. -- before you went to go to talk to  
7 Mr. Beaman in Rockford?

8 A. Correct.

9 Q. And that would have been August 28, the day  
10 the body was found?

11 A. Is that the date?

12 Q. Yes.

13 A. Okay.

14 Q. That Saturday.

15 A. Right.

16 Q. And why were you calling Mr. Reynard about  
17 that?

18 A. Because advice whether or not if we needed an  
19 arrest warrant to arrest him if we thought that he was  
20 involved in the murder, if he was going to issue it or  
21 have him extradited. That was my first conversation  
22 with Charlie Reynard.

23 Q. About the Beaman case or ever?

24 A. That was my first one with the Beaman case.

**006769**

1 Q. And what did Mr. Reynard say?

2 A. You can go ahead and arrest him if you have  
3 enough probable cause as I recall.

4 Q. You can arrest him without a warrant, right?

5 A. (Nodding.)

6 Q. Yes? It has to be a verbal --

7 A. As I recall, yes.

8 Q. I'm sorry. It just has to be a verbal  
9 answer. I know you're shaking your head, but --

10 A. Yes. I'm sorry. I should have known that.

11 Q. And what was the second conversation you  
12 recall?

13 A. I was in Charlie Reynard's office when he was  
14 still a State's Attorney and Beaman had already been  
15 convicted and I was getting another felony case  
16 screened, meaning that he was reviewing the felony  
17 paperwork to see if there's enough there to formally  
18 charged the person mentioned in that report. And I do  
19 not know what the exact words or who initiated the  
20 subject matter, but we were talking about Alan Beaman,  
21 but not in any particular detail, and his thought was,  
22 well, we got the right guy.

23 Q. Did he say that?

24 A. Yes.

C06770

1 Q. And what did you say?

2 A. I didn't respond. I knew it was going to be  
3 the end of conversation as far as Alan Beaman goes and  
4 respecting his position.

5 Q. Was that all that you two discussed about the  
6 Beaman matter?

7 A. It wasn't a discussion. It was just a  
8 comment.

9 Q. Comment. Fair enough.

10 Any other conversations you remember with  
11 Mr. Reynard either before or after Mr. Beaman's  
12 conviction?

13 A. Not that I recall.

14 Q. What about Lieutenant John Brown?

15 A. Yes, John Brown and I were directed by  
16 Frank Zayas -- again, I don't recall the date and the  
17 time. But we were to go up to Rockford to the  
18 Beamans' residence, Mr. and Mrs. Beaman, and Alan  
19 Beaman of course resided there, and we were to have --  
20 attempt to make contact with the Beamans, the parents,  
21 regarding -- having a further conversation with Alan.  
22 And we waited there for quite a while and there was no  
23 activity in and out of the residence. Therefore, we  
24 left Rockford and came on back to Normal. We were

C06771

1 there approximately an hour, maybe an hour and a half.  
2 That's the only time that John Brown and I, as I  
3 recall, had any association together regards to this  
4 case.

5 Q. No other conversations you remember having  
6 with --

7 A. No, I don't.

8 Q. -- Lieutenant Brown?

9 What did you understand his role in the  
10 investigation to be?

11 A. John Brown?

12 Q. Uh-huh.

13 A. Aside from being with me to go up there, he  
14 worked with Tim Freesmeyer.

15 Q. But he was assisting on the investigation?

16 A. Correct, at the direction of -- my  
17 understanding at the direction of perhaps  
18 Charlie Reynard or Jim Souk.

19 Q. And why do you say that?

20 A. Because he's a McLean County deputy, and he  
21 would come under their jurisdiction and authority.

22 Q. So he was a lieutenant in the sheriff's  
23 office at that time?

24 A. Correct. Well, I believe at the time, he was

1 on assignment with the State's Attorney's Office as an  
2 investigator.

3 Q. Any other conversations with John Brown  
4 before or after the conviction that you recall --

5 A. Not that I recall.

6 Q. -- about the Beaman case?

7 So after you got the phone call on Saturday,  
8 which is, I'll just represent to you, August 28, 1993,  
9 the Saturday that Ms. Lockmiller's body was found,  
10 what was the first thing that you did after you  
11 received the phone call at your house?

12 A. Went to the scene.

13 Q. When you arrived at the scene, what did you  
14 do?

15 A. I talked to some of the officers. It seems  
16 to me it was Lieutenant Kotte, he was a lieutenant in  
17 charge of shift that day.

18 Q. K-o-t-t-e?

19 A. K-o-t-t-e.

20 Q. And what information did Officer Kotte share  
21 with you?

22 A. Basically there was a young female there in  
23 the bedroom, scissors in her chest, her underclothing  
24 had been pulled down, she had been laying there for

1 quite a while. I went in and didn't do a detailed  
2 examination of the scene. As I recall, Chief Taylor  
3 arrived and wanted me to get back to the CID to start  
4 working on the case.

5 I recall Freesmeyer being there as well, and  
6 he started interviewing some of the neighbors because  
7 it was an apartment complex.

8 Q. How long were you at the crime scene?

9 A. Maybe 20 minutes, a half an hour. I know the  
10 coroner arrived before I left, and I don't know if  
11 Dean from state crime lab had arrived before -- oh,  
12 yeah, he did because I saw him then. He was working  
13 on it. So I don't know how long.

14 Q. Did you observe Ms. Lockmiller's body in the  
15 condition in which it was found?

16 A. I observed it but not examined it.

17 Q. What did you observe about her body?

18 A. Well, she was in the bedroom. She was on her  
19 back and her legs were underneath her knees, and, you  
20 know, she was partly lying on the legs. Her shorts  
21 and her under panties were pulled down, I believe, and  
22 her bra was pushed up along with her blouse, and there  
23 were a pair of scissors embedded in her chest, and the  
24 cord from a clock radio was wrapped around her throat.

1 That's basically what I observed.

2 Q. Did you observe anything else about the  
3 apartment?

4 A. There were cats, kittens in the apartment.  
5 Like I say, I didn't have the opportunity, the time,  
6 to further examine or inspect the apartment.

7 Q. Who else was at the scene that you recall?

8 A. Officers Fogler, Lieutenant Kotte, I believe  
9 Sergeant Ebert, E-b-e-r-t, was there, Tim Freesmeyer.  
10 I don't know if Detectives Hospelhorn or Warner were  
11 there when I was there. Sergeant -- no, he wasn't a  
12 sergeant. Patrolman Scott Johnson I believe was  
13 there. There may have been one or two other uniformed  
14 officers.

15 Q. Even though you were at the scene for a short  
16 period of time, under a half an hour, did you get any  
17 impressions from the scene or what were your first  
18 thoughts about it?

19 A. My first thought that it was a sex crime, but  
20 then looking at the fact that there were two murder  
21 weapons involved, being a strangulation and the  
22 scissors, perhaps the suspect had a personal interest  
23 in this crime of passion. And it did not seem to be a  
24 motive of burglary because things were not disturbed

1 as though you might expect at a burglary scene.  
2 Granted, it was gruesome, but after talking to several  
3 of her friends later on in the investigation, we  
4 determined some facts from the victimology of her.

5 Q. What about the scene of the crime made you  
6 think at least initially when you were first there  
7 that it was a sex crime?

8 A. Because of the position of her body and the  
9 fact that the -- the clothing.

10 Q. And what about the crime scene indicated to  
11 you it was a crime of passion?

12 A. Because of maybe a personal vendetta against  
13 her, up close and personal because overkill or even a  
14 thought of staging it.

15 Q. Well, what specific things about the crime  
16 scene?

17 A. That led to?

18 Q. To think that it was something of a personal  
19 nature or a vendetta against the victim?

20 A. Because of the overkill.

21 Q. What do you mean by overkill?

22 A. Well, the fact that she was strangled by a  
23 cord and also the scissors embedded in her chest, and  
24 there were six stab wounds plus the scissors was left

1 in the seventh wound.

2 Q. On her chest?

3 A. On her chest, correct.

4 Q. Can you define what a crime of passion is.  
5 What do you mean by that?

6 A. Well, normally there are three motives.  
7 Normally there are three motives behind a homicide:  
8 Sex, vendetta, or financial gain. I did not see a  
9 financial gain. Later on it looked like maybe, first,  
10 you know, it was sex because of the arrangement of the  
11 clothing and the fact that she was knelt by the bed  
12 there and the person was behind her, and also the fact  
13 we learned of all the boyfriends she had gave us more  
14 thought that maybe that's what it was. Nothing  
15 conclusive as to the motive.

16 Q. How many times were you at the crime scene?

17 A. Maybe three.

18 Q. When did you revisit the crime scene after  
19 that first initial call?

20 A. Early the following week or the beginning of  
21 the week, latter part of August.

22 Q. And what about the third time?

23 A. If there was a third time, I don't know. The  
24 reason why I recall that second visit is we went over,

C06777

1       knocked on the neighbor's door across from the hallway  
2       there and asked for a plastic bag.

3             Q.    What was the purpose of the second visit?

4             A.    To have another look around to see if we  
5       missed anything.

6             Q.    Who was there?

7             A.    Dave Warner was with me on that second visit.

8             Q.    Just the two of you?

9             A.    Correct. Well, Rob Hospelhorn could have  
10       been, but I couldn't be certain.

11            Q.    Which neighbor? Which door did you knock on?

12            A.    Right across the hallway. I think it was  
13       Dave was his name.

14            Q.    So there were four units in Ms. Lockmiller's  
15       building?

16            A.    Yes.

17            Q.    Two on the second floor and two on the first  
18       floor?

19            A.    Correct.

20            Q.    And Ms. Lockmiller's apartment was on the  
21       second floor, right?

22            A.    I guess.

23            Q.    You don't recall either way?

24            A.    No, I don't. I'm sorry.

1 Q. So the person -- the neighbor at least that  
2 you knocked on their door the second time you went to  
3 the scene was the person directly across the hallway  
4 from Ms. Lockmiller's apartment?

5 A. Yes, and I don't think it was a male that  
6 gave me a plastic bag. It seems to me it was a  
7 female. Again, I'm not positive.

8 Q. Why were you asking for a plastic bag?

9 A. I believe I wanted to bag up another plastic  
10 bag that was from the crime scene. I think it was in  
11 front of the sink in the kitchen.

12 Q. So you and Detective Warner walked through  
13 the crime scene and found another bag by the sink?

14 A. I believe that's what we found. That's what  
15 got my interest. Again, I'm not certain on that.

16 Q. And then you went to the neighbor's house to  
17 ask for a plastic bag so you could retrieve it?

18 A. Correct.

19 Q. Is that what I'm understanding?

20 A. I believe that's what it was.

21 Q. What sort of bag did you find near the sink?

22 A. It was a plastic grocery bag.

23 Q. Could you see any of the contents?

24 A. I must have opened it, otherwise why would I

1 save the bag? I saved the bag for perhaps latent  
2 prints if it was -- it was a relevant item because she  
3 had many cats, and the door to the sink was still open  
4 and the bag -- trash bag laid there. And my thoughts  
5 were one of two things: The perpetrator, or the cats  
6 got hungry and were looking for something to eat and  
7 underneath the sink was the trash bag.

8 Q. So the door underneath the sink was --

9 A. Ajar.

10 Q. -- ajar and there was a plastic bag around  
11 that spot?

12 A. Correct.

13 Q. And do you recall any of the contents?

14 A. No, I don't.

15 Q. What did you do with the plastic bag once you  
16 retrieved it?

17 A. Well, I gave it to Dave Warner to put into  
18 evidence.

19 Q. Because Warner was a crime scene technician?

20 A. With Normal, correct, yeah.

21 Q. So did you give it to him right away? Did he  
22 just take it back to the station?

23 A. I don't recall.

24 Q. Did you give any evidence to

1 Detective Freesmeyer?

2 MR. BOWMAN: Objection; vague, overbroad.

3 BY MS. BARTON:

4 Q. Did you provide -- strike -- I'll re-ask the  
5 question.

6 Did you provide Detective Freesmeyer with any  
7 evidence that you had recovered from the scene?

8 MR. BOWMAN: Objection; vague, overbroad. I  
9 don't -- is there a time frame for the question?

10 MS. BARTON: Just ever.

11 MR. BOWMAN: Same objection. You can answer.

12 THE WITNESS: You want me to answer that  
13 question?

14 BY MS. BARTON:

15 Q. If you can.

16 A. Okay. I don't recall.

17 Q. You testified in Mr. Beaman's trial, right?

18 A. Yes.

19 (Whereupon, Daniels Deposition  
20 Exhibit No. 1 was marked.)

21 MR. BOWMAN: This is Daniels Number 1?

22 MS. BARTON: Yeah.

23 BY MS. BARTON:

24 Q. Mr. Daniels, I handed you what I marked as

1 Exhibit Number 1. And the front page just reflects  
2 the date of these report of proceedings being  
3 March 16th and 17th of 1995. And then if you go to  
4 page -- I'm just looking at the numbers in the middle  
5 of the page here, 436.

6 A. Okay.

7 Q. This is where your direct examination begins  
8 by Ms. Dimmick. Do you remember Ms. Dimmick?

9 A. Oh, yes.

10 Q. And she was one of the prosecutors?

11 A. Second chair, yeah. She shared it with  
12 Jim Souk.

13 Q. Turn to page 446. Beginning at line 10, read  
14 through 46 and page 47 and let me know when you're  
15 finished.

16 A. Starting with 10?

17 Q. Line 10, yes, through line 8 on the  
18 second page.

19 A. Okay.

20 Q. Does that refresh your memory whether you  
21 provided two bags that you had retrieved from the  
22 crime scene to Detective Freesmeyer?

23 A. Apparently it does. I stand corrected on the  
24 answer to your original question.

C06782

1 Q. Does it refresh your memory at all about  
2 providing Detective Freesmeyer with any evidence you  
3 recovered from the scene?

4 A. No.

5 Q. So you still don't have any memory of that,  
6 right?

7 A. That's correct.

8 Q. But you testified truthfully at the trial?

9 A. Correct.

10 Q. Did you retrieve more than one bag from the  
11 crime scene?

12 A. I don't recall.

13 Q. Did you retrieve any other physical evidence  
14 from the crime scene other than what you told me, the  
15 grocery bag by the sink?

16 A. Again, I don't recall and I don't -- well, it  
17 said bags, but I'm assuming that refers to the  
18 evidence bag as well as the bag that I secured the  
19 evidence in.

20 Q. We can put that to the side and come back to  
21 that.

22 So you spent about 20 to 30 minutes at the  
23 crime scene that first afternoon --

24 A. As I can recall, yes. It wasn't very long.

1 Q. And then you testified earlier that  
2 Chief Taylor assigned you to go back to Normal Police  
3 Department to begin the investigation?

4 A. Yeah. Well, as I recall, I was to go back to  
5 the detective division. That's why I could not spend  
6 much time there at the scene. And then when he came  
7 into the station like I previously stated, and he said  
8 looks like you're it. So that's when we started.

9 Q. What was the first thing you did when you got  
10 back to the detective division?

11 A. Well, I don't know. Can't recall. It seems  
12 to me we already had the young lady who discovered the  
13 body. We already had an oral statement from her. And  
14 I think Dave Warner was talking to her. I don't  
15 recall. I could have said, what do we have here,  
16 Dave Warner, or what can you tell me or what happened.  
17 I just don't recall what the first step was.

18 Q. Did you sit in on the interview that  
19 Dave Warner was conducting?

20 A. No, I didn't.

21 Q. You did not?

22 A. No, I don't recall.

23 Q. Oh, you don't remember, okay.

24 And that was Morgan Keefe. Does that name

1 ring a bell?

2 A. Morgan Keefe, yes.

3 (Whereupon, Daniels Deposition  
4 Exhibit No. 2 was marked.)

5 BY MS. BARTON:

6 Q. This will be Daniels Exhibit 2.

7 Have you ever seen these documents before?

8 A. Well, most likely probably the day or during  
9 the time period of the investigation. It looks as  
10 though I was there.

11 Q. So on the second page of this document,  
12 the --

13 A. Top of the page.

14 Q. Yeah. Do you -- this appears to be a  
15 transcript of the interview conducted of Morgan Keefe  
16 on August 28. And the top of the page, 1336,  
17 page 1336 says it's the 28th day of August, 1993 at  
18 approximately 1500 hours. Present is  
19 Detective Daniels also with the Normal Police  
20 Department. This is an interview with Morgan Keefe in  
21 reference to a female found at [REDACTED]. I'm  
22 sorry, I missed a part. This is Dave Warner with the  
23 Normal Police Department.

24 Does that refresh your memory of being in the

1 interview with Detective Warner?

2 A. That doesn't refresh my memory, but let me  
3 explain this. The layout of the detective division is  
4 a wide, big open room, and every detective have their  
5 own undivided cubicle. So if he was sitting over in  
6 the opposite corner talking to her and I was sitting  
7 at my desk, you could say theoretically, yes, I was  
8 present.

9 Q. Okay.

10 A. Or he could have been in the interview room,  
11 which he doesn't state, meaning, yes, I was present in  
12 the room.

13 Just to clarify that, if you look at our  
14 interviews, our meaning Rob Hospelhorn's and mine,  
15 with various people at the Normal Police Department, I  
16 think you'll see that in front of our opening  
17 statement is the fact that we are present in an  
18 interview room, and that's the reason why I don't  
19 recall. And Dave Warner of course could have -- I  
20 could have been there. I could have been sitting next  
21 to him.

22 Q. Sure. Completely understand. It's been --  
23 many years have passed in between that time. I'm just  
24 trying to show you documents to try to refresh your

1 memory and see if it helps jog any memories for you.

2           Regardless of whether you were sitting next  
3 to Dave Warner or somewhere in the detective division  
4 at the time that Ms. Keefe was interviewed, did at  
5 some point you learn what Ms. Keefe told  
6 Detective Warner during the interview?

7           A.    Yes.

8           Q.    What did you learn that Ms. Keefe told  
9 Detective Warner?

10          A.    She -- she -- Morgan tried to get ahold of  
11 Jennifer -- well, it would have been the day before  
12 her demise. It would have been on a Friday I guess,  
13 Friday night. Couldn't reach her by phone, and she  
14 drove by her apartment and saw the lights on. And she  
15 went over the next morning, Saturday, and discovered  
16 the body.

17          Q.    Did she provide -- do you recall any other  
18 information she provided that was pertinent to the  
19 investigation?

20          A.    Well, I believe that she provided information  
21 as far as a couple of Jennifer's past boyfriends, one  
22 being Alan. I don't know if she provided John Revis's  
23 name or Michael Swaine who was her latest live-in  
24 boyfriend. That's how those names came up.

1 Q. If you look at page 3 of the interview  
2 transcript, Dave, being Dave Warner, is asking does  
3 she date anybody. Do you see where I am?

4 A. Oh, you're on printed page 3, okay. Where's  
5 the question?

6 Q. Does she date anybody?

7 A. Oh, okay, sorry.

8 Q. And Morgan's response is: Um, this gets  
9 really messy. She went out with this guy named Alan,  
10 and this is -- and then she provides Alan Beaman's  
11 name.

12 A. Okay.

13 Q. And she goes on to say that I finally met  
14 him, being Alan Beaman, on the 4th of July and, um,  
15 Jen didn't like him very much. Do you see where I am?

16 A. Right.

17 Q. She went out with him, but he was kind of  
18 pushy, kind of to the point where he talked her into  
19 going out with him. And if she swayed away from him,  
20 then he would threaten suicide, and so she would out  
21 of guilt go back out with him, and a couple times I  
22 remember he would break down the door at her  
23 apartment.

24 Do you see where I'm reading that?

1 A. Sure.

2 Q. And then the next question that Dave asks is  
3 over here on [REDACTED] and she responds: Uh-huh,  
4 yes, I had some friends who lived here. And one night  
5 I came home and, um, there was a car -- or a chair up  
6 against the door and there was a big beam and when I  
7 opened the door, she started screaming, and I was  
8 like, Jen, it's just me, it's okay. And she said, oh,  
9 well, Alan broke down the door a while ago. And  
10 that's why she had it all blockaded up. And I had  
11 only met him once, and I don't know very much about  
12 him.

13 Do you see where she says that?

14 A. Sure.

15 Q. On the next page, Ms. Keefe begins talking  
16 about Mike Swaine.

17 A. Okay.

18 Q. Toward the bottom of the page, that middle --  
19 the middle of that big paragraph there she says,  
20 anyway, she -- he lived with a guy named Mike Swaine  
21 who Jen really liked, and over the summer she has been  
22 talking about how much she was looking forward to Alan  
23 going home so that she could finally spend time with  
24 Mike.

1           So here she's talking about Mike -- I guess  
2 this is the first time that Mike Swaine's name comes  
3 up. So she is providing background on  
4 Ms. Lockmiller's previous relationships, right?

5           A. Sure.

6           Q. On page 7 towards the bottom half of the  
7 page, Morgan says: I don't know his real name, but  
8 ever since high school, she dated a guy named Bubba  
9 who she broke up with. And Dave says, Bubba? And  
10 Morgan says, yeah. She broke up with Bubba, and then  
11 she goes on to talk about Bubba.

12           Do you see where I'm reading that?

13           A. Sure.

14           Q. So she is providing Beaman's name, Swaine's  
15 name and now Bubba. Do you know who Bubba is?

16           A. Bubba Smith?

17           Q. Stacey Gates? Does that ring a bell?

18           A. Yeah, Stacey Gates.

19           MR. DiCIANNI: Defensive end.

20           THE WITNESS: Big guy.

21           Yes, Bubba Stacey Gates, yes.

22 BY MS. BARTON:

23           Q. And in that same paragraph Morgan says, he,  
24 being Bubba, asked her what he needed to do to get

1 back with her, and she said get a job because he was  
2 kind of a bum. So he just got a job in Peoria, and  
3 she was going to see him last night.

4 A. Which would have been Friday night I guess.

5 Q. Friday night before the body was found, okay.

6 And then on page 9 Morgan says, we went to  
7 Spanky's. Do you see where that is?

8 A. Yes.

9 Q. And then we left and we were going to go to  
10 the Cellar, and we never quite made it. We ran into a  
11 couple of guys.

12 And then Ms. Keefe goes on to talk about two  
13 people that -- or two men that Ms. Lockmiller --  
14 somebody gave somebody's number, right?

15 A. So she gave them her own number.

16 Q. And then Morgan says: Somebody gave somebody  
17 their number.

18 A. Okay.

19 Q. So Ms. Keefe was talking about, again,  
20 Alan Beaman, Mike Swaine, Bubba, being Stacey Gates,  
21 and then now these two gentlemen that they met, I  
22 don't know, about a week prior to her murder.

23 MR. BOWMAN: Objection. I'm belated in doing  
24 this. I don't think it's a big deal, but, you know,

1 the transcript says what it says. Something about Jen  
2 or Morgan writing Jen's number on a piece of lipstick  
3 for the two guys. I mean, it says what it says. So I  
4 object to the characterizations of what we can all  
5 read.

6 BY MS. BARTON:

7 Q. On page 10 towards the bottom of the page,  
8 Morgan -- right below where it says Detective Daniels  
9 can be heard in the background making a phone call.  
10 Right below that, you see --

11 A. Ah, so I was in the room.

12 Q. Morgan says: If Alan was ever abusive to her  
13 or not, all I know is he would break down the door,  
14 and the fact that she screamed when I came in kind of  
15 indicated to me that he scared her.

16 Did I read that right?

17 A. Yes.

18 Q. All right. Anything else that you remember  
19 from Morgan's interview with Dave Warner other than  
20 what we've kind of covered? You can look through it  
21 if you want to.

22 A. No, I really don't other than what's in  
23 there.

24 Q. Do you recall whether you talked to

1 Dave Warner after he interviewed Ms. Keefe?

2 A. Oh, I would imagine I did because, you know,  
3 there's an old saying in investigations, the first  
4 person on the scene to discover a homicide body is the  
5 first suspect you want to talk with.

6 Q. So was Ms. Keefe a suspect at that time?

7 A. Not -- in my estimation, she was not. Again,  
8 she was interviewed because she discovered the body.  
9 And the information of course that she gave me or gave  
10 us came out in interviews.

11 Q. Do you recall talking to Detective Hospelhorn  
12 about Morgan Keefe's interview?

13 A. I don't recall talking to him.

14 Q. Well, what's the next thing you remember  
15 doing on that night on the 28th or during the  
16 afternoon?

17 A. Well, I believe Tim Freesmeyer was in a  
18 separate interview room talking to Mike Swaine. And I  
19 don't know exactly what he said about Mike Swaine's  
20 interview other than he was staying with her. I don't  
21 recall exactly what the conversation would be.

22 Q. Do you recall how Detective Freesmeyer came  
23 to be interviewing Michael Swaine?

24 A. Michael Swaine was stopped by patrol officers

1 when he returned to the scene, that being Jennifer's  
2 apartment building. And they had him in a squad car  
3 and he was being transported by Freesmeyer down to the  
4 detective division of the Normal PD. That's how --  
5 that's why he was there.

6 So reflecting back, he would have been most  
7 likely a suspect at that time.

8 Q. That was going to be my next question,  
9 whether Mike was a suspect at that time?

10 A. Seems to me because he was being detained and  
11 transported back to the police department.

12 Q. So what do you recall the next thing that  
13 happened after Morgan Keefe and Mike Swaine were  
14 interviewed at the Normal Police Department?

15 A. Well, Rob Hospelhorn and I were comparing the  
16 information we received from both of them.

17 Q. Them being?

18 A. Mike Swaine and Morgan Keefe. And discussing  
19 going up to Rockford to talk to Alan because we  
20 obtained information enough to found out who  
21 Alan Beaman was through police records.

22 Q. And how was it -- what do you mean through  
23 police records?

24 A. Well, he -- he had been on file, meaning

1 there were reports that the Normal Police Department  
2 with his name mentioned as a suspect.

3 Q. What sort of reports?

4 A. I think there were domestic violence, battery  
5 or criminal damage.

6 Q. And how did you find those reports?

7 A. Computer.

8 Q. So you searched Beaman's name?

9 A. Correct.

10 Q. Once you learned of what Ms. Keefe said?

11 A. I don't know if it was from her or Michael --  
12 it may have been from Michael Swaine, yeah, with them  
13 being roommates. I don't know how the information  
14 that was provided to us, how that came about in order  
15 to run his name through records.

16 Q. Were you also trying to figure out where  
17 Mr. Beaman was living at that time?

18 A. Yes. At home.

19 Q. Were you doing that for anybody else?

20 A. Oh, I imagine we were. Well, we were in  
21 touch with the Rockford -- Winnebago Sheriff's  
22 Department up in Rockford I would imagine, because as  
23 a matter of fact, I talked to them to assist us.

24 Q. Were you looking for -- well, was Mr. Beaman

1 a suspect? Did you consider Mr. Beaman a suspect by  
2 the time you were looking at the Normal Police  
3 Department reports when you did the search for his  
4 name?

5 A. Based upon the contents of the report.

6 Q. Of what report?

7 A. From the record as a result of running his  
8 name through the records.

9 Q. So as a result of those records, Mr. Beaman  
10 became a suspect?

11 A. I think that's where we came up at or  
12 maybe -- it could have been just what Morgan Keefe had  
13 said that Jennifer had told her, all being hearsay,  
14 but we had to go with the information we had. Him  
15 breaking the door down, it looked like to be a violent  
16 individual.

17 And, of course, you look at boyfriends when  
18 you're initially investigating a homicide as that  
19 because of what the crime scene looked like, what it  
20 was able to tell us about -- the motive behind the  
21 crime. Again, I can't recall if it's from basically  
22 Morgan Keefe, running the report and/or Mike Swaine.

23 Q. And then how was it determined that you would  
24 go -- you and Dave -- Rob Hospelhorn would go and

1 interview Mr. Beaman in Rockford?

2 A. Well, Chief Taylor directed us to go up  
3 there, and I informed Chief Taylor or I suggested to  
4 Chief Taylor I think it was a little bit too soon. We  
5 didn't have enough information. And he wanted us to  
6 go up there anyway.

7 Q. Did Chief Taylor tell you why he was  
8 directing you to go up to Rockford?

9 A. Well, Chief Taylor has a position, a  
10 personality that you don't question when he wants you  
11 to do something. So I said, yes, sir. So we made  
12 arrangements to go up there.

13 MR. DiCIANNI: I'm sorry. Could you repeat  
14 that.

15 (Whereupon, the record was  
16 read as requested.)

17 BY MS. BARTON:

18 Q. And you already testified before that you  
19 called Mr. Reynard before you headed up to Rockford?

20 A. Correct.

21 Q. Was that after the point in time that  
22 Chief Taylor directed you to go to Rockford?

23 A. Oh, yes.

24 Q. And how did you go about making arrangements

1 to go to Rockford?

2 A. Well, contacted Winnebago County to ask for  
3 their assistance to locate where the house was. And  
4 they did that and they even put a deputy on watch at  
5 the house.

6 Q. How did you determine that Mr. Beaman was in  
7 Rockford?

8 A. Well, I think -- I guess I shouldn't answer  
9 that with my thoughts. I believe that Rockford  
10 determined -- Winnebago County Sheriff's Department in  
11 Rockford determined that his car was in the driveway.

12 Q. How did you obtain his address in Rockford?

13 A. Would have come off the police files or even  
14 from ISU -- or not ISU, IW. I'm pretty sure it came  
15 off the report on file.

16 Q. So by the time you were leaving for Rockford  
17 with Detective Hospelhorn, Beaman was a suspect in  
18 Ms. Lockmiller's homicide?

19 A. Yes.

20 Q. Were there any other suspects at that time?

21 A. Well, John Revis, I don't know if his name  
22 came up shortly after that or shortly before that.  
23 But Detective John Belcher had the task of locating  
24 that John Revis.

1 Q. So it sounds like --

2 A. Mike Swaine -- until Detective Freesmeyer was  
3 interviewing -- he completed his interview with  
4 Mike Swaine, Mike Swaine was a suspect.

5 When I came -- when we came back from  
6 Rockford, already a dispatcher advised me that there  
7 was a kid named -- I don't know if the operator used  
8 the word Bubba or Stacey Gates on the phone, was kind  
9 of upset and inquisitive about not being able to get  
10 ahold of Jennifer Lockmiller. So I talked to him on  
11 the phone and informed him that we weren't releasing  
12 any information regarding whereabouts of  
13 Jennifer Lockmiller or any information at all about  
14 her.

15 Q. Was Bubba a suspect at that time?

16 A. Well, in my opinion he was because it was  
17 awful peculiar, coincidental that he was calling at  
18 that time in that night. Again, that's just basic  
19 intuition.

20 MS. BARTON: We could probably take a break.  
21 We can go off the record.

22 (Whereupon, a discussion was  
23 had off the record.)

24 (Whereupon, a break was taken.)

1 (Whereupon, Daniels Deposition  
2 Exhibit No. 3 was marked.)

3 BY MS. BARTON:

4 Q. So when we left off, we were talking about  
5 the decision to go up to Rockford and speak with  
6 Mr. Beaman on August 28 which was the day that  
7 Ms. Lockmiller's body was found.

8 A. Right.

9 Q. And you said that Chief Taylor had directed  
10 you and Hospelhorn to go and speak to Mr. Beaman,  
11 right?

12 A. Absolutely.

13 Q. And what information did you have about  
14 Mr. Beaman at that particular point in time?

15 A. That he was the boyfriend before Mike Swaine,  
16 and the fact what Morgan Keefe had said about breaking  
17 in the door and a rocky relationship. I think that's  
18 about the general gist of information we had.

19 Q. Did you know anything about Mr. Beaman from a  
20 source other than Ms. Keefe?

21 A. Well, I thought we had report on file there  
22 at the Normal Police Department.

23 Q. And that was the one that you referred to as  
24 a domestic violence issue involving Mr. Beaman?

1           A.   Well, that's -- that's what I believe it to  
2 be, right, yeah, involving Alan. I think that's where  
3 the information was substantiated as far as him  
4 breaking the door down.

5           Q.   And we've already established -- well, at  
6 least you already testified that at that point in time  
7 Beaman was a suspect?

8           A.   Correct.

9           Q.   So I've handed you what's been marked as  
10 Exhibit 3 for your deposition, and this is a group  
11 exhibit that I put together of all the police reports  
12 that you authored. There was one that I missed, and  
13 so I made copies of that today. So there's one  
14 missing, but I'll get to that later. But other than  
15 that, this seems to be all the reports that you  
16 prepared in connection with the Lockmiller homicide.

17                   So the first six pages, it looks like one  
18 report. Is that one report, right, pages 1 through 6?

19          A.   Yes.

20          Q.   And this report is dated September 2, 1993.

21          A.   Okay.

22          Q.   Signed off by Lieutenant Zayas, right?

23          A.   Right.

24          Q.   Is this a report that you prepared?

1 A. Yes.

2 Q. On the first page, the second paragraph in  
3 the middle says information from Secretary of State's  
4 office revealed that Beaman had a residence of  
5 [REDACTED] in Rockford.

6 A. Right. Okay.

7 Q. Does that refresh your memory of where you  
8 learned that Mr. Beaman lived in Rockford?

9 A. Correct.

10 Q. And then it goes on to say that you made  
11 arrangements, which we've already talked about.

12 A. Yeah.

13 Q. Talking to the Winnebago County Sheriff's  
14 Office, right?

15 A. Okay.

16 Q. When you were traveling -- did you travel to  
17 Rockford with Detective Hospelhorn?

18 A. Uh-huh.

19 Q. Did you two discuss what the strategy would  
20 be for interviewing Beaman?

21 A. Well, my thoughts were this may be our only  
22 opportunity to talk to the kid because we didn't have  
23 that much information, so we're going to see what he  
24 has to say. And then if there was something there

1 that needed to be challenged, we would challenge it  
2 then.

3 Q. So what was the purpose of interviewing  
4 Mr. Beaman?

5 A. To get information from him.

6 Q. About what?

7 A. His relationship basically, his relationship  
8 with Jennifer and where he would have been during the  
9 time period in question.

10 Q. At this point in time, Saturday night, the  
11 Saturday that Ms. Lockmiller's body was found, did you  
12 know what the time of death -- or the day of death or  
13 time of death was?

14 A. Not before we went up there. I don't think  
15 we did, unless -- I don't think it had been confirmed.  
16 We knew of her class schedule, but we had to go from  
17 that I guess. The phone records weren't obtained  
18 until, I think, the following week.

19 Q. And the autopsy, of course, hadn't been  
20 performed, right?

21 A. Correct, yeah. I think it was all based upon  
22 her class schedule, phone record, you know, when the  
23 last time somebody saw her and when she was expected  
24 in class.

1 Q. But at least in the time before you went to  
2 interview Mr. Beaman, you didn't have a time of death  
3 or a day of death?

4 A. No, we did not have a specific time or date.

5 Q. Was the purpose of meeting with Mr. Beaman,  
6 was it an interview or was it an interrogation?

7 A. An interview.

8 Q. An interview. But Mr. Beaman was a suspect  
9 at that time?

10 A. Correct.

11 Q. Did you go to Rockford with the intention of  
12 trying to elicit a confession from Mr. Beaman?

13 A. Well, based upon what the interview would  
14 tell us, yes, that's why we called Charlie's office to  
15 see what he would have us do if we were able to -- and  
16 if it came to that point.

17 Q. So what happened when you got to Rockford?

18 A. Well, we went to the county sheriff's office,  
19 met with detective, took us out to the scene which  
20 was -- I don't know where the exact location was, but  
21 they -- Winnebago had stopped Alan Beaman while Alan  
22 was en route to work, and unbeknown to us, they had  
23 informed him why he was being stopped.

24 We got there on the scene and we introduced

1 ourselves. And sheriffs were still there, Winnebago  
2 sheriffs were still there. We introduced ourself and  
3 asked him to come on down to the Winnebago Sheriff's  
4 Department for some questioning about the death of a  
5 friend of his.

6 Q. So when you're referring to the scene, do you  
7 mean the place where Mr. Beaman was pulled over --

8 A. Correct.

9 Q. -- by the Winnebago --

10 A. Right, yeah. So he accompanied us. I think  
11 we rode in the same car. I don't --

12 Q. Well, I want to kind of discuss that -- was  
13 it a traffic stop?

14 A. Well, I think -- I don't know if they stopped  
15 him on a traffic or was it being a suspect.

16 Q. Well, let me ask you this, was Mr. Beaman  
17 driving a car when he was stopped?

18 A. Yes.

19 Q. And how were you alerted that the sheriff's  
20 office had pulled over Mr. Beaman?

21 A. The detective there at the sheriff's  
22 department informed us they had him stopped now,  
23 meaning when we were -- when we arose.

24 Q. And so you went to where his location was at

1 that time?

2 A. Correct. We were taken there, yeah.

3 Q. Where was Mr. Beaman physically when you got  
4 there?

5 A. He was outside his car.

6 Q. Was he handcuffed?

7 A. I don't recall. I don't recall.

8 Q. Was he in a squad car?

9 A. No, he was outside the cars.

10 Q. And who else was there?

11 A. Seems to me there were two deputies, myself  
12 and Alan, plus Rob Hospelhorn.

13 Q. And Mr. Beaman wasn't in the car with anybody  
14 else; he was driving alone?

15 A. Correct. Yeah.

16 Q. Did you speak with the sheriff deputies  
17 before you spoke with Mr. Beaman?

18 A. Sure.

19 Q. And what did they tell you?

20 A. Basically that they waited in front of his  
21 house for him to pull out. When he did, they stopped  
22 him.

23 Q. Did they tell you what they said to  
24 Mr. Beaman when they pulled him over?

1           A.    They either told me there or they told me  
2 back in the county sheriff's department.

3           Q.    What did they tell you?

4           A.    That it was an investigation homicide.

5           Q.    So the sheriff deputies told you that they  
6 told Beaman, what, that he was needed to be questioned  
7 on a homicide case?

8           A.    Yes.

9           Q.    And that officers from the Normal Police  
10 Department would be there to speak with him?

11          A.    Right.

12          Q.    So when you spoke to Mr. Beaman, what did you  
13 say to him at the scene?

14          A.    At the stop, traffic scene?

15          Q.    Sure.

16          A.    I don't recall the exact words, but something  
17 of the nature we want to talk to you about a friend of  
18 yours. He said okay. I asked him I'd like to talk to  
19 you down at the county sheriff's department, and he  
20 was more than willing to accompany us and he did.

21          Q.    Did he have any reaction?

22          A.    None that struck me odd or weird other than  
23 okay.

24          Q.    Anything about his demeanor stand out to you

1 at all?

2 A. Yes, it did.

3 Q. What was that?

4 A. He seems to be -- seemed to be, in my  
5 opinion, based upon my experience, he seemed to be  
6 tired, worn out or perhaps under the influence of  
7 liquor or drug perhaps.

8 Q. Did you ever learn whether Mr. Beaman was  
9 under the influence that night?

10 A. No. I would assume that if it was liquor or  
11 something of that nature, that the county probably  
12 would have intervened. That's just an assumption on  
13 my part.

14 Q. What do you recall about -- so you took  
15 Mr. Beaman back to the sheriff's office?

16 A. Correct, in Rockford.

17 Q. And went to an interview room?

18 A. Correct.

19 Q. With you and Detective Hospelhorn?

20 A. Correct.

21 Q. And Mr. Beaman?

22 A. Correct.

23 Q. Anybody else in the room?

24 A. No.

1 Q. What do you recall about the interview?

2 MR. BOWMAN: I'm going to object -- excuse me  
3 for interrupting. I object to the extent that the  
4 question seeks to elicit the recorded conversation  
5 between Beaman and the investigators because it's a  
6 recorded conversation. I just don't think it's useful  
7 to, you know, have necessarily inaccurate  
8 recollections of a recording that we can all review.

9 BY MS. BARTON:

10 Q. Can you answer the question?

11 A. You want me to answer the question? Okay.

12 I sat Alan right by the door where he could  
13 exit anytime, and I was sitting probably three to  
14 four feet to his immediate left. And directly in  
15 front of him, around six, seven, eight feet, was  
16 Rob Hospelhorn, and read him his rights, you can leave  
17 anytime you want to, so forth and et cetera. He said  
18 okay.

19 So then we started talking with him and was  
20 mainly interested in his relationship with Jennifer  
21 and his whereabouts I think dating back to the  
22 previous Wednesday. And he gave us a summation of  
23 where he had been, who he had been with as far as  
24 friends and that, what he had done, where he worked.

1           Took a short bathroom break and came back. I  
2 believe that's when he decided he wanted to leave.  
3 And of course he was free to go. And we escorted him  
4 downstairs to the parking garage where his vehicle had  
5 been towed by the county sheriff department. We  
6 searched his vehicle with his permission, but shortly  
7 afterwards his father arrived to pick him up to take  
8 him home. I think the interview lasted perhaps 45,  
9 50 minutes.

10           Q. Who questioned Mr. Beaman?

11           A. I did mainly.

12           Q. What approach did you take to questioning  
13 Mr. Beaman?

14           A. As to what his relationship was with her.

15           Q. Did you use any interview techniques or  
16 anything like that?

17           A. Well, I studied his behavior as well as his  
18 answers to the question -- the pertinent questions.

19           Q. What did you observe about his behavior?

20           A. He was tired.

21           Q. How could you tell he was tired?

22           A. He was slow in speech. He was not very  
23 responsive in an immediate response. He was thinking  
24 of his answer. Because he worked midnights and he

1 said he had been -- prior to being stopped by the  
2 county sheriff's department, as I recall, he was out  
3 in his driveway putting a stereo in which added to the  
4 fact that he hadn't had much rest and he would go to  
5 work -- prior to going to work, he would party.

6 Other than that, he just got a little  
7 irritated with us I guess because maybe I moved to the  
8 finger-pointing stage, accusation, but I didn't use  
9 any words or terms that said you did it or --

10 Q. So at some point during the interview, did it  
11 turn into an interrogation?

12 A. Yes, I think you could say it did, yes. He  
13 just, like I said, seemed very tired.

14 Q. So what was the reason that the interview  
15 turned into an interrogation?

16 A. Well, I think it's because of the fact that  
17 some of the answers to the questions and the fact that  
18 his relationship with Jennifer, 17 times they had  
19 broke it off and got back together, that fact, and  
20 just his overall demeanor or one particular response.

21 I said that -- I tried to incorporate some  
22 trickery into the questions and I asked him about --  
23 or informed him that before she had died, she said  
24 that she really loved you, Alan. And at that point in

1 time, his head dropped to the floor like that as  
2 though he was showing remorse in my opinion based upon  
3 my training and experience. And just general demeanor  
4 and the way he answered the questions, and his  
5 response was she really did love me, didn't she.

6 Q. What about that response stood out to you?

7 A. Pardon me?

8 Q. What about that response stood out to you?

9 A. Well, he looked down at the floor as though  
10 he regretted killing her or he's showing remorse.  
11 That's just a cue I picked up on.

12 Q. And by that point in time, had the interview  
13 turned into an interrogation already?

14 A. Well, yeah, I think so at that point, yeah.

15 Q. Can you turn to page 5 of your report. The  
16 second full paragraph, those last two sentences, it  
17 says: This is when I observed his most prominent  
18 behavioral gesture that a person who was attempting to  
19 be deceptive will exhibit when questioned about such a  
20 serious crime. At this point, we observed Beaman bow  
21 his head and say in a low, solemn voice, quote, she  
22 loved me.

23 Is that what you were referring to?

24 A. Yes.

C06812

1 Q. So did you think Mr. Beaman was being  
2 deceptive in that gesture?

3 A. Well, that certainly is an indication. It by  
4 itself or a response to a question or the answer to a  
5 particular question does not necessarily mean, in  
6 fact, he is being deceptive. You have to analyze the  
7 questions along with what you know as an investigator  
8 along with the way he answers the questions.

9 Q. Did you get the impression that Mr. Beaman  
10 during the interview sort of had a lack of reaction?

11 A. I think he did.

12 Q. And what did that indicate to you at the  
13 time?

14 A. Well, I soon checked off the fact that he  
15 could have been under alcohol because I couldn't smell  
16 it. And they did smoke a lot of marijuana, and  
17 John Murray was their provider I guess. Anyway, of  
18 course that came on later on in the investigation  
19 discovering that.

20 But getting back to your question, the fact  
21 that I couldn't smell the alcohol, he had been up  
22 working on a stereo, working, party, working on a  
23 stereo, going to go to work, led me to believe that  
24 that was part of his reason for his behavior.

1 Q. Well, as a police officer, you've observed  
2 people under the influence, right?

3 A. Yes.

4 Q. And you've certainly seen people under the  
5 influence of marijuana?

6 A. (Nodding.)

7 Q. Yes? You have to answer audibly.

8 A. Yes.

9 Q. And under the influence of other drugs,  
10 right?

11 A. Yes.

12 Q. Was there anything about Mr. Beaman's  
13 behavior during that interview that led you to believe  
14 he was under the influence of anything other than  
15 alcohol?

16 A. Possibly marijuana.

17 Q. What about his behavior or demeanor led you  
18 to believe that?

19 A. Just that he was -- he was -- well, what do I  
20 want to say? He wasn't quite lethargic, you know what  
21 I mean? He was slow to respond, slow, and as though  
22 he could care less about what happened to Jennifer.

23 Q. Did you ever ask him whether he was under the  
24 influence?

1 A. No, I did not.

2 Q. Did you take notes during the interview?

3 A. Oh, yes, I took notes and so did Rob.

4 Q. Was the interview recorded?

5 A. Yes, it was.

6 Q. With a tape recorder?

7 A. Yes.

8 Q. Was the entirety of your interview recorded  
9 by the tape recorder?

10 A. No, it wasn't.

11 Q. Why was that?

12 A. It ran out of tape.

13 Q. So how long did the interview last after the  
14 tape ran out?

15 A. Seven, ten minutes perhaps.

16 Q. And what do you recall about the interview  
17 after the tape ran out?

18 A. His recap of his whereabouts for those days  
19 that we asked him did not change, and I tried to  
20 confuse him by turning some of the dates and times and  
21 places around. And I've learned from experience and  
22 training that if you are being deceptive in your  
23 answers, you're going to confuse yourself eventually.  
24 He did not.

1           And there was a point in time when he stood  
2 up and he said, I had enough of this, I'm going. So  
3 we said okay.

4           Q. Did you tell him that Ms. Lockmiller was in  
5 the hospital and calling out for him?

6           A. I don't recall telling him that exactly.  
7 Just the fact that she said she still loved him or  
8 something of that nature is what I used to solicit a  
9 response from him.

10          Q. Let's take a look at Exhibit 1 which is your  
11 trial testimony. If you could review page 443 and  
12 444.

13          A. Where did you want me to start on 3?

14          Q. On line number 1.

15          A. Okay.

16          Q. Does that refresh your memory about what you  
17 told Mr. Beaman?

18          A. Yeah. Apparently I was incorrect in that.

19          Q. Okay. So on page 443, you were asked the  
20 question: And what was the statement that you made to  
21 him?

22                 And you answered: I informed him at that  
23 time that Jennifer really wasn't dead, that Jennifer  
24 was in the hospital and that Jennifer had asked for

1 him.

2 Was that your answer?

3 A. Correct, yes.

4 Q. And then question: And what did he respond  
5 to that?

6 Answer: I didn't get a verbal response. He  
7 bowed his head to the floor and responded then that  
8 she loved me. Is that right?

9 A. Correct.

10 Q. And that's what we already discussed, right,  
11 that gesture that you wrote in your report was  
12 deceptive?

13 A. Yes.

14 Q. And then on page 444, the question was:  
15 Sergeant Daniels, why did you tell Mr. Beaman that  
16 Jennifer was still alive at that point?

17 And you answered: Just an interview  
18 interrogation technique.

19 Is that right?

20 A. Yes.

21 Q. So that was a technique that you used with  
22 this interview/interrogation?

23 A. Correct.

24 Q. Did you tell Mr. Beaman during that interview

1 that Mike Swaine was living with Jennifer Lockmiller?

2 A. I don't recall telling him that. If the  
3 documents indicate that I did, then I did, but I don't  
4 recall from memory.

5 Q. Just take a look at your trial testimony on  
6 page 445. The very last question that starts on  
7 line 22, you were asked: At any point during the  
8 interview with Mr. Beaman, did you inform him that  
9 Michael Swaine was staying at Jennifer Lockmiller's  
10 apartment?

11 And on the next page it says: No, I did not.

12 And that was the answer that you provided at  
13 trial, right?

14 A. Yes.

15 Q. So at what point -- do you recall at what  
16 point Mr. Beaman left the interview room?

17 A. Without referring to the trial testimony or  
18 any notes that may be available here, in the  
19 neighborhood of 12:00 p.m.

20 Q. Oh, at what point in the interview? What  
21 were you talking about at that time? Not the  
22 particular --

23 A. I think we were rehashing his schedule or his  
24 itinerary for the few days that we questioned him or

C06818

1 shortly after a statement about her being alive for a  
2 short period of time.

3 Q. Did he seem angry when he left?

4 A. Yes.

5 Q. Did he indicate why he was angry?

6 A. No. He just says he doesn't have to take  
7 this anymore. He said, you said I can leave, so I'm  
8 going to leave.

9 Q. Did you try to convince him to stay?

10 A. No, because he wanted to leave. He certainly  
11 had the opportunity to leave and I couldn't restrain  
12 him. I had no reason to.

13 Q. And then you said that you walked Alan  
14 outside to retrieve his car, and then did you ask  
15 permission to search his vehicle?

16 A. Yes, verbal.

17 Q. And did you find anything during the search?

18 A. Nothing that we could tell at the time that  
19 was relevant to the crime scene or her death.

20 Q. After talking to Mr. Beaman on this day, on  
21 August 28, was he still a suspect after that  
22 interview?

23 A. Yes.

24 Q. What did you do after the interview or after

1 the search of the car?

2 A. What did he do?

3 Q. What did you do?

4 A. We went back to Normal.

5 Q. Did you meet with any other officers or other  
6 detectives that night?

7 A. We may have met with them shortly in their  
8 office, but I don't recall.

9 Q. Do you recall any of the conversation that  
10 you had with Rob Hospelhorn on the way back to  
11 Bloomington-Normal?

12 A. Oh, I'm sure we discussed the interview.

13 Q. Do you recall anything about that  
14 conversation?

15 A. Well, not in particular, but somewhere along  
16 the line between that period that we finished with the  
17 interview until I believe it was Sunday when we had a  
18 meeting or it could have been later on in that week,  
19 we thought that Alan was the prime suspect based upon  
20 the interview and what we knew of his relationship --  
21 stormy relationship with Jennifer.

22 Q. Well, what were the facts or the pieces of  
23 evidence that you had that made Mr. Beaman the prime  
24 suspect?

1           A.    Based upon the fact that they had that  
2 relationship where they broke up and got back together  
3 17 times, the fact that she was always in the need of  
4 male company, and, you know, some of the answers to  
5 the questions during that interview.

6           Q.    What were some of the answers during  
7 Mr. Beaman's interview?

8           A.    Well, I think the main issue there was the  
9 fact that -- the way he responded when I told him that  
10 she was still alive and still loved him. To me, that  
11 was coupled with other things we knew was an  
12 indication.

13                   And that certainly was our first suspect that  
14 we had talked to that we could not exclude. And if  
15 you cannot exclude a suspect from an investigation of  
16 any type, then you have to include them, and we could  
17 not exclude him.

18           Q.    Why couldn't you exclude him as a suspect at  
19 that point?

20           A.    Well, we hadn't checked out his alibis, his  
21 locations and people he was with at the time, nor  
22 could we check out his work record because he worked  
23 at his uncle's stores I believe it was.

24           Q.    I think you just talked about meeting with

1 investigators the next day, that being Sunday?

2 A. I think that's when we met.

3 Q. So was that the next thing that you did in  
4 the investigation once you got back to Bloomington?

5 A. Yeah, I think we put our notes -- well, yeah,  
6 we went home because it was the wee hours in the  
7 morning. And I think we met -- don't quote me on  
8 that, I'm not positive of the time and the day, but  
9 I'm pretty sure it was Sunday.

10 Q. What do you recall about that meeting? Who  
11 was present?

12 A. Souk, I believe Frank Zayas was present, I  
13 don't know if Chief Taylor was there or not, myself,  
14 Hospelhorn. I do not know if the other detectives  
15 were there. But we jointly, Rob and I, thought that  
16 perhaps at that particular time, Rob Hospelhorn -- or  
17 Alan Beaman was the best suspect we had.

18 (Whereupon, Daniels Deposition  
19 Exhibit No. 4 was marked.)

20 BY MS. BARTON:

21 Q. So I've handed you what we marked as  
22 Exhibit 4 to your deposition, and this is a  
23 compilation of Rob Hospelhorn's reports prepared in  
24 the Lockmiller case. I just want to refer you to

1 page 2.

2 A. Okay.

3 (Whereupon, Daniels Deposition  
4 Exhibit No. 5 was marked.)

5 BY MS. BARTON:

6 Q. Take a look at Number 5. This is  
7 Freesmeyer's reports.

8 A. Are we on the record?

9 Q. Yes, we're still on the record.

10 A. I want to make a comment to Locke. Can I do  
11 that or not?

12 Q. On the record?

13 A. No. Off the record.

14 Q. Oh, I guess, but I'll probably just ask you  
15 about it when you get back.

16 A. Okay. Note the date of his report.

17 MR. BOWMAN: Yes.

18 THE WITNESS: Okay.

19 MR. BOWMAN: Thank you. Noted.

20 BY MS. BARTON:

21 Q. All right. Take a look at page 11 of  
22 Detective Freesmeyer's report. Do you see how it  
23 refers to the page numbers up here?

24 A. I turned right to it. I must have that

1 magic.

2 Q. And you see where it says: On Sunday,  
3 August 29, 1993, I arrived at NPD at 1100 hours for a  
4 group meeting with all detectives in the case, the  
5 chief of police, Dean Kennedy, James Souk and  
6 Coroner Dan Grady.

7 MR. BOWMAN: I'm sorry, what page are we at?

8 MS. BARTON: Sure. Page 11.

9 BY MS. BARTON:

10 Q. Is that the meeting that you were present at?

11 A. It very well could be.

12 Q. And it says: We met for approximately four  
13 and a half hours and discussed the facts known at the  
14 time.

15 A. Okay. I'm lost here.

16 Q. Okay. Just start with the paragraph on  
17 Sunday, August 29.

18 A. Okay.

19 Q. And it's --

20 A. All right. We arrived at about 11 o'clock.

21 Q. And then the next sentence is: We met for  
22 approximately four and a half hours.

23 A. Okay.

24 Q. Do you recall the meeting lasting a long

C06824

1 time?

2 A. That's a pretty long time. I don't recall it  
3 lasting that long.

4 Q. Do you recall the meeting that you were  
5 present for that the coroner was present?

6 A. No, I don't. Once again, if it's in writing,  
7 then it happened.

8 Q. The meeting that you recall occurring on that  
9 Sunday, do you recall that the crime scene technician,  
10 Dean Kennedy, was present?

11 A. No, I don't recall.

12 Q. Well, what do you remember about the Sunday  
13 meeting?

14 A. The basic information that Rob Hospelhorn and  
15 I had to offer was the fact that we believed that Alan  
16 was your best suspect at the time.

17 Q. So you recall that Zayas was there, Mr. Souk,  
18 you and Hospelhorn. Anybody else you recall being  
19 there?

20 A. That's all I can recall, yes.

21 Q. Do you recall that there were other people  
22 present, you just don't know who they were or you  
23 don't -- excuse me, you don't recall who they are?

24 A. I don't recall anybody beyond whom I

1 mentioned, and it's possible they could have been  
2 there.

3 Q. Did Mr. Souk say anything during that  
4 meeting?

5 A. Well, I would imagine he said something  
6 regarding the case; but, again, I don't know what he  
7 said.

8 Q. What was your understanding as to why  
9 Mr. Souk was there?

10 A. Prosecutor. He was going to be the chief  
11 prosecutor directing traffic so to speak.

12 Q. What do you mean by that?

13 A. Directing the investigation on what he needed  
14 or what had to be done from his viewpoint.

15 Q. So are you saying that Mr. Souk was the one  
16 who directed --

17 A. No, I'm saying perhaps that's the reason why  
18 he was there is to direct it.

19 Q. So in your mind, Mr. Souk directed the  
20 investigation?

21 A. From the State's Attorney point of view.

22 Q. Well, who directed the investigation from the  
23 Normal Police Department's point of view?

24 A. Lieutenant Zayas.

1 Q. So Lieutenant Zayas was directing the  
2 investigators on what to do, right?

3 A. Correct.

4 Q. And what leads to follow up on?

5 A. Correct.

6 Q. And where the evidence was leading the  
7 detectives, right?

8 A. Yes.

9 Q. Other than you and Detective Hospelhorn  
10 briefing those individuals at the meeting about the  
11 fact that you believed Alan Beaman was the prime  
12 suspect, what else do you recall being discussed at  
13 that meeting?

14 A. I don't really recall every detail of the  
15 meeting. Certainly it all had to be centered on where  
16 do we go from here? What do we need to do?

17 Q. Did you learn anything about the victim,  
18 Jennifer Lockmiller, at that meeting?

19 A. Could have. Once again, I don't recall  
20 exactly what details.

21 Q. Or the way in which she died?

22 A. I think that was probably discussed. But,  
23 again, I'm sorry, I just don't recall exactly what was  
24 said -- all that was said. I may even be wrong about

1 Zayas being there. He still may have been at the  
2 Lake Shelbyville fishing that weekend.

3 I think I previously stated he was present,  
4 but he could have been still fishing. So this is not  
5 my report. This is --

6 Q. I understand.

7 A. -- Freesmeyer's, so I don't know what was in  
8 his mind at the time.

9 Q. Do you recall what the conclusion of the  
10 meeting was or -- or I should say this, what was --  
11 were you assigned any tasks to investigate after this  
12 meeting?

13 A. If I was assigned to any particular task from  
14 anyone in there, I don't know who it would have been,  
15 or what the task would have been.

16 Q. If you look at Detective Freesmeyer's report  
17 on page 11, that same page, the report indicates that  
18 it was determined that Detective Daniels and  
19 Detective Hospelhorn would return to the Rockford area  
20 in an attempt to find any further information about  
21 any involvement that Alan Beaman could have had in  
22 this case. Do you recall that?

23 A. Yes. As a matter of fact, we went up that  
24 Sunday I believe it was to try to talk to Beaman

1 further, Alan Beaman. And as I recall, his parents  
2 answered the door, invited us in, and we requested to  
3 speak with him. He was in his bedroom sleeping. And  
4 they said, well, we contacted an attorney and he  
5 prefers us, the parents, not to allow Alan to talk to  
6 anyone.

7 Q. Had you done any other investigation since  
8 you had returned from Rockford before you went back up  
9 there?

10 A. May have. 20 years is a long time to  
11 remember exactly what happened.

12 Q. Sure. Do you recall whether you had any  
13 additional information on Mr. Beaman before you went  
14 back to Rockford for a second time?

15 A. No, I'm sorry, I don't. Could have been.

16 Q. When you went up to Rockford for the second  
17 time on that Sunday, was it your intention to  
18 interview Mr. Beaman again?

19 A. Yes.

20 Q. What would be the purpose of a second  
21 interview?

22 A. To go over what he had told us the previous  
23 night.

24 Q. To see if you could elicit additional

1 information?

2 A. Correct.

3 Q. Did you ever see Mr. Beaman that night, on  
4 Sunday?

5 A. No, no.

6 Q. You only spoke to his parents, right?

7 A. Correct.

8 Q. And they told you that they had talked to a  
9 lawyer, and did they say what the lawyer had  
10 recommended them do?

11 A. That Beaman not be allowed to talk to anyone.

12 Q. Do you recall meeting the lawyer at the  
13 Beaman residence?

14 A. No, I don't recall.

15 Q. Do you recall how long you were at the Beaman  
16 residence?

17 A. On Sunday?

18 Q. Yes.

19 A. No. The conversation wasn't a lengthy  
20 conversation. I couldn't tell you how long we had  
21 been there.

22 (Whereupon, Daniels Deposition

23 Exhibit No. 6 was marked.)

24

1 BY MS. BARTON:

2 Q. This is Number 6. Mr. Daniels, this is -- I  
3 marked this as Exhibit 6 to your deposition. This is  
4 a transcript of your trial testimony at the Beaman  
5 trial.

6 Take a look at page 1992. You could start on  
7 line 7 and read through until page 1995.

8 A. Okay.

9 Q. Does that help refresh your memory of your  
10 visit to the Beaman residence --

11 A. Yes, it does.

12 Q. -- on August 29?

13 Okay. How does it refresh your memory? What  
14 do you remember now?

15 A. How long we were there, the attorney's name  
16 and apparently we were waiting on a phone call the  
17 following day or so from Mr. Laughlin I think it was,  
18 the attorney.

19 Q. Right. You met attorney Tom Laughlin at the  
20 Beaman residence?

21 A. Tom Laughlin, yeah.

22 Q. And according to your testimony, Mr. Laughlin  
23 indicated he would call Monday or Tuesday of the next  
24 week?

1 A. Correct.

2 Q. And you never received a phone call from  
3 Mr. Laughlin?

4 A. That's correct.

5 Q. Do you recall taking pictures of the vehicles  
6 at the Beaman residence when you were there?

7 A. No, I don't.

8 Q. Did you take notes of anything at the -- that  
9 you observed or about your conversations with the  
10 Beamans?

11 A. That day?

12 Q. Yes.

13 A. If I did, those notes would have been  
14 transcribed into a report. I didn't make that report.  
15 Other than that, no.

16 Q. Do you recall moving a piece of furniture or  
17 helping the Beamans move a piece of furniture while  
18 you were there?

19 A. Do I recall? And the answer is, no, I don't  
20 recall.

21 Q. Take a look at 1993, page 1993 of Exhibit 6.

22 A. 6?

23 Q. Yeah, lines 1 through 4.

24 A. Okay.

1 Q. Does that help refresh your memory?

2 A. It says I think they were moving some  
3 furniture in and out. I'm sorry, what was the  
4 question?

5 Q. Do you recall helping them move the  
6 furniture?

7 A. I don't recall moving -- helping them, no.

8 Q. Or any conversation that you had with the  
9 Beamans while you were moving the furniture?

10 A. Well, according to my testimony here, either  
11 I physically observed them or physically assisted  
12 them. But if I assisted them, I think I would have  
13 written I assisted them, therefore, I could observe  
14 them.

15 Q. Sure. Do you recall saying anything to Carol  
16 or Barry Beaman that -- or inquiring whether they had  
17 a problem with their son with drugs or anything like  
18 that?

19 A. I could have very well.

20 Q. You just don't recall?

21 A. No. Correct.

22 Q. So after August 29, what else did you do to  
23 investigate Alan Beaman and his involvement, if any?

24 A. Alan Beaman directly?

1 Q. Yes.

2 A. I believe Rob Hospelhorn and I had -- you  
3 know, we teamed up there. We started interviewing  
4 friends of both Jennifer and Alan's, and as we  
5 interviewed these people, other names would pop up,  
6 and we would continue with our interview or -- and/or  
7 we were given leads perhaps by Lieutenant Zayas to  
8 follow up.

9 Q. And of course you were investigating the  
10 homicide of Ms. Lockmiller. You weren't just  
11 investigating Mr. Beaman's involvement, if any?

12 A. Correct, correct.

13 Q. So what other aspects of the investigation do  
14 you recall?

15 A. That we were involved in?

16 Q. Sure, or other leads that you were uncovering  
17 or anything like that.

18 A. Well, the information that was -- came to  
19 light was when we talked to a mutual of friend of  
20 theirs by the name of John Murray. We interviewed him  
21 twice. And the reason we interviewed him a second  
22 time, we found out that there was some contradictions  
23 in his interviews.

24 Q. When did you first hear Mr. Murray's name?

1           A.    I don't recall the exact first date.  I know  
2           we had talked to his brother, that's how we -- was  
3           able to determine that he was out of -- John Murray  
4           was out of town that weekend.  That name could have  
5           came up the first weekend.

6           Q.    Throughout the time that you were  
7           investigating the case, did you develop leads for  
8           other suspects other than what you've told me,  
9           Mr. Beaman and -- well, I guess I should ask you this  
10          first.  Was Mr. Murray a suspect in the homicide?

11          A.    At that time, he was a person we wanted to  
12          talk to.

13                   MR. BOWMAN:  At which time?  I'm sorry.

14                   BY MS. BARTON:

15          Q.    When you first spoke to him.

16          A.    No, not when we first spoke to him.

17          Q.    And you were developing leads on other  
18          suspects as well?

19          A.    Other people that knew both of them and knew  
20          about their relationships.

21          Q.    Did you investigate a person named  
22          Rob Curtis?

23          A.    Name sounds familiar.

24          Q.    Do you recall investigating somebody named

1 Stauffer, S-t-a-u-f-f-e-r?

2 A. I can't say with 100 percent accuracy, no.

3 Q. And you've already mentioned John --

4 A. Revis.

5 Q. -- Revis.

6 A. Yeah, or Revis, whatever his last name is.

7 He wasn't interviewed because he was incarcerated, so  
8 he was excluded as a suspect.

9 Q. Let's take a look at Exhibit 3 which is your  
10 report. Look at page -- I don't know which number to  
11 refer to. I'll refer to the MCC number. Do you see  
12 the prefix MCC at the bottom right page?

13 A. 224.

14 Q. Right. So look at 229.

15 A. Mine goes from 228 to 232. Apparently  
16 there's pages 146, 7 and 8 missing.

17 MR. BOWMAN: Are you looking for this one?

18 MS. BARTON: It might be before that.

19 THE WITNESS: Oh, that number. I'm sorry. I  
20 was looking for the -- which one was that? 229, that  
21 one. Okay, I'm there.

22 BY MS. BARTON:

23 Q. Got it?

24 A. Got it.

1 Q. So this looks like it reflects an interview  
2 that you conducted with David J. Olson?

3 A. Oh, yeah.

4 Q. Do you recall Mr. Olson?

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. And what was the purpose of interviewing  
9 Mr. Olson?

10 A. My understanding, Mr. Olson was his uncle.  
11 Was David Olson -- no, wait a minute, David J. Olson.  
12 I don't recall what his relationship was to here. May  
13 I refer to my notes?

14 Q. Absolutely.

15 MR. BOWMAN: I think that the record should  
16 be clear that Mr. Daniels is a good witness. He's  
17 answering these questions from memory. He's not  
18 referring to the notes.

19 MS. BARTON: And I'm not --

20 MR. BOWMAN: And it might be helpful for him  
21 to refer to the report --

22 MS. BARTON: Sure.

23 MR. BOWMAN: -- to refresh his recollection  
24 as to Mr. Olson.

1 MS. BARTON: No problem.

2 BY MS. BARTON:

3 Q. Your notes are on that page 229 that we were  
4 referring to.

5 A. Okay. Mr. Olson apparently sponsored a  
6 party. He's stating in the second paragraph on that  
7 same page that he had some friends overnight, and he  
8 replied that he did not hear the name Alan Beaman. Is  
9 this what we're looking at?

10 Q. Yes.

11 A. Okay.

12 Q. So do you recall that Mr. Beaman told you  
13 that during the week prior to the time that you first  
14 interviewed him that he had attended a party at  
15 Mr. Olson's house?

16 A. I don't recall if that's where -- well,  
17 according to Beaman's statement he made to me, he  
18 attended a party at Olson's -- I'm reading strictly  
19 from this page.

20 Q. Sure.

21 A. He attended a party at Olson's house on  
22 Tuesday and on Wednesday and again on Thursday.

23 Q. On this Sunday -- well, we've already talked  
24 about you going to the Beaman residence --

1 A. Correct.

2 Q. -- and tried to talk to Mr. Beaman. So it  
3 looks like you did some other investigative activity  
4 in Rockford at that time.

5 Were you attempting to verify Mr. Beaman's  
6 whereabouts?

7 A. As I recall, yes.

8 Q. It looks like you also spoke to -- on that  
9 same page, your notes reflect you also spoke with  
10 Detective Greg Lindmark who had spoken to Mr. Jeff  
11 Gray.

12 A. Gray is his uncle.

13 Q. Where Mr. Beaman worked?

14 A. Correct.

15 Q. And so you were obtaining his work schedule?

16 A. Right.

17 Q. And then you -- your report notes that these  
18 above times are inconsistent with Beaman's statement  
19 made to us on 8-28-93, right?

20 A. Correct.

21 Q. Your report goes on to say that you spoke  
22 with Mr. Beaman's supervisor, Dennis Clark?

23 A. Yes.

24 Q. The next page, you spoke with Joshua Whitney?

1 A. Yes.

2 Q. Donald Jones, Mr. Jared Brown?

3 A. Yes.

4 Q. Read the paragraph on Mr. Jared Brown.

5 A. Mr. --

6 Q. You can read it to yourself.

7 A. Okay.

8 Q. I'm actually going to have you read  
9 Detective Hospelhorn's report also on page 5. So it's  
10 Exhibit 4, page 5. The second full paragraph on  
11 8-30-93, do you see that?

12 A. Uh-huh. Yes.

13 Q. And this is about Dr. Brown as well. If you  
14 could review that.

15 A. Okay.

16 Q. So it looks like from these -- from  
17 Hospelhorn's report at least, that on the 30th of  
18 August, you and Detective Hospelhorn interviewed  
19 Dr. Brown and he was providing you with letters that  
20 he had received from Mr. Beaman, right?

21 A. That's correct.

22 Q. Do you recall those letters?

23 A. I do not.

24 Q. Flip to page 10 of Hospelhorn's report. That

1 first full paragraph on 8-30-93, RO and  
2 Detective Daniels interviewed Kathryn Corbett. Review  
3 that to yourself.

4 A. Okay.

5 Q. Do you recall this interview with  
6 Ms. Corbett?

7 A. No, but what I do recall was the fact that  
8 what she said in there about the car being left  
9 because I think Mike drove it. I'm not for sure on  
10 that, though. Mike Swaine.

11 Q. On which car being left where? What do you  
12 mean?

13 A. Alan's car. Wasn't that the one that was  
14 left in the parking lot? Yeah, Alan left his car in a  
15 parking lot.

16 Q. When he went to Ohio?

17 A. Correct.

18 Q. And she also told you that she had walked in  
19 on Mike and Jen making out after a party?

20 A. Yes.

21 Q. And that she would -- she was asked if she  
22 would describe Mike or Alan as violent. And on the  
23 next page it indicates she said she never saw Mike  
24 being violent, but Alan could be if he was in the

1 right frame of mind.

2 A. Okay.

3 Q. Do you recall speaking to Ms. Lockmiller's  
4 therapist, Dr. Hammond?

5 A. No, I don't.

6 MS. BARTON: That was the report that got  
7 left out. This is Number 7.

8 (Whereupon, Daniels Deposition  
9 Exhibit No. 7 was marked.)

10 BY MS. BARTON:

11 Q. Does that refresh your memory about talking  
12 to Ms. Lockmiller's counselor?

13 A. No, it doesn't.

14 Q. But it looks like Dr. Hammond reported to you  
15 that Ms. Lockmiller had told her about having problems  
16 with her boyfriend, Alan, and she was concerned about  
17 Alan in that she was afraid he might attempt suicide  
18 if he were -- if she were to break off their  
19 relationship. Is that what Dr. Hammond told you?

20 A. According to my report, yes.

21 Q. And she also told you about a door-breaking  
22 incident involving Alan, right, according to the  
23 report?

24 A. According to the information he gave us.

1 MR. BOWMAN: You know, to be clear, the  
2 report says the door-breaking incident and presumably  
3 refers to the same door-breaking incident that had  
4 been discussed in the earlier reports. I don't think  
5 that it -- if the intent of the question was to  
6 suggest --

7 MS. BARTON: I was -- I was just trying to --  
8 I don't know if I said a number of them. I was just  
9 trying to repeat what is in the report.

10 MR. BOWMAN: The report says --

11 MS. BARTON: You're right.

12 MR. BOWMAN: -- the --

13 BY MS. BARTON:

14 Q. Do you recall speaking to Ms. Lockmiller's  
15 friends, any of her friends?

16 A. Any of her friends? Probably so.

17 Q. Do you remember anything that they would have  
18 told you?

19 A. Well, no, I really wouldn't. I wouldn't know  
20 who the names were other than Mike, Alan, Bubba,  
21 Morgan and Alan of course.

22 Q. Take a look at Hospelhorn's report on  
23 page 16.

24 A. What exhibit was that?

- 1 Q. Oh, sure. It's Exhibit 4.
- 2 A. And page 16?
- 3 Q. Correct.
- 4 A. Okay.
- 5 Q. That first paragraph reflects that on 9-9-93,  
6 RO, being Hospelhorn and Detective Daniels, spoke with  
7 Laura McKeown at the Normal Police Department. Do you  
8 recall that interview?
- 9 A. No, I don't without reading.
- 10 Q. You want to read that paragraph?
- 11 A. Just that first paragraph?
- 12 Q. Uh-huh.
- 13 A. Okay.
- 14 Q. I see that you're chuckling to yourself.
- 15 A. Yeah.
- 16 Q. Why are you chuckling?
- 17 A. Share that with you off record.
- 18 Q. Well, I'm going to ask you on the record.
- 19 A. Oh, okay. That's fine.
- 20 Q. What made you chuckle about this particular  
21 interview?
- 22 A. It was a -- as reported to us, meaning the  
23 investigators, exactly what investigators I'm not sure  
24 of, but it was reported to us that Jennifer could beat

1 Alan in arm wrestling and that was a big joke, and  
2 Alan was the center of that joke. And for Alan to  
3 take and force her into the shower and tie her up,  
4 that's not -- oh, Bubba did, I'm sorry. I misread  
5 that. Yeah, Bubba.

6 Q. So according to Ms. McKeown, she stated that  
7 Jennifer had told her that one time Bubba tied  
8 Jennifer to --

9 A. I misread that.

10 But another thing about that particular  
11 paragraph that stuns me is the fact that it does add a  
12 lot of the weight to the fact that Jennifer had to  
13 have, did have and wanted one boyfriend after the  
14 other which is why there were so many suspects that  
15 weren't excluded in the investigation at first.

16 (Whereupon, Daniels Deposition  
17 Exhibit No. 8 was marked.)

18 BY MS. BARTON:

19 Q. This is Exhibit Number 8. Have you ever seen  
20 these notes before?

21 A. Have I seen this before?

22 Q. Yes.

23 A. This seems -- this came probably from one of  
24 my files. I recognize the handwriting. It's

1 Frank Zayas's.

2 Q. So do you recall ever seeing these notes  
3 before, though?

4 A. No.

5 Q. But you recognize this to be Frank Zayas's --

6 A. Handwriting.

7 Q. -- handwriting?

8 A. I could be wrong, but that's what it looks  
9 like to me.

10 Q. So towards the top of the page we see -- I  
11 know it's hard to read, but I think the first word  
12 there is Mason, M-a-s-o-n.

13 A. Okay.

14 Q. And then Freesmeyer, JB, and then it says  
15 notes, and then debriefing, 9-7-93, 4 o'clock p.m.,  
16 and then T. Daniels and Cliff Rushing.

17 Do you recall a meeting in September of '93  
18 with those people?

19 A. Well, I know who Mason is. Mason is  
20 Kari Mason who was involved at first prior to  
21 Teri Dimmick. She worked in the State's Attorney's  
22 Office.

23 Q. And when you say that she was involved, what  
24 do you mean by that?

1           A.    She, I guess, was recruited to work on the  
2 case with Jim Souk. I use the word recruited for lack  
3 of a -- whether she was assigned or asked to be. She  
4 was of the opinion that we may also have the wrong  
5 suspect. She's working in an attorney's office up in  
6 Chicago somewhere.

7                   Freesmeyer, of course, is Tim Freesmeyer.  
8 JB is John Belcher. I don't recall this particular  
9 briefing, and I don't know who these names -- well, I  
10 know some of these names.

11           Q.    Who's Cliff Rushing?

12           A.    I do not know.

13           Q.    Do you recall, whether it was this one or  
14 not, any sort of meeting where various suspects in the  
15 Lockmiller homicide were discussed?

16           A.    If any -- pardon me?

17           Q.    Do you recall any meetings where various  
18 suspects were discussed?

19           A.    Oh, yes.

20           Q.    So was Rob Curtis a suspect that you  
21 discussed and investigated?

22           A.    I couldn't answer that by looking at this  
23 exhibit because this is Frank Zayas's writing and I  
24 don't know who these -- some of these people are and

1 why they're written down. It appears to me that  
2 that's the results of the meeting.

3 Q. And you don't have any recollection of the  
4 meeting, right?

5 A. No, I don't.

6 Q. You can put those to the side.

7 Let's talk about John Murray. I think you  
8 already told me this, but you don't recall when  
9 Mr. Murray's name first came up in the investigation,  
10 right?

11 A. Exact time, no.

12 Q. Do you know why you decided to interview him?

13 A. Yes, his name came up. When you talk to  
14 witnesses and they bring other names up, that could  
15 lead to further information.

16 Q. Do you have any recollection of the first  
17 interview that you conducted with Mr. Murray?

18 A. To some degree.

19 Q. What do you remember about it?

20 A. He was -- when we interviewed him, we got  
21 information from him on the first interview, issues  
22 such as Jennifer was with Mike Swaine at one time,  
23 came by his apartment. His apartment being John's  
24 apartment. The fact that John said he made a lot of

1 trips back and forth to Rockford. Yes, he knew  
2 Jennifer, knew her well, knew Alan.

3 He was afraid of Alan because he heard that  
4 Alan had killed Jennifer, and he was afraid that Alan  
5 was going to be looking for him, and that's why he  
6 spent the first night back in town in Normal in a  
7 motel. Information regarding their relationship --  
8 Jennifer's relationship with the other guys as far as  
9 going to band night I think they called it. It's a  
10 band drinking night downtown Normal. They had a lot  
11 of bands and happy hours and so forth. That was  
12 generally it.

13 Q. The first time that you spoke with  
14 Mr. Murray, was it an interview or an interrogation?

15 A. Interview.

16 Q. Was he a suspect at that time that you  
17 interviewed him the first time?

18 A. No, he wasn't a suspect in that sense.

19 Q. And you've already said that Mr. Murray did  
20 eventually become a suspect?

21 A. Correct.

22 Q. When did he become a suspect?

23 A. After the second interview. That's why I  
24 believe -- I hope I'm not getting these two mixed

1 up -- that's why I believe I asked him for a  
2 polygraph.

3 Q. You asked who for a polygraph?

4 A. Correct, I did.

5 Q. You asked who? Mr. Murray?

6 A. I'm sorry, John Murray to take a polygraph.

7 Q. When did you ask him that?

8 A. I don't recall the dates. It could have been  
9 before the second or it could have been after the  
10 second interview, would have been early September, I  
11 believe.

12 Q. So you asked him to take a polygraph because  
13 he was a suspect in your mind?

14 A. Yes, had some things to clear up.

15 Q. Like what?

16 A. Dates, what his connection was with Jennifer,  
17 whatever became or whatever the outcome was of his  
18 polygraph exam. That's an investigative tool.

19 Q. So what information did you have about  
20 John Murray that made him a suspect in your mind?

21 A. Well, at that time and as I recall, he stated  
22 that he was at Jennifer's house and I believe he said  
23 it was the date that the State's Attorney had -- and  
24 the coroner had determined the date and time of her

1 death. I'm certain that was in one of those  
2 interviews with him. He had contradicted himself.

3 The fact that he, John Murray, lived about a  
4 five- or seven-minute drive from Jennifer's house. We  
5 were informed by more than one source that Jennifer  
6 and John Murray were to get -- renew their  
7 relationship. He was their -- that little group of  
8 people, he was their drug supplier at one time, if not  
9 more than one time, and she had owed him money. And  
10 the fact that he was scared to come back in town on  
11 account of Alan he heard had killed Jennifer, well, I  
12 don't think anybody had determined that at the time.

13 Also, the fact that his alibi was very  
14 convenient. The fact that he had called his  
15 girlfriend at the hospital where she worked which was  
16 located about, oh, perhaps four blocks from where he  
17 lived on [REDACTED] Street in Bloomington. Just too many  
18 issues there to exclude him from any further interview  
19 or interrogation. Quite a lot of circumstantial  
20 evidence there.

21 He was on steroids. He was being  
22 investigated by DCI for drug trafficking. A lot of  
23 issues there with John's personal life as well as the  
24 relationship with Jennifer that seemed to carry more

1 weight as him a viable suspect than Alan Beaman. And,  
2 once again, we could not exclude John Murray as a  
3 suspect.

4 Q. Well, what did you do to investigate  
5 Mr. Murray?

6 A. After the attempt to polygraph him, we,  
7 meaning myself and Rob Hospelhorn, really lost contact  
8 with him. He had called and we had called him because  
9 we were to schedule another polygraph with a different  
10 polygraph operator. I had discussed that with  
11 John Murray when we came back from the crime lab in  
12 Morton the day that he attempted the test. Other  
13 contact of a legal aspect had been made with him.

14 Another issue with John Murray was the fact  
15 that he was arrested one evening battering his  
16 girlfriend in a like fashion that Jennifer  
17 Lockmiller's body was found; that is, he was choking  
18 her, pounding her on her chest, a scissors in the  
19 chest and the strangulation.

20 The fact that he was on steroids could have  
21 very well tipped his temper so to speak when he went  
22 to visit her or another alibi -- or a reason could  
23 have been a fact that she owed him money for drugs  
24 that she used or that she herself would distribute.

1 Q. What did you yourself do to investigate  
2 Mr. Murray?

3 A. During the time I was with Normal PD -- well,  
4 actually there was nothing I could have done. You  
5 can't force him to come in.

6 Q. Well, what -- did you do anything to  
7 investigate?

8 A. I did not do anything to investigate John. I  
9 did not have any authority to. I was a civilian. I  
10 didn't have any -- I'm sorry, let me back up.

11 I went down to the jail and visited him one  
12 time because he was being arrested for that drug that  
13 they found in his car the night that he was arrested  
14 for beating up Deborah Mackoway. And I offered him an  
15 opportunity to help himself by simply let's get a body  
16 wire on you and go talk to Alan. He wasn't open to  
17 that. It was a flat denial. Other than that, that  
18 was the extent.

19 Q. So during the time that you were  
20 investigating the Lockmiller homicide investigation,  
21 what steps did you take to investigate John Murray?  
22 You already told me that you interviewed him twice.

23 A. Correct.

24 Q. You asked him to take a polygraph exam.

1 A. Correct.

2 Q. And, in fact, you took him to Morton Crime  
3 Lab to sit for a polygraph examination.

4 A. Uh-huh.

5 Q. What else did you do?

6 A. Visited him down at the jail when he was  
7 incarcerated on another legal charge.

8 Q. Was that part of your investigation on the  
9 Lockmiller homicide investigation?

10 A. That was my point. That was my interest.

11 Q. Anything else?

12 A. As I can recall, I think that was about it.

13 Q. Did you attempt to speak to anyone that knew  
14 Mr. Murray? Did you speak to his girlfriend? Did you  
15 attempt to find additional evidence with respect to  
16 Mr. Murray?

17 A. No, I had no further investigative activities  
18 involved with John. Deb Mackoway did call the new CID  
19 supervisor, Lieutenant Fillipponi, F-i-l-l-i-p-p-o-n-i,  
20 and called him, and the lieutenant referred the call  
21 to me and I referred it to Tim Freesmeyer.

22 Q. Well, you interviewed Deb Mackoway, right?

23 A. I believe I did.

24 Q. You told me before when you were -- before

1 you went to Rockford to interview Mr. Beaman on the  
2 28th of August, that you ran his name through the  
3 Normal Police Department. You did a computer search  
4 for his name, right?

5 A. Okay.

6 Q. Isn't that what you told me?

7 A. Well, I don't think I personally did, but one  
8 of the detectives probably did.

9 Q. Did you do the same thing for John Murray?

10 A. Well, John Murray's information came up  
11 through DCI, John Belcher.

12 Q. What's DCI?

13 A. Department of Criminal Investigations.  
14 That's the joint task force for McLean County.  
15 John Belcher used to work there as a vice officer.  
16 And John Belcher had learned through an active member  
17 of the task force that that active member was  
18 investigating and was working with John Murray and  
19 that's how our information came about, fingerprints,  
20 a picture of him and so forth.

21 Q. When did you first learn that the task force  
22 was investigating John Murray?

23 A. Well, I learned it from John Belcher, but the  
24 exact date, I don't recall.

1 Q. Was it during the time that you were  
2 investigating the Lockmiller homicide?

3 A. Oh, yes, yeah. See, that would have been a  
4 normal procedure when you have a case such as that  
5 homicide is get ahold of DCI to see if they have any  
6 information.

7 Q. Did you reach out to DCI?

8 A. John Belcher did. He was our contact.

9 Q. And you already told me that John Belcher was  
10 one of the detectives --

11 A. Correct.

12 Q. -- assigned to the Lockmiller case, too.

13 A. He's the one also that checked out the  
14 whereabouts of John Revis. Found out it was through  
15 the marshals that he was incarcerated, in custody.

16 Q. What did you learn about the task force's  
17 investigation of John Murray?

18 A. That they were -- the term they used working  
19 with John, John was going to be a -- John Murray was  
20 going to be a snitch for them because he was under  
21 investigation for delivering drugs.

22 Q. Did you speak to anyone in DCI?

23 A. I did not. John Belcher did.

24 Q. And then John Belcher reported to you?

1 A. Yes.

2 Q. Did you document that conversation you had  
3 with John Belcher?

4 A. No, I didn't document it. John Belcher may  
5 have documented it.

6 Q. Why didn't you document it?

7 A. Because he probably got the information on  
8 his own and just made a report and it was probably --  
9 I'm saying probably. I can't recall. It should be in  
10 with the original report.

11 Q. With what original report?

12 A. The Normal Police Department original report.

13 Q. Well, you wrote reports on the Lockmiller  
14 homicide investigation, right?

15 A. Yes.

16 Q. But you didn't write a report about the  
17 information you received from John Belcher about  
18 John Murray?

19 A. Is that a question?

20 Q. Yes.

21 A. I don't recall, no.

22 Q. Well, I haven't seen anything.

23 A. Oh, okay.

24 Q. So I just didn't know if you had written a

1 report that I just hadn't seen.

2 A. I'm sorry, I don't know if I wrote a report  
3 or not. If I wrote a report, chances are it's in with  
4 the original report.

5 Q. Did you think the information you learned  
6 from John Belcher was relevant to the Lockmiller  
7 homicide case?

8 A. Yes.

9 Q. In what way?

10 A. He was a drug dealer and he was associated  
11 with Jennifer as being a friend.

12 Q. Did you read -- or did you learn that  
13 John Murray had been arrested for a drug-related  
14 charge and that's why he was going to be, you called  
15 it, a snitch for the task force?

16 A. Well, he was arrested in terms that DCI was  
17 investigating him, and he was in their files as an  
18 active investigation. Normally when they work, they,  
19 the snitches they work up, they don't arrest them  
20 unless they work with them. The snitches will work  
21 with the agent. And if they do work with them and how  
22 successful they are, it depends on what, if any,  
23 charges are filed. If they're actively working with  
24 them, and in this particular case, John Murray was

1 working with DCI, as far as his arrest, I don't know  
2 what happened with that.

3 Q. Did you ever read any reports about his  
4 arrest?

5 A. DCI? I could have.

6 (Whereupon, a break was taken.)

7 MS. BARTON: We had a discussion off the  
8 record with all the counsel and Mr. Daniels who has  
9 indicated that he is quite exhausted from today,  
10 especially in light of his recent surgery which is  
11 understandable. So we have all agreed to reconvene  
12 the deposition and we have scheduled two days,  
13 June 10th and 11th, and we will begin at 9:30 in the  
14 morning on both days to complete Mr. Daniels's  
15 deposition.

16 (Deposition concluded at 3:08 p.m.)  
17  
18  
19  
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24

1 STATE OF ILLINOIS )  
2 COUNTY OF C O O K ) SS:

3  
4 I, Christine M. Luciano, Certified Shorthand  
5 Reporter in and for the County of Cook, State of  
6 Illinois, do hereby certify that on May 20, 2013, the  
7 deposition of the witness, TONY L. DANIELS, called by  
8 the Defendants, was taken before me, reported  
9 stenographically and was thereafter reduced to  
10 typewriting through computer-aided transcription.

11 The said witness, TONY L. DANIELS, was first  
12 duly sworn to tell the truth, the whole truth, and  
13 nothing but the truth, and was then examined upon oral  
14 interrogatories.

15 I further certify that the foregoing is a  
16 true, accurate and complete record of the questions  
17 asked of and answers made by the said witness, at the  
18 time and place hereinabove referred to.

19 The signature of the witness was continued  
20 until completion of all depositions by agreement.

21 The undersigned is not interested in the  
22 within case, nor of kin or counsel to any of the  
23 parties.

24 Witness my official signature as Certified

1 Shorthand Reporter, in and for Cook County, Illinois  
2 on this 3rd day of June, A.D., 2013.

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7 Christine M. Luciano, CSR  
8 License No. 084-004068  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-CV-1019
	)	
JAMES SOUK, et al.,	)	
	)	
Defendants.	)	

VOLUME II, PAGES 177 - 380

DISCOVERY DEPOSITION  
OF  
TONY L. DANIELS

Continued discovery deposition of  
TONY L. DANIELS, taken on June 10, 2013, beginning at  
10:28 a.m., at 207 West Jefferson Street, Bloomington,  
Illinois, at the instance of the Defendants, pursuant  
to Subpoena and agreement of the parties, before  
Christine M. Luciano, Certified Shorthand Reporter in  
the State of Illinois.

\* \* \* \* \*

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16          and County of McLean, Illinois;

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24          Timothy Freesmeyer, Robert Hospelhorn,  
            David Warner, Frank Zayas, and  
            Town of Normal, Illinois.

18           ALSO PRESENT:

19           Mr. Wayne Rutherford,  
20           Rutherford Photo Video

21                           \* \* \*

I N D E XWITNESSEXAMINATION

TONY L. DANIELS

Direct Examination by Ms. Barton 181

E X H I B I T STONY L. DANIELS  
DEPOSITION EXHIBITMARKED FOR ID

No. 9	187
No. 10	189
No. 11	191
No. 12	195
Nos. 13 and 14	211
No. 15	231
No. 16	246
No. 17	250
No. 18	263
No. 19	266
No. 20	269
No. 21	277
No. 22	296
No. 23	332
No. 24	371
No. 25	374
No. 26	376

Note: Exhibits not tendered for inclusion  
into deposition transcript.

1 THE VIDEOGRAPHER: My name is Wayne  
2 Rutherford with Rutherford Photo Video, Decatur,  
3 Illinois. The date is 6-10-13. The time on the video  
4 screen is 10:28 a.m.

5 We are here in reference to the case  
6 Alan Beaman, plaintiff, v. James Souk, et al.,  
7 defendants, Case Number 10 CV 1019. The name of the  
8 witness is Tony Daniels.

9 Will attorneys please identify themselves and  
10 the parties they represent.

11 MS. BARTON: Elizabeth Barton for McLean  
12 County, Mr. Reynard, Mr. Souk, and Mr. Brown.

13 MR. DiCIANNI: Thomas DiCianni for the Town  
14 of Normal defendants.

15 MR. BOWMAN: Locke Bowman on behalf of  
16 Alan Beaman.

17 THE VIDEOGRAPHER: Will the court reporter  
18 identify herself and swear in the witness.

19 THE COURT REPORTER: I'm Christine Luciano  
20 from Anchor Reporting.

21 (Witness duly sworn.)

22 MS. BARTON: I just want the record to  
23 reflect too that this is the continued deposition of  
24 Tony Daniels. We've already had one session, so this

1 is session number two.

2 TONY L. DANIELS,  
3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 (Continued)

7 BY MS. BARTON:

8 Q. We already went through the ground rules  
9 before, so I'm not going to bore you with those. But  
10 let's just make sure that we don't talk over one  
11 another. That's probably the most important reminder  
12 that we have, and that all of your answers be verbal  
13 because the court reporter is taking down everything  
14 that we say, okay?

15 A. Okay.

16 Q. Did you review any documents in preparation  
17 for today that you didn't review --

18 A. No, I did not.

19 Q. Okay. Did you speak with anyone about your  
20 deposition for today?

21 A. No, other than I got a deposition scheduled  
22 for today.

23 Q. Sure. Did you speak with anyone from  
24 Mr. Bowman's office about your deposition testimony

C06866

1 today?

2 A. No.

3 Q. Did you talk to anybody at all about your  
4 deposition the first time, a couple weeks ago?

5 A. I informed my wife basically what it was  
6 about and the format.

7 Q. Did you have any other conversations with  
8 anybody else other than your wife?

9 A. No.

10 Q. We touched on this last time, but I just want  
11 to go over when Lieutenant Zayas -- or excuse me, when  
12 Chief Taylor assigned you to be the lead investigator  
13 of the Lockmiller homicide, okay. You told me before  
14 during the first deposition that Chief Taylor said  
15 that you were at -- that you were going to be the lead  
16 investigator because Lieutenant Zayas was out of town  
17 at the time; is that right?

18 A. Yes.

19 Q. Were you still the lead investigator when  
20 Lieutenant Zayas came back to the Normal Police  
21 Department after being out of town?

22 A. Well, he, Lieutenant Zayas, didn't say  
23 continue as a lead investigator. Myself and Rob  
24 Hospelhorn continued with the rest of the officers. I

1 wasn't given that title once he came back.

2 Q. And I think you told me this before that  
3 Lieutenant -- Lieutenant Zayas came back on the Monday  
4 following the Saturday that Ms. Lockmiller's body was  
5 discovered?

6 A. Yes.

7 Q. So then when Lieutenant Zayas returned from  
8 being out of town on that Monday, from then -- from  
9 that point forward, was he the person deciding which  
10 leads to follow for --

11 A. Yes.

12 Q. -- the investigation?

13 It's just important that you let me finish  
14 asking my question before you begin your answer, okay?

15 Was Lieutenant Zayas the person who was  
16 assigning different investigators what leads to  
17 follow?

18 A. Yes.

19 Q. Was there a point in time where you became  
20 inactive on the Lockmiller homicide case?

21 A. Yes.

22 Q. And when was that?

23 A. As I can best recall, maybe September,  
24 October the same year.

1 Q. Of 1993?

2 A. Correct.

3 Q. So what did that mean for your participation  
4 of the investigation?

5 A. I only took part if it was requested that I  
6 do something.

7 Q. So you didn't do anything on your own, you  
8 were only --

9 A. Assigned.

10 Q. -- doing things that you were assigned?

11 A. Correct.

12 Q. And was that different from the first portion  
13 of the investigation where you were active?

14 A. Yes.

15 Q. Because you were making decisions on your own  
16 about what leads to follow and things like that?

17 A. Where to go with the leads.

18 Q. What -- how did you learn that you would be  
19 inactive on the investigation?

20 A. How did I learn?

21 Q. Were you informed?

22 A. Yes, I was informed.

23 Q. By whom?

24 A. Lieutenant Zayas.

1 Q. What did he tell you?

2 A. That they were going -- they, meaning the  
3 department and the State's Attorney's Office, were  
4 going to turn it over to Tim Freesmeyer.

5 Q. How -- how did Lieutenant Zayas inform you of  
6 that? Was it in person?

7 A. Yes, it was in person.

8 Q. Okay. Was anybody else present?

9 A. No.

10 Q. Do you recall anything else that he said?

11 A. Regarding that issue?

12 Q. Yes.

13 A. No, I do not recall anything.

14 Q. Did he tell you why they, being the Normal  
15 Police Department, was going to be turning the  
16 investigation over to Tim Freesmeyer?

17 A. The only thing I can recall about that was  
18 the fact that it was slowing down.

19 Q. What was slowing down?

20 A. The investigation, the leads.

21 Q. So then why would Detective Freesmeyer be  
22 taking over if it was slowing down?

23 MR. DiCIANNI: I'll object to speculation.

24

1 BY MS. BARTON:

2 Q. You can answer.

3 A. I don't know. I didn't call any of the  
4 shots. I didn't get involved in the decisions.

5 Q. Did it mean that you were not allowed to  
6 investigate the case anymore?

7 A. No, those instructions were not given to me.

8 Q. Did it mean that you were to focus on other  
9 investigations that were occurring?

10 A. Yes, I still had a caseload.

11 Q. Pretty heavy caseload probably?

12 A. Yes.

13 Q. So you were going to be assigned to focus on  
14 your other investigations --

15 A. Correct.

16 Q. -- other than the Lockmiller case?

17 A. Correct.

18 Q. But you weren't told to stop investigating  
19 the Lockmiller case?

20 A. No, I was not, not in those particular words,  
21 no.

22 Q. And did Lieutenant Zayas give you any reason  
23 why Detective Freesmeyer, as you put it, would be  
24 taking over the case?

C06871

1           A.    If he did, I don't recall other than what I  
2 said previously that it was slowing down.

3                               (Whereupon, Daniels Deposition  
4                               Exhibit No. 9 was marked.)

5 BY MS. BARTON:

6           Q.    Okay. Mr. Daniels, I'm handing you what the  
7 court reporter marked as Exhibit Number 9. It's a  
8 newspaper article from the Pantagraph dated  
9 October 19, 2003.

10                   The author is Steve Silverman. Do you know  
11 Mr. Silverman?

12           A.    Not personally. I knew he worked for the  
13 Pantagraph.

14           Q.    Did he interview you for a story?

15           A.    Not that I recall.

16           Q.    I just want to turn to the second page, if  
17 you wouldn't mind. About halfway through, there's a  
18 line that says "New detective." Do you see that, the  
19 line only says "New detective"?

20           A.    Yes, I see it.

21           Q.    I think it was probably a heading that was in  
22 the newspaper.

23           A.    Yes.

24           Q.    Right below that it says: "The case was

1 turned over to Freesmeyer a few weeks after the  
2 killing. Freesmeyer, who is in his 20s, developed a  
3 rapport with Beaman that Daniels - then a 51-year-old  
4 veteran cop and ex-Marine acknowledged he couldn't  
5 match, especially after his confrontation with Beaman  
6 in the first interview."

7 Was that information that you provided to  
8 Mr. Silverman?

9 A. Well, it's documented here. Apparently it  
10 is.

11 Q. Do you recall either way?

12 A. No, not really.

13 Q. Is that a true statement?

14 A. I can't answer for Mr. Silverman whether  
15 that's true or not.

16 Q. Do you agree with the statement?

17 A. Yes, I agree with what it says.

18 Q. So that Detective Freesmeyer, who was in his  
19 20s, developed a rapport with Mr. Beaman, and that's  
20 why the case was turned over to him?

21 A. That's what it states, yes.

22 Q. But do you agree with that statement?

23 A. Yes.

24 Q. Okay.

1 (Whereupon, Daniels Deposition  
2 Exhibit No. 10 was marked.)

3 BY MS. BARTON:

4 Q. Mr. Daniels, the court reporter handed you  
5 what she marked as Exhibit Number 10. These are part  
6 of the box that I received -- one of the boxes that I  
7 received from you.

8 And we copied them so the documents that were  
9 inside this folder that's on the front marked John  
10 Murray's Statements, the documents that follow are the  
11 documents that were contained inside of that blue  
12 folder, okay?

13 A. Yes.

14 Q. On the second page, it's marked Daniels  
15 SDT 58. Do you see that?

16 A. Yes.

17 Q. Are these your notes?

18 A. Yes, they are.

19 Q. After Roman numeral II, it says Involvement  
20 and then the second sort of paragraph says: "No  
21 longer active in the case from early October '93 on,"  
22 right?

23 A. Yes.

24 Q. So is that the case that you were not

C06874

1 actively involved in the Lockmiller homicide case from  
2 October of '93 on?

3 A. Yes, that's the Lockmiller case.

4 Q. You can put that to the side for now.

5 Did you do any work on the Lockmiller case  
6 after October of 1993?

7 A. Yes.

8 Q. What do you remember doing?

9 A. Reviewing statements from various witnesses,  
10 suspects. Also taking the entire case to unresolved  
11 class November of '94, Jacksonville, Florida.

12 Q. So you went to a seminar in November of 1994  
13 in Jacksonville, Florida?

14 A. Correct.

15 Q. And you took the Lockmiller file?

16 A. The documents that I was in possession of.

17 MR. BOWMAN: Did you say November of '94?

18 THE WITNESS: April of '94.

19 MS. BARTON: Oh, I'm sorry.

20 BY MS. BARTON:

21 Q. Did you also go to the Chicago Police  
22 Department to discuss the Lockmiller case?

23 A. Yes.

24 Q. Did you also do an interview of Jennifer

1 Sieg, S-i-e-g?

2 A. I don't recall the name.

3 Q. But you do recall conducting an interview of  
4 a witness related to the Lockmiller case after the  
5 point in time that you were no longer active in the  
6 investigation?

7 A. Do I recall conducting interviews with other  
8 witnesses after when?

9 Q. October 1993.

10 A. Oh, yes.

11 Q. And you also participated in a meeting in May  
12 of 1994 shortly before Mr. Beaman was arrested?

13 A. Correct.

14 MS. BARTON: I made two color copies and two  
15 black and white because it was so expensive to make  
16 color copies.

17 MR. BOWMAN: Yeah, I understand. This is  
18 Exhibit 11?

19 MS. BARTON: Yes.

20 (Whereupon, Daniels Deposition  
21 Exhibit No. 11 was marked.)

22 BY MS. BARTON:

23 Q. Mr. Daniels, the court reporter handed you  
24 Exhibit Number 11. These are documents that we found

1 in the folder entitled Work to Be Done. I apologize  
2 that the cover of the folder is not here, but I'll  
3 just represent to it that that's where my office found  
4 it.

5 If you turn to page 4, it's marked Daniels  
6 SDT 4. Are these your notes here?

7 A. Yes, that's my handwriting.

8 Q. And it's dated, it looks like, March 31,  
9 1994, right?

10 A. Correct.

11 Q. Do you know what these notes are about?

12 A. It's about, of course, the Lockmiller case.

13 Q. Anything specifically?

14 A. It appears to be issues that I saw needed  
15 more attention.

16 Q. Were these notes that you made on March 31,  
17 1994?

18 A. As indicated on the -- on page 4, yes.

19 Q. Okay. Turn to page 12, please. Are these  
20 also your notes?

21 A. Yes.

22 Q. There are a couple different dates here. It  
23 looks like June 22, 1994; June 27, 1994; January 18,  
24 1995; and then May 18, 1994.

1 Did you make these notes on --

2 A. Yes.

3 Q. -- each of those days?

4 A. That's what it appears to be, yes.

5 Q. It also -- you're referring to different page  
6 numbers. Do you know what the page numbers correspond  
7 to?

8 A. No, I do not. I do not recall where those  
9 page numbers originated from.

10 Q. Was this part of your investigation of the  
11 Lockmiller case?

12 A. Investigation or review?

13 Q. What's the difference in your mind?

14 A. Well, investigation would be -- my  
15 investigation would be my part in the investigation.  
16 Review would be where I'm reviewing notes or reviewing  
17 the case itself.

18 Q. What was the purpose of reviewing the notes  
19 on the case itself?

20 A. Possible leads.

21 Q. Is that still considered investigative work?

22 A. Yes, on my part. Yes, it would have.

23 Q. And what was the purpose of looking for  
24 additional leads?

1           A. Well, it's been my experience in the past and  
2 not only in this case but other cases that if you set  
3 aside a case for a while, you can come back and you  
4 can review it and maybe see new avenues of approach,  
5 information that you overlooked.

6           Q. Okay. Thank you. You can put that to the  
7 side for now.

8                   Do you recall any of the other cases you were  
9 working on in 1993 or 1994?

10          A. No.

11                   Let me correct that. August of '94, we had a  
12 similar homicide.

13          Q. A similar homicide?

14          A. Correct.

15          Q. Where did that homicide take place?

16          A. In Normal, Lancaster Heights complex.

17          Q. Did you investigate that murder?

18          A. Yes.

19                   Q. Were you the lead investigator on that  
20 homicide investigation?

21          A. Myself and Lieutenant Zayas.

22                   Q. Do you remember any other cases you were  
23 working on at that time in 1994?

24          A. I don't recall at this point.

1 (Whereupon, Daniels Deposition  
2 Exhibit No. 12 was marked.)

3 BY MS. BARTON:

4 Q. This is Exhibit Number 12. Flip through this  
5 and let me know if you recognize it.

6 A. I recognize what it is.

7 MR. BOWMAN: This is Freesmeyer's -- I'm  
8 sorry. I'm having trouble keeping up.

9 MS. BARTON: Yes, this is Exhibit Number 12.

10 MR. BOWMAN: Sorry. Thank you.

11 MS. BARTON: And on the front, the folder was  
12 Freesmeyer's monthly report.

13 MR. BOWMAN: Okay.

14 BY MS. BARTON:

15 Q. On page what's marked 970 which I think looks  
16 like number 3 of this exhibit, it says "In January."  
17 Do you see that about halfway down the page?

18 A. "In January Detective Daniels"?

19 Q. Yes.

20 A. Yes.

21 Q. "Cleared a year-long investigation into a  
22 felony theft from Kay's Merchandise with the arrest of  
23 the cash office supervisor."

24 Do you recall that investigation?

1 A. Yes, I do.

2 Q. And so you had been investigating this case  
3 for about a year, and then in January 1994 you cleared  
4 it. What does clear mean?

5 A. Clear means you're at the end of the case.  
6 There's nowhere to go or an arrest has been made.

7 Q. Do you recall whether an arrest had been made  
8 here?

9 A. No, I -- I'd have to speculate.

10 Q. Well, it says an arrest was made of the cash  
11 office supervisor, right?

12 A. Yes, that's how it was cleared.

13 Q. And then also turn to page SDT 972. The  
14 third paragraph a few lines down it starts with  
15 "Detective Daniels obtained a conviction"?

16 A. Repeat that page number.

17 Q. 7 -- 972.

18 A. You can direct my attention to what specific?

19 Q. Third paragraph, four lines down.

20 A. Okay.

21 Q. Detective Daniels. Do you see that?

22 A. "Obtained a conviction in the Hardee's armed  
23 robbery case"?

24 Q. Right. Do you recall the Hardee's armed

1 robbery case?

2 A. No, I do not.

3 Q. And what does obtained a conviction mean?

4 A. Well, that phrase in itself means a  
5 conviction was issued as a result of a jury trial,  
6 bench trial in the State's Attorney's Office.

7 Q. As a result of an arrest that you made on the  
8 Hardee's case?

9 A. Correct.

10 Q. Turn to page 974, the first paragraph, five  
11 lines down says: "Detective Daniels was also  
12 instrumental in the arrest of the person responsible  
13 for the armed robbery at Hardee's on North Main in  
14 Normal."

15 Do you recall whether that was the same  
16 Hardee's armed robbery?

17 A. Without comparing both incidents, I cannot.

18 Q. Did you investigate more than one armed  
19 robbery at Hardee's?

20 A. I don't know if I did or not.

21 Q. Okay. So it looks like at least you were  
22 working on several other cases in 1994 other than the  
23 Lockmiller case, right?

24 A. According to Freesmeyer's report.

1 Q. Do you disagree with Freesmeyer's report with  
2 respect to you investigating other cases?

3 A. Well, once again, it's in writing, so -- I  
4 have no comment on that question on that.

5 Q. Well, do you have any reason to believe it's  
6 untrue?

7 A. Not true, no. Again, so many cases you  
8 handle, I can't recall which ones I had a conviction  
9 cleared by no further information. I just -- I can't  
10 comment on another person's report.

11 But as far as the contents, again, I can't  
12 say one way or the other without having all the  
13 documents in front of me to substantiate his claim.

14 Q. Okay. You can put it to the side.

15 For the Lockmiller homicide case, did you  
16 have your own working file?

17 A. Yes.

18 Q. Where did you keep your working file?

19 A. There at my desk in the Normal Police  
20 Department detective division.

21 Q. How big was your file on this case?

22 A. I don't recall. Several binders is about the  
23 best I can give an answer to.

24 Q. Okay.

**C06883**

1 MR. DiCIANNI: I'm sorry. Can you read that  
2 last question and answer back.

3 (Whereupon, the record was  
4 read as requested.)

5 BY MS. BARTON:

6 Q. Do you recall anything that were -- was in  
7 the binders?

8 A. What was given to me would have been copies  
9 of investigators' findings in their investigation and  
10 their leads, other information that would have come  
11 in.

12 Q. What do you mean by findings?

13 A. As a result of their leads, when the  
14 investigator that leads, it would be the results, the  
15 information that was obtained through those leads.

16 Q. What form were those findings in?

17 A. A narrative form.

18 Q. Were they handwritten notes or reports?

19 A. Some could have been. Most of them would  
20 have been in typewritten form.

21 Q. In report form?

22 A. Correct.

23 Q. And you said that these were given to you.  
24 Who were they -- who gave them to you?

C06884

1           A. Well, once a -- like any other case, any  
2 other detective or even street officer would have  
3 initiated, we would have gotten a copy of it; we,  
4 meaning the detective assigned to that case.

5           Q. Was it your understanding that other  
6 detectives also had working files on the Lockmiller  
7 homicide case?

8           A. Yes.

9           Q. How do you know that?

10          A. As I can recall, we had an intern assigned to  
11 the detective division, and his main responsibility  
12 was to make copies of all reports that came from the  
13 lieutenant's office and put them in the binders. And  
14 also clippings from the newspaper, he made copies of  
15 those. And I think there was approximately 12, maybe  
16 13 different binders that went to different people.

17          Q. The 12 to 13 binders that went to different  
18 people within the Normal Police Department?

19          A. And the State's Attorney's Office.

20          Q. On the Lockmiller case?

21          A. Correct.

22          Q. How do you know that the copies went to the  
23 State's Attorney's Office, any copies?

24          A. How do I know? I don't know. I could only

C06885

1 say that that's what the intern was directed to do was  
2 make copies for the State's Attorney's Office. How  
3 they got there or if they got there, I do not know.

4 Q. The intern was instructed to bring copies of  
5 what to the State's Attorney's Office?

6 A. No, the intern didn't take anything to the  
7 State's Attorney's Office. He was making copies for  
8 the State's Attorney's Office. How they got there,  
9 again, I do not know.

10 Q. What was the intern's name?

11 A. I do not recall.

12 Q. Was the intern a male or female?

13 A. Male.

14 Q. How old was he?

15 A. I do not know.

16 Q. Was he under 40 years old?

17 A. Yes.

18 Q. Under 30?

19 A. Could have been.

20 Q. Was he a college student?

21 A. Yes.

22 Q. How do you know what the intern's  
23 instructions were with respect to the copies?

24 A. The instructions from Lieutenant Zayas.

006886

1 Q. How do you know that?

2 A. I don't.

3 Q. Were you present when Lieutenant Zayas gave  
4 any instructions --

5 A. I could have been.

6 Q. You got to let me finish my question.

7 Were you present when Lieutenant Zayas  
8 instructed the intern to make copies of the Lockmiller  
9 file?

10 A. I could have been.

11 Q. But you don't recall?

12 A. No.

13 Q. Was the intern making copies of documents  
14 from the beginning of the investigation to when  
15 Ms. Lockmiller's body was discovered all the way  
16 through to the conviction of Mr. Beaman?

17 A. I don't recall.

18 Q. Do you recall when he started making copies  
19 on the Lockmiller case?

20 A. No, I do not.

21 Q. Did he make copies on any other case?

22 A. No. I had no interest in what the intern was  
23 doing, so I couldn't expand on any of his obligations,  
24 whether or not he had finished his requirements,

1 whether or not he made 12 or 13 copies or anything of  
2 that nature.

3 Q. How do you know it was 12 or 13?

4 A. I can recall at least 12 because that's how  
5 many people we had involved in the case; detectives,  
6 our administration, which is the chief and his  
7 assistant, and of course the prosecutor in the -- from  
8 the State's Attorney's Office.

9 Q. Where did you learn that there were 12 copies  
10 being made of any documents --

11 A. I don't recall.

12 Q. What prosecutor are you referring to?

13 A. Jim Souk.

14 Q. Anyone else at the State's Attorney's Office?

15 A. Well, I would imagine -- and this is  
16 speculation. I would imagine the State's Attorney  
17 himself, Charlie Reynard, would have had a copy.

18 Q. Why do you speculate to that?

19 A. Well, he was also involved in the  
20 investigation to some degree. To what degree, I do  
21 not know.

22 Q. But you don't know whether Souk or Reynard  
23 ever received copies from the Normal Police Department  
24 with respect to this case, right?

C06888

1           A.    Outside of speculation, I do not know. I did  
2 not witness any turn-over of documents to them.

3           Q.    And you never talked to Souk or Reynard about  
4 receiving copies of anything from the Normal Police  
5 Department related to the Lockmiller case?

6           A.    I do not recall.

7           Q.    Did you maintain binders on other cases?

8           A.    It depends on what type of a case it was and  
9 how in-depth investigation it was required.

10          Q.    What kind of case would you maintain binders  
11 in a working file at your desk?

12          A.    Well, the 1994 homicide. I also had -- are  
13 you wanting any case that I worked on?

14          Q.    Yes.

15          A.    I can also recall one that was -- that took  
16 me down to the City of Lincoln, Illinois quite a few  
17 trips down there and resolved. Binder meaning a one-,  
18 two-, three-inch binder.

19          Q.    Did the intern make you copies of records for  
20 those binders as well?

21          A.    I don't recall.

22          Q.    What else do you recall being in your binder  
23 for the Lockmiller case other than investigators'  
24 reports?

006889

1 A. Offhand, I don't recall what was in there.

2 Q. Did you keep your notes on the case?

3 A. Yes.

4 Q. In the binders?

5 A. Well, yes, it was with the binders. It was  
6 part of my copy of the case.

7 Q. What happened to your binders?

8 A. When?

9 Q. On this case.

10 A. Well, I took them with me to 1994 case -- or  
11 school down in Jacksonville. I still have those.

12 Q. Did you make copies of the binders before you  
13 took it down to Jacksonville?

14 A. That's how I obtained them, yes.

15 Q. Obtained what?

16 A. Copies.

17 Q. So you had a working file of the Lockmiller  
18 case that was all in binders at the Normal Police  
19 Department at your desk and then you made a copy of  
20 the entire file to take down to Jacksonville?

21 MR. DiCIANNI: Let me object to the  
22 characterization. I don't think that's completely  
23 accurate as to what the testimony was.

24 You can go ahead and answer.

C06890

1 THE WITNESS: The copy that I had taken to  
2 the class was the copy that I was working with. Now,  
3 if it was any other documents required such as they  
4 did require perhaps slides, so I had slides made from  
5 photographs for that particular purpose for that  
6 class.

7 BY MS. BARTON:

8 Q. Did you take anything else with you to  
9 Jacksonville other than your binders and slides?

10 A. That is all I can recall.

11 Q. And you still have the binders today?

12 A. Correct.

13 Q. And are those -- those were within the boxes  
14 that I received in response to a subpoena, right?

15 A. Yes.

16 Q. And those are documents that are still in the  
17 binders, right?

18 A. Correct.

19 Q. Not the ones in the blue folders like we've  
20 been looking at today?

21 A. Correct.

22 MR. DiCIANNI: What blue folders -- oh.

23 BY MS. BARTON:

24 Q. When you responded to the subpoena that I

1 sent to you, you gave me five boxes of documents and  
2 one of the boxes of documents had folders that looked  
3 like Exhibit 12 and Exhibit 10, right, those blue  
4 folders?

5 A. These are -- appear to be photocopies of what  
6 I had in that one particular box.

7 Q. So what sort of documents were in the blue  
8 folders? Where did you get those documents?

9 A. Those were my documents from various notes.

10 Q. So those weren't documents from the binders  
11 that you kept at your desk in the detective division?

12 A. As I best recall, I did not extract anything  
13 from the original binders that I worked on.

14 Q. Did you take those binders with you when you  
15 retired from the police department?

16 A. I've always had them at home once I returned  
17 from the school.

18 Let me correct that. I had them in the  
19 detective division for a while and then I had taken  
20 them home.

21 Q. Do you recall when you took them home?

22 A. No, I do not.

23 Q. Was it before Mr. Beaman's conviction?

24 A. I don't recall.

C06892

1 Q. You wrote several reports in relation to the  
2 Lockmiller homicide, right?

3 A. Yes.

4 Q. What's the purpose of writing a report?

5 A. Well, to recall later any facts concerning  
6 the case, to be used in court or a decision whether to  
7 go to grand jury, make an arrest, use to further your  
8 investigation.

9 Q. In the deposition last time, you said that  
10 you -- the information you document in reports, you  
11 can document either negative or positive information.  
12 What did you mean by that?

13 A. Well, I don't recall making that statement,  
14 but if I made that statement -- you're asking me  
15 whether or not I copied negative --

16 Q. Well --

17 A. -- or positive aspects of the --

18 Q. Well, why don't we go from here. What sort  
19 of information do you put into a report?

20 A. Information that pertains to the case.

21 Q. And that's information you learned from  
22 witnesses, right?

23 A. Witnesses, yes.

24 Q. And from documentary sources, right, from

C06893

1 documents?

2 A. Yes.

3 Q. And you wrote your reports in this case  
4 shortly after you obtained information. You told me  
5 you wrote it contemporaneously with the information  
6 that you received?

7 A. Yes.

8 Q. And in your prior deposition, you told  
9 Mr. Bowman to pay attention to Detective Freesmeyer's  
10 date of his report. I just wanted to ask you why --  
11 what's important about the date on Detective  
12 Freesmeyer's report?

13 A. If you looked at that particular report, you  
14 see where everything was according to the computer. I  
15 believe it was computer generized -- generized --  
16 generated. He had written that report in one day.  
17 That's what it appeared if you looked at the date of  
18 each page.

19 Q. But you don't know that, right?

20 A. No, I do not know that. He could have kept  
21 that in his computer as he went along, correct.

22 Q. Did you ever read Detective Freesmeyer's  
23 reports throughout the time you were working on the  
24 investigation?

C06894

1 A. Only if they were available.

2 Q. And you don't recall either way if they were?

3 A. I do not.

4 Q. I want to talk about John Murray. You  
5 conducted two interviews of Mr. Murray, right?

6 A. Yes.

7 Q. Just sitting here today, what information do  
8 you recall learning from Mr. Murray during either one  
9 of those interviews?

10 A. The fact that Jennifer was a friend of his.  
11 He supplied Jennifer with drugs, marijuana. They  
12 would go out on the town so-to-speak. He also stayed  
13 there, occasionally had sex with her. The fact that  
14 when he said he came and learned -- learned of  
15 Jennifer's death, he came back to town, he and his  
16 girlfriend had spent the night in a motel in Normal  
17 because he was afraid of Alan Beaman. He and Alan  
18 Beaman had gone to visit her grave site. The fact  
19 that --

20 Q. Was that information that you learned during  
21 the two interviews?

22 A. I don't recall if that came from the  
23 interviews or not. That could have come from an  
24 outside source.

C06895

1           There may have been other information that I  
2 learned about his itinerary that I don't recall the  
3 exact. I knew where he lived. The fact that he knew,  
4 of course, Alan Beaman and Mike Swaine and a few of  
5 the other members of that tight-knit group.

6           Q. Did you learn that he and Jennifer had talked  
7 to each other over the phone within a couple weeks of  
8 her murder?

9           A. It's possible.

10                                 (Whereupon, Daniels Deposition  
11                                 Exhibit Nos. 13 and 14 were  
12                                 marked.)

13           MS. BARTON: The one that starts with SDT  
14 1400 is Exhibit Number 13, and the other one is  
15 Exhibit 14.

16                                 Did you catch that, Locke?

17           MR. BOWMAN: Yes, thank you.

18           BY MS. BARTON:

19           Q. Okay. Mr. Daniels, the Exhibit Number 13 is  
20 the documents that were in your folder labeled John  
21 Murray's First Interview, okay?

22           A. Uh-huh -- yes.

23           Q. There are two different transcripts that were  
24 contained in that file. The first starts at 1402 and

**C06896**

1 then goes to 1417 and then the second one is at 1419.

2 A. Okay.

3 Q. All right. So I want you to be looking at  
4 the one that starts at page 1419.

5 A. Okay.

6 Q. On page 1419 the transcript reflects that you  
7 asked Mr. Murray: "When was the last time that you  
8 had any contact with Jennifer? What type of contact  
9 would that have been?"

10 And then John states: "She called me about  
11 two weeks ago, a week ago. I can't remember."

12 Right?

13 A. Yes.

14 Q. And the next page, 1420, it's a little bit  
15 hard to find, but it looks like there's an underline  
16 with red?

17 A. Yes.

18 Q. Was that your underline? The documents were  
19 like that when I received them.

20 A. That could have been mine. That could have  
21 been anybody else who had read this document.

22 MR. DiCIANNI: I'm sorry. Is it what's  
23 underlined what looks like pen or pencil what you're  
24 referring to?

1 MS. BARTON: Yes. In the exhibit that  
2 Mr. Daniels has, it's color copied.

3 MR. DiCIANNI: Yeah. Yours is?

4 MS. BARTON: Yeah.

5 MR. DiCIANNI: Yours and his.

6 MS. BARTON: Right, so is mine. And it's in  
7 red there.

8 BY MS. BARTON:

9 Q. And it says: "I talked to her was probably  
10 maybe two weeks ago or maybe a week and a half ago,  
11 and she just called me and asked me what I was doing.  
12 And, you know, I said, you know, I am getting ready to  
13 go to school."

14 Right?

15 A. Yes.

16 Q. Did you also learn during your interviews  
17 with Mr. Murray that he claimed Ms. Lockmiller owed  
18 him money for drugs?

19 A. Yes.

20 Q. Do you recall -- strike that.

21 Did Mr. Murray tell you during your  
22 interviews that he was in Jennifer's apartment after  
23 she returned from California?

24 A. I don't recall.

006898

1 Q. Page 1420, there's a paragraph at the bottom  
2 where John is responding: "Oh, yeah, yeah. She  
3 called me from California."

4 And then he goes on to say: "I saw her after  
5 her California trip. I think I talked to her once or  
6 twice?"

7 A. Yes, I see that.

8 Q. You also learned during these interviews with  
9 Mr. Murray that he had some involvement with drugs?

10 A. Yes.

11 Q. What -- do you recall what you learned about  
12 that?

13 A. I learned that he provided the group, the  
14 group being Jennifer and her associates, her friends,  
15 with drugs and marijuana. He also was a mule, a  
16 dealer, a user of steroids.

17 Q. Did you learn that Mr. Murray did steroids  
18 during your interviews with him?

19 A. Did I learn -- rephrase your question,  
20 please.

21 Q. Well, where did you learn that Mr. Murray was  
22 a user of steroids?

23 A. I don't recall where I learned that.

24 Q. But during the interviews of Mr. Murray, you

C06899

1 learned that he brought drugs down from Rockford,  
2 right, to the Bloomington-Normal area?

3 A. Yes.

4 Q. You also learned that Mr. Murray claimed that  
5 Ms. Lockmiller was interested in getting back together  
6 with him?

7 A. That was -- information was obtained.  
8 Whether it came from Murray himself or an outside  
9 source, I don't recall.

10 Also getting back to your previous question,  
11 would you restate that, please, or repeat that?

12 Q. Which question?

13 A. About learning where he got the drugs or that  
14 he brought them down from Rockford.

15 Q. Yes.

16 A. Would you --

17 Q. Sure. Did you learn during one of these  
18 interviews of Mr. Murray that he would bring marijuana  
19 from Rockford to the Bloomington-Normal area?

20 A. I don't recall learning that from him in the  
21 interview or from someone else.

22 Q. All right. Take a look at the Exhibit 14 and  
23 look at the page marked SDT 1473.

24 A. Okay.

C06900

1 Q. Look at the last question and answer on that  
2 page. You asked Mr. Murray: "Have you ever brought  
3 drugs down from Rockford, marijuana from Rockford?  
4 Have you ever?"

5 Mr. Murray responds: "Have I ever in my  
6 life?"

7 On the next page you state: "Have you ever  
8 in your life?"

9 And John says: "Well, yeah. Yes, I have."  
10 Right?

11 A. Yes.

12 Q. While we're looking at the transcript from  
13 the second interview, turn to page 1471. And in the  
14 middle, the second circled answer, John says: "She  
15 wanted me to go back out with her, but I wouldn't let  
16 her."

17 Is that right?

18 A. Yes.

19 Q. Okay. So Mr. Murray was telling you that  
20 Ms. Lockmiller wanted to go back out with him, but he  
21 wouldn't let her?

22 A. That's according to the statement -- his  
23 statement, yes.

24 Q. And then he also told you that during the

C06901

1 first interview -- on page 1432 of the first  
2 interview?

3 A. 32?

4 Q. Yes.

5 A. Okay.

6 Q. And the portion circled, Mr. Murray states:  
7 "No, we never fought. She completely, like, wanted to  
8 go out with me still. Like, if she was alive today,  
9 she would be calling me wanting to go back out with  
10 me."

11 Right?

12 A. Yes.

13 Q. Do you recall that during the interview with  
14 Mr. Murray, he -- during the second interview. I can  
15 point you to the page -- strike that.

16 Between the first interview and the second  
17 interview with Mr. Murray, did his account of his  
18 whereabouts for the week of Ms. Lockmiller's murder --  
19 they changed, right, his account of his whereabouts  
20 changed?

21 A. I don't recall if they changed or if he  
22 clarified some account of his whereabouts.

23 Q. Okay. What do you mean by clarified?

24 A. Well, he could have been confused. I know

C06902

1 one time in one of the interviews, he said: I go up  
2 and down back and forth so many times, I might be  
3 confused.

4 I don't know if that statement was written in  
5 one of the interviews or not, but it seems to me that  
6 that's what he said at one time or another.

7 Q. When he told you that his girlfriend,  
8 Ms. Mackoway, actually helped him clarify what dates  
9 he was in town and what dates he wasn't in town?

10 A. Is that what I said or is that what was  
11 written?

12 Q. I'm just asking. Do you recall that?

13 A. No.

14 Q. Look at the second interview. It's  
15 Exhibit 14 on page 1458.

16 A. Okay.

17 Q. And the last paragraph, the one that's  
18 circled, just read that to yourself and let me know  
19 when you're done.

20 A. Okay.

21 Q. So it looks like Mr. Murray was telling you  
22 that Ms. Mackoway was -- actually helped him to  
23 determine when he actually left Bloomington?

24 A. Yes.

C06903

1 Q. And he admitted that he was in Bloomington on  
2 August 25?

3 A. Let me refresh my memory by reading that  
4 again. I don't recall 20 -- reading the 25th here.

5 Q. Sure. You can read on page 1459, just keep  
6 reading there.

7 A. "I was back in Bloomington on the 25th of  
8 August." That's what it states.

9 Q. And then he also states: "I left on the  
10 25th, and I came back on the 2nd."

11 And then you ask him: "Who was the last  
12 person you were with in the Normal-Bloomington area on  
13 August 25?"

14 And he says: "Deb Mackoway."

15 A. That's what it states, yes.

16 Q. Take a look at the -- still the second  
17 interview on page 1464. The answer that's circled  
18 there, John says: "If I did stop by, I don't think  
19 she was home. I remember stopping by one time when  
20 I -- when I was just about ready to go to Rockford,  
21 but she wasn't home."

22 And then it looks like -- well, you say:  
23 "I'm going to call your attention to the statement  
24 that we had taken from you on page 5."

C06904

1           Did you have the transcript of the first  
2 statement that Mr. Murray made to you when you were  
3 interviewing him the second time?

4           A.   According what this states, I must have.

5           Q.   Do you recall how the transcripts were made  
6 of the interviews?

7           A.   We had chief's secretary, Jackie Thomas,  
8 transcribe the tapes.

9           Q.   When did she transcribe the tapes? Was it  
10 throughout the course of the investigation?

11          A.   I don't recall.

12          Q.   But it looks like at least for Mr. Murray you  
13 had the transcript from his first interview by the  
14 time that you interviewed him six days later on the  
15 8th?

16          A.   It appears so.

17          Q.   Do you recall Mr. Murray telling you during  
18 the second interview that he would provide you with  
19 telephone records to help clarify where he was and  
20 when?

21          A.   No, I don't recall him saying that.

22          Q.   Look at page 1477. First let me ask you  
23 about this page. Are these your notes in the margins  
24 here?

1 A. That's my handwriting, yes.

2 Q. Towards the middle of the page, John states:  
3 "If you would like more specific dates, I will -- I  
4 will do research. I will find out exact times. I  
5 will get a phone bill. I will have every single  
6 minute of those days accounted for if you would like."

7 Right?

8 A. Yes.

9 Q. And then Mr. Murray actually also offered to  
10 take a polygraph during --

11 A. Yes, he did.

12 Q. -- this interview?

13 A. I don't know if it was the second interview.

14 Q. Two pages back on page 1475, you asked  
15 Mr. Murray: "Are you willing to take a polygraph,  
16 John?"

17 John says: "I'll take a polygraph."

18 And you said: "And what is that polygraph  
19 going to tell us when we ask you when you saw her  
20 last?"

21 And John says that "The 25th of August is the  
22 last date I saw her."

23 Right?

24 A. That's what it says, yes.

C06906

1 Q. Did you write a report on either one of the  
2 interviews for Mr. Murray?

3 A. Rob Hospelhorn would have written the report  
4 because he was sitting in with me on the interviews.

5 Q. So why -- why did Rob Hospelhorn write a  
6 report on those interviews and not you?

7 A. He volunteered to do so.

8 Q. Okay. Let's look at Exhibit Number 4, and I  
9 have that here for you.

10 MR. BOWMAN: Can we take a short pause?

11 MS. BARTON: Sure. Go off the record.

12 THE VIDEOGRAPHER: Off the record. The time  
13 is 11:28.

14 (Whereupon, a break was taken.)

15 THE VIDEOGRAPHER: I'm back on the record.  
16 The time is 11:37.

17 BY MS. BARTON:

18 Q. I put in front of you Exhibit 4. This was  
19 from your last deposition. This is the set of reports  
20 that Detective Hospelhorn prepared. Take a look at  
21 page -- it's marked MCC 318 at the bottom.

22 The last paragraph, the second sentence on  
23 9-2-93, RO and Detective Daniels interviewed John  
24 Murray.

1 Right? So he's at least reporting about the  
2 interview of John Murray on the 2nd?

3 A. Yes.

4 Q. And that was your first interview.

5 Now, I don't see in his report about the  
6 interview from the 8th, and I also don't have a report  
7 from you for the interview of Murray on September 8.

8 Do you recall if either one of you prepared a  
9 report?

10 A. No, I don't recall. Once again, I'd like to  
11 remind you, we could've prepared a report and for some  
12 reason, it didn't get in the binder.

13 Q. What do you mean by that?

14 A. Well, we had that intern compare -- compiling  
15 binders.

16 Q. Do you know how the intern obtained the  
17 reports?

18 A. Well, once again, Lieutenant Zayas would have  
19 had him -- hand him the reports and tell him to make  
20 copies for the binders.

21 Q. So you as a detective would prepare your  
22 report and submit it to Lieutenant Zayas?

23 A. That's correct.

24 Q. So that's at least what you did with your

C06908

1 reports?

2 A. That's what I would do with each report I  
3 would've prepared, yes.

4 Q. Okay. And it was your understanding that  
5 Lieutenant Zayas then gave the report to the intern to  
6 make copies?

7 A. That's my understanding, yes.

8 Q. But you don't have any firsthand knowledge of  
9 that?

10 A. Of this particular report?

11 Q. Any report.

12 A. No, I didn't witness him actually turning  
13 over any paperwork to the intern to make copies.

14 Q. All right. Take a look at MCC 333. And this  
15 looks like a report by Detective Hospelhorn regarding  
16 an interview that -- or at least a conversation  
17 because it says spoke with John Murray. RO being  
18 Hospelhorn and you, Detective Daniels spoke with John  
19 Murray at Normal Police Department on September 22,  
20 1993.

21 Take a look at this report and let me know if  
22 this is what you were talking about with Murray  
23 visiting the grave site with Mr. Beaman.

24 MR. DiCIANNI: I'm sorry. What page was

1 that?

2 MS. BARTON: MCC 333.

3 THE WITNESS: Yes, that's what I was  
4 referring to.

5 BY MS. BARTON:

6 Q. So this is how you -- strike that.

7 So John Murray informed you that he went to  
8 Ms. Lockmiller's grave site in Decatur with Alan  
9 Beaman, Chris Carbone, and Josh Whitney?

10 A. Correct.

11 Q. Do you recall anything else about the  
12 conversation with Mr. Murray other than what's  
13 reported by Detective Hospelhorn in this report?

14 A. No, I do not.

15 Q. Do you recall whether this interview was in  
16 person?

17 A. According to the first sentence there, they  
18 spoke with John Murray at Normal PD. Of course, it  
19 doesn't -- well, it says this interview was not  
20 recorded. I don't want to speculate that it was in  
21 person.

22 Q. Do you recall whether Mr. Murray came to the  
23 police department to talk to you or whether you called  
24 him in?

C06910

1 A. No, I do not.

2 Q. Do you know whether John Murray was  
3 subpoenaed to testify at Mr. Beaman's criminal trial?

4 A. I have no knowledge of that.

5 Q. We touched briefly during your last  
6 deposition on the task force that consisted of  
7 representatives from local agencies to investigate  
8 drug crimes; is that right?

9 A. Yes.

10 Q. Do you know who the representative was from  
11 the Normal Police Department on that task force?

12 A. I don't believe we had a detective at that  
13 time assigned to the task force.

14 Q. At what time?

15 A. The time that the murder occurred.

16 Q. Ms. Lockmiller's murder?

17 A. Correct.

18 Q. Do you know if there was ever a  
19 representative from the Normal Police Department on  
20 that task force at any time?

21 A. Yes.

22 Q. And who was that?

23 A. John Belcher, Jim Henderson, Marty Fogler.  
24 That's the only names I can recall at this point in

1 time.

2 Q. What was Mr. Henderson's first name?

3 A. Jim.

4 Q. John Belcher, Marty Fogler, and Jim  
5 Henderson?

6 A. Yes.

7 Q. Did anyone from the task force, whether it  
8 was one of these three individuals or anybody else,  
9 provide you with information related to John Murray?

10 A. As I recall, it would have been John Belcher.

11 Q. What did you learn from John Belcher?

12 A. John Belcher had called DCI and obtained some  
13 information from Tony Schlosser. I don't know how to  
14 spell his last name. But Tony was working with John  
15 Murray at the time. John Murray was under  
16 investigation for selling drugs.

17 Q. What do you mean by working with John Murray?

18 A. Attempting to make a purchase through  
19 John Murray. John Murray was under investigation.  
20 Tony Schlosser was the assigned agent.

21 Q. What agency employed Tony Schlosser?

22 A. McLean County Sheriff's Department.

23 Q. Do you know whether Investigator Schlosser  
24 was using Mr. Murray as a confidential source?

C06912

1 A. I do not know that personally.

2 Q. How do you know that John Belcher called DCI?

3 A. John informed me he obtained documents from  
4 their case on John Murray.

5 Q. What does DCI stand for?

6 A. Department of Criminal Investigations.

7 Q. And where is that located?

8 A. At that time, the office was located on  
9 Eldorado Road in Bloomington.

10 Q. Was that the task force's office?

11 A. Yes, Task Force 6.

12 Q. When did John tell you that he obtained  
13 documents from DCI?

14 A. I don't recall the exact date.

15 Q. How about an approximate date?

16 A. During the first week I would believe.  
17 Again, that's an assumption.

18 Q. First week of what?

19 A. The investigation.

20 Q. Related to Lockmiller's homicide?

21 A. Correct.

22 Q. You told me during the last deposition that  
23 John Belcher was assigned certain tasks during the  
24 Lockmiller homicide investigation, right?

1 A. Yes.

2 Q. Do you know what his role was in the  
3 investigation?

4 A. Other than obtaining the information on  
5 John Murray from DCI, I also recall him verifying the  
6 whereabouts of John Revis.

7 Q. Did you ever see the documents that  
8 John Belcher obtained from DCI?

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

10 Q. Did John Belcher tell you why the task force  
11 was investigating John Murray?

12 A. He could have. He may have or I could have  
13 gotten it from the report.

14 Q. From what report?

15 A. A report that Tony Schlosser would've had on  
16 file.

17 Q. Did you obtain reports from Tony Schlosser?

18 A. I did not.

19 Q. So what do you mean by the reports that  
20 Schlosser had on file?

21 A. Well, you'd have a case file on individuals  
22 that you're investigating.

23 Q. So it was your understanding that Tony  
24 Schlosser had a case file on the investigation of

C06914

1 John Murray?

2 A. Correct.

3 Q. Where was that case file?

4 A. DCI would have had that.

5 Q. Did you go to DCI to review records related  
6 to John Murray?

7 A. I did not.

8 Q. Did you ever review Tony Schlosser's case  
9 file?

10 A. I don't recall if I did.

11 Q. Do you recall reviewing any reports related  
12 to an investigation of John Murray for possession of  
13 drugs?

14 A. Yes.

15 Q. Okay. When?

16 A. When I read them or --

17 Q. Yes.

18 A. I don't recall when I read them.

19 Q. Was it during the Lockmiller homicide  
20 investigation?

21 A. Could have been during it or it could have  
22 been after the trial.

23 Q. You just don't recall either way?

24 A. Correct.

1 Q. So we've already discussed the fact that  
2 during the second interview of Mr. Murray, he offered  
3 to get a phone bill to show his whereabouts for the  
4 week of Ms. Lockmiller's homicide.

5 Did you ever obtain either the phone bill or  
6 records related to Mr. Murray's telephone records?

7 A. Yes.

8 Q. How did you obtain them?

9 A. Well, they were given to me. By whom, I do  
10 not recall.

11 Q. Did Mr. Murray bring them into the police  
12 department to give to you?

13 A. I don't recall.

14 Q. Did you subpoena the telephone records?

15 A. I don't recall that either.

16 (Whereupon, Daniels Deposition  
17 Exhibit No. 15 was marked.)

18 BY MS. BARTON:

19 Q. The court reporter handed you what she marked  
20 as Exhibit 15 to your deposition. This is the  
21 entirety of the blue folder that you provided to me  
22 labeled phone records.

23 Turn to SDT 590. Do you recognize this  
24 document?

C06916

1 A. I don't recall the document.

2 Q. It looks like a handwritten letter from  
3 Patty Engel of GTE Security to a person named John  
4 dated September 16, 1993?

5 A. Yes, it does.

6 Q. And it says: "Enclosed are the calls for  
7 both your number and your parents' number from  
8 August 19 through August 28, 1993."

9 A. Okay.

10 Q. Do you know who the John is that this letter  
11 is addressed to?

12 A. With 100 percent surety, no, I do not.

13 Q. What's your best guess?

14 A. Since we are talking about John Murray and  
15 phone records, my guess best would be John Murray.

16 Q. And you interviewed John Murray on  
17 September 2 and again on September 8. And during the  
18 September 8 interview, Mr. Murray said I can get a  
19 phone bill for you to verify my whereabouts during the  
20 week of the homicide, right?

21 A. Yes.

22 Q. Take a look at Exhibit 10, and turn to page  
23 SDT 70.

24 A. Okay.

1 Q. Are these your notes?

2 A. Yes, that's my handwriting.

3 Q. And the date on this is September 8, 1993?

4 A. Yes.

5 Q. Entitled Second Interview With Larbi?

6 A. Yes.

7 Q. Would that be John Murray?

8 A. Yes.

9 Q. Were these notes that you took during the  
10 interview of Mr. Murray on September 8?

11 A. I cannot say if they were or not.

12 Q. And that note on the bottom, can you read  
13 that for me?

14 A. Phone record on John, 21st through the 28th.

15 Q. What is that notation before the 21st? Can  
16 you interpret that for me?

17 A. That could be a 04.

18 Q. What does that stand for?

19 A. Possibly a month or could be 06, possibly a  
20 month.

21 Q. Do you know what that note refers to?

22 A. Well, it says phone record on John.

23 Q. Were you planning to ask Mr. Murray to obtain  
24 phone records from the 21st to the 28th?

- 1 A. That's a possibility according to this note.
- 2 Q. But you don't recall either way?
- 3 A. Correct.
- 4 Q. Take a look at page SDT 95 in that same group  
5 of documents.
- 6 MR. DiCIANNI: I'm sorry, what page?
- 7 MS. BARTON: 95.
- 8 BY MS. BARTON:
- 9 Q. It might be on the reverse page, 95 and 96.
- 10 A. Oh, there it is. Okay.
- 11 Q. Is this your handwriting on pages 95 and 96?
- 12 A. Yes, it is.
- 13 Q. And on page 95, it's labeled 9-2-93, Larbi  
14 Interview?
- 15 A. Correct.
- 16 Q. Are these notes that you took during the  
17 interview on September 2?
- 18 A. Either that or when I was reviewing the case.
- 19 Q. And the notation at the top says: "Check his  
20 phone record to see if and when called him."  
21 What does that refer to?
- 22 A. I don't know what -- recall why I wrote that  
23 down the way I did. Check his phone record, I would  
24 assume referring to John Murray to see if and when

1 called him.

2 Q. Right. Because we already established that  
3 during the first interview, Mr. Murray told you, I  
4 spoke to Jennifer and she called me and I called her  
5 within a couple weeks of her murder. Right? And so  
6 now you're writing check his phone records to see if  
7 and when --

8 A. Possibly --

9 Q. -- Ms. Lockmiller called him?

10 A. Could possibly mean if and when Jennifer  
11 called him.

12 Q. And look at page 96. Are these questions  
13 that you prepared in preparation for Mr. Murray's  
14 interview either on the 2nd or on the 8th?

15 A. I don't recall what they were referring to.  
16 It also could be lead-up questions that I had written  
17 down after the trial, during the trial.

18 Q. What are lead-up questions?

19 A. Questions that need to be answered after I  
20 reviewed documents being maybe Murray's phone records  
21 or other statements from other witnesses or John  
22 Murray's interviews.

23 Actually his name is not mentioned in this  
24 particular page. It could refer to anyone.

1 Q. Well, the first question says: "Were you  
2 seeing both Jennifer and Deb at the same time?"

3 A. Okay. Then that -- well, it's possible that  
4 Debbie had another boyfriend.

5 Q. Well, did you investigate another boyfriend  
6 of Ms. Mackoway's that I don't know about?

7 A. Of Deb Mackoway?

8 Q. Yes.

9 A. I did not, no.

10 Q. Was there another Deb related to the  
11 Lockmiller homicide case?

12 A. I don't recall.

13 Q. Did you want to obtain Mr. Murray's phone  
14 records at the time of the investigation?

15 A. I don't know if it was my suggestion,  
16 Hospelhorn's, or anyone else. Could have been  
17 Zayas's. I don't recall whose idea it was. Surely it  
18 would have been a suggestion to help verify where the  
19 calls originated from, whether or not his phone or  
20 someone else's phone.

21 Q. When did you receive the records?

22 A. I don't recall when I received the records.

23 Q. Did you receive them during the time of the  
24 investigation?

1 A. Once again, I don't recall when.

2 Q. Where did you keep the records?

3 A. The phone records?

4 Q. Yes.

5 A. I would've, once again, assumed they would  
6 have been kept with the case investigation.

7 Q. What does that mean "with the case  
8 investigation"?

9 A. With the other case information that -- the  
10 binders, so forth.

11 Q. In your binder or set of binders?

12 A. I don't -- I can't say with 100 percent  
13 accuracy.

14 Q. Did you perform any analysis on Mr. Murray's  
15 phone records?

16 A. It seems to me I was working on them.

17 Q. When were you working on them?

18 A. Well, of course had been after I received  
19 them. Exactly when, I don't -- I'm not sure.

20 Q. Do you recall working on the telephone  
21 records at any time during the Lockmiller homicide  
22 investigation?

23 A. During my part of the investigation or during  
24 the time that he was -- she was found and through the

**C06922**

1 appeal court?

2 Q. How about before October 1993?

3 A. I don't recall.

4 Q. After 1993?

5 A. Again, I don't recall.

6 Q. Did you write on the telephone records at any  
7 time?

8 A. I could have.

9 Q. Take a look at the first page here, 578 of  
10 the phone records. The big exhibit is going to be  
11 here.

12 A. Okay. I'm sorry.

13 MR. DiCIANNI: What number was that again?

14 MS. BARTON: 15, Exhibit 15.

15 BY MS. BARTON:

16 Q. Do you see your handwriting anywhere on this  
17 page?

18 A. Yes, I wrote up at the top "Larbi,"  
19 L-a-r-b-i.

20 Q. Because that was Mr. Murray's telephone  
21 number, 309-828-0718, right?

22 A. I don't know if that was his number at the  
23 time or not.

24 Q. Do you see your handwriting anywhere else?

1 A. I don't recognize it.

2 Q. Do you recognize anyone else's handwriting on  
3 this page?

4 A. No, I do not.

5 Q. Turn to page 581. Do you recognize your  
6 handwriting on this page anywhere?

7 A. I couldn't say for sure.

8 Q. Isn't that your handwriting where it says  
9 "Larbi's friend" to the right?

10 A. That could be. That appears to be.

11 Q. And what about down below where it says "Deb  
12 Mackoway's apartment," that's your handwriting too,  
13 isn't it?

14 A. I don't make the A that way. I don't make  
15 the B that way. So I would have to say that doesn't  
16 appear to be my handwriting.

17 Q. What about on page 582, do you see your  
18 handwriting anywhere on that page?

19 A. I don't recognize it.

20 Q. No?

21 A. No, I don't recognize it.

22 Q. Turn to page 585. Is this a document that  
23 you created?

24 A. Yes, I believe so.

C06924

1 Q. When did you create this?

2 A. I have no idea.

3 Q. What does this document mean?

4 A. It appears to mean a timeline on phone calls  
5 made from 8 to -- zero -- correction. Made from area  
6 code 390-828-0718 which appears to be Murray's  
7 apartment.

8 Q. Well, you created this document, right? You  
9 just told me that?

10 A. Yes.

11 Q. Why did you create the document?

12 A. Make it easier to read if I was looking for a  
13 particular time, phone number, or a name phone numbers  
14 would be registered to.

15 Q. And this was an analysis you performed on --  
16 or this -- strike that.

17 This piece of paper reflects an analysis you  
18 performed on John Murray's telephone records, right?

19 A. To some degree, yes.

20 Q. And you don't know when you did that  
21 analysis?

22 A. That's correct, I do not know.

23 Q. But it says on the top "Murray's apartment"  
24 and then it gives his telephone number 309-828 --

1 A. Yes.

2 Q. -- 0178?

3 A. Yes.

4 Q. So we can agree that that's the number that  
5 was registered for Mr. Murray's apartment?

6 A. Yes.

7 Q. Turn to page 587. You might have to flip it.  
8 The handwriting in red that says "Larbi's in BLM," is  
9 that your handwriting?

10 A. Yes.

11 Q. What does that mean?

12 A. Bloomington. Larbi's -- mine's cut off at  
13 the top. Would you reread that, please?

14 Q. Sure. It says "Larbi's in BLM."

15 A. Okay. That meant it's Larbi's phone number  
16 in Bloomington.

17 Q. Of course, at the top we see 309-828-0718  
18 which we already established was Mr. Murray's  
19 apartment phone number?

20 A. Correct.

21 Q. There are several numbers circled in red,  
22 some in black, some lines highlighted. Did you do any  
23 of that on this page?

24 A. I'm sorry. I do not recall if I did.

1 Q. Turn to page 591. Is that your handwriting  
2 in the margin?

3 A. Yes.

4 Q. And at the bottom of the page?

5 A. Yes.

6 Q. Did you circle any of these numbers in red?

7 A. Possible, but I don't recall circling them.

8 Q. What about the next page? The note at the  
9 top says Larbi's in I think Byron?

10 A. Byron, Illinois.

11 Q. So this was the phone records related to  
12 Mr. Murray's Byron residence, right?

13 A. Yes.

14 Q. And that's your handwriting?

15 A. Correct, in the margin at the top, yes.

16 Q. In red?

17 A. Correct.

18 Q. And on the margin, that's your handwriting  
19 also in red?

20 A. Correct.

21 Q. And then there are several numbers circled in  
22 red?

23 A. Correct.

24 Q. Page 594, there's a green highlight about

1 three-fourths down the page. Did you highlight that  
2 number?

3 A. I don't recall.

4 Q. Turn to page 652.

5 A. 652?

6 Q. Yes.

7 A. Okay.

8 Q. Is this a document that you prepared?

9 A. It could be.

10 Q. Do you recognize it?

11 A. After all these years, no.

12 Q. Well, is there any reason it would be in your  
13 possession?

14 A. To review if -- well, it was in my possession  
15 apparently because you have a copy of it, so I would  
16 say probably to review.

17 Q. Let me ask you, did you ever make copies of  
18 the telephone records that were in your possession  
19 related to Mr. Murray?

20 A. It's possible.

21 Q. Did you make the copies in color?

22 A. No, we didn't have a color copier at that  
23 time.

24 Q. Why were you interested in Mr. Murray's

1 telephone records?

2 A. Well, help verify where he could have been.

3 Q. And why was that important?

4 A. Well, we had to have the opportunity to  
5 commit a crime.

6 Q. So he was a suspect in Ms. Lockmiller's  
7 murder, and you were trying to verify his alibi?

8 A. At that time, yes.

9 Q. Well, what did the phone records ultimately  
10 prove to you, if anything?

11 A. That he was in Normal on the day that the  
12 State's Attorney said that Jennifer was killed.

13 Q. Which was August 25?

14 A. As I recall, yes.

15 Q. Well, didn't Mr. Murray tell you himself that  
16 he was in town on the 25th?

17 A. He may have. I don't recall as I'm sitting  
18 here.

19 Q. Okay. Well, we already established that  
20 with --

21 A. Okay.

22 Q. -- the second interview, but we can look at  
23 it again if you like.

24 A. Okay.

1 Q. It's Exhibit Number 14, page SDT 1459.

2 A. I haven't found 14 yet.

3 Q. Okay.

4 A. Okay. What was that page number?

5 Q. 1459.

6 A. Okay.

7 Q. Take a look at that and see if it refreshes  
8 your memory about whether Mr. Murray told you that he  
9 was in town, town being Bloomington-Normal, on  
10 August 25, 1993?

11 A. Looking at the page about third down where  
12 he's answering Rob Hospelhorn's question, he states:  
13 "I left -- the last time I went home was on the 25th  
14 of August and then I came back on Tuesday,  
15 September 2."

16 Q. And then you asked him a question.

17 A. "Who was the last person you were with in  
18 Normal-Bloomington area on August the 25th?"

19 Q. And he says?

20 A. He says: "Debbie Mackoway."

21 Q. And then turn to the next page, and you ask  
22 him "okay. What time did you leave to go to  
23 Rockford?"

24 And he says: "About 4 o'clock."



1 hearing?

2 A. I do not recall if this was the hearing I  
3 testified.

4 Q. Well, you did testify at a hearing --

5 A. Yes.

6 Q. -- for the post-conviction --

7 A. Correct.

8 Q. -- relief, right?

9 So turn to the second page and then it  
10 reflects Tony Daniels is sworn in and then a direct  
11 examination, right?

12 A. Apparently I did.

13 Q. Okay. Turn to page MCC 12714 at the -- the  
14 last question and answer. The question is: "Had  
15 John Doe number one also given you any indication as  
16 to whether he had placed himself at Jennifer  
17 Lockmiller's apartment on the day of her death or the  
18 day before?"

19 As you sit here right now, Mr. Daniels, do  
20 you know who John Doe number one is?

21 A. Yes.

22 Q. Who's that?

23 A. John Murray.

24 Q. Okay. So then your answer was what? Can you

1 read that answer for me?

2 A. "Both he during the first interview, he  
3 placed himself there the 24th. Then on the second  
4 interview, he placed himself there the 25th, and I  
5 believe that was substantiated by Deb Mackoway."

6 Q. Okay. So that's how you testified at this  
7 hearing?

8 A. That's what I testified to, correct.

9 Q. Okay. And you already told me you don't  
10 recall what you did, if anything, with these telephone  
11 records of Mr. Murray's, right?

12 A. Other than what I already testified to,  
13 that's correct.

14 Q. Which is what?

15 A. Appeared that I was analyzing the dates and  
16 the times, trying to compare those to the dates and  
17 times where John Murray would have been.

18 Q. Did you provide these telephone records to  
19 any other officers working on the investigation?

20 A. Did they have access to them? I do not know.  
21 And I don't recall if I provided them or if copies  
22 were made.

23 Q. Did you provide these records to Lieutenant  
24 Zayas?

1 A. Again, I don't recall.

2 Q. Did you ever write a report stating that you  
3 had received these telephone records?

4 A. I don't recall if I did.

5 Q. You eventually received a subpoena for the  
6 telephone records; is that right?

7 A. I'm sorry. I don't recall if I did.

8 Q. All right. Take a look at Exhibit 15, which  
9 is the big, thick exhibit, and turn to page 680. Do  
10 you recognize this?

11 A. No.

12 Q. You've never seen it before?

13 A. I'm not saying that. I just don't recognize  
14 it.

15 Q. What does it appear to be?

16 A. Well, it's a -- appears to be a subpoena  
17 duces tecum. That's what it is, subpoena duces tecum.

18 Q. For what?

19 A. Documentation phone records for the residence  
20 of Larbi John Murray.

21 Q. And it's dated July 13, 2000 on the bottom  
22 right-hand?

23 A. Correct.

24 Q. Do you know why this was in your file?

1 A. No.

2 Q. Do you have any recollection of whether you  
3 responded to the subpoena on behalf of the Normal  
4 Police Department?

5 A. No, I do not.

6 Q. Do you recall meeting with Tony Matens  
7 relating to this subpoena?

8 A. To this particular subpoena?

9 Q. Yes.

10 A. No, I don't.

11 Q. Do you recall meeting with Mr. Matens at the  
12 Normal Police Department to discuss and go over the  
13 records, the phone records related to John Murray?

14 A. No, I don't.

15 (Whereupon, Daniels Deposition  
16 Exhibit No. 17 was marked.)

17 BY MS. BARTON:

18 Q. All right. Mr. Daniels, the court reporter  
19 handed you what she marked as Exhibit Number 17. This  
20 is a memo from Tony Matens to Juliet and Jeff dated  
21 July 18, 2000, and it states: "These telephone  
22 records are copies of copies. Lieutenant Daniels did  
23 not know where the original records are currently  
24 located. The records appear to be incomplete;

1           however, they are very interesting. I assume you will  
2           supply a copy of the records to Jenner & Block's  
3           office."

4                       And then take a look at the records that are  
5           attached to this memorandum.

6           A.    Both handwritten and typed?

7           Q.    Yes.

8           A.    Okay.

9           Q.    Did you provide these records to Tony Matens?

10          A.    The cover letter indicates that, yes.

11          Q.    Do you recall whether you did that or not?

12          A.    No.

13          Q.    Any reason to believe that you didn't provide  
14          records to Mr. Matens in response to a subpoena?

15          A.    Well, if it's in response to a subpoena, I  
16          definitely would have honored that subpoena.

17          Q.    Do you recall ever receiving a subpoena from  
18          Mr. Matens?

19          A.    No, I don't recall.

20                       MR. BOWMAN:  When you say -- I don't -- never  
21          mind.

22                       Is that question intended in his capacity as  
23          an officer of the Normal Police Department?  Is that  
24          what you're asking?

1 MS. BARTON: Well, at any time.

2 MR. BOWMAN: You, the Normal Police  
3 Department, or you, Daniels, Normal Police Department  
4 officer?

5 MS. BARTON: So you're objecting to the form  
6 of the question?

7 MR. BOWMAN: Yeah, it's vague and ambiguous.

8 BY MS. BARTON:

9 Q. Did you personally ever receive a subpoena  
10 from Mr. Matens where he handed it to you?

11 A. I don't recall.

12 MR. BOWMAN: Same objection.

13 BY MS. BARTON:

14 Q. Did you meet with Mr. Matens and Detective  
15 Hospelhorn at the Normal Police Department to go over  
16 these records, the telephone records, related to  
17 John Murray?

18 MR. BOWMAN: Same objection. What records?

19 THE WITNESS: I don't recall.

20 BY MS. BARTON:

21 Q. Do you recall having conversations with  
22 Mr. Matens about the telephone records related to  
23 John Murray?

24 A. No, I do not.

1 Q. Have you told me everything that you recall  
2 doing with the telephone records?

3 MR. BOWMAN: Objection; vague, overbroad,  
4 can't possibly be answered in that form.

5 THE WITNESS: Would you restate -- repeat  
6 your question?

7 BY MS. BARTON:

8 Q. Sure. The -- you already told me, right,  
9 that you at some point in time, but you don't know who  
10 from or when, you received telephone records related  
11 to John Murray?

12 A. That's correct.

13 Q. Have you told me everything that you did with  
14 those records?

15 A. As I recall --

16 MR. BOWMAN: Same objection as to vague,  
17 overbroad, confusing.

18 THE WITNESS: As I recall, I have told you  
19 everything that I recall concerning the phone records.

20 BY MS. BARTON:

21 Q. Who made the decision to administer a  
22 polygraph test on John Murray?

23 A. I do not know who made the decision. I made  
24 the request.

1 Q. To who did you make -- to whom did you make  
2 the request?

3 A. Well, would have been Terry McCann from the  
4 Illinois State Police Crime Lab in Morton, Illinois.

5 Q. How did you make that request?

6 A. Well, I would've -- I could've -- I could  
7 have done one of two things; called him personally, or  
8 ask Dave Warner, who was our evidence tech, to make  
9 the appointment. I don't recall the exact method in  
10 which I requested it.

11 Q. Why did you want John Murray -- strike that.  
12 Why did you want Mr. McCann to administer a  
13 polygraph examination of Mr. Murray?

14 A. Terry McCann was the operator. The reason  
15 why I requested one on John Murray as an investigative  
16 tool.

17 Q. For what purpose?

18 A. Investigative tool, to see if we could verify  
19 his information or if he was being deceptive.

20 Q. Were you trying to determine whether  
21 Mr. Murray was involved in Ms. Lockmiller's homicide?

22 A. That could have been obtained later after  
23 results of the polygraph.

24 Q. Take a look at Exhibit 16, please, and look

1 at page -- I'm sorry, MCC 12719. Read the question  
2 and answer to yourself at the top of the page and let  
3 me know when you're finished.

4 A. Do you want the whole page read?

5 Q. No, just that first question --

6 A. Okay.

7 Q. -- and answer at the top.

8 A. Uh-huh.

9 Q. Does that refresh your memory about why you  
10 were interested in submitting John Murray to a  
11 polygraph examination?

12 A. According to my testimony, yes.

13 Q. And why was that?

14 A. For the investigation.

15 Q. And specifically you testified that we were  
16 interested in his involvement, John Doe's involvement,  
17 in the case?

18 A. Yes.

19 Q. It says: "A normal set of questions would be  
20 to the -- to the examinee whether or not he had any  
21 involvement or if he knew who had involvement"?

22 A. Correct.

23 Q. When was the decision made to submit  
24 Mr. Murray to a polygraph?

1 A. I don't recall the date it was requested.

2 Q. Was it sometime around the time you  
3 interviewed him?

4 A. That's -- when I interviewed him, that's when  
5 I asked him to take a polygraph or if he would take a  
6 polygraph.

7 Q. And he agreed?

8 A. Yes.

9 Q. And you already told me during your first  
10 deposition that you actually took Mr. Murray to Morton  
11 Crime Lab for the polygraph examination, right?

12 A. That's correct.

13 Q. How did that get set up?

14 A. You mean the date and the time and who was to  
15 escort him there and back?

16 Q. Correct.

17 A. I don't recall how that was set up.

18 Q. Was it just you and Mr. Murray in the car  
19 when you drove to Morton?

20 A. As I recall, yes.

21 Q. Did you pick him up at his residence?

22 A. I don't recall.

23 Q. Do you recall any conversation that you had  
24 with Mr. Murray on the way to the crime lab?

1 A. No.

2 Q. Did you talk to him on the way to the crime  
3 lab?

4 A. I don't recall if I did.

5 Q. Did you tell anyone at all that you were  
6 taking Mr. Murray to Morton Crime Lab for a polygraph?

7 A. That's a possibility.

8 Q. Do you remember?

9 A. I don't recall if I told anyone and if whom I  
10 did who I would've informed them of.

11 Q. Did you talk to Mr. McCann when you got  
12 there?

13 A. Yes.

14 Q. What did you talk about?

15 A. The case at hand.

16 Q. Can you elaborate on that?

17 A. Date and time and relationship Jennifer to  
18 Larbi, and what Mr. Larbi had told us subsequent to  
19 his interviews.

20 Q. What Mr. Murray had told you subsequent to  
21 his interviews. What do you mean?

22 A. Maybe that was the wrong word. As a result  
23 of his two interviews, what he had related to us.

24 Q. So are you saying there was another

1 conversation or interview of Mr. Murray after those  
2 first two interviews?

3 A. Well, he -- according to your questioning and  
4 I think my answer, he could have brought those phone  
5 records to our station personally himself, and I  
6 could've had a conversation with him. If that be the  
7 case, I don't recall.

8 Q. Are you saying that you told Mr. McCann about  
9 Mr. Murray's telephone records?

10 A. No, I'm not saying that because I don't  
11 recall.

12 Q. Did you tell Mr. McCann what questions to ask  
13 Mr. Murray during the examination?

14 A. No. Mr. McCann's a very professional and  
15 experienced examiner. He would have standard  
16 questions. Basically I suggest we want to know  
17 whether or not Mr. Murray was involved or had any  
18 knowledge of the murder and as to who -- who would've  
19 committed it.

20 Q. Had you worked with Mr. McCann before on  
21 investigations?

22 A. Yes.

23 Q. Any reason you chose Mr. McCann?

24 A. Taxpayer.

1 Q. What does that mean?

2 A. The taxes that we pay in the state of  
3 Illinois goes for his salary.

4 Q. Okay. So why --

5 A. Well, if we would have hired an independent,  
6 that would have cost the taxpayers more money.

7 Q. Okay. So you're saying you chose Mr. McCann  
8 because he's hired by the State of Illinois, and so  
9 the taxpayers wouldn't have to pay any more money?

10 A. Yeah, along with the fact that's a normal  
11 procedure for Normal Police Department.

12 Q. Okay. So it's normal for you as an  
13 investigator on behalf of the Normal Police Department  
14 to contact a polygraph examiner from the Illinois  
15 State Police to conduct --

16 A. Correct.

17 Q. -- an examination during your investigation?

18 MR. BOWMAN: Why don't we take a little break  
19 at this point.

20 MS. BARTON: Okay.

21 THE VIDEOGRAPHER: Off the record, 12:30.

22 (Whereupon, a break was taken.)

23 THE VIDEOGRAPHER: Back on the record 1333.

24

1 BY MS. BARTON:

2 Q. Mr. Daniels, before we took the break, we  
3 were discussing your conversations with Terry McCann,  
4 the polygraph examiner, about John Murray, okay, just  
5 to kind of bring you back to where we were.

6 At the point in time that you met with  
7 Mr. McCann, when you brought Mr. Murray to the Morton  
8 Crime Lab, did you know whether any other person had  
9 been administered a polygraph test in the Lockmiller  
10 investigation?

11 A. At that time, I don't really recall.

12 Q. Did you know when you met with Mr. McCann  
13 that he had already administered the polygraph of  
14 Stacey Gates?

15 A. No, I didn't.

16 Q. You didn't know that at the time?

17 A. No.

18 Q. You were not actually in the room when  
19 Mr. McCann administered the polygraph examination to  
20 Mr. Murray, right?

21 A. That's correct, I was not.

22 Q. Were you in the room during the pretest  
23 interview?

24 A. No.

1 Q. Were you in the room at any time or were  
2 you -- strike that.

3 Were you present at any time when Mr. McCann  
4 was asking Mr. Murray questions?

5 A. No.

6 Q. How long were you at the Morton Crime Lab for  
7 Mr. Murray's polygraph examination?

8 A. An estimate would be probably in the  
9 neighborhood of an hour, 45 minutes.

10 Q. Did you wait at the crime lab --

11 A. Yes.

12 Q. -- until it was completed?

13 Did you speak with Mr. McCann when the  
14 examination was over?

15 A. First of all, there was no exam; but I did  
16 speak to him after -- afterwards.

17 Q. What do you mean there was no exam?

18 A. Mr. McCann explained to me that Mr. Murray  
19 was not being cooperative in his questioning.

20 Q. And, therefore, Mr. McCann couldn't actually  
21 complete the test on Mr. Murray?

22 A. He couldn't start the test.

23 Q. So Mr. McCann told you he never even started  
24 the test?

1 A. Correct.

2 Q. Did he tell you whether he asked  
3 Mr. Murray any questions or how he got to that point?

4 A. Well, there's a preliminary question they use  
5 to establish a baseline, I believe. And what  
6 Mr. McCann explained to me is that Mr. Murray could  
7 not sit still. He would move his legs back and forth;  
8 and, therefore, the exam was not administered.

9 Q. Did Mr. McCann tell you that Mr. Murray -- or  
10 in his opinion, Mr. Murray was manipulating the test  
11 or attempting to manipulate the test?

12 A. I don't know if that's the words he used. He  
13 just indicated to me that he would not set still.

14 Q. Did he tell you that Mr. Murray wasn't being  
15 cooperative?

16 A. Well, not being cooperative was an  
17 explanation of him moving his legs back and forth. He  
18 wouldn't cooperate in the fact that he wouldn't set  
19 still. He didn't set still.

20 Q. Did Mr. McCann tell you that he informed  
21 Mr. Murray to sit still, and he instructed him to do  
22 that, and Mr. Murray failed to do that?

23 A. If he -- if Mr. McCann did, then I don't  
24 recall.

1 (Whereupon, Daniels Deposition  
2 Exhibit No. 18 was marked.)

3 BY MS. BARTON:

4 Q. Do you recall giving an interview to a TV  
5 reporter by the name of Mark Goldman?

6 A. Yes.

7 Q. Exhibit Number 18 is -- are documents that  
8 were contained in the blue folder that you had labeled  
9 Channel 31 Interview, okay? Turn to page SDT 1001.

10 A. Okay.

11 Q. Where did you obtain this document?

12 A. I just got it from you.

13 Q. Okay. Well, I got it from you from your  
14 files.

15 A. Okay.

16 Q. I just informed you that it came from the  
17 folder that was marked Channel 31 Interview. So it  
18 was in your possession, would you agree with that?

19 A. Yes, I would say that it came from the  
20 newscaster.

21 Q. From Mark Goldman?

22 A. Him or their office, yes.

23 Q. On that first page, 1001, of the interview  
24 transcript, towards the bottom of the page, there's a

C06948

1 bigger paragraph, where it starts: "Well, the  
2 girlfriend"? Do you see that paragraph on the --

3 A. Yes.

4 Q. -- first page?

5 The last sentence in the paragraph reads:  
6 "We did offer him a polygraph examination, and he did  
7 take a polygraph."

8 And then Mr. Goldman asks you: "What was the  
9 result to your knowledge?"

10 And you said: "Inconclusive."

11 Where did you learn that Mr. Murray's  
12 polygraph was inconclusive?

13 A. Well, that may have been my term that I used  
14 solely and not Mr. McCann's.

15 Q. Do you know whether Mr. McCann told you that  
16 Mr. Murray's test was inconclusive?

17 A. I don't know for sure.

18 Q. And then on the next page, Mr. Goldman asks  
19 you: "Any theory as to why?"

20 And you responded: "Yes. As told to me by  
21 the polygraph operator, he had a problem with his  
22 posture. He was manipulating the polygraph."

23 That word manipulating, is that something  
24 Mr. McCann told you that Mr. Murray was manipulating

1 the test?

2 A. I'm not sure.

3 Q. Was that your interpretation of Mr. McCann's  
4 attempt to polygraph Mr. Murray?

5 A. Again, I'm not sure. Could have been. Could  
6 have been Mr. McCann's.

7 Q. Is it your opinion that he was manipulating  
8 the test?

9 A. My opinion? Knowing John Murray through his  
10 interviews and the information we got from his  
11 associates, I would have to say yes in my opinion.

12 Q. And what is that based on? What's your  
13 opinion based on?

14 A. Well, Mr. Murray was -- been known to use  
15 drugs. He could've been under the influence. He  
16 could've done some research how to manipulate or how  
17 to get around polygraph testing, or he could have been  
18 nervous for obvious reasons that he had some knowledge  
19 with the murder, or he could have been involved  
20 directly or indirectly.

21 Q. And you're using the words could have  
22 researched --

23 A. Could have.

24 Q. Could have been nervous, could have been on

1 drugs. You don't know either way?

2 A. That's correct.

3 Q. You can put that to the side.

4 (Whereupon, Daniels Deposition  
5 Exhibit No. 19 was marked.)

6 BY MS. BARTON:

7 Q. The court reporter has handed you Exhibit  
8 Number 19. I'd ask you to flip to the second page of  
9 the exhibit and review to yourself pages 2, 3, and 4  
10 of the exhibit.

11 Have you had a chance to review it?

12 A. Yes, uh-huh.

13 Q. Have you ever seen it before?

14 A. No, I have not.

15 Q. Do you have any knowledge as to who prepared  
16 this affidavit?

17 A. No, I do not.

18 Q. So if you haven't seen it before, is it safe  
19 to assume that you have never signed this affidavit?

20 A. Well, I wouldn't assume that. It's possible  
21 that my recollection of seeing this, my recollection  
22 of making these statements could be very foggy; but I  
23 certainly would have recognized my signature if I saw  
24 it. I don't see my signature on here.

1 Q. Do you recall having any discussions with  
2 Mr. Beaman's attorney, Juliet Yackel, regarding  
3 signing an affidavit?

4 A. Yes. She's from the Center of Wrongful  
5 Convictions. I do remember having one, if not two,  
6 conversations with her.

7 Q. And what do you recall about those  
8 conversations?

9 A. Regards to the case. I think early on in the  
10 center taking over the case, they were interested in  
11 basic -- my opinions and what I thought about other  
12 suspects.

13 Q. And specifically Mr. Murray?

14 A. Correct.

15 Q. Did Ms. Yackel ask you to sign an affidavit  
16 that she prepared?

17 A. She could have, yes.

18 Q. Do you recall?

19 A. I don't recall signing anything, like I don't  
20 recall her asking me to participate in one.

21 Q. All right. Turn to the last page of this  
22 exhibit.

23 A. Sure.

24 Q. And specifically paragraph 8. It says: "I'm

C06952

1 aware that there was an attempt to give John Doe a  
2 polygraph test."

3 The John Doe, do you have any knowledge of  
4 whether that's Mr. Murray?

5 A. Are you asking me is that Mr. Murray?

6 Q. Yes.

7 A. Yes, that is referred to as Mr. Murray.

8 Q. And it says: "The polygraph operator told me  
9 the test could not be completed because John Doe had a  
10 problem with his posture, that he was manipulating the  
11 polygraph, and that he could not follow instructions."

12 Is that a true statement?

13 A. That statement -- again, if my recollection  
14 of me signing this statement and my signature  
15 appeals -- appears on it, that's what I probably did  
16 say.

17 Q. Well, did Mr. McCann tell you that Mr. Murray  
18 had a problem with his posture, that he was  
19 manipulating the polygraph, and that he would not  
20 follow instructions?

21 A. Number one, Mr. McCann did say he had a  
22 problem with his posture. Number two, he did say he  
23 couldn't follow instructions. As far as manipulating,  
24 once again, that could have been my wording or could

1 have been Mr. McCann's wording.

2 Q. Okay.

3 (Whereupon, Daniels Deposition  
4 Exhibit No. 20 was marked.)

5 BY MS. BARTON:

6 Q. All right. Mr. Daniels, the court reporter  
7 handed you Exhibit Number 20. This is something that  
8 I found in the materials that you provided to me in  
9 response to the subpoena that I sent to you.

10 So I'm going to ask you whether you have ever  
11 seen this document?

12 A. I can't recall if I've ever seen this  
13 document.

14 Q. Is your handwriting on this document?

15 A. That handwriting appears to be my  
16 handwriting.

17 Q. And specifically page 3, paragraph K, did you  
18 circle the portion that says "He was manipulating the  
19 test"?

20 A. Can't be sure, but I wrote something in the  
21 margin. Perhaps that's what that was referring to.

22 Q. What does the note in the margin say?

23 A. "Not following the instructions as given by  
24 the examiner."

1 Q. Does that mean that Mr. Murray wasn't  
2 following the instructions as given by Terry McCann?

3 A. That's possible, yes.

4 Q. Do you know who prepared this affidavit?

5 A. No, I do not.

6 Q. You can put that to the side.

7 Did you ask Mr. Murray to take a second  
8 polygraph examination?

9 A. Yes, I opened -- I left that option open to  
10 him.

11 Q. When did you ask him to sit for another  
12 examination?

13 A. While en route from Morton, Illinois back to  
14 Normal, the day that he attempted to take the first  
15 one.

16 Q. So you had a conversation with Mr. Murray on  
17 the way back to the Bloomington-Normal area from  
18 Morton, right?

19 A. Correct.

20 Q. And during the conversation, you said what?

21 A. Basically that I offered him a second  
22 polygraph if he would be willing to take one. Maybe  
23 perhaps a female operator would be a little more  
24 gentle with him, trying to let him feel at ease in

1 responding to a different operator with the thought in  
2 mind that the male operator is a little more  
3 stringent, tougher, more strict.

4 Q. What led you to believe that Mr. McCann  
5 stringent or strict with Mr. Murray?

6 A. There's nothing to indicate that. That was  
7 just a ploy I used to try to solicit another polygraph  
8 from Mr. Murray.

9 Q. Did Mr. Murray indicate that he was not at  
10 ease with Mr. McCann?

11 A. I don't recall if he said that or not.

12 Q. What did he say when you asked him whether he  
13 wanted to take another polygraph with the female  
14 operator?

15 A. He was in agreement to that.

16 Q. He agreed?

17 A. Yes.

18 Q. Did you set it up with him at that time on  
19 the --

20 A. At that --

21 Q. -- ride home?

22 A. At that time, no, because I had to check with  
23 the lieutenant or the chief to see if it would be all  
24 right to use an outside examiner.

C06956

1 Q. So an examiner that wasn't employed by the  
2 State?

3 A. Other one different from Terry McCann.

4 Q. So what do you mean by an outside examiner?

5 A. One that would be employed by the State.

6 MR. DiCIANNI: I'm sorry. Would or wouldn't?

7 MS. BARTON: Would or wouldn't?

8 THE WITNESS: Would not be --

9 MR. DiCIANNI: Would not.

10 THE WITNESS: -- employed.

11 BY MS. BARTON:

12 Q. And you didn't have to seek permission from  
13 Lieutenant Zayas to take Mr. Murray to McCann because  
14 he was an employee of the State, right?

15 A. I don't recall if I got his verbal expression  
16 or verbal permission. Normally that's where we would  
17 take our people to be examined is over there.

18 Q. Well, normally, did you have to seek approval  
19 from your supervisor to take somebody to a polygraph  
20 examination?

21 A. Not necessarily, Lieutenant, may I; but,  
22 Lieutenant, I'm going to schedule him for a polygraph.  
23 Something of that nature. Perhaps a suggestion and  
24 looking for a reply of either no or yeah, go ahead.

1 Q. Did you do that in this case?

2 A. I don't recall what my exchange was even if I  
3 had one with Lieutenant Zayas as far as getting him to  
4 take a polygraph, taking him over there.

5 Q. And what did you do to follow through with  
6 your suggestion that Mr. Murray take another polygraph  
7 examination with a female operator?

8 A. My understanding was John Murray was to check  
9 his schedule and call me back in a day or two to set  
10 it up if he was available and what day it would be.

11 Q. Did he ever do that?

12 A. I don't recall him ever calling me back with  
13 a yes or no or maybe.

14 Q. Did you ever call him to follow up on that?

15 A. That possibility exists, but I don't recall.

16 Q. Did you ever try to contact John Murray  
17 again?

18 A. I can't give you a definite answer. That  
19 possibility does exist; otherwise, I wouldn't have  
20 went to those extremes in the first place to have him  
21 examined.

22 Q. What do you mean extremes?

23 A. A second attempt.

24 Q. Well, what extremes did you go to?

C06958

1           A.    Well, I was waiting for Mr. Murray to give me  
2 a date that he was available before I called an  
3 examiner -- another examiner, and that did not come  
4 about. He could have called me and said I don't want  
5 to take one. I could have called him, and he could've  
6 said I don't want to take one. I don't recall.

7           Q.    Did you discuss Mr. McCann's verbal -- strike  
8 that.

9                    Did you discuss the conversation you had with  
10 Mr. McCann with anybody else once you returned back to  
11 the department?

12           A.    I would believe, not certain, but I would  
13 believe I would have. A case of that magnitude and  
14 that had to be somebody in that department knew that I  
15 was taking him over for a polygraph.

16           Q.    Well, when you came back, did you tell  
17 anybody --

18           A.    Oh, I'm certain I did, but I can't tell you  
19 whom I talked with or what date or what time or what  
20 was that said. Something, like I said, of that  
21 importance would have been discussed, I'm sure, with  
22 Lieutenant Zayas, if not, maybe someone upstairs.

23           Q.    What does upstairs mean?

24           A.    Chief or assistant.

1 Q. Are you guessing that you did that?

2 A. Am I guessing what?

3 Q. That you had a conversation with somebody  
4 about --

5 A. No, I'm not guessing. I'm saying that  
6 possibility does exist.

7 Q. What does --

8 A. Meaning I'm not sure.

9 Q. So you're guessing?

10 A. It could have.

11 No, I'm not guessing. I'm saying that  
12 possibility does exist.

13 Q. But you don't recall?

14 A. That's correct.

15 Q. Do you know if anybody asked Mr. Murray to  
16 take another polygraph examination at any time related  
17 to the Lockmiller homicide investigation?

18 A. I don't have any knowledge of that.

19 Q. Take a look at page 16 -- I mean, Exhibit 16.  
20 Excuse me. Turn to page that's marked MCC 12709. And  
21 beginning at line 21, read that to yourself and go on  
22 to the next page until -- well, line 15.

23 MR. DiCIANNI: I'm sorry. What page?

24 MR. BOWMAN: To line 15?

006960

1 MS. BARTON: Pardon?

2 MR. BOWMAN: To line 15?

3 MS. BARTON: On the next page, yes.

4 THE WITNESS: Okay.

5 BY MS. BARTON:

6 Q. Did you read on page 127 as well?

7 A. Down to 15.

8 Q. You did?

9 A. Correct.

10 Q. Okay. So does that refresh your memory about  
11 whether Mr. Murray was ever asked to take another  
12 polygraph examination?

13 A. Other than by me?

14 Q. Yes.

15 A. Yes.

16 Q. And what do you now remember about that?

17 A. Other than what it says in this statement,  
18 that's as far as my memory serves me on that question.

19 Q. And it says in your testimony that on page  
20 12710: "He was in agreement to that and then later  
21 on, I've also learned that Detective Freesmeyer had  
22 asked him to take a polygraph and he declined that."

23 Right?

24 A. That's what it says, yes.

C06961

1 Q. How did you learn that Detective Freesmeyer  
2 had asked Mr. Murray to take a polygraph?

3 A. I don't recall.

4 Q. How do you know that Mr. Murray declined to  
5 take a polygraph?

6 A. I don't recall how I learned that.

7 (Whereupon, Daniels Deposition  
8 Exhibit No. 21 was marked.)

9 BY MS. BARTON:

10 Q. Can you flip to the third page or fourth  
11 page, excuse me, of Exhibit 21. It's SDT 1399.

12 A. Okay.

13 Q. Are these -- is this a document that you  
14 prepared?

15 A. Yes, I believe so.

16 Q. And under fact number one, the second  
17 paragraph states: Larbi was offered a second exam,  
18 however, no exam was set up for him. He was no --  
19 which I think should have been known -- to have stated  
20 to people that he had passed the polygraph.

21 Do you know how you learned that information?

22 A. No, I do not.

23 Q. Where did you hear that Mr. Murray told  
24 people he passed the polygraph?

1 A. I don't recall.

2 Q. Looking at the second page of Exhibit 21, it  
3 appears to be Mr. McCann's report of the attempt on  
4 page 2 of the exhibit.

5 When's the first time that you saw this  
6 report?

7 A. I don't remember when I first saw this  
8 report.

9 Q. Did you receive this report from Mr. McCann?

10 A. I don't remember receiving this report. I  
11 don't remember when I seen this report.

12 Q. Well, how did this particular report come  
13 into your possession?

14 A. This report?

15 Q. Yes.

16 A. After the fact of -- well, I don't want to  
17 assume. It's possible when this document came into  
18 existence, either shortly after that date, 5 October,  
19 or sometime during one of his appeals, that's when  
20 this came into my knowledge.

21 Q. During the time of your work on the  
22 Lockmiller homicide investigation, did you know  
23 whether Mr. McCann had prepared a report related to  
24 his attempted examination of Mr. Murray?

1 A. For a fact, no, I do not.

2 Q. You didn't know that at the time?

3 A. Correct.

4 Q. Did you discuss with any of the other  
5 investigators the results of the attempted polygraph  
6 on Mr. Murray?

7 A. Oh, I'm sure I did; but, again, that would be  
8 a guess or an assumption on my part.

9 Q. How did you come into possession of the  
10 report?

11 A. I don't recall how I got it. Most of these  
12 reports that come from the lab usually go directly to  
13 Dave Warner at the time because he was our evidence  
14 technician. He was in charge of the evidence, and it  
15 would have been addressed to him.

16 Q. Well, it was addressed to him, right?

17 A. Correct.

18 Q. But you don't know whether he ever received  
19 it, right?

20 A. I do not know, that's correct. I do not  
21 know.

22 Q. Regardless of when you actually received this  
23 report, how did you get it?

24 A. I don't know.

1 Q. Did you request it from Mr. McCann even if it  
2 was after Mr. Beaman's conviction?

3 A. I do not know.

4 Q. You have no idea how this ended up in your  
5 file?

6 A. Once again, I do not know.

7 Q. Did Mr. Matens ever provide you with a copy  
8 of this report?

9 A. The polygraph --

10 Q. Yes.

11 A. -- letter? I don't recall if he did.

12 Q. Can you look at page 3 of Exhibit 21. It's  
13 labeled 1398 on the corner. Is this a document that  
14 you prepared?

15 A. Oh. Yes, appears to be, yes. Uh-huh.

16 Q. Where did you get the information contained  
17 in paragraph 1?

18 A. I don't know. Unable to give you an answer  
19 to that other than the fact that I do not know.

20 Q. Do you recall when you prepared this  
21 document?

22 A. No, I do not know. Do not recall.

23 Q. Can you find Exhibit Number 10 in your stack.  
24 Turn to the page marked SDT 99. It's two sided, so...

C06965

1 A. Okay.

2 Q. Is this your handwriting on the page?

3 A. Yes, it is.

4 Q. Can you read the second paragraph out loud,  
5 please?

6 A. Beginning with "When Larbi"?

7 Q. Yes, please.

8 A. When Larbi was asked by ISP Terry McCann --  
9 or by Terry McCann ISP polygraph examiner if he had  
10 any knowledge as to who strangled Jennifer, Larbi  
11 denied having any knowledge. This is contrary to what  
12 he told us September the 2nd interview.

13 Q. Where did you learn that information?

14 A. About being contrary?

15 Q. Where did you learn that Mr. Murray denied  
16 having any knowledge when he was asked by Mr. McCann  
17 whether he had any knowledge about who strangled  
18 Jennifer?

19 A. Well, it had to come from two people, either  
20 Terry McCann or Larbi himself.

21 Q. Is that what Mr. McCann told you on the date  
22 that you took Mr. Murray to Morton Crime Lab?

23 A. That's a possibility.

24 Q. But you don't know?

1 A. Correct.

2 Q. And you don't know if Mr. Murray told you  
3 this either, right?

4 A. That he denied having any knowledge or that  
5 he told Terry McCann he denied having any knowledge?

6 Q. That he told Terry McCann.

7 A. Correct, I do not know.

8 Q. Did you ever prepare a report about taking  
9 Mr. Murray to the Morton Crime Lab for a polygraph  
10 examination?

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

12 Q. Did you document in any way the conversation  
13 that you had with Mr. Murray on the trip either to or  
14 from Morton?

15 A. That's a possibility.

16 Q. What did you do with that documentation?

17 A. If I documented it, it should have been in my  
18 file.

19 Q. What file?

20 A. If it was documented.

21 The basic investigation file, which everyone  
22 would've had a copy and it should've been in records,  
23 if that did exist and if I, in fact, did prepare a  
24 copy.

1 Q. Did you make a report of the conversation?

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

3 Q. Well, what if I told you that I have never  
4 seen a report that indicates you took Mr. Murray over  
5 to Morton Crime Lab?

6 A. Viewing the other reports that I made  
7 centered around before and after his visit to the  
8 crime lab, one would have to draw the conclusion that  
9 I had taken him over there.

10 Q. What makes you say that?

11 A. Why? Well, we just went through his  
12 polygraph, and we went through questioning regarding  
13 what did Mr. Terry McCann say to me about the  
14 polygraph. Did he interview -- or was I allowed in  
15 the interview room before, during, and after? My  
16 answer to those questions were no.

17 Q. I don't understand what you're saying.

18 A. Okay. Restate your question then.

19 Q. I'm telling you that I've never seen a report  
20 that you wrote that says you took Mr. Murray to Morton  
21 Crime Lab to be subjected to a polygraph examination  
22 by Terry McCann. Why is that?

23 MR. BOWMAN: Object to the form of the  
24 question. It's argumentative.

1 THE WITNESS: Why you did not see a report?

2 BY MS. BARTON:

3 Q. Is it because you didn't prepare one?

4 A. That's a possibility.

5 Q. Why didn't you prepare a report about taking  
6 Mr. Murray to Morton Crime Lab to be subjected to a  
7 polygraph examination?

8 A. At that particular time, I saw no need in it.

9 Q. Well, why not?

10 A. That was my decision. There's a lot of  
11 things I do. There's a lot of things other  
12 investigators do in cases that they don't report. Not  
13 every little thought, action, or result of their  
14 actions is recorded. It's just the nature of the  
15 beast.

16 Q. Isn't that something you should have  
17 documented?

18 A. I don't see the need to since I documented in  
19 my other reports that he went over there and failed to  
20 take one.

21 Q. In what reports?

22 A. Doesn't it say on page 1391, Exhibit 21, that  
23 during the course of the examination, the subject  
24 denied strangling her, et cetera, et cetera.

1 Q. Well, when did you make that document?

2 A. Once again, I'm sorry, I don't have that  
3 document in my memory.

4 MR. BOWMAN: This is a quotation in -- the  
5 record should be clear. This is a quotation from the  
6 McCann report dated October 5, 1993 --

7 MS. BARTON: From a document --

8 MR. BOWMAN: -- which is also --

9 MR. DiCIANNI: Where?

10 MS. BARTON: He's reading from a document  
11 that he prepared that quotes the report written by  
12 Mr. McCann.

13 MR. BOWMAN: Right.

14 MS. BARTON: Okay.

15 BY MS. BARTON:

16 Q. Well, there's no police report with Normal  
17 Police Department letterhead. There's no case  
18 report --

19 A. Okay.

20 Q. -- reflecting that you took Mr. Murray to  
21 Morton Crime Lab to be subjected to a polygraph  
22 examination. Do you recall whether you actually wrote  
23 a report on that investigative activity?

24 A. No, I do not recall.

1 Q. And are you telling me that it was your  
2 decision not to document in a report the fact that you  
3 took Mr. Murray to a polygraph examination at Morton  
4 Crime Lab?

5 MR. BOWMAN: Objection, argumentative. It's  
6 an argumentative restatement of the question that's  
7 already been asked and answered.

8 THE WITNESS: That possibility exists I did  
9 not prepare a report indicating I had taken him over  
10 there and brought him back. That possibility does  
11 exist.

12 BY MS. BARTON:

13 Q. Why does that --

14 A. In other -- I do not recall.

15 Q. Did you think that the information you  
16 learned from Mr. McCann was pertinent to the  
17 Lockmiller homicide investigation?

18 A. Do I think it was pertinent that I taken him  
19 over there and he did not take a polygraph?

20 Q. The information you learned from Mr. McCann.

21 A. It's documented somewhere in there.

22 Q. I didn't ask you that. I asked you --

23 A. Well, my answer is it's documented somewhere  
24 in the case file. Exactly where, I do not know. If I

1 prepared one stating a date and a time and the results  
2 of me taking him over there, I do not know if that  
3 exists or not.

4 Q. I didn't ask you that.

5 A. Well, that's my answer.

6 Q. I asked you if you thought -- if you think  
7 that the information you learned from Mr. McCann was  
8 pertinent to the Lockmiller homicide investigation?  
9 That's the question I asked you, not whether you  
10 prepared a report, not whether that information is in  
11 a case file. I asked you whether it was pertinent to  
12 the investigation in your opinion as an investigator?

13 A. In my opinion, no.

14 Q. Why not?

15 A. Because.

16 Q. Because why?

17 A. It could not be used in court.

18 Q. So the information you learned from  
19 Mr. McCann about his lack of an ability to  
20 administer -- complete a test on Mr. Murray was not  
21 pertinent to the investigation in your opinion because  
22 you couldn't admit that in court?

23 A. The fact that anything come out of that  
24 polygraph could not be admitted in court.

1 Q. So that's why you determined that that  
2 information was not pertinent to the investigation?

3 A. Correct.

4 Q. Is that why you didn't document it?

5 A. Yes.

6 Q. Do you think you should have documented it?

7 A. As I sit here today, it probably been  
8 advisable to document that.

9 Q. And why is that?

10 A. Because you asked me why I didn't.

11 Q. So this is --

12 A. Apparently it must be important to you.

13 Q. So this is the first time that you're  
14 considering that maybe the information you received  
15 from Mr. McCann was pertinent to the investigation?

16 A. The information I got from Mr. McCann was  
17 documented in his report.

18 Q. But you didn't document that information?

19 A. That's correct, I didn't document it.

20 Q. And you didn't document the conversation you  
21 had with Mr. Murray either to or from the Morton Crime  
22 Lab, right?

23 A. Other than the fact that I asked him to take  
24 another polygraph.

1 Q. You documented that in a supplemental case  
2 report?

3 A. I don't know if it was a supplemental or not,  
4 but I know it's in -- somewhere in the case file.

5 Q. How do you know that?

6 A. Because I read it.

7 Q. What case file did you read? What are you  
8 referring to?

9 A. The Lockmiller case file.

10 Q. Well, where was that case file maintained?

11 A. Normal Police Department, State's Attorney's  
12 Office, Lieutenant Zayas's office, chief of police's  
13 office, detective room.

14 Q. Did you review each and every one of those  
15 files in Lieutenant Zayas's office --

16 A. No, I did not.

17 Q. -- the State's Attorney's Office files -- so  
18 what case file are you referring to when you say I  
19 know that it was in there?

20 A. What case file? Well, the evidence that you  
21 presented there, the exhibits in 21 --

22 Q. Well, that's from your file.

23 A. Also, I don't understand why I haven't  
24 answered your question.

1 Q. You referred to a case file and that you were  
2 certain that certain information about Mr. Murray's  
3 polygraph examination or lack thereof was contained in  
4 a case file. I'm trying to figure out what case file  
5 you're referring to.

6 A. A case file in general.

7 MR. BOWMAN: You know, I think it might be a  
8 good time to take a break. I mean, I'm not -- if you  
9 don't want to now, you want to keep going, that's  
10 okay. But, I mean, it's -- it's -- look, he says he  
11 believed he documented it in the report in the file.  
12 That's his answer.

13 MS. BARTON: He didn't say that.

14 MR. DiCIANNI: He didn't say that.

15 MR. BOWMAN: I thought he said it.

16 MS. BARTON: No, he didn't.

17 MR. BOWMAN: Well, we can go back and look.  
18 I don't want to put words into anybody's mouth, but  
19 that's what I heard him say.

20 MS. BARTON: Well, the transcript will speak  
21 for itself.

22 MR. BOWMAN: It will.

23 MS. BARTON: Do you need a break?

24 THE WITNESS: No, I don't need a break. If

1 he wants a break, that's fine.

2 MR. BOWMAN: Okay. I don't need -- you  
3 know --

4 MS. BARTON: No, I just --

5 MR. BOWMAN: I don't think there's --

6 MS. BARTON: I lost my train of thought  
7 because you interrupted.

8 MR. BOWMAN: -- any virtue in arguing with  
9 him about stuff.

10 MS. BARTON: Well, that's your opinion. I'm  
11 asking the questions. If you have an objection, you  
12 can state the objection for the record.

13 MR. BOWMAN: My objection is this whole line  
14 of questioning has gotten extremely argumentative and  
15 it's not productive.

16 MS. BARTON: Well, then state your objection.

17 MR. BOWMAN: I just did.

18 MS. BARTON: Okay. And now I lost my  
19 thought, so I need to think again.

20 BY MS. BARTON:

21 Q. I just want to be clear about what  
22 information you think was contained in a case file  
23 about Mr. Murray's polygraph examination that you took  
24 him to.

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

3 THE WITNESS: I can't answer that question.

4 MS. BARTON: Can you read back the last  
5 answer, if possible.

6 (Whereupon, the record was  
7 read as requested.)

8 BY MS. BARTON:

9 Q. That's the case file I'm referring to.

10 A. Is there another question?

11 Q. No, that's -- what's the case file?

12 MR. BOWMAN: I think that the read back --

13 THE WITNESS: The Lockmiller.

14 MR. BOWMAN: The read back reflects the  
15 correctness of my recollection of the state of the  
16 record.

17 BY MS. BARTON:

18 Q. Okay. Was it your file that you had at your  
19 desk that you're referring to as case files?

20 A. What I'm referring to the case file can be  
21 any number of that 12 or 13 copies that were made. It  
22 could have been any of those copies. It could have  
23 been in records even.

24 Q. But you don't know?

1 A. That's correct.

2 Q. Because you didn't review any of the other  
3 copies that were made, right?

4 A. Correct, if, in fact, there was a copy of  
5 that made.

6 Q. You only had your working copy of the file,  
7 right?

8 A. I only had access to my copy of the case  
9 file, yes.

10 Q. And you believe or at least is it your  
11 testimony that your conversation with Mr. Murray  
12 either on the way to Morton or on the way back is  
13 documented somewhere in that file?

14 A. I can't say that it is or it was for sure.  
15 What I am saying is if there is -- was documentation  
16 of that conversation to and from or with Mr. McCann,  
17 where it is located, I do not know.

18 Q. Was the conversation you had with Mr. Murray  
19 pertinent to the Lockmiller homicide investigation?

20 A. At that particular point in time, no.

21 Q. Why not?

22 A. Once again, results of a polygraph or even a  
23 fact that a witness or suspect had taken a polygraph  
24 is not admissible in court as well as the fact that it

1 was used as an investigative tool to further look into  
2 him being excluded or included.

3 Q. And don't you think that's something that's  
4 important to document?

5 A. No.

6 Q. Why not?

7 A. Because Mr. McCann had it in on file. Why  
8 should I duplicate?

9 Q. What about the conversation you had with  
10 Mr. Murray? Mr. McCann didn't have that  
11 conversation --

12 A. At that point in time --

13 Q. -- on the record?

14 A. -- I did not think it was important to  
15 document that.

16 Q. But you had a conversation with a suspect in  
17 an investigation?

18 A. Correct.

19 Q. And you didn't document that conversation?

20 A. That one particular question or two, I did  
21 not document that particular time with him in the car  
22 coming back from Morton Crime Lab.

23 MR. DiCIANNI: Could we take a break?

24 MS. BARTON: Yeah.

1 THE VIDEOGRAPHER: Off the record, 1424.

2 MR. BOWMAN: Could I have the last answer  
3 back, please.

4 (Whereupon, the record was  
5 read as requested.)

6 (Whereupon, a break was taken.)

7 THE VIDEOGRAPHER: This is the beginning of  
8 videotape number two. Back on the record, 1437.

9 BY MS. BARTON:

10 Q. Mr. Daniels, did you ever learn that a  
11 reporter by the name of Steve Arney conducted an  
12 interview of Mr. Murray?

13 A. An interview or had a conversation?

14 Q. Conversation.

15 A. Had a talk with him, yes.

16 Q. You talked with who?

17 A. No, he, Steve, had a talk with Larbi or  
18 John Murray. Is that what you're saying?

19 Q. So you knew that Steve Arney --

20 A. Yes.

21 Q. -- had talked to John Murray?

22 A. Yes.

23 Q. How did you learn that?

24 A. Steve informed me.

1 Q. Do you recall when Steve informed you of  
2 that?

3 A. No, I don't recall the exact date, no.

4 Q. What did you discuss with Mr. Arney about his  
5 conversation with Mr. Murray?

6 A. Well, Steve volunteered to tell me and openly  
7 told me that Murray's -- John Murray's class at  
8 school, IWU, had visited a psychic by the name of  
9 Greta Alexander and that -- to a subsequent visit by  
10 John Murray, John had taken a friend with him, but he  
11 wouldn't allow the friend to go in with John to talk  
12 to Greta on his own.

13 And I think basically that's about all I  
14 recall of that.

15 Q. That's all you recall about the conversation  
16 with Mr. Arney?

17 A. Yes.

18 (Whereupon, Daniels Deposition  
19 Exhibit No. 22 was marked.)

20 BY MS. BARTON:

21 Q. This is just a collection of various articles  
22 written by Steve Arney for the Pantagraph Newspaper.  
23 I want to focus on the first article.

24 MR. BOWMAN: Was this also marked in the

1 Arney deposition?

2 MS. BARTON: Yes, it was.

3 MR. BOWMAN: Do you have that number just out  
4 of curiosity?

5 MS. BARTON: I don't because this Arney  
6 exhibit was one large one.

7 MR. BOWMAN: No worries.

8 MS. BARTON: This is portions of it.

9 MR. BOWMAN: No worries.

10 BY MS. BARTON:

11 Q. The first article is written it looks like  
12 May 8, 1994. Can you just kind of scan this, and let  
13 me know if you've ever seen the article before. I  
14 know it's kind of hard to read. It's small print.

15 A. I can't say for sure that I've seen this  
16 article or bits or pieces of it. There certainly was  
17 a lot of coverage in the Pantagraph.

18 Q. Were you ever a source for Mr. Arney's  
19 articles related to the Lockmiller case?

20 A. Would you define the word source.

21 Q. Did you provide him with information?

22 A. As a Pantagraph reporter, he may have come in  
23 and asked for some information regarding the  
24 investigation. That's certainly possible. Whether or

1 not I accommodate him, that's possible too I did or  
2 did not.

3 Q. And you don't remember?

4 A. That's correct.

5 Q. Look at the first page of the exhibit. Four  
6 paragraphs from the bottom, if can count up. It says:  
7 "Police believe." Do you see that?

8 A. Yes, uh-huh.

9 Q. Okay. It says: "Police believe the killer  
10 did not force his way into the apartment. Her friends  
11 say Ms. Lockmiller kept her door locked at all times.  
12 It is assumed she knew the killer. Although the  
13 estimate time of death has not been made public,  
14 police traced her steps through Wednesday morning."

15 Did you provide Mr. Arney with that  
16 information?

17 A. I certainly don't recall.

18 Q. Okay. Turn to the second page of the  
19 article. About halfway down there's a paragraph that  
20 begins with "Another friend and initial suspect." Do  
21 you see that?

22 A. Yes.

23 Q. It says: "Another friend and initial  
24 suspect, IWU student John Murray, said he cleared his

1 name through a polygraph test and telephone records  
2 showing he was out of town. Then he searched for  
3 answers."

4 A. Your question is?

5 Q. I'm thinking.

6 A. Oh.

7 Q. Do you recall reading this article or the  
8 information contained in it during the investigation?

9 A. If this article appeared in the Pantagraph, I  
10 would have read it.

11 Q. Were you monitoring the newspapers for --

12 A. Oh, yes.

13 Q. Got to let me finish my question.

14 A. I'm sorry.

15 Q. Were you monitoring the local newspapers for  
16 any article related to Ms. Lockmiller or Mr. Beaman?

17 A. Yes.

18 Q. Did you ever call Steve Arney to tell him  
19 that, in fact, Mr. Murray had not passed the polygraph  
20 test?

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

22 (Whereupon, Daniels Deposition

23 Exhibit No. 23 was marked.)

24 MS. BARTON: You know what, we can talk about

1 this later. I don't need this now. It's the wrong  
2 one.

3 MR. BOWMAN: Are you striking this number  
4 or --

5 MS. BARTON: Yes, let's do that. I'll strike  
6 it. Sorry about that.

7 BY MS. BARTON:

8 Q. During your work on the Lockmiller  
9 investigation, did you run criminal background checks  
10 on anybody?

11 A. I don't know. It seems as though that was  
12 something that I would do during an investigation, and  
13 I had witness names or suspect names. That's the  
14 first thing that I would do or have someone do.

15 Q. That was your practice?

16 A. That would be a normal practice to see who  
17 you're dealing with and what kind of background.

18 Q. Did you do that for Mr. Murray?

19 A. Oh, I would imagine I did, if it wasn't  
20 already there as a direct result of John Belcher  
21 getting the information from DCI.

22 Q. What do you mean already there?

23 A. Well, John Belcher contacted DCI, and that's  
24 when John Murray came into the picture, you know,

1 having documentation that he was being investigated by  
2 DCI and working with DCI.

3 Q. And I think you told me earlier today that  
4 you don't recall whether you ever reviewed those  
5 police reports related to the investigation of  
6 Mr. Murray?

7 A. That's what I said earlier, yes.

8 Q. Okay. And you still don't recall, right?

9 A. Those reports that John Belcher got?

10 Q. Well, why don't you tell me what reports John  
11 Belcher did get from DCI?

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

13 Q. So at some point during your work on the  
14 investigation, you learned that Mr. Murray had been  
15 arrested in I think January of 1993 for possession of  
16 drugs?

17 A. I do not know if that's the date he was being  
18 investigated by DCI or not.

19 Q. So you learned that he was being investigated  
20 by DCI as a result of what? What did you learn?

21 A. Well, as a result of John Belcher getting the  
22 information from DCI, that is what I learned that he  
23 was -- had been not formally charged but -- arrested  
24 but not formally charged with drug dealing.

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1 Q. Was that information that was pertinent to  
2 the Lockmiller homicide investigation?

3 A. It was learned later on it was very valuable  
4 because it gave another suspect, if not acquaintance  
5 of Jennifer, who possibly could give us information.

6 Q. At the time you received that information,  
7 did you think it was pertinent to the investigation?

8 A. Well, sure. She was -- they were friends and  
9 they went out together, and they knew the same group  
10 of people.

11 Q. Did you document the conversation you had  
12 with Detective Belcher?

13 A. No, I did not.

14 Q. Why not?

15 A. There was no need because the documents were  
16 right there.

17 Q. What do you mean the documents were right  
18 where?

19 A. Apparently John Belcher had a copy of the  
20 documents. That's where he got the information from.  
21 If not, maybe he went over there and read their file.  
22 I do not know. I do not recall.

23 Q. Did he give you a set of documents?

24 A. I don't recall if he did.

1 Q. So what documents are you referring to?

2 A. The documents of the case file that DCI had  
3 on John Murray.

4 Q. Do you know if Mr. Belcher ever came in  
5 possession of those documents?

6 A. Physically, no.

7 Q. Did he ever show them to you?

8 A. Well, if he was in possession of them, I  
9 would imagine I would have read them or he would  
10 inform me of them. Somehow the information came to my  
11 attention either in the form of a verbal report by  
12 John Belcher or information that was printed such as a  
13 case file.

14 Q. Did you tell Detective Belcher that he should  
15 document the information he received from DCI  
16 regarding Mr. Murray?

17 A. If I did, I don't recall.

18 MR. BOWMAN: I'm so sorry. I need that  
19 question back.

20 (Whereupon, the record was  
21 read as requested.)

22 BY MS. BARTON:

23 Q. If Detective Belcher did give you reports  
24 that he obtained from DCI, what would you have done

1 with them?

2 A. Well, that report, if he had gotten it from  
3 the DCI, would belong to DCI; therefore, for me to  
4 maintain it or keep it in my file would be totally  
5 inappropriate.

6 Q. Why is that totally inappropriate?

7 A. Because it's DCI's file, not Normal PD or  
8 Tony Daniels' file.

9 Q. Even if were copies of DCI's files?

10 A. Well, copies is a different question. If  
11 they would have permitted copies, I would imagine  
12 copies would have been made for all detectives  
13 concerned.

14 Q. Concerned with what?

15 A. Pardon me?

16 Q. Concerned with what? All detectives  
17 concerned with what?

18 A. The investigation into the Lockmiller case.

19 Q. But you don't recall whether you actually  
20 maintained those copies --

21 A. That's co -- I did not maintain the copies  
22 that DCI had, nor did I make any copies.

23 Q. Did you ever learn that Mr. Murray was  
24 arrested on a domestic issue?

1 A. Yes, I did.

2 Q. How did you learn that?

3 A. Reading a report that was initiated by the  
4 street officer the night that he was arrested.

5 Q. How did you come into possession of the  
6 report?

7 A. I don't recall how it came to my attention.  
8 It may be that I've read the daily log, some officer  
9 could have told me. Basically that would have been  
10 it.

11 Q. What did you learn about Mr. Murray's arrest?

12 A. What was in the report.

13 Q. Did you go and see John Murray at the McLean  
14 County Jail when he was there related to his arrest  
15 for the domestic?

16 A. Yes, I did.

17 Q. Tell me why you did that.

18 A. What I wanted to do was to attempt to get  
19 John Murray -- his assistance in firing him up and to  
20 meet with Alan Beaman in regards to maybe initiating a  
21 conversation to see if we can obtain any further  
22 information as far as either one of them being  
23 involved in the -- the murder of Jennifer.

24 Q. Were you still investigating the Lockmiller

1 homicide at that time?

2 A. I don't believe I was.

3 Q. Did somebody at the department tell you to go  
4 talk to John Murray?

5 A. I don't recall.

6 Q. And that was a decision you made to go and  
7 speak to him and see if he would wear a wire and talk  
8 to Alan Beaman?

9 A. Correct, that was my decision.

10 Q. Had Mr. Beaman been arrested yet for the  
11 murder of Ms. Lockmiller?

12 A. Well, he must not have because I went there  
13 to ask for John Murray's assistance in trying to  
14 solicit information from him.

15 Q. Do you know what date Mr. Beaman was  
16 arrested?

17 A. Exact date, no. Had to be in '94 sometime.

18 Q. May of '94?

19 A. Was it May of '94?

20 Q. I'll just represent to you that it was May of  
21 '94. I think Mr. Bowman would agree.

22 MR. BOWMAN: No one is going to argue that  
23 the arrest was --

24 MS. BARTON: May 18, I believe.

1 MR. BOWMAN: I was going to say the 17th,  
2 but --

3 MS. BARTON: Okay.

4 MR. BOWMAN: -- I don't think it's a material  
5 distinction.

6 MS. BARTON: Yes.

7 MR. BOWMAN: It's -- it's May of '94.

8 BY MS. BARTON:

9 Q. And do you know when Mr. Murray was arrested  
10 on the domestic issue?

11 A. I don't recall.

12 Q. I'll just represent to you that it was  
13 October of 1994.

14 A. Okay.

15 Q. Which would have been after Mr. Beaman's  
16 arrest.

17 A. Okay.

18 Q. So does that change your answer as to why you  
19 wanted to go talk to Mr. Murray to wear a wire to talk  
20 to Mr. Beaman?

21 A. No, it doesn't change my -- my response as to  
22 why. It does clarify the fact that I didn't know  
23 when. Now I know when.

24 Q. Was Mr. Murray a suspect still in your mind?

1 A. Oh, yes.

2 Q. What were you hoping to gain for the -- from  
3 the overhear, I guess?

4 A. Any information that would directly involve  
5 either one of them in the murder or if they had  
6 information that could lead possibility to another  
7 suspect or suspects.

8 Q. But a suspect had already been arrested for  
9 the murder?

10 A. Suspect, yes.

11 Q. And you still continued to investigate it?

12 A. Yes.

13 Q. Did you talk to anyone about your decision to  
14 go and speak to Mr. Murray in the jail?

15 A. Not that I recall.

16 Q. Did you go with anybody?

17 A. No.

18 Q. What do you recall about the conversation?

19 A. He was absolutely opposed to assisting us.  
20 He said his attorney was handling his case there and  
21 that he saw no -- no need in helping himself.

22 Q. When did you see Mr. Murray in the jail in  
23 relation to his arrest in October?

24 A. I don't know how -- how much time elapsed

1 from his arrest until I went there.

2 Q. Was it within days?

3 A. Pardon me?

4 Q. Was it within days?

5 A. I don't recall.

6 Q. When you spoke to Mr. Murray while he was in  
7 jail, did you offer to help him out on his domestic  
8 charge if he would offer to wear a wire?

9 A. I would offer, yes, to talk to the  
10 prosecutor.

11 Q. You offered to Mr. Murray that you would go  
12 talk to the prosecutor to see if you could help out on  
13 his domestic charge?

14 A. If he --

15 Q. If he wore a wire for you?

16 A. Correct.

17 Q. Did you get approval from anybody to make  
18 that sort of offer?

19 A. No offer was made.

20 Q. Well, you offered to Mr. Murray that you  
21 would --

22 A. Talk.

23 Q. -- agree to talk to the prosecutor?

24 A. Correct --

1 Q. Did you --

2 A. -- but no offer was made.

3 Q. Okay. You never talked to a prosecutor about  
4 that?

5 A. No, there was no need since Mr. Murray turned  
6 me down cold flat.

7 Q. The fact that Murray refused to wear a wire  
8 to talk to Alan Beaman, did that raise any suspicions  
9 in your mind?

10 A. It sure added to it.

11 Q. Why is that?

12 A. Well, not wanting to help yourself, and you  
13 possibly could be facing felony charges of what DCI  
14 was looking into him for which was selling drugs as  
15 well as the domestic battery against his girlfriend as  
16 well as being in possession of a huge amount of  
17 marijuana.

18 MS. BARTON: Can you read that answer back.

19 (Whereupon, the record was  
20 read as requested.)

21 BY MS. BARTON:

22 Q. So why does that raise suspicions to you?

23 MR. BOWMAN: Objection, asked and answered.

24 THE WITNESS: Knowing why he was in there and

1 the fact that he was being investigated by DCI, and he  
2 was committing a domestic battery.

3 BY MS. BARTON:

4 Q. So that made him a suspect in  
5 Ms. Lockmiller's homicide?

6 A. That --

7 MR. BOWMAN: Objection, that's not -- that's  
8 not what he's saying and that's argumentative. He's  
9 answered the question.

10 You're certainly supposed to answer it again,  
11 Mr. Daniels.

12 THE WITNESS: Those three factors added to my  
13 suspicions of Murray.

14 BY MS. BARTON:

15 Q. As it relates to Ms. Lockmiller's homicide?

16 A. Correct.

17 Q. Did you document your suspicions in any way?

18 A. I did not document my visit nor my  
19 conversation nor the results of the offer.

20 Q. Why not?

21 A. It was -- to me at that time and point, it  
22 was insignificant. There was nothing at that  
23 particular time to gain.

24 Q. It was insignificant to the investigation?

1 A. It could have.

2 Q. Well, I'm just trying to figure out what you  
3 mean by it was insignificant.

4 A. Well, much like my conversation with Larbi on  
5 the way back from Morton, it was insignificant to the  
6 investigation. There was nowhere to go with that  
7 particular bit of information or lack of information.

8 Q. So you don't document information that you  
9 believe is insignificant?

10 A. No, not in general terms, in that particular  
11 case.

12 Q. Well, in this case and also with relation to  
13 the conversation you had on the way back from Morton?

14 A. That's what I'm saying, yes.

15 Q. What was the purpose of trying to gain  
16 additional information regarding Mr. Beaman if he was  
17 already arrested?

18 A. Not everybody that's arrested is guilty. I  
19 saw a lot of suspicion there, circumstantial evidence  
20 surmounted in my opinion based upon my experience and  
21 my knowledge of the case. The amount of  
22 circumstantial evidence outweighed Alan Beaman's  
23 according to Jim Souk's view of circumstantial  
24 evidence with Alan.

1 Q. Outweighed what? I'm not understanding.

2 A. John Murray -- circumstantial evidence  
3 pointing to John Murray being a stronger suspect, a  
4 viable suspect versus Alan Beaman actually being  
5 arrested, charged, and tried. Those circumstantial  
6 evidence on Alan Beaman did not carry as much weight  
7 in my opinion as John Murray's.

8 Q. So by asking Mr. Murray to wear a wire to  
9 talk to Mr. Beaman, were you trying to get information  
10 that would exonerate Mr. Beaman?

11 A. Exonerate him or strengthen the case or  
12 exonerate or exclude John Murray.

13 MR. BOWMAN: Could you read that answer back.  
14 (Whereupon, the record was  
15 read as requested.)

16 BY MS. BARTON:

17 Q. Did you ever learn that Ms. Mackoway filed a  
18 petition for an order of protection against  
19 Mr. Murray?

20 A. That's a possibility that could have been in  
21 that domestic violation report. I don't recall  
22 reading it.

23 Q. At the time that you knew Mr. Murray was in  
24 the McLean County Jail on that domestic arrest, had

1 you read the report by then?

2 A. Yes, I believe I did. I can't be certain.

3 Q. Had you read anything other than that police  
4 report?

5 A. On the reason why he was arrested for  
6 domestic?

7 Q. Right.

8 A. Concerning John Murray?

9 Q. Yes.

10 A. And that particular case only?

11 Q. Yes.

12 A. That's all I recall reading in the case.

13 Q. The Normal Police -- okay.

14 A. Yeah.

15 Q. Take a look at Exhibit 10, page 66.

16 MR. BOWMAN: I'm so sorry to ask you to slow  
17 down, Liz. I need to catch up with you here.

18 MS. BARTON: I think it might be on the top  
19 of the --

20 MR. BOWMAN: I got it. Thank you. Sorry.

21 BY MS. BARTON:

22 Q. Page 66. Are these your notes?

23 A. Yes.

24 Q. Under John Doe number one, Larbi, it has four

1 facts stating what I learned of him, right?

2 A. Yes.

3 Q. So this is information that you learned about  
4 Mr. Murray, correct?

5 A. Correct.

6 Q. Point five is using steroids, right?

7 A. Yes.

8 Q. Where did you learn that John Murray used  
9 steroids?

10 A. Either word-of-mouth or in a report.

11 Q. Was the fact that Mr. Murray used steroids,  
12 was that pertinent to the Lockmiller homicide  
13 investigation?

14 A. Well, it by itself coupled with the fact that  
15 steroids makes an individual very violent and the way  
16 that he committed domestic violence against his  
17 girlfriend surely brings that to a very important fact  
18 being that he was sitting on top of her, the  
19 girlfriend, Deborah Mackoway, choking her and beating  
20 her in the -- on the chest.

21 And Deb's friend indicated that this is not  
22 the first act that he had committed against Deborah of  
23 a domestic violence issue.

24 Q. Did you believe that all of that information

1 was pertinent to the Lockmiller homicide  
2 investigation?

3 A. What was written in the report, like I said,  
4 gets more concrete suspicions of his ability,  
5 opportunity to commit the crime, yes.

6 Q. To commit Ms. Lockmiller's murder?

7 A. Correct.

8 Q. Did you document your suspicions in that  
9 report?

10 A. The suspicions are basically an opinion of an  
11 officer and under normal conditions, opinions do not  
12 belong in reports.

13 Q. Well, the fact that Mr. Murray was using  
14 steroids, that's not an opinion, was it?

15 A. That coupled with how he committed domestic  
16 violence, in my opinion, it was an opinion that he's  
17 capable of performing or committing the act of murder.

18 Q. What about the fact, the fact that you  
19 learned that he was using steroids?

20 A. Well, the fact is it's a personality changer  
21 and can make one more violent if he's not already  
22 violent.

23 Q. Regardless of your interpretation of that  
24 fact, was the fact that Mr. Murray using steroids, was

1 that pertinent to the Lockmiller homicide  
2 investigation?

3 A. No.

4 Q. Why not?

5 A. I do not know why not. By itself, no.

6 Q. Did you document in a report that you learned  
7 the fact that Mr. Murray used steroids?

8 A. No, I don't recall ever stating that, no.

9 Q. Did you do anything to investigate Stacey  
10 Gates also known as Bubba?

11 A. The answer to that question is no.

12 Q. Did you take him to Morton Crime Lab to be  
13 subjected to a polygraph exam?

14 A. No, I did not.

15 Q. Do you know who did?

16 A. No, I do not.

17 Q. Did you ever see a report related to  
18 Mr. Gates' polygraph examination conducted by Terry  
19 McCann?

20 A. Seems to me I read that or had access to it  
21 or was told that he was given a polygraph.

22 Q. When did you learn that?

23 A. I don't recall.

24 Q. From whom did you learn that?

1 A. I don't recall that either.

2 Q. Did you do anything to investigate a person  
3 by the name of Rob Curtis?

4 A. Rob Curtis, if I recollect, he was an  
5 associate of that group. If I talked to him, it'd  
6 been documented.

7 Q. Do you recall if you ran a criminal history  
8 check on Mr. Curtis?

9 A. I don't recall that, no.

10 Q. Was he a suspect in the Lockmiller homicide?

11 A. Once again, I don't know.

12 Q. Can you tell me about the time you went to  
13 the Chicago Police Department to discuss this case?

14 A. We went up there -- we being Lieutenant  
15 Zayas, Tim Freesmeyer, and myself -- and we had prior  
16 to going up there sent them case file, a copy of the  
17 case file up to that point in time that we had  
18 investigated it. And it seems to me they looked into  
19 it as far as the information they had and gave some  
20 suggestions. Other than that, that's about all I  
21 recall.

22 Q. Did you prepare the materials to send to the  
23 Chicago Police Department ahead of time?

24 A. I personally I don't recall if I did.

1 Q. When did you go?

2 A. I don't recall when.

3 Q. Can you find Exhibit Number 11. It has a  
4 yellow page on the front. Turn to page SDT 15. It's  
5 marked on the top right-hand corner.

6 A. 15?

7 Q. Yes, please. Are these your notes?

8 A. Yes.

9 Q. What are these notes from?

10 A. I do not know.

11 Q. On the top it says 2-18-94, Chicago PD.

12 A. Oh, apparently that was the date and the  
13 location of where the notes were -- well, not  
14 necessarily. These notes that I made on this  
15 particular page could have come from research in the  
16 case at any time, or it could have come from our  
17 conversation with Chicago PD at that given time.

18 Q. Can you find Exhibit 5, Detective  
19 Freesmeyer's report. Turn to page MCC 303.

20 MS. BARTON: Locke, Exhibit Number 5.

21 MR. BOWMAN: Yes, coming.

22 THE WITNESS: Come again?

23 MR. BOWMAN: I'm like the slowest student in  
24 the class. Everybody wait for Locke to catch up.

1 THE WITNESS: 303, huh?

2 MS. BARTON: I'm the fast student.

3 THE WITNESS: Oh, okay. A little bit out of  
4 order there. That's why I missed that. Okay.

5 BY MS. BARTON:

6 Q. Got it?

7 A. Yeah.

8 Q. All right. The fifth paragraph starts with:  
9 "On 2-18-94" --

10 A. Okay.

11 Q. -- "Lieutenant Daniels, Lieutenant Zayas, and  
12 myself went to Chicago to meet with Jack Reagan of the  
13 Chicago Police Department Violent Crimes Unit."

14 A. Okay.

15 Q. Do you have any disagreement with the date,  
16 February 18, 1994?

17 A. I -- as I'm sitting here right now today, no,  
18 I don't have a date because that coincides with my  
19 note.

20 Q. How long did you meet with -- strike that.  
21 How many people did you meet with at the  
22 Chicago Police Department?

23 A. As I best recall, it was two of them.

24 Q. Do you recall what their ranks were?

1 A. Lieutenant Reagan according to this report.

2 Q. A lieutenant and --

3 A. I don't know who the other individual was.  
4 It's not in the report. It was left out. Hmmm...

5 Q. How long was the meeting?

6 A. Conservative amount of time would be 30 to 45  
7 minutes.

8 Q. What was the purpose of meeting with the  
9 Chicago Police Department?

10 A. Input from well-trained and experienced  
11 detectives on violent crimes.

12 Q. Did they make suggestions to you for the  
13 Lockmiller homicide investigation?

14 A. Yes.

15 Q. What were their suggestions?

16 A. Well, I don't recall all of them. They  
17 thought we had the right person, that being Alan  
18 Beaman.

19 Oh, they wanted -- they thought it was best  
20 for Tim Freesmeyer to do any further interviewing or  
21 talking with Alan because apparently I -- I was a  
22 little harsh on Alan Beaman in my first interview.  
23 And they thought since Alan Beaman and Tim Freesmeyer  
24 were about the same age, a few years difference

C07006

1 perhaps, that Tim could better relate to him and  
2 extract information that I could not.

3 Q. Well, and you agree with that also?

4 A. No comment.

5 Q. I'd like you to comment.

6 A. You like my comment -- my opinion?

7 Q. I would.

8 A. Tim Freesmeyer at that time with his time  
9 with the department had no formal training in  
10 homicide. He had no formal training with interview  
11 and interrogation techniques. He had no formal  
12 training in investigations, period. About the only  
13 thing he really brought to the table was the fact that  
14 he was very energetic and his age.

15 Q. Well, and by the time you met with the  
16 Chicago Police Department, it was already determined  
17 that Tim Freesmeyer would be the primary contact with  
18 Mr. Beaman, right?

19 A. If you say so, yes, and if it's written in  
20 the report, I guess.

21 Q. What other suggestions did the Chicago Police  
22 Department make to you other than they thought you had  
23 the right person, being Alan Beaman, and they thought  
24 Tim Freesmeyer should continue to interview or be the

1 contact person of Mr. Beaman?

2 A. Upon reading this report of Tim's, it said  
3 that they felt -- asked him to take a polygraph I  
4 believe it says.

5 Their main suggestion was that we continue to  
6 build a rapport between Alan and myself, meaning Tim,  
7 until Alan either took a polygraph exam or end all  
8 communications with him.

9 Q. The notes on page 15 of Exhibit 11, do these  
10 relate to the suggestions of the Chicago Police  
11 Department?

12 A. Yeah, it appears there's a correlation  
13 between those.

14 Q. Page 15 I'm looking at. Sorry for the blocks  
15 of paper.

16 It looks like the towards the bottom of the  
17 page, there are two stars with a circle around it --

18 MR. BOWMAN: I need you to -- I need to catch  
19 up with you. I'm sorry.

20 Thank you, go ahead.

21 BY MS. BARTON:

22 Q. Okay. And there are three points. One,  
23 continue to talk to him; two, polygraph, question  
24 mark -- I'm not quite sure what that next --

C07008

1           A.    Preceded about an interview, post polygraph  
2 interview.

3           Q.    And number three is what?

4           A.    Boss bad guy. I need something to get the  
5 boss off my back.

6           Q.    What does that mean?

7           A.    Well, the reason why you use that is a way to  
8 make the interviewer, the interviewee, the  
9 interrogator, the investigator that seemed to be  
10 partial to the suspect. In other words, the reason  
11 why I'm talking to is because my boss, Mr. Bad Guy,  
12 wants me to talk to you.

13          Q.    And so was this a technique that the  
14 Chicago --

15          A.    Technique.

16          Q.    Got to let me finish.

17                Was this a technique that the Chicago Police  
18 Department thought would be a good idea for a  
19 continued investigation of Mr. Beaman?

20          A.    As used in an interview, yes, used as sort of  
21 an explanation as to why the investigator would be  
22 talking to Alan directly.

23          Q.    Did they -- did the Chicago Police  
24 Department -- strike that.

1                   During your conversation with the Chicago  
2 Police Department lieutenant and the other officer,  
3 did you discuss Mr. Murray?

4           A.    I don't recall.

5           Q.    Take a look at Exhibit 16.

6           A.    Okay.

7           Q.    Start on page 121 when you get a chance.

8           A.    Exhibit 16?

9           Q.    Correct.

10          A.    Can you give me that page?

11          Q.    121.

12          A.    Okie doke.

13          Q.    Line 17 through to the next page, line 10.

14          A.    You say through 18?  17?

15          Q.    Yes, line 17 beginning on 121 through to the  
16 next page line 10.

17          A.    Okay.

18          Q.    Okay.  Does that refresh your memory about  
19 the suggestions that the Chicago Police Department  
20 made to you and Lieutenant Zayas and Detective  
21 Freesmeyer?

22          A.    Some degree, yes.

23          Q.    So you did discuss John Murray, right?

24          A.    Yes.

1 Q. Did you recall -- do you recall what you  
2 discussed with the Chicago Police Department relating  
3 to John Murray?

4 A. No, I do not know.

5 Q. In your testimony on page 122, you refer to  
6 their summary as to people that probably should  
7 continue talking with. Whose summary is that?

8 A. Where was that stated? What line?

9 Q. Sure, line 7 on page 122.

10 A. Well, the summary could have been the  
11 conversation we had with the two detectives from  
12 Chicago or -- would have been Chicago, right, Chicago  
13 Police Department.

14 Q. Did they provide you with a written summary?

15 A. No, not a written summary, no.

16 Q. And then you also mentioned that their -- the  
17 Chicago Police Department's summary mentioned four  
18 names. Still on page -- that line 7?

19 A. Okay, yes..

20 Q. What were the four names?

21 A. Well, John Doe was one.

22 Q. John Murray?

23 A. I'm sorry. John Murray, yes.

24 Q. Alan Beaman?

1 A. Alan Beaman.

2 Q. Who else?

3 A. I don't recall. I don't recall who the other  
4 two would have been.

5 Q. Did you conduct any investigation on the --  
6 on Lockmiller's homicide when you returned from your  
7 visit to Chicago?

8 A. Yes, we did.

9 Q. Did you follow up on their suggestions?

10 A. Well, Tim Freesmeyer did. He was talking to  
11 Alan.

12 Q. And he asked Alan to take a polygraph, right?

13 A. Well, I'm not going to assume; but since  
14 apparently someone else suggested that, he probably  
15 had asked him to take a polygraph. Again, I'm  
16 assuming and I'm not certain.

17 Q. Tell me about the seminar you attended in  
18 Jacksonville, Florida.

19 A. What would you like to know about that  
20 seminar?

21 Q. I would like to know -- well, first of all,  
22 we established that it was April of 1994?

23 A. Correct.

24 Q. Whose decision was it for you to go to that

1 seminar?

2 A. Assistant Chief Walt Clark.

3 Q. Did he tell you why he wanted you to go to  
4 the seminar?

5 A. Yes, he wanted me to take the Lockmiller case  
6 with me.

7 Q. So the purpose of you going to that seminar  
8 was to have another look at the Lockmiller homicide?

9 A. Yes.

10 Q. And how would that seminar help you do that?

11 A. The class is made about 40, 44 -- I don't  
12 know the exact number -- of detectives, investigators,  
13 homicide investigators throughout the United States,  
14 anywhere from Miami, Florida, to New York City, out in  
15 Texas and so forth.

16 And what the program consisted of is every  
17 detective there was to bring with him certain  
18 documents pertaining to the case they wanted to  
19 discuss.

20 And the first day we were there, we broke up  
21 into little teams of five, six, or seven. And we sit  
22 around in our little groups and discuss our particular  
23 case with one another looking for input, leads,  
24 suggestions, which -- whatever term you want to use.

1           Then the second day, it started where each  
2 individual detective got in front of the group and  
3 discussed their case, presented what they could in the  
4 way of documents that they had with them.

5           And this went on for four days along with  
6 classroom instructions from FBI profiler, a major  
7 homicide investigator from Miami, other individuals in  
8 law enforcement.

9           And then what happened is in your particular  
10 group while you're presenting your case, the rest of  
11 the group would hopefully listen attentively and write  
12 down any suggestions they may have based upon what you  
13 presented.

14           And then after each individual gave their  
15 case to the class, there was a time allotted for  
16 discussion.

17           Q.    What happened with your presentation of the  
18 Lockmiller case?

19           A.    I went overtime, and it laid dead.

20           Q.    What does that mean?

21           A.    That means I was not permitted, I was not  
22 allowed, I was not asked, I was not given the  
23 opportunity to sit down with the detectives in the  
24 detective division of the Normal Police Department or

C07014

1 Jim Souk or the chief or Assistant Chief Clark to  
2 discuss what I had brought back from that class.

3 Q. Well, what happened when you were at the  
4 class when you presented? So you went overtime. What  
5 does that mean?

6 A. Well, you're allotted like a half an hour.

7 Q. And how long did you go?

8 A. Over an hour and I wasn't finished.

9 Q. And then the floor was opened up to discuss  
10 it -- the case with other detectives?

11 A. Correct.

12 Q. And the other detectives did what?

13 A. Listened, write down notes -- take notes.

14 Q. Did they ask you questions?

15 A. Sure.

16 Q. Did they give you suggestions?

17 A. Yes.

18 Q. Did you write those down?

19 A. Yes. One or more individuals in your group  
20 would write the suggestions down.

21 Q. Do you recall any of the suggestions that the  
22 other officers at the seminar gave to you?

23 A. It was about 33, 32, 34 of them. I did not  
24 commit that to memory --

1 Q. Do any stick out in your mind?

2 A. No, not any one in particular.

3 Q. You testified earlier today that you also  
4 brought slides with you?

5 A. Yes.

6 Q. And you brought your working binders down  
7 with you to Florida?

8 A. Correct.

9 Q. How many slides did you prepare?

10 A. I don't recall how many.

11 Q. More than ten?

12 A. Could have been nine. Could have been 11. I  
13 don't recall exactly how many.

14 Q. Close to 100?

15 A. Well, for a fact there was no hundred.

16 Q. Okay. So less than 100?

17 A. Yes.

18 Q. What did you do with those slides?

19 A. Well, when I came back, they were turned back  
20 in; meaning, they were most likely put into -- back  
21 into that records division or turned back into  
22 detective division.

23 Q. Do you know?

24 A. No. I can say equivocally I do not have

1 them.

2 Q. You don't have the slides?

3 A. I don't believe I have the slides.

4 Q. Have you been in possession of the slides  
5 since your return from Florida?

6 A. I don't recall.

7 (Whereupon, Daniels Deposition  
8 Exhibit No. 23 was marked.)

9 BY MS. BARTON:

10 Q. The court reporter handed you what she marked  
11 as Exhibit Number 23. And I'll just represent to you  
12 that these are all the documents that were contained  
13 in the folder that you provided to me in the response  
14 to the subpoena. And the folder was marked notes from  
15 Unresolved Homicide Class.

16 A. Uh-huh.

17 Q. Are these your notes and records from that  
18 homicide -- unsolved homicide class in Jacksonville,  
19 Florida?

20 A. Without looking at each and every page, it  
21 appears to be a good collection of handouts, notes,  
22 and documents yet that I was given, uh-huh.

23 Q. At the seminar in Florida?

24 A. Correct.

C07017

1 Q. The first couple pages that are marked 1151  
2 and 1152, is this the entirety of the suggestions that  
3 you were provided by other detectives at the seminar?

4 A. Well, yeah. It is, yeah. 36, isn't it?

5 Q. And did you take notes during that seminar?

6 A. Yes, to some degree. Most of the stuff was  
7 handouts.

8 Q. Look at page 1158 through 62. Are these all  
9 your notes?

10 A. Yes. That's my handwriting, yeah.

11 Q. Are these notes that you took during the  
12 seminar?

13 A. No, without reading them, I really don't  
14 know. They could've been taken from the seminar or  
15 they could have been from my notes that I had written  
16 from the case.

17 Q. And then turn to page 1212.

18 A. Okay.

19 Q. It's labeled or entitled Physical Evidence  
20 Summary. Did you prepare this?

21 A. That list?

22 Q. Yes.

23 A. Yes, I do believe I did.

24 Q. Was this in preparation for the seminar?

C07018

1           A.    I think this was a required document that  
2 they wanted.

3           Q.    And then additionally the flip side, the case  
4 summary, did you prepare this as well?

5           A.    Yes.

6           Q.    Was this the entirety of your summary related  
7 to the Lockmiller case that you prepared in  
8 preparation for the seminar?

9           A.    Well, it was probably a brief summary. I  
10 think that's what they wanted was a brief summary,  
11 synopsis of what happened.

12          Q.    I'm just trying to figure out whether there's  
13 an additional page to this --

14          A.    Oh.

15          Q.    -- that I'm missing, or is this the entirety  
16 of your summary that you prepared for the seminar?

17          A.    This appeared to be what I prepared for the  
18 seminar.

19          Q.    So this is complete?

20          A.    Pardon me?

21          Q.    This is a complete summary that you prepared?  
22 There's not more to this summary somewhere that I  
23 don't have?

24          A.    Not to my knowledge. That's complete to my

1 knowledge, best of my knowledge, yes.

2 Q. Then look at the last page here -- excuse me,  
3 the page before that, 1216.

4 A. Okay.

5 Q. Are these notes that you took during the  
6 seminar?

7 A. It could have been. It could have been just  
8 a checklist that I came up preparing for the seminar  
9 or it could have been taken from when I returned.

10 Q. Who's Thomas Penn?

11 A. Thomas Penn is a renowned attorney from the  
12 Peoria area.

13 Q. Was Thomas Penn at the seminar in Florida?

14 A. No. Well, we can check that. I think I got  
15 a list of the detectives and speakers, but I don't  
16 recall Thomas Penn there. Him being an attorney, he  
17 wouldn't have been invited.

18 I think this list or roster is not complete.  
19 It doesn't look like it.

20 Q. Where are you looking at the roster?

21 A. Oh, here it is. I got a list of those who  
22 appeared in the picture. How many were there? Oh,  
23 it's only about 30 of us, I guess.

24 No, I think Thomas Penn's name was up there

C07020

1 for a reason, and that was because he was a trial  
2 attorney from the Peoria area.

3 Q. Name was up where?

4 A. Top of that page, Thomas Penn, phone number,  
5 Peoria.

6 Q. Did you talk to Mr. Penn about this case?

7 A. Not to my knowledge, no, I don't recall.

8 That might have been a referral name.

9 Q. Has he ever been your attorney?

10 A. Pardon me?

11 Q. Has he ever been your attorney?

12 A. My attorney? No.

13 Q. Did you ever tell Mr. Matens that he was?

14 A. My attorney?

15 Q. Yes.

16 A. Let me -- so I understand, you're asking me  
17 if I ever retained Mr. Thomas Penn as my attorney?

18 Q. Yeah.

19 A. The answer to that question is no.

20 Q. Did you ever consult with him?

21 A. Concerning?

22 Q. Anything.

23 A. Yes.

24 Q. Did you consult with him about this case?

1 A. No.

2 Q. Did you ever tell Mr. Matens that you  
3 consulted Mr. Penn about this case?

4 A. I don't believe -- I don't recall that I ever  
5 did.

6 Q. We touched on this briefly during your first  
7 deposition, but when you returned from the seminar in  
8 Florida, you attempted to present those ideas during a  
9 meeting, right?

10 A. Correct.

11 Q. In May of 1994, correct?

12 A. Well, if that's what the records indicated,  
13 yes.

14 Q. Who was present during the meeting?

15 A. Well, myself, Jim Souk, Chief Taylor. And  
16 without -- I don't know who else was present, but it  
17 seemed to me there were more than just the four of us,  
18 three or four of us. Well, Freesmeyer would have been  
19 there.

20 Q. How about Lieutenant Zayas?

21 A. Frank most likely would have been there,  
22 because he didn't leave the department until November  
23 of '94.

24 Q. How about Mr. Reynard?

- 1 A. He could have been there.
- 2 Q. But you don't know?
- 3 A. I don't recall who was there.
- 4 Q. How about John Brown?
- 5 A. Well, he was an investigator for the County,  
6 so he could have been there.
- 7 Q. But you don't recall?
- 8 A. Correct.
- 9 Q. What was the purpose of the meeting?
- 10 A. To discuss and get input from various people  
11 involved in the investigation of the Lockmiller case.
- 12 Q. Do you know who organized the meeting?
- 13 A. No, no.
- 14 Q. Did you bring any materials to the meeting?
- 15 A. I brought my list from the school.
- 16 Q. From your seminar in Florida?
- 17 A. Correct.
- 18 Q. Was that the two-page list that we just --
- 19 A. Correct.
- 20 Q. -- looked at with the handwritten leads?  
21 Yes?
- 22 A. Yes. I'm sorry. Yes.
- 23 Q. Who talked during that meeting?
- 24 A. I didn't get to talk. Souk talked.

1           Meaning had some input, is that what we're  
2 saying? Is that what your question is, who had input  
3 into it?

4           Q. Let me ask you this first. Did anybody lead  
5 the meeting?

6           A. Well, Souk mainly. And I don't know if  
7 Charlie had -- Charlie Reynard had anything to say if  
8 he was there. Same thing with Frank Zayas. I don't  
9 know.

10          Q. What was --

11          A. I don't recall.

12          Q. What was discussed?

13          A. The case, what we had in the way of suspects  
14 and what our steps should be.

15          Q. Were you laying out all the evidence that you  
16 had?

17          A. Was I?

18          Q. Uh-huh.

19          A. I wasn't, no.

20          Q. Was the group?

21          A. Souk was.

22          Q. Okay. What do you recall Souk saying?

23          A. When I attempted to interject my thoughts and  
24 based upon my list that I had in front of me for

1 possible leads or suggestions, he interjected by  
2 saying, well, I think we went as far as we can with  
3 this case. We are going to go ahead and issue a  
4 warrant for his arrest, meaning Alan Beaman's arrest.

5 Q. So during the meeting, you were discussing --  
6 or at least everybody at the meeting was discussing  
7 what evidence there was against Alan Beaman, right?

8 A. Or -- and/or comments they had, yes.

9 Q. Were you discussing whether there was  
10 probable cause to arrest Mr. Beaman?

11 A. Well, with Mr. Souk's statement, I believe we  
12 had enough for an arrest. There was no need  
13 questioning what he had to say.

14 Q. Was --

15 A. Meaning evidence presented and so forth. I  
16 don't know if all the evidence was presented by each  
17 individual or not. I don't recall that.

18 Q. So you don't recall whether each of the  
19 members of the Normal Police Department were  
20 discussing evidence that they had uncovered or what  
21 the investigation uncovered, information they had; you  
22 don't recall?

23 A. It appeared -- no, I don't. I don't.

24 Q. Were you asked for your input?

1           A.    That's what the purpose of the meeting was.  
2           And when it came to my turn around the table, as I  
3           previously stated, I was cut off.

4           Q.    So each person sitting around the table had a  
5           chance to give their input?

6           A.    Correct.

7           Q.    And you said -- what did -- did you bring up  
8           the 36 suggestions that you had obtained from the  
9           seminar?

10          A.    The issue was that I had these 36 leads,  
11          suggestions, avenues to look into; but I was not  
12          permitted, was not given the opportunity to discuss  
13          them.

14          Q.    Because Mr. Souk cut you off?

15          A.    That's correct.

16          Q.    And he said what?

17          A.    I believe we went as far as we can with this  
18          case. We're going to issue a warrant for Beaman's  
19          arrest.

20          Q.    Did you think at that time there was probable  
21          cause to arrest Mr. Beaman?

22          A.    Probable cause to arrest him? Yes.

23          Q.    Did anybody around the table respond when  
24          Mr. Souk cut you off from discussing the 36

1 suggestions from your seminar?

2 A. They could have been. I don't recall.

3 Q. What was your response to him?

4 A. I said nothing the rest of the meeting, and I  
5 don't know how long that meeting lasted.

6 MS. BARTON: Could we take a brief break.

7 THE VIDEOGRAPHER: Off the record. The time  
8 is 1543.

9 (Whereupon, a break was taken.)

10 (Whereupon, the record was  
11 read as requested.)

12 THE VIDEOGRAPHER: On the record. The time  
13 is 1553.

14 BY MS. BARTON:

15 Q. Do you know a woman by the name of Samone  
16 Weisman?

17 A. I believe that was Alan Beaman's girlfriend  
18 at the time of the trial.

19 Q. Have you talked to her about this case?

20 A. Yes, at one time.

21 Q. When did you first talk to her about this  
22 case?

23 A. I don't recall the date. Seems to me she had  
24 called me regarding the case, wanted to meet with me.

1 We met in a place called Mugsy's, which is a student  
2 hangout, if you will, at -- located in Bloomington  
3 across from IW campus. And we discussed the case to  
4 some degree of what -- up to that point, what we had.

5 Q. Was this after Mr. Beaman was convicted?

6 A. I don't recall the time it was -- occurred.

7 Q. Do you recall anything specifically that you  
8 discussed with Ms. Weisman?

9 A. No, even me to try to think of what we talked  
10 about. The only thing I can say is we talked about  
11 the case in general terms.

12 Q. Did you talk about John Murray?

13 A. I do not know. I do not recall.

14 Q. Did you talk about John Murray's attempted  
15 polygraph?

16 A. I do not recall what we talked about in  
17 general or specific terms.

18 Q. Did you meet with her more than once about  
19 this case?

20 A. I believe it was only once.

21 Q. Did you provide her with information?

22 A. I may have in terms of what my thoughts were,  
23 what my opinions were.

24 Q. Did you talk to her with the understanding

1 that it was in confidence?

2 A. That was my understanding. That's why I  
3 agreed to meet with her in a public place.

4 Q. I didn't understand that. You agreed to meet  
5 in public because you thought you were talking to her  
6 in confidence?

7 A. Well, her being a female, me being a male, I  
8 didn't want anything to be misconstrued later on  
9 why -- as to why I met with her.

10 Q. And so you agreed to meet with her because  
11 she promised that she would keep your information  
12 confidential? Is that what I'm understanding?

13 A. Well, no -- well, yes, the fact that the  
14 information that I had and that she had shared, but  
15 was common knowledge of what we had because basically  
16 it was our knowledge and our opinions.

17 Q. Well, I thought you told me that it was your  
18 understanding you were speaking to her in confidence?

19 A. Right, as -- in other words, what she learned  
20 from me based upon my opinions and what I knew about  
21 the case, she was not to go and broadcast it.

22 Q. And why was that important to you?

23 A. Well, I didn't want the source to leak out as  
24 to why.

- 1 Q. As to why what?
- 2 A. I was talking with her.
- 3 Q. Why were you talking with her?
- 4 A. I thought maybe she had some information for  
5 me.
- 6 Q. Did she?
- 7 A. Well, apparently not because it didn't go  
8 anywhere.
- 9 Q. Do you know if she provided the information  
10 that you gave to her to anybody else?
- 11 A. No, I'm not aware of that.
- 12 Q. Who is Amy Birch?
- 13 A. I do not know.
- 14 Q. You've never met Amy Birch?
- 15 A. I didn't say that. I do not know who she is.
- 16 Q. What about Kristie O'Brien?
- 17 A. I don't know who she is either.
- 18 Q. Were they local reporters?
- 19 A. I don't know. I don't know them.
- 20 Q. Did you talk to them about the Lockmiller  
21 homicide investigation?
- 22 A. Well, if I don't know who they are, I don't  
23 know if I talked to them or not.
- 24 Q. Did you talk to two young women who were

1 reporters in the area for the Vedette in relation to  
2 the Lockmiller homicide case?

3 A. I don't recall.

4 Q. When was the first time that you spoke with  
5 somebody that was either an attorney for Mr. Beaman or  
6 someone working for an attorney for Mr. Beaman?

7 A. Well, would have been the Center For Wrongful  
8 Convictions -- oh, would've been before that.  
9 Mr. Beu, I think it was, Alan's attorney.

10 There was three occasions in which I  
11 conversed with an attorney. One was when myself and  
12 Hospelhorn went back on a Sunday to talk to Alan, and  
13 Mrs. Beaman was there with, as I recall an attorney;  
14 but I don't think the attorney was representing Alan.

15 Q. And that was Tom Laughlin. We talked about  
16 that before --

17 A. Okay.

18 Q. -- right?

19 A. Okay. There was another occasion -- it was  
20 part of the trial. It could have been pretrial, but  
21 Lieutenant John Brown from the County and I were  
22 directed to talk to Mr. and Mrs. Beaman with their  
23 attorney present in one of the offices at McLean  
24 County Justice Center. That was a second time.

1 Now --

2 Q. That attorney was Mr. Beu?

3 A. Correct.

4 Now, there was another time, I don't know if  
5 this was before or after; but the Center of Wrongful  
6 Convictions came into the picture, and I talked to  
7 Jeff Urdangen, Tony Matens, and I believe it was  
8 Rex Reu at that time. And that took place at the  
9 Normal Police Department.

10 Q. What was the purpose of that meeting?

11 A. The way it was explained to me by then  
12 Chief Walt Clark was they wanted to ask me some  
13 questions concerning my part in the investigation.

14 Q. So was it your understanding that Chief Clark  
15 set the meeting up with you and Mr. Urdangen,  
16 Mr. Matens, and Mr. Reu?

17 A. Yes, that's my understanding.

18 Q. And do you have that understanding because  
19 Chief Clark told you to go to that interview?

20 A. He left that choice up to me. He said that  
21 it was up to me whether I wanted to talk to him or  
22 not.

23 Q. And you did want to talk to them because you  
24 eventually met with them?

1           A.    Right, I agreed with them or I agree with  
2 them. I agreed to talk with them.

3           Q.    Did you have to seek permission from Chief  
4 Clark to speak with them?

5           A.    He gave me permission. He offered me the  
6 opportunity to talk with them, and he left it up to  
7 me.

8           Q.    Did you consult an attorney before talking to  
9 Mr. Urdangen and Mr. Reu and Mr. Matens?

10          A.    I don't believe I had to because I think  
11 there were there that same day.

12          Q.    The same day that Chief Clark told you to  
13 talk to them?

14          A.    Correct.

15          Q.    And that was the first time that you learned  
16 that the Center For Wrongful Convictions wanted to  
17 meet with you?

18          A.    Correct.

19          Q.    What do you recall about the meeting?

20          A.    Well, I recall mentioning the fact that the  
21 distance between Alan Beaman's residence and  
22 Jennifer's, the vehicle victimology basically led me  
23 to believe that possibly Alan Beaman did not commit  
24 the murder at that time.

1 Q. And what led you to believe that Mr. Beaman  
2 didn't commit the murder?

3 A. It was -- John Murray was not excluded to my  
4 satisfaction in the investigation.

5 Q. And did that exclude Mr. Beaman as a suspect?

6 A. Not in the eyes -- well, he still was a  
7 suspect, but not eyes of the State's Attorney's Office  
8 because apparently they went ahead with the trial and  
9 found and convicted him based upon the evidence  
10 presented by the State's Attorney and his witnesses.

11 Q. The information you had -- strike that.

12 During the meeting with Mr. Urdangen and  
13 Mr. Matens and Mr. Reu, did you discuss the  
14 possibility of you signing an affidavit on their  
15 behalf?

16 A. I could have. I don't recall.

17 Q. How often did you meet with Mr. Urdangen or  
18 someone from the Center for Wrongful Convictions in  
19 relation to this case?

20 A. Neighborhood of maybe five to six times.

21 Q. What about with Mr. Matens, how many times  
22 did you meet with him?

23 A. Eight or nine times perhaps. We could have  
24 had conversations on and off. He could have called me

1 up on the phone and said, hey, Jeff Urdangen wants to  
2 know this or did you remember this.

3 Q. Well, you talked to him quite a bit over the  
4 phone?

5 A. Well, okay. Quite a bit.

6 Q. Right.

7 A. Okay.

8 Q. I mean, we deposed Mr. Matens --

9 A. Okay.

10 Q. -- and we went through --

11 MR. BOWMAN: Objection.

12 MS. BARTON: What's your objection?

13 MR. BOWMAN: That's not a proper question.

14 MS. BARTON: I didn't even get my question  
15 out.

16 MR. BOWMAN: Started off on -- on the wrong  
17 foot, and there's no way you can make it a proper  
18 question.

19 MS. BARTON: Well, if you have an objection,  
20 then you state it; but wait until I finish asking my  
21 question and then we'll move on from there. Okay? I  
22 would appreciate not being interrupted when I'm asking  
23 questions. I will extend the same courtesy to you,  
24 Mr. Bowman.

C07035

1 BY MS. BARTON:

2 Q. How many times have you met with Karen Daniel  
3 in relation to this case?

4 A. About as many times as Jeff I would say. She  
5 had taken the case over when Yackel left.

6 Q. What was the purpose of you meeting with  
7 Mr. Urdangen four to six times?

8 A. Questions concerning the case.

9 Q. Do you remember anything specifically?

10 A. No other than why I showed opposition as  
11 to -- as to why the case was not completed. In my  
12 opinion, they needed more investigation.

13 Even though Alan was a suspect in our  
14 opinion, certainly John Murray at that time and still  
15 is today, in my opinion, still a strong suspect.

16 Q. Did you provide anyone from the Center For  
17 Wrongful Convictions with documents?

18 A. If I did, it's probably documented somewhere.

19 Q. Do you recall?

20 A. No, I don't recall what specific documents if  
21 I did.

22 Q. When in relation to that meeting that you had  
23 with Urdangen, Reu, and Matens at the Normal Police  
24 Department, when did you give that interview to

1 Mark Goldman in relation to that?

2 A. That be shortly after that because Walt  
3 Clark, again, gave me the option of speaking with Mark  
4 Goldman. He said that's entirely your decision. If  
5 you want to speak with him, go ahead.

6 Q. Can you look at Exhibit 18. Here it is. I  
7 thought I saw it.

8 First, can you tell me how you came in  
9 contact with Mark Goldman?

10 A. Through Walt Clark. Walt Clark, again,  
11 approached me with the offer to talk to Mark Goldman,  
12 and Mark -- either I called him back, Mark, or Mark  
13 had called me and an appointment was set up.

14 Q. So the first you learned that Mark Goldman  
15 wanted to interview you was through Chief Clark?

16 A. Correct.

17 Q. Take a look at Exhibit Number 18, the page  
18 marked SDT 1010. Is this a letter you received from  
19 Mr. Goldman?

20 A. Yeah, it's addressed to me and signed by him.

21 Q. And you received it, right? This was in your  
22 file.

23 A. Oh. In that case, then I did.

24 Q. It was in the file marked Channel 31

1 Interview.

2 A. Okay.

3 Q. I notice it's dated February 17, 1998.

4 A. Okay.

5 Q. Would you -- did you receive this letter  
6 around that time period?

7 A. I can't be sure, absolutely sure.

8 Q. And it -- the first line in the letter says:  
9 "I appreciate your getting back to me regarding the  
10 1993 death investigation of Jennifer Lockmiller."

11 So do you recall talking to Mr. Goldman  
12 before you received this letter?

13 A. Well, he says I did, so I must have.

14 Q. I'm just asking if you remember?

15 A. Oh, do I remember? No.

16 Q. And he told you in this letter that I have  
17 been working on a four-month investigation into facts  
18 surrounding Ms. Lockmiller's murder, right?

19 A. Yes.

20 Q. Did he tell you anything about that  
21 investigation or what he did?

22 A. No, I don't recall if he did go into any  
23 detail.

24 Q. Flip forward in that exhibit to page -- flip

1 backward, I'm sorry, to 1001. And we've already  
2 looked at the transcript of that interview with Mark  
3 Goldman.

4 A. Okay.

5 Q. I notice at the top that this transcript is  
6 dated February 1997?

7 A. Okay.

8 Q. So did you do the interview in '97, and the  
9 letter was dated '98? I'm just trying to get a  
10 context --

11 A. Well, looking at the --

12 Q. -- of what happened.

13 A. -- documents, that's exactly what it shows.  
14 But, again, I didn't present these documents.

15 Q. Do you recall whether you gave the interview  
16 in February of '97 or in February '98?

17 A. No.

18 MR. BOWMAN: Note for the record that  
19 February is early in the year and sometimes mistakes  
20 happen.

21 BY MS. BARTON:

22 Q. Do you know if Mr. Reu had anything to do  
23 with setting the interview up with you and  
24 Mr. Goldman?

1 A. I have no knowledge of that.

2 Q. Did you talk to anyone in preparation of your  
3 interview with Mr. Goldman?

4 A. Other than Chief Clark, I don't recall  
5 talking to anyone.

6 Q. Did anyone help prepare you for the  
7 interview?

8 A. No.

9 Q. The last page of this Exhibit 18.

10 A. 18?

11 Q. No, it's Exhibit 18 --

12 A. Okay.

13 Q. -- and the last page --

14 A. I'm sorry.

15 Q. -- is marked 1012.

16 A. I'm a little behind you.

17 Q. Did you prepare this document?

18 A. I don't recall preparing any document for any  
19 interview with Mark Goldman.

20 Q. Do you know how this document ended up in  
21 your file?

22 A. No. No, I don't recall how it could have  
23 ended up in the file.

24 Q. Are you denying that this is something you

C07040

1 prepared?

2 A. Oh, I'm not denying anything. What I'm  
3 saying is I don't recall.

4 Q. And on the top it says questions to WMBD TV,  
5 interview number one. My question is was there more  
6 than one interview with Mark Goldman?

7 A. I -- you know, I -- I don't know -- I -- I  
8 don't know if there was. I don't recall if there was.

9 Q. You don't recall whether you gave more than  
10 one interview to Mark Goldman?

11 A. To Mark, no. No, I don't. I know the taped  
12 interview was in two parts suggesting perhaps  
13 interview number one could be tape number one.

14 Q. Do you mean that portions of your interview  
15 were aired on two different occasions?

16 A. Correct.

17 Q. But you don't recall giving more than one  
18 interview?

19 A. I don't recall, that's correct.

20 Q. All right. Look at page 1007 of this  
21 exhibit. Compare page 1007 to page 1008 and there  
22 seems to be additional information on 1008 or a  
23 continuation of your interview.

24 A. Apparently there's a -- is there a question

1 missing at the top here?

2 Q. Well, the question would be on the page  
3 before. Start at page 1006.

4 A. Okay.

5 Q. Start there.

6 A. Let's go to 1006.

7 Q. All right. And there's a question: "As much  
8 as you are willing to comment, what do you hope  
9 happens in the future, if anything?"

10 And then it appears the same answer to that  
11 question is at the top of --

12 A. Oh.

13 Q. -- of both 1007 and 1008, correct?

14 A. That's what it appears, correct. Looks like  
15 it --

16 Q. So it looks like this page on 1007 kind of  
17 cuts off --

18 A. Sure.

19 Q. -- the transcript.

20 A. Yes.

21 Q. Do you know who prepared this transcript?

22 A. No.

23 Q. You don't recall how you received it?

24 A. No.

1 Q. Did you have any --

2 A. Pardon me?

3 Q. Did you have any off-the-record discussions  
4 with Mr. Goldman?

5 A. To my knowledge, my recollection, no.

6 Q. And on page 1008, you're giving your opinion  
7 on Mr. Matens, looks like, right?

8 A. On who?

9 Q. Mr. Matens.

10 A. That's what it says.

11 Q. And you said: "I guess he's just my idol."

12 A. I wonder if I was under the influence when I  
13 made that statement.

14 Q. Well, were you?

15 A. No, no. I hold Mr. Matens in high regard.

16 Q. In the highest of regards it seems, right?  
17 He's your idol.

18 A. To surpass Dr. Lee, whoa, Roy Hazelwood, and  
19 John Douglas. I don't know why I said that.

20 MR. DiCIANNI: And he's not hitting a ball  
21 350 yards in the wind either.

22 THE WITNESS: No, he's not.

23 I didn't say that he has a wonderful build  
24 and is a top athlete. Wait a minute. Let me -- is

1 this a joke?

2 MS. BARTON: No, it's not.

3 MR. BOWMAN: It's not a joke.

4 THE WITNESS: Well, you notice on number 7,  
5 the first page 7 at the top, my answer was: "No, I  
6 don't have any more further comments."

7 Then the question is: "Anything you'd like  
8 to add in terms of something I didn't mention?"

9 BY MS. BARTON:

10 Q. Right. I will represent to you that all of  
11 the documents in this exhibit were contained in the  
12 blue folder marked Channel 31 Interview that you  
13 provided to my office in response to the subpoena.  
14 So, no, this is not a joke.

15 A. Okay. I have no explanation for these two --  
16 yes, I do.

17 Q. What do you --

18 A. Somebody put those in there because I didn't  
19 know Tony that well. I'm sorry, but I have no  
20 explanation for that. None at all. It sure is a  
21 shock and surprise to me.

22 Q. So you never -- you've never seen that  
23 before?

24 A. No. And that he would know who Roy Hazelwood

1 is. Certainly he may know Dr. Lee through the OJ  
2 trial. And John Douglas, Tony and I shared the same  
3 interest in reading John Douglas's books.

4 Q. Are you saying that you don't believe  
5 Mr. Matens knew Roy Hazelwood?

6 MR. BOWMAN: No.

7 BY MS. BARTON:

8 Q. What was the comment to Roy Hazelwood?

9 A. I don't think he would have known Roy  
10 Hazelwood.

11 Q. Who is he?

12 A. Roy?

13 Q. No, you said --

14 A. Tony Matens.

15 Q. You don't think Tony Matens would know  
16 Roy Hazelwood?

17 A. Know him. May know of him but not know him.

18 Q. So this is a first time you're seeing --

19 A. Yes, and I know he's not an 0350. He can't  
20 drive that, 350.

21 Q. Why don't you take a look at the rest of the  
22 interview, and let me know if there's anything else in  
23 the transcript that you have never seen before or  
24 don't agree with.



1 lightly as maybe perhaps somebody's manipulated or  
2 interjected that. This is totally out of character to  
3 me to put something like that out unless I was in a  
4 frame of comedy, let's say.

5 Q. Okay. But --

6 A. That's just not -- I'm sorry. I know this is  
7 a serious case, but I can't account for that. Let's  
8 put it that way. We'll leave it at that.

9 Q. That's fine. I just wanted to ask you  
10 because I found it in your file, and I wanted to ask  
11 you questions about it. If you don't know, you don't  
12 know.

13 But let's talk a little bit about Tony  
14 Matens.

15 A. Oh, please.

16 Q. After that, right?

17 When's the first time you met with him? Was  
18 it during that meeting at the Normal Police Department  
19 with Urdangen and Reu?

20 A. Correct.

21 Q. Was that the first time you had ever met him?

22 A. I believe it is, yes.

23 Q. Have you ever met with him regarding any  
24 other cases?

1 A. I don't believe so.

2 Q. Did you develop a friendship with Mr. Matens?

3 A. Yes.

4 Q. Are you friends with him now?

5 A. Yes.

6 Q. Pretty close friends?

7 A. No, not close. Just in between acquaintance  
8 and being close.

9 Q. Okay. Do you recall having a conversation  
10 with Mr. Matens before his deposition in this case?

11 A. Before Tony? When was his deposition?

12 Q. I don't think I have it with me.

13 A. Oh, the answer would have to be yes because I  
14 met him that first time, and it's been 20 years.

15 Q. Shortly before his deposition in this case?

16 A. Well, if you can give me a time, maybe I can  
17 be sure of that.

18 MR. DiCIANNI: June 4.

19 THE WITNESS: Of what year?

20 MS. BARTON: The first session.

21 MR. DiCIANNI: Oh, first.

22 BY MS. BARTON:

23 Q. Would have been sometime this year.

24 A. I guess.

1 Q. And you called him, right?

2 A. He'd call me, I would call him.

3 Q. To discuss the upcoming deposition?

4 A. That -- well, he -- he and I had an agreement  
5 where we wouldn't talk about the deposition other than  
6 the fact that I got a subpoena for deposition. He  
7 said, well, we can't talk about it. I said, I know  
8 that.

9 Q. Did you have a conversation with him shortly  
10 before his deposition where you discussed the fact  
11 that he would have to disclose who his reliable law  
12 enforcement person was that he mentioned in his  
13 affidavits?

14 A. Source? Seems to me I had a conversation  
15 with him on the phone regarding that.

16 Q. Okay. What do you recall about that  
17 conversation?

18 A. Exactly what you had said.

19 Q. Did you also tell him during the conversation  
20 that you had received permission from Chief Clark to  
21 talk to Tony Matens?

22 A. Did I tell him, Tony, that?

23 Q. Yes.

24 A. He was aware of that.

1 Q. And did you tell -- or did you discuss with  
2 Mr. Matens during that telephone conversation shortly  
3 before his deposition this year that Chief Clark had  
4 told you that you could discuss anything with the  
5 Beaman team after the trial and conviction as long as  
6 it's about your involvement in the investigation?

7 A. About what I know about the investigation,  
8 yes.

9 Q. So what can you recall about your  
10 conversation with Chief Clark about that?

11 A. Pardon me?

12 Q. Did Chief Clark ever tell you that you could  
13 discuss anything with Beaman's legal team after  
14 Mr. Beaman's trial and conviction as long as it was  
15 involving your involvement in the investigation?

16 A. My knowledge of the investigation.

17 Q. So that's a yes, Chief Clark did tell you  
18 that?

19 A. Yes, that's correct.

20 Q. Did you have conversations with Mr. Matens  
21 about the possibility of you signing an affidavit?

22 A. Affidavit for?

23 Q. In relation to this case.

24 A. Affidavit for information duces tecum or?

1 Q. An affidavit that you would sign?

2 A. I don't recall if Tony said that I'm -- in my  
3 opinion that's what I said.

4 Q. Did you have any concerns about your job as a  
5 police officer as a result of talking with  
6 Mr. Beaman's lawyers?

7 A. No. As a matter of fact, I had support from  
8 Chief Clark.

9 Q. Did you provide Mr. Matens with any documents  
10 relating to this case?

11 A. I could have. If he has them in his  
12 possession, he got them one of two ways, either --  
13 well, one of threes -- three ways: Request from  
14 Normal PD, got them from Urdangen, or I gave them to  
15 him.

16 Q. Have you ever met Carol and Barry Beaman?

17 A. Oh, yes.

18 Q. Several times?

19 A. I met them twice at their residence, the  
20 Saturday -- the weekend, Saturday and Sunday that  
21 Jennifer's body was discovered. We talked with them.  
22 We meaning John -- Lieutenant John Brown talked with  
23 them in the Law and Justice Center during one of the  
24 appeals or posttrial whatever -- or post-conviction.

1 I talked to them during the appeal down at  
2 the Illinois Supreme Court in Springfield. I think  
3 that was the last time I talked with them.

4 Q. Did you ever talk with them over the phone?

5 A. I don't recall if I did.

6 Q. Have you ever shared your theories of this  
7 case with either Carol or Barry?

8 A. Oh, I may have.

9 Q. But you don't recall?

10 A. Well, during the trial, my opinions came out.  
11 So if they were knowledgeable of what my theory was,  
12 most likely that's where they got it from or they  
13 could have gotten it from that Goldman videotape or  
14 from the newspaper.

15 Q. What do you mean by your opinions came out  
16 during the trial? What trial are you referring to?

17 A. Oh, the appeal of the Supreme Court when they  
18 had post-conviction hearing down there to retrial.

19 Q. When you testified at the post-conviction  
20 hearing?

21 A. Yes.

22 Q. Have you ever had any discussions with any  
23 lawyers representing Mr. Beaman about whether or not  
24 you would be a defendant in this lawsuit?

1 A. No.

2 Q. Never?

3 A. I don't -- well, I don't recall having any  
4 conversations with any attorney concerning the  
5 lawsuits.

6 Well, let me back up. Mr. Bowman sitting  
7 here, as I recall that was probably all -- oh, his  
8 associate Alexa.

9 Q. Ms. Van Brunt. We discussed that at the  
10 first deposition, your meetings --

11 A. Okay.

12 Q. -- with Ms. Van Brunt and Mr. Bowman.

13 What's your understanding as to why you're  
14 not a defendant in this lawsuit?

15 A. My understanding?

16 Q. Yes.

17 A. Is the fact that I was taken off of the case.  
18 I was not in the case. I didn't assist with his  
19 attempts to get him convicted. I was -- I had a  
20 different opinion. I had different methods, different  
21 thoughts about the case as it progressed.

22 Even though I thought there was enough to  
23 arrest him, it was my feelings that there was  
24 enough -- not enough to get it out of grand jury. And

1 when it came out of grand jury, that surprised me.

2 And when he got a conviction, that even  
3 surprised me more because it's always been grilled  
4 into us at different training sessions with some of  
5 the top investigators that if you can't exclude a  
6 suspect, then he has to be or she has to be included  
7 into your investigation.

8 It's my opinion that it was a rush to  
9 judgment, that no thoughts were given or time was  
10 given to anybody else's thoughts or input in -- as to  
11 do we have the right fellow.

12 Q. And that's why you believe you're not a  
13 defendant in this lawsuit?

14 A. I think so, yes.

15 Q. I want to discuss the conversation that you  
16 testified to during your first deposition with Kari  
17 Mason. Do you remember Kari Mason?

18 A. I remember Kari Mason, yes. I remember Kari  
19 Mason.

20 Q. And what do you remember about Kari Mason and  
21 any conversations you had about this case with her?

22 A. She may have been present with Jim Souk on  
23 that meeting in May. I -- I don't recall. But it  
24 either came from her own lips or from somebody from

1 the State's Attorney that she had some doubt also as  
2 to Alan being the perpetrator of this crime.

3 Q. Do you recall having a conversation with her  
4 about her feelings on whether Mr. Beaman was guilty?

5 A. Other than what I just stated, no.

6 Q. When did you learn that about Ms. Mason?

7 A. Before she left the State's Attorney's  
8 Office. And in what year that is, I don't know.

9 Q. Do you remember anything else about  
10 Ms. Mason's opinions?

11 A. No.

12 Q. Have you ever been subjected to discipline as  
13 a police officer?

14 A. Yes.

15 Q. How many times?

16 A. One for pulling a kid's hair, and another one  
17 for accepting an invite to go outside and meet with  
18 three kids who were involved in that incident. That  
19 was the same -- same incident.

20 Q. Were you reprimanded --

21 A. It escalated.

22 Q. Were you reprimanded for those two  
23 incidents -- it's one incident? I'm sorry.

24 A. Pardon me?

1 Q. It was one incident --

2 A. That was a separate incident.

3 Q. What was the result of your discipline?

4 A. Result of the discipline was I was given 20  
5 working days' suspension. I was -- had criminal  
6 charges filed against me for battery. The outcome of  
7 that was I pled no contest. I was given a fine, court  
8 cost, and a short period of court supervision without  
9 further incident. It was expunged.

10 Q. When did the incident occur?

11 A. I don't -- I don't recall when it was. I can  
12 give you a ballpark figure.

13 Q. I can show you a document and see if that  
14 helps.

15 A. Okay.

16 (Whereupon, Daniels Deposition  
17 Exhibit No. 24 was marked.)

18 BY MS. BARTON:

19 Q. Take a look at the first page of Exhibit 24  
20 and let me know if that refreshes your memory.

21 A. Okay.

22 Q. Does that refresh your memory about --

23 A. Yes.

24 Q. -- when that incident took place?

1 And when did that incident take place?

2 A. February 14, 1997.

3 Q. Were you -- you said that you were charged  
4 with misdemeanor battery as a result of that incident,  
5 correct?

6 A. Correct.

7 Q. Have you ever been charged with any other  
8 crimes?

9 A. Crime, no.

10 Q. Have you ever been arrested?

11 A. While on the police department or in my  
12 entire life of 71 years?

13 Q. In your entire life of 71 years.

14 A. Yes.

15 Q. How many times have you been arrested?

16 A. Let's see. I came back from Nam the first  
17 time in '65, so that was disorderly conduct. Out in  
18 California when I was in the Marine Corps, disorderly  
19 conduct.

20 Q. In 1965?

21 A. No, no, that would have been before. 1963 or  
22 '64. That's all I can recall in my 71 years.

23 Q. What was the outcome of either one of those  
24 charges of disorderly conduct?

1           A.    A fine.  The first one with -- when I came  
2 back in '65, 25 -- I forfeited my bond, \$25.

3           Q.    Okay.

4           A.    The second one was discharged, disorderly  
5 conduct.

6           Q.    Have you ever been a party to a lawsuit,  
7 either plaintiff or defendant?

8           A.    I was a defendant on one -- I believe it was  
9 a lawsuit in McLean County in, oh, 1978, perhaps.  A  
10 neighbor -- we live in a condo units.  And my  
11 neighbor, she was babysitting children, and that was  
12 against the condominium association rules and  
13 regulations.  So I was asked to testify on her behalf.

14          Q.    Were you a party to that?

15          A.    No, I would just -- I lived right next door  
16 to her.  And the questions they asked were the kids  
17 noisy, mistreated, or whatever.

18          Q.    You were a witness?

19          A.    A witness, right.

20                Second incident -- let me think when that  
21 was.  Oh, we rent our basement apartment to a student  
22 from ISU.  We've been renting that for nearly 20  
23 years.  Unfortunately, we made a mistake in our  
24 judgment and rented to 20-year-old female who wanted

1 to party. Part of our agreement is no partying, no  
2 noise, no animals. Well, she was 20. She wanted to  
3 party, and she had an animal.

4 She took us to court because she felt that on  
5 Christmas Day while I was entertaining guests and my  
6 family at my home that she could not have access to  
7 her apartment. Well, that led up in court. Judge  
8 ruled in our favor.

9 Other than that, that's all I can recall.

10 MS. BARTON: I think I might be done, but I'd  
11 like a few minutes just to review my notes and make  
12 sure I'm done.

13 We can go off the record.

14 THE VIDEOGRAPHER: Off the record, 1644.

15 (Whereupon, a break was taken.)

16 (Whereupon, Daniels Deposition

17 Exhibit No. 25 was marked.)

18 THE VIDEOGRAPHER: On the record, 1649.

19 BY MS. BARTON:

20 Q. Okay. Mr. Daniels, this should be the last  
21 exhibit for me, Exhibit 25.

22 Do you recognize this?

23 A. I do not recognize this paper, this document,  
24 no.

1 Q. Is your email address tld529@aol.com?

2 A. Presently it's at frontier.com.

3 Q. In 2002 was that your email address?

4 A. I'm sorry. Where's it located? Oh, there it  
5 is. Yes, uh-huh.

6 Q. That was your email address in 2002?

7 A. Yes.

8 Q. Did you send an email to Rob Warden of the  
9 Center of Wrongful Convictions?

10 A. If this is a copy of it, I would have to  
11 answer yes.

12 Q. Do you recall sending an email to Mr. Warden?

13 A. I do not recall who Mr. Warden is, let alone  
14 sending this.

15 Q. In 2002 were you interested in offering your  
16 assistance to the Center For Wrongful Convictions?

17 A. I'm wondering if this could -- well, the  
18 answer to your question is if this is an invitation to  
19 speak at one of their seminars, the answer would be  
20 yes.

21 Q. So you were looking to speak at one of their  
22 seminars?

23 A. I was invited by Karen Daniel. I don't  
24 recall the dates, but -- I don't recall who Mr. Warden

1 is either.

2 Q. Well, lucky for you, I have a letter that  
3 might help refresh your memory on it.

4 A. Okay. Lucky for me.

5 (Whereupon, Daniels Deposition  
6 Exhibit No. 26 was marked.)

7 BY MS. BARTON:

8 Q. This is something that I also found in your  
9 file.

10 A. This?

11 Q. That you --

12 A. Okay.

13 Q. -- provided to my office in response to the  
14 subpoena.

15 A. Okay.

16 Q. This is the letter that Ms. Daniel sent you  
17 on March 8, 2009?

18 A. Okay.

19 Q. Which is actually seven years after you sent  
20 that email to Mr. Warden.

21 A. Okay.

22 Q. So does that help you --

23 A. It does not help me recall who Mr. Warden is  
24 or why the email. It appears it was an invitation of

1 some sort. But this is the one I recall.

2 Q. The email to Mr. Warden appears to be an  
3 invitation then --

4 A. Well, that --

5 Q. -- for what?

6 A. In response to a letter that he wrote in a  
7 newspaper. In response to an article apparently he  
8 wrote in a newspaper, yes.

9 Q. In relation to the Beaman-Lockmiller case?

10 A. Yes, that's what it indicates, yes.

11 Q. Why did you want to offer your assistance to  
12 him and his staff?

13 A. I may have been asked earlier by him, or  
14 there could have been some reason stated in perhaps  
15 the article itself that maybe I wanted to clear up or  
16 add to or give an opinion of.

17 Q. And you don't remember either way?

18 A. That's correct.

19 MS. BARTON: Those are all the questions that  
20 I have for today. I believe that we'll be continuing  
21 tomorrow with questions from Mr. Bowman and  
22 Mr. DiCianni.

23 MR. DiCIANNI: That's correct.

24 MS. BARTON: We are done for today. Thank

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you for your patience.

THE VIDEOGRAPHER: Off the record, 1653.

(Witness excused at 4:53 p.m.)

C07063

1 STATE OF ILLINOIS )  
2 COUNTY OF C O O K ) SS:

3  
4 I, Christine M. Luciano, Certified Shorthand  
5 Reporter in and for the County of Cook, State of  
6 Illinois, do hereby certify that on June 10, 2013, the  
7 deposition of the witness, TONY L. DANIELS, called by  
8 the Defendants, was taken before me, reported  
9 stenographically and was thereafter reduced to  
10 typewriting through computer-aided transcription.

11 The said witness, TONY L. DANIELS, was first  
12 duly sworn to tell the truth, the whole truth, and  
13 nothing but the truth, and was then examined upon oral  
14 interrogatories.

15 I further certify that the foregoing is a  
16 true, accurate and complete record of the questions  
17 asked of and answers made by the said witness, at the  
18 time and place hereinabove referred to.

19 The signature of the witness was waived by  
20 agreement.

21 The undersigned is not interested in the  
22 within case, nor of kin or counsel to any of the  
23 parties.

24 Witness my official signature as Certified

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Shorthand Reporter, in and for Cook County, Illinois  
on this 24th day of June, A.D., 2013.

---

Christine M. Luciano, CSR  
License No. 084-004068

C07065

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

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-CV-1019
	)	
JAMES SOUK, et al.,	)	
	)	
Defendants.	)	

VOLUME III, PAGES 381 - 653

DISCOVERY DEPOSITION  
OF  
TONY L. DANIELS

Continued discovery deposition of  
TONY L. DANIELS, taken on June 11, 2013, beginning at  
9:44 a.m., at 207 West Jefferson Street, Bloomington,  
Illinois, at the instance of the Defendants, pursuant  
to Subpoena and agreement of the parties, before  
Christine M. Luciano, Certified Shorthand Reporter in  
the State of Illinois.

\* \* \* \* \*

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23            Representing the Defendants,  
24            Timothy Freesmeyer, Robert Hospelhorn,  
              David Warner, Frank Zayas, and  
              Town of Normal, Illinois.

18     ALSO PRESENT:

19     Mr. Wayne Rutherford,  
20     Rutherford Photo Video

21                             \* \* \*

I N D E XWITNESSEXAMINATION

TONY L. DANIELS

Cross-Examination by Mr. DiCianni	384
Cross-Examination by Mr. Bowman	481

E X H I B I T S

TONY L. DANIELS  
DEPOSITION EXHIBIT

MARKED FOR ID

No. 27	469
No. 28	577
No. 29	603
No. 30	619
No. 31	624
No. 32	628
No. 33	630
No. 34	633
No. 35	634
No. 36	638
No. 37	640

Note: Exhibits not tendered for inclusion  
into deposition transcript.

1 THE VIDEOGRAPHER: The date is 6-11-13. The  
2 time is 9:44 a.m. This is a continuation of the  
3 deposition of Tony Daniels beginning of tape number  
4 four. We're on the record.

5 MR. DiCIANNI: Ready to go?

6 THE VIDEOGRAPHER: Ready.

7 TONY L. DANIELS,  
8 called as a witness herein, having been previously  
9 duly sworn, was examined and testified as follows:

10 CROSS-EXAMINATION

11 BY MR. DiCIANNI:

12 Q. Okay. Tony, you testified yesterday for  
13 close to eight hours or so. Is there anything that  
14 you answered yesterday that, as you reflected on it  
15 over the night, you thought you didn't maybe get  
16 right?

17 A. There seems --

18 MR. BOWMAN: Object to that question. That's  
19 impossibly vague and overbroad.

20 THE WITNESS: There seems to be maybe  
21 misunderstanding of my question and maybe my answer in  
22 regards to why I did not prepare a report based upon  
23 my conversation with John Murray coming back from the  
24 lab from Morton to Normal. That's just one of those

1 instances where I thought that it wasn't that  
2 important; it had no bearing. At that time, he did  
3 not take the polygraph, and he was offered a second  
4 one. And I hope that satisfies Liz with the -- with  
5 the question she had for me.

6 BY MR. DiCIANNI:

7 Q. Well, and that doesn't sound inconsistent  
8 with what you said yesterday.

9 A. Okay.

10 Q. It's just --

11 A. Yeah.

12 Q. -- you reflected on that and felt that that  
13 was a reason why you needed --

14 A. Correct.

15 Q. -- to do it? Okay.

16 MR. BOWMAN: Object to the form of that  
17 question as well.

18 BY MR. DiCIANNI:

19 Q. Did you do anything last night after the  
20 deposition to prepare or get ready for today?

21 A. No, I didn't.

22 Q. All right. Did you talk to Mr. Bowman or any  
23 other attorneys about how -- your testimony yesterday?

24 A. Afterwards?

1 Q. Yes.

2 A. No, I did not.

3 Q. You talked yesterday a little bit about the  
4 meetings that you had with the attorneys for  
5 Mr. Beaman prior to coming to give depositions,  
6 correct? Do you remember that?

7 A. Yes.

8 Q. And you talked about meetings in December  
9 and -- of 2012 and a meeting that -- meetings that  
10 have taken place since then. Can you remember when  
11 was the first time you met with the attorneys for  
12 Mr. Beaman on the civil case regarding --

13 A. Well, the December meeting --

14 Q. -- the lawsuit?

15 A. I -- you have to refresh my memory. I don't  
16 know if that was the first one or the second one, but  
17 I had two meetings with him at the same location.

18 Q. That was in December of 2012?

19 A. Correct.

20 Q. Okay. Had you ever met with them before that  
21 time?

22 A. No. That was the first time I met Mr. Bowman  
23 face-to-face.

24 Q. How about anybody else from his office?

1 A. No. I talked to them but not have met them.

2 Q. Okay. Well, so you spoke over the phone --

3 A. Correct.

4 Q. -- with various people?

5 Did -- did you ever speak to them before the  
6 lawsuit was filed? And -- and I'll represent to you  
7 that the lawsuit was filed in the spring of 2010.

8 A. No.

9 Q. So all of your conversations with the  
10 attorneys for Mr. Beaman on the civil case would have  
11 taken place after, as far as you know, the lawsuit was  
12 filed?

13 A. Correct.

14 Q. How did you first find out that the lawsuit  
15 had been filed?

16 A. Well, it was -- I don't know what came first.  
17 Either in the newspaper or the officers there at the  
18 Normal PD. At that time, I was working part-time in  
19 the Normal Police Department.

20 Q. Okay. So there was some conversation about  
21 it at the station?

22 A. Correct.

23 Q. All right. You -- you retired from being a  
24 sworn police officer in, I think you said, 2000,

1 correct?

2 A. Correct. December 15.

3 Q. Okay. Was there any particular reason why  
4 you retired at that time?

5 A. My time was up. I had my 20 years in, and I  
6 felt it was time to -- to retire.

7 Q. Okay. And then you went to work at a  
8 different location?

9 A. Correct.

10 Q. And then came become to Normal?

11 A. Part-time basis, yes.

12 Q. Only on a part-time basis?

13 A. Correct.

14 Q. Okay. And then you retired from Normal in  
15 November of 2012?

16 A. Retired or resigned.

17 Q. Okay.

18 A. Yeah, there were no benefits of that nature.  
19 It was just --

20 Q. Okay.

21 A. -- a part-time job. I could leave at any  
22 time I wanted to.

23 Q. Okay.

24 A. And I decided since I had knee surgery

1 scheduled for December the 3rd, I believe it was, that  
2 November 30 would be my last day there.

3 Q. Okay. So when you were working part-time  
4 there from the time you went back after your  
5 retirement as a police officer until November of 2012,  
6 were you working every day?

7 A. Monday through Friday, normally three to  
8 four hours a day.

9 Q. Okay. And your role at that time was -- had  
10 to do with maintaining squad cars and shuttling papers  
11 back and forth to the State's Attorney's Office?

12 A. That's correct.

13 Q. Okay. So you say that you found out about  
14 the lawsuit at the time it was filed from other police  
15 officers?

16 A. Yes.

17 Q. Was there any specific conversation at that  
18 time that you can recall?

19 A. No, there really wasn't that I could recall.

20 Q. What's the general gist of what you remember  
21 being said?

22 A. I can remember Rob Hospelhorn saying that he,  
23 Rob, doesn't really believe 100 percent that Alan was  
24 the right person to be arrested, charged, and

1 convicted of Jennifer's homicide.

2 Q. Okay. And that conversation was -- was in  
3 relation to the filing of the lawsuit?

4 A. I believe so, yes.

5 Q. And what else can you remember somebody  
6 having said at the Normal Police Department?

7 A. Dave Warner. He's a lieutenant now. He's --

8 Q. No, I'm talking about at the time of the  
9 lawsuit.

10 A. At that time?

11 Q. Yeah.

12 A. That's -- that's the general thing that I can  
13 think of. I can recall was that particular  
14 conversation.

15 Q. All right. Did anybody interview you in  
16 relation to the lawsuit?

17 A. Interview me?

18 Q. Yeah.

19 A. No.

20 Q. Okay. You worked many years with the four  
21 defendants in the lawsuit, correct? I'll remind you  
22 of who they are: Dave Warner, Rob Hospelhorn,  
23 Frank Zayas, and Tim Freesmeyer.

24 A. Yes.

1 Q. Do you have -- are you aware of any  
2 reputation that any of them have about truthfulness or  
3 not being truthful people?

4 A. In general terms?

5 Q. Yes?

6 A. No, I didn't experience any -- nor did I hear  
7 of any rumors or innuendos.

8 Q. How about any of them being untruthful  
9 people, having a reputation for being untruthful  
10 people? You have never heard anything like that?

11 A. That's correct.

12 Q. Okay. We had discussions about your role in  
13 the investigation and the whole concept of a lead  
14 investigator. And the investigation I'm talking about  
15 is the Jennifer Lockmiller investigation. The word --  
16 the term lead investigator has been used several times  
17 in this deposition and other depositions. Was there  
18 actually an official position or assignment that was  
19 called the lead investigator?

20 A. You mean within the Normal Police  
21 Department --

22 Q. Yes.

23 A. -- investigations?

24 No. The title would be supervisor.

1 Q. Well, and are -- when you say supervisor, are  
2 you referring to whoever's in charge of CID?

3 A. Correct.

4 Q. Okay. And -- and at the time of the  
5 Lockmiller murder, that was Frank Zayas, correct?

6 A. That's correct.

7 Q. All right. And at other times you were head  
8 of CID, correct?

9 A. Afterwards, I believe it was. After Frank  
10 left.

11 Q. Yeah, and other people have also --

12 A. Correct.

13 Q. -- held that position.

14 A. Yes.

15 Q. Okay. But in terms of -- of somebody who  
16 wasn't the supervisor of the CID, was there a  
17 designation known as lead investigator?

18 A. At one time when Chief Taylor came into the  
19 police department along with Assistant Chief  
20 Walt Clark on the late afternoon, early evening of  
21 discovering Jennifer's body, Chief Taylor said, I  
22 guess you're it. I interpreted that as being the  
23 person at this particular point in time in charge of  
24 the investigation until Frank's return.

1 Q. Because as you remember, Frank was not --  
2 Frank Zayas was not in town or working at the time?

3 A. That's correct.

4 Q. Okay. So that would have been something you  
5 understood to be until Frank returned to work?

6 A. Yes.

7 Q. Okay. All right. And you understood his  
8 saying to you, I guess you're it, meaning you were the  
9 one who was going to go to Rockford to interview  
10 Alan Beaman, correct?

11 A. No. I would be the lead investigator.

12 Q. Okay. What did you -- what did you  
13 understand that to entail?

14 A. That I would oversee the investigation until  
15 Frank Zayas returned.

16 Q. Okay. And do you remember when Frank Zayas  
17 returned?

18 A. As I recall, it was the following Monday,  
19 two days later.

20 Q. Okay. All right. So you would say that --  
21 or at least you understood it that you were in charge  
22 of the investigation for those first two days?

23 A. Correct.

24 Q. Did you assign people to do things?

1           A.    Well, more or less, meaning there were only  
2 four of us at the time on duty working that week and  
3 on the case, myself, Rob Hospelhorn, Tim Freesmeyer,  
4 and Dave Warner. Rob Hospelhorn and I had partnered  
5 up and so Tim was assigned to talk to some of  
6 Jennifer's friends, and Dave Warner had conducted one  
7 or two interviews and then his role was assisting with  
8 evidence collection and crime scene collection.

9           Q.    So you assigned Tim Freesmeyer to interview  
10 some of the friends?

11          A.    He took it upon himself to interview  
12 Mike Swaine. Now, after that, I do not recall that I  
13 said, Tim, I want you to do this, I want you to do  
14 that or Dave Warner the same way. Of course,  
15 Rob Hospelhorn accompanied me.

16          Q.    So you did not -- while during those two days  
17 when you considered yourself as being the lead  
18 investigator, you did not make assignments?

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

21               THE WITNESS: Yes, I did.

22 BY MR. DiCIANNI:

23          Q.    Okay. What assignments can you recall  
24 yourself making?

1 A. That Rob Hospelhorn would accompany me.

2 Q. Okay. So you said, Rob, you're coming with  
3 me. That was not an order, a direction.

4 A. Well, or, Rob, let's go up; or, Rob, you can  
5 come with me. Nevertheless, however, I stated that,  
6 he and I partnered up.

7 Q. Okay. So other than Chief Taylor telling you  
8 that you're it until Frank Zayas came back, your  
9 understanding of being the lead investigator -- well,  
10 your understanding was that Frank Zayas would have  
11 been the lead investigator regarding the Lockmiller  
12 murder except for those two days that you recall?

13 A. Well, Frank Zayas was a lieutenant and he is  
14 a supervisor. I was the senior investigator, senior  
15 officer back there. So on my assumption, I was  
16 determined to be the lead investigator because  
17 Frank Zayas had little hands-on so to speak with the  
18 investigation other than being present with -- at  
19 meetings with the chief, with the State's Attorneys,  
20 with us from time to time. But Frank, as I recall,  
21 had no direct responsibility as far as talking to  
22 witnesses, collecting evidence of that nature.

23 Q. All right. Well, I'm confused.

24 A. So am I.

1 Q. Yeah.

2 A. It's hard to explain that.

3 Q. I had -- I had asked you earlier was there a  
4 designated assignment in the Normal Police Department  
5 CID division known as lead investigator?

6 A. There is no title.

7 Q. Okay. Well, that's -- that's what I wanted  
8 to know.

9 A. There is no title.

10 MR. BOWMAN: You cut off his answer. You  
11 have to let him finish his answer.

12 BY MR. DiCIANNI:

13 Q. Well, okay. There is no title. There is no  
14 position or particular assignment --

15 MR. BOWMAN: Again, you can't cut off his  
16 answer.

17 MR. DiCIANNI: I'm -- stop.

18 MR. BOWMAN: He's in the middle of  
19 answering --

20 MR. DiCIANNI: Stop.

21 MR. BOWMAN: -- the question --

22 MR. DiCIANNI: Stop. Stop.

23 MR. BOWMAN: You can't --

24 MR. DiCIANNI: Stop. You're not going --

1 you're not going to direct me on how to conduct the --  
2 do you have a -- do you have a -- if you have an  
3 objection, state your objection.

4 MR. BOWMAN: My objection --

5 MR. DiCIANNI: But don't -- don't direct me  
6 on how I'm answering -- asking questions.

7 MR. BOWMAN: My objection is that by cutting  
8 off the witness, you are not permitting him to  
9 complete his answer to the question and thereby  
10 creating a misleading and inaccurate record which is  
11 unfair to the witness and to all of us who are  
12 involved in the case.

13 MR. DiCIANNI: Well, all right. Then that's  
14 your objection.

15 MR. BOWMAN: Correct.

16 BY MR. DiCIANNI:

17 Q. All right. So there was not a designated  
18 position or title known as lead investigator; is that  
19 correct?

20 A. Correct, there is not -- there was not.

21 Q. Okay. So there -- as there would be in any  
22 investigation, there would be one person who would  
23 have more involvement than other people generally,  
24 correct?

1           A.    If there were more than one person involved  
2 in any given case, you would have individual to be  
3 understood as being the lead investigator. Does that  
4 explain your answer -- or your question?

5           Q.    Would that be a conversation you would have?  
6 Okay, Tony, you're the lead investigator on this case;  
7 or, Tim, you're now the lead investigator on this  
8 case; or go talk to Rob because he's the lead  
9 investigator on the case. Is that the type of  
10 interaction you would have on cases?

11          A.    I'm confused on -- on where we are going with  
12 this. A lead investigator is the individual who's in  
13 charge and supervises a group of more than one  
14 investigator on any given case. That's what a lead  
15 supervisor does. There is no designation, per se, for  
16 a lead supervisor in -- lead investigator in the CID  
17 at that time.

18          Q.    Okay.

19          A.    It's assumed. Somebody has to take  
20 responsibility. Somebody has to take the lead. There  
21 has to be someone in charge that other investigators  
22 would go to for any questions or any advice or would  
23 have to report to his supervisor.

24          Q.    So without -- somebody filled the role you

1 just described on each investigation, correct?

2 Somebody had that role.

3 A. Either assigned or assumed the role.

4 Q. Okay. All right. After the first two days  
5 of the Lockmiller investigation, did you have that  
6 role you just described, either assigned or assumed?

7 A. I can't answer that without giving you an  
8 answer that you will be satisfied with. Myself and  
9 Rob Hospelhorn worked together. Other detectives did  
10 not come to us for advice. If they had any questions,  
11 they would have went most likely to Lieutenant Zayas  
12 since he was back on the premises.

13 Q. Okay. All right. So you cannot remember  
14 yourself giving any instruction to anybody else to go  
15 interview somebody or go follow up on a lead?

16 A. I don't recall, no.

17 Q. All right. And do you recall getting any  
18 instruction from anyone other than Frank Zayas about  
19 following up on any lead or doing any particular  
20 investigative activity?

21 A. No, I don't recall.

22 Q. We saw from -- we saw from Freesmeyer's  
23 report -- that's number --

24 MS. BARTON: 5.

1 MR. DiCIANNI: Number 12. No, no, I'm sorry,  
2 his monthly report.

3 BY MR. DiCIANNI:

4 Q. We saw from Exhibit Number 12, which was  
5 Sergeant Freesmeyer's monthly report that --

6 MR. BOWMAN: I'm going to have to ask for a  
7 momentary pause so I can get my -- get my briefcase  
8 that has the many exhibits in it.

9 Can we go off the record for just a minute,  
10 please.

11 THE VIDEOGRAPHER: Sure. Off the record,  
12 10:03.

13 (Whereupon, a break was taken.)

14 THE VIDEOGRAPHER: On the record, 10:04.

15 BY MR. DiCIANNI:

16 Q. According to Sergeant Freesmeyer's -- well,  
17 Freesmeyer's report. I'll read it. This is on  
18 page 970. "The criminal investigation division saw  
19 many personnel changes in 1994. Sergeant Frank  
20 Filliponi was the CID supervisor from 1-1-94 through  
21 3-7-94. Acting Sergeant Daniels then took over as the  
22 CID supervisor from 3-7-94 until 6-94. Lieutenant  
23 Frank Zayas returned to CID and supervised the  
24 division from 6-94 through his retirement on

1 11-12-94."

2 Do you recall those shifts in personnel and  
3 supervision back in nineteen -- early 1994?

4 A. I recall the personnel. I don't recall the  
5 dates.

6 Q. Okay. You have no reason to take issue with  
7 what Freesmeyer wrote here?

8 A. What you just read?

9 Q. Yeah.

10 A. What you just read, I have -- I have no  
11 reason to question that or take issue with it.

12 Q. Do you remember Frank Zayas being off for a  
13 period of time during early 1994?

14 A. If that's the period of time he was  
15 transferred to the patrol division, that could have  
16 been the period of time that you're referring to.

17 Q. Do you remember him being -- I'm sorry,  
18 Sergeant -- Lieutenant Filliponi taking over and  
19 serving as the CID supervisor in early 1994?

20 A. If that's the date you're reading, yes, I  
21 remember Lieutenant Filliponi being back in CID as the  
22 supervisor.

23 Q. Okay. Do you remember replacing him as a  
24 supervisor?

1           A.    I -- I don't recall if it was him I replaced  
2 or not.

3           Q.    Okay.  But you do recall that you for a  
4 temporary period of time were the supervisor back in  
5 1994?

6           A.    Yes.

7           Q.    Okay.  And then Frank Zayas returned to CID?

8           A.    Correct.

9           Q.    What was your role in the Lockmiller  
10 investigation during the time that you were the  
11 CID supervisor?

12          A.    Well, I believe that's the time period that I  
13 had taken the case down to Florida.

14          Q.    Okay.

15          A.    So when I came back, what was my role?  Would  
16 be to -- well, regardless if it was the Lockmiller  
17 case or any other case, I would review and assign the  
18 cases -- caseload for each detective.

19          Q.    Okay.  You were in Florida for one week I  
20 think you said?

21          A.    Correct.

22          Q.    And you had said yesterday or the day -- or  
23 the time before that that was in April of 1994 that  
24 you went to Florida?

1           A.    As I recall, yes.  I think documents prove  
2           that.

3           Q.    So other than that one week, you would have  
4           been in charge of CID from -- at least during the  
5           period of time from March 7 until June?

6           A.    I was the supervisor, yes.

7           Q.    Okay.  All right.  So in connection with the  
8           Lockmiller investigation, other than the time you were  
9           at Florida -- in Florida at the cold case seminar,  
10          what actions were you taking in connection with that  
11          investigation?

12          A.    I don't recall exactly what actions or what  
13          my role was at that particular time in regards to that  
14          particular case.  That's been nearly 20 years ago.

15          Q.    Okay.  Was it under your supervision during  
16          that period of time?

17          A.    CID?

18          Q.    No.  The Lockmiller investigation.

19          A.    Well, as -- as a supervisor, I would imagine  
20          like any other case, if there were some questions or  
21          further investigation needed to be done, I would be  
22          the one to -- to assign it and review the results.

23          Q.    So you were in charge of the Lockmiller  
24          investigation from March of '94 until Frank Zayas

1 returned in June?

2 A. No. I was in charge of CID.

3 Q. Well --

4 A. There's a difference.

5 Q. Okay. That would be in charge of all the  
6 investigations going on in CID, correct?

7 A. Yeah, in charge of supervising the  
8 detectives, yes, assigning and reviewing their cases.

9 Q. Right, okay.

10 So you would have been in charge of the  
11 Lockmiller investigation when Alan Beaman was  
12 arrested, correct?

13 A. No. Once again, I was not in charge of the  
14 investigation. I was in charge of the detectives.

15 Now, I believe at that time, Tim Freesmeyer  
16 was working with Jim Souk perhaps down at the Law and  
17 Justice Center in Jim Souk's office. That may have  
18 been that period of time, because there was a period  
19 of time that Tim Freesmeyer was no longer physically  
20 working out of CID. He was working with Jim Souk in  
21 Jim Souk's office.

22 Q. So what happened in connection with being --  
23 who was -- what's -- are you saying Freesmeyer became  
24 in charge of the investigation when he moved over to

1 the State's Attorney's Office?

2 A. Well, if you want to use the word charge,  
3 yes.

4 Q. Okay. So prior to that, whoever was the head  
5 of CID was in charge of the Lockmiller investigation?

6 MR. BOWMAN: Objection, that's an inaccurate  
7 summary of the testimony. That's not what he's  
8 testified to.

9 BY MR. DiCIANNI:

10 Q. All right. Go ahead.

11 A. The hang-up in trying to explain an answer to  
12 your question is the word charge.

13 I was responsible for the activities of the  
14 super -- of the individual detectives. I assigned  
15 them their cases and reviewed the status of their  
16 cases.

17 Q. Okay. So while Frank Zayas was not there and  
18 you were the supervisor of CID, you were responsible  
19 for the activities of the detectives working on the  
20 Lockmiller investigation and you reviewed their  
21 activities?

22 A. With the exception of Tim Freesmeyer.

23 Q. Well, is that only when Tim Freesmeyer was  
24 moved over to the State's Attorney's Office?

1           A.    I don't recall exactly when.  Whether or not  
2 I was no longer on the case before or after he moved  
3 over to the State's Attorney's Office.

4           Q.    Well, when you were in charge of CID as the  
5 supervisor during those months when Frank Zayas was  
6 out, are you telling me you were not in charge of  
7 Tim Freesmeyer?

8           A.    When Tim Freesmeyer was out of the office, I  
9 had no authority over him.  I had no responsibility  
10 for him.  It was strictly under -- he was strictly  
11 under Jim Souk's and the State's Attorney's Office  
12 authority and supervision.

13          Q.    When did that happen?

14          A.    I don't recall exactly when.

15          Q.    Was that when he moved -- when he physically  
16 moved his presence to the State's Attorney's Office or  
17 was it sometime before that?

18          A.    I don't recall.

19          Q.    Were you directed that Freesmeyer is no  
20 longer -- well, I'm talking about when you were in  
21 charge of CID, you were the supervisor of CID, were  
22 you told Freesmeyer is not under your direction or  
23 under your responsibility?

24          A.    No, I was not told.

1 Q. We've had several discussions about a main  
2 file and what -- what was included or sent to the main  
3 file. Did you ever -- and I'm referring to the  
4 Lockmiller investigation. When you -- you used the  
5 term main file during the course of the deposition as  
6 opposed to your own detective file, your own personal  
7 file -- I won't say personal, but your own working  
8 file. Is that a fair characterization of what you  
9 have said?

10 A. At this point --

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

13 Tony, give me a minute to make an objection  
14 before you rush in and answer, please.

15 The question was compound, ambiguous.

16 You can answer.

17 THE WITNESS: Would you repeat your question?

18 MR. DiCIANNI: Yeah. Let me ask the court  
19 reporter to repeat it.

20 (Whereupon, the record was  
21 read as requested.)

22 MR. DiCIANNI: I'll rephrase it. I'll  
23 rephrase it.

24 BY MR. DiCIANNI:

1 Q. During the course of the deposition, you've  
2 talked about both the main file and you've talked  
3 about both your -- about your own file. When you used  
4 the term main file, what have you referred to? What  
5 do you mean?

6 A. Under normal situations, the main file could  
7 originate when an officer completes a report, gives it  
8 to his supervisor and then is sent over to records.

9 Q. Okay. So the main file would be maintained  
10 in the records section of the Normal Police  
11 Department?

12 A. As a normal procedure, yes.

13 Q. Okay. And did you ever see a main file in  
14 the Lockmiller investigation?

15 A. In order to make copy -- well, the answer  
16 would be yes.

17 Q. Okay. And how -- how did it come about that  
18 you actually saw the main file?

19 A. Preparing for the class in April of '94 for  
20 the investigation.

21 Q. Okay. So when you had the -- did you  
22 photocopy the entire main file for that class?

23 A. I don't recall. I don't think I would have  
24 copied that if I had my own copy.

1 Q. Okay. So you reviewed the main -- are you  
2 saying that you reviewed the main file in records for  
3 the Florida investigation -- for the Florida class?

4 A. No, I wouldn't say that.

5 Q. Well, what do -- what do you mean?

6 A. Well, there were -- in preparation for the  
7 class down there, there were certain documents that  
8 you were to bring with you. So using it as a  
9 checklist, if I had Document A, fine. And then if I  
10 didn't have Document A, I would go to the main file  
11 which was kept in records and make a copy of that  
12 Document A if it was available.

13 Q. So you were given a checklist of documents  
14 that you should bring to this class; is that what  
15 you're saying?

16 A. It's not a checklist like I referred to like  
17 Document A, B, and C. Those are the documents you  
18 needed to bring with you, yes.

19 Q. So there would be a list of -- well, just  
20 say, for example, the autopsy report, the crime scene  
21 analysis, each detective's supplemental report, that  
22 kind of thing?

23 A. That's the idea, yes.

24 Q. Okay. So -- so you went down that list and

1 then you looked at your own file to see if you had it,  
2 and if you didn't, you then went to look at the main  
3 file to, what, get a copy?

4 A. Yes.

5 Q. Okay. And is this -- are you -- are you just  
6 speculating that that's what you did or do you recall  
7 actually having done that?

8 A. One thing in particular I do recall was  
9 making slides from the photographs.

10 Q. Okay. You didn't have those in your own --  
11 in your own working file?

12 A. Not that I recall.

13 Q. All right. And -- and can we -- can we refer  
14 to what you maintained as your own file as your  
15 working file? When I -- if I said -- call that your  
16 working file, you'll know what I mean?

17 A. That's fine.

18 Q. So to the best of your memory, you didn't  
19 have the slides in your working file, so you went to  
20 the main file to get them?

21 MR. BOWMAN: Objection; inaccurate,  
22 mischaracterizes the testimony.

23 BY MR. DiCIANNI:

24 Q. Go ahead.

1 A. Yes, I would have.

2 Q. Okay. Tell me what the main file looked  
3 like.

4 A. The original documents should be in the main  
5 file, should be in a -- a binder.

6 Q. Okay.

7 A. A three-ring binder, be it one, two,  
8 three inches or whatever, and however number of  
9 binders that was necessary to maintain that file.

10 Q. So it was all in -- when you say binders,  
11 you're talking about three-ring binders with the hole  
12 punches on the side?

13 A. This particular case, yes, it should have  
14 been.

15 Q. Well, okay. Should have been sounds like  
16 you're not sure or you're guessing. Do you remember?

17 MR. BOWMAN: Object to the form of the  
18 question, argumentative.

19 THE WITNESS: No, I don't remember.

20 BY MR. DiCIANNI:

21 Q. Okay. So you're -- you're filling in --  
22 you're answering my question based on what you think  
23 the file looked like but you're not sure?

24 A. Yes.

1 Q. Okay. All right. Do you actually have a  
2 memory of going to the main file to pull out the  
3 slides for the Florida class?

4 A. I have a memory of taking photo -- the  
5 photographs to the camera shop in downtown Normal and  
6 having slides made from those photographs.

7 Q. Okay. So you have that memory. You don't  
8 remember where you actually had to go to get the  
9 photographs --

10 A. Correct.

11 Q. -- is that fair to say?

12 All right. So in terms of actually going to  
13 records and saying give me the file so I can get the  
14 photographs, you don't have that memory?

15 A. No, I do not.

16 Q. So as you sit here today, do you have a  
17 memory of ever going to records to review the main  
18 file?

19 A. I do not have a recollection of doing that.

20 Q. So in your working file, where did you keep  
21 that?

22 A. In my working area, in a desk.

23 Q. You had a desk in the CID room?

24 A. Yes, every detective did.

1 Q. Okay. And we've heard that two detectives,  
2 Freesmeyer and Belcher, actually worked in what's been  
3 referred to as the juvenile room --

4 A. Correct.

5 Q. -- during -- at this point in time?

6 A. Yes.

7 Q. Okay. So it would have been yourself,  
8 Warner, Hospelhorn, who else located in that CID room  
9 at that time?

10 A. You mean the main CID room?

11 Q. Yes.

12 A. Leszczynski and at that time that's all I  
13 recall --

14 Q. Okay.

15 A. -- other than what you mentioned.

16 Q. And then in the corner was Frank Zayas's  
17 office or the supervisor's office?

18 A. Yeah, he had his own office.

19 Q. Right. Right. That was just off of the main  
20 CID room.

21 A. Correct.

22 Q. Okay. So as you walked into that room, as  
23 you walked into that -- to the big room, where was  
24 your desk?

1 A. At that time?

2 Q. Yeah.

3 A. Let's take a look at that screen up there.

4 Q. Okay.

5 A. The top of it being 12 o'clock, the bottom  
6 being 6 o'clock, I would be located about 12 o'clock,  
7 and off to the right about 2 o'clock would be  
8 Frank Zayas's office --

9 Q. Okay.

10 A. -- with the closed door.

11 Q. Okay. So the -- just for the record then,  
12 the entry into the CID office would have been at about  
13 5 o'clock, right?

14 A. Approximately, yes.

15 Q. Okay. And where was -- where was  
16 Dave Warner's office?

17 A. Over in the lower left corner of the screen.

18 Q. Okay. 7 o'clock?

19 A. Okay.

20 Q. Does that sound right?

21 A. Or one could say catty-corner across from me.

22 Q. Okay.

23 A. At the time, I believe there were four  
24 cubicles, if not a fifth one.

1 Q. All right. Where did you -- where did you  
2 keep the file, your working file?

3 A. There at my work area.

4 Q. On the desk?

5 A. Well, when I was working on it, it would have  
6 been on the desk. There's also a bookcase located  
7 behind my desk at that time.

8 Q. Okay. So you kept it there in the bookcase?

9 A. I -- I can't say without 100 percent  
10 accuracy, yeah, I kept it there. But I think that  
11 would have been the logical place either there or when  
12 I was working on it or behind my desk on the bookcase.

13 Q. Okay. All right. And you said that there  
14 was a binder that was given to you that was made by  
15 records; is that fair to say?

16 A. I -- I thought I said the binder was compiled  
17 by an intern for each individual detective.

18 Q. Yes, and that would have been part of your  
19 working file, correct?

20 A. Correct.

21 Q. So each detective as far as you know got a  
22 binder, correct?

23 A. To my knowledge, yes.

24 Q. Okay. And you said the binder was one to

1 three inches fat, correct? I think you said that  
2 yesterday.

3 A. Yeah, it could be one, two, three. It  
4 depends on what volume of documents you had and  
5 reports you had to put in those binders.

6 Q. Those binders were compiled not by yourself  
7 but by somebody else, right?

8 A. By the intern.

9 Q. By the intern.

10 A. But as my binder became full, I'm not saying  
11 I did, but I perhaps would have probably used a little  
12 bit of logic and got a second, third, fourth binder or  
13 whatever it took.

14 Q. Are you speculating?

15 A. I am speculating because I have two or  
16 three binders.

17 Q. The -- the binder that was prepared by the  
18 intern was, what, they would come by and add a report  
19 to your binder whenever they had more reports to add?

20 A. The procedure would have been after a  
21 detective prepares a report, that original report  
22 would go to the supervisor. At that time, it would  
23 have been Frank Zayas. He would have made any  
24 corrections, suggestions, whatever it took, to the

1 detective who presented that particular report, be it  
2 Lockmiller, John Smith, John Jones, or whatever. But  
3 in this particular case, then the procedure would have  
4 been at that time for the intern to make copies of  
5 that original report.

6 Q. Right.

7 A. And then the original report should go --  
8 should have went to records division.

9 Q. And I thought you said also into everybody's  
10 binder?

11 A. Didn't I say that the intern would make  
12 copies?

13 Q. Right. Okay. So the original would go to  
14 the main file you're saying, and then every binder  
15 would be updated with the new report?

16 A. That is the normal procedure, yes.

17 Q. Was that the procedure for the Lockmiller  
18 investigation?

19 A. Well, I didn't supervise the intern. I  
20 didn't watch the intern do this or do that.

21 Q. But you had a binder?

22 A. I had a binder, yes.

23 Q. And did that binder get updated with  
24 additional records?

1 A. Well, yes, I would update it myself.

2 Q. So the intern didn't update your -- your  
3 binder. You updated it yourself.

4 A. By that, that working bind -- my working  
5 binder was at my desk. So if he handed me a report, I  
6 would have put it in an appropriate binder --  
7 appropriate section of that particular binder.

8 Q. Okay. Well, that's my question. It sounded  
9 yesterday like there were binders that were maintained  
10 by somebody from records, an intern I think you  
11 described, for each detective. And in addition, you  
12 would have your own working file that would include  
13 the binder and anything else that you may have done or  
14 gathered. But that doesn't sound like what you're  
15 saying.

16 What you're saying to me now is that the  
17 intern would bring you the latest report after  
18 Frank Zayas reviewed it and then you'd add it to the  
19 binder.

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

22 THE WITNESS: For my individual copy, that's  
23 possible that could have happened, but I wasn't  
24 watching the intern put reports in whatever binders he

1 had.

2 BY MR. DiCIANNI:

3 Q. Well, that's not my question. My question is  
4 it sounded yesterday like you were saying that there  
5 were binders that were maintained by the intern and  
6 each detective had one, which means you, being one of  
7 the detectives, would have had a binder that the  
8 intern would maintain for you, but that doesn't sound  
9 like it's correct. It sounds like the --

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

12 Sorry, I thought you were done.

13 BY MR. DiCIANNI:

14 Q. It sounds -- it sounds like what you're  
15 saying today is that the intern would bring you the  
16 latest report and then you'd put it in the binder  
17 yourself. Is that a more accurate --

18 A. I can't be sure.

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

21 BY MR. DiCIANNI:

22 Q. Okay. So it sounds like the best you can say  
23 is that there were binders, copies of reports were  
24 made for the detectives. How each detective

1 maintained the binder or added the reports or didn't  
2 add the reports was up to the individual detective?

3 A. That's possible.

4 Q. All right. Well, let's just talk then about  
5 how you did it. You sometimes added the reports to  
6 the binder, sometimes you didn't --

7 A. Correct.

8 Q. -- is that fair to say?

9 Okay. And in addition to the binder -- and  
10 when we talk about a binder, we're talking about an  
11 actual notebook, correct?

12 A. A three-ring looseleaf binder.

13 Q. Yeah.

14 A. Which you can insert documents or extract  
15 documents from.

16 Q. Right. So just for an example, we have in  
17 front -- I have in front of me Exhibit Number 3 which  
18 is Freesmeyer's big, fat report. If you got this, you  
19 would -- with three-hole punches on it, you'd stick it  
20 in your binder, right?

21 A. Yes, that would seem to be the logical thing  
22 to do. If not me, then the intern. If I happen not  
23 to be there and he happens to be handed a report from  
24 Lieutenant Zayas, he could very well have done that,

1 put it on my desk or put it in my binder is what I'm  
2 saying.

3 Q. Okay. All right. So there wasn't some  
4 official practice of the intern comes by, updates  
5 everybody's binder, and now everybody's binder is  
6 updated?

7 MR. BOWMAN: Object to -- sorry.

8 BY MR. DiCIANNI:

9 Q. The reports would be brought to you and then  
10 you would decide if it's going into the binder or not  
11 going into the binder; is that fair to say?

12 A. Yes, that's fair to say.

13 Q. All right. So other than what you had -- was  
14 your file in a file? Was it in a Redweld or a  
15 bankers box, or was it just a collection of what you  
16 had in the binder and anything else you collected?

17 A. I don't recall.

18 Q. All right. Did you read Exhibit Number 3  
19 which is Freesmeyer's long report?

20 MR. BOWMAN: When?

21 MR. DiCIANNI: At any time.

22 THE WITNESS: What's the date of that?

23 BY MR. DiCIANNI:

24 Q. Well, it's got a number of dates. It starts

1 with January 10 of '94, and then it goes -- the last  
2 report is January of '95.

3 A. Is that the investigation or is that his  
4 monthly report?

5 Q. No, not the monthly report.

6 MR. BOWMAN: Mr. Daniels, the --

7 MR. DiCIANNI: Exhibit Number --

8 MR. BOWMAN: -- the report is in front of  
9 you. You can look at it to determine --

10 THE WITNESS: What's the exhibit number?

11 MR. BOWMAN: 3.

12 BY MR. DiCIANNI:

13 Q. Exhibit Number 3.

14 A. Oh, okay, that's 4.

15 Q. Here, I'll just show it to him. I'm not  
16 going to ask you to read it. I'm just going to ask  
17 you if you've seen it.

18 A. So your question is whether or not I read  
19 this?

20 Q. Yeah.

21 A. And my answer would be I do not know if I  
22 read this or not.

23 Q. Okay. During the -- would this report,  
24 Exhibit Number 3, have found its way into your binder?

1 A. Excuse me. May I see your copy again?

2 Q. Sure.

3 A. These don't, to me, appear to be the same  
4 report.

5 Q. Well, then I must have just given you a  
6 different one. I'm sorry, it's not --

7 MS. BARTON: It's Exhibit 5.

8 BY MR. DiCIANNI:

9 Q. It's 5.

10 A. Okay. So we're back on Exhibit 5.

11 Q. Right. Not 3.

12 A. And your question would be do I recall  
13 reading this?

14 Q. Yeah.

15 A. And my answer would be I do not know if I  
16 read this or not.

17 Q. Okay. You don't know if that got into your  
18 binder?

19 A. That's correct.

20 Q. Did you ever turn your binder over to anybody  
21 at any point during the investigation or -- strike  
22 that.

23 Prior to the criminal trial, did you ever  
24 turn your binder over to anybody?

1 A. My working binder?

2 Q. Yeah.

3 A. I couldn't recall if I did or not.

4 Q. When's the last time you saw your working  
5 binder?

6 A. Approximately four days ago.

7 Q. And where was that?

8 A. At my residence.

9 Q. Okay. So obviously you didn't turn it over  
10 to somebody if you still have it?

11 A. Well, apparently --

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

14 THE WITNESS: Apparently I do then.

15 BY MR. DiCIANNI:

16 Q. Okay. And when you left employment with --  
17 with the Normal Police Department, did you take  
18 your -- your working file with you?

19 A. I had my working file from the time that I  
20 prepared it for the class in '94, and as of this  
21 morning, it's still there in my residence.

22 Q. And I assume you've added things to it since  
23 April of 1994?

24 A. Yes.

1 Q. Okay. So you did take it with you when you  
2 left -- at some point in time, you took it home from  
3 the Normal Police Department?

4 A. Yes.

5 Q. And do you remember when?

6 A. Well, when I prepared it for the class in  
7 '94, I brought it back with me, and I used it there  
8 while still with the Normal Police Department. At  
9 what time and point and how I took it home, I don't  
10 recall.

11 Q. Why did you take it home?

12 A. Working on it.

13 Q. And what were you working on?

14 A. Analyzing the reports and the evidence, the  
15 documents.

16 Q. And that would have been -- would that have  
17 been in connection with the post-conviction case?

18 A. That would have been from '94 until  
19 post-conviction, yes.

20 Q. So that would have been from April of '94  
21 when the Florida -- when you returned from the Florida  
22 seminar all the way through the post-conviction case?

23 A. Yes.

24 Q. And at various times, you added documents to

1 that obviously, correct?

2 A. If you want to refer to my notes as  
3 documents, yes, yes.

4 Q. Okay. You've added other documents to it as  
5 well, have you not?

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

7 Q. Well, you turned over five boxes to the  
8 counsel for the county in response to a subpoena,  
9 right?

10 A. Yes. Then the -- the answer to your question  
11 would be, yes, I obtained copies of discovery in  
12 post-conviction appeals and so forth.

13 Q. Okay. You've obtained other documents that  
14 you've added to your working file since your return to  
15 Florida -- from the Florida seminar?

16 A. Correct.

17 Q. Okay. What you turned over to the County's  
18 attorneys in response to their subpoena, and that's in  
19 the civil case, was your working file while you were  
20 working on the Lockmiller investigation and anything  
21 you added to it since then, correct?

22 A. Correct.

23 Q. When you -- you said you had several meetings  
24 with Beaman's attorneys and you talked about

1 different -- and I'm talking about the attorneys in  
2 the civil case -- and you talked about different parts  
3 of the case. Did you ever talk about any of these  
4 allegations they've made of missing evidence, evidence  
5 not turned over to Beaman's defense attorneys?

6 A. I would --

7 MR. BOWMAN: Objection to the form of the  
8 question. That misstates the testimony. He testified  
9 there were two meetings, not several.

10 MR. DiCIANNI: I didn't say seven. I said  
11 several.

12 MR. BOWMAN: Several, yes. Two, not several.

13 BY MR. DiCIANNI:

14 Q. Okay. Whatever -- whatever number of  
15 meetings you may have had with Beaman's attorneys in  
16 the civil case, did you discuss these allegations of  
17 evidence not turned over to Beaman's lawyers in the  
18 civil case?

19 A. Yes.

20 Q. And what did you say to -- what did they ask  
21 you about that and what did you say to them about it?

22 A. The subject was the letter from the polygraph  
23 operator Terry McCann. The question was what happened  
24 or did I ever see or was it ever handed to me,

1 Terry McCann's report of John Murray not being able to  
2 take a polygraph test.

3 Q. McCann's polygraph report?

4 A. Correct.

5 Q. And we looked at that yesterday I think as  
6 one of the exhibits.

7 A. Yes.

8 Q. When did this con -- this particular  
9 conversation about that polygraph report take place?

10 A. One of the two meetings I had with  
11 Mr. Bowman.

12 Q. Okay. Was anybody else present at the time?

13 A. The first meeting, his associate Alexa.

14 Q. Was present?

15 A. Yes.

16 Q. Where did that meeting take place?

17 A. At the restaurant in Pontiac, and I don't  
18 recall the name of the restaurant.

19 Q. Okay. They had that polygraph report with  
20 them at the time?

21 A. I don't recall if they did or not.

22 Q. But you knew what they were talking about?

23 A. We were, the three of us, and also in a  
24 second meeting with Mr. Bowman, we knew what we were

1 talking about, yes.

2 Q. I'm talking about the Murray report, the  
3 polygraph report, you knew what he was talking about?

4 A. Correct.

5 Q. What did they ask you about it?

6 A. Well, I don't know how -- recall how he  
7 phrased the question or comment. It was did I ever  
8 receive this, did I ever see this, something along  
9 that nature.

10 Q. Okay. And what was your response?

11 A. My response was I could have received a copy  
12 of it. I could have read it.

13 Q. You didn't have a memory of it?

14 A. As to how I became privy to it, I did not  
15 recall exactly how.

16 Q. Did you recall getting it during -- at some  
17 point during the Lockmiller investigation before the  
18 trial?

19 A. No, I do not.

20 Q. You didn't recall getting it?

21 A. I do not recall if I received it then.

22 Q. You obviously -- well, obviously since then  
23 you've seen it obviously?

24 A. Correct.

1 Q. Did you ever have any -- strike that. Let me  
2 go back to my other question.

3 Did you -- did you talk about any other  
4 issues relating to that polygraph report?

5 A. Other than the polygraph report?

6 Q. Well, anything else besides whether you've  
7 seen it before?

8 A. I don't recall.

9 Q. All right. What about any other questions  
10 about missing evidence or evidence not turned over to  
11 the State's Attorney or to the defense -- Beaman's  
12 defense team?

13 A. As I recall, that was the one issue.

14 Q. Okay. You mentioned a second meeting, and  
15 who was that with?

16 A. Mr. Locke Bowman.

17 Q. And who else?

18 A. Myself.

19 Q. Where was that?

20 A. At the same restaurant in Pontiac.

21 Q. Okay. And that first meeting with Alexa  
22 and -- and Mr. Bowman at the restaurant in Pontiac,  
23 that was your first meeting --

24 A. Correct.

1 Q. -- with his attorneys in the civil case?

2 A. Correct.

3 Q. Okay. All right. Did you ever have any  
4 conversations with anybody at the Normal Police  
5 Department about that polygraph report?

6 A. With Lieutenant Warner.

7 Q. Is that the only person you've spoke to about  
8 it at the Normal Police Department?

9 A. At the Normal Police Department, I don't  
10 recall if I spoke to other officers or records  
11 personnel about that or not.

12 Q. All right. But you do remember a  
13 conversation with Dave Warner?

14 A. Yes.

15 Q. And when did that take place?

16 A. I don't recall. I know it had to be after  
17 him receiving a subpoena for the deposition.

18 Q. For Mr. Warner's -- for Lieutenant Warner's  
19 deposition?

20 A. Well, there were four officers. All four of  
21 the officers received a subpoena or affidavit,  
22 subpoena.

23 Q. So if I tell you that Lieutenant Warner's  
24 deposition took place last December 2012, does that

1 refresh your memory about when this conversation took  
2 place at all?

3 A. Well, it couldn't have taken place after  
4 that, because I was no longer employed there. So I  
5 guess it would refresh my memory because I did have a  
6 conversation with him about it.

7 Q. So you do remember you were employed there at  
8 the time?

9 A. December?

10 Q. No. When you had the conversation with  
11 Warner.

12 A. Yes.

13 Q. Okay. And were you at work when you -- when  
14 you had the conversation?

15 A. Yes, I had -- I had to be because I don't  
16 socialize with Dave Warner.

17 Q. Okay. So where did the conversation take  
18 place?

19 A. I don't recall. It could have been in a  
20 hallway. It could have been in his office.

21 Q. Somewhere at the department?

22 A. In the building, yes.

23 Q. Okay. And was anybody else there?

24 A. I don't recall.

1 Q. So how did it come up?

2 A. I don't recall that either.

3 Q. Can you recall anything that was said between  
4 the two of you?

5 A. Well, Lieutenant Warner, I believe that he is  
6 the one that escorted -- accompanied John Murray over  
7 to the polygraph. I believe it was during this  
8 conversation where I said, no, I'm the one that had  
9 taken him over, because I remember having a  
10 conversation with him on the way back. And I remember  
11 what Mr. McCann had reported to me while still over  
12 there at the Morton Crime Lab regarding John Murray's  
13 behavior.

14 Q. So Detective Warner told you that he was the  
15 one who took Murray to the -- to get the polygraph --

16 A. Yes.

17 Q. -- is that what you're saying?

18 A. That's what he had said, yes.

19 Q. And you corrected him because you remembered  
20 that you did it; is that correct?

21 A. If you want to use the word correct, yes.

22 Q. Okay. And what did he say?

23 A. I don't recall what his response was.

24 Q. Did he argue with you or -- or dispute that

C07118

1 you did it as opposed to himself?

2 A. No, he did not. I can recall he did not do  
3 that.

4 Q. Did it refresh his memory that --

5 A. I -- I don't recall that either.

6 Q. You don't recall what his reaction was?

7 A. No.

8 Q. Can you -- what else was discussed between  
9 the two of you in this conversation?

10 A. Basically that was it as I can best recall.

11 Q. Okay. Do you -- you can't remember anything  
12 else about that conversation with Dave Warner; is that  
13 fair to say?

14 A. No, that was about all I could recall as far  
15 as the evidence.

16 Q. All right. And have you talked to  
17 Dave Warner since that date about this polygraph?

18 A. I have not seen Dave Warner since December.

19 Q. Okay.

20 A. Therefore, I couldn't have talked to him.

21 Q. All right. So what you've just described to  
22 me is the only conversation you've had with  
23 Dave Warner about anything having to do with that  
24 polygraph as far as you could remember?

1 A. As far as I can remember, yes.

2 Q. Okay. Do you recall telling Dave Warner that  
3 you didn't understand why he was a defendant in the  
4 case?

5 A. I could have.

6 Q. You don't remember that, though?

7 A. No, I don't remember that particular  
8 statement, no.

9 Q. Is that a -- is that something that you would  
10 agree with today, you don't know why he's a defendant  
11 in the case?

12 A. That's correct.

13 Q. Would it be fair to say you don't feel like  
14 Dave Warner -- well, you don't believe Dave Warner did  
15 anything wrong in this case?

16 MR. BOWMAN: Objection, foundation.

17 THE WITNESS: In my opinion, Dave Warner did  
18 not do anything that would have been illegal or  
19 unprofessional.

20 BY MR. DiCIANNI:

21 Q. Okay. You have no reason to believe that  
22 Dave Warner would have done something to intentionally  
23 hide that polygraph report from anybody?

24 MR. BOWMAN: Objection, foundation.

C07120

1 THE WITNESS: In my opinion, I don't believe  
2 he had any motive, anything to gain by that, nor did  
3 he do it.

4 BY MR. DiCIANNI:

5 Q. Okay. And it's -- and it's -- it's true -- I  
6 mean, I may just be reiterating what you've said  
7 before, but you have not discussed any missing  
8 evidence issues regarding the Beaman trial with any of  
9 the other people that you know to be defendants in  
10 this case?

11 A. Any missing evidence?

12 Q. Right.

13 A. And -- no, other than what I just testified  
14 to as far as the missing a letter, misplaced letter.

15 Q. Regarding the polygraph exam?

16 A. Correct. Yeah.

17 Q. With Warner?

18 A. Correct.

19 Q. No, no, I mean besides that.

20 A. With anyone else?

21 Q. Yeah.

22 A. Regarding the case itself?

23 Q. Regarding any questions about any missing  
24 evidence. Let me rephrase the question.

1 A. Yeah, please.

2 Q. Other than the conversation you had with  
3 Dave Warner about the John Murray polygraph report  
4 which we've just discussed, have you had any  
5 conversations other than that with any of the other  
6 defendants about any issue of missing evidence?

7 A. No, I do not.

8 Q. Have you considered yourself an advisor to  
9 Beaman's lawyers in the civil case -- in this case?

10 A. Advisors, no.

11 Q. Pardon me?

12 A. As an advisor?

13 Q. Yeah.

14 A. No.

15 Q. Did you ever tell Dave Warner, you know I'm  
16 on their side? "Their" meaning Beaman's lawyers.

17 A. I don't recall those exact words.

18 Q. Do you recall something similar to that?

19 A. That's a possibility as to they questioned --  
20 they meaning the four officers mentioned in the civil  
21 lawsuit. I don't recall saying I'm on their side, but  
22 something came up to the effect, well, why didn't you,  
23 Tony, receive a subpoena? And my reply could have  
24 been something along the lines that I'm on their side

C07122

1 or I defended him or my name wasn't on the arrest  
2 warrant, something of that nature, to give credence to  
3 the fact that my name was not mentioned in the  
4 lawsuit.

5 Q. Okay. So --

6 A. Is that satisfactory?

7 Q. You don't have to give answers that are  
8 satisfactory. I just want you to give me what your  
9 answer is. I'm just looking for the facts.

10 So -- so you may have said -- you -- you --  
11 you will not rule out that you said to Dave Warner at  
12 some point in time, I'm on their side. Their meaning  
13 Beaman and his lawyers.

14 A. I would not rule that out, correct.

15 MR. DiCIANNI: All right. In -- do you want  
16 to take a break? It's been an hour.

17 MR. BOWMAN: It's up to you.

18 MR. DiCIANNI: Yeah, take a little break.

19 THE VIDEOGRAPHER: Off the record, 10:46.

20 (Whereupon, a break was taken.)

21 THE VIDEOGRAPHER: On the record, 10:54.

22 BY MR. DiCIANNI:

23 Q. Mr. Daniels, we have been talking about the  
24 John Murray polygraph, and it's Exhibit 21. I'll just

1 show it to you. As we discussed yesterday, it was  
2 directed -- addressed to Dave Warner. And I think you  
3 said yesterday that you thought it was directed to  
4 Warner or addressed to Warner either because he may  
5 have called to ask to set it up or it was -- he was  
6 the evidence technician. Is that -- did I understand  
7 that?

8 A. Yes, he's the -- the evidence tech, and it  
9 could have been -- the reason why it was addressed to  
10 him, it could have been for that particular reason.

11 Q. Did -- did -- did polygraph reports generally  
12 go into evidence?

13 MR. BOWMAN: Object to the form of the  
14 question. That's vague. It's not clear.

15 THE WITNESS: Generally I couldn't answer  
16 that. The procedure would have been if it's an  
17 official document, not a copy such as this is, it  
18 should go either in -- placed into evidence or more  
19 than not, it would have been in records.

20 BY MR. DiCIANNI:

21 Q. So -- so documents generally didn't go into  
22 the evidence locker or whatever you wanted to call it,  
23 the evidence section?

24 A. Well, I can't answer that question and be

1 truthful with it because I do not know.

2 Q. Okay. All right. So you don't know if this  
3 was directed to -- to Warner because he was the  
4 evidence technician?

5 A. That's correct.

6 Q. And you don't know if polygraph reports  
7 generally went into the evidence section?

8 A. Correct.

9 Q. All right. Now, in connection with the --  
10 with the work you did with Hospelhorn, I think you  
11 said yesterday that you left it to Hospelhorn  
12 generally to do the reports.

13 A. No, he -- I don't think I stated that. I  
14 would leave it to him. He would volunteer to do the  
15 report such as -- as we -- after we talked to the  
16 witnesses.

17 Q. Okay. So sometimes you would -- you would  
18 offer to do the reports, sometimes he would offer to  
19 do the report?

20 A. I -- I would say so, yes.

21 Q. Okay. Was he involved at all in -- in the  
22 polygraph -- getting Murray to the polygraph report --  
23 polygraph exam?

24 A. As I recall, he was not.

1 Q. Okay. And did he have any interaction as far  
2 as you know regarding the receipt of the polygraph  
3 report?

4 A. As far as I know, no.

5 Q. Regarding Frank Zayas, did he have, as far as  
6 you know, any direct involvement in bringing Murray or  
7 getting Murray out to get the polygraph report?

8 A. As far as I know, no.

9 Q. In terms of any interaction regarding the  
10 polygraph report itself, did he have any involvement  
11 in that?

12 A. To my knowledge, I do not know.

13 Q. And Tim Freesmeyer in terms of getting Murray  
14 out to take a polygraph, was he involved in that in  
15 any way?

16 A. As far as I know, I do not know. As far as I  
17 recall, I do not know.

18 Q. Are you aware of any interaction he had with  
19 you or anyone else regarding Murray's polygraph  
20 report?

21 A. No.

22 Q. You test -- well, we saw your testimony  
23 yesterday from one of the hearings where you made the  
24 statement that Freesmeyer set up -- I'm sorry,

1 Freesmeyer requested Murray to take the second  
2 polygraph -- take another polygraph examination. Do  
3 you recall that?

4 A. Do I recall the conversation yesterday?

5 Q. Yes.

6 A. That we discussed that issue?

7 Q. Well, all right. Let me pull out the  
8 testimony. Here. If you would take a look at page  
9 127 from Exhibit 16 from yesterday.

10 MS. BARTON: He's got it.

11 BY MR. DiCIANNI:

12 Q. You have it there, okay.

13 A. 127.

14 Q. Yeah. You testified -- starting actually  
15 page 126. You were asked the question: "At any point  
16 after that initial test, was John Doe One asked to  
17 take another polygraph examination?"

18 "Answer: Yes. I asked him in our return trip  
19 back to Normal from Morton if he would take another  
20 examination perhaps given by a female since maybe the  
21 male maybe intimidated him some. He was in agreement  
22 to that. And then later on, I've also learned that  
23 Detective Freesmeyer had asked him to take the  
24 polygraph and he declined that."

1           Do you recall yesterday we talked about that  
2 testimony?

3           A.    I recall the portion where I tried to explain  
4 that perhaps a female examiner he may feel more at  
5 ease.

6           Q.    Yeah.

7           A.    And as far as Freesmeyer, I don't recall  
8 yesterday saying that Freesmeyer had asked him and he  
9 declined.

10          Q.    Okay. Well, let me ask you about that then.  
11 When you -- you don't dispute that this testimony was  
12 given?

13          A.    Oh, no.

14          Q.    Okay.

15          A.    Can't dispute that.

16          Q.    When you testified to this, Freesmeyer had  
17 asked him to take the polygraph, were you referring to  
18 the one that he actually went down to Morton with you  
19 to take or were you referring to a second one?

20          A.    I'm referring to Detective Freesmeyer's  
21 request to John Murray to take a polygraph test.

22          Q.    Where did you learn that?

23          A.    It's in Freesmeyer's report somewhere.

24          Q.    Okay. So you read Freesmeyer's report and

1 that's where you saw that there was some reference to  
2 John Murray taking the polygraph?

3 A. Yes, there was.

4 Q. Okay. There's nothing else -- you don't have  
5 any other source for that information?

6 A. No.

7 Q. Okay. All right. Have you ever spoken with  
8 Tim Freesmeyer about this case since the trial?

9 A. If I did speak to him, I do not recall. And  
10 if I did actually speak with him, I don't recall what  
11 the subject of the matter would be.

12 Q. Okay. You testified yesterday that you  
13 thought the Chicago Police Department recommendation  
14 that Freesmeyer continue with his contacts with Beaman  
15 was incorrect. You didn't agree with it because you  
16 thought that Freesmeyer was inexperienced, and  
17 although energetic, didn't have the training or  
18 experience to be doing that.

19 A. What the -- I'm sorry. What the Chicago two  
20 homicide detectives indicated that they thought that  
21 Freesmeyer should continue to talk to Alan. My  
22 opinion was Freesmeyer lacked the experience.

23 Q. Okay. Chicago Police thought that because of  
24 his age, closer to Beaman's, he should be the one to

1 continue?

2 A. Correct.

3 Q. You thought that he needed more -- he didn't  
4 have the experience to do it?

5 A. To interview him, correct.

6 Q. Right. What did you think -- what did you --  
7 what did you think was ineffective about Freesmeyer's  
8 interactions with Beaman?

9 A. I did not witness any of Tim Freesmeyer's  
10 confrontations with Alan Beaman. Only from the  
11 reports, from the overhears.

12 Q. You read those?

13 A. Yes, I believe I did read them.

14 Q. Did you read them while the investigation was  
15 going on or did you read them after he had already  
16 been arrested and charged?

17 A. I don't recall.

18 Q. Did you have that opinion at the time that  
19 you met with the Chicago Police Department that  
20 Freesmeyer was -- should not have been the one to  
21 continue the interaction with Beaman?

22 A. I do not know if that was the time that I  
23 thought that he wasn't experienced enough --

24 Q. So --

1           A.    -- or it could have been earlier.

2           Q.    So the opinion that he wasn't experienced  
3 enough and the disagreement with the Chicago Police  
4 recommendation, that may have been something you  
5 formed later; is that what you're saying?

6           A.    I disagreed with what the homicide detectives  
7 said in regards to Freesmeyer continuing to confront  
8 Alan. I disagreed with that based upon the fact that  
9 I didn't think Alan -- or, I'm sorry, I didn't think  
10 Tim was experienced enough to conduct interviews with  
11 Alan.

12          Q.    But I'm saying did you believe that at the  
13 time?

14          A.    I don't recall at that time, at the  
15 Chicago PD or later on in the investigation. I do  
16 recall making a suggestion to Assistant Chief  
17 Walt Clark when they brought Alan to the Normal Police  
18 Department that perhaps we, meaning the police  
19 department, should secure the cooperation, the  
20 assistance from -- someone from the John Reid School  
21 of Interview and Interrogation because this may be our  
22 only chance, we, meaning the Normal Police  
23 Department's only chance to talk with Alan prior to  
24 his arrest.

1 Q. So you wanted to hire somebody from a  
2 different agency to talk to Beaman?

3 A. Well, if you want to use that term hire, yes.  
4 We needed their professionalism, we needed their  
5 experience. Once again, Tim was not experienced  
6 enough.

7 Q. What about yourself, why didn't -- did you  
8 suggest that you -- did you feel like you were  
9 experienced enough?

10 A. I -- based upon my experience and training  
11 and prior investigations that I had and where I  
12 extracted confessions, yes, more so than Tim because  
13 Tim had not been trained.

14 Q. So why would you have to go out get somebody  
15 who was outside the department --

16 A. Well, they did not want me because Chicago PD  
17 did not recommend me because I was too much of a  
18 direct threat to Alan because authoritative figure as  
19 well as the age.

20 Q. Chicago Police said that?

21 A. Correct.

22 Q. Okay. Did you -- and you agreed with that?

23 A. I agreed with?

24 Q. With the Chicago Police's view on your -- you

1 being the one to talk to Beaman?

2 A. I disagreed once again that Tim should have  
3 been the person to talk with Alan.

4 Q. Well, I'm not asking that. I'm asking did  
5 you disagree with the Chicago recommendation that you  
6 not be the one?

7 A. No, I didn't agree with that.

8 Q. You did not agree with that?

9 A. No, I did not.

10 Q. Did you express that to anyone? Did you ever  
11 say I should be the one to do this?

12 A. I don't recall whether I said that to them or  
13 not or at a later time other than what I just  
14 explained to you about getting John Reid's expertise  
15 involved would lead one to believe that I wasn't  
16 qualified or I was not asked to or I was not  
17 considered.

18 Q. Were you resentful about that?

19 A. No, I wasn't resentful that Tim would further  
20 attempt to make contact or talk with him or interview  
21 him. It was the fact that it seems that suggestions  
22 from anyone that had the experience fell by the  
23 wayside.

24 Q. Well, the Chicago Police investigators who

1 made the recommendation, they were very experienced?

2 A. Correct.

3 Q. Okay. And -- and they disagreed with you and  
4 agreed with Tim, correct?

5 A. I disagreed with them.

6 Q. Okay. All right. Fine. Were you resentful  
7 about their -- I'll use the term favoring Tim over you  
8 in connection with that important part of the  
9 investigation?

10 A. No, not as far as favoring or resentment as a  
11 fact that why use an inexperienced interviewer,  
12 detective to interview a homicide suspect.

13 Q. So you were not resentful?

14 A. No, not resentful, no.

15 Q. Okay. Were you ever blamed by anyone for  
16 Beaman going out and lawyering up -- which is a term I  
17 actually hate, but I'll use it -- lawyering up after  
18 the initial investigation -- initial interview with  
19 him in August of '93?

20 A. I -- I don't think I would have said  
21 something of that nature, nor do I recall if I did.

22 Q. Do you remember anybody ever saying to you or  
23 criticizing you for coming on in a way that caused  
24 Beaman to go hire a lawyer?

1           A.    Seems that Mr. Souk did, but he did it in a  
2 jokingly fashion.

3           Q.    What do you mean?

4           A.    Well, I think he said -- I believe he said  
5 something like, well, if you would have got a  
6 confession from him.

7           Q.    That's --

8           A.    If I would have got a confession from him --

9           Q.    Yeah.

10          A.    -- then the investigation wouldn't have had  
11 to go that far.

12          Q.    When did he make that statement?

13          A.    I do not recall when or who was present or  
14 where that was made.

15          Q.    But it was -- you interpreted that as being  
16 some kind of a statement that you failed because you  
17 didn't get --

18          A.    I didn't take it personally. I took it as  
19 just a joke or a side -- a side remark.

20          Q.    Okay.

21          A.    He didn't offend me in that statement.

22          Q.    All right. If you look at Exhibit 3, it  
23 appears that the last police report that you wrote in  
24 connection with the investigation was October 4, '93.

1 I think that's the -- it's the second to the last  
2 page, 257. Is that fair to say that was the last  
3 report you wrote in connection with the -- with the  
4 investigation?

5 A. I can't say that for sure because is this all  
6 the documents in whose file? The State's Attorney's  
7 file? The Normal Police Department's file?

8 Q. You have no memory of writing any reports  
9 after October 4, '93?

10 A. Correct.

11 Q. You testified about your role in the case  
12 becoming much less active than other people at some  
13 point in time?

14 A. Yes.

15 Q. We see in Exhibit 3 a series of reports  
16 beginning early September '93 and ending October 4 of  
17 '93. Would that refresh your memory that there was  
18 a -- that that was approximately the time in which  
19 your role in the investigation was lessened?

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

22 THE WITNESS: During these two dates, are you  
23 asking me as time progressed, that my activity in this  
24 investigation lessened?

1 BY MR. DiCIANNI:

2 Q. Yes.

3 A. I would have to say, yes, that there's no  
4 more reports.

5 Q. Right, and you testified to that yourself?

6 A. Okay.

7 Q. You testified at some point in time after the  
8 early part of the investigation, your role in it  
9 diminished?

10 A. Correct.

11 Q. Okay. And was it explained to you why your  
12 role was being diminished?

13 A. If it was, I don't recall, and by whom, I  
14 don't recall other than that conversation I had with  
15 Frank Zayas about returning to my cases.

16 Q. Okay. You took that, though, as a  
17 diminishment of your role in the case?

18 A. Correct.

19 Q. Okay. Were you resentful about that?

20 A. No, I wasn't.

21 Q. Did you believe that was the wrong move by  
22 the CID?

23 A. I can't say that it was a wrong move. I  
24 don't have an opinion regarding that either.

1 Q. Now, you still consider John Murray a viable  
2 suspect, correct?

3 A. As we're sitting here today?

4 Q. Yeah.

5 A. Yes, I do.

6 Q. Okay. Is there anybody else that you  
7 consider to be a viable suspect?

8 A. Those individuals that -- there were two DNA  
9 swabs, I guess, that came from Virginia -- Virginia.  
10 From Jennifer, from her vagina area. Those have not  
11 been identified as to whom is responsible. Not  
12 knowing that information until after the evidence was  
13 reexamined, I would have to include those people.

14 Q. Okay. And those have not been matched yet?

15 A. Correct.

16 Q. All right. So you do not consider  
17 Michael Swaine a viable suspect anymore?

18 A. I do not.

19 Q. You don't -- you don't consider Stacey --  
20 Stacey Gates a viable suspect anymore?

21 A. I do not.

22 Q. You don't consider Alan Beaman a viable  
23 suspect anymore?

24 A. I do not.

1 Q. Okay. What about Rob Curtis? Do you still  
2 consider Rob Curtis -- or I don't know if you ever  
3 did, but do you consider Rob Curtis today a viable  
4 suspect?

5 A. I do not know what Rob Curtis's role was in  
6 this particular case. Now, was he a witness or a  
7 suspect at the time?

8 Q. Were you the one who pulled up the  
9 investigation regarding Rob Curtis being involved in  
10 some kind of cat torture ritual?

11 A. I don't recall that.

12 Q. Doesn't ring a bell?

13 A. I don't recall that subject, and I don't  
14 recall being involved in honing up an investigation  
15 involving him.

16 Q. So why do you still consider John Murray a  
17 viable suspect?

18 A. He has not been excluded. To my knowledge,  
19 he has not been excluded.

20 Q. And what includes him?

21 A. Includes him?

22 Q. (Nodding.)

23 A. The fact that he lives approximately a five-  
24 to seven-minute drive from Jennifer. He supplied them

1 drugs. He was and she was attempting to renew their  
2 relationship.

3 He stated that he was afraid of Alan Beaman's  
4 and that's why he stayed in a motel with his  
5 girlfriend the night that he returned to Normal.

6 The fact that he -- regardless if you believe  
7 in -- in Greta Alexander and her psychic abilities is  
8 irrelevant. The fact that she is an investigative  
9 tool as much as the polygraph is. The fact that he  
10 went there by himself for unknown reasons and his two  
11 interviews that we conducted -- that Rob Hospelhorn  
12 and I conducted with him.

13 The fact that he was less than cooperative  
14 from the time that he got to the crime lab to take the  
15 polygraph. The fact that he, Murray, did not want to  
16 take a polygraph after the first attempt.

17 And also the fact that he had committed  
18 domestic violence against his girlfriend in the same  
19 fashion that Jennifer was killed. The fact that  
20 Jennifer's girlfriend, even though it is hearsay,  
21 witnessed other domestic violences between John Murray  
22 and Deb, his girlfriend.

23 The fact that Alan showed no history of any  
24 physical violence against Jennifer. He was meek. I

1 think that there was an attempt made by Alan that she  
2 could physically overcome Alan.

3 The fact that Alan's vehicle was not, in my  
4 opinion, capable of driving in excess of 100 miles an  
5 hour from Normal.

6 Q. Well, let me now -- let me stop you there  
7 only because that seems to be -- I'm not asking you  
8 what excludes Beaman as a suspect. I was asking you  
9 what includes Murray as a suspect?

10 A. Murray had the vehicle. He had the distance.

11 Q. Right.

12 A. He had the opportunity.

13 Q. Opportunity, right.

14 A. Also I think John Murray had called  
15 Deborah Mackoway at her place of employment which is  
16 the hospital to set up an alibi, meaning that he had  
17 called her from the apartment; he couldn't have  
18 committed the crime.

19 Q. Is this -- are -- are these factors that you  
20 considered in believing that John Murray is a viable  
21 suspect? Are these -- are these considerations that  
22 you formed after the trial -- after Beaman's trial or  
23 did you have these prior to Beaman's trial?

24 A. Prior to his trial.

1 Q. So you considered John suspect -- John Murray  
2 a suspect who was still viable and still needed to be  
3 ruled out even at the time that Beaman was under  
4 arrest and being charged?

5 A. Yes.

6 Q. And did you also believe that Gates and  
7 Swaine were not viable suspects even at the time  
8 Beaman was under arrest and being charged?

9 A. Yes.

10 Q. And did you consider Beaman not being a  
11 viable suspect even at the time that he was arrested  
12 and being charged?

13 A. No. I -- I considered him still a suspect in  
14 the fact that he was arrested.

15 Q. So your opinion that -- or your -- yeah, your  
16 opinion that Beaman is not a viable suspect, that  
17 is -- that was formed after his trial?

18 A. Yes, when I -- I learned certain facts  
19 regarding the trial. I learned those post-conviction  
20 hearing.

21 Q. Okay. Wouldn't -- wouldn't Murray's going to  
22 stay at a hotel so Beaman -- so he would be safe from  
23 Beaman, wouldn't that confirm a fear of he thinks he  
24 got Jennifer and now he's -- now he's next? He thinks

1 Beaman got Jennifer and now Murray believes he's next?  
2 Wouldn't that confirm suspicion on Alan?

3 A. I guess it depends on how you look at it.

4 Q. Well, how did you look at it? How did -- how  
5 did that suggest to you Murray was a -- was a  
6 suspect --

7 A. Well, that fact --

8 Q. -- going to the hotel?

9 A. That -- that fact in and of itself did not.  
10 Other factors --

11 Q. Okay.

12 A. -- that came into play.

13 Q. And he went -- when he went to the psychic,  
14 didn't the psychic pick out Alan and Carbone from a --  
15 from a yearbook?

16 A. According to John Murray's statement, yes.

17 Q. Okay. That didn't seem to be true?

18 A. Pardon me?

19 Q. That -- that -- you don't believe that's  
20 true, though?

21 A. I can't say that.

22 Q. And wouldn't nervousness or inability to  
23 perform the polygraph or nervousness during the  
24 interviews, couldn't that be explained by Murray being

1 a drug dealer and also being an informant?

2 A. That would probably be left up to a poly  
3 examiner to determine.

4 Q. Well, I'm talking about in your mind.

5 A. About who?

6 Q. In your mind.

7 A. Being nervous?

8 Q. Yeah. Wouldn't that be explained not by  
9 guilt over having committed a murder, but by -- by the  
10 fact that he's a drug dealer and he's an informant and  
11 he's now being asked to give information --

12 A. That --

13 Q. -- could implicate him?

14 A. That possibility exists -- could exist.

15 Q. All right. Were you in possession of a bag  
16 of evidence taken from the crime scene at some point  
17 in the investigation?

18 A. Yes.

19 MR. BOWMAN: Objection, that's vague and  
20 ambiguous. Objection.

21 THE WITNESS: Yes.

22 BY MR. DiCIANNI:

23 Q. And what was in that bag?

24 A. As I can best recall, we obtained a plastic

1 shopping bag from one of the neighbors across from  
2 where Jennifer lived to place in there further  
3 evidence. I believe that was another plastic shopping  
4 bag that was found and I believe it was -- as I  
5 recall, it was taken into evidence to determine if  
6 there would have been some fingerprints on there that  
7 could be valuable for the investigation.

8 Q. So the plastic bag you got from the neighbor  
9 was in order to secure it -- secure the other plastic  
10 bag that was taken from her apartment?

11 A. As I can recall, the -- a plastic bag was  
12 taken from the apartment.

13 Q. What was in the plastic bag taken from the  
14 apartment?

15 A. Well, I don't recall exactly what it -- what  
16 was in there item for item.

17 Q. Okay. Where did you get it?

18 A. There in Jennifer's apartment. I don't know  
19 if I -- if it came from the floor area in front of the  
20 kitchen sink or if it came from the sofa.

21 Q. Okay. And why did you take possession of it?

22 A. Somebody had to.

23 Q. Were you directed to?

24 A. No. As I recall, there were -- either

1 Rob Hospelhorn and/or Dave Warner was with me at that  
2 time. It was a subsequent visit to the crime scene.

3 Q. Okay. Was the crime scene investigation  
4 completed, the crime scene analysis?

5 A. At that time?

6 Q. Yeah.

7 A. I do not recall whether it was completed at  
8 that time or if it was turned back over to the  
9 apartment owner.

10 Q. All right. What did you do with the bag?

11 A. Well, I brought it back to the police  
12 department. I don't -- I don't recall myself  
13 physically entering it into evidence or having someone  
14 else do it.

15 Q. All right. So you -- you have no memory of  
16 what you did with it once you brought it back to the  
17 station?

18 A. Correct.

19 Q. Okay. Was it your practice that any  
20 information that you obtained in connection with an  
21 investigation would be turned over to the  
22 State's Attorney's Office if there were charges  
23 brought?

24 A. Of any investigation?

1 Q. Yeah. If your --

2 MR. BOWMAN: I need that question back. I  
3 spaced out for a minute. Sorry.

4 (Whereupon, the record was  
5 read as requested.)

6 MS. BARTON: Object to form.

7 THE WITNESS: That's the question?

8 BY MR. DiCIANNI:

9 Q. Yeah.

10 A. Normally, yes, that would be my practice.

11 Q. Okay. And as far as your understanding was,  
12 that was the practice of the detectives you worked  
13 with in -- in CID?

14 A. Over the years, yes.

15 Q. Why did you go to visit -- well, strike that.  
16 When -- when you went to visit John Murray  
17 after he was arrested for the domestic battery and the  
18 drug charges in 1994, am I to understand you did that  
19 on your own?

20 A. Yes, I did.

21 Q. You were not directed by anyone?

22 A. As I recall, I was not.

23 Q. And how did you find out that he had been  
24 arrested?

1           A.    We have -- as I recall, we have a daily  
2 readout of who's incarcerated.

3           Q.    Okay.

4           A.    I do not know if I obtained information from  
5 that report or someone else had told me.

6           Q.    And -- and you considered John Murray your  
7 lead in connection with the Lockmiller investigation?

8           A.    As the investigation went on, my -- my  
9 thoughts turned towards John Murray being a very  
10 viable suspect because we could not exclude him based  
11 upon my previous testimony here this morning.

12          Q.    But in terms of responsibility in the  
13 invest -- in the Lockmiller murder investigation, you  
14 considered John Murray to be your responsibility in  
15 that investigation?

16          A.    Yes -- oh, I'm sorry, you say responsibility?

17          Q.    Well, part of your role was to follow up on  
18 John Murray, correct?

19          A.    Like any investigation, when you conduct an  
20 interview and there are questions that are unanswered  
21 regardless if it's the Lockmiller case, a detective  
22 should follow up.

23          Q.    Okay. You -- you conducted the first two  
24 interviews with Murray?

1 A. With Rob Hospelhorn, yes.

2 Q. With Rob Hospelhorn.

3 You invest -- you interrogated or interviewed  
4 Deb Mackoway regarding Murray?

5 A. It seems that we did, yes.

6 Q. You took Murray for the polygraph?

7 A. Yes.

8 Q. You went to see Murray in the jail after he  
9 had been arrested in 1994, correct?

10 A. Correct.

11 Q. So those were all activities that you did and  
12 followed up on regarding John Murray?

13 A. Correct.

14 Q. Did you get the State's Attorney's approval  
15 to go talk to John Murray during -- while he was  
16 incarcerated?

17 A. I don't recall asking.

18 Q. Okay. Would that be unusual?

19 A. Not necessarily, no.

20 Q. Well, Beaman had already been charged.

21 A. Okay.

22 Q. Would it be unusual not to get the approval  
23 of a State's Attorney to go interview a possible  
24 suspect on a case where somebody's been charged?

1 MS. BARTON: Object to form.

2 THE WITNESS: I think that's up to the  
3 discretion of the detective.

4 BY MR. DiCIANNI:

5 Q. Okay. All right. And Murray was not  
6 interested in working with you?

7 A. Correct.

8 Q. You were willing to make him an offer to go  
9 talk to the prosecutor for leniency, correct?

10 A. No. I was willing to work with him and the  
11 State's Attorney's Office in an offer.

12 Q. Yes.

13 A. I do not have the authority or position to  
14 make him an offer prior to getting it approved by the  
15 State's Attorney.

16 Q. I understand that fully. But -- but you --  
17 you were -- you offered to him, to Murray, that if he  
18 would cooperate, you would talk to the State's  
19 Attorney about leniency?

20 A. Correct.

21 Q. Okay. And you said that to him?

22 A. Yes, I said -- well, not those exact terms,  
23 but he understood that you help us with this and then  
24 I'll do what we can to assist you with your current

1 issue.

2 Q. You made that clear to him?

3 A. Yes.

4 Q. Okay. Did he tell you that he was already  
5 helping himself as an informant?

6 A. He informed me as I recall that he had an  
7 attorney --

8 Q. Okay.

9 A. -- for that particular reason why he was  
10 incarcerated.

11 MR. BOWMAN: And I'm late, but I do want to  
12 lodge an objection to the form of that last question,  
13 vague and ambiguous.

14 BY MR. DiCIANNI:

15 Q. When he said he had an attorney, did you --  
16 did you then terminate your questioning?

17 A. Well, there were no -- the answer would be I  
18 don't recall.

19 Q. Okay. You never reached out to his lawyer to  
20 see if the --

21 A. No, I did not.

22 Q. -- to see if the lawyer would want to follow  
23 up on the -- on your proposal?

24 A. No, I did not.

1 Q. Now, you became the head of CID, not -- not  
2 temporarily, but permanently for a while, correct?

3 A. Yes.

4 Q. And when about did that happen?

5 A. I don't recall the exact date. More dates --  
6 inclusive dates I don't recall. It would be on file  
7 somewhere with the Normal Police Department  
8 administrative office.

9 Q. Who did you succeed?

10 A. Probably for -- probably Frank Filliponi.

11 Q. Well, I know you did that temporarily and  
12 then Zayas came back.

13 A. Captain Gary Spears also was an overseer at  
14 one point. When Chief Taylor had passed away, as I  
15 recall, Captain Spears was an interim police chief.  
16 At that time, I don't know if I was assigned those  
17 duties as the CID interim supervisor or not. I do not  
18 recall the exact dates or periods.

19 Q. Were you the CID supervisor when you retired?

20 A. Yes, I over -- oversaw the case assignments  
21 and preparing required monthly, weekly reports because  
22 Captain Spears relied upon me to do that.

23 Q. Well, are you saying that Captain Spears was  
24 the actual CID supervisor but he delegated some of

1 those duties to you or --

2 A. That's correct.

3 Q. So you were not officially the CID -- head of  
4 CID?

5 A. For title-wise, no. Duties, yes, I was.

6 Q. Okay. But at some point prior to retirement,  
7 you actually were the head of super -- of CID, a  
8 supervisor of CID?

9 A. Title-wise, no.

10 Q. Okay. Okay. When -- when materials were  
11 being obtained from the Normal Police Department in  
12 connection with the post-conviction proceedings  
13 regarding Beaman, were you in charge of providing  
14 those materials?

15 A. Materials such as what? Documents or --

16 Q. Documents or whatever.

17 A. Providing those to whom?

18 Q. To anybody who was subpoenaing them.

19 A. I don't recall. I could have been. I just  
20 don't recall.

21 Q. Was -- do you know if somebody was in charge  
22 of -- well, strike that.

23 Do you know if there was ever an assignment  
24 given to you, this case is going on now, this

1 post-conviction case is going on, Tony, you deal with  
2 it? Do you know if --

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

4 Q. Do you know if any inquiry or any subpoena  
5 regarding the post-conviction case was -- was assigned  
6 to you?

7 A. Those subpoenas would have went through  
8 records in order to obtain any copies of documents for  
9 the post-conviction hearing. Does that answer your  
10 question? Okay.

11 MR. DiCIANNI: Yeah, let's mark this as an  
12 exhibit. What's the last one?

13 THE COURT REPORTER: The next one is 25.

14 MR. DiCIANNI: Let her mark it, then I'll  
15 hand you a copy.

16 MR. BOWMAN: I think actually I've got an  
17 exhibit from yesterday which is a March 8, 2009 letter  
18 from Karen Daniel to Tony Daniels which was marked for  
19 identification as Daniels Exhibit 26.

20 (Whereupon, a discussion was  
21 had off the record.)

22 (Whereupon, Daniels Deposition  
23 Exhibit No. 27 was marked.)  
24

1 BY MR. DiCIANNI:

2 Q. Okay. I'm going to ask you to take a look at  
3 what's been marked as Daniels Exhibit 27. Have you  
4 seen this document before?

5 A. This document that's in front of me marked  
6 Exhibit 27 appears that we looked at that yesterday.  
7 I could be mistaken.

8 MR. BOWMAN: I think that, for the record,  
9 these are -- these are some, but not all of the  
10 documents that appear within an exhibit that was  
11 marked yesterday from Mr. Daniels's files. It was one  
12 of the blue binders. And just for the record, --

13 MR. DiCIANNI: Right. Right.

14 MR. BOWMAN: -- I think we should identify  
15 the exhibit number. Yes, Daniels Exhibit 15.

16 BY MR. DiCIANNI:

17 Q. Okay. What wasn't in Daniels Exhibit 15,  
18 though, was the subpoena that's on top, at least I  
19 don't think it was, and -- and what wasn't in it is  
20 the writing at the bottom. And it appears that this  
21 writing says -- and I don't think this is your  
22 handwriting, but I'll read it anyway. Maybe it'll  
23 refresh your memory.

24 Received documents from Lieutenant Daniels on

1 7-17-2000, then it's signed Anthony Matens. Do you  
2 see what I'm talking about?

3 A. Yes, uh-huh.

4 Q. Okay. That's not your writing, is it?

5 A. No.

6 Q. No, okay. It's probably Anthony Matens's.

7 But nevertheless, do you remember being the  
8 person who delivered documents to Anthony Matens in  
9 response to the subpoena?

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

12 THE WITNESS: I do not recall.

13 BY MR. DiCIANNI:

14 Q. Do you recall responding to any requests for  
15 any materials in connection with the post-conviction  
16 case that Beaman filed?

17 A. No, I do not.

18 Q. So you have no memory as to obtaining the  
19 documents that were responsive to this subpoena and  
20 providing them to Tony Matens?

21 A. That's correct, I do not.

22 Q. What is your -- strike that.

23 You have no knowledge of what happened to  
24 the -- the Lockmiller investigation file after the

1 conviction, after the trial?

2 A. The entire --

3 MR. BOWMAN: Object to the form of the  
4 question, vague, ambiguous.

5 THE WITNESS: No, I have no recall of what  
6 happened to the file after or before post-conviction.

7 BY MR. DiCIANNI:

8 Q. Do you have -- so you would have no knowledge  
9 as to what was in the file at the time of the  
10 prosecution of Alan Beaman as opposed to what may have  
11 been added to it afterward?

12 A. That's correct.

13 Q. Did you add documents to the main file  
14 after -- I know you -- strike that.

15 Did you add documents to the main file at the  
16 Normal Police Department regarding the Lockmiller  
17 investigation after the trial, after Beaman's trial?

18 A. I do not recall.

19 Q. You may have?

20 A. I do not recall.

21 Q. Let me ask you about the -- the meeting in  
22 May of 1994 in which there was discussion about the  
23 arrest of Alan Beaman. You -- you remember the  
24 meeting, correct?

1 A. Correct.

2 Q. I think you said that you wanted to say that  
3 we should follow up on some leads and then Souk cut  
4 you off, correct?

5 A. Correct.

6 Q. And Souk said I think we've got our guy or  
7 something like that, right?

8 A. Correct.

9 Q. Do you remember saying anything else?

10 A. I remember talking to Chief Taylor after the  
11 meeting.

12 Q. Okay. But I'm talking about at the meeting  
13 itself.

14 A. I don't recall.

15 Q. Do you recall saying at the meeting that you  
16 would not execute an arrest warrant for him?

17 A. I don't recall saying that at the meeting,  
18 no.

19 Q. Okay. Do you recall what any of the other  
20 police officers said at the meeting?

21 A. No.

22 Q. Okay. You recall some general discussion  
23 about the evidence, correct?

24 A. No.

1 Q. You don't?

2 A. No.

3 Q. You have no memory at all?

4 A. I don't -- I don't recall discussing,  
5 quote/unquote, evidence at the meeting.

6 Q. Well, what do you recall the other officers  
7 saying?

8 A. I don't.

9 Q. You don't, okay, okay.

10 Did you ever make the statement: I would not  
11 execute an arrest warrant?

12 A. Oh, I made that verbally.

13 Q. Where did you say that?

14 A. That if there was a warrant issued for  
15 Alan Beaman's arrest for the death of  
16 Jennifer Lockmiller, that I would not execute the  
17 warrant.

18 Q. When did you say that?

19 A. I said that probably several times to  
20 officers within the police department.

21 Q. Did you say it at the May 14 meeting or no?  
22 I mean, the May -- the May meeting we've just been  
23 talking about?

24 A. I don't recall if I said that or not.

1 Q. Did you say that to Chief Taylor in the  
2 conversation you had after the meeting?

3 A. I don't recall.

4 Q. You talked about your meeting with  
5 William Beu which took place right after Alan's  
6 arrest, correct?

7 MR. BOWMAN: Objection to the form of that  
8 question. The meeting included others as well.

9 MR. DiCIANNI: Right.

10 BY MR. DiCIANNI:

11 Q. Right, I wasn't -- I wasn't saying it was  
12 only William Beu. But you had had a meeting with  
13 William Beu and others after Alan's arrest, correct?

14 A. As I recall, people present was Mr. Beu,  
15 Mr. and Mrs. Beaman, Alan's parents, and  
16 Lieutenant John Brown from the county sheriff's  
17 department.

18 Q. Okay. And that was the only time you met  
19 with Mr. Beu -- you talked to Mr. Beu?

20 A. As I can recall, yes, other than in the  
21 courtroom.

22 Q. All right. And -- and what about Rex Reu,  
23 had you ever talked to him about the Beaman case?

24 A. I may have said something to him in passing

1 at the L & J from time to time. There was no  
2 discussion -- and length to the discussion or I recall  
3 any particular topic.

4 Q. Did you know Rex Reu?

5 A. Not personally, no.

6 Q. Did you know him from cases?

7 A. No.

8 Q. Did either Mr. Beu or Mr. Reu ever request to  
9 meet with you to talk while leading up to the trial,  
10 the Beaman trial?

11 A. It seems to me as I previously testified that  
12 I believe Mr. Rex Reu was present with the people, the  
13 representatives from the Center for Wrongful  
14 Convictions at the police department.

15 Q. That's after the conviction?

16 A. Was that after the conviction? Okay. Yeah,  
17 it would have been.

18 Q. Well, I don't think the Wrongful Conviction  
19 people would have been involved prior.

20 A. That's right. That's right.

21 Q. Right. So -- so my question, though, goes to  
22 before the Beaman trial, the criminal trial, did you  
23 have -- were you ever asked -- I'm sorry, did you ever  
24 meet with Rex Reu?

1 A. My recollection, no.

2 Q. Were you ever asked by either William Beu or  
3 Rex Reu to meet with them to discuss the -- Beaman's  
4 trial?

5 A. To my recollection, no.

6 Q. Were you ever asked by anybody to meet with  
7 Beaman's defense attorneys prior to his criminal  
8 trial?

9 A. No, I do not.

10 Q. All right. Would you have agreed had that  
11 been asked of you?

12 A. Well, I think at that particular time, I  
13 probably should have got -- received permission  
14 perhaps from the prosecution office to talk to the  
15 defense attorneys because I'm not obligated to talk to  
16 them other than in -- in court.

17 Q. Right. So you would have asked the  
18 prosecution whether you could meet with them or not?

19 A. If I was asked to meet with them -- if they  
20 were to ask me, I would have gotten permission.

21 Q. Right. Right. Well, I -- I -- I know the  
22 standard advice that State's Attorneys give is you  
23 don't have to meet with them, but you can if you want  
24 to. Have you heard that kind of advice before from --

1 from prosecutors on cases you've been involved in?

2 A. Other cases?

3 MR. BOWMAN: Objection.

4 BY MR. DiCIANNI:

5 Q. Other cases.

6 MR. BOWMAN: Objection to the form of the  
7 question.

8 BY MR. DiCIANNI:

9 Q. Other cases.

10 A. I can't recall if I did.

11 Q. You're not -- you're not unfamiliar with that  
12 standard, though?

13 A. Correct.

14 Q. You're aware prosecutors generally use that  
15 advice?

16 A. Yes.

17 Q. Okay. So if -- if Mr. Reu or Mr. Beu had  
18 asked you to meet with them prior to the trial --  
19 prior to the Beaman trial, you would have gone to the  
20 State's Attorney and asked the State's Attorney's  
21 advice, correct?

22 A. Yes.

23 Q. And the State's Attorney -- had the  
24 State's Attorney told you the standard State's

1 Attorney response, which is you don't have to but you  
2 can, it's up to you, would you have met with them?

3 MR. BOWMAN: Objection to the compound  
4 hypothetical nature of the question.

5 THE WITNESS: I really can't say if I would  
6 have or not.

7 BY MR. DiCIANNI:

8 Q. You've -- you've talked to defense attorneys  
9 on criminal cases before, right?

10 A. Other cases, yes.

11 Q. Right. And, you know, they may ask you a  
12 question here and there about one thing or another.  
13 That happens, right?

14 A. Outside of the courtroom?

15 Q. Outside the courtroom.

16 A. I don't recall if I did.

17 Q. Okay. It wasn't your standard practice,  
18 though, that you would never talk to a defense  
19 attorney on a case you're working on outside of the  
20 courtroom?

21 MR. BOWMAN: Object to the form of the  
22 question, assumes a standard practice.

23 THE WITNESS: I can't recall.

24

1 BY MR. DiCIANNI:

2 Q. There certainly was no prohibition --

3 A. No.

4 Q. -- by the Normal Police Department from your  
5 talking to defense attorneys?

6 A. Well, there's no prohibition if the  
7 State's Attorney says you can if you want, much like  
8 when the chief said I can talk to the Center if I want  
9 or not or the news media --

10 Q. Right.

11 A. -- would be my call, my discretion.

12 Q. Right. And that was your decision?

13 A. Correct.

14 Q. Did you harbor serious doubts about Beaman's  
15 guilt before his trial?

16 A. To some degree, yes.

17 MR. DiCIANNI: Okay. I might be done. Let  
18 me just take a look. Maybe we can take a little  
19 break.

20 THE VIDEOGRAPHER: Off the record, 11:49.

21 (Whereupon, a break was taken.)

22 THE VIDEOGRAPHER: We're back on the record.  
23 The time is 12:57.

24 MR. BOWMAN: Tom, your questioning is

1 concluded?

2 MR. DiCIANNI: Yes. I have no further  
3 questions at this time.

4 CROSS-EXAMINATION

5 BY MR. BOWMAN:

6 Q. Mr. Daniels, that leaves me. I wanted to  
7 begin by -- actually, I suppose I should begin by  
8 cautioning you that I'm more slow of speech than any  
9 lawyer in Illinois, so please be sure that I finish  
10 asking before you start answering.

11 I wanted to begin by going over a few things  
12 that came up during Mr. DiCianni's questioning of you  
13 this morning. You testified to a conversation that  
14 you had with Rob Hospelhorn after the lawsuit was  
15 filed in which Mr. Hospelhorn expressed the view to  
16 you that he was not 100 percent certain that  
17 Alan Beaman was the right guy. Do you recall that  
18 testimony?

19 A. Yes.

20 Q. Can you tell me to the best of your ability  
21 when that conversation took place?

22 A. It would have been after he received his  
23 affidavit or subpoena.

24 Q. After he received a copy of the lawsuit?

C07166

1 A. Correct.

2 Q. And was the conversation in person or over  
3 the phone?

4 A. It was in person.

5 Q. Was anyone else there?

6 A. I -- I don't recall.

7 Q. Where did it take place?

8 A. In the Normal Police Department.

9 Q. Can you just relate the conversation for me  
10 to the best of your recollection.

11 A. I recall this particular time that I was in  
12 Rob Hospelhorn's office. He was a sergeant, second in  
13 command on the day patrol shift, and he made a comment  
14 to me, it's all your fault. I said, what are you  
15 talking about? This is the gist of the conversation.  
16 And he showed me the documentations where he was going  
17 to be deposed and have a lawsuit and so forth. And he  
18 says, you know, he says, I'm not 100 percent sure or  
19 I'm not quite certain that Alan is the right man.

20 Q. Did he indicate when he came to that  
21 viewpoint?

22 A. During that conversation, no.

23 Q. Okay. At some other time, did he?

24 A. It seems to me that during the investigation,

C07167

1 he and I had talked about that.

2 Q. What do you recall of conversations between  
3 you and Mr. Hospelhorn during the investigation on the  
4 subject of whether you could be confident that  
5 Alan Beaman was the right guy?

6 A. I don't recall ever, other than the first  
7 night we went up to interview Alan, we thought he was  
8 the guy that would be responsible for her death. But  
9 then as the investigation went on, our doubts began to  
10 arise.

11 Q. And we'll talk about that in a minute.

12 Did you and Hospelhorn have conversations  
13 with each other over the course of the investigation  
14 after that first interview with Beaman on the night of  
15 August 28 regarding doubts that were arising  
16 concerning whether Beaman was the offender?

17 A. I'm sure we did. I can't recall any  
18 specifics.

19 Q. And it was your impression that -- that  
20 Hospelhorn shared your skepticism about whether Beaman  
21 was the -- was the offender?

22 MR. DiCIANNI: Object to lack of foundation.

23 BY MR. BOWMAN:

24 Q. Based on what he told you?

CO7168

1 A. On what he told me, yes.

2 Q. Now, at the risk of beating a horse, I want  
3 to go over again this subject that came up when  
4 Ms. Barton was questioning you and then came up during  
5 Mr. DiCianni's questioning of you this morning about  
6 lead investigator. And I'm just going to ask you some  
7 questions and make sure my understanding of this is  
8 clear, okay? And if I get this wrong, I don't want to  
9 put words in your mouth. You tell me.

10 Is it fair to say that in the Normal Police  
11 Department while you were in the criminal  
12 investigation division there, that the standard  
13 procedure in cases where more than one investigator  
14 was assigned was either by express command from the  
15 supervisor or by assumption amongst the detectives to  
16 have one individual detective identified as the person  
17 with primary responsibility for the case?

18 A. You are correct.

19 Q. Okay. And whether you call that person the  
20 lead investigator or the senior investigator or the  
21 principal investigator doesn't change the concept.  
22 The point is that somebody has to be in charge.

23 A. Correct.

24 Q. Fair?

1           Okay. Now, when the Lockmiller case started  
2 on the 28th of August, you related that there was a  
3 very short conversation with Chief Taylor in which he  
4 pointed at you and said you're it. You took that to  
5 mean that you would be the person with primary  
6 responsibility for the investigation, accurate?

7           A. At that point, yes.

8           Q. And to the best of your recollection, that  
9 took place the afternoon of August 28, the day the  
10 body was found?

11          A. Correct.

12          Q. And so over the 28th, which was a Saturday,  
13 the 29th, which was a Sunday, and then at least part  
14 of the 30th of August, a Monday, you by order from  
15 Chief Taylor in your understanding were the person in  
16 the Normal Police Department principally responsible  
17 for the investigation. Do I have that right?

18          A. Correct.

19          Q. And then on Monday, the 30th of August, was  
20 the day that Frank Zayas returned from his absence,  
21 correct?

22          A. Correct.

23          Q. And at that point, what happened to the best  
24 of your ability in explaining it in terms of a

1 transition, if there was one, of responsibility for  
2 the investigation?

3 A. The responsibility would have been  
4 Frank Zayas's upon his return to the police department  
5 that day.

6 Q. And why was that?

7 A. Because he was a lieutenant and he was a  
8 supervisor of that division.

9 Q. Okay. So to be clear, at the point when the  
10 Lockmiller case began, Zayas was the person who was  
11 the -- the person in charge of CID?

12 A. Correct.

13 Q. And everything flowed back to Mr. Zayas, he  
14 was in charge, accurate?

15 MR. DiCIANNI: Object. Objection, form of  
16 the question.

17 MR. BOWMAN: Well, that's a bad question.

18 BY MR. BOWMAN:

19 Q. Just in turn in the old Harry S. Truman  
20 expression, the buck stopped with Zayas in terms of  
21 CID when he was in charge; is that accurate?

22 MR. DiCIANNI: Object to form.

23 THE WITNESS: That is accurate.

24

1 BY MR. BOWMAN:

2 Q. All right. And so when Zayas returns to the  
3 office on August 30, because of his position, he  
4 becomes the supervisor of that investigation; is that  
5 accurate?

6 A. Correct.

7 Q. Did you have any role of primary  
8 responsibility recognizing that -- that you were a  
9 line detective at that point as opposed to a  
10 supervisor?

11 A. I had no misunderstanding that I was a part  
12 of the team.

13 Q. All right.

14 A. Not the supervisor.

15 Q. Would it be accurate to say that you were the  
16 senior detective?

17 A. Correct.

18 Q. Okay. And tell us again who the other  
19 detectives were who were working the case at that  
20 time?

21 A. Rob Hospelhorn, Dave Warner, Tim Freesmeyer,  
22 John Belcher.

23 Q. And yourself?

24 A. And myself.

1 Q. And then -- now, I wanted to ask you a couple  
2 of questions about the responsibility of the  
3 supervisor of CID who was Zayas at the time that the  
4 Lockmiller case began. Is it accurate that the  
5 supervisor of CID is the person responsible for  
6 ensuring that all of the information that should go  
7 into the main file does, in fact, go to the main file?  
8 Is that Zayas's responsibility?

9 A. Yes.

10 MR. DiCIANNI: I'll object, lack of  
11 foundation.

12 THE WITNESS: Yes, that's accurate.

13 BY MR. BOWMAN:

14 Q. Okay. And can you flesh that out for me a  
15 little bit? I mean, you held that position at one  
16 point. How does -- how does -- how does the  
17 supervisor of CID discharge that responsibility of  
18 making sure that what should go into the main file  
19 does go into the main file?

20 A. Under normal circumstances and cases, once an  
21 investigator either completed a report or completed  
22 the case, the documents, his reports, would go to  
23 Frank Zayas who then would read, make any suggestions  
24 to further the investigation to make an arrest, to

1 close the case.

2 He then would sign -- what we call sign off  
3 on it. In other words, he would attach his signature  
4 to that document and then that document would go --  
5 depends upon the type of case it was, that document  
6 could go one of two places, if not both, to the -- the  
7 original that is -- to the chief of police and/or to  
8 records division with copies going for the news media.

9 Q. As well as to the State's Attorney?

10 A. Correct.

11 MS. BARTON: Objection, foundation.

12 BY MR. BOWMAN:

13 Q. Correct?

14 A. As well as the State's Attorney and also the  
15 patrol division book.

16 Q. Okay. Now, obviously the Lockmiller case was  
17 unusual in the sense that it was a very large  
18 investigation, fair?

19 A. Yes.

20 Q. And it was also an investigation that went on  
21 for a substantial period of time?

22 A. That's correct.

23 Q. I mean, relative to many investigations that  
24 could be concluded within a day or a week?

1 A. Correct.

2 Q. Now, as the case was progressing, reports  
3 were being generated, right?

4 A. Right.

5 Q. Information was being assembled from various  
6 sources, right?

7 A. Correct.

8 Q. Subpoenas went out, right?

9 A. Correct.

10 Q. Documents came back pursuant to subpoena,  
11 right?

12 A. Correct.

13 Q. And investigators went out, conducted  
14 interviews, right?

15 A. Right.

16 Q. And as they performed their investigation,  
17 they may or may not have taken notes in furtherance of  
18 their work, right?

19 A. Correct.

20 Q. And in all of these ways, documents about  
21 this case began to accumulate over the course of the  
22 investigation, accurate?

23 A. Accurate.

24 Q. Now, what was the procedure in the Lockmiller

1 case for ensuring that all of these documents that  
2 we've talked about went to the proper place so that  
3 they would be available for the State's Attorney's  
4 Office, available for the defense lawyers if there was  
5 ever a criminal case, and available as records of the  
6 Normal Police Department?

7 MR. DiCIANNI: Object to form and foundation.

8 MS. BARTON: I'll join the objection.

9 BY MR. BOWMAN:

10 Q. You may answer then.

11 A. Well, once Lieutenant Zayas would sign off on  
12 the document, the procedure would have been he would  
13 make a copy for maybe upstairs, meaning the chief of  
14 police and so forth. An intern was available for him  
15 to do the clerical work, meaning making copies,  
16 putting them in different binders.

17 Q. And was it also Zayas's responsibility as --  
18 over the course of the progression of the case to make  
19 sure that the main file contained the copies of the  
20 stuff that was coming in?

21 A. Correct.

22 MR. DiCIANNI: Object to form and foundation.

23 BY MR. BOWMAN:

24 Q. From time to time in this investigation,

1 documents came back pursuant to subpoena. We've  
2 already talked about that, right?

3 A. Yes.

4 Q. When subpoenaed documents came back in  
5 relation to this investigation, what was the procedure  
6 for ensuring that the documents were, again, placed in  
7 the proper place, in the main file and available as  
8 appropriate and necessary for the benefit of the  
9 investigators and the lawyers later on in the  
10 prosecution?

11 MR. DiCIANNI: Object to form and foundation.

12 MS. BARTON: I'll join.

13 THE WITNESS: Under normal circumstances, if  
14 you, for instance, as an investigator requested  
15 documentation from an outside source through the use  
16 of a subpoena duces tecum, that information would come  
17 back to that detective and it was up to the detective  
18 either to disseminate that, attach perhaps a cover  
19 letter to that; and that information, if he needed  
20 that information for further investigation, normally  
21 he would make copies and the original copy could go  
22 one of two places, either in evidence or it would go  
23 into the records department.

24

1 BY MR. BOWMAN:

2 Q. And that would be the standard procedure?

3 A. Yes.

4 Q. And that's the procedure that certainly  
5 should have been followed with respect to records that  
6 were assembled in this case?

7 MR. DiCIANNI: Object to form, foundation --

8 MS. BARTON: Join.

9 MR. DiCIANNI: -- conclusion.

10 THE WITNESS: Correct.

11 BY MR. BOWMAN:

12 Q. Also, in the course of this investigation as  
13 we've learned over the days of your testimony, there  
14 have been additional documents that were acquired by  
15 investigator, not pursuant to subpoena, but just by  
16 going out and sleuthing out information, for example,  
17 documents relating to the criminal background of an  
18 individual, arrest reports involving another person of  
19 interest and so forth.

20 What procedure was followed in this case to  
21 ensure that documents that were obtained on an  
22 informal basis by investigators working on the case  
23 were placed in the proper place, either in the main  
24 file or in some other location where they would be

1 available for purposes of the investigation and for  
2 the benefit of the lawyers and the prosecution?

3 MR. DiCIANNI: Object to form and foundation.

4 MS. BARTON: I'll join.

5 THE WITNESS: The procedure falls upon -- and  
6 the responsibility would fall upon the detective once  
7 he receives that document through other than the  
8 subpoena. If information, for instance, came through  
9 the front door or maybe an envelope was passed on to  
10 him or a street officer having information which he  
11 presented in the typed form, it would be up to that  
12 individual detective to disseminate that, of course,  
13 going to the supervisor and then copies being made in  
14 this particular case.

15 BY MR. BOWMAN:

16 Q. If I understand what you're saying, the  
17 procedure would be with respect to documents obtained  
18 informally and with respect to documents obtained by  
19 subpoena duces tecum that it would be routed through  
20 the supervisor and then get to the proper place in the  
21 file, accurate?

22 A. That's correct. That's the procedure that  
23 should be followed.

24 Q. Now, we were -- and to be clear, in the

C07179

1 Lockmiller investigation, while the -- while Zayas was  
2 sitting in the chair of supervisor of CID, he was the  
3 guy with that responsibility of ensuring that the  
4 documents would go through him and go to the proper  
5 place, accurate?

6 MR. DiCIANNI: Objection; form, foundation,  
7 vagueness.

8 THE WITNESS: Ultimately, yes.

9 BY MR. BOWMAN:

10 Q. All right. Now, there -- as you testified,  
11 there came a point when you had a conversation with  
12 Mr. Zayas and were informed that because of you being  
13 an old ex-Marine and Tim Freesmeyer being a young guy,  
14 relatively new out of college, that the judgment was  
15 that Freesmeyer should be the primary detective in the  
16 case; is that accurate?

17 A. That's correct.

18 Q. And I think you've said you can't recall  
19 exactly when that conversation took place?

20 A. That's correct.

21 Q. One thing that we've done is to look during  
22 Mr. DiCianni's questioning of you, we looked at the  
23 dates on your reports, and nobody's found any reports  
24 with your name on it subsequent to early October.

1 Does that suggest to you that the -- that you got  
2 taken off of this case after approximately six weeks  
3 or so?

4 A. Yes, as an active investigator into the case.

5 Q. Would it be accurate nonetheless,  
6 Mr. Daniels, that you continued even after you were  
7 removed to have a strong interest in this particular  
8 investigation?

9 A. That's correct.

10 Q. Did you continue to follow developments?

11 A. As they came to my mind, yes.

12 Q. And did you from time to time receive  
13 assignments and undertake duties in the case even  
14 after you were removed as principal investigator?

15 A. Yes, as requested or required or ordered.

16 Q. All right. And did you have an understanding  
17 of what Freesmeyer's role was to be going forward  
18 after this transition when you stepped down and  
19 Freesmeyer was -- was assigned additional  
20 responsibilities in the case?

21 A. He was to keep -- attempt to keep the line of  
22 communications open between him and Alan.

23 Q. Did he have other responsibilities in the  
24 investigation as well?

1           A.    If he did, I don't recall him sharing those  
2 with me.

3           Q.    Okay.  Now, looking at this, Freesmeyer's  
4 monthly report folder which is among the documents  
5 stacked up there in front of you, it's Daniels  
6 Exhibit 12.  Mr. DiCianni showed you page 2 of that  
7 document.  The Bates number is 0970 in the bottom  
8 right corner of the page.

9                    And the indication from this report,  
10 Mr. Daniels, is that you took over as CID supervisor  
11 in -- in -- in -- responsibility, if not in title,  
12 from March 7, 1994 until June of 1994, and you  
13 testified earlier you don't quarrel with those dates.  
14 Do you see where I am?  Top of page 970.

15           A.    Yes, I see that.

16           Q.    Okay.  Now, what -- in that -- you recall  
17 that in that period of time, that encompasses the  
18 point in May 1994 when Beaman actually got charged.  
19 What was your relationship to the Lockmiller  
20 investigation during those months when, according to  
21 this report, you took over as CID supervisor?

22           A.    I can recall being required to go to  
23 unresolved homicide class in Jacksonville, Florida in  
24 April of '94.

1 Q. And in terms of day-to-day responsibilities,  
2 the investigation was ongoing until Beaman's arrest in  
3 May of '94, right?

4 A. Also, I believe it was even after his arrest  
5 it continued.

6 Q. Right. And in terms of day-to-day  
7 responsibilities, what -- what role did you have, if  
8 any?

9 A. Aside from the Lockmiller case or --

10 Q. No.

11 A. -- specifically?

12 Q. In the Lockmiller case in particular.

13 A. Oh, I would read -- much like the other  
14 processors -- would read reports, and, again, if there  
15 was any questions or further investigation needed,  
16 then I would assign that. And then once the report  
17 was approved, I would sign off on it.

18 Q. All right. So in other words, you stepped  
19 into the role that other supervisors -- that other  
20 supervisors held?

21 A. Yes.

22 Q. Okay. But in terms of having hands-on  
23 responsibility in the investigation and apart from the  
24 cold case seminar which we'll talk about in a minute,

1 am I accurate that you had no direct responsibility?

2 MS. BARTON: Object to form.

3 MR. DiCIANNI: I'll object. Yeah, object to  
4 form, foundation.

5 THE WITNESS: No -- no direct responsibility  
6 or active investigation in that case.

7 BY MR. BOWMAN:

8 Q. You were asked some questions this morning  
9 about Freesmeyer's long report in the -- in the case.  
10 I believe it's Exhibit 5. Let me double-check on that  
11 number. I stand corrected. It is --

12 MS. BARTON: No, Freesmeyer's report is  
13 Number 5.

14 MR. BOWMAN: Good. I got that right.

15 BY MR. BOWMAN:

16 Q. I believe you testified that you didn't have  
17 a specific recollection of reading Mr. Freesmeyer's  
18 report. Did you -- can you say with any degree of  
19 confidence, even though you don't have a specific  
20 recollection of reading it, of whether at some point  
21 you reviewed this and became familiar with the  
22 contents of it?

23 MR. DiCIANNI: Object to speculation.

24 THE WITNESS: Yes, I would feel comfortable

1 in saying there's a good chance that I did.

2 BY MR. BOWMAN:

3 Q. Okay. And why do you say that?

4 A. Well, number one, preparation for the school  
5 in April, even though this is dated 10 January, to see  
6 if any information could be obtained from his reports  
7 that would help other investigators, information that  
8 could corroborate other information that we had as  
9 well as perhaps my comments.

10 Q. A minute ago you mentioned the fact that even  
11 after the arrest of Mr. Beaman, that investigative  
12 activities continued in the Lockmiller case.

13 A. Correct.

14 Q. Can you tell me what you're thinking about  
15 when you say that that happened just by way of  
16 example?

17 A. Within the department?

18 Q. Yes, sir.

19 A. I -- I don't have any specifics I can think  
20 of offhand.

21 Q. Well, for example, at some point, Mr. Murray  
22 gets -- gets arrested on a domestic violence charge in  
23 October of 1994, correct?

24 A. Yes, sir. In reference to that particular

1 incident, yes, that was brought to my attention. And  
2 in my opinion, it felt more attention looking into.

3 Q. As an investigator in the Normal Police  
4 Department, after a charge has been filed against an  
5 individual, when new information relating to the crime  
6 comes to light, again, subsequent to the charges, is  
7 it the investigator's responsibility to continue  
8 investigation and to inquire further into the matter  
9 as a result of the new information that might come to  
10 light?

11 MR. DiCIANNI: Objection; form, foundation.

12 MS. BARTON: I'll join.

13 MR. BOWMAN: Let me ask our court reporter,  
14 if you would, to read that back. It may be garbled.

15 (Whereupon, the record was  
16 read as requested.)

17 MS. BARTON: Same objections.

18 BY MR. BOWMAN:

19 Q. You may answer that question.

20 A. Yes.

21 Q. And specifically with respect to the new  
22 information regarding Murray, namely, his arrest in  
23 October of 1994 on domestic violence charges and for  
24 drug charges as well, would it be your judgment as an

1 experienced and trained police officer that the  
2 responsibility of the investigators continues in  
3 relation to the case, even though Beaman has been  
4 charged, to pursue the investigation of Murray and the  
5 significance of the new information?

6 A. Yes.

7 MR. DiCIANNI: Objection, form and  
8 foundation.

9 BY MR. BOWMAN:

10 Q. All right. Now, I want to take you back to  
11 the first days of the investigation, Mr. Daniels.  
12 Your responsibilities on August the 28th included an  
13 examination of the scene of -- of the crime, the  
14 location of Lockmiller's body, right?

15 A. Yes.

16 Q. And you made at least a cursory examination  
17 at that time of the scene, right?

18 A. Correct.

19 Q. Was there evidence at the scene suggesting  
20 that either evidence at the scene or evidence  
21 developed in connection with the scene investigation  
22 and the initial interviews on the 28th and 29th of  
23 August suggesting that the perpetrator of the homicide  
24 had been a person that Lockmiller was acquainted with?

1 A. Yes.

2 Q. And can you relate for us what that  
3 information was?

4 A. Even though the door to her -- front door to  
5 her apartment had been damaged, we learned that that  
6 was prior damage, and it's not uncommon for those not  
7 to be repaired. We went into the bedroom where she  
8 was found. We saw no indications of any type of  
9 resistance, fight, burglary, anything of that nature.  
10 Also, upon initially making contact with some of the  
11 neighbors, there was no indication of a screaming,  
12 yelling that would suggest forced entry.

13 Q. Now, all of that information aside, would you  
14 agree with the proposition that the information that  
15 you had suggesting that the perpetrator was an  
16 acquaintance of Lockmiller did not rule out the  
17 possibility that the perpetrator could also be someone  
18 who had very quickly overpowered her and obtained  
19 entry into the apartment?

20 A. Certainly that was a possibility. As we --  
21 that weekend as we talked to her close friends, one in  
22 particular, the one who discovered the body, we were  
23 given several names of Jennifer's present or prior  
24 boyfriends.

1 Q. And was there evidence at the scene of --  
2 that suggested the possibility of a sexual assault in  
3 connection with the homicide?

4 A. Yes.

5 Q. And relate for us again what that was.

6 A. Her body was found with -- on her back. Her  
7 knees were folded underneath of her. She was facing  
8 the wall, and beneath that wall she was facing was a  
9 single bed. It appeared that she had grasped perhaps  
10 part of the bedspread or cover on it. She had a cord,  
11 electrical cord, wrapped around her neck. Her  
12 panties, jeans were pulled down, and her blouse was  
13 pushed up over her breast.

14 Q. Was there also -- as you and the other  
15 investigators examined the scene, was there also  
16 evidence at the scene suggesting that it was a  
17 possible personal motive crime?

18 A. Yes.

19 Q. And can you explain, again, what that  
20 evidence was.

21 A. My training suggests that along with the  
22 extension cord or power cord that was used to strangle  
23 her, there was a pair of scissors embedded in her  
24 chest, either six or seven wounds to her chest. There

1 was also a fan placed over her face. Either it fell  
2 from the bunkbed behind her or it was placed on her  
3 possibly by the perpetrator. That's just an  
4 indicative -- indication that they cannot face their  
5 victim. The shears indicated, according to my  
6 training, that perhaps that's what it was. It was a  
7 personal attack upon her.

8 Q. Now, so in -- in -- in summary then, there  
9 was evidence at the scene suggesting an  
10 acquaintanceship between the victim and the  
11 perpetrator, right?

12 A. Yes.

13 Q. Evidence, though, that did not rule out the  
14 possibility that the perpetrator was an unknown  
15 person, right?

16 A. Correct.

17 Q. There was evidence suggesting sexual motive,  
18 right? Yes?

19 A. Yes.

20 Q. And there was also evidence suggesting a  
21 personal motive, vengeance or something of the sort?

22 A. Correct.

23 Q. Separate from sex?

24 A. Correct.

1           Q.    So would it be fair to say that as a trained  
2 and experienced investigator, your responsibility at  
3 the early stage of the investigation would be not to  
4 rule out any of the possibilities as to what the  
5 motive for the crime was, as to whether there was a  
6 relationship between the perpetrator and the victim  
7 and so forth; is that fair?

8           A.    That's true.

9           Q.    Would you agree with the proposition that for  
10 investigators to focus too early on on one particular  
11 theory of the crime to the exclusion of all others can  
12 result in disastrous consequences?

13           MR. DiCIANNI:  Object to form.

14           MS. BARTON:  Join.

15           THE WITNESS:  It's been my experience and as  
16 well as training that if an investigator were to jump  
17 early into the case with a theory, he -- he or she  
18 will put their efforts forth try to prove that theory.

19 BY MR. BOWMAN:

20           Q.    And what's the problem with that?

21           A.    You're going to miss your target.  You're  
22 going to ex -- you're going to exclude viable  
23 information.  All your efforts, all your resources  
24 could be towards proving that particular theory.

1           And another issue could arise is if there's  
2 more than one detective working on it who is not in  
3 step or, inclined to believe that initial theory,  
4 there's some friction that could be -- could develop.

5           Q.    Which would impede the investigation further?

6           A.    Correct.

7           Q.    Now, on that first day of the investigation,  
8 you testified previously about information that was  
9 developed through a young friend of the victim by the  
10 name of Morgan Keefe suggesting that Alan Beaman was a  
11 person with a motive to commit this crime --

12          A.    Yes.

13          Q.    -- right?

14                And indeed the way Keefe described it, Beaman  
15 was a volatile individual with a -- with a pretty  
16 strong motive to -- to have -- to have committed  
17 violence against Lockmiller, accurate?

18          A.    In her opinion, plus the information that she  
19 gave us about their relationship.

20          Q.    Which had been stormy?

21          A.    Correct.

22          Q.    So based on that information, did you make  
23 any decision as to what to do with respect to  
24 Mr. Beaman?

1 A. At that time?

2 Q. Yes, sir.

3 A. I wanted to continue investigating other  
4 names, information that came up.

5 Q. And why is that?

6 A. I felt that we need more information regards  
7 to Mrs. Keefe's suggestions or opinions.

8 Q. Such as what?

9 A. Alibis on where Alan was, what type of  
10 perhaps character he was of or if he had -- had any  
11 run-in with the law, looking for motives.

12 Q. And so forth?

13 A. Correct.

14 Q. And did you have -- so -- so would it be fair  
15 to say that in your judgment as an experienced  
16 investigator at that time, the evening of August 28  
17 was a -- was a premature time in which to conduct an  
18 interview or interrogation of Beaman?

19 A. Yes, and I expressed that to Chief Taylor.

20 Q. Okay. And what was the response that you  
21 received after you expressed that viewpoint?

22 A. I best recall, and in short, is get up there  
23 and talk to him.

24 Q. As an experienced investigator, do you have

1 an opinion as to whether there were pitfalls in  
2 conducting an interview/interrogation of a suspect in  
3 a major crime at too early a time before the  
4 investigation has proceeded to develop information  
5 regarding that individual and regarding the crime?

6 MS. BARTON: Objection.

7 MR. DiCIANNI: Object, yeah, form,  
8 foundation.

9 MS. BARTON: I'll join.

10 THE WITNESS: Yes.

11 BY MR. BOWMAN:

12 Q. Can you explain?

13 A. Yes. Experience and, again, training  
14 warrants having more information about the crime,  
15 about the individuals so you can challenge any  
16 statement. And in this case, you can challenge maybe  
17 any statement that Alan would make. You'd have a  
18 reason to challenge him for his answers to questions  
19 or explanations of, once again, with Alan, his  
20 explanations of where he had been during that period  
21 of time that you're interested in.

22 Q. So I take it, though, that notwithstanding  
23 those concerns, you felt you had no alternative but to  
24 do as Chief Taylor told you?

1 A. Correct.

2 Q. And did you and Mr. Hospelhorn then travel to  
3 Rockford, Illinois for a conversation with Mr. Beaman?

4 A. Yes, we did.

5 Q. And you've testified previously about that  
6 interaction. Just for purposes of summary, it'd be  
7 fair to say that Beaman exhibited certain behaviors in  
8 the interview that increased your suspicion of him; is  
9 that accurate?

10 A. Yes.

11 Q. Can you relate for us again what those were?

12 A. He in one response to a question that I  
13 employed bowed his head to the floor as though showing  
14 remorse and made a statement as to the effect that,  
15 oh, she really loved me. The question I -- or  
16 statement I made to him was that she's called your  
17 name out before she passed on.

18 Q. And, again, as an experienced investigator,  
19 you read that as an indication of possible deception  
20 or an indication of -- of -- of guilt in some way,  
21 some kind of narcissistic involvement with the victim,  
22 what have you, fair?

23 A. That particular question, his response by  
24 itself, yes.

1 Q. All right. Now, as an experienced  
2 investigator, you also knew that there could be --  
3 couldn't rule out the possibility that -- that there  
4 was an innocent explanation for Beaman's behavior in  
5 that particular regard as well, right?

6 A. That's possible, yes.

7 Q. So other than the response that Beaman gave  
8 to your ploy about Lockmiller calling out for him,  
9 were there other behaviors that Beaman exhibited that  
10 suggested the possibility of guilt during your  
11 interview/interrogation of him on August 28?

12 A. During the information that he gave us, he  
13 expressed the fact that during their relationship, a  
14 little over year, they broke their relationship off  
15 17 times. And in his own words, he said they were  
16 either fighting or having intimate relationships.

17 Q. Right. And -- and the word that he actually  
18 used -- it's in the transcript -- was an -- was an  
19 obscene word, and we might as well go ahead and put it  
20 on the record. Either fighting or fucking during that  
21 period of time.

22 A. That's correct.

23 Q. Yes. And, again, this corroborated the  
24 existence of a motive for murder, the rocky romantic

1 relationship between the victim and this individual,  
2 accurate?

3 A. Plus the fact also I confronted him, I said,  
4 you know, we've been sitting here 45 or 50 minutes  
5 talking with you, and you have yet asked as to why  
6 we're here. Even though he responded, well, I guess  
7 it's about her.

8 Q. Right. And, again, and that's -- that's  
9 about it in terms of the -- the signs of -- the signs  
10 of -- of possible guilt that you saw in this  
11 interview; is that --

12 A. At that particular point, and he also gave us  
13 his whereabouts during the time period. Some were  
14 foggy and some were precise.

15 Q. Right. And -- and -- and to be very clear,  
16 there were, in addition, there were indications during  
17 this interview that were consistent with Mr. Beaman's  
18 innocence, right?

19 A. That's correct.

20 Q. I mean, one of them was the fact that he at  
21 least on the face of it appeared to have corroboration  
22 for being at work in Rockford during the week prior to  
23 the discovery of the body, right?

24 MS. BARTON: Objection to form.

1 MR. DiCIANNI: Yeah, object to form,  
2 foundation.

3 BY MR. BOWMAN:

4 Q. Just in terms of what he said?

5 A. Yes.

6 Q. And I'm not suggesting that he brought forth  
7 any documentary evidence, but he -- he made statements  
8 to the effect that he had a job and he had a schedule  
9 and he had places where he was during the week in  
10 question, right?

11 A. And he provide -- yes, that's correct.

12 Q. And as an experienced investigator, you knew  
13 that all of that information needed to be followed up  
14 on and investigated and pursued, right?

15 A. That's true.

16 Q. In order to assess the strength of his  
17 alibi --

18 A. Correct.

19 Q. -- right?

20 A. Correct.

21 Q. And what we know just skipping forward is  
22 that in this investigation, when all of the dust  
23 settled, Mr. Beaman had an extremely strong alibi,  
24 right?

1 MS. BARTON: Objection to form.

2 MR. DiCIANNI: Object, yeah, form.

3 BY MR. BOWMAN:

4 Q. In your judgment?

5 A. Yes.

6 Q. And explain that.

7 A. His time schedule, the fact that during --  
8 are we talking about after our interview with him?

9 Q. When all the dust settled.

10 A. Okay. When all the dust settled. We looked  
11 at his schedules. We obtained, I believe, parts of  
12 his work schedule. He worked for his uncle at various  
13 stores, various locations.

14 Right after the interview, which he  
15 terminated voluntarily on his own, we got his  
16 permission to examine his car, and after looking at  
17 his car, we thought perhaps a little bit doubtful that  
18 he could drive that car in that condition back and  
19 forth to those two places without being stopped by a  
20 police officer, and he would have had to have been  
21 going in the neighborhood of 100 miles an hour.  
22 That's just not possible.

23 Q. Well, indeed as the -- the investigation  
24 progressed, there was information that his mother

1 could provide him with an alibi at a certain point in  
2 the afternoon, right?

3 A. That came about during Lieutenant John Brown  
4 and my interview with the parents and Beu at the Law  
5 and Justice Center after his --

6 Q. Right. And we were talking a few minutes ago  
7 about the responsibility of investigators to continue  
8 with an investigation after charges, and another  
9 example of that would be to follow up on the alibi  
10 information from the parents, accurate?

11 A. That's correct.

12 Q. And indeed subsequent to the charging of  
13 Mr. Beaman, a videotape surfaced that showed without a  
14 doubt that Beaman was present at a Bell Federal  
15 Savings & Loan location in Rockford, Illinois on --  
16 whenever it was, 10:11 on the morning that it was  
17 believed the murder took place, right?

18 A. Correct.

19 Q. So, again, when all of the dust settled, fair  
20 summary to say that there was a very narrow window of  
21 time within which Beaman could have traveled to  
22 Normal, committed the murder of Lockmiller and then  
23 traveled back to Rockford in order to be alibied by  
24 his mother in the afternoon; fair summary?

1 MS. BARTON: Objection to form.

2 THE WITNESS: That's correct.

3 BY MR. BOWMAN:

4 Q. And indeed did you form an opinion as to  
5 whether the information from the video and from his  
6 mother excluded or included Beaman as the offender  
7 based on your experience as an investigator?

8 MR. DiCIANNI: I'll object to foundation.

9 MS. BARTON: Join.

10 THE WITNESS: I think based upon that  
11 information, that gave us more reason for doubt that  
12 he could have committed the crime.

13 BY MR. BOWMAN:

14 Q. Okay. And can you elaborate on that?

15 A. There were two phone calls made from his  
16 residence in the neighborhood of 10:30. It was to the  
17 church. Alan Beaman was involved in the church to the  
18 extent that he was a member of the band, and they were  
19 to have an ice cream social, and he was making final  
20 arrangements and confirming that particular time for  
21 the social.

22 The fact that what he was driving at the  
23 time. Also, the fact that the mother's description of  
24 where Alan was at the time of question being that his

1 car was in the driveway, that's the Ford Escort. He  
2 was in -- even though she didn't physically open the  
3 door to his bedroom, he was in his room, the door was  
4 closed, and his dog was parked sleeping right outside  
5 of his door. And that's the normal activities for  
6 that dog and for Alan when he comes home from work  
7 because he's been up most of the night.

8 Q. And all of this indicated that the likelihood  
9 that Beaman had made that trip and committed the  
10 murder was to be just as fair and neutral about it as  
11 possible was subject to serious doubt, accurate?

12 A. Correct.

13 MR. DiCIANNI: Object.

14 BY MR. BOWMAN:

15 Q. Now, let me ask you this: At the conclusion  
16 of your interview/interrogation of Beaman on August  
17 the 28th, going back now to the very beginning of the  
18 investigation, there was developed the information  
19 from Morgan Keefe that the -- that Beaman had a rocky  
20 relationship with Lockmiller and that therefore he had  
21 a motive to kill her, right?

22 A. Correct.

23 Q. And then there was also the information in  
24 terms of Beaman's responses that was indicative of

1 possible guilt, and you have talked about that  
2 already, right?

3 A. Correct.

4 Q. And among the things that were -- there were  
5 also other signs, we started to talk about this, in  
6 the interview that were indicative of possible  
7 innocence, right?

8 A. Correct.

9 Q. For example, during your interrogation of  
10 him, you mixed up the days and the times as to where  
11 he was and so forth and the expectation was that was a  
12 ploy as well, right?

13 A. Correct.

14 Q. And the expectation was that a guy who is  
15 fabricating his whereabouts, providing a false alibi  
16 for himself, won't be able to keep it straight once  
17 you start shifting the shells around, right?

18 A. That's correct.

19 Q. And Beaman did not do that. In fact, he  
20 maintained consistently an explanation of his  
21 whereabouts over the course of the questioning,  
22 correct?

23 MR. DiCIANNI: Objection to foundation.

24 MS. BARTON: Join.

1 THE WITNESS: Correct.

2 BY MR. BOWMAN:

3 Q. I mean, you were there and you interacted  
4 with him, correct?

5 A. Correct.

6 Q. Now, would it be fair to say that, again,  
7 that's not anything definitive, but as an experienced  
8 investigator, you should weigh that in and take into  
9 account the possibility that the alibi is truthful and  
10 accurate even based on what you knew as of August 28?

11 A. Yes, yes.

12 Q. Now, in your judgment as an experienced and  
13 trained investigator -- do you need to stop for a  
14 minute or can I keep going?

15 A. No, I'm just stretching my leg out, and I  
16 want to be careful not to kick someone.

17 Q. Anytime you need to stop, you let me know.

18 In your opinion as an experienced and trained  
19 investigator, did the investigation of Beaman  
20 subsequent to your interrogation of him on August 28  
21 develop any further, additional evidence indicative of  
22 Beaman's guilt beyond what was known to the  
23 investigators at that particular point in time?

24 MR. DiCIANNI: I'll object to lack of

1 foundation.

2 BY MR. BOWMAN:

3 Q. Based on your familiarity and your knowledge  
4 of this investigation.

5 A. Restate your question, please.

6 Q. Let me try it again.

7 A. Sure.

8 Q. Based on your familiarity with the case, your  
9 direct participation in it, did the investigation  
10 subsequent to your and Hospelhorn's interview of  
11 Beaman on August 28 and the information that was  
12 developed prior to that interview, subsequent to that  
13 time, did the investigators get anything else on  
14 Beaman that was further support for the proposition  
15 that Beaman was the perpetrator?

16 MR. DiCIANNI: Same objection.

17 MS. BARTON: Join.

18 THE WITNESS: Yes, there had been.

19 BY MR. BOWMAN:

20 Q. And what is that?

21 A. Well, the information that came about as a  
22 pretrial -- or a posttrial conviction I learned that  
23 information was misrepresented by Tim Freesmeyer. I  
24 also learned during the testimony of Judge Souk that

1 information was omitted.

2 Q. Time out. We didn't -- we didn't understand  
3 each other I don't think. Let me try it again. And  
4 it may be time for a break. We'll see.

5 I'm looking at the evidence as to Beaman's  
6 guilt, all right. As of August 28, there was certain  
7 evidence suggesting that Beaman might be guilty,  
8 right?

9 A. Correct.

10 Q. And you've talked about it?

11 A. Correct.

12 Q. Now, here comes the question. After that  
13 time, August 28, did any additional evidence of  
14 Beaman's guilt get developed by the team of  
15 investigators who worked on the Lockmiller homicide  
16 investigation?

17 MS. BARTON: Objection, form and foundation.

18 MR. DiCIANNI: Same objection.

19 THE WITNESS: Yes.

20 BY MR. BOWMAN:

21 Q. What was that?

22 A. The crime lab had examined the instrument  
23 used to strangle her. I believe that was a clock.

24 Q. And his fingerprint was on the clock?

1 A. Was one of them, yes.

2 Q. Right. And, again, as an experienced  
3 investigator, you knew that that, again, might be  
4 consistent with guilt, right?

5 A. Correct.

6 Q. But by the same token, there was another  
7 explanation for the fingerprint on the clock, right?

8 A. Yes.

9 Q. And that explanation was what?

10 A. With my experience dealing with students, and  
11 she was a student, that there are parties. When  
12 there's parties in apartments, any number of people  
13 could touch any item in the apartments as well as the  
14 fact that I believe that clock was Alan's clock.  
15 Therefore, that would indicate that Alan at one time  
16 or another had to touch that clock, and prints cannot  
17 be dated.

18 Q. Right. And, in fact, Beaman slept in the --  
19 in the apartment with Lockmiller and he was her  
20 boyfriend, right?

21 A. Correct, on other occasions.

22 Q. And used -- and logically would have used the  
23 clock to set an alarm to wake himself for his  
24 activities?

1 A. For a number of reasons, yes.

2 Q. Okay. Other than the fingerprint on the  
3 clock, any other information?

4 A. At present, I can't recall any at present.

5 Q. And indeed with respect to the clock, there  
6 was also a fingerprint from an individual named  
7 Michael Swaine, right?

8 A. Yes.

9 Q. And Swaine was initially a suspect in the  
10 investigation as well at the very beginning, right?

11 A. Correct.

12 Q. And then he was ruled out early on, right?

13 A. Correct.

14 Q. Why?

15 A. He had -- had an alibi in the form of his  
16 class schedule at school out of town.

17 Q. So at least with respect to Swaine, the  
18 investigators knew that the fingerprint on the clock  
19 could not be indicative of guilt?

20 A. Yes.

21 Q. And, in fact, like Beaman, Swaine had spent  
22 the night in Lockmiller's apartment from time to time,  
23 and like Beaman would have occasion to touch the  
24 clock?

1           A.    In specific terms, Mike Swaine was her last  
2 live-in boyfriend.

3           Q.    All right.  So other than this fingerprint of  
4 Beaman's on the clock, did the investigators develop  
5 any other evidence subsequent to August 28 when you  
6 interviewed Beaman that pointed toward, in a  
7 substantive way, toward Beaman's guilt?

8           A.    Right now I don't recall.

9           Q.    Can't think of anything?

10          A.    At present, right.

11          Q.    All right.  If you think of something, let us  
12 know, all right?

13          A.    Yes.

14               MR. BOWMAN:  And I think that we'll take a  
15 break and change your tape and stretch our legs.

16               THE VIDEOGRAPHER:  Off the record, 1353.

17                               (Whereupon, a break was taken.)

18               THE VIDEOGRAPHER:  Continuation of the  
19 deposition of Tony Daniels, beginning of video number  
20 four.  The time is 1403.

21 BY MR. BOWMAN:

22           Q.    Mr. Daniels, beginning at the early stage in  
23 the investigation, and we've talked about this  
24 already, there were -- in addition to Mr. Beaman,

1 there were other individuals whose names were given by  
2 Morgan Keefe and other witnesses who were -- had to be  
3 placed on the list of suspects at least in the  
4 beginning stages of the investigation, accurate?

5 A. Correct.

6 Q. And that included Michael Swaine, who we've  
7 talked about, the live-in boyfriend at the time of the  
8 murder, right?

9 A. Yes.

10 Q. It included a former boyfriend by the name of  
11 Stacey Gates, right?

12 A. That's correct.

13 Q. And Gates was a person of interest in part  
14 because he had been in telephone contact with  
15 Lockmiller shortly prior to her death?

16 A. Correct.

17 Q. And had plans to meet with her, and there  
18 might have been a romantic reason for those plans?

19 A. That's correct.

20 Q. And then in addition, there was this  
21 individual John Murray whose name came up in the  
22 investigation as a result of the interviews of  
23 Lockmiller's acquaintances?

24 A. Correct.

1 Q. And Murray also had in the past had a sexual  
2 relationship with Lockmiller?

3 A. Correct.

4 Q. Now, a trained and experienced investigator  
5 such as yourself would know early in the investigation  
6 that all of these individuals needed to be looked into  
7 and developed, accurate?

8 A. Correct.

9 Q. And would it be fair to say that in the  
10 circumstances of this crime where there was reason to  
11 suspect a sexual motive, where there was reason to  
12 suspect a personal motive, where there was evidence  
13 suggesting that the victim and the perpetrator were  
14 acquainted, that before an arrest was appropriate,  
15 that you had to narrow it down to one individual who  
16 remained standing after all the investigation had been  
17 complete?

18 MS. BARTON: Objection to form and  
19 foundation.

20 MR. DiCIANNI: Yeah.

21 MR. BOWMAN: I think that's a terrible  
22 question.

23 MR. DiCIANNI: I join.

24 MR. BOWMAN: Let me try it again.

1 BY MR. BOWMAN:

2 Q. In -- in terms of -- why don't we skip that  
3 question for the moment.

4 In terms of the unfolding investigation, you  
5 needed to look into Swaine and his alibi, right?

6 A. Correct.

7 Q. And that excluded Swaine eventually?

8 A. Right.

9 Q. Actually pretty early on, right?

10 A. Yes.

11 Q. You needed to look into Gates and his alibi,  
12 right?

13 A. Yes.

14 Q. And in your judgment, did Gates have an alibi  
15 that excluded him?

16 A. Yes.

17 Q. What was that?

18 A. He was also at school over in a near --  
19 nearby town, Peoria, and that was documented over  
20 there as far as his attendance.

21 Q. Well, actually he was a teacher at a -- at a  
22 school, right?

23 A. Right.

24 Q. And then what about John Murray? You

1 testified about this already. Was -- was he excluded  
2 by means of an alibi at any point in this  
3 investigation?

4 A. I did not exclude him. He could have been  
5 excluded by others.

6 Q. Well, in your judgment as an experienced and  
7 trained investigator, was it appropriate to exclude  
8 him based on alibi at any point in the investigation?

9 A. No.

10 Q. Why is that?

11 A. There was too much circumstantial evidence.  
12 If you can't exclude him from an investigation  
13 regardless of the magnitude of the -- of the crime,  
14 then they have to be included until such time you can  
15 exclude them.

16 Q. And that's -- that's a standard principle  
17 that trained and experienced investigators must adhere  
18 to; is that fair?

19 A. They should, yes.

20 Q. Now, as the investigation unfolded, we've --  
21 we've talked about the -- there was -- apart from this  
22 fingerprint, your testimony is that you can't think of  
23 other evidence that was developed against Beaman,  
24 right?

1 A. Against him?

2 Q. Yes.

3 A. That's correct.

4 Q. For example, nobody was ever able to develop  
5 an eyewitness who reliably placed Beaman in Normal on  
6 the day of the crime?

7 A. That's --

8 MS. BARTON: Objection to form.

9 MR. DiCIANNI: Lack of foundation.

10 BY MR. BOWMAN:

11 Q. To your knowledge?

12 A. To my knowledge, correct.

13 Q. No one apart from the single fingerprint that  
14 had an innocent explanation, there was no physical  
15 evidence that connected Beaman to this murder?

16 MS. BARTON: Objection; form, foundation.

17 BY MR. BOWMAN:

18 Q. Accurate?

19 MR. DiCIANNI: I join.

20 THE WITNESS: You're correct.

21 BY MR. BOWMAN:

22 Q. And -- and you know from your familiarity  
23 with the case that there were a series of overhears  
24 that Freesmeyer conducted with Beaman without Beaman's

1 knowledge in which he was invited to talk about the  
2 crime and all of his statements on tape were fully  
3 consistent with innocence?

4 MS. BARTON: Objection to form, foundation.

5 MR. DiCIANNI: Yeah, I join that, too.

6 THE WITNESS: To my knowledge, yes.

7 BY MR. BOWMAN:

8 Q. And I think we've said this already, but  
9 the -- the circumstantial evidence as to motive really  
10 didn't change going forward from what was developed by  
11 Morgan Keefe and from Beaman's own lips in your  
12 conversation with him?

13 MS. BARTON: Objection.

14 BY MR. BOWMAN:

15 Q. I mean, there was a rocky relationship and --  
16 and jealousy and -- and so forth. You knew all that  
17 on August 28. There was no additional information  
18 regarding that motive that was developed subsequent to  
19 August 28?

20 MS. BARTON: Objection, form, foundation.

21 MR. DiCIANNI: Yeah, I join.

22 BY MR. BOWMAN:

23 Q. Is that accurate?

24 A. Yes.

1 Q. Now, in Mr. DiCianni's questioning of you  
2 this morning, you touched pretty extensively on this  
3 already. Would it be fair to say that in your  
4 estimation as an experienced and trained investigator  
5 that the -- the circumstantial evidence, the motive  
6 evidence, the evidence as to means and opportunity  
7 with respect to John Murray was as great or stronger  
8 than the evidence against Beaman?

9 A. That's correct.

10 Q. Now, in terms of opportunity, what was the  
11 evidence with respect to John Murray?

12 A. John Murray had the opportunity.

13 Q. And why do you say that?

14 A. His -- where he lived, close proximity to  
15 Jennifer's apartment. The fact that they were to  
16 rekindle their relationship. To my knowledge, she was  
17 using him for the -- for the drugs and the sex.  
18 That's also substantiated by John Murray's statement  
19 that he supplied them. Also the fact that if you look  
20 at the phone record, it indicated that Murray was in  
21 town at the time. He admitted that as well.

22 Q. And in terms of whether any other person  
23 could provide Murray with an alibi for that full  
24 window of time when the murder was believed to have

1       been committed, what was the state of the evidence on  
2       that?

3           A.    His alibi?

4           Q.    Right.

5           A.    Other than taking at face value, his  
6       statement, Mackoway's statement and the documented  
7       phone call, that would be it.

8           Q.    And even if you took his statement and  
9       Mackoway's statement at face value, it'd be accurate  
10      to say, would it not, that Murray was not in anybody's  
11      presence for part of that window of time when the  
12      murder was believed to have been committed, accurate?

13          A.    Correct.

14          Q.    Now, you and Detective Hospelhorn conducted  
15      two interviews of Murray on September the 2nd and  
16      September the 8th, right?

17          A.    Correct.

18          Q.    And we've already in this deposition looked  
19      at the transcripts that were made of those interviews.  
20      And just to be clear, let me identify those numbers.  
21      They were Daniels Exhibit 13 was the -- includes the  
22      transcript of your September 2 interview. Daniels  
23      Exhibit 14 includes the transcript of your September 8  
24      interview, right? Take a minute to confirm that if

1 you could.

2 A. 14 and 13?

3 Q. Yes, sir.

4 A. So documented, yes.

5 Q. And would it be a fair summary that -- that  
6 Murray's stories as to his interactions with  
7 Lockmiller in the final weeks and days of her life  
8 were shifting and inconsistent on the -- during the  
9 course of those two interviews?

10 A. Correct.

11 Q. Specifically he provided different accounts  
12 of when he last saw Lockmiller, right?

13 A. Yes, he did.

14 Q. And he provided differing accounts of -- of  
15 the circumstances in which he last saw Lockmiller,  
16 whether he saw her in an apartment -- or in her  
17 apartment or whether he saw her in the company of  
18 Swaine in a parking lot, right?

19 A. Correct.

20 Q. And he also provided varying accounts of his  
21 own whereabouts on August 25, the day the murder was  
22 believed to have been committed or the day that  
23 investigators ultimately determined that the murder  
24 was -- was committed, right?

1 A. Yes.

2 Q. At one point saying that he was in Rockford  
3 on -- on that day and then at another point saying  
4 that he was -- he was in Normal, right?

5 A. Yes. Yes.

6 Q. And as a trained and experienced  
7 investigator, how did you assess these varying  
8 accounts that Murray provided during the two  
9 interviews that you and Hospelhorn conducted in  
10 September of 1993?

11 A. Well, our intentions were to have him  
12 polygraphed and try to determine what dates were the  
13 actual dates and if he had any knowledge as to who or  
14 if he himself had committed it.

15 Up to that point, I don't believe anything  
16 came across our desk indicating one or the other,  
17 other than his words and also Mackoway's words.

18 Q. Okay. And just as a general matter, when --  
19 in your experience as an investigator, when a suspect  
20 provides divergent accounts of his whereabouts on the  
21 date in question in a homicide investigation, the date  
22 of the murder, does that elevate suspicion with  
23 respect to the individual or not?

24 A. Yes, it does.

1 Q. Can you tell me why?

2 A. Well, this particular case, the Lockmiller or  
3 any other case, normally an individual comes in is  
4 going to have a rigid alibi. He was confused, like  
5 we -- as compared to Alan Beaman, and his demeanor and  
6 the fact he was unable to provide, whereas Alan was  
7 able to provide statements from other people that he  
8 was present or wasn't present, videotape, the fact  
9 that -- of his relationship with Jennifer made -- adds  
10 a lot of credence to the fact that we needed to look  
11 at him further.

12 Q. Now, when you were interviewing him on  
13 September 2, be accurate to say that this is less than  
14 two weeks subsequent to the date that the murder was  
15 believed to have occurred, right?

16 A. Yes.

17 Q. It wasn't like you were talking with him  
18 about two years ago, right?

19 A. Correct.

20 Q. And that elevated suspicion as well, I take  
21 it?

22 A. Yes.

23 Q. And you have made mention in your testimony  
24 so far of the fact that Murray informed you and

1 Mr. Hospelhorn in -- in one of his interviews, I think  
2 it was the second, that when he returned to Normal  
3 from a trip to Rockford in early September, that  
4 rather than staying at his apartment, he stayed at a  
5 motel. Do you recall that?

6 A. Yes.

7 Q. And did that account elevate suspicion for  
8 you and Mr. Hospelhorn with respect to Murray?

9 A. As to his reason behind that, it did.

10 Q. And can you explain that for us, please.

11 A. Why would he be afraid of Alan? Alan's a  
12 much smaller individual. That was the basic reason.  
13 And how he came about having knowledge of -- of the  
14 demise of Jennifer.

15 Q. So in -- in -- in layman's terms, that didn't  
16 make a lot of sense?

17 A. It didn't, no, a couple of other -- previous  
18 testimony. It just added more to the validity of his  
19 alibi, his involvement, et cetera.

20 Q. All right. And in his -- in your interviews  
21 with him on the 2nd and the 8th of September, Murray  
22 admitted to sexual relations with Lockmiller?

23 A. Yes.

24 Q. And -- and, in fact, his account with respect

1 to those sexual relations also changed from one  
2 interview to the next, right?

3 A. Yes.

4 Q. At one point he was saying they last had  
5 sexual relations a year ago, and then in another  
6 point, he was saying that it had been much more  
7 recent?

8 A. Yes.

9 Q. And did that -- did that have any effect on  
10 your view of Murray as a suspect in the investigation,  
11 the -- the information about sexual relations and the  
12 changing account that Murray gave of that?

13 A. In respect with his relationships with her,  
14 one point got my attention, and in so many terms I  
15 asked him the actual type of sexual relations you had,  
16 acts and so forth. It seems as though he had to  
17 defend himself by saying, oh, it was clean sex.  
18 Whereas, the scene of how Jennifer was discovered  
19 might suggest to someone else that, well, what's clean  
20 sex mean? What is clean sex? In other words, I  
21 interpreted clean sex as a man being the dominant  
22 partner.

23 Q. Okay.

24 A. And --

1 Q. Now -- and so would it be a fair summary to  
2 say that -- that your impressions of Murray's accounts  
3 of his sexual activities with Lockmiller suggested the  
4 possibility that he was being deliberately evasive  
5 with respect to that subject?

6 A. Yes.

7 Q. Now, was there also some information with  
8 respect to Murray's activities in terms of supplying  
9 Lockmiller with drugs? Supplying Lockmiller with  
10 drugs, did Murray provide information on that subject?

11 A. Yes, he did.

12 Q. And how did you evaluate that in terms of  
13 whether Murray needed to be looked at further as a  
14 suspect in this investigation?

15 A. As a possible motive, drug money.

16 Q. I mean, it was only \$20. So what -- what  
17 made you think that that -- that would constitute a  
18 motive for murder?

19 A. That's what he said, \$20.

20 Q. Well, what do you mean when you say that's  
21 what --

22 A. Or there could have been other instances  
23 where the amount of money that she owed him could have  
24 been greater.

1 Q. So the fact that there had been financial  
2 transactions between Lockmiller and Murray with  
3 respect to illegal substances suggested to you that --  
4 that -- that money might play in as a motivating  
5 factor here?

6 A. Correct.

7 Q. At least as a trained and experienced  
8 investigator, you couldn't rule that out?

9 A. Correct.

10 Q. And in your judgment as a trained and  
11 experienced investigator, can even small amounts of  
12 money in the context of drug transactions be an  
13 occasion for physical violence and even homicide?

14 A. In my opinion, it could very well be  
15 depending upon the individuals that are involved in  
16 this. In particular, John Murray being a dealer and  
17 being on steroids, it certainly could.

18 MR. BOWMAN: All right. Now, I don't think  
19 the smirk is really necessary, Tom.

20 MR. DiCIANNI: Oh, I wasn't smirking.

21 BY MR. BOWMAN:

22 Q. Okay. In any event, this had to be looked at  
23 further?

24 A. Yes.

1 Q. In your judgment?

2 A. Yes.

3 Q. Now, all of this led you -- and I believe  
4 it's mentioned in the second transcript -- to suggest  
5 to Murray that a polygraph examination would be the  
6 next step in the investigation as to him, right?

7 A. Yes.

8 Q. And you've testified about this before. Just  
9 moving forward quickly, you personally escorted Murray  
10 to the site where the Illinois State Police technician  
11 was prepared to conduct a polygraph?

12 A. Correct.

13 Q. And -- and then you received a report from  
14 the investigator the sum and substance of which was  
15 that Murray had not been cooperative in the  
16 investigation. And I don't want to put words in your  
17 mouth. Is that a fair summary of what you were told?

18 MS. BARTON: Objection to form and  
19 foundation.

20 MR. DiCIANNI: I'll join.

21 BY MR. BOWMAN:

22 Q. Well, let me then correct the form, and just  
23 ask you to state again what you were told with regard  
24 to Murray's performance in the attempted polygraph.

1 A. He would not set still.

2 Q. And you had -- in sitting still, obviously in  
3 your experience is a requirement to conduct a proper  
4 polygraph, right?

5 A. Correct.

6 Q. Because the whole idea of a polygraph is to  
7 measure galvanic skin response and heartbeat and  
8 respiration, the individual has to remain perfectly  
9 still in order for the examination to be reliable,  
10 right?

11 A. Correct.

12 Q. And did you -- had you in your interactions  
13 with Murray up to the point of the polygraph  
14 investigate -- polygraph examination that was  
15 conducted, had you noticed that -- that Mr. Murray had  
16 some sort of nervous condition, some sort of  
17 neurological problem, anything that in your  
18 observation would make it impossible for him to sit  
19 still?

20 MS. BARTON: Objection to foundation.

21 MR. DiCIANNI: Yeah, I'll join.

22 THE WITNESS: Do I think or do I -- am aware  
23 of anything that could have made him nervous?  
24

1 BY MR. BOWMAN:

2 Q. No, that's not what I'm asking.

3 A. Okay.

4 Q. I -- I -- I'll accept the point that any of  
5 numbers of things could have made him nervous. The  
6 fact that he's a drug dealer could make him nervous,  
7 right?

8 A. Correct.

9 Q. The fact that he's a suspect in a homicide  
10 investigation could make him nervous, right?

11 A. Correct.

12 Q. The fact that he may have killed  
13 Jennifer Lockmiller can make him nervous?

14 A. Correct.

15 Q. If that was true, right?

16 A. Right.

17 Q. So let's leave aside being nervous. I'm  
18 asking something else. Had you observed that  
19 Mr. Murray had a condition such that he couldn't sit  
20 still --

21 MS. BARTON: I'm going to object.

22 BY MR. BOWMAN:

23 Q. -- in your interactions with him on  
24 September 2, September 8 and on the day you took him

1 for the polygraph?

2 MR. DiCIANNI: Same objection. Yeah, I join.

3 MS. BARTON: Form and foundation.

4 THE WITNESS: I don't recall noting any such  
5 physical activity.

6 BY MR. BOWMAN:

7 Q. Okay. Now, and of course we're all -- all  
8 the lawyers here understand that in terms of whether  
9 an individual is a truthful person, that a polygraph  
10 examination is -- is in almost every jurisdiction in  
11 this country is inadmissible in court including in  
12 Illinois, and you know that, too, as a trained and  
13 experienced investigator, right?

14 A. Correct.

15 Q. But even so, investigators know that a  
16 polygraph examination can be a valuable tool, right?

17 A. Yes.

18 Q. It may not be admissible in court, but if the  
19 examination is conducted by an expert investigator who  
20 knows how to set up the questions and knows how to  
21 conduct the prepolygraph interview, the polygraph  
22 examination can at least be an indicator of truth,  
23 right?

24 A. Correct.

1 Q. And investigators commonly rely on those  
2 results along with other evidence as an indication  
3 that the individual may or may not be telling the  
4 truth, right?

5 MR. DiCIANNI: Object to lack of foundation.

6 BY MR. BOWMAN:

7 Q. Right?

8 A. That's true.

9 Q. I mean, based on your experience --

10 A. Yes.

11 Q. -- as an investigator, and you -- I'm  
12 assuming through the years in which you worked as an  
13 investigator, you would -- you would ask to have  
14 people polygraphed with that objective in mind?

15 A. Correct.

16 Q. Now, in addition, a polygraph can also be an  
17 investigative tool in the sense that it may put the  
18 fear of God into a subject, right?

19 A. Correct.

20 Q. So sometimes during the prepolygraph  
21 interview, in your experience, you may get a  
22 confession because the guy feels constrained by the  
23 circumstances of -- of going on a lie box to -- to  
24 actually come clean and confess?

1 MR. DiCIANNI: Object.

2 BY MR. BOWMAN:

3 Q. That can happen, right?

4 MR. DiCIANNI: Object, lack of foundation.

5 MS. BARTON: Join.

6 THE WITNESS: Or it also could possibly be  
7 that he's afraid that something else may be revealed  
8 that he does not want it be revealed.

9 BY MR. BOWMAN:

10 Q. Have you seen that happen in your experience?

11 A. Offhand, I couldn't say so many times or a  
12 particular case, no.

13 Q. But in general, you're aware of that?

14 A. Right, because a lot of individuals say I  
15 don't know if I want to take a polygraph or not, and  
16 we have to, by encouraging them to take one, explain  
17 to them that we're not interested in your window  
18 peeking experience or stealing the candy bar. We're  
19 interested in Lockmiller, information you may be aware  
20 of.

21 Q. All right. Now, if a subject is unwilling to  
22 take a polygraph, that is, if he says I'll take a  
23 polygraph and then he doesn't follow up and doesn't  
24 agree to go forward with the polygraph, that -- as an

1 experienced investigator along with any number of  
2 other things, you weigh that in as an indication of at  
3 least the subject's cooperation with the  
4 investigation, right?

5 A. Yes.

6 Q. So in the sense of being a further indication  
7 that Murray is somebody who needs to be looked at  
8 further, the fact that he was not cooperating in the  
9 polygraph and did not follow through in scheduling a  
10 follow-up polygraph, all that has to be weighed in  
11 with other things?

12 A. Yes, it does.

13 MR. DiCIANNI: Object, lack of foundation.

14 BY MR. BOWMAN:

15 Q. And it requires -- it's an indication that  
16 there's a need for further investigation, accurate?

17 MR. DiCIANNI: I'll object, lack of  
18 foundation.

19 MS. BARTON: Join.

20 THE WITNESS: Yes.

21 BY MR. BOWMAN:

22 Q. Now, in the -- fairly early on in the  
23 investigation as you've testified, Detective Belcher  
24 developed information that Murray was a confidential

1 informant following a drug bust of him that had  
2 occurred in January of 1993, right?

3 MS. BARTON: Object to foundation.

4 THE WITNESS: Yes.

5 BY MR. BOWMAN:

6 Q. And the fact that -- I wanted to clarify one  
7 thing that came up in Ms. Barton's examination of you.  
8 You indicated that in the circumstances where the task  
9 force works an individual as a CI following an arrest,  
10 that typically the arrest will not be made public.  
11 Did I get that right?

12 A. Correct. Typically, yes.

13 Q. And can you explain the reasons for that?

14 A. Well, one of two reasons. If the CS, CI,  
15 confidential source or informant is 100 percent  
16 cooperative with the agent, then surely that will be  
17 taken into consideration as far as any charges being  
18 filed by the State's Attorney's Office or the  
19 individual could absolutely refuse to show up or  
20 cooperate.

21 Q. Well, another -- let me ask you if this is  
22 accurate in your experience. Cooperation as a CI can  
23 be dangerous for the individual involved?

24 A. That's correct.

1 Q. And, in fact, if the individual is asked to  
2 record a transaction or participate in a transaction  
3 while under surveillance, if it were to be perceived  
4 or detected that the individual had, in effect,  
5 brought law enforcement to the transaction, that  
6 could -- that could be extremely dangerous for the  
7 individual, right?

8 A. That in and of itself, the scenario you just  
9 gave, yes.

10 Q. And would that be another reason why when a  
11 confidential informant arrangement is established with  
12 an individual subsequent to arrest, that the arrest is  
13 not made public?

14 A. Correct.

15 Q. Is it your understanding that that was the --  
16 the procedure with respect to Murray's January 1993  
17 arrest for possession with intent?

18 MS. BARTON: Objection to foundation.

19 BY MR. BOWMAN:

20 Q. Based on the information that Belcher  
21 developed?

22 A. Yes.

23 MS. BARTON: Same objection.

24 THE WITNESS: Yes.

1 BY MR. BOWMAN:

2 Q. And in your judgment as an experienced and  
3 trained detective, was the fact that Murray had been  
4 arrested for possession with intent and was being  
5 worked as a CI by Task Force 6, was that information  
6 that elevated suspicion of him with respect to the  
7 Lockmiller homicide?

8 MS. BARTON: Object to form and foundation.

9 MR. DiCIANNI: I join.

10 THE WITNESS: Yes.

11 BY MR. BOWMAN:

12 Q. Can you say why?

13 A. That indicates and it also later on would  
14 support the fact that there could have been -- that  
15 could have been the motive between him and Jennifer,  
16 money and drugs, and of his -- added further to his  
17 character whether we wanted to believe him or not.

18 Q. All right. So this was further information  
19 that would be important to anyone in evaluating Murray  
20 as a suspect, fair?

21 MS. BARTON: Objection, foundation.

22 THE WITNESS: Yes.

23 MR. DiCIANNI: Join.

24

1 BY MR. BOWMAN:

2 Q. And similarly with respect to the polygraph  
3 examination and Murray's noncooperation in the  
4 polygraph, his failure to schedule a repeat polygraph,  
5 that as well would be important information for  
6 anybody who was evaluating Murray as a possible  
7 suspect?

8 MS. BARTON: Objection to foundation.

9 MR. DiCIANNI: I join.

10 THE WITNESS: Yes.

11 BY MR. BOWMAN:

12 Q. Now, subsequent -- you've testified about  
13 this already -- subsequent to the charges against  
14 Beaman, it came to your attention, did it not, that  
15 Murray had been arrested on a domestic violence case,  
16 right?

17 A. Yes.

18 Q. And I think we've established in this  
19 deposition that that arrest took place at some point  
20 in October of 1994. Does that jibe with your memory?

21 A. Yes.

22 Q. And do I have it accurate that your -- you  
23 became aware of this charge as a result of just  
24 following the daily information flow within the police

1 department as to arrests that were taking place?

2 A. Either that means or someone -- police  
3 officer would have brought to my attention.

4 Q. All right. And did you elect to follow up  
5 and do further investigation on that matter?

6 A. Not -- not as far as the incident itself.

7 Q. Well, let me ask it in a better way. Did you  
8 read the reports.

9 A. Yes.

10 Q. And in your judgment, was it appropriate for  
11 you as a trained investigator with involvement in  
12 the -- or history of involvement in the Lockmiller  
13 homicide investigation to follow up with respect to  
14 the reports on Murray after you learned of this  
15 arrest?

16 A. Yes.

17 Q. In your judgment, would any trained and  
18 experienced investigator know to do that?

19 MR. DiCIANNI: I'll object to foundation.

20 THE WITNESS: Knowing to do it and doing it,  
21 I would think so in my opinion.

22 BY MR. BOWMAN:

23 Q. And tell us again what you learned when you  
24 read the reports?

1           A.    When I read the report, it indicated how and  
2 by what means that Murray committed the act of --  
3 alleged act of domestic violence, choked --

4           Q.    And --

5           A.    I'm sorry.

6           Q.    No.  You go ahead.

7           A.    Meaning choking her and sitting on her and  
8 pounding her in the chest with his fist.

9           Q.    And as a trained and experienced  
10 investigator, did that have any significance for you  
11 with respect to Murray's status as a suspect in the  
12 Lockmiller homicide investigation?

13          A.    I saw a correlation between that incident and  
14 also the way Jennifer had met her death.

15          Q.    Why don't you explain that to us again.

16          A.    The neck incident or as Murray was choking  
17 Debbie as -- certainly could explain why Jennifer was  
18 strangled.  I see a correlation there, the neck.

19                Secondary, I see the -- the attack up on the  
20 chest, the beating, the pounding, if you will, the  
21 chest of Debbie versus Jennifer being stabbed in the  
22 chest with scissors.

23          Q.    All right.  And would you agree with the  
24 proposition that anyone interested in evaluating

1 Murray as a possible suspect for the homicide of  
2 Jennifer Lockmiller would want to know the information  
3 regarding the facts and circumstances underlying  
4 Murray's domestic violence arrest in October 1994?

5 MS. BARTON: Objection, foundation.

6 MR. DiCIANNI: Yeah, same.

7 THE WITNESS: In my opinion, yes.

8 BY MR. BOWMAN:

9 Q. You've indicated in your testimony that you  
10 don't have a present recollection of an individual by  
11 the name of Rob Curtis whose name also came up in the  
12 Lockmiller homicide investigation?

13 A. Correct.

14 Q. If I were to suggest to you that Curtis was  
15 an individual whom Lockmiller had encountered at a  
16 health club in the weeks prior to her death, would  
17 that refresh your recollection as to who Rob Curtis  
18 was?

19 A. The health club does, yes.

20 Q. And if I were further to suggest to you that  
21 Mr. Curtis was an individual who was involved in a  
22 series of incidents involving the torture of cats,  
23 would that further refresh your recollection  
24 concerning Rob Curtis?

1 A. Not that in particular, no.

2 Q. Capturing cats and breaking their legs and  
3 this sort of thing, is that --

4 A. Well, that would be an indication of the  
5 person's personality as far as being violent.  
6 Torturing animals sure is an indication of -- of  
7 violence as a propensity to commit further violence.  
8 I think it's one of the legs to try of a serial killer  
9 being that torturing animals and, if you will,  
10 bed-wetting and window peeking.

11 Q. Right.

12 MR. DiCIANNI: I'm sorry?

13 MR. BOWMAN: Bed-wetting and window peeking.

14 MR. DiCIANNI: Is what?

15 THE WITNESS: It adds to the propensity of an  
16 individual along with the torture of animals to become  
17 a serial killer, not saying all people are.

18 MR. DiCIANNI: No, I gotcha.

19 THE WITNESS: Yes. We can look at Dahmer and  
20 so forth.

21 MR. DiCIANNI: Yeah.

22 BY MR. BOWMAN:

23 Q. Now, as a general proposition, would you  
24 agree that the responsibilities of the investigators

1 engaged in the Lockmiller homicide investigation  
2 should have included following up on any individuals  
3 whom Lockmiller had come into contact with in the  
4 weeks prior to her death?

5 MS. BARTON: Objection to form.

6 MR. DiCIANNI: Yeah, I join.

7 THE WITNESS: Yes.

8 BY MR. BOWMAN:

9 Q. Why do you say that?

10 A. This particular type of crime we usually --  
11 you usually look at an acquaintance and the way the  
12 crime was committed, and that's exactly what we were  
13 doing. Victimology played an important part as to why  
14 the individual was a victim. Her -- her social  
15 habits, people she kept company with, the location  
16 where she lived, so forth and et cetera.

17 Q. Now, would it further refresh your  
18 recollection as to Curtis if I were to suggest to you  
19 that -- that there was information in the  
20 investigation that Curtis had made some overture to  
21 Lockmiller in terms of wanting to -- to go out with  
22 her romantically prior to her death? Does that ring a  
23 bell as well in addition to the health club?

24 A. No. The health club just stands out for some

1 reason in my mind as being somebody that had worked  
2 there or association with the health club.

3 Q. All right. Well, hypothetically, if -- if  
4 Lockmiller in the weeks prior to her death had had an  
5 encounter, one or two encounters with an individual at  
6 a health club, who on at least one occasion invited  
7 her out on a date, and that individual was implicated  
8 in a series of events involving cat torture and that  
9 individual also did not have a known alibi for the  
10 date and time that the investigators believed  
11 Lockmiller was murdered, is that a matter in your  
12 judgment as a trained and experienced investigator  
13 that should be followed up on?

14 MS. BARTON: Objection to form and  
15 foundation.

16 MR. DiCIANNI: Yeah, I join.

17 THE WITNESS: Yes.

18 BY MR. BOWMAN:

19 Q. Would the follow-up of such an individual  
20 include obtaining the reports regarding the  
21 individual's arrests --

22 MS. BARTON: Same objection.

23 MR. DiCIANNI: I'll join.

24

1 BY MR. BOWMAN:

2 Q. -- as a matter of standard practice for  
3 trained and experienced investigators?

4 A. If we're --

5 MS. BARTON: Same objection.

6 THE WITNESS: If we're looking at -- let me  
7 see if I understand this question. Looking at Rob --  
8 Rob or Ron Curtis still?

9 BY MR. BOWMAN:

10 Q. Yes, sir.

11 A. That information that you just shared with  
12 me, whether or not I had privy to, sure would warrant  
13 further investigation into Mr. Curtis.

14 Q. All right. The -- there's been some  
15 testimony on the -- the circumstances in which a  
16 police officer at the Normal Police Department should  
17 prepare a report.

18 Would in your judgment if an investigator  
19 were to learn about this individual that I've asked  
20 you to assume Rob Curtis was hypothetically, would the  
21 information that I just indicated, that he had had the  
22 encounter with Lockmiller, that he had asked her out,  
23 that in addition he had this cat torture behavior in  
24 his background, would that warrant preparing a report

1 for the file --

2 MS. BARTON: Object to form and foundation.

3 BY MR. BOWMAN:

4 Q. -- in your judgment?

5 MR. DiCIANNI: Yeah, I'll join.

6 THE WITNESS: Yes.

7 BY MR. BOWMAN:

8 Q. Now, in the circumstance that we have been  
9 talking about of the Lockmiller homicide investigation  
10 where the evidence against John Murray is the same as  
11 or greater than the evidence against Beaman with  
12 respect to the murder, where there were other  
13 individuals that investigators have not excluded,  
14 Rob Curtis among them, in your judgment as a trained  
15 and experienced investigator, is it appropriate in  
16 that state of play for investigators to make an arrest  
17 of Beaman?

18 MS. BARTON: Objection to form and  
19 foundation.

20 MR. DiCIANNI: I join.

21 THE WITNESS: In my opinion?

22 BY MR. BOWMAN:

23 Q. In your opinion.

24 A. The case was not -- or the investigation was

1 not complete, and for the sake of arresting somebody,  
2 even though you had probable cause, I think a  
3 responsible investigator on his own should not make  
4 that call. Does that make sense --

5 Q. Well, let's --

6 A. -- or answer to your question?

7 Q. Let's be clear. The judgment as to probable  
8 cause to charge Beaman with homicide, that -- that  
9 lies with the -- with the prosecutor, correct?

10 A. Correct.

11 Q. And as a police officer, your responsibility  
12 is -- is -- any other investigator's responsibility is  
13 to gather evidence and to present it and to make  
14 assessments, right?

15 A. Correct.

16 Q. And what I'm understanding you to say is that  
17 in your judgment as a trained and experienced police  
18 officer, it would not be appropriate to evaluate this  
19 case as ready for charges against Beaman at the time  
20 when Murray and others had not been eliminated as  
21 suspects as good or better than Beaman for the crime,  
22 accurate?

23 MS. BARTON: Objection. Objection to form  
24 and foundation.

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1 MR. DiCIANNI: I join.

2 THE WITNESS: Correct.

3 BY MR. BOWMAN:

4 Q. In your opinion, in 1993 and 1994, was  
5 Tim Freesmeyer qualified to serve as the lead  
6 detective, primary detective, senior detective,  
7 however you term it, in a high profile homicide  
8 investigation?

9 A. In my opinion --

10 MR. DiCIANNI: Object to foundation.

11 THE WITNESS: In my opinion, no.

12 BY MR. BOWMAN:

13 Q. For lack of experience?

14 A. Yes, experience as well as training.

15 Q. And you've testified on this previously that  
16 Freesmeyer at that point in time had no training in  
17 homicide investigations, interviewing and  
18 interrogation and in investigation generally  
19 sufficient to qualify him for that job?

20 A. That's my opinion, yes.

21 Q. All right. Now, in the course of the  
22 investigation, the folks who were working the case  
23 came into possession of some phone records relating to  
24 John Murray, right?

1 A. Yeah.

2 MR. DiCIANNI: I'll object to foundation.

3 MS. BARTON: Yeah, form.

4 MR. DiCIANNI: Form.

5 BY MR. BOWMAN:

6 Q. Is that -- is that accurate?

7 A. There are phone records available in the  
8 case.

9 Q. Right. Let's take a look at Exhibit --  
10 Exhibit 15 again.

11 A. 13?

12 Q. 15.

13 A. 15.

14 MR. DiCIANNI: Well, I have to get my  
15 glasses. Can we wait just one second?

16 MR. BOWMAN: Sure.

17 (Brief pause.)

18 BY MR. BOWMAN:

19 Q. Do you have 15 in front of you?

20 A. Exhibit 15, yes.

21 Q. If you look at the back of that exhibit,  
22 you'll see at pages 778, 779, and 780 that there are  
23 grand jury subpoenas that were issued to the phone  
24 companies for various phone records.

1 A. 7 and 8, okay.

2 Q. 778, 779, and 780, all the way toward the  
3 back.

4 A. Sure. I have them.

5 Q. And is it your understanding and recollection  
6 that in the course -- in the early stages when you  
7 were involved in the Lockmiller homicide investigation  
8 on an active basis, that investigators searched out  
9 for telephone records with respect to various phone  
10 numbers that were of significance?

11 A. Yes.

12 Q. And these subpoenas here are -- are examples  
13 of grand jury subpoenas that were issued in September  
14 of 1993 for phone records?

15 A. Yes.

16 Q. As an experienced investigator, based upon  
17 the information that was developed on John Murray in  
18 his interviews, was it an appropriate step for  
19 investigators to subpoena Murray's phone records?

20 A. Yes.

21 Q. And indeed there's an indication in the  
22 interviews that you were moving in that direction of  
23 subpoenaing his phone records?

24 MS. BARTON: I'm going to object to

1 foundation.

2 BY MR. BOWMAN:

3 Q. Is that accurate?

4 MR. DiCIANNI: I join.

5 THE WITNESS: If -- if that was documented,  
6 yes.

7 BY MR. BOWMAN:

8 Q. And in your judgment -- I mean, Murray  
9 provided some information to you in his interviews  
10 that -- that there had been some phone contact between  
11 him and Lockmiller at various points?

12 A. Yes, that's correct.

13 Q. And in your judgment as an experienced  
14 investigator, would an appropriate step given the fact  
15 that Murray was not excluded as a suspect, would it be  
16 appropriate to obtain a grand jury subpoena for  
17 Murray's phone records as part of the investigation in  
18 the latter part of 1993?

19 MS. BARTON: Objection.

20 MR. DiCIANNI: Objection.

21 MS. BARTON: Foundation.

22 MR. DiCIANNI: Foundation, form.

23 THE WITNESS: Yes.

24

1 BY MR. BOWMAN:

2 Q. Do you have any specific recollection of  
3 whether that was done?

4 A. Personally, no, I do not have any  
5 recollection.

6 Q. Would it -- would it surprise you in light of  
7 all the information that you know about this  
8 investigation if that was, in fact, done?

9 A. Yes.

10 Q. Meaning --

11 A. Oh, I'm sorry, no. Surprise me if it was not  
12 done, and as I'm sitting here recalling, I do recall  
13 phone records coming in regarding John Murray's phone  
14 number both in Bloomington and his mother's residence.

15 Q. Right. And you testified about this  
16 yesterday, but the -- the -- the phone records had  
17 significance in the investigation in a couple of  
18 respects, right? Murray's phone records.

19 A. Yes, it does.

20 Q. For one thing, the phone records establish  
21 that Murray's phone in his apartment was used on  
22 August 25, right?

23 A. If that's the date, yes.

24 Q. Which is the date of the murder?

1 A. Right.

2 Q. Right?

3 A. Right.

4 Q. And that is significant corroboration for the  
5 fact that when he said he was not in Normal on  
6 August 25, that that was either incorrect or a  
7 deliberate lie?

8 MS. BARTON: I'm going to object to form and  
9 foundation.

10 BY MR. BOWMAN:

11 Q. Accurate?

12 A. That's accurate.

13 Q. And the phone records also had significance  
14 in your judgment as an investigator because of a phone  
15 call that Murray made to Deborah Mackoway, right?

16 A. Correct.

17 Q. And can you explain for us again what the  
18 significance of that was?

19 A. It would substantiate the fact that Murray  
20 was in his apartment, that she was at work at that  
21 particular time that show -- phone indicated that a  
22 call was made from his apartment. Whether or not John  
23 himself made that call, we'd have to rely upon  
24 John Murray's testimony as well as Deb Mackoway.

1 Q. Right. And the fact that the phone call was  
2 made suggested to you as an experienced investigator  
3 at least the possibility that Murray was acting in a  
4 way to deliberately create an alibi for himself; is  
5 that accurate?

6 A. Certainly that's one way to look at it, yes.

7 Q. And, again, as with all these things, as an  
8 experienced investigator, you're not committing to one  
9 particular explanation for why a phone call was made.  
10 You have to keep all of this information in mind as  
11 you proceed further and continue evaluating and  
12 reevaluating, accurate?

13 A. Correct.

14 MR. DiCIANNI: I object to the form.

15 BY MR. BOWMAN:

16 Q. And indeed anyone who wanted to understand  
17 the information relating to Murray, relating to his  
18 whereabouts on August 25 and relating to Murray's  
19 viability as a suspect for this crime would be  
20 benefited by having the phone records from Murray's  
21 apartment in Normal, from the residence in Rockford as  
22 well on the dates in question, accurate?

23 MR. DiCIANNI: I object, form and foundation.

24 MS. BARTON: I'll join.

1 THE WITNESS: Correct.

2 BY MR. BOWMAN:

3 Q. Assuming that the phone records as you  
4 testified you believe occurred, that those phone  
5 records were obtained by grand jury subpoena -- I mean  
6 the phone records for Murray -- in the course of the  
7 investigation in early nineteen ninety -- in late  
8 1993 -- let me start that question over again. I  
9 already lost track of it. Here comes the question  
10 again, Mr. Daniels.

11 Assuming that Murray's phone records were  
12 acquired by grand jury subpoena in the course of the  
13 Lockmiller homicide investigation in September or  
14 October of 1993, would it be your expectation that  
15 those phone records should be placed in the main file  
16 for transmission to -- for further use in the  
17 investigation for transmission to the lawyers involved  
18 in the criminal case?

19 MR. DiCIANNI: Object.

20 MS. BARTON: Objection; form, foundation.

21 MR. DiCIANNI: Join.

22 THE WITNESS: Yes.

23 BY MR. BOWMAN:

24 Q. Now, earlier today you were shown a copy of a

1 subpoena that I can't find right now.

2 MR. DiCIANNI: You mean the one we had  
3 earlier?

4 MR. BOWMAN: Yeah.

5 MR. DiCIANNI: 27.

6 MR. BOWMAN: 27, right.

7 BY MR. BOWMAN:

8 Q. If you could place 27 in front of you,  
9 Mr. Daniels. It was the one exhibit that was marked  
10 so far today. I think I see it right there. You can  
11 look at the front of Exhibit 27. You see that this is  
12 a subpoena that was issued -- I believe it's in the  
13 year 2000, right?

14 A. Yes. Uh-huh.

15 Q. And to whom is the subpoena addressed?

16 A. To whom it's addressed?

17 Q. Who -- who -- the subpoena is to the  
18 Normal Police Department, right?

19 A. Correct, it's the Normal Police Department.

20 Q. It's not to Tony Daniels, right?

21 A. Correct.

22 Q. And it's -- did you ever get served  
23 personally with a subpoena for phone records relating  
24 to Murray? And the subpoena asks for certain phone

1 records, right?

2 A. Correct.

3 Q. And the phone records are attached as part of  
4 Exhibit 27?

5 MR. DiCIANNI: Yes.

6 THE WITNESS: Yes.

7 MR. BOWMAN: Tom's answering the questions  
8 now. He's helping us out. I'm sorry, that was a  
9 gratuitous comment. So let's move past that, and I'm  
10 going to ask a new question. I apologize for being  
11 facetious.

12 BY MR. BOWMAN:

13 Q. Do you have any reason whatsoever to believe  
14 that you would somehow have personally responded to a  
15 phone records subpoena directed to the Normal Police  
16 Department for phone records in the possession of the  
17 Normal Police Department by somehow providing records  
18 that were not at Normal Police Department but were in  
19 your possession? Do you have any reason to believe  
20 that that scenario would have unfolded?

21 MS. BARTON: Objection; form, foundation.

22 MR. DiCIANNI: I object to form and  
23 foundation.

24 THE WITNESS: Well, let me answer that by

1 saying it's addressed to Normal Police Department.  
2 That would go to records. Records would execute the  
3 subpoena.

4 BY MR. BOWMAN:

5 Q. The answer to my question is no?

6 A. Correct. Right. No.

7 Q. All right. Now, I want to ask you some  
8 questions about your trip to Chicago to talk with  
9 Lieutenant Reagan and others in the Chicago Police  
10 Department regarding this investigation. And I  
11 appreciate that your recollections of this are -- are  
12 incomplete, but to the best of your recollection,  
13 whose idea was it to go for investigators with  
14 familiarity with the Lockmiller homicide investigation  
15 to go to Chicago and talk to Chicago Police about the  
16 case?

17 A. I could not say definitely whose idea it was.

18 Q. Did you -- did somebody give you direction to  
19 participate in that trip? Did you get an order to go?

20 A. I don't recall other than the fact that  
21 Lieutenant Zayas, myself and Tim Freesmeyer were the  
22 designated, selected, ordered, but we were the three  
23 that actually went.

24 Q. All right. Did the trip to Chicago have

1 anything to do -- and -- and I believe that the  
2 testimony yesterday and the review of documents  
3 yesterday established that the trip to Chicago  
4 occurred at some point in February 1994. Is that  
5 consistent now with your best recollection of it?

6 A. Well, if that's what the document said, I  
7 would -- I would have to concur with that. I don't  
8 recall the exact date.

9 Q. And we could go out -- we could go find the  
10 document again, but I don't think anybody's going  
11 to -- going to --

12 A. Okay.

13 Q. -- differ that the -- to the extent that  
14 there's a record of when the documents indicate  
15 February of 1994. And I just want to confirm, you  
16 don't have any quarrel with that?

17 A. Correct.

18 Q. Now, when you went to Chicago, was that  
19 because at that particular point in time the  
20 Lockmiller homicide investigation was essentially  
21 stalled?

22 A. My opinion, yes.

23 Q. And would it be a fair summary to say that  
24 the trip to Chicago was -- was a matter of reaching

1 out to another police agency for advice about how to  
2 move forward in the investigation and bring it to  
3 completion?

4 MR. DiCIANNI: I'll object to form,  
5 foundation.

6 MS. BARTON: Join.

7 THE WITNESS: Correct.

8 BY MR. BOWMAN:

9 Q. Now, let's look again at Exhibit 11 which is  
10 one of those in the big stack in front of you.  
11 Here's -- here's my copy of it just so you can see.  
12 It says Sex, Drugs, Motive, Suspect John Murray on the  
13 front of it, and the first page is -- is 0001.

14 THE WITNESS: I had them in order.

15 MS. BARTON: Did you? Oh, well, then --

16 THE WITNESS: Oh, okay.

17 MS. BARTON: We're trying to keep the big one  
18 out of the way.

19 THE WITNESS: Thank you much.

20 MS. BARTON: Okay.

21 BY MR. BOWMAN:

22 Q. Now, you were shown during Ms. Barton's  
23 examination yesterday, you were directed to page 15 of  
24 Exhibit 11 which includes some numbered paragraphs.

1 And my understanding of your testimony was that you  
2 could not be certain whether these notes on this  
3 particular page were made during the -- during the --  
4 contemporaneously with the -- with the Chicago Police  
5 visit or whether these are notes that you made at a  
6 subsequent time. Do I have -- is that your position  
7 on it?

8 A. Yes, your assumption is correct.

9 Q. All right. At the top of the page, we see  
10 the date 2-18-1994 and the word Chicago PD, right?

11 A. Correct.

12 Q. And then the first of these numbered  
13 paragraphs reads -- and is this your handwriting?

14 A. Yes, that's my handwriting.

15 Q. I think you testified to that yesterday. I  
16 just wanted to double confirm it.

17 So the first -- the first number here reads:  
18 "Ball of hair found in bathroom. Cat hair? Was this  
19 ball of hair examined?"

20 Can you ex -- let me ask you this:  
21 Recognizing that these may or may not be  
22 contemporaneous notes, does this statement that I just  
23 read jibe with your memory of a -- of a point that was  
24 made during the discussion with the Chicago Police

1 detectives?

2 MR. DiCIANNI: Object to speculation.

3 MS. BARTON: Join.

4 BY MR. BOWMAN:

5 Q. And I'm not asking you to speculate. I'm  
6 asking whether you recall some discussion at the  
7 Chicago Police Department concerning a ball of hair  
8 found in the bathroom?

9 A. Statement one contents, is that what you're  
10 saying?

11 Q. Yes, sir.

12 A. That could have come from the discussion we  
13 had with them or that statement written in my  
14 handwriting could have come from perhaps other  
15 documents in the case.

16 Q. All right. Same question with respect to  
17 two. This reads: "Was the question asked about what  
18 Jennifer was wearing in class the morning she died?"

19 Do you have a recollection of that coming up  
20 in the Chicago Police meeting?

21 A. The answer is no, I don't have any  
22 recollection where it -- if it came from that  
23 discussion or not.

24 Q. Okay. And then number three: "Strength is

1 required to bury the scissors in her chest."

2 Is that an observation that was made by one  
3 of the participants in the Chicago Police meeting?

4 MR. DiCIANNI: Object to speculation.

5 MS. BARTON: Yeah.

6 MR. BOWMAN: I'm not asking for speculation.  
7 I'm just asking.

8 MR. DiCIANNI: Well, you're ask -- you are  
9 asking for speculation because he said he doesn't  
10 recall on the other ones. The other ones you asked  
11 him do you recall. This one you're asking him if it's  
12 a fact, so I'm objecting to speculation.

13 MR. BOWMAN: Well, okay, whatever.

14 BY MR. BOWMAN:

15 Q. You can answer the question.

16 A. It could have came from the discussion with  
17 the two Chicago detectives, yes.

18 Q. Okay. Do you have a specific recollection of  
19 that coming up?

20 A. No, I do not.

21 Q. Okay. And then there are a couple of  
22 asterisks by number four. "Footsteps were heard by  
23 Singley, but no car was heard leaving."

24 Is this something that you recall

1 specifically coming up in the Chicago Police meeting?

2 A. No, I don't recall that, but it could have.

3 Q. Okay. Number five with a single asterisk  
4 next to it reads: "Recheck with Ryan Campbell's  
5 statement and Kristen Grooms."

6 Does that jog your memory as to something  
7 that specifically came up in the Chicago Police  
8 meeting?

9 A. Again, it does not.

10 Q. All right. Now, the next one is not preceded  
11 by a number. There are a couple of asterisks that are  
12 circled and then three numbered bullets. Number one,  
13 continued to talk to him; number two, polygraph,  
14 question mark, pressed by -- preceded by interview;  
15 number three, quote, boss-bad guy, closed quote. I  
16 need something to get the boss off of my back.

17 Is that something -- advice that you remember  
18 the Chicago Police detectives giving as to how to  
19 proceed in the case?

20 A. These three particular bullets does.

21 Q. Okay. You do recall --

22 A. Or do.

23 Q. You do recall that there was -- that -- that  
24 the Chicago Police detectives said proceed in the

1 efforts to talk to him being Alan Beaman; is that  
2 right?

3 A. Correct.

4 Q. And to attempt to convince him to come in for  
5 a polygraph that would be preceded by an interview,  
6 and then in terms of the approach with Beaman, to use  
7 the ploy of it's not my fault, the boss is pushing me  
8 to talk to you, I need -- I need you to give me  
9 something to get the boss off of my back?

10 A. True.

11 MR. BOWMAN: Okay. Now, I'm going to mark  
12 for identification -- I'm not going to mark for  
13 identification.

14 THE COURT REPORTER: 28.

15 MR. BOWMAN: 28 is going to be some notes  
16 that come from Tony Matens, and they are Bates  
17 numbered Matens Notes 100, 101 and 102. It's just a  
18 selection from the -- the Matens's notes. This is  
19 going to be 28. If you'd do the honors.

20 (Whereupon, Daniels Deposition  
21 Exhibit No. 28 was marked.)

22 BY MR. BOWMAN:

23 Q. Take a minute to look those over. I'm going  
24 to direct you to page 102. What I'm particularly

1 interested in is the -- the notes -- the notes here on  
2 page 102.

3 It has been -- and I wasn't present at  
4 Mr. Matens's deposition, but it's my understanding  
5 that Mr. Matens has identified these pages as notes  
6 that he took at various points in his work on  
7 Mr. Beaman's behalf subsequent to Beaman's conviction.  
8 And among others, he's got notes of meetings that --  
9 that you had with him.

10 A. Okay.

11 Q. Okay. And these three pages, again, I'll  
12 represent to you my belief that it's been established  
13 that Mr. Matens has confirmed that these are notes  
14 that he made of a meeting that he had with you, again,  
15 subsequent to the conviction?

16 MS. BARTON: May I see a copy?

17 MR. BOWMAN: Oh, I'm so sorry.

18 MS. BARTON: Thanks.

19 MR. BOWMAN: Now, I'll -- hold off on  
20 answering that question until Ms. Barton and  
21 Mr. DiCianni have had an opportunity to observe the --  
22 observe the exhibit. I'm sorry for not passing it  
23 out.

24 MS. BARTON: Okay. I'm familiar with it.

1 MR. BOWMAN: You guys let me know when you're  
2 ready for me to proceed.

3 MR. DiCIANNI: Okay.

4 BY MR. BOWMAN:

5 Q. According to Mr. Matens's notes, it appears  
6 that you talked with him in one of your meetings  
7 regarding the trip that you and the other  
8 investigators took to the Chicago Police Department,  
9 and I'm referring to that section on page 102 that I  
10 directed you to where it says Chicago PD gave them  
11 suggestions. Do you see where I am?

12 A. Yes. Uh-huh.

13 Q. And then the next line reads: Just as much,  
14 if not more, circumstantial evidence as on -- and then  
15 there's a delta symbol which I believe refers to  
16 Beaman -- as on delta, on Murray. Concerned about  
17 Murray because of steroids. Why in noted -- why in  
18 motel next weekend, why afraid of -- again, there's a  
19 delta symbol. Tel records of Murray's apartment. I  
20 think that's telephone records of Murray's apartment.  
21 Who made calls. Show, ask Debbie Mackoway. And then  
22 int, i-n-t, which may mean interest or interested in  
23 ball of hair in bathroom. Cat hair is in parentheses.  
24 Then did she change clothes from class. I can't read

1 the next word, but then on the next line it says death  
2 and then footsteps heard by Singley.

3 Q. And you can see that in terms of this -- this  
4 account here, there's some correlation, right, between  
5 the -- the notes on page 15 of Exhibit 11 and this  
6 conversation with -- with -- that Matens has made  
7 notes of on page 102 of Exhibit 28, right?

8 MS. BARTON: I'm going to object to form and  
9 foundation.

10 MR. DiCIANNI: I'll join.

11 THE WITNESS: Correct.

12 BY MR. BOWMAN:

13 Q. Does this refresh your recollection that the  
14 Chicago Police meeting in addition to including  
15 discussion about Beaman also included discussion about  
16 Murray?

17 A. Yes.

18 Q. What do you remember?

19 A. Well, it appears to me that what is here in  
20 Exhibit --

21 Q. 27 -- 15.

22 MS. BARTON: 11.

23 BY MR. BOWMAN:

24 Q. 11.

1           A.    -- 11 substantiates what Tony had written.  
2           Now, whether this information he recorded came from my  
3           notes, which it appears because it's almost verbatim,  
4           and whether these notes came from that meeting with  
5           Chicago PD.

6                        So one can -- could draw the conclusion that  
7           the notes in Exhibit 11 were the result of the meeting  
8           with the Chicago PD and that's my handwriting.

9           Q.    And is your recollection refreshed that when  
10           you talked with the Chicago Police Department, you  
11           also talked about Murray as a suspect?

12                       MS. BARTON:  Objection to foundation.

13                       THE WITNESS:  Yes.

14           BY MR. BOWMAN:

15           Q.    Was there also discussion with the  
16           Chicago Police Department of the fact that there was  
17           additional or greater circumstantial evidence against  
18           Murray relative to Beaman?

19                       MS. BARTON:  Objection to foundation.

20                       MR. DiCIANNI:  Join.

21                       THE WITNESS:  According to Tony Matens's  
22           notes, that's what it appears.  I can't speak for --  
23           for his notes or conclusions he drew from my notes --

24

1 BY MR. BOWMAN:

2 Q. Okay. Well --

3 A. -- or conversations.

4 Q. -- my question is whether -- whether you can  
5 state a recollection of the meeting with the  
6 Chicago Police Department to that effect?

7 A. I -- that particular statement, no, I can't  
8 recall.

9 Q. Okay. Now, let's turn to this seminar that  
10 you attended in Jacksonville, Florida. Some of this  
11 you've been through before, but I want to make sure  
12 that I understand. Whose idea was it that you attend  
13 the seminar in Florida?

14 A. The -- the idea -- it could -- the person  
15 that called me and wanted me to go was Assistant Chief  
16 Walt Clark. Now, that could have come from the chief  
17 himself. I don't know. But he called me --  
18 Walt Clark called me direct at home.

19 Q. And what did he say to you?

20 A. How would you like to go to unresolved class  
21 in Florida -- Jacksonville, Florida. I said, yeah. I  
22 said, can I take Rostadt case with me. Rostadt case  
23 is another unresolved homicide case. He says, no, we  
24 want you to take the Beaman case with you.

1 Q. Was there any discussion of why he wanted you  
2 to take the Beaman case to an unresolved homicide  
3 seminar in Florida?

4 A. No, he did not explain his reason.

5 Q. Now, you've alluded several times to your  
6 process of preparation for this seminar. And I'm  
7 wondering if at this point you can elaborate a little  
8 bit on how you went about preparing for the seminar?  
9 Did you have some contact with the folks who were  
10 putting on the seminar as to what it was that you  
11 needed to do in order to prepare to participate?

12 A. The contact came through a format that I had  
13 received. Where that format came from, I do not know.  
14 It could have come directly from the people in  
15 Florida, or it could have come from Walt Clark who  
16 maybe had gotten it from them.

17 Q. All right.

18 A. Or it could have come through our training  
19 office.

20 Q. Okay. Take a look at Exhibit 23, which is  
21 one of the exhibits that was marked yesterday, and  
22 this is your blue binder labeled Notes From Unresolved  
23 Homicide Class.

24 A. I had -- that's the entire exhibit that I had

1 in numerical order. Okay, 23.

2 Q. Do you see the format anywhere within  
3 Exhibit 23?

4 A. That we had just discussed?

5 Q. Yes, that you referred to in your last  
6 answer?

7 A. Yes, I do.

8 Q. Can you identify that by Bates page?

9 A. Pages 1212, 1213, 1214, 1215.

10 Q. All right. So the first part of the format  
11 required you to assemble a summary of the physical  
12 evidence in the case; is that right? Just -- I don't  
13 want to --

14 A. Yes.

15 Q. Tell me if you could with reference to  
16 this -- this document that you've just identified what  
17 it was that you were expected to gather together in  
18 preparation for your participation in the seminar?

19 A. A copy of the updated case.

20 Q. When you say a copy of the updated case, what  
21 do you mean by that?

22 A. Most recent developments.

23 Q. And is that the summary that appears on  
24 page 1213?

1           A.    No.  That would include the binders, if you  
2 will, please, that I had taken down there with me.

3           Q.    Okay.  So that would -- that would include  
4 your personal working file in the case?

5           A.    Yes.

6           Q.    And what else?

7           A.    I recall having slides made from photographs  
8 of the crime scene.

9           Q.    Okay.  So the expectation was that as part of  
10 your presentation of the case, you would be able to  
11 walk the other seminar participants through the crime  
12 scene using photographs?

13          A.    That's correct.

14          Q.    Okay.  And you prepared the slides for that  
15 purpose?

16          A.    Off of the actual photograph, yes.

17          Q.    And other than slides of photographs, were  
18 there any other slides that you prepared for your  
19 presentation at the seminar?

20          A.    Not that I recall.

21          Q.    What else did you assemble?

22          A.    I believe that was probably it.  Let me check  
23 this.  This is what it appears to be, yeah.

24          Q.    Did you go through and study and

1       refamiliarize yourself with the details of the file in  
2       preparation for your participation in the seminar?

3           A.    Yes, I must have in order to prepare a case  
4       summary for them, for me and for the students.

5           Q.    There is a -- on page 1212, there's a list.  
6       It's actually a list of fingerprints, clock radio 23  
7       to latent Beaman, clock radio number 23 for latent  
8       Swaine. There's a latent unidentified from the clock  
9       radio. Some unidentified prints on a garbage bag --  
10      on two different garbage bags, and then there are also  
11      certain items of evidence that did not have  
12      fingerprints.

13           Do you recall what these numbers are that --  
14      that you have in parentheses following the references  
15      to these various items of evidence from which latent  
16      prints -- prints were lifted?

17           A.    These items that are numbered, those are  
18      items themselves that would be -- that were available  
19      as a result of the investigation.

20           Q.    All right. Were the numbers slide numbers,  
21      if you recall?

22           A.    I don't recall.

23           Q.    Okay. Then the serological evidence is  
24      described in Item C, right?

1 A. Correct.

2 Q. Based on your review of the file?

3 A. Correct.

4 Q. And then the -- you have a description of  
5 the -- the cord and the scissors that were used to  
6 perpetrate the homicide in -- as well?

7 A. Correct.

8 Q. Then on page 1213, you put together a short  
9 summary of the case?

10 A. Yes.

11 Q. Are you the author of the summary that --  
12 that appears on page 1213?

13 A. Without guessing or speculating, I would say  
14 I -- it was me because I prepared the case to go with  
15 me.

16 Q. Okay. I'm guessing what you're saying is you  
17 don't specifically recall writing this but it sure  
18 looks like you did?

19 A. That's what I want to say, yes. Thank you.

20 Q. All right. Now, the summary concludes with a  
21 paragraph that I'm just going to read at the bottom of  
22 page 1213. It says: "After nearly 100 interviews,  
23 five overhears, several polygraphs, the prime suspect  
24 still is Alan Beaman. There is no real evidence that

1 can point to Beaman as being the person responsible  
2 for Jennifer's death. Even though one investigator is  
3 able to maintain contact with Beaman, Beaman is  
4 adamant about his innocence, and he refuses to take a  
5 polygraph examination. There has been no contact  
6 between Beaman's attorney and the NPD."

7 I read that correctly, right?

8 A. You read it correctly, correct.

9 Q. And did -- did that reflect -- does that  
10 accurately reflect your assessment of the  
11 investigation at the point in April of 1994 when you  
12 went down to participate in this cold case seminar?

13 A. At that point, yes.

14 Q. All right. Approximately how many hours did  
15 you spend preparing for the seminar? And I -- I know  
16 it has to be an estimate.

17 A. Preparing for?

18 Q. For the seminar in terms of reviewing the  
19 file, writing up this -- this format for the purposes  
20 of the seminar, assembling evidence and so forth.

21 A. I'd be afraid even to give you a rough  
22 ballpark figure.

23 Q. I understand that. That's a fair answer.

24 Would it be accurate that you spent -- that

1 this was more than -- more than an hour's project?

2 A. Yes, I think that would be a fair assumption.

3 Q. And -- and would it be accurate to say that  
4 the process just of preparing for this seminar  
5 consumed more than a day of your time?

6 A. I -- I couldn't say either way.

7 Q. Okay. When you prepared for the seminar, did  
8 you do this on the -- during your workday as part of  
9 your normal police duties?

10 A. Yes.

11 Q. And it was your understanding that your  
12 duties included preparing for the seminar?

13 A. Yes. I was assigned that, yes.

14 Q. And the expectation was that you would take  
15 it seriously and participate wholeheartedly, is that  
16 what you were --

17 A. That was my --

18 Q. -- given to understand?

19 A. I'm sorry, yes, that was my understanding.

20 Q. Now, was it in your understanding generally  
21 made known to the other investigators participating in  
22 the Lockmiller homicide investigation that you would  
23 be attending the seminar?

24 A. Would you repeat that.

1 MR. DiCIANNI: I'm going to object to form  
2 and foundation. Yeah, repeat it I think.

3 MR. BOWMAN: I think it would be good to have  
4 that one read back if you wouldn't mind.

5 (Whereupon, the record was  
6 read as requested.)

7 MR. DiCIANNI: So was it his understanding  
8 that everybody else knew?

9 BY MR. BOWMAN:

10 Q. Was it your -- was it -- in your  
11 understanding, was it -- was it general knowledge  
12 within the Normal Police Department that you were  
13 going to be going -- I'm sorry. Let me start over.

14 In your understanding, was it general  
15 knowledge among the detectives working on the  
16 Lockmiller case that you would be going down to attend  
17 this seminar?

18 MR. DiCIANNI: That I'll object to, form and  
19 foundation.

20 THE WITNESS: Yes.

21 BY MR. BOWMAN:

22 Q. I mean, it wasn't a secret that you were  
23 doing this?

24 A. Right, it was not to my understanding.

1 Q. Very good.

2 All right. Did -- do you know one way or  
3 another whether Tim Freesmeyer was aware that you were  
4 going down to participate in this seminar?

5 A. No, I was not aware if he knew or not.

6 Q. Do you know if folks in the McLean County  
7 State's Attorney's Office were made aware that you  
8 would be participating in the seminar?

9 A. That I would be?

10 Q. Yeah.

11 A. I'm not sure.

12 Q. It was certainly known among the brass in the  
13 police department that you were going down there for  
14 this purpose?

15 MR. DiCIANNI: Object to foundation.

16 THE WITNESS: At least Assistant Chief  
17 Walt Clark.

18 BY MR. BOWMAN:

19 Q. I read you this -- we looked a minute ago at  
20 this summary page on 1213 within Exhibit 23 that you  
21 believe you prepared. Did you get input from anyone  
22 else on this summary of the case?

23 A. I don't recall if I did.

24 Q. Do you believe that the other investigators

1 involved in the Lockmiller homicide investigation  
2 disagreed with the summary that we've just been  
3 looking at on page 1213?

4 MR. DiCIANNI: Object to foundation, form.

5 THE WITNESS: Without them reading this, I  
6 don't know what their opinion was. I don't know if  
7 they did read it.

8 BY MR. BOWMAN:

9 Q. Yeah. And that's -- that's a fair point. I  
10 realize that -- that you don't have any reason to  
11 believe that anybody else read it, and -- and I'm not  
12 asking you to -- to -- you know, to suggest that  
13 somebody did. I'm -- I'm really just stepping back  
14 from the -- the document, and let me ask you this way:  
15 Among other things, you say in your summary that  
16 there's been a lot of investigative activity in the  
17 Lockmiller homicide case, and at the end of the day,  
18 Beaman looks to be a suspect in the case, right?

19 MR. DiCIANNI: Object to misrepresentation of  
20 what it says.

21 MR. BOWMAN: Well, I'm summarizing.

22 BY MR. BOWMAN:

23 Q. That's a fair summary of -- of your  
24 evaluation of the thing, right?

1 A. Of what it states in this?

2 Q. No.

3 A. No?

4 Q. Just generally speaking of the status of the  
5 investigation in April of 1994.

6 A. That Beaman was --

7 Q. That was a suspect at that time.

8 A. That was a suspect.

9 Q. Accurate?

10 A. Throw that at me one more time.

11 Q. Let me do that one more time.

12 A. Yes.

13 Q. Is it a fair assessment of the status of the  
14 investigation in April of 1994 that after a  
15 substantial amount of investigative activity,  
16 Alan Beaman remained a principal suspect in the  
17 investigation?

18 A. In the department, yes, that assumption would  
19 be correct.

20 Q. Okay. Is it also fair to say that in the  
21 department, the view of yourself and your colleagues  
22 was that although Beaman remained a suspect after all  
23 this investigative activity, there was no real  
24 evidence that could point to him as being the person

1 responsible for the homicide?

2 MR. DiCIANNI: I'll object to foundation as  
3 to the colleagues.

4 MS. BARTON: Join.

5 THE WITNESS: Correct.

6 BY MR. BOWMAN:

7 Q. Are you aware of any individual within the  
8 Normal Police Department who would have dissented from  
9 that viewpoint?

10 A. No, I cannot.

11 Q. All right. Now, you talked yesterday about  
12 the fact that at the seminar you go down, you're  
13 divided into groups, there are a number of people from  
14 all over the country presenting cases and you had an  
15 opportunity to present the Lockmiller case, right?

16 A. That's correct.

17 Q. And I don't want to go through all of that  
18 again, but I would like to look at pages 1151 and  
19 1152. You testified yesterday that those are -- that  
20 those pages record a set of leads that were developed  
21 in the course of the seminar. Do I have that right?

22 A. The word lead is what they utilized, "they"  
23 meaning the class. A lead is not a suggestion or  
24 somewhere to go with the investigation or things you

1 may do. A lead may be information directly to maybe  
2 somebody's knowledge. Does that make sense?

3 Q. Well, let -- let me see if I can follow up  
4 and clarify.

5 Is it fair to say that during the course of  
6 the seminar, suggestions were made as to particular  
7 evidence that may be important in identifying a  
8 perpetrator that -- that could be further investigated  
9 and further pursued?

10 A. Yes, it's a suggestion what you may want to  
11 look into.

12 Q. All right. And can you -- looking at pages  
13 1151 and 1152, can you summarize for us some of the  
14 suggestions that in your judgment required additional  
15 investigation that were developed as a result of the  
16 seminar?

17 A. As a result of the seminar?

18 Q. Yes.

19 A. Well, certainly all of these were  
20 suggestions. Now, which of these 36 had been done  
21 prior to the seminar versus those that had not been --

22 Q. And that's -- I didn't ask a very good  
23 question, but that's what I'm -- I'm focused on here,  
24 Mr. Daniels, is whether there were new ideas that came

1 up in the seminar that had not yet been followed up on  
2 that -- that were developed by your colleagues that  
3 you believed merited further investigation?

4 A. Looking at the list that was given to me  
5 while there at the seminar, I notice there's lines  
6 through there. Those lines would indicate to me that  
7 I most likely am the person responsible for -- for  
8 those lines. Those lines indicating this had -- work  
9 had been done.

10 Q. Okay. But -- and a number of these do have  
11 lines through them, but in addition there were some  
12 that do not, right?

13 A. Correct.

14 Q. And focusing then on the -- on the ideas that  
15 are not lined out that -- that you believed merited  
16 further work, can you summarize the ideas that were  
17 developed in the seminar?

18 A. The ones that merited further work?

19 Q. Further work, right.

20 A. Looking --

21 MR. DiCIANNI: Let me object to foundation  
22 and form. Go ahead.

23 THE WITNESS: Did you want me to read those  
24 that have not been crossed out --

1 MR. DiCIANNI: Is that what you're asking?

2 THE WITNESS: -- or just summarize it?

3 BY MR. BOWMAN:

4 Q. Well, no, I'm asking for your summary based  
5 on your -- based on your participation in the  
6 investigation. I'm sorry if I wasn't clear.

7 MR. DiCIANNI: Can I understand what you're  
8 asking? You're asking him to summarize each of these  
9 ones that weren't lined out?

10 MR. BOWMAN: Why don't we read back the --  
11 the last two questions and that's what I'm asking.

12 (Whereupon, the record was  
13 read as requested.)

14 MR. DiCIANNI: I object to form and found --  
15 well, form. I think it's a confusing and vague  
16 question.

17 MS. BARTON: I'll join.

18 BY MR. BOWMAN:

19 Q. Are you confused by the question? Because if  
20 you are, I want to ask a better one.

21 A. Well, why don't you, sir, go ahead and  
22 restate it.

23 Q. Okay. I'll restate it.

24 A. Reform or restate it.

1           Q.    What I'd like you to do if you could with --  
2 with the benefit of pages 1152 and 1153 is to  
3 summarize to the extent there were the investigative  
4 suggestions that were put forward during the seminar  
5 that in your judgment merited further investigative  
6 activity on the -- on the investigation.

7           A.    Preference [sic] my answer or explanation,  
8 these lines that were crossed -- the suggestions that  
9 were crossed out, that could have happened from the  
10 time that the list was made up until -- until I boxed  
11 up the case.  So -- but let me -- let me summarize  
12 what they -- what the investigators suggest.  Attempt  
13 to have the crime lab expedite our request on  
14 processing evidence.  Also looking into the work  
15 records of Mr. and Mrs. Beaman, Alan's parents, to see  
16 if it's possible that they were mistaken in regards to  
17 his -- his alibi.  Look further into the hole in the  
18 wall so somebody else's prints could have been there.

19           THE COURT REPORTER:  Looking into the what?

20           THE WITNESS:  The hole in the wall, referring  
21 to number 12 on page 1151.  The hole in the wall.

22           Okay.  Also continue to find out who owned  
23 that particular vehicle with the Jimmy John's sticker  
24 on the bumper apparently that was there and the

1 significance of its presence.

2 BY MR. BOWMAN:

3 Q. This is the white car that the number of  
4 individuals observed --

5 A. Correct.

6 Q. -- in the parking lot on August 25?

7 MS. BARTON: Object to form and foundation.

8 THE WITNESS: Also --

9 BY MR. BOWMAN:

10 Q. You need to answer that question. Is that a  
11 yes?

12 A. Yes, that's the car. I'm sorry. Yes.

13 The location of Alan's car during the time  
14 that he was at work, whether or not he could have used  
15 a work -- used that car to come down to Normal to  
16 commit the crime. Ask the suspect or suspects when  
17 she was killed and the reason behind that is  
18 self-explanatory, only a real suspect would know.  
19 Check out Alan's vehicle as far as maybe further  
20 evidence in the vehicle.

21 You want me to continue.

22 Q. Yes, please continue.

23 A. Okay. Check out the eggs that were located  
24 on her body.

1 Q. Yes, I noticed that. What is that about?

2 A. Houseflies would usually appear and lay their  
3 larvae, lay their eggs on a dead body a short period  
4 of time or a day after the body laid there.

5 MS. BARTON: And I'd just like to state for  
6 the record that that actually has a line through it.

7 MR. BOWMAN: Okay.

8 MS. BARTON: So...

9 THE WITNESS: Oh, it does, doesn't it? Okay.  
10 How she get the injury to her knee,  
11 number 23. Number 28, what kind of maintenance work  
12 was performed, meaning on her -- her door and so  
13 forth. Maintenance work that was performed before  
14 perhaps her body was discovered, see if it could have  
15 been discovered by someone else. I'm assuming that's  
16 what the person meant. Reinvestigate Swaine. Yeah, I  
17 said that, okay.

18 Phone records for newspaper ads. She was  
19 giving or selling the kittens away. So that was of  
20 interest to see if someone could have obtained her  
21 phone record -- her phone number through the newspaper  
22 and use that as a means to go to that apartment.

23 Any nail holes or tape near the hole in the  
24 wall.

1 Highlight the calendar for writing. She had  
2 a desk pad, I believe, calendar for any writings,  
3 notes, anything that could have been on there.

4 That appears to be what is left or at that  
5 particular time, what was left to do.

6 BY MR. BOWMAN:

7 Q. Now, in the course of the week that you spent  
8 in this seminar, did any of the leaders of the seminar  
9 put forward the suggestion that in addressing a cold  
10 case like the Lockmiller homicide, that there -- that  
11 one approach is just to throw out all the assumptions  
12 and start over and think about the thing fresh?

13 MS. BARTON: Objection to form of the  
14 question.

15 BY MR. BOWMAN:

16 Q. Does that make sense? I don't know if that's  
17 a clear question or not. If it's not, tell me.

18 A. My understanding is if someone that's related  
19 to the school down there suggest that we start over,  
20 if that was suggested, I did not pick up on that.

21 Q. Okay. Now, when you came back from the --  
22 actually, before we get there, why don't you -- you  
23 said that your presentation of this particular case  
24 ran over.

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1 A. Correct.

2 Q. Tell me what you remember about the -- the  
3 presentation.

4 A. Using the slides and summarizing verbally  
5 what had taken place and what we had done, answering  
6 questions from the other investigators.

7 Q. Is it your impression that the case peeked  
8 the interest of the other participants in the seminar?

9 A. That's an indication I got as well as one of  
10 the -- the instructors is a formal -- former Normal  
11 police officer, and he resigned his position to go  
12 down there to teach.

13 Q. And who was that?

14 A. Ralph Ebert.

15 Q. And did Mr. Ebert say anything to you by way  
16 of comment on this particular case?

17 A. His comment was it was well presented. His  
18 instruction -- he was an instructor in accident  
19 reconstruction, but he said, yeah, it was well  
20 presented and the staff thought it was also.

21 Q. Did you come back from the seminar with the  
22 belief that you had a number of additional  
23 investigative steps to propose to the folks who were  
24 working on the Lockmiller case?

1 A. Yes.

2 MR. BOWMAN: And I want to show you some more  
3 of Matens's notes. And we'll mark this with 29  
4 I'm guessing.

5 (Whereupon, Daniels Deposition  
6 Exhibit No. 29 was marked.)

7 BY MR. BOWMAN:

8 Q. I'm going to direct your attention -- and,  
9 again, I'll represent to you that the document that  
10 I've just had handed to you which is a set of four  
11 pages of handwritten notes that we have established  
12 were prepared with -- by Mr. Matens, and they bear  
13 Bates numbers Matens Notes 118 through 121 inclusive.  
14 And these -- these particular notes relate, among  
15 other things, to conversations with you. And I want  
16 to direct you to the bottom of page 120.

17 And -- and what Mr. Matens has written here  
18 is: After Florida, he, which I understand means you,  
19 Tony Daniels, talked with Zayas and others knew that  
20 Tony had other leads to follow. Then continuing on  
21 page 121, others that knew Rob Hospelhorn,  
22 Dave Warner. Do you see that?

23 A. Yes.

24 Q. And does that indicate to you that in a

1 conversation with Mr. Matens that you explained to  
2 Matens that after you came back from Florida, you  
3 spoke with Zayas and Hospelhorn and Warner about the  
4 leads that you had talked about with others at the  
5 seminar and that in your judgment needed to be further  
6 pursued?

7 MS. BARTON: Objection, foundation.

8 MR. DiCIANNI: Can you read back that  
9 question.

10 (Whereupon, the record was  
11 read as requested.)

12 MR. DiCIANNI: I'll object to foundation and  
13 form.

14 MS. BARTON: Join.

15 THE WITNESS: Correct.

16 BY MR. BOWMAN:

17 Q. I'll put it to you this -- this way: After  
18 you came back from Florida, did you talk with  
19 Frank Zayas and Rob Hospelhorn and Dave Warner and  
20 others in the Normal Police Department about what you  
21 learned in the seminar and specifically about the  
22 leads that you had learned about and the things that  
23 needed further work in the case?

24 A. Yes.

1 MR. DiCIANNI: I object to form, lack of  
2 foundation.

3 BY MR. BOWMAN:

4 Q. Let me ask you to look at --

5 MS. BARTON: Are you starting a new line of  
6 questioning?

7 MR. BOWMAN: Let me do just one more thing  
8 and then I'll -- and then I'll switch, then we can  
9 stop.

10 MS. BARTON: Thanks.

11 MR. BOWMAN: This will just take a second.

12 BY MR. BOWMAN:

13 Q. Let's look at Daniels Exhibit 12. This is  
14 Freesmeyer's monthly report. It's got a blue cover on  
15 it. It's a thin one in your stack. It's Exhibit 12.  
16 It's real skinny.

17 A. Is it down -- pull it out -- is that it? No.  
18 That's 21. Where is it?

19 MS. BARTON: Looks like that.

20 MR. BOWMAN: Looks like that right there.

21 MR. DiCIANNI: This is what the cover looks  
22 like. Is that it on top?

23 THE WITNESS: I thought you said it was  
24 little.

1 MS. BARTON: There it is.

2 BY MR. BOWMAN:

3 Q. Okay. And I just want to direct your  
4 attention to a statement that's made on page 971 of  
5 that report. It's the middle paragraph talking  
6 about -- where Freesmeyer is talking about what  
7 happened in April, and I'll just read this couple of  
8 sentences to you. It says: "Detective Daniels was  
9 sent to Florida for a 40-hour training class on  
10 homicide investigations. The Lockmiller case was  
11 submitted to the class for evaluation but no new  
12 avenues were identified."

13 Do you see that?

14 A. Yes.

15 Q. Is that accurate?

16 A. I cannot comment whether the information that  
17 Freesmeyer put in here is what really happened,  
18 because in the previous exhibit, it contradicts what  
19 Freesmeyer put in there. So the validity of his  
20 statement, I can't comment on.

21 Q. Okay. That's fair enough.

22 A. It sure raises questions.

23 MR. BOWMAN: That's all I wanted to ask.

24 This is a good point to take a break.

1 MS. BARTON: Thanks.

2 THE VIDEOGRAPHER: Off the record, 1557.

3 (Whereupon, a break was taken.)

4 THE VIDEOGRAPHER: Back on the record, 1611.

5 BY MR. BOWMAN:

6 Q. In the period of time from when you prepared  
7 the summary of the Lockmiller investigation that we  
8 looked at in Exhibit 23 until May 16 when the meeting  
9 took place and the decision was announced to charge  
10 Alan Beaman with the Lockmiller homicide, was any  
11 additional evidence developed against Alan Beaman to  
12 your knowledge?

13 A. To my knowledge, no.

14 Q. Now, you've talked about the meeting before.  
15 I want to go through this again and get your best  
16 recollections of what happened on May 16, 1994.

17 Tell me who invited you to the meeting or  
18 informed you that it would be taking place.

19 A. Who invited me? I don't recall who exactly  
20 it was that invited me. It took place at the  
21 conference room of the Normal Police Department where  
22 we usually have staff meetings.

23 Q. And, again, please, and I realize you've gone  
24 over this before, your best recollection of who was in

1 attendance at the meeting?

2 A. Myself, Chief Taylor, Jim Souk and -- it  
3 could very well have been other people from the  
4 State's Attorney's Office.

5 Q. Was -- were there any other personnel from  
6 the Normal Police Department other than yourself and  
7 Chief Taylor?

8 A. To speculate, I would have to say most likely  
9 the supervisor of CID and as well as Tim Freesmeyer  
10 since he was still working on that case.

11 Q. And when you say the supervisor of CID, who  
12 do you mean?

13 A. Well, at that time, it would be either  
14 Frank Filliponi or Frank Zayas.

15 Q. Okay. Now, forgive me for going -- going  
16 over ground that's been covered before, but I want to  
17 have your best recollection. What -- how long did  
18 this meeting last?

19 A. My recollection, I -- I -- I couldn't give  
20 you a time on that.

21 Q. Was it more than an hour?

22 A. Without an assumption, I would say no.

23 Q. Who was in charge of the meeting?

24 MS. BARTON: Objection to foundation.

1 BY MR. BOWMAN:

2 Q. Let me rephrase and ask a -- perhaps a  
3 clearer question.

4 Who took the lead speaking role in the  
5 meeting?

6 MS. BARTON: Same objection.

7 THE WITNESS: Jim Souk.

8 BY MR. BOWMAN:

9 Q. Did he sit at one end of the table?

10 A. The opposite end of where I was, yes.

11 Q. And tell me how the meeting proceeded best as  
12 you can recall.

13 MR. DiCIANNI: I'm going to object to asked  
14 and answered and speculation.

15 MS. BARTON: Join.

16 MR. DiCIANNI: Go ahead.

17 THE WITNESS: As -- as I can recall, people  
18 present were giving input into the investigation as  
19 far as where they need to go with it.

20 BY MR. BOWMAN:

21 Q. Okay. And when you say giving input into the  
22 investigation as far as they need to go with it,  
23 what -- what exactly do you mean?

24 MR. DiCIANNI: Object to speculation and

1 asked and answered. Why don't I -- can I show a  
2 continuing objection because I think as you say we've  
3 been over this and his memory is very slight from  
4 previous questioning. So to the extent you're asking  
5 him the same questions, my position is you can -- he  
6 can only speculate about it. So can I show a  
7 continuing objection to all of these so as not to  
8 interrupt you?

9 MR. BOWMAN: I guess --

10 MR. DiCIANNI: That's fine.

11 MR. BOWMAN: I think it would be probably  
12 better for all parties if --

13 MR. DiCIANNI: Okay.

14 MR. BOWMAN: -- if -- I don't mind the  
15 interruptions.

16 MR. DiCIANNI: That's fine.

17 MR. BOWMAN: I understand you need to object,  
18 and I don't have a problem with it.

19 MR. DiCIANNI: That's fine.

20 MR. BOWMAN: So in any event, why don't we  
21 impose on you one more time to read it back if you  
22 wouldn't mind.

23 (Whereupon, the record was  
24 read as requested.)

1 MR. DiCIANNI: Show my objection.

2 MS. BARTON: I'll join.

3 THE WITNESS: As far as what further steps  
4 need to be taken.

5 BY MR. BOWMAN:

6 Q. Was this coming from, to the best of your  
7 recollection, from the police personnel at the meeting  
8 or from the State's Attorney personnel?

9 A. I don't --

10 MR. DiCIANNI: Same objection.

11 MS. BARTON: Join.

12 THE WITNESS: I don't recall who.

13 BY MR. BOWMAN:

14 Q. Do you remember anything that anyone said in  
15 terms of further steps that needed to be taken?

16 MR. DiCIANNI: Same objection.

17 MS. BARTON: Join.

18 THE WITNESS: Yes, me.

19 BY MR. BOWMAN:

20 Q. Okay. Tell me what you said.

21 MS. BARTON: Same objection.

22 THE WITNESS: I -- I have a list of  
23 approximately 33, 34 suggestions or leads that I got  
24 from the school. I could have said I'd like to read

1 or I need to talk about.

2 BY MR. BOWMAN:

3 Q. And after you said that, what happened next?

4 A. Mr. --

5 MR. DiCIANNI: Same objection.

6 MS. BARTON: Join.

7 THE WITNESS: Mr. Souk inserted the statement  
8 that I think we went as far as we can with this  
9 investigation. We're going to issue a warrant for his  
10 arrest; his arrest meaning Alan Beaman.

11 BY MR. BOWMAN:

12 Q. Did anyone say anything -- strike that.

13 Let me ask this question: When Souk made  
14 that announcement, I think we're going to charge  
15 Alan Beaman, did -- was that the first time that you  
16 had heard anyone at the meeting make a statement to  
17 the effect of Beaman was going to be charged?

18 A. As I -- as I recall, it was.

19 Q. To the best of your recollection prior to  
20 Mr. Souk making that statement, had anyone else made  
21 the suggestion that the -- that the appropriate step  
22 at this time was to charge Beaman?

23 A. I don't recall.

24 Q. After Souk said that we had gone about as far

1 as we can go, we're going to charge Beaman, did anyone  
2 to the best of your recollection say anything in  
3 response?

4 MR. DiCIANNI: Object, speculation, asked and  
5 answered.

6 MS. BARTON: Join.

7 THE WITNESS: I don't recall if anything was  
8 said one way or the other.

9 BY MR. BOWMAN:

10 Q. Did you say anything?

11 A. In the meeting?

12 Q. Yes.

13 A. I don't recall if I did in the meeting.

14 Q. Following Mr. Souk's comment, we have gone as  
15 far as we can go with this, we're going to charge  
16 Beaman, did -- did the meeting proceed for any period  
17 of time or did that represent the conclusion of the  
18 meeting?

19 A. I don't recall how long -- it could have went  
20 on or it was cut short or...

21 Q. At the meeting, did any participant to the  
22 best of your recollection discuss or comment in any  
23 way on the question of whether Alan Beaman was a  
24 flight risk?

1 A. I don't recall.

2 Q. Other than your comments to the best of your  
3 recollection, did anyone else present at the meeting  
4 talk about additional steps that needed to be taken in  
5 the investigation?

6 MR. DiCIANNI: Same objection.

7 MS. BARTON: Join.

8 THE WITNESS: Do not recall.

9 BY MR. BOWMAN:

10 Q. During the meeting to the best of your  
11 recollection, did -- was there any discussion  
12 concerning John Murray and whether John Murray should  
13 be charged --

14 MR. DiCIANNI: Same objection.

15 BY MR. BOWMAN:

16 Q. -- with the crime?

17 MR. DiCIANNI: I'm sorry.

18 THE WITNESS: Again, I don't recall.

19 BY MR. BOWMAN:

20 Q. Have I completely exhausted your recollection  
21 of this meeting?

22 A. Of the meeting itself?

23 Q. Yes.

24 A. Yes, of that particular meeting, yes.

1 Q. Okay. Now, subsequent to this meeting, did  
2 you have a conversation with anyone in the  
3 Normal Police Department regarding your views as to  
4 the decision to charge Beaman?

5 A. Yes, I did.

6 Q. And tell me who you spoke with.

7 A. Chief Taylor.

8 Q. Where did the conversation with Chief Taylor  
9 take place?

10 A. After the meeting broke up, I asked the chief  
11 if -- I told him I wanted to speak to him in the -- in  
12 the break room. There's a small break room located  
13 adjacent to the conference room we were in.

14 Q. Was this immediately after the conclusion of  
15 the large meeting?

16 A. As I recall, yes.

17 Q. All right. Was anyone with you and  
18 Chief Taylor?

19 A. They weren't -- or he was not with the chief  
20 or myself. He had been in there already and that was  
21 former Officer Kerry Lonbom.

22 Q. Can you spell that?

23 A. K-e-r-r-y, L-o-n-b-o-m. He was --

24 Q. He was -- he was in the break room?

1 A. He was already in the break room.

2 Q. All right. And did you -- did you and  
3 Chief Taylor ask him to leave and give you guys some  
4 privacy?

5 A. I did not, nor did I hear the chief ask him.

6 Q. So -- so Mr. Lonbom was there as well?

7 A. Correct.

8 MS. BARTON: I'm sorry, is that N like Nancy  
9 or M like --

10 THE WITNESS: K, K, Kerry.

11 MS. BARTON: Lonbom?

12 MR. BOWMAN: L-o-n like Nancy?

13 THE WITNESS: Yeah, M.

14 MS. BARTON: Both N's like Nancy?

15 THE WITNESS: M at the end, Lonbom.

16 MR. BOWMAN: Lonbom.

17 MS. BARTON: Got it.

18 BY MR. BOWMAN:

19 Q. Okay. Other than Chief Taylor,  
20 Officer Lonbom and yourself, was anybody else present?

21 A. I did not see anyone else.

22 Q. All right. And tell me as best you can  
23 recall what the conversation was in the break room  
24 immediately following the breakup of the large meeting

1 at which it was announced that Beaman was going to be  
2 charged.

3 MR. DiCIANNI: I'm going to object, asked and  
4 answered, speculation.

5 MS. BARTON: Join.

6 THE WITNESS: I questioned as to the reason  
7 why I wasn't permitted to present my list of leads  
8 from that class, and my thoughts were isn't that the  
9 reason why I went there was to take the case down  
10 there in hopes of furthering the investigation.  
11 Chief Taylor's response was, well, why didn't you say  
12 anything. And my response to Chief Taylor was I did,  
13 but Mr. Souk cut me off, cut me short, whatever,  
14 interrupted me.

15 And that was the -- as far as I can  
16 recollect, that was the end of the conversation on  
17 that subject between me and the chief.

18 BY MR. BOWMAN:

19 Q. In this meeting, did Chief Taylor attempt in  
20 any way to defend the decision to charge Beaman with  
21 the crime?

22 MR. DiCIANNI: Object. Same -- same  
23 objection.

24 THE WITNESS: The meeting between myself and

1 the chief?

2 BY MR. BOWMAN:

3 Q. Right.

4 A. No.

5 Q. Did you get any information from anything  
6 that Taylor said as to whether Taylor had personally  
7 participated in the decision to charge Beaman?

8 MR. DiCIANNI: Same objection.

9 THE WITNESS: No.

10 BY MR. BOWMAN:

11 Q. Do you remember anything else that was said  
12 between you and Chief Taylor?

13 MR. DiCIANNI: Same objection.

14 THE WITNESS: No.

15 BY MR. BOWMAN:

16 Q. Was there a subsequent conversation in which  
17 you participated regarding the service of an arrest  
18 warrant on Mr. Beaman?

19 MS. BARTON: Can you read that --

20 MR. DiCIANNI: Same objection.

21 MS. BARTON: Objection to form.

22 THE WITNESS: Repeat your question, please.

23 BY MR. BOWMAN:

24 Q. Did you have a conversation later on with

1 anybody else in the Normal Police Department on the  
2 subject of whether you'd participate in serving an  
3 arrest warrant on Mr. Beaman?

4 MR. DiCIANNI: Same objection.

5 THE WITNESS: I do recall making a statement  
6 to -- at which time I do not know the time or the  
7 date -- to Frank Filliponi, that if a warrant came  
8 down and they wanted me to execute the warrant on  
9 Alan Beaman, that I was going to refuse.

10 BY MR. BOWMAN:

11 Q. Were you ever asked to do that?

12 A. No, I was not.

13 Q. Mr. Daniels, at this point, I have a series  
14 of folders that I'm going to hand to you and I've just  
15 got some questions about -- some random questions  
16 about documents in these folders. And we'll mark --  
17 ask that the first one be marked for identification as  
18 Exhibit 29.

19 THE COURT REPORTER: 30.

20 MR. BOWMAN: 30, thank you. As Exhibit 30 to  
21 your deposition and for -- I'm sorry.

22 (Whereupon, Daniels Deposition  
23 Exhibit No. 30 was marked.)  
24

1 BY MR. BOWMAN:

2 Q. Exhibit 30 in its original form has a blue  
3 cover on it like some of the other exhibits, and the  
4 title that I believe you've written on this particular  
5 folder is Meeting Concerning Case. And this  
6 particular exhibit consists of pages 1229 through 1244  
7 from the numbering of your files.

8 First of all, can you tell me the  
9 significance of the -- actually, foundationally, did  
10 you actually label this particular folder?

11 A. Yes.

12 Q. Why did you label it Meeting Concerning Case?

13 A. I don't like the word miscellaneous.

14 Q. Okay.

15 A. I'm sorry, a little bit of humor there.  
16 Little bit didn't hurt anybody.

17 The reason why I labeled that is I had any  
18 notes that pertained to meetings of course that  
19 pertained to the homicide investigation went into  
20 there. Other than that, that was the only reason.

21 Q. All right. So pages 1230, 1231, 1232, 1233  
22 through 1236, it appeared to be notes written on a  
23 small piece of paper, possibly Post-it notes. Do you  
24 recognize these pages and can you shed on -- any light

1 on what this is?

2 A. I do not recognize the page itself, the  
3 contents, but it appears to me -- and, again, it  
4 appears to me to be a list of people in attendance at  
5 a meeting.

6 Q. Right, and specifically a meeting that took  
7 place on Sunday, August 29, 1993, the day following  
8 the discovery of Lockmiller's body.

9 A. That's what it indicates, yes.

10 Q. Are these notes in your handwriting?

11 A. That's not my handwriting, no.

12 Q. Do you know whose handwriting it is?

13 A. I can't speculate on whose handwriting it is.

14 Q. Is it consistent with your recollection that  
15 the meeting that took place on August 29, 1993  
16 included yourself, Don Brady, Rob Hospelhorn,  
17 Tim Freesmeyer, Frank Zayas, and Chief Taylor?

18 A. That would be Dan Brady, former coroner, now  
19 one of our representatives of the State of Illinois.

20 Q. I knew that, sorry. More levity.

21 With that amendment, is that consistent with  
22 your recollection?

23 A. I'm sorry, repeat your question.

24 Q. Did the meeting on August 29, 1993 include

1 the individuals who are listed here on page 1230  
2 including yourself, Brady, Hospelhorn, Freesmeyer,  
3 Zayas and Taylor?

4 A. Well, I'm puzzled as to why Zayas's name  
5 appears on that list. My recollection was he wasn't  
6 back into work until Monday.

7 Q. Okay.

8 A. I could be mistaken on that. He could have  
9 come in Sunday evening or Sunday afternoon or Sunday  
10 morning. If that be the case, then I was mistaken on  
11 when he got back in town.

12 Q. Okay. There's a reference on page 1233 to  
13 old boyfriend John Murray. My question is whether  
14 that assists you in recalling whether or not  
15 John Murray's name came up on August 29 in this  
16 investigation?

17 MS. BARTON: Objection to foundation.

18 THE WITNESS: I -- I -- I do not know because  
19 I don't know who the author of this note is. That  
20 could -- that could have been written down at any time  
21 by anyone.

22 BY MR. BOWMAN:

23 Q. Okay.

24 A. Does that answer your question?

1 Q. It does.

2 A. Okay.

3 Q. Take a look at page 1238. Is 380 your star  
4 number?

5 A. Pardon me?

6 Q. Is 380 your star number?

7 A. No, it is not.

8 Q. Do you know whose it is?

9 A. Dave Warner.

10 Q. Okay. Does this appear to be Dave Warner's  
11 handwriting, if you know?

12 A. It appears to be, yes.

13 Q. Take a look at pages 1241 and 1242. Just  
14 take a minute to look that over.

15 For the record, it is a couple of one full  
16 and a partial typed page. The date at the top of page  
17 1241 is 28 August 1993. Jennifer Lockmiller's  
18 identifying information is at the top and then there  
19 is -- there are some typed notes.

20 Did you prepare this document?

21 A. I don't believe I did.

22 Q. Do you know who did?

23 A. No, I do not.

24 Q. Do you know how it came to be in your file?

1 A. No, I do not.

2 Q. Is this a -- in your experience as a  
3 Normal police detective, is this the kind of document  
4 that might be contained in a working file of a police  
5 detective?

6 MR. DiCIANNI: I'll object to foundation,  
7 form of the question.

8 MS. BARTON: Join.

9 THE WITNESS: This document very well could  
10 have. It depends on who the originator or the author  
11 were -- was.

12 BY MR. BOWMAN:

13 Q. Okay. Did you make the notes on the -- in  
14 the margin on the left-hand side of page 1241?

15 A. I can't be sure.

16 Q. Is there anything that you can tell me  
17 concerning the authorship or the origin of -- of these  
18 two pages, 1241 and 1242?

19 A. Not with any degree of certainty.

20 MR. BOWMAN: Okay. Let's mark this folder  
21 for identification as 31.

22 (Whereupon, Daniels Deposition  
23 Exhibit No. 31 was marked.)

24

1 BY MR. BOWMAN:

2 Q. Is Exhibit 31 another folder of information  
3 from your files on the Lockmiller homicide?

4 A. Yes.

5 Q. And this folder is other homicides crime  
6 reports? Is that your labeling?

7 A. Correct.

8 Q. Why did you label this folder other homicides  
9 crime reports?

10 A. These are reports from homicides that had  
11 perhaps similarities to the Lockmiller case.

12 Q. As the -- as time proceeded, did you note  
13 whether there were other homicides occurring in and  
14 around Normal, Illinois -- or strike that, in and  
15 around the State of Illinois that in your judgment as  
16 an experienced investigator should be examined for a  
17 possible connection to the Lockmiller homicide  
18 including the possibility that they were committed by  
19 the same perpetrator?

20 MS. BARTON: Object to form and foundation.

21 MR. DiCIANNI: I'll join.

22 THE WITNESS: I recall one in particular.

23 BY MR. BOWMAN:

24 Q. Can you tell us about that case.

1           A.    Yes, it's exhibit -- page number 1130.  It's  
2 the Leathers, Lisa J. Leathers.

3           Q.    Okay.  Tell me -- tell me about that  
4 circumstance.

5           A.    Well, I don't -- this -- well, this is titled  
6 Aggravated Battery.  I believe the way in which this  
7 was committed is similar to the way in which Jennifer  
8 met her demise.

9           Q.    And where did this incident take place?

10          A.    In city of Bloomington, Illinois.

11          Q.    And where -- when?

12          A.    When?  It took place in '94 -- well,  
13 according to the report year, it took place in '94,  
14 July the 5th.

15          Q.    And what were the circumstances of  
16 Lisa Leathers -- Lisa Leathers is the victim in this  
17 case?

18          A.    Correct.

19          Q.    What were the circumstances of the aggravated  
20 battery on Lisa Leathers that suggested to you that it  
21 might merit investigation whether there was a  
22 connection between --

23          A.    I believe it was --

24          Q.    I'm sorry, I should finish the question.

1 A. Oh, I'm sorry.

2 Q. Whether -- whether there merited  
3 investigation concerning a possible connection between  
4 the aggravated battery of Leathers and  
5 Ms. Lockmiller's homicide?

6 A. Okay. Lisa was assaulted and I believe it  
7 was an electrical cord involved in her assault,  
8 electrical cord being used to -- to choke her. I  
9 believe that's what it is. Strangle her, yes, on  
10 page 1131, that's what it says. And this would have  
11 been of interest to me at that particular time.

12 Q. Did you draw this coincidence to the  
13 attention of any other investigators involved in  
14 Lockmiller's case?

15 MS. BARTON: Object to foundation.

16 THE WITNESS: I could have, but I don't  
17 recall if I did.

18 BY MR. BOWMAN:

19 Q. Are there any other incidents in here that --  
20 let me start over.

21 Are there any other incidents that are  
22 included within the other homicides folder that you in  
23 your judgment as an experienced investigator warranted  
24 follow-up for a possible connection to the Lockmiller

1 case?

2 MR. DiCIANNI: Object to foundation.

3 MS. BARTON: Join.

4 THE WITNESS: Well, there are several other  
5 copies of reports attached, reports and/or notes from  
6 other police departments or from newspapers regarding  
7 similar homicides or assaults.

8 BY MR. BOWMAN:

9 Q. And you made it your business through the  
10 years when such a matter came to your attention to  
11 keep a -- keep a note of it?

12 A. Yes.

13 Q. Is there one in particular that comes to  
14 mind?

15 A. The first one that came to mind because of  
16 proximity, it's twin -- not twin city, but -- well,  
17 twin city, Normal-Bloomington, and the fact that the  
18 assault occurred the same way, the fact that an  
19 electrical cord was used.

20 MR. BOWMAN: Let me hand you a single page  
21 from your documents which we'll mark for  
22 identification with our next number as 32.

23 (Whereupon, Daniels Deposition  
24 Exhibit No. 32 was marked.)

1 BY MR. BOWMAN:

2 Q. Is Exhibit 32 a page of notes that you  
3 prepared?

4 A. Was there a question there?

5 Q. Yes. Is Exhibit 32 a page of notes that you  
6 prepared?

7 A. Yes, that's my handwriting.

8 Q. Did you prepare those notes in the course of  
9 the Lockmiller homicide investigation?

10 A. Without a date on there, I couldn't be sure,  
11 but I -- I -- Dr. Brown -- the name Dr. Brown to me  
12 sounds familiar as it being connected to the  
13 Lockmiller case.

14 Q. Right. If I were to suggest to you that  
15 Dr. Brown was the head of the drama department at  
16 Illinois Wesleyan and that Brown was somebody who  
17 received a note from Alan Beaman at a certain point in  
18 the summer of 1993, would that refresh your  
19 recollection as to Brown's role in the case?

20 A. Yes.

21 Q. Was -- did you conduct an interview of Brown  
22 at some point during the investigation?

23 A. As I best recall, I believe that  
24 Rob Hospelhorn and myself went to talk to Dr. Brown or

1 maybe Rob by himself went to talk to Dr. Brown.

2 Q. So the -- the -- the possibility exists that  
3 the notes that are here, Exhibit 32 that we're looking  
4 at now, were prepared during an interview of Dr. Brown  
5 but you can't be sure; is that a fair summary?

6 MR. DiCIANNI: I'll object to speculation.

7 THE WITNESS: Yes.

8 MR. BOWMAN: The next number, I believe, is  
9 33.

10 (Whereupon, Daniels Deposition  
11 Exhibit No. 33 was marked.)

12 BY MR. BOWMAN:

13 Q. Exhibit 33 is several pages of materials,  
14 again, from your documents. This runs from page 954  
15 through 960. My first question, if you can just tell  
16 me whether this is something that you created?

17 A. The -- the document contains what is called a  
18 timeline. Whether I created this or simply copied it,  
19 I'm not sure of, this front document here.

20 Q. Do you know whether this is a document that  
21 was generated in the course of the Lockmiller homicide  
22 investigation?

23 A. Yes, as a matter of fact, if we look at  
24 page 0954, right-hand side at 1900, that being

1 1900 hours, it says missed Vedette meeting. And that  
2 handwriting appears to be mine or underneath that it  
3 says at 2000 hours, that being 8:00 p.m. That appears  
4 to be my handwriting.

5 Q. My question is whether the pages that are  
6 marked for identification as Exhibit 33, the timeline  
7 is something that was generated during the  
8 investigation, that is, before the charging of  
9 Mr. Beaman, if you know?

10 MS. BARTON: Objection to foundation.

11 THE WITNESS: I could not be 100 percent  
12 positive that it was generated at that time.

13 BY MR. BOWMAN:

14 Q. Do you have a best estimate one way or  
15 another?

16 MR. DiCIANNI: Object; speculation, lack of  
17 foundation.

18 THE WITNESS: I -- I do not.

19 BY MR. BOWMAN:

20 Q. Okay. On page 958, you have placed some  
21 notes on the timeline as pertains to David Singley and  
22 Susan Jenkins in what I believe is your handwriting;  
23 am I right about that?

24 A. You're correct.

1 Q. Would it be fair to say that Mr. Singley's  
2 information regarding hearing the door to the victim's  
3 apartment slam shut real quick twice at approximately  
4 1400 hours, hearing the TV on loud, the  
5 air-conditioning not on, the music off and so forth as  
6 you've noted here on page 958, that all of that  
7 suggests that there was some importance to  
8 Mr. Singley's information regarding what he heard and  
9 observed on the afternoon of August 25?

10 MS. BARTON: Objection to form.

11 MR. DiCIANNI: Yeah, I object to form.

12 MS. BARTON: Vague.

13 THE WITNESS: That's most likely the reason  
14 why I wrote those -- made those entries in my own  
15 handwriting. There was some question.

16 BY MR. BOWMAN:

17 Q. And the possibility existed that  
18 Mr. Singley's observations might be actually  
19 observations of the activities of the perpetrator,  
20 right?

21 MR. DiCIANNI: Object to speculation, lack of  
22 foundation.

23 MS. BARTON: Join.

24 THE WITNESS: That and the fact that maybe

1 Mr. Singley would have some further information for  
2 us.

3 BY MR. BOWMAN:

4 Q. It would be your professional opinion that  
5 this information from Singley is information that  
6 should be followed up on?

7 A. Correct.

8 MR. DiCIANNI: I didn't get my objection out  
9 so I'll make it late.

10 MR. BOWMAN: I hand you a single page with  
11 the page number 1009 from your documents, and we'll  
12 mark that for identification as Exhibit 34.

13 (Whereupon, Daniels Deposition  
14 Exhibit No. 34 was marked.)

15 BY MR. BOWMAN:

16 Q. Can you tell us whether the -- this is just a  
17 single page of notes. Again, it looks like it might  
18 be on a Post-it or some other small piece of paper in  
19 the original form. And the heading at the top of  
20 the -- this small page is First Interview 2 September.  
21 We've already established in earlier questioning that  
22 your first interview with John Murray was on  
23 September 2.

24 Is this in your handwriting?

1 A. Yes.

2 Q. Do you know what the origin of this  
3 particular page of notes is?

4 A. I'm sorry, I didn't quite catch --

5 Q. Do you know when you wrote this?

6 A. No, I do not.

7 Q. Did you write this during Mr. -- Mr. Murray's  
8 interview, if you know?

9 MR. DiCIANNI: Object, speculation.

10 MS. BARTON: Join.

11 THE WITNESS: During his first interview.

12 BY MR. BOWMAN:

13 Q. Right.

14 A. No, I wouldn't have written that down then.

15 MR. BOWMAN: All right. Our next exhibit  
16 will be numbered for identification as 35. And this  
17 is a very thin folder with just one page in it that is  
18 labeled Two Teletyped Letters From Unknown Sources.

19 (Whereupon, Daniels Deposition  
20 Exhibit No. 35 was marked.)

21 MS. BARTON: Are you sure this is the only  
22 page in it?

23 MR. BOWMAN: Pardon me?

24 MS. BARTON: Are you saying that this is the

1 only page that was in that folder?

2 MR. BOWMAN: That's how it was presented to  
3 me. I could be in error. If you have correction for  
4 me, go ahead.

5 MS. BARTON: The only belief that I have is  
6 there are -- these numbers aren't sequential.

7 MR. BOWMAN: Oh, indeed they're not.

8 MS. BARTON: So -- and I also believe just  
9 from my review of the file that there may be  
10 additional documents in that file.

11 MR. BOWMAN: Thank you. And it was not my  
12 intention to misrepresent anything.

13 MS. BARTON: I know.

14 MR. BOWMAN: I'm just -- somebody else put  
15 this together for me and I -- and I stand corrected.

16 BY MR. BOWMAN:

17 Q. I just have a couple of questions. Do you  
18 know what this folder is about? Why you kept these  
19 materials? Why you labeled this folder as you did and  
20 what it bears?

21 A. The answer to the three-prong question, no.

22 Q. Okay. No -- no as to each part of that  
23 question?

24 A. No, no, and no.

1 Q. Okay. Can you shed any light on what this  
2 document is that is the second page of the exhibit,  
3 page 1261?

4 A. May I read it first?

5 Q. Absolutely.

6 A. That'll help.

7 I do not know who authored this. As far as  
8 the contents as we read that, it appears to be a  
9 summary of the some facts of Larbi's visit to  
10 Greta Alexander, the psychic, and also Larbi's visit  
11 to the -- Jennifer's grave site.

12 Q. Can you state whether the investigators  
13 received this particular page during the course of the  
14 Lockmiller homicide investigation?

15 A. No, I cannot.

16 Q. When we were talking earlier in the  
17 deposition about some of the circumstances relating to  
18 John Murray, I neglected to ask you about Murray's  
19 return visit to this Greta Alexander who was  
20 supposedly a psychic. Was that a circumstance that in  
21 your judgment as an experienced police investigator  
22 had any possible significance with respect to Murray  
23 and his guilt or innocence of the homicide?

24 MR. DiCIANNI: Yeah, I'll object to

1 speculation and form of the question.

2 MS. BARTON: Join.

3 THE WITNESS: Yes, it did.

4 BY MR. BOWMAN:

5 Q. Can you explain that, please.

6 A. Why would he not allow his friend or insist  
7 that his friend remain in the car? Why did he go  
8 there in the first place a second time when I believe  
9 earlier somewhere in our exhibits here, two pictures  
10 on the yearbook was pointed -- Greta pointed out as to  
11 being possible suspects. So why would Larbi go back  
12 by himself and why would he insist that his friend  
13 stay behind if, in fact, he, Larbi, wanted to learn  
14 more information? It would have seemed logical to me  
15 that you would take someone with you to act as a  
16 witness to substantiate anything that Greta may have  
17 said.

18 Also, the reason why this information came  
19 about as I see it is when you use a psychic or anyone  
20 else, regardless if you believe it or not, you do not  
21 know who has visited Greta and released information  
22 that would be helpful in the investigation, and maybe  
23 perhaps that's what Larbi was trying to head off.  
24 That's how I view that.

1 Q. In your opinion that Murray's visit to the  
2 psychic merited follow-up perhaps with an interview of  
3 Greta Alexander herself was not any suggestion on your  
4 part that you believe that Greta Alexander could solve  
5 the crime because of her psychic powers, but rather it  
6 was because of the interaction that she had had with  
7 Larbi, Murray and potentially others; is that a fair  
8 summary?

9 A. That -- that's correct.

10 MR. BOWMAN: I'm going to hand you next some  
11 further pages from your files which I'm going to ask  
12 our court reporter to mark for identification as  
13 Exhibit 36.

14 (Whereupon, Daniels Deposition  
15 Exhibit No. 36 was marked.)

16 BY MR. BOWMAN:

17 Q. Exhibit 36 is several pages running from 981  
18 through 995. The first page is entitled victimology.  
19 Are you familiar with this document?

20 A. If it came from my file, I must have had it  
21 in my possession at one time or another.

22 Q. Did you create it?

23 A. I -- without 100 percent certainty, it  
24 appears that I did because I remember doing some work

1 regarding victimology.

2 Q. And is this something that you prepared  
3 during the Lockmiller homicide investigation?

4 A. I can't put a date on it, but yes.

5 Q. Is it possible that you prepared this for  
6 purposes of the cold case seminar that you attended in  
7 Florida?

8 MS. BARTON: I'm going to object to form and  
9 foundation.

10 MR. DiCIANNI: Yeah, I'll join.

11 THE WITNESS: I can't be certain if it was.

12 BY MR. BOWMAN:

13 Q. What was your purpose in preparing this  
14 document?

15 A. Looking -- further looking at this document,  
16 the first three pages, it appears to be some sort of  
17 guideline in which to insert a victim of a particular  
18 crime; this, of course, being the Lockmiller case.  
19 And there's more detail in which appears the next 10,  
20 11 pages, whereas Lockmiller's information and also  
21 case information was inserted with emphasis on  
22 individuals that were either suspects or friends of  
23 Jennifer's.

24 Q. So this is an aid to investigation?

1 MS. BARTON: I'm going to object to form.

2 MR. DiCIANNI: Yeah, I'll --

3 MS. BARTON: Foundation.

4 MR. DiCIANNI: I join. We need a button to  
5 push.

6 THE WITNESS: Yes.

7 BY MR. BOWMAN:

8 Q. And would it be fair to say that Exhibit 36  
9 suggests various avenues that should be pursued in  
10 terms of further investigation?

11 MS. BARTON: Objection, form and foundation.

12 MR. DiCIANNI: I join.

13 THE WITNESS: I don't know who the author of  
14 this -- these last 10 or 11 pages is, but to me,  
15 that's what it appears. That's why we have the gaps  
16 in conflicts to make notations. It appears the  
17 information was abstracted from the report or from  
18 investigators, witnesses or so forth for further work  
19 to be done.

20 MR. BOWMAN: All right. I think our next  
21 number is 37.

22 (Whereupon, Daniels Deposition  
23 Exhibit No. 37 was marked.)

24

1 BY MR. BOWMAN:

2 Q. Exhibit 37 is a -- another folder of material  
3 from your file, and the folder is entitled Tips For  
4 Investigators. It runs from pages 1078 through 1127.  
5 My first question is whether you're the person who  
6 labeled the folder as tips for investigators?

7 A. Yes, I am.

8 Q. And what was your -- what was the meaning of  
9 that designation on the folder?

10 A. As I continued to look at the case, it could  
11 have been before, it could have been after his  
12 conviction or even his release from prison, there were  
13 still some questions in my mind that perhaps needed to  
14 be answered in regards to Alan Beaman's innocence  
15 and/or his conviction.

16 Q. And who were the investigators that you had  
17 in mind when you wrote out this label, which  
18 investigators?

19 A. None.

20 Q. None in particular?

21 A. Questions that really needed to be answered.

22 Q. Okay. Clear.

23 A. If I may?

24 Q. Please, go ahead.

1           A.    Perhaps to correct maybe any misunderstanding  
2 earlier this morning regards to whether or not I read  
3 Tim Freesmeyer's report, this appears to be -- we'll  
4 clear it up because on this copy of this report, I  
5 have made some notes in the margin, so I can't believe  
6 I would not have ever, never read his report.

7           Q.    Right.  And --

8           A.    This had concrete --

9           Q.    And in other words, you're -- you're pointing  
10 to -- can you give us the Bates number?

11          A.    On -- on this exhibit?

12          Q.    Yes.

13          A.    It would be 1089.

14          Q.    And 1089 is a page from -- it's actually  
15 page 36 -- from Freesmeyer's big report that was  
16 marked for identification as Exhibit 5, right?

17          A.    That's correct, and I believe that same page  
18 number is an extract from his report that we reviewed  
19 earlier this morning.

20          Q.    And as you look at page 1089, you can see  
21 that you've circled things, underscored things, made  
22 notes in the margin, right?

23          A.    That's correct.

24          Q.    An indication to you that you not only at

1 some point in time read Freesmeyer's report but read  
2 it carefully?

3 A. That's correct.

4 Q. And as an investigator in the Lockmiller  
5 homicide case, you from time to time made handwritten  
6 notes as you were pursuing your activities; is that --

7 A. Yes.

8 Q. -- accurate?

9 And to your knowledge, did other  
10 investigators who were working on the case also make  
11 handwritten notes from time to time as they fulfilled  
12 their investigative responsibilities in the matter?

13 MR. DiCIANNI: I'll object to lack of  
14 foundation and speculation.

15 MS. BARTON: Join.

16 BY MR. BOWMAN:

17 Q. And I'm asking to the extent of your personal  
18 knowledge?

19 A. My personal knowledge, I couldn't be sure of  
20 that if they did or if they did not.

21 Q. Would it be consistent with investigative  
22 practice to make notes as you conduct an  
23 investigation?

24 MR. DiCIANNI: Object, foundation.

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1 THE WITNESS: My opinion, yes, of any case.

2 BY MR. BOWMAN:

3 Q. Now, did you as a general matter when you  
4 made notes in the investigation, did you place those  
5 notes in your personal binders that constituted your  
6 working file in the case?

7 MR. DiCIANNI: I'll object to lack of  
8 foundation.

9 THE WITNESS: Yeah, it's a --

10 MR. DiCIANNI: Form of the question.

11 THE WITNESS: -- possibility, yes.

12 BY MR. BOWMAN:

13 Q. You may -- you may have in some instances,  
14 and in other instances you may not have; is that your  
15 testimony?

16 A. Yes.

17 Q. And in addition, over the course of the  
18 investigation, you may have had ideas and thoughts for  
19 further investigation, questions about follow-up and  
20 so forth. Would it be your practice as an  
21 investigator in the Lockmiller case to make notes or  
22 other records to record your ideas and thoughts  
23 regarding the unfolding investigation?

24 MR. DiCIANNI: Object to foundation and form

1 of the question.

2 MS. BARTON: I'll join.

3 THE WITNESS: Yes.

4 BY MR. BOWMAN:

5 Q. Was it your practice with respect to that  
6 category of notes to place them in your personal  
7 working file as well?

8 MR. DiCIANNI: Same objection.

9 THE WITNESS: Depends on the contents of the  
10 note.

11 BY MR. BOWMAN:

12 Q. Okay. So the answer to my question would be  
13 in some instances, yes; and in others, no?

14 A. Correct.

15 Q. Depending on the significance of the notes --

16 A. Correct.

17 Q. -- would that be fair?

18 A. Correct.

19 Q. In the course of the Lockmiller homicide  
20 investigation, you obviously from time to time  
21 received formal police reports that you and the other  
22 officers generated memorializing your investigative  
23 activities, right?

24 A. Correct.

1 Q. And as I understand the testimony that you've  
2 given over the past few days, your -- your practice --  
3 the practice generally was that each of the  
4 investigators involved in the case received the  
5 reports as they were generated and signed off on for  
6 distribution; --

7 MR. DiCIANNI: I'll --

8 BY MR. BOWMAN:

9 Q. -- is that accurate?

10 MR. DiCIANNI: I'll object to form of the  
11 question and lack of foundation.

12 MS. BARTON: I'll join the objection.

13 THE WITNESS: Yes.

14 BY MR. BOWMAN:

15 Q. And was it your practice whether you did it  
16 yourself or whether an intern did it that you would  
17 ensure that those reports went into your personal  
18 working file?

19 MR. DiCIANNI: Object, asked and answered and  
20 lack of foundation.

21 MS. BARTON: Join.

22 THE WITNESS: If it was my report that I  
23 generated, I would assure -- ensure that I had a copy  
24 of the report.

1 BY MR. BOWMAN:

2 Q. And what if it was a report generated by  
3 someone else?

4 MR. DiCIANNI: Same objection.

5 MS. BARTON: Join.

6 THE WITNESS: Only if it was given to me by  
7 that author or someone else.

8 BY MR. BOWMAN:

9 Q. Was it your understanding that with respect  
10 to the Lockmiller case, a procedure was established  
11 whereby every investigator got all the reports in the  
12 investigation as they were prepared?

13 MS. BARTON: Object.

14 MR. DiCIANNI: Lack of foundation.

15 MS. BARTON: Join, and form.

16 THE WITNESS: That would have been the  
17 standard practice in any case as well as the  
18 Lockmiller case.

19 BY MR. BOWMAN:

20 Q. To the best of your understanding, that  
21 happened?

22 A. Correct.

23 Q. Now, from time to time in the Lockmiller  
24 case, did you and the other investigators take

1 possession of third party documents either by subpoena  
2 or informally?

3 MS. BARTON: Object.

4 MR. DiCIANNI: Well, yeah, object to lack of  
5 foundation and form of the question.

6 MS. BARTON: Join.

7 THE WITNESS: My understanding is yes.

8 BY MR. BOWMAN:

9 Q. And did those documents as a matter of  
10 procedure and practice go into the working files of  
11 the investigator who obtained the documents?

12 A. My understanding --

13 MR. DiCIANNI: Same objection.

14 MS. BARTON: Join.

15 THE WITNESS: Yes.

16 BY MR. BOWMAN:

17 Q. All right. Now, is it your understanding  
18 that it was the responsibility of Mr. Zayas and of the  
19 detectives involved, whoever they were, to make sure  
20 that the materials from the working files went into  
21 the main file?

22 MR. DiCIANNI: I'll object to form of the  
23 question, lack of foundation.

24 MS. BARTON: Join.

1 THE WITNESS: Would you repeat your question,  
2 please.

3 BY MR. BOWMAN:

4 Q. Let me -- let me restate it.

5 A. Okay.

6 Q. In your understanding as a matter of  
7 practice, was it the responsibility of the CID  
8 supervisor and of the detectives working a case like  
9 the Lockmiller case that -- to ensure that any and all  
10 materials from the individual detectives working files  
11 went to the main file for distribution as needed in  
12 the investigation and for the benefit of the lawyers  
13 in the criminal case?

14 MR. DiCIANNI: Same objection.

15 MS. BARTON: Join.

16 THE WITNESS: That's my understanding, yes.

17 BY MR. BOWMAN:

18 Q. And that was the way you were trained and the  
19 practice that you understood you were expected to  
20 follow?

21 MR. DiCIANNI: Same objection.

22 MS. BARTON: Join.

23 THE WITNESS: Yes.

24

1 BY MR. BOWMAN:

2 Q. And as a Normal Police Department  
3 investigator, was it made clear to all investigators  
4 that this was the procedure that was supposed to be  
5 followed?

6 MR. DiCIANNI: Same objection.

7 MS. BARTON: Join.

8 THE WITNESS: I can't say yes to that  
9 question because I do not know if that was orders  
10 issued by the supervisor. That was a practice.

11 BY MR. BOWMAN:

12 Q. Who trained you concerning the issue of  
13 whether or not you should prepare a report with  
14 respect to a particular matter that came up in an  
15 investigation? I mean, to be clear, there's been  
16 testimony over the course of the past several days in  
17 which you've explained that -- that an incidental  
18 matter -- do you need to stop for a minute?

19 A. No, that's all right. I'm just going to  
20 stretch it.

21 Q. All right. Let me start over.

22 There's been testimony in the -- I'm worried  
23 about you. Let's take a -- let's take a break.

24 THE VIDEOGRAPHER: Off the record, 1715.

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(Whereupon, a break was taken.)

MR. BOWMAN: We took a momentary comfort pause and a conversation among counsel. In light of the additional questioning that remains and the lateness of the hour, we agreed to conduct what we anticipate will be the final session of Mr. Daniels's deposition beginning at 10:00 a.m. on June 20, and this is obviously subject to reconfirmation, but that's our expectation.

MR. DiCIANNI: That's correct.

(Witness excused at 5:20 p.m.)

1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF C O O K )

4 I, Christine M. Luciano, Certified Shorthand  
5 Reporter in and for the County of Cook, State of  
6 Illinois, do hereby certify that on June 11, 2013, the  
7 deposition of the witness, TONY L. DANIELS, called by  
8 the Defendants, was taken before me, reported  
9 stenographically and was thereafter reduced to  
10 typewriting through computer-aided transcription.

11 The said witness, TONY L. DANIELS, was first  
12 duly sworn to tell the truth, the whole truth, and  
13 nothing but the truth, and was then examined upon oral  
14 interrogatories.

15 I further certify that the foregoing is a  
16 true, accurate and complete record of the questions  
17 asked of and answers made by the said witness, at the  
18 time and place hereinabove referred to.

19 The signature of the witness was waived by  
20 agreement.

21 The undersigned is not interested in the  
22 within case, nor of kin or counsel to any of the  
23 parties.

24 Witness my official signature as Certified

1 Shorthand Reporter, in and for Cook County, Illinois  
2 on this 25th day of June, A.D., 2013.  
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7 Christine M. Luciano, CSR  
8 License No. 084-004068  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION

ALAN BEAMAN, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 10-CV-1019  
 )  
JAMES SOUK, et al., )  
 )  
Defendants. )

**VOLUME IV, PAGES 654 - 732**

DISCOVERY DEPOSITION  
OF  
TONY L. DANIELS

Continued videotaped discovery deposition of  
TONY L. DANIELS, taken on June 20, 2013, beginning at  
10:13 a.m., at 207 West Jefferson Street, Bloomington,  
Illinois, at the instance of the Defendants, pursuant  
to Subpoena and agreement of the parties, before  
Christine M. Luciano, Certified Shorthand Reporter in  
the State of Illinois.

\* \* \* \* \*

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24            Timothy Freesmeyer, Robert Hospelhorn,  
              David Warner, Frank Zayas, and  
              Town of Normal, Illinois.

18     ALSO PRESENT:

19     Mr. Wayne Rutherford,  
20     Rutherford Photo Video

21                             \* \* \*

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I N D E X

WITNESS

EXAMINATION

TONY L. DANIELS

Cross-Examination by Mr. Bowman	657
Recross-Examination by Mr. DiCianni	671
Recross-Examination by Mr. Bowman	722

E X H I B I T S

TONY L. DANIELS  
DEPOSITION EXHIBIT

MARKED FOR ID

\*\*\* NO EXHIBITS MARKED \*\*\*

1 THE VIDEOGRAPHER: My name is Wayne  
2 Rutherford with Rutherford Photo Video, Decatur,  
3 Illinois. The date is 6-20-13. The time on the video  
4 screen is 10:13 a.m. This is a continuation of the  
5 deposition of Tony Daniels. We're on the record.

6 CROSS-EXAMINATION

7 (Continued)

8 BY MR. BOWMAN:

9 Q. Mr. Daniels, you'll be relieved to hear that  
10 I don't have too many more questions.

11 I want to ask you, you've got the exhibits in  
12 a binder in front of you at this point, and I'd like  
13 to ask you to have a look at Daniels Exhibit Number 5  
14 which is the lengthy report that Detective Freesmeyer  
15 prepared.

16 Have you got that?

17 A. Yes, right here.

18 Q. If you could turn to page 44 of the report,  
19 and it has a Bates number in the lower right-hand  
20 corner MCC 000303?

21 A. Okay.

22 Q. Just below the middle of the page, there's a  
23 sentence that reads as follows: On 2-18-94, Detective  
24 Daniels, Lieutenant Zayas, and myself -- referring to

1 Freesmeyer -- went to Chicago to meet with Jack Reagan  
2 of the Chicago Police Department's violent crimes  
3 unit.

4 Does that indicate to you that as of February  
5 18, Detective Zayas was actively involved in the  
6 Lockmiller case?

7 A. To me, yes.

8 Q. And that -- do you have any reason to dispute  
9 the statement here that Lieutenant Zayas went with you  
10 and others to the Chicago Police Department in  
11 February of 1994?

12 A. He, in fact, did.

13 Q. And did he do so to the best of your  
14 recollection in his capacity as lieutenant in the CID?

15 A. Yes, he did.

16 Q. All right.

17 MR. DiCIANNI: Let's hold one second -- I  
18 want to see -- okay. Never mind.

19 BY MR. BOWMAN:

20 Q. Then if you would turn to page 48 of the  
21 report, Bates number 307. Again, a little bit below  
22 the middle of the page. There's a sentence that reads  
23 as follows: On 5-16-94, a meeting was held to  
24 determine the course of action in this case. Present

1 at the meeting was chief James Taylor, State's  
2 Attorney Charlie Reynard, assistant State's Attorney  
3 James Souk, Lieutenant Frank Zayas, Lieutenant John  
4 Brown, detective Tony Daniels, and myself. I read  
5 that accurately, right?

6 A. Correct.

7 Q. And that indicates to you, does it not, that  
8 Frank Zayas was present at the May 16, 1994 auto  
9 meeting that you have testified about before at which  
10 the decision was announced that Beaman would be  
11 charged with the murder, right?

12 MR. DiCIANNI: Object to form.

13 THE WITNESS: That's correct.

14 MR. BOWMAN: Can I correct the form? What's  
15 your objection?

16 MR. DiCIANNI: You're asking him to draw a  
17 supposition based on something that's written in a  
18 report. You're saying this indicates to you that  
19 Frank Zayas was there. Well, it's in the report, so  
20 it doesn't -- wouldn't indicate -- lack of foundation.

21 MR. BOWMAN: Is the objection, okay. Thanks.

22 Did we get an answer to my question?

23 (Whereupon, the record was  
24 read as requested.)

1 BY MR. BOWMAN:

2 Q. To the best of your recollection, was  
3 Frank Zayas present at the May 16, 1994 meeting?

4 A. According to the report, yes.

5 Q. And to the best of your recollection --

6 A. Yes.

7 Q. -- was he there?

8 A. Yes.

9 Q. And was Frank Zayas -- does this indicate  
10 that Frank Zayas was actively involved in the  
11 Lockmiller homicide investigation as of this date, May  
12 16, 1994?

13 MR. DiCIANNI: I'll object to lack of  
14 foundation.

15 THE WITNESS: Correct.

16 BY MR. BOWMAN:

17 Q. And was Lieutenant Zayas there in his  
18 capacity as head of CID at that time?

19 MR. DiCIANNI: Object to lack of foundation.

20 THE WITNESS: Yes, he was.

21 BY MR. BOWMAN:

22 Q. Now, jumping back to another topic that you  
23 testified about last time. You indicated that in  
24 about October of 1994, you learned of John Murray's

1 arrest for domestic violence, among other things, yes?

2 A. Correct.

3 Q. And you learned this, if I recall your  
4 testimony accurately, based upon your review of the  
5 daily information flow regarding individuals who were  
6 arrested?

7 A. Correct.

8 Q. Is it accurate that any officer in the Normal  
9 Police Department in October of 1994 would have had  
10 access to that same information from which you learned  
11 of Murray's arrest?

12 A. Yes.

13 Q. Do you recall was there discussion amongst  
14 any of the officers who had participated in the  
15 Lockmiller investigation regarding Murray's arrest,  
16 the circumstances of it, and its significance?

17 MR. DiCIANNI: Object to lack of foundation.

18 THE WITNESS: I don't recall.

19 BY MR. BOWMAN:

20 Q. You're saying there may or may not have been,  
21 you don't specifically remember?

22 A. That's correct.

23 Q. Okay. All right. Shifting again to another  
24 subject on which you've testified about previously.

1 Mr. Zayas -- and this is -- this is the subject of the  
2 report of Murray's polygraph examination about which  
3 you testified before.

4 And, again, if I correctly recall the  
5 substance of your testimony, it is that you do not  
6 recall ever receiving the report of that polygraph  
7 examination, accurate?

8 A. I don't know if that's what I said or not  
9 that I recall; meaning, I could have, but I don't  
10 recall. Is that what you're asking me?

11 Q. That's what I'm asking you.

12 A. Correct.

13 Q. Okay. Now, I want to read you some testimony  
14 that Mr. Zayas gave in his deposition in this case  
15 regarding that report, and I'm just going to read this  
16 into the record. It's from the Zayas deposition  
17 beginning at page 120, line 13 of the transcript.  
18 Here's what he was asked about the report.

19 "Question: In this case, the  
20 report is addressed to Detective  
21 David Warner. How would this  
22 report have been routed through the  
23 police department upon receipt?"

24 And there was an objection, but there was

1 also an answer, and it goes on to state the answer:

2 "I don't know how to answer  
3 the question because if -- if it  
4 came into the police department  
5 addressed to David Warner, I think  
6 he would have gotten it and it  
7 would -- then he would read it,  
8 submit it, run copies of it, get  
9 the original to -- to records,  
10 make sure that, you know, I would  
11 have gotten a copy of it, the chief  
12 would have gotten a copy of it. So  
13 he would have had to disseminate  
14 the report. If my memory serves  
15 me correctly, that's -- should have  
16 been the way to process that.

17 Question: Okay. So let me  
18 try to take that step-by-step so I  
19 make sure I'm understanding.

20 Assuming Detective Warner received  
21 the report, he should direct the  
22 original to records?

23 Answer: Yes, the originals  
24 always went to records.

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1 Question: And by sending it  
2 to records, the report would become  
3 part of the central file for this  
4 case?

5 Answer: Right, uh-huh.

6 Question: Upon receiving this  
7 report, Warner should make sure  
8 that you, Zayas, get a copy?

9 Answer: Yeah, should have  
10 made sure everybody else would have  
11 gotten a copy of it.

12 Question: And when -- when  
13 you say quote/unquote everybody, do  
14 you mean all of detectives working  
15 on the case?

16 Answer: Working on the case,  
17 yes.

18 Question: Okay. And he  
19 should have also made sure that the  
20 chief got a copy?

21 Answer: Oh, yes, sir."

22 And upon -- and then the next question:

23 "Okay. And upon receiving the  
24 report that's shown in Exhibit 4,

1 do you have any reason to doubt  
2 that Detective Warner would have  
3 gone through the steps that you and  
4 I just discussed?"

5 There was an objection. The answer:

6 "I -- I don't know. I -- he  
7 should have followed the procedure,  
8 disseminated the information."

9 And that's the end of what I'm going to read,  
10 and I've read through the top of page 122, line 5.

11 Do you have any dispute with any of the  
12 testimony that Lieutenant Zayas?

13 MR. DiCIANNI: Well, I'll object to that for  
14 several reasons. First of all, Detective Zayas is  
15 obviously speculating about what did or did not  
16 happen. And intermixed in that testimony is rank  
17 speculation, and I'm sure the objections may have  
18 pointed that out.

19 So you're asking this witness to -- whether  
20 he would agree with another witness's speculation  
21 which could only make this double speculation. I'll  
22 object to the foundation and the form.

23 THE WITNESS: The answer to your question  
24 would be the procedure that Lieutenant Zayas gave you

1 in his deposition is correct.

2 BY MR. BOWMAN:

3 Q. Do you have any reason to doubt based on  
4 anything that you've heard about, anything that you've  
5 seen, any recollection that you've had that the  
6 procedure that Lieutenant Zayas described in the  
7 testimony that he gave was, in fact, followed with  
8 respect to this particular report?

9 MR. DiCIANNI: Object, lack of foundation and  
10 speculation.

11 THE WITNESS: I can't be certain whether it  
12 was followed or not.

13 BY MR. BOWMAN:

14 Q. And why do you say that?

15 A. Well, apparently one of the questions,  
16 mysteries, if you will, is why this report of his  
17 polygraph was not disseminated to everyone. So it  
18 appears to me that it was not disseminated.

19 Q. And do you have any explanation for why that  
20 happened?

21 A. No --

22 MR. DiCIANNI: Object.

23 THE WITNESS: -- I do not.

24

1 BY MR. BOWMAN:

2 Q. Did you have --

3 MR. DiCIANNI: Speculation.

4 BY MR. BOWMAN:

5 Q. Did you have yourself, sir, any intention,  
6 any role, any activity whatsoever to cause this report  
7 not to be disseminated?

8 MR. DiCIANNI: Object, speculation.

9 MS. BARTON: I'll join.

10 MR. BOWMAN: That's not speculation. I'm  
11 asking you, sir.

12 MR. DiCIANNI: Well, he's testified he has no  
13 memory about it, so he can only speculate about  
14 whether he did anything to cause it. So I'm -- that's  
15 my objection.

16 MS. BARTON: I'll join in the objection.

17 BY MR. BOWMAN:

18 Q. Did you cause this report not to be  
19 disseminated, sir?

20 A. No, I did not.

21 MR. DiCIANNI: Same objection.

22 BY MR. BOWMAN:

23 Q. Did you take any action that would have  
24 resulted in the report not being disseminated?

1 MR. DiCIANNI: Same objection.

2 MS. BARTON: Join.

3 THE WITNESS: No, I did not.

4 BY MR. BOWMAN:

5 Q. To the extent that Timothy Freesmeyer at some  
6 point in the process functioned not as the supervisor  
7 of CID but as the primary investigator in the  
8 Lockmiller investigation, would Detective Freesmeyer  
9 as primary investigator be responsible for being on  
10 top of the information that was being developed, not  
11 just by himself but by other investigators in the  
12 case?

13 MR. DiCIANNI: I'll object; lack of  
14 foundation, form.

15 THE WITNESS: He should have, yes.

16 BY MR. BOWMAN:

17 Q. As the primary investigator at some point in  
18 time, if he was, was Freesmeyer's -- would  
19 Freesmeyer's responsibility have been to be aware of  
20 documents that were being assembled in the  
21 investigation from third-party sources?

22 MR. DiCIANNI: Same objection.

23 THE WITNESS: Yes.

24

1 BY MR. BOWMAN:

2 Q. As primary investigator if he was at some  
3 point in this investigation, would Freesmeyer be  
4 responsible for ensuring that documents including  
5 materials generated from third-party sources,  
6 investigator reports, investigator notes and other  
7 information, that that all be routed through the chain  
8 to the supervisor for purposes of dissemination of the  
9 documents to the State's Attorney and the other  
10 lawyers in the criminal case?

11 MR. DiCIANNI: Object to form, foundation.

12 MS. BARTON: Join.

13 THE WITNESS: Correct.

14 BY MR. BOWMAN:

15 Q. Did you, Detective -- I guess you don't get  
16 the title anymore.

17 A. No.

18 Q. Mr. Daniels, did you as -- to the best of  
19 your ability in your work on the Lockmiller case  
20 adhere to and follow the training and instruction that  
21 you've been given?

22 MR. DiCIANNI: Object to lack of foundation,  
23 speculation.

24 MS. BARTON: Join.

1 THE WITNESS: To my knowledge, yes.

2 BY MR. BOWMAN:

3 Q. And specifically with respect to the handling  
4 of documents and your binders did you do so?

5 A. Yes.

6 MR. DiCIANNI: Same objection.

7 THE WITNESS: Yes.

8 MR. BOWMAN: That completes my questioning of  
9 you at this time, Mr. Daniels. Thanks for your time.

10 MR. DiCIANNI: Do you have anything?

11 MS. BARTON: Since you indicated that you had  
12 a couple of hours, maybe it would be -- unless anybody  
13 has any objection to that?

14 MR. DiCIANNI: That's fine. I'll go.

15 MS. BARTON: You will --

16 MR. DiCIANNI: And I don't know that I have a  
17 couple hours --

18 MS. BARTON: Okay.

19 MR. DiCIANNI: -- but I'll go next.

20 MS. BARTON: Just because it sounds like you  
21 have more.

22 MR. BOWMAN: I hate to be a whiner. Can we  
23 go off the minute just a minute so we could get some  
24 tea?

1 MR. DiCIANNI: Oh, yeah.

2 THE VIDEOGRAPHER: Off the record, 10:29.

3 (Whereupon, a break was taken.)

4 THE VIDEOGRAPHER: On the record, 10:31.

5 RECROSS-EXAMINATION

6 BY MR. DiCIANNI:

7 Q. Mr. Daniels, you during your testimony in  
8 response to questions by Mr. Bowman, you said several  
9 times or you were asked several times about what  
10 trained and experienced investigators might do in a  
11 particular situation. You recall being asked  
12 questions along those lines?

13 A. Yes.

14 Q. Okay. And I assume you considered yourself a  
15 trained and experienced investigator, correct?

16 A. Yes, somewhat, some degree.

17 Q. Okay. Did -- did you take classes in  
18 investigative techniques and practices or was all your  
19 training sort of on the job?

20 A. I had quite a few schools, on the job.

21 Q. Well, that sounds like two different things.  
22 Actually, the way I meant it as a question, that would  
23 have been two different things.

24 You have continuing police training through

1 NEMRT and other types of -- maybe not NEMRT down here,  
2 through other types of organizations that provide for  
3 police training for sworn police officers, correct?

4 A. Yes.

5 Q. Okay. And have you taken those types of  
6 courses in investigative techniques or practices?

7 A. Yes.

8 Q. As you sit here today, can you remember which  
9 ones you may have taken?

10 A. Well, I've taken John Reid School of  
11 interview interrogation. I had three -- two other  
12 classes regarding interview and interrogation,  
13 homicide investigations; seminars which were three,  
14 four and five days long with the renowned -- one of  
15 them was the renowned Dr. Henry Lee; Roy Hazelwood;  
16 other update basic homicide investigations.

17 Q. So these are classes that you've gone to?

18 A. Correct.

19 Q. Okay. Have you ever instructed a class in  
20 homicide investigation or any kind of investigation?

21 A. No.

22 Q. Have you ever instructed any police training  
23 classes?

24 A. No.

1 Q. Have you ever written any types of articles  
2 or publications regarding police investigation topics?

3 A. I -- when I was still in investigations, I  
4 did write up a procedure for on-the-scene homicide  
5 investigations.

6 Q. That was for internal use?

7 A. Correct.

8 Q. For the department?

9 A. Yes, a binder to take with you when you have  
10 a homicide investigation, make sure -- it was a  
11 checklist to make sure what it was.

12 Q. And where did you obtain the information from  
13 that?

14 A. Various classes, experience, knowledge.

15 Q. Okay. So this was -- these were -- these  
16 procedures were based on information that you gathered  
17 from other courses?

18 A. Correct.

19 Q. Okay. And when -- when did you do that?

20 A. Well, see, I retired in 2000. I don't have  
21 an exact recall of the date. Perhaps 1998, maybe  
22 1999.

23 Q. Okay. Have you ever served in any positions  
24 in any police organizations such as any -- any police

1 organizations? Have you belonged to -- held any high  
2 level positions?

3 A. No.

4 Q. Have you been on the faculty anywhere of any  
5 police organ -- police training organization?

6 A. No.

7 Q. Have you ever testified as an expert witness  
8 in any situation?

9 A. No.

10 Q. Have you ever been asked to testify as an  
11 expert witness?

12 A. No.

13 Q. Do you -- would you consider yourself an  
14 expert witness in issues regarding police  
15 investigation?

16 A. Absolutely not.

17 Q. The -- you testified early on in your  
18 questioning by Mr. Bowman about Frank Zayas's  
19 responsibility, and one of the things you said was he  
20 was responsible to assure records get to the State's  
21 Attorney's Office. And I think you -- the example you  
22 used was the Harry Truman, the buck stops at the top.  
23 So he was -- as the supervisor of CID, that would have  
24 been one of his responsibilities, correct?

1 A. Yes.

2 Q. Okay. And we talked about the standard  
3 procedures that were used in that certain documents  
4 were disseminated, one copy was supposed to go to  
5 central files; and at some point in time, the central  
6 files or some action would be taken to get the main  
7 file to the State's Attorney. That was the general  
8 procedure, right?

9 A. Would you restate your question?

10 Q. Yeah, let me restate that.

11 A. Okay.

12 Q. Well, Mr. Bowman just read you some testimony  
13 by Frank Zayas regarding some procedures that  
14 generally were followed regarding the routing of  
15 records up the chain of command and eventually into  
16 the records department and then presumably to the  
17 State's Attorney's Office, correct?

18 A. Correct.

19 Q. All right. And that was your understanding  
20 of what the general practice was?

21 A. General practice, yes.

22 Q. Okay. Obviously there were situations where  
23 things fell through the cracks, correct?

24 A. I would venture to say there is or was.

1 Q. In this case and in other cases?

2 MR. BOWMAN: Objection, foundation.

3 MR. DiCIANNI: I'll withdraw the question.

4 BY MR. DiCIANNI:

5 Q. In this case, there were obviously certain  
6 situations in which things fell through the cracks,  
7 correct?

8 MR. BOWMAN: Objection, foundation.

9 THE WITNESS: It appears to be, yes.

10 BY MR. DiCIANNI:

11 Q. All right. That doesn't mean that somebody  
12 purposefully or anybody purposefully or intentionally  
13 took some action to cause those things to fall through  
14 the cracks, correct?

15 MR. BOWMAN: Objection, foundation.

16 THE WITNESS: That's correct.

17 BY MR. DiCIANNI:

18 Q. All right. You yourself say that you didn't  
19 do anything, in response to Mr. Bowman's questions, to  
20 cause the polygraph examination of John Murray to not  
21 get to the State's Attorneys; that's your testimony,  
22 correct?

23 A. Correct.

24 Q. You say -- you have no memory of ever taking

1 possession of it or seeing it back then, correct?

2 A. Correct.

3 Q. You say that only because you know that you  
4 had no reason to do that, and that's not something you  
5 would have done, correct?

6 A. Your --

7 MR. BOWMAN: The form of that question is  
8 bad.

9 THE WITNESS: Your question confuses me.

10 BY MR. DiCIANNI:

11 Q. All right. Well, let me rephrase that.

12 If -- if -- you don't remember -- obviously I  
13 don't want to beat the question up, but you don't  
14 remember getting that report, correct?

15 A. That's correct.

16 Q. Dave Warner says he gave you that report.  
17 You're familiar with that, correct?

18 A. That's what I -- my understanding is that's  
19 what he testified to, yes.

20 Q. Yes. Assuming that Dave Warner is correct  
21 and you just misplaced that report so it never got to  
22 records or you lost it or it somehow got put in a  
23 different file accidentally, you would have caused --  
24 you would be able to say that you caused that record

1 not to get to the State's Attorney's Office, correct?

2 MR. BOWMAN: Objection.

3 BY MR. DiCIANNI:

4 Q. Assuming my -- my facts?

5 MR. BOWMAN: Objection; hypothetical,  
6 speculation, lacks foundation.

7 THE WITNESS: Is this an accusation or --

8 BY MR. DiCIANNI:

9 Q. No, it's not.

10 A. -- is this a statement or --

11 Q. No, this is --

12 A. -- possibilities that it could've happened?

13 Q. Yes, possibilities.

14 A. That's a possibility, yes.

15 Q. Okay. So as you sit here today --

16 MR. BOWMAN: Same objection to the following  
17 questions just to be clear.

18 BY MR. DiCIANNI:

19 Q. As you sit here today and you say to  
20 Mr. Bowman that you know you did nothing to cause it,  
21 what you mean is you did nothing intentionally to  
22 cause it, correct?

23 A. Intentionally is the keyword. Yes.

24 Q. Okay. All right. And do you have any reason

1 to believe that Frank Zayas did anything to  
2 intentionally cause either the polygraph report or  
3 anything else not to get to the State's Attorney's  
4 Office?

5 MR. BOWMAN: Objection, foundation.

6 THE WITNESS: I would think not.

7 BY MR. DiCIANNI:

8 Q. All right. Now, you've -- you've kept touch  
9 with Frank Zayas since he left the department, haven't  
10 you?

11 A. Yes, I have.

12 Q. In fact, you visited him a few times in  
13 Sarasota?

14 A. Well, I -- I didn't go to Sarasota to visit  
15 him. My sister lives there.

16 Q. Yeah.

17 A. When I go down to visit her, we get in touch.

18 Q. You'd get together?

19 A. Yes.

20 Q. Haven't you stayed with him at times at his  
21 place?

22 A. No.

23 Q. No? Okay. But you've been down there, and  
24 that's since he left the department, correct?

1 A. Correct.

2 Q. Have you had conversations with him about the  
3 Beaman case?

4 A. I don't recall having conversations with  
5 Frank Zayas about the Beaman case when I visited him  
6 in Sarasota.

7 Q. Okay. Do you -- do you remember -- have you  
8 ever had conversations with him about the lawsuit?

9 A. I think that came up because I believe he  
10 stated at one time he or his wife, Nancy, would read  
11 the Pantagraph, the local newspaper, on the website  
12 down there.

13 Q. Okay.

14 A. Of course, he got served too. He said he got  
15 served.

16 Q. Right. So -- so you did have conversations  
17 with him about the lawsuit?

18 A. Yes, in passing, yes. It was no detailed  
19 what happened here and what happened there, no. Just  
20 the mention of the fact that the lawsuits.

21 Q. Okay. And he was -- and you -- this was in  
22 person you had the conversation with him, correct?

23 A. Yes.

24 Q. Okay. Did he mention anything to you about

1 any of the allegations that were in the complaint  
2 against him?

3 A. I do not recall.

4 Q. When you said it was -- well, strike that.

5 We saw in the records that Mr. Bowman showed  
6 you that he was present, he, Frank Zayas, was present  
7 at the meeting on February 18 with the Chicago Police,  
8 correct?

9 A. Yes.

10 Q. And that's 1994.

11 And then he was -- he appeared to be present  
12 with the -- at the meeting in May where the decision  
13 was made to arrest Alan Beaman --

14 MR. BOWMAN: Object --

15 BY MR. DiCIANNI:

16 Q. -- at least -- at least according to that  
17 report, correct?

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

20 THE WITNESS: Yes.

21 BY MR. DiCIANNI:

22 Q. Okay. And we saw also in another report that  
23 Frank was no longer the head of CID as of  
24 March 7 or February -- I don't remember the exact

1 date, but sometime in February of '94 until June of  
2 '94, he was not the head of CID. We saw that in the  
3 Freesmeyer report, correct?

4 MR. BOWMAN: Objection, form and foundation.

5 THE WITNESS: If that was in the report, then  
6 that would be the correct dates.

7 BY MR. DiCIANNI:

8 Q. Well, let me -- let me go to that then. I'm  
9 referring to Exhibit Number -- Daniels Exhibit 12  
10 which is the Freesmeyer monthly report.

11 On -- well, let me ask you a back-up  
12 question. It says on the folder cover, which would be  
13 the first page of this, Freesmeyer's Monthly Report.  
14 And that's your writing, correct?

15 A. Yes.

16 Q. This came out of your -- your documents --

17 A. Correct.

18 Q. -- that you produced to the State's  
19 Attorney's lawyers?

20 A. Yes.

21 Q. I should say the County's lawyers in response  
22 to the subpoena.

23 MS. BARTON: Thank you.

24

1 BY MR. DiCIANNI:

2 Q. It's actually more of an annual report than a  
3 monthly report, would that be accurate?

4 MR. BOWMAN: Objection; foundation, calls for  
5 speculation.

6 THE WITNESS: If I may read on the first  
7 page, it does say the division was assigned a total of  
8 940 cases as compared to 1165 for 1993. That  
9 indicates it probably is an annual report.

10 BY MR. DiCIANNI:

11 Q. Yeah. And it covers activities in almost  
12 every month of that year, correct?

13 A. Well, I didn't read it. I couldn't tell you  
14 what it does cover or does not.

15 Q. All right. In any event, on page S --  
16 Daniels SDT 970 at the bottom -- and we talked about  
17 this before. It says that Lieutenant Zayas -- that  
18 Frank Filliponi took over as CID supervisor from  
19 1-1-94 to 3-7-94, and then Sergeant Daniels took over  
20 from 3-7-94 until 6-94, and then Frank Zayas returned  
21 to be the CID supervisor in June of '94.

22 And you -- you have no quarrel with that --  
23 with that part of the report, correct?

24 MR. BOWMAN: Objection, foundation.

1 THE WITNESS: I -- I can't testify as to what  
2 Freesmeyer had put in this report to be accurate or  
3 not.

4 BY MR. DiCIANNI:

5 Q. Okay. But we did talk earlier at your last  
6 session that you do recall there was a point in time  
7 when you were the -- you were the temporary CID  
8 supervisor because Filliponi had retired and, Frank  
9 Zayas was out of that position and then he returned.  
10 You recalled that, but you couldn't recall the exact  
11 dates?

12 A. Correct.

13 Q. Okay. The fact that Frank Zayas is present  
14 at this meeting in February with the Chicago Police,  
15 that doesn't mean that he was still the head of CID,  
16 correct?

17 MR. BOWMAN: Objection; speculation,  
18 foundation.

19 THE WITNESS: I couldn't recall if that was  
20 the time that he traveled with us, he was still in  
21 charge or not.

22 BY MR. DiCIANNI:

23 Q. Well --

24 MR. BOWMAN: Did you want to continue your

1 answer?

2 BY MR. DiCIANNI:

3 Q. Oh, I'm sorry. If you weren't --

4 A. I'm reading from his report.

5 Q. Yeah.

6 A. From Freesmeyer's report. In fact, that's  
7 what it says in there. I got no way to challenge  
8 those dates. I don't recall those dates.

9 Q. Well, I understand that. But Counsel had  
10 asked you based on Freesmeyer's police report, not  
11 this monthly -- this annual report, but based on his  
12 police report where there's a reference to Frank Zayas  
13 being at the police -- Chicago Police Department on  
14 February 18, 1994 and also being at the meeting about  
15 Beaman in May of 1994. Mr. Bowman asked you does that  
16 indicate to you that he was still active in the  
17 investigation.

18 So I'm asking -- my question to you is those  
19 two references in the report that Mr. Bowman was  
20 talking about don't indicate that Frank Zayas was  
21 still the head of CID, do they?

22 MR. BOWMAN: Objection; foundation,  
23 speculation, compound, argumentative.

24 THE WITNESS: They do not indicate that;

1       however, my recollection is that he was still in  
2       charge. My recollection of the date that we went to  
3       Chicago, I recall him the one that driving and he was  
4       in charge.

5       BY MR. DiCIANNI:

6             Q.    Well, what do you mean by "he was in charge?"  
7       In charge of what?

8             A.    Well, of us three going up there.

9             MR. DiCIANNI:  What report was that, 12?

10            MS. BARTON:  5?  Freesmeyer.

11            MR. DiCIANNI:  5, Freesmeyer.

12       BY MR. DiCIANNI:

13             Q.    Well, do you mean that because he's a  
14       lieutenant, he's in charge of yourself and  
15       Freesmeyer --

16             MR. BOWMAN:  Object --

17       BY MR. DiCIANNI:

18             Q.    -- just based on the chain of command?

19             MR. BOWMAN:  Objection; mischaracterizes the  
20       testimony, argumentative.

21             THE WITNESS:  As a lieutenant with two  
22       detective officers with him, he would be in charge.

23       BY MR. DiCIANNI:

24             Q.    Okay.  All right.  So you're under his

1 command because his -- of his rank, correct?

2 A. Yes.

3 Q. All right. That doesn't mean -- the fact  
4 that he's coming with you to this meeting at the  
5 Chicago Police Department, that doesn't mean he's  
6 still the head of CID? You can't make that  
7 conclusion, can you?

8 MR. BOWMAN: Objection, foundation.

9 THE WITNESS: I cannot definitely say for  
10 sure that that was his title at that time and moment.  
11 I can say as a lieutenant, he was in charge, and he  
12 still had his hands in on the investigation.

13 BY MR. DiCIANNI:

14 Q. Okay. Well, obviously he's present?

15 A. Okay.

16 Q. But you don't know --

17 A. No.

18 Q. -- to what extent he's still involved in the  
19 investigation, correct?

20 A. No.

21 Q. And that's the same thing in -- on May 16, I  
22 believe it was, or 17, 1994, where he attends the  
23 meeting where the discussion is had about arresting  
24 Beaman, you can't say on that date and time what

1 involve -- what continuing involvement he had in the  
2 investigation?

3 A. I could not be sure, no.

4 Q. All right. And it certainly could be  
5 helpful, couldn't it, to have a detective who had been  
6 involved in the investigation but no longer was to  
7 attend these meetings, correct?

8 MR. BOWMAN: Objection; foundation,  
9 speculation.

10 THE WITNESS: That would not been my call.

11 BY MR. DiCIANNI:

12 Q. But you can say that could be helpful?

13 A. In my opinion --

14 MR. BOWMAN: Same set of objections.

15 THE WITNESS: In my opinion, yes.

16 BY MR. DiCIANNI:

17 Q. Okay. When you -- when you testified that it  
18 would have been Frank Zayas's responsibility to assure  
19 that the polygraphs we've been talking about made it  
20 the State's Attorney's Office, you're not saying it's  
21 his fault that they didn't get to the State's  
22 Attorney's Office, are you?

23 A. Absolutely not.

24 MR. BOWMAN: Objection. I -- where to start.

1 Foundation, form -- foundation and form for a number  
2 of reasons.

3 BY MR. DiCIANNI:

4 Q. We heard at the first -- at prior sessions  
5 we've been involved in, we've heard about your working  
6 file, and we heard about the main file, and we heard  
7 that other detectives also would have had, as far as  
8 you know, working files.

9 Did you take any action to transfer your  
10 working file to the State's Attorney's Office?

11 A. Not that I recall.

12 Q. And we heard that when you left the  
13 department, you still had -- well, your working file  
14 ended up in your home at some point in time. We don't  
15 know when, but at some point in time, it ended up at  
16 your home, correct?

17 A. Correct.

18 Q. And you have no memory of doing anything, of  
19 taking action to transfer your working file to the  
20 records division, correct?

21 A. As I recall, no.

22 Q. Now, you testified last time that you -- when  
23 a question -- when questions were asked to you about  
24 Mr. Beaman's alibi, you testified that we examined his

1 car and had doubts that he could drive it to Rockford  
2 and back within that time frame. I'm paraphrasing  
3 your testimony. But the -- but -- but the important  
4 question is you said we examined his car. Who -- who  
5 was we in that statement?

6 A. Detective Rob Hospelhorn.

7 Q. And yourself?

8 A. Correct.

9 Q. And when did you do that?

10 A. Right after Alan Beaman walked out of the  
11 Winnebago County Sheriff's Department.

12 Q. And how did you examine his car?

13 A. We looked at it with our eyes. We used no  
14 instruments.

15 Q. Okay. You just looked at it?

16 A. Correct.

17 Q. And it looked like a little beater which  
18 couldn't get back and forth in time, right?

19 A. Well, in my opinion, yes.

20 Q. Okay. You know what I mean by beater?

21 A. Yes.

22 Q. Yeah. Okay. But not impossible for it to  
23 get back and forth in time, just unlikely --

24 A. I didn't.

1 Q. -- in your opinion?

2 A. I didn't turn the engine in or get inside and  
3 run it around the block, no.

4 Q. So not impossible?

5 A. I can't say that.

6 Q. You started to say -- and maybe we need to go  
7 to the transcript for this. And I don't want to go  
8 back and forth between the transcript like it's a  
9 trial and all that. I don't think that's appropriate.  
10 But for this question, I think maybe we need to do  
11 that.

12 You were asked by Mr. Bowman -- this is on  
13 page 133. You were asked by Mr. Bowman about yours  
14 and Rob Hospelhorn's interview with Beaman on  
15 August 28. And you were asked the question:

16 "Was there -- did the  
17 investigators get anything else on  
18 Beaman that was further support  
19 for the proposition that Beaman  
20 was the perpetrator?"

21 And you answered:

22 "Yes, there had been."

23 And Mr. Bowman asked you:

24 "What is that?"

C07376

1                   And you answered:

2                                   "Well, the information that  
3                                   came about as a pretrial or  
4                                   posttrial conviction, I learned  
5                                   that information was  
6                                   misrepresented by Tim Freesmeyer.  
7                                   I also learned during the  
8                                   testimony of Judge Souk that  
9                                   information was omitted."

10                   What I want to know is -- and was never went  
11                   into as to what was misrepresented. What are you  
12                   referring to there in that statement that was  
13                   misrepresented by Tim Freesmeyer?

14                   A. Tim Freesmeyer in testimony on one of the  
15                   hearing -- post-conviction hearings testified that Mr.  
16                   Beaman had said -- there were two different routes to  
17                   the bank from Beaman's residence. And one route would  
18                   have indicated and pointed to the fact that Beaman did  
19                   have the opportunity to leave the bank, drive home,  
20                   and drive to Jennifer's residence; and the other  
21                   route, of course, indicate he didn't have time.

22                   Well, the testimony that I understand was the  
23                   fact that Tim Freesmeyer represented the route, and he  
24                   said that Alan said this was the route that I had

1 taken that would have give him the opportunity to  
2 commit the crime when, in fact, that's not what the  
3 route that Beaman had taken.

4 Q. So --

5 A. From the bank to his residence.

6 Q. So what was the misrepresentation by  
7 Mr. Freesmeyer?

8 A. That he had the wrong route. He indicated  
9 that Alan said one route was the route he had taken,  
10 which would have included him as a suspect as the  
11 person who committed the crime, when, in fact, Alan  
12 said, no, that's not the route I told you.

13 Q. I see.

14 A. And I think it was in jury -- or grand jury.

15 Q. Okay. So the misrepresentation that you  
16 believe Mr. Freesmeyer made came during testimony?

17 A. Yes, I believe it did.

18 Q. And when was that testimony given?

19 A. I don't know the date of it. It was a  
20 post -- posttrial.

21 Q. Okay.

22 A. Post-conviction trial.

23 Q. It was during the post-conviction part?

24 A. Yes.

1 Q. All right. So you went through those  
2 transcripts from the post-conviction case?

3 A. No, I didn't go through the transcript.

4 Q. Well, how did you know what he testified to?

5 A. I believe I recalled hearing it because I was  
6 there.

7 Q. You were in the courtroom?

8 A. Yes.

9 Q. You also said: "I also learned during the  
10 testimony of Judge Souk that information was omitted."

11 And what were you referring to there; can you  
12 remember?

13 A. The viable suspect they had cleared, John  
14 Larbi, in regards -- the polygraph had a part to play  
15 in that testimony, whether or not they received a  
16 report of a polygraph.

17 Q. Well, can you remember what the exact  
18 testimony of Judge Souk was that indicated to you that  
19 information was omitted?

20 A. No, I don't.

21 Q. Again, you're talking about some testimony  
22 that you heard Judge Souk give while you were sitting  
23 in the courtroom?

24 A. I believe that's what I testified to, yes.

1 Q. All right. Did you ever listen to the 9 --  
2 the answering machine messages from Jennifer's  
3 answering machine?

4 A. Yes.

5 Q. Do you remember Stacey Gates's calls?

6 A. On her phone?

7 Q. Yeah.

8 A. No, not really. I remember the name Stacey,  
9 Bubba.

10 Q. Bubba?

11 A. Stacey Gates getting -- being mentioned on  
12 her phone. But conversations, no.

13 Q. Do you remember that he was calling  
14 consistently wanting her to call him back so they can  
15 test -- so they can set up a time to meet that  
16 weekend?

17 A. They were to, yes.

18 Q. Okay.

19 A. They were to meet that weekend.

20 Q. And do you recall that those conversate --  
21 those calls continued even after the point in time  
22 when it's believed she was murdered?

23 A. No, I don't.

24 Q. Okay. Was that not your part of the case or

1 was that --

2 A. No, I wouldn't say that. What I'm saying in  
3 answer to your question is I don't recall hearing  
4 those or listening to those.

5 Q. Did you consider Stacey Gates your part of  
6 the case, investigating Stacey Gates your part of the  
7 case?

8 A. Whether or not I had taken personal attention  
9 to Stacey or Bubba, Stacey Gates, I don't recall  
10 getting personally involved in interviewing him.

11 I do recall when we came back from Rockford  
12 that same night that we talked to Alan that he had  
13 made a call to our radio operator, that -- Normal PD  
14 to the point where he was demanding to know what was  
15 going on. And I satisfied his curiosity by telling  
16 him that we're investigating something, and I couldn't  
17 release any information. I think basically that's  
18 about it.

19 Q. Well --

20 A. Now, as far as talking to him and  
21 interviewing him, I don't believe I did.

22 Q. Well, my question went more to who had  
23 responsibility for him in the investigation. We've  
24 heard testimony both from you and others that various

1 suspects were sort of split up between the  
2 investigators. You had Beaman first and then  
3 Freesmeyer was given Beaman. Freesmeyer had Swaine.  
4 You had Murray. And I'm wondering who had Gates; do  
5 you know?

6 A. I don't --

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

9 THE WITNESS: I don't recall.

10 BY MR. DiCIANNI:

11 Q. All right. You do -- you do, though, agree  
12 that each of the investigators sort of split up  
13 the -- who was going to follow up on each suspect,  
14 correct?

15 MR. BOWMAN: Objection, form, foundation.

16 THE WITNESS: I don't know who us was  
17 assigned to -- what investigator was assigned to what  
18 suspect or people to interview.

19 BY MR. DiCIANNI:

20 Q. You know who you were assigned to?

21 A. Yes.

22 Q. And who were you assigned to?

23 A. First was Alan --

24 Q. Right.

1           A.    -- and then we talked to several other people  
2 that names came up during the investigation.

3           Q.    And then John Murray was one you were --

4           A.    Yes.

5           Q.    But you don't remember if you were assigned  
6 to Stacey Gates or you weren't assigned?

7           A.    I do not remember.

8           Q.    Okay. You made the statement that all of the  
9 recorded statements of Beaman from the overhears were  
10 consistent with his innocence. Is that a statement  
11 that you stand by here?

12          A.    There did not seem to be anything on those  
13 overhears to indicate that he himself admitted to her  
14 murder; but as I recall, his whereabouts, his alibi  
15 seemed consistent.

16          Q.    Weren't there some statements on his -- well,  
17 strike that.

18                I should ask you first, did you listen to his  
19 overhears?

20          A.    No, I did not listen to the overhears.

21          Q.    Did you read the transcripts?

22          A.    I read some of the transcripts.

23          Q.    And was there nothing in those transcripts  
24 that could have been consistent with guilt?

1           A.    Well, I'm sure if there had been Tim  
2           Freesmeyer or one else who listened to it or read the  
3           transcripts would have caught their attention.

4           Q.    So the statement -- the question you were  
5           asked by Mr. Bowman about Beaman's statements being  
6           completely consistent with innocence, that's not  
7           exactly accurate?

8           MR. BOWMAN:  Objection, argumentative.

9           THE WITNESS:  Depends how you want to  
10          interpret the statements and what prior knowledge you  
11          had of his other statements.

12         BY MR. DiCIANNI:

13          Q.    Well, as you sit here now, you're not  
14          confident to say that all of Beaman's statements were  
15          consistent with innocence, correct?

16          MR. BOWMAN:  Objection.  I mean, that's  
17          argumentative, and that's exactly the contrary of what  
18          he's just testified to.

19         BY MR. DiCIANNI:

20          Q.    You could answer.

21          A.    What my recollection of reading the  
22          transcripts and also interviewing Alan appears to be  
23          consistent.  The context appears -- in my opinion  
24          appears to be consistent.

1 Q. With innocence?

2 A. Yes.

3 Q. And there's no part of it that reasonable  
4 people could construe as being consistent with guilt?

5 A. I can't recall.

6 Q. One of the statements that he made was that  
7 Jennifer was better off dead basically. And at least  
8 one of the other investigators thought that that was  
9 consistent with guilt because it is a -- it is a means  
10 of sort of consoling yourself and this -- represented  
11 this as being an investigative piece of knowledge.

12 In your mind, did the statement that she's  
13 better off dead have any investigative value?

14 MR. BOWMAN: Object to the form of the  
15 question. Object in particular that, you know, it's  
16 incomplete and inaccurate characterization of the  
17 tape. Ask that question properly, you should put the  
18 transcript in front of the witness.

19 BY MR. DiCIANNI:

20 Q. You can go ahead and answer.

21 A. You need an answer?

22 Q. Well, I'm asking you.

23 A. Oh, right now?

24 Q. Yeah.

1 A. Excuse me.

2 Q. Why don't I read --

3 A. I understand what you're saying.

4 Q. Okay.

5 A. In my opinion, that statement in and of  
6 itself doesn't add to his guilt or innocence.

7 Q. Not at all?

8 A. In my opinion, not at all.

9 Q. Okay. What about the statement where he  
10 made -- he said that Jennifer treated him as though it  
11 were a sharp, silver object in his chest? Do you  
12 remember reading or hearing that statement?

13 A. No, I don't.

14 Q. Okay. Would that statement -- assuming that  
15 that's the statement he made, would that statement  
16 have any investigative value in this case given that  
17 Jennifer was stabbed in the chest with a scissors?

18 MR. BOWMAN: Objection, form of the question.

19 BY MR. DiCIANNI:

20 Q. In your opinion.

21 MR. BOWMAN: Objection to the form of the  
22 question, in particular the proper way to ask that  
23 question is to place the transcript in front of the  
24 witness who's testified that the statements have to be

1 perceived in context.

2 MR. DiCIANNI: Well --

3 MR. BOWMAN: And also object to the extent --  
4 and I don't have the transcript in front of me either,  
5 but I object to the extent that that question may or  
6 may not accurately characterize the specific portion  
7 of the transcript on which counsel is -- is focused.

8 MR. DiCIANNI: Well, I have to disagree with  
9 you, Mr. Bowman. This is not like an impeachment at  
10 trial. I'm getting his opinion --

11 MR. BOWMAN: I don't want to debate it.

12 MR. DiCIANNI: I'm getting it his general --

13 MR. BOWMAN: I don't want to debate it with  
14 you.

15 MR. DiCIANNI: Okay. All right.

16 MR. BOWMAN: I've made my objection.

17 MR. DiCIANNI: Okay. Could you read back the  
18 question.

19 (Whereupon, the record was  
20 read as requested.)

21 MR. BOWMAN: And I interpose the same  
22 objections to the question as restated by the court  
23 reporter.

24 THE WITNESS: That statement like the

1 previous question taken out of context by itself would  
2 not indicate any remorse indication that he had  
3 murdered Jennifer.

4 BY MR. DiCIANNI:

5 Q. Okay. So to you it's not consistent in any  
6 way with guilt?

7 A. That statement in -- by itself taken out of  
8 context, no.

9 Q. Okay. What about Beaman not talking about  
10 having been to the bank even though he had been  
11 questioned several times about his activities that  
12 morning, did that have any investigative value to you?

13 A. Well, certainly it could have depending on  
14 the dates and times that he left work and so forth.  
15 It would help indicate, and it did apparently, whether  
16 or not he could have possibly been down in Normal at  
17 the time, but it doesn't mean that he had murdered  
18 her. May -- it could mean that he had the opportunity  
19 or did not much like his vehicle information.

20 Q. I'm referring more to, though, his statement,  
21 not that the fact that he was at the bank, but his  
22 statement that he -- in his statements he never raised  
23 the question or disclosed that he had actually been to  
24 the bank that morning. That's what I'm referring to.

1 Does his lack of disclosure of having been to  
2 the bank that morning have any investigative value in  
3 your opinion?

4 A. Not necessarily.

5 Q. Why not?

6 A. Given the condition that he was in that  
7 night, in my opinion, I think I testified that he  
8 appeared to be under the influence of perhaps drugs  
9 and/or alcohol, plus the fact that he was tired. He  
10 was going to work. It could have slipped his mind.  
11 Maybe he placed no importance upon that.

12 Q. And you're referring to the conversation you  
13 had with him on August 28?

14 A. Correct.

15 Q. Okay. But later on in subsequent  
16 conversations which were tape recorded with  
17 Freesmeyer, he continued to not disclose having been  
18 to the bank. You're aware of that, correct?

19 MR. BOWMAN: Objection to the form of the  
20 question. It's argumentative, particularly the phrase  
21 "not disclose."

22 THE WITNESS: I wasn't aware that he had been  
23 to the bank until Freesmeyer informed us through the  
24 use and verification of videotape.

1 BY MR. DiCIANNI:

2 Q. But you were aware that Beaman never  
3 disclosed in any of his statements that he had been to  
4 the bank?

5 A. I don't --

6 MR. BOWMAN: Same objection to the form of  
7 the question.

8 THE WITNESS: I don't recall that being in  
9 any of his statements.

10 BY MR. DiCIANNI:

11 Q. All right. Are -- is it your opinion that  
12 John Murray is an equal suspect to Beaman?

13 A. As of what period of time in the  
14 investigation?

15 Q. Now.

16 A. My opinion?

17 Q. Yeah.

18 A. My opinion is that he is the prime suspect.

19 Q. He is a greater suspect than Alan Beaman?

20 A. Correct.

21 Q. What is your theory of John Murray's having  
22 murdered Jennifer?

23 A. Point that they were to get back together.  
24 Perhaps he found out that she was to have a weekend

1 with Bubba, her -- one of her flames in high school  
2 back in Decatur. The fact that he was their drug  
3 supplier, and there's a possibility that she owed him  
4 money, something to do with drugs.

5 That give rise -- but there's other  
6 circumstances -- circumstantial evidence that points  
7 to him more so than Alan Beaman. And if one were to  
8 take a chalkboard and draw a line down the middle on  
9 that chalkboard and put Beaman on one side and Murray  
10 on the other side and list the information taken from  
11 interviews and information known, I think one would  
12 draw the conclusion that there's more evidence  
13 pointing to Murray, circumstantial evidence, than  
14 there is Alan Beaman in my opinion.

15 Q. Well, let's talk about that. You're saying  
16 that Murray's motive was jealousy because he  
17 thought -- he wanted to get back with Jennifer, and he  
18 thought she was going to see Bubba that weekend.  
19 That's one motive?

20 A. Correct.

21 Q. How does that square with it being common  
22 knowledge that Jennifer was going out with Michael  
23 Swaine and had just broken up with Alan Beaman? How  
24 does it square that he would become so enraged to

1 commit a murder over finding out that she's going to  
2 see this fellow this weekend when she's already with  
3 another fellow?

4 A. You're asking me an opinion?

5 Q. Yeah.

6 A. I don't know.

7 Q. Okay. And I didn't -- and during the  
8 questioning about the drug debt, I apologize if I  
9 smirked. Mr. Berman -- Mr. Bowman thought I had  
10 smirked, and I apologize if I did that.

11 But is it -- is it your serious opinion that  
12 John Murray may have murdered Jennifer over a \$20  
13 nonpayment for a small bag of marijuana or whatever it  
14 was?

15 A. I don't believe I stated that was the amount  
16 in which would have been involved in the murder. That  
17 was the money that she drove to his apartment and paid  
18 John Murray according to John Murray's statement that  
19 she had owed him for a prior buy in the past.

20 Now, I don't think I said that that's a  
21 motive, \$20 being a motive. What I'm saying is  
22 there's other drugs involved, there could have been a  
23 large amount. That's, again, my opinion.

24 Q. Is there any -- there's no evidence, though,

1 that there was a larger amount than \$20, right?

2 A. Correct, there isn't. But this is plain  
3 theory; what you asked me, theory. Theory is based on  
4 something unless it's been proved yet.

5 Certainly it has a lot more weight in it than  
6 what the State's Attorney thought his -- their first  
7 two theories were.

8 Q. About what?

9 A. Why Alan killed her.

10 Q. Well, you can't deny that Alan had a -- had a  
11 strong passion for her, correct?

12 A. I -- I agree with that.

13 Q. And this was a crime of passion we think,  
14 correct?

15 A. Okay.

16 MR. BOWMAN: Objection, it's --

17 BY MR. DiCIANNI:

18 Q. And there's --

19 MR. BOWMAN: That's argumentative, misstates  
20 the evidence.

21 BY MR. DiCIANNI:

22 Q. Well, that was your opinion it was a crime of  
23 passion, wasn't it?

24 A. That was a possibility, yes.

1 Q. Yeah. Okay. And there's no indication that  
2 John Murray had any passionate feelings about  
3 Jennifer, correct?

4 A. I do not know if there is or not in his  
5 heart. I don't know what's in his heart.

6 Q. Well, there's no evidence of that. You  
7 didn't have any evidence of that?

8 A. On the surface?

9 Q. Yes.

10 A. Well, the information that came to us was the  
11 fact that those two were to get back together, renew  
12 their relationship. Now, there had to be some passion  
13 in there.

14 Q. Well, how does renewing relationship become  
15 or the possibility of renewing a relationship become a  
16 motive for murder?

17 A. She found -- he found out perhaps that she  
18 was going to see Bubba.

19 Q. Okay.

20 A. Stacey Gates that weekend.

21 Q. All right.

22 A. Or there could've been somebody in the  
23 apartment at the same time.

24 Q. Would you agree with me that the reasonable

1 minds can differ over the strength of John Murray's  
2 motive?

3 A. Would you re -- repeat that question.

4 MR. DiCIANNI: Yeah. Would you repeat it,  
5 please.

6 (Whereupon, the record was  
7 read as requested.)

8 MR. BOWMAN: State an objection to the form  
9 of that. That's vague and ambiguous.

10 THE WITNESS: My opinion, yes.

11 BY MR. DiCIANNI:

12 Q. Okay. You mentioned that Murray had never  
13 been excluded as a suspect, at least in your mind,  
14 correct?

15 A. In my mind, correct.

16 Q. Okay. Is it a requirement of a  
17 prosecution -- strike that.

18 Based on your investigation and training --  
19 I'm sorry, your experience and training, is it a  
20 requirement that any potential suspect be excluded  
21 before a prosecution of someone else proceeds?

22 MR. BOWMAN: Are you asking him as an  
23 investigator --

24 MR. DiCIANNI: Yeah.

1 MR. BOWMAN: -- as to what should happen  
2 before there's an arrest for a serious crime?

3 MR. DiCIANNI: Yes.

4 MR. BOWMAN: Whether there should be an  
5 exclusion of other possible -- okay.

6 THE WITNESS: Yes.

7 BY MR. DiCIANNI:

8 Q. Is that something you were taught or is that  
9 just your opinion?

10 A. Let me tell you that that came from a  
11 conference I had with an agent from the FBI  
12 criminologist. If you can't exclude him, then you  
13 have to include them during your investigation.

14 Q. Well, what about those situations where there  
15 are several suspects. The evidence against one, at  
16 least in the minds of the people making the decisions,  
17 is stronger than the evidence against the other.

18 Is it your opinion based on your experience  
19 and training that in that situation you -- the arrest  
20 should not be made of the person with the stronger  
21 evidence against him?

22 MR. BOWMAN: That's argumentative, wildly  
23 hypothetically hypothetical, and incomplete. Are you  
24 asking him about this case, or are you asking him just

C07290

1 in general with no information other than what you've  
2 just stated?

3 BY MR. DiCIANNI:

4 Q. Go ahead.

5 A. In my opinion, any case that had more than  
6 one suspect, the suspect should not be arrested unless  
7 the other suspects can be eliminated.

8 Q. And the other suspects in this case were all  
9 eliminated in your mind except for John Murray?

10 A. I can't answer that question.

11 Q. Okay. At least John Murray was not eliminate  
12 in your mind?

13 A. Correct.

14 Q. Tell me what was suspicious about John Murray  
15 going to the motel after finding out Jennifer had been  
16 murdered?

17 A. Well, he stated in his statement, I believe  
18 it was, the fact that he was afraid of Alan Beaman.

19 Q. Why would that be indicative of potential  
20 guilt of Murray?

21 A. Well, that in and of itself does not. With  
22 other circumstances there, it does add to the  
23 suspicions that he's a strong suspect. Why would --  
24 other reason would he be afraid of Alan Beaman?

1 Q. Are you saying that he'd be afraid because  
2 Beaman would know that he murdered Jennifer, and  
3 Beaman would then be coming after him; is that what  
4 your point is?

5 A. That certainly is a possibility.

6 Q. The other possibility would be that he was  
7 afraid -- he has information that Beaman killed  
8 Lockmiller and is afraid he's next?

9 MR. BOWMAN: Objection to the factual basis  
10 for that. Objection.

11 THE WITNESS: Well, certainly there's two  
12 answers to that question. One that he himself had  
13 killed Lockmiller and he was afraid of Alan Beaman, or  
14 he had information as to Alan killing Lockmiller, and  
15 he didn't want John Murray to find out.

16 BY MR. DiCIANNI:

17 Q. He didn't want --

18 A. Or --

19 Q. -- Alan Beaman?

20 A. Finding out. He had information.

21 Q. Okay. Let's talk about the polygraph of John  
22 Murray. Did you leave the -- strike that. Let me  
23 rephrase that.

24 You did not get any information from

C07398

1 Mr. McCann, did you, that Murray -- that Mr. McCann  
2 believed Murray intentionally manipulated the  
3 inconclusive result?

4 A. I don't believe I did. Is it in the report  
5 that way?

6 Q. No, it's not in the report. We can look at  
7 it. It doesn't say either way.

8 So you're not saying that you believe that  
9 Murray intentionally manipulated the outcome of it --

10 A. I'm not saying that he did.

11 Q. All right.

12 MR. BOWMAN: I'll object to foundation for  
13 that question and the answer.

14 BY MR. DiCIANNI:

15 Q. Take a look at Exhibit Number 29. You were  
16 asked about this at the last session.

17 And these are not your notes as I understand  
18 it?

19 A. Doesn't appear to be my handwriting, no.

20 Q. Okay. And you -- were these in your records?  
21 Were these produced to the County's attorneys from  
22 your records?

23 A. I don't know. Were they?

24 Q. I don't know.

1                   Have you seen them before these depositions  
2 started? Have you seen these notes?

3           A. I don't know. If they were in that box, I  
4 must have seen them.

5           Q. You don't know as you sit here?

6           A. No, I can't tell you one way or the other  
7 whether I seen them or put them in the box or had  
8 knowledge of how they got there.

9           Q. All right. On the first page, there's a  
10 reference to Rob Curtis. As you go down, it says 4-28  
11 meeting.

12          A. Okay.

13          Q. Do you see that?

14          A. Yes.

15          Q. If I'm reading that accurately, was he ruled  
16 out, he was at gym couple of weeks later, and made  
17 comment about him being a suspect. Do you see that?

18          A. Yes.

19          Q. Did you have anything to do with  
20 investigating Rob Curtis as a -- as a possible  
21 suspect?

22          A. I don't know if I did or not. If there is a  
23 transcript of his interview, my name should be on  
24 there if I was present. But it seems to me that --

1 well, it was in there for a reason. I don't know who  
2 did it -- who interviewed him.

3 Q. It says here in the margin: Get his rap  
4 sheet, Champaign County. That, of course, is not your  
5 writing as far as you know?

6 A. No, no.

7 Q. And were you ever asked to get his rap sheet  
8 from Champaign County?

9 A. Not that I recall.

10 Q. Did you get any information about Rob Curtis  
11 from Champaign County or anyone else?

12 A. Would I?

13 Q. Did you?

14 A. Not that I recall.

15 Q. Okay. Would you?

16 A. Would I what?

17 Q. Get information from Champaign County?

18 MR. BOWMAN: Objection, that's vague. You  
19 have to stay in context.

20 THE WITNESS: Like other cases, if I have  
21 someone I'm looking at to be a suspect, I would like  
22 to know much about that individual as I possibly can,  
23 and that one avenue would be to see if he has a  
24 criminal record.

1 BY MR. DiCIANNI:

2 Q. Okay. You don't recall having pulled --

3 A. No, I don't recall.

4 Q. Do you recall having gotten any information  
5 about Rob Curtis from any other police agency?

6 A. No, I don't.

7 Q. Do you recall speaking to Tony Matens at all  
8 about Rob Curtis?

9 A. No, I don't.

10 Q. Now, you've reviewed -- I think we talked  
11 about this before. You've reviewed the information  
12 that was disclosed at the criminal trial. You've  
13 reviewed information that's been come forth since the  
14 criminal trial. You've reviewed testimony and other  
15 information that's been gathered since the criminal  
16 trial.

17 Have you seen any reference anywhere to  
18 Rob Curtis's criminal conduct in any -- anywhere?

19 MR. BOWMAN: Objection; overbroad, vague,  
20 ambiguous.

21 THE WITNESS: Do I recall seeing any --

22 BY MR. DiCIANNI:

23 Q. Right?

24 A. -- criminal information?

C07402

1 Q. About Rob Curtis.

2 MR. BOWMAN: That's a new question. And I  
3 object to that as well, same basis.

4 THE WITNESS: Well, 20 years ago, I could  
5 have read something about it. But as I'm sitting here  
6 today, I don't recall.

7 BY MR. DiCIANNI:

8 Q. So it is -- you talked about your  
9 reprocessing the evidence after the conviction, during  
10 the post-conviction proceeding. You talked about  
11 having analyzed the evidence again, correct?

12 A. Yes.

13 Q. And we saw your notes where many of those  
14 notes are written after the conviction in which you're  
15 analyzing various aspects of the case, correct?

16 A. Yes.

17 Q. You have no memory of it, but you cannot rule  
18 out that at some point during the post-conviction  
19 proceeding or in your reprocessing the case after the  
20 conviction that you pulled up information about Rob  
21 Curtis?

22 A. That's correct.

23 MR. BOWMAN: Objection, that's rank  
24 speculation. Lack of foundation for that question.

1 BY MR. DiCIANNI:

2 Q. Who's Kerry Lonbom?

3 A. Kerry Lonbom is a former sergeant with the  
4 Normal Police Department.

5 Q. Do you know where Kerry Lonbom is today?

6 A. Well, I would assume he's in his residence  
7 here in Normal, Illinois.

8 Q. He's retired?

9 A. Yes.

10 Q. And have you spoken to him at all about any  
11 aspect of the Lockmiller investigation?

12 A. Not to my recollection.

13 Q. Have you spoken to any of the -- well, strike  
14 that.

15 When you were there at the time of your  
16 retirement, who was in charge of records?

17 A. Oh, Roger Orr.

18 Q. And he had an assistant?

19 A. Well, there were two young ladies that worked  
20 in there.

21 Q. And who were they?

22 A. At the time of his retirement?

23 Q. Yeah. Time of your retirement?

24 A. Oh, my retirement. Oh, that's in 2000.

C07404

1 Barbara Kagel.

2 Q. And there was another one?

3 A. I think it was Helen Williams.

4 Q. Okay. Have you spoken to any of those people  
5 about any of the -- any issues relating to the  
6 Lockmiller investigation?

7 A. Oh, I definitely can't say I had not, but I  
8 would imagine from time to time.

9 Q. During -- we saw that you had been involved  
10 in answering some subpoenas that were sent to the  
11 police department during the post-conviction case.

12 Did you have any conversations with Roger Orr  
13 or Barb Kagel or anybody else regarding the responses  
14 to the subpoena?

15 A. Well, if I did, I wouldn't recall what the  
16 conversations were about other than I need -- I got a  
17 subpoena, I need this information, or whatever the  
18 case may be.

19 MR. DiCIANNI: Okay. Let's take a little  
20 break. That may be all I have.

21 THE VIDEOGRAPHER: Off the record, 11:31.

22 (Whereupon, a break was taken.)

23 THE VIDEOGRAPHER: On the record, 11:39.

24

C07405

1 BY MR. DiCIANNI:

2 Q. Mr. Daniels, when the -- back in CID during  
3 the time of the Lockmiller investigation, the  
4 procedure we discussed in which the records would be  
5 sent to Zayas and then eventually would be circulated  
6 in the way we've talked about, Zayas would put his  
7 initials on the -- on the document that's sent to him  
8 by the investigators, correct?

9 A. On the document itself?

10 Q. Yeah.

11 A. Initial it?

12 Q. Yeah.

13 A. I couldn't testify to that one way or the  
14 other.

15 Q. Okay. Have you seen documents with Frank  
16 Zayas's initials on it?

17 A. Documents or reports?

18 Q. Reports, anything.

19 A. Reports, I saw his signature many of times.

20 Q. On the reports?

21 A. On the reports, correct.

22 Q. Okay. Other information that -- not reports  
23 but other information cycled through the CID  
24 supervisor such as Frank Zayas, would he initial those

C07406

1 or was it just reports?

2 MR. BOWMAN: Objection, foundation. It's  
3 already established.

4 THE WITNESS: Once again, I couldn't say if  
5 he did or not.

6 BY MR. DiCIANNI:

7 Q. Okay. All right. The purpose for -- of  
8 cycling reports through Frank Zayas was that he would  
9 have to review them and he would -- he, being as CID  
10 supervisor, he would send it back in case he thought  
11 something needed to be added or changed or improved or  
12 whatnot, correct?

13 A. Correct.

14 Q. And you did that when you were the CID  
15 supervisor, correct?

16 A. Yes.

17 MR. DiCIANNI: That's all I have.

18 MS. BARTON: I do not have any questions.

19 MR. BOWMAN: I have a few follow-ups.

20 RECROSS-EXAMINATION

21 BY MR. BOWMAN:

22 Q. You were asked -- let me just ask you this,  
23 Mr. Daniels: Do you credit yourself with having  
24 specialized knowledge that folks who have never worked

1 as a criminal investigator have on the subject of  
2 criminal investigations, how to conduct them, and the  
3 appropriate procedures to follow to manage such  
4 investigations including the flow of information?

5 A. Yes.

6 Q. You said that you were not -- you don't  
7 consider yourself to be an expert witness on issues  
8 regarding police investigation. I take it what you  
9 meant by that is you're not out there on the Internet  
10 selling yourself as an expert witness?

11 A. That's correct.

12 Q. Okay. But you're not denying that you have  
13 the specialized knowledge regarding criminal  
14 investigations and how to conduct them, are you?

15 A. I'm not denying that, no.

16 Q. Now, you were asked, Mr. Daniels, to  
17 speculate about the possibility that you yourself  
18 misplaced or lost the polygraph report regarding  
19 John Murray. Do you recall that?

20 MR. DiCIANNI: I'll object to the form of the  
21 question. I don't think he was asked to speculate.

22 THE WITNESS: Yes, I was asked that.

23 MR. DiCIANNI: Wasn't asked to speculate.  
24

C07408

1 BY MR. BOWMAN:

2 Q. Well, to be clear, you worked for many years  
3 as an investigator, and in your work as an  
4 investigator, you learned, did you not, that the  
5 original copy of a report is a very important document  
6 in any criminal investigation, yes?

7 A. Yes.

8 Q. And certainly that would be true in a  
9 homicide investigation?

10 A. Yes.

11 Q. And would it be fair to say that as an  
12 investigator, you would take all possible care to make  
13 sure with respect to the original copy of a report  
14 that might or might not have been entrusted to you  
15 that you would follow the proper procedures with  
16 respect to the report?

17 A. Yes.

18 Q. And would you agree with me that to misplace  
19 or to lose the original copy of an investigative  
20 report in a serious felony investigation would be a  
21 serious mistake?

22 A. Correct.

23 MR. DiCIANNI: I'll --

24 MR. BOWMAN: Do you have --

1 MR. DiCIANNI: -- object to form of the  
2 question.

3 BY MR. BOWMAN:

4 Q. Do you have any recollection of yourself at  
5 any time during your long career as a police officer  
6 ever losing or misplacing the original copy of an  
7 investigative report?

8 MS. BARTON: Objection to form.

9 MR. DiCIANNI: Yeah, I join.

10 THE WITNESS: No, I do not.

11 BY MR. BOWMAN:

12 Q. Do you have any reason whatsoever to stand  
13 here and take the fall and say I may have lost or  
14 misplaced the original copy of the John Murray  
15 polygraph report?

16 MR. DiCIANNI: I object to the form of the  
17 question.

18 THE WITNESS: No.

19 BY MR. BOWMAN:

20 Q. You were asked some questions about the  
21 significance of this videotape showing that Alan  
22 Beaman was at the Bell Federal Savings & Loan in  
23 Rockford at some point that we can all agree on  
24 shortly after 10:00 a.m. on the morning of August 25,

C07410

1 1993. Do you recall being asked about that?

2 A. Yes.

3 Q. Would you agree or disagree with the  
4 proposition that the existence of the videotape  
5 showing Beaman to be at a location over 100 miles from  
6 the murder at a point in time very close to when  
7 police believe that Lockmiller had been murdered,  
8 would you agree with the proposition that is evidence  
9 that is beneficial to Beaman?

10 MR. DiCIANNI: Object --

11 MS. BARTON: Objection to form.

12 MR. DiCIANNI: Join.

13 THE WITNESS: I agree that it would be  
14 beneficial to him, yes, to show that he was in  
15 Rockford at a particular time and point.

16 BY MR. BOWMAN:

17 Q. Right. And does it appear to you, therefore,  
18 to be logical that Beaman would have every incentive  
19 had he recalled the circumstance to report to  
20 investigators asking him about the homicide that he  
21 was at the bank on this particular date and time?

22 MR. DiCIANNI: Object, form.

23 MS. BARTON: Join.

24 THE WITNESS: Could you repeat that, please?

1 MR. BOWMAN: I'll ask Michelle to read that  
2 back, and we'll see if I need to rephrase it.

3 (Whereupon, the record was  
4 read as requested.)

5 THE WITNESS: I would agree it would be  
6 beneficial.

7 BY MR. BOWMAN:

8 Q. Now, you were asked some questions about your  
9 transfer of your working binders to the central file  
10 at the -- at any point during the pendency of the  
11 Lockmiller investigation and you testified in response  
12 to Mr. DiCianni that you took no action to transfer  
13 your working file to the State's Attorney's Office.

14 Do you have any information that any other  
15 investigator took any steps to transfer his working  
16 file to the State's Attorney's Office or to the  
17 central file for purposes of transmission to the  
18 State's Attorney's Office?

19 A. When Detective Freesmeyer went to work with  
20 Jim Souk, one would assume he had taken his files with  
21 him to that office, yes.

22 Q. All right. And is that an assumption on your  
23 part?

24 A. Yes.

C07412

1 Q. All right. Do you know?

2 A. For a fact, no.

3 Q. Okay. Did you ever talk with Freesmeyer  
4 about it? Did he ever state something to that effect  
5 to you?

6 A. Oh, no, no.

7 Q. Other than that, do you have any information?

8 A. No, no. Regarding that issue, no.

9 Q. You've been asked a number of questions about  
10 the dates on which Frank Zayas was or was not in  
11 charge of CID.

12 Is it a fair summary that apart from the  
13 dates that you read on various documents that we look  
14 at including, in particular, the annual report marked  
15 for identification as Exhibit 12 to your deposition  
16 that apart from that, you don't have any independent  
17 recollection that you can sit here and provide us with  
18 as to particular dates on which Frank Zayas was in  
19 charge of CID or was not, accurate?

20 A. That's correct.

21 MR. BOWMAN: I have no further questions.

22 MR. DiCIANNI: I have nothing further.

23 MS. BARTON: Me either.

24 MR. BOWMAN: Wow. We never thought we'd get

1 to this point.

2 The rules provide, Mr. Daniels, that you may  
3 review the transcript that Christine will prepare of  
4 your testimony for accuracy.

5 THE WITNESS: Between now and?

6 MR. BOWMAN: Between now -- between the point  
7 she gets it to you and the following 30 days. You  
8 have 30 days. And if you want to review it and make  
9 sure that the transcription is accurate, you have the  
10 right to do that, to note any errors, and to sign the  
11 end of the transcript.

12 You don't have to. You can trust Christine  
13 to accurately transcribe everything. And some  
14 witnesses choose to that -- choose to do that, but  
15 it's your choice as to how you want to deal with that.

16 THE WITNESS: Could there be a disagreement  
17 when -- what was recorded? If I had a question about  
18 what recorded, I don't recall saying this, but she has  
19 it written down there, so we have to go with what is  
20 written, correct?

21 MR. BOWMAN: Well, if you don't believe it's  
22 accurate, then you could -- you would have the  
23 opportunity to note your belief that it's inaccurate.

24 THE WITNESS: Okay. Is it required that I

C07414

1 sign it then?

2 MR. BOWMAN: And then you would sign it.

3 THE WITNESS: And then send it back to her?

4 MR. BOWMAN: And you send it back to her.

5 THE WITNESS: Okay. I understand.

6 MR. BOWMAN: What would you like to do, read  
7 and sign, or waive signature?

8 THE WITNESS: Take the fifth. Hey, always  
9 trust your attorneys. They know what's best for you.

10 No, I'll go ahead and put my trust in her,  
11 and I have no issues with that.

12 MR. BOWMAN: Right.

13 THE WITNESS: I still get a copy?

14 MR. BOWMAN: And you'll be provided with a  
15 copy if you would like it.

16 THE WITNESS: Sure.

17 MR. BOWMAN: Absolutely.

18 THE WITNESS: That's fine with me.

19 THE VIDEOGRAPHER: Deposition is concluded,  
20 11:52.

21 (Witness excused.)

22

23

24

1 STATE OF ILLINOIS )  
2 COUNTY OF C O O K ) SS:

3  
4 I, Christine M. Luciano, Certified Shorthand  
5 Reporter in and for the County of Cook, State of  
6 Illinois, do hereby certify that on June 20, 2013, the  
7 deposition of the witness, TONY L. DANIELS, called by  
8 the Defendants, was taken before me, reported  
9 stenographically and was thereafter reduced to  
10 typewriting through computer-aided transcription.

11 The said witness, TONY L. DANIELS, was first  
12 duly sworn to tell the truth, the whole truth, and  
13 nothing but the truth, and was then examined upon oral  
14 interrogatories.

15 I further certify that the foregoing is a  
16 true, accurate and complete record of the questions  
17 asked of and answers made by the said witness, at the  
18 time and place hereinabove referred to.

19 The signature of the witness was waived by  
20 agreement.

21 The undersigned is not interested in the  
22 within case, nor of kin or counsel to any of the  
23 parties.

24 Witness my official signature as Certified

**C07416**

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Shorthand Reporter, in and for Cook County, Illinois  
on this 5th day of July, A.D., 2013.

---

Christine M. Luciano, CSR  
License No. 084-004068

Case No. 125617

IN THE  
SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth District, No. 4-16-0527
Plaintiff-Appellant,	)	
	)	There Heard on Appeal
v.	)	from the Circuit Court of McLean County,
	)	Illinois, Eleventh Judicial Circuit,
TIM FREESMEYER, Former Normal	)	No. 14 L 51
Police Detective; DAVE WARNER,	)	The Honorable Richard L. Broch
Former Normal Police Detective;	)	Judge Presiding
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

CERTIFICATE OF SERVICE

I, David M. Shapiro, an attorney, certify that on August 5, 2020, the foregoing APPENDIX VOLUME was filed by electronic means with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701. I further certify that the same were served by electronic transmission on:

Thomas G. DiCianni  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
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Chicago, Illinois 60603  
TDiCianni@ancelglink.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

s/David M. Shapiro  
David M. Shapiro (ARDC # 6287364)  
david.shapiro@law.northwesern.edu  
Roderick and Solange MacArthur Justice Center  
Northwestern Pritzker School of Law  
357 E. Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-0844

Case No. 125617

IN THE  
SUPREME COURT OF ILLINOIS

---

ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

On Appeal from the  
Appellate Court of Illinois,  
Fourth District, No. 4-16-0527

There Heard on Appeal from the  
Circuit Court of McClean County,  
Illinois, Eleventh Judicial Circuit,  
No. 14 L51

The Honorable Richard L. Broch  
Judge Presiding

---

APPENDIX VOLUME III

---

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## APPENDIX TABLE OF CONTENTS

### VOLUME I

Appellate Court Opinion (Aug. 4, 2017) .....	A1
Circuit Court Opinion (June 22, 2016).....	A27
Defendant’s Statement of Material Facts.....	A34
Plaintiff’s Statement of Material Facts .....	A69
Plaintiff’s Response to Defendant’s Statement of Facts.....	A124
Defendant’s Response to Plaintiff’s Statement of Material Facts.....	A210
Complaint.....	A308
Defendants’ Exhibit 30: Stipulation to Phone Records between Beaman & Lockmiller .....	A338
Plaintiff’s Exhibit 1: Order Granting Certificate of Innocence.....	A340
Plaintiff’s Exhibit 2: Deposition of Alan Wayne Beaman .....	A343
Plaintiff’s Exhibit 3 (excerpts): Deposition of Carol Jeanne Beaman .....	A942
Plaintiff’s Exhibit 4 (excerpts): James Souk Grand Jury Transcript.....	A945
Plaintiff’s Exhibit 5 (excerpts): Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief .....	A954
Plaintiff’s Exhibit 6: Alan Beaman Trial Transcript .....	A965

### VOLUME II

Plaintiff’s Exhibit 7: Freesmeyer Police Report .....	A1287
Plaintiff’s Exhibit 8 (excerpts): Deposition of Frank Zayas.....	A1351
Plaintiff’s Exhibit 9: Kenneth Moses Expert Report—Crime Scene Analysis.....	A1358
Plaintiff’s Exhibit 10: Kenneth Moses CV .....	A1363
Plaintiff’s Exhibit 11: Videotaped Deposition of Morgan Hartman .....	A1370
Plaintiff’s Exhibit 13: Crime Scene Photo from Hartman Deposition Kitchen Sink/Garbage.....	A1381
Plaintiff’s Exhibit 14 (excerpts): Videotaped Deposition of John Brown.....	A1382
Plaintiff’s Exhibit 16: Deposition of Timothy John Freesmeyer .....	A1385
Plaintiff’s Exhibit 17: Criminal Death Investigation—Witness Face Sheet for Kelly Hamburg.....	A1713
Plaintiff’s Exhibit 18 (excerpts): Morgan Keefe’s Statement September 10, 1993 .....	A1722

Plaintiff's Exhibit 19 (excerpts): Criminal Death Investigation—Witness Face Sheet for Morgan Keefe.....	A1726
Plaintiff's Exhibit 20 (excerpts): Videotaped Deposition of John Brown.....	A1732
Plaintiff's Exhibit 21: John Murray's Statement—September 2, 1993.....	A1737
Plaintiff's Exhibit 22: Laura McKeown's Statement Excerpts—September 9, 1993 .....	A1763
Plaintiff's Exhibit 23 (excerpts): Discovery Deposition of Larbi John Murray taken May 31, 2013 .....	A1768
Plaintiff's Exhibit 24 (excerpts): Deposition of Leigh Kuyper taken February 28, 2013 .....	A1771
Plaintiff's Exhibit 25: John Murray's Statement—September 8, 1993.....	A1781
Plaintiff's Exhibit 26: Deposition of Tony L. Daniels .....	A1811

### **VOLUME III**

Plaintiff's Exhibit 27 (excerpts): Murray Arrest Documents—Police Initial Case Report .....	A2543
Plaintiff's Exhibit 28 (excerpts): Deposition of Terrence McCann .....	A2560
Plaintiff's Exhibit 29: Deborah Mackoway's statement—September 8, 1993.....	A2563
Plaintiff's Exhibit 30 (excerpts): Hearing on Second Verified Amended Petition for Post-Conviction Relief .....	A2581
Plaintiff's Exhibit 31 (excerpts): Deposition of Robert A. Hospelhorn .....	A2582
Plaintiff's Exhibit 32 (excerpts): John Murray polygraph documents .....	A2585
Plaintiff's Exhibit 34: Deposition of Timothy J. Freesmeyer.....	A2587
Plaintiff's Exhibit 41: Deposition of David Warner.....	A2707
Plaintiff's Exhibit 42: Alan Beaman's statement - August 28, 1993 .....	A2900
Plaintiff's Exhibit 44 (excerpts): Criminal Death Investigation—Witness Face Sheet for Michael Swaine.....	A2949
Plaintiff's Exhibit 45: Robert K. Seyfried Expert Report—August 11, 2015 .....	A2955
Plaintiff's Exhibit 47 (excerpts): Deposition of James Souk taken December 10, 2012.....	A2960
Plaintiff's Exhibit 50: Freesmeyer Trial Transcript .....	A2971
Plaintiff's Exhibit 51: James E. Souk letter to Chief Taylor—April 17, 1995 .....	A3207
Plaintiff's Exhibit 52: Illinois State Police crime scene report by Dean Kennedy .....	A3208
Plaintiff's Exhibit 53 (excerpts): Timothy Freesmeyer Grand Jury Transcript .....	A3217
Plaintiff's Exhibit 55: Gregg McCrary Expert Report - August 17, 2015.....	A3224

Plaintiff’s Exhibit 56 (excerpts): John Dierker Trial Transcript.....	A3252
Plaintiff’s Exhibit 57 (excerpts): Deposition of James Souk taken March 22, 2004 .....	A3267
Plaintiff’s Exhibit 59 (excerpts): Carol Beaman Trial Transcript.....	A3270
Plaintiff’s Exhibit 60 (excerpts): Deposition of Joshua Whitney .....	A3281
Plaintiff’s Exhibit 61: Beaman Residence Call Details.....	A3285
Plaintiff’s Exhibit 62: David Singley’s Statement—August 31, 1993.....	A3286
Plaintiff’s Exhibit 63 (excerpts): David Singley’s Statement September 8, 1993 .....	A3299
Plaintiff’s Exhibit 64: John Dierker Report—January 3, 1994.....	A3305
Plaintiff’s Exhibit 67: Bedroom Photo .....	A3308
Plaintiff’s Exhibit 68: Bedroom Photo .....	A3309
Plaintiff’s Exhibit 69 (excerpts): Deposition of Michael Swaine .....	A3310
Plaintiff’s Exhibit 71: Swaine telephone overhear—September 2, 1993 .....	A3324
Plaintiff’s Exhibit 72: Swaine telephone overhear —September 8, 1993 .....	A3328
Plaintiff’s Exhibit 73: Swaine telephone overhear —September 15, 1993 .....	A3345
Plaintiff’s Exhibit 74 (excerpts): DNA report #1 from Genetic Technologies.....	A3355
Plaintiff’s Exhibit 75: DNA report #2 from Genetic Technologies .....	A3359
Plaintiff Beaman’s Filed Notice of Appeal 06.07.16 .....	A3368
Table of Contents to Record .....	A3371
Alan Beaman Gubernatorial Pardon.....	A3377
Appellate Opening Brief (excerpts).....	A3378
Appellate Reply Brief (excerpts).....	A3380
Defendant’s Appellate Brief (excerpts).....	A3382
Supreme Court Opinion (Feb. 7, 2019) .....	A3385
Defendants’ Exhibit 4 (excerpt): Videotaped Deposition of Frank L. Zayas.....	A3401
Defendants’ Exhibit 6 (excerpt): Videotaped Deposition of James Souk taken December 10, 2012 .....	A3404
Defendants’ Exhibit 17 (excerpts): Deposition of Charles Reynard.....	A3406
Plaintiff’s Exhibit 14 (excerpts): Videotaped Deposition of John Brown.....	A3409
Plaintiff’s Exhibit 47 (excerpts): Deposition of James Souk taken December 10, 2012.....	A3412

Plaintiff's Exhibit 53 (excerpts): Timothy Freesmeyer Grand Jury Transcript .....	A3416
Plaintiff's Exhibit 57 (excerpts): Deposition of James Souk taken March 22, 2004 .....	A3419
Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief. Transcript of Proceedings Volume I- File Stamped August 10, 2005 .....	A3424
Plaintiff Supreme Court Brief (Jan. 12, 2018).....	A3434
Defendant Supreme Court Brief (Apr. 30, 2018) .....	A3493
Plaintiff Supreme Court Reply Brief (June 12, 2018) .....	A3545
Plaintiff Opening Brief on Remand (Apr. 29, 2019) .....	A3572
Defendant Brief on Remand (July 3, 2019).....	A3630
Plaintiff Reply on Remand (Aug. 5, 2019).....	A3691
Defendants' Motion to Strike (June 20, 2019).....	A3716
Plaintiff's Response to Motion to Strike (June 24, 2019).....	A3725
Appellate Court Opinion on Remand (Dec. 17, 2019) .....	A3740

**Police Initial Case Report**

Reporting Agency  MCSO  BUM  NOR  ISU  Other \_\_\_\_\_ Page 1 of 2 Case No. C94-5003

Offense Description: **DOMESTIC BATTERY** Assisting Agency: \_\_\_\_\_ Supervisory Correction: \_\_\_\_\_

Date: 10-07-94 Time Occurred: 1050 Report Date: 10-07-94 Report Time: 1052 Arrived Time: 1052

Offense Code #1: 0486 Offense Code #2: \_\_\_\_\_ Offense Code #3: \_\_\_\_\_ Offense Code #4: \_\_\_\_\_ C & A: \_\_\_\_\_ Activity: \_\_\_\_\_ # of R: \_\_\_\_\_

Circumstance: \_\_\_\_\_ Weapon(s) Used: **HANDS, FIST FEET** Weapon(s) Code: **40** Injury:  N  P Place of Treatment: **REFUSED** Suspected of Using: \_\_\_\_\_

Reported by: **MACKOWAY, BEBRA J.** Address (City, State, Zip): \_\_\_\_\_ Normal IL. Sex: **F** Race: **W** DOB: \_\_\_\_\_ Home Phone: **454-8060**

Victim:  Suspect/Offender:  A - Arrested W - Witness R - Runaway T - Father M - Mother G - Guardian O - Other Arrestee's Criminal History Checked:  Y  N

Code Name/Business: **A MURRAY, LARBI JOHN** Sex: **M** Race: **W** DOB: \_\_\_\_\_ Age: \_\_\_\_\_ Home Phone: **454-8060**

Address (City, State, Zip): **NORMAL IL 61761** Employed by: \_\_\_\_\_ Injury Description: \_\_\_\_\_ Code: \_\_\_\_\_

Description (Car, Van, Truck, Boat, Motorcycle, Other): \_\_\_\_\_ Criminal Gang: \_\_\_\_\_ Relation to Victim: \_\_\_\_\_

Victim:  Suspect/Offender:  A - Arrested W - Witness R - Runaway T - Father M - Mother G - Guardian O - Other Arrestee's Criminal History Checked:  Y  N

Code Name/Business: **V PLEASE SEE REPORTED BY** Sex: \_\_\_\_\_ Race: \_\_\_\_\_ DOB: \_\_\_\_\_ Age: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Address (City, State, Zip): \_\_\_\_\_ Employed by: \_\_\_\_\_ Injury Description: \_\_\_\_\_ Code: \_\_\_\_\_

Description (Car, Van, Truck, Boat, Motorcycle, Other): \_\_\_\_\_ Criminal Gang: \_\_\_\_\_ Relation to Victim: \_\_\_\_\_

Vehicle Identification:  Victim  Suspect  Stolen  Recovered  Towed  Bicycle  Y  N

Color: \_\_\_\_\_ Year: \_\_\_\_\_ Vehicle Make: \_\_\_\_\_ Model: \_\_\_\_\_ Style: \_\_\_\_\_ Lic. Year: \_\_\_\_\_ Lic. State: \_\_\_\_\_ Lic. Type: \_\_\_\_\_ License Number: \_\_\_\_\_ VIN Number: \_\_\_\_\_

Damage: \_\_\_\_\_ Locked?  Y  N Keys in Vehicle  Y  N Misc. Information: \_\_\_\_\_

Leakholder: \_\_\_\_\_ Value: \_\_\_\_\_ Condition: \_\_\_\_\_ Bicycle:  Boys  Girls  Misc. Bicycle Information: \_\_\_\_\_

Was Taken?  Manually Property  Y  N  Significant Physical Evidence  Y  N

Document # \_\_\_\_\_ Date of Documents: \_\_\_\_\_ Bank/Drawn On: \_\_\_\_\_ Name of Account: \_\_\_\_\_ Payable To: \_\_\_\_\_ Amount: \_\_\_\_\_ Endorse: \_\_\_\_\_

Loss Code	Property Code	City	Property Description	Serial Number	Value
					040
					410

LEADS Number: \_\_\_\_\_ NCIC Number: \_\_\_\_\_ Crime Scene Tech: \_\_\_\_\_ TOTAL: \_\_\_\_\_

M.O.

OFFICER LYDEN AND MYSELF WERE DISPATCHED TO \_\_\_\_\_ FOR A PHYSICAL DOMESTIC IN PROGRESS UPON ARRIVAL I SPOKE WITH MURRAY WHILE OFFICER LYDEN SPOKE WITH MACKOWAY. MACKOWAY INDICATED TO OFFICER LYDEN THAT SHE IS THE VICTIM OF PHYSICAL ABUSE ON A CONTINUAL BASIS. MACKOWAY INDICATED THAT HER AND MURRAY BECAME INVOLVED IN AN ALTERCATION TODAY THAT ESCALATED TO THE POINT WHERE SHE WAS STRUCK. MACKOWAY SAID THAT MURRAY PINNED HER DOWN ON THE FLOOR TODAY AND

00 - Unfiled, 01 - Ref to Other Agency, 02 - Pending, 03 - Adult Arrest, 04 - Juvenile Arrest, 05 - Except Cit/Death of Offr, 06 - Except Cit/Death of Offr, 07 - Except Cit/Death of Offr, 08 - Except Cit/Death of Offr, 09 - Except Cit/Death of Offr, 10 - Except Cit/Death of Offr

Initial Officer Name and P.I. #: **T.M. WEIR #109** Date/Time Hand: **10-07-94** Field Supervisor: **[Signature]** Assigned Investigator: \_\_\_\_\_ Booking Number: **B94-1008**

Original/Write: \_\_\_\_\_ Coding/Recode: \_\_\_\_\_ Copy/Verify: \_\_\_\_\_ Assign/Time: \_\_\_\_\_ Date/Calendar: **01**

**PLAINTIFF'S EXHIBIT**  
30

C07419

NORMAL POLICE SUPPLEMENTAL CASE REPORT

1. Page 2	of 2	2. Case No C94-5003
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3. Offense <b>DOMESTIC BATTERY</b>	4. Supervisory Correction No. 2 or 3
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5. Victim Name (or if Business Not Incorporated Name) <b>MACKOWAY, DEBRA J.</b>	5A. Responsible Party
--	-----------------------

NARRATIVE:

1 ELBOWED HER REPEATEDLY IN THE CHEST. MACKOWAY REPORTED THAT SHE WAS INJURED AND THAT THERE  
 2 WERE VISABLE MARKS ON HER IN BETWEEN HER BREASTS. A FRIEND OF MACKOWAY, MELISSA M. HUEBNER,  
 3 WAS PRESENT AND DID VERIFY THAT THERE WAS A PROMINENT RED MARK BETWEEN MACKOWAY'S BREASTS WHERE  
 4 SHE HAD BEEN ELBOWED. BOTH MACKOWAY AND HUEBNER ARE REGISTERED NURSES.  
 5  
 6 MURRAY WAS ARRESTED FOR DOMESTIC BATTERY AND TAKEN TO THE MCLEAN COUNTY JAIL. FOR RELATED  
 7 INFORMATION PLEASE SEE CASE NUMBERS C94-5007 AND C94-5004.  
 8  
 9 OFFICERS LYDENS SUPPLEMENT IS ATTACHED TO THIS REPORT.

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OFFICER'S NAME AND I.D. No. (PLEASE PRINT NEATLY) <b>TODD WEIR #109</b>	DATE AND TIME REPORT TYPED <b>10-07-94</b>	SUPERVISOR'S NAME AND I.D. No. (PLEASE PRINT NEATLY) <i>Sgt J. [Signature]</i> <b>694</b>
SOLVABILITY FACTORS REFERRED TO (or IAD-16)	PROPERTY RECOVERED	VALUE
ASSIGNED INVESTIGATOR (Name and I.D. No.)	STATUS: <input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> SUSPENDED <input type="checkbox"/> UNFOUNDED	BOOKING NO. <b>B94-5003</b>

ORIGINAL - WHITE COPY - YELLOW McLean 000002

007420

NORMAL POLICE SUPPLEMENTAL CASE REPORT

Page 1 of 1 Case # C94-5003

Offense: Domestic Battery Supervisory Correction of #2 or #3

Victim Name (or Business Name): Mackoway Responsible Party:

Officer Weir and myself were dispatched to [redacted] in response to a domestic situation. We were advised by dispatch that there was a physical struggle going on at the time of the call. When I arrived Officer Weir was on the front porch speaking with Larbi Murray one of the parties involved. I went inside the unit and met with Mackoway. She was crying at the time. When she settled down she reported that an argument erupted between her and Murray which resulted in her being battered. She reported that one time he had pinned her to the floor and was striking her in the chest with his elbow. She reported that there was another argument the night before in which he grabbed her and scratched her right wrist and caused a bruise on her left arm. Both injuries were evident. She also reported that in the last week she received a bruise to her upper left thigh. She showed this bruise to us. Officer Weir and I met separate from the parties involved and discussed the situation. Weir reported to me that Murray also had evident injuries from the current altercation. I spoke with Murray. Murray claimed that he was attacked from behind by Mackoway and for "defensive" purposes he struck her in the chest in an attempt to knock the wind out of her to prevent her from further attacking him. We elected to charge both with domestic battery. We allowed Murray to secure some personal affects and then I transported him to the McLean Co. Jail.

Officer's Name & ID#: Lyden, Chas. Date & Time Report Typed: 7-October-94 1448 Supervisor's Name & ID#: [Signature] 694

Sol'ability Referred to: Property Recovered: Value:

Assigned Investigator: Status: Active Suspended Fail to File Complaint Cleared Unfounded Exceptionally Cleared Booking #:

C07421

McLean 000003

IN THE CIRCUIT COURT OF THE McLean COUNTY, ILLINOIS

FILED  
JUDICIAL CIRCUIT  
OCT 11 1994  
CIRCUIT CLERK  
McLEAN COUNTY ILLINOIS

People ex rel. \_\_\_\_\_ on behalf of  
\_\_\_\_\_ self and/or behalf of  
Debbie Mackoway  
Petitioner  
-vs-  
Earbi John Murray  
Respondent

Case No. 94F 596  
 Independent Proceeding  
 Other Civil Proceeding  
(Specify) \_\_\_\_\_  
 Criminal Proceeding  
 Juvenile Proceeding

PETITION FOR ORDER OF PROTECTION

(Fill in lines and check boxes as applicable)

Now comes the Petitioner Debbie Mackoway on his/her own behalf or on behalf of \_\_\_\_\_ a minor child/ren, or on behalf of \_\_\_\_\_ inaccessibility on his/her own behalf, pursuant to the Illinois Domestic Violence Act (IDVA), and moves this Honorable Court to issue an Order of Protection in this cause and in support thereof states as follows:

ALLEGATIONS

THIS COURT HAS JURISDICTION OF THE SUBJECT MATTER AND OVER ALL NECESSARY PERSONS, WITH APPROPRIATE VENUE, BECAUSE:

- A.  Petitioner resides at \_\_\_\_\_ Normal  
in the County of McLean State of IL; OR  
 Petitioner resides at \_\_\_\_\_  
in the County of \_\_\_\_\_ State of \_\_\_\_\_ and \_\_\_\_\_  
the person on whose behalf this Petition is brought, resides at \_\_\_\_\_  
in the County of \_\_\_\_\_ State of \_\_\_\_\_; OR  
 Petitioner's address is omitted pursuant to statute. (Alternative address for notice of any motion is \_\_\_\_\_)

- B.  Respondent resides McLean County Jail  
in the County of \_\_\_\_\_ State of \_\_\_\_\_

- C. Respondent stands in relationship to the Petitioner or alleged abused person/s as:
 

<input type="checkbox"/> Spouse;	<input type="checkbox"/> Former spouse;	<input type="checkbox"/> Parent;
<input type="checkbox"/> Child;	<input type="checkbox"/> Having or allegedly having a child in common;	<input type="checkbox"/> Stepchild;
<input checked="" type="checkbox"/> Sharing or formerly sharing a common dwelling;	<input checked="" type="checkbox"/> Having or having had a dating or engagement relationship;	<input type="checkbox"/> Other person related by blood or marriage;
<input type="checkbox"/> Sharing a blood relationship through a child;	<input type="checkbox"/> Personal assistant to person with disabilities or a person who has responsibility for a high-risk adult with disabilities;	

*signed w/ Resp 4/10*

007486

McLean 000068

D.  There is no other pending court action involving the parties, OR  
 There is another pending court action involving the parties in McLean Court,  
County of \_\_\_\_\_ State of \_\_\_\_\_ known as Case No. same as

E.  As referred to herein, "the minor child/ren" are \_\_\_\_\_ deceased  
per DV advoc

The Court has jurisdiction over the minor child/ren because:

- 1. This state
  - a. is the home state (as defined in the Illinois Uniform Child Custody Jurisdiction Act) of the child/ren at the time of the commencement of this proceeding, or
  - b. has been the child/ren's home state within 6 months before commencement of the proceeding and the child/ren is/are absent from this State because of his/her removal or retention by a person claiming his/her custody or for other reasons, and a parent or person acting as parent continues to live in this state;
- OR
- 2. It is in the best interest of the child/ren that a court of this State assume jurisdiction because the child/ren and his/her parents, or the child/ren and at least one contestant, have a significant connection with this State and there is available in this State substantial evidence concerning the child's/ren's present or future care, protection, training and personal relationships;
- OR
- 3. The child/ren is/are physically present in this State and
  - a. the child/ren has/have been abandoned, or
  - b. it is necessary in an emergency to protect the child/ren because he/she/they has/have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent;
- OR
- 4. It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs 1, 2, or 3, or another state has declined to exercise jurisdiction on the grounds that this State is the more appropriate forum to determine the custody of the child/ren, and it is in the best interest of the child/ren that this Court assume jurisdiction.

F.  No "father and child/ren relationship" (pursuant to the Illinois Parentage Act of 1984) has been established with the following child/ren \_\_\_\_\_

G.  The primary caretaker of the minor child/ren is or has been \_\_\_\_\_

H.  Venue in civil proceedings is appropriate because:  
 Petitioner resides in the County of McLean, State of Illinois; OR  
 Respondent resides in the County of McLean, State of Illinois; OR  
 The alleged abuse occurred in the County of McLean, State of Illinois; OR  
 The Petitioner is temporarily located in the County of \_\_\_\_\_, State of Illinois, to avoid further abuse, and could not obtain safe, accessible, and adequate temporary housing in the county of his/her residence.

PETITIONER ALLEGES AS TO RESPONDENT THAT:

I.  The following individuals are alleged to be persons who need to be protected from abuse by Respondent:

I.  Respondent has acted in the following manner towards the Petitioner: charges filed against Pet

*hand notes: called # 909-... advised to... advise on how to... proceed with... advise*

Incident(s): he has been a friend of 4 years which was peaceful until Jan. of 1994 when he was arrested with charges of street control violations. His behavior since has been reprehensible. He has been a real death to leave my house. I have been asking for over a month that he not come on my legal action. He has refused to leave. I have given my address that he is not to call me. I am going to call the police. He left after reading my letter. I got home from work on the morning (24th Sept). I told him he was not to come to my house. As he came to my house then the argument got started, even though I was the one with many more injuries/movements. He had a black eye, bruise on his head, etc. Effect(s): I called my friends over to help persuade him to leave. He refused. We told him he was going to be taken to jail. He insisted my friends hold the phone. Still would not leave. The police arrived. He did not initially show up. He told me he would be forced to leave. He had no correct knowledge of the law. He said that I should call the police. I did not want to call the police. I had not wanted to call the police. I had not wanted to call the police.

C07487 McLean 000069

- K.  Petitioner should be granted exclusive possession of the residence, the special venue rules of sec. 209 (b) of IDVA (applicable only in civil proceedings) having been met, because:
  - Petitioner has a right to occupancy and Respondent has no right to occupancy, OR
  - Both parties have a right to occupancy; and, considering the risk of further abuse by Respondent interfering with the Petitioner's safe and peaceful occupancy, the balance of hardships favors the Petitioner because of the following relevant factors:
    - Availability, accessibility, cost, safety, adequacy, location, and other characteristics of alternative housing for each party and any minors or other dependents; and/or
    - Effect on each party's employment; and/or
    - Other factors, as follows: \_\_\_\_\_
  
- L.  Respondent should be ordered to stay away from Petitioner and the protected persons.
  - Respondent should be prohibited from entering or remaining present at Petitioner's school, place of employment, or (specify) Residence Virginia at Franklin because:
    - Respondent has no right to enter/remain present at such place(s); Or parking lot, floor.
    - The balance of hardships favors the Petitioner in prohibiting the Respondent from entering or remaining at such place(s).
  
- M.  The likelihood of future abuse would be minimized by appropriate counseling.
- N.  Petitioner should be granted physical care of the minor child/ren or granted other appropriate relief because there exists a danger that the minor child/ren will be:
  - Abused or neglected; and/or
  - Separated in an unwarranted manner from the child/ren's primary caretaker; and/or
  - Unprotected as to his/her/their well-being.
  
- O.  Petitioner should be granted temporary legal custody of the minor child/ren.
- P.  The Respondent's visitation with the minor child/ren should be restricted or denied because the Respondent has or is likely to:
  - abuse or endanger the minor child/ren during visitation; and/or
  - use visitation as an opportunity to abuse or harass Petitioner or Petitioner's family or household members; and/or
  - improperly conceal or detain the minor child/ren; and/or
  - otherwise act in a manner that is not in the best interest of the minor child/ren.
  
- Q.  There exists a danger that the minor child/ren will be removed from this jurisdiction or concealed within the State.
- R.  Respondent has knowledge of the whereabouts of or access to the minor child/ren.
- S.  Petitioner should be granted exclusive possession of the following items of personal property:

because:

- Petitioner, but not Respondent, owns such property;
- OR
- Sharing the property creates a further risk of abuse or is impractical; the balance of hardships favors temporary possession by Petitioner; and
  - Petitioner and Respondent own the property jointly, or
  - The property is alleged to be marital property and a proceeding has been filed under the IMDMA.

T.  An order should be granted protecting the following items of personal property:

4 Normal + all contents within  
20

because:

- Petitioner, but not Respondent, owns such property;
- OR
- The balance of hardships favors Petitioner, and
  - Petitioner and Respondent own the property jointly, or
  - The property is alleged to be marital property and a proceeding has been filed under the IMDMA.

U.  Respondent has a legal obligation to support Petitioner and/or the minor child/ren, and Respondent is able to provide such support.

V.  As a direct result of the above described abuse, Petitioner has suffered certain losses, incurred certain expenses, and/or has been provided temporary shelter/counseling services, as follows:

\$ 3.50 check to bank no loan      \$ 100 cash to pay shop for month

\* \$20 school bus for 2 weeks      \* \$100 to pay on shop taking bank

\$ 100 cash for 4 hrs      More losses expenses as Lacher has not worked on paid bills for 6 months.

McLean 000070

C07488

W.  There is a threat to the safety and well-being of Petitioner's family or household when Respondent enters or remains on the premises while under the influence of alcohol or drugs.

X.  Respondent should be denied access to school or other records of the minor child/ren because:  
 Respondent is or will be prohibited from having contact with the minor child/ren; or  
 Petitioner's address is omitted pursuant to statute; or  
 It is necessary to prevent abuse or wrongful removal or concealment of the minor child/ren.

Y.  Allegations for other injunctive relief:  
No contact by phone  
by mail or 3rd party.

Z.  Disclosure of Petitioner's address would risk further abuse to her/him or to another protected person/s, or such disclosure would reveal the confidential location of a shelter for domestic violence victims.

Additional Allegations For Emergency Orders Only

(I) For requested remedies 1, 3, 5, 7, 8, 9, 11, 14, 15, and 17, the harm which that remedy is intended to prevent would be likely to occur if Respondent were given any prior notice, or greater notice than was actually given of Petitioner's efforts to obtain judicial relief.

(II) For requested remedy 2, the immediate danger of further abuse of Petitioner by Respondent if Petitioner chose or had chosen to remain in the household while Respondent was given any prior notice or greater notice than was actually given, outweighs the hardship to Respondent of an emergency order granting Petitioner exclusive possession of the residence or household.

(III) For requested remedy 10, improper disposition of the personal property would be likely to occur if Respondent were given any prior notice or greater notice than was actually given of Petitioner's effort to obtain judicial relief, or that Petitioner has an immediate and pressing need for possession of that property.

REMEDIES REQUESTED

PETITIONER REQUESTS THAT THE COURT FIND THAT THE FOLLOWING ARE PROTECTED PERSONS:

Debbie Madouay

WHEREFORE, PETITIONER REQUESTS THE ENTRY OF AN ORDER OF PROTECTION SETTING FORTH THE FOLLOWING REMEDIES:

- 1. With respect to Petitioner and other Protected Persons, Respondent is prohibited from committing the following:  
 Physical abuse;  Harassment;  Interference with personal liberty;  Intimidation of a dependent;  
 Willful deprivation;  Neglect;  Exploitation;  Stalking
- 2. Petitioner is granted exclusive possession of the residence and Respondent be prohibited from entering or remaining at such premises:  
(Address) Normal
- 3.  a. Respondent is ordered to stay away from Petitioner and other protected persons; and/or  
 b. Respondent is prohibited from entering or remaining at Brookman parking lot while any Protected Person is present; and/or  
 c. Respondent is allowed access to the residence on (date) \_\_\_\_\_ at (time) \_\_\_\_\_ in the presence of (name) \_\_\_\_\_ to remove items of clothing, personal adornments, medications used exclusively by the Respondent and other items, as follows: \_\_\_\_\_
- 4. Respondent is ordered to undergo counseling for a period of time to be determined by this court. [Not available in Emergency Order]
- 5.  a. Petitioner is granted physical care and possession of the minor child/ren; and/or  
 b. Respondent is ordered to:  
 Return the minor child/ren \_\_\_\_\_ to the physical care of \_\_\_\_\_; and/or  
 Not remove the minor child/ren \_\_\_\_\_ from the physical care of Petitioner or \_\_\_\_\_
- 6. Petitioner is granted temporary legal custody of the minor child/ren \_\_\_\_\_ [Not available in Emergency Order]

C07489

McLean 000071

7.  a. Respondent is awarded visitation rights on the following dates and times or under the following dates and times or under the following conditions or parameters: [No order shall merely refer to the term "reasonable visitation"]

b. Respondent's visitation is restricted as follows:

c. Respondent's visitation be denied.

8. Respondent is prohibited from removing the minor child/ren from Illinois or concealing them within Illinois.

9. Respondent is ordered to appear in this Court with/without the child/ren on a date certain.

10. Petitioner be granted exclusive temporary possession of the following personal property and the Respondent be ordered to deliver to Petitioner said property that is in Respondent's possession or control, to wit:

11. Respondent be ordered not to take, encumber, conceal, damage or otherwise dispose of any of the following real or personal property, to wit:

*All contents within FSA 228 (Camero)*

12. Respondent be ordered to pay temporary support for Petitioner and/or the minor child/ren of the parties as follows: \$ \_\_\_\_\_ per \_\_\_\_\_ starting \_\_\_\_\_ payable  through the Clerk of the Circuit Court, or  directly to Petitioner. [Not available in Emergency Order]

13. Respondent be ordered to pay \$ \_\_\_\_\_ respecting losses and expenses within the scope of sec.214(b)(13) of the IDVA to \_\_\_\_\_ on or before \_\_\_\_\_ [Not available in Emergency Order]

14. Respondent be prohibited from entering or remaining at the household or residence located at \_\_\_\_\_ while under the influence of alcohol or drugs and so constituting a threat to the safety and well-being of any Protected Person.

15. Respondent be denied access to school or any other records of the minor child/ren and prohibited from inspecting, obtaining, or attempting to inspect or obtain such records.

16. Respondent be ordered to pay \$ \_\_\_\_\_ to the following shelter \_\_\_\_\_ on or before \_\_\_\_\_ [Not available in Emergency Order]

17. Respondent be further enjoined as follows: *no contact with petitioner*

*[Signature]*  
Signature of Petitioner

Signature of Attorney or State's Attorney

UNDER THE PENALTIES OF PERJURY AND AS PROVIDED BY LAW PURSUANT TO SECTION 1-109 OF THE CODE OF CIVIL PROCEDURE, THE UNDERSIGNED CERTIFIES THAT THE STATEMENTS SET FORTH IN THIS INSTRUMENT ARE TRUE AND CORRECT, EXCEPT AS TO MATTERS THEREIN STATED TO BE ON INFORMATION AND BELIEF AND AS TO SUCH MATTERS THE UNDERSIGNED CERTIFIES AS AFORESAID THAT THE UNDERSIGNED VERILY BELIEVES THE SAME TO BE TRUE.

*[Signature]*  
Signature of Petitioner

Attorney (or Pro Se Petitioner) Name: \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
Phone \_\_\_\_\_  
Attorney # \_\_\_\_\_  
Service by Facsimile  will be accepted  will not be accepted.  
Facsimile Number \_\_\_\_\_  
(Must be included if service by facsimile is accepted)

007490

McLean 000072

Proof of Service

IN THE CIRCUIT COURT OF THE JUDICIAL CIRCUIT COUNTY, ILLINOIS

People ex rel. \_\_\_\_\_ on behalf of \_\_\_\_\_ self and/or behalf of

Debbie Mackoway  
Petitioner

vs.  
Larbi John Murray  
Respondent

JUDICIAL CIRCUIT COUNTY, ILLINOIS

FILED  
OCT 28 1994  
McLEAN COUNTY

Case No. 94F592

Independent Proceeding

Other Civil Proceeding

(Specify)

Criminal Proceeding

Juvenile Proceeding

LEADS NO. \_\_\_\_\_

FILED

NOV 04 1994

CIRCUIT CLERK

PETITIONER Debbie Mackoway	ADDRESS [Redacted] NML <input type="checkbox"/> (Check if omitted pursuant to Statute)
-------------------------------	--

RESPONDENT Larbi John Murray	ADDRESS McLean City Jail
---------------------------------	-----------------------------

Birthdate [Redacted] <small>(Required for LEADS)</small>	Sex M	Race W	Height 6' 2"	Weight 175	Hair DK Brown	Eyes DK Brown	Social Security Number (if known) [Redacted]
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ORDER OF PROTECTION

INTERIM

PLENARY

ANY KNOWING VIOLATION OF ANY ORDER OF PROTECTION FORBIDDING PHYSICAL ABUSE, NEGLECT, EXPLOITATION, HARASSMENT, INTIMIDATION, INTERFERENCE WITH PERSONAL LIBERTY, WILLFUL DEPRIVATION, OR ENTERING OR REMAINING PRESENT AT SPECIFIED PLACES WHEN THE PROTECTED PERSON IS PRESENT OR GRANTING EXCLUSIVE POSSESSION OF THE RESIDENCE OR HOUSEHOLD, PROHIBITING ENTERING OR REMAINING AT THE HOUSEHOLD WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS AND SO CONSTITUTING A THREAT TO THE SAFETY AND WELL-BEING OF ANY PROTECTED PERSON, OR GRANTING A STAY AWAY ORDER, IS A CLASS A MISDEMEANOR. GRANT OF EXCLUSIVE POSSESSION OF THE RESIDENCE OR HOUSEHOLD SHALL CONSTITUTE NOTICE FORBIDDING TRESPASS TO LAND. ANY KNOWING VIOLATION OF ANY ORDER AWARDED LEGAL CUSTODY OR PHYSICAL CARE OF A CHILD, OR PROHIBITING REMOVAL OR CONCEALMENT OF A CHILD MAY BE A CLASS 4 FELONY. ANY WILLFUL VIOLATION OF ANY ORDER IS CONTEMPT OF COURT. ANY VIOLATION MAY RESULT IN FINE OR IMPRISONMENT. STALKING IS A FELONY.  
*(Definitions of prohibited conduct on back of page 3)*

The following persons are protected by this Order: Debbie Mackoway

"The minor child/ren" referred to herein are: \_\_\_\_\_

Date, time and place for further hearing (if Interim Order): \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_ Courtroom/Calendar No. \_\_\_\_\_ Location \_\_\_\_\_

This Order was issued on: Date <u>10-28-94</u> Time <u>10:25 AM</u>	This Order will be in effect until: <input checked="" type="checkbox"/> Date <u>10-28-96</u> Time <u>9:00 AM</u> <input type="checkbox"/> Vacated by court order. <input type="checkbox"/> Specified event: _____
--	--

C07491

McLean 000073

BASED ON THE FINDINGS OF THIS COURT,  WHICH WERE MADE ORALLY FOR TRANSCRIPTION OR  WHICH ARE SET OUT IN A SEPARATE INSTRUMENT FILED WITH THE COURT, AND WITH THE COURT HAVING JURISDICTION OF THE SUBJECT MATTER AND OVER ALL NECESSARY PARTIES, IT IS HEREBY ORDERED THAT:

- 1. With respect to all Protected Persons, Respondent is prohibited from committing the following:
  - Physical abuse;  Harassment;  Interference with personal liberty;  Intimidation of a dependent;
  - Willful deprivation;  Neglect;  Exploitation;  Stalking
- 2. Petitioner is granted exclusive possession of the residence and Respondent shall not enter or remain in the household or premises located at Normel, IL *(This remedy does not affect title of property)*
- 3.
  - a. Respondent is ordered to stay away from Petitioner and other protected persons; and/or
  - b. Respondent is prohibited from entering or remaining at Ball Park Hotel, Virginia at Franklin, Normel, IL while any Protected Person is present; and/or
  - c. Respondent is allowed access to the residence on (date) \_\_\_\_\_ at (time) \_\_\_\_\_ in the presence of (name) \_\_\_\_\_ to remove items of clothing, personal adornments, medications used exclusively by the Respondent and other items, as follows: *(must give at least five hour notification to local law enforcement department)* \_\_\_\_\_
- 4. Respondent is ordered to undergo counseling at \_\_\_\_\_ for a duration of \_\_\_\_\_
- 5.
  - a. Petitioner is granted physical care and possession of the minor child/ren; and/or
  - b. Respondent is ordered to:
    - Return the minor child/ren \_\_\_\_\_ to the physical care of \_\_\_\_\_ and/or
    - Not remove the minor child/ren \_\_\_\_\_ from the physical care of Petitioner or \_\_\_\_\_
- 6. Petitioner is granted temporary legal custody of the minor child/ren \_\_\_\_\_
- 7.
  - a. Respondent is awarded visitation rights on the following dates and times or under the following conditions or parameters: *(No order shall merely refer to the term "reasonable visitation")* \_\_\_\_\_
  - b. Respondent's visitation is restricted as follows: \_\_\_\_\_
  - c. Respondent's visitation is denied. *(Petitioner may deny Respondent access to the minor child/ren if, when Respondent arrives for visitation, Respondent is under the influence of drugs or alcohol and constitutes a threat to the safety and well-being of Petitioner or Petitioner's minor child/ren or is behaving in a violent or abusive manner.)*
- 8. Respondent is prohibited from removing the minor child/ren from Illinois or restraining them within Illinois.
- 9. Respondent is ordered to appear in Courtroom/Calendar \_\_\_\_\_ at \_\_\_\_\_ AM/PM, with/without the minor child/ren \_\_\_\_\_
- 10. Petitioner is granted exclusive possession of the following personal property and the Respondent is ordered to promptly make available to Petitioner said property that is in Respondent's possession or control, to wit: \_\_\_\_\_ *(This remedy does not affect title of property)*
- 11. Respondent is prohibited from taking, encumbering, concealing, damaging or otherwise disposing of the following personal property: \_\_\_\_\_ except as explicitly authorized by the Court.  Further, Respondent is prohibited from improperly using the financial or other resources of an aged member of the family or household for the profit or advantage of Respondent or any other person.
- 12. Respondent is ordered to pay temporary support for  Petitioner and/or  the minor child/ren of the parties as follows: \$ \_\_\_\_\_ per \_\_\_\_\_ starting \_\_\_\_\_ payable  through the Clerk of the Circuit Court, or  directly to Petitioner.
- 13. Respondent is ordered to pay \$ \_\_\_\_\_ as actual monetary compensation for loss(es) to \_\_\_\_\_ on or before \_\_\_\_\_.  Further, Respondent is ordered to pay court costs in the amount of \$ \_\_\_\_\_ and attorney fees in the amount of \$ \_\_\_\_\_ to \_\_\_\_\_ in connection with any action to obtain, modify, enforce, appeal or rescind any order of protection on or before \_\_\_\_\_.

- 14. Respondent is prohibited from entering or remaining at the household or residence located at \_\_\_\_\_ while under the influence of alcohol or drugs and so constituting a threat to the safety and well-being of any Protected Person.
- 15. Respondent is denied access to school and/or any other records of the minor child/ren and is prohibited from inspecting, obtaining, or attempting to inspect or obtain such records.
- 16. Respondent is ordered to pay \$ \_\_\_\_\_ to the following entity \_\_\_\_\_ on or before \_\_\_\_\_.
- 17. Respondent is further ordered and/or enjoined as follows:  
No contact w/ Protected Person by phone  
while she is at her place of employment
- 18. The relief requested in paragraph(s) \_\_\_\_\_ of the petition is (DENIED) (RESERVED), because: \_\_\_\_\_

PLENARY ORDERS ONLY

This order shall remain in effect until:

- 1. Two years following date of entry of such Order, such expiration date being 10-28-96 or such earlier date, as ordered by the Court, such expiration date being \_\_\_\_\_.
- 2. Final judgment in conjoined proceeding is rendered.
- 3. This Order is modified or vacated (provided such Order is incorporated into the final judgment of another civil proceeding).
- 4. Termination of any voluntary or involuntary commitment, or until \_\_\_\_\_ (not to exceed 2 years).
- 5. Final disposition when a Bond Forfeiture Warrant has issued, or until \_\_\_\_\_ (not to exceed 2 years).
- 6. Expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, or supervised mandatory release, plus 2 years.
- 7. Expiration of a term of imprisonment set by this Court, plus 2 years.

NOTICE: Upon 2 days notice to Petitioner or such shorter notice as the Court may prescribe, a Respondent subject to an Interim Order of Protection issued under the DVYA may appear and petition the Court to rehear the original or amended Petition. Respondent's petition shall be verified and shall allege lack of notice and a meritorious defense.

Respondent stands in relationship to the Petitioner or alleged abused person's as:

- Spouse
- Former spouse
- Parent
- Child
- Having or allegedly having a child in common
- Stepsibling
- Sharing or formerly sharing a common dwelling
- Having or having had a dating or engagement relationship
- Other person related by blood or marriage
- Sharing a blood relationship through a child
- Personal assistant to person with disabilities or a person who has responsibility for a high-risk adult with disabilities

Attorney (or Pro Se Petitioner) Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Attorney # \_\_\_\_\_  
 Service by Facsimile:  will be accepted  will not be accepted.  
 Facsimile Number: \_\_\_\_\_

Date: 10-28-96  
 Judge: [Signature]  
 Judge No: \_\_\_\_\_

(Must be included if notice by facsimile is accepted)

C07493

McLean 000075

IN THE CIRCUIT COURT OF THE

11/4h  
JUDICIAL CIRCUIT  
COUNTY, ILLINOIS

FILED  
OCT 28 1994  
McLEAN COUNTY  
CIRCUIT CLERK

People ex rel. \_\_\_\_\_  
or behalf of \_\_\_\_\_  
self and/or behalf of \_\_\_\_\_

Debbie Mackoway  
Petitioner

-vs-

Larbi John Murray  
Respondent

Case No. 94F596

Independent Proceeding

Other Civil Proceeding

(Specify) \_\_\_\_\_

Criminal Proceeding

Juvenile Proceeding

LEADS NO. \_\_\_\_\_

PETITIONER <u>Debbie Mackoway</u>		ADDRESS [REDACTED] NML <input type="checkbox"/> (Check if omitted pursuant to Statute)					
RESPONDENT <u>Larbi John Murray</u>		ADDRESS <u>McLean City Jail</u>					
[REDACTED] (Required for LEADS)	Sex <u>M</u>	Race <u>W</u>	Height <u>6' 2"</u>	Weight <u>175</u>	Hair <u>Dk Brown</u>	Eyes <u>Dk Brn</u>	Social Security Number (if known) [REDACTED]

ORDER OF PROTECTION

INTERIM

PLENARY

ANY KNOWING VIOLATION OF ANY ORDER OF PROTECTION FORBIDDING PHYSICAL ABUSE, NEGLECT, EXPLOITATION, HARASSMENT, INTIMIDATION, INTERFERENCE WITH PERSONAL LIBERTY, WILLFUL DEPRIVATION, OR ENTERING OR REMAINING PRESENT AT SPECIFIED PLACES WHEN THE PROTECTED PERSON IS PRESENT OR GRANTING EXCLUSIVE POSSESSION OF THE RESIDENCE OR HOUSEHOLD, PROHIBITING ENTERING OR REMAINING AT THE HOUSEHOLD WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS AND SO CONSTITUTING A THREAT TO THE SAFETY AND WELL-BEING OF ANY PROTECTED PERSON, OR GRANTING A STAY AWAY ORDER, IS A CLASS A MISDEMEANOR. GRANT OF EXCLUSIVE POSSESSION OF THE RESIDENCE OR HOUSEHOLD SHALL CONSTITUTE NOTICE FORBIDDING TRESPASS TO LAND. ANY KNOWING VIOLATION OF ANY ORDER AWARDING LEGAL CUSTODY OR PHYSICAL CARE OF A CHILD, OR PROHIBITING REMOVAL OR CONCEALMENT OF A CHILD MAY BE A CLASS 4 FELONY. ANY WILLFUL VIOLATION OF ANY ORDER IS CONTEMPT OF COURT. ANY VIOLATION MAY RESULT IN FINE OR IMPRISONMENT. STALKING IS A FELONY.

[Definitions of prohibited conduct on back of page 3]

The following persons are protected by this Order: Debbie Mackoway

"The minor child/ren" referred to herein are: \_\_\_\_\_

Date, time and place for further hearing [if Interim Order]:

Date \_\_\_\_\_ Time \_\_\_\_\_ Courtroom/Calendar No. \_\_\_\_\_  
Location \_\_\_\_\_

This Order was issued on: Date <u>10-28-94</u> Time <u>10:25 AM</u>		This Order will be in effect until: <input checked="" type="checkbox"/> Date <u>10-28-96</u> Time <u>9:00 AM</u> <input type="checkbox"/> Vacated by court order. <input type="checkbox"/> Specified event: _____	
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C07494

McLean 000076

BASED ON THE FINDINGS OF THIS COURT,  WHICH WERE MADE ORALLY FOR TRANSCRIPTION OR  WHICH ARE SET OUT IN A SEPARATE INSTRUMENT FILED WITH THE COURT, AND WITH THE COURT HAVING JURISDICTION OF THE SUBJECT MATTER AND OVER ALL NECESSARY PARTIES, IT IS HEREBY ORDERED THAT:

- 1. With respect to all Protected Persons, Respondent is prohibited from committing the following:
  - Physical abuse;  Harassment;  Interference with personal liberty;  Intimidation of a dependent;
  - Willful deprivation;  Neglect;  Exploitation;  Stalking.
- 2. Petitioner is granted exclusive possession of the residence and Respondent shall not enter or remain in the household or premises located at 1107 Maple St *(This remedy does not affect title of property)*
- 3.
  - a. Respondent is ordered to stay away from Petitioner and other protected persons and/or
  - b. Respondent is prohibited from entering or remaining at Franklin Park, Illinois Urgent at Franklin Park, Illinois while any Protected Person is present; and/or
  - c. Respondent is allowed access to the residence on (date) \_\_\_\_\_ at (time) \_\_\_\_\_ in the presence of (name) \_\_\_\_\_ to remove items of clothing, personal adornments, medications used exclusively by the Respondent and other items, as follows: (must give at least two hour notification to local law enforcement department)
- 4. Respondent is ordered to undergo counseling at \_\_\_\_\_ for a duration of \_\_\_\_\_
- 5.
  - a. Petitioner is granted physical care and possession of the minor child/ren and/or
  - b. Respondent is ordered to:
    - Return the minor child/ren \_\_\_\_\_ to the physical care of \_\_\_\_\_ and/or
    - Not remove the minor child/ren \_\_\_\_\_ from the physical care of Petitioner or \_\_\_\_\_
- 6. Petitioner is granted temporary legal custody of the minor child/ren \_\_\_\_\_
- 7.
  - a. Respondent is awarded visitation rights on the following dates and times or under the following conditions or parameters: NO order shall merely refer to the term "reasonable visitation"
  - b. Respondent's visitation is restricted as follows: \_\_\_\_\_
  - c. Respondent's visitation is denied. (Petitioner may deny Respondent access to the minor child/ren if, when Respondent arrives for visitation, Respondent is under the influence of drugs or alcohol, and constitutes a threat to the safety and well-being of Petitioner or the child/ren or is behaving in a violent or abusive manner.)
- 8. Respondent is prohibited from removing the minor child/ren from Illinois or concealing them within Illinois.
- 9. Respondent is ordered to appear in Courtroom/Calendar \_\_\_\_\_ at \_\_\_\_\_ AM/PM, with/without the minor child/ren.
- 10. Petitioner is granted exclusive possession of the following personal property and the Respondent is ordered to promptly make available to Petitioner said property that is in Respondent's possession or control, to wit: \_\_\_\_\_ *(This remedy does not affect title of property)*
- 11. Respondent is prohibited from taking, encumbering, concealing, damaging or otherwise disposing of the following personal property: \_\_\_\_\_ except as expressly authorized by the Court. Further, Respondent is prohibited from improperly using the financial or other resources of an aged member of the family or household for the profit or advantage of Respondent or any other person.
- 12. Respondent is ordered to pay temporary support for  Petitioner and/or  the minor child/ren of the parties as follows: \$ \_\_\_\_\_ per \_\_\_\_\_ starting \_\_\_\_\_ payable  through the Clerk of the Circuit Court or  directly to Petitioner.
- 13. Respondent is ordered to pay \$ \_\_\_\_\_ as actual monetary compensation for losses to \_\_\_\_\_ on or before \_\_\_\_\_. Further, Respondent is ordered to pay court costs in the amount of \$ \_\_\_\_\_ and attorney fees in the amount of \$ \_\_\_\_\_ to \_\_\_\_\_ in connection with any action to obtain, modify, enforce, appeal or reopen any order of protection, on or before \_\_\_\_\_.

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- 14. Respondent is prohibited from entering or remaining at the household or residence located at \_\_\_\_\_ while under the influence of alcohol or drugs and so constituting a threat to the safety and well-being of any Protected Person.
- 15. Respondent is denied access to school and/or any other records of the minor child/ren and is prohibited from inspecting, obtaining, or attempting to inspect or obtain such records.
- 16. Respondent is ordered to pay \$ \_\_\_\_\_ to the following shelter \_\_\_\_\_ on or before \_\_\_\_\_.
- 17. Respondent is further ordered and/or enjoined as follows:  
*no contact w/ Protected Person by phone while she is at her place of employment*
- 18. The relief requested in paragraph(s) \_\_\_\_\_ of the petition is **(DENIED)** **(RESERVED)** because: \_\_\_\_\_

**PLENARY ORDERS ONLY**

This order shall remain in effect until:

- 1. Two years following date of entry of such Order, such expiration date being 10-28-96, such earlier date, as ordered by the Court, such expiration date being \_\_\_\_\_.
- 2. Final judgment in conjoined proceeding is rendered.
- 3. This Order is modified or vacated (provided such Order is incorporated into the final judgment of another civil proceeding).
- 4. Termination of any voluntary or involuntary commitment, or until \_\_\_\_\_ *(not to exceed 2 years)*
- 5. Final disposition when a Bond Forfeiture Warrant has issued, or until \_\_\_\_\_ *(not to exceed 2 years)*
- 6. Expiration of any supervision, conditional discharge, probation, periodic imprisonment, parole, or supervised mandatory release, plus 2 years.
- 7. Expiration of a term of imprisonment set by this Court, plus 2 years.

**NOTICE:** Upon 2 days notice to Petitioner, or such shorter notice as the Court may prescribe, a Respondent subject to an Interim Order of Protection issued under the IDVA may appear and petition the Court to rehear the original or amended Petition. Respondent's petition shall be verified and shall allege lack of notice and a meritorious defense.

Respondent stands in relationship to the Petitioner or alleged abused person/s as:

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Spouse   | <input type="checkbox"/> Former spouse   | <input type="checkbox"/> Parent                                    |
| <input type="checkbox"/> Child  | <input type="checkbox"/> Having or allegedly having a child in common  | <input checked="" type="checkbox"/> Stepchild                      |
| <input checked="" type="checkbox"/> Sharing or formerly sharing a common dwelling | <input checked="" type="checkbox"/> Having or having had a dating or engagement relationship   | <input type="checkbox"/> Other person related by blood or marriage |
| <input type="checkbox"/> Sharing a blood relationship through a child             | <input type="checkbox"/> Personal assistant to person with disabilities of a person who has responsibility for a high-risk adult with disabilities |  |

Attorney (or Petitioner's Name): \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Attorney #: \_\_\_\_\_  
 Service by Facsimile:  will be accepted  will not be accepted.  
 Facsimile Number: \_\_\_\_\_  
(Must be identical to service by facsimile if accepted)

Date: 10-28-94  
 Judge: [Signature]  
 Judge's No: \_\_\_\_\_

007436 McLean 000078

**ILLINOIS STATE POLICE  
INVESTIGATIVE REPORT**

JRRO428A							
No.:	Reporting Date(s):	Reporting Agent(s):	ID #:	Lead No.:			
93G0642	01-25-93	Insp. J. Roberts	#9938				
LARBI J. MURRAY		Case Agent: ID #:	Office:	Typed By:	Date:		
		Schlusser #9708	Zone 6	jk	04-28-93		

On 01-25-93, at approximately 1845 hours an interview was conducted with LARBI J. MURRAY, AKA: JOHN, W/M, DOB: [REDACTED], who resides at [REDACTED], Bloomington, Illinois, TX (309) 828-0718. This interview was conducted at the Division of Criminal Investigation (DCI), Zone 6 Office, by Inspector J. Roberts (Reporting Inspector - R/I) and Inspector R. Tjarks. The following is a synopsis of the interview:

At approximately 1840 hours (01-25-93), MURRAY waived his fifth and sixth amendment rights (see attached rights waiver). MURRAY agreed to be interviewed by the above listed inspectors and to cooperate to the best of his (MURRAY'S) ability.

MURRAY stated that the one-quarter (1/4) pound and the one-quarter (1/4) ounce of cannabis located at his residence during the execution of the search warrant was obtained from Chicago. MURRAY said he was taken to Chicago by a friend of his (MURRAY'S), MIKE LNU. MURRAY advised R/I that MIKE LNU drives a red Chevy Van and resides outside of Normal, Illinois. MURRAY stated he was introduced to MIKE LNU by one of the members in his (MURRAY'S) band. On 01-23-93, MURRAY said MIKE LNU took MURRAY to a town north of Joliet or a south suburb of Chicago, to meet a friend of MIKE LNU'S. MURRAY described MIKE LNU'S friend as being a W/M, approximately twenty-one to twenty-two years of age, short curly blonde hair, 6'00, 180 pounds. MURRAY said he and MIKE LNU acquired a pound of weed from MIKE LNU'S friend. MURRAY stated they didn't pay for the pound, it was fronted. MIKE LNU informed MURRAY that he would be by in a week to collect for the pound. MURRAY said he and MIKE LNU were at MIKE LNU'S friends residence for approximately a minute to a minute and a half before departing. MIKE LNU advised MURRAY that he would be charged one thousand three hundred dollars (\$1,300.00) for the pound of weed.

MURRAY advised R/I that two (2) sales were made from the pound of weed he received from Chicago. MURRAY stated the rest was fronted out to friends. MURRAY said one of the sales was for a one-half (1/2) pound to a JAVIER LNU, M/Mexican, approximately twenty years of age, 5'3, 150 pounds, black hair, and is a student at Illinois State University (ISU). MURRAY stated that JAVIER LNU lives in student housing off of Linden Street. MURRAY stated that the other sale of cannabis from the pound that MURRAY received was to a B.J. LNU, W/M, approximately sixteen to seventeen years of age, 6'00, 180 pounds, short brown hair, and resides in a town between Normal and Peoria. MURRAY informed R/I that the sale to B.J. was for two and one-half (2 1/2) ounces of weed.

MURRAY stated that approximately two (2) weeks ago, he (MURRAY) acquired a quarter (1/4) pound of cannabis from MIKE LNU. MURRAY said he paid three hundred twenty-five dollars (\$325.00) for the quarter (1/4) pound.

nation:

This document contains neither recommendations nor conclusions of the Illinois State Police. It and its contents are not to be disseminated outside your agency.

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APPENDIX 002557

93GD642

Insp. J. Roberts, #9938

01-25-93

Page 2

MURRAY informed R/I that before he (MURRAY) started selling weed while attending school, he used to obtain weed from a friend of his, TONY LNU, W/M, approximately thirty-five to forty years of age, brown hair, 6'01, who resides in Rockford, Illinois, off of Morgan Street. MURRAY stated he would purchase a quarter (1/4) ounce of weed for forty dollars (\$40.00), one (1) ounce for one hundred dollars (\$100.00), and a quarter (1/4) pound from TONY LNU for three hundred twenty-five dollars (\$325.00).

MURRAY advised R/I that he would sell a quarter (1/4) ounce of cannabis for thirty-five to forty dollars (\$35 to \$40), a half (1/2) ounce for sixty dollars (\$60.00), one (1) ounce for one hundred twenty dollars (\$120.00) and a quarter (1/4) pound for four hundred fifty dollars (\$450.00).

R/I inquired on how MURRAY obtained the steroids that were located in his apartment during the execution of the search warrant. MURRAY stated he received the deccaduroblin from JODY GILLIGAN, a friend from Rockford. MURRAY said when he initially received the deccaduroblin there were fifteen (15) vials in the box. R/I advised MURRAY there were four (4) left over, MURRAY stated he used the other eleven (11) vials to increase his weight lifting. MURRAY said he purchased the deccaduroblin from GILLIGAN at the Denney's Restaurant parking lot, located on 11th Street in Rockford. MURRAY stated he paid GILLIGAN two hundred fifty dollars (\$250.00) for the fifteen (15) vials of the deccaduroblin and five (5) syringes. MURRAY informed R/I that GILLIGAN wasn't happy with the amount of money that MURRAY paid for the steroids. GILLIGAN advised MURRAY that he (MURRAY) was ripping him off. R/I asked MURRAY why he needed the steroids. MURRAY stated that he wasn't advancing in his lifting, and GILLIGAN told him (MURRAY) that the steroids would help.

Attachment: Personal History - MURRAY  
Photos - MURRAY  
Fingerprints - MURRAY  
Rights Waiver

C07522

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APPENDIX 002558

**ILLINOIS STATE POLICE  
INVESTIGATIVE SUMMARY**

ABSD429A Report No: 93C0642	Case Agent: Insp. A. Schlosser #9708	I.D. # <i>AK</i>	Office: Zone 6	Field Report No:
Date of Summary: 04-29-93	Reporting Period: 01/25/93-02/26/93	Status: <input type="checkbox"/> Active <input checked="" type="checkbox"/> Pending Prosecution	Typed By: jlk	Date: 04-29-93
Name: LARBI JOHN MURRAY M/W, DOB: [REDACTED] 5 Bloomington, Illinois		Character of Case: POSSESSION W/INTENT TO DELIVER 30 to 500 GRAMS OF CANNABIS		
		Previous Summaries: None		

**SYNOPSIS:**

On 01/25/93, at approximately 1300 hours, Normal Police Department, Detective John Belcher provided Inspector A. Schlosser with information regarding LARBI JOHN MURRAY trafficking cannabis out of MURRAY'S home at [REDACTED] [REDACTED] [REDACTED], Bloomington, Illinois. Detective Belcher received information from a reliable Confidential Source (C/S) who alleged MURRAY is currently in possession of a large quantity of cannabis.

As a result of an in person interview with Detective Belcher's C/S at approximately 1500 hours, on 01-25-93, and the C/S's cooperation, a search warrant was applied for and received from Judge Charles Witte. This search warrant was executed at MURRAY'S residence at approximately 1800 hours, 01-25-93.

As a result of this search multiple grams of cannabis, steroids, trace of cocaine, drug paraphernalia, U.S. Currency and miscellaneous papers were seized at this residence.

Specifically two hundred six point one (206.1) grams of cannabis, cocaine residue from a paper fold and four (4) vials of steroids.

As a result of MURRAY'S cooperation with Task Force 6, MURRAY was not arrested at this time.

Recommendation:

IL 493-0120 *5/27/94*

This document contains neither recommendations nor conclusions of the Illinois State Police; it and its contents are not to be disseminated outside your agency.

ISP 4-6 (3/89)

**C07563**

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

ALAN BEAMAN, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 10-CV-1019  
 )  
JAMES SOUK, et al., )  
 )  
Defendants. )

DISCOVERY DEPOSITION  
OF  
TERRENCE McCANN

Discovery deposition of TERRENCE McCANN,  
taken on April 2, 2013, beginning at 10:15 a.m., at  
1810 South Main Street, Morton, Illinois, at the  
instance of the Defendants, pursuant to Subpoena and  
agreement of the parties, before Christine M. Luciano,  
Certified Shorthand Reporter in the State of Illinois.

\* \* \* \* \*

ANCHOR REPORTING, INC.  
P.O. Box 25471  
Decatur, Illinois 62525-5471  
(217) 428-0946

C07604

1 Mr. Murray's polygraph examination.

2 You had indicated that at one point,  
3 Mr. Murray told you that he had slapped a girlfriend  
4 four years ago and that he had punched his brother and  
5 caused a bruise, right?

6 A. Yes.

7 Q. And was that response to the question, "Have  
8 you ever caused harm to anyone"?

9 A. Yes. That's a comparison question that we  
10 use to compare responses to on the test. So we're  
11 asking questions in general, "Have you ever caused  
12 harm to somebody," and that's what he told me in  
13 response to that in the pretest interview.

14 Q. So that was information that he told you in  
15 the pretest interview?

16 A. That is correct.

17 Q. And if I could direct your attention to  
18 page 1, you ask him, "Besides what you've already told  
19 me, have you ever caused harm to another person?"  
20 Correct?

21 A. Yes.

22 Q. And at this time, he's already told you  
23 before you asked that question about the information  
24 we were just discussing, right?

1 A. That's correct.

2 Q. Understood. He also indicated to you in the  
3 pretest interview that he had sold drugs and had  
4 engaged in drinking and DUI, right?

5 A. Yes. That was in response to my question for  
6 the other comparison that I used on his test, "Have  
7 you ever done anything that you could have been  
8 arrested for?"

9 Q. And he also stated in this polygraph  
10 examination that he had been busted for selling drugs  
11 in response to the question, "Has anything like this  
12 ever happened before?" Right?

13 A. Yes.

14 Q. Ms. Barton asked you some questions about  
15 whether you had met with Jim Souk in connection with  
16 the polygraphs you administered in this case, and I  
17 believe your testimony was you don't recall either  
18 way?

19 A. I don't recall, no.

20 Q. Do you recall meeting with the State's  
21 Attorneys from the McLean County State's Attorney's  
22 Office in connection with polygraphs that you  
23 administered in other cases?

24 A. I recall meeting with them on other

It's Wednesday, September 8, 1993 at approximately 1:00 p.m. we are at the Normal Police Department in the middle interview room. Present with myself is Detective Tony Daniels and a Deborah Mackoway.

Rob: Deborah could you state your full name and SSN.

Deb: Deborah Jean Mackoway, [REDACTED].

Rob: And Deb you are aware that we are taping this interview, correct?

Deb: Yes.

Rob: Deb what we called you back for we wanted to go over some information that you had given us before. Were you able to find the dates that Mr. John Murray was in Byron?

Deb: Yeh, um he was in Bloomington on August 24th which is a Tuesday and he left Wednesday August 25th at I would imagine like, I left at 4:20 and he left right after me he said.

Rob: Ok, and you left where at 4:20?

Deb: His apartment, I was at his apartment from like about 2:00 until 4:20.

Rob: Ok, was John there with you the entire time?

Deb: Yeh.

Rob: From when to when?

Deb: From like to 2:00 until 4:20 I got off work at about 2:00 that day.

Rob: And that's p.m.?

Deb: Yeh.

Rob: On Wednesday August 25th?

Deb: Yes.

Rob: Do you know when he returned back to Bloomington Normal?

Deb: Yeh, he came back on Wednesday September 1st.

Rob: Do you know about what time he got back?

Deb: Um, I can't remember, I can't remember but I know it was that date because it was Tuesday August 31st when I talked to him late at night on the phone and he told me about all this that he had heard about it and um then I called my mom and then I-

C 1701

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(1162)

AB001715

called him back and then he came back the next day, Wednesday.

Rob: When you talked to John where were you at, were you at your house or his apartment?

Deb: I was at my sorority house when I talked to him late at night on the phone you mean on the 31st?

Rob: Correct.

Deb: Yeh, I was at my sorority house.

Rob: Ok, did you at all stay at John's apartment during that time that he was gone?

Deb: Yeh, I was there some of that time.

Rob: Ok, do you know which dates you were there?

Deb: (looking through calendar), Ok, I was probably I was there probably Wednesday night the 25th, Thursday, Friday I don't think I was there, Saturday and Sunday I went home to my parents, Monday I was probably at his apartment.

Rob: Ok, did John call you every night?

Deb: Usually, he called me or I called him pretty much every usually evening.

Rob: Ok, the day that John left do you know where he was at before 2:00?

Deb: I think he, well I wasn't with him I was at work. I don't remember if he called me at work that day or not I was I think he was at the I am sure he was at the apartment, his apartment, as far as I know I don't know if he went anywhere.

Rob: When was the last time that you had seen Jennifer?

Deb: Ok, um (looking through calendar),

Rob: As a reference point, Jennifer's body was found Saturday, August 28th.

Deb: Yeh, but it was awhile before I have seen her. I think it was right around the 20th or something, because well whatever day it was that we had to be out of the apartment it was like a morning we had to be out of the apartment and it was the night before that and I don't remember the date that we had to be out of the apartment.

Rob: Ok, where did you see her at?

Deb: She came by, she was in the car, and pulled by and talked to.

C 1702

~~C 1677~~ (1163)

C07812

AB001716

John and my dad was there helping me move and John had gotten there late at night and she pulled in.

Rob: Ok you said she came by there, where is there?

Deb: She came to John's apartment in the parking lot.

Rob: Ok, and the address of John's apartment?

Deb: [REDACTED].

Rob: In Bloomington?

Deb: Yeh.

Rob: Do you know approximately how long she was there?

Deb: A few mintues, not very long at all.

Rob: Ok, was she by herself?

Deb: I can't I don't remember if she was by herself that time I know I saw her another time, it was right around that like within a couple days either before or after now but since I've been thinking about it I think it was before and she was with Swaine but that time I think as far as I remember she was either by herself or Swaine was in the car I don't remember if Swaine was in the car or not.

Rob: Ok, was Jennifer in her own vehicle?

Deb: I think so, she was driving, but I couldn't tell you what her car is but she was driving.

Rob: Is that the last time that you have had contact either in person or by phone with Jennifer?

Deb: Um, yeh, I don't think she called after that, she used to call quite a bit but I don't think she called after that.

Rob: Do you know when the last time that John had contact with Jennifer?

Deb: The same time, the same day.

Rob: He was present with you when you were talking

Deb: I didn't talk to her.

Rob: Ok, who was talking to her?

Deb: John talked to her.

Rob: Ok, that was the same time that you referred to earlier when

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your dad was there?

Deb: Right, it was the night before we had to move out of that apartment.

Tony: Deb, you stated that you saw Jennifer in the parking lot, at who's apartment?

Deb: At John's apartment.

Tony: And that was the last date that John was to move out of his apartment, is that the date you saw her?

Deb: Yeh.

Tony: Ok, that is the apartment where he now presently resides?

Deb: Ok, we moved from the upstairs apartment downstairs, well, not we, ok it was my apartment over the summer now it is his and we had the apartment upstairs, [REDACTED]

Tony: Which is, apartment ok so

Deb: And it was the day that we had to be out of [REDACTED] and then apartment 1 we had had like from that day to a couple days before.

Tony: So then you were moving from [REDACTED] which was your apartment to apartment 1 when you saw Jennifer last and that was in the parking lot at the apartment building, is that right?

Deb: Right.

Tony: Also, where do you work?

Deb: BroMenn.

Tony: Pardon me?

Deb: Brom Menn.

Tony: Bro Menn.

Deb: Um huh.

Tony: Ok, what is your phone number there at work?

Deb: (looking something up) Well you could call the BroMenn number that is in the phone book and I work in OB.

Tony: OB.

Deb: OB, yea.

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APPENDIX 002566

Tony: Ok, you stated that at about 2:00 on the 25th of August which is a Wednesday, that you and John were in was it John's apartment?

Deb: Yes, that was [REDACTED]

Tony: [REDACTED]

Deb: Yea.

Tony: Now did you arrive there together at 2:00?

Deb: No, I got there and he was there. I got off work at 2:00.

Tony: And you got off work at what time?

Deb: I got off work at about 2:00 that day.

Tony: Ok, and you went straight to apartment number?

Deb: [REDACTED]

Tony: [REDACTED], and he was there already?

Deb: Um huh.

Tony: And that is that was your apartment or is your apartment?

Deb: No, it is his apartment.

Tony: It's his apartment, ok, and did he call you at work prior to you getting off work that day or do you recall?

Deb: (Pause), I can't say for sure, he does call me almost every day that I work and I don't remember anything you know so I would imagine that he probably did but I can't say for sure.

Tony: Ok, also, was do you have any knowledge whether or not or did John ever talk to you about his relationship with Jennifer?

Deb: She was an ex-girlfriend of his.

Tony: Had he been seeing her during the time period that you and John been going together?

Deb: No.

Tony: Did you and him ever go out with Jennifer and her friends together?

Deb: Um huh.

Tony: Ok. Where would you go?

Deb: Either his apartment or their apartment, Jennifer's apartment

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APPENDIX 002567

um that is pretty much it.

Tony: Did you ever go yourself with Jennifer?

Deb: No. Jen no.

Tony: Ok, did ah does, did you and John ever attend any of the bars downtown in Normal together?

Deb: Um huh.

Tony: Ok, do you recall ever going to bad music night at Rocky's?

Deb: I don't remember ever going to bad music night.

Tony: Ok, do you know what bad music night is?

Deb: Yeh, but I don't even know what I know there was one night that we did go to several bars in Bloomington in Normal and a couple other nights we went to some in Bloomington but I don't remember being bad music I don't remember that I don't know but

Tony: Ok, so you and John would go out with Jennifer at various times together, is that right?

Deb: I didn't go to bars with Jennifer.

Tony: Oh, ok, even if John was with you?

Deb: I can't remember ever being at a bar with her.

Tony: Either with or without John you don't recall?

Deb: No, I have never been anywhere with her without John.

Tony: Ok, has she been anywhere, I am sorry, had John gone with Jennifer to any bars just the two of them, with or without your knowledge?

Deb: I really don't think so.

Tony: Would it be like him to take another girl to a bar or to an outing somewhere or?

Deb: And not tell me no, I mean I could see him maybe going over and seeing her but he would you know he would tell me if he did which wasn't, you know I am sure he didn't do it alot, but he may have gone over and seen her some time but he would have told me.

Tony: Ok, if he were go over to see her would he let you know in advance or would he come and tell you after he would see her?

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Deb: Probably tell me in advance, usually I would know I mean I was around him constantly, I'd know, I knew when she called, I knew

Tony: Would you have any problems if he wanted to take her out?

Deb: Well it would depend on how he is taking her out, if he just wanted to go to a bar with her some evening, probably not, but if he said it like that, that he wants to take her well yeh.

Tony: Ok, and you and John have been seeing each other for about 9 months is that is that correct?

Deb: Yeh.

Tony: Ok, I don't have anything else Rob do you have anything?

Rob: Is there anything else that you wish to add at this time?

Deb: Well, I don't know if this, I don't want to waste you guys time but we saw, I was with John yesterday and we saw Beaman at registration at school and John was talking to him you know just for a few minutes and he was John was like well what happened or something and he said it was, he was just like he acted like it didn't matter and he said that Swaine has to wear she was seeing Swaine now so Swaine has to wear black for a year is what he said which was strange because he was so obsessed with her before and now heres I mean I don't know, you know I don't want to be like accusing someone or saying something like that, I am just telling you that I mean John and I do both think he did it and you know I understand that you have to check everyone out and all this but you know, that was just, I don't know if you talked to John about that already but maybe you might want to talk to him about it when he talked to

Rob: Did you hear that statement yourself or is that what John?

Deb: No, John told me, John told me I just came up and saw those guys sitting there.

Tony: So you understand that conversation to be about how strange it would be that Alan Swaine would have to wear black for a year, and not I am sorry

Deb: Well that he would put it that way,

Tony: Michael Swaine.

Deb: that he didn't even act like he was upset about I mean, if someone just killed my boyfriend, I would be like someone is going to pay for this, I would be like I can't you know, I wouldn't just say oh well, someone else is going to have to pay, wear black for a year, I mean I think that is a strange reaction

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APPENDIX 002569

Tony: Did you state last time you were in here talking with us which was September the 3rd, did you tell us then that Joe, you had talked to Joe who is John's brother in regards to the death of Jennifer?

Deb: John talked to Joe and then he called me after that.

Tony: Joe did or John?

Deb: John called me and told me about it, I don't think I haven't really talked to Joe, I can't remember talking to Joe about this no.

Tony: Ok. Anything else Rob?

Rob: No, is there anything else you wish to add then?

Deb: No.

Rob: Ok, this interview is now concluding it's 1:13 p.m. on September 8th, 1993.

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APPENDIX 002570

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IN THE CIRCUIT COURT  
 FOR THE ELEVENTH JUDICIAL CIRCUIT  
 McLEAN COUNTY, BLOOMINGTON, ILLINOIS

THE PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Plaintiff-Respondent, )  
 vs. )  
 )  
 ALAN W. BEAMAN, )  
 )  
 Defendant-Petitioner. )

No. 94 CE 476  
**FILED**  
 AUG 10 2005  
 McLEAN COUNTY  
 CIRCUIT CLERK

HEARING ON SECOND VERIFIED AMENDED PETITION FOR  
POST-CONVICTION RELIEF

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED and CERTIFIED that on, to wit:  
 the 15th day of December, 2004, the following proceedings  
 were held in the aforesaid cause before The Honorable  
 JEFFREY B. FORD, Associate Circuit Judge.

APPEARANCES:

MR. MARK MESSMAN Assistant State's Attorney On behalf of the People	MR. DOMINIC SALVATI Assistant State's Attorney On behalf of the People
MR. JEFFREY URDANGEN Attorney at Law On behalf of the Defendant	MS. KAREN DANIEL Attorney at Law On behalf of the Defendant
MS. JACQUELINE JOHNSON Pursuant to Supreme Court Rule 711 On behalf of the Defendant	

Amy Jennings, CSR, RPR  
 Official Court Reporter  
 IL CSR No. 084-004135

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Plaintiff's Exhibit No. 30

1 get an order and eat a Belgian waffle? Probably about an  
2 hour.

3 Q. All right. And where did you proceed after that?

4 A. And then I took her directly back to Independence  
5 Village.

6 Q. All right. Directing your attention to this  
7 slide, can you tell me what that represents?

8 A. Okay. Just north of The Atrium on Alpine is  
9 Independence Village. It's probably maybe two miles north  
10 there. So that's the route that we would take back to  
11 Independence Village.

12 Q. All right. Now when you arrived back at  
13 Independence Village with your mother, what did you do upon  
14 arriving at the building?

15 A. Well, because she has some difficulty walking, she  
16 wouldn't walk with me from the parking lot. It would have  
17 been too tiring to do. So I would drive -- there is an  
18 overhang there at the entrance to the -- to Independence  
19 Village, and I'd drive into that area, get her out of the  
20 car and seat her on a bench next to the entrance, and then  
21 go park my car and then go back and take her on into  
22 Independence Village and sign her in.

23 Q. So, is it possible that you could have simply  
24 dropped her off and someone who worked at Independence

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Village might have taken her in --

A. No.

Q. -- for you?

A. No.

Q. Directing your attention to the next slide, could you, Mrs. Beaman, tell me what this represents?

A. This is the sign-in sheet at Independence Village. The, what is it, fourth name down there says "Chris Gray." That's my mother. Shows the sign-out time at 7:30. There is a little crossover there, but if you look at it you see the one before that was 7:30 and the next one is 8:00. So 7:30. And then the time in was 10:00.

Q. Now, the sign-in time, at what point would you have signed that sign-in sheet?

A. As we entered the building after I parked the car and everything.

Q. And after you entered the building with your mother, what did you do then?

A. Sign her in and then take her back to her room. And then really later we -- and I -- I'm not sure how to say this, but later we got to thinking about that, and Wednesday was the day that I set up her medicine. And since she had a blood draw, I wouldn't have done it sooner, so I stayed and set up her medicine.

1 Q. Now, at this time, was anyone living with your  
2 mother in her apartment?

3 A. Yes, we had a lady living with her. As I said,  
4 she didn't -- my mother didn't really fit the independence  
5 part. We didn't know how much my father had covered for her  
6 over the years before he died. But we had a lady who had  
7 given up her home and was on a high-rise list and was quite  
8 far down on the list. She happened to be a family friend,  
9 and she agreed to go and stay with my mother and just kind  
10 of be her reminder. You know, it's time to go to dinner;  
11 it's time to take your medicine; don't forget to put your  
12 clothes on before you go out in the hall; you can't go out  
13 in your robe. And that sort of thing.

14 Q. What was this lady's name?

15 A. Gay Geezer (phonetic)

16 Q. Was one of Ms. Geezer's (phonetic)  
17 responsibilities to set up medicine for your mother?

18 A. No. She was not a nurse, and it was not her  
19 responsibility to set up the medicine. Only to remind my  
20 mother to take it and point her in the right direction.

21 Q. So, from the time that you signed in your mother  
22 at 10:00 until you got her to her room, completed setting up  
23 her medicines, can you estimate for us how long that would  
24 have taken?

1 A. Probably 20 to 30 minutes.

2 Q. All right. And if Ms. Geezer (phonetic) had been  
3 at the apartment -- well, do you know -- actually, do you  
4 remember whether Ms. Geezer (phonetic) was at the apartment  
5 when you arrived there?

6 A. No, I don't. And it wouldn't have been necessary  
7 for her to be there. Our agreement with her was that she  
8 needed to be there at mealtimes to make sure my mother got  
9 to the right place. That she needed to be there in the  
10 evening, at bedtime and everything. She did stay there, but  
11 she pretty much had her own life to live, too. And she had  
12 volunteered at a lot of activities there at the Village and  
13 was involved in various activities there. So -- and she  
14 knew my mother was with me, so there was no reason for her,  
15 one, to know when I would return with my mother or, two, to  
16 really be concerned about it until noontime.

17 Q. If she had been there, would that have shortened  
18 the time that you would have been able to spend with your  
19 mother?

20 A. It might have lengthened it, because we might have  
21 discussed what was going on as far as the doctor's  
22 appointment and that sort of thing.

23 Q. After you left your mother's apartment, where did  
24 you go next?

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1           A.    The next step was -- the next stop was to go  
2 shopping at the Wal-Mart directly across the street from  
3 Independence Village.

4           Q.    And what was your agenda for the rest of that day  
5 after having taken care of your mother?

6           A.    My agenda for the rest of the day basically was to  
7 make sure I got home by suppertime to fix supper. And in  
8 the evening we were going to take my mother to an ice cream  
9 social at church.

10          Q.    Did you have particular errands that you needed to  
11 do?

12          A.    Yeah. This was the last day before I was really  
13 committed for school. Thursday and Friday I was going to be  
14 in a seminar all day. Saturday my in-laws were due in from  
15 Florida, and then Monday we were back on the school routine.  
16 So I was trying to get a number of things done during that  
17 time, because I knew I wouldn't have time to do them after  
18 that.

19          Q.    And, specifically, what were your shopping  
20 activities geared toward?

21          A.    Well, at the time I was in graduate school as well  
22 as teaching full time, and I was in the thesis part of my  
23 graduate work. And my students were going to be doing a  
24 project the next year related to that, an action research

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THE COURT: Not right now.

Q. (By Ms. Daniel) Okay. Going to the next slide, can you tell me what that depicts?

A. This is the Wal-Mart receipt from that day, August 25th. Shows a check-out time of 11:10:34.

Q. All right, now, how often prior to that time had you shopped at this particular Wal-Mart?

A. I'm not exactly sure when that Wal-Mart opened, but it was a fairly new store at the time. Because of its proximity to my mother's apartment, I probably had been there more often than I might have otherwise, but not a lot of times. I'm not a shopper.

Q. So, would you say you were quite familiar with that Wal-Mart? Unfamiliar with it?

A. Sort of familiar with it.

Q. All right. Just going through the individual items, could you tell us what the copy paper was for?

A. Because school was starting the following week, I wanted to get a head start on some of the things that I needed. One was a syllabus for my students. And so I have a copy machine at home, and I was just buying a ream of paper to make sure I could get that syllabus copied off.

Q. What department would you have found that in?

A. In the stationery or paper supplies.

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Q. I see two items described as poster frames.

A. Right.

Q. What would those have been for?

A. I like to decorate my classroom with posters, and so I was looking for some frames that I could use to put those posters in. Because if I don't put them in frames, the students deface them.

Q. So, choosing the frames, what would that have entailed?

A. Trying to find out if they were, one, cheap enough to afford, and, two, if they were light enough to fit on my walls at school, and, three, if they were big enough to hold the posters I had in mind.

Q. Do you know exactly what size you needed?

A. Not really. I was kind of -- I need a big one, and I need a medium one.

Q. Did you compare various poster frames?

A. Yes, I did.

Q. The magazine holders, could you describe what those were for?

A. Those are those plastic magazine holders that fit in a three-ringed binder. I had some magazines that I had gotten. My *Math Teacher* magazine and *Education Leadership* I wanted to put in those -- in the three-ringed binder just to

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organize them.

Q. And where were those located?

A. Those are in the paper supply area, also.

Q. All right. And then, finally, I see two pairs of Rustlers.

A. Jeans.

Q. Jeans.

A. Uh-huh.

Q. Could you describe what those were?

A. Those were for Alan. He wanted some -- it was very hard to buy for him when he wasn't there. First of all, his size was unusual, because he was very skinny then.

Secondly, they couldn't be too dark. They had to be faded faded, because he didn't want anyone to know he had new jeans. He's laughing because I said that.

And they had to fit over the boots he wore in the theater, so -- but they couldn't be wide legged and they couldn't be straight, narrow legged. They had to be bootcut leg and that sort of thing.

Q. So what did all of that mean for your selection process in choosing the jeans?

A. It was hard to find the right thing.

Q. Were you able to look at it, fold it up and put it in the --

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A. No, no.

Q. -- cart?

A. Once I found the right size, I'd have to hold them up and look and see do I think he'll accept this?

As an aside, he didn't, and I had to take them back.

Q. While you were at this Wal-Mart, did you do any shopping or browsing that did not result in an actual purchase?

A. I can't honestly say that I did, but I also can't honestly say that I didn't. It would be normal for me, particularly at that stage of the year, to have wandered around a little bit. One, I taught math, and our students used calculators. Not that I necessarily agree with that, but they do. And I wanted them to have specific kinds, so

I -- or a specific style, I should say. So whenever I was in a store that time of year, I would check the sales to see what kind of prices, so I could give them some idea of where they might find it at a reasonable price.

The other thing is because I'm not necessarily a shopper, when I do go shopping and have the time I want to have some idea what other things are available.

I was also looking for the materials for my -- the spiral notebooks, and the pocket folders for my thesis

1 well?

2 A. Yes. Alan was singing and playing the guitar, and  
3 Mitch was accompanying him on keyboard. So they would have  
4 needed practice.

5 Q. By the way, approximately how long does it take to  
6 drive from that Wal-Mart to your home?

7 A. Well, it's very close to my mother's house, so I  
8 would allow about a half hour. But I would think somewhere  
9 in the range of 21, 22 minutes to a half hour, depending on  
10 traffic.

11 Q. Did you have any pets living at your home at that  
12 time?

13 A. We had two dogs at the time.

14 Q. Would there have been a reason for you at that  
15 time in the morning to drive back to your house to attend to  
16 your dogs to let them out in the yard?

17 A. No, no. They were used to being home alone. They  
18 were locked into our kitchen. They were paper trained.  
19 They were used to being there all day by themselves, so  
20 there was no reason to go home and let them out. And,  
21 besides, I expected Alan to be home sometime during that  
22 morning between 9:00 and 11:00, and he would have let them  
23 out.

24 Q. Is it possible that you might have driven home to

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

ALAN BEAMAN, )  
Plaintiff, )  
vs. ) Case No. 10-CV-1019  
JAMES SOUK, et. al, )  
Defendants. )

The videotaped deposition of ROBERT A. HOSPELHORN, taken in the above-entitled cause, before RHONDA K. O'NEAL, CSR, RPR, on the 17th day of December, 2012, at the Bloomington-Normal Marriott Hotel and Conference Center, 201 Broadway Street, Normal, Illinois, at the instance of the Plaintiff, pursuant to Notice at the hour of 10:16 a.m.

Reported by: Rhonda K. O'Neal, CSR, RPR  
License No: 084-004158

1

1 August 23?

2 A. I don't remember.

3 Q. Now, is it your understanding that some of  
4 the interactions between you and Daniels and Beaman  
5 were captured on audiotape and some were not?

6 A. I believe so, yes.

7 Q. Okay. As to those portions of the  
8 interaction that we don't have a transcript for  
9 because they weren't taped, do you have any  
10 recollection of anything that happened?

11 A. No.

12 Q. Is there anything at all that you could  
13 testify about as to what Daniels said, what you said,  
14 what Beaman said in the unrecorded portion of the  
15 interview that you had with Beaman on August 28?

16 A. No.

17 Q. As a result of your interview with Beaman on  
18 August 28, the one you did with Daniels, did you  
19 and/or Daniels form any suspicion as to whether  
20 Beaman might be guilty of murdering Jennifer  
21 Lockmiller?

22 MR. DiCIANNI: I'll object to foundation as  
23 to Daniels.

24 THE WITNESS: No.

77

1 any investigator to identify persons with whom  
2 Lockmiller had had contact over the course of the  
3 summer with an eye to determining whether any of  
4 those individuals might have been responsible for her  
5 murder?

6 A. I guess there's people that come up on  
7 interviews, I think, that were contacted. I don't  
8 remember specific names or times.

9 Q. Okay. So there are some people in that  
10 category who were reflected in your reports, right,  
11 who you interviewed?

12 A. Correct, correct.

13 Q. And then let me ask you this. Did any  
14 investigator, to your knowledge, pull the lists of  
15 the classes that Lockmiller had been involved in, the  
16 enrollment lists, to ascertain whether there might be  
17 some individual that she'd been in a class with who  
18 might have been responsible for her murder?

19 A. Not to my knowledge.

20 Q. Was any effort made to investigate people  
21 that Lockmiller might have encountered at the college  
22 newspaper, The Vidette, I think it's called?

23 A. Not to my knowledge.

24 Q. Was any effort made to investigate

99



**ILLINOIS STATE POLICE**  
*Division of Forensic Services*

George H. Ryan  
*Governor*

Sam W. Nolen  
*Director*

July 17, 2000

Ms. Juliet Yackel, Attorney at Law  
53 West Jackson Boulevard, Suite 1515  
Chicago, Illinois 60604

Dear Ms. Yackel:

Re: Laboratory Case #P93-2654, Court Case #94CF476

In response to the McLean County Subpoena Duces Tecum, dated July 13, 2000, I have enclosed all reports, notes and data relating to the polygraph examination attempted with Mr. Larbi John Murray on September 30, 1993. We have no information in our case file to indicate Mr. Murray was ever tested, or attempted to be tested, by any other Illinois State Police polygraph examiner.

If you have any questions regarding this material, you may contact Polygraph Examiner Terry McCann directly at 309-284-6500. Please note this is our new telephone number.

Sincerely,

George A. Whitlatch  
Laboratory Director

GAW:i  
Enclosures  
cc: McLean County State's Attorney's Office



ILLINOIS STATE POLICE  
Division of Forensic Services & Identification

Jim Edgar  
Governor

October 5, 1993

Terrance W. Gainer  
Director

Detective David Warner  
Normal Police Department  
100 East Phoenix  
Normal, Illinois 61761

Laboratory #P93-2654

NATURE OF INVESTIGATION: Homicide  
SUSPECT: Larbi John Murray  
VICTIM: Jennifer Lockmiller

REQUEST

At the request of Detective David Warner, the above listed suspect was to have been examined by the Polygraph Detection of Deception Technique at the Bureau of Forensic Sciences in Morton, Illinois, on September 30, 1993.

NATURE OF INVESTIGATION:

The purpose of this polygraph examination was to investigate whether the above listed subject was involved in the strangulation death of Jennifer Lockmiller on or about August 25, 1993.

RESULTS:

During the course of the examination, the subject denied strangling Jennifer Lockmiller and denied having any knowledge regarding who did.

Throughout the course of his polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination. After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.

Respectfully submitted,

Terrence G. McCann  
Polygraph Examiner

TGM:d

C08163

Bureau of Forensic Sciences  
Forensic Science Laboratory  
1810 South Main • Morton, IL 61550-2983 • (309) 263-7491 AB019630  
1 (800) 255-3323 (TDD)

ELEVENTH JUDICIAL CIRCUIT  
McLEAN COUNTY, ILLINOIS

PEOPLE OF THE STATE OF )  
ILLINOIS, )

Plaintiff, )

-vs-

No. 94-CF-476

ALAN W. BEAMAN, )

Defendant. )

THE DISCOVERY DEPOSITION OF TIMOTHY J.

FREESMEYER, taken before Amy S. Powers, Illinois  
CSR 084-003053, RPR 038540, a Notary Public, on  
Monday, the 22nd day of November 2004, commencing  
at the hour of 2:15 p.m., at 130 South Lafayette  
Street, in the City of Macomb, County of  
McDonough, and State of Illinois.

CIRCUIT WIDE REPORTING  
Suite 316 Hill Arcade Building  
Galesburg, Illinois 61401  
(309) 343-3376 \* 1-800-342-DEPO

C08210

Plaintiff's Exhibit No. 34

**PRESENT:**

MARK D. MESSMAN, ESQ., and  
DOMINIC SALVATI, ESQ.,  
Law & Justice Center  
104 West Front Street, Room 605  
Bloomington, Illinois 61702  
on behalf of the Plaintiff;

JEFFREY URDANGEN, ESQ.,  
Bluhm Legal Clinic  
Northwestern University School of Law  
357 East Chicago Avenue  
Chicago, Illinois 60611-3069  
on behalf of the Defendant.

I N D E X

WITNESS

PAGE

TIMOTHY J. FREESMEYER,	
Examination by Mr. Urdangen	3 - 103
Certificate of Reporter	108 - 109
Signature Page	110

EXHIBITS

No Exhibits

C08211

1 (Witness sworn.)

2 **TIMOTHY J. FREESMEYER,**

3 having been first duly sworn, was examined and  
4 testified on his oath as follows:

5

6 **MR. URDANGEN:** Okay. We're here  
7 pursuant to Judge Jeffrey Ford's order on  
8 the discovery deposition of Timothy  
9 Freesmeyer pursuant to the Post-Conviction  
10 Petition and related proceedings in People  
11 versus Alan Beaman, 94-CF-476.

12 My name is Jeff Urdangen. Want to  
13 identify yourselves, please?

14 **MR. SALVATI:** Dominic Salvati,  
15 Assistant State's Attorney with McLean  
16 County, Illinois.

17 **MR. MESSMAN:** Mark Messman,  
18 Assistant State's Attorney.

19

20 **EXAMINATION BY MR. URDANGEN:**

21 Q. Sir, your name?

22 A. Tim Freesmeyer.

23 Q. Is it Tim or Timothy?

24 A. It's Timothy.

C08212

1 Q. Could you spell Freesmeyer?  
2 A. F-R-E-E-S-M-E-Y-E-R.  
3 Q. What's your date of birth?  
4 A. [REDACTED].  
5 Q. And your occupation?  
6 A. I am self-employed.  
7 Q. What is your employment?  
8 A. I do consulting and training.  
9 Q. In what area?  
10 A. Law enforcement, security, and education.  
11 Q. And you consult with law enforcement  
12 agencies; is that right?  
13 A. Yes, sir.  
14 Q. How long have you been doing that?  
15 A. Oh, approximately nine years now.  
16 Q. Okay. And are you aware that you are here  
17 pursuant to an order by Circuit Judge  
18 Jeffrey Ford?  
19 A. Yes.  
20 Q. And you are aware of the purpose that you  
21 are here to give a deposition in the Alan  
22 Beaman matter?  
23 A. Yes, I am.  
24 Q. Can you briefly describe your education,

C08213

1           yes.

2       A.    I have a bachelor's degree in Physics from  
3           Illinois State University.  Graduated in  
4           1998, I believe it was.  I have a master's  
5           degree in Business Administration from  
6           Illinois State University.  Graduated in  
7           2000.  And I'm currently working on a Ph.D.  
8           in Educational Administration through  
9           Illinois State University.

10       Q.   All right.  Now, you were a -- an officer  
11           for the Normal, Illinois Police Department;  
12           is that right?

13       A.    Yes, sir.

14       Q.    What were your dates of employment there?

15       A.    I started March 12, 1990, and terminated, or  
16           gave my resignation, in I believe it was  
17           August of 2000.

18       Q.    August of 2000?

19       A.    Yes, sir.

20       Q.    Why did you resign?

21       A.    I was offered a full-time faculty position  
22           at Northwestern University.

23       Q.    In Evanston, Illinois?

24       A.    Yes, sir.

C08214

1 Q. And what was that position?  
2 A. It was as Director of Management Training  
3 for the Center for Public Safety.  
4 Q. How long did you keep that job?  
5 A. I was there a little over a year.  
6 Q. Why did that job end?  
7 A. Living in Chicago just didn't adjust to our  
8 family life. I was commuting two hours each  
9 way. You're from Evanston, so you  
10 understand.  
11 Q. Were you terminated?  
12 A. No, I was not. I resigned my position.  
13 Q. Then what did you do after that?  
14 A. I came here to Macomb and began working for  
15 Western Illinois University.  
16 Q. And how long did you stay at that position?  
17 A. I was there until July 7 of this year.  
18 Q. And what was your job there?  
19 A. I was a faculty development coordinator, so  
20 I was responsible for helping integrate  
21 technology into higher education.  
22 Q. And did you resign, or were you terminated?  
23 A. I resigned my position.  
24 Q. And why was that?

C08215

1 A. To start my own business and run my own  
2 corporation.  
3 Q. And before you were in law enforcement --  
4 before you were on the Normal P.D., were you  
5 in law enforcement before that?  
6 A. I was in corrections. If you deem that law  
7 enforcement, I was in corrections --  
8 Q. What were your positions in corrections?  
9 A. I started in 1987, I believe it was, with  
10 the Arizona Department of Corrections  
11 working in the state prison in Florence,  
12 Arizona. Took a couple of separate  
13 positions. I was moved to a minimum custody  
14 work camp in Picacho Peak, Arizona, and then  
15 back to Florence.  
16 And then in 1988 returned to the  
17 state of Illinois, which was my location of  
18 birth, and began working for the Champaign  
19 County Sheriff's Department as a  
20 correctional officer.  
21 Q. So when were you assigned to the Alan Beaman  
22 investigation?  
23 A. Would have been the day that her body was  
24 found. It was in August of 1993, but I

1 don't remember the exact date. I want to  
2 say maybe the 25th or the 28th.

3 Q. Okay. So you were initially assigned with  
4 what officers?

5 A. I was the on-call -- I was the detective on  
6 duty at the time her body was found. I was  
7 actually on duty at the time in the  
8 Detective Division, so I responded to the  
9 scene.

10 Q. And what was your rank at the time?

11 A. I was a detective.

12 Q. And who were you working with as that  
13 investigation proceeded?

14 A. You mean who else was in the Detective  
15 Division?

16 Q. Who worked with you on the case?

17 A. It would have been Dave Warner, Tony  
18 Daniels, Rob Hospelhorn, Frank Zayas.

19 Q. Can you spell Zayas, please?

20 A. Z-A-Y-A-S.

21 Q. Maybe you should spell Hospelhorn too.

22 A. H-O-S-P-E-L-H-O-R-N.

23 Q. Anyone else?

24 A. Well, there were a host of patrol officers.

C08217

1 I can't tell you offhand exactly which ones  
2 were right at the scene.

3 Q. Where was your office, what building, at the  
4 time of the murder, on the date of the  
5 murder?

6 A. The same place where the current police  
7 department is located.

8 Q. All right.

9 A. It's on Phoenix Avenue.

10 Q. And that's where you worked out of, you,  
11 yourself?

12 A. Yes.

13 Q. At some point did you move your office  
14 location?

15 A. After the arrest in the case, towards the  
16 last two months prior to trial, I began  
17 working out of the state's attorney's  
18 office.

19 Q. And why was that?

20 A. The last two months --

21 Q. Why was that?

22 A. Because most of my time was spent working  
23 with James Souk and Terry Demmick  
24 (phonetic). It was senseless to be driving

1 back and forth. I just simply reported  
2 straight to the state's attorney's office.  
3 Q. Did any other detectives working on the case  
4 move their offices?  
5 A. Not that I'm aware of.  
6 Q. Why were you the only one that moved your  
7 office, if you know?  
8 A. I was the lead investigator, if you want to  
9 call it that, towards the end of the case.  
10 Q. When did that status begin?  
11 A. I couldn't tell you for sure.  
12 Q. Approximately.  
13 A. As people began to drift off the case.  
14 Sir, you're asking me to put a  
15 date on when a position that gradually  
16 evolved became effective. I can't put a  
17 date on that.  
18 Q. Okay. Now, during the -- from the beginning  
19 of this investigation and as it proceeded to  
20 trial, did you have input from other  
21 detectives?  
22 A. Yes.  
23 Q. And did those include Tony Daniels?  
24 A. Yes.

C 8219

1 Q. Did you -- did Tony Daniels ever discuss  
2 with you his views of the case?  
3 A. Yes.  
4 Q. Did he discuss with you his views of the  
5 weight of the evidence against Mr. Beaman?  
6 A. We had many open meetings. It was not a  
7 conversation strictly between Tony Daniels  
8 and I.  
9 Q. Were you and Daniels ever in disagreement  
10 about whether or not the evidence against  
11 Beaman was sufficient to indict?  
12 A. Would you clarify what you mean by  
13 disagreement? I mean, are you talking  
14 completely at odds, or just skeptical as to  
15 whether we had enough evidence or not?  
16 Q. Were you ever skeptical?  
17 A. No, I was not.  
18 Q. Was Daniels ever skeptical?  
19 A. Yes, he was.  
20 Q. Did you have a good working relationship  
21 with Tony Daniels throughout this  
22 investigation?  
23 A. No, I did not.  
24 Q. Okay. Did at some point -- can you isolate

C08220

1 the time that it started to go bad?

2 A. No, sir, I can't isolate the time. I can  
3 just -- no, I can't.

4 Q. Well, would that have been in the first  
5 month of the investigation?

6 A. No, I don't think so. I believe it would  
7 have been more into the sixth or the ninth  
8 month of investigation just prior to arrest.

9 Q. What was the nature of -- why do you  
10 characterize it as not good during that time  
11 period?

12 A. Tony was my original FTO when I came on the  
13 police department in 1990. He was my first  
14 trainer. He was a personal friend. We had  
15 been friends for a long time. And for some  
16 reason when Tony was taken off as the lead  
17 investigator and I took more of an active  
18 role as a lead investigator would, we  
19 started to drift apart.

20 Q. Was there a professional disagreement?

21 A. What do you mean professional disagreement?

22 Q. I can't define it for you, sir. I'll let  
23 you use your own definition.

24 A. I can tell you he did not feel we had enough

C08221

1 evidence to convict. I felt we did.

2 Q. Was he the only officer who felt that way on  
3 the police force?

4 A. I don't know. I can't answer for everybody  
5 else on the police force, Mr. Urdangen.

6 Q. Ur-dang-en.

7 A. Ur-dang-en.

8 Q. Were you aware of any other officers having  
9 similar feelings as Tony Daniels on the  
10 weight of the evidence?

11 A. No. And I can tell you that prior to the  
12 arrest we held one very large meeting asking  
13 if anybody had outstanding issues they  
14 wanted to bring up, and everybody was in  
15 agreement on the arrest prior to the arrest,  
16 including Tony Daniels.

17 Q. Tony Daniels was in agreement that there was  
18 probable cause for arrest?

19 A. He was in agreement that we should go ahead  
20 and make the arrest.

21 Q. Was he in agreement that there was probable  
22 cause for arrest?

23 A. I can't tell you that, sir. I can tell you  
24 before we made the arrest we had one final

1 meeting prior to the arrest and everybody  
2 involved in the case had an opportunity to  
3 give their input.

4 Q. And how many people there specifically said  
5 they thought there was probable cause for  
6 arrest?

7 A. I -- again, I believe it was unanimous.

8 Q. Okay.

9 A. 'Tony Daniels' expressions at that point were  
10 that he did not feel we would have enough to  
11 convict, not that we did not have enough  
12 probable cause to arrest. That was my  
13 understanding.

14 Q. What did James Souk say at that meeting  
15 about the weight of the evidence?

16 A. I can't tell you what he said. I can tell  
17 you that we were in agreement that it was  
18 enough for the arrest.

19 Q. Okay. In any of your corrections jobs or  
20 with the Normal Police Department, were you  
21 ever disciplined in connection with your  
22 professional activities?

23 A. I don't believe so.

24 Q. You're not sure?

1 A. I believe I had -- I'm sorry, I had a  
2 write-up one time because I was using the  
3 computer to do an Excel spreadsheet instead  
4 of being out on patrol. I think that was  
5 the extent of my discipline, sir.

6 Q. Were you ever sanctioned for brutality or  
7 dishonesty in any way?

8 A. No, sir.

9 Q. As a guard either?

10 A. No, sir.

11 Q. Ever dismissed, fired, or terminated from  
12 any job?

13 A. No, sir.

14 Q. Who was your supervisor at Northwestern  
15 University?

16 A. My direct supervisor was Cameron Fisher.  
17 Ron, he goes by Ron.

18 Q. Now, insofar as this deposition is  
19 concerned, have you prepared by reviewing  
20 materials before getting -- in between the  
21 time you heard from me and today?

22 A. I've reviewed the motion that you sent.

23 Q. The motion?

24 A. This is the only information that I've

1 received from either yourself or from the  
2 state's attorney's office, and I have read  
3 through that (indicating).  
4 Q. So you're referring to documents entitled  
5 "Second Verified Amended Petition For  
6 Post-Conviction Relief"?  
7 A. Yes.  
8 Q. That's what it says, right?  
9 A. Yes.  
10 Q. And is that the extent of the materials that  
11 you reviewed from the time that you first  
12 spoke to me until today?  
13 A. Yes, it is.  
14 Q. Now, I want to show you -- well, I sent you  
15 an e-mail on October 22nd of this year in  
16 which I said, You may wish in the next 30  
17 days to prepare for these proceedings by  
18 reviewing all of your testimony and reports.  
19 Certainly the prosecutor will furnish these  
20 materials to you in a timely manner. Do you  
21 remember getting that e-mail?  
22 A. Yes.  
23 Q. Okay. Did you ask -- did you look for your  
24 own materials?

1 A. No, I don't have any of my own materials,  
2 sir.  
3 Q. When you and I spoke on the phone, you  
4 talked to me -- I think you referred to  
5 binders that you hadn't reviewed for awhile.  
6 Do you remember that expression?  
7 A. Yes.  
8 Q. Okay. What binders were you referring to?  
9 A. Those were binders that became the official  
10 case notes that were submitted to the  
11 Records Section of the Normal Police  
12 Department.  
13 Q. Okay. And why did you not -- or did you ask  
14 Mr. Messman for materials and testimony?  
15 A. No, sir, I did not.  
16 Q. Why not?  
17 A. Because I had many other things going on and  
18 I did not have the time to sit down and read  
19 through many stacks of binders in this case.  
20 You simply said you wished. There was not a  
21 court order that I had to go back and review  
22 all that material, sir.  
23 Q. And do you feel that that's appropriate to  
24 come into a deposition without having

1 prepared by reading any of the prior  
2 materials?  
3 A. Sir, I've read what your Petition for  
4 Post-Conviction Relief is.  
5 Q. Do you feel satisfied that you've done all  
6 you can to prepare for this deposition?  
7 A. Sir, I've never had a deposition like this  
8 before. I don't know what questions you're  
9 going to ask me. You did not forward a list  
10 of questions to me that you were going to  
11 ask; so, therefore, to sit and read all of  
12 the material from that 18-month  
13 investigation is a shot in the dark. I have  
14 many other things I have to get done.  
15 Q. How about your testimony, did you think it  
16 would have been helped you to review your  
17 grand jury testimony?  
18 A. It -- it may have, sir.  
19 Q. Do you think it would have helped you to  
20 review your trial testimony?  
21 A. Yes, it probably would have.  
22 Q. Did you ever ask Mr. Messman for copies of  
23 those materials?  
24 A. No, sir, I did not.

1 Q. Have you reviewed the deposition transcript  
2 of James Souk?  
3 A. No, I have not.  
4 Q. Did you know he was deposed?  
5 A. Yes, I did.  
6 Q. How did you know that?  
7 A. I spoke with Mr. Souk on the phone.  
8 Q. When did you speak with him on the phone?  
9 A. It was before you contacted me. It was  
10 after the last court hearing was postponed.  
11 Mr. Souk called to let me know that the  
12 court case had been postponed.  
13 Q. And how many times had you talked to Souk in  
14 the six months before that phone call?  
15 A. I might have talked to him one other time.  
16 Q. Approximately when was that?  
17 A. It would have been after I found out that  
18 the court -- the case was going back to  
19 court. So it probably would have been close  
20 to six months prior to that. I don't  
21 remember the exact date, sir.  
22 Q. Okay. Well, how many times have you spoken  
23 to James Souk, if any, since I spoke to you  
24 on October 22?

1 A. I believe just the one time.  
2 Q. I can tell you that the court hearing was  
3 postponed prior to October 22, the date you  
4 and I spoke on the phone.  
5 A. Okay. Then I may not have spoke to him  
6 since then.  
7 Q. Are you sure?  
8 A. I spoke to him one time after the court case  
9 was postponed to find out what had happened,  
10 and he told me that it had been postponed.  
11 Q. Did you inform James Souk that you were  
12 going to be deposed?  
13 A. I don't believe so.  
14 Q. Are you sure?  
15 A. I don't -- no, I'm not sure.  
16 Q. Well, could you please think about that. I  
17 asked -- it was one month ago that you were  
18 given notice of this deposition. Do you  
19 want to take a minute to think about whether  
20 or not you've discussed this with Souk since  
21 then?  
22 A. I don't believe I have in the last month.  
23 I've been out of town quite a few of those  
24 weeks, so I don't believe I have.

C08229

1 Q. Okay. And how many times have you spoken to  
2 Mr. Messman in preparation for this  
3 deposition?  
4 A. I know at least twice, possibly three times.  
5 Q. Did you review any documents during those  
6 conferences?  
7 A. No.  
8 Q. Okay. Insofar as the Alan Beaman case is  
9 concerned and your work on that case, was  
10 that the most high profile case that you  
11 worked on in your career as a law  
12 enforcement officer?  
13 A. Yes, it was.  
14 Q. Okay. And did it have the most media  
15 coverage of any case that you ever worked  
16 on?  
17 A. I believe so.  
18 Q. And were the most resources devoted to that  
19 prosecution than any case you've ever worked  
20 on?  
21 A. Yes.  
22 Q. Had you ever been a lead investigator in a  
23 murder case prior to that?  
24 A. No.

1 Q. Fair to say it was a memorable case for you?  
2 A. Yes, it is.  
3 Q. But you did not -- I think you said earlier  
4 that you do not -- you're not in possession  
5 of your own records of this case?  
6 A. No, sir, I'm not.  
7 Q. You don't have any of your own original  
8 reports?  
9 A. No, I don't.  
10 Q. Or copies?  
11 A. No.  
12 Q. Or notes?  
13 A. No.  
14 Q. When you left the Normal Police Department,  
15 did you put those documents and materials in  
16 storage?  
17 A. No, sir.  
18 Q. What did you do with them?  
19 A. I did not take anything from the police  
20 department when I left. Any reports that I  
21 had, which would have been evidence in any  
22 case, went to the Records Section. And  
23 anything else that I had was destroyed when  
24 I left.

1 Q. So your handwritten notes and memos were  
2 destroyed?  
3 A. Oh, yes. Those were destroyed after I  
4 transcribed them into my report.  
5 Q. Have you ever written about this case since  
6 you left the police department?  
7 A. No, sir.  
8 Q. Have you ever spoken publicly about it?  
9 A. No, sir.  
10 Q. Have you kept up with the developments in  
11 this case?  
12 A. No, sir.  
13 Q. Why not?  
14 A. I'm not interested in keeping up with the  
15 developments of it. That was ten years ago.  
16 I'm no longer in law enforcement. I've  
17 moved on with my life. I have no desire to  
18 go back and relive those 18 months of  
19 investigation.  
20 Q. Not interested in the most important case in  
21 your career and how it's developed?  
22 A. No, sir.  
23 Q. You in that period of time, have you -- let  
24 me rephrase that, please.

C08232



1 Beaman's conviction?

2 A. No, sir.

3 Q. You didn't?

4 A. No. Mr. Urdangen, you seem to look  
5 surprised that I'm not interested in this  
6 case. I've moved into a completely separate  
7 part of my life now. I'm no longer in law  
8 enforcement. I moved to a quiet town to  
9 raise my family.

10 Q. Sir, your comments about how I'm looking is  
11 just taking up time. I'll ask the  
12 questions, you can give the answers, and I  
13 think that will get us out of here in a more  
14 efficient light.

15 Did you know that there was a  
16 40-page dissent in that appellate court  
17 opinion?

18 A. I knew that there was a dissent.

19 Q. And did you know that the presiding justice  
20 who was the dissenter said it's impossible  
21 to identify any evidence which firmly  
22 supports defendant's guilt in this case?

23 A. I believe that I read that in your Petition  
24 for Post-Conviction Relief.

C08234

1 Q. And what is your response to that?

2 A. Everybody is entitled to their opinion, sir.

3 Q. What formed your view, what's the single

4 most important factor that formed your view

5 that Alan Beaman is guilty?

6 A. The 18 months that I spent on the case, sir.

7 Q. What fact? What artifact of evidence? What

8 piece of testimony is significant in forming

9 your view that he's guilty?

10 A. Well, let's start with the fingerprint on

11 the clock. We'll move on to the fact that

12 he remembered exactly where he drove for the

13 entire several days between the murder and

14 his first interview.

15 Q. Let me interrupt. The fingerprint on the

16 clock. Are you talking about Mr. Beaman's

17 or Mr. Swain's fingerprint?

18 A. Mr. Beaman's.

19 Q. You're aware Mr. Swain had a fingerprint on

20 there?

21 A. Yes.

22 Q. You're not referring to that?

23 A. No, I'm referring to Mr. Beaman's.

24 Q. Did you know there was an unidentified print

C08235

1 on that clock radio?

2 A. Yes, I did.

3 Q. And what did you do to have that identified?

4 A. It was sent to the crime lab. I don't know

5 what the crime lab did to try to identify

6 that.

7 Q. Did you ever seek to have it run through the

8 AFIS database?

9 A. That was not a specific request that we had

10 to make of the crime lab. When we submitted

11 it for evidence, it was assumed that they

12 would run it through whatever databases they

13 had available to them.

14 Q. You spent a lot of time interviewing Alan

15 Beaman, did you not?

16 A. Yes, I did.

17 Q. And your efforts were obviously to have him

18 give statements which would yield

19 information about whether or not he

20 committed the crime, right?

21 A. Yes.

22 Q. Did you -- was there ever a statement that

23 he gave that said -- That indicated he was

24 guilty of this crime?

C08236

1 A. He never came out and said he killed  
2 Jennifer Lockmiller.  
3 Q. Did he ever come out and say he didn't?  
4 A. Yes, he did, several times.  
5 Q. How often did he do that?  
6 A. Several times.  
7 Q. Did he testify in the grand jury?  
8 A. I was not present in the grand jury.  
9 Q. Did you read the grand jury testimony in  
10 preparation for trial?  
11 A. I don't recall if I did or not.  
12 Q. You read your own grand jury testimony in  
13 preparation for trial, did you not?  
14 A. I don't recall if I did or not.  
15 Q. Did you not sit with Mr. Souk and prepare  
16 for trial?  
17 A. I did. But, sir that was ten years ago. I  
18 don't remember what I read and what I did  
19 not read from the grand jury for trial.  
20 Q. Okay. So you can't -- as you sit here, you  
21 can't say that, yes, I did review my prior  
22 testimony under oath before I testified at  
23 trial? You did not -- you can't recall  
24 doing that?

C08237

1 A. No, sir.

2 Q. Why was it as the lead investigator that you  
3 endeavored to have the time of death, the  
4 time of the murder, between 12:00 and  
5 12:15 p.m.?

6 A. Sir, that wasn't my endeavor. We took  
7 whatever we could find from the crime scene,  
8 from the evidence we had, to pinpoint a time  
9 of death.

10 Q. Was that window of opportunity that you  
11 surmised when the victim was murdered?

12 A. I -- if I recall correctly, I believe that  
13 came from the answering machine in Jennifer  
14 Lockmiller's apartment of when the last  
15 message was received on the answering  
16 machine and when she would have been  
17 returning back from class.

18 Q. What was it in your investigation that  
19 convinced you that she wasn't killed closer  
20 to 2:00 than 12:00?

21 A. I recall from memory, sir, that we looked at  
22 the phone, the answering machine calls. I  
23 don't recall from memory if she had another  
24 class later that day that she did not show

C08238

1 up for or not. I would have to look back in  
2 the case notes to see why we pinpointed that  
3 time that we did.

4 Q. Do you think it would have helped you in  
5 answering that question if you had reviewed  
6 your prior testimony?

7 A. Yeah, probably.

8 Q. Issues with regard to the drive times, did  
9 any of those drive time issues cause you any  
10 pause about whether Alan Beaman had the  
11 opportunity to commit this crime?

12 A. Prior to the drive times they did, yes.  
13 After the drive times, no.

14 Q. Did the bank video with the time on it and  
15 the related phone records showing two calls  
16 placed from the Beaman residence cause you  
17 any pause about Alan Beaman's opportunity to  
18 commit the crime?

19 A. Yes, it did.

20 Q. Were you able to reconcile those doubts or  
21 that pause?

22 A. Yes, I was.

23 Q. How so?

24 A. By driving from Bell Federal, I believe it

C08239

1 was Bell Federal Bank, to the Beaman  
2 residence in multiple routes. I could not  
3 make the time between the bank and the  
4 Beaman residence in less than -- the time  
5 you gave in the Petition for Post-Conviction  
6 Relief, which I believe it was 31 minutes.  
7 Q. Carol Beaman, Alan's mother, from time to  
8 time had produced documentary evidence that  
9 was relevant to your investigation; is that  
10 right?  
11 A. Uh-huh.  
12 Q. Is that a yes?  
13 A. Yes. I'm sorry.  
14 Q. Did you those include receipts for a tire  
15 rotation mileage?  
16 A. We did not receive those receipts until  
17 after we arrested Mr. Beaman. She did not  
18 disclose those at the beginning of the  
19 investigation when we started this entire  
20 process.  
21 Q. Are you suggesting when you say she did not  
22 disclose them, do you believe she was  
23 consciously withholding those?  
24 A. I don't know, sir.

C08240

1 Q. Do you have an opinion about that?  
2 A. Yes, I have an opinion.  
3 Q. What's your opinion?  
4 A. I have an opinion that she was withholding  
5 those, yes.  
6 Q. Okay. And the receipt for the Wal-Mart  
7 check-out, do you remember that particular  
8 document?  
9 A. Yes, I remember she had a receipt for a  
10 store close to the time of those phone  
11 calls.  
12 Q. And do you remember when she produced that  
13 receipt?  
14 A. I don't remember exactly, sir.  
15 Q. Do you believe that --  
16 A. Go ahead. I believe it was after  
17 Mr. Beaman's arrest.  
18 Q. And do you believe that Mrs. Beaman was  
19 withholding that as well?  
20 A. I believe for some reason she decided not to  
21 give those to us until after the arrest.  
22 Q. Mrs. Beaman has said that she turned those  
23 over when she became aware of them. You're  
24 aware of that, right?

C08241

1 A. Turned them over to?  
2 Q. Law enforcement when she came became aware  
3 of them.  
4 A. To which law enforcement agency, sir?  
5 Q. I don't know, sir. But she -- weren't you  
6 informed when those receipts were turned  
7 over?  
8 A. I was aware -- I know we had received them,  
9 but I don't recall exactly when we received  
10 them or how I became aware of them. I just  
11 was aware that we had received them.  
12 Q. Do you believe Carol Heaman was dishonest in  
13 the way she handled this documentary  
14 evidence?  
15 A. The fact that she decided to withhold those  
16 receipts doesn't make her dishonest.  
17 Q. Is that a fact, that she decided to do that?  
18 A. No, it's not a fact. Sir, I don't know -- I  
19 don't know how she handled those receipts.  
20 You're asking me if she was dishonest by not  
21 turning those in.  
22 Q. No, I'm not.  
23 A. If I understand your question. Could you  
24 restate your question?

C08242

1 Q. Do you think she consciously withheld those?  
2 I believe we've been through that.  
3 A. I believe she purposely held on to those.  
4 Q. Okay. When did Alan Beaman become the prime  
5 suspect in this case?  
6 A. Immediately.  
7 Q. And did he ever in your mind become anything  
8 other than the prime suspect?  
9 A. No.  
10 Q. Did any other person ever supplant him as a  
11 suspect in your mind in the case?  
12 A. You mean take a higher precedence over him  
13 as the lead -- as the main suspect?  
14 Q. Let's start with that.  
15 A. No.  
16 Q. Did anybody ever -- anybody ever else become  
17 a suspect in your mind?  
18 A. Well, there were a lot suspects, sir. But  
19 Alan remained the primary suspect.  
20 Q. And why was he the primary suspect from the  
21 very beginning?  
22 A. Well, initially the 911 call. His -- he was  
23 referenced in the initial 911 call from the  
24 person who found the body, from a friend who

1 knew the stormy relationship between  
2 Jennifer and Alan.

3 When we arrived at the scene and  
4 noticed things about the scene that were  
5 consistent with things he had done in the  
6 past, such as trash cans being pulled out  
7 and rummaged through, that was consistent  
8 with Alan Beaman's past behavior of looking  
9 for condoms in her trash can of evidence of  
10 other lovers.

11 Q. Was that trash bag ever examined for  
12 fingerprints that was found at the crime  
13 scene?

14 A. You would have to ask the crime scene  
15 technician, sir, I don't know.

16 Q. You don't recall?

17 A. I don't recall.

18 Q. Do you think reviewing your reports would  
19 have helped you in that answer?

20 A. If I would have looked over all the evidence  
21 that was submitted to the crime scene, then  
22 it might appear on that list, sir.

23 Q. You were supervised by James Souk; is that  
24 correct?

1 A. I was supervised by Frank Zayas directly.  
2 James Souk was the prosecutor.  
3 Q. Well, you had a working relationship with  
4 James Souk?  
5 A. Yes, I did.  
6 Q. Was he in a position to direct or exert  
7 authority over the direction of the  
8 investigation?  
9 A. In an indirect manner. He was not my boss,  
10 so I did not report -- report to James.  
11 Q. Well, did you discuss with James Souk  
12 investigative avenues that you would pursue?  
13 A. Yes, we worked as a team together.  
14 Q. And did he have authority to suggest or  
15 modify your investigative avenues that you  
16 were pursuing?  
17 A. Yes, he had professional authority. It was  
18 not aligned authority given through a  
19 hierarchy, but he has been in his field for  
20 a long time, and I respected his  
21 recommendations.  
22 Q. You were the investigative arm of the  
23 state's attorney's office at that point,  
24 right?

C08245

1 A. Last several months, yes, sir.

2 Q. So Mr. Souk had authority over this

3 investigation, did he not?

4 A. Yes, he did.

5 Q. Had you worked with him before this case?

6 A. Yes, I had.

7 Q. On what cases?

8 A. Oh, there were numerous cases, sir. I had

9 been in Detectives for two years prior to

10 this case.

11 Q. Okay. You don't -- that's fine.

12 How closely was James Souk

13 involved with you in your day-to-day work on

14 the Beaman case?

15 A. Oh, when the case initially started, we

16 would talk on average probably once a week.

17 As it moved into the last couple of weeks

18 before the arrest, probably more every other

19 day, if not every day. As we prepared for

20 trial towards the last two to three months,

21 it would have been on an everyday basis.

22 Q. And did he preview the reports before they

23 were prepared?

24 A. Did he preview reports before they were

C08246

1 prepared?

2 Q. Before you prepared your reports, did you

3 discuss the content that was going to go

4 into those reports with James Souk?

5 A. No, sir.

6 Q. You never did?

7 A. I would write the report based on what I

8 investigated and what I saw.

9 Q. Did he ever ask to edit any of the reports

10 that you prepared?

11 A. I imagine there were probably times he would

12 ask me to add something in if I forget

13 something in the report.

14 Q. Was there ever a time he asked you to leave

15 anything out?

16 A. No.

17 Q. How do you know that?

18 A. Because that's -- that's not Jim. He would

19 not ask me to take something out of a police

20 report. If it was factual and it occurred,

21 he wouldn't ask me to take it out.

22 Q. Did he ever advise you that a report would

23 or would not be necessary?

24 A. Oh, I'm sure he probably did, yes.

C08247

1 Q. Do you remember which reports he would have  
2 advised you were not necessary to prepare?

3 A. No. No, sir, I don't.

4 MR. URDANGEN: Speaking of  
5 reports, do you have a better copy of his --  
6 of this?

7 MR. MESSMAN: No -- well, no --  
8 well, I don't think so. Do you recognize  
9 this (indicating)? I think it was John  
10 Brown's.

11 THE WITNESS: Yes.

12 MR. MESSMAN: As far as I'm  
13 concerned, you're free to look through that.  
14 I don't know that any of your reports are in  
15 there.

16 MR. URDANGEN: Off the record.

17  
18 (Whereby a discussion was held off  
19 the record.)

20  
21 BY MR. URDANGEN:

22 Q. Sir, let me show you these, make it easier.  
23 I'm showing you a packet of ten pages which  
24 are not -- they're not clear because they're

C08248

1 faxes of faxes, but just take a look at this  
2 first page. It's page 52 at the top, and  
3 it's titled Victim Name, Jennifer Lynn  
4 Lockmiller, and Assigned Investigator  
5 Freesmeyer, and I believe is that your badge  
6 number at the bottom?

7 A. That was my employee number.

8 Q. All right. Now, can you leaf through these  
9 ten pages and tell me if you recognize those  
10 just in a general sense as reports that you  
11 prepared during the time you worked on the  
12 Beaman case.

13 A. (Complies.) Can you see the date on that,  
14 sir?

15 Q. Looks to me like May 18. I believe that's  
16 1995. To save time, I'm not going to  
17 question you right now about the detail in  
18 there, but does your name appear at the  
19 bottom of each of those pages?

20 A. Yes, it does.

21 Q. And --

22 A. This would have been a report that I would  
23 have written.

24 Q. All right. Keep going just to be sure that

C08249

1           you've looked at every page, would you?  
2    A.    (Complies.)  
3    Q.    Are those all your reports?  
4    A.    Yes, sir, I believe so.  
5    Q.    And there's a computer-generated number on  
6           those ten pages at the top, page 52, top  
7           middle right of the page through page 61.  
8           Are those the same reports you just looked  
9           at?  
10   A.    Yes, that's correct.  
11   Q.    All right. Are you aware of other reports  
12           that you prepared in connection with this  
13           case?  
14   A.    Sir, there are a lot of reports I  
15           prepared --  
16   Q.    Right.  
17   A.    -- in connection with this case.  
18   Q.    And I have another packet I'd like to show  
19           you very briefly, and I'm not going to ask  
20           you about the contents of these either, but  
21           I'm showing you another packet of documents.  
22           I'm going to ask you if you recognize those  
23           as your reports. I'll identify those in a  
24           minute after you've looked.

C08250

1 A. These are not in the typical Normal Police  
2 Department format.  
3 Q. That's right.  
4 A. Do you want me to look through the entire  
5 packet, sir?  
6 Q. Well, do you recognize those reports as --  
7 A. Yes, the content appears to be the case  
8 report that I wrote for this investigation.  
9 Q. All right. Here, can I have it back for a  
10 minute? I just want to see. . .  
11 A. (Complies.)  
12 Q. It starts, even though it's a computer --  
13 it's a downloaded copy of documents. It  
14 starts with page 1 and picks up on page 51.  
15 Are those the same reports that you just  
16 referred to?  
17 A. Yes, they are.  
18 Q. All right. So you can't, as you sit here  
19 today, tell me whether or not all the -- the  
20 reports I just showed you are the sum total  
21 of all the reports you prepared in  
22 connection with this case?  
23 A. Well, there are other reports I prepared,  
24 such as a Phone Records Log that I had C08251

1 completed and submitted. There were other  
2 papers that I had submitted, requests for --  
3 search warrant requests possibly. If you  
4 consider those reports, then, yes, there are  
5 things in excess of what you just showed me.

6 Q. Right.

7 A. As far as a complete case report, there was  
8 only one police report that I wrote for this  
9 investigation, and I continued that report  
10 throughout the entire investigation.

11 Q. So assuming this to be true, and it's only  
12 an assumption, I must tell you that, because  
13 I don't have your original, but if we have a  
14 case page number 1 in the -- I just showed  
15 you a larger packet that runs through page  
16 51, and then a smaller packet of ten pages  
17 that starts page 52 and runs through 61, are  
18 you aware of any other such case reports by  
19 looking at what you've just seen that you  
20 may have prepared in connection with this  
21 case?

22 A. This first report numbered 1 through 51  
23 begins on page 1 with my initial response to  
24 Jennifer Lockmiller's apartment at [REDACTED]

C08252

1           ██████████ And the last entry in this report  
2 was when I dropped Mr. Beaman off at the  
3 sallyport at McLean County Correctional  
4 Center and left.

5                           Page 52 picks up on began  
6 post-arrest investigation, which to me  
7 looking at it ten years later would be  
8 logical this would be the second half to  
9 this one, and this would continue with all  
10 the investigation I did after the arrest.

11 Q. Are you able to say whether or not that last  
12 page that you're looking at numbered 61 is  
13 the final report that you prepared? And I'm  
14 not being coy with you sir. I don't know  
15 the answer.

16 A. I don't believe it would be, because the  
17 date on the bottom is January 30, 1995, and  
18 the trial did not take place until, I  
19 believe, March, if I'm not mistaken. I'm  
20 sure there would have been reports prepared  
21 between January 30 and March.

22 Q. Very well.

23                           I'd like to talk to you about some  
24 of the time trials that you conducted on

C08253

1 distances using your vehicle in this case.  
2 To start, I'd like to discuss the time trial  
3 you conducted from the Bell Federal Bank to  
4 the victim's apartment, Bell Federal in  
5 Rockford, victim's apartment in Bloomington,  
6 I believe.

7 A. Yes.

8 Q. You said at trial that you left the bank and  
9 went to her apartment and that you -- let me  
10 read it to you.

11 "Once again, referring to" -- this  
12 is you speaking.

13 "Once again, referring to my  
14 report, after finishing the inner-city  
15 driving, we checked the distance from Bell  
16 Federal to [REDACTED], Normal,"  
17 excuse me, it was Normal, "at an average of  
18 75 miles per hour."

19 You testified as to an average  
20 speed. Do you remember taking that route?

21 A. Yes.

22 Q. Now, when you were discussing average speed,  
23 what does that mean, average, in that  
24 context?

C08254

1 A. When I would have mentioned an average speed  
2 of 75 miles an hour, it would have meant  
3 that when I got to the interstate after  
4 traveling south out of Rockford and reached  
5 I-39, I would have brought my speed up to  
6 approximately 75 miles an hour and  
7 maintained that average until I reached the  
8 city limits of Normal.

9 Q. When you were between the bank -- between  
10 the Bell Federal Bank and the interstate,  
11 and then again between exiting the  
12 interstate near the college and getting to  
13 the victim's apartment, how fast were you  
14 driving?

15 A. I can tell you it would not have been any  
16 more than 10 miles over the posted limit.

17 Q. And did you prepare any kind of report in  
18 connection with how fast you drove  
19 inner-city?

20 A. It may be in one of these two reports.  
21 Again inner-city, I would have stayed either  
22 between exactly the speed limit, or not  
23 going more than 10 miles over the posted  
24 limit.

C08255

1 Q. By the way, when you made this drive, were  
2 you -- did you have your police lights on?  
3 A. No, sir.  
4 Q. Did you stop for tolls?  
5 A. No, sir. There were no tolls on I-39  
6 between Rockford and Normal.  
7 Q. Did you stop for red lights?  
8 A. Yes, I would have.  
9 Q. In town?  
10 A. Yes.  
11 Q. Okay. And what was the purpose of driving  
12 at an average of 75 miles an hour?  
13 A. Well, I was keeping up with the flow of  
14 traffic. And the flow of traffic around me  
15 was averaging that speed.  
16 Q. And did -- and by keeping up with the flow  
17 of traffic, is that because you wanted to be  
18 driving at a typical speed?  
19 A. I drove at what I assumed would be a speed  
20 of somebody who would want to go back and  
21 see an old girlfriend.  
22 Q. Okay. And did you at that point -- did you  
23 surmise that driving at the speed limit is  
24 not what most people drive at?

C08256

1 A. Again, I was keeping up with the speed of  
2 traffic, and most people around me were not  
3 driving 65.  
4 Q. And so it's been your experience that  
5 keeping up with the flow of traffic is the  
6 most accurate speed one can drive when doing  
7 a time test; is that fair?  
8 A. Sir, I haven't -- this is the only time test  
9 that I know of in a case that I've done, so  
10 I don't have a great history to back up  
11 upon.  
12 Q. I take it -- did you stop for gas on this  
13 trip?  
14 A. No, sir.  
15 Q. Have any bathroom breaks on this trip?  
16 A. No, sir.  
17 Q. All right. I'd like to talk to you next  
18 about the time trial you conducted from Bell  
19 Federal to the Boaman residence. Do you  
20 recall independently what the date was of  
21 that time trial?  
22 A. Not without looking at my police report,  
23 sir.  
24 Q. Okay. I don't have the benefit of

C08257

1           apparently all of the reports, so I need to  
2           refer to the transcript. Just give me a  
3           moment.

4       A.    Would you mind if I looked at these,  
5           (indicating)?

6       Q.    Please do. Please do.

7       A.    January 18 was one date that I did the  
8           mileage verification.

9       Q.    Between Bell Federal and the Beaman  
10          residence?

11      A.    No.

12      Q.    I'm sorry, that was a no?

13      A.    That was a no. It's not listed in my  
14          report.

15      Q.    All right. Was that date after the  
16          conclusion of that packet of reports?

17      A.    I believe it would have been, sir.

18      Q.    All right. Okay. Thank you. Do you know  
19          how many times if -- strike that, please.

20                    Did you do this test more than  
21          once, the time trial between Bell Federal  
22          and the Beaman residence?

23      A.    Yes, I believe I did. I believe I took two  
24          separate routes.

C08258

1 Q. And I'm going to get to that. But did you  
2 do it on more than one day? Did you go back  
3 to do it a second time?  
4 A. Sir, I believe I may have, but I can't tell  
5 you for sure sitting here out of memory.  
6 Q. All right. How -- when you timed yourself  
7 from the Bell Federal to the house, the  
8 Beaman house, how did you do that timing?  
9 What were the mechanics of that?  
10 A. Well, I used my watch. I would start, write  
11 down the time when I began, and as soon as I  
12 hit a point on my watch, I would begin my  
13 journey. When I arrived at the other  
14 location, again I would check my watch and  
15 find out the time that has transpired.  
16 Q. And did you record how fast you were going?  
17 A. I was traveling the speed limit, I believe,  
18 at that time.  
19 Q. And as opposed to the flow of traffic?  
20 A. Let me back up, please. It would have been  
21 somewhere between the speed limit and  
22 10 miles over. At no point would I have  
23 traveled more than 10 miles over the posted  
24 limit.

C08259

1 I believe -- I would say from  
2 memory, sir, that the trial between Bell  
3 Federal and the Beaman residence, I would  
4 have tried to stay as close to the speed  
5 limit as I could have.

6 Q. And I'll read to you your testimony that  
7 confirms that.

8 A. Please.

9 Q. You were asked during trial on Direct  
10 Examination.

11 "And how much time did it take you  
12 to make that drive?

13 "Again, referring to my report,  
14 the time required to drive from Alan  
15 Beaman's residence to the Bell Federal Bank,  
16 observing all speed limits --

17 A. Okay.

18 Q. -- was 31 minutes." So you're quite  
19 correct in your memory apparently.

20 And if you could help me with  
21 this, is that -- in this testimony you  
22 discussed referring to a report. I did not  
23 see that report in these ten pages. Did  
24 you?

C08260

1 A. Not in these ten pages. What I saw was  
2 towards the last page on page 60, I guess,  
3 it gives Chris Gray's residence, the Beaman  
4 residence. I don't see a listing between  
5 Bell Federal and the Beaman residence.  
6 Q. And since you refer to a report in your  
7 testimony, it's fair to assume that such a  
8 report existed at the time?  
9 A. I believe so, yes.  
10 Q. All right. Did you chart your drive time  
11 with any more detail? For example, did you  
12 indicate what stops you made, what stop  
13 lights you might have stopped at, things of  
14 that nature?  
15 A. I didn't indicate which lights were red and  
16 which lights were green during my drives. I  
17 did not stop off for coffee or rest room  
18 breaks or anything of that nature. The  
19 purpose was to find the amount of driving  
20 time from Point A to Point B.  
21 Q. Now, to be completely fair to you, I want to  
22 tell you about my next question. I want to  
23 read to you a question and answer that  
24 Mr. Souk -- an answer that he gave during

C08261

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his deposition.

Question, "You say you had been to" -- this is the question, and the answer is Mr. Souk.

"You say you had been to Rockford to survey important locations?"

Answer, "Yeah. I think maybe just that trip. I went up there with Tim, if I'm remembering."

Question, "Did you participate in the time trial from the bank to the Beaman residence?"

Answer, "I don't remember."

Question, "Did you discuss it with Detective Freesmeyer?"

Answer, "I'm sure I did."

Is your recollection the same as James Souk's in that regard?

A. Yes.

Q. That you and he discussed the time trials --

A. Uh-huh.

Q. -- contemporaneously with you having done them?

A. Yes, yes.

C08262

1 Q. And did he tell you or instruct you or  
2 suggest to you how fast you should drive  
3 during those trials?  
4 A. I don't believe he did, sir.  
5 Q. And -- very well.  
6 Do you -- do you recall, as he  
7 does, him being with you on any of these  
8 time trials?  
9 A. I remember him taking a trip to Rockford  
10 with me. But I do not remember if we did  
11 time trials at the time that he went with  
12 me. I made many trips to Rockford, sir, and  
13 I don't recall the time he was with me if we  
14 kept times or not.  
15 Q. Okay. Now, there was a slide presentation  
16 with overlays used at the trial when  
17 describing the routes taken in Rockford. Do  
18 you recall that?  
19 A. Yes, I do.  
20 Q. And when -- when you did this -- or were  
21 testifying about the route between the Bell  
22 Federal and the Beaman residence, I want to  
23 read you a question and an answer that you  
24 gave.

C08263

1 Question by Mr. Souk, "The first  
2 slide that we're looking at, People's  
3 Exhibit 70-AX, could you tell us what's  
4 depicted on this slide, Detective?"

5 Answer, "Yes, sir. What this is  
6 basically, a blowup of a picture of Rockford  
7 out of a road atlas. Over the top of that  
8 I've done an overlay on the computer which  
9 shows the route in yellow that Alan would  
10 have taken from the Bell Federal Bank to his  
11 residence in Rockford."

12 Does that sound accurate? I'm  
13 reading it.

14 A. I'm assuming it is.

15 Q. If you want to see it, you can.

16 My question to you is what does it  
17 mean -- what did you mean when you were  
18 saying that shows the route that Alan "would  
19 have taken"?

20 A. May have been a poor choice of words, sir.  
21 That's a route he could have taken would  
22 probably have been better wordage. I  
23 assumed the most direct route, I believe.

24 If I recall correctly, the route

C08264

1 that I used was straight south from Bell  
2 Federal to the bypass, and the bypass around  
3 to Indian Trail, or whatever the name of it  
4 is that goes up to his particular  
5 subdivision.

6 Q. When you're saying direct -- are you  
7 talking about -- I want to distinguish  
8 between most direct route and fastest route.

9 A. Uh-huh.

10 Q. Can you distinguish that, please?

11 A. Yes. Most direct route would be a straight  
12 line between Point A and Point B. However,  
13 that may be going through a lot of stop  
14 lights and lower speed limits. A fastest  
15 route would probably be the bypass, going  
16 south from Bell Federal, getting onto the  
17 bypass, which has a higher speed limit, and  
18 taking it around to the residence.

19 Q. When asked by Mr. Souk about the route that  
20 he would have taken then, you're saying that  
21 that was a poor choice of words?

22 A. It might have been. It's also possible that  
23 in a conversation with Alan, he may have  
24 given me the route that he took from Bell

C08265

1 Federal to get home.

2 Q. Well --

3 A. Because Alan -- I'm sorry.

4 Q. No, go ahead, you can finish your answer.

5 A. In our conversation -- many of our taped

6 conversations, I asked Alan specifically

7 where he had driven, and that's where I got

8 the basic information to do the time tests

9 was from Alan himself. He may have

10 mentioned during those conversations that he

11 took the bypass to get home from Bell

12 Federal. I don't recall that independently,

13 sir. That might have been why I would have

14 said would.

15 Do you have the transcripts of all

16 of the taped conversations between Alan and

17 myself?

18 Q. Not with me.

19 A. Okay. That would be the place to look to

20 see if Alan would have told me the route he

21 took from Bell Federal to his residence.

22 Q. Let me read another section of this -- this

23 is Cross-Examination of Mr. Beu -- by

24 Mr. Beu. You were asked this question and

C08266

1 given this answer.

2 "Isn't it true that the route that  
3 you drove to make the comparison is a route  
4 that you simply selected as being perhaps  
5 the most direct route between the two  
6 locations?"

7 Answer, "Yes, sir, that is  
8 correct."

9 Question, "That is not a route  
10 that Mr. Beaman told you specifically that  
11 he took to go between these points, is it?"

12 Answer, "I don't recall he told me  
13 what route he took. He just said he went to  
14 the bank and back."

15 A. Okay.

16 Q. Does that refresh your recollection?

17 A. Okay. It's possible he may not have given  
18 me a route then, sir.

19 Q. And on Direct Examination by Mr. Souk, that  
20 was the sum and substance of the testimony  
21 elicited about the route from the bank to  
22 the Beaman residence, I could tell you that,  
23 as -- as is verified by the official  
24 transcript in this case. And I want to

C08267

1 continue to ask you some questions, though,  
2 about Mr. Beu's Cross-Examination on that  
3 point.

4 Before I do that, you refer to  
5 another route that you timed between the  
6 bank and the residence.

7 A. I believe I took two routes. I took the  
8 direct route that I -- the most direct route  
9 that I could find, which looked to be the  
10 shortest distance, and then I took what  
11 seemed to be the fastest, which would have  
12 been the bypass going around. I know I  
13 drove that distance more than once.

14 Q. Right. Well, in fact, indeed you're  
15 correct, that in your grand jury testimony  
16 you were asked a question and an answer  
17 about that.

18 The grand jury testimony, would  
19 you take my word for it, was July 7, 1994?

20 A. Okay.

21 Q. There was a series of questions where you  
22 discuss how long it took you to do the  
23 route. I'll show you this. After a  
24 discussion about how long it took you to go

C08268

1 through the city, because I think you can  
2 see a reference in my transcript here, the  
3 trip took me 30 minutes.  
4 A. Could I read those two pages?  
5 Q. Please do. In fact, I'll give you 238 and  
6 anything else you want to read numbering --  
7 237 you're reading now. You can read 238 if  
8 you would like. Just so that it's clear,  
9 these are numbers we generated from a CD rom  
10 which was made of the transcript. These are  
11 not the official record notations.  
12 A. Okay. Sir, I've read those two.  
13 Q. All right. So you see where in your July 7,  
14 1994, grand jury testimony is it true that  
15 you testified both about the route that you  
16 took through town and the route you took  
17 bypassing town?  
18 A. Yes.  
19 Q. Now, at the trial, going back to Mr. Beu's  
20 Cross-Examination, and I'll show you this,  
21 but I would like to read it to you first.  
22 Here's a series of questions and answers by  
23 Mr. Beu on Cross-Examination with regard to  
24 the routes from Bell Federal to the house.

C08269

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Question by Bou, "We have" -- and this is only part of the question, but it's the important part for my purposes.

"We have up here now a slide which shows a route that you traveled between Mr. Beaman's residence and Bell Federal; is that correct?"

Answer, "Yes, sir, that's correct."

Question, "Isn't it true that the route that you drove to make the comparison is a route that you simply selected as being perhaps the most direct route between the two locations?"

"Yes, sir, that is correct."

Those are the two questions and the answers that you gave.

And then I read to you the next question and answer. I'll read it again just to give it context.

"That is not a route that Mr. Beaman told you specifically that he took to go between those points, is it?"

"I don't recall he told me what

008270

1 route he took. He just said he went to the  
2 bank and back."

3 Next question, "So you chose to  
4 select a route, did you not, that took you  
5 right through the heart of downtown  
6 Rockford?"

7 Answer, "As you stated earlier, I  
8 took the most direct route, sir."

9 Now, that question, you would  
10 agree, leaves the impression that that's the  
11 only route you took; would you not agree?

12 A. Yes, yes.

13 Q. Was this an opportunity for you to explain  
14 or to clarify in front of the jury that  
15 there was another route that you drove?

16 A. Yes, it probably would have been. Did I go  
17 on to explain --

18 Q. Well, I'll read you the next question and  
19 answer.

20 A. Okay. Okay.

21 Q. Question, "Does not the route take you  
22 directly through the heart of downtown  
23 Rockford?"

24 Answer, "Yes, sir, it does."

C08271

1                   Question, "As opposed to going  
2                   down Meridian Road to the high speed bypass  
3                   over to Alpine Road and then up north to  
4                   Bell Federal?"

5                   Answer, "Yes, that would be  
6                   correct."

7                   I'll let you have a look at that  
8                   and tell me if you think that wasn't  
9                   misleading to the jury?

10                  A.    Well, the question he is asking is if that  
11                   route takes you directly through the heart  
12                   of downtown Rockford. And so the answer is  
13                   as opposed to going down Meridian Road to the  
14                   bypass, which is not through downtown  
15                   Rockford, and so I said yes, that would be  
16                   correct. So I'm saying it is correct that  
17                   the bypass does not go through the heart of  
18                   Rockford.

19                  Q.    So you don't read his question as opposed to  
20                   taking this route; you don't read it that  
21                   way?

22                  A.    I -- I read that that he's comparing two  
23                   routes. He's saying that the direct route  
24                   goes through downtown Rockford and the

C08272

1 bypass route does not go through downtown  
2 Rockford.  
3 Q. Right.  
4 A. That's the way I read it.  
5 Q. And that's the way you answered it, right?  
6 A. Yes.  
7 Q. You did not read -- you did not hear the  
8 question to mean that you didn't take the  
9 other route, you took the more direct route?  
10 A. No, he was asking which was more direct.  
11 And so I was stating that that route would  
12 have been -- that was the one that would  
13 have gone through downtown Rockford.  
14 Q. Now, I'll tell you that Mr. Souk never asked  
15 you to explain on Redirect Examination that  
16 you indeed took the other route that you  
17 testified to in the grand jury.  
18 A. Okay.  
19 Q. Did you ever -- did that concern you at all  
20 that the jury was left with the impression  
21 that only one route was driven?  
22 A. I never really thought about it, sir.  
23 Q. Of course, the route -- you never thought  
24 about that after the -- after your

C08273

1 testimony?

2 A. Not until you've mentioned it right now. I

3 mean, if you went back and asked me the

4 first question that you asked at 2:00, I

5 wouldn't be able to tell you what question

6 you asked me at 2:00.

7 Q. How important was the time that it took Alan

8 Beaman to get from the bank to his house, if

9 he drove it?

10 A. It was very important, sir.

11 Q. Indeed, it could have possibly determined

12 whether or not he had the opportunity to

13 commit this crime, correct?

14 A. In some people's mind, it could have put

15 that notion.

16 Q. Well, do you want to explain to me how Alan

17 Beaman could have committed the crime if he

18 left his house after those two calls were

19 made?

20 A. The time frame would have been much, much

21 tighter for him to have gotten to Normal and

22 back again. That's what -- it would have

23 crunched the opportunity down considerably.

24 Q. Mr. Souk, I can tell you, has testified in

*can't  
remember  
1st of last*

C08274

1 his deposition that it would have made it  
2 very, very difficult to conceive of that.  
3 Those aren't his exact words, but that was  
4 his sentiment.

5 A. Sure. I would not disagree with that.

6 Q. So this wasn't -- these were important  
7 central facts for the jury, were they not?

8 A. Yes, they were, sir.

9 Q. Did you or Souk ever discuss this omission  
10 after you were done testifying?

11 A. No, sir.

12 Q. You testified again, a second time much more  
13 briefly in the trial, did you not?

14 A. In the trial or in the grand jury?

15 Q. No, weren't you called back as a witness the  
16 second time after your first lengthy --

17 A. I mean, during the trial or during the grand  
18 jury, sir?

19 Q. During the trial I'm talking about.

20 A. During the trial. I would take your word  
21 for it that I was.

22 Q. So there was no discussion about this  
23 discrepancy with Mr. Souk at any point?

24 A. No, sir.

C08275

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(Whereby a short recess was  
taken.)

BY MR. URDANGEN:

Q. Sticking with this time test and phone calls  
for a minute here. This is direct testimony  
during the trial to you, asked of you by  
Mr. Souk.

Question, "Did you while you were  
there, referring to Rockford -- well," it  
says here, "well, strike that. At that  
point in time in terms of measuring that  
distance by time, what was your purpose in  
doing that in terms of furthering the  
investigation?"

Your answer was, "According to the  
phone records, there was a call coming out  
of the Beaman residence at 10:37 and 10:39.  
We had Alan on videotape at the bank 11  
minutes after 10:00. By driving that  
distance, I wanted to see if it was possible  
for Alan to make it home to make the first  
phone call at 10:37. If he left the bank at  
11 minutes after 10:00, made the 31-minute

C08276

1 drive, it would put him home at 10:42."

2 That was your testimony, sir.

3 A. Okay.

4 Q. You're telling the jury at this point that  
5 you did this time trial to determine if it  
6 was possible for him to make the first call.  
7 You then related how long it took you to go  
8 through town putting him in there five  
9 minutes after the first call and three  
10 minutes after the second call. You were not  
11 asked about the bypass route.

12 A. Okay.

13 Q. Do you think that your conclusion about  
14 whether or not it was possible, therefore,  
15 was misleading?

16 A. I don't believe so, sir. I answered the  
17 question that was asked of me.

18 Q. Now, you referred in that testimony that it  
19 took 31 minutes, a 31-minute drive. In the  
20 grand jury, this is a question put by Souk  
21 to you.

22 Question, "How long did that trip  
23 take going through town?"

24 This is in reference to that same

C08277

1 route.

2 Answer, "That trip took me 30  
3 minutes. If he had left the bank at 11  
4 minutes after 10:00, he'd of gotten home at  
5 10:41."

6 The calls were made at 10:37 and  
7 10:39. Now, I'm not splitting hairs for the  
8 purpose of one minute here, but I'm curious,  
9 if you made a report, how was it that you  
10 gave two different answers?

11 A. Well, he -- Mr. Souk could have been  
12 referring to two separate time trials.

13 Q. So there were two separate time trials?

14 A. There were many time trials. I drove it in  
15 two separate vehicles on separate trips up  
16 there. And, yes, I can tell you there were  
17 more than just the one or the two.

18 Q. How many time trials were there between Bell  
19 Federal and the Beaman residence using the  
20 bypass route?

21 A. Without going back and looking at my police  
22 report, sir, I can't tell you how many there  
23 were.

24 Q. Does your memory serve you that there was

C08278

1 more than one of those?

2 A. I don't recall if there was more than one.  
3 There could have been, but I don't recall  
4 that there was more than one.

5 Q. Okay. There was a point in the trial  
6 related to these time trials on Direct  
7 Examination after you testified that your  
8 trial would have got him there at 10:42.

9 Question by Mr. Souk, "And up  
10 until that point in the investigation in  
11 your interviews with Mr. Beaman, had he ever  
12 indicated that he had made any phone calls  
13 or had any phone contact with anyone once he  
14 got home that day."

15 Your answer, "No, sir, he didn't.  
16 While interviewing outside of McPherson  
17 Hall, I asked him specifically did you make  
18 any phone calls, and he stated no."

19 A. Yes.

20 Q. When was that interview at McPherson Hall?

21 A. That was one of the taped interviews that  
22 was done in conjunction with the Illinois  
23 State Police.

24 Q. Was that early on in the investigation?

C08279

1 A. It was prior to the arrest.  
2 Q. And --  
3 A. We were --  
4 Q. Go ahead.  
5 A. We were aware of the phone calls.  
6 Obviously, because of the time lost, we were  
7 making everything else, and so the most  
8 direct way was to ask Alan if he had made  
9 the phone call.  
10 Q. Right. And did you tell him -- and I  
11 haven't seen those tapes lately. Did you  
12 tell him we have records of two phone calls  
13 coming out of that residence?  
14 A. I don't believe I did, sir.  
15 Q. And did you give him any context for why you  
16 were asking him these questions?  
17 A. I had stated that -- and please understand  
18 this is not direct words.  
19 Q. Right.  
20 A. But in my conversation with Alan, I  
21 indicated that if he had any way of proving  
22 that he was not guilty of this murder, that  
23 he needed to share that with me so that I  
24 could confirm that he was not the person

C08280

1 responsible. And so as we sat on a bench  
2 outside of McPherson Hall on the mezzanine  
3 quad, I began to ask questions trying to  
4 give him an out as to what his alibi might  
5 be. Did you do anything else that day? Did  
6 you make any phone calls? Did you go  
7 anywhere that would have had a videotape?  
8 Q. Okay. Let me cut you off. Is that the way  
9 you asked it, in a series of questions like  
10 that?  
11 A. Yes, it would have been.  
12 Q. And then he would have given you an answer  
13 "No" at the end of that series of questions?  
14 A. Again, you would have to refer to the tape.  
15 It would all be on the tapes --  
16 Q. All right.  
17 A. -- so I'm sure those are in evidence.  
18 Q. All right.  
19 A. But I believe that's the way it went.  
20 Q. Did you ever point out to Alan that these  
21 were two calls that never connected?  
22 A. No, sir.  
23 Q. Did you ever go back and give him another  
24 chance to ask him, look it, want to direct

C08281

1 your attention to this specific time after  
2 you got home from work, did you make any  
3 phone calls?

4 A. No, sir.

5 Q. Were you satisfied that his answer to that  
6 "no" type of question -- that "no" answer he  
7 gave you in the context of all of those  
8 questions was a solid, very accurate answer?

9 A. This is not a directed answer, but let me  
10 explain my answer if I may.

11 Q. First give me the answer, then you may  
12 explain it.

13 A. I gave him many opportunities to tell me  
14 that he had made phone calls. But I did not  
15 come out and directly state we have a log of  
16 two calls coming from your house, did you  
17 make those calls, the reason being he would  
18 have jumped on that as an easy out. And I  
19 wanted him -- to come from his recollection  
20 of what he had done that day.

21 Had he recalled those two phone  
22 records independently, then I would have  
23 been convinced that he would have been the  
24 one making those calls.

C08282

1                   And there were numerous  
2                   conversations I had with Mr. Beaman on tape.  
3                   I believe this issue may have been addressed  
4                   in more than just one conversation.  
5           Q.       Were you interested in the time that it  
6                   would take to drive from the Beaman  
7                   residence to the Wal-Mart in their locale?  
8           A.       I believe I checked that distance, and I  
9                   think it's in one of these reports.  
10          Q.       Why were you interested in that?  
11          A.       To see if Carol Beaman might have had time,  
12                   after she checked out, to make it home to  
13                   make that phone call.  
14          Q.       And if she had not had time to do that,  
15                   would that have had an impact on your  
16                   investigation?  
17          A.       Well, it would have left a question as to  
18                   who, in fact, did make those phone calls.  
19          Q.       Well, who could have made those phone calls  
20                   if it were not Alan Beaman and Carol  
21                   Beaman -- or Carol Beaman?  
22          A.       I have no idea who has access to their  
23                   house, sir.  
24          Q.       Was there any evidence that anybody had

C08283

1 access to the house?

2 A. I don't know that we ever tried to nail that  
3 down to see if there were guests in town or  
4 if anybody else came and went in their house  
5 at that time.

6 Q. You never tried to determine that there  
7 would have been another person who could  
8 have made the call other than Alan and  
9 Carol; is that what you're saying now?

10 A. Sitting here today, I don't recall that we  
11 ever isolated that no one else was in the  
12 residence.

13 Now, Carol Beaman, I believe in  
14 her testimony to the grand jury, stated that  
15 nobody else would have been home, that she  
16 and Alan would have been the only two  
17 capable of doing that call.

18 Q. You didn't investigate that? You took her  
19 word for it?

20 A. I don't know if any of the other  
21 investigators might have checked into that,  
22 or if it was a conversation they might have  
23 had early on with Alan. I was not privy to  
24 the first interview with Alan. That was

C08284

1 done with Tony Daniels and Alan Beaman.

2 Q. But at any point did you understand that it

3 was a significant fact on whether or not

4 Carol Beaman could have made those phone

5 calls and at the same time checked out at

6 Wal-Mart at 11:10 a.m.?

7 A. Well, it was -- yes, it was a significant

8 question as to who made the calls.

9 Q. And so you did that time trial, if I'm

10 hearing you correctly, to see if she could

11 have made those calls and still completed

12 her shopping trip by 11:10?

13 A. Well, to see if there was time in between

14 her receipts that she had to have gone home

15 and made phone calls, yes.

16 Q. Well, are you -- by your answer, are you

17 suggesting that those -- that she did --

18 that those receipts were not authentic?

19 A. Well, I'm -- my answer is to state to see if

20 she could have made the trip home between

21 the times of those receipts.

22 Q. Was there any evidence that the Wal-Mart

23 receipt was inauthentic?

24 A. I don't think so. I don't think we

C08285

1 questioned the integrity of Wal-Mart.  
2 Q. And did you question the integrity of Carol  
3 Beaman with regard to those receipts?  
4 A. Yes, I believe we did.  
5 Q. So, as you sit there today, your  
6 recollection is you did not -- you had  
7 reason to suspect that Carol Beaman was not  
8 truthful about how she obtained those  
9 receipts?  
10 A. We wanted to verify the receipts. Now, I  
11 have no question that those were receipts  
12 that she had gotten. I don't know that we  
13 went back -- I can tell you, we didn't go  
14 back into the store video cameras to make  
15 sure she was actually the one checking out  
16 at the time stamped on that receipt.  
17 Had we thought she was covering  
18 for her son, that would have been a good  
19 thing for us to do was to go back and check  
20 the videotape of the store.  
21 Q. You -- do you know how many times you did  
22 the time trial from the Beaman residence to  
23 the Wal-Mart?  
24 A. I recall there would have been only one

C08286

1 time, sir.

2 Q. Do you recall when you learned of the  
3 Wal-Mart receipt?

4 A. If I could look in my Post-Arrest Report.  
5 It may say in there.

6 Q. I'm not sure it does, but if you could help  
7 me with that, that would be good.

8 A. I can tell you that on May 18, she was  
9 having an interview with Detective Daniels.  
10 That's when she produced the photograph of  
11 the mileage on the car and the Sears  
12 receipt. But as for the Wal-Mart receipt, I  
13 would have to look through the report.

14 Q. I don't believe it's in there. As you sit  
15 there, you don't know the date?

16 A. I don't recall the date, sir.

17 Q. Your report does show, however, that you  
18 timed that trip to be 15 minutes?

19 A. May I look again?

20 Q. Yes, I think it's near the back.

21 A. Fifteen minutes, 9.7 miles.

22 Q. I'll read your testimony, because I want to  
23 ask you a few more questions about this.  
24 Question from Mr. Heu. It says,

1 "Let's go through that, if you would."

2 Answer, "Okay. I left the Beaman  
3 residence at 9:13 a.m., arrived at Wal-Mart  
4 at approximately 9:28 a.m., 15 minutes  
5 later, and then arrived at the grandmother's  
6 residence at 9:29 a.m., one minute after  
7 Wal-Mart, 16 minutes after the Beaman  
8 residence."

9 That's consistent with your  
10 report, is it not?

11 A. The 15 minutes is consistent between  
12 Wal-Mart and the Beaman residence. I don't  
13 see the grandmother's location, but she was  
14 right down the street from Wal-Mart.

15 Q. Right. Now, you drove the speed limit, I  
16 believe, on this drive?

17 A. Yes. I believe Mr. Beu was poking fun at me  
18 at the trial saying it was one of the rare  
19 times I drove the speed limit.

20 Q. And as opposed to keeping up with the flow  
21 of traffic --

22 A. Uh-huh.

23 Q. -- aspect or theory?

24 A. Yes, it is inner-city driving versus

C08288

1 interstate driving.

2 Q. Right. But there is, of course, a flow --

3 they don't live inner-city, do they, the

4 Beamans?

5 A. No, no, they don't.

6 Q. Nonetheless, on those country roads to the

7 Wal-Mart, you drove the speed limit?

8 A. I -- I don't recall offhand. I suppose I

9 probably would have

10 Q. And you recorded 15 minutes as your time?

11 A. Yes.

12 Q. Did you use the same timing method as you

13 testified --

14 A. I would have used my watch.

15 Q. Now, you started that from in your car in

16 front of the Beaman residence, correct?

17 A. I believe so.

18 Q. And you drove to the Wal-Mart, right?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes, I'm sorry.

22 Q. I take it you drove past or parallel to the

23 Wal-Mart, because you say you continued on

24 one more minute to the grandmother's house?

C08289

1 A. No, I believe I went into the Wal-Mart  
2 parking lot and stopped the vehicle.  
3 Q. Is that in your report? I may have missed  
4 that.  
5 A. I don't know if it is. Sir, my purpose for  
6 driving those distances was to be accurate.  
7 Whether it cleared or convicted was to be  
8 accurate of the times. And so my  
9 recollection is I pulled into the Wal-Mart  
10 parking lot, parked my vehicle, and walked  
11 to the door.  
12 Q. And walked to the door?  
13 A. And would have walked to the door.  
14 Q. And I didn't see that in any testimony. Do  
15 you recall testifying that way?  
16 A. No, I don't recall that.  
17 Q. And do you recall -- I didn't see it in the  
18 report. Did you see that in a report?  
19 A. No, sir, I did not. I -- understand, I'm  
20 trying to recall from memory.  
21 Q. That's fine.  
22 A. The reason I did this was to see what the  
23 truth really was. And to just drive on by  
24 would not have been accurate time.

C08290

1 Q. Right. Precisely.

2                   Again, on Cross-Examination I read  
3 it, and I'm going to read it again. "Okay,"  
4 is your answer. "I left the Beaman  
5 residence at 9:13 a.m., arrived at Wal-Mart  
6 at approximately 9:28 a.m., 15 minutes  
7 later, and then arrived at the grandmother's  
8 residence at 9:29, one minute after  
9 Wal-Mart."

10 A. Uh-huh.

11 Q. Are you suggesting that you parked the car  
12 in the Wal-Mart parking lot and then from  
13 that went to the grandmother's house in one  
14 minute?

15 A. The grandmother's house was right on the  
16 same road. It was roughly three blocks -- I  
17 don't recall exactly how many, but it was  
18 very close to the vicinity of Wal-Mart.

19 Q. If you don't remember --

20 A. I don't, sir. And if it's -- let me back  
21 up, please. If it's not in the report, then  
22 let's err -- let's go on the side of error  
23 and assume that I didn't get out of the  
24 vehicle. I seem to think that that's what I

C08291

1           would have done to check the time, but I  
2           can't tell you for sure that I did, sir.  
3       Q.    Now, the receipt was a check-out receipt of  
4           Carol Beaman's, was it not?  
5       A.    Yes, it was.  
6       Q.    And it showed 11:10 on the receipt, did it  
7           not? You can take my word for it.  
8       A.    11 -- okay.  
9       Q.    And I'm going to tell you what I think is  
10           accurate and you tell me if I'm right.  
11      A.    Uh-huh.  
12      Q.    That would mean -- by the way, the phone  
13           record, take my word for this, too, showed  
14           that the call disconnected at 9:40 p.m., the  
15           last call that was -- that connected at  
16           9:39.  
17      A.    I'm sorry, which -- which phone?  
18      Q.    From the Beaman residence.  
19      A.    Okay. In the morning?  
20      Q.    In the morning.  
21      A.    It connected at 9:40.  
22      Q.    9:39, disconnected at 9:40.  
23      A.    Okay.  
24      Q.    That's my recollection. In any case, for

C08292

1 you to get an accurate, and you say you  
2 strove for accuracy, you would have needed  
3 to do more than you did; isn't that right?  
4 A. Sitting here today, we would have had to  
5 probably start at the check-out lane --  
6 Q. Let's start -- let's start backwards from  
7 the phone call. Why don't you tell me what  
8 you would have to do to get the correct  
9 reading on how long it would have taken.  
10 A. Okay. So Wal-Mart was after the phone  
11 call --  
12 Q. Right.  
13 A. -- is what you're saying?  
14 Q. That's correct?  
15 A. So we would have had to leave from inside  
16 the Beaman home, which I didn't have access  
17 to, and drive to Wal-Mart, do the shopping,  
18 and check out.  
19 Q. Right.  
20 A. Okay.  
21 Q. Did you do that?  
22 A. No, sir, I did not do that.  
23 Q. Did you know how long it would take to leave  
24 the car in the Wal-Mart parking lot for

C08293

1 Carol Beaman, a woman older than you?  
2 A. No. No, sir, I don't know how long it would  
3 have taken her to walk, or where she would  
4 have found a parking spot on that particular  
5 day.  
6 Q. And to walk in and make a shopping trip in  
7 Wal-Mart?  
8 A. Correct.  
9 Q. Had you ever been in that Wal-Mart?  
10 A. I don't -- I don't believe I had.  
11 Q. Do you have any reason to believe that it's  
12 anything other than a vast store like most  
13 of them are?  
14 A. I don't have any reason to believe that, no.  
15 Q. So you would have shopped in that store,  
16 wait in a line, transact your business with  
17 the cashier, wait for your credit card to be  
18 processed, and have it -- the receipt be  
19 transmitted that read 11:10?  
20 A. Uh-huh.  
21 Q. That's correct, isn't it?  
22 A. Yes, that's correct.  
23 Q. Did it ever occur to you to do that?  
24 A. No, sir, I did not go through that process.

C08294

1 Q. Did Mr. Souk ever tell you to do that?

2 A. No, he did not.

3 Q. Did any of the investigators ever tell you  
4 to do that?

5 A. No, they did not.

6 Q. Why not?

7 A. I don't know, sir.

8 Q. Very well. Thank you for your candor.

9 By the way, do you know who Tony  
10 Matens is?

11 A. I don't believe I know Tony Matens. I saw  
12 his name in the report. I believe he was an  
13 investigator for somebody.

14 Q. Yes, he's a long-time investigator in  
15 Bloomington. It's M-A-T-E-N-S.

16 He has filed an Affidavit in this  
17 case, and in his Affidavit he swore under  
18 oath that he timed that route from in front  
19 of the Beaman residence to the parking lot,  
20 and his trips took him 20, 20, and 19  
21 minutes. And his Affidavit is that he was  
22 driving with the flow of traffic, presumably  
23 above the speed limit. Do you have any  
24 reason to believe that that's not accurate?

C08295

1 A. I don't know this individual. I wasn't with  
2 him. I can't make a judgment on that, sir.  
3 Q. Very well. Do you recall whether or not the  
4 speed limit was posted on the drive between  
5 the Boaman residence and Wal-Mart?  
6 A. Oh, I would assume it was, sir. It was a  
7 public road.  
8 Q. Okay. Do you recognize the name John Larby  
9 Murray?  
10 A. Yes, I do.  
11 Q. He was another -- or he was a paramour of  
12 the victim, a boyfriend?  
13 A. That I don't know for sure. They knew each  
14 other. I don't know if they were boyfriend  
15 and girlfriend.  
16 Q. Well, in your investigation did you review  
17 interviews he gave to Tony Daniels?  
18 A. I had read the interviews. I did not  
19 conduct any interviews with Larby Murray  
20 directly, but --  
21 Q. Were you interested in learning what you  
22 could about John Murray as a possible  
23 suspect in this case?  
24 A. That was Tony Daniels' responsibility was to

C08296

1           either confirm or deny his ability as a  
2           suspect.  Early on in the investigation, we  
3           each took specific people and tried to  
4           either clear or prove their involvement in  
5           this particular case.

6   Q.   And did you take an interest in his  
7           investigation of John Murray?

8   A.   Not necessarily.  I was tied up with my  
9           investigation of Michael Swain and then on  
10          to Alan Beaman.

11  Q.   Were you aware that Tony -- that, excuse me,  
12          John Murray gave conflicting versions of an  
13          alibi that he had on the day of the murder?

14  A.   Yes.

15  Q.   Are you aware that he changed his story from  
16          his first interview with Mr. Daniels to his  
17          second?

18  A.   As -- as I eventually took more of a lead  
19          roll in this, then I was responsible for  
20          reviewing all of those, so I did go back and  
21          read the interviews, sir.

22  Q.   And did -- and he admitted in his second  
23          interview that indeed he was in  
24          Bloomington-Normal on the day of the murder;

8 8

1 do you recall that?

2 A. I don't recall that from independent memory,  
3 sir.

4 Q. In any case, do you have any memory whether  
5 you were impressed or interested in his  
6 changing version of his alibi?

7 A. It wasn't something that impressed me,  
8 because it was never raised as a red flag by  
9 the other investigators that this is  
10 something we need to hold off and check  
11 farther.

12 Q. Were you aware that John Murray had a record  
13 of abusing his girlfriend, Debra McElvay?

14 A. Did he have that record at the time of the  
15 initial investigation, or did that happen  
16 later on in the investigation?

17 Q. Were you aware at any point in the  
18 investigation?

19 A. Again, sir, I was not the one that looked at  
20 Larby Murray. That was Rob Kospelhorn and  
21 Tony Daniels. So his background, his  
22 history, no, I was not aware of that.

23 Q. You never -- oh. So at no point --

24 A. I'm not saying at no point.

C08298

1 Q. Okay. Well, then --

2 A. I'm saying as this proceeded on, I was not  
3 aware of his background. At the point where  
4 I took over as the lead on the case, then I  
5 had to make myself aware of those other  
6 interviews and I had to go back and read  
7 what everybody else had done to synthesize  
8 things together. And at that point, yes, I  
9 became aware that he had an incident of  
10 domestic violence that was handled by the  
11 Normal Police Department.

12 Q. And did you also become aware then of the  
13 conflicting or the changing alibi versions  
14 that he gave?

15 A. I'm sure that I was aware of it, sir.

16 Q. And did you also become aware that according  
17 to a polygrapher he was attempting to  
18 manipulate a polygraph exam about whether or  
19 not he was involved in this crime?

20 A. I may have been aware on that. I'm -- that  
21 report probably would have gone directly to  
22 Tony Daniels, because he was the one that  
23 requested that polygraph, I believe.

24 Q. What -- of those three things, for example,

C08299

1 the polygraph issue, the abuse to the  
2 girlfriend, and the changing alibi, were you  
3 also aware that he and Jennifer had used  
4 drugs together and that he had supplied her  
5 marijuana?

6 A. I had heard that in the investigation that  
7 he had provided drugs for her in the past.

8 Q. And had you also been aware that he was a  
9 steroid abuser?

10 A. We found that out later in the  
11 investigation.

12 Q. Before charging Alan Beaman?

13 A. Before the charge, yes.

14 Q. Did -- what was your view of these facts  
15 with respect to whether or not Alan Beaman  
16 is the person who should be charged?

17 A. Well, steroid use was not an uncommon thing  
18 on the Illinois State University campus. We  
19 found a lot of people throughout the course  
20 of our duties abusing and using steroids.  
21 So Larby Murray did not stand out as one  
22 villain amongst an entire city of 50,000.  
23 It was not that uncommon. I'm not saying it  
24 happens every day, but I'm saying it was not

C08300

1 a once in a lifetime thing that you find a  
2 person using steroids.

3 Q. Let me cut you off just for a minute. I'm  
4 asking you, sir, about the totality of these  
5 facts and circumstances.

6 A. Yes, and that's what I'm trying to answer  
7 for you is that the steroids in themselves  
8 did not leave me to think that he was a  
9 prime suspect in this case. The fact that  
10 he provided drugs to Jennifer did not lead  
11 to me think that he was a prime suspect in  
12 this case.

13 Jennifer had, from what we could  
14 tell, a history of using drugs, and she  
15 could have got those from a number of  
16 sources, so simply providing drugs to her  
17 was not a motive for killing her.

18 So those things -- to answer your  
19 question, in totality, no, it did not raise  
20 a red flag that this is our person.

21 Q. And what about when you throw into that mix  
22 the manipulation of the polygraph when asked  
23 about the crime?

24 A. Well, that also is not uncommon, sir.

C08301

1 Q. And what about, if you throw into the mix  
2 that he was contemporaneously or near the  
3 time of the murder abusing -- physically  
4 abusing his girlfriend, another girlfriend?  
5 A. Now, I believe that arrest was nine months  
6 after the murder, was it not?  
7 Q. Before Beaman was charged.  
8 A. Yes, but wasn't that in October?  
9 Q. I'm not sure, but I do know it was before  
10 Beaman was charged.  
11 A. Yes, I believe that was in October, so I  
12 don't think it's fair to say that we know he  
13 was abusing his girlfriend in August when  
14 his arrest was not until October.  
15 Q. And I'm not --  
16 A. We're saying that had been taking place for  
17 many months, and we can't assume that.  
18 Q. Okay. I'm just going to move on.  
19 The last thing I'll ask you then,  
20 were you aware -- are you aware that Tony  
21 Daniels' views about John Murray as the  
22 perpetrator are much different than yours?  
23 A. I am aware that Tony Daniels has many  
24 different views now from mine.

C08302

1 Q. And are you aware that then he believed that  
2 John Murray should have been investigated  
3 further before Beaman was charged?  
4 A. I don't believe so. As I indicated to you  
5 before at the beginning of this deposition,  
6 there was a final meeting before we charged  
7 Alan Beaman, before we arrested him, and at  
8 that point it was held in the conference  
9 room at the Normal Police Department. Tony  
10 Daniels was present in the room, as was  
11 everybody else involved in this case,  
12 including James Souk, Dave Warner, I can't  
13 remember the rest of the host of people that  
14 were there. And at that final meeting was  
15 the opportunity for anybody to raise any  
16 concerns they had before we charged.  
17 Q. And you're saying that no concerns were  
18 raised by Daniels or anybody else at that  
19 point about whether it was the appropriate  
20 time to charge Alan Beaman?  
21 A. No, I do not recall anybody raising any  
22 objections to that. May I look at my report  
23 for moment?  
24 Q. I'm sorry?

C08303

1 A. May I look at this for a moment?  
2 Q. Yes, please.  
3 A. It says on page 48 on my report, On May 16 a  
4 meeting was held to determine a course of  
5 action in this case. Present at the meeting  
6 was Chief James Taylor, State's Attorney  
7 Charlie Reynard, Assistant State's Attorney  
8 James Souk, Lieutenant Frank Zayas,  
9 Lieutenant John Brown, Detective Tony  
10 Daniels, and myself. So I said that  
11 Detective Warner was there. It appears that  
12 he was not.

13 We reviewed the facts of the case  
14 once again and then opened the meeting up  
15 for input. When the discussion was ended,  
16 the decision had been made to effect the  
17 arrest of Alan Beaman for the homicide of  
18 Jennifer Lockmiller.

19 Had Tony Daniels had concerns  
20 about Larby Murray and felt that Larby  
21 Murray still was responsible for the murder,  
22 that would have been the time he brought  
23 that up. And if there were legitimate  
24 concerns, then the arrest would not have

C08304

1           been made.

2       Q.   Well, are you saying that had Tony Daniels

3           expressed doubts about the quality of this

4           evidence, that it would have -- that fact

5           would have appeared in your report?

6       A.   What I said was if he would have raised

7           legitimate concerns that Larby Murray still

8           had outstanding issues that would make him a

9           possible suspect here, that that arrest

10          would probably not have taken place.

11       Q.   But what has it got to do with what -- the

12          section of the report that you just read?

13       A.   Well, that report is to indicate when that

14          meeting took place and who was present in

15          that meeting.

16       Q.   Right.

17       A.   Okay? I recall the meeting. I just,

18          without looking at the report, couldn't tell

19          you when it was or who there was.

20       Q.   Are you -- were you -- at that meeting were

21          you open to suggestions from other officers,

22          you and Souk, about other possible avenues

23          of investigation before charging?

24       A.   Yes, we were.

C08305

1 Q. At that meeting did Tony Daniels try get  
2 both you and James Souk to listen to him  
3 about doubts he had about going forward with  
4 the charge at that point?  
5 A. Anybody that spoke up at that meeting was  
6 listened to. If he had issues, we would  
7 have listened to what he had to say. Sir,  
8 this was the culmination of a nine-month  
9 investigation at that point.  
10 Q. I understand that.  
11 A. And we had pursued everything we had to  
12 pursue. I did not want to get tunnel vision  
13 and try to say that it has to be Alan, it  
14 can't be anybody else. This was one more  
15 time to open up and say have we missed  
16 anything and is there anything else we need  
17 to look at before we effect this arrest.  
18 Had Mr. Daniels spoken up, yes, we would  
19 have listened to him.  
20 Q. And you don't recall him speaking up?  
21 A. No, it doesn't come to mind that he would  
22 have raised any major issues.  
23 Q. Okay.  
24 A. Because the arrest continued on.

C08306

1 Q. Well, okay. Thank you.

2 A portion of your time in this  
3 investigation was spent looking at the  
4 odometer issue?

5 A. Yes, sir.

6 Q. With Mr. Beaman's car, correct?

7 A. Yes, sir.

8 Q. And the reason for that was what?

9 A. Well, because his ability to travel to  
10 Normal to commit the crime and back to  
11 Rockford was a key issue. And so it was  
12 important to look at the odometer. His main  
13 defense was the photograph he had of his  
14 odometer and the tire statement -- or the  
15 receipt from Sears that showed the mileage.  
16 That was evidence they held until after the  
17 arrest and then provided to us. That was a  
18 key point. And so yes, I spent considerable  
19 time looking at his odometer.

20 Q. Well, when you say they held that evidence,  
21 it sounds to me that you're suggesting that  
22 they had it, but didn't turn it over until  
23 Alan was arrested.

24 A. Yes, sir, that's correct.

C08307

1 Q. And what is your, sir, opinion about why  
2 someone would wait to be arrested before  
3 presenting apparently exculpatory evidence?  
4 A. Sir, I have no idea why they held that as  
5 long as they did. Obviously they had it,  
6 because they took a photograph of his  
7 odometer. Now, you wouldn't typically just  
8 go out and take a photograph of an odometer  
9 for no reason. And so they took the picture  
10 at the time, or shortly after Lieutenant  
11 Daniels went up and interviewed Alan for the  
12 first time. And that picture was not  
13 released to us until after Alan Beaman's  
14 arrest. So they had it, and we know they  
15 had it, but they did not disclose it. And  
16 why, I don't know.  
17 Q. Well, did it concern you that it is  
18 counterintuitive to wait until after an  
19 arrest to present exculpatory evidence?  
20 A. Uh-huh.  
21 Q. Did that concern you?  
22 A. It -- I don't know that the word concern.  
23 It made me curious as to why.  
24 Q. Well, what was your theory about the

C08308

1 existence of this odometer evidence? In  
2 other words, did it -- did your  
3 investigation suggest that Alan Beaman knew  
4 about this mileage before --

5 A. Yes.

6 Q. -- he was arrested and never told you?

7 A. I'm sorry, I said yes before you finished  
8 your question.

9 Q. And never told you about it?

10 A. I was aware that he had a photograph, or  
11 that he had the receipt for the tires,  
12 because he told his neighbor that he had a  
13 receipt for tires. And when we interviewed  
14 the neighbor, the neighbor told that. I  
15 believe it was Van Beringer was the  
16 neighbor's name. And the neighbor told us  
17 that he has a receipt for tires from Sears.  
18 We knew they had it. They just did not  
19 disclose it to us until after the arrest.  
20 And so mileage was going to become a key  
21 part of this investigation.

22 Q. Well, did Alan -- did you understand that  
23 Alan told a neighbor that he had evidence  
24 which exculpated him based on this receipt?

C08309

1           It's one thing to have a receipt, is it not?  
2           It's another thing for the accused to  
3           interpret that as exculpatory.  What  
4           evidence did you have of that?  
5       A.    He made the statement to Van Beringer, and I  
6           don't recall the statement word for word,  
7           I'm sure it's in the case, that he had  
8           mileage -- a statement from Sears about new  
9           miles on his car, and that was one of his,  
10          if you want to call it an alibi, that was  
11          his excuse as to why he could not have  
12          committed the murder, because he's got this  
13          receipt showing the mileage on this vehicle,  
14          and there's not enough miles for him to have  
15          driven to Normal and back again.  
16       Q.    And you concluded that that mileage was not  
17          legitimate, that figure that showed on the  
18          odometer at some point?  
19       A.    I -- I believed that the figure on the  
20          odometer when the picture was taken was  
21          accurate.  I believe that the current  
22          mileage on his odometer was not accurate.  
23       Q.    And so you believe that it was tampered with  
24          by Alan?

C08310

1 A. Yes, I did.

2 Q. And that this tampering was done when in  
3 relation to his arrest?

4 A. My belief was the tampering was done as soon  
5 as he arrived back from Normal the day that  
6 Jennifer Lockmiller was killed, and it was  
7 reconnected at the time when Detective  
8 Daniels was en route and pulled in and  
9 witnessed Alan Beaman up underneath the  
10 dashboard of his car working on his radio,  
11 as Alan said.

12 Q. And you can't explain why Alan never brought  
13 this evidence out before he was arrested,  
14 can you?

15 A. No, I can't tell you why he decided not to  
16 disclose that prior.

17 Q. And who disclosed the significance of this?  
18 Was it the photograph of the newspaper?

19 A. According to the report, from what I read,  
20 they gave -- I was not -- see, I was not  
21 present at that interview with Mrs. Beaman  
22 when she gave up the Sears receipt and the  
23 photograph of the odometer.

24 Q. Do you believe that Carol Beaman colluded

**C08311**

1 with Alan Beaman to falsify the odometer  
2 evidence?

3 A. No, I do not.

4 Q. What was her role in this?

5 A. I believe that Mrs. Beaman believed the  
6 odometer statement in the car and did not  
7 know that her son had disconnected the  
8 odometer cable and reconnected it after  
9 driving around town, creating an alibi, for  
10 the miles that were on the vehicle.

11 Q. Your recollection seems to be pretty clear  
12 on this point.

13 A. This was a key point, sir.

14 Q. A lot of time was spent on it at the trial,  
15 wasn't it?

16 A. Yes, it was.

17 MR. URDANGEN: Thank you for your  
18 patience, sir. I'm done, unless Mr. Messman  
19 has any questions.

20 MR. MESSMAN: Nope.

21 MR. URDANGEN: I want to then stay  
22 on the record for just one moment.

23 Mr. Messman, because this is going  
24 to be an issue for the judge, which is more

C08312

1 clear than ever today, I do not have either,  
2 as I've told you in writing, from Mr. Ben's  
3 file, or from anywhere for that matter, any  
4 of Detective Freesmeyer's reports of these  
5 time trials that were referenced as not  
6 being in those ten pages today.

7 I have asked you repeatedly to  
8 produce reports for me, and your most recent  
9 answer is they are in the official court  
10 file for you or anyone else to see. I am  
11 certainly under no obligation to go through  
12 all of those documents and copy them for you  
13 when you have the same access to them as I.

14 Before I approach the judge on  
15 this issue, are you telling me that  
16 Mr. Freesmeyer's police reports are public  
17 record in the court file?

18 MR. MESSMAN: That's the truth.

19 MR. URDANGEN: You've seen those  
20 in the court file?

21 MR. MESSMAN: I look at those  
22 repeatedly.

23 MR. URDANGEN: So all of these  
24 reports that have been referenced to today

C08313

1 are public record?

2 MR. MESSMAN: Unless they're  
3 missing, which I -- you know, I look at that  
4 court file a lot, and I don't think any of  
5 them are. They are -- anybody in the public  
6 can come in and look at them.

7 MR. URDANGEN: I'm not talking  
8 about pleadings, sir.

9 MR. MESSMAN: I'm talking about  
10 discovery, police reports, phone records,  
11 everything that was filed and given a  
12 number, a handwritten number in the bottom  
13 right corner of the page is filed in the  
14 discovery. There's 15 volumes of official  
15 court file, and everything disclosed in  
16 discovery is in them.

17 MR. URDANGEN: Then I guess we  
18 shall look at that.

19 Let's see if I have anything else.

20 MR. MESSMAN: It's further made a  
21 part of the common law record that went up  
22 on appeal and was sent to the appellate  
23 court.

24 MR. URDANGEN: Mr. Freesmeyer,

C08314

1 I'll tell you on the record today that we  
2 have a hearing date which is going to begin  
3 where you will not be required to attend on  
4 December 15. The judge has set aside  
5 January 13 and 14 for the final day or two,  
6 if necessary, of the hearing. At this point  
7 I'm going to ask you and tell you, and I'll  
8 try to, as I've tried from the beginning  
9 here, to make -- to inconvenience you as  
10 little as possible.

11 I will try to let you know which,  
12 if either, of those two January dates you'll  
13 need to come and testify, or if you will at  
14 all. So please mark those on your calendar  
15 as possibilities. Fair enough?

16 THE WITNESS: Uh-huh.

17 MR. URDANGEN: And just answer out  
18 loud.

19 THE WITNESS: Yes.

20 MR. URDANGEN: Okay. I'm done.

21  
22 (Whereby a discussion was held  
23 off the record.)  
24

C08315

1 THE WITNESS: I just -- I want to  
2 clarify our conversation about the Wal-Mart  
3 trip. I had indicated I thought I had  
4 stopped and walked in. I can't say that I  
5 did that, and I want to clarify so that  
6 doesn't become confused later down the road.

7 MR. URDANGEN: I appreciate that.

8 THE WITNESS: I don't recall  
9 exactly how that -- where that stopping  
10 point was. It may have been the front. It  
11 may have been in the parking lot. It may  
12 have been at the -- I know I didn't go in  
13 and shop.

14 MR. URDANGEN: I appreciate that.  
15 I think you -- I think that that's the  
16 impression I already had from your  
17 statement, but thank you for clarifying  
18 that.

19 THE WITNESS: Okay.  
20  
21  
22  
23  
24

C08316

1 STATE OF ILLINOIS )

2 COUNTY OF KNOX )

3

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C E R T I F I C A T E

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I, Amy S. Powers, CSR, RPR, a Notary Public  
duly commissioned and qualified in the State of  
Illinois, DO HEREBY CERTIFY that pursuant to  
notice there came before me on the 22nd day of  
November 2004, at 130 South Lafayette, in the  
City of Macomb, County of McDonough, and State of  
Illinois, the following named person, to wit:

TIMOTHY J. FREESMEYER,

who was by me first duly sworn to testify to the  
truth and nothing but the truth of his knowledge  
touching and concerning the matters in  
controversy in this cause and that he was  
thereupon carefully examined upon his oath and  
his examination immediately reduced to shorthand  
by means of stenotype by me.

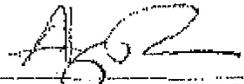
I ALSO CERTIFY that the deposition is a true  
record of the testimony given by the witness and

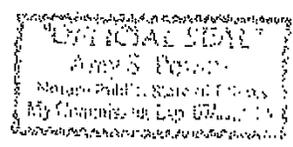
C08317

1 that the necessity of calling the court reporter  
2 at time of trial for the purpose of  
3 authenticating said transcript was also waived.

4 I FURTHER CERTIFY THAT I am neither attorney  
5 or counsel for, nor related to or employed by,  
6 any of the parties to the action in which this  
7 deposition is taken, and further, that I am not a  
8 relative or employee of any attorney or counsel  
9 employed by the parties hereto, or financially  
10 interested in the action.

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand and affixed my notarial seal at Galesburg,  
13 Illinois, this 26th day of November 2004.

14  
15   
16 AMY S. POWERS  
17 Certified Shorthand  
18 Reporter



C08318

#	357(1)2:8	Affidavit(3)86:16;86:17;86:21 affixed(1)109:12 AFIS(1)27:8 aforesaid(1)110:11 again(19)14;7;45:11;45:13;46:11;46:21; 48:1;50:14;51:13;61:19;65:22;66:12; 72:14;78:19;82:2;82:3;89:19;98:14; 101:15;110:10 against(2)11:5;11:10 agencies(1)4:12 agency(1)33:4 ago(3)20:17;23:15;28:17 agreed(2)62:10;62:11 agreement(5)13:15;13:17;13:19;13:21; 14:17 ahead(4)13:19;32:16;57:4;71:4 ALAN(57)1:7;3:11;4:21;7:21;21:8; 24:19;24:22;24:24;26:5;27:14;30:10; 30:17;34:4;34:19;35:2;35:8;51:14;55:9; 55:18;56:23;57:3;57:6;57:9;57:16;57:20; 63:7;65:16;67:19;67:22;71:8;71:20; 72:20;74:20;75:8;75:16;75:23;75:24; 76:1;88:10;91:12;91:15;94:7;94:20; 95:17;97:13;98:23;99:11;99:13;100:3; 100:22;100:23;101:24;102:9;102:11; 102:12;103:1;110:5 Alan's(1)31:7 alibi(7)72:4;88:13;89:6;90:13;91:2; 101:10;103:9 aligned(1)36:18 Alpine(1)63:3 already(1)107:16 also(8)56:22;90:12;90:16;91:3;91:8; 92:24;108:23;109:3 am(6)4:6;4:23;93:23;104:10;109:4;109:7 Amended(1)16:5 amongst(1)91:22 amount(1)52:19 Any(3)1:12;108:6;109:16 another(1)29:23;41:18;41:21;57:22; 59:5;62:15;72:23;75:7;87:11;93:4;101:2 answer(42)13:4;24:6;35:19;44:15;52:23; 52:24;53:3;53:7;53:13;53:16;54:23;55:5; 57:4;58:1;58:7;58:12;59:16;61:8;61:19; 62:7;62:19;62:24;63:5;63:12;67:16;69:2; 70:15;72:12;73:5;73:6;73:8;73:9;73:10; 73:11;76:16;76:19;79:2;82:4;92:6;92:18; 104:9;106:17 answered(2)64:5;68:16 answering(4)29:13;29:15;29:22;30:5 answers(4)25:12;60:22;61:17;69:10 anybody(1)13:13;34:16;34:16;74:24; 75:4;94:15;94:18;94:21;97:3;97:14; 105:5 Anyone(3)8:23;70:13;104:10 anything(12)22:19;22:23;24:8;34:7; 38:15;52:18;60:6;72:5;85:12;97:16; 97:16;105:19 anywhere(2)72:7;104:3 apar(1)12:19 apartment(6)29:14;43:24;45:4;45:5;45:9; 46:13 apparently(3)49:1;51:19;99:3 appeal(1)105:22 appear(2)35:22;40:18 appeared(1)96:5 appearing(1)10:11 appellate(3)24:23;25:16;105:22 apprciate(2)107:7;107:14 approach(1)104:14 appropriate(2)17:23;94:19 approximately(6)4:15;10:12;19:16;46:6;
#4(1)44:1	4	
0	40-page(1)25:16 412(2)43:24;45:16 48(1)95:3	
038540(1)1:13 084-003053(1)1:13	5	
1	50,000(1)91:22 51(3)42:14;43:16;43:22 52(4)40:2;41:6;43:17;44:5	
1-800-342-DEPO(1)1:24 10(4)46:16;46:23;50:22;50:23 103(1)2:15 104(1)2:4 108(1)2:16 109(1)2:16 10:00(3)67:20;67:24;69:4 10:37(3)67:18;67:23;69:6 10:39(2)67:18;69:7 10:41(1)69:5 10:42(2)68:1;70:8 110(1)2:16 11:10(4)76:6;76:12;83:6;85:19 12(1)5:15 12:00(2)29:4;29:20 12:15(1)29:5 13(1)106:5 130(2)1:15;108:10 14(1)106:3 15(8)4:4;78:18;79:4;79:11;80:10;82:6; 105:14;106:4 16(2)79:7;95:3 18(5)23:18;26:6;40:15;49:7;78:8 18-month(1)18:12 19(1)86:20 1967(1)4:4 1987(1)7:9 1988(1)7:16 1990(2)5:15;12:13 1993(1)7:24 1994(2)59:19;60:14 1995(2)40:16;44:17 1998(1)5:4	6	60(1)52:2 603(1)2:4 60611-3069(1)2:9 61(3)41:7;43:17;44:12 61401(1)1:24 61702(1)2:4 65(1)48:3
12:00(2)29:4;29:20 12:15(1)29:5 13(1)106:5 130(2)1:15;108:10 14(1)106:3 15(8)4:4;78:18;79:4;79:11;80:10;82:6; 105:14;106:4 16(2)79:7;95:3 18(5)23:18;26:6;40:15;49:7;78:8 18-month(1)18:12 19(1)86:20 1967(1)4:4 1987(1)7:9 1988(1)7:16 1990(2)5:15;12:13 1993(1)7:24 1994(2)59:19;60:14 1995(2)40:16;44:17 1998(1)5:4	7	70-AX(1)55:3 75(4)43:18;46:2;46:6;47:12
12:00(2)29:4;29:20 12:15(1)29:5 13(1)106:5 130(2)1:15;108:10 14(1)106:3 15(8)4:4;78:18;79:4;79:11;80:10;82:6; 105:14;106:4 16(2)79:7;95:3 18(5)23:18;26:6;40:15;49:7;78:8 18-month(1)18:12 19(1)86:20 1967(1)4:4 1987(1)7:9 1988(1)7:16 1990(2)5:15;12:13 1993(1)7:24 1994(2)59:19;60:14 1995(2)40:16;44:17 1998(1)5:4	9	9.7(1)78:21 911(2)34:22;34:23 94-CF-476(3)1:6;3:11;110:4 9:13(2)79:3;82:5 9:28(2)79:4;82:6 9:29(2)79:6;82:8 9:39(2)83:16;83:22 9:40(3)83:14;83:21;83:22
12:00(2)29:4;29:20 12:15(1)29:5 13(1)106:5 130(2)1:15;108:10 14(1)106:3 15(8)4:4;78:18;79:4;79:11;80:10;82:6; 105:14;106:4 16(2)79:7;95:3 18(5)23:18;26:6;40:15;49:7;78:8 18-month(1)18:12 19(1)86:20 1967(1)4:4 1987(1)7:9 1988(1)7:16 1990(2)5:15;12:13 1993(1)7:24 1994(2)59:19;60:14 1995(2)40:16;44:17 1998(1)5:4	A	
2	A.D.(1)110:16 a.m.(6)76:6;79:3;79:4;79:6;82:5;82:6 ability(2)88:1;98:9 able(3)30:20;44:11;65:5 above(1)86:23 abuse(1)91:1 abuser(1)91:9 abusing(5)89:13;91:20;93:3;93:4;93:13 access(4)74:22;75:1;84:16;104:13 According(3)67:16;90:16;102:19 accuracy(1)84:2 accurate(1)48:6;55:12;73:8;81:6;81:8; 81:24;83:10;84:1;86:24;101:21;101:22 accused(1)101:2 action(3)95:5;109:6;109:10 active(1)12:17 activities(1)14:22 actually(2)8:7;77:15 add(1)38:12 addressed(1)74:3 adjust(1)6:7 Administration(2)5:5;5:8 admitted(1)88:22 advise(1)38:22 advised(1)39:2	
20(2)86:20;86:20 2000(3)5:7;5:17;5:18 2004(5)1:14;108:10;109:13;110:16; 110:20 22nd(3)1:14;16:15;108:9 237(1)60:7 238(2)60:5;60:7 25th(1)8:2 26th(1)109:13 28th(1)8:2 2:00(3)29:20;65:4;65:6 2:15(1)1:15		
3	30(5)16:16;44:17;44:21;60:3;69:2 309(1)1:24 31(3)31:6;51:18;68:19 31-minute(2)67:24;68:19 316(1)1:23 343-3376(1)1:24	

<p>79:4;82:6 Arcade(1)1:23 area(1)1:9 arena(1)66:3 Arizona(3)7:10;7:12;7:14 arm(1)36:22 around(6)47:14;48:2;56:2;56:18;59:12; 103:9 arrest(30)9:15;12:8;13:12;13:15;13:15; 13:18;13:20;13:22;13:24;14:1;14:6; 14:12;14:18;32:17;32:21;37:18;44:10; 71:1;93:5;93:14;95:17;95:24;96:9;97:17; 97:24;98:17;99:14;99:19;100:19;102:3 arrested(6)31:17;94:7;98:23;99:2;100:6; 102:13 arrived(7)35:3;50:13;79:3;79:5;82:5; 82:7;102:5 article(1)24:14 articles(3)24:12;24:14;24:15 artifact(1)26:7 aside(1)106:4 asked(18)20:17;38:14;51:9;56:19;57:6; 57:24;59:16;64:14;65:3;65:4;65:6;67:7; 68:11;68:17;70:17;72:9;92:22;104:7 asking(7)10:14;13:12;33:20;63:10;64:10; 71:16;92:4 aspect(1)79:23 assigned(3)7:21;8:3;40:4 Assistant(3)31:5;3:18;95:7 assume(4)52:7;82:23;87:6;93:17 assumed(3)27:11;47:19;55:23 assuming(2)43:11;55:14 assumption(1)43:12 atlas(1)55:7 attached(1)110:11 attempting(1)90:17 attend(1)106:3 attention(1)73:1 Attorney(6)3:15;3:18;95:6;95:7;109:4; 109:8 attorney's(4)9:17;10:2;16:2;36:23 August(5)4:4;5:17;5:18;7:24;93:13 authenticate(1)76:18 authenticating(1)109:3 authority(5)36:7;36:14;36:17;36:18;37:2 available(1)27:13 Avenue(2)2:8;9:9 avenues(3)36:12;36:15;96:22 average(8)37:16;45:17;45:19;45:22; 45:23;46:1;46:7;47:12 averaging(1)47:15 aware(33)1:16;4:20;10:5;13:8;26:19; 32:23;32:24;33:2;33:8;33:10;33:11; 41:11;43:13;71:5;88:11;88:15;89:12; 89:17;89:22;90:3;90:5;90:9;90:12;90:15; 90:16;90:20;91:3;91:8;93:20;93:20; 93:23;94:1;100:10 awhile(1)17:5</p>	<p>bag(1)35:11 bank(18)30:14;31:1;31:3;45:3;45:8;46:9; 46:10;51:15;53:11;55:10;58:14;58:21; 59:6;62:2;65:8;67:19;67:23;69:3 based(2)38:7;100:24 basic(1)57:8 basically(1)55:6 basis(1)37:21 bathroom(1)48:15 BEAMAN(66)1:7;3:11;4:22;7:21;11:11; 21:8;26:5;27:15;30:10;30:16;31:1;31:4; 31:7;33:12;34:4;37:14;40:12;48:19;49:9; 49:22;50:8;51:3;52:3;52:5;53:11;54:22; 58:22;65:8;65:17;67:18;69:19;74:6; 74:11;74:20;74:21;74:21;75:13;76:1; 76:4;77:3;77:7;77:22;79:2;79:7;79:12; 80:16;82:4;83:18;84:16;85:1;86:19;87:5; 88:10;91:12;91:15;93:7;93:10;94:3;94:7; 94:20;95:17;100:3;102:9;102:24;103:1; 110:5 Beaman's(8)24:19;24:22;25:1;30:17; 35:8;51:15;83:4;99:13 Beamans(1)80:4 became(7)10:16;17:9;32:23;33:2;33:10; 34:4;90:9 become(6)34:7;34:16;90:12;90:16; 100:20;107:6 bogan(7)6:14;7:18;9:16;10:13;44:5; 50:11;72:3 begin(3)10:10;50:12;106:2 beginning(5)10:18;31:18;34:21;94:5; 106:8 begins(1)43:23 behalf(2)25:2;9 behavior(1)35:8 belief(2)24:21;102:4 believed(3)94:1;101:19;103:5 Bel(24)30:24;31:1;45:3;45:4;45:15; 46:10;48:18;49:9;49:21;50:7;51:2;51:15; 52:5;54:21;55:10;56:1;56:16;56:24; 57:11;57:21;60:24;61:6;63:4;69:18 bench(1)72:1 benefit(1)48:24 Beringer(2)100:15;101:5 better(2)39:5;55:22 between(32)11:7;15:20;26:13;29:4;31:3; 35:1;44:21;46:9;46:9;46:11;46:22;47:6; 49:9;49:21;50:21;51:2;52:4;54:21;56:8; 56:12;57:16;58:5;58:11;59:5;61:5;61:13; 61:23;69:18;76:13;76:20;79:11;87:4 Beu(1)61:1 hinders(4)17:5;17:8;17:9;17:19 birth(2)4:3;7:18 blocks(1)82:16 Bloomington(3)2:4;45:5;86:15 Bloomington-Normal(1)88:24 blowup(1)55:6 Bluhm(1)2:7 body(3)7:23;8:6;34:24 boss(1)36:9 both(2)60:15;97:2 bottom(4)40:6;40:19;44:17;105:12 boyfriend(2)87:12;87:14 breaks(2)48:15;52:18 briefly(3)4:24;41:19;66:13 bring(1)13:14 brought(3)46:8;95:22;102:12 Brown(1)95:9 Brown's(1)39:10 brutality(1)15:6 Building(2)1:23;9:3 Business(3)5:5;7:1;85:16</p>	<p>bypass(12)56:2;56:2;56:15;56:17;57:11; 59:12;63:2;63:14;63:17;64:1;68:11; 69:20 bypassing(1)60:17</p> <p style="text-align: center;">C</p> <p>cable(1)103:8 calendar(1)106:14 call(18)10:9;19:14;34:22;34:23;67:17; 67:23;68:6;68:9;68:10;71:9;74:13;75:8; 75:17;83:14;83:15;84:7;84:11;101:10 called(2)19:11;66:15 calling(1)109:1 calls(23)29:22;30:15;32:11;65:18;67:5; 69:6;70:12;70:18;71:5;71:12;72:6;72:21; 73:3;73:14;73:16;73:17;73:24;74:18; 74:19;76:5;76:8;76:11;76:15 cameras(1)77:14 Cameron(1)15:16 camp(1)7:14 campus(1)9:18 can't(22)9:1;10:16;12:2;12:3;12:22;13:4; 13:23;14:16;28:20;28:21;28:23;42:18; 50:4;69:22;83:2;87:2;93:17;94:12;97:14; 102:12;102:15;107:4 candle(1)86:8 cans(1)35:6 capable(1)75:17 car(8)78:11;80:15;82:11;84:24;98:6; 101:9;102:10;103:6 card(1)85:17 career(2)21:11;23:21 carefully(1)108:20 Carol(13)3:7;33:12;74:11;74:20;74:21; 75:9;75:13;76:4;77:2;77:7;83:4;85:1; 102:24 case(61)8:16;9:15;10:3;10:9;10:13;11:2; 14:2;17:10;17:19;19:12;19:18;20:8;21:8; 21:9;21:10;21:15;21:19;21:23;22:1;22:5; 22:22;23:5;23:11;23:20;24:10;24:17; 24:21;25:6;25:22;26:6;30:2;34:5;34:11; 37:5;37:10;37:14;37:15;40:12;41:13; 41:17;42:7;42:22;43:7;43:14;43:18; 43:21;45:1;48:9;58:24;83:24;86:17; 87:23;88:5;89:4;90:4;92:9;92:12;94:11; 95:5;95:13;101:7 cason(2)37:7;37:8 cashier(1)85:17 cause(8)13:18;13:22;14:5;14:12;24:4; 30:9;30:16;108:19 caused(4)24:9;24:16;24:18;24:20 CD(1)60:9 Center(3)2:3;6:3;44:4 central(1)66:7 Certainly(2)16:19;104:11 Certificate(1)2:16 Certified(1)109:16 CERTIFY(4)108:8;108:23;109:4;110:8 Champaign(1)7:18 chance(1)72:24 changed(1)88:15 changing(3)89:6;90:13;91:2 characterized(1)12:10 charge(3)9:13;94:20;97:4 charged(6)9:16;93:7;93:10;94:3;94:6; 94:16 charging(2)9:12;96:23 Charlie(1)95:7 chart(1)52:10 check(6)50:14;77:19;83:1;84:18;89:10;</p>
<p style="text-align: center;">B</p> <p>bachelor's(1)5:2 back(30)7:15;10:1;17:21;19:18;23:18; 29:17;30:1;42:9;47:20;48:10;50:2;50:20; 58:14;60:19;62:2;65:3;65:22;66:15; 69:21;72:23;77:13;77:14;77:19;78:20; 82:20;88:20;90:6;98:10;101:15;102:5 background(2)89:21;90:3 backwards(1)84:6 bad(1)12:1 badge(1)40:5</p>	<p>bypass(12)56:2;56:2;56:15;56:17;57:11; 59:12;63:2;63:14;63:17;64:1;68:11; 69:20 bypassing(1)60:17</p>	<p>bypass(12)56:2;56:2;56:15;56:17;57:11; 59:12;63:2;63:14;63:17;64:1;68:11; 69:20 bypassing(1)60:17</p>

<p>110:13                  check-out(3)32:7;83:3;84:5                  checked(5)45:15;74:8;74:12;75:21;76:5                  checking(1)77:15                  Chicago(3)2:8;2:9;6:7                  Chief(1)95:6                  choice(2)55:20;56:21                  chose(1)62:3                  Chris(1)52:3                  CIRCUIT(3)1:1;1:23;4:17                  circumstances(1)92:5                  City(5)1:16;46:8;60:1;91:22;108:11                  clarify(4)1:12;62:14;107:2;107:5                  clarifying(1)107:17                  class(2)29:17;29:24                  clear(5)39:24;60:8;88:4;103:11;104:1                  cleared(1)81:7                  Client(1)2:7                  clock(3)26:11;26:16;27:1                  close(4)19:19;32:10;51:4;82:18                  closely(1)37:12                  closer(1)29:19                  coffee(1)52:17                  college(1)46:12                  collided(1)102:24                  come(7)17:24;28:3;73:15;73:19;97:21;                  105:6;106:13                  coming(3)67:17;71:13;73:16                  communicating(1)1:14                  comments(1)25:10                  commission(1)110:24                  commissioned(1)108:7                  commit(4)30:11;30:18;65:13;98:10                  committed(3)27:20;65:17;101:12                  common(1)105:21                  committing(1)6:8                  comparing(1)63:22                  comparison(2)58:3;61:11                  complete(2)43:7;110:10                  completed(2)43:1;76:11                  completely(3)11:14;25:6;52:21                  Complica(3)40:13;41:2;42:11                  computer(3)15:3;42:12;55:8                  computer-generated(1)41:5                  conceive(1)66:2                  concern(4)64:19;99:17;99:21;99:22                  concerned(3)15:19;21:9;39:13                  concerning(1)108:18                  concerns(5)94:16;94:17;95:19;95:24;96:7                  concluded(1)101:16                  conclusion(2)49:16;68:13                  condoms(1)35:9                  conduct(1)87:19                  conducted(3)44:24;45:3;48:18                  conference(1)94:8                  conferences(1)21:6                  confirm(2)71:24;88:1                  confirming(1)24:24                  confirms(1)51:7                  conflicting(2)88:12;90:13                  confused(1)107:6                  conjunction(1)70:22                  connected(3)72:21;83:15;83:21                  connection(6)14:21;41:12;41:17;42:22;                  43:20;46:18                  consciously(2)31:23;34:1                  consider(1)43:4                  considerable(1)98:18                  considerably(1)65:23                  consistent(4)35:5;35:7;79:9;79:11                  consisting(1)110:9                  consult(1)4:11</p>	<p>consulting(1)4:8                  contact(1)70:13                  contacted(2)19:9;24:11                  contemporaneously(2)53:22;93:2                  content(2)38:3;42:7                  contents(1)41:20                  context(4)45:24;61:20;71:15;73:7                  continue(2)44:9;59:1                  continued(3)43:9;88:23;97:24                  controversy(1)108:19                  conversation(7)11:7;56:23;57:5;71:20;                  74:4;75:22;107:2                  conversations(4)57:6;57:10;57:16;74:2                  convict(2)13:1;14:11                  convicted(1)81:7                  conviction(1)25:1                  convinced(2)29:19;73:23                  coordinator(1)6:19                  copies(2)18:22;22:10                  copy(3)39:3;42:13;104:12                  corner(1)105:13                  corporation(1)7:2                  correction(2)110:11;110:13                  correctional(2)7:20;44:3                  corrections(7)7:6;7:7;7:8;7:10;14:19;                  110:11;110:14                  correctly(3)29:12;55:24;76:10                  could(2)10:11;96:18                  counsel(2)109:5;109:8                  counterintuitive(1)99:18                  country(1)80:6                  COUNTY(7)1:2;1:16;3:16;7:19;44:3;                  108:2;108:11                  couple(2)7:12;37:17                  nurse(4)64:23;80:2;91:19;95:4                  court(15)17:21;19:10;19:12;19:18;19:19;                  20:2;20:8;25:16;104:9;104:17;104:20;                  105:4;105:15;105:23;109:1                  courts(1)24:24                  coverage(1)21:15                  covering(1)77:17                  coy(1)44:14                  creating(1)103:9                  credit(1)85:17                  crime(16)27:4;27:5;27:10;27:20;27:24;                  29:7;30:11;30:18;35:12;35:14;35:21;                  65:13;65:17;90:19;92:23;98:10                  Cross-Examination(5)57:23;59:2;60:20;                  60:23;82:2                  crunched(1)65:23                  CSR(2)1:13;108:6                  culmination(1)97:8                  curious(2)69:8;99:23                  current(2)9:6;101:21                  currently(1)5:7                  custody(1)7:13                  cut(2)72:8;92:3</p>	<p>20:3;40:13;44:17;48:20;49:7;49:15;                  78:15;78:16;106:2                  Dated(1)110:16                  dates(2)5:14;106:12                  Dave(2)8:17;94:12                  day(19)1:14;7:23;29:24;37:19;37:19;                  50:2;70:14;72:5;73:20;85:5;88:13;88:24;                  91:24;102:5;106:5;108:9;109:13;110:16;                  110:20                  day-to-day(1)37:13                  days(2)16:17;26:13                  death(2)29:3;29:9                  Debra(1)89:13                  December(1)106:4                  decided(4)32:20;33:15;33:17;102:15                  decision(1)95:16                  deem(1)7:6                  Defendant(3)1:8;2:9;110:6                  defendant's(1)25:22                  defense(1)98:13                  define(1)12:22                  definition(1)12:23                  degree(2)5:2;5:5                  Demnick(1)9:23                  deny(1)88:1                  Department(13)5:11;7:10;7:19;9:7;12:13;                  14:20;17:12;22:14;22:20;23:6;42:2;                  90:11;94:9                  deplored(1)55:4                  deposed(2)19:4;20:12                  DEPOSITION(17)1:11;3:8;4:21;15:18;                  17:24;18:6;18:7;19:1;20:18;21:3;53:1;                  66:1;94:5;108:23;109:7;110:9;110:11                  describe(1)4:24                  describing(1)54:17                  desire(1)23:17                  destroyed(3)22:23;23:2;23:3                  detail(2)40:17;52:11                  detective(1)8:5;8:8;8:11;8:14;53:15;                  55:4;78:9;95:9;95:11;102:7;104:4                  detectives(3)10:3;10:21;37:9                  determine(3)68:5;75:6;95:4                  determined(1)65:11                  developed(2)23:21;24:8                  development(1)6:19                  developments(2)23:10;23:15                  devoted(1)21:18                  different(3)69:10;93:22;93:24                  difficult(1)66:2                  direct(2)1:5;16:36;6:51;9:55;23:56;6;                  56:8;56:11;58:5;58:19;59:8;59:8;61:13;                  62:8;63:23;64:9;64:10;67:6;70:6;71:8;                  71:18;72:24                  directed(1)73:9                  direction(1)36:7                  directly(6)36:1;62:22;63:11;73:15;87:20;                  90:21                  Director(1)6:2                  disagree(1)66:5                  disagreement(4)11:9;11:13;12:20;12:21                  disagreements(1)24:2                  discipline(1)15:5                  disciplined(1)14:21                  disclose(5)31:1;31:22;99:15;100:19;                  102:16                  disclosed(2)102:17;105:15                  disconnected(3)83:14;83:22;103:7                  DISCOVERY(5)1:11;3:8;105:10;105:14;                  105:16                  discrepancy(1)66:23                  discuss(8)1:1;1:4;3:6;11;38:3;45:2;                  53:14;59:22;66:9</p>
<p>D</p>		
	<p>Daniels(25)8:18;10:23;11:1;11:7;11:9;                  11:18;11:21;13:9;13:16;13:17;24:2;76:1;                  78:9;87:17;89:21;90:22;93:23;94:10;                  94:18;95:10;95:19;96:2;97:1;99:11;                  102:8                  Daniels(3)14:9;87:24;93:21                  dark(1)18:13                  dashboard(1)102:10                  database(1)27:8                  databases(1)27:12                  date(15)4:3;8:1;9:4;10:15;10:17;19:21;</p>	

<p>discussed(3)20:20;51:22;53:20  discussing(1)45:22  discussion(5)39:18;59:24;66:22;95:15;  106:22  dishonest(3)33:12;33:16;33:20  dishonesty(1)15:7  dismissed(1)15:11  disregard(1)24:15  dissent(2)25:16;25:18  dissenter(1)25:20  distance(6)45:15;59:10;59:13;67:13;  67:21;74:8  distances(2)45:1;81:6  distinguish(2)56:7;56:10  Division(2)8:8;8:15  document(1)32:8  documentary(2)31:8;33:13  documents(6)16:4;21:5;22:15;41:21;  42:13;104:12  docs(14)40:18;40:20;45:23;54:7;55:12;  55:16;58:16;62:21;62:24;63:17;64:1;  69:24;78:6;78:17  doesn't(3)33:16;97:21;107:6  doing(5)4:14;28:24;48:6;67:14;75:17  domestic(1)90:10  DOMINIC(2)2:3;3:14  done(16)18:5;18:14;35:5;48:9;53:22;  55:8;66:10;70:22;73:20;76:1;83:1;90:7;  102:2;102:4;103:18;106:20  door(3)81:11;81:12;81:13  doubts(3)30:20;96:3;97:3  down(8)17:18;50:11;63:2;63:13;65:23;  75:3;79:14;107:6  downloaded(1)42:13  downtown(7)52:5;62:22;63:12;63:14;  63:24;64:1;64:13  drive(2)10:13;12:19  driver(18)30:8;30:9;30:12;30:13;47:1;  47:24;48:6;51:1;2:51;14:52;10:54;2:68;11;  68:19;74:6;79:16;81:23;84:17;87:4  driven(3)57:7;64:21;101:15  drives(1)52:16  driving(15)9:24;30:24;45:15;46:14;  47:11;47:18;47:23;48:3;52:19;67:20;  79:24;80:1;81:6;86:22;103:9  dropped(1)44:2  drove(14)26:12;46:18;47:19;58:3;59:13;  61:11;62:15;65:9;69:14;79:15;79:19;  80:7;80:18;80:22  drugs(5)91:4;91:7;92:10;92:14;92:16  duty(3)3:3;108:7;108:16  during(15)10:18;12:10;21:5;24:8;40:11;  51:9;52:16;52:24;54:3;57:10;66:17;  66:17;66:19;66:20;67:7  duties(1)91:20  duty(2)8:6;8:7</p>	<p>efficient(1)25:14  efforts(1)27:17  either(8)15:9;16:1;41:20;46:21;88:1;  88:4;104:1;106:12  ELEVENTH(1)1:1  elicited(1)58:21  else(18)8:14;8:23;13:5;22:23;34:16;60:6;  71:7;72:5;75:4;75:11;75:15;90:7;94:11;  94:18;97:14;97:16;104:10;105:19  employed(2)109:5;109:9  employee(2)40:7;109:8  employment(2)4:7;5:14  an(1)102:8  end(3)6:6;10:9;72:13  endeavor(1)29:6  endeavored(1)29:3  ended(1)95:5  enforcement(10)4:10;4:11;7:3;7:5;7:7;  21:12;23:16;25:8;33:2;33:4  enough(7)11:5;12:24;14:10;14:11;  14:18;101:14;106:15  entire(5)26:13;31:19;42:4;43:10;91:22  entitled(2)16:4;26:2  entry(1)44:1  err(1)82:22  error(1)82:22  ESQ(3)2:2;2:3;2:7  Evanson(2)5:23;6:9  even(1)42:12  eventually(1)88:18  every(4)37:18;37:19;41:1;91:24  everybody(6)13:4;13:14;14:1;26:2;90:7;  94:11  everyday(1)37:21  everything(4)71:7;97:11;105:11;105:15  evidence(29)11:5;11:10;11:15;13:1;  13:10;14:15;22:21;24:3;25:21;26:7;  27:11;29:8;31:8;33:14;35:9;35:20;72:17;  74:24;76:22;96:4;98:16;98:20;99:3;  99:19;100:1;100:23;101:4;102:13;103:2  evolved(1)10:16  exact(3)8:1;19:21;66:3  exactly(7)9:1;26:12;32:14;33:9;46:22;  82:17;107:9  exam(1)90:18  Examination(7)2:15;3:20;51:10;58:19;  64:15;70:7;108:21  examined(3)3:3;35:11;108:20  example(2)52:11;90:24  Excell(1)15:3  excess(1)43:5  exculpated(1)100:24  exculpatory(3)99:3;99:19;101:3  excuse(3)45:17;88:11;101:11  exert(1)36:6  Exhibit(1)55:3  EXHIBITS(2)2:18;2:19  existed(1)52:8  existence(1)100:1  existing(1)46:11  experience(1)48:4  expires(1)110:24  explain(7)62:13;62:17;64:15;65:16;  73:10;73:12;102:12  expressed(1)96:3  expression(1)17:6  expressions(1)14:9  extent(2)15:3;16:10</p>	<p>F  F-R-E-E-S-M-E-V-E-R(1)4:2  fact(11)26:7;26:11;33:15;33:17;33:18;  59:14;60:5;74:18;76:3;92:9;96:4  factor(1)26:4  facts(4)66:7;91:14;92:5;93:13  factual(1)38:20  faculty(2)5:21;6:19  Fair(6)22:1;48:7;52:7;52:21;93:12;  106:15  falsify(1)103:1  family(2)6:8;25:9  far(2)39:12;43:7  farther(1)89:11  fast(4)46:13;46:18;50:16;54:2  fastest(3)56:8;56:14;59:11  faxes(2)40:1;40:1  Federal(24)30:24;31:1;45:3;45:4;45:16;  46:10;48:19;49:9;49:21;50:7;51:3;51:15;  52:5;54:22;55:10;56:2;56:16;57:1;57:12;  57:21;60:24;61:6;63:4;69:19  feel(4)12:24;14:10;17:23;18:5  feelings(1)13:9  felt(3)13:1;13:2;95:20  few(2)20:23;78:23  field(1)36:19  Fifteen(1)78:21  figure(2)101:17;101:19  file(6)104:3;104:10;104:17;104:20;  105:4;105:15  filed(3)86:16;105:11;105:13  final(5)13:24;44:13;94:6;94:14;106:5  finally(1)24:23  financially(1)109:9  find(6)20:9;29:7;50:15;52:19;59:9;92:1  fine(2)37:11;81:21  fingerprint(4)26:10;26:15;26:17;26:19  fingerprints(1)35:12  finish(1)57:4  finished(1)100:7  finishing(1)45:14  fired(1)15:11  firmly(1)25:21  fisher(1)15:16  five(1)68:8  flag(2)89:8;92:20  Florence(2)7:11;7:15  flow(8)47:13;47:14;47:16;48:5;50:19;  79:20;80:2;86:22  following(1)108:12  follows(1)3:4  force(2)13:3;13:5  Ford(1)4:18  Ford's(1)3:7  forgoing(1)110:9  forgot(1)38:12  format(1)42:2  formed(2)26:3;26:4  forming(1)26:8  forth(1)10:1  forward(2)18:9;97:3  found(8)7:24;8:6;19:17;34:24;35:12;  85:4;91:10;91:19  frame(1)65:20  Frank(3)8:18;36:1;95:8  free(1)39:13  FREESMEYER(10)1:12;2:15;3:2;3:9;  3:22;4:1;40:5;53:15;108:14;110:18  Freesmeyer's(1)104:4  friend(2)12:14;34:24</p>
<p>E  e-mail(3)16:15;16:21;24:13  each(4)6:8;40:19;87:13;88:3  earlier(3)22:3;24:1;62:7  early(3)70:24;75:23;88:2  easier(1)39:22  East(1)2:8  easy(1)73:18  edit(1)38:9  education(3)4:10;4:24;6:21  Educational(1)5:8  effect(2)95:16;97:17  effective(1)10:16</p>		

<p>friends(2)12:15;24:11                  Front(5)2:4;62:14;80:16;86:18;107:10                  FTO(1)12:12                  full-time(1)5:21                  fun(1)79:17                  furnish(1)16:19                  further(4)94:3;105:20;109:4;109:7                  furthering(1)67:14</p>	<p>hearing(5)19:10;20:2;76:10;106:2;106:6                  heard(4)62:5;62:22;63:11;63:17                  held(9)13:12;34:3;39:18;94:8;95:4;98:16;                  98:20;99:4;106:22                  help(2)51:20;78:6                  helped(4)18:16;18:19;30:4;35:19                  helping(1)6:20                  hey(17)7:23;8:6;33:16;35:9;45:9;75:14;                  75:18;76:12;76:14;77:18;85:3;91:4;91:7;                  92:16;92:17;103:4;103:7                  Here's(1)60:22                  HEREBY(2)108:8;110:8                  hereto(1)109:9                  herunto(1)109:11                  hierarchy(1)36:19                  high(2)21:10;63:2                  higher(3)6:21;34:12;56:17                  Hill(1)1:23                  himself(1)57:9                  history(3)48:10;89:22;92:14                  hit(1)50:12                  hold(1)89:10                  home(12)57:1;57:11;67:22;68:1;69:4;                  70:14;73:2;74:12;75:15;76:14;76:20;                  84:16                  homicide(1)95:17                  Hospellom(3)8:18;8:21;89:20                  host(2)8:24;94:13                  hour(5)1:15;45:18;46:2;46:6;47:12                  hours(1)6:8                  house(12)50:7;50:8;60:24;65:8;65:18;                  73:16;74:23;75:1;75:4;80:24;82:13;                  82:15                  However(2)56:12;78:17</p>	<p>indicated(5)27:23;70:12;71:21;94:4;                  107:3                  indicating(3)16:3;39:9;49:5                  indict(1)11:11                  indirect(1)36:9                  individual(1)87:1                  inform(1)20:11                  information(3)15:24;27:19;57:8                  informed(1)33:6                  initial(3)34:23;43:23;89:15                  initially(3)8:3;34:22;37:15                  inner-city(5)45:14;46:19;46:21;79:24;                  80:3                  input(3)10:20;14:3;95:15                  inside(1)84:15                  insofar(2)15:18;21:8                  instead(1)15:3                  instruct(1)54:1                  integrate(1)6:20                  integrity(2)77:1;77:2                  interest(1)88:6                  interested(8)23:14;23:20;25:5;74:5;                  74:10;87:21;89:5;109:10                  interpret(1)101:3                  interrupt(1)26:15                  interstate(4)46:3;46:10;46:12;80:1                  interview(7)26:14;70:20;75:24;78:9;                  88:16;88:23;102:21                  interviewed(2)99:11;100:13                  interviewing(2)27:14;70:16                  interviews(7)70:11;70:21;87:17;87:18;                  87:19;88:21;90:6                  investigate(1)75:18                  investigated(2)38:8;94:2                  investigation(36)7:22;8:13;10:19;11:22;                  12:5;12:8;18:13;23:19;29:18;31:9;31:19;                  36:8;37:3;42:8;43:9;43:10;44:6;44:10;                  67:15;70:10;70:24;74:16;87:16;88:2;                  88:7;88:9;89:13;89:16;89:18;91:6;91:11;                  96:23;97:9;98:3;100:3;100:21                  investigative(3)36:12;36:15;36:22                  investigator(8)10:8;12:17;12:18;21:22;                  29:2;40:4;86:13;86:14                  investigators(3)75:21;86:3;89:9                  involved(4)14:2;37:13;90:19;94:11                  involvement(1)88:4                  isolate(2)11:24;12:2                  isolated(1)75:11                  issue(6)74:3;91:1;98:4;98:11;103:24;                  104:15                  issues(6)13:13;30:8;30:9;96:8;97:6;97:22</p>
<p>G</p>		
<p>Galesburg(2)1:24;109:12                  gas(1)48:12                  gave(14)5:16;27:23;31:5;52:24;54:24;                  61:17;69:10;73:7;73:13;87:17;88:12;                  90:14;102:20;102:22                  general(1)40:10                  generated(1)60:9                  getting(4)15:20;16:21;46:12;56:16                  girlfriend(7)47:21;87:15;89:13;91:2;93:4;                  93:4;93:13                  give(12)4:21;14:3;25:12;27:18;32:21;                  49:2;60:5;61:20;71:15;72:4;72:23;73:11                  given(9)20:18;36:18;56:24;58:1;58:17;                  72:12;105:11;108:24;110:11                  gives(1)52:3                  go(29)12:1;13:19;17:21;23:18;32:16;                  38:3;47:20;50:2;57:4;58:11;59:24;61:23;                  62:16;63:17;64:1;68:7;71:4;72:6;72:23;                  77:13;77:19;79:1;82:22;85:24;88:20;                  90:6;99:8;104:11;107:12                  goes(3)15:17;56:4;63:24                  gone(3)64:13;76:14;90:21                  good(4)11:20;12:10;77:18;78:7                  gotten(3)65:21;69:4;77:12                  gradually(1)10:15                  Graduated(2)5:3;5:6                  grand(14)18:17;28:7;28:8;28:9;28:12;                  28:19;59:15;59:18;60:14;64:17;66:14;                  66:17;68:20;75:14                  grandmother's(6)79:5;79:13;80:24;82:7;                  82:13;82:15                  Gray's(1)52:3                  great(1)48:10                  green(1)52:16                  guard(1)15:9                  guess(2)52:2;105:17                  guests(1)75:3                  guilt(2)24:19;25:22                  guilty(5)24:22;26:5;26:9;27:24;71:22</p>	<p>Here's(1)60:22                  HEREBY(2)108:8;110:8                  hereto(1)109:9                  herunto(1)109:11                  hierarchy(1)36:19                  high(2)21:10;63:2                  higher(3)6:21;34:12;56:17                  Hill(1)1:23                  himself(1)57:9                  history(3)48:10;89:22;92:14                  hit(1)50:12                  hold(1)89:10                  home(12)57:1;57:11;67:22;68:1;69:4;                  70:14;73:2;74:12;75:15;76:14;76:20;                  84:16                  homicide(1)95:17                  Hospellom(3)8:18;8:21;89:20                  host(2)8:24;94:13                  hour(5)1:15;45:18;46:2;46:6;47:12                  hours(1)6:8                  house(12)50:7;50:8;60:24;65:8;65:18;                  73:16;74:23;75:1;75:4;80:24;82:13;                  82:15                  However(2)56:12;78:17</p>	<p>indicated(5)27:23;70:12;71:21;94:4;                  107:3                  indicating(3)16:3;39:9;49:5                  indict(1)11:11                  indirect(1)36:9                  individual(1)87:1                  inform(1)20:11                  information(3)15:24;27:19;57:8                  informed(1)33:6                  initial(3)34:23;43:23;89:15                  initially(3)8:3;34:22;37:15                  inner-city(5)45:14;46:19;46:21;79:24;                  80:3                  input(3)10:20;14:3;95:15                  inside(1)84:15                  insofar(2)15:18;21:8                  instead(1)15:3                  instruct(1)54:1                  integrate(1)6:20                  integrity(2)77:1;77:2                  interest(1)88:6                  interested(8)23:14;23:20;25:5;74:5;                  74:10;87:21;89:5;109:10                  interpret(1)101:3                  interrupt(1)26:15                  interstate(4)46:3;46:10;46:12;80:1                  interview(7)26:14;70:20;75:24;78:9;                  88:16;88:23;102:21                  interviewed(2)99:11;100:13                  interviewing(2)27:14;70:16                  interviews(7)70:11;70:21;87:17;87:18;                  87:19;88:21;90:6                  investigate(1)75:18                  investigated(2)38:8;94:2                  investigation(36)7:22;8:13;10:19;11:22;                  12:5;12:8;18:13;23:19;29:18;31:9;31:19;                  36:8;37:3;42:8;43:9;43:10;44:6;44:10;                  67:15;70:10;70:24;74:16;87:16;88:2;                  88:7;88:9;89:13;89:16;89:18;91:6;91:11;                  96:23;97:9;98:3;100:3;100:21                  investigative(3)36:12;36:15;36:22                  investigator(8)10:8;12:17;12:18;21:22;                  29:2;40:4;86:13;86:14                  investigators(3)75:21;86:3;89:9                  involved(4)14:2;37:13;90:19;94:11                  involvement(1)88:4                  isolate(2)11:24;12:2                  isolated(1)75:11                  issue(6)74:3;91:1;98:4;98:11;103:24;                  104:15                  issues(6)13:13;30:8;30:9;96:8;97:6;97:22</p>
<p>I</p>		
<p>H-O-S-P-L-L-I-I-O-R-N(1)8:22                  had(4)117:5                  hairs(1)69:7                  half(1)44:8                  Hall(3)70:17;70:20;72:2                  hand(1)109:12                  handled(3)33:13;33:19;90:10                  handwritten(2)23:1;105:12                  happen(1)89:15                  happened(1)20:9                  happens(1)91:24                  haven't(2)48:8;71:11                  having(5)3:3;13:8;17:24;53:22;78:9                  held(1)69:4                  he's(5)26:9;63:22;63:23;86:14;101:12                  heard(1)64:7                  heard(2)15:21;91:6</p>	<p>I'd(4)11:18;44:23;45:2;48:17                  I'll(17)12:22;24:14;24:15;25:11;41:23;                  51:6;59:23;69:5;60:20;61:19;62:18;63:7;                  64:14;78:22;93:19;106:1;106:7                  I've(13)15:22;15:24;18:3;18:7;20:23;                  23:16;24:11;25:6;48:9;55:8;60:12;104:2;                  106:8                  I-39(2)46:5;47:5                  idea(2)74:22;99:4                  identified(1)27:3                  identify(4)3:13;25:21;27:5;41:23                  ILLINOIS(22)1:2;1:4;1:12;1:17;1:24;2:4;                  2:9;3:16;5:3;5:6;5:9;5:11;5:23;6:15;                  7:17;70:22;91:18;108:1;108:8;108:12;                  109:13;110:2                  imagine(1)38:11                  immediately(2)34:6;108:21                  impact(1)74:15                  important(8)23:20;26:4;53:6;61:3;65:7;                  65:10;66:6;98:12                  impossible(1)25:20                  impressed(2)89:5;89:7                  impression(3)62:10;64:20;107:16                  inauthentic(1)76:23                  incident(1)90:9                  include(2)10:23;31:14                  including(2)13:16;94:12                  inclusive(1)110:9                  inconvenient(1)106:9                  indeed(4)59:14;64:16;65:11;88:23                  independent(1)89:2                  independently(3)48:20;57:12;73:22                  Indian(1)56:3                  indicate(3)52:12;52:15;96:13</p>	<p>investigative(3)36:12;36:15;36:22                  investigator(8)10:8;12:17;12:18;21:22;                  29:2;40:4;86:13;86:14                  investigators(3)75:21;86:3;89:9                  involved(4)14:2;37:13;90:19;94:11                  involvement(1)88:4                  isolate(2)11:24;12:2                  isolated(1)75:11                  issue(6)74:3;91:1;98:4;98:11;103:24;                  104:15                  issues(6)13:13;30:8;30:9;96:8;97:6;97:22</p>
<p>H</p>		
<p>H-O-S-P-L-L-I-I-O-R-N(1)8:22                  had(4)117:5                  hairs(1)69:7                  half(1)44:8                  Hall(3)70:17;70:20;72:2                  hand(1)109:12                  handled(3)33:13;33:19;90:10                  handwritten(2)23:1;105:12                  happen(1)89:15                  happened(1)20:9                  happens(1)91:24                  haven't(2)48:8;71:11                  having(5)3:3;13:8;17:24;53:22;78:9                  held(1)69:4                  he's(5)26:9;63:22;63:23;86:14;101:12                  heard(1)64:7                  heard(2)15:21;91:6</p>	<p>imagine(1)38:11                  immediately(2)34:6;108:21                  impact(1)74:15                  important(8)23:20;26:4;53:6;61:3;65:7;                  65:10;66:6;98:12                  impossible(1)25:20                  impressed(2)89:5;89:7                  impression(3)62:10;64:20;107:16                  inauthentic(1)76:23                  incident(1)90:9                  include(2)10:23;31:14                  including(2)13:16;94:12                  inclusive(1)110:9                  inconvenient(1)106:9                  indeed(4)59:14;64:16;65:11;88:23                  independent(1)89:2                  independently(3)48:20;57:12;73:22                  Indian(1)56:3                  indicate(3)52:12;52:15;96:13</p>	<p>James(1)79:23;14:14;19:2;19:23;20:11;                  35:23;36:2;36:4;36:10;36:11;37:12;38:4;                  53:18;94:12;95:6;95:8;97:2                  January(5)44:17;44:21;49:7;106:3;                  106:12                  Jeff(1)3:12                  JEFFREY(3)2:7;3:7;4:18                  Jennifer(10)28:2;29:13;35:2;40:3;43:24;                  91:3;92:10;92:13;95:18;102:6                  Jim(1)38:18                  job(4)6:4;6:6;6:18;15:12                  jobs(1)14:19                  John(9)39:9;87:8;87:22;88:7;88:12;                  89:12;93:21;94:2;95:9                  journey(1)50:13                  Judge(5)3:7;4:17;103:24;104:14;106:4                  judgment(1)87:2</p>
<p>J</p>		

<p>JUDICIAL(1):1                  July(3)6:17;59:19;60:13                  jumped(1)73:18                  jury(19)18:17;28:7;28:8;28:9;28:12;                  28:19;59:15;59:18;60:14;62:14;63:9;                  64:17;64:20;66:7;66:14;66:18;68:4;                  68:20;75:14                  Justice(2)2:3;25:19</p>	<p>80:7;86:23;87:4                  limits(3)46:8;51:16;56:14                  fine(2)56:12;85:16                  link(1)24:13                  list(2)18:9;35:22                  listed(1)49:13                  listen(1)97:2                  listened(3)97:6;97:7;97:19                  listing(1)52:4                  little(2)6:5;106:10                  live(1)80:3                  living(1)6:7                  locale(1)74:7                  located(1)9:7                  location(4)7:17;9:14;50:14;79:13                  locations(3)53:6;58:6;61:14                  Lockmiller(4)28:2;40:4;95:18;102:6                  Lockmillers(2)29:14;43:24                  Log(2)42:24;73:15                  logical(1)44:8                  long(13)4:14;6:4;6:16;12:15;36:20;                  59:22;59:24;68:7;68:22;84:9;84:23;85:2;                  99:5                  long-time(1)86:14                  longer(2)23:16;25:7                  look(20)16:23;25:4;30:1;39:13;40:1;                  42:4;57:19;63:7;72:24;78:4;78:13;78:19;                  94:22;95:1;97:17;98:12;104:21;105:3;                  105:6;105:18                  looked(8)29:21;35:20;41:1;41:8;41:24;                  49:4;59:9;89:19                  looking(11)25:10;35:8;43:19;44:7;44:12;                  48:22;55:2;69:21;96:18;98:3;98:19                  Looks(1)40:15                  lot(14)24:20;27:14;34:18;41:14;56:13;                  81:2;81:10;82:12;84:24;86:19;91:19;                  103:14;105:4;107:11                  loud(2)24:6;106:18                  lovers(1)35:10                  lower(1)56:14                  Lynn(1)40:3</p>	<p>17:1;17:14;18:2;18:23;22:15                  matter(2)4:22;104:3                  matters(1)108:18                  maybe(3)8:2;8:21;53:7                  McDonough(2)1:17;108:11                  McElvay(1)89:13                  McLEAN(3)1:23;15:44;3                  McPherson(3)70:16;70:20;72:2                  mean(12)8:14;11:12;11:13;12:21;34:12;                  45:23;55:17;55:17;64:8;65:3;66:17;                  83:12                  means(1)108:22                  meant(1)46:2                  measuring(1)67:12                  mechanics(1)50:9                  media(1)21:14                  meeting(14)13:12;14:1;14:14;94:6;94:14;                  95:4;95:5;95:14;96:14;96:15;96:17;                  96:20;97:1;97:5                  meetings(1)1:6                  memorable(1)22:1                  memory(9)29:21;29:23;50:5;51:2;51:19;                  69:24;81:20;89:2;89:4                  memos(1)23:1                  mentioned(3)46:1;57:10;65:2                  Meridian(1)63:13                  Meridian(1)63:2                  message(1)29:15                  MESSMAN(2)2:3;7                  method(1)80:12                  mezzanine(1)72:2                  Michael(1)88:9                  middle(1)41:7                  might(9)19:15;35:22;52:13;56:22;57:13;                  72:4;74:1;75:21;75:22                  mileage(10)31:15;49:8;78:11;98:15;                  100:4;100:20;101:8;101:13;101:16;                  101:22                  miles(2)45:18;46:2;46:6;46:16;46:23;                  47:12;50:22;50:23;78:21;101:9;101:14;                  103:10                  mind(6)34:7;34:11;34:17;49:4;65:14;                  97:21                  mine(1)93:24                  minimum(1)7:13                  minute(10)20:19;41:24;42:10;67:6;69:8;                  79:6;80:24;82:8;82:14;92:3                  minutes(18)31:6;51:18;60:3;67:20;67:24;                  68:9;68:10;68:19;69:3;69:4;78:18;78:21;                  79:4;79:7;79:11;80:10;82:6;86:21                  misleading(2)63:9;68:15                  missed(2)81:3;97:15                  missing(1)105:3                  mistaken(1)44:19                  mix(2)92:21;93:1                  modify(1)36:15                  moment(4)49:3;94:23;95:1;103:22                  Monday(1)1:14                  month(4)12:5;12:8;20:17;20:22                  months(10)9:16;9:20;19:14;19:20;23:18;                  26:6;37:1;37:20;93:5;93:17                  more(25)12:7;12:17;25:13;37:18;46:16;                  46:23;49:20;50:2;50:23;52:11;59:13;                  64:9;64:10;66:12;69:17;70:1;70:2;70:4;                  74:4;78:23;80:24;84:3;88:18;97:14;                  103:24                  morning(2)83:19;83:20                  most(19)9:22;21:10;21:14;21:18;23:20;                  26:4;47:24;48:2;48:6;55:23;56:8;56:11;                  58:5;59:8;61:13;62:8;71:7;85:13;104:8                  mother(1)31:7                  motion(2)15:22;15:23</p>
<p style="text-align: center;"><b>K</b></p> <p>keep(2)6:4;40:24                  keeping(6)23:14;47:13;47:16;48:1;48:5;                  79:20                  kept(2)23:10;54:14                  key(4)98:11;98:18;100:20;103:13                  killed(3)28:1;29:19;102:6                  killing(1)92:17                  kind(1)46:17                  know(5)25:18;35:1;87:13;100:3;100:18                  knowledge(1)108:17                  KNOX(1)108:2</p>	<p>live(1)80:3                  living(1)6:7                  locale(1)74:7                  located(1)9:7                  location(4)7:17;9:14;50:14;79:13                  locations(3)53:6;58:6;61:14                  Lockmiller(4)28:2;40:4;95:18;102:6                  Lockmillers(2)29:14;43:24                  Log(2)42:24;73:15                  logical(1)44:8                  long(13)4:14;6:4;6:16;12:15;36:20;                  59:22;59:24;68:7;68:22;84:9;84:23;85:2;                  99:5                  long-time(1)86:14                  longer(2)23:16;25:7                  look(20)16:23;25:4;30:1;39:13;40:1;                  42:4;57:19;63:7;72:24;78:4;78:13;78:19;                  94:22;95:1;97:17;98:12;104:21;105:3;                  105:6;105:18                  looked(8)29:21;35:20;41:1;41:8;41:24;                  49:4;59:9;89:19                  looking(11)25:10;35:8;43:19;44:7;44:12;                  48:22;55:2;69:21;96:18;98:3;98:19                  Looks(1)40:15                  lot(14)24:20;27:14;34:18;41:14;56:13;                  81:2;81:10;82:12;84:24;86:19;91:19;                  103:14;105:4;107:11                  loud(2)24:6;106:18                  lovers(1)35:10                  lower(1)56:14                  Lynn(1)40:3</p>	<p>17:1;17:14;18:2;18:23;22:15                  matter(2)4:22;104:3                  matters(1)108:18                  maybe(3)8:2;8:21;53:7                  McDonough(2)1:17;108:11                  McElvay(1)89:13                  McLEAN(3)1:23;15:44;3                  McPherson(3)70:16;70:20;72:2                  mean(12)8:14;11:12;11:13;12:21;34:12;                  45:23;55:17;55:17;64:8;65:3;66:17;                  83:12                  means(1)108:22                  meant(1)46:2                  measuring(1)67:12                  mechanics(1)50:9                  media(1)21:14                  meeting(14)13:12;14:1;14:14;94:6;94:14;                  95:4;95:5;95:14;96:14;96:15;96:17;                  96:20;97:1;97:5                  meetings(1)1:6                  memorable(1)22:1                  memory(9)29:21;29:23;50:5;51:2;51:19;                  69:24;81:20;89:2;89:4                  memos(1)23:1                  mentioned(3)46:1;57:10;65:2                  Meridian(1)63:13                  Meridian(1)63:2                  message(1)29:15                  MESSMAN(2)2:3;7                  method(1)80:12                  mezzanine(1)72:2                  Michael(1)88:9                  middle(1)41:7                  might(9)19:15;35:22;52:13;56:22;57:13;                  72:4;74:1;75:21;75:22                  mileage(10)31:15;49:8;78:11;98:15;                  100:4;100:20;101:8;101:13;101:16;                  101:22                  miles(2)45:18;46:2;46:6;46:16;46:23;                  47:12;50:22;50:23;78:21;101:9;101:14;                  103:10                  mind(6)34:7;34:11;34:17;49:4;65:14;                  97:21                  mine(1)93:24                  minimum(1)7:13                  minute(10)20:19;41:24;42:10;67:6;69:8;                  79:6;80:24;82:8;82:14;92:3                  minutes(18)31:6;51:18;60:3;67:20;67:24;                  68:9;68:10;68:19;69:3;69:4;78:18;78:21;                  79:4;79:7;79:11;80:10;82:6;86:21                  misleading(2)63:9;68:15                  missed(2)81:3;97:15                  missing(1)105:3                  mistaken(1)44:19                  mix(2)92:21;93:1                  modify(1)36:15                  moment(4)49:3;94:23;95:1;103:22                  Monday(1)1:14                  month(4)12:5;12:8;20:17;20:22                  months(10)9:16;9:20;19:14;19:20;23:18;                  26:6;37:1;37:20;93:5;93:17                  more(25)12:7;12:17;25:13;37:18;46:16;                  46:23;49:20;50:2;50:23;52:11;59:13;                  64:9;64:10;66:12;69:17;70:1;70:2;70:4;                  74:4;78:23;80:24;84:3;88:18;97:14;                  103:24                  morning(2)83:19;83:20                  most(19)9:22;21:10;21:14;21:18;23:20;                  26:4;47:24;48:2;48:6;55:23;56:8;56:11;                  58:5;59:8;61:13;62:8;71:7;85:13;104:8                  mother(1)31:7                  motion(2)15:22;15:23</p>
<p style="text-align: center;"><b>L</b></p> <p>lab(3)27:4;27:5;27:10                  Lafayette(2)1:15;108:10                  lane(1)84:5                  Larby(7)87:8;87:19;89:20;91:21;95:20;                  95:20;96:7                  large(1)13:12                  larger(1)43:15                  last(13)9:16;9:20;19:10;20:22;29:14;                  37:1;37:17;37:20;44:1;44:11;52:2;83:15;                  93:19                  lately(1)71:11                  later(7)29:24;44:7;79:5;82:7;89:16;                  91:10;107:6                  Law(13)2:3;2:8;4:10;4:11;7:3;7:5;7:6;                  21:1;23:16;25:7;33:2;33:4;105:21                  lead(9)10:8;12:16;12:18;21:22;29:2;                  34:13;88:18;90:4;92:10                  leaf(1)40:8                  learned(1)78:2                  learning(1)87:21                  least(1)21:4                  leave(4)38:14;84:15;84:23;92:8                  leaves(1)62:10                  left(13)22:14;22:20;22:24;23:6;44:4;                  45:8;64:20;65:18;67:23;69:3;74:17;79:2;                  82:4                  Legal(1)2:7                  legitimate(3)95:23;96:7;101:17                  lengthy(1)66:16                  less(1)31:4                  let(14)12:22;19:11;23:23;26:15;39:22;                  45:9;50:20;57:22;63:7;72:8;73:9;82:20;                  92:3;106:11                  let's(8)26:10;34:14;79:1;82:22;82:22;                  84:6;84:6;105:19                  Lieutenant(3)95:8;95:9;99:10                  life(3)6:8;23:17;25:7                  lifetime(1)92:1                  light(1)25:14                  lights(6)47:2;47:7;52:13;52:15;52:16;                  56:14                  like(10)18:7;40:15;41:18;44:23;45:2;                  48:17;60:8;60:21;72:9;85:12                  limit(14)46:16;46:22;46:24;47:23;50:17;                  50:21;50:24;51:5;56:17;79:15;79:19;</p>	<p>live(1)80:3                  living(1)6:7                  locale(1)74:7                  located(1)9:7                  location(4)7:17;9:14;50:14;79:13                  locations(3)53:6;58:6;61:14                  Lockmiller(4)28:2;40:4;95:18;102:6                  Lockmillers(2)29:14;43:24                  Log(2)42:24;73:15                  logical(1)44:8                  long(13)4:14;6:4;6:16;12:15;36:20;                  59:22;59:24;68:7;68:22;84:9;84:23;85:2;                  99:5                  long-time(1)86:14                  longer(2)23:16;25:7                  look(20)16:23;25:4;30:1;39:13;40:1;                  42:4;57:19;63:7;72:24;78:4;78:13;78:19;                  94:22;95:1;97:17;98:12;104:21;105:3;                  105:6;105:18                  looked(8)29:21;35:20;41:1;41:8;41:24;                  49:4;59:9;89:19                  looking(11)25:10;35:8;43:19;44:7;44:12;                  48:22;55:2;69:21;96:18;98:3;98:19                  Looks(1)40:15                  lot(14)24:20;27:14;34:18;41:14;56:13;                  81:2;81:10;82:12;84:24;86:19;91:19;                  103:14;105:4;107:11                  loud(2)24:6;106:18                  lovers(1)35:10                  lower(1)56:14                  Lynn(1)40:3</p>	<p>17:1;17:14;18:2;18:23;22:15                  matter(2)4:22;104:3                  matters(1)108:18                  maybe(3)8:2;8:21;53:7                  McDonough(2)1:17;108:11                  McElvay(1)89:13                  McLEAN(3)1:23;15:44;3                  McPherson(3)70:16;70:20;72:2                  mean(12)8:14;11:12;11:13;12:21;34:12;                  45:23;55:17;55:17;64:8;65:3;66:17;                  83:12                  means(1)108:22                  meant(1)46:2                  measuring(1)67:12                  mechanics(1)50:9                  media(1)21:14                  meeting(14)13:12;14:1;14:14;94:6;94:14;                  95:4;95:5;95:14;96:14;96:15;96:17;                  96:20;97:1;97:5                  meetings(1)1:6                  memorable(1)22:1                  memory(9)29:21;29:23;50:5;51:2;51:19;                  69:24;81:20;89:2;89:4                  memos(1)23:1                  mentioned(3)46:1;57:10;65:2                  Meridian(1)63:13                  Meridian(1)63:2                  message(1)29:15                  MESSMAN(2)2:3;7                  method(1)80:12                  mezzanine(1)72:2                  Michael(1)88:9                  middle(1)41:7                  might(9)19:15;35:22;52:13;56:22;57:13;                  72:4;74:1;75:21;75:22                  mileage(10)31:15;49:8;78:11;98:15;                  100:4;100:20;101:8;101:13;101:16;                  101:22                  miles(2)45:18;46:2;46:6;46:16;46:23;                  47:12;50:22;50:23;78:21;101:9;101:14;                  103:10                  mind(6)34:7;34:11;34:17;49:4;65:14;                  97:21                  mine(1)93:24                  minimum(1)7:13                  minute(10)20:19;41:24;42:10;67:6;69:8;                  79:6;80:24;82:8;82:14;92:3                  minutes(18)31:6;51:18;60:3;67:20;67:24;                  68:9;68:10;68:19;69:3;69:4;78:18;78:21;                  79:4;79:7;79:11;80:10;82:6;86:21                  misleading(2)63:9;68:15                  missed(2)81:3;97:15                  missing(1)105:3                  mistaken(1)44:19                  mix(2)92:21;93:1                  modify(1)36:15                  moment(4)49:3;94:23;95:1;103:22                  Monday(1)1:14                  month(4)12:5;12:8;20:17;20:22                  months(10)9:16;9:20;19:14;19:20;23:18;                  26:6;37:1;37:20;93:5;93:17                  more(25)12:7;12:17;25:13;37:18;46:16;                  46:23;49:20;50:2;50:23;52:11;59:13;                  64:9;64:10;66:12;69:17;70:1;70:2;70:4;                  74:4;78:23;80:24;84:3;88:18;97:14;                  103:24                  morning(2)83:19;83:20                  most(19)9:22;21:10;21:14;21:18;23:20;                  26:4;47:24;48:2;48:6;55:23;56:8;56:11;                  58:5;59:8;61:13;62:8;71:7;85:13;104:8                  mother(1)31:7                  motion(2)15:22;15:23</p>
<p>limit(14)46:16;46:22;46:24;47:23;50:17;                  50:21;50:24;51:5;56:17;79:15;79:19;</p>	<p style="text-align: center;"><b>M</b></p> <p>M-A-T-E-N-S(1)86:15                  machine(3)29:13;29:16;29:22                  Macomb(3)1:16;6:14;108:11                  main(4)34:13;44:1;45:16;98:12                  maintained(1)46:7                  major(1)97:22                  make(25)13:20;27:10;31:3;33:16;39:22;                  51:12;58:3;61:11;67:22;67:22;68:6;                  70:17;72:6;73:2;73:17;74:12;74:13;                  74:18;77:14;85:6;87:2;90:5;96:8;106:9;                  110:10                  making(2)71:7;73:24                  Management(1)6:2                  manipulates(1)90:18                  manipulation(1)92:22                  manner(2)1:6;20:36:9                  many(19)11:6;14:4;17:17;17:19;18:14;                  19:13;19:22;21:1;49:19;54:12;57:5;                  69:14;69:18;69:22;73:13;77:21;82:17;                  93:17;93:23                  March(3)5:15;44:19;44:21                  marijuana(1)91:5                  MARK(3)2:2;3:17;106:14                  master's(1)5:4                  Matens(2)86:10;86:11                  material(2)17:22;18:12                  materials(9)15:20;16:10;16:20;16:24;</p>	<p>17:1;17:14;18:2;18:23;22:15                  matter(2)4:22;104:3                  matters(1)108:18                  maybe(3)8:2;8:21;53:7                  McDonough(2)1:17;108:11                  McElvay(1)89:13                  McLEAN(3)1:23;15:44;3                  McPherson(3)70:16;70:20;72:2                  mean(12)8:14;11:12;11:13;12:21;34:12;                  45:23;55:17;55:17;64:8;65:3;66:17;                  83:12                  means(1)108:22                  meant(1)46:2                  measuring(1)67:12                  mechanics(1)50:9                  media(1)21:14                  meeting(14)13:12;14:1;14:14;94:6;94:14;                  95:4;95:5;95:14;96:14;96:15;96:17;                  96:20;97:1;97:5                  meetings(1)1:6                  memorable(1)22:1                  memory(9)29:21;29:23;50:5;51:2;51:19;                  69:24;81:20;89:2;89:4                  memos(1)23:1                  mentioned(3)46:1;57:10;65:2                  Meridian(1)63:13                  Meridian(1)63:2                  message(1)29:15                  MESSMAN(2)2:3;7                  method(1)80:12                  mezzanine(1)72:2                  Michael(1)88:9                  middle(1)41:7                  might(9)19:15;35:22;52:13;56:22;57:13;                  72:4;74:1;75:21;75:22                  mileage(10)31:15;49:8;78:11;98:15;                  100:4;100:20;101:8;101:13;101:16;                  101:22                  miles(2)45:18;46:2;46:6;46:16;46:23;                  47:12;50:22;50:23;78:21;101:9;101:14;                  103:10                  mind(6)34:7;34:11;34:17;49:4;65:14;                  97:21                  mine(1)93:24                  minimum(1)7:13                  minute(10)20:19;41:24;42:10;67:6;69:8;                  79:6;80:24;82:8;82:14;92:3                  minutes(18)31:6;51:18;60:3;67:20;67:24;                  68:9;68:10;68:19;69:3;69:4;78:18;78:21;                  79:4;79:7;79:11;80:10;82:6;86:21                  misleading(2)63:9;68:15                  missed(2)81:3;97:15                  missing(1)105:3                  mistaken(1)44:19                  mix(2)92:21;93:1                  modify(1)36:15                  moment(4)49:3;94:23;95:1;103:22                  Monday(1)1:14                  month(4)12:5;12:8;20:17;20:22                  months(10)9:16;9:20;19:14;19:20;23:18;                  26:6;37:1;37:20;93:5;93:17                  more(25)12:7;12:17;25:13;37:18;46:16;                  46:23;49:20;50:2;50:23;52:11;59:13;                  64:9;64:10;66:12;69:17;70:1;70:2;70:4;                  74:4;78:23;80:24;84:3;88:18;97:14;                  103:24                  morning(2)83:19;83:20                  most(19)9:22;21:10;21:14;21:18;23:20;                  26:4;47:24;48:2;48:6;55:23;56:8;56:11;                  58:5;59:8;61:13;62:8;71:7;85:13;104:8                  mother(1)31:7                  motion(2)15:22;15:23</p>

motive(1)92:17  
 move(4)9:13;10:4;26:11;93:18  
 moved(6)7:13;10:6;23:17;25:6;25:8;  
 37:17  
 Mr. Beaman(6)11:5;44:2;58:10;61:22;  
 70:11;74:2  
 Mr. Beaman's(4)26:16;32:17;61:6;98:6  
 Mr. Beaman's.(2)26:18;26:23  
 Mr. Beaman.(1)31:17  
 Mr. Beau(3)57:23;60:23;79:17  
 Mr. Beau's(3)59:2;60:19;104:2  
 Mr. Beau.(2)57:24;78:24  
 Mr. Daniels(2)88:16;97:18  
 Mr. Freemeyer(1)105:24  
 Mr. Freemeyer's(1)104:16  
 MR. MESSMAN(14)3:17;17:14;18:22;  
 21:2;39:7;39:12;103:18;103:20;103:23;  
 104:18;104:21;105:2;105:9;105:20  
 MR. SALVATI(1)3:14  
 Mr. Souk(14)19:7;19:11;28:15;37:2;  
 52:24;55:1;56:19;58:19;64:14;65:24;  
 66:23;69:11;70:9;86:1  
 Mr. Souk.(2)53:4;67:8  
 Mr. Swain(1)26:19  
 Mr. Swain's(1)26:17  
 Mr. Urdangen(19)2:15;3:6;3:20;25:4;  
 39:4;39:16;39:21;67:4;103:17;103:21;  
 104:19;104:23;105:7;105:17;105:24;  
 106:17;106:20;107:7;107:14  
 Mr. Urdangen.(1)13:5  
 Mrs. Beaman(4)32:18;32:22;102:21;  
 103:5  
 much(5)51:11;65:20;65:20;66:12;93:22  
 multiple(1)31:2  
 murder(13)9:4;9:5;21:23;24:22;26:13;  
 29:4;71:22;88:13;88:24;93:3;93:6;95:21;  
 101:12  
 murdered(1)29:11  
 Murray(13)87:9;87:19;87:22;88:7;88:12;  
 89:12;89:20;91:21;93:21;94:2;95:20;  
 95:21;96:7  
 must(1)43:12  
 myself(3)57:17;90:5;95:10

N

nail(1)75:2  
 named(1)108:12  
 nature(3)12:9;52:14;52:18  
 near(3)46:12;78:20;93:2  
 necessarily(1)88:8  
 necessary(3)38:23;39:2;106:6  
 necessity(1)109:1  
 need(4)49:1;89:10;97:16;106:13  
 needed(2)71:23;84:2  
 neighbor(5)100:12;100:14;100:14;  
 100:16;100:23  
 neighbor's(1)100:16  
 neither(1)109:4  
 never(14)18:7;24:21;28:1;38:6;64:14;  
 64:22;64:23;72:21;75:6;89:8;89:23;  
 100:6;100:9;102:12  
 newspaper(1)102:18  
 next(6)16:16;48:17;52:22;61:18;62:3;  
 62:18  
 nine(2)4:15;93:5  
 nine-month(1)97:8  
 ninth(1)12:7  
 nobody(1)75:15  
 Nonetheless(1)80:6  
 Nope(1)103:20

nor(1)109:5  
 Normal(16)5:11;7:4;14:20;17:11;22:14;  
 42:1;45:16;45:17;46:8;47:6;65:21;90:11;  
 94:9;98:10;101:15;102:5  
 North(3)43:24;45:16;63:3  
 Northwestern(3)2:8;5:22;15:14  
 notarial(1)109:12  
 Notary(3)1:13;108:6;110:22  
 notations(1)60:11  
 noted(1)110:14  
 notes(4)17:10;22:12;23:1;30:2  
 nothing(1)108:17  
 notice(2)20:18;108:9  
 noticed(1)35:4  
 notion(1)65:15  
 November(3)1:14;108:10;109:13  
 number(7)40:6;40:7;41:5;43:14;92:15;  
 105:12;105:12  
 numbered(2)43:22;44:12  
 numbering(1)60:6  
 numbers(1)60:9  
 numerous(2)37:8;74:1

O

oath(5)3:4;28:22;86:18;108:20;110:10  
 objections(1)94:22  
 obligation(1)104:11  
 observing(1)51:16  
 obtained(1)77:8  
 obviously(3)27:17;71:6;99:5  
 occupation(1)4:5  
 occur(1)85:23  
 occurred(1)38:20  
 October(6)16:15;19:24;20:3;93:8;93:11;  
 93:14  
 odds(1)11:14  
 odometer(14)98:4;98:12;98:14;98:19;  
 99:7;99:8;100:1;101:18;101:20;101:22;  
 102:23;103:1;103:6;103:8  
 off(10)10:13;12:16;39:16;39:18;44:2;  
 52:17;72:8;89:10;92:3;106:23  
 offered(1)5:21  
 offhand(2)9:1;80:8  
 office(7)9:3;9:13;9:18;10:2;10:7;16:2;  
 36:23  
 officer(4)5:10;7:20;13:2;21:12  
 officers(4)8:4;8:24;13:8;96:21  
 offices(1)10:4  
 official(5)17:9;58:23;60:11;104:9;105:14  
 often(1)28:5  
 Oh(7)4:15;23:3;37:8;37:15;38:24;87:6;  
 89:23  
 old(1)47:21  
 older(1)85:1  
 omission(1)66:9  
 on-call(1)8:5  
 once(8)37:16;45:11;45:13;49:21;59:13;  
 70:13;92:1;95:14  
 ones(1)9:1  
 only(11)10:6;13:2;15:24;43:8;43:11;  
 48:8;61:2;62:11;64:2;175:16;77:24  
 onto(1)56:16  
 open(3)11:6;96:21;97:15  
 opened(1)95:14  
 opinion(8)24:24;25:17;26:2;32:1;32:2;  
 32:3;32:4;99:1  
 opportunities(1)73:13  
 opportunity(8)14:2;29:10;30:11;30:17;  
 62:13;65:12;65:23;94:15  
 opposed(5)50:19;63:1;63:13;63:19;79:20

order(3)3:7;4:17;17:21  
 original(3)12:12;22:7;43:13  
 our(6)6:7;57:5;57:5;91:20;92:20;107:2  
 outcome(1)24:10  
 outside(2)70:16;72:2  
 outstanding(2)13:13;96:8  
 over(16)6:5;32:23;33:1;33:7;34:12;  
 35:20;36:7;37:2;46:16;46:23;50:22;  
 50:23;55:7;63:3;90:4;98:22  
 overlay(1)55:8  
 overlays(1)54:16  
 own(8)7:1;7:1;12:23;16:24;17:1;22:5;  
 22:7;28:12

P

P.D.(1)7:4  
 p.m.(3)1:15;29:5;83:14  
 packet(7)39:23;41:18;41:21;42:5;43:15;  
 43:16;49:16  
 PAGE(21)2:14;2:16;40:2;40:2;41:1;41:6;  
 41:7;41:7;42:14;42:14;43:14;43:15;  
 43:17;43:23;44:5;44:12;52:2;52:2;95:3;  
 105:13;110:1  
 pages(10)39:23;40:9;40:19;41:6;43:16;  
 51:23;52:1;60:4;104:6;110:9  
 Paragraph(2)24:12;24:13  
 papers(1)43:2  
 parallel(1)80:22  
 paramour(1)87:11  
 parked(2)81:10;82:11  
 parking(7)81:2;81:10;82:12;84:24;85:4;  
 86:19;107:11  
 part(5)25:7;61:2;61:3;100:21;105:21  
 participate(1)53:10  
 particular(4)32:7;56:4;85:4;88:5  
 parties(2)109:6;109:9  
 past(4)35:6;35:8;80:22;91:7  
 patience(1)103:18  
 patrol(2)8:24;15:4  
 pause(3)30:10;30:17;30:21  
 Peak(1)7:14  
 People's(2)55:2;65:14  
 per(1)45:18  
 perhaps(2)58:4;61:13  
 period(2)12:11;23:23  
 perpetrator(1)93:22  
 person(8)34:10;34:24;71:24;75:7;91:16;  
 92:2;92:20;108:12  
 personal(1)12:14  
 Petition(5)3:10;16:5;18:3;25:23;31:5  
 Ph.D.(1)5:7  
 Phoenix(1)9:9  
 phone(32)17:3;19:7;19:8;19:14;20:4;  
 29:22;30:15;32:10;42:24;67:5;67:17;  
 67:23;70:12;70:13;70:18;71:5;71:9;  
 71:12;72:6;73:3;73:14;73:21;74:13;  
 74:18;74:19;76:4;76:15;83:12;83:17;  
 84:7;84:10;105:10  
 phonetic(1)9:24  
 photograph(7)78:10;98:11;99:6;99:8;  
 100:10;102:18;102:23  
 physically(1)93:3  
 Physics(1)5:2  
 Piecho(1)7:14  
 picks(2)42:14;44:5  
 picture(4)55:6;99:9;99:12;101:20  
 piece(1)26:8  
 pinpoint(1)29:8  
 pinpointed(1)30:2  
 place(6)9:6;44:18;57:19;93:16;96:10;

<p>96:14  placed(1)30:16  Plaintiff(3)1:5;2:5;110:3  pleadings(1)105:8  please(16)3:13;8:19;20:16;23:24;49:6;  49:6;49:9;50:20;51:8;56:10;60:5;71:17;  82:21;95:2;106:14;110:13  point(34)9:13;11:24;14:9;36:23;47:22;  50:12;50:22;52:20;52:20;56:12;56:12;  59:3;66:23;67:12;68:4;70:5;70:10;72:20;  76:2;89:17;89:23;89:24;90:3;90:8;94:8;  94:19;97:4;97:9;98:18;101:18;103:12;  103:13;106:6;107:10  points(2)58:11;61:23  poking(1)79:17  Police(2)15:11;9:6;12:13;13:3;13:5;  14:20;17:11;22:14;22:19;23:6;38:19;  42:1;43:8;47:2;48:22;69:21;70:23;90:11;  94:9;104:16;105:10  polygraph(4)90:18;90:23;91:1;92:22  polygrapher(1)90:17  pour(2)55:20;56:21  portion(1)98:2  position(7)5:21;6:1;6:12;6:16;6:23;10:15;  36:6  positions(2)7:8;7:13  possession(1)22:4  possibilities(1)106:15  possible(9)56:22;58:17;67:21;68:6;68:14;  87:22;96:9;96:22;106:10  possibly(3)21:4;43:3;65:11  post-arrest(2)44:6;78:4  Post-Conviction(5)3:9;16:6;18:4;25:24;  31:5  posted(4)46:16;46:23;50:23;87:4  postponed(5)19:10;19:12;20:3;20:9;  20:10  Powers(3)1:12;108:6;109:16  precedence(1)34:12  Precisely(1)82:1  preparation(3)21:2;28:10;28:13  prepare(5)16:17;18:6;28:15;39:2;46:17  prepared(1)15:19;18:1;37:19;37:23;  38:1;38:2;38:10;40:11;41:12;41:15;  42:21;42:23;43:20;44:13;44:20  PRESIDENT(7)2:1;28:8;94:10;95:5;96:14;  99:19;102:21  presentation(1)54:15  presenting(1)99:3  presiding(1)25:19  presumably(1)86:22  prilly(1)103:11  preview(2)37:22;37:24  primary(2)34:19;34:20  prime(4)34:4;34:8;92:9;92:11  print(1)26:24  prior(15)9:16;12:8;13:11;13:15;14:1;  18:1;19:20;20:3;21:23;28:21;30:6;30:12;  37:9;71:1;102:16  prison(1)7:11  privy(1)75:23  probable(5)13:18;13:21;14:5;14:12;24:3  probably(14)18:21;19:19;30:7;37:16;  37:18;38:11;38:24;35:22;56:15;62:16;  80:9;84:5;90:21;96:10  proceeded(3)8:13;10:19;90:2  proceedings(2)3:10;16:17  process(2)31:20;85:24  processed(1)83:18  produce(1)104:8  produced(3)31:8;32:12;78:10  professional(4)12:20;12:21;14:22;36:17</p>	<p>profile(1)21:10  prosecution(1)21:19  prosecutor(2)16:19;36:2  prove(1)88:4  provided(3)91:7;92:10;98:17  providing(1)92:16  proving(1)71:21  Public(8)1:13;6:3;87:7;104:16;105:1;  105:5;108:6;110:22  publicly(1)23:8  pulled(3)35:6;81:9;102:8  purpose(7)4:20;47:11;52:19;67:13;69:8;  81:5;109:2  purposely(1)34:3  purposes(1)61:3  pursuant(4)3:7;3:9;4:17;108:8  pursue(2)36:12;97:12  pursued(1)97:11  pursuing(1)36:16  put(6)10:14;10:16;22:15;65:14;68:1;  68:20  putting(1)68:8</p>	<p>recorded(1)80:10  Records(9)17:11;22:5;22:22;30:15;42:24;  67:17;71:12;73:22;105:10  red(4)47:7;52:15;89:8;92:20  Redirect(1)64:15  reduced(1)108:21  refer(4)49:2;52:6;59:4;72:14  reference(2)60:2;68:24  referenced(3)34:23;104:5;104:24  Referend(3)17:4;42:16;68:18  referring(10)16:4;17:8;26:22;26:23;  45:11;45:13;51:13;51:22;67:10;69:12  refresh(1)58:16  regard(4)30:8;53:18;60:23;77:3  Related(5)3:10;30:15;68:7;70:6;109:5  relation(1)102:3  relationship(3)11:20;35:1;36:3  relative(1)109:8  released(1)99:13  relevant(1)31:9  Relief(4)16:6;18:4;25:24;31:6  relieve(1)23:18  remained(1)34:19  remembered(1)26:12  remembering(1)53:9  repeat(1)36:10  repeatedly(2)104:7;104:22  rephrase(1)23:24  report(42)23:4;36:10;38:7;38:13;38:20;  38:22;40:22;42:8;43:7;43:8;43:9;43:22;  44:1;44:13;45:14;46:17;48:22;49:14;  51:13;51:22;51:23;52:6;52:8;69:9;69:22;  78:4;78:13;78:17;79:10;81:3;81:18;  81:18;82:1;86:12;90:1;94:22;95:3;  96:5;96:12;96:13;96:18;102:19  reported(1)10:1  Reporter(3)2:16;109:1;109:17  REPORTING(1)1:23  reports(35)16:18;22:8;22:20;35:18;37:22;  37:24;38:2;38:4;38:9;39:1;39:5;39:14;  40:10;41:3;41:8;41:11;41:14;41:23;42:6;  42:15;42:20;42:21;42:23;43:4;43:18;  44:20;46:20;49:1;49:16;74:9;104:4;  104:8;104:16;104:24;105:10  request(1)27:9  requested(1)90:23  requests(2)43:2;43:3  required(2)51:14;106:3  Residence(35)30:16;31:2;31:4;48:19;  49:10;49:22;51:3;51:15;52:3;52:4;52:5;  53:12;54:22;55:11;56:18;57:21;58:22;  59:6;61:6;67:18;69:19;71:13;74:7;75:12;  77:22;79:3;79:6;79:8;79:12;80:16;82:5;  82:8;83:18;86:19;87:3  resign(2)5:20;6:22  resignation(1)5:16  resigned(2)6:12;6:23  resources(1)21:18  respect(1)91:15  respected(1)36:20  responded(1)8:8  response(2)26:1;43:23  responsibility(1)87:24  responsible(4)6:20;72:1;88:19;95:21  rest(2)52:17;94:13  restate(1)33:24  returned(1)7:16  returning(1)29:17  review(6)17:21;18:16;18:20;21:5;28:21;  87:16  reviewed(6)15:22;16:11;17:5;19:1;30:5;  95:13</p>
	Q	
	R	
<p>radio(2)27:1;102:10  raise(3)25:9;92:19;94:15  raised(4)89:8;94:18;96:6;97:22  raising(1)94:21  rank(1)8:10  rare(1)79:18  re-examine(2)24:9;24:18  reached(2)46:4;46:7  reading(4)18:1;55:13;60:7;84:9  really(2)64:22;81:23  reason(10)12:16;32:20;73:17;77:7;81:22;  85:11;85:14;86:24;98:8;99:9  recalled(1)73:21  receipt(20)32:6;32:9;32:13;76:23;77:16;  78:3;78:12;78:12;83:3;83:3;83:6;85:18;  98:15;100:11;100:13;100:17;100:24;  101:1;101:13;102:22  receipts(12)31:4;31:16;33:6;33:16;  33:19;76:14;76:18;76:21;77:3;77:9;  77:10;77:11  receive(1)31:16  received(5)16:1;29:15;33:8;33:9;33:11  recent(1)104:8  recess(1)67:1  recognize(5)39:8;40:9;41:22;42:6;87:8  recollection(7)53:17;58:16;73:19;77:6;  81:9;83:24;103:11  recommendations(1)36:21  reconcile(1)30:20  reconnected(2)102:7;103:8  record(14)39:16;39:19;50:16;60:11;  83:13;89:12;89:14;103:22;104:17;105:1;  105:21;106:1;106:23;108:24</p>		

<p>reviewing(4)15:19;16:18;35:18;88:20          Reynard(1)95:7          road(7)55:7;63:2;63:3;63:13;82:16;87:7;          107:6          roads(1)80:6          Rob(2)8:18;89:20          Rockford(1)45:5;46:4;47:6;53:5;54:9;          54:12;54:17;55:6;55:11;62:6;62:23;          63:12;63:15;63:18;63:24;64:2;64:13;          67:10;98:11          role(2)12:13;103:4          roll(1)88:19          rom(1)60:9          Ron(2)15:17;15:17          Room(4)2:4;5:2;17:94;9:94:10          rotation(1)31:15          roughly(1)82:16          route(53)45:20;54:21;55:9;55:18;55:21;          55:23;55:24;56:8;56:8;56:11;56:15;          56:19;56:24;57:20;58:2;58:3;58:5;58:9;          58:13;58:18;58:21;59:5;59:8;59:8;59:23;          60:15;60:16;61:5;61:11;61:12;61:13;          61:21;62:1;62:4;62:8;62:11;62:15;62:21;          63:11;63:20;63:23;64:1;64:9;64:9;64:11;          64:16;64:21;64:23;68:11;69:1;69:20;          86:18;102:8          routes(6)31:2;49:24;54:17;59:7;60:24;          63:23          RPR(2)1:13;108:6          runnagcd(1)35:7          rub(3)7:1;27:7;27:12          runs(2)43:15;43:17</p>	<p>69:15;69:15          series(4)59:21;60:22;72:9;72:13          reserve(1)69:24          set(2)106:4;109:11          several(4)26:13;28:4;28:6;37:1          shall(1)105:18          share(1)71:23          sheet(1)110:12          Sheriffs(1)7:19          shop(1)107:13          shopped(1)85:15          shopping(3)76:12;84:17;85:6          short(1)67:1          shortest(1)59:10          shorthand(2)108:21;109:16          shortly(1)99:10          shot(1)18:13          should(5)8:21;13:19;54:2;91:16;94:2          show(7)16:14;29:24;39:22;41:18;59:23;          60:20;78:17          showed(7)42:20;43:5;43:14;83:6;83:13;          98:15;101:17          showing(4)30:15;39:23;41:21;101:13          shows(3)55:9;55:18;61:5          side(1)82:22          Signature(2)2:16;110:1          SIGNED(1)110:17          significance(1)102:17          significant(3)26:8;76:3;76:7          similar(1)13:9          simply(5)10:1;17:20;58:4;61:12;92:16          since(6)19:23;20:6;20:20;23:5;24:9;52:6          single(1)26:3          sit(7)17:18;18:11;28:15;28:20;42:18;          77:5;78:14          sitting(3)50:5;75:10;84:4          six(2)19:14;19:20          sixth(1)12:7          skeptical(3)11:14;11:16;11:18          slide(4)54:15;55:2;55:4;61:4          smaller(1)43:16          solid(1)73:8          somebody(2)47:20;86:13          someone(1)99:2          somewhere(1)50:21          son(2)77:18;103:7          soon(2)50:11;102:4          sorry(8)15:1;31:13;49:12;57:3;80:21;          83:17;94:24;100:7          Spuk(1)9:23;14:14;19:2;19:13;19:23;          20:11;20:20;35:23;36:2;36:4;36:11;          37:12;38:4;66:9;68:20;94:12;95:8;96:22;          97:2          Souk's(1)53:18          sound(1)55:12          sounds(1)98:21          sources(1)92:16          South(5)1:15;46:4;56:1;56:16;108:10          speak(1)19:8          Speaking(3)39:4;45:12;97:20          specific(3)27:9;73:1;88:3          specifically(5)14:4;57:6;58:10;61:22;          70:17          speed(23)45:20;45:22;46:1;46:5;46:22;          47:15;47:18;47:19;47:23;48:1;48:6;          50:17;50:21;51:4;51:16;56:14;56:17;          63:2;79:15;79:19;80:7;86:23;87:4          spell(3)4:1;8:19;8:21          spent(6)9:22;26:6;27:14;98:3;98:18;          103:14          splitting(1)69:7          spoke(9)16:12;17:3;19:7;19:23;20:4;</p>	<p>20:5;20:8;24:1;97:5          spoken(4)19:22;21:1;23:8;97:18          spot(1)85:4          spreadsheet(1)15:3          stacks(1)17:19          stamped(1)77:16          stand(1)91:21          start(8)7:1;26:10;34:14;45:2;50:10;84:5;          84:6;84:6          started(7)5:15;7:9;12:1;12:19;31:19;          37:15;80:15          starts(3)42:12;42:14;43:17          STAT(15)1:3;1:17;5:3;5:6;5:9;7:11;          7:17;70:23;73:15;76:19;91:18;108:1;          108:7;108:11;110:2          State's(8)3:15;3:18;9:17;10:2;16:2;36:23;          95:6;95:7          stated(4)62:7;70:18;71:17;75:14          statement(7)27:22;98:14;101:5;101:6;          101:8;103:6;107:7          statements(1)27:18          stating(1)64:11          status(1)10:10          stay(3)6:16;5:14;103:21          stayed(1)46:21          stenotype(1)108:22          steroid(2)91:9;91:17          steroids(3)91:20;92:2;92:7          Sticking(1)67:5          still(3)76:11;95:21;96:7          stop(6)47:4;47:7;48:12;52:12;52:17;          56:13          stopped(3)52:13;81:2;107:4          stopping(1)107:9          stops(1)52:12          storage(1)22:16          store(5)32:10;77:14;77:20;85:12;85:15          stormy(1)35:1          story(1)88:15          straight(3)10:2;56:1;56:11          Street(4)1:16;2:4;45:16;79:14          strictly(1)11:7          strike(2)49:19;67:11          strove(1)84:2          subdivision(1)56:5          submitted(6)17:10;27:10;35:21;43:1;          43:2;110:13          subscribe(1)110:10          Subscribed(1)110:20          substance(1)58:20          such(4)35:6;42:24;43:18;52:7          sufficiency(1)24:3          sufficient(1)11:11          suggest(3)36:14;54:2;100:3          suggesting(4)31:21;76:17;82:11;98:21          suggestions(1)96:21          Suite(1)1:23          sum(2)42:20;58:20          supervised(2)35:23;36:1          supervisor(2)15:14;15:16          supplant(1)34:10          supplied(1)91:4          supports(1)25:22          suppose(1)80:8          sure(19)10:11;14:24;20:7;20:14;20:15;          38:24;40:24;44:20;50:5;53:16;66:5;          72:17;77:15;78:6;83:2;87:13;90:15;93:9;          101:7          surmise(1)47:23          surmised(1)29:11          surprised(1)25:5          survey(1)53:6</p>
<b>S</b>		
<p>Safety(1)6:3          saliport(1)44:3          SALVATI(2)2:3;3:14          sanctioned(1)15:6          sat(1)72:1          satisfied(2)18:5;73:5          save(1)40:16          saw(3)38:8;52:1;86:11          saying(15)55:18;56:6;56:20;63:16;63:23;          75:9;79:18;84:13;89:24;90:2;91:23;          91:24;93:16;94:17;96:2          scene(8)8:9;9:2;29:7;35:3;35:4;35:13;          35:14;35:21          School(1)2:8          seal(1)109:12          search(1)43:3          Sears(5)78:11;98:15;100:17;101:8;          102:22          Second(8)16:5;44:8;50:3;66:12;66:16;          68:10;88:17;88:22          Section(4)17:11;22:22;57:22;96:12          security(1)4:10          seek(1)27:7          seem(2)25:4;82:24          seemed(1)59:11          seems(3)103:11          seen(4)24:11;43:19;71:11;104:19          select(1)62:4          selected(2)58:4;61:12          self-employed(1)4:6          send(1)24:12          sense(1)40:10          senseless(1)9:24          sent(4)15:22;16:14;27:4;105:22          sentiment(1)66:4          separate(7)7:12;25:6;49:24;69:12;69:13;</p>		

<p>suspect(13)34:5;34:8;34:11;34:13;34:17;34:19;34:20;77:7;87:23;88:2;92:9;92:11;96:9</p> <p>suspects(1)34:18</p> <p>Swain(1)88:9</p> <p>swore(1)86:17</p> <p>sworn(4)3:1;3:3;108:16;110:20</p> <p>synthesize(1)90:7</p>	<p>though(2)42:12;59:1</p> <p>thought(5)14:5;64:22;64:23;77:17;107:3</p> <p>three(5)21:4;37:20;68:9;82:16;90:24</p> <p>through(33)5:8;16:3;17:19;27:7;27:12;34:2;35:7;36:18;39:13;40:8;41:7;42:4;43:15;43:17;43:22;56:13;60:1;60:16;62:5;62:22;63:11;63:14;63:17;63:24;64:1;64:13;68:8;68:23;78:13;79:1;85:24;104:11;110:9</p> <p>throughout(3)11:21;43:10;91:19</p> <p>throw(2)92:21;93:1</p> <p>tied(1)88:8</p> <p>fighter(1)65:21</p> <p>Tim(3)3:22;3:23;53:8</p> <p>time(100)8:6;8:7;8:10;9:4;9:22;12:1;12:2;12:10;12:15;15:2;15:21;16:11;17:18;19:15;20:1;20:8;23:23;24:9;24:20;25:11;27:14;29:3;29:4;29:8;30:3;30:9;30:14;31:3;31:4;31:7;31:8;32:10;36:20;38:14;40:11;40:16;44:24;45:2;48:7;48:8;48:18;48:21;49:21;50:3;50:11;50:15;50:18;51:11;51:14;52:8;52:10;52:20;53:11;53:20;54:8;54:11;54:11;54:13;57:8;65:7;65:20;66:12;66:16;67:5;67:12;67:13;68:5;69:12;69:13;69:14;69:18;70:6;71:6;73:1;74:5;74:11;74:14;75:5;76:5;76:9;76:13;77:16;77:22;78:1;80:10;81:24;83:1;89:14;93:3;94:20;95:22;97:15;98:2;98:19;99:10;99:12;102:7;103:14;104:5;109:2</p> <p>timed(4)50:6;59:5;78:18;86:18</p> <p>timely(1)16:20</p> <p>times(16)19:13;19:22;21:1;21:4;28:4;28:6;30:8;30:12;30:13;38:11;49:19;54:14;76:21;77:21;79:19;81:8</p> <p>timing(2)50:8;80:12</p> <p>TIMOTHY(8)1:11;2:15;3:2;3:8;3:23;3:24;108:14;110:18</p> <p>tire(2)31:14;98:14</p> <p>tires(3)100:11;100:13;100:17</p> <p>tiled(1)40:3</p> <p>today(10)15:21;16:12;42:19;73:10;77:5;84:4;104:1;104:6;104:24;106:1</p> <p>together(3)36:13;90:8;91:4</p> <p>told(13)20:10;57:20;58:10;58:12;61:22;61:24;100:6;100:9;100:12;100:14;100:16;100:23;104:2</p> <p>tolls(2)47:4;47:5</p> <p>Tony(2)78:17;10:23;11:1;11:7;11:21;12:12;12:16;13:9;13:16;13:17;14:9;24:1;76:1;86:9;86:11;87:17;87:24;88:11;89:21;90:22;93:20;93:23;94:9;95:9;95:19;96:2;97:1</p> <p>too(2)8:21;83:13</p> <p>Took(36)7:12;12:17;29:6;49:23;56:24;57:11;57:21;58:11;58:13;59:7;59:7;59:10;59:22;59:24;60:3;60:16;60:16;61:23;62:1;62:4;62:8;62:11;64:9;64:16;65:7;68:7;68:19;69:2;75:18;86:20;88:3;88:18;90:4;96:14;99:6;99:9</p> <p>top(4)40:2;41:6;41:6;55:7</p> <p>total(1)42:20</p> <p>totality(2)92:4;92:19</p> <p>totally(1)24:15</p> <p>touching(1)108:18</p> <p>towards(4)9:15;10:9;37:20;52:2</p> <p>town(9)20:23;25:8;47:9;60:16;60:17;68:8;68:23;75:3;103:9</p> <p>traffic(8)47:14;47:14;47:17;48:2;48:5;50:19;79:21;86:22</p> <p>Trail(1)86:3</p> <p>trainer(1)12:14</p>	<p>training(2)4:8;6:2</p> <p>transact(1)85:16</p> <p>transcribed(1)23:4</p> <p>transcript(8)19:1;49:2;58:24;60:2;60:10;109:3;110:9;110:10</p> <p>transcripts(1)57:15</p> <p>transmitted(1)85:19</p> <p>transpired(1)50:15</p> <p>trash(3)35:6;35:9;35:11</p> <p>travel(1)98:9</p> <p>traveled(2)50:23;61:5</p> <p>traveling(2)46:4;50:17</p> <p>trial(3)9:16;10:20;18:20;28:10;28:13;28:16;28:19;28:23;37:20;44:18;45:2;45:8;48:18;48:21;49:21;51:2;51:9;53:11;54:16;60:19;66:13;66:14;66:17;66:19;66:20;67:7;68:5;70:5;70:8;76:9;77:22;79:18;103:14;109:2</p> <p>trials(11)44:24;53:20;54:3;54:8;54:11;69:12;69:13;69:14;69:18;70:6;104:5</p> <p>tried(5)51:4;75:2;75:6;88:3;106:8</p> <p>trip(12)48:13;48:15;53:8;54:9;60:3;68:22;69:2;76:12;76:20;78:18;85:6;107:3</p> <p>trips(3)54:12;69:15;86:20</p> <p>true(6)43:11;58:2;60:14;61:10;108:23;110:10</p> <p>truth(4)81:23;104:18;108:17;108:17</p> <p>truthful(1)77:8</p> <p>try(5)27:5;97:13;106:8;106:11</p> <p>trying(3)72:3;81:20;92:6</p> <p>tunnel(1)97:12</p> <p>turn(1)98:22</p> <p>turned(3)32:22;33:1;33:6</p> <p>turling(1)33:21</p> <p>twice(1)21:4</p> <p>two(28)6:8;9:16;9:20;30:15;37:9;37:20;46:20;49:23;58:5;59:7;60:4;60:12;61:14;61:16;63:22;65:18;69:10;69:12;69:13;69:15;69:17;71:12;72:21;73:16;73:21;75:16;106:5;106:12</p> <p>type(1)73:6</p> <p>typical(2)42:1;47:18</p> <p>typically(1)99:7</p>
U		
<p>Terry(1)9:23</p> <p>test(5)48:7;48:8;49:20;67:5;71:6</p> <p>testified(9)3:4;28:22;45:19;60:15;64:17;65:24;66:12;70:7;80:13</p> <p>testify(3)28:7;106:13;108:16</p> <p>testifying(3)54:21;66:10;81:15</p> <p>testimony(25)16:18;17:14;18:15;18:17;18:20;26:8;28:9;28:12;28:22;30:6;51:6;51:21;52:7;58:20;59:15;59:18;60:14;65:1;67:6;68:2;68:18;75:14;78:22;81:14;108:24</p> <p>tests(1)57:8</p> <p>Thank(5)49:18;86:8;98:1;103:17;107:17</p> <p>themselves(1)92:7</p> <p>theory(2)79:23;99:24</p> <p>there's(3)41:5;101:14;105:14</p> <p>therefore(2)18:11;68:14</p> <p>therupon(1)108:20</p> <p>they'll(1)24:12</p> <p>they're(3)39:24;39:24;105:2</p> <p>thing(6)77:19;91:17;92:1;93:19;101:1;101:2</p> <p>things(9)17:17;18:14;35:4;35:5;43:5;52:13;90:8;90:24;92:18</p> <p>thinking(1)24:20</p>	<p>thought(5)14:5;64:22;64:23;77:17;107:3</p> <p>three(5)21:4;37:20;68:9;82:16;90:24</p> <p>through(33)5:8;16:3;17:19;27:7;27:12;34:2;35:7;36:18;39:13;40:8;41:7;42:4;43:15;43:17;43:22;56:13;60:1;60:16;62:5;62:22;63:11;63:14;63:17;63:24;64:1;64:13;68:8;68:23;78:13;79:1;85:24;104:11;110:9</p> <p>throughout(3)11:21;43:10;91:19</p> <p>throw(2)92:21;93:1</p> <p>tied(1)88:8</p> <p>fighter(1)65:21</p> <p>Tim(3)3:22;3:23;53:8</p> <p>time(100)8:6;8:7;8:10;9:4;9:22;12:1;12:2;12:10;12:15;15:2;15:21;16:11;17:18;19:15;20:1;20:8;23:23;24:9;24:20;25:11;27:14;29:3;29:4;29:8;30:3;30:9;30:14;31:3;31:4;31:7;31:8;32:10;36:20;38:14;40:11;40:16;44:24;45:2;48:7;48:8;48:18;48:21;49:21;50:3;50:11;50:15;50:18;51:11;51:14;52:8;52:10;52:20;53:11;53:20;54:8;54:11;54:11;54:13;57:8;65:7;65:20;66:12;66:16;67:5;67:12;67:13;68:5;69:12;69:13;69:14;69:18;70:6;71:6;73:1;74:5;74:11;74:14;75:5;76:5;76:9;76:13;77:16;77:22;78:1;80:10;81:24;83:1;89:14;93:3;94:20;95:22;97:15;98:2;98:19;99:10;99:12;102:7;103:14;104:5;109:2</p> <p>timed(4)50:6;59:5;78:18;86:18</p> <p>timely(1)16:20</p> <p>times(16)19:13;19:22;21:1;21:4;28:4;28:6;30:8;30:12;30:13;38:11;49:19;54:14;76:21;77:21;79:19;81:8</p> <p>timing(2)50:8;80:12</p> <p>TIMOTHY(8)1:11;2:15;3:2;3:8;3:23;3:24;108:14;110:18</p> <p>tire(2)31:14;98:14</p> <p>tires(3)100:11;100:13;100:17</p> <p>tiled(1)40:3</p> <p>today(10)15:21;16:12;42:19;73:10;77:5;84:4;104:1;104:6;104:24;106:1</p> <p>together(3)36:13;90:8;91:4</p> <p>told(13)20:10;57:20;58:10;58:12;61:22;61:24;100:6;100:9;100:12;100:14;100:16;100:23;104:2</p> <p>tolls(2)47:4;47:5</p> <p>Tony(2)78:17;10:23;11:1;11:7;11:21;12:12;12:16;13:9;13:16;13:17;14:9;24:1;76:1;86:9;86:11;87:17;87:24;88:11;89:21;90:22;93:20;93:23;94:9;95:9;95:19;96:2;97:1</p> <p>too(2)8:21;83:13</p> <p>Took(36)7:12;12:17;29:6;49:23;56:24;57:11;57:21;58:11;58:13;59:7;59:7;59:10;59:22;59:24;60:3;60:16;60:16;61:23;62:1;62:4;62:8;62:11;64:9;64:16;65:7;68:7;68:19;69:2;75:18;86:20;88:3;88:18;90:4;96:14;99:6;99:9</p> <p>top(4)40:2;41:6;41:6;55:7</p> <p>total(1)42:20</p> <p>totality(2)92:4;92:19</p> <p>totally(1)24:15</p> <p>touching(1)108:18</p> <p>towards(4)9:15;10:9;37:20;52:2</p> <p>town(9)20:23;25:8;47:9;60:16;60:17;68:8;68:23;75:3;103:9</p> <p>traffic(8)47:14;47:14;47:17;48:2;48:5;50:19;79:21;86:22</p> <p>Trail(1)86:3</p> <p>trainer(1)12:14</p>	<p>Uh-huh(1)24:5;31:11;53:21;56:9;79:22;80:19;82:10;83:11;85:20;99:20;106:16</p> <p>unanimous(1)14:7</p> <p>uncommon(3)91:7;91:23;92:24</p> <p>under(3)28:22;86:17;104:11</p> <p>underneath(1)102:9</p> <p>understand(7)6:10;33:23;71:17;76:2;81:19;97:10;100:22</p> <p>understanding(1)14:13</p> <p>unidentified(1)26:24</p> <p>University(8)2:8;5:3;5:6;5:9;5:22;6:15;15:15;91:18</p> <p>unless(2)103:18;105:2</p> <p>until(14)6:17;16:12;31:16;32:21;44:18;46:7;65:2;70:10;93:14;98:16;98:22;99:13;99:18;100:19</p> <p>upon(2)48:11;108:20</p> <p>Ur-dang-en(2)13:6;13:7</p> <p>URDANGEN(2)2:7;3:12</p> <p>us(8)25:13;32:21;53:3;77:19;98:17;99:13;100:16;100:19</p> <p>use(3)12:23;80:12;91:17</p> <p>used(5)50:10;54:16;56:1;80:14;91:3</p> <p>using(6)15:2;45:1;69:19;91:20;92:2;</p>

<p>92:14</p>	<p>Whereby(3)39:18;67:1;106:22 WHEREOF(1)109:11 while(2)67:9;70:16 WIDE(1)1:23 window(1)29:10 wish(1)16:16 washed(1)17:20 wit(1)108:12 withheld(1)34:1 withhold(1)33:15 withholding(3)31:23;32:4;32:19 without(4)17:24;48:22;69:21;96:18 WITNESS(1)2:14;3:1;39:11;66:15; 106:16;106:19;107:1;107:8;107:19; 108:24;109:11 witnessed(1)102:9 woman(1)85:1 word(8)59:19;66:20;75:19;83:7;83:13; 99:22;101:6;101:6 wordage(1)55:22 words(5)55:20;56:21;66:3;71:18;100:2 work(4)7:14;21:9;37:13;73:2 worked(8)8:16;9:10;21:11;21:15;21:19; 36:13;37:5;40:11 working(1)5:7;6:14;7:11;7:18;8:12; 9:17;9:22;10:3;11:20;36:3;102:10 wouldn't(3)38:21;65:5;99:7 write(2)38:7;50:10 write-up(1)15:2 writing(1)104:2 written(2)23:5;40:23 wrote(2)42:8;43:8</p>	
<p>V</p>		
<p>Van(2)100:15;101:5 vast(1)85:12 vehicle(6)45:1;81:2;81:10;82:24;101:13; 103:10 vehicles(1)69:15 verification(1)49:8 Verified(2)16:5;58:23 verify(1)77:10 version(1)89:6 versions(2)88:12;90:13 versus(2)3:11;79:24 very(12)13:12;34:21;41:19;44:22;54:5; 65:10;66:2;66:2;73:8;82:18;86:8;87:3 vicinity(1)82:18 victim(3)29:11;40:3;87:12 victims(3)45:4;45:5;46:13 video(2)30:14;77:14 videotape(3)67:19;72:7;77:20 view(4)26:3;26:4;26:9;91:14 views(6)1:2;1:4;24:10;24:18;93:21; 93:24 villain(1)91:22 violence(1)90:10 vision(1)97:12 volumes(1)105:14 vs(2)1:6;110:4</p>		
<p>W</p>		
<p>wait(4)85:16;85:17;99:2;99:18 waived(1)109:3 Wal-Mart(28)32:6;74:7;76:6;76:22;77:1; 77:23;78:3;78:12;79:3;79:7;79:12;79:14; 80:7;80:18;80:23;81:1;81:9;82:3;82:9; 82:12;82:18;84:10;84:17;84:24;85:7; 85:9;87:5;107:2 walk(2)85:3;85:6 walked(4)81:10;81:12;81:13;107:4 Want(23)3:12;8:1;10:8;16:14;20:19;42:4; 42:10;47:20;52:21;52:22;54:22;55:15; 56:7;58:24;60:6;65:16;72:24;78:22; 97:12;101:10;103:21;107:1;107:5 wanted(5)13:14;47:17;67:21;73:19;77:10 Warner(3)8:17;94:12;95:11 warrant(1)43:3 wasn't(8)29:6;29:19;63:8;66:6;87:1;89:7; 93:8;103:15 watch(4)50:10;50:12;50:14;80:14 wavered(1)24:21 way(15)6:9;13:2;15:7;33:13;47:1;63:21; 64:4;64:5;71:8;71:21;72:8;72:19;81:15; 83:12;86:9 We'll(1)26:11 We're(3)3:6;55:2;93:16 we've(1)34:2 week(1)37:16 weeks(2)20:24;37:17 weight(4)11:5;13:10;14:15;24:2 went(14)22:22;45:9;55:8;54:11;58:13; 62:1;65:3;72:19;75:4;77:13;81:1;82:13; 99:11;105:21 weren't(2)33:5;66:15 West(1)2:4 Western(1)6:15 What's(4)4:3;26:3;32:3;55:3 whatsoever(3)27:12;29:7;56:3</p>	<p>Y Yeah(2)30:7;53:7 year(3)6:5;6:17;16:15 years(5)4:15;23:15;28:17;37:9;44:7 yellow(1)55:9 yield(1)27:18 you'll(1)106:12 You're(22)6:9;10:14;14:24;16:4;18:8; 22:4;26:19;26:22;32:23;33:20;39:13; 44:12;51:18;56:6;56:20;59:14;60:7;68:4; 75:9;84:13;94:17;98:21 you've(9)18:5;20:20;21:19;24:6;41:1; 41:24;43:19;65:2;104:19 yours(1)93:22 yourself(3)9:11;16:1;50:6 yourselves(1)3:13</p>	
<p>Z</p>		
<p>Z-A-Y-A-S(1)8:20 Zayas(4)8:18;8:19;36:1;95:8</p>		<p>C08329</p>

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

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-CV-1019
	)	
JAMES SOUK, et al.,	)	
	)	
Defendants.	)	

The videotaped deposition of DAVID WARNER taken in the above-entitled cause, before Christine M. Luciano, CSR, on the 18th day of December, 2012, at 201 Broadway Street, Normal, Illinois, pursuant to Notice at the hour of 10:12 a.m.

Reported by: Christine M. Luciano, CSR  
License No.: 084-004084

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21                    and County of McLean, Illinois;

22

23

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9                    Representing the Defendants,  
10                   Timothy Freesmeyer, Robert Hospelhorn,  
11                   David Warner, Frank Zayas, and  
12                   Town of Normal, Illinois.

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15                                    \*   \*   \*

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I N D E X

WITNESS	EXAMINATION
DAVID WARNER	
Direct Examination by Mr. Shapiro	5
Cross-Examination by Ms. Barton	188

E X H I B I T S

DAVID WARNER		
DEPOSITION EXHIBIT		MARKED FOR ID
No. 20		158
No. 21		162

1 THE VIDEOGRAPHER: This is the video  
2 deposition of Dave Warner taken by the Roderick  
3 MacArthur Justice Center in the matter of Beaman v.  
4 Souk, et al., Case No. 10-CV-1019, held in the  
5 Marriott Hotel & Conference Center, 201 Broadway  
6 Street, Normal, Illinois. Today is December 18, 2012.  
7 The time is 10:12.

8 The court reporter is Christine Luciano. The  
9 videographer is Rick Kosberg.

10 The counsel can now introduce themselves, and  
11 the court reporter is free to administer the oath.

12 MR. SHAPIRO: David Shapiro for the plaintiff  
13 Alan Beaman.

14 MS. BARTON: Elizabeth Barton for McLean  
15 County defendants.

16 MR. DiCIANNI: Thomas DiCianni for the Town  
17 of Normal defendants.

18 (Witness duly sworn.)

19 DAVID WARNER,  
20 called as a witness herein, having been first duly  
21 sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SHAPIRO:

24 Q. Good morning, Mr. Warner.

5

1 A. Good morning.

2 Q. Let me just begin by asking, have you ever  
3 had your deposition taken before?

4 A. Once a long time ago.

5 Q. About -- approximately when was that?

6 A. Oh, gosh, late '90s maybe.

7 Q. Uh-huh. What was that case about?

8 A. It was a case where a guy got beat up, I  
9 think, and his parents thought the case should have  
10 gone farther.

11 Q. Were -- were you a defendant in that case?

12 A. No. I don't -- in fact, I don't even think  
13 it was a lawsuit. I think they just hired an  
14 attorney to find out if more could have been done.

15 Q. Uh-huh. Was it a setting like this where  
16 there's --

17 A. Similar.

18 Q. -- a court reporter and --

19 A. I don't remember the court reporter. I  
20 remember being recorded.

21 Q. Okay. So I'm not -- that may or may not  
22 have -- have been a deposition. I'm not -- I think  
23 none of us -- neither of us are sure.

24 A. Right.

6

1 Q. Let me just go over a few of the, you know,  
2 ground rules for -- for today. It's important that  
3 you try to let me finish my question before you  
4 answer. Sometimes you may know what I'm going to say  
5 before I finish the question. But if you let me  
6 finish, it will create a clear record for the court  
7 reporter.

8 A. Sure.

9 Q. Okay. For the same reason, it's important  
10 to answer my questions audibly, for example, with a  
11 yes or no rather than nodding or shaking the head or  
12 uh-uhs or uh-huhs because those are difficult to take  
13 down. Will you try to do that?

14 A. I will.

15 Q. Okay. If I ask you a question and it  
16 doesn't make sense or you don't understand it, just  
17 let me know, and I'll keep rephrasing the question  
18 until -- until it does make sense. All right?

19 A. All right.

20 Q. And if I ask a question, you do answer it,  
21 I'll assume that you understood it. Fair enough?

22 A. Fair enough.

23 Q. Okay. Now, there are the few questions I  
24 just ask at the beginning of pretty much any

7

1 deposition just to make sure that you're able to give  
2 accurate, truthful testimony today. I'm not trying  
3 to pry into anything that's personal. That's just  
4 the reason that I ask.

5 Are you under a doctor's care for any  
6 illness that would affect your ability to testify  
7 today?

8 A. No.

9 Q. Are you taking any medication that would  
10 affect your ability to testify?

11 A. No.

12 Q. And I take it you haven't had any alcohol  
13 today?

14 A. No.

15 Q. Okay. Is there any reason whatsoever why  
16 you wouldn't be able to give accurate and truthful  
17 testimony today?

18 A. No.

19 Q. Okay. And you understand you're testifying  
20 under oath today and under penalty of perjury just as  
21 if you were testifying in court?

22 A. Yes.

23 Q. One thing I forgot to mention is that if  
24 there's -- if you want to take a break at any point

8

1 today, we'll probably be taking breaks periodically;  
2 but anytime you want to for any reason, that's fine.  
3 The only real limitation on that is that if there's a  
4 pending question, I'll ask you to answer the question  
5 before we take the break. Okay?

6 A. Yep.

7 Q. Okay. Great. What did you do to prepare  
8 for your deposition today?

9 A. I received a packet of information from my  
10 attorney.

11 Q. Uh-huh. What was included in that packet of  
12 information?

13 A. Reports, some handwritten notes.

14 Q. Were there any interview transcripts  
15 included --

16 A. Yes --

17 Q. -- in that material?

18 A. -- interview transcripts.

19 Q. Okay. Who -- which interview transcripts  
20 were included?

21 A. Morgan, I think the girl that found her --

22 Q. Morgan Keefe?

23 A. Keefe, yeah.

24 And then some of the neighbors, I recall.

9

1 Q. Uh-huh.

2 A. I don't remember who else was in there.

3 Q. Stacey Gates?

4 A. Yes, Gates.

5 Q. Uh-huh. Heidi Steinman?

6 A. If that was a neighbor, then yes. I don't  
7 recall the name, though.

8 Q. She was -- I don't believe that she was a  
9 neighbor. She was a friend of Jennifer Lockmiller's.

10 A. I don't remember the name, but ...

11 Q. You do not -- you're not sure if that one  
12 was included?

13 A. No, no.

14 Q. I think -- I think we're talking over each  
15 other just a little -- a little bit.

16 A. Sorry.

17 Q. Just try to be mindful of that if you could.  
18 No, I'd appreciate it.

19 What reports did you review?

20 A. Some evidence sheets that went to and from  
21 the lab. There was a polygraph report in there.

22 Q. Uh-huh.

23 A. The transcripts. I think -- I think that  
24 was it.

10

1 Q. Okay. Was that the polygraph report  
2 regarding John Murray?

3 A. Yeah.

4 Q. Okay. Did you review a polygraph report  
5 regarding Stacey Gates?

6 A. I think it was in there. I didn't read  
7 through it.

8 Q. Okay. You mentioned notes. Were those  
9 notes that you took during the course of the  
10 investigation?

11 A. Yes.

12 Q. Okay. And what do you remember about the  
13 notes that you reviewed?

14 A. That I wrote them.

15 Q. Do you remember the time, the date -- some  
16 of the dates, approximate dates or subject matter of  
17 the notes?

18 A. They appeared to be early on in the  
19 investigation, you know, within a day or so probably.

20 Q. Do you recall taking any notes after the  
21 first couple of days in the investigation?

22 A. No.

23 Q. And you don't recall reviewing any notes  
24 that you had taken during a period more than a couple

11

1 days after the investigation?

2 A. No.

3 Q. Okay. In terms of the reports, you  
4 mentioned polygraph reports. Did you -- and evidence  
5 sheets. Did you review any police reports?

6 A. No.

7 Q. Did you prepare any police reports as part  
8 of this case?

9 A. I don't remember.

10 Q. You don't remember doing so?

11 A. (Nodding.)

12 Q. Okay.

13 THE COURT REPORTER: Is that a yes or no?

14 THE WITNESS: I'm sorry. What was the  
15 question?

16 BY MR. SHAPIRO:

17 Q. Let me -- let re-ask it.

18 You don't have any recollection of having  
19 prepared any police reports, correct?

20 A. I do not.

21 Q. Okay. Did the documents that you reviewed,  
22 did they refresh your recollection about the facts of  
23 the Lockmiller investigation?

24 A. To some degree, yes.

12

1 Q. Okay. How would you characterize the level  
2 or quality of your recollection about the Lockmiller  
3 investigation?

4 A. I'm not sure I know how to answer that.

5 Q. Well, would you say that you have a good  
6 memory of the events that have occurred?

7 A. I remember some things.

8 Q. Are there particular aspects of the  
9 investigation that stand out in your memory?

10 A. I remember the first day when I was there.  
11 I remember trying to determine the time of death. I  
12 called her -- one of her class instructors to find  
13 out if she was in class. I remember taking some  
14 pictures of cars, evidence, processing back and forth  
15 to the lab.

16 Q. When you were reviewing documents to prepare  
17 for this deposition, I think you mentioned there were  
18 some that you looked over quickly?

19 A. Uh-huh.

20 Q. Which documents did you review in greater  
21 detail?

22 A. Not in great detail. I glanced through the  
23 statements. Didn't really know what you were going  
24 to ask so I didn't know what I needed to read, but I

13

1 remember taking the statements. But that's about it  
2 as far as that goes.

3 Q. Uh-huh. Did -- were there certain documents  
4 that you focused on more so than others?

5 A. Not really.

6 Q. Who did you meet with in order to prepare  
7 for your deposition today?

8 A. My attorney here, Tom DiCianni.

9 Q. Okay. When was the -- when was the first  
10 time you met with Mr. DiCianni to prepare?

11 A. It was an introductory meeting months ago.  
12 I don't know the exact date. And over the last two  
13 days, I think we met yesterday morning and then this  
14 morning.

15 Q. That introductory meeting you mentioned, was  
16 that soon after the complaint in this case was filed?

17 A. Yeah, I believe it was.

18 Q. Okay. Who -- other than Mr. DiCianni and  
19 yourself, who was present at that meeting?

20 A. I don't recall.

21 Q. Was Rob Hospelhorn present?

22 A. I don't -- I don't remember.

23 Q. Timothy Freesmeyer?

24 A. I doubt it.

14

1 Q. Why -- why -- why do you say you doubt it?

2 A. Didn't work here then.

3 Q. Okay. So did you -- do you --

4 A. I don't know. My answer is I don't know who  
5 was there.

6 Q. Well, I'm just curious why -- for  
7 Hospelhorn, you know, you don't remember.  
8 Freesmeyer, you're --

9 A. He didn't work here then.

10 Q. Okay.

11 A. And he lives out of town. Could have been.  
12 I don't remember, but --

13 Q. What was -- without asking, I mean, with  
14 that understanding -- strike that.

15 With the understanding that you don't recall  
16 a specific person was present at that meeting, were  
17 there other people present?

18 A. Yes.

19 Q. Okay. Were -- were there other police  
20 officers present?

21 A. Yes.

22 Q. About how many people were there?

23 A. I think the chief of police was there maybe,  
24 probably my lieutenant. I'm guessing. I don't

15

1 remember exactly who was there.

2 Q. Okay. And who's -- who's the chief of  
3 police and the lieutenant?

4 A. Kent Crutcher was at that time.

5 Q. And the lieutenant?

6 A. Rick Bleichner. He is now the chief.

7 Actually he was assistant chief then. He would have  
8 been chief now.

9 Q. Uh-huh. Do you remember if -- even if you  
10 don't remember specific person, whether any of the  
11 other defendants in this case were present for that  
12 meeting?

13 A. I don't remember.

14 Q. Okay. And about -- about how long was that  
15 meeting?

16 A. I don't think it was long.

17 Q. Approximation?

18 A. 20 minutes maybe.

19 Q. Okay. And who was present at the meeting  
20 yesterday morning?

21 A. Rob Hospelhorn, myself, and Tom.

22 Q. Okay. And about how long was that meeting?

23 A. My involvement in the meeting was very  
24 short, maybe 15 minutes.

16

1 Q. Did you talk to Mr. Hospelhorn after his  
2 deposition yesterday?

3 A. I said hi to him this morning.

4 Q. Uh-huh. Other than saying hi, did you  
5 exchange any other words with him?

6 A. No.

7 Q. Okay. Approximately how long was the  
8 meeting this morning with Mr. DiCianni?

9 A. I believe he got there around 8:30 to almost  
10 10 o'clock.

11 Q. Okay. And that meeting was just the two of  
12 you?

13 A. Yes.

14 Q. So these three -- these three meetings, the  
15 introductory meeting, the meeting yesterday, and the  
16 meeting today were the only ones when a lawyer was  
17 present?

18 A. Yes.

19 Q. Regarding this case?

20 A. Yes.

21 Q. Have you had -- other than the meeting  
22 yesterday where Mr. Hospelhorn was -- was present,  
23 have you had any other conversations whether by phone  
24 or in passing with Mr. Hospelhorn about this case?

17

1 A. I don't recall any.

2 Q. When's the last time you spoke with him  
3 about anything other than just saying hi this  
4 morning?

5 A. We work the same shift. We started at  
6 7 o'clock this morning.

7 Q. So -- so -- so you -- so you see each other  
8 pretty -- pretty regularly?

9 A. Every day except his days off.

10 Q. When -- when's the last time you had any  
11 contact with Timothy Freesmeyer?

12 A. Years. I don't know.

13 Q. Uh-huh. What about Tony Daniels?

14 A. Tony Daniels, the last time I saw him was on  
15 November 30.

16 Q. What were the circumstances of seeing him on  
17 the 30th?

18 A. He retired from the department again.

19 Q. Uh-huh. So sort of a going-away party or?

20 A. No, it was just his last day.

21 Q. Oh, okay. I see. I see.

22 When's the last time you had any sort of  
23 contact with Frank Zayas?

24 A. Years.

18

1 Q. Uh-huh. And that -- that's because he  
2 retired, and you so haven't seen him in a while?

3 A. Right.

4 Q. What about John Belcher?

5 A. I saw John Belcher at a funeral. I believe  
6 it was in early November. It was Scott Johnson's  
7 mother's funeral. I just said hi, chit-chat stuff.

8 Q. Uh-huh. Have you had any conversations  
9 with -- with Frank Zayas, Rob Hospelhorn, or  
10 John Belcher or Timothy Freesmeyer about this case in  
11 any way?

12 A. None that I recall.

13 Q. Have you had any conversations about this  
14 case with anyone currently or formerly employed by  
15 the State's Attorney's Office?

16 A. Tony Daniels would talk to me about it.

17 MR. DiCIANNI: State's Attorney's Office.

18 THE WITNESS: Oh, I'm sorry. State's  
19 Attorney's Office? No.

20 BY MR. SHAPIRO:

21 Q. Okay. You never talked about this case with  
22 the State's Attorney's Office?

23 A. No.

24 Q. What did Tony Daniels say when you guys

19

1 talked?

2 A. He would often comment -- he didn't  
3 understand why Rob and I were involved in this case;  
4 that we didn't do anything wrong; that it was just  
5 Freesmeyer and Souk. And I didn't pay much attention  
6 to it. And then that would come up periodically if  
7 something was in the news or something, he would  
8 mention that again.

9 And early November he said he was going to  
10 go talk to the attorneys -- this was when he knew  
11 that I was going to be deposed and Rob was. And he  
12 said, don't tell anybody, I'm going to go this week  
13 and talk to the attorneys. And I said, why can't we  
14 tell anybody? We all know, you know, this is going  
15 on. And he goes, well, you know what side I'm on. I  
16 said, everybody knows what side you're on. What's  
17 the big deal?

18 And he goes, well, I don't know why you're  
19 involved in this. I said, they're hung up on some  
20 polygraph report that said never got to the State's  
21 Attorney. I said if I -- I got that report, it  
22 wasn't to me, it was to you, Tony; and I handed it to  
23 you. If I didn't, you would have said where's that  
24 report? And whatever happened after that, I don't

20

1 know.

2 He said, yeah. And he started going about  
3 his business.

4 Q. And which -- which -- which polygraph report  
5 are you referring to?

6 A. Larbi.

7 Q. Larbi John Murray?

8 A. Yeah.

9 Q. Uh-huh. And -- and you said Tony Daniels,  
10 you -- was the -- you and Hospelhorn had no  
11 responsibility for this case and that it was -- it  
12 was Freesmeyer and someone else who were  
13 responsible -- am I -- I'm not trying to put words in  
14 your mouth.

15 A. The responsibility for the case would be  
16 Lieutenant Zayas. He was in --

17 Q. Uh-huh.

18 A. -- charge of CID at the time. Freesmeyer  
19 and Daniels had the most assignments in the case.

20 Q. But I'm sorry. I'm just trying to  
21 understand what Tony Daniels's view that he conveyed  
22 to you was about, you know, who -- who -- who -- who  
23 bore responsibility for the conviction of Mr. Beaman?

24 MS. BARTON: Objection to form.

21

1 THE WITNESS: Tim Freesmeyer and Jim Souk.

2 MR. SHAPIRO: Okay.

3 MR. DiCIANNI: Let's clarify. That's what  
4 Mr. Daniels said to you?

5 THE WITNESS: Yes.

6 MR. DiCIANNI: Yeah.

7 BY MR. SHAPIRO:

8 Q. And do you agree or disagree with that view  
9 of Mr. Daniels?

10 A. I have no opinion either way.

11 Q. Who was the lead investigator in this case?

12 A. We didn't use that term. If I had to single  
13 anybody out, it was probably Tim Freesmeyer.

14 Q. And -- and understanding that you -- that  
15 that's not -- a lead investigator is not a particular  
16 term that you use, what are your reasons for, as you  
17 say, singling out Tim Freesmeyer?

18 A. Did more of the high profile persons of  
19 interest, the ones that had the most involvement.

20 Q. And -- and -- and what were some of the  
21 things that he did that were particularly high  
22 profile?

23 A. I remember him driving to I think it was  
24 Joliet, timing the route. And that's all I remember

22

1 him doing, only because he talked about it. I didn't  
2 have any firsthand knowledge of it.

3 Q. But you had the impression that he -- he was  
4 doing the most important stuff -- most important  
5 tasks in the case, right?

6 A. Yes.

7 Q. Okay. And was that the case from the  
8 beginning of the investigation?

9 A. Tony started out he was the first one at the  
10 scene.

11 Q. Uh-huh.

12 A. Tony Daniels.

13 Q. Uh-huh.

14 A. I don't know when or where it switched or  
15 why. I know Tony was not pleased about Freesmeyer  
16 doing, I guess, the stuff he thought he should be  
17 doing.

18 Q. Uh-huh. And a -- you know, I understand  
19 that your recollection of when that shift occurred,  
20 you know, would not be -- would not be perfect or  
21 precise, but was it more or less than, say, six  
22 months into the investigation?

23 A. I honestly couldn't speculate. I don't -- I  
24 don't recall when that happened.

23

1 Q. Well, would it be fair to say that one of  
2 the higher profile things that Freesmeyer did in this  
3 case was become the primary point of contact with the  
4 defendant, Mr. Beaman?

5 A. I didn't know he was the primary -- I don't  
6 know.

7 Q. Do you recall that Mr. Beaman -- was --  
8 was -- was charged at one point in this case?

9 A. I do, yes.

10 Q. Was -- was -- was Timothy Freesmeyer the  
11 person with primary responsibility at the time he was  
12 charged?

13 MR. DiCIANNI: Object to lack of foundation.

14 MS. BARTON: I'll join.

15 MR. DiCIANNI: You can answer if you can.

16 THE WITNESS: Oh. Repeat the question,  
17 please.

18 BY MR. SHAPIRO:

19 Q. Sure. My -- my -- my question was whether  
20 you believe that Timothy Freesmeyer was the person  
21 with primary responsibility for the investigation by  
22 the time Mr. Beaman was charged?

23 A. I suppose so.

24 Q. And I -- and I -- correct me if I'm

24

1 mistaken, but I believe that you were one of the  
2 people who prepared Mr. Freesmeyer for the arrest  
3 including by attaching a body wire to him; is that  
4 correct? Do you remember that?

5 A. I have a vague recollection. I don't recall  
6 what I did.

7 Q. Uh-huh. But -- but -- but fair to say that  
8 by the time Freesmeyer was going out to make that  
9 arrest, he was the lead -- the primary person working  
10 on the case?

11 A. I -- I suppose it was. I don't --

12 MR. DiCIANNI: Well, he don't -- he doesn't  
13 want you to guess.

14 BY MR. SHAPIRO:

15 Q. Right, I don't want you -- but is that what  
16 you think?

17 A. He was working on his assignment, and his  
18 assignment was Alan Beaman. So does that mean he's  
19 in charge of the case? Not necessarily.

20 Q. Right. No, no. And I understand that.

21 And that's because Lieutenant Zayas --

22 A. Right.

23 Q. -- was in charge of the case.

24 But -- but -- but what I'm really asking is

25

1 among the line investigators -- is that a fair term?

2 A. Yeah.

3 Q. Among the line investigators, there are  
4 people who have more or less responsibility --

5 A. Sure.

6 Q. -- in a particular case, right?

7 A. Uh-huh.

8 Q. And by the time Timothy Freesmeyer was  
9 making the arrest, with the understanding that he's  
10 the line investigator, he was -- would you say that  
11 he was the line investigator with primary  
12 responsibility for the case?

13 A. Yes.

14 Q. Okay. What was Lieutenant Zayas's --  
15 you've mentioned some already, but what was  
16 Lieutenant Zayas's role in the case?

17 A. He was in charge of the detective division.  
18 He would have approved all of the reports turned in  
19 to him. Any paperwork would have gone through him.

20 Q. And -- and -- and what is the process of  
21 approving a report entail?

22 A. He would read whatever was turned in to him.  
23 If he thought it needed more information, he would  
24 send it back. If it met whatever the requirements

26

1 were for that instance, he would sign it and turn it  
2 into records.

3 Q. Okay. Did he suggest investigative avenues  
4 during the investigation?

5 A. He would assign people tasks, yes.

6 Q. Uh-huh. So he was in charge of deciding who  
7 would get which -- which tasks?

8 A. Yes.

9 Q. What was Rob Hospelhorn's role in the  
10 investigation as you understand it?

11 A. A line investigator.

12 Q. What about John Belcher?

13 A. Same.

14 Q. What was -- what was Jim Souk's role in the  
15 investigation?

16 A. State's Attorney.

17 Q. Uh-huh. And -- and -- and -- and somewhat  
18 more specifically, can you say what role he played in  
19 the investigation?

20 MS. BARTON: Objection to foundation.

21 THE WITNESS: Was the State's Attorney.

22 That's his role. I don't know what --

23 BY MR. SHAPIRO:

24 Q. Okay. We can -- we can -- we can come back

27

1 to that a little bit later.

2           When's the last time you spoke with anyone  
3 who was involved in the Lockmiller homicide  
4 investigation about the investigation?

5           A. Tony Daniels would have been in November. I  
6 don't recall any other conversations.

7           Q. You don't recall -- other than with --  
8 with -- with Daniels, you don't recall having any  
9 conversations with anyone about the Lockmiller  
10 homicide investigation?

11          A. No.

12          Q. Okay. Let me ask you a few questions about  
13 your -- your education and your training and your  
14 experience. What's -- what's the highest degree  
15 you've received from an educational institution?

16          A. I have a bachelor's in art from Illinois  
17 State University.

18          Q. Uh-huh. And did you go straight from high  
19 school to college?

20          A. Yes.

21          Q. Uh-huh. And upon your graduation, did you  
22 immediately become a police officer?

23          A. No, I was a commercial artist in Peoria for  
24 little over a year.

1 Q. Huh. What -- what -- just out of curiosity,  
2 what -- what -- what -- what sort of art were you  
3 involved in?

4 A. I did -- I was a product illustrator.

5 Q. Uh-huh.

6 A. I drew products, shoes, motorcycles,  
7 diapers, insulation.

8 Q. And have -- have you lived in this area  
9 all -- all your life?

10 A. I went to -- I started in 1982 I think is  
11 when I came to ISU.

12 Q. Okay. Okay. And -- and -- and have you  
13 lived in the Bloomington-Normal area continuously  
14 since 1982?

15 A. Since then, yes.

16 Q. Okay. And how long were you -- were you a  
17 commercial artist?

18 A. About a year, maybe a little longer.

19 Q. What was the -- did you go into the police  
20 force at that point or was --

21 A. Yeah.

22 Q. Okay. And what -- what was it that decided  
23 that, you know -- strike that.

24 What was the reason you decided to -- to

29

1 move from being a commercial artist to a -- to the  
2 police force?

3 A. Well, it paid more.

4 Q. Uh-huh.

5 A. It was also -- I lived in Normal at the  
6 time. I had to commute to Peoria.

7 Q. Uh-huh.

8 A. I had started the police process couple  
9 years before that. And every once in a while, I get  
10 a letter saying do something else, do something else.  
11 And finally I got a letter saying you're next on the  
12 list, what do you want to do?

13 Q. Uh-huh.

14 A. So over a period of time, I had forgotten  
15 about it really. And I thought if I didn't try it, I  
16 would regret it. And here I am 25 years later.

17 Q. No regrets?

18 A. I won't say that but ...

19 Q. None of us would.

20 And -- and -- and -- and when you began in  
21 the police force, was there a process of going  
22 through the academy and receiving training?

23 A. I went to the academy in Champaign, yeah.

24 Q. Okay. And how long a program is that?

30

1 A. I think it was 10 or 12 weeks. I don't  
2 remember.

3 Q. Okay. Will you sort of walk me through the  
4 progression of your career through the Normal --

5 A. Sure.

6 Q. -- Police Force?

7 A. After the academy, I was on patrol I think  
8 for a year. At the time the department had a  
9 six-month rotation; you could go to detectives for  
10 six months and then do something else. I did that  
11 sometime after that first year. And I did my  
12 six-month rotation.

13 I left for a month or two. They asked me to  
14 come back permanently. And I was, like, after the  
15 second year I think, stayed there for -- I was in  
16 detectives for seven years I think. I went back to  
17 patrol because there was a possibility of promotion  
18 to sergeant. I didn't have a lot of patrol  
19 experience.

20 I was promoted to sergeant. I don't have  
21 the dates. Did sergeant on patrol for a while. I  
22 was asked to go to -- be administrative sergeant by  
23 the chief. I was promoted up there.

24 I was promoted to lieutenant. I spent most  
31

1 of my time until July of this year as an  
2 administrative lieutenant. I was in charge of  
3 computer investigations, radio system, in-car video;  
4 basically anything electronic. I was in charge of  
5 training. And in July of this year, I became the day  
6 shift supervisor.

7 Q. And -- and your current rank is lieutenant?

8 A. Yes.

9 Q. Okay. And you mentioned a period when you  
10 were a detective for seven years. Was -- did the  
11 Lockmiller investigation fall within that period?

12 A. Yes, uh-huh.

13 Q. Do you recall roughly how long you had been  
14 a detective during -- during that period?

15 A. Two years maybe. I don't remember.

16 Q. And were you the evidence custodian during  
17 that period?

18 A. I was an investigator; I was an evidence  
19 technician; I was an arson investigator; and I was in  
20 charge of the property.

21 Q. And you held all those responsibilities at  
22 the same time?

23 A. I did.

24 Q. Okay. Can you explain to me, sir, what --

32

1 what the role of an evidence custodian is?

2 A. You check things in and out of the evidence  
3 room, keeping track of where things are. If somebody  
4 needs something sent to the lab, you prepare the  
5 paperwork, take it to the lab, pick it up.

6 Q. And when -- when there's an outside expert  
7 like a -- like a fingerprint examiner or I think you  
8 mentioned earlier, polygraph examiner, would --  
9 would -- would you be the person who would send the  
10 evidence for examination to those experts?

11 A. For polygraph you're talking?

12 Q. Well, I guess -- I guess it's a bad question  
13 for poly -- right, because -- well -- because that  
14 doesn't involve physical evidence, right?

15 A. Right.

16 Q. So let's take something that -- that -- that  
17 does ballistics, fingerprinting --

18 A. I would send it to the lab.

19 Q. And I apologize. I think we're just talking  
20 over each other a little bit. And if we could both  
21 try to be mindful of that, it will make the court  
22 reporter's job a little bit easier. I appreciate it.

23 So -- so -- so for fingerprint exam or  
24 ballistics exam, you would send the evidence to the

33

1 lab, right?

2 A. Yes.

3 Q. Okay. And -- and -- and when there was a  
4 report from the lab, you would -- you would -- would  
5 you typically be the person to -- to receive that  
6 report?

7 A. Not necessarily. I believe it went to the  
8 case officer and the State's Attorney because I  
9 didn't ask -- I wasn't the one asking for the report.  
10 I was just taking it. The officer wanted whatever  
11 process done on it. I just was the means to getting  
12 it done.

13 Q. Uh-huh. And -- and -- and help me  
14 understand the process. So the officer who wanted  
15 the report would -- would ask you to contact the  
16 outside person; is that right?

17 A. They usually sent the report. The crime lab  
18 would send the report to the officer and I believe to  
19 the State's Attorney.

20 Q. Okay.

21 A. You know, like on ballistics or drugs or  
22 something like that.

23 Q. Uh-huh. And -- and would that also apply --  
24 strike that.

34

1           Did that also apply to polygraph exams; in  
2 other words, the polygraph examiner would send the  
3 report to the case officer and the State's Attorney?

4           A.    Are you talking about the report for Larbi?

5           Q.    Well, let's -- we'll -- we'll get to that in  
6 a moment, but I'm first just trying to understand the  
7 process generally.

8           A.    I didn't --

9           MS. BARTON: Object to foundation.

10          BY MR. SHAPIRO:

11          Q.    Okay. Well, let me lay a little bit of a  
12 foundation.

13                As the evidence custodian, you were -- what  
14 was -- what was your role in connection with things  
15 like -- in connection with polygraph reports?

16          A.    We didn't have too many polygraphs that I  
17 recall. What -- it wasn't as formal as asking for  
18 fingerprints or things like that. All you needed to  
19 do was call up, talk to the polygrapher, and ask for  
20 an appointment.

21          Q.    Uh-huh. And -- and -- and who would  
22 typically call the polygrapher?

23          A.    It could be anybody.

24          Q.    Okay. So, for example, it could be the case  
35

1 officer?

2 A. Could be.

3 Q. Or the case officer might ask you to call  
4 the polygrapher?

5 A. Could happen.

6 Q. Okay. And -- and that polygrapher would  
7 generate a report, right?

8 A. Yes.

9 Q. Okay. And who -- who -- who would typically  
10 receive copies of that report?

11 A. Whoever called it in, I suppose.

12 MR. DiCIANNI: If you know.

13 THE WITNESS: I don't know.

14 BY MR. SHAPIRO:

15 Q. Would -- would the State's Attorney  
16 typically receive a copy of the report?

17 MS. BARTON: Objection to foundation.

18 THE WITNESS: I thought they did.

19 BY MR. SHAPIRO:

20 Q. Okay. And -- and -- and you said with  
21 reports from fingerprint examiners and -- and  
22 ballistics experts, those reports would go to State's  
23 Attorney, right?

24 A. Yes.

36

1 Q. Can you think of any reason why it would be  
2 different for a polygraph report?

3 A. I don't have a reason.

4 Q. Okay. And since -- since you mentioned the  
5 polygraph report regarding -- regarding Murray, why  
6 don't we --

7 A. Well, it's just easier --

8 Q. -- talk about that, yeah.

9 A. Easier to talk about if that's what you know  
10 want to.

11 Q. I want to know about both, but you're  
12 absolutely right that I want to know about that as  
13 well.

14 So talk -- talk me through your  
15 understanding of what -- what happened with that  
16 report.

17 A. Well, I viewed the paperwork, and I noticed  
18 that it said "at the request of David Warner," and  
19 that made me understand that I called and asked for  
20 the appointment.

21 Q. Okay.

22 A. And that's more than likely why it got sent  
23 to me.

24 Q. Uh-huh. And -- okay. So -- so -- so you

37

1 requested the report, and the report was sent to you,  
2 right?

3 A. And it would have been requested by  
4 Tony Daniels, who was working with Larbi at the time.

5 Q. Sure, sure. That's all right. Let's just  
6 take it step by step, though.

7 So you requested the report, right?

8 A. I made the appointment.

9 Q. Uh-huh. And -- and making the appointment  
10 means you called the polygraph examiner and asked  
11 that examiner to examine Mr. Murray?

12 A. Yes.

13 Q. Okay. And -- and -- and then you received  
14 the polygraph report regarding Mr. Murray, correct?

15 A. Yes.

16 Q. Okay. And I think this is what -- what --  
17 where -- where you're going, but what did you do with  
18 the polygraph report when you received it?

19 A. I opened it, realized what it was, that it  
20 was not for me. It was for Detective Daniels. I  
21 handed it to Detective Daniels. I said, here's your  
22 polygraph report. He said okay.

23 Q. Do you have a specific recollection of  
24 having done that 20 years ago?

1           A.    I do.  I was standing at my desk.  I took  
2   the mail -- there was a mail slot next to my desk,  
3   and Tony's desk was just ahead of mine, and he was  
4   there.  I opened it, saw what it was, and I handed it  
5   to him.

6           Q.    Let's go back for -- for a moment for sort  
7   of the usual process.

8                    In the ordinary course when you got a report  
9   from an outside expert, what -- would -- would you  
10  give a copy to the State's Attorney's Office or was  
11  that someone else?

12           MS. BARTON:  Object to foundation as to the  
13  time period.

14  BY MR. SHAPIRO:

15           Q.    I'm talking about around the period of the  
16  Lockmiller homicide investigation.

17           A.    My understanding of the process is the State  
18  Police lab, if that's what we're talking about, sent  
19  the report to the State's Attorney as well as to the  
20  agency, and it would have been to the originating  
21  case officer.

22           Q.    I see.  So -- so -- so the lab would send a  
23  copy directly to the State's Attorney's Office?

24           MS. BARTON:  Objection to form.  Which lab?

39

1 BY MR. SHAPIRO:

2 Q. Okay. A polygraph examiner would send a  
3 copy of the polygraph report directly to the State's  
4 Attorney's Office?

5 MS. BARTON: Objection to foundation.

6 BY MR. SHAPIRO:

7 Q. Is that your understanding?

8 A. I thought the process was the same.

9 Q. Uh-huh. And by "the same," you mean that  
10 the polygraph examiner would send a copy to the case  
11 officer and to the State's Attorney, right?

12 A. Correct.

13 Q. Okay. And would you typically also receive  
14 a copy of a polygraph report?

15 A. I -- there wasn't that many --

16 Q. Uh-huh.

17 A. -- so typically I would say no. I don't  
18 recall getting any others.

19 Q. Okay. For -- for as long as you were  
20 evidence custodian, you don't recall receiving any  
21 other polygraph reports?

22 A. I do not.

23 Q. Okay. Did you ever request other polygraph  
24 examinations while you were the evidence custodian?

40

1           A.    I think I did Bubba, what's his name,  
2   Stacey Gates?

3           Q.    Stacey Gates, uh-huh.

4           A.    I think I did his.

5           Q.    Okay.  But -- but I'm not -- and just to be  
6   clear, I think we are on the same page here, but  
7   I'm -- I'm -- for right now I'm not talking just  
8   about the Lockmiller homicide investigation.

9                    Do you recall any other instance when you  
10  received a polygraph report?

11          A.    I do not recall any other instance.

12          Q.    Okay.  But do you recall other instances  
13  when you requested a polygraph report?

14          A.    I don't think I did.  I don't -- there  
15  wasn't that many.  I don't remember.  I -- it was not  
16  a typical thing to do.

17          Q.    Okay.  So -- so you -- so as far as you --  
18  strike that.

19                    You don't think you ever requested of  
20  polygraph report except in the Lockmiller homicide  
21  investigation?

22          A.    I didn't request the report.  I requested  
23  the exam.

24          Q.    Fair enough.  Right.  No, I appreciate that

41

1 clarification.

2           So -- but is -- you don't think that you  
3 ever requested an exam of anyone except in the  
4 Lockmiller homicide investigation; is that correct?

5           A. I don't recall any.

6           Q. Okay. But do you think that it is something  
7 that you, you know, when you -- sometimes you don't  
8 recall because you just don't remember doing a  
9 specific thing. Sometimes, you know, you don't  
10 recall because you really don't think it ever  
11 happened.

12           Do you think that in the course of the --  
13 strike that.

14           With the understanding that you don't have a  
15 specific recollection of requesting or receiving a  
16 particular polygraph exam or polygraph report, do you  
17 think that in the course of the time that you served  
18 as the evidence custodian there were other instances  
19 when you requested exams?

20           A. Before or after Lockmiller?

21           Q. Either.

22           MR. DiCIANNI: I'm going to object to  
23 speculation, asking him to speculate. He doesn't have  
24 a memory. All he can do then is speculate.

42

1 BY MR. SHAPIRO:

2 Q. Go ahead.

3 A. I know we hired a polygrapher shortly --  
4 sometime in the '90s, I believe. I don't remember  
5 the date.

6 It was much easier to get a polygraph at  
7 that time and there was no -- no one had to request  
8 anything. You just go in and, hey, are you free to  
9 do a polygraph? It was in our building.

10 Q. So that was -- that was -- that was a  
11 full-time polygraph examiner?

12 A. Actually she took over the evidence tech  
13 responsibilities and property manager.

14 Q. I see. Well -- okay.

15 But -- and that was -- that was shortly  
16 after the Lockmiller investigation that she --

17 A. I believe it was.

18 Q. -- was hired?

19 A. I don't recall the exact date.

20 Q. Okay. And -- and -- and I know it's -- I  
21 know it's a hard artificial thing to do, but we are  
22 talking -- I know you're trying. I appreciate that.

23 Do you -- do you think that you ever  
24 requested a polygraph exam prior to the Lockmiller

43

1 homicide investigation?

2 A. I don't recall.

3 MR. DiCIANNI: Object, speculation.

4 BY MR. SHAPIRO:

5 Q. Now, you -- you -- you -- you stated that  
6 your understanding was that ordinarily a polygraph  
7 report would go to the State's Attorney's Office,  
8 correct, from the polygraph examiner?

9 MS. BARTON: Objection to foundation.

10 THE WITNESS: Based on the process of the  
11 other tests at the crime lab.

12 BY MR. SHAPIRO:

13 Q. Uh-huh.

14 A. Yes.

15 Q. Do you have any reason to doubt that a copy  
16 of the polygraph of John Murray was sent to the  
17 State's Attorney's Office in the Lockmiller case?

18 A. I'm not sure -- would you repeat the  
19 question?

20 Q. Sure. If -- if I'm understanding your  
21 testimony about the ordinary process for outside  
22 reports, it's that a copy would be sent directly from  
23 the outside person to the State's Attorney's Office.

24 And the question that I'm asking is whether

44

1 you have any reason to doubt that a copy of the  
2 polygraph report regarding John Murray was -- was  
3 sent to the State's Attorney's Office in the  
4 Lockmiller case?

5 MS. BARTON: Objection, form and foundation.

6 THE WITNESS: I understood the process was  
7 the same.

8 BY MR. SHAPIRO:

9 Q. Uh-huh. When you handed a copy of the  
10 Murray polygraph report to Daniels, what -- what  
11 happened next?

12 A. He went about his business; I went about  
13 mine.

14 Q. Okay. So -- so you had no further --  
15 Daniels didn't mention anything to you at that time?

16 A. No.

17 Q. Okay. Did you have any further discussion  
18 with him about the report?

19 A. No.

20 Q. Did you have any further discussion with  
21 other investigators in the Lockmiller homicide  
22 investigation about the report?

23 A. No.

24 Q. When you received reports from outside

45

1 experts, did you typically place copies in the  
2 central file?

3 MS. BARTON: Objection to form.

4 THE WITNESS: I would turn the reports in to  
5 my supervisor.

6 BY MR. SHAPIRO:

7 Q. Okay. Was -- was -- was Tony Daniels your  
8 supervisor in the Lockmiller --

9 A. No, Frank Zayas was the supervisor.

10 Q. Okay. Did you give a report -- did you give  
11 a copy of the polygraph report to Zayas -- I'm sorry.

12 Did you give a copy of the John Murray  
13 polygraph report to Zayas?

14 A. No, I gave it to Tony Daniels.

15 Q. Why didn't you also give a copy to  
16 Frank Zayas?

17 A. Tony needed the information. I handed it to  
18 Tony. I assumed he would.

19 Q. But typically you would -- you would give a  
20 copy of a report from an outside expert to the lead  
21 investigator, right?

22 A. I suppose I would. I -- unless there is  
23 something else that made sense to do with it, yeah.

24 Q. But you didn't do that in this case?

46

1 A. I handed it to Tony Daniels.

2 Q. Let's just back up for -- for a moment,  
3 and -- and let me ask you how you first became  
4 involved in the Lockmiller homicide investigation?

5 A. I was on call that weekend. My pager went  
6 off. By the time I got there, Tony Daniels was  
7 already there.

8 Q. And by -- and by there, you mean the --

9 A. Lockmiller's --

10 Q. -- scene of the crime?

11 A. -- address, yes.

12 Q. And what -- what was your role at the crime  
13 scene?

14 A. I -- well, the State Police crime lab was  
15 called in. I assisted them with whatever they needed  
16 help with. I would interview people as needed.

17 Q. Were you -- were you called to the crime  
18 scene in part because you were the evidence  
19 custodian?

20 A. I was on call that weekend, so I supposedly  
21 got the call first. But I didn't answer my pager  
22 right away, so they started calling other people.

23 Q. And -- and -- and -- and what do you mean  
24 when you say you were on call?

47

1 A. I was the detective on call for that  
2 weekend.

3 Q. Okay. So -- so -- so every weekend -- every  
4 weekend there's a particular detective who will get  
5 called in the event of something urgent?

6 A. Yes.

7 Q. Okay. And what do you remember doing when  
8 you arrived at the -- at the crime scene?

9 A. I remember meeting with Detective Daniels.  
10 He explained what was going on. I went into the  
11 apartment with the crime lab people from the State.  
12 I remember trying to figure out the time of death.  
13 Called her -- one of her instructors to see if she  
14 was in class. I interviewed the girl that found her,  
15 Morgan. As far as time frame right -- that's about  
16 all I recall of the immediate day.

17 Q. So all of this was -- was on August 28,  
18 right?

19 A. As far as I can recall, yes.

20 Q. Uh-huh. What do you recall about the scene  
21 of the crime itself?

22 A. Lockmiller was in a bedroom on her back.  
23 She had scissors in her chest. She was dark colored.  
24 I remember a cord around her neck.

48

1           The apartment itself was not -- didn't look  
2 like it was ransacked or anything like that. The  
3 report that the door was open. I didn't see any  
4 forced entry.

5           Q. Are these -- as you're recounting these  
6 memories, are -- are -- is this based on your  
7 independent recollection or partly based on a  
8 reconstruction of things that you've read more  
9 recently?

10          A. That's my memory of the event.

11          Q. Okay. Do you remember that there was a --  
12 a -- a fan on top of the body?

13          A. That's -- I believe that's what the cord was  
14 to.

15          Q. Okay. Do you remember that the victim had  
16 been stabbed?

17          A. Yeah, with scissors in her chest.

18          Q. And what did it -- what did it smell like at  
19 the scene of the crime?

20          A. I don't remember an odor.

21          Q. Do you remember the body being in a  
22 partially decomposed state?

23          A. It was bloated and discolored, yes.

24          Q. Do you remember anything that was -- was

49

1 said by any of the other investigators at the scene  
2 of the crime?

3 A. Particular conversations, no.

4 Q. Did you see anything at the scene of the  
5 crime that indicated to you that a staged rape was  
6 involved?

7 A. I don't -- don't recall that that was  
8 discussed.

9 Q. Okay. So that wasn't -- that wasn't  
10 something the investigators discussed, in your  
11 memory?

12 MS. BARTON: Objection to form.

13 THE WITNESS: No.

14 BY MR. SHAPIRO:

15 Q. And -- and -- and as part of your role as  
16 the evidence custodian, did you have training and  
17 expertise in inspecting physical evidence at crime  
18 scenes?

19 A. Yes.

20 Q. And was -- was -- was part of that  
21 expertise, you know, the -- the ability and training  
22 to make deductions about the nature of the crime  
23 based on the physical evidence at the crime scene?

24 A. Yes.

50

1 Q. And as you recall the layout of the  
2 apartment, the position of the body, do you recall  
3 anything that indicated to you that there was a  
4 staged rape?

5 A. I don't recall a discussion about a staged  
6 rape.

7 Q. Okay. No. And I understand it wasn't --  
8 wasn't discussed, but -- but I'm asking you as -- as  
9 someone who, you know, has -- has -- has -- has --  
10 has training and expertise regarding crime scenes.  
11 For you personally, was there anything that suggested  
12 a staged rape?

13 MR. DiCIANNI: You're talking about based on  
14 his observations?

15 MR. SHAPIRO: Yeah, right.

16 BY MR. SHAPIRO:

17 Q. Based on your observations, but obviously  
18 also based on your training, your expertise --

19 MR. DiCIANNI: Yeah.

20 BY MR. SHAPIRO:

21 Q. -- was there anything that indicated a  
22 staged rape --

23 A. I did not --

24 Q. -- to you?

51

1 A. I did not draw a conclusion. It was  
2 premature to do so.

3 Q. Uh-huh. As the investigation progressed,  
4 did you continue to receive and review physical  
5 evidence?

6 A. State Police collected the physical  
7 evidence. I assisted if they need help. I did not  
8 see a lot of the evidence. Some of it went to the  
9 crime lab. What I received was packaged.

10 Q. Uh-huh.

11 A. So, no, I did not look through all the  
12 evidence.

13 Q. Uh-huh. And with -- with the understanding  
14 that you didn't look through all the evidence, is  
15 it -- is it fair to say of what you did see and  
16 observe, there was nothing that indicated a staged  
17 rape to you at any point in the investigation?

18 A. I did not come to that conclusion, no.

19 Q. Okay. And -- and you mentioned that you  
20 also interviewed Morgan -- Morgan Keefe on August 28?

21 A. I did.

22 Q. Okay. And do you have an independent  
23 recollection of -- of that interview?

24 A. Not what was said, no. I'd have to refer to  
52

1 the statement.

2 Q. Uh-huh. Do you recall her -- her demeanor,  
3 what she looked like, anything like that?

4 A. She was visibly upset. I remember that.

5 Q. Uh-huh. And -- and you don't recall  
6 anything at all about what she said?

7 A. No, not without looking at the transcript.

8 Q. Uh-huh. Okay. So -- so if I'm  
9 understanding you properly, what you recall doing on  
10 August 28 is -- is -- is arriving at the crime scene,  
11 meeting with other investigators, including  
12 Tony Daniels, inspecting the crime scene, and  
13 interviewing Miss -- Miss Keefe; is that a fair  
14 summary?

15 A. That's what I recall, yes.

16 Q. Okay. Do you recall doing anything the  
17 following day?

18 A. I don't have a recollection of the following  
19 day. I'm sure I did something. I don't know what it  
20 was.

21 Q. Just consulting my -- my notes on this  
22 point, I believe on the following day you were at the  
23 morgue with Dr. Schnittker and the medical assistant,  
24 Bill Belcher. Does that ring a bell for you?

53

1 A. Yes, I recall going to the autopsy.

2 Q. Uh-huh. What -- what -- what do you recall  
3 about the autopsy?

4 A. I remember taking the cord off her neck and  
5 keeping all the pieces the same so it wouldn't be --  
6 wouldn't lose the knot and things like that. I  
7 remember them taking the scissors out of her chest.  
8 They swabbed her vaginal area. They checked  
9 underneath her fingers, her fingernails. That's  
10 about all I recall of that. I believe I took  
11 pictures.

12 Q. Do you recall any -- any discussion among  
13 Dr. Schnittker or the medical assistant, Bill  
14 Belcher, or anyone else who was present at the  
15 autopsy about whether there was anything indicating  
16 a staged rape?

17 A. I don't recall a conversation about a staged  
18 rape.

19 Q. Okay. Do you recall anything -- oh, do you  
20 recall going back to the scene of the crime that same  
21 day, August 29?

22 A. I went back several times. I don't remember  
23 the dates.

24 Q. When -- when -- when you -- when you went

54

1 back to the scene of the crime on various occasions,  
2 who were some of the people who went with you?

3 A. I don't remember. It could have been  
4 several different people.

5 Q. Well, who -- who -- who could it have been?  
6 I mean --

7 A. It could have been Rob Hospelhorn, it could  
8 have been Tony Daniels, it could have been  
9 Tim Freesmeyer; so others that were helping.

10 Q. What about representatives from the State's  
11 Attorney's Office?

12 MS. BARTON: Objection to speculation.

13 THE WITNESS: I don't remember.

14 BY MR. SHAPIRO:

15 Q. Do you recall that there was a State's  
16 Attorney's Office -- Assistant State's Attorney for a  
17 time named Kari Mason?

18 A. Yes.

19 Q. Okay. It always seemed like a memorable  
20 name to me because of Perry Mason.

21 Do you have -- have any recollection of --  
22 of -- of being at the scene of the crime at any point  
23 with Ms. Mason?

24 A. I do not.

55

1 Q. What about Jim Souk?

2 A. I don't remember.

3 Q. What about Teri Dimmick?

4 A. I don't recall.

5 Q. Would it be -- well, let me -- let me ask  
6 you this: When you've been present at other crime  
7 scenes, is it typical in your experience for people  
8 from the State's Attorney's Office to -- to visit the  
9 crime scene early on in the investigation?

10 MS. BARTON: Objection to foundation.

11 THE WITNESS: Is it typical? No.

12 BY MR. SHAPIRO:

13 Q. Okay. And there have been -- is it fair to  
14 say that there -- there have been a number of  
15 instances throughout your career when you've been  
16 present at a crime scene soon after the investigation  
17 begins?

18 A. Yes.

19 Q. Okay. And it's fair to say that it's -- in  
20 the first week of the investigation, it's not typical  
21 in your experience for someone from the State's  
22 Attorney's Office to be present?

23 A. Not typical, no.

24 MR. DiCIANNI: At the crime scene?

56

1 MR. SHAPIRO: Yes, at the crime scene.

2 BY MR. SHAPIRO:

3 Q. Okay. And -- and -- and you don't have any  
4 recollection of being present at the crime scene on  
5 September 2, 1993 with Timothy Freesmeyer and  
6 Kari Mason?

7 A. I don't recall.

8 Q. Okay. If -- if -- if it were in  
9 Detective Freesmeyer's report in this case that on  
10 September 2, 1993, Freesmeyer and Mason were present  
11 at the crime scene, would you have any reason to  
12 doubt that?

13 A. I do not.

14 MR. SHAPIRO: Okay. I think we've been on  
15 the record for about an hour. Is it a good -- would  
16 you guys like to break at this time?

17 MR. DiCIANNI: Sure.

18 MR. SHAPIRO: We'll take a ten-minute break.

19 THE VIDEOGRAPHER: Off the record at 11:11.

20 (Whereupon, a break was taken,  
21 after which the following  
22 proceedings were had:)

23 THE VIDEOGRAPHER: Back on the record, 11:22.

24

57

1 BY MR. SHAPIRO:

2 Q. Lieutenant Warner, before the break, we were  
3 talking about some of the steps in the investigation,  
4 visiting the crime scene, et cetera.

5 And I believe you testified earlier on  
6 that -- that you don't have recollection of  
7 interviewing Heidi Steinman on September 2; is  
8 that -- is that right?

9 A. I do not.

10 Q. Okay. Do you have any recollection of --  
11 of -- of victimology being performed at any point?

12 A. I believe we asked for State Police -- I  
13 forget their title -- to come in and give us an  
14 overview of the crime scene.

15 Q. And -- and -- and when did that occur  
16 roughly?

17 A. I don't recall the date. It would have  
18 been -- well, I'm guessing. I don't recall the date.

19 Q. Okay. Early October sound reasonable or --

20 A. I don't recall the date.

21 Q. Okay. Do you remember who -- who -- who was  
22 there?

23 A. Other than the trooper, I don't.

24 Q. Uh-huh. It was -- it was -- it was a

58

1 state -- it was a state trooper who was -- who was  
2 there?

3 A. It was an employee of the State Police. I  
4 don't recall if they were actually sworn or not.

5 Q. Uh-huh. Was this someone with any  
6 particular expertise or specialization?

7 A. I can't remember the term they used right  
8 now. It's -- they -- they take all the pieces of the  
9 crime scene and say, you know, whether or not it was  
10 probably someone that knew her that did it or  
11 something like that.

12 Q. Is profiler the --

13 A. Profiler. Thank you.

14 Q. Okay.

15 A. Crime scene profiler.

16 Q. Uh-huh. What -- what did the profiler  
17 report?

18 A. My recollection is that it was someone that  
19 knew her. The body was positioned in way to shock  
20 whoever found her. Beyond that, I don't recall.

21 Q. What indicated to the -- to the profiler  
22 that it was someone who -- who knew the victim?

23 MR. DiCIANNI: I'll object to the form -- of  
24 the lack of foundation.

59

1 THE WITNESS: I don't know.

2 BY MR. SHAPIRO:

3 Q. And -- and -- and were you suggesting sort  
4 of a connection between a conclusion that the --  
5 strike that.

6 As I understand it -- understood it, you  
7 were saying that there were two conclusions from the  
8 state trooper. One was that the victim was known to  
9 the perpetrator, and the second that the perpetrator  
10 was attempting to arrange the body in a way that  
11 would shock the person who discovered the victim; is  
12 that right?

13 A. That's my recollection.

14 Q. Okay. And was it -- was it -- was it your  
15 understanding that the purported desire to arrange  
16 the victim in a -- in a shocking way somehow  
17 suggested that the victim was known to the  
18 perpetrator?

19 A. I don't know the science behind her  
20 profession, so I don't know.

21 Q. Okay. Did -- did -- did the state trooper  
22 provide any sort of written report or analysis, to  
23 your knowledge?

24 A. I don't know.

60

1 Q. Have -- if -- if -- if there had been some  
2 sort of written analysis provided, would that have  
3 been placed in the -- the central file of the  
4 homicide investigation?

5 A. If there had been, I would assume there  
6 would have.

7 Q. Uh-huh. It would have been good police  
8 practice to put it in there, right?

9 A. Yes.

10 Q. Okay. And you don't have any knowledge of  
11 what informed the profiler's conclusions, correct?

12 A. What the what informed?

13 Q. I'm sorry.

14 You don't have any knowledge of what it was  
15 that led the state trooper to reach the two  
16 conclusions we've been discussing, right?

17 A. No.

18 Q. Was there anything that to you personally  
19 suggested that the victim and the perpetrator knew  
20 each other?

21 A. Repeat the question, please.

22 Q. Uh-huh. And -- and -- and maybe just to  
23 clarify a little bit. You know, we've -- we've --  
24 we've been talking about what the state trooper

61

1 concluded, and now I'm just asking about whether --  
2 whether you drew any conclusions.

3 Was -- was there anything that indicated to  
4 you that the victim and the perpetrator knew each  
5 other?

6 A. I did not come to any conclusion either way.

7 Q. Uh-huh. Can -- can you -- can you recall  
8 any other cases where a -- well, strike that.

9 Do you have any recollection of a meeting in  
10 early December among investigators in this case?

11 MS. BARTON: Objection to form.

12 THE WITNESS: Which year?

13 BY MR. SHAPIRO:

14 Q. I'm sorry. I'm glad you -- I'm glad you  
15 asked that. I thought it was '93, but looking at my  
16 notes -- December of '94.

17 Do you have any recollection of December  
18 1994 meeting among the investigators in this case?

19 A. I do --

20 MS. BARTON: Same objection.

21 THE WITNESS: -- do not.

22 BY MR. SHAPIRO:

23 Q. Or -- or -- or one in which counsel for the  
24 defendant as well as the representatives from the

62

1 State's Attorney's Office were present?

2 A. I do not.

3 Q. Maybe a meeting to review the evidence in  
4 the case, for example, for -- for -- for lawyers on  
5 both sides?

6 A. There were several meetings. I don't  
7 remember the dates of them.

8 Q. Okay. So -- so you recall several meetings  
9 you had with both defendant's lawyers and the -- and  
10 the -- and the prosecution present?

11 A. Yes.

12 Q. Okay. What -- what -- what do you recall  
13 about those meetings?

14 A. Ones I was involved in was they wanted to  
15 see the evidence. So I brought all the evidence out,  
16 put it on the table, and they both looked at it.

17 Q. Do you recall anything that was -- was  
18 discussed at those meetings?

19 A. I wasn't involved in the discussion.

20 Q. Uh-huh. You were solely there to -- as in  
21 your role as the custodian of the evidence?

22 A. Yes.

23 Q. Okay. Do you recall the day -- I'm not  
24 asking for a particular date. I'm just asking if you

63

1 recall it happening.

2 Do you remember the day when Mr. Beaman was  
3 arrested?

4 A. Yes.

5 Q. Okay. What do you -- do you remember about  
6 the circumstances of the arrest?

7 A. I think I assisted Freesmeyer. We went and  
8 got him. I don't remember a lot about that day.

9 Q. How -- how -- how did you assist Freesmeyer?

10 A. Being there, backup.

11 Q. Uh-huh. Were -- were you back in a car or  
12 truck or were you side-by-side with Detective  
13 Freesmeyer when the arrest occurred?

14 A. I don't have a recollection. I don't know.

15 Q. Do you have any understanding of why  
16 Mr. Beaman was arrested at that time as opposed to  
17 another time?

18 A. No.

19 Q. You don't -- don't recall any discussion of  
20 there being a need to arrest Mr. Beaman at that  
21 particular time because the semester was ending?

22 A. I do.

23 Q. Okay. Well -- all right. I'm glad I jogged  
24 your memory.

64

1 A. Yes.

2 Q. What -- what-- what exactly do you remember?

3 A. That the semester was coming to an end, and  
4 they thought they needed to do it now -- or then. I  
5 remember that. I don't remember any other details to  
6 the conversation.

7 Q. Why did the end of the semester suggest that  
8 he needed to be arrested then?

9 A. I don't know all of the facts for -- they  
10 based the arrest on. That was not my position.

11 One would have been we knew where he was at  
12 that time, and after graduation we may not know where  
13 he is after that.

14 Q. Uh-huh. So it was your understanding that  
15 he was -- he was graduating as opposed to going home  
16 for the summer?

17 A. I don't recall if he was graduating or not.  
18 I don't know.

19 Q. Okay. Beyond the fact that he was not going  
20 to be in Normal for a period of time, do you recall  
21 any reason to believe that Mr. Beaman would -- would  
22 flee?

23 A. I don't recall any conversation about that.

24 Q. Uh-huh. And -- and aside from a con --

65

1 something you might have heard from someone else in a  
2 conversation, do you ever any recollection of why --  
3 of any reason -- let me try that again.

4 Do you -- do you personally -- strike that.

5 Did you personally have any reason to think  
6 that he would flee?

7 A. No.

8 Q. Is it fair to say -- and just correct me if  
9 this is not an accurate characterization -- that you  
10 were heavily involved in the case in the early stages  
11 and then it tapered off to some extent?

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

13 Q. Okay. Was -- was there a period of time  
14 when you were working pretty much full-time on this  
15 case?

16 A. Early on, the first few days.

17 Q. The first -- okay.

18 And on the first few days, was it sort of a  
19 all-hands-on-deck type of situation?

20 A. Yes.

21 Q. Okay. And was -- was -- was pretty much --  
22 strike that.

23 As far as you know, was every detective in  
24 the Normal Police Department working on the case in

66

1 the early stages?

2 A. If not all, most were.

3 Q. Okay. Can you recall any -- any other case  
4 where all or most of the detectives were working on  
5 that case in the early stages of the investigation?

6 A. Any other?

7 Q. Other cases?

8 A. It happens often.

9 Q. It happens often. Okay.

10 What are some other cases where that --  
11 where that --

12 A. Any homicide or questionable death that --  
13 we're not a large agency, and we don't have that many  
14 detectives, so it's not unusual for a case to start  
15 off with everybody.

16 Q. Uh-huh.

17 A. And then taper down or call more people --  
18 we often have other agencies help us.

19 Q. Uh-huh. How would you say this -- this  
20 homicide case compared to other homicide cases in  
21 terms of the level of staffing?

22 A. Typical.

23 Q. Okay. Okay. So at the beginning of the  
24 case, there were a number of people working almost

67

1 full-time, yourself included, right?

2 A. Yes.

3 Q. Okay. And you said that after that, some  
4 began to taper off?

5 A. Yes.

6 Q. Okay. Who -- who -- who -- who -- who was  
7 involved initially in the case that you can remember?

8 A. Myself, Tony Daniels, Tim Freesmeyer,  
9 Rob Hospelhorn, John Belcher. Those were the ones I  
10 recall. There could have been more. There may have  
11 been some officers that were brought in.

12 Q. And Zayas, right?

13 A. I'm sorry. Yes, Lieutenant Zayas was in  
14 charge of CID.

15 Q. And -- and -- and CID is the detective  
16 division?

17 A. Criminal investigation division, detectives.

18 Q. Okay. So the other officers you mentioned  
19 but can recall by name, safe to say they -- they kind  
20 of tapered off, right?

21 A. Yes.

22 Q. And what about Belcher?

23 A. I don't think he had a lot of involvement.  
24 I don't recall.

68

1 Q. And fair to say Daniels tapered off after  
2 the first couple of months?

3 A. Yes.

4 Q. And -- and as -- as -- as Daniels tapered  
5 off, Freesmeyer took a broader and broader role in  
6 the investigation?

7 A. Yes.

8 Q. And you mentioned yourself, and -- and you  
9 had put yourself in the category of people whose  
10 involvement tapered off, right?

11 A. Yes.

12 Q. Okay. And let's sort of work through --  
13 through -- through your involvement. It -- what  
14 period were you working almost full-time on the case?

15 A. I couldn't speculate. I don't remember.

16 Q. Okay. A few days to a week, is that --  
17 ballpark; is that right?

18 A. I'd probably say a few weeks.

19 Q. Few weeks, okay.

20 And then after the few weeks, the tapering  
21 process began?

22 A. Yes.

23 Q. And from the end of the first few weeks to  
24 the conclusion of the investigation, was your level

69

1 of involvement fairly similar throughout that time or  
2 did it go up and down throughout?

3 A. It did not go up. If anything, it went  
4 down.

5 Q. Okay. Rough -- and after -- after the first  
6 few weeks, roughly what percentage of your time would  
7 you say you were devoting to the case?

8 A. It's difficult to speculate it. It depend  
9 on the day. There might be a day when I worked on  
10 the case all day, and it might not be for a week or  
11 two later that I did anything on it.

12 Q. Okay. Yeah, that helps clarify. Yep.  
13 Thank you.

14 I think we talked about the -- some of the  
15 interviews that you conducted in this case. Do you  
16 recall any interviews that you were present for but  
17 did not personally conduct?

18 A. No.

19 Q. Okay. You don't remember an interview with  
20 Michael Swain?

21 A. Vaguely.

22 Q. Okay. That was an interview that was  
23 conducted soon after the body was found?

24 A. Probably.

70

1 MR. DiCIANNI: Yeah, I'm going to object to  
2 speculation.

3 BY MR. SHAPIRO:

4 Q. Was that -- was that interview conducted by  
5 Detective Freesmeyer with you present?

6 MR. DiCIANNI: Same objection.

7 THE WITNESS: I don't remember.

8 BY MR. SHAPIRO:

9 Q. Okay. You say that you have a vague  
10 recollection of it. What -- do you remember anything  
11 about it?

12 A. I remember that it happened. I don't  
13 remember the particulars without looking at the  
14 statement.

15 Q. You mentioned earlier that you recall  
16 Morgan Keefe's distraught demeanor. Do you remember  
17 anything about Mr. Swain's demeanor?

18 A. I do not.

19 Q. Okay. Did you personally write any reports  
20 in this case?

21 MR. DiCIANNI: Object, asked and answered.

22 You can go ahead and answer.

23 BY MR. SHAPIRO:

24 Q. I apologize if I asked that already. I'm

71

1 not -- I'm not trying to belabor it. I just don't  
2 remember asking you.

3 A. I don't recall if I did.

4 Q. Okay. If you had written reports, what --  
5 well, let me -- let me -- let me ask it a different  
6 way.

7 There's been testimony in this case that  
8 when reports were filled out, they were filled out in  
9 triplicate typically? Is that consistent with your  
10 recollection?

11 A. Yes.

12 Q. Okay. And was it like a carbon copy type of  
13 system or how did it work?

14 A. Well, there was two options. One was a  
15 multipart form that you handwrote or put in a  
16 typewriter back then. We -- some people were using a  
17 mainframe computer which is basically a word  
18 processor, and there was a template so you'd have to  
19 print out more copies.

20 Q. Okay. So I take it that the handwritten or  
21 typewritten form, that was a carbon copy system?

22 A. Yes.

23 Q. Okay. And -- and the idea of printing out  
24 multiple copies if you did it on a computer was

72

1 essentially to replicate that carbon copy system?

2 A. Yes.

3 Q. Okay. What was the purpose of the multiple  
4 copies?

5 A. I don't remember what it said on the forms  
6 where they went. One went to records. One -- I  
7 don't remember. They went to different locations.

8 Q. Uh-huh. Did -- did -- did one -- did one go  
9 to the State's Attorney's Office?

10 MS. BARTON: Objection to form.

11 THE WITNESS: I don't remember.

12 BY MR. SHAPIRO:

13 Q. Okay. What's your understanding of the  
14 process through which -- well, you know, let's --  
15 let's -- let's back up.

16 Since you -- since you mentioned central  
17 records, I want to try to understand the  
18 recordkeeping and filing system.

19 What sort of documents go into central  
20 records?

21 A. Anything that would go in the case file  
22 other than physical evidence.

23 Q. Okay. Is there a -- is there a difference  
24 between central records and the case file or?

73

1 A. I wouldn't say -- well, records would be a  
2 location in the building, the records office.

3 Q. Uh-huh.

4 A. The case file would, I guess, be the box or  
5 whatever the papers ended up being in.

6 Q. Okay. So just to make sure I'm  
7 understanding, when you say one of the copies of the  
8 police report would go to the central records, that  
9 means it would go into the case file --

10 A. They would put it into the case file.

11 Q. Okay. So the police officer would hand that  
12 copy to central records; central records would put it  
13 into the case file?

14 A. Goes to the supervisor first.

15 Q. Okay.

16 A. Then from the supervisor's approval, goes  
17 into records, records would file it into the case  
18 file.

19 Q. Okay. So the copy that goes to central  
20 records and the case file is the same copy that goes  
21 to the supervisor?

22 A. The multipart form would go to the  
23 supervisor. They would turn it into records, then it  
24 would be separated.

74

1 Q. Okay. So -- so -- so records would get the  
2 three copies, correct?

3 A. I don't remember how many copies there were  
4 on the --

5 Q. Okay. Records would get all the copies?

6 A. Yes.

7 Q. Okay. And records would then put one copy  
8 into the case file?

9 A. Yes.

10 Q. And -- okay. Understood.

11 Okay. And you said that anything other than  
12 physical evidence is supposed to go to central  
13 records, correct?

14 A. Correct.

15 Q. Okay. And so we already discussed the  
16 police reports and reports from outside experts like  
17 we were talking about earlier, polygraph reports,  
18 fingerprinting reports. That would all -- copies of  
19 that would also go to central records?

20 A. It should all end up in central.

21 Q. Uh-huh. Okay. At the time of the  
22 Lockmiller investigation, was it common for  
23 individual detectives working on a case to also keep  
24 a working file?

75

1 A. Yeah.

2 Q. Uh-huh. Were there any documents that were  
3 distributed to all or most of the detectives working  
4 on a case for their working files?

5 A. I don't recall any.

6 Q. What -- what -- what sort of the documents  
7 would -- would commonly go into those -- those  
8 working files?

9 A. On any case?

10 Q. Sure, yeah, let's talk about any case just  
11 in general.

12 A. Could be the investigators' notes, what  
13 supplements they typed, the original report.

14 Q. Copies of other reports in the case?

15 A. Possible.

16 Q. And in the Lockmiller case specifically,  
17 did -- did -- did you keep any kind of working file?

18 A. No.

19 Q. Do you know if others did?

20 A. I have no personal knowledge of that.

21 Q. With -- with a number of different  
22 investigators working on the case, was it a challenge  
23 to sort of make sure that the left hand knew what the  
24 right hand was doing; in other words, that everyone

76

1 was kept in the loop?

2 A. Yes.

3 MR. DiCIANNI: Object to form.

4 BY MR. SHAPIRO:

5 Q. And what was done to meet that challenge and  
6 to make sure that -- that investigators were informed  
7 about others were doing?

8 MS. BARTON: Objection to form.

9 THE WITNESS: I don't know what the other  
10 investigators knew.

11 BY MR. SHAPIRO:

12 Q. I guess I'm asking you sort of more -- more  
13 about processes. I mean, you'd agree it's a good  
14 police practice for a group of investigators working  
15 on a case to -- to stay informed about what others  
16 are doing, right?

17 MS. BARTON: Objection to form.

18 THE WITNESS: It's a good practice, yes.

19 BY MR. SHAPIRO:

20 Q. Uh-huh. And were -- in your view, were --  
21 were -- were good practices followed in the  
22 Lockmiller case?

23 A. Yes.

24 Q. So what processes were followed to make sure

77

1 that people were kept in the loop?

2 A. We had meetings. I don't recall the dates  
3 or times or who was there.

4 Q. The purpose of the meetings was to share  
5 information?

6 A. Share information, assignments, who's doing  
7 what, who's already talked to who.

8 Q. And would you agree with me that it would be  
9 a good police practice to share important information  
10 about the case in those meetings with the  
11 investigators?

12 MS. BARTON: Objection to form.

13 THE WITNESS: It would be a good practice.

14 BY MR. SHAPIRO:

15 Q. In the Lockmiller case during those meetings  
16 with investigators, was the important information  
17 about the case shared?

18 MS. BARTON: Objection to form.

19 THE WITNESS: I don't know all of the  
20 important information. I don't know what you would  
21 consider important.

22 BY MR. SHAPIRO:

23 Q. No. Fair enough.

24 And -- and -- and I'm not asking you to

78

1 guess as to what I consider important, but it's a  
2 fair statement that, you know, given your decades of  
3 experience as a police officer you -- you have a  
4 sense of what information in the case is important  
5 and what's more tangential, right?

6 A. Yes.

7 Q. Okay. So in the Lockmiller case, do you  
8 think that the important information regarding the  
9 case unearthed by investigators was shared during the  
10 investigative meetings?

11 MS. BARTON: Same objection.

12 THE WITNESS: The early meetings I went to,  
13 yes.

14 BY MR. SHAPIRO:

15 Q. When did you -- when did you stop going to  
16 meetings?

17 A. When my involvement slowed. It was not  
18 necessary for me to go.

19 Q. Okay. So that would have been after the  
20 first couple of weeks that you stopped attending the  
21 meetings?

22 A. Yes.

23 Q. Was anyone from the State's Attorney's  
24 Office present at any of those meetings?

79

1 MR. DiCIANNI: Which meetings?

2 BY MR. SHAPIRO:

3 Q. The meetings that you attended toward the  
4 beginning of the case.

5 A. I don't recall.

6 Q. Was it -- was it typical for State's  
7 Attorneys to -- to be present at investigative  
8 meetings during the first few weeks of the case?

9 MS. BARTON: Objection to form and  
10 foundation.

11 THE WITNESS: It was not typical.

12 BY MR. SHAPIRO:

13 Q. And you've been involved in many cases over  
14 the years in which investigative meetings were held,  
15 right?

16 A. Yes.

17 Q. Okay. So when you say that it is not  
18 typical for the State's Attorneys to be present  
19 during the first couple of weeks of the  
20 investigation, you're -- that means in comparison to  
21 the other cases you've worked on, right?

22 A. Correct.

23 Q. Okay. Do you recall an investigators  
24 meeting held on August 29, the day after the body was

80

1 discovered?

2 MS. BARTON: Objection to form.

3 BY MR. SHAPIRO:

4 Q. It would have been a Sunday.

5 A. I don't recall the meeting. I don't recall.

6 Q. Okay. So you don't know if you were present  
7 or not present at that meeting?

8 A. For a fact, no. I would probably say I was.

9 MR. DiCIANNI: You don't remember?

10 THE WITNESS: I don't remember.

11 BY MR. SHAPIRO:

12 Q. Now, I understand from one of  
13 Detective Freesmeyer's police reports in this case  
14 that Mr. Souk was -- was present at a meeting held on  
15 August 29. I take it you don't have any independent  
16 recollection?

17 A. I do not.

18 Q. Okay. But throughout the course of your  
19 years as a police officer, I -- I take it you've been  
20 present at a number of meetings held after the day a  
21 crime has been discovered, right?

22 A. Yes.

23 Q. Okay. Can you recall in any other case a  
24 meeting held on the day after a crime was discovered

81

1 at which a State's Attorneys -- a State's Attorney  
2 was present?

3 A. I do not.

4 Q. That would be out of the ordinary, right?

5 A. Yes.

6 Q. Do you recall any discussion of John Murray  
7 during any of the meetings you were present at?

8 A. I do not.

9 Q. Okay. Do you recall having any recollection  
10 of the name John Murray coming up in connection with  
11 the Lockmiller case?

12 A. I do.

13 Q. Okay. And what -- and what's that  
14 recollection?

15 A. Person of interest that Detective Daniels  
16 was working on.

17 Q. Why was he a person of interest?

18 A. Acquaintance or some relation to the victim.  
19 I don't remember.

20 Q. Was he a suspect?

21 MR. DiCIANNI: I'll object to a lack of  
22 foundation.

23 THE WITNESS: It was person of interest. I  
24 mean ...

82

1 BY MR. SHAPIRO:

2 Q. Okay. What -- what's the difference between  
3 a person of interest and a suspect?

4 A. I don't use the term suspect a lot. Someone  
5 you need to talk to and figure out if they had any  
6 involvement.

7 Q. Uh-huh. So -- so is it fair to say that --  
8 that when you use the term person of interest,  
9 that's -- it's referring to the same thing that  
10 others might call a suspect?

11 MR. DiCIANNI: Objection; lack of foundation,  
12 form of the question.

13 THE WITNESS: It could.

14 BY MR. SHAPIRO:

15 Q. Where was Tim Freesmeyer's office located  
16 during the Lockmiller case?

17 A. It would have been north of the criminal  
18 investigation division in the same building, office  
19 just north of it.

20 Q. And what -- same floor?

21 A. Yes.

22 Q. How many -- how many people were on that  
23 floor approximately at the time?

24 A. Were on the floor?

83

1 Q. Uh-huh.

2 A. Assigned to a desk? What do you mean on the  
3 floor? Walking around?

4 Q. I'm sorry. How many people worked on that  
5 floor approximately at the time?

6 A. It was a patrol floor, so whoever was on  
7 patrol, records division, there is three in there.  
8 Criminal investigation division, at the time I'm  
9 going to say six or so plus Tim. The exact number, I  
10 don't -- it depends on the day and who was there.

11 Q. Okay. But I think you said -- said three  
12 plus six -- and, I mean, I'm not trying to put words  
13 in your mouth. I realize these are approximate  
14 numbers. But I believe you said three plus six in  
15 the criminal investigations division plus Freesmeyer.  
16 So about ten people worked on that floor?

17 A. The patrol officers and that could be  
18 anywhere from five to ten officers per shift.

19 Q. And the patrol officers would sort of be in  
20 and out during their shift?

21 A. Yes, there would be -- patrol supervisors  
22 would be at a desk.

23 Q. Okay. And -- and -- and how many patrol  
24 supervisors approximately?

84

1 A. One or two a shift probably.

2 Q. Okay. So -- so -- so what I'm hearing  
3 and -- and -- and just tell me if I'm wrong or I'm  
4 missing anything, is that there were about  
5 approximately a dozen people working and then five to  
6 ten sort of in and out on that floor?

7 A. That's a fair statement.

8 Q. Okay. How -- how far was Freesmeyer's  
9 office from the rest of the detectives and CID?

10 A. There was one room in between.

11 Q. There's one room in between.

12 Do you have any reason to think that  
13 Freesmeyer being separated by one room from the rest  
14 of the criminal investigations division interfered in  
15 any way with his ability to remain apprised of  
16 developments in the case?

17 MR. DiCIANNI: Object to lack foundation,  
18 speculation.

19 THE WITNESS: I don't know what Tim knew.

20 BY MR. SHAPIRO:

21 Q. Uh-huh. No, I -- I understand that. I -- I  
22 know you don't know what -- what Tim knew. I'm  
23 asking you can -- you -- you were on the floor,  
24 right? You were in the criminal investigations

85

1 division?

2 A. Yes.

3 Q. Are you aware of any communications problem  
4 that was created by the fact that Freesmeyer was  
5 separated by a single room from the other  
6 investigators?

7 A. I was not personally aware of any issue.

8 Q. Okay. Did you ever hear of Freesmeyer  
9 complain that he wasn't in the loop because of the  
10 location of his office?

11 A. I recall no such conversation.

12 Q. So was -- was -- was -- was Freesmeyer's  
13 office in the juvenile division?

14 A. It was the juvenile division. It was one  
15 office.

16 Q. Okay. And was -- was -- was -- was --  
17 was -- was Freesmeyer basically the totality of the  
18 juvenile division?

19 A. Yes.

20 Q. And the -- he would -- am I right he was --  
21 he was -- he was a detective in the juvenile  
22 division, which is separate from CID, but he was  
23 still a detective; is that -- I don't know -- I don't  
24 know if I'm getting that right.

86

1 A. He was a detective.

2 Q. Uh-huh.

3 A. The juvenile division has a title for a  
4 detective who was mostly assigned juvenile cases.

5 Q. Okay. So at the beginning of the Lockmiller  
6 homicide investigation, most of Freesmeyer's previous  
7 work as a detective was in juvenile cases?

8 A. I don't recall.

9 Q. That's a -- he was -- when did Freesmeyer,  
10 if ever, cease to be in the juvenile division?

11 A. I don't recall.

12 Q. So -- so he may have been in the juvenile  
13 division throughout the entire investigation or  
14 prosecution?

15 A. I don't recall.

16 Q. He had never worked on a murder case prior  
17 to this one to your knowledge, right?

18 A. I don't recall.

19 Q. To your knowledge, he hadn't?

20 A. I don't know.

21 Q. Yeah. Was he young for a detective?

22 A. I don't remember how old he was honestly.

23 Q. Was he younger than the other detectives?

24 MR. DiCIANNI: Well, I -- no, never mind.

87

1 THE WITNESS: Some.

2 BY MR. SHAPIRO:

3 Q. Had he risen up through the ranks fairly --  
4 fairly quickly?

5 A. Quicker than some, yes.

6 Q. And, you know, I understand you don't recall  
7 this; but I -- I believe he was -- was -- was 27 when  
8 became a detective. Is that a young age for someone  
9 to be -- to be working as a detective?

10 A. I'm trying to remember how old I was. It  
11 was probably close to my age.

12 Q. Uh-huh. Is it correct that soon after  
13 Mr. Beaman's arrest, Freesmeyer was promoted to the  
14 head of the detectives division?

15 A. I don't recall the date. It was after. I  
16 don't recall.

17 Q. It was after Beaman's arrest?

18 A. Yeah.

19 Q. Was Freesmeyer perceived as an ambitious  
20 person?

21 MR. DiCIANNI: Object to foundation.

22 THE WITNESS: Perceived by whom?

23 BY MR. SHAPIRO:

24 Q. Well, let me first ask what -- do you

88

1 have -- was -- was he perceived by others --

2 MR. DiCIANNI: Object to foundation.

3 BY MR. SHAPIRO:

4 Q. -- as ambitious?

5 A. I don't know.

6 Q. How did you perceive him?

7 A. Kind of cocky.

8 Q. Why did you think he was cocky?

9 A. Attitudes.

10 Q. Well, what -- what -- what kind of  
11 attitudes?

12 A. I don't have any examples.

13 Q. Was he -- was he disrespectful to people?

14 A. I never witnessed it.

15 Q. Cocky means that he was arrogant?

16 A. Yeah.

17 Q. He had sort of inflated sense of himself?

18 A. Yes.

19 Q. And when he was placed on the Lockmiller --  
20 when he became the lead in the Lockmiller  
21 investigation, do you think that contributed to his  
22 cockiness?

23 MR. DiCIANNI: Objection; speculation, lack  
24 of foundation, assuming a fact that isn't been

89

1 established.

2 THE WITNESS: I don't know.

3 BY MR. SHAPIRO:

4 Q. How did you feel about his becoming the lead  
5 investigator in this case?

6 MR. DiCIANNI: Object to foundation, assuming  
7 a fact not established.

8 BY MR. SHAPIRO:

9 Q. I'm sorry. Lead investigator probably was  
10 not a good phrasing.

11 How did you feel about his assuming primary  
12 responsibility for this case?

13 A. I had no opinion one way or the other.

14 Q. How did you feel about Daniels getting  
15 forced out?

16 A. I had no opinion one way or the other, and I  
17 have no opinion whether he was forced out.

18 Q. Do you think the Lockmiller case had any  
19 role in Freesmeyer's promotion to head of CID?

20 MR. DiCIANNI: Object, speculation.

21 THE WITNESS: I don't know.

22 BY MR. SHAPIRO:

23 Q. What's your impression of -- strike that.

24 Is Timothy Freesmeyer among the best police

90

1 officers you've ever worked with?

2 A. I would not include him in that group, no.

3 Q. Would you -- how would you describe the  
4 level of his police work based on your interactions  
5 with him?

6 A. Adequate.

7 Q. Adequate means kind of minimally competent  
8 but nothing special; is that fair?

9 MR. DiCIANNI: I'll object to that  
10 characterization.

11 THE WITNESS: That's your definition.

12 BY MR. SHAPIRO:

13 Q. Well, I'm asking -- what's your -- what's  
14 your definition?

15 A. Adequate, competent, nothing special.

16 Q. Do you find it surprising that someone  
17 who -- whose work you viewed as nothing special  
18 became the person with primary responsibility for a  
19 major homicide investigation?

20 MR. DiCIANNI: Object; speculation, form of  
21 the question.

22 THE WITNESS: Would you repeat the question,  
23 please?

24

91

1 BY MR. SHAPIRO:

2 Q. Sure. My -- the question is were you  
3 surprised that someone who -- whose work you've  
4 described as nothing special became the person with  
5 primary responsibility for the Lockmiller homicide  
6 investigation?

7 MR. DiCIANNI: And you mean back then?

8 MR. SHAPIRO: Yeah, right, this question is  
9 about back then.

10 THE WITNESS: I was not surprised. I didn't  
11 know everything about Freesmeyer, and perhaps others  
12 had more information than I.

13 BY MR. SHAPIRO:

14 Q. Were there others who were opposed to  
15 Freesmeyer becoming the person with primary  
16 responsibility in this case?

17 MR. DiCIANNI: Object to foundation.

18 BY MR. SHAPIRO:

19 Q. If you know.

20 A. I believe Tony Daniels was not pleased about  
21 it.

22 Q. Anyone other than Daniels?

23 A. I don't recall anyone else.

24 Q. Why do you think Freesmeyer was made the

92

1 person with primary responsibility?

2 MR. DiCIANNI: I'll object; speculation, lack  
3 of foundation.

4 THE WITNESS: I have no idea.

5 BY MR. SHAPIRO:

6 Q. Do you think others would have been more  
7 qualified?

8 A. Not necessarily.

9 Q. Is Freesmeyer someone who knew how to get  
10 ahead?

11 MR. DiCIANNI: Objection; lack of foundation,  
12 vagueness.

13 THE WITNESS: I don't know what he knew.

14 BY MR. SHAPIRO:

15 Q. No, no. I'm not asking what he knew. I'm  
16 asking, you know, did you perceive him as someone who  
17 was good at advancing his career?

18 MR. DiCIANNI: Objection; lack of foundation,  
19 speculation.

20 THE WITNESS: He got promoted, so I guess  
21 yes.

22 BY MR. SHAPIRO:

23 Q. You think it was fair that he was promoted?

24 MR. DiCIANNI: Objection.

93

1 THE WITNESS: I don't know.

2 BY MR. SHAPIRO:

3 Q. Who is a better cop in your estimation,  
4 Freesmeyer or Daniels?

5 A. I don't know.

6 MR. SHAPIRO: It's 12:07. I think I'm at a  
7 decent stopping place if you want to break for lunch.

8 MR. DiCIANNI: Okay.

9 THE VIDEOGRAPHER: Off the record, 12:07.

10 (Whereupon, a break was taken,  
11 after which the following  
12 proceedings were had:)

13 THE VIDEOGRAPHER: Back on the record, 1:08.

14 BY MR. SHAPIRO:

15 Q. Lieutenant Warner, before the break, we had  
16 spoken about Freesmeyer's office in the juvenile  
17 division on the same floor as the CID.

18 A. Yes.

19 Q. And did -- did a time come when Freesmeyer  
20 moved out of that office next to CID and relocated to  
21 the State's Attorney's Office?

22 A. I think that did happen. I don't recall the  
23 date.

24 Q. Uh-huh. Did it happen before or after

94

1 Mr. Beaman was charged in this case?

2 A. I don't recall the date.

3 Q. Do you have any recollection of what time of  
4 year approximately it might have been?

5 A. I do not.

6 Q. Before the break, you also mentioned that it  
7 was atypical for a State's Attorney to be present at  
8 an investigators meeting the day after a crime was  
9 discovered?

10 A. Based on all cases, yes. We don't get very  
11 many homicides.

12 Q. Uh-huh.

13 A. So I could see why they'd want to be.

14 Q. Uh-huh. Have you been at other homicide  
15 cases -- complex cases where the State's Attorney was  
16 present on the day after the investigation?

17 A. I believe they have been present at others.

18 Q. Which ones?

19 A. I think Olanude Adeyooye when she was  
20 murdered. I believe -- I don't recall who was there,  
21 though.

22 Q. Would it be fair to say that it's something  
23 that happens in high profile cases?

24 A. Yes.

95

1 Q. So -- so not all murder cases, just the high  
2 profile ones?

3 A. Yes.

4 Q. Did you encounter Jim Souk at any point  
5 during the investigation?

6 A. Yes.

7 Q. And how is it that you encountered him?

8 A. He was the State's Attorney, and he came to  
9 some meetings.

10 Q. So -- so you -- you were present at meetings  
11 with him?

12 A. I don't recall which ones.

13 Q. Do you recall whether he made any  
14 recommendations?

15 MS. BARTON: Objection to form.

16 THE WITNESS: I don't recall, no.

17 BY MR. SHAPIRO:

18 Q. Do you recall whether he suggested any  
19 avenues of investigation?

20 A. Not to me.

21 Q. Do you recall whether he suggested them to  
22 anyone?

23 A. I don't recall.

24 Q. When Freesmeyer was in the office on the

96

1 same floor as you during the investigation, would  
2 anyone from the State's Attorney's Office visit him  
3 during the investigation?

4 MS. BARTON: Objection to foundation.

5 THE WITNESS: I have no personal knowledge of  
6 such meetings.

7 BY MR. SHAPIRO:

8 Q. You didn't see him -- well, never mind.  
9 Strike that.

10 You recall that the body was discovered on  
11 August 28, 2012 {sic}?

12 A. I don't recall the date.

13 Q. You recall that it was -- the body was  
14 discovered at a time when students were returning for  
15 the fall semester?

16 A. Well, she was already in class, so --  
17 because I called the instructor to see if she had  
18 shown up.

19 Q. Uh-huh. And that -- that -- that was for  
20 the term time as opposed to summer school class?

21 A. I don't recall.

22 Q. But it was early on -- on in the semester --

23 A. Yes.

24 Q. Okay. Were people in the community here

97

1 shaken as a result of the murder?

2 MR. DiCIANNI: Object, foundation.

3 MS. BARTON: I'll join.

4 THE WITNESS: I don't know. I suppose some  
5 were.

6 BY MR. SHAPIRO:

7 Q. I mean, it was a -- fair to say it was a  
8 grisly homicide, right?

9 A. Homicides are unusual here.

10 Q. And -- and this one wasn't only unusual  
11 because it was a homicide, it was unusual because of  
12 the brutal way in which the murder occurred; is that  
13 a fair statement?

14 A. Sure, yes.

15 Q. And in the course of your duties as a police  
16 officer, you have a -- fair to say you have a fair  
17 amount of interaction with the community?

18 A. Yes.

19 Q. For example, you're cognizant of when the  
20 semester begins and ends?

21 A. Yes.

22 Q. And is this the sort of grisly murder that  
23 in your view would be unsettling for the community?

24 MR. DiCIANNI: Same objection.

98

1 THE WITNESS: I can't speak for the  
2 community.

3 BY MR. SHAPIRO:

4 Q. Well, I know you -- I understand -- I'm not  
5 asking you to speak for -- for the community. I  
6 guess what I'm just asking is, you know, you're --  
7 you've -- you've -- you've been a part of this  
8 community since -- since you went to college here,  
9 right?

10 A. Uh-huh.

11 Q. And -- and -- and you've continued to be in  
12 touch with the community both because you continue to  
13 live here and because it's part of being a police  
14 officer here, right?

15 A. True.

16 Q. So really I'm just asking for your opinion  
17 as, you know, someone who's knowledgeable of this  
18 community what you think the reaction was like?

19 MR. DiCIANNI: Objection to foundation.

20 THE WITNESS: I'm sure they were concerned  
21 about it.

22 BY MR. SHAPIRO:

23 Q. Uh-huh. What -- what -- what was -- what  
24 would be concerning about it?

99

1           A.    A student homicide is always front-page  
2 news.

3           Q.    Uh-huh.  And -- and -- and fair to say that  
4 it's particularly unsettling when it's unsolved?

5                   MR. DiCIANNI:  I'll object, form of --  
6 foundation.

7                   MS. BARTON:  I'll join.

8                   THE WITNESS:  Yes.

9 BY MR. SHAPIRO:

10           Q.    And in this case with regard to the  
11 Lockmiller investigation, the sooner the crime could  
12 be solved, the sooner some of the fears and concerns  
13 could be allayed; fair statement?

14                   MR. DiCIANNI:  I'll object to foundation.

15                   MS. BARTON:  I'll join.

16                   THE WITNESS:  Yes.

17 BY MR. SHAPIRO:

18           Q.    Given the fears and concerns of the  
19 community, was there a concern among the  
20 investigators in this case with solving it as quickly  
21 as possible?

22                   MS. BARTON:  Object to --

23                   MR. DiCIANNI:  Objection, foundation.

24                   MS. BARTON:  And form.

100

1 THE WITNESS: No.

2 BY MR. SHAPIRO:

3 Q. The investigators didn't care when this case  
4 got solved?

5 MS. BARTON: Objection, form.

6 MR. DiCIANNI: Objection; foundation, form.

7 MS. BARTON: I'll join.

8 THE WITNESS: I think we wanted to do a good  
9 job, regardless of the time.

10 BY MR. SHAPIRO:

11 Q. Forgive me if I asked you this before. I'm  
12 not trying to be repetitious. I just don't -- don't  
13 recall.

14 Did you have an opinion of Tony Daniels?

15 MR. DiCIANNI: Object to foundation or maybe  
16 form is better than foundation.

17 You can answer it if you can.

18 THE WITNESS: Sure, I have an opinion.

19 BY MR. SHAPIRO:

20 Q. And what's your opinion?

21 A. Decent guy, little opinionated.

22 Q. Is he -- is he a good cop in your opinion?

23 A. You know, he has his positives and

24 negatives.

101

1 Q. Is he honest?

2 A. I've not known him to lie. I don't have any  
3 evidence of that.

4 Q. Uh-huh. Is he fair?

5 A. I suppose it would depend on the  
6 circumstance.

7 Q. Well, I'm asking what -- what you think.  
8 You think he's a fair person?

9 A. Sure.

10 Q. Do you think he's a reliable person?

11 MR. DiCIANNI: Object to lack of foundation.

12 THE WITNESS: He didn't let me down.

13 BY MR. SHAPIRO:

14 Q. Do you know of anyone he -- he let down?

15 A. I do not.

16 Q. Okay. Do you think he's intelligent,  
17 perceptive?

18 A. I think he's intelligent, sure.

19 Q. Does he have good judgment?

20 MR. DiCIANNI: Object to foundation.

21 THE WITNESS: Not always.

22 MR. DiCIANNI: Withdraw the objection.

23 BY MR. SHAPIRO:

24 Q. When -- when has he had bad judgment in your  
102

1 estimation?

2 A. I heard he was disciplined for fighting with  
3 a citizen who questioned his authority.

4 Q. Uh-huh. I heard that too.

5 Have you -- do you have any other instance  
6 in which you think he displayed bad judgment?

7 A. I don't have any recollection of any.

8 Q. Would you agree that for the most part he  
9 has good judgment; would that be a fair statement?

10 A. I think that's a pretty big problem, though,  
11 when he got disciplined.

12 Q. Okay. With -- with the exception of the  
13 discipline instance, do you think he has good  
14 judgment?

15 A. I think so.

16 Q. Okay. I just wanted to go back to the  
17 central file for a moment.

18 Is it your understanding that the case file  
19 which is kept in central records is -- is provided to  
20 the State's Attorney's Office?

21 A. Yeah.

22 Q. At this time I want to hand you a set of  
23 documents which are premarked as Exhibits 1 through  
24 19.

1 Provide a copy of the same exhibits to  
2 opposing counsel.

3 MS. BARTON: This says Volume I. Is there  
4 another one?

5 MR. SHAPIRO: It's -- it's -- it's one  
6 volume. There's not --

7 MS. BARTON: One of one.

8 MR. SHAPIRO: One of one, yes.

9 MS. BARTON: Just checking. I didn't know  
10 how many others you had in your bag of tricks.

11 BY MR. SHAPIRO:

12 Q. Let's look -- could I ask you to turn to  
13 Exhibit 7, please.

14 MS. BARTON: Are you marking all these for  
15 the deposition?

16 MR. SHAPIRO: Yeah, yeah, yeah, yeah. I just  
17 haven't ...

18 BY MR. SHAPIRO:

19 Q. Let me direct your attention to -- to the  
20 first page of Exhibit 7.

21 MR. DiCIANNI: Let me stop you for one  
22 second.

23 MR. SHAPIRO: Yeah.

24 MR. DiCIANNI: Are these the same ones that

104

1 were used in the Freesmeyer?

2 MR. SHAPIRO: There's some overlap, but  
3 they're -- they're not the same.

4 MR. DiCIANNI: They're not the same.

5 MR. SHAPIRO: It's not.

6 MR. DiCIANNI: I guess deposition of  
7 David Warner will identify this and differentiate it  
8 from what was distributed before.

9 MR. SHAPIRO: Yes, right.

10 MR. DiCIANNI: Because you'll have an  
11 Exhibit 7 in both of them, Exhibit 12 in both of them,  
12 so ...

13 MR. SHAPIRO: Yeah. And -- and -- and  
14 thanks. Let's -- let's just put that on the record to  
15 be totally clear on this.

16 The exhibits start at 1, and these are the  
17 exhibits to -- to this deposition. And in some cases  
18 the exhibits have been used previously and may have a  
19 different number --

20 MR. DiCIANNI: Right.

21 MR. SHAPIRO: -- from a different deposition.

22 BY MR. SHAPIRO:

23 Q. So page one of Exhibit 7 is the polygraph  
24 report of -- regarding John Murray that you received

105

1 and that you mentioned previously, right?

2 A. Yes.

3 Q. Now, is the document that you received from  
4 the polygraph examiner, is it just the first page or  
5 did it also include any of the other pages that --

6 A. I don't recall. I didn't open it. I mean,  
7 I read what it was, and I gave it to Tony Daniels. I  
8 didn't look through it.

9 Q. Okay. So you're not sure how many pages  
10 were there, but the first page is what's page one of  
11 Exhibit 7, right?

12 A. Right. That's how I determined what it was  
13 and who needed to see it.

14 Q. Okay. And it's your understanding that  
15 ordinarily a copy of a document such as this would  
16 also be sent to the State's Attorney, right?

17 A. That was my understanding.

18 MS. BARTON: Objection to form, foundation.

19 THE WITNESS: That was my understanding.

20 BY MR. SHAPIRO:

21 Q. Uh-huh. Okay. And is it also your  
22 understanding that a copy of this document should  
23 have gone into the case file in central records?

24 A. Yes.

106

1 Q. Okay. Why was John Murray asked to -- to  
2 take a polygraph, if you know?

3 A. I don't know.

4 Q. And -- and -- and you were the one who made  
5 the request to -- to the polygraph examiner,  
6 Terrence McCann, to perform the polygraph, right?

7 A. I believe I called and made the appointment  
8 based on the first line. It says, "At the request of  
9 David Warner," and that was the only involvement I  
10 had with Mr. Murray.

11 Q. Uh-huh. Beyond that, did you have any  
12 other conversations with the polygraph examiner,  
13 Terrence McCann?

14 A. I don't recall any.

15 Q. Okay. Do you recall reporting to other  
16 investigators on the team other than Daniels the  
17 information received from Mr. McCann about  
18 Mr. Murray?

19 MS. BARTON: Objection to form, foundation.

20 THE WITNESS: I gave it to Tony Daniels. I  
21 don't know if he told anybody else.

22 BY MR. SHAPIRO:

23 Q. But you didn't, right?

24 A. No.

107

1 Q. Okay. Are you aware of any other attempts  
2 to take polygraph of Mr. Murray in the Lockmiller  
3 investigation other than the attempt that's described  
4 in page one of Exhibit 7?

5 A. I don't recall any.

6 Q. Are you familiar with the term exculpatory  
7 evidence?

8 A. Yes.

9 Q. Okay. What's -- what's your understanding  
10 of that term?

11 A. You can't leave out evidence that could help  
12 the defendant.

13 Q. And -- and when you say not -- not leave it  
14 out, what do you mean by that?

15 A. You have to tell the State's Attorney.

16 Q. And what Exhibit 7 shows is that Mr. Murray  
17 was asked questions about his involvement in the  
18 Lockmiller homicide, correct?

19 A. Yes.

20 Q. And Exhibit 7 further shows that Mr. Murray  
21 was unable and -- and refused to complete the  
22 polygraph exam?

23 A. Yes.

24 Q. And directing your attention to the headings  
108

1 on the top third of the page, do you see where it  
2 says, "Suspect: Larbi John Murray"?

3 A. Yes.

4 Q. Fair to say that John Murray's polygraph  
5 was -- was being taken because he was a suspect?

6 MR. DiCIANNI: Object, lack of foundation.

7 MS. BARTON: I'll join.

8 THE WITNESS: They had to put some heading  
9 there. I don't know if they would put anything else  
10 for anybody else. I don't know.

11 BY MR. SHAPIRO:

12 Q. Well, why don't -- why don't we turn to  
13 Exhibit 8 for just a moment. The first page of  
14 Exhibit 8, which bears number at the bottom of page  
15 McLean 1495?

16 A. Yes.

17 Q. Does this appear to be a cover sheet  
18 directed to your attention involving the polygraphs  
19 of Stacey Gates and John Murray?

20 A. I don't know what this is.

21 Q. Well, you see it says, "Suspect: Stacey  
22 Gates, John Murray"?

23 A. Okay.

24 Q. And you see to the left it says, "Attention  
109

1 to Detective David Warner"?

2 A. Yes.

3 Q. Okay. And I want -- why don't you -- and --  
4 and you can take however you want to review this,  
5 this Exhibit 8. I'll have a few more questions about  
6 it. But if you want to take a moment, please feel  
7 free.

8 A. It's hard to read. Hard to make out, a lot  
9 of it.

10 Q. Yeah, no, there -- I agree with you, there  
11 are some parts that are hard to read.

12 But you see that it was directed to your  
13 attention and that --

14 A. I do.

15 Q. And that it involves Stacey Gates and  
16 John Murray, right?

17 A. It's true.

18 Q. Okay. And you also see under the heading  
19 Request, at the request of Detective David Warner?

20 A. I do.

21 Q. And that reads, at the request of  
22 David Warner, the above listed, and then there are  
23 options to choose from, suspect, witness, victim,  
24 applicant. And then it says: Was examined by

110

1 polygraph, detection of deception technique at the  
2 BFS?

3 A. Okay.

4 Q. Did I read that right?

5 A. True.

6 Q. Okay. And among the choices, suspect,  
7 witness, victim, applicant, suspect is the one that's  
8 circled, right?

9 A. That is.

10 Q. Okay. So there are cases in which a person  
11 is polygraphed when they are not a suspect; is that a  
12 fair statement?

13 A. Sure.

14 Q. Okay. And going back to the -- to Exhibit 7  
15 which says "Suspect: Larbi John Murray," that  
16 indicates that John Murray is being polygraphed  
17 because he is a suspect, right?

18 A. That's what it would indicate.

19 Q. Okay. So -- so -- so we were discussing the  
20 polygraph indicates that Murray refused to comply and  
21 complete the exam and that he was a -- and that he  
22 was being polygraphed as a suspect.

23 Would you agree with me that Exhibit 7 is  
24 evidence that is exculpatory as to Alan Beaman?

111

1 MS. BARTON: I'll object --

2 MR. DiCIANNI: Well, I'll object to that.

3 MS. BARTON: I'll object --

4 MR. DiCIANNI: Lack of foundation and legal  
5 conclusion.

6 MS. BARTON: I'll join.

7 MR. DiCIANNI: You can answer it if you can.

8 THE WITNESS: It's a document that the  
9 State's Attorney should have been aware of, yes.

10 MR. DiCIANNI: All right. I'm going to ask  
11 to confer with the witness. There's no question  
12 pending. Let's ...

13 THE VIDEOGRAPHER: Off the record, 1:29.

14 (Whereupon, a break was taken,  
15 after which the following  
16 proceedings were had:)

17 THE VIDEOGRAPHER: Back on the record, 1:36.

18 BY MR. SHAPIRO:

19 Q. Have you received any training in the duty  
20 of law enforcement officers to apprise prosecutors of  
21 exculpatory evidence?

22 A. I don't recall.

23 Q. Are you aware that law enforcement officers  
24 have a duty to provide exculpatory evidence to

112

1 prosecutors in a case?

2 A. My understanding is that when we find  
3 something out, we should tell the State's Attorney.

4 Q. And would you agree with the proposition  
5 that when someone is a suspect in a case and they  
6 can't comply or complete a polygraph examination,  
7 that can be evidence suggesting that person's guilt?

8 MR. DiCIANNI: I'll object to form,  
9 foundation.

10 MS. BARTON: I'll join.

11 MR. DiCIANNI: You can answer.

12 THE WITNESS: It's my understanding that  
13 polygraphs can't be used in court.

14 BY MR. SHAPIRO:

15 Q. And -- and -- and earlier Mr. DiCianni  
16 objected to one of my questions as calling for a  
17 legal conclusion. I just want to be clear. I'm  
18 not -- I'm not asking you a question as a lawyer.  
19 I'm asking you a question as someone who has, you  
20 know, spent -- spent your career in -- in law  
21 enforcement and developed a sense of what evidence  
22 tends to suggest that someone is guilty and what  
23 evidence tends to suggest that someone's not guilty.

24 You -- you -- you must have an understanding

113

1 of the types of evidence that would fall into both  
2 those categories, right?

3 A. Yes.

4 Q. Okay. So with that clarification, would you  
5 agree with me that when you have a suspect in a case  
6 who cannot comply with the instructions and complete  
7 a polygraph examination, that is evidence suggesting  
8 that the person may be guilty of the crime?

9 MR. DiCIANNI: I'll object to foundation.

10 MS. BARTON: I'll join.

11 THE WITNESS: I disagree with that. There  
12 could be any number of reasons.

13 BY MR. SHAPIRO:

14 Q. I'm -- I'm -- I'm not suggesting that the  
15 fact that someone can -- fails to complete a  
16 polygraph exam is conclusive evidence of guilt.

17 Do you think that it is relevant evidence of  
18 guilt?

19 A. No.

20 Q. Why not?

21 A. I think there's more work that needs to be  
22 done.

23 Q. Uh-huh. So -- so then I take it you would  
24 agree that receiving information that a suspect could

114

1 not complete a polygraph examination suggests that  
2 further investigation of that suspect is necessary?

3 MR. DiCIANNI: Object to foundation.

4 MS. BARTON: I'll join.

5 THE WITNESS: I gave the information to  
6 Detective Daniels. I assume he would follow up on it.

7 BY MR. SHAPIRO:

8 Q. I -- I understand that. And -- and --  
9 but -- but -- and but -- and but that's not really  
10 the question that I'm asking.

11 A. Then repeat the question.

12 Q. Okay. Sure. And -- and -- the question is  
13 if you have a suspect in an investigation who cannot  
14 complete a polygraph examination and refuses to  
15 comply, is that relevant evidence of guilt?

16 MR. DiCIANNI: Object, lack of foundation.

17 MS. BARTON: I'll join.

18 THE WITNESS: My previous answer was no.  
19 There's many reasons why that can happen.

20 BY MR. SHAPIRO:

21 Q. Uh-huh. And is receiving polygraph --  
22 strike that.

23 Is receiving a report from a polygraph  
24 examiner that a suspect in a case was unable to

115

1 complete a polygraph exam and comply with the  
2 instructions, does -- does -- does that suggest that  
3 further investigation of the individual is necessary?

4 MR. DiCIANNI: Object, foundation and form  
5 the question.

6 MS. BARTON: I'll join.

7 THE WITNESS: Yes.

8 BY MR. SHAPIRO:

9 Q. So you would agree with me that Plaintiff's  
10 Exhibit 7 suggests that as of when this report was  
11 received, October 5, 1993, further investigation of  
12 John Murray was called for; would you agree with  
13 that?

14 MR. DiCIANNI: I'll object to foundation.

15 MS. BARTON: I'll join.

16 THE WITNESS: I agree.

17 BY MR. SHAPIRO:

18 Q. Do you remember interviewing Stacey Gates in  
19 connection with the Lockmiller homicide  
20 investigation?

21 A. I remember that I did. I don't remember the  
22 particulars.

23 Q. Uh-huh. And -- and forgive me if I -- I've  
24 asked this. Did you review the transcript of your

116

1 interview with Mr. Gates in preparing for the  
2 deposition today?

3 A. Briefly I looked at it. I did not read it  
4 completely.

5 Q. Based on a -- the -- your recent review of  
6 the -- of the interview, what are your impressions of  
7 that interview?

8 A. I would have to review it again. I don't  
9 know.

10 Q. Let's turn to I believe it's Exhibit 1.  
11 Exhibit 1 is the transcript of your interview with  
12 Stacey Gates in the Lockmiller homicide  
13 investigation, correct?

14 A. It appears it is.

15 Q. Let me ask you to review a portion of this  
16 report. I'd like you to turn to the second page --  
17 yeah, it bears Bates stamp AB 2310.

18 A. Yes.

19 Q. Okay. And you see the question that you  
20 asked: "What happened with the call"?

21 A. I do.

22 Q. Okay. And turning to page 2312, you see --  
23 you see the question: "How often have you seen her  
24 since 1991"?

117

1 A. I do.

2 Q. Okay. Let me ask you to review the --  
3 the -- the portion of the transcript in between, What  
4 happened with the call, and How often have you seen  
5 her since '91.

6 A. Okay.

7 Q. Okay. You've had a chance to review the  
8 portion of the transcript that I indicated?

9 A. I did.

10 Q. Okay. What are your impressions based on  
11 your review of the transcript about Stacey Gates's  
12 answers?

13 MR. DiCIANNI: I object to form of the  
14 question.

15 THE WITNESS: Can you be more specific?

16 BY MR. SHAPIRO:

17 Q. Well, did you have any reactions as you were  
18 reading the text I just indicated?

19 A. My recollection of Mr. Gates was he was all  
20 over the place.

21 Q. He's -- that was -- that was sort of my  
22 impression too.

23 So now do you sort of have a recollection  
24 talking to him having read this?

118

1 A. Yeah. He was under the impression that he  
2 was the only person that she was going out with; and,  
3 in fact, that was not true. He described her as his  
4 fiance, which was not true.

5 Q. He had over-inflated views of how Jennifer  
6 perceived him, right?

7 A. Yes.

8 MS. BARTON: Objection to foundation.

9 MR. DiCIANNI: I'll join.

10 BY MR. SHAPIRO:

11 Q. That was what you understood based on your  
12 interview, right?

13 A. Yes.

14 Q. Based on your interview, was he jealous of  
15 the fact that Jennifer had other romantic  
16 relationships in her life?

17 A. I don't think he was aware of them. That  
18 was my recollection.

19 Q. Uh-huh. So Stacey Gates was -- was in love  
20 with Jennifer Lockmiller, right?

21 MS. BARTON: Objection.

22 MR. DiCIANNI: Object, foundation.

23 MS. BARTON: Join.

24 THE WITNESS: I think he said he was. I  
119

1 don't know.

2 BY MR. SHAPIRO:

3 Q. Okay. Your understanding based on the  
4 interview was that he was in love with her?

5 A. I think he said he was.

6 Q. Okay. And he was very attached to her?

7 MS. BARTON: Objection, foundation.

8 MR. DiCIANNI: Same objection.

9 THE WITNESS: I don't know.

10 BY MR. SHAPIRO:

11 Q. Based -- based on the interview, did -- do  
12 you believe that he was very attached to her?

13 MR. DiCIANNI: Same objection.

14 MS. BARTON: I'll join.

15 THE WITNESS: I don't know.

16 BY MR. SHAPIRO:

17 Q. And -- and -- and he did not know that  
18 Lockmiller was seeing other people, correct?

19 A. I don't believe so.

20 Q. Fair to say that Gates was rambling during  
21 this interview?

22 A. I believe he was.

23 Q. Almost incoherent?

24 A. Changed topics a lot.

120

1 Q. Uh-huh. I mean, tell me if you disagree  
2 with this, but reading this transcript, my impression  
3 is you were trying to ask some pretty simple  
4 questions, and you were getting some pretty  
5 convoluted answers?

6 A. Yeah. I experienced that before.

7 Q. Uh-huh. And that's what -- and that's how  
8 you characterize this interview?

9 A. Repeat it again.

10 Q. Is it a fair characterization of your  
11 interview with Mr. Gates that you were asking him  
12 relatively simple questions in a number of instances  
13 and getting rambling answers?

14 A. Yes.

15 Q. Okay. Did that arouse your suspicions in  
16 any way?

17 A. I suppose I -- I don't recall. I would  
18 probably ask more questions.

19 Q. When you -- when you say you would ask more  
20 questions, you mean beyond what was asked during this  
21 interview or beyond the portion that you just  
22 reviewed?

23 A. Beyond the portion I just reviewed.

24 Q. And I -- I -- I think you said that

121

1 reviewing those -- those portions of the transcript  
2 refreshed your recollection as to actually what you  
3 remembered from the interview; is that right?

4 A. To some degree.

5 Q. To some degree, okay.

6 Do you recall whether at the conclusion of  
7 this interview Stacey Gates had aroused your  
8 suspicions?

9 A. I don't know if they were aroused. I think  
10 I expressed to Lieutenant Zayas that some more work  
11 might need to be done on him.

12 Q. And -- and -- so -- so your interview with  
13 Stacey Gates suggested to you that he needed to be  
14 investigated further?

15 A. Yes.

16 Q. Not -- not just talking about this case, but  
17 as a -- as a -- as a general matter based on your  
18 experience as a -- as a police officer, when you're  
19 asking someone questions and they're giving the sort  
20 of rambling answers that Stacey Gates was giving you,  
21 is that the sort of thing that would arouse  
22 suspicion?

23 A. That depends on the context.

24 Q. Uh-huh. Can you explain that a little for

122

1 me?

2 A. For some people, that's how they talk about  
3 everything.

4 Q. Uh-huh. Was it your impression that --  
5 that -- that Stacey Gates just generally was someone  
6 who rambled?

7 A. I believe he was.

8 Q. Okay. I want to work few -- work through a  
9 few other portions of this interview with you. If  
10 you wouldn't mind turning toward the page of  
11 Exhibit 1 that is marked AB 3231, and I'm just going  
12 to -- I'm just going to read this aloud. I think it  
13 will be faster --

14 A. Sure.

15 Q. -- that way.

16 Begin at the bottom of 32:

17 "Question: Did you plan to get  
18 together?

19 Answer: I even -- I guess -- I  
20 guess I even could tell before she went  
21 to California that we might be ironing  
22 things out and that I was beginning to  
23 predict that I think things would --

24 after California I'd be -- we would be  
123

1 back together officially."

2 Did I read that right?

3 A. Yes.

4 Q. Okay. And recognizing it's rambling, is the  
5 gist of what Mr. Gates is saying is that he believed  
6 that upon Lockmiller's return from California, the  
7 two of them would get back together and rekindle  
8 their romantic relationship?

9 MR. DiCIANNI: Object, speculation.

10 MS. BARTON: I'll join.

11 THE WITNESS: Well, the statement says he  
12 would get back together officially. You know, that I  
13 don't know.

14 BY MR. SHAPIRO:

15 Q. Well, what -- what do you -- what do you --  
16 what -- what -- what do you understand it to be  
17 saying?

18 A. That they had some relationship issues and  
19 he wanted to iron things out and get back together.

20 Q. Uh-huh. Okay. Directing your attention a  
21 little bit further down the page on 2322:

22 "Answer: I consider myself" --

23 Do you see where I am?

24 A. Yes.

124

1 Q. Okay.

2 "Answer: I consider myself that  
3 when I read in the paper that this said  
4 it was a domestic -- a domestic  
5 incident, that implied to me that there  
6 was someone that was in love with her or  
7 her or something that was important to  
8 her. I'm sorry. There was no one else  
9 but me in that category, and I guess I  
10 was being selfish. It offended me  
11 totally and it still does. It gnaws at  
12 my craw. Whoever this was is -- no,  
13 whoever she was living with might not be  
14 the murderer, but he is certainly and  
15 probably nothing --- not good person in  
16 her life. And I'm sure whoever it was,  
17 whether it was the person or not, she  
18 wanted him out as quickly as possible."

19 Did I read that right?

20 A. You did.

21 Q. Uh-huh. Fair to say that what Stacey Gates  
22 conveyed to you is that when he learned that  
23 Lockmiller was living with someone, he was very  
24 jealous of that fact?

125

1 MR. DiCIANNI: Object to foundation,  
2 speculation.

3 MS. BARTON: I'll join.

4 THE WITNESS: I don't know. I think he was  
5 surprised he didn't know.

6 BY MR. SHAPIRO:

7 Q. So he was -- well, he's -- he's more than a  
8 little surprised, right? I mean, he said "it gnaws  
9 at my craw," right?

10 A. My impression of him was he was -- he had no  
11 idea she was seeing other people. He thought that he  
12 was the only one in her life. And now he's reading  
13 in the paper that that's not true.

14 Q. Uh-huh.

15 A. So I think he was a bit confused.

16 Q. Would you agree with the proposition that --  
17 well, strike that.

18 I -- I -- I understand you're saying that,  
19 you know, you understood that Gates found out about  
20 Lockmiller's other relationships after the time of  
21 the murder. That's what you're saying, right?

22 A. Yes.

23 Q. So I understand and I appreciate that.

24 But my question to you is as a general

126

1 matter, would you agree with the proposition that  
2 when someone is romantically attached to another  
3 individual, believes that individual is not seeing  
4 other people. Then finds out that that person, in  
5 fact, is romantically involved with other people,  
6 that can be a motive for murder?

7 MS. BARTON: Objection --

8 MR. DiCIANNI: I'll object; foundation, form  
9 of the question.

10 MS. BARTON: I'll join.

11 THE WITNESS: I don't know.

12 BY MR. SHAPIRO:

13 Q. Well, as someone who's been a police officer  
14 for your whole career, you've formed some sense as to  
15 what can be a motive to commit a crime, can you  
16 not -- have you not?

17 A. Yes.

18 Q. Can jealousy and hurt feelings in connection  
19 with a romance be a murder -- a motive to commit a  
20 crime?

21 A. Yes.

22 Q. So -- and would you agree that thinking that  
23 you're the only person who is romantically involved  
24 with someone and then finding out that you're not can

127

1 be a motive to commit a crime?

2 MR. DiCIANNI: Object, lack of foundation.

3 MS. BARTON: I'll join.

4 THE WITNESS: At that time, the crime has  
5 already been committed.

6 BY MR. SHAPIRO:

7 Q. I understand that, right. And -- and  
8 that's -- that's why I was sort of making that  
9 qualification.

10 Let's say Gates were to have found out, you  
11 know, prior to the murder that Lockmiller was seeing  
12 other people, could that be a motive to commit a  
13 murder?

14 MS. BARTON: Object to form and foundation.

15 MR. DiCIANNI: Yeah, I'll join in that.

16 THE WITNESS: Could be.

17 BY MR. SHAPIRO:

18 Q. Let me direct your attention to page 23 --  
19 AB 2327 of Exhibit 1.

20 MR. DiCIANNI: 2327?

21 MR. SHAPIRO: Yes.

22 BY MR. SHAPIRO:

23 Q. And -- and this is another portion I'm going  
24 to ask you to read to yourself. You see where it

128

1 begins:

2 "Answer: He looked up" --

3 I'm sorry. You know what, my apologies.

4 Let's back up to 2326. You see where you ask the

5 question: "What's on the backside; do you know"?

6 A. Yes.

7 Q. And then turn to page 2328. You ask the  
8 question about two-thirds of the way down the page,

9 "Did she ever have any complaints?"

10 MR. DiCIANNI: Wait. That's not what I see.

11 What page did you say?

12 MR. SHAPIRO: 2328.

13 THE WITNESS: Yes, I do.

14 BY MR. SHAPIRO:

15 Q. Okay. "Did she ever have any complaints,"

16 right?

17 A. Yes.

18 Q. So would you take however you need to -- to  
19 read everything in between the start of the question,

20 "What's on the backside; do you know," on 2326 and

21 "Did she ever have any complaints" on 2328.

22 MR. SHAPIRO: Oh, sure. And why don't we

23 take a break.

24 MR. DiCIANNI: All right. I -- I -- I don't  
129

1 want to repeat what happened yesterday. I think that  
2 if we're going to take a break, then the witness is  
3 going to take a break as well. And if we're going to  
4 read reports, then we're going to do that during the  
5 course of the deposition. I don't want us breaking  
6 and him reading.

7 MR. SHAPIRO: That's fine.

8 And just for purposes of this deposition, I'm  
9 not going to argue because I'm not going to go over  
10 seven hours on this one.

11 MR. DiCIANNI: All right.

12 So you take a break too.

13 THE VIDEOGRAPHER: Off the record, 2 o'clock.

14 (Whereupon, a break was taken,  
15 after which the following  
16 proceedings were had:)

17 THE VIDEOGRAPHER: Back on the record, 2:11.

18 BY MR. SHAPIRO:

19 Q. And since we are on the record,  
20 Lieutenant Warner, you remember before the break I  
21 gave you a portion to read, and you remember that  
22 portion?

23 A. Yes.

24 Q. Okay. So please go ahead and review it.

130

1 MR. DiCIANNI: Could you remind me?

2 MR. SHAPIRO: Sure. It's -- begins on 2326  
3 with "What's on the backside; do you know?" and ends  
4 on 2328 with "Did she ever have any complaints?"

5 MR. DiCIANNI: Thanks.

6 MR. SHAPIRO: Sure.

7 THE WITNESS: Where we ending at?

8 BY MR. SHAPIRO:

9 Q. We were ending on 2328 at "Did she ever have  
10 any complaints?"

11 A. Okay.

12 Q. Okay. Having -- having read the portion of  
13 the interview with Stacey Gates that you just read,  
14 did that trigger any independent recollections -- any  
15 further independent recollections in your mind of  
16 this interview?

17 A. It was difficult to read because he was  
18 rambling again. Not really, no.

19 Q. Okay. In the portion of the interview that  
20 you just read, Stacey Gates informs you of two people  
21 who he viewed as possible suspects in the case,  
22 right?

23 A. Stacey was a person who tried to remember  
24 anything that could possibly help us.

131

1 Q. Uh-huh.

2 A. Going back years before someone he saw,  
3 just -- he's one of those people that any little  
4 thing he could think of, he told us.

5 Q. Uh-huh. But in his mind, these were people  
6 that could be considered suspects based on what he  
7 told you, right?

8 A. Apparently.

9 Q. Okay. And the first person he describes in  
10 this section is an individual who he says had huge  
11 legs and a big rack of shoulders?

12 A. Yes.

13 Q. He says this individual had a southern  
14 drawl?

15 A. He did.

16 Q. And that this individual appeared on  
17 Lockmiller's doorstep one night in the summer of '92  
18 wearing an overcoat, right?

19 A. That's what he said.

20 Q. And he knocks -- according Gates, this  
21 individual knocks on the door, and Gates answers the  
22 door, and this individual is asking for Lockmiller,  
23 right?

24 A. That's what he said.

132

1 Q. Okay. And Gates further said that this  
2 individual told him words to the effect of don't you  
3 sass me or I'll break the F'ing door down, right?

4 A. That's what he said.

5 Q. And Gates had suspicions as to whether  
6 Lockmiller knew this person previously, right?

7 A. That's what he said.

8 Q. Okay. Was any effort made to locate this  
9 individual who according to Gates appeared on  
10 Lockmiller's doorstep in the summer of '92?

11 MS. BARTON: Objection to form and foundation  
12 as to who.

13 MR. DiCIANNI: I'll join.

14 THE WITNESS: I did not. I don't know if  
15 anybody else did.

16 BY MR. SHAPIRO:

17 Q. And just -- and just as a result of the  
18 objection, are you aware of any effort that was made  
19 to identify this individual who's -- who knocked on  
20 Lockmiller's doorstep in December of '92?

21 A. I have no knowledge of that, no.

22 Q. Do you think it's something that should have  
23 been followed up on?

24 A. Yes.

133

1 Q. In the same portion of the interview that --  
2 that you just read, Stacey Gates also refers to an  
3 individual who he says was known as Psycho Bill,  
4 right?

5 A. He did.

6 Q. And Gates says that Psycho Bill was reputed  
7 to lure women into his room and film them, correct?

8 A. That's what he said.

9 Q. And he further said that Jennifer and  
10 Psycho Bill had dated for a while, right?

11 A. That's what he said.

12 Q. And he further said that there was a point  
13 when Psycho Bill stalked Jennifer, right?

14 A. That's what he said.

15 Q. Was any effort, to your knowledge, made to  
16 identify who the individual that he referred to as  
17 Psycho Bill was?

18 A. I have no knowledge of it.

19 Q. To your knowledge, was anything done to  
20 locate the individual who he referred to as  
21 Psycho Bill?

22 A. I have no knowledge of that.

23 Q. Okay. At the time of the Lockmiller  
24 homicide investigation, was there any sort of

134

1 database maintained by the Normal Police Department  
2 or that could be accessed by the Normal Police  
3 Department that could be used to identify --  
4 ascertain the identity of individuals based on  
5 nicknames?

6 A. I believe there was a database that  
7 contained information on people arrested.

8 Q. Uh-huh. And would that database have  
9 included nicknames of people who are arrested?

10 A. If they were known.

11 Q. Uh-huh. To your knowledge, was any effort  
12 made to determine whether the nickname Psycho Bill  
13 appeared anywhere on that database?

14 A. I don't recall.

15 Q. Okay. And -- and -- and you -- and you  
16 didn't do anything -- you did not search for  
17 Psycho Bill in that database, right?

18 A. I don't believe so.

19 Q. Okay. Do you recall requesting a polygraph  
20 examination of Stacey Gates?

21 A. Well, I know I did. I don't remember the  
22 incident.

23 Q. Do you recall receiving a report from a  
24 polygraph examiner regarding an examination of

135

1 Mr. Gates?

2 A. I saw it in the packet of paper.

3 Q. Uh-huh. You saw it in the packet of paper  
4 that you reviewed --

5 A. Yeah.

6 Q. -- for the deposition. Okay.

7 But you don't have a independent  
8 recollection of having either requested and received  
9 that polygraph?

10 A. No, not really.

11 Q. Okay. Let's turn to Exhibit 8, please.

12 A. I'm sorry, 8?

13 Q. Yes, Exhibit 8.

14 MR. SHAPIRO: Oh, first just a housekeeping  
15 matter on -- on -- on page -- first page of the  
16 exhibit, McLean 1495. We talked about this page  
17 earlier. I believe I read the acronym in the middle  
18 of the page BFS. Ms. Barton corrected me during the  
19 break. That appears to be BES.

20 MS. BARTON: I don't know. I don't know if  
21 it is or not.

22 THE WITNESS: I don't know what that means.

23 BY MR. SHAPIRO:

24 Q. Do you know what BFS or BES would stand for?

136

1 A. No, I don't.

2 Q. Okay.

3 MR. DiCIANNI: Is it Bureau of Forensic  
4 Sciences?

5 THE WITNESS: Oh, that could be.

6 MS. BARTON: Oh, that's good.

7 BY MR. SHAPIRO:

8 Q. All right. Let's turn to the second and  
9 third pages of Exhibit 8 which are marked McLean 1496  
10 and 1497.

11 This is the polygraph report regarding  
12 Stacey Gates that you referred to a moment ago,  
13 right?

14 A. It appears that it is, yes.

15 Q. Okay. And I know you don't have an  
16 independent recollection of requesting or receiving  
17 it, but do you have -- but it indicates on its face  
18 that you requested a polygraph examination of  
19 Mr. Gates, right?

20 A. It does.

21 Q. Okay. Do you have any reason to doubt that  
22 you requested such an examination?

23 A. I do not.

24 Q. Okay. And the polygraph report regarding

137

1 Mr. Gates is addressed to you, right?

2 A. It is.

3 Q. Okay. And do you have any reason to doubt  
4 that you received this polygraph report?

5 A. I do not.

6 Q. Okay. Do you have any recollection of what  
7 was done with this polygraph report subsequent to  
8 your receiving it?

9 A. I would have turned it in to my supervisor.

10 Q. And who -- who was your supervisor?

11 A. Frank Zayas.

12 Q. Okay. Can you help me understand why the  
13 Murray polygraph you would have given to Daniels or  
14 this one you would have given -- you gave to Zayas?

15 A. Because Daniels was doing the investigation  
16 on Larbi, and I was doing the one on Bubba.

17 Q. Okay.

18 A. So there was no reason to give it to anybody  
19 else. I turned it in.

20 Q. And is it your understanding that the  
21 polygraph examiner would have -- would have sent a  
22 copy of the same document regarding Mr. Gates to the  
23 State's Attorney's Office?

24 MS. BARTON: Objection to foundation.

138

1 THE WITNESS: That was my understanding.

2 BY MR. SHAPIRO:

3 Q. And was it also your understanding that a  
4 copy of the polygraph examination regarding Mr. Gates  
5 would be placed into the case file in central  
6 records?

7 A. Yes.

8 Q. And that Zayas would have been the one to  
9 receive the polygraph report and transmit it to  
10 central records, right?

11 A. Yes.

12 Q. Okay. Do you recall having any  
13 conversations with the polygraph examiner about  
14 Stacey Gates?

15 A. I do not.

16 Q. Now -- now, earlier I think you said with  
17 the Murray polygraph, you wouldn't have reported it  
18 to the team of investigators because that -- that  
19 would have been Daniels's responsibility; is that --

20 A. Right.

21 Q. Is that right?

22 MS. BARTON: Objection to form.

23 BY MR. SHAPIRO:

24 Q. But for -- for this one, you -- you -- you  
139

1 were the investigator who was looking into Gates,  
2 right?

3 A. That's correct.

4 Q. Okay. Having received this polygraph report  
5 regarding Mr. Gates, did you report it to the other  
6 investigators working on the case?

7 MS. BARTON: Objection to form.

8 THE WITNESS: I turned in the form to my  
9 supervisor, and he would have assigned someone else if  
10 it needed follow-up or back to me.

11 BY MR. SHAPIRO:

12 Q. So -- so you don't recall informing anyone  
13 other than Zayas that you had received this report  
14 shown on Exhibit 8, right?

15 A. I don't recall, no.

16 Q. Given that there were several different  
17 investigators working on the case, do you think it  
18 would have been a good practice to inform the other  
19 investigators of the results of this examination?

20 MS. BARTON: Objection to form.

21 MR. DiCIANNI: I'll object to foundation,  
22 form.

23 THE WITNESS: That wasn't my position. My  
24 job was to turn it into my supervisor, and they spread  
140

1 it out or assign someone else or follow up. That  
2 wasn't my call.

3 BY MR. SHAPIRO:

4 Q. Okay. The report shown on pages 1496 and  
5 1497 of Exhibit 8 indicates that Stacey Gates was  
6 polygraphed as a suspect, correct?

7 A. That's what it says.

8 Q. Do you disagree with the characterization of  
9 Stacey Gates as a suspect?

10 MR. DiCIANNI: I'll object to foundation.

11 MS. BARTON: I'll join.

12 THE WITNESS: You know, everybody's a suspect  
13 until they're cleared, so ...

14 BY MR. SHAPIRO:

15 Q. Your testimony is that everyone Lockmiller  
16 knew was -- was a suspect in the homicide  
17 investigation?

18 A. Unless we had reason to believe that they  
19 weren't.

20 Q. Is it your testimony that everyone who  
21 Lockmiller knew was excluded as a suspect in the  
22 investigation?

23 MR. DiCIANNI: Excluded?

24 MR. SHAPIRO: Uh-huh.

141

1 THE WITNESS: I -- I don't understand the  
2 question.

3 BY MR. SHAPIRO:

4 Q. Well, I understand you to be saying that  
5 anyone she knew was a suspect. And presumably one  
6 goal of an investigation is to exclude the people who  
7 didn't do it and find the person who did do it,  
8 right?

9 A. Yes.

10 Q. Okay. Do you feel that everyone that  
11 Lockmiller knew was excluded as a suspect?

12 A. I don't know if they were. It was not my  
13 responsibility to find out.

14 Q. The polygraph report for Mr. McCann  
15 indicates that when asked questions about  
16 Lockmiller's murder, Stacey Gates gave responses that  
17 were erratic and inconsistent, right?

18 A. True.

19 Q. And in your view, an indication that a  
20 suspect gave erratic and inconsistent answers in a  
21 polygraph examination is something that should be  
22 provided to the State's Attorney's Office, right?

23 MR. DiCIANNI: I'll object to foundation.

24 MS. BARTON: I'll join.

142

1 THE WITNESS: The report should have been in  
2 the case file; the case file given to the State's  
3 Attorney.

4 BY MR. SHAPIRO:

5 Q. Uh-huh. So I guess -- right. I -- I -- I  
6 understand that. And I -- I appreciate that. I  
7 guess there -- so when you say it should be, I mean,  
8 you mean that the ordinary protocol --

9 A. I expected it to be.

10 Q. Uh-huh. Aside from the fact that in the  
11 ordinary course a document like this would be  
12 provided to the State's Attorney's Office, would you  
13 agree that one of the reasons it should be provided  
14 is that it could be considered exculpatory?

15 MR. DiCIANNI: Objection; foundation, legal  
16 conclusion.

17 MS. BARTON: I'll join.

18 THE WITNESS: I don't know.

19 BY MR. SHAPIRO:

20 Q. Does a polygraph report indicating that  
21 Mr. Gates gave erratic and inconsistent response to  
22 questions about Jennifer Lockmiller's murder make it  
23 more likely or less likely he was involved in the  
24 murder?

143

1 MR. DiCIANNI: Objection to foundation.

2 MS. BARTON: I'll join.

3 THE WITNESS: I can't determine from that.  
4 He gave erratic responses to every question.

5 BY MR. SHAPIRO:

6 Q. But all of the questions involved his  
7 involvement in Lockmiller's murder, right?

8 A. And during the interview, he was all over  
9 the place.

10 Q. Uh-huh. So you would describe Gates's  
11 responses as erratic and inconsistent not only in the  
12 polygraph exam but in every question you asked him  
13 about the Lockmiller murder, right?

14 A. Yes.

15 Q. In your view, was Stacey Gates excluded as a  
16 suspect in the Lockmiller murder?

17 A. I don't know if he was or not. I did what I  
18 was assigned and went on.

19 Q. Uh-huh. And based on what -- what you were  
20 able to uncover your -- or your part of the work on  
21 Stacey Gates, you knew that he was romantically  
22 attached to Lockmiller, that he was erratic and  
23 inconsistent when he talked to you?

24 A. Yes.

144

1 Q. And that he was erratic and inconsistent  
2 during the polygraph?

3 A. Yes.

4 MS. BARTON: Objection to form and  
5 foundation.

6 BY MR. SHAPIRO:

7 Q. All of those statements are fair and  
8 accurate, right?

9 A. Yes.

10 Q. And taking those pieces of information  
11 together, that would indicate that Gates was a person  
12 of interest in the investigation who warranted  
13 further inquiry; would you agree with that?

14 A. Yes.

15 Q. Do you have any understanding or  
16 recollection of charges against John Murray in other  
17 cases?

18 A. No.

19 Q. Do you recall John Murray ever working as a  
20 confidential informant?

21 A. I wouldn't know that.

22 Q. Do you recall that in a case in which  
23 John Murray was a defendant, you were listed by the  
24 State's Attorney's Office as a potential witness?

145

1 A. I don't recall.

2 Q. Okay. Let's turn to Exhibit -- I believe  
3 it's 19.

4 A. 19?

5 Q. 19, yeah, the back exhibit.

6 And just for the record, I believe the arrow  
7 and the circle -- I'm sorry.

8 Do you have an arrow and a circle on your  
9 copy?

10 A. I do not.

11 Q. Okay. That's just a notation in mine.  
12 Never mind.

13 So -- well, please -- please go ahead and  
14 review Exhibit 19 and let me know when you've had a  
15 chance to do so.

16 A. I don't recall.

17 MR. DiCIANNI: What was the question?

18 BY MR. SHAPIRO:

19 Q. Actually there's not a question. Yeah, just  
20 go ahead and review and let me know when --

21 A. Okay. I reviewed it.

22 Q. Okay. So Exhibit 19 is -- is a legal  
23 document involving a case against John Murray in  
24 which you were listed as a potential witness, right?

146

1 A. That's what it says.

2 Q. Okay. And you don't have any recollection  
3 of this -- the case that is described here?

4 A. I do not.

5 Q. Okay. Do you -- do you have any  
6 understanding of -- of -- of why you would be listed  
7 as a potential witness in this case?

8 A. Not without reading the case report.

9 Q. Okay. And opposing counsel's quite rightly  
10 going to object to the next -- next question on  
11 grounds of speculation, but I -- but I really just am  
12 trying to understand. So that's fine.

13 Do you have any sense of why you might have  
14 been listed in a case as a potential witness that you  
15 don't have any recollection of? I mean, I'm asking  
16 you to speculate, and I understand it's a speculative  
17 question. I'm just trying to find out for my own --

18 MS. BARTON: Well, to the extent that he  
19 asks -- that you're asking him to speculate, then I  
20 would object.

21 MR. DiCIANNI: I'll join.

22 BY MR. SHAPIRO:

23 Q. Go ahead. What do you think?

24 A. I would guess it had to do with my

147

1 employment as a detective. I don't know.

2 Q. Okay. Do you have any knowledge of anything  
3 that was done in the Lockmiller investigation to  
4 exclude Murray as a suspect?

5 A. I -- no.

6 Q. Okay. Do you remember testifying at trial  
7 in this case?

8 A. I do.

9 Q. I'm sorry. By this case, I mean the  
10 Lockmiller case.

11 A. I do.

12 Q. Okay. Do you recall that the prosecution  
13 argued in the case that suspects other than Beaman  
14 had been excluded and that Beaman was the only  
15 remaining suspect?

16 MS. BARTON: I'll object to form.

17 THE WITNESS: I don't believe that was in my  
18 testimony.

19 BY MR. SHAPIRO:

20 Q. Were you present for parts of the trial  
21 other than your own testimony?

22 A. I was not.

23 Q. Okay. Based on the portions of the  
24 investigation that you're familiar with, are you

148

1 aware of any evidence against Alan Beaman other than  
2 circumstantial evidence?

3 A. I have not read the entire case report. I  
4 don't know.

5 Q. Okay. And -- and -- and that's why I'm  
6 asking based on what's familiar to you. And with  
7 regard to the university investigation that is  
8 familiar to you, are you aware of anything other than  
9 circumstantial evidence against Mr. Beaman?

10 A. I am not.

11 MS. BARTON: Objection, form.

12 MR. DiCIANNI: Join.

13 BY MR. SHAPIRO:

14 Q. I'm just going to read a very brief question  
15 and answer of -- from a 2004 deposition regarding  
16 this case that was given by Mr. Souk.

17 "Question: This is an entirely  
18 circumstantial case?

19 Answer: It was."

20 Based on what you know about this case, do  
21 you have any basis to disagree with that  
22 characterization?

23 A. I do not.

24 Q. Are you aware of any investigation that was  
149

1 undertaken as to whether some unknown sexual partner  
2 killed Jennifer Lockmiller?

3 A. I don't recall.

4 Q. Are you aware of any investigation as to  
5 whether just some random person was the murderer?

6 A. I don't recall.

7 Q. Are you aware of any investigation that was  
8 undertaken to determine whether the murderer was a  
9 home invader?

10 A. I don't recall.

11 Q. Are you aware of any investigation that was  
12 undertaken to determine whether the murderer was  
13 someone who had stalked Jennifer Lockmiller?

14 A. I don't recall.

15 Q. Are you aware of any investigation that was  
16 done to attempt to ascertain all of the people who  
17 had classes with Jennifer Lockmiller?

18 A. I don't have any knowledge of that.

19 Q. Are you aware of any investigation that was  
20 undertaken to determine all of the people that  
21 Lockmiller worked with at the newspaper, the Vidette?

22 A. I don't have any knowledge of that.

23 Q. Are you aware of any investigation that was  
24 undertaken to determine whether the murderer was

150

1 someone that Jennifer Lockmiller knew from the gym?

2 A. I'm not aware of that.

3 Q. As the evidence custodian, would you have  
4 been the person who received any physical evidence  
5 that was recovered from Mr. Beaman's vehicle?

6 A. Eventually, yes.

7 Q. Are you aware of any physical evidence  
8 recovered from Mr. Beaman's vehicle?

9 A. I believe there was some evidence. I don't  
10 recall exactly what it was.

11 Q. Do you have any thoughts on what it was at  
12 all?

13 A. I'm thinking some papers or receipts or  
14 something. I don't remember.

15 Q. Are you -- are you -- are you referring to a  
16 receipt that would have indicated the number of miles  
17 on Mr. Beaman's car when he got his tires changed?

18 A. I think it was something about that, yes.

19 Q. Okay. Are you aware of any other evidence  
20 recovered from Mr. Beaman's car at any point in the  
21 investigation?

22 A. I know there was some. I don't recall  
23 exactly what it was.

24 Q. Are you -- are you -- are you talking about

151

1 documentation related to the odometer or mileage,  
2 that sort of thing?

3 A. I know that was recovered, yes.

4 Q. Okay. Do you have any knowledge of any  
5 evidence recovered from Mr. Beaman's vehicle other  
6 than, you know, evidence concerning the odometer or  
7 mileage?

8 A. I don't recall.

9 Q. Okay. Was a search performed of  
10 Mr. Beaman's home?

11 A. I don't recall.

12 Q. And just to be a little bit more -- more  
13 clear, do you have any recollection of a search being  
14 conducted of either his family home in Rockford or  
15 his -- his -- his the place where he lived during the  
16 year in -- in Bloomington-Normal?

17 A. I don't recall.

18 Q. Do you have any knowledge of any effort  
19 being made to speak to the regulars at the bars that  
20 Jennifer Lockmiller would visit?

21 A. I don't have any information on that.

22 Q. Okay. Do you have any information as to  
23 whether the bartenders or other staff at the bars  
24 that Lockmiller would frequent were contacted as part

152

1 of the investigation?

2 A. I don't have any information on that.

3 Q. Do you have any information about efforts  
4 being made to track down individuals that Lockmiller  
5 might have encountered at a rehab clinic?

6 A. I don't have any information on that.

7 Q. Would it be fair in your estimation to say  
8 that Lockmiller spent time with a lot of different  
9 men?

10 A. I believe that was accurate.

11 Q. And she would -- she liked to go to bars and  
12 meet people?

13 A. That's my recollection.

14 Q. And she'd -- she'd -- she'd flirt with men  
15 at bars?

16 A. I don't have any knowledge of that.

17 Q. Okay. She drank a lot?

18 A. My recollection is that she was a drug user.

19 Q. Uh-huh. Do you recall that she -- she did  
20 drugs with a number of different people?

21 A. I don't recall that. I wouldn't doubt it,  
22 though.

23 Q. Uh-huh. And -- and -- and why wouldn't you  
24 doubt it?

153

1           A.    I think I heard that.  I don't have any  
2   direct recollection of that.

3           Q.    Uh-huh.  Fair to say she had a number of  
4   sexual partners?

5           A.    I believe she did.

6           Q.    Fair to say that there were a number of  
7   different people who moved in and out of Lockmiller's  
8   life?

9           A.    I believe there was.

10          Q.    In light of that, do you think it would have  
11   been an important component of the investigation to  
12   try to identify all of Lockmiller's acquaintances?

13          A.    Yes.

14          Q.    Are you aware of any evidence that indicated  
15   that this was a crime with a sexual motive?

16          A.    I'm not.

17          Q.    Okay.  And I believe you said earlier you're  
18   not aware of any evidence that would indicate a  
19   staged rape?

20          A.    I'm not.

21          Q.    Okay.  Someone who's -- who's dealt  
22   extensively with crime scenes, is the fact that there  
23   was a fan found on top of Jennifer Lockmiller's face  
24   an indication to you in any way that -- I'm sorry, on  
154

1 top of her body, an indication of an impersonal crime  
2 to you?

3 MR. DiCIANNI: Any what?

4 MR. SHAPIRO: An impersonal crime.

5 MR. DiCIANNI: Im, im, i-m-p-e-r?

6 MR. SHAPIRO: Yes.

7 MR. DiCIANNI: I'll object to vagueness.

8 THE WITNESS: Repeat the question, please.

9 BY MR. SHAPIRO:

10 Q. Sure. Do you recall there was a fan  
11 found --

12 A. I do.

13 Q. -- on top of the body?

14 A. Yes.

15 Q. Does that in any way indicate to you that  
16 this was an impersonal crime committed by someone  
17 that Lockmiller did not know?

18 A. I did not come to that conclusion, no.

19 Q. As you sit here right now, what do you think  
20 of that argument?

21 A. I still wouldn't come to that conclusion.

22 Q. Can -- can -- can you explain to me why --  
23 why you don't agree?

24 A. There's any number of ways that fan could

155

1 have ended up where it did. Is that a possibility?

2 Sure.

3 Q. Uh-huh. So the fan, for example, could have  
4 just fallen off the dresser and landed on her?

5 A. Well, it was certainly used in the  
6 commission of a crime; and it could have ended up  
7 there by being drug there, it could have been placed  
8 there. There's many ways it could have got there.

9 Q. Okay. There's -- there's -- there's one  
10 thing I think I should clarify here. I think you  
11 testified earlier that your recollection was that she  
12 was strangled with the cord --

13 A. Cord.

14 Q. -- of the fan, right?

15 A. Yes.

16 Q. So I'll represent to you that actually she  
17 was found with a cord of an alarm clock --

18 A. Alarm clock.

19 Q. -- around her neck.

20 A. Okay. Yes, yes, yes.

21 Q. Okay. Okay. Okay.

22 So with the clarification that -- that  
23 the -- the fan apparently was not used in the  
24 strangulation --

156

1 A. Okay.

2 Q. -- does the presence of a fan on top of the  
3 body indicate a crime committed by someone who  
4 Lockmiller did not know in any way?

5 A. Based only on that information, I would not  
6 come to that conclusion.

7 Q. Uh-huh. Sure. I understand that it would  
8 be, you know, one might not leap to that conclusion  
9 based solely on that -- that information.

10 Is it information suggesting that the  
11 possibility of a murder by someone she didn't know  
12 was something that warranted further investigation?

13 MR. DiCIANNI: Well, would you read back the  
14 question.

15 (Whereupon, the record was  
16 read as requested.)

17 MR. SHAPIRO: Why don't I re-ask that  
18 question.

19 MR. DiCIANNI: Yeah.

20 BY MR. SHAPIRO:

21 Q. I understand that in your view standing  
22 alone the fact that there was a fan on top of the  
23 body does not prove that the murderer did -- and  
24 Lockmiller did not know each other.

157



1 BY MR. SHAPIRO:

2 Q. Lieutenant Warner, you mentioned that you  
3 had reviewed an interview that you performed of  
4 Morgan Keefe. Is Exhibit 20 a transcript of that  
5 interview?

6 A. It appears that it is.

7 Q. Okay. And let me again ask you to read a  
8 portion of this interview transcript as well, but  
9 beginning point is on page 1353.

10 A. Okay.

11 Q. And the beginning point will be your  
12 question: "So you, Kelly, and Jen went where on  
13 Saturday?"

14 A. Okay.

15 Q. And the ending point will be on the  
16 following page, page 1354, two-thirds of the way  
17 down. You say, Monday night. And Ms. Keefe responds  
18 uh-huh, indicating yes?

19 A. Yep.

20 Q. Okay. Take a moment to read that.

21 A. I'm sorry. Where were we starting again?

22 Q. 1353. "So you, Kelly, and Jen went where on  
23 Saturday?"

24 A. Okay. Thank you.

159

1           Okay.

2           Q.   In the portion of the -- well, first let me  
3 ask you, do you -- do you have any independent  
4 recollection of the portion of the interview with  
5 Ms. Keefe that you just reviewed?

6           A.   No, I do not.

7           Q.   Okay.  In the portion of the interview that  
8 you just reviewed, Ms. Keefe is -- is -- is talking  
9 about an occasion on Saturday before the murder, the  
10 Saturday before the murder, when Lockmiller went out  
11 with Morgan Keefe and Kelly Hamburg, right?

12          A.   Yes.

13          Q.   Okay.  And in that portion of the interview,  
14 Keefe tells you that on that Saturday, the group was  
15 walking between two bars and encountered a couple of  
16 guys, right?

17          A.   Yes.

18          Q.   And that there was an exchange of phone  
19 numbers between one of the guys and Lockmiller.  
20 Either she gave him her number or the other way  
21 around, right?

22          A.   There was something written on a napkin,  
23 yes.

24          Q.   Uh-huh.  And that was a phone number that

160

1 was written on the napkin, right?

2 A. I don't -- did it say that? I don't  
3 remember. I thought she wasn't sure what she wrote.

4 Q. Oh, maybe you're right. So she says -- I  
5 guess we're on the top of 1354 --

6 A. It might have been her phone number.

7 Q. Okay. So there was an encounter with --  
8 with the two guys between the two bars. Something  
9 was written down on a napkin, and Keefe thought that  
10 it might have been a phone number, right?

11 A. Yes.

12 Q. Are you aware of any efforts that were made  
13 to ascertain the identity of the men that Lockmiller  
14 met in between two bars on a Saturday before her  
15 murder?

16 A. I'm not aware of any, no.

17 Q. Okay. Do you view that as an angle that  
18 should have been followed up on?

19 A. I think it should have, yes.

20 Q. Okay. And in that same portion of the  
21 interview that you just reviewed, Keefe also told you  
22 that on the Saturday before the murder, Lockmiller  
23 met a guy in a bar who lived in Woodstock and went to  
24 ISU, right?

161

1 A. Yes.

2 Q. Okay. Was any effort made, to your  
3 knowledge, to identify that individual?

4 A. I have no knowledge of that.

5 Q. Okay. In your view, is that something that  
6 should have been followed up on?

7 A. I think so.

8 MR. SHAPIRO: Mark this as 21, please.

9 (Whereupon, Warner Deposition  
10 Exhibit No. 21 was marked for  
11 identification, CML.)

12 BY MR. SHAPIRO:

13 Q. Exhibit 21 is a transcript of an interview  
14 that you conducted with Heidi Steinman, correct?

15 A. Yes.

16 Q. And if I can could direct your attention to  
17 page eight of the interview.

18 A. Page eight?

19 Q. Yes. That also bears Bates number AB 1433.

20 A. Okay.

21 Q. And toward the bottom of the page, do you  
22 see where it says: "Heidi: I remember she said ..."

23 A. I'm sorry. I don't see that.

24 Q. "I remember she said -- I don't know his

162

1 name."

2 A. Oh, yes, I see that.

3 Q. Okay. This is a just short excerpt, so I'll  
4 read it aloud.

5 "Heidi: I remember she said -- I don't know  
6 his name, but she said she met a guy at a bar, and he  
7 kept calling her, but I don't know.

8 Dave: Do you know when that was?

9 Heidi: I bet it was, like, August 20th or  
10 21st that weekend."

11 Did I read that correctly?

12 A. You did.

13 Q. Okay. So Heidi Steinman also referred to  
14 someone that Lockmiller met shortly before the murder  
15 in a bar, right?

16 A. That is correct.

17 Q. Okay. And Steinman also reported that this  
18 individual kept calling Lockmiller after that  
19 encounter, right?

20 A. She did.

21 Q. Okay. To your knowledge, was any effort  
22 made to ascertain the identify of this individual?

23 A. I have no knowledge of it.

24 Q. Okay. In your view, is this an angle that

163

1 should have been followed up on?

2 A. I believe so.

3 Q. Okay. Let me direct your attention to  
4 Exhibit 17 which is in the large packet.

5 A. Okay.

6 Q. And you can go ahead and review Plaintiff's  
7 Exhibit 17 before I ask some questions about it.

8 A. All right.

9 Q. Do you have any independent recollection of  
10 the individual, Danny Hosey, who's described in this  
11 exhibit?

12 A. I do not.

13 Q. The exhibit indicates that you and  
14 Officer Hospelhorn had an encounter with Mr. Hosey on  
15 September 27, 1993, correct?

16 A. It appears we were sent there.

17 Q. Okay. And when you arrived there,  
18 officer Ludington informed you that Hosey was found  
19 with knives in his car with a substance on them that  
20 appeared to be blood; is that correct?

21 A. It's unclear to me if Ludington was there.

22 Q. Okay. But -- but in any event, the report  
23 indicates to you -- strike that.

24 The report indicates that Ludington had

164

1 found knives with what appeared to be blood in  
2 Hosey's car, right?

3 A. That's what it says, yes.

4 Q. And the report further indicates that the  
5 following day, September 28, Hospelhorn and Ellington  
6 went to the truck stop where Hosey was apparently  
7 temporarily living or camped out and spoke with him,  
8 right?

9 A. That's what it says.

10 Q. And -- and -- and you -- you weren't present  
11 for that second part of it as far as you know, right?

12 A. Does not appear that I was.

13 Q. Okay. And under the victim's name on this  
14 report, it says Jennifer Lockmiller, correct?

15 A. It does.

16 Q. And that indicates that the purpose of this  
17 report is that it relates to the Lockmiller homicide  
18 investigation, right?

19 A. It has the homicide case number on it, case.

20 Q. Uh-huh. You wouldn't put that on a police  
21 report that had nothing to do with the Lockmiller  
22 homicide investigation, right?

23 A. No.

24 Q. Okay. And the des -- Officer Hospelhorn's

165

1 description of the second -- of the encounter with  
2 Hosey, the one which you were not present, describes  
3 him as a manic depressant who has been off his  
4 medication, right?

5 A. It does.

6 Q. It also says that he seems disoriented and  
7 started to recite passages from the bible, right?

8 A. It does.

9 Q. Based on what you know about these events  
10 involving Danny Hosey based on this report, do you  
11 think that Hosey should have been further  
12 investigated in connection with the Lockmiller  
13 homicide?

14 A. It sounds to me that he refused to  
15 voluntarily cooperate with -- with anything.

16 Q. Okay. So he -- so he -- he didn't -- he  
17 didn't cooperate. Is it your view that after having  
18 not cooperated that should have been the end of any  
19 investigation into whether Hosey was involved in the  
20 Lockmiller homicide?

21 A. I don't know what else they would have done  
22 at that point. They had no reason to detain him.

23 Q. Well, the report indicates that  
24 Officer Ludington had found knives in Hosey's car

166

1 with what appeared to be blood, right?

2 A. That's what he reported, yes.

3 Q. Uh-huh. Could a test have been run on those  
4 knives to ascertain whether it was blood?

5 A. Test could have been done, yes.

6 Q. Could a test have been run to determine  
7 whether the substance on the knives was  
8 Jennifer Lockmiller's blood?

9 A. Could have.

10 Q. Do you think that those would have been  
11 sensible steps to take?

12 A. I believe the puncture wounds were caused by  
13 a pair of scissors.

14 Q. So you don't think the fact that he was  
15 found with knives in his car with what appeared to be  
16 blood was something warranted further investigation  
17 to determine whether the substance was blood?

18 A. I think the -- no, I don't.

19 Q. Do you think that a criminal background  
20 check should have been run on Mr. Hosey?

21 A. I think that would be reasonable.

22 Q. Do you have any reason to think that a  
23 criminal background check was run?

24 A. I have no information that one wasn't.

167

1 Q. You have no information either way?

2 A. No.

3 Q. And you have no information either way as to  
4 whether any tests were run on the knives, on the  
5 blood on the knives, right?

6 A. I do not.

7 Q. Okay. Was any inquiry made, to your  
8 knowledge, as to whether crimes similar to the  
9 Lockmiller murder had been committed?

10 MS. BARTON: I'll object to form and  
11 foundation.

12 MR. DiCIANNI: I'll join.

13 THE WITNESS: Would you repeat the question,  
14 please?

15 BY MR. SHAPIRO:

16 Q. Sure. Was there any attempt to ascertain  
17 whether crimes similar to the Lockmiller murder had  
18 occurred?

19 A. I don't --

20 MS. BARTON: Same objection.

21 THE WITNESS: I don't recall.

22 BY MR. SHAPIRO:

23 Q. Is there any sort of database or service  
24 that was available to the Normal Police Department

168

1 that would have enabled officers to determine whether  
2 similar crimes had been committed?

3 A. Yes.

4 Q. Can you describe that database or core  
5 information --

6 A. I believe it's the MOCIC database. You can  
7 fill out an inquiry and --

8 MS. BARTON: Can you repeat that.

9 THE WITNESS: MOCIC.

10 You fill out an inquiry, describe what you're  
11 looking for, and they search their database.

12 BY MR. SHAPIRO:

13 Q. And I'm sorry. What does the acronym stand  
14 for?

15 A. I don't remember.

16 Q. Would you just repeat the acronym again.

17 A. MOCIC.

18 Q. MOCIC. Okay.

19 And is it fair to say that the purpose of  
20 that database is to enable investigators in one crime  
21 to gain leads by comparing that crime with other  
22 similar crimes?

23 A. That would be the purpose, yes.

24 Q. Uh-huh. And -- and -- and that's an

169

1 important purpose because certain crimes have  
2 hallmarks that may be associated with a particular  
3 single individual, right?

4 A. They can.

5 Q. And that -- that -- that's the purpose of  
6 the database, right?

7 A. I'm not sure if that's the only purpose of  
8 the database.

9 Q. Okay. Well, I mean, one -- I'm not trying  
10 to put -- put words in your mouth, but is it -- is  
11 it -- is it fair to say -- and, you know, I don't --  
12 I don't know this -- know this well, so please  
13 correct me.

14 Is it fair to say that one reason the  
15 database exists is to help police gain leads in one  
16 crime by comparing it to other similar crimes?

17 A. Yes.

18 Q. Okay. And are you aware of -- strike that.

19 To your knowledge, was there any effort in  
20 the Lockmiller homicide investigation to use that  
21 database to ascertain whether similar crimes have  
22 been committed?

23 A. I have no knowledge of that.

24 Q. And -- and -- and I believe you said earlier

170

1 you do not have any knowledge of anything being done  
2 to compare this crime to other possible similar  
3 crimes, right?

4 A. I do not.

5 Q. Do you think that attempting to compare the  
6 Lockmiller murder to other possible similar crimes  
7 would have been worth doing?

8 MR. DiCIANNI: Objection, for -- foundation.

9 MS. BARTON: I'll join.

10 THE WITNESS: I suppose that value would  
11 determine what you found out.

12 BY MR. SHAPIRO:

13 Q. Well, you don't know what you're going to  
14 find out until you try, right?

15 A. Then I don't know the value.

16 Q. Well, fair to say that that's true of many  
17 things in an investigation, right? There -- there --  
18 there -- there's steps that one should take, but you  
19 don't really know if they're going to pan out until  
20 they're done, right?

21 A. Yes.

22 Q. Okay. And so as an investigator, one has to  
23 make judgments as to whether something is  
24 sufficiently likely to be fruitful before undertaking

171

1 it, right?

2 A. It's something that could have provided  
3 information.

4 Q. Uh-huh. Would it have been a good practice  
5 to check for similar crimes?

6 A. Yes.

7 Q. So in the Lockmiller murder, the body was  
8 arranged in an awkward and somewhat unusual position.  
9 Would you agree with that characterization?

10 A. Yes.

11 Q. And the victim was stabbed with a scissors  
12 in between her breasts, right?

13 A. Yes.

14 Q. And that stabbing with the scissors occurred  
15 when the victim was already dead, right?

16 A. I believe so.

17 Q. Do any of those factors stand out to you as  
18 ones that might suggest a killer with a particular  
19 hallmark?

20 A. It could also suggest that -- there could be  
21 many suggestions about that.

22 Q. I understand that, but -- but -- but the  
23 question is -- is one thing that it could suggest a  
24 killer a particular hallmark?

172

1 A. Sure.

2 Q. Are you aware of any evidence that was  
3 encountered -- strike that.

4 Are you aware of any evidence that was  
5 uncovered during the course of the investigation that  
6 Alan Beaman had ever been violent to any person?

7 A. Evidence? No, I don't think so.

8 Q. Let me direct your attention to Exhibit 16  
9 toward the back of the packet of exhibits.

10 A. Okay.

11 Q. Do you know whose notes are shown in  
12 Exhibit 16?

13 A. I do not.

14 Q. Okay. They're not your notes?

15 A. They're not.

16 Q. Toward the top on the left-hand column of  
17 the first page of Exhibit 16, do you see that there  
18 are four S's with circles around them?

19 A. I do.

20 Q. Is that a notation you're at all familiar  
21 with?

22 A. I don't know. That could mean -- I don't  
23 know, suspect, I suppose. I don't know.

24 Q. And you see that appears next to individuals

173

1 including John Murray; Bubba, presumably Stacey  
2 Gates; and Alan, presumably Alan Beaman, right?

3 A. I do.

4 Q. Okay. And the notation after John Murray  
5 Larbi says drug supplier, question mark, right?

6 A. Yes.

7 Q. The notation next to Rob Curtis says  
8 stalking type, right?

9 A. Yes.

10 Q. Okay. So looking at these notations as a  
11 whole, do you think it's reasonable to conclude that  
12 the S notations indicate that these individuals were  
13 suspects?

14 MR. DiCIANNI: I'll object to speculation.

15 MS. BARTON: And foundation.

16 THE WITNESS: Yeah, I don't know what the  
17 writer of this was thinking.

18 BY MR. SHAPIRO:

19 Q. Can you think of any other explanation than  
20 they're being suspects?

21 MR. DiCIANNI: Objection, speculation.

22 MS. BARTON: Same.

23 THE WITNESS: It could be 5's. I don't know.

24

174

1 BY MR. SHAPIRO:

2 Q. Did Detective Daniels express any doubts  
3 about Beaman's guilt to other investigators?

4 MR. DiCIANNI: Object to foundation.

5 MS. BARTON: I'll join.

6 THE WITNESS: I don't know what he told other  
7 investigators.

8 BY MR. SHAPIRO:

9 Q. Uh-huh. Did he express doubts to you?

10 A. I don't recall any.

11 Q. There was a meeting held on May 16, 1994  
12 where a decision was made to charge Mr. Beaman. You  
13 weren't present at that meeting, right?

14 A. I don't recall.

15 Q. Earlier you testified that when an  
16 investigator completes a report, that report would be  
17 reviewed and signed by a supervisor?

18 A. Yeah.

19 Q. Okay. And what's -- what's -- what's the  
20 purpose of having the supervisor sign and review the  
21 reports?

22 A. Make sure it contains necessary information.

23 Q. No -- I'm sorry?

24 A. Make sure it contains necessary information.

175

1 Q. Okay. So if necessary information were  
2 omitted, one of the supervisor's responsibilities  
3 would be to correct that, right?

4 A. Send it back, right.

5 Q. Can you think of any reason why reports by  
6 an investigator in this case would not have been  
7 signed by a supervisor?

8 A. I don't know.

9 Q. Okay. Let me -- let me ask you the question  
10 with -- with regard to some -- some specific  
11 documents.

12 Let's first turn to Exhibit 2 in the packet,  
13 if you would.

14 A. Okay.

15 Q. I'm just going to ask you -- I'm not going  
16 to ask you questions, I think, that will require any  
17 sort of line-by-line review of this report. If you  
18 disagree with that and want to review it, just let me  
19 know, and we can do that.

20 But the question is this: Exhibit 2 is a  
21 report prepared by Timothy Freesmeyer in this case,  
22 right?

23 A. That's correct. That appears to be right.

24 Q. And Exhibit 2 you'll see contains at the

176

1 bottom of each page a field for supervisor's name and  
2 ID; is that right?

3 A. It does.

4 Q. Okay. And this, I think, will require you  
5 to flip through. The question is going to be every  
6 page in this exhibit has a blank where the  
7 supervisor's signature should be?

8 A. It does.

9 Q. Okay. If you would turn to Exhibit 3.

10 A. Okay.

11 Q. Exhibit 3 appears to be a continuation  
12 report prepared by Detective Freesmeyer in this case,  
13 right?

14 A. It appears that way, yes.

15 Q. And I think you know what the next question  
16 is -- is -- is going to be. This continuation report  
17 by Freesmeyer is blank on every page in the field for  
18 the supervisor's signature, correct?

19 A. Correct.

20 Q. Okay. Can you think of any reason why these  
21 reports by Freesmeyer would not have been signed by a  
22 supervisor?

23 A. I have no idea why it wasn't signed by a  
24 supervisor.

177

1 Q. Okay. Let me direct your attention to  
2 Exhibit 5.

3 A. Yep.

4 Q. Okay. So Exhibit 5 is a -- is a report by  
5 Freesmeyer that has been signed by the supervisor,  
6 Lieutenant Zayas, right?

7 A. That's correct.

8 Q. Okay. And if you flip back to Exhibit 2,  
9 I'm just going to ask you whether Exhibit 5 is the --  
10 appears to be the first 24 pages of Exhibit 2?

11 A. I'm sorry. What?

12 Q. Yeah, it's a -- maybe I'll make a statement,  
13 and you can -- you can tell me if you agree or  
14 disagree. The statement is that Exhibit 5 --

15 A. Okay.

16 Q. -- contains the first 24 pages of the  
17 Freesmeyer report shown in Exhibit 2 and the first 24  
18 pages are signed?

19 A. Without -- I don't know is my answer.

20 Q. Okay. All right. Well -- well, I think --  
21 I mean, I think -- I think there's a way to cut --  
22 cut through this a little more quickly. Let's -- let  
23 me point you to Exhibit 6.

24 A. 6, okay.

178

1 Q. Exhibit 6 is a -- three pages of a report by  
2 Freesmeyer that are signed by Zayas, right?

3 A. Yes.

4 Q. Okay.

5 A. I think. Yes.

6 Q. Okay. So -- so just to save the time of  
7 your having to, you know, compare everything, I'll  
8 just -- I'll just represent to you and ask you to  
9 take it as true for purposes of this question that  
10 taken together, Exhibit 5 and 6 are the first 26  
11 pages of Exhibit -- of Exhibit 2. And that after  
12 those first 26 pages, we haven't gotten any further  
13 pages of this report by Freesmeyer signed by Zayas,  
14 okay. Does that make sense?

15 A. Is that what you're telling me?

16 Q. I'm telling you that.

17 A. Okay.

18 Q. I'm not asking. Right.

19 And the last pages of the report of  
20 Exhibit 24 through 26 --

21 A. 20 -- I don't have.

22 Q. I'm sorry. Exhibit 6, pages 24 to 26.

23 A. These aren't numbered.

24 Q. I'm sorry. They're numbered at the top on  
179

1 Freesmeyer --

2 A. Okay, that number. 24 to -- okay. What was  
3 your question?

4 Q. So I'm just -- I'm just going to represent  
5 to you that -- that -- that, you know, this is the  
6 latest date, September 24, 1993 that we have a signed  
7 portion of the report from Freesmeyer -- from -- this  
8 is the last part of the report that we have with a  
9 signature from Zayas, okay?

10 A. Okay.

11 Q. So can you -- can you think of any reason  
12 why Zayas would stop signing Freesmeyer's reports as  
13 of late September '93?

14 A. I have no idea.

15 Q. Would that be a departure from protocol?

16 MR. DiCIANNI: I'll object to form of the  
17 question.

18 BY MR. SHAPIRO:

19 Q. Would it -- would it -- I'll rephrase the  
20 question.

21 Would it be a departure from protocol for  
22 portions of an investigator's report not to be signed  
23 by a supervisor?

24 A. I would expect them to be signed if they

180

1 were turned in to the supervisor.

2 Q. Why would you expect them to be signed?

3 A. That's what typically happens.

4 Q. Uh-huh. And if they're not signed, is that  
5 an indication that there's something wrong with the  
6 report?

7 MR. DiCIANNI: I'm going to object,  
8 speculation.

9 THE WITNESS: I don't know why they weren't  
10 signed. I wouldn't speculate the cause. I don't  
11 know.

12 BY MR. SHAPIRO:

13 Q. Have you ever turned in a report that a  
14 supervisor refused to sign?

15 A. I -- you know, I don't look at them after  
16 they're signed. They get turn -- if they get signed,  
17 they get turned in.

18 Q. Uh-huh. And if they're not signed, would  
19 they be sent back to you?

20 A. They could be. I don't know why they were  
21 not signed.

22 Q. Do you have any recollection of a conference  
23 in Florida about cold cases that occurred during the  
24 Lockmiller homicide investigation? I don't believe

181

1 you attended.

2 A. I don't think I went to Florida.

3 Q. I don't think you did either. My question  
4 is do you recall anyone else doing that?

5 A. I do not.

6 Q. Okay. Do you have any recollection of a  
7 meeting with the Chicago Police Department's violent  
8 crimes unit held by investigators in this case?

9 A. I do not.

10 Q. Do you have a view as to whether Alan Beaman  
11 killed Jennifer Lockmiller?

12 A. I have not read the complete case file. I  
13 don't know.

14 Q. Is there any aspect of the investigation --  
15 of the Lockmiller homicide investigation that you  
16 believe should have been done differently?

17 A. I have not read the entire case file. I  
18 don't know what was done.

19 Q. So -- so -- so you don't have a view as to  
20 whether the investigation was thorough and complete?

21 A. I've not read the whole case file. I don't  
22 know what was done.

23 Q. Okay. We discussed earlier that you've been  
24 a part of this community for -- for a long time?

182

1 A. Yes.

2 Q. And is it fair to say that as a resident of  
3 this community and a police officer who works in this  
4 community, you've had an opportunity to observe how  
5 it's changed over the years?

6 A. Yes.

7 Q. Okay. Would it be fair to say that -- that  
8 in the '90s in this area and particularly around the  
9 universities there was a rebirth so-to-speak of the  
10 hippy movement?

11 A. The '90s?

12 Q. Yeah, that -- maybe a better way of phrasing  
13 it is there was sort of neo-hippies with long hair,  
14 that sort of thing?

15 A. I think long hair came back into being  
16 popular. I don't know about any movement.

17 Q. Okay. Movement is probably a wrong -- wrong  
18 way to put it.

19 There were -- there were a group people in  
20 the late '90s who in general had certain  
21 characteristics; longer hair, casual attitude toward  
22 substance abuse, devotion to particular kinds of  
23 music, limited respect for authority and tradition.  
24 Is that making any sense to you?

183

1 A. Is that a question or a statement?

2 Q. Yeah. Well, I'm asking would you agree with  
3 that statement and if not, you know, where -- where  
4 is it going wrong?

5 A. You have to repeat the question. You lost  
6 me.

7 Q. Okay. Well, you -- you -- you remember that  
8 I think you said that there was sort of group of  
9 folks in the early '90s who were wearing their hair  
10 longer?

11 A. Yes.

12 Q. Were there any other characteristics you'd  
13 associate with that group?

14 A. Like you said, certain music. I don't  
15 remember.

16 Q. Casual attitude toward the use of certain  
17 drugs?

18 A. Okay.

19 Q. You agree with that?

20 A. Sure.

21 Q. Limited respect for authority and tradition?

22 A. That's been going downhill for a long time.

23 Q. And these guys were a part of it, right?

24 A. A lot of people are part of that.

1 Q. Okay. In the -- in the early '90s, were --  
2 was the police department having to deal with a lot  
3 of these people with drug convictions, drug arrests;  
4 that sort of thing?

5 A. I guess I don't like the term "these  
6 people."

7 Q. Yeah, that's --

8 A. That's offensive to me.

9 Q. Okay. Well, I -- I -- I'm not trying to be  
10 offensive.

11 A. No, I know you're not.

12 Q. I'm trying to talk about a group with  
13 certain characteristics, and I'm not trying to --

14 A. And you're asking if we were biased against  
15 them.

16 Q. No, no, no, no. I'm not asking --

17 A. Ask the question.

18 Q. Sure. I'm asking whether -- whether you --

19 A. I'm totally lost here.

20 Q. No, no, no, no. That's fair.

21 I'm asking whether you -- whether the police  
22 department regularly had occasion to have to arrest  
23 or charge people belonging to that group with drug  
24 offenses, disturbing the peace, public drunkenness;

185

1 that sort of thing?

2 A. We regularly had occasion.

3 Q. Uh-huh.

4 A. I'm sure we arrested some people that fit  
5 that description. I don't know how many.

6 Q. Uh-huh. In your view, was -- was -- was  
7 there any tension between the -- the -- the police  
8 department and that group?

9 A. I don't recall any.

10 Q. Okay.

11 MR. DiCIANNI: David, I remember the real  
12 '60s when those questions first started coming up. By  
13 the '90s, that was not a reality anymore.

14 MR. SHAPIRO: Fair enough.

15 Why don't we take a break.

16 THE WITNESS: Thank you.

17 THE VIDEOGRAPHER: Off the record, 3:32.

18 (Whereupon, a break was taken,  
19 after which the following  
20 proceedings were had:)

21 THE VIDEOGRAPHER: Back on the record, 3:42.

22 BY MR. SHAPIRO:

23 Q. You mentioned earlier, Lieutenant Warner, at  
24 one point Freesmeyer was promoted to the head of CID,

1 right?

2 A. Yes.

3 Q. Do you remember any sort of announcement or  
4 ceremony being associated with that promotion?

5 A. I don't believe there was much of a  
6 ceremony. There typically wasn't.

7 Q. Do you recall any discussion about the  
8 reasons for the promotion?

9 A. Not with me.

10 Q. Now, I'll represent to you that the two  
11 polygraphs we discussed earlier, the polygraph of  
12 Mr. Murray and Mr. Gates, were not provided to  
13 defense counsel during Mr. Beaman's criminal  
14 investigation. Do you have any explanation of why  
15 that would have happened?

16 A. I do not.

17 Q. Okay. Well, I just have one more question,  
18 but before I ask it, I want to say thank you for your  
19 time today. I apologize for any disruption  
20 associated with your schedule and with this -- this  
21 deposition.

22 Obviously I sit here as someone who believes  
23 that Mr. Beaman was wrongfully convicted and spent 13  
24 years in prison for something he didn't -- didn't do.

187

1 And I've done my best to ask you questions about the  
2 investigation today, but obviously as someone who --  
3 who wasn't there, I don't always know the best  
4 questions to ask.

5 So my question to you is is there anything  
6 that you think I should know or you think Mr. Beaman  
7 should know that we haven't covered today?

8 MR. DiCIANNI: Yeah, I'm going to object to  
9 that. I don't -- you can go ahead and answer.

10 THE WITNESS: No.

11 MR. SHAPIRO: Okay. Thank you.

12 MR. DiCIANNI: Done?

13 MR. SHAPIRO: Yes, I'm done with the  
14 questions.

15 MS. BARTON: I just have a couple.

16 MR. DiCIANNI: Sure.

17 CROSS-EXAMINATION

18 BY MS. BARTON:

19 Q. Lieutenant, right?

20 A. Yes.

21 Q. Lieutenant, you testified when Mr. Shapiro  
22 was asking you questions that you thought the State's  
23 Attorney's Office should have received a copy of the  
24 polygraph reports, right?

188

1 A. I did.

2 Q. And that would include John Murray's report  
3 and also Stacey Gates's, right?

4 A. Correct.

5 Q. You didn't provide either one of those  
6 reports to anyone in the State's Attorney's Office,  
7 right?

8 A. Directly, no.

9 Q. Okay. And you didn't do anything to verify  
10 that the State's Attorney's Office received those  
11 reports, right?

12 A. I wouldn't verify if any report was sent  
13 over.

14 Q. But you didn't do that in this case, right?

15 A. No.

16 MS. BARTON: That's it. Thank you.

17 MR. SHAPIRO: Okay. No recross from me.  
18 Thank you.

19 MR. DiCIANNI: Okay. Re --

20 MR. SHAPIRO: Oh, I'm sorry.

21 MR. DiCIANNI: No, I don't have a question.  
22 I'm just saying we will reserve signature.

23 MR. SHAPIRO: Thank you very much.

24 THE VIDEOGRAPHER: This concludes the video  
189

1 deposition of Dave Warner. The time, 3:45.

2 (Witness excused at 3:45 p.m.)

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1 STATE OF ILLINOIS )

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3 COUNTY OF COOK )

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5 I, CHRISTINE M. LUCIANO, Certified Shorthand  
6 Reporter, State of Illinois, DO HEREBY CERTIFY, that  
7 pursuant to agreement between counsel there appeared  
8 before me on December 18, 2012, at 201 Broadway  
9 Street, Normal, Illinois, DAVID WARNER, who was first  
10 duly sworn by me to testify to the whole truth of his  
11 knowledge touching upon the matter in controversy  
12 aforesaid so far as he should be interrogated  
13 concerning the same; that he was examined and his  
14 examination was taken down in shorthand by me and  
15 afterwards transcribed by stenographic means; that the  
16 deposition is a true record of the testimony given by  
17 the witness; and that the signature of the deponent is  
18 reserved.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand this 2nd day of January, 2013.

21

22 \_\_\_\_\_

23 Christine M. Luciano, CSR

24 CSR #084-004068

191

1 IN RE: Beaman vs. Souk, et al.

2

3 I, DAVID WARNER, Deponent herein, do hereby  
4 certify that I have read the foregoing deposition and  
5 that it is a true and accurate transcription of the  
6 questions asked of me and the answers given by me,  
7 with the following change (s):

8

PAGE	LINE	CHANGE	REASON
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DAVID WARNER

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DAVID WARNER

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MCCORKLE COURT REPORTERS  
200 North LaSalle Street, Suite 2900  
Chicago, Illinois 60601  
January 2, 2013

Ance1, Glink, Diamond, Bush, DiCianni & Krafthefer  
Mr. Thomas G. DiCianni  
140 South Dearborn Street, Suite 600  
Chicago, Illinois 60603  
RE: Beaman vs. Souk, et al.  
Dear Mr. Thomas G. DiCianni:

Enclosed is the deposition of DAVID WARNER,  
taken in the above-captioned matter on December 18,  
2012, along with the original errata sheet. Pursuant  
to the rules of court, please have the deponent read  
the transcript and sign the signature page.

Under the provisions of the Rules pertaining  
to the reading and signing of deposition transcripts,  
you have 28 days from the date of this notice to  
attend to this matter. If any corrections/changes are  
required, they must be made on the errata sheets, not  
on the transcript itself. All errata sheets must be  
signed. After you have completed the above, please  
send the original to the above address, and I will  
facilitate delivery of the errata sheet.

Our office has no authority to grant an  
extension of time for review of the transcript. So  
please understand that should you fail to sign and  
return the certificate within the specified time  
period, the unsigned deposition may then be used as  
fully as though signed, with certain exceptions under  
the Rules.

Very truly yours,

Christine M. Luciano, CSR

This is Detective Daniels of the Normal Police Department. I am present with Detective Rob Hospelhorn and a Mr. Alan Beaman. We are in the Winnebago County Sheriff's Department. Today's date is August the 28th, the approximate time is 11:02 p.m. We are conducting an interview with Mr. Beaman.

Tony: Could you state your complete name please?

Alan: Alan Wayne Beaman.

Tony: What is your address, Alan?

Alan: [REDACTED] Rockford, Illinois.

Tony: What is your date of birth?

Alan: [REDACTED]

Tony: And your home telephone please?

Alan: 962-6540 and area code 815.

Tony: Alan do you understand at present you are not under arrest?

Alan: I understand.

Tony: You also understand that you do not have to answer any questions you do not wish to answer?

Alan: I understand.

Tony: You also understand that you can leave at any time?

Alan: I understand.

Tony: Alan, can you tell us where you were this past week?

Alan: This past week I have been in Rockford working for my uncle.

Tony: And what type of work is that?

Alan: It's pretty much odd jobs, handywork. I've been painting mostly this week. In the past I've been doing some blacktopping, and uh, carpentry. I work at his store, he owns four Stores, Gray's IGA, and at night I work with another person, Dennis, who uh, he and I will do whatever needs to be done at whatever store.

*et al* (711)

Tony: Do you live here in Rockford?

Alan: Yes.

Tony: Are you on vacation from school in Normal?

Alan: Yes.

Tony: What school do you attend in Normal?

Alan: I attend Illinois Wesleyan University in Bloomington actually.

Tony: Where do you reside in Normal/Bloomington?

Alan: Uh, it depends, where I am going to or where have I?

Tony: Yes, what was your last address?

Alan: My last address was [REDACTED].

Tony: In Bloomington?

Alan: Yes.

Tony: Did you have an apartment number there?

Alan: Apartment #3

Tony: When did you come back home here in Rockford?

Alan: When did I come back home? Uh, it would have been like, August. The second week in August.

Tony: The second week?

Alan: No, it was in the middle of the first week in August actually.

Tony: Do you recall the day of week?

Alan: No I don't know exactly when.

Tony: Do you recall the date?

Alan: No.

C 1241

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Tony: Who are you staying with while you are back here in Rockford?

Alan: My parents.

Tony: So you have been back here since about the first, the middle of the first week in August, that would be around the 4th or 5th, does that sound right?

Alan: Yeh.

Tony: How did you get back...

Alan: Might have been a Wednesday.

Tony: Pardon me?

Alan: It might have been Wednesday.

Tony: Ok, how did you get back here from Normal?

Alan: I drove.

Tony: Did you drive with anyone?

Alan: No.

Tony: Ok. You've been back here in Rockford since the 4th of August is that correct?

Alan: Yes.

Tony: Did you make any return trips to Normal or to Bloomington?

Alan: No.

Tony: Did you make any trips outside of Rockford?

Alan: Uh, I went to Carpentersville to pick up a friend who had been stranded. That would have taken about twenty minutes.

Tony: Ok. What was that friends name.

Alan: Ed (Larkinson?)

Tony: And do you recall the date that was?

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APPENDIX 002902

Alan: Uh, that would have been...last week? What's the date?

Tony: This is Saturday the 28th.

Alan: Saturday the 28th. It would have been like, last week sometime, I don't know.

Tony: What is your uncle's name?

Alan: Cliff Gray.

Tony: Spell his last name?

Alan: Gray.

Tony: And do you have his address?

Alan: Uh, Not off the top of my head, no.

Tony: Do you have his phone number?

Alan: Not off the top of my head.

Tony: How would I get ahold of Mr. Gray.

Alan: Uh, you would have to, probably call my parents and find out the number, or call the store, Gray's IGA. Or you could look it up in the phone book.

Tony: What were you doing today?

Alan: What was I doing today? Today I got up at about 3:00. I went to a rehearsal at church, cause I'm playing the guitar tomorrow morning, and uh, then when I got done with that it was about 6:00. I came back home, and was working on replacing, or not replacing but putting a tape deck into my car, my Dad was helping me. And that is what I have been doing up until I left my house and ten minutes later I got pulled over.

Tony: What were you doing yesterday, friday the 27th?

Alan: Yesterday? I, Ok. Um, I got up at like 9:00, cause I work nights, the graveyard shift. I got up at 9:00 and uh, I called a friend, and she and I went out to Denny's for coffee and, uh, then we went out to Sinissippi Gardens and went for a walk and then I went home, after I dropped her off, and went to bed.

Tony: You say you worked a graveyard shift, what kind of work do you do?

Alan: I already said, I just paint and, you know, tear this wall out and put this wall back and stuff.

Tony: You work at night?

Alan: Yeh, because that is when there is nobody in the store, to like, have to paint around, no food sitting along the counters.

Tony: Ok, that is at the IGA store that your uncle owns?

Alan: Yeh.

Tony: What were you doing, Thursday, the 26th of August?

Alan: Thursday, the 26th. Thursday. Well, I went to work Thursday morning and then when I got off work at 11:00, I went over to my uncles and I was going to start doing his driveway cause he wanted somebody to blacktop, or seal the blacktop in his driveway. And so I was just edging the driveway that day, and then I was getting tired so I went home and went to bed. Um got up and went to a party and, went back to work again.

Tony: What time did you go to work on the 26th?

Alan: 1:00 in the morning.

Tony: 1:00?

Alan: yep.

Tony: And what time you get off?

Alan: I got off at 11:00.

Tony: Is that 11:00 p.m. or 11:00 a.m.?

Alan: 11:00 a.m.

Tony: And you went home and went to bed?

Alan: Yeh.

Tony: What time did you get up?

Alan: I got up at around 7:00 or 8:00 maybe.

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APPENDIX 002904

Tony: P.m.

Alan: Yeh.

Tony: You say you attended a party?

Alan: Yeh.

Tony: Where was that party?

Alan: It was on 15th Street, I don't know the exact address.

Tony: Who resides there?

Alan: David Olson.

Tony: O-L-S-O-N?

Alan: I think so.

Tony: Ok, how long did you stay at his party Thursday night?

Alan: I was at his party until I went to work.

Tony: Which was what time?

Alan: Which was 1:00 in the morning.

Tony: On Wednesday, August 25th, what did you do?

Alan: I'm trying to think what went on, I know I went to Olson's house that night too.

Tony: Do you recall what time?

Alan: His parents were out of town. Oh, probably around like 10:00 so I would have gotten up at about 7:00 or 8:00 and went and eaten with my Mom and Dad and ...

Tony: Are you saying 10:00 in the morning?

Alan: What? No, at night.

Tony: 10:00 p.m. at night, Wednesday night.

Alan: Yeh.

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Tony: Who was there.

Alan: Who was there? People, just friends of mine.

Tony: Ok, what did you do after you went to this house?

Alan: Then I went to work.

Tony: What time did you go to work?

Alan: 1:00 in the morning.

Tony: So you went to his house at 10:00 p.m. and stayed there until about 1:00 a.m.?

Alan: Yeh.

Tony: What did you do prior to 10:00 p.m.?

Alan: I hung out with my Mom and my Dad.

Tony: And where were they?

Alan: At home.

Tony: Then during Wednesday, during the day, you were at home with your parents?

Alan: During the day, I was asleep.

Tony: Ok, where were you sleeping?

Alan: In my bedroom.

Tony: Ok, so you were at home, is that correct?

Alan: Yeh

Tony: On Tuesday, the 24th, where were you?

Alan: Same schedule, go to work, you know, that's what we all do.

Tony: Ok, so normally what time do you get off of work?

Alan: Normally, I get off at about, sometime between 9:00 and 11:00 and I go home and-go straight to bed after that and then I get up at about, uh, usually between 7:00 and 9:00.

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APPENDIX 002906

And either I go out with my parents or I go out for a little while before I have to go to work again.

Tony: OK, so you work the graveyard shift, which is usually what, 1:00 until...

Alan: uh huh, 1:00 until 11:00 usually.

Tony: 1:00 in the morning until 11:00 in the morning?

Alan: Right.

Tony: Then you go home and get a few hours rest, sleep.

Alan: I Try to get 8 hours of sleep usually.

Tony: Do you recall where you were on the 24th?

Alan: The 24th would have been what?

Tony: Tuesday.

Alan: Tuesday, It would have been the same thing. Same with Monday too.

Tony: Did you happen to go out of town on the 24th?

Alan: No.

Tony: Or were you down in Normal/Bloomington on the 24th?

Alan: No.

Tony: If you were to go down to Normal/Bloomington, how would you get down there?

Alan: I would drive.

Tony: What do you drive?

Alan: I drive a Ford Escort.

Tony: Do you know the license plate number?

Alan: BBB 282.

Tony: Name some of your friends that you have down there in Normal/Bloomington.

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Alan: In Normal, friends of mine, uh, most of them have moved out and people I know that are down there still, my ex-girlfriend, ...

Tony: What is her name?

Alan: Jennifer Lockmiller.

Tony: Where does she live down there?

Alan: She lives at 412 North Main?

Tony: Do you know the apartment number?

Alan: Apartment #4.

Tony: When did you last see her?

Alan: When did I last see her? I last saw her before I came back to Rockford.

Tony: Which was when?

Alan: Which would have been, like, the 4th of August.

Tony: OK, have you called her since then?

Alan: I have not called her, she has called my twice.

Tony: What was the purpose of her calling you?

Alan: She was calling me to try to get me to talk to her about our break up and I said "I don't really want to talk to you, you cheated on me so it's over and I don't want to talk to you ever again", I said "bye", hung up the phone, and just, I didn't want to talk to her.

Tony: What was the break up over?

Alan: She cheated on me with my roommate.

Tony: Who was your roommate?

Alan: My roommate would be Mike Swaine, he is not there any longer.

Tony: When did this relationship..., Pardon me?

Alan: He's not there any longer either.

Tony: Where is Mike?

Alan: Uh, he would have gone back home too, we were working summer stock Theatre, Campus of Illinois Wesleyan

Tony: Together? Together?

Alan: Yeh.

Tony: What were your time periods that you were working at the Theatre?

Alan: At the Theatre, what do you mean like?

Tony: You say you were working it together?

Alan: Yeh.

Tony: OK.

Alan: It's a 9:00 to 5:00 job and then if there is a show at night we would work at night.

Tony: Ok. What was the last date the two of you worked together at the theatre?

Alan: The last date the two of us worked together, it would have been a Saturday, it was the last Saturday in July, I believe, what day of the week was July 31st?

Tony: The 31st is a Saturday.

Alan: Ok, so it would have been the Saturday before that, it was the last Saturday.

Tony: The 24th?

Alan: Yes.

Tony: Was that the last time you saw him, have you talked to him?

Alan: No I saw him when I was back in Bloomington also before I left for Rockford, I went to Cincinnati for a week.

Tony: Ok when, ok when did you last see him then?

Alan: The last time I would have seen him would have been August 4th.

Tony: In Bloomington?

Alan: Yeh.

Tony: Whereabouts in Bloomington?

Alan: At the apartment. I went back to pick up my stuff and leave them my keys.

Tony: Who's apartment?

Alan: Our apartment.

Tony: Then you shared the same apartment?

Alan: Yeh.

Tony: Was that the week of the 4th?

Alan: I, I don't even know, it might, it was probably like a Tuesday or Wednesday.

Tony: Ok, was he there when you were packing to leave?

Alan: Um, no, he was not there when I was packing to leave because I packed to leave before I went to Cincinnati on the Sunday after the last, right after the last day he and I worked together. So it would have been the last Sunday, the last Sunday in July. I packed my car and then I went to Cincinnati with a friend of mine and I was there for a week and a half and then I came back, got my car, and left for Rockford immediately.

Tony: Ok, clear this up for me if you will, the last time the two of you, that's Mike...

Alan: Right.

Tony: What's Mike's last name?

Alan: Mike Swaine.

Tony: You and him worked together was the 24th of July is that correct?

Alan: I think so.

Tony: Is that correct.

Alan: Yeh.

Tony: Yeh, when was the last time you were in the apartment that the two of you shared in Bloomington?

Alan: The last time I was in the apartment would, was August 4th.

Tony: And when was the last time you saw Mike?

Alan: August 4th.

Tony: Ok, where did you see him?

Alan: In the apartment.

Tony: OK, that's in Bloomington right?

Alan: Yes.

Tony: You say you went to Cincinnati, Ohio with a friend?

Alan: Yes.

Tony: What is that friends name?

Alan: Jamie Thorman.

Tony: And, uh, spell his last name.

Alan: T-H-O-R-M-A-N

Tony: Where does Jamie live?

Alan: He lives in Cincinnati, Ohio, actually in uh, uh, what is that suburb, it's uh, well it's in the Cincinnati area.

Tony: How long did you stay in Cincinnati?

Alan: I was there for about a week and half.

Tony: And when you left, where did you go?

Alan: His Mom drove me back, to uh, to my apartment where I picked up my car and then I came to Rockford.

Tony: So that's in Bloomington, is that right?

Alan: Yeh.

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APPENDIX 002911

Tony: So you were there for approximately, until the 14th or so of August, is that correct?

Alan: Approximately, yes.

Tony: And when you returned to Bloomington around the August 14th or 15th, did you happen to visit Jennifer?

Alan: Yes, I stopped by her house.

Tony: Stopped by her house which is on Main Street in Normal?

Alan: Right

Tony: Ok, what was the purpose of that visit?

Alan: Just to see how she was doing because we had broken up awhile before that and uh,

Tony: Ok, how was she doing?

Alan: Uh, she seemed stable at the time. I knocked on the door, she answered it, she let me in and we talked for a little while, like maybe a half hour, and then I took her to class cause she needed a ride to class so I dropped her off at class and then I left for Rockford and that would have been around 1:00.

Tony: How long did the two of you visit?

Alan: It was about a half hour to 45 minutes maybe at the most.

Tony: What was her state of mind at the time?

Alan: Just calm.

Tony: Was she dating anybody at the time?

Alan: I have no idea, I didn't ask, I didn't want to know.

Tony: What was the purpose of your visit then?

Alan: Just to see if she was alright.

Tony: Did she mention who she was dating?

Alan: No.

Tony: Did she inquire as to you and her getting back together and renewing your relationship?

Alan: Well, yes and no, it was just kind of a, she kissed me good bye in the car and I told her that might be the last time we ever kissed because I really didn't think that I could ever trust her again. But that was..

Tony: How did you know that she was dating your roommate?

Alan: He told me, they weren't dating, it was just an affair happened between them about, it would have been at the end of, towards the end of June and he told me about it a couple days after it happened so it would have been right at the end of June.

Tony: How did you feel after you left her that last day there in August, the last time you saw here?

Alan: I felt good, I felt like, you know, ok, I'm just getting out of here, and forget about it.

Tony: Did you more or less put that all behind you?

Alan: Pretty much, yeh.

Tony: Did you ever have a key to her apartment?

Alan: I did at one time and then she got it back.

Tony: How did she get it back.

Alan: I just gave it to her cause she wanted it, so..

Tony: Ok, when did you give it to her?

Alan: That, that was like during the school year, that was like uh, what was it, March or April.

Tony: Of 1993.

Alan: Yeh.

Tony: When you left her at school back in August 14 or 15, where did you go then?

Alan: I went to Rockford.

Tony: Up here?

Alan: Yeh.

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AB001265

APPENDIX 002913

Tony: OK, and what did you do while you were up here?

Alan: I worked.

Tony: You haven't been down to Normal/Bloomington since?

Alan: I haven't been down there since.

Tony: And you said that she had called you a couple of times?

Alan: Correct.

Tony: Where did she call you?

Alan: At home.

Tony: Ok, what time during the day did she call you?

Alan: The first time she called it was in the evening and the second time she called it was like, early afternoon.

Tony: Ok, what was the subject of the conversation?

Alan: Uh, the first phone call, subject of the conversation was her calling me up and me pretty much saying I didn't want to talk to her uh and then she coaxed me into talking to her for a little while and just, you know, it was just pretty much small talk. "Oh how are things, how are you doing" and then uh, and then she told me she was going to be leaving for California for a week or so and then she said she would call me when she got back and I said I really didn't care if she did call and I said if you want to send me a postcard, that's cool and that was about it. The second time she called uh, she wanted to talk about the things that had happened in the relationship and I didn't really want to talk about that because it was over and there is no point in talking about it, so I told her that and I said I don't want to talk to you. Then I hung up.

Tony: How did she respond to that?

Alan: Very very not happy, she started crying but I just couldn't deal with her at that point.

Tony: Who ended the relationship, you or her?

Alan: Who? She broke up with me and then she tried to come crawling back and I hung up on her.

Tony: She never drove up here to see you during that period of time?

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APPENDIX 002914

Alan: No.

Tony: You never drove back down there?

Alan: No.

Tony: Who are some other friends you have seen down there since you have left on the 4th of August?

Alan: Since I left the 4th of August when I came back from Cincinnati?

Tony: Correct.

Alan: Um, some other people I know down there just, or what?

Tony: Who else did you visit down there from the time you left 4th of August?

Alan: Right, Um, I visited, her name is Jen Sieg. She lives downstairs from where our apartment was, or lived, I think she has moved, I'm still not sure.

Tony: How do you spell her last name?

Alan: Seig I think or Sieg, one of the two.

Tony: And she lived in the apartment by yours?

Alan: Yeh, downstairs, yeh

Tony: Do you know what apartment number that was?

Alan: That would have been Apartment #1.

Tony: And what is that address again?

Alan: [REDACTED]

Tony: In Bloomington?

Alan: Correct.

Tony: Ok, who else did you visit?

Alan: Uh, I visited upstairs, Katy Corbit, in number [REDACTED]

16

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APPENDIX 002915

Tony: When did you visit her?

Alan: Uh, right about the same time, it was all, it was all in the same day, It was just, I was just stopping by to say "Hi".

Tony: Do you recall when that was?

Alan: hah?

Tony: Do you recall when that was?

Alan: Like what time?

Tony: What day it was?

Alan: On the fourth.

Tony: The fourth?

Alan: Yeh.

Tony: Ok. And who else did you visit down there?

Alan: That was it. I was just, stopping by Jen's house.

Tony: Did you visit any one else?

Alan: No.

Tony: What was your purpose to , returning to Normal/Bloomington August 4th?

Alan: To get my car.

Tony: OK,

Alan: Cause I went to Cincinnati in Jamie's car.

Tony: And who drove you back?

Alan: His mother.

Tony: Have you written any letters to Jennifer?

Alan: I wrote a letter but I didn't send it.

17

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APPENDIX 002916

Tony: Do you still have that letter?

Alan: I ripped it up, I might still have it somewhere, torn up.

Tony: What was the contents of that letter?

Alan: Uh, pretty much, just, I don't know, spouting, you know, just I can't believe you did what you did and I can't believe you'd still honestly think I would want to be back together with you after that and, you know, I mean, what would you write to a girl that cheated on you?

Tony: How was your relationship with her, how would you describe your relationship with her?

Alan: We were either fucking for fighting, that's how I would describe the relationship.

Tony: How did you make up when you were fighting?

Alan: Just by, pretty much the only time we, the only way we ever managed to make up anytime was just to say we were putting it all behind us when we really weren't and hiding feelings and pretending to be nice.

Tony: Describe your fights with her, would you please?

Alan: Most of the time it would be about some, what one of my female friends that I would have talked to, or something, that day and she would be like "well have you seen any tits you like?" and I would say no and she would be like "are you sure?", "no", "yes", "no". And we went to a wedding once and at the wedding I was a groomsman and I was supposed to dance with the bridesmaid that I was matched up with and she screamed at me about that. She um, pretty much she was easily thrown into a jealous rage, she would threaten suicide, she called me up once and said, "I am going to kill myself, I just thought I would let you know" so I called 911 and I talked to 911 and they said meet us there and I met them there and she was bullshitting and it wasn't true. She didn't really try to kill herself supposedly. That kind of psycho shit, I mean

Tony: How would she threaten suicide, what would she say?

Alan: She would say she was going to take pills or she was going to get a gun and blow her head off.

Tony: Any other means?

Alan: No.

Tony: How about slitting of the wrist?

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Alan: I can't see her doing that, but....

Tony: Did you ever see any marks on her wrist?

Alan: No.

Tony: Was she a violent person?

Alan: Yes, she threw glasses alot, threw dishes alot.

Tony: At you?

Alan: yes.

Tony: And how would react to that?

Alan: Usually I just stood there and took it, I yelled alot, but I didn't ever strike her.

Tony: Never did?

Alan: I never struck her once.

Tony: Not even in self defense?

Alan: No, I just back away.

Tony: Could you describe to us your most hostile period of time with her during a fight?

Alan: My most hostile period of time, she was in the apartment with my roommate and he had borrowed my car to uh, he had borrowed my car to supposedly go to a party on Cherry Street and uh, I don't know, I could tell there was, I could tell he was lying so I just followed him on a bicycle to see where he was going. And he went straight to her house and I don't know, I just wanted to catch them, I wanted to see it, so I broke the door down and I walked in and he was hiding in a closet so I left.

Tony: Do you recall when that was?

Alan: That was, that was like, the middle of July.

Tony: 1993?

Alan: The second week of July, yeh.

Tony: Is this Mike Swaine?

19

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APPENDIX 002918

Alan: Yeh.

Tony: And you saw him in the closet and you didn't react?

Alan: I didn't see him in the closet, he told me later he was hiding. Cause I, when I went back to my apartment a friend of mine was sitting on the porch, Chris Perry, and he and I got into his car, and he said "Ok calm down, I am driving, we will go get your keys, cause he had my keys and I wanted them back cause my car was parked right in her parking lot so I knew he was there. And he was not to drive my car anymore so we went there and Chris said he'd go to the door and ask for my keys for me, so he got my keys for me and told me that "yes Mike was there, he had been hiding in a closet" and then I talked to Mike about it later because after I uh, Chris took me around the block again to get my car because it was parked in the parking lot on the other side of the building from her building, so it was nice, neatly hidden from everybody. And he took me to my car and dropped me off at my car and I started to get into my car and I saw Mike walking out and I said "let me give you a ride" and I took him back to the apartment and talked to him on the way back and he was telling me he didn't try anything.

Tony: Has she ever been afraid of you? Jennifer?

Alan: Yes, because of that.

Tony: Because of that?

Alan: Yes.

Tony: You didn't display any hostilities towards her?

Alan: I have never physically assaulted her in any way shape or form, I have yelled at her for things that made me mad but I have never..

Tony: Is there any reason why she would be afraid of you?

Alan: No, except for that I broke the door down, I can understand that.

Tony: Did you ask her permission to enter?

Alan: That time no, I did not.

Tony: Was the door locked?

Alan: I knocked at first, several times, and she wouldn't answer, so I kicked the door down.

Tony: Did you ever possess a key to the apartment?

Alan: I told you that before, yes I did, at one time.

Tony: Did you have a key to apartment when you left Normal/Bloomington on August 4th?

Alan: No I didn't.

Tony: Ok, when did you return the key to her?

Alan: I returned the key to her in like March or April.

Tony: You say there is no reason why other than that one incident that she would be afraid of you?

Alan: No.

Tony: And you never did strike her, with any object or with your hand?

Alan: Never, I have never struck her in anyway shape or form.

Tony: How was your relationship with her in terms of a sexual relationship?

Alan: I'd say extremely good.

Tony: How, how frequent?

Alan: Fairly often um,

Tony: Do you recall the last time you had sexual intercourse with her?

Alan: It was about, it was probably in uh, well I know it was at the end of July. It was like probably July 15, something like that.

Tony: Did she enjoy your companionship?

Alan: Usually yes, except when she was gettingy jealous.

Tony: What would make her jealous?

Alan: All I would have to do is talk to another female.

Tony: When you would talk to another female, be it someone you knew or maybe on a social basis elsewhere, how would she react to that?

Alan: She would give me dirty looks, later on after we left, you know, if we were at a party

or something, she would give me a dirty look. And if we left like the party she would start screaming at me and yelling at me and telling me I was going to cheat on her and telling me I probably already have and uh, telling me that I was a terrible person and on and on. She would just scream at me until I finally calmed her down and convinced her, you know, and she would be like, "Ok I believe you then" and then the same thing would happen the next day.

Tony: Is there any reason why anyone would say they saw you down in Normal/Bloomington particularly at Jennifer's apartment...

Alan: No.

Tony: This past week?

Alan: No.

Tony: You never returned to Normal/Bloomington?

Alan: I have not been back to Normal since, Bloomington/Normal since August 4th.

Tony: Since August 4th? You have never been to Jennifer's since August 4th which is on Main Street?

Alan: Right.

Tony: 412 North Main?

Alan: Uh-huh.

Tony: You never were inside her apartment after you left her?

Alan: No.

Tony: Prior to the 4th, you did leave her the 4th, is that correct?

Alan: Yes.

Tony: And when was the last time you saw Jennifer?

Alan: the 4th.

Tony: Of August?

Alan: Right.

22

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APPENDIX 002921

Tony: And that was to take her to school and kiss her good-bye, is that correct?

Alan: yes.

Tony: What was that statement you made to her before you left Normal that day?

Alan: I just said I don't believe, you know, this is probably the last time I'll ever kiss you because I don't believe I can trust you anymore.

Tony: Has your car ever been in that parking lot after July, correction after August 4th?

Alan: No.

Tony: And you have never been into her apartment after August 4th?

Alan: No.

Tony: Have you ever seen her after August 4th?

Alan: No.

Tony: Alan, as you can best recall, when was the last time that you saw Jennifer in the nude?

Alan: In the nude? That would have been, probably the last time we slept together, it would have been like the 15th of July or something like that, roughly.

Tony: Did uh, did she stay at your apartment or did you stay at her apartment?

Alan: The very last time she stayed at my apartment.

Tony: Which was in Bloomington?

Alan: Right.

Tony: On [REDACTED]?

Alan: Correct.

Tony: Did you ever stay in her apartment?

Alan: Yes.

Tony: Can you describe her apartment for me?

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Alan: Uh, sure, um, as you walk in the front door it is probably about the, the actual living room is about 10 feet wide and against the opposite wall from the door it is about 20 feet. The kitchen is right on the left, the living room is in the front, and then to the right there, about five feet from the door to the right there is an archway and then the bedroom is on the left as you go through the archway and the bathroom is right in front of it.

Tony: So it's a one bedroom apartment?

Alan: It's a one bedroom apartment.

Tony: How many beds in that one bedroom?

Alan: There is a bunkbed and then there are two beds that are bunked and then one that is on the floor.

Tony: Which bed is hers?

Alan: She sleeps in all of them.

Tony: All three of them?

Alan: Well, not the top one, not very usually because she puts stuff up there but she sleeps in both the two bottom ones.

Tony: Does she ever sleep in the single bed?

Alan: What?

Tony: Does she ever sleep in the single bed?

Alan: In the single one, yes.

Tony: Yeh, what did you say, she put things on the top bunk?

Alan: yeh, like clothes and there is a teddy bear up there and something, actually it's a dog.

Tony: Or a stuffed animal?

Alan: Yeh.

Tony: What did she keep on the bottom bed?

Alan: Just, on the bottom bed on the bunk, sometimes there is clothes there, other times she

24

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APPENDIX 002923

throws the clothes on the other bed and sleeps on that one. Whatever, she'll stumble home and crash on one of them.

Tony: By crash you mean uh, drinking so much or just being tired?

Alan: That's about it, right, she drinks alot.

Tony: How is that apartment of hers, particularly the bedroom, how is it cooled?

Alan: How is it, the bedroom. The air conditioner is in the living room, the bedroom has a fan and she opens the window.

Tony: Do you recall what direction that window opens?

Alan: What do you mean?

Tony: Is that on the North wall, east wall, south wall?

Alan: It's on the North wall.

Tony: On the north wall?

Alan: Yes.

Tony: You say there is a fan, what type of a fan is that?

Alan: It's just a big floor fan.

Tony: Box or round?

Alan: It's a round one.

Tony: A round one?

Alan: Yeh.

Tony: Where does she usually keep that fan?

Alan: Just out in the middle of the floor.

Tony: Does she have a box fan, do you know what I mean by a box fan?

Alan: What do you mean, like square one?

25

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APPENDIX 002924

Tony: It's square, yes.

Alan: Um, no. She doesn't have a square box fan.

Tony: She doesn't have one of those?

Alan: No.

Tony: No, does she have a desk in that apartment bedroom?

Alan: She has two desks in that bedroom, one on either side. One that she puts makeup stuff on and the other one is actually a desk.

Tony: Ok, when was the last time you were in her apartment?

Alan: The last time I was in her apartment, it had been August 4th.

Tony: And when was the last time you were in her bedroom?

Alan: The last time I would have been in her bedroom would have been, probably sometime before the 15th of July.

Tony: You weren't in there August the 4th?

Alan: No.

Tony: You weren't in there after August 4th, were you in there this week?

Alan: No.

Tony: Was Jennifer in there this week?

Alan: I have no idea.

Tony: You never visited Jennifer after you left Normal/Bloomington August 4th?

Alan: Right.

Tony: Ok, and there is no reason why anyone can honestly say that they saw you back with Jennifer this past week?

Alan: No

Tony: And you haven't seen Jennifer or heard from her this past week?

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Alan: I heard from her Monday.

Tony: Monday?

Alan: Sunday or Monday is the last time she called.

Tony: And she called you?

Alan: Yeh.

Tony: Do you know of anyone that would bring any bodily harm to Jennifer other than yourself?

Alan: No.

Tony: Have you ever been so mad at her that you would want to slap her?

Alan: No, I've never slapped her.

Tony: How did you react when you found out that she was dating your roommate, Mike?

Alan: I was pretty calm about it because, I don't know, it had been a deteriorating relationship anyways and I was getting sick of always listening to her yelling at me about other chicks. So finally I, you know, I was like you know, you got jealous about all these chicks and you are screwing my roommate, you know, and I was pretty calm about it and I just you know, I was pretty much just, indignant about it and not like, screaming and yelling.

Tony: Did you ever come down just to check to see who she was dating?

Alan: No.

Tony: Other than finding her with Mike that one night, you never did find her with anyone else?

Alan: No.

Tony: Did you ever visit the apartment and find any occasion of another man staying there?

Alan: No.

Tony: Have you ever been told there is another man staying there?

Alan: No.

27

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APPENDIX 002926

Tony: Did you ever see any other men leaving or entering her apartment?

Alan: No.

Tony: If you wanted to get into her apartment today, how would go about getting into it?

Alan: Getting into it? Uh, I would have to break the door down like I did before.

Tony: Ok. Why do you say that?

Alan: Huh?

Tony: Why would you say you'd have to break the door down?

Alan: Because there is no way, I don't have a key, there is no way for me to get into it.

Tony: Would she have let you in if you went to visit her?

Alan: Yeh, she would let me in if I knocked.

Tony: Would you want to call her tonight?

Alan: Huh?

Tony: Would you want to call her tonight?

Alan: Yeh, I would call her before I left if I was going to go visit her.

Tony: Have you thought about calling her..

Alan: no

Tony: so you can make uh.?

Alan: I don't want to talk to her.

Tony: You don't want to talk to her, you are finished with her?

Alan: Yeh.

Tony: Ok, if I were to tell you that she wants to see you or talk to you, how would you react?

Alan: I would say Ok.

28

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APPENDIX 002927

Tony: You would meet with her?

Alan: Uh, yeh, I would meet with her, you know, if she really wanted to talk to me.

Tony: Do you have any hopes of getting back together?

Alan: Like it would ever happen. Who knows right? No, I couldn't handle it.

Tony: Why couldn't you handle it?

Alan: Because she would do the same shit again.

Tony: Suppose you were to take her out of that environment and bring her up here?

Alan: It wouldn't matter. It would be worse, she would be even more jealous, she wouldn't know anybody.

Tony: What about your friendship with Mike?

Alan: My friendship with Mike? It's, you know, I haven't talked to him really, I haven't called him at all and he hasn't called me or anything, I'll see him in the school year, you know.

Tony: If something were to happen to Jennifer, who would you contact first?

Alan: I would probably call her parents.

Tony: Why would you do that?

Alan: Because they actually have the capability to deal with something that if it happened to her that they could do something about it.

Tony: Have you ever known her to take any type of drugs, be it LSD, coke, marijuana?

Alan: I know she used to do coke, alot, she hasn't done it officially that I know of since last summer. Um, she smokes pot, Um she has done acid, and ub, other than that, prescription drugs that her doctor has had her on that she takes too many of usually.

Tony: What kind of prescription drugs?

Alan: Like sleeping pills, pep pills that she will take, like, ten times more than she is supposed to. She claims that she doesn't.

Tony: Is she a manic depressive?

Alan: I don't know what it is officially that is wrong with her, no it's not like Lithium or anything like that.

Tony: Where did she get her illegal drugs?

Alan: Her illegal drugs, uh, I don't really want to answer that.

Tony: You know who, but you do know who supplies them correct?

Alan: yes

Tony: Ok, was you ever there when she was taking these drugs?

Alan: Yeh

Tony: Did you ever take any drugs with her?

Alan: I smoked pot.

Tony: Did you ever take any hard drugs?

Alan: No.

Tony: Not any crack?

Alan: I will not do narcotics. That's all I can say about it.

Tony: What are your feelings when she would get high on drugs and you see her in that condition?

Alan: Well, she is just escaping. I mean alot of things that happened to her when she was younger and she doesn't really know how to handle life without being drunk or being stoned or being, you know, fucked up in some way, she can't handle it otherwise.

Tony: Does it make you made when you see her that way?

Alan: It just makes me sad for her, but, she has to have it to be able to be not getting in a fight with somebody or not getting mad or...

Tony: What kind of a fight are we talking about?

Alan: Like a verbal, yelling ...

Tony: Oh, ok not pushing and shoving or physical confrontations?

Alan: She has hit me a few times, thrown glasses at me before, things like that.

Tony: She ever hit you with anything other than glasses?

Alan: No.

Tony: Ok. Did you ever wish for her sake that somehow you could help her with her miseries in life?

Alan: Well, I wished I could, you know, get her off the junk.

Tony: Do you think that's the answer, getting her off the junk?

Alan: Well, I mean it's not helping any you know, she needs to really, like sit down and say "Ok, I need to get off of this shit, and just be real", you know.

Tony: She ever make promises to you as far as your relationship with her if she were to stop taking drugs?

Alan: No.

Tony: Do you think that is part of the problem?

Alan: Oh, I would say it's like 50% of them I think.

Tony: Does uh, did Mike take any kind of these same type of drugs?

Alan: He only smokes pot.

Tony: Pardon me?

Alan: He only smokes pot.

Tony: He only smokes pot.

Alan: Yeh, even rarer, even more rare than I do.

Tony: Ok, how often do you smoke pot?

Alan: Oh, sometimes every two or three days.

Tony: Was you smoking pot when you saw her the last time?

Alan: No, I was straight.

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Tony: Was she smoking pot when you saw, when uh...

Alan: Uh, I think she was packing a one hitter then. The last time I talked to her on the phone I heard her tap out a one hitter too.

Tony: How do you know it was a one hitter.

Alan: Because it was the kind of thing you would tap out that would go kink kink instead of a thunk thunk.

Tony: Oh, you are telling me that you are familiar with that sound that you were able to distinguish what it was?

Alan: Right, I am familiar with the sound of the one hitter hitting an ash tray.

Tony: Ok, you ever get so disgusted at her when she was high on drugs or even alcohol or marijuana that you just want to slap her silly?

Alan: No, I would never strike her.

Tony: What would you do when you come home and find her passed out due to alcohol or drugs?

Alan: Put her in bed.

Tony: Would you do anything else?

Alan: What could I do?

Tony: I don't know, that is what I am asking, do you ever have sex with her when she was passed out?

Alan: No.

Tony: When the two of you had sex in her apartment, normally where would you have it?

Alan: In the bedroom, sometimes in the living room too, but mainly in the bedroom.

Tony: Where in her bedroom would you have sex?

Alan: On the bed, on one of the two beds whichever one she just, she would just lead me into the bedroom.

Tony: What type of sex did she enjoy most?

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Alan: Just normal everyday ordinary sex, you know.

Tony: OK, what may be ordinary with some people may be kinky with someone else.

Alan: Ok, well, alright, whatever. Um, we would have sex in maybe, you know, a few different positions but nothing really kinky. I mean, nothing like, no handcuffs involved or anything like that it was just like a, you know we tried to keep it peaceful and loving and beautiful like sex should be.

Tony: She ever enjoy you inflicting pain on her when she, when you were having sex?

Alan: No

Tony: Did she ever have, did she ever perform any oral sex on you in the bedroom?

Alan: Yes, yes.

Tony: And where would you be when this was being performed?

Alan: Laying on the bed.

Tony: You were laying on the bed? Where would she be?

Alan: She would be on top of me.

Tony: You ever have it when you were sitting on the bed and she's on the floor?

Alan: Occassionally.

Tony: And uh, she ever get mad at you or you ever get mad at her during your actual sex acts?

Alan: no

Tony: Never?

Alan: Never.

Tony: Never, never got mad or slapped her?

Alan: No.

Tony: Period?

Alan: Period.

Tony: Aside from the time you had sex did you ever slap her?

Alan: What?

Tony: You ever slap her?

Alan: I have never slapped her.

Tony: While having sex or while not having sex you have never slapped her?

Alan: I have never slapped.

Tony: You ever push her backwards?

Alan: I have never struck her.

Tony: Never struck her, did you ever choke her?

Alan: No.

Tony: Can you think of any reason why someone would say they saw you leaving her apartment this past week?

Alan: No.

Tony: Is this the truth?

Alan: This is the truth.

Tony: You never left her apartment this week, you were not down there in Normal?

Alan: I have never been, I have not been to her apartment this week.

Tony: This past week.

Alan: Right.

Tony: And when was the last time you were in her apartment?

Alan: The last time I was in her apartment would have been August 4th.

Tony: Ok, we have been sitting her talking approximately 45 to 50 minutes and you have never asked me once what this is about, aren't you one bit curious?

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34

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APPENDIX 002933

Alan: I just figured you would tell me, I am curious, yes.

Tony: Ok, what do you think this interview is about?

Alan: I have a feeling somebody has killed her or she is missing or something like that. What's up?

Tony: Ok, why do you, what makes you feel that way?

Alan: Because you are asking me questions about my relationship with her and the officer that pulled me over told me it was about a homicide.

Tony: So why do you think it's about her?

Alan: Because that's been what you've mostly asked questions about.

Tony: You are not one bit concerned about her?

Alan: I am concerned, I would like to know what is going on but I figured you'd ask the questions, and I'd answer, you know.

Tony: And how long have you known her?

Alan: How long have I known her? I have known her for about a year and a half.

Tony: And how did you meet?

Alan: We met in the Dugout. She used to go to Wesleyan, now she goes to ISU, but she used to go to Wesleyan and we met in the student center.

Tony: Has either one of you ever contemplated marriage together?

Alan: Yeh, we were engaged.

Tony: How long were you engaged?

Alan: Um, we were engaged for about, well see we didn't start dating until about 6 months after we met so we had only been dating about a month, out of a year and a month and um, then uh, um, we got engaged last October.

Tony: 92?

Alan: Yeh

Tony: And who asked who?

Alan: I asked her to marry me.

Tony: And what was her response?

Alan: "yes".

Tony: Just like that without any time period to think about it, or try? What started the uh, the uh, breaking up of your relationship with her?

Alan: Um, well, she uh, she just got jealous all the time and it just started grating on us and uh, I don't know, it just got to the point there wasn't any point in continuing it. It was just .....

Tony: Who's idea then was it to ...?

Alan: It was hers. She broke up with me because she thought I was screwing around on her.

Tony: Did you give her any reason to think that?

Alan: No.

Tony: Did she ever catch you screwing around on her?

Alan: No, I never did screw around on her.

Tony: You never did, but she did on you?

Alan: yes.

Tony: And the last person you know of was Mike Swaine, your former roommate, so that caused you to break up the engagement, the relationship, all together?

Alan: That just caused me to say "hey, it's not worth even worrying about it, you know, I should just get out and try to forget about it".

Tony: Did she love you more than you loved her?

Alan: I would say I loved her more than she loved me.

Tony: Ok, let's say on a scale of one to ten, one meaning you greatly despise her and hate her, don't want to see her again, and ten meaning I can't live without her, I am so madly in love with her.

Alan: Yes, I was "I can't live without her" up until about last week.

Tony: Last week Ok, why do you say last week?

Alan: Um, I just started dating again. Um, I met a girl and asked her out and we went out.

Tony: Where did you meet this girl?

Alan: At a party.

Tony: Ok, but getting back to my question, how would rate your relationship with Jennifer?

Alan: Um, well, let's say from me to her as far as how much I loved her, 9, 7, 8, 9 around there. And for her it would have been about 5 or 6.

Tony: You know there is an old saying 'there is more than one fish in the ocean', you know, when you get of one situation in a relationship with a girl and you are into another relationship with a different girl you more or less forget that old relationship.

Alan: Right.

Tony: But uh, I don't understand, Alan. You have known her for over a year and a half and probably real intimately for at least a year, you were engaged to her and you were going to be married. You sit there and you rate your relationship almost a 10, 7, 8, or a 9, and yet you are not inquisitive as to what happened to her, can you explain your lack of feeling for Jennifer?

Alan: Well, I just thought you would tell me whenever, I mean, I didn't know, you are asking the questions, I answer them. That's all I know. I'm serious, that is just all I know.

Tony: It's very obvious the reason why we are here and asking you questions and especially when the sergeant informed you it was concerning a homicide in Normal/Bloomington, now who's homicide do you think that is?

Alan: Why don't you tell me, I don't know?

Tony: Well, I want to hear your thoughts? Who's homicide do you think that is?

Alan: I assume it's Jen, because you just keep saying, asking me questions about her, that's all you really ask about.

Tony: Yeh, it is Jennifers.

Alan: Ok.

Tony: Do you want to tell us who is responsible for that?

Alan: I don't know.

Tony: You don't know, do you care?

Alan: I do care.

Tony: Do you want to help us with this?

Alan: Sure.

Tony: Ok, to what degree, to what extent do you want to help us with this investigation?

Alan: What can I do, I mean, what is there that I can do?

Tony: Well, I would like for you to start by telling us the truth as far when the last time you visited Jennifer.

Alan: That is the last time I visited her. What I told you, I have not talked to her since I left Bloomington except on the phone when she has called me twice. I have been in Rockford.

Tony: And you have never been down to Normal/Bloomington?

Alan: I have not been down to Normal/Bloomington.

Tony: And you have not seen Jennifer since when?

Alan: Since August 4th

Tony: Now, a little while ago you told us you went down there the 14th to pick your car up and you stopped by to see her and you drove her to school.

Alan: Well, but, no it was the 4th that I went to get my car.

Tony: Do you want me to go back over my notes and read your answers to you? Or do you want to listen to the tape?

Alan: I am lost now.

Tony: Yes, I think you are lost.

Alan: Ok, um

Tony: I think you are somewhat confused wouldn't you say, about the dates when you left down there?

Alan: Yeh, I don't, I never know the dates.

Tony: Ok. You are confused with the date that you left down there to go to Ohio, you are confused about the date you returned to pick you car up, perhaps, and could you be confused about the last time you saw Jennifer?

Alan: I have not been back down there since I picked my car up from coming back from Ohio and came home, I have been in Rockford.

Tony: You have been in Rockford?

Alan: I have been in Rockford.

Tony: You have never visited her since the last time you took her to school and she was alive then?

Alan: Right.

Tony: What was she wearing?

Alan: She was wearing, I don't even remember that long, I know she had her hair up and she was wearing, I think, blue jeans and she had a white top of some sort on.

Tony: Ok. Where did you pick her up at?

Alan: At her, I went to her apartment and knocked on the door and said "hey how's it going", and she's like, "oh I got to get to class in about a half hour" you know.

Tony: Was she dressed at the time?

Alan: yes.

Tony: She was fully dressed, and what did she have on?

Alan: She had on blue jeans and a white top, I believe, I don't ...

Tony: Ok, you can recall what she was wearing that date, but yet you are confused about the date you were down there.

Alan: I never know the date.

~~C1255~~

Tony: You know why I think you are confused about the dates you were down there? Because I think you were down there more recent than what you are telling us.

Alan: I have not been down there.

Tony: You haven't been down there to visit Mike?

Alan: No.

Tony: You haven't been down there to visit Jennifer or anyone else?

Alan: No, I have not been down to visit anybody, I have not gone to Bloomington/Normal.

Tony: Mike, or Alan, if we could, let's say that we can prove that you were down there this past week,

Alan: I would like to see you try.

Tony: In Jennifer's apartment. Suppose that we can prove, by eye witnesses, that you were down visiting Jennifer in Jennifer's apartment this last week.

Alan: It's not true.

Tony: It's not true, ok. How are we going to prove it's not true.

Alan: How am I going to prove, I am innocent until proven guilty, man.

Tony: I am not accusing you of anything.

Alan: You just told me that I was down there.

Tony: In the apartment and saw Jennifer.

Alan: I was not, I have not been down there.

Tony: I, I, I didn't, I didn't accuse you of anything.

Alan: You have to prove that I was there, and I was not there, so there is no way you can prove it.

Tony: Well, maybe you didn't listen to my statement, do you want me to reiterate what I said?

Alan: Sure.

C 1279

40

C08726

AB001291

APPENDIX 002939

Tony: Ok. What if I can prove by witnesses that you were down in Jennifer's apartment with Jennifer this past week?

Alan: Witnesses?

Tony: Correct.

Alan: They're lying, I have not been down there.

Tony: Ok, how can you prove that you weren't down there?

Alan: How can I prove that I wasn't down there? Well, I have got, uh, several friends in the town that I have been with just about every night, my parents have seen me every day, um my employer has seen me everyday.

Tony: If you were to visit her, if you were to visit her, what time of the day would you be visiting her?

Alan: It would be on a weekend if I were to go anywhere long distance.

Tony: It wouldn't be during the week?

Alan: No, cause I work during the week.

Tony: Ok.

Alan: Why would I drive down in the middle...

Tony: When you go to work, do you have to punch in on a time clock?

Alan: No.

Tony: You don't?

Alan: No.

Tony: Ok. Who takes your word for it that you are working?

Alan: Huh? I just go in, I'm working for my uncle, I work with Dennis Clark and he and I, both just, you know, turn in our hours, we write them down.

Tony: Ok. How do you get in, How do you get into the store?

Alan: There is always somebody working in there, in the bakery.

C08727

C 1281

~~CT 257~~  
(7)

Tony: In where?

Alan: In the bakery.

Tony: And who would that be?

Alan: I don't even know the name. I have only been here ...

Tony: Are they working all night long?

Alan: They are probably working right now.

Tony: Do they work all through the night?

Alan: Yeh.

Tony: Ok. Do they work like, 24 hours a day in the bakery?

Alan: No, that's, the same person is not there 24 hours a day?

Tony: Ok. When you go ..

Alan: The thing is, is there has to be at least two people in the store all time.

Tony: Including yourself?

Alan: That would be including me, when I am there. When Dennis and I are both there, then they can leave.

Tony: When you go to work, how do you enter the building?

Alan: I knock on the window and they come around and and let me in.

Tony: How do you account for the time that you spend there at work?

Alan: What do you mean? We write it down, on an hour sheet.

Tony: Then do you have eight hour sheets that you have to turn in?

Alan: no

Tony: Was there anybody there to verify those?

Alan: No

Tony: Ok, what were your hours Tuesday night?

Alan: Tuesday night? I worked from 1:00 in the morning til, what time did I get off Tuesday, 9, 10?

Tony: Wednesday morning?

Alan: yeh.

Tony: And where did you go when you got off of work?

Alan: I went home and went to bed.

Tony: And Dennis can verify the fact that Tuesday night you worked, went in at what time was that?

Alan: 1:00 in the morning.

Tony: And you worked until when, Wednesday morning?

Alan: I already said.

Tony: Pardon me?

Alan: From 1:00 in the morning until 9:00 or 10:00 in the morning.

Tony: And that can be verified?

Alan: yes.

Tony: By Dennis?

Alan: Yes.

Tony: Can it be verified by your time sheet?

Alan: yes.

Tony: Who verifies your time?

Alan: What do you mean?

Tony: Do they take your word for it that you were there working?

C08729

C 128

~~01259~~  
C

Alan: Right, I just take the piece, I just write down on a piece of paper what my hours were, I take them in.

Tony: Ok. What kind of work was you doing there at the store Friday night?

Alan: Friday night, like last night?

Tony: yes

Alan: Right, last night I was painting the inside of the deli.

Tony: What was you doing Thursday night?

Alan: Thursday night I was painting the outside of the deli.

Tony: And how about Wednesday night?

Alan: Wednesday night, I was tearing out a wall and putting in a new one and we were also doing that Tuesday.

Tony: What were you doing on Monday?

Alan: Monday? What did we do Monday, I don't ....

Tony: What is Dennis' name again?

Alan: Dennis Clark.

Tony: Dennis Clark?

Alan: yes.

Tony: What is the phone number at that store?

Alan: I don't know it off the top of my head.

Tony: Would he be there working tonight?

Alan: No, it's a weekend.

Tony: Is anybody there tonight?

Alan: I don't know, I never go on ...

C 128

*Handwritten signature/initials*

Tony: Ok, who do we contact to verify your hours?

Alan: I don't know. Um .....

Tony: You don't know, who pays you?

Alan: You would contact my uncle, yeh.

Tony: Ok, that's Cliff Gray?

Alan: Cliff Gray, yeh.

Tony: Getting back to this past week in Normal, you stated you wanted to help us.

Alan: Sure.

Tony: And my reply was "you can help us by being truthful with us".

Alan: I am telling you the truth.

Tony: And uh, telling us about your whereabouts this past week. Alan we have reason to believe that you were down in Normal this past week.

Alan: Well, I wasn't there.

Tony: We don't understand why you can't tell us.

Alan: I was not down in Normal this week.

Tony: When was the last time you were in Normal?

Alan: The last time I was in Normal was August 4th, when I left.

Tony: See Alan, you are confused about when you left Normal. Therefore, doesn't it, doesn't it sound reasonable you are confused about not being down there with actually being down there this past week?

Alan: I was not down there this past week.

Tony: You told us several times that the last time you were down in Normal .....

Alan: Was the 4th.

Tony: was on the 14th .....

*01261*

Alan: No, I said the 4th.

Tony: and now you are telling us on the 4th. You said several times the 4th, you said several times the 14th, to pick up your car when you came back from Ohio.

Alan: I don't know what this is all about?

Tony: Pardon me?

Alan: I said I don't know what this is all about?

Tony: What this is, this is about Jennifer's death. I thought you said you wanted to help us.

Alan: I do, but, I am telling you the truth. I have not been down there this week.

Tony: How do you think Jennifer died?

Alan: I have not been down there, I don't know.

Tony: Do you think Mike could have killed her?

Alan: I doubt it.

Tony: Why do you say that?

Alan: I don't see why Mike would kill anybody?

Tony: Ok, who would be responsible then?

Alan: I don't know, perhaps Bubba.

Tony: Who is Bubba.

Alan: Bubba is the ex-boyfried that would never go away that's been around for five years hounding her, calling her everyday. Have you talked to her parents, do you know anything about Bubba?

Tony: Who is this Bubba? Is that his real name?

Alan: I don't even know his real name, she just calls him Bubba? He's from Wisconsin.

Tony: What did she say about Bubba, what did she say about Bubba?

Alan: She says he won't go away, that he's crazy, that he's psycho and let's see, this past year

he drove his car into a brick wall because she wouldn't take him back. I think that is where you ought to be looking, cause I didn' do shit.

Tony: We are asking, were you down there this week?

Alan: I was not down there this week.

Tony: Alan, I don't think you are being truthful with us.

Alan: I am being exactly truthful, I was not down there this week.

Tony: You are confused about when you left Normal/Bloomington, when you went back, I think you are confused...

Alan: I never know the date.

Tony: about being down there.

Alan: I never know the date, I just wake up and ...

Tony: Just the truth, that's all.

Alan: I have told you the truth.

Tony: No, I don't think you have.

Alan: I have told you the truth.

Tony: And you are setting here, and you know what the truth is, you don't want to share that truth with us, and we are asking your help....

Alan: I don't, I just told you the truth.

Tony: We are asking your help, we are asking your help.

Alan: I told you the truth man, I have not been down there to see her since I came back here.

Tony: Which was when?

Alan: Which was the 4th.

Tony: When was the last time you were in Normal/Bloomington?

Alan: The last time I was in Normal/Bloomington was August 4th.

C08733

C 128f  
~~1263~~  
7c

7

Tony: I would sure like to take you out of this picture but you are not helping us.

Alan: The last time, I am serious man, I just have not been back there, why would I go there, I have got a job here, I am living at my parent's house, I've got no apartment there ..

Tony: When, when, when did, when did you shave your goatee off?

Alan: My goatee? I didn't have a goatee, I had a beard.

Tony: You never did? Ok, beard then?

Alan: When did I shave it? Uh, a couple days ago, before I went out with a chick.

Tony: Let me ask you a question, and I want you to think about it. How did you think we knew you had a goatee if we had never met you before?

Alan: I didn't have a goatee, I had a beard.

Tony: Listen to me, if you had a beard or goatee? You had facial hair, we will call it facial hair for simplicity sake. How do you suppose that we knew that you had facial hair, be it a goatee or a mustache or a beard for the last few days if we had never laid eyes on you?

Alan: I have no idea.

Tony: How do you think we know that?

Alan: I don't know.

Tony: Alan, how do you think we know that?

Alan: I really don't know.

Tony: Don't you think maybe, perhaps somebody told us you had one?

Alan: Lot's of people have facial hair, you have facial hair, maybe you were there, you know, I mean, I don't know what you are trying to get at.

Tony: Somebody had to see you there didn't they Alan?

Alan: I was not there, nobody could have seen me there because I was not there man.

Tony: Somebody saw you there, somebody saw your car there?

48

C08734

C 128'

~~2/26/4~~  
7E

AB001299

APPENDIX 002947

Alan: Somebody is full of shit.

Tony: Well, that is for certain, somebody is, but yet we have not discovered who. I don't know how you can live with this Alan, as much as you loved her...

Alan: I don't know what your talking about.

Tony: as much as you loved her Alan, how you can live with this?

Alan: What are you? (Deep Sigh) I haven't been there.

End of tape.

C08735

49

C 1288

~~01265~~  
(7)

AB001300

APPENDIX 002948

CRIMINAL DEATH INVESTIGATION

WITNESS FACE SHEET

Classification: \_\_\_\_\_ eyewitness \_\_\_\_\_ circumstances \_\_\_\_\_ motive  
\_\_\_\_\_ flight \_\_\_\_\_ medical X investigative  
\_\_\_\_\_ expert \_\_\_\_\_ identity \_\_\_\_\_ (other) \_\_\_\_\_

Name: MICHAEL SWANE Male: X Female: \_\_\_\_\_

Address: \_\_\_\_\_ ELAHURST IL 60126 Apt No.: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: 20 Home telephone: (63) 831-8742

Social Security #: \_\_\_\_\_ Marital Status: M \_\_\_\_\_ S \_\_\_\_\_  
D \_\_\_\_\_ SP \_\_\_\_\_

Spouse name: \_\_\_\_\_ Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Home telephone: ( ) - - -

Number of Children: \_\_\_\_\_ Names and Ages: \_\_\_\_\_

Occupation: \_\_\_\_\_

Company Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Work telephone: ( ) - - - Number of years employed: \_\_\_\_\_

Areas frequent: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Miscellaneous information: \_\_\_\_\_

Witness knows perpetrator personally? yes \_\_\_\_\_ no \_\_\_\_\_

How? \_\_\_\_\_

Did witness I.D. perpetrator? yes \_\_\_\_\_ no \_\_\_\_\_

How? \_\_\_\_\_

Case #: C93-4033 Crime Classification: HOMICIDE

Date of Interview: \_\_\_\_\_ Interviewing Officer: FREESMEYER

C08745

C 1433

EL/90  
901

AB001446

Mike: Alan have a what?

Tim: Does Alan have a temper?

Mike: Yes.

Tim: What..

Mike: But he's not physical, I mean he won't, I don't, he's never been physical with me, he's always just freaked out and gotten crazy and hit the wall and cried.

Tim: Ok, freaked, I mean, explain what's, what's it mean?

Mike: It's like, it's like screamed and, or talked on the phone to her, and broken down to the floor in tears.

Tim: Ok.

Mike: And just been a mental wreck, and he's not, his health isn't that good either because he just

Tim: We need to know everything.

Mike: Right, I, all I know, I'm, I'm, I'm not, okay, um, he just, I was just thinking what I was talking to Jen about. Um, she thought he was just infatuated with her but he said he loved her, and, and he was just, he thought that she was the only woman for him.

Tim: Uh-huh. (yes).

Mike: And, he was finding out, I guess they broke up like 18 times.

Tim: Uh-huh. (yes).

Mike: Um, but she would always take him back. Um, and they, and there was another time at a party that, um, they both, I was with them too but I was staying away. I was with some friends of mine. And they started freaking out and she was crying and saying she loved someone else and I guess that was me. But, she, was freakin, she was drunk and he was drunk and I guess he started running around after her and she started running around beating on peoples doors, "Help me, save me."

Tim: Uh-huh. (yes).

Mike: And he, he, and then he got in the car and drove off, um, and then he came back and tried to take her with him.

Tim: Did, did he try to forcibly take her?

C 1442

~~21419~~

(916)

C08754

AB001455

Mike: I don't know, because I was gone at that point I think, um. I don't know.

Tim: The times, the times when you seen him get mad, Mike, you know some people when they get mad they don't say anything they get quiet, other people...

Mike: That's me.

Tim: ... get mad and they, they just kind of go electric, you know.

Mike: Uh-huh. (yes).

Tim: What type, what kind of personality does he have?

Mike: Well, when he got mad, when I saw him at, break in,

Tim: Yeh.

Mike: He broke in and he wasn't, he said he didn't want it to do anything except see me there, and as soon as he saw me there, he'd be fine and know it was true that I was seeing her or whatever.

Tim: Uh-huh. (yes).

Mike: And, then he'd leave he said. Um, but he couldn't find me there, and, and I had told him that I was going to go visit a friend that was in town.

Tim: Uh-huh. (yes).

Mike: It was 2:00 in the morning, which was lame. Um, and I was hid, hiding in the closet because I was terrified because I didn't, I didn't know if he would hurt me, I didn't know, I just didn't know how to deal with the situation, cause I never had anything bad happen. Um, so I just hid, and she said she would do whatever I wanted. She could seek me out and he thought I had snuck out a window.

Tim: Uh-huh. (yes).

Mike: And she, she ended up calling a friend of hers who was a friend of mine and Alan's, too.

Tim: Uh-huh. (yes).

Mike: And he came over and talked to me and said that Alan, he told me that Alan was just mad that I had lied to him and stuff, and that, he'd dro\*\*, I said, he asked me if I needed a ride home and I said no, I walked home, but Alan, he was with Alan, so Alan drove me home. Ah, then we talked and he cried and said how much she hurt him and what, how it was messing up his life.

C08755

C 1443  
G11/20  
(911)

Tim: Uh-huh. (yes).

Mike: And I said, I, and I lied to him and said that I, you know, there is nothing there and I don't want anything or something, and so that's all, I think that's all he knew, I don't think anybody knew that I was, well, my friends sort of, very few knew that I was living with Jen because I didn't want Alan to know. I didn't want many of my friends know because they knew that Jen was like, drank alot and I didn't want, I was just embarrassed I guess.

Tim: Uh-huh. (yes). Did, did he know that you were staying with Jen? That you were living there?

Mike: He suggested it first, before all this happened.

Tim: Ok.

Mike: But, he knew that I had the chance to, and he knew that she was going away to California for a week to visit her brother. So, ah, but as far as I know I don't think he, if I was him I would assume that he, that I wouldn't have stayed there because that would have been the moral thing to do.

Tim: Ok, so there's a chance that he didn't know you were staying there?

Mike: Right.

Tim: Ok. You say that, that Alan left for vacation with somebody or went to another state?

Mike: He went to Cincinnati, to go, to get away, because a friend of his was in town that weekend that this all happen, that he found the notes and came and quit.

Tim: Ok.

Mike: That was the last weekend of August. Um, and he went to Cincinnati to get away from everything because

Tim: The last weekend in August, this is August.

Mike: It's September now, isn't it?

Tim: No this is August 28th.

Mike: Oh, the last weekend of the last, the past, July.

Tim: Ok.

Mike: Thank you. I thought it was September. So that, it, so I didn't, I left on August 22nd not September 22nd.

Tim: Ok. Ok.

Mike: Um.

Tim: So he left the end of July?

Mike: He went to Cincinnati with a friend of his named Jamie Thurman.

Tim: Ok.

Mike: Or Thurogate, I think it is Thurman.

Tim: How long was he supposed to be in Ohio?

Mike: There was no, he didn't have a set time because he wasn't supposed to go. He quit. He broke his contract with this Theatre, and, and said that he just needed to go to Ohio and I said that was the best thing.

Tim: Uh-huh. (yes).

Mike: I, and, I, oh, I didn't think that was the best thing, but I felt bad that I had done this. And I thought he needed to just get away, and cool off, and that would, he needed to just get away from Jen.

Tim: Uh-huh. (yes).

Mike: And, and he did, and he was gone for a week, and like three days.

Tim: Ok.

Mike: And he came back, and I saw him and talked to him and he seemed fine.

Tim: Uh-huh. (yes).

Mike: And I, and I was still living in my apartment, alone.

Tim: Uh-huh. (yes).

Mike: Um, and he, he took all the stuff and packed it up, and went to see Jen, and I had seen, I saw Jen that night and she said she had talked to him, and he, she said he was, ah, he just needed to get away from her, and, um. He was going to wait for her and so he was going to go home to Rockford.

Tim: Ok.

Mike: Um, to visit his friends there. I guess.

Tim: Ok.

C08757

~~87422~~ C 1445

Mike: Um. Ah.

Tim: Did he go home to Rockford?

Mike: Yes, I think so, I don't know for sure. Um, but I heard from his friends that they, he wasn't hanging out with them, he was just hanging out with his parents.

Tim: Ok.

Mike: Which is good because I guess they were just straightening him, straightening him out. Um.

Tim: When was the next time that you saw him?

Mike: I didn't, I haven't seen him at all since then.

Tim: Since he went to Rockford.

Mike: Right. But she said he called once...

Tim: When is

Mike: ...and told her that, pardon?

Tim: I'm, I'm sorry. Go ahead.

Mike: I think, I don't know if it was after I started living with her or before. I don't remember.

Tim: Ok, go ahead.

Mike: Um.

Tim: He called.

Mike: He called and said that he was over her, he didn't love her anymore, he was dealing with other things, and he had seen a psychiatrist when he was down here.

Tim: Uh-huh. (yes).

Mike: Um, but he didn't really keep up with it, and I think she was seeing a psychiatrist in the past and I was trying to get her to, cause I think she had problems.

Tim: Uh-huh. (yes).

C08758 ~~21423C~~ 1446  
(914)

**ROBERT K. SEYFRIED, PE, PTOE  
R.K. SEYFRIED AND ASSOCIATES, INC.  
3441 DAVIS STREET  
EVANSTON, IL 60203**

August 11, 2015

Professor David M. Shapiro  
Professor of Law  
Bluhm Legal Clinic  
Northwestern University School of Law  
375 E. Chicago Avenue  
Chicago, IL 60611

Re: Beaman v. Freesmeyer  
Case No. 14-L-51

Dear Mr. Shapiro:

The following report documents my traffic engineering analysis and opinions with regard to the referenced case.

**CREDENTIALS**

I am recently retired from the position of Director of Transportation Engineering Programs for the Northwestern University Center for Public Safety. I continue to teach seminars and workshops in highway design, traffic operations, traffic studies, and traffic crash analysis for Northwestern University, both on-campus in Evanston, Illinois and throughout the United States. I also regularly serve as an instructor in engineering training programs for the National Highway Institute and the Institute of Transportation Engineers. I have a total of 46 years of experience in transportation engineering.

I hold B.S. and M.S. degrees in Civil Engineering from Northwestern University. I am a Fellow of the Institute of Transportation Engineers, a member of the American Society of Civil Engineers, and a member of the Regulatory/Warning Signs Technical Committee of the National Committee on Uniform Traffic Control Devices. I am also a registered Professional Engineer in the State of Illinois and a Certified Professional Traffic Operations Engineer. For more information, see my attached Curriculum Vitae.

008789

## BACKGROUND

It is my understanding that the following information is relevant to my analysis:

- Mr. Beaman was previously convicted of a murder that occurred at 412 N. Main Street in Normal, Illinois in 1993
- Mr. Beaman made a bank transaction at the bank (currently a BMO Harris Bank) located at the intersection of Alpine and Newburg in Rockford, Illinois at 10:11 a.m. on the day of the crime
- Two phone calls were made from the Beaman residence at the intersection of Alvina and Meridian in Rockford, Illinois at 10:37 and 10:39 a.m. on the day of the crime
- Mr. Beaman was observed as present at his residence at the intersection of Alvina and Meridian in Rockford, Illinois at 2:16 p.m. on the day of the crime
- For the purpose of this study, I have assumed that the commission of the murder in Normal Illinois would have required at least 5 minutes

## METHODOLOGY

On the date of July 14, 2015 I conducted travel-time studies along the routes of travel between the Beaman residence and the crime scene, as well as between the BMO Harris Bank and the Beaman residence. These travel-time studies represented normal mid-day weekday traffic conditions. Data were collected for the following travel routes:

- Starting at the Beaman residence at Alvina and Meridian in Rockford, south along Meridian Road 6.2 miles to the entrance ramp for eastbound U.S. Route 20, east along U.S. Route 20 9.7 miles to the exit ramp to southbound I-39, south along I-39 118.6 miles to the exit ramp to northbound I-55, 1.6 miles to the exit ramp to Main Street in Normal, Illinois, south along Main Street 1.8 miles to 412 N. Main (site of crime).
- Starting at 412 N. Main Street in Normal, Illinois, north along Main Street 1.7 miles to the entrance ramp to southbound I-55, south along I-55 0.4 miles to the exit ramp to northbound I-39, north along I-39 119.9 miles to the exit ramp to westbound U.S. Route 20, west along U.S. Route 20 9.8 miles to the exit to Meridian Road, north along Meridian Road 6.4 miles to Alvina Road (Beaman residence).
- Starting at the bank at Alpine and Newburg in Rockford, 0.1 miles to exit the bank driveway on Newburg and west to the intersection of Alpine and Newburg, south along Alpine 2.0 miles to the entrance ramp to westbound U.S. Route 20, west along U.S. Route 20 8.6 miles to the exit ramp to Meridian Road, north along Meridian Road 6.4 miles to Alvina Road (Beaman residence).

These travel-time studies were conducted at speeds of 10 mph higher than the posted speed limits (as of 1993) on all routes, to the extent possible. These speeds represent the actions of a driver attempting to travel the routes as quickly as is reasonably possible without being stopped and cited by police officers for speeding. The basis of using speeds 10 mph greater than the posted speed limits is discussed in more detail later in this report, and is supported by research on typical freeway speeds and Illinois State Police enforcement policies and practices.

Recorded travel times were adjusted to account for conditions that were in existence on the day of my travel-time studies but may not have been present on the day of the crime. These included:

- *Changes in intersection traffic control.* A letter from the Winnebago Highway Department dated March 25, 2015 indicates that the intersection of Auburn and Meridian had been controlled by all-way STOP control at the time of the crime, although it is currently a roundabout controlled by YIELD signs. Recorded travel-times accounted for a full stop at this intersection.
- *Changes in speed limits.* A letter from the Winnebago Highway Department dated March 25, 2015 indicates that the speed limit on Meridian Road from Alvina to the U.S. Route 20 entrance ramp was 55 mph at the time of the crime, although it currently has a speed limit of 45 mph from West State Street to the U.S. Route 20 entrance ramp (the remainder of Meridian Road remains as a 55 mph speed limit). In addition, an email from the Illinois Department of Transportation dated June 25, 2015 indicates that the speed limit on I-39 was 65 mph at the time of the crime, although it currently has a speed limit of 70 mph. Recorded travel-times were determined based on speeds of 10 mph above the 1993 speed limits.
- *Construction zones.* On the day of my travel-time studies, there were construction zones with reduced speed limits on U.S. Route 20 and on I-39. There is no available information regarding possible construction zones on the day of the crime. In cases where recorded travel-times were affected by construction zones, travel-times were adjusted to reflect continuous travel at speeds 10 mph higher than the 1993 speed limits.
- *Channelization.* The intersection of N. Main Street and Gregory Street in Normal Illinois currently includes raised-curb channelization islands that prohibit left turns from southbound Main Street into the residence at 412 N. Main Street. As a result, it is currently necessary to continue south to the intersection of Main and Willow, make a U-turn, and return north 0.1 mile to 412 N. Main Street (scene of the crime). It is unknown whether this same condition existed on the day of the crime. Recorded travel times were adjusted to reflect left turns made directly into 412 N. Main Street, assuming that the curbed channelization did not exist in 1993.

In all cases, the recorded and/or adjusted travel time reflected the highest likely speeds and lowest likely travel times that Mr. Beaman could have attained if he attempted to make the trips between Rockford and Normal or between the bank and his residence on the day of the crime. When multiple travel time runs were conducted, the shortest travel times were used, again reflecting the lowest likely travel times that Mr. Beaman could have attained.

#### ANALYSIS

1. The total available time between Mr. Beaman's bank transaction at Alpine and Newburg (10:11 a.m.) until the second phone call at his residence at Alvina and Meridian (10:39 a.m.) was 26 minutes. My analysis indicates that he could have traveled this distance in 19.70 minutes traveling at 10 mph over the posted speed limits:
  - Bank to U.S. Route 20 entrance ramp: 4.42 minutes
  - U.S. Route 20 to Meridian Road exit ramp: 6.88 minutes
  - Meridian Road to Alvina Road (Beaman residence): 7.40 minutes

19.70 minutes

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Even if Mr. Beaman traveled at the 65 mph speed limit on U.S. Route 20 and encountered increased delays at signalized intersections along Alpine Road, his travel time from the bank to his residence would have required no more than 20.07 minutes. In any case, he could have easily made a bank transaction at 10:11 a.m. and traveled to his residence in time to make a phone call at 10:37 a.m.

2. The total available time between Mr. Beaman's phone call at his residence at 10:39 a.m. and him being observed as present at his residence at 2:16 p.m. was 217 minutes (3 hours and 37 minutes). My analysis indicates that the minimum time to travel the distance from his residence to the crime scene and return to his residence is 233.25 minutes (3 hours and 53.25 minutes) traveling 10 mph over the posted speed limits:

• Residence to U.S. Route 20 entrance ramp:	7.07 minutes
• U.S. Route 20 to exit ramp to I-39:	7.76 minutes
• I-39 to exit ramp to I-55:	94.90 minutes
• I-55 to exit ramp to Main Street:	1.65 minutes
• Main Street to 412 N. Main (crime scene):	2.18 minutes
• Time to commit the crime:	5.00 minutes
• 412 N. Main to I-55 entrance ramp:	2.67 minutes
• I-55 to exit ramp to I-39	0.68 minutes
• I-39 to exit ramp to U.S. Route 20:	95.88 minutes
• U.S. Route 20 to Meridian Road exit ramp:	8.06 minutes
• Meridian Road to Alvina Road (Beaman residence):	<u>7.40 minutes</u>
	233.25 minutes

Thus, even if Mr. Beaman attempted to make this round trip while driving 10 mph above the posted speed limits on all of the roads traversed, it would have taken him 16 minutes more than the available time.

3. In order to complete the round trip within the available time, Mr. Beaman would have to have driven at an average speed of 81.0 mph over the entire 260.3 mile length of the freeways traversed (U.S. Route 20, I-39, and I-55). This is 16 mph over the 1993 posted speed limits on these freeways. It is unknown whether there were any construction zones on these freeways at the time of the subject crime. However, if any construction speed reductions were encountered, this would necessitate even higher average speeds during the remainder of his freeway travel. Similarly, any speed reductions due to slower moving traffic would necessitate even higher average speeds during the remainder of his freeway travel in order to complete the round trip within the available time.

An average speed of 16 mph over the posted speed limit over the entire 260.3 miles of freeway travel does not appear to be a likely scenario. A speed of 81 mph is relatively high for a freeway with a posted speed limit of 65 mph. A recent study of vehicle speeds on various types of roadways throughout the United States (National Traffic Speed Survey II: 2009 published by the National Highway Traffic Safety Administration, U.S. Department of Transportation) found that in 2007, national freeway speeds averaged 64.7 mph, with a 95th percentile speed of 79.2 mph. This means that only 5 percent of vehicles were seen to travel at or above 79 mph.

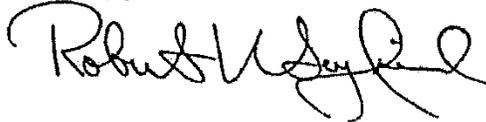
Master Sergeant Mark Nytko of the Illinois State Police was deposed on April 8, 2015, and testified that in 1993 he was a State Police Trooper who performed traffic enforcement on I-39. He further testified that it was the State Police Enforcement Policy to issue citations for vehicles traveling at 10 mph or more above the posted speed limit. He further testified that "violators would be more likely to get stopped for traveling at such a speed as 8, 6 mph over the speed limit" in 1993 and that a driver traveling more than 9 mph over the speed limit would "definitely attract the attention of troopers" as well as local police officers. Master Sergeant Nytko also testified that the State Police had greater resources available for traffic enforcement in 1993 than they do a present, resulting in a greater likelihood of speeders being observed and cited. Thus, it appears to be likely that if Mr. Beaman attempted to make the round trip to Normal Illinois to commit the murder within the available amount of time, his speed on the freeways would have been observed by traffic enforcement personnel and he would have been cited for speeding.

#### OPINIONS

1. There was sufficient time for Mr. Beaman to travel from the bank at Alpine and Newburg to his residence at Alvina and Meridian within the available time.
2. There was not sufficient time for Mr. Beaman to travel from his residence at Alvina and Meridian to 412 N. Main Street in Normal Illinois and return within the available time.

If you have any questions, please feel free to contact me. My curriculum vitae is attached for your information.

Very truly yours,



Robert K. Seyfried, PE, PTOE

C08793 5

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

ALAN BEAMAN )  
Plaintiff, )  
-vs- ) No. 10-CV-1019  
JAMES SOUK, et al., )  
Defendants. )

The videotaped deposition of JAMES SOUK called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Sandra Eberle, a notary public within and for the County of Cook and State of Illinois, at 357 East Chicago Avenue, Chicago, Illinois, on the 10th day of December, 2012, commencing at the hour of 10:52 a.m. and concluding at 5:25 p.m.

Reported by: Sandra Eberle, RPR, CRR  
License No.: 084-003229

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1 different light than I ever thought they would  
2 have been back at the time of the -- you know,  
3 the preparation for trial and the trial.

4 Q. All right. Anything else that you  
5 believe in retrospect you should have disclosed?

6 A. Not that I can think of, no.

7 Q. Okay. Now, when the Supreme Court  
8 issued its opinion, it did not outright reverse  
9 the conviction, it reversed and remanded for a  
10 new trial and a decision was made not to retry  
11 Mr. Beaman?

12 A. That's true.

13 Q. Now, were you consulted about that  
14 decision?

15 A. No.

16 Q. Did you talk informally about that  
17 decision with anybody in the McLean County  
18 State's Attorney's Office?

19 A. Well, now that I think about it, the  
20 only thing I can think of is -- and I'm not sure  
21 if I was asked to do it or I did it on my own.  
22 I know that I did talk with Mrs. Lockmiller to  
23 get her opinion and the opinion of her husband  
24 as to what their feelings were about a retrial.

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1 I'm not recalling if, you know, maybe I  
2 was asked by Mr. Yoder or Mr. Messman to make  
3 that contact since I had, you know, kept up at  
4 least a Christmas card exchange type  
5 relationship with the Lockmillers over the  
6 years.

7 So I'm recalling that I did do that and  
8 I think passed on some information about that.  
9 In terms of being consulted about my opinion, as  
10 to whether the case ought to be retried, I'm not  
11 recalling being asked for my opinion about it.

12 Q. Well, were you informed of the decision  
13 of the office not to retry the case?

14 A. At some point, I was, sure.

15 Q. Were you informed of that decision  
16 prior to the public announcement of the  
17 decision?

18 A. I don't remember.

19 Q. Would you have expected that you would  
20 be given that courtesy?

21 MS. EKL: Objection, calls for speculation.

22 THE WITNESS: As I think about it, I  
23 probably was told before the public  
24 announcement. I just don't specifically recall.

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1 I'm not recalling if, you know, maybe I  
2 was asked by Mr. Yoder or Mr. Messman to make  
3 that contact since I had, you know, kept up at  
4 least a Christmas card exchange type  
5 relationship with the Lockmillers over the  
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10 to whether the case ought to be retried, I'm not  
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13 of the office not to retry the case?

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20 be given that courtesy?

21 MS. EKL: Objection, calls for speculation.

22 THE WITNESS: As I think about it, I  
23 probably was told before the public  
24 announcement. I just don't specifically recall.

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1           But I -- you know, I mean, I was  
2 treated with, you know, courtesy about any  
3 issues related to Beaman. I had, you know, a  
4 good relationship with people in the office and,  
5 you know, I was a sitting judge there so they  
6 probably did tell me but I just don't remember  
7 the specifics.

8 BY MR. BOWMAN:

9           Q. Who probably did tell you?

10          A. Probably Mr. Messman, but it could have  
11 been Mr. Yoder. I'm not sure.

12          Q. And how did they probably tell you?

13          A. I don't remember.

14          Q. Well, when they -- when they probably  
15 told you, did you express any views such as  
16 disappointment?

17          MS. EKL: Objection, form, calls for  
18 speculation.

19          THE WITNESS: You know, I really don't have  
20 a recollection of having any conversation. I  
21 suppose my main recollection would be that I  
22 didn't have any surprise decision.

23                 I mean, I knew from the outset it would  
24 be a rather difficult matter to retry the case

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1 after so many years so I don't think the  
2 decision surprised me at all.

3 BY MR. BOWMAN:

4 Q. Well, why do you say that?

5 A. Because I knew how difficult it would  
6 be for the state's attorney at that time to put  
7 together the case again for a retrial. So I  
8 wasn't particularly surprised that they chose  
9 not to do it.

10 Q. Well, what about the case would make it  
11 difficult to retry other than the fact that it  
12 would no longer be open to the state's  
13 attorney's office to suggest that Alan Beaman  
14 was the only person who possibly could have  
15 committed the murder?

16 MS. EKL: Objection, form, foundation,  
17 assumes facts not in evidence.

18 THE WITNESS: Well, I believe the Supreme  
19 Court opinion was 2008, if I'm recalling  
20 correctly, so 13 years had past since the trial.

21 It would be a monumental effort on the  
22 part of police and prosecutors to gather up all  
23 the witnesses, all the evidence again, and, you  
24 know, so it didn't surprise me that they didn't

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1 undertake that effort.

2 BY MR. BOWMAN:

3 Q. Is there some witness who had  
4 disappeared, some piece of evidence that was no  
5 longer available, anything specific that you can  
6 point to, Mr. Souk, to help explain your answer  
7 that it would have been monumental or difficult  
8 to retry the case after the Supreme Court's  
9 decision?

10 A. Well, I didn't have any involvement in  
11 assessing what witnesses might still be  
12 available or what the effort might be. I'm just  
13 talking in general terms of my own experience as  
14 a trial lawyer, that I knew it would be a very  
15 difficult and monumental effort to do that.

16 Q. In other words, the answer to my  
17 question is no, there's nothing specific that  
18 you can point to?

19 MS. EKL: Objection, form. He answered the  
20 question.

21 THE WITNESS: Not specific. I didn't know  
22 anything about any availability of any witnesses  
23 or any or any evidence.

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1 Q. Right, because to be clear, the other  
2 possibility was that the fingerprint was on the  
3 clock radio because Mr. Beaman had been a  
4 frequent guest in the apartment and it had been  
5 clear that he had touched the clock radio as a  
6 routine matter when he spent the night at the  
7 Lockmiller apartment, yes?

8 A. Based on that evidence and the expert  
9 testimony about the fingerprints, we, you know,  
10 could not prove when the fingerprint would have  
11 definitely been placed there.

12 Q. Right. And to be very clear, you had  
13 -- you had no scientific evidence on which you  
14 could base your argument as to the date of  
15 origin of that print, right?

16 A. Fingerprint experts won't give you such  
17 an opinion or at least they didn't back then. I  
18 don't know what they do now.

19 Q. Well, they certainly didn't in the  
20 record of Mr. Beaman's trial, right?

21 A. Correct.

22 Q. And so what you did in your closing  
23 argument, sir, was to engage in an exercise in  
24 speculation that perhaps the fingerprint was of

125

1 recent origin because if it wasn't of recent  
2 origin, it would have been smudged off, right?

3 MS. EKL: Objection, form, foundation.

4 THE WITNESS: What I did in closing argument  
5 was argue the reasonable inferences of the  
6 evidence as is appropriate and proper for any  
7 attorney in closing argument.

8 BY MR. BOWMAN:

9 Q. Yes, but you had introduced no evidence  
10 at the trial, sir, had you, about anyone's habit  
11 in terms of wiping the clock radio or touching  
12 certain portions of the clock radio, right?

13 A. You know, I'd have to look at the  
14 record. I seem to recall that maybe Swaine  
15 might have given some testimony about that. I'm  
16 not sure if Mr. Beaman did in his testimony  
17 about how often or when they might have touched  
18 the clock radio.

19 But I think -- I think probably they  
20 might have been asked, but I would have to look  
21 at the record to be sure.

22 Q. Well, the clock radio obviously gets  
23 set every night, right?

24 MS. EKL: Objection, form, foundation.

126

1 MS. EKL: Objection. Form, specifically to the  
2 phrase your investigation.

3 THE WITNESS: Well, the investigation of the  
4 Normal police department and any further investigation  
5 by our office after charges were filed uncovered no  
6 evidence that he was physically violent prior to August  
7 23rd of 1993.

8 BY MR. BOWMAN:

9 Q. You mean August 25th?

10 A. Or 25th I guess. I'm sorry. Yeah, the date of  
11 the murder.

12 Q. That's a good way of putting it. We've talked  
13 about this fingerprint in the apartment, and I don't  
14 want to reenter that debate. But you'll agree that at  
15 least at the theoretical level there is an innocent  
16 explanation for Mr. Beaman's fingerprint on this clock  
17 radio, right?

18 MS. EKL: Objection. Form.

19 THE WITNESS: There was a reasonable alternate  
20 explanation for the fingerprints. I think there were  
21 two prints, but.

22 BY MR. BOWMAN:

23 Q. Right. Four of Swaine's, who we know didn't  
24 commit the murder, and two of Beaman's, right?

25 A. Correct.

284

1 Q. And the next thing I want to ask you about,  
2 because I wasn't clear from our conversation on the 10th  
3 of December, is the gap in the alibi. I believe you  
4 characterized the gap in Mr. Beaman's alibi as a very  
5 narrow gap. Is that, am I putting words in your mouth,  
6 or is that your assessment of it?

7 A. I'm not recalling that. I'm not sure what you  
8 mean.

9 Q. Well, let me just ask you then. Will you agree  
10 with the proposition that for Beaman to have committed  
11 the murder on the prosecution's theory and the  
12 investigator's theory of when the murder was committed  
13 he would have had to travel from Bell Federal Savings to  
14 the Lockmiller apartment at a high rate of speed,  
15 committed the murder in a short period of time, and  
16 returned home at a high rate of speed?

17 A. I'm not sure what you mean by high rate of  
18 speed.

19 Q. Well, how about 75 miles an hour?

20 A. Well, I guess what I would agree to is that he  
21 would have had to have traveled to Normal between 11  
22 minutes after 10:00 and have been home in bed by 3:00  
23 o'clock when we know his mother's home. That was the  
24 final, if you will, gap that was never closed by any  
25 evidence. Mrs. Beaman attempted to close that, but he

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TIMOTHY FREESMEYER,

called as a witness herein on behalf of the People, having been first duly sworn on his oath, was examined and testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. SOUK:

Q Would you state your name please, and spell your last name?

A Timothy John Freesmeyer, F-R-E-E-S-M-E-Y-E-R.

Q Your occupation?

A I'm a police officer for the Town of Normal.

Q How long have you been a police officer for the Town of Normal?

A Since March 12th of 1990.

Q Your present rank is?

A I'm a sergeant.

Q And I want to call your attention back to August the 28th of 1993. What section of the police department were you assigned to at that time?

A I was assigned to the detective division.

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1 Q At that time did you have occasion to respond to the  
2 scene of the Jennifer Lockmiller murder, [REDACTED] [REDACTED] [REDACTED] [REDACTED]

3 [REDACTED]  
4 A Yes, I did. I was in my squad car when the call  
5 came in.

6 Q About what time do you think you got there?

7 A The call came out, to my knowledge, approximately  
8 ten minutes after two. I would have gotten there probably  
9 about 2:15 to 2:20, after I went to the station to retrieve a  
10 camera and other supplies.

11 Q When you got to the scene, what's the first thing  
12 you recall doing?

13 A The first thing I recall doing was speaking with  
14 Sgt. Mark Kotte and being briefed on the situation.

15 Q Was he inside or outside the apartment at that  
16 point?

17 A I believe he was in the driveway at that point, sir.

18 Q At that point in time had Dean Kennedy, the crime  
19 scene technician, arrived yet?

20 A No, he had not.

21 Q Prior to the time that the crime scene technician  
22 did arrive, what did you do yourself personally at the scene?

23 A I checked in with Officer Fogler, who was securing  
24 the door. He informed me there were two kittens that had

1 gotten out of the apartment that he was having a problem  
2 trying to corral. I collected the kittens, gave them to the  
3 two interns that were with me, asked them to sit with the  
4 kittens until animal control arrived. I then waited at the  
5 scene for the crime scene technician or any other neighbors or  
6 witnesses that might happen by.

7 Q At that time, was Officer Fogler assigned to the  
8 door?

9 A Yes, he was.

10 Q Did you check the perimeter of the building at all  
11 that day?

12 A Yes, sir, I did.

13 Q Did you walk all the way around the building?

14 A Yes, I did. I walked around the entire building  
15 looking for anything on the ground or near the building that  
16 might prove significant.

17 Q Did you find anything that you considered to be of  
18 evidentiary value?

19 A No, sir, nothing significant.

20 Q Prior to Mr. Kennedy's arrival, did you go in Apt.  
21 [REDACTED] at all?

22 A Yes, sir, I did.

23 Q Would you tell us about that? About when was it and  
24 what did you do when you were there?

1           A     Yes, after speaking with Sgt. Kotte and collecting  
2 the kittens, giving those to the interns, I walked back up and  
3 asked Mr. Fogler if I could enter to view the scene. I  
4 stepped through the front door into the bedroom door area, saw  
5 the body, saw the condition, stepped back out of the apartment  
6 again.

7           Q     At that point in time, did anyone go in with you?

8           A     No, sir, I don't believe they did.

9           Q     About how long were you in there?

10          A     Probably between 20 and 30 seconds.

11          Q     At that time did you remove anything from the scene  
12 or disturb anything inside the apartment?

13          A     No, sir, I did not.

14          Q     Were you there when the crime scene technician  
15 arrived?

16          A     Yes, sir, I was.

17          Q     What's your recollection of about what time that  
18 was?

19          A     If I could look at my report I believe I could tell  
20 you.

21          Q     Do you have that in front of you?

22          A     Yes, sir, I do.

23          Q     Would that refresh your recollection?

24          A     I believe it would.

1 Q Okay, if you'd refer to it.  
2 A According to my report at approximately 3:30 to four  
3 P.M. the crime scene technician arrived.  
4 Q You've written rather voluminous reports regarding  
5 this case. Is that correct?  
6 A Yes, sir, that's true.  
7 Q Do you have those in front of you on the witness  
8 stand?  
9 A Yes, sir, I do.  
10 Q If other occasions arise when you feel you need to  
11 refer to them, just indicate that if you would please.  
12 A Thank you, sir.  
13 Q At the time that Mr. Kennedy arrived, obviously he  
14 was then processing the scene as he testified. Is that  
15 correct?  
16 A Yes, sir, that's right.  
17 Q Did you go in and assist somewhat with that process?  
18 A Yes, sir, off and on. I was not in the apartment  
19 the entire time.  
20 Q At some point in time, did you view and retrieve the  
21 purse and the contents that he had previously testified about  
22 and we saw some slides on?  
23 A Yes, sir, I did.  
24 Q And that had Jennifer Lockmiller's identification in

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it?

A Yes, sir, a driver's license.

Q And the body that you saw at the scene, did it appear to be the same as the young lady you saw the picture of on the driver's license?

A As close as I could tell, yes, sir.

Q We've had some discussion -- I guess Mr. Beu has asked some questions about something called a crime scene log. Is a crime scene log something that is part of your department's procedure?

A No, sir, it's not.

Q Has it ever been as long as you've been a police officer there?

A In the five years that I've been there, no, sir, it has not.

Q Are you aware that some departments use something called a crime scene log on major crimes?

A Yes, sir. In the larger departments, I would assume they would have to due to the number of people that would be involved.

Q And what's your understanding of what a crime scene log is?

A It's my understanding in large departments they use a crime scene log in order to document anybody going into and

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1 out of a crime scene. In our case, in a small department, we  
2 only have approximately four to five uniformed officers -- any  
3 particular shift you may not have any more than four or five  
4 officers. We know everybody by sight. Therefore, we don't  
5 see a need for a crime scene log. We could recreate anybody  
6 that would have gone in or out of that apartment.

7 Q And on the situation that day, do you feel the  
8 department had any problem keeping track of who went in and  
9 out of the scene?

10 A No, sir, not at all.

11 Q At some point in time, did you have some contact  
12 with Mr. Swaine that day?

13 A Yes, sir, I did.

14 Q Is that during the late afternoon hours?

15 A Yes, it was.

16 Q And he'd indicated you were involved in taking a  
17 statement from him. Is that correct?

18 A That is correct.

19 Q Where did that occur?

20 A That occurred in an interview room within the  
21 detective division in the Normal Police Department.

22 Q And how did you -- Where did you first have contact  
23 with him?

24 A I first had contact with him at the scene. After

1 they received the answering machine tape, Detective Daniels  
2 and Detective Warner were able to determine, due to a message  
3 left on the machine, that a Mike Swaine was planning on  
4 returning to the apartment on Saturday. They put that over  
5 the police radio, that they were expecting him. When he  
6 arrived, we immediately put him in police custody, placed him  
7 in my squad car, and then I transported him to the Normal  
8 Police Department for an interview.

9 Q Even though you -- That was basically similar to  
10 what happened to Mr. Beaman in Rockford?

11 A Yes, very similar.

12 Q Even though you're not making an arrest, at that  
13 point, could you tell us why you do have them put the  
14 handcuffs on people who are potential suspects?

15 A Yes, sir. We're dealing with probably one of the  
16 most violent crimes there is, a homicide. We don't know who  
17 the suspect is. We don't know who the culprit is. At that  
18 point, for officer's safety, we treat everyone as a suspect.  
19 Mike Swaine was living in that apartment. He had some direct  
20 involvement in the case, and therefore for officer's safety,  
21 we placed handcuffs on him until we were able to determine  
22 what type of individual we were dealing with.

23 Q After he got to the station, were the handcuffs  
24 removed at that point, after you made sure he didn't have any

1 weapons or anything like that?  
2 A Yes, sir, they were.  
3 Q And you took a formal statement from him at that  
4 time?  
5 A Yes, sir, I did.  
6 Q After you did that, did you have occasion to return  
7 to the crime scene?  
8 A Yes, I did.  
9 Q And at some point in time that day, was a video tape  
10 done showing various aspects of the crime scene?  
11 A Yes, it was.  
12 Q And who did the video tape?  
13 A That was done by the coroner's office. The  
14 camcorder that I had taken had a dead battery, so we asked  
15 them to record the crime scene for us.  
16 Q Do you have that video tape here today so we can  
17 play it for the people?  
18 A Yes, sir.  
19 MR. SOUK: Your Honor, we'll be marking that People's  
20 Exhibit No. 81. We'd ask the court's permission to play that  
21 for the jury now on the T.V. monitor that's in the courtroom.  
22 THE COURT: Any objection, Mr. Beu?  
23 MR. BEU: No, sir.  
24 THE COURT: That will be allowed. May I suggest that you

1 and your client, if he desires to observe that with you,  
2 position yourselves in such a way that you can see the video.  
3 I will move over here also. Off the record for a moment.  
4

5 (WHEREUPON A BRIEF DISCUSSION WAS HAD  
6 OFF THE RECORD.)  
7

8 THE COURT: Let's go back on the record. Are any of the  
9 members of the jury having any difficulties seeing the monitor  
10 from their positions?  
11

12 (NO AFFIRMATIVE RESPONSE.)  
13

14 THE COURT: Apparently not.

15 Q (By Mr. Souk) Before we play the video, have you  
16 reviewed this video prior to coming to court today?

17 A Yes, sir, I have.

18 Q And is it basically going to show us many of the  
19 things -- basically the same views that we've seen on numerous  
20 slides in the courtroom by two previous witnesses?

21 A Yes, I believe the video tape was taken at the same  
22 time that the crime scene technician was taking photographs of  
23 the scene, so it should be very similar.  
24

Q I'd ask you, can you see?

1 A Yes, I can see.

2 Q At this time, I'll -- if I hit the right button --  
3 begin the video tape.

4  
5 (WHEREUPON PEOPLE'S EXHIBIT NO. 81 WAS  
6 PLAYED FOR THE JURY AS THE FOLLOWING  
7 PROCEEDINGS WERE HAD:)

8  
9 Q (By Mr. Souk) Now I'd ask you, detective, to  
10 describe what's being seen on the video tape as it's being  
11 played here just briefly.

12 A You're seeing the two windows and the air-  
13 conditioner under Jennifer's apartment. That's Officer Fogler  
14 standing in the doorway who's securing the door prior to the  
15 crime scene technician --

16 Q Is that the door we're seeing?

17 A That is the south entrance to the apartment, yes.  
18 You're seeing Jennifer Lockmiller's car on the right side of  
19 the screen.

20 Once again, that's the apartment of the people who  
21 live below -- or used to live below Jennifer. The window you  
22 see in the right side of your screen is the living room window  
23 of Jennifer Lockmiller's apartment. The air-conditioner, then  
24 the window on the right would be the kitchen window.

798

C09558

AB017797

APPENDIX 002981

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Obviously the address of the building, [REDACTED].  
This would be the east side of the building that you're  
looking at now, the side which faces the parking lot area for  
the apartment.

Once again on the left side of your screen you can  
see Jennifer Lockmiller's car that was parked in the parking  
lot.

Okay, now you're looking in the south door of the  
apartment. On your right is a staircase leading up to Apt. 3  
and 4. On the left is a stairway leading down to 1 and 2.

This would be the west side of that same building,  
the side which faces [REDACTED].

I believe now you're viewing the north side of the  
apartment. Those would have been Jennifer's bedroom windows,  
and you see the back stairwell out of the apartment. The  
bottom door goes into Apt. 1 and 2, the top door, 3 and 4.  
That again is the top door with the stairs leading up to it.

That would be the bottom windows of the apartment on  
the northeast corner of the building, and this, once again, is  
the back stairwell leading up to the hallway area going to  
Apt. 3 and 4.

This would be a view from [REDACTED] looking at the  
apartment.

Q That view right there, is that, from your knowledge

C09559

1 of the case, basically the view that Mr. Heyse would have had  
2 from the street?

3 A Yes, sir, it would have been.

4 Q Which apartment building is this that we're just  
5 looking at there?

6 A The apartment building south of [REDACTED]. I'm  
7 not sure exactly what the street number is of it.

8 This is the hallway, I believe, leading down to Apt.  
9 1 and 2. As you come in the South [REDACTED] door, if you go to  
10 your left, you get to the hallway. On the right you're seeing  
11 the stairs leading up to Apt. 3 and 4. These would be the  
12 mailboxes for the apartment building. As you step in the  
13 south door, they're immediately on your left.

14 You're looking down the hallway. Okay, now you're  
15 looking in the door from the hallway into Jennifer's  
16 apartment. This is the living room area.

17 The person you saw briefly was Dean Kennedy taking  
18 photographs of the scene.

19 Q The television and the video is on?

20 A The television is. I can't tell if the video is on  
21 from the picture.

22 This is a view of the body as looking from the  
23 bedroom door.

24 View of the kitchen. The table, you see the book

1 bag and the purse on the table.

2 At this point it appears the person taking the film  
3 is standing in the living room area of Jennifer's apartment.

4 This again is a view of the kitchen from the living  
5 room. The couch, the garbage bag on the couch. In front of  
6 that is a small table with the keys and the remote control.  
7 To the left you'll see the telephone. Directly behind that is  
8 the answering machine. Once again, the coffee table with the  
9 keys, the garbage bag.

10 Q Is that a remote control for the television?

11 A I did not try the remote control to find out what it  
12 operated. I can't answer that.

13 Top of the photograph is the air-conditioner for the  
14 apartment. It was a window unit. These are the living room  
15 windows. The flashes that you saw, as I mentioned earlier, is  
16 Dean Kennedy taking photographs of the scene.

17 These are posters up on the living room wall.

18 The garbage can that was pulled out in the kitchen.  
19 On the table behind the book bag and the purse is a small word  
20 processor, a table-top unit. It's a cream or off-white color.  
21 Some books stacked on top of it.

22 This is the bathroom floor. There's a small piece  
23 of hair laying here which appeared to come from the black cat  
24 which Jennifer used to own.

1 This again is the bathroom.

2 This is the bedroom once again. This is looking in  
3 the door, the wall which would be on your left if you were to  
4 walk into the bedroom.

5 Zooming in on the table. There's a Bible there,  
6 telephone.

7 This is a farther shot. Once again you'll see the  
8 joint compound, sander, other items.

9 This is the back of Jennifer's bedroom door. On the  
10 right side you'll see the hoop earring which Dean Kennedy  
11 referred to, and the clump of hair. This is the other hoop  
12 earring which was found inside the front door. This was the  
13 red shoe which was found in the hallway. And this is a shot  
14 of the other shoe which was still on Jennifer's left foot.

15 You see the white alarm clock on the left, the brown  
16 alarm clock on the right located just behind the power strip.  
17 Single bed that's on the left. See a lamp on her dresser, and  
18 then the bunk beds on the right.

19 Q That lamp appears to be on, correct?

20 A Yes, it does appear to be on.

21 Q Previously we went by the bathroom. Did you notice  
22 if the bathroom light was on?

23 A I believe it was. There was light in the room. I'm  
24 assuming it came from the bathroom light.

C09562

1 purposes?  
2 A Yes, I believe it does.  
3 Q Prior to the -- I'm sorry, when you returned to the  
4 crime scene after questioning Mr. Swaine, were you involved in  
5 retrieving some items of evidence at that point in time?  
6 A Yes, sir, I was. The crime scene technician was  
7 just finishing up his work at the apartment. He asked if  
8 there was anything that I would like to take as evidence which  
9 he was not going to take.  
10 Q And did you gather some items at that point?  
11 A Yes, I did.  
12 Q What items did you gather?  
13 A I gathered the word processor off that table, some  
14 disks I found in the bedroom desk and drawers, and a box of  
15 letters which I believe were found under one of the two beds.  
16 Q Did you, at the station, review the letters that you  
17 had found?  
18 A Yes, sir, I did.  
19 Q Did you find some letters which appeared as if might  
20 have been letters to Jennifer from Mr. Beaman?  
21 A Yes, I did.  
22 MR. SOUK: If we could have the lights please?  
23 A Mr. Souk, I'll need to advance the slide projector  
24 to the right place.

C09563

1 Q (By Mr. Souk) You have the controller here with  
2 you?

3 A Yes, I do.

4 Q If you would advance that.

5 A I'll need to go quite a ways. Could I step down and  
6 adjust the projector?

7 THE COURT: You may.

8 A Thank you.

9  
10 (WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

11  
12 Q (By Mr. Souk) Let me show you first what's marked  
13 People's Exhibit 4-A, and also has Grand Jury Exhibit No. 17  
14 affixed to it, and ask you if those are copies of certain of  
15 the letters that you found at Jennifer's apartment that day?

16 A Yes, sir, they are.

17 Q And are those -- is that Grand Jury Exhibit, are  
18 those letters that Mr. Beaman later admitted were letters that  
19 he had, in fact, written to Jennifer?

20 A I believe so, yes, sir.

21 Q And I'm going to show you People's Exhibit 4-B-1  
22 through 4-B-24, and ask you if those are the originals of  
23 those copies, People's Exhibit 4-A?

24 A Yes, sir, they are.

C09564

1 Q In reviewing these letters, did you find in the  
2 letters certain indications of Mr. Beaman's feelings towards  
3 Miss Lockmiller?

4 A Yes, I did.

5 Q And in preparation for court today we now have a  
6 slide here that appears to have a portion of one of the  
7 letters enlarged. Did you prepare these, and if you will,  
8 take out certain portions that express those feelings that you  
9 found in reviewing the letters?

10 A Yes, I did. The actual letter, itself, will appear  
11 behind the blow-up window. The window makes it just a little  
12 easier to read the important part.

13 Q And the arrow comes from the part of the letter  
14 where that blow-up was taken from, correct?

15 A That's correct. I intended to put the arrow where  
16 it started.

17 Q Do you need a list to know which ones we're on?

18 A I don't believe so.

19 Q The slide that we're looking at now, which number is  
20 that?

21 A That's 4-B-1.

22 Q And Mr. -- The blow-up is in Mr. Beaman's  
23 handwriting. It's actually what's written on the letter.  
24 Is that correct?

1 A Yes, sir, it's an actual blow-up of the letter.

2 Q And the blow-up portion, would you read that out  
3 loud?

4 A Yes. "Thinking about you puts me to sleep at night  
5 and wakes me up in the morning. I'm always afraid you'll get  
6 scared of us and that you'll drop me."

7 Q Could we go to the next slide please? Which letter  
8 is that on the next slide that's now on the screen?

9 A That's letter 4-B-3, People's Exhibit 4-B-3.

10 Q There doesn't seem to be a blow-up on that portion.  
11 Is there a reason for that?

12 A Yes, sir, the approximate bottom half of the letter  
13 I found to be important. Therefore, I thought a blow-up of  
14 the bottom half of the letter wouldn't do much good as  
15 compared to showing the entire letter.

16 Q The portion that goes to his feelings that you  
17 noted, would you read that please?

18 A Yes. Down towards the bottom he lists, "Fantasies:  
19 Funks Grove, lots of brush and covered by foliage. There's no  
20 one around, and even if there was, they couldn't see through  
21 all of the thick foliage. What do you say about that one? Or  
22 in a sleeping bag, or standing up in parenthesis" -- I'm  
23 sorry, yes, "propping you up against a wall or something, end  
24 parenthesis."

1 For the back of People's 4-B-3. I would need to  
2 switch to the next slide.

3 Q Yes, would you do that as you need to?

4 A The back of the page continues, "Or you could let me  
5 do a certain thing I've wanted to do for awhile that you  
6 always tell me I can't do, no pressure of course, but I'll try  
7 to make you beg for it next time I'm with you. Beer massage  
8 would be nice to do again. Damn it, now I'm horny. In the  
9 fly gallery at the theater at IWU (I've wanted to do that for  
10 years.) On the quad, if you're feeling brave enough. It  
11 would also be fun to go into a one-person public restroom and  
12 get a little crazy. God! The possibilities are endless.  
13 Write yours to me. I love you. Gotta go. I dig you," and  
14 appears to have Alan's signature on the bottom.

15 Q Would you go to the next slide please, and again  
16 which exhibit --

17 A This would --

18 Q -- does this slide go with?

19 A People's Exhibit 4-B-4.

20 Q And you have no blow-up here. Is there a  
21 substantial portion that you considered to go to his  
22 feelings?

23 A Yes, that is correct.

24 Q Would you read those portions?

C09567

1           A     If I could look at my report. I would need page --  
2 either seven or eight. I stand corrected, this letter starts  
3 in People's Exhibit 4-B-5.

4           Q     Okay, and would you read the portions that go to his  
5 feelings?

6           A     Yes, I would. Underneath the blacked out marks  
7 there's a little spot, and then it starts out, "Okay, you got  
8 it, all out honesty. Here's the things you don't want to  
9 hear. Number one, I really just want you to be with me and  
10 only me," only underlined, "Selfish, but honest. Number two,  
11 when I say I love you on the phone, I wish you would say it  
12 back and not give a shit who is sitting there in your living  
13 room. Number three, I won't be able to handle this much  
14 longer without some growth in our "relationship." Number  
15 four, I'm not sweet, I'm a selfish asshole with a thorn in my  
16 pride and I want to be yours, but only if you're mine." It  
17 continues on the back of People's Exhibit 4-B-5, "Number five,  
18 even I sometimes put on a pair of shiny shoes. Number six,  
19 are you wanting inspiration? You spill your secrets on me,  
20 then you tell me with a whisper of things that will never be,  
21 Black Crowes." It appears to be a quote. "Number seven,  
22 lover cover me with your sleep, let your love light shine.  
23 Lover cover me with a good dream, let your love light shine,  
24 Black Crowes. Number eight, yeah, I fucked up. I'm only

1 human. If you wanted a demi God or a martyr, you should have  
2 become a nun and chased priests." Then there's a star on the  
3 bottom, "I guess that's the bad part about boys who don't wear  
4 shiny shoes, they have real emotions." Real is in large  
5 letters. "Love me, need me, want me, trust me and respect me.  
6 I'll do the same for you."

7 Q The next slide, which exhibit is that?

8 A That was People's Exhibit 4-B-4, and --

9 Q And would you read the portion that goes to his  
10 feelings for Jennifer?

11 A On the back of that exhibit it goes on, "Now my  
12 bitter hands, frayed on broken glass of what was everything.  
13 All the pictures have been washed in black, tattooed all I  
14 see, all that I am, all I'll be. I know some day you'll have  
15 a beautiful life. I know you'll be the sun in somebody else's  
16 sky. But why, why, why can't it be, why can't it be mine?"  
17 And then in very large letters he has, "I love you! Stop  
18 dragging around!" Signed, "Honesty from the heart,  
19 Incorporated," and once again appears to have Alan's signature  
20 on the bottom.

21 Q And now on the next slide goes with which exhibit?

22 A The next slides goes to Exhibit 4-B-8.

23 Q And you've blown up a portion of that, and it's  
24 going to his feelings, correct?

1 A Yes, sir, I have.

2 Q And would you read the blown-up portion of that  
3 please?

4 A "Okay, so I'm a fucking asshole, but I'm not a drug.  
5 You can't just quit me, then come back, then quit me again,  
6 then come back over and over. Sometimes it happens three  
7 times a day. I now understand why things have been tense  
8 these past couple of weeks, and I haven't made it any better.  
9 I'm sorry. I never wanted to hurt you. I just want to love  
10 you, want you, need you, trust you and respect you. Dig?",  
11 and then at the bottom appears to have Alan's signature.

12 Q Go to the next slide please. Again, which exhibit  
13 does this slide equate to?

14 A This is People's Exhibit 4-B-9. There were two  
15 particular quotes on the front page of this exhibit. The top  
16 one states, "I'm good and messed up about everything."  
17 Farther towards the bottom he states, "I don't know what my  
18 life is for yet. I don't know about anything for sure, but I  
19 know that I love you."

20 Q The next slide please. And this slide refers to  
21 which exhibit?

22 A This slide exhibit relates to Exhibit 4-B-10.  
23 "When I say goodnight to you, I want you to kiss me goodnight  
24 whether or not Jon, or Slush, or Bubba is watching." Towards

1 the bottom in large letters it says, "I want to be at peace  
2 with you and for you to be at peace with me."

3 Q Next slide please.

4 A The next slide relates to Exhibit 4-B-13.

5 Q And the blown-up portion there that you -- that goes  
6 to his feelings?

7 A States, "I know there's things about me that bother  
8 you, but I want to make a change in my lifestyle. I want to  
9 be monogamous, and I want it to be with you."

10 Q The next slide refers to which exhibit?

11 A The next slide refers to Exhibit -- People's Exhibit  
12 4-B-15. The large portion shows, "I love you! More  
13 passionately than Romeo did Juliet. More hopelessly than  
14 Ophelia did Hamlet. More vengefully than did Medea, Jason."  
15 And then in parentheses, "Don't worry, I won't kill anybody.  
16 I don't believe in that.", end parentheses -- or end quotes.  
17 "I do unto others as I would have them do unto me from now on.  
18 That's why I love you, ..., that's why I need you, ..., I  
19 could really grow up for you," with really underlined.

20 Q Next slide please. Next slide refers to which  
21 exhibit?

22 A Refers to People's Exhibit 4-B-16.

23 Q And the blown-up portion reads?

24 A This is on the bottom of the note, "When I show up

1 at your door on Friday, you'd better grab me, pull me in, shut  
2 the door, lock it, throw me down right there on the floor, and  
3 make love to me. Dig? P.S. I miss you muchly. P.P.S. I  
4 tried to make this smell like me, smoke. P.P.P.S. I don't  
5 care if you bleed all over me."

6 Q Next slide please. Which exhibit does this slide  
7 refer to?

8 A This refers to People's Exhibit 4-B-18.

9 Q Read the blown-up portion please.

10 A Just a moment, let me take a look. Says, "As I came  
11 to realize that I needed you I became insecure and afraid of  
12 losing you. Jealousy became all too common. Then when I went  
13 back to school I felt that you were trying to return to your  
14 past, that," and it's continued onto 4-B-19. Picking up where  
15 I left off "that you didn't need me or love me. I was walking  
16 on eggs and I thought you didn't love me anymore. So I ran  
17 away."

18 Q Next slide please. This equates to which exhibit?

19 A Sir, may I approach the slide so I can see it a  
20 little closer?

21 MR. SOUK: Your Honor?

22 THE COURT: You may.

23 A This slide relates to People's Exhibit 4-B-21.

24 Q (By Mr. Souk) And would you read the blown-up

1 portion of that please?

2 A Yes. "I'm sorry that I've been such an ass lately.  
3 It seems like every time I don't get my way, I freak out and  
4 do something stupid." The bottom quote, "and then over the  
5 weekend in Chicago," excuse me, "I know that it's a problem  
6 and I'm really trying to mellow out about things like that."  
7 The next two quotes are from the same page, "Needless to say,  
8 this whole Bubba thing has got me freaked out more than you  
9 could possibly imagine." The smaller box on the right is the  
10 way he signed off on the letter, "With the most confusing and  
11 passionate love ever imaginable in anyone's wildest dreams."  
12 Once again it appears to have Alan's signature at the bottom.

13 Q All right, the next slide please.

14 A This slide relates to People's Exhibit 4-B-22. It  
15 states, "I have a short temper, I need your help with that."

16 Q Next slide?

17 A This slide shows the entire letter marked People's  
18 Exhibit 4-B-23.

19 Q And would you read the portion of that that relates  
20 to his feelings?

21 A Yes, sir. "I can't bear any longer to stare into  
22 your eyes to see the barrage of countless past lovers of your  
23 life. I cannot look at you if I cannot touch you. Damned if  
24 I do, damned if I don't. I will not let myself love ever

1 again. I'll just sink back into the hollow, selfish, unhappy,  
2 bottle crawling pieces of man that found true love for a few  
3 brief weeks and had it stolen by the child in him that merely  
4 wanted to make things less sticky for you. After all, it was  
5 you who said you didn't want to a commitment. And then when  
6 I finally stopped trying to get a commitment, you gave up on  
7 me without ever saying that you did want one. That's not  
8 fair. That's narrow-minded. Remove the log from your eye  
9 before removing the twig from mine. Get it?"

10 Q Next slide please.

11 A This again appears to be the back side of 4-B-23.  
12 "When I'm around you I feel like falling apart and I can't  
13 handle that anymore. If I thought that things would ever  
14 change with us," in quotes, "it might make it easier. Your  
15 phrase NBF is just a sign to me of my failure to be good  
16 enough for you, and your constant reminding me is a living  
17 hell. I want you back and I'll sacrifice my pride to get you  
18 back. But if I can't have you back, then pride is all I  
19 have," all in capitals. "So don't do me any favors. Just do  
20 what you want to do. And if I can't convince you of my love  
21 and we can't get back together to form a basic trust, then get  
22 the fuck out of my life." There's more, but I didn't feel it  
23 was relevant.

24 Q Do those slides now complete the portions of the

1 letters that related to Mr. Beaman's feelings towards Miss.  
2 Lockmiller?

3 A Yes, sir, I believe they do, the important parts..

4 Q From the day that Jennifer's body was discovered,  
5 have you remained assigned to and working on this case?

6 A Yes, sir, I have.

7 Q I want to ask you some questions now about the  
8 further investigation in this case beginning with August the  
9 29th of 1993. Did you have occasion to reinterview Mr. Swaine  
10 on that day?

11 A Yes, sir, I did.

12 Q Did you also, on that day, return to the scene with  
13 Detective Warner?

14 A Yes, sir, I did.

15 Q And on that occasion did you and he gather a piece  
16 of evidence from the scene that had been left there?

17 A Yes, sir.

18 Q What was that?

19 A That was a plastic garbage bag that was left on the  
20 couch in the living room.

21 Q Was it still in the same place that it had been the  
22 day before?

23 A Yes, it was.

24 Q When you had left the day before, and after the

1 crime scene technician had finished and Jennifer's body was  
2 removed, was the scene sealed up in any way?

3 A Yes, sir, it was.

4 Q What did you do to seal the scene?

5 A I believe, first of all, we locked the door, and  
6 then we called the maintenance person over who took a large  
7 piece of plywood, placed the plywood across the doorway. The  
8 crime scene technician then placed the red evidence seal  
9 across a portion of the plywood and the door so that if  
10 anybody were to try to remove that tape it would show on that  
11 plywood that it would come off. He then placed his initials  
12 on that tape to show that he had been the one to place that on  
13 there.

14 Q And you saw it placed on that tape?

15 A Yes, sir, it was.

16 Q Did you have to remove that seal and the plywood to  
17 get in?

18 A Yes, sir, we did.

19 Q Show you People's Exhibit No. 46, which I don't  
20 believe has been opened. Ask you if you'd open that just  
21 enough to look and see what's in it. Tell us what that is  
22 please.

23 A Yes, sir, that appears to be the pink garbage bag.

24 Q Does it appear to be in the same condition as when

1 you gave it to the lab for fingerprints?

2 A There's been extensive evidence of fingerprint work,  
3 but other than that, it appears to be the same pink garbage  
4 bag.

5 Q Did you or Detective Warner later deliver that to  
6 the crime lab for analysis?

7 A Yes, sir.

8 Q I want to call your attention now to August the 30th  
9 of 1993, and ask you if on that date you had occasion to do  
10 some checking to discover possible credit cards issued to Alan  
11 Beaman, and what you found in that regard?

12 A Yes. I contacted the credit bureau and asked for a  
13 search on any credit cards, bank cards, ATM cards that he  
14 might have in his name. We were trying to determine if they  
15 might have been used for anything during that time frame.

16 Q Did you discover any credit cards in his name?

17 A Yes, sir, we discovered two credit cards in his  
18 name.

19 Q Okay, and any usage on those credit cards that was -  
20 - that you could figure out was relevant to this  
21 investigation?

22 A Nothing that was relevant, no. One card had not  
23 been used, and the second one was last used in Rockford at a  
24 Denny's.

1 Q At that point in time, were you checking out anyone  
2 else's credit cards?

3 A At that point in time, no, I don't believe so.

4 Q Perhaps we're getting a little ahead of ourselves,  
5 but at some time later in the investigation, did you ever have  
6 occasion to check car rental agencies in the Rockford area to  
7 determine if you could find any evidence of Mr. Beaman having  
8 rented a car on or about August 25th of 1993?

9 A Yes, sir.

10 Q Did you ever find any evidence of any such rental?

11 A No, sir, there was no evidence of such a rental.

12 Q On August the 31st of 1993, ask you if you had  
13 occasion to go to the grand jury and seek your first subpoena  
14 in this case for phone records relevant to the investigation?

15 A Yes, I did.

16 Q And just for simplification purposes, were there a  
17 number of occasions after that where you returned to the grand  
18 jury to get additional phone records?

19 A Yes, sir.

20 Q And would it be accurate that the phone records that  
21 you gathered in this investigation were quite voluminous?

22 A Yes, sir, there were quite a few phone records  
23 retrieved.

24 Q And were those gathered over a period of a number of

1 months pursuant to subpoenas?  
2 A Yes, they were.  
3 Q And those -- A relevant portion of those phone  
4 records would be the subject of some stipulations between the  
5 parties that have been prepared. Is that correct?  
6 A Yes, sir, that's correct.  
7 Q The phone records that you gathered as part of this  
8 investigation, when were those phone records turned over to  
9 either Mr. Beaman or his attorney?  
10 A Those phone records were turned over pursuant to a  
11 discovery motion after the defendant's arrest in this case.  
12 Q And would that have been sometime after his actual  
13 indictment in July of 1994?  
14 A Yes, sir, I believe so.  
15 Q Okay. And as part of your procedures as a police  
16 officer, who did you turn those records over to?  
17 A I turned those records over to the state's  
18 attorney's office. They correlated all discovery motions  
19 going to the defendant.  
20 Q So it was then the job of our office to get things  
21 to the defendant and his counsel. Is that correct?  
22 A Yes, sir, that is correct. I worked directly  
23 through the state's attorney's office.  
24 Q And that's normal procedure in all cases?

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A Yes, sir, it is.

Q On August the 31st I'd ask you if you also had occasion to have a telephone interview with a Virginia Betteridge?

A Yes, sir, I did.

Q And is that the same Virginia Betteridge that previously testified in this case who had worked with Michael Swaine?

A I didn't meet her, it was a phone conversation. But I believe it to be the same Virginia Betteridge, yes.

Q When you talked to her, did she tell you the same thing she told us here in court basically?

A Yes, sir, she did.

Q Did you also have a phone interview with Stacey Gates on that day?

A Yes, sir, I did.

Q On September the 1st of 1993, did you begin some efforts with the cooperation of Michael Swaine?

A Yes, sir, that is the day we got the first court-ordered authorized overhear.

Q First, would you tell us at that point in time, had you sufficiently eliminated Mr. Swaine as a suspect that you wanted to ask for his cooperation?

A Yes, sir, to my satisfaction we had established a

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1 solid alibi for Mr. Swaine.

2 Q Would you tell us the process that you have to go  
3 through in order to do what I'll hereafter refer to as what we  
4 commonly refer to as overhears? Would you explain that  
5 process?

6 A Yes, sir. The only way that you can record  
7 somebody's voice or activities without their consent is  
8 through a court-ordered authorized overhear, consensual  
9 overhear. In order to do that, you must have the consent of  
10 one of the two parties in the conversation. That overhear is  
11 normally issued by the judge, and in order to get that  
12 overhear, you must provide probable cause of why you think  
13 that overhear is needed. And in this particular case we were  
14 able to establish enough probable cause to obtain a court-  
15 authorized overhear for a conversation between Michael Swaine  
16 and Alan Beaman. We completed a request for overhear,  
17 presented that to the judge. The judge reviewed it, and upon  
18 his approval, he signed the court-authorized overhear form to  
19 allow us to do that particular technique.

20 Q And just for simplification purposes, there were  
21 several conversations involving Mr. Swaine that required an  
22 order. Is that correct?

23 A Yes, sir, that is correct.

24 Q And later on there were several conversations

1 between yourself and Mr. Beaman that required overhear orders.

2 Is that correct?

3 A That is correct.

4 Q And on each of those occasions, did you follow the  
5 same procedure and go back to one of the judges that works  
6 here in the courthouse and obtain an overhear order by the  
7 procedure you have indicated?

8 A Yes, sir. I believe on each case there was a  
9 separate overhear order.

10 Q You're not -- You don't get just one overhear order  
11 at the beginning of the case and go with that the whole way  
12 through?

13 A No, sir. Circumstances change and people involved  
14 in the overhears change, and therefore each time you attempt  
15 an overhear you have got to get a fresh overhear order. Also  
16 they are only valid for approximately ten days to two weeks,  
17 and therefore they will expire and you have to get a new one  
18 to replace that older order.

19 Q In the early part of September, did you have a  
20 couple of overhear attempts by telephone using Mr. Swaine that  
21 were basically unsuccessful?

22 A Yes, sir, we did.

23 Q There was no connection between him and Mr. Beaman  
24 on those, correct?

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A That's correct.

Q I call your attention now to September the 3rd of 1993, and ask you if you had occasion to go to Rockford that day as part of the investigation?

A Yes, sir, I did.

Q At that time did you go to -- or drive past the Beaman house at [REDACTED] [REDACTED] [REDACTED]?

A Yes, sir, I did.

Q Did you, at that time, have occasion to see the gray Ford Escort with license plates BBB 282 there?

A Yes, I did.

Q And was that the day that you interviewed Mike Vanberringer, as he testified to here in court?

A Yes, that is correct.

Q Did you also go to Auburn High School where Carol Beaman is employed?

A Yes, I did.

Q At that time, did you attempt to ascertain whether there were any records for the week of August 23rd which might indicate her presence there, or possibly even the presence of her son, Alan?

A Yes, I made the attempt, but at that time school had not started. Teachers were in and out before and after classes, so it was very hard to find any recorded

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documentation of presence during that week.

Q Were you able to find any witnesses with any specific recollections of when they may have seen Mrs. Beaman and/or Alan there the prior week?

A No, no witnesses with specific dates and times.

Q On September the 5th did you have another unsuccessful telephone attempt overheard with a telephone?

A Yes, we did.

Q On September 8th, after obtaining another overheard order, then did -- with Mr. Swaine's cooperation and consent, did you conduct an overheard that day?

A Yes, I did.

Q Prior to that time, earlier that day, did you have occasion to get Mr. Swaine's fingerprints from him to use for laboratory examination purposes?

A Yes, I did.

Q I show you People's Exhibit 47 which contains some print cards, and ask you if those are the print cards that you took from Mr. Swaine that day?

A The top print card is a card that I took. Shows Michael J. Swaine's signature and my signature on it. The palm print card was taken by Detective Warner.

Q But those were both taken that day at the Normal Police Department?

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A Yes, I believe so.

Q And conveyed to the crime lab for comparison purposes by Mr. Dierker?

A Yes, both are dated 9-8 of '93.

Q When that day was the -- approximately was the overhear between Mr. Swaine and Mr. Beaman done?

A According to my report I picked up Mr. Swaine at approximately 6:30 P.M. We talked about the plans for the overhear. At about 9:40 P.M. the body wire was strapped onto Mr. Swaine. He then exited the van that we were sitting in and engaged Mr. Beaman in conversation.

Q Do you, in doing that, have to obtain some technical services from somewhere?

A Yes, sir, we did. You have to be specially trained in doing the body wire. You have to be certified by the state to operate the body wire. Therefore, our department always called upon the State Police Tech Services division to assist in that matter.

Q I take it when you're talking about body wire, you're talking recording equipment that's hidden from view?

A A Nagra recorder, about this tall with an elastic cord and two wires then come over the shoulders, each with microphones attached to them. And there's an RF transmitter that accompanies that unit.

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1 Q And during the time that the overhear is actually  
2 taking place, where were you located?

3 A I was located in a Dodge or a Plymouth minivan  
4 sitting right across the street from McPherson Hall, along  
5 with two individuals from tech services.

6 Q Could you and the technical people hear the  
7 conversation at the time that it was taking place?

8 A Yes, sir. The Nagra recorder is a reel-to-reel  
9 recorder, but as I mentioned, the RF transmitter that is also  
10 stuck in the elastic in the front, and the RF transmitter  
11 transmit all of the conversation back to the unit where the  
12 tech services are monitoring the equipment. So we had the  
13 receiver in the van with us and could hear the entire  
14 conversation.

15 Q After the conversation ended, was the tape from the  
16 tape recorder on Mr. Swaine's body recovered by yourself?

17 A It was recovered by the tech services individuals in  
18 my presence, sir.

19 Q Did they then turn it over to you?

20 A Yes, sir, they did after making a recording onto an  
21 audio cassette tape. We don't have the facilities to run a  
22 reel-to-reel tape to play it back.

23 Q After obtaining that, did you make other copies at  
24 the police station?

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A Yes, sir, I did.

Q And at the appropriate time, did you have that transcribed by the secretarial help available to you?

A Yes, sir, I did.

Q Did you compare the transcript of those two tapes?

A Yes, I've listened to it numerous times, sir.

Q Did you also -- Is there a requirement pursuant to the overhear statute that you do something with the original of those tapes?

A Yes, sir. This again -- Since it requires a court order we obviously don't have Carte Blanche just to do whatever we want. We must give the original copy of that tape to the issuing judge so he can listen to it and approve what's contained within the tape before that tape can be used in this case. An overhear return was done to the judge.

Q And again for simplicity's sake, all the overhears that we're going to hear about today, did you follow that same procedure and have the transcripts made, keep copies of the tape, and return the original to the judge as required by law?

A Yes, sir, I did returns on all overhears.

Q On the 15th of September, did you do another overhear involving an in-person conversation between Mr. Swaine and Mr. Beaman?

A Yes, I did, once again involving the Nagra recorder,

1 RF transmitter, and a conversation between Mr. Beaman and Mr.  
2 Swaine.

3 Q Where did both of these conversations take place,  
4 the one on the 8th and the 15th?

5 A Both occurred on Illinois Wesleyan campus,  
6 Bloomington, McLean County, Illinois.

7 Q And could you hear the conversation again as it was  
8 going on?

9 A Yes, sir, I could. I was sitting in the same van  
10 once again.

11 Q Did you follow the same procedure with a transcript  
12 and copy of the tapes that we previously mentioned?

13 A Yes, sir, I did.

14 Q I call your attention to September 22nd of '93, ask  
15 you if you had another occasion to make a trip to Rockford at  
16 that time?

17 A Yes, sir, I did.

18 Q Did you have occasion to interview Dennis Brown,  
19 who's testified in this case?

20 A Interviewed Dennis Clark, sir.

21 Q I've got Brown down. His name is Clark, isn't it?

22 A Yes.

23 Q Okay. Thank you.

24 The gentleman who worked with Mr. Beaman at the

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Gray's IGA, correct?

A Yes, sir, the maintenance man for Gray's IGA.

Q And, at that time, did you also obtain Mr. Beaman's work schedule from the -- from the records there at the IGA?

A Yes, I did.

Q Call your attention to September the 23rd of 1993, and ask if you had occasion to go to the grand jury of McLean County on that day and request a subpoena of the defendant's bank records at Bell Federal Savings & Loan in Rockford, Illinois?

A Yes, sir, I did.

Q How was it that you knew to seek those bank records?

A I got lucky, sir. I went to the Rockford phone book, went to the yellow pages, and started calling each bank in the yellow pages. I found Bell Federal to be one of the first or second banks.

Q Basically just called up the banks and asked if they had an account there?

A That's correct, sir.

Q Did you not receive that information from Mr. Beaman?

A No, sir, I did not.

Q All right --

A It also might have been contained in the credit

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1 bureau report, but I can't be sure about that without looking.

2 Q Calling your attention to September the 24th of  
3 1993, did you have some contact with people from Bell Federal  
4 in Rockford on that date?

5 A Yes, sir, I did.

6 Q And was that the first time that you learned of Mr.  
7 Beaman's presence at the bank on August the 25th of 1993?

8 A Yes, that was my first indication of that.

9 Q Did they later send you a video tape which you were  
10 able to view and verify a week or two later?

11 A Yes, sir. I asked them if they had a video tape,  
12 and they said they did, and they did send it to me.

13 Q What did that video tape show?

14 A The video tape showed Alan Beaman standing in the  
15 Bell Federal Bank in Rockford, Illinois, at 11 minutes after  
16 ten. If I could refer to my reports -- When I received the  
17 video tape back from Bell Federal, showed him entering the  
18 bank at 10:09 and 22 seconds of 8-25 of '93, remaining there  
19 until 10:11 and 43 seconds on the same date.

20 Q And you personally viewed that and satisfied  
21 yourself it was Mr. Beaman in the video tape?

22 A Yes, sir, I did.

23 Q On October the 12th of 1993, did you have your first  
24 personal contact with Mr. Beaman in connection with this

1 investigation?

2 A Yes, sir, I did.

3 Q Now you were aware that he had been questioned  
4 originally in Rockford by Detective Daniels?

5 A Yes, sir, I was well aware of that.

6 Q And obviously you've already indicated you were  
7 aware of the conversations with Mr. Swaine in September?

8 A Yes, sir, I was.

9 Q As far as contact with actual police officers  
10 between August the 28th or the early morning hours of the 29th  
11 and your first conversation with him on October the 12th, were  
12 there any other direct police contacts with Mr. Beaman?

13 A No, sir, there was not.

14 Q On that occasion, prior to your conversation with  
15 him, did you have occasion to obtain a search warrant?

16 A Yes. Lt. Brown from the county sheriff's department  
17 obtained that.

18 Q And what was that search warrant for?

19 A That search warrant was for body fluids and hair  
20 samples from Alan Beaman.

21 Q And were those used for comparison purposes at the  
22 laboratory?

23 A Yes, that is correct. What would typically be  
24 called a rape kit is what we were attempting to get.

1 Q Did that also include fingerprints?

2 A Yes, sir, it did.

3 Q And what's the procedure you have to go through to  
4 obtain that search warrant?

5 A To obtain the search warrant we have to once again  
6 go in front of a judge. We have to show probable cause as to  
7 why we feel we need the items listed in the search warrant.  
8 We were able to establish that Alan was a boyfriend, and that  
9 there was motive based on the letters. And after presenting  
10 that to the judge, along with other items, we were able to  
11 explain to the judge that we required to get this kit so we  
12 could make identifications, matches, or attempt to make  
13 matches from the evidence found at the scene. The judge  
14 approved that and saw that there was need for that and signed  
15 a search warrant for the body of Alan Beaman to recover those  
16 samples.

17 Q At that time were you aware from the preliminary  
18 laboratory analyses that there were possible prints that might  
19 be compared in this case, and also possible semen stains?

20 A Yes, sir, I was.

21 Q As part of that search warrant process -- After you  
22 completed the search warrant, what are you required to do  
23 after you have done the actual gathering of the evidence?  
24

A Well, just as in the overhear return, once again,

1. it's not Carte Blanche. We have to give a return to the judge  
2 and tell him exactly what we took and when it was taken, and  
3 then he approves that and says that it was done legal and  
4 justly. So we did return -- or make a return on the search  
5 warrant.

6 Q Did you and Lt. Brown locate the defendant that day?

7 A Yes, sir, we did, outside McPherson Hall, Illinois  
8 Wesleyan campus.

9 Q And I think we've done that, but for the record is  
10 the Alan Beaman that you have been dealing with throughout the  
11 investigation in the courtroom?

12 A Yes, sir, he is, sitting to the right of Mr. Beu  
13 with the long hair.

14 MR. SOUK: May the reflect the identification of the  
15 defendant?

16 THE COURT: Record will reflect.

17 Q (By Mr. Souk) Prior to doing anything with Mr.  
18 Beaman, did you have occasion to read him what are called his  
19 Miranda Rights?

20 A Yes, sir, I did.

21 Q After doing that, did you obtain the samples that  
22 were required by the search warrant?

23 A Yes, sir, we did.

24 Q Did Mr. Beaman cooperate in that process?

1 A Yes, sir, he cooperated with us.

2 Q The samples, other than the fingerprints, where were  
3 they gathered?

4 A The samples were gathered at BroMenn Hospital in the  
5 ER room.

6 Q Show you People's Exhibit No. 48, and there's a  
7 48-D that's outside the package, and without opening it, ask  
8 you if you recognize that exhibit?

9 A Yes, sir. That is what's known as a rape kit, the  
10 samples that were taken from Alan Beaman.

11 Q And if we opened that, would we find another --  
12 several other envelopes like this with samples in it?

13 A Yes, you would.

14 Q And were you personally present at BroMenn as those  
15 were gathered by a nurse or someone at the hospital?

16 A Yes. They were gathered by a nurse by the name of  
17 Ron Bartlett. He took all of it in my presence. After he did  
18 that, then I placed this red evidence seal on the box, and  
19 you'll see my initials, TJF, here, here, and up here.

20 Q And then do you send that to the lab for comparison  
21 purposes?

22 A Yes, sir, we do.

23 Q When you got back to the station, before you had  
24 your interview with him, did you take his fingerprints?

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APPENDIX 003017

1           A    Yes, sir, we did.

2           Q    And did you do that personally?

3           A    If I could look at the cards, I could tell whether  
4 I did or not.

5           Q    Show you People's Exhibit No. 49.

6           A    Yes, sir, I did both the fingerprints and the palm  
7 print cards.

8           Q    Okay. And again, did you then convey those to the  
9 laboratory for comparison purposes?

10          A    Yes, sir, I did.

11          Q    After you finished the fingerprinting, did you have  
12 a conversation with Mr. Beaman?

13          A    Yes, I did. When I first approached him I advised  
14 Mr. Beaman he was under the effect of a search warrant. After  
15 the fingerprints were completed, we obtained everything we  
16 needed, I informed him that he was no longer under the effects  
17 of the search warrant, no longer under arrest, and he was free  
18 to leave at anytime, and I think asked if he would mind having  
19 a conversation with me.

20          Q    Did he agree to do that?

21          A    Yes, he did.

22          Q    At that point in time, did you remind him of his  
23 rights that you had read him before, his Miranda Rights?

24          A    I believe I did, yes.

1 Q During the initial portion of that conversation,  
2 did you ask him about his relationship with Jennifer  
3 Lockmiller and whether or not they had encountered any  
4 problems in that relationship?

5 A Yeah, towards the very first part of the  
6 conversation I just asked him about Jennifer in vague, what  
7 she was like. And as he became more comfortable with the  
8 situation, I focused on their relationship.

9 Q And what did he tell you about the relationship,  
10 itself?

11 A Well again, if I could refer to my notes. He did  
12 state that they would have psychological battles where one  
13 would mention the other's past boyfriends or girlfriends as a  
14 way to irritate the other. He stated that Jennifer would  
15 always win the psychological battles. I mentioned, "Alan, it  
16 sounded like Jennifer had really raked you over the coals."  
17 To which he agreed. He further commented on a time that she  
18 had sexual intercourse with Mike Swaine in the Sigma Chi  
19 basement. Alan made it very clear that she was much less than  
20 faithful. Took everything that he had. Left him a hollow  
21 fucking shell. As we talked he would change his tone from the  
22 normal talking voice to a whisper, and then back to a normal  
23 talking voice.

24 Q When you're referring to your report, I take it that

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APPENDIX 003019

1 this particular conversation was not tape recorded in any  
2 form?

3 A No, sir, it was not.

4 Q Okay. And did you take some notes and later reduce  
5 those to the form of a police report?

6 A Yes, sir, I did. In cases --

7 Q I'm sorry.

8 A -- cases like this, it's hard telling how long we're  
9 going to go, so I try to document everything I do at the time,  
10 so at times such as this, I can refer back to my report and  
11 refresh my memory.

12 Q The report that you're referring to now to refresh  
13 your recollection, those are the reports that you wrote at the  
14 time shortly after you had this interview with Mr. Beaman?

15 A Yes. This was an ongoing report, and I just  
16 continued to add onto it as the case progressed.

17 Q After that initial conversation that covered  
18 generally his relationship and the problems that they had, did  
19 you have occasion to ask him anything about his whereabouts  
20 the week of August the 23rd through August the 28th of 1993?

21 A Yes, I did.

22 Q Could you tell us how you went about that?

23 A Well, we took a short break. He stepped outside  
24 with Lt. Brown to smoke a cigarette. Once he came back in, we

1 restarted the interview. I asked him if he would be willing  
2 to talk with me for awhile longer. He stated he would. I  
3 then -- We were sitting at my desk in the juvenile office. He  
4 was sitting to the left of my desk. I handed him a blank  
5 sheet of notebook paper and pencil. I asked him if he would  
6 write down the numbers of the week, Monday through Friday, on  
7 the left side of that paper. At that time he wrote down,  
8 abbreviated the days Monday through Friday on the left side of  
9 that paper.

10 Q And then what did you ask him to do?

11 A Then I asked him to go back and fill in what he did  
12 the week of August 23rd through August 27th, 1993.

13 Q And what did he do then?

14 A He went immediately to Wednesday and started filling  
15 in what he did on Wednesday. If I could refer to the article,  
16 I could tell you exactly what he wrote.

17 Q Let me show you People's Exhibit No. 44 and ask you  
18 if you recognize that document?

19 A Yes, sir, I do. That is the schedule which he wrote  
20 out for me. Also in the top right corner of the schedule  
21 says, schedule written by Alan Beaman on 10-12-93. Witnessed  
22 by Detective Tim Freesmeyer, my signature, TJF underneath.

23 MR. SOUK: Could we have the lights?

24 Q (By Mr. Souk) The slide that we're now viewing, is

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that a blow-up of People's Exhibit No. 44?

A Yes, sir, it is.

Q Okay. The writing that you're referring to in the upper right-hand corner, that you just referred to, that shows on the slide in the upper right-hand corner?

A Yes, sir, it does. It's in very small letters. It's hard to read.

Q Everything else that was written on the piece of paper, was that written by Mr. Beaman?

A Yes, sir, it was.

Q All right. And the days of the week that you mentioned that he wrote, wrote down first, those are the Monday, Tuesday, Wednesday, Thursday, Friday that's written along the left-hand margin line there?

A That's correct, along the two vertical lines on the left.

Q And you indicated that he went directly to Wednesday, correct?

A Yes, that is correct.

Q At that point in time in the investigation, had you informed Mr. Beaman the day that it was believed that Jennifer Lockmiller had been murdered?

A No, sir. He was only interviewed one time prior to the interview, and that was by Detective Daniels up in

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1 Rockford, and I don't believe Detective Daniels knew the time  
2 of death.

3 Q At anytime prior to October 12th, had it been made  
4 public the day or time that the police investigation was  
5 focusing on?

6 A No, sir, it did not.

7 Q Could we go to the next slide please?

8 A Yes, sir.

9 Q Again, this is another view of that same slide with  
10 just a heading telling exactly what it is. Is that correct?

11 A Yes, it is.

12 Q And could we go to the next slide? And this has a  
13 part, if you will, blown up with an arrow like we had on some  
14 previous slides, correct?

15 A Yes, sir. This again is a computer-generated slide.

16 Q The blown-up portion here you have typed up rather  
17 than doing it in handwriting, is that correct?

18 A That's correct, just to make it more legible I typed  
19 what was written at that time.

20 Q And the part that's blown-up, is that exactly the  
21 words that were written by Mr. Beaman?

22 A Yes, it is, and it's exactly the words that are in  
23 my police report that I wrote at the time that this was done.

24 Q Those words that are up there, would you read them

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please?

A "Church, ice cream social, seven o'clock, rehearsed," there's a dash, "Mitch Olson, Choir Director, Carbone - eight o'clock; Dave Olson's."

Q And is that what you observed him write when you say he went to Wednesday?

A Yes, that's the very first thing he wrote on the page.

Q What is the next thing he did on the page?

A The next thing he did was to go up to Monday and write in, "Jen called, I hung up, about five minutes."

Q Okay, and then thereafter, what did you observe him to do?

A From there he went on throughout the days of the week and filled in the rest of his schedule for that week.

Q Any -- was that in any particular order, or somewhat random order, or --

A The first two instances stuck out in my mind that he immediately went to Wednesday, and then to Monday. After that I don't recall what order he took them in, sir.

Q Is that the last slide in that series?

A Yes, sir, I believe it is.

MR. SOUK: And for the record, those would be slides 44-AX, BX, CX, DX and EX.

1 THE COURT: All right, back on the record. Counsel and  
2 the defendant return to open court. The witness returns to  
3 the witness stand. Jury is brought back into the courtroom.  
4

5 (WHEREUPON THE JURY ENTERED THE COURTROOM  
6 AND THE FOLLOWING WAS HAD:)  
7

8 THE COURT: All right, for the record, the jury has now  
9 returned to open court. Mr. Souk, you may continue your  
10 examination.

11 MR. SOUK: Thank you, your Honor.

12 Q (By Mr. Souk) Sgt. Freesmeyer, I think we were at  
13 October the 22nd of 1993, and I had asked you if on that date  
14 you had a second interview with the defendant, Alan Beaman?

15 A Yes, sir, we did.

16 Q Where did that interview take place?

17 A That interview -- We first met him at his residence  
18 at [REDACTED]. The interview took place at the state's  
19 attorney's office in Lt. Brown's office.

20 Q At that time, was Lt. Brown serving as the  
21 investigator for the McLean County State's Attorney's office?

22 A Yes, sir, he was.

23 Q And he's recently retired, correct?

24 A Yes, sir, within the last week.

1 Q Prior to arriving at the state's attorney's office  
2 on this occasion, did you read to the defendant his Miranda  
3 Warning?

4 A If I could refer to my notes for just a moment.  
5 Yes, sir, I did.

6 Q And did he agree to go into the office and have a  
7 conversation with you and Lt. Brown?

8 A Yes, sir, he did.

9 Q When you were in Lt. Brown's office, was anyone  
10 present besides you and the defendant and Lt. Brown?

11 A No, there was just the three of us, sir.

12 Q During that conversation, did Lt. Brown have  
13 occasion to ask Mr. Beaman about when the last time was that  
14 he had had sex with Jennifer?

15 A Yes, sir, he did.

16 Q And could you refer to your notes, if you need to do  
17 so --

18 A Yes, he did ask that.

19 Q What was Mr. Beaman's response at that time?

20 A He stated it was during the last week of June, and  
21 the sexual intercourse occurred at Alan's apartment.

22 Q Did Mr. Beaman make any further comments during this  
23 interview about his relationship with Jennifer and the ups and  
24 downs of that relationship?

1           A     Again, if you'll give me a moment to refresh myself  
2 with my notes. Yes, he stated once again their relationship  
3 was rocky at best. Stated that Jennifer  
4 had broken off the relationship with him 16 times in the last  
5 year, and that he broke off the relationship twice, the second  
6 time being the final time.

7           Q     How long did this interview last altogether?

8           A     It was not very long. It lasted maybe five to ten  
9 minutes, 15 minutes at the most.

10          Q     And how did it terminate?

11          A     Well, the interview was being conducted, as I said,  
12 in Lt. Brown's office. The door was closed. Lt. Brown and  
13 Alan were seated in front of Lt. Brown's desk. I was seated  
14 behind the desk taking notes for the interview. Lt. Brown  
15 asked Alan what happened that day. Alan stated he didn't  
16 know. Lt. Brown said, "I think you do know." At that point,  
17 Alan lost his temper, and he stood up, grabbed his chair, his  
18 coat off the back of the chair, grabbed the door to the room,  
19 slammed the door open to the point that it shook the walls,  
20 stated, "You're just like fuckin' Daniels," in a very loud  
21 voice that the people outside could hear what was going on,  
22 drawing the attention of the rest of the people in the state's  
23 attorney's office. At that point he left the room, walked out  
24 to the elevator.

1 Q Up until Lt. Brown had said that to him, what was  
2 his demeanor like?

3 A Demeanor was absolutely calm, no tension that I  
4 could see, no physical tension.

5 Q At the time that Lt. Brown was asking him questions  
6 and made that comment to him, what was Lt. Brown's demeanor  
7 like?

8 A Lt. Brown's demeanor was very calm, talking in a  
9 voice very similar to what I'm talking like now.

10 Q He was not yelling or shouting at the defendant?

11 A No, sir. At no point did I hear Lt. Brown raise his  
12 voice above a normal speaking tone.

13 Q Did you have occasion to follow the defendant or see  
14 where he went, or what he did?

15 A I attempted to, yeah. I grabbed my keys. I went  
16 out to the elevator area on the sixth floor. I saw Alan  
17 waiting for the elevator. As soon as he saw me, he said,  
18 "I'll take the fuckin' stairs." And he went down the  
19 stairwell to the lobby. At that time, the elevator opened, I  
20 got in the elevator, went to the lobby. As the elevator  
21 opened and I stepped out, I saw Alan leaving the front door of  
22 the Law & Justice Center, walking out in a northerly  
23 direction. I followed him out and stated something to the  
24 effect of, "Alan, this is your best chance to talk to us."

1 He turned around once and looked at me and kept walking.

2 Q Had you given him a ride down there that day?

3 A Yes, sir, I did.

4 Q Best of your knowledge, he walked home?

5 A Best of my knowledge, he walked home.

6 Q After that occasion, did you make an attempt on  
7 October the 27th of 1993 to reestablish your own personal  
8 contact with Mr. Beaman?

9 A Yes, I did. At that point, he had blown up at  
10 Lt. Brown. I figured I would try to make an attempt to try to  
11 contact him.

12 Q And where did you do that?

13 A I went to McPherson Hall to check the theater shop.  
14 After I obtained approval of the building secretary, I entered  
15 the shop area. Alan Beaman was there. He was working with  
16 his back to me. He turned around and saw me standing there  
17 and motioned me to the outside of the theater, and so he and  
18 I walked to the outside of the theater.

19 Q At that time, were you able to have a conversation  
20 with him for some period of time?

21 A Yes, sir. We stepped right outside McPherson Hall.  
22 I took a seat on a little park bench that's outside there.

23 Q And this conversation, the one on October 22nd, and  
24 the one on October the 12th, were any of these conversations

1 tape recorded by any means?

2 A On October the 27th, you mean?

3 Q Yes, 27th, and the 22nd, and the 12th of October?

4 A No, none of those conversations were recorded.

5 Q Okay, again --

6 A Not by electronic means, I should say, just in my  
7 notes.

8 Q So again, the one on the 22nd, and for this one on  
9 the 27th, did you prepare police reports based upon your notes  
10 that you are now referring to to refresh your recollection?

11 A Yes, sir, I did.

12 Q I want to ask you some of the details about that  
13 conversation on October the 27th. First, did you, at that  
14 time, during what you were saying to Alan, inform him that he  
15 was going to be arrested at some time for this crime?

16 A Yes, sir, I did.

17 Q And did you inform him that some laboratory results  
18 were still awaiting finalization?

19 A Yes, I stated they were still pending. Lab work was  
20 still being done.

21 Q And without going into the details, did you talk  
22 with him some about some of the evidence that had been  
23 uncovered in the investigation?

24 A Yes, I did.

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1 Q Did you also, at that point, have some conversation  
2 with him that involved the topic of the death penalty?

3 A Yes, I did.

4 Q What did you tell him about that?

5 A After speaking with the representative from the  
6 state's attorney's office, I was authorized to tell him that  
7 if he wished to talk to me and just get it cleared up and get  
8 the matter over with, we would not pursue the death penalty  
9 against him, and that is what I informed him.

10 Q Just to make it clear, he never confessed to you  
11 that day or any other time about this crime. Is that correct?

12 A No, sir, I never did receive a confession from Mr.  
13 Beaman.

14 Q At this point in time, during this conversation, did  
15 you have occasion to confront the defendant with the  
16 information that you previously had received back in September  
17 that indicated he was at the bank at 11 minutes after ten on  
18 Wednesday, August the 25th?

19 A Yes, I did. That was the first time that that --  
20 our knowledge of that information was disclosed to him.

21 Q And on that occasion in talking about that, did you  
22 have occasion to ask him whether or not he had, in fact, even  
23 told investigators on two prior occasions that he had gone  
24 straight home?

1           A     Yes, sir, I did confirm that with him. I asked him,  
2     "Didn't you tell the officers that you went straight home?"  
3     He said, "Yes."

4           Q     Did you, in telling him about the bank information,  
5     point out that inconsistency to him?

6           A     Yes, I told him it was in direct conflict with what  
7     he had told us. He said he went straight home, we had  
8     information he was at the bank.

9           Q     Did you ask him if he would explain that  
10    inconsistency to you?

11          A     Yes, I did.

12          Q     What was his response to that?

13          A     His response was, "I did not go -- or I didn't go to  
14    Normal."

15          Q     At that time, did he make any indication to you that  
16    he had forgotten that information?

17          A     His only response was, "I didn't go to Normal."

18          Q     As part of your conversation with him that day, did  
19    you directly inform him that there appeared to be a gap in his  
20    alibi during the mid part of the day of Wednesday, August the  
21    25th of 1993?

22          A     Yes, I did. If I can refer to my notes for just a  
23    moment?

24          Q     If you would please.

1           A     Yes. I told him that there was an alibi -- a very  
2 large alibi gap that he had not accounted for.

3           Q     And in so doing, did you again ask him for any  
4 information he could give you about where he was during the  
5 daytime hours on Wednesday, August the 25th?

6           A     Yes, sir, I did. I took a somewhat different  
7 approach than Detective Daniels' did. I tried talking to him  
8 in a very civil, calm demeanor, and asked him if there's  
9 anything that you can give me to help prove you are innocent,  
10 and he said there was nothing that he could give me.

11          Q     Did he again tell you where he was and what he was  
12 doing on Wednesday, August 25th of 1993?

13          A     Yes, he did.

14          Q     And can you refer to your report -- would you do  
15 that, but would you tell us what he told you that day about  
16 his activities on August the 25th?

17          A     I then asked Alan if he recalled telling me that he  
18 was home by himself and sleeping on Wednesday until 3:30 or  
19 four o'clock when his parents arrived home to wake him.  
20 Alan then confirmed that he was home by himself on Wednesday,  
21 August 25th, from around ten or 11 hours until his parents  
22 arrived home at around 1530 to 1600 hours, which would be 3:30  
23 to four o'clock. I asked Alan if he had anyone over to his  
24 house, and he stated no. I asked him if he made any phone

1 calls that morning, and he stated no. Once again I asked  
2 Alan Beaman if there was anyway possible to clear him, and he  
3 stated he couldn't.

4 Q And in fairness, he ended that conversation by  
5 reiterating to you that he did not do this crime, correct?

6 A Yes, sir, that is the way he ended the conversation.

7 Q I want to call your attention to October the 29th of  
8 1993, and ask you if upon that date you had Michael Swaine go  
9 to BroMenn and give some samples similar to the ones that you  
10 had done for Mr. Beaman earlier?

11 A Yes, sir, I did.

12 Q I show you People's Exhibit 51 and several packages,  
13 51-C and D that are removed, and ask you if you recognize that  
14 to be the rape kit and some of the packaging on Mr. Swaine's  
15 rape kit?

16 A Yes, it is. On the small packages that's my  
17 writing, pubic hair samples and head hair samples, and on this  
18 package is one of the typical evidence cards we fill out, and  
19 once again you see my signature on the evidence, TJF --

20 Q And if we opened that, we'd find some more similar  
21 packages?

22 A Yes, sir, I believe so.

23 Q And did you follow the same procedure of that that  
24 you had with Mr. Beaman, that is to be personally present when

1 those samples were gathered and place them in the envelopes?

2 A Yes, I did.

3 Q Did you then seal them in the big box and take them  
4 to the lab?

5 A Yes -- I didn't take them to the lab myself, but  
6 they were taken to the lab.

7 Q You had them sent to the lab?

8 A Yes, that's correct, sir.

9 Q Calling your attention to November the 3rd, 1993,  
10 utilizing the same procedure that you have used before, did  
11 you have occasion to obtain an overhear order to record  
12 conversations between yourself and the defendant?

13 A Yes, sir, I did.

14 Q And on November the 5th, did you have such a  
15 conversation with the defendant that was recorded pursuant to  
16 that order?

17 A Yes, sir, on November the 5th, 1993, I did do that  
18 order.

19 Q And was that the first of your conversations with  
20 the defendant that was tape recorded?

21 A That was the first conversation with the tape --  
22 with the defendant tape recorded that I did personally where  
23 I was wearing the body wire, yes, sir.

24 Q And again was the same procedure used basically that

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was used with Mr. Swaine to use the Nagra recorder and put it hidden on your body using the tech services people?

A Yes, sir, it was the same procedure, except this time I was the consenting party instead of Michael Swaine.

Q Obviously Mr. Beaman did not know it was being recorded. Is that correct?

A That is correct.

Q Okay. Have you, prior to today, prepared some slides for use in court that basically contain the transcript from that third overhear?

A Yes, sir, I have.

Q What I'm calling the third overhear, would be your first overhear, but the third one you've done, correct?

A Yes, the first overhear that I did, but the third one for the case.

Q And was the slide prepared using a transcript that you'd already done and had prepared in this case after completing the conversation?

A Yes, sir, they were.

Q The conversation that you had with Mr. Beaman on November 5th, where did that take place?

A That took place in the quad area of Illinois Wesleyan University.

MR. SOUK: Your Honor, I'd ask leave to play the tape

C09613

1 which is People's Exhibit 78-A and show the slides which are  
2 beginning with 69-A.

3 THE COURT: Any objection?

4 MR. BEU: This would be the tape of this particular  
5 recorded conversation, and then the slides saying the same  
6 thing as the tape?

7 MR. SOUK: Yes.

8 MR. BEU: No objection.

9 THE COURT: All right.

10 Q (By Mr. Souk) And for the record, we're now going  
11 to play the tape, 78-A, and, detective, the transcript --  
12 first page of the transcript, 69-A, appears on the slide for  
13 the jury. Is that correct?

14 A That is correct, sir.

15 Q Does it take awhile, or should we check it?

16 A You might want to check it. May I, sir?

17 THE COURT: Mr. Souk, do you want the witness to step  
18 down and check?

19 MR. SOUK: Yes.

20 THE COURT: All right, you may.

21  
22 (WHEREUPON PEOPLE'S EXHIBIT NO. 78-A, THE  
23 TAPE RECORDING, WAS PLAYED TO THE JURY AS  
24 SLIDES OF PEOPLE'S EXHIBIT NO. 69-A THRU 69-I

1 WERE DISPLAYED TO THE JURY. A COPY OF PEOPLE'S  
2 EXHIBIT NO. 69-A THRU 69-I APPEARS AS FOLLOWS:)

3  
4 Q (By Mr. Souk) Detective, did you just hear the tape  
5 recording, People's Exhibit 78-A, played here in court?

6 A Yes, sir, I did.

7 Q And was this an accurate tape recording of the  
8 conversation that you had with Mr. Beaman on November the 5th  
9 of 1993?

10 A Yes, it is, with the exceptions of the long spans  
11 where there was no talking, I shortened the tape up for court  
12 purposes.

13 Q The slides that we saw beginning with 69-A, I  
14 believe ending with 69-I, did those slides have a transcript  
15 of that tape that was true and accurate based on your review  
16 of the tape and the transcript?

17 A Yes, with two exceptions. First, at the very  
18 beginning of the tape, tech services is talking about what  
19 this is. This is referenced PD on the screen. You didn't  
20 see that on the screen. And also I mentioned I'm standing in  
21 a certain hall at Illinois Wesleyan. I'm not certain it was  
22 Fell Hall, but it was where Alan was having class.

23 Q But you did say Fell?

24 A I did say Fell Hall on the tape, and I'm not sure

1 that's accurate. But it was the hall where he was.

2 Q I want to call your attention to November the 16th  
3 of 1993, and ask you if you had occasion to go to Peoria in  
4 connection with this investigation?

5 A Yes, sir, I did.

6 Q And did you have occasion to interview the principal  
7 at Harrison School where Stacey Gates was employed at that  
8 time?

9 A Yes, sir, I did.

10 Q And did you obtain his employment records at that  
11 time for the week of August 23rd through 25th?

12 A Yes, I did.

13 Q I'm sorry, through the 29th?

14 A The 27th I believe.

15 Q 27th?

16 A 23rd to the 27th, yes, sir.

17 Q All right, thank you. Calling your attention to  
18 November the 17th of '93, and ask you if you had occasion to  
19 go to Elmhurst, Illinois that day?

20 A Yes, sir, I did.

21 Q And, at that time, were you obtaining further  
22 information relating to verifying -- doing the final  
23 verification of Mr. Swaine's whereabouts that week?

24 A Yes, sir, I was.

1 Q When you went up there, did you keep track of your  
2 time for the trip when you went both ways?  
3 A Yes, sir, I did.  
4 Q Where did you leave from when you left down here?  
5 A I left from the parking lot of [REDACTED],  
6 Jennifer's apartment.  
7 Q Where did you go to?  
8 A I drove directly to Mike Swaine's residence, parked  
9 in the street in front of his house.  
10 Q Is that [REDACTED] in Elmhurst?  
11 A Yes, sir, it is.  
12 Q When you drove up, what speed did you drive?  
13 A If I could refer to my report for just a moment?  
14 On the way up I drove the speed limit, sir, the entire way.  
15 Q How long did it take you to get from Jennifer's  
16 apartment to Mr. Swaine's house?  
17 A Once again referring to my report, the trip took two  
18 hours and five minutes to complete one way.  
19 Q Did you go to York High School after you got to his  
20 house?  
21 A Yes, sir, I did.  
22 Q Did you drive that or walk that?  
23 A I walked that distance, sir.  
24 Q How long did that take?

C09617

1           A     Once again referring to my report, I left my vehicle  
2 at 12:20 P.M. and arrived at the school on foot  
3 at 12:33 P.M. It was a .8 mile walk. It took 13 minutes.  
4           Q     While at the school, did you obtain employment  
5 records regarding Mr. Swaine's employment that week of August  
6 23rd?  
7           A     Not particular at York High School, sir. I was sent  
8 to a different school to obtain those records.  
9           Q     Those were basically similar and identical to the  
10 ones that we saw here in court from Virginia Betteridge?  
11          A     Yes, sir, they were.  
12          Q     On the way back, where did you leave from?  
13          A     On the way back I left from Swaine's residence where  
14 I had originally left my car parked when I walked to the  
15 school.  
16          Q     Where did you go back to?  
17          A     I went directly back to Jennifer's apartment at  
18 ■■■ ■■■ ■■■.  
19          Q     What speed did you maintain on the trip back?  
20          A     On the return trip, I tried to average around five  
21 to ten miles over the posted speed limit for the entire trip.  
22          Q     How long did the trip back take?  
23          A     The trip back, according to my report, took one  
24 hour, 51 minutes.

1 Q Now at that point in time, had you obtained some  
2 phone records which indicated the 7:17 P.M. call on August the  
3 25th by Mr. Swaine?

4 A Yes, sir, I had.

5 Q Is that the same one that we heard the answering  
6 machine tape during his testimony?

7 A Yes, sir, it is.

8 Q For the record, People's Exhibit 5-A, the original  
9 answering machine tape, is that the tape that was recovered  
10 from Jennifer's apartment?

11 A Yes, sir, that is the original tape recovered from  
12 her apartment.

13 Q And I believe we had some testimony perhaps from  
14 Dean Kennedy that he released that to some member of your  
15 department?

16 A Yes, sir, I believe he released that to Dave Warner,  
17 Detective Dave Warner.

18 Q Did Detective Warner give it to you, and did you do  
19 a lot of work with that tape?

20 A Yes, sir. Basically we had a transcript made of  
21 that tape, and I was working off of the transcript.

22 Q We've heard a number of excerpts from that tape  
23 regarding witnesses; Claudine Moss, Morgan Keefe, Lori Itano,  
24 Mike Swaine, and Stacey Gates, and their testimony in court?

1           A    Yes, sir.

2           Q    Those were grouped together in an edited tape,  
3 People's Exhibit No. 5?

4           A    That's correct. For convenience sake, we put all  
5 the calls from one individual all together so we didn't have  
6 to waste the court's time.

7           Q    The tapes that we heard were not all of the messages  
8 on the recorder, were they?

9           A    No, sir, they certainly weren't.

10          Q    Were the ones that we heard here in court, were the  
11 ones that you pulled out for witnesses that were going to be  
12 testifying and that you thought were relevant to the  
13 investigation?

14          A    Yes, sir, they were.

15          Q    The other messages that were on there, were there  
16 some where there was actual messages and some were basically  
17 like a hang-up type call?

18          A    Yes, there were calls where all you would hear would  
19 be the dial tone, then you would hear a busy signal, things of  
20 that nature.

21          Q    And at some point in time in working with the  
22 transcript and the phone records, did you basically match up  
23 the transcript to help prepare the phone stipulations that we  
24 have in regards to the answering machine?

1           A     Yes, sir, on several of the messages left on the  
2 answering machine, someone would call and state who they were,  
3 possibly even state a time they were calling. For instance,  
4 Mrs. Lockmiller stated she called at 12:29. Stacey Gates  
5 stated he called at such a time. By taking the phone records  
6 we were able to match up which call was which. Also by  
7 listening to the actual tape and listening to the length of  
8 the message, you could make a rough estimate as far as how  
9 long the message would take. And all the raw phone records  
10 again showed how long the phone calls lasted. So by doing  
11 that and matching up which call came which we were pretty much  
12 able to verify when calls came, where they came from, and  
13 exactly what time they came in due to the phone messages and  
14 the transcript of the answering machine.

15           Q     Have we now, through the prior witnesses; Claudine  
16 Moss, Morgan Keefe, Lori Itano, Mike Swaine, and Stacey Gates  
17 heard at one time or another all the messages that you  
18 discovered on that answering machine tape that you considered  
19 relevant to this investigation?

20           A     Yes, sir, I believe we have.

21           Q     Now there was some prior testimony from Mr. Dierker  
22 about additional prints that he obtained from Mr. Beaman at  
23 some point in time. Did you have anything to do with that?

24           A     Yes, sir, I did.

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APPENDIX 003044

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Q And what did you have to do with that?

A Well, I contacted Mr. Beaman and asked if he would be willing to accompany me to Morton so that John Dierker could take the fingerprints that he needed. This is something that I've never done, taking the additional prints that Mr. Dierker needed, and I didn't know exactly what he needed. So I asked him if he would be willing to do it at the Morton Crime Lab. I called Alan and asked if he would accompany me. He stated he would. So I made arrangements for that trip.

Q As a preliminary to that trip, were any efforts made to obtain an overhear order to record any conversations you and Mr. Beaman might have that day?

A Yes, they were. We were looking at about a 45-minute drive from Normal to Morton, and I thought that might be a good opportunity to try to engage Mr. Beaman in some conversation. And once again so we could accurately record what was said, I tried to get an overhear order for that trip.

Q And was one granted?

A Yes, sir, it was, the same procedure as before.

Q And did you, in fact, get the equipment on and proceed to Morton with Mr. Beaman on that day?

A Yes, sir, I did with the assistance of the Illinois State Police tech services crew.

1 Q On that day, did you remind him or read him his  
2 rights again?  
3 A Yes, sir, I did. When I picked him up at his  
4 apartment at Wallis Hall I told him, I said, "Alan," I'm  
5 paraphrasing, but I mentioned, "Alan, you're not under arrest,  
6 but by the same token, you can't get out of the car at 55  
7 miles an hour. Therefore, I want to advise you of your  
8 Miranda Rights again." And I advised him of his Miranda  
9 Rights.  
10 Q And did he basically have a conversation with you  
11 most of the way over and most of the way back?  
12 A Yes, sir, he did.  
13 Q Have you prepared for court a tape and transcript on  
14 slides again that contains portions of that conversation that  
15 are relevant to the issues in this investigation?  
16 A Yes, sir, I have.  
17 Q And would that be the tape, People's Exhibit No. 78-  
18 B, and slides starting with People's Exhibit No. 69-J?  
19 A Yes, sir. We started out talking basically about  
20 his home life and his family, and then progressed on to his  
21 relationship with Jennifer.  
22 Q So there was actually much in the conversation that  
23 was general conversation and didn't really relate to the  
24 investigation?

C09623

1           A    Yes, sir. I certainly wasn't going to come right  
2 out and begin talking about the relationship, so I eased into  
3 it by talking about his family.

4           MR. SOUK: If we may play the tape, People's 78-B now,  
5 and show the slides?

6           THE COURT: Any objection, Mr. Beu?

7           MR. BEU: No.  
8  
9

10                               (WHEREUPON PEOPLE'S EXHIBIT 78-B, THE  
11 TAPE RECORDING, WAS PLAYED TO THE JURY  
12 AS PEOPLE'S EXHIBITS 69-J THRU 69-FF AND  
13 WERE SHOWN TO THE JURY. A COPY OF 69-J  
14 THRU 69-FF APPEARS AS FOLLOWS:)

15  
16  
17           Q    (By Mr. Souk) Detective Freesmeyer, have you  
18 just listened here in court to the tape recording of People's  
19 Exhibit 78-B?

20           A    Yes, sir, I have.

21           Q    Was that an accurate tape recording of certain  
22 portions of your conversation with Mr. Beaman on February the  
23 16th of 1994?

24           A    Yes, sir, it was.

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AB017863

APPENDIX 003047

1 Q Now the quality of that tape recording was not as  
2 good as the prior one that we have heard, correct?

3 A Yes, that's correct.

4 Q Is that because most of that is while you're driving  
5 in a vehicle?

6 A Yes, sir. That was in the winter months I believe.  
7 I was wearing a leather coat over the top of both microphones  
8 which are strapped over my shoulders, plus we were in a moving  
9 vehicle with the road noise behind it, so it was very hard to  
10 hear.

11 Q And the transcripts of those portions of the tape,  
12 or the portions of the conversations that are on 78-B, which  
13 was slide 69-J through 69-FF, did you prepare those slides  
14 based on the transcripts that had been prepared and then  
15 checked by you for accuracy?

16 A Yes, sir, I did.

17 Q And when you were checking those transcripts for  
18 accuracy were you able, out of court, to perhaps hear a little  
19 better some of the softer portions, especially of what Mr.  
20 Beaman was saying?

21 A Yes, sir, I was using a dictation machine. I had an  
22 earplug in my ear, and it's a little bit clearer than it is on  
23 a box trying to make it louder.

24 MR. SOUK: May we approach?

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THE COURT: You may. This will be off the record.

(WHEREUPON A CONVERSATION WAS HAD AT THE  
BENCH OFF THE RECORD.)

THE COURT: All right, ladies and gentlemen, we're going to be in recess now until nine o'clock tomorrow morning. We will follow the same procedure that we did last evening, and that is that I'm going to give the jury an opportunity to depart before I release the rest of the individuals in the courtroom. If you would please leave your notebooks on your chairs, they will be collected by the bailiffs and secured during the evening, and you are to report back at nine o'clock tomorrow morning. Jurors would please exit with the bailiffs.

(WHEREUPON THE JURY WAS REMOVED FROM THE  
COURTROOM, AFTER WHICH THE FOLLOWING  
PROCEEDINGS WERE HAD:)

THE COURT: You may step down.

(WITNESS EXCUSED.)

MR. SOUK: Judge, if we may make a record?

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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
McLEAN COUNTY, ILLINOIS

THE PEOPLE OF THE STATE )  
OF ILLINOIS, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ALAN W. BEAMAN, )  
 )  
Defendant. )

No. 94-CF-476

COPY

McLEAN COUNTY  
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REPORT OF PROCEEDINGS

JURY TRIAL

VOLUME V

March 22, 1995

March 23, 1995

\*\*\*\*\*

Becky S. Brandt  
Official Reporter  
Logan County Courthouse  
601 E. Broadway, Rm. #34  
Lincoln, IL 62656  
License #084-001549

C09627

I N D E X

MARCH 22, 1995

JURY TRIAL (Cont.) 870 - 1031

TIMOTHY FREESMEYER

Continued Direct Examination by Mr. Souk 871 - 925  
Cross Examination by Mr. Beu 927 - 1000  
Redirect Examination 1000 - 1018  
Recross Examination 1018 - 1022  
Further Redirect Examination 1022 - 1023  
Further Recross Examination 1023

MARCH 23, 1995

JURY TRIAL (Cont.) 1031 - 1144

People's Exhibits Offered 1042 - 1045

Motion for Directed Verdict  
at the close of People's Case 1045 - 1051

DEFENDANT'S CASE

MARVIN D. VAN ETTEN, SR.

Direct Examination by Mr. Beu 1052 - 1084  
Cross Examination by Mr. Souk 1084 - 1112  
Redirect Examination 1112 - 1114

GUY SPINELLO II

Direct Examination by Mr. Beu 1115 - 1121  
Cross Examination by Mr. Souk 1121 - 1126  
Redirect Examination 1126 - 1127

SHANNON WALLENBURG

Direct Examination by Mr. Beu 1127 - 1132  
Cross Examination by Mr. Souk 1132 - 1134

CHRISTOPHER CARBONE

Direct Examination by Mr. Beu 1135 - 1143

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MARCH 22, 1995

JURY TRIAL CONTINUED

PRESENT - SAME AS BEFORE

THE COURT: All right, this is 94-CF-476, People vs. Alan W. Beaman. People appear by assistant state's attorneys, James Souk and Teri Dimmick. Defendant appears in person and by attorney, William Beu. This case is scheduled for a continued jury trial.

Mr. Souk and Mr. Beu, are you ready to proceed?

MR. SOUK: Yes.

MR. BEU: Yes, your Honor.

THE COURT: All right, the jury will be brought back into the courtroom.

(WHEREUPON THE JURY ENTERED THE COURTROOM

AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, the jury has now returned to open court. I'll ask the bailiff if a daily juror affidavit has been signed by the jury. The court has now been tendered and will file a daily juror affidavit.

Mr. Souk, are you ready to proceed with further evidence?

C09629

1 MR. SOUK: Yes, your Honor. We recall Detective  
2 Freesmeyer.

3 THE COURT: Would you be resworn again?  
4

5 TIMOTHY FREESMEYER,

6 recalled as a witness herein on behalf of the People, having  
7 been first duly sworn on his oath, was examined and testified  
8 as follows, to-wit:  
9

10 CONTINUED DIRECT EXAMINATION

11  
12 BY MR. SOUK:

13  
14 Q Would you state your name again for the record?

15 A Timothy John Freesmeyer.

16 Q And are you the same Timothy Freesmeyer who  
17 testified yesterday?

18 A Yes, sir, I am.

19 Q A couple of preliminary matters, Detective  
20 Freesmeyer. First, while obviously you're testifying about  
21 extensive matters that you did in this investigation, were  
22 other officers, not just Detective Daniels and Hospelhorn and  
23 Lt. Brown, but other officers of the Normal Police Department  
24 involved, especially in the early stages of this investigation

871

C09630



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APPENDIX 003054

1 doing substantial amounts of work and interviews?

2 A Yes, sir, there were quite a few people involved.

3 Q Were there a number of people interviewed in  
4 connection with this investigation who have not appeared here  
5 as witnesses here in court?

6 A Yes, quite a few.

7 Q And would it be ballpark accurate to say that  
8 probably several thousand pages worth of documents and  
9 interviews and so forth have been produced as you have  
10 proceeded with this investigation, correct?

11 A Yes, sir. I believe as it stands now, there's about  
12 five or six binders this thick full for the case.

13 Q Another preliminary matter, you mentioned about  
14 subpoenaing phone records and that there's some stipulations  
15 that are prepared that are going to be presented at a later  
16 time. I want to ask you in terms of interpreting those, there  
17 are some phone records that are going to appear on there with  
18 either the origination or the destination of them simply  
19 saying trunc call.

20 A Yes, that's correct.

21 Q Would you tell us what that means?

22 A Yes, it would appear in the origination section.

23 A trunc -- it's spelled T-R-U-N-C -- it's short for truncated  
24 call. What that means is a long distance call coming into a

1 residence where they're unable to tell where that call came  
2 from when you ask for phone records of all incoming and  
3 outgoing calls through the long distance billing. But  
4 incoming calls basically you're searching for any calls  
5 throughout a wide area that are coming into one number. That  
6 might be carried by AT & T long distance, by SPRINT, by MCI,  
7 by a number of different companies, and therefore you have to  
8 check all those companies. They will check all those records  
9 and find something terminating at that destination that you're  
10 looking for. Some of those were unable to be found obviously  
11 because of the enormous search that had to be done. So in the  
12 phone records, you'll see some parts where it will say trunc,  
13 and those were long distance calls we weren't able to find.

14 Q You knew they came in, but you just didn't know the  
15 origin of them?

16 A That's correct, we did not know the caller. We knew  
17 what time they came in.

18 Q I believe, getting back to yesterday, call your  
19 attention to February 21st of 1994, and ask you if you had  
20 occasion to interview Jeannie Sieg on that date?

21 A Yes, sir, I did.

22 Q And prior to your interview with her, had she  
23 previously been interviewed by another officer at the  
24 department sometime before that?

C09633

1 A Yes, she had.

2 Q On the day that she came in to talk with you on  
3 February 21st, did she make you aware of an additional item  
4 that she thought she ought to tell you about?

5 A Yes, she did, sir.

6 Q Was that particular item that she mentioned --

7 MR. BEU: May we approach, your Honor?

8 THE COURT: You may.

9

10 (WHEREUPON A DISCUSSION WAS HAD AT

11 THE BENCH AS FOLLOWS:)

12

13 MR. BEU: Unless this is more than some prior consistent  
14 statement that's otherwise relevant, your Honor, I think it  
15 would be an improper consistent statement of a witness who has  
16 testified already.

17 THE COURT: What is it?

18 MR. SOUK: I'm not offering it as a prior consistent  
19 statement. I'm only offering it to show what information he  
20 got from Jeannie Sieg that day that he thereafter, in his next  
21 conversation with Mr. Beaman, asked Mr. Beaman a question to  
22 verify the information he had gotten from Miss Sieg.

23 THE COURT: What information is it that you expect this  
24 witness --

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MR. SOUK: As to when the defendant knew that Mike Swaine was living there. That he didn't know until after her death.

THE COURT: And that would explain why he then took the action that he took in asking the additional question of Mr. Beaman?

MR. SOUK: Right.

THE COURT: Is that correct?

MR. SOUK: He got Mr. Beaman to confirm that.

THE COURT: Are you intending to offer that testimony then for the limited purpose of showing why the officer did what he did?

MR. SOUK: Right.

THE COURT: And for no other purpose, not for the truth of the matter asserted?

MR. SOUK: Right, Miss Sieg has already testified.

THE COURT: Bolster her testimony?

MR. SOUK: Bolster her testimony.

THE COURT: I think for the limited purpose it would explain why the officer did what he did.

(WHEREUPON THE FOLLOWING PROCEEDINGS WERE HAD IN THE JURY'S PRESENCE:)

THE COURT: All right, proceed, Mr. Souk.

C09635

1 Q (By Mr. Souk) What was the item that you recall  
2 that she told you about that day?

3 A Sir, referring to my report, Jennifer stated while  
4 talking with Alan before break, December, 1992 or December,  
5 1993, he told her that he didn't know Swaine was living with  
6 Jennifer until the detective told him about it while  
7 investigating Jennifer's death.

8 Q First, let me ask you if during the course of this  
9 investigation in any of your contacts, either in person or on  
10 the phone which you actually talked or communicated with Mr.  
11 Beaman in any way, whether you ever told Mr. Beaman that Mike  
12 Swaine had been living with Jennifer?

13 A No, sir, I did not.

14 Q The contacts that Lt. Brown had with this case in  
15 terms of having personal contact with the defendant, were  
16 those all in your presence?

17 A Yes, they were.

18 Q Did Lt. Brown ever tell him that?

19 A No, sir, to my knowledge, he never did.

20 Q From your knowledge of the investigation, are you  
21 aware from any reports or any sources that any detective ever  
22 told Mr. Beaman that?

23 A No, sir. The only contact any other detective,  
24 other than myself, would have had with Mr. Beaman would be

1 Detectives Daniels and Hospelhorn while in Rockford. Every  
2 interview and every contact with Mr. Beaman since that time I  
3 conducted myself or was present while Lt. Brown had conducted  
4 the interview.

5 Q On February the 24th of 1994, did you have occasion  
6 on that day to get some evidence from Detective Daniels that  
7 he had been keeping?

8 A Yes, sir, I did.

9 Q And what was that?

10 A That was three bags of trash that were removed from  
11 the apartment, [REDACTED] [REDACTED] [REDACTED], shortly after the body was  
12 discovered.

13 Q Show you People's Exhibits 55, 56, and 57, and  
14 without opening the bags, can you identify those from the  
15 markings on the outside?

16 A Yes, sir, I can. All three are marked -- two are  
17 marked trash, one is marked plastic bag with contents. This  
18 again is the evidence receipt that we normally would use at  
19 that time at the Normal Police Department, and on the bottom,  
20 submitting officer number 694, that's my officer's number.

21 Q When you received those, were the bags sealed or did  
22 you seal them?

23 A When I received them, I placed them in the paper  
24 bag, sealed them with my initials on each one of the tapes,

1 and put the evidence card on the outside.

2 Q Did you then submit them to the lab for Mr. Dierker  
3 to do some fingerprint work on them?

4 A Yes, sir, I believe I did.

5 Q On March 9th of 1994, did you have occasion to have  
6 another conversation with Mr. Beaman on that date?

7 A Yes, sir, I did at his residence at [REDACTED] [REDACTED].

8 Q Did you have an overheard done on that occasion?

9 A No, sir, I don't believe I did.

10 Q Was this another occasion in which there was no tape  
11 recording at all?

12 A That is correct, sir.

13 Q You made a report and included it in your reports?

14 A Yes, I did.

15 Q During that conversation, did you ask Mr. Beaman  
16 about that item of information that Miss Sieg had brought to  
17 your attention shortly before that?

18 A Yes, I believe I did. I wanted to confirm what she  
19 had told me and see if I could get it from Alan himself.

20 Q Would you tell us what you asked him and what his  
21 response was at that time?

22 A Yes, sir. Once again I'll refer to my report. I  
23 then asked Alan when he first found out that Michael Swaine  
24 was living with Jennifer, and he stated he didn't know until

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Jennifer was already dead.

Q Did you, during that conversation, again ask him if he had anything else he could provide the investigation?

A Yes, sir, I did.

Q What was his response?

A Once again, sir, I'll refer to my reports. I asked Alan if there was anything else he could add, and he stated that he had told me everything. After explaining the process of what we were getting into, Alan responded by saying, "Bring it on, I've told you everything I know."

Q Was that your last conversation with Mr. Beaman prior to his arrest?

A Yes, sir, I believe it was.

Q On May the 17th of 1994, did you arrest Mr. Beaman on that day for the murder of Jennifer Lockmiller?

A Yes, sir, I did.

Q Did he go through the normal booking process that day?

A Yes, sir, he did.

Q Was a photograph taken in the course of doing that booking then?

A Yes, it was. A photograph was taken at the county jail.

Q Do you recall looking at The Pantagraph the next day

C09639

1 after the arrest?  
2 A Yes, sir, I do.  
3 Q And was Mr. Beaman's picture in the paper?  
4 A Yes, it was, front page.  
5 Q Was it -- what photograph was used for that?  
6 A It was the booking photograph from the county jail.  
7 Q I show you People's Exhibit No. 65, and ask you if  
8 that's the photograph you're referring to?  
9 A Yes, sir, it is. This is the one I collected from  
10 the records section of the county jail.  
11 Q On May the 18th of 1994, were you personally present  
12 when -- when the defendant's parents, Barry and Carol Beaman,  
13 were interviewed?  
14 A No, sir, I was not.  
15 Q Were you made aware by Detective Daniels or Lt.  
16 Brown about information received during that interview?  
17 A Yes, sir, I was made aware after the interview had  
18 concluded.  
19 Q Specifically were you made aware, at that time, of  
20 the existence of a Sears receipt showing mileage on Mr.  
21 Beaman's Ford Escort as of Tuesday night, August the 24th?  
22 A Yes, sir, that was one piece of information that was  
23 forwarded to me.  
24 Q And were you also made aware that the Beamans

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apparently had a photograph showing the odometer reading on the 1st of September of 1993?

A Yes, sir, I was told about it. I did not see the picture myself.

Q Later on in the investigation, did you see those items?

A Yes, sir, I did.

Q Was -- when you learned that from Detective Daniels, was that the first time in this investigation that you became aware of the existence of such evidence?

A Yes, sir, that was the first time I'd heard of any photograph taken of the odometer shortly after the interview.

Q After receiving that initial evidence, did you begin in the investigation to make some more precise measurements as to times, and distances, and mileage, and that sort of thing?

A Within the City of Rockford and to and from Rockford, yes, sir, I did.

Q Prior to that time, you'd driven to Rockford several times during the investigation, correct?

A Yes, sir, that is correct.

Q And so had some other detectives involved in the investigation. Is that correct?

A Yes, sir, I believe Lt. Brown accompanied me a few times.

1 Q Up until that point in time of May 18th of 1994,  
2 would it, I suppose, be accurate to say that your measurements  
3 of driving time and so forth would have been somewhat --  
4 somewhat rough up until that point?

5 A Yes, they had.

6 Q Had Detective Daniels also made you aware, or by  
7 reading the transcript of the interview of the Beamans, did  
8 you also learn that Mrs. Beaman had indicated that she was  
9 home that day at about 2:30 to three o'clock?

10 A Yes, sir.

11 Q After learning that at that time, on or shortly  
12 after May 18th of 1994, was that the first time in the  
13 investigation that you had learned that anyone might be able  
14 to verify the presence of the defendant earlier than the times  
15 that he had been giving you all winter basically?

16 A Yes, sir, through my numerous contacts with him he  
17 continued to state around four or five o'clock for his mother  
18 getting home. Overhears he would say fourish for her arrival.  
19 This is the first time I heard anytime prior to that,  
20 specifically 2:30 or three o'clock.

21 Q I want to call your attention to June the 22nd of  
22 1994. I believe 206 of your report.

23 A Yes, sir.

24 Q On that occasion, did you make a trip to Rockford?

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A Yes, sir, I did.

Q Did you do some mileage and time measurements on the trip going up and the trip coming back?

A Yes, sir, I did.

Q And would you tell us about the trip up, where you left from and where you went to in Rockford?

A Yes, sir. Once again referring to my report, sir, I left the driveway of [REDACTED] in Normal at 8:28 A.M. Drove straight to Alan Beaman's house, driving strictly at the posted speed limit. I arrived at Alan's house at 10:45 A.M., making the trip in two hours and 17 minutes.

Q And did you measure the mileage on your odometer?

A Yes, I did. Total mileage from [REDACTED] to Alan Beaman's residence was 139.7 miles.

Q Was that the [REDACTED] residence that's previously been mentioned here in court?

A [REDACTED].

Q The road to Rockford, could you tell us what that route is and what route you traveled, and what type of roadway it is?

A Yes, sir. Jennifer's apartment is on [REDACTED]. That is a four-lane road. It's two lanes going either direction. It's the main road to the City of Normal. I got onto Main Street, which is actually Route 51, took that

C09643

1 north directly out of town until I connected up with I-39.  
2 Then got on I-39, which is an Illinois interstate. Traveled  
3 all the way up to Rockford. When I-39 got into Rockford, I  
4 took I-20 around Rockford. I-20 is also a four-lane highway,  
5 state route. I took that all the way to Meridian Road.  
6 Meridian Road is just outside of Rockford. It's kind of a  
7 rural road. I believe it has a posted speed limit of 45 or  
8 55. I'm not sure exactly. I then turned north on Meridian  
9 Road. I believe I went up through two stop lights, a stop  
10 light and stop sign. Continued traveling north, and in a  
11 rural area outside of the town until I came to [REDACTED].  
12 Meridian Road is a county road. [REDACTED] [REDACTED] seems to be a  
13 rural subdivision street. I then turned right onto [REDACTED] and  
14 proceeded onto [REDACTED].

15 Q You don't -- in going directly to the Beaman  
16 residence, you don't have to drive through, if you will, the  
17 more populated areas within the city limits of Rockford?

18 A No, sir. I take 39 to State 20, bypassing all the  
19 way around to Meridian Road, and straight north to [REDACTED].  
20 You do not go through Rockford.

21 Q The town driving you would have to do would be the  
22 little bit of town driving here in Normal to go north on Main  
23 Street til you got to 39?

24 A Yes, sir, roughly about three miles.

1 Q Before we go all through all the routes that you  
2 measured while you were there that day, let's just cover your  
3 trip back. Would you tell us about your trip back?

4 A Yes, sir, and again I'll refer to my report. We  
5 left Bell Federal Bank at 4:43 P.M., drove straight to Normal  
6 observing the speed limit. We arrived at [REDACTED] at 6:44  
7 P.M. We made one stop along the way which consumed seven  
8 minutes. The return trip, therefore, took one hour and 54  
9 minutes. The total mileage from Bell Federal to [REDACTED]  
10 was 126.7 miles.

11 Q And on the Rockford end of this trip, could you tell  
12 us where Bell Federal is located?

13 A Yes, sir. Bell Federal is located at the corner of  
14 Alpine and Newberg Road in Rockford. It's again roughly 3.6  
15 miles north of State Route 20 off of Alpine Road. If you pull  
16 out of the parking lot of Bell Federal onto Newberg, make a  
17 left onto Alpine, take that street south until you hit 20. As  
18 you get onto Interstate-20, you stay in the right lane, and  
19 you exit immediately onto Route 39 headed directly to Normal.

20 Q On that portion of that trip from Bell Federal until  
21 you get to 20, is that in-town driving in Rockford?

22 A Yes, sir, it is. That's a two-lane road going  
23 either direction. Alpine is a very busy street, seems to me  
24 anyway in my travels in Rockford.

1 Q Alpine is one of the major north-south roads within  
2 the City of Rockford?

3 A With my limited knowledge of Rockford, I would say,  
4 yes, sir.

5 Q While you were in Rockford that day, did you do some  
6 mileage measurements of various routes within the City of  
7 Rockford?

8 A Yes, sir, I spent the majority of the day there  
9 driving intercity routes.

10 Q Prior to doing that, had you reviewed all of the  
11 various statements that Mr. Beaman had given to law  
12 enforcement at anytime during this case?

13 A Yes, sir. After he had repeatedly told me he had  
14 given me everything, I reviewed all of the reports and looked  
15 for intercity driving that would have accounted for miles on  
16 his odometer. I took all of those intercity drivings,  
17 combined them into what route I would need to cover in  
18 Rockford to account for what mileage should be on his  
19 odometer.

20 Q Have you, to help us understand that evidence in  
21 court, prepared some -- some slides that will show those  
22 perhaps a little more graphically than just the driving?

23 A Yes, sir, I have.

24 MR. SOUK: With the court's permission, I would like to

1 show some slides. Could we have the lights, please?

2 A I'll need to progress the carousel a little bit.

3 MR. SOUK: Can he get down?

4 THE COURT: Yes.

5 A Thank you, sir.

6

7 (WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

8

9 Q (By Mr. Souk) The first slide that we're looking  
10 at, People's Exhibit 70-AX, could you tell us what's depicted  
11 on this slide, detective?

12 A Yes, sir. What this is basically, a blow-up of a  
13 picture of Rockford out of a road atlas. Over the top of that  
14 I've done an overlay on the computer which shows the route in  
15 yellow that Alan would have taken from Bell Federal Bank to  
16 his residence in Rockford. You see Bell Federal in the lower  
17 right, his residence, [REDACTED], upper left.

18 Q Did you measure either the mileage or the time that  
19 it takes to make this trip?

20 A Yes, sir, I believe I measured both, if I'm not  
21 mistaken. I know I measured the time for sure.

22 Q If you need to refer to your report, would you give  
23 us that information?

24 A Yes, I will. I stand corrected, sir. I only

1 measured the time that the drive took. I don't believe I  
2 recorded the mileage at that time.

3 Q And how much time did it take you to make that  
4 drive?

5 A Again referring to my report, the time required to  
6 drive from Alan Beaman's residence to the Bell Federal Bank,  
7 observing all speed limits, was 31 minutes.

8 Q Do you recall if this was on a week day?

9 A June 22nd I believe it would have been, sir. At  
10 that time I was working Monday through Friday, and I don't  
11 believe I would have done this trip on overtime.

12 Q Did you, while you were there -- well, strike that.  
13 At that point in time in terms of measuring that distance by  
14 time, what was your purpose in doing that in terms of  
15 furthering the investigation?

16 A According to the phone records, there was a call  
17 coming out of the Beaman residence at 10:37 and 10:39. We had  
18 Alan on video tape at the bank at 11 minutes after ten. By  
19 driving that distance I wanted to see if it was possible for  
20 Alan to make it home to make that first phone call at 10:37  
21 A.M. If he left the bank at 11 minutes after ten, made the 31  
22 minute drive, it would put him home at 10:42.

23 Q And up until that point in the investigation in your  
24 interviews with Mr. Beaman, had he ever indicated that he had

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APPENDIX 003071

1 made any phone calls or had any phone contact with anyone once  
2 he got home that day?

3 A No, sir, he didn't. While interviewing outside of  
4 McPherson Hall I asked him specifically, "Did you make any  
5 phone calls?" And he stated, "No."

6 Q After measuring that distance, did you then measure  
7 a number of other distances within the Rockford area as you  
8 have previously indicated?

9 A Yes, sir, I did.

10 Q Did you prepare a slide -- several slides to help  
11 present that evidence?

12 A Yes, sir, I have.

13 Q Could we have the next slide? Now would you tell us  
14 what's depicted on this particular slide?

15 A Yes, sir. Once again this is the same background  
16 format on the computer, the City of Rockford. The red dots  
17 that you're seeing appearing on the screen are different  
18 locations that he reported to have been during the time that  
19 he had the tires changed on his car to the time that they took  
20 the photographs of the car on that Sunday. The red box that  
21 you see on top is basically an index to tell you what each red  
22 dot is and what that location corresponds to.

23 Q And for the record, that's People's Exhibit No. 70-  
24 EX. Once again, the (A) up in the corner is the Beaman

1 residence, correct?

2 A Yes, sir, it is.

3 Q And then all the other locations are as listed

4 there, correct?

5 A That is correct, sir.

6 Q Did you also prepare a slide that basically

7 summarizes the various trips that you made based on his

8 statements and mileage that you recorded?

9 A Yes, sir, I did.

10 Q Could we see that slide please? For the record,

11 that's People's 70-FX. The list you have there contains what

12 appears to be, oh, 20 or more different -- different trips,

13 correct?

14 A Yes, sir, that's correct.

15 Q And it starts at the top with an origination of

16 Sears to the Beaman residence, correct?

17 A Yes, sir, that's correct.

18 Q And what trip is that supposed to start with?

19 A That starts when he had the tires changed at Cherry

20 Vale Mall at the Sears store, and then returned home with his

21 parents -- or following his parents.

22 Q And what trips -- at the bottom, you've got two

23 trips; Beaman residence to Christ United Church, and then

24 Christ United Church to Beaman residence. What trips are

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those?

A I believe those would have been Sunday morning before he went to church before the picture was taken of the odometer.

Q That would be the August 29th church attendance?

A Yes, sir, that is correct.

Q All of the ones in between, without going through each and every one of them, are each of those a -- a route with the note of origination and destination that was given by Mr. Beaman, himself, at some time during the statements that he had given to either you or Detective Daniels?

A Yes, sir, this is my best attempt from anything that I could get through the reports of his itinerary for those specific dates. You'll notice on the right the destination will be the same place as the next column down as the origination. For instance, Sears to Beaman residence, then Beaman residence to Dave Olson's, and Dave Olson's to Sandy Hollow, and so on and so forth.

Q At the bottom, you have that totaled up at 206.5 miles. Is that correct?

A Yes, sir, that is correct.

Q And is that figure, 206.5 miles, basically the total distance that you got driving everywhere that you had reason to believe that Mr. Beaman had been between getting his tires

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1 -- from the time he got his tires changed on Tuesday night  
2 until Sunday morning after he went to church?

3 A Yes, sir, that's my best estimate.

4 Q Did you -- I'm not sure of the date, but did you, at  
5 a later date, recheck your mileages and drive all those one  
6 more time?

7 A Yes, sir, I believe I drove those at least twice, if  
8 not three times.

9 Q And when you -- when you redrove it, how close were  
10 you to the 206.5?

11 A I was very close. My first estimate was around 197,  
12 I believe. The second estimate was around 198, or 199. I  
13 then found out I had one distance that was incorrect. The  
14 Beaman residence to Cafe Esperanto I had 2.6 instead of 8.2  
15 miles. So I went back and corrected that. I came up with an  
16 average of approximately 206.5 miles.

17 Q So you're saying, looking in your report we'd see a  
18 hundred and ninety there, but you discovered you made one  
19 error in arithmetic?

20 A That's correct, and I believe it's reflected in my  
21 narrative on page 60 that I wrote after I did that last check.

22 Q I want to call your attention in particular to the  
23 Sandy Hollow IGA/the Beaman residence, where it shows 13.8  
24 miles.

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A Yes, sir.

Q Is that the store that Mr. Beaman had indicated he was working at during the week of August 23rd?

A Yes, that is correct.

Q Did you prepare another slide, which I think you may have passed by a moment ago, that indicated the route from there to his -- to his home and back to the bank?

A Yes, I did.

Q Could we see that slide please? For the record, this is People's 70-DX. What's depicted on that slide, Detective Freesmeyer?

A That's the route depicted from Sandy Hollow store to the Beaman residence at [REDACTED], then back to the Bell Federal Bank. I'm afraid I failed to label the Sandy Hollow store. I would be happy to point that out if you'd like me to.

Q Perhaps you better do that. May he step down?

THE COURT: He may.

A Sir, the Sandy Hollow store would be located right here at 11th and Sandy Hollow. Just go right up onto State 20, all the way out Meridian Road north to [REDACTED] and then this is the route I showed earlier going through Rockford back to Bell Federal Bank.

Q (By Mr. Souk) Okay. That's the same route that you

1 previously said took you 31 minutes to drive?

2 A That is correct, sir.

3 Q I know you indicated you measured the distance of  
4 Sandy Hollow to [REDACTED]. Did you time that on any of your  
5 trips?

6 A I don't recall if I did or not. It's in my report.  
7 I don't believe I did.

8 Q Based on all the driving that you did around  
9 Rockford, can you estimate about how long it would take to get  
10 on that route from the store to Mr. Beaman's home?

11 A I would estimate probably 20, maybe 25 minutes.

12 Q Did you measure the distance or the time from the  
13 Sandy Hollow store to go directly to the Bell Federal Bank  
14 facility?

15 A From Sandy Hollow to Bell Federal?

16 Q Yes.

17 A I believe I would have, if I could look at my  
18 report.

19 Q Okay, if you would do that.

20 A That I'm not finding in my report. It might be on  
21 the listing that I showed on the slide earlier. If I could go  
22 to that slide, I could check that for you.

23 Q Sure, if you could.

24 A Yes. The third one down lists Sandy Hollow IGA/Bell

1 Federal Savings, 4.6 miles.

2 Q And based on your driving in Rockford, approximately  
3 how long would it take to make that trip?

4 A I would guess probably about seven minutes.

5 MR. SOUK: Okay, thank you. I think we can have the  
6 lights on now.

7 Q (By Mr. Souk) Shortly after that Rockford trip,  
8 sometime the next several days after that, did you have  
9 occasion to talk to Mrs. Carol Beaman on the telephone?

10 A Yes, sir, I did.

11 Q And did she make you aware, at that time, of some  
12 additional evidence that she felt was relevant to the  
13 investigation?

14 A Yes, she did.

15 Q What did she tell you?

16 A She told me that she had found a store receipt from  
17 her brother's store, Gray's IGA, showing a checkout time on  
18 August 25th of 1993 of 14:03, which would relate to 2:03 P.M.,  
19 three minutes after two.

20 Q And did she tell you, in that conversation, make any  
21 change in when she said that she thought she was home?

22 A Yes, she said based on that receipt, she would say  
23 that she was home at 2:15 P.M. approximately.

24 Q Was that phone call the first time in the

C09655

1 investigation that you became aware of an IGA receipt, or any  
2 other receipts connected with this investigation?

3 A Yes, sir. Once again, after asking numerous times  
4 if Mr. Beaman had anything else, this was the first time I was  
5 made aware of an IGA receipt on that day.

6 Q Right about that same time, I think maybe June 24th,  
7 did you have occasion to interview Mr. Heyse, who previously  
8 testified here in court?

9 A Yes, sir, I did.

10 Q Prior to taking a formal statement from him, had you  
11 talked with him previously at all on the phone?

12 A Yes, I had.

13 Q And how long before had you talked with him?

14 A I can't recall exactly. I don't believe I  
15 documented that anywhere, but that was a rather busy month as  
16 I recall. Could have been a week, could have been two weeks,  
17 I don't recall exactly.

18 Q You basically had him make an appointment and come  
19 in sometime later?

20 A Yes, sir, that's correct.

21 Q On June the 27th of 1994, did you have occasion to  
22 go to Rockford again?

23 A Yes, sir, I did.

24 Q And was that the second occasion that you drove the

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mileages that you have just testified about?

A Yes, sir, I believe it is.

Q Did you also, on that day, have occasion to go to Independence Village, a retirement home there?

A Yes, sir, I did, located on North Alpine Road.

Q What was your purpose in going there?

A That was the residence where Alan Beaman's grandmother lives, Chris Gray. According to Mrs. Beaman's testimony earlier I believe to Detective Daniels, she stated that she picked up her mother that morning for a doctor's appointment, went to the doctor, dropped her off, and then did some other shopping. I was attempting to find out if Mrs. Gray remembered anything about that day and that trip to the doctor's office.

Q And you were able to obtain a log from there which is now the subject of a stipulation that basically indicated that ten o'clock drop-off time, right?

A Yes, sir. While I was there, I noticed there was a sign-in log, and I was able to obtain a copy of that sign-in log.

Q I want to call your attention now to June the 30th of 1994, and ask you if you had occasion to be present in this building when some grand jury proceedings were held in connection with this case.

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A Yes, sir, I was.

Q And prior to and perhaps subsequent to the testimony of Carol and Barry Beaman at that grand jury proceeding, did you have occasion to be provided some receipts and documentary evidence in connection with this case?

A Yes, sir, I believe I issued a subpoena for documents to the Beamans for the IGA store receipt and checks, a canceled check that would back that up.

Q During the Beamans -- or Mrs. Beaman's testimony before the grand jury that day, was the investigation made aware of for the first time of some receipts relating to Wal-Mart and Union Hall?

A Yes, sir, once again more receipts were produced for the first time.

Q And were that day also some notes that Mrs. Beaman had made the week after the murder also produced?

A Yes, they were.

Q I show you first People's Exhibit No. 52, and ask you what that document is?

A People's Exhibit 52 is a receipt from the Sears store, 200 Harrison, Rockford, Illinois. It's printed in the name of Barry Beaman, and it appears to be a receipt for two Super Guard 40 tires, along with some other items.

Q Is that the so-called Sears receipt that's been

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referred to now in this trial?

A Yes, sir, it is.

Q And is that the receipt that shows the Tuesday night mileage on the Ford Escort?

A Yes, it does.

Q And what is that mileage figure?

A 77,479.

Q And is there also, if you turn it over on the back, is there a notation made there in handwriting?

A Yes, sir, there is.

Q And is that a notation Mrs. Beaman had previously indicated she made?

A I believe so, yes, sir.

Q And what is that notation?

A That note says, "77,801 on 8/30/93."

Q Now the photograph that was eventually produced regarding the odometer mileage shown with a newspaper on September the 1st had ten more miles on it than that, did it not?

A I believe so, yes, sir.

Q Okay, and -- well, strike that. And People's Exhibit 52 appears to be the original of that receipt, or at least the original copy that the Beamans would have gotten?

A Yes, sir, it does.

C09659

1 Q Show you People's Exhibit No. 52-A and ask you if  
2 you recognize that item?

3 A Yes, sir, I do. People's Exhibit 52-A is a store  
4 receipt from the Gray's IGA at 3214 Auburn Road, dated August  
5 25, 1993, with a checkout time at the bottom of 14:03.

6 Q And People's Exhibit 53 is what?

7 A People's Exhibit 53 is a check in the account of  
8 Barry B. Beaman and Carol G. Beaman, check number 2388,  
9 written August 25th, 1993, to Gray's IGA. It's in the amount  
10 of \$48.25, signed by Carol G. Beaman and endorsed on the back.

11 Q And were those two items provided to you by the  
12 Beamans on June 30th of 1994?

13 A Yes, sir, they were.

14 Q I want to show you People's Exhibit 52-B, which is  
15 also marked Grand Jury Exhibit 3, and People's Exhibit 52-C  
16 which is also marked Grand Jury Exhibit No. 4, and ask you if  
17 you recognize those items?

18 A Yes, sir, I do.

19 Q And what are each of those?

20 A 52-B is a photocopy of a Wal-Mart receipt. Once  
21 again dated 8-25 of '93 with a time of 11:10 and 34 seconds.  
22 People's Exhibit 52-C appears to be a photocopy of a Union  
23 Hall receipt from Loves Park dated August 25, 1993, 12:39 P.M.  
24 The back page of that appears to be a credit card receipt. I

C09660

1 believe it's Master Card, I'm not sure. 8-25-93, 12:34 P.M.,  
2 signed by Carol Beaman in the amount of \$26.25.

3 MR. SOUK: Could I have just a moment, your Honor?

4 THE COURT: You may.

5 Q (By Mr. Souk) The receipts, 52-C and 52-B, the  
6 Wal-Mart and the Union Hall receipts, after you received  
7 those, did you attempt to do any follow-up investigation to  
8 see if you could discover any further evidence, video tape or  
9 anything like that, that would confirm the arrival or  
10 departure of Mrs. Beaman from those facilities on those days?

11 A Yes, sir, I started checking on that immediately.

12 Q First as to Wal-Mart, were you able to obtain any --  
13 any such information?

14 A No, sir. I called the Wal-Mart store and talked to  
15 the security person there. I asked if they had any video  
16 tapes that would show people coming into the facility or out  
17 of the facility at certain times. They stated they did. I  
18 asked them how long they kept the tape. They indicated only  
19 three weeks or three months. At this time, nine months would  
20 have passed and they could not produce any video tapes that  
21 would show what time Carol Beaman would have entered or exited  
22 the store.

23 Q How about the Union Hall store, what did you find  
24 out when you investigated that?

1           A     When I tried to call the Union Hall store, I believe  
2 I found that they were closed, and I was no longer able to  
3 contact anybody from that store because they were out of  
4 business.

5           Q     Now, could you tell us please, how and when in your  
6 investigation that you located a bank memo from Bell Federal  
7 indicating that Mr. Beu had made an inquiry there on September  
8 the 3rd of 1993?

9           A     Yes, sir, I believe it was overheard in a hearing  
10 somewhere within this case that Mr. Beu had made contact with  
11 the bank checking on his client, or a memo to the bank,  
12 something to that effect. Then I was asked by the state's  
13 attorney's office to call the bank and see if any contact had  
14 been made between Mr. Beu or Alan Beaman and the bank.

15          Q     And they provided you with some information in this  
16 regard?

17          A     Yes, sir, they did.

18          Q     That information was not provided to you by the  
19 defense?

20          A     No, sir, it was not.

21          Q     Or Mr. and Mrs. Beaman?

22          A     No, sir, it was retrieved from the bank, itself.

23          Q     Now show you People's Exhibit No. 84, and ask you if  
24 you recognize that item?

1           A     Yes, sir, I believe these are some of the notes that  
2 were provided from Carol Beaman in reference to the activities  
3 that occurred the week of August 23rd through August 27th.

4           Q     Okay.     Again were those provided to the  
5 investigation on that June 30th date when the grand jury met?

6           A     Yes, sir, I believe they were.

7           Q     And was that the first time that you'd ever seen  
8 those?

9           A     Yes, sir, it is.

10          Q     That particular exhibit is a photocopy rather than  
11 the original. Is that correct?

12          A     Yes, sir, it is a photocopy.

13          Q     In that particular exhibit, 84, did Mrs. Beaman make  
14 any mention of the IGA, Wal-Mart, or Union Hall visit that  
15 day?

16          A     I would have to review the exhibit first, sir, to be  
17 able to say for certain.

18          Q     If you would do that please.

19          A     Sir, the closest thing that comes to mentioning  
20 Union Hall or Wal-Mart was when she states, "After having  
21 breakfast I took my mother home and did some shopping before  
22 returning home." There's a ". Three P.M., Alan was sound  
23 asleep." That's the only mention there is. It does not  
24 mention Wal-Mart or Union Hall specifically.

C09663

1 Q Moving ahead now to December 5th of 1994, were you  
2 personally present at the inspection of the Ford Escort that's  
3 already been testified about extensively here in court?

4 A Yes, sir, I was.

5 Q The inspection that was done that day, did you have  
6 occasion to take some photographs?

7 A Yes, sir, I did.

8 Q Okay. And like many of the photographs that have  
9 been presented here in court, are those the ones that you  
10 took?

11 A Yes, sir, those would all be my photographs.

12 Q Do you remember the defense representative, Dr. Van  
13 Etten, being present there that day?

14 A Yes, sir, he met us at the Normal Police Department  
15 before we even went out to the vehicle.

16 Q Was he allowed to take any photographs that he  
17 wanted to?

18 A Yes, sir, he was. Before we progressed to any  
19 stages I asked him if he had done anything he wanted to do,  
20 and we then proceeded to the next step. After that, I asked  
21 him if he wanted to take anything else, and we proceeded to  
22 the next step.

23 Q I'm going to go through these just briefly with you,  
24 since we've been through them before. Ask you about People's

1 31-A, does that depict the vehicle before it was towed into  
2 town?

3 A Yes, People's 31-A shows where it was sitting in the  
4 rural Bloomington area.

5 Q And 31-B?

6 A Yes, 31-B shows the inside of the vehicle. It's  
7 missing the radio area. The wires are pulled out where the  
8 radio once was.

9 Q It was in that condition when you found it that day?

10 A Yes, sir, it was in that condition.

11 Q The vehicle was towed in, was it not, in an  
12 operating condition?

13 A It was towed in on a City of Normal tow truck. We  
14 did not actually drive the vehicle that day. We pushed it  
15 back until we could get the tow truck hooked onto it.

16 Q Were you informed -- I mean, why was it towed? Were  
17 you informed it couldn't be driven?

18 A We were informed, I believe, it had a cracked head  
19 on it.

20 Q People's Exhibit 31-C?

21 A Yes, sir, this picture is a picture of the inside of  
22 the vehicle as you're looking from the driver's door. You'll  
23 see Mr. Kryszak in the right side of the picture with his left  
24 hand holding the equipment cluster and his right hand holding

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the flashlight.

Q Were you viewing this as it was being undone?

A Yes, sir, I was.

Q I guess obviously you were, since you took the picture?

A Yes, sir.

Q Was that your first view of the speedometer cable?

A No, sir, this is not my first view. My first view was from the passenger side. I was doing some other things at that time. I then went back to get my camera, and this would have been the first photograph that I took with the camera.

Q And is 31-D a closer-up view of the cable?

A Yes, I just zoomed in on the cable behind the instrument cluster.

Q 31-E?

A That would have been my first view of the vehicle as I was standing on the passenger side.

Q And 31-F?

A 31-F is a closer view of the speedometer cable tip where it sits in the housing behind the instrument cluster.

Q 31-G?

A This again is even a closer shot with a macro lens going down onto the end of the speedometer cable. The small thing you see inside is a penlight adapter which Walter

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1 Kryszyk was using to light the area, since I was using a macro  
2 lens.

3 Q 31-H?

4 A This is a view of the speedometer cable as it plugs  
5 into the transmission down on the interior of the engine  
6 compartment.

7 Q 31-J -- I'm sorry, I.

8 A This is a speedometer cable that we removed from  
9 Alan Beaman's vehicle. After we returned to the Normal Police  
10 Department I laid each piece out on the table and photographed  
11 those pieces by themselves.

12 Q 31-J?

13 A This photograph was taken at the scene. The part  
14 that you see sticking up is the back of the speedometer  
15 housing, and this is the cable, how they connect on to each  
16 other.

17 Q 31-K?

18 A This is the end of the speedometer cable. It was  
19 taken out of Alan Beaman's car, showing the white plastic  
20 retaining clip.

21 Q 31-L?

22 A This is the back of the speedometer as it was still  
23 in the instrument cluster, just a close-up view using a macro  
24 lens once again.

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Q 31-M?

A This is a photograph provided to me by Walter Kryszak. I did not take this photograph myself. It shows the speedometer cable taken from Alan Beaman's car with the tip of the replacement inner cable that was put in, and the tip of the new cable which I had purchased in Roscoe, USC-1, placed on a nail to show the comparative size.

Q We'll look at that photo in just a minute. Had you provided the new tip to Mr. Kryszak?

A Yes, sir, I had.

Q All of those photographs truly and accurately represent the car and the cable as you saw it that day, December 5th?

A With the exception of the last photo. That photo was not taken on that day. But the rest of the photos do accurately depict, yes.

Q Show you People's Exhibit No. 62 and ask you if you recognize that item? If you would take it out of there please.

A You want me to remove it, sir?

Q Yes.

A People's Exhibit 62 is the instrument cluster that was taken out of Mr. Beaman's vehicle, the 1987 Ford Escort.

Q And what is the present odometer reading on the --

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A The present mileage on this instrument cluster is 83,677 miles.

Q Other than perhaps a little movement of the odometer from the experiments that have been done with the drill, is that the same mileage or very close to the same mileage that would have been on there the day that it was taken out of the car?

A Yes, sir, it would have been. This was taken out of the car, transported to the Normal Police Department by myself, and put into evidence. So there's no reason it should have accrued mileage while it was sitting in evidence.

Q While we're on this topic, let me show you People's Exhibit No. 63. Can you recognize that document?

A Yes, sir, I do.

Q What is that?

A People's Exhibit 63 is an odometer disclosure statement. It was written by Strandquist Motors, 601 W. Jefferson St., Rockford, Illinois. Shows the transfer signature of Gervaise Sparhawk and the printed name of the transferee signature being Mike Strandquist.

Q And does it give a mileage on the date of the sale?

A Yes, sir, it does.

Q And what was the mileage?

A The date of the statement was 12-27-91. The mileage

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1 is 60,013 miles.  
2 Q Okay. And you previously have indicated that the  
3 second mileage that would be known was on the Sears receipt  
4 which was 77,479, correct?  
5 A I'm sorry?  
6 Q 77,479 on the Sears receipt?  
7 A Yes, sir.  
8 Q And that would be on August 24th of '93, correct?  
9 A Yes, that is correct, sir.  
10 Q And then the next mileage that would be known would  
11 be the 77,811 that was in the photograph taken by Mrs. Beaman,  
12 correct?  
13 A That is correct.  
14 Q That would have been on September the 1st of '93,  
15 correct?  
16 A It would have been 8-30 of '90 -- yeah, I believe --  
17 Q Well --  
18 A I'm sorry, the photograph, yes.  
19 Q The photograph?  
20 A Yes, sir, I'm sorry.  
21 Q Within a few days after the murder, correct?  
22 A Correct.  
23 Q And then the mileage as recorded on the car at the  
24 time it was inspected, December 5th, 1994, would be the last

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1 known mileage on the odometer, correct?  
2 A Yes, sir.  
3 Q Now I'll show you People's Exhibit No. 66, ask you  
4 if you recognize that item?  
5 A Yes, sir, I do recognize that item.  
6 Q And what is that?  
7 A That is the speedometer cable taken out of Alan  
8 Beaman's 1987 Ford Escort.  
9 Q Both that and item number 62, did you recover those  
10 as evidence that day and package them and take them to the  
11 crime lab for examination?  
12 A Yes, sir, I did.  
13 Q And are both those items, other than the lab  
14 markings and fingerprint residue, in substantially the same  
15 condition as when you recovered them?  
16 A Yes, sir, I believe they are.  
17 Q Did you also, in connection with this investigation,  
18 purchase a new speedometer from a Ford dealer, and a new  
19 speedometer cable from a Ford dealer?  
20 A Yes, sir, I did.  
21 Q Show you first People's 62-A, and ask you if you  
22 recognize that item?  
23 A Yes, sir, that's the new speedometer which I bought  
24 from Dennison Ford in Bloomington.

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Q And People's 66-A?

A Yes, sir, that appears to be the cable, speedometer cable, which I bought from Dennison Ford in Bloomington, Illinois.

Q Now when you purchased the new cable, was the -- did you have to purchase -- this has an inner cable in it, correct?

A Yes, it does.

Q And did you have to purchase a new inner cable and put it in there, or does it come with the inner cable?

A No, sir, it comes as one assembly, inner cable and outer sheathing.

Q And as far as the tip of the Ford replacement part, does that differ at all from the universal tip in the replacement universal parts that you bought?

A Yes, the tip in the new cable which I bought is a white plastic tip. The tip in the universal tip which I bought is a silver tip, silver metallic tip.

Q And you previously indicated at some point in time you went to Roscoe to Jerry's Auto Parts and purchased some parts there, correct?

A Yes, sir, on two different occasions.

Q And did you also have occasion to be allowed by Mr. Fehler to go through their records and attempt to locate

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1 receipts that related to the December, 1991 time period that  
2 you learned may have related to some work on the odometer or  
3 the speedometer?

4 A Yes, sir, he did allow me to go through his records  
5 for December of '91.

6 Q First let me show you People's Exhibits 64-A, H, G,  
7 F and B, and ask you if you recognize those receipts?

8 A Yes, sir, I do.

9 Q And what are those?

10 A These are receipts that I found in boxes at Roscoe's  
11 -- or Jerry's Auto Parts in Roscoe, Illinois, after searching  
12 for records in December of 1991.

13 Q And in particular is People's Exhibit 64-B a receipt  
14 for December the 26th of '91?

15 A Yes, it is, sir.

16 Q And what does that show purchased on that date?

17 A Shows a one -- quantity of one, the part number is  
18 Advantage USC-1, description is a cable kit. It also shows  
19 one part number, KRY1613, which was told to me to be a black  
20 spray paint.

21 Q And when you later purchased the various items at  
22 Jerry's Auto Parts, did you get the receipts from those  
23 purchases also?

24 A Yes, sir, I did.

1 Q Let me show you 64-D, C and E, and ask if you  
2 recognize those receipts?

3 A Yes, sir, I do.

4 Q And what are -- what are those?

5 A These are receipts given to me after I purchased an  
6 Advantage USC-1 cable kit.

7 Q Now you got three receipts there, right?

8 A Yes, sir, I do.

9 Q How many of these Advantage parts did you purchase?

10 A I purchased two. I purchased one December 22nd of  
11 1994, and one on February 15th of 1995.

12 Q And what's the third receipt for?

13 A The third receipt is for a different type of repair  
14 kit which I purchased on February 15th, 1995.

15 Q And what's the notation on there for that different  
16 type of repair kit?

17 A This, instead of saying cable kit under description,  
18 says repair kit. And instead of a part number of Advantage  
19 USC-1, this says DOR705-707.

20 Q All right. On the dates that you purchased the two  
21 Advantage replacement kits, what does those entries say?

22 A Those entries say Advantage USC-1, and under  
23 description they say cable kit, both on December 22nd and  
24 February 15th?

1 Q And was that the same notation that was on the old  
2 receipt that you found in 1991, particularly the one on  
3 December 26th?

4 A Yes, sir, they say Advantage USC-1, cable kit.

5 Q And show you now People's Exhibit 66-B and C, and  
6 ask you if you recognize those two items?

7 A Yes, sir. People's Exhibit 66-B is an Advantage,  
8 part number USC-1, part one, universal cable kit, which I  
9 purchased at Jerry's Auto Parts in Roscoe, Illinois. This is  
10 the same Advantage speedometer cable kit which I gave to the  
11 Morton Crime Lab.

12 Q This one has been opened, correct?

13 A Yes, sir, it has.

14 Q Presumably to use the tip for comparison purposes?

15 A I assume so. I wasn't there when it was opened.

16 Q You've seen the photographs. You weren't actually  
17 present when Mr. Kryszak did that?

18 A That is correct.

19 Q And 66-C?

20 A People's Exhibit 66-C once again is an Advantage  
21 part number USC-1, universal speedometer cable kit. This  
22 would be the cable kit that I purchased on February 15, 1995,  
23 at Jerry's Auto Parts in Roscoe, Illinois.

24 Q The two different types of replacement kits that you

1 said you bought at Jerry's, were those the only two that they  
2 carried?

3 A Yes, sir, they said that was the only two.

4 Q Call your attention to the week of December 12th.  
5 Did you, as part of your investigation at that point, make an  
6 attempt to find who the prior owner of the Ford Escort would  
7 have been?

8 A Yes, sir, I did.

9 Q And how did you find out that information?

10 A I went through the Secretary of State's office and  
11 asked them to do a title search on the vehicle. By a manual  
12 look-up through the Springfield office they were able to tell  
13 me who owned the vehicle prior to then.

14 Q And were you, by that process, able to locate Mrs.  
15 Sparhawk, who's testified here?

16 A Yes, sir, I was.

17 Q And did you, thereafter, interview her and her son,  
18 Gilbert, and Mr. Angotti as part of the investigation?

19 A Yes, I did.

20 Q Did you also go to Strandquist Motors at some point  
21 and obtain records of the trade-in and the subsequent sale to  
22 the Beamans?

23 A Yes, sir, I did.

24 Q Once you interviewed Mrs. Sparhawk and her son,

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Gilbert, was that your first indication in the investigation that the speedometer cable on this car had any prior problems?

A Yes, sir, it was.

Q On January 18th of 1995, did you have occasion to make another trip to Rockford and do some more measuring of mileages and times?

A Yes, sir, I did.

Q Was that also a weekday?

A Yes, sir, I believe it was.

Q If you could refer to your report please, do so, but would you tell us what measurements you made on the trip up?

A According to my report I began at [REDACTED], [REDACTED], [REDACTED], [REDACTED], drove directly to Alan Beaman's residence at an average of about 75 miles per hour. Total distance was recorded as a hundred, eighty-three miles, with a driving time of one hour and 56 minutes.

Q And I believe you previously indicated at the speed limit, it took two hours and 17 minutes?

A Yes, sir, that is correct.

Q Most of the -- the great majority of the route is interstate highway, correct?

A Yes, sir, Route 39, State 20, all interstate.

Q And what's the speed limit on those roads?

A On 39 it's 65 miles an hour. On State 20, I believe

C09677

1 it's 55 miles per hour.

2 Q On that day, before we go into the driving you did  
3 while you were there, would you tell us about the trip back  
4 and the measurements you made on the trip back?

5 A Yes, sir. Once again referring to my report, after  
6 finishing the intercity driving, we checked the distance from  
7 Bell Federal to [REDACTED], Normal, at an average of  
8 75 miles per hour. The total distance was a hundred and  
9 twenty-three, point nine miles, with a travel time of one hour  
10 and 48 minutes.

11 Q And while you were there, did you do some intercity  
12 driving to measure some routes that related to the information  
13 you had learned from Mrs. Beaman?

14 A Yes, sir, I did.

15 Q And have you prepared some slides that would help us  
16 to understand that evidence?

17 A Yes, sir, I have.

18 Q For the record, we are now looking at slide -- just  
19 a minute, 70-DX. Could you tell us what's depicted on the  
20 slide, detective?

21 A Yes, sir. Once again, this is a background of the  
22 insert from the atlas from the City of Rockford. Overlaying  
23 that are the yellow routes of Carol Beaman driven on August  
24 25, 1993, to the best of our knowledge due to her reports and

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1 her disclosures to us. You'll notice on the sheet  
2 Independence Village, which is the residence of Chris Gray,  
3 Wal-Mart, Union Hall, Gray's IGA where she received the  
4 receipt at three minutes after two, Auburn High School where  
5 Carol Beaman is employed, and the Beaman residence at [REDACTED]  
6 [REDACTED] [REDACTED]

7 Q Did you -- excuse me -- make certain distance and  
8 time measurements relating to those various places?

9 A Yes, sir, I did.

10 Q Okay. Is that on a slide or just in your report?

11 A It's in my report, sir.

12 Q Would you give us that information based on your  
13 driving that day?

14 A Yes, I would. From Chris Gray's residence at  
15 Independence Village to the Beaman residence at [REDACTED] [REDACTED]  
16 [REDACTED], the total mileage of 9.9 miles, the travel time of 16  
17 minutes. From the Beaman residence to Wal-Mart, the distance  
18 of 9.7 miles, travel time of 15 minutes. From Wal-Mart to  
19 Union Hall, the distance of 1.9 miles took me approximately  
20 seven minutes. From Union Hall to Gray's IGA on the Auburn  
21 Road site was a distance of 4.9 miles, a travel time of 13.5  
22 minutes. From Gray's IGA on Auburn to the Auburn High School  
23 is a distance of 1.6 miles, took me approximately four  
24 minutes. From Auburn High School to the Beaman residence, the

1 distance of 6.3 miles, took a travel time of eight minutes.  
2 Q When you're doing the driving that day, could you  
3 tell us about your speed?  
4 A Yes, sir, I was driving to stay within the speed  
5 limit, right at the posted speed limit.  
6 Q Basically traffic on a normal weekday?  
7 A I assume it was, sir. I don't live in Rockford. I  
8 don't know how traffic is normally, but I would assume it was  
9 a normal day.  
10 Q But you were there on a weekday during a business  
11 day?  
12 A Yes, sir, I was.  
13 Q Okay, thank you.  
14 A Would you like me to continue with the list, sir?  
15 Q Oh, do we have some more on this slide?  
16 A Just the Auburn High School to Beaman residence --  
17 I guess I would have finished up on that.  
18 Q I think you mentioned that, yes.  
19 A Okay.  
20 Q Detective, you were present here in court and, in  
21 fact, assisting Mr. Kennedy when we used the drill and ran the  
22 demonstration the other day on People's Exhibit 62, 66, 62-A,  
23 and 66-A, the old and new speedometer cables, correct?  
24 A Yes, sir, I was.

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1 Q And you had a chance as you were assisting in that  
2 to observe the operation of those as the cable was both locked  
3 on the back and then unlocked and moved slowly back off until  
4 it was removed, correct?

5 A Yes, sir, I was able to observe that.

6 Q And during that operation did you observe that it --  
7 after being unlocked, that it would still operate properly and  
8 fully if it's on there enough of a distance?

9 A Yes, sir, I did observe that.

10 Q And did you also observe at a certain point as  
11 you're backing it off that it operates in basically an  
12 intermittent position?

13 A Yes, sir, I observed that as well.

14 Q Then at a certain point it goes to zero and it will  
15 not operate at all, correct?

16 A That is correct.

17 Q All right. Prior to doing that in court the other  
18 day, had you participated at all with either Mr. Kennedy or  
19 anyone else in doing that same operation outside of court?

20 A Yes, sir.

21 Q On how many occasions was that done?

22 A Three times, sir.

23 Q Outside of court, did the operation always go the  
24 same way that it went in court?

1           A    Yes, sir. There was a different drill used each  
2 time, but I believe, yes, it operated the same.

3           Q    Now would you agree that the locking mechanism on  
4 the old cable is, how should we say, not in pristine  
5 condition?

6           A    Yes, sir, it's not in the condition that a new one  
7 would be.

8           Q    And sometimes if you fiddle with it you can get it  
9 to lock, and sometimes it doesn't lock, right?

10          A    Yes, sir. From the experience that I had with it,  
11 if you push the notch in, it will stay, but if you don't push  
12 the notch, it will slide on and off without locking.

13          Q    Was the locking mechanism, itself, was it in that  
14 same condition when it was removed from the car as best you  
15 know?

16          A    Yes, sir, it was.

17          Q    As far as you know, nothing about the old cable,  
18 itself, has been changed or damaged in any way by any  
19 examinations or inspections done by anyone?

20          A    To my knowledge, no, sir.

21          Q    I want to call your attention to this past weekend.  
22 I believe it would have been March the 18th, Saturday, March  
23 the 18th of 1995, and ask you if you had occasion to make  
24 another trip to Rockford to make yet another check on distance

1 and time?

2 A Yes, sir, last Saturday morning I drove to Rockford  
3 again.

4 Q Would you tell us what you did on that trip and the  
5 results?

6 A Yes, sir. If I could refer to my notes?

7 Q Do you not have those up there?

8 A No, sir, I don't. They're in my notebook on the  
9 prosecution table.

10 MR. SOUK: May I?

11 THE COURT: You may.

12 A Okay, sir, would you ask the question again please?

13 Q (By Mr. Souk) Would you summarize, for us, the  
14 distances that you traveled and the times on this last trip to  
15 Rockford?

16 A Yes, sir. On the 18th of March, I left Jennifer's  
17 apartment at 7:15 A.M. I left from the parking lot area. I  
18 traveled to Alan Beaman's residence at an average of 75 miles  
19 per hour. Leaving at 7:15 A.M. I arrived at 9:10 A.M. in  
20 front of Alan Beaman's residence. The total distance  
21 registered on the odometer of the vehicle I was driving was  
22 138.5 miles. The entire trip took one hour and 55 minutes.  
23 On the way back --

24 Q Well, let's -- did you do some driving while you

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1 were there?

2 A Yes, sir, I did.

3 Q Let's go through that, if you would.

4 A Okay. I left the Beaman residence at 9:13 A.M.,  
5 arrived at Wal-Mart at approximately 9:28 A.M., 15 minutes  
6 later. And then arrived at the grandmother's residence at  
7 9:29 A.M., one minute after Wal-Mart, 16 minutes after the  
8 Beaman residence.

9 Q Did you -- was that the only route of Mrs. Beaman's  
10 that you redrove that day?

11 A Yes, sir, it is.

12 Q Did you -- could you tell us about the trip back  
13 then?

14 A Yes, sir. I went to Bell Federal Bank at the corner  
15 of Alpine and Newberg. I walked inside the bank, stood inside  
16 the doorway where we observed Alan Beaman on film at 11  
17 minutes after ten. As soon as my watch said 11 minutes after,  
18 I walked out of the bank, walked to the parking lot, unlocked  
19 the vehicle I was driving, got in, drove to Normal at an  
20 average speed of 75 miles per hour. I drove to [REDACTED] [REDACTED],  
21 pulled into the parking lot, got out of my vehicle, locked my  
22 vehicle, walked to the door of [REDACTED] at [REDACTED] [REDACTED] and  
23 checked my watch.

24 Q And what time was it?

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APPENDIX 003107

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A Twelve o'clock, sir.

Q Did you also, last Saturday, go to the location on the ISU campus where Jennifer attended her last class?

A Yes, sir, I did, Edwards 211.

Q And did you walk the route from her classroom where she had her last class to the entrance of [REDACTED] [REDACTED] [REDACTED]?

A Yes, sir, I did.

Q And just to make sure we're clear, were you outside the building at Edwards Hall, or did you actually go up where the classroom was?

A No, sir, I walked up to the doorway of Edwards 211. The door was locked, so I started at the locked door of the classroom, walked at a moderate pace to Jennifer's apartment, [REDACTED], walked to [REDACTED], up the stairs to the front of Apt. [REDACTED] at that location.

Q Did you time that trip?

A Yes, sir, I did.

Q And how long did it take?

A At a moderate pace, eight minutes, 52 seconds.

MR. SOUK: Judge, I believe that's all I have, but if we could have a recess I could make certain of that.

THE COURT: I think we'll take about a ten-minute recess at this time. If the bailiffs would please take charge of the jury, and the jury is to leave their notebooks here as well.

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Court will be in recess for ten minutes. You may step down.

(WHEREUPON A RECESS WAS HAD.)

THE COURT: All right, for the record, counsel and defendant return to open court. The jury will be brought back into the courtroom.

(WHEREUPON THE JURY RETURNED TO THE COURTROOM AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, reflect that the jury has now returned to open court. Before I call upon you to examine, Mr. Beu, let me just clarify. I understand that some additional paper was made available to the jurors. If you need a moment to put any additional paper into your notebooks, would you take that time to do that please.

(WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

THE COURT: All right, Mr. Beu, you may proceed with your cross examination.

MR. BEU: Thank you, your Honor.

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CROSS EXAMINATION

BY MR. BEU:

Q I'm sorry, detective, your title is what?

A Sergeant.

Q Sgt. Freesmeyer, okay. Sergeant, can you first of all go back with us on the slides that you were doing of the mileages from Rockford? I don't know if that's set up right at the moment for you to do that, or do you need to go there to get to that location?

THE COURT: Would you like him to step down, Mr. Beu?

MR. BEU: If he needs to, unless it's already in that spot.

Is that the first of them, officer?

A This is the one you're referring to, sir, or did you want the -- I'll go to the beginning of the slides. Okay, that would have been the first, I believe.

Q (By Mr. Beu) All right. Now I had a little difficulty hearing from back here as far as all of the numbers that went with these, and so I'm not going to be in a position to identify specifically by number what these are. But I shall try to phrase my question so that it's clear which slide I'm referring to. We have up here now a slide which shows a

1 route that you traveled between Mr. Beaman's residence and  
2 Bell Federal Bank. Is that correct?

3 A Yes, sir, that's correct.

4 Q Isn't it true that the route that you drove to make  
5 that comparison is a route that you simply selected as being  
6 perhaps the most direct route between the two locations?

7 A Yes, sir, that is correct.

8 Q That is not a route that Mr. Beaman told you  
9 specifically that he took to go between those points, is it?

10 A I don't recall he told me what route he took. He  
11 just said he went to the bank and back.

12 Q So you chose to select a route, did you not, that  
13 you took right through the heart of downtown Rockford?

14 A As you stated earlier, I took the most direct route,  
15 sir.

16 Q Does not that route take you directly through the  
17 heart of downtown Rockford?

18 A Yes, sir, it does.

19 Q As opposed to going down Meridian Road to the high  
20 speed bypass over to Alpine Road, and then up north to Bell  
21 Federal?

22 A Yes, that would be correct.

23 Q Would you please advance to the next slide? Next  
24 slide, please. Next slide. Sir, there is a notation on here

1 that you identified before of going directly from the Sandy  
2 Hollow IGA to Bell Federal Savings. I believe that's the  
3 fourth item on this total list of originations/destinations  
4 and distance recap?  
5 A Yes, sir, that's correct.  
6 Q Mr. Beaman never told you that he drove that  
7 distance at anytime that was relevant to these proceedings,  
8 did he?  
9 A No, sir, he did not.  
10 Q He told you that he drove from the IGA on Sandy  
11 Hollow to his home, and then from there back to Bell Federal,  
12 correct?  
13 A Yes, sir, I believe you are correct.  
14 Q Can you tell us why, other than an oversight on your  
15 part, you chose to include on this supposed list of the total  
16 mileage he drove, a distance which you knew he never drove?  
17 A Yes, sir. This was done, I believe, prior -- the  
18 first routes were done before I had knowledge that in grand  
19 jury he stated he went from work to home, to the bank, to back  
20 home. I was told when I was questioning him at McPherson  
21 Theater and I asked him, "Didn't you go to the bank?" He  
22 responded, "I didn't go to Normal." So I knew, at that point,  
23 that he was at the bank at some time. So, therefore, I went  
24 from where he was that morning, which was Sandy Hollow IGA, to

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Bell Federal Bank.

Q In other words, this document of your mileages was prepared before the grand jury testimony?

A This particular document you're looking at now, no, this was done last week. But when I began trying to figure out what routes he had done, once I was made aware of the mileages, I was not aware that he had gone home first, and then to the bank, and then back home again.

Q I'll go back to my original question then, sergeant. When you prepared this document, you knew that that wasn't a route that he had told you that he took?

A Yes, sir, I guess I did know that.

Q Are there, to the best of your knowledge, any other places on this document where you have included distances that you may have guessed at some earlier time, found out were not accurate, but then didn't delete off of this?

A No, sir, to my knowledge, I didn't purposely delete anything that I was aware --

Q I didn't mean to suggest you were --

A If you have something in mind, I'm open to suggestions.

Q So am I, and I'm simply asking you to look at the list. We've identified one, and I'm asking whether you could look at that and determine whether maybe now having had that

1 pointed out to you there may be others that you have  
2 inadvertently placed in here?

3 A I don't recall anything else I would have  
4 inadvertently placed in, no.

5 Q Next slide please. This is the slide which shows  
6 the various locations that you identified, I believe, based  
7 upon what was told to you by Carol Beaman about her activities  
8 on the day of August 25th?

9 A Yes, sir, that's correct.

10 Q And Carol is Alan Beaman's mother?

11 A Yes, sir, she is.

12 Q Okay. She told you that she had been home and left  
13 from home in the morning?

14 A Yes. Let me make an exception to my last answer,  
15 sir. She did not say that she stopped by Auburn High School.  
16 Gray's IGA and then back home, and I --

17 Q You've anticipated me, sir, and I congratulate you.  
18 She did not tell you that Auburn High School was a stop that  
19 she made, did she?

20 A No, sir, she did not.

21 Q When you testified earlier that the slide was  
22 prepared for locations she had said to you, that was not  
23 correct, was it?

24 A If that was my wording, that these are places she

1 said to me, then you are correct. She did not say Auburn High  
2 School.

3 Q You knew from talking with her and from your  
4 investigation that she's a teacher at Auburn High School?

5 A Yes, sir, I did know that.

6 Q You put this Auburn High School stop on here  
7 speculating that she might have stopped at Auburn High School  
8 on the way home. Is that not correct?

9 A Yes, sir, that is correct.

10 Q You put it on here to raise the inference that she  
11 might have done something different than she said she did?

12 A I can't testify I put it on there to make an  
13 inference. I put it on there because I felt that was  
14 pertinent.

15 Q Why would it have been pertinent, sir?

16 A Well, because she was going from Gray's IGA to [REDACTED]  
17 [REDACTED] [REDACTED] In prior testimony she didn't recall exactly  
18 what time she got home. At this time she stated she was sure  
19 she was home at 2:15, and being a teacher at Auburn High  
20 School, stating she was buying supplies for school, I felt it  
21 was pertinent to put in Auburn High School as she was on her  
22 way home and she was buying items for school.

23 Q This was a school vacation period, correct?

24 A The day, that week before school started, yes, sir.

1 Q Yes, sir, the 25th of August?  
2 A Yes, that's my understanding.  
3 Q And again, just so it's clear, part of her itinerary  
4 that day as she described it to you and to the grand jury was  
5 not a stop at Auburn High School, was it?  
6 A That is correct, sir.  
7 Q Okay, next slide please. Back up, I think, please.  
8 You have identified certain routes again on the same slide I  
9 was just asking you about concerning Carol Beaman's travel.  
10 You have a part of a distance on this map. Let me step up and  
11 show you what I'm asking you about here. Here on a route that  
12 is listed on the map as North Main Street, a north/south  
13 portion of one of those routes, correct?  
14 A Yes, sir.  
15 Q That again is your arbitrary selection of a route  
16 between a couple of points, is it not, as opposed to a route  
17 that she described to you?  
18 A Yes, sir. Again I don't believe she described  
19 exactly what route she took. I chose an arbitrary route which  
20 seemed to be the most direct route.  
21 Q So, of course, you cannot say that that was the  
22 route that was taken?  
23 A No, sir, I can't say that.  
24 Q Next slide please. And next. That was the end of

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those slides then, I believe.

A I believe so, sir.

Q Okay, lights please. Thank you. Sergeant, you indicated that you were present when the various pre-court and in-court demos were made with the old and new odometer cable with the drills?

A Yes, sir, that's correct.

Q I truly don't mean to be cute, but did each drill register 62 miles an hour?

A I can't tell you for sure, yes. I'm sure each one might have turned at a slightly different speed.

Q But in each case, the old and new registered identically regardless of the drill?

A I believe in court was the first time that I had tried the new drill and compared it to the old drill. I had done -- I'm sorry, the new cable compared to the old cable. I had done the old cable once at the Morton Crime Lab, once at the Normal Police Department, and once upstairs in the state's attorney's office. The new drill, I recall doing here in the courtroom testimony.

Q New drill or new cable?

A I'm sorry. The new cable I recall doing here in courtroom testimony. I don't recall ever doing the new drill other than this time -- the new cable.

C09694

1 Q So prior to court you didn't have, to your  
2 knowledge, direct knowledge that it was going to work just the  
3 same as the old drill?

4 A No, sir, not prior to court I did not.

5 Q The old cable. When you were doing the examination  
6 or overseeing the examination of the Escort of Mr. Beaman's,  
7 you've indicated Mr. Van Etten that was there for us was  
8 allowed to take photos at each stage of the examination. He  
9 did do that, as a matter of fact, did he not?

10 A Yes, sir, he did.

11 MR. BEU: May I approach, your Honor?

12 THE COURT: You may.

13 Q (By Mr. Beu) Officer, I show you what's been marked  
14 previously for identification as People's Exhibit 53, which I  
15 believe you have indicated earlier is a check that you  
16 obtained from either Carol or Barry Beaman bearing the date of  
17 August 25 and written to Gray's IGA.

18 A Yes, sir, that's correct.

19 Q If you'll refer to the back of that document, sir,  
20 is there a bank deposit stamp on there?

21 A Yes, there is from the Northwest Bank of Rockford.

22 Q Okay. Sir, is that bank deposit dated?

23 A Yes, sir, it is.

24 Q What is the date?

1           A     August 26th, 1993.  
2           Q     The 26th?  
3           A     Yes, sir.  
4           Q     The day following its delivery according to the date  
5           on the face of it?  
6           A     Yes, sir, the 26th would follow the 25th.  
7           Q     Did you make any inquiry with respect to Northwest  
8           Bank of Rockford concerning this?  
9           A     I don't know I made any inquiry to Northwest Bank.  
10          I did make an inquiry to Amcoré Bank to get copies of canceled  
11          checked.  
12          Q     That is the bank upon which the check is drawn?  
13          A     Yes, sir.  
14          Q     So you made no inquiry to determine whether the bank  
15          stamp on the back of a check the day following a transaction  
16          at the store would or would not be standard processing for a  
17          store of this sort?  
18          A     I had no reason to doubt it. I didn't feel  
19          investigation on that was needed.  
20          Q     As a matter of fact, officer, at the various times  
21          that you received items from the Beaman family, the Sears  
22          receipt for example, the Wal-Mart receipt, the Union Hall  
23          receipt, the check written to IGA, the IGA receipt, you were  
24          provided with the originals of all of those documents, right,

1 and you or your department or the state's attorney have had  
2 them there thereafter in your possession?

3 A No, sir, I don't recall it that way.

4 Q What do you recall?

5 A I recall from the subpoena that I received getting  
6 the original copy of the IGA store receipt and the checks from  
7 Carol or Barry Beaman. The receipt from Sears, I don't recall  
8 whether I took that into evidence, or rather another member of  
9 our department took that into evidence. The Wal-Mart receipt  
10 and Union Hall receipt, I don't recall taking the original of  
11 that or holding the original. At some point I'm sure I had  
12 it, because we have a photocopy of it. But, sir, it did not  
13 appear on our subpoena, and I don't believe I held the  
14 original for that.

15 Q It is entirely likely, isn't it, that these  
16 documents were forthcoming to you without a subpoena?

17 A That is possible, yes, sir.

18 Q And you did have the original of the Wal-Mart and  
19 Union Hall receipts, as well as the rest of these, correct?

20 A At this point, I have a photocopy of them, so I  
21 assume at some point I did have the originals.

22 Q The question I'm getting to, what testing  
23 procedures, if any, did you apply on these documents in an  
24 effort to determine whether or not they appeared to be

1 legitimate documents?

2 A Well, for the Union Hall receipt, I also have a  
3 photocopy of a Master Card receipt with a date on it and Carol  
4 Beaman's signature. For the Wal-Mart receipt, I didn't have  
5 any reason to check with Wal-Mart. I don't believe that the  
6 Wal-Mart Corporation would forge a receipt. I accepted them  
7 as legitimate receipts, sir, other than as I testified  
8 earlier, I did call Wal-Mart to see if Mrs. Beaman would have  
9 appeared on camera. At that point, the tapes were already  
10 destroyed or reused. And I attempted to call Union Hall to  
11 see if they had video tapes, and found that the business was  
12 no longer established at that location.

13 Q There were no tests, I take it, that you caused to  
14 be performed at any state lab or otherwise with respect to the  
15 paper, or the ink, or anything, to determine if these were  
16 apparently contemporaneous documents for the day they appeared  
17 to be?

18 A No, sir. No, sir, I had no reason to question that.

19 Q How about the IGA receipt and check?

20 A Yes, sir, the IGA receipt I did have question to --  
21 or an occasion to question since it was Carol's brother's  
22 store. The check, as I mentioned earlier in testimony, I did  
23 -- I received copies of Carol Beaman's check from the Amcore  
24 Bank to verify that the check was written on that day, and

1 copies of the check from the bank verified that that check was  
2 written on that day. For the Gray's IGA receipt, I went to  
3 Gray's IGA store myself and I made a purchase, and I believe  
4 it was a soda. I took the receipt from that soda. I knew  
5 from the receipt it was a Union Sweeter register. I called  
6 the company and asked them how hard it would be to change a  
7 date and time on a registered receipt such as that. She told  
8 me how to do that in a matter of seconds. I believe that  
9 concluded the investigation that I did on those receipts.

10 Q Was any type of investigation done to see anything  
11 further with respect to any of those documents?

12 A No, sir, I don't believe so.

13 Q And the -- you checked also, did you not, at the IGA  
14 about the fact that they have print-out numbers on the system  
15 that they use which places a transaction number both on a  
16 receipt and on the check that is registered in return for that  
17 check?

18 A I'm sorry, sir, that's a very complicated question  
19 that you asked me. Would you mind showing me the receipts and  
20 check and verify that?

21 MR. BEU: May I, your Honor?

22 THE COURT: You may.

23 Q (By Mr. Beu) I realize you are right, it was a  
24 lengthy question. If you will refer, I believe, to People's

1 Exhibit 53. Did you not determine, on that document, is a  
2 notation printed by the register at the IGA store which  
3 inserts an identification number which also appears on the  
4 receipt?

5 A Sir, would you mind showing me the receipt? There's  
6 several stamps on here. I don't know what came from IGA and  
7 what came from the bank.

8 Q Yes, sir. Showing you what's been marked as  
9 People's Exhibit 52-A.

10 A Thank you. Sir, on the bottom of the check there in  
11 blue ink, it's stamped 6574 777. On the far right, it appears  
12 in blue letters to have 48.25. 48.25 is the amount of the  
13 cash register receipt at Gray's IGA, and the 6574 777 appears  
14 on the bottom of the IGA receipt. If that's what you're  
15 referring to, sir, yes, the numbers from the receipt match the  
16 check, sir.

17 Q Okay. So those things appear to match. Now was it  
18 your understanding from the representative at the company that  
19 made that register that if a person were inclined to somehow  
20 tamper with the information that would appear on that receipt  
21 at the time it would have had to be done at the time the  
22 receipt was issued?

23 A I'm sorry, sir, again you've confused me.

24 Q I'm sorry, I'll try not to. You spoke with a

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representative of the company that makes the machine?

A Union Sweeter, yes, sir.

Q And that was a register in place at the IGA store?

A Yes, sir, I believe so.

Q And a person there alluded you to the fact that if someone was inclined, it would be possible to produce a receipt that was in some way not standard. Is that correct?

A Yes, they could alter the date and the time on a receipt.

Q And is it not your understanding that for that to have been done in this case, somebody who knew what they were doing with that machine would have had to do that at the time that that receipt was originally issued?

A If that were the original receipt, yes, the altering would have to be done before it would print on that receipt, yes, sir.

Q You have --

A If that's what you're asking.

Q You've already said that you have no reason to not accept that as the original receipt, have you not?

A When I first got it, as I mentioned earlier, I did do some checking on it. After that, then I had no reason to do any further checking on it.

Q You're satisfied that's the original receipt?

1 A Yes, sir, I am.

2 Q You're satisfied that there was no tampering done at  
3 that register by anybody at the IGA store?

4 A Yes, sir. The way it matches up to the check, I'm  
5 comfortable with that.

6 Q Do you truly consider, sir, that Alan Beaman has  
7 some way lied to you when he failed to recall that he had gone  
8 to the bank that morning rather than going home to go directly  
9 to bed?

10 A Of course, it would depend on what you consider as  
11 lying to you. If purposely leaving things out is lying, then,  
12 yes, he purposely left things out. On some occasions I did  
13 ask him, did you go anywhere else. He said no, I went home  
14 and went to bed. Now in direct answer to the question, did  
15 you go anywhere else, if he went to the bank, and what he  
16 tells me is, no, I went straight home and went to bed, then,  
17 yes, sir, I would consider that a lie.

18 Q Do you consider that it is a positive factor,  
19 however, for the prosecution that he was what, 13 miles maybe  
20 closer to Bloomington than his home?

21 A I consider it a positive factor that he was back  
22 out from his home at that time of the morning, sir.

23 Q And even though it shows, of course, that he was a  
24 hundred twenty-six miles from Bloomington at that time?

1           A     Yes, sir, that didn't really bother me.

2           Q     Officer, after Mr. Beaman appeared and testified at  
3 the grand jury here, did you go back and rerun mileage checks  
4 based upon the details that he had provided in lengthy grand  
5 jury testimony?

6           A     Again, sir, you've pointed out some discrepancies  
7 that I had failed to see earlier, and those were brought out  
8 in grand jury. So if that's what you're referring to, sir, I  
9 did not make those corrections.

10          Q     I'm referring, sir, to the fact that Mr. Beaman,  
11 first of all, earlier had a bond hearing following his arrest,  
12 correct?

13          A     Yes, sir, that is correct.

14          Q     And you recall he did not testify at the bond  
15 hearing?

16          A     I was not present at the bond hearing, sir.

17          Q     Is it your understanding that he did not testify at  
18 the bond hearing?

19          A     That's my understanding, yes, sir.

20          Q     You've seen a transcript of the bond hearing?

21          A     I don't recall if I have or not, sir.

22          Q     All right, sir. At any rate, other than what he has  
23 said to you, isn't it correct that the only time he has given  
24 any lengthy description of that week's activities was during

C09703

1 testimony at the grand jury?

2 A Okay, sir, you've mentioned the only time. Are you  
3 referring to the only time after his arrest, or the only time  
4 during the investigation?

5 Q Well, let me rephrase the question. Other than  
6 those conversations you had with him --

7 A Okay.

8 Q -- isn't it true that the only description of his  
9 activities that have been put forward publicly was the  
10 testimony at the grand jury?

11 A No, sir, that is not correct.

12 Q In what way?

13 A He did give a description of his activities to  
14 Detective Daniels on the very first interview on the 28th.

15 Q All right, and let me clarify something for my own  
16 benefit there. You were what, the supervising overseeing  
17 detective during the bulk of this examination or  
18 investigation?

19 A Well, sir, I started out just as a case detective  
20 when the first -- the first of this began on August 28th. I  
21 happened to be the first detective on the scene. I did not  
22 become lead detective, so-to-say, until maybe October or  
23 November. I was not a supervisor of anybody else on this crew  
24 or this team. I was just a member of the team. And then in

1 October or November, then I began the majority of the work  
2 since I was the only person that could talk with Mr. Beaman.

3 Q Is it safe to say that in the course of your  
4 investigation on this case you have reviewed the statements  
5 that have been given by Mr. Beaman to Officer Daniels, and  
6 other witnesses to other officers?

7 A Yes, sir, that is correct.

8 Q And other than those things that were said in those  
9 various statements to any of the officers, the -- let me  
10 rephrase that question. Activities concerning his whereabouts  
11 on that day were described in far greater length at the grand  
12 jury than they were on any of the police interviews, were they  
13 not?

14 A Sir, for a direct answer to that I guess I would  
15 have to sit down and compare the grand jury with the interview  
16 that I had with him at the Normal Police Department in which  
17 he wrote out a written schedule of each day's activity and  
18 compare that with the interview that Detective Daniels did.  
19 At this point I'm afraid I'm unable to tell you which is more  
20 exact until I sat down and actually compared them.

21 Q I didn't mean to suggest exact. I meant more  
22 detailed.

23 A More detailed?

24 Q Yes, sir.

C09705

1           A     Again, sir, I'm afraid I would have to review the  
2 grand jury. I've been through it once. I don't recall  
3 exactly how in detail he got on that, sir.

4           Q     For now I think I'll leave it with this question on  
5 that point, sir. Did you go back out to retrace routes of Mr.  
6 Beaman following his testimony before the grand jury?

7           A     Yes, sir, I'm sure I did.

8           Q     Did you test any additional routes or add any  
9 additional mileage to your total estimate in those checkings  
10 after the grand jury?

11          A     Yes, sir, I did.

12          Q     What were they, do you recall?

13          A     As I mentioned earlier, the distance from the Beaman  
14 residence to Cafe Esperanto was incorrect, so I remeasured  
15 that. The distance from Cafe Esperanto to Sinissippi Garden  
16 I had to remeasure because at the time Alan mentioned he went  
17 to Cafe Esperanto, but I couldn't find any listing in the  
18 phone book in Rockford, and I couldn't find an address for it.  
19 So at a later time I was actually able to find that particular  
20 restaurant or coffee shop. Also when I was doing mileage  
21 previously I was looking at the wrong Denny's. I thought  
22 there was only one Denny's in Rockford, and that was on 11th  
23 Street and Sandy Hollow. I then found out the Denny's they  
24 went to was on State Street, so I had to rerun the route to

1 Denny's so I could be accurate.

2 Q Were these various things that you found out during  
3 the course of the grand jury testimony, best of your  
4 recollection?

5 A No, I believe the fact of Denny's I found out from  
6 Beth Torissi possibly, from an interview with her, and I asked  
7 her which Denny's they went to. I don't recall exactly, but  
8 that sticks out in my mind, sir. The Cafe Esperanto, I knew  
9 that I didn't have an exact address on that. So during one of  
10 my trips to Rockford, I stopped by the Winnebago County  
11 Sheriff's Department or courthouse. It might have been the  
12 police department I spoke with. I asked one of the desk  
13 officers where I could find the Cafe Esperanto. They gave me  
14 direct directions, and then I went from there.

15 Q Okay, sergeant. And I don't know if you could  
16 answer this without maybe again going back to the slides. I'm  
17 making notes in the dark. Isn't it correct that in your  
18 overall recap on the slide where you come up with 206 and a  
19 half miles, that you did not include a Saturday run from the  
20 Beaman residence to the church and back for the Saturday  
21 rehearsal? Do you recall without looking?

22 A You're right, sir, I would have to go back to the  
23 slide to recall.

24 MR. BEU: May we do the lights, your Honor, and go back

1 to that slide?

2 Q (By Mr. Beu) There --

3 A Yes, sir, after the initial traffic stop by the  
4 sheriff's office to the Beaman residence, there was only one  
5 other trip from the Beaman residence to the church. You are  
6 correct, sir, I failed to list the Saturday.

7 Q Thank you, sir. Lights please. Officer, at the  
8 time you approached Alan Beaman with a subpoena for body  
9 samples, you had never asked him to simply voluntarily provide  
10 you with such, had you?

11 A No, sir, I did not. We had not had any contact with  
12 him since the interview with Detective Daniels.

13 Q You described earlier an interview you had with Alan  
14 on October 22 of 1993.

15 A May I refer to my notes, sir?

16 Q Yes, sir, page 199 of the discovery if yours -- if  
17 yours is identified the same way on your copies.

18 A Yes, sir, thank you.

19 Q During that October 22 interview, in addition to the  
20 things you testified to, did he not also describe to you that  
21 he and Jennifer had been engaged?

22 A Give me just a moment, sir.

23 Q Yes, sir.

24 A Yes, he stated that he had bought Jennifer a cheap

1 ring at Mother Murphy's to verify their engagement.

2 Q Sgt. Freesmeyer, where -- what department did you  
3 work for before you began with the Normal Department?

4 A Prior to the Normal Department, I worked for the  
5 Champaign County Sheriff's Office as a correctional officer,  
6 Deputy Sheriff Correctional Officer. I worked in the county  
7 jail, sir.

8 Q Okay, and for how long had you done that?

9 A Thirteen months maybe, 14 months.

10 Q Prior to that, sir?

11 A Prior to that -- well, I was working odd jobs at  
12 Champaign. I worked for Mercy Hospital as private security.  
13 Before that I was living in the State of Arizona, working in  
14 the Arizona Department of Corrections.

15 Q Okay. So your actual first on-the-street police  
16 experience has been beginning with 1990 when you began with  
17 Normal?

18 A Yes, sir, March 12th of 1990, sir.

19 Q What schooling and such have you had, sir, in terms  
20 of any formal class work during that time?

21 A In anything, sir, or just law enforcement related?

22 Q I'm sorry, law enforcement, yes, yes.

23 A When I started at the Arizona Department of  
24 Corrections I went through, I believe --

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1 Q I'm sorry, I'm sorry. I'm thinking of since you  
2 began working as a police officer.

3 A I'm sorry, for the department, for the City of  
4 Normal?

5 Q Yes, right.

6 A I began my employment March 12th of 1990 at the  
7 Police Training Institute in Champaign, Illinois, where I  
8 underwent 400 hours of basic police training. After that I  
9 returned to Normal, went through, I believe, a 14-week field  
10 training officer program, which I rode with a field training  
11 officer. They observed my behavior and my job performance for  
12 that 14-week period. I then went into a period of probation  
13 which I believe lasted several months after that. Since then  
14 I have had several on-the-job training in different areas. I  
15 didn't come prepared to give you that list today, sir, but  
16 it's been different in-services throughout the department.

17 Q Okay. Do you recall off the top of your head any of  
18 the persons who provided you your in-service training within  
19 the department?

20 A There were quite a few of them, sir. In-service  
21 training I obtain at least 40 hours a year, and they may be  
22 broken up into eight-hour sessions or 12-hour sessions.

23 Q During the course of these things, sergeant, have  
24 you become aware of what I referred to earlier as a crime

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1 scene log.

2 A Sir, I've heard you talk about a crime scene log all  
3 week. I've never had any specific training on a crime scene  
4 log as I recall.

5 Q So your training has never included maintaining of  
6 some log that would clearly identify the names and times of  
7 persons who have been in and about a crime scene?

8 A May I specify sir?

9 Q Sure.

10 A I don't recall to my knowledge ever having specific  
11 training on that. The Town of Normal does not have a crime  
12 scene log that I'm aware of that we use in crime scenes. The  
13 size of our city and the make-up of our city, we don't really  
14 have that many major crimes like Rockford or Chicago, and I  
15 guess our department has never really seen a need for that,  
16 sir.

17 Q All right, sir. In the time you've been with the  
18 Normal Department, do you recall the number of homicide  
19 investigations you have participated in?

20 A Yes, sir.

21 Q How many is that?

22 A Two.

23 Q Officer, if I told you that based on the testimony  
24 here there's been about 12 people in and out of that apartment,

1 before the crime scene technician got there on the 25th, would  
2 that sound to you about accurate?

3 A Yes, I believe that would be about accurate.

4 Q Please name them.

5 A Okay. It would have been Officer Fogler, Officer  
6 Fenton, Officer Birkhead, Sgt. Mark Kotte, possibly the Chief  
7 of Police, James Taylor, Walt Clark, who, at that time, was  
8 our captain. You have two people from the Normal Fire  
9 Department, Firefighter Elston, Firefighter McLeese. You had  
10 Coroner Dan Brady, and I believe Ed Brooks who was with Dan  
11 Brady. How many is that, sir?

12 Q That's ten.

13 A That's ten, okay. You would have had Dean Kennedy  
14 from the crime scene technician --

15 Q I'm talking about before he got there.

16 A Oh, before he got there?

17 Q Yes, sir.

18 A Did I mention myself, sir?

19 Q I don't believe you did yet.

20 A Okay, myself. Probably Detective Daniels, since he  
21 arrived at the scene. Possibility of Detective Hospelhorn and  
22 Detective Warner, also Lt. Frank Zayas. And Frank Zayas might  
23 have been there as well. He was in charge of our CID  
24 Division, Criminal Investigation Division at that time. I

1 believe that would have accounted for any people who would  
2 have been at the crime scene. That includes the Normal Fire  
3 Department, Normal Police Department Detective Division, the  
4 officers that were on patrol that day, and the coroner's  
5 office, and the police department, sir.  
6 Q By my count, that's 15 people.  
7 A Okay.  
8 Q Does that include what has been referred to earlier  
9 as the rescue squad?  
10 A Yes, sir, that's our Normal Fire Department,  
11 Firefighter McLeese and Firefighter Elston.  
12 Q Were photograph sets available for each of those  
13 individuals?  
14 A I'm sorry, sir, I didn't hear you.  
15 Q Were sets of photographs available for each of those  
16 individuals?  
17 A Sets of photographs available?  
18 Q I'm really -- talk about a confusing question --  
19 A Yes, sir, I am.  
20 Q Were fingerprints available for each individual?  
21 A Were fingerprints available?  
22 Q Yes, sir.  
23 A Fingerprints were made available of Detective Zayas,  
24 Detective Daniels, Detective Hospelhorn, Detective Warner, and

C09713

1 myself. We were the only people that actually touched objects  
2 inside the apartment, with the exception of possibly Officer  
3 Fogler or Officer Birkhead when they opened the door to enter  
4 the apartment. The firefighters, their normal practice when  
5 they enter a crime scene, they walk in and attempt to touch  
6 nothing at all. They set their bags down. If the body is  
7 obviously deceased, they pick their bags up and leave the  
8 scene again. Does that answer your question, sir?

9 Q It tells me I believe that you fingerprinted only  
10 the officers?

11 A Only the detectives, sir, that were working that  
12 crime scene -- and I'm sorry, also Dean Kennedy.

13 Q Officer, in your first -- okay, I'm sorry, sergeant.  
14 When were you promoted to sergeant, sir?

15 A I believe it was around September 27th of 1994.

16 Q Month or two after the grand jury indictment in this  
17 case?

18 A If the grand jury indictment was in June or July,  
19 yes, I would say two months afterwards.

20 Q In your first interview with Mike Swaine, where did  
21 that take place?

22 A I initially met him at the crime scene. After he  
23 was handcuffed, he was transported to Normal Police  
24 Department, and the interview took place in the interview room

1 inside the detective division inside Normal Police Department.

2 Q In that initial contact with Mike Swaine, isn't it  
3 correct that you voluntarily suggested to him that he could  
4 benefit from counseling services for emotional trauma of this  
5 incident?

6 A It's very possible I might have told him that, yes,  
7 sir. He was very shaken up.

8 Q Is it not also true that you, yourself, as an  
9 investigating police officer in this homicide, phoned  
10 yourself, the PATH Crisis Team on behalf of Mr. Swaine and set  
11 him up an appointment at Brokaw Hospital for counseling?

12 A Yes, sir, that is -- that is true.

13 Q At that time, you recognized him as a person who was  
14 close to the deceased and a possible suspect?

15 A Yes, sir, that is correct.

16 Q On the -- in the course of your investigation, did  
17 you become aware of the general description of a vehicle at  
18 least driven regularly by Swaine, whether or not owned by him?

19 A At which point, sir? Immediately at the scene?

20 Q During the period in the early stages of the  
21 investigation at any point?

22 A Yes, sir, we were told he was driving a white car.  
23 If I could look at my notes, I could tell you what I was made  
24 aware of.

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1 Q Certainly, certainly.

2 A Yes, while I was at the scene, Detective Daniels  
3 advised that he might be driving a late model Pontiac with  
4 Massachusetts license plates.

5 Q Did you ever have any further description given to  
6 you of a car associated with Michael Swaine?

7 A Well, I eventually saw the car, sir.

8 Q All right, was it a white vehicle?

9 A Yes, sir, it was.

10 Q Did it have a Subway bumper sticker on the rear  
11 bumper?

12 A Yes, sir, it did.

13 Q Where was that car when you first saw it, sir, if  
14 you recall?

15 A To the best of my knowledge, sir, it would have been  
16 parked at Mike Swaine's apartment, the place where he was  
17 living. Shortly after we discovered the body, we went over  
18 there and took photographs of the vehicle.

19 Q Am I correct that at the time you talked with him  
20 from at the scene and took him from the scene he had been  
21 dropped off there by friends of his?

22 A Sir, I don't -- at the time I didn't know how he got  
23 there. We just saw him walking, walking up. Actually, the  
24 first I saw him was after Officer Ludington and Ebert had him

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APPENDIX 003139

1 in custody. I heard the commotion and they told me what they  
2 had.

3 Q Isn't it correct, officer, that on August 28th you  
4 had conversations with a man who lived across the hall from  
5 Jennifer Lockmiller in the -- page 172, sir -- in the  
6 adjoining apartment who described to you that he had seen a  
7 white car with a bumper sticker on it in the lot of Jennifer's  
8 building around 2:00 P.M. on that Wednesday.

9 A Sir, in my report, I see a portion of my report  
10 where it says, "I then asked David and Susan if they could  
11 recall the last time they saw either of the two cars." I  
12 believe on Wednesday they saw a white sedan, maybe a Chevy or  
13 an Olds, late '80s style. David recalled seeing the vehicle  
14 parked in the driveway around two P.M. when he returned from  
15 class. Was there some place on this page that you saw  
16 something about the bumper sticker, sir?

17 Q No, I didn't.

18 A I don't see that myself either.

19 Q You followed what you just described in your report,  
20 correct --

21 A Yes, sir.

22 Q -- speaking with a couple of individuals. Those  
23 individuals that you just identified occupied the apartment  
24 directly across the hallway from Jennifer. Is that correct?

1 A Yes, I believe so. Yes, they were in apartment 3.

2 Q Now within three days after that, those people had  
3 a more detailed statement taken from them, did they not,  
4 Singley and Jenkins?

5 A Was that taken by me, sir?

6 Q No, it was not. Let me show you here.

7 THE COURT: Could we have that marked please for  
8 identification, just so that we can see what it is of record?

9 MR. BEU: Yes, your Honor.

10 THE COURT: We need to refer to it by a number is what  
11 I'm saying.

12 MR. BEU: I understand that, and I guess we've not been  
13 doing that up until this point with these various things.

14 THE COURT: Well, if it's someone else's statement. If  
15 it's his statement, I think that clarifies what it is. If you  
16 can refer to it by some other identification other than the  
17 number so that the record will be clear, I have no problem  
18 with that.

19 MR. BEU: I'm thinking about assigning it an arbitrary  
20 number that would be farther down the line from any that I  
21 anticipate using during our presentation, your Honor.

22 THE COURT: All right.

23 MR. BEU: I'm just trying to think, but I'm not.

24 THE COURT: Counsel step up for just a moment. Let's go

1 off the record.  
2

3 (WHEREUPON A DISCUSSION WAS HAD OFF  
4 THE RECORD.)  
5

6 MR. BEU: Thank you, judge.

7 Q (By Mr. Beu) Sergeant, I'm going to show you what  
8 I've marked for identification here as Defendant's Exhibit A.

9 A Okay.

10 Q And ask you to -- to take a look at it for just a  
11 moment and tell us if that is a statement that you reviewed at  
12 some point after it was taken from Susan Jenkins?

13 A Sir, this is a statement that was taken by Officer  
14 Hospelhorn.

15 Q Yes.

16 A It says Hospelhorn/Daniels. I don't recall if I  
17 reviewed this exact document. As I mentioned earlier, there's  
18 six binders full of this stuff. I can't say exactly I  
19 reviewed this interview, but I would be more than happy to  
20 look through it for a specific part if you would like.

21 Q If you would look on pages 1945 and 1948. Can you  
22 tell us whether or not according to that transcript Susan  
23 Jenkins told the officers in that statement that on August 28  
24 she saw a white car with a Subway bumper sticker about four to

1 five P.M. on that Wednesday, August 25?  
2 A First of all, you said on August 28th.  
3 Q I meant August 25th.  
4 A Okay. Can you tell me what page that was on?  
5 I can save some time by going right to there, sir.  
6 Q 1945, 1948, both places.  
7 A All right, both places, I'm sorry.  
8 Q Or one place or the other. I've got two numbers  
9 written down here in my notes.  
10 A Sir, on 1945 you stated -- yes, sir, on the top of  
11 page 1945 -- okay, sir, you're referring to page 1945. The  
12 question being asked is if they saw a car there the night, an  
13 instance where they were breaking in the door, and her answer  
14 is, "No, the individual came to get his keys." However, they  
15 have seen another car there, a white sedan with a Subway  
16 sticker. She doesn't say anything on page 1945 about it being  
17 there on Wednesday --  
18 Q Okay --  
19 A -- on August 25.  
20 Q Maybe my notes were off.  
21 A Maybe on 1949, sir. I haven't had a chance to  
22 review that yet.  
23 Q Page 1948, doesn't it say on that page that Susan  
24 Jenkins was describing as seeing the white car with the Subway

1 bumper sticker at four P.M. in the lot of Jen's building on  
2 August 25th of 1993?

3 A Yes. The question asked here is on --

4 Q No, you don't need to go into all that. But, yes,  
5 that's what she said, right?

6 A Yes, she said on Wednesday at four P.M. --

7 Q You don't need to read it, sir.

8 A Okay, I'm trying to answer your question, sir.

9 Q Well, I understand.

10 A Would you repeat your question for me?

11 Q You already answered it.

12 A Okay.

13 Q Now what was the date of that interview please  
14 again?

15 A Day of interview was September 8th of 1993, sir.

16 Q Okay --

17 THE COURT: Mr. Beu, I wonder if before you move on to  
18 another line of questioning, if you're about to move on --

19 MR. BEU: Yes.

20 THE COURT: Have you finished this line of questioning?

21 MR. BEU: Close, but --

22 THE COURT: If you have a few more questions --

23 MR. BEU: We could resume --

24 THE COURT: -- you can go ahead and finish this.

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MR. BEU: Actually the line will take a little longer.  
Maybe this would be a good time --

THE COURT: I think this would be an appropriate time to  
recess for noon. We'll resume at 1:30 this afternoon. If the  
jury would please leave its notebooks on the chairs, they'll  
be secured during the noon hour. I'll ask the bailiffs to  
take charge of the jury, and the witness may step down.

A Thank you, sir.

THE COURT: All right, we'll be in recess then.

(WHEREUPON THE NOON RECESS WAS HAD.)

THE COURT: All right, back on the record in  
94-CF-476. Counsel and the defendant return to open court.  
The witness has now resumed the witness stand. The jury is  
presently outside the courtroom.

Are the parties ready to continue with the trial of  
this case?

MR. BEU: Just one brief minute, your Honor --

THE COURT: All right.

MR. BEU: -- in the interest of proceeding efficiently  
here.

(WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

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MR. BEU: Thank you, your Honor.

THE COURT: Are you ready, Mr. Beu?

MR. BEU: Yes.

THE COURT: Mr. Souk?

MR. SOUK: Yes.

THE COURT: Bring the jury back in.

(WHEREUPON THE JURY ENTERED THE  
COURTROOM AND THE FOLLOWING WAS HAD:)

THE COURT: All right, for the record, the jury has now returned to open court. Mr. Beu, you may continue your examination.

MR. BEU: Thank you, your Honor. May I approach, your Honor?

THE COURT: You may.

Q (By Mr. Beu) Sergeant, I show you what's been previously marked for identification as Defendant's Exhibit A, identified apparently as a statement of a Susan Jenkins, August 31st, to Officer Hospelhorn and Daniels.

A Yes, sir.

Q Remember me talking about that earlier?

A Yes, sir.

Q I want to refer you to page 1945 of that, and then

C09723

1 let me ask you a couple of specific questions. I believe you  
2 already indicated that that report was taken by those two  
3 named officers, and that you perhaps had not reviewed it?

4 A Officers Hospelhorn and Daniels. --

5 Q Yes, sir.

6 A -- are the two that took the interview. I don't  
7 recall specifically if I reviewed this.

8 Q All right. The young lady that was interviewed  
9 August -- rather September 8th on that occasion, indicated  
10 that she had seen that -- that white car with the Subway  
11 bumper sticker on the Sunday previous to August 28th -- or  
12 pardon me, August 25, did she not?

13 A (No audible response.)

14 Q I take it you haven't found what I'm suggesting on  
15 page 1945, officer?

16 A No, sir, I haven't seen that, where on Sunday she  
17 saw the vehicle there. Maybe I'm overlooking it.

18 Q Let me take it back for a moment, and maybe I can  
19 help you here. I guess on that page is the point where she  
20 talks about having seen that car there on Wednesday, the 25th,  
21 isn't it?

22 A Yes, on this page she does say that she saw the  
23 white vehicle on the 25th. She believes it to be the 25th.

24 Q Also on that page she describes having started to

1 see that vehicle around June to July, and then periodically  
2 between then and the time of the homicide, right?

3 A Yes, she stated at the beginning of the summer,  
4 around July, she said, "I think I might have even seen it  
5 there in June every once in awhile."

6 Q Okay. Sergeant, to your knowledge, were  
7 investigating officers also told on August 31 by a David  
8 Singley, the person who shared the apartment across the hall  
9 with Susan Jenkins, that he'd come up the stairs to --

10 MR. SOUK: Your Honor, may we approach?

11 THE COURT: You may.

12  
13 (WHEREUPON A DISCUSSION WAS HAD AT  
14 THE BENCH AS FOLLOWS:)

15  
16 MR. SOUK: Is this going beyond the car now?

17 MR. BEU: Oh, yeah.

18 MR. SOUK: I'm going to object to going beyond the car by  
19 bringing out -- going through witness statements and bringing  
20 out what the witnesses said by means of cross examination of  
21 Detective Freesmeyer. I did not object to it up to this  
22 point, bringing up the car matter which related to Swaine  
23 which the court previously indicated I had opened the door to  
24 by my prior position. But, at this point, I think it's

1 improper to bring out everything that any witness may have  
2 said by cross examining Detective Freesmeyer about other  
3 statements. If he wants to know what they saw or heard at the  
4 time of the crime, he needs to bring them in as his witnesses.

5 MR. BEU: I think we need a little conference in the side  
6 conference room.

7  
8 (WHEREUPON THE FOLLOWING PROCEEDINGS  
9 WERE HAD IN A CONFERENCE ROOM OFF OF  
10 THE COURTROOM AS FOLLOWS:)

11  
12 THE COURT: On the record. We are now presently in a  
13 conference room adjacent to the courtroom, and outside of the  
14 jury's presence. Present is assistant state's attorney Souk,  
15 the defendant's counsel, the court, and the court reporter.

16 Mr. Beu, are you waiving the presence of the  
17 defendant for this conference?

18 MR. BEU: Yes, your Honor.

19 THE COURT: All right. Mr. Souk, did you want to speak  
20 to your objection?

21 MR. SOUK: Your Honor, at this point, I believe counsel  
22 has indicated that he is in this cross examination now with  
23 some witness statements from other residents of the apartment  
24 building going beyond where his cross examination had just

1 been, that is about possibly seeing the car driven by Michael  
2 Swaine on the day of the murder, or sometime that week  
3 surrounding the -- the murder. At this point in time, I am  
4 objecting to any further -- the procedure now of using a  
5 witness statement to, in effect, get in that witness's  
6 testimony by cross examining Detective Freesmeyer about what  
7 some witness said out of court. It's hearsay. I think, at  
8 this point, this is going to go into, if I recall correctly,  
9 things about hearing -- maybe when they heard doors slam, or  
10 that sort of thing, that does not relate directly to Mr.  
11 Swaine. The only evidence that I know of that -- in this  
12 area that relates directly to Mr. Swaine and his potential --  
13 or his alibi which we have previously proved up is the car  
14 business, and I think anything beyond this point is improper.  
15 Obviously it's going to be offered for the truth of what's  
16 asserted in it to suggest other possible suspects, and it's  
17 hearsay.

18 THE COURT: Mr. Beu?

19 MR. BEU: Mr. Souk is correct up to a point that the line  
20 of questioning that I'm intending to engage in here is to  
21 present to the officer questions about information provided to  
22 his department by two other residents across the hall from  
23 her, another resident across the parking lot from Jennifer, to  
24 the effect that these people are not going to -- did not give

1 statements and won't be testifying later that they saw a  
2 person or persons. But the testimony relates to time of  
3 death, and also relates to the speed with which the  
4 investigation narrowed itself to a single focus, rather than  
5 progressing as a more broad murder investigation, which I  
6 think is a relevant inquiry. The substance of what I propose  
7 to question him about are statements on the -- between about  
8 the 31st of August, three days after the body was found, up to  
9 maybe the 9th or 10th of September. The neighbors inside the  
10 same building across the hall, describing the man for one  
11 thing, coming home from a class at around two P.M. that  
12 afternoon, and as he enters the lower door hearing the door to  
13 Jennifer's apartment slam. And then as he's inside his  
14 apartment for a brief period, hearing it open again, and  
15 hearing footsteps going down the stairs and out the front  
16 door, not seeing anyone, not paying any attention at that  
17 time. The things that he pinned down and reported to the  
18 police. Also, your Honor, that during the course of that  
19 afternoon he was in and out of the apartment on several  
20 occasions, and that at a point sometime during the latter part  
21 of the afternoon the air-conditioning in Jennifer's apartment  
22 unit went through a state of being turned off to a state of  
23 being turned on.

24 THE COURT: I think he needs to testify to that then, Mr.

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1 Beu, if that's what that witness will say.  
2 MR. BEU: He shall. He will.  
3 THE COURT: I'm sorry --  
4 MR. BEU: I have these people under subpoena, and they  
5 will appear later and testify. However, I believe that as  
6 long as I tie it up, that I am fully able to cross examine  
7 this witness with respect to these things at this stage to  
8 show the limited focus of the investigation from a certain  
9 point forward compared to the evidence that they had received.  
10 THE COURT: All right. Do I understand you to be telling  
11 me that you intend to have the witnesses testify who are --  
12 who you intend to question this officer on?  
13 MR. BEU: Singley, Jenkins, and Ronsick, Lisa Ronsick.  
14 THE COURT: Those are the only three areas of inquiry  
15 that you --  
16 MR. BEU: Those are the first ones that I have right now  
17 that I'm on right now. I have a related extension of that  
18 that relates to certain information given to the officer at an  
19 even earlier stage, on the 28th of August, by Morgan Keefe who  
20 has testified previously, who obviously is here and is subject  
21 to recall.  
22 THE COURT: All right, any further argument?  
23 MR. SOUK: Well, judge, if this procedure was proper we  
24 could be here for years by him cross examining the detective

C09729

1 on the substance of every statement made by every witness.  
2 THE COURT: I think --  
3 MR. BEU: I have half a dozen points.  
4 THE COURT: I think we can establish, Mr. Beu, that on  
5 such and such a date a witness made a statement to the Normal  
6 Police concerning what they either saw or heard on the date of  
7 August 25, 1993, yes, without going into detail as to what  
8 that statement was. You're going to establish presumably what  
9 that statement was when the witness testifies. It is hearsay  
10 for him to now repeat what that witness told him.  
11 MR. BEU: Not being offered for the truth of the  
12 information. It's being offered for what they did in their  
13 investigation, even though they had received such information.  
14 MR. SOUK: He can ask him that. He can ask him what he  
15 did after he took the statement.  
16 MR. BEU: But without being able to get into the  
17 substance of what was conveyed to them leading to certain  
18 inferences --  
19 THE COURT: Do you want leave to recall Detective  
20 Freesmeyer after those witnesses testify?  
21 MR. BEU: Well, I --  
22 THE COURT: Let me just say this, Freesmeyer apparently  
23 did not take this first statement. It was taken by  
24 Hospelhorn, according to your question.

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1 MR. BEU: There are apparently four statements here that  
2 I'm dealing with that were taken other than by Freesmeyer,  
3 himself, that's correct.

4 THE COURT: And you're wanting to establish that that  
5 was, in fact, a statement taken by one of his co --  
6 co-detectives, co-investigators?

7 MR. BEU: Correct.

8 THE COURT: And that based upon that, action either was  
9 or wasn't taken?

10 MR. BEU: Yes.

11 THE COURT: Correct?

12 MR. BEU: Yes.

13 THE COURT: All right, once again, we're kind of getting  
14 into an area where -- let me suggest that we take a brief  
15 recess at this time. Mechanically you can do what you want to  
16 do. There's no question legally that you have the right to  
17 question this officer as to, (a) additional statements that  
18 were made by other witnesses. Those can be identified, the  
19 date, the time of that statement, and what the general subject  
20 matter of that statement was. Whether we get into repeating  
21 the total statement is, I think, where we're having some  
22 difficulty.

23 MR. BEU: I've got clips on one, two, three, four, five,  
24 six, seven, eight, nine, maybe ten pages out of all of this

1 stuff here, your Honor. That's all I'm intending to inquire  
2 about. It's the man coming up the stairs and hearing the door  
3 slam and people leaving. The air-conditioner going from a  
4 state of off to on later on that day. The lady from across  
5 the hallway -- across the parking lot, I'm sorry, would also  
6 confirm on that day she sees the white car with the bumper  
7 sticker. And she would testify in the vicinity of 10:45 or so  
8 that evening she heard a female scream from that general  
9 vicinity.

10 THE COURT: What time was it?

11 MR. BEU: 10:45, or approximately within 15 minutes or so  
12 of that on Wednesday evening.

13 THE COURT: Okay.

14 MR. BEU: These things go to the question of -- of when  
15 things, in fact, may have happened to -- to Jennifer, and they  
16 are matters surrounding the crime scene, and they are relevant  
17 issues. And I think it's relevant for me to explore what they  
18 did or didn't do with that sort of information.

19 THE COURT: I don't think Mr. Souk is disputing, and  
20 maybe he is and I shouldn't put words in his mouth, I don't  
21 think he's disputing those are relevant inquiries for you to  
22 make within the context of your case or through those  
23 witnesses. The issue is really whether that should be  
24 presented through cross examination testimony of this witness.

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MR. BEU: I understand.

THE COURT: And there's no question that you can tie the fact that statements were made by each of these witnesses in a couple of ways. You can ask this officer on the stand: Do you have in front of you, is this document a document that reflects that a statement was made by witness Jones? All right, yes, it was. And this was made on such and such a date? Yes, it was. And it related to incidences concerning August 25, between whatever hours it pertained to?

A Yes, it did. Then when witness Jones testified presumably, you can show that person that same statement, and then that way tie those issues together. The question is whether it ought be repeated by way of hearsay a couple of times. You're going to have the opportunity presumably if that witness testifies to have them testify to what they heard or what they observed. I'm wondering -- I'm going to suggest we take a brief recess and ask that you and Mr. Souk perhaps communicate a bit about how that information might be presented.

MR. BEU: Okay.

THE COURT: It may well be that there could be, in fact, a stipulation reached at some point concerning certain -- factually that certain statements were made by certain witnesses on the following dates relating to incidences

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1 concerning, beginning at X time on the 25th through Y time on  
2 the 25th, and the statements will obviously come out when  
3 those people testify.

4 MR. BEU: Then the effect of the inability of proposing  
5 what I'm intending to do robs me of a fair amount of cross  
6 examination at this point, however, but we will talk.

7 THE COURT: Well, I'm not certain that I understand how  
8 that will effect your cross examination.

9 MR. BEU: The point that I seek to establish through the  
10 cross examination is that the information that was coming  
11 through in a timely fashion to the officers was more or less  
12 set aside in favor of a preconception to proceed against  
13 building a case against Alan Beaman as their preferred best  
14 target, and that they have continued on building their case  
15 against Alan Beaman right up through and including last  
16 Saturday to get to where they are now, as opposed to going on.

17 I intend to further the cross examination by asking this  
18 officer which of her fellow students they followed up with,  
19 which of her classes they checked for fellow students, which  
20 of her sorority sisters did they talk or didn't talk to, which  
21 I intend to explore some questions concerning statements made  
22 on the day the body was found by Morgan Keefe to the effect  
23 that the preceding Saturday they'd been together at a bar.

24 I'm not going to get into testimony concerning excessive

1 use of alcohol, but socializing is not within the bounds of  
2 the limine order, and ask about did he not get information the  
3 very first day that on the Saturday evening preceding this she  
4 struck up a conversation with two guys in a bar and they  
5 exchanged phone numbers in some fashion, and another guy,  
6 another totally different guy, bought her a few drinks that  
7 night. And on that occasion did not Morgan Keefe say to them  
8 that Jennifer was the queen of scamming drinks from guys, and  
9 this sort of thing. This is early information which I don't  
10 think is followed up. I think -- I mean I think we're  
11 entitled to explore that they didn't pursue a broad  
12 investigation from a pretty early area.

13 THE COURT: It is not my intention to limit your cross  
14 examination -

15 MR. BEU: I understand.

16 THE COURT: -- but to follow the rules of evidence in  
17 doing so.

18 MR. BEU: Hm-mmm.

19 THE COURT: Now I don't think there's any question that  
20 you have the right to cross examine this officer as the --  
21 apparently the officer who's been identified as kind of the  
22 managing investigator, the overall investigator, as to what  
23 information became known to him or other members of his  
24 department, and from what sources that information came. The

1 bigger problem I guess is whether you can then just parrot the  
2 testimony of those individuals, or whether that testimony  
3 should come through their sworn testimony under oath.

4 MR. BEU: Hm-mmm.

5 THE COURT: It may well be that you can identify in your  
6 cross examination without doing damage to your cross  
7 examination to that subject matter of the conversation, what  
8 it pertained to, again without reading the actual statement of  
9 the -- of the witness into the record.

10 MR. BEU: The court will recall that I haven't been  
11 reading the witness statement. I've been asking the witness,  
12 didn't this person tell you such and such. He's been  
13 responding by reading the statement.

14 THE COURT: No, no, I understand. I don't mean to  
15 suggest that you were reading it or having it read by some  
16 other witness.

17 MR. BEU: Nor did I ask that it be read.

18 THE COURT: All right. Okay, so you would be satisfied  
19 with this witness then answering your questions in such a way,  
20 if you ask a question, didn't this person tell you about their  
21 hearing noises from the apartment on the afternoon of the 25th  
22 --

23 MR. BEU: I could very well, very well, live with that,  
24 your Honor, and ask him specific questions.

1 THE COURT: Without him parroting --  
2 MR. BEU: Right.  
3 THE COURT: -- the total statement?  
4 MR. BEU: He could answer yes or no, and --  
5 THE COURT: And could you not by directing him refer to  
6 a line of the --  
7 MR. BEU: Yes.  
8 THE COURT: -- middle of the page --  
9 MR. BEU: Sure.  
10 THE COURT: -- and so forth?  
11 MR. BEU: I can be more specific with respect to that.  
12 I can.  
13 MR. SOUK: That's a difference without a distinction.  
14 I mean it's still hearsay whether he states what the substance  
15 of the statement is or whether somebody reads verbatim what it  
16 is. It's still getting in what the witness said through  
17 somebody else. He needs to call the witness first and testify  
18 to what they saw, other than the general subject matter of the  
19 interviews; did you interview them about what they knew about  
20 this crime being a resident there, or whatever. Going beyond  
21 that is not proper at this point where we are now. It just --  
22 you know, he can ask him, you know, did you interview these  
23 people? Did you do any follow-up? Did you interview any  
24 other people? He can ask if he interviewed sorority sisters,

C09737

1 or the whole campus, or the whole world, but going into last  
2 Saturday night in the bar and that she was exchanging phone  
3 messages or phone numbers with somebody, and that she's the  
4 queen of scamming drinks, that goes well into an area that's  
5 been covered by a motion in limine and starting to suggest now  
6 unknown perpetrators.

7 THE COURT: I'm going to -- I'm going to ask that the  
8 jury leave the courtroom for a few minutes while we try to  
9 sort this matter out instead of having them sit out there.

10 All right?

11  
12 (WHEREUPON THE FOLLOWING PROCEEDINGS  
13 WERE HAD IN THE PRESENCE OF THE JURY:)

14  
15 THE COURT: All right, back on the record. Show that the  
16 court, assistant state's attorney Souk, and attorney Beu have  
17 now returned from a conference room adjacent to the courtroom.

18 I'm going to ask that the jury please go with the  
19 bailiffs back to the deliberation room for just a few minutes,  
20 and you will be brought back in to begin the resumed trial in  
21 this case. If you would please leave your books where they  
22 are on your chairs. Bailiffs are to take charge of the jury.

23 All right, court will take a brief recess at this  
24 time. I'd like counsel to step back please.

C09738

1 (WHEREUPON A BRIEF RECESS WAS HAD.)

2  
3 THE COURT: All right, back on the record. Counsel and  
4 the defendant appear in open court. The jury is presently  
5 outside of the courtroom. I would note for the record that  
6 the court has had a conversation with counsel in chambers  
7 regarding the issues that have been addressed in the side bar  
8 conference that the court conducted. Do either counsel want  
9 to make any further argument on the record regarding those  
10 issues?

11 MR. SOUK: I think I made -- I've made my point, your  
12 Honor.

13 THE COURT: Mr. Beu?

14 MR. BEU: Your Honor, I made my point to the court. I  
15 had a preferred procedure, but I've suggested to the court  
16 that I could live with a suggestion that the court has made to  
17 get around certain confusion.

18 THE COURT: The issue relates to the hearsay nature of  
19 certain testimony that would be elicited through this witness  
20 as to what other persons may have said in statements given by  
21 them. It's my understanding, Mr. Beu, from you that you  
22 intend to call those persons as witnesses during your case.  
23 Is that correct?

24 MR. BEU: Yes.

1 THE COURT: And therefore the court today would be ruling  
2 that an objection by the state will be sustained as to  
3 soliciting from Officer Freesmeyer specific statements under  
4 oath today as to what those witnesses told police  
5 investigators. You may establish that statements were given  
6 to police investigators, the dates of those statements, who  
7 made the statements, and what time frame those statements  
8 concern, but not the specificity of the statements until after  
9 those persons have testified. Is that understood?

10 MR. BEU: Yes, sir.

11 THE COURT: We'll bring the jury back out then.

12  
13 (WHEREUPON THE JURY ENTERED THE COURTROOM  
14 AND THE FOLLOWING WAS HAD:)

15  
16 THE COURT: All right, for the record, the jury has now  
17 returned to the courtroom. Mr. Beu, you may continue your  
18 examination.

19 MR. BEU: Thank you, your Honor. May I approach, your  
20 Honor?

21 THE COURT: You may.

22 Q (By Mr. Beu) Sgt. Freesmeyer, I'm going to show you  
23 what I've marked for identification as Defendant's Exhibit B  
24 and ask you, first of all, if that appears to be a transcript

1 of a statement given by one David Singley to Detective  
2 Hospelhorn, August 31, 1993?

3 A Yes, sir, that is what that appears to be.

4 Q And does that -- a portion at least of this  
5 statement, relate or contain information provided by Mr.  
6 Singley concerning first-hand observations of his apartment  
7 building occupied not only by him, but also by Jennifer  
8 Lockmiller, at the time during the afternoon and very early  
9 evening of August 25th of 1993?

10 A Sir, first of all, that was a very long question.  
11 Second of all --

12 Q Yes, it was.

13 A -- you're asking what it contains, sir.

14 Q Having asked the long question, I'll now ask a  
15 shorter question to help pin this down. Do portions of this  
16 statement contain information from Mr. Singley about things he  
17 saw and heard during the afternoon of August 25, 1993?

18 A I would have to look at the report, sir.

19 Q I've clipped certain ones for your quick reference.

20 MR. SOUK: Your Honor, to simplify matters, we would  
21 stipulate that Mr. Singley was questioned about his knowledge  
22 on the day of the murder.

23 MR. BEU: Would the stipulation extend to time frame from  
24 around two o'clock until approximately 5:15 that afternoon?

1 MR. SOUK: The day of the murder, whole day.  
2 THE COURT: All right, is that stipulation acceptable for  
3 you?  
4 MR. BEU: It is.  
5 THE COURT: Or do you want further inquiry? You may, if  
6 you want to.  
7 MR. BEU: That's fine.  
8 THE COURT: All right, that stipulation will be reflected  
9 of record.  
10 Q (By Mr. Beu) Sergeant, I'll show you what's been  
11 marked as Defendant's Exhibit C and ask you if this is a  
12 transcript of the statement given by the same David Singley,  
13 September 8th, 1993, to Detective Hospelhorn and Detective  
14 Tony Daniels?  
15 A Yes, sir, this does appear to be a statement given  
16 to Hospelhorn and Daniels on September 8th.  
17 MR. SOUK: We'd again stipulate that he was questioned  
18 about his knowledge regarding the day of the murder, August  
19 25th, 1993.  
20 MR. BEU: Under the circumstances, that statement -- that  
21 stipulation will be acceptable.  
22 THE COURT: All right, that stipulation will be reflected  
23 of record.  
24 Q (By Mr. Beu) Sergeant, I show you what I've marked

1 for identification as Defendant's Exhibit D, and ask you  
2 whether it is a copy of a tran -- or a transcript of a  
3 statement given by one Lisa Ronsick, August 31, 1993, to an  
4 officer of the Normal Police Department?

5 A Yes, sir, that appears to be a transcript of the  
6 statement given to a police officer on August 31st, 1993,  
7 10:37 A.M.

8 Q From looking at that, can you identify the officer  
9 to whom that statement was given?

10 A Yes, the names before say Dave and Lisa, so I'm  
11 assuming Detective Dave Warner.

12 Q Dave Warner?

13 A He's the only Dave in the detective division.

14 Q Okay, thank you.

15 A That would be my assumption, sir.

16 MR. SOUK: Show the same stipulation on that.

17 THE COURT: Would that be acceptable?

18 MR. BEU: Would that stipulation extend to the time  
19 between 10:45 and 11:00 P.M. that night?

20 MR. SOUK: Sure.

21 MR. BEU: That's acceptable.

22 THE COURT: You want to state the stipulation then for  
23 the record as you understand that, and then I'll confirm that  
24 with the state.

1 MR. BEU: I believe that they're stipulating, your Honor,  
2 that this statement contains statements made by Lisa Ronsick  
3 concerning observations, things she saw and heard, on August  
4 25 during the day and into -- late as 10:45 to 11 o'clock at  
5 night.

6 THE COURT: Is that your stipulation?

7 MR. SOUK: That's mine, your Honor.

8 THE COURT: All right, that stipulation will be reflected  
9 of record.

10 Q (By Mr. Beu) Show you what I've had marked as  
11 Defendant's Exhibit E and ask you whether this is a transcript  
12 of a statement given by one Morgan Keefe on August 28, 1993,  
13 to Detective Dave Warner of the Normal Police Department?

14 A Yes, sir, it appears to be. Also Detective Daniels  
15 was there at the time.

16 MR. BEU: Thank you.

17 MR. SOUK: We'd stipulate in regards to that statement  
18 that Miss Keefe was questioned about her knowledge of the week  
19 of the murder, and also her contacts with the victim the week  
20 prior to the murder, week prior to August 25.

21 MR. BEU: If that stipulation would specifically include  
22 the preceding Saturday, that would be an acceptable  
23 stipulation.

24 MR. SOUK: She was questioned about that. Yes, that is

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acceptable.

THE COURT: That stipulation will be reflected of record also.

MR. BEU: Thank you.

Q (By Mr. Beu) Sergeant, I show you what's been marked for identification as Defendant's Exhibit F and ask you if this is a transcript of a statement given by Morgan Keefe on September 10, 1993, to Detective Rob Hospelhorn of the Normal Police Department?

A No, sir, this was given to Detective Tony Daniels of the Normal Police Department. Rob Hospelhorn was just present.

Q The officers present were whom?

A Detective Tony Daniels and Detective Rob Hospelhorn. Detective Daniels began the interview. You'll note his name off to the left.

Q Yes. Both names appear in the first paragraph?

A Yes, sir, that is correct.

Q Right. And in this statement, did Morgan give general information concerning her acquaintance with Jennifer Lockmiller over a period of time?

A Did she give statements about her acquaintance with Jennifer Lockmiller? Is that what you're asking?

Q Yes.

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A Yes, I believe so.

Q Officer Freesmeyer, if you recall, when you arrived at the crime scene and entered [REDACTED], were the lights in the living room of that apartment on?

A Sir, I don't recall that, and I don't believe it is noted in my police report.

Q You've identified a number of letters which you recovered from Jennifer's apartment which have been displayed here and which appear to have been written by Alan to Jennifer?

A Yes, that is correct.

Q If you can recall without looking at those letters, were any of them dated?

A I don't recall dates on the letters, sir.

Q Are you satisfied enough that they were not dated without looking again physically at the exhibits?

A Sir, I don't recall any dates on them. To be -- to say absolutely positive there are no dates, I'm afraid I would have to look at the exhibits.

MR. SOUK: Judge, my recollection is that there's no dates on the letters. We'd stipulate to that.

MR. BEU: Stipulation that they're undated?

MR. SOUK: Yes.

THE COURT: Are you prepared to accept that

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stipulation?

MR. BEU: Yes.

THE COURT: All right, that stipulation will be reflected of record.

Q (By Mr. Beu) Officer, to the best of your knowledge, were any of those letter documents put through any sort of lab testing to determine the age of the paper, or the ink?

A No, sir, they were not.

Q Any other sort of testing to seek to age them?

A No, sir, they were not.

Q It's your understanding that Jennifer and Alan had first started a close relationship back in July of '92. Is that correct?

A July of '92, yes, sir.

Q You are aware, are you not, of forensic testing that can be done seeking to determine, for example, age of paper?

A I'm not a forensic scientist, sir. I'm not familiar with that process.

Q I know, I'm not asking about the process or how it's done, because I wouldn't have the slightest idea either. But are you aware that there is available testing that could attempt to do that?

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1           A    No, sir, that's not something that I have ever  
2 done.

3           Q    Or had occasion to ask anyone to do?

4           A    I've never had occasion to ask anybody to do that,  
5 that's correct, sir.

6           Q    Did you make any inquiry through any other  
7 departmental sources as to whether such testing would be  
8 available in this case?

9           A    No, sir, I did not.

10          Q    During your investigation, sir, did you receive  
11 first-hand information from any person of any physical harm  
12 done by Alan Beaman to Jennifer?

13          A    No, sir, I did not.

14          Q    On Sunday, August 29, sergeant, is it correct that  
15 you had a group meeting of various of the investigative  
16 officials on this case, and that would be on page 180 of  
17 discovery, sir?

18          A    Sir, I don't have page 180 with me in my report.

19          Q    Page 11 of your report?

20          A    Yes, I understand, I don't have that with me. We  
21 used that in a different part of the testimony. Yes, I  
22 believe we did start the day of with a meeting on the 29th.

23          Q    Did that include coroner Brady?

24          A    I'd have to refer to my report to find out exactly

1 who was there.

2 Q And you do not have that in your hand?

3 A As I mentioned, I don't have page 11 with me. I  
4 don't have page seven through 11 of my report, because we  
5 used that in a different part of the courtroom.

6 MR. SOUK: Could we approach?

7 THE COURT: You may.

8

9 (WHEREUPON A DISCUSSION WAS HAD AT THE  
10 BENCH AS FOLLOWS:)

11

12 MR. SOUK: This is going into what somebody said at a  
13 meeting of the investigators, state's attorney, and coroner,  
14 and I'm going to object, if that's where it's going.

15 MR. BEU: My intention is to ask him if the autopsy had  
16 been completed by that time.

17 THE COURT: Just want to ask some factual questions in  
18 relationship to that?

19 MR. BEU: No, no --

20 THE COURT: Okay.

21 MR. BEU: First I want to ask that.

22 THE COURT: Right.

23 MR. BEU: And secondly, I'm going to ask him if Coroner  
24 Brady, at that time, stated that she died before she was

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stabbed.

MR. SOUK: It's hearsay.

THE COURT: Coroner Brady has testified.

MR. BEU: He has testified. He will testify he was a first-hand observer in the autopsy, and tie this to the testimony if, in fact, the officer testifies that he made it.

MR. SOUK: Doctor Schnittker testified as to cause of death. Coroner Brady did not testify as to cause of death.

THE COURT: Objection is going to be sustained.

(WHEREUPON THE FOLLOWING PROCEEDINGS WERE HAD IN THE PRESENCE OF THE JURY:)

THE COURT: Proceed.

Q (By Mr. Beu) Did you, as part of your investigation on October 5th of 1993, consult with an Illinois State Police profiler?

A No, sir, I did not do that personally. I did not meet the profiler at all during this investigation.

Q You didn't use one, or you didn't meet with one?

A I did not meet with one, and I didn't have any involvement in that process.

Q Are you aware of whether or not there was such a

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meeting?

A Yes.

MR. SOUK: Judge, excuse me, may we approach?

THE COURT: You may.

(WHEREUPON A DISCUSSION WAS HAD AT THE  
BENCH AS FOLLOWS:)

MR. BEU: In this case, I'm not proposing to get into  
any substance, just that there was a meeting.

THE COURT: If you intend to present evidence as to  
what that profile is, you're going to need to call a  
witness.

MR. BEU: I'm not going to ask any questions about what  
the profile was about.

THE COURT: All right.

(WHEREUPON THE FOLLOWING PROCEEDINGS  
WERE HAD IN THE PRESENCE OF THE JURY:)

THE COURT: You may proceed, Mr. Beu.

Q (By Mr. Beu) I believe the question was, and this  
will be just a yes or no question, was there a meeting  
between officers in your department and an Illinois State

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Police profiler?

A Yes, sir.

Q On February 18, 1994, did you or others have some consultation with the Chicago, Illinois Police Department?

A Yes, sir, we did.

Q Were you a participant in that?

A Yes, sir, I was.

Q Was that generally because they're a very big department?

A Yes, sir, they handle many homicides, and we don't handle very many at all. We were seeking their assistance.

Q And was that the extent, other than the laboratory work that's been described here, of outside resources that you brought to bear on this case?

A Give me a moment to think, sir, it's been quite a long investigation. We did call upon the state's attorney's office for the use of Lt. John Brown. He was outside the Normal Police Department. We requested assistance from the coroner at the scene to video tape the scene, since we were not present there. Yes, we did request the Chicago Police Department to review our report to see if they had any suggestions. We assisted -- or we requested the assistance of the Illinois State Police for their use as with the crime scene technician and the lab work as you mentioned.

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Q That would be Dean Kennedy?

A Yes, the technician, but then other lab work done by numerous other people through the forensic sciences area.

Q Correct.

A I believe those are the major ones, sir. I might be missing something minor, but I believe those are the major ones.

Q Did you, to your knowledge, submit any of the unidentified fingerprints from the crime scene, including the one from the clock radio, to the Automated Fingerprint Identification System run by the State of Illinois?

A I did not personally do that, no.

Q To your knowledge, did anyone in connection with your department do that?

A To my knowledge, I don't know of anybody that did that. Not to say that it wasn't done, but I don't know who did it.

Q Do I understand that you became the chief assigned supervising detective in October?

A As I mentioned, sir, I wasn't supervising anybody on the crew. I was just a detective. I was the main person working the case. If you want to use the term lead detective, I guess we could do that.

Q From what date approximately?

1. A October or November through the current time.

2. Q You're familiar with that the State of Illinois  
3. does have such an identification system in place?

4. A Yes, sir, I'm aware of that.

5. Q And does that provide the capacity you have  
6. computer searches made to possibly even identify individual  
7. fingerprints through a fingerprint bank?

8. A Yes, if you have enough ridge detail, my  
9. understanding, on the print, if you have a good enough print  
10. you can send it in.

11. Q Did I -- did I understand you to say at one point,  
12. sir, during your direct examination, that you took a  
13. different approach in dealing with Mr. Beaman than Tony  
14. Daniels did?

15. A Yes, sir, I did.

16. Q Did I understand you to use the term you were  
17. civil?

18. A I certainly didn't mean to slight Detective  
19. Daniels. I took a different approach, sir. Mine was more  
20. of a soft approach.

21. Q Is there such a thing as, in police work, as a  
22. good guy/bad guy approach?

23. A Yes, there is.

24. Q Had you consciously assigned yourself a role in

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this regard?

A As the good guy/bad guy routine?

Q Yes, sir.

A No, sir, I did not.

Q Is it safe to say that you fit the good guy role better than comparatively perhaps, in your technique, than Officer Daniels?

A If we had used that technique, yes, I would have, I assume, been the good guy.

Q Did you or anyone else to your knowledge, sir, obtain the records concerning Jennifer's class schedules for the period of time that she attended ISU and Wesleyan?

A I don't know that we collected her records from Wesleyan. We did collect her records of the classes she was currently enrolled in in a way to find out what time the homicide occurred.

Q I guess more specifically I'm wondering, did you obtain the records of who her fellow classmates were in those classes?

A For the 11 o'clock class, yes, I did. I obtained a seating chart from Dr. Eaton and the class list. From Dr. Brown we obtained a class listing. I believe he was -- just a moment, I'm not sure if it was Dr. Brown or not. The two o'clock instructor, we obtained a class listing of people in

1 that class.

2 Q It came to your attention, did it not, that she  
3 had lived in this community for some years?

4 A I really didn't know at the onset of the  
5 investigation how long she had been living here, sir.

6 Q At some point you found out how long she'd been a  
7 student between ISU and Wesleyan?

8 A Yes, approximately. My understanding she'd been  
9 there about three or four years. She was a senior at ISU.

10 Q Did you not check any further class lists and  
11 fellow classmates beyond the ones that she was scheduled to  
12 take the day she was killed?

13 A Could you tell me what you're referring to? Are  
14 you referring to past semesters?

15 Q The summer, any semester prior to that?

16 A No, we didn't check past semesters, sir.

17 Q So you had no way of checking what persons might  
18 have had multiple classes with her?

19 A No, sir, we didn't go into that.

20 Q Nor any information generated then as to who might  
21 also know her well and could provide information concerning  
22 her associates, things of that nature?

23 A I'm sorry, would you repeat the question?  
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(WHEREUPON THE LAST QUESTION WAS READ  
BACK BY THE REPORTER.)

A The main way we went about finding out who her  
friends were and associates --

Q Excuse me, officer, the answer is yes or no?

A I'm sorry, I didn't understand the question that  
way. Is the question then through class records were we  
able to find out other associates?

Q No. The question was, isn't it true then that you  
didn't have the opportunity to check through such records if  
you didn't get them --

A Well, yes --

Q -- that information?

A That's true. If we didn't get them, then we  
couldn't have checked through them.

Q Did you determine that she belonged to a sorority  
sister -- sorority on campus?

A At one point we were aware she belonged to a  
sorority, yes.

Q Was that at Wesleyan or ISU?

A It was my understanding it was at Wesleyan.

Q That would have been then sometime back?

A Yes.

1 Q Did you gain information as to whether or not she  
2 had joined a sorority at ISU?

3 A No, sir, I did not.

4 Q You don't know then one way or another from your  
5 investigation?

6 A No, sir.

7 Q You had some conversation, you or other officers  
8 in the department, with Vidette personnel, right, the ISU  
9 school newspaper?

10 A I did not have conversations with them, sir.

11 Q Any other officers that did?

12 A Sir, I don't know what other officers would have  
13 had contact with The Vidette. If there's a specific  
14 document you're pertaining to, I'd be happy to look at it.

15 Q No, sir, I'm simply wondering whether anyone in  
16 your department checked with the personnel at The Vidette  
17 newspaper where she worked.

18 A Not that I know of, sir.

19 Q Your investigation did not check into then whether  
20 she socialized with people from there, knew people through  
21 that, those sorts of things?

22 A Well, by talking to her friends, we were finding  
23 out who she was associating with. Nobody else really came  
24 up that she was hanging around with.

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Q At some point I believe you indicated that you told Alan Beaman that he was going to be arrested and you were simply waiting on the results of some lab tests?

A Yes, sir, that's correct.

Q What were those lab tests, sir?

A We were still waiting on DNA results to come back. We still had items that needed to be fingerprinted. At the time, due to the backup at the crime lab, it was taking awhile to get that done.

Q When did those tests come in approximately?

A I would have to guess probably May. I don't know for sure without looking at the dates on the lab reports, sir.

Q Some of those test results didn't even come in until far after the arrest, did they?

A That's very possible, sir.

Q I take it that when the last tests did come in, they showed what's been presented in this courtroom?

A Yes, sir, they did.

Q Was there any significant difference between your statement about lab tests and Daniels' statement about witnesses in Bloomington that was told to Mr. Beaman?

MR. SOUK: Judge, I'm going to object to the form of that question. If he wants to ask the officer if it was a

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true statement --

THE COURT: Objection is sustained.

MR. BEU: No further questions.

THE COURT: Redirect?

MR. SOUK: Yes, thank you, your Honor.

Could we -- I need to show one slide. Maybe we could just do that first.

THE COURT: You want the lights?

MR. SOUK: Yes, please.

(WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

REDIRECT EXAMINATION

BY MR. SOUK:

Q Detective, in response to Mr. Beu's questions, I believe you previously indicated that in doing this mileage chart this was, while it was prepared later, this was based on your mileage runs basically prior to the grand jury, correct?

A Yes, that is correct.

Q And if I could point near the top, there's -- well, the first entry is Sears to the Beaman residence,

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which was a trip home from getting the tires, correct?

A Yes, that's correct.

Q On Tuesday night. And then the next one is Beaman residence to David Olson's residence. Did you have some information that later Tuesday night Mr. Beaman went to a David Olson's house?

A Yes, sir, I did.

Q And then from David Olson's house did he go to work at Sandy Hollow?

A Yes.

Q And up until the grand jury, was it your belief, based on all the statements that he'd given, that he went from Sandy Hollow to Bell Federal, 4.6 miles, and then went from Bell Federal to his -- to his residence where he said he went to bed at 11.7 miles?

A At the time of that preparation, yes, that was my understanding.

Q Now originally after his original statement to Daniels and his first statement to you, you wouldn't even have had the Sandy Hollow/Bell Federal, Bell Federal/Beaman in there, because at that point he hadn't told you about Bell Federal, right?

A That is correct.

Q All right. Now at the grand jury, Mr. Beaman

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1 indicated for the first time that after he left work that  
2 morning, that he went home, went to the bank, and then went  
3 back home and went to sleep, correct?

4 A Yes, that's correct.

5 Q If we did the chart so that that occurred, and I'm  
6 sorry, I'm going to need another slide. If we could have  
7 the one of that route from Sandy Hollow to --

8 A The remote control is over by the -

9 Q Oh, I'm sorry, you don't have the remote control.

10 A It's over by the machine.

11 Q The slide we're now looking at shows -- I'm sorry,  
12 I'm in your way -- shows that route from, as I'm pointing to  
13 it on the slide here, from Sandy Hollow store up to Mr.  
14 Beaman's house, and then the route to Bell Federal, and then  
15 the same route back home, correct?

16 A Yes, sir, that would be shown on the map.

17 Q Okay. If you used the mileages that you have  
18 previously done, the Sandy Hollow to the Beaman residence I  
19 believe was --

20 A 13.8 miles, sir.

21 Q All right. And the distance that you previously  
22 measured from the Beaman residence to Bell Federal was 11.7  
23 miles, correct?

24 A That is correct, sir.

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1 Q So if you took that route in making up the chart,  
2 it would be 13.7 to his home, and then 11.7, plus 11.7 for  
3 the -- for the round trip to Bell Federal, correct?  
4 A That is correct.  
5 Q And that would be basically close to 40 miles as  
6 opposed to what you previously had up there, which is closer  
7 to about 16 miles for that portion, correct?  
8 A That's correct, it would be close to 37, 38 miles.  
9 Q So that would add somewhere in, without being  
10 precise, somewhere in the area of 25 miles or so, correct?  
11 A Yes, ballpark figure.  
12 Q And Mr. Beu had asked you about a Saturday  
13 afternoon trip possibly to the church and back to practice  
14 with the -- with Mr. Olson, who's testified. Was that trip,  
15 even up through the grand jury, the subject of some dispute  
16 or some difference in memories of people as to whether it  
17 actually took place?  
18 A My understanding, yes. It was never really  
19 confirmed.  
20 Q But assuming that it did take place, you  
21 previously had measured that distance from the Beaman home  
22 to the church on the last, on the last entry, correct?  
23 A Correct, 10.7 miles.  
24 Q So that would add basically a round -- another

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1 round trip to the church would add another 21.4 miles,  
2 correct?

3 A 21.4 miles, yes, sir.

4 Q So if those two items were added in there, total  
5 distance traveled would still be under 260 miles basically,  
6 correct?

7 A Yes, sir.

8 Q I'm not going to put the slide back up, but in  
9 your slide of the discussions of the routes that you  
10 measured regarding Mrs. Beaman and her travels and  
11 whereabouts that day, you had included Auburn High School on  
12 that chart, correct?

13 A Yes, sir, I did.

14 Q And you had indicated to Mr. Beu that after May  
15 18th, basically when she first told authorities about this,  
16 that Mrs. Beaman indicated that she went to the grocery  
17 store as her last stop and then went straight home, correct?

18 A Yes, that is correct.

19 Q And that it's approximately a 12 minute or so ride  
20 directly to her home, and she would have been home by 2:15  
21 after leaving the store at 2:03, right?

22 A That's correct, 2:15 is the time she gave.

23 Q In measuring the distances and timing then, if she  
24 had gone directly home from the IGA store to her house, do

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1 you think that's pretty accurate that she would have been  
2 home about 2:15?

3 A Yeah, I think that's fairly accurate.

4 Q In looking at the grocery receipt that was  
5 provided to you, were there certain frozen food items listed  
6 on there?

7 A Yes, sir, there were. If I could see the receipt  
8 again I could be more specific.

9 Q Well, I don't think we need to do that. And in  
10 Mrs. Beaman's grand jury testimony, did she indicate that  
11 she had bought some items for her school lunches starting  
12 the next week?

13 A Yes, she did.

14 Q And did that information have something to do with  
15 your checking out the Auburn school and measuring those  
16 routes?

17 A Yes, that was my reasoning.

18 Q Now in fairness, she has never told anyone that  
19 she stopped at Auburn school. Is that right?

20 A Yeah, that is correct.

21 Q Did you also as part of your investigation at my  
22 request, go to Auburn school and determine whether they have  
23 a refrigerator there, or refrigerator/freezer, or whatever,  
24 for the teachers to use in keeping their lunches and so

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APPENDIX 003188

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forth?

A Yes, sir, I did.

Q And what was the result of that?

A Well, I found out as I stepped in the front door, went to the left, there's a teachers' lounge on the right. Right inside the door, on the right, was a refrigerator for teachers' use.

Q Mr. Beu asked you about your interview with Mr. Swaine, and afterwards making available to him, or referring to him if he needed some counseling services and this sort of thing.

A Yes, he did ask me about that.

Q And you did something of that type for Mr. Swaine?

A Yes, sir, I did.

Q Why did you do that at that time?

A Well, I felt my job as a police officer was more than just trying to find who the suspect was. It was also to help people that might be shaken up about a recent homicide about somebody they cared for. Mike Swaine was obviously shaken. His hands were shaking when I initially got him. He was very upset, and I didn't feel comfortable as a police officer, even as a person, turning this person out the front door when he just found out that somebody he really cared about had been murdered. And therefore, I felt

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1 it was in his best interest to find somebody to do some  
2 counseling with him.

3 Q You indicated the information you'd received in  
4 this investigation did not include evidence from any  
5 witnesses who could verify that prior to the murder that Mr.  
6 Beaman had ever physically hurt Miss Lockmiller. Is that  
7 correct?

8 A That's correct.

9 Q Let me ask you a few more questions about the --  
10 conducting this investigation. First, I think you had  
11 indicated as your own background and experience that you had  
12 had some prior experience as a correctional officer in  
13 another state?

14 A Yes, sir, I did.

15 Q What was that for?

16 A That was the State of Arizona, I worked for the  
17 Department of Corrections.

18 Q And how long did you work out there?

19 A It was approximately eight to nine months.

20 Q And then you relocated here and became a  
21 correctional officer in Champaign County?

22 A Yes, sir. I'm originally from Illinois, moved  
23 back to Champaign, and was hired by Champaign County.

24 Q Then was it 1990 you were hired by the Normal

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Police Department?

A Yes, March 12th of 1990.

Q How soon after you became a uniformed officer were you promoted to detective?

A Approximately 11 months, sir.

Q You've recently -- fairly recently been promoted to sergeant. Is that correct?

A Yes, sir.

Q Does your department have any recent type of certification?

A Yes, sir, we do. We are CALEA certified through the law enforcement accreditation association. We're one of only three departments in the State of Illinois that have met the 500 guidelines to be accredited by the law enforcement accreditation service company. It's commissioned on law enforcement accreditation. There's only about 42 departments nationwide who are CALEA accredited. Ours is one of them.

Q You indicated your department had just two homicides recently?

A Yes, sir, the Lockmiller being the first one, and then another one occurring in August of '94.

Q And you worked on both of those?

A Yes, sir, I did.

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1 Q Other than homicides, does your department handle  
2 a lot of major crime?

3 A Yes, sir, whatever occurs within our city.

4 Q Any of the investigatory techniques that are used  
5 in a homicide used also in other major crimes?

6 A Yes, sir, a lot of them are very standard as far  
7 as protecting a crime scene.

8 Q The people who went in and out of the crime scene,  
9 you mentioned a number of people who were there, including  
10 the chief. Do you know if all of those people went in for a  
11 brief look like yourself, or are you just stating the people  
12 that were standing outside?

13 A I'm stating the people who were present at the  
14 scene. I'm not saying that all of them went into the  
15 apartment.

16 Q And after you got there, to the best of your  
17 knowledge, I believe you previously indicated you went in  
18 there for a very brief look of under a minute, correct?

19 A Yes, sir, I did.

20 Q Did anybody else that you know of do that prior to  
21 the crime scene technician arriving?

22 A I can't say for sure, sir.

23 Q Would anyone have been allowed more than a brief  
24 look like you took until you had your crime scene tech

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there?

A No, sir.

Q Is it part of the training and procedures that you have received as a detective and that's standard practice with your department that when a person is obviously deceased that the scene is not disturbed until the crime scene tech gets there?

A That is correct.

Q In the case where the person is not obviously deceased, I take it sometimes the crime scene would be disturbed because of life saving efforts?

A Of course, if there's any possibility of saving a life, then the body would obviously be removed immediately and all attempts would be made.

Q Mr. Beu asked you about several people who made you aware of a car, presumably one similar to Mr. Swaine's, they might have seen that week?

A Yes.

Q First, you'd indicated the written statement from those witnesses -- I'm sorry, could I get the -- Defendant's Exhibit A, Susan Jenkins, Defendant's Exhibit C, David Singley. Those were two other residents of the building, correct?

A Yes, sir, they lived in Apt. 3 across from where

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Miss Lockmiller was living.

Q You didn't take their formal statements that are contained there, did you?

A No, sir, I did not.

Q Okay. Had you talked to them before?

A Yes, sir, I did.

Q When did you talk to them?

A As I noted earlier, I was the first detective on the scene. I waited at the scene for any neighbors or friends that might have happened by. At that time, David Singley and Susan Jenkins did come onto the scene, and I had occasion to talk to them at that time.

Q How about Lisa Ronsick, Defendant's Exhibit D. She lived in the next building, right?

A Yes, she lived in the building south. I had an occasion to speak with her at her place of employment, which I believe is Tobin's Pizza.

Q Again, was that the day of finding the body?

A No, that was several days after when I spoke to Lisa Ronsick.

Q But her formal statement was taken at a later time by another officer?

A Yes, sir. I did not take her statement.

Q And you also talked to some other residents of the

1 apartment building the same day as the body was found,  
2 didn't you?

3 A Yes, sir, I spoke to the two people that lived  
4 directly below Miss Lockmiller.

5 Q Two young ladies?

6 A Yes, sir.

7 Q Any of the young women you interviewed who lived  
8 in the building have blond hair like Jennifer's?

9 A Not that I know of, sir. No, sir, not long blond  
10 hair.

11 Q The gentleman you testified -- or that you  
12 interviewed who lived there, did he have long dark hair like  
13 Mr. Beaman's?

14 A No, David Singley had short hair.

15 Q In following up your investigation about the  
16 possible sighting of this car, now you've already testified  
17 about checking out Mr. Swaine's alibi at various times,  
18 correct?

19 A Yes, sir.

20 Q In addition to that, did you do anything to  
21 determine whether these witnesses who thought they may have  
22 seen this car, whether they could actually identify it?

23 A Yes, sir, I did.

24 Q What did you do?

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1           A     Detective Warner and myself, after hearing that  
2 they thought they saw Mr. Swaine's vehicle outside, went  
3 throughout the Bloomington/Normal area. First of all, we  
4 went to Michael Swaine's apartment and we took photographs  
5 of the vehicle he was driving, the white Pontiac with the  
6 Subway bumper sticker on the back. We then went to areas  
7 near there and took three other photographs of like  
8 vehicles, same size, same basic dimensions, took a back rear  
9 shot and side shot of four different vehicles, the one Mr.  
10 Swaine was driving being one of those four.

11           Q     And did you, in effect, do a car photo line-up  
12 with the witnesses who thought they'd seen this car?

13           A     Yes, sir, I did.

14           Q     Anybody able to pick it out?

15           A     No, sir. I first went back and showed all four  
16 pictures to David Singley and Susan Jenkins. After looking  
17 at all four photos, they could not identify the vehicle that  
18 they saw on that day. I then took the photos to Tobin's and  
19 showed them to Lisa Ronsick, and she was also not able to  
20 tell us what vehicle she saw that day out of the four she  
21 saw in the pictures.

22           Q     Mr. Swaine previously indicated in his testimony  
23 with me that he drove that car up to Elmhurst. He went with  
24 a person named Kyle Humphrey?

1 A Yes, sir, that's correct.

2 Q Did you interview Kyle Humphrey in connection with  
3 this investigation?

4 A I did not do the interview, but I believe somebody  
5 from our department did, sir.

6 Q You indicated that in response to Mr. Beu's  
7 question that you didn't get Jennifer's class schedules from  
8 prior semesters or that sort of thing?

9 A No, sir, I did not.

10 Q And go back and check out her sorority at Illinois  
11 Wesleyan?

12 A No, sir, we didn't necessarily see a need for  
13 that.

14 Q To the best of your knowledge, you didn't know  
15 whether or not she was in a sorority when she transferred to  
16 Illinois State?

17 A I knew she was in a Wesleyan sorority from talking  
18 to Mr. Swaine, but I didn't know of a sorority she would  
19 have been in at ISU.

20 Q Could you -- I know it may be hard to approximate,  
21 but after getting into the investigation and initially  
22 talking with people who knew her, like Morgan Keefe and  
23 Michael Swaine, did you come up with the names of a number  
24 of people who had known her and had substantial contact with

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APPENDIX 003197

1 her that summer?

2 A Oh, yes, we came up with quite a few people.

3 Q Any -- could you estimate how many people were  
4 interviewed that knew her that summer in connection with  
5 this investigation?

6 A I would guess anywhere from 60 to a hundred people  
7 were interviewed.

8 Q Did you feel that the information you received in  
9 conducting the investigation that way was sufficient for  
10 your purposes?

11 A Yes, sir, I certainly did.

12 Q Now regarding The Vidette, Lori Itano was a person  
13 at The Vidette that was interviewed obviously, correct?

14 A Yes, she was.

15 Q And the consultations that you had with other  
16 departments, for example, the Chicago Police Department in  
17 February, would you tell us why that consultation was done?

18 A Sure. As I mentioned, we only had two homicides  
19 in the City of Normal. I certainly don't claim to be an  
20 expert, and any help that I can get or any other suggestions  
21 that any other department can make that we could follow, I  
22 was more than open for that. And this was a suggestion that  
23 the chief of police for our department suggested. He knew  
24 some people from Chicago. He asked them to send a copy of

1 our case report to them, asked them to read the report, and  
2 then followed up with a later interview -- or meeting with  
3 the Chicago detectives from the homicide division.

4 Q You're not too proud to have your work looked at  
5 by somebody else?

6 A No, sir, not at all.

7 Q After that consultation, were any substantial  
8 suggestions made to you by the Chicago Department for  
9 anything that you had left undone?

10 A No, not necessarily. They commented on the  
11 thoroughness of our investigation, and stated that they  
12 really didn't have any other suggestions that came to mind  
13 immediately that we had not already tried. Their suggestion  
14 to us was to continue to try to talk to Alan Beaman as long  
15 as we could.

16 Q Now in that regard, you indicated that, if you  
17 will, you took the kinder, gentler approach with Mr. Beaman?

18 A Yes, sir, I did.

19 Q And there's already been testimony of several  
20 occasions where he had some problems, if you will, both with  
21 Detective Daniels and later with Lt. Brown, correct?

22 A Yes, sir.

23 Q And you were actually in the room and sort of  
24 involved in the Lt. Brown situation, correct?

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A That is correct.

Q But as you've testified, you were able to reestablish contact with Mr. Beaman and keep talking with him through the winter, correct?

A Yes, sir, I was.

Q The fingerprint system that was mentioned, the Automated Fingerprint System, that's actually a system that is available and works through the Morton Crime Lab, correct?

A It works through the state. The Morton Crime Lab is a facility that can enter into AFIS.

Q You need special equipment to do that, right?

A Yes, you do. To enter that information into AFIS you do need special equipment.

Q And that equipment is available at the Morton Crime Lab where Mr. Dierker works, correct?

A Yes, it is.

Q Also to analyze any information coming out of that system you need a fingerprint expert like Mr. Dierker, don't you?

A That is correct, to determine if the print is good enough to go into AFIS and suitable for AFIS capabilities you would have to have an expert look at it.

Q Based on your contact with Mr. Dierker in this

1 investigation, do you know whether or not he used the AFIS  
2 system?

3 A No, sir, I don't know whether he did or not. It  
4 was my assumption that --

5 MR. BEU: Object to the assumption, your Honor.

6 THE COURT: Objection is sustained as to assumption.

7 Q (By Mr. Souk) You were never made aware whether  
8 that was one of the things that he used?

9 A No, sir, I was not made aware.

10 MR. SOUK: I believe that's all, thank you.

11 THE COURT: Mr. Beu?

12 MR. BEU: Thank you, judge.

13 May I approach, your Honor?

14 THE COURT: You may.

15

16

RE CROSS EXAMINATION

17

18

BY MR. BEU:

19

20

Q Officer, I show you what's been previously marked  
21 as People's Exhibit 2-A which has been identified as the  
22 receipt from Gray's IGA store.

23

A Yes, sir.

24

Q Can you identify any of those items on there as

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1 being frozen goods?  
2 A There's two sections that say meat, a dollar,  
3 ninety-nine, meat, a dollar, ninety-nine, bratwurst, three-  
4 o-eight. There also Dub franks. There's - I'm sorry,  
5 that's not a frozen item, but there is perishable items.  
6 Would that count, sir?  
7 Q First asking about frozen.  
8 A Okay, nothing indicates that it was frozen, but  
9 there are meats.  
10 Q Okay. You can't tell from that receipt whether  
11 they were frozen items or not, correct?  
12 A No, you can't tell whether they're frozen or  
13 refrigerated.  
14 Q At least one of the items that is listed is Brat -  
15 -  
16 A Bratwurst.  
17 Q The others are not listed as to what they are?  
18 A A listing for Dub franks, right here, sir.  
19 Q Okay. So we've got a meat listing up here, right,  
20 once?  
21 A Correct.  
22 Q And then two separate ones here, right?  
23 A That's correct.  
24 Q And then one for bratwurst?

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1           A     That's correct.

2           Q     And then the one you found that I missed for  
3 DuBuque. I suppose that is franks, but you can't --

4           A     It says DuBuque franks.

5           Q     Okay, thanks. Where was the stove in the lounge  
6 in the Auburn school?

7           A     Sir, I was not looking for a stove.

8           Q     Did it cross your mind that a person might not  
9 want to heat frozen bratwurst?

10          A     No, sir, it didn't.

11          Q     Or frozen hot dogs?

12          A     No, sir, it didn't.

13          Q     Or cold hot dogs?

14          A     No, sir.

15          Q     Or a cold bratwurst?

16          A     No, sir.

17          Q     In your investigation, sir, did you question a  
18 Ryan Campbell?

19          A     If I could refer to my report for just a moment.

20          Q     Let me refresh your recollection, a male occupant  
21 of a lower apartment in the building occupied by Jennifer  
22 Lockmiller.

23          A     Yes, sir, I know who Ryan Campbell is, but your  
24 question was, did I interview him, and I would have to refer

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to my report to see if I actually interviewed him.

Q Okay.

A Would you like me to refer to my report?

Q Please do. Why you're looking, officer, whether or not you interviewed him, can you tell us, when you're done there, whether or not you ever met him?

A Yes, I do know that I met Ryan Campbell.

Q I don't need to have you look further.

A Okay.

Q Can you tell us how soon after the 28th of August you met him?

A It would have been the time that I showed the photographs of the vehicle to Lisa Ronsick -- I'm sorry, Susan Jenkins and David Singley.

Q And that was within how long following the 28th, roughly?

A It would have been Sunday, the 29th.

Q Okay. Did you determine, at that time, that Ryan Campbell has long, dark hair?

A I don't recall him having long, dark hair at that time, sir.

Q Do you recall that he didn't?

A Sir, I don't have a clear recollection of exactly what he looked like at that time. I can tell you it was not

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obvious shoulder-length dark hair.

Q Do you recall ever speaking -- whether or not you ever spoke with Ryan Campbell's girlfriend?

A To my knowledge, I don't know that I spoke to Ryan Campbell's girlfriend.

Q In speaking with Miss Ronsick, and Mr. Singley, and Miss Jenkins, they all told you that the white car they described to you was not a car of a resident of Jennifer's building, didn't they?

A That is possible, yes.

MR. BEU: That's all.

THE COURT: Any redirect?

MR. SOUK: Yes, your Honor.

FURTHER REDIRECT EXAMINATION

BY MR. SOUK:

Q For the record, I'm just marking one page out of the grand jury exhibit. It's page 78, has People's Exhibit 85-D on it. And, Officer Freesmeyer, I'd ask you to look at the last question and answer on that page from the testimony of Carol Beaman.

A Yes, sir.

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1 Q Would you tell us what the question she was asked  
2 was and what answer she gave regarding her shopping that  
3 day?

4 A "After going to the grocery store, did you go  
5 straight home?" Her answer, "Yes, there's nothing between  
6 my house and the grocery store, first of all. And secondly,  
7 I had frozen orange juice, two gallons of milk, frozen  
8 lunch- type stuff for me to take to school, and meat."

9 MR. SOUK: Thank you, no further questions.

10 THE COURT: Anything further, Mr. Beu?

11

12 FURTHER RE-CROSS EXAMINATION

13

14 BY MR. BEU:

15

16 Q Was she ever questioned further at that time as to  
17 whether she would typically leave her lunch for a week or a  
18 month at the school, or whether she would take it daily?

19 A Not that I know, sir.

20 MR. BEU: That's all.

21 THE COURT: All right, you may step down, sir.

22

23 A Thank you.

24

(WITNESS EXCUSED.)

1023

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AB018285

APPENDIX 003206

CHARLES G. REYNARD

McLean County State's Attorney

Law and Justice Center  
104 W. Front Street, Room 605  
P.O. Box 2400  
Bloomington, Illinois 61701-2400  
(309) 888-5400

April 17, 1995

Chief James Taylor  
Normal Police Department  
100 E. Phoenix  
Normal, IL 61761

Re: Tim Freesmeyer

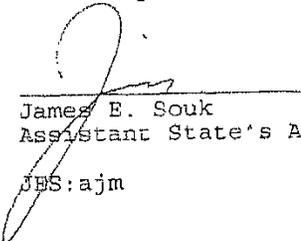
Dear Chief Taylor:

I would be derelict in my duties if I did not write you a separate letter concerning Tim Freesmeyer's performance in the Beaman case.

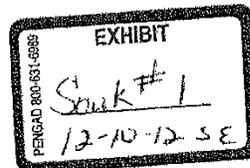
Rather than elaborate on the details, I will simply tell you that Tim's work on this case is the single finest effort by any police officer in any case with which I have been involved during 20 years as both a prosecutor and defense lawyer.

The effort is all the more remarkable considering his relative youth and inexperience. His recent promotion indicates you are already aware of his exceptional ability, but I would not be comfortable without expressing to you officially my great admiration for Tim, both as a person and a police officer. Beyond any question in my mind, this case would not have been won without Tim Freesmeyer.

Sincerely,

  
James E. Souk  
Assistant State's Attorney

JES:ajm



C09785

McLean 002480

**ILLINOIS STATE POLICE**  
 Division of Forensic Services and Identification  
 Bureau of Crime Scene Services

**Crime Scene Report**

			Crime Scene Technician Dean S. Kennedy
Requesting Department Normal P.D.	Requesting Department Case Number C93-4033	B.C.S.S. Case Number G93-1590-9-1	Classification Death Investigation
Date, Time, by Whom Notified (Name) 8-28-93 2:30 p.m. ISP Command Center	Date and Time of Arrival 8-28-93 3:45 p.m. Saturday	Weather Partly Cloudy	Temperature 80° Inside 85° Outside
Evidence Transported to Laboratory See Narrative	Date and Time Received at Laboratory See Narrative	Received by See Narrative	B.F.S. Case Number P93-2654
Evidence Retained by Agency See Narrative	Date and Time See Narrative	Received by See Narrative	Other Laboratory N/A
Photography Yes	Sketch Pending	Latents No	Other Evidence Yes
Victim Jennifer Lockmiller, F/W, DOB 1-11-71 412 Main Street, Apartment #4 Normal, Illinois			

On 8-28-93, Saturday, at approximately 2:30 p.m., Crime Scene Technician Dean Kennedy was notified by the ISP Command Center that the Normal Police Department was requesting assistance in reference to a death investigation.

At approximately 3:45 p.m., CST Kennedy arrived at the scene located at 412 Main Street, Apartment #4, in Normal, Illinois, and met with Detective Tim Freesmeyer, McLean County Coroner Dan Brady and other members of the coroner's office and Normal Police Department.

The scene was a two-story frame apartment building containing four (4) apartments. The main entrance to the apartment building was on the south side of the first floor. The main entrance opened into a split stairway which led to the main floor and second floor. An exterior door was located at the north end of the second floor hallway. This door was unlocked.

Page	Crime Scene Technician	I.D. Number	Date
1 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355	9-3-93

IL 493-0343

ISP 5-219 (5/89)

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Crime Scene Report

The victim's body was found in Apartment #4, which was on the west end of the second floor. The door to Apartment #4 was open. Det. Freesmeyer stated that a friend who came over to check on the victim found the apartment door unlocked upon her arrival. No signs of recent forced entry were visible. The door and door frame had what appeared to be old damage from previous entries. Some fresh marks on the inside of the door frame appeared to be from the dead bolt lock being left in the lock position when the door was closed. A maintenance person from the apartment complex examined the door and advised that the damage had been there previously.

A window in the kitchen was open with no sign of forced entry visible. A window screen to the aluminum storm window was torn at the bottom and was out of the track. The curtains on the window were closed and did not appear disturbed.

Two (2) windows in the northwest bedroom were open with no signs of forced entry visible. The screens on both windows were in place. The curtains on both windows were closed.

The entrance door to Apartment #4 led into a short hallway. A gold-colored hoop-type earring was lying on the floor approximately 3' inside the door. The hallway led west into the apartment. The bedroom and bathroom were located off the north side of the hallway. The living room was located at the west end of the hallway and the kitchen was located off the south side of the hallway.

A red shoe was lying in the hallway outside the bedroom door. A gold-colored hoop-type earring similar to the earring by the entrance door was found on the bathroom floor. A clump of dark-colored hair was also found on the bathroom floor.

Dirty dishes were in the kitchen sink. The left cabinet door under the kitchen sink was open. A plastic garbage can which had apparently been under the sink was lying on its side in front of the cabinet. A garbage bag which may have been taken out of the trash can was found on the living room sofa filled with trash. A table was located along the south wall of the kitchen. A word processor, school books, and various notebooks belonging to the victim were found on the table. Two (2) book bags and the victim's purse were found at the west edge of the table. The book bags and purse were stacked on top of each other, with the purse in the middle. The purse and book bags were closed and did not appear to have been gone through. The purse contained a green ID holder with the victim's driver's license and other identification, a brown wallet with \$17.71 in U.S. currency and change, various credit cards, and other personal effects. The green ID holder and contents were retained by Coroner Brady.

The living room was located west of the kitchen. A television and air conditioner in the living room were on. A table on which a telephone and an answering machine were located was along the north wall of the living room. The tapes from the answering

Page	Crime Scene Technician	I.D. Number	Date
2 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355	9-3-93

IL 493-0342

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Crime Scene Report

machine were retained by Officer Dave Warner of the Normal Police Department. A pink note pad was next to the telephone. Several phone books and a black address book were found under the table.

A television was on a table at the west end of the living room. A shoe box filled with letters was also on the table. A small basket containing small wooden boxes and pipes appearing to be drug paraphernalia was next to the television on the table. The sofa was located at the east end of the living room. A set of keys was on a table in front of the sofa. The previously-mentioned trash bag was on the sofa. A round indentation approximately 2" in diameter was observed at the east end of the north living room wall. The indentation was approximately 5' from the floor.

The bedroom was located in the northwest corner of the apartment. The bedroom door was open. A desk calendar was lying on the floor about 3' west of the doorway. A hole approximately 10" in diameter was present in the south wall of the bedroom. Maintenance personnel from the apartment complex advised that the hole had been made previously. A laundry basket filled with clothes, a desk, a chest of drawers and a twin bed were along the south wall of the bedroom. A chest of drawers was along the west wall. A lamp on top of the chest of drawers along the west wall was on. A bunk bed and a desk were along the north wall of the bedroom. A curling iron on top of the desk was on. The sliding doors to a closet on the east wall of the bedroom were open. Several clothing items, including a nightshirt, were on the floor in front of the closet. The victim's body was on the floor between the beds. The victim's body was in a supine position, with the head toward the north and the legs toward the south. The victim was wearing a red and white floral top and bra which were pushed up, exposing the chest. The body was nude from the chest down, and a pair of blue jean shorts with a brown belt and light-colored underpants were around her left calf and ankle. A red shoe similar to the shoe found in the hallway outside the bedroom door was on the victim's left foot. A gold-colored ring with a reddish stone was on the victim's left ring finger. The victim's arms were extended almost straight out from the shoulders. The legs were spread apart and bent at the knees, with both feet extended back toward the head. The body was bloated and discolored from the effects of decomposition. A pair of scissors with red plastic handles was embedded in the center of the victim's chest. Three (3) other defects were noted in the skin on the victim's chest which had apparently been made with the scissors. A clock radio was on the floor east of the victim's head. The cord from the clock radio was wrapped around the victim's neck and tied in the front of the neck. A box fan was resting across the victim's chest against the handle of the scissors. The other end of the box fan was on the bed next to the victim's head.

CST Kennedy photographed the scene.

CST Kennedy obtained measurements for use in making a crime scene drawing. A computerized sketch will be completed at a later date.

Page	Crime Scene Technician	I.D. Number	Date
3 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355	9-3-93

IL 493-0342

ISP 8-218 (11/69)

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Crime Scene Report

CST Kennedy utilized the alternate light source on the victim's body and the area surrounding the body while at the scene.

The following item was collected, packaged, and marked as reflected on the evidence receipt:

Exhibit #21 Sealed box containing hair removed from victim's pubic region at scene.

CST Kennedy cut the cord from the clock radio found next to the victim's head. The victim's body was placed into a white sheet and then into a body bag and sealed by CST Kennedy. The victim's body was removed from the scene by the McLean County Coroner's Office at approximately 7:00 p.m., and transported to the McLean County Morgue in Bloomington, Illinois.

CST Kennedy utilized the electrostatic dust print lifter on the bathroom floor, kitchen floor and desk calendar found on the bedroom floor with negative results.

CST Kennedy processed the scene for items of evidential value which were collected, packaged and marked as reflected on the evidence receipt:

- Exhibit #1 Word processor "WP-2200" found on kitchen table.
- Exhibit #2 Word processor manual found on kitchen table.
- Exhibit #3 Shoe box containing letters found on table at west end of living room.
- Exhibit #4 Box containing papers and letters found under south bed in northwest bedroom.
- Exhibit #5 Papers and photographs found on south chest of drawers and inside north side desk in northwest bedroom.
- Exhibit #6 Eight (8) 3.5" floppy computer diskettes found in drawer of south side desk in northwest bedroom.
- Exhibit #7 Purse and contents found on kitchen table.
- Exhibit #8 Sealed bag containing cardboard tag removed from outside entrance doorknob - Apartment #4.
- Exhibit #9 Sealed bag containing note pad found next to phone in living room.

Page	Crime Scene Technician	I.D. Number	Date
4 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355 142	9-3-93

IL 493-0342

ISP 6-216 (11/89)

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Crime Scene Report

- Exhibit #10 Sealed bag containing keys and key ring found on table in front of living room sofa.
- Exhibit #11 Sealed bag containing address book found under telephone table - north wall of living room.
- Exhibit #12 Sealed bag containing small basket with pipes and wooden boxes inside (apparent drug paraphernalia) found on table - west end of living room.
- Exhibit #13 Sealed bag containing red shoe found in hallway between bedroom and bathroom.
- Exhibit #14 Sealed bag containing two (2) gold-colored earrings - one (1) found in hallway near entrance door and one (1) found on bathroom floor.
- Exhibit #15 Sealed box containing blue/white/yellow ceramic piece, approximately 1/4" in diameter, possibly part of an earring (found on floor 3' east of victim's body).
- Exhibit #16 Sealed bag containing keys and key ring found on desk in northwest bedroom - key ring included small container with tiny sea shells.
- Exhibit #17 Sealed bag containing five (5) prescription medications found in north side desk drawer - northwest bedroom.
- Exhibit #18 Sealed bag containing two (2) boards with reddish stain found on top of south side desk - northwest bedroom.
- Exhibit #19 Sealed bag containing multi-colored comforter, black fitted sheet and pillowcase from north side bed, bottom bunk - northwest bedroom.
- Exhibit #20 Sealed bag containing black fitted sheet from south side bed - northwest bedroom.
- Exhibit #22 Sealed envelope containing clump of dark-colored hair found on bathroom floor.
- Exhibit #23 Sealed bag containing clock radio found next to victim's body - electrical cord from clock radio tied around victim's neck.

Page	Crime Scene Technician	I.D. Number	Date
5 of 9	Dean S. Kennedy <i>AS</i> rb	3355	9-3-93

IL 493-0342

ISP 6-218 (11/89)

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**ILLINOIS STATE POLICE**  
 Division of Forensic Services and Identification  
 Bureau of Crime Scene Services

G93-1590-9-1  
 B.C.S.S. Case Number

C93-4033  
 Requesting Agency Case Number

**Crime Scene Report**

CST Kennedy processed the scene for latent finger and palm print impressions; however, no identifiable latent prints were developed.

CST Kennedy departed the scene at approximately 10:20 p.m., and proceeded to the Normal Police Department.

At approximately 10:55 p.m., while at the police department, CST Kennedy receipted Exhibits #1 through #6 to Det. Freesmeyer. Exhibits #3 through #5 were examined by Normal detectives. Items found useful for the investigation were removed and will be given separate exhibit numbers by the Normal Police Department.

CST Kennedy departed the police department at approximately 11:05 p.m.

On 8-29-93, Sunday, at approximately 8:50 a.m., CST Kennedy arrived at the McLean County Morgue in Bloomington, Illinois, and met with Dr. Sharon Schnittker, Medical Assistant Bill Belcher, and Normal Police Officer Dave Warner.

The victim's body was removed from the body bag and appeared to be in the same general condition as when last seen by CST Kennedy at the scene. The only difference noted was a small defect in the victim's side where Dr. Schnittker had inserted a probe to get a liver temperature reading. The defect was circled with a black marker.

An autopsy was performed by Dr. Schnittker which will be the subject of a separate report by Dr. Schnittker.

CST Kennedy photographed the autopsy.

While at the autopsy, CST Kennedy received the following items from Dr. Schnittker:

- Exhibit #24 Sealed bag containing red and white floral top from victim (received from Dr. Schnittker at autopsy).
- Exhibit #25 Sealed bag containing blue jean shorts and belt from victim (received from Dr. Schnittker at autopsy).
- Exhibit #26 Sealed bag containing bra removed from victim (received from Dr. Schnittker at autopsy).
- Exhibit #27 Sealed bag containing underpants removed from victim (received from Dr. Schnittker at autopsy).
- Exhibit #28 Sealed bag containing paper bag removed from victim's right hand (received from Dr. Schnittker at autopsy).

Page	Crime Scene Technician	I.D. Number	Date
6 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355	9-3-93

IL 493-0342

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ISP 5-218 (11/89)

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Crime Scene Report

- Exhibit #29 Sealed bag containing paper bag removed from victim's left hand (received from Dr. Schnittker at autopsy).
- Exhibit #30 Sealed bag containing white sheet removed from victim's body (received from Dr. Schnittker).
- Exhibit #31 Sealed bag containing plastic bottle with portion of spleen (received from Dr. Schnittker).
- Exhibit #32 Sealed box containing Evidence Collection Kit (ISPECK) (received from Dr. Schnittker).
- Exhibit #33 Sealed envelope containing hair from right upper quadrant of abdomen (received from Dr. Schnittker).
- Exhibit #34 Sealed envelope containing blue and white particle from pubic hair (received from Dr. Schnittker).
- Exhibit #35 Sealed envelope containing hair from right anterior thigh (received from Dr. Schnittker at autopsy).
- Exhibit #36 Sealed envelope containing hairs and fiber from left breast area on nipple and blouse (received from Dr. Schnittker).
- Exhibit #37 Sealed envelope containing fiber from handle of scissors (received from Dr. Schnittker).
- Exhibit #38 Sealed envelope containing pink lighter found in sheet from victim's body (received from Dr. Schnittker).
- Exhibit #39 Sealed box containing electrical cord removed from victim's neck (received from Dr. Schnittker).
- Exhibit #40 Sealed bag containing red shoe removed from victim (received from Dr. Schnittker at autopsy).
- Exhibit #43 Sealed bag containing red plastic-handled scissors removed from victim's chest (received from Dr. Schnittker at autopsy).

CST Kennedy obtained inked finger and palm prints from the victim which were packaged and marked as reflected on the evidence receipt:

Page	Crime Scene Technician	I.D. Number	Date
7 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355	9-3-93

IL 493-0342

ISP 6-218 (11/80)

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Crime Scene Report

Exhibit #41 Sealed envelope containing inked finger and palm print cards obtained from victim at autopsy.

While at the autopsy, CST Kennedy received the following item from Coroner Dan Brady:

Exhibit #42 Sealed envelope containing inked fingerprint card marked Jennifer L. Lockmiller, F/W, DOB 1-11-71 (received from Coroner Dan Brady).

The gold-colored ring with a reddish stone from the victim's left hand was retained by Coroner Brady.

Exhibit #7 was receipted to Coroner Brady at 2:00 p.m.

CST Kennedy departed the McLean County Morgue at approximately 2:20 p.m., and proceeded to the Normal Police Department.

At approximately 2:40 p.m., CST Kennedy arrived at the Normal Police Department and met with the Normal Detective Division, chief of police and the McLean County state's attorney.

At approximately 3:30 p.m., CST Kennedy departed the police department and returned to the scene at approximately 3:40 p.m., along with the state's attorney and Normal detectives. The scene was re-entered; however, no further items were collected by CST Kennedy. CST Kennedy departed the scene at approximately 4:30 p.m.

The exposed photographic film was mailed to the Bureau of Crime Scene Services Photo Lab in Springfield, Illinois. Upon receipt, the photographs will be forwarded to the Normal Police Department. The negatives will be maintained in the crime scene case file.

On 8-30-93, Monday, at approximately 3:25 p.m., CST Kennedy receipted Exhibits #18 through #22, #24 through #37 and #40 to Forensic Scientist Patricia Orr at the Morton Forensic Science Laboratory. Exhibits #23 and #41 through #43 were receipted to Forensic Scientist John Dierker.

On 9-1-93, Wednesday, at approximately 9:30 a.m., CST Kennedy receipted Exhibit #17 to Coroner Dan Brady at the McLean County Coroner's Office in Bloomington, Illinois. At approximately 9:35 a.m., while at the coroner's office, CST Kennedy received the following item from Coroner Brady:

Exhibit #44 Sealed container with bone from Jennifer Lockmiller, removed by Dr. Schnittker (received from Coroner Dan Brady).

Page	Crime Scene Technician	I.D. Number	Date
8 of 9	Dean S. Kennedy <i>[Signature]</i> rb	3355	9-3-93

IL 493-0342

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ISP 0-218 (11/89)

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**ILLINOIS STATE POLICE**  
Division of Forensic Services and Identification  
Bureau of Crime Scene Services

G93-1590-9-1

B.C.S.S. Case Number

C93-4033

Requesting Agency Case Number

**Crime Scene Report**

CST Kennedy departed the coroner's office at approximately 9:50 a.m., and proceeded to the Normal Police Department.

At approximately 10:15 a.m., while at the police department, CST Kennedy receipted Exhibits #8 through #16, #38 and #39 to Detective Frank Zayas.

CST Kennedy departed the police department at approximately 10:30 a.m.

On 9-1-93, Wednesday, two (2) sets of inked fingerprints of the victim from Exhibit #41 were mailed to the Bureau of Identification in Joliet, Illinois.

On 9-2-93, Thursday, CST Kennedy receipted Exhibit #44 to Forensic Scientist Patricia Orr at the Morton Forensic Science Laboratory.

Page	Crime Scene Technician	I.D. Number	Date
9 of 9	Dean S. Kennedy <i>DK</i> rb	3355	9-3-93

IL 493-0342

ISP 6-218 (11/89)

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(Whereupon the Assistant State's Attorney informed the Grand Jury of its rights pursuant to Illinois Revised Statutes.)

July 7, 1994

TIMOTHY JOHN FREESMEYER

having been first duly sworn, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MR. SOUK:

Q Detective Freesmeyer, remind you you're still under oath from your testimony earlier today in the grand jury in another case. For the record, would you state your name?

A Yes, Timothy John Freesmeyer.

Q Are you same Detective Freesmeyer who previously testified in this case, People versus Alan Beaman before the grand jury last week?

A Yes I am.

Q Now I want to first go over the crime scene that relates to the murder of Jennifer Lockmiller,

126

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Q I want to go now to some alibi evidence. First as to Michael Swaine, before we get into his alibi, first let me ask you if your investigation revealed any conceivable motive that Michael Swaine might have had to kill Jennifer Lockmiller?

A No. Michael was the present boyfriend. When we picked him up at the scene, extremely remorseful, crying and sobbing. We were able to find no motive whatsoever.

Q We'll get into Mr. Beaman's motive at the end today, but other than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller?

A No, not necessarily.

Q Perhaps the best thing is why don't you just summarize for us Mr. Swaine's alibi and how you were able to establish it?

A In speaking with Mr. Swaine, I asked him where he was that week. He stated he was working at York Community High School which is in Elmhurst, Illinois. It's his old high school. He works there every summer in the book store as a buy back person for books. That particular week, he was working under the

172

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However, considering the phone calls, if she would have left her mother's residence at 10:00 o'clock, she would have been home by 10:17. She could have made the calls at 10:37 and 10:39. Left the house and arrived back at Walmart at approximately 10:57 or 11:00 o'clock. Give her 10 minutes to go into three different departments at Walmart and check out. It would be rushed, but it would be possible.

Q And again, this was one of those rare occasions when you were driving the speed limit?

A That is correct.

Q Now did you also on two occasions do the same kind of timing from Bell Federal to the Beaman residence?

A Yes I did.

Q On one of those occasions, did you basically drive it through town?

A I drove the most direct route and I also drove what I thought to be the fastest route, the two most logical ways to get to the Beaman residence from Bell Federal.

Q On both those occasions, did you drive the speed limit?

A Yes. The trip through town, I drove the

speed limit and I drove it on a Wednesday afternoon at approximately 10:00 o'clock, so it would be very comparable to the time that Mr. Beaman would have driven that route.

Q How long did that trip take going through town?

A That trip took me 30 minutes. If he had left the bank at 11 minutes after 10:00, he'da gotten home at 10:41. The calls were made at 10:37 and 10:39.

Q When you drove it the other way, did you-- from Bell Federal, if you go a couple miles south, do you get to this Route 20 going around the south side of town?

A Yes. Bell Federal is on the corner of Newburg and Alpine. If you take Alpine straight south to 20 and around, that would be probably the quickest route to Mr. Beaman's residence, and that took me 25 minutes. So once again 25 added on to the 10:11 would put me there at 10:36. The calls were at 10:37 and 10:39.

Q Did you drive from Bell Federal to Jennifer's apartment on one occasion exceeding the speed limit?

A Yes I did.

238

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thing he told me is that he'll never be able to watch Basic Instinct with me." And I asked her, I'm unfamiliar with the movie Basic Instinct, so I asked her what's the significance there. And she says, "well in the movie, the man and the woman are having sexual intercourse, and the woman reaches back and grabs an icepick and stabs her partner." Shortly after that, I rented the movie Basic Instinct to satisfy my curiosity. The movie is all about a woman who, while she's having sex with the man, would grab an icepick and stab him numerous times in the upper chest and neck area.

Q What was significant about that or what came up in her conversation with Mr. Beaman relating to Basic Instinct?

A What was significant was, she indicated that at one time, Alan had told her that he and Jennifer were having sex and Jennifer reached back as if she was grabbing something. That spurred the comment that "I can never watch Basic Instinct with you."

Q At the time of the murder and throughout the school year, would you describe Alan Beaman's appearance as far as his hair and so forth?

A Alan's appearance, he's not a real big man.

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He's maybe 120 pounds. Stands about 5'7", 5'8" maybe. He has long dark hair. He's loosing his hair on top. He had a goatee and mustache. I'm sorry, a beard and mustache. Usually wore old faded blue jeans with the holes in the knees. He would wear old black zip up the side boots. He was a hippie basically. He dressed in a grunge hippie style. He was a theater major. And if that says anything, he dressed like a theater major.

Q Would it be true that Jennifer was a very short girl and had markedly blonde hair?

A Yes. Jennifer was very blonde. She was about 5', 5'1" I think from my best recollection.

Q Prior to the arrest of Alan Beaman, had his photograph ever been in any newspaper or accounts in this matter?

A No, not prior to his arrest, it was not.

Q Once he was arrested, was his picture basically showing him with that appearance and the long brown hair, was that in the Pantagraph here locally?

A Yes. That was his arrest photo and it was shown in the Pantagraph and also on most of the TV stations in the area.

Q Subsequent to that being in the paper, did you receive some communication from and eventually

July 14, 1994

TIMOTHY JOHN FREESMEYER

having been first duly sworn, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MS. HOMENY:

Q Would you state your name please?

A Timothy John Freesmeyer.

Q You're continuing your testimony before the grand jury from last week in the Beaman case, correct?

A Yes, that's correct.

Q Would it be correct that the court ordered overhears that were previously mentioned included two conversations that were overheard on the 8th and the 15th of September of '93 between Michael Swaine and Alan Beaman?

A That's correct.

Q Did you eventually have a copy of the taperecordings of those two conversations?

A Yes I did.

Q Were transcripts made, written transcripts made of those?

A Yes they were.

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BEHAVIORAL CRIMINOLOGY *International*

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August 17, 2015

Mr. Locke E. Bowman  
Roderick and Solanage MacArthur Justice Center  
Northwestern University School of Law  
375 East Chicago Avenue  
Chicago, IL 60611

Re: *Alan Beaman v. Tim Freesmeyer, et al.*  
**In the Circuit Court for the Eleventh Judicial Circuit  
McLean County, Illinois**

**Assignment**

I was asked to review relevant materials and offer opinions regarding the propriety of the defendants' investigation into the murder of Jennifer Lockmiller and address whether the investigation conducted by the defendants was consistent with reasonable police practices. This report may be amended upon review of additional material.

**Background and Experience**

I have been professionally involved in violent crime investigations for more than 40 years including 25 years as an FBI Agent. In that capacity, I investigated violent crimes as a field agent for approximately 17 years and then was promoted and transferred to the FBI Academy in Quantico, Virginia as a Supervisory Special Agent where I worked in the National Center for the Analysis of Violent Crime (NCAVC). There I was assigned to the operational wing of the Behavioral Science Unit where my primary responsibility was to provide expertise in investigative

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agents as well as to any law enforcement agency around the world that requested FBI assistance. My other responsibilities included conducting research into violent and sexually violent crimes and offenders and providing training to law enforcement agencies nationally and internationally.

I have investigated more than 1,000 homicide cases and numerous rape cases, (including serial rapes), and other sex crimes nationally and internationally. Included among the agencies whom I have trained and/or worked with on violent crime investigations are the following: The New York City Police Department, The New York State Police, The Texas Rangers, The Boston Police Department, The King County Police in Seattle, The Florida Department of Law Enforcement, the California Attorney General's Office, Georgia Bureau of Investigation, The Massachusetts State Police, The Kansas City Missouri Police and the Maricopa County Sheriff's Office in Arizona. Included among the international agencies with which I have worked cases and/or provided training are the following; The Cuerpo Nacional De Policia in Spain, The Policia Judiciare in Portugal, The Hungarian National Police, Budapest Homicide, The French National Police, Scotland Yard, The Dutch National Police, Oslo Police Homicide, The Seguridad Publica in Costa Rica, The Belize Police Department, The Royal Bahamas Police Force, The Metropolitan Toronto Police, The Ontario Provincial Police, The Royal Canadian Mounted Police, The Austrian Federal Police, the Carabinieri in Italy and serial murder task forces in Australia and Canada. I have testified before select Senate Committees on Sexual Violence in New York State and Massachusetts. My formal education includes a Bachelor's degree from Ithaca College and a Master of Arts degree in Psychological Services from Marymount University. I currently teach graduate-level courses in forensic psychology and criminal justice at Marymount University in Arlington, Virginia and DeSales University in Pennsylvania. I have co-authored an article on stalking,<sup>1</sup> was a contributing author to the FBI's *Crime Classification Manual*,<sup>2</sup> and contributed a

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<sup>1</sup> Wright, J.A., Burgess, A.G., Burgess, A.W., Laszlo, A.T., McCrary, G.O., Douglas, J.E., (1966) *A Typology of Interpersonal Stalking*; Journal of Interpersonal Violence, (11), (4) 487-501

<sup>2</sup> Douglas, J., Burgess, A.W., Burgess, A.G., Ressler, R.K. (Eds.). (1992) *Crime Classification Manual: A Standard System for Investigating and Classifying Violent Crimes*. New York: Lexington Books,

C10003 2

chapter to the book *Criminal Investigative Failures*.<sup>3</sup> I serve on the editorial review board of two professional journals, *The Journal of Aggression and Violence* and *The Journal of Family Violence*.

### **Executive Summary**

Ms. Jennifer Lockmiller, a student at Illinois State University, was murdered inside the apartment in which she resided in Normal, Illinois on Wednesday, August 25, 1993. Her body was discovered on Saturday, August 28, 1993. Alan Beaman and Michael Swain had been intimately involved with Ms. Lockmiller that summer and their fingerprints were found at the crime scene along with other latent fingerprints that remain unidentified. Upon determining that a homicide has occurred, the next phase of an investigation requires an objective consideration of all potential motivations based on method and manner in which the crime was committed, the physical and behavior evidence at the crime scene, and through a thorough victimology. Exploring all reasonable motivations is critically important to both accurately classifying the crime and obtaining a successful solution. A clear understanding of "why" is the best way to get to "who." In this case investigators prematurely concluded that Ms. Lockmiller was killed in a fit of jealous rage while ignoring other possibilities, such as having been the victim of a burglary or a rape. This led them to immediately focus on Mr. Beaman who happened to have broken up with Ms. Lockmiller earlier that summer. By intentionally creating this false narrative, the investigators moved prematurely from an evidence-based investigation to a suspect-based investigation.

There was no physical evidence, no eyewitnesses and certainly no confession that linked Mr. Beaman to this crime, while there were numerous facts that substantially weighed against his involvement. However, the defendants chose to believe he was guilty and the record clearly shows that they set out to prove that he committed the murder in spite of their protestations of being objective.

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<sup>3</sup> Rossmo, K. (Ed); *Criminal Investigative Failures*: 2009, Taylor and Francis Group  
Boca Raton, FL

C10004

## Overview of This Homicide Scene and Investigation

At approximately 2:00PM Saturday afternoon, August 28, 1993, Morgan Keefe, a friend of Ms. Jennifer Lockmiller's, discovered her body in the victim's unlocked apartment at 412 North Main Street in Normal, Illinois. Ms. Lockmiller's apartment was one of four apartments in the building and was located upstairs in the building. Ms. Lockmiller's body was found in her bedroom, supine, with her legs spread and knees bent so that her lower legs were underneath her. Her shorts were around her left ankle, her underwear around the left knee and her blouse and bra were pushed up exposing her breasts. She had a shoe on her left foot and a matching shoe was located outside the bedroom door. One earring was found inside the door to her apartment and another near her bedroom. The victim was virtually naked. Lividity was set and consistent with the position in which the body was found. A light on top of a dresser in the bedroom was on and a floor fan was resting on her upper torso partially covering her face. The offender(s) strangled her with the cord attached to a clock radio and left the cord knotted around her neck. After she was dead the offender(s) stabbed her several times in the upper torso leaving a pair of scissors embedded in her chest with the handles protruding. The victim's purse was sitting on a table and did not appear to have been disturbed. While nothing of value seemed to be missing it is important to keep in mind that when the victim is a known drug user, as in this case, that illegal drugs may be missing, but understandably unreported. The air conditioning and TV were on. Crime scene and autopsy photos show post-mortem stab wounds around the victim's left breast and a peri-mortem abrasion on the inside of her right knee.<sup>4</sup> Overall, the scene suggested a struggle between the victim and the offender which may have begun near the door where her earring was found on the floor.

Forensic Pathologist Dr. Sharon Schnittker, who was present at the crime scene and performed the autopsy, thought it was possible that the victim had been

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<sup>4</sup> Photos 16764\_003A; 16764\_005A; 16766\_016; 16767\_008 - 010; 16763\_004; Autopsy Report of Ms. Lockmiller by Dr. Schnittker; Grand Jury testimony of Tim Freesmeyer Pg. 825-839

C10005 4

sexually assaulted based on the position of the body and the position of her clothing, so she performed a sexual assault examination on the victim. She reported that due to the advanced state of decomposition it was not possible to determine whether or not the victim had sustained any vaginal or anal trauma. Officials involved in this homicide investigation never asked Dr. Schnittker for her opinion regarding the possibility that Ms. Lockmiller had been sexually assaulted.<sup>5</sup>

Detective Timothy Freesmeyer responded to the scene with a video camera and other equipment. After conducting a perimeter search of the apartment building, Detective Freesmeyer spoke with Liza Everett and Lori Solomon who lived in apartment #2, directly below the victim's apartment. They reported being slightly acquainted with the victim who they described as a white female with long blond hair, approximately 5'3" – 5'4", weighing about 110-120 lbs. They described Ms. Lockmiller as a "partier" who stayed up late and whose style of dress was somewhat like a 1960s "hippie" in an "almost sleazy" way. They reported smelling marijuana coming from her apartment on more than one occasion. They described the victim's boyfriend as having long brown hair and driving a small grey car, possibly a two-door Ford Escort. Both witnesses seemed to recall arguments between the long-haired male and the victim per Detective Freesmeyer's report.<sup>6</sup>

Detective Freesmeyer also spoke with David Singley and Susan Jenkins who resided in apartment #3, next door to the victim. They advised that they saw the victim on Tuesday, August 24, 1993 about 1:30PM, walking outside of the apartment building. She was wearing a light blue top and dark shorts. On Friday, August 27, 1993, the day before the body was discovered, Ms. Jenkins knocked on the door to the victim's apartment and heard the volume on the TV go down but no one answered her knock. David Singley told police that he saw a white car parked in the driveway at around 2:00PM when he returned from class on Wednesday, August 25,

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<sup>5</sup> Affidavit of Dr. Sharon Schnittker, Appendix Exhibit C: AB015277-78 and Autopsy Report of Ms. Lockmiller A93-172

<sup>6</sup> Report of Detective Freesmeyer in case C93-4033; AB004371

C10006

the victim's apartment and heard the volume on the TV go down but no one answered her knock. David Singley told police that he saw a white car parked in the driveway at around 2:00PM when he returned from class on Wednesday, August 25, 1993. In a subsequent interview with Detective Hospelhorn, Mr. Singley reported that when he entered the apartment building on August 25, 1993 around 2:00PM, he heard the door to Ms. Lockmiller's apartment open and close quickly and her stereo playing inside her apartment. He also reported that the window air-conditioning unit was not running in Ms. Lockmiller's apartment at the time, which he thought was odd because it was such a hot day. Approximately 5-10 minutes after he entered his apartment he heard the door to the Ms. Lockmiller's apartment slam shut and someone leave quickly. Shortly after that he left his apartment to go to a swimming pool and returned around 4:30-4:45PM that afternoon and left again around 5:15PM to return to the pool. At that time he noted that Ms. Lockmiller's window air-conditioning unit that had not been running at 2:00PM was now running and that the stereo that had been playing earlier was now off and that the TV in her apartment was on instead.<sup>7</sup>

Morgan Keefe, the friend of Ms. Lockmiller's who found her body, was interviewed around 4:00PM on August 28 by Detectives Warner and Daniels. They went to a movie Tuesday evening, August 24, 1993. Keefe and Lockmiller were supposed to go out together Wednesday night, but Ms. Keefe advised that Ms. Lockmiller did not answer her calls so she went out with other friends. She tried repeatedly to contact Ms. Lockmiller over the next few days without success, became concerned and went to her apartment on Saturday, when she discovered her body. She mentioned Alan Beaman, Mike Swain and "Bubba" (Stacy Gates) as boyfriends or former boyfriends of Ms. Lockmiller. In recounting her recent time with Ms. Lockmiller she advised that they had been out at Spanky's bar the previous Saturday evening along with her friend Kelly Hamburg. They left the bar to go to another and met two males along the way who were thinking about pledging Kelly's

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<sup>7</sup> Transcript of interview with David Singley AB002436-2467

C10007

met another guy at the bar who bought her four or five drinks. She does not know his name, but knows that he lives in Woodstock, Illinois. She thinks he called Ms. Lockmiller and asked her if she would like to go out and Ms. Lockmiller's response was, "I can't believe he called me and wanted to go out". Ms. Keefe characterized Ms. Lockmiller as "kind of the queen of scamming drinks off of guys. Kind of flirts, you know, and whatever and he bought her a bunch of drinks and then he suggested going to a party afterwards... but Jen didn't want to go. She just basically wanted drinks off of him and then we walked off."<sup>8</sup> In her 911 call to authorities she asserted that, "I know who did it too. She had a psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door."<sup>9</sup>

On August 28, 1993, Michael Swaine, who was sharing the apartment with the victim at that time, was handcuffed and taken to the police department and interviewed. He explained to the police that he and the victim had been seeing each other behind her old boyfriend's back. He identified Alan Beaman as the victim's old boyfriend, noting that he and Alan Beaman were close friends and had been roommates.

Mr. Swaine told police that he wanted to avoid becoming too involved with Jennifer because of her heavy alcohol use. When asked about Mr. Beaman, Mr. Swaine reportedly told Detective Freesmeyer that, "it was hard to say anything about him without making him seem really evil." Mr. Swaine stated that Mr. Beaman gets really jealous when he thinks that something is going on. He recalled an incident within the last two months when Mr. Beaman broke down the door to the victim's apartment to get in and punched holes into the wall of the victim's apartment. Mr. Swaine told police that Mr. Beaman went to Ohio at the end of July to disengage from the relationship with the victim. Mr. Swaine further noted that the victim told him that Mr. Beaman told her that he was over her and did not love

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<sup>8</sup> Interview of Morgan Keefe by Normal Police Detectives Warner and Daniels, August 28, 1993

<sup>9</sup> Transcript of Morgan Keefe's 911 call to authorities August 28, 1993 Pg. 2

C10008

7

her anymore. Mr. Swaine opined that he believed the relationship between Mr. Beaman and the victim was based on marijuana use. He further stated that the victim used pot, cocaine, LSD and had tried heroin once. He alleged that Mr. Beaman used pot regularly and tripped on LSD. He claimed that the victim and Mr. Beaman had broken up 18 times during the course of their relationship. Mr. Swaine also alleged that when the victim and Mr. Beaman fought, the victim would go to other apartments yelling, "help me, save me," although none of the neighbors reported that this occurred.<sup>10</sup>

In a second interview with authorities Mr. Swaine advised that although Mr. Beaman was Ms. Lockmiller's boyfriend, he and Ms. Lockmiller had sex about five times beginning in June through August 19, 1993. Sometime between July 11 and July 24, 1993, Mr. Beaman broke into Ms. Lockmiller's apartment while he was there. Mr. Swaine stated that he was so scared he hid in the closet and pulled one of Ms. Lockmiller's dresses over his head to conceal himself. Mr. Beaman confronted him on July 25, 1993 saying, "You're fucking my girlfriend." Mr. Swaine provided authorities with an alibi for August 23-27, 1993. He also agreed to take a polygraph, but later declined, saying that his mother wanted him to talk to an attorney before taking a polygraph exam.

Detective Freesmeyer seized a word processor, some discs and several letters from the victim's apartment. He found letters from numerous individuals including Stacy Gates (aka Bubba), Morgan Keefe, Dean Cauley and John (LNU). In his report, Detective Freesmeyer noted that Alan Beaman expressed his "enormous love" for Ms. Lockmiller in his letters to her. At one point he wrote, "Don't worry, I won't kill anybody, I don't believe in that."<sup>11</sup> Detective Freesmeyer reviewed the victim's telephone records and determined that on Sunday, August 22, 1993, there were 28 calls made from the victim's telephone number to that of Mr. Beaman. Due to the extremely short duration of each, it appeared that these calls were

<sup>10</sup> Report of Detective Freesmeyer in case C93-4033; AB004372-75

<sup>11</sup> Report of Detective Freesmeyer in case C93-4033; AB004378

C10009

unanswered. The following evening, (Monday, August 23, 1993), there was a 13-minute phone call initiated from the victim's phone to Mr. Beaman's phone number.<sup>12</sup>

On Sunday, August 29, 1993, all of the detectives involved the case, along with the Chief of Police, Dean Kennedy, prosecutor James Souk, and Coroner Dan Brady, met at the Normal Police Department and discussed the case for approximately four and a half hours. Coroner Brady confirmed that strangulation with an electrical cord from an alarm clock was the cause of death and that the victim was deceased prior to being stabbed in the chest with the scissors. Detective Freesmeyer's report further noted that, "The two main suspects at that time were Alan Beaman and Michael J. Swaine"<sup>13</sup> (emphasis added). In other words, the immediate working hypothesis was that a current or former intimate partner had murdered Ms. Lockmiller. While that is one hypothesis, properly trained investigators know that they have to consider all reasonable hypotheses, being careful not to rush to judgment regarding potential suspects or motivations. There is little indication that the defendants seriously considered that the homicide of Ms. Lockmiller was anything other than an intimate partner homicide. In effect, the die was cast. From that point forward the investigation was suspect-based rather than an evidence-based one in which all evidence was interpreted in a manner consistent with the dominant hypothesis that Alan Beaman murdered Ms. Lockmiller.

Other potential suspects were developed, some were interviewed and four, (Stacy "Bubba" Gates, Michael Swaine, Christopher Carbone and John Murray) were polygraphed. The polygrapher found no deception on the part of Mr. Swaine and Mr. Carbone. However, he could not render an opinion regarding the results of the polygraphs of Stacy Gates and John Larbi Murray as Gates' responses were too erratic while Murray did not comply with the directions given to him for the proper completion of the polygraph, so it was discontinued. Further investigation

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<sup>12</sup> Detective Freesmeyer's 1994 Grand Jury Testimony Pg. 148-150

<sup>13</sup> Report of Detective Freesmeyer in case C93-4033; AB004375-80

C10010

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substantiated alibis for Stacy Gates and Michael Swain. John Murray had no alibi for the time that Ms. Lockmiller is believed to have been murdered.<sup>14</sup>

Detective Daniels and Hospelhorn interviewed John Larbi Murray, a former paramour of Ms. Lockmiller, on September 2, and again on September 9, 1993. By the end of the second interview Detective Daniels believed that Mr. Murray was a viable suspect in the murder of Ms. Lockmiller.<sup>15</sup>

Also beginning in September, Michale Swaine became a cooperating witness and wore a wire to surreptitiously record conversations he had with Alan Beaman. In a recorded conversation that occurred on September 8, 1993, the following exchange occurred:

*Mike: Are you OK man?*

*Alan: I'm hanging in there.*

*Mike: I wish just someone would tell me what is going on, cause I don't know. I'm just going crazy. I talked to the counselor, a counselor tonight at 5:00; gotta light?*

*Alan: Yep.*

*Mike: Thanks.*

*Alan: **Dude, I don't know shit, that's the problem...***

*Mike: ....I don't know what is going on. I wish you'd, someone would tell me something, why can't any - can't anybody? I don't know.*

*Alan: Nobody can man....*

*Mike: I got back into town, they haven't talked to me in a long time either. I got back into town and they questioned me like two nights in a row and then my mom was like, "get a lawyer" and I was like "shit, why? I didn't do anything."*

*Alan: Yeh, get one, you need one, did you get one?*

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<sup>14</sup> Polygraph results ABO19630; McLean 001496; ABO 000361; ABO 000363

<sup>15</sup> Deposition of Tony Daniels 5/20/2013, Pg. 10; 164-168; June 10, 2013; Pg. 210,213; June 11, 2013; Pg. 455-59; 536-538

C10011

10

Mike: *Yeh, I have one, but I mean, I don't know.*

Alan: *Dude, the reason you have a lawyer during this is so they can't pull shit on you and make you say shit that is not true.*

Mike: *But, I mean, there is nothing that I, I mean I told them about the drugs and everything.*

Alan: *I know, but they will ask you shit about, you know, an interrogation, it's like, they will say something, they will reword it, they will reword it again, then they will reword it again, and they will twist everything you say into something else. You know. They are not there to get the truth when they are questioning you. They are there to bust you....*

Mike: *Morgan told me you talked to her on Monday though.*

Alan: *She called me.*

Mike: *What did she say?*

Alan: *She was trying to crawl back to me and I said, "I don't love you"...and I hung up.*

Mike: *Dude, she was happy with me.*

Alan: *All I know is she was on the phone talking to me saying, "don't you think we could get back together some day" and I said, "No, I don't love you" and I hung up, is the last thing I ever said to her.*

Mike: *Dude, this isn't going to be over for me until I read in the paper who did it.*

Alan: *Somebody's been captured. That will be a nice relief for me too, it really will, but I don't think they are going to find anybody.*

Mike: *Why?*

Alan: *Because it's been two weeks and they still haven't. What if it was some fucking nut that just happened by...What if it was, it could have been, you know somebody she knew, it could have been a drug connection?<sup>16</sup>*

C10012

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<sup>16</sup> Transcript of wire overhear AB000383; 386;389

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller's relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants' theory. It also refutes the defendant's hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swain was working as an agent for law enforcement and that he was recording this conversation.

On October 27, 1993, Detective Freesmeyer contacted Mr. Beaman and reported as follows: *"I informed Alan that I was not going to beat around the bush with him and I was not going to mince words. Alan was informed that he was going to be arrested for Jennifer's death at one point or another. I told Alan that probable cause for an arrest already existed and that we were simply waiting for finalized results from the lab before we arrested him and started the timeclock....I informed him that we had a copy of the video tape showing him at his bank at 10:11AM on the south side of Rockford the day Jennifer was killed in direct conflict with his statement that he went straight home from work and went to bed. And finally, I informed Alan that his fingerprint was found on the murder weapon. After explaining what he was facing, I told Alan that if he wanted to talk to me about the incident and get the incident off his chest, that the State's Attorney had authorized me to tell him that we would not go for the death penalty in this case. I followed up by telling him, 'But if this façade continues, we're going for the death penalty.' After waiting a few seconds, Alan lifted his head and stated, 'But I didn't do it'.....I then told him that he would be best off to talk with me now and to get this entire ordeal over with before we have to go to court and ask for the maximum penalty, that being death. Alan once again paused before looking straight at me and stating in a low soft voice, 'I didn't do it.'"*<sup>17</sup> Threatening a suspect with the death penalty violates basic police practices. It is coercive and should

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<sup>17</sup> Report of Detective Freesmeyer AB004401 - 4402

C10013

never be used, especially to try and leverage a confession as it was in this situation. This exchange is clear evidence that Detective Freesmeyer has prematurely concluded that Mr. Beaman is guilty of the murder despite any concrete evidence to support that conclusion and with a large amount of logical investigation incomplete.

On November 5, 1993 Detective Freesmeyer wore a wire and surreptitiously recorded a conversation with Mr. Beaman during which this exchange occurred:

*Tim: You told me you were home sleeping, you told me that twice, right? That is not looking good. We talked about that you have got the motive, man, from all the letters that we saw, the infatuation that you had with her and the way she was dicking you around. That's not going to help you out. And I told you about the print that we found, Alan. You know, I don't know, I thought maybe you might have thought, thought of something over the last week that we could use to try to clear you up?*

*Alan: I haven't had time to think.*

*Tim: I mean I don't, I don't want to drag this thing out any longer than we have to and I am sure you don't either. It's got to be driving you nuts too. But at this point it is just a matter of waiting for lab results unless you can give us something else to work with, you know?*

*Alan: I got nothing. Wait for the lab reports. I'll be around.<sup>18</sup>*

Detective Freesmeyer appeared to have shifted the burden of proof from himself and his colleagues to Mr. Beaman. Shifting the burden of proof onto a suspect is a factor in criminal investigative failures.<sup>19</sup> Reasonably trained law enforcement officers clearly understand that the burden of proof is theirs, not the suspect's. They also understand that it is not their job to believe or disbelieve anyone. It is their job to find facts. There is ample evidence in this case that

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<sup>18</sup> Transcript of wire overhear AB000420

<sup>19</sup> Ditrich, H., Cognitive fallacies and criminal investigations; Sci Justice, 2015 Mar;55(2):155-9. doi: 10.1016/j.scijus.2014.12.007. Epub 2015 Jan 5.

Detective Freesmeyer and his colleagues routinely chose to either disbelieve evidence pointing to Mr. Beaman's innocence or that they selectively interpreted other information to support their premature conclusion that Alan Beaman was guilty of murdering Ms. Lockmiller.

For example, Carol Beaman testified before the grand jury that early in September 1993, she realized new tires had been purchased for Alan's car on August 24, 1993 and found the receipt showing the mileage to be 77,811 miles. She took a photograph of the odometer on September 1, 1993 showing the odometer at 77,494 meaning there had been 332 miles put on the car during those 9 days. She further testified that she had given it to Alan's attorney in September of 1993 and assumed that he had provided it to the authorities.<sup>20</sup> In summary, the mileage was inconsistent with Mr. Beaman having traveled from Rockford to Normal, Illinois and back when controlling for his routine travel. This odometer evidence was not presented to authorities until after Mr. Beaman had been arrested for Ms. Lockmiller's murder.

Rather than view this evidence as exculpatory, Detective Freesmeyer interpreted as inculpatory. He testified that he believed that Mr. Beaman tampered with the odometer immediately upon his return from committing the murder and that was his, "*excuse as to why he could not have committed the murder.*"<sup>21</sup> Detective Freesmeyer could not explain why Mr. Beaman did not quickly bring this purportedly fabricated evidence to the attention of the authorities if Mr. Beaman had purposefully created it to prove his innocence. My experience has been that those who create false evidence as an alibi bring that fabricated evidence forward quickly and confidently. Mr. Beaman never brought this information forward at all, his mother did.

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<sup>20</sup> Carol Beaman's testimony before the grand jury July 7, 1994 pg. 44-53.

<sup>21</sup> Deposition of Timothy Freesmeyer Nov. 11, 2004 Pg. 101-103

C10015

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In April of 1994, Detective Daniels attended an unsolved homicide conference in Jacksonville, Florida at the request of Assistant Chief Walt Clark and presented the Lockmiller case. He returned with a list of 36 suggested leads, but apparently a number of those were not pursued.<sup>22</sup> During the May 16, 1994 meeting with Mr. Souk and investigators Detective Daniels stated that he tried to discuss that list of leads, but Mr. Souk cut him off saying, *"I think we went as far as we can with this case. We are going to go ahead and issue a warrant for his arrest, meaning Alan Beaman's arrest."*<sup>23</sup> Detective Daniels testified that right after the meeting he asked Police Chief Taylor why he was not given an opportunity to speak about his seminar findings. Chief Taylor asked him why he did not speak up and Daniels replied that he had, but was cut off.<sup>24</sup> Assistant State Attorney Souk obtained a warrant for Mr. Beaman's arrest and officers from the Normal Police Department executed that warrant.

#### **Time and Travel Issues**

While it is generally undisputed that Ms. Lockmiller was murdered the afternoon of August 25, 1993, it is the state's theory that she was murdered between 12:00-12:15 PM that afternoon even though there is no independent evidence to support this. This arbitrary choice for her time of death is another indication that Detective Freesmeyer and his colleagues, contrary to accepted police practices, were working this case backwards, i.e. starting with a conclusion as to who was guilty and then intentionally shaping, interpreting and creating evidence to support that conclusion. Standard police practice requires that every investigation be driven by the evidence and not by attempting to shape or create evidence to fit a predetermined conclusion. In this case, the conscious decision to narrow the time of death to that specific 15-minute window of opportunity is not based on any objective evidence, but appears to have been chosen by the defendants after

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<sup>22</sup> Deposition of Tony Daniels June 10, 2013; Pg. 338; Exhibit - Daniels STD 1152

<sup>23</sup> Deposition of Tony Daniels June 10, 2013 Pg. 340, lines 2-4

<sup>24</sup> Deposition of Tony Daniels June 11, 2013 Pg. 615-617

C10016

determining when Mr. Beaman could, hypothetically, have had time to travel from Rockford to Normal and return by the time his mother returned from shopping, and then retrofitting the time of death to coincide with that information. Detective Freesmeyer's wrongful rush to judgment about Mr. Beaman's guilt is also apparent in the October 27, 1993 contact as previously noted.

Detective Freesmeyer testified that he only attempted to validate Mr. Beaman's alibi *after* he arrested him.<sup>25</sup> This is also completely contrary to the expectations of a reasonable law enforcement investigation. Reasonable law enforcement investigations require that all logical investigation be completed in order to make a determination if probable cause exists to charge anyone. Investigative work performed after a suspect has been arrested and charged is done under an overwhelming belief regarding the identity of the perpetrator, and therefore is especially prone to confirmation bias.

Detective Freesmeyer admitted that months prior to arresting Mr. Beaman he knew that Mr. Beaman was video taped by the bank surveillance camera leaving the bank at 10:11AM and that telephone calls were made from his residence at 10:37 and 10:39AM. The initial hypothesis of the state was that Mr. Beaman drove directly from the bank to Normal, Illinois where he murdered Ms. Lockmiller. However, if he returned home instead and made those two telephone calls it would have seriously undermined this hypothesis as it limited the time that Mr. Beaman would have had to drive to Normal, murder Ms. Lockmiller and return home before his mother arrived around 2:15 that afternoon. Therefore, it was an important to determine if Mr. Beaman could have traveled from the bank to his residence in time to make those calls. Detective Freesmeyer admitted that the issue of the drive time gave him pause as to whether Mr. Beaman had time to commit this crime prior conducting his time trials, but not after he did so. However, Detective Freesmeyer never conducted the time trial between the bank and Mr. Beaman's home until *after*

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<sup>25</sup> Deposition of Timothy Freesmeyer December 11, 2012 Pg. 241, line 9 - Pg. 242, line 19

he arrested Mr. Beaman. He failed to document the one time trial that showed by taking a bypass, Mr. Beaman could have arrived home in time to make those calls. The failure to document such an important finding violates standard police practices. He did mention that route in his testimony before the grand jury, but never mentioned it when he testified in Mr. Beaman's trial, even when defense counsel asked him about the bypass route.

Detective Freesmeyer offered this testimony before the grand jury on July 7, 1994 regarding the time trial that demonstrated that Mr. Beaman could have made the trip home in 25 minutes, which would have been in time to make those telephone calls:

*Q: When you drove it the other way, did you – from Bell Federal – if you go a couple of miles south, do you get to this Route 20 going along the south side of town?*

*A: Yes, Bell Federal is on the corner of Newburg and Alpine. If you take Alpine straight south to 20 and around that would be probably the quickest route to Mr. Beaman's residence. And that took me 25 minutes. So once again, 25 added to the 10:11 would put me there at 10:36. The calls were at 10:37 and 10:39.<sup>26</sup>*

However, during Mr. Beaman's trial Detective Freesmeyer testified as follows on direct examination regarding the time it took to drive between Bell Federal Bank and the Beaman residence:

*Q: And how much time did it take you to make that drive?*

*A: Again, referring to my report, the time required to drive from Alan Beaman's residence to the Bell Federal Bank observing all speed limits, was 31 minutes.*

*Q: ....What was your purpose in doing that?*

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<sup>26</sup> Grand Jury Testimony of Timothy Freesmeyer on July 7, 1994, Pg 238

A: *According to the phone records, there was a call coming out of the Beaman residence at 10:37 and 10:39. We had Alan on videotape at the bank at 11 minutes after ten. By driving that distance I wanted to see if it was possible for Alan to make it home to make that first phone call at 10:37AM. If he left the bank at 11 minutes after ten, made the 31-minute drive, it would put him home at 10:42.<sup>27</sup>*

On cross-examination Detective Freesmeyer testified as follows:

Q: *So you chose to select a route, did you not, that you took right through the heart of downtown Rockford?*

A: *As you stated earlier, I took the most direct route, sir.*

Q: *Does not that route take you directly through the heart of downtown Rockford?*

A: *Yes sir, it does.<sup>28</sup>*

Q: *As opposed to going down Meridian Road to the high speed bypass over to Alpine Road, and then up north to Bell Federal?*

A: *Yes, that would be correct.*

The trial jury was unaware that Detective Freesmeyer had driven the bypass route in 25 minutes. It is noteworthy that Detective Freesmeyer observed all speed limits when he drove the route through Rockford in support of his theory that he could not have gotten home in time to make those phone calls, but admittedly sped as he drove to and from Normal to prove that he could make that trip before his mother got home and saw his car. A subsequent expert analysis by Robert Seyfried, a credentialed expert in traffic operations and engineering, has provided a report indicating that a reasonable drive time between the bank and Mr. Beaman's residence was 19-20 minutes, a time frame which would have easily allowed him to arrive home in time to make the telephone calls at 10:37 and 10:39AM.<sup>29</sup>

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<sup>27</sup> Report of Proceedings Jury Trial, Volume V, Pg. 888 lines 3-22

<sup>28</sup> Report of Proceedings Jury Trial, Volume V, Pg. 928 lines 12-22

<sup>29</sup> Report of Robert Seyfried in this matter dated August 11, 2015

C10019

Another issue that plagued this investigation is that fact that in January of 1995, Detective Freesmeyer began working out of the state's attorney's office doing what he described as "pre-trial investigation" that included, "...mileage trips, checking mileage, intercity within Rockford, to and from Rockford."<sup>30</sup> The problem with this is that Detective Freesmeyer's objectivity and independence as an impartial law enforcement investigator was prone to being compromised as he was now working under the umbrella of Mr. Souk, the state's attorney prosecuting Mr. Beaman. Detective Freesmeyer testified that Mr. Souk offered him advice and recommendations.<sup>31</sup> A prosecutorial mind set could explain why he failed to document the one time trial between the bank and Mr. Beaman's residence that was exculpatory in nature.

#### **Analysis and Conclusion**

*"...Don't jump to conclusions. Circumstantial evidence may be strong and the suspect's story weak. Be careful to make sure" - Lt. William Kidd (1940)<sup>32</sup>*

In this case Detective Freesmeyer and his colleagues failed to follow standard police practices and that began a cascading series of errors. The first was a misclassification error. By immediately concluding that Ms. Lockmiller's murder was an act of intimate partner violence, they limited the overall scope of the investigation in a number of ways. First, they limited the universe of suspects to four: Stacy Gates, Michael Swain, John Murray and Alan Beaman. That error also meant that they shut down other avenues of investigation that reasonably trained detectives would have been expected to explore.

Well-trained detectives would have kept an open mind and considered all logical motives based on the method and manner in which the crime was committed as well as credible eyewitness testimony such as that provided by David Singley who heard the door to Ms. Lockmiller's apartment open and close twice around

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<sup>30</sup> Deposition of Timothy Freesmeyer, December 11, 2012 Pg. 316. Ines 16-22

<sup>31</sup> Deposition of Timothy Freesmeyer, December 11, 2012 pg. 323 lines 19-22

<sup>32</sup> Police Interrogation Kidd, W.J. (1940) R.V. Basuino Publication, New York, NY pg. 69-70

2:00PM on the day of the murder. If true, and there is no reason to believe Mr. Singley was misleading investigators, the time of death could easily have been closer to 2:00PM and Mr. Beaman would then be eliminated as a suspect. Instead, the defendants purposely chose to ignore Mr. Singley's observations.

Another important avenue of investigation would have been to consider that Ms. Lockmiller was the victim of a sexual assault, but I saw no evidence that Detective Freesmeyer or his colleagues ever seriously considered this. A known sex offender or an opportunistic offender such as a burglar could have committed this crime. Those options were never seriously explored. Mr. James Souk, the assistant state's attorney prosecuting this case, testified as follows:

*Q: Did any investigator go out and examine other reports of burglaries and sexual assaults that had occurred in the same geographic region at the time period prior to Ms. Lockmiller's murder?*

*A: I don't know.*

*Q: Is there any – did you have any recollection of that ever being discussed or being done?*

*A: I don't have any recollection of it being discussed and I'm not remembering from my review of the records that would indicate that was looked at.<sup>33</sup>*

Well trained investigators would have conducted an exhaustive victimology, i.e. a study of the victim. This is especially important in cases like this where the victim's lifestyle included risk-enhancing behaviors such as illegal drug use, alcohol use or abuse, frequenting bars, exchanging telephone numbers with strangers and having multiple sexual partners. Detective Freesmeyer and his colleagues should have compiled a list of friends and associates from school; conducted investigations at the bars she frequented; checked any diaries, journals or calendars that she kept; and interviewed all those people they could identify beginning with those with whom

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<sup>33</sup> Deposition of James Souk, December 10, 2012, Pg. 210 line 14 – Pg. 211 line 2

C10021

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she had been in contact with closest to her time of death. Minimal investigative effort was expended in these areas.

Instead the defendants had created a list of four suspects that almost immediately became a list of one, Alan Beaman. Within hours of discovering the body, before any meaningful investigation had even begun, including an autopsy, the investigators confronted Mr. Beaman, hoping to get a confession from him. Detective Freesmeyer testified that only hours after Ms. Lockmiller's body had been discovered, Alan Beaman was the primary suspect.

*Q: So on Saturday night, Beaman was the primary suspect?*

*A: That would be a fair statement to say. Yes.<sup>34</sup>*

But even if one were to limit the universe of suspects only the initial four, it is clear that John Murray was a more viable suspect than Mr. Beaman or the others. Mr. Murray was a former boyfriend of Ms. Lockmiller's and indicated to police that Ms. Lockmiller was interested in seeing him again. He first denied, but then admitted, supplying her with her drugs and said that she owed him money. He also initially misled police about being out of town when the murder occurred, but phone records showed that he was in Normal when the state suspects the murder occurred, had no alibi and resided a short distance from Ms. Lockmiller's apartment. He apparently was working as a confidential informant with authorities to minimize drug charges he could face. He had been charged with domestic violence and Detective Freesmeyer signed that report as shift commander. That report, which was dated October 7, 1994, alleges that Murray victimized his girlfriend, Deborah Mackoway, on a continual basis and she had filed for an order of protection. Murray allegedly pinned her down on the floor and elbowed her repeatedly in the chest. Mackoway reported that she was injured and that there were visible marks on her in between her breasts. A friend of Mackoway's was present and verified the marks where she had been elbowed.<sup>35</sup> Detective Daniels testified that John Murray became

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<sup>34</sup> Deposition of Timothy Freesmeyer, December 11, 2012, Pg. 192, lines 19-21

<sup>35</sup> Deposition of Timothy Freesmeyer December 11, 2012 Pg. 107

C 10022

Mackoway reported that she was injured and that there were visible marks on her in between her breasts. A friend of Mackoway's was present and verified the marks where she had been elbowed.<sup>35</sup> Detective Daniels testified that John Murray became a suspect in Ms. Lockmiller's murder after his second interview.<sup>36</sup> Authorities attempted to polygraph Murray regarding his knowledge or involvement in Ms. Lockmiller's murder, but discontinued the polygraph because Murray refused to sit still and that type of movement renders the results of any polygraph meaningless. Of concern to Detective Daniels was the fact that Murray lived a 5-7 minute drive from Ms. Lockmiller's apartment and had no alibi during the time the state contends that murder occurred. Detective Daniels noted that Murray was on steroids which he believes, *"could have very well tipped his temper so to speak when he went to visit her...or a reason could have been a fact that she owed him money for drugs that she used or that she herself would distribute."*<sup>37</sup> Detective Freesmeyer testified that as he took over as the lead investigator he read over what everyone else had done and was aware of these facts, but devalued all of this information about John Murray stating that the totality of those circumstances, *"did not raise a red flag that this is our person."*<sup>38</sup> Thus, even if the only suspects were Michael Swain, Stacy Gates, John Murray and Alan Beaman, the strongest suspect was not Alan Beaman, but John Murray. But the universe of suspects was much larger and largely unexplored. Even some suspects who were identified, such as Danny Hosey, or Robert Graham, were investigated only superficially.

On September 27, 1993, Detectives Hospelhorn and Warner went to an abandoned truck stop at Main and Northtown Road in Normal and met a transient identified as Danny R. Hosey. He had knives in his car that appeared to have blood on them. Mr. Hosey described himself as a manic depressive who had been off his medication for sometime. He reportedly seemed disoriented and quoted from the

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<sup>35</sup> Deposition of Timothy Freesmeyer December 11, 2012 Pg. 107

<sup>36</sup> Deposition of Tony Daniels, May 20, 2013 Pg. 164, lines 23-24

<sup>37</sup> Deposition of Tony Daniels, May 20, 2013 Pg. 167

<sup>38</sup> Deposition of Timothy Freesmeyer, November 22, 2004, Pg. 90-92

bible. A previous employer was contacted and advised they had not seen him for some time, but recently observed him riding a bicycle on September 26, 1993. Investigators obtained an arrest photo and fingerprints of Mr. Hosey.<sup>39</sup> There is no indication that those prints were compared with the latent prints recovered from the crime scene or whether the knives were seized and tested for blood.

An arrest record for Robert Graham showing seven arrests for criminal trespass and other violations along with "investigate mental case" was in the file with the handwritten note, "Possible Suspect - follow up - Lt. Zayas". However, I could find no follow up investigation on this suspect. The lack of a thorough victimology, and a failure to look for prior similar crimes, as well as registered sex offenders, known burglars in the area, etc. unduly limited the scope of the crime. The lack of a thorough victimology and failure to look for prior similar crimes, as well as known sex offenders and burglars in the area, etc. unduly limited the scope of this investigation.

Freesmeyer's theory regarding motivation was that Mr. Beaman killed her in a fit of jealous rage. Social science and criminological research in the area of intimate partner violence is prolific and has been profusely published. One of the underlying dynamics in such cases is the pathological need to possess the targeted victim and the refusal to let the individual go. A common sentiment is, "If I can't have her, no one can." Forensic Psychiatrist Ronald Markman has written that, *"...the heart of the issue is control....Men like this make their women into such integral parts of their lives that when the women threatened to break free, the danger was not one of loss of love, but a loss of control that was psychically interpreted as potential loss of life itself. Running away or 'letting go' could not dissipate the anxiety created by this anticipated loss. In fact, both of these steps would only heighten the anxiety. Unfortunately, violence usually is just what is needed to dissipate the anxiety as well as*

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<sup>39</sup> Police Report AB000340-341

C10024

*restore control.*<sup>40</sup> The dynamics in this case are the complete opposite. At the time Ms. Lockmiller was murdered it appears that she was attempting to rekindle her relationship with Mr. Beaman, but he wanted her out of his life. It was she who called Mr. Beaman repeatedly. He did not call her at all. There is no indication that he was demanding that she not leave him. In fact, he consistently maintained that he was done with her and wanted her out of his life. An example of this can be clearly seen in the surreptitiously monitored conversation Mr. Beaman had with Michael Swain.

*Mike: Morgan told me you talked to her on Monday though.*

*Alan: She called me.*

*Mike: What did she say?*

*Alan: She was trying to crawl back to me and I said, "I don't love you" ...and I hung up.*

*Mike: Dude, she was happy with me.*

*Alan: All I know is she was on the phone talking to me saying, "don't you think we could get back together some day" and I said, "No, I don't love you" and I hung up, is the last thing I ever said to her.*<sup>41</sup>

By May of 1994 organizational momentum to charge Mr. Beaman appears to have taken over and a meeting was held to confirm that they would charge Mr. Beaman with Ms. Lockmiller's murder. Detective Daniels claimed that when he attempted to discuss the leads in the case that were developed at a conference on unsolved homicides that he attended the month before Mr. Souk cut him off. Detective Daniels testified that Mr. Souk said, *"I think we went as far as we can with this case. We are going to go ahead and issue a warrant for his arrest, meaning Alan Beaman's arrest."*<sup>42</sup> Detective Daniels testified that right after the meeting he asked Police Chief Taylor why he was not given an opportunity to speak about his seminar findings. Chief Taylor asked him why he did not speak up and Daniels replied that

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<sup>40</sup> R. Markman, MD, (1990) *Alone with the Devil*: New York. Bantam; Pps 42-43

<sup>41</sup> Transcript of wire overhear AB000383; 386;389

<sup>42</sup> Deposition of Tony Daniels June 10, 2013 Pg. 340, lines 2-4

C10025

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he had, but was cut off.<sup>43</sup> As noted above, no time trials had yet been conducted to determine if Mr. Beaman could have traveled from the bank to his home in time to make the two phone calls. Nonetheless, the defendants arrested Mr. Beaman for murder.

A standard investigative approach applied by the FBI and other leading law enforcement agencies is to apply a "template of plausibility" to criminal investigations, especially to a dominant hypothesis if one exists. This approach requires investigators to constantly question the plausibility of their assumptions, theories and conclusions.

In this case, investigators failed to apply the template of plausibility and failed to recognize that they had created numerous implausible and fanciful assumptions and conclusions as discussed above.

I have more than forty-five years of experience in investigating violent crimes, interviewing violent offenders and innocent suspects. I have trained FBI Agents, police officers, prosecutors and defense attorneys across the globe in proper investigative and interview techniques. Based on my review of the record in this case, it is my opinion that this investigation was riddled with almost every conceivable investigative failure possible and presents a case study on how such failures can lead to the arrest and conviction of an innocent individual. That the investigation was fatally flawed is primarily confirmed by the fact that it has never led to the real killer of Jennifer Lockmiller.

The statements and behavior of Mr. Beaman were not evidence of his guilt, but evidence of his innocence. The defendants violated the basic standards for police investigations by rushing to a judgment about the type of crime they were investigating, who was responsible for having committed it and either searching for

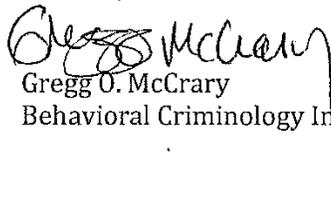
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<sup>43</sup> Deposition of Tony Daniels June 11, 2013 Pg. 615-617

C10026

or creating evidence that supported those conclusions while withholding exculpatory information about drive times and alternate suspects from the defense and consequently from the jury. In doing so they showed an utter disregard for the truth that not only denied justice for Mr. Beaman, but also needlessly endangered the public by leaving a murderer on the streets free to kill again.

Sincerely,

  
Gregg O. McCrary  
Behavioral Criminology International

C10027

26

## Materials Review by Gregg McCrary on Beaman matter

### Investigative documents

Autopsy report of Ms. Lockmiller  
Beaman 01-10-94 Supplemental Report.pdf  
Beaman Evidence, police photos, diaries, misc 1.pdf  
Crime Scene photos  
Criminal History for Richard Norman Graham  
Detective Daniel's Florida conference notes  
Detective Daniels overview: PPLX4  
Detective Hospelhorn & Daniels' interview of Kelly Hamburg  
Evidence Collected at Scene  
Extract from Hospelhorn Police Report  
Freesmeyer police reports and supplements  
Hospelhorn's interviews with David Singley  
Letters to and from Ms. Lockmiller  
List of people with relationship with Lockmiller  
Morgan Keefe 911 call and Interview, August 28, 1993  
Murray Arrest Documents-Final  
Overhear transcripts  
Phone records  
Police Interview of Mr. Beaman 8/28/93 transcript  
Post Arrest Investigation Police Report

### Legal Documents

Appendix Materials: Appeal to John P. Freese; Affidavits: Kallal, Schnittker, Reu;  
Hearing on Motions in Limine; Second Supplemental Post-Trial Motion; Affidavit Mr.  
William Beu.  
Complaint for Search Warrant  
Second Verified Amended Petition for Post-Conviction Relief Supplement to Second  
Amendment Petition

### Depositions:

Alan Beaman January 18, 2013  
Davie Warner December 18, 2012  
Frank Zayas February 15, 2013  
Heidi Steinman April 2, 2013  
James Souk March 22, 2004, December 10, 2013, February 11, 2013  
Joshua Whitney March 19, 2013  
Kristen Hubble April 3, 2013  
Leigh Kuyper February 28, 2013  
Robert Hospelhorn December 17, 2012  
Terrence McCann April 2, 2013  
Timothy Freesmeyer November 22, 2004; December 11, 2012

C10028

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Todd Heyse July 30, 2015  
Tony Daniels May 20, 2013, June 10, 2013, June 11, 2013

Trial transcripts

Beaman Transcript files: Closing argument from Mr. Souk  
Clerk's Exhibit Record  
Closing Arguments at criminal trial  
Grand Jury Proceedings Transcript  
Hearing on Second Verified Amended Petition for Post-Conviction Relief Transcript  
(Vol 1 & 2)  
Jury Trial Transcripts - nine volumes - March 15, 1995 - March 30, 1995

Other files

911 Call of Morgan Keefe August 28, 1993  
Exoneration documents  
Miscellaneous news articles re: Ms. Lockmiller  
Ms. Lockmiller's journal entries  
Ms. Mackoway's "Petition for Order of Protection"  
Report of Ken Moses dated August 12, 2015  
Report of Robert K. Seyfried dated August 11, 2014

C10029

1 THE COURT: Next witness?

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JOHN DIERKER,

4

called as a witness herein on behalf of the People, having  
5 been first duly sworn on his oath, was examined and testified  
6 as follows, to-wit:

7

8

DIRECT EXAMINATION

9

10

BY MR. SOUK:

11

12

Q Would you state your name, please, and spell your  
13 last name?

14

A John Dierker, D-I-E-R-K-E-R.

15

Q By whom are you employed, Mr. Dierker?

16

A I'm employed with the Illinois State Police, Bureau  
17 of Forensic Sciences, at the crime laboratory in Morton,  
18 Illinois.

19

Q How long have you had that employment?

20

A Approximately ten years.

21

Q What is your job title?

22

A I'm a forensic scientist in the latent fingerprint  
23 section.

24

Q What are your duties there?

1 to whether we'll find a print.

2 A print on a piece of glass, versus say a brick or rock,  
3 something with a very rough irregular surface. And finally  
4 how a print or how an object is treated afterwards is very  
5 important as to whether we'll find a print or not. If it's  
6 extensively handled, if it's exposed to temperatures, extreme  
7 temperatures or humidity, that could all be very detrimental  
8 to finding a latent print.

9 Q Also a number of factors as to how long -- if a good  
10 latent print is left, how long it will last?

11 A There's no scientific way to determine how long a  
12 latent print can last on an item.

13 Q Just give us an overall view, you've examined a  
14 number of items in connection with this case and made some  
15 identification of latent prints that are of value. Is that  
16 correct?

17 A Yes.

18 Q Are you going to be able to tell us the age of any  
19 of those fingerprints?

20 A No.

21 Q Is there any knowledge within your discipline at the  
22 present time that allows any fingerprint examiner anywhere to  
23 give that kind of information?

24 A No, not that I'm aware of, no.

1 Q Now opening People's Exhibit No. 62 and handing you  
2 an object that appears to be an instrument cluster from a  
3 vehicle. Ask you to examine that and tell us if that's one of  
4 the items you were given for examination purposes in  
5 connection with this case?

6 A Yes, it is.

7 Q Anywhere on that particular object did you find any  
8 latent print of value for comparison purposes?

9 A Yes, I found nine latent impressions suitable for  
10 comparison on the instrument cluster.

11 Q And were any of those nine prints the prints of Alan  
12 Wayne Beaman?

13 A No.

14 MR. SOUK: May I have just a moment, your Honor?

15 THE COURT: You may.

16 Q (By Mr. Souk) I'm going to show you People's Exhibit  
17 No. 25-A. I'm not going to open these clothing items. I'd  
18 ask you to look at the packaging and tell us what that  
19 contains.

20 A Contains a belt.

21 Q And is that an item that you were given to examine  
22 for fingerprint evidence in connection with this case?

23 A Yes.

24 Q Did you find any latent prints of value on that

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belt?

A I found no latent impressions suitable for comparison.

Q Thank you. Show you People's Exhibit No. 40, which is already open, and is a red shoe. Ask you if that's an item you were given to examine in connection with this case.

A Yes.

Q And did you find any latent prints of value suitable for comparison?

A No, I found no latent impressions suitable for comparison.

Q Show you People's Exhibit No. 38, which I believe has already been opened, and contains a pink lighter, and ask you if that's an item you examined for latent fingerprints in connection with this case?

A Yes, it is.

Q Did you find any latent prints of value suitable for comparison purposes on that object?

A No, I found no suitable prints on this object.

Q Show you People's Exhibit No. 47, will not ask you to open this. Ask you from the labeling to tell us what's in that and if you examined it.

A This is marked trash taken from the victim's apartment, and, yes, I examined it.

C10045

1 Q Did you find any latent prints of value for  
2 comparison purposes on any of the items in there?

3 A No, I found no suitable prints.

4 Q Show you People's Exhibit No. 43. We are not  
5 opening this item because it has biohazard written on it.  
6 Could you tell us what's in that package?

7 A Marked red handled scissors removed from the  
8 victim's chest at autopsy.

9 Q Were you, in fact, provided a pair of scissors in  
10 that bag and examined it for latent prints?

11 A Yes.

12 Q What was the result of that examination?

13 A My examination revealed no latent impressions  
14 suitable for comparison on the pair of scissors.

15 Q Show you People's Exhibit 45, and the little package  
16 that is 45-A, and this one's been opened so ask you if you  
17 recognize those items? You don't need to open the smaller  
18 package.

19 A Yes, I recognize the electrical cord. I'm not sure.  
20 I recognize this piece of evidence.

21 Q Okay. That other package states it contains some  
22 hair that was --

23 A Oh, okay.

24 Q -- tied in the electrical cord.

1           A    That was done in my presence at the Morton  
2 laboratory.

3           Q    That was removed for another examiner to look at?

4           A    That's right.

5           Q    You don't do hair?

6           A    That's right.

7           Q    The electrical cord, did you examine that for latent  
8 prints of value?

9           A    Yes.

10          Q    What was the result of that examination?

11          A    I found no suitable prints on the electrical cord.

12          Q    The last two items that you examined, the scissors  
13 and the electrical cord. First as to the electrical cord,  
14 could you comment please for us on the -- how good a surface  
15 that cord is as far as leaving a latent print?

16          A    This particular electrical cord, there's very small  
17 surface area to it, plus it's rounded. I think it would  
18 probably be very difficult to find any latent impressions on  
19 this cord.

20          Q    So it didn't really surprise you that you got no  
21 result off that?

22          A    No, that would be very difficult. What I would  
23 consider a very difficult surface to find prints on.

24          Q    How about the scissors, better or worse than the

1 electrical --

2 A The blade area would be better probably than the  
3 electrical cord. However, the handles would be difficult.

4 Q Okay. The handle, you're talking about the red part  
5 where you grasp it?

6 A Where you would grab a hold of the scissors.

7 Q That would not be a very good surface for prints  
8 either?

9 A I don't believe so.

10 Q Why is that?

11 A Again, the rounded surface, it's a very small  
12 surface. It's just not a very good surface to find prints off  
13 of.

14 Q So it didn't surprise you that you didn't find  
15 anything there either?

16 A No.

17 Q Show you now People's Exhibit No. 35, ask you again  
18 to identify this by the labeling and not open it.

19 A Marked as plastic bag containing trash removed from  
20 the victim's apartment.

21 Q Is that an item that you examined in connection with  
22 this investigation?

23 A Yes, it is.

24 Q Did you find any latent prints of value for

1 comparison purposes?

2 A Our Exhibit No. 57, and this is marked 55 would  
3 perhaps be the other bag of garbage --

4 Q Let me see. We may have one mixed up here. I think  
5 we maybe got our exhibit number mixed up. Let me back up a  
6 minute here. When you get items at the lab, you put an  
7 exhibit number on them yourself, correct?

8 A Yes, that's correct.

9 Q And you write your reports based on your exhibit  
10 number as you put it down?

11 A That's correct.

12 Q And if I do this right, I'm supposed to get the same  
13 exhibit number on the court document or exhibits?

14 A That's what I was told.

15 Q And looks like we mixed that up a little bit?

16 A Yes.

17 Q Let's see if we can straighten it out. People's  
18 Exhibit 57 that you previously looked at is actually your  
19 People's Exhibit 55. Is that correct?

20 A That's correct.

21 Q And People's Exhibit 55 which I just showed you is  
22 actually your Exhibit 57, correct?

23 A That's correct.

24 Q Okay. Now going back to 57, if I now show you

1 People's Exhibit 55, which is your Exhibit 57, is your  
2 testimony still correct that for your Exhibit 57 and what you  
3 thought was our Exhibit 57, that there were no latent prints  
4 of value?

5 A My Exhibit 57 contained no latent prints suitable  
6 for comparison.

7 Q All right. Now showing you once again our People's  
8 57, which we recognize is your 55, could you tell us what the  
9 results of your examination of People's 57 was?

10 A Yes, I found five latent impressions suitable for  
11 comparison on the luggage tags contained within this bag.

12 Q In comparing those with the known prints that you  
13 had, were any of those latent prints made by Jennifer  
14 Lockmiller?

15 A Yes, there were two identifications to the  
16 fingerprint -- fingerprint card marked Jennifer Lynn  
17 Lockmiller.

18 Q Any prints identified as those of Michael Swaine?

19 A No.

20 Q Or Alan Wayne Beaman?

21 A No.

22 Q The other three latent prints, you made no  
23 identification on?

24 A That's correct.

1 Q I'm going to show you People's Exhibit No. 56, and  
2 without removing it, ask you to look at that item. And was  
3 this an item you were provided at some stage of the  
4 investigation to process for prints?

5 A Yes.

6 Q And did you do that in the laboratory?

7 A Yes, I did.

8 Q What was the result of your examination?

9 A My examination revealed that there was one latent  
10 impression suitable for comparison on the garbage can.

11 Q And whose -- did you make an identification with the  
12 known prints that you had?

13 A Yes.

14 Q And whose print was that?

15 A That latent print was made by the person whose  
16 prints appeared on the fingerprint card of Michael J. Swaine.

17 Q I think we've got too much garbage here. I think we  
18 missed one of those. Let me show you People's Exhibit 56,  
19 which is also your Exhibit 56, and ask you if that -- what  
20 that item contains?

21 A It's marked garbage bag taken from the victim's  
22 bathroom.

23 Q And are there items of garbage in there also?

24 A Yes.

1 Q Did you make an examination of the contents of that  
2 bag in connection with this investigation?

3 A Yes.

4 Q What were the results as far as first obtaining  
5 latent prints of value?

6 A My examination revealed that there were eight latent  
7 impressions suitable for comparison. They were all on the  
8 garbage bag, itself.

9 Q Were any of those latent prints the prints of  
10 Jennifer Lockmiller?

11 A Yes, three of the latent impressions were made by  
12 the person's whose ink fingerprints appear on the card marked  
13 Jennifer Lynn Lockmiller.

14 Q Any of the six prints identified to anyone?

15 A I identified two additional prints.

16 Q And who were those identified to?

17 A Identified to the card containing the name Tony  
18 Daniels.

19 Q Show you People's Exhibit No. 60, and I'm opening  
20 and removing some print cards from it, and is one of those the  
21 print card of Tony Daniels from the Normal Police Department  
22 that you compared in connection with this exhibit?

23 A Yes, it is.

24 Q Is it fairly common during the course of

1 investigations for you to get the fingerprints of police  
2 officers and crime scene technicians who were involved in  
3 gathering evidence to eliminate prints?

4 A We occasionally get those, yes.

5 Q The other four latent prints that you found on that  
6 exhibit, did you make any identifications on those?

7 A No.

8 Q Show you People's Exhibit No. 46, ask you if you  
9 recognize that item, again without opening it?

10 A Yes, I do.

11 Q What is that item?

12 A It's marked pink kitchen garbage bag found on sofa.

13 Q And did you examine that in connection with this  
14 investigation?

15 A Yes, I did.

16 Q What were the results of that examination?

17 A My examination revealed that there were seven latent  
18 impressions suitable for comparison on the garbage bag.

19 Q Did you make any identifications?

20 A Yes, I did.

21 Q What was the results on that?

22 A Five of the seven suitable latent prints were made  
23 by the person whose inked fingerprints appear on the  
24 fingerprint card marked Jennifer Lockmiller.

1 lab as a crime scene technician?  
2 A No, I think he submitted that to me.  
3 Q Finally I'd ask you to put on a pair of gloves, if  
4 you would, and examine People's Exhibit 23, and remove that  
5 item. Do you recognize that item?  
6 A Yes, I do.  
7 Q And what is that?  
8 A It's a Sony clock radio.  
9 Q Was that submitted to you for examination in  
10 connection with this investigation?  
11 A Yes.  
12 Q Did you examine it for latent fingerprints?  
13 A Yes, I did.  
14 Q What were the results of that examination?  
15 A I found seven latent impressions suitable for  
16 comparison on the clock radio.  
17 Q With the known fingerprints that you had, did you  
18 make any identifications?  
19 A Yes.  
20 Q And would you tell us the results of that  
21 examination?  
22 A Two of the seven latent impressions were made by the  
23 person whose inked fingerprints appeared on the card marked  
24 Alan Wayne Beaman, and four of the suitable latent prints were

C10055

1 made by the person whose inked fingerprints appear on the card  
2 marked Michael J. Swaine.

3 Q The remaining latent print, did you make any  
4 identifications on that one?

5 A No.

6 Q Again, based on the unavailability of Miss  
7 Lockmiller's additional prints, could that print have been  
8 hers?

9 A Yes. I would need additional prints in order to  
10 tell that.

11 Q You can return that to the bag. All of the  
12 examinations and the results that you have testified to here  
13 this morning, were those made to a reasonable degree of  
14 scientific certainty based on the latest techniques available  
15 in your field of expertise?

16 A Yes.

17 MR. SOUK: Thank you. Tender the witness, your Honor.

18 THE COURT: Cross examination.

19 MR. BEU: Yes, thank you, judge.  
20

21 CROSS EXAMINATION  
22

23 BY MR. BEU:  
24

1 scene, brushing their clothing, for example, against doors or  
2 doorways or furniture, could that have the effect of  
3 dislodging latent prints that might otherwise have been there?

4 A Yes, that could interfere with the residue also.

5 Q You've indicated that there is, in your knowledge  
6 and experience, no way to attempt to age fingerprints,  
7 correct?

8 A That's correct, to tell the age, yes.

9 Q Speaking specifically of the prints that you found  
10 on the Sony clock radio, you also looked at them, did you not,  
11 in an effort to see if they overlapped in any fashion, the six  
12 prints that you found?

13 A Yes, I was asked to see if one was on top of one the  
14 other prints.

15 Q You found that they did not overlap. Isn't that  
16 correct?

17 A That's correct.

18 Q Had they overlapped that might have provided you  
19 some basis to make an opinion as to a sequence in which they  
20 were placed on the item?

21 A That's possible, but it would be very difficult to  
22 determine that.

23 Q Was there a square box fan brought to you as part of  
24 this investigation?

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT

COUNTY OF McLEAN

ORIGINAL

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

-vs-

ALAN W BEAMAN,

Defendant.

)  
)  
)  
) No. 94-CF-476  
)  
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)

DISK  
ENCLOSED

DISCOVERY DEPOSITION

THE DISCOVERY DEPOSITION of JAMES E. SOUK taken before Kitty L. Malcom, a Certified Shorthand Reporter within and for the County of Mclean and State of Illinois, license No. 084-002106, at 104 West Front Street, Sixth Floor, Bloomington, Illinois, on March 22nd, A.D., 2004, commencing at 11:00 a.m. pursuant to agreement of the parties.

MALCOM REPORTING SERVICE  
1310 Ironwood CC Drive  
Normal, IL 61761  
(309) 454-3378  
Fax (309) 454-8288

C10070

Plaintiff's Exhibit No. 57

1 A. Well, I mean, I was aware from reading the interviews  
2 that Detective Daniels, perhaps as he had with Mr. Beaman, took  
3 on a somewhat accusatory confrontative style of interviewing,  
4 and particularly in the second interview. But I don't recall  
5 anything other than what was in the interviews themselves.

6 Q. When Bill Heu was making his arguments and asking the  
7 court to deny your motion in limine, were you aware that John  
8 Murray was one of the possible other suspects that he was  
9 addressing his concerns to?

10 A. During the first argument on that, I am not sure that  
11 Murray's name was ever mentioned. I can't remember that 100  
12 percent for sure. I don't think his name was mentioned. On the  
13 second argument on March 15th, Murray is most of the discussion.

14 Q. At that point were you aware of the domestic violence  
15 charges against Murray?

16 A. I would have been, sure.

17 Q. Were you apprised that John Murray had had two, I  
18 think two appointments with a polygraph examiner?

19 A. That I don't have any recollection of. I'm aware now  
20 and I have seen your exhibit with the report and so forth, but I  
21 have no recollection about that.

22 Q. Did Detective Daniels ever talk to you about this to  
23 the best of your memory?

24 A. I don't have any recollection of it.

C10117

1 Q. Did you ever -- sorry to repeat this, but just so the  
2 record is clear, you have looked at exhibits in our submissions  
3 of the polygrapher's impressions?

4 A. I saw a typewritten report and then some graphs and  
5 some handwritten notes and so forth.

6 Q. So as you sit here today, your statement is that you  
7 had never seen those pretrial?

8 A. I don't have any recollection of having seen them.  
9 When I reviewed the State's Attorney's Office file, I didn't see  
10 any indication they were ever in there. Certainly they are not  
11 in discovery. If I had received them, they would have been in  
12 discovery.

13 Q. Why?

14 A. Well, I provided everything in discovery. If you go  
15 talk to Mrs. Domnick, my co-counsel, she will tell you that  
16 those were my clear explicit instructions that we don't play  
17 games with discovery. If we get something, we provide it. If  
18 the police send it over, we provide it.

19 Q. That's fine. I guess the question is with reference  
20 to the significance of the polygraph paperwork that you have  
21 read. Had you known that, that as the examiner concluded Murray  
22 had attempted to manipulate the polygraph results, would that  
23 have been a significant fact for you in your consideration of  
24 other suspects?

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CAROL JEANNE BEAMAN,

having been called as a witness herein on behalf of the Defendant, having been first duly sworn on her oath, was examined and testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. BEU:

Q State your full name, please, and spell it for the court reporter.

A Carol Jeanne Beaman. The Jeanne is spelled, J-E-A-- J-E-A-N-N-E, and Beaman, B-E-A-M-A-N.

Q Mrs. Beaman, where do you live?

A [REDACTED], Rockford, Illinois.

Q You're married?

A Yes, I am.

Q You have a family?

A Yes, I do.

Q Tell us the composition of your family.

A My husband, and myself, and two sons and a daughter-in-law.

Q Okay. You're Alan's mother?

A Yes, I am.

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medicine, you name it.

Q And now Mr. Beu asked you if you had independent recollection of being there 15 to 20 minutes that day, and I think your answer was that, well, you usually stayed 15 or 20 minutes.

A That would be about how much it would take to make sure she was back in her room, and usually -- usually I would check with the lady that lived with her to see if they needed anything, and set up medications and whatever else.

Q But again, you're going on usually and not some independent recollection of that day?

A I cannot remember any time when it wasn't that way. And besides, at my age, I would have had to stop at a restroom, too.

Q If you signed her out at ten o'clock, then you're out of there by 10:15?

A Signed her in at ten o'clock.

Q Signed her in, yes.

A I'd be out of there by, yeah, 10:15, 10:20, probably just depends.

Q And then the rest of the day you went shopping and returned home at 2:15 to 2:16. Is that correct?

A That's correct.

Q Now first let me call your attention to the notes

C10427

1 that you made on August the 30th, and at that time you  
2 indicated that, "After having breakfast I took my mother  
3 home and did some shopping before returning home," and  
4 there's a mark here, that you have indicated means  
5 approximately --

6 A That's right.

7 Q -- "three P.M."?

8 A That's correct.

9 Q And at that point in your notes you didn't  
10 elaborate, did you, on what kind of shopping you did?

11 A No, I didn't.

12 Q Incidentally, how long does it take you to drive  
13 from where your mother lived then in Independence Village to  
14 your home on [REDACTED] Road?

15 A I wouldn't attempt to make it in less than half an  
16 hour.

17 Q If I told you that Detective Freesmeyer made it at  
18 the speed limit in 16 minutes, would that surprise you?

19 A I would say he was lucky. He hit all the stop  
20 lights, right?

21 Q And when you got home, Alan was sound asleep.  
22 You assume he was?

23 A When I got home, his car was in the driveway. The  
24 dog gate was open. The dog was by his closed door.

C10428

1 Q That was always your signal. You didn't make a  
2 habit of going in and actually seeing him in bed?

3 A I don't know of how many mothers of nearly 21  
4 year-old young men would open the door and check to see if  
5 their sons were asleep.

6 Q I agree. Now on May the 18th when you were  
7 questioned by Detective Daniels here at the Law & Justice  
8 Center, on that day you said that you took her back to her  
9 apartment, and then you did some grocery shopping, and then  
10 when you got home it was somewhere between 2:30 and three  
11 o'clock, and he was sound asleep in his bed?

12 A Correct. And to the nearest that I could recall  
13 at that point that would have been what it would have been.  
14 I knew I would have done some grocery shopping, because it  
15 was the day before I was going to start really full-time  
16 work at that point again for the fall. Other shopping I was  
17 not really aware of from the standpoint of specificity. It  
18 was only later when I had some time to work on that that I  
19 came up with the receipts.

20 Q And then the following week when you were asked --  
21 you testified at the bond hearing, correct?

22 A That is correct.

23 Q And Mr. Beu asked you, at that time, after you --  
24 when you next had occasion to see Alan, and at that point

1485

C10429

AB018751

1 you gave the answer, "Wednesday at five in the evening."

2 That he was asleep when you woke him up, correct?

3 A I tried to wake him at five, I think. It was more  
4 like six when he finally came out to -- to the dining room.

5 Q But I take it now that when you gave that answer,  
6 what you really meant was -- is you took that question  
7 literally and --

8 A Yes.

9 Q -- you didn't actually see him until five, but you  
10 were still saying you were home --

11 A That's right.

12 Q -- sometime in that afternoon and the dog was in  
13 front of the door?

14 A That's correct.

15 Q And in fact in that bond hearing you said that on  
16 some other days, didn't you, that's how you told he was  
17 home?

18 A Yes.

19 Q And at that time, at the bond hearing, when you  
20 were asked your basic schedule that week, do you remember  
21 telling Mr. Beu that school was not in session yet, but on  
22 Wednesday you had taken your mother to the doctor for some  
23 tests which did not take up the whole day, but a good part  
24 of it?

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AB018752

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A Hm-mmm.

Q Remember giving that answer?

A Yes, I do. Leaving at seven and taking her back to her apartment by ten, and spending time there, I would say would be a good portion of my day.

Q And basically in that bond hearing there wasn't any mention made of the shopping or where you'd been shopping?

A That's correct.

Q Correct?

A As far as I know.

Q Now your indication here is that, I take it, it had been a very hectic time for you, not just because of your son's situation, but because you had both been teaching all year, and you were pursuing a master's program?

A That is correct. I was working on my thesis at the time all of this was going on.

Q And so sometime beginning about May 27th is when it finally occurred to you that maybe you ought to try to check out the paper trail of where you were that day?

A My last class met May 17th, 1994. That was the day my son was arrested. On the way home from my last class I was daydreaming about all the things that I was going to do with all that wonderful free time that I had suddenly

1 been given. I arrived home to find the answering machine  
2 blinking and his message to me saying that he had been  
3 arrested and to call Bill, meaning Mr. Beu.

4 Q Okay, but I think, hadn't you previously indicated  
5 that there was another week or ten days of dealing with  
6 this?

7 A Dealing with that, the arrest, and trying to get  
8 him bonded out, and -- and then at that point I still had to  
9 write finals for five classes.

10 Q But at least some time during, let's say the early  
11 part of June --

12 A When I finished writing my finals, that's when I  
13 sat and tried to be very specific about the time.

14 Q And that's the point at which you tracked down  
15 your Wal-Mart receipt and your Union Hall receipt, correct?

16 A That's correct.

17 Q And those are the two receipts that you found  
18 first?

19 A That's correct.

20 Q And then based on that, you then remembered that  
21 you had gone grocery shopping that day?

22 A It's not a matter of remembering. It's a matter  
23 of saying, if I could pin that down and what store I was at.  
24 I checked my canceled checks, found the check, and then I --

1488

C10432

AB018754

1 as has been indicated before even today, after finding the  
2 canceled check, I went through a kind of what-if. I  
3 wondered if I still had that receipt in the canister on the  
4 T.V., and I sat down and spread those out over my kitchen  
5 table, looking over every one of them, hunting for that one.

6 Q You're saying you already knew you went grocery  
7 shopping, you just didn't know where?

8 A I would have gone to the store nearest my mother,  
9 or the store closest to me, and I didn't know which one it  
10 would have been.

11 Q Again calling your attention to your grand jury  
12 testimony, and ask if you recall giving -- saying these  
13 words as part of an answer that you gave: "And realizing  
14 that I said I had gone shopping, there must be a paper trail  
15 related to that, either canceled checks or receipts from  
16 credit card. Credit card company sends me a yearly print-  
17 out of everything that I charge, the type of store, the name  
18 of the store, the date, the amount. So I went through that,  
19 and when I saw that both charges that I had for that day  
20 were in Loves Park, then I figured I must have also gone to  
21 the grocery store that day since it was going to be the last  
22 day before school started and I needed lunch materials, and  
23 I started looking at canceled checks."?

24 A That's correct.

1489

C10433

AB018755

1 Q Well, you've indicated there that it's from the  
2 receipts that you figured out that you went grocery  
3 shopping?  
4 A No, no, excuse me, after finding the receipts and  
5 the credit card. First I found the credit card statement --  
6 not found it, I had it. I looked at it. And I believe  
7 earlier today I indicated to you that after seeing that I  
8 had actually charged something those -- that day, I then  
9 went to my file to find the actual receipts. Looking at  
10 those and the times involved I also realized I would not  
11 have been buying my groceries before, but after those  
12 receipts, and I wanted to narrow it down further. So I went  
13 to my canceled check file, found the canceled check, then  
14 from there went to the container of grocery receipts to look  
15 for further information.  
16 Q And at that point in time, when you found the  
17 canceled check, you still didn't know --  
18 A For sure which store.  
19 Q -- the store you went to. That's because the  
20 check was made out to Gray's IGA, and there's four of them,  
21 correct?  
22 A That's correct.  
23 Q So then you had to search further in this bucket  
24 that you had kept your grocery receipts in during that year?

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independent recollection?

A I'm saying that's the way I would have traveled.  
If you want to call it an independent recollection, yes.

Q Now in leaving from your mother's --

A Yes.

Q -- you're indicating, of course, that you didn't  
go home at that point, correct?

A That is correct.

Q And you now know, I take it, from the phone  
records and discovery materials that there were two phone  
calls made out of your home at 10:37 and 10:39 that day?

A That is correct.

Q And you're telling us that you didn't make those  
phone calls?

A I did not make those calls, no.

Q And again, you're telling us that based on habit  
and what you ordinarily would have done that it would have  
made logical sense for you to have gone from your mother's  
to Wal-Mart because they're very close together?

A They're right across the street from each other.

Q As you sit there now, are you telling us that you  
have a clear independent recollection that you never went  
home that day?

A I know I did not go home that day until after the

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grocery store.

Q Do you know where your husband was that day?

A At work at Woodward Governor, 35th Street plant.

Q He ordinarily would not have been home at that time?

A No, it's too far from our home to work to go home during the day.

Q So basically you don't know who made those phone calls, do you?

A Unless the dog made them, Alan made them.

Q You did make a phone call or have a phone call, phone conversation with Pastor Olson that afternoon, didn't you?

A Yes, Mitch called. Mitch Olson, who I think you've already heard from, called around three o'clock that afternoon, and apparently he and Alan had planned to rehearse that day. He asked if Alan was home, and I said, "Yes, but he's asleep." And he said, "Well, we need to plan a time when we're going to rehearse." And I suggested to him, at that time, that we were coming for the ice cream social, and if he was going to be there, that would be a logical time to rehearse.

Q And if the phone records indicate that call was made at precisely three o'clock, would you have any argument

C10444

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

ALAN BEAMAN,

Plaintiff,

-vs-

JAMES SOUK, Former Assistant State's  
Attorney, CHARLES REYNARD, Former  
McLean County State's Attorney,  
TIM FREESMEYER, Former Normal Police  
Detective, ROB HOSPELHORN, Former  
Normal Police Detective, DAVE WARNER,  
Former Normal Police Detective,  
JOHN BROWN, Former Normal Police  
Lieutenant, FRANK ZAYAS, Former  
Normal Police Lieutenant,  
COUNTY OF McLEAN, ILLINOIS, and  
TOWN OF NORMAL, ILLINOIS,

Defendants.

NO. 10-CV-1019

DEPOSITION OF  
JOSHUA WHITNEY

The deposition of Mr. Joshua Whitney, called  
as a witness on behalf of Defendants James Souk, Charles  
Reynard, John Brown and the County of McLean, Illinois, in  
the above-entitled action, taken before Amy R. Campos,  
Certified Shorthand Reporter and Registered Professional  
Reporter, at Elite Reporting Services, Ltd., 4320 Spring  
Creek Road, Rockford, Illinois, on March 19, 2013, at  
12:50 p.m.

C10459

Plaintiff's Exhibit No. 60

1 that was reported to me by others during the trial  
2 process. Other friends were down for the trial and told  
3 me about what -- the circumstances of the crime at least  
4 as it was being presented by the prosecution.

5 Q. So you were in Rockford at the time Alan --

6 A. Yes.

7 Q. -- was on trial?

8 A. Yes. Sorry. Yes.

9 Q. That's okay. Do you recall what friends were  
10 reporting to you what was happening at trial?

11 A. Chris Carbone.

12 Q. Did he sit through the trial that you know of?

13 A. He was there for at least a portion of it if not  
14 the entire thing.

15 Q. What did he tell you about the timing of  
16 Jennifer's murder?

17 A. That it was being presented that Alan had driven  
18 down on the day of when they said her murder took place,  
19 had had some kind of altercation with her, had killed her  
20 and then driven back home and that, if my memory is  
21 correct, his mother later found him sleeping at home or he  
22 had to go to work that evening. I don't remember all of  
23 the details.

24 Q. So what about his piece of junk car, as you call

C10528

1 it, would not allow him to get to and from Bloomington?

2 A. It was frequently breaking down. It had engine  
3 problems, suspension problems. We commonly referred to it  
4 as the millennium falcon, which in the Star Wars motif it  
5 was constantly breaking down and having problems that just  
6 wouldn't allow for it to drive two hours down and two  
7 hours back without fitting into a perfect time frame as  
8 was being presented at the time.

9 Q. Do you know whether Alan had driven that car to  
10 and from Bloomington before?

11 A. Not for some months to my knowledge. I honestly  
12 don't know what Alan's situation was for transportation at  
13 the time. If he had access to another vehicle, I don't  
14 know about it.

15 Q. Well, Alan had that piece of junk car in  
16 Bloomington, right?

17 A. Yes. And he had nursed it back up to Rockford  
18 on more than one occasion where he had to stop and get  
19 some part working, or he had to get it towed, I believe,  
20 on one occasion because it just stopped running.

21 Q. Did you ever ride in Alan's car on a trip either  
22 to or from Bloomington to Rockford?

23 A. Once, I believe, during the holidays in 1993  
24 or -- let me think for a moment. I believe -- actually,

C10529

1 around Christmas of 1992, I believe, we drove back up to  
2 Rockford from Bloomington-Normal, and there was minor car  
3 trouble along the way but nothing that he couldn't handle  
4 at the time. Within another year -- I think that car was  
5 actually no longer functioning at all within another year  
6 or so.

7 Q. Did it break down during the time you were  
8 riding in it?

9 A. It did not break down at that time, but he had  
10 to do several sort of preventive maintenance things to  
11 keep it running, check the coolant, refill it, make sure  
12 that certain parts of it were working.

13 Q. Did you speak with any of Alan's lawyers --  
14 criminal lawyers after his arrest?

15 A. No.

16 Q. Why not?

17 A. I was never asked.

18 Q. Did you feel like you had information that could  
19 help Alan's defense?

20 A. No.

21 Q. Did you ever speak with any investigators  
22 working on his behalf at the time of his trial?

23 A. No.

24 Q. What was your observation of how Alan reacted

C10530

CALL DETAIL BILL DATE 09-93					ACCOUNT (815) 962-6540 138 MCDI				
					SCREEN 3 OF 4				
DATE	TIME	CALLED NUMBER	MINS	BAND	DATE	TIME	CALLED NUMBER	MINS	BAND
8-21	1:59P	815-877-3804	1	A	8-26	7:33P	815-963-1057	2	A
8-21	2:01P	815-399-5910	1	A	8-27	1:28P	815-398-7962	4	A
8-21	3:48P	815-654-9794	3	A	8-28	2:20P	815-964-6457	2	A
8-21	6:26P	815-964-8718	1	A	8-28	3:27P	815-398-7962	6	A
8-21	7:30P	815-964-8718	1	A	8-28	6:26P	815-964-6457	1	A
8-21	8:34P	815-964-8718	1	A	8-28	6:31P	815-389-9214	7	A
8-22	6:28P	815-962-7222	1	A	8-29	1:35P	815-987-5800	4	A
8-22	6:42P	815-397-8538	1	A	8-29	2:46P	815-636-9558	19	A
8-22	7:19P	815-877-4524	1	A	8-29	7:21P	815-636-9558	5	A
8-23	8:11A	815-963-1057	1	A	8-29	7:40P	815-654-3108	4	A
8-23	7:30P	815-964-8718	1	A	8-29	8:19P	815-636-9558	1	A
8-24	10:55A	815-968-0051	4	A	8-30	6:33P	815-398-7658	3	A
8-24	9:21P	815-636-1726	2	A	8-31	3:10P	815-962-7222	1	A
8-25	10:37A	815-399-5910	2	A	8-31	3:24P	815-962-7222	3	A
8-25	10:39A	815-877-3804	1	A	8-31	5:11P	815-987-5330	2	A
8-25	6:48P	815-636-1726	2	A	8-31	6:29P	815-987-5330	2	A
8-25	6:58P	815-398-7658	3	A	LINE TOTAL BAND-A MSGS				99

PF1 = ENTRY SCREEN PF4 = BACKWARD PF5 = FORWARD PRESS CLEAR TO EXIT  
 MORE PAGES TO FOLLOW

C 2052

C10580

~~C2021~~ (1510)

This is Detective Hospelhorn. It's August 31, 1993 on Tuesday morning at approximately 10:09 a.m. and I am at the Normal Police Department interviewing Mr. David Singley.

Rob: Sir, could you state your name and spell your last name please.

David: Yes, my name is David Singley, S I N G L E Y.

Rob: And you understand that you are here on your own free will and you can leave at any time, is that correct?

David: Yes, that is correct.

Rob: This statement is given of your own free will.

David: That's correct.

Rob: Mr. Singley, I understand that you live in the same building as the victim. Could you give your address and apartment number?

David: Yes, my address is [REDACTED] Normal, Illinois 61761.

Rob: And your phone number?

David: My phone number is 309-454-4610.

Rob: Is your apartment directly across from the victim's apartment?

David: Yes sir, it is.

Rob: Did you know the victim?

David: Just in passing.

Rob: Did you know what her name was?

David: Yes, I did.

Rob: Ok, can you tell me what that is?

David: Yes, her name is Jennifer Lockmiller.

Rob: Had you ever been to her apartment or had she ever come over to your apartment for anything?

David: I had been to her apartment when we previewed the apartment complex last September of 1992 when we were looking towards renting an apartment for this year we previewed an apartment and that was the only time I had ever been in her apartment.

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Rob: During the last week, starting say Sunday, August 22nd, through Saturday, August 28th, did you have any opportunity to see Jennifer around the apartment? The only time I saw her I believe was either Sunday afternoon or sometime Monday. I just seen her in passing uh, I don't know if she had been seeing some friends or what she had been doing but I just happened to see her out in the parking area out there.

Rob: Was she by herself at this time or was someone with her?

David: No, she was by herself.

Rob: Did you see her after Sunday afternoon or Monday?

David: No, I didn't.

Rob: Have you seen her vehicle in the lot, do you know which vehicle is hers?

David: Yes, I do.

Rob: Have you seen her vehicle leave or come back at any time during that week?

David: Not that I can recall right off the top of my head at this time.

Rob: Did you see anyone either come or go from her apartment during the week?

David: See, no I didn't but I noticed during the course of the week there was another car in the parking lot which um, I just know by previous association was a visitor of hers.

Rob: Do you know what type of car it is?

David: It appeared to be like a late 88 or 89 model I want to say it was a white Sunbird. Kind of a mid size car, I believe it was two door. I didn't really get that great of a look at it cause I didn't pay that much attention to it.

Rob: Are you sure that it is a Sunbird or Cougar or something else.

David: It could have been something else but it was a long the lines of like economy mid-size car, something like that.

Rob: And do you know approximately when you seen that there in the parking lot. Now the parking lot I am assuming you are talking about [REDACTED], is that correct?

David: That's correct.

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Rob: Ok.

David: I saw it Wednesday afternoon at approximately on or about 2:00 o'clock.

Rob: in the afternoon, going back to the car, you say you are not sure if it was a two door or a four door?

David: No, just assuming from the size, I would say it was a two door.

Rob: Could it have been any type of vehicle as far as the make that's in that line.

David: It was an American made car.

Rob: An American made car?

David: There was no doubt that it wasn't an Import.

Rob: Wasn't an import. Was there anything else on the vehicle you said it was white in color?

David: That's correct.

Rob: Was there anything else on the vehicle that you can distinguish?

David: I believe there was a bumper sticker on either side of the license plate but uh I really I can't remember, I didn't pay that much attention, I just noticed that there was a bumper, there was ah, you know, one or two bumper stickers.

Rob: Did you see who got in or who got out of that vehicle?

David: No, I really can't recall at this time.

Rob: How many times had you seen either this car or a car that is similar to this one in that parking lot?

David: I can recall maybe one or two other times during the course of the summer that that car was parked there in that parking lot.

Rob: You say that car, are you positive that it's that same car or is it possible that it could be a different one?

David: I would say there is a possibility it could have been a different one but I just really doubt it just because just ah just from association I recognized that I have seen it before but I wouldn't say that it's not possible that it might have been another one similar.

Rob: Do you know who drove the other vehicle that you think this one might have been?

David: Honestly, I can't recall at this time. Uh,

Rob: Can you describe the person then?

David: I want to say, the only thing that I can remember because I only got a glance a glimpse of them once; it was a male. I would guess in early to mid 20's caucasian. He was he had grown a goatee and he had short hair, but that is really the only thing that I can remember cause it was earlier in the summer.

Rob: Ok. When was it that you had seen this person approximately?

David: I would say it was during the month of July.

Rob: Ok. Have you seen that person around there other than possibly the vehicle last week, but have you seen the person around there since July you said?

David: Uh, since July? Um no. I can't recall that I physically saw the person the only way that I knew that the person might be there was just by association with this vehicle. That's about all I can

Rob: Other than last week, had you seen the vehicle that you were describing earlier there before or since July?

David: Uh, no. Like I say, I have seen it maybe oh gosh, probably once or twice, during the month of July and then this time there in August.

Rob: Do you know, did Jennifer live by herself, or was someone living with her?

David: All the time that I knew she lived alone is about all that you know, she always had either one or two guys that would come over I wouldn't say frequently but they came around fairly often, you know.

Rob: Have you lived at your address there [REDACTED], how long have you lived there?

David: I have lived there since Sunday. However, my girlfriend has been renting it since uh mid to late May so I would visit there quite often during the summer during the summer months.

Rob: Did you live there last year?

David: No sir, I did not.

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Rob: Is there anything else during the week that you had observed in the area that you wish to tell me now?

David: Sure, uh, Wednesday, when I came home from class on or about 2:00 in the afternoon, I entered, I was going I was approaching the apartment complex off of [REDACTED] and when I came in I opened the main door to the vestibule and the door to her apartment slammed shut real quick uh which I thought was kind of funny because I had approached the building in such a manner that I didn't see anybody go in ahead of me and it was, there was such a short distance to me that I would have assumed that I could have definitely seen somebody going before me or you know come from somewhere, but I didn't see anybody so I went into my own apartment and went on about my business and what not and within about I'd say 5 or 10 minutes, I heard the door to apartment [REDACTED] open and close again but I noticed when I went in, like I noticed pretty much every other day that she always played music cause she was usually always home when I would come home.

Rob: Ok. You said that when after you got back, you heard it slam quickly, did you hear anybody talking or any footsteps?

David: No, I didn't hear anybody talking or any footsteps or anything the only thing I noticed that slammed shut rather quick because I noticed the music I noticed the door had been open because the music was real loud at first and then it kind of got quiet like right after the door closed.

Rob: But you heard the door shut?

David: I heard the door shut, yes sir.

Rob: And then you said you went into your apartment which is [REDACTED] and across the hall?

David: That's correct. Went into my own apartment, like I say, went about my business um, I heard their door open, because I heard the music.

Rob: And how long ago, or how long after that?

David: I would say it was probably, I would guess it was within a 5 or 10 minute time period because

Rob: You said you came home about 2:00 so this would be about 2:00, 2:10, 2:15?

David: I would say it was right around 2:10.

Rob: On Wednesday, August 25th?

David: That's correct. Because I was kind of in a hurry cause it

was hot and I was trying to change so I could get down to the pool so I didn't really pay much attention, like I say, I heard their door open again and close the music was still playing, but then whoever it was exited the front door, I didn't like I say, I didn't pay much attention, like I said I didn't pay much attention because I was kind of in a hurry.

Rob: When this person exited you couldn't tell if it was a male/female?

David: No. I couldn't tell.

Rob: Did you hear any vehicles leave at the time?

David: That is something that I have been trying to go over in my mind. I think a vehicle might have left but I am not positive I have been thinking about it as much as I can but I, nothing sparks in my memory.

Rob: Ok. Now when, let's go back to the vehicle that you seen at approximately 2:00, I am assuming that's when you come home from class and then you heard the door and right before that's when you seen this white vehicle?

David: That's correct.

Rob: Ok. Was that vehicle still in the lot when you left?

David: Ok. When I left to go to the pool, it I would assume it still was, I am not positive because, let me think about this here.

Rob: Do you know what time it was when you left to go to the pool?

David: Yea, it was about 2:15.

Rob: Ok. so the person left and it was between 2:00 and 2:15 when this person exited [REDACTED]

David: That's correct.

Rob: Once they exited was the door shut, or open?

David: The door was to her apartment was shut.

Rob: Was the stereo still going at that time?

David: Yes, it was. Yes, it was.

Rob: Do you remember what was playing on the stereo?

David: No, I sure don't. She always seemed like it was usually the same tape or same record that she listened to it alot. It was

actually the same thing almost everyday.

Rob: Ok. Was there actual music coming from the room or was there talking?

David: As far as

Rob: Your definite that it was a stereo?

David: Yes.

Rob: And it couldn't have been a television that was on?

David: No. I am positive it was not. It wasn't a television.

Rob: Ok. Um, so after you left to go to the pool, did you notice anything about your return?

David: Ok. I went to the pool, when I left, I noticed that it was hot, but her air conditioning wasn't on, nobody really had em on cause ours doesn't work that good and I kind of figured that it was kinda the way it was for the whole apartment complex. Nobody's really works.

Rob: Her's wasn't on before you left?

David: No.

Rob: I came home on or about 4:30 that afternoon.

Rob: You are still talking about Wednesday the 25th?

David: That's correct. When I came in, opened the door to the vestibule there, and uh right away, when you walk in you can easily hear you know music or what not coming out of you know the apartment, but something struck me that the music was turned off but the TV was on and it was fairly loud actually because I could hear it the walls are thin there anyway but you can kind of tell if it's music or it it's like a TV but it struck me as funny because I could really hear the TV pretty clear.

Rob: Was the door shut to [redacted] at that time?

David: Yes it was.

Rob: And did you say that the air conditioner was on or off when you come back?

David: It was still off um, like I say, I noticed her TV was on because when we go into our apartment which is [redacted], before you go in you can always hear the music or in this case the TV but once you close the door to our and after you are in our apartment you can't

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hear anything the sounds um, you just can't hear it because the door blocks out the sound but this day, the TV was up so loud, that after I closed the door I could still hear the TV, um, let's see here. I went back to the pool at about 5:15 but this time, I just walked down there because my girlfriend had to have the car to go to work.

Rob: And your girlfriend is who?

David: My girlfriend is Susan Jenkins?

Rob: And she come to make a statement today also, is that correct?

David: That's correct. She also lives at [REDACTED] with me.

Rob: Ok.

David: And at that time, when I went to the pool, I noticed that the air conditioning had been turned on because you know

Rob: That was as you were leaving to go

David: As I was leaving I walked out underneath where the windows to her apartment was and that was on or about 5:15.

Rob: On which day?

David: On Wednesday.

Rob: On Wednesday the 25th of August?

David: That's correct. And I came home on or about 7:30, quarter to eight, didn't really notice anything just that the TV was still on and that was pretty much about it that I can remember for Wednesday.

Rob: Is there anything else that you can remember?

David: Yes there is. Then Wednesday, excuse me, Thursday, the 26th when we returned to the apartment, we being my girlfriend and I, we because Wednesday night, we went back to my house, or actually my mother's house, which is in Chillicothe Illinois um, to pick up a couple things and what not that I had forgotten when I moved down on Sunday, when we came back on Thursday morning the TV was still on and didn't really think much about it being the first week of school and all nobody really knows you know what kind of certain hours or what kind of certain schedule people keep and like I say I really didn't think much about it then Thursday afternoon when I can back from class there was a parking pass that was or a little tag hanging on the handle of the door from Redbird Apartments saying that we all had to go down and sign for our

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parking passes and what not and I didn't think much about it because everybody had one

Rob: and that was on what day?

David: That was on Thursday.

Rob: Ok. On Thursday when you had seen this, the TV was still on?

David: That's correct, the TV was still on. Let's see here. Then Thursday, well actually it would have been Friday morning, during the course of the night at about 1:00 a.m. Friday morning I was kind of in a restless sleep and cause I had to go to the bathroom and I was procrastinating about getting up and going out to the bathroom cause I was trying to go back to sleep but anyway, I am fairly positive that I heard the door to apartment [redacted] open and close and it was on or about 1:00 a.m. on Friday morning because I thought it was strange then later Friday morning that she had failed to take this little parking notification thing off the handle of her door.

Rob: And this was 1:00 a.m. Friday morning you think?

David: Yes, and like I say, I thought it was strange but then again I thought that she might have been out partying or what not and come back and maybe she was a little too intoxicated and didn't want to worry about getting into the apartment and getting some sleep before class so I didn't I figured well she saw it you know it was good enough.

Rob: Are you positive that it was a door opening and shutting?

David: Yea. I am positive. I couldn't mistake it with any other kind of a sound.

Rob: Ok. Are you positive it was her door?

David: Yea. Because, I just was I got to be familiar with what the door sounds like in different apartments when they open and close cause it's we all all packed in there so close together and the walls are so thin you know you can always tell when somebody's you know.

Rob: Did you hear anything as far as anybody coming up the steps?

David: No I didn't like I say, I was kind of in a in-between sleep and in-between getting up and having to go to the bathroom and what not so I didn't notice anything.

Rob: Ok. Anything else that you can think of?

David: About the only thing I can think of is the thing the reason

why that stuck out in my mind was when I went to sign for my pass Friday, the parking pass, everybody I had seen the sheet that we had to sign and I am pretty certain that everybody had signed except I think maybe the fellow that lives down below us hadn't signed yet but we had signed but she had signed but like I say that's what struck me as funny because I thought well hell I know she seen the thing hanging on the

Rob: You say she had signed, who do you mean she?

David: She being Jennifer, she hadn't signed.

Rob: Had not,

David: No, she had not signed. I thought, like I say, I thought it was funny, because we were only allowed a certain amount of time to go pick these passes up and I thought damn she must just be saying the hell with it you know and she is just going to park there or what not, but I didn't think much about it. Friday also, Friday morning I noticed there was kind of slight smell in the vestibule area but I knew she had cats so I didn't really think too much about it.

Rob: Ok. That was Friday morning?

David: That's correct.

Rob: About what time?

David: I would say it was probably 9:00, 9:30.

Rob: In the morning?

David: That's correct. The TV was still on, which I thought was kind of strange but her living alone and pretty much how some people are when they live alone they just turn something on just to have noise you know a TV, a radio or what not, but it seemed like all the times I can remember she always, always played music while she was home that was really the only occasion I can remember that the TV had ever been on, from Wednesday on.

Rob: The stereo. Did the stereo ever come back on after Wednesday afternoon around 2 when you were hearing it did it ever come back on between then and Saturday the 28th?

David: No sir it didn't.

Rob: Was it strictly the TV on between them times?

David: Strictly the TV only.

Rob: Is there anything else that you can think of that you want to

add?

David: Uh, noticed that one of her cats, the black cat, which like I say I knew she had three cats, my girlfriend knew it was her cat because she had seen it and somehow it got out of the apartment either Friday or Saturday, so we thought well, you know, we didn't think much about it at the time, but we did notice that somehow it had got out.

Rob: So just to double check on this, was there at anytime during the week, other than Sunday afternoon or Monday when you seen Jennifer, did you see anyone enter or exit apartment [REDACTED]

David: No sir I did not.

Rob: Did you see anyone around apartment number [REDACTED] between that time other than Jennifer on Sunday afternoon or Monday?

David: No sir I did not.

Rob: Anything else that you wish to add?

David: I don't know if this is really has to do with this but ah. There is an instance that took place back in mid July she had a friend she

Rob: She meaning?

David: She meaning Jennifer,

Rob: Ok.

David: had a friend and he tried to break into her apartment.

Rob: And do you know what this friend's name is?

David: No, I do not.

Rob: Ok. Do you know what he looked like?

David: Yes. Uh, he had long hair. I would say he was probably about 5'9". He was early 20's at best and he was real lanky. He probably weighed only about 140 or 145. He had long straight black or dark brown hair. Like I say, he tried to break into her apartment. It was about 1:30 or 2:00 in the morning because we had been sleeping there and all of a sudden just all this racket started going on and she yelled something to the effect of she being Jennifer, yelled something like what are you doing here. How did you get here and he said something to the effect he said I need to talk to you and he said I came to get my fucking keys. Jennifer said you know just get out of here. Just leave. He said I rode my bicycle over here but I want to talk with you and then she said

leave or I'll call the cops and he just said fucking bitch and he just kept I don't know of he was kicking in the door or throwing himself against the door or what he was doing but then he quit and he ran outside and he was running around the building and I could hear her sobbing, crying and I don't know. I couldn't hear what she was saying but I knew she was crying. He came back in about three or four more times and he was real calm at first but then it was like all of a sudden he really just exploded like he's really out of control he could come in and talk to her and like he was real calm, like he had calmed down and kind of get her calmed down, then all of a sudden he would just fly off the handle and start busting in the door.

Rob: Do you know if this person ever struck Jennifer?

David: No. I do not.

Rob: You don't know or no he didn't?

David: I don't know if he did?

Rob: Did this person, how did this person leave?

David: He, he came back in like I say about three or four more times he wanted in real bad he finally ran back outside and he was running around the parking lot and he yelled ah he yelled something like slut and something like that and he paused briefly outside our window there and he saw me and of course I got a good look at him he didn't say anything he just ran away he came back in and he was able to get into her apartment and then I could hear him yell something like I see your cherry stain on the bed then he ran out yelling you slept with him but you wouldn't sleep with me and then he said the only reason you dated me was to go to bed with my friend and I believe he yelled something when he was leaving he was like I knew him first.

Rob: Ok. Did you see that person around the apartment other than that night? Had you seen him there before?

David: Yes. I have seen him one other time and at the time I believe he was driving a gray Ford Escort there was always a lot of junk in the Ford Escort and it had some kind of Star Trek bumper sticker on it or something like that.

Rob: Had you seen that person or vehicle at the apartment since that in July?

David: No sir I haven't.

Rob: Is there anything else that you wish to add?

David: No sir. Not at this time.

Rob: This is Detective Hospelhorn. We are going to conclude the interview on August 31st, 1993 and it is approximately 10:39 a.m.

13

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This is Detective Hospelhorn and it's Wednesday, September 8th, at approximately 5:02 p.m. We're at Normal Police Department in the middle interview room. Present with myself is Detective Tony Daniels and a David Singley.

RH: Mr. Singley, could you state your full name and social security number?

DS: Yes, my name is David O'Neal Singley, my social security number is [REDACTED]

RH: Could you state your address?

DS: Yes. My address is [REDACTED] Normal, Illinois, 61761.

RH: Mr. Singley do you live alone in apartment [REDACTED] or do you have a roommate?

DS: No, sir, I live with my girlfriend. Her name is Susan Jenkins.

RH: I'd like you to ah take a look at the calendar that's in front of you and call your attention to the week of August 22, 1993 through August 28, 1993.

DS: Okay.

RH: Uh, ISU school started on the 23rd, which is a Monday. Uh, Do you, what is your class schedule for that day?

DS: My class schedule for the 23rd of August, uh, first class started at uh about 10:00 in the morning and it ran to 10:50. Had a break from 10:50 to right about uh noon. I had another class from noon to 12:50 and then I had a class from 1 in the afternoon to 1:50 and then after that I uh went home.

RH: Between your classes on the breaks, where do you normally go?

DS: Ah, just kind of depends on what I have going on. Ah, normally I'll walk over to the student center or sometime the library.

RH: Do you ever go back to your apartment during the breaks?

DS: Ah, I usually do on Tuesdays and Thursdays because I have a little bit longer break.

RH: When you go to class do you normally walk or do you drive a vehicle?

DS: I walk to class.

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alongside the ah main entrance there to the apartment building.

RH: Okay. Did you observe anybody outside or inside the hallway to the apartment building?

DS: No, um, I didn't observe anybody. Uh, like every other day that week, when I came in, um, her uh her stereo was playing and it seemed a little louder than normal because, like I said, it's loud but when you go in and you go up the stairs going to our apartment, as soon as you close the door, um, that shuts out all the noise. But it seemed like when I, I know when I closed the door I could still hear the music and I thought, geez, that's you know, for a for early afternoon that's kinda loud and what not. Because I know I could still hear the music even through our door when it was closed.

RH: Okay. What did you do after you returned home?

DS: Ah, when I got home, just went about my business, um, put my books down, um, poured myself a glass of iced tea and ah started to get changed over to go to the pool.

RH: Did you go to the pool that afternoon?

DS: Yes I did. Um, went to the pool then, I got to the pool about 2:10 but um I do remember when I when I first came in to the apartment, um it seemed like the door to her apartment uh closed pretty abruptly and I thought that was strange, because um when I was walking home from my last class on the 25th of August, um I noticed that there was nobody, uh I came, well I came in off [REDACTED] and I was able to see that there was nobody going in the apartment ahead of me. And when I came in the apartment, or when I opened the door then, her door closed, so I thought, well you know that's strange, well maybe she forgot something. But then when I was getting changed over, ah which was probably about a time interval of about 5 to 10 minutes, um, I noticed that her her door opened and then it closed again, because I noticed the music got louder when I when I heard the door latch click. When the door was open and then when it closed clu closed shut again the music uh went down. It was still loud, but it uh had gotten louder when the door was open.

RH: Okay, did you hear the door actually open and shut?

DS: Yes, I did. And then I I uh heard somebody go down the stairs and uh seemed like they were in a hurry because it didn't take em very long between the time the door to her apartment closed to the time that the door to the vestibule, uh to the apartment complex opened and closed.

RH: Did you see anyone leave the apartment?  
DS: No, I didn't.  
RH: Did you see anyone outside in the parking lot?  
DS: No, I didn't.  
RH: Did you see any vehicles or hear any vehicles start and leave?  
DS: I think I heard a vehicle start and leave, but I'm not, I'm almost positive I did but I I couldn't tell you which vehicle it was.  
RH: Okay, so you say that you got home at 1:50 to 1:55.  
DS: That's correct.  
RH: P.M. on Wednesday the 25th.  
DS: That's correct.  
RH: You went inside the building and you thought you heard the door open and shut real fast, at Jennifer's apartment?  
DS: Yes, I did. I know I heard it open and close ah because its such we're in such a small area there that you know who's door is whose and, ah...  
RH: Sure. Okay. You went inside your apartment to change to go to the pool, which you say took approximately 5 to 10 minutes?  
DS: That's correct.  
RH: And during that time that you were changing someone left ah the apartment in the apartment building.  
DS: Yes sir.  
RH: So that someone that would have left would have been between 1:55 and 2:10.  
DS: That's correct.  
RH: Okay. Once you uh changed to go to the pool uh and left your apartment, what time was that?  
DS: That was probably about, I don't know, probably about 2:05, 2:08, something like that.  
RH: Okay, when you went down to the parking lot did you observe any vehicles in the parking lot at that time?

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that day?

DS: Ah, yeah, actually, um, when I left to go to the pool, ah, nobody had their air conditioning on.

RH: This would have been at 2:05?

DS: That's correct, 2:05, 2:08, I left to go to the pool, um, and I drove our blue station wagon, or actually my girlfriend's blue station wagon to the pool cuz she was still at class. Um, I came back uh I would say on or about 4:30, quarter till 5 because my girlfriend had to work at about 5:00. Um...

RH: Did you observe any vehicles in the parking lot at 4:30 or 5:00?

DS: No, um, I didn't, to be honest with you I didn't really pay that much attention.

RH: Okay, when you left, do you know specifically of any apartments that the air conditioning was on.

DS: No, um, none of them had em on that day.

RH: Okay, when you returned you said it was what time?

DS: It was probably about uh 4:30 quarter till 5:00 on Wednesday uh the 25th of August.

RH: Did you observe any air conditioning on at that time?

DS: Uh, at that time, no. Because I was I drove in and parked. Um, I didn't stay home probably about uh til about 5:15 then I decided to go back to the pool. Um, I didn't have a ride so I uh I walked and and that's the time when I came out of the apartment and went walking towards the pool and then I noticed that the window air conditioner to apartment [redacted] was on.

RH: Could the air conditioner have been on when you returned at 4:30 or quarter till 5?

DS: Ah, it certainly could've. I know that when I came back in, ah, the stereo was turned off and it was replaced by ah the TV. It was the TV, the TV was turned on.

RH: Okay, when you left, or when I'm sorry, when you returned from the pool at 4:30 or quarter till 5, was the stereo on or the TV on?

DS: The stereo was off and the TV was on.

RH: Okay, backing up at 2:05 or 2:08 when you left to go to the

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tag that Redbird Apartment Management had hung on the door was still on the door.

RH: What time did you go downstairs?

DS: Oh, it was probably about 10:00, 10:15.

RH: This would have been Saturday, August 28?

DS: That's correct.

RH: Do you recall if there was a stereo or TV on at that time?

DS: Yes, the tv was still on.

RH: Do you recall any vehicles in the parking lot at that time?

DS: Ah, Jennifer's car, the two gals that lived down underneath [REDACTED] their car was there and that's about all that I ah that I remember ah besides our blue station, or excuse me, my girlfriend's blue station wagon, ah, but I'm not certain that Ryan's car was there and I'm not certain that his girlfriend's truck was there either.

RH: After you went downstairs, what did you do?

DS: Ah, opened the front door to the vestibule there and just, just trying to see what kinda day it was gonna be, if it was gonna be real hot or whatnot and just turned around and went back up the stairs.

RH: Okay. Were you there ah at the time that the police officers were uh notified that, of Jennifer's death.

DS: Ah, no I wasn't. Uhh. myself, my girlfriend, her two sisters and her parents, uh we were all out to eat that afternoon.

RH: Okay. What time did you return?

DS: Oh boy, we returned, probably, 2:30, ah, is my best guess.

RH: When was the last time that you seen Jennifer?

DS: Last time that I saw Jennifer was probably, Monday the 23rd or possibly Tuesday the 24th.

RH: And what time would that have been?

DS: It would have been in the afternoon.

RH: Ah, do you know what time in the afternoon?

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APPENDIX 003303

DS: Yes sir that's correct.

TD: You were in your apartment and you saw her leave?

DS: No, ah, she was walking towards the apartment complex.

TD: Oh, coming back to the apartment complex.

DS: Yes sir.

TD: Okay, so Monday and Tuesday you have classes up till 1:50 is that right?

DS: That's correct.

TD: Okay. I want to clear up the position, directions where these cars are usually parked. If you're standing in your driveway facing your building, you are facing north, is that correct?

DS: That's correct.

TD: So then the driveway is on the south side of the building?

DS: That's correct.

TD: And you have ah doors leading to the vestibule to that apartment building?

DS: We have one door.

TD: And what side of the building is that door on?

DS: That is on the south side.

TD: Are there any doors exiting the common hallway on the north side?

DS: Yes, ah there is a door on the lower level and there is also a door on the ah second level.

TD: Okay, calling your attention back to Wednesday when you had, when you came home from class and you heard the music up loud and then, ah, you heard the door to her apartment slam shut, you stated you went into your apartment and then you heard footsteps leave leaving her apartment. Is that correct?

DS: That's correct.

TD: Could you tell from the footsteps what door those footsteps exited from?

DS: Yes, ah they went out the south door.

16

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ILLINOIS STATE POLICE  
Division of Forensic Services & Identification

Jim Edgar  
Governor

January 3, 1994

Terrance W. Gainer  
Director

Detective Tim Freesmeyer  
Normal Police Department  
100 East Phoenix  
Normal, Illinois 61761

Agency #C93-4033  
B.C.S.S. #G93-1590-9-1  
Laboratory #P93-2654

OFFENSE: Death Investigation  
SUSPECT(S): Alan Wayne Beaman  
VICTIM(S): Jennifer Lynne Lockmiller

On August 30, 1993, the following evidence was received from CST Dean Kennedy of the Bureau of Crime Scene Services at the Morton Laboratory.

<u>EXHIBIT</u>	<u>ITEM SUBMITTED</u>
#23	One (1) Sony clock radio
#41	Inked fingerprint and palmprint cards marked Jennifer L. Lockmiller
#42	Inked fingerprint card marked Jennifer Lynne Lockmiller
#43	One (1) pair of scissors

On September 8, 1993, the following evidence was received from Detective Dave Warner:

<u>EXHIBIT</u>	<u>ITEM SUBMITTED</u>
#46	One (1) garbage bag
#47	Inked fingerprint and palmprint cards marked Michael J. Swaine

On October 13, 1993, the following evidence was received from Detective Dave Warner.

<u>EXHIBIT</u>	<u>ITEM SUBMITTED</u>
#49	Inked fingerprint and palmprint cards marked Alan Wayne Beaman

Continued . . . . .

Bureau of Forensic Sciences  
Forensic Science Laboratory  
1810 South Main • Morton, IL 61550-2983 • (309) 263-7491  
1 (800) 255-3323 (TDD)

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Normal Police Department  
January 3, 1994

Laboratory #P93-2654  
Page #2

On October 14, 1993, the following evidence was received from Forensic Scientist Patricia A. Orr at the Morton Laboratory.

EXHIBIT    ITEM SUBMITTED

#25A        One (1) belt

On October 29, 1993, the following evidence was received from Detective Dave Warner.

EXHIBIT    ITEM SUBMITTED

#50        One (1) garbage can

On November 3, 1993, the following evidence was received from the Southern Illinois Forensic Science Centre via U. S. Registered Mail # R 737 658 752 at the Morton Laboratory.

EXHIBIT    ITEM SUBMITTED

#45        Electrical cord

On November 15, 1993, the following evidence was received from Evidence Locker #18 at the Morton Laboratory.

EXHIBIT    ITEM SUBMITTED

#13        One (1) red shoe

On November 15, 1993, the following evidence was received from Forensic Scientist Patricia A. Orr at the Morton Laboratory.

EXHIBIT    ITEM SUBMITTED

#40        One (1) red shoe

On November 17, 1993, the following evidence was received from CST Dean Kennedy of the Bureau of Crime Scene Services at the Morton Laboratory.

EXHIBIT    ITEM SUBMITTED

#54        Inked fingerprint card marked CST Dean Kennedy

EXAMINATION AND RESULTS

Examination of Exhibit #13 revealed one (1) latent impression suitable for comparison. Comparison revealed that the suitable latent impression was made by the person whose inked fingerprints appear on the card marked CST Dean Kennedy.

Continued . . . . .

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Normal Police Department  
January 3, 1994

Laboratory #P93-2654  
Page #3

EXAMINATION AND RESULTS (Continued)

Examination of Exhibit #23 revealed latent impressions suitable for comparison. Comparison revealed that two (2) of the suitable latent impressions were made by the person whose inked fingerprints appear on the card marked Alan Wayne Beaman. Comparison revealed that four (4) of the suitable latent impressions were made by the person whose inked fingerprints appear on the card marked Michael J. Swaine. Comparison of the one (1) remaining suitable latent impression to the submitted inked fingerprints and palmprints of the above listed subjects did not reveal an identification; however, legible inked fingerprints, including the extreme tip, side and lower joint areas, and inked palmprints, showing clear and complete ridge detail, are needed for a conclusive comparison.

Examination of Exhibit #46 revealed latent impressions suitable for comparison. Comparison revealed that five (5) of the suitable latent impressions were made by the person whose inked fingerprints appear on the cards marked Jennifer Lynne Lockmiller. Comparison of the two (2) remaining suitable latent impressions to the submitted inked fingerprint and palmprint cards marked Michael J. Swaine did not reveal any identifications. Comparison of the two (2) remaining suitable latent impressions to the submitted inked fingerprint and palmprint cards marked Jennifer Lynne Lockmiller and Alan Wayne Beaman did not reveal any identifications; however, legible inked fingerprints, including the extreme tip and side areas, and inked palmprints, showing clear and complete ridge detail, are needed for a conclusive comparison.

Examination of Exhibit #50 revealed one (1) latent impression suitable for comparison. Comparison revealed that the suitable latent impression was made by the person whose inked fingerprints appear on the card marked Michael J. Swaine.

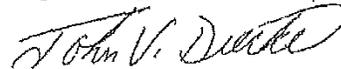
Examination of Exhibits #25A, #40, #43 and #45 revealed no latent impressions suitable for comparison.

EVIDENCE DISPOSITION

The above evidence will be retained in our evidence vault and should be picked up within 30 days.

Photographic copies of the suitable latent impressions will be retained on file at the Morton Forensic Science Laboratory in the event additional inked fingerprints and palmprints, including those for elimination purposes, become available.

Respectfully submitted,



John V. Dierker  
Forensic Scientist

JVD:i

cc: CST Dean Kennedy  
McLean County State's Attorney's Office

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AB000162



Plaintiff's Exhibit No. 67.1

C10776

APPENDIX 003308



Plaintiff's Exhibit No. 68

C10778

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

ALAN BEAMAN )  
Plaintiff, )  
-vs- ) No. 10-CV-1019  
JAMES SOUK, et al., )  
Defendants. )

The videotaped deposition of MICHAEL SWAINE, called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Sandra Eberle, a notary public within and for the County of Cook and State of Illinois, at 357 East Chicago Avenue, Chicago, Illinois, on the 22nd day of March, 2013, commencing at the hour of 10:19 a.m. and concluding at 4:06 p.m.

Reported by: Sandra Eberle, RPR, CRR  
License No.: 084-003229

C10780 1

McCorkle Litigation Services, Inc.  
Chicago, Illinois (312) 263-0052

Plaintiff's Exhibit No. 69

1           Before they had broken up, I don't  
2 remember. I mean, she might not have wanted him to  
3 know either because they were going out. Does that  
4 make sense?

5 BY MR. SHAPIRO:

6           Q. Yeah. And during the time that you were  
7 going out -- strike that.

8           During the time that Alan and Jennifer  
9 were going out, safe to say you didn't want him to  
10 know then either, right?

11          A. Correct.

12          Q. Okay. Okay. We had earlier discussed a  
13 little bit the incident when you were with Jennifer  
14 in her apartment and Alan barged in.

15                 What do you recall about that occasion?

16          A. I remember that -- do you want me to tell  
17 you starting with when he approached the door?

18          Q. No. I'd like you to start at the point  
19 when you made plans to go to Jennifer's apartment  
20 on that evening.

21          A. Okay. That night I wanted to see Jennifer  
22 so I faked a phone call. I pretended I was talking  
23 on the phone with friends and told Alan I was going  
24 to go see some friends that had come into town.

70

1 Q. Let me stop you just for a moment and then  
2 we -- when you say that you faked a phone call, can  
3 you explain to me what you did, how you faked it?

4 A. Sure. I don't remember exactly where we  
5 were and what we did. But I assume that he was  
6 outside and he came in and I pretended to be on the  
7 phone saying, okay, yeah, I'll try and borrow his  
8 car right now and come over and hung up on a  
9 nonexistent phone person.

10 Q. You were speaking to a dial tone?

11 A. Right, right. And I said, oh, some of my  
12 friends are in town; can I borrow your car to go  
13 see them, thinking that he would let me borrow his  
14 car and keep on hanging out with the friends and I  
15 would go see Jennifer.

16 Q. At the point that you made the phone call  
17 as a pretext to going to see Jennifer, did you know  
18 that she wanted you to come over?

19 A. I think I did but I'm not sure. She had  
20 been over earlier that night, I believe. Even  
21 though they were broken up, she would still hang  
22 out with us. I believe at that point more to see  
23 me than to see her ex-boyfriend.

24 And I believe she went home, and we had

71

1 the understanding that I would try and go over.

2 Q. Okay. So you do the fake phone call and  
3 then you ask Alan to borrow his car under the  
4 pretext of going to see the friends that you  
5 purported to have spoken to on the phone, right?

6 A. Correct.

7 Q. What time was it that you faked the phone  
8 call?

9 A. I think it was late. I don't remember.  
10 But in my testimony, it said it was like 2:00  
11 o'clock in the morning.

12 So obviously they had appeared in town at  
13 2:00 a.m., so I assume that Alan would have been a  
14 little suspicious.

15 Q. It would have been rational of him to be  
16 suspicious?

17 MS. BARTON: Objection to form.

18 MR. DiCIANNI: I'll join.

19 THE WITNESS: I mean, because of all -- I don't  
20 know how he would have felt but obviously he was  
21 because -- he was suspicious because he came and  
22 found us. It wasn't -- it wasn't an implausible  
23 situation but it wasn't totally plausible either.

24

72

1           A.    I hoped that we would kiss and I don't  
2 know -- I mean, I hoped that I would continue the  
3 relationship with her. I was -- I wanted to kiss  
4 her and see where things went from there.

5           Q.    So would it be fair to say that when you  
6 went to her apartment on that night, you considered  
7 it at least a possibility you would have sex with  
8 her?

9           A.    Sure.

10          Q.    Okay. And once you arrived at Jennifer's  
11 apartment, what happened between the two of you?

12          A.    We talked for I don't know how long and  
13 then apparently -- and I don't remember this. But  
14 apparently we engaged -- we had oral sex. She  
15 performed oral sex on me.

16                   And after that, I'm not sure if we just  
17 stopped independently or if we were stopped because  
18 Alan arrived at the door.

19          Q.    Did you recall telling the police that at  
20 the time Alan arrived, you and Jen were going into  
21 the bedroom and you had just kissed her?

22          A.    I don't remember telling them about that,  
23 but if it's in the record, I assume that's what  
24 happened. I had a better recollection at that

77

1 point.

2 Q. So putting together your recollection just  
3 now with what you told the police, is it fair to  
4 say that you had had oral sex with her and you were  
5 kissing and going into the bedroom; does that sound  
6 right?

7 A. Sounds like it would have been the logical  
8 progression of things. Like I said, I don't  
9 remember if it actually happened that way but it  
10 seems like it would happen that way.

11 Q. Okay. Anything else you can recall that  
12 we haven't discussed about that incident at  
13 Jennifer's apartment prior to Alan's arrival?

14 A. No.

15 Q. What happens when Alan shows up?

16 A. Alan showed up and started banging on the  
17 door. I immediately panicked because I didn't want  
18 him to know that I was there. I didn't know what  
19 he was going to do. I just didn't want to be in  
20 that situation.

21 So I went and hid in the closet and  
22 Jennifer went to the door and told him to go away.  
23 And I didn't hear -- I heard what happened. I  
24 didn't see what happened.

78

1           But I heard him break the door in somehow  
2 and pretty much stormed through the apartment  
3 saying where is he.

4           He did open the closet and didn't see me  
5 and stormed out of the apartment again, thinking, I  
6 believe, he said that did he go out the window. So  
7 he thought I had snuck out the window.

8           Q.   Okay. Let's try to break that down a  
9 little bit step by step.

10           At the point when you first heard Alan  
11 outside the door, were you fully clothed?

12           A.   I believe -- I don't know. I don't know.  
13 Yeah, I don't know.

14           Q.   Was Jennifer, if you recall?

15           A.   As far as I know, she was, but I'm not  
16 sure.

17           Q.   Do you recall any kind of a rush between  
18 the two of you to put on your clothes when, you  
19 know, you first heard Alan outside the door?

20           A.   I don't remember, but I remember that  
21 there was an immediate panic and I would have -- if  
22 I was in any form of undress, I would have rapidly  
23 clothed myself and tried to either escape or hide.

24           Q.   At the point that you ran into the closet,

79

1 Q. You don't have any specific recollection  
2 of being scared for your physical safety; is that a  
3 fair statement?

4 MS. BARTON: Objection.

5 THE WITNESS: Yes.

6 BY MR. SHAPIRO:

7 Q. Do you have a specific recollection of  
8 being scared of shame or social disapprobation if  
9 you were discovered?

10 A. No specific recollection of that. Just a  
11 fear of everything, any possibility of what could  
12 happen.

13 Q. So fair to say that you experienced this  
14 as a traumatizing situation but don't recall it  
15 being a situation in which you were scared for your  
16 physical well-being?

17 A. Correct.

18 Q. You said that it was hard to maintain a  
19 sense of time which I can understand.

20 Did you have any recollection of how long  
21 it was before Alan calmed down?

22 A. I don't. But by that time we drove home,  
23 he was calm.

24 Q. Well, prior to your driving home, Kris

85

1 with Alan.

2 Q. When you left the apartment with Kris  
3 Perry, you were walking?

4 A. Yes.

5 Q. Kris Perry was walking the same direction  
6 as you for a time?

7 A. I believe so. I don't have a recollection  
8 of it. We would walk out so it was the same door  
9 that we walked out, yes.

10 Q. At the time that Alan drove up, were you  
11 with Kris Perry still?

12 A. I believe I was. I don't remember if he  
13 drove up or if he walked up. I don't remember if I  
14 started walking home and he picked me up on the  
15 way.

16 For some reason in my recollection, I  
17 remember him picking me up on a street on the way  
18 home which would mean I probably said I want to  
19 walk home and cool off or just sort of breathe.  
20 And then Alan pulled up and said get in; I'll give  
21 you a ride home. And he was calm so I did. But  
22 I'm not positive of that.

23 Q. Did you view that as a magnanimous thing  
24 on Alan's part, to offer you a ride after a

89

1 situation with a fair amount of friction between  
2 the two of you?

3 A. You mean a charitable thing?

4 Q. Yeah.

5 A. I thought it was nice, yeah. I thought it  
6 was good that he did that. Yeah, I -- I probably  
7 was surprised that he wasn't mad at me and was mad  
8 at Jennifer or was upset with Jennifer instead of  
9 me. I mean, he was upset with me, I'm sure, but he  
10 didn't blame me for the situation.

11 Q. Was it your perception that he was able to  
12 manage his anger with you and Jennifer during the  
13 time that he was giving you a ride home?

14 MS. BARTON: Objection to form.

15 THE WITNESS: As we were going home, he was  
16 emotional, but he was managing his anger, yes.

17 BY MR. SHAPIRO:

18 Q. Is there anything else that you can recall  
19 about the entire series of events surrounding the  
20 evening when Alan barged in on you and Jennifer  
21 that we haven't discussed yet?

22 A. Not that I can recall.

23 Q. Let me direct you to a portion of your  
24 trial testimony just to refresh your recollection

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1 to be an additional page. Let's not -- that  
2 shouldn't be in the exhibit. Take that off.

3 Let's take this piece by piece. The first  
4 page which is marked AB 703, Exhibit 6, indicates  
5 that it's September 1st, 1993?

6 A. Yes.

7 Q. And the third page, AB 705, indicates a  
8 September 2nd date?

9 A. Oh, okay, right.

10 Q. And the fifth page, AB 707, toward the  
11 bottom of the page indicates a September 7th date,  
12 right?

13 A. I see that.

14 Q. So fair to say that Exhibit 6 is a  
15 transcript of the phone overhears on the 1st, 2nd  
16 and 7th of September, 19 --

17 A. Yes.

18 Q. Let me direct your attention to Page 4 of  
19 the exhibit which is a portion of the transcript  
20 relating to the September 2nd, 1993 overhear.

21 Do you see the part where you're speaking  
22 and it begins this is Mike Swaine?

23 A. Uh-huh, yes.

24 Q. This is Mike Swaine. I'm sorry. I'm just  
180

1 a wreck and I just -- I just really need to talk to  
2 somebody and I don't know who else to talk to  
3 because I can't say anything. Do you know if he's  
4 okay?

5 Did I read that right?

6 A. Yes.

7 Q. So part of what you're doing here is  
8 you're inquiring whether Alan is okay, right?

9 A. Yes.

10 Q. And part of what you're doing is putting  
11 yourself forward as an emotional wreck who needs  
12 someone to talk to, right?

13 A. Yes.

14 Q. And so was part of the strategy or the  
15 goal in contacting Alan to sort of put yourself  
16 forth as an emotional wreck in order to get him  
17 talking?

18 A. Yeah, it seems like it.

19 Q. Because, you know, being -- being a  
20 college kid at the time, you wouldn't just decide  
21 to present yourself as an emotional wreck in this  
22 conversation unless you had been given some sort of  
23 instruction, right?

24 MS. BARTON: Objection to foundation, calls for  
181

1 thought it would be helpful to speak with Alan and  
2 they thought by overhearing our conversation, that  
3 they would accomplish that.

4 So we did it twice and in person and  
5 that's when it actually happened.

6 BY MR. SHAPIRO:

7 Q. You hadn't been successful in getting  
8 through to Alan on the phone?

9 A. No.

10 Q. In part, because others would pick up the  
11 phone, wouldn't let you talk to him, right?

12 A. Correct. They wouldn't -- out of -- they  
13 probably had their lawyer tell him not to talk to  
14 anybody.

15 Q. So was part of the reason for approaching  
16 him in person to cut through those who on the phone  
17 were preventing you from talking to him?

18 MS. BARTON: Objection to form and foundation.

19 MR. DiCIANNI: Join.

20 THE WITNESS: I would say it was just -- the  
21 purpose of doing that was to talk with him and it  
22 wasn't because they failed. They did fail.

23 But the purpose of me doing the in-person  
24 overhears was to just talk with him and see if he

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1 said anything incriminating. I don't remember it  
2 being -- that the phone over -- the failure of the  
3 phone overhears was the reason for that. It could  
4 have been. I don't remember that at all.

5 BY MR. SHAPIRO:

6 Q. You don't recall any particular reason why  
7 attempts at phone overhears were discontinued and  
8 attempts at in-person overhears commenced?

9 MS. BARTON: Objection to form.

10 THE WITNESS: I remember the reason for that.  
11 He was in Rockford for the phone interviews and he  
12 was in Bloomington when we did the in-person  
13 interviews. So he was there. I didn't need to  
14 call him. I could walk up to his room or walk over  
15 to where he was. It was proximity in my opinion.

16 BY MR. SHAPIRO:

17 Q. Okay. All right. Well, let's talk about  
18 the in-person overhears.

19 You recall there were two of them?

20 A. I do.

21 Q. Do you recall any discussions you had with  
22 any police or prosecutor prior or subsequent to  
23 either of those in-person overhears?

24 A. I don't remember planning sessions but I

186

FEMALE VOICE: OKAY.  
MIKE: OKAY, THANK YOU.  
FEMALE VOICE: YEA.  
MIKE: THANKS.  
FEMALE VOICE: BYE.  
MIKE: BYE.

(PHONE CALL ENDS)

TIM: THE DATE IS NOW THURSDAY, SEPTEMBER 2ND, 1993. IT'S 11:28 AM. WE'RE BACK AT THE NORMAL POLICE DEPARTMENT, THIS IS A COURT ORDERED OVERHEAR PURSUANT TO CASE NUMBER C93-4033. FOR VOICE IDENTIFICATION, MY NAME IS DETECTIVE TIM FREESMEYER OF THE NORMAL POLICE DEPARTMENT, WOULD YOU STATE YOUR NAME PLEASE?

MIKE: MY NAME IS MICHAEL SWAINE.

TIM: AND YOUR DATE OF BIRTH?

MIKE: 5/4/73.

TIM: OKAY, MIKE ARE YOU AWARE THAT YOUR VOICE IS GOING TO BE RECORDED?

MIKE: YES.

TIM: AND HAVE YOU CONSENTED TO THAT RECORDING?

MIKE: YES.

TIM: OKAY, WE'LL NOW BE HOOKING UP THE TAPE. THE NUMBER TO BE CALLED IS AREA CODE (815)962-6540. THE RESIDENCE OF ALAN BEAMAN.

(DIALING SEQUENCE)

OLDER MALE: HELLO?  
MIKE: HELLO, IS ALAN THERE?  
OLDER MALE: UH, NO. HE'S HERE BUT HE'S ASLEEP.

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*2674*

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AB000705

MIKE: OKAY. UM, WELL...

OLDER MALE: WHO'S CALLING?

MIKE: THIS IS MIKE SWAINE AGAIN. I'M SORRY, THEY TOLD ME I  
COULDN'T CALL BUT I JUST DIDN'T, I'M JUST REAL....

OLDER MALE: WHO'S THIS?

MIKE: THIS IS MIKE SWAINE. I'M SORRY, I'M JUST A WRECK AND I JUST,  
REALLY NEEDED TO TALK TO SOMEBODY AND I DON'T KNOW WHO  
ELSE TO TALK TO BECAUSE I CAN'T SAY ANYTHING. DO YOU KNOW  
IF HE'S OKAY?

OLDER MALE: WHO? UH ..ALAN?

MIKE: ALAN.

OLDER MALE: YEA, HE'S OKAY.

MIKE: OKAY. OH, IS IT OKAY...

OLDER MALE: YOU SAY, MIKE SWAINE?

MIKE: YEA.

OLDER MALE: OKAY.

MIKE: I LIVED WITH HIM THIS SUMMER.

OLDER MALE: WHAT DID YOU SAY?

MIKE: I LIVED WITH HIM THIS SUMMER.

OLDER MALE: OKAY, I'LL TELL HIM UH, THAT UH, THAT YOU CALLED.

MIKE: OKAY, IT'S JUST....

OLDER MALE: AND UH, UH, WE'RE KEEPING A RECORD OF CALLS, BUT..

MIKE: OKAY, THAT'S FINE.

OLDER MALE: HE, HE WORKS AT NIGHT.

MIKE: OH.

OLDER MALE: HE WORKS ALL NIGHT SO HE'S ASLEEP.

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AB000706

APPENDIX 003325

MIKE: DOES HE WANT ME TO CALL AT...DOES HE WANT ME TO CALL HIM  
BACK OR SOMETHING?

OLDER MALE: WELL, IT'S UP TO YOU.

MIKE: OKAY.

OLDER MALE: BUT UH, HE DOESN'T GET UP UNTIL ABOUT 9:00 TONIGHT.

MIKE: CAN HE CALL ME BACK?

OLDER MALE: NO, UH.

MIKE: OKAY, I GUESS HE CAN'T CALL OUT. OKAY. WELL, JUST TELL HIM..

OLDER MALE: I'LL TELL HIM THAT YOU CALLED.

MIKE: THANK YOU.

OLDER MALE: OKAY.

MIKE: OKAY.

OLDER MALE: OKAY, BYE, BYE.

MIKE: BYE.

(PHONE CALL ENDS)

TIM: AFTER UNSUCCESSFULLY BEING ABLE TO MAKE CONTACT WITH  
ALAN BEAMAN, WE'LL CONCLUDE THIS PHONE CALL. IT'S NOW  
APPROXIMATELY 11:34 PM. THURSDAY, SEPTEMBER 2ND. THIS  
WILL CONCLUDE THIS SESSION FOR THE COURT ORDERED  
OVERHEAR.

TIM: TODAY'S DATE IS TUESDAY, SEPTEMBER 7TH, IT'S APPROXIMATELY  
8:00 PM. THIS WILL BE A COURT ORDERED OVERHEAR PURSUANT  
TO CASE NUMBER C93-4033. FOR VOICE IDENTIFICATION, MY NAME  
IS DETECTIVE TIM FREESMEYER OF THE NORMAL POLICE  
DEPARTMENT, WOULD YOU STATE YOUR NAME PLEASE?

MIKE: MICHAEL SWAINE.

TIM: WOULD, COULD YOU GIVE YOUR DATE OF BIRTH?

MIKE: 5/4/73.

TIM: ARE YOU AWARE THAT YOUR VOICE IS GOING TO BE RECORDED?

5

*2676*  
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C 697

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AB000707

APPENDIX 003326

MIKE: YES.

TIM: AND HAVE YOU CONSENTED TO THAT RECORDING?

MIKE: YES I HAVE.

TIM: OKAY. THE NUMBER TO BE CALLED IS 566-2677. IT'S WALLIS HALL ON ILLINOIS WESLEYAN UNIVERSITY CAMPUS. WE'LL BE ATTEMPTING TO MAKE CONTACT WITH AN ALAN BEAMAN.

(DIALING SEQUENCE)

MIKE: HE MIGHT NOT HAVE AN ANSWERING MACHINE.

TIM: IT'S PROBABLY STILL WITH YOUR STUFF AT THE THEATRE.

(PHONE CALL ENDS WITH NO CONNECTION)

(DIALING SEQUENCE)

(PHONE CALL ENDS WITH NO CONNECTION)

(DIALING SEQUENCE)

(PHONE CALL ENDS WITH NO CONNECTION)

(DIALING SEQUENCE)

(PHONE CALL ENDS WITH NO CONNECTION)

TIM: THE TIME IS NOW 8:38. AFTER THREE UNSUCCESSFUL ATTEMPTS, WE WILL CLOSE THIS SESSION FOR THE COURT ORDERED OVERHEAR.

6

~~6677~~

C 698

(597)

C11058

AB000708

Today is September the 8th, 1993, we are in McLean County Illinois. This will be a state authorized, consensual, in person over hear, reference a NPD homicide investigation

Tech: Would you state your name please?

Mike: Michael J. Swaine

Tech: Mike, are you aware that your conversation will be recorded and monitored?

Mike: Yes I am.

Tech: And do you indeed give your consent to these recordings?

Mike: Yes

Tech: Ok, the time now is approximately 9:51 p.m. This state authorized over hear will now commence.

Mike: Is it clear?

Tech: Mike, when you get out there, hold on just for a second and I will have Tim yell at you

Mike: Ok

Mike: I'm going inside.

Alan: Hey man

Mike: What's up? What drop is that?

Alan: Oh Jesus, I don't fuckin know.

Mike: We have that one don't we?

Alan: You've got that one, it's these ...

Mike: Small ones

Alan: Side pieces and the middle piece, this is just fucked up.

Mike: I'm sorry dude.

Alan: Do you want to do this?

Mike: It's like 10:00, we're getting ready to leave over across the street and I just was going crazy, I'm sorry.

Alan: No that is alright, I can use a break anyway. Maybe we can go outside.

Mike: Take a smoke or something? I could use one too. Hey that's mine. Thanks dude.

Mike: Are you ok man?

Alan: I'm hanging in there.

Mike: I wish just someone would tell me what is going on, cause, I don't know, I'm just going crazy. I talked to the counselor, a counselor tonight at 5:00, gotta light?

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C11060

Alan: yep

Mike: Thanks.

Alan: Dude, I don't know shit, that's the problem.

Mike: I talked to Ron yesterday, after pro, he was a cool guy.

Alan: yeh, he is.

Mike: I'm talking to some lady, um, Mary Horgan, she's cool but I don't know, I just, I pretty much sit there and go "I don't know what is going on, I wish you'd, someone would tell me something, why can't anybody". I don't know.

Alan: Nobody can man.

Mike: I am just going crazy and I try to keep myself busy and ...

Alan: Yeh, that's what I am tryin to do, I been kind of board,

Mike: Yeh? What did you do all day?

Alan: Fucked around, sat around, waited to go to this class, that class, you know, it was like I had a class and then I had like an hour and then I had another class and then an hour and then another class. Fucked up.

Mike: Do you know your stuff is in the uh .....

Alan: Yeh, I know, I'll get it one of these days.

Mike: You left a lot of stuff. I just threw it all in a bag in your trunk thing.

Alan: That's cool.

Mike: Yeh. So you don't know anything that is happening?

Alan: They haven't talked to me in a while.

Mike: I got back into town, they haven't talked to me in along time either. I got back into town and they questioned me like two nights in a row and then my mom was like, "get a lawyer" and I was like "shit, why, I didn't do anything."

Alan: Yeh, get one, you need one, did you get one?

Mike: Yeh, I have one but I mean, I don't know

Alan: Dude, the reason you have a lawyer during this is so they can't pull shit on you and make you say shit that is not true.

Mike: But, I mean, there is nothing that I, I mean I told them about the drugs and everything.

Alan: I know, but they will ask you shit about, you know, an interrogation, it's like, they will say something, they will reword it, they will reword it again, then they will reword it again, and they will twist everything you say into something else. You know, they are not there to get the truth, when they are questioning you they are there to bust you.

Mike: But I want them....

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(282)

C11061

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Alan: Move on to the next guy.

Mike: But if they know the truth, but if they know the truth, I mean, if I told them everything...

Alan: They don't know shit, that is why they're bugging us.

Mike: Why didn't you go to the funeral dude?

Alan: I'm the last person her parents would want to see.

Mike: Really? They are really nice, I talked to them.

Alan: They are nice people, but then, if I was there, her brothers would have been on me like that. (Alan snaps his fingers)

Mike: I think I met Bubba.

Alan: Bubba's a cock.

Mike: I don't know.

Alan: Bubba used to handcuff her, tie her to curtains or to the shower rod....

Mike: What?

Alan: Put a gag in her mouth, take pictures of her and shit, (inaudible)...

Mike: Why did she tell you that?

Alan: Huh?

Mike: Why did she tell you that? I really miss her a lot, you know how much I, do you know how much I liked her?

Alan: Yeh, my whole problem with the whole thing is that I can't even, you know, give a shit. Sometimes even crying.

Mike: Why not, I've done it like everyday.

Alan: Oh, I did, I did, believe me, but, at this stage it's just like, I don't know, pick up the pieces and move on, she's in a better place.

Mike: Yeh, but there is no rea..., she shouldn't be there.

Alan: Why?

Mike: Because she was, so you think she should have been murdered?

Alan: No I don't think she should have been murdered but there is nothing you can do about that man, Mike, remember .....

Mike: I should have just stayed in town.

Alan: Remember, no, no, cause then you would have been in town when it happened and then you would have been...

Mike: I could have protected her..

Alan: No, no, Mike, number one, it's not your fault. It could have happened the next night if you had been there, or the night before, or this week, or next week.

C11062

C 383

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Mike: No, but, what if it happened that week that I was gone, it was just someone who came and did it and fucking left, and if I was there they would never have been there.

Alan: Maybe, but what are you, what can you do about it Mike?

Mike: I can just torture myself, I don't know.

Alan: What's the fucking point in that?

Mike: Nothing.

Alan: Alright, you've been torturing yourself every since all that shit went down in July, you know or actually it was like, June I guess, I mean what the fuck? It's not worth it anymore, you can't do anything about it.

Mike: It was June 11th

Alan: Yeh. You can't dig her up and put her back, bring her back to life. You can't, you know, you can't do any of that. All you gotta do is pick up the pieces and what's, you know, I mean, why the fuck do you think I'm even talking to you Mike?

Mike: Dude, I know, I lied to you about that night too, I did sleep with her.

Alan: Yeh, I knew that.

Mike: How did you know that?

Alan: Dude, that pussy never tasted the same again?

Mike: What?

Alan: Her pussy never tasted the same again.

Mike: I never tasted it.

Alan: It was good.

Mike: I really miss her alot.

Alan: They walked in on you while you two were going at it didn't they?

Mike: No.

Alan: Oh.

Mike: No, we did it in the Sigma Chi House.

Alan: Ah, See, it's things like that that make me not grieve about her.

Mike: Why?

Alan: Why? Because she fucked me over.

Mike: Dude, she told me about the miscarriage and everything, you fucked her over.

Alan: Like I even knew, like I even had a clue.

Mike: She told me she told you and you just blew it off. She went, I'm glad she went, she went back to Meredith and made up with her, which is cool.

Alan: Dude, I didn't know what to think after all that, all I know is I got dragged through the mud for ten months and then she died.

Mike: Then why didn't you break up with her?

Alan: I don't know.

Mike: She told me all through July that she didn't want, she told me all through that time, I was going over there to talk to her I wasn't doing anything with her, I was talking to her because she kept saying to me that she couldn't deal with it and she didn't want to keep going out with you. I'm gonna burn this cigarette out, I'm not even paying attention. I am sorry dude, I feel bad about lying to you too, I'm just sick of lies.

Alan: I was too.

Mike: What?

Alan: That's why I walked away from it all and said "fuck it". And, I was still thinking "fuck it" when I heard.

Mike: Dude, Morgan told me...

Alan: And all I could think was "fuck it".

Mike: Morgan told me you talked to her on Monday though.

Alan: She called me.

Mike: What did she say?

Alan: She was trying to crawl back to me and I said, "I don't love you"...

Mike: Dude....

Alan: And I hung up.

Mike: Dude, she was happy with me.

Alan: All I know is she was on the phone talking to me saying, "don't you think we could get back together some day" and I said, "no, I don't love you" and I hung up, is the last thing I ever said to her.

Mike: Then how come I can't get over her now?

Alan: Cause you were with her, you loved her and she loved you at the time that it happened.

Mike: I didn't love her.

Alan: Well, whatever.

Mike: I told her that I didn't want a relationship with her.

Alan: I'm serious man, you gotta do this one solo, I did, You got to. You know, you gotta just fuckin buckle down, find something to do to grasp your sanity for just a few days until you can say "fuck it". You know I loved you or I cared about you or I liked you, you know, and ...

Mike: And your dead.

Alan: And your dead, so I gotta go on.

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Mike: But it is different than "fuck it", "you fucked me over", "I gotta go on".

Alan: It is different, but it's, it's just, you know, it's not there. You can't think about it, you can't touch it, you can't grasp it. And if there is a better place, God knows she is there, cause she fucking went through hell in her life. She was never going to be happy man.

Mike: But she was.

Alan: No she wasn't!

Mike: She was so happy with me, she told her parents this, she told Morgan that she told Heidi this, and she told me this.

Alan: She told everybody that the first month I was going out with her too.

Mike: But then why would she do, why would she call you? You want me to wait over here dude?

He is coming back we will talk more.

Alan: It's just too much for me to be able to deal with so I just said "fuck it, I can't deal with it so I am not going to". I just walked away from it. Dude, she is better off than you are.

Mike: But I didn't get murdered, that's the big thing, I mean if she would have died...

Alan: Ok, you didn't get murdered. Are you that afraid of death?

Mike: No, I am not at all afraid of death right now.

Alan: Then can you imagine that it would be that horrible for her to be dead? Is there a God Mike?

Mike: I think so.

Alan: Alright then.

Mike: But why would he let something like this happen? Why would he let someone do this?

Alan: You can't, you can't stop em and you can't let em, there is no, you know..

Mike: Let who?

Alan: It just happens. Shit happens and shit happens to you, it happens to me, it happened to Jen all her fucking life. No matter what you did, her parents were gonna still beat her up.

Mike: What do you mean?

Alan: No matter what, forget about it.

Mike: What do you mean? Dude, I've had to deal with knowing so little ....

Alan: Her parents used to beat her up all the fucking time when she was a little kid, all through high school. For awhile they didn't while she was in the hospital, they felt bad, but they were slapping her around while she was dating me, "cause she was a tramp" they said, and they were hitting her.

Mike: But Phil told me about the wild sex that he, you'd described to him that

C11065

C 386  
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(285)

you had, I never had it with her. We'd watch movies and play pool and, she'd come in the, she would sneak into our apartment when she would go to the bathroom and kiss me good night.

Alan: Yeh.

Mike: And I felt shitty the whole time during that to you but, I can't even be around you anymore without thinking of her and feeling shitty.

Alan: Same here.

Mike: You can't be around yourself anymore?

Alan: I can't be around you.

Mike: I know.

Alan: And the only reason I don't feel shitty at all is cause she was just, you know, she was fucking you.

Mike: But she wasn't.

Alan: Ok, but sneaking into the apartment to kiss you good night. I saw you two passing notes and shit, I knew.

Mike: Dude, we weren't passing notes, she gave me like three notes.

Alan: Well, she would squeeze your hand, I always thought you were passing notes, but, I don't know.

Mike: We were passing hugs and warm feelings and assurances.

Alan: Well that's good, I am glad you could do that, I wish you could have done it without me there.

Mike: I am sorry, no I am not really, because I cared about her and I wouldn't take that back. I really wouldn't take anything back this summer except the fact that she is dead. And if me not being involved with her at all this summer could have helped her at all I wouldn't have done it. I wouldn't have talked to her at all.

Alan: Dude, that wouldn't have helped. At least she was happy for the last month of her life. If you say she was, then she was, you know. For one brief shiny moment she was actually happy, she was never happy with me.

Mike: But you said for the first month she was happy?

Alan: For the first month, for the first month, while it was just sex and fun.

Mike: Then why didn't you break up? Why didn't she break up with you or why did you break up with her?

Alan: Because, it was a contest dude, it was ammo, it was like "who's gonna do, who's gonna, who's gonna screw who over first, I am not going to be the one, she is going to be the one", but she was saying the same thing about me.

Mike: But you...

Alan: And when she did, she had to lie about it so we stayed together.

Mike: That's wrong; you did it with Meredith, dude.

7

C11066

C 387  
367  
286

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APPENDIX 003334

Alan: I didn't fuck Meredith.

Mike: She was pregnant with your baby, she had a miscarriage.

Alan: Dude, I didn't know she was pregnant, I didn't know about the miscarriage.

Mike: I don't know, I don't even remember if she told me about that.

Alan: She was acting like a total royal bitch and I didn't know why, ok? Alright, if I had known she was pregnant, that would have been cool, but she didn't tell me. If I had known about the miscarriage, that would have been cool, but she didn't tell me. So I didn't know, so I tried to run away from somebody that I thought was just being a bitch, ok? I'm sorry if that makes me the bad guy, you know, I know, I know she and I put each other through alot of hell, alright, but that has nothing to do with it anymore, you know, it was over before her life was.

Mike: Dude this isn't going to be over for me until I read in the paper who did it.

Alan: Somebody's been captured. That will be a nice relief for me too, it really will, but I don't think they are going to find anybody.

Mike: Why?

Alan: Because it has been two weeks and they still haven't. What if it was some fucking nut that just happened by?

Mike: She wouldn't let some fucking nut in though, she kept, I told them when they questioned me that they, she kept her doors locked the whole time, when I would leave for work, I'd lock the doors.

Alan: So what if it was the one day that she didn't lock the door?

Mike: I don't know.

Alan: What if it was, It could have been, you know, somebody she knew, it could have been a drug connection.

Mike: Dude she didn't ...

Alan: Who knows?

Mike: But she didn't buy any drugs anymore. She didn't, she drank with me, I was trying to help her with that.

Alan: So was I, didn't do any good.

Mike: Dude, you were drinking with her though. I didn't, I haven't drank since I came to pick you up in Rockford.

Alan: You weren't around from the first.

Mike: But why did you give up?

Alan: Why did I give up? Cause she took everything out of me and squished it.

Mike: Then..

Alan: You don't understand it, I'm a hollow fucking shell, alright. I have been for ten months, stay out of it, I got nothing!

~~C 368~~

(287)

C11067

Mike: What do I have?

Alan: I got no heart, I got no soul, I got no mind.

Mike: When you started to see it all go why didn't you just say "fuck it" and leave her?

Alan: Because the one fucking thing I do have left, is pride!

Mike: And so you didn't want to say good bye? I am sorry.

Alan: I wasn't going to be the one to do it, she was.

Mike: Dude...

Alan: And she was, so I walked away.

Mike: Dude, you didn't walk away easy.

Alan: Dude, I wasn't going to stand by and watch the shit go on while I was still living with you.

Mike: You did it for two months. Listen I gotta sit down I am sorry. She, I don't even remember what I was going to say, remember that fight you had with her?

Alan: Which one?

Mike: The one at Don's, the one that I saw?

Alan: Oh, hey man, she started it.

Mike: I saw the first part of it, dude she didn't start shit!

Alan: Dude, she was laying there on the ground, and I walked up to see what was wrong. I was asking her "what's wrong, what's wrong?" she, and the first thing she said to me was, "how much farther do I have to spread my legs to make you happy, baby". Dude, that woman dug into me with every fucking ounce of sharp, silver she had, every single time she could, and I still love her. And the only solace I can possibly find is that she is in a better place and I gotta pick up the pieces and go on.

Mike: Why is that solace if she's .....

Alan: If you can't do, If you care about her at all, do what she would want you to do which is fucking move on and get a grasp on your reality and make something of yourself, and be proud to have known her for a little while.  
...

Mike: Dude, that's really easy to say and hard to do, I have cried...

Alan: You don't know the half of it. It's really easy to say "I want to forgive you" and it's really easy to say that "I want to be your friend again"...

Mike: You want to forgive me?

Alan: And I am trying damn hard.

Mike: Why would you...

Alan: If you don't think I am doing a good enough job you don't have to be around me, you know, I understand that.

Mike: Dude, I am not going to, I'm probably not going to be, I don't know, I will try and. Dude, throughout the whole thing you said it wasn't my fault and it was hers, and now I feel shitty.

Alan: At this point, it's 50/50 man.

Mike: You know that I never trusted her, do you know that?

Alan: I never did.

Mike: I feel so guilty for not, I don't know, I figured if she did it to you, she would do it to me too.

Alan: She would have, she did it to Bubba, she did it to John Bon, she did it to every single guy she's ever gone out with..

Mike: She didn't do it to John Bon, did she?

Alan: Fuck yeh.

Mike: With who? Then she just lied to me.

Alan: Yeh, she lied to you. She lied to me, she lied to you, she lied to Bubba, she lied to her parents, she lied to everybody she knew because she, she wasn't even lying, she didn't know. She probably couldn't even remember half the time she slept with guys. She would get wasted at a party and go home with somebody.

Mike: You think that is what this was?

Alan: Yeh, I think that's what it was. She got wasted, I wasn't there, she was horny, you were there.

Mike: I wasn't there though, I was in Elmhurst the whole week.

Alan: I am talking about you and her getting started.

Mike: Dude, it didn't start then, it started the week before.

Alan: I don't fucking know.

Mike: What?

Alan: I don't when it started. It seems to me it started at the beginning of the summer. Neither of you may have known it, but, I saw it.

Mike: May have known what, that we were starting?

Alan: Uh-huh.

Mike: Do you got another cig, could I have another cigarette dude? I will buy you a pack sometime, I am sorry.

Alan: Mike, chill out ok?

Mike: That is what she always said, you gotta stop saying you are sorry.

Alan: Well do it.

Mike: Do what, stop?

Alan: Mike she's gone, you are still here. Pray real hard, go to bed, and move

on with your life. Man, I know it is hard to do and easy to say....

Mike: I can't do it right now.

Alan: Ok, maybe you can't do it right now, but if it is what you aspire to.

Mike: If I aspire to it? I don't aspire to anything now, I could care less if I lived or died. I just want this to be resolved. I'll be, I won't be happy then, I will be satisfied, I don't even know, I don't know if I will be satisfied.

Alan: Nobody is ever satisfied, what's up Bo?

Mike: Who is that?

Alan: Friends of mine.

Josh: Hey guys.

Mike: Hey Josh, what's up?

(Alan and Josh are having a conversation about going out that night)

Mike: I am sorry man, I am throwing alot of this shit off on you. I just, I don't know, I just, when I talked to your parents twice last week when I called and I was like, I don't know, I was just, I needed to talk to somebody cause nobody was talking to me here and I had counselors appointments but they in the future. And I don't know why your parents wouldn't let me talk to you?

Alan: I couldn't talk to anyone.

Mike: But why, I mean, I took the pol, I didn't think that either and I talked to my lawyer and he said "take the polygraph test" and I did and I am clear. And like you said you had an alibi, I had an alibi all week, I was with people all week and. But why couldn't you talk to anybody? I mean I wanted to talk to you, me?

Alan: If I'd been talking to you, I would have just chewed you out and hung up on you.

Mike: Why?

Alan: Why?

Mike: You were broken up with her.

Alan: It doesn't matter.

Mike: Why, dude, you know you suggested that I stay with her.

Alan: I know, that didn't mean I had to be around it.

Mike: You weren't.

Alan: I know.

Mike: But I mean, But that doesn't tell me why you couldn't fucking talk to me and I was going crazy, I, I don't even know what I was thinking. I was here with my mom and I was chewing at my mom, and telling her about sex and drugs that I haven't had before May.

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C 391

(292)

C11070

Alan: At that point there was nobody there. There was nobody inside my head.

Mike: Why?

Alan: Why?

Mike: I didn't sleep for a week, what, no, I just started eating on Monday, and when I saw you I almost stopped eating, cause you were just, I don't know, I thought you would be effected a little bit more than that if you were, if you were in love with her.

Alan: I'm just doing what she would want, you know, doing what she would want.

Mike: Dude, she wanted you to find someone else.

Alan: That wasn't very clear. Every time I even looked at another chick she freaked.

Mike: Not after she broke up.

Alan: Yeh, and after ten months of raking me over the coals about other chicks like I am even going to look at another chick right after she breaks up with me. Jesus Christ man, you know she actually had me trained good?

Mike: Why did you let her train you?

Alan: Powerful woman man, she would have trained you too. Ten times worse.

Mike: I told her that I wanted to stop seeing her when school started.

Alan: That is why she was calling back, she told me about that.

Mike: Did she? When, since you talked to her Monday?

Alan: That Monday, she said "Mike told me 'he doesn't want to talk to me anymore". I was like, "ha, he fucked her and doesn't want to talk to her anymore."

Mike: I didn't say I didn't want to talk to her.

Alan: Well, that is what she said, so...

Mike: How could you love her and laugh at her like that, how could you love her and say, I was hurt when you said "This is ammunition".

Alan: She was on my memory, and she still makes me laugh, she still makes me cry, she still makes me hurt, she still makes me feel, she still makes me hungry. She is still inside me, and always will be, and I know what she would want me to do and that is pick up the pieces, rebuild all the bridges that got torn down in all that bullshit, just go on with my life and I will never forget, never forget, remember, remember her, the way you saw her happiest.

Mike: I can make her happy. I almost said that when you, uh...

Alan: (Deep sigh)

Mike: What?

Alan: Nobody can make anybody happy, you gotta find it for yourself. Nobody can make anybody happy.

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C 392

293

C11071

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Mike: Dude, you said she made you feel happy?

Alan: You don't understand.

Mike: I don't understand anything. That is why I am trying to sort things out and talk to you and talk to Mary Horrigan and

Alan: I am telling you man, I just can't tell you, you know, it's not, it's something so unspoken and so just, I just felt for her.

Mike: But she made you feel?

Alan: Yeh, she made me feel. She pulled me out of a bottle, and I sobered up, and I pulled her out of a bottle of pills.

Mike: For what?

Alan: All for not I guess.

Mike: No, I mean, for, what were her pills for?

Alan: Dude, she was writing prescriptions for herself and going to the stores and picking up high intense grade speed. She got caught for it twice, she was in a shit load of trouble when I met her, and I stood by her.

Mike: How could she get straight A's and do that?

Alan: Because, grades were her life. You tried to tell her that somebody that gets an A is not necessarily smarter than somebody that gets a B, she'd kill you.

Mike: She wouldn't have done anything to me.

Alan: Oh, when I tried to tell her that she uh, ripped me half, literally. (Inaudible mumbling)

Mike: My stuff is still there.

Alan: My bike is still there.

Mike: Your what? Your fan is there.

Alan: My fan? Which fan?

Mike: The dual head fan.

Alan: Oh (inaudible mumbling)

Mike: I just can't go on without knowing and one of the reasons I almost called you was just to say, "did you do this", cause that is the only thing that made sense to me.....

Alan: No, I didn't.

Mike: "I fucked over Alan so he's fucking around with me".

Alan: No, I didn't do it.

Mike: That is good to hear. So nothing, none of this is effecting you?

Alan: Yeh it is man, are you crying?

13

~~C 373~~

C 393

(294)

C11072

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Mike: No I am not going to cry in front of you now, I feel fine now, I am fine when I am talking to people. But as soon as I get alone I go to my room and see a picture that I have of her and me....

Alan: Throw the picture away.

Mike: I don't want to throw it away.

Alan: Well then keep it and remember and smile when you see it instead of fucking crying.

Mike: I do, I cry happy tears. Did Boner tell you about the funeral?

Alan: That would have been an uncomfortable situation at best, I'm sure.

Mike: You just said, But you didn't even want to go?

Alan: I wanted to go, I wanted desperately to go, but I couldn't go, the U.S. legal system denied me that privilege.

Mike: That's bullshit, they can't deny you anything. You said you had a lawyer, you didn't need to tell them anything.

Alan: Who do you think was her parent's number one suspect?

Mike: Her parents talked to me and said that you were disturbed and said that they didn't know who did it.

Alan: Who do you think, who do you think were her parents number one suspect, give me a fucking break.

Mike: I don't know.

Alan: Me.

Mike: I don't know.

Alan: It was me. I was their number one suspect. If I had shown up at the funeral her brothers would have beat the shit out of me.

(Alan is talking to someone else)

Mike: I will leave you alone, I am sorry, longer break than you expected to take. I can't feel anymore for anybody, I felt like I was on valium all day yesterday in class.

Alan: I'm the same as you, I'm feeling better.

Mike: You do, why, sometimes it can be better and then I feel, then I go home and I feel shitty, cause I don't know what to think, so many thoughts are racing through my head.

Alan: My number one rule since I heard has been "stay stoned".

Mike: Why, my number one rule is don't drink, don't do drugs, even though Jen would say "do them, they are fucking fun", wouldn't she?

Alan: Yeh, she would.

Mike: Mother fucker.

Alan: Maybe she wouldn't say that now.

Mike: Why wouldn't she say that now? She's partyin with Jim Morrison.

Alan: Yeh, down in South America.

Mike: Why in South America?

Alan: That's where everybody goes when they're dead.

Mike: I am going to South American right now then.

Alan: No you are not, if you kill yourself, I will kill myself.

Mike: That is another thing, don't ....

Alan: If you kill yourself, I will kill myself.

Mike: Dude,..

Alan: Mike!

Mike: You are not going to do that, why would you do that?

Alan: Because I give too much of a fuck about you.

Mike: Don't care about me, I wasn't talking about suicide. I was talking about going to South American on a plane and visiting her.

Alan: Don't do it. You got pieces to pick up, you got a responsibility.

Mike: Dude, you know what broke me up last week the most? Was that Perry told me that Jen told her once that Jen came to him and said "I am fucking freaked out because Alan said he was going to kill me and kill himself" and that just freaked me out you sayin that I am sorry.

Alan: I never said that.

Mike: That is what Perry told me I don't know anything ...

Alan: Perry's full of a lot of shit too.

Mike: ..what's a lie or what.

Alan: I told her if she killed herself I would do it too.

Mike: She wasn't going to do it.

(Alan and Mike are talking to Kurt.)

Mike: Dude, I'm going to go home I think.

Alan: Are you sure?

Mike: Yes, I'm sorry. I'll talk to you some other time, I don't...

Alan: Mike..

Mike: I've hugged so many people lately Alan, I can't, I am sorry.

Alan: Alright.

Mike: I have been getting sick about it, people are giving me so much, I mean, it is nice to be comforted to an extent, but I am just like "fucking back

off". I am sorry dude.

Alan: I understand. Don't let go.

Mike: I'll be ok, I'll be fine, I will. I will probably talk to you again sometime, I'll say, "Alan, I'm going crazy, help me."

Alan: I want you to come to me alright?

Mike: That's fine.

Alan: Alright.

Mike: If you want to talk to me, your welcome to.

Alan: I will.

Mike: O.K.

Alan: Dude, take care.

Mike: Thanks man, take care of yourself, I feel bad for not saying those words to her, I know it's bullshit but.

Alan: It's alright.

Mike: Thank's man, take it easy.

Alan: Don't do anything stupid.

Mike: What?

Alan: Don't do anything stupid.

Mike: I'm not going to.

Alan: Alright.

Pause

Mike: I'm going to go back to my apartment. I'll stop by Walgreens on the way, I will meet you there.

Mike: He said he was going to go back there and lock up. If you want to stay there for awhile until he leaves you can do that or I will be back at my apartment and you can just pull in the drive way or go to Walgreens and I will meet you there. Just so you don't drive away and look suspicious or something.

(Mike is singing, now he is whistling.)

Mike: I'll give you some music relief, I could use something. Singing, praying, the truth. Ugh. I hate cigarettes.

(Mike is whistling.)

Tech: Good job Mike.

Mike: Thanks.

Tech: The time is approximately 10:43 p.m., we turned the nagra recorder off,  
there will be no further conversations on this tape.

17

C 397

~~C 377~~

(294D)

C11076

AB000398

Tech: Today is September the 15th, 1993. We are in McLean County, Illinois. This will be a State authorized consensual in person overhear reference NPD Case No. 93, Correction, C93-4033.

Tech: Would you state your name please?

Mike: Michael Swaine.

Tech: Mike, are you aware that your conversation will be recorded and monitored?

Mike: Yes I am.

Tech: And do you indeed give your consent to these recordings?

Mike: Yes

Tech: The time now is approximately 7:02 p.m., this state authorized overhear will now commence.

(A car stereo is heard in the background as Mike is driven to the IWU campus)

(Mike knocks on the front door to Wallis Hall)

(Mike is talking to other people as he enters Wallis Hall.)

(Mike is heard knocking on Alan Beaman's door)

Alan: Who is it?

Mike: Swaine.

Alan: Hey dude, come in.

Mike: Hey what's up?

Alan: Don't worry man.

Mike: Hey boys and girls, what's up?

Unknown: Is he cool?

Alan: Yea. Hell yea.

Unknown: Ok, cool.

1

C 398

C11078

~~2378~~

295

AB000399

Alan: Swainer.

Mike: How you doing? Yea, we've met.

Wes: I'm Wes.

Mike: Hey Wes, How ya doing?

Alan: We're gonna top the when we swooped it. (???)

Mike: That's cool, I don't want any. Dude, can I talk to you sometime tonight?

Alan: Huh?

Mike: Can I talk to you sometime tonight? I just..

Alan: Sure, what's up?

Mike: Nothing really, it's just, I don't know, my thoughts in my head.

Alan: Well lets go out on the porch for a bit.

Mike: Ok, I am sorry dude.

Alan: That's alright, I mean I, we are planning on going out, but..

Mike: Ok, that's fine.

Alan: But I mean, I can come out for a bit.

Mike: I was supposed to go on a walk with Kurt but I just was..

Alan: Yeh.

Mike: ..like I don't want to deal with that. Yeh, well...

Unknown: What's going on?

Alan: We'll be back in a bit.

Unknown: That's cool.

Alan: Or at least I will, I don't know.

2

C 399

Q 379

(296)

C11079

AB000400

Mike: Sounds good from what I heard from outside, which wasn't much. Where did you get the hat man?

Unknown: My grandma made it.

Mike: Really?

Unknown: Isn't it bitch?

Mike: That's cool. It's fucking freezing, eh?

Alan: It's not too bad dude.

Mike: I was going to wear my, I almost broke out my leather jacket for today.

Alan: You should have man.

Mike: I don't know, I am sorry to come by now, it's just, we're trying ..

Alan: No, it's alright, what's up man?

Mike: I don't know, I just still don't know anything that is going on and it gets, it gets better and worse.

Alan: I know.

Mike: And it just pisses me off.

Alan: You gotta light? No you don't.

Mike: I don't. Sorry Alan.

Alan: Oh well.

Mike: I just keep hearing things, like, I don't know. I just keep hearing who everybody thinks that did it, and it pisses me off. And I don't know,..

Alan: Yea, just.

Mike: But you know who was..?

Alan: Huh?

Mike: I said, "you know who they think did it?"

3

C 400

~~0380~~  
C11080

(297)

AB000401

APPENDIX 003347

Alan: No.

Mike: You.

Alan: Like who?

Mike: A lot of, I don't want to say names, but I, just people go "do you think Alan did it?" I'm like, "I don't know."

Alan: I don't know man, it's just like, I mean even the cops are totally clueless.

Mike: I don't know.

Alan: I mean their, their..

Mike: I haven't talked to them in a week.

Alan: Dude, dude, they got, people, they're asking people to come in and take lie detectors, they think, then their talking to Carbone, they are talking to JC....

Mike: But why don't, but if they pay for it why don't, have you taken one yet?

Alan: Huh?

Mike: Have you taken one yet?

Alan: They haven't asked me to, they never did ask me to.

Mike: It's weird, that should be the first thing that they ask you, cause that is what they said to me, like, right away.

Alan: Yeh, well, you were, I mean you were there, so ...

Mike: Yeh.

Alan: It's different, you know what I mean?

Mike: I guess.

Alan: I mean, they come and found me in Rockford, and..

Mike: Well they came to Elmhurst to my door too.

Alan: Oh, did they?

4

C 401

~~e 381~~

29B

AB000402

C11081

Mike: Yeh, but I had left, I had left that day.

Alan: Oh, and then when you got to the apartment to pick up your stuff, it was like....

Mike: I was going to stay there for a couple more days but I still don't have my stuff, and I don't know. It just pisses me off, did you get to talk to her at all?

Alan: Talk to Jen?

Mike: Yeh.

Alan: She called me, Monday.

Mike: Yeh, Morgan told me about that.

Alan: And I was just like, "I don't want to talk to you", you know.

Mike: You just talked to her for like a minute?

Alan: Yeh.

Mike: I don't know, I wish she was here, I talked to the counselor tonight.

Alan: yeh.

Mike: Again, which just pisses me off, and then I'd say, I mean I said that "either you or her are telling me lies".

Alan: Dude, all I know is what she told me and I don't know, it's just like...

Mike: She didn't tell you she was going out with anybody that week? She told me that Bubba was coming into town that, on the weekend, but that was the one after, that was supposedly after.

Alan: Yeh, well she just, all, see all I know is that she called me and she was just like "don't you think, you know, you still love me, bla bla bla bla bla, Swaine doesn't want to see me anymore..." you know, and I am like, you know, I mean what the fuck were you thinking Mi..., you know, and, and, and, I don't want to talk to you click, you know, and then I didn't hear from her again and then the next thing I knew was Saturday night.

Mike: You said you have an alibi right? I'm sorry.

Alan: Yeh, dude it is totally solid.

5

C 402

~~C 382~~

(299)

C11082

AB000403

Mike: What did you, what were you, what were you..?

Alan: I was out with Carbone Wednesday night, I was at a party every night that week, Carbone and I went to that party Wednesday night, and I have been at work every night.

Mike: But then in the day you had to work right?

Alan: I have been at work every night. I work from like 2 in the morning, 1 in the morning, you know, sometime around there until usually 9 or 10 in the morning.

Mike: Well you said you had a, I don't know, I just wish, I don't know, I wish, cause I know, I know that people have been talking about you and I just haven't said anything. But, why don't you go to the police and just tell them everything that, cause I mean ...

Alan: I told them everything I know, I mean..

Mike: Then say "give me a lie detector test and then you can wipe me off of your list" and that will be fucking it.

Alan: But see they can't even wipe you off their list with a lie detector test

Mike: Cause that's what they did for me. But they did, they did, for me.

Alan: They pretty much wiped me off the list too now. They haven't even bothered to talk to me or anything since then. I mean it is like, you know, my alibi checks out, they don't need to worry about it.

Mike: They'll worry about it, I think they'll. I mean, I had an alibi too and someone said that they saw my car in her driveway on Wednesday and I had to take two lie detector tests to prove that I wasn't there.

Alan: Well see, nobody has said anything about me, so.

Mike: Yeh, I don't, I don't know who, I don't even know who talked to the police. I know like, me and Katie and just people who are around here and they called everybody from the summer company.

Alan: Yeh, I don't know, people are talking about me. I don't really fucking care, you know, fuck them, I mean, it's just like ...

Mike: Dude, how did you get over her, her so, you were like a wreck when you left?

Alan: I was a wreck when I left, and then I got to Rockford and numbed it all.

6

C 403

~~2383~~

300

C11083

AB000404

Mike: And numbed it all?

Alan: Numbed it all. I said "fuck it".

Mike: You should have done that a long time ago.

Alan: Yeh, I should have done it in June.

Mike: Why didn't you?

Alan: I didn't know certain things.

Mike: Like what?

Alan: I didn't know, you know. A lot of things I didn't know until you told me last week.

Mike: There is nothing to tell really.

Alan: I know, but.....

Mike: I wasn't carrying on a relationship with her, I wasn't going to.

Alan: Yeh, I know that, but it is just like,...

Mike: I wa...., I, right now though.

Alan: That, that doesn't even matter, man, all that shit is behind, you know, It's just like "fuck that".

Mike: But dude that's, none of that is behind, I don't want there to be future right now, I just want her back.

Alan: You are not going to be able to get that man.

Mike: I know, but then I want whoever did it to be gone.

Alan: That would be a good start.

Mike: That is why I got mad because, I don't know, I assumed they talked to Bubba, because I have told them everything about, I didn't know much about him, I didn't even know his real name.

Alan: Neither do I.

7

C 404

~~C 384~~

(301)

C11084

AB000405

APPENDIX 003351

Mike: She told me his real name.

Alan: Oh.

Mike: But I forget it, she had it written down, I am sure, but I don't know. And alot of things that you said about her and me upset me because, because I read a note yesterday from Kris, that she sent to Kris Perry that said that, she was finally happy. And it was a wonderful letter, it was so, I almost cried when I read it. But it would have been happiness just because it said this was the best time of her life because she got a new belief in God, her faith in God was reaffirmed, she was happy with life again, she got out of a bad relationship, and you know it was a bad relationship for the both of you.

Alan: Yeh.

Mike: And she got into a better one, and she thought she was finally finding love.

Alan: She would have gone just as crazy on you in two months.

Mike: I don't buy it.

Alan: She said she was just as happy as she could ever be after she started going out with me. After she broke up with a bad relationship with Bubba man.

Mike: That doesn't mean that she would have been the same with me, but that might not have been a bad relationship.

Alan: Ok, well it might not have been a bad relationship but you say there wasn't a relationship, so..

Mike: What with me?

Alan: yeh.

Mike: There wasn't really, we both defined it as not having a relationship.

Alan: Yeh, it was just kind of...

Mike: I cared about her and I had the most fun with her that I have had in a long time, this has been the best summer of my life until about a month ago.

Alan: Yeh

Mike: I don't know.

~~385~~

302

Alan: I don't know what to say man, all I know is, I can't wear black.

Mike: What do you mean? Oh, to mourn, I am not wearing black either.

Alan: You know what I mean, I mean it's just like, it's, it's just like ...

Mike: But this, this didn't effect you at all?

Alan: Yes it does, it did, I don't know if it does anymore.

Mike: Are you still seeing Ron?

Alan: Huh?

Mike: Are you still seeing Ron?

Alan: No, I haven't seen Ron since I was in Rockford, but...

Mike: You saw him in Rockford?

Alan: No, I didn't see him in Rockford.

Mike: Oh.

Alan: I haven't seen Ron since I left for Rockford.

Mike: And you are totally Ok?

Alan: Dude, I'm freaked out, ok? I am, but it's just like, she wasn't mine, she didn't love me, she wasn't mine....

Mike: But you said that she did?

Alan: I am just walking away. Dude, if she fucked you in the Sig Chi basement on June 11...

Mike: Not in the basement.

Alan: ....she didn't love me.

Mike: That is bullshit, cause she fucked you after that.

Alan: She didn't love me any more.

Mike: But, but she, then if she..

Alan: If she fucked you, she didn't love me.

Mike: Dude, don't leave.

Alan: Don't try to tell me shit that is not true. I'll leave.

Mike: Alan, you said that she called you and said "I love you, I need you back" Dude, I am not gonna be able ....

Alan: She was bullshitting me and she was just looking for something to do while you were gone.

Mike: Dude...

Mike: He just got mad and went away. If you want me to go back in and try it again, honk three times, if not, I will go back to Walgreens.

Mike: How ya doing.

(A car stereo can be heard while Mike is driven back to the Normal Police Department.)

Tech: The time now is approximately 7:41 p.m., we will be turning the nagra recorder off, there will be no further conversation on this tape.

10

C 407

C11087

387

(301)

AB000408

APPENDIX 003354



**GENETIC  
TECHNOLOGIES, INC.**

Forensic DNA / Serology / Relatedness Testing ©

Plaintiff's Exhibit No. 74

**FORENSIC REPORT 2  
FP3025**

Agency: Jason Wood  
Normal Police Department  
100 E. Phoenix  
Normal, Illinois 61761

Authorized by: Jason Wood

Shipped Via:  
In Person

Date:  
7/6/2011  
11:45 AM

Received by:  
Stephanie Beine

K2 – Blood stain card, reference standard from Alan Beaman<sup>1</sup>.

K3 – Blood stain card, reference standard from Michael Swaine<sup>1</sup>.

K4 – Blood stain card, reference standard from Stacey Gates<sup>1</sup>.

K5 – Oral swab, reference standard from Jennifer Lockmiller<sup>1</sup>.

Shipped Via:  
In Person

Date:  
2/2/2012  
1:00 PM

Received by:  
Jami K. Hamian

K7 – Buccal swabs, reference standard from Larbi John Murray<sup>1</sup>.

Shipped Via:  
In Person

Date:  
8/16/2012  
12:47 PM

Received by:  
Stephanie Beine

Q8 – One BPB sealed with CT labeled in part "200808888, Ex #15, box with cord from clock." Bag contains one yellow and white box sealed with RET, BET, PET, YET and CT. Box bears a hand drawing of the configuration of the cord and knot(s). Box contains two pieces of black cord. One piece has two cut ends and measures approximately 34 inches in length. Both cut ends are covered with CT. One end is labeled in part "end attached to clock radio cut at scene." Second piece of black cord has one cut end and one male-plug end and measures approximately 40 inches in length. Since no knots remain for reference, the entire length of both sides of both pieces of cord was swabbed in an attempt to recover DNA. (One moistened swab and one dry swab for each piece - total of four swabs)

<sup>1</sup> Genetic profiles obtained by Genetic Technologies, Inc and reported on June 5, 2012.

Email: [info@geneticttechnologies.com](mailto:info@geneticttechnologies.com)

Web Site: [www.geneticttechnologies.com](http://www.geneticttechnologies.com)

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**C11089**

P.O. Box 242  
Glencoe, MO 63038-0242  
Toll Free: (877) 451-4363  
Fax: (636) 451-5317

**Q8A** – One manila envelope sealed with CT labeled in part "200808888, ISP# 93-2654:45B, swabbings from pieces of cord." Envelope contains one manila envelope sealed with BET labeled in part "P93-2654 #45B, swabbings from pieces of cord." Envelope contains one CPB containing four microcentrifuge tubes each containing one swab head. All swab heads bear gray/brown colored staining. Tubes are labeled P93-2654 45B (I, II, III and IV) respectively.

**Q8B** – Four swabs from ISP combined with four swabs from GTI extracted together into one sample. (Four tubes - two swab tips in each tube concentrated down to one tube)<sup>ii</sup>

**Q9** – One BPB sealed with C, labeled in part "200808888, Ex # 92 & 43, red plastic handled scissors recovered from victim." Bag contains one BPB sealed with RET, BET and CT labeled in part "P93-2654 Ex. 43, red plastic handled scissors removed from victim's chest at autopsy." Bag contains one pair of red plastic handled scissors. Scissors measure approximately 8.5 inches in length with the handles measuring approximately 3.5 inches and the blades measuring approximately 5 inches. Base of blades and part of handles closest to blades bear red/brown colored staining. These areas were avoided during swabbing. Portions of handles not bearing visible staining were swabbed in an attempt to recover DNA. (One moistened swab followed by one dry swab - total two).

**Q9A** – One manila envelope sealed with CT, labeled in part "200808888 ISP#P93-2654:43A, swabbing from handle of scissors." Envelope contains one manila envelope sealed with BET labeled in part "P93-2654 #43A, swabbings from plastic handles of scissors." Envelope contains one CPB containing four microcentrifuge tubes each containing one swab head. All swab heads bear dark gray colored staining. Tubes are labeled P93-2654 43A (I, II, III and IV) respectively.

**Q9B** – Four swabs from ISP combined with two swabs from GTI extracted together into one sample. (Three tubes - two swab tips in each tube concentrated into one)<sup>ii</sup>

**Q10** – One BPB sealed with CT labeled in part "200808888, Ex #79, Jean shorts removed from victim at autopsy." Bag contains one BPB (original packaging of item) and one pair of denim shorts. Shorts are "Lee" brand, size, "16 REG" and bear multiple areas of staining of various sizes, colors and intensity.

**Q10AA** – Swabs of fly area of shorts focusing on snap, zipper and fabric immediately surrounding each. (One moistened swab followed by one dry swab - total two)<sup>ii</sup>

**Q10AB** – Swabs of exterior sides of shorts at the waist and hips. (One moistened swab followed by one dry swab - total two)<sup>ii</sup>

**Q11** – One BPB sealed with CT labeled in part "200808888, Ex #100, Belt (no evidence tag attached)." Bag contains one brown leather faux braided belt with gold in color buckle. Belt is 32 inches in length. Belt appears to have been processed for latent prints.

**Q11A** – One white small drip-like stain located on the buckle end of the belt. Swabbed in an attempt to recover DNA.<sup>ii</sup>

Q11B – Swabs of remainder of buckle end of belt, approximately 4", (minus white stain), buckle and approximately 6" of opposite end of belt with holes. (One moistened swab followed by one dry swab - total two)<sup>ii</sup>

Q12 – One manila envelope sealed with CT, labeled in part "200808888, Ex.#88, Underpants removed from victim at autopsy." Envelope contains one BFB (original packaging of item) and one pair of women's beige colored underwear. Underwear are "Maidenform" brand, size "5" and bear yellow/brown staining in the crotch section. The wearer's right side has been cut / torn open.

Q12B – Swabs of waistband of underpants (interior and exterior of band). (One moistened swab followed by one dry swab - total two)<sup>ii</sup>

Q12C – Swabs of leg openings of underpants (interior and exterior). (One moistened swab followed by one dry swab - total two)<sup>ii</sup>

Q12O – One light yellow/brown colored stain located on the interior crotch section extending onto the interior front panel.

#### Serology Results:

No seminal fluid was detected on Item Q12, stain O, underpants.

A presumptive test for the presence of semen was negative on items Q10 (26 stains), Q11 (one stain) and Q12 (18 stains).

#### DNA Results:

DNA extracts of Item Q8B, Q9B, Q10AA, Q10AB, Q11A, Q11B, Q12B and Q12C were amplified by Polymerase Chain Reaction and analysis of fifteen<sup>2</sup> and seventeen<sup>3</sup> STR systems was performed.

The genetic profiles obtained from these samples are listed in the Summary of Observed Alleles charts.

No reportable Y-STR genetic information was obtained from Item Q9B, swabs from scissors.

<sup>2</sup> Applied Biosystems AmpFISTR® Identifier® (D3S1358, vWA, FGA, D8S1179, D21S11, D18S51, D5S818, D13S317, D7S820, TPOX, TH01, D16S539, CSF1PO, D2S1338, D19S433 plus Amelogenin)

<sup>3</sup> Applied Biosystems AmpFISTR® Y-File® (DYS456, DYS389I, DYS390, DYS389II, DYS458, DYS19, DYS385, DYS393, DYS391, DYS439, DYS635, DYS392, Y-GATA H4, DYS437, DYS438 and DYS448).

**Summary of Observed Alleles: Identifier**

System	FP3025 Q08B	FP3025 Q09B	FP3025 Q10AA	FP3025 Q10AB	FP3025 Q11A	FP3025 Q11B
D8S1179	12,13,14,15	13,14	12,13,14	10,11,12,13,14	NR	12,13
D21S11	28,29,31,2	28,29	28,29,30,31	27,28,29	27*	29*
D7S820	9*	NR	9,10	9,10	NR	9,10
CSF1PO	NR	NR	10*	10,13	NR	10,13
D3S1358	14,17,18	14,17	13,14,15,17	14,15,17,18	15*	14,16,17,18
TH01	7,9,9.3	7,9	7,9,9.3	7,9,9.3	NR	6,9.3
D13S317	11,13	11*	11,12,13	10,11,12,13	NR	11,12
D16S539	11,13	NR	10,11,13	11,13	NR	NR
D2S1338	17*	NR	NR	20*	NR	NR
D19S433	13	13	13,14,15,>17.2	13,14,15,>17.2	NR	13,14,15,>17.2
vWA	15,18	15,18	15,16,18	15,16,17,18	16*	15*
TPOX	8	NR	8,11	8	NR	NR
D18S51	15*	NR	NR	16,17	NR	NR
Amel.	X,PA	X	X,Y	X,Y	NR	X,Y
D5S818	12,13	12,13	11,12,13	11,12,13	NR	11*
FGA	20*	NR	20,21	20*	NR	NR

System	FP3025 Q12B	FP3025 Q12C	FP3025 K2	FP3025 K3	FP3025 K4	FP3025 K6	FP3025 K7
D8S1179	12,13,14	12,13,14	13	11,14	12,14	13,14	13,15
D21S11	28,29,30,2	28,29	29,31	29,31	29,32,2	28,29	29,32,2
D7S820	9	9,11	8,9	11,12	10	9	10,11
CSF1PO	10*	13*	10,12	11,12	11,13	10,13	12,13
D3S1358	14,15,17	14,17	15,17	15,17	15,18	14,17	14
TH01	7,9,9.3	7,9	9.3	9.3	6,9	7,9	6,9
D13S317	11,12,13	11,13	11,13	11,12	11	11,13	8,11
D16S539	10,11,13	9,10,11,13	11	9,11	11	11,13	9,12
D2S1338	20*	20*	23,25	17,20	18,24	20	18,25
D19S433	13	13,15	14	13,15,2	14	13	13,13,2
vWA	16,19	16,18	18,21	16,17	16,17	15,18	17
TPOX	8	8	8,9	8,11	8	NR	10,12
D18S51	NR	NR	12,18	16,19	13,17	16	14,15
Amel.	X,Y	X	X,Y	X,Y	X,Y	X	X,Y
D5S818	11,12,13	12,13	11,12	12	11,12	13*	9,13
FGA	20,23,2	20*	20,22	23	22,24	20	25

C11092



# GENETIC TECHNOLOGIES, INC.

Forensic DNA / Serology / Relatedness Testing ®



Plaintiff's Exhibit No. 75

## FORENSIC REPORT FP3025

Agency: Jason Wood  
Normal Police Department  
725 S. Second Street  
Springfield, IL 62704

Authorized by: Jason Wood

Shipped Via:  
In Person

Date:  
7/6/2011  
11:45 AM

Received by:  
Stephanie Beine

**Q1** - One BPB sealed with CT labeled in part "200808888, Jennifer Lockmiller Sex Assault Kit". Bag contains one SAECK box sealed with purple evidence tape, labeled in part "P93-2654, Jennifer Lockmiller. Kit contains multiple sub exhibits.

**Q1A** - One white envelope sealed with BET and PET, labeled in part "P93-2654, fingernail clipping and scrapping right" [*sic*]. Envelope contains one white paper packet containing five pieces of apparent fingernail, one piece of possible tissue and one wooden nail scraper. One side of each piece of nail appears to bear red fingernail polish.

**Q1A1** - Two pieces of apparent fingernail

**Q1A2** - One piece of possible tissue

**Q1B** - One white envelope sealed with BET and PET, labeled in part "P93-2654, fingernail clipping and scrapping left" [*sic*]. Envelope contains one white paper packet containing five large and three small pieces of apparent fingernail. One side of the larger piece of fingernail bears red fingernail polish. The interior of the white paper packet bears multiple apparent red fingernail polish flakes. Two of the larger pieces of fingernail and the three smaller pieces of nail were extracted as sample Q1B.

**Q1AB** - Remaining fingernail clippings from right and left hand as well as swabs of remaining nails and swabs of interior of paper packets.

**Q2** - One manila envelope sealed with CT labeled in part "200808888, J Lockmiller Vaginal Swabs - From ISP Sex Assault Kit". Envelope contains one heat sealed CPB labeled in part "P93-2654. Bag contains two clear plastic screw top tubes, both are labeled "93-2654 J.L. Vag 32B". Each tube contains three partial swab heads with partial wooden sticks. One tube contains swabs labeled "1, 2 and 3", the other tube contains swabs labeled "4, 5 and 6". All swab heads bear heavy yellow staining. Portions of swabs labeled "2, 3 and 6" were utilized for DNA

**Q2A** - The remainder of vaginal swabs labeled "2, 3 and 6".

**Q3** - One BPB sealed with CT labeled in part "200808888, Extracted DNA Tubes &

Email: [info@genetictechnologies.com](mailto:info@genetictechnologies.com)

Web Site: [www.genetictechnologies.com](http://www.genetictechnologies.com)

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Page 1 of 8

C11094

P.O. Box 242

Glencoe, MO 63038-0242

Toll Free: (877) 451-4363

Fax: (636) 451-5317

APPENDIX 003359

GTI Case #: FP302

Slides". Bag contains one CPB labeled in part "F031671, Laboratory # P93-2654." Bag contains one cardboard slide mailer, not opened or examined. Bag also contains one CPB sealed with BET and purple ET labeled in part "F03-1671. P93-2654:108." Bag contains 8 microcentrifuge tubes.

Q3A – One microcentrifuge tube labeled "F031671 01m, 1671 01m". Tube reportedly contains dried down DNA extract from swabbings of the Left Hand Fingernails of Jennifer Lockmiller.

Q3B – One microcentrifuge tube labeled "F031671 02m, 1671 02m". Tube reportedly contains dried down DNA extract from swabbings of the Right Hand Fingernails of Jennifer Lockmiller.

K2 – Blood stain card, reference standard from Alan Beaman.

K3 – Blood stain card, reference standard from Michael Swaine.

K4 – Blood stain card, reference standard from Stacey Gates.

K6 – Oral swab, reference standard from Jennifer Lockmiller.

<u>Shipped Via:</u>	<u>Date:</u>	<u>Received by:</u>
In Person	2/2/2012 1:00 PM	Jami K. Harman

K7 – Buccals swabs, reference standard from Larbi John Murray.

<u>Shipped Via:</u>	<u>Date:</u>	<u>Received by:</u>
In Person	3/9/2012 12:18 PM	Stephanie Beine

Q7 - One manila envelope sealed with CT labeled in part "200808888, sub exhibits of Exhibit #20." Envelope contains one manila envelope sealed with BET labeled in part "P93-2654 #20 sheet, semen stains & controls." Envelope contains five screw top tubes all labeled in part "P93-2654 #20" tubes labeled "Stain 1, Stain 2, Stain 3, Control 1 and Control 2" respectively.

Q7A – One piece of black fabric bearing a yellow/white colored stain. Stain measures approximately 9.0 cm x 3.6 cm.

Serology Results:

The presence of seminal fluid was indicated on Item Q2, vaginal swabs.

The presence of semen was confirmed on Item Q7A, piece of black fabric.

**DNA Results:**

Differential extractions resulting in epithelial fractions (EF) and male fractions (MF) were performed on Items Q2 and Q2A, vaginal swabs and Q7A, piece of black fabric.

DNA extracts of Item Q1A1, Q1A2, Q1B, Q1AB, fingernail samples; Q2, Q2A, vaginal swabs; Q3A, Q3B, DNA extracts from Cellmark; Q7A, piece of black fabric; and Items K2, K3, K4, K6 and K7, reference standards were amplified by Polymerase Chain Reaction and analysis of fifteen STR<sup>1</sup> systems was performed.

DNA extracts of Item Q1A1, Q1A2, Q1B, Q1AB, fingernail samples; Q2, Q2A, vaginal swabs; Q3A, Q3B, DNA extracts from Cellmark; and Items K2, K3, K4 and K7, reference standards, were amplified by Polymerase Chain Reaction and analysis of seventeen Y-STR<sup>2</sup> systems was performed.

The genetic profiles obtained from these samples are listed in the Summary of Observed Alleles charts.

No reportable Y-STR genetic information was obtained from Items Q1A1, Q1A2, Q1B and Q1AB, fingernail samples, Q2A-EF, vaginal swab and Q3A and Q3B, DNA extracts from Cellmark.

**Summary of Observed Alleles: Identifier**

System	FP3025 Q01A1	FP3025 Q01A2	FP3025 Q01AB	FP3025 Q01B	FP3025 Q02-EF	FP3025 Q02-MF	FP3025 Q02A-EF	FP3025 Q02A-MF
D8S1179	13,14	13,14	13,14	13,14	13,14	13,14	13,14	12,13,14
D21S11	28,29	28,29	28,29	PA,PA	28,29	28,29	28,29	28,29,31
D7S820	NR	9*	9*	NR	9	9	9	9,10
CSF1PO		10*	NR		10,13	10,13	10,13	10,13
D3S1358	14,17	14,17	14,PA,17	14,17	14,17	14,17	14,17	14,17
TH01	7,9	7,9	7,9	7,9	7,9	7,9	7,9	7,9,PA
D13S317	11,13	11,13	11,13	11*	11,13	11,13	11,13	11,12,13
D16S539	NR	11,PA	11,13	PA	11,13	11,13	11,13	11,13

<sup>1</sup> Applied Biosystems AmpFISTR® Identifier® (D3S1358, vWA, FGA, D8S1179, D21S11, D18S51, D5S818, D13S317, D7S820, TPOX, TH01, D16S539, CSF1PO, D2S1338, D19S433 plus Amelogenin)

<sup>2</sup> Applied Biosystems AmpFISTR® Y-File® (DYS456, DYS389I, DYS390, DYS389II, DYS458, DYS19, DYS385, DYS393, DYS391, DYS439, DYS635, DYS392, Y GATA H4, DYS437, DYS438 and DYS448).

GTI Case #: FP302

D2S1338	NR	NR	PA	NR	20	20	20	20
D19S433	13	13	13	13	13	13,PA	13	13,PA
vWA	15,PA	15,18	15,18	15,18	15,18	15,18	15,18	15,18
TPOX	PA	8*	8*	8*	8	8	8	8
D18S51	NR	NR	PA	NR	16*	16	16	16
Amel.	X	X	X	X	x	X,Y	X	X,Y
D5S818	12,13	12,13	12,13	12,PA	12,13	12,13	12,13	PA,12,13
FGA	20*	20*	20*	PA	20	20	20	20

System	FP3025 Q03A	FP3025 Q03B	FP3025 Q07A-EF	FP3025 Q07A-MF	FP3025 K6 Lockmiller	FP3025 K2 Beaman	FP3025 K3 Swain	FP3025 K4 Gates	FP3025 K7 Murray
D8S1179	NR	13,14	11,13,14	11,14	13,14	13	11,14	12,14	13,15
D21S11		PA	28,29,31	29,31	28,29	29,31	29,31	29,32.2	29,32.2
D7S820		NR	9,PA,12	11,12	9	8,9	11,12	10	10,11
CSF1PO		10,12,13	11,12	10,13	10,12	11,12	11,13	12,13	
D3S1358	14*	14,17	14,15,17	15,17	14,17	15,17	15,17	15,18	14
TH01	NR	7*	7,9,9.3	9.3	7,9	9.3	9.3	6,9	6,9
D13S317		NR	11,12,13	11,12	11,13	11,13	11,12	11	8,12
D16S539		NR	9,11,13	9,11	11,13	11	9,11	11	9,12
D2S1338		PA,20	17,20	20	23,25	17,20	18,24	18,25	
D19S433	13*	13	13,PA	13,15.2	13	14	13,15.2	14	13,14.2
vWA	NR	18*	15,16,18	16,17	15,18	18,21	16,17	16,17	17
TPOX		NR	8	8,11	NR	8,9	8,11	8	10,12
D18S51		NR	16	16,19	16	12,18	16,19	13,17	14,15
Amel.		PA	X	X,Y	X,Y	X	X,Y	X,Y	X,Y
D5S818	NR	12,PA	12,13	12	13*	11,12	12	11,12	9,13
FGA		20*	20,PA	23	20	20,22	23	22,24	25

**Key:**

NR = No reportable data

GTI Case #: FP3025

PA = Possible activity detected below reporting threshold

\* = Possible allele not detected

**Bold** = Denotes the major DNA profile

#### Autosomal DNA Results Summary:

The partial genetic profile obtained from Item Q1A1, right hand fingernail scrapings and clippings of Jennifer Lockmiller, is single source and female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this partial genetic profile. No DNA foreign to Jennifer Lockmiller was detected in this sample. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile.

The partial genetic profile obtained from Item Q1A2, piece of apparent tissue from the right hand fingernail scrapings and clippings of Jennifer Lockmiller, is single source and female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this partial genetic profile. No DNA foreign to Jennifer Lockmiller was detected in this sample. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile.

The partial genetic profile obtained from Item Q1B, left hand fingernail scrapings and clippings of Jennifer Lockmiller, is single source and female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this partial genetic profile. No DNA foreign to Jennifer Lockmiller was detected in this sample. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile.

The partial genetic profile obtained from Item Q1AB, remaining fingernail clippings, scrapings, swabs from the remaining nails as well as swabs of the paper packets from both the right and left hand of Jennifer Lockmiller, is female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this partial genetic profile. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile. Activity detected below the reporting threshold indicates a possible mixture at the D3S1358 locus.

The genetic profile obtained from Item Q2-EF, vaginal swabs of Jennifer Lockmiller, is single source and female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this partial genetic profile. No DNA foreign to Jennifer Lockmiller was detected in this sample. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile.

The genetic profile obtained from Item Q2-MF, vaginal swabs of Jennifer Lockmiller, consists of a mixture of at least two individuals with one major female contributor. Jennifer Lockmiller cannot be excluded as a contributor to this major genetic profile. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this major genetic profile. Activity detected at the Amelogenin locus reflects evidence of a male contributor. An additional indication of a mixture of DNA was detected below the reporting threshold at the D19S433 locus.

The genetic profile obtained from Item Q2A-EF, vaginal swabs of Jennifer Lockmiller, is single source and female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this genetic profile. No DNA foreign to Jennifer Lockmiller was detected in this sample. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile.

The genetic profile obtained from Item Q2A-MF, vaginal swabs of Jennifer Lockmiller, consists of a mixture of DNA from at least two individuals with one major female contributor and additional minor alleles. Jennifer Lockmiller cannot be excluded as a contributor to the major genetic profile. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this major genetic profile.

Activity detected at the Amelogenin locus reflects evidence of a male contributor. Assuming one minor contributor, Jennifer Lockmiller, Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to the minor alleles detected. DNA foreign to the tested individuals in this case was detected in this sample.

Genetic data obtained from Item Q3A, extract from Cellmark, was rendered unsuitable for both statistical evaluation and comparative statements.

The partial genetic profile obtained from Item Q3B, extract from Cellmark, is single source and female in origin. Jennifer Lockmiller cannot be excluded as a possible contributor to this partial genetic profile. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial genetic profile.

The genetic profile obtained from Item Q7A-EF, piece of black fabric, consists of a mixture of at least two individuals with one major female contributor and minor alleles. Jennifer Lockmiller cannot be excluded as a contributor to the major genetic profile. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this major genetic profile.

Activity detected at the Amelogenin locus reflects evidence of a male contributor. Michael Swaine cannot be excluded as a possible contributor to the minor alleles detected. These minor alleles are expected to occur in approximately 1 in 20,981 in the Caucasian population, approximately 1 in 27,460 in the African American population and approximately 1 in 9,622 in the Hispanic population among unrelated individuals. Statistics for the minor alleles are based upon allele frequencies at the following loci: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539 and vWA. Assuming one contributor, Jennifer Lockmiller, Alan Beaman, Stacey Gates and Larbi John Murray are excluded as contributors to the minor alleles detected.

The genetic profile obtained from Item Q7A-MF, piece of black fabric, is single source and male in origin. This genetic profile is identical to the genetic profile obtained from Michael Swaine. This genetic profile is expected to occur in approximately 1 in 1.9 quintillion in the Caucasian population, in approximately 1 in 20.9 quintillion in the African American population and in approximately 1 in 1.4 quintillion in the Hispanic population among unrelated individuals. Jennifer Lockmiller, Alan Beaman, Stacey Gates and Larbi John Murray are excluded as contributors to this genetic profile.

Summary of Observed Alleles: Y-Filer

System	FP3025 Q2-MF	FP3025 Q2A-MF	FP3025 K2 Beaman	FP3025 K3 Swain	FP3025 K4 Gates	FP3025 K7 Murray
DYS456	15	<b>15</b>	16	15	17	16
DYS389I	13	<b>13</b>	13	13	13	13
DYS390	23	<b>23,PA</b>	24	25	23	24
DYS389II	29	<b>29</b>	29	30	29	29
DYS458	18	<b>17,18</b>	16	15	17	18
DYS19	14	<b>14,15</b>	14	15	14	13
DYS385	11,14	<b>11,14</b>	12,14	11,14	11,13	12,14
DYS393	13	<b>13</b>	14	13	13	13
DYS391	11	<b>10,11</b>	11	10	11	9
DYS439	12	<b>12</b>	12	10	12	10
DYS635	PA	<b>23</b>	23	24	23	20
DYS392	13	<b>13</b>	13	11	13	11
Y GATA H4	12	<b>12</b>	12	12	12	11
DYS437	PA	<b>15</b>	15	14	15	14
DYS438	9,12	<b>12</b>	12	11	12	10
DYS448	PA	<b>19</b>	19	19	19	20

Key:

PA = Possible activity detected below reporting threshold  
**Bold** = Denotes the major DNA profile

Y-STR Results Summary:

The haplotype profile obtained from Item Q2-MF, vaginal swabs of Jennifer Lockmiller, consists of a mixture of at least two males. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this mixture.

The haplotype profile obtained from Item Q2A-MF, vaginal swabs of Jennifer Lockmiller, consists of a mixture of at least two males with one major contributor. Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this major haplotype profile.

The partial minor haplotype profile obtained from Item Q2A-MF, vaginal swabs of Jennifer Lockmiller, consists of three alleles at the following loci: **DYS458, **DYS19** and **DYS391****.

C11100

GTI Case #: FP302

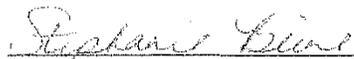
Assuming one minor male contributor, Alan Beaman, Michael Swaine, Stacey Gates and Larbi John Murray are excluded as contributors to this partial minor haplotype profile.

Items Q1A and Q1B, fingernail samples from Jennifer Lockmiller were consumed in analysis, however both DNA extract and amplified product remain from these exhibits<sup>ii</sup>.

Evidence will be returned to the submitting agency upon completion of this case.

*I hereby certify that the above testing was conducted according to currently accepted scientific standards in the forensic community and that the results and conclusions as stated above are an accurate and true reflection of said testing and this report accurately details the opinions and interpretations of the undersigned.*

Accepts responsibility:

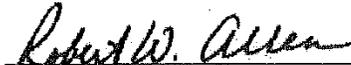


Stephanie Beine  
Sr. Forensic Scientist  
June 5, 2012

Reviewed By:



Jami K. Harman  
Scientific Director  
June 5, 2012



Robert W. Allen, Ph.D.  
Technical Leader  
June 5, 2012

<sup>ii</sup> Permission to consume these exhibits was obtained from Honorable Jeffrey Ford, Circuit Judge in the Eleventh Judicial District, McLean County, Bloomington, Illinois.



C11102

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

FROM THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

McLEAN COUNTY  
FILED  
JUL 07 2016  
CIRCUIT CLERK

ALAN BEAMAN, )  
)  
Plaintiff-Appellant, )  
)  
v. )  
)  
TIM FREESMEYER, Former Normal Police )  
Detective; DAVE WARNER, Former Normal )  
Police Detective; FRANK ZAYAS, Former )  
Normal Police Lieutenant; and TOWN OF )  
NORMAL, ILLINOIS, )  
)  
Defendants-Appellees. )

Case No. 14 L 51

The Hon. Richard L. Broch

NOTICE OF APPEAL

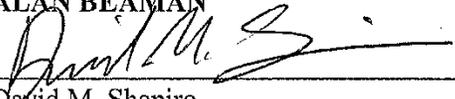
Plaintiff-Appellant Alan Beaman appeals to the Appellate Court of Illinois for the Fourth District from the following order entered in this matter in the Circuit Court of McLean County: the order of June 22, 2016 granting summary judgment in favor of Defendants-Appellees Timothy Freesmeyer, Dave Warner, Frank Zayas, and the Town of Normal.

By this appeal, Plaintiff-Appellant will ask the Appellate Court to reverse the order of June 22, 2016, and remand this cause with directions to reinstate all counts of the complaint for trial on the merits as to all claims, or for such other and further relief as the Appellate Court may deem proper.

C12501

Respectfully submitted,

ALAN BEAMAN

  
\_\_\_\_\_  
David M. Shapiro

Locke E. Bowman  
David Shapiro  
Roderick and Solange MacArthur Justice Center  
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Jeffrey Urdangen  
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Northwestern Pritzker School of Law  
375 East Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-7413

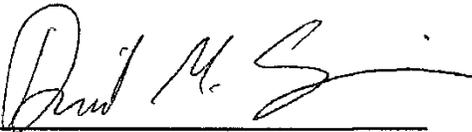
C12502

**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that I caused the foregoing Motion to be served upon:

Thomas G. DiCianni  
Lucy B. Bednarek  
Ancel, Glink, Diamond, Bush,  
DiCianni & Krafthefer, P.C.  
140 South Dearborn Street, 6<sup>th</sup> Floor  
Chicago, Illinois 60603

by electronic transmission and by placing the same in a properly addressed, postage pre-paid envelope for delivery by U.S. Mail before the hour of 5:00 p.m. at Northwestern Pritzker School of Law on July 6, 2016.



David M. Shapiro

C12503

**TABLE OF CONTENTS TO RECORD ON APPEAL**

<b>Exhibit Number</b>	<b>Name/Title</b>	<b>Volume</b>	<b>Record Page Range</b>
	Record Sheet for Beamn v. Freesmeyer, et.al starting 04.11.14 - 09.07.16	Vol I	C00001-C00012
	Civil Statistical Cover Sheet for Beaman v. Freesmeyer, et.al filed 04.11.14	Vol I	C00013
	Receipt Voucher from 04.11.14 for \$443.50	Vol I	C00014
	First Case Management Conference set on 10.02.14 dated 04.11.14	Vol I	C00015
	Complaint for Beaman v. Freesmeyer filed 04.11.14	Vol I	C00016-C00046
	Receipt Voucher from 05.01.14 for 15.00	Vol I	C00047
	Service of Summons documents 05.15.14, 04.30.14, 05.07.14	Vol I	C00050-C00054
	Appearance for Thomas G. DiCianni filed 05.29.14	Vol I	C00055-C00056
	Appearance for Freesmeyer, Warner, Zayas and Town of Normal and DiCianni as attorney for same 05.29.14	Vol I	C00057
	Receipt Voucher 05.29.14	Vol I	C00058
	Defendants' Answer and Affirmative Defenses to Plaintiff's Complaint with Notice of Filing filed 05.30.14	Vol I	C00059-C00099
	Defendants' Amended Answer and Affirmative Defenses to Plaintiff's Complaint with Notice of Filing filed 06.06.14	Vol I	C00100-C00141
	Motion for Leave to File Amended Answer to Plaintiff's Complaint filed 06.16.14	Vol I	C00142
	Defendants' Amended Answer and Affirmative Defenses to Plaintiff's Complaint with Notice of Filing filed 06.16.14	Vol I	C00143-C00182
	Notice of Motion for Leave to Amended Answer to Plaintiff's Complaint filed 06.16.14	Vol I	C00183-C00184
	Plaintiff's Motion for Assignment of an Out of Circuit Judge filed 06.16.14	Vol I	C00185-C00191
	Complaint for Beaman v. Freesmeyer filed 04.11.14	Vol I	C00192-C00223
	Assignment of Out of Circuit Judge Filed 02.09.04	Vol I	C00224-C00225
	Temporary Assignment Order 04.13.10	Vol I	C00226
	Letter from Judge Robb to Dawn Rubio dated 04.02.10	Vol I	C00227-C00229
	Notice of Hearing for Pltff's Motion for Assignment of an Out of Circuit Judge filed 06.20.14	Vol I	C00230
	Order filed 06.03.14 re assignment of out of circuit judge (granted)	Vol I	C00231
	Letter from Judge Robb to Todd Schroeder dated 07.07.14	Vol I	C00232
	Temporary Assignment Order 07.15.14	Vol I	C00233
	Letter from Judge Flannell to Don R. Everhart re Temp Assignment with documents 07.16.14	Vol I	C00234-C00239
	Stipulation filed 08.27.14	Vol I	C00240-C00242
	Order filed 08.27.14 re acceptance of stipulation	Vol I	C00243
	Joint Motion to Lift Stay and for Scheduling Conference filed 01.30.15	Vol I	C00244-C00247
	Order to lift stay issued on 08.27.14 signed and entered filed 01.30.15	Vol I	C00248-C00250
	Circuit Court of McClean County Court Orders filed 03.05.15, 04.23.15, 04.27.15, 05.01.15, 08.25.15, 08.26.15, 09.01.15, 10.02.15	Vol II	C00251-C00272
	Joint Motion for Protective Order filed 10.02.15	Vol II	C00273-C00275
	Agreed Order filed 10.02.15	Vol II	C00276-C00278
	Order to be filed 10.19.15	Vol II	C00279-C00282
	Letter with copy of Proposed Order agreed to by the parties dated 10.16.15	Vol II	C00283-C00285
	Notice of Filing and Notice for Motion for Extension of Time filed 11.16.15	Vol II	C00286-C00289
	Joint Motion for Revised Briefing Schedule on Motion for Summary Judgment filed 11.18.15	Vol II	C00290-C00292

**TABLE OF CONTENTS TO RECORD ON APPEAL**

<b>Exhibit Number</b>	<b>Name/Title</b>	<b>Volume</b>	<b>Record Page Range</b>
	Notice of Filing re Def's Motion for Summary Judgment, Memo in support of town of Normal Def's Motion for Summary Judgment, Def's Statement of Material Facts in support of MSJ filed 11.19.15	Vol II	C00293-C00358
Def Exhibit 1	Videotaped Deposition of Timothy Freesmeyer taken December 11, 2012	Vol II	C00359-C00479
Def Exhibit 2	Videotaped Deposition of Robert A. Hospelhorn taken December 17, 2012	Vol II - Vol III	C00481-C00546
Def Exhibit 3	Videotaped Deposition of David Warner taken December 18, 2012	Vol III	C00548-C00621
Def Exhibit 4	Videotaped Deposition of Frank L. Zayas taken February 15, 2013	Vol III	C00623-C00691
Def Exhibit 5	Discovery Deposition of Tony L. Daniels taken May 20, 2013	Vol III	C00693-C00975
Def Exhibit 6	Videotaped Deposition of James Souk taken December 10, 2012	Vol IV	C00977-C01133
Def Exhibit 7	Criminal Death Investigation- Witness Face Sheet for Morgan Keefe- August 28, 1993	Vol V	C001135-C01154
Def Exhibit 8	Normal Police Supplemental Case Report- Timothy Freesmeyer's Report	Vol V	C01156-C01216
Def Exhibit 9	Normal Police Supplemental Case Report- Robert Hospelhorn Report	Vol V	C01218-C1223
Def Exhibit 10	Criminal Death Investigation- Witness Face Sheet for John Murray- September 2, 1993	Vol V	C01224-C01250
Def Exhibit 11	John Murray Interview Transcript- September 8, 1993	Vol VI	C01252-C01281
Def Exhibit 12	Debbie Macoway Interview Transcripts	Vol VI	C01282-C01300
Def Exhibit 13	Hearing on Second Verified Amended Petition for Post Conviction Relief- Taken on December 15, 2004- Filed Stamped August 10, 2005	Vol VI	C01302-C01321
Def Exhibit 14	Grand Jury Proceedings June 30, July 7 and 14, 1994	Vol VI	C01323-C01750
Def Exhibit 15	State's Attorney Case File	Vol VIII	C01752-C02186
Def Exhibit 16	Jennifer Lockmiller's Telephone Records	Vol IX	C02188-C02195
Def Exhibit 17	The deposition of Charles Reynard taken March 26, 2013	Vol IX	C02197-C02241
Def Exhibit 18	Dean Kennedy Trial Transcript	Vol IX	C02243-C02309
Def Exhibit 19	Freesmeyer Trial Transcript	Vol X	C02311-C02611
Def Exhibit 20	Freesmeyer Grand Jury Transcript	Vol XI	C02613-C02783
Def Exhibit 21	Videotaped Deposition of Morgan Hartman taken September 24, 2015	Vol XII	C02785-C02828
Def Exhibit 22	Oral and Videotaped Deposition of Debra Bluestein taken August 11, 2015	Vol XII	C02830-C02843
Def Exhibit 23	Videotaped Deposition of Todd Heyse taken July 30, 2015	Vol XII	C02845-02875
Def Exhibit 24	Michael Swain Statements	Vol XII	C02877-C02991
Def Exhibit 25	Illinois State Police Crime Scene Report	Vol XII	C02993-C03002
Def Exhibit 26	911 Transcripts	Vol XIII	C03010-C03015
Def Exhibit 27	Criminal Death Investigation- Witness Face Sheet for Heidi Steinman- September 2, 1993	Vol XIII	C03016-C03036
Def Exhibit 28	Criminal Death Investigation- Witness Face Sheet for Katy Corbett- August 30, 1993	Vol XIII	C03038-C03046
Def Exhibit 29	Criminal Death Investigation- Witness Face Sheet for Amy Endicott-October 5, 1993	Vol XIII	C03048-C03055
Def Exhibit 30	Stipulation to Phone Records between Beaman & Lockmiller	Vol XIII	C03057-C03058
Def Exhibit 31	Overhear Transcription- February 16, 1994	Vol XIII	C03060-C03100
Def Exhibit 32	Mike Mackey Statement- September 9, 1993	Vol XIII	C03102-C03119
Def Exhibit 33	Jennifer Seig Statement- February 2, 1994	Vol XIII	C03121-C03132
Def Exhibit 34	Meredith Haynes Statement- September 3, 2013	Vol XIII	C03134-C03141
Def Exhibit 35	Alan Beaman Statement- August 28, 1993	Vol XIII	C03143-C03191
Def Exhibit 36	Report of Proceedings Jury Trial- Volume II March 16 and 17, 1995-	Vol XIII	C03193-C03197

**TABLE OF CONTENTS TO RECORD ON APPEAL**

<b>Exhibit Number</b>	<b>Name/Title</b>	<b>Volume</b>	<b>Record Page Range</b>
Def Exhibit 37	Discovery Deposition of Terrence McCann taken April 2, 2013	Vol XIII	C03199-C03276
Def Exhibit 38	Todd Barth Statement- September 2, 1993	Vol XIV	C03278-C03279
	Plaintiff's Opposition to Defendant's Motion for Summary Judgment Filed 12.16.15	Vol XIV	C03281-C03318
	Docketing Orders from 12.11.15, 10.02.15	Vol XIV	C03319-C03320
	Letter from Judge Broch to Judge Fitzgerald 11.24.15	Vol XIV	C03321
	Plaintiff's Response to the Defendant's Motion to Extend Time for their Rule 213(f)(3) Disclosures	Vol XIV	C03322-C03325
	Order filed 08.26.15	Vol XIV	C03327-C03328
	Order filed 10.19.15	Vol XIV	C03330-C03332
	Sealed Addendum to Plaintiff's Response to Defendant's Statement of Facts	Vol XIV	C03333
	Plaintiff's Response to Defendant's Statement of Facts 12.16.15	Vol XIV	C03334-C03419
	Plaintiff's Statement of Material Facts filed 12.16.15	Vol XIV	C03420-C03474
	Index to Plaintiff Exhibits	Vol XIV	C03475-C03477
PL Exhibit 1	Order Granting Certificate of Innocence- April 25, 2013- File Stamped April 29, 2013	Vol XIV	C03479-C03481
PL Exhibit 2	Deposition of Alan Wayne Beaman taken December 14, 2012	Vol XIV	C03483-C04079
PL Exhibit 3	Deposition of Carol Jeanne Beaman taken March 29, 2013	Vol XVI	C04081-C04377
PL Exhibit 4	Souk Grand Jury Transcript- June 30, July 7 and 14, 1994- File Stamped August 4, 1994	Vol XVI	C04378-C04799
PL Exhibit 5	Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief. Transcript of Proceedings Volume I- File Stamped August 10, 2005	Vol XVII	C04800-C05088
PL Exhibit 6	Alan Beaman Trial Transcript	Vol XVIII	C05089-C05410
PL Exhibit 7	Freesmeyer Normal Police Supplemental Case Report	Vol XVIII	C05412-C05475
PL Exhibit 8	Correspondence Letter from McCorkle Litigation Services re Deposition of Frank Zayas	Vol XVIII	C05477-C05544
PL Exhibit 9	Kenneth Moses Expert Report- Crime Scene Analysis	Vol XIX	C05546-C05550
PL Exhibit 10	Kenneth Moses CV	Vol XIX	C05552-C05558
PL Exhibit 11	Videotaped Deposition of Moragn Hartman	Vol XIX	C05560-C05579
PL Exhibit 12	Crime Scene Photo from Hartman Deposition- Bedroom Desk	Vol XIX	C05581
PL Exhibit 13	Crime Scene Photo from Hartman Deposition- Kitchen Sink/Garbage	Vol XIX	C005583
PL Exhibit 14	Videotaped Deposition of John Brown taken December 19, 2012	Vol XIX	C05585-C05843
PL Exhibit 15	Videotaped Deposition of John Belcher taken December 20, 2012	Vol XIX	C05845-C06020
PL Exhibit 16	Videotaped Deposition of Timothy John Freesmeyer taken December 11, 2012	Vol XX	C06022-C06378
PL Exhibit 17	Criminal Death Investigation- Witness Face Sheet for Kelly Hamburg- September 14, 1993	Vol XX	C06380-C06388
PL Exhibit 18	Morgan Keefe's Statement- September 10, 1993	Vol XX	C06390-C06410
PL Exhibit 19	Criminal Death Investigation- Witness Face Sheet for Morgan Keefe- August 28, 1993	Vol XX	C06412-C06431
PL Exhibit 20	Heidi Steinman Statement- September 2, 1993	Vol XX	C06433-C06452
PL Exhibit 21	John Murray's Statement- September 2, 1993	Vol XX	C06454-C06479
PL Exhibit 22	Laura McKeown's Statement Excerpts- Septmeber 9, 1993	Vol XX	C06481-C06485
PL Exhibit 23	Discovery Deposition of Larbi John Murray taken May 31, 2013	Vol XX	C06487-C06512
PL Exhibit 24	Deposition of Leigh Kuyper taken February 28, 2013	Vol XXI	C06514-C06653
PL Exhibit 25	John Murray Statement- September 8, 1993	Vol XXI	C06655-C06684
PL Exhibit 26	Discovery Deposition of Tony L. Daniels taken May 20, 2013- Volume I Pages 1-176	Vol XXI	C06686-C07417

**TABLE OF CONTENTS TO RECORD ON APPEAL**

<b>Exhibit Number</b>	<b>Name/Title</b>	<b>Volume</b>	<b>Record Page Range</b>
PL Exhibit 27	Murray Arrest Documents- Police Initial Case Report	Vol XXII	C07419-C07602
PL Exhibit 28	Discovery Deposition of Terrence McCann taken April 2, 2013	Vol XXIII	C07604-C07809
PL Exhibit 29	Deborah Mackoway's statement - September 8, 1993	Vol XXIII	C07811-C07818
PL Exhibit 30	Hearing on Second Verified Amended Petition for Post Conviction Relief- Taken on December 15, 2004- Filed Stamped August 10, 2005	Vol XXIII	C07820-C07964
PL Exhibit 31	Videotaped Deposition of Robert A. Hospelhorn taken December 17, 2012	Vol XXIII	C07966-C08160
PL Exhibit 32	John Murray polygraph documents	Vol XXIV	C08162-C08188
PL Exhibit 33	Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief. Transcript of Proceedings Volume II- File Stamped August 10, 2005	Vol XXIV	C08190-C08208
PL Exhibit 34	Discovery Deposition of Timothy J. Freesmeyer taken November 22, 2004	Vol XXIV	C08210-C08329
PL Exhibit 35	Report of Proceedings Jury Trial Volume II- March 16 and 17, 1995	Vol XXIV	C08331-C08345
PL Exhibit 36	Stacy Richard Gates Statement- August 30, 1993	Vol XXIV	C08347-C08387
PL Exhibit 37	Videotaped Deposition of Stacey Gates taken April 5, 2013	Vol XXIV	C08389-C08462
PL Exhibit 38	Stacy Gates polygraph documents	Vol XXIV	C08464-C08470
PL Exhibit 39	Stacy Gates attendance sheet - Peoria Public Schools	Vol XXIV	C08472-C08472
PL Exhibit 40	Danny Hosey Final Police Supplemental Case Report	Vol XXIV	C08474
PL Exhibit 41	Videotaped Deposition of David Warner taken December 18, 2012	Vol XXIV	C08476-C08685
PL Exhibit 42	Alan Beaman's statement - August 28, 1993	Vol XXV	C08687-C08735
PL Exhibit 43	Josh David Whitney's statement - August 30, 1993	Vol XXV	C08737-C08743
PL Exhibit 44	Criminal Death Investigation- Witness Face Sheet for Michael Swaine- August 28, 1993	Vol XXV	C08745-C08787
PL Exhibit 45	Robert K. Seyfried Expert Report - August 11, 2015	Vol XXV	C08789-C08793
PL Exhibit 46	Todd Heyse Trial Testimony	Vol XXV	C08796-C08848
PL Exhibit 47	Videotaped Deposition of James Souk taken December 10, 2012	Vol XXV	C08850-C09351
PL Exhibit 48	Freesmeyer disciplinary reports	Vol XXVI	C09353-C09363
PL Exhibit 49	Deposition of Attorney William R. Beu	Vol XXVI	C09365-C09546
PL Exhibit 50	Freesmeyer Trial Transcript	Vol XXVII	C09548-C09783
PL Exhibit 51	James E. Souk letter to Chief Taylor - April 17, 1995	Vol XXVII	C09785
PL Exhibit 52	Illinois State Police crime scene report- by Dean Kennedy	Vol XXVII	C09787-C09795
PL Exhibit 53	Timothy Freesmeyer Grand Jury Transcript	Vol XXVII	C09797-C09983
PL Exhibit 54	Hospelhorn Final Police Supplemental Case Report	Vol XXVII	C09985-C10000
PL Exhibit 55	Gregg McCrary Expert Report - August 17, 2015	Vol XXVIII	C10002-C10029
PL Exhibit 56	John Dierker Trial Transcript	Vol XXVIII	C10031-C10068
PL Exhibit 57	Discovery Deposition of James Souk taken March 22, 2004	Vol XXVIII	C10070-C10139
PL Exhibit 58	Closing Argument Transcript	Vol XXVIII	C10141-C10311
PL Exhibit 59	Carol Beaman Trial Transcript	Vol XXVIII	C10313-C10457
PL Exhibit 60	Deposition for Joshua Whitney taken March 19, 2013	Vol XXVIII	C10459-C10577
PL Exhibit 61	Beaman Residence Call Details	Vol XXIX	C10580
PL Exhibit 62	David Singley's Statement -August 31, 1993	Vol XXIX	C10582-C10594
PL Exhibit 63	David Singley's Statement -September 8, 1993	Vol XXIX	C10596-C10613
PL Exhibit 64	John Dierker Report -January 3, 1994	Vol XXIX	C10615-C010617
PL Exhibit 65	Discovery Deposition of Stephen Arney taken April 4, 2013	Vol XXIX	C10619-C10771
PL Exhibit 66	Pantagraph.com Article - April 12, 1997	Vol XXIX	C10773-C10774
PL Exhibit 67	Bedroom Photo - Aerial View of Trashcan	Vol XXIX	C10776
PL Exhibit 68	Bedroom Photo - Bedroom Desk & Fan	Vol XXIX	C10778
PL Exhibit 69	Videotaped Deposition of Michael Swaine taken March 22, 2013	Vol XXIX	C10780-C11046
PL Exhibit 70	Swaine telephone overhear - September 1, 1993	Vol XXX	C11048-C11053

**TABLE OF CONTENTS TO RECORD ON APPEAL**

<b>Exhibit Number</b>	<b>Name/Title</b>	<b>Volume</b>	<b>Record Page Range</b>
PL Exhibit 71	Swaine telephone overhear - September 2, 1993	Vol XXX	C11055-C11058
PL Exhibit 72	Swaine telephone overhear - September 8, 1993	Vol XXX	C11060-C11076
PL Exhibit 73	Swaine telephone overhear - September 15, 1993	Vol XXX	C11078-C11087
PL Exhibit 74	DNA report #1 from Genetic Technologies	Vol XXX	C11089-C11093
PL Exhibit 75	DNA report #2 from Genetic Technologies	Vol XXX	C11094-C11102
PL Exhibit 76	Daniel Spitz Forensic Pathology Toxicology Report - August 14, 2015	Vol XXX	C11103-C11106
PL Exhibit 77	Dr. Sharon Schnittker PC Affidavit	Vol XXX	C11107-C11120
PL Exhibit 78	Dr. Sharon Schnittker Trial Transcript	Vol XXX	C11122-C11169
PL Exhibit 79	Dean Kennedy Trial Transcript	Vol XXX	C11171-C11237
PL Exhibit 80	John Dierker Report - January 23, 1995	Vol XXX	C11239-C11242
PL Exhibit 81	Meredith Haynes Statement - September 3, 1993	Vol XXX	C11244-C11251
PL Exhibit 82	Stacy Gates letter to Lockmiller - April 5, 1992	Vol XXX	C11253-C11255
PL Exhibit 83	Lockmiller letters	Vol XXX	C11257-C11313
PL Exhibit 84	Illinois State Police Crime Scene Report by Dean Kennedy	Vol XXX	C11315-C11323
PL Exhibit 85	Criminal Death Investigation- Witness Face Sheet for Liza Everett- September 9, 1993	Vol XXX	C11325-C11329
PL Exhibit 86	Videotaped Deposition of Teri Dimmick taken January 7, 2013	Vol XXX	C11331-C11335
PL Exhibit 87	Kristian Perry statement - September 2, 1993	Vol XXX	C11337-C11338
PL Exhibit 88	Second Supplemental Post Trial Motion- Filed Stamped May 3, 1995	Vol XXX	C11340-C11342
PL Exhibit 89	Carol Beaman Grand Jury Transcript	Vol XXX	C11344-C11420
PL Exhibit 90	Swaine's Final Statement Continued	Vol XXX	C11422-C11495
PL Exhibit 91	John Revis' Statement - September 3, 1993	Vol XXX	C11497-C11506
PL Exhibit 92	Kathryn Sue Corbett's Statement - August 30, 1993	Vol XXXI	C11508-C11515
PL Exhibit 93	Michael Swaine Trial Transcript	Vol XXXI	C11517-C11601
PL Exhibit 94	Daniels Police Reports	Vol XXXI	C11603-C11608
PL Exhibit 95	Michael VanBerringer Affidavit	Vol XXXI	C11610-C11612
PL Exhibit 96	Ross Minion Statement - September 4, 1993	Vol XXXI	C11614-C11617
PL Exhibit 97	BroMenn Pre-Hospital Care Report - June 24, 1993	Vol XXXI	C11619
PL Exhibit 98	Daniels Police Report - September 2, 1993	Vol XXXI	C11621
PL Exhibit 99	Stipulation to Phone Records between Beaman & Lockmiller	Vol XXXI	C11623-C11625
	Notice of Filing and Motion re Def's Reply to Pltf's Opposition to Def's Motion for Summary Judgment filed 01.22.16	VOL XXXI	C11626-C11656
	Notice of Filing re Town of Normal Def's Response to Pltf's Statement of Material Facts filed 01.22.16	VOL XXXI	C11657-C11767
	11.27.16 Written Order re Def's Motion to Extend Rule 213(f)(3) on file	VOL XXXI	C11768-C11770
	Letter dated 01.29.16 to Judge Fitzgerald from Judge Broch with copies of Order dated 01.27.16	VOL XXXI	C11771-C11772
	Motion to Supplement Judgment Record with Deposition Transcript of Defendant Expert Witness Filed 03.08.16	VOL XXXI	C11773-C11852
	Order Filed re summary judgment is supplemented with the transcript of Thomas Martin from 02.22.16 and filed on 03.08.16	VOL XXXII	C11853
	Notice of Filing and Motion re Def's Motion for Leave to File Surreply in Support of Motion for Summary Judgment filed 03.25.16	VOL XXXII	C11854-C11865
	Deposition of Thomas Martin dated 02.22.16	VOL XXXII	C11867-C11943
	Plaintiff's Opposition to Def's Motion to File Surreply filed 03.25.16	VOL XXXII	C11944-C11946
	Docket entry filed 03.29.16	VOL XXXII	C11947
	Docket entry filed 04.04.16	VOL XXXII	C11948
	Def's Surreply in Support of Motion for Summary Judgment filed 04.05.16	VOL XXXII	C11949-C11954

**TABLE OF CONTENTS TO RECORD ON APPEAL**

<b>Exhibit Number</b>	<b>Name/Title</b>	<b>Volume</b>	<b>Record Page Range</b>
	Deposition of Thomas Martin dated 02.22.16	VOL XXXII	C11956-C12032
	Notice of Filing re Def's Def's Surreply in Support of Motion for Summary Judgment filed 04.05.16	VOL XXXII	C12033-C12034
	Docket entry filed 05.12.16	VOL XXXII	C12035
	Docket entry filed 05.16.16	VOL XXXII	C12036
	Order re Pretrial Conference filed 05.16.16	VOL XXXII	C12037-C12038
	Def's Motion for Leave to File Supplemental Authority in Support of Motion for Summary Judgment filed 06.07.16	VOL XXXII	C12039-C12044
	Notice of Motion and Notice of Filing for Def's Motion for Leave to File Supplemental Authority in Support of Motion for Summary Judgment filed 06.07.16	VOL XXXII	C12045-C12048
	Docket entry 06.15.16	VOL XXXII	C12049
	Deposition Transcript of Ryan Campbell taken on 03.12.13	VOL XXXII - VOL XXXIII	C12050-C12221
	Images of Three Stooges with cops and a woman with writing on it	VOL XXXIII	C12222
	Deposition transcript of Heidi Stinman taken on 04.02.13	VOL XXXIII	C12223-C12274
	Deposition transcript of Kristen Hubble taken on 04.03.13	VOL XXXIII	C12275-C12358
	Deposition transcript of Teri Dimmick taken on 01.07.13	VOL XXXIII	C12359-C12454
	Plaintiff Alan Beaman's Omnibus Motions in Limine filed 06.17.16	VOL XXXIII	C12455-C12471
	Notice of Filing and Motion re Def's Motions in Limine Numbers 1-22 filed 06.17.16	VOL XXXIV	C12472-C12492
	Docket Entry 06.22.16	VOL XXXIV	C12493
	Letter and Judgment filed 06.22.16 from Judge Broch	VOL XXXIV	C12494-C12500
	Plaintiff Beaman's Filed Notice of Appeal 06.07.16	VOL XXXIV	C12501-C12503
	Letter dated 07.19.16 filed 07.21.16 re docketing statement	VOL XXXIV	C12504
	Letter dated 07.22.16 filed 07.22.16 re docketing statement	VOL XXXIV	C12505
	Docketing Order entered 07.2.16	VOL XXXIV	C12506
	Correspondence Letter from David Shapiro to Sophie Ratzsch re a Certificate in Lieu of Record 07.28.16	VOL XXXIV	C12507
	Correspondence letter from Nellie B. Gilpin to DiCianni re Pltf's report of proceedings on Appeal 07.08.16	VOL XXXIV	C12508
	Correspondence Letter from David Shapiro to Sophie Ratzsch re filing of record on appeal 09.02.16	VOL XXXIV	C12509
	Receipt Voucher for \$2,976.00 09.07.16	VOL XXXIV	C125010
	Certificate in Lieu of Record Table of Contents of Record field 09.08.16	VOL XXXIV	N/A
	Table of Contents Volume I - XXXV	VOL XXXIV	N/A
	Transcript from MSJ Hearing 03.08.16	VOL XXXVI	N/A



State of Illinois  
Executive Department

**TO: Circuit Clerk, McLean County, McLean County, Illinois:**

Whereas, **ALAN W. BEAMAN (SID: 34309270)** was convicted of the crime of **Murder, Case: 94CF476** in the **Circuit Court of McLean County** and was sentenced **May 10, 1995 to 50 Years,**

Whereas, it has been represented to me that **ALAN W. BEAMAN (SID: 34309270)** is a fit and proper subject to Executive Clemency.

Now, Know Ye, that I, **PAT QUINN**, Governor of the State of Illinois, by virtue of the authority vested in me by the Constitution of the State, do by these presents:

**PARDON**

**ALAN W. BEAMAN (SID: 34309270)**

of the said crime of which convicted, and **ALAN W. BEAMAN (SID: 34309270)** is hereby acquitted and discharged of and from all further imprisonment and restored to all the rights of citizenship which may have been forfeited by the conviction.

**Grant Pardon Based Upon Innocence As If No Conviction.**

**DATED: January 9, 2015**

PAT QUINN  
GOVERNOR

By the Governor:

JESSE WHITE  
SECRETARY OF STATE



No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

---

ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former Normal  
Police Detective; DAVE WARNER,  
Former Normal Police Detective;  
FRANK ZAYAS, Former Normal  
Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

---

Appeal from the Circuit Court of McLean County, Illinois  
Eleventh Judicial Circuit, No. 14 L 51  
The Honorable Richard L. Broch, Judge Presiding

---

**BRIEF AND ARUGMENT OF PLAINTIFF-APPELLANT**

---

David M. Shapiro  
Locke E. Bowman  
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**ORAL ARGUMENT REQUESTED**

Indeed, he allowed the arrest to occur even though he knew that case was half-baked and not ready for charging and prosecution. *See supra* at 40.

## **II. THE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS CLAIM (COUNT II) MUST PROCEED TO TRIAL.**

It goes without saying that the conduct at issue here—pursuing plaintiff’s conviction maliciously, disregarding and manipulating the evidence, and sending an innocent man to prison for a dozen years for a crime he could not have committed—is extreme and outrageous conduct. *See Carrocia v. Anderson*, 249 F.Supp.2d 1016, 1028 (N.D. Ill. 2003); *Treece v. Village of Naperville*, 903 F. Supp. 1251, 1259-60 (N.D. Ill.1995), *aff’d*, 213 F.3d 360 (7th Cir. 2000)); *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 930 (N.D. Ill. 2013); *Fox v. Tomczak*, No. 04 C 7309, 2006 WL 1157466, at \*6 (N.D. Ill. Apr. 26, 2006); *Wallace v. City of Zion*, No. 11 C 2859, 2011 WL 3205495, at \*6 (N.D. Ill. July 28, 2011); *McDonald v. Vill. of Winnetka*, No. 00 C 3199, 2001 WL 477148, at \*6 (N.D. Ill. May 3, 2001). Therefore, the circuit court erred in granting summary judgment on the intentional infliction of emotional distress claim.

## **III. THE CIVIL CONSPIRACY CLAIM (COUNT III) MUST PROCEED TO TRIAL**

“Since conspiracies are generally evolved under the cloak of secrecy, the courts have traditionally permitted proof of a conspiracy by indirect or circumstantial evidence . . .” *Rosee v. Bd. of Trade of City of Chicago*, 43 Ill. App. 3d 203, 239 (1st Dist. 1976). “A conspiracy may generally be inferred from circumstances,” *People v. Small*, 319 Ill. 437, 449 (1925), so long as the circumstantial evidence of conspiracy is “clear and convincing.” *McClure v. Owens Corning Fiberglas Corp.*, 188 Ill. 2d 102, 134 (1999).

**FILED**

**FEB 22 2017**

CARLA BENDER  
Clerk of the  
Appellate Court, 4th District

No. 4-16-0527

**IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT**

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ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

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TIM FREESMEYER, Former Normal  
Police Detective; DAVE WARNER,  
Former Normal Police Detective;  
FRANK ZAYAS, Former Normal  
Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

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Appeal from the Circuit Court of McLean County, Illinois  
Eleventh Judicial Circuit, No. 14 L 51  
The Honorable Richard L. Broch, Judge Presiding

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**REPLY BRIEF OF PLAINTIFF-APPELLANT**

---

David M. Shapiro  
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**ORAL ARGUMENT REQUESTED**

**II. PLAINTIFF'S CLAIMS FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, RESPONDEAT SUPERIOR, AND INDEMNIFICATION MUST PROCEED TO TRIAL.**

Defendants argue that the claims for intentional infliction of emotional distress, respondeat superior, and indemnification must fall with the malicious prosecution claim. Because a jury must decide the malicious prosecution claim for the reasons described above, these other claims (Counts II, IV, and V) must also proceed to trial.

**III. PLAINTIFF'S CIVIL CONSPIRACY CLAIM MUST PROCEED TO TRIAL**

Defendants attack the conspiracy claim (Count III) with a logical sleight of hand. First, they dodge the disputed facts surrounding misconduct by asking the court to put "Plaintiff's claims of misconduct aside." Def. Br. 47. Then they declare that evidence of officers working together on a case, standing alone, does not make a conspiracy. *Id.* 46-48. Of course, if one ignores the misconduct and focuses only on the coordinated investigation, a conspiracy looks less plausible, but only because the misconduct provides powerful evidence of the conspiracy. Defendants' argument, in short, is like asking someone to ignore the turkey, cheese, and mustard—and then declaring that bread alone does not make a sandwich.

Again, defendants do not seriously challenge the disputed facts surrounding Freesmeyer's grand jury perjury, his manipulation of the time trials, and his concealment of exculpatory evidence. Zayas let Plaintiff get arrested even though he knew the case was shoddy and incomplete. Whether Warner hid the Murray polygraph presents a genuine issue of fact, as the federal court recognized. Taking these facts as true, as we must in this posture, it would be an extraordinary coincidence if the defendants all decided in solitude to cook the evidence in a way that would nail Alan Beaman, a college student with an alibi

No. 4-16-0527

IN THE APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT

---

ALAN BEAMAN,

Plaintiff-Appellant,

v.

TIM FREESMEYER, Former Normal  
Police Detective; DAVE WARNER,  
Former Normal Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF NORMAL,  
ILLINOIS,

Defendants-Appellees.

Appeal from the Circuit Court of  
McLean County, Illinois

Eleventh Judicial Court Case No. 14 L 51

The Honorable Richard L. Broch, presiding

---

**BRIEF AND ARGUMENT OF DEFENDANTS-APPELLEES**

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**ORAL ARGUMENT REQUESTED**

could prove a termination indicative of innocence. In *Walden v. City of Chicago*, 391 F.Supp.2d 660, 673 (N.D.Ill. 2005), the district court merely recognized that if a governor's pardon uses certain language, that pardon may indicate a conviction was terminated in the plaintiff's favor for purposes of a *Heck* analysis only. Nevertheless, a district court decision is not precedential here, and in any event a case stands only for the issues it decides. *Sanner v. Champaign County*, 88 Ill.App.3d 491 (4th Dist. 1980).

Plaintiff also argues the evidence showed he is innocent, but the termination element of his claim turns on why the case was terminated, not what the civil court hearing the malicious prosecution tort case thinks of the strength of the evidence against the plaintiff. Plaintiff has presented no other evidence to satisfy his burden, and therefore the Circuit Court properly granted summary judgment on plaintiff's malicious prosecution claim.

## **II. The Circuit Court Properly Granted Summary Judgment On Plaintiff's Intentional Infliction Of Emotional Distress Claim.**

The Circuit Court properly recognized that plaintiff's intentional infliction of emotional distress ("IIED") claim is based on the alleged malicious prosecution and, therefore, fails because plaintiff's malicious prosecution claim fails. *Jiminez v. City of Chicago*, 830 F.Supp.2d 432, 451 (N.D.Ill. 2011) (success of the IIED claim was contingent on the success of malicious prosecution claim); *Walden v. City of Chicago*, 755 F.Supp.2d 942, 962 (N.D.Ill. 2010) (IIED claim was "intertwined" with the malicious prosecution claim). Here, because plaintiff bases his IIED claim on the alleged malicious prosecution, his IIED claim also fails. Moreover, absent proof sufficient to establish common law malicious prosecution, defendants are immune from liability for a prosecution, regardless of how plaintiff styles his cause of action. 745 ILCS 10/2-208.

Because the Circuit Court properly granted summary judgment on plaintiff's malicious prosecution claim, summary judgment on the IIED claim was also properly granted.

### **III. The Circuit Court Properly Granted Summary Judgment On Plaintiff's State Law Civil Conspiracy Claim.**

On appeal, plaintiff confines his conspiracy claim to defendants conspiring among themselves to maliciously prosecute him, abandoning his claim that defendants conspired with the McLean County State's Attorney. To prove a civil conspiracy, a plaintiff must show an agreement to accomplish either an unlawful purpose or a lawful purpose by unlawful means. *Mosley v. City of Chicago*, 614 F.3d 391, 399 (7th Cir. 2010); *Buchner v. Atlantic Plant Maint., Inc.*, 182 Ill.2d 12, 23 (1998). Most significantly, a plaintiff must prove a meeting of the minds between the defendants. A conspiracy claim cannot be based on speculation or conjecture. The plaintiff must show the defendants acted in concert. *Fritz v. Johnson*, 209 Ill.2d 302, 317-18 (2004).

First, for all of the reasons the defendants were entitled to summary judgment on Count I, they were also entitled to summary judgment on Count III. As explained above, the Circuit Court properly found there was no evidence to show a fact issue on the elements of plaintiff's malicious prosecution claim. Moreover, the Circuit Court properly found there was no evidence of a conspiracy. Plaintiff argues that a conspiracy is shown by the following: (1) defendants collaborated closely on the case and shared information and therefore must have known there was no probable cause to arrest and prosecute Beaman; (2) Freesmeyer ignored exculpatory evidence and alternative suspects, lied to the grand jury and skewed time trials; (3) Warner "buried" the Murray polygraph; and (4) Zayas allowed the arrest to go forward, knowing the evidence could not justify it. Plaintiff's claims of misconduct aside, his argument flags nothing more than defendants

2019 IL 122654

IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS

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(Docket No. 122654)

ALAN BEAMAN, Appellant, v. TIM FREESMEYER *et al.*, Appellees.

*Opinion filed February 7, 2019.*

JUSTICE KILBRIDE delivered the judgment of the court, with opinion.

Chief Justice Karmeier and Justices Thomas, Garman, Burke, Theis, and Neville concurred in the judgment and opinion.

OPINION

¶ 1 The issue presented in this appeal is the proper test to satisfy the “commencement or continuance” prong of the tort of malicious prosecution. In 2008, this court reversed plaintiff Alan Beaman’s conviction for the murder of his ex-girlfriend, Jennifer Lockmiller. *People v. Beaman*, 229 Ill. 2d 56, 82 (2008). We concluded that the State violated his constitutional right to due process under *Brady v. Maryland*, 373 U.S. 83 (1963), when it failed to disclose material and

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SUPREME COURT  
APPENDIX 003385  
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exculpatory information about a viable alternative suspect. *Beaman*, 229 Ill. 2d at 81.

¶ 2 Beaman initiated this action, alleging defendants, Tim Freesmeyer, Dave Warner, and Frank Zayas, former officers with the Normal Police Department, acted maliciously in investigating him and aiding in his prosecution. Beaman asserted claims of malicious prosecution, intentional infliction of emotional distress, and conspiracy against those individual defendants. Beaman sought damages from defendant, the Town of Normal, on theories of *respondeat superior* and indemnification. The circuit court of McLean County granted defendants' motion for summary judgment, finding no genuine issue of material fact as to Beaman's claims of malicious prosecution. The appellate court affirmed. 2017 IL App (4th) 160527. For the following reasons, we reverse and remand to the appellate court for further proceedings.

¶ 3

### I. BACKGROUND

¶ 4

On August 28, 1993, 21-year-old Jennifer Lockmiller, a student at Illinois State University, was found dead in her apartment in Normal, Illinois. A number of police officers from the Normal Police Department were involved in investigating Lockmiller's death. Those officers included defendants, Detective Tim Freesmeyer, Detective Dave Warner, and Lieutenant Frank Zayas. Freesmeyer served as the principal detective in the investigation. Warner's role included serving as an evidence custodian and investigating one of the suspects, Stacey Gates. Zayas supervised Detective Freesmeyer and Detective Warner in the Lockmiller investigation until he retired in November 1994. Other individuals involved in the Lockmiller murder investigation included McLean County State's Attorney Charles Reynard and Assistant State's Attorney James Souk. Souk acted as the lead prosecutor in Beaman's criminal prosecution.

¶ 5

The murder investigation only focused on individuals Lockmiller knew. Police questioned Lockmiller's then-boyfriend, Michael Swaine, as well as former boyfriends, including Beaman, Stacey Gates, and Larbi John Murray.

¶ 6

A meeting was held on May 16, 1994, to determine whether to arrest Beaman for Lockmiller's murder. Those in attendance included State's Attorney Reynard,

Assistant State's Attorney Souk, Freesmeyer, Zayas, Normal Chief of Police James Taylor, and Detective Tony Daniels. During the meeting, Reynard decided to charge Beaman. Souk agreed. At his deposition in this case, Daniels testified he suggested a list of investigative avenues to pursue before arresting Beaman. Souk responded, "I think we've got our guy," and stated, "we went as far as we can with this case." Souk said they were going to issue a warrant for Beaman's arrest.

¶ 7 Prior to trial, the State filed a motion *in limine* to exclude evidence of Lockmiller's relationships with men other than Beaman and Swaine. The State argued that Beaman should not be allowed to offer alternative-suspect evidence unless he could establish it was not remote or speculative. The prosecutor informed the court that the State did not possess nonspeculative evidence of a third-party suspect. The trial court reserved ruling on the motion.

¶ 8 Later, the State and Beaman's defense counsel discussed Lockmiller's relationship with an individual identified as "John Doe," namely, Larbi John Murray. Souk told the court Doe had "nothing to do with the case." Souk did not disclose to Beaman's trial counsel Murray's criminal records that exposed his drug and steroid use and incidents of domestic violence against a subsequent girlfriend, nor did Souk disclose his incomplete polygraph examination. Beaman's trial counsel had no specific evidence pointing to another individual who could have committed the offense. The trial court granted the State's motion *in limine*.

¶ 9 At trial, the State argued that all of the other possible suspects were excluded due to alibis:

"Did we look at Mr. Swaine? You bet we did. Did we look at [Gates]? You bet we did. Did we look at a lot of people and interview a lot of witnesses? You bet we did. And guess who sits in the courtroom \*\*\* with the gap in his alibi still unclosed even after all this?"

¶ 10 The jury found Beaman guilty of first degree murder. He was sentenced to 50 years of imprisonment. Beaman's conviction was affirmed on appeal. *People v. Beaman*, 279 Ill. App. 3d 1115 (1996) (table) (unpublished order under Illinois Supreme Court Rule 23).

¶ 11 In April 1997, Beaman filed a petition for postconviction relief. Beaman alleged, in part, that the State violated his right to due process by failing to disclose material information on Murray's viability as a suspect. An evidentiary hearing was held on Beaman's petition. After the hearing, the circuit court denied Beaman's postconviction petition. The appellate court affirmed. *People v. Beaman*, 368 Ill. App. 3d 759 (2006).

¶ 12 In 2008, this court found the State violated Beaman's constitutional right to due process of law when it failed to disclose the evidence related to Murray and reversed the circuit court order denying Beaman's postconviction petition. *Beaman*, 229 Ill. 2d at 81-82. In that appeal, we summarized the undisclosed evidence as consisting of four points: "(1) [Murray] failed to complete the polygraph examination; (2) [Murray] was charged with domestic battery and possession of marijuana with intent to deliver prior to [Beaman's] trial; (3) [Murray] had physically abused his girlfriend on numerous prior occasions; and (4) [Murray's] use of steroids had caused him to act erratically." *Beaman*, 229 Ill. 2d at 74. We concluded that the State's case against Beaman was "tenuous" and that the evidence withheld by the State was favorable to Beaman because it supported Murray's viability as an alternative suspect. *Beaman*, 229 Ill. 2d at 77-78. We determined that "[w]e cannot have confidence in the verdict finding [Beaman] guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence that would have countered the State's argument that all other potential suspects had been eliminated from consideration." *Beaman*, 229 Ill. 2d at 81. We vacated Beaman's conviction and remanded the case to the circuit court for further proceedings. *Beaman*, 229 Ill. 2d at 82.

¶ 13 On remand, the State declined to re prosecute Beaman and dismissed the charges against him. Beaman was released from prison in June 2008. In April 2013, the State of Illinois certified his innocence. On January 9, 2015, Governor Pat Quinn pardoned Beaman "based upon innocence as if no conviction."

¶ 14 In January 2010, Beaman filed a federal section 1983 (42 U.S.C. § 1983 (2006)) civil suit against defendants Freesmeyer, Warner, and Zayas, as well as against Souk, Reynard, and other detectives. Beaman alleged three federal claims: (1) defendants acting individually and in conspiracy withheld exculpatory evidence

in violation of *Brady* (individual liability), (2) defendants conspired to deprive Beaman of exculpatory evidence (conspiracy liability); and (3) defendants failed to intervene to prevent the violation of his rights. Beaman included state law claims for malicious prosecution, civil conspiracy, and intentional infliction of emotional distress against the Town of Normal.

¶ 15 The district court dismissed claims against Souk and Reynard based on absolute or qualified immunity. The claims against the other detectives, who are not named defendants in this case, were voluntarily dismissed after discovery revealed they were not involved in the suppression of evidence. The district court granted summary judgment on the federal claims to the remaining defendants, Freesmeyer, Warner, and Zayas. *Beaman v. Souk*, 7 F. Supp. 3d 805, 832 (C.D. Ill. 2014).

¶ 16 The Seventh Circuit Court of Appeals affirmed. *Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015). Neither the district court nor the Seventh Circuit Court of Appeals addressed the state law claims of malicious prosecution, intentional infliction of emotional distress, or conspiracy against the Town of Normal for lack of jurisdiction. *Beaman*, 776 F.3d at 506.

¶ 17 In April 2014, Beaman filed the civil action that is the subject of this appeal against defendants Freesmeyer, Warner, Zayas, and the Town of Normal, pleading the state law claims that the federal court had dismissed without prejudice. Beaman's complaint alleged malicious prosecution, intentional infliction of emotional distress, and civil conspiracy against all defendants, as well as claims of *respondeat superior* and indemnification against the Town of Normal for recovery of damages.

¶ 18 Defendants moved for summary judgment. Defendants maintained that no evidence established a genuine issue of material fact on four of the five elements of Beaman's malicious prosecution claim. Defendants contended, as a result, they were entitled to judgment as a matter of law on the malicious prosecution claim and the remaining claims that were predicated on the contention that he was maliciously prosecuted.

¶ 19 The circuit court granted defendants' motion for summary judgment, reasoning that Beaman could not satisfy the elements to establish a malicious prosecution claim. The court found the prosecutors who handled the case, not the defendant

officers, decided to prosecute Beaman. The court highlighted Daniels's deposition testimony and pointed to his statement that, during the May 1994 meeting with investigating officers and lead prosecutors, Souk rejected Daniels's suggestions to investigate other avenues. Souk stated the investigation was complete and an arrest warrant would be issued for Beaman. The court found that defendants "did not exert any unusual influence on the prosecutors which caused a malicious prosecution to take place against [Beaman]." The circuit court dismissed the remaining claims as dependent on the malicious prosecution claim.

¶ 20

The appellate court affirmed the grant of summary judgment on the "commencement or continuance" element of malicious prosecution and did not address the circuit court's other grounds for dismissing that claim. 2017 IL App (4th) 160527. We allowed Beaman's petition for leave to appeal. Ill. S. Ct. R. 315 (eff. July 1, 2017). We allowed The Innocence Network; former state and federal prosecutors Stuart Chanen, William Conlon, Tyrone Fahner, Jonathan King, Scott Lassar, Jeremy Margolis, Ronald Safer, John Schmidt, Jeffrey Singer, James Thompson, Scott Turow, and Dan Webb; the City of Chicago, Illinois Municipal League, Illinois Prosecutors Bar Association, Illinois State's Attorneys Association, Intergovernmental Risk Management Agency, and City of Peoria (the governmental *amici*); and the Illinois Fraternal Order of Police Labor Council, Illinois Fraternal Order of Police, Illinois Troopers Lodge No. 41, and Chicago Fraternal Order of Police Lodge No. 7 to file *amicus curiae* briefs. Ill. S. Ct. R. 345 (eff. Sept. 20, 2010).

¶ 21

## II. ANALYSIS

¶ 22

In this appeal, Beaman challenges the circuit court's grant of summary judgment in favor of defendants. Section 1005(c) of the Code of Civil Procedure provides that summary judgment is proper when the "pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2016). Summary judgment is a drastic means of disposing of litigation and "should be allowed only when the right of the moving party is clear and free from doubt." *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 43 (2004). "[W]here reasonable persons could draw divergent

inferences from the undisputed material facts or where there is a dispute as to a material fact, summary judgment should be denied and the issue decided by the trier of fact.” *Espinoza v. Elgin, Joliet & Eastern Ry. Co.*, 165 Ill. 2d 107, 114 (1995). In ruling on a motion for summary judgment, we must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent. *Adams*, 211 Ill. 2d at 43. We review an appeal from a ruling on a motion for summary judgment *de novo*. *Jackson v. TLC Associates, Inc.*, 185 Ill. 2d 418, 424 (1998).

¶ 23

A malicious prosecution action is a civil tort brought by a plaintiff “for recovery of damages which have proximately resulted to person, property or reputation from a previous unsuccessful civil or criminal proceeding, which was prosecuted without probable cause and with malice.” *Freides v. Sani-Mode Manufacturing Co.*, 33 Ill. 2d 291, 295 (1965); see also 26 Edwin A. Jaggard, *Cyclopedia of Law and Procedure* 6 (William Mack ed. 1907) (cited here as 26 Cyc.) (“Malicious prosecution, regarded as a remedy, is a distinctive action *ex delicto* for the recovery of damages to person, property, or reputation, shown to have proximately resulted from a previous civil or criminal proceeding, which was commenced or continued without probable cause, but with malice, and which has terminated unsuccessfully.”).

¶ 24

This court has long recognized that “suits for malicious prosecution are not favored in law.” *Joiner v. Benton Community Bank*, 82 Ill. 2d 40, 44 (1980); *Schwartz v. Schwartz*, 366 Ill. 247, 250 (1937); *Shedd v. Patterson*, 302 Ill. 355, 359-60 (1922). This court has explained:

“Public policy favors the exposure of crime, and the cooperation of citizens possessing knowledge thereof is essential to effective implementation of that policy. Persons acting in good faith who have probable cause to believe crimes have been committed should not be deterred from reporting them by the fear of unfounded suits by those accused. It was for the purpose of encouraging and protecting those who exercise their constitutional right to appeal to our courts for redress of private or public grievances that the circumstances in which malicious prosecution actions may be brought have been rather narrowly circumscribed.” *Joiner*, 82 Ill. 2d 44-45.

¶ 25 When a person is wrongfully convicted of a crime, however, it has profound consequences. Nevertheless, malicious prosecution actions are subject to more stringent limitations than other tort actions and will be allowed only when all of the requirements for maintaining an action have been met. See 52 Am. Jur. 2d *Malicious Prosecution* § 5 (2018); see also *Joiner*, 82 Ill. 2d at 45 (same); *Swick v. Liataud*, 169 Ill. 2d 504, 512 (1996) (same).

¶ 26 To state a cause of action for the tort of malicious prosecution, the plaintiff must prove five elements: “(1) the commencement or continuance of an original criminal or civil judicial proceeding by the defendant; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and (5) damages resulting to the plaintiff.” (Internal quotation marks omitted.) *Swick*, 169 Ill. 2d at 512; *Ritchey v. Maksin*, 71 Ill. 2d 470, 475 (1978); *Freides*, 33 Ill. 2d at 295. The absence of any of these elements bars a plaintiff’s malicious prosecution claim. *Swick*, 169 Ill. 2d at 512.

¶ 27 The circuit court determined that Beaman could not satisfy the first four elements to establish a malicious prosecution claim. The appellate court affirmed the circuit court, finding no genuine issue of material fact on the “commencement or continuance” element of the malicious prosecution tort, and did not consider whether Beaman could satisfy the other elements to establish a malicious prosecution action. Accordingly, our analysis will focus on the “commencement or continuance” prong of a malicious prosecution action.

¶ 28 Beaman contends that the appellate court applied the wrong standard to the “commencement or continuance” prong. Beaman submits that three different approaches have developed to analyze the “commencement or continuance” element. Plaintiff describes these approaches as (1) the “significant role” test; (2) the “advice and cooperation” test; and (3) the “pressure, influence, or misstatement” test.

¶ 29 According to Beaman, the “significant role” test is the predominant rule in Illinois, and it provides that liability for malicious criminal prosecution “extends to all persons who played a significant role in causing the prosecution of the plaintiff, provided all of the elements of the tort are present.” *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975 (1988) (citing 54 C.J.S. *Malicious Prosecution* §§ 18, 19 (1987)); see also *Bianchi v. McQueen*, 2016 IL App (2d) 150646, ¶ 72; *Barnett v. Baker*, 2017

IL App (1st) 152443-U, ¶ 40; *Rodgers v. Peoples Gas, Light & Coke Co.*, 315 Ill. App. 3d 340, 348-49 (2000). Beaman contends that the “significant role” test is routinely employed by federal courts in malicious criminal prosecution cases. See, e.g., *Mitchell v. City of Elgin*, No. 14 CV 3457, 2016 WL 492339, at \*7-8 (N.D. Ill. Feb. 9, 2016), *rev’d in part on other grounds*, \_\_\_ F.3d \_\_\_, 2019 WL 76881 (7th Cir. 2019); *Collier v. City of Chicago*, No. 14 C 2157, 2015 WL 5081408, at \*9 (N.D. Ill. Aug. 26, 2015); *Mosley v. Pendarvis*, No. 13 C 5333, 2015 WL 2375253, at \*4 (N.D. Ill. May 15, 2015); *Green v. City of Chicago*, No. 11 C 7067, 2015 WL 2194174, at \*6 (N.D. Ill. May 7, 2015); *Fields v. City of Chicago*, No. 10 C 1168, 2014 WL 477394, at \*12 (N.D. Ill. Feb. 6, 2014); *Starks v. City of Waukegan*, 946 F. Supp. 2d 780, 794 (N.D. Ill. 2013); *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 928 (N.D. Ill. 2013); *Hunt v. Roth*, No. 11 C 4697, 2013 WL 708116, at \*8 (N.D. Ill. Feb. 22, 2013); *Reno v. City of Chicago*, No. 10 C 6114, 2012 WL 2368409, at \*6 n.2 (N.D. Ill. June 21, 2012); *Brown v. Navarro*, No. 09 C 3814, 2012 WL 1986586, at \*7 (N.D. Ill. June 4, 2012); *Phipps v. Adams*, No. 11-147-GPM, 2012 WL 686721, at \*3 (S.D. Ill. Mar. 2, 2012); *Johnson v. Arroyo*, No. 09 C 1614, 2010 WL 1195330, at \*3 (N.D. Ill. Mar. 22, 2010); *Swanigan v. Trotter*, 645 F. Supp. 2d 656, 686 (N.D. Ill. 2009); *Lipscomb v. Knapp*, No. 07 C 5509, 2009 WL 3150745, at \*11-12 (N.D. Ill. Sept. 30, 2009); *Montgomery v. City of Harvey*, No. 07 C 4117, 2008 WL 4442599, at \*7 (N.D. Ill. Sept. 29, 2008); *Bruce v. Perry*, No. 03-CV-558-DRH, 2006 WL 1777760, at \*8 (S.D. Ill. June 23, 2006); *Montes v. DiSantis*, No. 04 C 4447, 2005 WL 1126556, at \*11-12 (N.D. Ill. May 10, 2005); *Patterson v. Burge*, 328 F. Supp. 2d 878, 900-01 (N.D. Ill. 2004); *Harris v. City of Harvey*, No. 97 C 2823, 2000 WL 1468746, at \*9 (N.D. Ill. Sept. 29, 2000). Beaman submits that federal courts also use the “significant role” test for instructing the jury in malicious prosecution cases against police officers. See e.g., Final Jury Instructions, *Brown v. Spain*, No. 11-C-08403, 2014 WL 6813086 (N.D. Ill. Oct. 16, 2014) (“An officer commences or continues the prosecution of a person if the officer played a significant role in causing the commencement or the continuation of the prosecution of the person.”); Instructions to the Jury, *Payne v. Maher*, No. 11-CV-6623, 2014 WL 7684881 (N.D. Ill. Nov. 14, 2014) (“A person causes a criminal proceeding to be commenced or continued if he plays a significant role in the initiation or continuation of criminal charges at any time from the arrest through the conclusion of the criminal case.”); Jury Instructions, *Wells v. Johnson*, No. 06-CV-06284, 2012 WL 1569523 (N.D. Ill. Apr. 19, 2012) (“A

person commences or continues a proceeding if he initiated the proceeding, if his participation was of so active and positive a character as to amount to advice and cooperation, or if he played a significant role in causing the prosecution of the Plaintiff.”).

¶ 30 Beaman describes the “advice and cooperation test” as providing that the “commencement or continuance” element is met if the officer’s participation was “so active and positive as to amount to advice and cooperation.” See, e.g., *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 647 (2002); *Collier*, 2015 WL 5081408, at \*9.

¶ 31 Finally, Beaman explains the “pressure, influence, or misstatement test.” According to Beaman, this test, as applied by the appellate court here, provides the plaintiff must establish that an “officer pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied.” 2017 IL App (4th) 160527, ¶ 58.

¶ 32 Defendants counter that these supposedly different approaches are actually consistent with each other, even if some of the courts’ language differs, and that all require proof of causation. According to defendants, all of Beaman’s purportedly different approaches look for some action by the police that affects the prosecutor’s independent judgment, in other words, actions that are the proximate cause of the prosecution.

¶ 33 We agree with defendants that, while cases may use differing language when analyzing the commencement or continuance element, in each case, the court examined the defendant’s conduct or participation in the commencement or continuation of criminal proceedings against the plaintiff. In other words, the relevant inquiry is whether the officer proximately caused the commencement or continuance of the criminal proceeding.

¶ 34 It is useful to examine the history of the common-law tort of malicious prosecution. In the 1800s, “it was common for criminal cases to be prosecuted by private parties.” *Rehberg v. Paulk*, 566 U.S. 356, 364 (2012). Those private parties did not enjoy immunity from suit; rather, “a private complainant who procured an arrest or prosecution could be held liable in an action for malicious prosecution if the complainant acted with malice and without probable cause.” *Rehberg*, 566 U.S.

at 364. “Both English and American courts routinely permitted plaintiffs to bring actions alleging that the defendant had made a false and malicious accusation of a felony to a magistrate or other judicial officer.” *Briscoe v. LaHue*, 460 U.S. 325, 351 (1983) (Marshall, J., dissenting, joined by Blackmun, J.). After 1871, criminal cases were increasingly prosecuted by public officials who, unlike private prosecutors, were absolutely immune from tort claims for malicious prosecution. *Rehberg*, 566 U.S. at 365. However, courts have continued to recognize claims for malicious prosecution against private individuals whose conduct led to the plaintiff’s criminal prosecution.

¶ 35 In Illinois, common-law malicious prosecution actions have long been recognized. See, e.g., *Richey v. McBean*, 17 Ill. 63, 64 (1855) (recognizing that an action for malicious prosecution “must charge that the defendant was actuated by malice in setting on foot the prosecution, and that the same was done without probable cause”); see also *Hurd v. Shaw*, 20 Ill. 354, 355 (1858) (rejecting a malicious prosecution claim where there was no evidence that the defendant was the prosecutor of the charge against the plaintiff “or that he originated the indictment”).

¶ 36 This court first addressed whether a defendant who did not directly initiate the criminal proceedings against the plaintiff could be held liable in a malicious prosecution action in *Gilbert v. Emmons*, 42 Ill. 143 (1866). In *Gilbert*, the defendant’s business partner began the prosecution against the plaintiff by swearing out an affidavit needed to issue a warrant and “directed the officer in its execution.” *Gilbert*, 42 Ill. at 146. The court in *Gilbert* explained that the defendant could be liable only if “he either directly participated in causing the arrest, or advised it to be made.” *Gilbert*, 42 Ill. at 146. The defendant’s mere knowledge of or consent to the actions of his business partner was insufficient unless that “‘consent’ should be of so active and positive a character as to amount to advice and co-operation.” *Gilbert*, 42 Ill. at 147. If the defendant took some affirmative action to “advise and encourage the arrest” that led to the prosecution, then the defendant could be liable. *Gilbert*, 42 Ill. at 147. If, however, the defendant merely allowed his partner “to follow the dictates of his own judgment, without interference on his part,” then he would not be liable. *Gilbert*, 42 Ill. at 147.

¶ 37 The *Gilbert* court remanded the case for a new trial because the jury was erroneously instructed on this issue. Thus, in a case where someone other than the defendant took the official action of initiating the criminal prosecution, *Gilbert* established the “active and positive” advice or cooperation test.

¶ 38 As the governmental *amici* aptly point out in their brief, “historically, what is now the ‘commence or continue’ element was originally stated as two elements” that highlighted the legal cause element and that, over time, the two elements were collapsed into what is now stated as a single “commencement or continuance” element. Our research has revealed that in *Glenn v. Lawrence*, 280 Ill. 581 (1917), this court set forth six elements that will sustain an action for malicious prosecution:

“(1) the commencement or continuance of an original, criminal or civil judicial proceeding; (2) its legal causation by the present defendant against plaintiff, who was defendant in the original proceeding; (3) its *bona fide* termination in favor of the present plaintiff; (4) the absence of probable cause for such proceeding; (5) the presence of malice therein; and (6) damage conforming to legal standards resulting to the plaintiff. 26 Cyc. at 8.” *Glenn*, 280 Ill. at 585.

¶ 39 The Cyclopaedia of Law and Procedure, published in 1907 and cited by *Glenn*, sets forth these same six elements. See 26 Cyc. at 8. The Cyclopaedia of Law and Procedure further explains that “[t]o sustain the action [for malicious prosecution], it must affirmatively appear as a part of the case of the party demanding damages that the party sought to be charged was the proximate and efficient cause of maliciously putting the law in motion.” 26 Cyc. at 17.

¶ 40 In 1965, this court continued its reference to six elements for maintaining a cause of action for malicious prosecution in *Freides* (33 Ill. 2d at 295). In 1978, however, in *Ritchey*, this court cited *Freides* but collapsed the first two elements into one: “the commencement or continuance of an original criminal or civil judicial proceeding by the defendant,” reducing the number of elements required to maintain an action for malicious prosecution from six to five. *Ritchey*, 71 Ill. 2d at 475. Later, this court continued to use five elements to evaluate malicious prosecution claims. See *Joiner*, 82 Ill. 2d at 45; *Swick*, 169 Ill. 2d at 512. Despite the variation in the language and elements of a malicious prosecution cause of action, the “commence or continue” element has always required the defendant’s

conduct to be the legal cause of the commencement or continuation of the underlying criminal proceedings. Indeed, all of the parties agree that a malicious prosecution action requires proof of legal causation.

¶ 41

The issue in this case concerns the proper approach for determining when a police officer commences or continues a prosecution, *e.g.*, when the defendant's conduct is the legal cause of the commencement or continuation of the original criminal proceedings. Plaintiff interprets differing language used by courts as different legal standards or tests applied in cases against police officers to establish the "commencement or continuation" prong. We, however, agree with defendants that all of these approaches are aimed at examining the actions by the police that may have caused the plaintiff's wrongful prosecution in the original criminal proceeding. For example, the court in *Cervantes v. Jones*, 23 F. Supp. 2d 885 (N.D. Ill. 1998), examined whether, under Illinois law, a plaintiff could meet the commencement or continuance prong requirements for malicious prosecution, stating:

"In order to be liable for malicious prosecution, 'a defendant either must have initiated a criminal proceeding or his participation in it must have been of so active and positive a character as to amount to advice and cooperation.' *Denton v. Allstate Ins. Co.*, [152 Ill. App. 3d 578, 583 (1986)]. Put another way, '[l]iability for malicious prosecution ... extends to [police officers] who played a significant role in causing the prosecution of the plaintiff[.]' [*Frye*, 166 Ill. App. 3d at 975]. *See also* [*Reed v. City of Chicago*, 77 F.3d 1049, 1053 (7th Cir. 1996)] (plaintiff must show that the officer used improper influence on the prosecutor or made knowing misstatements to the prosecutor in order to secure the prosecution); *Newsome v. James*, [968 F. Supp. 1318, 1323 (N.D. Ill. 1997)] (stating the issue as whether the police officer 'got the ball rolling in the unwarranted prosecution' of the plaintiff)." *Cervantes*, 23 F. Supp. 2d at 888.

Thus, the differing language used in malicious prosecution cases is based on a causal analysis determining whether the defendant's actions proximately caused the plaintiff's wrongful prosecution.

¶ 42

With this background in mind, we now examine whether the appellate court properly determined that Beaman failed to meet the "commencement or continuation" element in granting defendants' motion for summary judgment. The

appellate court held that Beaman was required to “establish that officer[s] pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied.” 2017 IL App (4th) 160527, ¶ 58. The appellate court’s decision rested heavily on its observation that “ ‘[t]he State’s Attorney, not the police, prosecutes a criminal action’ ” and a need to “protect[ ] officers in their performance of their police work.” (Internal quotation marks omitted.) 2017 IL App (4th) 160527, ¶¶ 57-58 (quoting *Colbert v. City of Chicago*, 851 F.3d 649, 655 (7th Cir. 2017)).

¶ 43 This court has recognized that prosecutors ordinarily rely on police and other agencies to investigate criminal acts. *People v. Ringland*, 2017 IL 119484, ¶ 24. Significantly, “ ‘it is the recognized practice that the State’s Attorney sensibly defers to the investigative duties of the police.’ ” (Emphasis in original.) *Ringland*, 2017 IL 119484, ¶ 24 (quoting *People v. Wilson*, 254 Ill. App. 3d 1020, 1039 (1993)). Contrary to the appellate court’s standard, however, this court established long ago, in *Gilbert*, that a person can be liable for commencing or continuing a malicious prosecution even if that person does not ultimately wield prosecutorial power or actively deceive prosecutors. See *Gilbert*, 42 Ill. at 147. Illinois courts have adhered consistently to this standard, holding that liability for malicious prosecution “extends to all persons who played a significant role in causing the prosecution of the plaintiff, provided all of the elements of the tort are present.” *Frye*, 166 Ill. App. 3d at 975 (citing 54 C.J.S. *Malicious Prosecution* §§ 18, 19 (1987)); see also *Bianchi*, 2016 IL App (2d) 150646, ¶¶ 72-73; *Rodgers*, 315 Ill. App. 3d at 348-49.

¶ 44 “Liability thus depends on whether the defendant was actively instrumental in causing the prosecution, and the presumption of prosecutorial independence can be overcome by showing that the defendant improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018). Police officers may be subject to liability for malicious prosecution “[i]f they initiate a criminal proceeding by presentation of false statements, or by withholding exculpatory information from the prosecutor.” 3 Dan B. Dobbs, Paul T. Hayden, & Ellen M. Bublick, *The Law of Torts* § 587, at 392 (2d ed. 2011) (cited here as *Law of Torts*).

¶ 45 The established definition of “commence or continue” reflects that the fundamental purposes of tort law are to hold wrongdoers liable for foreseeable consequences of their actions and to deter wrongful conduct. See *Siemieniec v. Lutheran General Hospital*, 117 Ill. 2d 230, 259 (1987); Restatement (Second) of Torts § 901 (1979). As the former state and federal prosecutors submit in their *amicus* brief, liability for malicious prosecution “calls for a commonsense assessment” of those persons who played a significant role in the criminal case. This significant role assessment necessarily includes those persons whose participation in the criminal case was so “active and positive” to “amount to advice and co-operation” (*Gilbert*, 42 Ill. at 147) or those persons who “improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution” (52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)). In other words, the separate standards cited by Beaman actually fall within the “significant role” standard for determining whether a person proximately caused a plaintiff’s wrongful conviction.

¶ 46 Thus, liability for malicious prosecution requires an examination of whether the defendant’s conduct is both the cause in fact and a proximate cause of the commencement or continuation of the original criminal proceedings. Law of Torts at 390; see also 26 Cyc. at 17 (“To sustain the action [for malicious prosecution], it must affirmatively appear as a part of the case \*\*\* that the party sought to be charged was the proximate and efficient cause of maliciously putting the law in motion.”). In determining whether the defendants’ conduct was the proximate cause of the commencement or continuation of the original criminal proceedings, the court must examine whether the defendants played a significant role in the plaintiff’s prosecution.

¶ 47 We conclude that the appellate court’s standard failed to consider whether the defendants proximately caused the commencement or continuance of the criminal proceeding against Beaman. The appellate court focused its inquiry on whether the “officer[s] pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied.” 2017 IL App (4th) 160527, ¶ 58. On remand, the appellate court must examine whether the defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants

played a significant role in Beaman's prosecution.

¶ 48

### III. CONCLUSION

¶ 49

For the foregoing reasons, we reverse the judgment of the appellate court and remand the cause for further proceedings consistent with this opinion.

¶ 50

Appellate court judgment reversed and remanded.

<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS PEORIA DIVISION</p> <p>Alan Beaman,  Plaintiff,  v. No. 10-CV-1019  James Souk, Charles Reynard, Tim Freesmeyer, Rob Hospelhorn, Dave Warner, John Brown, Frank Zayas, McLean County, Illinois, Town of Normal, Illinois,  Defendants.</p> <hr/> <p style="text-align: center;">VIDEOTAPED DEPOSITION OF FRANK L. ZAYAS Taken on Behalf of the Plaintiff</p> <p>DATE TAKEN: February 15, 2013 TIME: 8:58 a.m. - 4:26 p.m. PLACE: Holiday Inn - Lakewood Ranch 6231 Lake Osprey Drive Sarasota, Florida</p> <p style="text-align: right;">Stenographically Reported by: Donna L. Peterson, RDR, CRR Registered Diplomatic Reporter Certified Realtime Reporter</p>	<p style="text-align: center;">INDEX</p> <table border="0"> <tr><td>1</td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td></tr> <tr><td>3</td><td>WITNESS</td><td>PAGE</td></tr> <tr><td>4</td><td>Called by the Plaintiff:</td><td></td></tr> <tr><td>5</td><td>FRANK L. ZAYAS</td><td></td></tr> <tr><td>6</td><td>DIRECT EXAMINATION BY MR. SHAPIRO</td><td>6</td></tr> <tr><td>7</td><td>CROSS EXAMINATION BY MS. EKL</td><td>187</td></tr> <tr><td>8</td><td>CROSS EXAMINATION BY MR. DICIANNI</td><td>194</td></tr> <tr><td>9</td><td>ERRATA SHEET</td><td>198</td></tr> <tr><td>10</td><td>CERTIFICATE OF REPORTER OATH</td><td>199</td></tr> <tr><td>11</td><td>REPORTER'S DEPOSITION CERTIFICATE</td><td>200</td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td style="text-align: center;">EXHIBITS</td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td>NUMBER DESCRIPTION PAGE</td><td></td></tr> <tr><td>18</td><td>Exhibit 1 Three pages of handwritten</td><td>96</td></tr> <tr><td>19</td><td>notes</td><td></td></tr> <tr><td>20</td><td>Exhibit 2 Two-page document consisting of</td><td>105</td></tr> <tr><td>21</td><td>typewritten notes</td><td></td></tr> <tr><td>22</td><td>Exhibit 3 Copy of a police report that</td><td>114</td></tr> <tr><td>23</td><td>was prepared by</td><td></td></tr> <tr><td>24</td><td>Detective Freesmeyer in the</td><td></td></tr> <tr><td></td><td>Lockmillar case; AB000256</td><td></td></tr> <tr><td></td><td>Exhibit 4 Polygrapher's report regarding</td><td>119</td></tr> <tr><td></td><td>Larbi John Murray, dated</td><td></td></tr> <tr><td></td><td>October 5th, 1993</td><td></td></tr> </table>	1			2			3	WITNESS	PAGE	4	Called by the Plaintiff:		5	FRANK L. ZAYAS		6	DIRECT EXAMINATION BY MR. SHAPIRO	6	7	CROSS EXAMINATION BY MS. EKL	187	8	CROSS EXAMINATION BY MR. DICIANNI	194	9	ERRATA SHEET	198	10	CERTIFICATE OF REPORTER OATH	199	11	REPORTER'S DEPOSITION CERTIFICATE	200	12			13			14			15	EXHIBITS		16			17	NUMBER DESCRIPTION PAGE		18	Exhibit 1 Three pages of handwritten	96	19	notes		20	Exhibit 2 Two-page document consisting of	105	21	typewritten notes		22	Exhibit 3 Copy of a police report that	114	23	was prepared by		24	Detective Freesmeyer in the			Lockmillar case; AB000256			Exhibit 4 Polygrapher's report regarding	119		Larbi John Murray, dated			October 5th, 1993	
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<p>1 APPEARANCES:</p> <p>2</p> <p>3 Counsel for Plaintiff:</p> <p>4 DAVID M. SHAPIRO, ESQUIRE Roderick MacArthur Justice Center Northwestern University School of Law 357 East Chicago Avenue Chicago, Illinois 60611</p> <p>6 Counsel for Defendants Tim Freesmeyer, Rob Hospelhorn, 7 Dave Warner, Frank Zayas, and Town of Normal, Illinois:</p> <p>8 THOMAS G. DICIANNI ESQUIRE Ancel, Glink, Diamond, Bush, 9 DiCianni &amp; Krafthefer, P.C. 10 140 South Dearborn Street 11 Chicago, Illinois 60603</p> <p>12 Counsel for Defendants James Souk, Charles Reynard, 13 John Brown, and County of McLean, Illinois:</p> <p>14 ELIZABETH A. EKL, ESQUIRE James G. Solos &amp; Associates, Ltd. 15 550 East Devon, Suite 150 16 Itasca, Illinois 60143</p> <p>17 Also Present: 18 Robert Cruz, videographer 19 20 21 22 23 24</p>	<p style="text-align: center;">EXHIBITS - continued</p> <table border="0"> <tr><td>1</td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td></tr> <tr><td>3</td><td>NUMBER DESCRIPTION PAGE</td><td></td></tr> <tr><td>4</td><td>Exhibit 5 Two-page exhibit, report from a</td><td>125</td></tr> <tr><td>5</td><td>polygraph examiner regarding</td><td></td></tr> <tr><td>6</td><td>Stacey Gates; McLean 001496</td><td></td></tr> <tr><td>7</td><td>Exhibit 6 Exhibit consisting of 433 pages</td><td>131</td></tr> <tr><td>8</td><td>Exhibit 7 Composite exhibit; documents</td><td>162</td></tr> <tr><td>9</td><td>involving charges against two</td><td></td></tr> <tr><td>10</td><td>individuals, Steven Setrel and</td><td></td></tr> <tr><td>11</td><td>Rob Curtis, in connection with</td><td></td></tr> <tr><td>12</td><td>torturing cats</td><td></td></tr> <tr><td>13</td><td>Exhibit 8 Essentially the first 24 pages</td><td>172</td></tr> <tr><td>14</td><td>of Exhibit 3</td><td></td></tr> <tr><td>15</td><td>Exhibit 9 Exhibit consisting of last page</td><td>172</td></tr> <tr><td>16</td><td>of Exhibit 8 and is pages 24,</td><td></td></tr> <tr><td>17</td><td>25, and 26 of the longer report</td><td></td></tr> <tr><td>18</td><td>shown in Exhibit 3</td><td></td></tr> <tr><td>19</td><td>Exhibit 10 Notification of Disciplinary</td><td>185</td></tr> <tr><td>20</td><td>Action; DEF0104</td><td></td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> </table>	1			2			3	NUMBER DESCRIPTION PAGE		4	Exhibit 5 Two-page exhibit, report from a	125	5	polygraph examiner regarding		6	Stacey Gates; McLean 001496		7	Exhibit 6 Exhibit consisting of 433 pages	131	8	Exhibit 7 Composite exhibit; documents	162	9	involving charges against two		10	individuals, Steven Setrel and		11	Rob Curtis, in connection with		12	torturing cats		13	Exhibit 8 Essentially the first 24 pages	172	14	of Exhibit 3		15	Exhibit 9 Exhibit consisting of last page	172	16	of Exhibit 8 and is pages 24,		17	25, and 26 of the longer report		18	shown in Exhibit 3		19	Exhibit 10 Notification of Disciplinary	185	20	Action; DEF0104		21			22			23			24														
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1 would have gotten a copy of it. So he would have had to  
 2 disseminate the report. If my memory serves me  
 3 correctly, that's -- should have been the way to process  
 4 that.  
 5 Q. Okay. So let me try to take that step by step  
 6 so I make sure I'm understanding.  
 7 Assuming Detective Warner received the report,  
 8 he should direct the original to records?  
 9 A. Yes. The originals always went to records.  
 10 Q. And by sending it to records, the report would  
 11 become part of the central file for this case?  
 12 A. Right, uh-huh.  
 13 Q. And upon receiving this report, Warner should  
 14 make sure that you get a copy?  
 15 A. Yeah, should have made sure everybody else  
 16 would have gotten a copy of it.  
 17 Q. And when -- when you say "everybody," do you  
 18 mean all of the detectives working on the case?  
 19 A. Working on the case, yes.  
 20 Q. Okay. And he should have also made sure that  
 21 the chief got a copy?  
 22 A. Oh, yes, sir.  
 23 Q. Okay. And upon receiving the report that's  
 24 shown in Exhibit 4, do you have any reason to doubt that

1 Detective Warner would have gone through the steps that  
 2 you and I just discussed?  
 3 MR. DiCIANNI: Object to speculation.  
 4 A. I -- I don't know. I -- he should have  
 5 followed the procedure, disseminated the information.  
 6 Q. Uh-huh. And he would have been trained to  
 7 follow that procedure?  
 8 A. Yes, sir.  
 9 Q. And assuming the report went to the records  
 10 department and became part of the central file, the  
 11 report would have been transmitted to the State's  
 12 Attorney's Office, right?  
 13 A. Yes.  
 14 MS. EKL: Objection; form, foundation.  
 15 A. It should have been, yes, sir.  
 16 Q. Okay. If the lead state's attorney in this  
 17 case did not receive a copy of this report, would you  
 18 find that surprising?  
 19 A. Yes, I would have, yes.  
 20 Q. Now, I'll represent to you that this report was  
 21 not provided to Mr. Beaman's defense lawyers prior to or  
 22 during his trial. Do you have any explanation of why  
 23 that might have occurred?  
 24 A. No, sir, I don't.

1 Q. Would you agree with me that this is a report  
 2 that should have been provided to Mr. Beaman's defense  
 3 lawyers?  
 4 A. Yes, sir.  
 5 MR. DiCIANNI: I'll object to speculation, to  
 6 lack of foundation, legal conclusion.  
 7 A. Yeah, they should have gotten a copy of it,  
 8 yes.  
 9 Q. When you were a law enforcement officer, did  
 10 you receive training with regard to the duty to provide  
 11 exculpatory evidence to defendants' lawyers?  
 12 A. Yes, sir.  
 13 Q. And did -- did detectives that you supervise  
 14 also receive that training?  
 15 A. Yes, sir, I'm sure they did.  
 16 Q. Based on the training that the detectives  
 17 working on the Lockmiller case received, should they  
 18 have recognized that the report shown in Exhibit 4 is  
 19 something that ultimately should have been provided to  
 20 the defense?  
 21 MR. DiCIANNI: Objection; speculation.  
 22 A. Yes, sir.  
 23 Q. And why is it that the report should have been  
 24 provided to the defense?

1 A. It's valuable information. It should have  
 2 relayed to the State, yes.  
 3 Q. And you didn't -- you mentioned relayed to the  
 4 State. And ultimately relayed to the defense, right?  
 5 A. Right, yes, sir.  
 6 Q. And when you say that it's valuable  
 7 information, what's valuable about it?  
 8 MR. DiCIANNI: I'll object to asking him to  
 9 speculate about why it would be valuable.  
 10 A. Well, I mean, it's a result of an examination  
 11 conducted on one of the suspects; therefore, it's  
 12 something that should have been relayed to the defense.  
 13 Q. And the report shown in Exhibit 4 indicates  
 14 that Mr. Murray didn't follow directions given to him  
 15 during the polygraph, right?  
 16 A. I'm sorry. Repeat that question again.  
 17 Q. Sure. Does the report indicate that Mr. Murray  
 18 did not follow directions given to him by the polygraph  
 19 examiner?  
 20 A. It says, "Did not follow specific directions."  
 21 That's what it says, yes.  
 22 Q. Uh-huh. And it also says that the subject had  
 23 to be dismissed from the laboratory because he wasn't  
 24 complying with the instructions, right?

1 A. Yes, sir.  
 2 Q. So would you agree with the proposition that  
 3 one of the reasons the document shown in Exhibit 4  
 4 should have been given to the state's attorney and  
 5 ultimately to the defense is that it casts some  
 6 suspicion on an alternative suspect?  
 7 MR. DICIANNI: I object to asking him to  
 8 speculate about what it does.  
 9 A. I would say that it would be an interesting  
 10 report to read and, yeah, probably it would be a red  
 11 flag to look at this person a little bit closer, yes.  
 12 MR. SHAPIRO: Mark this as Exhibit 5, please.  
 13 (Zayas Exhibit No. 5 was marked for  
 14 identification.)  
 15 Q. Mr. Zayas, I'm showing you a document that's  
 16 been marked as Exhibit 5. It's a two-page exhibit.  
 17 Please take as long as you want to review it, and let me  
 18 know when you've had a chance to do so.  
 19 A. Yes, sir.  
 20 Oh, let me read the second page.  
 21 Q. And Exhibit 5 is a report from a polygraph  
 22 examiner regarding Stacey Gates?  
 23 A. Uh-huh.  
 24 Q. Right?

125

1 A. Yes, sir.  
 2 Q. And it's addressed to Detective David Warner,  
 3 right?  
 4 A. Yes, sir.  
 5 Q. Okay. And assuming this document was received  
 6 by the Normal Police Department, it would have been  
 7 directed to David Warner, right?  
 8 A. Yes, sir. It's addressed to him.  
 9 Q. And with regard to Exhibit 4, the polygraph  
 10 regarding Mr. Murray, we just talked through the steps  
 11 that would occur with regard to the document when it  
 12 arrived, right?  
 13 A. Yes, sir.  
 14 Q. Would the exact same process that you just  
 15 described with regard to the polygraph report for  
 16 Mr. Murray have been followed for the polygraph for  
 17 Mr. Gates?  
 18 MR. DICIANNI: Object; speculation.  
 19 A. Yes, sir.  
 20 Q. So fair to say that copies of the polygraph  
 21 report shown in Exhibit 5 should have been disseminated  
 22 to all of the investigators involved in the case?  
 23 A. Yes, sir.  
 24 Q. And Mr. Warner should have directed the

126

1 original of Exhibit 5 to central records, right?  
 2 A. Yes, sir.  
 3 Q. And the state's attorney would have received a  
 4 copy of the report through central records, right?  
 5 A. Yes.  
 6 MS. EKL: Objection; form, foundation.  
 7 Q. And a copy of the document shown in Exhibit 5  
 8 would have also gone to you and to Chief Taylor, right?  
 9 A. Yes, sir.  
 10 Q. Do you have any reason at all to doubt that  
 11 those steps would have been followed after the receipt  
 12 of this?  
 13 MR. DICIANNI: Objection. You're asking him to  
 14 speculate.  
 15 MR. SHAPIRO: Let me -- I don't think I got the  
 16 question out quite.  
 17 MR. DICIANNI: Oh.  
 18 Q. Do you have any reason to doubt that the  
 19 document shown in Exhibit 5 would have been -- that --  
 20 strike that.  
 21 Do you have any reason to doubt that all the  
 22 procedures we've just been discussing would have been  
 23 followed by Mr. Warner when he received Exhibit 5?  
 24 A. No, sir.

127

1 MR. DICIANNI: Objection; speculation and lack  
 2 of foundation.  
 3 Q. And you stated that the polygraph report with  
 4 regard to Mr. Murray, Exhibit 4, was a red flag. Would  
 5 you agree that the polygraph report involving Mr. Gates  
 6 was also a red flag?  
 7 MS. EKL: Objection; form.  
 8 MR. DICIANNI: Yeah, speculation.  
 9 MS. EKL: Misstates testimony.  
 10 MR. DICIANNI: I join.  
 11 A. Yes, sir.  
 12 Q. And why is it that you would characterize the  
 13 Stacey Gates polygraph report as a red flag?  
 14 MR. DICIANNI: Same objection.  
 15 A. Well, again it was another -- the report  
 16 indicated that there was some anomalies in the results,  
 17 and the polygraphist would have indicated that, and that  
 18 should have been made aware to -- to the defense and the  
 19 prosecutor.  
 20 Q. And is it fair to say that the investigators  
 21 working under you in the detectives division would have  
 22 been trained to recognize this document as exculpatory  
 23 evidence?  
 24 MR. DICIANNI: Yeah, I'll object to

128

<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS PEORIA DIVISION</p> <p>ALAN BEAMAN ) Plaintiff, ) -vs- ) No. 10-CV-1019 JAMES SOUK, et al., ) Defendants. )</p> <p>The videotaped deposition of JAMES SOUK called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Sandra Eberle, a notary public within and for the County of Cook and State of Illinois, at 357 East Chicago Avenue, Chicago, Illinois, on the 10th day of December, 2012, commencing at the hour of 10:52 a.m. and concluding at 5:25 p.m.</p> <p>Reported by: Sandra Eberle, RPR, CRR License No.: 084-003229</p>	<p style="text-align: center;">INDEX</p> <table border="0"> <tr> <td style="width: 10px;">1</td> <td style="width: 80%;">WITNESS</td> <td style="width: 10px;">PAGE</td> </tr> <tr> <td>2</td> <td>JAMES SOUK</td> <td></td> </tr> <tr> <td>3</td> <td>By Mr. Bowman</td> <td></td> </tr> <tr> <td>4</td> <td>Direct Examination</td> <td style="text-align: right;">4</td> </tr> <tr> <td>5</td> <td></td> <td></td> </tr> <tr> <td>6</td> <td></td> <td></td> </tr> <tr> <td>7</td> <td></td> <td></td> </tr> <tr> <td>8</td> <td></td> <td></td> </tr> <tr> <td>9</td> <td style="text-align: center;">EXHIBITS</td> <td></td> </tr> <tr> <td>10</td> <td>NUMBER</td> <td>MARKED FOR ID</td> </tr> <tr> <td>11</td> <td>Souk Deposition Exhibit</td> <td></td> </tr> <tr> <td>12</td> <td>No. 1</td> <td style="text-align: right;">46</td> </tr> <tr> <td>13</td> <td>No. 2</td> <td style="text-align: right;">102</td> </tr> <tr> <td>14</td> <td>No. 3</td> <td style="text-align: right;">145</td> </tr> <tr> <td>15</td> <td>No. 4</td> <td style="text-align: right;">147</td> </tr> <tr> <td>16</td> <td></td> <td></td> </tr> <tr> <td>17</td> <td></td> <td></td> </tr> <tr> <td>18</td> <td></td> <td></td> </tr> <tr> <td>19</td> <td></td> <td></td> </tr> <tr> <td>20</td> <td></td> <td></td> </tr> <tr> <td>21</td> <td></td> <td></td> </tr> <tr> <td>22</td> <td></td> <td></td> </tr> <tr> <td>23</td> <td></td> <td></td> </tr> <tr> <td>24</td> <td></td> <td></td> </tr> </table>	1	WITNESS	PAGE	2	JAMES SOUK		3	By Mr. Bowman		4	Direct Examination	4	5			6			7			8			9	EXHIBITS		10	NUMBER	MARKED FOR ID	11	Souk Deposition Exhibit		12	No. 1	46	13	No. 2	102	14	No. 3	145	15	No. 4	147	16			17			18			19			20			21			22			23			24		
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<p>1 APPEARANCES: RODERICK MacARTHUR JUSTICE CENTER 2 BY: MR. LOCKE E. BOWMAN MS. ALEXA VAN BRUNT 3 MR. DAVID SHAPIRO Northwestern University School of Law 4 357 East Chicago Avenue Chicago, IL 60611 5 (312) 503-0844 l-bowman@law.northwestern.edu a-vanbrunt@law.northwestern.edu 6 david.shapiro@law.northwestern.edu 7 oraeha-hart@law.northwestern.edu AND 8 BLUHM LEGAL CLINIC BY: MR. JEFFREY URDANGEN 9 Northwestern University School of Law 375 East Chicago Avenue 10 Chicago, IL 60611 (312) 503-7413 11 j-urdangen@law.northwestern.edu Representing the Plaintiff;</p> <p>12 THE SOTOS LAW FIRM 13 BY: MS. ELIZABETH A. EKL MS. ELIZABETH K. BARTON 14 550 East Devon, Suite 150 Itasca, IL 60143 15 (630) 735-3300 eek@sotoslaw.com 16 ebarton@sotoslaw.com Representing the Defendants, James Souk, 17 Charles Reynard, John Brown, and County of McLean, Illinois;</p> <p>18 ANCEL, GLINK, DIAMOND, BUSH, DICIANNI &amp; 19 KRAFTHOFER, P.C. BY: MR. THOMAS G. DICIANNI (VIA SPEAKERPHONE) 20 140 South Dearborn Street, Suite 800 Chicago, IL 60603 21 (312) 782-7606 tdicianni@ancelglink.com 22 Representing the Defendants, Tim Fraesmeyer, Rob Hospelhorn, Dave Warner, 23 Frank Zayas and Town of Normal, Illinois.</p> <p>24 ALSO PRESENT: ERIN RAMAMURTHY, law student - RICK KOSBERG, video tech</p>	<p>1 THE VIDEO TECHNICIAN: This is the video 2 deposition of James Souk taken by the Roderick 3 MacArthur Justice Center in the matter of Beaman v. 4 Souk, et al., Case Number 10 CV 1019, held in the 5 offices of the Northwestern University School of 6 Law, 357 East Chicago Avenue, Chicago, Illinois. 7 Today is December 10th, 2012. The time is 10:52. 8 The court reporter is Sandy Eberle. The 9 videographer is Rick Kosberg.</p> <p>10 The counsel can now introduce themselves 11 and the court reporter is free to administer the 12 oath.</p> <p>13 MS. EKL: Elizabeth Ekl, E-K-L, on behalf of 14 Mr. Souk and the other defendants and the other 15 Normal -- not Normal. I'm sorry. The other 16 McLean County defendants.</p> <p>17 MS. BARTON: Elizabeth Barton also on behalf 18 of the County defendants.</p> <p>19 MR. BOWMAN: Tom?</p> <p>20 MR. DICIANNI: Tom DiCianni participating by 21 conference call. I represent the town of Normal 22 defendants.</p> <p>23 MR. BOWMAN: My name is Locke Bowman. I 24 represent the plaintiff. Sitting next to me is</p>
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1 That's why I asked the question that way,  
 2 Did you think it was a difficult  
 3 circumstantial case?  
 4 A. Of course it was a difficult  
 5 circumstantial case.  
 6 Q. Okay. Now, here comes the next  
 7 question. Did you think it was a difficult  
 8 circumstantial case because there wasn't enough  
 9 physical evidence to base a conviction on, there  
 10 was no confession from the defendant and there  
 11 was no eyewitness testimony? Is that why you  
 12 thought it was a difficult circumstantial case?  
 13 MS. EKL: Objection, asked and answered.  
 14 THE WITNESS: That certainly went into it.  
 15 BY MR. BOWMAN:  
 16 Q. Okay. Is there anything else that went  
 17 into its being a difficult circumstantial case?  
 18 MS. EKL: Other than what he already  
 19 testified to.  
 20 BY MR. BOWMAN:  
 21 Q. No. I'm asking him to explain right  
 22 now. Is there anything else that went into it  
 23 being a difficult circumstantial case?  
 24 A. I -- you know, I -- just off the top of

137

1 my head, I'm not thinking of delineating the  
 2 factors that made it difficult. It just was  
 3 clearly a difficult case.  
 4 Those are part of the factors, and  
 5 obviously if you have a confession, a case is  
 6 not so difficult. If you have eyewitnesses, it  
 7 probably isn't so difficult. And when you have  
 8 a case that's in essence totally circumstantial,  
 9 and, you know, I think this was the most  
 10 difficult case in my career, not because of  
 11 comparing it to other totally circumstantial  
 12 murder cases but because I, you know, didn't  
 13 have as far as I know a totally circumstantial  
 14 murder case that I ever tried.  
 15 But, you know, the fact of the things  
 16 that weren't there, yes, certainly no direct  
 17 evidence and all circumstantial evidence makes  
 18 for great difficulty in putting a case together.  
 19 Q. And actually there was a degree of  
 20 difficulty added to this case when the Bell  
 21 Federal videotape surfaced, wasn't there?  
 22 MS. EKL: Objection, form.  
 23 THE WITNESS: Well, when that surfaced, that  
 24 -- prior to the time that surfaced, our

138

1 information was that Mr. Beaman had gotten off  
 2 work at 9:00 o'clock and so would have been in a  
 3 position to head for Normal at 9:00 o'clock.  
 4 When the video surfaced, that took an  
 5 hour and eleven minutes off the time frame  
 6 making it clear he was still in Rockford at Bell  
 7 Federal at 11 minutes after 10:00.  
 8 BY MR. BOWMAN:  
 9 Q. Did the video surface before or after  
 10 you and the investigators agreed to initiate  
 11 this prosecution?  
 12 MS. EKL: Objection, form, foundation.  
 13 THE WITNESS: After I and the investigators  
 14 agreed to do what?  
 15 BY MR. BOWMAN:  
 16 Q. May 16, you have a meeting with the  
 17 investigators. It's at the McLean County  
 18 State's Attorney's Office. You recall that,  
 19 right, May 16 of 1994?  
 20 A. As I indicated before, I can't recall  
 21 where it was but yes, there was a meeting.  
 22 Q. And that was the meeting at which  
 23 everybody went around and talked about whether  
 24 charges should be filed against Beaman or not?

139

1 A. It was a discussion. I don't recall  
 2 the details of it.  
 3 Q. Did you chair that meeting?  
 4 A. I don't recall.  
 5 Q. In any event, you do recall that that  
 6 was the date that the charges were approved and  
 7 the prosecution of Mr. Beaman was initiated,  
 8 correct?  
 9 A. You phrased it in terms, Mr. Bowman, of  
 10 the investigators and me making a decision to  
 11 charge him. The prosecutors made the decision  
 12 as to whether to charge him.  
 13 And the final decision would have been  
 14 made by the state's attorney, Mr. Reynard, not  
 15 by the investigators. The investigators' input  
 16 would have been listened to.  
 17 Q. Well, we'll talk about the  
 18 investigators' input in a minute and I don't  
 19 want to engage in a debate right now about whose  
 20 decision it was.  
 21 But in any event, we can all agree that  
 22 on May 16, a decision was made to file a  
 23 criminal complaint against Alan Beaman for the  
 24 murder of Jennifer Lockmiller; can we not?

140

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

ALAN BEAMAN, )  
Plaintiff, )  
-vs- ) No. 10-CV-1019  
JAMES SOUK, et al., )  
Defendants. )

The deposition of CHARLES REYNARD, called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Sandra Eberle, a notary public within and for the County of Cook and State of Illinois, at 104 West Front Street, Bloomington, Illinois, on the 26th day of March, 2013, commencing at the hour of 9:09 a.m. and concluding at 1:13 p.m.

Reported by: Sandra Eberle, RPR, CRR  
License No.: 084-003229

1	I N D E X	
2	WITNESS	EXAMINATION
3	CHARLES REYNARD	
4	By Mr. Bowman - Direct	4
5	By Mr. DiCianni - Cross	125
6	By Mr. Bowman - Redirect	129
7	By Mr. DiCianni - Recross	130

E X H I B I T S		
14	NUMBER	MARKED FOR ID
15	Deposition Exhibit	
16	No. 1	7
17	No. 2	9
18	No. 3	89
19	No. 4	119

1

3

1 APPEARANCES:  
2 RODERICK AND SOLANGE MacARTHUR JUSTICE CENTER  
3 BY: BY MR. LOCKE E. BOWMAN  
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16 eekl@jsotoslaw.com  
17 Representing the Defendants, James Souk,  
18 Charles Reynard, John Brown, and County of  
19 McLean, Illinois;  
20 ANCEL, GLINK, DIAMOND, BUSH, DICIANNI &  
21 KRAFTHFER, P.C.  
22 BY: MR. THOMAS G. DICIANNI  
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(312) 782-7606  
tdicianni@ancelglink.com  
Representing the Defendants, Tim  
Freesmeyer, Rob Hospelhorn, Dave Warner,  
Frank Zayas and Town of Normal, Illinois.

\* \* \*

2

1 (Witness sworn.)  
2 CHARLES REYNARD,  
3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:  
5 DIRECT EXAMINATION  
6 BY MR. BOWMAN:  
7 Q. Tell us your name, please, sir.  
8 A. Charles Reynard.  
9 Q. I'm -- I'm not going to address you as  
10 I would if I were before you in court. I'll use  
11 your last name. I'm not going to use your title  
12 because of the circumstances and I appreciate  
13 that. No disrespect is intended.  
14 Could you -- you're familiar with this  
15 process, I'm sure. Have you ever been a  
16 deponent yourself on any prior occasion?  
17 A. I don't recall being deposed. I may  
18 have been deposed. I've been a witness.  
19 Q. You will abide by the rules, I'm sure.  
20 The only thing to bear in mind, I think, in the  
21 deposition context is that, you know, it  
22 sometimes seems more like a conversation. And  
23 with that atmospheric, it's possible to  
24 anticipate what I'm going to say and to jump in.

4

1 characterization. I think that's laced with  
2 meanings or suggested meanings which are not  
3 essentially fair.  
4 But at the literal level, that's not  
5 too far off.  
6 If my professional responsibilities  
7 were directly implicated by this information, I  
8 would be intensely interested in terms of what  
9 do I do now.  
10 But I'm very busy now with those  
11 professional responsibilities and that's one of  
12 the reasons I haven't been able to  
13 comprehensively keep track of that which is of  
14 interest to me but not directly implicating my  
15 current professional responsibilities.  
16 BY MR. BOWMAN:  
17 Q. Got it. Do you have an opinion today  
18 as to Mr. Beaman's guilt?  
19 MS. EKL: Objection, foundation to the  
20 extent that your question is asking him based on  
21 things that he has already told you he doesn't  
22 know about.  
23 MR. BOWMAN: Well, I'm not asking him to  
24 provide an opinion. I'm asking him if he has

21

1 one.  
2 THE WITNESS: Yes.  
3 BY MR. BOWMAN:  
4 Q. What is your opinion?  
5 A. That his -- while I respect the  
6 ultimate disposition of the court in finding  
7 reasonable doubt, I continue to believe that he  
8 was probably guilty.  
9 Q. Okay. What's that based on?  
10 A. Opinions formed on the apprehension of  
11 evidence as it was reported to me back during  
12 the course of the investigation, during the  
13 trial proceedings, during the Appellate  
14 proceedings.  
15 Q. The intent of my question was to get  
16 what evidence you're referring to.  
17 A. I don't have a great grasp of what that  
18 evidence is now. So I'm basically relying on  
19 the fact that my bottom line is as I just  
20 indicated to you.  
21 But all of the details that go into  
22 that opinion or even very many of them are not  
23 there for me today.  
24 Q. Your interrogatories indicate

22

1 graduation from Loyola University.  
2 What specific institution was that?  
3 A. College of Law.  
4 Q. What specific institution?  
5 A. Chicago.  
6 Q. Chicago?  
7 A. Yes.  
8 Q. What led you to Oak Park following  
9 graduation?  
10 A. Well, I was in Oak Park before  
11 graduation and I stayed there for a time after  
12 graduation looking for work.  
13 Q. It says here that you were in private  
14 practice as a sole practitioner.  
15 What did you do?  
16 A. I worked hours for an Evanston attorney  
17 and I had a few cases of my own.  
18 Q. Did you --  
19 A. I was mainly treading water looking for  
20 work with the public defender's office back  
21 then. My friend was Tom Royce. He was first  
22 assistant at the time.  
23 Q. And what -- and then after a year, you  
24 went and became assistant state's attorney down

23

1 here?  
2 A. Correct.  
3 Q. Did you have any relationship to this  
4 community when you came down here?  
5 A. No.  
6 Q. What were the circumstances that led to  
7 your coming down here to serve as an assistant  
8 state's attorney?  
9 A. I was interviewing with the director of  
10 what was then called the State's Attorney's  
11 Appellate Assistant Service in Elgin by a  
12 gentleman named Mr. Irish, I believe, and he  
13 said the state's attorney in Bloomington has a  
14 couple of openings; you might want to go down  
15 there.  
16 Q. And who was that state's attorney?  
17 A. Paul Welch.  
18 Q. Was it a full-time job?  
19 A. Yes.  
20 Q. What were your duties when you were the  
21 assistant state's attorney for the two years  
22 from '75 to '77? And I'm just reading off these  
23 interrogatory answers. If I get something  
24 wrong, you'll tell me.

24

1 THE WITNESS: The answer is no.  
2 BY MR. BOWMAN:  
3 Q. Do you recall any discussion about the  
4 state of the forensic investigation at any  
5 point?  
6 MS. EKL: I'm sorry. At any point?  
7 MR. BOWMAN: At any point prior to charging.  
8 THE WITNESS: Well, I -- not real  
9 specifically. I do recall evidence of  
10 fingerprint being on, I believe it would be, the  
11 radio.  
12 I am fairly confident I heard  
13 conversations concerning or reports of  
14 conversations concerning other forensic evidence  
15 but I'm not -- it's not coming back to me. It's  
16 not coming back to me. I'm doing my best.  
17 BY MR. BOWMAN:  
18 Q. You saw -- you indicated that in your  
19 review of the records, you saw evidence that you  
20 had become directly involved in one of the  
21 judicial applications for --  
22 A. Yes.  
23 Q. -- an overhear.  
24 Other than that, do you have specific

69

1 recollections of any steps that you took in the  
2 course of the investigation prior to charging?  
3 MS. EKL: I'm going to object to the form of  
4 the question. It assumes facts not in evidence  
5 unless I misheard it.  
6 MR. BOWMAN: What did I do wrong?  
7 MS. EKL: I believe you said other  
8 investigative steps so that would be what I have  
9 the quarrel with if that's what you said.  
10 MR. BOWMAN: I think the question is okay.  
11 I'll just restate it and maybe it's not okay.  
12 But I think it's okay.  
13 BY MR. BOWMAN:  
14 Q. Other than your involvement with this  
15 overhear application that is reflected in the  
16 records, do you recall any other steps that you  
17 personally took, if any, in the investigation  
18 prior to charging?  
19 MS. EKL: Same objection.  
20 THE WITNESS: Well, I recall taking -- well,  
21 I don't recall taking any steps in the  
22 investigation unless your definition of  
23 investigation would contemplate an eavesdrop  
24 authorization.

70

1 And I do recall that particular step,  
2 whether that's considered investigation or not.  
3 And I don't have a specific  
4 recollection of doing any other things  
5 prosecutorial in connection with the police  
6 conduct of the investigation.  
7 BY MR. BOWMAN:  
8 Q. Who made the decision to charge Beaman?  
9 A. The fairest answer is I did. It didn't  
10 -- the decision didn't originate with me but it  
11 -- the decision ended with me.  
12 Q. Who did you consult with prior to  
13 making the decision?  
14 A. Principally Mr. Souk. Ms. Griffin  
15 would have most likely have been there in an  
16 advisory capacity. I can't recall specifically  
17 other than the fact that the three of us were  
18 very close in terms of our assisting each other  
19 in making very, very serious decisions.  
20 Q. Did you consult with any law  
21 enforcement personnel yourself before the  
22 decision to charge Beaman was made?  
23 A. Only to the extent that they were  
24 furnishing us information as to what evidence

71

1 they had uncovered during their investigation.  
2 Q. Well, the question is did you consult  
3 with any law enforcement personnel prior to  
4 making the decision? And by that I mean in  
5 connection with the decisional process.  
6 A. I can't specifically recall that I did.  
7 If a police officer was present at the  
8 time that then I would have said, okay, I think  
9 we should charge, then I don't have a basis for  
10 disputing that. But I don't believe I consulted  
11 with a police as to what the proper decision  
12 was.  
13 Q. Well, make sure we understand each  
14 other.  
15 Do you remember that on May 16, a  
16 meeting was conducted involving yourself,  
17 Mr. Souk, Mr. Freesmeyer, Mr. Zayas, Mr. Taylor,  
18 and --  
19 A. Taylor, yes. I couldn't remember the  
20 chief's name. Sorry for interrupting.  
21 Q. And I think it was also Mr. Daniels if  
22 I didn't state that name already.  
23 Do you recall that meeting?  
24 A. No.

72

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

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 10-CV-1019
	)	
JAMES SOUK, CHARLES REYNARD,	)	
	)	
TIM FREESMEYER, ROB HOSPELHORN,	)	
	)	
DAVE WARNER, JOHN BROWN, FRANK	)	
	)	
ZAYAS, MCLEAN COUNTY, ILLINOIS,	)	
	)	
TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants.	)	

The videotaped deposition of JOHN BROWN taken in the above-entitled cause, before LISA K. HAHN, CSR, RMR, on the 19th day of December, 2012, at the Bloomington-Normal Marriott Hotel and Conference Center, 201 Broadway Street, Normal, Illinois, pursuant to Notice at the hour of 10:05 a.m.

Reported by: Lisa K. Hahn, CSR, RMR  
License No. 084-002149

1 A. I believe it's on the first floor.

2 Q. Normal Police Department is.

3 A. Right.

4 Q. And where is the City Hall located?

5 A. The entire building is the City Hall.

6 Q. Okay. So when you said you had that meeting, it

7 wasn't in the section reserved for the police department;

8 it was outside the police department.

9 A. That's correct.

10 Q. All right. And the Normal Police Department is

11 in a different building from the State's Attorney's

12 Office; is that correct?

13 A. That's correct.

14 Q. Okay. And you have no idea why you didn't have

15 the meeting in the Normal Police Department.

16 A. No.

17 Q. Had you ever had a meeting like that during an

18 investigation in the City Hall building in another

19 investigation?

20 A. No.

21 Q. So this is the first time?

22 A. For me.

23 Q. Was it the only time in your career?

24 A. Yes.

57

1 Q. What was discussed at that meeting?  
2 A. The case.  
3 Q. And what about the case?  
4 A. Just the case in general, the merits of the  
5 case.  
6 Q. Was there any outcome to the meeting?  
7 A. Yes.  
8 Q. And what was that?  
9 A. I believe the outcome was that Alan Beaman was  
10 to be arrested.  
11 Q. And who made that decision?  
12 A. The final decision?  
13 Q. Yes.  
14 A. I don't really know who made the final decision.  
15 Q. Well, who made the preliminary decision?  
16 MS. BARTON: I'll object to form.  
17 A. I really can't recall. I mean, are you talking  
18 about one individual?  
19 Q. Or several.  
20 MS. BARTON: Objection to form.  
21 A. I believe the consensus was that he be arrested.  
22 Q. Consensus of whom?  
23 A. All those in attendance.  
24 Q. Who you previously listed; correct?

58

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

ALAN BEAMAN )  
Plaintiff, )  
-vs- ) No. 10-CV-1019  
JAMES SOUK, et al., )  
Defendants. )

The videotaped deposition of JAMES SOUK called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Sandra Eberle, a notary public within and for the County of Cook and State of Illinois, at 357 East Chicago Avenue, Chicago, Illinois, on the 10th day of December, 2012, commencing at the hour of 10:52 a.m. and concluding at 5:25 p.m.

Reported by: Sandra Eberle, RPR, CRR

License No.: 084-003229

C08850

1           Have I got that right?

2           A.    I think that was the purpose of the  
3 meeting, to see if there was anything from the  
4 Normal Police Department to -- that would have  
5 any impact on the decision, either, you know,  
6 pro or con as to whether he should be charged.

7           Q.    So the representatives from the Normal  
8 police, just to be clear, were the chief of  
9 police, Mr. Taylor, the supervisor of the  
10 investigation, Mr. Zayas, and Daniels and  
11 Freesmeyer who at different points had been the  
12 lead investigator in the case?

13          A.    I think at least those people were  
14 there. I can't recall if there were others  
15 also.

16          Q.    All right. And where did this meeting  
17 take place?

18          A.    I don't remember.

19          Q.    As to whether it was in the state's  
20 attorney's office or the Normal Police  
21 Department, you don't recall?

22          A.    I don't remember.

23          Q.    How long did it last?

24          A.    I don't remember.

236

1 right?

2 MS. EKL: Objection. Form, foundation.

3 THE WITNESS: Well, all I can tell you, I was  
4 shocked to find out that it was Brady material when that  
5 ruling came down, because I didn't consider it to be  
6 Brady material.

7 BY MR. BOWMAN:

8 Q. Right. But it would be inaccurate to say that  
9 no reasonable person could consider it to be Brady  
10 material, because seven reasonable people did, right?

11 MS. EKL: Objection. Form.

12 THE WITNESS: Yeah. I don't, I don't think I  
13 phrased it that way, but.

14 MR. DiCIANNI: I don't think you did either.

15 THE WITNESS: You said maybe you misheard me.  
16 Maybe you misheard me, because I don't think I phrased  
17 it that way.

18 BY MR. BOWMAN:

19 Q. Okay. All right. That's fine.

20 A. This reasonable person didn't consider it to be  
21 Brady material.

22 Q. All right. You were asked some questions about  
23 the input that you received from the police officers  
24 prior to and at the time of the decision to file charges  
25 against Beaman. Would it be fair to say that that input

448

1 in effect was, in addition to their comments in the May  
2 16 meeting, was the sum total of their investigative  
3 efforts over the course of the period of time between  
4 August and May of '94?

5 A. You want to try that again? I'm not sure I  
6 understand.

7 Q. I'll try it again, sure. Their input in effect  
8 was not just what they said at the May 16 meeting, their  
9 input included all the things that they'd done in the  
10 investigation up till that point in time, their input  
11 into the charging decision; is that a fair summary?

12 A. Well, I think the totality of their  
13 investigation, plus whatever might have been said at the  
14 meeting was taken into account, yes.

15 Q. That's what I was asking. Were you, are you  
16 aware, sir, of evidence in the record regarding Murray  
17 placing a phone call to Lockmiller shortly before her  
18 death and suggesting that Lockmiller come over to visit  
19 him at a point when Swaine was present in Lockmiller's  
20 apartment?

21 MS. EKL: Objection. Form.

22 THE WITNESS: I'm not, I'm not recalling that.

23 BY MR. BOWMAN:

24 Q. Not recalling that. And you weren't referring  
25 to that for purposes of the prior answers that you gave?

449

(Whereupon the Assistant State's Attorney informed the Grand Jury of its rights pursuant to Illinois Revised Statutes.)

July 7, 1994

TIMOTHY JOHN FREESMEYER

having been first duly sworn, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MR. SOUK:

Q Detective Freesmeyer, remind you you're still under oath from your testimony earlier today in the grand jury in another case. For the record, would you state your name?

A Yes, Timothy John Freesmeyer.

Q Are you same Detective Freesmeyer who previously testified in this case, People versus Alan Beaman before the grand jury last week?

A Yes I am.

Q Now I want to first go over the crime scene that relates to the murder of Jennifer Lockmiller.

was any injury to the genitalia or the anus?

A She was not able to make that determination due to the decomposition of the body. The body had been there for approximately three days, so was unable to tell.

Q Was the state of decomposition basically consistent with what we'll get into in a minute, placing the time of death Wednesday early afternoon?

A Yes. It was consistent with our frame time.

Q Did the Doctor take samples to be sent to the crime lab, hair and blood and fingerprint samples and swabs of the vagina and anus?

A Yes she did.

Q All typical things that are done in an autopsy on a case of this type, correct?

A That's correct. To cover all bases as much as possible.

Q Those are sent, they're not analyzed by the doctor but sent to the Illinois State Police Crime Lab, is that correct?

A That's correct.

Q Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days,

questioned extensively?

A Yes. Actually while the crime scene technician was in processing the scene, I waited outside for people to come home. I was able to make contact with the majority of the people who lived in that apartment. And they were subsequently asked to come to the station and statements were taken within several days.

Q Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and no information that turned out be particularly helpful in the investigation?

A That's correct.

Q Now in establishing what is believed to be the time of her death, I want to ask you a few questions about that. First as to Morgan Keefe, the young lady who found her, I take it that was a college friend of hers?

A Yes. She is an ISU student also.

Q Could you tell us what Miss Keefe said first about the last time that she had seen Jennifer alive?

A She stated that she went out with Jennifer Tuesday night, the night prior to her death. They went out to see a movie I believe, and then Jennifer dropped

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT

COUNTY OF McLEAN

ORIGINAL

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

-vs-

ALAN W BEAMAN,

Defendant.

}  
}  
}  
} No. 94-CF-476  
}  
}  
}

DISK  
ENCLOSED

DISCOVERY DEPOSITION

THE DISCOVERY DEPOSITION of JAMES E. SOUK taken before  
Kitty L. Malcom, a Certified Shorthand Reporter within and for  
the County of Mclean and State of Illinois, license No.  
084-002106, at 104 West Front Street, Sixth Floor, Bloomington,  
Illinois, on March 22nd, A.D., 2004, commencing at 11:00 a.m.  
pursuant to agreement of the parties.

MALCOM REPORTING SERVICE  
1310 Ironwood CC Drive  
Normal, IL 61761  
(309) 454-3378  
Fax (309) 454-8286

C10070

Plaintiff's Exhibit No. 57

1 Beaman?

2 A. I'm not recalling that.

3 Q. Can you rule it out that he ever said that to you?

4 A. Well, you know, I find, Mr. Urdangen, as I grow older,  
5 my memory is not always what I would like it to be. I can't  
6 rule it out. I think that some other people might have some  
7 better memories about certain things. But we -- during the  
8 course of this investigation, which went on for a number of  
9 months, from August till the arrest in May and then even beyond  
10 that, but leading up to the decision to arrest Mr. Beaman, there  
11 was several meetings of the people involved in this  
12 investigation, which included myself and a number of police  
13 officers would have been in on it, and I believe Detective  
14 Daniels. I do not recall anyone raising a strong objection, if  
15 you will, to the arrest and charging of Mr. Beaman.

16 Q. Do you recall if Detective Daniels ever suggested that  
17 other suspects should be looked at more closely before an  
18 indictment is sought?

19 A. I don't remember that.

20 Q. Have you read or followed the views of Detective  
21 Daniels about this case since the conviction?

22 A. Somewhat. I saw -- well, I saw something in your  
23 attachments about an interview I think he had done on TV, which  
24 I don't believe I saw at the time. And then there was something

1 Am I correct about that?

2 A. Yes.

3 Q. There was a colloquy with the judge, a very brief one,  
4 that I just want to call your attention to from that motion in  
5 limine. Bear with me for a minute. Here it is, I found it. It  
6 was in the February motion in limine, pretrial hearing. And  
7 there was essentially this question and answer. The court was  
8 asking you: Is it your position, Mr. Souk, that there will not  
9 be evidence in this record at the time of trial that Mr. Beu  
10 could argue appropriately to the jury, as he suggested, that he  
11 just may argue at the conclusion of the case that his suggestion  
12 is that there is evidence, that there will be evidence presented  
13 at trial by which a third party might be found to be responsible  
14 for the acts resulting in the death of the victim. Are you  
15 suggesting that the evidence does not exist?

16 Your response: As to a specific third party?

17 The Court says: Right.

18 Your response: Be it Mr. Swaine or anybody else?

19 The Court says: That's correct.

20 You say: I am suggesting that I know of no such  
21 evidence that would give it the kind of connection that this  
22 case law calls for.

23 Does that ring a bell?

24 A. Uh-huh. In fact, I have read it recently, yeah.

C10109

1 Q. Did you ever -- sorry to repeat this, but just so the  
2 record is clear, you have looked at exhibits in our submissions  
3 of the polygrapher's impressions?

4 A. I saw a typewritten report and then some graphs and  
5 some handwritten notes and so forth.

6 Q. So as you sit here today, your statement is that you  
7 had never seen those pretrial?

8 A. I don't have any recollection of having seen them.  
9 When I reviewed the State's Attorney's Office file, I didn't see  
10 any indication they were over in there. Certainly they are not  
11 in discovery. If I had received them, they would have been in  
12 discovery.

13 Q. Why?

14 A. Well, I provided everything in discovery. If you go  
15 talk to Mrs. Dommick, my co-counsel, she will tell you that  
16 those were my clear explicit instructions that we don't play  
17 games with discovery. If we get something, we provide it. If  
18 the police send it over, we provide it.

19 Q. That's fine. I guess the question is with reference  
20 to the significance of the polygraph paperwork that you have  
21 read. Had you known that, that as the examiner concluded Murray  
22 had attempted to manipulate the polygraph results, would that  
23 have been a significant fact for you in your consideration of  
24 other suspects?

C10118

1 A. Well, if I had seen it I think I would have probably  
2 asked some questions about it. I mean, if you read the report  
3 it's a little different than when I first read in the pleading  
4 in this matter. I thought there was either a failed or an  
5 inconclusive polygraph. In reading the report, it turns out  
6 there was a polygraph that was never completed. And certainly I  
7 would have been interested in what the polygrapher had to say or  
8 what had happened. It's a strange report. It's different than  
9 any I think I have ever seen in terms of apparently didn't get  
10 through the entire process. So it's not an opinion that the guy  
11 was lying, it's not even an inconclusive. It's an incomplete.  
12 I would have found it of interest and asked some questions I  
13 think, yeah.

14 Q. Well, so I guess to cut through then, are you saying  
15 that from what you have read, where the polygrapher says that he  
16 was manipulating the polygraph, that would have been -- would  
17 that or would that not have affected your decision on whether or  
18 not John Murray as a possible suspect should be evidence in this  
19 case?

20 A. Well, I think that was fairly early in the  
21 investigation. I would have asked some questions and looked at  
22 it more and, you know, polygraph evidence, while totally  
23 inadmissible, is useful for investigative purposes. In fact, we  
24 used it in this case for investigative purposes.

C10119

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IN THE CIRCUIT COURT

FOR THE ELEVENTH JUDICIAL CIRCUIT

McLEAN COUNTY, BLOOMINGTON, ILLINOIS

THE PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Plaintiff-Respondent, )  
vs. )  
 )  
ALAN W. BEAMAN, )  
 )  
Defendant-Petitioner. )

No. 94 CF 476  
**FILED**  
AUG 10 2005  
CIRCUIT CLERK

McLEAN

COUNTY

CONTINUED HEARING ON SECOND VERIFIED AMENDED PETITION FOR

POST-CONVICTION RELIEF

**TRANSCRIPT OF PROCEEDINGS (VOLUME I)**

BE IT REMEMBERED and CERTIFIED that on, to wit:  
the 14th day of January, 2005, the following proceedings were  
held in the aforesaid cause before The Honorable  
JEFFREY B. FORD, Associate Circuit Judge.

APPEARANCES:

MR. MARK MESSMAN	MR. JEFFREY URDANGEN
Assistant State's Attorney	Attorney at Law
On behalf of the People	On behalf of the Defendant
MS. KAREN DANIEL	MS. JACQUELINE JOHNSON
Attorney at Law	Pursuant to Supreme Court
On behalf of the Defendant	Rule 711, On behalf of the
	Defendant

Amy Jennings, CSR, RPR  
Official Court Reporter  
IL CSR No. 084-004135

1 Watch your step, please.

2 MR. URDANGEN: Your Honor, I'm having some voice  
3 problems. Do you mind if I drink water at the same time --

4 THE COURT: No.

5 MR. URDANGEN: -- or as I need it?

6 May I proceed?

7 THE COURT: Mr. Urdangen.

8 TIMOTHY JOHN FREESMEYER

9 having been first duly sworn, was  
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. URDANGEN:

13 Q. State your name, please.

14 A. Timothy John Freesmeyer.

15 Q. Could you spell your last name.

16 A. F-r-e-e-s-m-e-y-e-r.

17 Q. And where do you reside, sir?

18 A. Macomb, Illinois.

19 Q. And what do you do there?

20 A. I'm self-employed.

21 Q. What do you do?

22 A. I run a corporation for web-based training.

23 Q. And how large is that corporation?

24 A. My wife and I are the only two full employees, and I

1 examined you, correct?

2 A. Yes, he did.

3 Q. Did you give these answers to these questions:

4 "Isn't it true that the route that you drove to make  
5 that comparison is a route that you simply selected as being  
6 perhaps the most direct route between the two locations?

7 Answer: Yes, sir, that is correct."

8 Did you give that answer to that question?

9 A. That would have been my answer, sir, yes.

10 Q. Was that true when you answered it?

11 A. When I answered it, yes, it would have been true.

12 Q. Is it not true today?

13 A. That answer would -- would still be true.

14 Q. Thank you. Now, staying with that, sir, when you  
15 were testifying at the trial, you, as you sat on the witness  
16 chair, knew that you had done several tests of driving in your  
17 investigation, right?

18 A. Yes, sir.

19 Q. In fact, you'd done more than -- you'd done several  
20 tests of driving between the bank and the residence, right?

21 A. There is only one listed in my report.

22 Q. I know that. I know that, sir, but I'm asking you,  
23 you knew that you had done several or at least more than one  
24 while you were testifying; isn't that right?

1 A. I can't -- I can't recall independently if I had  
2 done more than one trip between the bank and Alan's residence.

3 Q. Well, as you sit there today, you know that to be  
4 the case, don't you, that you took more than one?

5 A. Sir, I believe that I took a route around the bypass  
6 from the bank, but I do not see that in my reports; and,  
7 therefore, to ask me to testify to that, I don't recall if I  
8 -- I don't recall that.

9 Q. Here's my question to you.

10 A. Yes, sir.

11 Q. Did you do a test of the bypass route from the bank  
12 to Alan's house?

13 A. Sir, I believe I did. But when I reviewed my  
14 reports for this testimony, I did not see that in my reports.

15 Q. Sir, you did testify in the grand jury prior to the  
16 trial; did you not?

17 A. Yes, I did.

18 Q. You gave extensive testimony. Mr. Souk was  
19 giving -- asking you questions, and you were giving answers?

20 A. Yes, sir.

21 Q. And you were under oath, as well; were you not?

22 A. Yes, sir.

23 Q. There was no defense lawyer there, was there, for  
24 the questioning, was there?

1 A. I don't recall if there was, sir.

2 Q. Sir, in the grand jury, did Mr. Souk ask you this  
3 question and did you give this answer under oath:

4 "Question: When you drove it the other way, did you  
5 -- from Bell Federal -- if you go a couple of miles south, do  
6 you get to this Route 20 going along the south side of town?

7 Answer: Yes. Bell Federal is on the corner of  
8 Newburg and Alpine. If you take Alpine straight south to 20  
9 and around, that would be probably the quickest route to Mr.  
10 Beaman's residence. And that took me 25 minutes. So, once  
11 again, 25 added to the 10:11 would put me there at 10:36. The  
12 calls were at 10:37 and 10:39."

13 Did you testify that way in the grand jury?

14 A. Yes, sir.

15 Q. Isn't it true that you tested the bypass route?

16 A. Yes, sir.

17 Q. And is it also true you never prepared a report of  
18 the result?

19 A. Yes, sir.

20 Q. By the way, sir, when I took your deposition you had  
21 no trouble recalling that grand jury testimony, did you?

22 A. Sir, I believe you shared that with me at the  
23 deposition; did you not?

24 Q. Didn't you call to my attention at an earlier

1 occasion that you had driven a second route other than just  
2 through town?

3 A. I may have, sir.

4 Q. After you drove the bypass route and did your -- how  
5 did you time yourself on the bypass route?

6 A. Sir, you've asked that question before.

7 Q. I'm asking you about the bypass route.

8 A. It would have been either by my watch or stopwatch,  
9 and I do not recall as I sit here today which I would have  
10 used.

11 Q. Now, you reported a time here. How -- and did you  
12 put that -- what -- did you put that on a piece of paper or  
13 record it in some way?

14 A. Yes, I did.

15 Q. Okay. When you testified in the grand jury, did you  
16 review your records of the bypass route time trial?

17 A. I believe I would have.

18 Q. Okay. Where are those records?

19 A. Sir, those typically would have been --

20 Q. Not typically, sir. Sorry to interrupt.

21 A. I don't know. In answer to your question, I do not  
22 know.

23 Q. Who was with you when you did the bypass route?

24 A. I may have been by myself, sir.

1 Q. And you may have been with?

2 A. I may have been with Lieutenant Brown. He did one  
3 trip up with me.

4 Q. Did Mr. Souk go with you on any of these time  
5 trials?

6 A. I do not recall.

7 Q. Can you rule it out?

8 A. I cannot rule it out. I know he took one trip with  
9 me to Rockford, but I do not recall if we did times at that  
10 point.

11 Q. Did you discuss after your time trial on the bypass  
12 route the results with Mr. Souk?

13 A. Yes, I would have.

14 Q. When and where?

15 A. Probably would have been in his office.

16 Q. Not probably, sir. I'm sorry.

17 A. I don't know exactly, sir.

18 Q. Now, when you testified at the trial, did you  
19 disclose to the jury through your answers that you drove the  
20 bypass route?

21 A. I don't recall if I did or not, sir.

22 Q. Let me ask you if you gave these answers to these  
23 questions. Again, it's by Mr. Souk -- I mean by Mr. Beu. And  
24 I have to repeat a question to give it in context.

1 Question by Mr. Beu, series of questions here:

2 "Isn't it true that the route that you drove to make  
3 that comparison is a route that you simply selected as being  
4 perhaps the most direct route between the two locations?

5 Yes, sir, that is correct.

6 Question: This is not a route that Mr. Beaman told  
7 you specifically he took to go between those points, is it?

8 Answer: I don't recall he told me what route he  
9 took. He just said he went to the bank and back.

10 Question: So you chose to select a route, did you  
11 not, that you took right through the heart of downtown  
12 Rockford?

13 Answer: As you stated earlier, I took the most  
14 direct route.

15 Question: Does that -- does not that route take you  
16 directly through the heart of downtown Rockford?

17 Answer: Yes.

18 As opposed to going down Meridian Road to the  
19 high-speed bypass over to Alpine Road and then up north to  
20 Bell Federal?

21 Answer: Yes, that would be correct."

22 Did you give those answers to those questions?

23 A. Yes, I did, sir.

24 Q. What did you think Mr. Beu was referring to when he

1 said "as opposed to going down the Meridian Road to the  
2 high-speed bypass"? What was he mean -- what did he mean?

3 A. He asked if that route was an alternative route to  
4 the direct route.

5 Q. Did you -- and he said: As opposed to it, you drove  
6 through town, right?

7 A. Yes.

8 Q. But, in fact, you drove through town in addition to  
9 that, isn't that correct?

10 A. Yes.

11 Q. Did you indicate anywhere in your testimony that you  
12 drove that route during the trial?

13 A. I don't recall, sir, if I did or not.

14 Q. Now, after you gave that testimony and you were done  
15 with cross examination, did you discuss this issue with Mr.  
16 Souk about the routes that you took?

17 A. I don't recall, sir.

18 Q. Do you recall whether or not Mr. Souk sat you down  
19 and said we are going to have to make -- we are going to have  
20 to correct that testimony?

21 A. I don't recall, sir.

22 Q. Did you ever correct it?

23 A. I do not recall, sir.

24 Q. The time trials that you prepared, that you did, the

1 and gotten into the apartment by noon, according to your  
2 theory, right?

3 A. Or thereabouts.

4 Q. Left by 12:15 or thereabouts, right?

5 A. Correct. But a lot of this case depends, of course,  
6 on what you ended up believing about when Mrs. Beaman got  
7 home.

8 Q. That's right. And we'll get to that.

9 In fact, the jury needed to believe these two  
10 things, correct me if I'm wrong, or they needed to come to  
11 these two conclusions: One, Alan Beaman did not make the  
12 calls; two, Carol Beaman did make the calls, correct?

13 A. I would say they would have had to conclude that to  
14 return a guilty verdict in this case.

15 Q. Timothy Freesmeyer worked very closely with you on  
16 this case, right?

17 A. He did, yes.

18 Q. And you knew that the time trials were crucial to  
19 your theory of prosecution, correct?

20 A. Yes.

21 Q. And he conducted -- he, and he alone, conducted  
22 those time trials, right?

23 A. I -- I think I was with him on one trip to Rockford.  
24 But I think, as I indicated to you at deposition, I'm -- my

Case No. 122654

IN THE  
SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	
	)	
	)	
Plaintiff-Appellant,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth Judicial District,
v.	)	No. 4-16-0527
	)	
TIM FREESMEYER, Former Normal	)	There Heard on Appeal from
Police Detective; DAVE WARNER,	)	the Circuit Court of McLean County,
Former Normal Police Detective;	)	Illinois, No. 14 L 51
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

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BRIEF OF PLAINTIFF-APPELLANT  
ALAN BEAMAN

---

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 1/12/2018 7:10 PM  
 Carolyn Taft Grosboll  
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ORAL ARGUMENT REQUESTED

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**POINTS AND AUTHORITIES****ARGUMENT**

<b>A. Summary of Argument</b> .....	20
<b>B. Standard of Review</b> .....	23
<u>Jackson v. TLC Associates, Inc.</u> , 185 Ill. 2d 418 (1998).....	23
<u>Seymour v. Collins</u> , 2015 IL 118432.....	23
<u>Carney v. Union Pacific R. Co.</u> , 2016 IL 118984.....	23
<b>C. The Malicious Prosecution Claim Should Proceed to a Trial on the Merits.</b> .....	23
<b>1. Commencement or Continuance Prong: The Defendants Commenced or Continued Mr. Beaman’s Wrongful Prosecution by Securing His Indictment and Conviction through a Fraudulent Investigation.</b> .....	23
<b>a. The Appellate Court Applied the Wrong Standard to the Commencement or Continuance Prong.</b> .....	23
<u>Frye v. O’Neill</u> , 166 Ill. App. 3d 963 (4th Dist. 1988).....	23, 29
<u>Bianchi v. McQueen</u> , 2016 IL App (2d) 150646 .....	24
<u>Barnett v. Baker</u> , 2017 IL App (1st) 152443-U .....	24
<u>Rodgers v. Peoples Gas, Light &amp; Coke Co.</u> , 315 Ill. App. 3d 340 (1st Dist. 2000).....	24
<u>Mitchell v. Elgin</u> , No. 14 CV 3457, 2016 WL 492339 (N.D. Ill. Feb. 9, 2016).....	24
<u>Collier v. Chicago</u> , No. 14 C 2157, 2015 WL 5081408 (N.D. Ill. Aug. 26, 2015) .....	24
<u>Mosley v. Pendarvis</u> , No. 13 C 5333, 2015 WL 2375253 (N.D. Ill. May 15, 2015).....	24
<u>Green v. Chicago</u> , No. 11 C 7067, 2015 WL 2194174 (N.D. Ill. May 6, 2015) .....	24
<u>Fields v. Chicago</u> , No. 10 C 1168, 2014 WL 477394 (N.D. Ill. Feb. 6, 2014).....	24
<u>Starks v. Waukegan</u> , 946 F. Supp. 2d 780 (N.D. Ill. 2013).....	24
<u>Padilla v. City of Chicago</u> , 932 F. Supp. 2d 907 (N.D. Ill. 2013) .....	24

<u>Hunt v. Roth</u> , No. 11 C 4697, 2013 WL 708116 (N.D. Ill. Feb. 22, 2013).....	24
<u>Reno v. Chicago.</u> , No. 10 C 6114, 2012 WL 2368409 (N.D. Ill. June 21, 2012).....	24
<u>Brown v. Navarro</u> , No. 09 C 3814, 2012 WL 1986586 (N.D. Ill. June 4, 2012) .....	24
<u>Phipps v. Adams</u> , No. 11-147-GPM, 2012 WL 686721 (S.D. Ill. Mar. 2, 2012).....	24
<u>Johnson v. Arroyo</u> , No. 09 C 1614, 2010 WL 1195330 (N.D. Ill. Mar. 22, 2010) .....	24
<u>Swanigan v. Trotter</u> , 645 F. Supp. 2d 656 (N.D. Ill. 2009) .....	24
<u>Lipscomb v. Knapp</u> , No. 07 C 5509, 2009 WL 3150745 (N.D. Ill. Sep. 30, 2009).....	24
<u>Montgomery v. Harvey</u> , No. 07 C 4117, 2008 WL 4442599 (N.D. Ill. Sep. 29, 2008)....	24
<u>Bruce v. Perry</u> , No. 03-cv-558-DRH, 2006 WL 1777760 (S.D. Ill. June 23, 2006) .....	24
<u>Montes v. Disantis</u> , No. 04 C 4447, 2005 WL 1126556 (N.D. Ill. May 10, 2005) .....	24
<u>Patterson v. Burge</u> , 328 F. Supp. 2d 878 (N.D. Ill. 2004) .....	24
<u>Harris v. Harvey</u> , No. 97 C 2823, 2000 WL 1468746 (N.D. Ill. Sep. 29, 2000).....	24
Final Jury Instructions, <u>Brown v. Spain</u> , No. 11-C-08403, 2014 WL 6813086 (N.D. Ill. Oct. 16, 2014).....	24
Instructions to the Jury, <u>Payne v. Maher</u> , No. 11-cv-6623, 2014 WL 7684881 (N.D. Ill. Nov. 14, 2014).....	24
Jury Instructions, <u>Wells v. Johnson</u> , No. 06CV06284, 2012 WL 1569523 (N.D. Ill. Apr. 19, 2012) .....	24
<u>Fabiano v. City of Palos Hills</u> , 336 Ill. App. 3d 635 (1st Dist. 2002).....	24, 27
<u>Collier v. City of Chicago</u> , 2015 WL 5081408 (N.D. Ill. Aug. 26, 2015).....	24, 27
NATIONAL REGISTRY OF EXONERATIONS, EXONERATIONS IN 2016 (2017), <a href="https://www.law.umich.edu/special/exoneration/Documents/Exonerations_in_2016.pdf">https://www.law.umich.edu/special/exoneration/Documents/ Exonerations_in_2016.pdf</a> .....	25
Andy Grimm, Kim Foxx Planning To Revamp Cook County Wrongful-Conviction Unit, CHI. SUN-TIMES, Mar. 15, 2017, <i>available at</i> <a href="http://chicago.suntimes.com/politics/kim-foxx-planning-cook-county-wrongful-conviction-unit-revamp">http://chicago.suntimes.com/ politics/kim-foxx-planning-cook-county-wrongful-conviction-unit-revamp</a> .....	25

<u>Schlup v. Delo</u> , 513 U.S. 298 (1994) .....	25
<u>Jimenez v. City of Chicago</u> , 830 F. Supp. 2d 432 (N.D. Ill. 2011) .....	26
<u>People v. Ringland</u> , 2017 IL 119484 (2017).....	26
<u>Swick v. Liautaud</u> , 169 Ill. 2d 504 (1996) .....	27, 29
<u>Denton v. Allstate Insurance Co.</u> , 152 Ill. App. 3d 578 (1st Dist.1986) .....	28
<u>Geisberger v. Vella</u> , 62 Ill. App. 3d 941 (2d Dist. 1978).....	28
<u>Colbert v. City of Chicago</u> , 851 F.3d 649 (7th Cir. 2017) .....	28
<u>Reed v. City of Chicago</u> , 77 F.3d 1049 (7th Cir. 1996).....	28
<u>Snodderly v. R.U.F.F. Drug Enforcement Task Force</u> , 239 F.3d 892 (7th Cir. 2001) .....	28
<b>b. The Defendants’ Misconduct in this Case Satisfies Any Conceivable Test for Commencement or Continuance. ....</b>	
<u>Beaman v. Souk</u> , 7 F. Supp. 3d 805 (C.D. Ill. 2014), aff’d sub nom. <u>Beaman v.Freesmeyer</u> , 776 F.3d 500 (7th Cir. 2015) .....	29, 31, 32
<u>People v. Beaman</u> , 229 Ill. 2d 56 (2008) .....	31, 32
<b>2. The Circuit Court’s Alternative Grounds for Dismissing the Malicious Prosecution Claim Are Incorrect.....</b>	
<b>a. Indicative of Innocence Prong: The Unanimous Reversal of Mr. Beaman’s Conviction, the Abandonment of Charges, the Certificate of Innocence, and the Governor’s Pardon Indicate Mr. Beaman’s Innocence.....</b>	
<u>Walden v. City of Chicago</u> , 391 F. Supp. 2d 660 (N.D. Ill. 2005) .....	34
<u>Kluppelberg v. Burge</u> , 84 F. Supp. 3d 741 (N.D. Ill. 2015) .....	34
<u>People v. Beaman</u> , 229 Ill. 2d 56 (2008) .....	34
<u>Rich v. Baldwin</u> , 133 Ill. App. 3d 712 (5th Dist. 1985).....	34-35

<b>b. Lack of Probable Cause Prong: Defendants Lacked Probable Cause To Arrest Mr. Beaman Because They Had No Probative Evidence Against Him, Dismissed his Alibi, and Ignored the Likely Killers.</b> .....	36
<u>Seymour v. Collins</u> , 2015 IL 118432.....	36, 42
<u>Carney v. Union Pacific R. Co.</u> , 2016 IL 118984.....	36, 42
<u>Frye v. O’Neill</u> , 166 Ill. App. 3d 963 (4th Dist. 1988).....	36
<u>Skorupa v. Guzick</u> , 2015 IL App (1st) 133082-U .....	36
<u>Fabiano v. City of Palos Hills</u> , 336 Ill. App. 3d 635 (1st Dist. 2002).....	36
<u>Maxwell v. City of Indianapolis</u> , 998 F.2d 431 (7th Cir. 1993).....	36
<u>Robinson v. Econ-O-Corp., Inc.</u> , 62 Ill. App. 3d 958 (2d Dist. 1978) .....	36
<u>Salmen v. Kamberos</u> , 206 Ill. App. 3d 686 (1st Dist. 1990) .....	36
<u>Howard v. Firmand</u> , 880 N.E.2d 1139, 317 Ill.Dec. 147, 378 Ill. App. 3d 147 (1st Dist. 2007).....	36
<u>People v. Shook</u> , 35 Ill. 2d 597 (1966).....	37
<u>Todd W. Musburger, Ltd. v. Meier</u> , 394 Ill. App. 3d 781 (1st Dist. 2009) .....	37-38
<b>c. Malice Prong: The Defendants’ Deliberate Misconduct and Fraudulent Investigation Demonstrate Their Malice.</b> .....	42
<u>People v. Beaman</u> , 229 Ill. 2d 56 (2008) .....	43
<b>D. Mr. Beaman’s Remaining Claims Should Proceed to Trial.</b> .....	46
<b>1. The Intentional Infliction of Emotional Distress Claim Should Proceed to Trial.</b> .....	47
<u>Vancura v. Katris</u> , 238 Ill.2d. 352 (2010).....	47
<u>Carrocia v. Anderson</u> , 249 F. Supp. 2d 1016 (N.D. Ill. 2003).....	47
<u>Treece v. Village of Naperville</u> , 903 F. Supp. 1251 (N.D. Ill. 1995), aff’d, 213 F.3d 360 (7th Cir. 2000).....	47

<u>Padilla v. City of Chicago</u> , 932 F. Supp. 2d 907 (N.D. Ill. 2013) .....	47
<u>Wallace v. City of Zion</u> , No. 11 C 2859, 2011 WL 3205495 (N.D. Ill. July 28, 2011) ....	47
<u>Fox v. Tomczak</u> , No. 04 C 7309, 2006 WL 1157466 (N.D. Ill. Apr. 26, 2006) .....	47
<u>McDonald v. Vill. of Winnetka</u> , No. 00 C 3199, 2001 WL 477148 (N.D. Ill. May 3, 2001) 47-48	
<u>McGrath v. Fahey</u> , 126 Ill.2d 78 (1988).....	48
<b>2. The Civil Conspiracy Claim Should Proceed to Trial.</b> .....	49
<u>People v. Small</u> , 319 Ill. 437 (1925).....	49
<u>Pearce v. Thiry</u> , No. CIV.A.08 C 4483, 2009 WL 3172148 (N.D. Ill. Oct. 1, 2009).....	49
<u>Newsome v. James</u> , No. 96 C 7680, 2000 WL 528475 (N.D. Ill. Apr. 26, 2000).....	49
<u>Rainey v. City of Chicago</u> , No. 10 C 07506, 2013 WL 941968 (N.D. Ill. Mar. 11, 2013).....	49
<b>3. The Respondeat Superior and Indemnification Claims Should Proceed To Trial.</b> .....	50

## NATURE OF THE CASE

The wrongful conviction of Alan Wayne Beaman is a stain on the history of Illinois. This case will decide whether the men who caused that conviction through a dishonest and biased investigation face a trial. Do we, a state with a national reputation for convicting the innocent, ignore this evil, or do we allow a jury to decide whether to condemn it?

This Court is familiar with the criminal case against Mr. Beaman, which resulted in his wrongful conviction and incarceration for over a dozen years. The Court reversed the conviction unanimously in 2008, finding that the State hid evidence and underscoring “the tenuous nature of the circumstantial evidence against [Mr. Beaman].” *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). The prosecution then dropped all charges, Mr. Beaman won a certificate of innocence based on DNA evidence, and the governor pardoned him, noting his innocence. Appendix (“A.”) 340-342, 2961, 3377.

Mr. Beaman brought this suit, sounding principally in malicious prosecution, and named as defendants the detectives responsible for his wrongful conviction. A.308-337. The circuit court granted summary judgment against Mr. Beaman, A.27-33, and the appellate court affirmed. *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527. This Court granted Mr. Beaman’s petition for leave to appeal.

## ISSUES PRESENTED FOR REVIEW

The tort of malicious prosecution consists of five elements: (1) the commencement or continuance of an original criminal or civil judicial proceeding by the defendant; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and (5) damages resulting to the plaintiff.

*Swick v. Liataud*, 169 Ill. 2d 504, 512 (1996). The issues presented for review concern the first four of these elements:

1. Commencement or continuance prong: Is this element satisfied if police officers charged with an investigation play a significant role in commencing or continuing the prosecution of an innocent person, but claim not to have pressured, influenced, or lied to the prosecutor?

2. Indicative of innocence prong: Did the proceedings against Mr. Beaman conclude in a manner indicating his innocence, where this Court unanimously vacated his conviction, he won a certificate of innocence, and the governor pardoned him on the basis of innocence?

3. Lack of probable cause prong: Does lack of probable cause against Mr. Beaman present an issue for the jury given the paucity of evidence against him, his lack of opportunity to commit a murder 130 miles from his home, and the existence of more viable suspects?

4. Malice Prong: Does the malice of the defendants present an issue for the jury where the defendants immediately selected Mr. Beaman as the killer and then concealed evidence, manipulated evidence, and misled a grand jury in order to secure his wrongful conviction?

## STATEMENT OF FACTS

### A. Introduction and Summary

As the summer of 1993 gave way to fall, Alan Beaman was home in Rockford, where he spent the latter half of the summer catching up with childhood friends, working nights at his uncle's grocery store, singing and playing guitar at his family's church, and

preparing to start his senior year at Illinois Wesleyan University. A.951-952, 2900. On August 28, Jennifer Lockmiller, Mr. Beaman's former girlfriend, was found dead in her apartment in Normal, some 130 miles away. A.38.

Defendant Timothy Freesmeyer, a detective in the Normal Police Department, immediately selected Mr. Beaman as the primary suspect. A.1576. Aided by Defendants David Warner and Frank Zayas, Freesmeyer conducted an investigation to reach a predetermined result: Beaman did it. *See infra* at 4-5, 10-14. The defendants lied in court, hid a polygraph report inculcating a steroid-abusing drug dealer who beat women, manipulated driving times to discredit Mr. Beaman's alibi, brushed aside exculpatory evidence, and refused to conduct a serious investigation of the viable suspects. *See infra* at 11-14.

It worked. Freesmeyer "solved" the murder of a college student in a small town and testified as the prosecution's star witness at trial. A.2971, 2975. He walked out of the Lockmiller case with a sergeant's chevrons and a glowing recommendation from the lead prosecutor, and he now runs a law enforcement consulting business. A.1409-10, 2971, 3207. Meanwhile, the man who killed and raped Ms. Lockmiller remains on the streets. Alan Beaman—slight, scrawny, and innocent—spent nearly 13 years in prison, while his friends completed their education, married their spouses, and raised their children.

## **B. The Murder**

Jennifer Lockmiller was last seen alive at noon on August 25, 1993. A.46-47. Three days later, her body was found in the bedroom of her apartment. A.38. Her shirt was pulled up exposing her breasts, her shorts and underwear were pulled down, a pair of scissors protruded from her chest, and an alarm clock cord was tied around her neck. A.38, 41.

**C. A Witness Makes a Guess, and Freesmeyer Targets Beaman**

On Day One of the investigation, Defendant Freesmeyer, who was to become the lead investigator in the case, selected Mr. Beaman as the primary suspect. A.1576. Morgan Keefe, an acquaintance of the victim, had discovered the body and told the police Mr. Beaman might be the killer, though she had no personal knowledge of the crime. A.1374. She was “guessing.” A.1374.

On the first day of the investigation, no alibies had been investigated, there were no eyewitness accounts, no physical evidence linked Mr. Beaman to the crime, and the autopsy had not been completed. A.3213, 3305-07. The crime scene suggested a killer of considerable strength and power; Mr. Beaman was thin and small. A.1360, 3221-22.

Lockmiller lived on a busy thoroughfare in a transient college town; this produced, in the words of Defendant Zayas, the overall head of the detective division, “an open case” with “so many possibilities.” A.1353. The victim might have been killed by an intimate partner. Or a man she had recently met. A.1716-18, 1723-25, 1731, 1733. Or a would-be burglar she discovered in the apartment. A.1358-62. Zayas summed it up:

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

A.1353.

The scene pointed to a stranger because Lockmiller’s apartment, usually tidy, was in disarray. A.1359, 1372-73. Someone appeared to have rummaged through the closet, A.1359, left food and dishes out on the kitchen counter, and tossed a garbage bag on the living room couch. A.72-73, 1359-60, 1372-73, 1594-95. One of Lockmiller’s earrings was

on the floor near the door, and a shoe was near the bedroom. A.1360. The scene suggested that the assailant attacked Ms. Lockmiller at the entry to her apartment, overpowered her, forced her into the bedroom, raped her, and killed her. A.1360.

Ms. Lockmiller encountered a cast of potential killers through excessive drinking, heroin use, and partying. A.1288, 1292. A new paramour had moved in with her two or three weeks before the murder. A.1727-28. She had broken up with another man who wanted her back. The two planned to see each other two days after the murder. A.1729-30.

Late at night on the first day of the investigation, Mr. Beaman agreed to a lengthy interview by two detectives, voluntarily accompanied them to a police station, agreed to have the interview taped, declared his innocence throughout the interview, and discontinued the interview only when it became highly accusatory. A.2900-2948. None of this mattered. Freesmeyer admitted that, within hours of the discovery of the body, he had already designated Alan Beaman as the primary suspect and likely killer. A.1576.

#### **D. Alan Beaman and Jennifer Lockmiller**

Alan Beaman was an unlikely murder suspect. He grew up in Rockford in a devout Methodist family. A.948-951. His father worked as an engineer. A.944. His mother taught math at the local high school. A.943. Since childhood, he was a music lover. A.948-951. He was in the high school marching band. Like his parents, Mr. Beaman was active in the local Methodist parish, where he played guitar for the youth group. A.948-951. As a student at Illinois Wesleyan University in Normal, Mr. Beaman majored in drama. A.355. He had no criminal history.

Mr. Beaman had ended his romantic relationship with Ms. Lockmiller over a month before the murder. A.2951-52. The relationship was unhappy, while it lasted. Ms.

Lockmiller was intimate with other men, including Michael Swaine, Mr. Beaman's roommate and close friend. A.1752, 3314-15. The couple fought. Mr. Beaman displayed temper more than once, raising his voice at Ms. Lockmiller and, on two occasions when Ms. Lockmiller was being unfaithful, kicking open the door to her apartment. A.1752, 3314-16. There was no indication that Mr. Beaman ever directed violence at any person, and police were informed that he was "not physical." A.2950.

A few days before her death, Ms. Lockmiller called Mr. Beaman many times, trying to restart their relationship. A.1044, 1046-48. Mr. Beaman refused. A.1046-48. He had begun seeing someone else. A.1145.

#### **E. Suspects Ignored**

The defendants decided to ignore every avenue but one—the murderer was an intimate partner. A.3242. They did not bother to find out whether other burglaries or sexual assaults had been reported in the area, A.3243, 3246, or to interview all of the people Lockmiller had been in contact with in the days and hours prior to her death, A.1650-51, 2584. Other detectives on the case did not share this strange fixation on Mr. Beaman. A.1970, 2583, 2293-94, 1354.

The defendants also ignored other potential suspects. While they confirmed alibis for two suspects, Stacey Gates and Michael Swaine, they ignored the rest. A.3231, 3242. As one example of the many potential suspects, Ms. Lockmiller flirted with and rejected several men on August 21, four days before the murder, when she drank at various bars. At one of the bars, Spanky's, Ms. Lockmiller met a long-haired stranger. A.1716-17. Lockmiller, described by her friend as "the queen of scamming drinks off guys," flirted with the stranger, and then "kind of walked off." A.1723. This man called Ms. Lockmiller

two days before the murder. He asked Ms. Lockmiller on a date and was rebuffed. A.1725, 1731. But this man kept calling her. A.1733. After Lockmiller and her friends left Spanky's and were en route to another bar, they encountered two other men, one of whom gave Lockmiller his phone number, writing it on a piece of paper with lipstick that he borrowed from Lockmiller's friend. A.1717-18, 1725. Lockmiller threw the piece of paper away. A.1725. On the day before the murder, one of Lockmiller's friends encountered these two men again. A.1718. They asked why Lockmiller had not called them, and told Lockmiller's friend to have Lockmiller call them. A.1718. Investigators did not attempt to locate these potential suspects. A.1653-54, 2867-70.

An even more likely suspect was John Murray, who had an on-again, off-again sexual relationship with Ms. Lockmiller and was seeking to rekindle the relationship when she was killed. A.1733, 1752, 1757, 1764-75. Murray bragged to police: "[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me." A.1752.

The crime scene suggested that the murder would have required a person who, unlike Mr. Beaman, was of "considerable strength and power." A.1360. Murray was a frightening, physically imposing man. A.1773, 1775, 1777 (stating that Murray "was big. He was big and long, curly dark hair and just—I don't know how to say it more than he was kind of a scary person"; describing Murray as "someone that could be explosive in his anger"; stating that Murray was "physically large" and "scary").

Murray was a drug dealer, and he sold drugs to Ms. Lockmiller. A.1795-96. In fact, she owed him money for drugs at the time of her death. A.1795. Although Murray's story was that Lockmiller owed him approximately \$20, Detective Daniels, a member of the

investigative team, thought that she might have owed Murray more money for drugs. A.2348-49. This could have added to Murray's motive to kill her. A.1824, 2348-49.

The investigators learned that Murray beat women. A.1729-30. On October 7, 1994, Murray beat his girlfriend, Deborah Mackoway, pinning her to the floor and elbowing her repeatedly in the chest. A.2544. The night before, Murray had grabbed her and bruised her. A.2545. He beat her, she reported, "on a continual basis." A.2543.

Murray abused steroids both before and after the Lockmiller murder, and these drugs made him violent and erratic. A.2558, 2559, 2547. Murray had been using steroids (and cocaine) in 1993, the year Ms. Lockmiller was killed. A.2558-59.<sup>1</sup> In 1994, Murray was again experimenting with street steroid injections, making his behavior "unexplainable," as Mackoway put it. A.2547. He gave her a black eye while on the drugs. A.2547. Murray was violent toward other women as well. He slapped a different girlfriend, and may have abused yet a third. A.1773, 2561.

During the investigation, Murray lied to investigators about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he left Normal and drove home at 3:00 p.m. on August 24, the day before the murder. A.1741. Mackoway, however, told investigators that Murray did not leave town until after 4:20 p.m. on *August 25*, the day of the murder. A.2563. Furthermore, no one could account for Murray's whereabouts on August 25 between when Mackoway left for work in the morning and 2 p.m. A.2563-64. Murray also lied to investigators about several other matters, including the fact that he sold Ms. Lockmiller drugs, A.1746, 1795-

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<sup>1</sup> The appellate court incorrectly stated that "Murray began taking steroids in January 1994 and he had begun acting erratically." Op. ¶ 14. In fact, police reports show that Murray was also taking steroids in 1993, before the murder. A.2558-59.

96, drove over to her apartment to collect a drug debt shortly before she was killed, A.1738-40, 1791, and was having sex with her while she was dating Mr. Beaman (not just “talking,” as Murray originally claimed). A.1744, 1752, 2347-48.

Murray refused to comply with a polygrapher’s instructions during a lie detector test about whether he murdered Jennifer Lockmiller. The polygrapher reported: “After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.” A.2586. Two decades later, during his deposition in this case, John Murray refused to answer any questions about his role in the Lockmiller murder, invoking his Fifth Amendment right against self-incrimination. A.1769-70.

#### **F. Warner Hides Evidence**

The Murray polygraph report was concealed from the prosecutor. A.3268-69 Defendant Warner received the report from the polygrapher, and was the last person to have the report before it disappeared. A.2744-45. Warner claims to have handed the Murray polygraph report to Detective Daniels, but Daniels has no recollection of it. A.2239, 2477-78, 2535, 2744-45. Warner’s story that he gave the report to Daniels (and no one else) is not consistent with the three-prong policy he was trained to follow upon receipt of such a report: (1) ensure that the head of the detective division received a copy, (2) submit the report to central records, and (3) disseminate copies to all investigators on the case. A.1354-55. Warner failed to perform all three of these mandatory steps. A.2744-45. Many years later, the suppression of evidence incriminating Murray led this Court to vacate Mr. Beaman’s conviction. *See infra* at 15-16.

**G. Attempts To Obtain a Confession Fail**

Defendants tried several times to obtain an incriminating admission from Mr. Beaman, all to no avail. A.1305-06, 1308-11, 1320, 1326, 1328-29, 1334-35. Freesmeyer spoke with Mr. Beaman many times during the nine-month investigation of the Lockmiller homicide, often while wearing a wire. A.1320, 1326, 1328-29, 1334-35. The defendants convinced Mr. Beaman's friend and roommate to wear a wire and engage Mr. Beaman in two separate conversations about the murder. A.1305-06, 1308-11, 2224-27, 3328-44, 3345-54, 3320-21, 3322-23. Mr. Beaman made no incriminating statements. He also maintained his innocence over a series of interrogations in which defendants insisted he was the killer. A. 1316, 2613-14, 2900-2948. Freesmeyer even threatened Mr. Beaman with the death penalty if he refused to confess. A.1318. None of it worked.

**H. No Physical or Eyewitness Evidence**

No probative physical evidence connected Mr. Beaman to the crime. Two of his fingerprints were found on the alarm clock at the crime scene, but that fact lacked evidentiary significance. A.1587, 2332-33, 2967, 2969, 3253, 3266. Mr. Beaman had repeatedly been an overnight visitor in Ms. Lockmiller's apartment and used the alarm clock. A.874-75, 953, 2332-33. Michael Swaine, whom the investigators quickly eliminated as a suspect, had also stayed overnight at Lockmiller's apartment and used the alarm clock. Four of Swaine's prints were found on the alarm clock, as well as an unidentified fingerprint. A.3324-25. Apart from the irrelevant fingerprints, there was no other physical evidence that linked Mr. Beaman to the crime. A.1356-57.

Lacking serious evidence, the defendants turned to collecting dirt about Mr. Beaman's relationship with Ms. Lockmiller. Mr. Beaman had yelled at her, been jealous,

become angry over her infidelity, and called her crude names, A.1764, 3297, but no witness (and no other evidence) placed him in Normal, as opposed to Rockford, where he was home with his parents, on the day of the murder. A.3226.

#### **I. Freesmeyer Manipulates Time Trials**

Freesmeyer stuck with his Day One guess—Beaman did it—even when an alibi made that guess impossible. A.1576, 2620. A security video showed Mr. Beaman at his bank in Rockford, some 130 miles from Ms. Lockmiller’s apartment, at 10:11 a.m. on the day of the murder. A.1312. At 10:37 and 10:39 a.m., two calls were placed from the Beaman family residence to Mr. Beaman’s youth minister. A.3285. When Mr. Beaman’s mother returned home at approximately 2:15 p.m. that afternoon, Mr. Beaman was in his room asleep, with the family dog lying in the adjacent hallway. R.3271–78. It would have been impossible for Mr. Beaman to leave the family home in Rockford following the 10:39 a.m. call, drive the 130 miles to Normal, kill and rape Ms. Lockmiller, and return 130 miles to his bedroom prior to his mother’s 2:15 p.m. return. A.2955–59.

Freesmeyer therefore set out to create evidence that Mr. Beaman did not make the calls. A.1339, 3219-20. Scrupulously adhering to speed limits and using a downtown route on city streets—not the “bypass route” used by locals—Freesmeyer purported to establish that Mr. Beaman did not have time to get home from the bank in time to make the calls. A.1339, 3219-20. On the other hand, taking the bypass route—even while never exceeding the speed limit—would have given Mr. Beaman ample time to make the calls. A.2958, 3219-20. In fact, Freesmeyer did a time trial using the bypass route, which proved this very point, even while he drove the entire route at 55 miles per hour on a four-lane interstate highway. A.3219-20. But he omitted the exculpatory time trial from his detailed police

report and avoided telling the jury about it at trial. A.1339, 2648–50, 3070-71. Not so for the slower time trial that suggested Mr. Beaman could not have made the calls. Freesmsyer recorded that in his report, and he let the jury know about it. A.1339, 3070-71.

No one other than Mr. Beaman could have made the calls. His father was undeniably at work. A.957. Plaintiff's mother, Carol Beaman, also stated that she did not make the calls. A.3279. And she could not have made them. Records confirm that Carol Beaman signed her elderly mother in at the convalescence facility where she was a resident at 10 a.m. that morning, after she returned from taking her mother on an outing. A.2572-73. The facility was more than ten miles from the Beaman residence. A.955. Carol Beaman spent 20 to 30 minutes settling her mother back into her room and then went to a Walmart—which was directly across the street—where she shopped for school supplies and stood in a check-out line. A.2574-75, 2577–81, 3279–80. A receipt proved that Carol Beaman checked out of Walmart at 11:10 a.m., meaning that she could not have made the crucial 10:37 a.m. call because she was at the Walmart across town. A.2577. Mr. Beaman was the only remaining person with access to the phone. A.3280.

Carol Beaman stated that she naturally went from the convalescence facility to the Walmart right across the street, but that did not fit with Freesmeyer's theory that she went home in between the facility and the Walmart to call the youth minister. A.2576. Freesmeyer decided that she must have driven 10 miles home, made a call, and then driven ten miles back to the Walmart. A.2660.

Even assuming Mr. Beaman *did not* make the calls, committing the murder would have been nearly impossible. That scenario would have Mr. Beaman leaving the Rockford bank around 10:11, driving 130 miles to Ms. Lockmiller's apartment in Normal,

committing a rape and murder, driving 130 miles back to his family home in Rockford, and returning before his mother's arrival at 2:15. In testing this scenario, Freesmeyer first observed the speed limit, but the trip took four hours and eleven minutes—more time than the four hours and four minutes between the bank video at 10:11 and Carol Beaman's confirmation of Mr. Beaman's presence home in Rockford at 2:15. A.1339. To discredit the alibi, Freesmeyer then drove much faster, at an *average* speed of 75 miles per hour, 10 miles per hour over the posted speed limit. A.1345-46. Freesmeyer was able to make the trip in three hours and 45 minutes. A.1345-46. Mr. Beaman could not have coaxed his Ford Escort to travel at such a high average speed for well over 100 miles: the car frequently broke down, could sustain high speeds, and was described by one passenger as a "piece of junk." Even then, Mr. Beaman would have had a 20-minute window to commit the rape and murder. A.1345-46, 1789–90, 3284–84. Of course, this scenario also requires Mr. Beaman's mother to have placed the calls, meaning she left the convalescence facility, drove 10 miles home to make two telephone calls, drove 10 miles back to Walmart (directly across from the convalescence facility), and then drove home again.

**J. Defendants Ignore a Witness who Exonerates Mr. Beaman**

In addition to dismissing Mr. Beaman's alibi, the defendants ignored critical evidence that exculpated him. David Singley lived in the second floor apartment directly across the hall from Ms. Lockmiller. Singley told the investigators that, as he arrived home from class at approximately 2 p.m. on the day of the murder, he heard someone quickly slam shut the door to Ms. Lockmiller's apartment. A.3300-01, 3304. He heard the stereo on in Ms. Lockmiller's apartment. A.3300-01, 3304. About 10 minutes later, Singley heard

Lockmiller's door open and shut again, followed by the sound of footsteps going down the stairs and the outside door to the building being opened. A.3300-01, 3304.

Singley's information established either that Lockmiller was alive at 2 p.m. or, if she was already dead, that her killer was still present in the apartment. In either event, it would have been impossible for Mr. Beaman to kill Ms. Lockmiller. All agree that he was in Rockford, some 130 miles away, no later than 2:15 p.m. A.87.

**K. Beaman Arrested: "I Think We Needed To Work on it Some More"**

Mr. Beaman was arrested in May 1994. A.1335. Five months later, Zayas admitted that that the evidence was still not sufficient for the case to be ready for prosecution:

Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?

A. No. I don't think we had all the information needed at the time when I left. That was still in limbo.

....

A. I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.

A.1356.

**L. Freesmeyer Delivers the Indictment and Conviction**

Following Mr. Beaman's arrest, Freesmeyer moved into the State's Attorney's Office and worked on the case full time through Mr. Beaman's trial and conviction.

A.2595. He was the principal witness before the grand jury and testified over the course of three days. A.3217, 3223. He lied about alternative suspects, particularly Murray, claiming that investigators had not "locate[d] any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller." A.3218. The grand jury indicted Mr. Beaman.

At trial, Freesmeyer, now a sergeant, testified as the star witness for the prosecution over the course of two days. A. 3217, 3223. Alan Beaman was convicted on April 1, 1995,

a good day for Timothy Freesmeyer. As another investigator agreed, Freesmeyer would garner the most credit for solving the case, and would have received the most blame if it went unsolved. A.1384. The prosecutor slapped Freesmeyer on the back in a letter to the Chief of Police: “Beyond any question in my mind, this case would not have been won without Tim Freesmeyer.” A.3207. Alan Beaman was sentenced to 50 years in prison. The appellate court affirmed on direct appeal, over the vigorous dissent of Justice Cook, who found the evidence insufficient to prove guilt. No. 4–95–0396 (unpublished order under Supreme Court Rule 23) (Cook, J., dissenting).

**M. Alan Beaman Clears His Name**

The jury that convicted Alan Beaman never heard the evidence against John Murray. For that reason, this Court unanimously vacated the conviction in 2008. *People v. Beaman*, 229 Ill. 2d 56 (2008). The case against Mr. Beaman had fallen apart when his post–conviction lawyers unearthed evidence hidden from him and his criminal defense lawyer that inculpated Murray (referred to in this Court’s previous opinion as “John Doe”). *Id.* at 66, 80. The Court divided the suppressed Murray evidence into four categories:

(1) John Doe failed to complete the polygraph examination; (2) Doe was charged with domestic battery and possession of marijuana with intent to deliver prior to petitioner’s trial; (3) Doe had physically abused his girlfriend on numerous prior occasions; and (4) Doe’s use of steroids had caused him to act erratically.

*Id.* at 74–75. The Court found that the suppressed polygraph evidence was important because it “would have bolstered a claim by petitioner that Doe was a viable suspect not only because the circumstances may be viewed as evasive, but also because the polygraph examiner indicated that Doe was specifically identified as a suspect.” *Id.* at 76. The Court next considered the fact that Murray beat his girlfriend and behaved erratically because he

abused steroids, finding that the evidence “supported an inference of a tendency to act violently toward others.” *Id.* The Court also analyzed the evidence that showed Murray to be a drug dealer, to whom Ms. Lockmiller owed a drug debt at the time she was killed. *Id.* at 76–77. The Court noted that the evidence against Murray was especially critical given the weakness of the evidence against Mr. Beaman. *Id.* at 79. “It is clear,” the Court found, “that the evidence of petitioner's opportunity to commit the murder is not as strong as that against Doe.” *Id.* Indeed, Murray “had a clear opportunity to commit the offense. He lived approximately 1 ½ miles from Jennifer's apartment and did not have any verification of his location before 1 p.m. on the day of the murder.” *Id.* at 80. Moreover, Murray lied about his alibi—he “gave a false alibi stating he left town the day before the murder. That false exculpatory statement could be used as probative evidence of consciousness of guilt.” *Id.* at 80–81. Finally, Murray had a “motive to commit the murder”—he wanted to rekindle his sexual relationship with Lockmiller, but she was entangled with another man. *Id.* at 80.

The paucity of incriminating evidence and the concealment of exculpatory evidence made the conviction a nullity: “We cannot have confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence.” *Id.* at 81.

After this Court’s unanimous ruling, the State’s Attorney’s Office dropped all charges against Mr. Beaman. A.2961. He then petitioned for a certificate of innocence. After DNA testing requested and directed by the State provided yet further evidence of Mr. Beaman’s innocence, A.3355-58, the State dropped its opposition to the petition, A.51. On April 29, 2013, Alan Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District. A.51-52. Even after the certificate

of innocence, the Governor of Illinois granted a pardon to Mr. Beaman “based upon innocence as if no conviction.”<sup>2</sup>

**N. Procedural History: Federal Litigation**

Mr. Beaman brought a lawsuit in federal court against a group of defendants that includes those named in the case before this Court. *Beaman v. Souk*, 7 F. Supp. 3d 805 (C.D. Ill. 2014), *aff’d sub nom. Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015). Mr. Beaman’s principal claim was that the defendants withheld exculpatory evidence under *Brady v. Maryland*. *Id.* at 820. The district court held that most of the suppressed exculpatory evidence was not actionable under *Brady* because the defendants provided it to the prosecutor, who enjoyed absolute immunity under federal law for his failure to disclose it to the defense. *Id.* at 826.

The Murray polygraph was different in three respects. First, the federal court found that a reasonable jury could conclude that Warner concealed the polygraph from the prosecution. *Id.* at 827. Second, the court held that suppression of the polygraph report would constitute a *Brady* violation even if the other exculpatory evidence had been turned over to the prosecutor. *Id.* at 823. The polygraph itself could have changed the course of the prosecution: “Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Id.* at 830 n.8.

Third, the court concluded that a reasonable jury could find the requisite intent—Warner buried the polygraph deliberately. *Id.* at 827. Specifically, the court found:

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<sup>2</sup> The pardon (A. 3377) is not in the circuit court record but is judicially noticeable. *People v. Morris*, 219 Ill. 2d 373, 394–95 (2006) (Karmeier, J., dissenting) (taking judicial notice of governor’s speech discussing commutations); *Chicago & A.R. Co. v. Keegan*, 152 Ill. 413, 416–17 (1894) (document signed by governor and bearing seal of state is judicially noticeable).

Plaintiff . . . has pointed to sufficient evidence to support an alternative inference that [Warner] intentionally withheld the information from Souk. The only officer that undisputedly had the polygraph report in his possession at any point is Warner. Under NPD policy, the polygraph reports would then be given to Zayas, who would give them to the records department and ensure a copy was given to the prosecutor. However, for reasons unknown, this policy was not followed with the Murray polygraph, and the parties dispute what happened to it once received by the NPD. Warner claims he gave it to Daniels instead of Zayas, but Daniels has no recollection of ever receiving the report. A jury could infer from the failure to follow policy and the conflicting testimony that there was intentional suppression of the evidence by Warner, the only Defendant shown by the record to have possessed the polygraph report.

*Id.* at 827.

Despite the genuine issue of material fact over Warner's deliberate suppression of the polygraph, the district court nonetheless granted summary judgment to Warner on the ground of qualified immunity, a doctrine that pertains to federal damages claims arising under 42 U.S.C. § 1983. *Id.* at 831. Although a jury could find that Warner violated the Constitution, he enjoyed qualified immunity because the right of a criminal defendant to receive polygraph reports incriminating alternative suspects had not yet been clearly established at the time Warner suppressed the evidence. *Id.*

In addition to the federal law claims for *Brady* violations, Mr. Beaman also invoked the federal court's supplemental jurisdiction over state law claims for malicious prosecution, civil conspiracy, intentional infliction of emotional distress, respondeat superior, and indemnification. *Id.* at 811. Having dismissed the federal law claims, the court was divested of supplemental jurisdiction over the state law claims. *Id.* at 831. The court dismissed the state law claims without prejudice, not reaching their merits. *Id.* The Seventh Circuit affirmed the dismissal of the federal law *Brady* claim with prejudice and the dismissal of the state law claims without prejudice. *Beaman*, 776 F.3d at 503.

**O. Procedural History: The Instant Case**

Mr. Beaman brought the current action in the Circuit Court of McLean County in April 2014, pleading the state law claims that the federal court had dismissed without prejudice. A.308–337. He requested and was granted assignment of an out-of-circuit judge (Douglas County Circuit Court Judge Richard L. Broch). Judge Broch granted the defendants’ motion for summary judgment on June 22, 2016, A.28-33.

In a malicious prosecution suit, the plaintiff must establish five elements: (1) the commencement or continuance of an original proceeding by the defendant; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and (5) damages. *Swick*, 169 Ill. 2d at 512. In this case, the circuit court reasoned that Mr. Beaman could not satisfy the commencement or continuance, lack of probable cause, malice, and indicative of innocence prongs. A.28. The circuit court dismissed the remaining claims as dependent on the malicious prosecution claim. Mr. Beaman appealed A.3368-70.

The appellate court affirmed the grant of summary judgment on the commencement or continuance element of malicious prosecution, and did not address the circuit court’s other grounds for dismissing that claim. Op ¶ 50. The court observed that prior malicious prosecution cases against police officers in three appellate districts and federal court had applied the “significant role” test to the commencement or continuance prong. *Id.* ¶¶ 51–53. Under this test, “liability extends to all persons who played a significant role in causing the prosecution of the plaintiff, provided all of the elements of the tort are present.” *Id.* ¶¶ 51–53. The appellate court nevertheless rejected this test and “question[ed] the propriety of limiting consideration of the commencement element to only the significance of one’s

role in instituting the prosecution.” *Id.* ¶¶ 51–54. Instead, the court imported into police cases the “pressure, influence, or misstatement test,” a standard that had previously been applied only in malicious prosecution cases against “a civilian reporting a crime.” *Id.* ¶ 56. Under the new test, the court held that “the plaintiff must establish that [an] officer pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied.” *Id.* ¶ 58. The court concluded that Mr. Beaman could not meet this test for commencement or continuance as a matter of law, and affirmed the grant of summary judgment on the malicious prosecution claim. *Id.* ¶¶ 60–72. The court also affirmed dismissal of the other claims, which were dependent on the malicious prosecution claim. *Id.* ¶¶ 72–78. This Court granted leave to appeal.

## ARGUMENT

### A. Summary of Argument

The significant role test for the commencement or continuance prong of the malicious prosecution tort strikes the appropriate balance between holding police accountable for causing wrongful prosecutions and closing the door to unfounded claims. The appellate court erred by replacing this standard with the pressure, influence, or misstatement test—a rule no other Illinois court has ever applied to a malicious prosecution case against police defendants.

The court went astray because it considered the commencement or continuance prong in isolation, ignoring the other elements that cabin the malicious prosecution cause of action, including malice, lack of probable cause, and termination of the criminal proceedings in a manner indicative of innocence. Of course, a police officer should not be found liable merely for playing a significant role in causing a prosecution. But police officers should be held accountable when, motivated by malice, they have a significant role in causing an innocent person to be prosecuted without probable cause.

Illinois's disproportionate rate of wrongful convictions makes police accountability imperative, and the malicious prosecution tort is the principal civil remedy under state law for police misconduct. To weaken the cause of action, as the appellate court did, is to promote impunity. Prosecutors rely on investigations performed by detectives to indict and try the right people. Detectives can therefore set the trajectory of a wrongful prosecution not only by pressuring or lying to a prosecutor, but also by arriving at pre-determined outcomes through misconduct and biased investigations. In such cases, police should not escape liability merely because they did not pressure, influence, or lie to a prosecutor.

In any case, the actions of Freesmeyer, Warner and Zayas meet any conceivable test for commencement or continuance of a prosecution, even the appellate court's pressure, influence, or misstatement test. Faced with a high-profile murder that shook a college town, they selected a perpetrator and worked backwards from there. To achieve the desired result, they manipulated time trials, lied in court, and hid evidence—even from the prosecutor. The concealment of exculpatory evidence amounts to a knowing misstatement.

If Mr. Beaman prevails on the commencement or continuance prong, the Court should exercise its discretion to address the circuit court's alternative grounds for summary judgment and remand the malicious prosecution claim for trial, even though the appellate court did not reach these alternative grounds. Mr. Beaman was arrested and jailed in the second year of the Clinton Administration. He has waited long enough for a day in court.

The circuit court's reasoning on the other prongs is indefensible. The court found that the proceedings against Mr. Beaman did not conclude in a manner indicative of innocence, even though this Court unanimously vacated his conviction, the State dropped all charges, Mr. Beaman won a certificate of innocence, and the Governor pardoned him on the basis of innocence. The court found probable cause to arrest Mr. Beaman as a matter of law without examining the record, which presented a thicket of disputed facts and inferences. Instead, the court simply incorporated the defendants' brief, finding probable cause "as specifically stated in paragraphs (a) through (p) of Defendants' Memorandum of Law." A.30-31. Finally, the circuit court found no malice as a matter of law by ignoring the bias and misconduct that pervaded the investigation.

Mr. Beaman’s remaining claims (intentional infliction of emotional distress, conspiracy, respondeat superior, and indemnification) are intertwined with the malicious prosecution claim. The claims all rise or fall together and should be remanded for trial.

**B. Standard of Review**

“[S]ummary judgment is a drastic means of disposing of litigation . . . .” *Jackson v. TLC Associates, Inc.*, 185 Ill. 2d 418, 423 (1998). This Court must reverse the grant of summary judgment to the defendants unless the case is “clear and free from doubt.” *Id.* at 424. This means that summary judgment is impermissible unless: (1) the material facts are undisputed *and* (2) the only reasonable inferences one can draw from those facts preclude liability. *Seymour v. Collins*, 2015 IL 118432 ¶ 42; *Carney v. Union Pacific R. Co.*, 2016 IL 118984, ¶ 25. This Court’s review is *de novo*. *Jackson*, 185 Ill.2d at 424.

**C. The Malicious Prosecution Claim Should Proceed to a Trial on the Merits.**

**1. Commencement or Continuance Prong: The Defendants Commenced or Continued Mr. Beaman’s Wrongful Prosecution by Securing His Indictment and Conviction through a Fraudulent Investigation.**

The appellate court erred in finding no genuine issue of material fact on the commencement or continuance element of the malicious prosecution tort. Not only did the appellate court select a narrow and incorrect legal standard, but the facts, properly understood, satisfy even that restrictive test.

**a. The Appellate Court Applied the Wrong Standard to the Commencement or Continuance Prong.**

In cases against police officers, courts in Illinois have applied three tests:

**Significant role test:** The predominant rule in Illinois’s lower courts is that a police officer satisfies the commencement or continuance prong if she played a “significant role in commencing or continuing the prosecution.” *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975

(4th Dist. 1988); *Bianchi v. McQueen*, 2016 IL App (2d) 150646, ¶ 72; *Barnett v. Baker*, 2017 IL App (1st) 152443-U, ¶ 40; *Rodgers v. Peoples Gas, Light & Coke Co.*, 315 Ill. App. 3d 340, 348–49 (1st Dist. 2000). Federal cases against Illinois police officers routinely employ this standard<sup>3</sup> and use it in jury instructions.<sup>4</sup>

**Advice and cooperation test:** Some state and federal decisions have also mentioned another test: participation of so active and positive a character as to amount to advice and cooperation. *E.g.*, *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 647 (1st Dist. 2002); *Collier v. City of Chicago*, 2015 WL 5081408, at \*9 (N.D. Ill. Aug. 26, 2015).

**Pressure, influence, or misstatement test:** In this case, the Fourth District adopted a third rule, one more restrictive than the other two: “[T]he plaintiff must establish that [an]

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<sup>3</sup> *See, e.g.*, *Mitchell v. Elgin*, No. 14 CV 3457, 2016 WL 492339, at \*7–8 (N.D. Ill. Feb. 9, 2016); *Collier v. Chicago*, No. 14 C 2157, 2015 WL 5081408, at \*9 (N.D. Ill. Aug. 26, 2015); *Mosley v. Pendarvis*, No. 13 C 5333, 2015 WL 2375253, at \*4 (N.D. Ill. May 15, 2015); *Green v. Chicago*, No. 11 C 7067, 2015 WL 2194174, at \*6 (N.D. Ill. May 6, 2015); *Fields v. Chicago*, No. 10 C 1168, 2014 WL 477394, at \*12 (N.D. Ill. Feb. 6, 2014); *Starks v. Waukegan*, 946 F. Supp. 2d 780, 794–95 (N.D. Ill. 2013); *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 928 (N.D. Ill. 2013); *Hunt v. Roth*, No. 11 C 4697, 2013 WL 708116, at \*8 (N.D. Ill. Feb. 22, 2013); *Reno v. Chicago*, No. 10 C 6114, 2012 WL 2368409, at \*6 n.2 (N.D. Ill. June 21, 2012); *Brown v. Navarro*, No. 09 C 3814, 2012 WL 1986586, at \*7 (N.D. Ill. June 4, 2012); *Phipps v. Adams*, No. 11-147-GPM, 2012 WL 686721, at \*3 (S.D. Ill. Mar. 2, 2012); *Johnson v. Arroyo*, No. 09 C 1614, 2010 WL 1195330, at \*3 (N.D. Ill. Mar. 22, 2010); *Swanigan v. Trotter*, 645 F. Supp. 2d 656, 686 (N.D. Ill. 2009); *Lipscomb v. Knapp*, No. 07 C 5509, 2009 WL 3150745, at \*11-12 (N.D. Ill. Sep. 30, 2009); *Montgomery v. Harvey*, No. 07 C 4117, 2008 WL 4442599, at \*7 (N.D. Ill. Sep. 29, 2008); *Bruce v. Perry*, No. 03-cv-558-DRH, 2006 WL 1777760, at \*8 (S.D. Ill. June 23, 2006); *Montes v. Disantis*, No. 04 C 4447, 2005 WL 1126556, at \*11–12 (N.D. Ill. May 10, 2005); *Patterson v. Burge*, 328 F. Supp. 2d 878, 900-01 (N.D. Ill. 2004); *Harris v. Harvey*, No. 97 C 2823, 2000 WL 1468746, at \*9 (N.D. Ill. Sep. 29, 2000).

<sup>4</sup> *E.g.*, Final Jury Instructions, *Brown v. Spain*, No. 11-C-08403, 2014 WL 6813086 (N.D. Ill. Oct. 16, 2014) (“An officer commences or continues the prosecution of a person if the officer played a significant role in causing the commencement or the continuation of the prosecution of the person.”); Instructions to the Jury, *Payne v. Maher*, No. 11-cv-6623, 2014 WL 7684881 (N.D. Ill. Nov. 14, 2014) (same); Jury Instructions, *Wells v. Johnson*, No. 06CV06284, 2012 WL 1569523 (N.D. Ill. Apr. 19, 2012) (same).

officer pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecution relied.” Op. ¶ 58.

While this Court has not previously addressed the standard for commencement or continuance in a case against police defendants, the prevalence of the significant role test in police cases litigated in this State’s other courts over the past four decades suggests that the test is useful and effective. Although the significant role test is by far the majority rule, no one in this litigation has pointed to an instance in which the usual rule has produced an unfair result. In fact, we are unaware of any previous instance in which a police defendant has even complained about the significant role test. The standard has acquitted itself well over a long tenure.

The Court should hesitate to replace the tested standard—significant role—with a more narrow rule that could undermine police accountability. Whatever problems Illinois may face, too much police accountability is not among them. In 2016, Illinois stood second only to Texas in the number of wrongful convictions that ended in exoneration.<sup>5</sup> Cook County has been called “the wrongful conviction capital of the U.S.”<sup>6</sup> Illinoisans convicted of crimes and later exonerated have spent an aggregate 2,287 years behind bars for offenses they did not commit.<sup>7</sup> These lost years are an affront to justice, for “concern about the injustice that results from the conviction of an innocent person has long been at

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<sup>5</sup> NATIONAL REGISTRY OF EXONERATIONS, EXONERATIONS IN 2016, at 5 (2017), [https://www.law.umich.edu/special/exoneration/Documents/Exonerations\\_in\\_2016.pdf](https://www.law.umich.edu/special/exoneration/Documents/Exonerations_in_2016.pdf).

<sup>6</sup> See, e.g., Andy Grimm, *Kim Foxx Planning To Revamp Cook County Wrongful Conviction Unit*, CHI. SUN-TIMES, Mar. 15, 2017, available at <http://chicago.suntimes.com/politics/kim-foxx-planning-cook-county-wrongful-conviction-unit-revamp/>.

<sup>7</sup> *Exonerations by State*, NATIONAL REGISTRY OF EXONERATIONS, <http://www.law.umich.edu/special/exoneration/Pages/Exonerations-in-the-United-States-Map.aspx> (last visited Jan. 10, 2018).

the core of our criminal justice system.” *Schlup v. Delo*, 513 U.S. 298, 325 (1994). Wrongful convictions also threaten public safety, as this case demonstrates. By targeting Mr. Beaman, the defendants left a dangerous rapist and murder to wander the streets.

The malicious prosecution tort provides the principal civil remedy under state law for investigative misconduct that results in wrongful convictions. Such misconduct may also give rise to claims for intentional infliction of emotional distress, failure to intervene, conspiracy, and respondeat superior, but all of these claims are contingent on the success of the malicious prosecution claim. *Jimenez v. City of Chicago*, 830 F. Supp. 2d 432, 451 (N.D. Ill. 2011). For practical purposes, then, the malicious prosecution cause of action is the lynchpin of state law civil accountability for investigative misconduct.

The lower court’s pressure, influence, or misstatement test would undermine police accountability. When police officers cause wrongful convictions, they generally do so through corrupt investigations driven by malice, not by lying to prosecutors. “[A] prosecutor ordinarily relies on police and other agencies for investigation of criminal acts.” *People v. Ringland*, 2017 IL 119484, ¶ 24 (2017). To indict the right people, prosecutors rely on police officers to conduct investigations based on the facts, not based on malice and bias directed against a particular suspect. For practical reasons, this Court has noted that the prosecutor generally must accept the results of the investigation: “[T]he State’s Attorney does not possess the technical facilities nor the manpower that the police have. Consequently, it is the recognized practice that the State’s Attorney sensibly defers to the investigative duties of the police.” *Id.* (emphasis in original) (citations omitted).

In cases like this one—where police target a manifestly innocent individual with a biased investigation, and thereby have a significant role in commencing or continuing the prosecution—liability is appropriate. The defendants caused Alan Beaman’s wrongful prosecution and conviction by selecting him as their man on Day One, and then conducting a biased investigation to reach the predetermined result.

The remaining standard that courts sometimes apply—participation of so active and positive a character as to amount to advice and cooperation—is difficult to flesh out. Courts have used this test varyingly. Sometimes, this standard appears all by itself, *e.g.*, *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d at 647, sometimes it appears along with the significant role test, *Collier v. City of Chicago*, 2015 WL 5081408, at \*9, and sometimes, as in the decision below, it appears along with the pressure, influence, or misstatement test. Op. ¶ 56. The advice and cooperation test suffers from the same flaws as the pressure, influence, or misstatement test. A police officer need not advise or cooperate with a prosecutor to cause a malicious prosecution. A coerced confession or biased investigation often will suffice to convict an innocent person.

In hypothesizing that the significant role test would create liability for ordinary police work, the Appellate Court lost sight of the other elements required by this Court’s disjunctive test for malicious prosecution. Op. ¶ 54; *Swick*, 169 Ill. 2d at 512. “Significant role” is the proper standard for one element of the tort; standing alone, it does not constitute malicious prosecution any more than driving a car constitutes vehicular homicide. The other elements of the tort—among them termination of the prosecution in a manner indicating innocence, lack of probable cause, and malice—ensure that only blameworthy defendants face liability. *Swick*, 169 Ill. 2d at 512. Of course, ordinary officers have

significant roles in commencing or continuing prosecutions, but they do not go after innocent people because of malice and arrest them without probable cause.

If, as the lower court worried, the significant role test would create liability for ordinary police work, surely there would be, among the high volume of malicious prosecution cases decided under that standard, one example where the test actually produced such a result. Op. ¶ 54. The lower court did not supply one.

Because no court of this State had ever applied the pressure, influence, or misstatement test to a malicious prosecution claim against a police officer, the lower court borrowed it from appellate decisions about malicious prosecution by private defendants, and a recent federal case that resulted in a split decision. Op. ¶¶ 56–57 (citing *Denton v. Allstate Insurance Co.*, 152 Ill. App. 3d 578 (1st Dist.1986); *Geisberger v. Vella*, 62 Ill. App. 3d 941 (2d Dist. 1978); and *Colbert v. City of Chicago*, 851 F.3d 649 (7th Cir. 2017)). The first two cases have nothing to do with malicious prosecution by a police officer. Only *Colbert* involves police defendants. In that case, however, the majority purported to construe state law in adopting the pressure, influence, or misstatement test, but relied only on cases about prosecution without probable cause as a federal cause of action under 42 U.S.C. § 1983. *Colbert*, 851 F.3d at 655 (citing *Reed v. City of Chicago*, 77 F.3d 1049, 1053 (7th Cir. 1996) and *Snodderly v. R.U.F.F. Drug Enforcement Task Force*, 239 F.3d 892, 902 (7th Cir. 2001)). *Colbert* did not really construe state law; it used federal law on prosecution without probable cause to supply the standard for commencement or continuance in a state law malicious prosecution suit. This Court is the arbiter of state law, and should not accept *Colbert's* incorrect interpretation of state law, which was based solely on federal law. This Court already cabins malicious prosecution claims with the lack

of probable cause, indicative of innocence, and malice requirements; there is no reason to restrict further the state law malicious prosecution claim with a rule designed for a distinct federal cause of action.

The Fourth District also downplayed the break with its previous adoption of the significant role test in *Frye v. O'Neill*, 166 Ill. App. 3d at 975. *Frye* did not adopt the significant role test for commencement or continuance, the court reasoned, because *Frye* stated that the test applies “provided all of the elements of the tort are present.” *Id.* ¶ 53. But *Frye*’s qualification hardly undermines the significant role test—it merely acknowledges that the plaintiff must also meet the other elements. *See Swick*, 169 Ill. 2d at 512. There was no reason for the Fourth District to depart from its longstanding precedent.

**b. The Defendants’ Misconduct in this Case Satisfies Any Conceivable Test for Commencement or Continuance of the Prosecution.**

The record in this case meets any imaginable test for commencement or continuance of a prosecution by a police officer. Under any of these tests, the defendants helped to cause the commencement and the continuance of Mr. Beaman’s wrongful prosecution. If the defendants had conducted an honest investigation, someone else might have been indicted, and the murderer might have been caught. Mr. Beaman might not have been indicted if the defendants examined John Murray the way they examined Mr. Beaman—if they had bugged the conversations he had with his friends, threatened him with the death penalty if he did not confess, interrogated his friends about every time he yelled at someone or made a crude remark, or, for that matter, investigated Murray’s history of beating women, abusing steroids, and selling drugs. As the federal court concluded, the results might have been different if Warner had not concealed the Murray polygraph report: “Perhaps if the

prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Beaman*, 7 F. Supp. 3d at 831.

Likewise, Mr. Beaman might never have been indicted if the detectives investigated the man whom Ms. Lockmiller met just before her death and who wouldn’t stop calling her, or the man who wrote his phone number for her in lipstick and continued asking about her. Mr. Beaman might never have been indicted if Freesmeyer told the prosecutor that Mr. Beaman’s alibi held up, or that it was absurd to think that Carol Beaman would drive 20 miles across town and then return to the Walmart, rather than just going across the street. Mr. Beaman might never have been indicted if the defendants had kept an open mind and took obvious steps like finding out whether other burglaries or sexual assaults had been reported in the area—rather than deciding Beaman was good enough at the outset and working backwards from there. In short, a rational juror could find a causal link between the defendants’ misconduct and the commencement and continuance of Mr. Beaman’s prosecution. Summary judgment was therefore improper.

The appellate court also went astray by concluding that the defendants could not be responsible for commencement or continuance because “[t]he evidence shows the prosecutors, Reynard and Souk, made the decision to prosecute plaintiff.” Op. ¶ 62. Of course they did: police officers never have authority to initiate a prosecution. According to the appellate court’s logic, police who cause wrongful convictions can never be liable for malicious prosecutions simply because they are not prosecutors.

The appellate court thought it significant that the lead prosecutor decided to indict Mr. Beaman during a May 16, 1994 meeting, even though a non-defendant detective wanted to continue the investigation. Op. ¶ 62. Zeroing in on a single day ignores the nine

months between the August 1993 murder and the May 1994 meeting. If the defendants had conducted an honest investigation in the many months given to them, the evidence available and the decision made at the May 1994 meeting might have been quite different. At minimum, a reasonable juror could infer as much.

The Appellate Court also misunderstood the federal court's conclusion that Warner violated the Constitution by withholding the Murray polygraph from the prosecutor. Op. ¶ 68. While this Court considered the Murray evidence cumulatively in *People v. Beaman*, the federal court considered the Murray polygraph by itself because the prosecutor received the other evidence from the defendants. *Beaman*, 7 F. Supp. 3d at 823. The federal court concluded that the Murray polygraph standing alone constituted exculpatory evidence under *Brady*, and the Appellate Court therefore erred in stating that the federal opinion did not find "the failed and inadmissible polygraph result, considered alone, to be material and exculpatory." Op. ¶ 68. The Appellate Court also ignored the federal court's finding that a rational juror could find that Warner deliberately concealed the Murray polygraph because Warner admits both to receiving it before it disappeared and to violating the procedures required to preserve and disseminate it among the officers. *Beaman*, 7 F. Supp.3d at 827. By misreading the federal decision and ignoring the evidence from which a juror could infer that Warner deliberately hid the polygraph, the appellate court reduced Warner's role in commencing or continuing Mr. Beaman's prosecution.

We turn now to each of the three tests for commencement or continuance:

**Significant role test:** Under the proper test, the defendants played a significant role. Freesmeyer was the lead investigator and focused on Mr. Beaman from the first day of the investigation, even as others questioned Beaman's guilt. He manipulated time trials

to discredit Mr. Beaman's otherwise unassailable alibi, omitted the exculpatory time trial from his police report, and deceived the grand jury about the existence of alternative suspects. *See supra* at 11-14. The grand jury was deceived by Freesmeyer in the same way that this Court ultimately found the jury was misled by the prosecutor—by covering up the existence of alternative suspects. Warner hid the polygraph report, which could have changed the outcome of the case. Zayas ran the detective division during the investigation, had ultimate responsibility for the Lockmiller case, and supervised the detectives working on the case. A.1416-17, 2296-97. He participated in the May 16, 1994 meeting where the decision was made to arrest Mr. Beaman, and there is no evidence to suggest that he tried to stop the arrest. A.1334. Indeed, he allowed the arrest to occur even though he knew that the case was not ready to be charged and prosecuted. A.1356–23.

**Pressure, influence, or misstatement test:** Even if this Court were to adopt the pressure, influence, or misstatement test, the defendants' intentional concealment of critical evidence is the functional equivalent of a misstatement. The decision below immunizes the defendants' dishonesty by reading "misstatement" out of the pressure, influence, or misstatement test. There is a genuine issue of fact as to whether Warner intentionally buried the John Murray polygraph report. *See supra* at 9, 17-18. This was a critical piece of evidence because "the circumstances of the polygraph examination indicate that [Murray] intentionally avoided the test. He did not comply with the polygraph examiner's instructions during the first attempt and failed to cooperate in scheduling a second attempt." *Beaman*, 229 Ill. 2d at 76 (2008). Indeed, the federal court stated: "Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect." 7 F. Supp. 3d at 831 n.8. Freesmeyer's

manipulation of the time trials and his lies to the grand jury likewise constitute significant misstatements. *See supra* at 11-14.

**Advice and cooperation test:** The appellate court mentioned this test, but did not really apply it to the facts. Op. ¶ 56. Freesmeyer moved into the prosecutor’s office to help prosecute the case. Op. ¶ 20 When Mr. Beaman was wrongfully convicted, the prosecutor declared, “[b]eyond any question in my mind, this case would not have been won without Tim Freesmeyer”— a piece of evidence the decision below ignores. A.3207. Had the lower court actually considered the facts, it would have been compelled to find participation of so active and positive a character as to amount to advice and cooperation.

**2. The Circuit Court’s Alternative Grounds for Dismissing the Malicious Prosecution Claim Are Incorrect.**

This Court should address the remaining prongs of Mr. Beaman’s malicious prosecution claim, even though the appellate court did not. The circuit court held—as a matter of law—that no genuine issue of material fact existed on the indicative of innocence, probable cause, and malice prongs. The circuit court erred as to each of these elements: Mr. Beaman’s innocence is undeniable, and the complex facts of this case make probable cause and malice impossible to resolve as a matter of law. He deserves a prompt trial. This Court should clear the way for one by addressing the *ratio decidendi* of both the appellate court and the circuit court and remanding the case for trial.

**a. Indicative of Innocence Prong: The Unanimous Reversal of Mr. Beaman’s Conviction, the Abandonment of Charges, the Certificate of Innocence, and the Governor’s Pardon Indicate Mr. Beaman’s Innocence.**

Contrary to the circuit court decision, the criminal case against Mr. Beaman concluded in a manner indicative of his innocence. Prosecutors dropped the charges after

this Court unanimously threw out the conviction, Mr. Beaman won a certificate of innocence, and the Governor pardoned him on the basis of innocence. Any one of these events would defeat summary judgment on the indicative of innocence prong all by itself. Together, they make this issue a no-brainer. Nonetheless, the Circuit Court found—as a matter of law—that the proceedings did *not* terminate in a manner indicative of innocence.

The pardon states that it is “Based Upon Innocence.” A.3377. A gubernatorial pardon on the basis of innocence alone establishes that the proceedings concluded in the plaintiff’s favor. *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 664, 680 (N.D. Ill. 2005). Although *Walden* addressed when a malicious prosecution claim accrued under state statute of limitations law, that distinction does not make a difference. Walden’s malicious prosecution claim accrued at the moment the Governor pardoned him on the basis of innocence because the pardon fulfilled the indicative of innocence prong of the malicious prosecution claim. *Id.* at 680. When the Governor pardoned Mr. Beaman, that likewise fulfilled the indicative of innocence prong.

Mr. Beaman also holds a certificate of innocence from the Circuit Court of McLean County. A certificate of innocence is “relevant at least to the ‘indicative of innocence’ element of plaintiff’s malicious prosecution claim.” *Kluppelberg v. Burge*, 84 F. Supp. 3d 741, 744, 745 (N.D. Ill. 2015) (citation omitted). The instant case comes to this court on summary judgment; therefore, relevant evidence satisfies plaintiff’s burden.

Even if Mr. Beaman had not won a certificate of innocence and a pardon from the Governor on the basis of innocence, the indicative of innocence prong still would be an issue for the jury. The prosecution not only dropped all charges, but did so after this Court unanimously threw out Mr. Beaman’s conviction and declared: “We cannot have

confidence in the verdict finding [Mr. Beaman] guilty of this crime given the tenuous nature of the circumstantial evidence against him . . . .” 229 Ill. 2d at 81. The “dismissal of a . . . charge against the plaintiff at the instance of the prosecutor” generally suffices to show favorable termination. *Rich v. Baldwin*, 133 Ill. App. 3d 712, 715 (5th Dist. 1985).

The circuit court postulated that the State’s Attorney’s Office declined to reprosecute the case because it would have been difficult to reconstruct the facts after so many years, rather than because of Mr. Beaman’s innocence. A.32. There is no evidence for this conclusion. The court cited paragraph 124 of Defendants’ Statement of Material Facts (A.68), which in turn relies entirely on a deposition in which the original prosecutor speculated that staleness might have affected the decision to drop all charges. A.2962-66. But the prosecutor had long since departed the State’s Attorney’s Office and was speculating without personal knowledge about the possible reasons his successors theoretically might have had for dismissing the charges. A.2962-66.

The purpose of the indicative of innocence prong is to ensure that innocent people—and only innocent people—reap the benefit of the malicious prosecution tort. It is difficult to imagine a plaintiff with greater proof of innocence than Alan Beaman, equipped as he is with a unanimous reversal of his conviction by this Court, a certificate of innocence, and a pardon based on innocence. If the indicative of innocence prong defeats Alan Beaman’s claim, it defeats almost any malicious prosecution claim brought by a wrongfully convicted plaintiff. The circuit court’s absurd holding therefore stands the indicative of innocence prong on its head.

**b. Lack of Probable Cause Prong: Defendants Lacked Probable Cause To Arrest Mr. Beaman Because They Had No Probative Evidence Against Him, Dismissed his Alibi, and Ignored the Likely Killers.**

A jury should decide whether defendants had probable cause to arrest and jail Mr. Beaman because the record is beset with complex facts from which rational individuals could draw competing inferences. In a malicious prosecution case, summary judgment is impermissible unless: (1) the material facts are undisputed *and* (2) the only reasonable inferences that one can draw from those facts constitute probable cause. *Seymour v. Collins*, 2015 IL 118432 ¶ 42; *Carney v. Union Pacific R. Co.*, 2016 IL 118984, ¶ 25; *Frye*, 166 Ill. App. 3d at 972–73; *Skorupa v. Guzick*, 2015 IL App (1st) 133082-U, ¶¶ 17–18; *Fabiano*, 336 Ill. App. 3d at 642; *Maxwell v. City of Indianapolis*, 998 F.2d 431, 434 (7th Cir. 1993).<sup>8</sup>

Even if reasonable minds could disagree on probable cause, a rational juror could find it wanting based on the facts that obtained at the time of Mr. Beaman’s arrest:

- There was no probative physical evidence against Mr. Beaman and no one could place him in the town where the murder occurred. *See supra* at 10-11.

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<sup>8</sup> The districts disagree on whether probable cause is a question of fact or a mixed question of law and fact in a civil case. *Robinson v. Econ-O-Corp., Inc.*, 62 Ill. App. 3d 958, 961 (2d Dist. 1978) (question of fact); *Salmen v. Kamberos*, 206 Ill. App. 3d 686, 691 (1st Dist. 1990) (same). *But see Howard v. Firmand*, 880 N.E.2d 1139, 1142, 317 Ill.Dec. 147, 150, 378 Ill. App. 3d 147, 150 (1st Dist. 2007) (mixed question). That distinction is beside the point, because this case depends on the inferences to be drawn from the facts, and the inferences must be drawn in favor of the party opposing summary judgment, regardless of whether the question is characterized as factual or mixed. *Seymour*, 2015 IL 118432 ¶ 42; *Frye*, 166 Ill. App. 3d at 973; *Skorupa*, 2015 IL App (1st) 133082-U ¶¶ 17–18; *Fabiano*, 336 Ill. App. 3d at 642; *Maxwell v. City of Indianapolis*, 998 F.2d at 434.

- Mr. Beaman maintained his innocence despite a barrage of accusatory interrogations, surreptitious overhears, and death penalty threats. *See supra* at 5, 10.
- Any number of men (known and unknown) could have committed the crime. *See supra* at 4-5, 6-9.
- The statement of the victim's across-the-hall neighbor indicated that the murder occurred after 2:00 pm, which eliminated any possibility for Mr. Beaman to commit the crime. *See supra* at 13-14.
- In the late morning on the day of the murder, Mr. Beaman was at a bank in Rockford, some 130 miles from the scene of the crime. A.1312.
- The crime scene indicated that the killer was a stranger. *See supra* at 4-5.
- The crime scene indicated that the killer was a much larger and more powerful man than Mr. Beaman. *See supra* at 4.
- The evidence against Murray was much stronger than the case against Mr. Beaman. *See supra* at 7-9.

The defendants may have inferred probable cause from these circumstances, but because it was not the only reasonable inference to be drawn from the circumstances, they cannot establish probable cause as a matter of law.

So far, the lower courts have avoided a meaningful consideration of the facts germane to probable cause. The appellate court did not address the circuit court's conclusion that probable cause existed as a matter of law, and the circuit court avoided a serious engagement with the facts in three ways. First, the circuit court opined that the thoroughly discredited conviction proved Mr. Beaman's "guilt beyond a reasonable doubt"

and therefore established probable cause. A.31. A vacated conviction, however, is “null and void,” and therefore inadmissible. *People v. Shook*, 35 Ill. 2d 597, 599 (1966). Next, the court ceded its independent judgment to an attorney who prosecuted Mr. Beaman and who believed that “probable cause existed for the arrest of plaintiff.” A.31. Such opinion evidence is inadmissible as to legal questions, all the more so because probable cause is an ultimate issue in this case. *Todd W. Musburger, Ltd. v. Meier*, 394 Ill. App. 3d 781, 800 (1st Dist. 2009). Third, rather than analyzing the facts, the court adopted defendants’ brief, stating, “[i]n this case, grounds for probable cause to charge plaintiff with murder existed as specifically stated in paragraphs (a) through (p) of Defendants’ Memorandum of Law in Support of Defendants’ Motion for Summary Judgment, filed in this cause recounting the facts in defendant, Freesmeyer’s deposition.” A.30-31.

A genuine review of the record shows that different reasonable inferences could be drawn from each assertion that the circuit court copied from the defendants’ brief in support of probable cause. We address these assertions in turn.

**Fingerprints (Item A incorporated into circuit court opinion):** The fingerprint evidence did not support the case against Mr. Beaman. His prints were not found on the alarm clock cord used to strangle Lockmiller or the scissors lodged in her chest. The alarm clock console had seven prints—two Mr. Beaman’s, four belonging to Michael Swaine, one unidentified. A.3264-65. The prints did not inculcate Mr. Beaman: he had used the alarm clock previously, and fingerprints cannot be dated. A.3253. Freesmeyer decided to treat the prints as evidence of guilt based “solely on [his] own interpretation.” A.1587.

**Garbage Bag (Item B incorporated into lower court opinion):** The murder scene included a garbage bag left out on a coffee table. A.1361. If this evidence had any

significance, it pointed to a burglar, not Mr. Beaman. A.1361. Burglars often seek out sacks and other receptacles in which to carry the loot. A.1361.

**Letters (Item C incorporated into lower court opinion):** The police found some racy letters from Mr. Beaman in Ms. Lockmiller's apartment. A.546-84. They were old, almost all from 1992. A.546-84. Mr. Beaman had terminated the relationship well before the murder. *See supra* at 5-6.

**Unreturned calls (Item D incorporated into lower court opinion):** Ms. Lockmiller called Mr. Beaman several times in the days before the murder, but the phone records show that he did not answer or return the calls. A.338-39. When the two did speak, on August 23rd, Mr. Beaman told Ms. Lockmiller he was no longer interested in dating. A.1048-49. These facts are exculpatory. As part of his biased investigation, however, Freesmeyer somehow interpreted them as a basis for probable cause. A.1593-94.

**Supposed "Hole" in Mr. Beaman's Alibi (Item E incorporated into lower court opinion):** As an initial matter, Freesmeyer did not even perform time trials to test the alibi prior to arresting Mr. Beaman. A.1624-27, 3239. The supposed "hole" in the alibi, then, hardly furnished probable cause for arrest. In any case, the alibi was bulletproof. At 10:11 a.m., Mr. Beaman drove from the bank (where he was captured on video making a deposit) to his family's home, where he placed calls at 10:37 a.m. and 10:39 a.m. *See supra* at 11-13. It would have been literally impossible for Mr. Beaman to leave the family home after the second call at 10:39, drive to Bloomington-Normal to commit the murder, and be back to the family home again by 2:15 p.m., when his mother returned. *See supra* at 11-13.

**Breaking Down the Door (Item F incorporated into lower court opinion):** The two occasions on which Mr. Beaman kicked open Ms. Lockmiller's door could be used at

trial by the defendants to show that Mr. Beaman sometimes displayed a temper. These instances do not establish the capacity for murder or probable cause as a matter of law. Michael Swaine and Mr. Beaman were close friends and roommates, but Swaine began a sexual relationship with Ms. Lockmiller during her relationship with Mr. Beaman. A.3314-15. One night, Swaine borrowed Mr. Beaman's car under the pretext of driving to a party; as part of the ruse, Swaine faked a phone conversation (with no one on the other end of the line) in front of Mr. Beaman. A.3311-13. Mr. Beaman grew suspicious, biked over to Ms. Lockmiller's building, and saw his own car, which Swaine had taken, in the parking lot. A.389. As Mr. Beaman arrived at the apartment, his girlfriend and roommate had just completed oral sex and were headed to the bedroom. A.3314-15. While Mr. Beaman kicked the door open, he did not lay a finger on Lockmiller or Swaine; instead, he calmly gave Swaine a ride back to their shared apartment. A.3317, 3318-19. On the other occasion, Ms. Lockmiller was having sex with Murray. A.1752. Mr. Beaman did not touch either of them. Murray, in contrast, had a long history of beating women. *See supra* at 8.

**Bank Video (Items H-I incorporated into lower court opinion):** The bank video proved that on the day of the murder, Mr. Beaman was some 130 miles from the crime scene at 10:11. *See supra* at 11. But Freesmeyer decided that the discovery of the bank video was evidence of guilt. A.1578, 1584. To him, Mr. Beaman seemed dishonest and guilty because he did not bring up the bank trip when Freesmeyer asked him for proof of innocence. A.1578, 1584.

**Overhears (Items J-M incorporated into lower court opinion):** The defendants moved heaven and earth to get an incriminating admission by bugging Mr. Beaman's conversations with Swaine and Freesmeyer. *See supra* at 10. They got nothing. In fact, Mr.

Beaman told Swaine, “Dude, I don’t know shit, that’s the problem” and stated he no longer had a romantic interest in Ms. Lockmiller at the time of her death. A.3329. Freesmeyer, however, seized on the fruitless overhears as evidence of guilt. A.1579. Mr. Beaman had made a crude comment to Swaine about his relationship with Ms. Lockmiller. A.1579.

**Box Fan (Item N incorporated into lower court opinion):** The killer covered the victim’s face with a box fan. A.1581. Freesmeyer decided this meant that the two knew each other. A.1581. If anything, this was more probative of a home invasion: burglars often cover the heads of their victims while conducting a search. A.1360.

**Manner of Stabbing (Item O incorporated into lower court opinion):** The manner of stabbing with the scissors suggested that the assailant did not know the victim. A.1361. Personal and emotional stabbings tend to have more wounds, indicating a frenzy. A.1361. Freesmeyer reversed this too, imagining “an act of vengeance over someone that [Lockmiller] had hurt deeply,” rather than a random attacker. A.1581.

**No Obvious Signs of Forced Entry (Item P incorporated into lower court opinion):** There were not obvious signs of forced entry to the apartment, but forced entry often does not leave obvious signs. A burglar could have entered with a loid, which is a piece of plastic that can slip the lock without leaving visible damage to the wood or the metal. A.1360.

From the same facts, one might also draw inferences more favorable to the defendants. Perhaps a juror would think that the kitchen garbage bag points to Mr. Beaman rather than a burglar’s improvised sack because Mr. Beaman once checked Ms. Lockmiller’s trash for evidence of contraceptives. But why then would the kitchen trash at the crime scene be removed but the trash in the bedroom left undisturbed? A.3308, 3309.

Or perhaps a juror would reject the possibility that a stranger killed Ms. Lockmiller because her purse was not visibly disturbed and there were not obvious signs of forced entry. On the other hand, burglars can easily pick locks with loids, and the purse could have been forgotten once Ms. Lockmiller interrupted the burglar and the crime turned into rape and murder. A.1360. Moreover, if the perpetrator was not a burglar, why the signs of rummaging? A.1360. Questions like these are the reason trials exist. The defendants might advocate one set of inferences, but others are permissible. For that reason, the defendants are not entitled to summary judgment on probable cause. *Seymour v. Collins*, 2015 IL 118432 ¶ 42; *Carney v. Union Pacific R. Co.*, 2016 IL 118984, ¶ 25.

**c. Malice Prong: The Defendants’ Deliberate Misconduct and Fraudulent Investigation Demonstrate Their Malice.**

The defendants’ dishonest investigation of the Lockmiller homicide—everything from the immediate fixation on Mr. Beaman, to the refusal to undertake a serious investigation of other viable suspects, to perjury, to manipulated time trials, to concealment of evidence—demonstrates their lack of good faith. At minimum, malice is a jury question.

The appellate court did not address the issue of malice, and the circuit court’s reasoning was nonsensical. First, the circuit court opined that malice was implausible because “in the minds of the prosecutors, there was sufficient reason ... to proceed solely against the plaintiff.” A.31. But every prosecution of a single-perpetrator crime includes a prosecutor who decides to “proceed solely” against one defendant—it is unheard of in such cases to indict two people for the same crime just to see what happens. By the circuit court’s logic, any investigation that results in a wrongful conviction in a single-perpetrator offense is malice-free as a matter of law.

To compound the error, the circuit court expressed the view that the wrongful conviction itself negated a finding of malice: “At a jury trial, the State provided the jury with proof beyond a reasonable doubt that plaintiff had both motive and opportunity to commit the murder.” A.31. The circuit court failed to acknowledge not only that this Court unanimously vacated the conviction, but also that this Court made specific findings about opportunity to commit the crime: “[T]he evidence of petitioner's opportunity to commit the murder is not as strong as that against [John Murray].” *People v. Beaman*, 229 Ill. 2d at 79.

**Freesmeyer’s Malice:** A rational juror could infer that Freesmeyer acted in bad faith. Freesmeyer selected Mr. Beaman as the primary suspect on Day One despite the obvious weakness of the evidence against him. *See supra* at 4-5. There was little that pointed to him other than “guessing” by Morgan Keefe, Lockmiller’s friend who had discovered the body; no work had been done to check alibis, to process fingerprints, or to obtain autopsy results; there were no eyewitnesses to the crime, or even anyone who could place Mr. Beaman in the same city as the victim on the day of the murder; Mr. Beaman maintained his innocence in the face of an aggressive interrogation; there was no physical evidence implicating him; and the state of the crime scene pointed to a burglary-turned-rape and suggested a perpetrator of much larger size and physical power than Mr. Beaman. *See supra* at 4-5.

The case against Mr. Beaman only deteriorated from there, but Freesmeyer held on to the idea that Alan Beaman was his man. When the time-of-death evidence obtained by the victim’s neighbor made it impossible for Mr. Beaman to have committed the crime, Freesmeyer ignored it. *See supra* at 13-14. When the fingerprint evidence proved fruitless, Freesmeyer seized on it based “solely on [his] own interpretation.” A.1587. When the state

of the crime scene pointed away from Mr. Beaman, Freesmeyer construed it as evidence of guilt. *See supra* 41. When Mr. Beaman denied guilt in seven surreptitiously recorded conversations, Freesmeyer fixated on a few crude comments and decided they were incriminating. *See supra* at 40-41.

The pattern continued as Freesmeyer labored to discredit Mr. Beaman's alibi. Freesmeyer careened at speeds Mr. Beaman never could have reached when driving to and from the crime scene because speeding during those time trials hurt the alibi. *See supra* at 11-13. But when a slower speed would hurt the alibi, Freesmeyer selected the slower route and crawled along between the bank and the Beaman home at the posted limit. *See supra* at *See supra* at 11-13. Freesmeyer went on to conceal the time trial that showed that Mr. Beaman easily could have made the trip from the bank to his home in time for the 10:37 and 10:39 calls by omitting it from his report and trial testimony. *See supra* at 11-12. When Carol Beaman said that she did not make the calls because she was with her mother at her retirement home and then across the street shopping at Walmart, Freesmeyer set out to show that she drove 20 miles home and back between seeing her mother and visiting the Walmart, rather than just crossing the street. *See supra* at 12. Freesmeyer threatened Mr. Beaman with the death penalty, and later arrested him, even though his supervisor, Zayas, thought the crime was unsolved, "in limbo," and not ready to be prosecuted. A.1356-23, 1318.

Plaintiff's expert in criminal investigations, a former FBI agent with 45 years of criminal investigation experience, opined:

The defendants violated the basic standards for police investigations by rushing to a judgment about the type of crime they were investigating, who was responsible for having committed it and either searching for or creating evidence that supported those conclusions while withholding exculpatory

information about drive times and alternate suspects from the defense and consequently from the jury. In doing so they showed an utter disregard for the truth that not only denied justice for Mr. Beaman, but also needlessly endangered the public by leaving a murderer on the streets free to kill again.

A.3248-49. Freesmeyer disregarded every fact that did not fit the result he selected at the beginning the very beginning: Alan Beaman was the killer.

Perhaps a juror could conclude that Freesmeyer botched the case due to error rather than malice. Maybe Freesmeyer ignored the evidence exculpating Mr. Beaman out of gross incompetence rather than malice; maybe it was an innocent mistake to floor the accelerator when a fast speed would hurt Mr. Beaman's alibi and to brake when *that* would hurt the alibi; and maybe Freesmeyer remembered to memorialize in his report every time trial except one that exculpated Mr. Beaman due to an innocent mistake. Yes—maybe.

All of these maybes reflect what is obvious: there are competing inferences that might be drawn from the record regarding Freesmeyer's credibility and subjective state of mind. In our system of justice, we get to the truth on these issues through a trial, which is what must occur in this case.

**Warner's Malice:** A genuine issue of material fact also exists as to whether Defendant Warner contributed to the malicious prosecution by intentionally burying the Murray polygraph report. *See supra* at 9, 17-18. As the federal court found, a jury question exists as to whether Warner "intentionally withheld" evidence that could have changed the trajectory of the case. 7 F. Supp. 3d at 827. Such deliberate malfeasance would obviously constitute malice.

**Zayas's Malice:** Frank Zayas was in charge of the Criminal Investigations Division, making him the boss of Freesmeyer and the other detectives. A.91, 1416-17, 2296-97. He participated in the May 16, 1994 meeting where the decision was made to

arrest Mr. Beaman and, despite his direct authority over Freesmeyer, acquiesced in the arrest and did nothing to stop it. A.1334, 2296-97. Since then, he has admitted that at the time of Mr. Beaman's arrest and even months later—in November of 1994—the case was not ready for charging and prosecution:

Q. When you left you felt that the case against Beaman was – was weak? Is that a fair statement?

A. At that point – I'll put it this way.

I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.

Q. And that was true in November of '94 when you retired?

A. Yes, sir.

A.1356–23.

Direct admissions of malice are exceedingly rare. A defendant never breaks down at the deposition table and admits to acting maliciously. This is as close as it gets to a direct admission: Zayas knew that the case was not ready “to be sent to the State,” but he let it happen anyway. At minimum, this admission makes his malice a jury question.

**D. Mr. Beaman's Remaining Claims Should Proceed to Trial.**

In addition to the malicious prosecution claim, Mr. Beaman also brought claims for intentional infliction of emotional distress, civil conspiracy, respondeat superior, and indemnification. Although the circuit court granted summary judgment on these claims and the appellate court affirmed, each claim rises or falls with the malicious prosecution claim. If the Court reinstates the malicious prosecution claim, it should also reinstate these claims.

**1. The Intentional Infliction of Emotional Distress Claim Should Proceed to Trial.**

The appellate court erred in holding that Mr. Beaman abandoned his intentional infliction of emotional distress claim on appeal. Op. ¶ 74. Section II of Mr. Beaman’s appellate brief was captioned “The Intentional Infliction of Emotional Distress Claim (Count II) Must Proceed To Trial.” A. 3379. That section, which appeared after a detailed recitation of the defendants’ malfeasance in the malicious prosecution section of the brief, stated: “It goes without saying that the conduct at issue here—pursuing plaintiff’s conviction maliciously, disregarding and manipulating the evidence, and sending an innocent man to prison for a dozen years for a crime he could not have committed—is extreme and outrageous conduct.” A.3379. This argument was followed by a string cite to six cases in which courts in Illinois have allowed intentional infliction of emotional distress claims to proceed on facts that relate principally to malicious prosecution. A.3379. The section concluded by stating: “[T]he circuit court erred in granting summary judgment on the intentional infliction of emotional distress claim.” A.3379.

The defendants did not argue in their response brief that Mr. Beaman had abandoned the claim; instead, they asserted that the outcome of this claim depended on the court’s resolution of the malicious prosecution claim. A.3383-84. On reply, Mr. Beaman agreed. A.3381.

Waiver occurs if: (1) no authority is cited, (2) no argument is made, or (3) an argument is merely “listed or included in a vague allegation of error.” *Vancura v. Katris*, 238 Ill.2d. 352, 369-70 (2010). Nothing of the sort happened in this case. Mr. Beaman developed the intentional infliction of emotional distress claim in his opening brief, and he should not be punished for briefing an undisputed issue in a concise manner. Such an

outcome would encourage litigants to waste judges' time and clients' money with elongated discussions of undisputed points, just to avoid a *sua sponte* finding of waiver. Finally, even if Mr. Beaman had waived the emotional distress claim, the defendants "waived the wavier" by failing to assert at any point that waiver occurred.

In numerous prior cases, courts in Illinois have held that emotional distress claims may proceed when they are attached to viable malicious prosecution claims. *See Carrocia v. Anderson*, 249 F. Supp. 2d 1016, 1028 (N.D. Ill. 2003); *Treece v. Village of Naperville*, 903 F. Supp. 1251, 1259–60 (N.D. Ill. 1995), *aff'd*, 213 F.3d 360 (7th Cir. 2000)); *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 930 (N.D. Ill. 2013); *Wallace v. City of Zion*, No. 11 C 2859, 2011 WL 3205495, at \*6 (N.D. Ill. July 28, 2011); *Fox v. Tomczak*, No. 04 C 7309, 2006 WL 1157466, at \*6 (N.D. Ill. Apr. 26, 2006); *McDonald v. Vill. of Winnetka*, No. 00 C 3199, 2001 WL 477148, at \*6 (N.D. Ill. May 3, 2001). To our knowledge, no case has ever allowed a malicious prosecution claim to proceed while rejecting an emotional distress claim (or *vice-versa*). The reasons are obvious: Robbing a person of liberty maliciously and without probable cause is the very sort of "extreme and outrageous" intentional conduct that constitutes intentional infliction of emotional distress. *McGrath v. Fahey*, 126 Ill.2d 78, 86 (1988). In this case, the defendants' biased investigation, lying in court, manipulating time trials, and hiding evidence constitute such outrageous conduct.

The parties have always agreed that Mr. Beaman's emotional distress and malicious prosecution claims either proceed together or fail together. There is no reason for the Court to upset that agreement.

## 2. The Civil Conspiracy Claim Should Proceed to Trial.

The appellate court affirmed dismissal of the civil conspiracy claim solely because that claim rested on the malicious prosecution claim: the malicious prosecution of Alan Beaman was the object of the conspiracy. Op. ¶ 75. If this Court reinstates the malicious prosecution claim, it should also reinstate the conspiracy claim.

“Since conspiracies are generally evolved under the cloak of secrecy, the courts have traditionally permitted proof of a conspiracy by indirect or circumstantial evidence . . . .” Here, the defendants collaborated closely on the case, met frequently, and shared information. A.91-92. They all read each other’s detailed reports. A.1352. From the content of those reports, they would know the state of the case and the absence of any basis for arrest or prosecution—the lack of any physical evidence, the lack of eyewitness testimony, Mr. Beaman’s alibi, the vast universe of alternative suspects, and the fact that Murray was a more likely suspect. It would have been a remarkable coincidence if they all fixated on Mr. Beaman independently despite the lack of evidence against him, and if all of their parallel actions to manipulate evidence to convict him were uncoordinated. *People v. Small*, 319 Ill. 437, 449 (1925) (“[W]hen taken in connection with other acts, it may appear clearly that the series of wrongful acts result from concerted and associated action.”). Freesmeyer ignored exculpatory evidence and alternative suspects, lied to the grand jury, and skewed the time trials (*see supra* at 6-9, 11-14); Warner buried a polygraph that helped to exculpate Mr. Beaman (*see supra* at 9, 17-18); and Zayas let the arrest go forward, knowing that the evidence could not justify it (*see supra* at 32). Based on the defendants’ close collaboration on the case and their parallel acts of malfeasance—each of which was aimed at wrongfully convicting Mr. Beaman—a reasonable juror could infer a

conspiracy. *See Pearce v. Thiry*, No. CIV.A.08 C 4483, 2009 WL 3172148, at \*9 (N.D. Ill. Oct. 1, 2009) (stating that plaintiff could establish conspiracy among defendant police officers by producing evidence that they “engaged in concerted acts sufficient to raise a reasonable inference of mutual understanding”); *Newsome v. James*, No. 96 C 7680, 2000 WL 528475, at \*16 (N.D. Ill. Apr. 26, 2000); *Rainey v. City of Chicago*, No. 10 C 07506, 2013 WL 941968, at \*11 (N.D. Ill. Mar. 11, 2013).

**3. The Respondent Superior and Indemnification Claims Should Proceed to Trial.**

The appellate court’s rationale for dismissing the respondent superior and indemnification claims was entirely dependent on its reasons for dismissing the claims discussed above. The dismissal of these claims therefore must be reversed as well.

**CONCLUSION**

For the foregoing reasons, the Court should reverse the appellate court and remand this case for a trial on the merits.

Respectfully submitted,

**ALAN BEAMAN**

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Case No. 122654

## IN THE SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	
	)	
	)	
Plaintiff-Appellant,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth Judicial District,
v.	)	No. 4-16-0527
	)	
	)	There Heard on Appeal from
TIM FREESMEYER, Former Normal	)	the Circuit Court of McLean County,
Police Detective; DAVE WARNER,	)	Illinois, No. 14 L 51
Former Normal Police Detective;	)	
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

**CERTIFICATE OF COMPLIANCE**

I, David M. Shapiro, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 50 pages.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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APPENDIX 003490

Case No. 122654

## IN THE SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	
	)	
	)	
Plaintiff-Appellant,	)	On Appeal from the
	)	Appellate Court of Illinois,
v.	)	Fourth Judicial District,
	)	No. 4-16-0527
	)	
TIM FREESMEYER, Former Normal	)	There Heard on Appeal from
Police Detective; DAVE WARNER,	)	the Circuit Court of McLean County,
Former Normal Police Detective;	)	Illinois, No. 14 L 51
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

**NOTICE OF FILING**

TO: Thomas G. DiCianni  
Lucy B. Bednarek  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
140 South Dearborn St., 6th Floor  
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on January 12, 2018, the undersigned served and filed by electronic means the BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN and APPENDIX with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701.

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APPENDIX 003491

Case No. 122654

## IN THE SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	
	)	
Plaintiff-Appellant,	)	On Appeal from the
	)	Appellate Court of Illinois,
v.	)	Fourth Judicial District,
	)	No. 4-16-0527
	)	
	)	There Heard on Appeal from
TIM FREESMEYER, Former Normal	)	the Circuit Court of McLean County,
Police Detective; DAVE WARNER,	)	Illinois, No. 14 L 51
Former Normal Police Detective;	)	
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that on January 12, 2018, the foregoing BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN and APPENDIX were filed by electronic means with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701. I further certify that the same were served by electronic transmission on:

Thomas G. DiCianni and Lucy B. Bednarek  
 Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
 140 South Dearborn St., 6th Floor  
 Chicago, Illinois 60603

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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APPENDIX 003492

Case No. 122654

IN THE  
SUPREME COURT OF ILLINOIS

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ALAN BEAMAN,

Plaintiff-Appellant,

v.

TIM FREESMEYER, Former Normal  
Police Detective; DAVE WARNER,  
Former Normal Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF NORMAL,  
ILLINOIS,

Defendants-Appellees.

On Appeal from the  
Appellate Court of Illinois,  
Fourth Judicial District,  
No. 4-16-0527

There Heard on Appeal from the  
Circuit Court of McLean County, Illinois  
Case No. 14 L 51

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**BRIEF OF DEFENDANTS-APPELLEES**

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**ORAL ARGUMENT REQUESTED**

APPENDIX 003493

## NATURE OF THE CASE

On April 1, 1995, a McLean County jury found plaintiff Alan Beaman guilty of the murder of Illinois State University student Jennifer Lockmiller. Plaintiff was sentenced to 50 years in the Illinois Department of Corrections. The conviction was affirmed by the appellate court (*People v. Beaman*, 279 Ill. App. 3d 1115 (4th Dist. 1996)), and a petition for leave to appeal to the Illinois Supreme Court was denied (168 Ill. 2d 601 (1996)). Plaintiff then pursued a post-conviction petition. After an evidentiary hearing, the circuit court denied the petition, which was affirmed by the appellate court. *People v. Beaman*, 368 Ill. App. 3d 759 (4th Dist. 2006).

In 2008, the Illinois Supreme Court reversed plaintiff's conviction, finding the State violated his right to due process when it failed to disclose material and exculpatory information about an alternative suspect, Larbi John Murray ("John Doe" in the Court's written opinion). *People v. Beaman*, 229 Ill. 2d 56 (2008). In 2010, plaintiff filed a lawsuit under 42 U.S.C. §1983 in federal court against defendants Tim Freesmeyer, Dave Warner, and Frank Zayas (all former Town of Normal police officers), along with McLean County prosecutors and other police investigators, alleging they violated plaintiff's due process rights in the investigation of the murder and subsequent arrest and prosecutions. Plaintiff also added state law tort claims of malicious prosecution, intentional infliction of emotional distress (IIED), and conspiracy, and indemnification and respondeat superior claims against the Town of Normal.

The federal district court granted summary judgment on plaintiff's federal claims and relinquished jurisdiction over the state claims. *Beaman v. Souk*, 7 F.

Supp. 3d 805 (C.D. Ill. 2014). The Seventh Circuit affirmed the district court's decision. *Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015).

In April, 2014, plaintiff filed his state claims against defendants in McLean County, Illinois. Defendants moved for summary judgment and on June 22, 2016, the circuit court granted summary judgment, finding no triable issues. The circuit court found that defendants were entitled to a judgment because they did not commence or continue the prosecution, there was probable cause for the arrest and prosecution of plaintiff, defendants did not act maliciously, and the dismissal of the criminal charges against plaintiff was not indicative of innocence. On August 4, 2017, the appellate court affirmed the circuit court's decision, addressing only the commencement issue. *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527.

Plaintiff then filed a petition for leave to appeal before this Court, challenging only the appellate court's determination regarding the "commencement or continuation" element of a state law malicious prosecution claim. On November 22, 2017, this Court denied plaintiff's petition for leave to appeal. Plaintiff filed a motion for leave to file a motion to reconsider the denial of the petition for leave to appeal, and attached a copy of his proposed motion to reconsider to his motion for leave. On December 8, 2017, this Court reversed itself by vacating the denial of the petition for leave to appeal, and granted plaintiff's motion to reconsider.

Plaintiff now seeks review of not only the appellate court's determination that defendants were entitled to a judgment because they did not commence or continue the prosecution, but also challenges the circuit court's findings on the remaining elements of plaintiff's malicious prosecution claim. Plaintiff also challenges the

dismissal of the remaining state law claims, IIED, civil conspiracy, and the derivative claims.

This Court should affirm the appellate court's decision affirming the circuit court's grant of summary judgment in favor of defendants. Neither in plaintiff's petition for leave to appeal nor in his brief does he provide a reason to justify expanding the tort of malicious prosecution to hold police to answer for decisions made by prosecutors when there is no evidence police conduct was a proximate cause of the prosecutor's allegedly wrongful decision to prosecute, a decision which otherwise would not have happened. In addition, despite plaintiff's assertion, there is no conflict in the law as to the "commencement or continuation" element. The law on the threshold element of malicious prosecution has been settled and clear for many years under Illinois precedent and the appellate court's decision was solidly in line with it. The appellate court should be affirmed, and if this Court finds reason to address the remaining elements, the circuit court's decision finding three other solid bases for summary judgment should be upheld as well.

#### **ISSUES PRESENTED FOR REVIEW**

Should defendants be required to stand trial for the disfavored tort of malicious prosecution and related torts where all prosecution decisions were made by the McLean County State's Attorney, there was clear probable cause for the prosecution, defendants lacked malice, and the murder charge against plaintiff was dismissed without any determination that indicated plaintiff was innocent of the murder.

## STATEMENT OF FACTS

### The Murder

On August 28, 1993, Jennifer Lockmiller's decomposed body was found in her apartment in Normal, Illinois. Lockmiller was a student at Illinois State University at the time. Lockmiller had been strangled with an electrical cord from an alarm clock in her bedroom, and had been stabbed in the chest with scissors. (C00327, ¶9).

Lockmiller's body was found by her close friend, Morgan Keefe (now Hartman). Keefe immediately told the police "I know who did it," and reported that Lockmiller was deathly afraid of her former boyfriend, plaintiff Alan Beaman. (C00327, ¶10). According to Keefe, plaintiff broke down Lockmiller's door several times and threatened suicide if she broke up with him. (C00327, ¶10; C00243, C02993, C01156, C01135, C02613, C00359).

The crime scene was a two-story frame apartment building containing four apartments. Lockmiller's body was found in apartment No. 4, which was on the west end of the second floor. The police concluded there were no signs of recent forced entry, and that all signs of damage to the apartment door frame were present prior to the date of Lockmiller's murder, actually the result of plaintiff's earlier forced entries to her apartment. (C00327, ¶11-12; C02243, C02993, C01156, C01135, C02613, C00359) (C00328, ¶13; C02243, C02993, C026313, C00359). A cabinet door under the kitchen sink was open, and a plastic garbage can was lying on its side in front of the open cabinet. A bag of garbage was found on the living room sofa filled with trash, with its contents spilling out. (C00328, ¶14-15; C02243, C02993, C02613).

Two book bags and Lockmiller's purse were on a table; all three were closed and undisturbed. Lockmiller's purse contained her driver's license and other identification, a wallet with \$17.71 in cash, several credit cards and other personal effects. Officers did not detect any burglary signs because no items of value were missing, and there was new damage to the front door. The television was on and the air conditioning unit was running, both located in the living room. Lockmiller's grey Pontiac Sunbird had been parked for several days outside the front door to the building. (C00328-329, ¶16-17; C02311, C02613, C02993, C02243, C00693, C01156).

The door to Lockmiller's bedroom was open. A hole, approximately ten inches in diameter, was found on the south wall of the bedroom. NPD detectives learned plaintiff bashed the hole in the bedroom wall during an argument with Lockmiller weeks earlier. (C00329, ¶18; C02243, C02993, C02877). Several letters were located under Lockmiller's bed and placed into evidence. (C00331, ¶23; C02311, C02993, C01156).

The bedroom contained a single bed and a set of bunk beds. Lockmiller's body was found on the floor in between the beds in a supine position. Investigators could find no physical evidence of rape. A pair of scissors with red plastic handles was embedded in the center of Lockmiller's chest. The autopsy revealed Lockmiller died from strangulation and likely she was stabbed when she was already dead or her heart barely beating. Multiple other stab wounds were noted in the skin on Lockmiller's chest, apparently made with the scissors. (C00330, ¶20; C02243, C02993, C02613). A clock radio was on the floor next to Lockmiller's head, and the cord from the clock radio was wrapped around and tied in front of Lockmiller's neck. A box fan was resting on the

scissors in Lockmiller's chest, covering her face. (C00330-331, ¶21-22; C02243, C02993, C02613).

No defensive wounds were found on her body, and there were no signs of forced entry into the apartment. (C00331, ¶25). The police and prosecutors believed the murder was a crime of passion, involving an act of vengeance of some type, and that Lockmiller knew her killer. (C00331, ¶26). Two of plaintiff's fingerprints were identified on the clock used to strangle Lockmiller. One of plaintiff's fingerprints was on the back of the clock near the cord and another on the bottom of the clock. (C00331, ¶24).

### **The Murder Investigation**

At the time of the Lockmiller murder investigation, defendants Timothy Freesmeyer, Dave Warner and Frank Zayas were police officers for the Town of Normal Police Department ("NPD"), and worked in the NPD's Criminal Investigations Division ("CID"). Freesmeyer was an investigator, Warner was an evidence technician, and Zayas was a lieutenant in charge of CID at the time. (C00325-326, ¶¶2-5). Tony Daniels was also a detective in CID and was involved in the Lockmiller murder investigation. (C00326, ¶6). James Souk was the Chief of the Felony Division in the McLean County State's Attorney's Office. Souk was the lead prosecutor in plaintiff's prosecution. (C00326, ¶7). Charles Reynard was the elected State's Attorney for McLean County at the time of the murder and prosecution. (C00326, ¶8).

On the day Lockmiller's body was discovered, a meeting was held in the NPD with Police Chief James Taylor, several CID detectives, Souk, and McLean County Coroner Dan Brady to discuss the case. The group discovered that plaintiff was in

Rockford, and Tony Daniels and Rob Hospelhorn, another NPD Detective, were assigned to go to Rockford to interview plaintiff that night. (C00331-332, ¶27).

Daniels and Hospelhorn conducted a short interview of plaintiff that night in Rockford, which plaintiff terminated abruptly. Daniels and Hospelhorn came away from it believing plaintiff's conduct was suspicious. They were particularly interested that while plaintiff was questioned about his relationship with Lockmiller, he never asked if something had happened to her. Daniels and Hospelhorn returned to Rockford the following day to attempt to talk to plaintiff again, but were told he was represented by counsel and would not talk to the detectives. (C00332, ¶28).

Throughout the first six weeks after the murder, every detective in CID worked on the investigation. Dozens of friends, neighbors, boyfriends, relatives and acquaintances were interviewed. Zayas, as the head of CID, assigned different parts of the investigation, and each detective worked on various facets of the case. (C00332, ¶29). The detectives in CID met periodically to discuss the investigation. At times, Souk or other attorneys from the State's Attorney's Office attended as well. (C00332, ¶30).

### **Morgan Keefe**

Morgan Keefe (now Hartman) was Lockmiller's best friend. Immediately after discovering Lockmiller's body, Keefe called 911 and told the dispatcher that "I know who did it .... [Lockmiller] had this psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door." (C00333, ¶32; C02785, C02613, C01135, C03010). Warner interviewed Keefe that day, and discovered that Keefe and Lockmiller went to a movie on the Tuesday night before Lockmiller was

found; they left the theater around midnight and that was the last time Keefe saw or spoke with Lockmiller. Keefe said Lockmiller had been dating plaintiff, but when she tried to break away from plaintiff, he would threaten suicide. Plaintiff broke down the door to Lockmiller's apartment a few times and Lockmiller's landlord fixed the lock. One night Keefe went to Lockmiller's apartment and there was a chair and a big beam against the front door. When Keefe opened the door, Lockmiller started screaming. Keefe told her, "Jen, it's me. It's ok," and Lockmiller said, "[Alan] broke down the door awhile ago." Keefe described Lockmiller as terribly afraid of plaintiff. (C00333-334, ¶34; C01135, C02785).

### **Lockmiller's Neighbors**

Liza Everett and Lori Solomon, who lived in the apartment directly below Lockmiller, told NPD detectives they overheard fights repeatedly between Lockmiller and a man who drove a silver Ford Escort. Plaintiff drove a silver/grey Ford Escort. (C00334, ¶35; C01156, C02311).

David Singley, who lived directly across the hall from Lockmiller, told NPD detectives that a month before Lockmiller's murder he overheard an argument between Lockmiller and plaintiff, during which plaintiff tried to break into Lockmiller's apartment by kicking and throwing himself against her apartment door. Singley told police that plaintiff ran around the apartment parking lot yelling "slut." He returned to her apartment a short time later to yell something like "I see your cherry stain on the bed;" and "you slept with him but you wouldn't sleep with me;" and "the only reason you dated me was to go to bed with my friend." (C00334-335, ¶36; C01156).

Susan Jenkins, who lived with Singley, described this same incident to NPD, telling detectives that plaintiff seemed so “absolutely crazed” that she was afraid to call the police because she thought that if she did plaintiff would beat Lockmiller in response. (C00335, ¶37; C01156). Singley also told the police that he heard certain sounds in Lockmiller’s apartment on the day of the murder that could suggest she was still alive at approximately 2:00 p.m. However, both Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds. (C00977, at 302-304; C02311, at 1998-2000).

### **Time of Death**

Dan Brady, the McLean County Coroner, opined that Lockmiller’s body was in her apartment for 2 to 4 days before she was discovered. The coroner estimated the time of death being between 9:00 a.m. on August 25, 1993 and 9:00 a.m. on August 27, 1993. (C00335, ¶38; C02993, C02613, C03193).

Claudine Moss told NPD detectives she spoke to Lockmiller at 8:00 a.m. on August 25, 1993, about a kitten Lockmiller was advertising for sale. Moss told police she and her husband went to Lockmiller’s apartment to look at the cat around 4:20 p.m. that day, but Lockmiller did not answer her door. (C00335, ¶39; C02613, C02188).

NPD detectives obtained Lockmiller’s class schedule for August 25, 1993 and learned that she had four classes on that date: (a) 9:00-9:50 a.m.; (b) 10:00-10:50 a.m.; (c) 11:00-11:50; and (d) 2:00-2:50 p.m. Lockmiller attended her first three classes, but did not attend her fourth class, which began at 2:00 p.m., and Lockmiller did not make a work meeting she was supposed to attend at 8:00 p.m. that night. (C00335-336, ¶40;

C02613, C01156). NPD detectives were unable to find any person who saw Lockmiller alive after her 11:00-11:50 a.m. class on August 25, 1993. (C00336, ¶41; C02613).

### **Plaintiff's Alibi**

Freesmeyer interviewed plaintiff On October 11, 1993. The day before, NPD detectives learned that plaintiff made a deposit at Bell Federal Savings and Loan Bank, located at 1466 S. Alpine Road, Rockford, at approximately 10:11 a.m. on August 25. (C00336, ¶44; C01156, C02613). During the interview, plaintiff said that on August 25, he arrived home from work shortly after 9:00 a.m. and went to sleep until his parents woke him up at 3:30-4:00 p.m. when they got home. (C00336, ¶42; C01156, C02613). Plaintiff's supervisor where he worked, Dennis Clark (plaintiff's uncle), confirmed to NPD detectives that plaintiff got off work on August 25 at 9:00 a.m. (C00336, ¶43; C02613). NPD investigators discovered that plaintiff's attorney had subpoenaed information from the bank about a month earlier, and concluded then that plaintiff purposely lied about having gone to bed after work on the day of the murder.

Based on the distance between Rockford and Bloomington, NPD detectives believed it was possible for plaintiff to have left Bell Federal, traveled to Bloomington to commit the murder, and returned to Rockford by 3:00 p.m. (C00336, ¶45; C02613, C00359).

### **Plaintiff's Stormy Relationship with Lockmiller**

The NPD detectives discovered that plaintiff and Lockmiller had broken off their stormy relationship approximately one month before her murder. During their two-year relationship, plaintiff and Lockmiller broke up and reunited about 18 times. They had many loud arguments, witnessed by their friends and neighbors. One argument resulted in

plaintiff drinking a bottle of nail polish remover as a suicide attempt, real or feigned, and the police being called. (C00337, ¶46; C00359, C00977, C02613). Friends and family told NPD that Lockmiller was afraid of plaintiff and she intended to seek an order of protection. (C00338, ¶52). Investigators found in the apartment undated letters plaintiff wrote to Lockmiller about his passion for her. Plaintiff wrote that he loved Lockmiller, “more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason” and added, “Don’t worry, I won’t kill anybody, I don’t believe in that. I do unto others as I would have them unto me (from now on).” Plaintiff said, “I really just want you to be with me and only me,” and other expressions of his passion that he felt for her. (C00337, ¶47; C01156, C02311).

The detectives discovered that during one of the instances in which plaintiff broke down Lockmiller’s apartment door, she was with her friend and sometimes lover, Larbi John Murray (“John Doe”). Todd Barth, Lockmiller’s friend, told NPD detectives that around 3 a.m., in the morning during the July before the murder, Lockmiller called him to say she had moved a dresser in front of the door because plaintiff was trying to break in. (C00337-338, ¶48; C00977, C01224, C03199).

On July 25, 1993, plaintiff suspected that Lockmiller was seeing and possibly sleeping with plaintiff’s roommate, Michael Swaine, and again knocked down Lockmiller’s apartment door. Swaine asked plaintiff around 2:00 a.m. that night to borrow his car to go to a party. Thinking Swaine was lying (he was), plaintiff followed Swaine on his bicycle to Lockmiller’s apartment. Plaintiff banged on the door yelling, “I knew it! I know you are in there,” and kicked in the door, looking for Swaine, who was hiding in the closet. (C00338, ¶49; C00359, C03193, C02877, C03143). On another

occasion, plaintiff pushed his way into Lockmiller's apartment and rummaged through her trash can looking for Swaine's used condoms as evidence of their affair. (C00338, ¶50; C00359).

Kris Perry, a close friend of both Lockmiller and plaintiff, told NPD Detective Hospelhorn that Lockmiller told Perry plaintiff once said he would kill her then kill himself. Hospelhorn interviewed Perry a second time a few days later and Perry changed his story to say that plaintiff only threatened to kill himself, not Lockmiller. (C00338, ¶51; C00481). Heidi Steinman, a close friend of Lockmiller's, told NPD detectives that plaintiff treated Lockmiller like she was his property. Lockmiller told Steinman that plaintiff once threw a glass at Lockmiller, and had also thrown and broken a lamp in her apartment. (C00339, ¶53; C03017, C03038).

Plaintiff's good friend, Mike Mackey, told police that Lockmiller would "fuck with his [plaintiff's] head so much that he would just go crazy . . . he would be irrational and mood swings . . . it just made him suicidal . . . she just drove him crazy." (C00339, ¶55; C03102). NPD detectives learned that in the summer of 1993, plaintiff was seeing a psychiatrist, was not eating or sleeping, and was "a mess" and "a mental wreck" because of what he was "going through with Jen." (C00339, ¶56; C02877). Another witness, Jennifer Seig, told NPD detectives she believed plaintiff threatened to kill Lockmiller and Swaine if he ever caught them in bed together. (C00339, ¶57; C03121).

Katy Corbett, another of plaintiff's friends, told NPD detectives that at one time Lockmiller was ready to end it with plaintiff but did not because he "went through these times when he would be violent and he punched a huge hole in her wall at her apartment," and "he would get really upset." Lockmiller told Corbett she was going to

wait until the end of the summer to break it off because she did not want to make plaintiff upset while he was still in town working. Corbett stated that if “Alan was in the right frame of mind, he could be violent.” Corbett said every time she saw plaintiff “in these violent rages he would usually take it out on something else, like there is holes in the apartment walls everywhere at our complex . . . he would bash things.” (C00339-340, ¶58; C03038).

Swaine also confirmed to NPD detectives that plaintiff became violent and punched a large hole in Lockmiller’s bedroom wall. (C00340, ¶59; C02877). Michael Bowen, Lockmiller’s friend, informed NPD detectives that Lockmiller told him plaintiff “pushed her before.” (C00340, ¶60; C01218). Meredith Haynes, another friend of Lockmiller’s, said that Lockmiller told her that plaintiff broke into Lockmiller’s apartment or broke down the door several times, pushed her around and knocked things over. (C00340, ¶61; C03134).

#### **Swaine’s Relationship with Lockmiller**

During the summer of 1993, Michael Swaine and plaintiff were roommates and worked together. Swaine began a sexual relationship with Lockmiller in June 1993, while she and plaintiff were still dating. (C00340-341, ¶62).

On July 25, 1993, plaintiff searched Swaine’s bedroom while he was at work for evidence that Lockmiller and Swaine were having a relationship. During the search, plaintiff found two letters from Lockmiller to Swaine, which plaintiff felt confirmed his suspicions about them. Plaintiff also found an open box of condoms in his and Swaine’s apartment and believed some condoms were missing from the box. Plaintiff thought the

missing condoms meant Swaine was having sex with Lockmiller. (C00341, ¶64; C02613, C02877, C03121, C03048).

Plaintiff took the letters he found to the theater where he and Swaine worked together, and angrily confronted Swaine about his relationship with Lockmiller, accusing Swaine of “fucking my girlfriend.” (C0034-3421, ¶65; C02877, C03038). Plaintiff then went immediately to Lockmiller’s apartment, and pounded on her locked door. (C00342, ¶66; C03017). Steinman, who was with Lockmiller in her apartment at the time, told NPD detectives that plaintiff said, “Don’t do this to me Jen. I’m going to kill myself” and kept threatening suicide until Lockmiller let him in. Once inside, plaintiff angrily confronted Lockmiller with the letters. He went through Lockmiller’s bathroom garbage can and found a tampon applicator, and said “See this is prophylactic. I know it, I know it. You had sex with him.” (C00342, ¶67; C03017).

### **Plaintiff Leaves for Ohio**

Plaintiff left Bloomington on July 25 after confronting Swaine and Lockmiller and went to Ohio, where he stayed with a friend until August 4. (C00342, ¶68; C02877). Before leaving Bloomington, plaintiff gave his theater professor, Dr. Brown, a note stating “. . . But the things that I’ve found out and witnessed about my aforementioned roommate and my ex-fiancé have crushed any spirit. I had to get out of the slump, and it’s really just time for me to leave. I’m just afraid I’d cause even more hell to break loose.” plaintiff attached the two letters he found in Swaine’s room to the note he left for Dr. Brown. (C00342-343, ¶69; C02613). While he was in Ohio, plaintiff called Lockmiller eight times. (C00343, ¶70; C03057, C02188).

### **Plaintiff Returns to Bloomington**

On August 4, plaintiff returned to Bloomington to get his car. He went to the apartment he shared with Swaine and saw him driving Lockmiller's car. (C00343, ¶71; C02877). That same day, plaintiff went to Lockmiller's apartment for about 30-45 minutes "to talk to her because we had broken up." Plaintiff then drove Lockmiller to class, and when he dropped her off, she kissed him goodbye, and he told her "that might be the last time we ever kissed" because he did not think he could ever trust her again. (C00343, ¶72; C03143). Plaintiff told NPD detectives that August 4, 1993 was the last time he saw Lockmiller and that he had "no idea" if she was dating anyone "and didn't want to know." Plaintiff returned to Rockford on August 4, 1993. (C00343, ¶73-74; C03143, C02613).

### **Plaintiff's Contact with Lockmiller from Rockford**

Heidi Steinman told NPD detectives that plaintiff called Lockmiller from Rockford to tell her that he loved her and missed her. (C00344, ¶78; C03017, C02613). Lockmiller's phone records show she made 28 calls to plaintiff's Rockford home on August 22, 1993. The next day, August 23, plaintiff and Lockmiller spoke on the telephone for 13 minutes. (C00344, ¶79; C02613, C02188). Plaintiff later told Freesmeyer that Lockmiller was asking to get back together with him during the August 23 call, but plaintiff said "No, I don't want to talk to you. You fucked my fucking roommate and I don't want to talk to you," then hung up. (C00344, ¶80; C03060).

### **The Other Suspects**

In addition to plaintiff and Swaine, Stacey "Bubba" Gates, John Murray ("John Doe") and Rob Curtis were investigated as possible suspects early in the investigation. Like Swaine, Gates was ruled out as a suspect due to his alibi. (C00345, ¶82).

Tony Daniels was in charge of investigating Murray. Daniels and Hospelhorn interrogated Murray twice, and tape recorded the statements. A September 2, 1993 interview with Murray revealed that he sometimes dated Lockmiller. Murray said he visited Lockmiller's apartment sometime between August 19 and 23, and believed he left Bloomington to go home to Byron, Illinois on August 24 at 3 p.m., and was in Byron until September 1. Murray reported that one time when plaintiff and Lockmiller were dating, plaintiff "freaked out" and kicked in Lockmiller's door when Murray was there, and grabbed Lockmiller's arm. Lockmiller told Murray she was scared to break up with plaintiff because she "did not know what he was going to do" and that plaintiff was a "psycho." (C00345, ¶83; C00693, C00481, C01218, C01224, C01252).

In a follow-up interview on September 8, 1993, after talking to his live-in girlfriend, Debbie Mackoway, Murray corrected several facts he got wrong in his first statement. Murray corrected that he last saw Lockmiller on August 21, which he recalled after reviewing Mackoway's work schedule. He corrected that Mackoway left their apartment for work at 6:30 a.m. on August 25, and he was at their apartment that day from the time she left for work until she returned at 1 p.m. Murray corrected that he did not leave Bloomington for Byron until 4 p.m. that day. He returned to Bloomington on September 2, 1993. Murray admitted he sold Lockmiller marijuana, and she owed him \$20. Murray offered to take a polygraph and to provide his telephone records to the NPD. When Murray learned of Lockmiller's death, he and Mackoway moved to a hotel because they believed plaintiff killed Lockmiller and were afraid of him. (C00345-346, ¶84; C01252, C00481).

On September 30, 1993, Daniels took Murray to the Morton Crime Lab for a polygraph. Terrance McCann was the polygraph examiner who administered the test to Murray. McCann was unable to obtain a result because Murray could not follow McCann's directions, although McCann did not conclude at that time that Murray intentionally prevented a result to avoid the examination. (C00347, ¶86).

A week later, defendant Warner received the polygraph report about Murray, which was sent to Warner because he made the original appointment with the lab for the polygraph. When Warner received the report he gave it to Daniels. Warner did not know what Daniels did with the report. (C00347, ¶87; C00548). Warner believed the State Police Lab also sent Murray's report directly to the State's Attorney's Office, but the State's Attorney never did receive that report. (C00347-348, ¶88).

Daniels could not deny receiving Murray's polygraph report from Warner, only that he had no memory of it. Daniels testified that he believed Warner did not and would not have intentionally suppressed the Murray polygraph report. (C00348, ¶89-90; C00693). Daniels gave several possible explanations for the Murray polygraph report not getting to the State's Attorney file: Warner may have given it to Daniels and he misplaced it; an NPD intern who made copies for the file could have misplaced it; Daniels could have accidentally put the report in a different file; or the report could have otherwise fallen through the cracks somewhere in the NPD. (C00348, ¶91; C00693).

Freesmeyer's entire knowledge regarding Murray was documented in a comprehensive report Freesmeyer completed. Freesmeyer organized three polygraph examinations at the NPD on October 12, 1993, with Kenneth Frankenberry, a state polygraph examiner from Rockford. Frankenberry was to administer polygraphs for

plaintiff's friend, Chris Carbone; for Murray; and for plaintiff. Murray did not show up for his examination, and plaintiff refused. Freesmeyer had no other involvement with Murray. Freesmeyer did not interview Murray, and believed he never met with him. (C00348-349, ¶92; C00359, C01156).

In February, 1994, several NPD investigators met with Chicago Police Department homicide detectives to discuss the investigation. According to Daniels, alternative suspects, including Murray, were discussed at that meeting. The Chicago detectives recommended that the NPD investigators continue to focus on plaintiff as the prime suspect. (C00349, ¶93; C00693).

#### **The Decision to Charge Plaintiff**

On May 16, 1994, a meeting was held to decide if plaintiff should be arrested for Lockmiller's murder. NPD Chief James Taylor, Zayas, Daniels, Freesmeyer, State's Attorney Reynard, and Assistant State's Attorney Souk attended the meeting. (C00349, ¶94; C00977). The investigators provided input about what the nine month investigation had produced. As a result of that discussion, State's Attorney Reynard decided that plaintiff should be charged with Lockmiller's murder. NPD investigators did not lobby or urge the State's Attorney to charge plaintiff. The decision was solely made by Reynard, and Souk strongly agreed with the decision. According to Souk, no one at the meeting expressed any opposition to the decision to charge plaintiff. (C00349-350, ¶95; C00977).

Tony Daniels testified that he suggested that additional work on the case be done before plaintiff's arrest, but Souk responded "I think we've got our guy," and that "we went as far as we can with this case. We are going to go ahead and issue a warrant for [plaintiff's] arrest." (C00350, ¶97).

Freesmeyer agreed with the decision to proceed against plaintiff. Freesmeyer concluded there was probable cause for the arrest and prosecution of plaintiff based on the following information developed during the murder investigation.

- Plaintiff's fingerprints were on the murder weapon, an alarm clock used to strangle Lockmiller.
- NPD investigators discovered that one time plaintiff pulled a garbage bag out of a garbage can in Lockmiller's apartment to search for evidence of condoms deposited by Swaine or some other Lockmiller lover. At the crime scene police found a garbage bag had been pulled out of the can and was sitting on the living room couch.
- The police found voluminous letters plaintiff had written Lockmiller, which showed an intense passion for her. Telephone records showed 28 phone calls from Lockmiller to plaintiff's home residence within the days before the murder.
- There was a hole in plaintiff's alibi.
- Plaintiff had broken down Lockmiller's apartment door to get into her apartment twice before.
- Freesmeyer had asked plaintiff several times in interviews whether he had any evidence or information that could clear him. Plaintiff's response was that he had nothing.
- Freesmeyer asked plaintiff several times whether he had gone anywhere after he got off work the morning of the murder. Plaintiff said he did not. In reality, plaintiff had gone to a bank in Rockford that morning. A video from the bank showed plaintiff in the bank at 10:11 a.m., when plaintiff had told the police he got off work at 9:00 a.m., and went straight to bed.
- Freesmeyer knew that plaintiff's attorney had requested and received information from the Rockford bank in September, 1993, so Freesmeyer concluded plaintiff knew he had not gone straight to bed after work that morning and was lying.
- Plaintiff made several suspicious statements on an overhear with Swaine. Plaintiff said Lockmiller had "dug into him with every ounce of sharp silver she had." Freesmeyer concluded that the statement was not a normal expression and matched that Lockmiller was stabbed in the chest with a silver scissors, which had not been publicly reported when the statement was made.

- Plaintiff told Swaine on the overheard that he knew Swaine was sleeping with Lockmiller because “that pussy never tasted the same,” which seemed to be a crude reference immediately after her death about somebody he supposedly once loved.
- Plaintiff told Swaine that Lockmiller was never going to be happy. In Freesmeyer’s homicide investigation training, a killer will often say something like that to rationalize his action in his own mind.
- Plaintiff told Swaine that “she (Lockmiller) trained me good and she would have trained you just the same.” Freesmeyer saw the statement as plaintiff offering another justification for his actions.
- A fan covered Lockmiller’s face, which Freesmeyer saw as fitting a pattern where a person murders someone he knows then cannot face it.
- Lockmiller was stabbed multiple times after she was already dead, or close to dead. According to the coroner’s report Lockmiller died of strangulation. There was no blood spatter at the crime scene, which indicated Lockmiller’s heart was not pumping when stabbed. It was inconsistent with the act of a random person, and indicated the killer had vengeance as a goal. Lockmiller had hurt plaintiff very deeply, and no one else was known to have any passionate feelings about Lockmiller.
- There was no forced entry into Lockmiller’s apartment. Valuables were lying around the apartment, including her purse. Freesmeyer thought a burglar would have taken things and there would have been a forced entry of some type.

(C00350-352, ¶98; C00359, C00156).

Souk and Reynard were aware of the evidence developed during the murder investigation. Souk considered it very significant that plaintiff’s fingerprints were only found on the clock radio -- the murder weapon -- and not anywhere else in the apartment. (C00352, ¶99). He believed the motive evidence against plaintiff was the strongest he had ever seen; that there was sufficient evidence to establish probable cause, and a reasonable chance of prevailing at trial. (C00352, ¶99; C00977).

Todd Heyse, the owner of 412 Main Street where Lockmiller lived and the murder occurred, told police after plaintiff was charged that he saw two people fitting the

descriptions of plaintiff and Lockmiller around the time of the murder, possibly on the exact day. Heyse contacted the NPD after he saw a picture of plaintiff in the paper following his arrest in May 1994. Seeing plaintiff's photograph jarred Heyse's memory of seeing the two people and prompted him to call the police. (C00353-354, ¶106; C00977, C02845).

### **The Prosecution**

Souk was the lead prosecutor in plaintiff's case and presented the case to the grand jury. A true bill was returned on July 14, 1994. In January, 1995, Freesmeyer moved into the State's Attorney's Office as they began to prepare for plaintiff's trial. (C00354, ¶111-112).

In Souk's mind, plaintiff was the only real suspect. Souk concluded after reviewing the information he had about John Murray that he was not a person of interest. At the time of plaintiff's prosecution, Souk did not believe there was any evidence to suggest that Murray killed Lockmiller. Souk did not believe Murray had any motive to kill Lockmiller, even though Souk was aware of their prior sexual relationship. Souk also knew that Murray gave narcotics and marijuana to Lockmiller, and that there were conflicting statements about whether Lockmiller owed Murray money for drugs. (C00354-355, ¶113; C00977). Souk also knew that Murray made differing statements regarding his alibi in his two interviews with Daniels and Hospelhorn. Souk did not consider the inconsistency suspicious. (C00355, ¶114; C00977). Souk was also aware of three criminal charges filed against Murray, two felony drug charges and a misdemeanor domestic battery case brought by Mackoway. (C00355, ¶116; C00977).

Souk was aware at the time of plaintiff's trial that Mackoway reported that Murray started taking steroids in January, 1994, and that he then began acting erratically,

which she attributed to the steroid use. (C00355-C00356, ¶117, 199; C00977; C0289). According to Mackoway, Murray was never physically violent toward her until January, 1994 when he started using steroids. (C00356, ¶118; C02829). Mackoway never believed Murray killed Lockmiller. (C00356, ¶120; C02829).

The State subpoenaed Murray for plaintiff's trial, and he was on Souk's witness list. Souk flagged information in the State's Attorney's files about Murray's pending cases so the Assistant State's Attorney handling those cases, Robert Freitag, would not offer Murray a plea in case they wanted to call Murray in plaintiff's trial. Souk was concerned a plea in Murray's pending cases could have been used to impeach him if the State called him as a witness, so Souk noted that Freitag should see Souk before any deals were made with Murray. (C00356, ¶122; C00977, C01752). Souk ultimately decided not to call Murray at trial.

On April 1, 1995, a McLean County jury found plaintiff guilty of Lockmiller's murder. After plaintiff's conviction was reversed, Souk was not surprised that the McLean County State's Attorney chose not to re prosecute him. After 13 years it would take a monumental effort by the police and prosecutors to regather the witnesses and evidence again. (C00357, ¶124; C00977).

### **STANDARD OF REVIEW**

Summary judgment is proper where "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. 735 ILCS 5/2-1005(c). A grant of summary judgment is reviewed *de novo*. *Majca v. Beekil*, 183 Ill. 2d 407, 416 (1998). Summary judgment for the defendant is proper if the

plaintiff cannot establish any element of the cause of action. *Governmental Interinsurance Exchange v. Judge*, 221 Ill. 2d 195, 215 (2006).

## ARGUMENT

### **I. The Appellate Court Properly Affirmed the Granting of Summary Judgment on Plaintiff's Malicious Prosecution Claim Where the Evidence Showed the State's Attorney Initiated the Prosecution, There Was Clear Probable Cause for the Prosecution, There Was No Evidence of Malice, and The Murder Prosecution Was Never Terminated in a Manner Indicative of Innocence.**

The appellate court properly affirmed summary judgment on plaintiff's malicious prosecution claim. Under Illinois law, malicious prosecution requires proof of: 1) commencement or continuation of a criminal proceeding by the defendant; 2) absence of probable cause for the proceeding; 3) malice; 4) termination of the proceeding in a manner indicative of the plaintiff's innocence; and 5) damages. *Swick v. Liataud*, 169 Ill. 2d 504, 513 (1996).<sup>1</sup> If one of the required elements is missing, the malicious prosecution claim fails. *Id.* at 512. The appellate court addressed only the "commencement" element and correctly concluded there was no evidence that any defendant influenced in any way the State's Attorney's independent judgment to initiate the prosecution. The court's decision on the commencement element was enough to affirm the circuit court, so it went no further.

#### **A. The Appellate Court Applied the Right Standard**

Plaintiff argues the appellate court applied a wrong standard for determining when a police officer commences a prosecution. Plaintiff believes three different

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<sup>1</sup> The requirements of malice and lack of probable cause are also codified as an immunity from liability in Section 2-208 of the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/2-208.

approaches have developed to analyze the “commencement or continuance” element involving a police officer. Plaintiff describes these approaches as follows:

- The “significant role test,” which allows a plaintiff to proceed against a police officer when the officer played a “significant role” in commencing or continuing the prosecution. Plaintiff cites *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975 (4th Dist. 1988), as representative of this test.
- The “advice and cooperation test,” which requires “participation of so active and positive a character as to amount to advice and cooperation,” which plaintiff sees applied in *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 647 (1st Dist. 2002).
- The “pressure, influence, or misstatement test,” applied by the appellate court here, in which the plaintiff must establish that an “officer pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecution relied.” *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527 ¶58 (hereinafter referred to as “Op.¶58”).

Plaintiff then lobbies for the Court to adopt his significant role test, which would appear to be the easiest for a plaintiff to establish to expose police to malicious prosecution litigation. These supposedly different approaches however, are actually quite consistent with each other, even if some of the language used by the courts differs, and in the end all find exactly what the appellate court found here, a need to prove causation.

The cases using what plaintiff considers different “approaches” all look for some action by the police that affects the prosecutors’ independent judgment, in other words, actions which are the proximate cause of the prosecution. Courts have recognized that

liability for malicious prosecution is not confined to situations where the defendant officer made the prosecutorial decision and signed a complaint against the plaintiff, but more must be proven than mere involvement, even significant involvement, in the investigation. Plaintiff's "significant role" approach has never been accepted as a determinative test, or defined with any precision as a way to measure whether a police officer commenced a prosecution. Whenever it has been used the court using it has looked for a direct causal connection between police conduct and the prosecutorial decision.

Plaintiff gets the significant role language chiefly from *Frye*, 166 Ill. App. 3d at 975. *Frye*, however, dealt mainly with malice and probable cause, not commencement. The "significant role" language described a class of police officers who could potentially face malicious prosecution, but only if "all of the elements of the tort are present," including commencement. *Frye*, at 975. The *Frye* court never equated the significant role a police officer may play in a case with the commencement of its prosecution. In fact, regarding the defendant Williams in that case, who worked with the defendant O'Neil on the investigation leading to the plaintiff's arrest and prosecution, the appellate court ruled he should be cut from the case because he "did not, as a matter of law, instigate a common law malicious prosecution of Frye . . ." *Frye* at 975. A "significant role" analysis never entered into that conclusion.

Certainly other cases also utilize that language, but at the core of these cases is the same causation analysis the appellate court used here. For example, in *Bianchi v. McQueen*, 2016 IL App (2d) 150646, ¶¶72-73, the court used the "significant role" language, but to describe allegations that private investigators hired by the prosecutor

provided evidence they knew was false which caused the prosecutor to bring charges against the plaintiff. Similarly, in *Rodgers v. People's Gas Light & Coke Co.*, 315 Ill. App. 3d 340, 348 (1st Dist. 2000), the court used the “significant role” language referring to an employer who, working with a private security agency, entrapped the plaintiff in a drug transaction to fabricate grounds to terminate him from employment. The “significant role,” however, was entrapping the plaintiff into delivering drugs, a crime he never would have been charged with but for the set-up by the defendants.

In *Collier v. City of Chicago*, 2015 WL 5081408, \*9 (N.D.Ill. 2015), the court repeated the *Frye* language, that “liability extends to all persons who played a significant role in the prosecution of the plaintiff, provided all of the elements of the tort are present.” The “significant role” in the prosecution there, however, was that the defendant officers fabricated evidence and knowingly included false statements in their reports, which in turn caused the plaintiff’s prosecution.

The “significant role” language has never been applied to mean what plaintiff argues it means, or to support his ability to establish the commencement element here. The “significant role” observation may have achieved Westlaw Headnote status, but it has not supplanted the causation standard the appellate court applied here.

Plaintiff is not in actuality asking this Court to clarify differing standards, he is asking the Court to jettison any test in favor of a loose, diluted approach that has no real meaning in the real world of investigation of serious crime. He reveals his true intent in arguing that “Of course, ordinary officers have significant roles in commencing or continuing prosecution, but they do not go after innocent people because of malice and arrest without probable cause.” (Pltf. Brief, p. 28). Plaintiff wants the commencement

element eliminated so the case goes straight to probable cause and malice. But nothing could be more unfair than to expose hard-working dedicated police officers to the rigors of protracted litigation for decisions ultimately made by prosecutors with absolute immunity for those decisions.

Plaintiff seeks a substantial expansion of the scope of the malicious prosecution tort -- exposing police to malicious prosecution claims in every major investigation, with the focus on the elements of whether they acted “maliciously” or “without probable cause,” but without regard to whether the police actually played a prosecutorial role. Malicious prosecution claims are not favored under Illinois law. *Cult Awareness Network v. Church of Scientology International*, 177 Ill. 2d 267, 286, (1997); *Joiner v. Benton Ctmy. Bank*, 82 Ill. 2d 40, 44 (1980); *Shedd v. Patterson*, 302 Ill. 355, 359 (1922). Public policy favors the exposure of crime. Expanding the tort to mere “involvement” in a prosecution is contrary to many years of this Court’s clear policy expressed in precedent, and by the General Assembly in Section 2-208 of the Illinois Tort Immunity Act (745 ILCS 10/2-208.)

The Seventh Circuit in *Reed v. City of Chicago*, 77 F.3d 1049, 1053 (7th Cir. 1996), accurately characterized a malicious prosecution action against a police officer as an anomaly, stating “This is because the State’s Attorney, not the police, prosecutes a criminal action . . . and the chain of causation is broken [following an arrest] by an indictment, absent an allegation of pressure or influence exerted by the police officers, or knowing misstatements made by the officers to the prosecutors.” *See also, Colbert v. City of Chicago*, 851 F.3d 649, 655 (7th Cir. 2017). In *Rehberg v. Paulk*, 566 U.S. 356 (2012), discussing testimonial immunity, the United States Supreme Court aptly

explained why this anomaly should not be expanded, an observation equally applicable here: “It would thus be anomalous to permit a police officer who testified before a grand jury to be sued for maliciously procuring an unjust prosecution when it is the prosecutor, who is shielded by absolute immunity, who is actually responsible for the decision to prosecute.” The analysis of the tort of malicious prosecution, used by the appellate court here, is the proper one.

Plaintiff asks this Court to create an unfair, untenable rule of law, where police face liability for the decisions of prosecutors, only because they were significantly involved in the investigation that produced the evidence against the plaintiff. Police would face liability for a prosecutor’s bad prosecutorial decision, for a botched prosecution, or even when the prosecutors got it all right but the jury or judge found for the accused anyway. The unimmunized police could face liability for decisions and actions completely out of their control.

Plaintiff and his amici say much about police accountability for reversed convictions, and certainly defendants offer no quarrel with holding police accountable for true wrongful conduct. But no support is offered for a conclusion that as a matter of policy opening the floodgates for malicious prosecution claims against police will have any impact on the reliability of criminal convictions. On the contrary, holding police accountable for merely playing a “significant role” in a case could completely and negatively change how police officers investigate crimes. Plaintiff suggests on page 21 of his brief that police officers should be held liable for “misconduct or biased” investigations, even when it does not pressure, influence or purposely mislead a prosecutor. What plaintiff is suggesting is a new cause of action for a negligent (or

willful and wanton) investigation, a claim to hold police liable for investigative mistakes, oversights, miscalculations, or such nebulous concepts as “tunnel vision.” This Court has never endorsed such a cause of action, and the Illinois legislature has expressly precluded it in Section 4-102 of the Tort Immunity Act (745 ILCS 10/4-102).

The appellate court’s approach achieves the right policy in that it requires a plaintiff to show police “pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied,” and “protects officers in their performance of their police work while allowing plaintiffs to seek redress from officers who use fabrications or exert pressure on the prosecutor to secure prosecution of the innocent.” (Op. ¶58.) This is a standard that has been consistently applied by Illinois courts, even if different words are sometimes used to describe it. The United States Supreme Court, again in *Rehberg*, saw that if the floodgates plaintiff wants this Court to open were opened, police “energy and attention would be diverted from the pressing duty of enforcing the criminal law.” *Rehberg*, 566 U.S. at 369.

**B. The Appellate Court Properly Found that Defendants Did Not Commence or Continue the Prosecution**

Plaintiff goes on to argue that the appellate court erred even applying the proximate cause analysis it applied, but his argument pays only lip service to the causation standard. His argument waters down causation to police actions having no impact on the prosecutorial decision.

Here, using a proximate cause analysis, the appellate court properly found no evidence that any defendant urged or lobbied for the prosecution, misled the prosecutors, or exerted any undue influence on their decision. Plaintiff challenges the probative value of the evidence the prosecutors received, but he cannot dispute that the

prosecutors had that evidence or contend that they were purposely deprived of other evidence that would have changed their decision. The prosecutors, not the defendant police officers, had the decision-making capacity about who would be charged with Lockmiller's murder. The appellate court looked for and could not find the evidence all courts have looked for in cases like this – evidence that the prosecution would not have occurred absent some malicious conduct by police.

The testimony of the prosecutors and non-party NPD Investigator Tony Daniels showed conclusively that defendants did not initiate or continue the prosecution. The decision to prosecute plaintiff was made by the prosecutors after a nine month investigation, at a meeting on May 16, 1994. (C00349, ¶94). Attending the meeting were NPD investigators Tony Daniels, Freesmeyer, Zayas, and NPD Police Chief James Taylor, along with McLean County State's Attorney Charles Reynard and Assistant State's Attorney James Souk. (C00349, ¶94).

The appellate court properly recognized that the evidence showed that only the prosecutors, Reynard and Souk, made the decision to prosecute plaintiff, and no evidence contradicts this conclusion. Op. ¶62. Reynard and Souk were clear and unequivocal in their testimony that they made the decision to prosecute plaintiff uninfluenced by any defendant. (C02197, p. 71-72; C00977, p. 139-140). Defendants' input was only to discuss the evidence produced during the investigation, an investigation the prosecutors were close to from the beginning.

The appellate court also properly recognized that the deposition testimony of Tony Daniels "supported this conclusion by showing Souk shut down any effort to leave the case open." Op. ¶61. At his deposition, Daniels described wanting to discuss

additional investigation he thought should be pursued, which he learned about at a cold-case conference he had recently attended in Florida. When describing the meeting where the decision was made to arrest plaintiff, Daniels testified that Souk stopped Daniels when he began to discuss ideas he brought back from the conference, and instead stated that “he [Souk] thought that they went far enough in the investigation, they were going to go ahead and issue a warrant for Mr. Beaman’s arrest.” (C00350, ¶97; C00693).

Souk drew his own conclusions regarding the evidence that was uncovered during the investigation. Souk was influenced by plaintiff’s obsession with Lockmiller; his breaking down her door on two occasions; his extreme jealousy toward her; his fingerprint on the murder weapon; and so on. (C00352-354, ¶99-110; C00977, C02845). Souk reviewed the information gathered in the investigation, and drew the conclusion that grounds existed to prosecute plaintiff. The decision was made by State’s Attorney Reynard, with Souk’s support. Souk was the only person at the May, 1994 meeting who advocated for or urged plaintiff’s arrest. (C00349-350, ¶95; C00977).

The appellate court properly rejected plaintiff’s position that defendant Freesmeyer pressured or exerted influence on Souk’s decision to prosecute plaintiff. Op. ¶62. Plaintiff argues Freesmeyer initiated the prosecution because he was the “lead investigator” for the NPD, at least for part of the investigation; he arrested plaintiff; testified at the Grand Jury proceeding and trial; tested plaintiff’s alibi; and during the months just prior to the trial, moved into the State’s Attorney’s Office to work with the prosecutors in preparing the case. These are actions that a homicide investigator might perform in any homicide investigation. It is precisely how plaintiff wants this Court to fashion the commencement analysis, to evaluate the “significant role” Freesmeyer played

in the case with initiation of the prosecution. None of those actions Freesmeyer performed in his significant role, however, influenced in any way the prosecutors' independent judgment.

Someone serves as a lead investigator in virtually every investigation. There is no support in this Court's precedent or any case law for an argument that the prosecutor's decision is attributed to a lead investigator simply because of that officer's prominent role in the investigation. That Freesmeyer arrested plaintiff is completely irrelevant to the commencement determination. Plaintiff does not allege false arrest. Freesmeyer, in fact, arrested plaintiff on a warrant the State's Attorney caused to be issued. No case has held (or should hold) that arresting a person at a prosecutor's direction can constitute commencement.

Neither could Freesmeyer's testimony before the grand jury and at the trial constitute commencement. Police testify at legal proceedings involving persons charged with crimes. That role carries out the prosecutor's decision, it does not cause it. If Freesmeyer could be found liable for his grand jury testimony, testimonial immunity that protects witnesses from liability and assumes the continued vitality of our legal justice system would be abrogated. *Rehberg v. Paulk*, 132 S. Ct. 1497, 1508 (2012); *Jurgensen v. Haslinger*, 295 Ill. App. 3d 139, 141-42 (3d Dist. 1998). The Supreme Court in *Rehburg* recognized explicitly that police could not be held accountable for a prosecutorial decision by testifying in the prosecution's legal proceedings. 132 S. Ct. at 1508.

That Freesmeyer worked within the prosecutor's office during the three months prior to the trial also means nothing. Freesmeyer moving into the prosecutor's office to

assist with trial preparation could not cause or even continue a prosecution that had already begun.

There can be no doubt, based on an independent review of the evidence, that the State's Attorney and his Assistants were convinced of plaintiff's guilt, as Souk explained in significant detail during his deposition. (C00352-354, ¶¶99-110; C00977, C02845). Because Souk has absolute immunity for the prosecution, as plaintiff has conceded, his testimony cannot be attacked for bias or interest. Souk had no motive except to present his honest view of the evidence. Certainly, plaintiff disagrees with Souk's view of the evidence, but that has no impact on the question of initiation of the prosecution.

Plaintiff argues that Freesmeyer lied to the grand jury, and doctored time trials. The appellate court and the Seventh Circuit in the federal appeal both properly found Freesmeyer did not lie or doctor time trials. Op. ¶63. While defendants dispute any misconduct, as a matter of law, none of these claims of misconduct could establish that Freesmeyer initiated the prosecution anyway. Even apart from the witness immunity that protects Freesmeyer for testifying, his testimony at the grand jury and trial could not proximately cause the State's Attorney's decision to prosecute that preceded the testimony. The so-called "doctored" time trials, which did nothing more than test, at the prosecutor's request, plaintiff's alibi, also occurred after the prosecution decision, so they could not have caused it either.

Regarding defendant Warner, the appellate court properly found that "no evidence shows Warner encouraged or exerted pressure on Souk to prosecute." ¶69. Plaintiff argues defendant Warner "hid" the Murray polygraph report. Certainly, Warner did not bury or hide the polygraph or any other evidence, which plaintiff's advocate Tony

Daniels himself conceded. (C00348, ¶90; C00693). Nevertheless, allegations of a failure to produce even exculpatory evidence does not itself constitute initiation of a prosecution for a malicious prosecution claim. *Szczesniak v. CJC Auto Parts, Inc.*, 2014 IL App (2d) 130636, ¶13-14; *Denton v. Allstate Ins. Co.*, 152 Ill. App. 3d 578, 584 (1st Dist. 1987); *Geisberger v. Vella*, 62 Ill. App. 3d 941, 944 (2d Dist. 1978); *Logan v. Caterpillar, Inc.*, 246 F.3d 912, 922 (7th Cir. 2001).

This Court held the Murray polygraph, along with the other unproduced Murray information, could have had an impact on the criminal trial, but the question for malicious prosecution is not whether the polygraph could have had an impact on the trial, the issue for the Supreme Court analyzing a *Brady* violation, but whether the polygraph could have had an impact on the prosecutor's decision to prosecute. Souk testified it would not have had any impact on the State's Attorney's decision to prosecute. (C00357, ¶123; C00977). Souk was aware of all of the other information about Murray: his charges of domestic abuse and drug transactions, and the report about his steroid use. (C00354-355, ¶113, 116; C00977). Souk never considered Murray a viable suspect because Souk believed Murray had no motive. In fact, Souk intended to call Murray as a witness at the trial to prove plaintiff's violent entry into Lockmiller's apartment while Murray was present, but decided not to because Murray could be impeached by his arrest record. (C00356, ¶121-122; C00977, C01752).

No reasonable jury could conclude that Souk would have abandoned the prosecution of plaintiff and proceeded against Murray without believing Murray had some motive. Souk knew the worst about Murray, and even knew he did not show up for

one scheduled polygraph session. It is beyond question that the inconclusive polygraph would have had no impact on the State's Attorney's prosecution decision.

Further, despite plaintiff's assertion to the contrary, the federal court did not find that Warner deliberately hid the polygraph report. The Seventh Circuit merely recognized that the report was not turned over and, if had been, might have been "used to persuade the trial judge to admit evidence indicating that Murray committed the murder." *Beaman v. Freesmeyer*, 776 F.3d 500, 508 (7th Cir. 2015).

Finally, the appellate court properly found "no evidence shows Zayas pressured or exerted influence over Reynard and Souk's decision to prosecute, and there is no evidence of any false statements by Zayas to the prosecutor." Op. ¶72. Plaintiff argues Zayas commenced the prosecution because he was in charge of CID. Under plaintiff's significant role construct, then, the head of any law enforcement unit involved in investigating crime would be subject to malicious prosecution. There is no support for such a conclusion. Illinois does not recognize a supervisor's liability for the tortious acts of an underling without direct participation in the act. *Reiter v. Illinois Nat. Casualty Co.*, 397 Ill. 141 (1947); *DeCorrevant v. Lohman*, 84 Ill. App. 2d 221, 227 (1st Dist. 1967). That Zayas participated in the May, 1994 meeting means nothing. Souk, Reynard and Daniels clearly testified the prosecutors made the decision at the meeting, not the investigators. No police officer lobbied, pressured or advocated for going forward with the prosecution or otherwise influenced the decision made solely by Souk and Reynard.

Finally, plaintiff argues that Zayas allowed the prosecution to go forward, even though he had questions about whether it was ready. Zayas had no control over whether the prosecution would go forward. The decision was made by the prosecutors in May.

That Zayas may have thought the case needed more work before it could go to trial shows he had no role in the prosecution decision. And more work was done in the four months between Zayas' retirement in November, 1994, and the trial itself several months later. Zayas never questioned whether there was probable cause to go forward with the prosecution.

In sum, the appellate court properly applied tort law proximate cause principles which Illinois courts, contrary to plaintiff's view, have long enforced, and concluded defendants did nothing to prevent the prosecutors from exercising their independent judgment and discretion to proceed with the charges. Plaintiff did not establish the first element of his malicious prosecution claim, and the appellate court properly affirmed summary judgment for defendants.

**C. Probable Cause Existed for Beaman's Prosecution.**

Significantly, there are three other meritorious bases for summary judgment here. Although the appellate court did not address the other elements in its decision because plaintiff could not establish the first one, the circuit court properly found probable cause existed for the prosecution, a lack of malice, and insufficient evidence of a disposition of the criminal case to establish the tort.

The circuit court properly found probable cause existed for plaintiff's arrest based on the detailed evidence recounted by Freesmeyer and Souk, and that the evidence supporting probable cause was sufficient to prove plaintiff's guilt beyond a reasonable doubt at trial. (C12497). Under Illinois law, probable cause is a complete defense to a malicious prosecution lawsuit. *Johnson v. Saville*, 575 F.3d 656, 659 (7th Cir. 2009). Probable cause is "a state of facts that would lead a person of ordinary caution and prudence to believe, or to entertain an honest and strong suspicion, that the person

arrested committed the offense charged.” *Reynolds v. Menard, Inc.*, 365 Ill. App. 3d 812, 820 (1st Dist. 2006); *Sang Ken Kim v. City of Chicago*, 368 Ill. App. 3d 648, 654 (1st Dist. 2006). The existence of probable cause depends on the “totality of the circumstances” at the time of the arrest. *Gauger v. Hendle*, 2011 IL App (2d) 100316 ¶112. Probable cause may be based on the “collective knowledge” of the officers involved in the investigation. *People v. Long*, 369 Ill. App. 3d 860, 867 (2d Dist. 2007).

Despite plaintiff’s assertion to the contrary, probable cause is not a jury question if the facts on which probable cause is based are undisputed. *Cervantes v. Jones*, 188 F.3d 805, 811 (7th Cir. 1999) (“when facts sufficient to create probable cause are undisputed, probable cause is a question of law”). While plaintiff may dispute that he committed the crime, and dispute that the facts submitted to the jury proved he committed the crime, he cannot dispute the facts supporting a probable cause finding.

Plaintiff’s probable cause quarrel is a paradigm of denial. He trumpets that the family values he grew up in made him an unlikely suspect, even though he used drugs with Lockmiller, terrorized her for months, then spoke of her in vile terms after her death. His characterization that police interest in him as a suspect was “strange” is strange itself. He characterizes the accounts Lockmiller’s friends offered the police about his obsession with her, his extreme emotional reactions to their relationship and her intense fear of him, as “collecting dirt.” He misses the point that these were not figments of the officers’ imaginations, they were first-hand accounts from Lockmiller’s closest friends and neighbors, and of Lockmiller herself through her friends’ accounts.

Plaintiff cannot realistically dispute that there was strong evidence of his obsession with Lockmiller; his violent behavior toward her prior to the murder; that he

bashed her door in on at least two prior occasions; his fingerprints on what the State considered the murder weapon; the inspection of Lockmiller's garbage which the State considered a signature; or the post-murder statements he made which the State considered suspicious. He may dispute his opportunity to commit the murder, but only that opportunity was improbable, not impossible. Indeed, opportunity was the focus of the criminal trial and the appeal from the conviction. The facts the State relied on in deciding to go forward with the prosecution clearly established probable cause. Souk's view that the evidence established the reasonable possibility of proving plaintiff's guilt beyond a reasonable doubt hardly can be disputed, given the outcome.

Plaintiff argues that because his conviction was vacated, and that he received a certificate of innocence and a pardon, there could not have been probable cause for his arrest and prosecution. The certificate and pardon, however, do not erase the evidence supporting probable cause. A trial here could only ask a jury to make a legal determination, whether the undisputed evidence established probable cause. Plaintiff would want the jury to decide whether the evidence was sufficient to prove guilt – but in a malicious prosecution trial the jury would only decide whether evidence of guilt existed, not whether that evidence was sufficient to prove plaintiff guilty of the crime.

Plaintiff attempts to pick apart evidence supporting probable cause by arguing that it was not indicative of plaintiff's guilt, and there was stronger evidence of innocence. However, the overwhelming evidence established probable cause for plaintiff's arrest. Defendants knew Lockmiller and plaintiff were involved in a volatile relationship that began in July of 1992 and ended just before her murder; plaintiff threatened to kill her and himself; plaintiff's jealousy led him to act out violently;

plaintiff broke down Lockmiller's door twice and punched a hole in her wall; Lockmiller was afraid of plaintiff; plaintiff suspected Lockmiller's involvement with Swaine; and the killer would have seen Swaine's belongings at the time of the murder. The nature of the crime scene and the personal manner in which Lockmiller was murdered further supported a reasonable belief that plaintiff was involved in her death. (C00327-00344, ¶9-80).

Evidence also linked plaintiff to the scene. Two of his fingerprints were found on the clock radio attached to the cord used to strangle Lockmiller. One of his prints was on the back of the clock, near the cord, and the other was on the bottom of the clock. (C00330, ¶24). A plastic garbage bag was lying on the couch in the living room with its contents spilling out, which was similar to plaintiff's past behavior, when he rummaged through Lockmiller's garbage looking for evidence that she was having sex with Swaine. (C00328, C00338, C00342, ¶15, 50, 67). Finally, due to the estimated date and time of death, defendants believed plaintiff had sufficient time to drive to Normal to commit the murder and return to Rockford by 3:30 p.m. (C00335-336, ¶38-45).<sup>2</sup>

At his deposition, Freesmeyer succinctly and convincingly recounted the facts which convinced him that probable cause existed. Souk agreed with Freesmeyer's analysis. There are no facts for a jury to arbitrate. The circuit court's reliance on the undisputed facts establishing probable cause was proper.

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<sup>2</sup> By the time of trial plaintiff's defense team began producing evidence, through the testimony of plaintiff's mother, to narrow the window. However, probable cause is determined at the time of arrest. *People v. Wear*, 229 Ill. 2d 545, 564 (2008). When plaintiff was charged and the case turned over to the prosecutors the window of opportunity for plaintiff to have committed the murder was longer. Moreover, neither the prosecution nor the jury were required to credit plaintiff's mother's alibi time line, and even if credited, there was still a window of opportunity, if a narrow one, for plaintiff to have committed the murder.

The circuit court's reliance on Assistant State's Attorney Souk's conclusion that there was probable cause for the arrest and prosecution was also proper. (C00352, ¶¶99; C00977). Importantly, at his deposition, Souk recounted the evidence that he believed not only established probable cause, but in his view provided the State with a reasonable chance of proving plaintiff guilty beyond a reasonable doubt. (C00352-354, ¶¶99-110; C00977, C02845). Indeed, in deciding to go forward with plaintiff's arrest and prosecution, Souk applied a higher standard than the reasonable grounds to believe plaintiff committed the murder needed to establish probable cause.

Finally, there was nothing improper about the circuit court's recognition that the evidence presented at plaintiff's jury trial was sufficient to prove his guilt beyond a reasonable doubt. (C12498). Whether the evidence presented at plaintiff's trial was sufficient to prove his guilt beyond a reasonable doubt has been fully litigated. Although plaintiff argues the circuit court should not have even acknowledged a verdict that was later vacated, there remains a certain absurdity to an argument that the evidence did not even indicate probable cause, where a State's Attorney and his Assistants, a Grand Jury, a trial court jury, a trial court judge, and an appellate court, all determined that the evidence was sufficient to prove plaintiff guilty beyond a reasonable doubt, and this court refused to review whether the evidence was sufficient. Then, in vacating plaintiff's conviction, this Court was careful to express no view impugning the sufficiency of the evidence.

Plaintiff argues post-conviction DNA tests showed his innocence, but Illinois courts disfavor consideration of post-prosecution evidence in malicious prosecution cases. Courts have held evidence that a third-party was later convicted of the crime for which the accused was prosecuted was inadmissible. *See Porter v. City of Chicago*, 393

Ill. App. 3d 855, 863 (1st Dist. 2009); *Gauger*, 2011 IL App (2d) at ¶137 (evidence of how real killer was later apprehended not admissible to show that police acted with malice); *Sang Ken Kim*, 368 Ill.App.3d at 660 (witness' later recantation did not affect probable cause inquiry because probable cause is measured at the time of the prosecution decision); *Manzanares v. Higdon*, 575 F.3d 1135, 1144 (10th Cir. 2009) (“[i]nformation gleaned post-hoc does not bear on the probable cause inquiry.”)

Notwithstanding disagreements about guilt, no reasonable jury could conclude there was lack of probable cause to prosecute plaintiff. The evidence of it was overwhelming. An office of seasoned prosecutors and a grand jury thought so, which is *prima facie* proof of probable cause. *Freides v. Sani-Mode Mfg., Co.*, 33 Ill. 2d 291, 296 (1965). Even Tony Daniels believed there was probable cause. (C00802, p. 341). That plaintiff had the means, motive and opportunity to murder Lockmiller cannot be disputed. These factors alone can carry the day in establishing probable cause. *See e.g., People v. Kidd*, 175 Ill. 2d 1, 22-23 (1996); *United States v. McMullin*, 568 F.3d 1, 7-8 (1st Cir. 2009); *People v. Yost*, 468 Mich. 122, 133 (2003); *Nugent v. Hayes*, 88 F. Supp. 2d 862, 869 (N.D. Ill. 2000); *Schertz v. Waupaca Cty.*, 683 F. Supp. 1551, 1565 (E.D. Wis. 1988), *aff'd* 875 F.2d 578 (7th Cir. 1989). Coupled with the other evidence implicating plaintiff, probable cause is overwhelmingly established, and no reasonable jury could decide otherwise. As such, the circuit court properly granted summary judgment in favor of defendants, and the appellate court properly affirmed that decision, though on another element of the claim.

**D. Plaintiff Cannot Prove Defendants Acted With Malice.**

The circuit court also properly found no malice by defendants. In the context of malicious prosecution, “malice” is “the initiation of a prosecution for any reason other

than to bring a party to justice.” *Szczesniak v. CJC Auto Parts, Inc.*, 2014 IL App (2d) 130636, ¶19. Absence of malice can be decided on summary judgment where the record is devoid of any affirmative evidence of malice, an element on which the plaintiff bears the ultimate burden of proof. *Turner v. City of Chicago*, 91 Ill. App. 3d 931, 937 (1st Dist. 1980).

As the circuit court explained, there is no evidence to allow a jury to conclude that defendants harbored any malice toward plaintiff. Rather, the evidence showed that defendants clearly acted on their honest beliefs that plaintiff killed Lockmiller, and therefore, the circuit court could not find that “sufficient facts exist to show that the defendants’ involvement in this case was motivated by any other reason than to bring a party to justice.” (C12498). Further, that defendants acted on advice of the State’s Attorney, either directly or through his Assistants, itself vitiates any claim of malice. *Salmen v. Kamberos*, 206 Ill. App. 3d 686, 692 (1st Dist. 1990).

Plaintiff sees malice in defendants construing evidence as inculpatory, rather than exculpatory, and in defendants not agreeing with plaintiff’s assessment of the evidence. None of the action which plaintiff identifies as proof of malice, however, can constitute malice, at least as defined for purposes of malicious prosecution. Malice found for prosecutions, for example, have been proxies for collecting a debt (*Szczesniak*, 2014 IL App (2d) at ¶14); to force an employee’s termination (*Rodgers v. People’s Gas Light & Coke Co.*, 315 Ill. App. 3d 340, 350 (1st Dist. 2000)); to discover why the plaintiff was on the defendant’s property (*D.N. Vasquez v. Jacobs*, 23 Ill. App. 2d 457, 464 (2d Dist. 1960)). Plaintiff complains of what at worst might be construed as zealous police work, but nevertheless its only purpose was to bring Lockmiller’s killer to justice. Plaintiff

offers no evidence that can support a conclusion that defendants' actions were for any other purpose than to bring the person they thought killed Lockmiller to justice.

Plaintiff argues that, at a minimum, the jury could construe malice from a lack of probable cause. That inference, however, is only allowable when lack of probable cause is clear. *Szczesniak*, 2014 IL App (2d) at ¶19. Even plaintiff cannot argue that a lack of probable cause here was "clear." The circuit court properly found no malice because "the evidence has shown that more than probable cause existed for the prosecution to bring plaintiff to trial." (C12498). The circuit court explained that it rested its decision, in part, on Freesmeyer's detailed account of the facts leading to his belief that probable cause existed.

Further, plaintiff misstates the evidence regarding Warner and the polygraph report. As explained above, the Seventh Circuit did not find Warner intentionally hid the polygraph report. In addition, as explained above, that Zayas was in charge of the investigation, was present at the May, 1994 meeting, and believed that the case needed some work, does not show malice. The prosecutors, not Zayas, decided to charge plaintiff with murder and nothing about Zayas' belief that more on the case might be needed could possibly result in an inference of malice.

As explained above, the circuit court's finding was not based on irrelevant considerations – despite plaintiff's argument that because his conviction was vacated, there could not have been probable cause. Plaintiff's conviction was vacated for reasons unrelated to probable cause. In sum, the circuit court properly granted summary judgment in favor of defendants, and the appellate court properly affirmed that decision, although on another element of the claim.

**E. Plaintiff Cannot Prove The Termination Of His Prosecution Was Indicative Of His Innocence.**

Finally, the circuit court properly found plaintiff cannot prove the termination of his prosecution was indicative of his innocence. Plaintiff bears the burden of proving that termination of the prosecution in his favor occurred for reasons consistent with his innocence. *Swick v. Liataud*, 169 Ill. 2d 504, 513 (1996). To make that determination, the circumstances under which the dismissal is obtained must be examined, not the form or title given to it. *Id.*

Plaintiff's conviction was reversed, but the case was remanded for retrial. As the circuit court recognized, the Court specifically held that no part of its decision would suggest insufficient evidence or preclude a retrial. *People v. Beaman*, 229 Ill. 2d 82 (2008). The circuit court also recognized that, on remand, the McLean County State's Attorney decided not to re prosecute plaintiff, but nothing about that decision suggested plaintiff's innocence. Rather, relying on the deposition testimony of Souk (an experienced prosecutor and judge), the circuit court properly found the decision not to re prosecute plaintiff "was a matter of impracticability of reconstructing the evidence and relocating witnesses after so many years had passed." (C12499).

Plaintiff also relies on the Certificate of Innocence and governor's pardon to establish a termination indicative of innocence. The Certificate and pardon, however, have no impact in this case. A Petition for Certificate of Innocence proceeding is established under §2-702 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-702. The purpose of the proceeding is to allow a person who has been incarcerated to seek certain relief from the State in the Illinois Court of Claims. It is essentially a non-adversarial proceeding, although the statute allows the Illinois Attorney General or the State's

Attorney to intervene as parties in the action. The statute provides no ability of a municipal police agency or police officers to participate.

The State did not oppose plaintiff's Petition, quite likely as part of a settlement agreement in which plaintiff agreed to drop all claims against the McLean County defendants. Regardless, in order for that Certificate of Innocence to have any impact against these defendants, they needed a meaningful opportunity to oppose plaintiff's Petition in that litigation. *Kremer v. Chemical Const. Corp.*, 456 U.S. 461 (1982). They did not, and therefore, the Certificate can have no preclusive effect here.

Further, by the express language of the statute, the issuance of the Certificate of Innocence can have no impact in this case. 735 ILCS 5/2-702(j). The termination in favor of plaintiff was the *nolle prosequi* of the criminal charge against him after remand from the Supreme Court, which occurred long before the Certificate was issued. The Certificate, not issued until years later, played no role in the termination decision. Similarly, the governor's pardon, not issued until years later, played no role.

The cases plaintiff cites do not support his conclusion that the Certificate of Innocence can satisfy that element of his claim. In *Kluppelerg v. Burge*, 84 F. Supp. 3d 741, 745 (N.D. Ill. 2015), the district court found the certificate could be relevant to whether the defendants there withheld material evidence, and possibly for damages, but never actually decided whether the certificate could prove a termination indicative of innocence. In *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 673 (N.D. Ill. 2005), the district court merely recognized that if a governor's pardon uses certain language, that pardon may indicate a conviction was terminated in the plaintiff's favor for purposes of a *Heck* analysis only. Nevertheless, a district court decision is not precedential here, and in

any event a case stands only for the issues it decides. *Sanner v. Champaign County*, 88 Ill. App. 3d 491 (4th Dist. 1980).

Plaintiff also argues the evidence showed he is innocent, but the termination element of his claim turns on why the case was terminated, not what the civil court hearing the malicious prosecution tort case thinks of the strength of the evidence against the plaintiff. Plaintiff has presented no other evidence to satisfy his burden, and therefore the circuit court properly granted summary judgment on plaintiff's malicious prosecution claim.

## **II. The Appellate Court Properly Found Plaintiff Forfeited his Intentional Infliction Of Emotional Distress Claim.**

The appellate court properly found plaintiff forfeited his IIED claim because he did not develop his argument in support of the claim on appeal. Op. ¶74. Plaintiff attempts to argue that because he at least brought it up in his appellate court brief, he should be allowed to pursue it. However, as the appellate court properly recognized, "mere contentions, without argument or citation of authority, do no merit consideration on appeal." Op. ¶74.

In the alternative, even if this Court was to consider it, the circuit court properly recognized that plaintiff's IIED claim is based on the alleged malicious prosecution and, therefore, fails because plaintiff's malicious prosecution claim fails. *Jiminez v. City of Chicago*, 830 F. Supp. 2d 432, 451 (N.D. Ill. 2011) (success of the IIED claim was contingent on the success of malicious prosecution claim); *Walden v. City of Chicago*, 755 F. Supp. 2d 942, 962 (N.D. Ill. 2010) (IIED claim was "intertwined" with the malicious prosecution claim). Here, because plaintiff bases his IIED claim on the alleged malicious prosecution, his IIED claim also fails. Moreover, absent proof sufficient to

establish common law malicious prosecution, defendants are immune from liability for a prosecution, regardless of how plaintiff styles his cause of action. 745 ILCS 10/2-208.

### **III. The Appellate Court Properly Affirmed Summary Judgment On Plaintiff's State Law Civil Conspiracy Claim.**

The Appellate Court properly affirmed summary judgment on plaintiff's conspiracy claim. Op. ¶76. On appeal, plaintiff confines his conspiracy claim to defendants conspiring among themselves to maliciously prosecute him, abandoning his claim that defendants conspired with the McLean County State's Attorney. To prove a civil conspiracy, a plaintiff must show an agreement to accomplish either an unlawful purpose or a lawful purpose by unlawful means. *Mosley v. City of Chicago*, 614 F.3d 391, 399 (7th Cir. 2010); *Buchner v. Atlantic Plant Maint., Inc.*, 182 Ill. 2d 12, 23 (1998). Most significantly, a plaintiff must prove a meeting of the minds between the defendants. A conspiracy claim cannot be based on speculation or conjecture. The plaintiff must show the defendants acted in concert. *Fritz v. Johnson*, 209 Ill. 2d 302, 317-18 (2004).

The appellate court properly found that "because we have found defendants Freesmeyer, Warner, and Zayas are entitled to summary judgment to plaintiff's malicious-prosecution claim, plaintiff cannot establish the third element of this civil-conspiracy claim." Op. ¶76. Plaintiff argues that a conspiracy is shown by the following: (1) defendants collaborated closely on the case and shared information and therefore must have known there was no probable cause to arrest and prosecute Beaman; (2) Freesmeyer ignored exculpatory evidence and alternative suspects, lied to the grand jury and skewed time trials; (3) Warner "buried" the Murray polygraph; and (4) Zayas allowed the arrest to go forward, knowing the evidence could not justify it. Plaintiff's claims of misconduct aside, his argument flags nothing more than defendants all working on the same

investigation. If sufficient, such a conspiracy claim would be in every police investigation involving more than one officer.

In *Mosley*, the plaintiff alleged that investigating officers conspired to prosecute him by withholding evidence of an exculpatory statement made by a key eyewitness during a line-up (614 F.3d at 39). The officers failed to make a line-up report for fifteen months to hide the witness's statement. The court found the absent report and officers working together did not amount to evidence of a conspiracy. *Id.* at 400. In *Vodak v. City of Chicago*, 2009 WL 500678 (N.D. Ill. 2009), the plaintiff's evidence of various discussions between command personnel regarding the decisions to make arrests and charge the arrestees did not support a conspiracy finding.

Here, summary judgment was also properly granted on the conspiracy claim because, as the circuit court recognized, to prevail "plaintiff would need to show that the defendants conspired with themselves and with the prosecution to maliciously prosecute him." (C12499). Because plaintiff is no longer claiming a conspiracy with the prosecutors, summary judgment was properly granted pursuant to the intracorporate conspiracy doctrine. *Wright v. Illinois Dept. of Children and Family Svcs.*, 40 F.3d 1492, 1508 (7th Cir. 1994); *Buchner*, 182 Ill. 2d 12 at 24.

The intracorporate conspiracy doctrine precludes conspiracy claims against members of the same entity. *Payton v. Rush-Presbyterian-St. Luke's Med. Ctr.*, 184 F.3d 623, 632 (7th Cir. 1999). See *Piphus v. City of Chicago*, 2013 WL 3975209, at 8 (N.D. Ill. 2013) (conspiracy claim was barred by the intracorporate doctrine because it was only directed at the police officers, employees of the same government entity); *Ghiles v. City of Chicago Hts.*, 2016 WL 561897, at 3 (N.D.Ill. 2016) (conspiracy claim was barred

under the intracorporate conspiracy doctrine because all defendants were City officials); *Mlaska v. Schicker*, 2015 WL 6098733 (S.D.Ill. 2015) (same with regard to the Illinois Department of Corrections). Similarly, here, the intracorporate conspiracy doctrine bars plaintiff's conspiracy claims. In sum, the Appellate Court properly affirmed summary judgment in favor of defendants on plaintiff's conspiracy claim.

**IV. The Appellate Court Properly Affirmed Summary Judgment On Counts IV And V.**

Finally, the Appellate Court properly found the respondeat superior and indemnification claims are derivative claims against the Town of Normal based on the substantive claims against the individual defendants. Op. ¶78. As such, the Appellate Court properly affirmed summary judgment on these claims as well.

**CONCLUSION**

For all of the foregoing reasons, the defendants respectfully request this Court affirm the judgment in this case.

Respectfully submitted,

TIM FREESMEYER / DAVE WARNER  
FRANK ZAYAS / TOWN OF NORMAL

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IN THE  
SUPREME COURT OF ILLINOIS

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ALAN BEAMAN,

Plaintiff-Appellant,

v.

TIM FREESMEYER, Former Normal  
Police Detective; DAVE WARNER,  
Former Normal Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF NORMAL,  
ILLINOIS,

Defendants-Appellees.

On Appeal from the  
Appellate Court of Illinois,  
Fourth Judicial District,  
No. 4-16-0527

There Heard on Appeal from the  
Circuit Court of McLean County, Illinois  
Case No. 14 L 51

**CERTIFICATE OF COMPLIANCE**

I, Thomas G. DiCianni, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 49 pages.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.



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Case No. 122654

IN THE  
SUPREME COURT OF ILLINOIS

ALAN BEAMAN, )  
)  
)  
) On Appeal from the  
Plaintiff-Appellant, ) Appellate Court of Illinois,  
) Fourth Judicial District,  
v. ) No. 4-16-0527  
)  
) There Heard on Appeal from  
TIM FREESMEYER, Former Normal ) the Circuit Court of McLean County,  
Police Detective; DAVE WARNER, ) Illinois, No. 14 L 51  
Former Normal Police Detective; )  
FRANK ZAYAS, Former Normal )  
Police Lieutenant; )  
and TOWN OF NORMAL, ILLINOIS, )  
)  
Defendants-Appellees. )

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REPLY BRIEF OF PLAINTIFF-APPELLANT  
ALAN BEAMAN

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**POINTS AND AUTHORITIES**

Frye v. O’Neill, 166 Ill. App. 3d 963 (4th Dist. 1988) ..... 1

**I. The Malicious Prosecution Claim Should Proceed to Trial.....1**

**A. The Defendants Caused the Malicious Prosecution of Alan Beaman .....1**

Evans v. Shannon, 201 Ill.2d 424 (2002).....2

Lee v. Chicago Transit Authority, 152 Ill.2d 432 (1992).....2

French v. City of Springfield, 65 Ill.2d 74 (1976).....2

Ney v. Yellow Cab Co., 2 Ill.2d 74 (1954).....2

Beaman v. Souk, 7 F Supp. 3d 805 (C.D. Ill. 2014).....2

White v. City of Chicago, 2012 WL 2525654 (N.D.Ill. 2012).....3

Brooks v. City of Chicago, 564 F.3d 830 (7th Cir. 2009) .....3

People v. Ringland, 2017 IL 119484 .....4

Freides v. Sani-Mode Mfg. Co., 33 Ill.2d. 291 (1965) .....4

Peterson v. Littlejohn, 56 Wash.App. 1 (Wash Ct. App. 1989).....4

Howard v. City of Chicago, 2004 WL 2397281 (N.D.Ill. 2004).....4

Gelband v. Hondo, 671 F. Supp. 2d 175 (D. Me. 2009).....4

Smithfield Packing Co., Inc. v. Evely, 905 A.2d. 845 (Md. Ct. App. 2006).....4

**1. Cause in Fact .....5**

Price v. Phillip Morris, Inc., 219 Ill.2d. 182 (2005) .....5

Thacker v. UNR Industries, Inc., 151 Ill.2d 343 (1992).....5

Turner v. Roesner, 193 Ill. App. 3d 482 (2d Dist. 1990).....5

Espinoza v. Elgin, Joliet and E. Ry., 165 Ill.2d 107 (1995) .....5

Krywin v. Chicago Transit Authority, 238 Ill.2d 215 (2010).....5

Abrams v. City of Chicago, 211 Ill.2d 251 (2004).....5

**2. Legal Cause.....5**

First Springfield Bank & Trust v. Galman, 188 Ill. 2d 252 (1999) .....5, 6

City of Chicago v. Beretta U.S.A. Corp., 213 Ill.2d 351 (2004) .....5

Bentley v. Saunemin Tp, 83 Ill.2d 10 (1980) .....6

Merlo v. Public Service Co. of Northern Illinois, 381 Ill. 300 (1943).....6

**B. The Court Should Adopt the “Significant Role” Test for the  
    “Commencement or Continuance” Prong.....6**

**1. The “Significant Role” Test Incorporates Ordinary Rules of  
        Causation. ....6**

Frye v. O’Neill, 166 Ill. App. 3d 963 (4th Dist. 1988) .....6

**2. The “Pressure, Influence, or Misstatement” Test Contradicts  
        Ordinary Causation Rules and this Court’s Jurisprudence.....7**

3. <b>The Remaining Test—“Participation of So Active and Positive a Character as to Amount to Advice and Cooperation”—is Too Narrow.</b> .....	9
<u>Gilbert v. Emmons</u> , 42 Ill. 143 (1866).....	9
<b>C. Regardless of the Test Applied, the Defendants Commenced or Continued the Prosecution of Alan Beaman</b> .....	9
<u>Jackson v. TLC Associates, Inc.</u> , 185 Ill. 2d 418 (1998).....	9
<u>Beaman v. Souk</u> , 7 F Supp. 3d 805 (C.D. Ill. 2014).....	10
<b>D. The Court Should Reach the Issues of Probable Cause, Malice, and Conclusion of the Proceedings in a Manner Indicative of Innocence</b> .....	10
<b>E. A Rational Juror Could Find that Defendants Lacked Probable Cause</b> .....	11
<u>Seymour v. Collins</u> , 2015 IL 118432.....	11
<u>Carney v. Union Pacific R. Co.</u> , 2016 IL 118984.....	11
<u>Penn v. Chicago State University</u> , 162 F. Supp. 2d 968 (N.D. Ill. 2001).....	13
<b>F. A Rational Juror Could Find that Defendants Acted With Malice</b> .....	15
<u>Lindquist v. Friedman’s, Inc.</u> , 366 Ill. 232 (1937).....	15
<u>Freides v. Sani-Mode Mfg. Co.</u> , 33 Ill.2d 291 (1965) .....	15
<u>Cage v. City of Chicago</u> , 979 F. Supp. 2d 787 (N.D. Ill. 2013) .....	16
<u>Aguirre v. City of Chicago</u> , 382 Ill. App. 3d 89 (1st Dist. 2008).....	16
<u>Jimenez v. City of Chicago</u> , 830 F. Supp. 2d 432 (N.D. Ill. 2011) .....	16
<u>Grayson v. City of Aurora</u> , 157 F. Supp. 3d 725 (N.D. Ill. 2016).....	16
<u>Cage v. City of Chicago</u> , 979 F. Supp. 2d 787 (N.D. Ill. 2013) .....	16
<u>Chagolla v. City of Chicago</u> , No. 07 C 4557, 2012 WL 403920 (N.D. Ill. Feb. 8, 2012) .....	16
<u>Beaman v. Souk</u> , 7 F Supp. 3d 805 (C.D. Ill. 2014).....	17
<u>Brady v. Maryland</u> , 373 U.S. 83 (1963) .....	17
<u>People v. Beaman</u> , 229 Ill. 2d 56 (2008) .....	17
<b>G. A Rational Juror Could Find that the Criminal Proceedings Against Mr. Beaman Concluded in a Manner Indicative of Innocence</b> .....	17
<u>Walden v. City of Chicago</u> , 391 F. Supp. 2d 660 (N.D. Ill. 2005).....	18
<u>Kluppelberg v. Burge</u> , 84 F. Supp. 3d 741 (N.D. Ill. 2015) .....	18
<u>Rich v. Baldwin</u> , 133 Ill. App. 3d 712 (5th Dist. 1985).....	18
<u>People v. Beaman</u> , 229 Ill. 2d 56 (2008) .....	18
<b>II. The Civil Conspiracy Claim Must Proceed to Trial</b> .....	19
<u>Whitley v. Taylor Bean &amp; Whitacker Mortg. Corp.</u> , 607 F. Supp. 2d 885 (N.D. Ill. 2009) .....	19

<u>Newsome v. James</u> , No. 96 C 7680, 2000 WL 528475 (N.D. Ill. Apr. 26, 2000).....	20
<u>Emery v. Northeast Illinois Regional Commuter R.R. Corp.</u> , No. 02 C 9303, 2003 WL 22176077 (N.D. Ill. Sept. 18, 2003).....	20
<u>Hobley v. Burge</u> , No. 03 C 3678, 2004 WL 1243929 (N.D. Ill. June 3, 2004).....	20
<u>Johnson v. Village of Maywood</u> , No. 12 C 3014, 2012 WL 5862756 (N.D. Ill. Nov. 19, 2012).....	20
<u>Salto v. Mercado</u> , No. 96 C 7168, 1997 WL 222874 (N.D. Ill. Apr. 24, 1997).....	20
<u>Northen v. City of Chicago</u> , No. 93 C 7013, 1999 WL 342441 (N.D. Ill. May 17, 1999) .....	20
<u>Cannon v. Burge</u> , No. 05 C 2192, 2006 WL 273544 (N.D. Ill. Feb. 2, 2006).....	20
<b>III. The Remaining Claims Must Proceed to Trial.....</b>	<b>20</b>
<b>IV. Conclusion .....</b>	<b>20</b>

Defendants and their amici spill a lot of ink arguing that the malicious prosecution tort requires causation, but no one disputes that obvious point.<sup>1</sup> In fact, the “significant role” test includes a causation requirement—a defendant must have a significant role not merely in an investigation, but in “in causing the prosecution of the plaintiff.” *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975 (4th Dist. 1988). In this case, the defendants caused the wrongful prosecution by concealing evidence, conducting a biased and dishonest investigation, manipulating time trials, and committing perjury. The prosecutor himself declared that Alan Beaman could not have been convicted “without Tim Freesmeyer.” A.3207. A reasonable juror could find causation on these facts.

A reasonable juror could also find for Mr. Beaman on the remaining elements of the malicious prosecution claim. On probable cause and malice, a thicket of disputed facts and inferences point in opposite directions and preclude summary judgment. Mr. Beaman clearly must prevail on the indicative of innocence prong, equipped as he is with this Court’s unanimous vacatur of his conviction, a certificate of innocence, and a gubernatorial pardon on the basis of innocence. And because the remaining claims rise or fall with the malicious prosecution claim, the entire case should be remanded for trial.

**I. The Malicious Prosecution Claim Should Proceed to Trial.**

**A. The Defendants Caused the Malicious Prosecution of Alan Beaman.**

The basis for causation in this case is simple: The defendants caused the malicious prosecution and wrongful conviction of Alan Beaman by selecting him as their man on

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<sup>1</sup> *E.g.*, Plaintiff’s Brief (Pl. Br.) 27 (“The defendants *caused* Alan Beaman’s wrongful prosecution and conviction by selecting him as their man on Day One, and then conducting a biased investigation to reach the predetermined result.”) (emphasis added), 30 (“In short, a rational juror could find a *causal link* between the defendants’ misconduct and the commencement and continuance of Mr. Beaman’s prosecution.”) (emphasis added).

Day One, and then conducting a biased investigation and concealing evidence to reach the predetermined result. The prosecution of the wrong man was the natural and foreseeable result of the defendants' biased, dishonest investigation and their concealment of evidence. But for their misconduct, the malicious prosecution would not have occurred.

“[P]roximate cause consists of two distinct elements: cause in fact and legal cause.” *Evans v. Shannon*, 201 Ill.2d 424, 434 (2002). Both are “factual matters for the jury to decide.” *Lee v. Chicago Transit Authority*, 152 Ill.2d 432, 454 (1992); *see also French v. City of Springfield*, 65 Ill.2d 74, 79 (1976); *Ney v. Yellow Cab Co.*, 2 Ill.2d 74, 84 (1954).

In this case, causation is an issue for trial because a rational juror could find that the biased investigation and concealment of evidence caused the prosecution in the following ways, individually or in combination: **First**, defendants caused the prosecution by hiding the Murray polygraph from the prosecutors. As the federal district court stated, “[p]erhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Beaman v. Souk*, 7 F. Supp. 3d 805, 831 n.8 (C.D. Ill. 2014). Defendants’ assertion that the lead prosecutor “testified [that the Murray polygraph] would not have had any impact on the State’s Attorney’s decision to prosecute,” Defendants’ Brief (Def. Br.) 34, is flatly untrue and unsupported by the proffered citation. In fact, the prosecutor testified that polygraph evidence is “useful for investigative purposes,” and that if he had known about the Murray polygraph, he would have “asked some questions and looked at it more.” R.10109. **Second**, a rational juror could find that Mr. Beaman never would have been charged if defendants had investigated information inculcating other possible suspects, including: (1) identifying similar burglaries or sexual assaults in the area, (2) attempting to locate the stranger who would not stop calling Lockmiller, (3)

looking for the other stranger who gave Lockmiller his phone number in lipstick just before her death, and (4) subjecting John Murray to the same scrutiny, wiretapping, bias, and browbeating as plaintiff. Pl. Br. 6-7. **Third**, Freesmeyer caused the continuation of the prosecution through grand jury perjury, lying about the existence of other viable suspects with motives to kill Ms. Lockmiller. *Id.* 13-14. If the grand jury knew about this evidence, it might not have returned a true bill. Although grand jury perjury does not create a malicious prosecution claim all by itself, it may be “used, along with other allegations, to support [a] malicious prosecution claim.” *White v. City of Chicago*, 2012 WL 2525654, at \*34 (N.D. Ill. 2012); *see also Brooks v. City of Chicago*, 564 F.3d 830, 833 (7th Cir. 2009) (stating that a claim for prosecution based on “false evidence or testimony . . . is, in essence, one for malicious prosecution”) (citations omitted). **Fourth**, Freesmeyer furthered the prosecution by manipulating the time trials. Pl. Br. 11-13. If Freesmeyer had conducted honest, consistent time trials—rather than driving as fast as possible when that would hurt plaintiff’s alibi and driving as slow as possible when that would hurt plaintiff’s alibi—the investigation would have confirmed the alibi, likely averting prosecution. *Id.* The basis to prosecute also relied on the notion that Carol Beaman drove 20 miles round-trip for no reason. Freesmeyer furthered the prosecution by performing time trials to support this ridiculous scenario. *Id.* at 12. **Fifth**, the prosecutor himself declared that Freesmeyer was a “but for” cause of the conviction: “Beyond any question in my mind, this case would not have been won without Tim Freesmeyer.” A.3207.

The prosecutors made the final charging decision at the May 16, 1994 meeting, but that decision was the inevitable result of the defendants’ biased and dishonest investigation. After all, “it is the recognized practice that the State’s Attorney sensibly defers to the

investigative duties of the police.” *People v. Ringland*, 2017 IL 119484, ¶ 24; *see also* Amicus Brief of Former Prosecutors 4-5 (stating that wrongful prosecutions may occur “when police provide biased or unreliable information”). Defendants pretend that the final meeting occurred in a vacuum, as if it were unaffected by the investigation that produced the decision to charge Mr. Beaman. Contrary to defendants’ claim that the prosecutors “made the decision to prosecute plaintiff *uninfluenced* by any defendant,” Def. Br. 30 (emphasis added), the charging decision reflected the “investigator’s input,” R.1011 (Souk), and was based on the “evidence [the detectives] had uncovered during their investigation,” R.2214 (Reynard). After all, Freesmeyer had decided on the outcome at least seven months before, when he told plaintiff he was “going to be arrested for Jennifer’s death at one point or another.” A.1318. On these facts, causation cannot be resolved as a matter of law.

Contrary to the defendants’ argument that only pre-charge misconduct is relevant to causation, the test is “commencement *or continuance*” of the prosecution. *Freides v. Sani-Mode Mfg. Co.*, 33 Ill.2d 291, 295 (emphasis added). “The only logical conclusion to be drawn from this language [‘continuation’] is that malicious prosecution may be established . . . by evidence of continuing the proceedings in the proscribed manner.” *Peterson v. Littlejohn*, 56 Wash. App. 1, 12 (Wash Ct. App. 1989). Thus, a court properly considers evidence “concerning the post-charge investigation of [a] suspect.” *Id.*; *see also Howard v. City of Chicago*, No. 03 C 8481, 2004 WL 2397281, at \*15 (N.D. Ill. Oct. 24, 2004) (police defendants who suppressed and altered evidence post-arrest “were responsible for continuing the malicious prosecution”); *Gelband v. Hondo*, 671 F. Supp. 2d 175, 176 (D. Me. 2009); *Smithfield Packing Co., Inc. v. Evely*, 905 A.2d 845, 858 (Md. Ct. App. 2006).

## 1. Cause in Fact

The defendants were a “but for” cause of the prosecution and conviction of Alan Beaman. The prosecutor said so—the conviction could not have been obtained “without Tim Freesmeyer.” A.3207. Without the defendants conducting a dishonest and biased investigation, hiding evidence, lying to the grand jury, and ignoring exculpatory facts, the prosecution would not have been brought and continued, and Mr. Beaman would not have gone to prison. *See Price v. Philip Morris, Inc.*, 219 Ill.2d 182, 269 (2005) (“[T]he relevant inquiry is whether the harm would have occurred absent the defendant’s conduct.”); *Thacker v. UNR Industries, Inc.*, 151 Ill.2d 343, 354–55 (1992).

Even if the prosecutor were an additional “but for” cause of the prosecution, the actions of two or more individuals can be necessary to inflict an injury. *See Turner v. Roesner*, 193 Ill. App. 3d 482, 490 (2d Dist. 1990). A “but for” cause need not be “the sole cause” of an injury. *Id.*; *see also Espinoza v. Elgin, Joliet and E. Ry.*, 165 Ill.2d 107, 118 (1995). At minimum, the defendants’ malfeasance was a cause in fact because it was “a material element and a substantial factor” in causing the injury. *Thacker*, 151 Ill. 2d at 354 (1992); *Krywin v. Chicago Transit Authority*, 238 Ill.2d 215, 226 (2010); *Abrams v. City of Chi.*, 211 Ill.2d 251, 258 (2004). A reasonable juror therefore could find causation in fact.

## 2. Legal Cause

Legal causation, “is essentially a question of foreseeability.” *First Springfield Bank & Trust v. Galman*, 188 Ill. 2d 252, 258 (1999). The inquiry is “whether the injury is of a type that a reasonable person would see as a likely result of his conduct.” *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill.2d 351, 395 (2004). Legal causation is easily satisfied here because the malicious prosecution and wrongful conviction of Alan Beaman were the

natural and foreseeable results of defendants’ malicious fixation on him, their dishonest investigation, their grand jury perjury, and their suppression of evidence. *See supra* at 2-3. It is hardly a surprise that investigative misconduct like this can lead to wrongful prosecutions. The prosecutor’s charging decision might be viewed as an intervening cause of the injury, but a *foreseeable* intervening cause does not defeat legal causation. *Bentley v. Saunemin Tp.*, 83 Ill.2d 10, 16 (1980); *Merlo v. Public Service Co. of Northern Illinois*, 381 Ill. 300, 316-17 (1943); *First Springfield Bank*, 188 Ill.2d at 257. The charging decision therefore does not negate legal causation or the defendants’ liability.

**B. The Court Should Adopt the “Significant Role” Test for the “Commencement or Continuance” Prong.**

**1. The “Significant Role” Test Incorporates Ordinary Rules of Causation.**

The “significant role” test requires causation: The defendant must have a “significant role in causing the prosecution of the plaintiff.” *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975 (4th Dist. 1988); Pl. Br. 23-24 (citing cases). Defendants and their amici conclude that the “significant role” test dispenses with causation only because they mischaracterize the standard, claiming that the test renders investigators liable merely for “playing significant roles in criminal investigations.” Amicus Brief of the City of Chicago, et al. (Am. Br.) 47; Def. Br. 25, 28, 32. Not true. The standard is not significant role *in an investigation*, but significant role *in commencing or continuing a prosecution*. Therein lies causation—and that causation requirement makes the “significant role” test fully consistent with the history of the “commencement or continuance” prong described in the amicus brief. Am. Br. 4-32.

Defendants imagine dire consequences flowing from the “significant role” test—including the notion that detectives will refuse to investigate crimes so as not to have a

significant role in investigations—but this parade of horrors is based on the false premise that the “significant role” test would unmoor malicious prosecution claims from ordinary causation principles. *See* Def. Br. 26-27; Am. Br. 33-42. That assumption is simply wrong. Of course, an officer who plays a significant role in an investigation should not be held liable if the suspect just happens to be prosecuted for reasons unrelated to the officer’s actions. That is precisely why the law extends liability only to those officers who have a significant role in the commencement or continuation of a prosecution. And the law further narrows liability through the other disjunctive elements of the tort—malice, prosecution without probable cause, and favorable termination of the false charges. *See* Pl. Br. 27-28.

**2. The “Pressure, Influence, or Misstatement” Test Contradicts Ordinary Causation Rules and this Court’s Jurisprudence.**

The “pressure, influence, or misstatement” test would stand ordinary causation on its head by *excluding* many of the principal causes of malicious prosecutions and wrongful convictions. Police can cause malicious prosecutions by extracting false confessions through physical and psychological coercion, refusing to investigate more likely alternative suspects, intimidating witnesses, maliciously fixating on a single individual as the culprit and working backwards to frame him or her, hiding evidence, or using deliberately suggestive lineups or photo arrays. None of these situations necessarily involve pressure, influence, or misstatement to a prosecutor, but liability should attach where investigative misconduct of this nature *causes* the malicious prosecution of an innocent person.

At bottom, defendants’ “pressure, influence, or misstatement” test is not about causation at all. Rather, it is about immunizing some of the most dangerous and repugnant police misconduct that causes wrongful convictions just because the misconduct does not fit into a narrow, defendant-friendly box. No principle of causation or logic creates a

distinction between, on the one hand, lying to a prosecutor and, on the other, hiding evidence, leading a deliberately biased investigation, or coercing a confession. If such conduct results in a malicious prosecution, causation is present. The “significant role” test follows that logic; the defendants’ test illogically demands more than ordinary causation.

Not only has this Court never mentioned the “pressure, influence, or misstatement” test in *any case*, but prior to this case, no court of this State had ever applied that test to a law enforcement defendant. In fact, the defense amici and plaintiff agree that the “pressure, influence, or misstatement” test originated in cases in the lower courts of this State against private citizens, *i.e.*, complaining witnesses. Am. Br. 11-13. That context is significant. The “pressure, influence, or misstatement” test perhaps serves as a rough shorthand for most or all of the ways that a complaining witness can cause a wrongful prosecution. After all, it is difficult to think of how a private citizen could cause a criminal charge except by lying to or unduly influencing the authorities. But “pressure, influence, or misstatement” is badly underinclusive as a proxy for causation by police investigators because they can cause malicious prosecutions by abusing investigative powers that ordinary citizens lack. Private citizens cannot hold people in custody against their will, search homes and cars, bug phones and plant wires to record private conversations without consent, or threaten people with the death penalty. They cannot cause malicious prosecutions by abusing investigatory prerogatives. But police officers can and sometimes do. As a result, applying the “pressure, influence, or misstatement” test to police investigators would contravene ordinary causation rules and also immunize abuses of official power and public trust.

**3. The Remaining Test—“Participation of So Active and Positive a Character as to Amount to Advice and Cooperation”—Is Too Narrow.**

The final test for the first prong of the malicious prosecution tort is “participation of so active and positive a character as to amount to advice and cooperation.” Pl. Br. 27. A century and a half ago, this Court applied that test to a private citizen in *Gilbert v. Emmons*, 42 Ill. 143, 147, (1866), but it has never applied the test to a police officer (or to any defendant since *Gilbert*).

This test resembles the “significant role” test more than the “pressure, influence, or misstatement” test because it focuses on the scope of the defendant’s role—it requires a role that is “active and positive,” *id.*, without requiring anything so narrow as deceit or undue influence. Nonetheless, the test is still too narrow as a proxy for causation of malicious prosecution by police defendants. A police officer need not advise or cooperate with a prosecutor to cause a malicious prosecution. A coerced confession or biased investigation alone can achieve that result.

**C. Regardless of the Test Applied, the Defendants Commenced or Continued the Prosecution of Alan Beaman.**

Regardless of which test the Court adopts for “commencement or continuance,” whether this case meets that standard is a question of fact that cannot be resolved as a matter of law and requires a trial. “[S]ummary judgment is a drastic means of disposing of litigation,” and is not proper unless the case is “clear and free from doubt.” *Jackson v. TLC Associates, Inc.*, 185 Ill. 2d 418, 423-24 (1998). Under any standard, the causal relationship between the defendants’ misconduct and the false charges is one for a jury to decide.

The discussion of causation in Section I makes it clear that the defendants meet the “significant role” test because they had a significant role in causing the commencement or

continuation of the prosecution. As for the “advice and cooperation” test, Freesmeyer and the prosecutor worked closely together on the investigation and prosecution, to the point that Freesmeyer moved into the prosecutor’s office. Op. ¶ 20. When Mr. Beaman was wrongfully convicted, the prosecutor declared, “[b]eyond any question in my mind, this case would not have been won without Tim Freesmeyer.” A.3207. Finally, Freesmeyer and Warner’s misconduct meets even the narrow “pressure, influence or misstatement” test. The federal district court found that a jury question exists as to whether Warner “intentionally withheld” evidence that could have changed the trajectory of the case. *Beaman*, 7 F. Supp. 3d at 827. Concealing the Murray polygraph was a deceitful act tantamount to misstatement. The same is true of Freesmeyer’s distorting the case and obtaining a false charge through his refusal to undertake a serious investigation of other suspects, manipulation of time trials, and perjury. Pl. Br. 4-9, 11-14. Even under the “pressure, influence, or misstatement” test, it would be wrong to deprive Mr. Beaman of his right to a jury trial.

**D. The Court Should Reach the Issues of Probable Cause, Malice, and Conclusion of the Proceedings in a Manner Indicative of Innocence.**

If this Court reverses the appellate court on the “commencement or continuance” prong, it would be useful to proceed to the remaining bases for the circuit court’s grant of summary judgment, as opposed to remanding the case to the appellate court to consider those issues in the first instance.<sup>2</sup> A decade has passed since this Court vacated Mr. Beaman’s wrongful conviction. This case calls for resolution.

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<sup>2</sup> Defendants’ statement that the petition for leave to appeal did not challenge the circuit court’s holdings on the other elements, Def. Br. 2, is incorrect, *see* Petition at 21-23.

**E. A Rational Juror Could Find that Defendants Lacked Probable Cause.**

A jury must decide whether defendants had probable cause to arrest and jail Mr. Beaman because the record is beset with complex facts from which competing inferences could be drawn. Defendants want the Court not only to take some of the facts as undisputed but to *adopt their inferences* about whether those facts inculcate Mr. Beaman and help to establish probable cause. A court may grant summary judgment if (1) the material facts are undisputed *and* (2) the only rational inferences that one can draw from those facts amount to probable cause. *Seymour v. Collins*, 2015 IL 118432, ¶ 42; *Carney v. Union Pacific R. Co.*, 2016 IL 118984, ¶ 25; *see also* Pl. Br. 36 & n.8 (citing additional cases). True, under the first part of this analysis, plaintiff and defendants agree on some of the facts. The Court, however, cannot resolve the second part—the proper inferences to draw from those facts—on summary judgment in this case.

For example, police found Mr. Beaman’s fingerprints on the alarm clock console (not the cord used to strangle the victim) along with both Michael Swaine’s prints and additional prints that could not be identified. Pl. Br. 38. This fact is not disputed, but the inferences are the rub. A rational juror considering the fingerprints could easily say, “Of course Alan Beaman’s prints were on the alarm clock. He had spent the night there and used the alarm clock, but they don’t mean anything because no one can date fingerprints, and Swaine’s prints were on the clock too. Plus, the unidentified prints probably belonged to the killer! At best the fingerprint evidence is irrelevant to probable cause; if anything, the unidentified prints are exculpatory.”

The circuit court failed to perceive the competing inferences surrounding each piece of evidence and usurped the role of the jury when it adopted, wholesale and without elaboration, the inferences defendants set forth in “paragraphs (a) through (p) of

Defendants' Memorandum of Law in Support of Defendants' Motion for Summary Judgment." A.30-31. Defendants reiterate the (a) through (p) list in their facts section, Def. Br. 19-20, and rely on it for their probable cause argument, but like the fingerprint evidence discussed above, every other item on the list could be considered irrelevant, if not exculpatory. Plaintiff's opening brief detailed this analysis item-by-item on pages 38-41, and we will not repeat it here. At best, each item of evidence cuts both ways. That means a court must stay its hand and let the jury decide. One rational juror might agree with defendants that some of these facts support probable cause; another might consider them irrelevant, if not exculpatory. The complex summary judgment record in this case (comprising 91 pages of briefs, 272 pages of statements of material facts and responses thereto, and 11,066 pages of exhibits) presents a thicket of competing inferences that only a factfinder can resolve.

Wherever a rational juror came down on items (a) through (p), that juror would also have to assess the evidence known to defendants that excluded Alan Beaman as a viable suspect. After Mr. Beaman made the bank deposit and placed the 10:37 and 10:39 calls, it would have been impossible—literally—for him to travel to Normal, commit the murder, and return home by 2:15, when Carol Beaman confirmed he was at the family residence. Pl. Br. 11. Singley's evidence, which established the time of death as 2 p.m. or later, made the scenario doubly impossible. *Id.* 13-14. Defendants even acknowledge a disputed issue on whether "opportunity was improbable." Def. Br. 38. It strains logic to say that cause is *probable* as a matter of law while conceding that opportunity is *improbable*.

A rational juror would also consider that no witness could place Mr. Beaman in Bloomington-Normal (much less at the victim's apartment), that he maintained his

innocence both under vigorous interrogation and in conversations with a friend that police recorded in secret, and that no physical evidence connected him to the crime. Pl. Br. 10-11. Surely a rational juror would consider the many potential killers (some known, others not) who floated in and out of the victim's high-risk life. *Id.* 4-9. No potential juror could ignore John Murray, the steroid-abusing drug dealer known to beat women. He had sex with the victim and sold her drugs, could not complete a polygraph about the killing, and lied about his alibi. *Id.* 7-9. At the end of it all, some rational jurors would reject probable cause to arrest Alan Beaman; perhaps others would find it. The solution to this problem is a trial.

Defendants also rely on their and the prosecutor's personal opinion that probable cause existed, but "[an] official's subjective belief as to the legal basis of the prosecution is irrelevant; the test for probable cause is an objective one." *Penn v. Chicago State University*, 162 F. Supp. 2d 968, 976 (N.D. Ill. 2001). On the other hand, if a defendant's personal views of probable cause ought to be considered, then Defendant Zayas's own opinion, well after Mr. Beaman had been arrested and jailed, that the case was "in limbo" and not "ready to be sent to the State" for prosecution would cut against any finding of probable cause as a matter of law. A.1356.

While the disputed inferences alone preclude summary judgment, disputed issues of fact make the circuit court's error all the more manifest. Defendants' inaccurate and one-sided recitation of the facts—some of which are pure fiction with no grounding in the record—makes it clear that important issues of fact cannot be resolved as a matter of law. A few examples follow. Defendants think that "Jennifer Seig told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed

together,” Def. Br. 12, but they don’t mention that Seig admitted she might have heard this “in a dream or something.” R.3126. “[T]his will sound really weird to you,” said Seig, “I don’t know if that was, it’s hard to explain, but I don’t know if he said that or if that’s the, or if I had it in a dream or something.” *Id.* Defendants assert that plaintiff’s “fingerprint [was] on the murder weapon,” Def. Br. 31, but omit that police found no prints on the cord and no prints on the scissors lodged in the victim’s chest—only on the console, where they also found prints from Swaine and an unidentified stranger. Pl. Br. 38; A.3256-3257, A.3264-3265. Defendants claim that “Daniels and Hospelhorn came away from [the Beaman interview] believing plaintiff’s conduct was suspicious,” Def. Br. 7, but Hospelhorn in fact testified that after the interview, he had “[n]o suspicions at all” that Beaman committed the murder, A.2583, R.8043-44. According to defendants, Singley told police that plaintiff yelled derogatory comments at Ms. Lockmiller, Def. Br. 8, but this appears only in Freesmeyer’s own report, and no interview transcript confirms it. Defendants think that Kris Perry told police that Lockmiller said that plaintiff stated that he would kill her, Def. Br. 12, but that is a misrepresentation based solely on Officer Hospelhorn’s report. In an interview transcript, Perry denied ever saying such a thing to Hospelhorn. R.11337. Plaintiff himself also made it clear he never made the supposed statement. A.3342. Defendants claim that plaintiff threw a lamp, Def. Br. 12, but Mr. Beaman stated it was Ms. Lockmiller who threw things at him, not the other way around. A.2918. In fact, while defendants falsely claim that plaintiff was “violent” toward Ms. Lockmiller prior to the murder, Def. Br. 37, 38, defendants did not know of any evidence that plaintiff had ever been physically violent to the victim’s person. A.1592; A.2879, and were told that plaintiff was “not physical.” A.2950. Defendants suggest that after Murray

told the police that he left town the day before the murder, he “corrected” his statement. Def. Br. 16. In fact, Murray lied in his first interview and changed his story only after his girlfriend told the police that he was in town on the day of the murder. A.77-78. While defendants’ brief claims that Mr. Beaman forced open the door “several times,” Def. Br. 4, it happened but twice. (Both times, Ms. Lockmiller was having sex with other men while dating plaintiff.). A.86. Defendants emphasize strife that occurred when Mr. Beaman and Ms. Lockmiller had been dating but ignore witness accounts that plaintiff had gotten past the relationship and moved on with his life by the time of the murder A.85-86. By then, acquaintances told police that plaintiff was dating someone new, appeared calm, and was not angry about anything. A.85-86. Defendants claim that Mr. Beaman called Ms. Lockmiller shortly before the murder to “tell her that he loved her and missed her,” Def. Br. 15, but the phone records say otherwise. A.339 (phone records showing that in August of 1993, Ms. Lockmiller called Mr. Beaman repeatedly, he called her only once, and that call lasted 13.8 seconds). Defendants claim there were “no signs” of forced entry, Def. Br. 6, but ignore other evidence of burglary, including the disarray of the usually tidy apartment. Pl. Br. 4-5. Defendants claim that Todd Heyse saw “two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the same day,” Def. Br. 20-21, but Heyse did not see these people in the week of the murder, nor did his description match plaintiff. R.3439. These are but a few examples of the factual disputes that permeate the record. A jury should weigh these complex and disputed questions.

**F. A Rational Juror Could Find that the Defendants Acted With Malice.**

“The question of malice is one of fact for the jury.” *Lindquist v. Friedman’s, Inc.*, 366 Ill. 232, 237 (1937); *see also Freides v. Sani-Mode Mfg. Co.*, 33 Ill.2d 291, 297 (1965)

(“The issues of ‘probable cause’ and malice were for the jury.”). Here, the defendants respond to the evidence of malice by ignoring most of it. They assume that their bias in the investigation—the twisting of irrelevant or exculpatory facts into evidence of guilt—is the only evidence of malice. Wrong. To be sure, defendants’ biased interpretation of the facts certainly helps to support a finding of malice, Pl. Br. 32, 36; *see also Cage v. City of Chicago*, 979 F. Supp. 2d 787, 807 (N.D. Ill. 2013), but the defendants’ biased view of the facts is where the evidence of malice begins, not where it ends. Freesmeyer lied under oath in the grand jury proceedings about other suspects with a motive for the murder. Pl. Br. 14. He doctored time trials, flooring it when speed would hurt Mr. Beaman in court, then braking when delay would make him easier to convict. *Id.* at 11-13. When a time trial showed that Mr. Beaman had plenty of time to make the 10:37 and 10:39 calls, Freesmeyer kept it out of his report and hid it from the jury. *Id.* at 11-12. When the evidence showed that Carol Beaman could not have made the calls because she was helping her mother and then shopping at the Wal-Mart across the street, Freesmeyer set out to prove the ludicrous notion that Mrs. Beaman took a 20-mile detour to drive across town before returning, immediately, to where she was before. *Id.* at 12.

All of this makes malice a jury question: A rational juror could infer malice from investigative misconduct. *Aguirre v. City of Chicago*, 382 Ill. App. 3d 89, 97-100 (1st Dist. 2008) (orchestrated confessions demonstrated malice); *Jimenez v. City of Chicago*, 830 F. Supp. 2d 432, 451 (N.D. Ill. 2011) (incomplete investigation demonstrated malice); *Grayson v. City of Aurora*, 157 F. Supp. 3d 725, 746-47 (N.D. Ill. 2016) (incomplete investigation demonstrated malice); *Cage*, 979 F. Supp. 2d at 807 (misconduct relevant to

malice); *Chagolla v. City of Chicago*, No. 07 C 4557, 2012 WL 403920, at \*8 (N.D. Ill. Feb. 8, 2012) (false charges demonstrated malice).

As for Warner, Judge McDade found in the federal litigation that a genuine issue of material fact existed as to whether Warner *intentionally suppressed* the Murray polygraph report. *Beaman*, 7 F. Supp. 3d at 827. Judge McDade determined that this document, when it came to light, undermined confidence in the conviction under *Brady v. Maryland*, 373 U.S. 83 (1963). *Beaman*, 7 F. Supp. 3d at 823; *see also People v. Beaman*, 229 Ill. 2d 56, 58-59 (2008). Warner received the report and violated the policy that dictated how to handle it. Pl. Br. 9. He claims he gave the report to Daniels instead of following the policy, but Daniels does not remember receiving the report and was not responsible for concealing it. *Id.* The trail goes cold at Warner. A juror, as the federal court found, could conclude that Warner buried the report on purpose because it helped Mr. Beaman. *Beaman*, 7 F. Supp. 3d at 827. That screams malice.

Freesmeyer and Warner's boss, Zayas, let Mr. Beaman get arrested even though he knew that the case was not "ready to be sent to the State [for prosecution]" and that his investigators "didn't have all the information needed." R.1356. A juror could find malice because Zayas knew full well that the case was half-baked and let Mr. Beaman get arrested and jailed for murder anyway by failing to intervene. Pl. Br. 14, 45-46, R.1356-1357.<sup>3</sup>

**G. A Rational Juror Could Find that the Criminal Proceedings Against Mr. Beaman Concluded in a Manner Indicative of Innocence.**

Prosecutors dropped the charges against Mr. Beaman after this Court threw out the

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<sup>3</sup> Defendants argue that advice of state's attorneys defeats a claim of malicious prosecution, Def. Br. 42, but do not make any showing that a state's attorney advised them to suppress evidence or otherwise engage in misconduct.

conviction, then Mr. Beaman won a certificate of innocence through litigation in the Circuit Court of McLean County, and then the Governor pardoned him on the basis of innocence. Any one of these events would defeat summary judgment on the “indicative of innocence” prong all by itself. Together, they make this issue a no-brainer.

A gubernatorial pardon on the basis of innocence alone establishes that the proceedings concluded in the plaintiff’s favor. *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 664, 680 (N.D. Ill. 2005). A certificate of innocence is “relevant at least to the ‘indicative of innocence’ element of plaintiff’s malicious prosecution claim.” *Kluppelberg v. Burge*, 84 F. Supp. 3d 741, 744 (N.D. Ill. 2015) (citation omitted). The instant case comes to this Court on summary judgment; therefore, relevant evidence satisfies plaintiff’s burden. The mere fact that the certificate is not *preclusive* in this proceeding “does not bar evidentiary use of the certificate.” *Id.* at 745.<sup>4</sup>

Even if Mr. Beaman did not come to court with a certificate of innocence and a pardon from the Governor, the “indicative of innocence” prong still would be a jury question. The “dismissal of a . . . charge against the plaintiff at the instance of the prosecutor” generally suffices to show favorable termination. *Rich v. Baldwin*, 133 Ill. App. 3d 712, 715 (5th Dist. 1985). The State’s Attorney’s Office not only dropped the charges, but it did so after this Court unanimously declared, “We cannot have confidence in the verdict finding [plaintiff] guilty of this crime given the tenuous nature of the circumstantial evidence

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<sup>4</sup> The certificate of innocence resulted from an adversarial judicial proceeding in which the State opposed the petition. R.3472. DNA testing initiated by the State then proved that plaintiff did not kill Ms. Lockmiller. *Id.* Only then did the State drop its opposition to the certificate of innocence. *Id.* It did so because the DNA evidence established plaintiff’s innocence, A.3355-3366, not because of some “settlement agreement,” Def. Br. 45, between plaintiff and the State. R.121.

against him . . .” *Beaman*, 229 Ill. 2d at 81.

Defendants fail to come forward with admissible evidence to refute the ordinary presumption that proceedings conclude in a manner indicative of innocence if a court throws out a conviction and a prosecutor drops the case. The testimony of Mr. Souk about why the State’s Attorney might have dropped the charges after this Court’s ruling is inadmissible because Mr. Souk was speculating and lacked personal knowledge. A.2962-2966. He had long since departed the State’s Attorney’s Office to assume a judicial role and was not consulted about dropping the charges. *Id.*

## **II. The Civil Conspiracy Claim Must Proceed to Trial.**

The defendants’ parallel malfeasance provides the strongest evidence of conspiracy. Freesmeyer lied to the grand jury, manipulated time trials, and concealed exculpatory evidence. Zayas let Mr. Beaman get arrested even though he knew the case was shoddy and incomplete. Whether Warner hid the Murray polygraph presents a genuine issue of fact, as the federal district court recognized. Taking these facts as true, it would be an extraordinary coincidence if the defendants all decided in solitude to cook the evidence in a way that would nail Alan Beaman, a college student with an alibi that placed him 125 miles from the scene. This claim, too, must go to a jury.

The intra-corporate conspiracy doctrine does not bar this claim. “Courts have recognized two exceptions to the Illinois intracorporate conspiracy doctrine: (1) a conspirator acts out of self-interest rather than in the interest of the principal; and (2) when the scope of the conspirators act beyond the scope of their official duties.” *Whitley v. Taylor Bean & Whitacker Mortg. Corp.*, 607 F. Supp. 2d 885, 897 n.5 (N.D. Ill. 2009) (citation omitted). Relying on these exceptions, courts routinely refuse to apply the doctrine to

police misconduct<sup>5</sup> This Court should do the same. Misconduct and evidence suppression neither benefit a police department nor fall within a detective's legitimate duties.

### **III. The Remaining Claims Must Proceed to Trial.**

Plaintiff did not waive his intentional infliction of emotional distress claim, as his appellate brief addressed it with argument and citation. A.3379. Defendants contend that this claim must rise or fall with the malicious prosecution claim, Def. Br. 46-47, and plaintiff agrees. The same holds for the respondeat superior and indemnification claims—they should be reinstated with the malicious prosecution claim.

### **IV. Conclusion**

The Court should reverse the appellate court and remand this case for trial.

Respectfully submitted,

**ALAN BEAMAN**

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<sup>5</sup> See *Newsome v. James*, No. 96 C 7680, 2000 WL 528475, at \*15 (N.D. Ill. Apr. 26, 2000); *Emery v. Northeast Illinois Regional Commuter R.R. Corp.*, No. 02 C 9303, 2003 WL 22176077, at \*4 (N.D. Ill. Sept. 18, 2003); *Hobley v. Burge*, No. 03 C 3678, 2004 WL 1243929, at \*11 (N.D. Ill. June 3, 2004); *Johnson v. Village of Maywood*, No. 12 C 3014, 2012 WL 5862756, at \*3 (N.D. Ill. Nov. 19, 2012); *Salto v. Mercado*, No. 96 C 7168, 1997 WL 222874, at \*1-2 (N.D. Ill. Apr. 24, 1997); *Northen v. City of Chicago*, No. 93 C 7013, 1999 WL 342441, at \*4 (N.D. Ill. May 17, 1999); *Cannon v. Burge*, No. 05 C 2192, 2006 WL 273544, at \*15 (N.D. Ill. Feb. 2, 2006).

IN THE SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	
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	)	
Plaintiff-Appellant,	)	On Appeal from the
	)	Appellate Court of Illinois,
v.	)	Fourth Judicial District,
	)	No. 4-16-0527
	)	
TIM FREESMEYER, Former Normal	)	There Heard on Appeal from
Police Detective; DAVE WARNER,	)	the Circuit Court of McLean County,
Former Normal Police Detective;	)	Illinois, No. 14 L 51
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

**CERTIFICATE OF COMPLIANCE**

I, David M. Shapiro, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 20 pages.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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Case No. 122654

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FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

**NOTICE OF FILING**

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PLEASE TAKE NOTICE that on June 12, 2018, the undersigned served and filed by electronic means the REPLY BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701.

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Former Normal Police Detective;	)
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Police Lieutenant;	)
and TOWN OF NORMAL, ILLINOIS,	)
	)
Defendants-Appellees.	)

**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that on June 12, 2018, the foregoing REPLY BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN were filed by electronic means with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701. I further certify that the same were served by electronic transmission on:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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No. 4-16-0527

**IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT**

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ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

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Appeal from the Circuit Court of McLean County, Illinois  
Eleventh Judicial Circuit, No. 14 L 51  
The Honorable Richard L. Broch, Judge Presiding

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**APPELLANT'S BRIEF ON REMAND**

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**TABLE OF POINTS AND AUTHORITIES**

**NATURE OF THE CASE** ..... 1

*People v. Beaman*, 229 Ill. 2d 56 (2008) .....1

*Swick v. Liautaud*, 169 Ill. 2d 504 (1996).....1

*Beaman v. Freesmeyer*, 2017 IL App (4th) 160527 .....1

*Beaman v. Freesmeyer*, 2019 IL 122654 .....2

**ISSUES PRESENTED FOR REVIEW**..... 2

*Beaman v. Freesmeyer*, 2019 IL 122654 .....2

**STATEMENT OF FACTS**..... 3

**A. Introduction and Summary** ..... 3

**B. The Murder** ..... 4

**C. A Witness Makes a Guess, and Freesmeyer Targets Beaman** ..... 4

**D. Alan Beaman and Jennifer Lockmiller**..... 5

*People v. Beaman*, 229 Ill. 2d 56 (2008) .....6

**E. Suspects Ignored** ..... 6

*Beaman v. Freesmeyer*, 2017 IL App (4th) 160527 .....8

**F. Warner Hides Evidence**..... 9

**G. Attempts To Obtain a Confession Fail**..... 10

**H. No Physical or Eyewitness Evidence** ..... 11

**I. Freesmeyer Manipulates Time Trials** ..... 11

**J. Defendants Ignore a Witness who Exonerates Beaman** ..... 14

**K. The Decision To Arrest Beaman**..... 15

*Beaman v. Freesmeyer*, 2017 IL App (4th) 160527 .....16

**L. Beaman Arrested: “I Think We Needed To Work on it Some More”**..... 17

**M. Freesmeyer Delivers the Indictment and Conviction** ..... 17

**N. Alan Beaman Clears His Name** ..... 18

*People v. Beaman*, 229 Ill. 2d 56 (2008) .....18, 19

*People v. Morris*, 219 Ill. 2d 373 (2006) .....19

*Chicago & A.R. Co. v. Keegan*, 152 Ill. 413 (1894).....19

**O. Procedural History: Federal Litigation** ..... 20

*Beaman v. Souk*, 7 F. Supp. 3d 805 (C.D. Ill. 2014).....20, 21

<i>Beaman v. Freesmeyer</i> , 776 F.3d 500 (7th Cir. 2015).....	20, 21
42 U.S.C. § 1983.....	21
<b>P. Procedural History: The Instant Case</b> .....	21
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	22
<i>Gilbert v. Emmons</i> , 42 Ill. 143 (1866) .....	22
<b>ARGUMENT</b> .....	22
<b>A. Summary of Argument</b> .....	22
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	22, 23
<b>B. Standard of Review</b> .....	24
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	24
<i>Jackson v. TLC Assocs., Inc.</i> , 185 Ill. 2d 418 (1998).....	24
<b>C. The Malicious Prosecution Claim Should Proceed to a Trial     on the Merits</b> .....	24
<b>1. Commencement or Continuance Prong: A Reasonable Juror Could         Find That The Defendants Caused the Malicious Prosecution of Alan         Beaman</b> .....	24
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	24, 25, 26, 27
<i>Evans v. Shannon</i> , 201 Ill. 2d 424 (2002).....	25
<i>Lee v. Chicago Transit Auth.</i> , 152 Ill. 2d 432 (1992) .....	25
<i>French v. City of Springfield</i> , 65 Ill. 2d 74 (1976) .....	25
<i>Ney v. Yellow Cab Co.</i> , 2 Ill. 2d 74 (1954) .....	25
<i>Davis v. Marathon Oil Co.</i> , 64 Ill. 2d 380 (1976) .....	25
<i>Neering v. Illinois Cent. R. Co.</i> , 383 Ill. 366 (1943).....	25
<i>Jefferson v. City of Chicago</i> , 269 Ill. App. 3d 672 (1995).....	25
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	27, 28, 31, 32
<i>Beaman v. Souk</i> , 7 F. Supp. 3d 805 (C.D. Ill. 2014).....	28, 30
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	29, 30, 31
<i>People v. Beaman</i> , 368 Ill. App. 3d 759 (4th Dist. 2006).....	29
<i>Beaman v. Freesmeyer</i> , 776 F.3d 500 (7th Cir. 2015).....	32
<i>Price v. Philip Morris, Inc.</i> , 219 Ill. 2d 182 (2005).....	32
<i>Thacker v. UNR Industries, Inc.</i> , 151 Ill. 2d 343 (1992) .....	32, 33
725 ILCS 5/111-2(a).....	33

725 ILCS 5/111-2(b).....	33
725 ILCS 5/111-3(b).....	33
<i>McGee v. City of Chicago</i> , 2012 IL App (1st) 111084.....	33
<i>Logan v. City of Chicago</i> , 891 F. Supp. 2d 897 (N.D. Ill. 2012).....	33
<i>Grayson v. City of Aurora</i> , 157 F. Supp. 3d 725 (N.D. Ill. 2016) .....	33
<i>Sanders v. City of Chicago Heights</i> , No. 13 C 0221, 2014 WL 5801181 (N.D. Ill. Nov. 7, 2014).....	33
<i>Aguirre v. City of Chicago</i> , 382 Ill. App. 3d 89 (1st Dist. 2008).....	33
<i>Jimenez v. City of Chicago</i> , 877 F. Supp. 2d 649 (N.D. Ill. 2012), <i>aff'd</i> , 732 F.3d 710 (7th Cir. 2013) .....	33
<i>Porter v. City of Chicago</i> , 393 Ill. App. 3d 855 (2009).....	33
<i>Gauger v. Hendle</i> , 2011 IL App (2d) 100316.....	33
<i>Wilson v. Baptiste</i> , No. 13 CV 07845, 2016 WL 521000 (N.D. Ill. Feb. 10, 2016).....	33
<i>Reno v. City of Chicago</i> , No. 10 C 6114, 2012 WL 2368409 (N.D. Ill. June 21, 2012).....	33
<i>Chagolla v. City of Chicago</i> , No. 07 C 4557, 2012 WL 403920 (N.D. Ill. Feb. 8, 2012) .....	33
<i>Lyons v. Vill. of Woodridge</i> , No. 08 C 5063, 2011 WL 2292299 (N.D. Ill. June 8, 2011).....	33
<i>Turner v. Roesner</i> , 193 Ill. App. 3d 482 (2d Dist. 1990).....	33
<i>Espinoza v. Elgin, Joliet and E. Ry.</i> , 165 Ill. 2d 107 (1995).....	33
<i>Krywin v. Chicago Transit Auth.</i> , 238 Ill. 2d 215 (2010).....	33
<i>Abrams v. City of Chicago</i> , 211 Ill. 2d 251 (2004).....	33
<i>First Springfield Bank &amp; Trust v. Galman</i> , 188 Ill. 2d 252 (1999) .....	34
<i>City of Chicago v. Beretta U.S.A. Corp.</i> , 213 Ill. 2d 351 (2004).....	34
<i>Bentley v. Saunemin Tp.</i> , 83 Ill. 2d 10 (1980).....	34
<i>Merlo v. Public Service Co. of Northern Illinois</i> , 381 Ill. 300 (1942).....	34
<b>2. Absence of Probable Cause Prong: A Reasonable Juror Could Find that Defendants Lacked Probable Cause To Arrest Beaman for Murder. ....</b>	
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	35, 41
<i>Seymour v. Collins</i> , 2015 IL 118432 .....	35
<i>Carney v. Union Pacific R. Co.</i> , 2016 IL 118984.....	35

<i>Frye v. O’Neill</i> , 166 Ill. App. 3d 963 (4th Dist. 1988) .....	35
<i>Skorupa v. Guzick</i> , 2015 IL App (1st) 133082-U .....	35
<i>Fabiano v. City of Palos Hills</i> , 336 Ill. App. 3d 635 (1st Dist. 2002) .....	35
<i>Maxwell v. City of Indianapolis</i> , 998 F.2d 431 (7th Cir. 1993).....	35
<i>People v. Shook</i> , 35 Ill. 2d 597 (1966).....	36
<i>Todd W. Musburger, Ltd. v. Meier</i> , 394 Ill. App. 3d 781 (1st Dist. 2009).....	36
<b>3. Malice Prong: A Reasonable Juror Could Infer Malice from the Defendants’ Conduct.</b> .....	
	41
<i>Hardin v. Gouveneur</i> , 69 Ill. 140 (1873) .....	41
<i>Murphy v. Larson</i> , 77 Ill. 172 (1875).....	41
<i>Mack v. First Sec. Bank of Chicago</i> , 158 Ill. App. 3d 497 (1st Dist. 1987) .....	41
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	42
<i>Frye v. O’Neill</i> , 166 Ill. App. 3d 963 (4th Dist. 1988) .....	44
<i>Beaman v. Souk</i> , 7 F. Supp. 3d 805 (C.D. Ill. 2014).....	44
<b>4. Favorable Termination Prong: The Unanimous Reversal of Beaman’s Conviction, the Abandonment of Charges, the Certificate of Innocence, and the Governor’s Pardon Demonstrate Favorable Termination.</b> .....	
	45
<i>People v. Beaman</i> , 229 Ill. 2d 56 (2008) .....	45
<i>Rich v. Baldwin</i> , 133 Ill. App. 3d 712 (5th Dist. 1985) .....	45
<i>Kluppelberg v. Burge</i> , 84 F. Supp. 3d 741 (N.D. Ill. 2015).....	45
<i>Walden v. City of Chicago</i> , 391 F. Supp. 2d 660 (N.D. Ill. 2005).....	46
<b>D. Beaman’s Remaining Claims Should Proceed to Trial.</b> .....	
	46
<b>1. The Intentional Infliction of Emotional Distress Claim Should Proceed to Trial.</b> .....	
	47
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	47
<i>Vancura v. Katris</i> , 238 Ill. 2d. 352 (2010).....	47
<i>Carrocia v. Anderson</i> , 249 F. Supp. 2d 1016 (N.D. Ill. 2003) .....	48
<i>Treece v. Vill. of Naperville</i> , 903 F. Supp. 1251 (N.D. Ill. 1995), <i>aff’d</i> , 213 F.3d 360 (7th Cir. 2000) .....	48
<i>Padilla v. City of Chicago</i> , 932 F. Supp. 2d 907 (N.D. Ill. 2013) .....	48
<i>Wallace v. City of Zion</i> , No. 11 C 2859, 2011 WL 3205495 (N.D. Ill. July 28, 2011).....	48

<i>Fox v. Tomczak</i> , No. 04 C 7309, 2006 WL 1157466 (N.D. Ill. Apr. 26, 2006) .....	48
<i>McDonald v. Vill. of Winnetka</i> , No. 00 C 3199, 2001 WL 477148 (N.D. Ill. May 3, 2001) .....	48
<i>McGrath v. Fahey</i> , 126 Ill. 2d 78 (1988).....	48
<b>2. The Civil Conspiracy Claim Should Proceed to Trial.....</b>	49
<i>Beaman v. Freesmeyer</i> , 2017 IL App (4th) 160527 .....	49
<i>Rosee v. Chicago Bd. Of Trade</i> , 43 Ill. App. 3d 203 (1st Dist. 1976) .....	49
<i>People v. Small</i> , 319 Ill. 437 (1925) .....	49
<i>Pearce v. Thiry</i> , No. CIV.A.08 C 4483, 2009 WL 3172148 (N.D. Ill. Oct. 1, 2009) .....	50
<i>Newsome v. James</i> , No. 96 C 7680, 2000 WL 528475 (N.D. Ill. Apr. 26, 2000) .....	50
<i>Rainey v. City of Chicago</i> , No. 10 C 07506, 2013 WL 941968 (N.D. Ill. Mar. 11, 2013).....	50
<b>3. The Respondeat Superior and Indemnification Claims Should Proceed to Trial.....</b>	50
<b>CONCLUSION .....</b>	50

## NATURE OF THE CASE

The wrongful conviction of Alan Wayne Beaman is a stain on the history of Illinois. In the wake of unanimous Supreme Court decisions in Beaman's favor, these proceedings will decide whether the men who caused that conviction through a dishonest and biased investigation face a trial.

This Court is familiar with the criminal case against Beaman, which resulted in his wrongful conviction and incarceration for over a dozen years. The Supreme Court reversed the conviction unanimously in 2008, finding that the State hid evidence and underscoring "the tenuous nature of the circumstantial evidence against [Beaman]." *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). The prosecution then dropped all charges, Beaman won a certificate of innocence based on DNA evidence, and the governor pardoned him, noting his innocence. Appendix ("A.") 340-42, 2961, 3377.

Beaman brought this suit, sounding principally in malicious prosecution, and named as defendants the detectives responsible for his wrongful conviction. A.308-37. The tort consists of five elements: (1) commencement or continuance of an original criminal or civil judicial proceeding by the defendant; (2) termination of the proceeding in favor of the plaintiff; (3) absence of probable cause for such proceeding; (4) malice; and (5) damages resulting to the plaintiff. *Swick v. Liautaud*, 169 Ill. 2d 504, 512 (1996).

The circuit court granted summary judgment against Beaman under the first four elements. A.27-33. This Court affirmed under the commencement or continuance element, applying the pressure, influence, or misstatement test to this prong. *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527, ¶ 58. This Court found as a matter of law that the defendants did not pressure, influence, or mislead the prosecutors. *Id.* ¶¶ 60-72.

The Supreme Court unanimously reversed and remanded, holding that this Court erred in applying the pressure, influence, or misstatement test and instructing that on remand, “the appellate court must examine whether the defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants played a significant role in Beaman’s prosecution.” *Beaman v. Freesmeyer*, 2019 IL 122654, ¶ 47.

### **ISSUES PRESENTED FOR REVIEW**

The issues presented for review concern the first four elements of the malicious prosecution tort:

1. Commencement or continuance: Could a reasonable juror find that “defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding” by “play[ing] a significant role in Beaman’s prosecution[?]” *Beaman*, 2019 IL 122654, ¶ 47.

2. Absence of probable cause: Does probable cause against Beaman present an issue for the jury given the lack of evidence against him, his lack of opportunity to commit a murder 130 miles from his home, and the existence of more viable suspects?

3. Malice: Does the malice of the defendants present an issue for the jury where they immediately selected Beaman as the killer, hid evidence, and conducted a biased investigation?

4. Favorable termination: Did the proceedings against Beaman conclude in his favor, where the Supreme Court unanimously vacated his conviction, he won a certificate of innocence, and the governor pardoned him on the basis of innocence?

## STATEMENT OF FACTS

### A. Introduction and Summary

As the summer of 1993 gave way to fall, Alan Beaman was home in Rockford, where he spent the final weeks of the summer catching up with childhood friends, working nights at his uncle's grocery store, singing and playing guitar at his family's church, and preparing to start his senior year at Illinois Wesleyan University. A.951-52, 2900. On August 28, Jennifer Lockmiller, Beaman's former girlfriend, was found dead in her apartment in Normal, some 130 miles away. A.38.

Defendant Timothy Freesmeyer, a detective in the Normal Police Department, immediately selected Beaman as the primary suspect. A.1576. Aided by Defendants David Warner and Frank Zayas, Freesmeyer conducted an investigation to reach a predetermined result: Beaman did it. *See infra* at 4-5, 10-14. The defendants misled the grand jury, hid a polygraph report inculcating a steroid-abusing drug dealer who beat women, manipulated driving trials to discredit Beaman's alibi, brushed aside exculpatory evidence, and refused to conduct a serious investigation of the viable suspects. *See infra* at 6-11,17-18.

It worked. Freesmeyer "solved" the murder of a college student in a small town and testified as the prosecution's star witness at trial. A.2971, 2975. He walked out of the Lockmiller case with a sergeant's chevrons and a glowing recommendation from the lead prosecutor, and he now runs a law enforcement consulting business. A.1409-10, 2971, 3207. Meanwhile, the man who killed and raped Ms. Lockmiller remains on the streets. Alan Beaman—slight, scrawny, and innocent—spent nearly 13 years in prison, while his friends completed their education, married their spouses, and raised their children.

## **B. The Murder**

Jennifer Lockmiller was last seen alive at noon on August 25, 1993. A.46-47. Three days later, her body was found in the bedroom of her apartment. A.38. Her shirt was pulled up exposing her breasts, her shorts and underwear were pulled down, a pair of scissors protruded from her chest, and an alarm clock cord was tied around her neck. A.38, 41.

## **C. A Witness Makes a Guess, and Freesmeyer Targets Beaman**

On Day One of the investigation, Defendant Freesmeyer, who was to become the lead investigator in the case, selected Beaman as the primary suspect. A.1576. Morgan Keefe, an acquaintance of the victim, had discovered the body and told the police Beaman might be the killer, though she had no personal knowledge of the crime. A.1374. She was, in her words, “guessing.” A.1374.

On the first day of the investigation, no alibi had been investigated, there were no eyewitness accounts, no physical evidence linked Beaman to the crime, and the autopsy had not been completed. A.3213, 3305-07. The crime scene suggested a killer of considerable strength and power; Beaman was thin and small. A.1360, 3221-22.

Lockmiller lived on a busy thoroughfare in a transient college town; this produced, in the words of Defendant Zayas, the overall head of the detective division, “an open case” with “so many possibilities.” A.1353. The victim might have been killed by an intimate partner. Or a man she had recently met. A.1716-18, 1723-25, 1731, 1733. Or a would-be burglar she discovered in the apartment. A.1358-62. Zayas summed it up:

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

A.1353.

The scene suggested a stranger because Lockmiller's apartment, usually tidy, was in disarray. A.1359, 1372-73. Someone appeared to have rummaged through the closet, A.1359, left food and dishes out on the kitchen counter, and tossed a garbage bag on the living room couch. A.72-73, 1359-60, 1372-73, 1594-95. One of Lockmiller's earrings was on the floor near the door, and a shoe was near the bedroom. A.1360. The scene suggested that the assailant attacked Lockmiller at the entry to her apartment, overpowered her, forced her into the bedroom, raped her, and killed her. A.1360.

Lockmiller encountered a cast of potential killers through excessive drinking and heroin use. A.1288, 1292. A new paramour had moved in with her two or three weeks before the murder. A.1727-28. She had broken up with another man who wanted her back. The two planned to see each other two days after the murder. A.1729-30.

Late at night on the first day of the investigation, Beaman agreed to a lengthy interview by two detectives, voluntarily accompanied them to a police station, agreed to have the interview taped, declared his innocence throughout the interview, and discontinued the interview only when it became highly accusatory. A.2900-48.

None of this mattered. Freesmeyer admitted that, within hours of the discovery of the body, he had already designated Alan Beaman as the primary suspect and likely killer. A.1576.

#### **D. Alan Beaman and Jennifer Lockmiller**

Alan Beaman grew up in Rockford in a devout Methodist family. A.948-51. His father worked as an engineer. A.944. His mother taught math at the local high school. A.943. He was in the high school marching band. A. 978. Like his parents, Beaman was active in the local Methodist parish, where he played guitar for the youth group. A.948-

51. A student at Illinois Wesleyan University in Normal, A.355, he had no criminal history.

Beaman had ended his romantic relationship with Lockmiller over a month before the murder. A.2951-52. The relationship was unhappy, while it lasted. Lockmiller was intimate with other men, including Michael Swaine, Beaman's roommate and close friend. A.1752, 3314-15. The couple fought. Beaman displayed temper more than once, raising his voice at Lockmiller and, on two occasions when she was being unfaithful, kicking open the door to her apartment. A.1752, 3314-16. There was no indication that Beaman ever directed violence at any person, and police were informed that he was "not physical." A.2950; *Beaman*, 229 Ill. 2d at 78–79 (noting that "the State established that petitioner had been violent toward objects, but not people").

A few days before her death, Lockmiller called Beaman many times, trying to restart their relationship. A.1044, 1046-48. Beaman refused. A.1046-48. He had begun seeing someone else. A.1145.

### **E. Suspects Ignored**

The defendants decided to ignore every avenue but one—the murderer was an intimate partner. A.3242. They did not bother to find out whether other burglaries or sexual assaults had been reported in the area, A.3243, 3246, or to interview all of the people Lockmiller had been in contact with in the days and hours prior to her death, A.1650-51, 2584.

The defendants disregarded other potential suspects. While they confirmed alibis for two suspects, Stacey Gates and Michael Swaine, they ignored the rest. A.3231, 3242. As one example of the many potential suspects, Lockmiller flirted with and rejected several

men on August 21, four days before the murder, when she drank at various bars. At one of the bars, Spanky's, Lockmiller met a long-haired stranger. A.1716-17. Lockmiller, described by her friend as "the queen of scamming drinks off guys," flirted with the stranger, and then "kind of walked off." A.1723. This man called Lockmiller two days before the murder. He asked Lockmiller on a date and was rebuffed. A.1725, 1731. But this man kept calling her. A.1733. After Lockmiller and her friends left Spanky's and were en route to another bar, they encountered two other men, one of whom gave Lockmiller his phone number, writing it on a piece of paper with lipstick that he borrowed from Lockmiller's friend. A.1717-18, 1725. Lockmiller threw the piece of paper away. A.1725. On the day before the murder, one of Lockmiller's friends encountered these two men again. A.1718. They asked why Lockmiller had not called them, and told Lockmiller's friend to have Lockmiller call them. A.1718. Investigators did not attempt to locate these potential suspects. A.1653-54, 2867-70.

An even more likely suspect was John Murray, who had an on-again, off-again sexual relationship with Lockmiller and was seeking to rekindle the relationship when she was killed. A.1733, 1752, 1757, 1764-75. Murray bragged to police: "[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me." A.1752.

The crime scene suggested that the murder would have required a person who, unlike Beaman, was of "considerable strength and power." A.1360. Murray was a frightening, physically imposing man. A.1773, 1775, 1777 (stating that Murray "was big. He was big and long, curly dark hair and just—I don't know how to say it more than he was kind of a

scary person”; describing Murray as “someone that could be explosive in his anger”; stating that Murray was “physically large” and “scary”).

Murray was a drug dealer, and he sold drugs to Lockmiller. A.1795-96. In fact, she owed him money for drugs at the time of her death. A.1795. Although Murray’s story was that Lockmiller owed him approximately \$20, Detective Daniels, a member of the investigative team, thought that she might have owed Murray more money for drugs. A.2348-49. This could have added to Murray’s motive to kill her. A.1824, 2348-49.

The investigators learned that Murray beat women. A.1729-30. On October 7, 1994, Murray beat his girlfriend, Deborah Mackoway, pinning her to the floor and elbowing her repeatedly in the chest. A.2544. The night before, Murray had grabbed her and bruised her. A.2545. He beat her, she reported, “on a continual basis.” A.2543. Murray abused steroids both before and after the Lockmiller murder, and these drugs made him violent and erratic. A.2558, 2559, 2547. Murray had been using steroids (and cocaine) in 1993, the year Lockmiller was killed. A.2558-59.<sup>1</sup> In 1994, Murray was again experimenting with street steroid injections, making his behavior “unexplainable,” as Mackoway put it. A.2547. He gave her a black eye while on the drugs. A.2547. Murray was violent toward other women as well. He slapped a different girlfriend, and may have abused yet a third. A.1773, 2561.

During the investigation, Murray lied to detectives about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he left Normal and drove home at 3:00 p.m. on August 24, the day before

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<sup>1</sup> This Court’s prior opinion incorrectly states: “Murray began taking steroids in January 1994 and he had begun acting erratically.” *Beaman*, 2017 IL App (4th) 160527, ¶ 14. In fact, police reports show that Murray was also taking steroids in 1993, before the murder. A.2558-59.

the murder. A.1741. Mackoway, however, told investigators that Murray did not leave town until after 4:20 p.m. on *August 25*, the day of the murder. A.2563. Furthermore, no one could account for Murray's whereabouts on August 25 between when Mackoway left for work in the morning and 2 p.m. A.2563-64. Murray also lied to investigators about several other matters, including the fact that he sold Lockmiller drugs, A.1746, 1795-96, drove over to her apartment to collect a drug debt shortly before she was killed, A.1738-40, 1791, and was having sex with her while she was dating Beaman (not just "talking," as Murray originally claimed). A.1744, 1752, 2347-48.

Murray refused to comply with a polygrapher's instructions during a lie detector test about whether he murdered Jennifer Lockmiller. The polygrapher reported: "After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory." A.2586. During his deposition in this case, Murray refused to answer any questions about his role in the Lockmiller murder, invoking the Fifth Amendment. A.1769-70.

#### **F. Warner Hides Evidence**

The Murray polygraph report was concealed from the lead prosecutor, James Souk. A.3268-69. Defendant Warner received the report from the polygrapher, and was the last person to have the report before it disappeared. A.2744-45. Warner claims to have handed the Murray polygraph report to Detective Daniels, but Daniels has no recollection of it. A.2239, 2477-78, 2535, 2744-45. Warner's story that he gave the report to Daniels (and no one else) violates the three-prong policy he was trained to follow upon receipt of such a report: (1) ensure that the head of the detective division received a copy, (2) submit the report to central records, and (3) disseminate copies to all investigators on

the case. A.1354-55. Warner failed to perform all three of these mandatory steps. A.2744-45.

Zayas testified that the polygraph report would have been a “red flag” to the prosecutors or defense attorneys had it not been concealed from them. A.3402-03. Daniels agreed that “Murray’s noncooperation in the polygraph and failure to schedule a repeat polygraph, that as well would be important information for anybody who was evaluating Murray as a possible suspect.” A.2360. Souk himself testified:

And certainly I would have been interested in what the polygrapher had to say or what had happened. It’s a strange report. It’s different than any I think I have ever seen in terms of apparently didn’t get through the entire process. So it’s not an opinion that the guy was lying, it’s not even inconclusive. It’s an incomplete. *I would have found it of interest and asked some questions* I think, yeah.

...

A: . . . I would have asked some questions and looked at it more, and, you know, polygraph evidence, while totally inadmissible, is *useful for investigative purposes*. In fact, we used [other polygraph evidence] in this case for investigative purposes.

A.3422-23 (emphasis added).

### **G. Attempts To Obtain a Confession Fail**

Defendants tried several times to obtain an incriminating admission from Beaman, all to no avail. A.1305-06, 1308-11, 1320, 1326, 1328-29, 1334-35. Freesmeyer spoke with Beaman many times during the nine-month investigation of the Lockmiller homicide, often while wearing a wire. A.1320, 1326, 1328-29, 1334-35. The defendants convinced Beaman’s friend and roommate to wear a wire and engage Beaman in two separate conversations about the murder. A.1305-06, 1308-11, 2224-27, 3328-44, 3345-54, 3320-21, 3322-23. Beaman made no incriminating statements. He also maintained his innocence over a series of interrogations in which defendants insisted he was the killer.

A.1316, 2613-14, 2900-48. Freesmeyer even threatened Beaman with the death penalty if he refused to confess. A.1318. None of it caused Beaman to waiver.

#### **H. No Physical or Eyewitness Evidence**

No probative physical evidence connected Beaman to the crime. A.1356-57. Two of his fingerprints were found on the alarm clock at the crime scene, but that fact lacked evidentiary significance. A.1587, 2332-33, 2967, 2969, 3253, 3266. Beaman had repeatedly been an overnight visitor in Lockmiller's apartment and used the alarm clock. A.874-75, 953, 2332-33. Michael Swaine had also stayed overnight at Lockmiller's apartment and used the alarm clock. Four of Swaine's prints were found on the alarm clock, as well as an unidentified fingerprint. A.3324-25. No other physical evidence conceivably linked Beaman to the crime.<sup>2</sup>

Lacking serious evidence, the defendants turned to collecting stories from college students about Beaman's sometimes tumultuous relationship with Lockmiller. Beaman had yelled at her, been jealous, become angry over her infidelity, and called her crude names, A.1764, 3297, but no witness (and no other evidence) placed him in Normal, as opposed to Rockford, where he was home with his parents, on the day of the murder. A.3226.

#### **I. Freesmeyer Manipulates Time Trials**

Freesmeyer stuck with his Day One guess—Beaman did it—even when an alibi made that guess impossible. A.1576, 2620. A security video showed Beaman at his bank in Rockford, some 130 miles from Lockmiller's apartment, at 10:11 a.m. on the day of the

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<sup>2</sup> Two unidentified fingerprints were also discovered on the alarm clock. They were never run through a matching database, such as the FBI's Automated Fingerprint Identification System (AFIS)—not during the investigation, not to this day. *See* A.3176.

murder. A.1312. At 10:37 and 10:39 a.m., two calls were placed from the Beaman family residence to Beaman's youth minister. A.3285. When Beaman's mother returned home at approximately 2:15 p.m. that afternoon, Beaman was in his room asleep, with the family dog lying in the adjacent hallway. A.3271-78. It would have been impossible for Beaman to leave the family home in Rockford following the 10:39 a.m. call, drive the 130 miles to Normal, kill and rape Lockmiller, and return 130 miles to his bedroom prior to his mother's 2:15 p.m. return. A.2955-59.

Freesmeyer therefore set out to support a fanciful scenario in which Beaman did not make the calls. A.1339, 3219-20. Scrupulously adhering to speed limits and using a downtown route on city streets—not the “bypass route” used by locals—Freesmeyer purported to establish that Beaman did not have time to get home from the bank to make the calls. A.1339, 3219-20. On the other hand, taking the bypass route—even while never exceeding the speed limit—would have given Beaman ample time to make the calls. A.2958, 3219-20. In fact, Freesmeyer did a time trial using the bypass route, which proved this very point, even while he drove the entire route at 55 miles per hour on a four-lane interstate highway. A.3219-20. But he omitted the exculpatory time trial from his detailed police report and avoided telling the jury about it at trial. A.1339, 2648-50, 3070-71, 3427-28, 3430-32. Not so for the other time trial that suggested Beaman could not have made the calls. Freesmsyer recorded that in his report, and he let the jury know about it. A.1339, 3070-71. All told, Freesmeyer recorded at least 14 time trials but omitted only the exculpatory one. A. 1339, 1345-46.

No one other than Beaman could have made the calls. His father was undeniably at work. A.957. Plaintiff's mother, Carol Beaman, also stated that she did not make the

calls. A.3279. And she could not have made them. Records confirm that Carol Beaman signed her elderly mother in at the convalescence facility where she was a resident at 10 a.m. that morning, after taking her mother on an outing. A.2572-73. The facility was more than ten miles from the Beaman residence. A.955. Carol Beaman spent 20 to 30 minutes settling her mother back into her room and then went to a Walmart—which was directly across the street—where she shopped for school supplies and stood in a check-out line. A.2574-75, 2577-81, 3279-80. A receipt proved that Carol Beaman checked out of Walmart at 11:10 a.m., meaning that she could not have made the crucial 10:37 a.m. call because she was at the Walmart across town. A.2577. Beaman was the only remaining person with access to the phone. A.3280. Carol Beaman stated that she naturally went from the convalescence facility to the Walmart right across the street, but that did not fit with Freesmeyer’s theory that she went home in between the facility and the Walmart to call the youth minister. A.2576. Freesmeyer decided that she must have driven 10 miles home, made a call, and then driven ten miles back to the Walmart. A.2660.

Even assuming Beaman *did not* make the calls, committing the murder would have been nearly impossible. That scenario would have Beaman leaving the Rockford bank around 10:11, driving 130 miles to Lockmiller’s apartment in Normal, committing a rape and murder, driving 130 miles back to his family home in Rockford, and returning before his mother’s arrival at 2:15. In testing this scenario, Freesmeyer first observed the speed limit, but the trip took four hours and eleven minutes—more time than the four hours and four minutes between the bank video at 10:11 and Carol Beaman’s confirmation of Beaman’s presence home in Rockford at 2:15. A.1339. To discredit the alibi, Freesmeyer

then drove much faster, at an *average* speed of 75 miles per hour, 10 miles per hour over the posted speed limit. A.1345-46. Freesmeyer was able to make the trip in three hours and 45 minutes. A.1345-46. Beaman could not have coaxed his Ford Escort to travel at such a high average speed for well over 100 miles: the car frequently broke down, could not sustain high speeds, and was described by one passenger as a “piece of junk.” Even then, Beaman would have had but a 20-minute window to commit the rape and murder. A.1345-46, 1789-90, 3284-84. This scenario also requires Beaman’s mother to have placed the calls, meaning she left the convalescence facility, drove 10 miles home to make two telephone calls, drove 10 miles back to Walmart (directly across from the convalescence facility), and then drove home again.

#### **J. Defendants Ignore a Witness who Exonerates Beaman**

In addition to dismissing Beaman’s alibi, the defendants ignored critical evidence that exculpated him. David Singley lived in the second-floor apartment directly across the hall from Lockmiller. Singley told the investigators that, as he arrived home from class at approximately 2 p.m. on the day of the murder, he heard someone quickly slam shut the door to Lockmiller’s apartment. A.3300-01, 3304. He also heard the stereo on in Lockmiller’s apartment. A.3300-01, 3304. About 10 minutes later, Singley heard Lockmiller’s door open and shut again, followed by the sound of footsteps going down the stairs and the outside door to the building being opened. A.3300-01, 3304. Singley’s information established either that Lockmiller was alive at 2 p.m. or, if she was already dead, that her killer was still present in the apartment. In either event, it would have been impossible for Beaman to kill Lockmiller. All agree that he was in Rockford, some 130 miles away, no later than 2:15 p.m. A.87.

## **K. The Decision To Arrest Beaman**

The defendants' investigation resulted in the arrest and indictment of Beaman. The prosecutors did not direct the defendants' handling of the investigation. A.1702-03. Freesmeyer does not recall whether Souk even made recommendations for the investigation prior to the charge. A.1442-43. Rather, it was the investigation that set the course of the prosecution. The State's Attorney, Charles Reynard, testified that the investigators "were furnishing us information as to what evidence they had uncovered during their investigation." A.3408. Reynard's opinions as to Beaman's guilt were "formed on the apprehension of evidence as it was reported to me back during the course of the investigation." A.3407. Souk testified that "there [were] several meetings of the people involved in this investigation, which included myself and a number of police officers would have been in on it." A.3420. Freesmeyer testified that he and Souk may have had as many as 50 contacts about the case before the decision to charge Beaman was made. A.1441.

The investigators and prosecutors held one of these meetings on May 16, 1994, and decided to charge Beaman. Souk testified the "purpose of the meeting" with the investigators was "to see if there was anything from the Normal Police Department to – that would have any impact on the decision, either, you know, pro or con as to whether he should be charged." A.3413. As one investigator put it, the focus of the meeting was "the case in general, the merits of the case." A.3411. According to Souk, the decision to charge Beaman reflected not only what was discussed at the meeting but the totality of the defendants' investigation:

Q: [The investigators'] input in effect was not just what they said at the May 16 meeting, their input included all the things that they'd

done in the investigation up till that point in time, their input into the charging decision; is that a fair summary?

A: Well, I think the totality of their investigation, plus whatever might have been said at the meeting was taken into account, yes.

A.3415.

There are conflicting accounts about whether everyone in attendance supported the decision to make the arrest. As this Court noted in its previous decision, Daniels's recollection is that "he suggested a list of investigative avenues to pursue before arresting [Beaman]," but that "Souk responded, 'I think we've got our guy' and stated, 'we went as far as we can with this case.'" *Beaman*, 2017 IL App (4th) 160527, ¶ 13. But the other attendees recall that the investigators voiced support at the meeting to arrest Beaman for murder. One investigator testified:

A: I believe the consensus was that he be arrested.

Q: Consensus of whom?

A: All those in attendance.

A.3411. Similarly, Freesmeyer was adamant that none of the investigators expressed any doubt at the meeting that Beaman should be arrested:

Q. Did anyone express doubts about arresting Mr. Beaman?

A. That I do remember. And, no, there was no hesitation in effecting the arrest of Mr. Beaman at that meeting.

Q. No one expressed any doubt whatsoever about arresting Mr. Beaman?

A. That is my recollection, sir.

...

A. That is my recollection. There was no doubt expressed in arresting Mr. Beaman.

A.1458-59. In particular, Freesmeyer denied that Daniels spoke up to oppose the arrest, stating that Daniels kept any doubts to himself: "My statement that there may have been doubts based on – this is *based on subsequent statements* that [Daniels] has made throughout this entire process that he may have had doubts at that meeting; however,

there was nothing raised at that meeting that said we should not arrest Alan Beaman for the murder of Jennifer Lockmiller.” A1462-63 (emphasis added). *See also* A.1461 (“I’m saying [Daniels] may have had doubt; but there was nothing expressed in that meeting that said we should not arrest Alan Beaman for the murder of Jennifer Lockmiller.”).

**L. Beaman Arrested: “I Think We Needed To Work on it Some More”**

Beaman was arrested in May 1994. A.1335. Five months later, Zayas admitted that that the evidence was still not sufficient for the case to be ready for prosecution:

Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?

A. No. I don’t think we had all the information needed at the time when I left.  
That was still in limbo.

....

A. I don’t think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.

A.1356.

**M. Freesmeyer Delivers the Indictment and Conviction**

Following Beaman’s arrest, Freesmeyer moved into the State’s Attorney’s Office and worked on the case full time through Beaman’s trial and conviction. A.2595. He was the principal witness before the grand jury and testified over the course of three days. A.3217, 3223. He lied about alternative suspects, particularly Murray, claiming that investigators had not “locate[d] any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller.” A.3218. The grand jury indicted Beaman.

At trial, Freesmeyer, now a sergeant, testified as the star witness for the prosecution over the course of two days. A.3217, 3223. Alan Beaman was convicted on April 1, 1995, a good day for Timothy Freesmeyer. As another investigator agreed, Freesmeyer

would garner the most credit for solving the case, and would have received the most blame if it went unsolved. A.1384. The prosecutor slapped Freesmeyer on the back in a letter to the Chief of Police: “Beyond any question in my mind, this case would not have been won without Tim Freesmeyer.” A.3207. Beaman was sentenced to 50 years in prison. This Court affirmed on direct appeal, over the vigorous dissent of Justice Cook, who found the evidence insufficient to prove guilt. No. 4–95–0396 (unpublished order under Supreme Court Rule 23) (Cook, J., dissenting).

#### **N. Alan Beaman Clears His Name**

The jury that convicted Beaman never heard the evidence against Murray. For that reason, the Supreme Court unanimously vacated the conviction in 2008. *People v. Beaman*, 229 Ill. 2d 56 (2008). The case against Beaman had fallen apart when his post-conviction lawyers unearthed evidence hidden from the defense that inculpated Murray. *Id.* at 66, 80. The Court divided the suppressed Murray evidence into four categories:

(1) John Doe [*i.e.*, Murray] failed to complete the polygraph examination; (2) Doe was charged with domestic battery and possession of marijuana with intent to deliver prior to petitioner’s trial; (3) Doe had physically abused his girlfriend on numerous prior occasions; and (4) Doe’s use of steroids had caused him to act erratically.

*Id.* at 74-75. The Court found that the suppressed polygraph evidence was important because it “would have bolstered a claim by petitioner that [Murray] was a viable suspect not only because the circumstances may be viewed as evasive, but also because the polygraph examiner indicated that Doe was specifically identified as a suspect.” *Id.* at 76. The Court noted that the evidence against Murray was especially critical given the weakness of the evidence against Beaman. *Id.* at 79. “It is clear,” the Court found, “that the evidence of petitioner’s opportunity to commit the murder is not as strong as that

against Doe.” *Id.* Indeed, Murray “had a clear opportunity to commit the offense. He lived approximately 1 ½ miles from Jennifer’s apartment and did not have any verification of his location before 1 p.m. on the day of the murder.” *Id.* at 80. Moreover, Murray lied about his alibi—he “gave a false alibi stating he left town the day before the murder. That false exculpatory statement could be used as probative evidence of consciousness of guilt.” *Id.* at 80–81. Finally, Murray had a “motive to commit the murder”—he wanted to rekindle his sexual relationship with Lockmiller, but she was entangled with another man. *Id.* at 80.

The paucity of incriminating evidence and the concealment of exculpatory evidence made the conviction a nullity: “We cannot have confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence.” *Id.* at 81.

After the Court’s unanimous ruling, the State’s Attorney’s Office dropped all charges against Beaman. A.2961. He then petitioned for a certificate of innocence. After DNA testing requested and directed by the State provided yet further evidence of Beaman’s innocence, A.3355-58, the State dropped its opposition to the petition, A.51. On April 29, 2013, Alan Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District. A.51-52. Even after the certificate of innocence, the Governor of Illinois granted a pardon to Beaman “based upon innocence as if no conviction.”<sup>3</sup>

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<sup>3</sup> The pardon (A.3377) is not in the circuit court record but is judicially noticeable. *People v. Morris*, 219 Ill. 2d 373, 394-95 (2006) (Karmeier, J., dissenting) (taking judicial notice of governor’s speech discussing commutations); *Chicago & A.R. Co. v. Keegan*, 152 Ill. 413, 416-17 (1894).

## O. Procedural History: Federal Litigation

Beaman brought a federal lawsuit against a group of defendants that includes those named in this case. *Beaman v. Souk*, 7 F. Supp. 3d 805 (C.D. Ill. 2014), *aff'd sub nom. Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015). Beaman's principal claim was that the defendants withheld exculpatory evidence under *Brady v. Maryland*. *Id.* at 820. The district court held that most of the suppressed exculpatory evidence was not actionable because the defendants provided it to the prosecutor, who enjoyed absolute immunity under federal law for his failure to disclose the *Brady* material. *Id.* at 826.

The Murray polygraph was different in three respects. First, the federal court found that a reasonable jury could conclude that Warner concealed the polygraph from the prosecution. *Id.* at 827. Second, the court held that suppression of the polygraph report would constitute a *Brady* violation even if the other exculpatory evidence had been turned over to the prosecutor. *Id.* at 830. The polygraph itself could have changed the course of the prosecution: "Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect." *Id.* at 830 n.8. Third, the court concluded that a reasonable jury could find the requisite intent—Warner buried the polygraph deliberately. *Id.* at 827. Specifically, the court found "sufficient evidence to support an . . . inference that [Warner] intentionally withheld the [polygraph report] from Souk." *Id.* The court noted that Warner, for "reasons unknown," violated department policy that required him to give a copy of the report to Zayas. *Id.* "A jury could infer from the failure to follow policy and the conflicting testimony that there was intentional suppression of the evidence by Warner, the only Defendant shown by the record to have possessed the polygraph report." *Id.*

Despite the genuine issue of material fact over Warner's deliberate suppression of the polygraph, the district court nonetheless granted summary judgment to Warner on the ground of qualified immunity, a doctrine that pertains to federal damages claims arising under 42 U.S.C. § 1983. *Id.* at 831. Although a jury could find that Warner violated the Constitution, he enjoyed qualified immunity because the right of a criminal defendant to receive polygraph reports incriminating alternative suspects had not yet been clearly established at the time Warner suppressed the evidence. *Id.*

In addition to the federal law claims for *Brady* violations, Beaman asserted state law claims for malicious prosecution, civil conspiracy, intentional infliction of emotional distress, respondeat superior, and indemnification. *Id.* at 811. Having dismissed the federal law claims, the court was divested of supplemental jurisdiction over the state law claims and dismissed them without prejudice, not reaching their merits. *Id.* at 831. The Seventh Circuit affirmed. *Beaman*, 776 F.3d at 503.

**P. Procedural History: The Instant Case**

Beaman brought the current action in the Circuit Court of McLean County in April 2014, pleading the state law claims that the federal court had dismissed without prejudice. A.308-37. He requested and was granted assignment of an out-of-circuit judge. The circuit court granted the defendants' motion for summary judgment, concluding that Beaman could not satisfy the commencement or continuance, lack of probable cause, malice, and favorable termination prongs. A.28-33. The circuit court dismissed the remaining claims as dependent on the malicious prosecution claim. *Id.*

Beaman appealed. This Court affirmed summary judgment on the commencement or continuance element of malicious prosecution, and did not address the circuit court's

other grounds for dismissing that claim. *Beaman*, 2017 IL App (4th) 160527, ¶ 50. This Court applied the pressure, influence, or misstatement test to the commencement or continuance prong, concluding that the defendants did not misrepresent the investigation to the prosecution or pressure or influence the State’s Attorneys. *Id.* ¶ 58.

The Supreme Court unanimously reversed and remanded, holding that this Court erred in applying the pressure, influence, or misstatement test. The Court instructed that on remand, “the appellate court must examine whether the defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants played a significant role in Beaman’s prosecution.” *Beaman*, 2019 IL 122654, ¶ 47. Building on its prior decision in *Gilbert v. Emmons*, 42 Ill. 143 (1866), the Supreme Court stated that “[i]f [a] defendant took some affirmative action to ‘advise and encourage the arrest’ that led to the prosecution, then the defendant could be liable.” *Id.* ¶ 36 (quoting *Gilbert*, 42 Ill. at 147). The Supreme Court recognized that investigators can cause malicious prosecutions because prosecutors necessarily rely on them: “This court has recognized that prosecutors ordinarily rely on police and other agencies to investigate criminal acts. Significantly, ‘it is the recognized practice that the State’s Attorney sensibly defers to the investigative duties of the police.’” *Id.* ¶ 43 (quoting *People v. Ringland*, 2017 IL 119484, ¶ 24).

## ARGUMENT

### A. Summary of Argument

The Supreme Court’s opinion underscores that “[s]ummary judgment is a drastic means of disposing of litigation.” *Beaman v. Freesmeyer*, 2019 IL 122654, ¶ 22. It was not warranted here. Applying the significant role test, a rational juror could find that the

defendants were a cause in fact and legal cause of Beaman's prosecution in at least three ways, individually or in combination. First, a rational juror could find that the defendants caused the prosecution by arbitrarily selecting Beaman as the killer on Day One and working backwards from there. Second, a rational juror could find that the defendants caused the prosecution by hiding the Murray polygraph from the State's Attorneys. Third, a rational juror could find that the Defendants caused the prosecution through other bad-faith misconduct, including misleading grand jury testimony and manipulated time trials.

It does not matter that the State's Attorneys made the ultimate decision to indict. The Supreme Court has now said so. *Beaman*, 2019 IL 122654, ¶ 43. Moreover, a rational juror could find that the prosecutors' decision to indict would not have occurred without the conduct and input of the defendants, who were responsible for the biased investigation. Because an injury often has more than one cause in fact, it is a false choice to suggest that either the prosecutors caused the charges or the investigators did. They both did. And legal cause is a question of foreseeability. A wrongful prosecution is an entirely foreseeable result of hiding evidence and conducting a biased investigation.

Turning to the other prongs of the malicious prosecution tort, the circuit court's reasoning is indefensible and its decision should be reversed. The court found probable cause to arrest Beaman as a matter of law without examining the record, which presented a thicket of disputed facts and inferences. Instead, the court simply incorporated the defendants' brief, finding probable cause "as specifically stated in paragraphs (a) through (p) of Defendants' Memorandum of Law." A.30-31. Next, the circuit court found no malice as a matter of law by ignoring the bias and misconduct that pervaded the investigation. Finally, the circuit court arrived at the remarkable conclusion that the

proceedings against Beaman did not terminate in his favor, even though the Supreme Court unanimously vacated his conviction, the State dropped all charges, Beaman won a certificate of innocence, and the Governor pardoned him on the basis of innocence.

Mr. Beaman's remaining claims (intentional infliction of emotional distress, conspiracy, respondeat superior, and indemnification) are intertwined with the malicious prosecution claim. The claims all rise or fall together and should be remanded for trial.

## **B. Standard of Review**

The Supreme Court's decision in this case underscores the drastic nature of a grant of summary judgment and the rigorous showing required of the movant: "Summary judgment is a *drastic means* of disposing of litigation and 'should be allowed only when the right of the moving party is clear and free from doubt.'" *Beaman*, 2019 IL 122654, ¶ 22 (emphasis added). Summary judgment must not be granted "where reasonable persons could draw divergent inferences from the undisputed material facts or where there is a dispute as to a material fact." *Id.* Courts must construe the record "strictly against the movant and liberally in favor of the opponent." *Id.* Appellate review is *de novo*. *Jackson v. TLC Assocs., Inc.*, 185 Ill. 2d 418, 424 (1998).

## **C. The Malicious Prosecution Claim Should Proceed to a Trial on the Merits.**

### **1. Commencement or Continuance Prong: A Reasonable Juror Could Find That The Defendants Caused the Malicious Prosecution of Alan Beaman.**

The Supreme Court instructed this Court to "examine whether the defendants' conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants played a significant role in Beaman's prosecution." *Beaman*, 2019 IL 122654, ¶ 47. The basis for causation in this case is simple: The defendants caused the malicious prosecution and wrongful conviction

of Alan Beaman by selecting him as their man on Day One, and then conducting a biased investigation and concealing evidence to reach the predetermined result. The prosecution of the wrong person was the natural and foreseeable result of the defendants' biased investigation and their concealment of evidence. But for their misconduct, the malicious prosecution would not have occurred.

It is well-settled that proximate cause is ordinarily a question of fact for the jury. “[P]roximate cause consists of two distinct elements: cause in fact and legal cause.” *Evans v. Shannon*, 201 Ill. 2d 424, 434 (2002). Both are “factual matters for the jury to decide.” *Lee v. Chicago Transit Auth.*, 152 Ill. 2d 432, 454 (1992).<sup>4</sup> In this case, causation is a jury issue because a rational juror could find that the biased investigation and concealment of evidence caused the prosecution in three ways described below, individually or in combination. At minimum, the “drastic remedy” of summary judgment was not permissible because “reasonable persons could draw divergent inferences” on the question of causation. *Beaman*, 2019 IL 122654, ¶ 22.

**a. A Rational Juror Could Find That The Investigation Ended with Charges Against Alan Beaman Because Defendants Selected Him As The Killer On Day One And Worked Backwards From There.**

As the Supreme Court recognized in this case, prosecutorial decisions about whom to charge with a crime are heavily influenced by the manner in which the police conduct the investigation: “This court has recognized that prosecutors ordinarily rely on police and other agencies to investigate criminal acts. Significantly, ‘it is the recognized practice that the State’s Attorney sensibly defers to the investigative duties of the police.’” *Beaman*,

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<sup>4</sup> See also *French v. City of Springfield*, 65 Ill. 2d 74, 79 (1976); *Ney v. Yellow Cab Co.*, 2 Ill. 2d 74, 84 (1954); *Davis v. Marathon Oil Co.*, 64 Ill. 2d 380, 395 (1976) (“What is the proximate cause of an injury is ordinarily a question of fact to be determined by a jury from a consideration of all of the evidence.”); *Neering v. Illinois Cent. R. Co.*, 383 Ill. 366, 381, (1943) (same); *Jefferson v. City of Chicago*, 269 Ill. App. 3d 672, 675 (1995).

2019 IL 122654, ¶ 43 (quoting *People v. Ringland*, 2017 IL 119484, ¶ 24). In this case, a rational juror could find that Beaman never would have been charged if the defendants had conducted a fair investigation. If there had been such an investigation, someone else could have been indicted, and the murderer could have been caught. For example, a reasonable juror could find that Beaman would not have been charged if the defendants examined Murray the way they examined Beaman—if they had bugged his conversations with friends, threatened him with the death penalty if he did not confess, interrogated his friends about every time he yelled at someone or made a crude remark, or, for that matter, investigated Murray’s history of beating women, abusing steroids, and selling drugs. “[L]iability for malicious prosecution ‘calls for a commonsense assessment’ of those persons who played a significant role in the criminal case.” *Beaman*, 2019 IL 122654, ¶ 45 (quoting Amicus Brief of Former State and Federal Prosecutors in Support of Appellant Alan Beaman). It is a matter of common sense that a skewed and malicious investigation may result in charging an innocent person.

The prosecutors made the final charging decision at the May 16, 1994 meeting with defendants, but their final control over the decision does not matter: “Contrary to the appellate court’s standard . . . this court established long ago . . . that a person can be liable for commencing or continuing a malicious prosecution even if that person does not ultimately wield prosecutorial power . . . .” *Beaman*, 2019 IL 122654, ¶ 43.

The decision to charge was the foreseeable result of the defendants’ biased investigation. The final meeting did not occur in a vacuum, as if unaffected by and unconnected to the investigation that preceded it. Freesmeyer had decided that Beaman would be arrested seven months before the meeting, when he told plaintiff he was “going

to be arrested for Jennifer’s death at one point or another.” A.1318. Souk and Freesmeyer discussed the investigation on as many as 50 occasions before the decision to charge Beaman was made at the May 16 meeting. A.1441. The charging decision reflected the “investigator’s input,” A.3405, and was based on the “evidence [the detectives] had uncovered during their investigation.” A.3408. The investigators’ input included “the totality of their investigation, plus whatever might have been said at the meeting.” A.3414. And the very “purpose of the meeting” was “to see if there was anything from the Normal Police Department to – that would have any impact on the decision, either, you know, pro or con as to whether he should be charged.” A.3413.

The decision at the meeting reflected a “consensus” of “[a]ll those in attendance,” not unilateral action by the prosecutors. A.3411. “There was no doubt expressed in arresting Mr. Beaman,” and “[n]o one raised objection to the arrest.” A.1459. Taking these accounts as true, a juror could find that the defendants’ role was “of so active and positive a character as to amount to advice and co-operation.” *Beaman*, 2019 IL 122654, ¶ 36. Daniels claims he challenged the decision to arrest Beaman at the final meeting and was shut down by Souk, *Beaman*, 2017 IL App (4th) 160527, ¶ 61, but other attendees disagree. *See supra* at 16. Viewing the facts in the light most favorable to Beaman, Daniels did not speak up and oppose the arrest, and this Court’s prior opinion erred by treating his account as definitive.<sup>5</sup>

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<sup>5</sup> *Beaman*, 2017 IL App (4th) 160527, ¶ 61 (“Plaintiff does not . . . identify any facts showing Freesmeyer pressured or exerted influence on the State’s Attorney and ASA’s decision to prosecute plaintiff. In fact, the evidence proves otherwise. Souk testified the decision was his. Daniels, who was present at the May 1994 meeting, supported that conclusion by showing Souk shut down any effort to leave the case open.”).

**b. A Rational Juror Could Find That Defendants Caused The Prosecution By Hiding The Murray Polygraph From The Prosecutors.**

The lead prosecutor testified that polygraph evidence is “useful for investigative purposes,” and that if he had known about the Murray polygraph, he would have “asked some questions and looked at it more.” A.3423. Even this may have been downplaying it. Knowing that he was immunized from liability, Souk was motivated to suggest that he had sole responsibility for the decision to prosecute and thereby protect the investigators who skewed the investigation and concealed the polygraph report.

This Court erred in its previous opinion by treating Souk’s claim that “Murray had no motive to kill Lockmiller” as undisputed and inferring from there that the polygraph would not have affected the charging decision because it “did not establish a motive.” *Beaman*, 2017 IL App (4th) 160527, ¶ 69. This Court’s conclusion conflicts directly with the federal district court’s analysis of the evidence on this very point: “Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Beaman v. Souk*, 7 F. Supp. 3d 805, 830 n.8 (C.D. Ill. 2014), *aff’d sub nom. Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015).<sup>6</sup>

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<sup>6</sup> This Court’s error in the previous opinion may in part reflect a misunderstanding of the federal district court’s decision. While the Illinois Supreme Court considered the Murray evidence in the aggregate, the federal court considered the polygraph *standing alone* on page 830 of its opinion. *See Beaman*, 7 F. Supp. 3d at 830. The federal court did so because the other Murray evidence, which had been disclosed to the prosecutors, was not relevant to whether Warner’s concealment of the Murray report from the prosecutors was material for *Brady* purposes. Having put the other Murray evidence to the side, the federal court concluded: “Plaintiff has provided sufficient evidence of a violation of his constitutional rights *for the failure to disclose the Murray polygraph to the prosecution*. Thus, the first inquiry in qualified immunity analysis is completed, and Plaintiff has shown facts that make out a violation of his due process right to the disclosure of *material exculpatory evidence*.” *Beaman*, 7 F. Supp. 3d at 830 (emphasis added).

It is hardly surprising that Souk might make misleading statements about the viability of other suspects given that he did just that in the criminal proceedings. *See People v. Beaman*, 229 Ill. 2d 56, 80 (2008) (noting that “that the State’s [closing] argument relied upon the assertion that all other potential suspects had been eliminated from consideration” in closing argument even though Beaman “could have established [Murray] as a strong alternative suspect” had the Murray evidence not been suppressed); *see also People v. Beaman*, 368 Ill. App. 3d 759, 775 (4th Dist. 2006) (Cook, J., dissenting) (stating that the prosecution “le[ft] the jury to believe no one else had the motive and opportunity”).

Moreover, every member of the Supreme Court perceived that Murray had a motive, which undercuts Souk’s claim that he—an experienced prosecutor—subjectively failed to grasp that reality. Lockmiller’s drug debt to Murray “could have been offered to support a motive to commit the murder.” *Beaman*, 229 Ill. 2d at 77. And Murray had a further motive: He gratified himself by harming women. *Id.* at 76 (evidence of harming women “supported an inference of [Murray’s] tendency to act violently toward others”). Thus, this Court was wrong to accept Souk’s self-serving statement that Murray had no motive and to infer from it that the polygraph report could not have changed the charging decision.

Moreover, those involved in the investigation recognized the polygraph’s importance. Zayas testified that the polygraph report would have been a “red flag” to the prosecutors or defense attorneys had it not been concealed. A.3403. Daniels agreed that “Murray’s noncooperation in the polygraph and failure to schedule a repeat polygraph, that as well would be important information for anybody who was evaluating Murray as a possible

suspect.” A.2360. The polygraph was critical evidence because “the circumstances of the polygraph examination indicate that [Murray] intentionally avoided the test. He did not comply with the polygraph examiner’s instructions during the first attempt and failed to cooperate in scheduling a second attempt.” *Beaman*, 229 Ill. 2d at 76.

In short, a rational juror could agree with the federal district court and conclude that if Souk received the polygraph report “he would no longer have agreed Murray was not a viable suspect.” *Beaman*, 7 F. Supp. 3d at 830 n.8. Even with a track record of downplaying alternative suspects in this case and every incentive to do so, Souk admitted that the hidden report would have been “useful for investigative purposes,” and he would have “asked some questions and looked at it more” had he even known about it. A.3423.

**c. A Rational Juror Could Find that Defendants Caused and Continued the Prosecution Through Bad-Faith Misconduct.**

A rational juror could find that defendants engaged in other misconduct instrumental to the prosecution. First, a reasonable juror could find that Freesmeyer misled the grand jury about other suspects with a motive to kill Lockmiller. A.115. Despite knowing the facts about John Murray that were withheld from the defense, Freesmeyer testified as follows:

Q. [O]ther than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had *any conceivable motive* to kill Jennifer Lockmiller?

A. No, not necessarily.

A.115. This was a serious and misleading concealment. By hiding Murray despite Murray’s motive to kill Lockmiller, Freesmeyer performed before the grand jury the very concealment that, when replicated by Souk at trial, rendered the conviction invalid. In its 2008 decision, the Supreme Court noted that “the State’s argument [at trial] relied upon

the assertion that all other potential suspects had been eliminated from consideration,” when in fact Beaman “could have argued that [Murray] had a motive to commit the murder” if the Murray evidence had not been concealed. *Beaman*, 229 Ill.2d at 80.<sup>7</sup>

A jury could also rely on Freesmeyer’s manipulation of the time trials as further evidence of misconduct. This Court’s previous opinion incorrectly stated, “there is no proof in the record Freesmeyer tainted or falsely reported the time trials.” *Beaman*, 2017 IL App (4th) 160527, ¶ 63. That conclusion fails to grapple with the fact that Freesmeyer included every single time trial in his police report *except* the exculpatory time trial that showed Beaman easily could have made it home from the bank in time to make the 10:37 and 10:39 calls by using the bypass route. A.3427-28. The results of 14 other time trials were included in Freesmeyer’s report. A.1339, 1345-46. It is particularly noteworthy that Freesmeyer included the time trial from the bank to the Beaman home that would not have allowed Beaman to make the critical 10:37 and 10:39 calls, but did *not* include the bypass route time trial between the same two points that showed Beaman *could* have made the calls. *See supra* at 12. A juror could view the omission of the exculpatory time trial as an honest mistake, but that certainly is not the only rational inference that could be drawn. *See* Illinois Supreme Court Oral Argument Audio 32:58, [https://multimedia.illinois.gov/court/SupremeCourt/Audio/2018/091318\\_122654.mp3](https://multimedia.illinois.gov/court/SupremeCourt/Audio/2018/091318_122654.mp3) (“JUSTICE BURKE: But didn’t Mr. Freesmeyer leave out some information or omitted information from his police report? MR. DICIANNI: That—the bypass route did not make

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<sup>7</sup> Although this Court discounted the argument in its prior opinion, a juror could also find that Defendant Freesmeyer also falsely told the grand jury that no helpful information had been learned from Lockmiller’s neighbors during the investigation—even though Singley’s interview helped establish the actions of the murderer on the day of the crime and ruled plaintiff out as a viable suspect. A.3417-18.

it into his police report, that is correct. JUSTICE BURKE: Right, so he omitted it, right?”). Given that Freesmeyer did record multiple time trials that he considered inculpatory, it would not be unreasonable to conclude that he omitted the exculpatory time trial intentionally. After all, Freesmeyer was fixated on nailing Beaman. He selected Beaman as the prime suspect on Day One and decided that Beaman would be arrested for the murder in the early stages of the investigation, seven months before a decision had been made to charge him. A.1318.<sup>8</sup>

**d. A Rational Juror Could Find That The Defendants Were A Cause In Fact And Legal Cause of the Prosecution.**

Applying the facts above, a juror could find that the defendants were both a cause in fact and a legal cause of the prosecution of Alan Beaman. Souk all but admitted Freesmeyer was a but for cause when he wrote that the conviction could not have been obtained “without Tim Freesmeyer.” A.3207. Without the defendants conducting a dishonest and biased investigation, hiding evidence, misleading the grand jury, and ignoring exculpatory facts, the prosecution would not have been brought and continued, and Beaman would not have gone to prison. *See Price v. Philip Morris, Inc.*, 219 Ill. 2d 182, 269 (2005) (“[T]he relevant inquiry is whether the harm would have occurred absent the defendant’s conduct.”); *Thacker v. UNR Industries, Inc.*, 151 Ill. 2d 343, 354-55 (1992).

In its prior decision, this Court concluded that “[t]he evidence shows the prosecutors, Reynard and Souk, made the decision to prosecute plaintiff.” *Beaman*, 2017 IL App (4th)

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<sup>8</sup> The Seventh Circuit concluded that Freesmeyer did not lie about one element of the time trials—the speeds at which he drove. *Beaman*, 776 F.3d at 512 (“Freesmeyer did not lie about the speeds at which he drove, and he was subject to cross-examination at trial about the speeds and alternative routes.”). No one has ever claimed that Freesmeyer lied about his speeds.

160527, ¶ 62. But that argument proves too much—prosecutors make the final decision to prosecute in *every* case. If it were true that only those who make final felony charging decisions could be held liable for malicious prosecution, then no one maliciously prosecuted for a felony would ever have a claim against the responsible investigators because felony prosecutions can be initiated only by a prosecutor. 725 ILCS 5/111-2(a) & (b); 725 ILCS 5/111-3(b).<sup>9</sup>

Moreover, the fact that Reynard and Souk played a necessary role in the charging decision does not change the fact that the investigators were also a cause. Even if the prosecutor were an additional “but for” cause of the prosecution, the actions of two or more individuals can be necessary to inflict an injury. *See Turner v. Roesner*, 193 Ill. App. 3d 482, 490 (2d Dist. 1990). A “but for” cause need not be “the sole cause” of an injury. *Id.*; *see also Espinoza v. Elgin, Joliet and E. Ry.*, 165 Ill. 2d 107, 118 (1995). At minimum, the defendants’ malfeasance was a cause in fact because it was “a material element and a substantial factor” in causing the injury. *Thacker*, 151 Ill. 2d at 354 (1992); *Krywin v. Chicago Transit Auth.*, 238 Ill. 2d 215, 226 (2010); *Abrams v. City of Chicago*, 211 Ill. 2d 251, 258 (2004). A reasonable juror therefore could find causation in fact.

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<sup>9</sup> Malicious prosecution suits against investigators based on felony prosecution nonetheless go forward routinely. *See, e.g., McGee v. City of Chicago*, 2012 IL App (1st) 111084, ¶ 2; *Logan v. City of Chicago*, 891 F. Supp. 2d 897, 906 (N.D. Ill. 2012); *Grayson v. City of Aurora*, 157 F. Supp. 3d 725, 746 (N.D. Ill. 2016); *Sanders v. City of Chicago Heights*, No. 13 C 0221, 2014 WL 5801181, at \*1 (N.D. Ill. Nov. 7, 2014); *Aguirre v. City of Chicago*, 382 Ill. App. 3d 89, 90 (1st Dist. 2008); *Jimenez v. City of Chicago*, 877 F. Supp. 2d 649, 667 (N.D. Ill. 2012), *aff’d*, 732 F.3d 710 (7th Cir. 2013); *Porter v. City of Chicago*, 393 Ill. App. 3d 855, 857 (2009); *Gauger v. Hendle*, 2011 IL App (2d) 100316, ¶ 12; *Wilson v. Baptiste*, No. 13 CV 07845, 2016 WL 521000, at \*9 (N.D. Ill. Feb. 10, 2016); *Reno v. City of Chicago*, No. 10 C 6114, 2012 WL 2368409, at \*6 (N.D. Ill. June 21, 2012); *Chagolla v. City of Chicago*, No. 07 C 4557, 2012 WL 403920 at \*2, \*9 (N.D. Ill. Feb. 8, 2012); *Lyons v. Vill. of Woodridge*, No. 08 C 5063, 2011 WL 2292299, at \*10 (N.D. Ill. June 8, 2011).

A rational juror could also find legal causation, which “is essentially a question of foreseeability.” *First Springfield Bank & Trust v. Galman*, 188 Ill. 2d 252, 258 (1999). The inquiry is “whether the injury is of a type that a reasonable person would see as a likely result of his conduct.” *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill. 2d 351, 395 (2004). Legal causation is easily satisfied here because the malicious prosecution and wrongful conviction of Alan Beaman were the natural and foreseeable results of defendants’ malicious fixation on him, their dishonest investigation, their misleading grand jury testimony, and their suppression of evidence. It is hardly a surprise that investigative misconduct like this can lead to wrongful prosecutions. The prosecutor’s charging decision might be viewed as an intervening cause of the injury, but a *foreseeable* intervening cause does not defeat legal causation. *Bentley v. Saunemin Tp.*, 83 Ill. 2d 10, 16 (1980); *Merlo v. Public Service Co. of Northern Illinois*, 381 Ill. 300, 316-17 (1942); *First Springfield Bank*, 188 Ill. 2d at 257. The charging decision therefore does not negate legal causation or the defendants’ liability.

In cases like this one—where police target a manifestly innocent individual with a biased investigation, and thereby have a significant role in commencing or continuing the prosecution—liability is appropriate. The defendants caused Alan Beaman’s wrongful prosecution and conviction by selecting him as their man on Day One, and then conducting a biased investigation to reach the predetermined result.

**2. Absence of Probable Cause Prong: A Reasonable Juror Could Find that Defendants Lacked Probable Cause To Arrest Beaman for Murder.**

A jury should decide whether defendants had probable cause to arrest and jail Beaman because the record is beset with complex facts from which rational individuals could draw competing inferences. The Supreme Court underscored that “[s]ummary

judgment is a drastic means of disposing of litigation” and can be granted only where the movant’s right to it “is clear and free from doubt.” *Beaman*, 2019 IL 122654, ¶ 22. In particular, summary judgment must not be granted “[1] where reasonable persons could draw divergent inferences from the undisputed material facts or [2] where there is a dispute as to a material fact.” *Id.*; *Seymour v. Collins*, 2015 IL 118432 ¶ 42; *Carney v. Union Pacific R. Co.*, 2016 IL 118984, ¶ 25; *Frye v. O’Neill*, 166 Ill. App. 3d 963, 972-73 (4th Dist. 1988); *Skorupa v. Guzick*, 2015 IL App (1st) 133082-U, ¶¶ 17-18; *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 642 (1st Dist. 2002); *Maxwell v. City of Indianapolis*, 998 F.2d 431, 434 (7th Cir. 1993).

In this case, a reasonable juror could find probable cause wanting based on the facts and the “divergent inferences” that can be drawn from them. *Beaman*, 2019 IL 122654, ¶ 22. In particular, at the time of Beaman’s arrest:

- There was no probative physical evidence against Beaman and no one could place him in the town where the murder occurred. *See supra* at 11.
- Beaman maintained his innocence despite a barrage of accusatory interrogations, surreptitious overhears, and death penalty threats. *See supra* at 5, 10.
- Any number of men (known and unknown) could have committed the crime. *See supra* at 4-5, 6-9.
- The statement of the victim’s across-the-hall neighbor indicated that the murder occurred after 2:00 pm, which eliminated any possibility for Beaman to commit the crime. *See supra* at 14.
- In the late morning on the day of the murder, Beaman was at a bank in Rockford, some 130 miles from the scene of the crime. A.1312.

- The crime scene indicated that the killer was a stranger. *See supra* at 4-5.
- The crime scene indicated that the killer was a much larger and more powerful man than Beaman. *See supra* at 4.
- The evidence against Murray was much stronger than the case against Beaman. *See supra* at 7-9.

The defendants may have inferred probable cause from these circumstances, but because it was not the only reasonable inference that could be drawn, they cannot establish probable cause as a matter of law.

The circuit court avoided a serious engagement with the facts germane to probable cause in three ways. First, the circuit court opined that the thoroughly discredited conviction proved Beaman's "guilt beyond a reasonable doubt" and therefore established probable cause. A.31. A vacated conviction, however, is "null and void," and therefore inadmissible. *People v. Shook*, 35 Ill. 2d 597, 599 (1966). Next, the court ceded its independent judgment to the attorney who prosecuted Beaman and who believed that "probable cause existed for the arrest of plaintiff." A.31. Such opinion evidence is inadmissible as to legal questions, all the more so because probable cause is an ultimate issue in this case. *Todd W. Musburger, Ltd. v. Meier*, 394 Ill. App. 3d 781, 800 (1st Dist. 2009). Third, rather than analyzing the facts, the court adopted defendants' brief, stating, "[i]n this case, grounds for probable cause to charge plaintiff with murder existed as specifically stated in paragraphs (a) through (p) of Defendants' Memorandum of Law in Support of Defendants' Motion for Summary Judgment, filed in this cause recounting the facts in defendant, Freesmeyer's deposition." A.30-31.

A genuine review of the record shows that different reasonable inferences could be drawn from each assertion that the circuit court uncritically adopted in total from the defendants' brief in support of probable cause. We address these assertions in turn.

**Fingerprints (Item A incorporated into circuit court opinion):** The fingerprint evidence did not support the case against Beaman. His prints were not found on the alarm clock cord used to strangle Lockmiller or the scissors lodged in her chest. The alarm clock console had seven prints—two Beaman's, four belonging to Michael Swaine (who was quickly eliminated as a suspect), one unidentified. A.3264-65. The prints did not inculcate Beaman: he had used the alarm clock previously, and fingerprints cannot be dated. A.3253. Freesmeyer decided to treat the prints as evidence of guilt based “solely on [his] own interpretation.” A.1587.

**Garbage Bag (Item B incorporated into lower court opinion):** The murder scene included a garbage bag left out on a coffee table. A.1361. If this evidence had any significance, it pointed to a burglar, not Beaman. A.1361. Burglars often seek out sacks and other receptacles in which to carry the loot. A.1361.

**Letters (Item C incorporated into lower court opinion):** The police found some racy letters from Beaman in Lockmiller's apartment. A.546-84. They were old, almost all from 1992. A.546-84. Beaman had terminated the relationship well before the murder. *See supra* at 6.

**Unreturned calls (Item D incorporated into lower court opinion):** Lockmiller called Beaman several times in the days before the murder, but the phone records show that he did not answer or return the calls. A.338-39. When the two did speak, on August 23, Beaman told Lockmiller he was no longer interested in dating. A.1048-49. These

facts are exculpatory. As part of his biased investigation, however, Freesmeyer somehow interpreted them as a basis for probable cause. A.1593-94.

**Supposed “Hole” in Beaman’s Alibi (Item E incorporated into lower court opinion):** As an initial matter, Freesmeyer did not even perform time trials to test the alibi prior to arresting Beaman. A.1624-27, 3239. The supposed “hole” in the alibi, then, hardly furnished probable cause for arrest. In any case, the alibi was bulletproof. At 10:11 a.m., Beaman drove from the bank (where he was captured on video making a deposit) to his family’s home, where he placed calls at 10:37 a.m. and 10:39 a.m. *See supra* at 11-13. It would have been literally impossible for Beaman to leave the family home after the second call at 10:39, drive to Bloomington-Normal to commit the murder, and be back to the family home again by 2:15 p.m., when his mother returned. *See supra* at 11-14. Even Souk agreed that in order for the jury to have returned a verdict of guilty, it would have had to find that Alan Beaman did not make the calls, and that Carol Beaman did make them. A.3433

**Breaking Down the Door (Item F incorporated into lower court opinion):** The two occasions on which Beaman kicked open Lockmiller’s door could be used at trial by the defendants to show that Beaman sometimes displayed a temper. These instances do not establish the capacity for murder or probable cause as a matter of law. Michael Swaine and Beaman were close friends and roommates, but Swaine began a sexual relationship with Lockmiller during her relationship with Beaman. A.3314-15. One night, Swaine borrowed Beaman’s car under the pretext of driving to a party; as part of the ruse, Swaine faked a phone conversation (with no one on the other end of the line) in front of Beaman. A.3311-13. Beaman grew suspicious, biked over to Lockmiller’s building, and

saw his own car, which Swaine had taken, in the parking lot. A.389. As Beaman arrived at the apartment, his girlfriend and roommate had just completed oral sex and were headed to the bedroom. A.3314-15. While Beaman kicked the door open, he did not lay a finger on Lockmiller or Swaine; instead, he calmly gave Swaine a ride back to their shared apartment. A.3317, 3318-19. On the other occasion, Lockmiller was having sex with Murray. A.1752. Beaman did not touch either of them. Murray, in contrast, had a long history of beating women. *See supra* at 8.

**Bank Video (Items H-I incorporated into lower court opinion):** The bank video proved that on the day of the murder, Beaman was some 130 miles from the crime scene at 10:11. *See supra* at 11. But Freesmeyer decided that the bank video was evidence of guilt. A.1578, 1584. To him, Beaman seemed dishonest and guilty because he did not bring up the bank trip when Freesmeyer asked him for proof of innocence. A.1578, 1584.

**Overhears (Items J-M incorporated into lower court opinion):** The defendants moved heaven and earth to get an incriminating admission by bugging Beaman's conversations with Swaine and Freesmeyer. *See supra* at 10. They got nothing. In fact, Beaman told Swaine, "Dude, I don't know shit, that's the problem" and stated he no longer had a romantic interest in Lockmiller at the time of her death. A.3329. Freesmeyer, however, seized on the fruitless overhears as evidence of guilt. A.1579. Beaman had made a crude comment to Swaine about his relationship with Lockmiller. A.1579.

**Box Fan (Item N incorporated into lower court opinion):** The killer covered the victim's face with a box fan. A.1581. Freesmeyer decided this meant that the two knew

each other. A.1581. If anything, this was more probative of a home invasion: burglars often cover the heads of their victims while conducting a search. A.1360.

**Manner of Stabbing (Item O incorporated into lower court opinion):** The manner of stabbing with the scissors suggested that the assailant did not know the victim. A.1361. Personal and emotional stabbings tend to have more wounds, indicating a frenzy. A.1361. Freesmeyer reversed this too, imagining “an act of vengeance over someone that [Lockmiller] had hurt deeply,” rather than a random attacker. A.1581.

**No Obvious Signs of Forced Entry (Item P incorporated into lower court opinion):** There were not obvious signs of forced entry to the apartment, but forced entry often does not leave obvious signs. A burglar could have entered with a loid, which is a piece of plastic that can slip the lock without leaving visible damage to the wood or the metal. A.1360.

From the same facts, one might also draw inferences more favorable to the defendants. Perhaps a juror would think that the kitchen garbage bag points to Beaman rather than a burglar’s improvised sack because Beaman once checked Lockmiller’s trash for evidence of contraceptives. But why then would the kitchen trash at the crime scene be removed but the trash in the bedroom left undisturbed? A.3308, 3309. Or perhaps a juror would reject the possibility that a stranger killed Lockmiller because her purse was not visibly disturbed and there were not obvious signs of forced entry. On the other hand, burglars can easily pick locks with loids, and the purse could have been forgotten once Lockmiller interrupted the burglar and the crime turned into rape and murder. A.1360. Moreover, if the perpetrator was not a burglar, why the signs of rummaging? A.1360. Questions like these are the reason trials exist. The defendants might advocate one set of

inferences, but others are permissible. As the Supreme Court stated in this case, “[W]here reasonable persons could draw divergent inferences from the undisputed material facts or where there is a dispute as to a material fact, summary judgment should be denied and the issue decided by the trier of fact.” *Beaman*, 2019 IL 122654, ¶ 22 (alteration in original).

### **3. Malice Prong: A Reasonable Juror Could Infer Malice from the Defendants’ Conduct.**

The defendants’ dishonest investigation of the Lockmiller homicide—everything from the immediate fixation on Beaman, to the refusal to undertake a serious investigation of other viable suspects, to misleading the grand jury, to manipulated time trials, to concealment of evidence—demonstrates their malice and lack of good faith. At minimum, a jury must resolve the question. “Good faith is a question of fact, and is for the determination of the jury.” *Hardin v. Gouveneur*, 69 Ill. 140, 143 (1873); *Murphy v. Larson*, 77 Ill. 172, 177 (1875) (holding in a malicious prosecution case that whether a defendant “acted in good faith . . . was a question for the jury”); *Mack v. First Sec. Bank of Chicago*, 158 Ill. App. 3d 497, 503 (1st Dist. 1987) (stating that “good faith is a factual determination . . . and is properly reserved to the sound discretion of the trier of fact”).

The circuit court’s reasoning was unsupportable. First, the circuit court opined that malice was implausible because “in the minds of the prosecutors, there was sufficient reason . . . to proceed solely against the plaintiff.” A.31. But every prosecution of a single-perpetrator crime includes a prosecutor who decides to “proceed solely” against one defendant—it is unheard-of in such cases to indict two people for the same crime just to see what happens. By the circuit court’s logic, any investigation that results in a wrongful conviction in a single-perpetrator offense is malice-free as a matter of law.

To compound the error, the circuit court expressed the view that the wrongful conviction itself negated a finding of malice: “At a jury trial, the State provided the jury with proof beyond a reasonable doubt that plaintiff had both motive and opportunity to commit the murder.” A.31. The circuit court failed to acknowledge that the Supreme Court both unanimously vacated the conviction and made specific findings about opportunity to commit the crime: “[T]he evidence of petitioner’s opportunity to commit the murder is not as strong as that against [Murray].” *Beaman*, 229 Ill. 2d at 79.

**Freesmeyer’s Malice:** A rational juror could infer that Freesmeyer acted in bad faith. Freesmeyer selected Beaman as the primary suspect on Day One despite the obvious weakness of the evidence against him. *See supra* at 4-5. There was little that pointed to him other than “guessing” by Morgan Keefe, Lockmiller’s friend who had discovered the body; no work had been done to check alibis, to process fingerprints, or to obtain autopsy results; there were no eyewitnesses to the crime, or even anyone who could place Beaman in the same city as the victim on the day of the murder; Beaman maintained his innocence in the face of an aggressive interrogation; there was no physical evidence implicating him; and the state of the crime scene pointed to a burglary-turned-rape and suggested a perpetrator of much larger size and physical power than Beaman. *See supra* at 4-5.

The case against Beaman only deteriorated from there, but Freesmeyer held on to the idea that Alan Beaman was his man. When the time-of-death evidence obtained by the victim’s neighbor made it impossible for Beaman to have committed the crime, Freesmeyer ignored it. *See supra* at 11-14. When the fingerprint evidence proved fruitless, Freesmeyer seized on it based “solely on [his] own interpretation.” A.1587.

When the state of the crime scene pointed away from Beaman, Freesmeyer construed it as evidence of guilt. *See supra* at 39-40. When Beaman denied guilt in seven surreptitiously recorded conversations, Freesmeyer fixated on a few crude comments and decided they were incriminating. *See supra* at 39.

The pattern continued as Freesmeyer labored to discredit Beaman's alibi. Freesmeyer careened at speeds Beaman never could have reached when driving to and from the crime scene because speeding during those time trials hurt the alibi. *See supra* at 11-14. But when a slower speed would hurt the alibi, Freesmeyer selected the slower route and crawled along between the bank and the Beaman home at the posted limit. *See supra* at 11-14. Freesmeyer went on to conceal the time trial that showed that Beaman easily could have made the trip from the bank to his home in time for the 10:37 and 10:39 calls by omitting it from his report and trial testimony. *See supra* at 12. When Carol Beaman said that she did not make the calls because she was with her mother at her retirement home and then across the street shopping at Walmart, Freesmeyer set out to show that she drove 20 miles home and back between seeing her mother and visiting the Walmart, rather than just crossing the street. *See supra* at 12-13. Freesmeyer threatened Beaman with the death penalty, and later arrested him, even though his supervisor, Zayas, thought the crime was unsolved, "in limbo," and not ready to be prosecuted. A.1356-23, 1318. Plaintiff's expert in criminal investigations, a former FBI agent with 45 years of criminal investigation experience, opined that "[t]he defendants violated the basic standards for police investigations" and "showed an utter disregard for the truth that not only denied justice for Mr. Beaman, but also needlessly endangered the public by leaving a murderer on the streets free to kill again." A.3248-49.

Competing inferences could be drawn from the record regarding Freesmeyer's credibility and subjective state of mind. Maybe he ignored the evidence exculpating Beaman, omitted the exculpatory time trial, and misled the grand jury out of gross incompetence, or maybe he did so due to malice. In our system of justice, we get to the truth about these issues through a trial, which is what must occur in this case. *See Frye*, 166 Ill. App. 3d at 977 (“Where two conflicting inferences may be drawn from the evidence—one of good faith actions on the part of the defendant and the other of actions inconsistent with good faith or, in other words, malicious actions—the question whether the defendant acted with malice is for the trier of fact to determine.”).

**Warner's Malice:** Whether Defendant Warner contributed to the malicious prosecution by intentionally burying the Murray polygraph report presents a genuine issue of material fact. *See supra* at 9, 20. As the federal court found, a jury question exists as to whether Warner “intentionally withheld” evidence that could have changed the trajectory of the case. *Beaman*, 7 F. Supp. 3d at 827; *see also* Illinois Supreme Court Oral Argument Audio 33:23, [https://multimedia.illinois.gov/court/SupremeCourt/Audio/2018/091318\\_122654.mp3](https://multimedia.illinois.gov/court/SupremeCourt/Audio/2018/091318_122654.mp3) (“JUSTICE BURKE: But didn't Warner intentionally fail to disclose the evidence regarding Murray's polygraph test?"). Such deliberate malfeasance would obviously constitute malice.

**Zayas's Malice:** Frank Zayas was in charge of the Criminal Investigations Division, making him the boss of Freesmeyer and the other detectives. A.91, 1416-17, 2296-97. He participated in the May 16, 1994 meeting where the decision was made to arrest Beaman and, despite his direct authority over Freesmeyer, acquiesced in the arrest and did nothing to stop it. A.1334, 2296-97. He has admitted that at the time of Beaman's arrest and even

months later—in November of 1994—the case was not ready for charging and prosecution:

- Q. When you left you felt that the case against Beaman was – was weak? Is that a fair statement?
- A. At that point – I’ll put it this way.  
I don’t think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.
- Q. And that was true in November of ’94 when you retired?
- A. Yes, sir.

A.1356-23. Direct admissions of malice are exceedingly rare. A defendant never breaks down at the deposition table and admits to acting maliciously. This is as close as it gets to a direct admission: Zayas knew that the case was not ready “to be sent to the State,” but he let it happen anyway. At minimum, this admission makes his malice a jury question.

**4. Favorable Termination Prong: The Unanimous Reversal of Beaman’s Conviction, the Abandonment of Charges, the Certificate of Innocence, and the Governor’s Pardon Demonstrate Favorable Termination.**

There are three reasons, each sufficient standing alone, that the circuit court erred in granting summary judgment on the favorable termination prong. First, the prosecution dropped all charges after the Supreme Court unanimously threw out Beaman’s conviction and declared: “We cannot have confidence in the verdict finding [Beaman] guilty of this crime given the tenuous nature of the circumstantial evidence against him . . . .” *Beaman*, 229 Ill. 2d at 81. The “dismissal of a . . . charge against the plaintiff at the instance of the prosecutor” generally suffices to show favorable termination. *Rich v. Baldwin*, 133 Ill. App. 3d 712, 715 (5th Dist. 1985). Second, a certificate of innocence is “relevant at least to the ‘indicative of innocence’ element of plaintiff’s malicious prosecution claim.” *Kluppelberg v. Burge*, 84 F. Supp. 3d 741, 744, 745 (N.D. Ill. 2015). The instant case comes to this Court on summary judgment; therefore, “relevant evidence,” *id.* satisfies plaintiff’s burden. Third, the gubernatorial pardon on the basis of innocence, A.3377,

establishes that the proceedings concluded in Beaman's favor, *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 664, 680 (N.D. Ill. 2005).

The circuit court postulated that the State's Attorney's Office declined to re-prosecute the case because it would have been difficult to reconstruct the facts after so many years, rather than because of Beaman's innocence. A.32. There is no evidence for this conclusion. The court cited paragraph 124 of Defendants' Statement of Material Facts (A.68), which in turn relies entirely on a deposition in which the original prosecutor speculated that staleness might have affected the decision to drop all charges. A.2962-66. But the prosecutor had long since departed the State's Attorney's Office and was speculating without personal knowledge about the possible reasons his successors theoretically might have had for dismissing the charges. A.2962-66.

The purpose of the favorable termination prong is to ensure that innocent people—and only innocent people—reap the benefit of the malicious prosecution tort. It is difficult to imagine a plaintiff with greater proof of innocence than Alan Beaman, equipped as he is with a unanimous reversal of his conviction by the Supreme Court, a certificate of innocence, and a pardon based on innocence.

**D. Beaman's Remaining Claims Should Proceed to Trial.**

In addition to the malicious prosecution claim, Beaman also brought claims for intentional infliction of emotional distress, civil conspiracy, respondeat superior, and indemnification. Each claim rises or falls with the malicious prosecution claim. If the Court reinstates the malicious prosecution claim, it should also reinstate these claims.

**1. The Intentional Infliction of Emotional Distress Claim Should Proceed to Trial.**

This Court erred in holding that Beaman abandoned his intentional infliction of emotional distress claim on appeal. *Beaman*, 2017 IL App (4th) 160527, ¶ 74. Section II of Beaman’s appellate brief was captioned “The Intentional Infliction of Emotional Distress Claim (Count II) Must Proceed To Trial.” A. 3379. That section, which appeared after a detailed recitation of the defendants’ malfeasance in the malicious prosecution section of the brief, stated: “It goes without saying that the conduct at issue here—pursuing plaintiff’s conviction maliciously, disregarding and manipulating the evidence, and sending an innocent man to prison for a dozen years for a crime he could not have committed—is extreme and outrageous conduct.” A.3379. This argument was followed by a string cite to six cases in which courts in Illinois have allowed intentional infliction of emotional distress claims to proceed on facts that relate principally to malicious prosecution. A.3379. The section concluded by stating: “[T]he circuit court erred in granting summary judgment on the intentional infliction of emotional distress claim.” A.3379.

The defendants did not argue in their response brief in this Court that Beaman had abandoned the claim; instead, they asserted that the outcome of this claim depended on the court’s resolution of the malicious prosecution claim. A.3383-84. On reply, Beaman agreed. A.3381.

Waiver occurs if: (1) no authority is cited, (2) no argument is made, or (3) an argument is merely “listed or included in a vague allegation of error.” *Vancura v. Katris*, 238 Ill. 2d. 352, 369-70 (2010). Nothing of the sort happened in this case. Beaman developed the intentional infliction of emotional distress claim in his opening brief, and

he should not be punished for briefing an undisputed issue in a concise manner. Such an outcome would encourage litigants to waste judges' time and clients' money with elongated discussions of undisputed points, just to avoid a *sua sponte* finding of waiver. And even if Beaman had waived the emotional distress claim, the defendants "waived the waiver" by failing to assert at any point before this Court that waiver occurred.

In numerous prior cases, courts in Illinois have held that emotional distress claims may proceed when they are attached to viable malicious prosecution claims. *See Carrocia v. Anderson*, 249 F. Supp. 2d 1016, 1028 (N.D. Ill. 2003); *Treece v. Vill. of Naperville*, 903 F. Supp. 1251, 1259-60 (N.D. Ill. 1995), *aff'd*, 213 F.3d 360 (7th Cir. 2000); *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 930 (N.D. Ill. 2013); *Wallace v. City of Zion*, No. 11 C 2859, 2011 WL 3205495, at \*6 (N.D. Ill. July 28, 2011); *Fox v. Tomczak*, No. 04 C 7309, 2006 WL 1157466, at \*6 (N.D. Ill. Apr. 26, 2006); *McDonald v. Vill. of Winnetka*, No. 00 C 3199, 2001 WL 477148, at \*6 (N.D. Ill. May 3, 2001). To our knowledge, no case has ever allowed a malicious prosecution claim to proceed while rejecting an emotional distress claim (or *vice-versa*). The reasons are obvious: Robbing a person of liberty maliciously and without probable cause is the very sort of "extreme and outrageous" intentional conduct that constitutes intentional infliction of emotional distress. *McGrath v. Fahey*, 126 Ill. 2d 78, 86 (1988). In this case, the defendants' biased investigation, dishonest testimony, manipulated time trials, and concealment of evidence constitute such outrageous conduct.

The parties agreed in their previous briefing before this Court that Beaman's emotional distress and malicious prosecution claims either proceed together or fail together. There was—and is—no reason for the Court to disagree *sua sponte*.

## 2. The Civil Conspiracy Claim Should Proceed to Trial.

This Court previously affirmed dismissal of the civil conspiracy claim solely because that claim rested on the malicious prosecution claim. *Beaman*, 2017 IL App (4th) 160527, ¶ 75. Therefore, if this Court reinstates the malicious prosecution claim, it should also reinstate the conspiracy claim.

“Since conspiracies are generally evolved under the cloak of secrecy, the courts have traditionally permitted proof of a conspiracy by indirect or circumstantial evidence . . . .” *Rosee v. Chicago Bd. Of Trade*, 43 Ill. App. 3d 203, 239 (1st Dist. 1976). Here, the defendants collaborated closely on the case, met frequently, and shared information. A.91-92. They all read each other’s detailed reports. A.1352. From the content of those reports, they would know the state of the case and the absence of any basis for arrest or prosecution—the lack of any physical evidence, the lack of eyewitness testimony, Beaman’s alibi, the vast universe of alternative suspects, and the fact that Murray was a more likely suspect. It would have been a remarkable coincidence if they all fixated on Beaman independently despite the lack of evidence against him, and if all of their parallel actions in the biased investigation were uncoordinated. *People v. Small*, 319 Ill. 437, 449 (1925) (“[W]hen taken in connection with other acts, it may appear clearly that the series of wrongful acts result from concerted and associated action.”). Freesmeyer ignored exculpatory evidence and alternative suspects, misled the grand jury, and skewed the time trials (*see supra* at 6-9, 11-14); Warner buried a polygraph that helped to exculpate Beaman (*see supra* at 9-10, 20); and Zayas let the arrest go forward, knowing that the evidence could not justify it (*see supra* at 44-45). Based on the defendants’ close collaboration on the case and their parallel acts of malfeasance—each of which was aimed at wrongfully convicting Beaman—a reasonable juror could infer a conspiracy.

*See Pearce v. Thiry*, No. CIV.A.08 C 4483, 2009 WL 3172148, at \*9 (N.D. Ill. Oct. 1, 2009) (stating that evidence that police officers “engaged in concerted acts sufficient to raise a reasonable inference of mutual understanding” can prove a conspiracy); *Newsome v. James*, No. 96 C 7680, 2000 WL 528475, at \*16 (N.D. Ill. Apr. 26, 2000); *Rainey v. City of Chicago*, No. 10 C 07506, 2013 WL 941968, at \*11 (N.D. Ill. Mar. 11, 2013).

**3. The Respondeat Superior and Indemnification Claims Should Proceed to Trial.**

Both the circuit court and this Court rejected the respondeat superior and indemnification claims based entirely on the same reasons that the claims discussed above were rejected. Because there was no independent basis to dismiss the respondeat superior and indemnification claims, they should be reinstated.

**CONCLUSION**

The Court should remand this case for a trial on the merits.

Respectfully submitted,

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No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

---

ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former Normal  
Police Detective; DAVE WARNER,  
Former Normal Police Detective;  
FRANK ZAYAS, Former Normal  
Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

Appeal from the Circuit Court of  
McLean County, Illinois  
Eleventh Judicial Circuit, No. 14 L 51  
The Honorable Richard L. Broch, Judge  
Presiding

---

**CERTIFICATE OF COMPLIANCE**

I, David M. Shapiro, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 50 pages.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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*Defendants-Appellees.*

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Eleventh Judicial Circuit, No. 14 L 51  
The Honorable Richard L. Broch, Judge  
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**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that on April 29, 2019, the foregoing BRIEF OF PLAINTIFF-APPELLANT ALAN BEAMAN was filed by electronic means with the Clerk of the Appellate Court of Illinois 4th District, 201 West Monroe Street, Springfield, IL 62704. I further certify that the same were served by electronic transmission on:

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**POINTS AND AUTHORITIES**

**NATURE OF THE CASE** ..... 1

*People v. Beaman*, 279 Ill.App.3d 1115 (4th Dist. 1996)..... 1

*People v. Beaman*, 168 Ill.2d 601 (1996) ..... 1

*People v. Beaman*, 368 Ill.App.3d 759 (4th Dist. 2006)..... 1

*Brady v. Maryland*, 373 U.S. 83 (1963) ..... 1

*People v. Beaman*, 229 Ill.2d 56 (2008) ..... 1

*Beaman v. Souk, et al.*, 7 F.Supp.3d 805 (C.D. Ill. 2014)..... 2

*Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015)..... 2

*Beaman v. Freesmeyer* 2017 IL App (4th) 160527 ..... 2

*People v. Beaman*, 93 N.E.2d 1055 (2017) (Table)..... 2

*Beaman v. Freesmeyer*, 2019 IL 122654 ..... 3

**ISSUES PRESENTED FOR REVIEW**..... 3

**STATEMENT OF FACTS**..... 4

**Background** ..... 4

*People v. Beaman*, 229 Ill.2d 56 (2008) ..... 4

*Brady v. Maryland*, 373 U.S. 83 (1963) ..... 4

**The Murder** ..... 5

**The Murder Investigation** ..... 7

Morgan Keefe ..... 9

Lockmiller’s Neighbors ..... 10

Time of Death ..... 11

<u>Alan Beaman’s Alibi</u> .....	12
<u>Beaman’s Relationship with Lockmiller</u> .....	12
<u>Swaine’s Relationship with Lockmiller</u> .....	15
<u>Beaman’s Discovery of Lockmiller’s Letters to Swaine</u> .....	16
<u>Beaman Leaves for Ohio</u> .....	16
<u>Beaman Returns to Bloomington</u> .....	17
<u>Swaine Moves in with Lockmiller</u> .....	17
<u>Beaman’s Contact with Lockmiller from Rockford</u> .....	18
<b><u>The Other Suspects</u></b> .....	18
<b><u>The Decision to Charge Beaman</u></b> .....	21
<b><u>The Prosecution</u></b> .....	24
<b><u>STANDARD OF REVIEW</u></b> .....	26
<i>Weather-Tite, Inc. v. Univ. of St. Francis</i> , 233 Ill.2d 385 (2009).....	26
<i>Sang Ken Kim v. City of Chicago</i> , 368 Ill.App.3d 648 (1st Dist. 2006).....	26
<i>Flint v. Court App. Special Advs. of DuPage Cty.</i> , 285 Ill.App.3d 152, (2d Dist. 271996).....	26
<b><u>ARGUMENT</u></b> .....	26
<b>I. The Circuit Court Properly Granted Summary Judgment On Plaintiff’s Malicious Prosecution Claim Where The State’s Attorney Initiated The Prosecution There Was Clear Probable Cause For The Prosecution, There Is No Evidence Of Malice, And The Murder Prosecution Was Never Terminated In A Manner Indicative Of Innocence</b> .....	26
<i>Swick v. Liataud</i> , 169 Ill.2d 504 (1996).....	27
745 ILCS 10/2-208 .....	27
<b>A. Defendants Did Not Commence Or Continue Beaman’s Prosecution</b> .....	27
<i>Richey v. McBean</i> , 17 Ill. 63 (1855) .....	27
<i>Hurd v. Shaw</i> , 20 Ill. 354 (1858) .....	27

<i>Joiner v. Benton Comm. Bank</i> , 82 Ill.2d 40 (1980) .....	27
<i>Beaman v. Freesmeyer</i> , 2019 IL 122654 .....	28-32
<i>Frye v. O’Neil</i> , 166 Ill. App.3d 963, 975 (4th Dist. 1988) .....	30
<i>Bianchi v. McQueen</i> , 2016 IL App (2d) 150646 ¶72.....	30
<i>Rodgers v. Peoples Gas, Light and Coke Co.</i> , 315 Ill.App.3d 340 (1 <sup>st</sup> Dist. 2000) .....	30
<i>Mosley v. Pendarvis</i> , 2015 WL 2375253 (N.D. Ill) .....	30
<i>Fields v. City of Chicago</i> , 2014 WL 477394 *12 (N.D. Ill) .....	31
745 ILCS 10/4-102 .....	32
<i>People v. Beaman</i> , 2017 IL App (4th) 160527 .....	35-36
<i>Beaman v. Souk</i> , 7 F.Supp.3d 805 (C.D. Ill. 2014).....	35, 36
<i>People v. Beaman</i> , 368 Ill.App. 3d 759 (4th Dist. 2006).....	37
<i>Beaman v. Freesmeyer</i> , 776 F.3d. 500 (7th Cir. 2015).....	37, 38
<i>City of Chicago v. Beretta U.S.A. Corp.</i> , 213 Ill.2d 351 (2004).....	38
<i>Price v. Phillip Morris, Inc.</i> , 219 Ill.2d 182 (2005).....	38
<i>Thacker v. UNR Industries</i> , 151 Ill.2d 343 (1992) .....	38
<i>Rehberg v. Paulk</i> , 132 S.Ct. 1497 (2012) .....	39
<i>Jurgensen v. Haslinger</i> , 295 Ill.App.3d 139 (3d Dist. 1998).....	39
<i>Szczesniak v. CJC Auto Parts, Inc.</i> , 2014 IL App (2d) 130636 .....	40
<i>Denton v. Allstate Ins. Co.</i> , 152 Ill.App.3d 578 (1st Dist. 1987).....	40
<i>Geisberger v. Vella</i> , 62 Ill.App.3d 941 (1978) .....	40
<i>Logan v. Caterpillar, Inc.</i> , 246 F.3d 912 (7th Cir. 2001) .....	40
<b>B. Probable Cause Existed for Beaman’s Prosecution</b> .....	41
<i>Johnson v. Saville</i> , 575 F.3d 656 (7th Cir. 2009) .....	41

<i>Reynolds v. Menard, Inc.</i> , 365 Ill.App.3d 812 (1st Dist. 2006).....	41
<i>Sang Ken Kim v. City of Chicago</i> , 368 Ill. App.3d 648 (1st Dist. 2006).....	41
<i>Gauger v. Hendle</i> , 2011 IL App (2d) 100316 .....	41
<i>People v. Long</i> , 369 Ill.App.3d 860 (2d Dist. 2007).....	41
<i>Cervantes v. Jones</i> , 188 F.3d 805 (7th Cir. 1999) .....	41
<i>People v. Wear</i> , 229 Ill.2d 545 (2008).....	43
<i>Todd W. Musburger Ltd. v. Meier</i> , 394 Ill.App.3d 781 (1st Dist. 2009) .....	44
<i>Freides v. Sani-Mode Mfg., Co.</i> , 33 Ill. 2d 291 (1965).....	44, 45
<i>People v. Kidd</i> , 175 Ill. 2d 1 (1996).....	45
<i>United States v. McMullin</i> , 568 F.3d 1(1st Cir. 2009).....	45
<i>People v. Yost</i> , 468 Mich. 122 (2003).....	45
<i>Nugent v. Hayes</i> , 88 F.Supp.2d 862 (N.D. Ill. 2000).....	45
<i>Schertz v. Waupaca Cty.</i> , 683 F.Supp. 1551 (E.D. Wis. 1988), <i>aff'd</i> 875 F.2d 578 (7th Cir. 1989) .....	45
<b>C. Plaintiff Cannot Prove Defendants Acted With Malice</b> .....	46
<i>Szczesniak v. CJC Auto Parts, Inc.</i> , 2014 IL App (2d) 130636.....	46
<i>Turner v. City of Chicago</i> , 91 Ill.App.3d 931(1st Dist. 1980).....	46
<i>Salmen v. Kamberos</i> , 206 Ill.App.3d 686 (1st Dist. 1990) .....	46
<i>Szczesniak</i> , 2014 IL App (2d) .....	46
<i>Rodgers v. People's Gas Light &amp; Coke Co.</i> , 315 Ill.App.3d 340 (1st Dist. 2000).....	46
<i>D.N. Vasquez v. Jacobs</i> , 23 Ill.App.2d 457(2d Dist. 1960).....	47
<b>D. Plaintiff Cannot Prove The Termination Of His Prosecution Was Indicative Of His Innocence</b> .....	47
<i>Swick v. Liataud</i> , 169 Ill.2d 504 (1996).....	47
<i>People v. Beaman</i> , 229 Ill.2d 82 (2008) .....	47

§2-702 of the Illinois Code of Civil Procedure.....	48
<i>Kremer v. Chemical Const. Corp.</i> , 456 U.S. 461 (1982).....	48
735 ILCS 5/2-702 .....	48
<i>Kluppelerg v. Burge</i> , 84 F.Supp.3d 741 (N.D. Ill. 2015).....	49
<i>Walden v. City of Chicago</i> , 391 F.Supp.2d 660 (N.D. Ill. 2005).....	49
<i>Sanner v. Champaign County</i> , 88 Ill. App.3d 491 (4th Dist. 1980).....	49
<b>II. This Court Properly Found Plaintiff Forfeited His Intentional Infliction Of Emotional Distress Claim .....</b>	<b>49</b>
<i>Jiminez v. City of Chicago</i> , 830 F.Supp.2d 432 (N.D. Ill. 2011).....	50
<i>Walden v. City of Chicago</i> , 755 F. Supp.2d 942 (N.D. Ill. 2010).....	50
745 ILCS 10/2-208 .....	50
<b>III. The Circuit Court Properly Granted Summary Judgment On Plaintiff's State Law Civil Conspiracy Claim.....</b>	<b>50</b>
<i>Mosley v. City of Chicago</i> , 614 F.3d 391(7th Cir. 2010).....	50, 51
<i>Buchner v. Atlantic Plant Maint., Inc.</i> , 182 Ill.2d 12 (1998).....	50, 52
<i>Fritz v. Johnson</i> , 209 Ill.2d 302 (2004) .....	50
<i>Vodak v. City of Chicago</i> , 2009 WL 500678 (N.D. Ill. 2009).....	51
<i>Wright v. Illinois Dept. of Children and Family Svcs.</i> , 40 F.3d 1492 (7th Cir. 1994).....	52
<i>Payton v. Rush-Presbyterian-St. Luke's Med. Ctr.</i> , 184 F.3d 623 (7th Cir. 1999).....	52
<i>Piphus v. City of Chicago</i> , 2013 WL 3975209 (N.D. Ill. 2013).....	52
<i>Ghiles v. City of Chicago Hts.</i> , 2016 WL 561897 (N.D. Ill. 2016) .....	52
<i>Mlaska v. Schicker</i> , 2015 WL 6098733 (S.D. Ill. 2015).....	52
<b>IV. The Appellate Court Properly Affirmed Summary Judgment On Counts IV And V .....</b>	<b>52</b>
<b>CONCLUSION .....</b>	<b>53</b>

## NATURE OF THE CASE

On April 1, 1995, a McLean County jury found plaintiff Alan Beaman guilty of the murder of Illinois State University student Jennifer Lockmiller. Beaman was sentenced to 50 years in the Illinois Department of Corrections. The conviction was affirmed by the Illinois Appellate Court (*People v. Beaman*, 279 Ill.App.3d 1115 (4th Dist. 1996)), and a petition for leave to appeal to the Illinois Supreme Court was denied (168 Ill.2d 601 (1996)). Beaman then pursued a post-conviction petition. After an evidentiary hearing, the circuit court denied the petition, which was affirmed by the Appellate Court. *People v. Beaman*, 368 Ill.App.3d 759 (4th Dist. 2006). The Illinois Supreme Court granted leave to appeal and reversed the conviction, finding that Beaman’s due process rights were violated under *Brady v. Maryland*, 373 U.S. 83 (1963). *People v. Beaman*, 229 Ill.2d 56 (2008). The Supreme Court found the State violated Beaman’s due process rights by failing to disclose certain potential exculpatory evidence regarding a possible alternative suspect, Larbi John Murray (Murray)<sup>1</sup>.

The McLean County State’s Attorney (“SA”) declined to retry Beaman for the murder. Plaintiff then filed suit in federal court against defendants, Town of Normal, Timothy Freesmeyer, Frank Zayas, and Dave Warner, all Town of Normal Police Department (“NPD”) police officers who worked on the Lockmiller investigation, along with other parties not joined here. Plaintiff alleged under 42 U.S.C. §1983 that defendants violated Beaman’s due process rights under *Brady*, along with state law claims of malicious prosecution, conspiracy and intentional infliction of emotional distress. On January 3, 2014, the district court granted defendants’ motion for summary

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<sup>1</sup> In the Supreme Court Opinion Murray is identified only as “John Doe.”

judgment on plaintiff's federal claims, and remanded the state claims to state court. *Beaman v. Souk, et al.*, 7 F.Supp.3d 805 (C.D. Ill. 2014). The Seventh Circuit affirmed the district court's judgment. *Beaman v. Freesmeyer*, 776 F.3d 500 (7th Cir. 2015).

Plaintiff refiled his state law claims in the circuit court in McLean County, with Douglas County Circuit Court Judge Richard L. Broch presiding. On June 22, 2016, the circuit court granted summary judgment in favor of defendants on all counts. Plaintiff appealed, and on August 4, 2017, this Court affirmed the circuit court. *Beaman v. Freesmeyer* 2017 IL App (4th) 160527.

This case appears before this Appellate Court a second time, remanded from the Supreme Court for a new review. In affirming the circuit court, this Court addressed the first element of the malicious prosecution cause of action, finding that there was a lack of evidence from which a jury could conclude that defendants commenced or continued the criminal prosecution of plaintiff. *Id.* at ¶2.

After this Court affirmed summary judgment, plaintiff filed a Petition for Leave to Appeal to the Supreme Court, which was denied on November 22, 2017. *People v. Beaman*, 93 N.E.2d 1055 (2017) (Table). On December 7, 2017, plaintiff filed a motion in the Supreme Court to reconsider the denial, and on December 8, 2017, before defendants could even file their opposition to the motion, the Supreme Court suddenly reversed itself and granted the Petition for Leave to Appeal. Briefs in the Supreme Court followed, with plaintiff supported by an amicus brief from a group of former federal prosecutors. Defendants' position in the case was supported by Illinois police and prosecutors' organizations and municipalities that would have to live with the dire impact and effect of the position plaintiff and the federal prosecutors urged. After briefing and

oral argument, the Supreme Court issued its opinion, which will be further explicated in this Brief. The Supreme Court remanded the case back to this Court, in an opinion which did not criticize defendants' conduct in the investigation or otherwise impugn the positions of defendants or of this Court, but merely announced a more generic, generalized test for the commencement element of the malicious prosecution cause of action. *Beaman v. Freesmeyer*, 2019 IL 122654.

This appeal on remand now presents this Court with the extremely important, indeed monumental, task of providing the first interpretation of the generic principles announced in the Supreme Court's opinion. This Court's position here is monumental because plaintiff offers an interpretation that would expose police to potential liability in every case they work on, without regard for the role of the prosecutor in the prosecution decision. Plaintiff pushes a radical position which the Supreme Court, and no court before or after it, has ever endorsed. Now plaintiff wants the Supreme Court's decision interpreted in a way that would expose police to trials for malicious prosecution in practically every case in which a prosecution fails in any way. This Court's original decision holds up after the Supreme Court's opinion. Summary judgment for defendants should be affirmed.

### **ISSUES PRESENTED FOR REVIEW**

Should defendants be required to stand trial for the disfavored tort of malicious prosecution and related torts where all prosecution decisions were made by the McLean County SA, no wrongful conduct by defendants proximately caused that decision, there was clear probable cause for the prosecution, defendants lacked any legal or factual malice, and the murder charge against plaintiff was dismissed without any determination

that indicated plaintiff was innocent of the murder.

### **STATEMENT OF FACTS**

The statement of facts in an appellate brief must be stated “fairly without argument or comment . . . “ Supreme Court Rule 341(h)(6). In blatant disregard of the Rule, plaintiff’s Statement of Facts is improperly slanted, argumentative and replete with improper comment, such that it is of little use to this Court. Defendants offer here the balanced and objective description of the facts this Court deserves.

### **Background**

On April 1, 1995, plaintiff, Alan Beaman, was found guilty by a jury of the murder of Jennifer Lockmiller, and sentenced to 50 years in the IDOC. Beaman spent 13 years in prison and was released in 2008 based on the Illinois Supreme Court’s decision in *People v. Beaman*, 229 Ill.2d 56 (2008). The Supreme Court held the State violated Beaman’s right to due process under *Brady v. Maryland*, 373 U.S. 83 (1963), by failing to disclose material information about a possible alternative suspect – Murray. *Id.* The withheld evidence consisted of four points: (1) Murray failed to complete a polygraph examination; (2) Murray was charged with domestic battery and possession of marijuana with intent to deliver prior to Beaman’s trial; (3) Murray had physically abused his girlfriend on prior occasions; and (4) Murray’s use of steroids caused him to act erratically. *Id.* at 75. (C00325, ¶1).

During the Lockmiller murder investigation, defendants Freesmeyer, Warner and Zayas were police officers for the NPD and worked in its Criminal Investigations Division (“CID”). Freesmeyer was an investigator, Warner was an evidence officer, and Zayas was a lieutenant in charge of CID at the time. (C00325-326, ¶¶2, 3, 5; C00359,

C00548, C00481) (C00326, ¶4; C00623). Tony Daniels was a detective in CID also involved in the Lockmiller murder investigation. James Souk was the Chief of the Felony Division in the McLean County SA's Office at the time of the Lockmiller murder. In January, 1997, Souk became an Associate Judge in McLean County, and was later elected Circuit Court Judge. Souk was the lead prosecutor in Beaman's prosecution for Lockmiller's murder. (C00326, ¶7; C02197). Charles Reynard was the elected SA for McLean County at the time of the Lockmiller murder and Beaman's prosecution. He also subsequently was elected a Circuit Court Judge in McLean County. (C00326, ¶8; C00623).

### **The Murder**

On August 28, 1993, Jennifer Lockmiller's decomposed body was found in her apartment at 412 N. Main Street, Normal, Illinois. Lockmiller was a student at Illinois State University (ISU) at the time. Lockmiller had been strangled with an electrical cord from an alarm clock in her bedroom, and had been stabbed in the chest with a pair of scissors. (C00327, ¶9; C00548, C01135, C02785).

Lockmiller's body was found by her close friend, Morgan Keefe (now Hartman), who after attempting to contact Lockmiller for several days, went to her apartment, found the body and called the police. Keefe immediately told the police "I know who did it," and reported that Lockmiller was deathly afraid of her former boyfriend, Alan Beaman. According to Keefe, Beaman broke down Lockmiller's door several times and threatened suicide if she broke up with him. (C00327, ¶10; C00243, C02993, C01156, C01135, C02613, C00359).

The crime scene was a two-story frame apartment building containing four apartments. Lockmiller's body was found in apartment No. 4, on the west end of the second floor. The police concluded there were no signs of recent forced entry, and that all signs of damage to the apartment door frame were present prior to the date of Lockmiller's murder. (C00327, ¶11-12; C02243, C02993, C01156, C01135, C02613, C00359) (C00328, ¶13; C02243, C02993, C026313, C00359).

A gold-colored, hoop-type earring was found lying on the floor approximately three feet inside the doorway. A red shoe was lying in the hallway outside the bedroom door, and a gold colored earring similar to the earring by the entrance door was found on the bathroom floor. Dirty dishes were in the sink, a cabinet door under the kitchen sink was open, and a garbage can was lying on its side in front of the open cabinet. A bag of garbage was found on the living room sofa filled with trash, with its contents spilling out. (C00328, ¶14-15; C02243, C02993, C02613).

Two book bags and Lockmiller's purse were on a table; all three were closed and undisturbed. Lockmiller's purse contained her driver's license and other identification, a wallet with \$17.71 in cash, credit cards and other personal effects. Officers did not detect any burglary signs because no items of value were missing. In the living room the television was on and the air conditioning unit was running. NPD detectives learned that Lockmiller's grey Pontiac Sunbird had been parked for several days outside the front door to the building. (C00328-329, ¶16-17; C02311, C02613, C02993, C02243, C00693, C01156).

The door to Lockmiller's bedroom was open. A hole, approximately ten inches in diameter, was found on the south wall of the bedroom. NPD detectives learned the hole

in the bedroom wall was made by Beaman prior to Lockmiller's murder. (C00329, ¶18; C02243, C02993, C02877). Several letters were located under Lockmiller's bed. (C00331, ¶23; C02311, C02993, C01156).

The bedroom contained a single bed and a set of bunk beds; Lockmiller's body was found on the floor in between the beds in a supine position, with her arms extended straight out from the shoulders, her legs spread apart and bent at the knees, and her feet extended back toward her head. Lockmiller's shirt and bra were pushed up, exposing her chest; and her shorts, belt, and underwear were pulled down around her left calf and ankle. The police found no physical evidence of rape. A red shoe, similar to the shoe found in the hallway outside the bedroom door, was on Lockmiller's left foot. (C00329-330, ¶19; C02243, C02993, C02613).

A pair of scissors with red plastic handles was embedded in the center of Lockmiller's chest. The autopsy revealed Lockmiller was likely stabbed when she was already dead or her heart barely beating. Multiple other superficial stab wounds were noted in the skin on Lockmiller's chest, which apparently were made with the scissors. (C00330, ¶20; C02243, C02993, C02613). A clock radio was on the floor next to Lockmiller's head, and the cord from the radio was wrapped around Lockmiller's neck and tied in front. A box fan was resting on the scissors in Lockmiller's chest, covering her face. (C00330-331, ¶21-22; C02243, C02993, C02613).

### **The Murder Investigation**

The apartment was processed for latent finger and palm print impressions, at the Morton Crime Laboratory, and two of Beaman's fingerprints were identified on the clock

used to strangle Lockmiller; one was on the back of the clock near the cord and another on the bottom of the clock. (C00331, ¶24; C02243, C02993, C02613).

The cause of death was determined to be ligature strangulation. The post-mortem examination of Lockmiller found no defensive wounds on her body. (C00331, ¶25; C02993, C02613). The SA and NPD detectives believed the murder was a crime of passion, involving an act of vengeance of some type, and that Lockmiller knew her killer. (C00331, ¶26; C00693, C00359, C00548).

On the day Lockmiller's body was discovered, a meeting was held in the NPD with Police Chief James Taylor, several CID detectives, Souk, and McLean County Coroner Dan Brady to discuss the case. Detectives were assigned to investigate various aspects of the case. Souk himself visited the crime scene and very early on became the lead prosecutor. (C01003). Beaman was in Rockford that night and Tony Daniels and Rob Hospelhorn, another NPD Detective, were assigned to go to Rockford to interview Beaman. (C00331-332, ¶27; C00359, C00481).

Daniels and Hospelhorn were able to conduct a short interview of Beaman in Rockford on the night of August 28, 1993, which Beaman terminated abruptly. The detectives came away from the interview believing Beaman's conduct was highly suspicious. They were particularly interested that while Beaman was questioned about his relationship with Lockmiller, he never asked if something had happened to her. Daniels and Hospelhorn returned to Rockford the following day to attempt to talk to Beaman again, but were told Beaman was represented by counsel and would not talk to them. (C00332, ¶28; C00693).

Throughout the first six weeks after the murder, every detective in CID worked on the investigation. Dozens of friends, neighbors, boyfriends, relatives and acquaintances were interviewed. Zayas, as the head of CID, assigned different parts of the investigation, and each detective worked on various facets of the case. (C00332, ¶29; C00548, C00623, C00359). The detectives in CID met periodically to discuss the investigation. At times, Souk and other attorneys from the SA's Office attended as well. (C00332, ¶30; C00359, C00977).

In the beginning of the investigation, Freesmeyer focused on Mike Swaine, who came to Lockmiller's apartment while Freesmeyer was there. Swaine was Beaman's roommate, and had begun dating Lockmiller. After Swaine's alibi was verified, and he passed a polygraph, Freesmeyer worked with Swaine to obtain recorded conversations with Beaman. (C00332-333, ¶31; C00359, C01156).

#### Morgan Keefe

Keefe was Lockmiller's best friend. Immediately after discovering Lockmiller's body, Keefe called 911 and told the dispatcher "I know who did it .... [Lockmiller] had this psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door." (C00333, ¶32; C02785, C02613, C01135, C03010). Warner interviewed Keefe that day, and discovered that Keefe and Lockmiller went to a movie on the Tuesday night before Lockmiller was found; they left the theater around midnight, which was the last time Keefe saw or spoke with Lockmiller. Lockmiller had been dating Beaman, but when Lockmiller tried to break away from Beaman, he would threaten suicide. Beaman broke down the door to Lockmiller's apartment a few times and

Lockmiller's landlord fixed the lock. One night Keefe arrived at Lockmiller's apartment and there was a chair and a big beam against the front door. When Keefe opened the door, Lockmiller started screaming. Keefe told her, "Jen, it's me. It's ok," and Lockmiller said, "[Alan] broke down the door awhile ago." Keefe described Lockmiller as scared of Beaman. Lockmiller told Keefe that she was looking forward to Beaman going home over the summer. Beaman moved home on August 4, 1993 and Swaine moved into Lockmiller's apartment with her around August 15. Lockmiller told Keefe on August 24 that she recently had sex with Swaine. Keefe had been trying to contact Lockmiller since August 25, around 3:30 p.m. Keefe found the door to Lockmiller's apartment unlocked when she discovered Lockmiller's body. (C00333-334, ¶34; C01135, C02785).

#### Lockmiller's Neighbors

Liza Everett and Lori Solomon, who lived directly below Lockmiller in apartment No. 2, told NPD detectives they overheard fights between Lockmiller and a man who drove a silver Ford Escort. Beaman drove a silver/grey Ford Escort. (C00334, ¶35; C01156, C02311).

David Singley, who lived directly across the hall from Lockmiller, told NPD detectives that a month before Lockmiller's murder he overheard an argument between Lockmiller and Beaman, during which Beaman tried to break into Lockmiller's apartment by kicking and throwing himself against her apartment door. Singley also told police that Beaman ran around the apartment parking lot yelling "slut." He returned to her apartment a short time later to yell something like "I see your cherry stain on the

bed;” and “you slept with him but you wouldn’t sleep with me;” and “the only reason you dated me was to go to bed with my friend.” (C00334-335, ¶36; C01156).

Susan Jenkins, who lived with Singley, described this same incident to NPD, telling detectives that Beaman seemed so “absolutely crazed” that she was afraid to call the police because she thought that if she did Beaman would beat Lockmiller as a result. (C00335, ¶37; C01156). Singley also told the police that he heard certain sounds in Lockmiller’s apartment on the day of the murder that could suggest she was still alive at approximately 2:00 p.m. However, both Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds. (C00977, at 302-304; C02311, at 1998-2000). Singley believed he saw Swaine’s car parked in the apartment parking lot the day of the murder, when in fact Swaine did not come back to Normal until the day Lockmiller’s body was discovered. (C01076).

#### Time of Death

The McLean County Coroner opined that Lockmiller’s body was in her apartment for 2-4 days before she was discovered. The coroner estimated the time of death being between 9:00 a.m. on August 25, 1993 and 9:00 a.m. on August 27, 1993. (C00335, ¶38; C02993, C02613, C03193).

Claudine Moss told NPD detectives she spoke to Lockmiller at 8:00 a.m. on August 25, 1993 about a kitten Lockmiller was advertising for sale. Moss told police she and her husband went to Lockmiller’s apartment to look at the cat around 4:20 p.m. on August 25, but Lockmiller did not answer her door. (C00335, ¶39; C02613, C02188).

Lockmiller’s class schedule for August 25, 1993 showed that she had four classes on that date: (a) 9:00-9:50 a.m.; (b) 10:00-10:50 a.m.; (c) 11:00-11:50; and (d) 2:00-2:50

p.m. Lockmiller attended her first three classes, but did not attend her fourth, which began at 2:00 p.m. She did not make a work meeting she was supposed to attend at 8:00 that night. (C00335-336, ¶40; C02613, C01156). NPD detectives were unable to find any person who saw Lockmiller alive after her 11:00-11:50 a.m. class on August 25, 1993. (C00336, ¶41; C02613).

#### Alan Beaman's Alibi

On October 11, 1993, NPD detectives learned that Beaman made a deposit at Bell Federal Savings and Loan Bank, located at 1466 S. Alpine Road, Rockford, at approximately 10:11 a.m. on August 25. (C00336, ¶44; C01156, C02613). On October 12, 1993, Freesmeyer interviewed Beaman at the NPD. During the interview, Beaman stated that on August 25, he arrived home from work shortly after 9:00 a.m. and went to sleep until his parents woke him up at 3:30-4:00 p.m., when they got home. (C00336, ¶42; C01156, C02613). Beaman's supervisor where he worked, Dennis Clark (Beaman's uncle), confirmed to NPD detectives that Beaman got off work on August 25 at 9:00 a.m. (C00336, ¶43; C02613).

Based on the distance between Rockford and Bloomington, NPD detectives believed it was possible for Beaman to have left Bell Federal, traveled to Bloomington to commit the murder, and returned to Rockford by 3:00 p.m. (C00336, ¶45; C02613, C00359).

#### Beaman's Relationship with Lockmiller

Beaman and Lockmiller had broken off their stormy relationship approximately one month before her murder. During their two-year relationship, they broke up and reunited 18 times. They had many loud arguments, witnessed by their friends and

neighbors, one of which resulted in Beaman drinking a bottle of nail polish remover as a suicide effort, and the police being called. (C00337, ¶46; C00359, C00977, C02613).

Freesmeyer reviewed undated letters found in the apartment Beaman wrote to Lockmiller. The letters expressed Beaman's passion for Lockmiller, that he loved her "more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason," and added, "Don't worry, I won't kill anybody, I don't believe in that. I do unto others as I would have them unto me (from now on)." Beaman said, "I really just want you to be with me and only me," and other expressions of his passion that he felt for her. (C00337, ¶47; C01156, C02311).

NPD detectives learned that in June, 1993, Beaman broke down Lockmiller's apartment door while she was hosting her friend and sometimes lover, Larbi John Murray. Todd Barth, Lockmiller's friend, told NPD detectives that around 3 a.m. on July 5 or 6, 2015, Lockmiller called him because Beaman was trying to break in, and she was frightened and moved a dresser in front of the door. (C00337-338, ¶48; C00977, C01224, C03199).

Detectives learned that on July 25, 1993, Beaman suspected that Lockmiller was seeing and possibly sleeping with Beaman's roommate, Swaine, and again knocked down Lockmiller's apartment door. Swaine asked Beaman around 2:00 a.m. that night to borrow his car to go to a party. Thinking Swaine was lying (he was), Beaman followed Swaine on his bicycle to Lockmiller's apartment. Beaman banged on the door yelling, "I knew it! I know you are in there," and kicked in the door, looking for Swaine, who was hiding in the closet. (C00338, ¶49; C00359, C03193, C02877, C03143). On another

occasion, Beaman pushed his way into Lockmiller's apartment and rummaged through her trash can looking for Swaine's used condoms as evidence. (C00338, ¶50; C00359).

Kris Perry, a close friend of Lockmiller and Beaman, told Detective Hospelhorn that Lockmiller told him Beaman once said he would kill her then kill himself. Hospelhorn interviewed Perry a second time a few days later and Perry changed his story to say that Beaman only threatened to kill himself, not Lockmiller. (C00338, ¶51; C00481).

Friends and family told NPD that Lockmiller was afraid of Beaman and she intended to seek an order of protection. (C00338, ¶52; C00623). Heidi Steinman, a close friend of Lockmiller's, told NPD detectives that Beaman had thrown a glass at Lockmiller, and also threw and broke her lamp. (C00339, ¶53; C03017, C03038).

Swaine told NPD detectives that Lockmiller thought Beaman was infatuated with her, and Beaman believed Lockmiller was the only woman for him. (C00339, ¶54; C02877). Mike Mackey, a friend of Beaman's, told police that Lockmiller would "fuck with his [Beaman's] head so much that he would just go crazy . . . he would be irrational and mood swings . . . it just made him suicidal . . . she just drove him crazy." (C00339, ¶55; C03102). NPD detectives received information that in the summer of 1993, Beaman was seeing a psychiatrist, was not eating or sleeping, and was "a mess" and "a mental wreck" because of what he was "going through with Jen." (C00339, ¶56; C02877). Another witness, Jennifer Seig, told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together. (C00339, ¶57; C03121).

Katy Corbett, Beaman's friend, told detectives that at one time Lockmiller was ready to end it with Beaman but did not because Beaman "went through these times when he would be violent and he punched a huge hole in her wall at her apartment," and "he would get really upset." Lockmiller told Corbett she was going to wait until the end of the summer to break it off because she did not want to make Beaman upset while he was still in town working. Corbett stated that if "Alan was in the right frame of mind, he could be violent." Corbett said every time she saw Beaman "in these violent rages he would usually take it out on something else, like there is holes in the apartment walls everywhere at our complex . . . he would bash things." (C00339-340, ¶58; C03038).

Swaine also told NPD detectives Beaman became violent and punched a large hole in Lockmiller's bedroom wall. (C00340, ¶59; C02877). Michael Bowen, Lockmiller's friend, informed detectives that Lockmiller told him Beaman "pushed her before." (C00340, ¶60; C01218). Meredith Haynes, a friend of Lockmiller's, said that Lockmiller told her that Beaman broke down Lockmiller's apartment door several times, pushed her around and knocked things over. (C00340, ¶61; C03134).

#### Swaine's Relationship with Lockmiller

During the summer of 1993, Swaine and Beaman were roommates and working together at the Illinois Wesleyan theater. Swaine began a sexual relationship with Lockmiller in June 1993. Swaine and Lockmiller had sex for the first time on June 11, 1993. (C00340-341, ¶62; C02613, C02877). Swaine told NPD that Beaman gets "real jealous" and "would make everything real dramatic" when he thought that "something is going on" between Lockmiller and another man. Swaine and Lockmiller attempted to hide their relationship from Beaman. (C00341, ¶63; C02877).

### Beaman's Discovery of Lockmiller's Letters to Swaine

On July 25, 1993, Beaman searched Swaine's bedroom while he was at work for evidence that Lockmiller and Swaine were having a relationship. Beaman found two letters from Lockmiller to Swaine, which Beaman felt confirmed his suspicions about them. Beaman also found an open box of condoms in their apartment and believed some condoms were missing from the box. Beaman thought the missing condoms meant Swaine was having sex with Lockmiller. (C00341, ¶64; C02613, C02877, C03121, C03048).

Beaman took the letters he found to the theater at school where he and Swaine worked together, and angrily confronted Swaine about his relationship with Lockmiller, accusing Swaine of "fucking my girlfriend." (C0034-3421, ¶65; C02877, C03038). Beaman then went immediately to Lockmiller's apartment, and pounded on her locked door. (C00342, ¶66; C03017). Steinman, who was with Lockmiller in her apartment, told NPD detectives that Beaman said, "Don't do this to me Jen. I'm going to kill myself" and kept threatening suicide until Lockmiller let him in. Once inside, Beaman angrily confronted Lockmiller with the letters. He went through Lockmiller's bathroom garbage can and found a tampon applicator, and said "See this is prophylactic. I know it, I know it. You had sex with him." (C00342, ¶67; C03017).

### Beaman Leaves for Ohio

Beaman left Bloomington on July 25 after confronting Swaine and Lockmiller and went to Ohio, where he stayed with a friend, until August 4. (C00342, ¶68; C02877). Before leaving Bloomington, Beaman gave his theater professor, Dr. Brown, a note stating: ". . . But the things that I've found out and witnessed about my aforementioned

roommate and my ex-fiancé have crushed any spirit. I had to get out of the slump, and it's really just time for me to leave. I'm just afraid I'd cause even more hell to break loose." Beaman attached the two letters he found in Swaine's room to the note he left for Dr. Brown. (C00342-343, ¶69; C02613). While he was in Ohio, Beaman called Lockmiller eight times. (C00343, ¶70; C03057, C02188).

#### Beaman Returns to Bloomington

On August 4, Beaman returned to Bloomington to get his car. He went to the apartment he shared with Swaine and saw him driving Lockmiller's car. (C00343, ¶71; C02877). That same day, Beaman went to Lockmiller's apartment "to talk to her because we had broken up." Beaman then drove Lockmiller to class, and when he dropped her off, she kissed him goodbye, and he told her "that might be the last time we ever kissed" because he did not think he could ever trust her again. (C00343, ¶72; C03143). Beaman told NPD detectives that August 4, 1993 was the last time he saw Lockmiller and that he had "no idea" if she was dating anyone "and didn't want to know." Beaman returned to Rockford on August 4, 1993. (C00343, ¶73-74; C03143, C02613).

#### Swaine Moves in with Lockmiller

Swaine moved out of the apartment he shared with Beaman and into Lockmiller's apartment around August 14 or 15, 1993. A week later, Swaine went home to Elmhurst, Illinois, to work. (C00343-344, ¶75; C02877, C01156). Swaine's belongings were in Lockmiller's apartment after he moved in: his "stuff" was on the top bunk bed; his alarm clock was on her bedroom floor; his clothes were in Lockmiller's closet and drawers; his box fan was in her bedroom; a box of his letters was in the living room; and his phone list was near the TV. (C00344, ¶76; C02877). Swaine told detectives that when he talked to

Lockmiller on Sunday, August 21, Lockmiller said that she had not told Beaman she was living with Swaine. (C00344, ¶77; C02877).

#### Beaman's Contact with Lockmiller from Rockford

Steinman told NPD detectives that Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he heard she had gone out with a guy. (C00344, ¶78; C03017, C02613). Lockmiller's phone records show she made 28 calls to Beaman's Rockford residence on August 22, 1993. The next day, August 23, Beaman and Lockmiller spoke on the telephone for 13 minutes. (C00344, ¶79; C02613, C02188). Beaman later told Freesmeyer that Lockmiller was asking to get back together with him during the August 23 call, but Beaman said "No, I don't want to talk to you. You fucked my fucking roommate and I don't want to talk to you," then hung up. (C00344, ¶80; C03060).

#### The Other Suspects

Other suspects early in the investigation included Swaine, Stacey "Bubba" Gates, Murray, and Rob Curtis. Freesmeyer focused on Swaine, and after his alibi checked out (he was at work in Elmhurst), Freesmeyer began focusing on Beaman. (C00345, ¶81; C00623, C00359, C01156). Gates was eliminated as a suspect early when his alibi was verified. He was teaching at a school in Peoria when Lockmiller was murdered. (C00345, ¶82; C00359).

Daniels was in charge of investigating Murray. Daniels and Hospelhorn interrogated Murray twice, and tape recorded the statements. A September 2, 1993 interview revealed that Murray previously dated Lockmiller. He visited Lockmiller's apartment sometime between August 19 and 23, and he believed he left Bloomington to

go home to Byron, Illinois on August 24 at 3 p.m. Murray was in Byron until September 1. While Beaman and Lockmiller were dating, Beaman “freaked out” and kicked in Lockmiller’s door when Murray was there, and grabbed Lockmiller’s arm. Lockmiller told Murray she was scared to break up with Beaman because she “did not know what he was going to do” and that Beaman was a “psycho.” (C00345, ¶83; C00693, C00481, C01218, C01224, C01252).

In a follow-up interview on September 8, 1993, Murray clarified he last saw Lockmiller on August 21, which he recalled because of his live-in girlfriend Debbie Mackoway’s work schedule. Mackoway left their apartment for work at 6:30 a.m. on August 25, and returned to their apartment at 1 p.m., and was at home from the time Mackoway left for work until she returned at 1 p.m., and was with her from 1 p.m. to 4 p.m. Murray left for Byron on August 25 at 4 p.m. He returned to Bloomington on September 2. Murray admitted he sold Lockmiller marijuana, and Lockmiller owed him \$20. Murray offered to take a polygraph and provide his telephone records to the NPD. When Murray learned of Lockmiller’s death, he and Mackoway stayed at a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman. (C00345-346, ¶84; C01252, C00481).

Daniels and Hospelhorn interviewed Mackoway on September 3 and 8, 1993. During those interviews Mackoway said she was with Murray at their apartment from 2 p.m. to 4:20 p.m. on August 25, then Murray left Bloomington for Byron. Mackoway and Murray saw Lockmiller on August 21, and Mackoway believed that was the last time Murray saw Lockmiller as well. (C00346-347, ¶85; C00481, C01218, C01282).

On September 30, 1993, Daniels took Murray to the Morton Crime Lab for a

polygraph. Terrance McCann, the polygraph examiner who administered the test to Murray, was unable to obtain a result because Murray could not follow McCann's directions. McCann did not conclude Murray intentionally prevented a result to deceive the examiner. McCann explained to Daniels that the test could not be completed. While driving Murray back to Bloomington, Daniels discussed taking another polygraph with Murray. (C00347, ¶86; C00693, C03199).

A week later, Warner received the polygraph report about Murray. It was sent to Warner because he made the appointment for the polygraph, and when he received the report he gave it to Daniels. Warner did not know what Daniels did with the report. (C00347, ¶87; C00548). Warner believed the State Police Lab also sent Murray's report directly to the SA's Office. The SA never got that report in its file. (C00347-348, ¶88; C00548).

Daniels could not deny receiving Murray's polygraph report from Warner, only that he had no memory of it. Daniels worked closely with Warner and knew his practices and character well, and declared that he believed Warner did not and would not intentionally suppress the report. (C00348, ¶89-90; C00693). Daniels described possible explanations for the report not getting to the SA file: Warner may have given it to Daniels and he misplaced it; an NPD intern who made copies for the file could have misplaced it; Daniels could have accidentally put the report in a different file; or the report could have otherwise fallen through the cracks somewhere in the NPD. (C00348, ¶91; C00693).

Freesmeyer's entire knowledge regarding Murray was documented in a comprehensive report Freesmeyer completed. Kenneth Frankenberry, a state polygraph examiner from Rockford, organized three polygraph examinations at the NPD on October

12, 1993 -- for Beaman's friend, Chris Carbone; for Murray; and for Beaman. Murray did not show up for his examination, and Beaman refused. Freesmeyer was aware that Daniels' interviewing style intimidated many of the young people he interviewed, and so the fact that Murray did not appear for his polygraph was not suspicious to Freesmeyer. Freesmeyer had no other involvement with Murray's investigation. Freesmeyer did not interview Murray, and likely never met with him. (C00348-349, ¶92; C00359, C01156).

In February, 1994, several NPD investigators met with Chicago Police Department homicide detectives to discuss the investigation. According to Daniels, alternative suspects, including Murray, were discussed at that meeting. The Chicago detectives recommended that the NPD investigators continue to focus on Beaman as the prime suspect. (C00349, ¶93; C00693).

### **The Decision to Charge Beaman**

On May 16, 1994, a meeting was held to decide if Beaman should be arrested for Lockmiller's murder. NPD Chief James Taylor, Zayas, Daniels, Freesmeyer, SA Reynard, and ASA Souk attended the meeting. (C00349, ¶94; C00977). The investigators provided input about what the nine month investigation had produced. As a result of that discussion, SA Reynard decided that Beaman should be charged with Lockmiller's murder. NPD investigators did not lobby or urge the SA to charge Beaman. The decision was solely made by Reynard, and Souk agreed with the decision. According to Souk, no one at the meeting expressed any opposition to the decision to charge Beaman. (C00349-350, ¶95; C00977).

In April, 1994, Daniels attended a conference in Florida for police agencies on cold case investigations. Daniels planned to discuss an unsolved murder from the 1970's,

but NPD Assistant Chief Walt Clark suggested Daniels instead discuss the Lockmiller murder. Daniels copied the entire Lockmiller file, and brought it with him to Florida. Daniels returned with a list of suggested investigative avenues. (C00350, ¶96; C00693). According to Daniels, he brought the list from the Florida conference to the May 16 meeting, and suggested they pursue the list before they proceed with Beaman's arrest. According to Daniels, Souk said "I think we've got our guy" in response to Daniel's suggestion. Souk also said that "we went as far as we can with this case. We are going to go ahead and issue a warrant for [Beaman's] arrest." (C00350, ¶97; C00693).

Freesmeyer agreed with the decision to proceed against Beaman. Freesmeyer concluded there was probable cause for the arrest and prosecution of Beaman based on the following information developed during the murder investigation.

- Beaman's fingerprint was on the murder weapon, an alarm clock used to strangle Lockmiller.
- The crime scene matched something Beaman had done before. One time Beaman pulled a garbage bag out of a garbage can in Lockmiller's apartment to search for evidence of condoms deposited by Swaine or some other Lockmiller lover. The police found a garbage bag that had been pulled out of the can and was left on the living room couch at the crime scene.
- The police found letters Beaman had written Lockmiller, which showed an intense passion for her. Telephone records showed 28 phone calls from the Lockmiller residence to Beaman's home residence within the days before the murder.
- There was a hole in Beaman's alibi.
- Beaman had broken down Lockmiller's apartment door twice before.
- Freesmeyer asked Beaman several times in interviews whether he had any evidence or information that could clear him. Beaman's response was that he had nothing.
- Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not.

In reality, Beaman had gone to a bank in Rockford that morning. A video from the bank showed Beaman in the bank at 10:11 a.m., when Beaman had told the police he got off work at 9:00 a.m., and went straight to bed.

- Beaman's attorney had requested and received the videotape from the Rockford bank in September, 1993, so Freesmeyer concluded Beaman was lying when he said he went straight to bed.
- Beaman made several suspicious statements on the overheard with Swaine. Beaman said Lockmiller had "dug into him with every ounce of sharp silver she had." Freesmeyer concluded that the statement was an unusual expression, and matched that Lockmiller was stabbed in the chest with silver scissors, which had not been publicly reported when the statement was made.
- Beaman told Swaine on the overheard that he knew Swaine was sleeping with Lockmiller because "that pussy never tasted the same," which seemed to be a crude reference about somebody he supposedly loved immediately after her death.
- Beaman told Swaine that Lockmiller was never going to be happy. In Freesmeyer's homicide investigation training, a killer will often say something like that as an effort to justify his action in his own mind.
- Beaman told Swaine that "she (Lockmiller) trained me good and she would have trained you just the same." Freesmeyer saw the statement as another justification for his actions.
- A fan covered Lockmiller's face, which Freesmeyer saw as fitting a pattern where a person murders someone he knows then cannot face it.
- Lockmiller was stabbed multiple times after she was already dead. According to the coroner's report Lockmiller died of strangulation. There was no blood spatter at the crime scene which indicated Lockmiller's heart was barely pumping when stabbed. It was inconsistent with the act of a random person, and indicated the killer had vengeance as a goal. Lockmiller had hurt Beaman very deeply, and no one else was known to have any passionate feelings about Lockmiller.
- There was no forced entry. Valuables were lying around the apartment. Lockmiller's purse was openly and visibly sitting on a table in the apartment. A burglar would have taken those things and there would have been a forced entry of some type.

(C00350-352, ¶98; C00359, C00156).

Souk was aware of all the evidence. He considered it very significant that

Beaman's fingerprints were only found on the clock radio -- the murder weapon -- and not anywhere else in the apartment. He believed the motive evidence against Beaman was the strongest he had ever seen, there was sufficient evidence to establish probable cause, and a reasonable chance of prevailing at trial. (C00352, ¶99; C00977).

Todd Heyse, the owner of 412 Main Street where Lockmiller lived and the murder occurred, told police after Beaman was charged that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day. Heyse contacted the NPD after he saw a picture of Beaman in the paper following his arrest. Seeing the photograph of Beaman jarred Heyse's memory of seeing the two people and prompted him to call the police. (C00353-354, ¶106; C00977, C02845).

### **The Prosecution**

Souk was the lead prosecutor in Beaman's case and presented the case to the grand jury. Freesmeyer, Beaman, Beaman's parents, the director of Beaman's church Youth Ministries, Beaman's co-worker, and Beaman's employer all testified before the grand jury. The hearing concluded on July 14, 1994 and a true bill was returned. Around January 1, 1995, Freesmeyer moved into the SA Office as they began to prepare for the trial. (C00354, ¶111; C00977). (C00354, ¶112; C00977, C01323, C00359).

In Souk's mind, Beaman was the only real suspect. Souk concluded after reviewing the information he had about Murray that he was not a person of interest. At the time of Beaman's prosecution, Souk did not believe there was any evidence to suggest that Murray killed Lockmiller. Souk did not believe Murray had any motive to kill Lockmiller, even though Souk was aware of their prior sexual relationship. Souk

knew that Murray gave narcotics and marijuana to Lockmiller, and that there were some conflicting statements about whether Lockmiller owed Murray money for drugs. (C00354-355, ¶113; C00977). Souk also knew that Murray made a mistake regarding his alibi in his first interview with Daniels and Hospelhorn and corrected it in his second interview, which Souk did not consider suspicious. (C00355, ¶114; C00977). By the end of 1994, Souk was aware of three charges against Murray, two felony drug charges and a misdemeanor domestic battery case brought by Mackoway. (C00355, ¶116; C00977).

Souk was aware at the time of Beaman's trial that Mackoway reported that Murray started taking steroids in January, 1994, and that he then began acting erratically, which she attributed to the steroid use. (C00355-C00356, ¶117, 199; C00977; C0289). Murray was never physically violent toward Mackoway until January, 1994. (C00356, ¶118; C02829). Mackoway never believed Murray killed Lockmiller. (C00356, ¶120; C02829).

The state subpoenaed Murray for the Beaman trial and he was on Souk's witness list. Souk flagged information in the SA files regarding Murray's pending cases so the ASA handling those cases, Robert Freitag, would not offer Murray a plea in case they wanted to call Murray in the Beaman trial. A plea in Murray's pending cases could have been used to impeach him if the state called him as a witness. Souk noted that Freitag should see Souk before any deals were made with Murray. (C00356, ¶122; C00977, C01752). Souk ultimately decided not to call Murray at trial.

The jury convicted Beaman of the murder. After the appeal and the post-conviction proceedings, the judgment was vacated, and the McLean County SA declined to re prosecute Beaman for the crime. Souk was not surprised that the McLean County

SA chose not to re prosecute Beaman after the conviction was vacated. After 13 years it would take a monumental effort by the police and prosecutors to regather the witnesses and evidence again. (C00357, ¶124; C00977). Without opposition from the state, a certificate of innocence (COI) was issued by the circuit court. DNA testing of substances continued even after the judgment was vacated. The DNA results showed only that Beaman, and the other early suspects, were not known contributors to the samples obtained. (C11098)

### **STANDARD OF REVIEW**

The standard of review from the entry of summary judgment is *de novo*. *Weather-Tite, Inc. v. Univ. of St. Francis*, 233 Ill.2d 385, 389 (2009). When the moving party identifies an issue appropriate for summary judgment on which the non-moving party bears the burden of proof, the non-moving party has to demonstrate that substantial evidence existed to create a factual dispute on a material issue. *Sang Ken Kim v. City of Chicago*, 368 Ill.App.3d 648, 654 (1st Dist. 2006). Summary judgment for the defendant is proper if the plaintiff fails to establish any element of the cause of action. *Flint v. Court App. Special Advs. of DuPage Cty.*, 285 Ill.App.3d 152, 161 (2d Dist. 1996).

### **ARGUMENT**

**I. The Circuit Court Properly Granted Summary Judgment On Plaintiff's Malicious Prosecution Claim Where The State's Attorney Initiated The Prosecution, There Was Clear Probable Cause For The Prosecution, There Is No Evidence Of Malice, And The Murder Prosecution Was Never Terminated In A Manner Indicative Of Innocence.**

The circuit court properly granted summary judgment on plaintiff's malicious prosecution claim. Under Illinois law malicious prosecution requires proof of: 1) commencement or continuation of a criminal proceeding by the defendant; 2) absence of

probable cause for the proceeding; 3) malice; 4) termination of the proceeding in a manner indicative of the plaintiff's innocence; and 5) damages. *Swick v. Liautaud*, 169 Ill.2d 504, 513 (1996).<sup>2</sup> If one of the required elements is missing, the malicious prosecution claim fails. *Id.* at 512.

**A. *Defendants Did Not Commence Or Continue Beaman's Prosecution.***

The circuit court properly found the prosecutors, not the defendant police officers, commenced the prosecution when they made the decision on who would be charged with the murder of Lockmiller. The circuit court properly found defendants did not commence or continue a criminal prosecution against plaintiff. (C12494). The circuit court analyzed the testimony of the prosecutors, the defendant police officers, and other witnesses, including the non-party NPD Investigator Daniels, to hold defendants did not initiate or continue a criminal prosecution against plaintiff. The evidence analyzed by the circuit court shows that defendants were all police officers who investigated the case for, and at times the direction of, the McLean County SA's office. Although the circuit court did not use the language ultimately clarified by the Supreme Court, the analysis the circuit court applied was the same. The circuit court properly found that the evidence undisputedly showed the SA exercised their independent judgment in the decision to prosecute plaintiff for Lockmiller's murder. (C12497).

In its Opinion, the Supreme Court first recounted the over 150 years of precedent on the disfavored malicious prosecution cause of action in Illinois, from *Richey v. McBean*, 17 Ill. 63 (1855), and *Hurd v. Shaw*, 20 Ill. 354 (1858), down through *Joiner v. Benton Comm. Bank*, 82 Ill.2d 40 (1980), and subsequent federal and state appellate

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<sup>2</sup> The common law elements are also codified as an immunity from liability in Section 2-208 of the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/2-208.

decisions. The Supreme Court found that proximate cause, composed of both the actual and legal cause prongs of the proximate cause analysis, governs, and remanded back to this Court for another review. In its Opinion, the Supreme Court saw that language from the various decisions over the years that analyzed the commencement element, in both police and non-police cases, variably used “significant role,” or “advice and cooperation,” or the language relied on by this Court, misstating evidence or unduly influencing the prosecution. The Supreme Court did not reject the result of this Court’s decision affirming summary judgment, or the test this Court applied. The Supreme Court’s Opinion simply clarified that this Court’s focus was too restrictive. Causation can be established by conduct other than where the police “pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecution relied.” *Beaman v. Freesmeyer*, 2019 IL 122654 \*47.

This Court is now faced with the first, and possibly the most important, interpretation of the Supreme Court’s decision. Much of the language used by the Supreme Court is not self-defining. What does “advice and cooperation,” or “significant role,” actually mean? A wide range of normal, non-tortious police investigative conduct could generically fit those concepts. But what type of conduct by police who investigate a crime actually causes a malicious prosecution?

The questions lend themselves to many academic discussions. However, in this case, no reasonable application of a proximate cause rule could conclude that defendants’ actions here proximately caused the prosecution. Among the undefined concepts in the Opinion, one crystal clear observation in the Supreme Court’s decision boils the test down to its core. The Supreme Court commented that however one characterizes the

conduct of the police, it must overcome the presumption of the prosecutor's independent judgment. Citing historical treatises, the Court saw that:

- Liability thus depends on whether the defendant was actively instrumental in causing the prosecution, and the presumption of prosecutorial independence can be overcome by showing that the defendant improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.

2019 IL 122654 \*44. Whatever the allegedly causal conduct may be, it must overcome “the presumption of prosecutorial independence. . . .”

The Supreme Court agreed with this Court that causation could be proven where police exert undue pressure or influence on the prosecutors, or provide them false information, but clarified that other conduct can cause a prosecution as well, such as when an officer “concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Id.* The Supreme Court clarified that causation of a prosecution is not limited to where the police “pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecution relied.” The additional types of conduct that could also cause a prosecution not included in this Court pronouncement of the standard is undefined at this time. Nevertheless, whatever the parameters of that conduct may be, plaintiff’s causation theory here cannot be included in that class.

Plaintiff argues that the prosecution here was caused by a “biased” police investigation, a concept mostly introduced into the case in the amicus brief by the former federal prosecutors, which drips with hostility toward police. Plaintiff argues that a cause of action for malicious prosecution can be brought against police if determined, with 20/20 hindsight twenty years after the fact, that they should have conducted a different

type of investigation or arrived at different conclusions about the evidence. Plaintiff argues that investigative negligence or mistakes, such as misinterpreting the crime scene and jumping to an early conclusion about who did it, can proximately cause a prosecution for purposes of the tort of malicious prosecution.

The argument that a biased investigation occurred here is factually incorrect, and no reasonable jury could agree with it. Nevertheless, the concept that a so-called biased investigation could be actionable itself is radical, untenable, and has no support in any precedent. The Supreme Court deeply explicated Illinois and federal cases, even string-citing cases using the language plaintiff argued governed, and moored its conclusions to a long line of precedent. *Id.* at ¶29. Not one of the cases using the “advice and cooperation” or “significant role” language applied or recognized in any way that a “biased” investigation could cause a malicious prosecution.

Each case required active misconduct that produced a bad prosecution rather than failed to facilitate a good one. *E.g., Frye v. O’Neil*, 166 Ill.App.3d 963, 975 (4th Dist. 1988) (police filed false information causing arrest of wrong person); *Bianchi v. McQueen*, 2016 ILApp(2d) 150646 ¶72 (defendants presented fabricated witness statements to special prosecutors causing prosecution); *Rodgers v. Peoples Gas, Light and Coke Co.*, 315 Ill.App.3d 340, 348-49 (1st Dist. 2000) (defendant induced the plaintiff to commit the acts for which he was charged with a crime). The Court went on to allude to another twenty cases, none of which endorsed the type of activity that plaintiff contends here could be deemed the cause of a malicious prosecution. *E.g., Mosley v. Pendarvis*, 2015 WL 2375253 \*4 (N.D. Ill.) (defendant police officer signed the criminal complaint against the plaintiff and allegedly fabricated inculpatory statements of the

plaintiff that were communicated to the prosecutor); *Fields v. City of Chicago*, 2014 WL 477394 \*12 (N.D. Ill.) (defendant police officers allegedly deliberately fabricated statements by witnesses).

The Supreme Court in its decision reinforced the venerated principle that malicious prosecution is a disfavored cause of action, and should not be expanded lightly. “Nevertheless, malicious prosecution actions are subject to more stringent limitations than other tort actions and will be allowed only when all the requirements for maintaining the action have been met.” 2019 IL 122654 ¶ 25.

Despite this caution about expanding the malicious prosecution action, plaintiff calls for a radical expansion which has never been countenanced before. In their *amicus* brief, the former federal prosecutors pitched the “biased investigation” concept to the Supreme Court, but the Court gave it no quarter. The Court acknowledged the contribution of all *amici*, and endorsed the federal prosecutors call for a common-sense approach, but never gave even the slightest traction to the notion that a defective investigation, a negligence based interpretation of the circumstances surrounding the crime, could be the cause of a malicious prosecution. Plaintiff’s theory advocates anything but a commonsense approach.

Rather than requiring a causal link that overcomes the prosecutor’s independence, plaintiff’s approach completely eliminates the prosecutor’s judgment from the analysis. It assumes the hundreds of qualified and competent state court prosecutors throughout Illinois are incapable of evaluating a bad investigation and refusing a prosecution because of it. Certainly, the Supreme Court in its Opinion did nothing to impugn the capabilities of Illinois prosecutors, or to even acknowledge a causation theory that would expose

police throughout the state to lawsuits in every case they investigate in which the prosecution, for whatever reason, fails. Plaintiff's construct envisions an immune prosecutor who should have rejected a "biased investigation" escaping liability with all potential exposure falling on the police.

It is safe to say there has never been a difficult police investigation that could not be, or was not, second-guessed. Criminal defense strategies almost always attack the sufficiency of the investigation, whether evidence was gathered properly, interpreted correctly, reported sufficiently, and all potential leads covered. Attacks on an investigation take place during a criminal trial to test it for the trier of fact. To say the police misinterpreted the crime scene and cut-off investigation too early is to say they were negligent. To expose the police to potential liability, based on hindsight and second-guessing normal investigative activities, invites a disaster. Some believe that defensive policing has already crippled crime fighting efforts in the state, and plaintiff's theory of what it means to proximately cause a prosecution would make it worse.

Plaintiff's approach has been expressly rejected by the Illinois legislature. Section 4-102 of the Illinois Tort Immunity Act establishes that police and public entities cannot be liable for "failure to detect or solve crimes, and failure to identify or apprehend criminals." 745 ILCS 10/4-102. A so-called biased investigation, one that fails to properly solve the crime, cannot form the basis for causation of a malicious prosecution.

The Supreme Court's Opinion expressed the requirement that police cause a malicious prosecution when they overcome prosecutorial independence. *Beaman*, at ¶44. Even the gross distortion of the evidence plaintiff provides in his Brief cannot raise a specter of possibility that a jury could find that the prosecutors' independent judgment

was overcome in this case. To encapsulate once again, the decision to prosecute plaintiff was made by the prosecutors, after nine months of investigation, at a meeting on May 16, 1994. (C00349, ¶94; C00977). Attending the meeting were NPD investigators Daniels, Freesmeyer, Zayas, and Chief Taylor, along with McLean County SA Reynard and ASA Souk. (C00349, ¶94; C00977). Reynard and Souk were clear and unequivocal in their testimony that they made the decision to prosecute Beaman uninfluenced by any defendant. (C02197, p. 71-72; C00977, p. 139-140). Defendants' input was only to discuss the evidence. The circuit court's conclusion that the McLean County SA's Office "alone made the decision to prosecute plaintiff for the murder of Jennifer Lockmiller after considering all evidence, including evidence concerning other potential suspects in the case" (C12497), remains the correct view. The prosecutor's independent decision was the sole cause of the prosecution.

The circuit court properly recognized what cannot be plausibly denied – that the deposition testimony of Daniels "corroborates the defendants' claim in this case that the officers did not commence the prosecution." (C12497). Daniels was not sued by plaintiff and at various times stated, post-conviction, that he was "on their (plaintiff's) side." At his deposition, Daniels described wanting to discuss additional investigation he thought should be pursued, which he learned about at a cold-case conference he had recently attended in Florida. When asked about the meeting where the decision was made to arrest plaintiff, Daniels testified that Souk interrupted him when it was Daniels' opportunity to discuss leads from the cold-case conference, and instead stated that "he [Souk] thought that they went far enough in the investigation, they were going to go ahead and issue a warrant for Mr. Beaman's arrest." (C00350, ¶97; C00693).

The evidence shows Daniels was somewhat bitter about his inability to influence the prosecutors, given how steadfast they were in their decision to prosecute. The decision was solely made by the SA, in his role as the chief law enforcement officer for the County, with Souk's full support. (C00349-350, ¶95; C00977). Even a so-called "biased investigation," if one had actually occurred, could not have overcome the independent judgment of the prosecutors. Prosecutor Souk was aware of and even involved in the investigation from the beginning.

Plaintiff's standard, that a case that could be presented to a jury based on a defective investigation, one that misinterpreted evidence and focused on the wrong suspect, which overemphasized the importance of some evidence and missed the importance of other, a case of police malpractice, is a perspective that eliminates the prosecutor from the analysis. It ignores the core of the Supreme Court's Opinion, that whatever the "significant role" or "advice and cooperation" may have been, it must have overcome the independence of the prosecutor. Plaintiff's case could only establish a jury question if the prosecutor is eliminated from the test.

For example, plaintiff once again points to the Murray polygraph as some lynchpin in the case. He disregards Souk's unequivocal testimony that he never thought Murray had a motive, and therefore never considered Murray a true and viable suspect. Plaintiff calls this a "claim" of Souk, the inference being that for whatever reason, it is not credible, but the facts overwhelmingly belie that contention. That Souk never considered Murray a suspect could not ring more true. Souk read Murray's statements; knew of Murray's drug dealings and steroid use; knew about Murray's physical conflicts with his girlfriend and his erratic behavior. Souk still planned to use Murray as a witness

at the trial.

Plaintiff still pushes that the incomplete polygraph would have mattered. That notion has been and remains pure fantasy. Plaintiff points to Souk's testimony that he would "have looked at it" had he gotten it, as some indication that it made a difference. Of course Souk would have looked at it, just as he looked at Murray's statements given to the police and his arrest record for drug dealing and domestic battery. Police and prosecutors see inconclusive polygraph reports all the time. Even in this case there were other inconclusive polygraph reports, and Souk did not even consider Murray's inconclusive, only incomplete. (C01093). Compared to everything else Souk knew about Murray, a reasonable jury could not say the polygraph would have made a difference to him.

This Court has already fully explored and rejected plaintiff's polygraph contentions:

- It would be speculative for a jury to find a polygraph report, indicating only that the test was incomplete due to a failure to follow instructions, would have had any bearing on Souk's decision to prosecute plaintiff. In his deposition, Souk testified Murray had no motive to kill Lockmiller. Souk knew about Murray when he decided to arrest plaintiff. During the prosecution, Souk knew Murray and Lockmiller had been involved sexually. Souk knew Murray had made two separate statements about the time he left town, meaning Murray potentially lied and Murray was in town when Lockmiller was murdered. During the prosecution of plaintiff and before plaintiff's trial, Souk learned of Murray's steroid use and erratic behavior and the domestic abuse allegations, and he continued prosecuting plaintiff. Souk already knew Murray's character was questionable. The report did not establish a motive to murder Lockmiller or provide evidence establishing Murray as the killer – the two bases for Souk's decision ruling out Murray as a suspect.

2017 ILApp(4th) 160527 ¶69.

Plaintiff argues the federal court made a finding inconsistent with this Court's about the impact of the polygraph on Souk's prosecutorial decision. *Beaman v. Souk*, 7

F.Supp.3d 805, 830 (C.D. Ill. 2014). The federal court's decision, however, focused on whether the polygraph was *Brady* material and the effect it could theoretically have had on rulings in the criminal trial, not on Souk's view of whether Murray was a suspect. This Court's conclusion is not in conflict with the district court's.

Moreover, how could the polygraph even play out in this case? The Supreme Court's decision creates a threshold that any police officer involved in an investigation had to be so "active" in it to be deemed as having provided "advice and cooperation" with the prosecutors, or have played "a significant role in" the prosecution to have caused it. The only defendant with any connection to the Murray polygraph was Warner, who played only a very insignificant role in the case. Warner took statements early on, when the entire NPD investigative unit pitched in. Warner's only connection to the Murray polygraph was not from being involved in the investigation, but because he was the NPD's evidence officer. He immediately gave the report to Daniels, who was actively involved in the investigation. Warner was not present at the meeting when the SA made the decision to arrest plaintiff for the murder. Warner did not play either an active role that amounted to advice and cooperation in the prosecution decision, or a significant role in the prosecution, to satisfy the Supreme Court's threshold. And Freesmeyer and Zayas cannot be pulled into potential liability for the insignificant polygraph, when the uncontradicted evidence shows they never even knew about it.

Plaintiff again raises the tired argument about Freesmeyer misleading the grand jury and manipulating time trials. Despite plaintiff repeatedly complaining about it, no court that has looked at this case has given any credence to these arguments. *E.g., People v. Beaman*, 2017 ILApp (4th) 160527 ¶63 ("Plaintiff's conclusory statements identify

two types of evidence that were allegedly fabricated: the time trials and Freesmeyer's testimony before the grand jury. This evidence, however, does not support plaintiff's conclusion"); *People v. Beaman*, 368 Ill. App.3d 759, 768 (4th Dist. 2006) ("In its order denying defendant post-conviction relief, the court found Freesmeyer's testimony to be neither false or misleading . . . The court's conclusion is not against the manifest weight of the evidence"); *Beaman v. Freesmeyer*, 776 F.3d. 500, 512 (7th Cir. 2015) ("But, Freesmeyer did not lie about the speeds and alternative routes, and he was subject to cross-examination about the speeds and alternative routes.")

The whole Freesmeyer claim, again, could only hold traction if the role of the prosecutor is eliminated from the analysis. Souk was at the Grand Jury and asked the questions, so he knew of Freesmeyer's testimony, and could make his own independent judgment as to whether it was accurate. He obviously saw, as did the Seventh Circuit and every other court involved, nothing inaccurate about it. Souk also knew about the time trials. If Freesmeyer went too fast on one and too slow on another, Souk could and did make his own independent judgment as to how such evidence would hold up, and what affect it had on the validity of the prosecution. Time trials only determine possibilities. What can be tested in a time trial is how long something can take, under varying conditions. It would be impossible for Freesmeyer to bamboozle Souk over the time trial results. Souk could objectively determine whether the tests were probative of an issue affecting the prosecution, and could form his own judgments about it. Only plaintiff's dangerous reformulation of a proximate cause test, which eliminates the involvement of the prosecutor, and total distortion of the evidence, could create a fact issue here for the jury.

The police defendants' investigative activities here, as the Seventh Circuit acknowledged, were "the type of behavior that will be present in every criminal prosecution – valid pursuit of a conviction." *Beaman v. Freesmeyer*, 776 F.3d at 512. The police actions here were neither the actual or legal cause of plaintiff's prosecution, a determination this court can make as a matter of law from the undisputed material facts in this case. *City of Chicago v. Beretta U.S.A. Corp.*, 213 Ill.2d 351, 395-96 (2004). Defendants' activities in conducting the investigation into the murder did not actually cause the prosecution, the murder caused a condition for prosecution, and the prosecutors' independent judgment was the actual cause. Defendants' activities were not the legal cause, because the prosecutors were fully aware of all factors important to them in making their decision, and it is not foreseeable that a sworn prosecutor would not reject a defectively biased investigation, even if it were truly biased and defective.

The cases plaintiff cites do not support his position. In *Price v. Phillip Morris, Inc.*, 219 Ill.2d 182, 269-70 (2005), the Supreme Court questioned whether proximate cause could conceivably be established on a theory that millions of smokers were deceived into smoking by the defendant's advertisements. This Court should be equally skeptical that experienced prosecutors could conceivably be deceived by a so-called biased investigation taking place right under their noses. *Thacker v. UNR Industries*, 151 Ill.2d 343 (1992), addressed the inherently factual question of the type of evidence, scientific or other, capable of proving that an illness was caused by exposure to a toxic substance. *Thacker* has no applicability here.

Finally, plaintiff distorts what occurred at the May 16, 1994 meeting. Plaintiff conflates none of the officers disagreeing with the decision to prosecute (except, possibly,

Daniels), with active effort by the police to convince the prosecutors to go forward. That cannot be the case. Plaintiff's theory puts a burden on the police to oversee the actions of the prosecutors, an argument they first made, then abandoned, in federal court.

Neither could Freesmeyer's testimony before the grand jury and at the trial constitute commencement. Police testify at legal proceedings involving persons charged with crimes. That role carries out the prosecutor's decision, it does not cause it. Plaintiff's argument would also abrogate the testimonial immunity that protects witnesses from liability and assumes the continued vitality of our legal justice system. *Rehberg v. Paulk*, 132 S.Ct. 1497, 1508 (2012); *Jurgensen v. Haslinger*, 295 Ill.App.3d 139, 141-42 (3d Dist. 1998). The United States Supreme Court in *Rehburg* recognized explicitly that police could not be held accountable for a prosecutorial decision by testifying in the prosecution's legal proceedings. 132 S. Ct. at 1508.

Souk drew his own conclusions regarding the evidence that was uncovered during the investigation. Souk was influenced by Beaman's obsession with Lockmiller; his breaking down her door on two occasions; his extreme jealousy toward her; his fingerprint on the murder weapon; and so on. (C00352-354, ¶¶99-110; C00977, C02845). Souk reviewed the information gathered in the investigation, and drew the conclusion that grounds existed to prosecute plaintiff. The decision was made by SA Reynard, with Souk's support. (C00349-350, ¶¶95; C00977). Even plaintiff's self-proclaimed advocate on the investigative team, Daniels, agreed that no defendant did anything at that meeting to cause Souk or Reynard to prosecute Beaman. (C00350, ¶¶97; C00693).

Defendants' conduct was not the proximate cause of the prosecution decision. Defendants did not induce Beaman to demonstrate his intense obsession with Lockmiller;

break down her door; start a public fight with her new lover; place his fingers on the murder weapon; or make suspicious statements after the murder. There can be no doubt, based on an independent review of the evidence, that the SA and his Assistants were convinced of Beaman's guilt, as Souk explained in significant detail during his deposition. (C00352-354, ¶99-110; C00977, C02845). Because Souk has absolute immunity for the prosecution, as plaintiff has conceded, his testimony cannot be attacked for bias or interest. Souk had no motive except to present his honest view of the evidence. Plaintiff may disagree with Souk's view of the evidence, but that has no impact on the question of initiation of the prosecution.

Plaintiff still argues defendant Warner "buried" the Murray polygraph report. Certainly, Warner did not bury the polygraph or any other evidence, which plaintiff's advocate Daniels himself conceded. (C00348, ¶90; C00693). Nevertheless, as current precedent stands, allegations of a failure to produce even exculpatory evidence does not constitute initiation of a prosecution for a malicious prosecution claim. *Szczesniak v. CJC Auto Parts, Inc.*, 2014 IL App (2d) 130636, ¶13-14; *Denton v. Allstate Ins. Co.*, 152 Ill.App.3d 578, 584 (1st Dist. 1987); *Geisberger v. Vella*, 62 Ill.App.3d at 941 (1978); *Logan v. Caterpillar, Inc.*, 246 F.3d 912, 922 (7th Cir. 2001).

In sum, as the circuit court properly found, there is no dispute the McLean County SA, in consultation with his Assistants, initiated the prosecution of plaintiff for Lockmiller's murder. The evidence shows defendants did nothing to proximately cause the prosecutors to deviate from exercising their independent judgment and discretion to proceed with the charges. Plaintiff did not establish the first element of his malicious prosecution claim, and the circuit court properly granted summary judgment on Count I.

***B. Probable Cause Existed for Beaman's Prosecution.***

Significantly, there are three other meritorious bases for summary judgment here. The circuit court also properly found probable cause existed for the prosecution and plaintiff's arrest based on the detailed evidence recounted by Freesmeyer and Souk, and that the evidence supporting probable cause was sufficient to prove plaintiff's guilt beyond a reasonable doubt at trial. (C12497). Under Illinois law, probable cause is a complete defense to a malicious prosecution lawsuit. *Johnson v. Saville*, 575 F.3d 656, 659 (7th Cir. 2009). Probable cause is "a state of facts that would lead a person of ordinary caution and prudence to believe, or to entertain an honest and strong suspicion, that the person arrested committed the offense charged." *Reynolds v. Menard, Inc.*, 365 Ill.App.3d 812, 820 (1st Dist. 2006); *Sang Ken Kim v. City of Chicago*, 368 Ill.App.3d 648, 654 (1st Dist. 2006). The existence of probable cause depends on the "totality of the circumstances" at the time of the arrest. *Gauger v. Hendle*, 2011 IL App (2d) 100316 ¶112. Probable cause may be based on the "collective knowledge" of the officers involved in the investigation. *People v. Long*, 369 Ill.App.3d 860, 867 (2d Dist. 2007).

Probable cause is not a jury question if the facts on which probable cause is based are undisputed. *Cervantes v. Jones*, 188 F.3d 805, 811 (7th Cir. 1999) ("when facts sufficient to create probable cause are undisputed, probable cause is a question of law"). While plaintiff may dispute that he committed the crime, and dispute that the facts submitted to the jury proved he committed the crime, he cannot dispute the facts supporting a probable cause finding.

Plaintiff's probable cause quarrel is a paradigm of denial. He trumpets that the family values he grew up in made him an unlikely suspect, even though he used drugs with Lockmiller, terrorized her for months, then spoke of her in vile terms after her death.

The evidence collected during the investigation were not figments of the officers' imaginations, they were first-hand accounts from Lockmiller's closest friends and neighbors, of Lockmiller herself through her friends' accounts, and of forensic examinations of physical evidence, specifically damage plaintiff caused to Lockmiller's home and his fingerprint on the killing instrument.

Plaintiff cannot realistically dispute that there was strong evidence of his obsession with Lockmiller; his violent behavior toward her prior to the murder; that he bashed her door in on at least two prior occasions; his fingerprints on what the State considered the murder weapon; the inspection of Lockmiller's garbage which the State considered a signature; or the post-murder statements he made which the State considered suspicious. He may dispute his opportunity to commit the murder, but only that opportunity was improbable, not impossible. Indeed, opportunity was the focus of the criminal trial and the appeal from the conviction. The facts the State relied on in deciding to go forward with the prosecution clearly established probable cause. Souk's view that the evidence established the reasonable possibility of proving plaintiff's guilt beyond a reasonable doubt hardly can be disputed, given the outcome.

Plaintiff argues that because his conviction was vacated, and that he received a COI and a pardon, there could not have been probable cause for his arrest and prosecution. The certificate and pardon, however, do not erase the evidence supporting probable cause. A trial here could only ask a jury to make a legal determination, whether the undisputed evidence established probable cause. Plaintiff would want the jury to decide whether the evidence was sufficient to prove guilt – but in a malicious prosecution trial the jury would only decide whether evidence of guilt existed, not whether that

evidence was sufficient to prove plaintiff's guilt.

Plaintiff attempts to pick apart evidence supporting probable cause by arguing that it was not indicative of plaintiff's guilt, and there was stronger evidence of innocence. However, the overwhelming evidence as reviewed established probable cause for plaintiff's arrest. Further, the nature of the crime scene and the personal manner in which Lockmiller was murdered further supported a reasonable belief that plaintiff was involved in her death. (C00327-00344, ¶9-80).

Evidence also linked plaintiff to the scene. Two of his fingerprints were found on the clock radio attached to the cord used to strangle Lockmiller. One of his prints was on the back of the clock, near the cord, and the other was on the bottom of the clock. (C00330, ¶24). A plastic garbage bag was lying on the couch in the living room with its contents spilling out, which was similar to plaintiff's past behavior, when he rummaged through Lockmiller's garbage looking for evidence that she was having sex with Swaine. (C00328, C00338, C00342, ¶15, 50, 67). Finally, due to the estimated date and time of death, defendants believed plaintiff had sufficient time to drive to Normal to commit the murder and return to Rockford. (C00335-336, ¶38-45).<sup>3</sup>

At his deposition, Freesmeyer succinctly and convincingly recounted the facts which convinced him that probable cause existed. Souk agreed with Freesmeyer's analysis. There are no facts for a jury to arbitrate. The circuit court's reliance on the

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<sup>3</sup> By the time of trial plaintiff's defense team began producing evidence, through the testimony of plaintiff's mother, to narrow the window. However, probable cause is determined at the time of arrest. *People v. Wear*, 229 Ill.2d 545, 564 (2008). When plaintiff was charged and the case turned over to the prosecutors the window of opportunity for plaintiff to have committed the murder was longer. Moreover, neither the prosecution nor the jury were required to credit plaintiff's mother's alibi time line, and even if credited, there was still a window of opportunity, if a narrow one, for plaintiff to have committed the murder.

undisputed facts establishing probable cause was proper.

The circuit court's reliance on ASA Souk's conclusion that there was probable cause for the arrest and prosecution was also proper. (C00352, ¶99; C00977). Importantly, at his deposition, Souk recounted the evidence that he believed not only established probable cause, but in his view provided the State with a reasonable chance of proving plaintiff guilty beyond a reasonable doubt. (C00352-354, ¶99-110; C00977, C02845). Indeed, in deciding to go forward with plaintiff's arrest and prosecution, Souk applied a higher standard than the reasonable grounds to believe plaintiff committed the murder needed to establish probable cause.

Plaintiff argues Souk's and Freesmeyer's conclusions about the existence of probable cause here are inadmissible, and cites *Todd W. Musburger Ltd. v. Meier*, 394 Ill.App.3d 781 (1st Dist. 2009), where the court held that expert testimony on whether the plaintiff had a viable claim for *quantum meruit* was an inadmissible legal conclusion. Here, Souk's and Freesmeyer's testimony was not offered as an expert opinion on probable cause, but an explanation of their respective evaluations of the case, determinations they had to make. Nevertheless, the presumption of probable cause based on the grand jury true bill (*Freides v. Sani-Mode Mfg. Co.*, 33 Ill.2d 291 (1965)) still applies, and Souk's consideration of the evidence gathered in the investigation leading him to take the case to the grand jury is still relevant, even aside from his conclusion that it established probable cause.

Finally, there was nothing improper about the circuit court's recognition that the evidence presented at plaintiff's jury trial was sufficient to prove his guilt beyond a reasonable doubt. (C12498). That the conviction was vacated based on procedural

defects does not erase the evidence or its legal effect. Whether the evidence presented at plaintiff's trial was sufficient to prove his guilt beyond a reasonable doubt has been fully litigated. Although plaintiff argues the circuit court should not have even acknowledged a verdict that was later vacated, there remains a certain absurdity to an argument that the evidence did not even indicate probable cause, where an SA and his Assistants, a Grand Jury, a trial court jury, a trial court judge, and an appellate court, all determined that the evidence was sufficient to prove plaintiff guilty beyond a reasonable doubt, and the Supreme Court refused to review whether the evidence was sufficient. Then, in vacating plaintiff's conviction, the Supreme Court was careful to express no view impugning the sufficiency of the evidence.

Notwithstanding disagreements about guilt, no reasonable jury could conclude there was a lack of probable cause to prosecute plaintiff. The evidence of it was overwhelming. An office of seasoned prosecutors and a grand jury thought so, which is *prima facie* proof of probable cause. *Freides v. Sani-Mode Mfg., Co.*, 33 Ill.2d 291, 296 (1965). Even Tony Daniels believed there was probable cause. (C00802, p. 341). That plaintiff had the means, motive and opportunity to murder Lockmiller cannot be disputed. These factors alone can carry the day in establishing probable cause. *See e.g., People v. Kidd*, 175 Ill.2d 1, 22-23 (1996); *U.S. v. McMullin*, 568 F.3d 1, 7-8 (1st Cir. 2009); *People v. Yost*, 468 Mich. 122, 133 (2003); *Nugent v. Hayes*, 88 F.Supp.2d 862, 869 (N.D. Ill. 2000); *Schertz v. Waupaca Cty.*, 683 F.Supp. 1551, 1565 (E.D. Wis. 1988), *aff'd* 875 F.2d 578 (7th Cir. 1989). Coupled with the other evidence implicating plaintiff, probable cause is overwhelmingly established, and no reasonable jury could decide otherwise. As such, the circuit court properly granted summary judgment in favor of

defendants.

**C. Plaintiff Cannot Prove Defendants Acted With Malice.**

In the context of malicious prosecution, “malice” is “the initiation of a prosecution for any reason other than to bring a party to justice.” *Szczesniak v. CJC Auto Parts, Inc.*, 2014 IL App (2d) 130636, ¶19. Absence of malice can be decided on summary judgment where the record is devoid of any affirmative evidence of malice, an element on which the plaintiff bears the ultimate burden of proof. *Turner v. City of Chicago*, 91 Ill.App.3d 931, 937 (1st Dist. 1980).

As the circuit court explained, there is no evidence to allow a jury to conclude that defendants harbored any malice toward plaintiff. The evidence showed that defendants acted on their honest beliefs that plaintiff killed Lockmiller, and therefore, the circuit court could not find that “sufficient facts exist to show that the defendants’ involvement in this case was motivated by any other reason than to bring a party to justice.” (C12498). Further, that defendants acted on advice of the SA, either directly or through his Assistants, itself vitiates any claim of malice. *Salmen v. Kamberos*, 206 Ill.App.3d 686, 692 (1st Dist. 1990).

Plaintiff sees malice in defendants construing evidence as inculpatory, rather than exculpatory, and in defendants not agreeing with plaintiff’s assessment of the evidence. None of the action which plaintiff identifies as proof of malice, however, can constitute malice, at least as defined for purposes of malicious prosecution. Malice found for prosecutions, for example, have been proxies for collecting a debt (*Szczesniak*, 2014 IL App (2d) at ¶14); to force an employee’s termination (*Rodgers v. People’s Gas Light & Coke Co.*, 315 Ill.App.3d 340, 350 (1st Dist. 2000)); to discover why the plaintiff was on

the defendant's property (*D.N. Vasquez v. Jacobs*, 23 Ill.App.2d 457, 464 (2d Dist. 1960). Plaintiff complains of what at worst might be construed as zealous or negligent police work, but nevertheless its only purpose was to bring Lockmiller's killer to justice. Plaintiff offers no evidence that can support a conclusion that defendants' actions were for any other purpose than to bring the person they thought killed Lockmiller to justice.

Plaintiff misstates the evidence regarding Warner and the polygraph report. As explained above, the Seventh Circuit did not find Warner intentionally hid the polygraph report. In addition, as explained above, that Zayas was in charge of the investigation, was present at the May, 1994 meeting, and believed that the case needed some work, does not show malice. The prosecutors, not Zayas, decided to charge plaintiff with murder and nothing about Zayas' belief that more on the case might be needed could possibly result in an inference of malice. In sum, the circuit court properly granted summary judgment in favor of defendants.

**D. Plaintiff Cannot Prove The Termination Of His Prosecution Was Indicative Of His Innocence.**

Finally, plaintiff bears the burden of proving that termination of the prosecution in his favor occurred for reasons consistent with his innocence. *Swick v. Liataud*, 169 Ill.2d 504, 513 (1996). To make that determination, the circumstances under which the dismissal is obtained must be examined, not the form or title given to it. *Id.*

Plaintiff's conviction was reversed, but the case was remanded for retrial. As the circuit court recognized, the Supreme Court specifically held that no part of its decision would suggest insufficient evidence or preclude a retrial. *People v. Beaman*, 229 Ill.2d 56, 82 (2008). The circuit court also recognized that, on remand, the McLean County SA decided not to re prosecute plaintiff, but nothing about that decision suggested plaintiff's

innocence. Rather, relying on the deposition testimony of Souk (an experienced prosecutor and judge), the circuit court properly found the decision not to re prosecute plaintiff could have been “a matter of impracticability of reconstructing the evidence and relocating witnesses after so many years had passed.” (C12499).

Plaintiff also relies on the COI and governor’s pardon to establish a termination indicative of innocence. The Certificate and pardon, however, have no impact in this case. A COI proceeding is established under §2-702 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-702. It is essentially a non-adversarial proceeding, although the statute allows the Illinois Attorney General or the SA to intervene as parties in the action. The statute provides no ability of a municipal police agency or police officers to participate.

The State did not oppose plaintiff’s Petition, quite likely as part of a settlement agreement in which plaintiff agreed to drop all claims against the McLean County defendants. Regardless, in order for that COI to have any impact against these defendants, they needed a meaningful opportunity to oppose plaintiff’s Petition in that litigation. *Kremer v. Chemical Const. Corp.*, 456 U.S. 461 (1982). They did not, and therefore, the Certificate can have no preclusive effect here.

Further, by the express language of the statute, the issuance of the COI can have no impact in this case. 735 ILCS 5/2-702(j). The termination in favor of plaintiff was the *nolle prosequi* of the criminal charge against him after remand from the Supreme Court, which occurred long before the Certificate was issued. The Certificate, not issued until years later, played no role in the termination decision. Similarly, the governor’s pardon, not issued until years later, played no role.

The cases plaintiff cites do not support his conclusion that the COI can satisfy that element of his claim. In *Kluppelerg v. Burge*, 84 F.Supp.3d 741, 745 (N.D. Ill. 2015), the district court found the certificate could be relevant to whether the defendants there withheld material evidence, and possibly for damages, but never actually decided whether the certificate could prove a termination indicative of innocence. In *Walden v. City of Chicago*, 391 F.Supp.2d 660, 673 (N.D. Ill. 2005), the district court merely recognized that if a governor's pardon uses certain language, that pardon may indicate a conviction was terminated in the plaintiff's favor for purposes of a *Heck* analysis only. Nevertheless, a district court decision is not precedential here, and in any event a case stands only for the issues it decides. *Sanner v. Champaign County*, 88 Ill.App.3d 491 (4th Dist. 1980).

Plaintiff also argues the evidence showed he is innocent, but the termination element of his claim turns on why the case was terminated, not what the civil court hearing the malicious prosecution tort case thinks of the strength of the evidence against the plaintiff. Plaintiff has presented no other evidence to satisfy his burden, and therefore the circuit court properly granted summary judgment on plaintiff's malicious prosecution claim.

## **II. This Court Properly Found Plaintiff Forfeited His Intentional Infliction Of Emotional Distress Claim.**

This Court first time around properly found plaintiff forfeited his IIED claim because he did not develop his argument in support of the claim on appeal. Op. ¶74. Plaintiff attempts to argue that because he at least brought it up in his appellate court brief, he should be allowed to pursue it. However, as the appellate court properly recognized, "mere contentions, without argument or citation of authority, do no merit

consideration on appeal.” Op. ¶74.

In the alternative, even if this Court was to consider it, the circuit court properly recognized that plaintiff’s IIED claim is based on the alleged malicious prosecution and, therefore, fails because plaintiff’s malicious prosecution claim fails. *Jiminez v. City of Chicago*, 830 F.Supp.2d 432, 451 (N.D. Ill. 2011) (success of the IIED claim was contingent on the success of malicious prosecution claim); *Walden v. City of Chicago*, 755 F.Supp.2d 942, 962 (N.D. Ill. 2010) (IIED claim was “intertwined” with the malicious prosecution claim). Here, because plaintiff bases his IIED claim on the alleged malicious prosecution, his IIED claim also fails. Moreover, absent proof sufficient to establish common law malicious prosecution, defendants are immune from liability for a prosecution, regardless of how plaintiff styles his cause of action. 745 ILCS 10/2-208.

### **III. The Circuit Court Properly Granted Summary Judgment On Plaintiff’s State Law Civil Conspiracy Claim.**

The circuit court properly granted summary judgment on plaintiff’s conspiracy claim. On appeal, plaintiff confines his conspiracy claim to defendants conspiring among themselves to maliciously prosecute him, abandoning any claim that defendants conspired with the McLean County SA. To prove a civil conspiracy, a plaintiff must show an agreement to accomplish either an unlawful purpose or a lawful purpose by unlawful means. *Mosley v. City of Chicago*, 614 F.3d 391, 399 (7th Cir. 2010); *Buchner v. Atlantic Plant Maint., Inc.*, 182 Ill.2d 12, 23 (1998). Most significantly, a plaintiff must prove a meeting of the minds between the defendants. A conspiracy claim cannot be based on speculation or conjecture. The plaintiff must show the defendants acted in concert. *Fritz v. Johnson*, 209 Ill.2d 302, 317-18 (2004).

The circuit court properly found that because defendants are entitled to summary

judgment on plaintiff's malicious-prosecution claim, plaintiff cannot establish the third element of this civil-conspiracy claim. Plaintiff argues that a conspiracy is shown by the following: (1) defendants collaborated closely on the case and shared information and therefore must have known there was no probable cause to arrest and prosecute Beaman; (2) Freesmeyer ignored exculpatory evidence and alternative suspects, lied to the grand jury and skewed time trials; (3) Warner "buried" the Murray polygraph; and (4) Zayas allowed the arrest to go forward, knowing the evidence could not justify it. Plaintiff's claims of misconduct aside, his argument flags nothing more than defendants all working on the same investigation. If sufficient, such a conspiracy claim would exist in every police investigation involving more than one officer.

In *Mosley*, the plaintiff alleged that investigating officers conspired to prosecute him by withholding evidence of an exculpatory statement made by a key eyewitness during a line-up (614 F.3d at 39). The officers failed to make a line-up report for fifteen months to hide the witness's statement. The court found the absent report and officers working together did not amount to evidence of a conspiracy. *Id.* at 400. In *Vodak v. City of Chicago*, 2009 WL 500678 (N.D. Ill. 2009), the plaintiff's evidence of various discussions between command personnel regarding the decisions to make arrests and charge the arrestees did not support a conspiracy finding.

Here, summary judgment was also properly granted on the conspiracy claim because, as the circuit court recognized, to prevail "plaintiff would need to show that the defendants conspired with themselves and with the prosecution to maliciously prosecute him." (C12499). Because plaintiff is no longer claiming a conspiracy with the prosecutors, summary judgment was properly granted pursuant to the intracorporate

conspiracy doctrine. *Wright v. Illinois Dept. of Children and Family Svcs.*, 40 F.3d 1492, 1508 (7th Cir. 1994); *Buchner*, 182 Ill.2d 12 at 24.

The intracorporate conspiracy doctrine precludes conspiracy claims against members of the same entity. *Payton v. Rush-Presbyterian-St. Luke's Med. Ctr.*, 184 F.3d 623, 632 (7th Cir. 1999). See *Piphus v. City of Chicago*, 2013 WL 3975209, at 8 (N.D. Ill. 2013) (conspiracy claim was barred by the intracorporate doctrine because it was only directed at the police officers, employees of the same government entity); *Ghiles v. City of Chicago Hts.*, 2016 WL 561897, at 3 (N.D. Ill. 2016) (conspiracy claim was barred under the intracorporate conspiracy doctrine because all defendants were City officials); *Maska v. Schicker*, 2015 WL 6098733 (S.D. Ill. 2015). Similarly, here, the intracorporate conspiracy doctrine bars plaintiff's conspiracy claims. In sum, the circuit court properly granted summary judgment in favor of defendants on plaintiff's conspiracy claim.

#### **IV. The Circuit Court Properly Granted Summary Judgment On Counts IV And V.**

Finally, the circuit court properly found the *respondeat superior* and indemnification claims are derivative claims against the Town of Normal based on the substantive claims against the individual defendants. As such, the circuit court properly affirmed summary judgment on these claims as well.

## CONCLUSION

For all of the foregoing reasons, the defendants respectfully request this Court affirm the judgment in this case.

Respectfully submitted,

TIM FREESMEYER / DAVE WARNER  
FRANK ZAYAS / TOWN OF NORMAL

By:



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**CERTIFICATE OF COMPLIANCE**

I, Thomas G. DiCianni, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 49 pages and 14,996 words.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on July 3, 2019 the foregoing **BRIEF AND ARGUMENT OF DEFENDANTS-APPELLEES** was filed by electronic means with the Clerk of the Appellate Court of Illinois 4<sup>th</sup> District, 201 West Monroe Street, Springfield, IL 62704. I further certify that the same was served by electronic transmission on:

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No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

---

ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

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Appeal from the Circuit Court of McLean County, Illinois  
Eleventh Judicial Circuit, No. 14 L 51  
The Honorable Richard L. Broch, Judge Presiding

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**APPELLANT'S REPLY BRIEF ON REMAND**

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**ORAL ARGUMENT REQUESTED**

**TABLE OF POINTS AND AUTHORITIES**

**I. Commencement or Continuance Is An Issue for the Jury.....1**

**A. A Rational Juror Could Find that the Defendants Concealed Evidence and Engaged in Wrongful or Bad Faith Conduct Instrumental in the Initiation of the Prosecution. .... 1**

*Beaman v. Freesmeyer*, 2019 IL 122654 .....1, 2, 5

*People v. Beaman*, 229 Ill. 2d 56 (Ill. 2008).....3, 5

*White v. City of Chicago*, 2012 WL 2525654 (N.D. Ill. 2012).....4

*Brooks v. City of Chicago*, 564 F.3d 830 (7th Cir. 2009).....4

*Beaman v. Souk*, 7 F.Supp.3d 805 (C.D. Ill. 2014).....4

**B. Defendants’ Extreme View of Prosecutorial Independence Is Contrary to the Supreme Court’s Opinion and Would Swallow the Supreme Court’s Rule for Commencement or Continuance. .... 6**

*Beaman v. Freesmeyer*, 2019 IL 122654 .....7, 8, 9

**II. Malice Is A Question for the Jury. ....9**

*Hardin v. Gouveneur*, 69 Ill. 140 (1873) .....10

*Murphy v. Larson*, 77 Ill. 172 (1875).....10

*Mack v. First Sec. Bank of Chicago*, 158 Ill. App. 3d 497 (1st Dist. 1987) .....10

*Beaman v. Souk*, 7 F.Supp.3d 805 (C.D. Ill. 2014).....10

*Beaman v. Freesmeyer*, 2019 IL 122654 .....11

**III.A Rational Juror Could Find that Defendants Lacked Probable Cause.....11**

*Seymour v. Collins*, 2015 IL 118432 .....11

*Carney v. Union Pacific R. Co.*, 2016 IL 118984.....11

*Beaman v. Freesmeyer*, 2019 IL 122654 .....11

*Penn v. Chicago State University*, 162 F. Supp. 2d 968 (N.D. Ill. 2001).....13

*People v. Beaman*, 229 Ill. 2d 56 (Ill. 2008).....15, 16, 17

*Freides v. Sani-Mode Mfg. Co.*, 33 Ill. 2d 291 (1965).....15

**IV. A Rational Juror Could Find that the Criminal Proceedings Against Beaman Concluded in a Manner Indicative of Innocence. ....17**

*Walden v. City of Chicago*, 391 F. Supp. 2d 660 (N.D. Ill. 2005).....17

*Kluppelberg v. Burge*, 84 F. Supp. 3d 741 (N.D. Ill. 2015).....17, 18

735 ILCS § 5/2-702(k).....	17
<i>Rich v. Baldwin</i> , 133 Ill. App. 3d 712 (5th Dist. 1985) .....	18
<i>People v. Beaman</i> , 229 Ill. 2d 56 (Ill. 2008).....	18
<b>V. The Civil Conspiracy Claim Must Proceed to Trial.</b> .....	18
<i>Whitley v. Taylor Bean &amp; Whitacker Mortg. Corp.</i> , 607 F. Supp. 2d 885 (N.D. Ill. 2009) .....	19
<i>Newsome v. James</i> , No. 96 C 7680, 2000 WL 528475 (N.D. Ill. Apr. 26, 2000) .....	19
<i>Emery v. Northeast Illinois Regional Commuter R.R. Corp.</i> , No. 02 C 9303, 2003 WL 22176077 (N.D. Ill. Sept. 18, 2003).....	19
<i>Hobley v. Burge</i> , No. 03 C 3678, 2004 WL 1243929 (N.D. Ill. June 3, 2004) .....	19
<i>Johnson v. Village of Maywood</i> , No. 12 C 3014, 2012 WL 5862756 (N.D. Ill. Nov. 19, 2012).....	19
<i>Salto v. Mercado</i> , No. 96 C 7168, 1997 WL 222874 (N.D. Ill. Apr. 24, 1997).....	19
<i>Northen v. City of Chicago</i> , No. 93 C 7013, 1999 WL 342441 (N.D. Ill. May 17, 1999) .....	19
<i>Cannon v. Burge</i> , No. 05 C 2192, 2006 WL 273544 (N.D. Ill. Feb. 2, 2006).....	19
<b>VI. The Remaining Claims Must Proceed to Trial.</b> .....	19
<b>VII. Conclusion</b> .....	19

The Supreme Court’s unanimous decision makes it clear that officers meet the commencement or continuance element of the malicious prosecution tort when they conceal evidence or engage in other wrongful or bad faith conduct instrumental in initiating a wrongful prosecution. That is precisely what happened here and why this case must go to a jury. Defendants’ argument to the contrary is a backdoor invitation to overrule the Supreme Court’s recognition that bad faith conduct by investigators can be instrumental in initiating charges. And their factual arguments as to each prong badly misstate the record and improperly usurp the jury’s province to adjudicate disputed facts and inferences.

**I. Commencement or Continuance Is An Issue for the Jury.**

**A. A Rational Juror Could Find that the Defendants Concealed Evidence and Engaged in Wrongful or Bad Faith Conduct Instrumental in the Initiation of the Prosecution.**

The Supreme Court squarely held that the commencement or continuance prong is satisfied where police officers “concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Beaman v. Freesmeyer*, 2019 IL 122654, ¶ 45 (quoting 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)). In this case, it is for the jury to decide that question. The Supreme Court’s decision reaffirms—in striking, forceful terms—the jury’s power over factual matters and the extreme nature of summary judgment. The unanimous Court declared: “Summary judgment is a drastic means of disposing of litigation.” *Id.* ¶ 22. The extraordinary remedy is permitted “only when the right of the moving party is *clear and free from doubt.*” *Id.* (emphasis added). Summary judgment must not be granted “where reasonable persons could draw divergent inferences from the undisputed material facts or where there is a

dispute as to a material fact.” *Id.* Courts must construe the record “strictly against the movant and liberally in favor of the opponent.” *Id.*

Thus, whatever it means for malicious prosecution to be “disfavored,” it cannot be that the summary judgment standard is to be set aside in these cases. Indeed, the Supreme Court’s opinion teaches the opposite. Commencement or continuance is an issue for trial in this case because a rational juror could find that the Defendants’ bad faith conduct and concealment of evidence were instrumental to the initiation and continuance of the prosecution in the following ways, individually or in combination:

**First**, a rational juror could find that Freesmeyer performed the time trials in bad faith. Defendants offer no rejoinder to the fact that Freesmeyer recorded the results of all fourteen time trials that hurt Beaman—but omitted the *only one* that helped Beaman. Pl. Br. 31. The omitted time trial supported Beaman’s alibi by showing he would have easily made it home from the bank in time for the 10:37 and 10:39 calls that he placed to his youth pastor. Justice Burke zeroed in on this omission at the Supreme Court argument.<sup>1</sup> Defendants have no explanation for this glaring omission. Especially given that Freesmeyer dutifully recorded every time trial result that could harm Beaman’s defense, this Court cannot simply assume Freesmeyer’s good faith—on summary judgment and as a matter of law—without usurping the jury’s rightful authority.

In its previous decision, this Court addressed whether Freesmeyer provided “false information” about the time trials but did not directly consider whether he performed them

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<sup>1</sup> See Illinois Supreme Court Oral Argument Audio 32:58, [https://multimedia.illinois.gov/court/SupremeCourt/Audio/2018/091318\\_122654.mp3](https://multimedia.illinois.gov/court/SupremeCourt/Audio/2018/091318_122654.mp3) (“JUSTICE BURKE: But didn’t Mr. Freesmeyer leave out some information or omitted information from his police report? MR. DICIANNI: That—the bypass route did not make it into his police report, that is correct. JUSTICE BURKE: Right, so he omitted it, right?”)

in good faith. This Court and the Seventh Circuit have concluded that Freesmeyer did not lie about the routes or the speeds at which he drove, but that was never Plaintiff's contention. Rather, the point is that an investigator acting in good faith would not perform the time trials in the manner that Freesmeyer did. True, Souk may have asked for time trials, but there is no evidence that Souk told Freesmeyer to careen at ridiculous speeds when that would hurt Beaman's alibi, crawl along when that would harm the alibi, or to omit exculpatory information from his report. A rational juror could find that the time trial results, produced through bad faith and deliberate omission, were instrumental to the initiation of the prosecution because they purported to negate Plaintiff's ironclad alibi and enabled the case against him to proceed.

*Second*, Freesmeyer misled the grand jury. He lied about alternative suspects, particularly Murray, claiming that investigators had not "locate[d] any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller." A.115, 3218. This was far more than concealment of the polygraph—it was total concealment before the grand jury of Murray as a suspect. Because the same sort of concealment occurred before the petit jury at trial, the Supreme Court unanimously vacated the criminal verdict in 2008. *People v. Beaman*, 229 Ill. 2d 56, 80 (Ill. 2008) (noting that "the State's argument [at trial] relied upon the assertion that all other potential suspects had been eliminated from consideration," when in fact Beaman "could have argued that [Murray] had a motive to commit the murder" if the Murray evidence had not been concealed).<sup>2</sup> Just as the Supreme Court could not have "confidence in the verdict," *id.* at 81, because alternative suspects

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<sup>2</sup> Although this Court previously discounted Freesmeyer's grand jury testimony minimizing David Singley's critical time of death evidence, a rational juror could find that grand jury testimony *in addition* to the Murray testimony to be misleading. A.3417–18.

were concealed from the petit jury, the grand jury might never have indicted Beaman but for the concealment of alternative suspects. This Court therefore cannot conclude as a matter of law that Freesmeyer's false testimony was not instrumental in causing the prosecution.

As Defendants note, grand jury perjury does not create a malicious prosecution claim all by itself, but it may be "used, along with other allegations, to support [a] malicious prosecution claim." *White v. City of Chicago*, 2012 WL 2525654, at \*4 (N.D. Ill. 2012); *see also Brooks v. City of Chicago*, 564 F.3d 830, 833 (7th Cir. 2009) (stating that a claim for prosecution based on "false evidence or testimony . . . is, in essence, one for malicious prosecution" (citations omitted)).

**Third**, as the federal district court unequivocally held, a jury issue exists as to whether Warner intentionally concealed the Murray polygraph report because Warner received the report, he failed to follow policy on disseminating it, and the report thereafter vanished: "[T]aking the evidence in the light most favorable to Plaintiff, he has pointed to sufficient evidence to support an alternative inference that [Warner] intentionally withheld the information from Souk." *Beaman v. Souk*, 7 F.Supp.3d 805, 827 (C.D. Ill. 2014). Defendants make much of Daniels' totally inadmissible testimony that he did not consider Warner to be the type of officer who would intentionally conceal a polygraph report. Daniels has no personal knowledge of what happened to the report after he gave it to Warner, and no court could conclude as a matter of law that Warner simply lost it just because Daniels did not think he would hide it.

In arguing that no rational juror could find that the polygraph could have affected the decision to indict Beaman, Defendants ask this Court to break ranks with the federal district

court, which concluded: “Perhaps if the prosecutor had received the polygraph report, he would no longer have agreed Murray was not a viable suspect.” *Beaman*, 7 F.3d at 830 n.8. The Seventh Circuit’s affirmance does not disturb that finding. Nor should the Court blindly accept on summary judgment Souk’s claim that Murray was not a viable suspect. After all, Beaman was wrongfully convicted in the first place—and his conviction was later vacated—*precisely because of* Souk’s dishonesty about Murray not being a viable alternative suspect. *See Beaman*, 229 Ill. 2d at 80. Moreover, the Supreme Court unanimously recognized in 2008 that Murray had a “motive to commit the murder.” *Id.* at 80. Even Souk himself had to acknowledge that the polygraph would have been “useful for investigative purposes,” and he would have “asked some questions and looked at it more” had he even known about it. A.3423. But even that is an effort to minimize the relevance of the polygraph to the case against Beaman. The polygraph was critical evidence because “the circumstances of the polygraph examination indicate that [Murray] intentionally avoided the test. He did not comply with the polygraph examiner’s instructions during the first attempt and failed to cooperate in scheduling a second attempt.” *Beaman*, 229 Ill. 2d at 76. In addition, Defendants contend that Souk planned to call Murray as a witness at some point. Def. Br. 34–35. Even if the assertion is true, it is irrelevant since the prosecutor ultimately decided not to call him.<sup>3</sup>

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<sup>3</sup> Remarkably, the Defendants contend that “as current precedent stands, allegations of a failure to produce even exculpatory evidence does not constitute initiation of a prosecution for a malicious prosecution claim,” Def. Br. 40, but the Supreme Court plainly stated that the commencement or continuance element can be satisfied where “conceal[ment] [of] exculpatory evidence” was instrumental in the initiation of charges. *Beaman*, 2019 IL 122654, ¶ 44.

*Fourth*, Freesmeyer’s extreme bias, which included a fixation on Beaman as the prime suspect from Day One, *see* Pl. Br. 4–5, his determination seven months before the investigation ended that Beaman “was going to be arrested for Jennifer’s death at one point or another,” A.1318, his threat to push for Beaman’s execution if he did not confess, A.1318, and his irrational view of exculpatory evidence as *inculpatory*, *see* Pl. Br. 37–40, only add to the facts that allow a rational juror to find bad faith misconduct instrumental to the prosecution. A rational juror could find that Beaman never would have been charged if Defendants had investigated information inculcating other possible suspects, including: (1) identifying similar burglaries or sexual assaults in the area, (2) attempting to locate the stranger who would not stop calling Lockmiller, (3) looking for the other stranger who gave Lockmiller his phone number in lipstick just before her death, and (4) subjecting John Murray to the same scrutiny, wiretapping, extreme bias, and browbeating as Plaintiff. Pl. Br. 10–11. The point is not, as Defendants would have it, that any investigative bias constitutes malicious prosecution. Rather, a rational juror could find that the extreme nature of the bias of this case—*combined* with the concrete misconduct and concealment described above—were a part of the Defendants’ bad faith actions that were instrumental in bringing about the prosecution.<sup>4</sup>

**B. Defendants’ Extreme View of Prosecutorial Independence Is Contrary to the Supreme Court’s Opinion and Would Swallow the Supreme Court’s Rule for Commencement or Continuance.**

The Supreme Court’s decision plainly states that four categories of action by the police satisfy the commencement or continuance prong. Commencement or continuance has

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<sup>4</sup> Defendants wholly fail to support their assertion that Daniels “agreed that no defendant did anything at [the pre-arrest] meeting to cause Souk or Reynard to prosecute Beaman.” *See* Def. Br. 39. (citing R.350, ¶ 97; R.693).

occurred if police officers “[1] improperly exerted pressure on the prosecutor, [2] knowingly provided misinformation to him or her, [3] concealed exculpatory evidence, or [4] otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Beaman*, 2019 IL 122654, ¶ 45 (quoting 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)).

While sometimes paying lip service to the Supreme Court’s fourth category of conduct—officers commence or continue a prosecution when they “otherwise engage[ ] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution,” *id.*,—Defendants in fact ask this Court to eviscerate this method of showing commencement or continuance. By zeroing in on the Supreme Court’s reference to the presumption of prosecutorial independence to the exclusion of everything else in the opinion, Defendants and their amici are asking this Court to overrule the Supreme Court from below. Strangely, Defendants deny that the Supreme Court rejected the pressure, influence, or misstatement test that this Court had applied. *Compare* Def. Br. 28 (“The Supreme Court did not reject the result of this Court’s decision affirming summary judgment, *or the test this Court applied.*”) (emphasis added) *with Beaman*, 2019 IL 122654, ¶ 47 (“We conclude that the appellate court’s standard failed to consider whether the defendants proximately caused the commencement or continuance of the criminal proceeding against Beaman. The appellate court focused its inquiry on whether the ‘officer[s] pressured or exerted influence on the prosecutor’s decision or made knowing misstatements upon which the prosecutor relied.’” (quoting *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527, ¶ 58)). The municipal amici simply excise “otherwise engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution” *Beaman*, 2019 IL 122654, ¶ 45, from the test they propose.

Municipal Am. Br. 4 (No mention of wrongful or bad faith conduct in their formulation: “[T]he plaintiff must overcome the presumption of prosecutorial independence, and this can be achieved in narrow circumstances where the defendant improperly exerted pressure on the charging prosecutor, made knowing misstatements upon which the prosecutor relied, falsified evidence, or concealed exculpatory evidence.”).

The opposing briefs do not even try to offer an account of the types of investigative misconduct other than the first three items in the Supreme Court’s list that can be instrumental in the initiation of a prosecution. They effectively treat the fourth category, “otherwise engag[ing] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution,” as an empty set. *Beaman*, 2019 IL 122654, ¶ 45. Such a narrow view cannot be right. If it were, the Supreme Court would not have included wrongful or bad faith conduct instrumental in the prosecution as an *additional form* of commencement or continuance. In short, the extreme view of prosecutorial independence urged in the opposing briefs would negate the Supreme Court’s opinion and resurrect the far more restrictive “pressure, influence, or misstatement” rule—the very approach that the Supreme Court unanimously rejected.

Moreover, the Supreme Court recognized the practical reality that prosecutorial decisions rely on—and indeed defer to—police investigations: “This court has recognized that prosecutors ordinarily rely on police and other agencies to investigate criminal acts. Significantly, it is the recognized practice that the State’s Attorney sensibly *defers* to the investigative duties of the police.” *Beaman*, 2019 IL 122654, ¶ 43 (emphasis added) (citation and internal quotations omitted). These statements recognize the critical role that investigators have in setting a prosecution in motion. As a corollary of that critical role, the

Supreme Court concluded broadly that officers satisfy the commencement or continuance element when they “otherwise engage[ ] in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Id.* ¶ 45. Throughout their Brief, Defendants continue to rely on the false tautology that if a prosecutor caused the charges, the police must not have. *See* Def. Br. 27 (“[T]he prosecutors, not the defendant police officers, commenced the prosecution.”). That binary view flies in the face of the Supreme Court’s opinion in this case, which recognizes the extent to which prosecutors must rely on and defer to the police.

Rather than acknowledging the Supreme Court’s holding that bad faith conduct other than pressure, false statements, or concealment of evidence can be instrumental to the initiation of a prosecution, Defendants and their amici attempt to present this Court with a choice between effectively nullifying the Supreme Court’s decision and expanding malicious prosecution to encompass any biased, negligent, or mistaken investigation.

The choice is a false one. The Supreme Court was very clear that police officers can only be liable in malicious prosecution for “wrongful or bad-faith conduct.” *Beaman*, 2019 IL 122654, ¶ 45. Mere negligence or mistake does not constitute *malicious* prosecution. Plaintiff has never argued otherwise, because the Defendants’ investigation in this case was rife with bad faith and wrongful conduct. This Court is not free to ignore the Supreme Court’s standard—commencement or continuance includes “wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” *Id.* And given the competing inferences about bad faith and the effect of Defendants’ misconduct and concealment on the initiation of the prosecution, it is not for a court to take that question from the jury.

## **II. Malice Is A Question for the Jury.**

From the actions described above, a rational juror could easily find malice. After all, questions of state of mind and good faith versus bad faith or malice are quintessential

factual issues at the core of the jury’s function. “Good faith is a question of fact, and is for the determination of the jury.” *Hardin v. Gouveneur*, 69 Ill. 140, 143 (1873); *Murphy v. Larson*, 77 Ill. 172, 177 (1875) (holding in a malicious prosecution case that whether a defendant “acted in good faith . . . was a question for the jury”); *Mack v. First Sec. Bank of Chicago*, 158 Ill. App. 3d 497, 503 (1st Dist. 1987) (stating that “good faith is a factual determination . . . and is properly reserved to the sound discretion of the trier of fact”).

Perhaps a juror could conclude that Freesmeyer botched the case due to error rather than malice. Maybe Freesmeyer ignored the evidence exculpating Beaman out of gross incompetence rather than malice; maybe it was an innocent mistake to floor the accelerator when a fast speed would hurt Beaman’s alibi and to brake when *that* would hurt the alibi; maybe Freesmeyer denied the existence of viable alternative suspects before the grand jury out of mere incompetence as opposed to bad faith; and maybe Freesmeyer remembered to memorialize in his report every time trial except the one that exculpated Beaman due to an innocent mistake. Maybe Zayas assented to the arrest despite knowing the case was not ready to be sent to the State because he really didn’t think about it, *see* Pl. Br. 17, and maybe Warner innocently lost the polygraph rather than the alternative recognized by the district court—that he “intentionally withheld the information from Souk.” *Beaman*, 7 F.Supp.3d at 827. Yes—maybe.

All of these maybes reflect what is obvious: there are competing inferences that might be drawn from the record regarding the Defendants’ credibility and subjective state of mind. In our system of justice, we get to the truth on these issues through a trial, which is what must occur in this case. The conclusion of Plaintiff’s expert in criminal investigations, a former FBI agent with 45 years of criminal investigation experience, that the Defendants

“showed an utter disregard for the truth” A.3248–49, is not a fanciful one that no rational juror could reach. The drastic remedy of resolving such questions through summary judgment has no place here because “the right of the moving party” is not “clear and free from doubt.” *Beaman*, 2019 IL 122654, ¶ 22.

### **III. A Rational Juror Could Find that Defendants Lacked Probable Cause.**

A jury must decide whether Defendants had probable cause to arrest and jail Beaman because the record is beset with complex facts from which competing inferences could be drawn. Defendants want the Court to take not only some of the facts as undisputed but to *adopt their inferences* about whether those facts inculpate Beaman and help to establish probable cause. A court may grant summary judgment if (1) the material facts are undisputed *and* (2) the only rational inferences that one can draw from those facts amount to probable cause. *Seymour v. Collins*, 2015 IL 118432, ¶ 42; *Carney v. Union Pac. R. Co.*, 2016 IL 118984, ¶ 25; *see also* Pl. Br. 35 (citing additional cases). True, under the first part of this analysis, Plaintiff and Defendants agree on some of the facts. The Court, however, cannot resolve the second part—the proper inferences to draw from those facts—on summary judgment in this case. Thus, Defendants are dead wrong to imply—even if the facts were undisputed, and they are not—that probable cause would be a pure “legal determination,” Def. Br. 42, in a civil trial. Rather, the law is crystal clear that *all inferences*, even from undisputed facts, must be drawn in favor of Beaman. Indeed, the Supreme Court underscored the point in this very case, stating that summary judgment “should be denied” if “reasonable persons could draw divergent inferences from the *undisputed* material facts.” *Beaman*, 2019 IL 122654, ¶ 22 (emphasis added).

For example, police found Beaman’s fingerprints on the alarm clock console (not the cord used to strangle the victim) along with both Michael Swaine’s prints and additional

prints that could not be identified. Pl. Br. 37. This fact is not disputed, but the inferences are the rub. A rational juror considering the fingerprints could easily say, “Of course Alan Beaman’s prints were on the alarm clock. He had spent the night there and used the alarm clock, but they don’t mean anything because no one can date fingerprints, and Swaine’s prints were on the clock too. Plus, the unidentified prints probably belonged to the killer! At best the fingerprint evidence is irrelevant to probable cause; if anything, the unidentified prints are exculpatory.”

A rational juror would also have to assess the evidence known to Defendants that made it obvious Beaman was in Rockford, some 120 miles away from the crime. After Beaman made the bank deposit and placed the 10:37 and 10:39 calls, it would have been impossible—literally—for him to travel to Normal, commit the murder, and return home by 2:15, when Carol Beaman confirmed he was at the family residence. *See* Pl. Br. 11–12. Singley’s evidence, which established the time of death as 2 p.m. or later, made the scenario doubly impossible. *Id.* 13–14. Defendants even acknowledge a disputed issue on whether “opportunity was improbable.” Def. Br. 42. It strains logic to say that cause is *probable* as a matter of law while conceding that opportunity is *improbable*. A rational juror would also consider that no witness could place Beaman in Bloomington-Normal (much less at the victim’s apartment), that he maintained his innocence both under vigorous interrogation and in conversations with a friend that police recorded in secret, and that no probative physical evidence connected him to the crime. Pl. Br. 11. Surely a rational juror would consider the many potential killers (some known, others not) who floated in and out of the victim’s high-risk life. *Id.* 4–9. No potential juror could ignore John Murray, the steroid-abusing drug dealer known to beat women. He had sex with the victim and sold her drugs,

could not complete a polygraph about the killing, and lied about his alibi. *Id.* 7–9. At the end of it all, some rational jurors would reject probable cause to arrest Alan Beaman; perhaps others would find it. The solution to this problem is a trial.

The circuit court failed to perceive the competing inferences surrounding each piece of evidence and usurped the role of the jury when it adopted, wholesale and without elaboration, the inferences Defendants set forth in “paragraphs (a) through (p) of Defendants’ Memorandum of Law in Support of Defendants’ Motion for Summary Judgment.” A.30–31. Defendants reiterate the (a) through (p) list in their facts section, Def. Br. 22–23, and rely on it for their probable cause argument, but like the fingerprint evidence discussed above, every other item on the list could be considered irrelevant, if not exculpatory. Plaintiff’s opening brief detailed this analysis item-by-item on pages 37–40, and we will not repeat it here. At best, each item of evidence cuts both ways. That means a court must stay its hand and let the jury decide. One rational juror might agree with Defendants that some of these facts support probable cause; another might consider them irrelevant, if not exculpatory. The complex summary judgment record in this case (comprising 91 pages of briefs, 272 pages of statements of material facts and responses thereto, and 11,066 pages of exhibits) presents a thicket of competing inferences that only a factfinder can resolve.

Even if the Defendants and Souk *subjectively believed* they had sufficient evidence to constitute probable cause, probable cause is an objective standard. Whatever opinions they held are not relevant to probable cause, and the Court must ignore them. *Penn v. Chicago State Univ.*, 162 F. Supp. 2d 968, 976 (N.D. Ill. 2001) (“[An] official’s subjective belief as

to the legal basis of the prosecution is irrelevant; the test for probable cause is an objective one.”).

The only question is whether a juror could rationally infer from the facts that probable cause was lacking. For example, it does not matter from the standpoint of probable cause if Freesmeyer and Souk thought the scene suggested a “personal” crime, Def. Br. 43, because a rational juror could easily infer that the scene suggested a stranger, *see* Pl. Br. 5. It does not matter that Freesmeyer thought the fingerprint evidence to be inculpatory—a conclusion based “solely on [his] own interpretation,” A.1587, as he acknowledged—because a rational juror could view it as irrelevant (if not exculpatory, given the unidentified prints on the clock). *See* Pl. Br. 11. It does not matter that Souk or Freesmeyer erroneously placed weight on strife in the relationship because that evidence was obviously stale. By the time Beaman returned to Rockford three weeks before the murder, he was reported to be calm and over the relationship, and the investigators knew it. A.85–86; R.8739–40 (noting that, by this time, Beaman “seemed to me to be in an overall good mood and he had finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn’t seen in quite a while.”); R.8749 (noting that, by this time, “things were ironed out” between Lockmiller and Beaman, and Beaman “seemed ok.”). Nor does it matter whether Freesmeyer viewed the emergence of the bank video (which helped to solidify Beaman’s alibi) as evidence of guilt, or thought Beaman killed his former girlfriend because he made some coarse comments about her during a barrage of interrogations and surreptitious overhears in which he also consistently maintained his innocence. *See* Pl. Br. 39. While Defendants try to salvage their

improper reliance on Souk and Freesmeyer’s legal conclusions by suggesting that their opinions are relevant to their personal “evaluations of the case” and “consideration of the evidence,” *see* Def. Br. 44, such personal views are off limits in the Court’s consideration of probable cause. The only question for the Court is whether a rational juror could find an absence of probable cause.

Contrary to Defendants’ absurd characterization, Plaintiff does not argue that either the Supreme Court’s 2008 vacatur of Beaman’s conviction or his undisputed innocence establishes the absence of probable cause. The point, rather, is that the circuit court erred in holding that the thoroughly discredited conviction established the existence of probable cause. A.31. Recall that the unanimous Supreme Court stated in 2008: “We cannot have confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence.” *People v. Beaman*, 229 Ill. 2d 56, 81 (2008).<sup>5</sup>

While the disputed inferences alone preclude summary judgment, disputed issues of fact make the circuit court’s error all the more manifest. Defendants’ inaccurate and one-sided recitation of the facts—some of which are pure fiction with no grounding in the

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<sup>5</sup> Defendants claim in passing that the grand jury indictment establishes a presumption of probable cause. Def. Br. 44. This argument is waived because Defendants did not assert it in the Circuit Court or at any other point, presumably because it obviously would fail on the merits. The Supreme Court has stressed that false or incomplete grand jury testimony (such as Freesmeyer’s, *see supra* at 3-4) is sufficient (though not necessary) to defeat any relevance of a grand jury indictment to probable cause in a malicious prosecution case. *Freides v. Sani-Mode Mfg. Co.*, 33 Ill. 2d 291, 296 (1965) (“‘Prima facie probable cause’ is established by the return of the indictment by the grand jury but it is not conclusive evidence of probable cause. It may be rebutted by other evidence such as proof that the indictment was obtained by false or fraudulent testimony before the grand jury, or by failing to make a full or complete statement of facts, or by other improper or fraudulent means. No decision of the court ever has restricted the rebutting evidence solely to proof of false or incomplete testimony . . .” (citation omitted)).

record—makes it clear that important issues of fact cannot be resolved as a matter of law, as careful review of the full record will confirm. A few examples follow:

- Defendants claim that “Jennifer Seig, told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together,” Def. Br. 14, but Seig admitted in the same interview that she might have heard this supposed threat not in reality but “in a dream or something.” R.3126.
- Defendants claim that “Todd Heyse, the owner of 412 Main Street where Lockmiller lived and the murder occurred, told police after Beaman was charged that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day,” Def. Br. 24, when in truth Heyse testified that he saw the individuals four or five days after he closed on a real estate transaction—a transaction that occurred three weeks before the murder. R.8812, 8818–19. Moreover, Heyse saw these people while driving past the apartment building on North Main Street, a busy thoroughfare, and testified that he could not “identify either one of them again if [he] saw them.” R.8802, 8809.
- Defendants’ assertion that “Steinman told NPD detectives that Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he heard she had gone out with a guy,” Def. Br. 18, is a half-truth at best. Defendants had Beaman’s phone records, which showed Steinman’s statement to be false. A.339 (phone records showing that in August of 1993, when Beaman was in Rockford, Lockmiller called Beaman repeatedly, he called her only once, and that call lasted 13.8 seconds).
- While Defendants’ brief claims that Beaman forced open the door “several times” and “a few times” *see* Def. Br. 5, 9, 15, it happened but twice. (Both times, Ms. Lockmiller was having sex with other men while dating Plaintiff.). A.86.
- Per the Defendants, “Terrance McCann, the polygraph examiner who administered the test to Murray, was unable to obtain a result because Murray could not follow McCann’s directions, Def. Br. 20, a characterization that contradicts the Supreme Court, which stated: “[T]he circumstances of the polygraph examination indicate that [Murray] intentionally avoided the test.” *Beaman*, 229 Ill. 2d at 76; *see also id.* at 67 (“The polygraph examiner testified that the failure to follow the instructions could have been an intentional avoidance tactic.”).
- Defendants assert that “[Daniels and Hospelhorn] came away from the Beaman interview believing Beaman’s conduct was highly suspicious,” Def. Br. 8, when in reality, Hospelhorn testified that after the interview, he had “[n]o suspicions at all” that Beaman committed the murder. A.2583.
- Defendants suggest that Murray did not lie about his alibi but “made a mistake” which he later “corrected” when confronted with the truth, Def. Br. 25, but the

Supreme Court viewed Murray’s state of mind differently: “[Murray] initially gave a false alibi stating he left town the day before the murder. That false exculpatory statement could be used as probative evidence of consciousness of guilt.” *Beaman*, 229 Ill. 2d at 80-81.

As these conflicting facts and inferences underscore, the circuit court erred in granting summary judgment on the probable cause element.

**IV. A Rational Juror Could Find that the Criminal Proceedings Against Beaman Concluded in a Manner Indicative of Innocence.**

Prosecutors dropped the charges against Beaman after this Court threw out the conviction, then Beaman won a certificate of innocence through litigation in the Circuit Court of McLean County, and the Governor then pardoned him on the basis of innocence. Any one of these events would defeat summary judgment on the “indicative of innocence” prong all by itself.

A gubernatorial pardon on the basis of innocence alone establishes that the proceedings concluded in the plaintiff’s favor. *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 664, 680 (N.D. Ill. 2005). A certificate of innocence is “relevant at least to the ‘indicative of innocence’ element of plaintiff’s malicious prosecution claim.” *Kluppelberg v. Burge*, 84 F. Supp. 3d 741, 744 (N.D. Ill. 2015) (citation omitted). The instant case comes to this Court on summary judgment; therefore, relevant evidence satisfies plaintiff’s burden. The mere fact that the certificate is not *preclusive* in this proceeding “does not bar evidentiary use of the certificate.” *Id.* at 745.<sup>6</sup>

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<sup>6</sup> The certificate of innocence resulted from an adversarial judicial proceeding in which the State opposed the petition. R.3472. DNA testing initiated by the State then proved that Plaintiff did not kill Ms. Lockmiller. *Id.* Only then did the State drop its opposition to the certificate of innocence. *Id.* It did so because the DNA evidence established Plaintiff’s innocence, A.3355–3366, not because of some “settlement agreement,” Def. Br. 48, between Plaintiff and the State, A.121. In addition, Defendants incorrectly cite 735 ILCS § 5/2-702(k) for the proposition that the certificate of innocence is irrelevant, but the statute

Even if Beaman did not come to court with a certificate of innocence and a pardon from the Governor, the “indicative of innocence” prong still would be a jury question. The “dismissal of a . . . charge against the plaintiff at the instance of the prosecutor” generally suffices to show favorable termination. *Rich v. Baldwin*, 133 Ill. App. 3d 712, 715 (5th Dist. 1985). The State’s Attorney’s Office not only dropped the charges, but it did so after this Court unanimously declared, “We cannot have confidence in the verdict finding [Plaintiff] guilty of this crime given the tenuous nature of the circumstantial evidence against him . . .” *Beaman*, 229 Ill. 2d at 81.

Moreover, Defendants lack any admissible evidence to suggest that the proceedings did not terminate in a manner indicative of innocence. They cite Souk’s testimony about why the State’s Attorney might have dropped the charges after the Supreme Court’s 2008 ruling. That testimony is inadmissible because Souk was speculating and lacked personal knowledge. A.2962–2966. He had long since departed the State’s Attorney’s Office and was not consulted about dropping the charges. *Id.*

#### **V. The Civil Conspiracy Claim Must Proceed to Trial.**

The Defendants’ parallel malfeasance provides the strongest evidence of conspiracy. Freesmeyer lied to the grand jury, manipulated time trials, and concealed exculpatory evidence. Zayas let Beaman get arrested even though he knew the case was shoddy and incomplete. Whether Warner hid the Murray polygraph presents a genuine issue of fact, as the federal district court recognized. Taking these facts as true, it would be an extraordinary coincidence if the Defendants all decided in solitude to fabricate evidence that would

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says only that a certificate of innocence does not have binding or res judicata effects. A certificate of innocence is “relevant at least to the ‘indicative of innocence’ element of plaintiff’s malicious prosecution claim.” *Kluppelberg*, 84 F. Supp. 3d at 744.

enable the prosecution of Alan Beaman, a college student with an alibi that placed him some 120 miles from the scene. This claim, too, must go to a jury.

The intra-corporate conspiracy doctrine does not bar this claim. “Courts have recognized two exceptions to the Illinois intracorporate conspiracy doctrine: (1) a conspirator acts out of self-interest rather than in the interest of the principal; and (2) when the scope of the conspirators act beyond the scope of their official duties.” *Whitley v. Taylor Bean & Whitacker Mortg. Corp.*, 607 F. Supp. 2d 885, 897 n.5 (N.D. Ill. 2009). Relying on these exceptions, courts routinely refuse to apply the doctrine to police misconduct.<sup>7</sup> This Court should do the same. Misconduct and evidence suppression neither benefit a police department nor fall within a detective’s legitimate duties.

#### **VI. The Remaining Claims Must Proceed to Trial.**

Plaintiff did not waive his intentional infliction of emotional distress claim, as his appellate brief addressed it with argument and citation. A.3379. This claim must rise or fall with the malicious prosecution claim. The same holds for the respondeat superior and indemnification claims—they should be reinstated with the malicious prosecution claim.

#### **VII. Conclusion**

The Court should reverse the circuit court and remand this case for trial.

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<sup>7</sup> See *Newsome v. James*, No. 96 C 7680, 2000 WL 528475, at \*15 (N.D. Ill. Apr. 26, 2000); *Emery v. Northeast Illinois Regional Commuter R.R. Corp.*, No. 02 C 9303, 2003 WL 22176077, at \*4 (N.D. Ill. Sept. 18, 2003); *Hobley v. Burge*, No. 03 C 3678, 2004 WL 1243929, at \*11 (N.D. Ill. June 3, 2004); *Johnson v. Village of Maywood*, No. 12 C 3014, 2012 WL 5862756, at \*3 (N.D. Ill. Nov. 19, 2012); *Salto v. Mercado*, No. 96 C 7168, 1997 WL 222874, at \*1-2 (N.D. Ill. Apr. 24, 1997); *Northen v. City of Chicago*, No. 93 C 7013, 1999 WL 342441, at \*4 (N.D. Ill. May 17, 1999); *Cannon v. Burge*, No. 05 C 2192, 2006 WL 273544, at \*15 (N.D. Ill. Feb. 2, 2006).

Respectfully submitted,

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No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

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ALAN BEAMAN,

*Plaintiff-Appellant,*

v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

Appeal from the Circuit  
Court of McLean County, Illinois  
Eleventh Judicial Circuit, No.  
14 L 51  
The Honorable Richard L.  
Broch, Judge Presiding

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**CERTIFICATE OF COMPLIANCE**

I, David M. Shapiro, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 20 pages.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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ALAN BEAMAN,

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v.

TIM FREESMEYER, Former  
Normal Police Detective; DAVE  
WARNER, Former Normal  
Police Detective; FRANK  
ZAYAS, Former Normal Police  
Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

*Defendants-Appellees.*

Appeal from the Circuit  
Court of McLean County, Illinois  
Eleventh Judicial Circuit, No.  
14 L 51  
The Honorable Richard L.  
Broch, Judge Presiding

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**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that on July 30, 2019, the foregoing APPELLANT'S REPLY BRIEF ON REMAND was filed by electronic means with the Clerk of the Appellate Court of Illinois 4th District, 201 West Monroe Street, Springfield, IL 62704. I further certify that the same were served by electronic transmission on:

Thomas G. DiCianni  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
140 South Dearborn St., 6th Floor  
Chicago, Illinois 60603  
TDiCianni@ancelglink.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

s/David M. Shapiro  
David M. Shapiro (ARDC # 6287364)  
david.shapiro@law.northwestern.edu  
Roderick and Solange MacArthur Justice Center  
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No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT

ALAN BEAMAN,

Plaintiff-Appellant,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Former Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants-Appellees.

Appeal from the Circuit Court of  
McLean County

Circuit Court Case No. 14 L 51

Hon. Richard L. Broch, presiding

**DEFENDANTS-APPELLEES' MOTION TO STRIKE PLAINTIFF-APPELLANT'S  
STATEMENT OF FACTS**

Defendants-Appellees, Tim Freesmeyer, Dave Warner, Frank Zayas, and the Town of Normal ("Appellees"), by and through their attorneys, Ancel Glink, P.C., and pursuant to Illinois Supreme Court Rules 341(h)(6) and 375(a), hereby move this honorable Court for an order striking the Statement of Facts as presented in Plaintiff-Appellant's ("Appellant") opening appellate brief. Appellant's Statement of Facts fails to comply with the requirements of Illinois Supreme Court Rule 341(h)(6), in that it is replete with argument, comment, animadversion, and editorialization, it does not fairly present the facts, and many statements are without citation to the record. As such, it should be stricken. In support of this Motion, Appellees state as follows:

## LEGAL STANDARD

Illinois Supreme Court Rule 341(h)(6)<sup>1</sup> governs the contents of the statement of facts presented in an appellant's opening appellate brief. Rule 341(h)(6) provides:

**(h) Appellant's Brief.** The appellant's brief shall contain the following parts in the order named: ... (6) Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal in the format as set forth in the Standards and Requirements for Electronic Filing the Record on Appeal.

Rule 375(a) provides that “[i]f after reasonable notice and an opportunity to respond, a party or an attorney for a party or parties is determined to have wilfully failed to comply with the appeal rules, appropriate sanctions may be imposed upon such a party or attorney for the failure to comply with these rules. Appropriate sanctions for violations of this section may include an order that ... any portion of a party's brief relating to that issue be stricken.”

## ARGUMENT

The Statement of Facts (“SOF”) in Appellant's opening brief (“AOB”) fails to comply with the requirements of Rule 341(h)(6). Specifically, Appellant failed to present facts “stated accurately and fairly without argument or comment” and many without reference to the record. Rule 341(h)(6). As such, Appellant's SOF should be stricken pursuant to Rule 375(a).

A party may make, and this Court may grant, a motion to strike any portion of an appellant's appellate brief; specifically, a party may make, and this Court may grant, a motion to strike the statement of facts portion of an appellant's appellate brief when the statement of facts fails to comply with the requirements of Rule 341(h)(6). *See, e.g., Artisan Design Build, Inc. v. Bilstrom*, 397 Ill.App.3d 317, 321-22 (2nd Dist. 2009); *Canel & Hale, Ltd. v. Tobin*, 304 Ill.App.3d 906, 910-11 (1st Dist. 1999). For instance, in *Canel & Hale, Ltd. v. Tobin, supra*, the court found the defendants-appellees were “correct in objecting to plaintiff's statement of facts”

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<sup>1</sup> All “Rule” references are to the Illinois Supreme Court Rules, unless otherwise noted.

and filing their motion to strike it. *Canel, supra*, 304 Ill.App.3d at 911. The court found plaintiff's statement of facts contained "argumentative remarks and comments." *Ibid.* But, because the "argumentative remarks and comments did not interfere with this court's review of the case," the court declined to strike the statement of facts entirely and "simply ... disregarded" them. *Ibid.* See also, *Artisan Design, supra*, 397 Ill.App.3d at 322 ("Much of the statement of facts is an argument justifying [defendants' actions], ... appear[ing] to be an effort to sway the court with matters not germane to the issues on appeal.")

Here, Appellant's SOF is replete with innuendos, argument, and comment, rather than simply facts as facts. For instance, Appellant argues that "Freesmeyer conducted an investigation to reach a predetermined result: Beaman did it." (AOB, at 3). In support of this "statement," Appellant cites his own AOB: "... Beaman did it. See *infra*, at 4-5, 10-14." (*Ibid.*) This kind of presentment of argument, rather than simply stated facts, occurs throughout Appellant's SOF, as for example on page 3 of the AOB alone: "The defendants misled the grand jury, hid a polygraph report inculcating a steroid-abusing drug dealer who beat women, manipulated driving trials to discredit Beaman's alibi, brushed aside exculpatory evidence, and refused to conduct a serious investigation of the viable suspects" (*Ibid.*); "It worked. Freesmeyer 'solved' the murder ... and testified as the prosecution's star witness ..." (*Ibid.*); "He walked out of the Lockmiller case with a sergeant's chevrons and a glowing recommendation from the lead prosecutor ..." (*Ibid.*); "Alan Beaman – slight, scrawny, and innocent – spent nearly 13 years in prison, while his friends completed their education, married their spouses, and raised their children" (no citation to the record) (*Ibid.*).

Appellant's argument continues throughout his SOF: "On Day One of the investigation, ..." (AOB, at 4); "The defendants decided to ignore every avenue but one – the murderer was an intimate partner" (*Id.*, at 6); "They did not bother to find out whether other burglaries or sexual

assaults had been reported in the area ... or to interview all of the people Lockmiller had been in contact with in the days and hours prior to her death.” (*Ibid.*); “The defendants disregarded other potential suspects.” (no citation to record) (*Ibid.*); “As one example of the many potential suspects...” (*Ibid.*); “An even more likely suspect was John Murray ....” (*Id.*, at 7).

Further, if one examines the cited pages in the appellate record, which purport to stand for Appellant’s “facts,” one can see that the material cited is not factual itself. For example, Appellant cites to the report of one of his retained expert witnesses, rather than deposition testimony or other factual evidence, to support certain “facts” in his SOF. Appellant states: “The defendants decided to ignore every avenue but one – the murderer was an intimate partner. A3242. They did not bother to find out whether other burglaries or sexual assaults had been reported in the area, A.3243, 3246, ...” (AOB, at 6). The appellate record pages Appellant cites to, A3242, 3243, and 3246, are contained in the “Analysis and Conclusion” section of an expert witness report, dated August 17, 2015, prepared by Gregg O. McCrary with Behavioral Criminology International, and containing his opinions, for which he was retained to render by Appellant. (A3224-3251 generally; A3224, 3245, 3246). In this example, Appellant’s “facts” are not based on factual evidence at all, such as the deposition testimony of the officers themselves, but on the opinions of an expert retained by him.

Simply put, Appellant’s SOF reads like an argument, rather than a statement of simple facts without comment, argument, animadversion, or editorialization; Appellant’s SOF is replete with comment, argument, animadversion, and editorialization. And, in some cases, the “facts” Appellant presents are not supported by factual evidence; Appellant utilizes expert opinions as authority for his “facts.” As such, Appellant’s SOF does not comply with Rule 341(h)(6). *See, e.g., Artisan Design, supra*, 397 Ill.App.3d at 321-22; *Canel, supra*, 304 Ill.App.3d at 910-11. Thus, Appellant’s SOF should be stricken pursuant to Rule 375(a), for failing to comply with the

requirements of Rule 341(h)(6).

**CONCLUSION**

Based on the foregoing, Appellant's Statement of Facts in his Opening Brief should be stricken pursuant to Rule 375(a) for failing to comply with Rule 341(h)(6)'s requirements.

Respectfully submitted,

TIM FREESMEYER / DAVE WARNER  
FRANK ZAYAS / TOWN OF NORMAL

By: 

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IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT

ALAN BEAMAN,

Plaintiff-Appellee,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Former Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants-Appellants.

Appeal from the Circuit Court of  
McLean County

Circuit Court Case No. 14 L 51

Hon. Richard L. Broch, presiding

[PROPOSED] ORDER

This matter comes before the Court on the **DEFENDANTS-APPELLEES' MOTION TO STRIKE PLAINTIFF-APPELLANT'S STATEMENT OF FACTS**, due notice having been given, and the court being advised;

IT IS ORDERED that the motion is:

\_\_\_\_\_ ALLOWED      \_\_\_\_\_ DENIED

ENTERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
Justice

\_\_\_\_\_  
Justice

No. 4-16-0527

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**IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT**

---

ALAN BEAMAN,

Plaintiff-Appellant,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Former Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants-Appellees.

Appeal from the Circuit Court of  
McLean County

Circuit Court Case No. 14 L 51

Hon. Richard L. Broch, presiding

**NOTICE OF FILING**

To: David M. Shapiro  
Locke E. Bowman  
Roderick and Solange MacArthur Justice Center  
Northwest Pritzker School of Law  
375 E. Chicago Avenue  
Chicago, Illinois 60611  
[david.shapiro@law.northwestern.edu](mailto:david.shapiro@law.northwestern.edu)

PLEASE TAKE NOTICE that on **June 20, 2019**, the undersigned served and filed by electronic means the foregoing **DEFENDANTS-APPELLEES' MOTION TO STRIKE PLAINTIFF-APPELLANT'S STATEMENT OF FACTS** with the Clerk of the Appellate Court Fourth District.



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Thomas G. DiCianni

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**IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT**

---

ALAN BEAMAN,

Plaintiff-Appellant,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Former Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants-Appellees.

Appeal from the Circuit Court of  
McLean County

Circuit Court Case No. 14 L 51

Hon. Richard L. Broch, presiding

**CERTIFICATE OF SERVICE**

I, Thomas G. DiCianni, an attorney, hereby certify that on June 20, 2019, the foregoing **DEFENDANTS-APPELLEES' MOTION TO STRIKE PLAINTIFF-APPELLANT'S STATEMENT OF FACTS** was filed by electronic means with the Clerk of the Appellate Court, Fourth District, 2014 West Monroe Street, Springfield, IL 62704. I further certify that the same was electronically served upon:

David M. Shapiro  
Locke E. Bowman  
Roderick and Solange MacArthur Justice Center  
Northwest Pritzker School of Law  
375 E. Chicago Avenue  
Chicago, Illinois 60611  
[david.shapiro@law.northwestern.edu](mailto:david.shapiro@law.northwestern.edu)

to the email address(es) listed above.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.



---

Thomas G. DiCianni

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4840-2214-1082, v. 1

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

---

ALAN BEAMAN,	)	On Petition for Leave to Appeal
	)	from the Circuit Court of McLean
Plaintiff-Appellant,	)	County, Illinois, County
	)	Department, Chancery Division
v.	)	
	)	
TIM FREESMEYER, Former Normal Police	)	
Detective; DAVE WARNER, Former Normal	)	
Police Detective; FRANK ZAYAS, Former	)	No. 16 CH 0527
Normal Police Lieutenant; and TOWN OF	)	
NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	The Honorable
	)	RICHARD L. BROCH
	)	Judge Presiding

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**PLAINTIFF-APPELLANT’S RESPONSE TO  
MOTION TO STRIKE STATEMENT OF FACTS**

The Court should deny Defendants’ motion to strike. Defendants do not meet the exacting standard for a motion to strike, which is warranted only when “rules violations [are] so flagrant as to hinder or preclude review.” *Oakleaf of Ill. v. Oakleaf & Assocs., Inc.*, 173 Ill. App. 3d 637, 646 (1st Dist. 1988). Defendants do not even attempt to make that showing. A “statement of facts” that is “argumentative at times” is not a sufficient basis for a motion to strike. *Id.*

Each and every one of the isolated statements to which Defendants cite is accurate and supported by the record. Moreover, all of these statements also appeared in identical or materially identical form in Plaintiff’s brief to the Illinois Supreme Court. The Defendants did not move to strike that brief or raise any concern about its compliance with the Illinois Supreme Court Rules,

and the Supreme Court accepted the brief without incident. In light of that reality, it can hardly be said that the brief “hinder[s] or preclude[s] review” by an appellate court. *Id.*

If any document before this Court should be stricken, it is Defendants’ brief. Defendants may complain about the tone and style of Plaintiff’s brief, but they fail to show any inaccuracy. Their own brief, in contrast, repeatedly misstates important matters of objective fact. At the end of the day, however, striking either side’s brief is not necessary. The Court should proceed directly to the merits because its independent review of the record will make it plain that Defendants’ brief is replete with factual errors and misstatements.

**A. The Statements Cited by Defendants Do Not Warrant Striking Plaintiff’s Facts Section Because These Statements Are Both Accurate and Isolated.**

Plaintiff’s statement of facts spans 19 pages and includes 157 citations to the record. Defendants move to strike the entire statement of facts, but they do not argue in their motion that any assertion is inaccurate or misleading. Instead, they object—as to tone and style—to a one-page introduction and summary to the statement of facts, in addition to three sentences and three phrases elsewhere in the brief.

Defendants do not come close to meeting the relevant standard—“violations so flagrant as to hinder or preclude review.” *Oakleaf*, 173 Ill. App. 3d at 646; *see also Anderson Dundee 53 L.L.C. v. Terzakis*, 363 Ill. App. 3d 145, 152 (1st Dist. 2005) (“[T]his court will not strike a party’s statement of facts unless it includes such flagrant improprieties that it hinders our review of the issues.”); *Merrifield v. Ill. State Police Merit Bd.*, 294 Ill. App. 3d 520, 527 (4th Dist. 1998) (“Where violations of supreme court rules are not so flagrant as to hinder or preclude review, the striking of a brief in whole or in part may be unwarranted.”). Notably, none of the cases Defendants cite actually grants a motion to strike.

At most, Defendants have identified differing factual characterizations and disagree on matters of tone and style. These are insufficient grounds for a motion to strike. *Kannewurf v. Johns*, 260 Ill. App. 3d 66, 70 (5th Dist. 1994) (“The statements of fact are, for the most part, accurately matched with correct citations to the record. Of course, the parties’ interpretations of many of the same facts are diametrically opposed, but that is not unusual in a case such as this. Therefore, we deny plaintiffs’ motion to strike Rich’s brief.”); *Schnuck Mkts., Inc. v. Soffer*, 213 Ill. App. 3d 957, 983–84 (5th Dist. 1991) (“Without going into excessive detail, suffice it to say that we find that the defendants’ brief does not violate Rule 341(f). Both the plaintiffs’ and the defendants’ briefs set forth facts which are advantageous to each and omit facts which may be harmful to their respective cases. We decline to strike any portion of the defendants’ brief.”); *Oakleaf*, 173 Ill. App. 3d at 646 (“Oakleaf’s statement of facts, although argumentative at times, includes appropriate record references. It lacks rules violations so flagrant as to hinder or preclude review. Accordingly, the motion to strike Oakleaf’s brief is denied.”).

#### *Statements in the Introduction and Summary*

Defendants principally take issue with assertions in subsection A of the statement of facts. Subsection A is captioned “Introduction and Summary,” indicating that it provides an overview of the facts at a high level of generality, with greater specificity to follow in the subsequent sections. The statements in this introductory section are accurate and fully supported by the record.

1. “[Freesmeyer] walked out of the Lockmiller case with a sergeant’s chevrons and a glowing recommendation from the lead prosecutor...” This statement is accurate. Appendix 2971, which is cited, is the transcript page of the 1995 criminal trial in which Freesmeyer states that his

“present rank” is “sergeant.” A.2971.<sup>1</sup> Appendix 3207, also cited, is a letter from the lead prosecutor to the Normal Chief of Police which mentions Freesmeyer’s “recent promotion.” The letter is fairly described as “glowing.” It states: “I would not be comfortable without expressing to you officially my great admiration for Tim, both as a person and a police officer. Beyond any question in my mind, this case would not have been won without Tim Freesmeyer.”

This statement appeared verbatim in Plaintiff’s Supreme Court brief. *See* Ex. 1 (excerpts from Supreme Court Opening Brief) at 3.

2. “Alan Beaman—slight, scrawny, and innocent—spent nearly 13 years in prison, while his friends completed their education, married their spouses, and raised their children.” There is not a citation for this statement—again, this is an introduction and overview—but it is correct and fully explained later and with full citation in the statement of facts. Page 4 states “Beaman was thin and small,” citing to Appendix 3221–3222, where Freesmeyer testifies “Alan’s appearance, he’s not a real big man. He’s maybe 120 pounds. Stands about 5’7”, 5’8 maybe.” Beaman’s factual innocence is non-controversial. Defendants have never disputed it in this litigation. Page 19 of the statement of facts cites the gubernatorial pardon at Appendix 3377, which states that the pardon is “based upon innocence as if no conviction.” The Appendix also contains, at page 340, Beaman’s Certificate of Innocence from the Circuit Court of McLean County, which states: “The Petitioner is innocent of the offenses charged in the indictment.” No one disputes that Beaman was convicted while in college and spent nearly thirteen years in prison, between the 1995 conviction and 2008 vacatur. Of course, these thirteen years were the period when many of peers graduated from college and started families.

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<sup>1</sup> “Appendix” and “A.” refer to the Remand Appendix, filed on March 29, 2019. “R.” refers to the record.

This statement appeared verbatim in Plaintiff's Supreme Court brief. *See* Ex. 1 at 3.

3. "The defendants misled the grand jury, hid a polygraph report inculcating a steroid-abusing drug dealer who beat women, manipulated driving trials to discredit Beaman's alibi, brushed aside exculpatory evidence, and refused to conduct a serious investigation of the viable suspects." This is an overview and summary statement and is supported with an *infra* cite to pages 6–11 and 17–18 of the brief. Those pages, in turn, are replete with detail and meticulous citation to the record supporting each of these assertions. It would have been cumbersome and unhelpful to the reader to cite in support of the statement above every appendix page cited on pages 6–11 and 17–18. Therefore, the introduction uses *infra* cites that direct the reader to the pages of the brief that contain the relevant details and underlying citations.

A materially identical statement appeared in Plaintiff's Supreme Court brief. *See* Ex. 1 at 3.

4. "Aided by Defendants David Warner and Frank Zayas, Freesmeyer conducted an investigation to reach a predetermined result: Beaman did it."

Similar to the statement immediately above, this overview and summary statement is supported with an *infra* cite to pages 4–5 and 10–14, which contain extensive detail and supporting record citation.

This statement appeared verbatim in Plaintiff's Supreme Court brief. *See* Ex. 1 at 3.

5. "It worked. Freesmeyer 'solved' the murder of a college student in a small town and testified as the prosecution's star witness at trial."

The statement is accurate and supported by the record. Appendix 2971, which is cited, is the first page of Freesmeyer's lengthy and detailed trial testimony. As noted above, Freesmeyer indeed was credited at the time for solving the Lockmiller murder, *see* Appendix 3207 ("Beyond

any question in my mind, this case would not have been won without Tim Freesmeyer.”)—but of course the murder was not really solved since everyone now understands that Beaman did not commit it.

This statement appeared verbatim in Plaintiff’s Supreme Court brief. *See* Ex. 1 at 3.

*Remaining Statements*

1. “On Day One of the investigation, Defendant Freesmeyer, who was to become the lead investigator in the case, selected Beaman as the primary suspect.” Br. 4. This statement accurately reflects Freesmeyer’s deposition testimony at Appendix 1576, which is cited in support of the statement:

Q. So on Saturday night [August 28, the day the body was discovered], Beaman was the primary suspect?

A. That would be a fair statement to say, yes.

This statement appeared verbatim in Plaintiff’s Supreme Court brief. *See* Ex. 1 at 4.

2. “The defendants decided to ignore every avenue but one—the murderer was an intimate partner.” Br. 6. This is the topic sentence for a paragraph regarding Defendants’ failure to investigate possibilities other than the theory that an intimate partner was the killer. Defendants do not contest the accuracy of the supporting factual assertions that follow—the Defendants did not inquire whether other burglaries or sexual assaults had been reported in the area or to attempt to interview all the people Lockmiller encountered on the final days and hours of her life. *Id.* (citing A.3243, 3246, 1650–51, 2584). The topic sentence is fully supported by its cite to Appendix 3242, a page of the Expert Report of Greg McCrary. Mr. McCrary investigated violent crimes (including over 1,000 murders) over 40 years, including 25 years as an FBI agent and Supervisory Special Agent at the FBI Academy in Quantico, Virginia. A.3224–25. On A.3242, Mr. McCrary states:

By immediately concluding that Ms. Lockmiller's murder was an act of intimate partner violence, they limited the universe of suspects to four: Stacy Gates, Michael Swain, John Murray and Alan Beaman. That error also meant that they shut down other avenues of investigation that reasonably trained detectives would have been expected to explore.

The statement appeared verbatim in Plaintiff's Supreme Court brief. *See* Ex. 1 at 4.

3. "They did not bother to find out whether other burglaries or sexual assaults had been reported in the area, A.3243, 3246, or to interview all of the people Lockmiller had been in contact with in the days and hours prior to her death, A.1650–51, 2584." Defendants do not elaborate on why they consider this sentence problematic or dispute the accuracy of the citations regarding Defendants failure to pursue investigative avenues.

This statement appeared verbatim in Plaintiff's Supreme Court brief. *See* Ex. 1 at 6.

4. "The defendants disregarded other potential suspects." Br. 6. This is a topic sentence. The paragraph that follows describes particular potential suspects that the Defendants did not investigate and is replete with citations to the record that clearly support the phrase Defendants challenge. Defendants do not dispute that the topic sentence accurately reflects the record content cited in the paragraph that follows.

A materially identical statement appeared in Plaintiff's Supreme Court brief. *See* Ex. 1 at 6.

5. The phrase "[a]s one example of the many potential suspects" in the sentence, "As one example of the many potential suspects, Lockmiller flirted with and rejected several men on August 21, four days before the murder, when she drank at various bars." Br. 6–7. Defendants do not identify any inaccuracy in the phrase "[a]s one example of the many potential suspects" or dispute that there were many potential suspects. The paragraphs that follow describe potential suspects with extensive citation to the record.

This statement appeared verbatim in Plaintiff’s Supreme Court brief. *See* Ex. 1 at 6.

6. The phrase “an even more likely suspect was John Murray ....” Br. 7. This phrase is part of a topic sentence; the paragraphs that follow explain why Murray was a more viable suspect than Beaman, with extensive detail and citation to the record. Defendants’ motion does not identify any inaccuracy in the challenged phrase or the supporting sentences and citations that follow.

This statement appeared verbatim in Plaintiff’s Supreme Court brief. *See* Ex. 1 at 6.

**B. Defendants’ Brief Is a Far Better Candidate For Striking Than Plaintiff’s Brief Because It Is Replete With Misstatements of Objective Fact.**

In contrast to Plaintiff’s brief, to which Defendants object on the basis of tone and style, Defendants’ brief contains multiple misstatements of objective fact. Thus, if any document should be stricken as unhelpful to the Court, it is Defendants’ brief. False statements throughout that document undermine the very purpose of Rule 341(h)(6)—ensuring accuracy as to matters of objective fact. Defendants’ false affirmations of objectivity make these misstatements all the more striking: “Defendants offer here the balanced and objective description of the facts this Court deserves.” Def. Br. 4. What follows in Defendants’ brief is anything but balanced and objective.

Defendants’ misstatements are especially egregious because the case comes to the Court on a summary judgment posture with Plaintiff as the non-movant, meaning all inferences must be drawn in Beaman’s favor. At the end of the day, however, striking briefs is unnecessary in this case. The record is available to the Court, and it is obvious from the record that Defendants’ brief misstates important facts. Some examples follow:

1. “Beaman’s fingerprint was on the murder weapon, the cord of an alarm clock used to strangle Lockmiller.” Def. Br. 23. This statement is flatly untrue. Police did not find Beaman’s prints on the cord. A.3257 (Fingerprint examiner: “I found no suitable prints on the electrical

cord.”). Investigators found Beaman’s prints only on the alarm clock console—where they also found prints from Swaine (a more recent boyfriend of the victim) and from an unidentified stranger. A.3264–3265.

This is a very serious inaccuracy because Beaman’s finger prints on the console were fully explained by the fact that he had spent nights with Lockmiller and used the alarm clock. A.876, 2967, 2969, 3253, 3266. In contrast, finding Beaman’s prints on the *cord* of the clock wrapped around Ms. Lockmiller’s would have been suspicious indeed.<sup>2</sup>

2. “Another witness, Jennifer Seig, told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together.” Def. Br. 15.

Defendants fail to acknowledge that in the same interview they cite, Seig admitted she might have heard this supposed threat not in reality but “in a dream or something.” R.3126.

3. “Todd Heyse, the owner of 412 Main Street where Lockmiller lived and the murder occurred, told police after Beaman was charged that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day.” Def. Br. 25.

It is not at all clear that Heyse saw these people during the week of the murder. Heyse testified that he saw the individuals four or five days after he closed on a real estate transaction, but that transaction occurred three weeks before the murder. R.8812, 8818–19. Moreover, Heyse saw these people while driving past the apartment building on North Main Street, a busy thoroughfare, and testified that he could not “identify either one of them again if [he] saw them.” R.8802, 8809.

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<sup>2</sup> Elsewhere in their brief, Defendants appear to acknowledge their own misstatement. Def. Br. 8 (stating that the fingerprints were on the console).

4. “Steinman told NPD detectives that Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he heard she had gone out with a guy.” Def. Br. at 18.

This is at best a half-truth: Defendants had Beaman’s phone records, which showed Steinman’s statement to be false. A.339 (phone records showing that in August of 1993, when Beaman was in Rockford, Lockmiller called Beaman repeatedly, he called her only once, and that call lasted 13.8 seconds). The statement is all the more misleading because the tumult between Beaman and Lockmiller was confined to the time when they were dating. Beaman was reported to be calm and over the relationship by the time he returned home to Rockford, in early August of 1993, three weeks before the murder. A.85–86; R.8739–40 (noting that, by this time, Beaman “seemed to me to be in an overall good mood and he had finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn’t seen in quite a while.”); R.8749 (noting that, by this time, “things were ironed out” between Lockmiller and Beaman, and Beaman “seemed ok.”).

5. “[The Murray polygraph report] was sent to Warner . . . and when he received the report he gave it to Daniels.” Def. Br. 21.

On the contrary, the federal district court found “sufficient evidence to support an . . . inference that [Warner] intentionally withheld the [polygraph report] from Souk.” *Beaman v. Souk*, 7 F. Supp. 3d 805, 827 (C.D. Ill. 2014), *aff’d*, 776 F.3d 500 (7th Cir. 2015). The court noted that Warner, for “reasons unknown,” violated department policy that required him to give a copy of the report to Zayas. *Id.*; *see also* Br. at 9–10 (discussing the evidence that Warner concealed the polygraph). As the federal district court stated: “A jury could infer from the failure to follow policy

and the conflicting testimony that there was intentional suppression of the evidence by Warner, the only Defendant shown by the record to have possessed the polygraph report.” *Beaman*, 7 F. Supp. 3d. at 827.

6. “Terrance McCann was the polygraph examiner who administered the test to Murray. McCann was unable to obtain a result because Murray could not follow McCann’s directions. McCann did not conclude Murray intentionally prevented a result to deceive the examiner.” Def. Br. 20

This statement contradicts the Supreme Court, which stated in 2008: “[T]he circumstances of the polygraph examination indicate that Doe intentionally avoided the test.” *People v. Beaman*, 229 Ill. 2d 56, 76 (2008); *see also id.* at 67 (“The polygraph examiner testified that the failure to follow the instructions could have been an intentional avoidance tactic.”).

7. “Daniels and Hospelhorn came away from the Beaman interview believing Beaman’s conduct was highly suspicious.” Def. Br. 9

In truth, Hospelhorn testified that after the interview, he had “[n]o suspicions at all” that Beaman committed the murder:

Q. As a result of your interview with Beaman on August 28, the one you did with Daniels, did you and/or Daniels form any suspicion as to whether Beaman might be guilty of murdering Jennifer Lockmiller?

MR DiCIANNI: I’ll object to foundation as to Daniels.

THE WITNESS: No.

A.2583.

As these examples illustrate, Defendants’ brief misstates the record and is full of factual assertions that are not true. Should any document be stricken, Defendants’ brief is a far better

candidate than Plaintiffs' brief. But the more straightforward course is to dispense with the issue of striking briefs and proceed to the merits.

**C. If the Court Does Not Deny Defendants' Motion, Plaintiff Requests Leave to File an Amended Opening Brief with the Introduction and Summary Section Removed.**

Defendants' principal quarrel is with the introduction and summary subsection on page three of Plaintiff's opening brief. If the Court does not simply deny Defendants' motion to strike on the merits, Plaintiff requests the Court's permission to submit an amended brief with this subsection removed.

**CONCLUSION**

The Court should deny Defendants' motion to strike Plaintiff's statement of facts.

Respectfully Submitted,

**ALAN BEAMAN**

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No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

---

ALAN BEAMAN,	)	On Petition for Leave to Appeal
	)	from the Circuit Court of McLean
Plaintiff-Appellant,	)	County, Illinois, County
	)	Department, Chancery Division
v.	)	
	)	
TIM FREESMEYER, Former Normal Police	)	
Detective; DAVE WARNER, Former Normal	)	
Police Detective; FRANK ZAYAS, Former	)	No. 16 CH 0527
Normal Police Lieutenant; and TOWN OF	)	
NORMAL, ILLINOIS,	)	The Honorable
	)	RICHARD L. BROCH
Defendants-Appellees.	)	Judge Presiding

---

NOTICE OF FILING

To: Thomas G. DiCianni  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
140 South Dearborn Street, 6th Floor  
Chicago, Illinois 60603  
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PLEASE TAKE NOTICE that on June 25, 2019, the undersigned served and filed by electronic means the foregoing PLAINTIFF-APPELLANT'S REPOSE TO MOTION TO STRIKE STATEMENT OF FACT with the Clerk of the Appellate Court Fourth District.

s/David M. Shapiro  
David M. Shapiro (ARDC #6287364)  
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Roderick and Solange MacArthur Justice Center  
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No. 4-16-0527

IN THE  
APPELLATE COURT OF ILLINOIS  
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	)	from the Circuit Court of McLean
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v.	)	
	)	
TIM FREESMEYER, Former Normal Police	)	
Detective; DAVE WARNER, Former Normal	)	
Police Detective; FRANK ZAYAS, Former	)	No. 16 CH 0527
Normal Police Lieutenant; and TOWN OF	)	
NORMAL, ILLINOIS,	)	The Honorable
	)	RICHARD L. BROCH
Defendants-Appellees.	)	Judge Presiding

---

**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that on June 25, 2019, the foregoing PLAINTIFF-APPELLANT'S REPOSE TO MOTION TO STRIKE STATEMENT OF FACT was filed by electronic means with the Clerk of the Appellant Court of Illinois Fourth District, 201 West Monroe Street, Springfield, Illinois 62704. I further certify that the same was served by electronic transmission on:

Thomas G. DiCianni  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

s/David M. Shapiro \_\_\_\_\_  
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2019 IL App (4th) 160527

NO. 4-16-0527

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

December 17, 2019

Carla Bender

4<sup>th</sup> District Appellate

Court, IL

ALAN BEAMAN,	)	Appeal from the
Plaintiff-Appellant,	)	Circuit Court of
v.	)	McLean County
TIM FREESMEYER, Former Normal Police	)	
Detective; DAVE WARNER, Former Normal	)	No. 14L51
Police Detective; FRANK ZAYAS, Former	)	
Normal Police Lieutenant; and THE TOWN OF	)	Honorable
NORMAL, ILLINOIS,	)	Richard L. Broch,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court, with opinion.  
Justices Steigmann and Harris concurred in the judgment and opinion.

**OPINION**

¶ 1 In 2008, the Supreme Court of Illinois overturned plaintiff’s conviction for the murder of his ex-girlfriend, Jennifer Lockmiller, upon concluding the State violated his right to due process when it failed to disclose material and exculpatory information about an alternative suspect. *People v. Beaman*, 229 Ill. 2d 56, 890 N.E.2d 500 (2008). In April 2014, plaintiff initiated this action, alleging defendants, Tim Freesmeyer, Dave Warner, and Frank Zayas, former officers in the Normal Police Department, acted maliciously in investigating him and in aiding in his prosecution. Plaintiff asserted claims of malicious prosecution, intentional infliction of emotional distress, and conspiracy. Plaintiff requested damages from defendant, the Town of Normal, on theories of *respondeat superior* and indemnification.

¶ 2 In June 2016, the trial court, finding no genuine issue of material fact as to plaintiff’s claims of malicious prosecution, granted defendants’ motion for summary judgment. Plaintiff appealed, arguing, in part, a reasonable jury could find in his favor on each of the elements of its malicious-prosecution claim. We affirmed, concluding the trial court properly found no genuine issue of material fact existed on the first element of malicious prosecution—the commencement or continuance of an original criminal or civil judicial proceeding by the defendants.

¶ 3 In February 2019, the Supreme Court of Illinois reversed our decision. The court concluded our review of the aforementioned element was improperly limited. The court remanded, directing this court to determine “whether the defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants played a significant role in [plaintiff’s] prosecution.” *Beaman v. Freesmeyer*, 2019 IL 122654, ¶ 47.

¶ 4 On remand, we have considered the “significant role” test as set forth in *Beaman*, 2019 IL 122654, ¶ 45, and affirm the summary judgment order.

¶ 5 I. BACKGROUND

¶ 6 Before summarizing the facts of this case, we note both sides of this dispute have hindered this court’s ability to verify the facts set forth in the briefs. The parties, defendants more so, repeatedly failed to provide specific cites to the record to support their claims, thereby asking this court to perform appellate counsels’ briefing duties. See Ill. S. Ct. R. 341(h)(6) (eff. May 25, 2018) (requiring the statement of facts contain “appropriate reference to the pages of the record on appeal”); see also *Maun v. Department of Professional Regulation*, 299 Ill. App. 3d 388, 399, 701

N.E.2d 791, 799 (1998) (“Strict adherence to the requirement of citing relevant pages of the record is necessary to expedite and facilitate the administration of justice.”). In the appellee brief, defendants routinely cited the first page of a deposition, instead of the page on which the support for the alleged fact may be found. By doing so, defendants ask this court to review hundreds of pages of deposition testimony to find the one or two pages containing specific facts in support of their defense. Both sides cited their statements of material facts filed in the trial court without providing citations to the appellate record for this court to verify those facts.

¶ 7 In addition, plaintiff’s statement of facts is rife with argument and conclusions in violation of Illinois Supreme Court Rule 341(h)(6) (eff. May 25, 2018) (“Statement of Facts \*\*\* shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment \*\*\*.”). For example, headings in plaintiff’s *statement of facts* include “Freesmeyer Delivers the Indictment and Conviction,” “Defendants Ignore a Witness who Exonerates Beaman,” and “Warner Hides Evidence.”

¶ 8 In our attempt to summarize the evidence in this case, we rely primarily on the facts provided in the published cases on this matter. We also include facts that are readily verifiable, but we have not fulfilled appellate counsels’ duties by using judicial resources to search the voluminous record to find support for every alleged fact.

¶ 9 A. Lockmiller’s Murder and the Investigation

¶ 10 On August 28, 1993, the body of Lockmiller, a 21-year-old student at Illinois State University, was found in her Normal, Illinois, apartment. Lockmiller’s shirt was pulled up, exposing her breasts. Her shorts and underwear were down around one of her legs. The electrical cord of an alarm clock was around Lockmiller’s throat. A pair of scissors protruded from her chest.

A box fan had been placed over Lockmiller's face. A bag of trash, which may have been taken from a trash can, was found on the living room sofa. The kitchen sink was filled with dirty dishes. The book bags and purse found on a table appeared closed and undisturbed. The wallet contained \$17.71 in cash. Both the air conditioner and television were on. The apartment showed no signs of forced entry. Lockmiller died from ligature strangulation with the cord of the alarm clock. The investigators found no one who had seen Lockmiller alive after her class ended at 11:50 a.m. on August 25, 1993.

¶ 11 A number of police officers from the Town of Normal Police Department (NPD) were involved in the investigation. These officers included defendants: Freesmeyer, a detective, Warner, a detective, and Zayas, a lieutenant. Early in the investigation, starting in October or November 1993, Freesmeyer served as the principal detective on the investigation. Warner's role included serving as an evidence custodian and investigating one of the suspects, Stacey Gates. Zayas supervised the detectives who worked on the investigation until he retired in November 1994. Other individuals involved in the investigation included Charles Reynard, the McLean County State's Attorney, and James Souk, assistant state's attorney. Souk acted as the lead prosecutor in plaintiff's criminal case.

¶ 12 Police officers focused the investigation on plaintiff early in the case. Lockmiller's body was found by her friend, Morgan Keefe (now Hartman). Hartman attempted to contact Lockmiller for several days. Hartman went to Lockmiller's apartment. She called the police upon finding her body. Hartman told the police she knew "who did it." Hartman reported Lockmiller was afraid of plaintiff. She heard Lockmiller "say over and over and over again that she was afraid" of him. Lockmiller also reported to Hartman that plaintiff had broken down her door and threatened

suicide if she broke up with him. Hartman “was aware” plaintiff “was possessive.” Hartman stated Lockmiller usually kept her apartment tidy.

¶ 13 While investigating plaintiff, the officers learned plaintiff, a student at Illinois Wesleyan University, was residing with his parents in Rockford, Illinois, at the time of Lockmiller’s murder. Rockford is approximately two hours from Normal by car. Detectives learned plaintiff occasionally sang and played guitar and saxophone for his church youth group while home from college. He was scheduled to rehearse on Wednesday, August 25, 1993, for the performance the following Sunday. Plaintiff and the youth pastor arranged that time as plaintiff’s “parents were coming in.”

¶ 14 Officers garnered information regarding plaintiff’s and Lockmiller’s relationship. Plaintiff and Lockmiller began a tumultuous relationship in July 1992. The two broke up and rekindled the relationship 17 to 18 times. The relationship ended about one month before the murder. Detectives learned of a history of loud arguments. One argument ended when plaintiff drank nail polish remover. According to letters found in Lockmiller’s apartment after her murder, plaintiff wanted their relationship to be monogamous, but he suspected Lockmiller saw other men. In the letters, plaintiff expressed he loved her “more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason,” and stated, “Don’t worry, I won’t kill anybody, I don’t believe in that. I do unto others as I would have them unto me (from now on).” Shortly before her death, Lockmiller became involved with Michael Swaine, plaintiff’s friend and roommate.

¶ 15 Lockmiller’s apartment showed no sign of forced entry. The police investigated individuals Lockmiller knew. The police questioned Lockmiller’s current boyfriend and plaintiff’s

roommate, Swaine, as well as former boyfriends, including plaintiff, Gates, and Larbi John Murray. Swaine had an alibi. On August 25, 1993, the date the State concluded Lockmiller was murdered, Swaine was working at a bookstore in Elmhurst, Illinois. Gates, who had moved to Peoria to be closer to Lockmiller, also had an alibi. Records from a Peoria school showed Gates was at work on August 25.

¶ 16 The NPD officers learned Murray was Lockmiller's drug dealer. Murray and Lockmiller had also been lovers. Murray was twice interviewed by police. Initially, Murray reported leaving town on August 24, 1993, a day before the murder. Murray's girlfriend, Debbie Mackoway, however, told police they did not leave town until the afternoon of August 25. Murray then amended his story and his version was consistent with Mackoway's report. Murray informed officers he was alone at home before 2 p.m. on August 25. Murray resided 1.5 miles from Lockmiller. Murray had a criminal history. He faced charges of drug possession with intent to deliver and of domestic violence for the abuse of Mackoway. According to Mackoway, Murray also began using steroids and behaved erratically. Both cocaine and steroids had been found in Murray's apartment. Murray agreed to submit to a polygraph examination. At the start of the examination, Murray failed to follow instructions. The examiner terminated the examination.

¶ 17 Investigators interviewed David Singley, Lockmiller's neighbor. Singley informed investigators he arrived home from class at 2 p.m. on August 25 and heard someone slam the door to Lockmiller's apartment. Singley stated he heard the stereo, the door open and close a second time, and footsteps. Singley also reported noticing, around 4:30 p.m., the stereo was off and the television had been turned on.

¶ 18 Lockmiller's neighbors who lived directly below Lockmiller told detectives they

overheard fights between Lockmiller and a man who drove a silver Ford Escort. Plaintiff drove a silver/grey Ford Escort. The neighbors recalled the fights occurred in January or February 1993. John Revis, another individual interviewed by Freesmeyer, reported once ripping off plaintiff during a drug deal.

¶ 19 In an August 28, 1993, interview by Freesmeyer of Swaine, Swaine reported he and plaintiff were friends. They were roommates for an unspecified time. Lockmiller and Swaine started a relationship while Lockmiller and plaintiff “were going out.” Swaine reported plaintiff made two holes in Lockmiller’s apartment walls. Swaine also reported the first time plaintiff broke into Lockmiller’s apartment, he found Lockmiller “fooling around” with Murray. The second time occurred within two months of Lockmiller’s death. Swaine was at Lockmiller’s apartment. Plaintiff arrived and began screaming at Lockmiller. Swaine ran and hid in the bedroom closet. Swaine heard plaintiff scream, “I know you are in there.” Plaintiff broke through the door. On a different date, plaintiff searched Lockmiller’s trash, looking for Swaine’s used condoms.

¶ 20 The investigation recovered seven fingerprints from the alarm clock found at Lockmiller’s apartment. Two belonged to plaintiff, four to Swaine, and one remained unidentified.

¶ 21 As of August 29, 1993, one day after the discovery of the body, Souk concluded plaintiff was the only suspect, but other people could be potential suspects. According to Souk, he did not believe Murray had a motive to kill Lockmiller. While prosecuting plaintiff, Souk knew Murray had provided Lockmiller with narcotics and marijuana, and conflicting statements had been made about whether Lockmiller owed Murray money. Souk also knew Murray made a mistake regarding his alibi and corrected that mistake in a second interview. Souk did not find the mistake suspicious. At the time of the trial, Souk knew Murray began taking steroids in January

1994 and had begun acting erratically. Before that time, Murray had not been physically violent toward Mackoway.

¶ 22 In February 1994, Freesmeyer was involved in a consultation with the Chicago Police Department (CPD) regarding the investigation. As the NPD had limited experience in investigating homicides, the Normal chief of police suggested the consultation for suggestions on the investigation. A copy of the case report was sent to the CPD. Detectives from CPD later met with Freesmeyer and others. The CPD detectives' only suggestion was "to continue to try to talk to [plaintiff] as long as [they] could."

¶ 23 On May 16, 1994, a meeting was held to determine whether to arrest plaintiff for Lockmiller's murder. Those in attendance included Reynard, Souk, Freesmeyer, Zayas, Normal Chief of Police James Taylor, and Detective Tony Daniels. During the meeting, Reynard decided to charge plaintiff. Souk agreed. At his deposition, Daniels testified he suggested a list of investigative avenues to pursue before arresting plaintiff. Souk responded, "I think we've got our guy[,] \*\*\* we went as far as we can with this case." Souk stated they were going to go ahead and issue a warrant for plaintiff's arrest. Freesmeyer, in his deposition, testified no one at the hearing questioned the decision to arrest plaintiff. He had no memory of Daniels's suggestions. Plaintiff was arrested in May 1994.

¶ 24 B. Grand Jury Proceedings

¶ 25 In July 1994, proceedings on Lockmiller's murder were held before the grand jury. At the hearing, Souk conducted the questioning. Freesmeyer, as well as other witnesses, testified. During Freesmeyer's testimony, the following questioning occurred:

"Q. I want to go now to some alibi evidence. First as to

Michael Swaine, before we get into his alibi, first let me ask you if your investigation revealed any conceivable motive that Michael Swaine might have had to kill Jennifer Lockmiller?

A. No, Michael was the present boyfriend. When we picked him up at the scene, extremely remorseful, crying and sobbing. We were able to find no motive whatsoever.

Q. \*\*\* [B]ut other than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller?

A. No, not necessarily.

Q. Perhaps the best thing is why don't you just summarize for us Mr. Swaine's alibi and how you were able to establish it?

A. In speaking with Mr. Swaine, I asked him where he was that week.”

¶ 26 Freesmeyer was questioned regarding whether his interviews of residents of the apartment building revealed anything helpful to the case. He answered they did not.

¶ 27 Souk also questioned Freesmeyer about the time trials he performed on the route from the Beaman residence in Rockford to Lockmiller's apartment and the routes he took from Bell Federal to the Beaman residence:

“A. However, considering the phone calls, if she would have left her mother's residence at 10:00 \*\*\*, she would have been home by 10:17. She could have made the calls at 10:37 and 10:39. Left the

house and arrived back at Walmart at approximately 10:57 or 11:00 \*\*\*. Give her 10 minutes to go into three different departments at Walmart and check out. It would have been rushed, but it would be possible.

Q. And again, this was one of those rare occasions when you were driving the speed limit?

A. That is correct.

Q. Now did you also on two occasions do the same kind of timing from Bell Federal to the Beaman residence?

A. Yes, I did.

Q. On one of those occasions, did you basically drive it through town?

A. I drove the most direct route and I also drove what I thought to be the fastest route, the two most logical ways to get to the Beaman residence from Bell Federal.

Q. On both those occasions, did you drive the speed limit?

A. Yes. The trip through town, I drove the speed limit[,] and I drove it on a Wednesday afternoon at approximately 10:00 \*\*\*, so it would be very comparable to the time that Mr. Beaman would have driven that route.

Q. How long did that trip take going through town?

A. That trip took me 30 minutes. If he had left the bank at 11

minutes after 10:00, he'd [have] gotten home at 10:45. The calls were made at 10:37 and 10:39.

Q. When you drove it the other way, did you—from Bell Federal, if you go a couple miles south, do you get to this Route 20 going around the south side of town?

A. Yes, Bell Federal is on the corner of Newburg and Alpine. If you take Alpine straight south to 20 and around, that would be probably the quickest route to Mr. Beaman's residence, and that took me 25 minutes. So once again 25 added to the 10:11 would put me there at 10:36. The calls were at 10:37 and 10:39."

¶ 28

#### C. Motion *in Limine*

¶ 29

Before trial, the State filed a motion *in limine* to exclude evidence of Lockmiller's relationships with men other than plaintiff and Swaine. The trial court reserved ruling on the motion. Later, the State and plaintiff's defense counsel discussed Lockmiller's relationship with an individual identified as "John Doe," who is Murray. Souk told the court Doe had "nothing to do with the case." Souk had not disclosed to plaintiff's trial counsel Murray's criminal records, which would have exposed his drug and steroid use, the incidents of domestic violence, or the incomplete polygraph examination. Plaintiff's trial counsel had no specific evidence pointing to another individual who could have committed the offense. The trial court granted the motion *in limine*.

¶ 30

#### D. Plaintiff's Trial and Conviction

¶ 31

At trial, evidence established plaintiff, then a student at Illinois Wesleyan

University, used Lockmiller's alarm clock to wake for class. During the course of their relationship, plaintiff stayed the night at Lockmiller's up to four or five times a week.

¶ 32 Singley testified at trial. During the 1993 spring semester, Singley, on multiple occasions, heard plaintiff pound on Lockmiller's door late at night. He also reported hearing plaintiff and Lockmiller yell at each other.

¶ 33 Plaintiff testified, on an unspecified night that same spring, Lockmiller called him to end their relationship. Plaintiff went to Lockmiller's residence to retrieve his compact disc player. Upon arriving at the apartment, plaintiff observed "John Doe's" car in the parking lot. Plaintiff pounded on Lockmiller's apartment door. Lockmiller refused to let him enter her apartment. Plaintiff continued pounding on the door and began kicking it, causing the door to break. Plaintiff discovered Doe and Lockmiller inside the apartment. Plaintiff grabbed his compact disc player and left. He yelled while inside the apartment but made no physical contact with Doe or Lockmiller.

¶ 34 Evidence established another incident during which plaintiff forcefully broke Lockmiller's apartment door. In the summer of 1993, Lockmiller was in a relationship with Swaine. One night in July 1993, plaintiff suspected Swaine was at Lockmiller's apartment. He broke the apartment door by pounding and kicking it. Upon entering the apartment, plaintiff did not see Swaine. Plaintiff verbally confronted Lockmiller but made no physical contact. Plaintiff remained at the apartment for 30 to 45 minutes.

¶ 35 Plaintiff testified his night shift at his uncle's grocery store ended at 9 a.m. on August 25. Plaintiff drove home to retrieve some cash and a check. He drove to the bank to make a deposit. Plaintiff's trip to the bank was confirmed by a bank security videotape that showed

plaintiff leaving the bank at 10:11 a.m. Plaintiff returned home and slept until 5 p.m.

¶ 36 Telephone records demonstrated two calls were made from the Beaman residence at 10:37 and 10:39 a.m. on August 25. The first call was to the plaintiff's church, the second to the church's director of music and youth ministries. Only two people could have made those calls: plaintiff and his mother, Carol Beaman. Plaintiff did not recall placing those calls but stated he could have done so. Carol denied making the calls. She testified she left the Beaman residence around 7 a.m. and drove to her mother's assisted-living facility. Carol took her mother to the clinic and returned to the facility around 10 a.m. Carol testified to having spent 15 to 20 minutes with her mother inside the facility before driving to the Walmart store across the street. A receipt shows Carol checked out at Walmart at 11:10 a.m. after having purchased copy paper, poster frames, blue jeans, and magazine holders. Before returning home, Carol drove to other stores. Her last stop was a grocery store, where she purchased perishable items. She checked out at 2:03 p.m. and headed home. Carol testified she was home by 2:16 p.m., but she had previously told officers she arrived home around 3 p.m. When Carol arrived home, she noticed plaintiff's car in the driveway. Carol awoke plaintiff for dinner at approximately 6 p.m.

¶ 37 Freesmeyer testified regarding road tests he performed to test plaintiff's opportunity to murder Lockmiller. According to Freesmeyer, the distance between plaintiff's bank and Lockmiller's apartment was 126.7 miles. Freesmeyer's test indicated plaintiff, having left his bank at 10:11 a.m., could have arrived at Lockmiller's apartment before noon if plaintiff drove 10 miles per hour over the speed limit. Freesmeyer further testified 139.7 miles separated the Beaman residence and Lockmiller's apartment. He averred plaintiff could have made that trip in just under two hours if he drove at a speed 10 miles per hour over the posted limit.

¶ 38 Freesmeyer performed a road test from plaintiff’s bank to the Beaman residence to see if it was possible to make the phone call from the Beaman residence at 10:37 a.m. He testified he drove through downtown Rockford, the “most direct route,” obeyed all speed limits, and concluded it took 31 minutes to make the trip. Freesmeyer concluded plaintiff would have arrived home at 10:42 a.m. Freesmeyer testified it took him 15 minutes to drive from the Beaman residence to the Walmart where Carol shopped on August 25. On cross-examination, Freesmeyer acknowledged plaintiff did not state he drove through downtown Rockford on August 25. Freesmeyer also agreed the route he took was through downtown Rockford and not on “the high speed bypass” around the city.

¶ 39 In rebuttal argument, the State argued all of the other possible suspects were excluded due to alibis: “Did we look at Mr. Swaine? You bet we did. Did we look at [Gates]? You bet we did. Did we look at a lot of people and interview a lot of witnesses? You bet we did. And guess who sits in the courtroom \*\*\* with the gap in his alibi still unclosed even after all this?”

¶ 40 On April 1, 1995, the jury found plaintiff guilty of first degree murder. He was sentenced to 50 years’ imprisonment. On direct appeal, a majority affirmed plaintiff’s conviction. *People v. Beaman*, No. 4-95-0396 (Ill. May 23, 1996) (unpublished order under Illinois Supreme Court Rule 23).

¶ 41 By letter dated April 17, 1995, Souk wrote to Normal Police Chief James Taylor, commending Freesmeyer for his work on the case. The letter stated as follows:

“I would be derelict in my duties if I did not write you a separate letter concerning Tim Freesmeyer’s performance in the Beaman case.

Rather than elaborate on the details, I will simply tell you that Tim's work on this case is the single finest effort by any police officer in any case with which I have been involved during 20 years as both a prosecutor and defense lawyer.

The effort is all the more remarkable considering his relative youth and inexperience. His recent promotion indicates you are already aware of his exceptional ability, but I would not be comfortable without expressing to you officially my great admiration for Tim, both as a person and a police officer. Beyond any question in my mind, this case would not have been won without Tim Freesmeyer."

¶ 42 E. Proceedings on Plaintiff's Petition for Postconviction Relief

¶ 43 In April 1997, plaintiff filed a petition for postconviction relief. Later, several amendments were made to the petition. In its final form, plaintiff alleged, in part, the State violated his right to due process by failing to disclose material information regarding Murray's viability as a suspect. An evidentiary hearing was held on plaintiff's petition.

¶ 44 At the evidentiary hearing on plaintiff's postconviction claims, Daniels testified he believed Murray was and continued to be a viable suspect. Murray was Lockmiller's former boyfriend, and according to Murray, the two were about to rekindle their romance. Daniels testified Murray provided Lockmiller with drugs and she owed him money. Murray lived a short distance from Lockmiller's apartment. Murray visited Lockmiller a few days before the murder but found her with Swaine. Daniels further testified Murray was asked to take a polygraph examination. The

examination could not be completed because Murray was not cooperative. Murray was asked to complete a second polygraph examination, and he agreed. The examination, however, did not occur.

¶ 45 At the hearing, the polygraph examiner also testified. He opined the lack of cooperativeness could have been intentional.

¶ 46 The circuit court denied plaintiff postconviction relief. This court, with Justice Cook dissenting, affirmed the denial. *People v. Beaman*, 368 Ill. App. 3d 759, 772, 858 N.E.2d 78, 91 (2006).

¶ 47 In 2008, the Supreme Court of Illinois found the State violated plaintiff's constitutional right to due process of law when it failed to disclose the evidence related to Murray and reversed the circuit court order denying his postconviction petition. *Beaman*, 229 Ill. 2d at 81-82. The Court summarized the undisclosed evidence as consisting of four points: "(1) [Murray] failed to complete the polygraph examination; (2) [Murray] was charged with domestic battery and possession of marijuana with intent to deliver prior to [plaintiff's] trial; (3) [Murray] had physically abused his girlfriend on numerous prior occasions; and (4) [Murray's] use of steroids had caused him to act erratically." *Id.* at 74. The court concluded the State's case against plaintiff "was not particularly strong" and "tenuous," supporting the admission by plaintiff "of the similarly probative alternative suspect evidence on" Murray. *Id.* at 77-78. The court had no "confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence that would have countered the State's argument that all other potential suspects had been eliminated from consideration." *Id.* at 81.

¶ 48 Plaintiff's conviction was vacated and remanded. The State declined to reprosecute plaintiff and dismissed the charges against him. Plaintiff was released from prison in June 2008 and the State of Illinois, in April 2013, certified his innocence. *Beaman v. Freesmeyer*, 776 F.3d 500, 504 (7th Cir. 2015). The Governor of Illinois pardoned plaintiff "based upon innocence as if no conviction."

¶ 49 F. Plaintiff's Federal Civil Suit

¶ 50 In January 2010, plaintiff filed a section 1983 complaint (42 U.S.C. § 1983 (2006)) against defendants Freesmeyer, Warner, and Zayas, as well as against Souk, Reynard, and other detectives. Plaintiff alleged three federal claims: defendants acting individually and in conspiracy withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963) (individual liability), defendants conspired to deprive plaintiff exculpatory evidence (conspiracy liability), and defendants failed to intervene to prevent violation of his rights. *Beaman*, 776 F.3d at 505. Plaintiff included state law claims for malicious prosecution, civil conspiracy, and intentional infliction of emotional distress against the Town of Normal. *Id.*

¶ 51 The claims against Souk and Reynard were dismissed based on absolute immunity or qualified immunity. *Id.* at 506. The claims against the other detectives, individuals who are not named defendants in this case, were dismissed after discovery revealed those detectives were not involved in the suppression of evidence. *Id.*

¶ 52 The district court granted summary judgment on the federal claims to the remaining defendants—Freesmeyer, Warner, and Zayas—and the Seventh Circuit affirmed. The court found insufficient evidence from which a jury could infer an agreement between the defendants to withhold the Murray evidence. *Id.* at 513. The Seventh Circuit concluded "[t]he defendants did not

falsify any physical evidence or use any knowingly false testimony at trial.” *Id.* at 512. As to Freesmeyer, the Seventh Circuit discounted plaintiff’s argument Freesmeyer prepared a “deceptive” police report regarding the time trials. The court found “Freesmeyer did not lie about the speeds at which he drove, and he was subject to cross-examination at trial about the speeds and alternative routes.” *Id.* The court observed “[t]his is the type of behavior that will be present in every criminal prosecution—valid pursuit of a conviction.” *Id.* The court also found “the defendants are entitled to qualified immunity for their failure to turn over the Murray polygraph report to the prosecution and Beaman’s defense counsel.” *Id.* at 510. The court did so after framing the question as to whether *inadmissible* information inculcating another suspect could be *Brady* material. *Id.* The court observed “[i]t is clear that Beaman’s primary quarrel is with Souk. Souk possessed (most of) the Murray evidence, failed to turn it over, and told the court and jury that there were no alternative suspects.” *Id.* at 513. Neither the district court nor the Seventh Circuit addressed the state-law claims of malicious prosecution, intentional infliction of emotional distress, or conspiracy against the Town of Normal for lack of jurisdiction. *Id.* at 506.

¶ 53 G. Plaintiff’s State Civil Lawsuit

¶ 54 In April 2014, plaintiff filed this action against defendants Freesmeyer, Warner, Zayas, and the Town of Normal. The complaint contains five claims: (1) malicious prosecution, (2) intentional infliction of emotional distress, (3) civil conspiracy, (4) *respondeat superior*, and (5) indemnification. In his complaint, plaintiff asserted the three individual defendants played significant roles in his prosecution and wrongful conviction.

¶ 55 Plaintiff asserted Freesmeyer “advocated for, approved, and physically effected” his arrest. Plaintiff alleged Freesmeyer moved into an office in the state’s attorney’s office to work

full-time on plaintiff's case and decided, on the first day of the investigation, plaintiff was "the primary suspect." Freesmeyer did so, according to plaintiff, even though the crime scene suggested the murderer was "a perpetrator of considerable size and power" while "plaintiff was thin and small" and Lockmiller's drug use and "behavior" pointed to a number of other possible suspects and "unsavory characters." Plaintiff identified Murray as the most significant suspect in that he was a drug dealer and Lockmiller's "sex partner" who used steroids and cocaine, beat women, and lied about his alibi.

¶ 56 Other evidence plaintiff pointed to includes allegations Freesmeyer had a "continued fixation on plaintiff despite [a] lack of evidence." Plaintiff argued the evidence Freesmeyer, and other detectives, did not investigate area burglaries or sexual assaults, did not interview individuals with whom Lockmiller had been in contact before her murder, and failed to listen to other detectives "who questioned their singular fixation." Plaintiff maintained Freesmeyer doctored the time trials to secure plaintiff's conviction, thereby "creat[ing] evidence" plaintiff did not make the calls from the Beaman residence by driving within the speed limit and using the downtown route and not the bypass route favored by Rockford locals. Freesmeyer further avoided telling the jury about his testing the bypass route and finding had plaintiff used the bypass route he could have made those calls. In contrast, when attempting to establish plaintiff could have made the trip to Normal, Freesmeyer drove over the speed limit. Plaintiff highlighted evidence Freesmeyer threatened the death penalty during an interview of plaintiff and Freesmeyer's repeated efforts to secretly tape inculpatory statements from him.

¶ 57 As to Warner, plaintiff alleged he was liable to plaintiff for damages as a result of burying a report regarding Murray's polygraph. The report of the incomplete polygraph was

addressed to Warner. Warner averred he gave the report to Daniels, but Daniels had no memory of receiving it. The state's attorney's office did not receive a copy. According to the report, Murray denied strangling Lockmiller and denied knowing who did. The report, however, was inconclusive given Murray's failure to comply with specific directions:

“Throughout the course of this polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination. After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.”

¶ 58 Defendants moved for summary judgment on plaintiff's claims. Defendants maintained there was no evidence establishing a genuine issue of material fact on four of the five elements of his malicious-prosecution claim. Defendants contended, as a result, they were entitled to judgment on the malicious-prosecution claim and the remaining claims, which plaintiff predicated on the contention he was maliciously prosecuted.

¶ 59 H. Summary Judgment Order

¶ 60 In June 2016, the trial court granted defendants' motion for summary judgment. After listing the elements for the claim of malicious prosecution, the court found the prosecutors who handled the case, not the defendant officers, decided to prosecute plaintiff. In support, the court highlighted Daniels's deposition testimony. The court pointed to Daniels's statement that, during the May 1994 meeting with investigating officers and lead prosecutors, Souk rejected Daniels's suggestions to investigate other avenues. Souk expressed the investigation was complete

and an arrest warrant would be issued for plaintiff. The court explicitly found defendants “did not exert any unusual influence on the prosecutors which caused a malicious prosecution to take place against plaintiff.”

¶ 61 The trial court further found no genuine issue of material fact as to the remaining malicious-prosecution elements and to plaintiff’s claims of intentional infliction of emotional distress, conspiracy, *respondeat superior*, and indemnification.

¶ 62 I. Plaintiff’s Appeal of the Summary Judgment Order

¶ 63 Plaintiff appealed the order. In his appeal, plaintiff challenged the trial court’s order, maintaining the evidence showed a genuine issue of material fact to each of the elements of malicious prosecution. Plaintiff argued all of his claims were improperly dismissed.

¶ 64 In our opinion, we affirmed the order for summary judgment. We began our analysis by setting forth the elements of a malicious-prosecution claim in Illinois:

“Under Illinois law, a claim of malicious prosecution requires proof of each of the following elements: ‘(1) the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s]; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and (5) damages resulting to the plaintiff.’ ” *Beaman v. Freesmeyer*, 2017 IL App (4th) 160527, ¶ 49 (quoting *Swick v. Liautaud*, 169 Ill. 2d 504, 512, 662 N.E.2d 1238, 1242 (1996)).

¶ 65 We then considered whether, in viewing the evidence in the light most favorable to

plaintiff, defendants showed no genuine issue of material fact on the first element of that offense: “ ‘the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s].’ ” *Id.* ¶ 50 (quoting *Swick*, 169 Ill. 2d at 512). On that issue, plaintiff, in a little over four pages, asserted he sufficiently established the element by simply showing the defendants had “significant involvement” in the commencement or continuance of his prosecution. Plaintiff did not mention proximate cause, only (1) asserting the conviction would not have occurred *but for* the conduct of the defendant officers and (2) the officers, one of whom worked out of the office of the State’s Attorney, had significant roles in the prosecution. We questioned the approach of limiting consideration of the commencement element to only the significance of one’s role in instituting the prosecution. *Id.* ¶ 54.

¶ 66 Turning to defendants’ brief for guidance, we found defendants argued proof of the element required a causal link, like undue influence, on the prosecutor’s decision to commence suit. We disagreed the question should be limited to only instances of “undue influence.” *Id.* ¶ 55. Instead, to resolve the question of whether the commenced-or-continued element was sufficiently satisfied, we relied upon a recent decision by the Seventh Circuit Court of Appeals, *Colbert v. City of Chicago*, 851 F.3d 649 (7th Cir. 2017), which held the chain of causation in a malicious-prosecution action will be broken by a prosecutor’s indictment absent “ ‘an allegation of pressure or influence exerted by the police officers, or knowing misstatements by the officers to the prosecutor.’ ” ” *Beaman*, 2017 IL App (4th) 160527, ¶ 57 (quoting *Colbert*, 851 F.3d at 655, quoting *Reed v. City of Chicago*, 77 F.3d 1049, 1053 (7th Cir. 1996)). We analyzed the evidence presented and concluded no genuine issue of material fact existed on this element as there was no evidence showing the defendants pressured or influenced Souk’s decision to prosecute plaintiff

and no evidence of knowing misstatements by the defendants to Souk. *Id.* ¶¶ 65, 69, 72. We, therefore, concluded the chain of causation was broken. We affirmed the trial court’s order. *Id.* ¶ 80. Plaintiff appealed.

¶ 67 J. Illinois Supreme Court’s Reversal

¶ 68 Before the Supreme Court of Illinois, the parties more fully addressed the issue of the proper considerations of the commencement-or-continuance element of malicious prosecution. In addition to the parties’ briefs, the court allowed the filing of multiple *amici* briefs by former state and federal prosecutors, police unions, and cities (Peoria and Chicago).

¶ 69 The court summarized three approaches in Illinois case law for analysis of this element: “significant role,” “advice and cooperation,” and “pressure, influence, or misstatement” tests. See *Beaman*, 2019 IL 122654, ¶¶ 29-31. The court agreed with defendants that all steps require proof of causation and concluded “the relevant inquiry is whether the officer proximately caused the commencement or continuance of the criminal proceeding.” *Id.* ¶ 33. The court then articulated the “significant role” assessment should be used to ascertain proximate cause and defined it as follows:

“This significant role assessment necessarily includes those persons whose participation in the criminal case was so ‘active and positive’ to ‘amount to advice and co-operation’ [(*Gilbert v. Emmons*, 42 Ill. 143, 147 (1866))] or those persons who ‘improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the

prosecution (52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)).”

*Id.* ¶ 45.

¶ 70 The supreme court remanded this case, ordering this court to “examine whether the defendants’ conduct or actions proximately caused the commencement or continuance of the original criminal proceeding by determining whether defendants played a significant role in [plaintiff’s] prosecution.” *Id.* ¶ 47.

¶ 71

## II. ANALYSIS

¶ 72

### A. Summary Judgment Standards

¶ 73 When considering a motion for summary judgment, the court’s role is to ascertain whether a genuine issue of material fact exists and not to resolve factual questions. *Williams v. Manchester*, 228 Ill. 2d 404, 417, 888 N.E.2d 1, 8 (2008). A court should grant such a motion only when the depositions, pleadings, affidavits, and admissions, viewed in the light most favorable to the nonmovant, show both no genuine issue of material fact and the movant is, as a matter of law, entitled to judgment. *Pontiac National Bank v. Vales*, 2013 IL App (4th) 111088, ¶ 29, 993 N.E.2d 463 (citing 735 ILCS 5/2-1005(c) (West 2008)). Because summary judgment is a drastic means to resolve a case, a trial court should grant summary judgment only when the moving party’s right to judgment is clear and free from doubt. *Vales*, 2013 IL App (4th) 111088, ¶ 29. When reasonable persons can “ ‘draw divergent inferences from the undisputed material facts or where there is a dispute as to a material fact, summary judgment should be denied and the issue decided by the trier of fact.’ ” *Beaman*, 2019 IL 122654, ¶ 22 (quoting *Espinoza v. Elgin, Joliet & Eastern Ry. Co.*, 165 Ill. 2d 107, 114, 649 N.E.2d 1323, 1326 (1995)). On appeal, we review summary judgment orders *de novo*. *Rettig v. Heiser*, 2013 IL App (4th) 120985, ¶ 30, 996 N.E.2d 1220.

¶ 74

## B. Malicious Prosecution

¶ 75

As stated above, to establish a claim of malicious prosecution, a plaintiff must prove each of the following elements: “(1) the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s]; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and (5) damages resulting to the plaintiff.” *Swick*, 169 Ill. 2d at 512. The failure to prove one element prevents recovery on the claim. *Id.*

¶ 76

### 1. Probable Cause

¶ 77

The existence of probable cause is a complete defense to a claim of malicious prosecution, no matter the motive prompting the arrest. *Ely v. National Super Markets, Inc.*, 149 Ill. App. 3d 752, 758, 500 N.E.2d 120, 125 (1986). Probable cause, for purposes of an action for malicious prosecution, is defined as a state of facts, in the prosecutor’s mind, that would lead a person of ordinary caution and prudence to believe or entertain an honest and strong suspicion the person arrested is guilty of the offense for which he was arrested. *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975, 520 N.E.2d 1233, 1241 (1988); see also *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 642, 784 N.E.2d 258, 266 (2002) (“Probable cause is a state of facts that would lead a person of ordinary care and prudence to believe or to entertain an honest and sound suspicion that the accused committed the offense charged.”). “Whether the relevant facts, viewed in the light most favorable to the plaintiff, constitute probable cause for instituting a criminal prosecution is a question of law which the court must determine.” *Frye*, 166 Ill. App. 3d at 976; see also *Poris v. Lake Holiday Property Owners Ass’n*, 2013 IL 113907, ¶ 63, 983 N.E.2d 993 (noting “the existence of probable cause is a question of law and only becomes a question of fact if the operative

facts are in dispute”). In assessing whether probable cause exists, we examine the totality of the circumstances at the time of the arrest. *Gauger v. Hendle*, 2011 IL App (2d) 100316, ¶ 112, 954 N.E.2d 307, 329.

¶ 78 Defendants contend the existence of probable cause for plaintiff’s arrest is another meritorious basis to affirm the award of summary judgment. Defendants argue the totality of the circumstances show no genuine issue of material fact as to the existence of probable cause. Defendants point to plaintiff and Lockmiller’s tumultuous relationship, which included outbursts overheard by neighbors; Lockmiller’s expressed fear of plaintiff; plaintiff’s love letters and threats of suicide; plaintiff’s behavior in following Swaine and kicking down Lockmiller’s door; the existence of two of plaintiff’s fingerprints on the murder weapon; a plastic garbage bag lying on the couch in the living room, a circumstance reminiscent of the time plaintiff searched the trash for used condoms; the lack of signs of a forced entry; the fact Lockmiller began a relationship with Swaine, plaintiff’s roommate; and the timeline, albeit narrow, indicating plaintiff had time to murder Lockmiller and return to Rockford.

¶ 79 Plaintiff concedes the parties “agree on some of the facts” but contends the proper inferences to be drawn from those facts must be viewed in the light most favorable to the nonmovant. We note plaintiff does not dispute defendants’ assertion of facts from plaintiff’s mother’s testimony, testimony that narrowed the window of the time when he could have committed the crime, were not known until after the case was turned over to prosecutors.

¶ 80 Plaintiff argues, however, a reasonable juror could find probable cause wanting based on the divergent inferences that could be drawn from them. Plaintiff lists the following reasons in support: (1) no probative physical evidence against plaintiff exists; (2) no one could

place plaintiff in town when the murder occurred; (3) plaintiff maintained his innocence during the investigation, which included “overhears”; (4) any number of men could have committed the crime; (5) Singley’s statement indicates the murder occurred after 2 p.m., eliminating any possibility plaintiff murdered Lockmiller; (6) plaintiff was in Rockford, 130 miles from Bloomington, at 10:11 a.m. on the morning of the murder; (7) the crime scene indicated the killer was a stranger, as the trash bag having been pulled from the trash can indicates a burglar and a larger and more powerful man; (8) the evidence against Murray was stronger, as Murray lived near Lockmiller, had a history of domestic violence, and was a drug dealer to whom Lockmiller owed money; (9) the fingerprint evidence was weak, as plaintiff had stayed overnight at Lockmiller’s apartment regularly when they were dating and he used the alarm clock; (10) the love letters were old, and plaintiff ended the relationship; (11) plaintiff did not return the many phone calls Lockmiller made to him before the murder; (12) the timeline was literally impossible; (13) the incidents of violence, *e.g.*, kicking down the door and punching walls, were not inflicted on people; (14) the evidence of the fan on Lockmiller’s head was indicative of a burglary; and (15) the use of scissors for the murder indicates the killer did not know Lockmiller.

¶ 81 We acknowledge plaintiff has an explanation for each fact, but our review of probable cause focuses not on individual facts but on the totality of the circumstances. Viewing the totality of the circumstances, and doing so in the light most favorable to plaintiff, we find no genuine issue of material fact on the existence of probable cause. The facts are such that, in the prosecutor’s mind, a person of ordinary caution and prudence would be lead to believe or entertain an honest and strong suspicion plaintiff was guilty. Summary judgment for defendants was proper.

¶ 82 In addition to this analysis of the points raised by plaintiff, we also conclude

plaintiff could never successfully meet his burden of showing probable cause did not exist. The trial court denied plaintiff's motion for a directed verdict at his trial for first degree murder. The jury convicted him. This court affirmed plaintiff's conviction and rejected his claim the State's evidence was not sufficient to support his conviction. No court, in the multiple reviews of his convictions, has ever deemed the evidence against him insufficient to sustain his conviction—quite the opposite.

¶ 83 In *Beaman*, 229 Ill. 2d at 56, the supreme court reversed plaintiff's conviction on the sole ground he was entitled to a new trial due to a *Brady* violation but added:

“As a final matter, we note that on direct appeal the appellate court held the evidence was sufficient to convict petitioner of this offense. Petitioner does not raise any claim based on the sufficiency of the evidence in this court. Accordingly, there is no double jeopardy impediment to a new trial.” *Id.* at 82.

¶ 84 2. Commencement or Continuance Element

¶ 85 To be sure we have fully complied with the remand from the supreme court, we choose to address plaintiff's additional arguments despite our conclusion plaintiff cannot show an absence of probable cause. Our interpretation of the court's decision in *Beaman* is that to ascertain whether the defendants commenced or continued an original criminal or judicial proceeding against plaintiff, we must consider whether the role of defendants was significant. The court states persons whose roles are significant include those

“whose participation in the criminal case was so active and positive to amount to advice and co-operation [citation] or those persons who improperly exerted

pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.” (Internal quotation marks omitted.) *Beaman*, 2019 IL 122654, ¶ 45.

¶ 86 The parties dispute the manner by which these considerations must be undertaken. Defendants contend that however one characterizes the officers’ conduct, a plaintiff must overcome the presumption of the prosecutor’s independent judgment *before* one can establish a person proximately caused malicious prosecution. In support, defendants quote the court’s language directly preceding the paragraph in which the court set forth the significant-role assessment:

“ ‘Liability thus depends on whether the defendant was actively instrumental in causing the prosecution, and the presumption of prosecutorial independence can be overcome by showing that the defendant improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.’ ” *Id.* ¶ 44 (quoting 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)).

¶ 87 Plaintiff contends such an interpretation of *Beaman* would, in effect, be an improper attempt by this court to reverse the supreme court’s decision. Plaintiff contends the supreme court rejected the conclusion the prosecutor’s decision could insulate defendants when it reversed our

decision to affirm summary judgment upon finding a plaintiff may establish the commencement-and-continuance element by showing the officer pressured or exerted influence on the prosecutor's decision or made knowing misstatements to the prosecutor. Relying on that holding, plaintiff argues all he must show is a rational juror could find the police officers “ ‘concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.’ ” *Id.* ¶ 45 (quoting 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)). Plaintiff then maintains “significant role,” and thus proximate cause, is satisfied with proof of bad-faith conduct or concealed exculpatory evidence.

¶ 88 We do not agree with plaintiff that to accept defendant's contentions regarding prosecutorial independence would be an attempt by this court to reverse the holding of *Beaman*. The supreme court's holding in *Beaman* is that our review of defendants' conduct was too narrow, finding error in the decision to focus on whether the officers' pressured or unduly influenced the prosecutor or whether the officers made false representations. The supreme court held the standard employed failed to acknowledge a person may be liable for malicious prosecution even if that person did not “actively deceive prosecutors.” *Id.* ¶ 43. The *Beaman* court did not hold this court erred by examining whether the officers' conduct proximately caused the decision to prosecute plaintiff.

¶ 89 Our review of *Beaman* establishes proximate cause is not established absent proof of conduct that overcomes the presumption of prosecutorial independence. It is not enough for a plaintiff seeking relief for malicious prosecution to establish an officer acted in bad faith or performed a wrongful act. That plaintiff must still establish legal causation. *Beaman* says as much. As we stated above, *Beaman* defines when a person falls within the “significant role” standard:

“This significant[-]role assessment necessarily includes those persons whose participation in the criminal case was so active and positive to amount to advice and co-operation [citation] or those persons who improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution (52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018)).” (Internal quotation marks omitted.) *Id.* ¶ 45.

In the paragraph directly preceding this pronouncement, the court cites the same section of *Malicious Prosecution* and states the following:

“ ‘Liability thus depends on whether the defendant was actively instrumental in causing the prosecution, and the presumption of prosecutorial independence can be overcome by showing that the defendant improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution.’ 52 Am. Jur. 2d *Malicious Prosecution* § 88 (2018).”  
*Id.* ¶ 44.

¶ 90 Because the supreme court used the same language from the same source it cited a paragraph earlier, it is clear the supreme court plainly intended proximate cause cannot be

established absent proof the wrongful or bad-faith conduct overcame prosecutorial independence. A prosecutor's decision to commence or continue suit breaks the causal chain, absent some conduct, as defined in the significant-role assessment, on behalf of an officer.

¶ 91 Plaintiff next argues a reasonable juror could find defendants played a significant role in the commencement or continuation of his prosecution as the participation in the criminal case was so "active and positive" to amount to advice and cooperation. Plaintiff emphasizes that in the meeting in which all of the defendants reached a "consensus" with Reynard and Souk no doubt was expressed in arresting plaintiff, and no one objected to the arrest. Plaintiff further points to the multiple occasions, which "could have" been as many as 50, during which Souk and Freesmeyer discussed the investigation.

¶ 92 This test is cited by the *Beaman* court as part of the significant-role, proximate-cause assessment. The source of the advice-and-cooperation test is an 1866 case, *Gilbert v. Emmons*, 42 Ill. 143 (1866), involving private citizens. In *Gilbert*, the plaintiff sued defendants Palmer and Gilbert, who were partners in a firm from which money had been stolen. *Id.* at 146. The warrant that was issued was made by Palmer. *Id.* The court reasoned Gilbert would be equally responsible as Palmer if he advised the arrest—if he directly participated in causing the arrest or advised the arrest be made. *Id.* Gilbert's consent to the arrest was insufficient unless it was "so active and positive a character as to amount to advice and co-operation." *Id.* at 147.

¶ 93 We find consideration of the test espoused in *Gilbert* does not establish the officers proximately caused plaintiff's prosecution. As plaintiff asserts in his reply brief filed in the supreme court, *Gilbert* "has never applied the test to a police officer (or to any defendant since *Gilbert*)." For good reason, as the *Beaman* court recognizes "prosecutors ordinarily rely on police

and other agencies to investigate criminal acts.” *Beaman*, 2019 IL 122654, ¶ 43 (citing *People v. Ringland*, 2017 IL 119484, ¶ 24, 89 N.E.3d 735 (also observing state’s attorneys defer to the investigative duties of the police)). Unlike in relationships between private citizens and prosecutors and private citizens and police (*e.g., Gilbert*), the relationship between police and prosecutors on investigative matters routinely involve “advice and cooperation.” It would be contrary to public policy and incongruous to ask officers and prosecutors to cooperate and work together and yet take officers to trial for doing just that.

¶ 94 We turn to the remaining assessments to ascertain whether a reasonable juror could find defendants, individually, “improperly exerted pressure on the prosecutor, knowingly provided misinformation to him or her, concealed exculpatory evidence, or otherwise engaged in wrongful or bad-faith conduct instrumental in the initiation of the prosecution” and whether such conduct is the proximate cause of the commencement or continuation of plaintiff’s prosecution.

¶ 95 a. *Defendant Freesmeyer*

¶ 96 In asserting sufficient evidence exists for a jury question on the “commenced or continued” element in his claim against Freesmeyer, plaintiff contends Freesmeyer targeted plaintiff since “Day One,” led a biased investigation, lied to the grand jury, doctored time trials, omitted exculpatory evidence from his police reports, threatened plaintiff with the death penalty, moved into the prosecutor’s office, and gave misleading trial testimony. Plaintiff contends these actions by Freesmeyer could lead a reasonable juror to find Freesmeyer commenced or continued his prosecution.

¶ 97 We further disagree with plaintiff’s statement a reasonable juror could find Freesmeyer lied to the grand jury about his interview with Singley. Plaintiff contends Freesmeyer,

ignoring Singley's statements, told the grand jury no helpful information had been learned from Lockmiller's neighbors during the investigation when Singley's interview helped rule out plaintiff as a suspect. Freesmeyer's statement is a conclusion he did not find the information helpful:

“Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?”

A. Yes. \*\*\*.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and no information that turned out [to] be particularly helpful in the investigation?

A. That's correct.”

Testimony from plaintiff's trial shows Freesmeyer identified a reason he “discount[ed] Singley's observations as being inaccurate:

“Well, first of all, nobody could pick out Mr. Swaine's vehicle from the photos we showed them. Second of all, Mr. Singley stated he heard the door, the same door open and close on Friday as he did on Wednesday, and everybody on the team was in agreement that Ms. Lockmiller was deceased long before Friday. And also he stated he saw Swaine's vehicle there on Wednesday, and I'd already spoken with Ms. Betteridge from Elmhurst. She stated that Mr. Swaine was at her side until 3:15 that day. There was absolutely no way that that car could have been in Normal on Wednesday.”

¶ 98 First, despite the repeated references to a “biased investigation” in plaintiff’s appellant brief and the former prosecutors’ *amicus* brief, no language in the supreme court’s *Beaman* decision supports the expansion of the malicious-prosecution torts to acts of “bias.” As the *Beaman* court acknowledged, because public policy favors the exposure of crime, malicious-prosecution actions are disfavored. *Beaman*, 2019 IL 122654, ¶ 24. To expand the tort to allow actions against “biased” private citizens and police officers would contravene the aforementioned public policy. We will not expand the tort to include “bias.”

¶ 99 We note “bias” does not equate to “bad faith” conduct. Bias is defined as “an inclination of temperament or outlook” and “a personal and sometimes unreasoned judgment.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/bias> (last visited Dec. 9, 2019) [<https://perma.cc/Q6JX-9E9L>]. Black’s Law Dictionary defines “bad faith” as follows:

“The opposite of ‘good faith,’ generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one’s rights or duties, but by some interested or sinister motive. Term ‘bad faith’ is not simply bad judgment or negligence but rather it implies the conscious doing of a wrong because of dishonest purpose or moral obliquity; it is different from the negative idea of negligence in that it contemplates a state of mind affirmatively operating with furtive design or ill will.” Black’s Law Dictionary

139 (6th ed. 1990).

Bias will be actionable only if it culminates into conduct, such as bad-faith conduct, that satisfies the elements of a malicious-prosecution claim.

¶ 100 Turning to the assessments set forth in *Beaman*, we find there are no facts from which a reasonable juror could infer Freesmeyer pressured or exerted influence on Souk's decision to prosecute plaintiff. The evidence shows Souk believed plaintiff was the "only" or primary suspect within one day of the discovery of decedent's body. The evidence shows the prosecutors, Reynard and Souk, made the decision to prosecute plaintiff. No witness testimony contradicts this conclusion. As the trial court concluded, testimony of Daniels shows Souk, during the May 1994 meeting, refused to consider additional evidence and decided it was time to prosecute plaintiff. Plaintiff contends it was error to focus on Daniels's statement. Plaintiff points to Freesmeyer's deposition testimony in which he did not recall anyone expressing doubt in arresting plaintiff, and contends, taking the evidence in the light most favorable to plaintiff, we must accept Freesmeyer's account. Even accepting Freesmeyer's account on whether Daniels objected to the arrest of plaintiff or not, no evidence suggests anyone other than the prosecutor made the decision to prosecute plaintiff and then did so.

¶ 101 We turn to the question of whether a reasonable juror could find Freesmeyer provided false information to Souk or Reynard to influence the commencement or continuation of plaintiff's prosecution. Plaintiff identifies two types of evidence that were allegedly fabricated: the time trials and Freesmeyer's testimony before the grand jury. This evidence, however, does not support plaintiff's conclusion the element is satisfied. Initially, there is no proof in the record Freesmeyer tainted or falsely reported the time trials. Indeed, the Seventh Circuit examined similar

allegations against Freesmeyer and found “Freesmeyer did not lie \*\*\*.” *Beaman*, 776 F.3d at 512. Similar to the Seventh Circuit’s findings, we find Freesmeyer’s efforts were to show plaintiff’s conduct could have fit within the State’s theory of the case. “This is the type of behavior that will be present in every criminal prosecution—valid pursuit of a conviction.” *Id.*

¶ 102 On remand, plaintiff contends our conclusion regarding Freesmeyer’s time-trial testimony is incorrect as it ignores the fact Freesmeyer did not disclose in his reports the fact he performed a time trial that had a result favorable to plaintiff. Specifically, plaintiff emphasizes the results from all but one test appear in his reports, implying Freesmeyer concealed the result that would have shown plaintiff had time to leave Bell Federal, use the bypass route around Rockford, and be home in time to make the 10:37 a.m. and 10:39 a.m. calls.

¶ 103 There is good reason this court did not address this nondisclosure in Freesmeyer’s reports—plaintiff did not raise this argument in the commencement-or-continuation argument section in his initial brief before this court. Plaintiff, in one sentence in his original statement of facts, reported “Freesmeyer proceeded to omit mention of that trial from his police report and avoided telling the jury that fact during his testimony at trial.” However, no reasonable juror could find this nondisclosure is the proximate cause of the commencement or continuation of plaintiff’s prosecution. The undisputed facts, and any reasonable inference therefrom, show the presumption of prosecutorial independence (*Beaman*, 2019 IL 122654, ¶ 44) cannot be overcome by this conduct. Souk, who made the decision to prosecute, knew this fact. Freesmeyer disclosed it before the grand jury after Souk questioned him about the bypass route:

“Q. Now did you also on two occasions do the same kind of timing from Bell Federal to the Beaman residence?”

A. Yes, I did.

Q. On one of those occasions, did you basically drive it through town?

A. I drove the most direct route and I also drove what I thought to be the fastest route, the two most logical ways to get to the Beaman residence from Bell Federal.

Q. On both those occasions, did you drive the speed limit?

A. Yes. The trip through town, I drove the speed limit[,] and I drove it on a Wednesday afternoon at approximately 10:00 \*\*\*, so it would be very comparable to the time that Mr. Beaman would have driven that route.

Q. How long did that trip take going through town?

A. That trip took me 30 minutes. If he had left the bank at 11 minutes after 10:00, he'd [have] gotten home at 10:45. The calls were made at 10:37 and 10:39.

Q. When you drove it the other way, did you—from Bell Federal, if you go a couple miles south, do you get to this Route 20 going around the south side of town?

A. Yes, Bell Federal is on the corner of Newburg and Alpine. If you take Alpine straight south to 20 and around, that would be probably the quickest route to Mr. Beaman's residence, and that took me 25 minutes. So once again 25 added to the 10:11 would put

me there at 10:36. The calls were at 10:37 and 10:39.”

¶ 104 Freesmeyer did not conceal this information from Souk. The failure to include the information in the police report could not have proximately caused or continued Souk’s decision to prosecute. In addition, we note there is no evidence Freesmeyer avoided telling the jury of this fact at plaintiff’s trial. Freesmeyer was questioned and cross-examined about the time trials. He did not lie. He was not asked the right questions. Indeed, as counsel noted during defendant’s appeal from the denial of his postconviction petition, “[b]ecause drive times were ‘not really’ the focus of his defense, defense counsel stated he conducted ‘minimal cross-examination’ of Freesmeyer with respect to drive times between the bank and the Beaman residence.” *Beaman*, 368 Ill. App. 3d at 771, *rev’d*, 229 Ill. 2d 56.

¶ 105 We further find no reasonable juror could find Freesmeyer lied by, as plaintiff states in his brief, telling the jury he was unable “to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller.” Freesmeyer did not say those words. In fact, he qualified his answer, “No, not necessarily.” Souk, who was questioning Freesmeyer at the time, guided the testimony and did not ask Freesmeyer what he meant by “not necessarily.” Instead, Souk began questioning Freesmeyer about another suspect, Swaine. Souk did not ask Freesmeyer an open question. Souk did not ask about Murray.

¶ 106 Plaintiff points to no other wrongful or bad-faith conduct by Freesmeyer. We affirm the order granting summary judgment to Freesmeyer as there are no disputed facts, or reasonable inferences therefrom, that may establish Freesmeyer is proximately liable for the commencement or continuation of plaintiff’s prosecution.

¶ 107 *b. Detective Warner*

¶ 108           Regarding Warner, plaintiff contends a genuine issue of material fact exists as to whether Warner played a significant role in commencing or continuing the prosecution of him when he buried the Murray polygraph report, a report he asserts both the Northern District of Illinois and the Supreme Court of Illinois found to be “material and exculpatory.” In his role in the investigation, Warner was to ensure Zayas received a copy of the report, submit the report for record keeping, and disseminate copies to the investigators working on the case. Plaintiff’s contention the evidence is sufficient to create a genuine issue of material fact on the commenced or continued element is predicated on the fact Warner’s role was significant and the record was material to the case.

¶ 109           We find the evidence does not create a genuine issue of material fact on the question of whether Warner commenced or continued the prosecution as a result of pressure on the prosecutor or the provision of false information. There is no evidence from which a jury could reasonably infer Warner encouraged or exerted pressure on Souk to prosecute. There is also no evidence from which a jury could reasonably infer Warner knowingly provided Souk false information.

¶ 110           However, there is a question of genuine issue of material fact on whether Warner intentionally concealed the incomplete polygraph report from prosecutors. A jury could conclude the failure to turn over the report to the prosecutor was a negligent mistake. Or a jury could conclude Warner, who undisputedly had the polygraph report in his possession, intentionally withheld it. *Beaman v. Souk*, 7 F. Supp. 3d 805, 827 (C.D. Ill. 2014). Given these divergent inferences, a reasonable jury could find Warner concealed evidence from the prosecutor.

¶ 111           That determination, however, does not end the commencement-or-continuance

inquiry—we must consider whether a genuine issue of material fact exists on the question of whether, interpreting the facts in the light most favorable to plaintiff, Warner’s suppression of the incomplete polygraph was the proximate cause of the commencement or continuation of the prosecution. Before undertaking this analysis, we note consideration of the incomplete polygraph report by the supreme court in *Beaman*, 229 Ill. 2d 56, and the federal district court in *Beaman*, 7 F. Supp. 3d 805, was undertaken to review the nondisclosure of that result *to plaintiff*. In those cases, in addition to the incomplete polygraph examination, it is clear the prosecutor or State did not reveal to plaintiff the following: (1) Murray “was charged with domestic battery and possession of marijuana with intent to deliver prior to [plaintiff’s] trial”; (2) Murray “physically abused his girlfriend on numerous prior occasions”; (3) Murray used steroids, causing him to behave erratically; and (4) the prosecution evaluated Murray as a potential suspect. *Beaman*, 229 Ill. 2d at 67, 74. Here, except for the incomplete polygraph examination, the prosecutor was already aware of these facts. We consider the effect on the nondisclosure of the incomplete report alone on the prosecutor.

¶ 112 Plaintiff argues the polygraph report was exculpatory and material and a reasonable juror could find the disclosure of the report would have changed Souk’s opinion on prosecuting plaintiff. In support, plaintiff relies on language from the federal district court’s decision in *Beaman*.

¶ 113 We acknowledge the federal district court, for the purposes of analyzing plaintiff’s claim Warner committed a *Brady* violation by not turning over exculpatory evidence to the prosecutor, found “evidence relating to Murray” “exculpatory” in that “it inculpatates someone else.” *Beaman*, 7 F. Supp. 3d at 823. However, what is not clear is if the district court would have

done so if the polygraph report stood alone. In the very next sentence after the federal district court found all Murray evidence “exculpatory,” the court refers to such evidence as “not strong evidence,” but “*taken together*, Murray’s erratic behavior from steroids, history of domestic assault including elbowing his girlfriend in the chest, and possible evasion during the polygraph \*\*\* suggest he could have been the culprit.” (Emphasis added.) *Id.* Moreover, in finding the evidence of the polygraph report material, the district court found it material only when considered with the other information related to Murray:

“Armed with Murray’s documented drug abuse, domestic assault with possibly similar patterns, and erratic behavior from steroids, as well as a polygraph that Murray did not complete and the plausible inference that it was an intentional evasion, the evidence pointing to Murray *may well have* overcome the showing required for the trial judge to allow Plaintiff to argue another culprit, namely Murray, committed the murder.” (Emphasis added.) *Id.* at 825.

Plaintiff cites language appearing in the case as proof the district court found the polygraph report standing alone to be material and exculpatory: “Plaintiff has provided sufficient evidence of a violation of his constitutional rights for the failure to disclose the Murray polygraph to the prosecution. \*\*\* Plaintiff has shown facts that make out a violation of his due[-]process right to the disclosure of material exculpatory evidence.” *Id.* at 830. We have reread the case. The summary provided by the district court follows analysis of the polygraph report only in conjunction with the other Murray evidence. See *id.* at 823. At no point in its analysis did the district court analyze the polygraph report separate and apart from the other Murray evidence in deciding it to be exculpatory

and material.

¶ 114 Similarly, the Illinois Supreme Court did not evaluate the polygraph report separate from the other Warner evidence. The Illinois Supreme Court plainly found the failure to disclose all information related to Warner material, which included the incomplete polygraph examination, the domestic-battery and drug charges, the prior physical abuse of his girlfriend, and his use of steroids and erratic behavior. *Beaman*, 229 Ill. 2d at 58-59, 74-75.

¶ 115 The undisputed facts of this case show the prosecution already knew Murray was a suspect and a potential liar when the decision was made to commence and continue the case. During the prosecution, Souk knew Murray and Lockmiller had been involved sexually. Souk knew Murray made two differing statements about the time he left town, meaning Murray potentially lied and Murray was in town and had no alibi when Lockmiller was murdered. Souk knew Murray had been charged with domestic violence, and there was evidence Murray physically abused his girlfriend multiple times. Souk knew of Murray's steroid abuse. Souk knew Murray had been charged with possession of marijuana with intent to deliver. He knew Murray was Lockmiller's drug dealer and Lockmiller owed him money. Souk was informed of Murray's character and Murray's opportunity to murder Lockmiller.

¶ 116 According to the undisputed facts, the polygraph report adds little if anything to the prosecution's existing knowledge of Murray. The incomplete report does not establish a motive to murder Lockmiller or establish Murray to be the killer. The polygraph report, standing alone, indicates only that the test was incomplete due to Murray's failure to follow instructions or, at best, with an inference in plaintiff's favor, Murray intentionally avoided completing it. To find a genuine issue of material fact on the matter of proximate cause, we would have to extend the

reasonable inference that Murray intentionally avoided completing the polygraph to another inference—such information would have persuaded Souk to not charge or prosecute plaintiff. Given all that Souk indisputably knew about Murray, that inference is not reasonable. In these circumstances, arising from undisputed facts and reasonable inferences therefrom, a jury could not reasonably find Warner’s nondisclosure of the polygraph report, whether intentional or not, a proximate cause of the plaintiff’s prosecution.

¶ 117 Our decision is not undermined by plaintiff’s emphasis on Souk’s admission had he known about the report, he would have asked questions about it. When Souk was asked if it would have changed his mind if the polygrapher opined Murray manipulated the polygraph, Souk did not respond it would have: “Well, I think that was fairly early in the investigation. I would have asked some questions and looked at it more.”

¶ 118 As the Seventh Circuit Court of Appeals concluded when it rejected plaintiff’s attempt to find the police officers liable due to the prosecutor’s failure to disclose *Brady* material by simply alleging the police and prosecutor agreed the prosecutor would not disclose the evidence, “[i]t is clear that Beaman’s primary quarrel is with Souk.” *Beaman*, 776 F.3d at 512. Summary judgment in Warner’s favor is proper.

¶ 119 *c. Defendant Zayas*

¶ 120 Plaintiff made three allegations regarding Zayas’s role leading to his prosecution: (1) Zayas participated in the May 1994 meeting during which the decision was made to prosecute plaintiff, (2) Zayas supervised the detectives who worked on the case, and (3) Zayas allowed the arrest to occur knowing the “case was half-baked.” Plaintiff, however, points to no evidence from which a jury could conclude Zayas commenced or continued the criminal suit against him. There

is no evidence Zayas pressured or exerted influence over Reynard's and Souk's decision to prosecute and no evidence of any false statements by Zayas to the prosecutor. There is no evidence showing Zayas concealed information or engaged in wrongful or bad-faith conduct. Because plaintiff cannot establish the first element of his malicious-prosecution claim, Zayas is entitled to summary judgment.

¶ 121 C. Intentional Infliction of Emotional Distress

¶ 122 The trial court held plaintiff's claim of intentional infliction of emotional distress (IIED) was based and contingent upon his malicious-prosecution claims against defendants and granted summary judgment on that claim. In the initial appeal, plaintiff's only challenge to that holding was the conduct in "pursuing plaintiff's conviction maliciously, disregarding and manipulating the evidence, and sending an innocent man to prison for a dozen years for a crime he could not have committed" constituted extreme and outrageous conduct. We held plaintiff failed to develop this argument or cite relevant authority and, thereby, forfeited his claim. See Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016).

¶ 123 On remand, plaintiff asks this court to reconsider its holding. Plaintiff maintains, rather than provide another detailed recitation of the facts underlying the malicious-prosecution claim, he summarized his argument and cited six cases in which Illinois courts allowed IIED claims to proceed on facts related to malicious prosecution.

¶ 124 The fact remains plaintiff's sole argument in his initial brief was one sentence long. Plaintiff did not cite the elements for an IIED claim. Plaintiff did not clarify whether the IIED claim depended upon the viability of his malicious-prosecution claims or whether he sought relief for IIED independent of those claims. Plaintiff simply provided string cites and left the burden on

this court to research those cases and to surmise his position. Issues that are ill-defined and insufficiently presented do not satisfy the requirements of Rule 341(h)(7). *Express Valet, Inc. v. City of Chicago*, 373 Ill. App. 3d 838, 855, 869 N.E.2d 964, 979 (2007). Plaintiff has forfeited this claim.

¶ 125

#### D. Conspiracy

¶ 126 The elements of a civil-conspiracy claim are as follows: (1) a combination of two or more individuals, (2) for the purpose of accomplishing by concerted action an unlawful purpose or a lawful purpose by unlawful means, (3) in the furtherance of which one of the conspirators committed an overt tortious or unlawful act. *Fritz v. Johnston*, 209 Ill. 2d 302, 317, 807 N.E.2d 461, 470 (2004). The tortious or unlawful act alleged is defendants' alleged malicious prosecution of plaintiff. Because we have found defendants Freesmeyer, Warner, and Zayas are entitled to summary judgment on plaintiff's malicious-prosecution claims, plaintiff cannot establish the third element of his civil-conspiracy claim. We affirm the trial court's order granting summary judgment to defendants on plaintiff's cause of action for conspiracy.

¶ 127

#### E. *Respondeat Superior* and Indemnification Claims

¶ 128 Plaintiff, on appeal, acknowledges the *respondeat superior* and indemnification claims are dependent on the claims against the individual defendants. Given our findings summary judgment was properly granted on the individual claims, we conclude the trial court properly granted summary judgment on the *respondeat superior* and indemnification claims.

¶ 129

### III. CONCLUSION

¶ 130

We affirm the trial court's judgment.

¶ 131

Affirmed.



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No. 4-16-0527

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**Cite as:** *Beaman v. Freesmeyer*, 2019 IL App (4th) 160527

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**Decision Under Review:** Appeal from the Circuit Court of McLean County, No. 14-L-51; the Hon. Richard L. Broch, Judge, presiding.

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Case No. 125617

IN THE  
SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth District, No. 4-16-0527
Plaintiff-Appellant,	)	
	)	There Heard on Appeal
v.	)	from the Circuit Court of McLean County,
	)	Illinois, Eleventh Judicial Circuit,
TIM FREESMEYER, Former Normal	)	No. 14 L 51
Police Detective; DAVE WARNER,	)	The Honorable Richard L. Broch
Former Normal Police Detective;	)	Judge Presiding
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

CERTIFICATE OF SERVICE

I, David M. Shapiro, an attorney, certify that on August 5, 2020, the foregoing APPENDIX VOLUME was filed by electronic means with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701. I further certify that the same were served by electronic transmission on:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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