

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DEON PATRICK,

Plaintiff,

-vs-

CITY OF CHICAGO, et al.,

Defendants.

Case No. 14 C 3658

Chicago, Illinois

February 21, 2017

1:21 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS - PRETRIAL CONFERENCE
BEFORE THE HONORABLE RONALD A. GUZMAN

APPEARANCES:

For the Plaintiff:

VALOREM LAW GROUP LLC

BY: MR. STUART JAY CHANEN

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For Defendant City of
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DYKEMA GOSSETT PLLC

BY: MR. DANIEL MATTHEW NOLAND

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For the individual
defendant police
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BY: MR. TIMOTHY P. SCAHILL

MS. MISHA ITCHHAPORIA

20 South Clark Street, Suite 1700

Chicago, Illinois 60603

1 THE CLERK: 14 C 4658, Patrick versus City of
2 Chicago, final pretrial conference.

3 THE COURT: Motion in limine No. 6 I think, is that
4 right?

5 MR. NOWINSKI: Yes, Judge.

6 THE COURT: I hardly know where to start. So I guess
7 I'll let the movants start.

8 MR. NOWINSKI: Judge, this motion is I guess
9 interrelated with some other motions by the defendants, but in
10 particular to as it relates to ASAs Magats and Fogarty, we
11 don't believe -- we are asking that Mr. Brasfield the
12 plaintiff's expert be barred from testifying about the
13 particularly -- the biggest thing is that the ASAs were acting
14 in an investigatory role. In fact, he has an entire section of
15 his report titled that.

16 Mr. Brasfield admittedly says that he is not an
17 expert on the charging of homicide cases. He's not a lawyer.
18 He's not a prosecutor. And yet he continuously makes and
19 offers opinions about the reasonableness of what ASA Magats and
20 ASA Fogarty did, or also in addition to issues of before -- of
21 things that happened before the grand jury about -- he makes
22 opinions about the blue back and the files of the State's
23 Attorney's office.

24 And so the motion to the extent that Mr. Brasfield --
25 we would seek to bar Mr. Brasfield from making any statements

1 or opinions related to the actions of ASAs Magats and Fogarty,
2 as they are not properly -- and the State's Attorney's office's
3 actions as they were not -- it's not properly qualified and
4 they were not delineated appropriately in the Rule 26, pursuant
5 to Rule 26.

6 THE COURT: So what does Mr. Brasfield say about the
7 ASA defendants?

8 MR. NOWINSKI: On numerous occasions he says that ASA
9 Magats and ASA Fogarty were present during much of the
10 three-day period and acted in a nonprosecutorial, investigatory
11 capacity to participate and aid in that process.

12 THE COURT: Okay.

13 MR. NOWINSKI: He --

14 THE COURT: Hold on right there.

15 MR. NOWINSKI: Yes.

16 THE COURT: It seems like a fairly substantial
17 opinion. What -- what's your objection to that opinion?

18 MR. NOWINSKI: That he's not qualified to make that
19 opinion.

20 THE COURT: Okay.

21 MR. NOWINSKI: And it was not properly -- and not
22 properly disclosed.

23 THE COURT: You want to respond?

24 MR. CHANEN: Yes, I do, Judge. Can I take -- I'm
25 going to take them in the reverse order. I don't understand

1 the not properly disclosed argument. Being the very words he's
2 objecting to were disclosed in the written report, so I
3 guess -- I'm not sure what it is he wanted Mr. Brasfield to say
4 more than he already said in his report about this subject. So
5 in that sense we think it was disclosed.

6 In terms of whether he's qualified, Judge, for
7 purposes of these particular statements, ASA Magats and Fogarty
8 were present during much of the three-day period when the
9 confessions were being made, that's just a factual statement.
10 That's not even really an opinion. It's just him reading the
11 documents that it showed that Mr. Magats and Mr. Fogarty were
12 there as opposed to a situation where they're not there for
13 four days. They come in on the fourth day, and they look at
14 the evidence for a half an hour and they leave. Those are two
15 different situations.

16 THE COURT: I guess the, the problem I have with the
17 report at least is that there seems to be no clear
18 differentiation between the facts as he's assuming and the
19 opinions he give. They all just sort of run into each other.
20 Like they were there for a long period of time. Is that a
21 conclusion? Is that a fact? I mean, he doesn't -- he doesn't
22 seem to do that very well. But let's assume that his statement
23 that they were there for a significant amount of time or
24 however he puts it is a statement of one of the facts upon
25 which he bases his opinion --

1 MR. CHANEN: Yes.

2 THE COURT: -- as to the prosecutorial nature of the
3 way they functioned. How is he qualified to give such an
4 opinion?

5 MR. CHANEN: Well, Judge, on this one I'm not going
6 to fight to keep this one in particularly. He was a police
7 officer and police chief, an assistant police chief for 40
8 years. He acknowledges in his report that it's done
9 differently in Illinois. He acknowledges that there is some --
10 to some extent this Felony Review process in Illinois is not a
11 common police procedure. And he proceeds to explain that in
12 this particular case they go be -- and it's not just -- you
13 know, it's fine to take the one phrase out of context, but I
14 have the full thing open in front of me. And what he says is,
15 is odd, he says I find a little odd is that they go beyond the
16 role. They create maps. They create other documents. They're
17 part of the interviewing process. And he identifies with some
18 specificity, Judge, those aspects of their role that was
19 investigatory.

20 Now, let me back up one step. Your Honor basically
21 made that ruling in your summary -- I'm sorry. You didn't make
22 that ruling. You said it's for the jury to decide. But you
23 said there's enough investigatory here that you're not going to
24 give immunity absolute or qualified to the defendants. You
25 said that.

1 THE COURT: No. I think what I said was that the
2 allegations if true, are sufficient to refuse to grant
3 immunity. The allegations if proved are sufficient.

4 MR. CHANEN: So as a police practices expert who
5 understands how things happen in a police station and how
6 defendants are interrogated, I think what his opinion that's
7 being expressed here is that things that the Felony Review
8 prosecutors did on those three nights were things that police
9 officers usually do, not prosecutors from outside the building.
10 But in this case they came into the building and proceeded to
11 participate in the interrogation and the investigation and the
12 creation of handwritten documents in a manner that a police
13 officer would in a -- in what he perceives to be a normal
14 investigation.

15 I mean, and just getting back to sort of core
16 principles, my understanding -- well, two core principles. One
17 is even if Your Honor finds one of these things that he says
18 not to your liking, that's not a basis to throw him out as the
19 expert altogether. That is a basis to say I'm not going to
20 allow him to give this opinion. That's part of it. And the
21 other part of it is, this phrase police practices. I mean,
22 he -- there's no question he's qualified to talk about what is
23 the expected procedure to go on in a police department.

24 THE COURT: Before you go on to the police practices
25 part of it, the thought occurs to me is -- is this a fact

1 determination for the jury? Prosecutorial versus investigatory
2 conduct.

3 MR. CHANEN: Judge, it either -- if you --

4 THE COURT: I presume you've all considered this
5 issue.

6 MR. CHANEN: Yes. I thought the issue, I thought the
7 issue was resolved by your summary judgment opinion. But if
8 the defendants are going to go forward and ask Your Honor to
9 place that fact as an element that the jury needs to decide,
10 then I would say it's beyond the normal kin of the jury. And
11 this would be a perfectly appropriate place for a, a -- a
12 police practices expert to talk about what is, what is
13 investigatory and what is --

14 THE COURT: But you're not answering my question.

15 MR. CHANEN: I think you have to -- I think it has to
16 be directed to them. I don't know if they're going to ask
17 him --

18 THE COURT: Really, I mean you have to make out the
19 case. The question is in order to make out your case do you
20 have to get the jury to say this is not a prosecutorial
21 function and, therefore, no immunity applies?

22 MR. CHANEN: I don't think that's an element of
23 any -- I am not aware, Judge -- and if I'm mistaken, I
24 apologize. But I am not aware of that being an element of any
25 of the jury instructions that any defendant or the plaintiff

1 could forward to Your Honor as a necessary element of any claim
2 that we prove -- that we have as an element that they have to
3 do an investigatory capacity.

4 THE COURT: If that's the case, then why would there
5 be any testimony about it whatsoever?

6 MR. CHANEN: And if, if that is the case, Judge, we
7 won't put in any testimony about that subject whatsoever if it
8 is for purposes of this trial presupposed that they acted in an
9 investigatory capacity. If that's not a disputed issue of
10 fact, we will not have Commander Brasfield testify --

11 THE COURT: I think the facts surrounding that
12 determination are clearly disputed. The question is who
13 decides it after the facts are all in. Government.

14 MR. NOWINSKI: Judge, it's a -- after the facts are
15 all in, it's Your Honor applying -- it's a question of law not
16 a question of fact. It's our position.

17 THE COURT: So you're saying it's like qualified
18 immunity for police officers?

19 MR. NOWINSKI: No. In the abso -- the absolute
20 immunity -- the absolute -- the application of the absolute
21 prosecutorial immunity is a question of law for Your Honor to
22 decide after the facts are in.

23 THE COURT: Which is what happens in qualified
24 immunity cases, right?

25 MR. NOWINSKI: Yes. Yes.

1 THE COURT: So it's not something that the jury has
2 to decide?

3 MR. NOWINSKI: That they are ...

4 THE COURT: That the Assistant State's Attorneys
5 acted in a nonprosecutorial manner --

6 MR. NOWINSKI: Right. I believe that --

7 THE COURT: -- or function.

8 MR. NOWINSKI: I believe that's the question for Your
9 Honor.

10 THE COURT: Do you agree?

11 MR. CHANEN: Judge, I'm not a little bit embarrassed.
12 I hadn't thought about it until -- I think I agree, and the
13 reason I think I agree is it's not part of the -- any of the
14 jury instructions to the jury.

15 THE COURT: All right.

16 MR. CHANEN: So it presupposes that there -- if it
17 is -- continues to be an open factual question, it's an open
18 factual question for Your Honor. And in that instance we would
19 not have Commander Brasfield testify about it.

20 THE COURT: Well, this case is, you know, three years
21 old. I have about a hundred or so motions in limine and issues
22 to argue. And it strikes me as elementary that one of the
23 things you would want to determine -- I mean, I think you argue
24 in your, your response to this motion that this is -- this is
25 sort of the epicenter of the case. This is -- everything

1 resolves around what these Assistant State's Attorneys did and
2 whether it was prosecutorial or investigatory. Who decides it?
3 I mean, I have to have a clear position hopefully with some
4 legal precedent behind it --

5 MS. AUERBACH: Judge, we'll --

6 THE COURT: -- from both sides or all three sides, if
7 I may.

8 MR. CHANEN: Judge, (A), that's why I said I was
9 embarrassed. And (B), we will absolutely leave here tonight
10 and get you a clear, clear answer that -- but I don't have any
11 reason currently to disagree with Mr. Nowinski that you'll hear
12 the -- you'll hear the evidence and make a determination
13 whether you're extending absolute immunity to the officers. I
14 was behaving as if your summary judgment opinion resolved it,
15 but maybe that was one step too, too fast.

16 THE COURT: Well, the summary judgment opinion
17 refusing to grant summary judgment never resolves the factual
18 issue. I mean, that just -- all it says is go forward and
19 prove the facts. So what's the police officers' position on
20 this, if any?

21 MR. SCAHILL: I'm quite sure this is a legal
22 determination, Judge. And it's an immunity, so it would be the
23 identical analysis for qualified immunity, which is the facts
24 underlying it, of course, would be submitted throughout the
25 course of the trial. But the jury is never going to be in a

1 position to pass upon whether an immunity applies or not. Your
2 Honor would do it after hearing the facts. But you don't need
3 to have an expert opinion -- an expert give testimony to the
4 jury about that issue because it doesn't matter to them. It
5 matters to Your Honor based on the facts.

6 THE COURT: That's why the thought comes to my head
7 as we address this motion in limine, you know. In your --
8 frankly in your response -- in the objections and the response
9 it seems to be both sides assumed that this was going to be
10 something that goes to the jury. Otherwise why wouldn't you
11 say, no, you can't have expert testimony on this, not because
12 the expert isn't qualified but because it's simply irrelevant
13 to the jury. And nobody said that.

14 MR. NOWINSKI: Judge, I believe -- you are correct,
15 but I -- it is our position that it is a question of law for
16 Your Honor to decide.

17 THE COURT: Well, I want position papers on that.
18 With, it would be appreciated, some legal precedent to back it.
19 Two issues really. Burden of proof on immunity and who decides
20 it. So as to that particular opinion I think we, we just
21 simply put that aside until I have your papers because it may
22 be that we don't have to decide whether he's qualified to give
23 such an opinion or not.

24 I put it to you that you might want to consider the
25 fact that it would not be necessary if it were a fact for the

1 jury to determine, really to instruct them on it. I think if
2 the jury receives a proper instruction on fabrication of
3 evidence and coercion of confessions and they determine that
4 issue, they will by default have determined the issue of
5 prosecutorial immunity, because it's not I think conceptually
6 possible for a trier of fact to determine that the State's
7 Attorney defendants who are acting solely in the prosecutorial
8 function while at the same time fabricating evidence and
9 coercing confessions. It seems that one precludes the other.

10 But at any rate, I would like to know what your
11 position is on whether this is a fact determination for the
12 jury or not. I might add that the response in the plaintiff's
13 brief that Mr. Brasfield's statement that Magats and Fogarty
14 were acting in an investigatory capacity is simply a statement
15 of factual observation, is frankly not worthy of an argument.
16 A factual observation is something you see. You see them
17 asking questions. You see them sitting, standing, yelling,
18 screaming. You see things, you hear things. Your conclusion
19 as to what that conduct means is not a factual observation.
20 Characterization of that conduct is not a factual observation.

21 MR. CHANEN: I apologize, Your Honor. I see clearly
22 your point on -- and it was not -- it's incorrect what I wrote
23 there.

24 THE COURT: I think the second statement that is sort
25 of specified in the motions is Mr. Brasfield's statement that,

1 "As I will explain below, ASA Fogarty and the officers knew or
2 should have known that Gardner's oral and written statements
3 contained significant portions that could not have been true or
4 conflicted with known information." The objection to that is?
5 I'm leaving aside the motion to bar his testimony altogether
6 for later consideration. But with respect to that particular
7 statement, what's the objection?

8 MR. NOWINSKI: Judge, it's -- he uses that line of
9 reasoning to go into his opinion that ASAs Fogarty and Magats
10 acted in an investigatory capacity and that the --

11 THE COURT: But should he be allowed to say that the
12 ASA and the officers knew or should have known that the oral
13 and written statements contained significant portions that
14 could not have been true or conflicted with known information?
15 Should he be allowed to say that as an expert? Because that's
16 one of the opinions he seems to be giving.

17 MR. SCAHILL: For the officer defendants, we're being
18 brought into this now. I know Your Honor is reserving ours
19 until later consideration, but absolutely not. That's a
20 credibility determination. That's making a conclusion on
21 somebody's state of mind, which an expert is not allowed to do.

22 MR. CHANEN: Judge, I think -- I think part of the
23 problem is the way -- I'm going to concede that part of the
24 problem is the manner in which Mr. Brasfield wrote his report.
25 But the question that I think that this presents is, is he

1 allowed to say that a normal police -- a standard police
2 investigation operates like this? You get a piece of evidence
3 and you compare that piece of evidence against other known
4 evidence. Therefore, when you have someone telling you I stood
5 on the corner of Hazel and Agatite and I saw them enter into
6 the building, and then I saw them go up the stairs and knock
7 down the door of the apartment, one of the questions you ask
8 yourself is now I need to compare Mr. Gardner's statements to
9 other known evidence. And that's what he's going to educate
10 the jury about.

11 His point here is, and I'm just using this as one
12 example, there are others, is if Mr. Gardner could not see the
13 front door of the building that he said he saw them enter into
14 from the portion that he was standing because he's blocked by
15 numerous buildings, then the -- then what he's saying as a 40
16 years in the Police Department is, look, you look at the way a
17 normal investigation is conducted, and that is by comparing
18 Fact A to Fact B and seeing if they are consistent.

19 Mr. Fogarty, who took this confession, didn't do
20 that. He's sitting there listening and you may say leading
21 Mr. Gardner through a series of questions and never stops and
22 says, didn't it trouble you to say that he saw them entering
23 the building when you know perfectly well on a map that you
24 drew, that he can't see it? Now, I think you could say, well,
25 the jury, you know, their common sense will tell them that or

1 the lawyer can tell them that in closing argument.

2 But I just take that one out as one small example,
3 Judge. I do believe that the Seventh Circuit and several
4 Federal District Court judges have said as long as the police
5 practices expert stays within the model of saying this is the
6 normal way it's conducted and this is the way these police
7 officers, or in this case these police officers and two ASAs
8 deviated from what is a normal investigation and normal
9 investigatory techniques. And I don't think any of these four
10 statements including the first that we're on right now violates
11 that pattern.

12 THE COURT: Well, I think you'd make a great expert
13 witness. Unfortunately I don't think Mr. Brasfield is
14 following your pattern. I mean, I, I agree with you that
15 Brasfield could, for example, say that normal operating
16 procedure for a proper investigation is for officers to follow
17 up on inconsistencies in confessions, and that these officers
18 failed to do that. Could point out what he believes are
19 obvious inconsistencies. That's not what he does, you know. I
20 mean, the majority of his report is just a horrible mushing
21 together of facts, opinions, and some statements about his
22 experience.

23 He doesn't say, look, the officers upon seeing that
24 the confession said this and the other guy's confession said
25 that, should have seen that there was an inconsistency. And,

1 you know, proper police procedure is to investigate
2 inconsistencies, and they didn't do that.

3 MR. CHANEN: I think --

4 THE COURT: But what he says is instead is that they
5 should have known, could not have been true. That clearly is
6 nothing more than drawing inferences from what the confession
7 said. And, you know, I mean, jurors do that, not experts.
8 He's not an expert in drawing reasonable inferences from facts.
9 He's an expert on what police procedure ought to be, what was
10 done in this case, and what the difference is. And he doesn't
11 testify that way.

12 He doesn't -- I mean, I, I have to tell you I haven't
13 read all of his report because it was ungodly long. But the
14 portions that I did read, and I tried to zero in on when he
15 tried to come to conclusions and when he tried to spell out
16 police procedures and compare that to the practices he saw in
17 the reports, and those were few and far between. Few and far
18 between. I am going to ask you to go through that report and
19 you identify for me where he does exactly what you've just said
20 his purpose is. Where he identifies what police procedures
21 ought to be and what the procedures were in this case and why
22 he thinks these procedures were improper.

23 MR. CHANEN: I will do that, Judge.

24 THE COURT: I think you need to because I don't want
25 to do it for you. And quite frankly, the way it's all mushed

1 together now, I could throw the whole thing out.

2 MR. CHANEN: We'll present that to Your Honor.

3 THE COURT: You know, another -- his statement that
4 Fogarty obtained a coached reported statement from Akia
5 Phillips that contained obviously pre-discussed and leading
6 questions, does that say anything about police procedures?

7 MR. CHANEN: Well --

8 THE COURT: I mean, if he -- if he is aware of
9 procedures as to how officers should interrogate targets of
10 their investigations and lays those out and then points out how
11 these officers failed to do that, that's one thing. These
12 conclusory statements, which contain both his personal opinions
13 as to what people ought to know, his conclusion that these are
14 pre-discussed questions, what is that? I mean, that's -- you
15 know.

16 MR. CHANEN: Okay. I'm going to undertake the
17 exercise that you asked us to undertake. And I hope that that
18 clarifies some things. I mean, at this point I can only say
19 that when you look at the -- when you take a specific sentence
20 or half of a sentence and you take it out of context and you
21 don't look at that phrase -- and the defendants are presenting
22 it in a way that you're not seeing it in the context of the
23 whole paragraph, it is my hope and belief, and if I'm wrong,
24 then when I present it to Your Honor in this exercise you've
25 asked me to undertake, but I think what is going to come out is

1 that a lot of these statements are given in the context of a
2 broader picture where he's talking about something.

3 So, for example, the phrase pre-discussed, I think is
4 in the context of discussing -- talking about information that
5 Fogarty, Magats, and the police officers learned from Defendant
6 A and B and then, and then brought into the conversation with
7 C. That's what I think that's in reference to. But without
8 seeing that in context it looks like it's just a, sort of a
9 mishy mashy opinion of --

10 THE COURT: Yes. I mean, I read entire paragraphs.
11 I didn't go cherry picking through this thing. And it's like
12 wandering through a minefield. I mean, I don't -- it's very
13 very difficult to discern from major portions of his report on
14 what he bases conclusions that appear to be nothing more than
15 inferences drawn from analysis of the facts. And that's not
16 his job.

17 MR. CHANEN: Okay.

18 THE COURT: Okay. I want to take up really his
19 expertise with respect to the Assistant State's Attorneys and
20 what they did during this investigation, because I see nothing
21 in his -- his qualifications to qualify him to opine on how
22 Assistant State's Attorneys in Felony Review in Cook County
23 should interrogate or take confessions or act in the process of
24 being Felony Review Assistant State's Attorneys. In fact, I
25 think he says fairly clearly that this whole idea of a Felony

1 Review Assistant State's Attorney is a strange animal to him
2 that he's not familiar with.

3 MR. CHANEN: Judge, that is correct. He does say
4 that. And we do not claim he has any special expertise in
5 prosecutors interrogating people or Felony Review in Cook
6 County interrogating people. What we -- our position on that
7 precise question is that Mr. Fogarty and Mr. Magats crossed
8 over from a prosecutorial role to an investigatory role. They
9 made maps that they stuck in front of witnesses. They
10 interrogated witnesses. They advanced the progression of a
11 story that starts with Mr. Gardner and works over four or five
12 days.

13 And to the extent that Mr. Brasfield is making
14 commentary about whether their behavior in relation to the
15 interrogated suspects was proper or improper, I think he's
16 using a standard police practices analysis because they came in
17 and took on a police practices role. And it is really -- I
18 think it -- ultimately if -- let's assume for sake of argument
19 that when all these briefs come in, they say you have to
20 ultimately make the immunity decision. You'll have to decide
21 whether they crossed over into that investigatory role.

22 But if, if the evidence shows that they did, then he
23 should be able to, to talk about the ways their conduct
24 violated normal police practices the same way they would -- he
25 would in conjunction with the other seven detectives.

1 THE COURT: Your response.

2 MR. NOWINSKI: Judge, they -- these are Assistant
3 State's Attorneys who are not investigating a homicide. What
4 they're doing is they were called as part of their job in Cook
5 County to determine whether or not to approve the filing of
6 formal charges against Mr. Patrick and his other co-defendants.
7 And Mr. Brasfield, I mean, Your Honor hit the nail on the head,
8 that he -- well, Mr. Brasfield even says I am not an expert in
9 the prosecution or the approval of charges. And so he has not
10 laid forth what ASAs in Felony Review do or do not do, what the
11 normal process of an Assistant State's Attorney in Felony
12 Review -- how a normal Assistant State's Attorney would conduct
13 him or herself, and what deviations ASAs Fogarty and Magats
14 took because he's not qualified to do so.

15 THE COURT: It would seem to me that a perfect set of
16 qualifications for Mr. Brasfield would be if he could say he
17 studied this. And based upon his studies and his vast
18 experience there are guidelines for Assistant State's Attorneys
19 in situations where they're called in to make a determination
20 as to whether to charge or not charge. And those guidelines
21 are one, two, three, four, and five. And what I see from the
22 reports and the facts that I'm assuming from those reports is
23 that they didn't do one, two, three, four, and five. They did
24 way more, way less, or deviated from it.

25 What you're telling me is that he should be allowed

1 as a police expert, police procedures expert to compare what
2 the Assistant State's Attorneys did with what proper police
3 practices should have been. And I'm not at all sure that
4 that's so. I'd be happy to see any kind of case law that says
5 that. But it seems to me there are some conceptual rather
6 large differences between what a police officer's role is and
7 what an Assistant State's Attorney's Felony Review role is.

8 And at the very least there has to be some
9 undertaking to explain why those differences don't matter if
10 he's going to apply the same standard to Assistant State's
11 Attorneys that he applies to police officers. And I don't see
12 that he does that anywhere in his report. So as to Assistant
13 State's Attorneys, right now my provisional ruling is that he
14 doesn't get to opine on what they did. He's just not
15 qualified.

16 You know, the kinds of inferences that he's drawing,
17 you can argue to the jury. If the police officers can't do
18 this, why should the Assistant State's Attorneys have been
19 allowed to do it? Okay. If it was improper for police
20 officers to elicit, why should Assistant -- you can argue that.
21 But for him as an expert to give his stamp of approval or
22 disapproval on, on that is I think inappropriate given his lack
23 of background as to this particular aspect of what, you know,
24 appears to be an unusual procedure in the Cook County State's
25 Attorney's Office. And I don't know if other counties even do

1 it. I think they do. Actually I think -- but at any rate,
2 something he's not familiar with.

3 I think we have done as much as we can on motion in
4 limine No. 6 from the State's Attorneys.

5 MR. CHANEN: Judge, the next one would be the officer
6 defendants' No. 1, which is also Brasfield. And do you want to
7 just postpone that until I present this, this review for you
8 or --

9 THE COURT: I think it goes directly to what
10 they're --

11 MR. CHANEN: Yes.

12 THE COURT: -- what they're arguing, yes.

13 MR. CHANEN: Yes. I would prefer the opportunity to
14 do the review first.

15 THE COURT: And that's plaintiff's motion in limine
16 No. 1 -- or defendants'.

17 MS. AUERBACH: It's the defendants'.

18 MR. SCAHILL: Defendants'.

19 THE COURT: Motion in limine No. -- defendant police
20 officers' motion in limine No. 1.

21 MS. AUERBACH: Correct.

22 THE COURT: Motion in limine No. 2 to bar evidence
23 and theories not disclosed in response to contention
24 interrogatories.

25 MR. SCAHILL: So, Judge, this actually -- well, this