

# **EXHIBIT 44**



## Transcript of the Deposition of **Mark Rotert**

**Case:** In Re: Watts Coordinated Pretrial Proceedings  
**Taken On:** October 28, 2024

Royal Reporting Services, Inc.  
Phone: 312.361.8851  
Email: [info@royalreportingservices.com](mailto:info@royalreportingservices.com)  
Website: [www.royalreportingservices.com](http://www.royalreportingservices.com)

In Re: Watts Coordinated Pretrial Proceedings  
Deposition of Mark Rotert - Taken 10/28/2024

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

)  
)  
In re: Watts ) Master Docket  
Consolidated Pretrial ) Case No. 19-cv-1717  
Conference Proceedings )  
)  
)  
)

The videotaped deposition of MARK ROTERT,  
called for examination, pursuant to the Federal Rules of  
Civil Procedure of the United States District Court  
pertaining to the taking of depositions, taken before  
MARY T. MURPHY McGuirk, a Certified Shorthand Reporter  
of Illinois, at the offices of Hale & Monico LLC,  
53 West Jackson Boulevard, Suite 335, Chicago, Illinois,  
at 10:00 a.m. on October 28, 2024.

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1 APPEARANCES:

2 LOEJVY & LOEJVY  
3 MR. JOSHUA A. TEPFER  
311 North Aberdeen Street, 3rd Floor  
Chicago, Illinois 60607  
4 Phone: 312.243.5900  
E-mail: josh@loevy.com  
5 Appeared on behalf of the Coordinated  
Plaintiffs;

6

7 HALE & MONICO, LLC  
8 MR. WILLIAM E. BAZAREK  
53 West Jackson Boulevard, Suite 334  
Chicago, Illinois 60604  
9 Phone: 312.341.9646  
E-mail: web@halemonico.com  
10 Appeared on behalf of the Defendant Officers;

11

COOK COUNTY STATE'S ATTORNEY'S OFFICE -  
CONFLICTS COUNSEL  
MR. LYLE K. HENRETTY  
MS. MIA BUNTIC  
500 Richard J. Daley Center  
Chicago, Illinois 60602  
Phone: 312.603.5054  
E-mail: lyle.henretty@cookcountysao.org  
mia.buntic@cookcountysao.org  
16 Appeared on behalf of the State's Attorney's  
Office and the Witness;

17

18 APPEARANCES (via videoconference):

19 KENNETH N. FLAXMAN, P.C.  
20 MR. JOEL A. FLAXMAN  
MS. MAYA LUKIA MARIA DEMIANCZUK  
200 South Michigan Avenue, Suite 201  
21 Chicago, Illinois 60604  
Phone: 312.427.3200  
22 E-mail: jaf@kenlaw.com  
mlukia.demian@gmail.com  
23 Appeared on behalf of the Coordinated  
Plaintiffs;

24

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1 APPEARANCES (via videoconference, cont'd.):  
2 JOHNSON & BELL LTD.  
3 MS. LISA M. McELROY  
4 MR. JACK A. GAINER  
5 33 West Monroe Street, Suite 2700  
6 Chicago, Illinois 60603  
7 Phone: 312.372.0770  
8 E-mail: mcelroyl@jbltd.com  
9 gainerj@jbltd.com  
10 Appeared on behalf of the Defendant  
11 Ronald Watts;  
12  
13 MOHAN GROBLE SCOLARO  
14 MR. ERIC S. PALLEZ  
15 55 West Monroe Street, Suite 1600  
16 Chicago, Illinois 60603  
17 Phone: 312.422.9999  
18 E-mail: epalles@mohangroble.com  
19 Appeared on behalf of the Defendant  
20 Kallatt Mohammed;  
21  
22 BURNS NOLAND  
23 MS. KATHERINE C. MORRISON  
24 311 South Wacker Drive, Suite 5200  
Appeared on behalf of the Defendant City  
of Chicago;  
25  
26 LEINENWEBER, DAFFADA & SANSONETTI, LLC  
27 MR. THOMAS MORE LEINENWEBER  
28 120 North LaSalle Street, Suite 2000  
29 Chicago, Illinois 60602  
30 Phone: 866.786.3705  
31 E-mail: thomas@ilesq.com  
32 Appeared on behalf of the Defendants  
33 Matthew Cadman and Michael Spaargaren;  
34

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1 APPEARANCES (via videoconference, cont'd.):

2 BORKAN & SCAHILL, LTD.  
3 MR. TIMOTHY P. SCAHILL  
4 20 South Clark Street, Suite 1700  
5 Chicago, Illinois 60603  
6 Phone: 312.580.1030  
7 E-mail: tscahill@borkanscahill.com  
8 Appeared on behalf of the Defendant  
9 Calvin Ridgell.

10 ALSO PRESENT:

11 Mr. Michael Howard, Video Instanter, Videographer  
12 Mr. Lo Ramanujam, Hale & Monico, Paralegal

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16 REPORTED BY: MARY T. MURPHY McGUIRK, CSR  
17 Certificate No. 84-4160

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<p>1        THE VIDEOGRAPHER: For the record, my 2        name is Michael Howard of Video Instanter. 3        I'm the video-recording device operator for 4        this deposition. Our business address is 5        134 North LaSalle Street, Suite 1400, Chicago, 6        Illinois 60602. This deposition is being video 7        recorded pursuant to the Federal Rules of Civil 8        Procedure. We are at 55 West Jackson Boulevard, 9        [sic], Suite 334, Chicago, Illinois 60604 to take 10      the video-recorded deposition of Mark Rotert in the 11      matter of In re: Watts Coordinated Pretrial 12      Proceedings, Case No. 19 CV 01717. 13      The case -- I just said that. 14      Today's date is October 28th, 2024, and 15      the time is 10:07 a.m. 16      Will everybody present please say who they 17      are and who they represent, please? 18      MR. BAZAREK: I'm William Bazarek. I 19      represent the individual defendants that are 20      represented by Hale &amp; Monico law firm. 21      MR. HENRETTY: I'm Lyle Henretty. I represent 22      the Cook County State's Attorney office. 23      MR. TEPFER: Good morning. Josh Tepfer, I 24      represent the plaintiffs who are represented by</p>	<p>1        MR. SCAHILL: Hey, everybody. I'm here. This 2        is Tim Scahill on -- 3        (Indecipherable.) 4        THE REPORTER: I'm sorry. One more time, 5        Counsel. I can't hear you. 6        MR. SCAHILL: Tim Scahill on behalf of 7        Defendant Ridgell. 8        MS. MORRISON: Katherine Morrison on behalf of 9        the City of Chicago. 10      MS. McELROY: Good morning. Lisa McElroy on 11      behalf of Defendant Watts. 12      MR. PALLE: Eric Palles on behalf of Kallatt 13      Mohammed. 14      MR. FLAXMAN: Joel Flaxman for the Flaxman 15      plaintiffs. Maya Demianczuk from my office is also 16      on my end. 17      Good morning, Mark. How you doing? 18      THE WITNESS: Good morning. 19      MR. FLAXMAN: Are we on the record? I'm 20      sorry. 21      MR. BAZAREK: Yes. 22      MR. FLAXMAN: Okay. I thought we weren't on. 23      We couldn't hear that when you told us that. I 24      think you must have been on mute.</p>
<p>1        Loevy &amp; Loevy law firm. 2        MS. BUNTIC: Good morning. My name is Mia 3        Buntic, and I represent the witness. 4        THE WITNESS: I'm the witness, Mark Rotert. 5        MR. BAZAREK: Is there -- what about the other 6        individuals on -- who are out there attending Zoom? 7        I hope they can hear us. 8        (Short pause.) 9        MR. BAZAREK: Yeah. We've got to get this 10      straightened out because if there's some objection, 11      obviously, it doesn't sound like -- 12      MR. TEPFER: Can you guys hear us? 13      THE VIDEOGRAPHER: Is that one muted? 14      THE WITNESS: Yes. 15      Okay. Now I'm off mute. 16      MR. BAZAREK: Hey, guys. Please identify 17      yourself if you're present at this deposition 18      remotely. 19      MR. LEINENWEBER: Hey, Bill. It's Tom 20      Leinenweber. 21      Hey, Mark. How are you? 22      THE WITNESS: Good morning, Tom. 23      MR. LEINENWEBER: Good to see you. Sorry 24      we're not at the Monico firm.</p>	<p>1        MR. BAZAREK: Okay. We -- the parties that 2        are here in my office identified themselves. 3        THE VIDEOGRAPHER: Good to go? 4        Could you please swear in the witness? 5        (The witness was duly sworn.) 6        MARK ROTERT, 7        called as a witness herein, having been first duly 8        sworn, was examined and testified as follows: 9        EXAMINATION 10      BY MR. BAZAREK: 11      Q. Good morning, Mr. Rotert. 12      A. Good morning. 13      Q. I know you've given depositions before, true? 14      A. Yes. 15      Q. Okay. When is the last time you gave a 16      deposition? 17      A. Oh, I would say about a year ago. Well, no, 18      no. I'm sorry, I was deposed in the early summer of 19      this year; "this" would be 2024. 20      Q. And do you recall what case you were deposed 21      on? 22      A. I'm sorry. I recall the lawyer who deposed me 23      was Mr. Lydon, but I'm not -- oh, wait, it must have 24      been something to do with Arthur Brown's case, but</p>

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<p>1 I'm -- I'm not recalling it clearly right now.</p> <p>2     <b>Q. I think Arthur Brown might have been some</b></p> <p>3     <b>years back when I deposed you in that case.</b></p> <p>4     A. Okay. Then I don't recall right now the</p> <p>5     parties of the most recent deposition.</p> <p>6     <b>Q. Okay. Any time -- just to go over the ground</b></p> <p>7     <b>rules. I know you've heard them before. Any time today</b></p> <p>8     <b>that I ask you a question that you don't understand, can</b></p> <p>9     <b>you let me know?</b></p> <p>10    A. I will.</p> <p>11    <b>Q. At any time during this deposition that you</b></p> <p>12    <b>think you misspoke or you want to clarify an answer, you</b></p> <p>13    <b>can do so. Can you remember to do that?</b></p> <p>14    A. I will.</p> <p>15    <b>Q. And can you remember to do that before this</b></p> <p>16    <b>deposition ends?</b></p> <p>17    A. I'll do my best.</p> <p>18    <b>Q. And I'm also going to assume if you answer a</b></p> <p>19    <b>question you understood the question. Is that fair?</b></p> <p>20    A. That's fair.</p> <p>21    <b>Q. What did you do to prepare for this</b></p> <p>22    <b>deposition?</b></p> <p>23    A. I had a telephone conference with Ms. Buntic</p> <p>24    from the Cook County State's Attorney's office, a week</p>	<p>1 depositions that were upcoming. So I did review that</p> <p>2 document prior to my conversation with Ms. Buntic.</p> <p>3     <b>Q. And that was Judge Finnegan's court order of</b></p> <p>4     <b>August 29, 2024; is that the document you referred to?</b></p> <p>5     A. Well, I can't speak to the date, but it was a</p> <p>6     document that said this deposition -- these depositions</p> <p>7     can go forward on these bases.</p> <p>8     <b>Q. And do you recall in that document were there</b></p> <p>9     <b>quotes attributed to you that you gave to the media?</b></p> <p>10    A. There were quotes in the document attributed</p> <p>11    to me, yes.</p> <p>12    <b>Q. And were they accurate quotes as far as you</b></p> <p>13    <b>recall?</b></p> <p>14    A. As far as I can recall, they were.</p> <p>15    <b>Q. When you spoke with your counsel a week ago,</b></p> <p>16    <b>was it videoconferencing or were you just on the</b></p> <p>17    <b>telephone talking?</b></p> <p>18    A. It was a videoconference.</p> <p>19    <b>Q. Anyone else present other than you and your</b></p> <p>20    <b>counsel?</b></p> <p>21    A. No, not on my end.</p> <p>22    <b>Q. Have you worked with your counsel before on</b></p> <p>23    <b>other matters?</b></p> <p>24    A. No, I have not.</p>
<p style="text-align: center;">Page 11</p> <p>1 ago today that I think lasted around 80 to 90 minutes.</p> <p>2 Saturday afternoon I looked at three or four documents</p> <p>3 that Ms. Buntic had provided to me in an email. And</p> <p>4 that's about it.</p> <p>5     <b>Q. I didn't ask you to spell your name, but can</b></p> <p>6     <b>you spell your full name, please?</b></p> <p>7     A. Sure. It's R-O-T-E-R-T.</p> <p>8     <b>Q. And then first name?</b></p> <p>9     A. Mark, M-A-R-K.</p> <p>10    <b>Q. During the telephone conference that you had</b></p> <p>11    <b>with your counsel a week ago, were you reviewing any</b></p> <p>12    <b>documents in that telephone call?</b></p> <p>13    A. No. In fact, I recall that it was in the</p> <p>14    middle or during the course of the conversation that</p> <p>15    Ms. Buntic told me that she had emailed me some</p> <p>16    documents during the conversation. So rather than spend</p> <p>17    time looking at them while we were on the phone, I just</p> <p>18    kept them in my inbox until last Saturday.</p> <p>19    <b>Q. Okay.</b></p> <p>20    A. I should add -- I want to add, prior to our</p> <p>21    telephone conference, Ms. Buntic had produced and</p> <p>22    provided me with a copy of a memorandum opinion by</p> <p>23    Magistrate Judge Finnegan that was a lengthy document</p> <p>24    that outlined the -- sort of the rules for the</p>	<p style="text-align: center;">Page 13</p> <p>1     <b>Q. What were the three or four documents that you</b></p> <p>2     <b>reviewed this past Saturday?</b></p> <p>3     A. There were a couple of memoranda, I believe,</p> <p>4     that were authored by personnel within COPA, C-O-P-A,</p> <p>5     that were summaries or portrayals of meetings that had</p> <p>6     been held between personnel at COPA and myself and</p> <p>7     personnel at the State's Attorney's office. There were</p> <p>8     a couple of those.</p> <p>9     There was an email that I had been copied</p> <p>10    on that was an email chain, actually, that went from</p> <p>11    Nancy Adduci to, I think, Joe Magats and Eric Sussman.</p> <p>12    I think that's about it.</p> <p>13    There were other documents that I looked</p> <p>14    at that were pleadings which I didn't read for</p> <p>15    substance.</p> <p>16    <b>Q. And the -- when you say pleadings, are you</b></p> <p>17    <b>talking about a federal lawsuit, or was it something</b></p> <p>18    <b>else? What exactly do you mean by "pleadings"?</b></p> <p>19    A. There was -- I knew that there was a motion to</p> <p>20    quash and a response by the Cook County State's</p> <p>21    Attorney's office to a motion to quash. When I saw</p> <p>22    those titles, I decided I had better uses of my time,</p> <p>23    and I didn't read them. I just saw what they were.</p> <p>24    <b>Q. Okay. So did it appear to be some type of</b></p>

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<p>1      <b>briefing that was done on the scope of the deposition of</b>  2      <b>State's Attorney officials?</b>  3          A. That was my impression.  4      <b>Q. Okay. I know I did ask your counsel this</b>  5      <b>morning whether or not you have a current CV. Do you</b>  6      <b>have a current CV?</b>  7          A. I don't. I mean, I should tell you that I'm  8      retired. I don't practice law. I surrendered -- not  9      surrender my license. I asked the Supreme Court of  10     Illinois in June of 2023 to move my name to the role of  11     retired attorneys. Just as the MCLE obligation would  12     have come current, and I have not practiced law since  13     then.  14         I'm happy to give you a verbal CV of my  15     career, if you'd like. But I'm not now an attorney --  16     practicing as an attorney.  17     <b>Q. Sure. Why don't you give a verbal --</b>  18         A. Okay.  19     <b>Q. -- summation of your career.</b>  20         A. My first ten years of practice were with the  21     Attorney General of Illinois. I spent about six years  22     prosecuting cases downstate in smaller counties, mostly  23     homicide cases. I spent about four years as chief of  24     the criminal appeals division, and I argued a couple of</p>	<p>1      the position of director of the Conviction Integrity  2      Unit at the State's Attorney's office. I joined -- I  3      accepted that and I started that position on the 1st of  4      July 2017. I stayed in that position until the end of  5      June 2019, or actually the beginning of June 2019.  6          I then -- I was sort of the Michael Jordan  7      of retiring. I retired from the State's Attorney's  8      office. I stayed home for a while, and then decided I  9      wasn't ready to quit, but then COVID came. But to make  10     a longer story shorter, I served of counsel with the law  11     firm Cotsirilos, Streicker, Poulos, &amp; Campbell. I was  12     of counsel with them, and I was practicing actively in  13     white collar from probably about the summer of 2020  14     until I gave up my license in June of 2023.  15     <b>Q. So currently, you are not licensed to practice</b>  16     <b>law in Illinois, correct?</b>  17         A. In Illinois or any other jurisdiction,  18     correct.  19     <b>Q. And so you don't have to keep up with the</b>  20     <b>latest in continuing legal education?</b>  21         A. I am not taking any CLE. I'm -- I'm just a  22     casual observer of legal issues.  23     <b>Q. The firm that was your last employer, are they</b>  24     <b>counsel to the Civilian Office of Police Accountability?</b></p>
<p style="text-align: center;">Page 15</p> <p>1      case in the U.S. Supreme Court in that role.  2      <b>Q. That was for the Attorney General?</b>  3          A. That was for the Illinois Attorney General.  4          After ten years with the AG's office, I  5      was appointed as an assistant United States attorney  6      here in Chicago for the Northern District of Illinois.  7      I was an assistant U.S. attorney from 1987 until 1994.  8      And I think it was November of '94, I was made a partner  9      at Winston &amp; Strawn, a job that I held until February of  10     2004.  11         In February of 2004, I started my own law  12     firm, the Law Office of Mark Rotert, focusing on defense  13     work.  14     <b>Q. Criminal defense?</b>  15         A. Criminal defense work. Over -- I was offered  16     low-rent space -- office space by a couple of friends,  17     Dave Stetler and Joe Duffy, and so I bunked in with them  18     on my own, as my own firm for like three or four years.  19     And then we decided to meld it all together into a firm  20     called Stetler, Duffy &amp; Rotert, which was also focused  21     on white collar defense work. That firm was in  22     existence until 2017.  23         In 2017, we decided to end the firm's  24     existence. And at that point, I was invited or offered</p>	<p style="text-align: center;">Page 17</p> <p>1      A. You know, they do work for COPA. I don't know  2      anything about it. I never have represented or been  3      engaged or involved in anything. I know that they are  4      involved in document dissemination. I don't know that  5      they are involved in any litigation on behalf of COPA or any  6      other COPA-related issues, but that's about as much as I  7      know. But I know that COPA has a relationship with the  8      firm.  9      <b>Q. Okay. And when you were with that firm,</b>  10     <b>did any COPA investigation or materials related to</b>  11     <b>Ronald Watts and his team come to your attention?</b>  12         A. No, not at all.  13     <b>Q. I want to go back to your private practice,</b>  14     <b>when you went on your own as a criminal defense attorney</b>  15     <b>and later you joined a group of others attorneys where</b>  16     <b>you're doing, I believe you said, it was white collar</b>  17     <b>defense work?</b>  18         A. Right.  19     <b>Q. Did you ever defend, at any time in your</b>  20     <b>career, individuals that were involved in the drug</b>  21     <b>trade?</b>  22         A. No.  23     <b>Q. When you were with the Cook County State's</b>  24     <b>Attorney's office as the director of the Conviction</b></p>

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<p>1     <b>Integrity Unit, did you try any cases?</b></p> <p>2     A. No.</p> <p>3     <b>Q. Did you observe any trials or pleas of guilty</b></p> <p>4     <b>by individuals who were pleading guilty to drug crimes?</b></p> <p>5     A. It's probable that I did. As I'm sure you</p> <p>6     know, that it's frequent when you go to Cook County --</p> <p>7     to 26th and California to be in a courtroom awaiting</p> <p>8     your case to be called, and other cases on the docket at</p> <p>9     the time may involve pleas.</p> <p>10    I also -- I like trying cases, and I like</p> <p>11    watching people try cases. I would go up if there was a</p> <p>12    profile case. If I could get a seat in the back and I</p> <p>13    thought the lawyers were fun to watch, I would go up and</p> <p>14    watch cases. I don't remember going up to watch any</p> <p>15    drug cases, but I can't -- I can't say that I</p> <p>16    specifically recall seeing pleas in drug cases, but I</p> <p>17    would certainly expect that I probably did at some</p> <p>18    point.</p> <p>19    <b>Q. What about as a prosecutor for the</b></p> <p>20    <b>U.S. Attorney's office, did you ever prosecute drug</b></p> <p>21    <b>crimes?</b></p> <p>22    A. I believe that I did not ever prosecute a case</p> <p>23    involving where the indictment alleged criminal drug</p> <p>24    activity. I don't believe that I ever did prosecute</p>	<p>1     two years through those first 18 years of being in</p> <p>2     government service. It was a -- it was a -- a detail</p> <p>3     that was expected of us every election.</p> <p>4     <b>Q. Tell me, did you ever come to understand why</b></p> <p>5     <b>Kim Foxx's office reached out to you for employment?</b></p> <p>6     MS. BUNTIC: Objection to form.</p> <p>7     BY THE WITNESS:</p> <p>8     A. No. No.</p> <p>9     BY MR. BAZAREK:</p> <p>10    <b>Q. Did you ever read any article about Kim Foxx</b></p> <p>11    <b>going to New York to talk to a prosecuting officer out</b></p> <p>12    <b>there about who would fit the bill to be the head of the</b></p> <p>13    <b>Conviction Integrity Unit?</b></p> <p>14    A. No. I don't believe I did.</p> <p>15    <b>Q. So how was it that you came to be employed by</b></p> <p>16    <b>the Cook County State's Attorney's office?</b></p> <p>17    A. It -- it was -- there was a going-away party</p> <p>18    for an assistant U.S. attorney. I can't remember which</p> <p>19    one. But I always went to the going-away parties. It</p> <p>20    was kind of a thing. And when I was there, I was</p> <p>21    sitting in the back of the room because I wanted to</p> <p>22    escape before the speeches began, and Eric Sussman, whom</p> <p>23    I knew from prior cases and I knew him socially, Eric</p> <p>24    Sussman came over. And I knew that Eric recently had</p>
<p>1     such a case.</p> <p>2     <b>Q. And then when you were -- strike that.</b></p> <p>3     <b>During the time when you were with the</b></p> <p>4     <b>Attorney General's office, did you ever prosecute a drug</b></p> <p>5     <b>crime?</b></p> <p>6     A. No. Drugs were a prominent factual feature in</p> <p>7     cases I prosecuted, but, again, I don't recall ever</p> <p>8     prosecuting a case that charged a drug offense.</p> <p>9     <b>Q. At any time during your time as an attorney,</b></p> <p>10    <b>have you ever been to Ida B. Wells complex?</b></p> <p>11    A. I believe I've been there, and I believe it</p> <p>12    was on what we call the election detail. Young ASAs,</p> <p>13    AAGs, even AUSAs would be sent out at dawn or before</p> <p>14    dawn to walk into polling places and detect voter fraud.</p> <p>15    And I had the fortune to be assigned to many areas in</p> <p>16    the south and west sides. And I believe that I went</p> <p>17    into the Homes at that time.</p> <p>18    I never went in there as part of -- I</p> <p>19    don't recall ever going in there as part of an</p> <p>20    investigation as a prosecutor.</p> <p>21    <b>Q. Do you remember what year or years it</b></p> <p>22    <b>would have been where you were doing election duty at</b></p> <p>23    <b>Ida B. Wells?</b></p> <p>24    A. I don't. It would -- it would have been every</p>	<p>1     taken on the position of first assistant to Ms. Foxx,</p> <p>2     and he asked me what I was going to be doing now. He</p> <p>3     had heard a rumor that the firm was -- my firm was</p> <p>4     shuttering. He said, What are you going to do now? And</p> <p>5     I said, That's a really good question. I don't have any</p> <p>6     idea. And then he asked me would I consider going with</p> <p>7     the State's Attorney's office because they wanted</p> <p>8     someone to run a Conviction Integrity Unit.</p> <p>9     And I told him I would think about it.</p> <p>10    But that initiated a conversation that culminated in my</p> <p>11    taking that post.</p> <p>12    <b>Q. Do you recall what month or year that was?</b></p> <p>13    A. It would have been late winter, early spring,</p> <p>14    probably about March, something like that.</p> <p>15    <b>Q. 2017?</b></p> <p>16    A. Of 2017, uh-huh.</p> <p>17    <b>Q. I believe your testimony was you started work</b></p> <p>18    <b>at the office July 1, 2017?</b></p> <p>19    A. Yes, I did, because I was hoping they would</p> <p>20    let me take the 4th of July weekend and then start, and</p> <p>21    they said no, come on in on July 1st and then take the</p> <p>22    holiday. So I remember that part.</p> <p>23    <b>Q. And is it -- actually, let me clarify. Is it</b></p> <p>24    <b>executive director or director? What did they call it</b></p>

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<p style="text-align: right;">Page 22</p> <p>1   <b>when you first started?</b></p> <p>2       A. Director.</p> <p>3   <b>Q. Director?</b></p> <p>4       A. Yeah.</p> <p>5   <b>Q. And then were you replacing someone with</b> <b>that -- in that office?</b></p> <p>6       A. My understanding was that there had not been 7       an identified or there hadn't been a unit known as the 8       Conviction Integrity Unit with a director. There had 9       been a process underway that -- as it was described to 10      me, seemed somewhat ad hoc under attorney -- State's 11      Attorney Alvarez. There were people looking at old 12      cases, but there wasn't an assigned group of people to 13      do that, and there wasn't a director in charge of that 14      assigned group, as I understood it.</p> <p>15      I thought that there was an assistant 16      named Fabio Valentino, something along those lines, 17      who had been involved in this kind of effort, and 18      Nancy Adduci had been involved with these cases, these 19      reviews. When I first started considering this 20      seriously, Nancy was identified as the person who would 21      be my assistant -- not my assistant, who would be my 22      second-in-command and would be my -- the person who 23      would tell me here's what we're doing and how we're</p>	<p style="text-align: right;">Page 24</p> <p>1       A. No, I don't -- I would say no. I mean, I 2       think so as far as I could tell, the attitude was, 3       you're a smart guy, you know what a wrongful conviction, 4       what that means. We should find out if we have that -- 5       if we have those.</p> <p>6       I mean, it was not -- there was not very 7       much previous direction given except we want to look and 8       see if we've got cases that were wrongful convictions 9       and we want you to run the operation to identify those 10      cases.</p> <p>11      <b>Q. You testified earlier in your deposition</b> <b>your -- you had experience on murder cases, correct?</b></p> <p>12      A. Uh-huh. I did, yes.</p> <p>13      <b>Q. And when you're becoming the director of the</b> <b>Conviction Integrity Unit, can you give a percentage</b> <b>breakdown of the types of cases that are going to be</b> <b>reviewed?</b></p> <p>14      MS. BUNTIC: Objection to form.</p> <p>15      BY THE WITNESS:</p> <p>16      A. I want to answer that, and I want to say the 17      difficulty with that is, the types of cases were as 18      varied as the individuals in the IDOC. In other words, 19      two -- in very broad strokes, two types of cases would 20      come to my attention. One, an attorney would bring in a</p>
<p style="text-align: right;">Page 23</p> <p>1      doing it.</p> <p>2   <b>Q. So is it your testimony that you were the</b> <b>first director of the Conviction Integrity Unit?</b></p> <p>3       A. So far as I know, I was the first person to be 4       given that title as opposed to Assistant State's 5       Attorney, so far as I know.</p> <p>6   <b>Q. First day on the job as director of the</b> <b>Conviction Integrity Unit, were you given any training?</b></p> <p>7       A. No.</p> <p>8   <b>Q. Were you provided with any type of written</b> <b>instruction on how to be the director of the Conviction</b> <b>Integrity Unit?</b></p> <p>9       A. No.</p> <p>10   <b>Q. Were there any written procedures in place</b> <b>about how that Conviction Integrity Unit would operate?</b></p> <p>11       A. There were not.</p> <p>12   <b>Q. Was there any type of application that a</b> <b>subject would make to apply for consideration or review</b> <b>of their case by the Conviction Integrity Unit?</b></p> <p>13       A. No, I don't --</p> <p>14       MS. BUNTIC: Objection to form.</p> <p>15      BY MR. BAZAREK:</p> <p>16   <b>Q. So what would -- did you have any marching</b> <b>orders for when you started your job?</b></p>	<p style="text-align: right;">Page 25</p> <p>1      case and say, We'd like you to look at this. The other 2      was, inmates would write a letter and say this is -- 3      this is a bad conviction, I'm not guilty.</p> <p>4       And so -- and particularly with the 5       latter, we got an awful lot of mail. And so I don't 6       know that there's ability to say that there's one 7       predominant case. Certainly violent felonies 8       predominated as opposed to, for example, drug cases or 9       fraud cases or things like that. Violent felonies were 10       the lion's share of what we saw.</p> <p>11      BY MR. BAZAREK:</p> <p>12   <b>Q. And that would include murders, rapes --</b></p> <p>13       A. Sexual assaults, yeah, things like that, 14       child abuse cases.</p> <p>15   <b>Q. And would the vast majority of the</b> <b>requests for review be unrelated to narcotics</b> <b>offenses?</b></p> <p>16       MS. BUNTIC: Objection to form.</p> <p>17      BY THE WITNESS:</p> <p>18       A. I don't know if I can go with vast majority. 19       But certainly I wouldn't say that drugs predominated. 20       The predominant element of all of them usually was 21       violence of some sort and a substantial percentage of 22       gang-related violence in those cases.</p>

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<p style="text-align: center;">Page 26</p> <p>1 BY MR. BAZAREK:</p> <p>2     <b>Q. Would the majority of the cases come from</b> 3     <b>individuals that were still incarcerated?</b></p> <p>4     A. Definitely, yes.</p> <p>5     <b>Q. Was there any -- was there any rule that the</b> 6     <b>Conviction Integrity Unit would only review cases for</b> 7     <b>individuals that were incarcerated?</b></p> <p>8     A. There was no such rule. In fact, the policy 9     that I put together specifically said it doesn't have to 10    be -- you don't have to be currently incarcerated on the 11    conviction you're challenging.</p> <p>12    <b>Q. So that was a change that you made?</b></p> <p>13    MS. BUNTIC: Objection to form.</p> <p>14    MR. TEPFER: Join.</p> <p>15    MS. BUNTIC: And would you mind letting me 16    finish my objection. Thank you. And 17    mischaracterizes earlier testimony.</p> <p>18    MR. TEPFER: I join that.</p> <p>19    THE WITNESS: And I'm not behaving well, so 20    I'll slow down.</p> <p>21    Can you repeat the question?</p> <p>22    (The record was read as requested.)</p> <p>23 BY THE WITNESS:</p> <p>24    A. I -- because there was no written policy when</p>	<p style="text-align: center;">Page 28</p> <p>1     we plan to go about it, and here's how you can come and 2     talk with us.</p> <p>3     <b>Q. So you implemented a requirement for</b> 4     <b>individuals to, you know, fill out some type of form --</b></p> <p>5     MS. BUNTIC: Object to form.</p> <p>6 BY MR. BAZAREK:</p> <p>7     <b>Q. -- and requesting some type of relief from</b> 8     <b>your office?</b></p> <p>9     MS. BUNTIC: Objection to form and 10    mischaracterizes earlier testimony.</p> <p>11 BY THE WITNESS:</p> <p>12    A. Yes. We wanted to put together a form, 13    because there were entry criteria. If our case was 14    going to be considered, there were things that we wanted 15    to make sure we were prescreening things that we weren't 16    going to do. And so the form was designed to tease out 17    the facts that might decide whether it's a case we would 18    look at.</p> <p>19 BY MR. BAZAREK:</p> <p>20    <b>Q. And what was the entry criteria?</b></p> <p>21    A. The first and most important was you had to be 22    asking for relief based on a claim of factual innocence. 23    So if you're claiming a Fourth Amendment violation, for 24    example, or you're claiming that your sentence was too</p>
<p style="text-align: center;">Page 27</p> <p>1 I got there, the first thing I wanted to do was 2 promulgate something in writing that would not only 3 guide the assistants, but also the people that were 4 seeking relief. So I don't know what approach was taken 5 by my predecessors, but I put that into the policy.</p> <p>6 BY MR. BAZAREK:</p> <p>7     <b>Q. And in terms of the policy, are you referring</b> 8     <b>to something that would be posted on the Internet where</b> 9     <b>the public can see it, or someone who's incarcerated, or</b> 10    <b>a criminal defense attorney? Is that what you're</b> 11    <b>referring to?</b></p> <p>12    A. Yes. What we did was, we drafted a policy 13    that was drafted with the hope that it was digestible by 14    lay people, not attorneys. We put that up on the 15    website, on the State's Attorney's office website. We 16    also put together a questionnaire and -- that was to be 17    used by anybody that wanted to seek application for 18    relief.</p> <p>19    We contacted the Department of Corrections 20    and had notice put up in the law libraries of all the 21    IDOC institutions and made this form available both 22    online, and I hoped they were being distributed in hard 23    copy as well in the IDOC. So we really did try to tell 24    them -- tell the world, here's what we're doing and how</p>	<p style="text-align: center;">Page 29</p> <p>1     harsh or something like that, we wanted -- we wanted the 2     first order of business to be, I did not do this. 3     Factually, I had nothing do with this crime.</p> <p>4     The second thing was, I can bring you or I 5     have access to evidence not seen by the trier of fact 6     who convicted me, judged me. So this is not going to be 7     a rehash of the same issues that had already been 8     resolved in the trial, and presumably on appeal, but it 9     was new material. Those were the primary two factors 10    that I wanted to see when I was looking at an 11    application.</p> <p>12    <b>Q. And so if the subject was not claiming factual</b> 13    <b>evidence -- strike that.</b></p> <p>14    <b>If the subject was not claiming factual</b> 15    <b>innocence or that there was some new evidence that had</b> 16    <b>not been seen or heard during their proceedings, what</b> 17    <b>would happen to that request?</b></p> <p>18    A. If someone were coming in and not claiming 19    factual innocence and not looking at new evidence, 20    excuse me -- not claiming factual innocence, didn't have 21    new evidence, I would probably write back to that person 22    and say, for example, your Constitutional claims may be 23    susceptible to work out of the postconviction statute. 24    Or I might write back and say everything you raised in</p>

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<p>1 your letter to me was raised in the appellate courts and 2 resolved against you. There's nothing more I can do for 3 you. So those were generally the principles that we had 4 found.</p> <p>5 <b>Q. So they would -- but those requests for review</b> 6 <b>by the Conviction Integrity Unit would be rejected?</b></p> <p>7 A. Correct.</p> <p>8 <b>Q. And what if you just didn't fill out the form</b> 9 <b>and you wanted to get a review by the Conviction</b> 10 <b>Integrity Unit, would that happen?</b></p> <p>11 A. Well, certainly lawyers would come in without 12 being aware, I guess, that there was a form and produce 13 lawyer-created materials, which we would look at. But 14 if a pro se individual in the Department of Corrections 15 corrections wrote a letter, my usual practice would be 16 to write back and send them a copy of the blank form and 17 say, why don't you fill this out.</p> <p>18 Prisoners often had a tendency to provide 19 a lot of irrelevant information in long writings that 20 kind of buried the lead, if you know what I mean. So I 21 would send back a form and say, why don't you fill this 22 form out and then let's take a look at what you've got 23 here.</p> <p>24 <b>Q. And you just testified there were other</b></p>	<p>1 here are some of the lawyers that you're going to be 2 meeting with. They would talk about people at 3 Northwestern's conviction integrity center. They would 4 talk about the people at the University of Chicago. 5 They would talk about some of the people that were 6 prominent in the private bar. So they would give me, 7 you know, here's who this person is, here's what case 8 they're probably going to want to talk with you about. 9 They would let me know something more than just some guy 10 is going to come in and talk with you. 11 I'm sure that Mr. Tepfer was told -- or 12 I'm sure that I was told that Mr. Tepfer was 13 representing individuals who were claiming that they had 14 been falsely accused or that their cases were tainted by 15 the conduct of Sergeant Watts. I'm sure that I was told 16 that Mr. Tepfer had a significant number of such 17 clients. 18 Josh was also involved in other non-Watts 19 conviction integrity cases. So I knew that he was 20 someone that I would be having relatively frequent 21 interactions with, but certainly the most frequent 22 interactions I recall were in connection with these 23 Watts cases. 24 <b>Q. And would you actually prep about a particular</b></p>
<p>1 <b>occasions where an attorney would just come to you</b> 2 <b>directly or communicate to your unit about a case?</b></p> <p>3 A. That happened.</p> <p>4 <b>Q. Such as you see Mr. Tepfer at this deposition?</b></p> <p>5 THE WITNESS: Hello, Mr. Tepfer.</p> <p>6 MR. TEPFER: Hello, Mr. Rotert.</p> <p>7 BY MR. BAZAREK:</p> <p>8 <b>Q. How long have you known Mr. Tepfer?</b></p> <p>9 A. I think I -- I know that I first met Josh 10 Tepfer during the course of my work at the CIU.</p> <p>11 <b>Q. So when you started in July of 2017, did</b> 12 <b>Mr. Tepfer reach out to you that very month?</b></p> <p>13 A. Not that I recall, no. I know I met 14 Mr. Tepfer fairly early on, but I don't recall him being 15 among the first people I met, no.</p> <p>16 <b>Q. Okay. So what do you remember about your very</b> 17 <b>first meeting with Mr. Tepfer involving anything to do</b> 18 <b>with the Watts cases that the Conviction Integrity Unit</b> 19 <b>were reviewing?</b></p> <p>20 MS. BUNTIC: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. The answer is not much. I remember that 23 Mr. Tepfer would -- Nancy and the other people -- Nancy 24 Adduci and the other people in the unit would tell me</p>	<p>1 <b>case before you spoke with or communicated with</b> 2 <b>Mr. Tepfer? Is that how it went?</b></p> <p>3 MS. BUNTIC: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I don't recall highlighting any individual. 6 So the answer is, I don't recall doing that. It was -- 7 it was more of a, this is a group of cases with a common 8 claim. 9 BY MR. BAZAREK:</p> <p>10 <b>Q. So were you -- -- strike that.</b> 11 <b>So am I correct, it's a verbal briefing</b> 12 <b>that you would have with your staff about generally what</b> 13 <b>Mr. Tepfer wants to communicate with you about?</b></p> <p>14 MR. HENRETTY: Objection to form.</p> <p>15 MS. BUNTIC: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Yeah. 18 And I should say, I don't recall whether 19 or not Mr. Tepfer -- and he had another attorney named 20 Mr. Starr, I believe. 21 BY MR. BAZAREK:</p> <p>22 <b>Q. Sean Starr?</b></p> <p>23 A. Yeah. I don't recall whether or not they came 24 and made what I refer to as a pitch or a presentation to</p>

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<p>1 me about the Watts cases. It was not uncommon -- it was 2 common for other lawyers in other circumstances to come 3 in and say, Mark, here's a person, here's a case, here's 4 a -- I want to make a pitch to you about this case. 5 I may have had such a meeting with 6 Mr. Tepfer and/or Mr. Starr. It doesn't stand out in my 7 memory. I knew that there was this larger group of 8 cases with common factual allegations that were 9 represented by he and his colleagues.</p> <p>10 <b>Q. What about an attorney named Flaxman, did 11 you -- did you have communications or meetings with 12 Attorney Joel Flaxman?</b></p> <p>13 A. I don't -- I know that Joel was in court when 14 some of the court proceedings were held in these cases. 15 I remember that when they first started talking about 16 Flaxman, I had opposed his father in litigation way back 17 in the 20th century, when both of us were young. And so 18 I remember thinking, he's pretty old to be doing this 19 kind of work, and then I found out it was his son. And 20 as soon as I saw Joel, I knew that's Mr. Flaxman because 21 the two are -- look very much alike. 22 I don't recall that Joel ever came and 23 made a presentation to me about any particular case. I 24 knew that he was another one of the lawyers with a</p>	<p>1 <b>Q. Would you agree that you did correspond in writing with Mr. Tepfer in the Watts cases?</b> 2 A. I'm confident that I would have, yes. 3 <b>Q. And do you recall what those communications would have been that you had with Mr. Tepfer?</b> 4 A. Not with any specificity. I know that 5 Mr. Tepfer probably thought things could be moving more 6 quickly than they were. I may have had communications 7 with him about the need for us to do it with due 8 deliberation, but that's just a supposition. I don't 9 recall any particular communications. 10 <b>Q. Did Mr. Tepfer ever complain to you about the work that Nancy Adduci was doing on the review of the 11 Watts-related cases?</b> 12 A. Well, I don't -- I don't think that he would 13 have -- I don't recall him ever identifying Nancy Adduci 14 as a source of frustration. I think, like -- well, I 15 think that there may have been times when he expressed 16 concern about the office, the way that the office was 17 proceeding and the pace at which things were happening. 18 I don't recall him ever laying that blame at the feet of 19 the Nancy Adduci. 20 <b>Q. So what about -- strike that. 21 Did you have any in-person meetings at any</b></p>
<p>1 smaller multiple number of clients. 2 <b>Q. Are you aware that, and I will just start 3 with -- or strike that.</b> 4 <b>When you first met with Mr. Tepfer, was he 5 there for or on behalf of the Exoneration Project? Or 6 was he there on behalf of a law firm called Loevy &amp; 7 Loevy? What -- what hat was he wearing when he met with 8 you?</b> 9 MS. BUNTIC: Objection to form. 10 BY MR. BAZAREK: 11 <b>Q. If you know.</b> 12 A. Yeah. And I'm not asserting for a certainty 13 that I met with Mr. Tepfer on the subject matter of the 14 Watts cases. I knew that he was associated with the 15 University of Chicago, but I also knew that he had a 16 relationship with the plaintiff's firm Loevy. I didn't 17 ask him. If we ever had an encounter, I never asked him 18 which hat he was wearing, so to speak. That never came 19 up. 20 <b>Q. So I want to make sure I understand your 21 testimony. Is it your testimony that you may have met 22 with Mr. Tepfer in person on the Watts cases, or you 23 don't know one way other another?</b> 24 A. The latter, I don't know one way or the other.</p>	<p>1 <b>time with Joel Flaxman on the Watts cases, other than if 2 you see him, you know, in court or outside of the 3 courthouse?</b> 4 A. I don't believe that I did. 5 <b>Q. How about, did you have written correspondence 6 with Mr. Flaxman?</b> 7 A. It's possible. I don't recall it, but it's 8 certainly possible. 9 <b>Q. In these matters related to the Watts cases 10 that were being reviewed by the Conviction Integrity 11 Unit, did you ever actually look at or review any of the 12 affidavits by the individuals that were seeking to 13 vacate their convictions?</b> 14 A. I recall looking at affidavits of the 15 applicants, individual affidavits. I can't really 16 recall specific names, or at least to the extent I 17 recall specific names, I can't recall if I saw their 18 affidavits or I just remember meeting them in court. 19 But I do know that I looked at -- I was reviewing or 20 seeing affidavits of applicants for relief.). 21 <b>Q. And then how would you -- who would you 22 receive those from?</b> 23 A. Nancy Adduci. 24 <b>Q. And did Adduci, did she keep a hard copy file</b></p>

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<p>1     <b>for the cases the Conviction Integrity Unit were</b>  2     <b>reviewing, or were they electronic, or both?</b></p> <p>3     A. I can't be positive, but there was a  4     tremendous reliance on hard copy paper at the State's  5     Attorney's office when I was there, and little use of  6     electronic media.</p> <p>7     <b>Q. So in order for you to review an application</b>  8     <b>for one of the Watts cases, you would -- you would need</b>  9     <b>the hard copy file to review?</b></p> <p>10    A. Yes.</p> <p>11    <b>Q. And then where were those maintained?</b></p> <p>12    A. Nancy's office.</p> <p>13    <b>Q. And then what was the procedure if you wanted</b>  14    <b>to review a file?</b></p> <p>15    A. I could ask Nancy to bring me files at any  16    point in time. When -- in any case, Watts cases  17    included, when there was going to be a proposal that  18    actions be taken one way or the other, file materials  19    would be made available so that we could have a  20    discussion about those materials.</p> <p>21    The Watts cases were a bit different than  22    the norm in this respect. Unlike other cases, unlike  23    many of the other cases, these cases were sort of in  24    progress when I got there. In other words, relief had</p>	<p>1     So Nancy knew what kinds of documents  2     should be out there and where they would be located and  3     how to -- you know, how to assemble them and figure out  4     how to put these pieces together. And so I was only too  5     content to allow her to manage the intake and the  6     evaluation, the preparation of the materials, and the  7     analysis on the Watts cases, knowing that when she was  8     done with that, she would come forward and say, Here are  9     some proposals that I've got, and here are the bases for  10    those proposals.</p> <p>11    <b>Q. And what was the -- -- strike that.</b></p> <p>12    <b>Let me ask you. When you would -- you've</b>  13    <b>already testified that you had reviewed some affidavits</b>  14    <b>of individuals that were seeking relief from the</b>  15    <b>Conviction Integrity Unit that were related to the Watts</b>  16    <b>cases, correct?</b></p> <p>17    A. Yes.</p> <p>18    <b>Q. So when you're looking at that, an affidavit,</b>  19    <b>and you finish reading it, do you do anything to verify</b>  20    <b>whether or not what was asserted in the affidavit is</b>  21    <b>true?</b></p> <p>22    A. I didn't undertake any investigation or  23    testing of an affidavit, no.</p> <p>24    <b>Q. Okay. Did you yourself do any type of</b></p>
<p style="text-align: center;">Page 39</p> <p>1     already been granted by the State's Attorney's office to  2     other applicants for relief based on the Watts problem,  3     if you will. And those things had been done before I  4     got there. I believe that they were done under the  5     administration of State's Attorney Alvarez during her  6     tenure.</p> <p>7     So I knew that there were these Watts  8     cases. And I knew that there were an increasing number  9     of people in the queue maintaining that they should get  10    relief because Watts was involved in their conviction,  11    Watts and what have you.</p> <p>12    This was an effort that was being managed  13    by Nancy Adduci. And I was happy to let her continue to  14    manage it because it was a lot of documents. And  15    particularly, this was when I was focused on my  16    development of a policy. And in candor, Nancy was much  17    more knowledgeable about every step of the process that  18    would entail around any drug arrests. She knew what  19    kind of squads worked in what kinds of areas, what kind  20    of reports they would issue, how many people would be  21    issuing what kinds of reports, what a supp was. These  22    were things that were not in my ken. I had not been  23    experienced in the sort of mechanical nuts and bolts of  24    like a felony review assistant would be.</p>	<p style="text-align: center;">Page 41</p> <p>1     <b>investigation to determine whether or not any of the</b>  2     <b>these individuals were actually innocent?</b></p> <p>3     A. No.</p> <p>4     <b>Q. And why is that?</b></p> <p>5     A. When we were developing the protocol, the  6     policy statement, there was a provision included that  7     was -- I'm going to characterize -- the document speaks  8     for itself. I'm going to characterize it in this way.  9     It said that we would consider applications for relief  10    where the claim was that the fact-finding procedures in  11    the case were so fundamentally flawed that it undermined  12    confidence in the outcome. This was, in my personal  13    opinion, a reaction to the question of police  14    misconduct, alleged police misconduct such as a coercion  15    issue.</p> <p>16    And so this admitted of the prospect that  17    a conviction might be vulnerable and might need to be  18    set aside because of perceptions of police or  19    prosecutorial misconduct or judicial misconduct,  20    somebody's misconduct. Suspicions that were so grave  21    that the question of guilt or innocence was eclipsed, if  22    you will, by the allegation of misconduct.</p> <p>23    So, for example, in some other  24    jurisdictions a corrupt police officer, the corruption</p>

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<p>1 has been the premise for vacating convictions where the 2 prosecutor has stood up and said I don't know if this 3 defendant did this or not. I only know that this police 4 officer's conduct taints the conviction to a point that 5 it can't be sustained.</p> <p>6 So that, if you will, policy, a framework, 7 or a philosophic approach was what was in place in my 8 experience, or my opinion, in the Watts cases. I 9 believe I said at the time that it wasn't my assertion 10 that none of the people arrested in those homes ever had 11 drugs or ever used illegal drugs. That was not the 12 intent, as far as I was concerned, of the grant of 13 relief.</p> <p>14 <b>Q. So what was the intent of the grant for 15 relief?</b></p> <p>16 A. The intent was that when we know that there's 17 been an inherently corrupt participation by police 18 officers in these arrests, we can't allow those 19 convictions to stand, knowing that there was intentional 20 corrupt misconduct by the police.</p> <p>21 <b>Q. What was Ronald Watts convicted of?</b></p> <p>22 A. He was convicted of a drug-related conspiracy 23 to interact and support the efforts of drug dealers.</p> <p>24 <b>Q. Did you ever read the plea agreement of</b></p>	<p>1 access to that file.</p> <p>2 <b>Q. So you're referring to 302s that you have 3 reviewed; is that correct?</b></p> <p>4 A. Probably DEA 6s and 302s, yes. That could be 5 it.</p> <p>6 <b>Q. And I know Nancy Adduci has testified to that, 7 where she went over a two-day period and you went for 8 one day; is that right?</b></p> <p>9 A. That sounds like me.</p> <p>10 <b>Q. Okay. And then do you recall how many pages 11 it was that you read in terms of a 302?</b></p> <p>12 A. No.</p> <p>13 <b>Q. Or 302s?</b></p> <p>14 A. No.</p> <p>15 <b>Q. Did you take notes of what you reviewed?</b></p> <p>16 A. I do not believe I did.</p> <p>17 <b>Q. When you were with Adduci during the review -- 18 and it was over at the FBI building on Roosevelt?</b></p> <p>19 A. That's seems likely. I don't frankly recall 20 if it was downtown or if was at the Roosevelt office.</p> <p>21 <b>Q. And where is the DEA office if you're going to 22 review their reports?</b></p> <p>23 A. It wasn't at the DEA. It was at FBI.</p> <p>24 <b>Q. Okay. So was it your recollection --</b></p>
<p style="text-align: center;">Page 43</p> <p>1 <b>Ronald Watts?</b></p> <p>2 A. I did not. I don't recall reading the plea 3 agreement of Ronald Watts.</p> <p>4 <b>Q. Did you ever read the plea equipment of 5 Kallatt Mohammed?</b></p> <p>6 A. If I did, I don't recall.</p> <p>7 <b>Q. Did you ever read a transcript of any court 8 proceeding where Watts and Mohammed pled guilty?</b></p> <p>9 A. I don't recall seeing their Rule 11 plea 10 colloquy.</p> <p>11 <b>Q. Are you aware that Watts and Mohammed were 12 actually convicted of theft of government funds?</b></p> <p>13 A. I don't recall the statute or the provision 14 under which they pled guilty.</p> <p>15 <b>Q. Did you ever make any efforts to determine 16 what Watts and Mohammed pled guilty to?</b></p> <p>17 A. Well, I was -- Ms. Adduci and I were given 18 6(e) permission, Rule 6(e) permission to look at the 19 investigative file of the FBI on Mr. Watts and 20 Mr. Mohammed. So while I didn't look at a lot of the 21 court transcripts, I do recall that we looked at the 22 materials in the government's investigative files and 23 some of the undercover work that had been done, in which 24 Mohammed and Watts became implicated. So we did get</p>	<p style="text-align: center;">Page 45</p> <p>1 A. Probably on Roosevelt, but I just -- probably 2 on Roosevelt, but I don't -- it wasn't at our building, 3 I know that.</p> <p>4 <b>Q. So when you did the review for that one day 5 when you were there with Adduci, there were DEA law 6 enforcement records as well as FBI law enforcement 7 records?</b></p> <p>8 A. I can't -- I can't be sure that that's the 9 case. I know that it was the investigative file. I'm 10 sure there were 302s if we were at the FBI, but there 11 may not have been 6s, I don't know. I know that it was 12 the investigative file.</p> <p>13 <b>Q. When you were at the FBI building, did you 14 meet with any FBI agents to discuss the investigation 15 into Watts and his team?</b></p> <p>16 A. We were in the company of agents, because 17 you don't wander around the Bureau, but I don't recall 18 being in such conversations. I can't speak to 19 whether Nancy Adduci did, but I don't recall being in 20 such conversations.</p> <p>21 <b>Q. Did you ever make any efforts to 22 speak with any federal agents who investigated 23 Ron Watts, Kallatt Mohammed, or other members of 24 Watts's team?</b></p>

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<p style="text-align: center;">Page 46</p> <p>1       A. I don't recall doing that.</p> <p>2       <b>Q. Did you ever speak with any federal</b>  <b>3       prosecutors who were working with FBI agents or DEA</b>  <b>4       agents in terms of their -- any investigation that they</b>  <b>5       did involving Watts or his team?</b></p> <p>6       A. No, I don't believe.</p> <p>7       <b>Q. Why not?</b></p> <p>8       A. Well, because I took it on the premise that if</p> <p>9       Sergeant Watts and Mr. Mohammed were represented by</p> <p>10       counsel and they went in and pled guilty to serious</p> <p>11       federal felonies that involved jail time, that there</p> <p>12       wasn't a lot of doubt about whether or not the evidence</p> <p>13       was there to show that they were corrupt.</p> <p>14       <b>Q. Is it your understanding that Watts and</b>  <b>15       Mohammed pled guilty to framing innocent citizens for</b>  <b>16       drug crimes?</b></p> <p>17       A. No, but I've charged enough federal</p> <p>18       cases to know that the statute you pick isn't</p> <p>19       necessarily the one that includes all of the conduct</p> <p>20       you can prove.</p> <p>21       <b>Q. What do you know about the circumstances</b>  <b>22       regarding the theft of government funds that Watts and</b>  <b>23       Mohammed pled guilty to?</b></p> <p>24       MS. BUNTIC: Objection to form.</p>	<p style="text-align: center;">Page 48</p> <p>1       to drugs. It just doesn't work that way. But that's</p> <p>2       just my opinion. I don't impose it on others.</p> <p>3       BY MR. BAZAREK:</p> <p>4       <b>Q. So if you -- so your -- the way you look at</b>  <b>5       things, where -- is it -- if an individual commits and</b>  <b>6       pleads guilty to a criminal act for a criminal activity,</b>  <b>7       that's not the same -- strike that. Strike that</b>  <b>8       question.</b></p> <p>9       <b>Just, let's say -- I'll just make up a</b>  <p>10       <b>name, Officer Timothy Smith. He was a law enforcement</b>  <p>11       <b>officer 20 years ago, and he would arrest individuals</b>  <p>12       <b>for drug crimes, right? And people that -- like the</b>  <p>13       <b>people he had arrested had pled guilty in front of a</b>  <p>14       <b>judge. They were standing next to their attorney when</b>  <p>15       <b>they pled guilty. And then 20 years goes by and, you</b>  <p>16       <b>know, Officer Smith was shaking down tavern owners for</b>  <p>17       <b>protection or, you know, you can be open after hours.</b>  <p>18       <b>And ultimately Officer Smith, he gets caught. He pleads</b>  <p>19       <b>guilty to that offense, right, shaking down a tavern</b>  <p>20       <b>owner.</b></p> <p>21       <b>So your view is, all of those arrests that</b>  <p>22       <b>he made for those drug crimes 20 years earlier, those</b>  <p>23       <b>are all -- those should all be vacated?</b></p> <p>24       MR. TEPFER: Objection.</p> </p></p></p></p></p></p></p></p></p></p></p></p></p>
<p style="text-align: center;">Page 47</p> <p>1       BY THE WITNESS:</p> <p>2       A. Whatever I knew, I don't -- I can't recall</p> <p>3       today. I don't recall.</p> <p>4       BY MR. BAZAREK:</p> <p>5       <b>Q. Did you ever know, or you're just guessing?</b></p> <p>6       MS. BUNTIC: Objection to form.</p> <p>7       BY THE WITNESS:</p> <p>8       A. I'm not guessing that I can't recall today</p> <p>9       what I knew at one point.</p> <p>10       BY MR. BAZAREK:</p> <p>11       <b>Q. So if, in fact, Watts and Mohammed pled</b>  <p>12       <b>guilty to receiving funds from a government informant</b>  <p>13       <b>that was acting as a drug courier, what does that have</b>  <p>14       <b>to do with arrests that were being made years earlier at</b>  <p>15       <b>Ida B. Wells?</b></p> <p>16       MR. TEPFER: Objection to form.</p> <p>17       BY THE WITNESS:</p> <p>18       A. Well, I -- I'm sure that that's a matter that</p> <p>19       everybody is going to arm wrestle about in this</p> <p>20       litigation. My own reaction is that you cannot be a</p> <p>21       little dirty and be a cop. You can't stand up in court</p> <p>22       and swear to tell the truth and say that a conviction is</p> <p>23       righteous when yourself are engaged in criminal</p> <p>24       misconduct that constitutes a federal felony in relation</p> </p></p></p></p>	<p style="text-align: center;">Page 49</p> <p>1       MS. BUNTIC: Objection to form,  <p>2       mischaracterizes earlier testimony.</p> <p>3       MR. TEPFER: I join in all that and incomplete</p> <p>4       hypothetical. Go ahead.</p> <p>5       BY THE WITNESS:</p> <p>6       A. Well, first, I don't think it's appropriate to</p> <p>7       say what my view is, because you've just asked me the</p> <p>8       question, and I haven't expressed a view.</p> <p>9       My view is that every case has to be</p> <p>10       evaluated on its own facts. And so in your</p> <p>11       hypothetical, hypothetically, if the defendants arrested</p> <p>12       by Officer Smith 20 years ago for 20 years said</p> <p>13       absolutely nothing about Officer Smith's behavior being</p> <p>14       anything other than good police work, and only after</p> <p>15       20 years did they step forward when they found out he'd</p> <p>16       been convicted of something else, that would a factor I</p> <p>17       would consider militating against their request for</p> <p>18       relief.</p> <p>19       But I can just say that in any case, and I</p> <p>20       hope in all cases, it was a matter of evaluating all of</p> <p>21       the relevant facts in the case, including passages of</p> <p>22       time, including all of the other circumstances that are</p> <p>23       present in every case. You just take them as you see</p> <p>24       them and you try to make the best judgment on the</p> </p>

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<p>1 evidence that's in front of you.  2 BY MR. BAZAREK:  3     <b>Q. Well, what if the individuals that are seeking</b>  4     <b>to have their convictions vacated are falsifying their</b>  5     <b>affidavits, what do you do with that?</b>  6         MR. TEPFER: Objection to form, speculation.  7         Go ahead.  8     BY THE WITNESS:  9         A. A false affidavit is a problem. It's  10         something that when that happens, it skews the  11         fact-finding system. So it's just like anything else.  12         You can ask me to hold up my hand and swear to tell the  13         truth. You just have to have some trust that it's the  14         truth. But you have mechanisms to test whether or not  15         there's truth being told. So, you know, if you're  16         saying should we rely exclusively and solely on an  17         affidavit, that's strikes me as a challenging  18         proposition.  19     BY MR. BAZAREK:  20         <b>Q. Right. But would you agree in these Watts</b>  21         <b>cases, affidavits were being presented to the Conviction</b>  22         <b>Integrity Unit by subjects who were seeking to have</b>  23         <b>their convictions vacated?</b>  24         A. That happened, yes.</p>	<p>1 something," can you rephrase your question?  2     <b>Q. Yeah. Yeah. So during the time when you were</b>  3     <b>the director of the Conviction Integrity Unit, the</b>  4     <b>presiding judge was Leroy Martin; is that correct?</b>  5         A. Yes, he was.  6         <b>Q. Okay. And LeRoy Martin was hearing these</b>  7         <b>matters in terms of the petitions to vacate the</b>  8         <b>convictions in the nonleading cases, correct?</b>  9         A. Correct.  10         <b>Q. And then he was also the same judge that was</b>  11         <b>reviewing petitions for certificates of innocence after</b>  12         <b>a conviction had been vacated, correct?</b>  13         A. I think that is correct, yes.  14         <b>Q. Okay. So if, in fact, a false affidavit was</b>  15         <b>being supplied to the Conviction Integrity Unit, whether</b>  16         <b>it was by Mr. Tepfer or Mr. Flaxman, is that something</b>  17         <b>that if you knew it contained false information you</b>  18         <b>would have brought it to the attention of Judge Martin?</b>  19         A. Well, let me answer this. If I thought  20         that -- if I knew that there was a false affidavit, I  21         doubt that I would have wanted to take that particular  22         petitioner up in front of Judge Martin. I'm not  23         interested in having Judge Martin adjudicate whether it  24         was false. If I thought it was false, then that's going</p>
<p style="text-align: center;">Page 51</p> <p>1     <b>Q. Right. And you've already testified that you</b>  2     <b>yourself didn't do any investigation into the veracity</b>  3     <b>of these affidavits, correct?</b>  4         A. Correct.  5         <b>Q. Would you knowingly agree that a conviction,</b>  6         <b>be vacated if false information was used in the</b>  7         <b>affidavit seeking to vacate that conviction?</b>  8         MR. TEPFER: Objection to form. Go ahead.  9         You can go first.  10         MS. BUNTIC: Objection to form.  11         MR. TEPFER: And incomplete hypothetical,  12         otherwise join.  13     BY THE WITNESS:  14         A. Well, again, I don't know that I considered  15         the affidavits to be the linchpin. If someone made it  16         known to me that an affidavit was false, that would be a  17         very serious issue, very serious problem. And I  18         would -- it would be a factor that would militate  19         against giving that person relief.  20     BY MR. BAZAREK:  21         <b>Q. Is that something that you would want to</b>  22         <b>report to, say, at the time Judge Martin? He would have</b>  23         <b>been reviewing these cases in Watts?</b>  24         A. Okay, let me get some pronouns. "That</p>	<p style="text-align: center;">Page 53</p> <p>1         to knock the pins out from under the idea that we should  2         approach the court seeking this relief.  3         So at a minimum, if I thought -- if  4         someone showed me evidence that it was a false  5         affidavit, I would have said then pull this guy back.  6         You can't go forward on this guy until we figure out why  7         this is a lie and what that means, but it's a big, big  8         problem, and we're not going anywhere on this case until  9         that big, big problem is resolved satisfactorily. So  10         I'm not going to take it to Judge Martin and say can you  11         see this?  12         <b>Q. So you'd just reject the application if you</b>  13         <b>learned that false information is being used to support</b>  14         <b>the --</b>  15         A. Well --  16         <b>Q. -- the vacate?</b>  17         A. Back to your hypothetical. I wouldn't take it  18         to Judge Martin. It would be a big negative against  19         that guy's petition, and it may result in it being  20         rejected, but it certainly would be enough for me to say  21         we're not taking this guy to Judge Martin and asking him  22         for relief.  23         <b>Q. Well, what if the petitioners weren't the Cook</b>  24         <b>County State's Attorney but rather the attorneys</b></p>

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<p>1 representing the individuals seeking relief? They  2 present a petition that contains false information,  3 present it to Judge Martin, and you're aware that that  4 affidavit contains false information. So you're brought  5 into the courtroom now by the plaintiff's position.  6 What are you going to do?</p> <p>7 MR. TEPFER: Objection to form, speculation.  8 BY THE WITNESS:</p> <p>9 A. Well, if I have unalterable proof, if I have  10 satisfactory evidence that this is a false affidavit,  11 I'm going to go to the attorney in particular, unless I  12 have grave questions about the attorney's integrity, I'm  13 going to go to the attorney and say, look, I have it on  14 demonstrative proof that this affidavit is false. Do  15 yourself and your client and me a favor and pull this  16 sucker and don't go forward on this, because nothing  17 good can come from this for any of us.</p> <p>18 And I would expect that that attorney  19 would agree that that was appropriate to move once I  20 demonstrated that the affidavit was false.</p> <p>21 MR. BAZAREK: Let's -- why don't we take a  22 ten-minute break?</p> <p>23 THE VIDEOGRAPHER: Okay. The time is  24 11:16 a.m. and we're now off the record.</p>	<p>1 A. It wasn't under oath, though.  2 MR. TEPFER: Objection.  3 BY MR. BAZAREK:  4 Q. The -- but I don't know if you remember this,  5 but in the interview you said something like the way you  6 wanted to review cases, you want to review them one at a  7 time, not a group en masse as was happening with the  8 cases Mr. Tepfer was bringing to you involving the Watts  9 cases. Do you remember talking about that?</p> <p>10 MR. TEPFER: Okay.  11 MS. BUNTIC: Objection to form and  12 mischaracterizes earlier testimony.  13 MR. TEPFER: Agreed, join.  14 BY THE WITNESS:  15 A. Yeah, I don't remember saying things of that  16 sort.  17 BY MR. BAZAREK:  18 Q. Yeah, I'm paraphrasing.  19 A. Okay.  20 MS. BUNTIC: Objection.  21 BY MR. BAZAREK:  22 Q. But where ordinarily do you review cases  23 individually versus someone brings a petition with 15  24 names on it to have their convictions vacated?</p>
<p style="text-align: center;">Page 55</p> <p>1 (Recess.)  2 THE VIDEOGRAPHER: The time is 11:29 a.m. and  3 we're back on the record.  4 BY MR. BAZAREK:  5 Q. Mr. Rotert, I know we've talked about this in  6 a different matter, in the Arthur Brown matter, but you  7 were interviewed by an author, Steve Bogira?</p> <p>8 A. Yes.  9 Q. On "The Hustle of Kim Foxx"?</p> <p>10 A. Yes.  11 Q. And do you recall that you did discuss with  12 him at least some aspects of the Watts cases? Do you  13 recall doing that or --</p> <p>14 A. I believe that happened. I don't recall it,  15 but I know that there are quotes that -- that show that  16 that happened, yeah.</p> <p>17 Q. Right. And then, in fact, you mentioned  18 Mr. Tepfer in your discussions with Mr. Bogira. I do  19 remember that?</p> <p>20 A. Did I --</p> <p>21 Q. You had said he was a fine attorney or a good  22 attorney, something like that.</p> <p>23 A. Did I say that?</p> <p>24 Q. Something like that.</p>	<p style="text-align: center;">Page 57</p> <p>1 A. Yeah, I think you could say that the great  2 majority of cases that are brought to CIU are brought by  3 individuals; and in particular, CR number prosecutions.  4 So I would say it's true that the Watts cases were  5 different from the sense that you had groups of  6 petitioners.  7 Q. And is that something that you ever had to  8 address before the Watts cases?</p> <p>9 A. I think the Watts cases were unique in that  10 aspect in how they were presented. They were unique.  11 Q. Well, was it because petitions were filed that  12 made the Conviction Integrity Unit come into court and  13 have to do their work quicker? Is that what happened  14 here?</p> <p>15 A. I don't -- I don't think that's what I meant  16 to say if that's what you heard me say. My point was  17 that in terms of considering a case where there were  18 several different petitioners with several different  19 CR numbers, but there was a common factual allegation,  20 that was different than the usual case that was brought  21 to us where it was an individual, an individual  22 prosecution and an individual claim of innocence. So  23 those -- that's what distinguished the Watts cases.  24 Q. The fact that you had the same attorneys</p>

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<p style="text-align: center;">Page 58</p> <p>1 coming to you on these cases with affidavits of various 2 individuals seeking to have their convictions vacated in 3 the Watts cases, did that make you give more scrutiny to 4 those affidavits since they were coming from numerous 5 individuals that shared the same counsel?</p> <p>6 MS. BUNTIC: Objection to form. 7 MR. TEPFER: Join.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Well, I don't recall ever having any concerns 10 about whether Mr. Tepfer or Mr. Starr or Mr. Flaxman 11 were presenting affidavits that they didn't believe were 12 true.</p> <p>13 BY MR. BAZAREK:</p> <p>14 Q. Did you ever speak to any of the prosecutors 15 who prosecuted the individuals that were seeking relief 16 because of their arrests made by Watts' team members?</p> <p>17 A. I did not speak to any assistants about Watts' 18 case prosecutions. I did not.</p> <p>19 Q. Did you direct any of your subordinates at the 20 Conviction Integrity Unit to do so?</p> <p>21 A. I didn't direct anyone to do so.</p> <p>22 Q. To your knowledge, did any of the members of 23 the Conviction Integrity Unit actually speak to the 24 Cook County state's attorneys that prosecuted the</p>	<p style="text-align: center;">Page 60</p> <p>1 Q. And that it's knowingly given and 2 intelligently given, correct? 3 A. That's right. 4 Q. So when someone is saying that they 5 were framed, like they are in these Watts cases, 6 and then they're pleading guilty in front of a judge 7 who's making a determination that a plea is voluntary, 8 it's made knowingly, intelligently, isn't there a 9 conflict there?</p> <p>10 MR. TEPFER: Objection to form, speculation. 11 MS. BUNTIC: Join.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I don't -- I don't see a conflict. I'm not 14 sure what's conflicting with what there.</p> <p>15 BY MR. BAZAREK:</p> <p>16 Q. Well, here. You've -- the affidavits -- 17 will you agree there's a commonality in terms 18 of the affidavits that the Conviction Integrity Unit 19 was reviewing in matters pertaining to Watts?</p> <p>20 MS. BUNTIC: Objection to form. 21 MR. TEPFER: Join.</p> <p>22 BY THE WITNESS:</p> <p>23 A. I think it's my recollection that there was a 24 common theme of the affidavits, yes.</p>
<p style="text-align: center;">Page 59</p> <p>1 individuals who were asking to have their convictions 2 vacated due to an arrest by the Watts' team?</p> <p>3 A. Well, I don't recall specifically discussing 4 that with Nancy Adduci. I can't speak to whether or not 5 she spoke to any of the line assistants in those cases.</p> <p>6 Q. Okay. Did you -- and strike that.</p> <p>7 Would you agree that most of the 8 individuals in the Watts cases that were seeking relief 9 actually pled guilty before a Cook County judge?</p> <p>10 A. That's my understanding.</p> <p>11 Q. And did you ever speak to any of the judges 12 that took the pleas of guilty and that is related to the 13 Watts cases?</p> <p>14 A. If I spoke to any of them, I didn't speak to 15 them about the Watts' people pleading guilty.</p> <p>16 Q. Why wouldn't you?</p> <p>17 A. Approaching a judge about a guilty plea that 18 the judge took that had no apparent discrepancies in 19 terms of the judge doing all of the things that the rule 20 requires is not something I did.</p> <p>21 Q. Right. But the judge in a plea, he's making a 22 determination that the plea is, in fact, voluntarily 23 given, right?</p> <p>24 A. Right.</p>	<p style="text-align: center;">Page 61</p> <p>1 BY MR. BAZAREK:</p> <p>2 Q. Okay. And what's your understanding of what 3 the common theme was?</p> <p>4 A. That the arrests were done by Sergeant Watts 5 and Officer Mohammed and others and that the arrest 6 reports and charges aren't correct in reflecting what 7 actually happened.</p> <p>8 Q. Well, the individuals are saying they didn't 9 have any drugs with them that day. Would you agree with 10 that?</p> <p>11 MS. BUNTIC: Objection. 12 MR. TEPFER: Objection, form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. Yeah, I don't know that it was ever -- I don't 15 recall it being as stark as "I didn't have any drugs." 16 I think there were circumstances where people said, "I 17 was loaded up. The report said that I had way more 18 drugs than I ever had," like distribution quantity drugs 19 and things like that. There may have been and probably 20 were people who said "I just didn't have any drugs on me 21 at the time." So it wasn't uniform in that aspect.</p> <p>22 BY MR. BAZAREK:</p> <p>23 Q. And also, again, just generally speaking about 24 the affidavits and your understanding, for the most part</p>

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<p>1 the individuals say, "Well, even though I was not 2 guilty, I pled guilty because my attorney told me to 3 plead guilty."</p> <p>4 MR. TEPFER: Objection.</p> <p>5 BY MR. BAZAREK:</p> <p>6 Q. Do you recall reading affidavits along those 7 lines?</p> <p>8 A. I do.</p> <p>9 Q. And so I want to go back to questions about 10 the fact that you did not speak to any of the judges who 11 took the plea. Did anything prevent from you doing 12 that?</p> <p>13 A. No.</p> <p>14 Q. Did anything prevent any member of the 15 Conviction Integrity Unit from speaking to any of the 16 judges who took the pleas of these individuals who were 17 seeking relief in the Watts cases?</p> <p>18 A. No. Although I would have hoped that any 19 assistants in that unit would have come to me and we 20 would have discussed an approach to a judge under those 21 circumstances. And nobody ever came to me and made that 22 suggestion.</p> <p>23 Q. So is the Conviction Integrity Unit, are they 24 second-guessing the determinations of the Cook County</p>	<p>1 are saying, yeah, I was framed. I wasn't -- I wasn't 2 guilty. My lawyer just told me, you know, to take the 3 plea. No one is going to believe you, that type of 4 thing.</p> <p>5 How do you -- how do you make -- how do 6 you make a decision that one's -- one way is a right way 7 to go or the decision that was made previously was the 8 right decision?</p> <p>9 MS. BUNTIC: Objection to form and foundation, 10 incomplete hypothetical.</p> <p>11 MR. TEPFER: Speculation. Otherwise join.</p> <p>12 BY THE WITNESS:</p> <p>13 A. You know, in -- in 40-plus years of doing 14 criminal work, I have seen, I'm sure, hundreds, perhaps 15 thousands of motions or suggestions that people wanted 16 to withdraw guilty pleas. And I know that both the 17 Illinois Supreme Court Rule and the Federal Rule of 18 Criminal Procedure include provisions that judges read 19 to defendants about if you have buyer's remorse on your 20 plea, you know, there's things you have to do and you 21 have time to do it.</p> <p>22 A judge is inhibited, I guess, by what the 23 parties represent to the court. A court has no way of 24 knowing, for example, that a defendant told his lawyer</p>
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<p>1 judge who took the pleas of guilty of these individuals 2 in the Watts cases?</p> <p>3 MS. BUNTIC: Objection to form.</p> <p>4 MR. TEPFER: Join.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I have the impression that Cook County judges 7 often thought Conviction Integrity was second-guessing 8 them.</p> <p>9 BY MR. BAZAREK:</p> <p>10 Q. But how do you -- how -- strike that.</p> <p>11 How do you know which one is right?</p> <p>12 MR. TEPFER: Objection to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. You're going to need to give that a little 15 more timber.</p> <p>16 BY MR. BAZAREK:</p> <p>17 Q. So you have a judge who has a court hearing, 18 and he's making a determination that the plea of guilty 19 is -- is voluntary, intelligently given, it's made 20 knowingly, and an individual is admitting to a drug 21 crime, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And so then years later, you have affidavits 24 being submitted to Conviction Integrity Unit where some</p>	<p>1 "that cop framed me," or that the lawyer said to the 2 defendant, "It's your word against a sworn police 3 officer. How do you think that's going down?"</p> <p>4 A judge only knows that a represented 5 individual has come in and said that he or she's 6 prepared to enter a plea of guilty, and the judge does 7 all of the right things under the rules to make sure 8 that they, to the best of their ability, have gotten a 9 plea that is knowing and voluntary, as you said.</p> <p>10 But it is my experience that lots of 11 people plead guilty and then later maintain they weren't 12 guilty or that there was another fundamental problem. 13 So that fact by itself was just another one of the many 14 circumstances you evaluate when you're looking at a case 15 to try and make a judgment.</p> <p>16 Q. In these affidavits where you had individuals 17 that were seeking to have their convictions vacated 18 regarding the arrests made by Watts's team, did you ever 19 speak to any of the criminal defense attorneys that were 20 with the individual when they, in fact, pled guilty 21 before a Cook County judge?</p> <p>22 A. I did not.</p> <p>23 Q. Did you ever direct any your staff to do so?</p> <p>24 A. I don't recall directing that it be done. But</p>

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<p>1 I had a tremendous amount of confidence in 2 Nancy Adduci's acumen and I -- so no, I didn't direct 3 that it be done.</p> <p>4 <b>Q. And why didn't you?</b></p> <p>5 A. Because I had a lot of confidence that 6 Nancy Adduci was going to look at every individual case, 7 and where there were avenues that should be pursued to 8 find out if there were any issues about credibility or 9 factual accuracy that she would pursue the right 10 avenues.</p> <p>11 <b>Q. To your knowledge, did Nancy Adduci or any 12 member of the Conviction Integrity Unit ever reach out 13 directly to any of the criminal defense attorneys that 14 would have represented the individuals seeking relief 15 because they had been arrested by Watts's team?</b></p> <p>16 A. I don't know --</p> <p>17 MR. TEPFER: Objection to form.</p> <p>18 MS. BUNTIC: Join.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I don't know one way or the other.</p> <p>21 BY MR. BAZAREK:</p> <p>22 <b>Q. Did Adduci ever come to you and say, hey, I'm 23 going to speak to the criminal defense attorneys for all 24 of these individuals that are seeking to have their</b></p>	<p>1 A. My understanding was that counsel, Mr. Tepfer, 2 Mr. Starr, Mr. Flaxman, were presenting cases in the 3 form of affidavits. I believe that they were filing 4 petitions for relief in court. I can't speak to whether 5 that was universally the case, but I believe that there 6 were court filings as well.</p> <p>7 When an individual's claim was brought in, 8 and I believe many of them were in the unit when I took 9 over the director's job, my understanding was that Nancy 10 Adduci was going to assemble as much of the paperwork as 11 could be located, which would have included paperwork by 12 the police officers, all the CPD papers, the reports, 13 and the supps and things like that. Everything that she 14 could find from the State's Attorney's office, files to 15 the extent there were any. I believe she would be 16 looking for transcripts. As you indicated these would 17 have included plea of guilty transcripts and so forth.</p> <p>18 So my understanding was that she was 19 making an effort to consolidate and aggregate as much 20 documentary material as she could. She was then 21 preparing a spreadsheet that identified various fields 22 of data or information that she was trying to break down 23 into component parties.</p> <p>24 <b>Q. I think she called it a cheat sheet. Is that</b></p>
<p>1 <b>convictions vacated?</b></p> <p>2 MR. HENRETTY: I'm going to object and 3 instruct you not to answer based on the ruling of 4 the Court on page 47, that you can speak generally 5 about this, but not get into the underlying 6 analysis. And that is underlying analysis.</p> <p>7 BY THE WITNESS:</p> <p>8 A. I don't think I'm allowed to answer.</p> <p>9 BY MR. BAZAREK:</p> <p>10 <b>Q. I don't know if I asked you this question 11 before, did you ever speak directly with any of the 12 prosecutors in the Cook County State's Attorney's office 13 who prosecuted the individuals in -- that were convicted 14 of drug crimes in the Watts cases -- in matters related 15 to the Watts cases?</b></p> <p>16 MS. BUNTIC: Objection, asked and answered.</p> <p>17 MR. TEPFER: Join.</p> <p>18 BY THE WITNESS:</p> <p>19 A. You did ask it before, and I will stand on my 20 previous answer.</p> <p>21 BY MR. BAZAREK:</p> <p>22 <b>Q. Could you just describe further just the 23 procedures that were in place for review of the Watts 24 cases while you were the director, how it worked?</b></p>	<p>1 <b>what you called it, or is that what Nancy called it?</b></p> <p>2 MR. BAZAREK: I'm sorry. Did you have an 3 objection?</p> <p>4 MS. BUNTIC: Yes. I'm just going to instruct 5 you not to -- we're talking about procedure. 6 Just --</p> <p>7 THE WITNESS: Yeah.</p> <p>8 MS. BUNTIC: -- to not go into detail about 9 what was said to one another and was written.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 MR. BAZAREK: Well, I can tell you it's 12 already been produced, what Adduci referred to as a 13 cheat sheet that has -- I'm going to show it as an 14 exhibit at the deposition.</p> <p>15 MS. BUNTIC: And, you know, once you show it 16 and once we confirm that it has been produced, then 17 we can answer questions about it.</p> <p>18 BY MR. BAZAREK:</p> <p>19 <b>Q. Go ahead. You can continue talking about 20 procedure, how it went down.</b></p> <p>21 A. So all of the data would be aggregated. It 22 would be compared and evaluated based on all kinds of 23 circumstances. And at one juncture sometime in the late 24 fall or winter of '17, I believe, I was told by Nancy</p>

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<p>1 that she had a group of, I think, 15 individuals whom 2 she felt had -- the materials were significant enough 3 that they should have their relief granted. And so we 4 went forward at that time. I believe that as a general 5 proposition that what I just described was replicated in 6 other circumstances with other individuals; in other 7 words, they sort of came in tranches, if you will. And 8 that's what I -- that's my answer.</p> <p>9       <b>Q. So Nancy Adduci, she would come to you with</b> 10      <b>the recommendations -- what her recommendation -- what</b> 11      <b>her recommendations were in terms of whether or not the</b> 12      <b>Cook County State's Attorney's office should agree to</b> 13      <b>vacate the convictions?</b></p> <p>14      A. Not me solely, but me inclusively, yes.</p> <p>15      <b>Q. Okay. So -- and I know you're her -- in her</b> 16      <b>chain of command. You're her direct supervisor,</b> 17      <b>correct?</b></p> <p>18      A. Correct.</p> <p>19      <b>Q. And I know there's other individuals involved?</b></p> <p>20      A. Right.</p> <p>21      <b>Q. You've got April Perry, right, who was -- what</b> 22      <b>was her role in this -- in these Watts cases?</b></p> <p>23      A. April at that time was the Chief Deputy 24      State's Attorney and was my direct report.</p>	<p>1 individualized.</p> <p>2       <b>Q. Meaning that so Nancy could have been talking</b> 3       <b>to Magats separately or Sussman separately?</b></p> <p>4      A. Yes.</p> <p>5      <b>Q. Okay. So I thought conviction integrity,</b> 6      <b>they're a standalone. They're not involved in, you</b> 7      <b>know, the criminal prosecutions where like Magats would</b> 8      <b>have been the chief --</b></p> <p>9      A. Correct.</p> <p>10     <b>Q. -- over that unit. So why would Magats be</b> 11     <b>involved in any of this?</b></p> <p>12     A. Well, I'm not sure to what extent, if at all, 13     he was involved in the decision-making process. I 14     suspect or I recall that it was more on the order of 15     need to know that these things are out there.</p> <p>16     <b>Q. Okay. So just, hey, this is what's going to</b> 17     <b>happen; we're going to go into court and vacate</b> 18     <b>convictions-type thing?</b></p> <p>19     MS. BUNTIC: Objection to form.</p> <p>20     BY THE WITNESS:</p> <p>21     A. I mean, I think that the relationship between 22     the police department and the State's Attorney office is 23     a tremendously significant one. And so the first 24     assistant wants to be aware of facts that are relevant</p>
<p>1       <b>Q. Okay. So she was your -- in your chain of</b> 2       <b>command?</b></p> <p>3      A. Correct.</p> <p>4      <b>Q. Okay. So Adduci is making a recommendation.</b> 5      <b>Does it go to you first for approval or disapproval, and</b> 6      <b>then it goes to Perry? Or how does it work?</b></p> <p>7      A. I'm not sure I recall with specificity whether 8      I saw the recommendations from Nancy before others did. 9      I just don't recall.</p> <p>10     <b>Q. Okay.</b></p> <p>11     A. I don't recall that it was a situation where 12     if I didn't say yes, it didn't get to the next level. I 13     think it was more a circumstance where I was involved in 14     the office review of Nancy's recommendations.</p> <p>15     <b>Q. Okay. And then in terms of how it was</b> 16     <b>reviewed, were there meetings? Is it just done</b> 17     <b>electronically via emails, or how is that done?</b></p> <p>18     A. What I recall is that I was having 19     conversations with Nancy about these topics. I believe 20     that she was having conversations with Eric Sussman and 21     Joe Magats about these topics and probably April Perry.</p> <p>22     I don't recall sort of an "all hands-on 23     deck" meeting where all of these people were at the same 24     table at the same time. It was, I think, more</p>	<p>1      to that relationship.</p> <p>2      BY MR. BAZAREK:</p> <p>3      <b>Q. Right, but Sussman was the first assistant?</b></p> <p>4      A. Yes.</p> <p>5      <b>Q. At least when you first came to conviction</b> 6      <b>integrity?</b></p> <p>7      A. Yes.</p> <p>8      <b>Q. Did -- at a certain point did it change with</b> 9      <b>Magats when you were there, his role?</b></p> <p>10     A. Eric left the office while I was in conviction 11     integrity. And Joe Magats became the first assistant --</p> <p>12     <b>Q. Okay.</b></p> <p>13     A. -- during my time at conviction integrity.</p> <p>14     <b>Q. Okay, got it. And I know -- have you seen</b> 15     <b>that letter from Magats to the general counsel of CPD</b> 16     <b>about, hey, we're not going to call these officers as</b> 17     <b>witness? Do you recall any of that?</b></p> <p>18     A. Let me say that one of the materials -- I may 19     not have mentioned this, but you asked me did I review 20     something. I believe I saw an email reflecting that 21     that letter would be sent. I don't recall -- at the 22     time I don't think I saw the letter. I knew of its 23     existence. I don't know that I've ever seen the letter.</p> <p>24     <b>Q. Okay. So did you have any role in composing</b></p>

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<p>1       <b>that letter?</b></p> <p>2       A. No, I did not.</p> <p>3       <b>Q. Okay. And then you think you saw – just when</b>  <p>4       <b>you were reviewing this case, you did see an email</b>  <p>5       <b>correspondence involving the communication from Magats</b>  <p>6       <b>to the general counsel of CPD?</b></p> <p>7       MS. BUNTIC: Objection to form.</p> <p>8       BY THE WITNESS:</p> <p>9       A. I looked at an email in which I was copied  10      that referenced the fact that this letter was being  11      composed or sent. Something about -- something about  12      the letter. I was aware contemporaneously, not just  13      from that email, but I was aware that that letter was  14      going out, and I saw a document to that effect on  15      Saturday.</p> <p>16       <b>Q. Okay. I know I didn't ask you this question,</b>  <p>17       <b>but in terms of the procedures that you implemented when</b>  <p>18       <b>you were the director of conviction integrity, did the</b>  <p>19       <b>procedures change during the time period that you were</b>  <p>20       <b>the director?</b></p> <p>21       A. No, not that I'm aware of.</p> <p>22       <b>Q. Okay. And so then in terms of you starting</b>  <p>23       <b>your job on July 1st, 2017, until you left in early</b>  <p>24       <b>June of 2019 –</b></p> </p></p></p></p></p></p></p></p></p>	<p>1       <b>Q. Labor Day 2017.</b></p> <p>2       A. And we started to then receive a significant  3       amount of mail from the IDOC. And it was off to the  4       races.</p> <p>5       <b>Q. To your knowledge, was Mr. Tepfer reaching out</b>  <p>6       <b>to you directly before those procedures were</b>  <p>7       <b>implemented?</b></p> <p>8       A. I don't think so. Because I don't know that  9       it was -- I don't know how widely it was known that I  10      was there. Nancy and I had to kind of do a little  11      legwork to go out and introduce me to people at  12      Northwestern, people in the PDs office, people at the  13      university.</p> <p>14       I don't recall that Mr. Tepfer reached out  15      to me, you know, sort of independently of whatever  16      conversations we had when the cases were under  17      evaluation.</p> <p>18       <b>Q. When Mr. Tepfer would communicate with you in</b>  <p>19       <b>writing, would he email you directly, or would he cc</b>  <p>20       <b>Adduci on the communications, or any other members of</b>  <p>21       <b>the Conviction Integrity Unit?</b></p> <p>22       MR. TEPFER: Objection to form.</p> <p>23       BY THE WITNESS:</p> <p>24       A. You know, I don't remember --</p> </p></p></p></p></p>
<p style="text-align: center;">Page 75</p> <p>1       A. '19.</p> <p>2       <b>Q. -- when were those procedures implemented?</b></p> <p>3       A. It took a couple of months, a few months.  4       When I got the job, I met with the staff, and I sort of  5       became acquainted with the reality of the situation.  6       One of the things I had said when I was offered the job  7       was that I would take it if I could work in the Loop.  8       And so on my first day, they told me my office was at  9       26th Street. And so then I had a meeting with my staff  10      and asked them where are the written protocols, and they  11      said, you don't have any written protocols.</p> <p>12       So my first couple of months were sort of  13      getting my sea legs under me, if you will. And then I  14      started the process of trying to draft this policy and  15      so forth. My biggest focus at the time was getting this  16      thing promulgated and getting these forms into the  17      institution.</p> <p>18       The work that Nancy was doing on  19      the Watts cases was on a parallel track, but I was  20      asking her and she was accepting the task of being the  21      primary worker on the Watts matters. So when you say  22      when were those policies implemented, I think we  23      probably got that thing up on the website by around  24      Labor Day. And --</p>	<p style="text-align: center;">Page 77</p> <p>1       MS. BUNTIC: Join.</p> <p>2       BY THE WITNESS:</p> <p>3       A. -- a great deal of -- I'm more reliant on  4       email than most of the people at the State's Attorney's  5       office were.</p> <p>6       I don't recall having a great deal of  7       email communication with Mr. Tepfer. I wouldn't be  8       surprised if he was having email communications directly  9       with Ms. Adduci without copying me, and that wouldn't  10      have bothered me. As a matter of decorum, he may have  11      copied me, which would have been fine, too. But I don't  12      recall Mr. Testify and I have a very active  13      communication channel.</p> <p>14       BY MR. BAZAREK:</p> <p>15       <b>Q. Okay. I want to go back. We were talking</b>  <p>16       <b>about the procedures in terms of reviewing a case.</b>  <p>17       <b>You've got, you know, Adduci, she's making</b>  <p>18       <b>recommendations. She'd be communicating with you. She</b>  <p>19       <b>could be communicating with Sussman or Magats when he</b>  <p>20       <b>was the -- when he became the first assistant general</b>  <p>21       <b>counsel. Do I have that right?</b></p> <p>22       I'm sorry. Strike that?</p> <p>23       When he became the first Assistant State's  24       Attorney?</p> </p></p></p></p></p></p>

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<p>1       A. Yes.</p> <p>2       <b>Q. Okay. And then how was ultimately the</b>  <b>3       decision – strike that.</b></p> <p>4       <b>Where did it go from there? Okay. I</b>    5       <b>understand you've got Adduci. She's giving you</b>    6       <b>recommendations. She's talking with Magats or she's</b>    7       <b>talking with Sussman. Does it go further?</b></p> <p>8       A. You know, I'll not sure I'm competent to give    9       you a lot help with that, just because we essentially    10      would try to inform the first assistant and the chief    11      deputy about everything that they would want to know.</p> <p>12      <b>Q. And when you say "chief deputy," were you</b>    13      <b>referring to April Perry?</b></p> <p>14      A. Perry.</p> <p>15      <b>Q. Okay.</b></p> <p>16      A. And then we would receive -- what they would    17      then do with that and how they would interact with the    18      State's Attorney and so forth was outside of my    19      presence. I have no idea. But at some point, one of    20      them, Eric or April, would say, All right, here's what's    21      going to happen, here's what's been decided, or whatever    22      it might be. But how that happened, I can't speak to    23      that.</p> <p>24      <b>Q. Okay. So you're not in the room when Kim Foxx</b></p>	<p>1       <b>BY MR. BAZAREK:</b></p> <p>2       <b>Q. I'm talking about after you left the office.</b></p> <p>3       A. After I left the office. I mean, I -- I'm a    4       pheasant hunter. I go out to a ranch in the middle of    5       South Dakota. Some -- a rancher out in South Dakota    6       that's a real dear friend of mine saw me on the news and    7       wanted to talk about that.</p> <p>8       <b>Q. The Watts cases?</b></p> <p>9       A. The Watts cases. So I'm sure I told him the    10      basics of what happened there. That's one occasion that    11      I recall. I don't recall any other occasion where that    12      came up in any conversation or -- I have better war    13      stories than this, so I...</p> <p>14      <b>Q. Since you left the Cook County State's</b>    15      <b>Attorney's office, have you had any interactions with</b>    16      <b>Eric Sussman?</b></p> <p>17      A. Social. I see -- Eric and I are friendly. I    18      see him at, you know, downtown functions. I saw him the    19      other night at an Inn of Court meeting.</p> <p>20      <b>Q. Did he talk about the deposition that he gave</b>    21      <b>in the Watts cases?</b></p> <p>22      A. He congratulated me that I'm going to have the    23      same experience as he had.</p> <p>24      <b>Q. So what was -- and I get it, you're friends,</b></p>
<p style="text-align: center;">Page 79</p> <p>1       <b>is making the final decision, is that your testimony?</b></p> <p>2       MS. BUNTIC: Objection to form.</p> <p>3       MR. TEPFER: Join.</p> <p>4       <b>BY THE WITNESS:</b></p> <p>5       A. That is correct.</p> <p>6       <b>BY MR. BAZAREK:</b></p> <p>7       <b>Q. During the time when Kim Foxx was making</b>    8       <b>determinations on these Watts cases, was she under</b>    9       <b>investigation by Dan Webb regarding matters related to</b>    10      <b>Jussie Smollett?</b></p> <p>11      MS. BUNTIC: Objection to form, relevance.</p> <p>12      <b>BY THE WITNESS:</b></p> <p>13      A. I'm reasonably confident that the Smollett    14      stuff arose after at least my work on -- in    15      Watts-related cases.</p> <p>16      <b>BY MR. BAZAREK:</b></p> <p>17      <b>Q. I know I didn't ask you this. After you left</b>    18      <b>the State's Attorney's office in June of 2019, did you</b>    19      <b>ever speak to any individuals about the Watts cases,</b>    20      <b>other than your counsel who's here with you today?</b></p> <p>21      MS. BUNTIC: Objection to form.</p> <p>22      <b>BY THE WITNESS:</b></p> <p>23      A. I can't say that categorically I never    24      had any conversation with anybody about the Watts cases.</p>	<p style="text-align: center;">Page 81</p> <p>1       <b>you're socializing. So what -- how did it come up about</b>    2       <b>the Watts cases and depositions at the Inn of the Court?</b></p> <p>3       A. I walked over to him, and I said, Have you had    4       your deposition yet?</p> <p>5       And he said, Yes.</p> <p>6       And I said, Mine is next Monday.</p> <p>7       And I think he probably said, You are a    8       lucky guy. And then I believe that I said at the time,    9       We can't talk about this anymore.</p> <p>10      <b>Q. And what did -- what did Sussman say about</b>    11      <b>that?</b></p> <p>12      A. I think we talked about something different.    13      He didn't agree with me. He just -- we moved on.</p> <p>14      <b>Q. Did Sussman, did he talk at all about how his</b>    15      <b>deposition went or what occurred?</b></p> <p>16      A. No.</p> <p>17      <b>Q. So same question, since you left the State's</b>    18      <b>Attorney's office in June of 2019, have you had any</b>    19      <b>interactions with April Perry?</b></p> <p>20      A. Yes.</p> <p>21      <b>Q. Can you tell me about those interactions?</b></p> <p>22      A. Well, April, as you know, was under    23      consideration for a couple of different posts. And so I    24      was getting calls from investigators, is she competent</p>

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<p>1 to be the U.S. Attorney? Is she competent to be a 2 district judge and so forth? And so after I would have 3 those discussions, I would contact April and tell her, 4 Hey, they must be taking you seriously because they're 5 out beating the bushes talking about you and doing 6 interviews and so forth.</p> <p>7 I've seen April at -- like there was -- 8 one of the judges was being inducted, and we sat next to 9 each other and -- at that. I don't recall -- I won't 10 presume your questions.</p> <p>11 So yes, I've had those kinds of 12 interactions with April.</p> <p>13 <b>Q. Do you consider April Perry a friend of yours?</b></p> <p>14 A. I do.</p> <p>15 <b>Q. Do you recall reading any comments from April</b> 16 <b>Perry about the Jussie Smollett matter and Kim Foxx's</b> 17 <b>actions in that?</b></p> <p>18 MS. BUNTING: Objection to form, relevance.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I don't recall reading anything by April on 21 that topic.</p> <p>22 BY MR. BAZAREK:</p> <p>23 <b>Q. To your knowledge, did April Perry ever say</b> 24 <b>that Kim Foxx gave false statements in matters relating</b></p>	<p>1 <b>Q. And going back to Sussman, Perry, and Magats,</b> 2 <b>have you had any discussions about your investigation --</b> 3 <b>strike that. Strike that question.</b></p> <p>4 <b>I know you've testified that Sussman and</b> 5 <b>you both talked about depositions. I get that.</b></p> <p>6 <b>Did you speak with Sussman about any of</b> 7 <b>the facts involving CIU's review of the Watts cases</b> 8 <b>matter?</b></p> <p>9 A. No.</p> <p>10 <b>Q. Okay. And then with April Perry, I mean, you</b> 11 <b>are a reference for her, right? Someone is reaching out</b> 12 <b>to you to --</b></p> <p>13 A. I mean, that -- the Bureau and the background 14 check lawyers talk to colleagues. We're colleagues, but 15 anyway, go ahead.</p> <p>16 <b>Q. All right. So did you have any discussions</b> 17 <b>with April Perry about the Watts matters since you left</b> 18 <b>the office?</b></p> <p>19 A. Not at all.</p> <p>20 <b>Q. Okay. How about Nancy Adduci, have you had</b> 21 <b>any discussions with Nancy Adduci about the Watts cases</b> 22 <b>since you left the office?</b></p> <p>23 A. If I have, I have no recollection of doing so.</p> <p>24 <b>Q. Okay. Do you -- and I said spoken. Let me</b></p>
<p style="text-align: center;">Page 83</p> <p>1 <b>to the appointment of a special prosecutor in the Jussie</b> 2 <b>Smollett matter?</b></p> <p>3 MR. HENRETTY: Yeah. I'm going to jump in. 4 Don't answer that. We're way, way outside the 5 realm of this case or anything the judge said you 6 can ask him. And you can't talk about other cases 7 that involve other lawyers. So I'm going to 8 instruct him not to answer that.</p> <p>9 MR. BAZAREK: As to --</p> <p>10 MR. HENRETTY: Unless you can tell me why it's 11 relevant to this case.</p> <p>12 MR. BAZAREK: Well, I mean, credibility of --</p> <p>13 MR. HENRETTY: Of the State's Attorney?</p> <p>14 MR. BAZAREK: -- is always an issue of a 15 witness on the stand.</p> <p>16 MR. HENRETTY: I'll stand by my objection.</p> <p>17 MR. BAZAREK: Okay.</p> <p>18 BY MR. BAZAREK:</p> <p>19 <b>Q. How about any interactions with Joe Magats</b> 20 <b>after you left the State's Attorney's office?</b></p> <p>21 A. I haven't -- to my knowledge, I haven't seen 22 Joe since I left the State's Attorney office or 23 interacted with Joe. So I -- no. I like Joe, but I 24 don't -- socially, I don't know him.</p>	<p style="text-align: center;">Page 85</p> <p>1 <b>ask you this question. Communicate in any way with</b> 2 <b>Nancy Adduci since you left the office? Whether it was</b> 3 <b>on the phone, in person, or written correspondence,</b> 4 <b>email, anything like that?</b></p> <p>5 A. Have I communicated with Nancy?</p> <p>6 <b>Q. Yes.</b></p> <p>7 A. Yes, I have.</p> <p>8 <b>Q. Okay. And since you left the office?</b></p> <p>9 A. Since I left the office.</p> <p>10 <b>Q. Okay. And what have you communicated with</b> 11 <b>about her about since you left the office?</b></p> <p>12 A. You know, I text back and forth with Nancy 13 about social stuff. I send her pictures of my 14 granddaughters. I find out about her situation. And 15 when -- and I know it's understood by everybody, when 16 Nancy became the center of controversy about a different 17 litigation matter, I texted her to just to tell her to 18 hang in there, to show support with friendship. I think 19 very highly of Nancy. I don't retreat from that at all. 20 I think she's a very good person. But I know she was 21 going through some very ugly stuff. And so I would text 22 back and forth with her just telling her don't believe 23 what they say about you, believe what you know about 24 yourself.</p>

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<p>1        And we did not -- we have not been going 2        back over decisions in the cases that we worked on 3        together because, as you know, this isn't the first time 4        I've been deposed about some of those things. And I 5        just have a policy that I may well be sitting with you 6        and others in your profession, so I don't want to talk 7        to anybody about those cases.</p> <p>8        <b>Q. Remember when I gave you that hypothetical 9        about Officer Smith --</b></p> <p>10      A. Yes, yes.</p> <p>11      <b>Q. -- shaking down the tavern owners years later?</b></p> <p>12      A. Yep.</p> <p>13      <b>Q. So if Nancy Adduci is being falsely accused 14        of, you know, things, does that mean every case that she 15        ever worked on or prosecuted should be reviewed by the 16        State's Attorney's office, like you guys did with the 17        Watts cases?</b></p> <p>18      MS. BUNTIC: Objection to form, speculation, 19        incomplete hypothetical.</p> <p>20      MR. HENRETTY: And it's getting dangerously 21        close to other litigation that has lawyers that are 22        not at this table that could be considered 23        unethical. So I strongly object as well.</p> <p>24      MR. TEPFER: Join.</p>	<p>1        kind of lost the thread.</p> <p>2        THE COURT REPORTER: Were there occasions 3        where...</p> <p>4        MR. BAZAREK: Here, I'll just ask another 5        question.</p> <p>6        BY MR. BAZAREK:</p> <p>7        <b>Q. During Nancy Adduci's review of the Watts 8        cases, did she ever bring to your attention any 9        affidavits that she believed contained false 10        information?</b></p> <p>11      A. I recall that there were -- there was at least 12        one affidavit. I recall comments by Nancy that the 13        affidavit had problems. I can't tell you what the 14        problem was or whether there was more than one such 15        circumstance, but I have a recollection that there 16        were -- there was an occasion at least once where she 17        was -- she was very skeptical about an affidavit.</p> <p>18      <b>Q. And, you know, on the one that you recall 19        about the affidavit where Nancy is bringing it to your 20        attention, that was a case where she recommended that 21        the conviction not be vacated, true?</b></p> <p>22      A. I can't connect those dots for you, I'm sorry.</p> <p>23      <b>Q. Would you agree that there were 24        recommendations made by CIU in matters related to the</b></p>
<p style="text-align: center;">Page 87</p> <p>1        BY THE WITNESS:</p> <p>2        A. You know, if it were demonstrably proven that 3        she had been falsely accused, then I would question 4        whether or not policies require or should require 5        convictions to be vacated.</p> <p>6        BY MR. BAZAREK:</p> <p>7        <b>Q. In any of the Watts cases that were reviewed 8        when you were the director of the CIU, were there 9        recommendations made not to vacate a conviction of any 10        of these Watts-related individuals?</b></p> <p>11      A. I recall that there were cases that Nancy felt 12        didn't need meet the standard that she felt she'd been 13        applying. I can't tell you the number or the names. I 14        certainly recall Nancy expressing that not everything 15        coming that was being brought to her seemed to her 16        suitable for granting relief.</p> <p>17      <b>Q. Were there occasions where Nancy had uncovered 18        that a affidavit from a subject who's seeking to have 19        their conviction vacated contained false information and 20        that's the reason why Nancy wasn't going to recommend 21        that the case be vacated?</b></p> <p>22      MS. BUNTIC: I am going to object to form. 23      And I think this goes into --</p> <p>24      MR. HENRETTY: Can you read that again? I</p>	<p style="text-align: center;">Page 89</p> <p>1        <b>Watts cases that the recommendation of the CIU is not to 2        vacate the conviction?</b></p> <p>3        A. I believe that to be the case.</p> <p>4        <b>Q. But ultimately, the decision goes to the Cook 5        County State's Attorney for the final decision, right?</b></p> <p>6        A. That's correct.</p> <p>7        <b>Q. Was there also -- was there a legal argument 8        to be made that under Rules of Procedures that it's kind 9        of like the statute of limitations that if you waited 10        too long to seek relief in having your conviction 11        vacated, do you remember anything like that or a 12        potential legal argument to oppose a -- vacate a 13        conviction?</b></p> <p>14      MS. BUNTIC: I'm going to object to form.</p> <p>15      MR. TEPFER: Join. I don't understand the 16        question.</p> <p>17      BY THE WITNESS:</p> <p>18      A. I don't recall such arguments being addressed 19        or raised in the context of the Watts cases.</p> <p>20      BY MR. BAZAREK:</p> <p>21      <b>Q. Yeah. Do you recall -- well, maybe it 22        occurred after you left, but do you recall at one point 23        the Cook County State's Attorney's office was opposing 24        vacating a number of convictions on Watts-related</b></p>

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<p>1      <b>matters?</b></p> <p>2      MR. TEPFER: Objection to form.</p> <p>3      BY MR. BAZAREK:</p> <p>4      <b>Q. And then they did an about-face and they</b> <b>5      changed -- changed course?</b></p> <p>6      MR. HENRETTY: Hold on. Specifically I'll 7      quote from the order. "Defendants may -- therefore 8      question about public statements and the reason why 9      the CCSAO are objecting or not objecting to the 10     petition to vacate convictions in these cases" -- 11     so you can ask about the -- sorry. Let me make 12     sure I'm reading this right, but you might have 13     been -- you might have threaded that needle.</p> <p>14     I think you'd have to -- you have to tie 15     it to one of the specific cases to ask that 16     question.</p> <p>17     MR. BAZAREK: I can tell you, Nancy Adduci, I 18     mean, you were there last week. She testified 19     about this. Where there -- it might have been 20     Rogala or the PC unit, they were -- there was -- 21     there was opposition from the State's Attorney's 22     office to vacating convictions and that got a lot 23     of press, and then the State's Attorney office, 24     they changed course.</p>	<p>1      Northwestern was throwing at a real cool place up in the 2      north side -- and this was when I was first being 3      introduced around to the people in that field, the 4      Swygerts and Karen Daniels of the world and so forth, 5      and I think I might have met Mr. Tepfer at that. That 6      was a social event. If I were to see him at a bar 7      association function or something. But, no, there's 8      never been any other interactions that were social in 9      nature.</p> <p>10     <b>Q. In the event that you're talking about is that</b> <b>11     the same one where Ron Safer was --</b></p> <p>12     A. Yes.</p> <p>13     <b>Q. -- bending your ear over the Arthur Brown</b> <b>14     case?</b></p> <p>15     MS. BUNTIC: Objection to form.</p> <p>16     BY THE WITNESS:</p> <p>17     A. It's the one where Ron expressed dismay about 18     the Arthur Brown case, yes.</p> <p>19     BY MR. BAZAREK:</p> <p>20     <b>Q. Okay. So it was at that same function that</b> <b>21     you ran into Mr. Tepfer?</b></p> <p>22     A. I -- I guess -- I'm guessing that he was 23     there. But that's the kind of event where I might have 24     encountered Mr. Tepfer, but generally speaking, we did</p>
<p style="text-align: center;">Page 91</p> <p>1      Do you --</p> <p>2      MR. HENRETTY: So you can -- again, that it 3      happened is okay. Anything beyond that is not, I 4      think under her ruling. So that's -- if you're 5      just asking did that happen --</p> <p>6      MR. BAZAREK: Yeah, I'm just -- you know, I'll 7      ask another question. I'm just trying to figure 8      out if you even know what I'm talking about.</p> <p>9      BY MR. BAZAREK:</p> <p>10     <b>Q. During your time in the Conviction Integrity</b> <b>11     Unit, do you -- were you aware of any opposition taken</b> <b>12     in a court filing to not vacate certain convictions?</b></p> <p>13     A. I don't recall that.</p> <p>14     <b>Q. Okay. You might have been gone by -- at that</b> <b>15     point. Okay. That's all I want to -- wanted to know.</b></p> <p>16     Tell me, are there -- have there been 17     occasions where you socialized with Mr. Tepfer at any 18     events?</p> <p>19     MS. BUNTIC: Objection to form.</p> <p>20     BY THE WITNESS:</p> <p>21     A. No, I don't recall any. Certainly not any 22     events where we went there together or left together. 23     One of the first things that Nancy did was was we went 24     to something that was an Exoneration party that</p>	<p style="text-align: center;">Page 93</p> <p>1      not run in the same circles.</p> <p>2      BY MR. BAZAREK:</p> <p>3      <b>Q. Okay. That's what I'm getting at.</b></p> <p>4      A. Yeah, no. We would -- if we were in 5      the same time place at the same time, it was 6      coincidental.</p> <p>7      <b>Q. Okay. And same question for Joel Flaxman and</b> <b>8      his look-alike father, Ken Flaxman?</b></p> <p>9      A. Same answer.</p> <p>10     <b>Q. Okay. So --</b></p> <p>11     MR. TEPFER: And I'll stipulate that I'm 12     entirely unmemorable.</p> <p>13     BY MR. BAZAREK:</p> <p>14     <b>Q. So at any time in any social setting has</b> <b>15     Mr. Tepfer or Mr. Flaxman spoken to you about the Watts</b> <b>16     cases?</b></p> <p>17     A. Not to my knowledge, not to my recollection, 18     no.</p> <p>19     <b>Q. To your knowledge, did Mr. Tepfer or</b> <b>20     Mr. Flaxman, did they ever go over your head and go</b> <b>21     directly to the Cook County State's Attorney's office or</b> <b>22     some higher-up in the chain?</b></p> <p>23     MS. BUNTIC: Objection to form.</p> <p>24     MR. TEPFER: Join.</p>

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<p>1 BY MR. BAZAREK:</p> <p>2     <b>Q. Because they weren't happy with how things</b></p> <p>3     <b>were going or the review being undertaken by the</b></p> <p>4     <b>Conviction Integrity Unit?</b></p> <p>5     MS. BUNTIC: Objection to form, speculation.</p> <p>6     MR. TEPFER: Join.</p> <p>7     MR. BAZAREK: If he knows.</p> <p>8 BY THE WITNESS:</p> <p>9     A. Yeah, I don't know that that ever happened.</p> <p>10 BY MR. BAZAREK:</p> <p>11     <b>Q. Okay.</b></p> <p>12     A. I know that -- I don't think Mr. Tepfer would</p> <p>13 be shy about contacting Mr. Sussman, but I never felt</p> <p>14 like I was being circumvented or anything like that.</p> <p>15     <b>Q. Okay.</b></p> <p>16     MR. BAZAREK: Okay. Why don't we take another</p> <p>17 like ten minutes. I'm going to circulate some</p> <p>18 exhibits, and then I'll -- so why don't we do --</p> <p>19 let's just go off the record.</p> <p>20 THE VIDEOGRAPHER: Okay. The time is</p> <p>21 12:20 p.m. We're now off the record.</p> <p>22     (Recess.)</p> <p>23 THE VIDEOGRAPHER: The time is 1:08 p.m. --</p> <p>24 1:09 p.m., and we are back on the record.</p>	<p>1     <b>Q. Well, why wouldn't you want to hear directly</b></p> <p>2     <b>from the petitioners as to what they alleged the</b></p> <p>3     <b>circumstances were that led to them either pleading</b></p> <p>4     <b>guilty or being found guilty of drug crimes?</b></p> <p>5     A. Well, I don't think we lacked information</p> <p>6 about that. I thought that their affidavits and their</p> <p>7 pleadings and their counsel were making us aware of</p> <p>8 that.</p> <p>9     <b>Q. Well, you knew their counsel had a financial</b></p> <p>10     <b>incentive in getting the convictions vacated, right?</b></p> <p>11     MR. TEPFER: Objection to form, but go ahead.</p> <p>12     MR. HENRETTY: And I'm going to instruct him</p> <p>13 not to answer based on the judge's decision that</p> <p>14 you can cannot elicit undisclosed internal debate</p> <p>15 or deliberations.</p> <p>16     MR. BAZAREK: But that's -- that's -- I don't</p> <p>17 think that's a proper objection. I'm asking this</p> <p>18 deponent as to whether or not he knew that the</p> <p>19 petitioners' counsels had a financial motive in</p> <p>20 vacating the convictions. How is that internal?</p> <p>21 It's just -- I'm just asking him what he knows.</p> <p>22     MR. HENRETTY: That's okay. That's a fair</p> <p>23 question. The one before it, honestly I let go and</p> <p>24 thought you were going to move off of it. But if</p>
<p style="text-align: center;">Page 95</p> <p>1 BY MR. BAZAREK:</p> <p>2     <b>Q. Mr. Rotert, at any time did you ever interview</b></p> <p>3     <b>any of the individuals in matters related to the Watts</b></p> <p>4     <b>cases that were trying to have their convictions</b></p> <p>5     <b>vacated?</b></p> <p>6     A. In individual petitioners, you mean?</p> <p>7     <b>Q. Yes.</b></p> <p>8     A. Yeah. I did not interview that I recall.</p> <p>9     <b>Q. Did you ask anyone in the Conviction Integrity</b></p> <p>10     <b>Unit to interview each one of the petitioners in the</b></p> <p>11     <b>Watts matters that were seeking to have their</b></p> <p>12     <b>convictions vacated?</b></p> <p>13     A. I did not make that request.</p> <p>14     (Reporter clarification.)</p> <p>15 BY THE WITNESS:</p> <p>16     A. I did not make that request.</p> <p>17 BY MR. BAZAREK:</p> <p>18     <b>Q. Why not?</b></p> <p>19     A. I was never brought -- it was never brought to</p> <p>20 my attention that that was a part of the investigative</p> <p>21 or fact-gathering process that was encouraged. They</p> <p>22 were represented by counsel. So I had never had a</p> <p>23 conversation that I recall with Nancy Adduci about a</p> <p>24 need to interview those folks.</p>	<p style="text-align: center;">Page 97</p> <p>1 not, I think going forward we're going to have to</p> <p>2 start making these objections.</p> <p>3     That question he can answer.</p> <p>4     MR. TEPFER: I still maintain the form</p> <p>5 objection, but that's fine.</p> <p>6 BY THE WITNESS:</p> <p>7     A. You know, I would -- I probably assumed that</p> <p>8 they were compensated. I didn't do a lot of thinking</p> <p>9 about what their financial angle was going to be.</p> <p>10 BY MR. BAZAREK:</p> <p>11     <b>Q. Right. But you would agree that once a</b></p> <p>12     <b>conviction was vacated, the individual whose conviction</b></p> <p>13     <b>was vacated could very well bring a lawsuit against the</b></p> <p>14     <b>City of Chicago, members of its police department,</b></p> <p>15     <b>right?</b></p> <p>16     A. I was aware of that, yes.</p> <p>17     <b>Q. So did you -- and as part of the lawsuit, the</b></p> <p>18     <b>petitioners, if they file a lawsuit, would be seeking</b></p> <p>19     <b>money as part of their damages, right?</b></p> <p>20     A. Presumably.</p> <p>21     <b>Q. Okay. And have you ever done civil work</b></p> <p>22     <b>yourself?</b></p> <p>23     A. Defense work, I -- if I was ever a plaintiff's</p> <p>24 counsel, I don't remember it well. I might have been at</p>

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<p>1      Winston, but...</p> <p>2      <b>Q. In any event, you were aware that counsel that</b>  <b>3      could bring potential lawsuits involving the Watts</b>  <b>4      matters had a financial incentive in getting their</b>  <b>5      clients' convictions vacated, right?</b></p> <p>6      MS. BUNTIC: Objection to form.</p> <p>7      MR. TEPFER: Asked and answered.</p> <p>8      BY THE WITNESS:</p> <p>9      A. You know, I was -- I was not naive about the  10     fact that lawyers would -- would get a cut of the action  11     if they were successful in bringing the lawsuit. I knew  12     that that would happen, yes.</p> <p>13     BY MR. BAZAREK:</p> <p>14    <b>Q. So you were relying on the information that</b>  15    <b>was being provided to the Conviction Integrity Unit by</b>  16    <b>attorneys that had a financial stake in the outcome,</b>  17    <b>right?</b></p> <p>18    MS. BUNTIC: Objection to form, and  19    mischaracterizes earlier testimony.</p> <p>20    MR. TEPFER: Join.</p> <p>21    BY THE WITNESS:</p> <p>22    A. You know, I was relying on what I then and  23    still considered to be the good judgments of Nancy  24    Adduci about what these individual claimants' cases</p>	<p>1      <b>Michael Harper? Do you recall Mr. Harper?</b></p> <p>2      A. Uh-huh, yes.</p> <p>3      <b>Q. In the Arthur Brown matter, right?</b></p> <p>4      A. Yes.</p> <p>5      <b>Q. Okay. And you actually traveled to where</b>  6      <b>Mr. Harper was incarcerated to interview him about the</b>  7      <b>circumstances of the arson murder, correct?</b></p> <p>8      A. Correct.</p> <p>9      <b>Q. And that's when you were the director of the</b>  10     <b>Conviction Integrity Unit?</b></p> <p>11     A. Yes.</p> <p>12     <b>Q. And the interview was actually recorded,</b>  13     <b>right?</b></p> <p>14     A. Yes.</p> <p>15     <b>Q. And that review, as it relates to Michael</b>  16     <b>Harper, that review was conducted by yourself for</b>  17     <b>approximately a year, right?</b></p> <p>18     A. I don't recall specifically, but it was a  19     longer period of time, yes.</p> <p>20     <b>Q. Would you agree that the review of the Watts</b>  21     <b>cases that were filed by the petitioners took place on</b>  22     <b>a -- in a much shorter time period?</b></p> <p>23     MR. TEPFER: Objection to form.</p> <p>24     MS. BUNTIC: Join.</p>
<p>1      looked like. Certainly I knew that part of what she was  2      evaluating were materials provided by the attorneys.  3      But I felt comfortable that that was not -- that she  4      wasn't just taking the lawyers' word for anything, that  5      she was trying to do a reasonable job of looking at the  6      whole picture.</p> <p>7      <b>Q. Well, nothing prevented, whether it's you or</b>  8      <b>Nancy Adduci or any other member of the Conviction</b>  9      <b>Integrity Unit, from interviewing any of the petitioners</b>  10     <b>in the Watts matters, right?</b></p> <p>11     A. Assuming that that was something that they  12     consented to do with their attorneys, nothing prevented  13     us from doing that.</p> <p>14     <b>Q. Well, did you ever ask Mr. Tepfer or</b>  15     <b>Mr. Flaxman, Hey, I'd like to interview your clients,</b>  16     <b>and I have some questions about these matters?</b></p> <p>17     A. I did not make that request of them that I  18     recall.</p> <p>19     <b>Q. Okay. Did you direct any members of your</b>  20     <b>staff at the Conviction Integrity Unit to ask Mr. Tepfer</b>  21     <b>or Mr. Flaxman to make their clients available for an</b>  22     <b>interview in matters related to the Watts cases?</b></p> <p>23     A. I don't recall directing that, no.</p> <p>24     <b>Q. And Mr. Rotert, you recall in the matter of</b></p>	<p>1      MR. TEPFER: Misstates the record. Go ahead.</p> <p>2      BY THE WITNESS:</p> <p>3      A. Well, I -- I have the impression, or it's my  4      belief, that the Watts cases -- some of them, at least,  5      were in the office and under consideration before I got  6      to the office in June of 2017. And we went to court in  7      November, so at least six or seven months were being  8      spent on the matter. I believe it would have been  9      longer than that.</p> <p>10     BY MR. BAZAREK:</p> <p>11     <b>Q. At any time in your review of the Watts cases</b>  12     <b>when you were the director of the Conviction Integrity</b>  13     <b>Unit, did you examine any of the physical evidence that</b>  14     <b>would have been inventoried in those criminal</b>  15     <b>proceedings?</b></p> <p>16     A. I don't recall doing that, no.</p> <p>17     <b>Q. Did you ever direct Nancy Adduci to do that?</b></p> <p>18     A. I don't believe I ever directed her to do  19     that.</p> <p>20     <b>Q. Did you ever request that any of the narcotics</b>  21     <b>that were recovered be tested for DNA or fingerprints or</b>  22     <b>anything like that in the Watts cases?</b></p> <p>23     A. I don't know that I -- well, the answer to  24     your question is, I don't believe that I ever asked for</p>

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<p>1 any analyses on drugs purportedly linked to those cases.</p> <p>2 <b>Q. Okay. Did you direct any of your subordinates</b></p> <p>3 <b>to do any type of forensic testing on the evidence that</b></p> <p>4 <b>would have been recovered in the Watts matters?</b></p> <p>5 A. I don't recall doing so. I may have been</p> <p>6 under the impression that such materials had been</p> <p>7 disposed or destroyed, but I don't know that for sure.</p> <p>8 <b>Q. Did you ever make any efforts to find out what</b></p> <p>9 <b>evidence was available to be tested to the extent it was</b></p> <p>10 <b>still there?</b></p> <p>11 A. I don't recall ever making an effort like that</p> <p>12 myself, no.</p> <p>13 <b>Q. Did you ever direct any of the subordinates --</b></p> <p>14 <b>strike that.</b></p> <p>15 <b>Did you ever direct Nancy Adduci or any of</b></p> <p>16 <b>the other staff at the Conviction Integrity Unit to do</b></p> <p>17 <b>forensic testing on any of the evidence that was</b></p> <p>18 <b>recovered in these Watts cases?</b></p> <p>19 A. I don't recall doing that.</p> <p>20 <b>Q. Why not?</b></p> <p>21 A. Why don't I recall?</p> <p>22 <b>Q. No. Why -- why not?</b></p> <p>23 MR. HENRETTY: I do think that does get to the</p> <p>24 underlying then, and I'll object and instruct him</p>	<p>1 THE REPORTER: Do you want me to mark it?</p> <p>2 MR. BAZAREK: It doesn't -- I mean, you have</p> <p>3 them electronically, so it doesn't...</p> <p>4 BY MR. BAZAREK:</p> <p>5 <b>Q. So I've shown you what's Deposition Exhibit</b></p> <p>6 <b>No. 1, Mr. Rotert. Can you tell me what that document</b></p> <p>7 <b>is?</b></p> <p>8 A. I'm not sure I know. It has characteristics</p> <p>9 that are similar to the application form that I put</p> <p>10 together. It is not the same as the application form I</p> <p>11 put together. So I will suppose or speculate --</p> <p>12 MS. BUNTING: Please don't speculate.</p> <p>13 BY THE WITNESS:</p> <p>14 A. -- that this is a document created by the</p> <p>15 State's Attorney's office after I left.</p> <p>16 BY MR. BAZAREK:</p> <p>17 <b>Q. Okay. Well, tell me, in terms of the -- if</b></p> <p>18 <b>you look at this document, it looks like there is --</b></p> <p>19 <b>there 28 questions. Beginning on page 4, where it has</b></p> <p>20 <b>defendant's background information.</b></p> <p>21 A. Correct.</p> <p>22 <b>Q. All right. Do you remember how many questions</b></p> <p>23 <b>the application that you implemented had?</b></p> <p>24 A. I don't remember a number. I don't know that</p>
<p style="text-align: center;">Page 103</p> <p>1 not to answer.</p> <p>2 THE WITNESS: Okay.</p> <p>3 BY MR. BAZAREK:</p> <p>4 <b>Q. Did you ever request from Mr. Tepfer or</b></p> <p>5 <b>Mr. Flaxman that their clients fill out the application</b></p> <p>6 <b>to request review of criminal conviction by the</b></p> <p>7 <b>Conviction Integrity Unit?</b></p> <p>8 A. No.</p> <p>9 <b>Q. Did you ever direct any members of the</b></p> <p>10 <b>Conviction Integrity Unit to ask that the application to</b></p> <p>11 <b>request review of the criminal conviction by the</b></p> <p>12 <b>Conviction Integrity Unit be filled out by the</b></p> <p>13 <b>petitioners in the Watts matters?</b></p> <p>14 A. I don't recall doing that, no.</p> <p>15 <b>Q. Why not?</b></p> <p>16 MR. HENRETTY: Objection. Again, underlying</p> <p>17 analysis you're not allowed to ask about per the</p> <p>18 order. So I'll instruct him not answer.</p> <p>19 MR. BAZAREK: Okay.</p> <p>20 Well, I'll just -- I'll mark this as</p> <p>21 Deposition Exhibit No. 1. And everyone has it</p> <p>22 electronically.</p> <p>23 (Rotert Deposition Exhibit No. 1</p> <p>24 marked for identification.)</p>	<p style="text-align: center;">Page 105</p> <p>1 we even enumerated them. I think we just asked</p> <p>2 questions, had blanks that you could fill in.</p> <p>3 <b>Q. And where is that -- that form maintained, at</b></p> <p>4 <b>least when you were there in the State's Attorney's</b></p> <p>5 <b>office?</b></p> <p>6 A. It was on the website.</p> <p>7 <b>Q. Okay.</b></p> <p>8 A. As I understood it.</p> <p>9 <b>Q. Do you recall where in terms of the</b></p> <p>10 <b>application form that you implemented, were there any</b></p> <p>11 <b>questions about affidavits that were being submitted by</b></p> <p>12 <b>petitioners?</b></p> <p>13 A. No, not -- not specific to affidavits.</p> <p>14 <b>Q. Okay. Is this -- can you tell if this is a</b></p> <p>15 <b>revision of the application that you implemented?</b></p> <p>16 MS. BUNTING: I'm going to instruct my client</p> <p>17 not to speculate.</p> <p>18 BY MR. BAZAREK:</p> <p>19 <b>Q. Yeah, if you know.</b></p> <p>20 A. I know that it's not the same document that I</p> <p>21 put together.</p> <p>22 <b>Q. Okay. Take a look at page 9 of that document,</b></p> <p>23 <b>question 23.</b></p> <p>24 A. I'm there.</p>

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<p>1       <b>Q. And you see, I'll just read the question:</b>  2       "Have you ever signed any affidavits about your case?  3       If yes, please attach copies of the affidavits and list  4       the individuals who were present when you provided each  5       affidavit."</p> <p>6       <b>Did I read that directly?</b>  7       A. You did.</p> <p>8       <b>Q. Okay. So was that one of the questions that</b>  9       <b>the application that you implemented had?</b>  10      A. No.</p> <p>11      <b>Q. Okay. So that was a new one?</b>  12      A. It wasn't in the one that I prepared.</p> <p>13      <b>Q. Okay. So the one you prepared didn't ask for</b>  14       <b>any information about the affidavit that was being</b>  15       <b>submitted in support of a petition to vacate conviction?</b></p> <p>16      MS. BUNTIC: Objection to form.</p> <p>17      BY THE WITNESS:  18      A. The one that I prepared, as I recall, didn't  19       tease out or segregate the topic of affidavits. It  20       solicited whatever information you've got that I should  21       look at. Personally, as a matter of individual style, I  22       would never have asked an inmate institutionalized to  23       provide me with copies of affidavits and list the  24       persons who were individual -- excuse me, individuals</p>	<p>1       A. Right.  2       <b>Q. Okay. And then take a look at page 11. And</b>  3       <b>it says: Explain the claim of actual innocence. So you</b>  4       <b>see these -- on this Exhibit 1, there's two questions.</b>  5       <b>One's about please describe your claim of actual</b>  6       <b>innocence, right? And then the petitioner would fill</b>  7       <b>that information in.</b></p> <p>8       <b>And then 27, the question is: What is the</b>  9       <b>new evidence? And it goes on. So these were like the</b>  10      <b>two main things that you were looking at in the</b>  11      <b>application form that you implemented?</b></p> <p>12      A. Yes.</p> <p>13      <b>Q. Okay. Did this remain the same, what's on</b>  14       <b>questions 26 and 27? Did you have those same questions</b>  15       <b>for the application you implemented?</b></p> <p>16      A. Substantively I did. 27 is probably a little  17       bit longer, but they -- those two questions capture the  18       information I was trying to capture.</p> <p>19      <b>Q. Okay. And on the -- strike that.</b></p> <p>20      <b>In your review in Conviction Integrity --</b>  21      <b>strike that.</b></p> <p>22      <b>In the review by the Conviction Integrity</b>  23      <b>Unit, and I'm meaning you, Adduci, other people that</b>  24      <b>worked in that unit, what is your understanding of what</b></p>
<p style="text-align: center;">Page 107</p> <p>1       who were present. That -- that level of detail may have  2       come up later, but I wouldn't have asked for it in the  3       first instance.</p> <p>4      BY MR. BAZAREK:</p> <p>5      <b>Q. So the application that you implemented asked</b>  6       <b>for less detail from the petitioners?</b></p> <p>7      MS. BUNTIC: Objection to form.</p> <p>8      BY THE WITNESS:  9      A. Yeah. I think that the way I would  10       characterize is, I wanted mine to capture the two  11       barrier points. Are you telling me you're innocent?  12       Tell me what's new that the pre -- trier of fact didn't  13       see. That was the basis on which a great majority of  14       the stuff I got was floundering a bit. It just couldn't  15       pass those criteria. If we passed those criterion,  16       that's all I was trying to accomplish here. I was not  17       prepared to initiate a broader investigation.</p> <p>18      And there would be more communication and  19       more requests. This was, to me, an entry level  20       document. Not as -- the one that I put together was  21       probably three or four pages. This is substantially  22       longer.</p> <p>23      BY MR. BAZAREK:</p> <p>24      <b>Q. Right. It's a 12-page document.</b></p>	<p style="text-align: center;">Page 109</p> <p>1       <b>the new evidence was involving the petitioners in the</b>  2       <b>Watts cases?</b></p> <p>3      A. I think that the claim there, as I tried to  4       explain earlier, was probably more treated under the  5       separate prong of the policy, which was that in  6       circumstances where there was concern about the  7       integrity of the fact-finding process, we were going to  8       focus on the -- that topic. And it needn't necessarily  9       also entail a discussion of actual innocence.</p> <p>10      So that there was -- the policy admitted  11       of the possibility that circumstances could arise where  12       factual innocence was not the talisman or the  13       prerequisite for relief.</p> <p>14      <b>Q. Right. Am I correct that the Conviction</b>  15       <b>Integrity Unit had any type of finding that the</b>  16       <b>petitioners in the Watts matters were actually innocent,</b>  17       <b>correct?</b></p> <p>18      A. Well, I have to resist the word "findings,"  19       because one of the circumstances we faced was the CIU  20       wasn't an investigative agency as such. We didn't have  21       grand jury power. We didn't have subpoena power. We  22       did investigate. We did interview. We did review and  23       analyze, but we didn't -- we weren't about issuing a  24       finding that this police officer did or didn't do that</p>

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<p>1       thing. So I'll stop.</p> <p>2       <b>Q. Well, and let me ask it a different way. Did</b>    3       <b>the Conviction Integrity Unit ever make a determination</b>    4       <b>that any of the petitioners in the Watts cases were</b>    5       <b>actually innocent?</b></p> <p>6       A. I would say no.</p> <p>7       <b>Q. I know from Nancy Adduci's dep she talked</b>    8       <b>about, well, convictions could be vacated in the</b>    9       <b>interests of justice. Have you ever heard that phrasing</b>    10       <b>as it relates to the work of the Conviction Integrity</b>    11       <b>Unit?</b></p> <p>12       A. I've heard that phrasing, yes.</p> <p>13       <b>Q. So if the Cook County State's Attorney's</b>    14       <b>Conviction Integrity is not making the determination</b>    15       <b>that any of these petitioners were actually innocent,</b>    16       <b>are these convictions being vacated in the interests of</b>    17       <b>justice? Is that what's happening here?</b></p> <p>18       MS. BUNTIC: Objection to form.</p> <p>19       BY THE WITNESS:</p> <p>20       A. Well, I think that phrase is a convenient    21       phrase to look at things. I would say that I view it    22       with a somewhat different vocabulary. My vocabulary    23       would be along the lines of: Is it appropriate to    24       maintain the integrity of these convictions under these</p>	<p>1       debating it. And I have opinions about that, but    2       they're opinions of an individual. They're not -- I    3       mean, to the extent they're relevant, they're just the    4       opinion of an individual.</p> <p>5       So I understood that this was going to    6       have an impact of some sort on other police officers.</p> <p>7       But my role was to look at what we should do with these    8       convictions.</p> <p>9       <b>Q. And am I correct, though, it was based on the</b>    10       <b>activities of Watts and Mohammed, but not the other</b>    11       <b>officers? Do I have that right?</b></p> <p>12       MS. BUNTIC: Objection, mischaracterizes    13       earlier testimony.</p> <p>14       BY THE WITNESS:</p> <p>15       A. I had information about Watts and Mohammed    16       that was much greater than information I had about the    17       other individuals. To be candid, right now as I sit    18       here, I cannot remember the names of any of these other    19       individuals. So I -- they -- Watts and Mohammed,    20       definitely it was -- it was a quantum of information as    21       to them that was much, much different, not comparable to    22       the others.</p> <p>23       BY MR. BAZAREK:</p> <p>24       <b>Q. And the source of the information that you had</b></p>
<p style="text-align: center;">Page 111</p> <p>1       circumstances? And my response to that would be it    2       wasn't appropriate.</p> <p>3       BY MR. BAZAREK:</p> <p>4       <b>Q. And that's because Watts and Mohammed were</b>    5       <b>convicted of theft of government funds?</b></p> <p>6       MR. TEPFER: Objection, form. Misstates prior    7       testimony.</p> <p>8       MS. BUNTIC: And this is also getting into --    9       starting to get into the deliberative process.</p> <p>10       BY THE WITNESS:</p> <p>11       A. My response would be that there were    12       sufficient bases to question the integrity of Watts and    13       Mohammed that -- sufficient to taint or affect the    14       convictions of these petitioners.</p> <p>15       BY MR. BAZAREK:</p> <p>16       <b>Q. Okay. And what about other officers that</b>    17       <b>worked with Watts and Mohammed? How did they factor</b>    18       <b>into any of this?</b></p> <p>19       A. You know, that is a very solid question that    20       was not on my plate. As far as I was concerned, my    21       issue was, these petitioners under these circumstances,    22       these cases. I understand that it begs the question,    23       and I know that other people on both sides of that or    24       maybe all three sides of that question are still</p>	<p style="text-align: center;">Page 113</p> <p>1       <b>was from the affidavits provided to you by Mr. Flaxman</b>    2       <b>and Mr. Tepfer in part, correct?</b></p> <p>3       MS. BUNTIC: Objection.</p> <p>4       BY THE WITNESS:</p> <p>5       A. That was one part, yes.</p> <p>6       BY MR. BAZAREK:</p> <p>7       <b>Q. And --</b></p> <p>8       A. They were one (inaudible) --    9       (Simultaneous crosstalk.)</p> <p>10       THE COURT REPORTER: I'm sorry?</p> <p>11       BY MR. BAZAREK:</p> <p>12       <b>Q. And also your --</b></p> <p>13       MR. HENRETTY: I think he said --</p> <p>14       BY THE WITNESS:</p> <p>15       A. I said they were one part.</p> <p>16       BY MR. BAZAREK:</p> <p>17       <b>Q. Right.</b></p> <p>18       A. I was just being grammatical.</p> <p>19       <b>Q. And then part it also was your review of the</b>    20       <b>FBI investigative materials or DEA investigative</b>    21       <b>materials at FBI headquarters?</b></p> <p>22       A. That was part of what was analyzed.</p> <p>23       <b>Q. Okay. And then, of course, you've already</b>    24       <b>testified earlier in your deposition that Adduci</b></p>

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<p>1      gathered up the different police reports, right, created 2      files, so to speak?</p> <p>3      A. Yes.</p> <p>4      Q. Okay. And that would also include if there 5      was a court proceeding where one of the petitioners had 6      pled guilty, that would be part of the CIU file, so to 7      speak?</p> <p>8      A. Right. Whatever --</p> <p>9      Q. Okay.</p> <p>10     A. Yes.</p> <p>11     Q. And what were the -- so we've got, you know, 12     police reports, affidavits, transcripts from court 13     proceedings. What were the other sources of information 14     that informed on the decisions?</p> <p>15     A. Well, I'm not -- I mean, I think the things 16     that we've discussed were all component parts of it. 17     I'm not coming to mind right now any other significant 18     contributors.</p> <p>19     Q. What about the arrest histories of the 20     petitioners; is that something that you reviewed at 21     Conviction Integrity Unit?</p> <p>22     A. I don't know that I reviewed any of those 23     sheets. I have a general recollection that most of the 24     petitioners had a history, had a record.</p>	<p>1      the GDs as a continuing enterprise or anything complex 2      like that.</p> <p>3      Q. Do you know in the area of Ida B. Wells what 4      the predominant gang was in that particular area?</p> <p>5      A. I used to know more about that. I don't 6      remember what I knew.</p> <p>7      Q. Okay. Did you ever interview any of the 8      members on Watts' team?</p> <p>9      A. No.</p> <p>10     Q. Did you ever direct Nancy Adduci or anyone in 11     the Conviction Integrity Unit to talk to any of the 12     members of Watts' team?</p> <p>13     A. I don't recall doing that.</p> <p>14     Q. Is that something that would be of import to 15     you to hear what the officer's side of the story was if 16     they were being accused of misconduct in an affidavit 17     submitted by one of the petitioners?</p> <p>18     MR. HENRETTY: I'll object and instruct not to 19     answer that question. That goes to underlying 20     analysis.</p> <p>21     MR. BAZAREK: I just want to hear. Can you 22     read back that question?</p> <p>23     (The record was read as requested.)</p> <p>24     MR. BAZAREK: That's okay. I'll ask another</p>
<p style="text-align: center;">Page 115</p> <p>1      Q. Meaning convictions?</p> <p>2      A. They got arrested previously. They'd been -- 3      they'd been in the system before.</p> <p>4      Q. Arrested for drug crimes?</p> <p>5      A. Probably. I don't have any particular 6      recollection, but the Ida B. Wells Homes, that's a tough 7      place. I think it's -- it's entirely possible that they 8      had drug offenses in their past.</p> <p>9      Q. Did you yourself or Nancy Adduci or other 10     members of the team inquire of any of the petitioners of 11     any type of gang involvement they would have 12     participated in?</p> <p>13     A. I don't have a recollection of that topic 14     being the subject of inquiry.</p> <p>15     Q. Did you ever prosecute Gangster Disciples?</p> <p>16     A. Not directly, no.</p> <p>17     Q. Did you ever prosecute cases that involved 18     individuals that were from Gangster Disciples or 19     Black P. Stones or Vice Lords?</p> <p>20     A. Yeah, I -- I would be -- well, I guess I can't 21     tell you with much clarity. I know that gangsters 22     showed up. Gang members showed up in cases as 23     witnesses, as collaborators. I never did a gang 24     prosecution. I never took a case where it was against</p>	<p style="text-align: center;">Page 117</p> <p>1      question.</p> <p>2      BY MR. BAZAREK:</p> <p>3      Q. And Mr. Rotert, during this deposition, but 4      for counsel for the Cook County State's Attorney 5      instructing you not to answer a question, would you be 6      able to answer the questions that were asked?</p> <p>7      A. That particular question, I mean, I could 8      answer a lot -- I can answer almost any question if it's 9      just a matter of what do I remember and what are my 10     opinions, just like anybody else.</p> <p>11     Q. Right.</p> <p>12     A. But I understand that there are some pretty 13     significant institutional considerations here. And what 14     I don't want to do is get all big shot about this and 15     start pontificating about things that are really the 16     province of the State's Attorney's office and not me.</p> <p>17     Q. Yeah, no. My only question is that I -- and 18     he's already instructed you not to answer. So my 19     question is, but for him instructing you not to answer 20     that question and the other ones -- as he's only done a 21     few times -- would you have been able to answer the 22     question?</p> <p>23     A. I would have been able to formulate some kind 24     of a response, yes.</p>

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<p>1       <b>Q. Okay.</b></p> <p>2       A. I'm never at a loss for words.</p> <p>3       <b>Q. And going back to, you know, the two main</b> 4       <b>points that you're looking for in terms of the review,</b> 5       <b>you know, you've got to be claiming actual innocence and</b> 6       <b>also you want to know what the new evidence is.</b></p> <p>7       <b>Was there any new evidence that was</b> 8       <b>provided to the Conviction Integrity Unit as it relates</b> 9       <b>to the Watts petitioners?</b></p> <p>10      MS. BUNTIC: Objection to form.</p> <p>11      MR. TEPFER: Asked and answered.</p> <p>12      BY THE WITNESS:</p> <p>13      A. Yeah, and I tried to make this point before, 14      but I may not have done it as well as I could have. The 15      two barriers that we're talking about, the new evidence 16      and actual innocence claims, those are for people that 17      are coming in and saying, This conviction is wrong. I 18      did not do this and it should be set aside.</p> <p>19      There was another category of cases that 20      involved people coming in and saying, Here was what 21      happened to me that shows that this was not an accurate 22      or reliable fact-finding procedure. And it wasn't 23      anything I did wrong. It was something that a judge or 24      a prosecutor or a defense lawyer or a police officer did</p>	<p>1       term. So integrity could be read by somebody to me, was 2       there anything wrong with this case? Well, there's 3       something wrong with almost every case. And so I would 4       get a lot of letters from people saying, Here's what 5       went wrong in my case. And I would agree with them. It 6       went wrong. But it doesn't have anything to do with 7       whether you're guilty. It's just -- it just was not 8       done right.</p> <p>9       I'm probably overemphasizing or 10      overcomplicating this answer, but the -- but the basic 11      answer is, no, the form that I sent to the institution, 12      the questionnaire was as lean and mean as I could make 13      it.</p> <p>14      <b>Q. Right. But the petitioners in the Watts cases</b> 15      <b>were claiming that they were actually innocent, right?</b></p> <p>16      A. If they were, that wasn't a component part 17      of -- that was not the basis of the analysis that -- the 18      discussions that I was engaging in. I was not coming to 19      this process thinking all of these people living in the 20      Ida B. Wells Homes have never done any dope. That would 21      have struck me as an extravagant proposition.</p> <p>22      I was coming to these cases with the idea 23      that these people who were vulnerable because they may 24      have had arrest records and may have had dope in the</p>
<p style="text-align: center;">Page 119</p> <p>1       wrong. And those cases are not susceptible to the same 2       two entry barriers as the factual innocence cases.</p> <p>3       So the Watts cases deserved scrutiny, but 4       the scrutiny applied was not these two barrier entry 5       issues, because it was brought up under a different part 6       of our analysis.</p> <p>7       BY MR. BAZAREK:</p> <p>8       <b>Q. So was that contemplated in the application</b> 9       <b>that you implemented for people that were seeking relief</b> 10      <b>from the Conviction Integrity Unit?</b></p> <p>11      A. Well, I didn't bring up the strong dichotomy 12      there because my purpose when preparing the application 13      form was I wanted to be as simple as possible because I 14      wanted it to be of value to an inmate in an institution 15      without a law degree or without ready access to a 16      lawyer. I wanted it to be something that a person could 17      look at and divine, here's what I should do. And as a 18      result, I continued to get an awful lot of petitions 19      that said the cop was wrong. The lawyer was bad. The 20      judge was biased, whatever. In other words, they 21      weren't claiming that they were innocent, but they saw 22      conviction integrity.</p> <p>23      One of my personal concerns was when we 24      say "conviction integrity," integrity is an elastic</p>	<p style="text-align: center;">Page 121</p> <p>1       past were being loaded up with more dope than they 2       really had or they were being planted with dope that 3       they didn't have at that particular time, or were just 4       people that Watts and Mohammed decided to mess with, for 5       whatever reason. Their basic claim was what the cops 6       said happened ain't what happened. And it's a flawed 7       process because these cops were not out there enforcing 8       the law. They were out there following a personal 9       agenda. That's the basis on which we were looking at 10      these cases.</p> <p>11      <b>Q. And when you, as you describe it, that's</b> 12      <b>the assertions that are being made by these petitioners?</b></p> <p>13      A. Yes.</p> <p>14      <b>Q. Okay. I'm sorry if I asked you this question</b> 15      <b>before, but during the time when you were with</b> 16      <b>Conviction Integrity Unit, was the application for</b> 17      <b>review by CIU ever modified or revised?</b></p> <p>18      A. Not by me.</p> <p>19      <b>Q. Okay. So not under your time in the unit, or</b> 20      <b>it could have been and you just don't know?</b></p> <p>21      A. It was on the website, and -- and I didn't 22      mess with it. But if somebody changed it while it was 23      on the website, that was done outside of my knowledge 24      and participation.</p>

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<p style="text-align: center;">Page 122</p> <p>1       <b>Q. But would you expect that there's -- revisions</b>    2       <b>are being made to an application you implemented, if</b>    3       <b>it's revised, you show the boss, the director, hey,</b>    4       <b>we're going to make some tweaks here?</b></p> <p>5        MS. BUNTIC: Objection to form.</p> <p>6        BY THE WITNESS:</p> <p>7        A. That would be a fair expectation.</p> <p>8        BY MR. BAZAREK:</p> <p>9        <b>Q. I'm going to show you Exhibits 2A through 2N,</b>    10       <b>and I don't know --</b></p> <p>11       MR. BAZAREK: We can go off the -- we can go    12       off the record for a minute. I just want to make    13       sure how you view these exhibits. So let's just go    14       off the record for a minute.</p> <p>15       THE VIDEOGRAPHER: Okay. The time is    16       1:48 p.m. And we're now off the record.</p> <p>17       (Recess.)</p> <p>18       THE VIDEOGRAPHER: The time is 1:59 p.m. and    19       we're back on the record.</p> <p>20       BY MR. BAZAREK:</p> <p>21       <b>Q. Mr. Rotert, I've tendered to you what's been</b>    22       <b>marked as -- it's a Group Exhibit 2A through 2O. Do you</b>    23       <b>see that?</b></p> <p>24       A. Yes.</p>	<p style="text-align: center;">Page 124</p> <p>1       <b>convictions were vacated. Do you recall?</b>    2        MS. BUNTIC: I'm going to object to form.</p> <p>3        BY THE WITNESS:</p> <p>4        A. I recall that there was a court appearance in    5        November of 2017. I am pretty confident that nobody on    6        earth has ever heard me refer to those as exonerations,    7        but I was at the court appearance, yes.</p> <p>8        BY MR. BAZAREK:</p> <p>9        <b>Q. Right. I thought in the media they called</b>    10       <b>them mass exoneration or something like that?</b></p> <p>11       A. The media called them exonerations every time.</p> <p>12       <b>Q. Okay. What do you call them?</b></p> <p>13       A. I call them motions to vacate convictions.</p> <p>14       <b>Q. Okay. Now, do you remember there was an</b>    15       <b>individual named Leonard Gipson who spoke in the -- at</b>    16       <b>the press conference?</b></p> <p>17       A. I do remember Mr. Gipson.</p> <p>18       <b>Q. Okay. I'm going to play -- and I do have some</b>    19       <b>tape, I'll play it for you, but as you can see,</b>    20       <b>Exhibit 2A, that's the affidavit of Leonard Gipson. Do</b>    21       <b>you see that?</b></p> <p>22       A. Yes.</p> <p>23       <b>Q. Now, take a look at paragraph No. -- actually,</b>    24       <b>look at paragraph No. 4 first. It references an arrest</b></p>
<p style="text-align: center;">Page 123</p> <p>1       (Rotert Deposition Exhibit Nos. 2A    2       through 2O marked for identification.)</p> <p>3       BY MR. BAZAREK:</p> <p>4       <b>Q. And I'll just go through the names with you.</b>    5       These are affidavits from -- certain affidavits related    6       to the Watts cases. There's an affidavit from Leonard    7       Gipson, from Thomas Jefferson, Shaun James, Lee Rainey,    8       Christopher Scott, Marcus Gibbs, Lionel White Jr.,    9       Taurus Smith, Frank Saunders, Jamell Sanders, Jamar    10       Lewis, Allen Jackson. There's two from Allen Jackson.    11       Henry Thomas. That's also two from Henry Thomas. And    12       Philip Thomas and an Andre McNairy.</p> <p>13       And I know those folks are just a number    14       of the individuals that sought petitions, but you recall    15       earlier in your deposition we talked about affidavits    16       that were submitted to the Conviction Integrity Unit?</p> <p>17       A. Yes.</p> <p>18       <b>Q. Do you recall that? Okay. So I just have a</b>    19       <b>couple of questions on at least some of these</b>    20       <b>affidavits.</b></p> <p>21       Do you remember when there was that first    22       mass exoneration in November of 2017? You were there,    23       Adduci was there, Mr. Tepfer was there, Mr. Flaxman was    24       there, and there were a group of individuals whose</p>	<p style="text-align: center;">Page 125</p> <p>1       <b>that was made on January 4, 2003. Do you see that?</b>    2       A. I do.</p> <p>3       <b>Q. Paragraph 4. Okay.</b></p> <p>4       And then when you go to paragraph 5,    5       according to this affidavit from Mr. Gipson, that there    6       was an officer named Leano, "who we called 'Mini,' was    7       present at that January 4, 2003 arrest.</p> <p>8       <b>Do you see that?</b></p> <p>9       A. I see that.</p> <p>10       <b>Q. Did the Conviction Integrity Unit or yourself</b>    11       <b>ever make any effort to see if Leano was working on</b>    12       <b>Watts' team in January of 2003?</b></p> <p>13       MS. BUNTIC: Objection to form.</p> <p>14       BY THE WITNESS:</p> <p>15       A. I did not make such an effort. I have -- I    16       had a recollection that this topic was something that    17       Nancy Adduci was looking at, but I don't remember    18       anything specific.</p> <p>19       BY MR. BAZAREK:</p> <p>20       <b>Q. Okay. But -- all right. And then if you look</b>    21       <b>at paragraph -- just a second -- paragraph 17 of the</b>    22       <b>affidavit. And you see in paragraph 17 there's a</b>    23       <b>reference to a female officer named "Coco."</b></p> <p>24       <b>Do you see that?</b></p>

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<p style="text-align: center;">Page 126</p> <p>1       A. I see the word "Coco."</p> <p>2       <b>Q. Do you know who Officer Coco was?</b></p> <p>3       A. No.</p> <p>4       <b>Q. Did you make any effort or the Conviction</b> <b>5       Integrity Unit check to see if, in fact, this</b> <b>6       Officer Coco was working on August 28, 2007?</b></p> <p>7       A. I did not. I don't know if anyone else did.</p> <p>8       <b>Q. Was it your expectation that affidavits that</b> 9       <b>were being provided to the Conviction Integrity Unit</b> 10      <b>were truthful and accurate?</b></p> <p>11      A. Well, yes, I would have expected that an 12      affidavit -- a sworn affidavit would be truthful.</p> <p>13      <b>Q. And to the extent than an affidavit was</b> 14      <b>submitted to the Conviction Integrity Unit that</b> 15      <b>contained false information, that would not have been</b> 16      <b>something you would have expected, correct?</b></p> <p>17      MR. TEPFER: Objection to form.</p> <p>18      MS. BUNTIC: Join.</p> <p>19      BY THE WITNESS:</p> <p>20      A. It's -- "expected" is kind of a tough word. I 21      would have been unhappy if someone had demonstrated to 22      me that I was given an affidavit that was not truthful.</p> <p>23      BY MR. BAZAREK:</p> <p>24      <b>Q. And if you knew at the time that you were</b></p>	<p style="text-align: center;">Page 128</p> <p>1       <b>Unit, but also to a Cook County judge, right?</b></p> <p>2       A. Correct.</p> <p>3       <b>Q. I didn't ask you this earlier. The review</b> 4       <b>that the Conviction Integrity Unit made of the Watts</b> 5       <b>cases was separate than any review that was done in</b> 6       <b>terms of the granting of a certificate of innocence?</b></p> <p>7       A. Yes. That is -- it's correct to say that I 8       was not in the business of evaluating the requisites for 9       a certificate of innocence.</p> <p>10      <b>Q. Okay. And I believe, at least in 2017, that</b> 11      <b>was handled by Mr. Hanlon's group; is that right?</b></p> <p>12      MS. BUNTIC: Objection to form.</p> <p>13      MR. TEPFER: Join. Who's Hanlon?</p> <p>14      BY THE WITNESS:</p> <p>15      A. Now Judge Jim Hanlon was in the civil unit.</p> <p>16      BY MR. BAZAREK:</p> <p>17      <b>Q. Civil actions bureau, right?</b></p> <p>18      A. Civil actions bureau.</p> <p>19      I don't know if he was -- if he was the 20      person sort of in charge of that, but I know Jim was 21      definitely someone in that process, someone involved in 22      that process.</p> <p>23      <b>Q. So did the Conviction Integrity Unit have any</b> 24      <b>role or make a recommendations on the certificates of</b></p>
<p style="text-align: center;">Page 127</p> <p>1       <b>given an affidavit that was not truthful, would you</b> 2       <b>agree that you would not have recommended a conviction</b> 3       <b>be vacated to the Cook County State's Attorney?</b></p> <p>4       A. If I thought that the untruth was material, I 5       would have not been willing to go forward.</p> <p>6       <b>Q. Well, would you agree that if one of the</b> 7       <b>petitioners was making a false allegation against a</b> 8       <b>Chicago police officer in their involvement in arrest,</b> 9       <b>would you agree that that would be something material</b> 10      <b>for you?</b></p> <p>11      MR. TEPFER: Objection to incomplete 12      hypothetical, form.</p> <p>13      MS. BUNTIC: Join.</p> <p>14      THE WITNESS: I'm sorry.</p> <p>15      MR. HENRETTY: It's very close to underlying 16      analysis, but I'll let -- I won't instruct him not 17      to answer this question, but any further --</p> <p>18      BY THE WITNESS:</p> <p>19      A. That would be something I would consider 20      material.</p> <p>21      BY MR. BAZAREK:</p> <p>22      <b>Q. Well, I mean, these affidavits be being pro --</b> 23      <b>or -- or they're attached to a petition and they're</b> 24      <b>being provided to not only the Conviction Integrity</b></p>	<p style="text-align: center;">Page 129</p> <p>1       <b>innocence that were granted to the petitioners in the</b> 2       <b>Watts cases?</b></p> <p>3       A. It was not a part of our recommendation either 4       way. Our recommendations would not have said: In 5       addition to taking this action on the conviction, you 6       should take this action on the COI. That was -- that 7       was not something we did.</p> <p>8       <b>Q. Were the files of the Conviction Integrity</b> 9       <b>Unit in the matters of the Watts' review, were those</b> 10      <b>files provided to the Cook County state's attorneys who</b> 11      <b>were reviewing certificates of innocence?</b></p> <p>12      A. I can't say that the files as such were locked 13      up and wholesale submitted. I believe that there was a 14      communication flow where any questions would -- you 15      know, what was there, what did you see. I think there 16      was that -- certainly that communication flow, and we 17      tried to be, you know, helpful to any of the other 18      office branches we could be. But it wasn't like, okay, 19      this was a component part of our process. We've done 20      this. So now do that.</p> <p>21      <b>Q. Did you or any members the CIU ever step up on</b> 22      <b>court proceedings where any of the Watts petitioners</b> 23      <b>were speaking to obtain a certificate of innocence?</b></p> <p>24      A. I don't remember if that happened or not. I</p>

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<p>1 can't say that it did not happen.</p> <p>2 <b>Q. Was -- were the group of attorneys who were</b> 3 <b>reviewing petitions for certificate of innocence, they</b> 4 <b>were doing their review independent of anything that the</b> 5 <b>Conviction Integrity Unit determined?</b></p> <p>6 MS. BUNTIC: Objection to form.</p> <p>7 MR. TEPFER: Speculation, too.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I guess I'm going to say yes, independent of 10 there was not -- nothing that was resolved within the 11 CIU was dependent upon what the others in the civil 12 actions bureau were going to do on certificate of 13 innocence. Those were not -- as far as I was concerned, 14 what we did in CIU was what we did. Whatever 15 ramifications it had in COI land was someone else's job.</p> <p>16 BY MR. BAZAREK:</p> <p>17 <b>Q. But the attorneys that were involved in COI</b> 18 <b>land, they're another group of attorneys you're not</b> 19 <b>supervising. They're not reporting to you, correct?</b></p> <p>20 A. That's correct.</p> <p>21 MR. BAZAREK: I'm going to show you -- I can 22 just show it to you on my computer, but I'm going 23 to call this. This is Exhibit 3, and it's a 117- 24 page document, but I'm just going to show you the</p>	<p>1 A. Okay.</p> <p>2 <b>Q. Okay. So are you familiar with this document?</b></p> <p>3 MS. BUNTIC: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Familiar with it in this respect. There was a 6 time in 2017 when I would have been looking at this 7 document, yes.</p> <p>8 BY MR. BAZAREK:</p> <p>9 <b>Q. Okay. And then this is a document that you</b> 10 <b>prepared or your subordinates prepared?</b></p> <p>11 A. I believe Nancy. I know I did not prepare 12 this. I believe Nancy was primarily responsible for 13 this.</p> <p>14 <b>Q. Okay. And then what -- what was the -- what</b> 15 <b>was this document for?</b></p> <p>16 A. Well, as we've sort of been determining or 17 discussing, there were a lot of moving parts in this 18 case, a lot of different individuals and different 19 arrests and so forth. And while they had some common 20 themes, they were differences. I think this was an 21 effort to synthesize an awful lot of information from 22 varying sources into a format where we could make 23 analyses of individuals and some comparisons among 24 individuals.</p>
<p style="text-align: center;">Page 131</p> <p>1 first page.</p> <p>2 MS. BUNTIC: Can you -- I just want to make 3 sure I see it.</p> <p>4 MR. BAZAREK: Yeah, or if you want to show it 5 to him.</p> <p>6 MR. TEPFER: Can we share the screen on Zoom?</p> <p>7 THE WITNESS: (Indicating).</p> <p>8 MR. TEPFER: Fine. I don't care.</p> <p>9 THE WITNESS: I'm guessing you've all seen it 10 a thousand times, but --</p> <p>11 MR. BAZAREK: All right.</p> <p>12 MS. BUNTIC: Is it in the list of documents?</p> <p>13 MR. BAZAREK: It's Exhibit --</p> <p>14 MR. TEPFER: 3.</p> <p>15 MS. BUNTIC: Oh, Exhibit 3. Oh, great, 16 perfect.</p> <p>17 MR. BAZAREK: It's Exhibit 3. Okay. (Rotert Deposition Exhibit No. 3 marked for identification.)</p> <p>18 BY MR. BAZAREK:</p> <p>19 <b>Q. So Mr. Rotert, I've shown you Exhibit 3. If</b> 20 <b>you want to scroll down and look at other pages, but I</b> 21 <b>can represent to you that Nancy Adduci refers to this as</b> 22 <b>a cheat sheet. So...</b></p>	<p style="text-align: center;">Page 133</p> <p>1 <b>Q. Who was this -- so this was a document that</b> 2 <b>was generated by the Conviction Integrity Unit, right?</b></p> <p>3 A. I believe Nancy Adduci generated it, and she 4 was in CIU.</p> <p>5 <b>Q. Okay. And then was this document kept within</b> 6 <b>CIU, or was it shared with other --</b></p> <p>7 MS. BUNTIC: Objection.</p> <p>8 BY MR. BAZAREK:</p> <p>9 <b>Q. -- units within the Cook County State's</b> 10 <b>Attorney's office?</b></p> <p>11 A. Well, I --</p> <p>12 MS. BUNTIC: Object to speculation.</p> <p>13 THE WITNESS: I'm sorry.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I believe that it was available to the first 16 assistant and -- and to -- well, I believe it was 17 available to the first assistant. Beyond that, any 18 sharing of it, to my knowledge, it was maintained in 19 CIU, but I can imagine that there may have been 20 circumstances where it would have been shown to someone 21 who had a need to see it.</p> <p>22 BY MR. BAZAREK:</p> <p>23 <b>Q. Okay. And when you say "first assistant" --</b> 24 <b>strike that.</b></p>

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<p>1           <b>When you say "first assistant,"</b>  2           <b>you're referring to -- it's either Eric Sussman or</b>  3           <b>Joan Gatz (phonetic).</b>  4           A. Yeah, well, I was thinking mostly Eric  5           Sussman, because when that document was created, we were  6           in the Eric Sussman phase.</p> <p>7           <b>Q. Okay. And this is --</b></p> <p>8           MR. BAZAREK: I'll mark this as Exhibit No. 4.  9           (Rotert Deposition Exhibit No. 4  10           marked for identification.)</p> <p>11          BY MR. BAZAREK:</p> <p>12          <b>Q. This is -- and I can show it to you on my</b>  13          <b>computer. This is a consolidated petition for relief</b>  14          <b>from judgment and to vacate convictions pursuant to</b>  15          <b>735 ILCS 5/2-1401. It looks like it was filed on</b>  16          <b>September 12, 2017.</b>  17          And I'll just read it into the record the  18          petitioners of this consolidated petition. You've got  19          Marcus Gibbs, Leonard Gipson, Allen Jackson, Shawn  20          James, Thomas Jefferson, Jamar Lewis, Andre McNairy,  21          Lee Rainey, Jamell Sanders, Frank Saunders, Christopher  22          Scott, Taurus Smith, Henry Thomas, Philip Thomas,  23          Lionel White Jr., and I'll just -- I'll let you take a  24          look that.</p>	<p>1           <b>least for the press conference when those convictions</b>  2           <b>were vacated?</b>  3           A. I was in court for the proceeding, and then I  4           was in the lobby for what turned into a press  5           conference.</p> <p>6           <b>Q. Did you actually step up in front of</b>  7           <b>the judge, or was that Adduci or Sussman, do you</b>  8           <b>remember?</b>  9           A. I don't remember. I -- my instinct is that  10           Nancy -- Judge Martin knew Nancy. He didn't know me  11           from a hole in the wall. So I believe I probably asked  12           Nancy to do all the talking.</p> <p>13           <b>Q. But do you recall did you actually go stand up</b>  14           <b>at the bench or were just seated in the court room?</b>  15           A. I would -- I would believe that I stood behind  16           Nancy, just to be there.</p> <p>17           <b>Q. Okay. And on that day, as I understand, it</b>  18           <b>was a Thursday, November 16, 2017. Does that sounds</b>  19           <b>right?</b>  20           A. It was November. That's as far as I can take  21           you.</p> <p>22           <b>Q. Okay. Were you aware that you were going to</b>  23           <b>speak to the media that day?</b>  24           MS. BUNTIC: Objection --</p>
<p>1           <b>Do you recall reviewing this petition,</b>  2           <b>Mr. Rotert?</b>  3           A. I recall being aware that a consolidated  4           petition had been prepared. I don't imagine I spent  5           very much time, you know, reviewing this pleading  6           substantively.</p> <p>7           <b>Q. Okay. And who was tasked in the State's</b>  8           <b>Attorney's office with reviewing this petition?</b>  9           MS. BUNTIC: Objection to form.</p> <p>10          BY THE WITNESS:</p> <p>11          A. Excuse me. Well, Watts was generally managed  12          by Nancy Adduci, and I'm confident she had the pleading.</p> <p>13          BY MR. BAZAREK:</p> <p>14          <b>Q. And ultimately this pleading, it was</b>  15          <b>ultimately reviewed by Judge Martin?</b>  16          MS. BUNTIC: Objection to form, speculation.</p> <p>17          BY THE WITNESS:</p> <p>18          A. I don't know what Judge Martin did with it.</p> <p>19          BY MR. BAZAREK:</p> <p>20          <b>Q. Well, you know in November of '17 there were a</b>  21          <b>number of convictions vacated on that -- during that</b>  22          <b>month, correct?</b>  23          A. Yes.</p> <p>24          <b>Q. Okay. And then you were actually present at</b></p>	<p>1           <b>BY THE WITNESS:</b>  2           A. Not when I got to -- I'm sorry.  3           MS. BUNTIC: Go ahead.</p> <p>4           <b>BY THE WITNESS:</b>  5           A. Not when I got to work that morning.</p> <p>6           BY MR. BAZAREK:</p> <p>7           <b>Q. So how did you become aware that the media was</b>  8           <b>going to be there on that day?</b>  9           A. When I came through the door from 26th Street  10           you go through security, then, in the middle of the --  11           between the two buildings. And when I came in, there  12           was a significant media presence, and I remember  13           thinking to myself I wonder what case is up today that  14           has the interest of this media group. And I think I  15           might have thought to myself I hope it has nothing to do  16           with anything I'm doing today.</p> <p>17           <b>Q. So no heads-up, no one is calling you on the</b>  18           <b>phone, Hey, the press is going to be here?</b>  19           A. If I recall correctly, I learned that there  20           was going to be a media event when I got to work that  21           day.</p> <p>22           <b>Q. Okay. Did you do any preparation before</b>  23           <b>speaking to the press?</b>  24           A. Certainly nothing -- nothing like a dry</p>

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<p>1 rehearsal, dress rehearsal, something like that, no, no. 2 I mean, I think there was probably -- the State's 3 Attorney was there.</p> <p><b>Q. Kim Foxx?</b></p> <p>4 A. Ms. Foxx was there. Robert Foley was there. 5 Or -- I don't know what Robert's title was, but he was 6 there.</p> <p>7 And I think there was a general discussion 8 about here's what's happening. Here's what the legal 9 bases are for what's happening. And here's the 10 conclusions we've reached and so forth.</p> <p><b>Q. So is this before the cases were called to the judge?</b></p> <p>11 A. Yes, before we went downstairs.</p> <p><b>Q. Okay. So you weren't in an office somewhere?</b></p> <p>12 A. We were upstairs in the State's Attorney's offices, and then went down together to the courtroom.</p> <p><b>Q. Okay. And then who -- who was in this meeting in the State's Attorney office?</b></p> <p>13 A. Ms. Foxx and Mr. Foley, Nancy Adduci and myself. I don't remember whether Eric Sussman or April Perry were there. I don't remember anyone else being there.</p> <p><b>Q. Oftentimes where officials speak to the press,</b></p>	<p>1 <b>speak to the press other than Mark Rotert?</b></p> <p>2 A. You know, I -- I don't remember that anybody 3 made determinations about who's going to speak first or 4 who's going to speak second. I know that at some point 5 people started thinking that I should talk, which I 6 remember thinking wasn't to my preference. But then 7 I -- I remember, also, that the State's Attorney began 8 to speak, which I hadn't -- I hadn't given any thought 9 to planning.</p> <p>10 I mean, I just -- to me, as I recall 11 those events, it was a situation that was very fluid. 12 And we were standing there, the media were there, the 13 petitioners were already behind us. It was all a big 14 group of people. And somebody asked a question, and 15 people looked at me, and I stepped forward and made some 16 kind of response. And then it just goes off from there.</p> <p>17 I think Mr. Tepfer made comments. I think 18 one or two of the petitioners made comments. At some 19 point, Ms. Foxx stepped forward. None of this to my 20 mind was stage-managed in advance. This was happening 21 real time.</p> <p><b>Q. So would you agree that on that day, when you made the public comments, you had not prepared --</b></p> <p>22 A. They were not --</p>
<p>1 <b>they give them little bullets or a little PowerPoint of what they're going to say. Did you -- did you have that on that day?</b></p> <p>2 MS. BUNTIC: Objection to form. 3 BY MR. BAZAREK:</p> <p><b>Q. Talking points, I guess then. Talking points.</b></p> <p>4 A. No. We -- I did not prepare any talking 5 points. I don't believe that any talking points were in use.</p> <p><b>Q. How is it determined that you would be speaking to the press on that day?</b></p> <p>6 MR. HENRETTY: I'm going to instruct him not 7 to answer. We're getting into underlying analysis 8 again and internal debate.</p> <p>9 BY MR. BAZAREK:</p> <p><b>Q. Was a determination made as to who would speak to the press on behalf of the Cook County State's Attorney's office?</b></p> <p>10 MR. HENRETTY: Same objection. Instruct him 11 not to answer.</p> <p>12 MR. BAZAREK: Can you read back that question? 13 (The record was read as requested.)</p> <p>14 BY MR. BAZAREK:</p> <p><b>Q. Was there a determination that anyone would</b></p>	<p>1 <b>-- to make a comment?</b></p> <p>2 A. They were not the product -- 3 MS. BUNTIC: Objection to form. 4 BY THE WITNESS:</p> <p>5 A. -- of great deliberation.</p> <p>6 BY MR. BAZAREK:</p> <p><b>Q. Okay. Did Nancy Adduci speak to the media on that day?</b></p> <p>7 A. I believe the answer is that she did not.</p> <p><b>Q. And I understand you're the -- you are the director of CIU. You have many responsibilities. You have, you know, many assistant state's attorneys reporting to you, doing the review.</b></p> <p>8 Would you agree that Nancy Adduci had the best grasp of what the facts were for the individuals that were bringing forth the petitions --</p> <p>9 MR. HENRETTY: I'm going to -- 10 BY MR. BAZAREK:</p> <p><b>Q. -- to have their convictions vacated?</b></p> <p>11 MR. HENRETTY: I'm going to object and 12 instruct not to answer as to underlying analysis 13 and internal debate. Page 47 of the Court's order.</p> <p>14 MR. BAZAREK: Oh, okay. 15 MR. HENRETTY: It's a good try, though.</p>

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<p>1 BY MR. BAZAREK:</p> <p>2 <b>Q. Okay. Let's look at Exhibit 15.</b></p> <p>3 MS. BUNTIC: You said 15, one, five?</p> <p>4 MR. BAZAREK: I'm sorry. Exhibit --</p> <p>5 Exhibit 5. My bad. And it's a document,</p> <p>6 The Injustice Watch.</p> <p>7 I'll let you mark it. You've got it</p> <p>8 electronically, but...</p> <p>9 (Rotert Deposition Exhibit No. 5</p> <p>10 marked for identification.)</p> <p>11 BY MR. BAZAREK:</p> <p>12 <b>Q. Have you ever seen this document, sir, this</b></p> <p>13 <b>article?</b></p> <p>14 A. If I have, I don't recall it.</p> <p>15 <b>Q. Okay. If you go to page 2, and I have</b></p> <p>16 <b>it highlighted. And I'll just read it. "At a press</b></p> <p>17 <b>conference afterward, Assistant State's Attorney</b></p> <p>18 <b>Mark Rotert told reporters, 'In these cases, we</b></p> <p>19 <b>concluded that unfortunately the police were not being</b></p> <p>20 <b>truthful and we couldn't have confidence in the</b></p> <p>21 <b>integrity of their reports and their testimony and so in</b></p> <p>22 <b>good conscience we could not see these convictions</b></p> <p>23 <b>stand.'"</b></p> <p>24 <b>Did I read that correctly?</b></p>	<p>1 tell anybody else, that any officers besides Watts and</p> <p>2 Mohammed were deserving of credibility or not deserving</p> <p>3 of credibility.</p> <p>4 It did occur to me that if the allegations</p> <p>5 involving Watts and Mohammed were accepted, that the</p> <p>6 other police officers in the same group involved in the</p> <p>7 same arrests had some difficult questions to answer, but</p> <p>8 I wasn't in a position to pose those questions.</p> <p>9 So my comments here were intended to</p> <p>10 convey, however inadvertently, that there was a taint on</p> <p>11 these convictions because of what we knew to be true</p> <p>12 about Watts and Mohammed, that was enough by itself to</p> <p>13 undermine our integrity, undermine our confidence in the</p> <p>14 integrity.</p> <p>15 <b>Q. I'm going to go back to when you're using the</b></p> <p>16 <b>phrase "their reports" and "their testimony," are you</b></p> <p>17 <b>referring to Watts and Mohammed?</b></p> <p>18 MS. BUNTIC: Objection, asked and answered.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Well, I would say that I'm referring to the</p> <p>21 Watts and Mohammed arrests. So that was my intention at</p> <p>22 the time, I think.</p> <p>23 BY MR. BAZAREK:</p> <p>24 <b>Q. Did you -- strike that.</b></p>
<p>1 A. You read it correctly.</p> <p>2 <b>Q. And would you agree that you did make that</b></p> <p>3 <b>statement on that day?</b></p> <p>4 A. I have no reason to dispute it.</p> <p>5 <b>Q. Okay. So when you said the police were not</b></p> <p>6 <b>being truthful, who were you referring to?</b></p> <p>7 A. Well, I had in mind Watts and Mohammed, I</p> <p>8 believe.</p> <p>9 <b>Q. Anyone else?</b></p> <p>10 A. Well, I wasn't trying to be more specific than</p> <p>11 that.</p> <p>12 <b>Q. But when you made that phrase, when you say</b></p> <p>13 <b>"the police," you're talking about Watts and Mohammed,</b></p> <p>14 <b>correct?</b></p> <p>15 MS. BUNTIC: Objection.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Those were the police officers that I felt</p> <p>18 were the ones whose credibility was in question.</p> <p>19 <b>Q. Okay. And then when you said "we couldn't</b></p> <p>20 <b>have confidence in the integrity of their reports and</b></p> <p>21 <b>their testimony," you were referring to Watts and</b></p> <p>22 <b>Mohammed, correct?</b></p> <p>23 A. Well, I was referring to our problems with the</p> <p>24 cases. I could not tell you, and I didn't purport to</p>	<p>1 <b>During the time when you were in</b></p> <p>2 <b>Conviction Integrity Unit, did you ever review any of</b></p> <p>3 <b>the vice case reports that were prepared subsequent to</b></p> <p>4 <b>the arrests of the different petitioners for drug</b></p> <p>5 <b>crimes?</b></p> <p>6 A. I'm -- I don't recall doing that, no.</p> <p>7 <b>Q. Did you ever review any of the inventory slips</b></p> <p>8 <b>that would identify the contraband that was recovered</b></p> <p>9 <b>any of the Watts petitioners?</b></p> <p>10 A. No. And I think one of the reasons that I</p> <p>11 invited or requested that Nancy Adduci take the point on</p> <p>12 this was that she would have known of such documents and</p> <p>13 items, and I would have walked right past things like</p> <p>14 that because of my lack of knowledge of the intricate</p> <p>15 workings of this police department and the State's</p> <p>16 Attorney's office in those kinds of cases.</p> <p>17 And so I didn't do that. And I didn't</p> <p>18 direct people to do that because I was too -- I wasn't</p> <p>19 equipped to tell them that that stuff was even up there.</p> <p>20 <b>Q. Okay. And would it be the same answer for the</b></p> <p>21 <b>pleas of guilty or even findings of guilty, to the</b></p> <p>22 <b>extent that there was a jury trial and someone was</b></p> <p>23 <b>convicted that you didn't review those plea transcripts?</b></p> <p>24 A. I don't recall. I don't recall reviewing many</p>

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<p>1      plea transcripts, if any, in this matter.</p> <p>2      <b>Q. Okay. Let's take a look at the third page of</b></p> <p>3      <b>Exhibit 5. And if you go toward the bottom, and I'll</b></p> <p>4      <b>just read it: "Rotert on Thursday called the process of</b></p> <p>5      <b>reviewing past convictions 'a very exacting process,'</b></p> <p>6      <b>adding, 'We have to deal we reading reports, reading</b></p> <p>7      <b>transcripts, doing investigations. We're doing that,</b></p> <p>8      <b>and we have a lot to do."</b></p> <p>9      <b>First off, did I read it correctly?</b></p> <p>10     A. You did read it correctly.</p> <p>11     <b>Q. And would you agree that you said those words</b></p> <p>12     <b>on that day?</b></p> <p>13     A. I don't have any reason to debate it, dispute</p> <p>14     it.</p> <p>15     <b>Q. So when you say that, you know, We have to</b></p> <p>16     <b>deal with reading reports, reading transcripts, doing</b></p> <p>17     <b>investigations, you're talking about the work of Nancy</b></p> <p>18     <b>Adduci, correct?</b></p> <p>19     A. Well, I'm really talking about the</p> <p>20     Coleman/Fulton case, which was a case about which I had</p> <p>21     and have very strong opinions. And so you'll see that</p> <p>22     the paragraph above someone had been telling me that</p> <p>23     there was controversy about that case, which pissed me</p> <p>24     off. And so I was telling him that there's work that I</p>	<p>1      THE WITNESS: Someone is asking for screen</p> <p>2      sharing.</p> <p>3      MR. BAZAREK: All right. Hold on a minute.</p> <p>4      Let's take a break. We'll go off the record.</p> <p>5      VIDEO FEMALE VOICE: Hi everyone.</p> <p>6      I'm Erin Kennedy.</p> <p>7      VIDEO FEMALE VOICE: I'm Marissa</p> <p>8      Bailey. This may not be the end. We are</p> <p>9      told more cases could be --</p> <p>10     MR. BAZAREK: Who is asking for screen share?</p> <p>11     THE COURT REPORTER: Hold on. Off the record?</p> <p>12     UNIDENTIFIED SPEAKER: Screen share, Bill.</p> <p>13     MR. TEPFER: Yeah. We're off.</p> <p>14     THE VIDEOGRAPHER: The time is 2:35 p.m., and</p> <p>15     we're now off the record.</p> <p>16     (Off the record.)</p> <p>17     THE VIDEOGRAPHER: The time is 2:39 p.m. And</p> <p>18     we're back on the record.</p> <p>19     MR. BAZAREK: Mr. Rotert, I'm going to play</p> <p>20     you Exhibit 6.</p> <p>21     (Video played.)</p> <p>22     VIDEO MALE VOICE: I feel like I</p> <p>23     have the opportunity to do whatever I</p> <p>24     want to do now. It's like a new life.</p>
<p style="text-align: center;">Page 147</p> <p>1      have do before I let a couple of people out on a</p> <p>2      disgusting murder.</p> <p>3      <b>Q. Did -- did Nancy Adduci, did she work on</b></p> <p>4      <b>Fulton/Coleman, too?</b></p> <p>5      A. No.</p> <p>6      <b>Q. All right.</b></p> <p>7      MR. BAZAREK: And now I'm just going to play</p> <p>8      some video. So this is Exhibit 6.</p> <p>9      (Rotert Deposition Exhibit No. 6</p> <p>10     marked for identification.)</p> <p>11     THE WITNESS: Will I see it, or do I need to</p> <p>12     use yours?</p> <p>13     MR. BAZAREK: Yeah, I can --</p> <p>14     THE WITNESS: I don't care. One screen is</p> <p>15     good enough.</p> <p>16     MR. BAZAREK: So I'll just play it.</p> <p>17     (Video played.)</p> <p>18     VIDEO MALE VOICE: I feel like I</p> <p>19     have the opportunity to do whatever I</p> <p>20     want to do now. It's like a new life.</p> <p>21     UNIDENTIFIED SPEAKER: Screen</p> <p>22     sharing it?</p> <p>23     VIDEO FEMALE VOICE: Breaking news</p> <p>24     right now. This man is one of 15 men --</p>	<p style="text-align: center;">Page 149</p> <p>1      VIDEO FEMALE VOICE: Breaking news</p> <p>2      right now. This man is one of 15 men</p> <p>3      whose convictions were overturned this</p> <p>4      morning in the largest single day of</p> <p>5      exonerations in Cook County history.</p> <p>6      Hi, everyone. I'm Erin Kennedy.</p> <p>7      VIDEO FEMALE VOICE: Good morning,</p> <p>8      I'm Marissa Bailey. This may not be the</p> <p>9      end. We are told more cases could</p> <p>10     be looked at. Let's get right to CBS 2's</p> <p>11     Mike Puccinelli at the Leighton Criminal</p> <p>12     Court Building.</p> <p>13     Good morning, Mike.</p> <p>14     VIDEO MALE VOICE: Hi. They're</p> <p>15     men who all served time for crimes they</p> <p>16     say they didn't commit. Now the County's</p> <p>17     top prosecutor agrees with them.</p> <p>18     15 men who were sent to prison on drug</p> <p>19     charges today had their convictions</p> <p>20     dismissed. Ten of those newly exonerated</p> <p>21     former convicts showed up at up at Cook</p> <p>22     County Criminal Court Clerk building</p> <p>23     today for the largest mass exoneration in</p> <p>24     Cook County history. All of the men say</p>

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<p>1       they were framed by this man, former 2       Chicago Police Sergeant Ronald Watts and 3       his partners. They patrolled on the 4       south side between 2003 and 2008. Watts 5       and Officer Kallatt Mohammed seen here 6       being taken into custody were both sent 7       to prison for stealing cash from a drug 8       dealer who was actually working with the 9       FBI at the time.</p> <p>10       Leonard Gipson was just 22 when he says 11       he refused to pay Watts' so-called 12       protection tax. He said Watts then 13       planted heroin on him and placed him 14       under arrest. That sent him to prison 15       twice for lengthy stints behind bars.</p> <p>16       VIDEO MALE VOICE: So Watts always 17       told me, "If you're not going to pay me, 18       I'm going get you. And every time he 19       ran -- every time I ran into him, he put 20       drugs on me. Every time.</p> <p>21       VIDEO MR. TEPFER: What's never 22       quite understood is that this stuff 23       sticks with you. These convictions stick 24       with you. You can't get the time back</p>	<p>1       Marissa. Erin. 2       VIDEO FEMALE VOICE: All right, 3       Mike. Thank you. 4       (Video stopped.) 5       BY MR. BAZAREK: 6       <b>Q. Have you seen that news broadcast before,</b> 7       <b>Mr. Rotert?</b> 8       A. I may have. I don't remember it. 9       <b>Q. Is it something you reviewed in preparation</b> 10       <b>for the deposition?</b> 11       A. No. No. 12       <b>Q. Okay. So let's go -- in the clip that we just</b> 13       <b>watched, you're on it for, you know, a few moments, but</b> 14       <b>you spoke more at length on that day?</b> 15       A. It seems like it, yes. 16       <b>Q. And when you mentioned restoring trusts to the</b> 17       <b>media and everyone that was gathered there, what did you</b> 18       <b>mean by that?</b> 19       A. I think it was kind of a straightforward 20       statement. There was a perception that in -- especially 21       in the communities on the south and west sides, that 22       there was no confidence or respect for the police. And 23       that's a situation that's not healthy. And so I think 24       other than that, I think the comment kind of stands for</p>
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<p>1       you served. You can't get -- it affects 2       your ability to get jobs, housing.</p> <p>3       VIDEO MR. ROTERT: One of the 4       things that the state's attorney said 5       during the campaign and has continued to 6       say is that one of the priorities of this 7       office and her administration, I think, 8       is to restore trust between the criminal 9       justice system and its actors and the 10       citizens of Cook County.</p> <p>11       VIDEO MALE VOICE: Now, Tepfer 12       says in all 26 convictions spearheaded by 13       Watts have been overturned so far, but he 14       says Watts and his crew were involved in 15       more than 500 different convictions. So 16       he believes that are many, many more to 17       come at this point, and they intend to 18       plan to continue to investigate. 19       As for Gipson, he says he feels like a 20       newborn baby with his whole life to live, 21       and he says he now believes he can 22       finally get a job. 23       Reporting live at the criminal courts 24       building. Mike Puccinelli, CBS 2 News.</p>	<p>1       itself. 2       <b>Q. So did the State's Attorney's office look at</b> 3       <b>this as an opportunity to restore trust when the</b> 4       <b>convictions were vacated on that day?</b> 5       A. I kind of thought about it as the State's 6       Attorney's office restores trust whenever it's doing 7       something that appears to correct a wrong. 8       MR. BAZAREK: I'm going to show you what's 9       been marked as Exhibit 7A. This is an article from 10       the USA Today from November 16, 2017. 11       (Rotert Deposition Exhibit No. 7A 12       marked for identification.) 13       BY MR. BAZAREK: 14       <b>Q. And on the first page of this exhibit there's</b> 15       <b>another quote that's been highlighted. Do you see that?</b> 16       A. I do. 17       <b>Q. And according to this article, you said in</b> 18       <b>good conscience, you could not see these convictions</b> 19       <b>stand. And were you quoted accurately there, sir?</b> 20       A. I believe I must have been, sir. 21       <b>Q. Okay. And then what -- and what did you mean</b> 22       <b>by that, "In good conscience we could not see these</b> 23       <b>convictions stand"?</b> 24       A. Haven't we had this same question and answer</p>

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<p>1 on this very same quote just about 20 minutes ago?</p> <p>2 But in any event, let me say, the</p> <p>3 perspective I was trying to express was that if a</p> <p>4 conviction was based on tainted testimony or conduct by</p> <p>5 the police, it should not stand. The police are not</p> <p>6 like other citizens. When they do things that are</p> <p>7 corrupt or wrong, it has a wider and broader impact.</p> <p>8 And so if there was a concern that the</p> <p>9 police were producing convictions that weren't honest,</p> <p>10 that was a matter of conscience not to let that go</p> <p>11 uncorrected.</p> <p>12 <b>Q. Even though there was never any determination</b></p> <p>13 <b>that these individuals who were bringing these petitions</b></p> <p>14 <b>were actually innocent, correct?</b></p> <p>15 A. Because the integrity of the police is a</p> <p>16 circumstance or a policy concern that stands separate</p> <p>17 and apart from a wrongful conviction.</p> <p>18 <b>Q. And when you say the police, as you're using</b></p> <p>19 <b>that term, and as you used that term when you were</b></p> <p>20 <b>giving public comment, you were specifically speaking of</b></p> <p>21 <b>Watts and Mohammed, correct?</b></p> <p>22 MS. BUNIC: Objection to form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. I certainly was intending to refer to Watts</p>	<p>1 I just feel like right now it's a</p> <p>2 brand-new beginning for me. I can start</p> <p>3 over, do what I want to do.</p> <p>4 VIDEO MR. ROTERT: In these cases, we</p> <p>5 concluded that unfortunately, the police</p> <p>6 were not being truthful, and we couldn't</p> <p>7 have confidence in the integrity of their</p> <p>8 reports and their testimony. And so in</p> <p>9 good conscious, we could not see these</p> <p>10 convictions stand.</p> <p>11 VIDEO MALE VOICE: There was no way of</p> <p>12 getting away from them. They would plant</p> <p>13 drugs on you. They would beat you. They</p> <p>14 came to court and testified in my case.</p> <p>15 They got on the stand as a credible</p> <p>16 police officer, and all the time it was</p> <p>17 nothing but lies.</p> <p>18 VIDEO MR. TEPFER: These convictions</p> <p>19 stick with you. You can't get the time</p> <p>20 back you served. You can't get -- it</p> <p>21 affects your ability to get jobs,</p> <p>22 housing.</p> <p>23 VIDEO MR. ROTERT: I'd like it to be one</p> <p>24 message of what I think will be many</p>
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<p>1 and Mohammed, yes.</p> <p>2 BY MR. BAZAREK:</p> <p>3 <b>Q. Okay. So I'm going to play 7B.</b></p> <p>4 <b>(Rotert Deposition Exhibit No. 7B</b></p> <p>5 <b>marked for identification.)</b></p> <p>6 <b>(Video played.)</b></p> <p>7 VIDEO MALE VOICE: Leonard Gipson.</p> <p>8 I'm just happy for me and my friends that</p> <p>9 someone gave us an opportunity to that</p> <p>10 look at our cases to understand that --</p> <p>11 what Watts was really doing to us.</p> <p>12 VIDEO MR. TEPFER: There's been</p> <p>13 26 convictions overturned that have been</p> <p>14 connected to Sergeant Watts and his crew.</p> <p>15 One of the patterns that you saw</p> <p>16 routinely was that Watts and his team</p> <p>17 would plant extraordinary amounts of</p> <p>18 drugs on them, Class X amounts of drugs,</p> <p>19 which is the top-level felony.</p> <p>20 VIDEO MALE VOICE: If you're not going to</p> <p>21 pay Watts, you were going to jail.</p> <p>22 That's just the way it was going to go.</p> <p>23 If you're not going to pay him, you're</p> <p>24 going to jail.</p>	<p>1 messages to the people of this county, to</p> <p>2 tell them that they can and should trust</p> <p>3 and work with the criminal justice system</p> <p>4 to make to make this county a better</p> <p>5 place.</p> <p>6 (Video stopped.)</p> <p>7 BY MR. BAZAREK:</p> <p>8 <b>Q. So I just have a -- did you say there was an</b></p> <p>9 <b>individual who was speaking about police beating people</b></p> <p>10 <b>up? Did you see that?</b></p> <p>11 A. I saw that.</p> <p>12 <b>Q. His name a Philip Thomas. Do you remember</b></p> <p>13 <b>Philip Thomas, big tall guy?</b></p> <p>14 A. I can't say that I ever --</p> <p>15 <b>Q. Said his nickname was the Candy Man. He sold</b></p> <p>16 <b>candy, cookies at Ida B. Wells. Do you remember that?</b></p> <p>17 A. I don't.</p> <p>18 <b>Q. Where -- and I know I didn't ask you this</b></p> <p>19 <b>question before. Where you had an individual say,</b></p> <p>20 <b>whether it was in an affidavit, claiming that they had</b></p> <p>21 <b>been physically abused, did you ever go back yourself</b></p> <p>22 <b>and look to see if there was any medical evidence to</b></p> <p>23 <b>show that someone had been physically injured or abused</b></p> <p>24 <b>while in police custody?</b></p>

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<p>1        A. If there were allegations in the petitions of 2        the affidavits that there had been physical abuse, I 3        don't recall that fact. And so I don't -- I don't have 4        recollections about investigating or not investigating 5        allegations of physical abuse.</p> <p>6        <b>Q. Okay. Okay. And I raised it because you</b> 7        <b>have an individual whose conviction was vacated telling</b> 8        <b>the press. So that's why I was asking you that</b> 9        <b>question.</b></p> <p>10       <b>But is it your testimony that in the</b> 11       <b>affidavits, at least that you reviewed in matters</b> 12       <b>pertaining to the Watts cases, that you never observed</b> 13       <b>anything that -- where someone said that they had been</b> 14       <b>physically abused while in police custody?</b></p> <p>15       A. No, that's not any --</p> <p>16       MS. BUNTIC: Objection to form.</p> <p>17       Mischaracterizes earlier testimony.</p> <p>18       MR. TEPFER: Join.</p> <p>19       BY THE WITNESS:</p> <p>20       A. No. My testimony is that I'm not now 21       recalling allegations of that sort appearing in the 22       petitions or the affidavits.</p> <p>23       BY MR. BAZAREK:</p> <p>24       <b>Q. So if, in fact, someone had claimed in an</b></p>	<p>1        BY THE WITNESS: 2        A. We would have reacted badly to being lied to.</p> <p>3        BY MR. BAZAREK: 4        <b>Q. Okay. So I'm going to show you Exhibit --</b> 5        <b>this is No. 8.</b></p> <p>6        <b>(Rotert Deposition Exhibit No. 8</b> 7        <b>marked for identification.)</b></p> <p>8        BY MR. BAZAREK: 9        <b>Q. So this is an article by the Innocence staff.</b> 10       <b>It's dated September 24, 2018, and it's referencing some</b> 11       <b>additional convictions were vacated. It looks like</b> 12       <b>18 people.</b></p> <p>13       <b>Do you recall this or giving public</b> 14       <b>comment on this?</b></p> <p>15       A. I recall the November incident with 15 people 16       vividly. I am aware that subsequent cases were brought 17       to Judge Martin and others were vacated. I don't 18       recall -- first of all, I don't recall talking to the 19       media on any of the other occasions. This kind of looks 20       to me like something I said back in November that a 21       reporter resurrected, but I'm not sure.</p> <p>22       <b>Q. Okay.</b></p> <p>23       A. I don't recall having any other media exposure 24       in the subsequent cases, so that's my answer.</p>
<p style="text-align: center;">Page 159</p> <p>1        <b>affidavit that they were physically abused while in</b> 2        <b>police custody and there was no medical evidence,</b> 3        <b>photographic evidence, any evidence of any kind to</b> 4        <b>support that someone had been physically abused, what</b> 5        <b>would you or the Conviction Integrity Unit do with that</b> 6        <b>information?</b></p> <p>7        MR. TEPFER: Objection to form. Calls for 8        speculation. Incomplete hypothetical.</p> <p>9        MS. BUNTIC: Objection to form.</p> <p>10       BY THE WITNESS:</p> <p>11       A. We'd evaluate -- I'm sorry.</p> <p>12       MS. BUNTIC: Object to form.</p> <p>13       BY THE WITNESS:</p> <p>14       A. We would have evaluated that fact as one of 15       the facts that should be looked at in the whole of the 16       situation.</p> <p>17       BY MR. BAZAREK:</p> <p>18       <b>Q. All right. Well, if someone was saying they</b> 19       <b>were physically abused and it wasn't true, that they</b> 20       <b>were lying about that, would that be a reason where</b> 21       <b>there would be a recommendation not to vacate a</b> 22       <b>conviction?</b></p> <p>23       MR. TEPFER: All the same objections.</p> <p>24       MS. BUNTIC: Join.</p>	<p style="text-align: center;">Page 161</p> <p>1        <b>Q. So on page 2 of this exhibit, there's</b> 2        <b>quotations over things that you reportedly said. Do you</b> 3        <b>see that?</b></p> <p>4        A. I do.</p> <p>5        <b>Q. Okay. And I'll just read from it: "We</b> 6        <b>continue to hear that many of these arrests were purely</b> 7        <b>conjured,' said Mark Rotert, Chief of the State's</b> 8        <b>Attorney's Conviction Integrity Unit. 'They were</b> 9        <b>basically arresting people and framing them or claiming</b> 10       <b>that they were involved in drug offenses that either</b> 11       <b>didn't occur or didn't occur the way that those police</b> 12       <b>officers said.'"</b></p> <p>13       <b>Did I read that right?</b></p> <p>14       A. Did you read it correct.</p> <p>15       <b>Q. Okay. So when you said "They were basically</b> 16       <b>arresting people and then framing them," who is "they"?</b></p> <p>17       A. Well, I think by then the parlance Walls -- 18       "Watts cases" was pretty well in play. So I believe 19       that if someone had asked me who's "they," I would have 20       said Watts and Mohammed, but nobody was asking me. So 21       this was a pronoun that I used.</p> <p>22       <b>Q. Okay. But as you sit here today, you just</b> 23       <b>don't remember saying that, but you're not disputing</b> 24       <b>that you said it?</b></p>

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<p>1        A. I -- if a journalist -- because I 2        am a trusting soul, if a journalist puts something 3        in quotation marks and attributes it to me, I'll 4        accept that that's what I must have said. I just 5        don't remember. Because of the reaction I had to 6        the first media experience, I don't remember engaging 7        in more media experiences after the first one. But 8        if this person says that it happened in September 9        of '18, I can't dispute it because I can't remember 10       it.</p> <p>11       <b>Q. And it's by the Innocence staff. I don't 12       know, maybe they're affiliated with the Innocence 13       Project or they report to Mr. Tepfer.</b></p> <p>14       MR. TEPFER: This is -- that's an objection. 15       I can explain to you if you'd like.</p> <p>16       BY THE WITNESS:</p> <p>17       A. I have no knowledge about who the Innocence 18       Staff is.</p> <p>19       BY MR. BAZAREK:</p> <p>20       <b>Q. The Innocence Staff, okay.</b> 21       <b>Well, let me ask you. Did -- did any -- 22       do you recall any person from the Innocence Staff ever 23       reaching out to you for public comment, anything like 24       that?</b></p>	<p>1        <b>Department?</b> 2        A. No. 3        MR. BAZAREK: And I'm going to -- just give me 4        a moment. I'm just going to print this. Let's go 5        off the record. 6        I don't think he's listening. 7        THE REPORTER: Michael. 8        MR. BAZAREK: Go off the record. 9        THE VIDEOGRAPHER: Sorry. 10       The time is 2:58 p.m., and we're now off 11       the record. 12       (Recess.) 13       THE VIDEOGRAPHER: The time is 3:01 p.m., and 14       we're back on the record. 15       (Rotert Deposition Exhibit No. 10 16       marked for identification.) 17       BY MR. BAZAREK: 18       <b>Q. Okay, Mr. Rotert, I'm showing you what's been 19       marked as Exhibit 10. It's a direct declaration of 20       Craig Henderson who is a special agent with the FBI. Do 21       you know him, Mr. Henderson?</b> 22       A. I don't believe I do. 23       <b>Q. Okay. And -- well, when you were 24       reviewing the materials at the FBI, did you review</b></p>
<p>1        A. I would get inquiries or invitations from a lot 2        of organizations that I never heard of them before or 3        since.</p> <p>4        <b>Q. Okay.</b> 5        MR. BAZAREK: All right. We can put that 6        exhibit down and almost getting to the finish line, 7        at least for me.</p> <p>8        BY MR. BAZAREK:</p> <p>9        <b>Q. I'm going to show you Exhibits 9A and 9B.</b> 10       <b>(Rotert Deposition Exhibit Nos. 9A and 11       9B marked for identification.)</b></p> <p>12       BY MR. BAZAREK:</p> <p>13       <b>Q. 9A is a correspondence from November 17, 2017, 14       and 9B is a correspondence from April 4, 2018.</b> 15       <b>Earlier in the deposition, we talked -- 16       remember I talked about letters from Magats to the 17       general counsel of the police department?</b></p> <p>18       A. Yes, you did.</p> <p>19       <b>Q. Okay. And I want to make sure I understand 20       it. Did you have any role of any sort in the creation 21       of this correspondence?</b></p> <p>22       A. No.</p> <p>23       <b>Q. Did you tell anyone to send this 24       correspondence to anyone over at the Chicago Police</b></p>	<p>1        <b>anything prepared or created by a special agent named 2       Craig Henderson?</b> 3        A. I don't know. 4        <b>Q. How about [REDACTED] did you know [REDACTED] 5       [REDACTED] FBI agent?</b> 6        A. No, I don't believe so. 7        <b>Q. When you were at the FBI that one day and you 8       were -- you were reviewing materials, was it limited to 9       paper?</b> 10       A. I believe it probably was. I don't remember 11       bringing any equipment with us. 12       <b>Q. Or did anyone from the FBI or the DEA or 13       whoever was there with you and Adduci, did they ever 14       play any type of recordings of any sort?</b> 15       A. I don't recall that. If it did happen, I 16       don't recall it. 17       <b>Q. Did you or Nancy Adduci request the FBI or the 18       DEA to provide you with any electronic recording that 19       would have been made in the federal investigation of 20       Watts and his team?</b> 21       MS. BUNTIC: Objection to form, speculation. 22       BY THE WITNESS: 23       A. Are you asking did we request any materials 24       like that from the FBI?</p>

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<p style="text-align: center;">Page 166</p> <p>1 BY MR. BAZAREK:</p> <p>2     <b>Q. Yes.</b></p> <p>3     A. You know, I don't know. The ground work for 4     our visit to the Bureau and review of the materials was 5     laid by Nancy, so what she requested, I could not speak 6     to.</p> <p>7     <b>Q. Okay. Take a look at paragraph 14 of the</b> 8     <b>direct declaration for Mr. -- from Agent Henderson, I</b> 9     <b>should say. And I'll just read it. He says: "During</b> 10     <b>my review of the items of electronic material collected</b> 11     <b>by the FBI in its investigation of Mr. Watts and</b> 12     <b>Mohammed, I did not perceive anything that indicated</b> 13     <b>that the subjects of the investigation were engaged in</b> 14     <b>falsification of criminal charges against any</b> 15     <b>individual."</b></p> <p>16     <b>Did I read that right?</b></p> <p>17     A. You read that correct.</p> <p>18     <b>Q. Is that -- and I understand Henderson is doing</b> 19     <b>this declaration years after you've already left the</b> 20     <b>State's Attorney's office, right?</b></p> <p>21     A. It appears.</p> <p>22     MS. BUNTIC: Objection, form, foundation.</p> <p>23 BY MR. BAZAREK:</p> <p>24     <b>Q. Right. He signed this on the 15th of March</b></p>	<p style="text-align: center;">Page 168</p> <p>1     MS. BUNTIC: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3     A. I think I kind of did know that, in the sense 4     that when I looked through the materials, there were no 5     tapes or 302s or attributions saying Mohammed and Watts 6     have admitted that they're putting people in court on 7     bad charges. That was not -- there was no smoking gun 8     that said Mohammed and Watts have said part of the 9     things that they're doing is exaggerating the amount of 10     dope or putting dope on people that they don't like or 11     shaking people down.</p> <p>12     I didn't see such materials. So the 13 agent's assertion that there are no such materials, I 14 feel like that's consistent with what they saw.</p> <p>15     MR. BAZAREK: Okay. I don't have any further 16     questions, Mr. Rotert.</p> <p>17     THE WITNESS: Because I'm confident no one 18     else does, I think we're probably done. But in the 19     event --</p> <p>20     MR. PALLES: I'm sorry, I may have a few.</p> <p>21     THE WITNESS: In that event, I'm going to ask 22     for two minutes. And only two. I don't want a 23     long break. Counsel, I'll be right back.</p> <p>24     MR. PALLES: I'm with you. We're men of the</p>
<p style="text-align: center;">Page 167</p> <p>1     <b>2023?</b></p> <p>2     A. Uh-huh.</p> <p>3     <b>Q. Right?</b></p> <p>4     A. That's what it says, yes.</p> <p>5     <b>Q. So is that something that you would have</b> 6     <b>wanted to know from the FBI, at least when the</b> 7     <b>Conviction Integrity Unit was reviewing the Watts</b> 8     <b>petitions?</b></p> <p>9     A. Yes.</p> <p>10     MS. BUNTIC: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12     A. It was something that I would have wanted to 13     know.</p> <p>14 BY MR. BAZAREK:</p> <p>15     <b>Q. Well, the declaration of Agent Henderson,</b> 16     <b>he -- he is averring, and this is a document that was</b> 17     <b>filed in federal Court, that during my review of the</b> 18     <b>items of electronic material collected by the FBI in its</b> 19     <b>investigation of Mr. Watts and Mohammed, I did not</b> 20     <b>perceive anything that indicated the subjects of the</b> 21     <b>investigation were engaged in falsification of criminal</b> 22     <b>charges against any individual.</b></p> <p>23     A. Okay. Would I have wanted to know that?</p> <p>24     <b>Q. Yes.</b></p>	<p style="text-align: center;">Page 169</p> <p>1     same age.</p> <p>2     THE WITNESS: There you go. Could we go off 3     the record? It's not for me to request, but...</p> <p>4     THE VIDEOGRAPHER: The time is 3:07 p.m. and 5     we're now off the record.</p> <p>6     (Recess.)</p> <p>7     THE VIDEOGRAPHER: The time is 3:13 p.m., and 8     we're back on the record.</p> <p>9     EXAMINATION</p> <p>10 BY MR. PALLES:</p> <p>11     <b>Q. Good afternoon. For the record, for the</b> 12     <b>record I am Eric Palles. I represent Kallatt Mohammed,</b> 13     <b>and I have just a few questions.</b></p> <p>14     Let me start out with there was some 15     discussion about November of 2017, the date on which 16     there was a mass vacation of these drug convictions, 17     about I believe 18 in total. Is that right?</p> <p>18     A. I remember the November 17 event, yes.</p> <p>19     <b>Q. The event, okay. Yeah, let me ask you. When</b> 20     <b>was the decision made that those particular petitions</b> 21     <b>would be granted?</b></p> <p>22     A. Well, I don't know that there's a precise 23     date. I think because of the number of people involved, 24     it was probably over a span of weeks. My best</p>

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<p>1 guesstimate would be that it was probably the latter 2 part of October, early part of November of '17.</p> <p>3 <b>Q. Okay. Let me ask you this, when did you first</b> 4 <b>become aware of the fact that on November 7 -- was it</b> 5 <b>November 16th, November 17th of 2017 that there would be</b> 6 <b>a -- that you would go in front of the judge and state</b> 7 <b>that the State had no objection to these convictions</b> 8 <b>being overturned?</b></p> <p>9 MS. BUNTIC: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. Well, I guess it would be the same answer. I 12 mean, the mechanical process to vacate was something 13 that I was aware of, I guess, fairly soon after I got to 14 the Conviction Integrity Unit. So I knew that if we 15 were going to grant relief, that it was the basis or the 16 mechanism we would use.</p> <p>17 BY MR. PALLE:</p> <p>18 Q. All right. Well, now, for example, I know -- 19 well, it's been reported in the papers, at least, that 20 Josh Tepfer became aware that the State was going to 21 agree to these convictions being vacated the night 22 before he was to appear in court.</p> <p>23 Let me ask you, were you the person that 24 communicated with him to tell him that?</p>	<p>1 recall. My instinct is that it was after the November 2 court appearance. I recall that Nancy Adduci let me 3 know that COPA was asking her for a meeting. And I felt 4 that because it was an outside agency, that it was my -- 5 my job to be there, but I don't recall when that was.</p> <p>6 Q. Okay. Well, you read a fairly thorough 7 opinion by Judge Finnegan relating to the waiver of 8 Cook County's deliver of privilege, correct?</p> <p>9 A. I read Judge Finnegan's opinion.</p> <p>10 Q. Okay. And the basis for much of the waiver in 11 that case was based on a series of discussions that you 12 and Nancy had with an Anthony Becknek, Gregory Masters, 13 and several other individuals from COPA during April of 14 2018.</p> <p>15 Does that sound correct?</p> <p>16 MS. BUNTIC: Objection to form. Misstates the 17 record.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I know that Judge Finnegan's orders, which I 20 read without trying to parse for dates, I know that part 21 of Judge Finnegan's order referenced our interactions 22 with COPA. And I also looked at a couple of materials, 23 a couple of documents that were COPA-generated about 24 those interactions.</p>
<p>1 Page 171</p> <p>2 A. I do not believe so. I don't recall doing 3 that.</p> <p>4 Q. Okay. The news, an article attributes the -- 5 his knowledge to a call from Ms. Foxx's lead deputy. Do 6 you know who that might have been?</p> <p>7 A. Well, I -- that would appear to me to most 8 closely define Eric Sussman, but I don't --</p> <p>9 Q. Okay.</p> <p>10 A. I don't know.</p> <p>11 Q. When did you hear from Eric Sussman that the 12 decision had become final and the Cook County State's 13 Attorney was going to agree that these convictions will 14 overturn?</p> <p>15 MS. BUNTIC: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 Q. Yeah. Counsel, I don't really recall.</p> <p>18 BY MR. PALLE:</p> <p>19 Q. Okay. All right. I want to talk just very 20 briefly about an organization that really hasn't been 21 brought up much today, COPA. First of all, do you 22 recall when you first met with COPA about Watts cases?</p> <p>23 MS. BUNTIC: Objection to form.</p> <p>24 BY THE WITNESS:</p> <p>25 A. I don't recall the date. I don't really</p>	<p>1 Page 173</p> <p>2 BY MR. PALLE:</p> <p>3 Q. Okay. Whenever this -- let's talk about the 4 first face-to-face meeting you had with COPA. Let me 5 ask you, first of all, before the meeting, did you 6 understand what the purpose behind COPA's request to 7 meet with you was?</p> <p>8 A. Well, I knew -- I knew in general terms what 9 COPA, why it exists, what it is. So my assumption was 10 that COPA was interested in -- in finding out what 11 information would be available that related to the 12 officers other than Mohammed and Watts.</p> <p>13 Q. Okay. During the course of -- well, do you 14 independently remember?</p> <p>15 A. You know, I remember Mr. Becknek. I remember 16 feeling, if I may, that it was sort of an obligation for 17 me to attend the meeting. I remember thinking I had a 18 lot of other things to be doing. I think I left the 19 meeting after an appropriate amount of time to sort of 20 demonstrate that I was there and I was being polite. 21 And I remember telling them that we wanted to, you 22 know -- whatever we could do in aid of what they were 23 trying to accomplish, we wanted to be as cooperative as 24 was possible under the circumstances.</p> <p>25 Q. And I'm sorry. As a result of that, you</p>

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<p style="text-align: center;">Page 174</p> <p>1 at that point told them that you would agree to have 2 Nancy Adduci share with them her thoughts behind that 3 cohort of the first 18 or so individuals that had sought 4 postconviction relief?</p> <p>5 MS. BUNTIC: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Yeah, and I -- I would -- I would -- as again, 8 my vocabulary would be different.</p> <p>9 BY MR. PALLETS:</p> <p>10 Q. Okay. What's your vocabulary?</p> <p>11 A. I know that there's been an assertion in the 12 COPA materials, for example, that I said that Nancy 13 would be happy to share her deliberations. I can't 14 specifically recall making that statement. I have to 15 say that I would be surprised at myself if I made that 16 statement. I do know that I intended to convey to COPA 17 that Nancy had gathered a wealth of information about 18 these cases and that we were going to be willing to let 19 them review all of that information, that there were 20 things that she had assembled that was work product that 21 would save them a lot of time and energy to go out and 22 find all the papers and everything that she had 23 assembled, that Nancy would be happy to -- to walk them 24 through it. That was my understanding of what we were</p>	<p style="text-align: center;">Page 176</p> <p>1 memoranda that they prepared as a result of their 2 meetings with you?</p> <p>3 A. Well, no, I want to make clear. On Saturday, 4 the day before yesterday --</p> <p>5 Q. Sure.</p> <p>6 A. -- I looked at two documents that counsel 7 provided -- my counsel provided to me that were 8 memoranda prepared by COPA.</p> <p>9 Q. Right.</p> <p>10 A. And I did look at those in preparation for 11 this deposition today.</p> <p>12 Q. Okay. That's what I thought. And my question 13 now obviously is, did that refresh your recollection in 14 any regard?</p> <p>15 A. It did.</p> <p>16 Q. Okay. And as you indicated a minute ago, you 17 had a bit of a disagreement with how they interpreted at 18 least some of the statements that you made, correct?</p> <p>19 A. I -- I think that they construed my remarks 20 differently than I intended them to be.</p> <p>21 Q. Okay. Well, isn't that always the case?</p> <p>22 Let me ask you this then. I want to go to 23 one of the statements. According to them, they said 24 that you emphasized that CIU could live with vacating</p>
<p style="text-align: center;">Page 175</p> <p>1 conveying to COPA.</p> <p>2 Q. Okay. So it sounds to me, though, like you 3 are aware that during the course of those discussions 4 one or more people at COPA took copious notes. Am I 5 correct? You're aware of that?</p> <p>6 A. I --</p> <p>7 MS. BUNTIC: Objection --</p> <p>8 BY THE WITNESS:</p> <p>9 A. I'm not surprised --</p> <p>10 MR. PALLETS: To the form?</p> <p>11 THE REPORTER: I'm sorry, objection --</p> <p>12 MR. PALLETS: Did you say objection to the 13 form?</p> <p>14 THE COURT REPORTER: I'm sorry. Objection 15 what?</p> <p>16 MS. BUNTIC: Objection to form and 17 speculation.</p> <p>18 MR. PALLETS: Yeah, okay. Sorry.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I don't -- I wouldn't have been surprised if 21 they were taking notes. It wouldn't have troubled me if 22 they were taking notes at the meeting.</p> <p>23 BY MR. PALLETS:</p> <p>24 Q. Okay. But you haven't reviewed any of the</p>	<p style="text-align: center;">Page 177</p> <p>1 convictions that may actually be legitimate if the 2 interests of justice is served.</p> <p>3 Now, I don't want to belabor it. You've 4 said that all day today, and that is a correct 5 statement, correct?</p> <p>6 A. That sounds like a fair assessment of my 7 comment. And if it's in quotes, I'll -- I'll credit 8 that they quote me correctly.</p> <p>9 Q. Okay. But then they say: But CIU cannot live 10 with taking actions that will destroy the reputation or 11 career of other offices that acted honestly and were not 12 involved in misconduct.</p> <p>13 Now, in terms of the criteria by which 14 your office viewed the Watts cases, was the factor of 15 collateral damage to -- to the other officers one that 16 you would consider to have been a major criteria or 17 maybe subordinate to some of the others?</p> <p>18 MR. HENRETTY: I object only to the extent 19 that you have to go into any underlying 20 deliberations. Otherwise, you can answer the 21 question.</p> <p>22 BY THE WITNESS:</p> <p>23 A. Okay. I guess the only thing I can -- the 24 best response I can make is that I had a desire not to</p>

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<p style="text-align: center;">Page 178</p> <p>1 see a police officer unfairly tarred in reputation or 2 his or her professional life. I had and have an abiding 3 affection for the law enforcement community. So I 4 wasn't hoping to trash anybody else. I was aware --</p> <p>5 <b>Q. Let me ask you this.</b></p> <p>6 A. Sure.</p> <p>7 <b>Q. I'm sorry. You know, Mark, I mean, I</b> 8 <b>appreciate your candor. Your answers are fulsome. I</b> 9 <b>just want to get out of here. You know?</b></p> <p>10 A. So --</p> <p>11 <b>Q. I don't mean to be terse.</b></p> <p>12 A. No, that's -- well, let me cut to the chase then. I did not have conversations -- I do not recall 13 having conversations with anybody in the State's 14 Attorney's office on the specific topic of what might 15 the public or the media or the world at large construe 16 about the other police officers because of what we're 17 doing here. That's where I'll stop there.</p> <p>18 <b>Q. Okay. Let me ask you this, did the concern</b> 19 <b>that you expressed on that occasion, did that ever cease</b> 20 <b>to become a factor for you?</b></p> <p>21 A. I -- no. I -- I maintain that feeling to this 22 day.</p> <p>23 <b>Q. Okay. All right then. Now, one of the</b></p>	<p style="text-align: center;">Page 180</p> <p>1 A. I wouldn't have had a problem with an effort 2 for COPA to get grand jury transcripts involving these 3 petitioners. I don't think that that would have been a 4 problem, but I am pretty sure that nobody ever brought 5 that question to me for determination.</p> <p>6 <b>Q. I believe you stated earlier in the deposition</b> 7 <b>today that by the time that you signed on at CIU there</b> 8 <b>had already been judicial relief granted in some of the</b> 9 <b>Watts cases, correct?</b></p> <p>10 A. That's my recollection.</p> <p>11 <b>Q. Okay. And that was a fact that influenced</b> 12 <b>your judgment concerning these cases, didn't it?</b></p> <p>13 A. I don't know how to answer that. I think 14 it -- the way I look at it, it was a train that was 15 already moving. It was not a new matter that I was 16 getting started. It was something that was already 17 under consideration. And at least in some instances it 18 had been determined, yes, we need to do something here. 19 So I guess, yes, it influenced me that this was not a 20 wild goose chase.</p> <p>21 <b>Q. Okay. And -- well, let's -- let's just --</b> 22 <b>let's -- let's go to the postconviction vernacular for a</b> 23 <b>moment. You would agree or was it your belief that by</b> 24 <b>the time these postconviction cases started coming, the</b></p>
<p style="text-align: center;">Page 179</p> <p>1 things that came up during one of these discussions was 2 that COPA was going to draft a motion to present to 3 Judge Martin that would seek out grand jury material. 4 <b>Do you recall that?</b></p> <p>5 MS. BUNTIC: Objection, speculation.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I honestly don't remember that.</p> <p>8 BY MR. PALLE:</p> <p>9 <b>Q. Do you recall Cook County State's Attorney</b> 10 <b>cooperating in any respect with COPA to obtain these</b> 11 <b>grand jury transcripts?</b></p> <p>12 A. I don't. And I don't know what grand jury 13 transcripts there would be, because we did not work in 14 the grand jury.</p> <p>15 <b>Q. I understand that. I guess my -- well, the</b> 16 <b>question I had was, I couldn't figure it out either.</b></p> <p>17 <b>Did CIU obtain any grand jury transcripts involving the</b> 18 <b>underlying warrants and cases?</b></p> <p>19 A. I don't know. I -- I didn't think there was a 20 lot of grand jury work in drug cases. Usually those go 21 for a preliminary, but I don't know is the answer.</p> <p>22 <b>Q. Sure. Okay. Okay. To the extent time that</b> 23 <b>any of them did have grand juries, would that be</b> 24 <b>something that you'd be inclined to share with COPA?</b></p>	<p style="text-align: center;">Page 181</p> <p>1 <b>fact of the Watts and Mohammed convictions in</b> 2 <b>particular, at least stated the gist of a constitutional</b> 3 <b>claim for purposes of the postconviction act?</b></p> <p>4 MS. BUNTIC: Objection to form.</p> <p>5 MR. TEPFER: Join.</p> <p>6 BY THE WITNESS:</p> <p>7 A. I think you could make a constitutional claim 8 from it, sure.</p> <p>9 BY MR. PALLE:</p> <p>10 <b>Q. And then as a consequence, these petitioners,</b> 11 <b>if you weren't outright going to accede to their</b> 12 <b>requests that these convictions be vacated might at</b> 13 <b>least be entitled to -- entitled to an evidentiary</b> 14 <b>hearing, correct?</b></p> <p>15 MS. BUNTIC: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. That's a plausible scenario, yeah.</p> <p>18 BY MR. PALLE:</p> <p>19 <b>Q. Okay. And at the end of the day, if you were</b> 20 <b>going to contest any one of these convictions, you would</b> 21 <b>have to put on some evidence for the State, correct?</b></p> <p>22 A. Presumably.</p> <p>23 <b>Q. And what would the nature of the evidence be</b> 24 <b>that you would have to put on?</b></p>

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<p>1       A. Well, I'm not a postconviction litigator, but 2       let me say that if there were an evidentiary hearing, it 3       would presumably go to the various courtrooms in which 4       these various convictions were obtained. And at that 5       point, the State's Attorney's office would have had to 6       come up with a determination, are we going to go in to a 7       PC hearing and litigate in opposition to a claim that we 8       believe is well founded.</p> <p>9               Now --</p> <p>10       <b>Q. Let me ask you this: As a practical matter, though, by the time you're considering all of these postconvictions, Mr. Magats has put each one of these officers on a do-not-call list, correct?</b></p> <p>14       MS. BUNTING: Objection to form.</p> <p>15       BY THE WITNESS:</p> <p>16       A. Yeah, I think the list was issued after the 17       determinations were made and the court proceedings were 18       held. I don't think that it's the other way around.</p> <p>19       BY MR. PALLE:</p> <p>20       <b>Q. Okay. So -- all right. What effect, if anything, did that do-not-call list have on your deliberations concerning, say, the next 60 to 70 Watts postconviction -- yeah, excuse me -- requests for postconviction relief that you received either formally</b></p>	<p>1       <b>people?</b></p> <p>2       A. Well, I think I was talking about actions that 3       the office had taken. I was trying to give a 4       layperson's understanding for what was going on. If I'm 5       in court, I try to be precise with my language. When 6       I'm talking to the media, perhaps a little less so. But 7       I was certainly trying to tell the listener or the 8       reader, you know, we hear that these police officers -- 9       the reason we're looking at this, the reason we're in 10       this whole process is this is what people are telling 11       us.</p> <p>12       MR. PALLE: Yeah. Some people were saying. 13       Okay. Thanks a lot. I really appreciate you.</p> <p>14       THE WITNESS: You bet.</p> <p>15       MR. BAZAREK: Anyone have anything?</p> <p>16       MR. TEPFER: I have just a few questions, but 17       I figured that defense counsel would prefer to go.</p> <p>18       MR. BAZAREK: Yeah. I just have like one or 19       two follow-up.</p> <p>20       MR. TEPFER: Does anyone --</p> <p>21       MR. BAZAREK: Sorry.</p> <p>22       MR. TEPFER: Does anyone have questions?</p> <p>23       THE WITNESS: Speak now or forever --</p> <p>24       MR. SCAHILL: Nothing from me. Thank you.</p>
<p style="text-align: center;">Page 183</p> <p>1       <b>or on an informal basis from Mr. Tepfer and Mr. Flaxman during the remainder of your term as the head of CIU?</b></p> <p>3       MR. HENRETTY: I'm going to object and 4       instruct him not to answer based on the Court's 5       order that the underlying analysis and internal 6       debate are still protected.</p> <p>7       BY MR. PALLE:</p> <p>8       <b>Q. All right. My last question -- and I'm sorry, but I'm going to go back to this quote, which I have written here as a quote. "We continue to hear that many of these arrests are purely conjured," said Mark Rotert." Quote, "They were basically arresting people and framing them or were claiming that they were involved in drug offenses that either didn't occur or didn't occur the way those police officers said."</b></p> <p>16       Now, I want to make clear that you're talking about only that which you heard or at that point were continuing to hear. In other words, sole -- you were referring solely to allegations, am I correct?</p> <p>20       BY THE WITNESS:</p> <p>21       A. It was hearsay.</p> <p>22       BY MR. PALLE:</p> <p>23       <b>Q. Okay. And you were not suggesting as a factual matter that any of these officers were framing</b></p>	<p style="text-align: center;">Page 185</p> <p>1       <b>MR. BAZAREK: All right.</b></p> <p>2       <b>MS. MORRISON: Nothing from Katherine.</b></p> <p>3       <b>Thanks.</b></p> <p>4       <b>MR. LEINENWEBER: Nothing from Tom. Thanks.</b></p> <p>5       <b>FURTHER EXAMINATION</b></p> <p>6       <b>BY MR. BAZAREK:</b></p> <p>7       <b>Q. Mr. Rotert, have you heard of Blackstone ratio?</b></p> <p>9       A. I saw a reference to this. I confess that I 10       hadn't known of that phraseology, but I know what it 11       means now.</p> <p>12       <b>Q. Okay. And as I understand it, it's a criminal principle that states it is better to let 10 guilty people go free than to wrongfully convict one innocent person.</b></p> <p>16       A. That's -- I agree that that's the way it's 17       been described to me, as that principle, yes.</p> <p>18       <b>Q. Was that something that the Conviction Integrity Unit followed, that type of reasoning when they were reviewing the Watts cases?</b></p> <p>21       A. Well, I -- since I was complete -- innocent of 22       all knowledge about that Blackstone principle because I 23       went to a -- anyway.</p> <p>24       I don't know that that formulation was on</p>

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<p>1 my mind, but I -- I think I've stated there were 2 circumstances, and this is one of them, under which 3 there were questions about things other than factual 4 innocence.</p> <p>5 MR. BAZAREK: That's all I have.</p> <p>6 EXAMINATION</p> <p>7 BY MR. TEPFER:</p> <p>8     <b>Q. Hi, Mark. How are you?</b></p> <p>9     A. I'm getting better as we get longer into the 10 day.</p> <p>11     <b>Q. I'm going to try to be brief. If you know --</b></p> <p>12     MR. HENRETTY: We're never brief.</p> <p>13     MR. TEPFER: I'm never brief, you say?</p> <p>14     MR. HENRETTY: We're never brief, 15     collectively, attorneys.</p> <p>16 BY MR. TEPFER:</p> <p>17     <b>Q. Did I ever request, as far as you know,</b> 18     <b>specifically that the CIU be assigned to the Watts</b> 19     <b>cases?</b></p> <p>20     A. I don't know. I don't -- I certainly never 21 heard such a request from you. I don't know that you 22 ever made such as request.</p> <p>23     <b>Q. And I certainly as a lawyer for the</b> 24     <b>petitioners don't get to decide who -- what unit of the</b></p>	<p>1     <b>tenure at the Cook County State's Attorney office; is</b> 2     <b>that correct?</b></p> <p>3     A. That's correct.</p> <p>4     <b>Q. And were you aware -- I mean, you've testified</b> 5     <b>you're aware. Part of the reason you wanted it to be</b> 6     <b>that way was because she had particular expertise in</b> 7     <b>these drug cases, at least in ways that you did not, at</b> 8     <b>least in the Chicago Police Department?</b></p> <p>9     A. That is my statement. That is my testimony.</p> <p>10     <b>Q. Okay. And during your experience with Nancy</b> 11     <b>during those two years, as her -- she's sometimes been</b> 12     <b>referred to as your subordinate. Sometimes referred to</b> 13     <b>as your partner. Did she do anything during that</b> 14     <b>investigation or on the Watts cases in particular that</b> 15     <b>made you feel non-confident or -- in her abilities to do</b> 16     <b>that job?</b></p> <p>17     A. No. I have and had absolute confidence in 18 Nancy's abilities and integrity.</p> <p>19     <b>Q. And there is nothing that happened during the</b> 20     <b>course of your work with her or since that has made you</b> 21     <b>second-guess that?</b></p> <p>22     A. That is a fair statement, yes.</p> <p>23     <b>Q. And we did -- you were asked a little bit</b> 24     <b>about some of our interactions; is that correct?</b></p>
<p style="text-align: center;">Page 187</p> <p>1     <b>Cook County State's Attorney's office is assigned to my</b> 2     <b>cases, correct?</b></p> <p>3     A. That's correct.</p> <p>4     <b>Q. And then I would ask the same questions for</b> 5     <b>Joel Flaxman, and you would get the same -- give the</b> 6     <b>same answers?</b></p> <p>7     A. That's correct.</p> <p>8     <b>Q. Okay. You -- it's fair to say that Nancy</b> 9     <b>was -- I think you've testified to this, is it fair to</b> 10     <b>characterize that she was in charge of the Watts</b> 11     <b>investigations from your office; is that fair?</b></p> <p>12     A. It's fair to say that Nancy was given the 13 responsibility of doing all of the, what I thought of, 14 as the heavy lifting. It was her project. I wanted to 15 support it, but it was her project.</p> <p>16     <b>Q. And you would -- would you characterize her as</b> 17     <b>having the most expertise on the Watts-related cases in</b> 18     <b>your office?</b></p> <p>19     A. Yes, I would.</p> <p>20     <b>Q. And you not only wanted to support it, you did</b> 21     <b>support her in any way you could, correct?</b></p> <p>22     A. I tried to, yes.</p> <p>23     <b>Q. And that was during the -- Nancy being in</b> 24     <b>charge of the investigation was during your entire</b></p>	<p style="text-align: center;">Page 189</p> <p>1     A. Correct.</p> <p>2     <b>Q. Is there anything that I did during the course</b> 3     <b>of our interactions that made you question my integrity?</b></p> <p>4     A. No.</p> <p>5     <b>Q. Is there anything that Joel Flaxman did during</b> 6     <b>the course of your interactions with him, if you had</b> 7     <b>any, that made you question his integrity?</b></p> <p>8     A. No.</p> <p>9     <b>Q. What about Sean Starr, same question?</b></p> <p>10     A. No.</p> <p>11     <b>Q. Okay. You talked -- there was some talk about</b> 12     <b>how all of the cases that were involved we provided for</b> 13     <b>our clients' affidavits. Do you remember lots of</b> 14     <b>questions about that, correct?</b></p> <p>15     A. Yes.</p> <p>16     <b>Q. Did you ever become aware that we would</b> 17     <b>provide other evidence that we saw fit that we wanted</b> 18     <b>your office to look at beyond our clients' affidavits?</b></p> <p>19     A. I believe other information was being provided 20 to Nancy, yes.</p> <p>21     <b>Q. And those other information would be</b> 22     <b>potentially police reports that we were able to get</b> 23     <b>ahold of ourselves through the Freedom of Information</b> 24     <b>Act or any other means; is that accurate?</b></p>

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<p style="text-align: center;">Page 190</p> <p>1        A. Well, I can't speak to the species of 2        material, but I know that Nancy would comment that there 3        were materials incoming from you and Sean and Joel. 4        <b>Q. Okay. And sometimes those materials would</b> 5        <b>include not just our clients' affidavits but other</b> 6        <b>statements that we viewed, for whatever reason, as</b> 7        <b>corroborating those affidavits of our clients?</b></p> <p>8        MS. BUNTIC: Objection to form. 9        BY THE WITNESS: 10      A. Yeah. I assume so, but I can't speak to it. 11      I just don't know. 12      BY MR. TEPFER: 13      <b>Q. You just don't know. You don't recall</b> 14      <b>receiving other, for example, sworn testimony from court</b> 15      <b>proceedings that we wanted -- we asked you to review?</b> 16      A. I recall Nancy saying that more materials were 17      coming in. I can't get much more detailed than that. 18      <b>Q. Okay. I'm just going to finish with a couple</b> 19      <b>more, even though it will probably be the same answer.</b> 20      <b>But you don't recall ever us providing additional</b> 21      <b>affidavits from other witnesses, either eyewitnesses,</b> 22      <b>co-arrestees, or what's sometimes called outcry</b> 23      <b>witnesses that we have asked you to review?</b> 24      A. I don't have specific recollection of that.</p>	<p style="text-align: center;">Page 192</p> <p>1        <b>Q. Bill asked a lot of questions about false</b> 2        <b>information and affidavits. And I think the -- I mean,</b> 3        <b>there was a lot of comments on it, but I think one of</b> 4        <b>the things you said was something to the effect of if</b> 5        <b>you had determined that there were false statements in</b> 6        <b>an affidavit, your office wouldn't take kindly to that</b> 7        <b>and you didn't want to be lied to? That was</b> 8        <b>something -- would you stand by that statement?</b> 9        A. Yes, I would. 10      <b>Q. Now, you've been a legal practitioner for a</b> 11      <b>long time, a lawyer for a long time, correct?</b> 12      A. Yes. 13      <b>Q. And affidavits are sworn written statements,</b> 14      <b>correct?</b> 15      A. Correct. 16      <b>Q. And people sometimes testify in court, and</b> 17      <b>that's also sworn testimony under oath, correct?</b> 18      A. Right. 19      <b>Q. And certainly when people are testifying under</b> 20      <b>oath, sometimes people are impeached, right?</b> 21      A. Exactly. 22      <b>Q. Okay. And sometimes -- and when they're</b> 23      <b>impeached, sometimes they find out information that's</b> 24      <b>not accurate, that what you're trying to do is show that</b></p>
<p style="text-align: center;">Page 191</p> <p>1        <b>Q. You don't recall us ever providing you a</b> 2        <b>redacted or, if we had them, unredacted copies of</b> 3        <b>complaint registers to OPS or IPRA that we thought were</b> 4        <b>appropriate for you to review?</b> 5        A. That -- I am going to say that I don't have a 6        specific recollection of that. 7        <b>Q. You do not have a specific recollection?</b> 8        A. I do not have a specific recollection of 9        hearing that IPRA materials or other materials of that 10      sort were produced. 11      <b>Q. Okay. So just to be more specific, Bill</b> 12      <b>asked you about the Leonard Gipson affidavit. You</b> 13      <b>don't remember our office providing YOU with some</b> 14      <b>materials from a -- a complaint register related to</b> 15      <b>Leonard Gipson's case?</b> 16      A. I -- I believe that materials involving 17      OPR [sic] and things like that were among the wealth of 18      materials that Nancy had in her possession. And I don't 19      know that I can trace the providence. I know that she 20      told me that you continued to provide her materials. So 21      that's as far as I can take it. 22      <b>Q. And when you said "OPR," am I correct that you</b> 23      <b>meant OPS?</b> 24      A. OPS, sure.</p>	<p style="text-align: center;">Page 193</p> <p>1        <b>the information they're testifying to is inconsistent or</b> 2        <b>inaccurate in some way, correct?</b> 3        A. That's a form of impeachment, yes. 4        <b>Q. Sure. Now, do you automatically conclude when</b> 5        <b>you impeach someone or provide information that their</b> 6        <b>statement is not true that that person is intentionally</b> 7        <b>lying all the time?</b> 8        MR. BAZAREK: I'd object to that form of the 9        question. Incomplete hypothetical and lacking in 10      foundation. 11      BY THE WITNESS: 12      A. You know, it's a snowflake answer. Every case 13      should be looked at on its own circumstance. So 14      sometimes impeachment can be devastating. Sometimes 15      it's clear that it was just a poorly chosen phrase or 16      word. So I can't make a blanket assertion like that. 17      BY MR. TEPFER: 18      <b>Q. Sure. And I guess to cut to the chase, if you</b> 19      <b>determined that -- the core of the allegations from the</b> 20      <b>clients of Joel and mine and Sean were that -- and you</b> 21      <b>framed it -- that they didn't have the drugs that the</b> 22      <b>police reports and the police officers claimed they had;</b> 23      <b>is that fair?</b> 24      A. Give me that again. Try that again.</p>

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<p style="text-align: center;">Page 194</p> <p>1       <b>Q.</b> The core of the allegations -- and we're going 2       with a broad brush, but let's put it this way. Many of 3       the allegations were that our clients were claiming that 4       they did not actually possess the drugs that the 5       officers claimed that they did; is that accurate? 6       A. That seems fair to me, yes. 7       <b>Q.</b> Now, if you were to determine that that core 8       allegation you were able to prove was, in fact, false, 9       that would be very frustrating, and that would be 10      something that you would look askance at it from the 11      office, correct? 12      A. That's right. 13      <b>Q.</b> If you were to determine that potentially our 14      client named one of several police officers and 15      remembered that that police officer was part of that 16      arrest and you determined, in fact, that while the other 17      three that they determined were, in fact, there, that 18      fourth one was not, was that something that you would 19      view as being lied to and look at in the same way? 20      MR. BAZAREK: Object to the form of the 21      question, foundation, incomplete hypothetical. 22      MS. BUNTIC: Object to form. 23      BY THE WITNESS: 24      A. Yeah, it's -- my answer has to be equivocal.</p>	<p style="text-align: center;">Page 196</p> <p>1       <b>Q.</b> Do you remember that testimony? 2       A. I remember it. 3       <b>Q.</b> Do you have grave concerns about my integrity? 4       A. No. 5       <b>Q.</b> Do you have grave concerns about Sean Starr's 6       integrity? 7       A. No. 8       <b>Q.</b> Do you have grave concerns about Joel Flaxman's 9       integrity? 10      A. No. 11      <b>Q.</b> Did you ever go to any of the three of us and 12      say that you've been able to determine that there -- an 13      affidavit that we submitted to you on behalf of one of 14      our clients was false? 15      A. No. I don't believe that I -- I'm pretty sure 16      that I never went to any of those three lawyers and 17      concluded and said that there was a problem, but I want 18      to make my testimony clear.</p>
<p style="text-align: center;">Page 195</p> <p>1       It would be a circumstance that I would want to know 2       more about, and it would make me look more closely at 3       other circumstances with respect to that person. 4       BY MR. TEPFER: 5       <b>Q.</b> So -- and you've been very consistent 6       throughout this deposition that you have -- you and 7       Nancy were in unison that you were looking at all of the 8       information available to you when making the 9       determinations of whether or not to seek relief from the 10      courts, correct? 11      A. We made that effort. 12      <b>Q.</b> Okay. And that misnaming a police officer as 13      there when even if you could prove that they were not in 14      fact there would be a factor that you would consider? 15      MS. BUNTIC: Objection to form. 16      MR. BAZAREK: Join. 17      BY THE WITNESS: 18      A. I would expect it to be something we would 19      consider. 20      BY MR. TEPFER: 21      <b>Q.</b> One of the things on the same sort of general 22      topic that you think you said is that if you were to 23      have determined that an affidavit -- if you were able to 24      essentially prove that an affidavit that I submitted to</p>	<p style="text-align: center;">Page 197</p> <p>1       <b>Q.</b> Sure. 2       A. When I said that, I meant this: If the 3       affidavit said something that I believed to be shown to 4       be not true, my instinct would be the client probably 5       told the lawyer something and the lawyer didn't have a 6       reason to believe that it was not true. So I would go 7       to the lawyer and say, you know, go back to this client 8       because I think he got a bum steer and you better 9       straighten this out. My comment was, I wouldn't do that 10      if I thought that the lawyer was the type of person who 11      would have ginned up a false affidavit. 12      So to presage your question, I didn't ever 13      have any concerns that you or your colleagues were the 14      type of lawyers who would gin up material in an 15      affidavit they knew not to be true. 16      <b>Q.</b> And I appreciate that. Thank you. 17      But the second part of my question also 18      remains. You also didn't have any -- ever come to us, 19      period, and say, we think we have concerns about one of 20      the affidavits you submitted on. Your client may have 21      provided you bad information? 22      A. I don't recall that we ever did that. 23      <b>Q.</b> Okay. And that's my next question. Thank you 24      for saying, "we." You're not aware of Nancy ever doing</p>

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<p>1     <b>that?</b></p> <p>2     A. I am not aware of her ever doing that.</p> <p>3     <b>Q. And I'm talking specifically on the Watts</b></p> <p>4     <b>cases.</b></p> <p>5     A. Yes.</p> <p>6     <b>Q. I'm going to try to refresh your recollection</b></p> <p>7     <b>just a little because I just want the record to be clear</b></p> <p>8     <b>because in some ways I'm a witness to this.</b></p> <p>9     <b>Do you remember someone named</b></p> <p>10    <b>Stefan Harrison?</b></p> <p>11    A. No.</p> <p>12    <b>Q. Okay. And I think Henry Thomas as well, do</b></p> <p>13    <b>you know that name?</b></p> <p>14    A. Henry Thomas' name rings a bell, but I can't</p> <p>15    tell you why.</p> <p>16    <b>Q. You were asked a line of questions about</b></p> <p>17    <b>whether you ever interviewed any of my clients or asked</b></p> <p>18    <b>to interview any of my clients.</b></p> <p>19    A. Okay.</p> <p>20    <b>Q. Upon hearing those names, do you recall</b></p> <p>21    <b>meeting with me and I'm positive Stefan Harris and</b></p> <p>22    <b>I believe also separate was Henry Thomas -- coming</b></p> <p>23    <b>to your office downtown and meeting with you and</b></p> <p>24    <b>them?</b></p>	<p>1     A. Not to my knowledge. Usually, if we concluded</p> <p>2     that someone who asked for relief wasn't meriting</p> <p>3     relief, that would be the end of it. Now, I can't</p> <p>4     discount the possibility of the lawyer or some other</p> <p>5     person would go directly to the state's attorney and ask</p> <p>6     that the matter be brought forward, but we didn't have a</p> <p>7     policy of bringing stuff up and saying we went yes on</p> <p>8     this and no on that.</p> <p>9     <b>Q. And that was true for the Watts cases during</b></p> <p>10    <b>your tenure as well?</b></p> <p>11    A. Yes.</p> <p>12    MR. TEPFER: I have no further questions.</p> <p>13    Thank you.</p> <p>14    MR. BAZAREK: Anyone have any follow-up?</p> <p>15    MR. SCAHILL: No, nothing from me. Thank you.</p> <p>16    MS. McELROY: No.</p> <p>17    MS. MORRISON: No. Thank you.</p> <p>18    THE VIDEOGRAPHER: Okay. This is the end of</p> <p>19    the end of the deposition --</p> <p>20    MR. PALLE: No. Thank you.</p> <p>21    Thanks, Mark. Have a drink on me.</p> <p>22    MR. BAZAREK: Let's do signature, Mr. Rotert.</p> <p>23    Do you want to reserve signature or waive signature</p> <p>24    once the deposition transcript is --</p>
<p style="text-align: center;">Page 199</p> <p>1     A. I'm afraid to say that I do not recall that.</p> <p>2     <b>Q. That's not a problem.</b></p> <p>3     <b>Stefan was wearing like a work suit. He</b></p> <p>4     <b>was a trucker. Do you remember that? You commented on</b></p> <p>5     <b>his outfit.</b></p> <p>6     MS. BUNTIC: Objection.</p> <p>7     BY THE WITNESS:</p> <p>8     A. Not enough to be sure, but, I mean, I -- the</p> <p>9     trucker thing actually kind of rings a bell, but I'm an</p> <p>10    old man so it's hard to tell.</p> <p>11    BY MR. TEPFER:</p> <p>12    <b>Q. I think one final question. There was a</b></p> <p>13    <b>discussion about the process of the State's Attorney</b></p> <p>14    <b>herself or himself or her top staff reviewing the</b></p> <p>15    <b>recommendations the CIU.</b></p> <p>16    <b>Do you remember some questions about that?</b></p> <p>17    A. Yes.</p> <p>18    <b>Q. One of the things I just wanted to ask, is</b></p> <p>19    <b>if -- and, obviously, only while you were there. If</b></p> <p>20    <b>the CIU decided not to recommend relief or grant a new</b></p> <p>21    <b>trial for any case, Watts or otherwise, is that</b></p> <p>22    <b>something that would also be reviewed by the top higher</b></p> <p>23    <b>staff of the state's attorney's office during your</b></p> <p>24    <b>tenure?</b></p>	<p style="text-align: center;">Page 201</p> <p>1     MS. BUNTIC: Would you like to review?</p> <p>2     THE WITNESS: Unless you want me to review,</p> <p>3     I'd prefer not to. I have confidence in Mary and I</p> <p>4     don't think anything's happened that's very</p> <p>5     controversial. So I could waive.</p> <p>6     MS. BUNTIC: That's fine.</p> <p>7     MR. BAZAREK: Waive signature.</p> <p>8     THE VIDEOGRAPHER: Okay. This is the end of</p> <p>9     the deposition. This is the end of today's</p> <p>10    testimony. The time is 3 hours and 56 minutes.</p> <p>11    We are now off the record.</p> <p>12    (Off the video record.)</p> <p>13    THE COURT REPORTER: Orders?</p> <p>14    MR. BAZAREK: Yeah, just regular. No rush.</p> <p>15    THE COURT REPORTER: Thank you.</p> <p>16    MR. BAZAREK: Thank you, Mr. Rotert. Good</p> <p>17    seeing you.</p> <p>18    MR. HENRETTY: I'll take a copy.</p> <p>19    (The deposition concluded at 3:57 p.m.)</p>

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REPORTER'S CERTIFICATE

2

3 I, Mary T. Murphy McGuirk, a Certified  
4 Shorthand Reporter of the State of Illinois, do hereby  
5 certify that the foregoing was reported by stenographic  
6 and mechanical means, which matter was held on the date  
7 and at the time and place set out on the title page  
8 hereof, and that the foregoing constitutes a true and  
9 accurate transcript of same.

10 I further certify that I am not related to  
11 any of the parties, nor am I an employee of or related  
12 to any of the attorneys representing the parties, and I  
13 have no financial interest in the outcome of this  
14 matter.

15 IN WITNESS WHEREOF, I do hereunto set my hand  
16 in Tinley Park, Illinois, this 20th day of November,  
17 2024.

18

19

20

*Mary T. Murphy McGuirk*



21

Mary T. Murphy McGuirk

22

Certified Shorthand Reporter

23

CSR Certificate No. 84-4160

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