

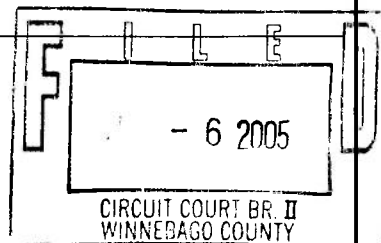
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STATE OF WISCONSIN CIRCUIT COURT WINNEBAGO COUNTY
BRANCH II

ORIGINAL

IN THE MATTER OF A JOHN DOE PROCEEDING **SECRET HEARING**
CASE NO. 05-JD-2

TESTIMONY OF JEROME LINGNOFSKI



BEFORE: **HONORABLE SCOTT C. WOLDT**

DATE: April 14, 2005

PLACE: Winnebago County Courthouse
Circuit Court Branch II
415 Jackson Street
Oshkosh, Wisconsin 54903

APPEARANCES: Gary Freyberg
Assistant Attorney General
-and-
Roy Korte
Assistant Attorney General
Wisconsin Department of Justice
PO Box 7857
Madison, Wisconsin 53707-7857

Dorinda Freymiller
Special Agent
Wisconsin Department of Justice
PO Box 7857
Madison, Wisconsin 53707-7857

*Jerome Lingnofski Appeared in Person,
Without Counsel*

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EXHIBITS

NONE MARKED DURING THESE PROCEEDINGS

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P R O C E E D I N G S

(Jerome Lingnofski comes forward to be sworn.)

* * * * *

JEROME LINGNOFSKI,

called for examination herein, having been first duly sworn on oath by the Clerk, was examined and testified as follows:

* * * * *

THE COURT: Why don't you start by giving us your name and spelling your last name for us.

THE WITNESS: My name is Jerome T. Lingnofski, L-i-n-g-n-o-f-s-k-i.

THE COURT: We'll give you a copy of the Instructions to Witness, and you can follow along if you'd like. You are advised that you are appearing in a John Doe proceeding before me, Judge Scott C. Woldt, circuit court judge for Winnebago County. Under Wisconsin law the circuit court judge has the power to subpoena witnesses and compel testimony before this John Doe. You are directed to answer all the questions put to you remembering your oath or affirmation. If you believe that a truthful answer to any question asked of you would incriminate you -- that is, subject you to criminal prosecution -- you may refuse to answer the question on the grounds that it may incriminate you. Do you

1 understand that?

2 **THE WITNESS:** Yes, sir.

3 **THE COURT:** Do you understand that your answers
4 to questions put to you may be used against you by this
5 John Doe or in another legal proceeding?

6 **THE WITNESS:** Yes.

7 **THE COURT:** Do you understand that if you
8 testify falsely you may be criminally prosecuted for
9 perjury or false swearing committed during your testimony
10 before this John Doe proceeding?

11 **THE WITNESS:** Yes.

12 **THE COURT:** Under Wisconsin law several types of
13 confidential communications are privileged. These include
14 communications between spouses, between a health-care
15 provider and patient, between an attorney and client, and
16 between a person and a member of the clergy. Do you
17 understand that you may refuse to answer questions asked
18 of you if it would require you to reveal conversations
19 which are privileged by law?

20 **THE WITNESS:** Yes.

21 **THE COURT:** Do you understand that there are no
22 other lawful grounds upon which you may refuse to answer
23 questions before this John Doe proceeding?

24 **THE WITNESS:** Yes, and if I have a question, I
25 certainly will ask.

1 **THE COURT:** Fantastic. You are also advised
2 that you have the right to have an attorney present with
3 you during your testimony. Further, you may confer with
4 your attorney during your testimony. However, your
5 attorney would not be allowed to ask you questions,
6 cross-examine other witnesses, or argue before the judge.
7 Do you understand that?

8 **THE WITNESS:** I understand that I'm allowed to
9 have an attorney. Perplexing question for me, based on
10 the fact that the Winnebago County District Attorney's
11 office asked me to peruse some records for them,
12 understanding that I'm allowed an attorney, am I allowed
13 an attorney from the DA's office?

14 **THE COURT:** That would be a conflict of
15 interest. You're an employee of whom?

16 **THE WITNESS:** The Town of Menasha Police
17 Department.

18 **THE COURT:** The Town of -- if you wanted an
19 attorney, you could contact the Town -- your township --
20 your chief, basically -- and the Town attorney or they
21 could appoint an attorney to represent you.

22 **THE WITNESS:** Okay. Based on the fact that I'm
23 kind of being farmed out, kind of like a MEG unit
24 position, farmed out to just work for them a little bit
25 here and there, representation's not allowed from their

1 office --

2 **THE COURT:** No.

3 **THE WITNESS:** -- even if it wouldn't be an
4 attorney that I was dealing with?

5 **THE COURT:** No, it wouldn't be because --

6 **THE WITNESS:** Okay.

7 **THE COURT:** It would be --

8 **THE WITNESS:** It was just a question.

9 **THE COURT:** That's okay.

10 **THE WITNESS:** I think of things --

11 **THE COURT:** That's okay. Not a problem. But
12 you understand, though, that you do have this right to an
13 attorney, correct?

14 **THE WITNESS:** Sure.

15 **THE COURT:** You are appearing before this John
16 Doe without an attorney. Do you understand that Assistant
17 Attorney Generals Roy Korte, Gregory Weber, and Gary
18 Freyberg represent the State of Wisconsin and may not and
19 cannot act as your attorneys?

20 **THE WITNESS:** Correct.

21 **THE COURT:** Do you understand that, if you do
22 not have an attorney but wish to consult with one about
23 these proceedings or have an attorney appear with you, you
24 would be required to return to testify at a future time?
25 Do you understand that?

1 **THE WITNESS:** Yes.

2 **THE COURT:** Do you wish to have an attorney
3 present with you at this time?

4 **THE WITNESS:** No, I don't believe it's
5 necessary.

6 **THE COURT:** Okay. Has anyone made any promises
7 or threats to get you to give up your right to consult
8 with an attorney or have an attorney appear with you
9 before this John Doe?

10 **THE WITNESS:** No.

11 **THE COURT:** Under Wisconsin law a circuit court
12 judge may order that a John Doe proceeding be secret.
13 That has been done in this case. You are ordered to
14 maintain the secrecy of this John Doe proceeding and to
15 inform no one other than your attorney, if you have one,
16 of the questions asked of you, the answers given by you,
17 or any other matters observed or heard during these
18 proceedings. A violation of this Secrecy Order may be
19 punished as a contempt of court. You are now being given
20 a copy of the Amended Secrecy Order. Do you acknowledge
21 receipt of this Amended Order of Secrecy?

22 **THE WITNESS:** I have a copy here.

23 **THE COURT:** Thank you. Your testimony at this
24 proceeding will be recorded word for word and will be
25 transcribed. Do you understand that?

1 **THE WITNESS:** Yes, sir.

2 **THE COURT:** I have given you a copy of these
3 instructions which I have just read to you. Do you
4 acknowledge receipt of a copy of these instructions?

5 **THE WITNESS:** Yes, sir.

6 **THE COURT:** Thank you. Attorney Freyberg will
7 be asking you some questions this afternoon.

8 **THE WITNESS:** Okay.

9 **MR. FREYBERG:** Thank you.

10 **EXAMINATION BY MR. FREYBERG**

11 Q. Is it officer or detective?

12 A. Detective.

13 Q. And how do you pronounce your name, please?

14 A. Lingnofski.

15 Q. "Lingnofski?"

16 A. Um-hum.

17 Q. Detective Lingnofski, thank you for being here. Could you
18 just briefly state -- I guess you have told us since your
19 title is detective that's your occupation, but just tell
20 us a little bit about where you work and what you're
21 doing.

22 A. I'm a detective for the Town of Menasha Police Department.
23 I do the normal everyday detective duties, everything from
24 bad checks to homicide cases and have been asked by the
25 Winnebago County District Attorney's office to peruse the

1 records which I've provided to you.

2 Q. Okay. We'll get to the records in just a minute.

3 How long have you been employed as a law enforcement --
4 law enforcement officer, please?

5 A. I have been with the Town of Menasha since 1988.

6 Q. Okay. Do you have prior law enforcement experience?

7 A. Four years with the Sheriff's Reserve at Winnebago County.

8 Q. In the course of your professional duties, did you come to
9 know an individual by the name of "Joseph Paulus"?

10 A. Yes, I did.

11 Q. How did you come to know him?

12 A. He was elected district attorney shortly after I started
13 with the Town of Menasha Police Department. I believe he
14 actually ran against your boss, Peg Lautenschlager.

15 Q. What's the nature of your professional relationship with
16 Mr. Paulus, or what was it? I'm assuming it's completed.

17 A. I really never had that much contact with him. With
18 Patrol, when you do the Complaints they get referred.
19 Detectives come down, they review the Criminal Complaints,
20 and the detectives sign the Complaints. So unless you're
21 testifying in a trial that involved Joe Paulus, you really
22 didn't have contact.

23 Q. When -- you were first a patrol officer. How long did
24 that last?

25 A. I stayed on the road just as long as I could. I've only

1 been inside for a little over two years.

2 Q. When you say "inside," is that when you made detective?

3 A. Yes.

4 Q. Did you have any other sort of relationship with
5 Mr. Paulus, social, personal, or political?

6 A. I have pounded signs for him on two occasions.

7 Q. Campaign signs?

8 A. Yes.

9 Q. Do you remember when that was, what years those were?

10 A. Well, his last go-around he gave me some and I just put
11 'em -- I just put 'em in the garage. He showed up and
12 kind of basically expected me to do this, and I really
13 wasn't looking at him as a candidate that I wanted to
14 endorse.

15 **THE COURT:** You weren't the first person that
16 put his signs in their garage.

17 **THE WITNESS:** Well, Mr. Paulus knows of my
18 contacts on the north end but -- I do know a lot of
19 people. I'm a local guy. Everybody pretty much on the
20 north end knows me. He was informed by someone that, you
21 know, get up there, that guy can get a lot of stuff out
22 for you.

23 **EXAMINATION CONTINUED BY MR. FREYBERG:**

24 Q. By "the north end" you mean the north end of Lake
25 Winnebago?

1 A. The north end of Winnebago County.

2 Q. Winnebago County. Let's talk about these records. You
3 had provided us with what looks like -- and we haven't
4 counted or numbered them -- they're several hundred pages
5 of records from a district attorney restitution account?

6 A. I believe it's the Winnebago County crime prevention
7 fund --

8 Q. Crime prevention --

9 A. -- or referred to as that.

10 Q. Okay. Where did you get these records?

11 A. From Assistant District Attorney Balskus.

12 Q. Okay, and is that who informed you that they were from the
13 crime prevention fund of the Winnebago County District
14 Attorney's office?

15 A. Yes.

16 Q. Did he tell you whether or not this was all the records
17 that they had in their office?

18 A. No. He asked if I would peruse them to see if I'd find
19 anything unusual.

20 Q. So have you done some sort of analysis or review of the
21 records?

22 A. I've done some, and then I kind of wasn't feeling well for
23 a little while, and now I'm back to work so --

24 Q. Well, so you didn't complete it?

25 A. I didn't completely look through them, every piece of

1 paper. I looked through some that kind of caught my eye
2 and brought -- brought the question: Why are the checks
3 going there?

4 Q. And what -- what were those, specifically?

5 A. There were two checks that went to the -- I'm not sure if
6 it's the Jewish Community Center or the Jewish Community
7 Foundation in Milwaukee.

8 Q. These were checks written on the crime prevention fund of
9 the Winnebago County district attorney to the Jewish
10 Community Center or some organization like that in --

11 A. Right.

12 Q. -- Milwaukee?

13 A. Correct.

14 Q. Would it be accurate for me to say that some of the
15 documents here are bank statements, some of them are
16 checks to the District Attorney's office from the Clerk of
17 Courts, but that the majority of the documents here are
18 photocopies of checks written on the crime prevention fund
19 to someone else?

20 A. That would be correct.

21 Q. Why did those particular two checks -- was it two checks
22 or was it some --

23 A. Two that I noticed.

24 Q. Why were -- why did those two catch your attention as
25 being unusual?

1 A. I would think if you've got a Winnebago County crime
2 prevention fund that your -- your money would be
3 restitution for instances that occurred within Winnebago
4 County. Milwaukee is obviously not Winnebago County.
5 There's a lot of questions that could be asked about why
6 are the checks going there.

7 Q. I'm, I think, the person who's -- who mentioned
8 restitution in connection with this account first but I --
9 if I understand it, this is a crime prevention fund and
10 not a restitution fund, so does that affect your view of
11 why it might -- might be unusual for checks to go to
12 Milwaukee?

13 A. Correct. If it's a crime prevention fund, it should be
14 spent, in my opinion, within Winnebago County for a
15 multitude of things: education, neighborhood watch
16 programs, etcetera, for crime prevention. If it's a
17 restitution fund, then that brings a broader balance where
18 checks can be sent all over the place for restitution.

19 Q. Have you talked with anyone concerning these records to --
20 who was able to give you any information about what kind
21 of fund it actually was --

22 A. No.

23 Q. -- be it restitution or crime prevention?

24 A. No, nothing yet.

25 Q. Have you -- were you able to obtain or did you seek any

1 other records related to a DA crime prevention fund or
2 restitution fund?

3 A. No, I did not.

4 Q. Are you -- do you have any knowledge of cases being
5 dismissed or not prosecuted in return for contributions to
6 the crime prevention fund?

7 A. There was some talk. I've been a canine handler, and
8 there was some -- some cases that did involve use of
9 canine which, you know, they call you up and it costs you
10 money to wake you up, it costs you money to get out there.
11 There -- there was a couple cases where they said that
12 there would be money that would go to the canine fund at
13 the Town of Menasha. I didn't get through it far enough
14 to see if that actually did occur.

15 Q. Do you know what specific cases those relate to?

16 A. One was -- was an individual that I arrested for harassing
17 a police animal and disorderly conduct and then told me
18 that he would have sexual intercourse with my dog in front
19 of me.

20 Q. So what is the name of that individual?

21 A. I don't -- I couldn't tell you. I handled tons of cases
22 with that dog.

23 Q. How far back did that one that you just mentioned go? Do
24 you remember what year it might be?

25 A. Well, no. It would have to be between '95 and August of

1 '98.

2 Q. I have had a chance to page through very quickly since the
3 time you got here and the time we started taking your
4 testimony -- this looks like it covers a relatively narrow
5 period of time during 1 calendar year in 1996. Do you
6 know whether it's broader than that? Oh. Okay. I'm
7 sorry. My co-counsel just pointed out that there's a date
8 on it.

9 *(Discussion held off the record between*
10 *Mr. Freyberg and Mr. Korte.)*

11 **EXAMINATION CONTINUED BY MR. FREYBERG:**

12 Q. I'm going to withdraw that question. Is there anything
13 else about the records that you have noticed to be unusual
14 in any way?

15 A. Not yet.

16 Q. From the review -- how far through these did you get?

17 A. I just -- I paged through probably the top third, maybe
18 half.

19 Q. Of one set or two or of the whole thing?

20 A. Probably of the whole thing.

21 Q. I'm going to switch -- I'm going to just change gears now.
22 Were you an investigator or an arresting officer in a case
23 involving a defendant -- and forgive me if I've got the
24 name wrong -- "Kelly Coon"?

25 A. Kelly Coon I was called to the scene of processing

1 evidence on a homicide.

2 Q. And approximately what year was that, please?

3 A. You're probably going to have to refresh my memory. I
4 want to say '90, '92.

5 Q. Did there come a time when you were prepared to testify in
6 that case at the trial?

7 A. Prior to the trial I was summoned to the District
8 Attorney's office to see District Attorney Paulus and
9 Investigator Malchow.

10 Q. And just so you know where I'm going with this, I'm
11 interested --

12 A. I already know.

13 Q. -- in incidences -- incidents where you may have been
14 asked to testify falsely by Joe Paulus or, really, by
15 anyone else, although the focus of this is Mr. Paulus, but
16 I understand there may be other people who assisted him in
17 the preparation of his cases. Can you describe what
18 happened, please?

19 A. Well, I was summoned to his office. We sat down. I
20 remember very vividly he called the Neenah Police
21 Department for something just after we sat down, and I
22 remember he called the secretary that answered the phone a
23 fuckin' bitch because she wouldn't put him through to the
24 chief. They were having a department-wide meeting,
25 period, no phone calls to anybody, everyone sits down. I

1 believe it was when Forcey just took over. But he called
2 her a fuckin' bitch. But what happened was, when he
3 slammed the phone down and said that, he hit a speaker
4 phone and she said, "Excuse me, are you talking to me,"
5 and he quick hung up. So it was quite vivid, that
6 conversation. And then he moved on to -- I had retrieved
7 a diaper from near the site of the body. The diaper was
8 located in some -- some tag-alder bushes. As I went in to
9 retrieve the diaper and bring it back out, I received
10 multiple scratches up and down my arms. I mean there's no
11 other way to get in there, just, you know, get in, get
12 out. So Malchow informs me that Kelly Coon had exactly
13 the same type of scratches on his arms. I said, "Well,
14 knock yourself out, photograph them." So --

15 Q. Malchow informs you at the scene where you're gathering
16 the evidence?

17 A. He informed me back at the -- at the department that -- he
18 said, "Crypes, Kelly Coon had those same scratches." I
19 said, "Well, I retrieved the diaper from the bushes, and
20 obviously, if he put it in there, he probably got
21 scratches."

22 Q. But he informs you this the same day that you collected
23 the evidence or shortly after?

24 A. Right.

25 Q. Okay. So I just want to get that in context.

1 A. Right. As we're sitting in Paulus's office -- I'm not
2 sure how familiar anybody is with the Breyer case where
3 Kelly Coon kidnapped a little girl from her mobile home,
4 took her out into a field, sexually assaulted her, and
5 killed her. So Paulus tells me -- he said, "Well, when
6 you go in to court, you have to testify that you were
7 rolling around on the ground." My comment to him was,
8 "You got to be shitting me. Why would I be out rolling
9 around on the ground?" And he kind of looked at me
10 because I challenged him, and I said, "No, you got enough
11 to hang this guy and take care of it." Well, then Steve
12 Malchow, who worked at our department at the time, tried
13 to play big brother and say, "No, I don't think you
14 understand," and I told him, "I think I understand quite
15 clearly. You better take your hand off of me and shut
16 your mouth right now." "Well, then you won't testify,"
17 and I said, "I don't care."

18 Q. Who said that you wouldn't testify?

19 A. Malchow, and I said, "I don't care."

20 Q. Again, I'm sorry to interrupt, this is occurring in the
21 same meeting with Mr. Paulus?

22 A. Oh yeah. Malchow, for lack of a better term, was Paulus's
23 lackey with stuff with the Town of Menasha. I told him --
24 I said, "You know, that's fine. It's not going to hurt me
25 that I don't have to testify. It will probably save a lot

1 of people money. You've got plenty. You've got DNA.
2 You've got the whole thing. This case was wrapped up long
3 before you guys thought about going to trial." I go back
4 to the station, I tell the chief -- I said, "I don't know
5 what kind of shit these guys are trying to pull, but I'm
6 telling you Malchow wants me to say something, I shut him
7 down, this might be a problem when he comes back."

8 So Malchow comes back, tells Chief Weiss that
9 I'm not a team player. I told Malchow, "Open your big
10 mouth again, we'll punch out, we'll walk outside, we'll
11 deal with this." I told him exactly that. I'm not going
12 to hide it. I imagine a few people heard me. So you
13 know, Chief was informed of it. My supervisor, I believe,
14 may have overheard the conversation, but I'm not sure.
15 But you know, Malchow was there, Paulus was there, and
16 Chief Weiss was informed of it.

17 Q. So the three people in the room where Paulus wants you to
18 testify that you were rolling around on the ground were
19 Malchow, yourself, and Paulus?

20 A. Yes.

21 Q. It's Paulus that said that he wanted you to testify that
22 you were rolling around on the ground, and you refused, in
23 essence?

24 A. Yeah. He said, "You have to say that you were rolling
25 around on the ground," and it's completely asinine to

1 assume that.

2 Q. And that -- it was Malchow who said, playing big brother,
3 No, you don't understand, and you've already described
4 what happened next?

5 A. Correct. He wanted to reiterate Paulus's point.

6 Q. Did Mr. Paulus make any other comments that indicated he
7 wanted you still to testify or that you wouldn't be
8 allowed to testify if you didn't say what he wanted?

9 A. When I was leaving his office, I heard "asshole," but I've
10 been called that once or twice in my life.

11 Q. And were you called to testify in the trial?

12 A. No.

13 Q. Are there any other incidents where Mr. Paulus indicated
14 to you in some fashion or another that he wanted you to
15 testify either falsely or not in accordance with the
16 facts, either by omitting facts that were important or
17 adding facts that weren't true?

18 A. No, I believe after that Mr. Paulus was quite standoffish
19 with me.

20 Q. Did Mr. Paulus ever request or indicate to you in any way
21 directly or through others that he wanted you to alter
22 police reports either by adding facts that weren't true or
23 by omitting facts that were true that might be
24 significant?

25 A. I don't recall any specifics. We have a form that we

1 sometimes get back from the District Attorney's office --
2 and we currently use the form -- that, if the Criminal
3 Complaint that we send down is lacking information,
4 they'll send it back and, you know, we want this, that, or
5 the other thing, we'll go and we'll accomplish the
6 interviews, get the information, supplement our report and
7 get it back to 'em.

8 Q. Yes, and --

9 A. Other than that, I hadn't had a problem with him. Like
10 I say, he was standoffish and probably didn't really want
11 to deal with me.

12 Q. I can understand that writing a supplemental, getting
13 additional information, clarifying facts, is a completely
14 legitimate function.

15 A. Um-hum.

16 Q. What I'm trying to get at was there a not legitimate
17 reason either to take facts out of a report that needed to
18 be in there or to add things that weren't true?

19 A. No, I was never asked to do that. There again, as I said
20 before, I don't think Paulus wanted to deal with me too
21 much after that incident.

22 Q. In any of your cases, did you ever have -- suspect or have
23 reason to suspect that the case was resolved on something
24 other than its merits?

25 A. I guess looking back you can probably -- probably say that

1 there were some cases that probably shouldn't have been
2 either dealt away, reduced, or -- or dismissed. I mean
3 there was some cases I lost that bang in court, you know,
4 jury trials, court trials.

5 Q. I understand that there are going to be differences
6 between law enforcement officers and prosecutors on
7 certain cases as to the strength of the case or what form
8 the charge should take or even whether it should be issued
9 or what sort of negotiations might be completed. I'm
10 trying to talk about something other than that where it
11 was a good case and there was no reason why it was not
12 charged or --

13 A. We --

14 Q. -- it was completely dismissed for no apparent reason.

15 A. Generally, if you're in Patrol, unless you're called to
16 testify on your case you really don't know what happened
17 to the case. My -- my current lieutenant is trying to
18 keep people informed of the case status with the arrests
19 that they make simply to let them know, you know, this is
20 -- we went to court with Subject A, he was found guilty,
21 six months, fines, etcetera, good job; but in the Paulus
22 era, you -- you know, you could arrest somebody and a year
23 and a half later you might get called to court and
24 sometimes you didn't, you know, so --

25 Q. There was no system for following up on either the

1 disposition or the charging of a case?

2 A. There is, but that's handled by the lieutenant in charge
3 of detectives.

4 Q. And it wouldn't relate to patrol officers then?

5 A. Correct. It would have related to Lieutenant Malchow at
6 the time.

7 Q. Prior to the allegations that were made in the year 2000
8 where reports surfaced in the media regarding an FBI
9 investigation of Mr. Paulus, did you have any information
10 or suspicions about certain defense attorneys receiving
11 preferential treatment on their cases?

12 A. I knew that he had buddies, and I'm not saying good, bad,
13 or indifferent. There were some rumblings during the
14 Oshkosh Police Department case when they used the
15 less-than-lethal ammunition. I can't remember the guy's
16 name -- was it Pagel -- ultimately ended up passing away
17 and they claim from injuries sustained from a
18 less-than-lethal. I know that there was some attorneys
19 that were all set to go to represent these guys, and I
20 know that there were some phone calls back and forth
21 because the Oshkosh police officers were complaining about
22 it, "What the hell is Paulus doing hiring these attorneys
23 for us?" So that was the context of that conversation,
24 you know.

25 And I started thinking about it, you know, why

1 is Paulus doing that? I found it rather unusual that,
2 going to a coroner's inquest, that he would -- he would
3 handle assigning the attorneys for the officers. I
4 thought that either the police department, which they
5 should, and its insurance carrier or the police
6 association would help you with -- with something.

7 Q. Other than that do you have information about certain
8 defense attorneys receiving favorable treatment in their
9 cases?

10 A. Not really. You know, hindsight now, some of the -- some
11 of the things that are being looked into now, obviously
12 there were.

13 Q. I'm not sure what you mean by that.

14 A. Well, you know, you're looking at Schierland and like
15 Bollenbeck, you know, those guys. It's obvious that they
16 were.

17 Q. Now, you say we're looking at them. I'm not sure what
18 makes you say we are --

19 A. No, no, I'm saying that that happened with -- with
20 Schierland, obviously, because he's already pled on that
21 case. Bollenbeck's not talking, you know. There's --
22 there's some things there that would bring the normal
23 person's curiosity to a peak.

24 Q. What do you mean Bollenbeck's not talking?

25 A. Well, from -- from the press reports, I guess, that he's

1 refusing to answer questions.

2 Q. Do you know whose questions he's refusing to answer?

3 A. I can't remember. I think it was the FBI that may have
4 been talking to him. There was some press reports that he
5 wasn't cooperative. I don't know if they were accurate or
6 not.

7 Q. Have -- upon receipt of the subpoena, did anyone contact
8 you or did you have any communications with anyone about
9 the receipt of the subpoena or the subject matter that
10 might be discussed in this proceeding?

11 A. I informed Mike Balskus that I needed copies of those
12 records and he accomplished that goal and --

13 Q. You didn't have -- when did you get possession of these
14 records?

15 A. I want to say the first part of February.

16 Q. And when did you get the subpoena, and I'll tell you where
17 I'm going because what I'm wondering is it was my
18 understanding that you already had these records at the
19 time prior to getting the subpoena?

20 A. Well, I had 'em for a very short time. That was like,
21 Jeez, I really haven't had a chance to look at these
22 things, I don't know what the hell I'm going to say, and
23 then I had some medical difficulties, so that kind of took
24 me out of the game for a while.

25 Q. That's right, and for the record, we excuse you from your

1 first appearance and after we learned --

2 A. For the record, I would hope so.

3 Q. Of course, but that was -- you were scheduled to appear in
4 March?

5 A. Yes.

6 Q. Any other communications with anyone about either the
7 receipt of the subpoena or the subject matter that might
8 be discussed here?

9 A. No. No. I -- my boss, my lieutenant, knows that I'm
10 doing some stuff for the District Attorney's office. I
11 showed him the subpoena, "Hey, I got to be here," and he
12 said, "Fine, do what you got to do." He needs to be aware
13 of what I'm doing most of the time.

14 Q. I understand. Do you have any knowledge or information
15 concerning the concealment, alteration, or destruction of
16 documents relating to Winnebago County files or district
17 attorney's files or law enforcement files?

18 A. Just what I would consider rumors. I really haven't
19 looked into anything or questioned anybody.

20 Q. And we're trying to keep it evidence-based and not
21 rumors-based, but I take it you don't have any personal
22 firsthand knowledge --

23 A. No.

24 Q. -- of that --

25 A. No.

1 Q. Have you talked with anyone who has led you to believe in
2 any way that they themselves have firsthand knowledge of
3 concealment, alteration, or destruction of law enforcement
4 records or district attorney records?

5 A. No, just folks that, you know, may pass on what they've
6 heard. If -- there again, if I'm assigned to do a job and
7 it involved this and they tell me this person has
8 something to talk about, I'll go, I'll interview 'em, I'll
9 be more than happy to do my job. As far as anything on
10 rumors, I would be chasing my tail for the next 50 years.

11 Q. Are there any people that you've interviewed that do have
12 knowledge of destruction, alteration, or concealment of
13 law enforcement records or district attorney records?

14 A. No.

15 Q. Have you interviewed an individual by the name of "William
16 Rothieaux"? And I'm not sure I'm pronouncing his name
17 correctly.

18 A. I'm not sure I did either. Yes, I have.

19 Q. And just briefly summarize in -- summarize in connection
20 with what.

21 A. I was told that his I believe it was a '98 drunk driving
22 conviction may have been one handled through Schierland
23 that may have been, I guess, purchased for Paulus.

24 Q. Well, what did Mr. Rothieaux tell you about this?

25 A. He stated that he does have a severe alcohol problem. He

1 states that after he got arrested in '98 he was at a bar
2 and that somebody told him that Schierland had connections
3 that could pretty much get you out of anything. I asked
4 Mr. Rothieaux who he wrote the check to. I said, "Did you
5 write it to a law firm? Did you write it to a person?"
6 He said, "No, I think I wrote it to the guy." I said,
7 "Okay. Was it a cashier's check? Was it a money order?
8 Was it a personal check?" He said, "You know, I save
9 everything, and I'll look for it for you," and I have not
10 gotten back to him yet.

11 Q. Well, did he say how many checks he wrote to Schierland?

12 A. He said 2 checks, \$2500 bucks apiece, and they're 14 days
13 apart. He met him at his office; he said, "Yeah, you got
14 a good case, I'll take care of it;" he plunks down \$2500;
15 10 to 14 days later contacted by Schierland who said, "I
16 need another 2500."

17 Q. And did Mr. Rothieaux tell you that he actually wrote the
18 second check?

19 A. He said he can't remember exactly if he wrote the check or
20 if he -- you know, a cashier's check or money orders,
21 etcetera. He is going to and is looking for them, but I
22 haven't had a chance to get back and speak with him.

23 **THE COURT:** If you get those checks, make sure
24 you get the back sides copied so we see who signed those
25 checks.

1 **THE WITNESS:** That's what I'm looking for.

2 **EXAMINATION CONTINUED BY MR. FREYBERG:**

3 Q. And would you provide us copies of those when you get
4 them?

5 A. I -- there again, there's a question, probably -- well,
6 you guys, the judge, everybody can probably take a poke at
7 this one. If it's -- if it's a current investigation
8 that's still ongoing, does this stuff all have to be
9 disclosed or can you show up at my office and we go to
10 work together?

11 **THE COURT:** My suggestion is when you get it get
12 it to -- my understanding is you're doing this
13 investigation through Christian Gossett at the DA's
14 office?

15 **THE WITNESS:** And Balskus, yeah.

16 **THE COURT:** When you get the information, get it
17 to -- at least to Mr. Gossett. Mr. Gossett has already
18 informed me that he will get me a copy --

19 **THE WITNESS:** Okay.

20 **THE COURT:** -- and then I'll get a copy to you.

21 **THE WITNESS:** I can't be reporting to too many
22 people here. You're going to confuse me.

23 **THE COURT:** I know.

24 **MR. FREYBERG:** Well, and we want to be mindful
25 that you have a chain of command and you have

1 responsibilities, and we're not trying to interfere with
2 that. It's just this clearly is related to the
3 investigation that we're --

4 **THE WITNESS:** I understand.

5 **THE COURT:** And with Statute of Limitation's
6 issues, we don't want to go too long on this stuff.

7 **THE WITNESS:** Well, yeah, and I understand that.
8 You know, there's two investigations going, and it's
9 somewhat cumbersome. There are some things that you guys
10 obviously should handle that we shouldn't, but I'm certain
11 that working together shouldn't be out of the question on
12 something like that instead of spending my tax dollars and
13 your tax dollars. I like fiscal responsibility.

14 **THE COURT:** As do we.

15 **EXAMINATION CONTINUED BY MR. FREYBERG:**

16 Q. Did Mr. Rothieaux tell you whether or not Mr. Schierland
17 made any representations to him about how his case would
18 be disposed of or how the money was to be used?

19 A. No, he just said that Schierland said, "You got a good
20 case," got the first 2500, 10 to 14 days later got the
21 second check to him -- I'm not sure if he wrote a check
22 or if it was a cashier's, etcetera; and I think
23 Mr. Rothieaux, or Rothieaux, made a comment -- I'm sure he
24 made a comment to Schierland -- he said, "You know, when
25 am I going to hear about this," and I'm sure he was told,

1 "Don't worry about it."

2 Q. Okay. Was Mr. Rothieaux able to place this, either of
3 those conversations or the writing of the checks, to
4 Mr. Schierland in a context of time as it related to his
5 original arrest which I believe was in October of 1998?
6 Did he -- in other words, when did he hire Schierland, in
7 '98, shortly after, in '99 --

8 A. It was --

9 Q. -- in 2000?

10 A. He said it wasn't too long after, so his determination of
11 not too long and my determination of not too long is
12 obviously going to be different. I can -- I can break
13 that down. He was pretty sheepish talking to me, so I
14 thought I'd, you know, maybe just use the kid gloves'
15 thing and we'll come back and talk another day, maybe go
16 have a cup of coffee, get him out of his environment, that
17 kind of thing.

18 Q. Are you aware of any instances where any other law
19 enforcement officers were instructed to testify falsely or
20 requested or suggested that they should testify in some
21 way other than what the facts were?

22 A. Well, I'm not personally aware, but given my knowledge of
23 people and given my knowledge of people that I know, it
24 would not surprise me if certain individuals skirted the
25 truth in order to obtain convictions.

1 Q. Are you talking about Mr. Paulus?

2 A. One of his quotes was "Never let the truth get in the way
3 of a conviction."

4 Q. That's a quote that you've heard Mr. Paulus state?

5 A. Sure.

6 Q. On more than one or one occasion?

7 A. I heard it on one occasion, and you know, he can call it
8 an offhanded comment if he wants but kind of unusual.

9 Q. What -- were you discussing a particular case at the time?

10 A. I -- boy, I couldn't tell you.

11 Q. Other than speculation about -- since he made that
12 statement and based upon your experience, other than
13 speculating that there may -- could -- might be other
14 cases like it, are you aware of any -- have you had
15 contact with any individuals who have said to you that he
16 has asked them to testify falsely or suggested that they
17 should testify falsely in --

18 A. No.

19 Q. -- any sort of case?

20 A. No. I would think that any correspondence that Paulus
21 wanted to have with our department would have went
22 through -- at that time would have went through Steve
23 Malchow.

24 Q. Now, prior to the subject of all these allegations coming
25 forward in 2002 in the media, did you have any knowledge

1 or reason to suspect that cases were being disposed of for
2 bribes or other kinds of considerations?

3 A. You know --

4 Q. Again, I want to restrict it to your knowledge or
5 knowledge that was relayed to you by somebody who appeared
6 to have firsthand knowledge.

7 A. I guess I looked at some of the cases that I handled.
8 Generally, if it wasn't too time-consuming, I would -- I
9 would handle my own cases and follow-up so the detectives
10 had a little bit less to do. I mean they had plenty to do
11 to start with but -- and that would take a little pressure
12 off of them. And some of those cases that would come
13 back, my comment would be, "Jesus Christ, you know, this
14 was a really good case." There again, I didn't know who
15 the defense attorney could be, I didn't know, you know,
16 who was handling it from the DA's office, but you look at
17 a really good case and go, All right, you know, we'll just
18 keep going and --

19 Q. Did it cause you to believe that they were being disposed
20 of for bribes or other considerations, or were you just
21 like wondering what happened here?

22 A. I was kind of shell-shocked because I'd go back over the
23 cases and say, you know, something -- I did this right
24 and --

25 Q. Did you ever discuss it with the assistant DA or a

1 superior, asking him to follow up what happened?

2 A. No, because there again our liaison was Malchow and I
3 just -- you know, after -- after the Breyer case -- I have
4 known Malchow since I was a kid since I was probably 14
5 years old, and after our -- well, I guess you could call
6 it a falling-out on the Breyer case, I really didn't have
7 too much to say to him and he didn't have too much to say
8 to me unless he was pulling some officious BS trying to
9 get me to go out and direct traffic somewhere, fine and
10 dandy.

11 Q. Do you have any reason to believe that there are officers,
12 law enforcement officers, who may have been complicit with
13 Mr. Paulus in the taking of bribes or the disposing of
14 cases for other than meritorious reasons?

15 A. That I -- I couldn't tell you. He had -- Paulus had his
16 own little groupies but I -

17 Q. I can --

18 A. -- I couldn't tell you honestly if that was going on.

19 Q. Just so I'm clear, that means -- what I'm taking it to
20 mean is that you don't have any information --

21 A. I don't have any specifics --

22 Q. -- of other officers --

23 A. -- no.

24 Q. -- you don't have any information that other officers were
25 complicit with Mr. Paulus, law enforcement officers were

1 complicit either in the taking of bribes or disposing of
2 cases for other than legitimate reasons?

3 A. I don't have any firsthand knowledge, no.

4 Q. Do you have any knowledge from people who may have had
5 firsthand knowledge?

6 A. No. Do I have a feeling? Absolutely but --

7 Q. Is there anything concrete that we should be looking at?

8 A. Do you want a name and a place to go?

9 Q. If there's something concrete -- you've said that you
10 don't have personal knowledge of other law enforcement
11 officers being complicit with Mr. Paulus, that you haven't
12 talked with anybody who appears to have firsthand
13 knowledge; am I right so far?

14 A. Yes.

15 Q. But you have a feeling, and so I guess what I'm asking is
16 is there anything concrete that needs to be investigated
17 with respect to that?

18 A. I would certainly, if I was in your position, take a look
19 at Steve Malchow. He had a falling-out with -- with
20 Paulus right about the time of the Maloney case but he --
21 if Paulus would say, "Jump off that bridge," Steve would
22 run right up there and do it for him.

23 Q. What is it that makes you think that Officer Malchow
24 should be investigated in that regard?

25 A. Well, just his behavior during the conversation between

1 Paulus and Malchow and I on the Breyer case and the fact
2 that he, he being Malchow, kind of never could make it on
3 his own but he sure liked jumping on a lot of people's
4 shirttails, you know, trying to get some attention and he
5 would -- he would do a lot of stuff to jump on people's
6 coattails.

7 Q. Other than the specific case that you have described where
8 he was present when Mr. Paulus wanted you to testify a
9 certain way, any other -- any other reason to believe that
10 he was -- and the fact that, as you described, he was I
11 think you used the word a "lackey" for Mr. Paulus, any
12 other reason to suspect that Mr. Malchow might be
13 complicit of Mr. Paulus's accepting of bribes or disposing
14 of cases for nonlegitimate reasons?

15 A. No, other than the fact that he would just -- you know, he
16 would try to run with Paulus and the guys, you know, try
17 to hang around him and for whatever psychological reason
18 he would try and pump himself up but just the attention he
19 would get hanging around with them. That's the way he is.

20 Q. But there's nothing more specific than that?

21 A. No.

22 *(Discussion held off the record between*
23 *Mr. Freyberg and Mr. Korte.)*

24 **MR. FREYBERG:** Anything further?

25 **MR. KORTE:** No.

1 **THE COURT:** Me either. You're done.

2 **MR. FREYBERG:** Well, actually, there is one more
3 follow-up.

4 **THE COURT:** One more.

5 **EXAMINATION CONTINUED BY MR. FREYBERG:**

6 Q. If I haven't asked the right question or if I haven't
7 asked the right question in the right way, knowing what
8 you know and hearing what you've heard about the subject
9 matter of the investigation, is there anything else that
10 we ought to know for purposes of investigating criminal
11 conduct by Joseph Paulus or anybody who acted with him to
12 help him or conceal it?

13 A. I -- you know, Paulus was a horse's patute, but you know,
14 I didn't deal with him, and I didn't deal with him very
15 well at all whenever I had to talk to him. Have you
16 looked at this Maloney case and have you looked at the --
17 let's say if you went to the Channel 5 website and you
18 went to John Maloney and you saw all the lines of
19 Maloney -- the interview, the Maloney interview, and you
20 went down about 4 or 5 and it showed a camera shot of some
21 documents; if you saw the camera shot of those documents
22 and you were familiar with Steve Malchow, you would see
23 his handwriting on those documents, and I don't think
24 anybody grabbed that one yet.

25 Q. Is there anything else we should be looking at? Anything

1 else you think we should know about for the purposes of
2 this investigation?

3 A. Not yet. Give me some time to nose around, and I'm
4 certain I could -- I could find something. I mean the
5 Ruedinger name came up, but that was the guy that
6 basically broke the Paulus bribes' case, so that was
7 already old news.

8 Q. I'm sorry, I didn't catch the name.

9 A. I think it was Leroy Ruedinger. Was that the one that
10 broke the case where he paid -- he made the comment that
11 he paid his lawyer to pay Paulus to get him out of a drunk
12 driving or something? So that guy was pretty much old
13 news. Rothieaux was a little newer. It all depends on
14 how much time I can dedicate. I mean I can -- you know,
15 pull me off my caseload, I can go back and do a lot of
16 homework. It's just a matter of how much time I have.

17 **MR. FREYBERG:** Any other questions?

18 **THE COURT:** I have nothing.

19 **MR. KORTE:** Nope.

20 **THE COURT:** Make sure you take the paperwork
21 with you that I gave you, and remember, don't discuss the
22 fact that a John Doe's in existence or any of the facts or
23 testimony discussed today.

24 **THE WITNESS:** All right.

25 **THE COURT:** Thank you, sir.

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MR. FREYBERG: Yep, thanks.

(Proceedings adjourned.)

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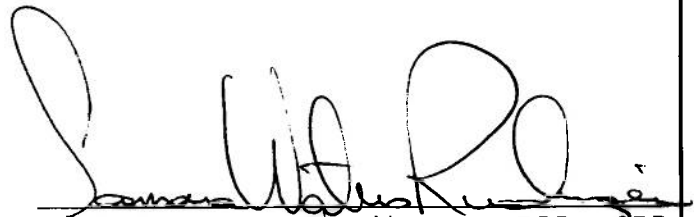
C E R T I F I C A T I O N P A G E

STATE OF WISCONSIN)
)SS:
COUNTY OF WINNEBAGO)

I, TAMARA WATERS-RUEDINGER, official court reporter
for Circuit Court Branch II, Winnebago County Courthouse,
do hereby certify that I have carefully compared the
foregoing 39 pages with my stenographic notes and that the
same is a true and correct transcription of said notes.

Dated at Oshkosh, Wisconsin, this 4th day of June,
2005.

My Notary commission expires 12/23/2007.



Tamara Waters-Ruedinger, RPR, CRR
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