

1 IN RE:

2 INTERNAL INVESTIGATION BY SPECIAL PROSECUTOR  
3 APPOINTED BY JUDGE BIEBEL  
4

5  
6 Sworn statement of MAYOR RICHARD M.  
7 DALEY, taken at the Office of the Mayor of the City  
8 of Chicago, City Hall, 121 North LaSalle Street,  
9 Suite 507, Chicago, IL 60602, commencing at 2:11  
10 p.m. on the 12th day of June, 2006, upon oral  
11 interrogatories propounded by Mr. Robert D. Boyle and  
12 Mr. Edward J. Egan.  
13

14 PRESENT:

15 Office of the Special Prosecutor  
16 221 North LaSalle Street  
17 Room 607,  
Chicago, Illinois 60601  
(312) 696-0330

By: Mr. Mr. Robert D. Boyle,  
Mr. Edward J. Egan;

18 Corporation Counsel of the City of Chicago  
19 City Hall  
20 121 North LaSalle Street  
Suite 600  
21 Chicago, Illinois 60601  
(312) 744-0220

22 By: Ms. Mara S. Georges,  
Mr. Terrence M. Burns.  
23  
24

1 (Witness sworn.)

2 MR. BOYLE: Mara, can you and Terry  
3 identify yourselves for the record, please.

4 MS. GEORGES: My name is Mara Georges.  
5 I'm the Corporation Counsel for the City of Chicago.

6 MR. BURNS: Terrence M. Burns, special  
7 assistant corporation counsel.

8 MR. BOYLE: Mr. Mayor, as you know,  
9 I'm Bob Boyle. Edward Egan and I were appointed by  
10 Judge Biebel as special state's attorneys concerning  
11 a relatively limited set of facts involving basically  
12 a man whom we've come to know as Jon Burge, who in  
13 the '70s and into the mid '80s was basically assigned  
14 to and then later in command personnel at Area 2,  
15 homicide/sex, which later became to be known as  
16 violent crimes for a brief period, I think a year and  
17 a half. He was assigned then to bomb and arson, and  
18 then he was assigned to, in the mid '80s, assigned to  
19 Area 3 violent crimes, actually, as the commander of  
20 the whole detective division but also worked in  
21 violent crimes.

22 And then was suspended on November  
23 the 12th of 1991 from the department, and through  
24 an administrative process, his tour as a sworn

1 officer of the City of Chicago was terminated.

2 The reason I go into that is because  
3 that's what Judge Biebel appointed us as special  
4 state's attorneys on, and he directed that we fully  
5 and completely and thoroughly investigate allegations  
6 involving alleged police misconduct, that is,  
7 physical abuse of parties in custody. And the  
8 investigation is limited to parties in custody as a  
9 result of police conduct by Jon Burge or those  
10 understand his command while he was at Area 2 and  
11 while he was at Area 3.

12 And incidentally, the the order of  
13 Judge Biebel, the second part of it was after that to-----  
14 determine whether or not, in his language, criminal  
15 prosecutions are warranted.

16 In conducting our investigation, there  
17 is a pivotal case involving Andrew and Jackie Wilson,  
18 who were arrested on February 12th of 1982. Some  
19 of the questions that I'm going to ask you today I  
20 asked you when I visited with you earlier.

21 You will recall, the Wilsons were  
22 arrested for the homicides of two Chicago police  
23 officers, officers Fahey and O'Brien, who on  
24 February 9th were coming from the funeral of an

1 Officer Doyle.

2 And Fahey and O'Brien, in coming from  
3 Officer Doyle's funeral, came upon a vehicle in which  
4 were the two Wilson brothers, Andrew and Jackie  
5 Wilson, who, it turns out, were on their way to the  
6 Cook County Hospital to attempt to extricate, to get  
7 a fellow named Edgar Hope, who was in custody for the  
8 Doyle killing, to, by force of arms, get him out of  
9 the hospital. He was in police custody at the Cook  
10 County Hospital.

11 During the course of the chase of this  
12 vehicle, they stopped the vehicle, and they were  
13 both -- that is, Fahey and O'Brien -- were both --  
14 killed.

15 Andrew and Jackie Wilson were  
16 eventually arrested for those two homicides, were  
17 tried in the criminal court. Andrew Wilson was given  
18 the electric chair, and Jackie Wilson was given less.

19 The cases were reversed and tried  
20 separately. They were tried twice, that is. The  
21 Supreme Court reversed the conviction in 1987.

22 And in addition to that, for purposes  
23 of setting the posture of our questions, civil rights  
24 cases were filed in the United States District Court

1 by the Wilsons, and there were two trials and  
2 eventually a resolution of the civil rights cases.  
3 They were tried before Judge Duff -- and I'm not  
4 really good on dates -- but in any event, they were  
5 tried in 1989.

6 There was a hung jury in the first  
7 case, which commenced trial on February 13th of  
8 '89. The second trial was commenced on June 5th of  
9 '89 and then settled.

10 In addition to that, there was an  
11 administrative hearing involving Burge. Jon Burge  
12 was suspended, and the lynchpin, or the basis, was  
13 the conduct involving the detention of Andrew Wilson.

14 He was suspended on November 12th of  
15 1991, and there was a series of proceedings that took  
16 place after that. And we are going to have a couple  
17 of technical questions that we're going to ask you  
18 concerning those. Anyway, that's the frame of  
19 reference, it's the Wilson case.

20 It appears that the police, after the  
21 shooting of officers Fahey and O'Brien, were working  
22 quite diligently, and there were some, apparently,  
23 citizen complaints about some of their conduct, but  
24 they were attempting determine, find out who it was

1 who had done these terrible things.

2 And it also appears that officers at  
3 the command of Burge had arrested a group of, I  
4 believe, it's five individuals: Three bothers, a  
5 brother-in-law, and somebody who rented a basement  
6 apartment in the brother's mother's house, the  
7 Whites, and Dwight Anthony.

8 And the only significance -- and I'm  
9 going to ask you a question about that -- the only  
10 significance as it related to the office of the  
11 state's attorney is that these fellows were in  
12 custody for a day and a half or so at 11th and  
13 State, on the fifth and the sixth floors at 11th  
14 and State. My understanding is that the  
15 Superintendent of Police's office was on the fifth  
16 floor.

17 In any event, it is these fellows who  
18 gave the police the name of the two Wilsons, and  
19 there is a reason for that. The Wilsons were  
20 apparently going to commit a burglary of a house  
21 located on the block where these fellows named White  
22 lived and were going to try to get some weapons to  
23 use to get this guy Edgar Hope out of the County  
24 Hospital.

1           In any event, Michael Angarola was at  
2 11th Street from time to time while these fellows  
3 were being questioned and may or may not have been  
4 there when they gave them the names of the Wilsons.  
5 But the State's Attorney's Office was involved, at  
6 least tangentially, in the interrogation of these  
7 fellows in an attempt to get the names of the  
8 Wilsons.

9           I realize it's a long time ago, but do  
10 you have any recollection of any knowledge of Mike  
11 Angarola being at 11th Street and the case kind of  
12 being broken and the police getting the names of  
13 ~~people who apparently were the perpetrators?~~ Can you  
14 recall that?

15         A     No, I don't recall that. I don't have any  
16 knowledge that he was there personally.

17         Q     Do you remember at any point that the case  
18 was broken but they had not arrested the guys yet?

19               There apparently was a couple or three  
20 days of a manhunt for these guys after they got their  
21 names.

22         A     Well, felony review would have primary  
23 responsibility to take any statements by any  
24 defendants and basically work with the Chicago Police

1 Department, that was the main investigation, with any  
2 suspects they have.

3 Q And what would be the line of, say, first  
4 of all, communication within the state's attorney's  
5 office at that time?

6 You obviously had a chain of command  
7 at the office.

8 A I think felony review maybe fell under the  
9 general criminal division. You had special  
10 prosecution, you had criminal division, you had civil  
11 division, and you had public interest, and you had  
12 support staff.

13 I think they would fall under, I  
14 think, general criminal division.

15 Q And in '82, who was in charge of that? Who  
16 was the -- I don't know what the title might have  
17 been, head of the criminal division or whatever it  
18 might have been.

19 Maybe you can tell me, as you recall  
20 in '82, what was the chain of command?

21 A Myself as state's attorney. The first  
22 deputy was Bill Kunkle. The chief deputy -- we made  
23 a chief deputy for a reason, to keep the  
24 professionalism within the office, the strong trial



1 lawyer advocacy program in the office. Bill Kunkle  
2 was the chief deputy.

3 Who was head of the criminal division?  
4 I don't know if it was -- I can't recall the name.

5 MR. EGAN: Ginex?

6 THE WITNESS: Right, Ginex. It would  
7 have been him.

8 MR. BOYLE: I think that is accurate.

9 BY MR. BOYLE:

10 Q And Michael Angarola had an important  
11 position in the office; is that not correct? We're  
12 talking about '82, and I'm not sure when he had his  
13 accident, but he obviously did have an important  
14 position.

15 A I forgot what role, but he was one of the  
16 top trial lawyers. Yes, he was. And I don't know  
17 what area he was in. I can give you the name of the  
18 department he was in.

19 Q And this may be an unfair question. But in  
20 the normal course of events, I assume that the Fahey  
21 and O'Brien killing was a somewhat heightened case.  
22 And it's difficult, we've all been in law  
23 enforcement, and it's difficult to characterize a  
24 terrible event like that, so I don't know how to

1 characterize it.

2 But the sensitivity of the state's  
3 attorney and his office would have been heightened as  
4 a result of this killing, two officers coming from  
5 the funeral of the killing of another officer.

6 A Yes. It was known as a heater case.

7 Q I think if I remember right, if I can  
8 remember that time frame, just based on my own  
9 experience, there was an awful lot of pressure on  
10 that case. I don't mean during the trial. I'm  
11 talking about, get these fellows. Make the arrest.

12 A There was quite a bit of publicity on it in  
13 ~~regards to the media, in~~ regards to the police  
14 department.

15 Q Based upon your rules as state's attorney,  
16 what type of communication would you have expected  
17 within the office of the progression of the events  
18 that may have led up to the arrest, and certainly the  
19 events after you as the prosecutor would have taken  
20 over the case as to perhaps the questioning of anyone  
21 in the case and the trial? What kind of  
22 communication would there have been so that -- I  
23 mean, you can't be in every courtroom or present  
24 during every statement. What type of communication

1 was there in the office?

2 A Well, my philosophy is when a trial lawyer  
3 is assigned to a case, he or she will try that case  
4 without any interference whatsoever in regards to  
5 their strategies. As state's attorney, I would never  
6 interfere with a trial lawyer who had the primary  
7 responsibility in representing the People of Illinois  
8 in regards to any case.

9 Q Andrew Wilson was arrested at 4:30 in an  
10 apartment on West Washington Boulevard in Chicago on  
11 February 12th and taken to the Detective  
12 Division 2. And except for --

13 MR. EGAN: Did you say Andrew Wilson?

14 MR. BOYLE: Yes.

15 MR. EGAN: The 14th.

16 BY MR. BOYLE:

17 Q February 14th at 4:30 in the morning and  
18 taken to Area 2. And except for a period of about an  
19 hour and a half, when he was taken over to Area 1 for  
20 a lineup, he remained at Area 2 for a prolonged  
21 period of time.

22 The information that we have been  
23 given, and it is information which is consistent,  
24 everybody says the same thing, basically, is that

1     sometime in the morning, he may have given an oral  
2     statement to the police; that he did not give a  
3     written statement to the Office of the State's  
4     Attorney for approximately ten hours after he may  
5     have given an oral statement.

6                     At least one assistant state's  
7     attorney was at Area 2 for that entire period of  
8     time, and that is the fellow who was then head of  
9     felony review, named Larry Hyman, and the state's  
10    attorney's court reporter was there.

11                    I'm going to ask you several questions  
12    about that time period.

13                    Do you have a recollection of whether  
14    you were informed that the shooter had been picked  
15    up?

16            A     No, I don't recall.

17            Q     Do you have a recollection of being  
18    informed as to what was going on at Area 2 while your  
19    office was there when this shooter was in custody?

20            A     No, I don't recall anything.

21            Q     What would be the normal procedure that  
22    would have been followed insofar as keeping you or  
23    your subordinates informed relative to what was going  
24    on over there?

1           A     Well, first of all, the primary  
2     responsibility falls within the felony review  
3     officer. Whether it's a chief or those who are  
4     taking statements, would take that responsibility  
5     very seriously. That's who would have the primary  
6     responsibility.

7           Q     So far as the office was concerned, the  
8     fact that it was the head of felony review who was  
9     over there, as I put it, the fact that he was there,  
10    that would have fulfilled some of the reporting  
11    requirements, and that he was doing it. He wasn't  
12    just being reported to, he was actually in charge?

13          A     ~~He was making decisions, right.~~

14          Q     Now, there are two or three conditions of  
15    Andrew Wilson's interrogation which have raised an  
16    issue through the years, and that issue has perhaps  
17    been heightened by our investigation.

18                   And the first is the very fact that  
19    he's supposed to have given an oral statement, and  
20    it's approximately eight hours later that the state's  
21    attorney decides to take a written statement from  
22    him.

23                   Were you advised of that at any time?

24          A     I don't recall.

1           Q     The second is the state's attorney's manual  
2     did and does contain a provision that before  
3     assistants are to interrogate people in police  
4     custody, they are to ask the party to be questioned  
5     whether they had been well treated by the police.

6                     In this particular written statement  
7     taken by Larry Hyman, he does not ask that question,  
8     were you well treated by the police. And his earlier  
9     testimony, that is, in other proceedings, not in our  
10    investigation, his earlier testimony is that that is  
11    the only time that he failed to ask that question.

12                    Was that ever brought to your  
13    attention, either at that time or perhaps later in  
14    the case?

15           A     No, I don't recall.

16           Q     The third is that sometime after Mr. Wilson  
17    is supposed to have given an oral statement to the  
18    police, he was taken into a room in which Mr. Hyman  
19    was, and Mr. Hyman informed him that he was going to  
20    take a written statement from him. And I'm going to  
21    use the terms that have been used several times in  
22    litigation and were used by Mr. Wilson when I  
23    questioned him.

24                    Mr. Hyman told him that he was there

1 to take a written statement from him, that he had  
2 already taken written statements from some witnesses  
3 and from Jackie Wilson. And Andrew Wilson states,  
4 and has stated consistently for years, that he said  
5 to Mr. Hyman: "You mean to tell me that you're going  
6 to take a statement from me after I'd been beaten?"  
7 And Mr. Hyman is supposed to have said to the  
8 officers, "Take that jagoff out of here."

9                   Were you ever advised of that at that  
10 time or during the period of litigation?

11           A       None whatsoever.

12           Q       In any event, there was a written statement  
13 taken by Mr. Wilson, and after that written statement  
14 was taken, signed, and court reported by the state's  
15 attorney's court reporter, he was transferred to the  
16 custody of some wagon men, two wagon men, who took  
17 him into custody at Area 2. And it apparently is  
18 beyond any dispute that they had him in a room at  
19 Area 2, and they did a pretty good job of pummelling  
20 him, hitting him.

21                   One of the wagon men had some  
22 relationship, friendship, went to school with either  
23 Fahey or O'Brien. And Mr. Kunkle, in his cases,  
24 brought out the fact that the wagon men did this, and

1 Mr. Kunkle has said on the record and said to us, he  
2 believed that those wagon men had committed a crime.

3 Did anybody ever bring that to your  
4 attention for any action at the time?

5 A No, I hadn't heard anything. I don't  
6 recall.

7 Q After the statement was taken from Andrew  
8 Wilson and the wagon men transported him, they took  
9 him to the lockup at 11th Street, and the lockup  
10 people wouldn't let him in because they wouldn't  
11 accept him in the condition that he was in, and he  
12 was thereafter taken to Mercy Hospital.

13 I assume that nobody ever brought that  
14 to your attention?

15 A No.

16 Q I'd like to kind of slip into a -- kind of  
17 a little out of context -- but we have twice talked  
18 to Judge Bill Kunkle, once at the start of the  
19 investigation, and once much more recently.

20 And Mr. Kunkle's recollection is that  
21 there was a great deal of competition among various  
22 assistant state's attorneys to try the Andrew Wilson  
23 case and that he decided that he would try the case.

24 He is not clear as to whether or not



1 he made that decision after conferring with you. He  
2 said he did inform you of his decision, but he's not  
3 clear as to whether he made the decision or you made  
4 the decision. Frankly, he says he made the decision.

5 Is that your recollection, or do you  
6 even have a recollection of how that happened?

7 A I don't have a recollection, but I would  
8 say that Bill Kunkle was a top trial lawyer. He did  
9 the Gacy case, well respected as a trial lawyer. So  
10 I could see why he would want the case.

11 Q And he says that from time to time, they've  
12 talked about first and second chairs out there at  
13 26th Street. He said he was the first chair and  
14 Mike Angarola was the second chair.

15 Is that your recollection?

16 A I believe so.

17 Q As you'll recall, there is a letter that  
18 was sent by the then superintendent of police,  
19 Richard Brzeczek, to you as state's attorney back in  
20 February of 1982. It is the same letter, Mr. Mayor,  
21 that I showed you earlier.

22 One is a letter dated February 25 of  
23 1982, directed to you as State's Attorney at 500  
24 Richard J. Daley Center, Chicago, signed by Richard

1 J. Brzeczek, Superintendent of Police, and it refers  
2 to an enclosure which is a letter dated February 17th  
3 of 1982, and that is a letter from a Dr. Raba, John  
4 M. Raba, MD, Medical Director, Cermak Prison Health  
5 Services. And that letter dated February 17th of  
6 1982 was directed to Mr. Brzeczek at 1121 South  
7 State.

8 (Marked Exhibit 1 for ID.)

9 BY MR. BOYLE:

10 Q Mr. Mayor, I've asked to you examine what  
11 we've marked and identified as Deposition Exhibit  
12 No. 1, which is the two letters that I just  
13 identified.

14 Have you read those two letters?

15 A Yes, I have.

16 Q Do you recall at any time either receiving,  
17 reviewing, or being told of these letters at or about  
18 the time that they bear, which is February of 1982?

19 A If the letter came to me, it would  
20 automatically go to the first deputy and others, and  
21 I would look at it and then appropriately send it to  
22 the appropriate parties in the State's Attorney's  
23 Office; as well as each police department has an OPS  
24 dealing with any conduct of police officers, and it

1 would fall to the responsibility within each police  
2 department to look at misconduct of any police  
3 officer, first and foremost.

4 Q It is our understanding that this letter  
5 was received by your office. And I want to be  
6 perfectly clear here.

7 You have just said your recollection  
8 is it was either received by you or your office, but  
9 you became aware of?

10 A Yes, I did.

11 Q The possibility, I guess, is, that it may  
12 not have actually been directly received by you at  
13 the time it was sent but may have been received by  
14 someone on your administrative staff.

15 And then I'm going to ask you some  
16 questions about that.

17 Do you actually remember receiving  
18 this in the mail? That's really my question.

19 A I would have to receive it, so I would have  
20 to say --

21 MS. GEORGES: Just if you remember.

22 THE WITNESS: I don't remember today.

23 BY MR. BOYLE:

24 Q How was your mail received at that time?

1           A     All depends. It went down to the State's  
2     Attorney's Office, the Richard J. Daley Center, to be  
3     sent out from there to the appropriate parties, first  
4     deputy and others involved.

5           Q     Do you have a recollection today, either as  
6     you recall it today or your recollection of February  
7     of 1982, as to -- and I don't know another term to  
8     use, other than the processing of this letter in the  
9     state's attorney's office?

10          A     The process would go through.

11          Q     Do you remember what that was, who got it?

12          A     It would be myself, it would be the first  
13     deputy, maybe chief, maybe criminal---

14                   MR. EGAN: May I interrupt you just a  
15     moment? You say first deputy. Is that Devine?

16                   THE WITNESS: At that time it was.

17                   MR. EGAN: First assistant.

18                   THE WITNESS: Yes, first assistant,  
19     right.

20                   And then, in turn, they would go to  
21     special pros, because they dealt -- special pros  
22     dealt with any misconduct of police officers.

23     BY MR. BOYLE:

24          Q     It is our understanding that the letter

1 was, indeed, received by your office, may have been  
2 first -- so far as chain of command, may have first  
3 been received by Mr. Devine, and that Mr. Devine  
4 directed, through Mr. Kunkle -- no, I'm sorry.  
5 Mr. Devine then gave it to Mr. Kunkle.

6 Do you recall that that was the  
7 process that was followed? Devine received it,  
8 reviewed it, gave it to Kunkle?

9 A That would be the process.

10 MS. GEORGES: If you know.

11 THE WITNESS: I wouldn't recall. I  
12 don't know if he did or not.

13 BY MR. BOYLE:

14 Q And it's our understanding that Mr. Kunkle  
15 had not yet made the decision at the time this  
16 letter -- I may be wrong about that. He may have  
17 made the decision, whether he did or didn't. That  
18 Mr. Kunkle referred it to Mr. DiBoni in special  
19 prosecutions for handling.

20 Do you recall that?

21 A That I don't recall specifically, but that  
22 would be the process where special pros dealt with  
23 any misconduct of police officers dealing with any  
24 police department in Cook County.

1           Q     I don't know how many days all of that may  
2     have taken, or it may have been done in one day, but  
3     do you have a recollection of whether or not you were  
4     advised, either as a result of you asking questions  
5     about this letter or one of your subordinates  
6     advising you of the progress on the letter in the  
7     office at or about that time, which would be  
8     February, March of 1982?

9           A     No, I don't recall.

10          Q     Mr. Kunkle has told us, and Mr. DiBoni,  
11     that they contacted the then lawyer for Andrew  
12     Wilson, who was an assistant public defender, to see  
13     whether he and/or his client, that is, the lawyer,  
14     Mr. Coventry, to see whether or not Coventry or his  
15     client, Andrew Wilson, would talk to the Office of  
16     the State's Attorney about these allegations that  
17     Dr. Raba makes in his letter to Brzeczek, and that  
18     Mr. Coventry informed Mr. DiBoni that he was not  
19     going to allow his client to talk to him while the  
20     case was pending.

21                     Can you recall anybody informing you  
22     of that?

23          A     I don't recall.

24          Q     We had thought that Frank DiBoni at that

1 time was head of special prosecutions, and we have  
2 come now to learn that Jeff Kent was head of special  
3 prosecutions.

4 I had occasion to very recently get a  
5 call from Jeff Kent, and he wanted to ask me a  
6 question, and he had a complaint about something he  
7 saw in the press that was reportedly said by  
8 Mr. Brzeczek.

9 But I asked Jeff Kent if he knew  
10 anything about Andrew Wilson and this letter from  
11 Raba, and he said he didn't recall anything about it.

12 Before I talked to you today, I  
13 ~~attempted~~ to reach him again, and I was unsuccessful  
14 this morning, to make sure I was accurate.

15 But in any event, you brought Jeff  
16 Kent over from the United States Attorney's Office,  
17 didn't you?

18 A Yes.

19 Q And he, indeed, was -- he said he left the  
20 state's attorney's office in 1985, and he said for  
21 his entire tenure there, he was head of special  
22 prosecutions.

23 Is that your recollection?

24 A Yes, he was.

1           Q     Would there be anything unusual in  
2     Mr. Kunkle giving it to DiBoni and not processing it  
3     through Kent?

4                     And I just ask that because it kind of  
5     -- one would say administratively, it should have  
6     gone to Kent and not DiBoni and let Kent assign it to  
7     whomever we want. But we all know there are times  
8     that, for reasons that exist, that what might seem to  
9     be the normal procedure is not followed.

10                    And that's what I'm really asking is,  
11     basically, as we know how we talk to one another, why  
12     wouldn't this have gone to Kent? Why did it go to  
13     DiBoni?

14                    MS. GEORGES: If you know.

15                    THE WITNESS: I don't know.

16     BY MR. BOYLE:

17           Q     You had no part of that decision?

18           A     No.

19           Q     That's really what I was getting to.

20                    Can you recall, did Mr. Kunkle ever  
21     confer with you as to whether any charges should be  
22     placed against the wagon men, whom he now tells us he  
23     believed committed crimes against Andrew Wilson?

24           A     I don't recall any --



1           Q     You don't recall any conversation like  
2     that?

3           A     (Nodding.)

4           Q     Andrew Wilson was convicted, was sentenced  
5     to the electric chair. It was tried before a jury  
6     after a fairly long motion to suppress. And in 1987,  
7     the Supreme Court reversed Wilson. The date that is  
8     on the opinion is April 2nd of 1987.

9                     And the opinion says that, I guess in  
10    both lawyer's and layman's terms, that Andrew Wilson  
11    was beaten before he confessed. And the case was  
12    retried -- Mr. Kunkle had left the office, and I  
13    think the litany of it is Mr. Angarola, until his  
14    accident, was first assistant, and then Mr. Shabat  
15    was first assistant.

16                    In any event, Kunkle was brought back  
17    for the retrial of the Wilson case.

18                    Can you remember how that happened to  
19    take place? That is, that Kunkle was brought back to  
20    try the case rather than somebody else, some other  
21    assistant?

22           A     No, I don't recall specifically. But  
23    generally, a person who tries a case like that would,  
24    many times, a case of that importance, would

1 basically have the experience of trial, and in turn  
2 many times retry the case.

3 Q Do you recall any questions you may have  
4 had for anyone as a result of the Supreme Court  
5 opinion where they pretty much in black and white say  
6 that the evidence is that he was beaten before he  
7 gave the confession?

8 Do you recall anybody talking to you  
9 about the opinion, you having any questions about --

10 A No, I don't recall a conversation like  
11 that.

12 Q The fact is, when the second case was  
13 tried, they didn't use the confession.

14 In any event, he was tried again and  
15 convicted, and then that case was affirmed.

16 However, at or about or pretty close  
17 to the same period of time, when the second trial is  
18 up on appeal, the civil case is started in the  
19 district court where actions were brought by him  
20 against the City of Chicago.

21 And the first case was -- both cases,  
22 as a matter of fact -- the first case, the civil  
23 case, the civil rights case, was tried to a hung jury  
24 and then retried, almost immediately, both before

1 Judge Brian Duff of the district court.

2 In any event, it is our information  
3 that the method by which lawyers are assigned the  
4 defense of civil rights cases where the City is named  
5 as the defendant or a city official or someone that  
6 the City could have fiscal responsibility for is that  
7 the Office of the Corporation Counsel decides, if the  
8 corporation counsel is not going to handle the case,  
9 that the Office of the corporation counsel decides  
10 who the lawyer would be.

11 Is that a fair statement?

12 A Yes, that is.

13 Q I think that has historically always been  
14 the situation.

15 A Yes, it is.

16 Q And it is our information, and it is so for  
17 the record here, that Mr. Kunkle was asked by the  
18 Office of the Corporation Counsel to and did defend  
19 not only Jon Burge, but one or two of the other  
20 officers who were in the civil rights case before  
21 Judge Duff.

22 You had nothing to do with that  
23 appointment, did you?

24 A No. The Corporation Counsel makes those

1 decisions.

2 Q The appointment of Mr. Kunkle to -- I'm  
3 just trying to get the dates straight. The  
4 appointment of Mr. Kunkle to represent Jon Burge and  
5 perhaps some other officers, I believe -- the other  
6 officers don't matter -- would have been made prior  
7 to the commencement of trial on February 13th of  
8 '89 and would have been made by the prior  
9 administration; is that a fair statement?

10 A That's correct.

11 Q And who was that, again? Who was the  
12 corporation counsel?

13 MR. BURNS: I believe it was Judson  
14 Miner, but we can confirm. But I believe he remained  
15 until Mr. Daley was elected to office.

16 BY MR. BOYLE:

17 Q Now, in addition to that, on November 12th  
18 of 1991, after you had been mayor for about a year  
19 and a half, Jon Burge was suspended by administrative  
20 action, superintendent suspension, and thereafter,  
21 the City proceeded through the process to terminate  
22 his employment, basically based upon the Andrew  
23 Wilson situation.

24 Mr. Kunkle was retained to represent

1 Jon Burge in those administrative proceedings, and it  
2 is our understanding that the method always has been,  
3 continues to be, and it pointedly, in this case, that  
4 is involving Jon Burge, is that the decision as to  
5 who would represent Jon Burge in those suspension and  
6 termination proceedings is made by the Fraternal  
7 Order of Police and not by the City, that the  
8 decision in the Jon Burge case was made by the  
9 Fraternal Order of Police and was subject to the veto  
10 of the general attorney, who was and is Mr. Roddy,  
11 Joseph V. Roddy. And he did not veto it because he  
12 had a conflict. But in any event, that was a  
13 decision made by FOP and not by the City of Chicago.

14 That is accurate; is that correct?

15 A That is correct, yes.

16 EXAMINATION

17 BY MR. EGAN:

18 Q Mr. Mayor, I have just a few questions I  
19 wanted to ask.

20 As I told Perry earlier, the thing  
21 that kind of confused us was, after talking to Bill  
22 Kunkle, the already confused state of mind I have  
23 about the chain of command in the State's Attorney's  
24 Office at the time and the amount of authority that,

1 I guess -- I emphasize "guess" -- had been given to  
2 Larry Hyman, after I talked to him about Kunkle, I'm  
3 more confused. So I want to ask some questions about  
4 that.

5 I know from reading various  
6 transcripts that Angarola was there at Area 2 and  
7 that he did talk to Hyman.

8 Now, in all of the conversations I've  
9 read, nobody has ever gone into the substance of the  
10 conversation between Angarola and Hyman. And another  
11 assistant state's attorney was there named Paul  
12 Nealis, and we didn't discover that until we read the  
13 transcript of the police board proceedings against  
14 Burge when Nealis showed up as a character witness  
15 for one the policemen. And Joe Roddy, who called  
16 them, realized that he was an occurrence witness.

17 And Nealis, he testified that he  
18 talked to Angarola. And then Ginex was another name  
19 that we never ever saw before in any of the police  
20 reports. And Ginex now is called as a witness at the  
21 police board hearing to buttress the opinion or the  
22 testimony of Larry Hyman. Ficaro was also called,  
23 but he's not involved in this. And Ginex says he  
24 talked to Angarola on the phone.

1           Kunkle has said Hyman would have been  
2   telling a lot of people about what was going on. He  
3   would have been telling Ginex. He would have been  
4   telling chief of municipal. He would have been  
5   telling Angarola. He might have been telling Kunkle.  
6   He might have been talking to Devine, but he didn't  
7   do that every ten minutes.

8           In none of those instances of who  
9   Hyman was talking to is there anything that  
10  indicates, to me, that Hyman, who in our opinion was  
11  faced with a very momentous tactical decision, and  
12  that is, should I take a statement from this shooter  
13  who was willing to make a statement, or shall I wait  
14  and talk to his brother and spend a couple of hours  
15  with him, and then wait another couple of hours and  
16  talk to a witness, and then let them take Andrew  
17  Wilson, the shooter, out of the station to the  
18  Detective Area 1 and have him go through a show up?

19           And I, frankly, wondered, am I correct  
20  that as he said, well, that was his decision? That  
21  was his tactical decision? And what I'm trying to  
22  find out is, did he ever get some type of clearance  
23  from any supervisor, be it Devine, or you, or Kunkle,  
24  or Angarola, or Ginex and say, here's the decision I

1 have to make, and do I have your approval to make it?

2 Do you know whether anybody ever  
3 discussed it with Larry Hyman, or was it simply left  
4 to his decision?

5 Now, you said before something about  
6 generally it would be left to the man from felony  
7 review.

8 A Felony review.

9 Q Okay. Generally, I can understand. But in  
10 a case like this of great moment, I wonder if there  
11 was anybody in the state's attorney's command  
12 situation or echelon that had any input with Larry  
13 Hyman. Were they apprised of the fact that Larry  
14 Hyman was waiting ten hours to take a statement from  
15 this individual?

16 A Yeah, I wouldn't recall any conversation I  
17 had with any of them with regards to any statement  
18 being made. But trial lawyers have to make -- the  
19 division has to take statements, and they have to  
20 decide their procedures.

21 Q Well, okay. When the Supreme Court opinion  
22 came down, everybody in the state's attorney's  
23 office -- well, I won't say "everybody," but  
24 everybody in a command situation, I assume, was aware



1 of the fact that the Supreme Court had said the  
2 evidence here establishes that this individual has  
3 been beaten while he was in police custody, and the  
4 State failed to establish any reasonable explanation  
5 how he got it.

6 Now, were you aware, were you made  
7 aware of that finding of the Supreme Court?

8 A Once the Supreme Court decision came out, I  
9 believe appropriately they decided to retry the case.

10 Q Yeah, but I mean, were you informed of the  
11 finding of the Supreme Court that they had found,  
12 they made a determination that he had been beaten?

13 A I think so, yes.

14 Q Did you make inquiry of anybody in the  
15 office at any command situation?

16 A In turn, we're trying the case first and  
17 foremost. And then in turn, I believe that was --  
18 OPS was investigating it, Office of Professional  
19 Standards from Chicago Police Department.

20 Q Well, they said that -- let me back up.

21 In his letter to you, he said he was  
22 going to forbear doing any investigating until he got  
23 some word from you.

24 Am I correct?

1           A     They have ultimate responsibility, OPS  
2     does, to investigate any allegation of misconduct of  
3     any person with the Chicago Police -- That's their  
4     primary responsibility. Not ours.

5           Q     It is my understanding that it's their  
6     obligation to investigate for two reasons: To  
7     determine whether a crime has been committed, or to  
8     determine whether some disciplinary rule has been  
9     violated.

10                   But isn't it true that it's also the  
11     obligation, or a concomitant obligation on the part  
12     of the state's attorney to investigate what may  
13     appear to him to have been a crime committed?

14           A     The procedure that we took in place was  
15     first and foremost to take this letter, then in turn  
16     talk to OPS. That's the procedure that we've always  
17     done in the state's attorney's office.

18           Q     Well, that leads me to another question,  
19     and I think that you may have gotten the same mixed  
20     signals that we did.

21                   I have a note here of Bob's questions  
22     when he talked to you on February 2nd, and it says:  
23     Mr. Daley stated that he probably was advised as time  
24     passed that the special prosecution's unit had

1 contacted Andrew Wilson's attorney and had been  
2 thwarted in efforts to determine the actual basis for  
3 the observations of Dr. Raba.

4 Now, I think there may be a little  
5 confusion about that. There was in our minds, based  
6 on what Mr. Kunkle had said and what Mr. DiBoni had  
7 said.

8 Mr. DiBoni's deposition was taken long  
9 a time ago, and he said that Kunkle gave him the name  
10 of the lawyer who represented Andrew Wilson, Dale  
11 Coventry, and that he waited to hear from Dale  
12 Coventry, and he never heard from him. That's the  
13 deposition that I've read.

14 Now we have Mr. -- frankly, that's one  
15 of the reasons we're here. Mr. Kunkle, Judge Kunkle,  
16 was asked what he did with the letter, and he said,  
17 well, he didn't want to have anything to do with it  
18 because he was going to try the case, and so he said  
19 that's the beauty of it. If this were Keokuk, you'd  
20 have to wear both hats -- and I'm paraphrasing -- but  
21 he said because this is Chicago, you've got an  
22 organization that's big enough that you can split it.

23 So Bob asked him something about  
24 being -- he took himself out of the loop. In other

1 words, he wasn't going to have anything to do with  
2 special pros. And I asked him, well, why would you  
3 do that? And he said, well, he decided, and he  
4 repeated this business about Keokuk and Chicago.

5 I said, well, suppose that special  
6 pros had some information in their investigation that  
7 would be useful to you in a trial? And he said,  
8 well, he would presume that that would be passed on  
9 to him.

10 Then the following day, as Bob said,  
11 we got a phone call from him, Bob did, in which he  
12 said, no. He importuned Dale Coventry to call Frank  
13 DiBoni up. And then he said told Frank DiBoni of  
14 that conversation and -- anyway, he called to tell us  
15 that, which was contrary to what he had said.

16 I called Dale Coventry up, and Dale  
17 Coventry emphatically said that conversation never  
18 took place. And when I called DiBoni up and referred  
19 him to his own deposition and what Kunkle was saying  
20 now, he said he had no recollection of it, but he  
21 couldn't say it didn't happen.

22 So all I can say is I am as confused  
23 as I ever was about exactly what went on with this  
24 letter insofar as special pros is concerned.

1                   Anyway, now, to get back to Jeff Kent.  
2   Kunkle mentioned Jeff Kent to us, but we had been  
3   operating always on the supposition that DiBoni was  
4   the person. And I share in Bob's concern, or  
5   puzzlement, about why Kent wasn't given this letter  
6   instead of DiBoni. So the only conclusion I could --  
7   one of the conclusions we drew, that somebody just  
8   decided to go around Jeff Kent.

9                   Could that be?

10                  MS. GEORGES: There could have been so  
11   many reasons.

12                  THE WITNESS: I wouldn't know.

13   BY MR. EGAN:

14                  Q     Pardon me?

15                  A     I wouldn't know if that's the reason. I  
16   don't recall --

17                  MR. BOYLE: You don't know anything  
18   about that?

19                  THE WITNESS: No.

20   BY MR. EGAN:

21                  Q     And he didn't know anything -- never saw  
22   the letter?

23                  MR. BURNS: Was he the deputy.

24                  MR. BOYLE: There were two deputies,

1 and DiBoni was one of them.

2 BY MR. EGAN:

3 Q So that we're clear on this now, it's fair  
4 to say you yourself never spoke to Larry Hyman?

5 A No, I haven't.

6 MS. GEORGES: On this matter.

7 THE WITNESS: Yeah, on this matter.

8 BY MR. EGAN:

9 Q On this matter.

10 But you've talked to him before, I  
11 assume, as part of his duties as head of felony  
12 review?

13 A Dealing with felony review, definitely.

14 Q He left the office about two or three  
15 months after this, didn't he?

16 A I don't know when he left.

17 Q By the way, you were the mayor at the time  
18 Superintendent Martin filed the charges against Jon  
19 Burge, right?

20 A Yes, I was.

21 Q That would have been in November of 1991?

22 A Yes.

23 Q Bob mentioned to you what Mr. Brzeczek is  
24 saying now, and specifically -- let me back up a

1 minute.

2                   When he testified in the federal  
3 district court, he was asked a number of times about  
4 his opinion as to what happened to Andrew Wilson, and  
5 on at least two occasions, he said he was of the  
6 opinion that Andrew Wilson was brutalized after he  
7 left Detective Area 2.

8                   And then he was asked specifically,  
9 was your opinion changed when you got the letter from  
10 Dr. Raba? And on two occasions, he said, no, my  
11 opinion was not changed. He still felt that he was  
12 injured after he left Detective Area 2.

13                   Now he is saying that he came to the  
14 opinion that Andrew Wilson was brutalized by the  
15 officers in Detective Area 2.

16                   Were you aware of that?

17           A       No, I wasn't.

18           Q       Did LeRoy Martin ever discuss the charges  
19 that were going to be lodged against Jon Burge  
20 before he -- discuss it with you?

21           A       I don't recall.

22           Q       Just one last thing, another thing that  
23 confused us.

24                   When we read the Supreme Court opinion

1 and all the facts of Andrew Wilson, the thing that  
2 stood out was the burn marks that appeared on Andrew  
3 Wilson.

4 That appeared, to us, to be the thing  
5 that needed explaining. That's one of the things we  
6 wanted to talk to Judge Kunkle about.

7 Because in the trial, that is, the  
8 criminal trial, he made no attempt to explain how  
9 these burn marks showed up on Andrew Wilson.

10 In fact, the lawyer, Dale Coventry,  
11 specifically put it on him and said the State has not  
12 proved that. And Kunkle said, I don't know how it  
13 happened. Okay?

14 Now at the civil trial, first civil  
15 trial, and he was retained by the City, Kunkle said  
16 he brought in an expert who said these were not  
17 radiator burns, they were some type of friction  
18 burns.

19 And then at the second civil trial, he  
20 didn't bring in an expert. He brought in a  
21 jailhouse -- what we call a jailhouse snitch -- who  
22 testified that Andrew Wilson told him that he did it  
23 himself.

24 And then at the civil hearing, he



1 didn't call in any expert. At the civil hearing,  
2 they stipulated to the testimony of the jailhouse  
3 snitch, and they, again, used another separate expert  
4 who said that the one thing, one was, in fact, a  
5 burn.

6 So my question is, were you kept  
7 apprised of the fact that the lawyer representing the  
8 City had changed the theories of the defense in those  
9 three cases?

10 A No, I don't recall.

11 Q And, of course, now he tells us that he  
12 really wasn't crazy about the theory about the  
13 self-inflicted burns, and he wasn't crazy about the  
14 theory of the doctor who said it wasn't burns.

15 So I gather you were never told of the  
16 fact that Judge Kunkle was, in effect, advancing  
17 theories that he really -- and representing the  
18 City -- that he was advancing these theories, and you  
19 knew nothing about it?

20 A No.

21 MR. EGAN: That's all I have,  
22 Mr. Mayor.

23 EXAMINATION

24 BY MR. BOYLE:

1           Q     I have one brief thing. Not the only one,  
2 but one of the reasons we're here is we have been  
3 unable to talk to Larry Hyman, either about what went  
4 on -- what, if anything -- went on in those ten hours  
5 at Area 2 or anything else about this case, so I feel  
6 compelled to ask you: At that time, that is, in  
7 1982, did anybody relate to you any conversations  
8 they had about Larry Hyman about what was going on in  
9 the ten hours that he was assigned out there that  
10 day?

11           A     No.

12           Q     And today no one has talked to you about  
13 that?

14           A     No one has talked to me about that.

15                               EXAMINATION

16 BY MR. BURNS:

17           Q     Mr. Mayor, just to clarify. At the time of  
18 the event that we have been discussing here relative  
19 to the investigation, the deaths of officers Fahey  
20 and O'Brien, your first assistant state's attorney  
21 was Richard Devine; is that correct?

22           A     Yes, he was first assistant.

23           Q     Now, there were also a number of questions  
24 that were put to you in regard to Mr. Hyman and the

1 role that he played, as well as the role of other  
2 assistant state's attorneys who were in various  
3 positions within the administration at the time you  
4 were state's attorney in 1982.

5 Do you recall those, generally  
6 speaking?

7 A Yes, I do.

8 Q Am I accurate in saying that Assistant  
9 State's Attorney Larry Hyman, who was in charge of  
10 felony review, would have had the ultimate  
11 responsibility to make decisions relative to the  
12 prosecution of that case and how statements were to  
13 be taken?

14 A Yes, he does.

15 Q Whether or not he would talk with other  
16 people, he didn't need your permission to discharge  
17 his obligations and responsibilities that you had  
18 entrusted to him?

19 A That's right.

20 Q Is that also true of Mr. Kunkle and  
21 Mr. Devine that you gave them responsibility to  
22 effectuate criminal prosecutions in general and that  
23 you relied upon them to carry out those  
24 responsibilities in the manner they saw fit?

1           A     Yes.

2                   MR. BURNS:  Thank you, Mr. Mayor.  I  
3   wanted to clarify.

4                   MR. EGAN:  I do want to follow up on  
5   that.

6                               FURTHER EXAMINATION

7   BY MR. EGAN:

8           Q     You said, Mr. Mayor, that Larry Hyman had  
9   the ultimate responsibility.  Am I quoting you  
10  correctly when you said, yes, Larry Hyman had the  
11  ultimate responsibility?

12                   Are you aware of the civil service  
13  proceedings against Burge where there were people who  
14  disagreed with the decision that Larry Hyman had  
15  made?  Are you aware of that?

16          A     No, I'm not.

17          Q     Are you aware of the fact that there are  
18  some people who have had experience in the State's  
19  Attorney's Office that feel that Larry Hyman made a  
20  very, very, poor decision?

21          A     I've never heard of that.

22          Q     Never heard of that?

23          A     No.

24          Q     Did you know that Larry Hyman was named as

1 an unsued coconspirator in the federal district  
2 court?

3 A No, I don't. No.

4 Q Do you have an opinion as to whether or not  
5 Larry Hyman's decision was a sound one from a  
6 prosecutor's point of view?

7 A No, I wouldn't.

8 Q Do you know that the handbook that's used  
9 by prosecutors, it's an IICLE handbook on  
10 prosecutions, that they specifically provide that the  
11 questioner, that is, the assistant state's attorney,  
12 shall make sure that in the statement is the question  
13 asking the prisoner if he's been treated okay by the  
14 police?

15 Are you familiar with that?

16 A If it's in the booklet, it's in the  
17 booklet.

18 Q Would you feel that when you were state's  
19 attorney, if an assistant state's attorney didn't  
20 follow that direction, that certainly it should be  
21 called to his attention that he had violated the  
22 policy of the office?

23 A No one ever mentioned he violated any  
24 policy.

1           Q     I mean, as the state's attorney, if an  
2     assistant --

3                   MS. GEORGES:  You just mean  
4     hypothetically speaking, if someone were to --

5                   MR. EGAN:  Yeah --

6                   THE WITNESS:  It would go to the  
7     appropriate parties in regards to his supervisor and  
8     move right up the ranks.

9     BY MR. EGAN:

10          Q     So we're clear on this, are you saying or  
11     are you not saying that you do not agree that the  
12     procedure that was followed by Larry Hyman was good  
13     prosecutorial procedure?

14          A     I can't comment on that.

15                   MS. GEORGES:  I think he already  
16     answered that.  He said --

17     BY MR. EGAN:

18          Q     I want to make sure about it.

19          A     I can't comment on that in regards to that  
20     case.  I mean, that was up to the lawyer, the felony  
21     review lawyer, to make the decisions, and that's who  
22     makes the decisions.

23          Q     I know.  You brought up ultimate  
24     responsibility.

1                   Do you agree that a first assistant or  
2 chief deputy, that they might look at what Larry  
3 Hyman did and say to him: You made a mistake. You  
4 made too much of a gamble, that this man could have  
5 refused to make a statement, or a lawyer might have  
6 shown up.

7           A       I couldn't speculate on that.

8           Q       Do you agree --

9           A       I couldn't speculate on that.

10                   MR. BOYLE: But you don't disagree  
11 that if they saw that they thought that he had made a  
12 mistake, that they should have brought it to his  
13 attention and done whatever was proper as a result of  
14 it?

15                   I think that's what he's asking.

16                   THE WITNESS: In any case, yes.

17 BY MR. EGAN:

18           Q       Are you aware that there are some first  
19 assistant state's attorneys and state's attorneys in  
20 the past that would have wanted to know every single  
21 thing that was going on at Detective Area 2 on the  
22 14th?

23           A       I wouldn't know that at all.

24                   MR. EGAN: I have nothing further.

(Which were all the proceedings had in  
the above-entitled cause, June 12,  
2006, at 2:11 p.m.)

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## REPORTER'S CERTIFICATE

I, JERRI ESTELLE, CSR, RPR, doing business in the City of Chicago, County of Cook and State of Illinois, do hereby certify that I reported in computerized shorthand the foregoing proceedings as appears from my stenographic notes.

I further certify that the foregoing is a true and accurate transcription of my shorthand notes and contains all the testimony had at said proceedings.

IN WITNESS WHEREOF, I hereunto set my hand as Certified Shorthand Reporter in and for the State of Illinois on June 13, 2006.

Jerri Estelle, CSR, RPR

License Number: 084-003284