EXHIBIT
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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

M. REBECCA DOWNING, et al., Plaintiffs
VS
YORK COUNTY DISTRICT ATTORNEY) H. STANLEY REBERT, et al. Defendants

Civil Action - Law
No. 1:CV-05-0351

--oOo--

DEPONENT: Timothy Barker, Esquire

TAKEN BY: Plaintiffs

DATE: Thursday, May 25, 2006

TIME: 9:35 a.m.

PLACE: Lavery Faherty Young & Patterson, P.C.
225 Market Street, Suite 304
Harrisburg, Pennsylvania 17108
York, Pennsylvania

REPORTER: Karen J. Meister
Reporter, Notary Public

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A He wasn't hired after the union was in place, if you're talking about the union timing. I thought he was hired before -- Well, he was hired before the contract was in place I should say.
Q Right.
A I don't know if the union was formed yet or not.
Q I'm not talking about the contract. I'm just talking about the union being in place.
A Let's see, when was he hired? 2003? Was it spring of 2003?
Q May of 2003 I'll represent to you.
A Okay. May of 2003. I think the union was in place then. I think it was -- I think it was -- Yeah, I believe that the union was formed by then, because was the union -- When was it --
Q I'll just represent to you that the union was formed by then.
A Okay.
Q So do you know of anybody other than -- Or I'm asking, do you know if John Daryman went through the interview and/or application process before he was hired?

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A Firsthand knowledge --
Q Secondhand, thirdhand --
A No.
Q -- anything. Do you have any knowledge of it?
A Well, I'm going to divide between the two. Firsthand knowledge I wasn't a part of it.
Q Okay.
A Secondhand knowledge based upon the -- based upon what occurred afterwards between Becky and Stan and with the union affairs, no, he did not have the same interview process that the other detectives had. Specifically, I think that there was an issue, if I recall correctly, of him never taking a polygraph; that that was one of the issues.
In terms of if he actually interviewed with people, I don't recall that coming up the same way, but the process -- The process was different. I mean, the process for John was different, and I'm trying to think --
Q Any other detective have the same different process that Mr. Daryman had?
MR. HUTCHINSON: Objection.
THE DEPONENT: Hiring from outside--

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and again, talking about people that are outside the office coming in--I don't know.
BY MR. JACOB:
Q My question is any other detective.
A Yes.
Q Who?
A Well, if you're talking about internal transfers and posting, Doug Demangone's position was not posted when he was promoted to sergeant.
Q Okay.
A And if you're talking about in terms of transfers within the office from one detective position to another, when the openings happened, they didn't go through the same process. That's why I'm saying there's a difference between the two.
Q Between transfers versus hiring?
A Trans -- Well, see, when those positions are open, and that's why the detective hiring process was different. Let's say the STOP detective position became open --
Q Let's -- I want to get back to my question.
A Well, this --

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Q Wait a minute.
A Okay.
Q Unfortunately, and I apologize. I know you're used to asking questions because you're a prosecutor, and I can certainly respect it. It's got to be hard for you to sit there, but today I get to ask the questions. I apologize.
A Well, I'm just --
MR. HUTCHINSON: Objection.
THE DEPONENT: -- trying to answer completely.
MR. HUTCHINSON: He's not asking questions.
MR. JACOB: That's fine.
MR. HUTCHINSON: He's giving answers.
MR. JACOB: But to different questions, so let me just reclarify --
MR. HUTCHINSON: Objection.
BY MR. JACOB:
Q Let me just reclarify my question, and I think you'll understand where I'm going with this, because I understand your concerns. I'm not talking about transfers or promotions. I'm talking about initial hires. The first time

somebody comes to work for the D.A.'s office --
A Okay.
Q -- is there any other detective who followed -- who was hired after the bargaining unit was in place who got to follow the same process that John Daryman followed that you're aware of?
A That I'm aware of, no.
Q Okay. Now, do you recall when Miss Downing was at the D.A.'s office, her making complaints about the process that was being utilized for the hiring of John Daryman?
A Yes, I recall -- Well, that's the question you asked, so I'll just say yes, I recall.
Q Okay. And do you remember that the issues that Miss Downing was raising was that it could create some sort of labor problem for the county?
A Yes.
Q Okay. And do you recall her making these complaints to Mr. Rebert and to others in the D.A.'s office?
A Okay. For that question --
Q Let's start with Mr. Rebert. How

about that?
A Okay. I was not present during the personal complaints to Stan Rebert. I know she did complain to Stan Rebert because I know -- Well, both Becky told me that she complained to Stan Rebert. Stan had mentioned that she complained to him. Other people were in the rooms at different times.
The John Daryman process I was not involved in in a lot of those meetings. Now, I know that Becky complained to me about it, and I talked to Becky extensively about it during that time period. The thing that was talked about more so wasn't in terms of legal consequences. It was more so talked in terms of morale consequences.
Now, I'll stop there because --
Q That's fine.
A -- that was the scope of your question.
Q Right.
A But --
Q I appreciate that. And the morale issue was, if I'm correct, was the fact that a different process was being used and that it

would be disparate treatment of one detective over another; am I correct?
MR. HUTCHINSON: Objection.
THE DEPONENT: There were two morale issues. The first morale issue came about due to how the position was created. That was the first and primary morale concern I had because it was going to affect the attorneys.
BY MR. JACOB:
Q Okay.
A The second one involved once he was hired that there was going to be different treatment, whether or not -- what it would do in terms of morale concerns. That's --
So there were a twofold -- There was a two-fold morale concern that was at bay. When that detective position was created, we had to give up an attorney's position, and at the time we were feeling very understaffed with regards to the attorneys.
Stan asked for the input of myself, of Judge Kelley, who back then was First Assistant --
Q Right.
A -- Paul Crouse and Susan Voyzey

regarding whether or not we felt that that should be changed over. The four of us said a resounding no, do not switch the position. He talked in vagaries about John Daryman being available and it may be a time to go ahead and open up a position. He did not state specifically that he wanted to create the position for John Daryman.
We didn't care who it was for. We felt no, because our big issue was, you know, the attorneys are already saying that they're overworked. We have this position, we haven't filled it yet. Now we're going to take it away based upon a promise that you may be able to get back from the commissioners, who have already been cutting our salaries. Who the reason why we already -- why we had unionization in our office across the board was because of the problems we were having with dealing with the commissioners economically, the disparate treatment between our county versus other counties of similar caseloads.
We just didn't trust it; that we would get that position back, and we felt it would be bad overall. It would hurt morale, and

Q During staff meetings or at any other time, was there a leak in the office in regard to confidential information?
A Yes.
MR. HUTCHINSON: Objection.
BY MR. JACOB:
Q And was it ever discovered that Bill Graff was, in fact, the leak?
MR. HUTCHINSON: Objection.
THE DEPONENT: I can only answer your question this way. I was with Bill Graff when he leaked information that was supposed to be confidential right after the meeting occurred concerning the staffing realignment. The two of us had to walk up into Judge Chronister's chambers together, and we had all agreed we weren't going to express it beyond that point. We walk in there and the first thing out of Bill's mouth was everything that we had just discussed.
BY MR. JACOB:
Q And that was in regard to the Daryman proposed promotion?
A No. That was with regards to a realignment of attorneys.

Q And I'm assuming that you went to Mr. Rebert and advised him that the information was leaked, correct?
A Oh, we all did. And that led into a spin-battle dual where Bill actually tried to blame me for being the one who was the person that leaked it up there. I wound up having to discuss it in Chronister's chambers after Bill had leaked it, because the way that I felt the spin came off of it was negative to the decisions that we did.
Q So this was a pretty serious issue for the office?
MR. HUTCHINSON: Objection.
THE DEPONENT: I believe any time that confidential information leaves a room it's very serious.
BY MR. JACOB:
Q Was Mr. Graff disciplined for leaking information?
A No.
Q Was there an investigation into this leak?
A No.
Q Did it negatively affect the D.A.'s

office in your opinion?
A Yes, yes. It affected the level of trust that we have in talking about information at staff meetings. At our executive staff meetings, for instance, whenever we talk about personnel, Paul Crouse refuses to be a part of it. He won't discuss any information like that with Bill around.
Q So am I correct, it's basically crippled your staff meetings?
MR. HUTCHINSON: Objection.
THE DEPONENT: Staff meetings are crippled but for more reasons than that, but that had an -- that had an impact with personnel matters. When we were talking about attorney alignment and things like that, it would be Stan, myself, Lori Yost -- Now, this is since we've all held these particular positions: Stan, myself, Lori Yost, and Paul Crouse, and we will not discuss it at open staff meetings because Bill did that before, and I just don't want to put my hand in the fire.
(Ms. Downing left the deposition room.)
THE DEPONENT: You know, we all --

None of us wanted to put our hand in the fire again. Why tempt -- It burnt us once, why tempt the flame.
BY MR. JACOB:
Q Did Mr. Rebert ever express to you that he lost confidence in Mr. Graff for leaking information?
MR. HUTCHINSON: Objection.
THE DEPONENT: He's complained about leaks from his office. And he even said one time, he goes, you know, I'm beginning to think that my office is bugged with the way that information gets out there and swirls around before I have -- before I get to act on some of this stuff.
In terms of Bill being the -- Bill being a leak or a Chatty Cathy, yeah, Stan has expressed his disappointment with that. He's expressed that he's upset that he has done that on certain occasions. Yeah, he said so.
BY MR. JACOB:
Q What other occasions do you know of either first or secondhand that Mr. Graff has leaked information from the D.A.'s office?
MR. HUTCHINSON: Objection. Counsel,

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what possible, possible remote relevance does this have to anything --
MR. JACOB: Pretext --
MR. HUTCHINSON: -- in this case?
MR. JACOB: -- insubordination. You know where it's going.
MR. HUTCHINSON: No, I don't.
MR. JACOB: No discipline for insubordination. That's a pretextual argument.
MR. HUTCHINSON: Who cares?
MR. JACOB: Well, we'll -- Argue it to the judge later, Hugh. You know I have a right to go here.
MR. HUTCHINSON: Actually you don't.
MR. JACOB: Actually I do.
MR. HUTCHINSON: This is well beyond anything in this case. I mean, you didn't plead a case that says, I just have --
MR. JACOB: You raised the issue --
MR. HUTCHINSON: -- to do anything that's negative.
MR. JACOB: -- that it was insubordination is one of the reasons that she was fired. I get to prove that, in fact, there's other serious acts of insubordination

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that have gone without discipline. If you really want to go to Judge Caldwell on this we can. Judge Caldwell is going to tell you --
MR. HUTCHINSON: I want to save us from being here for the next two weeks.
MR. JACOB: Well then, stop with the objections that are improper.
MR. HUTCHINSON: No, no. Start asking proper questions on relevant information.
MR. JACOB: I am, Hugh, and you know it.
MR. HUTCHINSON: Absolutely not.
MR. JACOB: You know, we're twenty something depositions into this. You know, I know where this case --
MR. HUTCHINSON: And we haven't yet --
MR. JACOB: -- is going.
MR. HUTCHINSON: -- touched on anything really relevant. So let's get -- Let's get to it.
MR. JACOB: Right. A page of transcript wasted.
MR. HUTCHINSON: No, 80 pages of transcript wasted.

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MR. JACOB: All right. Then I'll ask the judge for you to pay for them.
MR. HUTCHINSON: Because you've wasted them?
BY MR. JACOB:
Q Now, going back to the question --
MR. HUTCHINSON: Counsel, come on.
BY MR. JACOB:
Q -- do you know of other times when Mr. Graff has leaked information from the D.A.'s office that Mr. Rebert is aware of?
A Beyond speculation or beyond specific facts stated between Stan Rebert and myself, no. No specifics.
Q Now, since you do like to clarify firsthand, secondhand, why don't you tell us about the secondhand information regarding that issue.
A Well, this is just speculation.
Q That's fine.
A Basically, anything that happens in terms of hiring, firing, promotion, all of a sudden when we start to get contact from the city police department or places like that, the assumption is that Bill hopped on his Nextel and

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began to work the network.
And in terms of the subject of rumors and things like that, I mean, I've been told for years by other people -- And again, this is speculation, rumor. I've been told for years by other people that he has basically run his mouth about how he feels about individuals in the office and about how things are going on to people outside the office and starts rumors going around.
You know, I'm getting hit with that right now, where people are trying to draw chain-links back to what all happened in terms of me resigning and different issues like that. When Julio was promoted to -- when he was made chief county detective and other people were calling.
I mean, this is -- We don't know, okay. We don't have anything that you can go ahead and say, yes, this is what happened. But this is a speculation based upon -- And other people that are all talking about it speculate that this is where it came from. I mean, it's become like the common-knowledge speculation.
Q But you do have at least the one

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instance where it was leaked right in your presence?
A It was right in front of me. I couldn't believe he did it.
Q And has Mr. Rebert indicated to you why he has neither investigated or disciplined Mr. Graff for any leak?
A No.
Q Do you recall an incident in July of '04 when Miss Downing raised the issue of a possible harassment or sexual harassment in the workplace involving a Josh Neiderheiser and a Julie Patrick?
A I recall it happening. I wasn't in the office that morning when it happened, but I recall it happened.
Q Do you recall Mr. Rebert making a statement, something to the effect of, did I get caught stuffing a 20-dollar bill down Carletta's bra?
A No.
Q You don't recall him making that statement to you, and then you explained what had actually happened in the office?
A No.

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Q Okay.
A No, because I didn't know what actually went on until Becky and Paul told me about it.
Q Do you recall writing a written reprimand for multiple offenses in regard to Carletta for a warrant service, or something to that effect?
A No, she wasn't reprimanded for warrants. She was reprimanded -- Well, can I just have this on the record for purposes of my protection?
Q Go ahead.
A Since we're talking about -- And I just want to put this on the record for all of it. I'm assuming that I have absolute liability because I'm under oath and compelled to make statements concerning personnel matters and personnel files and issues like that. I'm assuming that that's the case.
MR. HUTCHINSON: We have a court order that says none of this information in this transcript will be released unless and until the Court allows it.
THE DEPONENT: Okay. I just wanted

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to make sure that that was on the record because, clearly, what I'm going to go into is a disciplinary matter that above and beyond anything else is sacrosanct.
Carletta was reprimanded by Faith Uhler Myers for excessive absenteeism.
BY MR. JACOB:
Q Okay.
A The warrant issue she didn't because that involved fines for parking tickets that she was told she had to go down and pay them right away or, you know, she could get reprimanded. And to my -- If I recall correctly, she did go down and pay them.
But she was reprimanded for the excessive absenteeism by Faith Uhler Myers. The information was given to me regarding time and attendance by Paul Crouse. I sat down with Faith. Faith called Carletta in. Faith reprimanded her, I witnessed it.
Q Did Paul Crouse object to any discipline in regard to the warrants because of an issue involving Judge Kelley and possible warrants? Do you recall anything in that regard?

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A He didn't object, no. No, I don't recall him objecting because of Judge Kelley, and the warrant that -- You're referring to the warrant that Judge Haskell's office gave when we were working on the riot trial?
Q Yeah.
A That would be the issue. I won't go off on aside with that. The answer is no.
Q Okay.
A He didn't object.
Q Do you recall Miss Downing complaining about the sexual harassment incident and a comment that -- previous comment regarding Carletta's bra to Mr. Rebert, to anybody else?
A Carletta's bra, no. With regards to the sexual harassment issue, she told me that it happened and it was taken care of. Complaining with how it was taken care of, no.
Q Okay.
A I did answer your question, right? I answered the question you asked, correct? I just want to make sure.
Q I'll let you know if you didn't.
A Okay.
Q Thank you, though.

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A Well, by saying relocated, that implies that they had to have been missing from the office. I don't know that they were missing.
Q Wasn't a second set of photographs ordered?
A Oh, yeah. We had Roger Goodfellow -- There were three sets of photos. I know I wanted another working copy when I got involved in the case. Tom Kelley and I went and ordered another set of photographs so we could have as a separate working copy to go through stuff with.
In terms of the state of the file overall with what was in there and what wasn't in there that originally existed, I don't know. The file was not -- How it was organized was not the same way that I organize a file. So, that I have to say I don't know. I don't know if they were missing.
That issue of the photographs to me was serious, but not losing a case serious, because clearly, she wasn't altering or handling evidence in a way that would wind up hurting that case. The more serious issue was, was she at the scene?

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Q I understand that. I'm talking about the photographs, though.
MR. HUTCHINSON: I think he's answered that.
MR. JACOB: Well, it will be up to me to decide if I have a follow-up question.
BY MR. JACOB:
Q In regard to the photographs, was --
MR. HUTCHINSON: I have no doubt you will.
BY MR. JACOB:
Q -- was an investigation ever started even?
A The only thing that occurred with the photographs was, after Tom -- After Tom Kelley and I got involved in the case, I know Tom confronted her directly about whether or not she -- whether or not she showed photographs. And I was not present for that.
What I recall of Tom talking about it was that, she denied showing the photographs, but said that it was possible that because she used to pick stuff up for Ken that she could have had photos on her from the Whitman case that she had picked up for Ken and was bringing

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to the -- and was bringing back to the office. But that was it. That was all that she would say.
Q Okay. And how about the Wynegars? Didn't they agree that they would take polygraphs?
A I don't recall. That I don't remember.
Q So based on the partial admission of Ms. Voyzey that she believes she at least possessed photographs at some point, Mr. Rebert just ended the investigation there?
MR. HUTCHINSON: Objection.
THE DEPONENT: There was no investigation beyond what had occurred outside of Tom directly confronting -- or I should say His Honor now directly confronting. There was nothing further done by Stan Rebert as a follow-up of that meeting.
BY MR. JACOB:
Q Fair enough. Do you recall Miss Downing complaining about the fact that the investigation was ending at that point and that nothing was being done?
MR. HUTCHINSON: Objection.

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THE DEPONENT: Yes.
BY MR. JACOB:
Q Do you recall her expressing that to Mr. Rebert?
A Yes, at that meeting that was expressed. That was expressed by Becky, by Tony and by myself.
Q In regard to official badges of the D.A.'s office, do you recall Miss Downing ever complaining about the fact that parties who were not entitled to have badges possessed them?
A I recall complaints about having to order badges because we couldn't find as many badges as we were supposed to have.
In terms of people having badges that weren't supposed to have them, specifically, no. A complaint generally about badges, yes, and that was -- That wasn't to Stan. That was Becky and I talking because we -- We were supposed to have X amount of badges. When Becky came in, we couldn't find all the badges that we were supposed to have.
Q Do you recall Miss Downing complaining to Mr. Rebert about Miss Voyzey attempting to intervene either by displaying a

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understanding was he was working a 32-hour workweek.
Q Okay. And do you recall Miss Downing complaining about that fact?
A Yes.
Q Do you recall a time when the contract did come down for the bargaining unit requiring a 40-hour workweek, and Mr. Rebert was proposing to promote Daryman to a supervisory position?
A Yes.
Q And do you recall Miss Downing complained to Mr. Rebert that that would create a further -- or possible further labor issue for the county?
A I don't recall specifically her saying labor issue. I recall her saying that it would cause problems. The emphasis had always been on morale. I don't recall -- I don't recall labor issue. By labor issue I'm assuming you mean like lawsuit, grievance, things like that.
I know -- When Becky would mention grievance it would be at the end -- I was only ever at one meeting with her when John Daryman

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was discussed. That was with Becky and with Stan.
Q Okay.
A And it was at the end of the meeting when -- going towards the end when she said, you know that this could cause a grievance, and they were talking about John in general. So that was mentioned, but the primary focus whenever Becky and I talked about it, which would be mainly in Becky's office, would be about morale.
Q And the morale issue was the disparate treatment, though, correct?
A Yeah. It would be the group of detectives working one schedule and John was working a separate schedule. The 32 hours never seemed to be as big an issue as the chain-of-command issue and the on-call issue. The on-call issue was larger than the 32-hour workweek because, the reason for the 32-hour workweek was so that John could go to his place in Potter County. That meant that he wouldn't be able -- If he was up there, he couldn't work on call over the weekend.
My understanding was, John had volunteered to work the weeks for other people

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if the weekends could be covered. But, that was the bigger issue than the 32-hour fixed week, the on-call part.
Q Miss Luker, the Director of Human Resources, testified that she instructed Miss Downing to contact Bob Durrant, the county's attorney, at some point in time during the contract negotiations or arbitration process to clarify an issue, something in the contract. Can you think of any reason why Miss Downing should not have contacted Mr. Durrant at the director's instruction?
MR. HUTCHINSON: Objection.
THE DEPONENT: Yes.
BY MR. JACOB:
Q What was that?
A That was -- The instruction from -- The instruction from the county was, do not -- that the elected officials, the department heads were not allowed to contact Bob Durrant without their approval. Becky Downing is not the head of the District Attorney's office. If the D.A. is not supposed to be contacting, the fact that Sharon Luker went directly to Becky Downing, that's issue number 1.

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But issue number 2 is, Becky should not have done that without talking to Stan Rebert, because Stan Rebert is the person who is in charge of the office. Yes, all the way around there's protocol quagmire.
Q Okay. Who was it that gave this direction from the county?
A That came from the commissioners from what I understood.
Q And what form did it come?
A Was it through e-mail, phone call or typed memo? It was in writing if I -- I believe it was in writing. I know that that was communicated within our office repeatedly by Paul Crouse. I know that it was. They laid that out in no uncertain terms. And I know that we all knew that Bob Durrant was not to be spoken to unless they approved of it.
Q And again, as you said, the direction was that elected officials were not to contact the county's attorney?
A Yeah. They were not to speak to Bob Durrant unless they gave the okay. The first thing was -- My understanding was that the first thing that had to happen was that the elected

officials had to opt in to have Bob Durrant be their counsel. After they opted in, they weren't allowed to communicate with him. And the main reason why was to keep every elected official from being on the phone talking to Bob Durrant all the time. That was at least the information that was conveyed to us as the basis.

Q So then you're -- Am I correct then that you're assuming, though, that somehow that directive translated into everybody; not just elected officials were not supposed to contact Bob Durrant?

MR. HUTCHINSON: Objection.

THE DEPONENT: Well, if Stan is not allowed to call him, why would I be allowed to call him? And that's the thing. I mean, we're the subordinates. We're not the ones who in the end are going to be -- have our names on the dotted line, so to speak. So if the head is not permitted, then why would the body be allowed to?

BY MR. JACOB:

Q Okay. But the directive was, elected officials were not supposed to contact Bob

Durrant, correct?

A I --

MR. HUTCHINSON: Objection.

THE DEPONENT: I believe it said just elected officials.

BY MR. JACOB:

Q Okay. And in regard to other attorneys, did it also -- Did it just say Bob Durrant, or did it say either attorney from either side should not be contacted?

A It just focused on -- It just focused on Bob Durrant. I think he was mentioned specifically. Well, I know it was said to us that he was mentioned specifically. But it was -- Bob Durrant was the focus of it because he was going to be representing the county, and the concern that was expressed to our office, I don't know whether it is verbally or in writing with that, was mainly to streamline calls. So Bob Durrant was the only one that was the focus of that.

MR. JACOB: Okay. Just for counsel's purposes, since there's a belief that this was in writing, could you just look to see if there is a writing to that effect? And if so, produce

it.

THE DEPONENT: I could be wrong.

BY MR. JACOB:

Q That's what I said --

A And I'll freely --

Q -- if there is.

A But I know that it was conveyed from over there to us, and we specifically had a meeting with that, on the topic.

Q When was that meeting on that topic, do you recall?

A That would have been -- I'm trying to get that time-line. That would have been when -- Would that have been in early 2002?

Q Okay.

A I'm fuzzy on the time-line because there were two -- the unionizations happened at different times. I can recall a lot of that action occurring when the secretaries unionized; when the teamsters unionization happened with the secretaries, because that affected all the department heads. It didn't -- It wasn't just the D.A.'s office issue then.

Q Did Mr. Rebert ever indicate to you that he contacted Gary Lightman during the

arbitration process?

MR. HUTCHINSON: Objection.

THE DEPONENT: No. He never told me that. In fact, I mentioned to him after I spoke with Becky during my -- during her last week in our office, after -- At one point I mentioned, I know I had to discuss issues that occurred during our conversation. And I mentioned, I said, you know, I said Becky said that you called -- that you called Lightman. I said, you know, this stuff is -- this stuff is outrageous. He didn't respond, but looked exasperated with like, you know, just like dismissive, like, you know, this is -- I took it to mean like, this is junk. You know, it was dismissive towards, you know, towards the accusation.

How that came up was, I was telling her why -- you know, about the feelings of her contacting Bob Durrant, and Becky said to me, well, is it right that Stan Rebert contacted Lightman? I had never heard anything like that before. And my response to her was, whether he did or he didn't -- My belief was that he didn't. Whether he did or he didn't, that doesn't change the focus on what you did with

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regards to contacting Durrant. So that's the only Lightman issue that I have any part of with regards to that.
Q Okay. Have you spoken to Gary Lightman?
A Have I? No.
MR. HUTCHINSON: Let's take a few minutes.
(At or about 11:20 a.m., short recess occurred; resumed at or about 11:30 a.m.)
MR. JACOB: I apologize. When we broke I didn't make a note where I broke. Do you recall what the last question was? Is that easy to get back? I usually make a note where we break, and I didn't.
MR. HUTCHINSON: I thought we were on the subject -- or finished up the subject of her conversation with Durrant.
MR. JACOB: I think so.
THE COURT REPORTER: Yes, that you spoke to Gary Lightman.
MR. JACOB: Okay. That's fine. Thank you. For the record I just thank you.
BY MR. JACOB:
Q We just took a short break. I

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believe everybody needed one. We're back on the record.
Do you recall Miss Downing during her employ complain to Mr. Rebert in regard to his attempts to intervene in criminal prosecutions on behalf of friends, political supporters, relatives, people of that nature?
A I wasn't present when she -- If she did that with Stan, I wasn't there.
Q Are you aware through other people that the complaint was made to Stan about those issues?
A No, I don't recall -- I don't recall a complaint that Stan was doing so. Becky and I have had discussions if friends were involved about how to proceed in terms of taking it to Stan before getting Stan in the middle. I can think of a couple, specific; one of them being Joe Durney.
Q We don't have to get too far into stuff that's not part of the question.
A But that's the nature of the discussions that Becky and I had was about, when do you go to Stan because if it's a nothing issue, should he be put in the middle at that

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point immediately? What we used to do was --
Q I'm just asking if you recall her making a complaint about his --
A Okay.
MR. HUTCHINSON: I think he can finish --
THE DEPONENT: No.
MR. HUTCHINSON: -- his answer, though.
BY MR. JACOB:
Q Okay. And how about, do you recall if Miss Downing ever made any complaints about Mr. Rebert having employees of the office perform personal favors for him?
A Not to sound obstructious or anything like that, but can you define personal favors? What type of -- Just so that I understand the scope of what you --
Q In general, if county employees while being paid by the county were performing personal favors to him, be it banking services, making phone calls for him, shoveling his snow, picking up his family, doing shopping for him, taking care of the pets, fixing a computer, starting a car, anything like that.

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A So it's just in general, anything that could be of a personal nature?
Q Usual things that would fall under personal favors.
A Yes. What Becky complained about to him that -- I was present for this. When Becky first began with regards to Stan's lunch, Kenny used to go a lot to County Market and he'd pick Stan's lunch up at County Market, usually pizza. He'd go and he'd do stuff like that.
When Becky took over, I can recall her saying to Stan, I'm your chief county detective. I am not here to go drive and pick up your lunch and to do things like that for you. And Stan seemed to say -- I mean, Stan said okay to that then. I never heard that come as an issue again after that.
There was one time -- There was one time after that that I heard where they were talking about, I guess -- I can't remember what it was specifically they were talking about. And I remember Stan going, I know, I know. Look, I'm not asking you to go out and get me lunch or anything like that. And Becky goes, yeah, you better not. You know my feeling on

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MR. HUTCHINSON: Objection. You just cut him off in the middle of an answer.
MR. JACOB: I'm sorry. I thought he was done because the question had been answered.
BY MR. JACOB:
Q Was there anything else you wanted to share?
A No. That's good. That's all.
Q With regards to cell phones, do you recall if Miss Downing ever complained about cell phones being paid for by the drug task force fund for persons who are no longer employed by the D.A.'s office or for Mrs. Rebert's personal use?
A Susan Rebert, no. Persons formerly employed, yes. In fact, the cell phone that I have on me today used to be -- Rodney George used to have that. And Becky had asked Bill Graff, look, we should get Tim a cell phone because we need to be able to reach him. And I didn't have a county cell phone, and she wanted me too on the Nextel network. Bill Graff said, I'm not going to ask Rodney for his phone back until after we're done with--Was it Rosetti?-- the Rosetti homicide. So when the Rosetti

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homicide finished, then Bill took the phone back from Rodney and gave the phone to me.
Q Okay. I'm only going to say just because we have another witness waiting, and we're late, not necessarily your fault, but -- So the answer is you recall her making a complaint? We have to --
A Yes.
Q -- try to just answer the questions so we can get along here. I appreciate you're trying to be forthcoming.
How about as far as evidence not being in the evidence room and, instead, being either in Ingle's possession or Mr. Rebert's possession. Do you recall any complaints in that regard from Miss Downing?
A Yes and no. Complaints about how Kenny had the evidence, yes. Complaint about Stan with regards to evidence, no, other than generally that the safe was in bad shape. Complaints that existed about evidence and the fact we did not have an attorney -- a place where attorneys could keep the evidence of the cases they were in trial? Yes, that was complained of, but it was me to Becky. That's

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the yes and no.
Q Okay. So in regard to my question about whether Miss Downing complained about evidence that should have been in the evidence -- as opposed to Mr. Ingle or Mr. Rebert's possession, the answer is no?
A Well, she complained about the state of the safe. I mean, there was a general complaint. That was something that they had to get in compliance for the accreditation.
Q Okay.
A But if you're talking specifically like something Stan held, that -- No. That I don't recall.
Q Do you know anything about a slot machine in Mr. Rebert's possession that was possibly a confiscated slot machine?
A There was a slot machine in -- Confiscated slot machine, was it in his office? That there was one?
Q How about his home, do you know?
A No, that I don't know.
Q How about video poker machines?
A There was a confiscated video poker machine back in the old church which we called

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the squirrel hut when we were working on the '69 riot investigations.
Q Did it end up in Mr. Rebert's home or office?
A I don't know anything about his home. I'm trying to think in his office. The only one I can recall was, I think it was like a lever pull-down that was sitting against the far wall. I don't recall anything with a video poker machine.
Q How about a county couch? Do you recall a county couch ending up in Mr. Rebert's home?
A No, that I don't know anything about.
Q Prior to Miss Downing being fired by Mr. Rebert, I believe she and you had a conversation; is that correct?
A That's correct.
Q And during the conversation, am I correct that Miss Downing stated to you what she felt her complaints were about, what had been going on in the D.A.'s office involving Mr. Rebert; is that correct?
A I wouldn't -- Well, not entirely.
Q Okay.

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A There were a couple specific things. But if you're talking about complaints, like many of the things that you were asking today, no, that wasn't the topic.
Q Did she ask you why this was the first time that she was learning that there were complaints about the -- from the A.D.A.s to the detectives?
(Pause.)
Q And I guess to clarify further --
A I'm trying to think.
Q -- why you as the First Deputy never brought them to her attention?
A No. I was First Assistant at that point.
Q My apologies.
A I don't recall her using those exact words. She didn't -- I don't recall her saying this is the first time. What I -- Do you want me to clarify what I recall?
Q Yes, please.
A Okay. What I recall being said with regards to the attorney complaints, I said to her that the detectives and the attorneys have no interaction any more; that the detectives

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aren't there to help the attorneys, and the attorneys just know that they can't rely on the detectives. And Becky said to me, she said, that's not true. If anybody asks me for a detective's help, I'll give it to them. I can't help the fact that people don't come to me any more.
And I said, Becky, do you understand, nobody will come to you because when you've been shot down so many times you just give up and you don't go back to that person any more. And her response to that was, she took a pause and said, oh, I didn't think of it that way. I don't recall mention of the first time.
I will not dispute that in terms of thinking of it in that way, that that may have been the first time she thought of it that way based upon her reaction to me saying that nobody will come any -- come forward any more. But, we had gone to her previously.
The breakdown in communication between -- especially between her and I occurred during 2004, when literally you just became tired because you got shouted down. Things changed.

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Q Do you recall was it ever discussed or are you aware of any time when Miss Downing was ever spoken to by her supervisor, who I'm assuming was Mr. Rebert, about this issue?
A Yes.
Q When?
A That occurred during a meeting that -- Lori Yost was trying to get assistance from the county detectives and she was getting a runaround on a case. It led to a huge blowup in Stan's office that wound up in a shouting match between Becky and Stan. I had to stand up in the middle of it and had to tell both of them to sit down because I didn't know who -- I mean, they were going at it really good.
I stood up between the two of them and I yelled at both of them. I said, both of you just sit down and shut up for a moment. And -- It was a blowup.
Now, after that, you know, Lori got the assistance that she needed on that particular case. When Lori needed help on a homicide after that, there was more ready assistance for her with regards to that case.
But help for the attorneys overall,

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that was gone. I mean, my final issue with Becky occurred over me not being able to get a pair of latex gloves. They slammed the door in Dave Cook's face. I'm up there sick as a dog trying a first degree murder case. They slammed the door in his face because they're doing a disciplinary measure with Matt Millsaps. We're trying to find latex gloves so that I can have my expert open the evidence and show the bullets to the jury.
(Mr. Jacob and Miss Downing confer privately.)
When I talked to them afterwards, Tony apologized and said, I'm sorry, I didn't understand what Dave was saying. Becky's reaction to me was, you knew we were doing something important. I go, more important than me having gloves so I can introduce my evidence in a murder case? She said, well, you know how important this was.
Q So you did learn then it was Tony who slammed the door in Attorney Cook's face?
A Oh, he's the one specifically. It was Becky and Tony both in the office with Matt Millsaps. They opened the door. Dave was

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trying to talk to them to ask for gloves. And Dave came up to me afterwards and he goes, you won't believe what just happened. We were trying the case together. And based upon Becky's response to it, and with everything that had come--That was August of 2004, about the third week of August of 2004--too far gone. It was too far gone.
Q Again, my question is, though, you found out that Tony is the one who slammed the door, correct?
A Oh yes, that's correct. Yes.
Q You also know at that time Attorney Cook had not spoken to Miss Downing directly because Tony had slammed the door, correct?
A No, he got to say a few words generally to that room. He didn't get to fully say everything that he wanted to express because the door got slammed.
Q So you don't know then whether Miss Downing heard what his request was or what the issue was because Tony had slammed the door, correct?
A If she fully heard and comprehended, I can't say.

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Q Okay. But then after the fact you explained and you guys had words, and whatever happened happened.
A Yeah.
Q Was Miss Downing ever disciplined over this issue?
A No, there was no discipline that was done over this issue.
Q Okay. And this occurred, you said in August of 2004?
A August of 2004.
Q Was Tony ever disciplined for this issue?
A No.
Q So really, all we know is that Tony slammed the door in Attorney Cook's face while Miss Downing was in the room, correct?
MR. HUTCHINSON: Objection. That's a complete mischaracterization of what was being said.
BY MR. JACOB:
Q Is that correct?
A No.
Q Okay. Now, in regard to the meeting that you had with Miss Downing, am I correct

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that you and Mr. Rebert had discussed Miss Downing's termination before you met with Miss Downing, correct?
A That's correct.
Q And what was the reason that Mr. Rebert gave for needing to fire Miss Downing?
MR. HUTCHINSON: Objection.
THE DEPONENT: He never gave one.
BY MR. JACOB:
Q Okay. So then, what was the substance of your conversation with Mr. Rebert?
A I'll cite back to earlier testimony. When you're speaking with Stan Rebert you wind up being the one talking, and then he leaves you with the feeling of whether he agrees or disagrees with your opinion, either expressly or not.
Q I'm only interested in what the actual substance was.
MR. HUTCHINSON: He's giving you his testimony.
MR. JACOB: No. He told me that he -- He's telling me about how he communicates.
BY MR. JACOB:
Q I just want to know what the

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substance of the communication was.
A Well, I will answer that as best I can. I'm also cognizant that I'm going to be on record. I don't want miscommunication for later should this be in trial.
I'm walking down the hallway. Paul Crouse is walking out of Stan's office and Paul goes, Stan, you may be surprised over Tim's reaction. He said, Tim, can you come here.
Now, Paul and I had been talking for a while. This is the precursor of why Paul said this. Because we had been talking for a couple weeks about how we felt the detective bureau was so far removed and detached from the A.D.A.s that it was beyond repair to have them work together as they should.
So he calls me in and Stan, I believe, asked, Paul says that -- I think he began by saying, I'm thinking about firing Becky, but I'm concerned what your opinion would be. Paul seems to think that I'll be surprised by your response to know that the two of you are friends.
I said, well, I said, Stan, my belief is this. I believe that the detectives are

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somebody gets them there.
BY MR. JACOB:
Q Once that meeting occurred and apparently the process wasn't fixed, did Mr. Rebert ever give a direct order saying, hey, the process isn't working, here is what we need to do?
A No.
Q Did he tell Becky in your presence that this is what I want you to do to fix this problem?
A No.
Q Okay. Instead, the suggestion was, there's a rift in the office, there is a problem, just fire her, correct?
MR. HUTCHINSON: Objection.
THE DEPONENT: My advice was, if he felt that she was not salvageable in the relationship with him, that that relationship was not salvageable, then he needed to terminate.
BY MR. JACOB:
Q Once this litigation started, did the detective office ever stop cooperating in any degree with any of the police agencies in York

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County?
A I don't understand the question. I'm sorry.
Q Once this litigation started between Miss Downing and Mr. Rebert, and I guess I should clarify a little bit further --
MR. HUTCHINSON: Excuse me a second.
(Cell phone interruption.)
BY MR. JACOB:
Q Do you recall at any point in time the York County Chiefs complaining of a lack of cooperation by either Mr. Rebert or the D.A.'s office after this litigation started?
A The chiefs specifically complaining, no, I don't know if they did. I'm trying to make sure I answer your question.
My understanding, they wanted to have Stan be a full member. They wanted more participation from our office. Stan had said to me that he was uncomfortable going to the meetings at the time because Becky was a member and was still going to be attending. He asked if I would attend, and I said I have no problem.
As a complaint, I don't view that as a complaint. I viewed it as, we want more

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involvement from Stan and the attorneys. So, I'm not trying to play a semantic game.
Q That's fine.
A I'm just --
Q Do you recall Mr. Rebert conditioning his cooperation or the D.A.'s office cooperation on Miss Downing being uninvited to the York County Chiefs of Police meetings?
A He never said that or expressed that to me. I personally, during the time period that I was supposed to be going, didn't want to go any more because I was getting mixed signals from Stan and Julio concerning how warm they were to me actually going. I know Julio had expressed that he was uncomfortable because he felt that things weren't settled.
In terms of Stan, Stan never expressly came out and said that, but you just know, when you've worked with somebody for a while, something was going on in terms of him not being happy. And I just didn't feel comfortable.
Q I believe you've already testified that you're big on the implications from Stan. So, was it applied to you --

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MR. HUTCHINSON: Objection.
MR. BLAKEY: A little louder, please.
MR. JACOB: Yes.
BY MR. JACOB:
Q Was it implied to you, or did you understand your interactions with Mr. Rebert to be that he wants Miss Downing uninvited to the meetings, and until that occurs, his office will not be really cooperating or participating with the York County Chiefs Association?
A The first part was expressed, he didn't want Becky Downing at those meetings. That he had expressed on numerous occasions.
The second part with regards to me feeling uncomfortable, that's implied off of a vibe. That's the only way I know how to put it; off of a feeling based upon my discussions with -- just in general about the chiefs. And Stan would make references of like, well, you know, our relationship isn't the best right now with the chiefs and things like that. Yet, I'm supposed to be going to help it, to make it better and yet this is coming out of him. You know, it's a mixed signal. And so, I'm getting that feedback, and all of a sudden, you know

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you're friends. Not only her and Bob, but also with her friends, and I don't want to get you caught up in the middle of it, and I'll do what I can to keep you out of this.

And I had told him verbally after seeing that, I said, I appreciate that. I am your First Assistant. If you need me to do something I said, I understand I have an obligation and a duty with my job. And he said, no, I'll keep you of it. And next thing I know I'm right back into it.

So, I go over to Stan. I said, Stan, I had an interesting conversation with Becky. I said, she came down to my office to ask me about her keeping her -- you know, keeping her job. And that she was supposed to come -- That if she could convince me, that you'd considered keeping her. And I said, Stan, what was that -- you know, what was that all about? And Stan looked up at me and goes, I'm sorry, Timmy, I was weak. Sorry about that.

I said, well, I said, we had a conversation, and basically I expressed what the reasons were, and I said -- and I told -- I told her what I told -- That was one of the things

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that I said. I told Becky what I told Stan with regards to, that Stan had to determine with the salvageable issue. Stan had to determine whether their relationship was salvageable. And if he believed it was, then he should work on it; and he believed it wasn't, that he should terminate her.

I said, I told her that, and I said, I think she understands what my position was with regards to this. He said, okay, thanks. And I said, Stan, I said, I would have appreciated you giving me a heads-up first, but I understand. I said, it doesn't surprise me that you were weak and that you needed to talk to me to have me do this, but I said, I understand it comes with my job. And that was that.

In terms of the other substance of it, I didn't tell him the further substance of the conversation.

Q I just meant the conclusion.

Last subject. You referenced you could go into Stan's office and say anything basically but it had to stay there, or with you it stayed there. Do you recall making a

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statement like that?

A No.

MR. JACOB: I don't recall him making a statement like that.

THE DEPONENT: I said in terms of telling Becky that in terms of what we're talking about -- When I was talking to Becky that, you know, you can say whatever you want to Stan in there, but yeah, it needs to be -- we need to be working on the same page. It was something along those lines, in that context.

BY MR. BLAKEY:

Q Let me give you two more specific examples.

A Okay.

Q You indicated that at one point you yelled at both of them and told them to sit down and shut up.

A Yeah.

Q Did you have any hesitancy in talking like that to Stan?

(Pause.)

Q More specifically, did you think he would discharge you if you talked to him like that?

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A (Pause.) Can you repeat the last part? Did I have any hesitancy with what?

Q In talking to Stan like that.

A I mean, look, nobody goes into a room to set out to talk that way. But in terms of saying those things and worse, no. I mean, you calculate when you do, a lot of times it was borne out of frustration and anger.

In terms of keeping things in the -- I mean, yeah. I mean, I didn't have -- I didn't have hesitancy -- I mean, I didn't look forward to it, but if it happened, it happened.

Q You gave another example that you -- talking about John Daryman. You and Becky, and I think maybe Paul went in and you all complained to Stan about taking the attorney's position and losing that and getting John; that you all complained to him about that, said he shouldn't do it.

A No, we didn't go into him. Well, Tom Kelley did. Tom Kelley didn't write a response memo. He just walked in to Stan and said, I read the other three memos. I agree with them totally, and you're idiot if you do what you're proposing. Paul, Susan and I wrote response

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memos. He wanted us to write him memos concerning the issue.
Becky and I had talked about it. Becky's position that she told me was, she said, well, she could use another detective position. She understood what I was saying in terms of the attorney slot. And, you know, that was pretty much it.
We didn't really talk about -- We didn't really talk about Daryman. We talked about the position specifically. That was what we were asked to talk about and we focused on. Daryman as a potential candidate and how that would go wasn't the -- wasn't the driving force.
Q Did I just hear you say that now Judge Kelley said to Stan, you're an idiot if you do this, or words to that effect?
A Yeah, it was basically that.
Q My point is this, Mr. Barker. It's been stated that Stan had an open-door policy. Would you agree with that?
A Unfortunately, yes.
Q Well, fortunate or unfortunate, anybody could walk in at any time and pretty much say anything they wanted to Stan Rebert;

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could they not?
A Yeah, that's true.
MR. BLAKEY: That's all.
MR. HUTCHINSON: No questions.
MR. JACOB: I just have a couple followups.
RE-EXAMINATION
BY MR. JACOB:
Q In regard to the proposed promotion of John Daryman, the salary board never asked for Mr. Kelley's, Mr. Crouse's or your approval for that promotion, correct?
A That's correct.
Q Okay. In regard to the issues that were discussed with you and Miss Downing during that last conversation that I think we're all aware of, Miss Downing was never disciplined for any of those issues that were raised, correct?
A I'm assuming you mean, of course, separate from the termination. You're talking about in the past?
Q Right. I agree.
A Yeah.
Q I consider the termination to be a discipline, but separate from that.

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A I'm not aware. I don't know of any disciplinary actions that -- Well, I think Stan took one disciplinary action against her in 2004, but he withdraw it.
Q Okay.
A That's the only thing that I'm aware of. Most of what occurred was just -- It would be back and forth, memos exchanged, things like that.
Q In regard to Paul Crouse's testimony, it wasn't the fact that he testified, but that it was -- that he testified falsely. Am I correct --
A No.
Q -- that was Miss Downing's complaint?
A No, that's incorrect. It was the fact that he went up there and he lobbied for a position that she deemed to be counter to what the position of the District Attorney's office was.
Stan gave to Becky the ability to speak on behalf of the office for that case. As a matter of fact, he gave the victim impact paperwork over to Becky to go ahead and complete. Becky's position was that he deserved

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a lot of time. Paul's position, which I agreed with, was that he did not deserve a lot of time. We believed he deserved probation.
Paul went up there and spoke his position. It was contrary to Becky's position, which she said was contrary then to the office position and she lobbied Stan to fire Paul. She also spoke to me about whether Paul should be fired and I told her no.
Q Did you ever review Mr. Crouse's testimony during the sentencing?
A The entirety of it, no.
Q It's only about a page and a half. I reviewed it.
A No.
Q So, do you know the substance of what he said during his testimony?
A Essentially yes, because I heard about it also from the newspaper reporters and from other people that were in there.
Q Aside from what we've now discussed here today, do you have any other complaints about Miss Downing's performance at the D.A.'s office?
A (No audible answer.)