

University of Colorado Law School

## Colorado Law Scholarly Commons

---

Colorado Supreme Court Records and Briefs Collection

---

11-13-1979

### City and County of Denver v. District Court for Second Judicial Dist.

Follow this and additional works at: <https://scholar.law.colorado.edu/colorado-supreme-court-briefs>

---

#### Recommended Citation

"City and County of Denver v. District Court for Second Judicial Dist." (1979). *Colorado Supreme Court Records and Briefs Collection*. 3005.

<https://scholar.law.colorado.edu/colorado-supreme-court-briefs/3005>

This Brief is brought to you for free and open access by Colorado Law Scholarly Commons. It has been accepted for inclusion in Colorado Supreme Court Records and Briefs Collection by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact [rebecca.ciota@colorado.edu](mailto:rebecca.ciota@colorado.edu).

IN THE SUPREME COURT OF THE

STATE OF COLORADO

No.

79SA512

FILED IN THE  
SUPREME COURT  
OF THE STATE OF COLORADO

NOV 13 1979

*David W. Beggs*

J.B. MCGHEE and JULLY MAE  
SIMMONS,

Petitioners,

vs.

THE DISTRICT COURT FOR THE  
SECOND JUDICIAL DISTRICT OF  
COLORADO, AND THE HONORABLE  
JAMES C. FLANIGAN, ONE OF  
THE JUDGES THEREOF: CITY AND  
COUNTY OF DENVER, STANLEY  
BAKER and STEPHEN BARNHILL,

Respondents.

ORIGINAL PROCEEDING

PETITION FOR WRIT IN THE

NATURE OF PROHIBITION

Civil Action No. C-76726

The Petitioners, J.B. McGee and Jully Mae Simmons, by and through their attorney, respectfully petition this Honorable Court pursuant to the provisions of Rule 21 of the Colorado Appellate Rules and Section 3 of Article 6 of the Colorado Constitution, for a writ in the nature of prohibition on the basis that Respondent District Court for the Second District of Colorado and the Honorable James C. Flanigan, one of the judges thereof, exceeded its jurisdiction and grossly abused its discretion in denying certain pre-trial discovery to the Petitioners in the case at bar and for reasons state and allege as follows:

1. Petitioners and Plaintiffs below, J.B. McGHEE and JULLY MAE SIMMONS, (hereinafter "Plaintiffs") allege in their Complaint in Civil Action C-76726 (Exhibit A attached) pending in the Respondent District Court that the Respondents, STANLEY BAKER and STEPHEN BARNHILL while acting within the course and scope of their employment with the Defendant City and County of Denver, did commit an unlawful and illegal detention, stop, arrest, frisk and search of the Plaintiffs for which they claim damages. Plaintiffs further

allege the Defendant, CITY AND COUNTY OF DENVER is liable on the basis of: (a) Respondent Superior; and (b) negligent hiring of Police Officers STANLEY BANKER and STEPHEN BARNHILL; and (c) negligent retention of STANLEY BAKER and STEPHEN BARNHILL as employees.

2. The Defendants, CITY AND COUNTY OF DENVER, STANLEY BAKER and STEPHEN BARNHILL answered Plaintiffs' Complaint and asserted, inter alia, that they had probable cause to detain and search the Plaintiffs. (Answer is attached as Exhibit B).

3. Pursuant to the Colorado Rules of Civil Procedure Plaintiffs propounded certain Interrogatories to the Defendants, STANLEY BAKER and STEPHEN BARNHILL (Exhibit C attached) and said Defendants duly responded to said Interrogatories (Exhibits D and E attached). In Interrogatories numbered 24 and 25 Plaintiffs requested any written document that said Defendants prepared with regard to this incident and each Defendant responded that no such document had been prepared. Conversely, in Interrogatory number 33 and the answer thereto said Defendants admit that a written report of this incident was prepared by each of them but they claim some privilege as to its discovery.

4. That pursuant to the Colorado Rules of Civil Procedure, the deposition of the Defendant, STANLEY BAKER was taken. The following pertinent information was obtained from the said Defendant during this discovery procedure:

1. That certain intelligence files are maintained at the Narcotics Division within the Denver Police Department which contain current information about a particular person, his current address, and the information received from fellow officers as well as from confidential informants and that such files are routinely studied by the Narcotics Officers such as the Defendant BAKER (see pages 23, 24 and 26 of the Defendant BAKER'S deposition which are attached),

2. Also maintained in the Narcotics Division are card files on particular persons which contain more concise in-

formation than the intelligence files and which may not be as current as the intelligence files (see pages 26 and 27 of said Defendant's deposition),

3. That also maintained in the Narcotics Division are general files on particular individuals which contain information concerning arrests of certain persons without a case having been filed (see page 28 of said Defendant's deposition),

4. That preceeding the day in question said Defendant was assisting another detective in an investigation of the Plaintiff McGHEE and that during this investigation the Plaintiffs were followed to an Aurora address and this address was recorded on each of the Plaintiffs' intelligence and card files (see pages 29, 30, 36 through 39 of Defendant BAKER'S deposition which are attached),

5. That prior to the incident-at-bar the Defendant BAKER stopped the Plaintiffs pursuant to information that he had received from a confidential informant and the information concerning that stop is recorded on the intelligence and card files of said Plaintiffs (see pages 41 through 43 of the Defendant BAKER'S deposition),

6. That the only reason the Defendant BAKER stopped said Plaintiffs was because of previous information said Defendant had received about said persons and not because of any information received about said Plaintiffs on the day in question (see pages 46 and 47 of the Defendant BAKER'S deposition),

7. That Defendant BAKER had prior information that the Plaintiff JULY SIMMONS had the connections and money for the purchase of the narcotics and that such information may have come from the intelligence or card files (see pages 56 and 57 of the Defendant BAKER'S deposition which are attached),

8. That during the evening of the incident in question

Defendant BAKER prepared a letter to Captain Kennedy about this incident and thereafter prepared a similar document to the SIB (see pages 64 and 65 of Defendant BAKER'S deposition which are attached).

5. In connection with the deposition, Plaintiffs served the Defendants with a Request for Production of Documents (Exhibit F attached), requesting the pertinent intelligence files, card files, general files and correspondence or written reports relative to the Plaintiffs and this action.

6. The Defendants objected to the Request on the grounds that s { the documents were privileged and confidential, that disclosure would be contrary to the public interests, that disclosure would be in violation of C.R.S., 1973, § 24-72-301, et seq and that said documents were not subject to discovery (Exhibit G attached).

7. Plaintiffs then filed a Motion to Compel on the basis that the requested material was reviewed and used in part to substantiate the detention and arrest of the said Plaintiffs by the said Defendant and that the requested material was relevant to ascertain the bias, motive or prejudice of the Defendant STANLEY BAKER and the knowledge that the Defendant CITY AND COUNTY OF DENVER had with respect to the said Defendant BAKER'S prior conduct (Exhibit H attached).

8. The Respondent the HONORABLE JAMES C. FLANIGAN thereupon reviewed in camera pertinent intelligence files, card files, general files and written reports of the incident by the Defendant Police Officers and denied the Plaintiffs' request for discovery of said documents on the basis that they were privileged under C.R.S., 1973, §24-72-304 et seq. The Court further ordered the said documents to be sealed in an envelope and not re-opened until further Order of Court to allow Plaintiffs to seek appropriate review.

9. The Order of the District Court constituted a gross abuse of discretion and an act in excess of jurisdiction because:

1. It directly contravened the provisions of C.R.S., 1973

§24-72-302 et seq.;

2. It inhibits the scope of discovery allowed under the Colorado Rules of Civil Procedure;

3. It invades no constitutional right, no executive privilege or no privilege of confidentiality with respect to the Defendant Officers and the Defendant CITY AND COUNTY OF DENVER;

4. It violates the rights and interests of the Plaintiffs to secure the just, speedy and inexpensive determination of their action and thwarts the Plaintiffs' right to secure information relevant to the subject matter of this action and to discover information which may be admissible as evidence in a trial or which may reasonably be calculated to lead to discovery of admissible evidence;

5. It will permit the Defendant BAKER to testify to matters which may have formed the basis of his stop, detention, and search of the Plaintiffs but it will not allow the Plaintiffs to obtain the best evidence which may or may not be corroborative of said Defendant's testimony.

10. The Petitioners have no other adequate and speedy remedy at law. Unless the aforesaid Order denying discovery is prohibited from being enforced and overturned, the Petitioners will suffer immediate and irreparable harm and injury because they will be denied relevant discovery for the preparation, presentation, and defense of their case against the Defendants.

11. The importance of the issues raised herein transcend the particular interest of the Officers. Presently, the trial courts are without guidelines in litigation relating to law enforcement in determining rights of parties arising from the interrelationship among the various privilege and public policy considerations cited herein, the statutory law relating to disclosure of records,

and the scope of discovery allowed under the Colorado Rules of Civil Procedure. It is respectfully submitted that immediate resolution of these issues will serve the public interest.

12. This Court has already entered a Show Cause Order to the Respondent DISTRICT COURT and the HONORABLE JAMES C. FLANIGAN on the basis of a Petition brought by these Defendants for certain discovery granted in this matter, to-wit: the copy of certain SIB complaints and results thereof. It is therefore, appropriate that this Honorable Court address itself to all of the important issues raised with respect to the requested discovery and order a consolidation of both petitions for a speedy and complete resolution of all of the facts contained in both petitions.

PRAYER FOR RELIEF

Petitioners respectfully request this Honorable Court to issue an Order to Respondents requiring them to show cause why a writ in the nature of prohibition should not enter against them and grant the order compelling discovery and to consolidate this petition with the one previously ordered by this Honorable Court.

Respectfully submitted,

**ORIGINAL SIGNED BY  
DAVID B. SAVITZ**

DAVID B. SAVITZ (#4690)  
1420 Western Federal Savings Bldg.  
Denver, Colorado 80202  
Telephone: (303) 893-6836

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Writ in the Nature of Prohibition has been served on the following:

Honorable James C. Flanigan  
Judge, Denver District Court  
City and County Building, Ctrm. 9  
Denver, Colorado 80204

Clerk of the District Court  
City and County Building  
Denver, Colorado 80204

Marshall A. Fogel, Esq.  
336 West 13th Avenue  
Denver, Colorado

Halaby and Fahr  
5945 West Mississippi Avenue  
Denver, Colorado 80226

by placing same in the U.S. Mails, postage prepaid, on this 13th day of November, 1979.

**ORIGINAL SIGNED BY  
DAVID B. SAVITZ**

EXHIBIT A

IN THE DISTRICT COURT IN AND FOR THE

CITY AND COUNTY OF DENVER

STATE OF COLORADO

Civil Action No. \_\_\_\_\_

J. B. MC GHEE and JULLY	)	
MAE SIMMONS,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	COMPLAINT IN DAMAGES
	)	(Jury Trial Demanded)
CITY AND COUNTY OF	)	
DENVER, STANLEY BAKER,	)	
and STEPHEN BARNHILL,	)	
	)	
Defendants.	)	

The Plaintiffs, as a complaint against the Defendants,  
state and allege as follows:

FIRST CLAIM FOR RELIEF

1. That prior to and on or about September 20, 1977,  
the City and County of Denver, one of the Defendants above  
named, was and is a municipal corporation.
2. That on or about September 20, 1977, the Defendants  
Stanley Baker and Stephen Barnhill were agents, servants  
and employees of the Defendant City and County of Denver  
and were acting within the course and scope of their agency  
and employment.
3. That Plaintiffs have given written notice of their  
intent to sue to the Honorable William H. McNichols, Mayor,  
City and County of Denver, pursuant to C.R.S. 1973,  
24-10-109 (as amended).
4. That on or about September 20, 1977, at or near  
16th and California Streets, Denver, Colorado, the Defendants  
Stanley Baker and Stephen Barnhill, acting under the scope  
of their agency and employment with the City and County of  
Denver, did commit an unlawful and illegal detention, stop,



and/or arrest, and frisk, and/or search, of the person and/or effects of the Plaintiffs, J. B. McGhee and Jolly Mae Simmons.

5. That the Defendants Stanley Baker and Stephen Barnhill, acting under the scope of their authority and within the scope of their employment with the Defendant City and County of Denver, did commit the above described acts without reasonable suspicion, probable cause, or exigent circumstances.

6. That the Defendants, Stanley Baker and Stephen Barnhill, were acting under color of law, in their capacity as police officers of the Defendant City and County of Denver and in the scope of their employment with the City and County of Denver. That said acts of the Defendants deprived Plaintiffs of their rights, privileges, and liberties secured to them by the Constitution and laws of the United States and the Constitution and laws of the State of Colorado, to-wit:

- (a) The right to liberty;
- (b) The right to be secure in his person and effects from unreasonable seizure and search;
- (c) The right to due process of law;
- (d) The right to travel freely;
- (e) The right to privacy;
- (f) The right to equal protection of the law;
- (g) The freedom from physical abuse, coercion and intimidation, and harassment; the freedom from unlawful interference, detention, stop, frisk, and arrest.

7. The Defendants, engaged in the unlawful and illegal conduct herein mentioned to the injury of the Plaintiffs and deprived them of their rights, privileges, and immunities secured to them by the First, Fourth, Fifth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitution, by the corresponding amendments to the Constitution of the

State of Colorado, and by 42 U.S.C. Section 1983.

8. That each and every act of the Defendants herein complained of were perpetrated intentionally, willfully, maliciously, and with wanton and reckless disregard of the Plaintiffs' rights and feelings. Accordingly, Plaintiffs are entitled to punitive damages against the Defendants, jointly and severally.

9. That as a direct and proximate result of the Defendants' acts herein described, Plaintiffs have suffered emotional trauma, humiliation, embarrassment, and psychological overlay. That prior to the time described herein, Plaintiffs had respected police officers in general as trustworthy and as protectors. That since the above described incident, Plaintiffs have a deep seated fear and distrust for police in general and that said persons believe that this condition will exist in the future. That Plaintiffs to this day have suffered mental pain and anguish and will continue to suffer such indefinitely in the future.

10. That because of the above described conduct of the Defendants, the Plaintiffs, J. B. McGhee and Jully Mae Simmons, have been damaged in the amount of Twenty Five Thousand Dollars (\$25,000.00) individually. That as a result of the willful and wanton disregard of the Plaintiffs' conduct, the Plaintiffs, individually, are entitled to punitive damages against the Defendants, jointly and severally, in the amount of Fifty Thousand Dollars (\$50,000.00).

WHEREFORE, the Plaintiffs, J. B. McGhee and Jully Mae Simmons, individually, pray for judgment against the Defendants, The City and County of Denver, Stanley Baker, and Stephen Barnhill, individually, jointly and severally, in the amount of \$25,000.00 for actual damages, \$50,000.00 exemplary damages, special damages, interest from the date of filing this Complaint, costs, expert witness fees, attorney's fees, and any other relief

the Court may deem proper in the premises.

SECOND CLAIM FOR RELIEF

1. The Plaintiffs, J. B. McGhee and Jolly Mae Simmons, incorporate herein by reference the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 8 as if fully set forth herein of their FIRST CLAIM FOR RELIEF.

2. That the injuries suffered by the Plaintiffs were directly and proximately caused by the negligence of the Defendants, jointly and severally, by one or more of the following acts:

(a) Negligently failed to ascertain the reliability of a supposed confidential informant;

(b) Negligently failed to ascertain whether or not the supposed confidential informant's information was credible; and

(c) Negligently failed to ascertain that the Plaintiffs, jointly and severally, were not committing a crime; negligently stopping, detaining and/or arresting, frisking, and searching the person and/or effects of the Plaintiffs.

3. That as a direct and proximate result of Defendants' negligence as herein described, Plaintiffs have suffered emotional trauma, humiliation, embarrassment, and psychological overlay. That prior to the time described herein, Plaintiffs had respected police officers in general as trustworthy and as protectors. That since the above described incident, Plaintiffs have a deep seated fear and distrust for police in general and that said persons believe that this condition will exist in the future. That Plaintiffs to this day have suffered mental pain and anguish and will continue to suffer such indefinitely in the future.

4. That because of the above described conduct of the Defendants, the Plaintiffs, J. B. McGhee and Jolly Mae Simmons, have been damaged in the amount of Twenty-Five Thousand Dollars (\$25,000.00) individually. That as a result of the willful and wanton disregard of the Plaintiff's conduct, the Plaintiffs, individually, are entitled to punitive damages

against the Defendants, jointly and severally, in the amount of Fifty Thousand Dollars (\$50,000.00).

WHEREFORE, the Plaintiffs, J. B. McGhee and Jolly Mae Simmons, individually, pray for judgment against the Defendants, The City and County of Denver, Stanley Baker, and Stephen Barnhill, individually, jointly and severally, in the amount of \$25,000.00 for actual damages, \$50,000.00 exemplary damages, special damages, interest from the date of filing this Complaint, costs, expert witness fees, attorney's fees, and any other relief the Court may deem proper in the premises.

THIRD CLAIM FOR RELIEF

1. Plaintiffs incorporate all of the allegations contained in their FIRST AND SECOND CLAIMS FOR RELIEF.

2. That Defendant, The City and County of Denver and its agents were negligent in causing the above acts and damages to the Plaintiffs as a result of one or more of the following acts of negligence:

(a) Negligently hired police officers Stanley Baker and Stephen Barnhill in not perceiving their propensity to act without reliable or credible information;

(b) That since hiring police officers Stanley Baker and Stephen Barnhill, negligently allowed Defendants to remain on the police force in spite of clear indications that Defendants did not possess the requisites of police officers to perform their duties in a calm and reasoned manner toward the citizens in their jurisdiction; and

(c) Negligently failed to suspend or dismiss Defendants Stanley Baker and Stephen Barnhill after clear indications existed that Defendants did not possess the requisites of police officers to perform their duties in a calm and reasoned manner.

WHEREFORE, the Plaintiffs pray for judgment against the Defendant City and County of Denver in the amount of \$25,000.00 for actual damages, special damages, interest from the time of filing this Complaint, costs, expert witness fees, attorney's fees,

and any other relief that this Court shall deem proper.

Respectfully submitted,

*David B. Savitz*

DAVID B. SAVITZ, (#4690)  
Attorney for Plaintiffs  
1420 Western Federal Savings Building  
Denver, Colorado 80202  
Telephone: (303) 893-6836

Plaintiffs' Addresses:

J. B. McGhee  
1267 Lafayette Street  
Denver, Colorado

Jully Mae Simmons  
1794 South Oswego  
Aurora, Colorado

PLAINTIFFS HEREBY DEMAND A JURY TRIAL OF SIX (6) PERSONS  
ON ALL ISSUES.

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER AND  
STATE OF COLORADO

Civil Action No. C-76726, Courtroom 9

J. B. MC GHEE and JULLY )  
MAE SIMMONS, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY AND COUNTY OF DENVER, )  
STANLEY BAKER and STEPHEN )  
BARNHILL, )  
 )  
Defendants. )

RECEIVED ANSWER

MAR 9 1964

DAVID B. SAVITZ

COME NOW the defendants, by and through their attorneys,  
and answer plaintiffs' Complaint as follows:

ANSWER TO FIRST CLAIM FOR RELIEF

1. Defendants admits the allegations contained in paragraphs 1, 2, 3 and in the first sentence of paragraph 6 of plaintiffs' First Claim For Relief.

2. Defendants deny the allegations contained in paragraphs 4, 5, 7, 8, 9, 10 and paragraph 6, excepting the first sentence, of plaintiffs' First Claim For Relief.

ANSWER TO SECOND CLAIM FOR RELIEF

1. Defendants incorporate herein by reference their answers to allegations contained in paragraphs 1 through 10 of plaintiffs' First Claim For Relief as if fully set forth verbatim.

2. Defendants deny the allegations contained in paragraphs 2, 3 and 4 of plaintiffs' Second Claim For Relief.

ANSWER TO THIRD CLAIM FOR RELIEF

1. Defendants incorporate herein by reference their answers to allegations contained in paragraphs 1 through 10 of plaintiffs' First Claim For Relief and paragraphs 1 through 4 of plaintiffs' Second Claim For Relief as if fully set forth verbatim.

2. Defendants deny the allegations contained in paragraph 2 of plaintiffs' Third Claim For Relief.

AFFIRMATIVE DEFENSE

1. Plaintiffs' Complaint fails to state a claim for relief against these defendants upon which relief can be granted.

2. Defendants Stanley Baker and Stephen Barnhill were acting within the course and scope of their employment as police officers of defendant City and County of Denver and had probable cause to detain and search the plaintiffs.

3. Recovery of exemplary damages from defendant City and County of Denver is prohibited <sup>b</sup>by the Colorado Governmental Immunity Act, C.R.S. 1973, 24-10-114(4).

WHEREFORE defendants pray that plaintiffs' Complaint against them be dismissed with prejudice, for their costs, and for such further relief as the Court deems proper.

MAX P. ZALL, CITY ATTORNEY  
LLOYD K. SHINSATO, Ass't. City Attorney  
JOHN E. McDERMOTT, Ass't. City Attorney

By: 

John E. McDermott #3974

Attorneys for Defendants  
1445 Cleveland Pl., Room 301-C  
Denver, CO 80202  
575- 3913

Defendants' Address:

350 City & County Bldg.  
Denver, CO 80253

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing ANSWER to the following Counsel of Record, postage prepaid for first class mail delivery, this 8th day of March, 1978:

DAVID B. SAVITZ, ESQ.  
1420 Western Federal Savings Bldg.  
Denver, CO 80202


  
M. Akins

EXHIBIT C

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER

STATE OF COLORADO

Civil Action No. \_\_\_\_\_

H. B. MC GHEE and JULLY	)	
DAE SIMMONS,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	INTERROGATORIES PROPOUNDED TO
	)	THE DEFENDANTS, STANLEY
CITY AND COUNTY OF	)	BAKER AND STEPHEN BARNHILL
DENVER, STANLEY BAKER,	)	
and STEPHEN BARNHILL,	)	
	)	
Defendants.	)	

The Plaintiffs, by and through their attorney, direct the following listed Interrogatories to be answered by STANLEY BAKER and STEPHEN BARNHILL, Defendants, individually, and in writing, under oath, within thirty (30) days after service hereof. Plaintiffs further request that any information which is presently unavailable to Defendants which may become available at any time prior to the trial of the lawsuit herein be submitted under answers to these Interrogatories prior to the time of trial.

1. State your name and address (both business and home).
2. State the name and address of your employer of September 20, 1977.
3. State the nature of your duties of said employment at the above stated time as described in question Number 2.
4. State the name and address of each high school, college or university which you have attended and the dates of attendance at each.
5. Did you receive any degree, diploma or certificate from any such educational institution?



6. Have you received any special police or other type of education concerning the laws of arrest and search and seizure?

7. If so, state:

(a) The dates on and the length of time for which the education was received.

(b) A description of the type of education.

(c) The name or other means of identification and address of the place, institution or person from which the education was received.

8. Have you ever been a party to any litigation in which you were sued in your official capacity as a police officer?

9. If so, for each such suit, state:

(a) The nature and cause of action and the present status of the suit.

(b) The date, Court, and place where the suit was filed.

(c) The name and address of each Plaintiff.

(d) The name and address of each attorney involved in the lawsuit, indicating who he represents.

(e) The result of each designated suit that has been concluded.

10. State whether or not, while in your official capacity as a police officer for the City and County of Denver, at or about the hour of 4:00 P.M., on September 20, 1977, you were at the approximate location of California Street between 16th and 17th Streets, Denver, Colorado.

11. For what purpose were you at the above described location at the above stated time?

12. Upon what information did you proceed to the above described location at the above stated time?

(a) Who specifically received this information?

(b) Where was this information received?

(c) What time was this information received?

(d) What did you do, if anything, to verify the truth of this information?

13. Who was the original source of this information?

(a) If said person is a confidential informant, describe his reliability as you knew it to exist on the date in question.

(b) What did you do, if anything, to verify this person's reliability?

(c) Did you make any written record of this information, and if so, attach a copy of such written memorandum to the answers hereto.

14. State whether the Plaintiffs, J. B. McGhee and Jolly Mae Simmons were stopped, detained and/or arrested at the herein described date, time and place.

(a) Indicate which of the above.

(b) If so, for what purpose?

15. Was the Plaintiff, J. B. McGhee, frisked and/or searched at the above date, time and place?

(a) Indicate which one.

(b) If so, why?

(c) What was seized, if anything, from the said Plaintiff?

16. Was the Plaintiff, Jolly Mae Simmons, frisked and/or searched at the above date, time and place?

(a) Indicate which one.

(b) If so, why?

(c) What was seized, if anything, from the said Plaintiff?

17. Was the Plaintiff, Jolly Mae Simmons, required to display her arms to you for possible needle marks?

(a) If so, why?

18. What did you say to the Plaintiff, J. B. McGhee, before you stopped, detained, and/or arrested and/or searched him?

19. What did you say to the Plaintiff, Jolly Mae Simmons, before you stopped, detained, and/or arrested and/or searched her?

20. What did the Plaintiff, J. B. McGhee, say to you, if anything, at the time you stopped, detained, and/or arrested and/or searched him?

21. What did the Plaintiff, Jolly Mae Simmons, say to you, if anything, at the time you stopped, detained, and/or arrested and/or searched her?

22. Were there other persons in the immediate vicinity of the incidents described herein? If so, approximately how many?

23. After the detaining, stopping, and/or arrest and/or search as described herein, were you contacted by Attorney David B. Savitz at or about the location described herein?

(a) If so, what did the said David B. Savitz say to you?

(b) If so, what did you say in response thereto?

24. Did you reduce to writing the circumstances surrounding the incident as it concerns the Plaintiffs in this matter?

(a) If so, attach such written memorandum to these answers.

25. Did you make a written memorandum of your conversation with the said David B. Savitz with regard to this incident?

(a) If so, attach a copy of such written memorandum of that conversation to these answers.

26. How long have you been employed as a police officer?

(a) State the names and addresses of the various police departments with whom you have been employed and the dates for each employment.

(b) State the dates in which you worked as a narcotics officer within the police department.

27. In your capacity as a police officer for the City and County of Denver, did you ever personally have contact with the Plaintiff, J. B. McGhee, before the incident in question?

(a) If so, state the date, time and place and the circumstances surrounding such contact.

(b) State what occurred during such contact.

(c) State what, if anything, was seized as a result of such contact by you or some other fellow officer.

28. In your capacity as a police officer for the City and County of Denver, did you ever personally have contact with the Plaintiff, Jolly Mae Simmons, before the incident in question?

(a) If so, state the date, time and place and the circumstances surrounding such contact.

(b) State what occurred during such contact.

(c) State what, if anything, was seized as a result of such contact by you or some other fellow officer.

29. While a Denver police officer, had you ever received information from any fellow officer concerning the Plaintiff, J. B. McGhee?

(a) If so, state when and where and from whom.

(b) State the information so received.

(c) What, if anything, did you do to verify such information?

30. While a Denver police officer, had you ever received information from any fellow officer concerning the Plaintiff, Jolly Mae Simmons?

(a) If so, state when and where and from whom.

(b) State the information so received.

(c) What, if anything, did you do to verify such information?

31. While a Denver police officer, did you ever review any contact cards concerning the Plaintiff, J. B. McGhee?

(a) If so, describe such contact cards.

(b) Attach a copy of such contact card to your answers to these Interrogatories.

32. While a Denver police officer, did you ever review any contact cards concerning the Plaintiff, Jully Mae Simmons?

(a) If so, describe such contact cards.

(b) Attach a copy of such contact card to your answers to these Interrogatories.

33. Was any written report made in connection with the above described incidents of September 20, 1977 involving the Plaintiff, J. B. McGhee and/or the Plaintiff, Jully Mae Simmons?

34. If so, for each written report, state:

(a) The date and place it was made.

(b) The name of each person who made it.

(c) The name, address, and telephone number of each person who received it.

(d) The subject matter covered.

(e) The name and address of each person who has custody or control of it.

(f) Attach a copy of such report to your answers to these Interrogatories.

Respectfully submitted,



DAVID B. SAVITZ (#4690)  
Attorney for Plaintiffs  
1420 Western Federal Savings Building  
Denver, Colorado 80202  
Telephone: (303) 893-6836

EXHIBIT D

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER AND  
STATE OF COLORADO

Civil Action No. C-76726, Courtroom 9

J. B. MC GHEE and JULLY )  
MAE SIMMONS, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY AND COUNTY OF )  
DENVER, STANLEY BAKER, )  
and STEPHEN BARNHILL, )  
 )  
Defendants. )

ANSWERS TO INTERROGATORIES

RECEIVED

JUN 28

DAVID B. SAVITZ

COMES NOW defendant Stephen F. Barnhill, being duly sworn upon his oath, deposes and answers plaintiffs' Interrogatories as follows:

1. Stephen F. Barnhill  
1331 Cherokee St., Denver, Colorado 80204  
(no home address will be furnished due to assignment).
2. Denver Police Department
3. Detective. Vice & Narcotic Bureau.
4. North Kansas City High School  
North Kansas City, MO. Graduated 1966  
Metro State College, Colorado 1971-1972
5. No.
6. Drug Enforcement Administration School  
Alcohol, Tax & Firearms  
Denver Policy Academy  
College courses.
7. a. Drug Enforcement Administration, 2 weeks 1976  
Alcohol, Tax & Firearms, 1 week 1977  
Denver Police Department Academy, 3 months 1973  
Metro State College, 3 quarters 1971 to 1972  
b. Drug Enforcement Administration. Laws concerning  
Supreme Court rulings.  
Alcohol, Tax & Firearms. Same  
Police Academy, basic information on arrests,  
search and seizure.  
College. General circumstances concerning police  
scene.  
c. Drug Enforcement Administration  
Alcohol, Tax & Firearms  
Police Academy  
College  
All in Denver under various unknown instructors.

24. No.
- a. N/A
25. No.
- a. N/A
26. a. Approximately 5 years
- b. Denver only
27. Twice, as best I can remember.
- a.1. Bus Depot at 20th St. & Curtis St.
2. Five Points area...27th & Welton St.
- I cannot remember the exact dates.  
Narcotics investigations.
- b. Bus Depot. Routine check. Arrested one party.  
But neither of the Plaintiffs.
- c. Nothing.
28. Yes. once
- a. Same as 27 a.1.
29. Yes
- a. From most of the narcotics Detectives, and at different times.
- b. That both of the Plaintiffs were engaged in the illegal trafficking of narcotics.
- c. Filed investigation and conformation.
30. Same as 29.
- a. Same as 29a.
- b. Same as 29b.
- c. Same as 29c.
31. No.
- a. N/A
- b. N/A
32. No.
- a. N/A
- b. N/A
33. Yes
34. All information to attorney in regard to pending civil action. Information protected under civil law governing attorney-client relationship.

Respectfully submitted,

  
Stephen F. Barnhill 73-4

EXHIBIT E

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER AND  
STATE OF COLORADO

Civil Action No. C-76726, Courtroom 9

J. B. MC GHEE and JULLY )  
MAE SIMMONS, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CITY AND COUNTY OF )  
DENVER, STANLEY BAKER, )  
and STEPHEN BARNHILL, )  
 )  
Defendants. )

RECEIVED INTERROGATORIES

MAR 9

DAVID B. SAVITZ

COMES NOW defendant Stanley A. Baker, being duly sworn  
upon his oath, deposes and answers plaintiffs' Interrogatories  
as follows:

1. Stanley A. Baker  
1331 Cherokee St. (due to assignment, no home  
Denver, Colorado 80204 address will be furnished)
2. Denver Police Department
3. Detective. Vice/Narcotic Bureau.
4. Forest Sherman High School, Naples, Italy.  
Arapahoe Jr. College, Colorado 1969-70.  
Metro State College, Colorado 1970-71.
5. No.
6. Drug Administration Enforcement School.  
Alcohol, Tax and Firearms.  
Denver Police Academy  
College courses.
7. a. Drug Enforcement Administration, 2 weeks, 1975.  
Alcohol, Tax and Firearms, 1 week, 1977.  
Police Academy, 3 months, 1971.  
Metro State College, 4 quarters, 1970-1971.  
b. Drug Enforcement Administration. Laws concerning  
Supreme Court rulings.  
Alcohol, Tax and Firearms. Same.  
Police Academy. Basic information on arrests,  
search and seizure.  
College. General circumstances concerning police  
scene.  
c. Drug Enforcement Administration  
Alcohol, Tax and Firearms  
Police Academy  
College  
All in Denver under various unknown instructors.



20. McGhee stated that he had just come for his lawyers office.
21. Agreed to statement in Answer 20.
22. Only two suspects and two officers.
23. Yes.
- a. Wanted to know what probable cause we had for detaining suspects.
  - b. That we had probable cause from prior association and information furnished over a period of time from many sources.
24. No.
- a. N/A
25. No.
- a. N/A
26. Approximately 6 1/2 years.
- a. Denver only. 1971 to present time.
27. Yes.
- a. Twice, as I recall.
    - 1. Bus depot at 20th and Curtis Streets.
    - 2. Present situation.
- Cannot recall dates.  
Narcotics investigations.
- b. Bus depot. Routine narcotic investigation which resulted in arrest of party other than plaintiffs.
  - c. Nothing either time.
28. Yes.
- a. Same as 27a.
  - b. Same as 27b.
  - c. Nothing.
29. Yes.
- a. From most narcotic detectives assigned to narcotic investigation.
  - b. That plaintiffs were actively involved in possession and sale of narcotics, illegally.
  - c. Filed investigation and conformation.

30. Same as 29.

- a. Same as 29a.
- b. Same as 29b.
- c. Same as 29c.

31. No.

- a. N/A
- b. N/A

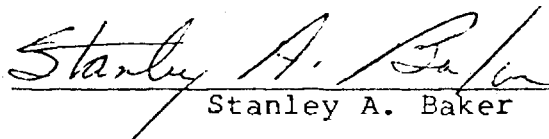
32. No.

- a. Same as 29a.
- b. Same as 29b.

33. Yes.

34. All information to attorney in regard to pending civil action. Information protected under civil law governing attorney-client relationship.

Respectfully submitted,

  
Stanley A. Baker

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER ) ss.

The foregoing instrument was acknowledged before me this 8th day of March, 1978, by Stanley A. Baker.

  
Notary Public

My Commission Expires: My Commission expires April 17, 1979

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the foregoing document to the following counsel of record, postage prepaid for first class mail delivery, this 8th day of March, 1978:

DAVID B. SAVITZ, ESQ.  
1420 Western Federal Savings Bldg.  
Denver, CO 80202

  
Maxine Akins

## EXHIBIT F

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER

STATE OF COLORADO

Civil Action No. C-76726, Courtroom 9

J. B. MC GHEE and JULLY  
MAE SIMMONS,

Plaintiffs,

VS.

CITY AND COUNTY OF DENVER,  
STANLEY BAKER and STEPHEN  
EARNHILL,

Defendants.

MOTION FOR PRODUCTION OF  
DOCUMENTS  
TO THE DEFENDANT, CITY AND  
COUNTY OF DENVER

The Plaintiffs, by and through their attorney, request that the Defendant, City and County of Denver, provide counsel for the Plaintiffs with a copy of the following documents within thirty (30) days hereof in accordance with the Colorado Rules of Civil Procedure:

1. The intelligence files of the Plaintiffs, J. B. McGhee and Jully Mae Simmons, as they existed on or before September 20, 1977 in the offices of the Narcotics Department of the Denver Police Department, City and County of Denver, State of Colorado.

2. The card files of the Plaintiffs, J. B. McGhee and Jolly Mae Simmons, as they existed on or before September 20, 1977 in the offices of the Narcotics Department of the Denver Police Department, City and County of Denver, State of Colorado.


3. The general files of the Plaintiffs, J. B. McGhee and Jolly Mae Simmons, as they existed on or before September 20, 1977 in the offices of the Narcotics Department of the Denver Police Department, City and County of Denver, State of Colorado.

4. Any correspondence or memorandum or reports written by either or both of the Defendants Baker and/or Barnhill to any superior office within the Narcotics Department of the Denver Police Department with regard to this incident and any similar documents written by said officers to the S.I.B.

5. A copy of the S.I.B. complaints and results thereof filed against either of the herein-described officers on or before September 20, 1977.

6. Any letter of reprimand, censure, or other disciplinary action taken against said officers by the Denver Police Department on or before September 20, 1977.

Respectfully submitted,

  
\_\_\_\_\_  
DAVID B. SAVITZ (#4690)  
Attorney for Plaintiffs  
1420 Western Federal Savings Building  
Denver, Colorado 80202  
Telephone: (303) 534-1983

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing "Motion for Production of Documents to the Defendant, City and County of Denver" to: John E. McDermott, Esquire, 1445 Cleveland Place, Room 301-C, Denver, Colorado, 80202, by placing the same in the United States Mail, postage prepaid, this 14th day of August, 1978.

  
\_\_\_\_\_

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER  
STATE OF COLORADO

RECEIVED

Civil Action No. C-76726

Courtroom 9 DEC 26

DAVID B. SAVITZ

J.B. McGHEE and  
JULY MAE SIMMONS,

Plaintiffs,

vs.

CITY AND COUNTY OF DENVER,  
STANLEY BAKER, and  
STEPHEN BARNHILL,

Defendants.

OBJECTIONS TO REQUEST FOR  
PRODUCTION OF DOCUMENTS and  
MOTION TO COMPEL

COME NOW the defendants, by and through their attorneys and herewith object to the plaintiffs' Motion to Produce and Motion to Comply, and as grounds therefor show unto the Court as follows:


1. That said documents are privileged and confidential;
2. That the disclosure of said documents would be contrary to the public interest;
3. That the disclosure of said documents would be in violation of C.R.S. 1973, 24-72-301, et seq.;
4. That the plaintiffs' request is a fishing expedition which will not lead to any relevant evidence.

WHEREFORE, Defendants respectfully pray that this Honorable Court enter its Order prohibiting the production of the documents requested by the plaintiffs, or in the alternative, that the requested documents be produced for an in-camera inspection by the Court, and for such other and further relief as to the Court may deem proper in the premises.

Respectfully submitted,

MAX P. ZALL, City Attorney  
LLOYD K. SHINSATO, Ass't. City Attorney  
DON K. DeFORD, Ass't. City Attorney  
WESLEY H. DOAN, P.C.

By

  
DON K. DeFORD #6672  
1445 Cleveland Pl., #301-C  
Denver, Colorado 80202  
575-2931

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing "Objections to Request for Production of Documents and Motion to Compel", by placing same in the U.S. Mail, postage prepaid to: David B. Savitz, Esq., 1420 Western Federal Savings Building, Denver, CO. 80202.

Danna K. Chaisson  
12-22-78

EXHIBIT H

IN THE DISTRICT COURT IN AND FOR THE  
CITY AND COUNTY OF DENVER  
STATE OF COLORADO  
Civil Action No. C-76726

J.B. MC GHEE and JULLY	)	
MAE SIMMONS,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	MOTION TO COMPEL
	)	
CITY AND COUNTY OF DENVER,	)	
STANLEY BAKER and STEPHEN	)	
BARNHILL,	)	
	)	
Defendants.	)	

The Plaintiffs, by and through their attorney, move this Honorable Court to compel the production of documents and for reasons, state and allege as follows:

1. That on or about August 22, 1978, a "Motion for Production of Documents to the Defendant, City and County of Denver" was filed with this Honorable Court and a copy of the same was sent to counsel for the Defendants.

2. That a response to the same was purportedly made on October 23, 1978 but the documents included in the response were not all that was requested.

3. That the documents requested were in part reviewed by the Defendant, Stanley Baker, before he effecutated the arrest of the Plaintiffs and was information that purportedly was used by him to establish a basis for the arrest of the said Plaintiffs.

4. That said documentation requested concerning the SIB complaints and disciplinary measures is relevant to ascertain the bias, motives, or prejudice of the Defendant, Stanley Baker, and the knowledge that the City and County of Denver had with regard to the said Stanley Baker's bias, motives or prejudice.

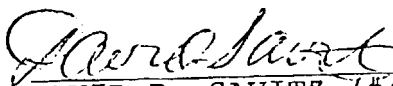
5. That all of the requested documentation was testified to by the Defendant, Stanley Baker, in a deposition as being in existence and the same is relevant to the presentation and

preparation of this case on behalf of the Plaintiffs.

6. That Defendants have interposed no objections to the requested material and their delay in responding hereto is prejudicial to the ability of the Plaintiffs to properly prepare their case.

WHEREFORE, Plaintiffs pray for an appropriate Motion to Compel, for attorney's fees, and for whatever further relief the court may deem proper in the premises.

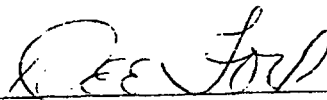
Respectfully submitted,



DAVID B. SAVITZ (#4690)  
Attorney for Plaintiffs  
1420 Western Federal Savings Building  
Denver, Colorado 80202  
Telephone: (303) 893-6836

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing "Motion to Compel" to: John E. McDermott, Esquire, 1445 Cleveland Place, Room 301-C, Denver, Colorado, 80202 and to: Marshall A. Fogel, Esquire, 336 West 13th Avenue, Denver, Colorado, 80204, by placing the same in the United States mail, postage prepaid, this 31<sup>ST</sup> day of October, 1978.





IN THE DISTRICT COURT IN AND FOR  
THE CITY AND COUNTY OF DENVER  
STATE OF COLORADO

Civil Action No. C-76726

J.B. MC GHEE and	]	
JULLY MAE SIMMONS,	]	
	]	
Plaintiffs,	]	DEPOSITION OF
	]	
vs.	]	<u>STANLEY A. BAKER</u>
	]	
CITY AND COUNTY OF	]	August 11, 1978
DENVER, STANLEY BAKER,	]	
and STEPHEN BARNHILL,	]	
	]	
Defendants.	]	

APPEARANCES:

DAVID B. SAVITZ, Attorney at Law, 1420 Western Federal Savings Building, Denver, Colorado 80202, appearing on behalf of the Plaintiffs.

JOHN E. McDERMOTT, Attorney at Law, 1445 Cleveland Place, Room 301-C, Denver, Colorado, 80202, appearing on behalf of the Defendants.

Also Present: James M. Robinson

DEPOSITION OF STANLEY A. BAKER, taken on behalf of the Plaintiffs pursuant to Notice at 1420 Western Federal Savings Building, Denver, Colorado 80202, on August 11, 1978, at 1:55 p.m., before Mary Kay Hale, Shorthand Reporter and Notary Public within Colorado.

HYATT, WEDGWOOD & ROLL

731 GUARANTY BANK BUILDING  
317 17TH STREET  
DENVER, COLORADO 80202  
(303) 825-2761

EILEEN CHARLES HYATT - BARBARA J. WEDGWOOD - DEBORAH M. ROLL

1 side there at that time were certain bars. The bars change  
2 from time to time.

3 Q What's to prevent partners from overlapping on  
4 what other people are doing?

5 A At that time, nothing, except that we had  
6 intelligence files that each officer was supposed to read and  
7 which gave you an idea who was working on who and what and  
8 where.

9 Q Describe these intelligence files. What did  
10 they show?

11 A Well, they're intelligence sheets which officers  
12 when they receive information write up. They have the viola-  
13 tor's name, his current address--if they have it, and the  
14 information which he received on the individual.

15 Q Would this include information received from  
16 fellow officers as well as from confidential informants?

17 A Yes, sir.

18 Q Is there any restriction on the source which  
19 these intelligence files would have on them? In other words,  
20 is there any other source that wouldn't be contained in these  
21 intelligence files as information received?

22 A I don't understand.

23 Q The intelligence files would have information  
24 about Mr. X.

25 A Yes, sir.

1 Q And would that file be under Mr. X's name?

2 A Yes, sir, well, yes, sir, it would be.

3 Q And on that file would be some type of chrono-  
4 logical or historical description of what officers have  
5 received about this person?

6 A Yes, sir, that's correct.

7 Q Whether the information was from a confidential  
8 informant, a fellow police officer, or any other source?

9 A Yes, sir.

10 Q And would it be your practice to look at these  
11 files when you came to work in the morning?

12 A Yes, sir.

13 Q And you would have an idea from looking at these  
14 files as to what officers may be conducting a certain investi-  
15 gation on this particular individual?

16 A Yes, sir.

17 Q And you would know from that information not  
18 to get involved in that case?

19 A Well, that's generally, yes. But a lot of times  
20 if you see little bits and pieces and you might be able to  
21 throw in your bits and pieces, you would confront the detective  
22 who wrote it up; and you would get together and give him what  
23 you have and he'd give you what he had. And you might even  
24 work on it together, or you might just both agree that, you  
25 know, whoever gets the violator first is the investigating

1 Q How did you generally work at that time?

2 A Well, at that time, I had my own information.

3 And unless, like I said, something in that folder pieced  
4 together something that I had, I wouldn't really act on it.

5 I had my own information. And normally it's like I said; most  
6 of the guys have information already. And, you know, you're  
7 spending most of your time in doing your own investigations.

8 Q What are these investigative files called?

9 A They're just called intelligence forms.

10 Q And who usually has custody of these?

11 A Well, as I said, they are kept in a folder  
12 "Captain's Folder," it's called.

13 Q Captain Kennedy has this folder?

14 A Yes.

15 Q Are there any other files of a similar nature  
16 that are kept in the narcotics department?

17 A Yes, sir. There's a card file.

18 Q And what is that?

19 A Well, everything is--let's say I get some infor-  
20 mation and write up an intelligence form. The secretaries  
21 read the intelligence forms and make cards or pull cards on an  
22 individual and type in a synopsis of the activities the party  
23 might be engaged in and then refile them.

24 Q And are these cards kept under the violator's  
25 name?

A Yes, sir.

Q What information would the card have on it that the intelligence forms would not have on it, or vice versa?

A Nothing, really, that I can think of.

Q Is the card a more concise description of what the intelligence forms may say?

A Yes, sir. They might include past history also.

Q Okay. Generally the intelligence forms are more detailed than the cards?

A Well, they're more current and detailed, yes.

Q And where are these cards kept?

A They're kept in the vice bureau.

Q Is there a cabinet? Does a certain person have them?

A It's a file cabinet.

Q Anyone have access to--

A Anyone in the vice and drug control, yes, sir.

Q What other types of records are kept of a similar nature?

A Past case filings on individuals and vice records on different bars and things. That's all I can think of.

Q Would the past case filings be any different than what an officer would file if a certain case was commenced?

1 and pending against some violator?

2 A No, sir, no different.

3 Q Essentially, it would be his offense report,  
4 a supplementary report of what happened on that particular  
5 occasion?

6 A Yes, sir.

7 Q What if an arrest is made, a person is finger-  
8 printed, booked and mugged, but no case is filed? Would any  
9 report be made on that type of an incident?

10 A Yes, sir. I believe we call that the general  
11 file.

12 Q And what would be included in the general file?

13 A Well, the arrest record, maybe a mug shot, and  
14 a supplementary report on the reason why the case wasn't filed.

15 Q What if a person is merely contacted on the  
16 street for some type of investigation but no arrest is made?  
17 Is there any writing made of that incident?

18 A Other than an intelligence form, I wouldn't  
19 think so.

20 Q And the nature of the information on the intel-  
21 ligence form would consist of what?

22 A Well, they may--you may not even make an  
23 intelligence form. They may put down that the parties were  
24 contacted in a certain area and what transpired. Basically,  
25 that's it.

1 Q Okay. Did you contact a J.B. MC Ghee and a  
2 Jolly Simpson on September 20, 1977 around 4:00 p.m. at  
3 California Street between 16th and 17th Streets?

4 A Yes, sir, I did.

5 Q Before you made that contact, had you been  
6 working on those individuals personally? Had you been investi-  
7 gating them at that time?

8 A Yes, sir, I had.

9 Q For what purpose?

10 A For dealing heroin.

11 Q Were you investigating Mr. MC Ghee at that  
12 time?

13 A Yes, sir, I was.

14 Q Why were you investigating him?

15 A Well, wait a minute. I don't understand. Do  
16 you mean at that time that he was stopped?

17 A No, I mean just before you saw him on September  
18 20, were you investigating him?

19 A Yes, sir. I was helping another officer on an  
20 investigation. He had received information.

21 Q Pardon me? Who was the other officer?

22 A Oh boy, I believe it was Detective Wagner. I  
23 can't really be sure right now if it was Detective Wagner. I  
24 believe it was. We were investigating Mr. MC Ghee.

25 Q Who is "we"?

1           A     Myself. I think Steve was my partner at that  
2 time also. We were investigating him on information from  
3 Detective Wagner who had received information from an informant.

4           Q     And when did Detective Wagner receive the  
5 information?

6           A     Sir, I really don't know. I couldn't tell you  
7 that.

8           Q     When did you speak to Detective Wagner about  
9 the information?

10          A     I believe it was--I can't be sure exactly; but  
11 it may have been a couple weeks before the actual stop right  
12 down here (indicating).

13          Q     And what did Detective Wagner tell you about the  
14 information he received?

15          A     Well, the information that he received was that  
16 Jolly Simmons as well as Mr. MC Ghee were dealing heroin out  
17 of a house which was located in Aurora out near the Cherry  
18 Creek area. And he asked for our assistance in following  
19 Mr. MC Ghee and Jolly.

20          Q     Anything else?

21          A     No. There were supposedly supposed to be a  
22 load of heroin or a shipment of heroin which they were supposed  
23 to receive and cut up at this residence near out in Aurora.  
24 And like I said, he asked for our assistance in following  
25 Mr. MC Ghee.



detective Wagner that I was telling you about.

Q But approximately how many days before September 20 was that when you first followed Mr. MC Ghee?

A Like I said, a couple weeks, maybe more; I'm not sure.

Q Where did you see Mr. MC Ghee when you were following him? Was he walking, was he in a car?

A He was in a vehicle.

Q Was he with anybody?

A I believe he was with Jolly, but I'm not certain right now; I can't remember.

Q Did you know her at that time by sight?

A Yes, sir, I did at that time.

Q And did you know that she was the person who was with Mr. MC Ghee the first time you were following him in the car?

A Yes, sir.

Q And who was with you at that time?

A I believe myself and Detective--it might have been Barnhill. It may have been Detective Wagner. I know during the investigation, Detective Wagner and myself were in a vehicle following him.

Q Do you recall what kind of a vehicle MC Ghee and Simmons were driving?

A I can't remember.

Q Do you recall where you were following them,  
what part of town it was?

A Yes, sir.

Q What was that?

A It started down here at the bus station.

Q Which bus station?

A Well, it was close to the bus station downtown  
here.

Q Trailways?

A Yes, I believe so.

Q Did you know that Mr. MC Ghee worked there at  
that time?

A Yes, sir.

Q And that Mrs. Simmons also worked there at that  
time?

A Yes, sir, right.

Q Did Detective Wagner at that time point them  
out to you as that being MC Ghee and Simmons and that you  
should follow them on that occasion?

A Yes, sir. We had began to set up on them at  
that point early in the morning.

Q This was after Wagner told you about the infor-  
mation he received?

A Yes, sir. I believe it was Detective Wagner.  
I want to clarify that.

1 Q If it wasn't Detective Wagner, it was at least  
2 after you got the information from Wagner?

3 A Right.

4 Q Where did you follow MC Ghee and Simmons?

5 A We followed Mr. MC Ghee and Jully to out in  
6 Aurora past Havana. I can't remember the exact address. It  
7 was a house out in that area.

8 Q Did they stop at a house?

9 A Yes, they did.

10 Q Did they go into that house?

11 A Yes, sir, they did.

12 Q Just the two of them?

13 A Yes, sir.

14 Q What did you do after they went into that  
15 house?

16 A We just set up on them.

17 Q Did you make a notation of the address of that  
18 house?

19 A Yes, sir. I believe it's been recorded.

20 Q In an intelligence form or a card or where?

21 A I believe it was on Jully's card.

22 Q Jully's card?

23 A Yes, sir.

24 Q Would it also be in the intelligence file?

25 A I believe so.

---

RYATT, WEDEWOOD & ROLL

1 Q It would not be on MC Ghee's file or his  
2 card?

3 A I believe it probably is on Mr. MC Ghee's  
4 card also.

5 Q How long did you stay there then, and were  
6 they under surveillance?

7 A Yes, sir they were.

8 Q And how long were they under surveillance at  
9 that time?

10 A Most of the day, if I can recall.

11 Q And do you recall what time of the day it  
12 was?

13 A Well, when they first went to the--it was in  
14 the morning.

15 Q And how long were they there?

16 A Three, four hours maybe.

17 Q Did you verify the owner of that address any-  
18 time after that investigation?

19 A Yes, sir, I believe so.

20 Q And who was the owner?

21 A I believe Jully was the owner of the residence.

22 Q Did Mr. MC Ghee at one time come out of the  
23 residence on that incident?

24 A I believe he did, yes, sir. There was activity  
25 back and forth.

1 that day.

2 Q From the time you saw them leave the Trailways  
3 area until they got to this address in Aurora, did you stop  
4 them anytime during that travel?

5 A No, sir.

6 Q Did you stop them as they left the Aurora  
7 address to go on and travel somewhere else? Did you stop them  
8 at all at that time?

9 A I don't believe so.

10 Q When was the next time you had contact with  
11 them before September 20?

12 A I believe I, myself, and Detective Barnhill  
13 came in contact with them at the bus station.

14 Q The same bus station?

15 A Yes, sir.

16 Q This was sometime after the first contact about  
17 which you just testified?

18 A Yes, sir.

19 Q And do you recall what time of the day this  
20 was?

21 A It was in--I believe it was in the morning hours.  
22 It may have been early afternoon.

23 Q They were together?

24 A Yes, sir, they were.

25 Q Was anyone else with them besides the two of

1 them?

2 A Yes, sir. There was one party from California,  
3 an older male party.

4 Q Did you have any information on him?

5 A Yes, sir, we did.

6 Q What information did you have on him?

7 A Well, we had information that Mr. MC Ghee and  
8 Jolly were getting their narcotics out of California and that  
9 it was coming in by bus, by "mule," which is a terminology  
10 for a party bringing the narcotics or transporting them. And  
11 we had information that they were receiving the heroin at  
12 the bus depot there. And we were driving through the bus  
13 depot and saw them, so we stopped them.

14 Q You stopped them?

15 A Yes, sir.

16 Q Okay. And what did you do when you stopped  
17 them?

18 A Well, I believe we obtained ID from the older  
19 male party.

20 Q And who was he?

21 A I can't remember his name.

22 Q Was either an intelligence form or a card made  
23 on him?

24 A Yes, sir, I believe it was.

25 Q Would his name appear in either MC Ghee's or

1 Simmons' intelligence files or cards?

2 A Yes, sir, I believe it would be. We stopped  
3 them and conducted an investigation.

4 Q What did the investigation consist of?

5 A Well, to search the male party from California  
6 as well as Jolly. I don't believe that Mr. MC Ghee was searched  
7 at that point. He may have been patted down for weapons.

8 Q And what did you find, if anything?

9 A I believe we found a large sum of money, and  
10 that was about it.

11 Q In whose possession?

12 A I think it was in Jolly's possession.

13 Q And what did you do with that money?

14 A I think we released it to her.

15 Q Did you find anything else?

16 A I can't--no, sir, I don't believe so.

17 Q Who received the information which caused you  
18 to stop the three people and search them and seek their  
19 identities?

20 A Well, I did, personally.

21 Q And was that from a confidential informant?

22 A Yes, sir. It was from street contacts. I can-  
23 not be sure at this point if it was a confidential informant  
24 or not.

25 Q And if it would not be a confidential informant,

---

HYATT, WEDGWOOD & ROLL

Q And your recollection is that no one on September 20 told you that they were actually holding at that time, did they?

A No, sir, at that exact time, no. Someone may have told me the procedure, how they deal narcotics on that date. But no one told me on that date exactly where they were and what they were, you know, if they had any narcotics on them.

Q All right. Just so that the record is clear, you had no information on September 20 that on September 20 either Jolly or J.B. was holding; is that correct?

A Well, as I said, I may have received information on that date about their method of operation.

Q But nothing specific that they were holding on that day?

A No, no, sir.

Q You had no such information?

A No, sir.

Q That's correct, isn't that?

A Yes, sir.

Q So why did you stop them?

A The reason that I stopped them was because of the information that myself and Detective Barnhill had received on them.

Q Now, this would be the same information that



1 you're telling me about as to what people told you their  
2 general mode of operation was?

3 A Yes, sir.

4 Q And did Detective Barnhill on that day give  
5 you any other additional information than what you just  
6 testified to?

7 A I don't remember if he did or not, sir.

8 Q Had you been following Mr. MC Ghee and Mrs.  
9 Simmons that day, September 20?

10 A No, sir.

11 Q The first time you saw them was on or about  
12 three or four o'clock at the location in question?

13 A Yes, sir.

14 Q You just happened to hit on them?

15 A Yes, sir, that's correct.

16 Q And who was driving your police vehicle at  
17 that time?

18 A I was.

19 Q And were you with Detective Barnhill?

20 A Yes, sir, I was.

21 Q And were you traveling when you first saw  
22 MC Ghee and Simmons?

23 A I believe we were on California Street.

24 Q Going south towards 16th Street?

25 A Yes, sir.

1 Q While Mr. MC Ghee and Mrs. Simmons were walking  
2 together, did you notice anything unusual or suspicious about  
3 the manner in which they were walking or conducting themselves?

4 A No, sir.

5 Q When you approached Mrs. Simmons, did she give  
6 any appearance of being under the influence of narcotic drugs?

7 A No, sir.

8 Q Did you have occasion to observe Mr. MC Ghee's  
9 demeanor with regard to the influence of narcotic drugs on  
10 him?

11 A Yes, sir.

12 Q And did he appear to be under the influence of  
13 narcotic drugs?

14 A He did not appear to be under the influence.

15 Q Did you acquire any information about Mrs.  
16 Simmons at any time of your investigation of her and Mr. MC Ghee  
17 wherein Mr. MC Ghee's name was not mentioned?

18 A Yes, sir.

19 Q You had separate information on her?

20 A Yes, sir.

21 Q And what was this information?

22 A Well, the information, sir, as far as whose  
23 narcotics it actually was, who financed it, was Jolly.

24 Q She financed--

25 A The narcotics. She had the connections.

1 Mr. MC Ghee was a pusher for her and worked for her, as well  
2 as being a boy friend, I guess. That was the information that  
3 I had.

4 Q Was this obtained before your conversation with  
5 Wagner or after your conversation with Wagner?

6 A I really can't remember, sir.

7 Q Was this information that you received from  
8 a fellow officer or from a confidential informant?

9 A I really can't be sure.

10 Q Did you see this information in your intelli-  
11 gence files or card files?

12 A I may have, but I can't be for sure.

13 Q And the information that you had was that  
14 Mrs. Simmons had the connection to purchase the narcotics?

15 A Yes, sir, that the connection was probably  
16 somewhere in California, yes, sir.

17 Q That it was her money that purchased these  
18 narcotics?

19 A Yes, sir.

20 Q And that when she obtained these narcotics,  
21 she gave them to Mr. MC Ghee for him to push for her?

22 A Yes, sir, on the streets.

23 Q On the streets. Any other information you had  
24 before the incident in question that related to her and not  
25 to him?

1 Q Yes.

2 A No, sir, I don't remember. I don't recall you  
3 saying anything like that.

4 Q At the conclusion of this incident or that  
5 evening when you finished working or anytime shortly after the  
6 incident in question, did you make any written memoranda or  
7 reports about this incident?

8 A Yes, sir.

9 Q And was that placed in an intelligence file?

10 A Well, I believe it was placed in the captain's  
11 folder. I recall you stating that you were going to call  
12 Captain Kennedy and complain. And so I figured, well, I'd  
13 better write a letter on the incident to him and let him know  
14 exactly what happened.

15 Q Would that letter be in the intelligence file?

16 A Yes, sir. I believe it went there. I can't  
17 recall if it did or not.

18 Q Did you write the letter that day?

19 A Yes, sir. I believe I wrote it that night.

20 Q Was it dated that day?

21 A I believe so.

22 Q Was it signed by just you, or by you and  
23 Detective Barnhill?

24 A I believe it was signed by both of us.

25 Q And did Detective Barnhill have occasion to

1 review that letter before it was sent to Captain Kennedy?

2 A Yes, sir, I think he did.

3 Q Other than that letter to Captain Kennedy, were  
4 there any other writings or reports made of this incident  
5 other than what you may have written to your attorney  
6 Mr. McDermott or your attorney Mr. Fogel?

7 A I don't think so, no, sir. Well, I believe  
8 that--well, when we received the complaint, I believe, from  
9 SIB or somebody, then we had to both write a statement out  
10 as to exactly what happened. I'm not sure, but I know I wrote  
11 a letter on that as soon as we got it. I believe it's called  
12 a letter of intent.

13 Q Do you recall that you may have drafted a  
14 second document after you were advised that written notice had  
15 been sent to the city of the intent to sue you and Detective  
16 Barnhill?

17 A Yes, sir, I believe so.

18 Q And to whom would that letter have been?

19 A I believe it was SIB, Staff Inspection Bureau.

20 Q And would this be a part of their procedure  
21 on handling various complaints that go to the police department  
22 about officers' conduct?

23 A Yes, sir.

24 Q And to whom would that letter have been addressed?

25 A I believe to SIB.