

Relevant Transcript to May 31, 2008 Document Styled "[The Independent Counsel's Use of Dean's Off-the-Stand Remark about David Barrett and the Judge](#)"

The transcript materials below appear in different formats because some parts are clipped from a scanned copy of the transcript and others are clipped from documents in which they had previously been typed.

1. Testimony and Bench Conference of October 14, 1993.

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9 Q Do you also recall testifying on direct examination
10 that you don't remember any consultants involved in
11 Durham Hosiery Mill?

12 A I never talked to any consultants involved in
13 Durham Hosiery Mill. After reading all of your
14 information I know that before I had any involvement
15 with them they had consultants and I think they paid
16 consultants when they closed the project. I since read
17 the complete file. I now know just about everything
18 there is to know about Durham Hosiery Mill, but at the
19 time that Mr. Allen, and I don't know who accompanied
20 him, I remember the fellow, a former Denver Bronco, and
2 he was from Denver and I don't know what his name was,
2 they came to see me. I spoke to Phil Abrams. Phil
2 Abrams had been dealing with it for a while. Al Moran
2 had been dealing with it for a while.
2 Secretary Pierce and I had many conversations

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1 about it but at no time did I ever speak to a consultant
2 or was I ever aware that a consultant was involved and I
3 mean I now know that Linda Murphy was one of their
4 attorneys but I never knew that at the time, and I know
5 that Lou Kitchin was paid from the Durham Hosiery Mill.
6 I didn't know that at the time. And it was certainly
7 never mentioned to me until I met Mr. Kitchin, and when
8 I met Mr. Kitchin he told me that he had worked on
9 Durham Hosiery Mill. But at that point I had never met
10 him before, and it had already been funded.

11 Q Are you finished. Ma'am?

12 MR. WEHNER: Objection to the comment.

13 THE COURT: All right, let's go ahead.

14 MR. O'NEILL: Your Honor, I move to strike the
15 entire answer as unresponsive to the question.

16 THE COURT: All right. Overruled. It was
17 responsive to your question that was asked.
18 BY MR. O'NEILL:

19Q Now, isn't it true that Linda Murphy was a
20 consultant on that project, Miss Dean?

2 A Well, I believe that she worked on -I've
never

2 seen anything in the files that said that she was paid,
2 but I assume she was, and I do know that she had some
2 involvement with it, after reading your files.

2 Q Now, is it also true as you've stated, Lou Kitchin

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1 was a consultant on that project?

2 A Yes, I've seen checks written to Mr. Kitchin that
3 you provided during discovery.

4Q You mentioned an individual by the name of Allen.

5 Mr. John Allen was the developer of that project, is
6 that true?

7 A He was either the developer or had an interest in
8 it. I think the company developing was Myerson-Allen
9 and so I'm going to assume that he was a developer. I'm
10 going to assume that he was the principal.

11 Q I'm not asking you to assume. Do you recall
12 testifying on direct examination that you met with
13 Mr. Allen on Durham Hosiery Mill?

14 A Yes, I met with Mr. Allen and another individual
15 from Denver on the Durham Hosiery Mill shortly after I
16 became Executive Assistant.

17 Q Is it fair to say that John Allen went to school
18 with your then boyfriend Richard Giegengack?

19 A I remember — I recall Mr. Giegengack being in my
20 office, waiting to pick me up and Mr. Allen coming for a
2 meeting and going back and saying oh, aren't you Richard

2 Giegengack, and he went, yes, and it turned out that
2 Mr. Allen and Mr. Giegengack knew each other. It has
2 nothing to do with Durham Hosiery Mill.

2 MR. O'NEILL: Your Honor, I move to strike all

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1 unresponsive answers after the answer yes.

2 THE COURT: Overruled. It's

3 cross-examination. Go ahead.

4 BY MR. O'NEILL:

5 Q Am I correct, Miss Dean, that you and

6 Mr. Giegengack went out socially with Mr. Allen?

7 A I believe that day -I know that day that

8 Mr. Giegengack was picking me up we gave Mr. Allen a

9 ride to the airport and we stopped off and had a

10 cocktail at the Guards and, on the way, and that was the

11 only time I ever saw Mr. Allen socially.

12 Q Is it also fair to say that Richard Giegengack that

13 we're talking about, your then boyfriend, was best

14 friends with Jon Boisclair, is that true?

15 A That is true and that is how I met Miss Murphy, his

16 wife.

17Q And Jon Boisclair is married to Linda Murphy?

18 A That is correct.

19Q Now, during the direct examination you did not

20 mention the fact of this John Allen, Richard Giegengack,

2 Jon Boisclair, Linda Murphy relation on Durham Hosiery

2 Mill, is that true?

2 A Well, that is such a bizarre characterization of

2 it. Why would I mention that? Mr. Giegengack has

2 nothing to do with Durham Hosiery Mill. Mr. Boisclair

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1 has nothing to do with Durham Hosiery Mill. The fact

2 that Mr. Giegengack and Mr. Allen knew each other ten

3 years before at school has nothing to do with Durham

4 Hosiery Mill.

5 Q You mentioned that Mr. Giegengack and Mr. Boisclair

6 had nothing to do with Durham Hosiery Mill, but

7 Mr. Allen and Miss Murphy did, correct?

8 A Mr. Allen was the principal. Mr. Allen saw me in a

9 meeting with Mr. Myerson, I assume it was Mr. Myerson or

10 whoever was this person from Denver. And then one time

11 he was dropping off some papers. It was late. He was

12 there for a meeting with other HUD people. He came into

13 my office to say hello, ran into Mr. Giegengack, they

14 recognized each other, and we drove him to the airport,

15 but I don't understand what —

16 Q You don't understand that Mr. Allen, the developer,

17 was good friends with Richard Giegengack, your then

18 boyfriend, Linda Murphy is the consultant on this

19 project who is married to Jon Boisclair who you

20 socialized with, you don't see any problem with that?

2 A If— if— no, I don't. I — I don't. I walk
2 through this Courthouse and run into people I know. It
2 doesn't mean they're parties to this case.
2 Q You were the Executive Assistant to the Secretary
2 of HUD, were you not, Ma'am?

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1 A Yes, and Secretary Pierce made the decision to fund
2 Durham Hosiery Mill for reasons that had nothing to do
3 with Linda Murphy, Louis Kitchin, Richard Giegengack, my
4 mother, you, or anything else.
5 Q And that's your testimony, is it, Ma'am?
6 A Yes, that is the truth.
7 Q That's for the jury to decide, right, Ma'am?
8 MR. WEHNER: Objection, Your Honor.
9 THE COURT: All right, I'll sustain the remark
10 of the counsel again as being improper.
11 BY MR. O'NEILL: [12
12 Q Now, let's talk about Mr. Jay Stone. You mentioned
13 him during direct examination, is that correct?
14 A Yes, I did.
15 Q And do you recall testifying you couldn't remember
16 much about Mr. Stone?
17 A I remember that he worked for someone and I
18 remember having trouble deciding who it was that he
19 worked for.
20Q And you said it might have been some Congressman in
2 Louisiana, does that refresh your recollection?
2 A It was either a Congressman, a Senator or a
2 Governor and I think I mentioned all three and couldn't
2 remember which one it was.
2 Q Isn't it true, Miss Dean, that at that time Mr.

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1 Jay Stone was working for his own business in
2 Washington, D. C. and he was associated with Lance
3 Wilson and Paine Webber?
4 A No, not that I know of.
5 Q Let me show you a document and see if that would
6 refresh your recollection as to whether he was
7 associated with Lance Wilson?

12 I do not consider the next two pages of testimony to be particularly relevant to the point of this document, but I include them simply to show the transition from the discussion of Giegengack/Boisclair/Murphy/Allen to the bench conference.

8 A Well, this is a document from Paine Webber to
9 Mr. Jay Stone and it doesn't mention my name, I've never
10 seen it before. And it has Lance Wilson's signature on
11 it. It doesn't have Mr. Stone's signature on it and,
12 no, I don't -I know that Jay Stone worked for a member
13 of Congress or a Governor in a campaign and I wouldn't
14 know Jay Stone if he was in this courtroom.

15 I do remember that that is how he came into my
16 office and I don't know any relationship Mr. Stone has
17 with Mr. Wilson.

18 Q Does that show you that he is not working for any
19 Congressmen, he is not working for any Senator, or any
20 Governor from the State of Louisiana?

2 MR. WEHNER: Your Honor, could we approach?

2 THE COURT: Sure.

2 (Bench conference)

2 THE COURT: Let me see the document.

2 MR. O'NEILL: Yes.

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1 MR. WEHNER: I object to the continued
2 questioning after the witness has answered the question
3 with regard to whether a document refreshes her
4 recollection.

5 THE COURT: I think the witness says this
6 doesn't refresh her recollection. That ends it. You
7 can't keep questioning her about that document.

8 MR. O'NEILL: Judge, can I just put something
9 on the record? I might be a little touchy from
10 yesterday, you did not think that was meant, that
11 comment where I said that's for the jury to decide —
12 did you take that as an improper comment?

13 THE COURT: I did. You can't keep making
14 remarks about —

15 MR. O'NEILL: I'm sorry, Judge.

16 THE COURT: Every time a witness answers a
17 question that you don't like you say, well, that's for
18 the jury to decide. That's a comment, it's not a
19 question to a witness. It's not an objection made to
20 the Court. What is it otherwise? It's a comment to the
2 jury in general, which you don't do.

2 MR. O'NEILL: I apologize, Judge, but —

2 THE COURT: The thing is not to get into
2 repartee with the witness or -on your own.

2 MR. O'NEILL: With all due respect, Your

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1 Honor, that's why I moved to strike her answer several
2 times and you felt and I don't disagree —
3 THE COURT: This is cross-examination. Do you
4 know so and so, and she gives a long explanation, but I
5 don't think comments to the jury -it's not a question
6 of a remark to the Court as an objection to evidence.
7 It doesn't have any business in the courtroom. That's
8 all.

9 MR. O'NEILL: Well, I apologize.

10 THE COURT: There's no evidentiary value. It
11 means nothing except to influence the jury about
12 something that's not appropriate, and that's my
13 concern.

14 I just wanted to make it clear yesterday and I
15 don't want to rehash this again because it's over, it's
16 water over the dam, but I'm not sure the record
17 reflected what my concern was adequately and I don't
18 want to leave an unfair impression to Independent
19 Counsel. Miss Dean had been answering a question, had
20 raised her voice and spoken very loudly and repeated a
2 couple of times she never meant to do something. That's
2 the general context, that's not totally accurate, but
2 said never, never it very loud several times. The
2 remark of counsel for the prosecution was I'm sorry, I
2 didn't hear you, and holding your hand to your ear which

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1 caused the jury to laugh and snicker. I'm not sure that
2 would appear in the record.
3 The prosecutor did not use all its strikes in
4 choosing jury and I have no question that that's a
5 problem with choosing jury at all. My concern was that
6 there was an insensitivity at least and maybe something
7 much more. These remarks are to influence the jury.
8 We're here to give the defendant a fair trial and that's
9 what we're all here to do.

2. Transcripts of October 12, 1993 and October 13, 1993, Regarding the Court's Admonishing Prosecutor Robert E. O'Neill Regarding the Treatment of the Defendant

October 12, 1993

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22 Q Would you please describe John Mitchell's
23 relationship to your family, including your mother, from
24 your perspective?

25 A Well, he and my mother were very good friends. I
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1 remember the -I remember that I was with them the
2 night that they met and I had -it had been a long time
3 since I saw my mother sort of act like that. I mean she
4 was acting more like a woman than someone who had been a
5 widow for many many years, and she was twirling her
6 necklace and I remember thinking to myself—

7 MR. O'NEILL: Judge, is this Mod Rehab?

8 A I'm sorry.

9 THE COURT: All right, I'll overrule the
10 objection.

11 MR. WEHNER: Judge, I move to strike.

12 THE COURT: All right. I'll strike the
13 comment by counsel.

14 Ladies and gentlemen of the jury, listen to
15 the testimony and don't worry about counsel's comments.

16 MR. WEHNER: Your Honor, could we approach?

17 THE COURT: Sure.

18 (Bench conference)

19 MR. WEHNER: Your Honor, that statement by
20 Mr. O'Neill is particularly out of line, given the
21 testimony that this jury has heard on direct with regard
22 to the relationship between Miss Dean and John Mitchell
23 and her family and I would ask that you admonish the
24 Government to restrain his impulses.

25 MR. O'NEILL: I have sat through three days of
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1 hearsay upon hearsay, of leading a witness through
2 completely irrelevant nonsense and I finally have said
3 something. Mr. Wehner and his client throughout the
4 Government's case would laugh and guffaw at various
5 statements made by witnesses. I have not engaged in
6 this. When I hear about her mother curling her hair —

7 THE COURT: She said her necklace.

8 MR. O'NEILL: — like a school kid, this is
9 absurd, Judge, it has nothing to do with this case and
10 if they want to get on with it, after four days the
11 patience of the Government is wearing a bit thin.

12 THE COURT: Well, the impatience of the
13 Government should not be exhibited by comments that

14 provoke laughter from the jury at a time when the
15 defendant is testifying about a principal unindicted
16 co-conspirator in the case and her relationship with him
17 which I think is relevant, and the Government is relying
18 on the testimony of the person closest to her mother as
19 the tie as to why she took certain actions that you
20 allege shows a conspiracy exists although we have no
21 direct evidence.

22 I agree that much of the other evidence that
23 we've been hearing is hearsay and I've given the
24 defendant a lot of scope and latitude because of the
25 nature of the charges in this case, which to the Court's
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1 mind, as I said before, present some difficulty and I
2 have given the defendant the benefit of my concerns but
3 I don't think on either side it's appropriate.
4 I didn't notice the defendant's counsel going
5 unremonstrated against by the Court when he would make
6 comments about particular things. So I would think on
7 both sides the admonition stays, but I do think the kind
8 of comment when she's testifying about a crucial
9 allegation in the case, I think her mother's response to
10 this man and what she believed the relationship was and
11 what her motivation would be is very important. So
12 restrain yourselves, and if you want to object come up
13 and object and I'll hear it.

14 MR. O'NEILL: Your Honor, the Government will
15 abide obviously by your rulings. I don't have too much
16 choice even if I disagreed with you since you are the
17 Judge.

18 However, the Government will notify the Court
19 that I will start objecting on legal bases such as
20 leading and non-relevant matters.

21 THE COURT: That's fine. I don't mind.

22 MR. WEHNER: Thank you, Your Honor.

23 (Bench conference concluded)

October 13, 1993

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Your Honor.

2 THE COURT: All right.

3 All right, Ladies and Gentlemen, we'll make it 9:30 in
4 the morning then. We should have a regular day tomorrow. So
5 we'll be proceeding on tomorrow with the testimony.
6 Remember the admonitions again overnight, please, about

7 not reading, watching, or listening to anything in this case in
8 the media or talking about it with each other, with anyone else,
9 or letting anyone talk about it in your presence whatsoever.
10 Have a good evening, and be back tomorrow at 9:30, all
11 right?
12 (Jury out.)
13 THE COURT: Let me see counsel at the bench, please.
14 (Bench conference on the record.)
15 THE COURT: Mr. O'Neill, let me ask you if that had
16 been a black defendant on the stand with a white jury, would you
17 be making the same kind of smart comments you've been making with
18 a white defendant and a black jury?
19 MR. O'NEILL: Do you think I'm making those racially?
20 THE COURT: No, what I'm impugning is that you're
21 making these comments with a white defendant and a black jury
22 which you wouldn't be doing with a black defendant and a white
23 jury, and I resent that. I think it may be a basis eventually
24 for the bench to take a look at this case.
25 MR. O'NEILL: Your Honor, if I may, I understand what
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1 your concerns are. That happened numerous times in the
2 government's case, numerous times, and the record will reflect
3 that. It happened one time now after the question was asked and
4 answered, asked and answered.
5 THE COURT: This is the third time I recall you doing
6 this, and I've warned you before, all right?
7 MR. O'NEILL: Second time, Judge. I don't want to –
8 THE COURT: Second or third.
9 MR. O'NEILL: I don't want to quibble. All right.

3. Bench Conferences of October 18, 1993

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1 PROCEEDING S
2 THE DEPUTY CLERK: Criminal number 92-181.
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.
6 THE COURT: Do you want to round them up for
7 me?
8 THE DEPUTY CLERK: Yes, someone went to get
9 them, Your Honor.
10 THE COURT: All right. Good morning,
11 counsel. I came out because I had my clerk inquire if

12 there were some preliminary matters. We're waiting for
13 a juror, alternate number four, I guess it's alternate
14 number two now, who is not here.

15 MR. O'NEILL: Judge, may we approach for a
16 moment?

17 THE COURT: Sure.

18 MR. WEHNER: May Miss Dean be excused to go to
19 the ladies room?

20 THE COURT: Sure.

2 (Bench conference)

2 MR. O'NEILL: Good morning, Judge. Probably
2 it's not a big deal, but in talking with Judge Adams
2 over the weekend he thought it should be on the record.
2 After cross-examining Miss Dean on Durham Hosiery Mill

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1 there was a break, and there's been a lot of colloquy
2 amongst us, and it's not like amongst everybody, there's
3 nothing in terms of statements to be used, you know,
4 when a defendant makes an utterance, but after the
5 Durham Hosiery Mills she mentioned - I was sitting with
6 Miss Sweeney and Special Agent Batts at counsel table
7 and she said there's two people you forgot to
8 cross-examine about that and I said, well, who is that,
9 and she said Dave Barrett and the Judge.
10 Frankly, I didn't think anything of it and I
11 still don't, Judge, but in going over - Judge Adams
12 comes down from Philadelphia on Sundays and we go over
13 the case and we all talk about the case, and that came
14 up and he thought you should be apprised of that. So
15 we're letting you know and -

16 MS. SWEENEY: Actually, Your Honor, she
17 repeated it two or three times. It was a little bit odd
18 and we didn't know what to make of it.

19 THE COURT: Yes, it is. I don't know what
20 she's talking about.

21 MR. WEHNER: I've got to plead ignorance,
22 Judge, and I don't think that means — I think that's
23 meaningless, both from my client's mouth and in terms of
24 the issues in this trial. I just don't know.

25 THE COURT: I don't know what she's talking

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1 about except Mr. Barrett is a close friend of mine. If
2 he was intimately involved in the case —

3 MR. WEHNER: His name was mentioned in
4 passing, not as a subsequent player.
5 THE COURT: At least not in this case. All
6 right, thank you for alerting me, whatever it was worth.
7 MR. O'NEILL: That's it, Judge. That was the
8 whole preliminary matter.
9 (Bench conference concluded)

4. Dean Testimony of October 12, 1993 with Accompanying Narrative (as pulled from the document delivered to the Department of Justice on December 1, 1994 styled "Testimony of Supervisory Special Agent Alvin R. Cain, Jr.) (footnotes omitted)

Dean testified about learning of Mitchell's HUD consulting on her fourth day on the stand. She first explained, in some detail, how she had acquired a copy of the report from Alvin Cain, the agent in HUD's Inspector General's office who had been in charge of writing the report. Among other things, Dean explained how, after talking to Cain about getting a copy of the report, she had sent Mitchell's daughter (Marti Mitchell) with a check to the Inspector General's office to secure a copy. Dean then testified that she (Dean) learned that Mitchell had earned a consulting fee when she started to read the report (which had indicated that Mitchell had earned \$75,000 in consulting fees on the Arama project). This testimony followed:

Q. Okay. After you learned -- was that the first time you knew that John Mitchell was receiving dollars based on consulting with HUD?

A. Yes.

Q. This was in May -- or, I'm sorry, April of 1989.

A. Yes, the day the report came out.

Q. Was John Mitchell alive, or had he passed away by then?

A. He had died the previous November.

Q. Did you place any telephone calls after you heard that in the report -- after you discovered that information.

A. Yes.

Q. Who did you call.

A. I called Al Cain.

Q. What did you say to Mr. Cain?

A. I told him that I considered him to be a friend and I couldn't believe that he wouldn't have told me about this before now and that I knew it wasn't true, that John would never have done that, and that he better be prepared, because I was really mad, and I wanted to see the check, and if there had been a check written to John Mitchell, Al better have a copy of it, and I was coming down there, and if I found out that he was, in any way had misinterpreted or had misrepresented John's actions, I was going to have a press conference and I was going to scream and yell and carry on.

And Al said, Al told me that he --

Tr. 2616-18.

At this point, prosecutor Robert M. O'Neill rose to object. Before he actually said anything, the court stated: "I'll sustain the objection. Don't get into what he said." Tr. 2618. Thus, Dean was not permitted to testify as to what Cain might have told her in response to her specific questions regarding the existence of a check.

5. Direct Testimony of Alvin R. Cain, Jr. of October 18, 1993

The Cain direct testimony is set out completely below. The reason for the completeness is to illustrate the apparent basis on which Cain was led to believe the testimony was literally true – that is, that Dean, who called him shortly after the report was made public at the end of April 1989, did not call him “at or about” April 17, 1989, the date the report was issued internally at HUD. As I have explained in several places, the logical antecedent of “that date” seems in fact to be the day Cain provided the report to Dean, rather than April 17, 1989 (though April 17, 1989 is the only literal “date” mentioned.) For that reason, the testimony seems not even to be literally true unless one accepted an extremely literal view as to the meaning of the word “date.”.

In the same vein, one might note that after giving “April 17, 1989” as the date the report was “published,” Cain acknowledges receiving a call with Dean “at or about that time.” Thus, “at or about that time” seems to encompass both April 17 and the end of April, while “at or about that date” does not. I am nevertheless persuaded that the notion that “that date” reference to April 17 underlies the Independent Counsel’s persuading of Cain to give the testimony.

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10 MR. O'NEILL: Your Honor, the Government would

11 call Special Agent Alvin Cain.

12 THE COURT: All right.

13 (SPECIAL AGENT ALVIN CAIN, WITNESS FOR GOVERNMENT,

14 SWORN)

15 DIRECT EXAMINATION

16 BY MR. O'NEILL:

17 Q Agent Cain, I would ask you to speak in a loud and

18 clear voice so that everyone can hear you, and so that

19 there's no misunderstanding. Sir, would you please

20 state your name for the record, spelling your last name?

2 A My name is Alvin R. Cain, Jr. The last name is

2 spelled C-a-i-n.

2Q Agent Cain, by whom are you employed?

2 A I'm currently employed with the Office of the

2 Inspector General at the U.S. Department of Housing and

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1 Urban Development here in Washington.

2 Q And in what capacity are you so employed?

3 A I serve as a Supervisory Special Agent.

4 Q What exactly does a Supervisory Special Agent do?

5 A I supervise a variety of investigative efforts that

6 are focused toward protecting the integrity of the HUD

7 programs. Our primary mission is — we're concerned

8 with fraud, waste, abuse and mismanagement within those

9 programs of HUD.

10 Q Where are you currently assigned, sir?

11 A At -- I'm currently working at the Office of the

12 Independent Counsel.

13 Q And how long have you been assigned there?

14 A Since June of 1990.

15 Q Agent Cain, did you have any other previous law

16 enforcement experience prior to joining HUD as a Special

17 Agent?

18 A Yes, prior to HUD I was on active duty with the

19 United States Air Force for 22 years, 20 of which was

20 spent with the Air Force Office of Special

21 Investigations.

22 Q Agent Cain, did there come a point in time when you

23 were involved in a HUD I.G. Report?

24 A Yes.

25 Q And did there come a point in time, as you recall,

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1 that it was published?

2 A Yes.

3 Q And do you recall when approximately that was?

4 A The Section Eight Mod Rehab investigative report

5 was published April 17, 1989.

6 Q At or about the time that was published, do you

7 recall having a conversation with the defendant Deborah

8 Gore Dean?

9 A A telephone conversation.

10 Q And can you recount for the ladies and gentlemen of

11 the jury what if anything was said during that telephone

12 conversation?

13 A As I recall, Miss Dean telephoned me with an

14 inquiry relative to how she could obtain a copy of the

15 investigative report. I related to her that the report

16 was available under the provisions of the Freedom of

17 Information Act. I also explained to her the cost that
18 was associated with obtaining a copy of the report.
19 Basically we had two versions that were being
20 sold under FOIA. The report itself totalled 50 some
2 dollars and the report plus the audit report was 60 some
2 dollars.

2 Q Did she express an interest in either report?

2 A Yes, she did. Miss Dean indicated that she would
2 like to have a copy. I explained to her that she could

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1 send in a written request which we would honor and
2 process or she could come to my office, pay for the
3 report and sign a receipt for the same, and that would
4 be the quickest way to obtain it.

5 Q And, Agent Cain, what if anything did she say to
6 you?

7 A What if anything did —

8 Q Did she say to you.

9 A She told me that she would send Marty over with a
10 check.

11 Q Did you know who Marty was at that time?

12 A I was not entirely clear. I assume Marty was a
13 reference to Marty Mitchell.

14 Q Did there come a point in time when Marty Mitchell
15 came to pay you for the copy of the report?

16 A As I recall, it was the same day.

17 Q What if anything happened?

18 A Marty came into the office. I had placed a copy of
19 the report with a receipt to be signed with my secretary
20 just in case if I was away from the office.

2 Ms. Mitchell came in, gave the check, signed the
2 receipt, took the report and left.

2 Q At or about that date, do you recall any
2 conversation with the defendant Deborah Gore Dean in
2 which she was quite upset with you about the contents of

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1 the report?

2 A No, I do not.

3 Q Do you recall her mentioning John Mitchell to you
4 and the fact that he made money as a consultant being

5 information within the report?

6 A No, I do not.

7 Q Do you recall her telling you that she was going to
8 hold a press conference to denounce what was in the
9 report?

10 A Absolutely not.

11 MR. O'NEILL: No further questions.

12 Thank you, sir.

6. Transcript of Robert E. O'Neill's Use of the Cain Testimony in Initial and Rebuttal Parts of the Closing Argument (as pulled from the document delivered to the Department of Justice on December 1, 1994 styled "Testimony of Supervisory Special Agent Alvin R. Cain, Jr.")

Three quarters of the way through the first day of the OIC's closing, O'Neill pressed the attack on Dean's credibility with particular acerbity, stating:

Based on her lies, you should throw out her entire testimony. Her six days' worth of testimony is worth nothing. You can throw it out the window into a garbage pail for what it's worth, for having lied to you.

Tr. 3418.

Moments later, O'Neill derisively turned to Dean's denial that she knew Mitchell had earned HUD consulting fees:

Shocked that John Mitchell made any money. Remember she went into great length about that. That she was absolutely shocked. And the day the I.G. Report came out she called Special Agent Alvin Cain, who was at HUD at the time, and said I'm shocked. I can't believe it. I thought you were my friend. You should have told me John Mitchell was making money. You'd better be able to defend what you said and if you can't I'm going to hold a press conference and I'm going to do something, I'm going to rant and rave. That's exactly what she told you.

So we had to call in Special Agent Alvin Cain for two minutes' of testimony. And you heard Mr. Cain. It didn't happen. It didn't happen like that. And he remembered Marty Mitchell picking up the report, bringing the money, but it didn't happen. They asked him a bunch of questions about the Wilshire Hotel, and you could see Mr. Cain had no idea what they were talking about. We had to bring him in just to show that she lied about that.

Tr. 3419-20.

During rebuttal the following day, O'Neill continued to assert that Dean had repeatedly lied on the stand, pursuing that approach with a virulence at least equal to that of the day before. In listing a number of statements by Dean that he asserted were lies, O'Neill again noted the contradiction by Cain:

Shocked that Mitchell made any money. Al Cain told you, the Special Agent from HUD, that conversation never ever happened.

Tr. 3506.