

1 STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
2 BRANCH 1

3 STATE OF WISCONSIN,

4 PLAINTIFF,

JURY TRIAL

TRIAL - DAY 4

5 vs.

Case No. 05 CF 381

6 STEVEN A. AVERY,

7 DEFENDANT.

8 **DATE:** FEBRUARY 15, 2007

9 **BEFORE:** Hon. Patrick L. Willis
10 Circuit Court Judge

11 **APPEARANCES:** KENNETH R. KRATZ
Special Prosecutor
12 On behalf of the State of Wisconsin.

13 THOMAS J. FALLON
Special Prosecutor
14 On behalf of the State of Wisconsin.

15 NORMAN A. GAHN
Special Prosecutor
16 On behalf of the State of Wisconsin.

17 DEAN A. STRANG
Attorney at Law
18 On behalf of the Defendant.

19 JEROME F. BUTING
Attorney at Law
20 On behalf of the Defendant.

21 STEVEN A. AVERY
Defendant
22 Appeared in person.

23 **TRANSCRIPT OF PROCEEDINGS**

24 Reported by Diane Tesheneck, RPR

25 Official Court Reporter

I N D E X

WITNESSES PAGE

BOBBY DASSEY

Cross-Examination by ATTORNEY STRANG 7

Redirect Examination by ATTORNEY KRATZ 42

LIEUTENANT BRETT BOWE

Direct Examination by ATTORNEY KRATZ 52

Cross-Examination by ATTORNEY STRANG 86

Redirect Examination by ATTORNEY KRATZ 110

Recross-Examination by ATTORNEY STRANG 113

DEPUTY PETER O'CONNOR

Direct Examination by ATTORNEY KRATZ 117

Cross-Examination by ATTORNEY STRANG 124

Redirect Examination by ATTORNEY KRATZ 136

Recross-Examination by ATTORNEY STRANG 138

SERGEANT JASON ORTH

Direct Examination by ATTORNEY KRATZ 139

Cross-Examination by ATTORNEY BUTING 151

Redirect Examination by ATTORNEY KRATZ 165

DEPUTY INSPECTOR TODD HERMANN

Direct Examination by ATTORNEY KRATZ 166

Cross-Examination by ATTORNEY BUTING 174

Redirect Examination by ATTORNEY KRATZ 191

	<u>EXHIBITS</u>	MARKED	OFFERED	ADMITTED
1				
2	79-86		86	86
	123		45	45
3	124	35		
	125	107	109	
4	126	135		
	127		138	138
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(Jury not present.)

THE COURT: At this time the Court calls State of Wisconsin vs. Steven Avery, Case No. 05 CF 381. We are here this morning for the continuation of the trial in this matter. Will the parties, again, state their appearances for the record.

ATTORNEY KRATZ: State appears by Calumet County District Attorney Ken Kratz, Assistant Attorney General Tom Fallon, and Assistant D.A. Norm Gahn, all appearing as special prosecutors.

ATTORNEY STRANG: Good morning. Steven Avery is here in person, again, and Jerome Buting and Dean Strang representing him.

THE COURT: All right. I will indicate for the record that before we began, I met in chambers with counsel, briefly, to discuss the agenda for the day. It's my understanding that after we bring the jury out, the State is going to first complete the demonstration associated with the last witness yesterday, in the form of an animation, and that the parties are agreeable to the State presenting that animation, without Mr. Austin being recalled to the stand.

ATTORNEY STRANG: That's right. I understand it's just going to be played once

1 straight through, without narration, and that's
2 fine.

3 THE COURT: Okay. And the parties were
4 also discussing a potential stipulation for the
5 Court relating to the testimony of the next witness.

6 ATTORNEY KRATZ: Judge, the prosecution
7 team has discussed that. We would entertain such a
8 stipulation, but only after we hear what the
9 cross-examination is of this next witness. The
10 State is unwilling to enter into a stipulation at
11 this time, but I will candidly tell the Court that
12 if the cross goes as expected and as represented, it
13 is very likely that we will agree to that request,
14 yeah.

15 THE COURT: All right. Mr. Strang.

16 ATTORNEY STRANG: I can't force a
17 stipulation.

18 THE COURT: Okay. Very well. We'll
19 address that matter, then, after we complete
20 Mr. Dassey's testimony. Anything else to take up
21 before we bring in the jury? Anything else before
22 we bring in the jury, counsel?

23 ATTORNEY STRANG: No, your Honor.

24 ATTORNEY KRATZ: I don't think so, Judge.

25 THE COURT: All right. The jury can be

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called in.

(Jury present.)

THE COURT: You may be seated. Members of the jury, before we get started with the first witness today, you may recall that there was a short animation scheduled to be shown at the end of Mr. Austin's testimony yesterday. I'm informed that the technical difficulties have now been ironed out and counsel has agreed to present the animation to the jury without recalling Mr. Austin to the stand; is that correct, counsel?

ATTORNEY KRATZ: Yes, Judge.

THE COURT: All right. Mr. Kratz, you may proceed.

(Animation viewed.)

ATTORNEY KRATZ: For the record, Judge, that was Exhibit No. 117, 1-1-7. That's all we have for Trooper Austin. Thank you, Judge.

THE COURT: Thank you. And before we took the testimony of Mr. Austin yesterday, I believe we left off with cross-examination of Bobby Dassey. So at this time, you can bring Mr. Dassey in and the defense can begin their cross-examination.

ATTORNEY KRATZ: Can we approach just briefly?

1 THE COURT: Sure.

2 (Side bar taken.)

3 THE COURT: Members of the jury, as you can
4 see, the picture on the computer screen there is
5 little out of kilter. We have a technical person
6 who is going to adjust the projector.

7 ATTORNEY KRATZ: It sounds like it's a
8 setting on the projector. It's something during the
9 break that the techs can take care of.

10 THE COURT: All right.

11 ATTORNEY STRANG: Can you switch that over
12 to ELMO?

13 ATTORNEY KRATZ: Sure.

14 THE CLERK: Please raise your right hand.

15 BOBBY DASSEY, called as a witness
16 herein, having been first duly sworn, was
17 examined and testified as follows:

18 THE CLERK: Please be seated. Please state
19 your name and spell your last name for the record.

20 THE WITNESS: Bobby Dassey, D-a-s-s-e-y.

21 **CROSS-EXAMINATION**

22 BY ATTORNEY STRANG:

23 Q. Good morning. Welcome back.

24 A. Good morning.

25 Q. Did you grow up on the salvage yard that you

1 described living at yesterday?

2 A. Just my high school years in school.

3 Q. That is, you were living with your mom?

4 A. Yes.

5 Q. With Barb Janda?

6 A. Yes.

7 Q. You described your step dad, yesterday, right?

8 A. Yeah, Tom.

9 Q. His name was Tom -- is Tom Janda?

10 A. Yes.

11 Q. Your mom is now married to another fellow named

12 Scott Tadych?

13 A. Yes.

14 Q. You are the second of four boys?

15 A. Yes.

16 Q. All of you have the last name Dassey?

17 A. Yes.

18 Q. From Pete Dassey?

19 A. Yes.

20 Q. Your natural father?

21 A. Yes.

22 Q. And Brian is older than you?

23 A. Yes.

24 Q. Then there is you, Bobby?

25 A. Yup.

1 Q. All right. Then we have got Brendan -- no, I'm
2 sorry, we have got Blaine?

3 A. Yup.

4 Q. And Brendan is the youngest of the four brothers?

5 A. Yes.

6 Q. So Brian, the oldest boy, oldest son, already was
7 out of Barb's house back on Halloween, 2005?

8 A. Yes, he would come and go once in awhile.

9 Q. He lived nearby, but didn't sleep there most
10 nights?

11 A. Yeah.

12 Q. So you and your two younger brothers were still
13 living with your mom, Barb Janda?

14 A. Yes.

15 Q. You have been there since about the time you
16 began high school?

17 A. Yes, 2001 we moved in.

18 Q. Were you living in the mobile home?

19 A. Yes.

20 Q. Same one, same place?

21 A. Yes.

22 Q. Steven Avery, who lived just to the west of you,
23 is your uncle?

24 A. Yes.

25 Q. Your mom's brother?

1 A. Yes.

2 Q. And then you also had an Uncle Chuck living on
3 the salvage yard property?

4 A. Yes.

5 Q. That's also your mom's brother?

6 A. Yes.

7 Q. And he lives back around to the southeast, sort
8 of behind the office buildings and the other
9 buildings of the business, right?

10 A. Yes.

11 Q. In a trailer home there?

12 A. Yes.

13 Q. Grandpa and grandma live there?

14 A. Yes.

15 Q. That is your mom's mother and father?

16 A. Yes.

17 Q. Allen and Delores?

18 A. Yes.

19 Q. Them in the back?

20 A. Yup.

21 Q. Okay. And they live up, right off the parking
22 lot, in the main area of the business?

23 A. Yes.

24 Q. They have a doublewide trailer?

25 A. Yes.

1 Q. And a garage attached?

2 A. Yes.

3 Q. Or at least next --

4 A. Next, yeah.

5 Q. -- to the trailer. You also have an Uncle Earl,
6 your mother's brother, Earl, don't you?

7 A. Yes.

8 Q. Earl is married to a woman named Candy?

9 A. Yes.

10 Q. Earl and Candy don't live on the salvage yard --

11 A. No.

12 Q. -- property? They live nearby too?

13 A. Yes.

14 Q. And Earl, in fact, you know, works at the salvage
15 yard?

16 A. Yes.

17 Q. Chuck works at the salvage yard?

18 A. Yes.

19 Q. And after Steve got out of prison, he came to
20 work at the salvage yard?

21 A. Yes.

22 Q. Your Grandpa Allen had started the salvage yard?

23 A. Yes.

24 Q. But he is not quite as active, the adult boys are
25 basically running the business?

1 A. Yes.

2 Q. Your mom works elsewhere?

3 A. Yes.

4 Q. And back about Halloween of 2005, she had a
5 factory job?

6 A. Yes.

7 Q. Did she work first shift?

8 A. Yes.

9 Q. So she's up and out of the house pretty early in
10 the morning?

11 A. Yes.

12 Q. About the time you are getting home probably --

13 A. Before.

14 Q. -- back then? Before you even got home?

15 A. Yeah.

16 Q. Okay. So you are getting off work at 6 in the
17 morning from your third shift?

18 A. Yup.

19 Q. And by the time you are home at 6:15, 6:30, she's
20 already gone?

21 A. Yeah.

22 Q. She would then come home mid-afternoon?

23 A. Yes.

24 Q. What goes on at a salvage yard business,
25 Mr. Dassey?

1 A. Well, they sell used parts for cars, the people
2 that need these parts.

3 Q. Okay. Do they also do some car repair?

4 A. Once in a while, yeah.

5 Q. Okay. Did you ever work for the salvage yard?

6 A. For one summer.

7 Q. I mean for wages?

8 A. Yeah.

9 Q. Okay. What did you do that summer you worked at
10 the salvage yard?

11 A. I just changed colors -- I mean, changed tires,
12 and stripped cars.

13 Q. What do you mean by stripping cars?

14 A. Taking all the stuff that you can get money for
15 off of them.

16 Q. After you have stripped the car, taken all the
17 valuable spare parts off, where do the things you
18 stripped off go?

19 A. Into piles.

20 Q. Where does the rest of the car go?

21 A. It goes down to be crushed.

22 Q. Okay. And some of the cars now look like they
23 are lined up in rows, and they are not crushed;
24 is that the area you guys call the pit?

25 A. Yes.

1 Q. And why are some of the cars not crushed, but
2 just lined up in rows down there?

3 A. Because them are the cars that are still good,
4 that they can still sell stuff off of.

5 Q. You can still strip some parts off of?

6 A. Yes.

7 Q. Some of them pretty old?

8 A. Yes.

9 Q. Others pretty new?

10 A. Yes.

11 Q. How do cars get to come to the salvage yard? How
12 is it that a car would end up there?

13 A. People call them, they go pick it up.

14 Q. The Avery salvage business runs a wrecker?

15 A. Yes.

16 Q. Or towing service?

17 A. Yes.

18 Q. Okay. So let's say there is a car crash and one
19 or both of the cars is totaled, might those end
20 up at the salvage yard?

21 A. Yes, if they are called.

22 Q. By a police department, or a fire department, or?

23 A. Yeah.

24 Q. Or private people?

25 A. Yeah.

1 Q. Any of those?

2 A. Yeah.

3 Q. Okay. You saw wrecked cars, and that is cars
4 that have been in a crash, come in, the summer
5 you worked there?

6 A. Yes.

7 Q. Some of those cars, because there's been a car
8 crash, some of them have blood in them?

9 A. Yes.

10 Q. And are there -- are there any parts from a car,
11 when you are stripping it, that you might melt
12 down?

13 A. Yes.

14 Q. What would that be?

15 A. Like aluminum.

16 Q. What's aluminum on a car?

17 A. Like rims, transmission, all that stuff.

18 Q. Transmission is probably the biggest cast
19 aluminum --

20 A. Yes.

21 Q. -- piece on a car? Does the Avery Salvage Yard
22 have a place to melt down aluminum rims?

23 A. Yes.

24 Q. Or aluminum transmissions?

25 A. Yes.

1 Q. Where is that?

2 A. It is in the old shop building.

3 Q. Up around that parking lot area?

4 A. Yes.

5 Q. And what -- what is this thing that melts down
6 the aluminum transmission?

7 A. It's called a smelter.

8 Q. Okay. Big thing, small thing? Have you ever
9 seen how it works?

10 A. It's pretty big.

11 Q. Do you know how it works?

12 A. It is heated by propane. That's all I really
13 know.

14 Q. There's a big outdoor propane tank next to it?

15 A. Yup.

16 Q. And you say people would come there to buy spare
17 parts. Are these just -- just people who are
18 maybe fixing their own car in the garage?

19 A. Yes.

20 Q. Or restoring an older car, or something like
21 that, hobby type people?

22 A. Yes.

23 Q. Independent small repair garage people, do they
24 ever come to buy parts, to put on cars that they
25 may be fixing for customers of theirs?

1 A. Yes.

2 Q. One of the cars that we have seen over and over
3 again, I think that you talked about, was this
4 maroon, I think you said 1989 Plymouth Voyager
5 mini-van?

6 A. Yes.

7 Q. That was your mom's car and you know that?

8 A. Yes.

9 Q. It was for sale back around Halloween, 2005?

10 A. Yes.

11 Q. That Steven was helping her sell it?

12 A. Yes.

13 Q. Did it eventually sell?

14 A. No.

15 Q. At the same time that one was for sale, were you
16 aware of other cars that may have been for sale,
17 or on and off, you know, for sale, whether they
18 were actively advertised or not?

19 A. Yes.

20 Q. Such as?

21 A. Steven had a Chevy Blazer for sale and a Monte
22 Carlo.

23 Q. Where were those kept, if you know?

24 A. Up at the end of our driveway.

25 Q. This was back around Halloween of 2005?

1 A. Yes.

2 Q. At the end of your driveway, do you mean there's
3 a road that comes down, if you take a right
4 instead of going into the salvage yard business,
5 there is a road --

6 A. Yes.

7 Q. -- that runs east west there near the north side
8 of the property?

9 A. Yes.

10 Q. Is that the driveway you are referring to?

11 A. Yes.

12 Q. That actually goes down to a little loop driveway
13 in front of your house?

14 A. Yes.

15 Q. And then sort of goes into Steve's garage?

16 A. Yes.

17 Q. So it would have been up toward the main road so
18 to speak?

19 A. Yes.

20 Q. By the --

21 A. By the --

22 Q. -- entrance to the business?

23 A. -- mailbox.

24 Q. Or the entrance to the office?

25 A. Yes.

1 Q. Now, yesterday, Mr. Kratz asked you about a
2 conversation that happened in your garage, with
3 a -- your friend Mike was there?

4 A. Yes.

5 Q. Is Mike, Mike Osmunson?

6 A. Yes.

7 Q. Or Michael Osmunson, but you call him Mike?

8 A. Yes.

9 Q. How do you know you were in the garage, your
10 garage, when this conversation happened?

11 A. Because we just arrived home and we entered the
12 garage.

13 Q. What was going on in the garage?

14 A. We bought some climbing sticks that night for
15 hunting and we were putting them together.

16 Q. Climbing sticks are little sticky pads you put on
17 the rungs to climb up a deer stand?

18 A. Yes.

19 Q. So your boots don't slip and you fall off and
20 break your neck?

21 A. Yes.

22 Q. You were doing that with Mike in the garage.

23 A. Yes.

24 Q. Roughly what time, do you remember, you guys were
25 doing this?

1 A. Probably 6:30, 7:00.

2 Q. Somewhere in that range?

3 A. Yes.

4 Q. And was there a deer?

5 A. Yes.

6 Q. Okay. What was -- This was a deer that was
7 hanging at that point?

8 A. Yes.

9 Q. In the garage. Was the deer skun out?

10 A. No, not at that time.

11 Q. The time of this conversation had not been
12 skinned yet?

13 A. Yes.

14 Q. Or had been?

15 A. It hadn't.

16 Q. When did you get this deer?

17 A. That night.

18 Q. And how long or how did you get the deer?

19 A. It was a road kill. It was hit right up the road
20 from our house.

21 Q. Now, when you get a road kill, you can't just
22 take that home and eat it necessarily, can you.

23 A. No.

24 Q. You have got to get a tag in this state?

25 A. Yes.

1 Q. From the DNR?

2 A. Yes.

3 Q. You had not hit the deer?

4 A. No.

5 Q. But you saw it hit?

6 A. Yes.

7 Q. And knew it was a fresh kill?

8 A. Yes.

9 Q. So you put it in your truck?

10 A. Yes.

11 Q. Brought it home?

12 A. Yes.

13 Q. And it was too late at that point to get the tag?

14 A. Yes.

15 Q. Did you hang it up that first night?

16 A. Yes.

17 Q. Who called to get the tag?

18 A. My mom did.

19 Q. And do you remember whether she called to get the

20 tag, called about the tag, the night you first

21 found the deer or the next day?

22 A. The night that we found the deer.

23 Q. But you didn't get the tag until the next

24 morning?

25 A. Yes.

1 Q. Okay. I'm going to show you Exhibit 123. Can
2 you make out what that is?

3 A. That's a tag.

4 Q. A tag for the deer that was hanging in your
5 garage --

6 A. Yes.

7 Q. -- when you had this conversation with Mike?

8 A. Yes.

9 Q. Okay. While you are putting the climbing sticks
10 on?

11 A. Yes.

12 Q. All right. Now, the tag is dated November 4 or
13 11/4/05, isn't it?

14 A. Yes.

15 Q. Okay. So where did you get the tag?

16 A. From 310 Mobile.

17 Q. You will have to explain that. At least some of
18 the jurors may not understand this. It's a DNR
19 tag, right?

20 A. Yes.

21 Q. But the DNR sets it up so that there are local
22 agents or places you can go?

23 A. Gas stations.

24 Q. Gas stations where you can get the tag?

25 A. Yes.

1 Q. So you don't have to run to Madison or something?

2 A. Yes.

3 Q. Okay. And there's a Mobile gas station on

4 Highway 310, near your house?

5 A. Yes.

6 Q. That's what you call the Mobile 310?

7 A. Yes.

8 Q. Did you take the deer to the Mobile 310 to get it

9 tagged?

10 A. Yes.

11 Q. So you had to take it down from where it was

12 hanging in your garage?

13 A. Yes.

14 Q. For anybody who doesn't know, why do you hang a

15 deer?

16 A. It helps cure the meat.

17 Q. And do you hang it before you skin it, or after

18 you skin it, or both?

19 A. I usually hang it and skin it, then you let it

20 hang for a day.

21 Q. Okay. But you didn't skin it the first night you

22 had it?

23 A. No.

24 Q. Because you had to get it tagged?

25 A. Yes.

1 Q. So you took it down the morning of the 4th of
2 November?

3 A. Yes.

4 Q. Went and got it tagged yourself?

5 A. Yes.

6 Q. And I want to be clear about that, even though
7 your mom had called about the tag, you actually
8 took the deer to get it tagged?

9 A. Yes.

10 Q. Because she was off to work on a Friday morning?

11 A. Yes.

12 Q. November 4 was Friday?

13 A. Yes.

14 Q. Now, you bring the deer back and you have the
15 deer tagged, I assume, right?

16 A. Yes.

17 Q. What did you do with the deer at that point?

18 A. I hung it up again and scun it out.

19 Q. Okay. And was it that night that you hung it up
20 again and scun it out, that you had this
21 conversation with Mike?

22 A. No, it was the night before.

23 Q. The night before?

24 A. Yes.

25 Q. Okay. You remember talking to us last night?

1 A. Yes.

2 Q. And telling us that it was the second time you
3 hung the deer, and the deer was scun out, when
4 you were doing the climbing sticks?

5 A. Yes.

6 Q. The -- You remember that the conversation with
7 Mike happened after the news of Teresa Halbach's
8 disappearance had been on TV?

9 A. Yes.

10 Q. That you are certain of?

11 A. Yes, it was that day.

12 Q. After it was on TV?

13 A. Yes.

14 Q. Okay. Now Thursday night, November 3rd, you
15 would have gone to work?

16 A. Yes.

17 Q. You would have left for work about 9:30?

18 A. Yes.

19 Q. To be there a little bit before your 10:00 shift?

20 A. Yes.

21 Q. Friday nights you don't have to work?

22 A. No.

23 Q. That is, for you, the workweek ends at 6:00 on
24 Friday morning, right, but it starts up again at
25 10:00 on Sunday night?

1 A. Yes.

2 Q. Actually Friday night and Saturday night are your
3 -- it's your weekend?

4 A. Yes.

5 Q. So Friday night, 6:30 or 7, Mike's over and you
6 don't have to go to work that night?

7 A. Yes.

8 Q. But you have heard the night before -- or not you
9 I guess but -- the night before the news has been
10 on the TV about Ms Halbach disappearing?

11 A. Yes.

12 Q. The -- Let me -- Let me just get that up on the
13 screen so the jury can see the date on it. Boy,
14 that's tough it washes out. This isn't a picture
15 you took?

16 A. No.

17 Q. That's deer blood on the left --

18 A. Yes.

19 Q. -- side? We can't do it this way, but what I'm
20 looking at is way over on the right side of this
21 tag. It says date of issuance of the permit/tag;
22 do you see that?

23 A. Yes.

24 Q. And what is the date of issuance of the
25 permit/tag?

1 A. 11-04-05.

2 ATTORNEY STRANG: Your Honor, maybe I will
3 just, if I may, just pass this around the jury in
4 the old-fashioned way.

5 THE COURT: Any objection?

6 ATTORNEY KRATZ: No.

7 THE COURT: Go ahead.

8 Q. (By Attorney Strang)~ As you and Mike were
9 putting these climbing sticking pads on the deer
10 stand, your Uncle Steven walked over to the
11 garage?

12 A. Yes.

13 Q. Came in. He and Mike had some conversation?

14 A. Yes.

15 Q. You didn't catch the first part of the
16 conversation, I gather?

17 A. Yes.

18 Q. That is, I mean you did not catch?

19 A. No, I didn't.

20 Q. So you don't personally know whether Mike started
21 the conversation or Steve did?

22 A. No, I don't.

23 Q. What you caught was Steve making a joke about,
24 want to help me get rid of a body, or dispose of
25 a body, something like that?

1 A. Yes.

2 Q. That was clear to you it was a joke?

3 A. Yes.

4 Q. Mike laughed?

5 A. Yes.

6 Q. You laughed?

7 A. Yes.

8 Q. And Steve followed that up by saying something
9 like, people go missing all the time, and this
10 girl may have left for Mexico?

11 A. Yes.

12 Q. Did you guys laugh about that too?

13 A. Yes.

14 Q. Was this the first you learned that Teresa
15 Halbach was missing?

16 A. Yes.

17 Q. But one or both of them, from a conversation, had
18 seen it on TV?

19 A. Yes.

20 Q. What the TV had said -- well, I guess you hadn't
21 seen the TV, but you eventually did see TV
22 reports?

23 A. Yes.

24 Q. Of Ms Halbach missing? And it described her as
25 missing?

1 A. Yes.

2 Q. At least for the first several days?

3 A. Yes.

4 Q. Now, you, I think beginning on November 5, which
5 is the day you tried to come home and found Jambo
6 Creek Road blocked off?

7 A. Yes.

8 Q. Saturday?

9 A. Yes.

10 Q. Okay. Beginning that day, you were coming home
11 to try to get your labrador puppy back after
12 goose hunting?

13 A. Yes.

14 Q. In the morning?

15 A. Yes.

16 Q. With Mike, again, actually, right?

17 A. Yes.

18 Q. Okay. So you come back and you can't get to your
19 house because the police have the road blocked
20 off?

21 A. Yes.

22 Q. Beginning that, right then and there, for
23 probably over three hours that Saturday,
24 November 5, you've talked to the police a number
25 of times?

1 A. Yes.

2 Q. About the investigation into Teresa Halbach's
3 disappearance and death?

4 A. Yes.

5 Q. It was a little over three hours, as you recall,
6 that first day, Saturday, before you could get
7 your dog back?

8 A. Yes, it was about three and a half hours.

9 Q. Okay. And then, at least two other times, you
10 were interviewed in the weeks, or days, weeks,
11 months following Teresa Halbach's disappearance?

12 A. Yes.

13 Q. In any one of those conversations with the
14 police, did any police officer ever ask you about
15 this joke that you overheard between Mike and
16 Steve in the garage?

17 A. No.

18 Q. If we go back to Friday, November 4, again, later
19 in the night, do you remember either yourself or
20 your Uncle Steven getting a call, probably on a
21 cell phone, from your Uncle Chuck?

22 A. No.

23 Q. Something about having seen headlights back by
24 his house?

25 A. Not that I remember.

1 Q. And asking you guys to check it out?

2 A. Not that I remember.

3 Q. You have no recollection at this point, now, of
4 having driven down in the pit to see if you and
5 Steve could find the source of these headlights
6 Chuck was talking about?

7 A. Not that I remember.

8 Q. Okay. But you stayed home that weekend, you did
9 not go up to Crivitz?

10 A. Yes.

11 Q. You were asked yesterday, by Mr. Kratz, about --
12 I'm sorry, I'm going to go back to Monday,
13 October 31. I'm hopping around a little bit, but
14 we're back to Monday, October 31. You were asked
15 whether you heard a telephone call come in from
16 Teresa Halbach at about 11:45 in the morning?

17 A. No.

18 Q. That is, you were sleeping then?

19 A. Yes.

20 Q. And you are a sound sleeper?

21 A. Yes.

22 Q. The answering machine is in the living room?

23 A. Yes.

24 Q. Which is sort of next to and west of your
25 bedroom?

1 A. Yes.

2 Q. But it's not in your room?

3 A. No.

4 Q. That answering machine is the kind that, I mean
5 you have heard calls come in to the answering
6 machine, I take it?

7 A. Yes.

8 Q. Just not this one?

9 A. No.

10 Q. When a call comes in and you don't answer and it
11 goes to the answering machine, this is the kind
12 of answering machine where you hear the caller
13 leaving the message?

14 A. Yes.

15 Q. It's like a speaker phone, it broadcasts, so to
16 speak?

17 A. Yes.

18 Q. Okay. But even with that, you didn't hear Teresa
19 Halbach leave her message?

20 A. No.

21 Q. You had I think said, yesterday, that on
22 Halloween, you had no reason to be in your Uncle
23 Steven's garage?

24 A. Yes.

25 Q. That's true.

1 A. (No verbal response.)

2 Q. Now, you had been in that garage on various times

3 before?

4 A. Yes.

5 Q. Been in there since?

6 A. Yes.

7 Q. Typically, if you were going to go in Steven's

8 garage, it would be because he was asking for

9 your help on fixing a car or a snowmobile or

10 something?

11 A. Yes.

12 Q. He would ask your help occasionally?

13 A. Yes.

14 Q. Ask for Brendan's help occasionally?

15 A. Yes.

16 Q. Ask for Blaine's help occasionally?

17 A. Yes.

18 Q. Maybe Brian, your older brother, when he still

19 lived there?

20 A. Yes.

21 Q. When you got up that afternoon, on Halloween, and

22 you happened to look out the window, you see the

23 woman you now know as Teresa Halbach?

24 A. Yes.

25 Q. Your recollection is that she was wearing a black

1 coat?

2 A. Yes.

3 Q. It came down below her hips?

4 A. Yes.

5 Q. That she was wearing trousers?

6 A. Yes.

7 Q. They were black?

8 A. I do not know the color.

9 Q. It's been a while since then, but one of the
10 times you talked to the police, specifically a
11 Calumet County investigator named John Dederling,
12 was back in February, February 27 of 2006, coming
13 up on a year ago?

14 A. Yes.

15 Q. Back then, when you were talking to Investigator
16 Dederling, the events of Halloween, 2005, were a
17 little fresher in your mind?

18 A. Yes.

19 Q. Did you try to tell Investigator Dederling the
20 truth as best you recalled it when you talked
21 with him?

22 A. Yes.

23 Q. Not just on February 27, but each time you talked
24 to him?

25 A. Yes.

1 Q. You knew it was important to give him accurate
2 details if you could?

3 A. Yes.

4 Q. You think reviewing his report might help refresh
5 your recollection about what exactly Ms Halbach
6 was wearing that day you saw her?

7 A. Yes.

8 (Exhibit No. 124 marked for identification.)

9 ATTORNEY STRANG: Just going to put an
10 exhibit sticker on this so we know what we're
11 talking about.

12 Q. (By Attorney Strang)~ I'm going to show you
13 Exhibit 124, which is just Investigator
14 Dederling's report. And I want you just to read
15 this to yourself. You are welcome to look at all
16 of it, or any of it, if you want to. I thought
17 that this paragraph on Page 2 of the report might
18 be the most helpful. But you look at whatever
19 you want, just read it to yourself. All done?

20 A. Yes.

21 Q. Okay. Does that help you remember today a little
22 better what Ms Halbach was wearing back on
23 Halloween, 2005?

24 A. Yes.

25 Q. When you saw her? Was it black trousers you saw?

1 A. I honestly don't remember now.

2 Q. You don't. What did this help you remember?

3 A. That she was wearing black trousers.

4 Q. Okay. That's at least what you told Investigator

5 Dedering, back when this was fresher in your

6 mind?

7 A. Yes.

8 Q. But you cannot recall what color her top was?

9 A. No.

10 Q. What you saw Ms Halbach do, as you were looking

11 out that kitchen window you described, or the

12 window near the kitchen, you saw her taking a

13 photograph or two of the van, right?

14 A. Yes.

15 Q. And then you go hop in the shower?

16 A. Yes.

17 Q. Very quick shower you told us yesterday?

18 A. Yes.

19 Q. Three, four minutes?

20 A. Yes.

21 Q. Okay. And then the next time you can look out

22 the window, presumably you have put some clothes

23 on?

24 A. Yes.

25 Q. So that takes a minute or two, or what?

1 A. Yes.

2 Q. Do you look out the same window then again?

3 A. Yes.

4 Q. And now you see her sort of walking towards your
5 Uncle Steven's trailer?

6 A. Yes.

7 Q. Not too long after that, you leave the house with
8 your bow to go hunting?

9 A. Yes.

10 Q. Her SUV is still there?

11 A. Yes.

12 Q. But you don't see her?

13 A. No.

14 Q. And you don't see your Uncle Steven at the
15 moment?

16 A. No.

17 Q. You are not looking for either one of them?

18 A. No.

19 Q. You are just going out to get in your truck?

20 A. Yes.

21 Q. Your truck is the other direction, so to speak,
22 it's away from Steven's house?

23 A. Yes.

24 Q. Tell -- I guess tell the jury, did you hear a lot
25 of horrible screaming when you came walking out

1 with the bow?

2 A. No, I didn't hear anything.

3 Q. Anybody crying for help?

4 A. No.

5 Q. Was there any background noise, that you
6 remember, that would have blocked out those sort
7 of sounds?

8 A. Not that I remember.

9 Q. Did you, as you drove off then to go deer
10 hunting, it's what, 2:45, or 3, somewhere in
11 that --

12 A. Yes.

13 Q. -- range?

14 A. Yes.

15 Q. The deer I guess probably, in general, aren't
16 going to be up out of their beds and feeding,
17 looking around for food in November until close
18 to dusk?

19 A. Yes.

20 Q. You are just driving 2 miles to your little
21 hunting area?

22 A. Yes.

23 Q. By yourself?

24 A. Yes.

25 Q. Is it that you like to get up in the stand

1 especially early?

2 A. Yes.

3 Q. So you don't spook the deer or something?

4 A. Yes.

5 Q. Okay. Even if you are going to have to wait a
6 couple hours for dusk?

7 A. Yes.

8 Q. Anybody see you --

9 A. Yes.

10 Q. -- as you are going hunting? Who?

11 A. Scott Tadych.

12 Q. Scott Tadych?

13 A. Yes.

14 Q. Okay. Was he a friend of your mom's at that
15 point?

16 A. Yes.

17 Q. How do you know he saw you?

18 A. Because I passed him on the highway.

19 Q. Okay. And what you told Investigator Dederling is
20 that Mr. Tadych would be available to verify
21 precisely what time he had seen you?

22 A. Yes.

23 Q. Why did you think that?

24 A. Maybe he looked at his clock in his truck.

25 Q. You hadn't -- Had you talked with him about --

1 with Mr. Tadych, about whether he could verify
2 precisely when he saw you?

3 A. No.

4 Q. You were just kind of hoping or guessing that
5 maybe he could?

6 A. Yes.

7 Q. What -- What sort of -- Well, you were bow
8 hunting that day, do you also participate in the
9 gun season for deer?

10 A. Yes.

11 Q. What do you use as a deer rifle?

12 A. .30-06.

13 Q. Is that yours?

14 A. Yes.

15 Q. Do you have any other guns?

16 A. Yes.

17 Q. What other long guns?

18 A. I have shotguns, mostly all shotguns.

19 Q. Mostly all shotguns. But back at the end of
20 October, 2005, you also had a .22 caliber rifle?

21 A. Yes.

22 Q. Marlin?

23 A. Yes.

24 Q. Semi-automatic?

25 A. Yes.

1 Q. And then your mom had a bolt action .22 rifle in
2 her bedroom, right?

3 A. Yes.

4 Q. You kept your Marlin .22 semi-automatic in your
5 bedroom?

6 A. Yes.

7 Q. Mr. Dassey, just to finish, are you quite sure
8 now whatever details you don't remember of
9 Halloween, 2005, today, are you quite sure now
10 that you woke up and got up sometime by 2:30, or
11 a little before?

12 A. Yes.

13 Q. You said yesterday that Blaine and Brendan were
14 still in high school, got home usually what,
15 3:40, 3:45, somewhere in there?

16 A. Yes.

17 Q. And that was regular every day?

18 A. Yes, every day.

19 Q. Because they took a school bus to and from
20 school?

21 A. Yes.

22 Q. School lets out at the same time, the bus runs
23 the same route, that they were pretty regular.

24 A. Yes.

25 Q. And are you quite sure that Blaine and Brendan,

1 coming home that Halloween, 2005, were not the
2 ones who found you still asleep and awakened you?

3 A. No.

4 Q. And if Blaine told the police that you were still
5 sleeping at 3:40, or 3:45, when he got home from
6 the school bus, and that you awoke after he got
7 home, Blaine is just mistaken?

8 A. Yes.

9 ATTORNEY STRANG: That's all I have.
10 Thanks.

11 **REDIRECT EXAMINATION**

12 BY ATTORNEY KRATZ:

13 Q. Mr. Dassey, you stated today on cross-examination
14 that you believe that you saw Teresa walking
15 towards your Uncle Steve's trailer after your
16 shower; is that right?

17 A. Yes.

18 Q. But you had seen her arrive before your shower?

19 A. Yes.

20 Q. Did you see where Ms Halbach parked her SUV?

21 A. Yes.

22 Q. Where was that?

23 A. Just in front of the van, on the north side of
24 the driveway.

25 Q. No obstruction to your view of that?

1 A. No.

2 Q. Mr. Strang showed you a police report, an
3 investigative report prepared by Investigator
4 Dederling; did you get a chance to look at that
5 today?

6 A. Yes.

7 Q. Have you had a chance to look at that before
8 today, that you can recall?

9 A. Yes.

10 Q. When I asked yesterday, when the last time you
11 saw a fire at Steve's burn area was --

12 ATTORNEY STRANG: Scope.

13 Q. -- do you recall what your answer was?

14 ATTORNEY STRANG: Scope.

15 THE COURT: Just a second, there's an
16 objection that it's beyond the scope of redirect; is
17 that correct?

18 ATTORNEY STRANG: Of cross, yes. Beyond
19 the scope of cross, so it's not proper redirect.

20 ATTORNEY KRATZ: It's what else he told
21 Investigator Dederling. He showed him the very
22 exhibit that I'm intending to refer to.

23 THE COURT: No. I don't think that's
24 enough. It wasn't something that was dealt with on
25 cross, so I'm going to sustain the objection.

1 ATTORNEY KRATZ: All right.

2 Q. (By Attorney Kratz)~ You said that you saw Scott
3 Tadych on the way to deer hunting. About what
4 time was it that you saw him; do you recall?

5 A. Quarter to three.

6 Q. About 2:45 p.m.?

7 A. Yes.

8 Q. So you had already seen Teresa Halbach by 2:45
9 and, in fact, had already left your residence; is
10 that right?

11 A. No, she was still there.

12 Q. What I'm saying is, you had already seen her?

13 A. Oh, yes.

14 Q. And had left your residence --

15 A. Yes.

16 Q. -- by 2:45?

17 A. Yes.

18 Q. Mr. Strang, asked if you heard any screaming or
19 if you heard any other noises when you got into
20 your truck; were you listening for anything like
21 that?

22 A. No.

23 Q. How long does it take from exiting your trailer
24 until you get into your truck; how far of a
25 distance was that?

1 A. Maybe 10 feet. I had it parked right in front of
2 the door.

3 Q. How long would it take to get into your car?

4 A. Maybe 10 seconds.

5 Q. Oh, so in those 10 seconds, you didn't hear any
6 screaming or any calls for help --

7 A. No.

8 Q. -- is that right?

9 ATTORNEY KRATZ: I think that's all, Judge.
10 Thank you.

11 ATTORNEY STRANG: No recross, your Honor.

12 THE COURT: Very well. Mr. Dassey you are
13 excused.

14 ATTORNEY STRANG: Your Honor, I will move
15 Exhibit 123 -- or Exhibit 123, 124 was used only to
16 refresh.

17 THE COURT: Any objection?

18 ATTORNEY KRATZ: No.

19 THE COURT: Very well, the exhibit is
20 admitted.

21 ATTORNEY STRANG: And we could probably
22 have just a quick minute at side bar.

23 THE COURT: All right.

24 (Side bar taken.)

25 THE COURT: Members of the jury, I'm going

1 to excuse you for a couple minutes. I don't believe
2 this is going to turn into our morning break, so I
3 will excuse you for a few minutes and we'll call you
4 back as soon as we're ready to proceed. Again, as
5 always, do not discuss the case during the break.

6 (Jury not present.)

7 THE COURT: You may be seated. Mr. Strang.

8 ATTORNEY STRANG: As I understand the
9 narrow point of disagreement of the unreported side
10 bar, Mr. Kratz is under the belief that I had asked
11 all the questions that -- on which we sought a
12 stipulation on Michael Osmunson's testimony and that
13 he left them go by without hearsay objection so that
14 there was no need for a stipulation.

15 And I did not ask all the questions,
16 there remains a couple of important points that I
17 did not inquire about and that I do want the
18 stipulation on. I did ask one important one and
19 we could leave that off now. I agree there is no
20 need for a cumulative stipulation on that. The
21 point I did not go into, because Mr. Dassey
22 testified here on cross that he didn't hear the
23 beginning of the conversation. And I think he
24 said he doesn't -- or agreed he didn't recall
25 whether Michael started it or Steve started the

1 conversation.

2 So what I -- what I would need is,
3 Michael indicated he was aware of Steven was one
4 of the last people to see the missing girl and
5 jokingly asked Steven if Steven had her, the
6 missing girl, in a closet. That's the -- that's
7 the chunk of it, the start of the conversation
8 that I didn't cover and could not cover with
9 Brendan Dassey because --

10 ATTORNEY KRATZ: Bobby Dassey.

11 THE COURT: Bobby Dassey, you meant?

12 ATTORNEY STRANG: I'm sorry, Bobby Dassey,
13 yes. Because he -- he did not hear it. I did cover
14 the Mexico statement. Steven stated that people go
15 missing all the time and the girl may have left for
16 Mexico. I think I did cover that. Mr. Kratz didn't
17 object. We can omit that from the stipulation at
18 this point. Again, I'm not looking to make it
19 cumulative.

20 THE COURT: All right. I should note,
21 before I hear from Mr. Kratz, that the purpose of
22 the side bar was counsel asking the Court for an
23 opportunity to bring this matter to the Court's
24 attention. Very short side bar. I heard no
25 argument from either party during the side bar, but

1 simply excused the jury so that I could hear
2 argument at this time.

3 ATTORNEY STRANG: That's right. And,
4 again, that side bar was at defense request.

5 THE COURT: Mr. Kratz.

6 ATTORNEY KRATZ: Judge, I have no objection
7 to the Court reading those, which would now be those
8 three sentences that were asked by stipulation,
9 omitting the paragraph that starts with, "according
10 to Michael". And also, as Mr. Strang had alerted
11 the Court early this morning, the sentence that
12 begins, "Michael stated he had just learned", that
13 sentence to be omitted.

14 But the balance of that paragraph,
15 beginning with, "he stated he and Bobby", and
16 ending with the phrase, "missing girl", with the
17 one sentence being omitted. If that's going to
18 end this issue, Judge, I don't have any objection
19 to agreeing that that be provided to the Court.
20 Make sure that the Court has omitted or crossed
21 out that one line, Michael stated he had learned.
22 But other than that, Judge, we'll agree to that
23 stipulation.

24 THE COURT: I'm going to ask someone to
25 read to me what it is you do want presented to the

1 jury, because I'm having trouble following this.

2 ATTORNEY STRANG: I will read it just as I
3 would propose to read it to the jury. If he were
4 called to testify, Michael Osmunson, the parties
5 agree, would testify that he stated he and Bobby
6 were inside the Dassey garage when Steven came over.
7 Michael indicated he was aware Steven was one of the
8 last people to see the missing girl and jokingly
9 asked Steven if Steven had her, the missing girl, in
10 a closet.

11 At this point, Steven asked Michael if
12 Michael wanted to help bury the body, and they
13 laughed about this together. He once again
14 indicated, that is, Mr. Osmunson once again
15 indicated he thought Steven might have been the
16 last one to see the missing girl.

17 THE COURT: And that's what the State is
18 agreeing?

19 ATTORNEY KRATZ: That's just fine, Judge.

20 ATTORNEY STRANG: And -- Well, okay.
21 Mr. Buting points out that the next sentence,
22 according to, is different than the testimony that I
23 elicited from Mr. Dassey. I did -- I did -- I don't
24 remember exactly the words now, I got into something
25 about maybe she went to Mexico, as I recall, but ...

1 THE COURT: Well, I'm not going to, from
2 the bench, impose a stipulation on the parties.

3 ATTORNEY STRANG: Right.

4 THE COURT: If you folks have an agreement
5 and you wish to read something to the jury and each
6 of you agrees to it, I will allow you to do that.

7 ATTORNEY KRATZ: Counsel asked the question
8 about, she may have gone to Mexico, we do object to
9 that. We don't object to the other part of the
10 stipulation, once again, as I indicated, to put this
11 matter to rest.

12 THE COURT: And, Mr. Strang, you are going
13 to present that to the jury as a stipulation.
14 Mr. Kratz will agree on the record. I will let the
15 jury know that it's a stipulation and they can take
16 it as evidence.

17 ATTORNEY STRANG: Okay. No problem with
18 my, in the last sentence there, for context, saying
19 Mr. Osmunson once again, instead of he once again?

20 ATTORNEY KRATZ: That's fine.

21 THE COURT: Very well. All right. We'll
22 bring the jurors back in. Mr. Kratz, I would like
23 to take the morning break about 10:30, so if you are
24 still in your direct --

25 ATTORNEY KRATZ: I will stop.

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THE COURT: -- stop.

(Jury present.)

THE COURT: You may be seated. Members of the jury, before we proceed to the next witness, the parties have a stipulation to put on the record. Mr. Strang.

ATTORNEY STRANG: Thank you, your Honor. The parties, I think, have agreed that if -- if he were called to testify, a man named Mike Osmunson would testify that he stated he and Bobby were inside the Dassey garage when Steven came over. Michael indicated he was aware Steven was one of the last people to see the missing girl and jokingly asked Steven, if Steven had her, the missing girl, in a closet.

At this point Steven asked Michael if Michael wanted to help bury the body, and they laughed about this together. Mr. Osmunson once again indicated he thought Steven might have been the last one to see the missing girl.

THE COURT: Mr. Kratz, is that the State's understanding of the stipulation?

ATTORNEY KRATZ: It is, Judge.

THE COURT: Very well. Members of the jury, based on that stipulation, you may accept the

1 facts read by Mr. Strang as evidence in this case.
2 At this time, Mr. Kratz, you may call your next
3 witness.

4 ATTORNEY KRATZ: The State would call Brett
5 Bowe.

6 THE CLERK: Please raise your right hand.

7 **LIEUTENANT BRETT BOWE**, called as a
8 witness herein, having been first duly sworn, was
9 examined and testified as follows:

10 THE CLERK: Please be seated. Please state
11 your name and spell your last name for the record.

12 THE WITNESS: Brett James Bowe, B-o-w-e.

13 **DIRECT EXAMINATION**

14 BY ATTORNEY KRATZ:

15 Q. Mr. Bowe, how are you employed?

16 A. Patrol lieutenant with Calumet County Sheriff's
17 Department.

18 Q. How long have you been so employed?

19 A. Two years.

20 Q. And prior to that particular rank, could you tell
21 the jury how you were previously employed?

22 A. I started with the Sheriff's Department as a
23 jailer, became a patrolman, then a patrol
24 lieutenant -- patrol sergeant and then eventually
25 a lieutenant.

1 Q. What are your duties, currently, as a lieutenant?

2 A. I supervise the patrol staff.

3 Q. Sometime after November 5th of 2005, did you
4 become involved in the investigation that brings
5 us here to court today?

6 A. Yes, I did.

7 Q. When did you first become involved in that
8 investigation?

9 A. Sunday morning, the 6th.

10 Q. And would you tell the jury how you first became
11 involved?

12 A. I was contacted Saturday night and asked to come
13 to the scene to assist with taking control of the
14 Command Post.

15 Q. What is a Command Post?

16 A. It's a central location in a crime scene that we
17 utilize for staging and organizing the activities
18 that we're going to carry out during the day.

19 Q. Are there duties or were there, I should say.
20 The week of the 5th through the 12th, were there
21 duties in assuming responsibility for the Command
22 Post that you performed?

23 A. Yes, there were.

24 Q. And why don't we talk about, generally, those
25 duties. We'll talk specifically in just a few

1 minutes, but talk about generally what those
2 duties include.

3 A. The primary duty was scheduling and making sure
4 that there was security around the property
5 during the evening hours and during the day.
6 There were also numerous large scale searches
7 that went on at the property, or around the
8 property. And we were provided personnel to do
9 that and then we organized that.

10 Q. The Avery salvage property itself, that 40 acre
11 parcel, were you one of the officers responsible
12 for securing that area, again, between the 5th
13 and 12th of November?

14 A. Yes, I was.

15 Q. Describe for the jury, if you will, the security
16 on the perimeter, that is, the 40 acres. We're
17 going to talk a little bit outside of that in
18 just a minute, but let's first talk about the 40
19 acre perimeter. Could you describe for the jury
20 how that area was secured?

21 A. We stationed an officer at the four corners of
22 the property. One of the corners was the Command
23 Post, so there were always several people in that
24 position. And then we had an officer in the
25 remaining three corners with a squad car.

1 Q. I'm showing you what's first been marked as
2 Exhibit No. 79; can you tell us what that is
3 please.

4 A. This is an overview photo of a majority of the
5 40 acres.

6 Q. All right. I think we have a better way to show
7 these today. I'm hoping at least. Actually,
8 Officer, we're going to, because there's a couple
9 of technical issues that we're going to do during
10 the break, I'm just going to talk through this
11 and then after our morning break we'll be able to
12 look at some exhibits.

13 You talked about the four corners,
14 though, of the 40 acre property and that you had
15 people posted there. During what period of time
16 were they posted and was this a around the clock
17 thing, or describe that for the jury?

18 A. Most of the time it was around the clock. During
19 the day when there were a large number of people
20 in a certain area, we may utilize that security
21 person to assist those people in the area,
22 because they really hadn't left that area any
23 way.

24 At night those people stayed in their
25 positions through the entire night. And then if

1 there was no activity in that area they stayed in
2 that position also.

3 Q. We have talked about the 40 acre property, then,
4 let's go beyond that. Can you describe the area
5 that surrounds the Avery property?

6 A. To the north of the Avery property is State
7 Highway 147; running to the east of it would be
8 Jambo Creek Road; and to the west of it was
9 County Q. The Avery property is south of 147 and
10 there's a small dead end road, Avery Road, that
11 leads into the 40 acres.

12 Q. Were you familiar that sometime after 10:30 in
13 the morning, on Saturday the 5th of November,
14 that law enforcement officers took control of the
15 Avery property?

16 A. Yes, they did.

17 Q. Was there a law enforcement presence or security
18 perimeter set up outside of the 40 acres?

19 A. Yes, there was. There was an officer at the
20 intersection of 147 and Q, that when I arrived
21 Sunday morning was in place. There was also an
22 officer -- Between that and Avery Road, there is
23 a road that runs north off 147. There was an
24 officer there keeping individuals from coming
25 down onto 147. And then there was an officer at

1 Jambo Creek Road with the intersection of 47
2 (sic). There was also an officer at the end of
3 Avery Road that was checking people in and out of
4 the property.

5 Q. This responsibility for security, was that yours
6 alone or was that shared?

7 A. The security on the property was shared with
8 Lieutenant Sippel.

9 Q. So the jury knows, who is Lieutenant Sippel.

10 A. He would be the dispatch lieutenant for the
11 Calumet Sheriff's Department.

12 Q. Works for Calumet --

13 A. Yes.

14 Q. -- County? At that scene, Lieutenant Bowe, who
15 did you take direction from?

16 A. I took direction from Sheriff Pagel and
17 Investigator Wiegert and Agent Fassbender.

18 Q. And Investigator Wiegert and Special Agent
19 Fassbender, what was their role, if you know, at
20 the scene?

21 A. I believe they were lead investigators.

22 Q. I know you talked about security, or the
23 perimeter security, were you also involved of
24 security within the 40 acres? I mean, not just
25 the four corners, but also other security issues?

1 A. Generally, no. If there was something specific,
2 I would make arrangements to get people for them,
3 but then they would place them where they needed
4 them.

5 Q. You may not know this, Lieutenant Bowe, but how
6 many law enforcement officers were involved in
7 this search effort; do you know?

8 A. Total?

9 Q. Yes.

10 A. I don't know.

11 Q. All right. Other than security, your other
12 responsibility, you talked about coordinating
13 some of the searches; is that right?

14 A. Correct.

15 Q. Which areas of search responsibility did you
16 have?

17 A. Any time there was a large scale search, we
18 coordinated that. There were two large scale
19 searches inside the salvage yard and there were
20 two large scale searches outside the property.
21 There was also -- the Winnebago Dive Team was on
22 scene, so we coordinated that.

23 Q. Let's take them in reverse order. Talking about
24 the dive team, what was the dive team asked to
25 do?

1 A. The dive team was called in on Sunday, the 6th
2 and Monday the 7th. They were asked to dive any
3 of the surrounding bodies of water. There was
4 several gravel pits or stone quarries around this
5 property and there was water collecting in those.
6 So they were asked to come in and search those
7 areas.

8 Q. Do you know what they were searching for?

9 A. Evidence, anything, a body, any property that may
10 have belonged to Ms Halbach.

11 Q. All right. And what kind of -- you talk about
12 the surrounding property, what kind of acreage or
13 area are we talking about?

14 A. Inside the roadways that we were talking about,
15 there's over 500 acres. And we did search
16 outside that to some extent, too.

17 Q. So were all 500 acres searched?

18 A. There were probably portions of it that were not
19 searched. There were some wooded areas that were
20 searched with dogs, but didn't get the massive
21 search that we did in some other areas.

22 Q. Other than the heavily wooded areas, would you
23 say the other, or the balance of the 500 acres
24 was searched --

25 A. Yes.

1 Q. -- by law enforcement?

2 A. Yes, it was.

3 Q. The coordination of these large scale efforts
4 like the dive team that you mentioned; who would
5 you directly speak with? Would it be the
6 searchers or was there an intermediary usually?

7 A. What we would do is we would put a representative
8 from the Sheriff's Department, one of our
9 deputies, with each group. We would break them
10 down into 10 man groups.

11 Q. Let me stop you there. When you say our
12 deputies, who are you talking about?

13 A. Calumet Sheriff's Department.

14 Q. Go ahead.

15 A. We would communicate with our deputies which area
16 we wanted to search, if we were looking for
17 anything in particular. And they would relay
18 that to the individuals that were in their group.
19 They would notify us when they were going out,
20 when they were searching, and when they completed
21 their search. So we communicated directly with
22 the Calumet officer that was with the team.

23 Q. You talked about the dive team, let's talk about
24 the search areas outside of the 40 acres. I'm
25 talking -- I'm excluding the Avery property

1 itself. And can you describe those large scale
2 searches for us, please.

3 A. A majority of that was either open field or
4 quarries. What we would do is we would take a
5 section of it and we would send our teams out to
6 search that area. They would let us know when
7 they were completed and then we would determine
8 which additional area to send them to.

9 The dive team searched four ponds
10 directly around the Avery property on Sunday.
11 And then on Monday they moved to a another quarry
12 that was south of Jambo Creek Road and they
13 searched two large ponds there.

14 Q. Were the ponds left intact or were the ponds
15 disturbed at all to due to the searching?

16 A. The ponds that the dive team searched were left
17 intact.

18 Q. Were there other ponds that were examined?

19 A. There were.

20 Q. Tell us about that, please.

21 A. There were five silt ponds that were located at
22 Radandt's main headquarters for their quarry.
23 They utilized those for washing rock. The water
24 would run into one pond and it would kind of go
25 from pond to pond until it got to the last one

1 and most of the dirt would be gone and they would
2 pump it out and use it again. The dive team
3 determined that they couldn't dive those because
4 they were -- there was too much sludge in them
5 from the dirt they had washed off. So Radandt
6 agreed to dig two of those ponds out while we
7 watched them do it.

8 Q. All right. I think I may have interrupted you
9 about the other outlying property searches. You
10 said that they were open field searches. Then
11 you mentioned the dive team and I think that's
12 where I interrupted you. What other kind of
13 searches were in the outlying areas?

14 A. Included in the open field, there were also
15 quarries. There's quarries all over in that
16 area. So our teams would go from an open field
17 and then they would have to work their way into a
18 quarry and they would search the quarry.
19 Probably half of them were inactive at the time,
20 or even more. So they would cover that area.

21 Q. How many officers were involved in those large
22 scale searches, if you know?

23 A. It varied by day. One day we had 60 troopers
24 that were involved. On Sunday when we did the
25 initial exterior search, we had 30 officers

1 accompanied by 60 firemen.

2 Q. All right. So anywhere between 60 and 90 people
3 searching at a time; is that right?

4 A. Correct.

5 Q. And, again, for how many days did these searches
6 occur?

7 A. On two separate days we searched the exterior of
8 the property. And on two days we searched the
9 interior of the property.

10 Q. All right.

11 A. So four days total.

12 Q. When we come back from the break, we'll talk
13 about the interior of the property. But is there
14 anything that we have left out on the exterior,
15 any searches that you haven't described on the
16 exterior of the Avery property?

17 A. Other than the searching with the dogs. On the
18 first three days that I was involved, we had dogs
19 on scene. So we would couple those up with
20 Calumet officers and we would send them to
21 different areas around the property and just have
22 them run their dogs through that property. The
23 majority of what they ran through, we searched by
24 hand again, later.

25 Q. Were those the --

1 A. Search and rescue dogs.

2 Q. Searching for evidence, or searching for body, or
3 both?

4 A. Searching for body.

5 ATTORNEY KRATZ: This might be a good time
6 then for our morning break. Thank you.

7 THE COURT: All right. Members of the
8 jury, we'll take our morning break at this time.
9 We'll resume in 15 minutes. Again, do not discuss
10 the case during the break.

11 (Jury not present.)

12 THE COURT: Counsel, we'll resume, then, at
13 10:45.

14 ATTORNEY KRATZ: Thank you.

15 (Recess taken.)

16 THE COURT: Mr. Kratz, you may continue
17 your direct examination.

18 ATTORNEY KRATZ: Thank you.

19 **DIRECT EXAMINATION, CONTD**

20 BY ATTORNEY KRATZ:

21 Q. Lieutenant, in front of you is Exhibit No. 79.
22 Could you tell us what that is, please.

23 A. This is an overhead photo of a partial view of
24 the Avery property.

25 Q. And you recognize that aerial photograph?

1 A. Yes, I do.

2 Q. And as I mentioned, I think this will work better
3 today. I'm hopeful anyway. The jury is now
4 seeing Exhibit No. 79; is that correct?

5 A. Correct.

6 Q. And will this photograph help you explain some of
7 the interior, or at least large scale searches
8 from within that property?

9 A. Yes, it will.

10 Q. All right. How were search teams assembled?

11 A. As I said, the personnel would be provided to me,
12 be it State troopers, or deputies, or firemen.
13 We would then break them down into groups of
14 about 10 individuals and we would have a leader
15 for that group who would normally be a deputy
16 from the Calumet Sheriff's Department. We would
17 coordinate everything through that officer and
18 then he would give the people under him the
19 information that they needed. And they would
20 report to him anything that they found.

21 Q. I know that you mentioned law enforcement and
22 some others, but what other type of individual
23 were utilized in these search efforts?

24 A. Volunteer firemen.

25 Q. Referring then to Exhibit No. 79, describe, if

1 you will, the first large scale search operation?

2 A. The first large scale search operation was in the
3 salvage yard. It was on Sunday afternoon. We
4 utilized approximately 50 firemen. We utilized
5 approximately 50 firemen along with at least a
6 dozen officers, broke them into groups.

7 There are approximately 4,000 salvaged
8 vehicles on the property. We had the firemen go
9 through the salvaged vehicles, opening the trunks
10 and hoods of every vehicle.

11 Q. That first search was when, I'm sorry?

12 A. That was Sunday.

13 Q. The 6th?

14 A. Yes.

15 Q. What were you looking for?

16 A. We were looking for a body.

17 Q. Referring, again, to Exhibit No. 79, could you
18 show us the cars that you are talking about?

19 A. Everything down in this area up through here,
20 around. It actually extends a little further
21 back to this side, but these are all salvaged
22 vehicles. There's a couple up in this area here.

23 Q. Were you present during that large scale search?

24 A. Yes, I was.

25 Q. And what was required to look in these vehicles?

1 A. As far as what, to open them?

2 Q. Yes.

3 A. The firemen used crowbars or they used their
4 hooligan tools that they had with them. And they
5 would open the trunks and the hoods, just verify
6 that there wasn't a body inside the vehicle.

7 Q. On the 6th of November, was every vehicle
8 searched; that is, all 4,000 vehicles?

9 A. Yes, they were.

10 Q. Was some method that you or somebody else
11 developed for how a vehicle -- how you knew a
12 vehicle was searched or not?

13 A. The individual groups had crime scene tape or had
14 caution tape. They would either mark the
15 individual vehicles as they searched them, or as
16 you can see, the vehicles are in fairly big
17 groups; one group would start on the end. They
18 would work their way to the other end and then
19 they would mark the two ends with caution tape so
20 that everybody would know that that group of
21 vehicles had been searched.

22 Q. All right. What was the next large scale search
23 that you were involved in coordinating?

24 A. On the property?

25 Q. Yes.

1 A. The next large scale search was on Tuesday, it
2 involved 60 State troopers and approximately 35
3 volunteer firemen. They went through all of the
4 vehicles again. This time they were doing a
5 thorough search of the entire vehicle.

6 Q. This is a different kind of search, then, on the
7 6th?

8 A. Yes, it is.

9 Q. What was the scope of the search?

10 A. This search, they were looking for particular
11 items. They were looking for the license plates
12 from Teresa Halbach's vehicle. They were looking
13 for a tool. She had a tool kit in her vehicle
14 and there was a tool missing from it; they were
15 looking for that. And then they were looking for
16 any specific items that may have belonged to her,
17 or would be of evidentiary value. So they were
18 doing a much more thorough search.

19 Q. And, again, are you aware that all 4,000 vehicles
20 were searched?

21 A. Yes, they were.

22 Q. Exhibit No. 79 shows parts of the entryways. How
23 is it that vehicles could travel from within or
24 throughout the inside of the salvage yard? Do
25 you understand that question?

1 A. You mean once they were in the yard?

2 Q. Yeah, talk about the roadways within the yard
3 itself.

4 A. Okay. In between each group of vehicles, you can
5 see, these are all roadways through here. They
6 kind of work their way through the property.
7 It's just a dirt road that you can drive on.

8 There's a gap between the vehicles. You
9 can drive through it. That's what they used for
10 their roads. So, it's no formal road, the roads
11 could change depending on where they put the
12 vehicles. But it was an opening through the dirt
13 that was used to drive on.

14 Q. Are you familiar with a surrounding property
15 which is called Radandt's Quarry?

16 A. Yes, I am.

17 Q. Again, referring to Exhibit 79, if you could tell
18 us where that is located.

19 A. Radandt has -- Let's see. This is the north on
20 this end. Radandt has an active quarry from here
21 down, which would be to the west. They also had
22 a quarry on the south end, which would be in this
23 area here.

24 Q. From Radandt's Quarry, or from at least the
25 access corner, the corner that would attach

1 Radandt's to Avery's, did you go to that corner,
2 to that location? Did you physically stand in
3 that location?

4 A. Yes, I did.

5 Q. And are you able, and were you able, to see
6 Mr. Avery's trailer and garage from that corner?

7 A. Yes, you can.

8 Q. I'm going to show you what has been -- or have
9 you look at what's marked as Exhibit No. 80; tell
10 us what that is.

11 A. This is a view of Mr. Avery's residence from the
12 south.

13 Q. Would that be near Radandt's property line?

14 A. Yes. Yes, it's actually -- His property, his
15 residence is right there. This view is from
16 somewhere in this area, I would believe.

17 Q. All right. Have the jury look at Exhibit No. 80.
18 Tell us what we're looking at here, please.

19 A. This is the backside of Mr. Avery's residence and
20 his detached garage.

21 Q. Now, I note that, and tell me if I'm correct or
22 not, is there a grade difference between Mr.
23 Avery's and Radandt's property?

24 A. There's a berm between the two properties. And
25 then on Radandt's side, it goes straight down

1 into the quarry. It's probably a 15 to 20 foot
2 drop into the quarry.

3 Q. All right. I'm just going to have you mark -- or
4 describe these next exhibits, some aerial photos;
5 what is Exhibit No. 81?

6 A. This is a view, an aerial view of the Avery
7 property from the northeast. It would be Avery
8 Road coming into the northeast corner of the
9 property.

10 Q. We'll have the jury take a look at Exhibit 81; is
11 that a picture of 81?

12 A. Yes.

13 Q. With your laser pointer, could you describe the
14 buildings that we're looking at. By the way, let
15 me put in a foundational question. Did you
16 become, in that seven or eight days, familiar
17 with all of the buildings on this property?

18 A. Yes, I did.

19 Q. All right. Looking at Exhibit No. 81, can you
20 tell us -- identify the buildings that are
21 located therein?

22 A. Starting at the top, there's a fenced in area in
23 here. It's an impound area. There is a large
24 shed in there that is an impound storage. I
25 believe it's a metal shed. And then there's a

1 smaller garage down in this area. It's also used
2 for storage.

3 This is a longer narrow shed that was
4 used for heavy equipment storage. Down in the
5 trees here would be Allen and Delores Avery's
6 residence and there's also a detached garage in
7 there to. I believe it would be right there.

8 This is an office area and a work area.
9 We referred to it as the new office. And then
10 there's another work area back in here that was
11 referred to as the old office area that was used.

12 Q. Beginning your testimony, Lieutenant Bowe, you
13 talked about a Command Post being established.
14 Does Exhibit No. 81 show that area?

15 A. Yes, it does.

16 Q. Could you describe that for the jury, please.

17 A. The Command Post that we utilized was in this
18 area. That's where we organized our large scale
19 searches. We also had debriefings there. There
20 was also a Command Post located up here that was
21 used by the Investigative Team. So it was more
22 of a work area for them.

23 Q. Does Exhibit No. 81 also show an access road;
24 that is, how you would get to the Avery property
25 from Highway 147?

1 A. Yes, it does. This road right here is Avery
2 Road; that's a paved road coming in that dead
3 ends at the property.

4 Q. And if you turn right on that road, where does
5 that take you?

6 A. This is a gravel driveway that runs the length of
7 the property and it would end at Steven Avery's
8 residence.

9 Q. Lieutenant Bowe, are you familiar with the corner
10 of the property that not only has a pond, but
11 from which Teresa Halbach's vehicle was found?

12 A. Yes, I am.

13 Q. Have you look at Exhibit No. 82, please, and tell
14 us what that is, please.

15 A. This is an aerial view from the east of the
16 southeast corner of the property where the pond
17 was and where Teresa Halbach's vehicle was found.

18 Q. And does it accurately depict that corner?

19 A. Yes, it does.

20 Q. I will have the jury, then, look at No. 82. With
21 your laser pointer, tell us what we're looking
22 at, please.

23 A. This is Radandt's Quarry to the south. There is
24 an open field to the east. The view is from the
25 east. This is probably a little more than half

1 of the property.

2 This is a low area in the salvage yard
3 where a lot of the run off collects into a small
4 pond. There's a berm up behind that and Teresa
5 Halbach's vehicle was found up in this area.

6 Q. Does this exhibit also show the car crusher?

7 A. Yes, it does. It's down right here.

8 Q. All right. Are you familiar with what would be
9 the northwest corner of the property, that is,
10 the area where Mr. Avery's residence was?

11 A. Yes, I am.

12 Q. And could you look at Exhibit No. 83, please, and
13 tell us what that is?

14 A. This is an aerial photo from the north, looking
15 south on to the Avery property and the Radandt
16 Quarry that's directly west to it.

17 Q. I will have the jury now look at Exhibit No. 83.
18 Tell us what we're looking at.

19 A. Once again, this is one of Radandt's quarries.
20 This was an active quarry at the time. This is
21 Steven Avery's residence and garage. And this
22 would be Barb Janda's residence and garage. And
23 we have got about half of the salvage yard
24 included.

25 Q. Does this photograph, that is, Exhibit No. 83,

1 show a second entry way into the Avery property?

2 A. Yes, it does.

3 Q. Could you describe that for the jury, please.

4 A. There's a gravel road that comes up through here
5 that connects all the quarries and runs down to
6 Radandt's processing plant. There is a conveyor
7 that runs along the middle of that road and then
8 runs into the Avery property. Where the Avery
9 property and Radandt's meet, there is a passage
10 way to drive a vehicle through there.

11 Q. You talked about security being maintained on
12 four corners of the property. How many corners
13 of the property in which security was maintained
14 24 hours does this exhibit show?

15 A. Two.

16 Q. And could you tell the jury, please, where law
17 enforcement officers were stationed?

18 A. There was an officer stationed down in this area
19 at the end of the road in front of Steven Avery's
20 residence. And there was also an officer
21 stationed down in this area, just before it
22 splits to go into the two quarries, securing this
23 corner.

24 Q. I don't know if I asked this well enough when you
25 described the purpose, but why were you

1 attempting to secure the four corners of the
2 property?

3 A. One, we had taken custody of the property, we
4 wanted to continue that through the entire time
5 that we were there. We also wanted to assure
6 that nobody else came into the property.

7 Q. The corner of the Avery property that includes
8 Mr. Avery's residence, is that depicted also in
9 Exhibit No. 84, the next exhibit?

10 A. Yes, it is.

11 Q. Can you describe what Exhibit 84 is, please.

12 A. This is an aerial photo from the southeast
13 showing the northwest corner of the Avery
14 property. And then the outside properties from
15 there.

16 Q. I will have the jury look at Exhibit 84. And if
17 you would be so kind as to tell them what we're
18 looking at.

19 A. This is the same quarry for Radandt that we had
20 looked at. This is an open field. This would be
21 Steven Avery's residence. This would be Barb
22 Janda's residence. And then we're seeing the
23 beginning of the salvage yard.

24 Q. At least as to the west and as to the northwest,
25 does Exhibit 84 show the surrounding or adjacent

1 properties?

2 A. Yes, it does.

3 Q. Now, there was something yesterday that we heard
4 from Trooper Austin; it was called a deer camp.
5 Does Exhibit 84 show that?

6 A. Yes, it does. The deer camp is right in this
7 area.

8 Q. Just for the record, you are pointing to what
9 would be to the almost uppermost and leftmost
10 corner of the exhibit; is that right?

11 A. Yes.

12 Q. What did that consist of and what are we looking
13 at, if you can tell us?

14 A. That was a camp that Radandts used. They own
15 most of the land around this area and they used
16 that for deer hunting. It consisted of three
17 mobile homes that they had set up for deer
18 hunting or something of that nature.

19 Q. All right. Lieutenant Bowe, you talked about the
20 different berms or the different grade around
21 Mr. Avery's property. When referring to Exhibit
22 No. 84, could you describe that a little bit
23 further, please.

24 A. The berm on the west, you just want me to refer
25 to?

1 Q. If there's other -- other differences in
2 elevation that this wouldn't show, I would
3 appreciate if you would explain that what
4 surrounds Mr. Avery's.

5 A. There's a small berm that starts in this area,
6 Mr. Avery's property. Most of the salvage yard
7 is in what appears to be an old quarry.
8 Mr. Avery's property and the rest of the
9 residence were up on where the normal grade would
10 have been. So there's a small berm between his
11 property and Radandt's quarry. The further you
12 get to the south, the higher that berm gets,
13 between the two properties.

14 Q. Lieutenant Bowe, from within the 40 acres itself,
15 is there also a difference in grade?

16 A. Yes, there is.

17 Q. Can you describe that for us, please.

18 A. As I said, where the residence and the buildings
19 are, they appear to be on what was the original
20 grade. As you go into the quarry, you have to go
21 down hills into the quarry and then you reach a
22 bottom grade where it appears is where they hit
23 the -- the rock bed.

24 So it all slopes down as you go south.
25 And then it kind of levels out in the bottom.

1 And then when you get to the south end of it,
2 there is a large berm separating that property
3 from the next quarry.

4 Q. What's the next exhibit that you have in front of
5 you, what number?

6 A. Eighty-five.

7 Q. Okay. Could you just tell us what that is,
8 please.

9 A. This is an aerial photo from the south of the
10 entire Avery property.

11 Q. We're going to go through these rather quickly,
12 but I'm going to show you, now, Exhibit 85; does
13 that show the entirety of the 40 acre Avery
14 salvage property?

15 A. Yes, it does.

16 Q. If you can just very briefly orient us, what are
17 the four corners that we're talking about?

18 A. This is the north. This would be Steven Avery's
19 property to the northwest. This is where the
20 Command Post was set up. This would be Al and
21 Delores' residence. This is the southeast, this
22 is where the small retention pond is and where
23 the vehicle was found. And this would be the
24 southwest, this is where the conveyor would exit
25 the property.

1 Q. Does Exhibit No. 85 allow you to show the jury
2 all four locations where you had officers posted
3 throughout the day?

4 A. Yes, it does.

5 Q. And if you could just briefly point to those
6 areas.

7 A. There would be one officer in this corner, at the
8 end of the road.

9 Q. Let me just stop you there. Would that officer
10 be with a squad?

11 A. Yes.

12 Q. A marked squad?

13 A. Yes. Most of time, yes.

14 Q. Go ahead.

15 A. There was an officer down in this area under the
16 conveyor. There was an officer stationed in this
17 area, watching the top of the berm in this area
18 up here. And then we had officers up here at the
19 Command Post.

20 Q. Now, other than those four corners, if you will,
21 are there other access points? In other words,
22 is there other ways in which an individual or a
23 vehicle could enter this property?

24 A. The only way for a vehicle to enter the property
25 would be through the conveyor belt down here, or

1 through the main driveway up on the top.

2 It splits, you can get down through the
3 buildings, or you can come down this edge and
4 come down into it. There's a fence that runs
5 along here and is a pretty steep grade through
6 here. So you couldn't access it with a vehicle.
7 There's also berms that run down this side and
8 then around the bottom and then up this side.

9 Q. To the west of Steven Avery's, it does show a
10 body of water; do you see that on this exhibit?

11 A. Yes, I do.

12 Q. And can you point to that, please. What is that?

13 A. It's a low spot in the quarry where the water
14 gathers.

15 Q. Okay. This is a good -- good segue to talk about
16 the weather that week. Do you recall the
17 weather, the week beginning the 5th of November?

18 A. I wasn't there the 5th of November. I was
19 informed it rained through most of the evening.
20 When I got there on Sunday, the 6th, it was cold
21 and windy during the morning. We had a snow
22 shower that came in through the morning, which is
23 one reason why we didn't start opening the
24 vehicles until the afternoon. Through the rest
25 of the day -- or through the rest of the week, it

1 was normally cloudy and cold.

2 Q. The roadways from within the Avery property, when
3 you got there on the 6th, would you describe that
4 condition for us, please.

5 A. In the salvage yard?

6 Q. Yes.

7 A. They were very muddy. They were covered in
8 water. Some of them had as much as a foot of
9 water on them. So we had to be very careful
10 where we drove inside the salvage yard. For the
11 first few days, we didn't take squads down in
12 there. We would use four wheel drive vehicles if
13 we had to get in there, or walk through it.

14 Q. I think there's only three exhibits left. Why
15 don't you tell us, what's the next exhibit you
16 have?

17 A. Eighty-six.

18 Q. What does that show?

19 A. The aerial photo of the entire property from the
20 north.

21 Q. So what would be the exact opposite of 85; is
22 that right?

23 A. Correct.

24 Q. Opposite end?

25 A. Correct.

1 Q. Now, I am going to show Exhibit No. 86.

2 Virtually the same view as 85, just from the
3 north instead of the south; is that right?

4 A. Correct.

5 Q. You had mentioned that there were some searches
6 on areas that surrounded the Avery property,
7 including some gravel pits. Exhibit 87 and 88,
8 are those related to any of those searches?

9 A. These are photos that would have been taken
10 inside of one of the gravel pits.

11 Q. All right. Do you know, by looking at 87 and 88
12 which pit, or is that too difficult to testify
13 to?

14 A. Yeah, I wouldn't be sure.

15 Q. All right. Are you able to identify Exhibits 87
16 and 88 or not?

17 A. No.

18 Q. All right. We'll save those for another witness.
19 What was your schedule? In other words, how
20 often were you there; and were you ever relieved;
21 and did you ever go home from that location?

22 A. I arrived Sunday morning, approximately at 7:30.
23 Lieutenant Sippel had been there since Saturday.
24 I stayed through Sunday, stayed Sunday night.
25 Lieutenant Sippel went home Sunday night and came

1 back Sunday (sic) morning. I stayed until Monday
2 afternoon, actually Monday evening. I think I
3 left around 7:30 at night. And then I returned
4 the following morning again at about 7:00. So we
5 were both there during the day and then we took
6 turns being there at night.

7 Q. So how many hours straight would you be there and
8 then how many hours would you be off?

9 A. Generally, between 30 and 36 hours we would be
10 there. And then we would be off the property
11 roughly 12 hours.

12 Q. All right. How long did that last, again, for?

13 A. I left Friday night and didn't return to the
14 property. Lieutenant Sippel had returned Friday
15 morning and then I believe he was the last one
16 off the property Saturday when they left.

17 Q. The 12th?

18 A. Yes.

19 Q. Referring to Exhibit 86, which is the last
20 exhibit and the one that's shown, the buildings,
21 both the residences and the outbuildings, who was
22 responsible for coordinating the searches of
23 those?

24 A. That was coordinated by Investigator Wiegert and
25 Agent Fassbender.

1 Q. Okay. So the cars and the property itself was
2 your responsibility; is that right?

3 A. Correct.

4 Q. The buildings, that is, the interior searches,
5 was the lead investigator's; is that right?

6 A. Correct.

7 Q. Did you participate in any of those interior
8 searches or was your responsibilities limited to
9 exterior or vehicle searches?

10 A. The only participation I would have had with the
11 interior searches is if Investigator Wiegert or
12 Agent Fassbender required one of the teams from
13 inside one of the buildings to move somewhere
14 else. I may advise them of that or send somebody
15 to assist them in moving, but that was my only
16 involvement.

17 Q. All right. Finally, Lieutenant Bowe, I'm going
18 to direct your attention to March 1st and 2nd of
19 2006; did you return to the property on those two
20 days?

21 A. Yes, I did.

22 Q. And what were your responsibilities on March 1st
23 and 2nd?

24 A. On the 1st and 2nd, they executed a search
25 warrant for Mr. Avery's residence and his

1 detached garage. I was keeping track of the
2 individuals entering and exiting Mr. Avery's
3 residence.

4 Q. Is there a term for that?

5 A. I was logging them in and out.

6 Q. Okay. You weren't involved, however, in any
7 active searching?

8 A. No, I was not.

9 ATTORNEY KRATZ: All right. I would move
10 admission of Exhibits 79 through 86 at this time,
11 Judge.

12 ATTORNEY STRANG: I don't have any
13 objection.

14 THE COURT: Very well, those exhibits are
15 admitted.

16 ATTORNEY KRATZ: I'm sorry. That's all I
17 have of this witness.

18 THE COURT: Mr. Strang.

19 ATTORNEY STRANG: I would like to start
20 with Exhibit 85, if we could.

21 **CROSS-EXAMINATION**

22 BY ATTORNEY STRANG:

23 Q. Good morning, Lieutenant.

24 A. Good morning.

25 Q. I have got Exhibit 85 up on the screen, for no --

1 Well, I picked this one only because at least
2 north is to the top, which is where we're used to
3 looking at on maps. And you told us where the
4 security points, the 24 hour security points --
5 that's my term not yours --

6 A. Yes.

7 Q. -- but you know the four corners --

8 A. Four corners, yes.

9 Q. -- that you described. Before I get to those for
10 just a moment, you were logging people in and out
11 of this whole 40 acre area from November 6th, for
12 you, through the 11th or the 12th, as well,
13 weren't you?

14 A. Yes. Are you referring to the entrance?

15 Q. Well, that's where I'm going to go. And when I
16 say you logging, I don't mean you personally
17 necessarily, but that was one of the tasks you
18 were overseeing?

19 A. I did not oversee that, but there was an
20 individual logging people in and out of the
21 property.

22 Q. Okay. And where was that done?

23 A. Primarily, that was done where Avery Road met
24 147. There was a squad car parked right on Avery
25 Road, at the entrance.

1 Q. Okay. So, although -- although Avery Road, which
2 runs north to 147 and 147 was roughly east/west
3 at that point?

4 A. Yes.

5 Q. Although Avery Road is paved, it -- it really
6 only goes one place?

7 A. Correct.

8 Q. Dead ends at a cul-de-sac just outside the
9 business entrance?

10 A. Yeah, the pavement just ends right about in this
11 area. And then everything else is gravel
12 driveways from there, so.

13 Q. So when you, for example, would come for one of
14 these 30 to 36 hour shifts, you would get checked
15 in or logged in up north of this photo where you
16 turn off 147 --

17 A. Yes.

18 Q. -- to come down Avery Road?

19 A. Yes, I would.

20 Q. The logging in would involve somebody visually
21 identifying you and either you writing your name
22 on a log sheet or the officer with the log sheet
23 writing your name down?

24 A. Correct.

25 Q. Now, once you became familiar to the officers

1 keeping the log, that's pretty quick in terms of
2 identifying you.

3 A. We still had to identify who we were, the
4 officers weren't familiar with us at all, so.

5 Q. And it was a rotating group of officers who
6 were --

7 A. Yes.

8 Q. -- doing the logging?

9 A. Yes, it was.

10 Q. Okay. And you weren't necessarily coming in
11 uniform as you are today?

12 A. I always wore my work jacket so I had my patches
13 and my badge.

14 Q. Okay. But even there, yes, we can see you are
15 from the Calumet County Sheriff's Department, but
16 we want your name.

17 A. Right. Right.

18 Q. The purpose for -- Well, first of all, when --
19 when -- You are familiar with that sort of
20 logging operation?

21 A. Yes, I am.

22 Q. In fact, you did it on March 1st and 2nd?

23 A. Yes.

24 Q. At the smaller area of Mr. Avery's house?

25 A. Yes, I did.

1 Q. When you are logging people in and out, the
2 purpose is to log everyone in and out, correct?

3 A. Yes, it is.

4 Q. I'm sorry?

5 A. Yes, it is.

6 Q. Okay. Now -- And in general, if there's an
7 ongoing search or law enforcement effort, in
8 general, the idea would be to keep the public
9 out; that's one idea, right?

10 A. That's one aspect of it, yes.

11 Q. And in general, another aspect would be to know
12 which law enforcement officers are in?

13 A. Right. The primary purpose is to keep track of
14 who came onto the property.

15 Q. Now, this isn't to say that some members of the
16 public might not be allowed in. I mean, someone
17 who had a trade purpose or someone who needed to
18 pick up medication; if there was some particular
19 good reason for a member of the public to come
20 in, somebody at that perimeter logging point
21 either can make the decision or could radio back
22 and decide whether to let someone in for a
23 particular purpose or not?

24 A. Yes, they could.

25 Q. Law enforcement officers, it's not so much that

1 you are trying to keep them out, but you want --
2 you want to know who's in and who's leaving?

3 A. Correct.

4 Q. Just to keep track of bodies and personnel and
5 some control over the scene?

6 A. Correct.

7 Q. Was that the -- During a week in November,
8 roughly a week in November when you were out
9 there Sunday through Friday, was the log check in
10 point you have described the only place that
11 people were being logged in and out?

12 A. Yes, it was.

13 Q. Now, let's go, as I said, to the four security
14 points. Do you still have the laser?

15 A. Yes, I do.

16 Q. Okay. The one at the northwest corner, 24 hours
17 a day somebody -- and I assume they changed
18 shifts -- but someone would be in the squad car
19 sitting up there?

20 A. Yes, they would be in the area.

21 Q. Either in their squad car or wandering around?

22 A. Around on foot, yes.

23 Q. Somewhere close. All right. And the squad
24 car -- I don't know if you ever went over there
25 to see this personally, but the squad car

1 presumably would be parked near the end of that
2 gravel road?

3 A. Yes.

4 Q. Within yards, really, of the one burn barrel that
5 stands -- that stands, you know, east and a
6 little bit north of Steven Avery's trailer?

7 A. Are you talking the one on the other side of the
8 driveway?

9 Q. Yeah, we -- we -- we have seen the burn barrel
10 that's -- I don't know how to describe it other
11 than east and a little bit north.

12 A. Up in this area.

13 Q. Yeah, somewhere up in that area.

14 A. Yes.

15 Q. Okay. That's -- that's the general area where
16 that perimeter guard would be posted?

17 A. Correct.

18 Q. And then you did the other four corners. These
19 folks would get out of their cars from time to
20 time and walk the perimeter a little bit?

21 A. They would get out of their vehicles; they would
22 stretch their legs, walk around their car, yeah.

23 Q. And overnight, you know, 11 at night until 7:00
24 in the morning, in general, less searching, less
25 active searching was going on?

1 A. Generally, when it got dark, we didn't search.

2 Q. So other than folks at the Command Post and these

3 perimeter guards, many of the law enforcement

4 personnel on the scene would go home or go

5 somewhere?

6 A. Correct.

7 Q. And come back the next day with daylight?

8 A. Yes.

9 Q. So I understand you don't know how many or what

10 the total number of law enforcement officers

11 involved were, but the numbers sound to me like

12 dozens and dozens.

13 A. During the day?

14 Q. Yes, during the day, I'm sorry.

15 A. Depending on which day it was, yeah.

16 Q. Could have been something close to a hundred, a

17 little above, a little below?

18 A. I think a hundred would probably be the max.

19 Q. At peak?

20 A. At one day, yeah.

21 Q. In any event, though, at night, after dark, we

22 would drop down to the four perimeter guards and

23 then maybe a handful of people at one or both

24 Command Posts?

25 A. Correct.

1 Q. Now, if I understood you, on the search
2 assignment responsibility, was sort of a -- kind
3 of a simple division. You were -- You and
4 Lieutenant Sippel were responsible for
5 assignments on open area searches and car or
6 vehicle searches in the salvage yard?

7 A. Yes, we were.

8 Q. And then Investigator Wiegert and Special Agent
9 Fassbender were in charge of assignments for
10 searches within buildings, so to speak, on the
11 Avery property?

12 A. Yes.

13 Q. There were plenty of tasks available for people
14 in either your area of responsibility or the area
15 of responsibility covered by Mr. Wiegert and
16 Mr. Fassbender?

17 A. I'm not sure what you are asking.

18 Q. Well, I mean, there were a number of officers
19 involved in searching inside buildings and then a
20 number of people involved searching the open
21 areas?

22 A. Yes, there were.

23 Q. Okay. Now, at -- This scene, I think we know
24 this, but you know this scene is in Manitowoc
25 County, not Calumet County?

1 A. Yes, it is.

2 Q. So this was -- this was an atypical investigation
3 for you?

4 A. Because of the location?

5 Q. For a number of reasons, but specifically the
6 location. I mean, you are -- you are out of
7 county?

8 A. Yeah, I'm not familiar with the roads.

9 Q. Right. It's just -- it's atypical in the sense
10 that it's out of county for you?

11 A. Somewhat.

12 Q. And you knew -- you knew the reason for that, in
13 general, was that a decision had been made the
14 day before you got there, to turn over
15 investigative control to Sheriff Pagel, who runs
16 your department?

17 A. Yes.

18 Q. And then, of course, the department under him,
19 the Calumet County Sheriff's Department.

20 A. Yes.

21 Q. That -- Your understanding was the decision was
22 because there might be an appearance of a
23 conflict of interest involving the Manitowoc
24 County Sheriff's Department?

25 A. Possibly. I was not in part of that discussion

1 at all.

2 Q. Okay. All right. But you were told that Sheriff
3 Pagel was in charge?

4 A. Yes.

5 Q. And then Investigator Wiegert?

6 A. Yes.

7 Q. And, of course, Mr. Fassbender is from the
8 Division of Criminal Investigation, not either
9 one of the sheriff's departments?

10 A. Correct.

11 Q. Okay. You were aware of a lawsuit that Steven
12 Avery had pending against Manitowoc County at the
13 time?

14 A. Yes, I was.

15 Q. A federal lawsuit, was your understanding?

16 A. Just what I heard on the news. I really didn't
17 keep track of it.

18 Q. Sure. You -- You had contact, though, with a
19 number of Manitowoc County Sheriff's Department
20 officers during the six days that you were there?

21 A. Yes, I did.

22 Q. And -- And officers from all kinds of departments
23 in the area, right?

24 A. Correct.

25 Q. Two Rivers Police Department, Mishicot Fire

1 Department, all kinds of different departments
2 assisted?

3 A. Yes.

4 Q. Wisconsin State Patrol sent a large complement of
5 troopers?

6 A. Yes.

7 Q. So this was a collaborative effort of a large
8 number of law enforcement officers from a variety
9 of agencies?

10 A. Yes.

11 Q. You were aware that some of the Manitowoc County
12 Sheriff's Department officers, in particular, had
13 strong feelings about Mr. Avery and his lawsuit?

14 A. I'm not aware of that. Nobody voiced that to me.

15 Q. You didn't discuss the lawsuit of Mr. Avery --

16 A. No.

17 Q. -- one way or the other?

18 A. No.

19 Q. You met, during your time there, another --
20 actually someone of your rank, a lieutenant from
21 the Manitowoc County Sheriff's Department named
22 James Lenk?

23 A. Yes, I did.

24 Q. Had you known Lieutenant Lenk before?

25 A. No.

1 Q. But met him sometime during that week?

2 A. Sometime, yeah.

3 Q. He was in and out, involved in this effort?

4 A. Yes.

5 Q. You had also met Sergeant Andrew Colborn from the
6 Manitowoc County Sheriff's Department?

7 A. Yes.

8 Q. Again, he too had some role and was in and out at
9 various times?

10 A. Correct.

11 Q. Neither one of those two gentleman told you, as
12 one of the assigning officers of open field and
13 car searches, that they had been deposed, had
14 their depositions taken in Mr. Avery's lawsuit,
15 did they?

16 A. No.

17 Q. And no one else told you that either?

18 A. No.

19 Q. Did you meet a Manitowoc County Sheriff's
20 Department detective named Dave or David Remiker?

21 A. Yes.

22 Q. He had some role too, during the course of the
23 six days?

24 A. Yes.

25 Q. An investigator from Manitowoc County Sheriff's

1 Department named Dennis Jacobs?

2 A. Yes.

3 Q. Same thing, in and out --

4 A. Yes.

5 Q. -- with some role in this? Were -- Were -- At
6 any time were Mr. Lenk, Mr. Colborn, Mr. Remiker,
7 and Mr. Jacobs in your area of responsibility;
8 that is, involved in open field or car searches?

9 A. No, they were not.

10 Q. Is it fair to conclude, then, if you know, that
11 they were in Investigator Wiegert and Special
12 Agent Fassbender's area of search responsibility?

13 A. Yes, they were.

14 Q. Had you been asked to give up a couple of your
15 guys and take, let's say, Lenk and Colborn, for
16 open field and vehicle searches, you could have
17 done that?

18 A. Yes, I could have.

19 Q. I mean, to some extent, the bodies were
20 interchangeable?

21 A. I was provided with a group of people and I put
22 them in a place.

23 Q. Right.

24 A. Yes.

25 Q. And I guess it was a poorly phrased question, but

1 you were aware that there were some very
2 specialized, trained people from the Wisconsin
3 State Crime Laboratory in Madison who were among
4 the people involved in the search efforts?

5 A. I was aware the Crime Lab was on scene; I'm not
6 sure what they were -- what their function was.

7 Q. Okay. But -- But you are aware that -- that the
8 Crime Lab has people with some specialized
9 talents, whether that's fingerprints or --

10 A. Correct.

11 Q. -- trace evidence recovery, that kind of thing?

12 A. Correct.

13 Q. Okay. When you -- If you now go forward to
14 March 1st and March 2nd, 2006.

15 A. Okay.

16 Q. So we're not quite four months, but going on four
17 months later. That's the next time, actually,
18 that you were back to the Avery salvage property?

19 A. Yes.

20 Q. And this is the time when, in connection with a
21 search warrant, your role is to log people in and
22 out of Mr. Avery's trailer, his home?

23 A. Correct.

24 Q. There was someone else logging people in and out
25 of his garage right next door?

1 A. Correct.

2 Q. So these positions, logging people, it's a fairly
3 small area that you were responsible for?

4 A. Yes.

5 Q. The idea being to be quite careful or meticulous
6 about logging who comes and who goes?

7 A. Yes.

8 Q. I mean, in other words, essentially, you would
9 have a visual on the area that you are
10 responsible for logging?

11 A. Yes.

12 Q. While you were there on March 1 and March 2,
13 2006, you were in a position to see and I think,
14 actually, to log much of this. But you at least
15 saw carpeting removed from the hallway in Steven
16 Avery's home?

17 A. I saw them carry carpeting out, yes.

18 Q. And -- and you were back in the trailer yourself,
19 after the carpeting was removed.

20 A. Yes, I was. I believe I helped them remove some
21 stuff.

22 Q. Okay. So what you know is that the hallway that
23 runs back to the extra bedroom and the bathroom
24 and the master bedroom to the south, that hallway
25 there had all the carpeting removed and carried

1 out by law enforcement?

2 A. I believe so, yes.

3 Q. You saw the carpet removed, similarly, from the
4 entire master bedroom?

5 A. Yes.

6 Q. Sort of wall-to-wall carpet that was just
7 removed?

8 A. Yes.

9 Q. You saw the mattress removed from the master
10 bedroom?

11 A. Yes.

12 Q. The box springs.

13 A. Yes.

14 Q. And the entire bed frame in pieces?

15 A. Yes.

16 Q. Rails, head board, foot board, that kind of
17 thing?

18 A. Correct.

19 Q. Pillows, you saw taken?

20 A. They may have been; I believe they were bagged.

21 Q. And then you were -- you were aware, in your role
22 of logging the trailer, that actually the wood
23 paneling in the master bedroom, or Steven's
24 bedroom, was pulled off the walls and taken out?

25 A. Yes, it was.

1 Q. All of it, from that bedroom?

2 A. I'm not sure if all of it was taken or not; I
3 wasn't in there when they did that. But they
4 took out several pieces, yes.

5 Q. Okay. And I'm trying to remember if, you know,
6 if the inside of the closet was and I don't
7 either, but you saw a number of --

8 A. I saw pieces --

9 Q. -- pieces --

10 A. -- come out of the residence, yes.

11 Q. -- of the paneling on the walls?

12 A. Yes.

13 Q. Right down to the septic trap being removed from
14 below that, beneath that residence?

15 A. I didn't see that come out, but I'm aware that
16 they took that, yes.

17 Q. You were not aware of what was going on in the
18 garage?

19 A. No.

20 Q. That was not your responsibility?

21 A. No, other than what I could see from my vantage
22 point, I didn't know what was happening in there.

23 Q. Okay. Lieutenant Lenk and Sergeant Colborn were
24 not in the residence on March 1 and March 2; is
25 that your best recollection?

1 A. I don't recall them being in there at all, no.

2 Q. But do you recall them there and involved in the

3 garage search?

4 A. I don't recall them. I would have to check the

5 log.

6 Q. Okay. Well -- And one way or the other, you just

7 don't recall now?

8 A. I don't recall. I'm familiar with them, but I

9 don't know that I have really even talked to them

10 much.

11 Q. Fair enough.

12 ATTORNEY STRANG: That's all I have got.

13 Thank you. Oh, I'm sorry. I'm sorry.

14 Q. (By Attorney Strang)~ For the moment, I'm not

15 going to mark these five pages that I'm showing

16 you, because I don't know whether you will

17 recognize them or not, but I will ask you. What

18 do you say?

19 A. I haven't seen them before. I believe they are

20 going to be a log in for March 1st and March 2nd

21 for entering the property.

22 Q. But you haven't seen them before?

23 A. I haven't seen these before, no.

24 Q. None of it is your writing.

25 A. No.

1 Q. Or the log sheets you kept for the house on
2 March 1 and 2?

3 A. No. No. In fact, I'm on here.

4 Q. Very good. Was there a separate log point just
5 to get on the property on March 1 and March 2?

6 A. Yes, there was.

7 Q. So someone actually had to log in twice, then, if
8 he was involved --

9 A. If you entered --

10 Q. -- in the search?

11 A. If you entered -- Yeah, if you entered the garage
12 or the residence, we -- we would keep track of
13 people entering and leaving those parts. But
14 anybody who entered the property also logged in
15 when they got there and when they left the
16 property.

17 Q. And was that out, again, at Highway 147 and Avery
18 Road?

19 A. I believe that was down around Barb's residence.

20 Q. Closer in, because this was a smaller search
21 area?

22 A. It was a much smaller search area.

23 Q. This page, on its face, says it was cut by a Gary
24 Schultz of your department. And I'm curious, is
25 that -- is that form the sort of log sheet that

1 you were keeping on March 1 and 2?

2 A. This is the form that we used. These were
3 actually created for our large scale searches.
4 The top has the group leader listed and that's
5 how we broke it down and kept track of them that
6 way. We used these to log people in and out of
7 the residence because we had them available.

8 Q. Have you seen this page before?

9 A. I don't recall seeing this page before. This was
10 kept by Officer Schultz.

11 Q. You recognize the form, though?

12 A. Yes, I do.

13 Q. Same type of form you used on March 1 and 2?

14 A. Yes, it is.

15 Q. The form, then, is kept in the ordinary course of
16 the business of the Calumet County Sheriff's
17 Department?

18 A. This was something that was created on scene for
19 our large -- like I said, our large scale
20 searches.

21 Q. Right.

22 A. And when we came back, we had these left over, so
23 we decided to use them because they were set up
24 with the in and the out and we could keep track
25 of.

1 Q. Sure. And then the person keeping track is
2 simply recording observations he or she makes at
3 about the time he or she is observing who is
4 coming and going?

5 A. Yes.

6 Q. And then you folks kept these in the regular
7 course of the business of the sheriff's
8 department?

9 A. Yes.

10 Q. Okay.

11 (Exhibit No. 125 marked for identification.)

12 Q. (By Attorney Strang)~ So now that we have Exhibit
13 125 --

14 ATTORNEY KRATZ: Judge, could -- could I
15 inquire of counsel whether he intends to ask any
16 specific information on that form? If he does, then
17 I do need to be heard. If he is just showing the
18 form, the kind of form, I don't have any objection.

19 ATTORNEY STRANG: I have no -- no objection
20 to going to side bar for a moment --

21 THE COURT: All right.

22 ATTORNEY STRANG: -- if Mr. Kratz wishes.

23 (Side bar taken.)

24 Q. (By Attorney Strang)~ So we have the first page
25 that you looked at and then Mr. Buting was kind

1 enough to gather up the rest of the pages of
2 that. So I think we have got five pages now.

3 ATTORNEY KRATZ: What was the exhibit
4 number, Mr. Strang?

5 ATTORNEY STRANG: It's 125.

6 ATTORNEY KRATZ: Thank you.

7 THE COURT: Is this the first page, been
8 marked as 125?

9 ATTORNEY STRANG: But I'm going to staple
10 it so we have a complete exhibit.

11 Q. Okay. And so there is no mystery, pages two
12 through five are just like page one. I mean,
13 it's the same form, running log, and page five
14 where it ends is a partial page?

15 A. Correct.

16 Q. Okay. This isn't something that you recall ever
17 seeing before, this specific document, or is it?

18 A. Not this first page, no.

19 Q. The other pages you do or ...

20 A. There's one page, page number 3, where I have
21 initialed off on it, that would have been a lunch
22 break. Officer Schultz and I, we had a pickup
23 truck parked between the residence and the
24 garage.

25 Q. Mm-hmm.

1 A. We stayed in that truck and we watched our
2 perspective posts.

3 Q. Sure. Okay.

4 A. When we took a lunch break, everybody was cleared
5 out. He took his lunch break. I took over the
6 log and just verified that nobody entered and
7 then I initialed off that everybody was out of
8 the garage.

9 Q. You had reason to know that -- that Gary Schultz
10 was doing the same job for the garage that you
11 were doing for the trailer?

12 A. Correct.

13 Q. Log --

14 A. Yes.

15 Q. -- people --

16 A. Yes.

17 Q. -- into the garage?

18 A. Yes.

19 Q. And, again, in general, I mean, this is a form
20 you recognize and you yourself used the same form
21 on the same days, but for the trailer rather than
22 the garage?

23 A. Correct.

24 ATTORNEY STRANG: Okay. I will -- I will
25 move the exhibit -- admission of Exhibit 125. I

1 will just staple the five pages together so it's
2 complete.

3 THE COURT: All right. Mr. Kratz, do I
4 understand the State wishes to be heard?

5 ATTORNEY KRATZ: Yes, Judge. But that can
6 be after -- after examination of this witness.

7 THE COURT: All right. The Court will
8 reserve ruling at this time on the request for
9 admission.

10 ATTORNEY STRANG: And that is all I have.

11 THE COURT: Mr. Kratz, anything on
12 redirect?

13 ATTORNEY KRATZ: Just two questions.

14 **REDIRECT EXAMINATION**

15 BY ATTORNEY KRATZ:

16 Q. Lieutenant Bowe, Mr. Strang asked you, at night,
17 if there were -- it was dark in the -- in the
18 salvage area. Is that completely accurate?

19 A. No, it is not. Through most of the time, we had
20 a light set up in the southeast corner of the
21 salvage yard. They would be set up down in this
22 area where her vehicle was found.

23 Q. Her being Ms Halbach's?

24 A. Yes.

25 Q. What kind of lights are we talking about?

1 A. We're talking floodlights that are run off of a
2 generator.

3 Q. So that quadrant, the southeast quadrant, would
4 be lit up even during night time hours; is that
5 true?

6 A. Yes, it was.

7 Q. And the final area of inquiry I have, Lieutenant
8 Bowe, is the search responsibilities in your
9 unit, that is, open fields and vehicle searches;
10 did that include citizen searches?

11 A. There was one group of citizen searchers that
12 requested to assist. We allowed them to search
13 the open field north of the residence. They
14 actually started from 147, worked their way down.
15 They were told to stay out of the line fence
16 along the edge of the property and they were
17 watched to make sure that they didn't go near
18 that. And they worked back and worked their way
19 back up to the highway.

20 Q. They never entered the 40 acre perimeter?

21 A. Correct. I believe they had two representatives
22 that came into the property and spoke with the
23 investigators and myself. And that was the only
24 involvement they had inside the property.

25 Q. Now, within the 40 acre perimeter, individuals

1 who may have been involved in searching vehicles;
2 did those include non-sworn law enforcement
3 officers?

4 A. Yes, they did.

5 Q. And did those individuals, then, have any
6 specialized training, to your knowledge, in
7 either evidence collection or evidence
8 processing?

9 A. No, they did not.

10 Q. Now, conversely, the officers who searched the
11 interior, that is, those that Mr. Fassbender and
12 Mr. Wiegert had responsibility for; was it your
13 understanding that those officers required a
14 higher level of expertise?

15 A. The individuals that they were utilizing were
16 evidence techs, which means that they have been
17 specifically trained to preserve and gather
18 evidence.

19 Q. All right. Obviously, a different kind of
20 expertise than a volunteer firefighter; is that
21 right?

22 A. Yes, sir.

23 ATTORNEY KRATZ: That's all I have for this
24 witness, Judge. Thank you.

25 THE COURT: Mr. Strang.

1 ATTORNEY STRANG: Thank you.

2 RECROSS-EXAMINATION

3 BY ATTORNEY STRANG:

4 Q. When we were talking about dark out before, we
5 were -- we meant the sun going down --

6 A. Mm-hmm.

7 Q. -- correct? Teresa Halbach's Toyota already had
8 been removed from the scene before you came on
9 Sunday morning, November 6th?

10 A. Correct.

11 Q. But if I understood you, nevertheless, you kept
12 generators and some bright lights down in that
13 southeast corner of the property anyway?

14 A. Yes.

15 Q. The rest of the property was not similarly
16 illuminated at night?

17 A. My understanding was they had initially set the
18 lights up where her vehicle was.

19 Q. Mm-hmm.

20 A. Once her vehicle was removed, they kept the
21 lights running at night. They would reposition
22 them from night to night. Most of the time they
23 illuminated this corner. Sometimes they
24 illuminated out into this area. But they would
25 move them around.

1 ATTORNEY STRANG: Great, thanks.

2 THE COURT: All right. You are excused.

3 Members of the jury, at this time we'll
4 take our lunch break. Again, I remind you not to
5 discuss the case during the break and we'll
6 resume after lunch.

7 (Jury not present.)

8 THE COURT: You may be seated. Mr. Kratz,
9 the State wishes to be heard on the defense request
10 to admit Exhibit 125?

11 ATTORNEY KRATZ: We do, Judge. Actually,
12 Mr. Fallon has asked for an opportunity to discuss
13 that. Again, in candor to the Court, we believe
14 eventually this exhibit is going to be received,
15 just not through this particular witness. We may be
16 withdrawing our rejection, but we would ask to be
17 allowed to inform the Court of that after the lunch
18 break.

19 THE COURT: Oh. All right. We'll take our
20 lunch break now and resume at 1:00.

21 ATTORNEY KRATZ: Thank you.

22 (Noon recess taken.)

23 THE COURT: At this time we're back on the
24 record, outside the presence of the jury. I will
25 indicate for the record that before resuming this

1 afternoon I met with counsel in chambers concerning
2 a request that had been made to the Court from a
3 juror for permission to ask a question.

4 And it's the Court's policy, at least in
5 criminal cases, not to permit jurors to ask
6 questions, for a variety of reasons. I have
7 prepared a statement to read to the jury when
8 they return and I provided a copy of that
9 statement to the attorneys.

10 And, counsel, I just wish to confirm for
11 the record that the parties are in agreement with
12 the statement the Court proposes to read.

13 Mr. Kratz.

14 ATTORNEY KRATZ: Yes, Judge. Your Honor,
15 the State has received the Court's anticipated
16 response and we have no objection.

17 THE COURT: Mr. Strang.

18 ATTORNEY STRANG: We think it's a good
19 response.

20 THE COURT: All right. At this time, then,
21 we'll bring the jurors in.

22 (Jury present.)

23 THE COURT: You may be seated. Members of
24 the jury, before we begin with the first witness, I
25 have a statement I wish to read to you.

1 The Court has received a request from a
2 juror that the Court ask a -- an additional
3 question of the last witness. The Court
4 appreciates the jury's interest and attentiveness
5 in this case, but in criminal cases, the Court
6 does not permit jurors to submit questions to
7 witnesses, for a variety of reasons.

8 In our adversary system, it is the duty
9 and responsibility of the attorneys for each side
10 to ask the questions. Sometimes a juror may ask
11 a question about evidence which is inadmissible
12 and the Court does not want the jury to speculate
13 about why a question may not be allowed to be
14 asked.

15 Other times the jury may be anticipating
16 evidence that will be introduced later. The
17 parties have the right to control the order in
18 which the evidence is received.

19 To assist you in performing your
20 important task, you are allowed to take written
21 notes during the trial. At the end of the trial
22 each juror will receive a written copy of the
23 Court's final instructions. However, for the
24 reasons that I have stated, among others, I must
25 tell you that the jury will not be allowed to

1 A. Yes, I was.

2 Q. Deputy O'Connor, on November 5th, were you asked
3 to respond to a call at the Avery Salvage Yard?

4 A. Yes, I was.

5 Q. Can you tell us where that is located, please.

6 A. It would be off of Highway 147 and Avery Road. I
7 believe it's in the Town of Gibson, in Manitowoc
8 County.

9 Q. Is that also in the State of Wisconsin?

10 A. Yes, it is.

11 Q. Did you, in fact, respond to that scene?

12 A. Yes, I did.

13 Q. And about -- First of all, when did you get the
14 call to go to that property?

15 A. It would have been approximately 10:50 a.m.

16 Q. Did you proceed to that scene?

17 A. Yes, I did.

18 Q. About what time did you get there?

19 A. I arrived at approximately 10:54.

20 Q. At 10:54 a.m., then, could you tell the jury what
21 you did and what, if anything, you saw?

22 A. At first I took up a position on what would be
23 the north side of Highway 147 at the intersection
24 of Avery Road. I was instructed by Detective
25 Remiker to monitor the scene and see if anyone

1 was attempting to leave the scene.

2 A short time later I did notice some
3 vehicles driving down Avery Road onto Highway
4 147. I did advise Detective Remiker of this, at
5 which point he instructed me to go onto Avery
6 Road, just off of 147, and put up a roadblock and
7 detain anyone who was attempting to leave off of
8 Avery Road.

9 Q. Were you able to perform that duty?

10 A. Yes, I was.

11 Q. About what time did you set up this roadblock?

12 A. Approximately 10:56 a.m.

13 Q. So within the two minutes from when you arrived
14 and when you set up the roadblock, had you
15 observed any vehicles leaving or entering the
16 Avery salvage property itself?

17 A. There were none that entered. I believe there
18 were two that had left.

19 Q. All right. At 10:56, then, could you tell the
20 jury what you did.

21 A. I set up the roadblock on Avery Road, just off of
22 Highway 147. The primary duty at that time was
23 to prevent anyone from leaving the property and
24 prevent anyone, other than law enforcement
25 personnel, from entering the property. During

1 the time I was there, I did detain six vehicles
2 in total.

3 Q. Six vehicles entering or leaving?

4 A. They were -- They would have been leaving the
5 property.

6 Q. All right. And at that time, at least at that
7 early stage, did you individually know what was
8 happening; in other words, did you know what the
9 purpose of the call was?

10 A. Not totally. Detective Remiker apparently had
11 some information that there was an individual, or
12 individuals, on the property and they had
13 possibly found the vehicle belonging to Teresa
14 Halbach.

15 Q. All right. Deputy O'Connor, the road, Avery Road
16 itself, can you describe that for the jury?

17 A. It's a small town road. I believe it's paved.
18 It runs basically south off of Highway 147. Runs
19 back to the Avery property. It's a small two
20 lane road.

21 There's also some large LP gas tanks
22 just off of Avery Road. I believe they use it as
23 a filling station for trucks.

24 Q. All right. Deputy O'Connor, to your knowledge,
25 were you the first law enforcement officer of any

1 county to arrive at that scene?

2 A. Yes, I was.

3 Q. Did you observe any other law enforcement
4 officers arrive at that location?

5 A. A short time later, probably within a couple of
6 minutes of my arrival, Sergeant Orth of our
7 department arrived, followed shortly thereafter,
8 probably by a minute or two, by Lieutenant
9 Hermann. And he was followed almost immediately
10 by Detective Remiker.

11 Q. All right. The location that you were stationed
12 at, how far is that from the Avery salvage
13 property itself; in other words, the 40 acre
14 salvage yard, if you know?

15 A. I'm not real sure how far up the property comes
16 to Highway 147; however, based upon, like, where
17 the office area would be and the residences, I
18 was probably, I'm going to just guess, a quarter
19 of a mile.

20 Q. All right. You said Sergeant Orth would have
21 been the second to arrive; is that right?

22 A. Yes.

23 Q. Would he have been the first officer to actually
24 drive into the property itself?

25 A. Yes, he would have.

1 Q. And you didn't do that?

2 A. No, I did not.

3 Q. You stayed on the highway?

4 A. I stayed up at that position until I was relieved
5 by Deputy Haese at approximately 2:02 p.m.

6 Q. All right. You said after Sergeant Orth and
7 Lieutenant Hermann and then Detective Remiker
8 arrived; did you see any other law enforcement
9 presence?

10 A. There was various people coming at various times.
11 I recall yourself being there eventually.
12 Investigator Wiegert, I believe his name is, with
13 your department, came by. Assistant District
14 Attorney Griesbach from our District Attorney's
15 Office arrived. So there was -- I remember your
16 sheriff from this county arriving, Deputy
17 Inspector Greg Schetter.

18 Q. All right. Let me just -- Let me just stop you
19 there. The Calumet presence, that is Calumet
20 County Sheriff's investigative staff; do you know
21 about how long after Detective Remiker got there
22 that they arrived at that location?

23 A. No, but I wouldn't think it was very long,
24 probably within a half an hour or so.

25 Q. All right. Lastly, Deputy O'Connor, other than

1 that first late morning and into the afternoon of
2 Saturday, the 5th of November, did you have any
3 other involvement in either search efforts or any
4 other law enforcement efforts at that location?

5 A. I was not involved in any search efforts. After
6 I was relieved by Deputy Haese, I did go back to
7 Manitowoc. I was instructed to pick up some
8 supplies and bring them back. I arrived back on
9 scene at approximately 3:23 p.m. to drop off the
10 items. I left approximately 20 minutes later.

11 Q. Let me just stop you. What kind of supplies are
12 we talking about?

13 A. I was instructed to take some ropes, bungee
14 cords, and tent stakes out to the scene.

15 Q. All right.

16 A. And then on November 10th, I was instructed to do
17 basically the same thing I had done. I set up on
18 Avery Road. This time, however, I was keeping a
19 log of the personnel coming in and leaving the
20 scene. I arrived there at approximately
21 7:00 a.m., leaving at approximately 5:00 p.m.
22 that day.

23 Q. Other than logging individuals coming in and
24 going out, did you have any other involvement
25 that day?

1 A. No, I did not.

2 ATTORNEY KRATZ: That's all I have of
3 Deputy O'Connor, Judge.

4 THE COURT: Mr. Strang.

5 ATTORNEY STRANG: Thank you.

6 **CROSS-EXAMINATION**

7 BY ATTORNEY STRANG:

8 Q. When you arrived on November 5, you actually go
9 no further than just off of Highway 147?

10 A. Correct.

11 Q. And during your time there, you are not keeping
12 any log of who's coming or going at that time?

13 A. No, I'm not.

14 Q. Okay. You -- You suggested that there may have
15 been two vehicles that left before you started
16 stopping people coming or going. Could that have
17 been -- Are you referring maybe to three pickup
18 trucks?

19 A. I recall one of them being a pickup truck. I
20 don't recall what the other vehicle would have
21 been.

22 Q. This may help. Let's see if I can make a short
23 tape play for you. We should hear it if things
24 work right. And it's on a CD. I'm just going to
25 suggest to you that it's a -- it's a radio

1 dispatch tape from November 5. Let's see if I
2 can make it go and see if that helps.

3 "10858, just received a call from Cal
4 County, there's an individual on the property off
5 of 147 -- "

6 "Mm-hmm."

7 "-- that may be out with that vehicle
8 (inaudible).

9 Q. Let me just stop it right there. Do you -- do
10 you recognize any of the voices we have?

11 A. The primary one sounds like it's Detective
12 Remiker and 496 would have been Lieutenant
13 Hermann.

14 Q. What is -- what's 496?

15 A. That's our call numbers, when dispatch assigns a
16 call, our numbers are given to the officer to
17 respond.

18 Q. Is this like a badge number?

19 A. Correct.

20 Q. Okay. And are you reasonably familiar with who
21 is who by call number?

22 A. Pretty much.

23 Q. So we heard Detective Remiker who is 278, right?

24 A. Correct.

25 Q. And I'm sorry, 496 was Lieutenant Hermann?

1 A. Correct.

2 Q. There are two Hermann's in your department,
3 right?

4 A. Correct.

5 Q. The lieutenant is Todd, if I'm remembering right?

6 A. He was lieutenant at that time; he's since been
7 promoted to deputy inspector but, yes, that would
8 be Todd.

9 Q. And there's a Robert, who was the deputy
10 inspector that is now the elected sheriff, is it?

11 A. At that time he was the inspector and now he is
12 the elected sheriff.

13 Q. Okay. And this is Todd, the lieutenant, we're
14 hearing?

15 A. Correct.

16 Q. Okay.

17 (Inaudible.)

18 "Dispatch, copy."

19 "405-278."

20 Q. (By Attorney Strang)~ 405 is you?

21 A. That's me.

22 "147" (Inaudible.)

23 "Okay. Get over there, don't have a lot
24 of details. Got a call, Cal County is heading
25 that way also."

1 Q. (By Attorney Strang)~ Now, what are you getting
2 there?

3 A. Well, 405 is me. And I was just saying where I
4 was. I was not real far from the Avery property
5 at that time. The other officer was Detective
6 Remiker and he was just informing me that they
7 didn't have a lot of information, but I should
8 head that way.

9 Q. Okay. You essentially answered my question, but
10 let's just nail down, you recognize the tape?

11 A. Correct.

12 Q. I mean, this comes back to you as events --

13 A. Correct.

14 Q. -- of about the time on November 5 you have
15 described?

16 A. Yes.

17 Q. Okay.

18 (Inaudible.)

19 "I will set up by the entrance across
20 the street."

21 "10-4."

22 "278, can you give me a 21?"

23 Q. (By Attorney Strang)~ That's the dispatcher
24 calling?

25 A. Correct.

1 Q. To Detective Remiker?

2 A. Yes.

3 Q. Asking for a 21, which is a location?

4 A. No, 21 is a telephone call.

5 Q. Telephone call. 1021.

6 A. 1020 would be location. 1021 is a telephone
7 call.

8 Q. Okay.

9 "278."

10 (Inaudible.)

11 "I have a pickup truck coming out of
12 there."

13 Q. (By Attorney Strang)~ That's Remiker.

14 "Why don't you go in and try and make
15 contact. Unknown who she is, female party,
16 possibly just a citizen who is out there. She
17 received permission from the property owner to
18 look around. We're not even sure where she is.
19 I'm going to give her a call; I just got a cell
20 phone number.

21 Q. (By Attorney Strang)~ Okay. So you are the one
22 who says there's a pickup truck coming out of
23 there?

24 A. I remember saying that, yes.

25 Q. And then Detective Remiker is saying, why don't

1 you go in and try to make contact with the
2 citizen?

3 A. Correct.

4 Q. Is that -- I mean, that's the gist of what we're
5 hearing?

6 "So this is a private party that's
7 supposed to be back there?"

8 "It might be, I didn't get a lot of
9 information from Cal County. That's all they
10 could give me."

11 "10-4."

12 Q. (By Attorney Strang)~ That's you?

13 (Inaudible.)

14 "405, get in there to get more
15 information, looks like it might be the vehicle."

16 (Inaudible.)

17 "I have three pickup trucks coming out
18 of there."

19 (Inaudible.)

20 Q. (By Attorney Strang)~ That was you?

21 A. Saying the pickup truck is coming out, yes.

22 Q. I got three pickup trucks coming out of there
23 sometime. And this is Remiker, right before
24 that, telling you get in there?

25 A. Correct.

1 Q. Meaning go onto the property?

2 A. Correct.

3 Q. But you didn't?

4 A. No, I did not.

5 Q. Okay. And just tell us -- tell us why that is?

6 A. I believe once I said that those pickup trucks

7 were leaving, I believe that he said that I

8 should stop the traffic and identify.

9 Q. Yeah, and actually, you're exactly right.

10 "As of right now, block off that road;

11 nobody goes in, nobody comes out. Get license

12 plates. Coming into Mishicot."

13 "405, dispatch."

14 "I copy."

15 "Ford Lincoln 38152."

16 (Inaudible.)

17 Q. (By Attorney Strang)~ Now, that's exactly what I

18 think we heard Remiker say, as of right now block

19 off that road?

20 A. Correct.

21 Q. Nobody goes in, nobody comes out, get license

22 plates?

23 A. Correct.

24 Q. And then the next thing we hear is you calling

25 dispatch with a license plate?

1 A. Correct.

2 Q. Okay. And it goes from there and then within
3 just a few minutes, is it Sergeant Orth and
4 Detective Remiker and Lieutenant Hermann all
5 arrive?

6 A. Correct.

7 Q. In something like that -- Orth, Hermann, Remiker,
8 in that order?

9 A. Correct.

10 Q. Okay. So -- So we got our -- one pickup truck
11 coming out of there earlier and then you say
12 there have been three pickup trucks coming out
13 there sometime?

14 A. The one that I ran the plate on, I believe got
15 out before I was able to get set up. So I just
16 ran the plate as he went by me.

17 Q. Okay.

18 A. There was other vehicles that I could see coming
19 down Avery Road; those I do believe I was
20 successful in stopping.

21 Q. And did there come a time shortly after this
22 where you -- one of the people you stopped you
23 found had something called a body only warrant?

24 A. Correct.

25 Q. What's a body only warrant?

1 A. It's put out by the Courts. Generally speaking,
2 it's for if they don't show up for a court
3 appearance or some sort of a matter. They will
4 put out a body only, which means that they cannot
5 bail themselves out, they have to go before the
6 court to satisfy the warrant.

7 Q. Right. So you have got an active open warrant
8 for someone; you as a sworn law enforcement
9 officer are allowed to take them into custody
10 once you have them and you know there is a
11 warrant for them?

12 A. Correct.

13 Q. Okay. And that just -- that was somebody who was
14 coming out?

15 A. Yes, it was.

16 Q. Not a member of the Avery family?

17 A. No.

18 Q. Just somebody who happened to be there?

19 A. Just somebody who happened to be there and coming
20 out.

21 Q. And, in general, were these -- did these appear
22 to be customers coming out that Saturday morning?

23 A. Yes.

24 Q. The business was open?

25 A. I believe it was open until noon that day.

1 Q. And so I'm just -- I'm not entirely clear. You
2 think it's four pickup trucks that left before
3 you started stopping the traffic or is a total of
4 three? Are you clear anymore?

5 A. I thought it was only one that actually got -- I
6 think it was two that got past me. I could not
7 get the first one's license plate. The second
8 one was the one that I called out, I believe. I
9 believe anything else I was able to stop before
10 they were able to get out, as best as I can
11 recall.

12 Q. Maybe I misunderstood. I'm going to go back just
13 a little bit.

14 "As of right now, block off that road;
15 nobody goes in, nobody comes out. Get license
16 plates."

17 Q. Going back a little more.

18 (Inaudible.)

19 "405, get in there to get more
20 information, looks like it might be the vehicle."

21 (Inaudible.)

22 "I have three pickup trucks coming out
23 of there."

24 (Inaudible.)

25 Q. (By Attorney Strang)~ Am I hearing that right,

1 that's you saying, I have had three pickup trucks
2 come out of there sometime?

3 A. Sounds garbled to me on this end, so I can't tell
4 what number I'm saying.

5 Q. Okay. And in any event, though, first you are
6 being told to get in there. And then, now,
7 immediately after this, you are being told, as of
8 right now, block off that road?

9 A. Correct.

10 "As of right now, block off that road.
11 Nobody goes in, nobody comes out. Get license
12 plates. Coming in to Mishicot."

13 Q. And that's what you do?

14 A. Correct.

15 Q. And I'm sorry, what was the second day when you
16 were out there for 10 hours, 7 to 5 and did keep
17 a log?

18 A. That would have been the 10th, I believe.

19 Q. Your job that day was simply maintain a log?

20 A. Just maintaining a log, logging people coming in,
21 logging people going out, and making sure nobody
22 comes in who wasn't supposed to be in.

23 Q. All right. Very well. So that includes checking
24 law enforcement officers' identification?

25 A. Correct.

1 Q. And certainly checking citizens and probably
2 screening and keeping most of them out?

3 A. Correct.

4 ATTORNEY STRANG: That's all I have.

5 ATTORNEY KRATZ: Just one moment, counsel.

6 THE COURT: Mr. Strang, the court reporter
7 was just telling me she had trouble hearing
8 everything that was coming through on the audio. Is
9 that an exhibit or is it going to become one?

10 ATTORNEY STRANG: Probably make sense to
11 make it an exhibit.

12 THE COURT: I think that would be good,
13 because otherwise I'm not sure that the record will
14 be accurate.

15 ATTORNEY STRANG: Why don't -- Why don't we
16 call it 126.

17 THE COURT: Okay.

18 ATTORNEY STRANG: And I -- it's on a CD
19 with four tracks. I will dupe it overnight, burn a
20 copy and we can leave this one with the Court.

21 THE COURT: Very well. Is that acceptable
22 to the State?

23 ATTORNEY KRATZ: It is, in fact, we're
24 about to do that with a photo, Judge. That's just
25 fine.

1 THE COURT: Okay.

2 REDIRECT EXAMINATION

3 BY ATTORNEY KRATZ:

4 Q. This photo Deputy O'Connor, we're going to be
5 calling Exhibit 127. We're going to be replacing
6 the electronic version with a 4 by 6, but to help
7 the jury understand what we're looking at, why
8 don't you tell us what Exhibit 127 is.

9 A. Looks like an aerial photo of the -- partially
10 the Avery property. Looks like that would be
11 Highway 147 there and Avery Road.

12 Q. There's a laser pointer up right next to you
13 there.

14 A. Okay.

15 Q. If you can show us Highway 147 and what would be
16 Avery Road.

17 A. I believe this would be Highway 147 here, the
18 diagonal, and then this would be Avery Road
19 coming in here.

20 Q. But 147 will be to the top of that exhibit --

21 A. Correct.

22 Q. -- and Avery Road goes from pretty much left to
23 right towards the top of the exhibit; is that
24 correct?

25 A. Correct.

1 Q. And that exhibit really shows the entirety of the
2 Avery Road, that is, what would be a service road
3 or the entrance to the Avery salvage property; is
4 that correct?

5 A. Correct.

6 Q. In other words, as we look at this exhibit from
7 left to right, that's the whole road?

8 A. Yes.

9 Q. All right. And the furthest right point on that
10 exhibit, that's where the business is and, in
11 fact, some of the residences --

12 A. Correct.

13 Q. -- is that right? Now, could you just show the
14 jury, just so they are oriented, where was it
15 that you were stationed and where were you
16 stopping the vehicles?

17 A. This area right here would be the propane tanks I
18 was talking about.

19 Q. All right.

20 A. So it would have been just to the Highway 147
21 side of those tanks, right in this area.

22 Q. All right. So you are actually south of Highway
23 147 a ways, a couple hundred feet maybe?

24 A. That would be a fair estimate, yes.

25 ATTORNEY KRATZ: Very good. That's all I

1 have, then. And, Judge, when we get the hard copy
2 of this, which may already be in the court file, but
3 we will replace and have received Exhibit 127, I
4 believe as admission.

5 ATTORNEY STRANG: That's works just fine.
6 That works just fine.

7 THE COURT: All right. The exhibit is
8 admitted.

9 ATTORNEY STRANG: I just will nail this
10 down with one last question.

11 **REXCROSS-EXAMINATION**

12 BY ATTORNEY STRANG:

13 Q. So, between 10:56 and when you leave at about
14 2:00 p.m on November 5, there is no log of law
15 enforcement people coming into or leaving the
16 Avery property?

17 A. I did not start one. I don't know if one of the
18 other officers that were down below started one
19 or not.

20 THE COURT: Very well, Mr. O'Connor, you
21 are excused.

22 ATTORNEY KRATZ: My next witness, Judge?

23 THE COURT: Yes.

24 ATTORNEY KRATZ: State would call Sergeant
25 Orth to the stand.

1 THE COURT: Members of the jury, you can
2 stand up and stretch a bit if you wish before the
3 next witness comes in.

4 SERGEANT JASON ORTH, called as a witness
5 herein, having been first duly sworn, was
6 examined and testified as follows:

7 THE CLERK: Please be seated. Please state
8 your name and spell your last name for the record.

9 THE WITNESS: Jason Orth, O-r-t-h.

10 DIRECT EXAMINATION

11 BY ATTORNEY KRATZ:

12 Q. Mr. Orth, could you tell us how are you employed,
13 sir?

14 A. Patrol sergeant with Manitowoc County Sheriff's
15 Department.

16 Q. How long have you worked for Manitowoc County?

17 A. Just under 10 years.

18 Q. And were you employed in a law enforcement
19 capacity before that?

20 A. No.

21 Q. What are your duties with the department at this
22 time?

23 A. As I mentioned, I'm a Patrol Sergeant for the
24 Patrol Division.

25 Q. General -- general traffic and --

1 A. Traffic and criminal investigations.

2 Q. All right. Sergeant Orth, I'm going to direct
3 your attention to November 5th of 2005, ask if
4 you were employed with Manitowoc County at that
5 time?

6 A. Yes, I was.

7 Q. Were you in roughly the same capacity?

8 A. Correct.

9 Q. On that date, in fact, sometime just before
10 11:00 in the morning, were you called to a
11 property known as the Avery Salvage Yard?

12 A. Yes, I was.

13 Q. And did you proceed to that scene?

14 A. Yes, I did.

15 Q. Do you recall about what time you arrived at that
16 scene?

17 A. Approximately 10:59 hours, 10:59 a.m.

18 Q. Tell the jury what you did when you got to that
19 scene, please.

20 A. I proceeded down to the southernmost portion of
21 the property, the southeastern portion of the
22 property where I was flagged down by two white
23 females who were later identified as Pamela and
24 Nikole Sturm.

25 Q. As you testify, I'm going to show you an exhibit

1 which has already been received as Exhibit
2 No. 86. There's a laser pointer in front of you
3 and you should feel free to, if you believe it
4 will assist your testimony or the jury's
5 understanding, to use that laser pointer.

6 First of all, Exhibit 86, does that look
7 familiar to you; are you oriented all right when
8 you look at that?

9 A. That would be the residence on the lower left
10 hand corner, trailer?

11 Q. Yes, the business, the entrance, I believe it's
12 uncontested, is in the lower left hand corner.
13 Avery Road would be towards us if you're looking
14 from north to south.

15 A. Over here is where you are saying the main
16 entrance is?

17 Q. If you come towards us, down on the exhibit,
18 Highway 147 would be off the screen to the
19 bottom.

20 A. Okay. All right. Then I would have proceeded
21 down the eastern side here, down to the lower
22 area.

23 Q. All right. Sergeant Orth, were you the first law
24 enforcement officer, at least that you observed,
25 that was on the Avery property itself?

1 A. Yes, I was.

2 Q. Now, you are using the pointer and you were
3 showing, I think, the jury that you were
4 traveling from what would be a generally
5 northerly direction south along what would be the
6 east side or the left side of the property; is
7 that right?

8 A. Correct.

9 Q. Can you show us the road that you traveled on
10 please?

11 A. (Witness demonstrates.)

12 Q. All right. And, again, the record should reflect
13 that you showed us that service road or driveway
14 on the easternmost edge of the property. Where
15 was it that you stopped your vehicle?

16 A. I stopped the vehicle right where Pamela and
17 Nikole Sturm were standing, which is in the
18 southeastern portion of the property.

19 Q. Do you recall any piece of equipment being close
20 to that location?

21 A. There was a vehicle crusher in that general area.

22 Q. Did you see these women when you got there?

23 A. Yes, I observed them -- actually, they were
24 attempting to get my attention. They were
25 flagging me down.

1 Q. Let me ask, Sergeant Orth, whether you were
2 driving a marked or an unmarked patrol unit?

3 A. It was a fully marked patrol car.

4 Q. Tell the jury what you saw when you arrived.

5 A. About that time I saw Pamela and Nikole Sturm
6 both physically upset, as they were crying. They
7 immediately directed my attention to the
8 southernmost row of junked vehicles. And one of
9 the two had indicated that the vehicle in
10 question was approximately 10 vehicles in.

11 Q. Now, when you say the southernmost road, can you
12 tell us what you are talking about?

13 A. On the picture?

14 Q. Yeah, if I zoom in a little bit here, tell me if
15 that helps?

16 A. There we go. They were positioned right around
17 this area and they were directing my attention to
18 this southernmost row of vehicles.

19 Q. And the record should reflect that you are
20 pointing to an area south of the pond or what
21 appears to be a body of water which is also south
22 of the crusher; is that right?

23 A. Correct.

24 Q. From -- And maybe with this more zoomed in
25 version of Exhibit No. 86, could you once again

1 show us where you parked, and if you proceeded on
2 foot, which way you walked?

3 A. I parked the squad car right in this general area
4 near the crusher. I asked both Pamela and Nikole
5 to remain at this location. And then I walked
6 down this overgrown access road, which led to the
7 southernmost row of vehicles.

8 Q. Did you walk around the pond, that would be
9 around the left of the pond?

10 A. Correct, the southeast side.

11 Q. And, again, Sergeant Orth, were there any other
12 law enforcement officers at that location?

13 A. No, I was the only one at that time.

14 Q. And were there citizens that were meeting with or
15 speaking with either of the Sturm women at that
16 time?

17 A. No.

18 Q. Tell us where you walked and tell the jury what
19 you saw.

20 A. I walked down this overgrown access road towards
21 the vehicle in question, a green or blue RAV4. I
22 observed that the vehicle did not have any
23 registration plate on the rear, as I was
24 approaching.

25 It had two branches covering the back of

1 the vehicle. It had a old wooden fence post
2 propped up against the passenger side rear
3 taillight. It had an old vehicle hood resting up
4 against the passenger side rear fender. It had a
5 piece of plywood propped up against the front
6 passenger side fender.

7 It had at least one branch covering the
8 roof and at least one branch covering the hood of
9 the vehicle. So it was quite obvious somebody
10 attempted to conceal it.

11 Q. Was there anybody in that area or location when
12 you got there?

13 A. No one was in that area at all.

14 Q. Did you approach the vehicle?

15 A. I did approach the vehicle on the passenger side
16 and immediately glanced in the front passenger
17 side window looking for persons.

18 Q. Looking for what?

19 A. Looking for Teresa.

20 Q. Was she in the vehicle?

21 A. Teresa was not in the vehicle; it appeared to be
22 unoccupied.

23 Q. Did you attempt to open any of the doors?

24 A. No, I did not.

25 Q. Did you in any other way touch or disturb the

1 vehicle?

2 A. No, I did not.

3 Q. After looking in the vehicle and not finding a
4 body, what did you do?

5 A. At that time my next goal was to positively
6 identify the vehicle; therefore, I walked around
7 the rear of the vehicle to the driver's side and
8 attempted to read the VIN number. However, with
9 it being overcast and shadows and so forth, I was
10 unable to clearly read the VIN number.

11 Q. What did you do then?

12 A. At that time I observed Detective Remiker and
13 Lieutenant Hermann approaching the vehicle.
14 Therefore, I met them several feet behind the
15 vehicle.

16 Q. Again, referring to Exhibit No. 86, could you
17 direct the jury to approximately -- first of all,
18 approximately where the RAV4 was and then where
19 did you meet with Detective Remiker?

20 A. Okay. Detective Remiker and Lieutenant Hermann
21 parked in the same general area of my squad car
22 back by the crusher area. They walked the same
23 exact path I did up and over and the vehicle was
24 in this general area.

25 Q. All right.

1 A. And I met them approximately seven feet behind
2 the vehicle.

3 Q. Upon Detective Remiker and Lieutenant Hermann's
4 arrival, did you note whether either of those
5 individuals touched, entered, or otherwise
6 disturbed the vehicle?

7 A. No, they did not. Lieutenant Hermann remained
8 approximately seven feet behind the vehicle.
9 Detective Remiker and I then re-approached the
10 vehicle in attempts to positively ID it.

11 Q. How?

12 A. Detective Remiker walked up the passenger side.
13 I believe he had a flashlight. He started
14 viewing the VIN number. While he was viewing the
15 VIN number, I looked in the back window, once
16 again to verify Teresa was not in the vehicle.
17 While looking in the back window, I observed --
18 it turns out it was a photo memory card that had
19 Teresa's name written on it. Moments later
20 Detective Remiker informed me the VIN number also
21 matched.

22 Q. After obtaining a positive identification for the
23 vehicle, what did you do then?

24 A. I proceeded approximately 30 feet behind the
25 vehicle and started providing security.

1 Detective Remiker and Lieutenant Hermann
2 immediately proceeded back to the staging area
3 where we parked our squad cars to once again talk
4 to Pamela and Nikole Sturm.

5 Q. What do you mean by staging area?

6 A. The area where we were parking our vehicles and
7 later in the investigation where other officers
8 started parking when they arrived.

9 Q. Could you show us, again, on the overview?

10 A. Which would be where I'm pointing is where I
11 parked near the crusher, which is I would say at
12 least 100 yards away from where the vehicle in
13 question was located.

14 Q. All right. Sergeant Orth, from your arrival,
15 being the first officer that was there, would you
16 have been in a constant position to determine
17 whether any law enforcement officer or citizen
18 entered or disturbed that vehicle?

19 A. Yes, I was. I had constant visual of the
20 vehicle.

21 Q. And I want you to tell the jury whether any
22 police officer or any citizen entered or
23 otherwise disturbed that RAV4?

24 A. No police officer or citizen approached or
25 touched that RAV4.

1 Q. How long did you remain as a primary security
2 officer for that vehicle, in that location?

3 A. I would have to look in my report to see the time
4 I ultimately left. However, I know I received my
5 first break at about 1:00. Lieutenant Hermann
6 proceeded up to my location, approximately
7 30 feet behind the vehicle, at which time he
8 focused on the vehicle.

9 I went to the staging area where I took
10 a short break; however, even at the staging area
11 there was still a clear view of the vehicle. So
12 even during my short breaks I was able to
13 observe; no one approached.

14 Q. Let's go back to that just a minute. You said
15 there was a clear view of the vehicle from the
16 staging area; is that where Pam and Nikole Sturm
17 were standing?

18 A. Correct.

19 Q. When you stood in the exact location that Pam and
20 Nikole Sturm were standing, could you see the
21 RAV4 from that location?

22 A. Yes.

23 Q. So if anybody disturbed or entered the vehicle,
24 would you have been able to see that?

25 A. Yes.

1 Q. You said that some other police officers and
2 other law enforcement types arrived at the scene;
3 is that right?

4 A. Mm-hmm, yes.

5 Q. All right. Who else came to the scene? Who else
6 was there?

7 A. Deputy Cummings from the Manitowoc Sheriff's
8 Department. Are you talking through the entire
9 time I was there?

10 Q. Yeah, I'm talking really about whether other
11 departments, other agencies had arrived.

12 A. Calumet County sheriff's office had officers
13 arriving.

14 Q. About how long after your arrival before Calumet
15 showed up?

16 A. An hour, that would be an estimated time.

17 Q. I suspect there's logs or better information for
18 that; is that fair?

19 A. Correct.

20 Q. Nevertheless, between the time that you arrived
21 and when Calumet County got there, were there
22 other Manitowoc County officials that were
23 responsible for scene security or was that your
24 responsibility?

25 A. That would have been myself; Lieutenant Hermann,

1 when he gave me a short break; and Deputy
2 Cummings, when he gave me a short break.

3 Q. Again, these short breaks, did you maintain
4 visual connection with the vehicle at that time?

5 A. Yes. As I mentioned, I was over near the staging
6 area where I could still see the avenues of
7 approach for the vehicle. I just want to
8 clarify, there were some small trees in this area
9 around the pond; however, due to the time of
10 year, there was no foliage upon the trees,
11 therefore, you could still see through.

12 Q. Okay. I'm going to come right out and ask you,
13 any time before Calumet County arrived, did you
14 see a gentleman who works for your department
15 named Lieutenant James Lenk?

16 A. I did not see him.

17 Q. At any time before Calumet County arrived, did
18 you see a gentleman who works for your department
19 named Andrew Colborn?

20 A. No, I did not see him.

21 ATTORNEY KRATZ: That's all I have of this
22 witness, Judge.

23 THE COURT: Mr. Buting.

24 ATTORNEY BUTING: Thank you, Judge.

25 CROSS-EXAMINATION

1 BY ATTORNEY BUTING:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Sergeant, you said that when you would take your
5 break you would go directly to the location where
6 Nikole and Pam Sturm were, right?

7 A. Correct.

8 Q. And you said -- and that was near -- right next
9 to the crusher, right?

10 A. Near the crusher.

11 Q. Okay. Well, I don't know if you can see there,
12 maybe it's because this photo is kind of far away
13 from you, but you have been pointing to this area
14 around here, just very close to the pond, as the
15 area where the crusher is, right?

16 A. Actually, I believe that crusher may be more to
17 the left and down. That's a -- that's a focal
18 point for me to say we were near that area;
19 however, when we parked, the staging area --

20 Q. I assume.

21 A. -- if that's the crusher, we were parked in front
22 of the crusher closer to the pond area, but
23 that's one --

24 Q. Do you want to walk --

25 A. -- specific area.

1 Q. -- up a little closer to see if this is the
2 crusher down here at the very bottom of the
3 picture?

4 A. If you would like me to, I could.

5 Q. Well, I would like to clear this up. I want -- I
6 want to be -- I want the jury to understand the
7 distances and where exactly you were situated.
8 And would you please tell us whether you were
9 down here at the crusher or whether you were up
10 there --

11 A. I was up here.

12 Q. -- closer to the pond? You were up here?

13 A. Right.

14 Q. That's right where -- You were standing right
15 next to Pam and Nikole Sturm when you would take
16 those breaks, right?

17 A. I'm not sure if they remained at that area. I'm
18 referring to that area because that is where I
19 met them. That is where I parked. And then when
20 I would take a break, I would remain -- return to
21 that area.

22 Q. Well, sir, didn't you just say that you stood in
23 the exact location that Pam and Nikole Sturm
24 stood in and could see the vehicle from that --
25 from that spot, right?

1 A. I was in the same general area; I did not stand
2 in the exact spot.

3 Q. Oh, so you never stood in the exact spot where
4 Pam and Nikole Sturm stood, is that what you are
5 now telling us?

6 A. That would be impossible, if they were standing
7 there, to stand in the exact spot.

8 Q. All right. Were you standing in almost the exact
9 spot that Pam and Nikole Sturm -- I believe
10 counsel said the word exact spot, but you
11 understand what we're talking about? I'm not
12 saying you are standing on top of them,
13 obviously.

14 A. I was standing in the same general area.

15 Q. Okay. And by same general area, you consider --
16 Let me ask you this, if we heard testimony that
17 the distance from the crusher to the vehicle,
18 which was -- we have heard testimony that the
19 distance from the crusher to the vehicle is 379
20 feet, would you disagree with that or agree with
21 that?

22 A. That's probably accurate.

23 Q. Okay. And so the distance from where the crusher
24 is to about to where you are saying you were, by
25 my estimation would be at least 100 feet, 75

1 maybe?

2 A. Possible.

3 Q. So you consider standing 75 or 100 feet away from
4 somebody to be in the same general area; is that
5 what your testimony is?

6 A. When we're talking this is such a big area here,
7 I was considering this the same general area.

8 Q. Okay. Just wanted to clarify how precise you
9 are, okay. Now, when you first walked up to the
10 vehicle, you said that you approached on the
11 passenger side, right?

12 A. Correct.

13 Q. And you didn't have a flashlight with you?

14 A. No, I did not.

15 Q. But you looked in which window to see if there
16 was a body?

17 A. The front passenger side window.

18 Q. Okay. And you saw none, right?

19 A. Correct.

20 Q. And did you look around to see if there was any
21 keys or anything like that in the vehicle?

22 A. No.

23 Q. You weren't looking for anything but a body at
24 that occasion -- on that occasion, right?

25 A. Correct.

1 Q. And then you walked around the rear over on the
2 driver's side?

3 A. Correct.

4 Q. All the way up to where the VIN number would be?

5 A. Yes.

6 Q. But you couldn't see any of them?

7 A. It wasn't clear.

8 Q. Okay. So you -- The question is, could you see
9 any of the VIN numbers?

10 A. Yes.

11 Q. Okay. Did you report that, call it in, I can see
12 you know, VIN number -- the first four, or the
13 last four, or anything like that?

14 A. No, I did not because as soon as I realized it
15 was not clear and I could not read the entire
16 VIN, at that time I already observed Detective
17 Remiker and Lieutenant Hermann approaching.

18 Q. Okay. And then, they were on foot, is that what
19 you are saying, or did you see them driving up?

20 A. I saw the last of them driving up, but what I'm
21 referring to is they were literally walking down
22 the path while I was trying to look at the VIN.

23 Q. Well, did you see them when they were walking or
24 did you see them when they were driving?

25 A. Both.

1 Q. Okay. So you watched them park and then you
2 watched them walk the whole way to where you
3 were?

4 A. Not the entire time, but I observed them.

5 Q. And did they park up here in this area that you
6 have been circling, or did they park down here
7 closer to the car crusher, lower part of this
8 photograph?

9 A. As we were the first responding officers, we were
10 up here more. And the more officers that would
11 arrive would end up being further to the north,
12 which would be closer to the crusher.

13 Q. Okay. And then, Detective Remiker had a
14 flashlight?

15 A. I believe so.

16 Q. And you said that he walked over and was shining
17 the flashlight; was he on the driver's side when
18 he was shining the flashlight in or ...

19 A. He would have been on the driver side, by the
20 front driver side fender, looking at the VIN
21 number.

22 Q. And you were looking in the back window when you
23 saw this photo memory card?

24 A. Correct.

25 Q. What side of the car were you on at that point?

1 A. I was in the back of the vehicle. I don't recall
2 if I was closer to the driver side or the
3 passenger side.

4 Q. Well, what window did you look through?

5 A. The back window.

6 Q. The very rear tailgate window?

7 A. Correct.

8 Q. Okay. And you didn't have a flashlight?

9 A. No, I did not.

10 Q. But you were able to see a photo memory card?
11 About how big was that?

12 A. I don't recall. I recall the name Teresa
13 sticking out.

14 Q. Okay. But we're talking about an item maybe an
15 inch and a half, two inches big, something like
16 that?

17 A. Probably about that size, yes.

18 Q. You're talking about those little square things
19 that you stick in the small digital cameras; is
20 that right?

21 A. I glanced in. I don't know exactly what type of
22 item it was; however, I did clearly see her name.

23 Q. I understand that. I'm getting to that. But I
24 would like to make it clear, just about the size
25 of this object that you were looking at. Can you

1 tell me --

2 A. No, I cannot.

3 Q. I mean, you know what a floppy disc is, the old
4 floppy disc that used to go in computers?

5 A. Yes, I do.

6 Q. It was smaller than that, right?

7 A. I believe so.

8 Q. So it was one of the real small scan discs, or
9 whatever they are, that you use in cameras,
10 right?

11 A. In my report, I indicated that I observed a
12 smaller piece of paper with Teresa's name on it.
13 After reviewing Detective Remiker's report, that
14 is when I learned it was some type of digital
15 camera card.

16 Q. Okay. And on that little card, you were able to
17 see her name, right?

18 A. I saw the name Teresa.

19 Q. Okay. Did you look in any other windows?

20 A. No.

21 Q. The entire time that you were there, guarding, or
22 standing over the vehicle, or looking into it,
23 you never saw any blood inside the vehicle, did
24 you?

25 A. I was approximately 30 feet behind the vehicle, I

1 could not see inside.

2 Q. Sir, we have established that you looked in the
3 passenger side window, first, the front passenger
4 side window when you first arrived, right?

5 A. Correct.

6 Q. You didn't see any blood, right?

7 A. I glanced in for a body.

8 Q. Did you see any blood, sir?

9 A. No, I did not.

10 Q. Thank you. Then, we know at least one other time
11 you looked in the rear tailgate window, right?

12 A. Correct.

13 Q. Are those the only two times you have ever looked
14 inside the vehicle?

15 A. Correct.

16 Q. Okay. And you didn't see blood on that occasion
17 either, did you?

18 A. No, I did not.

19 Q. But you were able to see something as small as a
20 handwritten Teresa on a little computer disc,
21 right?

22 A. Correct.

23 Q. And if you had seen blood, of course, that would
24 have been something you would have made a note
25 of, wouldn't it?

1 A. I would imagine if I saw blood, yes.

2 Q. Okay. Did you ever see Lieutenant Lenk that day?

3 A. No, I did not.

4 Q. And you left at 2:00?

5 A. Excuse me?

6 Q. You said you left at 2:00?

7 A. I would have to read from my report.

8 Q. Okay. You didn't actually keep a log of -- or

9 you didn't actually start preparing a log of

10 anybody coming to and from that scene of the RAV4

11 until 2:45; isn't that right?

12 A. No.

13 Q. You did prepare a report, right?

14 A. Yes.

15 Q. And you try and be truthful and complete and

16 accurate when you make those reports?

17 A. Correct. As soon as I stood behind the vehicle,

18 approximately 30 feet, I used the small notepad

19 out of my shirt pocket. That was a rough log

20 that I started. When I proceeded back to the

21 staging area is where I prepared a final log,

22 which is probably what you are referring to.

23 Q. All right. If you would just read what you say

24 for the entry that says 14:45 hours; that is

25 2:45, is it not?

1 A. Correct. You want me to read this?

2 Q. Sure, read the last sentence.

3 A. I started a log to document the names of

4 individuals approaching the immediate area around

5 the vehicle.

6 Q. Okay. I started a log, right?

7 A. Correct.

8 Q. Is there any place earlier in your report where

9 you mention that you ever took any notes,

10 anywhere else, about who was coming and going,

11 other than this entry right here, that says it's

12 2:45 p.m.?

13 A. No, my rough field notes is when I started

14 previously.

15 Q. Do you still have those?

16 A. No, I do not.

17 Q. So we just have to rely on your memory; is that

18 right?

19 A. As far as the time of breaks and the time I

20 approached.

21 Q. And who came and went, right?

22 A. Correct.

23 Q. You are a sergeant?

24 A. Yes.

25 Q. And you were a sergeant then --

1 A. Yes.

2 Q. -- October 31st? Lieutenant Lenk is above you in
3 rank?

4 A. Correct.

5 Q. And was on that day?

6 A. Correct.

7 Q. Lieutenant Lenk was in the hierarchy, what,
8 fourth highest ranking officer?

9 A. At the department?

10 Q. Yeah.

11 A. I'm not sure.

12 Q. Did it ever enter your mind that one of your
13 superior officers might want to plant evidence
14 inside that RAV4?

15 A. Absolutely not.

16 Q. Nothing you would have been, in your wildest
17 imagination, thinking of?

18 A. Absolutely not.

19 Q. So when you were watching that RAV4, it was not
20 with the thought in mind that, I better make sure
21 none of my superiors are coming in here and
22 touching this vehicle planting evidence, right?

23 A. I'm not sure what you mean.

24 Q. That wasn't -- That wasn't a purpose of you
25 watching the vehicle, to make sure that one of

1 your superiors couldn't gain access to it and do
2 something with it, was it?

3 A. I was securing the vehicle for any persons.

4 Q. Okay. By the way --

5 ATTORNEY BUTING: Would you put that back
6 up there for a moment, please. I'm sorry it keeps
7 cutting out. Can you zoom out?

8 ATTORNEY KRATZ: Sure.

9 ATTORNEY BUTING: Not quite that far, one
10 more in please. That's good. That's good.

11 Q. (By Attorney Buting)~ The veh -- The direction
12 that you approached, which is now the upper left
13 hand corner, was to the southeast of the pond,
14 right?

15 A. You're asking where I approached?

16 Q. Yeah, I think you showed us that you approached
17 from the southeast corner?

18 A. Proceeded from the north, traveling southeast.

19 Q. There's actually other ways to get to that RAV4
20 vehicle; aren't there, from the west?

21 A. Correct.

22 Q. From the south?

23 A. Correct.

24 Q. Or anyone of these rows on the right hand side of
25 the photograph leading -- again, approaching from

1 the west?

2 A. Correct.

3 Q. And just --

4 ATTORNEY BUTING: That's all, thank you.

5 THE COURT: Any redirect?

6 ATTORNEY KRATZ: If I could have just a
7 moment, Judge.

8 THE COURT: Sure.

9 **REDIRECT EXAMINATION**

10 BY ATTORNEY KRATZ:

11 Q. Sergeant Orth, do you recall the color of the
12 memory card or the paper that had the writing on
13 it?

14 A. I'm not certain. I believe it was white, because
15 the name seemed to jump out at me.

16 Q. My point is, what was the other general color in
17 the back of the vehicle; was it light or dark?

18 A. Darker colored background.

19 Q. Was there something about the memory card or the
20 writing that stood out or was a contrast in color
21 to the surrounding location?

22 A. If I remember correctly, it was like a white
23 background with blue or black ink. I think blue.
24 I just glanced in real -- like when I looked in
25 the front window, it was just glancing in to look

1 for a person. And when I looked in the back, it
2 was just a glance, for the most part, but it did
3 jump out.

4 Q. So you didn't see dark blood on the dark
5 interior?

6 A. No, I did not.

7 ATTORNEY KRATZ: That's all I have, Judge.
8 Thank you.

9 ATTORNEY BUTING: Nothing further.

10 THE COURT: All right. You are excused.

11 Mr. Kratz, I think we'll have you get
12 started on your next witness.

13 ATTORNEY KRATZ: State would call
14 Lieutenant Hermann to the stand.

15 THE COURT: If the jury wishes to stand, I
16 will give you that privilege.

17 THE CLERK: Please raise your right hand.

18 **DEPUTY INSPECTOR TODD HERMANN**, called as
19 a witness herein, having been first duly sworn,
20 was examined and testified as follows:

21 THE CLERK: Please be seated. Please state
22 your name and spell your last name for the record.

23 THE WITNESS: My name is Todd Hermann,
24 H-e-r-m-a-n-n.

25 **DIRECT EXAMINATION**

1 BY ATTORNEY KRATZ:

2 Q. Mr. Hermann, how are you employed?

3 A. I'm employed with the Manitowoc County Sheriff's
4 Department.

5 Q. And what rank do you hold?

6 A. At this present time, I'm a deputy inspector for
7 the department.

8 Q. On September -- excuse me -- November 5th of
9 2005, what rank did you hold at that time?

10 A. I was a patrol lieutenant in charge of the
11 4:00 a.m. to noon shift.

12 Q. On November 5th, do you recall receiving a
13 dispatch call or direction to proceed to a
14 property known as the Avery Salvage Yard?

15 A. Yes.

16 Q. Did you proceed to that location?

17 A. Yes, I did.

18 Q. And do you recall about what time you arrived at
19 that location?

20 A. It was approximately 11 -- 11:03 in the morning.

21 Q. At 11:03 on the 5th of November, tell the jury
22 what you did and what you saw.

23 A. At that point, I traveled down Avery Road, had
24 information about the Halbach vehicle missing and
25 that it was located by a search party in the

1 Avery Salvage Yard. I drove down into the
2 salvage yard near a vehicle car crusher where
3 Sergeant Orth's vehicle was parked. And that's
4 where I stopped with my squad.

5 I met with Detective Remiker and we
6 proceeded down a path to where Sergeant Orth was.
7 We proceeded towards the Halbach vehicle to
8 identify it, to identify if there was anything in
9 the vehicle.

10 Detective Remiker and Sergeant Orth
11 walked up to the vehicle and I stayed just a
12 short distance behind them, away from the
13 vehicle.

14 Q. About how far from behind the vehicle did you
15 stop?

16 A. I was out of reach of the vehicle anywhere from
17 three to seven feet or so.

18 Q. My question is, were you close enough to see what
19 Detective Remiker and Sergeant Orth were doing?

20 A. Yes.

21 Q. Did you maintain constant visual connection with
22 both the vehicle and with those two gentlemen at
23 that time?

24 A. Yes, I did.

25 Q. Did you see either Sergeant Orth or Detective

1 Remiker either enter the vehicle or otherwise
2 disturb the vehicle?

3 A. No, they did not.

4 Q. If they did, would you have seen it?

5 A. Yes, I would have.

6 Q. Now, Mr. Hermann, on the property or on -- at
7 your location at that time, did you see a
8 gentleman by the name of Lieutenant Lenk?

9 A. No, I did not.

10 Q. Did you see a gentleman by the name of Sergeant
11 Colborn?

12 A. No, I did not.

13 Q. You certainly know those two individuals?

14 A. Yes, I do.

15 Q. If they would have been there, would you have
16 recognized them?

17 A. Yes, I would have.

18 Q. After Sergeant Orth and Detective Remiker
19 completed their inspection of the vehicle; did
20 you see what they did?

21 A. Yes, they walked back out away from the vehicle
22 towards me and we walked away from the vehicle.

23 Q. Okay. What did you do then?

24 A. Sergeant Orth -- As we were walking out, I had
25 Sergeant Orth stay within view of the vehicle.

1 He was approximately 30 feet away from the rear
2 of the vehicle, so he could maintain visual
3 contact with the vehicle and make sure it wasn't
4 disturbed.

5 Myself and Detective Remiker walked up,
6 away from the scene, back towards where the squad
7 cars were parked by the vehicle crusher.

8 Q. Are you familiar with the term "scene security"?

9 A. Yes, I am.

10 Q. And which officer was primarily responsible for
11 securing the RAV4, or maintaining scene security,
12 at that time?

13 A. When we left Sergeant Orth there to maintain
14 visual contact, he was mainly in charge of
15 watching that vehicle.

16 Q. I guess what I'm asking, I'm asking to clear up
17 for the jury is, that was Sergeant Orth's primary
18 responsibility, from what you knew, at that
19 location?

20 A. At that point, yes.

21 Q. That's what I'm asking, at that point.

22 A. Yes.

23 Q. Was that responsibility, that is, scene security,
24 sometime shortly thereafter turned over to a
25 different department?

1 A. Yes, it was.

2 Q. Which department was that?

3 A. Calumet County Sheriff.

4 Q. And after being turned over to Calumet County
5 Sheriff, did your department, that is, the
6 Manitowoc County Sheriff's Department, ever
7 reassume responsibility for the scene or scene
8 security?

9 A. No.

10 Q. Mr. Hermann, were you involved in the decisions
11 or the discussion of turning over responsibility
12 of this investigation to Calumet County, or was
13 that done by somebody else?

14 A. Yes, I was present during this exchange when we
15 spoke with Sheriff Pagel.

16 Q. Let me just ask, about how long after your
17 arrival at that scene was it that Calumet County
18 officials arrived?

19 A. Approximately 40 to 45 minutes, 11:40, 11:45, I
20 believe it was.

21 Q. Anytime within that 40 or 45 minutes that you
22 were there, before Calumet County arrived, did
23 you see any officers, or any citizen for that
24 matter, either enter or in any way disturb that
25 vehicle?

1 A. No, nobody disturbed that vehicle during that
2 time.

3 Q. That was something that was important to you; is
4 that right?

5 A. That is correct, yes.

6 Q. Why?

7 A. Because it is a vehicle we were looking for,
8 potential evidence; we didn't want to disturb it.

9 Q. Did you have occasion, Mr. Hermann, to meet with
10 and speak with either Pam or Nikole Sturm on
11 scene?

12 A. Yes, I did.

13 Q. Describe their demeanor generally, if you recall.

14 A. They were very shook up, very upset, that they
15 found the vehicle.

16 Q. Now, do I understand that Sergeant Orth was
17 already on scene when you got there?

18 A. Yes.

19 Q. Who was the second officer to arrive; was that
20 you, or was that somebody else?

21 A. Me and -- Myself and Detective Remiker were there
22 right at the same time, you know, shortly. We
23 would have been the second officer -- officers on
24 the scene, within minutes we were there, after
25 Sergeant Orth.

1 Q. Can you tell the jury, please, who, other than
2 Sheriff Jerry Pagel of the Calumet County
3 Department, in fact, the sheriff; other than
4 Mr. Pagel, who was involved in ultimately
5 deciding whether this investigation or the scene
6 would be transferred to another agency?

7 A. Deputy Inspector Schetter, I spoke with. He in
8 turn would have been in contact with Inspector
9 Hermann of the Manitowoc County Sheriff's
10 Department. I had gotten that information from
11 the deputy inspector, basically he discussed that
12 matter with me.

13 Q. All right. So you had some input into that
14 decision; is that right?

15 A. Yes, I did.

16 Q. Lastly, Mr. Hermann, the scene or integrity of
17 the SUV being Sergeant Orth's responsibility, was
18 Sergeant Orth provided with any relief or any
19 breaks while he was on that location?

20 A. Yes, he was.

21 Q. And who provided breaks or break relief for him?

22 A. I did provide two breaks for Sergeant Orth,
23 during his visual observation of the vehicle.

24 Q. While providing those breaks, did you maintain
25 constant visual contact, then, with the vehicle?

1 A. Yes, I did.

2 Q. At any time during those two brief breaks, again,
3 did any individual, citizen, or law enforcement
4 officer enter or disturb that vehicle?

5 A. No, nobody disturbed the vehicle.

6 ATTORNEY KRATZ: That's all the questions I
7 have of this witness, your Honor.

8 THE COURT: Mr. Buting.

9 **CROSS-EXAMINATION**

10 BY ATTORNEY BUTING:

11 Q. Mr. Hermann, or do you go by Deputy Inspector
12 Hermann, is that ...

13 A. That is my current title, correct.

14 Q. I will call you Deputy Inspector Hermann, thank
15 you. Are you inspector now?

16 A. Deputy Inspector.

17 Q. Deputy Inspector. Okay. Now, on November -- I'm
18 sorry -- yeah, November 5th of 2005, you were a
19 lieutenant, right?

20 A. That is correct.

21 Q. And you obviously knew Lieutenant James Lenk,
22 right?

23 A. Yes, I did.

24 Q. He was also a lieutenant in your department?

25 A. Yes.

1 Q. Would you explain to me a little bit about the
2 hierarchy back then; who was at the top? Who was
3 the top sheriff at that time?

4 A. Sheriff Ken Peterson.

5 Q. Okay. And immediately below him, second in
6 command, would be who?

7 A. Inspector Hermann.

8 Q. Okay. And then -- That's Robert Hermann, right?

9 A. Correct.

10 Q. Brother or relative?

11 A. That's brother.

12 Q. That's your brother, okay.

13 A. Yes.

14 Q. And then does it branch down into one or more
15 deputy inspectors?

16 A. Yes.

17 Q. How many?

18 A. There are -- There's a deputy inspector in charge
19 of the jail, deputy inspector in charge of Patrol
20 and Investigative Division and deputy inspector
21 in charge of our support.

22 Q. Okay. And so on November 5th of 2005, who were
23 those three deputy inspectors? Schetter?

24 A. Deputy Inspector Schetter was in charge of
25 operations at that time.

1 Q. Okay.

2 A. Deputy Inspector Larry Welnicke was in charge of
3 the jail. And I believe Deputy Inspector Bill
4 Beck was in charge of support.

5 Q. Okay. And then the next level below that is
6 lieutenants?

7 A. Yes.

8 Q. And how many lieutenants were there?

9 A. Three lieutenants.

10 Q. That would be yourself?

11 A. In charge of -- As far as the Patrol Division is
12 concerned, there's three lieutenants: Myself,
13 Lieutenant Seim, and I believe it was Lieutenant
14 Bessler at the time.

15 Q. Okay. And that's -- your division was the Patrol
16 Division, right?

17 A. Yes.

18 Q. And then is there also a lieutenant of the
19 Detective Bureau?

20 A. That's correct, Lieutenant James Lenk.

21 Q. So, he would have been the top dog in the
22 Detective Bureau at that time, basically, right?

23 A. Yes.

24 Q. And you have already mentioned that -- his
25 decision to transfer authority, but let me just

1 make sure we're clear. You were aware about Mr.
2 Avery's civil lawsuit against your department and
3 Manitowoc County for the years that he spent on
4 the wrongful conviction case, right?

5 A. Yes.

6 Q. And the concern was pretty obvious to you, as
7 soon as this vehicle was discovered on his
8 family's property, that maybe there might be an
9 appearance of a conflict, if not an actual
10 conflict, for your department to be investigating
11 this case; isn't that right?

12 A. Yes.

13 Q. By the way, were you deposed in that lawsuit; did
14 you go through any depositions yourself?

15 A. No, I did not.

16 Q. Do you know whether -- And did you know at that
17 time whether or not Lieutenant James Lenk had
18 gone through any depositions in that lawsuit?

19 A. I'm not aware of that.

20 Q. I'm talking about November 5 right now, okay?

21 A. Yes.

22 Q. You weren't aware of that, right?

23 A. Whether or not Lieutenant Lenk had been disposed
24 in any --

25 Q. Deposed, yes.

1 A. Deposed in any of the civil litigation?

2 Q. Right.

3 A. I'm not aware of it.

4 Q. And you were not aware of it then?

5 A. No.

6 Q. What about Sergeant Andrew Colborn; were you
7 aware he had been deposed as a witness in that
8 lawsuit?

9 A. Not to my recollection. I don't recall if he was
10 or if he was not, the same as far as Lieutenant
11 Lenk; I don't recall if he was or if was not --

12 Q. So it's --

13 A. -- at that time.

14 Q. -- it's possible that you were aware of it, you
15 are just not sure right now; is that what you are
16 telling me?

17 A. I don't recall at this point; I don't recall if
18 he was or was not.

19 Q. Okay. But at any rate, it was pretty common
20 knowledge, would you say pretty much every member
21 of the Manitowoc Sheriff's Department was aware
22 of Mr. Avery's lawsuit against them?

23 A. Yes.

24 Q. Okay. Now, you talk about this decision to turn
25 over the lead of this investigation of this case

1 on November 5, 2005. And you said that was about
2 45 minutes after the first officer arrived,
3 right?

4 A. Yes.

5 Q. So by 11:45 in the morning the decision had
6 already been made that you should pass this off
7 to Calumet, right?

8 A. Yes.

9 THE COURT: Excuse me. Mr. Buting, I think
10 you are just starting to get into something that I'm
11 sure is going to continue for a while, so to help
12 with the flow of things --

13 ATTORNEY BUTING: It might not, but that's
14 okay, we can take a break now.

15 THE COURT: We'll take our afternoon break
16 at this time.

17 Again, members of the jury, do not
18 discuss the case in any way during the break.

19 (Jury not present.)

20 THE COURT: Counsel, then let's report back
21 at five minutes to three.

22 ATTORNEY BUTING: Okay. Thank you.

23 (Recess taken.)

24 (Jury present.)

25 THE COURT: Okay. Mr. Buting, at this time

1 you may resume your cross-examination of the
2 witness.

3 ATTORNEY BUTING: Thank you, your Honor.

4 CROSS-EXAMINATION CONTD

5 BY ATTORNEY BUTING:

6 Q. I think we were talking about the decision to
7 transfer the lead authority in the investigation
8 to Calumet. Was it about 11:45: a.m., right?

9 A. Yes.

10 Q. Actually, I'm going to come back to that in just
11 a moment, but let me ask you this first. You
12 parked -- When you first pulled up into the
13 southeast area of the salvage yard, you parked
14 near the crusher; is that right?

15 A. Yes. Somewhere in that general area, yes.

16 Q. Okay. And did you look at that crusher? Did it
17 appear to be in operating order, or could you
18 tell?

19 A. I don't know what -- how it op -- I know -- I
20 have a idea of how it operates, whether or not it
21 was working at the time, it was not running when
22 I arrived.

23 Q. Did you see a bunch of flattened crushed cars
24 stacked nearby.

25 A. Yes, I did.

1 Q. Okay. And when you walked up to the Toyota RAV4,
2 did you see any indication at all that maybe
3 somebody had tried to crush it and failed or had
4 started to crush it and failed?

5 A. No, I did not.

6 Q. It was completely intact, as far as you could
7 tell?

8 A. Yes.

9 Q. Even though there was a crusher nearby that could
10 have -- if someone knew how to use it, could have
11 been flattened -- flattened that RAV4 to a
12 pancake, right?

13 A. If the crusher was working, yes, correct, they
14 could. The vehicle could have been crushed.

15 Q. Okay. And if that would have been done to that
16 RAV4, it would have been a pretty unrecognizable
17 vehicle at that point, right, unless you start
18 ripping it apart?

19 A. I don't know. As far as emblems or whatever
20 would be visible, I guess I can't make
21 assumptions unless you see a vehicle like that
22 crushed.

23 Q. It would be a lot less recognizable than it was
24 when you saw it.

25 A. Yes, it would definitely change the appearance of

1 it.

2 Q. Okay. And this -- By that time, the news, or
3 word had been out on the media, the news, missing
4 persons, posters spread all over the place, that
5 Teresa's vehicle was a Toyota RAV4, right?

6 A. Yes.

7 Q. And you said, I think as you walked up to the --
8 Maybe I'm confusing you with the prior witness.
9 But as you approached the vehicle, it appeared as
10 if somebody had been trying to conceal it?

11 A. Yes. I did not testify to that, but it did
12 appear that way to me.

13 Q. I'm sorry, I may be morphing you into the prior
14 witness, but. In fact, the effort to conceal it,
15 this Toyota RAV4, wasn't that good, was it? I
16 mean it wasn't covered?

17 A. No, not completely.

18 Q. And, in fact --

19 ATTORNEY BUTING: Counsel, if you could put
20 up that one right now, appreciate it.

21 Q. (By Attorney Buting)~ As you walked up to the
22 rear of it, this is what you see, great big
23 letters, RAV4 Toyota, right?

24 A. Yes.

25 ATTORNEY KRATZ: Exhibit 29, counsel?

1 ATTORNEY BUTING: Exhibit 29 we're showing
2 to the jury right now.

3 Q. (By Attorney Buting)~ The hood that was leaning
4 up against the side of the vehicle is over here
5 on the right side of the picture, right? I'm not
6 sure this is even in here, but there was a big
7 vehicle hood leaning up against the passenger
8 side, right?

9 A. Yes.

10 Q. An old rusty piece of junk, correct?

11 A. An old hood, yes. I believe it may be in the
12 photo, just to the right of the post.

13 Q. All the way over here?

14 A. I believe that --

15 Q. Part of it there.

16 A. -- would be part of it, yes. Yes, it was right
17 up against it.

18 Q. Now, if that hood had been pulled up against the
19 back of this vehicle, you wouldn't be able to see
20 the tire cover that says RAV4 Toyota, would you?

21 A. No, you would not have been able to.

22 Q. Okay. And this vehicle was along that little
23 ridge where all of the other vehicles were single
24 file parked, nose to bumper, nose to bumper. And
25 this was the only one that was double parked,

1 right? Two deep, sticking out?

2 A. I'm not sure how many vehicles were double parked
3 or single parked, but this one was double parked,
4 correct.

5 Q. Okay.

6 ATTORNEY BUTING: Could we maybe put up
7 that -- No. 89, what we were looking at before?
8 That one, the aerial view -- Any aerial of that area
9 is fine. There we go. Thank you.

10 ATTORNEY KRATZ: Want me to zoom in?

11 ATTORNEY BUTING: One more.

12 Q. (By Attorney Buting)~ Okay. So looking at that
13 line of vehicles that is parked along the berm on
14 the north -- or south side of the pond there; all
15 the rest of those vehicles look like they are
16 single -- any other double parked?

17 A. Yes, it appears that way, that they are single
18 parked.

19 Q. Okay.

20 ATTORNEY BUTING: This is Exhibit 86 for
21 the record. Thank you.

22 THE COURT: Counsel, excuse me for a
23 second, can at least one attorney from each side
24 approach.

25 (Side bar taken.)

1 Q. (By Attorney Buting)~ We better clear something
2 up, Lieutenant. This photograph was taken after
3 the Toyota RAV4 had already been removed from the
4 scene, correct?

5 A. I don't know when it was taken.

6 ATTORNEY KRATZ: Actually, Judge, we'll
7 stipulate to that fact. We'll complete the record
8 later, but that is a stipulation that we're willing
9 to not only alert the jury, but the witness, at this
10 time.

11 THE COURT: For the benefit of the record
12 and the jurors, counsel, do I understand -- and I
13 know there's been a series of aerial photos
14 introduced -- do I understand that all of those
15 photos were taken after the date that the vehicle
16 was removed from the scene?

17 ATTORNEY KRATZ: Yes.

18 ATTORNEY BUTING: That's correct.

19 THE COURT: Both party's understanding?

20 ATTORNEY BUTING: Yes, there are no -- at
21 least that we have seen so far, we have not seen any
22 aerial shots with the RAV4 still in this location.

23 THE COURT: Thank you.

24 ATTORNEY BUTING: Okay.

25 Q. (By Attorney Buting)~ But you do recall where it

1 was -- well, actually we'll leave that for
2 another witness. So after you approached that 3
3 to 7 feet, you said, from the vehicle; you didn't
4 actually look inside the vehicle yourself, right?

5 A. I did not, no.

6 Q. Okay. And then you retreated back to where the
7 cars were parked?

8 A. Yes.

9 Q. And then you had some other duties that you
10 attended to. You mentioned that you -- you gave
11 Sergeant Orth a couple of breaks, I think?

12 A. Yes, I did.

13 Q. But in between those times, there was an hour or
14 more in between that, you were doing other
15 things, right?

16 A. I was standing by in that area, yes.

17 Q. Okay. But, for instance, you were talking with
18 Deputy Inspector Schetter?

19 A. Yes.

20 Q. And I believe you said --

21 A. Detective Remiker.

22 Q. -- Detective Remiker and Sheriff Pagel. And you
23 were going through that whole decision making
24 process about transferring authority, lead
25 authority, over to Calumet, right?

1 A. Yes.

2 Q. And so there was a meeting going on down there
3 and you guys were fucused on that, right?

4 A. Yes, we were in that discussion, correct.

5 Q. And you also, for a period of time, spoke with
6 Earl Avery, right?

7 A. Yes, I did.

8 Q. He -- After seeing all the congregation down
9 there, whatever; he started coming down on a four
10 wheel -- what do you call those, ATV's?

11 A. Yes, he did.

12 Q. Okay. And then, so you asked him some questions
13 about the crusher?

14 A. Yes, I did.

15 Q. And then at some point -- First, do you know how
16 long it was before you left the car crusher area
17 and retreated to the Command Post that was being
18 set up over by the entrance way to Avery Road
19 and ...

20 A. Without looking at a report, I do not recall the
21 time that I left the area of the car crusher.

22 Q. Well, I'm not sure that the report will help, but
23 I will let you take a look at it, maybe it will
24 refresh your recollection. It's page 10 and 11
25 of 22.

1 A. I did not have a time listed as to what time we
2 left that area and went back to the car -- or the
3 end of Avery Road.

4 Q. Okay. But do you think it was an hour, two
5 hours, three hours; you don't have any
6 recollection today about how long that was?

7 A. No.

8 Q. At some point you did, though, retreat to the
9 area that later a Command Post was put up there
10 right at the entrance to the business area,
11 right?

12 A. Yes.

13 Q. Okay. But before that, there was an incident
14 that occurred --

15 ATTORNEY BUTING: If you could put No. 86
16 back up for just a moment. Just at that distance is
17 fine, I think.

18 ATTORNEY KRATZ: Like this?

19 ATTORNEY BUTING: Yeah, just leave it that
20 way.

21 Q. (By Attorney Buting)~ There was an incident that
22 occurred where it turned out that there were
23 some -- a number of civilians who had somehow
24 managed to find their way onto the Avery
25 property, right?

1 A. I don't believe it was onto the Avery property;
2 it was into the car area. It was to the south of
3 the car area.

4 Q. But it turned out there was like four or five
5 people walking in, approaching from the south
6 through the gravel pit, right?

7 A. Yes.

8 Q. Is that right?

9 A. Yes.

10 Q. And it turned out that these were friends of
11 Teresa trying to help. Nothing wrong with that,
12 they were just seeing if they could help, right?

13 A. They were part of a search team, yes.

14 Q. Okay. And they actually got all the way up to
15 the southwest area there of the -- there was no
16 perimeter guard at the southwest area of the 40
17 acre lot at that time, right?

18 A. Correct, there was not.

19 Q. And when you talked to them, they were all the
20 way over by the gravel conveyor by that time,
21 correct?

22 A. Yes.

23 Q. All right. Did you put a guard in there at that
24 point, on the southwest area, or did that come
25 later?

1 A. I did not and I'm not aware of any guard that was
2 placed there. I did not put anybody up there.

3 Q. Okay. That wasn't your responsibility, somebody
4 else may have, but you had nothing to do with any
5 of that?

6 A. Correct.

7 Q. Okay. Just a couple of other things to clear up.
8 Even though the decision was made to transfer
9 lead authority at 11:45, of the overall
10 investigation, that's not when your department
11 transferred security supervision of the RAV4
12 area, is it?

13 A. No, it is not.

14 Q. In fact, that didn't take place until 2:45, when
15 Sergeant Orth was replaced by -- I'm sorry, that
16 didn't take place until 3:04 p.m., when Calumet
17 Sergeant Tyson relieved Deputy Cummings of your
18 department; is that right?

19 A. Correct, yes.

20 Q. So for the first four hours that that vehicle was
21 sitting on the Avery property, after having been
22 discovered by a member of your department -- or,
23 I'm sorry. After a member of your department
24 arrived, it was under the control, immediate
25 control of members of the Manitowoc Sheriff's

1 Department, correct?

2 A. Yes.

3 ATTORNEY BUTING: All right. Thank you.

4 THE COURT: Mr. Kratz.

5 ATTORNEY KRATZ: I just have got a few.

6 **REDIRECT EXAMINATION**

7 BY ATTORNEY KRATZ:

8 Q. I'm just going to clear up one thing, Mr.
9 Hermann, Exhibit No. 86, I'm going to zoom into
10 the area. Do you recall where the RAV4 was
11 parked as you look at this exhibit, or if I show
12 you a picture of the RAV4 as Ms Sturm took it,
13 would that assist you?

14 A. That would assist me.

15 Q. I will show you what has been received into
16 evidence as Exhibit 33. I will just find it and
17 we will be all set. Exhibit 33, you see a red
18 truck to the left, which would be to the south of
19 that vehicle; is that correct?

20 A. That is correct, yes.

21 Q. Now, I want to go back to Exhibit No. 86 and zoom
22 in again. You can see the red truck, kind of in
23 the middle of that lane; is that right?

24 A. Yes, that's where it would be parked.

25 Q. Does that refresh your recollection?

1 A. Yes.

2 Q. That the RAV4 would have been closest to the pond
3 or south of that location about where my cursor
4 for my computer is at this time; is that right?

5 A. Correct.

6 ATTORNEY KRATZ: With that clarification,
7 then, Judge, that's all I have of this witness.

8 THE COURT: Anything else from the defense?

9 ATTORNEY BUTING: None, your Honor.

10 THE COURT: All right. The witness is
11 excused.

12 Members of the jury, at this time
13 counsel and I have a matter to take up in
14 chambers, so we're going to take a break at this
15 time. I will have to let you know whether we'll
16 be resuming with additional testimony today or
17 whether you will be excused early. But we'll get
18 the message to you in the jury room as soon as we
19 know.

20 If this is our final farewell for the
21 day, I remind you, again, not to watch any news
22 media accounts of this case, or discuss it with
23 anyone in any manner. Thank you.

24 (Jury not present.).

25 THE COURT: Before we go off the record, I

1 want to reflect that the Court asked the parties for
2 a brief side bar conference. And the sole purpose
3 of that conference was to clarify what the Court had
4 previously understood to be the agreement of the
5 parties; and that is, that all of the aerial photos
6 which have been shown to the jury to date were, in
7 fact, taken after the RAV4 had been removed from the
8 property.

9 I had brought that issue up to the
10 attorneys earlier because I didn't think it had
11 been made clear to the jurors when the photos
12 were taken. And I didn't want to have them
13 looking for something that wasn't there. And I
14 believe that the parties indicated previously at
15 some point that would be placed on the record and
16 I just asked the attorneys if today was the day.
17 Anything else, counsel, before we break?

18 ATTORNEY KRATZ: No.

19 ATTORNEY BUTING: To.

20 THE COURT: I will see you in chambers.

21 (Proceedings concluded.)
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1 STATE OF WISCONSIN)
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2 COUNTY OF MANITOWOC)

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I, Diane Tesheneck, Official Court Reporter for Circuit Court Branch 1 and the State of Wisconsin, do hereby certify that I reported the foregoing matter and that the foregoing transcript has been carefully prepared by me with my computerized stenographic notes as taken by me in machine shorthand, and by computer-assisted transcription thereafter transcribed, and that it is a true and correct transcript of the proceedings had in said matter to the best of my knowledge and ability.

Dated this 8th day of October, 2007.

Diane Tesheneck, RPR
Official Court Reporter

	174 [1] 2/24 18 [1] 117/23 191 [1] 2/25 1989 [1] 17/4 1:00 [2] 114/20 149/5 1st [6] 85/18 85/22 85/24 89/22 100/14 104/20	500 [2] 59/17 59/23 500 acres [1] 59/15 52 [1] 2/7 5:00 p.m [1] 123/21 5th [15] 53/3 53/20 54/12 56/13 81/17 81/18 117/25 118/2 123/2 140/3 167/8 167/12 167/21 174/18 175/22
'C [1] 117/14		
	2	6
.22 [3] 40/20 41/1 41/4 .22 caliber [1] 40/20 .30 [1] 40/12 .30-06 [1] 40/12	2 miles [1] 38/20 20 [2] 71/1 123/10 2001 [1] 9/17 2005 [16] 9/7 12/4 17/9 17/25 34/16 35/23 40/20 41/9 42/1 53/3 117/25 140/3 167/9 174/18 175/22 179/1 2006 [4] 34/12 85/19 100/14 101/13 2007 [2] 1/8 194/15 21 [3] 127/22 128/3 128/4 22 [1] 187/25 24 [3] 75/14 87/4 91/16 27 [2] 34/12 34/23 278 [4] 125/23 126/19 127/22 128/9 29 [2] 182/25 183/1 2:00 [3] 138/14 161/4 161/6 2:02 p.m [1] 122/5 2:30 [1] 41/10 2:45 [7] 38/10 44/8 44/16 161/11 161/25 162/12 190/14 2:45 p.m [1] 44/6 2nd [6] 85/18 85/23 85/24 89/22 100/14 104/20	60 [4] 62/23 63/1 63/2 68/2 6:00 [1] 25/23 6:15 [1] 12/19 6:30 [3] 12/19 20/1 26/5 6th [9] 53/9 59/1 66/13 67/7 68/7 81/20 82/3 87/11 113/9
0		7
05 [4] 1/5 4/3 22/13 27/1 06 [1] 40/12		7 feet [1] 186/3 75 [2] 154/25 155/3 79 [8] 55/2 64/21 65/4 65/25 66/17 68/22 69/17 86/10 79-86 [1] 3/2 7:00 [3] 20/1 84/4 92/23 7:00 a.m [1] 123/21 7:30 [2] 83/22 84/3 7th [1] 59/2
1		8
1-1-7 [1] 6/17 10 [9] 45/1 45/4 45/5 60/10 65/14 134/16 139/17 143/10 187/24 10-4 [2] 127/21 129/11 100 feet [2] 154/25 155/3 100 yards [1] 148/12 1020 [1] 128/6 1021 [2] 128/5 128/6 107 [1] 3/3 10858 [1] 125/3 109 [1] 3/3 10:00 on [1] 25/25 10:00 shift [1] 25/19 10:30 [2] 50/23 56/12 10:45 [1] 64/13 10:50 a.m [1] 118/15 10:54 [1] 118/19 10:54 a.m [1] 118/20 10:56 [3] 119/12 119/19 138/13 10:59 [1] 140/17 10:59 a.m [1] 140/17 10th [2] 123/16 134/18 11 [3] 92/23 167/20 187/24 11-04-05 [1] 27/1 11/4/05 [1] 22/13 110 [1] 2/9 113 [1] 2/10 117 [2] 2/13 6/17 11:00 in [1] 140/10 11:03 [2] 167/20 167/21 11:40 [1] 171/19 11:45 [5] 31/16 171/19 179/5 180/8 190/9 11th [1] 87/12 12 [1] 84/11 123 [4] 3/2 22/1 45/15 45/15 124 [5] 2/14 3/3 35/8 35/13 45/15 125 [7] 3/3 107/11 107/13 108/5 108/8 109/25 114/10 126 [2] 3/4 135/16 127 [4] 3/4 136/5 136/8 138/3 12th [4] 53/20 54/13 84/17 87/12 135 [1] 3/4 136 [1] 2/15 138 [3] 2/16 3/4 3/4 139 [1] 2/18 147 [29] 56/7 56/9 56/20 56/23 56/25 72/25 87/24 88/2 88/2 88/16 105/17 111/14 118/6 118/23 119/4 119/6 119/22 120/18 121/16 124/9 125/5 126/22 136/11 136/15 136/17 136/20 137/20 137/23 141/18 14:45 [1] 161/24 15 [3] 1/8 64/9 71/1 151 [1] 2/19 165 [1] 2/20 166 [1] 2/23	30 [4] 62/25 84/9 88/14 161/18 30 feet [4] 147/24 149/7 159/25 170/1 31 [2] 31/13 31/14 310 [4] 22/16 23/4 23/6 23/8 31st [1] 163/2 33 [2] 191/16 191/17 35 [2] 3/3 68/2 36 [2] 84/9 88/14 379 [1] 154/19 381 [2] 1/5 4/4 38152 [1] 130/15 3:04 p.m [1] 190/16 3:23 p.m [1] 123/9 3:40 [2] 41/15 42/5 3:45 [2] 41/15 42/5 3rd [1] 25/14	80 [2] 70/9 70/17 81 [6] 71/5 71/10 71/11 71/19 72/14 72/23 82 [2] 73/13 73/20 83 [3] 74/12 74/17 74/25 84 [6] 76/9 76/11 76/16 76/25 77/5 77/22 85 [6] 79/12 80/1 82/21 83/2 86/20 86/25 86 [15] 2/8 3/2 3/2 3/2 83/1 84/19 86/10 141/2 141/6 143/25 146/16 184/20 188/15 191/9 191/21 87 [3] 83/7 83/11 83/15 88 [3] 83/7 83/11 83/16 89 [1] 184/7 8th [1] 194/15
	4	9
	4,000 [3] 66/7 67/8 68/19 40 [13] 54/10 54/16 54/18 55/14 56/3 79/13 87/11 111/20 111/25 121/13 171/19 171/21 189/16 40 acres [6] 55/5 56/11 56/18 57/24 60/24 78/14 405 [5] 126/20 127/3 129/14 130/13 133/19 405-278 [1] 126/19 42 [1] 2/5 45 [5] 3/2 3/2 171/19 171/21 179/2 47 [1] 57/1 496 [3] 125/12 125/14 125/25 4:00 a.m [1] 167/11 4th [1] 24/1	90 [1] 63/2 9:30 [1] 25/17
	5	A
	50 [2] 66/4 66/5	a.m [7] 118/15 118/20 119/12 123/21 140/17 167/11 180/8 ability [1] 194/14 above [2] 93/17 163/2 Absolutely [2] 163/15 163/18 accept [1] 51/25 acceptable [1] 135/21 access [7] 69/25 72/23 80/21 81/6 144/6 144/20 164/1 accompanied [1] 63/1 according [2] 48/9 49/22 accounts [1] 192/22 accurate [5] 35/1 110/18 135/14 154/22 161/16 accurately [1] 73/18 acre [10] 54/10 54/19 55/14 56/3 79/13 87/11 111/20 111/25 121/13 189/17 acreage [1] 59/12 acres [10] 54/16 55/5 56/11 56/18 57/24 59/15 59/17 59/23 60/24 78/14

A	Al [1] 79/20	69/23 70/16 71/22 71/23 72/1
across [1] 127/19	alert [1] 185/9	72/8 72/8 72/10 72/11 72/14
action [1] 41/1	alerted [1] 48/10	72/18 72/22 74/2 74/5 74/10
active [6] 11/24 69/20 74/20 86/7	Allen [3] 10/17 11/22 72/5	75/18 75/21 77/7 77/15 78/5
92/25 132/7	allow [2] 50/6 80/1	80/15 80/17 80/17 87/11 88/11
actively [1] 17/18	allowed [7] 90/16 111/12 114/17	89/24 91/20 92/12 92/13 92/15
activities [1] 53/17	116/13 116/20 116/25 132/9	94/5 94/14 94/14 96/23 99/7
activity [1] 56/1	almost [3] 77/9 121/9 154/8	99/12 101/3 101/9 105/21 105/22
actual [1] 177/9	alone [1] 57/6	110/18 110/22 111/7 113/24
actually [31] 18/12 24/7 26/2	along [7] 66/5 75/7 81/5 111/16	121/17 137/17 137/21 141/22
29/16 55/7 66/20 70/14 84/2	142/5 183/22 184/13	142/21 143/17 143/20 144/3
97/20 100/17 101/14 102/22 105/7	already [13] 9/6 12/20 44/8 44/9	145/11 145/13 146/21 146/22
106/3 111/14 114/11 121/23 124/8	44/12 113/7 138/2 141/1 156/16	146/24 148/2 148/5 148/6 149/9
130/9 133/5 137/22 142/23 152/16	172/17 176/24 179/6 185/3	149/10 149/16 151/6 151/8 152/13
161/8 161/9 164/19 180/10 185/6	although [3] 88/1 88/1 88/5	152/15 152/18 152/19 152/22
186/1 186/4 189/14	aluminum [6] 15/15 15/16 15/19	152/25 153/17 153/18 153/21
additional [3] 61/8 116/2 192/16	15/22 15/24 16/6	154/1 154/14 154/15 155/4 155/6
address [1] 5/19	always [3] 46/5 54/23 89/12	155/7 157/5 161/21 162/4 180/13
adjacent [1] 76/25	among [2] 100/3 116/24	180/15 184/8 186/16 187/16
adjust [1] 7/6	Andrew [3] 98/5 151/19 178/6	187/21 188/2 188/9 188/10 189/2
admission [4] 86/10 109/25 110/9	animation [5] 4/20 4/22 6/6 6/9	189/3 189/15 189/16 189/24
138/4	6/15	190/12 191/10
admit [1] 114/10	another [8] 8/11 61/11 72/10	areas [11] 58/15 59/7 59/19 59/21
admitted [4] 3/1 45/20 86/15	83/18 90/11 97/19 173/6 186/2	59/22 60/24 62/13 63/21 80/6
138/8	answer [2] 32/10 43/13	83/6 94/21
adult [1] 11/24	answered [1] 127/9	argument [2] 47/25 48/2
adversary [1] 116/8	answering [5] 31/22 32/4 32/5	around [34] 10/7 16/3 17/9 17/25
advertised [1] 17/18	32/11 32/12	27/3 31/13 38/17 54/4 54/7 55/16
advise [2] 85/14 119/4	anticipated [1] 115/15	55/18 59/4 61/10 63/21 66/20
aerial [14] 64/25 71/4 71/6 73/15	anticipating [1] 116/15	77/15 77/20 81/8 84/3 91/21
74/14 76/12 79/9 82/19 136/9	anybody [8] 23/14 38/3 39/8	91/22 92/22 105/19 113/25 128/18
184/8 184/8 185/13 185/22 193/5	105/14 145/11 149/23 161/10	143/16 144/8 144/9 146/6 151/9
after [42] 4/17 5/8 5/19 11/19	190/2	152/14 155/20 156/1 162/4
13/16 23/17 25/7 25/12 29/11	anyone [1] 133/4	arrangements [1] 58/2
37/7 42/6 42/15 53/3 55/11 56/12	anyone [6] 118/25 119/7 119/23	arrival [5] 121/6 147/4 148/14
93/21 101/19 110/6 110/6 114/6	119/24 164/24 192/23	150/14 171/17
114/17 122/6 122/21 123/5 131/21	anything [17] 5/20 5/21 38/2	arrive [7] 42/18 121/1 121/4
134/7 146/3 147/22 150/14 159/13	44/20 59/9 60/17 63/14 65/20	121/21 131/5 157/11 172/19
169/18 171/4 171/16 172/24 179/2	110/11 118/21 133/9 155/21	arrived [27] 19/11 56/20 83/22
185/2 185/15 186/2 187/8 190/21	155/23 156/13 168/8 192/8 193/17	118/19 119/13 121/7 122/8 122/15
190/23 193/7	Anytime [1] 171/21	122/22 123/8 123/20 124/8 140/15
afternoon [11] 12/22 33/21 66/3	anyway [2] 65/3 113/13	143/4 148/8 150/2 150/11 150/20
81/24 84/2 115/1 117/17 123/1	anywhere [3] 63/2 162/10 168/16	151/13 151/17 160/4 167/18
152/2 152/3 179/15	apart [1] 181/18	171/18 171/22 179/2 180/22
again [48] 4/6 4/12 17/3 24/18	apparently [1] 120/10	190/24
24/20 25/24 29/16 30/18 37/2	appear [4] 78/19 132/21 180/17	arriving [2] 122/16 150/13
46/4 47/18 48/4 49/13 49/14	182/12	asked [27] 19/1 31/11 31/14 43/10
50/10 50/19 50/19 51/19 54/12	appearance [4] 95/22 132/3 177/9	44/18 46/10 47/5 48/8 49/9 49/11
62/2 63/5 63/24 64/9 66/17 68/4	181/25	50/7 51/14 51/16 53/12 58/24
68/19 69/17 74/19 84/4 84/12	appearances [2] 1/11 4/6	59/2 59/6 75/24 99/14 110/16
98/8 105/17 109/19 114/4 114/13	appeared [3] 1/22 145/21 182/9	114/12 116/14 118/2 144/4 187/12
142/12 143/25 144/11 146/16	appearing [1] 4/10	193/1 193/16
147/16 148/3 148/9 151/3 164/25	appears [5] 4/7 78/7 78/22 143/21	asking [9] 31/1 33/8 47/22 94/17
174/2 179/17 191/22 192/21	184/17	128/3 164/15 170/16 170/16
against [11] 96/12 117/2 145/2	appreciate [2] 78/3 182/20	170/21
145/4 145/5 177/2 178/22 183/4	appreciates [1] 116/4	asleep [1] 42/2
183/7 183/17 183/18	approach [5] 6/24 145/14 145/15	aspect [2] 90/10 90/11
agencies [2] 97/9 150/11	151/7 184/24	assembled [1] 65/10
agency [1] 173/6	approached [10] 147/9 148/24	assigning [1] 98/12
agenda [1] 4/16	149/13 155/10 162/20 164/12	assignment [1] 94/2
Agent [6] 57/17 57/18 84/25 85/12	164/15 164/16 182/9 186/2	assignments [2] 94/5 94/9
94/8 99/12	approaching [6] 144/24 146/13	assigns [1] 125/15
agents [1] 22/22	156/17 162/4 164/25 189/5	assist [8] 53/13 55/21 85/15
ago [1] 34/13	approximately [26] 66/4 66/5 66/7	111/12 116/19 141/4 191/13
agree [6] 5/13 46/19 48/22 49/5	68/2 83/22 118/15 118/19 119/12	191/14
50/14 154/20	122/5 123/9 123/10 123/20 123/21	Assistant [3] 4/8 4/9 122/13
agreeable [1] 4/21	140/17 143/10 146/17 146/18	assisted [2] 97/2 194/10
agreed [4] 6/9 46/24 51/8 62/6	147/1 147/8 147/24 149/6 159/25	associated [1] 4/19
agreeing [2] 48/19 49/18	161/18 167/20 170/1 171/19	assume [3] 24/15 91/17 152/20
agreement [3] 50/4 115/11 193/4	area [119] 10/22 13/24 16/3 38/21	assuming [1] 53/21
agrees [1] 50/6	43/11 54/12 54/20 55/20 55/21	assumptions [1] 181/21
ahead [3] 27/7 60/14 80/14	55/22 56/1 56/4 59/13 60/15 61/6	assure [1] 76/5
	61/8 62/16 62/20 66/19 66/22	attach [1] 69/25

<p>A</p> <p>attached [1] 11/1 attempt [1] 145/23 attempted [2] 145/10 146/8 attempting [4] 76/1 119/1 119/7 142/24 attempts [1] 147/10 attended [1] 186/10 attention [6] 47/24 85/18 140/3 142/24 143/7 143/17 attentiveness [1] 116/4 attorney [22] 1/17 1/19 2/4 2/5 2/7 2/8 2/9 2/10 2/13 2/14 2/15 2/16 2/18 2/19 2/20 2/23 2/24 2/25 4/8 4/9 122/14 184/23 Attorney's [1] 122/14 attorneys [4] 115/9 116/9 193/10 193/16 ATV's [1] 187/10 atypical [2] 95/2 95/9 audio [1] 135/8 Austin [5] 4/22 6/10 6/18 6/20 77/4 Austin's [1] 6/7 authority [5] 176/25 180/7 186/24 186/25 190/9 automatic [2] 40/24 41/4 available [3] 39/20 94/13 106/7 avenues [1] 151/6 AVERY [80] 1/6 1/21 4/3 4/12 9/22 14/14 15/21 54/10 56/5 56/6 56/9 56/10 56/15 56/22 57/3 60/25 61/10 63/16 64/24 71/6 71/7 72/24 73/1 74/15 75/1 75/8 75/8 76/7 76/13 79/10 79/13 82/2 83/6 87/23 87/24 88/1 88/5 88/18 94/11 96/12 97/13 97/15 100/18 105/17 118/3 118/6 118/24 119/3 119/5 119/8 119/16 119/21 120/15 120/19 120/22 121/12 123/18 127/4 131/19 132/16 136/10 136/11 136/16 136/18 136/22 137/2 137/3 138/16 140/11 141/13 141/25 167/14 167/23 168/1 187/6 187/18 188/3 188/24 189/1 190/21 Avery's [27] 70/1 70/6 70/11 70/19 70/23 72/5 73/7 74/10 74/21 75/19 76/8 76/21 77/21 78/4 78/6 78/8 79/18 81/9 85/25 86/2 89/24 92/6 98/14 100/22 101/16 177/2 178/22 awakened [1] 42/2 aware [23] 17/16 47/3 49/7 51/12 68/19 96/11 97/11 97/14 100/1 100/5 100/7 102/21 103/15 103/17 177/1 177/19 177/22 178/3 178/4 178/7 178/14 178/21 190/1 away [9] 37/22 148/12 152/12 155/3 168/12 169/21 169/22 170/1 170/6 awhile [1] 9/8 awoke [1] 42/6</p>	<p>111/19 114/23 120/19 123/6 123/8 123/8 127/12 129/7 133/12 133/17 144/25 146/22 147/15 147/17 148/2 149/14 157/22 158/1 158/5 161/20 164/5 165/17 166/1 169/21 170/6 175/2 179/20 180/10 183/19 186/6 188/2 188/16 191/21 background [3] 38/5 165/18 165/23 backside [1] 70/19 badge [2] 89/13 125/18 bagged [1] 102/20 bail [1] 132/5 balance [2] 48/14 59/23 bar [12] 7/2 45/22 45/24 46/10 47/22 47/24 47/25 48/4 107/20 107/23 184/25 193/2 Barb [4] 8/5 9/13 74/22 76/21 Barb's [2] 9/7 105/19 barrel [2] 92/4 92/9 based [2] 51/25 121/16 basically [5] 11/25 120/18 123/17 173/11 176/22 bathroom [1] 101/23 became [3] 52/23 53/10 88/25 because [31] 14/3 15/7 19/11 23/24 24/10 29/19 33/8 39/18 41/19 46/21 47/9 47/13 49/1 55/8 55/22 62/3 87/1 95/4 95/22 104/16 105/20 106/7 106/23 117/3 135/13 152/12 153/18 156/14 165/14 172/7 193/10 Beck [1] 176/4 become [4] 53/4 53/7 71/16 135/9 bed [2] 78/23 102/14 bedroom [10] 31/25 41/2 41/5 101/23 101/24 102/4 102/10 102/23 102/24 103/1 beds [1] 38/16 before [53] 1/9 4/15 5/21 5/21 6/4 6/19 12/13 12/14 23/17 24/22 24/23 25/19 26/8 26/9 30/6 33/3 41/11 42/18 43/7 47/21 51/4 75/21 87/9 95/14 97/24 104/19 104/22 104/23 106/8 106/9 108/17 113/4 113/8 114/25 115/24 124/15 129/23 131/15 132/5 133/2 133/9 139/2 139/19 140/9 150/14 151/13 151/17 171/22 184/7 187/16 188/13 192/25 193/17 began [2] 4/15 9/16 begin [2] 6/23 115/24 beginning [8] 29/4 29/10 29/22 46/23 48/15 72/12 76/23 81/17 begins [1] 48/12 behalf [5] 1/12 1/14 1/16 1/18 1/20 behind [11] 10/8 74/4 146/14 147/1 147/8 147/24 149/7 159/25 161/17 168/12 168/14 being [21] 4/22 48/17 72/13 75/11 84/6 91/11 101/5 103/13 104/1 110/23 122/11 124/19 134/6 134/7 142/19 146/9 148/15 157/11 171/4 173/17 187/17 belief [1] 46/10 believe [46] 6/20 42/14 46/1 57/21 70/16 71/25 72/7 84/15 101/20 102/2 102/20 104/19 105/19 111/21 114/13 118/7 119/17 120/17 120/22 122/12 130/6 130/7 131/14 131/19 132/25 133/8 133/9 134/18 136/17 138/4 141/3 141/11</p>	<p>147/13 152/16 154/9 157/15 159/7 165/14 171/20 176/3 176/13 183/11 183/14 186/20 189/1 193/14 belonged [2] 59/10 68/16 belonging [1] 120/13 below [6] 34/3 93/17 103/14 138/18 175/5 176/5 belt [1] 80/25 bench [1] 50/2 beneath [1] 103/14 benefit [1] 185/11 berm [9] 70/24 74/4 77/24 78/5 78/10 78/12 79/2 80/17 184/13 berms [2] 77/20 81/7 Bessler [1] 176/14 best [4] 34/20 103/25 133/10 194/13 better [6] 35/22 55/6 65/2 150/17 163/20 185/1 between [16] 30/15 54/12 56/22 63/2 69/4 69/8 70/22 70/24 78/10 78/13 84/9 108/23 138/13 150/20 186/13 186/14 beyond [3] 43/16 43/18 56/4 big [9] 16/8 16/10 16/14 67/16 155/6 158/11 158/15 182/22 183/6 biggest [1] 15/18 Bill [1] 176/3 bit [11] 25/19 31/13 54/17 77/22 92/6 92/11 92/20 133/13 139/2 143/14 175/1 black [5] 33/25 34/7 35/25 36/3 165/23 Blaine [5] 9/2 41/13 41/25 42/4 42/7 Blaine's [1] 33/16 Blazer [1] 17/21 block [5] 130/10 130/18 133/14 134/8 134/10 blocked [3] 29/6 29/19 38/6 blood [9] 15/8 26/17 159/23 160/6 160/8 160/16 160/23 161/1 166/4 blue [3] 144/21 165/23 165/23 board [2] 102/16 102/16 BOBBY [11] 2/3 6/21 7/15 7/20 8/24 47/10 47/11 47/12 48/15 49/5 51/10 bodies [3] 59/3 91/4 99/19 body [18] 27/24 27/25 49/12 51/17 59/9 64/2 64/4 66/16 67/6 81/10 131/23 131/25 132/4 143/21 146/4 155/16 155/23 160/7 bolt [1] 41/1 boots [1] 19/19 both [12] 14/19 23/18 28/17 64/3 84/5 84/21 93/23 143/6 144/4 156/25 168/22 185/19 bottom [5] 78/22 78/25 81/8 141/19 153/2 bought [1] 19/14 bow [3] 37/8 38/1 40/7 BOWE [14] 2/6 52/5 52/7 52/12 52/15 57/14 58/5 72/12 73/9 77/19 78/14 85/17 110/16 111/8 box [1] 102/12 boy [2] 9/6 26/13 boys [2] 8/14 11/24 branch [5] 1/1 145/7 145/8 175/14 194/5 branches [1] 144/25 break [32] 7/9 19/20 46/2 46/5 50/23 55/10 55/11 60/9 63/12</p>
<p>B</p> <p>B-o-w-e [1] 52/12 back [67] 7/23 9/7 10/7 10/19 12/4 12/14 17/9 17/25 24/14 29/11 29/18 30/7 30/18 30/23 31/12 31/14 34/12 34/15 35/22 36/5 40/19 46/4 50/22 63/12 66/21 72/10 84/1 90/21 93/7 100/18 101/18 101/23 106/22 111/18</p>		

<p>B</p> <p>break... [23] 64/6 64/8 64/10 65/13 108/22 109/4 109/5 114/4 114/5 114/18 114/20 149/5 149/10 151/1 151/2 152/5 153/20 173/21 179/14 179/15 179/18 192/14 193/17</p> <p>breaks [10] 149/12 151/3 153/16 162/19 173/19 173/21 173/22 173/24 174/2 186/11</p> <p>Brendan [5] 9/1 9/4 41/13 41/25 47/9</p> <p>Brendan's [1] 33/14</p> <p>BRETT [4] 2/6 52/4 52/7 52/12</p> <p>Brian [3] 8/22 9/6 33/18</p> <p>brief [2] 174/2 193/2</p> <p>briefly [4] 4/16 6/25 79/16 80/5</p> <p>bright [1] 113/12</p> <p>bring [9] 4/17 5/21 5/22 6/22 24/14 47/23 50/22 115/21 123/8</p> <p>brings [1] 53/4</p> <p>broadcasts [1] 32/15</p> <p>broke [2] 66/6 106/5</p> <p>brother [7] 9/25 10/5 11/6 33/18 175/10 175/11 175/12</p> <p>brothers [2] 9/4 9/12</p> <p>brought [2] 21/11 193/9</p> <p>building [1] 16/2</p> <p>buildings [12] 10/8 10/9 71/14 71/17 71/20 78/18 81/3 84/20 85/4 85/13 94/10 94/19</p> <p>bumper [2] 183/24 183/24</p> <p>bunch [1] 180/23</p> <p>bungee [1] 123/13</p> <p>Bureau [2] 176/19 176/22</p> <p>burn [4] 43/11 92/4 92/9 135/19</p> <p>bury [2] 49/12 51/17</p> <p>bus [3] 41/19 41/22 42/6</p> <p>business [14] 10/9 10/22 11/25 12/24 14/14 18/4 18/22 88/9 106/16 107/7 132/24 137/10 141/11 188/10</p> <p>BUTING [10] 1/19 2/19 2/24 4/12 49/21 107/25 151/23 174/8 179/9 179/25</p> <p>buy [2] 16/16 16/24</p>	<p>14/18 15/7 15/10 15/16 15/21 16/18 16/20 17/7 33/9 45/3 54/25 74/6 87/24 91/18 91/21 91/24 91/25 92/22 94/5 98/13 99/8 143/3 144/3 146/21 157/7 157/25 168/2 187/16 187/21 188/2 189/2 189/3</p> <p>card [7] 147/18 157/23 158/10 159/15 159/16 165/12 165/19</p> <p>care [1] 7/9</p> <p>careful [2] 82/9 101/5</p> <p>carefully [1] 194/8</p> <p>Carlo [1] 17/22</p> <p>carpet [2] 102/3 102/6</p> <p>carpeting [4] 101/15 101/17 101/19 101/25</p> <p>carried [1] 101/25</p> <p>carry [2] 53/18 101/17</p> <p>cars [21] 13/1 13/12 13/13 13/22 14/1 14/3 14/11 14/19 15/3 15/3 15/7 16/24 17/2 17/16 66/18 85/1 92/19 148/3 170/7 180/23 186/7</p> <p>case [13] 1/5 4/3 46/5 52/1 64/10 114/5 116/5 117/1 177/4 177/11 178/25 179/18 192/22</p> <p>cases [2] 115/5 116/5</p> <p>cast [1] 15/18</p> <p>catch [2] 27/15 27/18</p> <p>caught [1] 27/23</p> <p>caution [2] 67/14 67/19</p> <p>CD [2] 124/24 135/18</p> <p>cell [2] 30/21 128/19</p> <p>central [1] 53/16</p> <p>certain [3] 25/10 55/20 165/14</p> <p>certainly [2] 135/1 169/13</p> <p>certify [1] 194/6</p> <p>CF [2] 1/5 4/3</p> <p>chambers [4] 4/15 115/1 192/14 193/20</p> <p>chance [2] 43/4 43/7</p> <p>change [2] 69/11 181/25</p> <p>changed [3] 13/11 13/11 91/17</p> <p>charge [11] 94/9 96/3 167/10 170/14 175/18 175/19 175/21 175/24 176/2 176/4 176/11</p> <p>check [3] 31/1 91/9 104/4</p> <p>checked [1] 88/14</p> <p>checking [3] 57/3 134/23 135/1</p> <p>Chevy [1] 17/21</p> <p>Chuck [4] 10/2 11/17 30/21 31/6</p> <p>chunk [1] 47/7</p> <p>circling [1] 157/6</p> <p>CIRCUIT [3] 1/1 1/10 194/5</p> <p>citizen [9] 111/10 111/11 128/16 129/2 148/17 148/22 148/24 171/23 174/3</p> <p>citizens [2] 135/1 144/14</p> <p>civil [2] 177/2 178/1</p> <p>civilians [1] 188/23</p> <p>clarification [1] 192/6</p> <p>clarify [3] 151/8 155/8 193/3</p> <p>clear [16] 24/6 28/2 133/1 133/4 149/11 149/15 153/5 156/7 156/15 158/24 170/16 177/1 185/1 190/7 191/8 193/11</p> <p>cleared [1] 109/4</p> <p>clearly [2] 146/10 158/22</p> <p>climb [1] 19/17</p> <p>climbing [5] 19/14 19/16 22/9 25/4 27/9</p> <p>clock [3] 39/24 55/16 55/18</p> <p>close [6] 38/17 91/23 93/16 142/19 152/14 168/18</p>	<p>closer [7] 105/20 152/22 153/1 153/12 157/7 157/12 158/2</p> <p>closest [1] 192/2</p> <p>closet [4] 47/6 49/10 51/15 103/6</p> <p>clothes [1] 36/22</p> <p>cloudy [1] 82/1</p> <p>coat [1] 34/1</p> <p>Colborn [7] 98/5 99/6 99/15 103/23 151/19 169/11 178/6</p> <p>cold [2] 81/20 82/1</p> <p>collaborative [1] 97/7</p> <p>collecting [1] 59/5</p> <p>collection [1] 112/7</p> <p>collects [1] 74/3</p> <p>color [5] 34/8 36/8 165/11 165/16 165/20</p> <p>colored [1] 165/18</p> <p>colors [1] 13/11</p> <p>comes [12] 18/3 32/10 75/4 101/6 121/15 127/12 130/11 130/21 133/15 134/11 134/22 139/3</p> <p>coming [35] 29/10 34/12 42/1 56/24 71/8 73/2 89/10 107/4 122/10 123/19 123/23 124/12 124/16 128/11 128/22 129/17 129/21 129/22 130/12 131/11 131/12 131/18 132/14 132/19 132/22 133/22 134/12 134/20 135/8 136/19 138/15 161/10 162/10 163/21 187/9</p> <p>command [14] 53/14 53/15 53/21 54/22 72/13 72/17 72/20 79/20 80/19 93/2 93/24 175/6 187/17 188/9</p> <p>common [1] 178/19</p> <p>communicate [1] 60/15</p> <p>communicated [1] 60/21</p> <p>complement [1] 97/4</p> <p>complete [6] 4/18 5/19 108/10 110/2 161/15 185/7</p> <p>completed [3] 60/20 61/7 169/19</p> <p>completely [3] 110/18 181/6 182/17</p> <p>computer [4] 7/4 160/20 192/4 194/10</p> <p>computer-assisted [1] 194/10</p> <p>computerized [1] 194/9</p> <p>computers [1] 159/4</p> <p>conceal [3] 145/10 182/10 182/14</p> <p>concern [1] 177/6</p> <p>concerned [1] 176/12</p> <p>concerning [1] 115/1</p> <p>conclude [1] 99/10</p> <p>concluded [1] 193/21</p> <p>condition [1] 82/4</p> <p>conference [2] 193/2 193/3</p> <p>confirm [1] 115/10</p> <p>conflict [3] 95/23 177/9 177/10</p> <p>confusing [1] 182/8</p> <p>congregation [1] 187/8</p> <p>connection [3] 100/20 151/4 168/21</p> <p>connects [1] 75/5</p> <p>consider [2] 154/15 155/3</p> <p>considering [1] 155/7</p> <p>consist [1] 77/12</p> <p>consisted [1] 77/16</p> <p>constant [4] 148/16 148/19 168/21 173/25</p> <p>contact [7] 96/18 128/15 129/1 170/3 170/14 173/8 173/25</p> <p>contacted [1] 53/12</p> <p>CONTD [2] 64/19 180/4</p>
<p>C</p> <p>Cal [3] 125/3 126/24 129/9</p> <p>caliber [1] 40/20</p> <p>called [20] 6/1 7/15 14/21 16/7 21/17 21/19 21/20 24/7 49/4 51/9 52/7 59/1 69/15 77/4 117/8 131/23 133/8 139/4 140/10 166/18</p> <p>caller [1] 32/12</p> <p>calling [3] 127/24 130/24 136/5</p> <p>calls [3] 4/2 32/5 45/6</p> <p>Calumet [30] 4/7 34/11 52/16 57/11 57/12 60/13 60/22 63/20 65/16 89/15 94/25 95/19 106/16 122/19 122/19 150/12 150/14 150/21 151/13 151/17 171/3 171/4 171/12 171/17 171/22 173/2 179/7 180/8 186/25 190/16</p> <p>camera [1] 159/15</p> <p>cameras [2] 158/19 159/9</p> <p>camp [3] 77/4 77/6 77/14</p> <p>candidly [1] 5/11</p> <p>candor [1] 114/13</p> <p>Candy [2] 11/8 11/10</p> <p>cannot [3] 36/8 132/4 159/2</p> <p>capacity [3] 117/24 139/19 140/7</p> <p>car [36] 13/3 13/16 13/20 14/12</p>		

C

context [1] 50/18
continuation [1] 4/4
continue [3] 64/16 76/4 179/11
contrast [1] 165/20
control [7] 53/13 56/14 91/5 95/15 116/17 190/24 190/25
conversation [13] 19/2 19/10 20/11 22/7 24/21 25/6 27/13 27/16 27/21 28/17 46/23 47/1 47/7
conversations [1] 30/13
conversely [1] 112/10
conveyor [5] 75/6 79/24 80/16 80/25 189/20
conviction [1] 177/4
coordinate [1] 65/17
coordinated [3] 58/18 58/22 84/24
coordinating [3] 58/12 67/23 84/22
coordination [1] 60/3
copy [6] 115/8 116/22 126/18 130/14 135/20 138/1
cords [1] 123/14
corner [22] 69/25 69/25 70/1 70/6 71/8 73/9 73/16 73/18 74/9 75/23 76/7 76/13 77/10 80/7 91/16 110/20 113/13 113/23 141/10 141/12 164/13 164/17
corners [13] 54/21 54/22 54/25 55/13 57/25 75/12 75/12 76/1 79/17 80/20 87/7 87/8 92/18
correct [109] 6/11 43/17 58/14 63/4 65/4 65/5 70/21 82/23 82/25 83/4 85/3 85/6 88/7 88/24 90/2 91/3 91/6 92/17 93/6 93/25 96/10 96/24 98/10 100/10 100/12 100/23 101/1 102/18 108/15 109/12 109/23 111/21 113/7 113/10 124/10 125/19 125/24 126/1 126/4 126/15 127/11 127/13 127/25 129/3 129/25 130/2 130/20 130/23 131/1 131/6 131/9 131/24 132/12 134/9 134/14 134/25 135/3 136/21 136/24 136/25 137/4 137/5 137/12 140/8 142/8 143/23 144/10 149/18 150/19 152/7 155/12 155/19 155/25 156/3 157/24 158/7 160/5 160/12 160/15 160/22 161/17 162/1 162/7 162/22 163/4 163/6 164/21 164/23 165/2 172/5 174/13 174/20 175/9 176/20 181/13 183/10 184/4 185/4 185/18 187/4 189/18 189/21 190/6 190/19 191/1 191/19 191/20 192/5 194/12
correctly [1] 165/22
could [67] 30/6 31/5 35/2 40/1 40/5 45/21 46/19 47/8 48/1 52/20 54/19 64/22 66/17 68/23 69/11 69/17 71/13 72/16 74/12 75/3 75/16 77/22 79/7 80/5 80/23 86/20 90/21 90/24 93/16 99/16 99/18 103/21 106/24 107/14 107/14 117/17 118/20 119/19 124/16 129/10 131/18 133/6 137/13 139/12 143/25 146/16 148/9 149/20 151/6 151/11 153/4 153/24 156/8 156/15 160/1 165/6 170/2 180/17 181/6 181/9 181/10 181/14 181/14 182/19 184/6 188/15 189/12
couldn't [4] 62/3 81/6 156/6 164/1

counsel [19] 4/16 5/22 6/9 6/11 47/22 50/7 64/12 107/15 115/1 115/10 135/5 154/10 179/20 182/19 182/25 184/22 185/12 192/13 193/17
county [48] 1/1 4/8 34/11 52/16 56/9 57/14 89/15 94/25 94/25 95/7 95/10 95/19 95/24 96/12 96/19 97/11 97/21 98/6 98/19 98/25 106/16 117/20 118/8 121/1 122/16 122/20 125/4 126/24 129/9 139/14 139/16 140/4 150/12 150/21 150/22 151/13 151/17 167/3 171/3 171/4 171/6 171/12 171/17 171/22 173/2 173/9 177/3 194/2
couple [11] 39/6 46/1 46/16 55/8 63/19 66/22 99/14 121/5 137/23 186/11 190/7
course [6] 95/18 96/7 98/22 106/15 107/7 160/23
court [32] 1/1 1/10 1/25 4/2 5/5 5/11 47/22 48/7 48/11 48/19 48/20 53/5 110/7 114/13 114/17 115/2 115/12 116/1 116/2 116/3 116/5 116/12 132/2 132/6 135/6 135/20 138/2 193/1 193/3 194/4 194/5 194/19
Court's [4] 47/23 115/4 115/15 116/23
Courts [1] 132/1
cover [6] 47/8 47/8 47/13 47/16 62/20 183/20
covered [3] 82/7 94/15 182/16
covering [3] 144/25 145/7 145/8
crash [3] 14/18 15/4 15/8
created [2] 106/3 106/18
Creek [4] 29/6 56/8 57/1 61/12
crime [5] 53/16 67/13 100/3 100/5 100/8
criminal [4] 96/8 115/5 116/5 140/1
Crivitz [1] 31/9
cross [21] 2/4 2/8 2/14 2/19 2/24 5/9 5/12 6/21 6/23 7/21 42/13 43/18 43/19 43/25 46/22 86/21 124/6 151/25 174/9 180/1 180/4
cross-examination [16] 2/4 2/8 2/14 2/19 2/24 5/9 6/21 6/23 7/21 42/13 86/21 124/6 151/25 174/9 180/1 180/4
crossed [1] 48/20
crowbars [1] 67/3
crush [2] 181/3 181/4
crushed [6] 13/21 13/23 14/1 180/23 181/14 181/22
crusher [28] 74/6 142/21 143/22 144/4 146/22 148/11 152/9 152/10 152/15 152/16 152/21 152/22 153/2 153/9 154/17 154/19 154/23 157/7 157/12 168/2 170/7 180/14 180/16 181/9 181/13 187/13 187/16 187/21
crying [2] 38/3 143/6
cul [1] 88/8
cul-de-sac [1] 88/8
Cummings [3] 150/7 151/2 190/17
cumulative [2] 46/20 47/19
cure [1] 23/16
curious [1] 105/24
current [1] 174/13
currently [1] 53/1
cursor [1] 192/3

custody [2] 76/3 132/9
customers [2] 16/25 132/22
cut [1] 105/23
cutting [1] 164/7

D

D-a-s-s-e-y [1] 7/20
D.A [1] 4/9
dad [1] 8/7
dark [7] 93/1 93/21 110/17 113/4 165/17 166/4 166/4
Darker [1] 165/18
DASSEY [19] 2/3 6/21 6/22 7/15 7/20 8/16 8/18 12/25 41/7 42/13 45/12 46/21 47/9 47/10 47/11 47/12 49/6 49/23 51/11
Dassey's [1] 5/20
date [7] 1/8 26/13 26/21 26/24 140/9 185/15 193/6
dated [2] 22/12 194/15
Dave [1] 98/20
David [1] 98/20
day [37] 1/4 4/17 21/21 23/20 25/11 29/5 29/10 30/6 35/6 40/8 41/17 41/18 53/18 54/5 55/19 62/23 62/23 80/3 81/25 84/5 91/17 93/7 93/13 93/14 93/15 93/20 95/14 123/22 123/25 132/25 134/15 134/19 161/2 163/5 192/21 193/16 194/15
daylight [1] 93/7
days [13] 29/2 30/10 63/5 63/7 63/8 63/11 63/18 71/16 82/11 85/20 96/20 98/23 109/21
de [1] 88/8
dead [3] 56/10 73/2 88/8
dealt [1] 43/24
DEAN [2] 1/17 4/13
death [1] 30/3
debriefings [1] 72/19
decide [1] 90/22
decided [1] 106/23
deciding [1] 173/5
decision [10] 90/21 95/13 95/21 173/14 176/25 178/24 179/5 180/6 186/23 190/8
decisions [1] 171/10
Dedering [7] 34/11 34/16 34/19 36/5 39/19 43/4 43/21
Dedering's [1] 35/14
deep [1] 184/1
deer [30] 19/17 20/4 20/6 20/9 20/16 20/18 21/3 21/21 21/22 22/4 23/8 23/15 24/8 24/14 24/15 24/17 25/3 25/3 26/17 27/9 38/9 38/15 39/3 40/9 40/11 44/3 77/4 77/6 77/16 77/17
DEFENDANT [4] 1/7 1/18 1/20 1/21
defense [4] 6/23 48/4 114/9 192/8
definitely [1] 181/25
Delores [2] 10/17 72/5
Delores' [1] 79/21
demeanor [1] 172/13
demonstrates [1] 142/11
demonstration [1] 4/19
Dennis [1] 99/1
department [51] 14/22 14/22 52/17 52/22 57/11 60/8 60/13 65/16 89/15 95/16 95/18 95/19 95/24 96/19 96/25 97/1 97/12 97/21 98/6 98/20 99/1 105/24 106/17 107/8 117/20 121/7 122/13 126/2 139/15 139/21 150/8 151/14

D

department... [19] 151/18 163/9
167/4 167/7 170/25 171/2 171/5
171/6 173/3 173/10 174/24 177/2
177/10 178/21 190/10 190/18
190/22 190/23 191/1
departments [4] 96/9 96/22 97/1
150/11
depending [2] 69/11 93/15
depict [1] 73/18
depicted [1] 76/8
deposed [5] 98/13 177/13 177/25
178/1 178/7
depositions [3] 98/14 177/14
177/18
deputies [4] 60/9 60/12 60/15
65/12
deputy [36] 2/12 2/22 65/15 117/8
117/19 118/2 120/15 120/24 122/5
122/16 122/25 123/6 124/3 126/7
126/9 136/4 150/7 151/1 166/18
167/6 173/7 173/11 174/11 174/14
174/16 174/17 175/15 175/18
175/19 175/20 175/23 175/24
176/2 176/3 186/18 190/17
describe [17] 54/15 54/19 55/17
56/4 61/1 65/25 71/4 71/13 72/16
75/3 76/11 77/22 78/17 82/3
92/10 120/16 172/13
described [9] 8/1 8/7 28/24 36/11
63/15 75/25 87/9 91/10 127/15
detached [3] 70/20 72/6 86/1
details [3] 35/2 41/8 126/24
detain [2] 119/7 120/1
detective [35] 98/20 118/24 119/4
120/10 121/10 122/7 122/21
125/11 125/23 127/5 128/1 128/25
131/4 146/12 146/19 146/20 147/3
147/9 147/12 147/20 148/1 156/16
157/13 159/13 168/5 168/10
168/19 168/25 169/18 170/5
172/21 176/19 176/22 186/21
186/22
determine [2] 61/7 148/16
determined [1] 62/3
developed [1] 67/11
diagonal [1] 136/18
Diane [3] 1/24 194/4 194/19
difference [2] 70/22 78/15
differences [1] 78/1
different [8] 49/22 63/21 68/6
77/20 77/20 97/1 112/19 170/25
difficult [1] 83/12
difficulties [1] 6/8
dig [1] 62/6
digital [2] 158/19 159/14
direct [14] 2/7 2/13 2/18 2/23
50/24 52/13 64/17 64/19 85/18
117/15 139/10 140/2 146/17
166/25
directed [1] 143/7
directing [1] 143/17
direction [6] 37/21 57/15 57/16
142/5 164/11 167/13
directly [5] 60/5 60/21 61/10 74/16
152/5
dirt [4] 62/1 62/5 69/7 69/12
disagree [1] 154/20
disagreement [1] 46/9
disappearance [3] 25/8 30/3 30/11
disappearing [1] 26/10
disc [3] 159/3 159/4 160/20

discussed [2] 177/7 190/22
discs [1] 159/8
discuss [8] 4/16 46/5 64/9 97/15
114/5 114/12 179/18 192/22
discussed [2] 5/7 173/11
discussing [1] 5/4
discussion [3] 95/25 171/11 187/4
dispatch [7] 57/10 125/1 125/15
126/18 130/13 130/25 167/13
dispatcher [1] 127/23
dispose [1] 27/24
disposed [1] 177/23
distance [6] 44/25 154/17 154/19
154/23 168/12 188/16
distances [1] 153/7
District [3] 4/8 122/13 122/14
disturb [5] 145/25 169/2 171/24
172/8 174/4
disturbed [8] 61/15 147/6 148/18
148/23 149/23 170/4 172/1 174/5
dive [12] 58/21 58/24 58/24 59/1
59/2 60/4 60/23 61/9 61/16 62/2
62/3 62/11
division [8] 94/3 96/8 117/21
139/24 175/20 176/11 176/15
176/16
DNR [3] 21/1 22/18 22/21
do [95] 13/3 13/3 13/9 13/13
13/17 14/11 16/11 16/23 18/2
19/9 19/24 21/19 23/14 23/17
24/17 26/19 26/22 30/19 34/8
36/10 37/2 39/17 40/8 40/11
40/15 43/13 44/4 46/5 46/17
48/25 50/6 50/8 54/8 55/9 58/7
58/25 59/8 60/7 61/4 62/7 64/9
65/1 68/24 81/10 81/11 81/16
83/11 91/14 91/15 104/2 104/18
106/12 107/17 108/19 110/3
114/11 122/1 122/20 123/16 125/9
125/9 131/19 134/13 135/24
140/15 142/19 146/4 146/11
147/23 148/5 152/24 159/5 162/15
162/16 164/1 165/11 167/5 167/12
167/18 169/14 169/23 172/16
174/11 177/16 179/17 185/12
185/14 185/25 187/10 187/15
187/20 188/4 190/4 191/10 194/6
document [2] 108/17 162/3
does [32] 13/20 15/21 35/21 44/23
72/14 72/15 72/23 73/1 73/4
73/18 73/19 74/6 74/7 74/25 75/2
75/14 76/25 77/2 77/5 77/6 79/12
79/15 80/1 80/4 81/9 82/18
107/16 116/6 116/12 141/6 175/14
191/25
doesn't [2] 23/14 46/24
dog [2] 30/7 176/21
dogs [5] 59/20 63/17 63/18 63/22
64/1
doing [10] 19/22 19/25 25/4 68/4
68/18 89/8 109/10 109/11 168/19
186/14
done [7] 35/19 87/22 87/23 99/17
123/17 171/13 181/15
door [2] 45/2 100/25
doors [1] 145/23
double [4] 183/25 184/2 184/3
184/16
doublewide [1] 10/24
down [67] 13/21 14/2 15/12 15/22
16/5 18/3 18/12 23/11 24/1 31/4
34/3 56/25 60/10 65/13 66/19
69/21 70/25 72/1 72/4 74/7 75/5

75/18 75/21 78/21 78/24 80/15
80/25 81/2 81/3 81/4 81/7 82/11
88/18 88/23 93/22 103/13 105/19
106/5 110/21 111/14 113/5 113/12
119/3 127/10 131/19 138/10
138/18 140/20 140/22 141/17
141/21 141/21 142/25 144/6
144/20 152/17 153/2 153/9 156/21
157/6 167/23 168/1 168/6 175/14
187/2 187/8 187/9
dozen [1] 66/6
dozens [2] 93/12 93/12
draw [1] 117/2
drive [6] 69/7 69/9 69/13 75/10
82/12 121/24
driven [1] 31/4
driver [3] 157/19 157/20 158/2
driver's [3] 146/7 156/2 157/17
driveway [9] 17/24 18/2 18/10
18/12 42/24 73/6 81/1 92/8
142/13
driveways [1] 88/12
driving [6] 38/20 119/3 143/2
156/19 156/20 156/24
drop [3] 71/2 93/22 123/9
drove [3] 38/9 82/10 168/1
due [2] 61/15 151/9
duly [5] 7/16 52/8 117/9 139/5
166/19
dupe [1] 135/19
during [31] 7/8 46/5 47/25 53/18
54/5 54/5 55/9 55/15 55/18 64/10
66/23 81/21 84/5 91/7 93/13
93/14 96/20 97/19 98/1 98/22
111/4 114/5 116/21 119/25 124/11
149/12 171/14 172/1 173/23 174/2
179/18
dusk [2] 38/18 39/6
duties [7] 53/1 53/19 53/21 53/25
54/2 139/21 186/9
duty [4] 54/3 116/8 119/9 119/22

E

each [7] 34/23 50/5 60/9 69/4
116/9 116/22 184/23
Earl [6] 11/5 11/6 11/8 11/10
11/14 187/6
earlier [3] 131/11 162/8 193/10
early [5] 12/9 39/1 48/11 120/7
192/17
east [9] 18/7 56/7 73/15 73/24
73/25 88/2 92/5 92/11 142/6
east/west [1] 88/2
eastern [1] 141/21
easternmost [1] 142/14
eat [1] 20/22
edge [3] 81/3 111/16 142/14
effort [5] 58/7 90/7 97/7 98/3
182/14
efforts [6] 60/3 65/23 100/4 123/3
123/4 123/5
eight [1] 71/16
Eighty [2] 79/6 82/17
Eighty-five [1] 79/6
Eighty-six [1] 82/17
either [22] 30/19 37/17 47/25 61/3
67/14 88/21 90/21 91/21 94/14
96/8 98/17 103/7 112/7 117/2
123/3 144/15 147/4 160/17 168/25
169/1 171/24 172/10
elected [2] 126/10 126/12
electronic [1] 136/6
elevation [1] 78/2

E	100/11 112/7 112/7 112/16 112/18 116/11 116/16 116/18 163/13 163/22 172/8 191/16 evidentiary [1] 68/17 exact [9] 82/21 146/23 149/19 153/23 154/2 154/3 154/7 154/8 154/10 exactly [6] 35/5 49/24 130/9 130/17 153/7 158/21 examination [41] 2/4 2/5 2/7 2/8 2/9 2/10 2/13 2/14 2/15 2/16 2/18 2/19 2/20 2/23 2/24 2/25 5/9 6/21 6/23 7/21 42/11 42/13 52/13 64/17 64/19 86/21 110/6 110/14 113/2 117/15 124/6 136/2 138/11 139/10 151/25 165/9 166/25 174/9 180/1 180/4 191/6 examined [6] 7/17 52/9 61/18 117/10 139/6 166/20 example [1] 88/13 exchange [1] 171/14 excluding [1] 60/25 excuse [6] 46/1 46/3 161/5 167/8 179/9 184/22 excused [7] 45/13 48/1 114/2 138/21 166/10 192/11 192/17 executed [1] 85/24 exhibit [81] 6/17 22/1 35/8 35/10 35/13 43/22 45/15 45/15 45/19 55/2 64/21 65/4 65/25 66/17 68/22 69/17 70/9 70/17 71/5 71/10 71/19 72/14 72/23 73/13 74/6 74/12 74/17 74/25 75/14 76/9 76/9 76/11 76/16 76/25 77/5 77/10 77/21 79/4 79/12 80/1 81/10 82/15 83/1 83/7 84/19 84/20 86/20 86/25 107/11 107/12 108/3 108/10 109/25 109/25 114/10 114/14 135/9 135/11 136/5 136/8 136/20 136/23 137/1 137/6 137/10 138/3 138/7 140/25 141/1 141/6 141/17 143/25 146/16 182/25 183/1 184/20 191/9 191/11 191/16 191/17 191/21 Exhibit 123 [2] 22/1 45/15 Exhibit 124 [1] 35/13 Exhibit 125 [2] 109/25 114/10 Exhibit 127 [2] 136/5 138/3 Exhibit 29 [1] 183/1 Exhibit 33 [1] 191/17 Exhibit 84 [4] 76/11 76/16 76/25 77/5 Exhibit 85 [1] 86/25 Exhibit 86 [2] 84/19 184/20 Exhibit 87 [1] 83/7 exhibits [7] 3/1 55/12 71/4 82/14 83/15 86/10 86/14 exit [1] 79/24 exiting [2] 44/23 86/2 expected [1] 5/12 expertise [2] 112/14 112/20 explain [4] 22/17 65/6 78/3 175/1 extends [1] 66/20 extent [2] 59/16 99/19 exterior [5] 62/25 63/7 63/14 63/16 85/9 extra [1] 101/23	factory [1] 12/5 facts [1] 52/1 failed [2] 181/3 181/4 fair [4] 99/10 104/11 137/24 150/18 fairly [2] 67/16 101/2 fall [1] 19/19 FALLON [3] 1/13 4/9 114/12 familiar [13] 56/12 69/14 71/16 73/9 74/8 88/25 89/4 89/19 95/8 104/8 125/20 141/7 170/8 family [1] 132/16 family's [1] 177/8 far [14] 44/24 67/1 121/12 121/15 127/4 152/12 162/19 164/9 168/14 176/11 178/10 181/6 181/19 185/21 farewell [1] 192/20 fashioned [1] 27/4 Fassbender [8] 57/17 57/19 84/25 85/12 94/9 94/16 96/7 112/11 Fassbender's [1] 99/12 father [2] 8/20 10/15 FEBRUARY [4] 1/8 34/12 34/12 34/23 February 27 [1] 34/12 federal [1] 96/15 feeding [1] 38/16 feel [1] 141/3 feelings [1] 97/13 feet [15] 45/1 137/23 146/14 147/1 147/8 147/24 149/7 154/20 154/25 155/3 159/25 161/18 168/17 170/1 186/3 fellow [1] 8/11 female [1] 128/15 females [1] 140/23 fence [3] 81/4 111/15 145/1 fenced [1] 71/22 fender [3] 145/4 145/6 157/20 few [5] 46/3 53/25 82/11 131/3 191/5 field [11] 61/3 62/10 62/14 62/16 73/24 76/20 98/12 99/8 99/16 111/13 162/13 fields [1] 111/9 file [2] 138/2 183/24 filling [1] 120/23 final [4] 111/7 116/23 161/21 192/20 Finally [1] 85/17 find [3] 31/5 188/24 191/16 finding [1] 146/3 fine [8] 5/2 49/19 50/20 135/25 138/5 138/6 184/9 188/17 fingerprints [1] 100/9 finish [1] 41/7 fire [3] 14/22 43/11 96/25 firefighter [1] 112/20 firemen [8] 63/1 65/12 65/24 66/4 66/5 66/8 67/3 68/3 first [51] 4/18 6/4 7/16 12/7 21/15 21/20 23/21 27/15 28/14 29/2 30/6 52/8 53/7 53/10 54/18 55/1 63/18 66/1 66/2 66/11 82/11 89/18 107/24 108/7 108/18 115/24 117/9 118/13 118/22 120/25 121/23 123/1 133/7 134/5 139/5 141/6 141/23 146/17 148/15 149/5 155/9 156/12 157/9 160/3 160/4 166/19 179/2 180/11 180/12 187/15 190/20 five [9] 61/21 79/6 104/15 108/2
F	face [1] 105/23 fact [14] 11/14 44/9 89/22 105/3 118/11 135/23 137/11 140/9 173/3 182/14 182/18 185/7 190/14 193/7	

elicited [1] 49/23
ELMO [1] 7/12
else [18] 5/20 5/21 43/20 67/10
76/6 85/14 88/11 98/17 100/24
133/9 150/5 150/5 162/10 171/13
172/20 190/4 192/8 193/17
elsewhere [1] 12/2
emblems [1] 181/19
employed [12] 52/15 52/18 52/21
117/18 117/19 117/22 117/24
139/12 139/18 140/4 167/2 167/3
end [23] 6/6 14/12 14/19 17/24
18/2 40/19 48/18 56/10 57/2
67/17 67/18 69/20 69/22 73/7
75/19 79/1 80/8 82/24 92/1
116/21 134/3 157/11 188/3
ending [1] 48/16
ends [6] 25/23 67/19 73/3 88/8
88/10 108/14
enforcement [28] 56/14 56/17 58/6
60/1 65/21 75/17 90/7 90/12
90/25 93/3 93/10 97/8 102/1
112/2 119/24 120/25 121/3 122/8
123/4 132/8 134/24 138/15 139/18
141/24 144/12 148/17 150/2 174/3
enough [5] 43/24 75/24 104/11
108/1 168/18
enter [7] 5/10 80/23 80/24 163/12
169/1 171/24 174/4
entered [12] 19/11 105/9 105/11
105/11 105/14 109/6 111/20
119/17 147/5 148/18 148/22
149/23
entering [6] 86/2 104/21 105/13
119/15 119/25 120/3
entertain [1] 5/7
entire [11] 55/25 68/5 76/4 79/10
82/19 102/4 102/14 150/8 156/15
157/4 159/21
entirely [1] 133/1
entirety [2] 79/13 137/1
entrance [11] 18/22 18/24 87/14
87/25 88/9 127/19 137/3 141/11
141/16 187/18 188/10
entry [3] 75/1 161/24 162/11
entryways [1] 68/22
equipment [2] 72/4 142/19
especially [1] 39/1
essentially [2] 101/8 127/9
established [2] 72/13 160/2
estimate [1] 137/24
estimated [1] 150/16
estimation [1] 154/25
even [14] 12/14 24/6 32/18 39/5
62/20 89/14 104/9 111/4 128/18
149/10 149/12 181/9 183/6 190/8
evening [3] 54/5 81/19 84/2
event [2] 93/21 134/5
events [2] 34/16 127/12
eventually [5] 17/13 28/21 52/24
114/14 122/11
ever [13] 13/5 16/8 16/24 30/14
83/20 83/21 91/24 108/16 160/13
161/2 162/9 163/12 171/6
every [5] 41/17 41/18 66/10 67/7
178/20
everybody [3] 67/20 109/4 109/7
everyone [1] 90/2
everything [4] 65/17 66/19 88/11
135/8
evidence [16] 50/16 52/1 59/9 64/2

F
five... [5] 108/12 108/13 110/1
 179/21 189/4
fixing [3] 16/18 16/25 33/9
flagged [1] 140/22
flagging [1] 142/25
flashlight [6] 147/13 155/13
 157/14 157/17 157/18 158/8
flattened [3] 180/23 181/11 181/11
floodlights [1] 111/1
floppy [2] 159/3 159/4
flow [1] 179/12
focal [1] 152/17
focused [1] 149/8
foliage [1] 151/10
folks [4] 50/4 92/19 93/2 107/6
followed [3] 28/8 121/7 121/9
following [3] 30/11 49/1 84/4
follows [5] 7/17 52/9 117/10 139/6
 166/20
food [1] 38/17
foot [6] 71/1 82/8 91/22 102/16
 144/2 156/18
force [1] 5/16
Ford [1] 130/15
foregoing [2] 194/7 194/7
form [12] 4/20 105/25 106/2
 106/11 106/13 106/15 107/16
 107/18 107/18 108/13 109/19
 109/20
formal [1] 69/10
forth [1] 146/9
forward [1] 100/13
found [13] 21/21 21/22 29/5 42/2
 65/20 73/11 73/17 74/5 79/23
 110/22 120/13 131/23 172/15
foundational [1] 71/15
four [28] 8/14 9/4 36/19 54/21
 55/13 57/25 61/9 63/11 75/12
 76/1 79/17 80/2 80/20 82/12 87/7
 87/8 91/13 92/18 93/22 100/16
 100/16 133/2 135/19 156/12
 156/13 187/9 189/4 190/20
fourth [1] 163/8
frame [1] 102/14
free [1] 141/3
fresh [1] 21/7
fresher [2] 34/17 36/5
Friday [10] 24/10 24/12 25/21
 25/24 26/2 26/5 30/18 84/13
 84/14 91/9
friend [2] 19/3 39/14
friends [1] 189/10
front [14] 18/13 42/23 45/1 64/21
 75/19 79/4 141/2 145/5 145/16
 152/21 155/17 157/20 160/3
 165/25
focused [1] 187/3
fully [1] 143/3
function [1] 100/6
further [6] 66/20 77/23 78/11
 124/9 157/11 166/9
furthest [1] 137/9

G
GAHN [2] 1/15 4/10
gain [1] 164/1
gap [1] 69/8
garage [36] 11/1 16/18 16/23
 18/15 19/2 19/9 19/10 19/12
 19/13 19/22 20/9 22/5 23/12
 27/11 30/16 32/23 33/2 33/8 49/6

51/11 70/6 70/20 72/1 72/6 74/21
 74/22 86/1 100/25 103/18 104/3
 105/11 108/24 109/8 109/10
 109/17 109/22
garbled [1] 134/3
Gary [2] 105/23 109/9
gas [4] 22/23 22/24 23/3 120/21
gather [3] 27/16 108/1 112/17
gatherers [1] 81/14
gave [3] 151/1 151/2 186/10
general [23] 4/9 38/15 90/6 90/8
 90/11 92/15 92/24 95/13 109/19
 132/21 139/25 139/25 142/21
 144/3 146/21 146/24 154/1 154/14
 154/15 155/4 155/7 165/16 180/15
generally [8] 53/24 54/1 58/1 84/9
 93/1 132/1 142/4 172/13
generator [1] 111/2
generators [1] 113/12
gentleman [5] 98/11 151/14
 151/18 169/8 169/10
gentlemen [1] 168/22
gets [1] 78/12
getting [5] 12/12 12/16 30/20
 127/1 158/23
Gibson [1] 118/7
girl [11] 28/10 47/4 47/6 47/15
 48/16 49/8 49/9 49/16 51/13
 51/14 51/20
gist [1] 129/4
give [7] 35/1 65/18 99/14 127/22
 128/19 129/10 166/16
given [1] 125/16
glance [1] 166/2
glanced [4] 145/16 158/21 160/7
 165/24
glancing [1] 165/25
goal [1] 146/5
goes [15] 5/12 12/24 13/21 18/12
 18/15 32/11 70/25 88/6 101/6
 130/11 130/21 131/2 133/15
 134/11 136/22
going [67] 4/18 4/25 7/6 18/4
 19/13 22/1 31/12 33/7 35/9 35/12
 37/19 38/16 39/5 39/10 43/25
 45/25 46/2 48/17 48/24 50/1
 50/12 53/18 54/17 55/8 55/9
 55/10 60/19 70/8 71/3 79/11
 79/12 83/1 85/17 87/15 92/25
 100/16 103/17 104/15 104/20
 107/4 107/20 108/9 113/5 114/14
 121/18 123/24 124/12 124/16
 124/24 128/19 133/12 133/17
 134/21 135/9 136/4 136/5 140/2
 140/25 151/12 162/10 179/11
 180/10 186/23 187/2 191/8 191/9
 192/14
gone [5] 12/20 25/15 50/8 62/1
 177/18
good [20] 4/11 7/23 7/24 14/3
 64/5 81/15 81/15 86/23 86/24
 90/19 105/4 115/18 117/17 135/12
 137/25 152/2 152/3 164/10 164/10
 182/15
goose [1] 29/12
gotten [1] 173/10
grade [7] 70/22 77/20 78/9 78/15
 78/20 78/22 81/5
grandma [1] 10/13
Grandpa [2] 10/13 11/22
gravel [9] 59/4 73/6 75/4 83/7
 83/10 88/11 92/2 189/6 189/20
great [2] 114/1 182/22

green [1] 144/21
Greg [1] 122/17
Griesbach [1] 122/14
group [10] 60/9 60/18 65/15 67/17
 67/20 69/4 89/5 99/21 106/4
 111/11
groups [5] 60/10 65/13 66/6 67/13
 67/17
grow [1] 7/25
guard [4] 92/16 189/16 189/23
 190/1
guarding [1] 159/21
guards [2] 93/3 93/22
guess [8] 26/9 28/20 37/24 38/15
 99/25 121/18 170/16 181/20
guess but [1] 26/9
guessing [1] 40/4
gun [1] 40/9
guns [2] 40/15 40/17
guys [6] 13/24 19/24 28/12 31/1
 99/15 187/3

H
H-e-r-m-a-n-n [1] 166/24
had [136] 10/2 11/22 12/4 17/21
 20/11 20/14 21/3 22/7 23/11
 23/22 23/24 24/7 24/20 25/8
 27/13 28/17 28/20 32/21 32/22
 33/2 39/21 39/25 40/20 41/1
 42/18 43/7 44/8 44/9 44/12 44/14
 45/1 46/10 47/5 48/10 48/12
 48/21 49/9 51/14 54/24 55/14
 62/5 62/23 62/25 63/18 66/8 67/4
 67/13 67/13 67/21 68/13 69/21
 72/19 76/3 76/19 77/17 80/2
 80/18 81/21 82/8 82/9 82/13 83/5
 83/23 84/14 85/10 89/3 89/12
 90/17 95/13 96/12 96/18 97/12
 97/24 98/5 98/8 98/13 98/13
 98/22 99/14 101/25 105/7 106/7
 106/22 108/22 109/9 110/19
 111/21 111/24 112/12 113/7
 113/17 115/2 119/14 119/18
 120/10 120/12 123/17 131/23
 134/1 135/7 143/9 144/25 145/1
 145/3 145/4 145/7 147/13 147/18
 148/19 150/11 150/12 157/13
 160/23 165/12 167/23 169/24
 173/10 173/13 177/17 177/23
 178/7 179/5 181/3 181/3 182/3
 182/10 183/18 185/3 186/9 188/23
 190/4 193/3 193/7 193/9 193/10
 194/13
hadn't [4] 20/15 28/20 39/25 55/22
Haese [2] 122/5 123/6
Halbach [15] 26/10 28/15 28/24
 31/16 32/19 33/23 35/5 35/22
 36/10 42/20 44/8 59/10 120/14
 167/24 168/7
Halbach's [9] 25/7 30/2 30/11
 68/12 73/11 73/17 74/5 110/23
 113/7
half [6] 30/8 62/19 73/25 74/23
 122/24 158/15
Halloween [10] 9/7 12/4 17/9
 17/25 32/22 33/21 34/16 35/23
 41/9 42/1
hallway [3] 101/15 101/22 101/24
hand [8] 7/14 52/6 63/24 141/10
 141/12 164/13 164/24 166/17
handful [1] 93/23
handwritten [1] 160/20
hang [5] 21/15 23/14 23/17 23/19

H		
<p>hang... [1] 23/20 hanging [3] 20/7 22/4 23/12 happened [6] 19/2 19/10 25/7 33/22 132/18 132/19 happening [2] 103/22 120/8 hard [1] 138/1 haven't [4] 63/15 104/19 104/22 104/23 having [9] 7/16 30/23 31/4 49/1 52/8 117/9 139/5 166/19 190/21 head [2] 102/16 127/8 heading [1] 126/24 headlights [2] 30/23 31/5 headquarters [1] 61/22 hear [12] 5/8 32/12 32/18 37/24 38/2 45/5 46/22 47/13 47/21 48/1 124/23 130/24 heard [15] 26/8 31/15 32/5 44/18 44/19 47/24 77/3 96/16 107/17 110/4 114/9 125/23 130/18 154/16 154/18 hearing [4] 126/14 129/5 133/25 135/7 hearsay [1] 46/13 heated [1] 16/12 heavily [1] 59/22 heavy [1] 72/4 help [19] 27/24 33/9 33/12 33/14 33/16 35/4 35/21 36/2 38/3 45/6 49/12 51/17 65/6 124/22 136/6 179/11 187/22 189/11 189/12 helped [1] 101/20 helpful [1] 35/18 helping [1] 17/11 helps [3] 23/16 125/2 143/15 hereby [1] 194/6 herein [5] 7/16 52/8 117/9 139/5 166/19 HERMANN [29] 2/22 121/9 122/7 125/13 125/25 131/4 131/7 146/13 146/20 147/7 148/1 149/5 150/25 156/17 166/14 166/18 166/23 167/2 169/6 171/10 172/9 173/9 173/16 174/11 174/12 174/14 175/7 175/8 191/9 Hermann's [2] 126/2 147/3 hierarchy [2] 163/7 175/2 high [3] 8/2 9/16 41/14 higher [2] 78/12 112/14 highest [1] 163/8 highway [20] 23/4 39/18 56/7 72/25 105/17 111/19 118/6 118/23 119/3 119/22 120/18 121/16 122/3 124/9 136/11 136/15 136/17 137/20 137/22 141/18 hills [1] 78/21 hips [1] 34/3 hit [4] 20/19 21/3 21/5 78/22 hobby [1] 16/21 hold [2] 167/5 167/9 home [21] 9/18 10/11 12/12 12/14 12/19 12/22 19/11 20/22 21/11 29/5 29/10 31/8 41/14 42/1 42/5 42/7 83/21 83/25 93/4 100/22 101/16 homes [1] 77/17 Hon [1] 1/9 honestly [1] 36/1 Honor [9] 5/23 27/2 45/11 45/14 51/7 115/14 174/7 180/3 192/9 hood [6] 145/3 145/8 183/3 183/7</p>	<p>183/11 183/18 hoods [2] 66/10 67/5 hooligan [1] 67/4 hop [1] 36/15 hopeful [1] 65/3 hoping [2] 40/4 55/7 hopping [1] 31/13 horrible [1] 37/25 hour [6] 87/4 88/14 122/24 150/16 186/13 188/4 hours [18] 29/23 30/5 30/8 39/6 54/5 75/14 84/7 84/8 84/9 84/11 91/16 111/4 134/16 140/17 161/24 188/5 188/5 190/20 house [11] 9/7 12/9 18/13 20/20 23/4 29/19 30/24 37/7 37/22 89/24 105/1 however [10] 86/6 116/23 121/16 123/18 146/8 149/4 149/10 151/9 152/19 158/22 hundred [3] 93/16 93/18 137/23 hung [3] 24/18 24/19 25/3 hunting [10] 19/15 29/12 37/8 38/10 38/21 39/10 40/8 44/3 77/16 77/18</p>	<p>129/16 129/19 130/16 133/18 133/21 133/24 inch [1] 158/15 inches [1] 158/15 incident [2] 188/13 188/21 include [3] 54/2 111/10 112/2 included [2] 62/14 74/24 includes [2] 76/7 134/23 including [1] 83/7 Independent [1] 16/23 indicate [2] 4/14 114/25 indicated [10] 47/3 49/7 49/14 49/15 50/10 51/12 51/19 143/9 159/11 193/14 indication [1] 181/2 individual [8] 65/22 67/13 67/15 80/22 87/20 120/11 125/4 174/3 individually [1] 120/7 individuals [12] 56/24 60/18 65/14 86/2 111/25 112/5 112/15 120/12 123/23 147/5 162/4 169/13 inference [1] 117/2 inform [1] 114/17 information [10] 65/19 107/16 120/11 127/7 129/9 129/15 133/20 150/17 167/24 173/10 informed [3] 6/7 81/19 147/20 informing [1] 127/6 initial [1] 62/25 initialed [2] 108/21 109/7 initially [1] 113/17 ink [1] 165/23 input [1] 173/13 inquire [2] 46/17 107/15 inquiry [1] 111/7 inside [17] 49/6 51/11 58/19 59/14 67/6 68/24 82/10 83/10 85/13 94/19 103/6 111/24 159/23 160/1 160/14 163/14 186/4 inspection [1] 169/19 inspector [23] 2/22 122/17 126/7 126/10 126/11 166/18 167/6 173/7 173/8 173/11 174/11 174/14 174/15 174/16 174/17 175/7 175/18 175/19 175/20 175/24 176/2 176/3 186/18 inspectors [2] 175/15 175/23 instance [1] 186/17 instead [3] 18/4 50/19 83/3 instructed [5] 118/24 119/5 123/7 123/13 123/16 instructions [1] 116/23 intact [3] 61/14 61/17 181/6 integrity [1] 173/16 intending [1] 43/22 intends [1] 107/15 interchangeable [1] 99/20 interest [2] 95/23 116/4 interior [8] 63/9 63/13 65/7 85/4 85/7 85/11 112/11 166/5 intermediary [1] 60/6 interrupted [2] 62/8 62/12 intersection [3] 56/20 57/1 118/23 interviewed [1] 30/10 into [46] 5/10 13/19 18/4 18/15 30/2 44/19 44/24 45/3 46/2 46/21 49/24 56/11 60/10 61/24 62/17 65/13 66/6 71/1 71/2 71/8 74/3 75/1 75/8 75/22 76/6 78/20 78/21 81/4 109/17 111/22 113/24 121/24 123/1 130/12 132/9 138/15 159/22 168/1 173/13 175/14 179/10 180/12 182/13 189/2 191/9 191/15</p>
	<p>I</p> <p>I'm [98] 6/7 9/1 22/1 26/19 31/12 31/12 31/13 35/12 43/22 43/25 44/12 45/25 47/12 47/18 48/24 49/1 50/1 55/1 55/7 55/10 60/24 60/25 65/3 66/11 70/8 70/21 71/3 79/12 85/17 86/16 87/15 90/4 93/14 94/17 95/8 97/14 100/5 103/2 103/5 103/15 104/8 104/13 104/13 104/14 104/15 105/3 105/24 108/9 117/19 121/15 121/18 124/13 124/24 125/25 126/5 128/19 133/1 133/1 133/12 134/4 134/15 135/13 139/23 140/2 140/25 148/10 150/10 151/12 153/17 153/17 154/11 156/20 158/23 163/11 163/23 164/6 165/14 167/3 167/6 170/16 170/16 170/21 174/17 177/19 177/20 178/3 179/10 180/10 182/8 182/13 183/5 184/2 187/22 190/1 190/15 190/23 191/8 191/9 ID [1] 147/10 idea [4] 90/8 90/9 101/5 180/20 identification [4] 35/8 107/11 134/24 147/22 identified [1] 140/23 identify [7] 71/20 83/15 89/3 130/8 146/6 168/8 168/8 identifying [2] 88/21 89/2 illuminated [3] 113/16 113/23 113/24 imagination [1] 163/17 imagine [1] 161/1 immediate [2] 162/4 190/24 immediately [6] 121/9 134/7 143/7 145/16 148/2 175/5 important [5] 35/1 46/16 46/18 116/20 172/3 impose [1] 50/2 impossible [1] 154/6 impound [2] 71/23 71/24 in [435] inactive [1] 62/19 inadmissible [1] 116/11 inaudible [12] 125/8 126/17 126/22 127/18 128/10 129/13</p>	

I
introduced [2] 116/16 185/14
investigating [1] 177/10
investigation [11] 30/2 53/4 53/8
95/2 96/8 148/7 171/12 173/5
178/25 180/7 190/10
investigations [1] 140/1
investigative [5] 43/3 72/21 95/15
122/20 175/20
investigator [17] 34/11 34/15
34/19 35/13 36/4 39/19 43/3
43/21 57/17 57/18 84/24 85/11
94/8 96/5 98/25 99/11 122/12
investigator's [1] 85/5
investigators [2] 57/21 111/23
involve [1] 88/20
involved [23] 53/4 53/7 53/11
57/23 58/6 62/21 62/24 63/18
67/23 68/2 86/6 93/11 94/19
94/20 98/3 99/8 100/4 104/2
105/8 112/1 123/5 171/10 173/4
involvement [4] 85/16 111/24
123/3 123/24
involving [1] 95/23
ironed [1] 6/8
issuance [2] 26/21 26/24
issue [2] 48/18 193/9
issues [2] 55/9 57/25
item [2] 158/14 158/22
items [3] 68/11 68/16 123/10
itself [10] 54/10 61/1 69/3 78/14
85/1 119/16 120/16 121/13 121/24
141/25

J
jacket [1] 89/12
Jacobs [2] 99/1 99/7
jail [2] 175/19 176/3
jailer [1] 52/23
Jambo [4] 29/5 56/8 57/1 61/12
James [6] 52/12 97/22 151/15
174/21 176/20 177/17
Janda [3] 8/5 8/9 9/13
Janda's [2] 74/22 76/22
JASON [3] 2/17 139/4 139/9
JEROME [2] 1/19 4/12
Jerry [1] 173/2
job [3] 12/5 109/10 134/19
John [1] 34/11
joke [3] 27/23 28/2 30/15
jokingly [3] 47/5 49/8 51/13
Judge [29] 1/10 5/6 5/24 6/12 6/16
6/18 45/9 48/6 48/18 48/22 49/19
51/23 86/11 107/14 110/5 112/24
114/11 115/14 117/6 124/3 135/24
138/1 138/22 151/22 151/24 165/7
166/7 185/6 192/7
jump [2] 165/15 166/3
junk [1] 183/10
junked [1] 143/8
juror [4] 115/3 116/2 116/10
116/22
jurors [7] 22/18 50/22 115/5
115/21 116/6 185/12 193/11
jury [77] 1/4 4/1 4/18 5/21 5/22
5/25 6/2 6/4 6/10 7/3 26/13 27/3
37/24 45/25 46/6 48/1 49/1 49/3
50/5 50/13 50/15 51/2 51/4 51/25
52/21 53/10 54/15 54/19 55/17
57/9 64/8 64/11 65/3 70/17 71/10
72/16 73/20 74/17 75/3 75/16
76/16 80/1 114/3 114/7 114/24

115/7 115/22 115/24 116/12
116/15 116/25 118/20 119/20
120/16 136/7 137/14 139/1 140/18
142/3 143/4 144/18 146/17 148/21
153/6 166/15 167/21 170/17 173/1
179/17 179/19 179/24 183/2 185/9
192/12 192/18 192/24 193/6
jury's [2] 116/4 141/4

K
keep [9] 90/8 90/13 91/1 91/4
96/17 105/12 106/24 134/16 161/8
keeping [8] 56/24 86/1 89/1 106/1
107/1 123/18 124/11 135/2
keeps [1] 164/6
Ken [2] 4/8 175/4
KENNETH [1] 1/11
kept [9] 17/23 41/4 105/1 106/5
106/10 106/15 107/6 113/11
113/20
keys [1] 155/21
kill [3] 20/19 20/21 21/7
kilter [1] 7/5
kind [21] 32/4 32/11 40/4 59/11
59/12 61/24 62/12 68/6 69/6
76/17 78/25 94/2 100/11 102/16
107/18 107/25 110/25 112/19
123/11 152/12 191/22
kinds [2] 96/22 97/1
kit [1] 68/13
kitchen [2] 36/11 36/12
knowledge [4] 112/6 120/24
178/20 194/14
known [3] 97/24 140/11 167/14
knows [1] 57/9
KRATZ [31] 1/11 2/5 2/7 2/9 2/13
2/15 2/18 2/20 2/23 2/25 4/8 6/13
19/1 31/11 46/10 47/16 47/21
48/5 50/14 50/22 51/21 52/2
64/16 107/22 110/3 110/11 114/8
115/13 117/4 166/11 191/4

L
Lab [2] 100/5 100/8
Laboratory [1] 100/3
laborator [1] 29/11
land [1] 77/15
lane [2] 120/20 191/23
large [24] 54/6 55/19 58/17 58/18
58/20 60/3 61/1 61/13 62/21 65/7
66/1 66/2 66/23 67/22 68/1 71/23
72/18 79/2 97/4 97/7 106/3
106/19 106/19 120/21
Larry [1] 176/2
laser [6] 71/13 73/21 91/14 136/12
141/2 141/5
last [24] 4/19 7/19 8/16 24/25
43/10 47/4 49/8 49/16 50/18
51/13 51/20 52/11 61/25 84/12
84/15 84/19 116/3 117/12 138/10
139/8 156/13 156/20 162/2 166/22
Lastly [2] 122/25 173/16
late [2] 21/13 123/1
later [13] 30/18 63/24 100/17
116/16 119/2 121/5 123/10 140/23
147/19 148/7 185/8 188/9 189/25
laugh [1] 28/12
laughed [4] 28/4 28/6 49/13 51/18
law [30] 1/17 1/19 56/14 56/17
58/6 60/1 65/21 75/16 90/7 90/12
90/25 93/3 93/10 97/8 102/1
112/2 119/24 120/25 121/3 122/8
123/4 132/8 134/24 138/14 139/18

141/23 144/12 148/17 150/2 174/3
lawsuit [10] 96/11 96/15 97/13
97/15 98/14 177/2 177/13 177/18
178/8 178/22
lead [6] 57/21 85/5 178/25 180/7
186/24 190/9
leader [2] 65/14 106/4
leading [1] 164/25
leads [1] 56/11
leaning [2] 183/3 183/7
learned [4] 28/14 48/12 48/21
159/14
least [22] 11/3 22/17 29/2 30/9
36/4 55/7 65/7 66/5 69/24 76/24
87/1 101/14 115/4 120/6 141/24
145/7 145/8 148/12 154/25 160/10
184/23 185/21
leave [9] 32/19 37/7 46/19 119/1
119/7 135/20 138/13 186/1 188/19
leaving [11] 32/13 91/2 105/13
119/15 119/23 120/3 120/4 123/19
123/21 130/7 138/15
led [1] 144/6
left [38] 6/21 25/17 26/17 28/10
44/9 44/14 46/13 47/15 55/22
61/14 61/16 63/14 82/14 84/3
84/13 84/16 105/15 106/22 119/18
123/10 124/15 133/2 136/22 137/7
141/9 141/12 142/6 144/9 149/4
152/17 161/4 161/6 164/12 170/13
187/16 187/21 188/2 191/18
leftmost [1] 77/9
legs [1] 92/22
length [1] 73/6
Lenk [15] 97/22 97/24 99/6 99/15
103/23 151/15 161/2 163/2 163/7
169/8 174/21 176/20 177/17
177/23 178/11
less [3] 92/24 92/24 181/23
let's [13] 14/18 54/18 56/4 58/23
60/23 69/19 91/13 99/15 124/22
125/1 127/10 149/14 179/20
lets [1] 41/22
letters [1] 182/23
level [2] 112/14 176/5
levels [1] 78/25
license [7] 68/11 130/11 130/21
130/25 133/7 133/15 134/11
lieutenant [61] 2/6 52/7 52/16
52/24 52/25 53/1 57/8 57/9 57/10
57/14 58/5 64/21 72/12 73/9
77/19 78/14 83/23 83/25 84/14
85/17 86/23 94/4 97/20 97/24
103/23 110/16 111/7 121/8 122/7
125/12 125/25 126/5 126/6 126/13
131/4 146/13 146/20 147/3 147/7
148/1 149/5 150/25 151/15 156/17
161/2 163/2 163/7 166/14 167/10
169/8 174/19 174/21 174/24
176/13 176/13 176/18 176/20
177/17 177/23 178/10 185/2
lieutenants [4] 176/6 176/8 176/9
176/12
light [2] 110/20 165/17
lights [4] 110/25 113/12 113/18
113/21
likely [1] 5/13
limited [1] 85/8
Lincoln [1] 130/15
line [4] 48/21 70/13 111/15 184/13
lined [2] 13/23 14/2
listed [2] 106/4 188/1
listening [1] 44/20

<p>L</p> <p>lit [1] 111/4</p> <p>literally [1] 156/21</p> <p>litigation [1] 178/1</p> <p>little [28] 7/5 18/12 19/16 25/19 30/5 31/13 34/17 35/21 38/20 41/11 54/17 66/20 73/25 77/22 92/6 92/11 92/20 93/17 93/17 133/13 133/17 143/14 153/1 158/18 159/16 160/20 175/1 183/22</p> <p>live [4] 10/13 10/21 11/10 11/12</p> <p>lived [3] 9/9 9/22 33/19</p> <p>lives [1] 10/7</p> <p>living [6] 8/1 8/3 9/13 9/18 10/2 31/22</p> <p>local [1] 22/21</p> <p>located [7] 61/21 69/18 71/21 72/20 118/5 148/13 167/25</p> <p>location [30] 53/16 70/2 70/3 83/21 95/4 95/6 121/4 121/11 122/22 123/4 128/3 128/6 142/20 144/5 144/12 145/11 149/2 149/6 149/19 149/21 152/5 153/23 165/21 167/16 167/19 169/7 170/19 173/19 185/22 192/3</p> <p>locations [1] 80/2</p> <p>log [29] 88/22 88/22 89/1 90/2 91/9 100/21 101/14 104/5 104/20 105/1 105/4 105/7 105/25 106/6 108/13 109/6 109/13 123/19 124/12 134/17 134/19 134/20 138/14 161/8 161/9 161/19 161/21 162/3 162/6</p> <p>logged [3] 88/15 91/11 105/14</p> <p>logging [17] 86/5 87/10 87/16 87/20 88/20 89/8 89/20 90/1 90/20 100/24 101/2 101/6 101/10 102/22 123/23 134/20 134/21</p> <p>logs [1] 150/17</p> <p>long [16] 20/18 37/7 40/17 44/23 45/3 52/18 84/12 117/22 122/21 122/23 139/16 149/1 150/14 171/16 187/16 188/6</p> <p>longer [1] 72/3</p> <p>looked [10] 39/24 76/20 107/25 147/15 155/15 160/2 160/11 160/13 165/24 166/1</p> <p>looking [40] 26/20 36/10 37/17 38/17 47/18 60/16 66/15 66/16 68/10 68/11 68/12 68/15 68/15 70/18 71/14 71/19 73/21 74/14 74/18 76/18 77/12 83/11 87/3 136/7 141/13 145/17 145/18 145/19 146/3 147/17 155/23 157/20 157/22 158/25 159/22 172/7 184/7 184/12 187/20 193/13</p> <p>looks [4] 129/15 133/20 136/9 136/10</p> <p>loop [1] 18/12</p> <p>lot [9] 10/22 16/3 37/24 74/3 126/23 127/7 129/8 181/23 189/17</p> <p>low [2] 74/2 81/13</p> <p>lower [4] 141/9 141/12 141/21 157/7</p> <p>LP [1] 120/21</p> <p>lunch [7] 108/21 109/4 109/5 114/4 114/6 114/17 114/20</p>	<p>made [6] 95/13 115/2 160/24 179/6 190/8 193/11</p> <p>Madison [2] 23/1 100/3</p> <p>mailbox [1] 18/23</p> <p>main [5] 10/22 18/17 61/22 81/1 141/15</p> <p>mainly [1] 170/14</p> <p>maintain [6] 134/19 151/3 168/21 170/2 170/13 173/24</p> <p>maintained [2] 75/11 75/13</p> <p>maintaining [2] 134/20 170/11</p> <p>majority [3] 55/4 61/3 63/23</p> <p>make [19] 22/2 47/18 48/20 58/2 90/21 111/17 124/22 125/2 128/14 129/1 135/10 135/11 158/24 161/16 163/20 163/25 170/3 177/1 181/20</p> <p>makes [1] 107/2</p> <p>making [4] 27/23 54/3 134/21 186/23</p> <p>man [2] 51/9 60/10</p> <p>managed [1] 188/24</p> <p>MANITOWOC [25] 1/1 94/24 95/23 96/12 96/19 97/11 97/21 98/6 98/19 98/25 117/19 118/7 123/7 139/14 139/16 140/4 150/7 150/22 167/3 171/6 173/9 177/3 178/21 190/25 194/2</p> <p>manner [1] 192/23</p> <p>many [11] 58/6 62/21 63/5 75/12 84/7 84/8 93/3 93/9 175/17 176/8 184/2</p> <p>maps [1] 87/3</p> <p>March [16] 85/18 85/22 89/22 100/14 100/14 101/12 101/12 103/24 103/24 104/20 104/20 105/2 105/5 105/5 106/1 106/13</p> <p>March 1 [5] 101/12 103/24 105/2 105/5 106/1</p> <p>March 1st [4] 85/18 89/22 100/14 104/20</p> <p>March 2 [2] 101/12 103/24</p> <p>March 2nd [1] 104/20</p> <p>mark [4] 67/14 67/19 71/3 104/15</p> <p>marked [9] 3/1 35/8 55/1 70/9 80/12 107/11 108/8 143/2 143/3</p> <p>Marlin [2] 40/22 41/4</p> <p>maroon [1] 17/4</p> <p>married [2] 8/11 11/8</p> <p>massive [1] 59/20</p> <p>master [4] 101/24 102/4 102/9 102/23</p> <p>matched [1] 147/21</p> <p>matter [10] 4/5 5/19 47/23 50/11 132/3 171/24 173/12 192/13 194/7 194/13</p> <p>mattress [1] 102/9</p> <p>max [1] 93/18</p> <p>maybe [21] 16/18 27/2 33/18 39/24 40/5 45/1 45/4 49/25 93/23 124/17 133/12 137/23 143/24 152/12 155/1 158/14 177/8 181/2 182/8 184/6 187/23</p> <p>maybe an [1] 158/14</p> <p>mean [22] 13/7 13/11 13/13 18/2 27/18 32/4 57/24 69/1 87/16 90/16 94/18 95/6 99/19 101/8 108/12 109/19 127/12 129/4 148/5 159/3 163/23 182/16</p> <p>Meaning [1] 130/1</p> <p>means [2] 112/16 132/4</p> <p>meant [2] 47/11 113/5</p> <p>meat [1] 23/16</p>	<p>media [2] 182/3 192/22</p> <p>medication [1] 90/18</p> <p>meet [4] 75/9 98/19 146/19 172/9</p> <p>meeting [2] 144/14 187/2</p> <p>melt [2] 15/11 15/22</p> <p>melts [1] 16/5</p> <p>member [5] 90/19 132/16 178/20 190/22 190/23</p> <p>members [13] 6/3 7/3 45/25 51/3 51/24 64/7 90/15 114/3 115/23 139/1 179/17 190/25 192/12</p> <p>memory [6] 147/18 157/23 158/10 162/17 165/12 165/19</p> <p>mention [1] 162/9</p> <p>mentioned [9] 60/4 62/11 65/2 65/21 83/5 139/23 151/5 176/24 186/10</p> <p>message [3] 32/13 32/19 192/18</p> <p>met [10] 4/15 87/23 97/19 98/1 98/5 115/1 146/14 147/1 153/19 168/5</p> <p>metal [1] 71/25</p> <p>method [1] 67/10</p> <p>meticulous [1] 101/5</p> <p>Mexico [5] 28/10 47/14 47/16 49/25 50/8</p> <p>Michael [14] 19/7 46/12 46/25 47/3 48/10 48/12 48/21 49/4 49/7 49/11 49/12 51/12 51/16 51/17</p> <p>mid [1] 12/22</p> <p>mid-afternoon [1] 12/22</p> <p>middle [2] 75/7 191/23</p> <p>might [15] 14/19 15/11 35/4 35/17 49/15 51/19 64/5 90/16 95/22 129/8 129/15 133/20 163/13 177/8 179/13</p> <p>Mike [15] 19/3 19/5 19/5 19/7 19/22 22/7 24/21 25/7 27/8 27/13 27/20 28/4 29/16 30/15 51/9</p> <p>Mike's [1] 26/5</p> <p>mile [1] 121/19</p> <p>miles [1] 38/20</p> <p>mind [4] 34/17 36/6 163/12 163/20</p> <p>mini [1] 17/5</p> <p>mini-van [1] 17/5</p> <p>minute [5] 36/25 45/22 54/18 121/8 149/14</p> <p>minutes [14] 36/19 46/1 46/3 54/1 64/9 119/13 121/6 123/10 131/3 171/19 171/21 172/24 179/2 179/21</p> <p>Mishicot [3] 96/25 130/12 134/12</p> <p>missing [17] 28/9 28/15 28/24 28/25 47/4 47/6 47/15 48/16 49/8 49/9 49/16 51/13 51/14 51/20 68/14 167/24 182/3</p> <p>mistaken [1] 42/7</p> <p>misunderstood [1] 133/12</p> <p>mobile [6] 9/18 22/16 23/3 23/6 23/8 77/17</p> <p>mom [7] 8/3 8/11 9/13 12/2 21/18 24/7 41/1</p> <p>mom's [5] 9/25 10/5 10/15 17/7 39/14</p> <p>moment [9] 37/15 87/10 104/14 107/20 135/5 164/6 165/7 180/11 188/16</p> <p>Moments [1] 147/19</p> <p>Monday [6] 31/12 31/14 59/2 61/11 84/1 84/2</p> <p>money [1] 13/14</p> <p>monitor [1] 118/25</p> <p>Monte [1] 17/21</p>
<p>M</p> <p>machine [6] 31/22 32/4 32/6 32/11 32/12 194/10</p>		

M

months [3] 30/11 100/16 100/17
 morning [36] 4/4 4/11 7/23 7/24
 12/10 12/17 21/24 24/1 24/10
 25/24 29/14 31/16 46/2 48/11
 50/23 53/9 55/11 56/13 56/21
 64/6 64/8 81/21 81/22 83/22 84/1
 84/4 84/15 86/23 86/24 92/24
 113/9 123/1 132/22 140/10 167/20
 179/5
 morphing [1] 182/13
 most [12] 9/9 35/18 55/18 62/1
 77/15 78/6 80/13 81/19 110/19
 113/22 135/2 166/2
 mostly [2] 40/18 40/19
 mother [1] 10/15
 mother's [1] 11/6
 move [5] 45/14 85/13 86/9 109/25
 113/25
 moved [2] 9/17 61/11
 moving [1] 85/15
 Mr [10] 6/20 40/1 47/21 70/22
 78/4 85/25 96/7 112/12 177/1
 191/8
 Mr. [88] 4/22 5/15 5/20 6/7 6/10
 6/13 6/22 12/25 19/1 31/11 39/20
 41/7 42/13 43/2 44/18 45/12 46/7
 46/10 46/21 47/16 48/5 48/10
 49/14 49/21 49/23 50/12 50/14
 50/19 50/22 51/6 51/18 51/21
 52/1 52/2 52/15 64/16 70/6 70/11
 70/19 74/10 76/8 77/21 78/6 78/8
 86/2 86/18 89/24 94/15 94/16
 97/13 97/15 98/14 99/6 99/6 99/6
 99/7 100/22 107/22 107/25 108/4
 110/3 110/11 110/16 112/11
 112/25 114/8 114/12 115/13
 115/17 117/4 124/4 135/6 138/20
 139/12 151/23 166/11 167/2 169/6
 171/10 172/9 173/4 173/16 174/8
 174/11 178/22 179/9 179/25 191/4
 Mr. Austin [2] 4/22 6/10
 Mr. Austin's [1] 6/7
 Mr. Avery [2] 97/13 97/15
 Mr. Avery's [13] 70/6 70/11 70/19
 74/10 76/8 77/21 78/6 78/8 86/2
 89/24 98/14 100/22 178/22
 Mr. Bowe [1] 52/15
 Mr. Buting [6] 49/21 107/25 151/23
 174/8 179/9 179/25
 Mr. Colborn [1] 99/6
 Mr. Dassey [7] 6/22 12/25 41/7
 42/13 45/12 46/21 49/23
 Mr. Dassey's [1] 5/20
 Mr. Fallon [1] 114/12
 Mr. Fassbender [2] 94/16 112/11
 Mr. Hermann [6] 167/2 169/6
 171/10 172/9 173/16 174/11
 Mr. Jacobs [1] 99/7
 Mr. Kratz [19] 6/13 19/1 31/11
 46/10 47/16 48/5 50/14 50/22
 51/21 52/2 64/16 107/22 110/3
 110/11 114/8 115/13 117/4 166/11
 191/4
 Mr. Lenk [1] 99/6
 Mr. O'Connor [1] 138/20
 Mr. Orth [1] 139/12
 Mr. Osmunson [3] 49/14 50/19
 51/18
 Mr. Pagel [1] 173/4
 Mr. Remiker [1] 99/6
 Mr. Strang [15] 5/15 43/2 44/18

46/7 48/10 50/12 51/6 52/1 86/18
 108/4 110/16 112/25 115/17 124/4
 135/6
 Mr. Tadych [1] 39/20
 Mr. Wiegert [1] 94/15
 Ms [9] 26/10 28/24 35/5 35/22
 36/10 42/20 59/10 110/23 191/12
 muddy [1] 82/7
 must [1] 116/24
 my [39] 4/17 8/2 21/18 50/18
 85/15 87/5 89/12 89/12 89/13
 103/21 113/17 121/6 127/9 138/22
 142/24 143/7 143/17 146/5 146/21
 149/3 149/4 149/6 149/12 154/25
 159/11 161/7 161/19 162/13
 163/21 165/16 166/23 168/4
 168/18 174/13 178/9 192/3 192/4
 194/9 194/13
 myself [5] 111/23 150/25 170/5
 172/21 176/12
 mystery [1] 108/11

N

nail [2] 127/10 138/9
 name [26] 7/19 7/19 8/9 8/16
 52/11 52/11 88/21 88/23 89/16
 117/12 117/12 122/12 139/8 139/8
 147/19 158/12 158/22 159/12
 159/17 159/18 165/15 166/22
 166/22 166/23 169/8 169/10
 named [9] 8/11 11/8 34/11 51/9
 97/21 98/20 99/1 151/15 151/19
 names [1] 162/3
 narration [1] 5/1
 narrow [2] 46/9 72/3
 natural [1] 8/20
 nature [1] 77/18
 near [14] 18/7 23/4 36/12 70/13
 92/1 111/17 144/4 148/11 151/5
 152/8 152/10 152/18 168/2 180/14
 nearby [4] 9/9 11/12 180/24 181/9
 necessarily [3] 20/22 87/17 89/10
 neck [1] 19/20
 need [5] 13/2 46/14 46/20 47/2
 107/17
 needed [3] 58/3 65/19 90/17
 Neither [1] 98/11
 never [3] 111/20 154/3 159/23
 nevertheless [2] 113/11 150/20
 new [2] 14/9 72/9
 news [6] 25/7 26/9 96/16 182/2
 182/3 192/21
 next [32] 5/5 5/9 11/3 11/4 16/14
 21/21 21/23 31/24 36/21 49/21
 51/4 52/2 67/22 68/1 71/4 76/9
 79/3 79/4 82/15 93/7 100/17
 100/25 117/4 130/24 136/12
 138/22 139/3 146/5 152/8 153/15
 166/12 176/5
 night [35] 19/14 20/17 21/15
 21/20 21/22 23/21 24/19 24/22
 24/23 24/25 25/14 25/25 26/2
 26/2 26/5 26/6 26/8 26/9 30/19
 53/12 55/24 55/25 83/24 83/25
 84/3 84/6 84/13 92/23 93/21
 110/16 111/4 113/16 113/21
 113/22 113/22
 nights [2] 9/10 25/21
 Nikole [13] 140/24 142/17 143/5
 144/4 148/4 149/16 149/20 152/6
 153/15 153/23 154/4 154/9 172/10
 No. [25] 6/17 55/2 64/21 65/25
 66/17 68/22 70/9 70/17 71/19

72/14 72/23 73/13 73/20 74/12
 74/17 74/25 76/9 77/22 80/1 83/1
 141/2 143/25 188/15 191/9 191/21
 No. 117 [1] 6/17
 No. 79 [5] 55/2 64/21 65/25 66/17
 68/22
 No. 80 [2] 70/9 70/17
 No. 81 [3] 71/19 72/14 72/23
 No. 82 [2] 73/13 73/20
 No. 83 [3] 74/12 74/17 74/25
 No. 84 [2] 76/9 77/22
 No. 85 [1] 80/1
 No. 86 [6] 83/1 141/2 143/25
 188/15 191/9 191/21
 nobody [14] 76/6 97/14 109/6
 130/11 130/11 130/21 130/21
 133/15 133/15 134/11 134/11
 134/21 172/1 174/5
 noise [1] 38/5
 noises [1] 44/19
 non [1] 112/2
 non-sworn [1] 112/2
 none [5] 104/24 119/17 155/18
 163/21 192/9
 noon [3] 114/22 132/25 167/11
 Norm [1] 4/9
 normal [1] 78/9
 normally [2] 65/15 82/1
 NORMAN [1] 1/15
 north [20] 18/7 42/23 56/6 56/23
 69/19 74/14 79/18 82/20 83/3
 87/2 88/2 88/15 92/6 92/11
 111/13 118/23 141/14 157/11
 164/18 184/14
 northeast [2] 71/7 71/8
 northerly [1] 142/5
 northwest [5] 74/9 76/13 76/24
 79/19 91/16
 nose [2] 183/24 183/24
 note [4] 47/20 70/21 147/4 160/24
 notepad [1] 161/18
 notes [4] 116/21 162/9 162/13
 194/9
 nothing [4] 163/16 166/9 189/11
 190/4
 notice [1] 119/2
 notify [1] 60/19
 November [35] 22/12 24/2 24/12
 25/14 29/4 29/24 30/18 38/17
 53/3 54/13 56/13 67/7 81/17
 81/18 87/11 91/7 91/8 113/9
 117/25 118/2 123/2 123/16 124/8
 125/1 127/14 138/14 140/3 167/8
 167/12 167/21 174/17 174/18
 175/22 177/20 179/1
 November 10th [1] 123/16
 November 3rd [1] 25/14
 November 4 [3] 22/12 24/12 30/18
 November 5 [8] 29/4 29/24 124/8
 125/1 127/14 138/14 177/20 179/1
 November 5th [4] 53/3 117/25
 167/8 174/18
 November 6th [1] 87/11
 number [25] 29/24 55/19 79/5
 93/10 94/18 94/20 95/5 96/19
 97/8 103/7 108/4 108/20 125/18
 125/21 128/20 134/4 146/8 146/10
 147/14 147/15 147/20 156/4
 156/12 157/21 188/23
 number 3 [1] 108/20
 numbers [4] 93/11 125/15 125/16
 156/9
 numerous [1] 54/6

O

O'CONNOR [11] 2/12 117/7 117/8
 117/13 118/2 120/15 120/24
 122/25 124/3 136/4 138/20
O-'C-o-n-n-o-r [1] 117/14
O-r-t-h [1] 139/9
object [4] 47/17 50/8 50/9 158/25
objection [11] 27/5 43/16 43/25
 45/17 46/13 48/6 48/18 86/13
 107/18 107/19 115/16
observation [1] 173/23
observations [1] 107/2
observe [2] 121/3 149/13
observed [9] 119/15 141/24
 142/23 144/22 146/12 147/17
 156/16 157/4 159/11
observing [1] 107/3
obstruction [1] 42/25
obtaining [1] 147/22
obvious [2] 145/9 177/6
obviously [3] 112/19 154/13
 174/21
occasion [4] 155/24 155/24 160/16
 172/9
occasionally [3] 33/12 33/14 33/16
occur [1] 63/6
occurred [2] 188/14 188/22
October [5] 31/13 31/14 40/20
 163/2 194/15
October 31 [2] 31/13 31/14
off [43] 6/21 10/21 12/16 13/15
 13/17 13/18 14/4 14/5 17/17
 19/19 24/10 29/6 29/20 38/9
 46/19 56/23 62/5 74/3 84/8 84/10
 84/16 88/16 102/24 108/21 109/7
 111/1 118/6 119/6 119/7 119/21
 120/18 120/22 123/9 124/9 125/4
 130/10 130/19 133/14 134/8
 134/10 141/18 179/6 192/25
OFFERED [1] 3/1
office [8] 10/8 18/24 72/8 72/9
 72/11 121/17 122/15 150/12
officer [37] 30/14 54/21 54/24
 55/8 56/19 56/22 56/24 56/25
 57/2 60/22 65/17 75/18 75/20
 80/7 80/9 80/15 80/16 88/22
 106/10 108/22 120/25 121/23
 125/16 127/5 132/9 141/24 148/15
 148/17 148/22 148/24 149/2 163/8
 170/10 172/19 172/23 174/4 179/2
officers [36] 54/11 56/14 58/6
 62/21 62/25 63/20 66/6 75/17
 80/2 80/18 88/25 89/4 89/5 90/12
 90/25 93/10 94/18 96/20 96/22
 97/8 97/12 98/12 112/3 112/10
 112/13 121/4 138/18 144/12 148/7
 150/1 150/12 157/9 157/10 163/13
 171/23 172/23
officers' [1] 134/24
Official [3] 1/25 194/4 194/19
officials [2] 150/22 171/18
often [1] 83/20
Oh [5] 44/13 45/5 104/13 114/19
 154/3
okay [133] 5/3 5/18 10/21 12/16
 13/3 13/5 13/9 13/22 14/18 15/3
 16/8 20/6 22/1 22/9 22/15 23/3
 23/21 24/19 24/25 25/14 29/10
 29/18 30/9 31/8 32/18 35/21 36/4
 36/21 39/5 39/14 39/19 49/20
 50/17 69/4 79/7 81/15 85/1 86/6
 87/22 88/1 89/10 89/14 90/6

91/16 92/15 94/23 96/2 96/11
 100/7 100/13 100/15 101/22 103/5
 103/23 104/6 107/10 108/11
 108/16 109/3 109/24 124/14
 125/20 126/13 126/16 126/23
 127/9 127/17 128/8 128/21 130/5
 131/2 131/10 131/17 132/13 134/5
 135/17 136/1 136/14 141/20
 146/20 151/12 152/11 154/15
 154/23 155/8 155/9 155/18 156/8
 156/11 156/18 157/1 157/13 158/8
 158/14 159/16 159/19 160/16
 161/2 161/8 162/6 164/4 169/23
 174/17 175/5 175/8 175/12 175/22
 176/1 176/5 176/15 177/20 178/19
 178/24 179/14 179/22 179/25
 180/16 181/1 181/15 182/2 183/22
 184/5 184/12 184/19 185/24 186/6
 186/17 187/12 188/4 188/13
 189/14 190/3 190/7
old [10] 14/7 16/2 27/4 72/11 78/7
 145/1 145/3 159/3 183/10 183/11
old-fashioned [1] 27/4
older [3] 8/22 16/20 33/18
oldest [2] 9/6 9/6
omit [1] 47/17
omitted [3] 48/13 48/17 48/20
omitting [1] 48/9
once [18] 4/25 9/8 13/4 49/13
 49/14 50/10 50/19 50/19 51/18
 69/1 74/19 88/25 113/20 130/6
 132/10 143/25 147/15 148/3
one's [1] 133/7
ones [1] 42/2
ongoing [1] 90/7
only [19] 5/8 45/15 73/10 80/24
 82/14 85/10 85/15 87/1 88/6
 91/10 111/23 131/23 131/25 132/4
 133/5 144/13 160/13 183/25 185/9
onto [7] 56/25 90/14 119/3 119/5
 130/1 188/24 189/1
op [1] 180/19
open [19] 61/3 62/10 62/14 62/16
 67/1 67/5 73/24 76/20 94/5 94/20
 98/12 99/8 99/16 111/9 111/13
 132/7 132/24 132/25 145/23
opening [3] 66/9 69/12 81/23
operates [1] 180/20
operating [1] 180/17
operation [3] 66/1 66/2 89/20
operations [1] 175/25
opportunity [2] 47/23 114/12
opposite [2] 82/21 82/24
or [218]
order [5] 58/23 80/21 116/17
 131/8 180/17
ordinary [1] 106/15
organized [2] 54/9 72/18
organizing [1] 53/17
orient [1] 79/16
oriented [2] 137/14 141/7
original [1] 78/19
ORTH [30] 2/17 121/6 121/20
 122/6 131/3 131/7 138/25 139/4
 139/9 139/12 140/2 141/23 143/1
 144/11 148/14 165/11 168/6
 168/10 168/19 168/25 169/18
 169/24 169/25 170/13 172/16
 172/25 173/18 173/22 186/11
 190/15
Orth's [3] 168/3 170/17 173/17
Osmunson [7] 19/5 19/7 49/4
 49/14 50/19 51/9 51/18

Osmunson's [1] 46/12
other [72] 10/8 17/16 30/9 37/21
 40/15 40/17 44/19 48/22 50/9
 57/25 58/11 58/11 59/21 59/22
 59/23 61/18 62/9 62/12 63/17
 65/22 67/18 78/1 78/1 80/20
 80/21 80/22 83/19 92/7 92/10
 92/18 93/2 97/17 101/8 103/21
 104/6 108/19 116/15 119/24 120/8
 121/3 121/13 122/8 122/25 123/3
 123/4 123/23 123/24 124/20 127/5
 131/18 137/6 138/18 144/11
 145/25 148/7 150/1 150/2 150/10
 150/11 150/22 159/19 160/10
 162/11 164/19 165/16 173/1 173/3
 183/23 184/16 186/9 186/14 190/7
others [3] 14/9 65/22 116/24
otherwise [4] 135/13 147/5 148/23
 169/1
our [30] 17/24 20/20 46/2 55/11
 60/8 60/11 60/15 61/5 62/16 64/6
 64/8 72/18 106/3 106/19 106/19
 109/1 114/4 114/16 114/19 116/8
 121/6 122/14 125/15 125/16
 131/10 148/3 148/6 175/21 179/15
 192/20
outbuildings [1] 84/21
outdoor [1] 16/14
outlying [2] 62/9 62/13
outside [8] 54/17 56/18 58/20
 59/16 60/24 76/14 88/8 114/24
over [35] 7/11 17/2 17/2 26/5
 26/20 27/10 29/23 30/5 49/6
 51/11 59/15 62/15 91/5 91/24
 95/14 106/22 109/5 117/23 126/23
 141/15 146/23 151/5 156/1 157/16
 159/22 170/24 171/4 171/11
 178/25 182/4 183/4 183/13 186/25
 187/18 189/20
overall [1] 190/9
overcast [1] 146/9
overgrown [2] 144/6 144/20
overhead [1] 64/23
overheard [1] 30/15
overnight [2] 92/23 135/19
oversee [1] 87/19
overseeing [1] 87/18
overview [2] 55/4 148/9
own [2] 16/18 77/14
owner [1] 128/17

P

p.m [7] 44/6 122/5 123/9 123/21
 138/14 162/12 190/16
pads [2] 19/16 27/9
page [14] 2/2 35/17 105/23 106/8
 106/9 107/24 108/7 108/12 108/13
 108/14 108/18 108/20 108/20
 187/24
Page [7] 57/16 95/15 96/3 171/15
 173/2 173/4 186/22
pages [6] 104/15 108/1 108/2
 108/11 108/19 110/1
Pam [8] 149/16 149/19 152/6
 153/15 153/23 154/4 154/9 172/10
Pamela [5] 140/23 142/16 143/5
 144/4 148/4
pancake [1] 181/12
paneling [2] 102/23 103/11
paper [2] 159/12 165/12
paragraph [3] 35/17 48/9 48/14
parcel [1] 54/11
park [3] 157/1 157/5 157/6

P		
parked [28] 42/20 45/1 87/24 92/1 108/23 144/1 144/3 146/21 148/3 148/11 152/19 152/21 153/19 168/3 170/7 180/12 180/13 183/24 183/25 184/2 184/3 184/3 184/13 184/16 184/18 186/7 191/11 191/24	perspective [1] 109/2 Pete [2] 8/18 117/7 PETER [3] 2/12 117/8 117/13 Peterson [1] 175/4 phone [3] 30/21 32/15 128/20 photo [15] 55/4 64/23 74/14 76/12 79/9 82/19 88/15 135/24 136/4 136/9 147/18 152/12 157/23 158/10 183/12	30/14 30/14 34/10 42/4 43/2 96/25 148/22 148/24 150/1 policy [1] 115/4 pond [17] 61/24 61/25 61/25 73/10 73/16 74/4 79/22 143/20 144/8 144/9 151/9 152/14 152/22 153/12 164/13 184/14 192/2
parking [4] 10/21 16/3 148/6 148/8	photograph [7] 36/13 64/25 65/6 74/25 157/8 164/25 185/2 photos [6] 71/4 83/9 185/13 185/15 193/5 193/11	poorly [1] 99/25 portion [3] 140/20 140/21 142/18 portions [1] 59/18
part [8] 27/15 50/9 95/25 157/7 166/2 183/15 183/16 189/13	phased [1] 99/25 physically [2] 70/2 143/6 pick [3] 14/13 90/18 123/7	pose [1] 117/1 position [6] 54/24 56/2 101/13 118/22 122/4 148/16
partial [2] 64/23 108/14	picked [1] 87/1 pickup [14] 108/22 124/17 124/19 128/11 128/22 129/17 129/21 129/22 130/6 131/10 131/12 133/2 133/22 134/1	positioned [1] 143/16 positions [2] 55/25 101/2 positive [1] 147/22
partially [1] 136/9	piece [5] 15/21 142/19 145/5 159/12 183/10	positively [2] 146/5 147/10 possible [2] 155/2 178/14
participate [2] 40/8 85/7	pieces [4] 102/14 103/4 103/8 103/9	possibly [3] 95/25 120/13 128/16 post [14] 53/14 53/15 53/22 54/23 72/13 72/17 72/20 79/20 80/19 93/2 145/1 183/12 187/17 188/9
participation [1] 85/10	placed [2] 190/2 193/15	posted [4] 55/15 55/16 80/2 92/16 posters [1] 182/4
particular [7] 52/20 60/17 68/10 90/18 90/23 97/12 114/15	places [1] 22/22	posts [2] 93/24 109/2 potential [2] 5/4 172/8
parties [12] 4/5 4/21 5/3 49/4 50/2 51/5 51/8 115/11 116/17 193/1 193/5 193/14	PLAINIFF [1] 1/4	precise [1] 155/8 precisely [2] 39/21 40/2
parts [9] 13/1 13/2 13/17 14/5 15/10 16/17 16/24 68/22 105/13	plant [2] 75/6 163/13	prepared [4] 43/3 115/7 161/21 194/8
party [5] 47/25 117/3 128/15 129/6 167/25	planting [1] 163/22	preparing [1] 161/9 presence [4] 56/17 114/24 122/9 122/19
party's [1] 185/19	plate [5] 130/25 131/14 131/16 133/7 144/23	present [15] 4/1 6/2 6/9 46/6 50/13 51/2 64/11 66/23 114/7 115/22 167/6 171/14 179/19 179/24 192/24
pass [2] 27/3 179/6	plates [5] 68/11 130/12 130/22 133/16 134/12	presented [1] 48/25 presenting [1] 4/21
passage [1] 75/9	play [1] 124/23	preserve [1] 112/17 presumably [2] 36/22 92/1
passed [1] 39/18	played [1] 4/25	pretty [13] 12/9 14/7 14/9 16/10 41/23 81/5 89/1 125/22 136/22 177/6 178/19 178/20 181/16
passenger [12] 145/2 145/4 145/6 145/15 145/16 147/12 155/11 155/17 158/3 160/3 160/3 183/7	please [39] 7/14 7/18 7/18 52/6 52/10 52/10 55/3 61/2 61/20 64/22 70/18 72/16 73/13 73/14 73/22 74/12 75/3 75/16 76/11 77/23 78/17 79/8 81/12 82/4 117/11 117/11 117/18 118/5 139/7 139/7 140/19 142/10 153/8 164/6 164/10 166/17 166/21 166/21 173/1	preventing [1] 161/9 previously [4] 52/21 162/14 193/4 193/14
past [1] 133/6	plenty [1] 94/13	primarily [2] 87/23 170/10
patches [1] 89/12	Plymouth [1] 17/4	primary [6] 54/3 90/13 119/22 125/11 149/1 170/17
path [3] 146/23 156/22 168/6	plywood [1] 145/5	prior [3] 52/20 182/8 182/13
Patrick [1] 1/9	pocket [1] 161/19	prison [1] 11/19
patrol [15] 52/16 52/23 52/24 53/2 97/4 117/20 139/14 139/23 139/24 143/2 143/3 167/10 175/19 176/11 176/15	point [31] 20/7 21/13 24/17 31/3 39/15 46/9 46/21 47/18 49/11 51/16 80/5 81/12 88/3 90/20 91/10 103/22 105/4 119/5 137/9 152/18 157/25 165/16 167/23 170/20 170/21 178/17 181/17 187/15 188/8 189/24 193/15	private [2] 14/24 129/6 privilege [1] 166/16
patrolman [1] 52/23	pointer [6] 71/13 73/21 136/12 141/2 141/5 142/2	probably [21] 12/12 15/18 20/1 29/23 30/20 38/15 45/21 59/18 62/19 71/1 73/25 93/18 121/5 121/8 121/18 122/24 135/1 135/10 154/22 158/17 161/22
paved [3] 73/2 88/5 120/17	pointing [4] 77/8 143/20 148/10 152/13	problem [1] 50/17 proceed [7] 6/14 46/4 51/4 118/16 140/13 167/13 167/16
pavement [1] 88/10	points [6] 46/16 49/21 80/21 87/4 87/4 91/14	proceeded [10] 140/20 141/20 144/1 147/24 148/2 149/6 161/20 164/18 168/6 168/7
peak [1] 93/19	police [12] 14/22 29/19 29/24	proceedings [3] 1/23 193/21 194/13
pending [1] 96/12		process [1] 186/24 processing [2] 75/6 112/8
people [45] 13/1 14/13 14/24 16/16 16/17 16/21 16/23 28/9 47/4 47/14 49/8 51/13 54/23 55/15 55/19 55/21 55/24 57/3 58/2 63/2 65/18 87/10 87/20 90/1 91/11 93/23 94/13 94/20 99/21 100/2 100/4 100/8 100/21 100/24 101/2 105/13 106/6 109/15 122/10 124/16 131/22 134/20 134/21 138/15 189/5		projector [2] 7/6 7/8
perform [1] 119/9		
performed [1] 53/22		
performing [1] 116/19		
perimeter [12] 54/16 54/19 56/18 57/23 90/20 92/16 92/20 93/3 93/22 111/20 111/25 189/16		
period [2] 55/15 187/5		
permission [2] 115/3 128/17		
permit [4] 26/21 26/25 115/5 116/6		
permit/tag [2] 26/21 26/25		
person [6] 1/22 4/12 7/5 55/21 107/1 166/1		
personally [3] 27/20 87/16 91/25		
personnel [6] 54/8 65/11 91/4 93/4 119/25 123/19		
persons [3] 145/17 164/3 182/4		

P
promoted [1] 126/7
propane [3] 16/12 16/14 137/17
proper [1] 43/19
properties [4] 70/24 76/14 77/1 78/13
property [122] 10/3 11/12 18/8 54/4 54/7 54/8 54/10 54/22 55/14 56/3 56/5 56/6 56/9 56/15 57/4 57/7 58/20 59/5 59/9 59/12 60/25 61/10 62/9 63/8 63/9 63/13 63/16 63/21 63/22 64/24 65/8 66/8 67/24 69/6 69/14 70/13 70/14 70/23 71/7 71/9 71/17 72/24 73/3 73/7 73/10 73/16 74/1 74/9 74/15 75/1 75/8 75/9 75/12 75/13 76/2 76/3 76/6 76/7 76/14 77/21 78/6 78/8 78/11 79/2 79/10 79/14 79/19 79/25 80/23 80/24 82/2 82/19 83/6 84/10 84/14 84/16 85/1 85/19 87/21 90/14 94/11 100/18 104/21 105/5 105/14 105/16 111/16 111/22 111/24 113/13 113/15 118/14 119/16 119/23 119/25 120/5 120/12 120/19 121/13 121/15 121/24 125/4 127/4 128/17 130/1 136/10 137/3 138/16 140/11 140/21 140/22 141/25 142/6 142/14 142/18 167/14 169/6 177/8 188/25 189/1 190/21 193/8
propose [1] 49/3
proposes [1] 115/12
propped [2] 145/2 145/5
prosecution [1] 5/6
Prosecutor [3] 1/11 1/13 1/15
prosecutors [1] 4/10
provide [1] 173/22
provided [7] 48/19 54/8 65/11 99/21 115/8 173/18 173/21
providing [2] 147/25 173/24
public [3] 90/8 90/16 90/19
pulled [3] 102/24 180/12 183/18
pump [1] 62/2
puppy [1] 29/11
purpose [10] 47/21 75/25 89/18 90/2 90/13 90/17 90/23 120/9 163/24 193/2
put [21] 16/24 19/16 21/9 35/9 36/22 50/10 51/5 60/7 69/11 71/15 99/21 119/6 132/1 132/4 164/5 182/19 184/6 188/9 188/15 189/23 190/2
putting [3] 19/15 22/9 27/9

Q
quadrant [2] 111/3 111/3
quarries [7] 59/4 61/4 62/15 62/15 74/19 75/5 75/22
quarry [20] 61/11 61/22 62/18 62/18 69/15 69/20 69/22 69/24 71/1 71/2 73/23 74/16 74/20 76/19 78/7 78/11 78/20 78/21 79/3 81/13
quarter [2] 44/5 121/18
question [15] 50/7 68/25 71/15 99/25 115/3 116/3 116/11 116/13 127/9 138/10 143/10 144/21 148/13 156/8 168/18
questions [9] 46/11 46/15 110/13 115/6 116/6 116/10 117/1 174/6 187/12

quick [3] 36/17 45/22 89/1
quickly [1] 79/11
quite [8] 11/24 41/7 41/9 41/25 100/16 101/5 145/9 164/9

R
Radandt [5] 62/5 69/19 69/20 74/15 76/19
Radandt's [12] 61/22 69/15 69/24 70/1 70/13 70/23 70/25 73/23 74/19 75/6 75/9 78/11
Radandts [1] 77/14
radio [2] 90/21 124/25
Rails [1] 102/16
rained [1] 81/19
raise [3] 7/14 52/6 166/17
ran [3] 63/23 131/14 131/16
range [2] 20/2 38/13
rank [5] 52/20 97/20 163/3 167/5 167/9
ranking [1] 163/8
rate [1] 178/19
rather [2] 79/11 109/21
RAV4 [24] 144/21 146/18 148/23 148/25 149/21 161/10 163/14 163/19 164/19 170/11 181/1 181/11 181/16 182/5 182/15 182/23 183/20 185/3 185/22 190/11 191/10 191/12 192/2 193/7
re [1] 147/9
re-approached [1] 147/9
reach [2] 78/21 168/16
read [17] 35/14 35/19 48/25 49/2 49/3 50/5 52/1 115/7 115/12 115/25 146/8 146/10 156/15 161/7 161/23 162/1 162/2
reading [1] 48/7
ready [1] 46/4
real [4] 121/15 127/4 159/8 165/24
realized [1] 156/14
really [8] 16/12 55/22 88/5 92/4 96/16 104/9 137/1 150/10
rear [9] 144/23 145/2 145/4 146/7 156/1 158/6 160/11 170/1 182/22
reason [5] 32/22 81/23 90/19 95/12 109/9
reasonably [1] 125/20
reasons [4] 95/5 115/6 116/7 116/24
reassume [1] 171/7
recall [36] 6/5 30/5 36/8 43/8 43/13 44/4 46/24 49/25 81/16 104/1 104/2 104/4 104/7 104/8 106/9 108/16 122/11 124/19 124/20 133/11 140/15 142/19 158/1 158/12 158/12 165/11 167/12 167/18 172/13 178/9 178/11 178/17 178/17 185/25 187/20 191/10
recalled [2] 4/22 34/20
recalling [1] 6/10
receive [1] 116/22
received [10] 114/14 115/15 116/1 116/18 125/3 128/17 138/3 141/1 149/4 191/15
receiving [1] 167/12
recess [3] 64/15 114/22 179/23
recognizable [1] 181/23
recognize [6] 64/25 104/17 106/11 109/20 125/10 127/10
recognized [1] 169/16
recollection [8] 31/3 33/25 35/5 103/25 178/9 187/24 188/6 191/25

record [22] 4/6 4/15 6/16 7/19 50/14 51/5 52/11 77/8 114/24 114/25 115/11 117/12 135/13 139/8 142/12 143/19 166/22 184/21 185/7 185/11 192/25 193/15
recording [1] 107/2
recovery [1] 100/11
recross [5] 2/10 2/16 45/11 113/2 138/11
Recross-Examination [4] 2/10 2/16 113/2 138/11
red [2] 191/17 191/22
redirect [14] 2/5 2/9 2/15 2/20 2/25 42/11 43/16 43/19 110/12 110/14 136/2 165/5 165/9 191/6
refer [2] 43/22 77/24
referred [2] 72/9 72/11
referring [12] 18/10 65/25 66/17 69/17 77/21 84/19 87/14 124/17 146/16 153/18 156/21 161/22
reflect [3] 142/12 143/19 193/1
refresh [4] 35/4 45/16 187/24 191/25
registration [1] 144/23
regular [3] 41/17 41/23 107/6
rejection [1] 114/16
related [1] 83/8
relating [1] 5/5
relative [1] 175/10
relay [1] 60/17
relief [2] 173/18 173/21
relieved [4] 83/20 122/4 123/6 190/17
rely [1] 162/17
remain [3] 144/5 149/1 153/20
remained [2] 147/7 153/17
remaining [1] 54/25
remains [1] 46/16
remember [19] 19/24 21/19 24/25 25/6 30/19 30/25 31/2 31/7 35/21 36/1 36/2 38/6 38/8 41/8 49/24 103/5 122/15 128/24 165/22
remembering [1] 126/5
Remiker [37] 98/20 99/6 118/25 119/4 120/10 121/10 122/7 122/21 125/12 125/23 127/6 128/1 128/13 128/25 129/23 130/18 131/4 131/7 146/12 146/19 146/20 147/3 147/9 147/12 147/20 148/1 156/17 157/13 168/5 168/10 168/19 169/1 169/18 170/5 172/21 186/21 186/22
Remiker's [1] 159/13
remind [2] 114/4 192/21
remove [1] 101/20
removed [12] 101/15 101/19 101/25 102/3 102/7 102/9 103/13 113/8 113/20 185/3 185/16 193/7
repair [2] 13/3 16/23
replace [1] 138/3
replaced [1] 190/15
replacing [1] 136/5
report [16] 35/4 35/14 35/17 43/2 43/3 65/20 149/3 156/11 159/11 159/13 161/7 161/13 162/8 179/20 187/20 187/22
reported [2] 1/24 194/6
reporter [4] 1/25 135/6 194/5 194/19
reports [2] 28/22 161/16
reposition [1] 113/21
representative [1] 60/7

R	rock [2] 61/23 78/23 role [6] 57/19 98/8 98/22 99/5 100/21 102/21 roof [1] 145/8 room [3] 31/22 32/2 192/18 ropes [1] 123/13 rotating [1] 89/5 rough [2] 161/19 162/13 roughly [5] 19/24 84/11 88/2 91/8 140/7 route [1] 41/23 row [3] 143/8 143/18 144/7 rows [3] 13/23 14/2 164/24 RPR [2] 1/24 194/19 ruling [1] 110/8 run [6] 23/1 61/24 63/22 74/3 81/7 111/1 rungs [1] 19/17 running [5] 11/25 56/7 108/13 113/21 180/21 runs [14] 14/14 18/7 41/22 56/23 73/6 75/5 75/7 75/8 81/4 88/2 95/15 101/23 120/18 120/18 rusty [1] 183/10	scene [43] 53/13 53/16 57/14 57/20 58/22 63/19 67/13 91/5 93/4 94/23 94/24 100/5 106/18 113/8 118/11 118/16 118/25 119/1 121/1 123/9 123/14 123/20 140/13 140/16 140/19 150/2 150/5 150/23 161/10 170/6 170/8 170/11 170/23 171/7 171/7 171/17 172/11 172/17 172/24 173/5 173/16 185/4 185/16 schedule [1] 83/19 scheduled [1] 6/6 scheduling [1] 54/3 Schetter [5] 122/17 173/7 175/23 175/24 186/18 school [8] 8/2 8/2 9/16 41/14 41/19 41/20 41/22 42/6 Schultz [4] 105/24 106/10 108/22 109/9 scope [5] 43/12 43/14 43/16 43/19 68/9 Scott [4] 8/12 39/11 39/12 44/2 screaming [3] 37/25 44/18 45/6 screen [4] 7/4 26/13 86/25 141/18 screening [1] 135/2 scun [3] 24/18 24/20 25/3 search [43] 58/7 58/15 58/17 59/6 59/15 59/21 60/16 60/21 60/24 61/6 62/18 62/25 64/1 65/10 65/23 66/1 66/2 66/11 66/23 67/22 68/1 68/5 68/6 68/9 68/10 68/18 85/24 90/7 93/1 94/1 99/12 100/4 100/21 104/3 105/10 105/20 105/22 111/8 111/12 123/3 123/5 167/25 189/13 searched [16] 59/17 59/19 59/20 59/24 61/9 61/13 61/16 63/7 63/8 63/23 67/8 67/12 67/15 67/21 68/20 112/10 searchers [2] 60/6 111/11 searches [30] 54/6 58/13 58/19 58/20 61/2 62/9 62/10 62/13 62/22 63/5 63/15 65/7 72/19 83/5 83/8 84/22 85/4 85/8 85/9 85/11 94/5 94/6 94/10 98/13 99/8 99/16 106/3 106/20 111/9 111/10 searching [14] 59/8 60/20 61/15 63/3 63/17 64/2 64/2 64/4 86/7 92/24 92/25 94/19 94/20 112/1 season [1] 40/9 seated [10] 6/3 7/18 46/7 51/3 52/10 114/8 115/23 117/11 139/7 166/21 second [11] 8/14 25/2 43/15 75/1 121/21 133/7 134/15 172/19 172/23 175/5 184/23 seconds [2] 45/4 45/5 section [1] 61/5 secure [1] 76/1 secured [1] 54/20 securing [4] 54/12 75/22 164/3 170/11 security [24] 54/4 54/15 55/20 56/17 57/5 57/7 57/22 57/23 57/24 57/25 58/11 75/11 75/13 87/4 87/4 91/13 147/25 149/1 150/23 170/8 170/11 170/23 171/8 190/11 seeing [6] 65/4 76/22 106/9 108/17 187/8 189/12 seemed [1] 165/15 seen [18] 16/9 17/2 28/18 28/21 30/23 39/21 42/18 44/8 44/12 92/9 104/19 104/22 104/23 106/8
representatives [1] 111/21 represented [1] 5/12 representing [1] 4/13 request [6] 5/13 48/4 110/8 114/9 115/2 116/1 requested [1] 111/12 required [3] 66/25 85/12 112/13 rescue [1] 64/1 reserve [1] 110/8 residence [28] 44/9 44/14 70/11 70/15 70/19 72/6 73/8 74/10 74/21 74/22 75/20 76/8 76/21 76/22 78/9 78/18 79/21 85/25 86/3 103/10 103/14 103/24 105/12 105/19 106/7 108/23 111/13 141/9 residences [3] 84/21 121/17 137/11 respond [3] 118/3 118/11 125/17 responding [1] 157/9 response [3] 33/1 115/16 115/19 responsibilities [3] 85/8 85/22 111/8 responsibility [20] 53/21 57/5 58/12 58/15 85/2 94/2 94/14 94/15 99/7 99/12 103/20 112/12 116/9 150/24 170/18 170/23 171/7 171/11 173/17 190/3 responsible [7] 54/11 84/22 94/4 101/3 101/10 150/23 170/10 rest [8] 13/20 50/11 78/8 81/24 81/25 108/1 113/15 184/15 resting [1] 145/3 restoring [1] 16/20 restriction [1] 117/3 resume [5] 64/9 64/12 114/6 114/20 180/1 resuming [2] 114/25 192/16 retention [1] 79/22 retreat [1] 188/8 retreated [2] 186/6 187/17 return [4] 84/13 85/19 115/8 153/20 returned [2] 84/3 84/14 reverse [1] 58/23 reviewing [2] 35/4 159/13 rid [1] 27/24 ridge [1] 183/23 rifle [3] 40/11 40/20 41/1 right [223] rim [2] 15/17 15/22 ripping [1] 181/18 Rivers [1] 96/25 road [69] 18/3 18/5 18/17 20/19 20/19 20/21 29/6 29/19 56/8 56/10 56/10 56/22 56/23 57/1 57/3 61/12 69/7 69/10 71/8 72/23 73/1 73/2 73/2 73/4 75/4 75/7 75/19 80/8 87/23 87/25 88/1 88/5 88/18 92/2 105/18 118/6 118/24 119/3 119/6 119/8 119/21 120/15 120/15 120/17 120/20 120/22 123/18 130/10 130/19 131/19 133/14 134/8 134/10 136/11 136/16 136/18 136/22 137/2 137/2 137/7 141/13 142/9 142/13 143/11 144/6 144/20 167/23 187/18 188/3 roadblock [4] 119/6 119/11 119/14 119/21 roads [3] 69/10 69/10 95/8 roadways [4] 59/14 69/2 69/5 82/2 Robert [2] 126/9 175/8	S sac [1] 88/8 said [28] 17/4 28/20 32/21 41/13 44/2 46/24 62/10 65/11 78/18 91/13 106/19 121/20 122/6 130/6 130/7 149/14 150/1 152/4 152/8 154/10 155/10 157/16 161/6 179/1 182/7 186/3 186/20 194/13 sale [5] 17/9 17/15 17/16 17/17 17/21 salvage [40] 7/25 10/3 11/10 11/14 11/17 11/20 11/22 12/24 13/5 13/10 14/11 14/14 14/20 15/21 18/4 54/10 58/19 66/3 68/24 74/2 74/23 76/23 78/6 79/14 82/5 82/10 94/6 100/18 110/18 110/21 118/3 119/16 121/12 121/14 137/3 140/11 167/14 168/1 168/2 180/13 salvaged [3] 66/7 66/9 66/21 same [25] 9/20 9/20 17/15 37/2 41/22 41/23 76/19 83/2 99/3 106/13 108/13 109/10 109/20 109/21 123/17 140/7 146/21 146/22 154/1 154/14 154/15 155/4 155/7 172/22 178/10 satisfy [1] 132/6 Saturday [10] 26/2 29/8 29/23 30/6 53/12 56/13 83/23 84/16 123/2 132/22 save [1] 83/18 saw [32] 15/3 21/5 35/6 35/25 35/25 36/10 36/12 39/17 40/2 42/14 43/11 44/2 44/4 101/15 101/17 102/3 102/9 102/19 103/7 103/8 118/21 143/4 143/5 144/19 155/18 156/20 157/23 159/18 159/23 161/1 167/22 181/24 saying [13] 28/8 44/12 50/18 127/3 128/24 128/25 129/21 134/1 134/4 141/15 154/12 154/24 156/19 says [6] 26/21 105/23 128/22 161/24 162/11 183/20 scale [16] 54/6 58/17 58/18 58/20 60/3 61/1 62/22 65/7 66/1 66/2 66/23 67/22 68/1 72/18 106/3 106/19 scan [1] 159/8	

S	179/6	27/25 28/8 30/23 33/10 39/3
seen... [4] 160/23 169/4 185/21 185/21	show [28] 22/1 35/12 55/6 66/18 70/8 72/14 72/23 74/6 75/1 75/14 76/25 77/5 78/2 79/12 79/13 80/1 81/9 82/18 83/1 132/2 136/15 137/13 140/25 142/9 144/1 148/9 191/11 191/15	43/24 49/24 50/5 58/1 77/3 77/18 93/16 106/18 108/16 131/7 131/23 158/15 160/19 160/24 164/2 165/19 172/3 179/10 185/1 193/13
segue [1] 81/15	showed [5] 43/2 43/21 142/13 150/15 164/16	sometime [10] 41/10 53/3 56/12 98/1 98/2 129/23 131/13 134/2 140/9 170/24
Seim [1] 176/13	shower [5] 36/15 36/17 42/16 42/18 81/22	Sometimes [2] 113/23 116/10
sell [4] 13/1 14/4 17/11 17/13	showing [6] 55/1 76/13 104/15 107/17 142/3 183/1	Somewhat [1] 95/11
semi [2] 40/24 41/4	shown [3] 6/6 84/20 193/6	somewhere [9] 20/2 38/10 41/15 70/16 85/13 91/23 92/13 93/5 180/15
semi-automatic [2] 40/24 41/4	shows [2] 68/22 137/1	son [1] 9/6
send [4] 61/5 61/8 63/20 85/14	sic [2] 57/2 84/1	soon [5] 46/4 156/14 161/17 177/7 192/18
sense [2] 95/9 135/10	side [52] 7/2 18/7 26/19 26/20 42/23 45/22 45/24 46/9 47/22 47/24 47/25 48/4 66/21 70/25 81/7 81/8 92/7 107/20 107/23 116/9 118/23 137/21 141/21 142/6 142/6 144/10 145/2 145/4 145/6 145/15 145/17 146/7 147/12 155/11 155/17 156/2 157/17 157/19 157/20 157/25 158/2 158/3 160/3 160/4 164/24 183/4 183/5 183/8 184/14 184/23 184/25 193/2	sort [11] 10/7 18/15 31/24 37/4 38/6 40/7 89/19 94/2 102/6 105/25 132/3
sent [1] 97/4	similarly [2] 102/3 113/15	sought [1] 46/11
sentence [6] 48/11 48/13 48/17 49/21 50/18 162/2	simple [1] 94/3	sound [2] 31/20 93/11
sentences [1] 48/8	simply [3] 48/1 107/2 134/19	sounds [4] 7/7 38/7 125/11 134/3
separate [2] 63/7 105/4	since [5] 9/15 33/5 34/9 83/23 126/6	source [1] 31/5
separating [1] 79/2	single [4] 183/23 184/3 184/16 184/17	south [24] 56/9 61/12 69/22 70/12 73/23 74/15 78/12 78/24 79/1 79/9 83/3 101/24 120/18 137/22 141/14 142/5 143/20 143/21 164/22 184/14 189/2 189/5 191/18 192/3
September [1] 167/8	Sippel [6] 57/8 57/9 83/23 83/25 84/14 94/4	southeast [12] 10/7 73/16 76/12 79/21 110/20 111/3 113/13 144/10 164/13 164/17 164/18 180/13
septic [1] 103/13	sir [6] 112/22 117/17 139/13 153/22 160/2 160/8	southeastern [2] 140/21 142/18
sergeant [41] 2/17 52/24 98/5 103/23 121/6 121/20 122/6 131/3 138/24 139/4 139/14 139/23 140/2 141/23 143/1 144/11 148/14 152/4 162/23 162/25 165/11 168/3 168/6 168/10 168/19 168/25 169/10 169/18 169/24 169/25 170/13 170/17 172/16 172/25 173/17 173/18 173/22 178/6 186/11 190/15 190/17	sitting [2] 91/19 190/21	southernmost [5] 140/20 143/8 143/11 143/18 144/7
series [1] 185/13	situated [1] 153/7	southwest [4] 79/24 189/15 189/16 189/24
service [3] 14/16 137/2 142/13	six [5] 82/17 96/20 98/23 120/1 120/3	spare [2] 13/17 16/16
set [15] 56/18 77/17 79/20 106/23 110/20 110/21 113/17 119/11 119/14 119/21 123/17 127/19 131/15 187/18 191/17	size [2] 158/17 158/24	speak [6] 18/18 32/16 37/21 60/5 94/10 172/10
sets [1] 22/21	skin [4] 23/17 23/18 23/19 23/21	speaker [1] 32/15
setting [1] 7/8	skinned [1] 20/12	speaking [2] 132/1 144/15
seven [4] 71/16 147/1 147/8 168/17	skun [1] 20/9	special [7] 1/11 1/13 1/15 4/10 57/18 94/8 99/11
several [5] 29/2 54/23 59/4 103/4 146/14	sleep [1] 9/9	specialized [3] 100/2 100/8 112/6
shadows [1] 146/9	sleeper [1] 31/20	specific [5] 58/1 68/16 107/16 108/17 152/25
shared [2] 57/6 57/7	sleeping [2] 31/18 42/5	specifically [4] 34/10 53/25 95/5 112/17
shed [3] 71/24 71/25 72/3	slip [1] 19/19	speculate [1] 116/12
sheet [3] 88/22 88/22 105/25	slopes [1] 78/24	spell [5] 7/19 52/11 117/12 139/8 166/22
sheets [1] 105/1	sludge [1] 62/4	spent [1] 177/3
sheriff [14] 57/16 95/15 96/2 122/16 126/10 126/12 171/3 171/5 171/15 173/2 173/3 175/3 175/4 186/22	small [15] 16/8 16/23 56/10 74/3 78/5 78/10 79/22 101/3 120/17 120/19 151/8 158/19 159/8 160/19 161/18	splits [2] 75/22 81/2
sheriff's [28] 52/16 52/22 57/11 60/8 60/13 65/16 89/15 95/19 95/24 96/9 96/19 97/12 97/21 98/6 98/19 98/25 106/16 107/7 117/20 122/20 139/14 150/7 150/12 167/3 171/6 173/9 178/21 190/25	smaller [6] 72/1 89/24 105/20 105/22 159/6 159/12	spoke [4] 111/22 171/15 173/7 187/5
shift [4] 12/7 12/17 25/19 167/11	smelter [1] 16/7	spook [1] 39/3
shifts [2] 88/14 91/18	snow [1] 81/21	spot [7] 81/13 153/25 154/2 154/3 154/7 154/9 154/10
shining [2] 157/16 157/18	snowmobile [1] 33/9	spread [1] 182/4
shirt [1] 161/19	sole [1] 193/2	springs [1] 102/12
shook [1] 172/14	some point [1] 187/15	squad [13] 54/25 80/10 80/12 87/24 91/18 91/21 91/23 91/25 144/3 146/21 148/3 168/4 170/6
shop [1] 16/2	somebody [15] 67/10 85/14 88/20 90/20 91/17 132/13 132/18 132/19 145/9 155/4 171/13 172/20 181/3 182/10 190/3	squads [1] 82/11
short [11] 6/5 47/24 119/2 121/5 124/22 149/10 149/12 151/1 151/2 151/3 168/12	somehow [1] 188/23	square [1] 158/18
shorthand [1] 194/10	someone [10] 48/24 90/16 90/17 90/22 91/18 97/20 100/24 105/7 132/8 181/10	ss [1] 194/1
shortly [4] 121/7 131/21 170/24 172/22	something [28] 7/8 16/20 23/1	stacked [1] 180/24
shotguns [3] 40/18 40/18 40/19		staff [2] 53/2 122/20
shots [1] 185/22		
should [9] 47/20 53/19 124/23 127/7 130/8 141/3 142/12 143/19		

S

stage [1] 120/7
staging [9] 53/17 148/2 148/5 149/9 149/10 149/16 151/5 152/19 161/21
stakes [1] 123/14
stand [13] 4/23 6/10 19/17 27/10 38/25 70/2 117/7 138/25 139/2 154/1 154/7 166/14 166/15
standing [11] 142/17 149/17 149/20 153/14 154/6 154/8 154/12 154/14 155/3 159/22 186/16
stands [2] 92/5 92/5
staple [2] 108/9 110/1
start [7] 47/7 67/17 81/23 86/19 138/17 161/9 181/17
started [20] 6/4 11/22 27/20 46/25 46/25 52/22 111/14 124/15 133/3 138/18 147/13 147/25 148/8 161/20 162/3 162/6 162/13 166/12 181/4 187/9
starting [2] 71/22 179/10
starts [3] 25/24 48/9 78/5
state [34] 1/1 1/3 1/12 1/14 1/16 4/3 4/6 4/7 4/18 4/21 5/10 7/18 20/24 49/17 52/4 52/10 56/6 65/12 68/2 97/4 100/3 110/4 114/9 115/15 117/6 117/11 118/9 135/22 138/24 139/7 166/13 166/21 194/1 194/5
State's [2] 51/21 117/4
stated [8] 42/13 47/14 48/12 48/15 48/21 49/5 51/10 116/24
statement [5] 47/14 115/7 115/9 115/12 115/25
station [2] 23/3 120/23
stationed [7] 54/21 75/17 75/18 75/21 80/16 121/11 137/15
stations [2] 22/23 22/24
stay [2] 111/15 169/25
stayed [10] 31/8 55/24 56/1 83/24 83/24 84/1 109/1 122/3 122/4 168/11
steep [1] 81/5
stenographic [1] 194/9
step [1] 8/7
Steve [7] 11/19 27/21 27/23 28/8 30/16 31/5 46/25
Steve's [3] 18/15 42/15 43/11
STEVEN [35] 1/6 1/21 4/3 4/11 9/22 17/11 17/21 27/10 30/20 37/14 47/3 47/5 47/5 47/14 49/6 49/7 49/9 49/9 49/11 49/15 51/11 51/12 51/14 51/14 51/16 51/19 73/7 74/21 75/19 76/21 79/18 81/9 92/6 96/11 101/15
Steven's [5] 32/23 33/7 37/5 37/22 102/23
stick [1] 158/19
sticker [1] 35/10
sticking [3] 27/9 158/13 184/1
sticks [4] 19/14 19/16 22/9 25/4
sticky [1] 19/16
still [18] 9/12 14/3 14/4 14/5 33/18 37/10 41/14 42/2 42/4 44/11 50/24 89/3 91/14 149/11 151/6 151/11 162/15 185/22
stipulate [1] 185/7
stipulation [19] 5/4 5/8 5/10 5/17 46/12 46/14 46/18 46/20 47/17 48/8 48/23 50/2 50/10 50/13 50/15 51/5 51/22 51/25 185/8

stone [1] 59/4
stood [7] 149/19 153/22 153/24 154/3 154/4 161/17 165/20
stop [10] 50/25 51/1 60/11 80/9 122/18 123/11 125/9 130/8 133/9 168/15
stopped [4] 131/22 142/15 142/16 168/4
stopping [4] 124/16 131/20 133/3 137/16
storage [3] 71/24 72/2 72/4
straight [3] 5/1 70/25 84/7
STRANG [22] 1/17 2/4 2/8 2/10 2/14 2/16 4/13 5/15 43/2 44/18 46/7 48/10 50/12 51/6 52/1 86/18 108/4 110/16 112/25 115/17 124/4 135/6
street [1] 127/20
stretch [2] 92/22 139/2
strip [1] 14/5
stripped [3] 13/12 13/16 13/18
stripping [2] 13/13 15/11
strong [1] 97/13
stuff [4] 13/14 14/4 15/17 101/21
Sturm [14] 140/24 142/17 143/5 144/15 148/4 149/16 149/20 152/6 153/15 153/23 154/4 154/9 172/10 191/12
submit [1] 116/6
successful [1] 131/20
such [3] 5/7 17/20 155/6
suggest [1] 124/25
suggested [1] 124/14
summer [3] 13/6 13/9 15/4
sun [1] 113/5
Sunday [16] 25/25 53/9 56/21 59/1 61/10 62/24 66/3 66/12 81/20 83/22 83/24 83/24 83/25 84/1 91/9 113/9
superior [1] 163/13
superiors [2] 163/21 164/1
supervise [1] 53/2
supervision [1] 190/11
supplies [2] 123/8 123/11
support [2] 175/21 176/4
supposed [2] 129/7 134/22
surrounded [1] 83/6
surrounding [5] 59/3 59/12 69/14 76/25 165/21
surrounds [2] 56/5 78/4
suspect [1] 150/17
sustain [1] 43/25
SUV [3] 37/10 42/20 173/17
switch [1] 7/11
sworn [7] 7/16 52/8 112/2 117/9 132/8 139/5 166/19
system [1] 116/8

T

Tadych [6] 8/12 39/11 39/12 39/20 40/1 44/3
tag [16] 20/24 21/13 21/17 21/20 21/20 21/23 22/3 22/4 22/12 22/15 22/19 22/24 24/7 26/21 26/21 26/25
tagged [5] 23/9 23/24 24/4 24/8 24/15
tailgate [2] 158/6 160/11
taillight [1] 145/3
take [34] 5/20 7/9 18/3 20/22 23/8 23/11 32/6 44/23 45/3 50/15 50/23 57/15 58/23 61/4 64/8 71/10 73/5 82/11 99/15 114/4

114/19 116/20 123/13 132/9 152/4 153/15 153/20 179/14 179/15 187/23 190/14 190/16 192/13 192/14
taken [20] 7/2 13/16 45/24 64/15 76/3 83/9 98/14 102/19 102/24 103/2 107/23 114/22 179/23 184/25 185/2 185/5 185/15 193/7 193/12 194/9
takes [1] 36/25
taking [3] 13/14 36/12 53/13
talents [1] 100/9
talk [13] 53/24 53/25 54/1 54/17 54/18 55/10 59/11 60/23 63/12 69/2 81/15 148/3 178/24
talked [16] 17/3 29/24 34/10 34/20 34/23 39/25 55/13 56/3 57/22 58/12 60/23 72/13 75/11 77/19 104/9 189/19
talking [27] 24/25 31/6 34/15 35/11 58/23 59/13 59/14 60/12 60/25 66/18 79/17 92/7 110/25 111/1 113/4 123/12 137/18 143/12 150/8 150/10 154/11 155/6 158/14 158/18 177/20 180/6 186/17
tank [1] 16/14
tanks [3] 120/21 137/17 137/21
tape [6] 67/13 67/14 67/19 124/23 125/1 127/10
task [1] 116/20
tasks [2] 87/17 94/13
team [14] 5/7 58/21 58/24 58/24 59/1 60/4 60/22 60/23 61/9 61/16 62/2 62/11 72/21 189/13
teams [4] 61/5 62/16 65/10 85/12
technical [3] 6/8 7/5 55/9
techs [2] 7/9 112/16
telephone [4] 31/15 128/4 128/5 128/6
tell [46] 5/11 34/19 37/24 37/24 52/20 53/10 55/2 61/20 64/22 69/17 70/9 70/18 70/21 71/20 73/13 73/21 74/13 74/18 75/16 76/17 77/13 79/7 82/15 116/25 117/17 118/5 118/20 119/19 130/5 130/5 134/3 136/8 139/12 140/18 143/4 143/12 143/14 144/18 144/18 148/21 153/8 159/1 167/21 173/1 180/18 181/7
telling [5] 25/2 129/24 135/7 154/5 178/16
tent [1] 123/14
Teresa [22] 25/7 28/14 30/2 30/11 31/16 32/18 33/23 42/14 44/8 68/12 73/11 73/17 74/4 113/7 120/13 145/19 145/21 147/16 158/12 159/18 160/20 189/11
Teresa's [3] 147/19 159/12 182/5
term [3] 86/4 87/5 170/8
terms [1] 89/1
Tesheneck [3] 1/24 194/4 194/19
testified [6] 7/17 46/22 52/9 117/10 139/6 166/20
testify [7] 49/4 49/5 51/9 51/10 83/12 140/25 182/11
testimony [12] 5/5 5/20 6/7 6/20 46/12 49/22 72/12 141/4 154/16 154/18 155/5 192/16
thank [26] 6/18 6/19 45/10 51/7 64/6 64/14 64/18 104/13 108/6 112/24 113/1 114/21 117/6 124/5 151/24 160/10 165/4 166/8 174/14 179/22 180/3 184/9 184/21 185/23

T

thank... [2] 191/3 192/23
thanks [2] 42/10 114/1
their [27] 4/6 6/23 16/18 38/16
 55/24 57/19 60/18 60/21 61/22
 62/17 63/22 67/3 67/18 69/6
 69/10 91/21 92/19 92/21 92/22
 92/22 98/14 100/6 111/14 111/18
 169/19 172/13 188/24
theirs [1] 16/25
themselves [1] 132/5
there any [1] 144/11
there's [37] 15/7 16/14 18/2 23/3
 43/15 55/8 56/10 59/15 62/15
 66/22 69/8 70/24 71/22 71/25
 72/6 72/10 74/4 75/4 78/1 78/5
 78/10 81/4 81/7 82/14 90/6
 108/20 120/21 125/4 126/9 128/22
 136/12 141/2 150/17 164/19
 175/18 176/12 185/13
thereafter [3] 121/7 170/24 194/11
therefore [3] 146/6 146/14 151/11
therein [1] 71/21
these [30] 13/2 16/17 27/9 31/5
 55/7 60/3 63/5 65/23 66/21 66/25
 69/5 71/4 79/11 83/9 88/14 92/18
 93/2 101/2 104/15 104/23 106/2
 106/6 106/22 107/6 132/21 132/21
 142/22 151/3 164/24 189/10
thing [10] 16/5 16/8 16/8 55/17
 99/3 100/11 102/17 123/17 130/24
 191/8
things [6] 13/17 124/23 158/18
 179/12 186/15 190/7
think [39] 5/24 17/3 17/4 29/4
 32/21 35/4 39/23 43/23 45/9
 46/23 47/16 51/8 55/6 62/8 62/11
 65/2 82/14 84/2 93/18 94/23
 101/13 108/2 115/18 122/23
 130/18 133/2 133/6 135/12 142/3
 164/16 165/23 166/11 179/9 180/6
 182/7 186/11 188/4 188/17 193/10
thinking [1] 163/17
third [1] 12/17
THOMAS [1] 1/13
thorough [2] 68/5 68/18
those [56] 14/19 15/1 15/7 17/23
 30/13 38/6 45/5 48/7 48/7 53/24
 54/1 55/21 55/24 59/5 59/6 61/1
 61/23 62/3 62/6 62/21 63/19
 63/25 80/5 80/20 83/8 83/8 83/18
 84/23 85/7 85/19 86/14 87/9
 98/11 105/13 112/2 112/5 112/11
 112/13 130/6 131/19 137/21 147/4
 153/16 158/18 160/13 161/16
 162/15 168/22 169/13 173/24
 174/2 175/23 184/15 185/14
 186/13 187/10
those the [1] 63/25
though [9] 24/6 55/14 93/21 96/18
 106/11 134/5 181/9 188/8 190/8
thought [5] 35/16 49/15 51/19
 133/5 163/20
three [23] 29/23 30/5 30/8 36/19
 44/5 48/8 54/25 63/18 77/16
 82/14 124/17 129/17 129/22
 131/12 133/4 133/22 134/1 168/17
 175/23 176/9 176/12 179/21 188/5
through [42] 5/1 53/20 55/10
 55/25 63/22 63/23 65/17 66/9
 66/19 68/3 69/5 69/6 69/9 69/12
 75/4 75/10 76/4 79/11 80/25 81/1

81/2 81/5 81/19 81/22 81/24
 81/25 82/13 83/24 86/10 87/12
 91/9 108/12 110/19 114/15 135/8
 150/8 151/11 158/4 177/14 177/18
 186/23 189/6
throughout [2] 68/24 80/3
Thursday [1] 25/14
time [115] 4/2 5/11 6/22 9/15
 12/12 12/19 17/15 19/24 20/10
 20/11 25/2 28/9 34/23 36/21
 39/21 41/22 43/10 44/4 47/15
 48/2 52/2 55/15 55/18 58/17
 62/19 63/3 64/5 64/8 68/4 74/20
 76/4 80/13 86/10 92/19 92/20
 96/13 97/19 99/6 100/17 100/20
 107/3 110/8 110/19 111/4 113/22
 114/3 114/23 115/20 118/18 119/2
 119/11 119/22 120/1 120/6 121/5
 123/18 124/11 124/12 126/6
 126/11 127/5 127/14 131/21
 139/22 140/5 140/15 143/5 144/13
 144/16 146/5 146/12 149/3 149/7
 150/9 150/16 150/20 151/4 151/9
 151/13 151/17 156/16 157/4
 159/21 160/10 162/19 162/19
 167/6 167/9 167/18 168/23 169/7
 170/12 172/2 172/22 174/2 175/3
 175/25 176/14 176/22 177/17
 178/13 179/16 179/25 180/21
 182/2 185/10 187/5 187/21 188/1
 188/1 189/17 189/20 192/4 192/12
 192/15
times [9] 29/25 30/9 33/2 34/10
 98/9 116/15 122/10 160/13 186/13
tire [1] 183/20
tires [1] 13/11
title [1] 174/13
today [13] 6/5 35/21 41/9 42/13
 43/5 43/8 53/5 55/7 65/3 89/11
 188/6 192/16 193/16
TODD [6] 2/22 126/5 126/8 126/13
 166/18 166/23
together [4] 19/15 49/13 51/18
 110/1
told [12] 36/4 36/17 39/19 42/4
 43/20 87/3 96/2 98/11 98/17
 111/15 134/6 134/7
Tom [4] 4/9 8/8 8/9 8/9
took [17] 6/19 24/1 24/8 26/15
 41/19 56/14 57/16 84/5 103/4
 103/16 109/4 109/5 109/5 118/22
 149/9 162/9 191/12
tool [3] 68/13 68/13 68/14
tools [1] 67/4
top [12] 36/8 71/22 80/17 81/1
 87/2 106/4 136/20 136/23 154/12
 175/2 175/3 176/21
total [5] 58/8 63/11 93/10 120/2
 133/3
totaled [1] 14/19
totally [1] 120/10
touch [1] 145/25
touched [2] 147/5 148/25
touching [1] 163/22
tough [1] 26/14
toward [1] 18/17
towards [9] 37/4 42/15 136/23
 141/13 141/17 144/20 168/7
 169/22 170/6
towing [1] 14/16
town [2] 118/7 120/17
Toyota [7] 113/7 181/1 182/5
 182/15 182/23 183/20 185/3

trace [1] 100/11
track [8] 86/1 90/13 91/4 96/17
 105/12 106/5 106/24 107/1
tracks [1] 135/19
trade [1] 90/17
traffic [4] 130/8 133/3 139/25
 140/1
trailer [14] 10/11 10/24 11/5 37/5
 42/15 44/23 70/6 92/6 100/22
 101/18 102/22 109/11 109/21
 141/10
trained [2] 100/2 112/17
training [1] 112/6
transcribed [1] 194/11
transcript [3] 1/23 194/8 194/12
transcription [1] 194/11
transfer [3] 176/25 180/7 190/8
transferred [2] 173/6 190/11
transferring [1] 186/24
transmission [3] 15/17 15/18 16/6
transmissions [1] 15/24
trap [1] 103/13
travel [1] 68/23
traveled [2] 142/9 167/23
traveling [2] 142/4 164/18
trees [3] 72/5 151/8 151/10
trial [5] 1/4 1/4 4/5 116/21 116/21
tried [2] 29/5 181/3
Trooper [2] 6/18 77/4
troopers [4] 62/23 65/12 68/2 97/5
trouble [2] 49/1 135/7
trousers [3] 34/5 35/25 36/3
truck [15] 21/9 37/19 37/21 39/24
 44/20 44/24 108/23 109/1 124/19
 128/11 128/22 129/21 131/10
 191/18 191/22
trucks [9] 120/23 124/18 129/17
 129/22 130/6 131/12 133/2 133/22
 134/1
true [3] 32/25 111/5 194/12
trunks [2] 66/9 67/5
truth [1] 34/20
truthful [1] 161/15
try [5] 29/11 34/19 128/14 129/1
 161/15
trying [5] 91/1 103/5 156/22
 182/10 189/11
Tuesday [1] 68/1
turn [6] 46/2 73/4 88/16 95/14
 173/8 178/24
turned [5] 170/24 171/4 188/22
 189/4 189/10
turning [1] 171/11
turns [2] 84/6 147/18
TV [7] 25/8 25/12 26/10 28/18
 28/20 28/21 28/21
twice [1] 105/7
two [40] 9/12 30/9 36/13 36/25
 52/19 58/18 58/20 61/13 62/6
 63/7 63/8 67/19 70/24 75/15
 75/22 78/13 85/19 96/25 98/11
 108/11 110/13 111/21 119/13
 119/18 120/19 121/8 124/15 126/2
 133/6 140/22 143/9 144/25 158/15
 160/13 168/22 169/13 173/22
 174/2 184/1 188/4
type [5] 16/21 65/22 106/13
 158/21 159/14
types [1] 150/2
Typically [1] 33/7
Tyson [1] 190/17

<p>U</p> <p>unable [1] 146/10</p> <p>uncle [10] 9/23 10/2 11/5 27/10 30/20 30/21 32/22 37/5 37/14 42/15</p> <p>uncontested [1] 141/12</p> <p>under [6] 46/10 65/18 80/15 95/18 139/17 190/24</p> <p>understand [13] 4/25 22/18 46/8 68/25 93/9 110/4 136/7 153/6 154/11 158/23 172/16 185/12 185/14</p> <p>understanding [8] 4/17 51/22 95/21 96/15 112/13 113/17 141/5 185/19</p> <p>understood [3] 94/1 113/11 193/4</p> <p>uniform [1] 89/11</p> <p>unit [2] 111/9 143/2</p> <p>Unknown [1] 128/15</p> <p>unless [2] 181/17 181/21</p> <p>unmarked [1] 143/2</p> <p>unoccupied [1] 145/22</p> <p>unrecognizable [1] 181/16</p> <p>unreported [1] 46/9</p> <p>until [12] 21/23 38/17 44/24 61/25 81/24 84/1 92/23 122/4 132/25 161/11 190/14 190/16</p> <p>unwilling [1] 5/10</p> <p>up [115] 5/20 7/25 10/21 12/9 13/23 14/2 14/12 14/13 14/20 16/3 17/24 18/17 19/17 20/19 21/15 22/21 24/18 24/19 25/24 26/12 28/8 31/9 33/21 34/13 38/16 38/25 41/10 41/10 56/18 63/19 66/19 66/22 72/20 74/4 74/5 75/4 77/17 78/9 79/20 80/18 80/18 81/1 81/8 86/25 88/15 90/18 91/19 92/12 92/13 99/14 106/23 108/1 110/20 110/21 111/4 111/19 113/18 118/22 119/6 119/11 119/14 119/21 121/15 122/4 123/7 123/17 127/19 131/15 132/2 136/12 139/2 145/2 145/3 145/5 146/23 147/12 149/6 150/15 153/1 153/5 153/9 153/11 153/12 155/9 156/4 156/19 156/20 157/5 157/10 157/11 164/6 168/11 170/5 170/16 172/14 180/12 181/1 182/7 182/20 182/21 183/4 183/7 183/17 183/18 184/6 185/2 187/18 188/9 188/16 189/14 190/2 190/7 191/8 192/13 193/9</p> <p>upon [3] 121/16 147/3 151/10</p> <p>upper [1] 164/12</p> <p>uppermost [1] 77/9</p> <p>upset [2] 143/6 172/14</p> <p>us [45] 24/25 25/2 36/17 53/5 55/2 60/19 61/2 61/6 61/20 64/22 66/18 69/18 70/10 70/18 71/20 73/14 73/21 74/13 74/18 77/13 78/17 79/7 79/16 82/4 82/15 87/3 89/4 117/17 118/5 130/5 130/5 136/8 136/15 139/12 141/13 141/17 142/9 142/13 143/12 144/1 144/18 148/9 153/8 154/5 164/16</p> <p>use [8] 40/11 62/2 82/12 106/23 120/22 141/5 159/9 181/10</p> <p>used [19] 13/1 45/15 67/3 67/3 69/9 69/13 72/1 72/4 72/11 72/21 77/14 77/15 87/2 106/2 106/6 106/13 109/20 159/4 161/18</p> <p>using [1] 142/2</p>	<p>usually [3] 23/19 41/14 60/6</p> <p>utilize [2] 53/17 55/20</p> <p>utilized [5] 61/23 65/23 66/4 66/4 72/17</p> <p>utilizing [1] 112/15</p> <p>V</p> <p>valuable [1] 13/17</p> <p>value [1] 68/17</p> <p>van [3] 17/5 36/13 42/23</p> <p>vantage [1] 103/21</p> <p>varied [1] 62/23</p> <p>variety [3] 97/8 115/6 116/7</p> <p>various [4] 33/2 98/9 122/10 122/10</p> <p>veh [1] 164/11</p> <p>vehicle [126] 66/10 67/6 67/7 67/11 67/12 68/5 68/12 68/13 73/11 73/17 74/5 75/10 79/23 80/23 80/24 81/6 85/9 94/6 99/16 110/22 111/9 113/18 113/20 120/13 124/20 125/7 129/15 133/20 142/15 142/16 142/21 143/9 144/21 144/22 145/1 145/3 145/9 145/14 145/15 145/20 145/21 146/1 146/3 146/6 146/7 146/13 146/15 146/23 147/2 147/6 147/8 147/10 147/16 147/23 147/25 148/12 148/18 148/20 149/2 149/7 149/8 149/11 149/15 149/23 151/4 151/7 153/24 154/17 154/19 155/10 155/21 158/1 159/22 159/23 159/25 160/14 161/17 162/5 163/22 163/25 164/3 164/20 165/17 167/24 168/2 168/3 168/7 168/9 168/11 168/13 168/14 168/16 168/22 169/1 169/2 169/19 169/21 169/22 169/25 170/2 170/3 170/7 170/15 171/25 172/1 172/7 172/15 173/23 173/25 174/4 174/5 177/7 181/14 181/17 181/21 182/5 182/9 183/4 183/7 183/19 183/22 185/15 186/3 186/4 190/20 191/19</p> <p>vehicles [34] 66/8 66/9 66/22 66/25 67/8 67/15 67/16 67/21 68/4 68/19 68/23 69/4 69/8 69/12 81/24 82/12 92/21 112/1 119/3 119/15 120/1 120/3 124/15 131/18 137/16 143/8 143/10 143/18 144/7 148/6 183/23 184/2 184/13 184/15</p> <p>verbal [1] 33/1</p> <p>verified [1] 109/6</p> <p>verify [4] 39/20 40/1 67/5 147/16</p> <p>version [2] 136/6 143/25</p> <p>very [25] 5/13 5/18 36/17 43/21 45/12 45/19 47/24 50/21 51/24 79/16 82/7 82/9 86/14 100/1 105/4 122/23 134/23 135/21 137/25 138/20 152/14 153/2 158/6 172/14 172/14</p> <p>view [13] 42/25 64/23 70/11 70/15 71/6 71/6 73/15 73/24 83/2 149/11 149/15 169/25 184/8</p> <p>viewed [1] 6/15</p> <p>viewing [2] 147/14 147/14</p> <p>VIN [11] 146/8 146/10 147/14 147/15 147/20 156/4 156/9 156/12 156/16 156/22 157/20</p> <p>Virtually [1] 83/2</p> <p>visible [1] 181/20</p> <p>visual [8] 101/9 148/19 151/4 168/21 170/2 170/14 173/23 173/25</p>	<p>visually [1] 88/20</p> <p>voiced [1] 97/14</p> <p>voices [1] 125/10</p> <p>volunteer [3] 65/24 68/3 112/20</p> <p>Voyager [1] 17/4</p> <p>W</p> <p>wages [1] 13/7</p> <p>wait [1] 39/5</p> <p>walk [6] 82/13 92/20 92/22 144/8 152/24 157/2</p> <p>walked [18] 27/10 144/2 144/5 144/18 144/20 146/6 146/22 147/12 155/9 156/1 157/16 168/11 169/21 169/22 170/5 181/1 182/7 182/21</p> <p>walking [7] 37/4 37/25 42/14 156/21 156/23 169/24 189/5</p> <p>wall [2] 102/6 102/6</p> <p>wall-to-wall [1] 102/6</p> <p>walls [2] 102/24 103/11</p> <p>wandering [1] 91/21</p> <p>want [25] 24/6 27/24 35/14 35/16 35/19 46/17 48/25 77/24 89/16 91/1 91/2 116/12 148/21 151/7 152/24 153/5 153/6 153/6 162/1 163/13 172/8 184/10 191/21 193/1 193/12</p> <p>wanted [6] 49/12 51/17 60/16 76/4 76/5 155/8</p> <p>warrant [7] 85/25 100/21 131/23 131/25 132/6 132/7 132/11</p> <p>washed [1] 62/5</p> <p>washes [1] 26/14</p> <p>washing [1] 61/23</p> <p>wasn't [13] 43/24 67/6 81/18 103/3 134/22 156/7 163/24 163/24 170/3 182/15 182/16 190/3 193/13</p> <p>watch [1] 192/21</p> <p>watched [5] 62/7 109/1 111/17 157/1 157/2</p> <p>watching [4] 80/17 163/19 163/25 170/15</p> <p>water [8] 59/3 59/5 61/23 81/10 81/13 82/8 82/9 143/21</p> <p>way [36] 26/19 26/20 27/4 44/3 55/6 55/23 62/17 67/18 69/6 71/14 75/1 75/10 80/24 97/17 104/6 106/6 111/14 111/18 126/25 127/8 144/2 145/25 156/4 157/2 164/4 171/24 177/13 179/18 182/12 183/13 184/17 187/18 188/20 188/24 189/14 189/20</p> <p>ways [3] 80/22 137/23 164/19</p> <p>we [195]</p> <p>we'll [23] 5/18 46/3 48/22 50/21 53/25 55/11 63/12 64/8 64/9 64/12 71/10 83/18 114/3 114/5 114/19 115/21 166/11 179/15 185/6 185/7 186/1 192/15 192/17</p> <p>we're [33] 31/14 35/10 46/4 53/18 54/16 55/8 55/9 70/18 71/14 73/21 74/18 76/17 76/22 79/11 79/17 87/2 100/16 111/1 114/23 126/13 128/18 129/4 135/23 136/4 136/5 136/7 154/11 155/6 158/14 177/1 183/1 185/8 192/14</p> <p>wearing [5] 33/25 34/5 35/6 35/22 36/3</p> <p>weather [2] 81/16 81/17</p> <p>week [7] 53/20 81/16 81/17 81/25 91/7 91/8 98/1</p> <p>weekend [2] 26/3 31/8</p>
--	---	---

W

weeks [2] 30/10 30/10
welcome [2] 7/23 35/15
Welnicke [1] 176/2
went [10] 24/4 49/25 54/7 68/3
83/25 91/24 131/16 149/9 162/21
188/2
weren't [6] 86/6 87/13 89/4 89/10
155/23 177/22
west [12] 9/22 18/7 31/24 56/8
69/21 74/16 76/24 77/24 81/9
88/2 164/20 165/1
what's [7] 15/16 55/1 70/9 79/4
82/15 125/14 131/25
whatever [5] 35/18 41/8 159/9
181/19 187/9
wheel [2] 82/12 187/10
whether [24] 17/17 21/19 27/20
31/15 40/1 46/25 90/22 100/9
104/16 107/15 143/1 147/4 148/17
148/21 150/10 153/8 153/9 173/5
177/16 177/17 177/23 180/20
192/15 192/17
while [11] 13/4 22/9 34/9 62/6
101/12 147/14 147/17 156/22
173/19 173/24 179/11
white [3] 140/22 165/14 165/22
who provided [1] 173/21
who's [3] 91/2 91/2 124/12
whole [4] 87/11 137/7 157/2
186/23
Wiegert [10] 57/17 57/18 84/24
85/11 94/8 94/15 96/5 99/11
112/12 122/12
wildest [1] 163/16
willing [1] 185/8
Willis [1] 1/9
window [18] 33/22 36/11 36/12
36/22 37/2 145/17 147/15 147/17
155/15 155/17 157/22 158/4 158/5
158/6 160/3 160/4 160/11 165/25
windows [1] 159/19
windy [1] 81/21
Winnebago [1] 58/21
WISCONSIN [11] 1/1 1/3 1/12 1/14
1/16 4/3 97/4 100/2 118/9 194/1
194/6
wish [4] 50/5 115/10 115/25 139/2
wishes [4] 107/22 110/4 114/9
166/15
withdrawing [1] 114/16
within [16] 57/24 65/8 68/23 69/2
78/14 82/2 92/4 94/10 111/25
119/13 121/5 122/24 131/2 169/25
171/21 172/24
without [5] 4/22 5/1 6/10 46/13
187/20
witness [33] 4/19 5/5 5/9 6/5 7/15
51/4 52/3 52/8 83/18 86/17 110/6
112/24 114/15 115/24 116/3 117/5
117/9 138/22 139/3 139/4 142/11
151/22 166/12 166/19 174/7 178/7
180/2 182/8 182/14 185/9 186/2
192/7 192/10
witnesses [3] 2/2 116/7 117/1
woke [1] 41/10
woman [2] 11/8 33/23
women [2] 142/22 144/15
wood [1] 102/22
wooded [2] 59/19 59/22
wooden [1] 145/1
word [2] 154/10 182/3

words [7] 49/24 80/21 83/19 101/8
120/8 121/13 137/6
wore [1] 89/12
work [18] 11/20 12/7 12/16 13/5
24/10 25/15 25/17 25/21 26/6
62/17 65/2 67/18 69/6 72/8 72/10
72/22 89/12 124/24
worked [6] 13/9 15/5 111/14
111/18 111/18 139/16
working [2] 180/21 181/13
works [10] 11/14 11/17 12/2 16/9
16/11 57/12 138/5 138/6 151/14
151/18
workweek [1] 25/23
wouldn't [5] 78/2 83/14 122/23
160/25 183/19
wrecked [1] 15/3
wrecker [1] 14/14
writing [5] 88/21 88/23 104/24
165/12 165/20
written [3] 116/20 116/22 147/19
wrong [1] 189/11
wrongful [1] 177/4

Y

yard [34] 7/25 10/3 11/10 11/15
11/17 11/20 11/22 12/24 13/5
13/10 14/11 14/20 15/21 18/4
58/19 66/3 68/24 69/1 69/2 74/2
74/23 76/23 78/6 82/5 82/10 94/6
110/21 118/3 121/14 140/11
167/14 168/1 168/2 180/13
yards [2] 92/4 148/12
year [2] 34/13 151/10
years [5] 8/2 52/19 117/23 139/17
177/3
yesterday [12] 4/20 6/7 6/20 8/1
8/7 19/1 31/11 32/21 36/17 41/13
43/10 77/3
yet [1] 20/12
you're [4] 130/9 141/13 158/18
164/15
you've [1] 29/24
younger [1] 9/12
youngest [1] 9/4
yours [3] 40/13 57/5 87/5
yourself [11] 24/4 30/19 35/15
35/19 38/23 101/18 109/20 122/11
176/10 177/14 186/4
Yup [5] 8/25 9/3 10/20 12/18
16/15

Z

zoom [5] 143/14 164/7 184/10
191/9 191/21
zoomed [1] 143/24